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JACK DURAN, JR. SBN 221704
LYLE D. SOLOMON, SBN 226025
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4010 FOOTHILLS BLVD
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ATTORNEYS FOR
GRINDSTONE INDIAN RANCHERIA

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GRINDSTONE INDIAN RANCHERIA, a
federally recognized INDIAN TRIBE

Plaintiff,

vs.

TERRENCE OLLIFF and DOES 1-50

Defendants

Case No.: 2:17-cv-02292-JAM-EFB

JAM
**STIPULATION AND ~~PROPOSED~~
ORDER ALLOWING THE FILING OF A
FIRST AMENDED COMPLAINT AND
CHANGE OF CASE CAPTION**

Whereas, on October 31, 2017, Plaintiff, Grindstone Indian Rancheria and tribal
members filed their initial complaint in this matter for trespass and land related claims.

STIPULATION AND [PROPOSED] ORDER ALLOWING THE FILING OF A FIRST AMENDED COMPLAINT
AND CHANGE OF CASE CAPTION

1 **Whereas,** Defendant filed their answer on November 15, 2017. Their answer included
2 information indicating that the Olliff Family trust held the property at issue in the dispute and
3 that Dianne L. Olliff was also a trustee of the Olliff Family Trust, in addition to Terrance Olliff.
4 This information was confirmed with Defendants Counsel, David Griffith.
5

6 **Whereas,** Plaintiff seeks to file a First Amended Complaint (“FAC”).

7 **Whereas,** a copy of the proposed complaint and case caption change is attached as
8 Exhibit “A”, said FAC merely adds one (1) additional party, Dianne L. Olliff and the Olliff
9 Family Trust, with both Dianne L. and Terrance as Co-trustees, and clarifies that Defendants
10 Dianne and Terrance Olliff are trustees of the Olliff Family Trust.
11

12 It is hereby stipulated between the Parties, by and through their respective counsels,

- 13 1. Plaintiff should be allowed to file their First Amended Complaint, attached as Ex A.
- 14 2. Defendant’s responsive pleading is due thirty (30) days after the filing of Plaintiffs
15 FAC.
- 16 3. All prior Court orders and schedules shall remain in force and effect.
17

18 Respectfully Submitted,

19 DURAN LAW OFFICE

20 Dated:

21 By: /s/ Jack Duran

22 Jack Duran
23 Attorneys for Plaintiff
24 GRINDSTONE INDIAN RANCHERIA

25 GRIFFITH AND HORN, LLP

26 Dated:

27 By: /S/ David R Griffith

28 STIPULATION AND [PROPOSED] ORDER ALLOWING THE FILING OF A FIRST AMENDED COMPLAINT
AND CHANGE OF CASE CAPTION

David R. Griffith
Attorney for Defendants Terrance and
Dianne Olliff and Olliff Family Trust

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STIPULATION AND [PROPOSED] ORDER ALLOWING THE FILING OF A FIRST AMENDED COMPLAINT
AND CHANGE OF CASE CAPTION

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GRINDSTONE INDIAN RANCHERIA, a
federally recognized INDIAN TRIBE

Plaintiff,

vs.

TERRENCE OLLIFF and DOES 1-50

Defendants

Case No.: 2:17-cv-02292-JAM-EFB

JAM
**STIPULATION AND [PROPOSED]
ORDER ALLOWING THE FILING OF A
FIRST AMENDED COMPLAINT AND
CHANGE OF CASE CAPTION**

[PROPOSED] ORDER

The Court having reviewed the foregoing Stipulation, and good cause appearing
therefore: IT IS HEREBY ORDERED that Plaintiff, Grindstone Indian Rancheria et al, is
granted leave to amend to file their First Amended Complaint for Damages, a copy of which is
attached hereto as Exhibit "A."

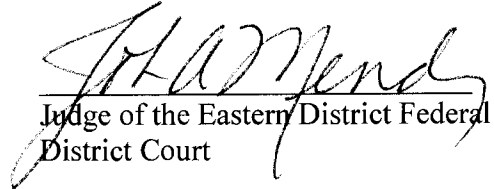
IT IS ALSO ORDERED that Defendant's responsive pleading shall be due thirty (30)
days after the First Amended Complaint for Damages is filed.

IT IS FURTHER ORDERED that the First Amended Complaint for Damages is deemed
filed as of the date this Order is transmitted via the CM/ECF system.

STIPULATION AND [PROPOSED] ORDER ALLOWING THE FILING OF A FIRST AMENDED COMPLAINT
AND CHANGE OF CASE CAPTION

1 It is FURTHER ORDERED that all prior orders issued by the Court remain in full force
2 and effect.

3
4 Dated: 3.7.2018

5 
6 Judge of the Eastern District Federal
7 District Court

EX. A

1 Jack Duran, Jr. SBN 221704
2 Lyle D. Solomon, SBN 226025
3 4010 foothills Blvd
4 S-103, N.98
5 Roseville, CA 95747
6 916-770-3316 (Office)
7 916-520-3526 (Fax)
8 duranlaw@yahoo.com

9 **UNITED STATES DISTRICT COURT**
10 **EASTERN DISTRICT OF CALIFORNIA**

11 GRINDSTONE INDIAN RANCHERIA and
12 ONE HUNDRED PLUS MEN, WOMEN AND
13 CHILDREN LIVING ON THE GRINDSTONE
14 INDIAN RESERVATION

15 Plaintiff,

16 vs.

17 TERRENCE OLLIFF, individually and as a
18 beneficiary/trustee of the Olliff Family Trust, DIANE
19 L. OLLIFF, individually and as a beneficiary/trustee of
20 the Olliff Family Trust AND DOES 1-10,

21 Defendant

Case No.: 2:17-cv-02292-JAM-EFB

**FIRST AMENDED COMPLAINT FOR
WILLFUL AND NEGLIGENT TRESPASS,
INTENTIONAL AND NEGLIGENT
INFLECTION OF EMOTIONAL
DISTRESS; CONVERSION;
DECLARATORY, INJUNCTIVE RELIEF
AND DAMAGES;**

22 1. Plaintiff, the Grindstone Indian Rancheria and its tribal membership, brings this Complaint,
23 alleging as follows:

24 **JURISDICTION AND VENUE**

25 2. Subject matter jurisdiction arises under 25 U.S.C. § 345, 18 U.S.C. § 1151, and 28 U.S.C.
26 § 1362 as this action pertains to the property/land allotment rights of federal land held in trust by
27 the United States government which has been allotted/leased to Plaintiff, a federally recognized
28 Indian Tribe. This Court has jurisdiction pursuant to the Declaratory Relief Act 28 U.S.C. §2201

1 et seq. This Court has supplemental jurisdiction over any claims in the Complaint arising under
2 the laws of the State of California pursuant to 28 U.S.C. § 1367(a).

3 3. Venue is proper as all of the events and/or omissions, property, trespasses and
4 encroachments giving rise to this action occurred in this judicial district, and venue is therefore
5 proper pursuant to 28 U.S.C. § 1391(b)(2).
6

7 **PARTIES**

8 4. Plaintiff Grindstone Indian Rancheria is a federally-recognized Indian Tribe listed in the
9 Notice published in the Federal Register as required by the Federally Recognized Indian Tribe
10 List Act of 1994 (“List Act”), 25 U.S.C. § 479a, et seq., entitled Indian Entities Recognized and
11 Eligible to Receive Services from the United States Bureau of Indian Affairs, and is organized
12 pursuant to the Constitution and Bylaws of the Grindstone Indian Rancheria, dated June 27,
13 1971. Plaintiffs reservation consists of one-hundred plus men, women and children who live and
14 work on the reservation.
15

16 5. Defendant, Terrence Olliff, individually and as beneficiary or trustee of the Oliff Family
17 Trust, own/occupy/control/possesses land, that is directly adjacent to the Grindstone Indian
18 Rancheria’s trust land at issue in this action.
19

20 6. Defendant, Dianne L. Oliff, individually and as beneficiary or trustee of the Oliff Family
21 Trust, own/occupy/control or possess and is a beneficiary and trustee of the Oliff Family trust,
22 owning land that is directly adjacent to the Grindstone Indian Rancheria’s trust land at issue in
23 this action.
24

1 8. Doe Defendants are unknown at this time but are alleged to be the agents of or took
2 direction from Defendants Olliff in furtherance of his acts against Plaintiffs. As soon as DOE
3 defendants are identified Plaintiff shall add them to this case as proper defendants.
4

5 **FACTS RELATED TO ALL CAUSES OF ACTION**

6 7. The Tribe's Reservation is located on 120 acres of land, in federal trust, located in Elk
7 Creek, Glenn County, California. One hundred plus tribal members, men women and children
8 call the reservation home.
9

10 8. In 2011, the Bureau of Land Management (BLM) conducted a survey of the Grindstone
11 Rancheria federal trust lands. The results of the survey were mailed to the Tribe and Mr.
12 Terrence and Dianne Olliff, a landowner whose lands abutt the Reservation. Pursuant to the
13 survey Defendants Olliff was required to respond by a certain time if he objected to the survey's
14 conclusions as to the land boundaries. Mr. Oliff never responded or objected within the required
15 time as required by the BLM.
16
17

18 9. Thereafter, Terrence Olliff embarked and continues to embark on a pattern of domestic
19 terrorism towards the Tribe and its membership. Mr. Olliff has torn down fences that are
20 consistent with the BLM boundary lines; confiscated trust lands and claimed them as his; he has
21 trespassed on trust lands and moved and taken tribal property; yelled obscenities at tribal
22 members and employees, including tribal children; created roads on tribal trust land without the
23 Tribe's permission and diverted water that belongs to the Tribe.
24
25
26
27

1 10. In 2014, Terrence Olliff filed a frivolous lawsuit in Glenn County Superior Court
2 alleging a Grindstone employee caused him emotional distress. In reality the suit was an attempt
3 to circumvent the Tribe's sovereign immunity and embroil the Tribe in litigation. When Mr.
4 Olliff's counsel discovered his history of acts and threats against the Tribe, employees and
5 members, his attorney agreed to dismiss the lawsuit as frivolous. (Ex. B, complaint and C,
6 Dismissal). Since the dismissal Mr. Olliff continues to trespass, threaten tribal members,
7 employees and guests and has appropriated a strip of land he claims title and interest as against
8 the Tribe.
9
10

11 11. On or about October 26, 2017, Defendant Terrence Olliff accused Grindstone Rancheria
12 Chairman, Ronald Kirk, of trespassing on "his" land, when the land he claims is "his" is actually
13 in trust for the benefit of the Tribe as noted in the 2012 BLM survey.
14
15

16 **FIRST CLAIM FOR RELIEF**

17 **(Willful Trespass)**

18 12. Plaintiff is, and at all times mentioned in this Complaint was, the
19 owner/occupier/possessor/controller/beneficial owner of that real property (held in trust by the
20 United States government) known as the Grindstone Indian Rancheria, situated in Elk Creek,
21 Glenn County, California.
22

23 13. Defendant Olliff is, and at all times mentioned in this Complaint was, the
24 owner/occupier/possessor/controller of that real property situated in Glenn County that abuts the
25 reservation trust lands at issue in this case.
26
27

1 14. The above-described properties of Plaintiff and defendant adjoin each other and share
2 common property boundaries. The boundaries have been conclusively verified via the
3 determinations of the United States Bureau of Land Management, as described in EXHIBIT A.

4
5 15. Plaintiff is ignorant of the true names and capacities of defendants sued in this
6 complaint as DOES 1-10, inclusive, and therefore sues these defendants by such fictitious names.
7 Plaintiff will amend this Complaint to allege their true names and capacities when ascertained.
8 Plaintiff is informed and believes and on that basis alleges that each of the fictitiously named
9 defendants is responsible in some manner for the construction, maintenance, ownership, control,
10 encroachment, trespass, and/or existence of the property rights violation on Plaintiff's land as
11 alleged in this Complaint.
12

13
14 16. Plaintiff has become aware that Defendant Terrence Olliff and or their agent knew
15 and/or caused a fence/gate to be built on Plaintiff's property, Defendant has repeatedly moved
16 and stored equipment belonging to Plaintiff within the encroached upon Property, and has
17 diverted water from a creek on Plaintiff's property. Such encroachments, thefts and trespasses
18 on Plaintiff's property by extending over the boundary between Plaintiff's and Defendant's
19 properties and onto Plaintiff's land is without Plaintiff's consent.
20

21 17. Defendant Terrence Olliff has willfully and intentionally encroached upon, trespassed
22 upon, and obstructed Plaintiff's use and enjoyment of its property as described in this complaint.
23 Plaintiff repeatedly advised Defendant (via counsel) in writing and otherwise that he was
24 trespassing and encroaching on Plaintiff's land. Defendant even received confirmation of
25 Plaintiff's property rights from the Bureau of Land Management. Defendant never appealed the
26 conclusive determinations of the Bureau of Land Management as set forth in Exhibit A.
27

1 Accordingly, Defendant Terrence Olliff knew or should have known that such encroachment,
2 trespass, and obstruction on Plaintiff's property were in violation of Plaintiff's right to free
3 enjoyment and use of its property.

4
5 18. Such encroachment, trespass, and obstruction clouds the title to Plaintiff's property and
6 Plaintiff has suffered damages for the loss of use of such land in an amount to be proven at trial.
7 As a proximate result of this action, Plaintiff has suffered and will continue to suffer damages for
8 loss of the use of the area as long as Defendant continues with his encroachment, trespass,
9 control and obstruction of Plaintiff's property, including violation of Plaintiff's water rights.

10
11 19. In causing these violations of Plaintiff's property rights, Defendant Terrence Olliff acted
12 maliciously and oppressively toward Plaintiff in that at all times prior to, during, and after
13 Defendant Terrence Olliff caused such violations, Defendant had knowledge of the location of
14 the common boundary lines. Furthermore, in willful and conscious disregard of Plaintiff's rights,
15 defendant continues to allow such violations of property rights to continue. Plaintiff therefore has
16 suffered exemplary and punitive damages because of Defendant's actions in an amount to be
17 proven at time of trial.

18
19 20. Unless Defendant Terrence Olliff is compelled to remove the encroachments, cease from
20 trespassing, controlling, and encroaching on Plaintiff's property and violating Plaintiff's water
21 rights, Plaintiff will suffer irreparable injury in that the continuing actions could ripen into
22 adverse prescriptive property rights.

23
24 **SECOND CLAIM FOR RELIEF**

25 **(Negligent Trespass)**

26 21. Plaintiff incorporates in this Second Claim for Relief Paragraphs 1-20, inclusive.

1 22. In causing such encroachments and trespassing on and obstruction of Plaintiff's property
2 rights, Defendant Terrence Olliff acted negligently and carelessly and in complete disregard of
3 the true and conclusive location of the boundary lines between Plaintiff's and Defendant's
4 properties.
5

6 23. As a proximate result of the negligence and the resulting trespass, Plaintiff has suffered
7 damages from the loss of use and enjoyment of the property encroached upon, trespassed on, or
8 obstructed in an amount to be proven at time of trial.
9

10 **THIRD CLAIM FOR RELIEF**

11 Conversion
12 (All Defendants)

13 24. Plaintiff incorporates by reference all allegations contained in Paragraphs 1-23 of this
14 Complaint as though fully set forth herein at length.

15 25. Plaintiff alleges that at all times it had a right to possess the trust lands and that Defendants
16 wrongfully interfered with Plaintiff's right to possess the lands, by occupying the lands, placing
17 personal items and trash on the lands including old vehicles and or converting a portion of the land
18 to their own wrongful uses.

19 26. Defendant Terrence Olliff prevented Plaintiff from having the right to possess the trust
20 land and Plaintiff did not consent to Defendants' wrongful possession. Plaintiff has demanded
21 they vacate the premises and pay damages for their unlawful use on several occasions.

22 27. As a result of Defendants' Terrence Olliff's wrongful conversion of the property, Plaintiff
23 suffered harm, in an amount to be determined at trial, Defendants being a substantial cause of
24 Plaintiff's harm.

25 //

1 anguish, and emotional and physical distress, and has been injured in mind and body as follows:
2 damages in the sum to be determined at trial based on proof.

3
4 **FIFTH CLAIM FOR RELIEF**
5 Negligent Infliction of Emotional Distress
6 (All Defendants)

7 33. Plaintiff incorporates by reference all allegations contained in Paragraphs 1-32
8 of this Complaint as though fully set forth herein.

9 34. Defendant Terrence Olliff by act negligently inflicted emotional distress upon Plaintiff
10 and Plaintiffs tribal members employees and guests via verbal threats, racial epithets and threats
11 of violence specific to members, employees and guests to the Grindstone Indian Rancheria. Said
12 conduct was intentional and malicious and done for the sole purpose of causing Plaintiff to suffer
13 humiliation, mental anguish and emotional and physical distress.

14 35. As a further proximate result of Defendant Terrence Olliff's actions and the
15 consequences proximately caused by it, as hereinabove alleged, plaintiff suffered severe
16 humiliation, mental anguish, and emotional and physical distress, and has been injured in mind
17 and body as follows: damages in the sum to be determined at trial based on proof.

18
19
20 **SIXTH CLAIM FOR RELIEF**
21 Civil Harassment Ca Civ. Code 527.6
22 (All Defendants)

23 36. Plaintiff incorporates the above paragraphs 1-35 as set forth herein.

24 37. Plaintiff Terrence Olliff's course of conduct over the last five (5) years is a pattern of
25 conduct composed of a series of acts over a period of time that threaten, stalk, batter, humiliate

1 and threaten acts of violence against the Tribe, members, guests and employees. Said acts are
2 not protected by the first amendment to the United States constitution.

3
4 **SEVENTH CLAIM FOR RELIEF**
5 Declaratory Judgement 28 U.S.C. §2201 et seq.

6 38. Plaintiff incorporates by reference and re-avers each and every paragraph 1-37 above.

7 39. An actual and substantial controversy exists between Plaintiff and Defendants Terrence
8 and Diane Olliff concerning the possession of the land. Plaintiff has provided evidence of his
9 possessory interest in land, while Defendants continues to trespass upon the lands committing
10 waste.

11 40. An actual and substantial controversy exists between the parties concerning their
12 substantive legal rights and duties. Plaintiff contends that as the land is in trust, under the
13 governance of the Land Ordinance and that he retains the rights and privileges over the use of the
14 land and requests the Court issue a declaratory judgment to that effect. Therefore, declaratory
15 relief is appropriate under 28 U.S.C. §2201 et seq.

16 **PRAYER FOF RELIEF**

17 WHEREFORE, Plaintiff prays for judgment as follows:

18
19 1. For a permanent injunction compelling Defendant to remove the encroachments, cease
20 from trespassing on, and obstructing any property rights (including violating Plaintiff's water
21 rights) described in this Complaint in respect to Plaintiff's property and to restore Plaintiff's
22 property to its condition immediately prior to such actions of Defendant.

23
24 2. A permanent injunction restraining Defendant from intimidating, threatening and /or
25 violence and racial epithets toward the Tribe, its members, employees and guests pursuant to CA
26 Civil Code 527.6.

27 3. For general damages.

28 FIRST AMENDED COMPLAINT FOR WILLFUL AND NEGLIGENT TRESPASS, INTENTIONAL AND
NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS; CONVERSION; DECLARATORY, INJUNCTIVE
RELIEF AND DAMAGES; - 10

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- 4. For exemplary and punitive damages.
- 5. For costs of suit incurred by this Complaint.
- 6. For a declaratory judgment that the property as identified by the BLM are the true and correct markers for purposes of identifying the boundaries of the Grindstone Indian Rancheria
- 6. For other and further relief as the court deems proper.

DURAN LAW OFFICE

Dated: 3/6/2018

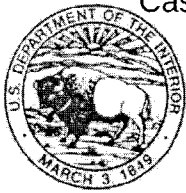
By: /s/ Jack Duran
Jack Duran Attorneys for Plaintiff
GRINDSTONE INDIAN
RANCHERIA et al

1 **CERTIFICATE OF SERVICE**

2 I certify that on March 7, 2018, a copy of this pleading was filed electronically with the
3 Clerk of Court using the CM/ECF system. Notice of this filing will be sent to all counsel of
4 record via the court's electronic filing system.
5

6 /S/ Jack Duran Jr.
7 Jack Duran, Jr.
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United States Department of the Interior



BUREAU OF LAND MANAGEMENT

California State Office
2800 Cottage Way, Suite W1623
Sacramento, CA 95825
www.ca.blm.gov

August 16, 2012

In Reply Refer to:
9600 (CA942)
Gp1632

Mr. Terrence Olliff
3580 County Road 305
Orland, CA 95963

Re: Inquiry Regarding the 2011 BLM Resurvey of the Grindstone Rancheria

Mr. Olliff:

This is in reply to your letter of August 8, 2012, and your questions regarding the center south 1/16 section corner of section 15 in Township 21 North, Range 6 West, Mount Diablo Meridian. This corner also functions as a corner of the Grindstone Rancheria.

The materials you submitted to this office for review were considered when our resurvey was executed in 2011. The acceptance or rejection of the remnants of the cedar post set by Thomas Knock in 1893 (found at the base of the fence corner on the west side of the road) as marking the center south 1/16 corner of section 15, is a point of disagreement between our survey and George Pride's 1974 and 1976 surveys. The reasons and justification for accepting the 1893 corner and rejecting Pride's calculated corner are contained in the field notes accepted September 14, 2011. Enclosed is a copy of the field notes for your consideration. Please refer to page 14 of this document regarding the corner in question.

With the acceptance of Knock's center south 1/16 corner, the monuments set during the 1976 survey by Pride to mark the corners of Parcel 2, were accepted during our resurvey as marking the corners of said parcel, but not as points on the north and south centerline of the section. The Grindstone Rancheria consists of two parcels of land: the aforementioned Parcel 2, and the south 1/2 of the southeast quarter of section 15. The latter parcel was created in 1892 as part of the Vandeford estate, and was one of several parcels created simultaneously in section 15, based on Knock's survey. Given the length of local acceptance and occupation to Knock's center south 1/16 corner (83 years prior to the Pride survey) and the approval of this resurvey on September 14, 2011, it is the Bureau's opinion that Knock's corner, not Pride's calculated point, is the center south 1/16 corner and therefore the northwest corner of that portion of the Grindstone Rancheria.

If you disagree with this resurvey, you have the right to protest any decision of this office which is adverse to your interests.

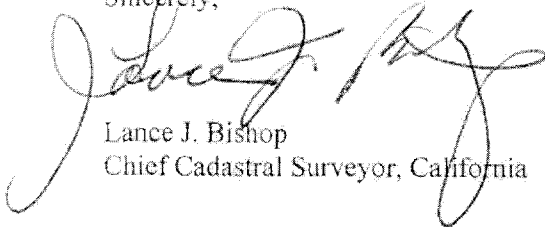
In past and current practice, the Bureau of Land Management accepts "written protests against specific corners and/or lines of official resurveys and surveys" as conducted by the Cadastral Survey staff and accepted by the Bureau. The Bureau carefully considers all evidence and data submitted with any such protest, along with the official record of the survey being protested, and the protestor is notified of the decision by this office.

Should you decide to pursue such a protest, please be advised that the protest must be filed with this office no later than 60 days after receipt of this letter. A statement which clearly expresses your reasons for believing that the Bureau's resurvey is erroneous must accompany your notice of protest, along with any additional evidence you can provide in support of your protest. This does not include the materials accompanying your inquiry of August 8, 2012, as that evidence was already evaluated in the resurvey.

Please be aware that the burden of proving a government survey to be in error is upon the person who challenges the survey. It is well established in law that an appellant challenging a Government resurvey has the burden of establishing by a preponderance of evidence that the resurvey is not an accurate retracement or reestablishment of the original survey. Consequently, it is imperative that you precisely state your reasons for disagreeing with the survey. It is essential that any such statements of reasons be solidly based on facts. It is important to identify specific corners and/or lines in contention and to include explicit facts pertaining to the items objected to, together with all available substantiation and documentation. Generalities, accusations, and claims based on adverse possession against the United States are not proper criteria for protest and should be avoided.

I hope this answers your concerns regarding this corner. If you have any further questions or concerns regarding this survey, please do not hesitate to contact Ronald Schulz at (916) 978-4338, and he will answer any further questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Lance J. Bishop". The signature is fluid and cursive, with a large initial "L" and "B".

Lance J. Bishop
Chief Cadastral Surveyor, California