

EXHIBIT 16

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

Multnomah County, a political subdivision of
the State of Oregon, Multnomah County
Department of Community Services, Land Use
Planning, a Department of Multnomah County,

Plaintiffs,

v.

Heather Moon, an individual,

Defendant.

Case No.

**DECLARATION OF JON
HENRICHSEN IN SUPPORT OF
COMPLAINT SEEKING AN EX
PARTE RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

I, Jon Henrichsen, under penalty of perjury, do declare and state as follows:

1. I am the County Engineer for Multnomah County.
2. As the County Engineer, I am responsible for overseeing the maintenance of the County Road System and the Willamette River Bridges, overseeing and authorizing the development of road and bridge construction plans and specifications to repair or improve the County Road system and the Willamette River Bridges, and overseeing Transportation Planning and regulation of development in and adjacent to the County Transportation System Right of Way.
3. I have a Bachelors of Science in Electrical Engineering and a Masters of Science in Mechanical Engineering.

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Email: chris.gimre@multco.us

1 4. I am a licensed professional engineer in the State of Oregon in Electrical
2 Engineering and in Mechanical Engineering.

3 5. I have worked for Multnomah County in the Bridge and Road Engineering
4 Programs for twenty-nine (29) years.

5 6. I have past experience as an Inspector, Project Manager, and Manager planning,
6 overseeing, and managing the construction of civil, structural, electrical, and mechanical projects
7 for Multnomah County.

8 7. I managed the construction of the Sauvie Island Bridge and the Sellwood Bridge,
9 both of which included extensive civil and structural elements.

10 8. I visited the property located at 645 SE Pounder Road ("Property") to inspect
11 reports relating to the condition of the public right-of-way.

12 9. During my visit on March 1, 2021, I personally observed the hillside of the
13 Property was significantly denuded of vegetation and did not have any functional erosion control
14 in place.

15 10. I also observed the following:

- 16 a. The private culvert under the driveway was plugged and inoperable
17 resulting in the pooling of water adjacent to the road;
18
19 b. The public culvert next to the paved surface in the public right-of-way was
20 also inoperable resulting in pooling of water adjacent to the road;
21
22 c. A trench was dug adjacent to the paved road and in the public right-of-
23 way for a significant distance south of the driveway;
24
25 d. The paved surface of the road was covered with excess runoff and
26 sedimentation;

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- e. The base of the road was compromised resulting in the cracking or alligating of and an observable depression in the paved surface;
- f. The shoulder of the road was sloughing off; and
- g. Material from the shoulder was threatening to enter or had entered Pounder creek.

11. I am also aware that the sloughing of the shoulder exerted forces on the water pipe buried in the shoulder that is operated by the Corbett Water District which exceeded its strength and caused it to break and require repair.

12. I took the following photographs in support of my observations:

- a. Exhibit 1, sloughing shoulder (93731);
- b. Exhibit 2, alligating pavement (93744);
- c. Exhibit 3, runoff, sediment and debris on road (94334);
- d. Exhibit 4, ponding around public culvert (94345);
- e. Exhibit 5, ponding around driveway culvert (94454); and
- f. Exhibit 6, mudslide and large boulders in right-of-way (95531).

13. Attached hereto as Exhibit 7 are my notes and annotations relating to the conditions I observed on March 1, 2021.

14. In my opinion the conditions I observed on the property were a direct result of the excessive runoff sedimentation, mud and debris that was caused by excavation of the hillside.

15. In my opinion the conditions I observed create a public road hazard and are an imminent public safety threat.

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1 16. As a result I took immediate action seeking a fix to the road by contacting a
2 civil/geotechnical engineer to assess and fix the road.

3 17. In opinion any proposal to fix the road will necessarily require a plan to control
4 and mitigate the impacts of the excessive runoff from the Property. Without a plan the runoff
5 will continue to plug the culvert and erode the base of the road, compromising the paved surface
6 and resulting a risk of harm to the traveling public. A failure to act presents an imminent risk of
7 serious harm to the traveling public.

8 I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST
9 OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND IT IS MADE FOR USE
10 AS EVIDENCE IN COURT AND IS SUBJECT TO PENALTY FOR PERJURY.

11 Dated this 8 day of March, 2021.

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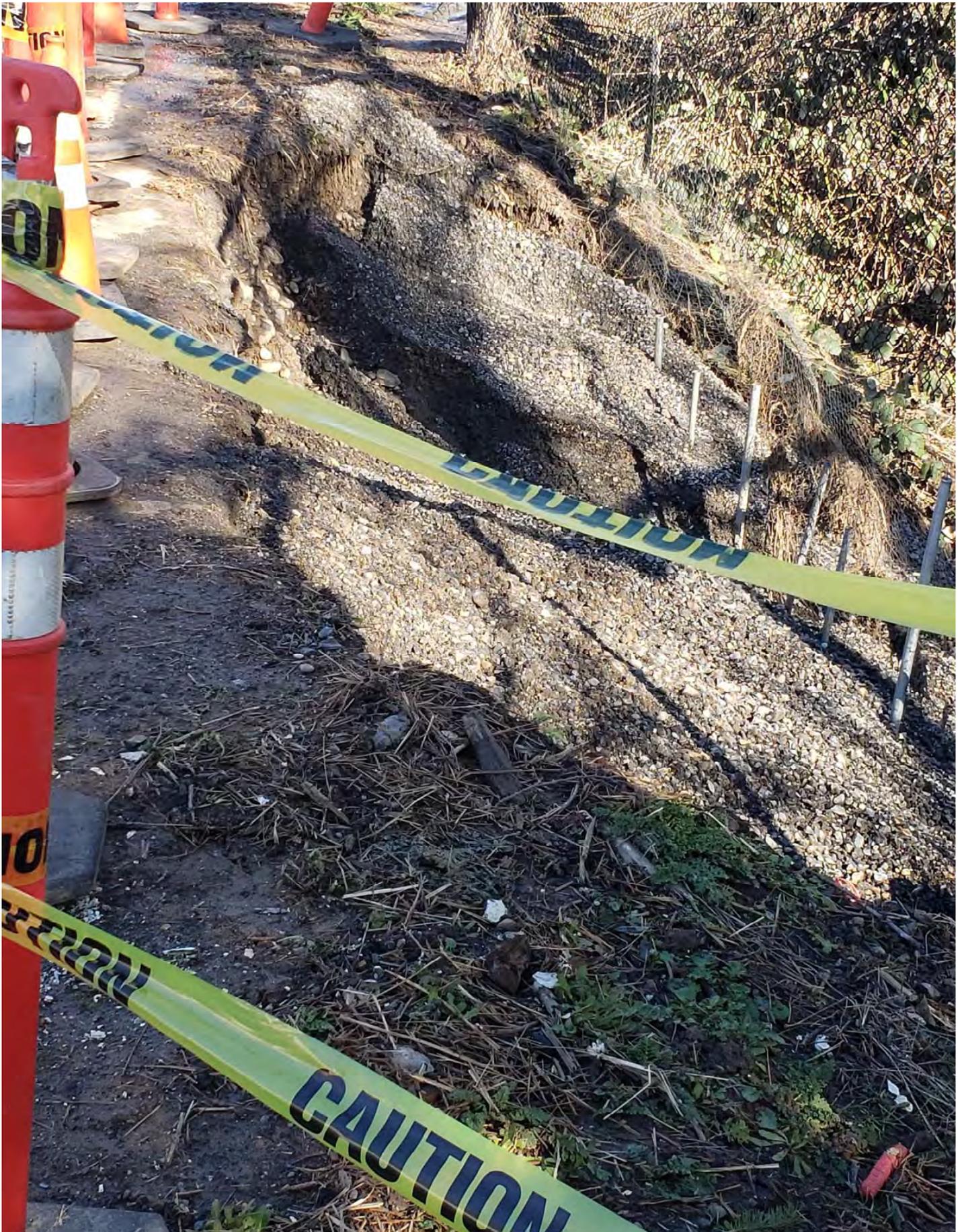
Jon Henrichsen

Digitally signed by Jon Henrichsen
DN: cn=US, E=jon.p.henrichsen@multco.us, o=Multnomah County,
ou=Transportation Division, c=US, cn=Jon Henrichsen
Reason: I attested to the accuracy and integrity of this document
Date: 2021.03.08 17:03:12-0500

Jon Henrichsen, County Engineer
Multnomah County, Department of Community Services

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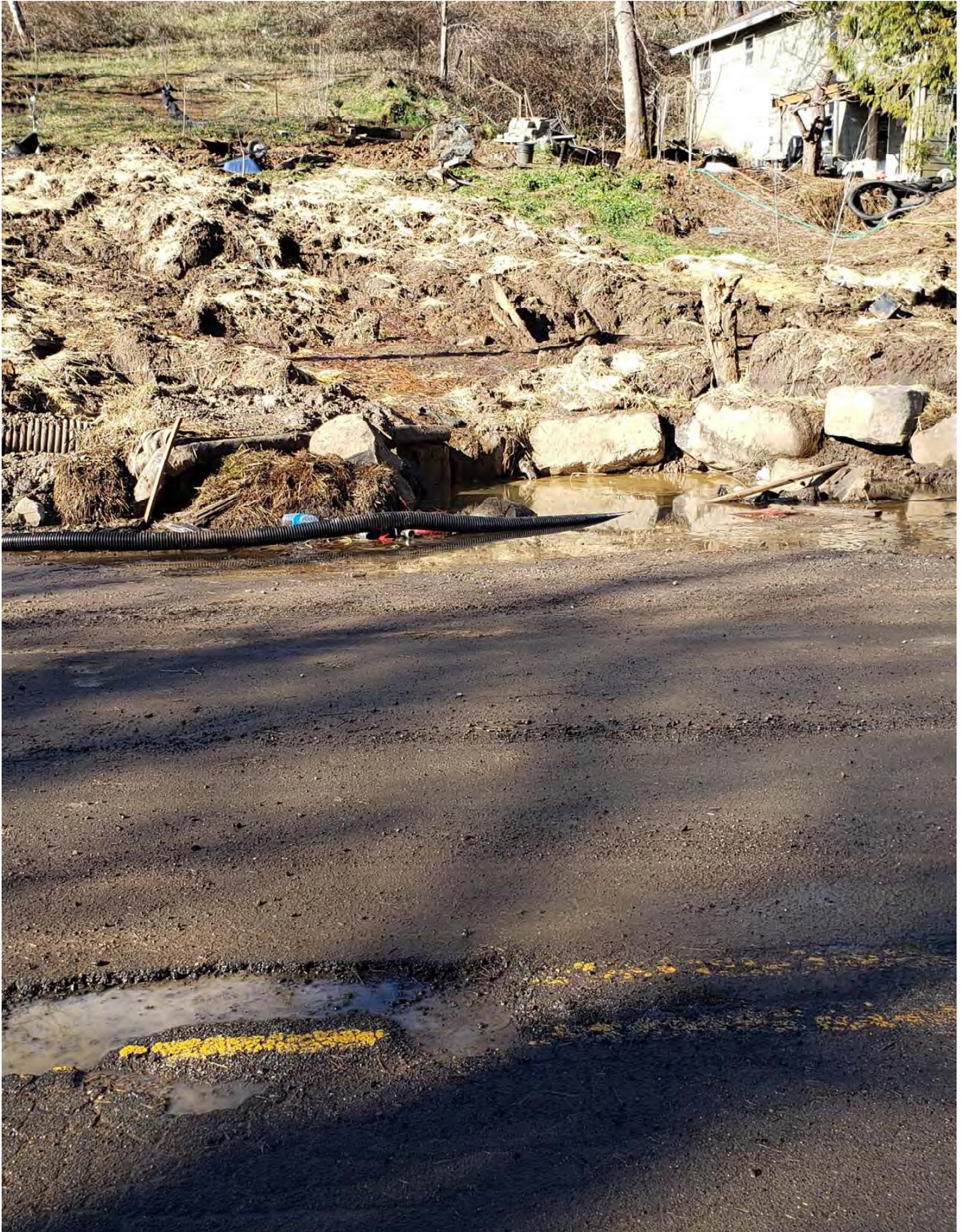












Site Visit Report

645 SE Pounder Rd - March 1, 2021



Emily and I went out to Pounder Rd this morning to look at the damage and decide what we need from an Engineering Consultant to allow us to repair the failed roadway embankment and culvert.

Observations:

The roadway embankment on the east side of Pounder Rd near 645 SE Pounder has failed and slid towards Pounder Creek, destabilizing the east half of the roadway. The pavement in this section of roadway is visibly depressed with alligator cracking present adjacent to the failed slope. The slope failure is a result of oversaturation of the roadbed that was caused by at least partial blockage of the County's culvert, which carries water runoff from the uphill slope on the west side of the roadway to Pounder Creek on the east side of the road.

The owner from the house across the street from 645 SE Pounder Rd (600 SE Pounder Rd) came out to speak with us and gave us some background and history of the situation from her perspective.

600 SE Pounder said that the previous owner of 645 SE Pounder worked with County Land Use to install drainage piping all over the slope to the south of the 645 house on the west side of the road. At least some of that drainage piping appears to have been removed (you can see the remnants of it laying all over the property). Water is sheeting off of the slope in multiple areas, flowing down to the road.

The west end of our culvert (inlet), which could help drain that water into Pounder creek, is not visible and is likely completely buried, either under mud and hay bales, or under large rocks and silt. The exact location of the culvert inlet is difficult to determine. The east end of the culvert (outlet) is visible from the roadway and appears to have a very small amount of water flowing out of it and into Pounder Creek.

Some of the water coming off the hill on the south side of 645's driveway is flowing down a newly cut ditch (presumably by the 645 homeowner) along the County ROW from 645 all the way to the shared drive way of 821/915/921 SE Pounder Rd. About 520 feet of new ditching has been cut along the County ROW.

In addition to the water coming from the slope south of 645's driveway, there is also significant ponding just north of the driveway. There is an existing ditch that runs along County ROW north of the driveway and there is likely a culvert beneath the driveway that is no longer functioning, leading to the ponding. This water has filled the existing ditch and is sheeting across the road, just north of the failure across the road.











1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on March 10, 2021, I arranged to be served the foregoing

3 **DECLARATION OF JON HENRICHSEN IN SUPPORT OF COMPLAINT**

4 **SEEKING AN EX PARTE RESTRAINING ORDER AND PRELIMINARY**

5 **INJUNCTION** on:

6 Heather Moon
7 645 SE Pounder Road
8 Corbett, Oregon 97019
9 Email: heathermoonisrad@gmail.com

10
11 by the following method or methods as indicated:

- 12
13 by **mailing** to said person(s), USPS first class and certified mail.
- 14 by **hand delivery**.
- 15 by **electronic service**, as defined in UTCR 21.100.
- 16 by **facsimile**. A copy of the confirmation report is attached hereto.
- 17 by **emailing** a copy thereof to each attorney at their last-known email address as set
18 forth above.

19
20 /s/ Ona Davis

21 Ona Davis
22 Paralegal