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6 Attorneys for David Mendoza

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8 **SUPERIOR COURT OF CALIFORNIA**  
9 **COUNTY OF LAKE**

10 GARY SABALONE, ) Case No. 409878 by facsimile  
11 Person asking for protection, ) DECLARATION OF DIETRICK  
12 vs. ) MCGINNIS IN SUPPORT OF  
13 DAVID MENDOZA, ) OPPOSITION TO REQUEST FOR  
14 Person to be restrained. ) RESTRAINING ORDER AND IN  
15 ) SUPPORT OF MOTION TO QUASH,  
16 ) DEMURRER, AND MOTION TO  
DISMISS  
DATE: March 24, 2011  
TIME: 8:15 a.m.  
DEPT.: 1

17 I, Dietrick McGinnis, declare:

18 1. I am the president of the environmental consulting firm of McGinnis and  
19 Associates, LLC, of Reno, Nevada. I am submitting this declaration in support of Police Chief  
20 David Mendoza's opposition to the request for a restraining order and in support of his motion  
21 to quash, demurrer, and motion to dismiss filed in the above-entitled matter. The information  
22 contained in this declaration is based upon my own personal knowledge and, if called as a  
23 witness in these proceedings, I could competently testify thereto.

24 2. I have had three incidents involving a man and a woman who live in a home on  
25 the hill behind the Robinson Rancheria Casino. The residence is located on Foothill Oaks  
26 Drive, near the Robinson Rancheria Recycling center and behind the Robinson Rancheria  
27 Casino. The man who confronted us was identified me by Tribal staff as Gary Sabalone.

28 3. The first incident occurred when we were doing wetlands surveys approximately

1 3 years ago. I was working with two employees of the Tribe, Robert Geary and Anthony  
2 Duncan. We were on Foothill Oaks Drive behind and slightly north of the Robinson Rancheria  
3 Casino when we were approach by Gary Sabalone. He had blocked our vehicle on the public  
4 road and proceeded to use vulgar language to express his displeasure regarding our presence at  
5 that location. In addition, Mr. Sabalone indicated he was affiliated with law enforcement. He  
6 was armed with a small handgun in a holster which he initially concealed but then directed our  
7 attention to it. He used profane language and made derogatory comments about the Tribe and  
8 its members. We were not armed and it was obvious that Mr. Sabalone intended to harm us if  
9 we did not comply with his demands. Fortunately, by simply allowing him to make his racially  
10 marked and profanity laced rant, the situation was defused, allowing us to escape. After about  
11 10 minutes, he moved his vehicle and allowed us to pass along the public road. We promptly  
12 reported the incident to the Tribal Environmental Director, the person responsible for our  
13 project and activities.

14 4. The next incident occurred on April 29, 2010 when Phil Oberlander, another  
15 tribal consultant, and I were checking the groundwater level and well depth in Robinson  
16 Rancheria monitoring well #2, located approximately N39° 08.552", W 122° 52.759", WGS 84,  
17 behind the Rancheria Casino and apparently near Mr. Sabalone's property. The only road to  
18 that location is Foothill Oaks Drive which is also the access to Mr. Sabalone's property. We  
19 and the vehicle (a blue 2007 Toyota Prius) were on Rancheria property. I had pulled our  
20 vehicle to the narrow shoulder, as much as the road allowed. There was access past our vehicle  
21 for traffic on the narrow dirt road. We were in sight of the vehicle to move it if needed.

22 5. As we were making our measurements, a small 4 door vehicle came down the  
23 road and stopped. A woman stepped from the vehicle and started shouting at us. We could not  
24 understand what she was saying so I approached the vehicle and was confronted with a tirade  
25 on how we were trespassing and she was calling law enforcement. I pointed out that not only  
26 was there room for her to pass our vehicle, but that we would be happy to immediately move  
27 the vehicle. I also clearly and politely identified myself as a contractor for the Robinson  
28 Rancheria, provided one of my business cards and recommended that she contact the Tribal

1 Environmental Office if she had any questions or complaints.


2 6. At that time I noticed Mr. Sabalone walking down the road from his home near  
3 the well and recycling center. He informed us that we were trespassing, apparently mistaking  
4 Foothill Drive for a private road. We were done with our work (the measurements took less  
5 than 5 minutes) and I let him and the woman know that we would leave as soon as she moved  
6 her car, which was blocking the road. She said that we had to wait for law enforcement. I let  
7 her know that we would be happy to wait for law enforcement to let her know that she was  
8 blocking a public road. We also let her know in plain but professional language that, as  
9 consultants to the Tribe, we were obligated to inform the Tribe that our billing include expenses  
10 for waiting for the Tribe's neighbors to allow us to pass along a public road while working on  
11 the Tribe's property. She moved her car. We left promptly and immediately notified the Tribal  
12 Environmental Director of the incident. We also recommended to the Tribe that future work  
13 adjacent to that property include a police or other security escort.

14 7. As a result of the previous two incidents, it was apparent that Mr. Sabalone was  
15 willing to threaten Tribal staff and contractors and was willing to cause expensive delays for  
16 contractors such as ourselves. On April 30, 2010, Phil Oberlander sent an email recommending  
17 steps to secure well #2 from potential vandalism by an angry neighbor such as Mr. Sabalone. A  
18 true and correct copy of the April 30, 2010, email from Phil Oberlander to Meyo Marrufo and  
19 Dean Rogers is attached hereto as Exhibit 1.

20 8. The next time we worked with Well #2, the Tribe provided a police escort,  
21 Sargent John Irwin. The tests were started on November 3, 2010, and we arrived on site at  
22 approximately 14:30. We pulled all our vehicles completely off the road into the field near the  
23 well. The work we were doing was of several hours duration. The work crew included Phil  
24 Oberlander and me, two Tribal employees, Dean Rogers and Debbie McCubbin, and Sargent  
25 Irwin. After we had been working there for some time, I noticed Mr. Sabalone talking with  
26 Tribal Police Chief David Mendoza. I was working near a noisy pump and generator and  
27 concentrating on a technical task. I, therefore, only observed some of their conversation and  
28 was unable to hear what was said between them. I did notice that the discussion was not loud

1 enough to be heard over our equipment and was not unusually animated. The officer was calm  
2 and polite when he arrived at the field with us and was calm and polite when he left.

3 I declare under penalty of perjury under the laws of the State of California that the  
4 foregoing is true and correct. Executed this 31 day of March, 2011, in Reno, Nevada.

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7 **DIETRICK MCGINNIS**

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3/21/2011

FW: Tribal well #2 behind casino - 'att...



**FW: Tribal well #2 behind casino**

Monday, March 21, 2011 9:59 AM

From: "Dietrick McGinnis" <dmcginnis@mcginnisandassociates.com>  
To: "scottrap@pacbell.net" <scottrap@pacbell.net>

Phil provided this to the Tribe after the April 29, 2010 incident.

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**From:** Phil Oberlander [mailto:oberhydro@charter.net]  
**Sent:** Friday, April 30, 2010 4:51 PM  
**To:** 'Meyo Miarufo'; 'Dean Rogers'  
**Cc:** 'Dietrick McGinnis'  
**Subject:** Tribal well #2 behind casino

As we discussed, the property owners adjacent to the well behind the casino were aggressive and indignant when Dietrick and I were measuring the water level yesterday. Although they claimed we were on their property we never entered their property. Based on their reaction, the casino well is at risk to malicious tampering. The casino well should be fitted with a protective steel casing that fits over the PVC casing. The protective steel casing should be driven at least 5 ft below land surface and a locking steel cap should be installed similar to the hatchery well.

Otherwise the well may have material dumped into it such as large rocks or metal trash that would be very expensive or impossible to remove. This would not be an difficult task for a well driller in an hour or so and would provide a lot of protection for a few hundred dollars.

The next time some road work is being performed have a few yards of gravel placed on Tribal property near the land owners gate. This would provide space for temporary parking at the site and avoid blocking the common driveway.

Phil L. Oberlander  
Oberlander Consulting, LLC  
240 Moonshine Circle  
Reno, NV 89523  
Office and Fax: 775.345.1562  
Cell: 775.722.0329

**EXHIBIT 1**