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FOR IMMEDIATE RELEASE

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YOLO COUNTY JUDGE ISSUES GANG INJUNCTION

After a 54 day trial with testimony from over 286 witnesses and over 800 exhibits, a Yolo County Judge finds by clear and convincing evidence that the Broderick Boys is a criminal street gang that has created a public nuisance in the City of West Sacramento.

(Woodland, CA) June 20, 2011- Yolo County District Attorney Jeff Reisig announced that on June 16, 2011, Yolo County Superior Court Judge Kathleen White issued a final "Judgment Granting Injunction After Trial" against the Broderick Boys criminal street gang in West Sacramento. The gang injunction issued by the court imposes a curfew and restricts other activities of gang members in a defined area within West Sacramento called the "Safety Zone."

The trial in the case started on July 12, 2010, and concluded on December 15, 2010. The parties were permitted to submit post-trial briefing statements. The evidence during the 54 day trial included over 286 witnesses, a viewing of the Safety Zone in West Sacramento by the judge, and over 800 exhibits.

After hearing all of evidence at trial and reviewing the exhibits and the post-trial briefs, Judge White found that the Broderick Boys is a criminal street gang, the Broderick Boys has created a public nuisance in the Safety Zone by its conduct and activities, and the public nuisance caused by the Broderick Boys has created irreparable harm to those who live and work in the Safety Zone.

In her written decision after the court trial, Judge White stated, "The court found the testimony of the victims and percipient witnesses to the crimes described during the trial particularly credible and compelling...." Additionally, Judge White "found credible the law enforcement officers who testified about their response to the crimes in the Safety Zone...." Discussing the defense witnesses, Judge White found them equally credible in their description of the Safety Zone as a community with strong family ties." However,

“the court found less credible the testimony of these defense witnesses as to the nonexistence of the Broderick Boys gang. These reasons included the witnesses’ relationships to named defendants and their apparent motive to minimize the defendants’ actions, their lack of personal knowledge regarding certain events, their use of the phrase ‘I don’t recall,’ and/or gaps in their knowledge or recollection.” Judge White concluded, “Of particular note in the court’s deliberations: much of the evidence presented by the plaintiff [District Attorney’s Office] was uncontroverted, and much of the argument in the defendants’ closing briefs assumed facts not supported by the evidence at trial.”

Judge White also ruled that her order granting the injunction will expire after seven years, finding that during this time frame law enforcement should be able to use the injunction to reduce the gang activity so that the injunction is no longer necessary.

Judge White’s judgment granting the injunction and her statement regarding the decision are attached.

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1 (Shylos). During the pendency of the action, several defendants were dismissed: Robert Cortez,
2 Victor Ferreira (Hugo) and William Ybarra, Jr. (Shylos) on November 20, 2007, and Rudy
3 Tafoya (Rude Dog) on April 2, 2010.

4 On December 19, 2007, judgment was entered on the FAC against defendants Victor
5 Dazo, Jr., Ramon Esquilin, Michael Hernandez, Rainey Martinez, William McFadden, Robert
6 Sanchez, Paul Savala, Abel Trevino and Tyson Ybarra. The trial on the injunction served as the
7 "prove-up" hearing as to defendant Broderick Boys, the default of whom was taken on October
8 9, 2009.

9 On July 13, 2010, the first day of trial, the court severed trial of this action against
10 defendant Rudy Ornelas from the trial of the remaining defendants.¹ On October 10, 2010,
11 during trial, plaintiff informed the court that plaintiff would dismiss the case against Mr. Ornelas
12 as Mr. Ornelas had just been sentenced to prison in a criminal case. As of March 23, 2011, no
13 dismissal has been filed. Plaintiff is **HEREBY ORDERED** to calendar the case against Mr.
14 Ornelas for a trial setting conference or file a Request for Dismissal within 30 days of the filing
15 of this Statement of Decision.

16 During the trial, on August 10, 2010, counsel for named defendant Jesse Garcia moved to
17 dismiss the case against Garcia. The court deferred ruling on the motion to dismiss until the end
18 of the trial. That motion is **HEREBY DENIED**.

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22 ¹ On July 13, 2010, Mr. Ornelas was a defendant in a criminal trial in Dept. 3 of this court. His
23 attorney in the instant civil injunction case substituted out, leaving Mr. Ornelas unrepresented. The
24 District Attorney declined to dismiss the instant case against Mr. Ornelas. Mr. Ornelas was not available
25 for the trial, had no defense counsel, and could not effectively participate in this trial. Accordingly, this
court severed the instant case against Mr. Ornelas from that of all other remaining defendants. Mr.
Ornelas was convicted in the criminal trial of, *inter alia*, attempted murder and sentenced to state prison
for an aggregate term of 45 years (Yolo Case No. CRF 07-005385).

1 On October 22, 2010, during trial, plaintiff dismissed the case against Thomas Cedillo
2 based on his “drop out” status. Doe defendants were dismissed on July 12, 2010, the first day of
3 trial

4 **C. Pre-Trial Appellate Review**

5 Plaintiff’s application for injunctive relief had the benefit of appellate review several
6 times before trial on the merits. The trial court granted interim relief on the original complaint,
7 entered defaults and issued a permanent injunction on February 3, 2005. Defendants appealed
8 the injunction, challenging plaintiff’s method of serving the complaint; the Court of Appeal
9 reversed with directions to set aside the void judgment granting the injunction. *People ex rel.*
10 *Reisig v. Broderick Boys* (2007) 149 Cal.App.4th 1506, 1528-29 (*Broderick Boys I*). On July 17,
11 2007, plaintiff filed its First Amended Complaint (FAC). The trial court heard plaintiff’s motion
12 for a preliminary injunction on March 24-27, April 8-9, and May 12, 2008, and granted the
13 preliminary injunction on May 23, 2008. Defendants again appealed.

14 On March 8, 2010, the Court of Appeal affirmed the order granting preliminary
15 injunction except for two provisions: paragraph (1)(e) regarding controlled substances, and
16 paragraph (1)(f) regarding alcohol, which provisions it invalidated as overbroad. The Court of
17 Appeal noted that “nothing in this opinion is intended to suggest that plaintiff may not move the
18 trial court to amend as appropriate paragraphs (1)(e) or (1)(f) of the preliminary injunction” to
19 cure the overbroad language. *People ex rel. Reisig v. Broderick Boys* (2010) 182 Cal.App.4th
20 866, 893 (*Broderick Boys II*). Plaintiff did not move to amend the preliminary injunction, which,
21 except for the invalidated paragraphs (1)(e) and (1)(f), remained in effect through trial until
22 superseded by the entry of the Judgment Granting Injunction After Court Trial, filed
23 concurrently with this Statement of Decision.

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1 **D. The Trial**

2 Trial on the injunction commenced July 12, 2010 and ended December 15, 2010. The
3 parties were permitted to submit post-trial briefing at the end of January 2011, and the court took
4 the matter under submission in February 2011.

5 The evidence in the court trial included over 286 potential witnesses, a view of the entire
6 Safety Zone by the court and counsel, 806 exhibits, and 54 trial days. After each side had rested,
7 the court took the matter under submission, and invited parties to submit post-trial briefs to
8 supplement closing argument, and proposed statements of decision. Plaintiff presented oral
9 closing argument. Defendants declined the opportunity to present oral closing arguments,
10 electing instead to present them in writing in separate briefs, to which Plaintiff filed a written
11 closing brief, all as permitted by the court's order governing the closing briefs.

12 **E. Plaintiff's Motion and Supplemental Motion to Strike Closing**
13 **Argument Materials; Ruling Thereon**

14 Defendants lodged with their closing briefs a volume entitled "Defendant's Trial Notes,"
15 which defendants presented as an "informal" transcript of the trial. The parties elected not to pay
16 for a court reporter to transcribe the trial.² Defendants also filed with their closing briefs a
17 declaration of Ms. Kari Kalista (Exhibit to Defense Closing Brief No. 2), regarding the
18 California Dept. of Corrections and Rehabilitation (CDCR) inmate locator process, and various
19 computer-produced maps of the Safety Zone area. Plaintiff moved to strike these items as
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23 ² Court reporters are provided at public expense in criminal trials. In civil trials, such as this,
24 court reporters are provided by the court at the requesting party's expense if a party desires an official
25 transcript. The requesting party must make a timely request and deposit toward the court reporter's fees.
Govt. Code Section 68086.

1 violating the court's order governing closing briefs, which cautioned parties not to include
2 matters outside the record.

3 The court **HEREBY GRANTS IN PART** plaintiff's motion to strike. Ms. Kalista's
4 post-trial declaration was not offered as evidence at trial. The court respectfully declines
5 defendants' invitation to use their unofficial "Trial Notes." The court has its own notes taken
6 throughout the trial (which consist of more than two reams of paper, single spaced), and will rely
7 on its own notes in the absence of a formal transcript. Defendants' "Trial Notes" and
8 Declaration of Kari Kalista are **HEREBY STRICKEN**. As to the computer-produced maps of
9 the Broderick-Bryte area/SafetyZone, the court accepts them as illustrative material in support of
10 the defendants' closing argument, but does not admit them as evidence. Plaintiff's motion to
11 strike these maps is, therefore, **DENIED**. Plaintiff's Motion for Sanctions is also **DENIED**.

12 **F. The Evidence**

13 The evidence consisted of the testimony of percipient witnesses, including law
14 enforcement officers, alleged victims of the Broderick Boys, named defendants, residents and
15 former residents of the Safety Zone, as well as experts, over 800 exhibits and requests for
16 judicial notice of convictions and official records. The evidence included, *inter alia*, evidence
17 of crimes in the Safety Zone, evidence that the crimes were committed by a criminal street gang
18 known as the Broderick Boys, evidence that named defendants and others were or were not
19 active members of the Broderick Boys and did or did not engage in nuisance activities within the
20 Safety Zone, evidence that the gang activity did or did not constitute a public nuisance, evidence
21 of the impact or lack of impact on the Safety Zone and evidence on the balance of harms from
22 the issuance of an injunction.

23 This case turns, in substantial part, on the credibility of the witnesses. The court, sitting
24 as trier of fact, made credibility determinations based on the evidence and the totality of the
25

1 circumstances. The court found the testimony of the victims of and percipient witnesses to the
2 crimes described during the trial particularly credible and compelling, notably the testimony of
3 James Hopkins III, Reece Hopkins and their father, James Hopkins, Jr., and also James Kephart,
4 Jacob Keating and Su Matsumoto.

5 The court also found credible the law enforcement officers who testified about their
6 response to crimes in the Safety Zone and contacts with the alleged Broderick Boys. The court
7 acknowledges that in several instances, their conclusions about named defendants admitting
8 Broderick Boys membership was but one inference that could be drawn from the statements on
9 which they relied to form their conclusions. The court accepted the most reasonable inferences
10 that could be drawn from these statements.

11 The defense witnesses were equally credible in their description of the Safety Zone as a
12 community with strong family ties. Their descriptions of the Broderick and Bryte areas in what
13 is now the City of West Sacramento portray a close knit, family-oriented neighborhood that
14 harkens back to a simpler time, when residents knew all their neighbors, and the ties of family,
15 church and school ran deep and across generations. For various reasons, the court found less
16 credible the testimony of these defense witnesses as to the nonexistence of the Broderick Boys
17 gang. These reasons included the witnesses' relationships to named defendants and their
18 apparent motive to minimize the defendants' actions, their lack of personal knowledge regarding
19 certain events, their use of the phrase "I don't recall," and/or gaps in their knowledge or
20 recollection.³

21 Some residents testified that they feared a reduction in their property values if the
22 injunction were to issue. Their fear seemed genuine, though the court found it unsubstantiated,
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24 ³Some residents testifying for the defense based their testimony about what a gang is on what
25 they had seen on the "Discovery Channel." The court applauds educational media, but respectfully
declines to consider it a basis for competent testimony on this issue.

1 because there was no competent evidence presented of the preliminary injunction causing a
2 reduction in home values to support their assertions. Other residents testified that they believed
3 the West Sacramento Police Department had, in the past, selectively enforced the preliminary
4 injunction against Hispanics. However, there was no credible, competent evidence to support
5 their testimony.

6 Plaintiff and defendants presented evidence of the impact of the injunction on residents of
7 the Safety Zone. Many of the witnesses admitted they had never read the preliminary injunction
8 and were unaware of its precise terms. As a result, this testimony had little probative value and
9 the court gave it little weight.⁴

10 Both plaintiff's and defendants' experts offered generally consistent and persuasive
11 testimony on gang practices, nomenclature, culture and indicia. The experts disagreed in some
12 significant areas, particularly regarding the definition of a gang. The court found all the expert
13 opinions very helpful in some areas, and less than persuasive in others. Where their opinions
14 were not premised on facts established by the evidence, the court found their conclusions less
15 credible. Of particular note was the testimony of Professor James Hernandez, who testified for
16 the defense regarding the duration of youth involvement in gangs as "an affiliation that is
17 elastic," typically lasting only a few years in young adulthood. Thereafter, according to
18 Professor Hernandez, youth often (but not always) age out of the gang as they transition into
19 adulthood. The expert testimony was less credible where the expert opinion was based on work
20 done over twenty years ago, or where the expert repeatedly declined to identify the facts on
21 which he relied to support his opinion that there was no gang, or where the expert applied a

24 ⁴ In several instances, neither the police officers charged with enforcing the preliminary
25 injunction, nor the defense witnesses complaining of it, had read the injunction's terms or were aware of
its precise proscriptions.

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1 sociological definition of criminal street gang that was not consistent with the definition in the
2 Penal Code.

3 Of particular note in the court's deliberations: much of the evidence presented by the
4 plaintiff was uncontroverted, and much of the argument in defendants' closing briefs assumed
5 facts not supported by evidence at trial.

6 **G. Evidentiary Rulings**

7 The Findings of Fact set forth below reflect the court's assessment of the weight and
8 credibility of the evidence at trial. Plaintiff sought to prove the remaining named defendants as
9 active members of the Broderick Boys, and that the Broderick Boys is a criminal street gang
10 creating a public nuisance in the Safety Zone. During trial, the court allowed plaintiff to present
11 certain out-of-court statements of alleged Broderick Boys members. The court permitted these
12 statements on the condition that plaintiff prove by the close of its case that the declarants were
13 members of the Broderick Boys and that the statements were, therefore, admissions by party-
14 declarants under Evidence Code section 1220. For the limited purpose of admitting statements
15 in this trial under Evidence Code section 1220, plaintiff has proved, by clear and convincing
16 evidence, that the following persons were, at the relevant times, Broderick Boys. Therefore, the
17 court admits statements, if any, by the following persons:

18 Sean Acuna
19 Timothy Acuna
20 Raymond Apodaca
21 Anthony Bojorques
22 Daniel Bonge
23 Esiquiel Butcher
24 E. C.⁵
25 Lorenzo Castanon
Christopher Castillo
J. C.

⁵ Individuals designated by initials are minors.

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1 Chris Cedillo
Alex Cisneros
2 Jesse Contreras
Deborah Corona
3 Raymond Corona Jr.
David Dazo
4 Richard Lee Dazo
Victor Dazo Jr.
5 Scott Delgado
Manuel Diaz
6 Mario Diaz
Charles Dalby Dykes
7 Hilario "Angel" Estrella
Raymond (Ramon) Esquilin
8 Alex Estrada
Justin Farley
9 Victor Ferreira
Joseph Freed
10 Michael Fragoso
11 Jesse Garcia
Ricardo Garza Sr.
12 Ricardo Garza Jr.
Marcos Gonzales
13 Carlos Guzman
Manuel Guzman
14 Benny Hammond
Michael Hernandez
15 Anthony Hinojosa
B. L.
16 Cesar Lara-Morales
Vanessa Lopez
17 Eric Lovett
Benny Macias
18 Guillermo Martinez
19 Rainey Martinez
Christopher McDaniel
20 William (Billy) McFadden
Thomas Mendes
21 Raymond Mestas
Robert Montoya
22 Salvador Montoya
Abel Morales
23 Benito Morales Jr.
Michael Morales
24 Michael Mosqueda
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1 Jennifer Navarette
Raymond Nelson
2 Austin Nunez
Pauliton Nunez
3 Rudy Ornelas
Daniel Orozco
4 Joshua Osborne
Greg Osio
5 Vincent Pulido
Orlando Ramos
6 Herschel Rhodes
Sam Rios
7 Graciela Rivera
David Rojas
8 Guillermo (Duke) Rosales
Austin Ruiz
9 Shawn Ruiz
10 Hector Salazar
Cedric Salcedo
11 David Sandoval
Angel Sanchez
12 Jesus (Jesse) Sanchez
Robert Sanchez
13 Julia Lucky Savala
Paul Savala
14 Eric Schmazel
Jarrett Swearengin
15 David Tidwell Jr.
Rudy Tafoya
16 Abel Trevino
Alex Valadez
17 Felipe Valadez Jr.
Beatrice Villagas
18 Richard Werley
Billy Wolfington
19 Tyson Ybarra
William Ybarra
20 Raymond Ybaz
21 Juan Zinzun

22 The Court also considered statements of the persons noted above to the extent that they
23 were relied upon by any or all of the many experts used in this case. (Evid. Code, sections 801,
24 802.) All of the experts, including Jason Winger, Jose Villanueva, James Hernandez, and Daniel
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1 Vasquez, in whole or in part, relied upon the testimony of the various witnesses that preceded
2 them in rendering their opinions.

3 **II. Findings of Fact and Conclusions of Law**

4 Having considered all matters submitted in the papers,⁶ all admissible evidence, and the
5 file in this case, and the applicable law, and having considered the testimony in court and, sitting
6 as the trier of fact, having assessed the credibility of the witnesses, the court finds by clear and
7 convincing evidence, and concludes as follows:

8 **A. Findings of Fact**

9 1. Defendant Broderick Boys aka BRK aka BSK aka Norteno aka XIV (collectively,
10 "Broderick Boys") exists and operates within the Safety Zone. The Broderick Boys is an
11 unincorporated association, consisting of two or more individuals, joined together by mutual
12 consent for social, recreational and other common purposes, and that it acted and continues to act
13 by and through its members, both individually and collectively.

14 2. The Broderick Boys is also a criminal street gang as defined in Penal Code
15 section 186.22 (the Street Terrorism Enforcement and Prevention "STEP" Act), in that it is a
16 group of three or more persons who have as their primary activity the commission of the offenses
17 stated in Penal Code § 186.22, they have a common name, signs and symbols, and its members
18 individually or collectively engage in a pattern of criminal activity as defined in Penal Code
19 section 186.22(f).
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22 ⁶ After issuing the [Proposed] Statement of Decision, the court invited briefing from the parties on the
23 issue of the default judgments previously entered against individual defendants, and whether the
24 injunctions granted therein could or should be limited to seven years in conformance with the [Proposed]
25 Injunction After Trial. On May 17 and 31, 2011, Plaintiff submitted briefs arguing against modification
and requesting a hearing. No other party submitted briefs or requested a hearing. Having considered the
plaintiff's briefs, the court declines to modify any previously entered default judgment and sees no need
for a hearing on the issue.

1 3. The Broderick Boys is also a gang as defined for the purposes of a gang
2 abatement injunction as set forth in *People v. Englebrecht* (2001) 88 Cal. App. 4th 1236, 1258.
3 The Broderick Boys and its members function under a common name, with common signs,
4 symbols and colors, under circumstances that establish the group as a distinct legal entity,
5 engaging in activities that amount to a public nuisance, as described below.

6 4. The following individual defendants were and are, and each of them was and is, at
7 all relevant times, active members of the defendant Broderick Boys, each has been observed in
8 the Safety Zone, and are responsible for the public nuisance described below:

9 Timothy Acuna (Cartoon)
10 Victor Dazo, Jr. (Little Vic)
11 Alex Estrada (Otter)
12 Ramon Esquilin (Kiko)
13 Jesse Garcia (Smokey)
14 Michael Hernandez (Snoopy)
15 Rainey Martinez
16 William McFadden (Billy)
17 Robert Montoya (Little Rob)
18 Michael Morales
19 Guillermo Duke Rosales (Duke)
20 Robert Sanchez (Rabbit)
21 Paul Savala (Savage)
22 Abel Trevino (Gangster)
23 Felipe Valadez, Jr. (Shug)
24 Billy Wolfington (Bouncer)
25 Tyson Ybarra

19 5. The Broderick Boys, operating with, by and through its members, has engaged in
20 and continues to engage in a pattern of conduct in the Safety Zone that constitutes a public
21 nuisance under Civil Code sections 3479-3480. Acting individually and/or collectively,
22 defendants have created a public nuisance in the Safety Zone by engaging in, *inter alia*, violent
23 assaults, robberies, intimidation, trespass, theft, illegal possession of weapons, possession of
24 drugs for sale, and by “tagging” public and private property with gang symbols. They have
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1 “patrolled” the Safety Zone, congregating in public view, displaying gang tattoos, symbols,
2 colors and signals to intimidate residents and often announce their gang membership as they
3 have committed criminal acts. They threaten persons whom they perceive to have disrespected
4 the gang, and retaliate against those who speak against them. This activity occurs most
5 frequently after dark and before sunrise.

6 6. Defendants, and each of them, collectively, individually and in concert, through
7 their criminal conduct, have created an atmosphere that is injurious to the health of those who
8 work and live in the Safety Zone. Defendants’ conduct has obstructed the free use of property in
9 the Safety Zone, interfered with the comfortable enjoyment of life and property in the Safety
10 Zone, and unlawfully obstructed the free passage and use, in the customary manner, of public
11 parks and places. Although this conduct does not affect every single resident of the Safety Zone,
12 it has affected and continues to affect a substantial number of people who live and work in the
13 Safety Zone.

14 7. The court finds that the plaintiff has met its burden for the “prove-up” hearing on
15 plaintiff’s request for entry of judgment against the Broderick Boys. Having met their burden,
16 the court renders and enters judgment for plaintiff and against defendant Broderick Boys.

17 8. There is no adequate remedy at law in that criminal prosecution has not stopped
18 the nuisance created by the defendants’ activities. Without the injunction, defendants, and each
19 of them, will continue to maintain the nuisance by participating in and encouraging their criminal
20 and nuisance activities, irreparably harming the community and the individuals who live and
21 work in the Safety Zone.

22 9. The nuisance is ongoing, and although attenuated somewhat since the issuance of
23 the preliminary injunction, it still exists.
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1 10. A process exists under which a person identified as a Broderick Boys gang
2 member could be removed from the list of active gang members, either by inactivity or by
3 affirmatively “opting out.”

4 11. The balance of harms favors injunctive relief. In weighing the equities between
5 restricting certain limited conduct of active members of the Broderick Boys in a specific
6 geographical area on the one hand, and protecting Safety Zone residents from razor slashings,
7 beatings, robberies, theft, intimidation, drug sales, vandalism and other serious and persistent
8 public nuisance activity on the other hand, the balance tips decidedly in favor of the injunction.

9 12. The uncontroverted evidence establishes a need for an injunction of limited term.
10 Credible expert testimony established that members are typically in gangs for several years. The
11 evidence before this court established that the younger individuals who have been identified as
12 gang members will typically age out of the youthful criminality that poses the nuisance the
13 plaintiff seeks to abate. Evidence further establishes that in this case, older gang members have
14 either moved away or are currently incarcerated for long periods of time. Finally, the
15 uncontroverted evidence established that the rate of nuisance activity in the Safety Zone has
16 declined under the preliminary injunction. Whether new members will replace old members in
17 the Broderick Boys, as the plaintiff’s expert suggests, is speculative in light of the attenuating
18 nuisance activity, and is based only on the expert’s opinions about gang members in general and
19 not definitive or persuasive evidence about the Broderick Boys’ recruitment efforts specifically.
20 Thus, the totality of the evidence supports an injunction for a limited term. Indulging all
21 evidentiary inferences in favor of the People, the court imposes an injunction for a term of seven
22 years. Based on this testimony and all the evidence at trial, an injunction for a term of seven
23 years would sufficiently abate the nuisance. Accordingly, the injunction in this case will expire
24 seven (7) years after the entry of the “Judgment Granting Injunction After Trial,” filed
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1 concurrently with this Statement of Decision. The court notes that an injunction in this case has
2 been in place in its various iterations since February 3, 2005. By the time it expires, this
3 injunction will have been in effect in some form for almost 13 years. Seven more years is
4 sufficient for law enforcement to use the injunction to further attenuate the nuisance activity in
5 the Safety Zone until the injunction is no longer necessary, and the residents of the Safety Zone
6 who oppose the injunction will not suffer what they perceive to be a permanent blemish on their
7 neighborhood. Nothing in this finding curtails the court's continuing jurisdiction in equity over
8 the terms and duration of the injunction.

9 **B. Conclusions of Law**

10 The court shall, concurrent with the filing of this Statement of Decision, enter a
11 "Judgment Granting Injunction After Trial ("Judgment")" consistent with the terms of the
12 preliminary injunction, the evidence at trial, and the opinion of the Third District Court of
13 Appeal in *Broderick Boys II, supra*.

14 Injunctions are equitable remedies. As such, the court retains jurisdiction to modify,
15 dissolve or extend the injunction as equity requires. (Civ. Code, § 3424.) This injunction⁷ will
16 expire without further action on the seventh anniversary of the entry of Judgment, unless, before
17 its expiration, a party petitions the court to modify its scope or duration. Parties should note that
18 the court is not inviting parties to renew litigation. Any petition for modification would have to
19 demonstrate either a material change in circumstances that would compel the court to a different
20 conclusion, that the law upon which the injunction was granted has changed, or that the interests
21 of justice compel modification. (*Ibid.*) After seven years of litigation, two appeals, a six-month

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24 ⁷ For the benefit of laypersons reading this Statement of Decision, a "preliminary injunction" is
25 a temporary remedy that issues prior to trial. After trial, if plaintiff succeeds, the court issues what is
often called a "permanent" or "final" injunction, although such injunctions are, as here, not necessarily
permanent but of finite term.

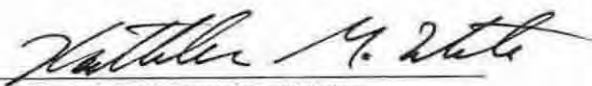
1 trial, over 800 exhibits, and extensive post-trial briefing, the court is satisfied that the parties
2 have fully presented the evidence and argument relevant to the injunction at this time.

3 **III. Judgment**

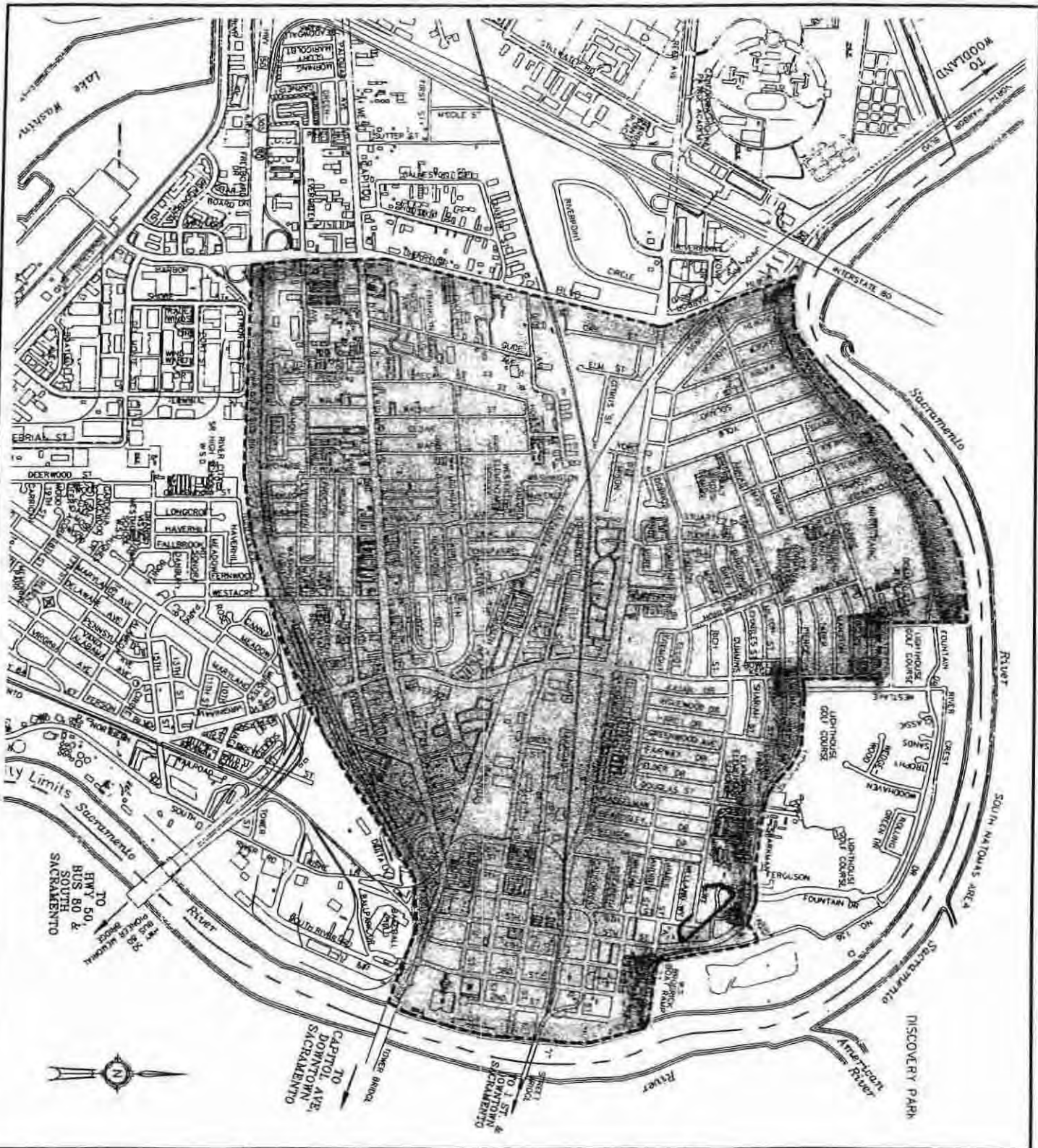
4 Judgment shall enter for the plaintiff as against the defendants as set forth above. The
5 court shall issue a separate judgment reflecting this Statement of Decision.

6 **SO ORDERED.**

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8 DATED: June 16, 2011

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Hon. Kathleen M. White
Judge, Yolo Superior Court



CITY OF WEST SACRAMENTO
 ENGINEERING DIVISION
 110 W. CAPITOL AVE
 WEST SACRAMENTO, CA 95691
 PHONE (916) 671-4645
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TITLE
 SAFETY ZONE
 MAP

PROJECT:

DATE 12-20-04
 SCALE 1" = 2000'
 DRAWN BY J.C.
 CHECKED BY J.R.
 W.O.# 1020
 SHEET 1 OF 1

WEST SACRAMENTO



Handwritten signature or initials.

1 The Safety Zone is an area of approximately 3 square miles in the City of West
2 Sacramento, bounded by Harbor Boulevard to the west, the Sacramento River to the north and to
3 the east (but not including the area previously known as the Lighthouse Marina and Golf Course)
4 and by Highway 50, Business Loop 80 and State Route 275 to the south. The Safety Zone
5 extends 100 yards to the outside of its boundaries. A map of the Safety Zone is attached hereto
6 as Exhibit "A" and made a part hereof.

7 Trial on the injunction commenced July 12, 2010 and ended December 15, 2010. The
8 parties were permitted to submit post-trial briefing at the end of January 2011, and the court took
9 the matter under submission in February, 2011. The court issued a (Proposed) Statement of
10 Decision under Rule 3.1590, California Rules of Court, and allowed time under Rule 3.1590 for
11 parties to file objections. Plaintiff timely filed objections. Based on plaintiff's objections, the
12 court invited further briefing on the issue of potential inconsistent judgments as against
13 defaulting parties, and allowed parties 15 days to submit briefs under Rule of Court 3.1590(m).
14 Plaintiff filed further briefs on May 17 and 31, 2011, which the court has considered.
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16 The evidence in the court trial included over 286 potential witnesses, a view of the entire
17 Safety Zone by the court and counsel, over 800 exhibits, and 54 trial days. After each side
18 rested, the court invited parties to submit post-trial briefs to supplement closing argument, and
19 proposed statements of decision.

20 Having considered all matters submitted in the papers, all admissible evidence, the file in
21 this case, and the applicable law, and having considered the testimony in court and, sitting as the
22 trier of fact, having assessed the credibility of the witnesses, the court finds by clear and
23 convincing evidence that:

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1 (a) Defendant Broderick Boys aka BRK aka BSK aka Nortenos aka XIV (“Broderick
2 Boys”) is a criminal street gang as defined in Penal Code section 186.22 [The Street Terrorism
3 Enforcement and Prevention (“STEP”) Act];

4 (b) Defendant Broderick Boys is a gang as defined for purposes of a gang abatement
5 injunction under *People v. Englebrecht* (2001) 88 Cal.App.4th 1236, 1258;

6 (c) Defendant Broderick Boys is an “unincorporated association” under Code of Civil
7 Procedure section 369.5;

8 (d) The Broderick Boys, by and through the people through whom it acts, and the
9 remaining named defendants have, and each of them has, created a public nuisance in the Safety
10 Zone by their conduct and activities, acting collectively and individually; and

11 (e) The public nuisance caused by defendants, and each of them, creates continuing
12 and irreparable harm to those who live and work in the Safety Zone, there is no adequate remedy
13 at law, and an injunction is appropriate to abate the nuisance.

14
15 **GOOD CAUSE HAVING BEEN SHOWN, IT IS HEREBY ORDERED,**
16 **ADJUDGED AND DECREED THAT:**

17 1. Defendant Broderick Boys a/k/a BRK a/k/a BSK a/k/a Norteno a/k/a Norte a/k/a
18 XIV (“Broderick Boys”) and all active members of defendant Broderick Boys [including but not
19 limited to Timothy Acuna (Cartoon), Victor Dazo, Jr. (Little Vic), Alex Estrada (Otter), Ramon
20 Esquilin (Kiko), Jesse Garcia (Smokey), Michael Hernandez (Snoopy), Rainey Martinez,
21 William McFadden (Billy), Robert Montoya (Little Rob), Michael Morales, Guillermo Duke
22 Rosales (Duke), Robert Sanchez (Rabbit), Paul Savala (Savage), Abel Trevino (Gangster), Felipe
23 Valadez, Jr. (Shug), Billy Wolfington (Bouncer), and Tyson Ybarra] are enjoined and restrained
24 from engaging in or performing, directly or indirectly, any of the following activities in the
25 Safety Zone:

1 a. **Do Not Associate:** Standing, sitting, walking, driving, gathering or appearing,
2 anywhere in public view or any place accessible to the public, with any known member of the
3 Broderick Boys, including but not limited to those members identified by name in this order.
4 This non-association order shall not apply when the enjoined parties are inside a school attending
5 class or on school business, or inside a church; however, the non-association order shall apply to
6 the enjoined parties when they are traveling to or from school or church.

7 b. **No Intimidation:** Confronting, intimidating, annoying, harassing, threatening,
8 challenging, provoking, assaulting or battering any person known to be a witness to any activity
9 of the Broderick Boys, known to be a victim of any activity of the Broderick Boys, or known to
10 be a person who has complained about any activity of the Broderick Boys;

11 c. **No Guns or Dangerous Weapons:** Anywhere in public view or any place
12 accessible to the public, (1) possessing any gun, ammunition, or illegal weapon as defined in
13 Penal Code section 12020, (2) knowingly remaining in the presence of anyone who is in
14 possession of such gun, ammunition or dangerous weapon, or (3) knowingly remaining in the
15 presence of such gun, ammunition or dangerous weapon;

16 d. **No Graffiti or Graffiti Tools:** Damaging, defacing, or marking any public or
17 private property, or possessing any spray paint can, felt tip marker, or other graffiti tool as
18 defined in Penal Code section 594.2;

19 e. **Stay Away From Drugs:** (1) Possessing or using any controlled substance
20 without a prescription, or (2) selling or knowingly participating in the sale of any controlled
21 substance.

22 f. **Stay Away From Alcohol:** Possessing an open container of an alcoholic
23 beverage or knowingly remaining in the presence of anyone possessing an open container of an
24 alcoholic beverage, where such possession occurs in a place accessible to the public. This
25

1 prohibition does not apply to possession of alcoholic beverages on the premises of
2 establishments licensed to serve or sell alcohol.

3 g. **Obey Curfew:** Remaining on public property, a public place, on the premises of
4 any establishment open to the public, or on a vacant lot, between the hours of 10:00 p.m. on any
5 day and 6:00 a.m. the following day, unless (1) going to or from a meeting or scheduled
6 entertainment activity at a theatre, school, church or other religious institution, or sponsored by a
7 religious institution, local educational authority, governmental agency or support group such as
8 Alcoholics Anonymous, (2) actively engaging in a business, trade, profession or employment
9 that requires such presence, (3) in an emergency situation that requires immediate attention; or
10 (4) in the side yard or back yard of his or her own residence. A “public place” is defined as any
11 place to which the public has access, including but not limited to sidewalks, alleys, streets,
12 highways, parks, hospitals, office buildings, transport facilities and the common areas of
13 schools,.

14 h. **No Trespassing:** Being present on or in any property not open to the general
15 public, except (1) with the prior written consent of the owner, owner’s agent, or the person in
16 lawful possession of the property, or (2) in the presence of and with the voluntary consent of the
17 owner, owner’s agent, or the person in lawful possession of the property.

18 i. **Obey All Laws:** Failing to obey all laws that (1) prohibit violence and threatened
19 violence including, but not limited to, murder, rape, robbery by force or fear, assault and battery,
20 (2) prohibit interference with the property rights of others including, but not limited to, trespass,
21 theft, driving or taking a vehicle without the owner’s consent, and vandalism, or (3) prohibit the
22 commission of acts which create a nuisance including, but not limited to, the illegal sale of
23 controlled substances and blocking the sidewalk;

24 2. **Active members:** An “active member” of Broderick Boys is a person who
25 participates in or acts in concert with Broderick Boys. The participation or acting in concert

1 must be more than nominal, passive, inactive or purely technical. The following factors may be
2 used to determine whether an individual is an "active member" of Broderick Boys:

- 3 a. whether the subject admits to being a member of Broderick Boys;
- 4 b. whether the subject has tattoos that are only associated with Broderick Boys;
- 5 c. whether the subject has been arrested while participating with active members of
6 Broderick Boys; or
- 7 d. whether a reliable informant provides information that the subject is an active
8 member of Broderick Boys.

9 Clothing, accessories, photographs and close association with known gang members may
10 be relevant to whether a person is an active gang member, but these factors alone are insufficient
11 to validate a subject as an "active member" of Broderick Boys for purposes of this injunction.


12 3. **Term:** This injunction shall expire on its own terms on the seventh anniversary of
13 entry of this judgment against defendant Broderick Boys (7 years).

14 4. **Modification:** A party may, upon proper notice, seek to modify any term of this
15 judgment under Civil Code section 3424.

16 5. **No Bond:** Plaintiff shall not be required to post an undertaking pursuant to
17 Code of Civil Procedure section 529(b)(3).

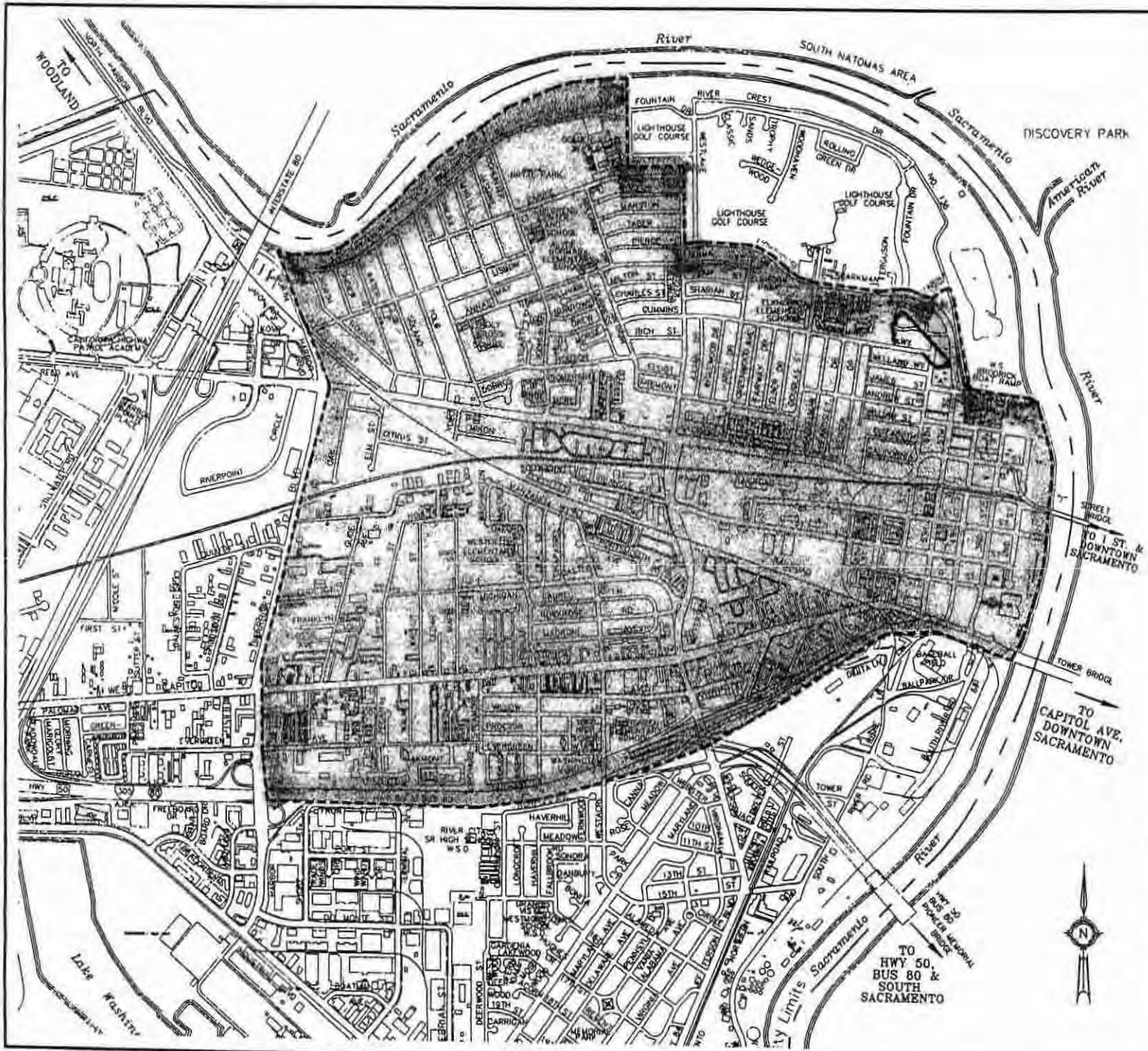
18
19 **SO ORDERED.**

20 DATED: June 16, 2011



21 **Hon. Kathleen M. White**
22 **Judge, Yolo Superior Court**

My 2
John



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 ENGINEERING DIVISION
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TITLE
**SAFETY ZONE
 MAP**

PROJECT:

DATE: 12-20-04
 SCALE: 1" = 2000'
 DRAWN BY: J.G.
 CHECKED BY: J.R.
 W.O. #: 1020
 SHEET 1 OF 1

WEST SACRAMENTO



**EXH. "A" - JUDGMENT GRANTING INJUNCTION
 And to STATEMENT OF DECISION AFTER COURT TRIAL**