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SUPERIOR COURT JUDGE UPHOLDS CONSERVATION EASEMENT ON PROTECTED
LINDEN LEA RANCH IN NEVADA COUNTY

Ruling is watched closely by communities, land trusts, and property owners across the state

Grass Valley, CA – September 8, 2008 – In a final ruling, Judge Robert Tamietti in the Nevada County and California State Superior Court has decided in favor of Nevada County Land Trust and landowners Bill and Anna Trabucco and Paul and Kellye Manuel in a civil lawsuit brought by adjacent landowner Ian Garfinkel who desired to build a road across protected land to gain access to his property.

The essence of the case brought by Garfinkel was that old homesteader trails most likely crossed the Trabucco and Manuel properties, and as public byways he claimed he could use them as a more convenient way to access his 160-acre adjoining parcel that he purchased in 2005. Although Garfinkel claimed his property was landlocked, a different and longer access route to his property that does not traverse the Trabucco or Manuel properties had been previously established through a road easement by a prior owner. Garfinkel argued that the previously established easement was too costly to develop as an access road to his parcel.

The Land Trust and Trabuccos argued that a road on their land would violate their conservation easement, which preserves their ranch as agricultural land. A conservation easement is a legal deed restriction that prohibits development on protected property in perpetuity. It is designed to protect environmental conservation values and maintain land as natural habitat, open space or, as in this case, working agricultural land forever. Cattle rancher Jim Gates leases the Trabuccos' property for his business, Nevada County Free Range Beef which supplies several Grass Valley and Nevada City restaurants and markets.

In a tentative written decision released on August 22, 2008 Judge Tamietti said the roads portrayed on Garfinkel's maps cannot be proven to be on the Trabucco property. Garfinkel based his case on maps showing roads dating to the 1850s. But the two maps, county tax records and expert testimony were not enough evidence to prove that the roads ever crossed the Trabuccos' property, Tamietti ruled. Since a 10-day deadline has passed and no protests have been filed, the ruling becomes permanent.

Land trusts across the state are looking at a court decision in Nevada County and the precedents it could set for conservation easements elsewhere.

"Land trusts have been protecting land with conservation easements in California for the past 30 years. These early challenges are very important to establish a track-record of courts upholding the agreements," said Darla Guenzler, executive director of the California Council of Land Trusts. The group represents 86 land trusts statewide in Sacramento. "Local communities, the public and landowners have made enormous investments in conserving

land for the many public benefits it provides, and it is essential to defend challenges to these natural treasures. So far, the land trust community has prevailed, and we hope the outcome of this case will deter others,” Guenzler said.

“This is a huge win for our community and we’re obviously pleased with the decision,” said Joe Byrne, president of the Nevada County Land Trust Board of Directors. “We are also very grateful for the extensive community support both in terms of advocacy for our cause of permanent land protection and from the many donors who contributed to the legal costs of the defense. Attorney fees are un-recoverable and are a major financial drain for a community supported non-profit.”

During the court trial, 23 witnesses were called during eight days of testimony over a 8-month period, 455 exhibits were admitted, and the court and counsel made two site visits to the disputed properties located off of Bitney Springs Road outside Nevada City, California.

The Nevada County Land Trust is a 501c3, for the public benefit organization. The Nevada County Land Trust exists to create a balance between nature and the needs of the people who make a life and a livelihood here. Our mission is to enrich the deep community connection with our land - today, tomorrow and forever. For more information visit our website, NevadaCountyLandTrust.org or contact Marty Coleman-Hunt, executive director at marty@nevadacountylandtrust.org or 530-272-5994.

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