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May 7, 2021

Lake County Board of Supervisors  
255 N. Forbes St.  
Lakeport, CA 95453

IN RE: Discussion and Consideration of Board Action in Response to Gate Erected Over  
Foothill Oaks Dr.

Dear Lake County Board of Supervisors:

This Law Office represents Gary Sabalone in regarding to Sabalone v. County of Lake, Lake County Case No: CV 421283. It is our understanding that the above referenced matter will be an Agenda Item for Board of Supervisors May 11, 2021 meeting.

Mr. Sabalone requests that the following documents accompanying this letter be made part of the administrative record regarding this Agenda Item:

1. Petition for Writ of Mandate filed with Lake county on October 7, 2020 with Exhibits;
2. Correspondence from Brian Momsen to the Board of Supervisors dated March 31, 2021;
3. Email correspondence from Scott DeLeon to Supervisor Crandell dated March 7, 2020;
4. November 30, 2015 memo from County Counsel to BOS; and
5. Google Earth aerial photo with hand drawn indicators of current gate location and approximate location of northern Sabalone property line.

Feel free to contact us with any questions or concerns. We look forward to meeting with you on May 11<sup>th</sup> regarding this issue.

Very truly yours,

  
Brian S. Momsen

Pg. 2

cc: Anita Grant, Lake County Counsel's Office

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Attorneys for Plaintiff

**FILED**  
SUPERIOR COURT  
COUNTY OF LAKE

OCT 07 2020  
Clerk Gaines  
KIM L. LEVIER

BY

Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF LAKE**

GARY SABALONE,

Petitioner,

v.

COUNTY OF LAKE AND DOES 1-10,

Respondents.

Case No.: CV421283

**PETITION FOR WRIT OF MANDATE**  
**[CCP SECTIONS 1085; 1021.5]**

**General Allegations**

1. Petitioner Gary Sabalone ("Petitioner" or "Sabalone") is an individual who resides in Upper Lake, Lake County, CA.
2. Respondent County of Lake ("County" or "Respondent") is a political subdivision of the State of California and an "inferior tribunal" to this Court as defined in California Code of Civil Procedure Section 1085.
3. Petitioner is unaware of the true names and capacities of the Respondents sued herein as Does 1-10 and therefore sues these Respondents by such fictitious names. Petitioner will amend this Petition to allege their true names and capacities when they are ascertained. Petitioner is informed and believes that these Respondents are in some manner legally responsible for the events and actions alleged herein or have the jurisdiction/ability to remedy the situation alleged herein.

BY FAX

1 4. Petitioner is informed and believes and on that basis alleges that at all times mentioned  
2 in this Petition each Respondent was the agent, employee, partner, and/or conspirator  
3 with the others and in doing the things alleged herein was acting within the course and  
4 scope of that agency, employment, partnership and/or conspiracy.

5 **Background Facts**

6 5. Petitioner owns certain real property commonly known as Lake County Assessor's  
7 Parcel Numbers 004-016-440, 004-016-450, 004-016-460 and 004-016-470 ("Sabalone  
8 Property") which consists of approximately 20 acres immediately north of Robinson  
9 Rancheria Casino. In the mid-1980s, Petitioner and his parents (now deceased)  
10 received a subdivision approval from County by which the 20 acres was divided into  
11 four separate parcels and a roadway, Foothill Oaks Drive which was accepted for  
12 dedication by the County as a County road. While the Sabalone Property does have  
13 other access besides Foothill Oaks Dr., for over 30 years the Petitioner and his family  
14 used Foothill Drive as access to the Sabalone Property and Petitioner has relied on the  
15 County accepting this roadway by dedication by making various improvements to the  
16 Sabalone Property to fulfill his long term goal of developing the Sabalone Property with  
17 housing.

18 6. In the late 1980s after the Sabalone subdivision was approved, Robinson Rancheria was  
19 constructed south of the Sabalone Property. In 2014, the Robinson Tribe gated off  
20 Foothill Oaks Drive and locked the gate on the grounds that unknown persons had been  
21 dumping garbage on their property. The County investigated this in 2015 and on May  
22 5, 2015 the Board of Supervisors sent Petitioner a questionnaire which asked if  
23 Petitioner preferred that the subject gate be removed or be closed and a key provided to  
24 them. A true and correct copy of the completed questionnaire in which Petitioner  
25 elected for removal of the gate is attached hereto as **EXHIBIT A**. Petitioner is  
26 informed and believes and thereon alleges that County mailed the same or similar  
27 questionnaires to other residents along Foothill Oaks Dr. besides Petitioner and that all,  
28 or at least the majority of these other residents also elected that the subject gate be  
removed.

- 1 7. In December 2015 the Board of Supervisors unanimously signed a letter to the  
2 Robinson Tribe stating that they could not gate off a County Road without permission  
3 from the Board, and warning the Tribe that State Law precludes the construction of a  
4 gate on a public highway. A true and correct copy of this letter dated December 15,  
5 2015 is attached hereto as **EXHIBIT B**.
- 6 8. From December 2015 until February 2020 the gate remained open but was not  
7 removed. In 2019, the Chief or President of the Robinson Tribe Eddie "EJ" Crandall  
8 was elected to the Lake County Board of Supervisors. Petitioner is informed and  
9 believes and thereon alleges Crandall was actively involved in causing the Robinson  
10 Tribe to initially gate Foothill Oaks Dr. in 2014 and that it is in his personal interest and  
11 the Robinson Tribe's interest to keep the subject gate locked.
- 12 9. Shortly after Crandall was elected, beginning in February 2020, the Robinson Tribe  
13 started gating off Foothill Oaks Dr. again. Petitioner is informed and believes and  
14 thereon alleges that the location of this gate is not on Tribal lands. Petitioner and his  
15 family were not even provided a key or a combination. Thereafter, Petitioner made an  
16 administrative complaint to County Code Enforcement and spoke with County Code  
17 Enforcement Officer Andy Williams. On or about March 7, 2020, the Lake County  
18 Director of Public Works, Scott DeLeon, drafted and sent an email to Supervisor  
19 Crandall which discusses Petitioner's administrative complaint. This email also  
20 attaches the 2015 Board letter demanding that the Robinson Tribe keep the gate open  
21 and requests that Crandall help find a resolution to this issue such that a Code  
22 Enforcement action can be avoided. A true and correct copy of Director DeLeon's  
23 email attached hereto as **EXHIBIT C**.
- 24 10. Petitioner is informed and believes, based on a Public Records Act he recently served  
25 on County, and thereon alleges that Crandall never responded to Director DeLeon's  
26 email, or, at least, never responded in writing. On or about late March 2020, Code  
27 Enforcement Officer Williams informed Petitioner, that while he sympathized with  
28 Petitioner's situation, that there was nothing that Code Enforcement or any other

1 department of the County could do for him and that no administrative remedies, such as  
2 a hearing before the Board of Supervisors was available to Petitioner.

3 11. On August 24, 2020, Petitioner's attorney served a letter on the Lake County Board of  
4 Supervisors copying County Counsel and Code Enforcement Officer Williams which  
5 makes several inquiries and demands. A true and correct copy of that letter is attached  
6 hereto as **EXHIBIT D**, without the enclosures and is incorporated by reference herein.  
7 In relevant part, Petitioner's attorney's letter asks if the Board has changed the position  
8 in took in the December 2015 letter and if so, what process was invoked to make such a  
9 change? The letter demands that the County enforce its own Code prohibiting the gating  
10 of a County roadway if the position in December 2015 letter has not changed. The  
11 letter also asks the Board and County Counsel for an administrative hearing if the gate  
12 remains locked and provides a deadline of September 25<sup>th</sup> for a response.

13 12. As of the preparation of this Petition which is well after the September 25<sup>th</sup> deadline,  
14 neither the Board, County Counsel nor County Code Enforcement has responded to  
15 Petitioner's attorney's letter. The Robinson Tribe has blocked Foothill Oaks Dr. with a  
16 locked gate continuously since February 2020.

17 **FIRST CAUSE OF ACTION**  
**(Writ of Mandate, CCP Section 1085)**

18 13. Petitioner incorporated Paragraphs 1-12 herein by reference as though set forth in full.

19 14. Petitioner has standing to bring this Petition both as a resident of Lake County who  
20 desires unobstructed ingress and egress over Foothill Oaks Dr. for the public and due to  
21 the fact that Foothill Oaks Dr. is one of only two access routes to the Sabalone Property.

22 15. Division 2 of the Lake County Code, Section 1486 states gates shall not be allowed on  
23 any County highway unless specifically allowed by the Lake County Board of  
24 Supervisors. Petitioner is informed and believes that the Robinson Tribe has received  
25 no authorization from the Lake County Board of Supervisors to gate Foothill Oaks Dr.  
26 which is, in fact a County highway. In fact, the Board has instructed the Robinson  
27 Tribe to keep the gate open pursuant to its letter to the Tribe of December 2015 and the  
28 "State law" mentioned therein.

1 16. County has a mandatory duty pursuant to its police power to enforce its own code and  
2 proclamations from its Board of Supervisors such that it keeps its public roadways  
3 unobstructed by locked gates.

4 17. In the alternative, if County has reversed the position its Board of Supervisors took in  
5 its December 2015 letter to the Robinson Tribe, it has a mandatory duty pursuant to the  
6 Brown Act (California Government Code Section 54950 et. seq.), to accomplish such a  
7 reversal at a public meeting or at least in the form of an official act which can be  
8 reviewed by the public, as opposed to acting clandestinely, or through the edict of one  
9 Supervisor, acting alone. Petitioner and the public also, as a matter of law, are entitled  
10 to an administrative process that is fair and does not involve the input or vote of a  
11 Supervisor who has a clear conflict of interest and personal bias as is the case with  
12 Crandall. (See *Clark v. City of Hermosa Beach* (1996) 48 Cal App 4<sup>th</sup> 1152, 1170)

13 18. Petitioner has no adequate remedy at law as the County has informed him that no  
14 administrative remedies are available to him and because without an order from this  
15 Court, he would have to bring a multiplicity of lawsuits each time the gate over Foothill  
16 Oaks Dr. is shut and locked. Also, because Petitioner's real property and the access  
17 thereto is unique, damages are an inadequate remedy.

18 19. Petitioner prays for a traditional writ of Mandate as set forth below and incorporated by  
19 reference herein.

20 WHEREFORE, Petitioner prays for relief as set forth below:

- 21 1. For a traditional writ of mandate pursuant to CCP Section 1085 commanding  
22 Respondent County to enforce Division 2, Section 1486 of its own Code as well at the  
23 position set forth in its Board's letter to the Robison Tribe of December 2015 by all  
24 means necessary to assure that Foothill Oaks Drive remains unobstructed by a locked  
25 gate or other obstruction so long as it remains a County highway and that the subject  
26 gate be removed;
- 27 2. In the alternative, for a traditional writ of mandate pursuant to CCP Section 1085  
28 commanding Respondent County to hold a public hearing before its Board of

1 Supervisors on the issue of whether the subject gate over Foothill Oaks Dr. can remain  
2 locked or must be removed or left open or to take some other official action which can  
3 be reviewed by the public to determine whether or not the Board has reversed the  
4 position its Board took in its December 2015 letter to the Robinson Tribe. In any such  
5 hearing or action, Petitioner requests a further order that Supervisor Crandall shall not  
6 be allowed to participate or vote if it is determined that he has a conflict of interest or  
7 personal bias.


- 8 3. For attorney's fees pursuant to CCP Section 1021.5 since removing a private, locked  
9 gate over a public roadway benefits the entire public. In the alternative, for attorney's  
10 fees pursuant to 1021.5 on the grounds that an writ of mandate commanding the County  
11 to follow the Brown Act, and to make any decision regarding the subject gate without  
12 the input of a Supervisor that has a conflict of interest or personal bias, benefits the  
13 entire public.
- 14 4. For a hearing on the instant Petition for Writ of Mandate as soon as practical in the  
15 above-referenced court;
- 16 5. For costs of suit herein; and
- 17 6. For any other and further relief at the Court deems just and proper.

18  
19  
20 Dated: 10/7/20

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22 Brian S. Momsen, Esq.  
23 Attorneys for Petitioner  
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Executed on 7 day of October, 2020 at UPPER LAKE, California.

  
Gary Sabalone, Petitioner

## **EXHIBIT A**



**COUNTY OF LAKE**  
**Board of Supervisors**  
Courthouse - 255 North Forbes Street  
Lakeport, California 95453  
Telephone (707) 263-2368  
Fax (707) 263-2207

**Jim Steele**  
**District 3 Supervisor**

May 5, 2015

Frank and Helen Sabalone  
P.O. Box 368  
Upper Lake, CA 95485

Dear Mr. and Mrs. Sabalone,

I'm writing to ask your opinion about access along Foothill Oaks Dr. which may affect your property. Foothill Oaks Dr. is designated as a County thoroughfare, but the County is not responsible for its maintenance. Ordinarily these roads are kept open for travel by the public. However, a gate may be erected and the road closed as necessary to avoid building fences to limit damage to adjoining property.

My understanding is that general public access from this road has resulted in damage to private property and a fence was built by the Robinson Rancheria Tribe to limit this access. A person living along the road has complained to my office and the Tribe was requested to open the gate and they complied. Other residents have approached me asking the gate be kept closed.

In order to hear from residents that may be impacted, I am asking your input by checking the appropriate box below and returning this to my office at the address above. I will bring this to the Board of Supervisors at a subsequent meeting and inform you of the date for that hearing. Below is the applicable code section.

☐ I would like the gate closed and a key provided to me.

☒ I would like the gate removed.

 Signature

004-016-440, 004-016-450, 004-016-460, 004-016-470 printed  
name and parcel numbers of affected property (s) GARY SABALONE

Highway Code Section 1486:

(a) The board of supervisors may provide for the erection and maintenance of gates on the county highways to avoid the necessity of building highway fences. The board may prescribe rules and regulations for closing such gates, and penalties for violating such rules and regulations.

(b) The person, for whose immediate benefit the gates are erected or maintained, shall in all cases bear the expense of such erection and maintenance.

## **EXHIBIT B**



**COUNTY OF LAKE**  
**BOARD OF SUPERVISORS**  
Courthouse - 255 North Forbes Street  
Lakeport, California 95453  
TELEPHONE (707) 263-2368  
FAX (707) 263-2207

*Jim Comstock – District 1*

*Jeff Smith – District 2*

*Jim Steele – District 3*

*Anthony W. Farrington – District 4*

*Rob Brown – District 5*

December 15, 2015

Robinson Rancheria of Pomo Indians of California  
Tribal Council  
1545 E. Highway 20  
Nice, California 95464

Re: Foothill Oaks Drive

Dear Tribal Council:

The Lake County Board of Supervisors is aware that you have had some ongoing concerns regarding illegal dumping and poor road conditions on Foothill Oaks Drive, concerns which have apparently led to your erection of a gate on that roadway. Some property owners who travel Foothill Oaks Drive to access their properties have indicated that this solution is not acceptable to them.


You may not be aware, but Foothill Oaks Drive was accepted by the County as a public roadway many years ago, although it was not accepted for maintenance purposes. State law precludes the construction of a gate on a County highway unless approved by the Board of Supervisors.

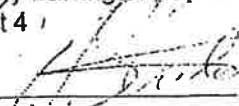
The County both acknowledges and appreciates the concerns that led you to the construction of a gate on Foothill Oaks Drive. The County also must acknowledge and appreciate the concerns of area property owners that their ability to travel on a public roadway is being obstructed. By this correspondence, the County seeks to initiate a dialogue with you that will hopefully result in a satisfactory resolution for all involved. In the meantime, the gate must be left open according to State law.

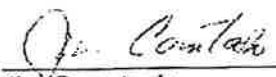
Thank you very much for your consideration.


Sincerely,

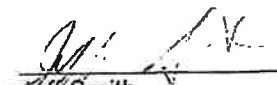
Lake County Board of Supervisors

  
Anthony Farrington, Chair  
District 4

  
Jim Steele  
District 3

  
Jim Comstock  
District 1

  
Rob Brown  
District 5

  
Jeff Smith  
District 2

## **EXHIBIT C**

**Scott DeLeon**

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**From:** Scott DeLeon  
**Sent:** Saturday, March 7, 2020 1:00 PM  
**To:** Eddie Crandell  
**Cc:** Andrew Williams  
**Subject:** Foothill Oaks Drive  
**Attachments:** 20200307160050.pdf

Supervisor Crandell: We've been contacted by Gary Sabalone with a complaint regarding a gate apparently being closed on the subject road. I have not visited the site, but as I understand it Mr. Sabalone owns property adjacent to the Robinson Tribal Lands, and based on the County GIS maps, it appears he has a residence directly behind the Casino facility. Your predecessor on the Board dealt with a similar issue and the Board ultimately crafted a letter to the Robinson Tribal Council asking to initiate discussions between the Tribe and Mr. Sabalone and also to advise them that the gate must remain open. I've included a copy of the letter for your information. I'm hoping you'd be willing to help re-kindle the discussions to find a resolution to the issue? I'm also hoping to avoid any Code Enforcement actions here, though I have included Andrew Williams to keep him advised of my request, and any assistance you can provide is greatly appreciated.

Scott De Leon, Director  
Lake County Department of Public Works  
255 N. Forbes Street  
Lakeport, CA 95453  
707-263-2341  
Fax 707 263-7748

## **EXHIBIT D**

# VANNUCCI MOMSEN MORROW

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An Association of Sole Practitioners

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Colin Morrow  
Phone: 707.380.1070  
Fax: 707.234.8025  
Email: [cmorrow@mendocino.law](mailto:cmorrow@mendocino.law)

August 24, 2020

Lake County Board of Supervisors  
255 N. Forbes St.  
Lakeport, CA 95453

IN RE: Illegal Gating of Public Roadway- Foothill Oaks Drive

Dear Lake County Board of Supervisors:

This law office represents Gary Sabalone who owns certain real property commonly known as Lake County Assessor's Parcel Numbers 004-016-440, 004-016-450, 004-016-460 and 004-016-470 ("Sabalone Property") which consists of approximately 20 acres immediately north of Robinson Rancheria Casino. In the 1980s, Mr. Sabalone and his parents (now deceased) received a subdivision approval from the County by which the 20 acres was divided into four separate parcels and a roadway, Foothill Oaks Drive was accepted for dedication by the County as a County road. For over 30 years the Sabalones have used Foothill Drive as access to the Sabalone Property.

In the late 1980s after the Sabalone subdivision was approved, Robinson Rancheria was constructed. In 2014, the Robinson Tribe gated off Foothill Oaks Drive and locked the gate on the grounds that unknown persons had been dumping garbage on their property. The County investigated this in 2015 and on May 5, 2015 the Board of Supervisors sent Mr. Sabalone and his wife a questionnaire which asked if they preferred that the subject gate be removed or be closed and a key provided to them. A copy of the filled out questionnaire in which the Sabalones voted for removal of the gate is enclosed herewith. Presumably the County mailed the same or similar questionnaires to other residents along Foothill Oaks Dr. besides the Sabalones as well.

Eventually in December 2015 the Board of Supervisors all signed a letter to the Robinson Tribe stating that they could not gate off a County Road without permission from the Board, and warning the Tribe that State Law precludes the construction of a gate on a public highway. A true and correct copy of this letter dated December 15, 2015 is also enclosed herewith.

From December 2015 until February 2020 the gate remained open, but was not removed. In 2019, the Chief of the Robinson Tribe Eddie "EJ" Crandall was elected to the Board of Supervisors and perhaps not coincidentally, the Tribe started gating off the road and

locking the gate again in February 2020. The Sabalones were not even provided a key. Since then, Mr. Sabalone has contacted County Code Enforcement. A Code Enforcement officer, Andy Williams, looked into the matter and initially seemed sympathetic to the Sabalones, but later informed them that there was nothing Code Enforcement or any other branch of the county could do. He also informed the Sabalones that there were no administrative remedies available for the Sabalones such as a hearing before this Board.

I am writing to ascertain whether or not this Board has officially reversed the position it took in the enclosed letter of December 15, 2015. My former office sent a Public Records Act Request to the County and the County has not produced any documents to date which evidence such a reversal. If the Board has changed its position on this issue, the Sabalones would like to know when and how this occurred and to be provided documentary evidence of same. If the Board has not officially reversed the position it took in the enclosed December 15, 2015 letter, the Sabalones demand that the County cite the Robinson Tribe with a Notice of Violation which commands the Tribe to leave the gate open and threatens daily fines or some other penalty if this is not done. If the Board refuses to take such action or some similar action, the Sabalones demand a public hearing before either this Board, Code Enforcement, or the Planning Commission where they can address this issue and seek an administrative remedy. We would appreciate guidance from County Counsel whose office has been copied with this letter in regard to what administrative remedies are available to the Sabalones if the gate remains closed. The Sabalones will object to Supervisor Crandall participating in any such administrative hearing because he has a clear conflict of interest.

If there are no administrative remedies available to the Sabalones and the gate remains closed, the Sabalones shall file a petition for writ of mandate in Lake County Superior Court and seek a court order commanding the County enforce its own laws including Division 2 of the County Code, Section 1486 which states gates shall not be allowed on any County highway unless specifically allowed by this Board. The Sabalones shall seek an award of attorney's fees in any such petition pursuant to California Code of Civil Procedure Section 1021.5.

We look forward to hearing from a representative of this Board, the County Counsel's Office or some administrative body of the County of Lake with answers to these questions or be shown an order to the Robinson Tribe to keep the gate open as discussed above no later than September 25, 2020.

Very truly yours,



Brian S. Momsen

cc: Lake County Counsel's Office  
Andy Williams, Code Enforcement

# VANNUCCI MOMSEN MORROW

Attorneys at Law  
An Association of Sole Practitioners

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March 31, 2021

Lake County Board of Supervisors  
255 N. Forbes St.  
Lakeport, CA 95453

IN RE: Illegal Gating of Public Roadway- Foothill Oaks Drive

Dear Lake County Board of Supervisors:

This Law Office represents Gary Sabalone, and I am writing to respond to a letter sent to this Board on February 25, 2021 from Beniakem Cromwell, Tribal Chair of the Citizen's Business Council of Robinson Rancheria.

The Cromwell letter, while lengthy, omits certain key facts. Most importantly, the letter fails to mention that on December 15, 2015 this Board sent the Robinson Tribe a letter signed by all five Board members that while acknowledging the Tribe's concerns, specifically states that the Tribe was to leave the gate open. Prior to this letter the Board sent questionnaires to neighbors in the vicinity of the gate asking their opinion as to whether the gate should remain open or closed? Given the Board's 12/15/15 letter, we can presume that most neighbors wanted the gate left open, contrary to what is stated in the Cromwell letter without any supporting documentation, that locking the gate "enjoys strong support."

The 12/15/15 letter was this Board's last official act regarding this issue. Nevertheless, the Robinson Tribe has been keeping the subject gate locked for over a year now apparently in defiance of the edict in the letter. In other California Counties such brazen disregard for County authority might well lead to fines and penalties, but not in Lake County. Indeed, how is it that a person or entity other than State or local government can be permitted to gate off a public roadway? Mr. Sabalone strongly believes that the answer to that question involves the Robinson Tribe's political influence over this Board including partnering with the County and contributing substantial money to public works projects that the County could not afford on its own such as the Nice/Lucerne cut-off. Whatever the case, no-one should be above the law.

Another fact omitted from the Cromwell letter is that the Sabalone family purchased their property, and the County approved the Sabalone's proposed subdivision including accepting Foothill Oaks Dr. for dedication as a County Road, *prior to* the Robinson Tribe constructing any

improvements on its property. Consequently, the Robinson Tribe full well knew when making the numerous investments outlined in the Cromwell letter, that Foothill Oaks Dr was a public throughfare immediately to the north of their planned casino.

While the Cromwell letter asserts that the Tribe has always offered Mr. Sabalone a key to the gate, Mr. Sabalone denies this at least as to himself. He cannot speak for other neighbors, but the 2/25/21 Cromwell letter is the first time the Tribe ever offered him a key. Last February, the Tribe simply started gating the road again with no prior notice to him at all.

A key is not an acceptable resolution to Mr. Sabalone and certainly not if all such keys and the gate were controlled by the Tribe as opposed to the County. While Mr. Sabalone should not have to justify or explain his use of a public roadway, he would point out that getting out of a vehicle to open, unlock, close, and then lock a metal gate would be extremely inconvenient especially in inclement weather and perhaps even dangerous at night. It should also not be forgotten that the Ranch Fire burned through this area in 2018 and continues to be an area of high fire danger. A locked gate over a County road in the name of preventing "mischief" could well be the cause of serious injury or death in the event of a wildfire.

Mr. Sabalone eventually wants to develop an already approved subdivision on his property and have Foothill Oaks Dr. As an emergency exit. If Santa Ana winds are blowing east to west such as what occurred in the October 2017 Santa Rosa and Napa wildfires, Foothill Oaks Dr. may be the only escape route. Recently State Senator Mike McGuire introduced new wildfire legislation SB 12 that passed overwhelmingly, part of which mandates enhanced ingress and egress including primary and secondary access routes. The continued gating of Foothill Oaks Drive may well violate this new law. In any event, why wouldn't this Board want to have as many access routes as possible instead of gating them off? It should be noted that the State is attempting to intervene in a lawsuit against the County arising out of its approval of the Guenoc Valley Mixed Use Development Plan, at least in part, due to inadequate ingress and egress during a wildfire event.

The Cromwell letter repeatedly refers to Valley Oaks Dr. as "the road to mischief" and cites several examples of that including drug dealing, the dumping of garbage, and even sex trafficking, but does not provide one shred of supporting evidence such as a police report or a photograph. A simpler explanation is that the Tribe does not want a County Road immediately north of their casino- a concern they should have thought of before they built the casino immediately adjacent to that already accepted County road in the late 1980's.

Even if the allegations of "mischief" are true, how does this gate prevent such activities? There is still access from Highway 20 to either side of the subject gate. The gate does not prevent anyone from reaching a certain destination to dump garbage, for example, but only cuts off Foothill Oaks Dr. as a throughfare. If the Tribe were serious about preventing "mischief," increased law enforcement or their own security, speed bumps, signage, better lighting, and a myriad of other intermediate steps would be far less intrusive than a private gate over a County road.

Mr. Sabalone has filed a Petition for Writ of mandate in Lake County Superior Court that seeks a Court Order commanding the County to enforce State law and its own Code and order the removal of the gate which should be decided this July. The Cromwell letter does not mention this lawsuit and apparently the Robinson Tribe wants to short circuit the suit, by having the Board, without any input but theirs, reverse the position the Board took in its December 2015 letter.

Mr. Sabalone asks that this Board either stand by the December 2015 letter and have the gate removed or that the Tribe be served with a Notice of Violation that includes threatened fines and penalties if the gate remains closed. In the alternative, he requests that the Board do nothing until the Superior Court decides the currently pending lawsuit.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Brian S. Momsen", written in a cursive style.

Brian S. Momsen

cc: Lloyd Guintivano, Lake County Counsel's Office  
Beniakem Cromwell, Tribal Chair  
Little Fawn Boland [littlefawn@ceiblegal.com](mailto:littlefawn@ceiblegal.com)

**Scott DeLeon**

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**From:** Scott DeLeon  
**Sent:** Saturday, March 7, 2020 1:00 PM  
**To:** Eddie Crandell  
**Cc:** Andrew Williams  
**Subject:** Foothill Oaks Drive  
**Attachments:** 20200307160050.pdf

Supervisor Crandell: We've been contacted by Gary Sabalone with a complaint regarding a gate apparently being closed on the subject road. I have not visited the site, but as I understand it Mr. Sabalone owns property adjacent to the Robinson Tribal Lands, and based on the County GIS maps, it appears he has a residence directly behind the Casino facility. Your predecessor on the Board dealt with a similar issue and the Board ultimately crafted a letter to the Robinson Tribal Council asking to initiate discussions between the Tribe and Mr. Sabalone and also to advise them that the gate must remain open. I've included a copy of the letter for your information. I'm hoping you'd be willing to help re-kindle the discussions to find a resolution to the issue? I'm also hoping to avoid any Code Enforcement actions here, though I have included Andrew Williams to keep him advised of my request, and any assistance you can provide is greatly appreciated.

Scott De Leon, Director  
Lake County Department of Public Works  
255 N. Forbes Street  
Lakeport, CA 95453  
707-263-2341  
Fax 707 263-7748



**COUNTY OF LAKE  
BOARD OF SUPERVISORS**

Courthouse - 255 North Forbes Street  
Lakeport, California 95453  
TELEPHONE (707) 283-2368  
FAX (707) 263-2207

GARY SABALONE  
272-6771

December 15, 2015

Robinson Rancheria of Pomo Indians of California  
Tribal Council  
1545 E. Highway 20  
Nice, California 95464

Re: Foothill Oaks Drive

Dear Tribal Council:

The Lake County Board of Supervisors is aware that you have had some ongoing concerns regarding illegal dumping and poor road conditions on Foothill Oaks Drive, concerns which have apparently led to your erection of a gate on that roadway. Some property owners who travel Foothill Oaks Drive to access their properties have indicated that this solution is not acceptable to them.

You may not be aware, but Foothill Oaks Drive was accepted by the County as a public roadway many years ago, although it was not accepted for maintenance purposes. State law precludes the construction of a gate on a County highway unless approved by the Board of Supervisors.


The County both acknowledges and appreciates the concerns that led you to the construction of a gate on Foothill Oaks Drive. The County also must acknowledge and appreciate the concerns of area property owners that their ability to travel on a public roadway is being obstructed. By this correspondence, the County seeks to initiate a dialogue with you that will hopefully result in a satisfactory resolution for all involved. In the meantime, the gate must be left open according to State law.

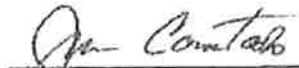
Thank you very much for your consideration.


Sincerely,

Lake County Board of Supervisors

  
Anthony Farrington, Chair  
District 4

  
Jim Steele  
District 3

  
Jim Comstock  
District 1

  
Rob Brown  
District 5

  
Jeff Smith  
District 2



# COUNTY OF LAKE

255 North Forbes Street  
Lakeport, CA 95453

## Memorandum

12/15/2015

Item#:9.12

### MEMORANDUM

**TO:** Honorable Board of Supervisors

**FROM:** Anita L. Grant, County Counsel

**DATE:** November 30, 2015

**SUBJECT:** Consideration of Approval of Correspondence to the Robinson Band of Pomo  
Regarding an Obstruction to a Public Roadway

#### EXECUTIVE SUMMARY:

The Robinson Band of Pomo has erected a gate blocking Foothill Oaks Drive in Upper Lake, which is a road through fee lands to Trust property. Members of the public have complained about this obstacle.

This road was accepted as a public roadway, although not for maintenance purposes, by the Board of Supervisors in two separate, adjacent final parcel map approvals. These acceptances occurred in 1983 and 1988.

Section 25, subdivision (b) of the Streets and Highways Code includes among the definitions of a county highway any road that has been dedicated to the county. In the instant case, that dedication has occurred not once, but twice. Section 1486 of the Streets and Highways Code prohibits anyone from constructing a gate on a county highway unless the Board of Supervisors approves it. It does not appear that any such approval has been obtained.

Supervisor Steele has requested this item be presented to your Board in the hope that initiating a dialogue with the Robinson Band of Pomo will lead to a mutually acceptable resolution of this matter.

#### RECOMMENDED ACTION:

A draft letter requesting that dialogue is included here for your Board's review. If acceptable, your Board may approve the letter by motion and authorize all Board members to sign.

