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11 In Pro Per Third Party Objector

12 **SUPERIOR COURT OF CALIFORNIA**

13 **COUNTY OF CONTRA COSTA**

14 ROBERT TIERNAN, et al.,

15 Plaintiffs,

16 v.

17 DIABLO COMMUNITY SERVICES
18 DISTRICT, et al.,

19 Defendants.

Case No. MSC17-02529

**DECLARATION OF TODD GARY IN
SUPPORT OF THIRD PARTIES DAVID
HAMMOND AND HAL SEIBERT'S
MOTION TO SET ASIDE
STIPULATED JUDGMENT BETWEEN
INTERVENORS AND U.S. BANK**

Date: 05/17/24
Time: 9:00am
Dept.: 18

22 AND RELATED CROSS-ACTION AND
23 ACTION IN INTERVENTION

1 I, Todd Gary, declare as follows:

2 1. I am currently a resident of the Town of Danville, County of Contra Costa. I make
3 this Declaration based on my own personal knowledge, and if called as a witness, could and would
4 testify to the same.

5 2. I am familiar with a gravel trail approximately 100 to 125 feet in length connecting
6 Alameda Diablo and Mount Diablo Scenic Boulevard (leading to Mount Diablo State Park's
7 "South Gate" entrance ("the Easement")), which is at the southerly end of the property located at
8 2354 Alameda Diablo, Diablo, California. I am writing to express how critical access over this
9 Easement is for the positive development (and safe travel) of youth in the greater community.

10 3. I am a coach on the San Ramon Valley High School Mountain Bike Club (the
11 "Team"). I have been leading youth on the mountain with the Team for 10 years, and I have had
12 ample first-hand opportunity to see the incredibly positive impact that this activity has on our
13 community adolescents. It is not just fun "recreation." The Team's motto is "The positive
14 development and mentoring of young men and women through Mountain Biking with a focus on
15 health, fitness, leadership, and active community service." What I see more concretely is youth
16 developing a healthy connection with their bodies and fitness, their community and the
17 environment, and learning who they are and what they are capable of: how to strive, persevere,
18 succeed and even fail gracefully, with a positive outlook, developing confidence in themselves and
19 what they can achieve along the way. The Team and its activities are a healthy and sorely-needed
20 alternative to the 24/7 tech/media onslaught our youth live under, giving them time and opportunity
21 to unplug, breathe, learn about themselves, think clearly, act with forethought and intention, and
22 build a real physical and mental connection to the world around them. I cannot overstate its impact.

23 4. The Team has over 120 youth riders this year of both high school and middle school
24 age, supported by about 45 adult coach riders, and has had over 100 riders for the last several years,
25 so the positive impact on youth is extremely significant. Monte Vista High School has a Mountain
26 Bike Team as well, adding to these numbers of positively impacted youth. Each club rides three
27 days a week (on alternating days) from mid-January through mid-May.

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1 5. The Team has extremely limited locations that it can stage from due to its size, the
2 nature of our activity, and our need for proximity to the mountain. We have only two real “access
3 points” to the mountain: Macedo Ranch, and Dan Cook. Each access point opens up a different
4 area of the mountain. Macedo Ranch is not rideable for the early part of the season (due to rains
5 and trail conditions). Dan Cook is accessed by and through the Easement. Without the Dan Cook
6 access, the area of the mountain that the youth can ride would be extremely limited (and completely
7 eliminated early in the season), and we would be unable to disperse our riding groups to manage
8 our impact on the mountain and its users. In short, the Dan Cook access point to the mountain is
9 absolutely critical to the Team, its youth riders, and their experience.

10 6. There are few alternatives to the Easement for getting to the Dan Cook access point.
11 Some of those “alternatives” are not safe for groups of youth riders, as they put youth riders in
12 harm’s way of cars on busy, narrow roads with blind curves. Avoiding such routes is not a matter
13 of “convenience” – it is a matter of youth safety. Other routes are not open to cyclists -- for
14 example, “Kay’s Trail”, which is often not passable in the rainy season in any event. Still others
15 are not public easements over which we have right of passage -- for example, the gate at the end
16 of Calle los Callados. I often ride with the younger, slower groups (younger middle school
17 groups), and the sole remaining alternative to the Easement (Diablo Lakes Road) is not something
18 they can achieve while still having meaningful time on the mountain; the route is too steep before
19 youth ever get to the mountain.

20 7. I have been leading youth over the Easement for a decade now to access the trails
21 in Mt. Diablo State Park. We have used the Easement to get from Alameda Diablo directly to the
22 State Park’s right of way for Mt. Diablo Scenic Boulevard (with no obstruction, and entirely upon
23 the open Easement), and from the edge of the State Park’s right of way to the paved roadway of
24 Mt. Diablo Scenic Boulevard while traveling entirely within and on the State Park right of way,
25 and from there to Summit Trail Trailhead to access the mountain. There have been no obstacles
26 to our use of the Easement for this purpose, and we have never been blocked from using the
27 Easement to successfully access the mountain in this way, until a fence was installed on September
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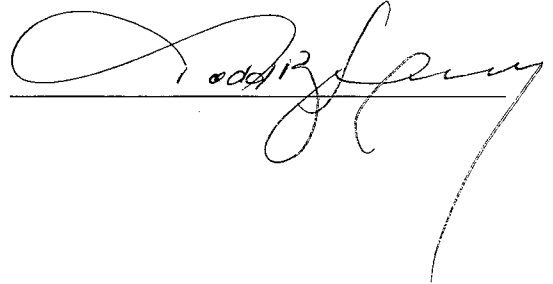
1 28, 2023. This fence has completely and newly eliminated our ability to use the Easement to access
2 the mountain, and has devastated our ability to safely support youth.

3

4 I declare under penalty of perjury under the laws of the State of California that the
5 foregoing is true and correct. Executed on February 8, 2024 in Danville, California.

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A handwritten signature in black ink, appearing to read "Todd Gary", is written over a horizontal line. The signature is cursive and extends to the right of the line.

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