

LAW OFFICES OF  
PERRY, JOHNSON, ANDERSON,  
MILLER & MOSKOWITZ LLP  
438 First Street, 4th Floor, Santa Rosa, CA 95401

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Mary Jane Schneider  
Sheila S. Craig\*  
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Oscar A. Pardo  
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Kristin Mattiske-Nicholls  
Traci L. Carrillo  
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VIA ELECTRONIC MAIL

June 15, 2020

**Palmer Creek Bridge Committee Members**

Toney Prussiamerritt, Toney\_merritt@yahoo.com  
Nancy Turner, Tomamini@sonic.net  
Jeff Winters, Braggi@aol.com  
Joan Conway, Sophiesfiveacres@gmail.com  
Horace Criswell, Farmerhorace@gmail.com

Re: **Thomas Planson and Evergreen Acres, LLC**

Dear Members of the Palmer Creek Bridge Committee:

This firm represents Thomas Planson, his family and his business, Evergreen Acres, LLC. We understand that the Palmer Creek Association (“PCA”), has created a special committee called the Palmer Creek Bridge Committee, to oversee the replacement of the Palmer Creek Bridge. As a member in good standing of the PCA, Mr. Planson has contributed \$10,000 toward the replacement of the Palmer Creek Bridge. We are aware that you have requested an additional \$6,590.00 from Mr. Planson, which purportedly represents his share to complete the replacement of the Palmer Creek Bridge. In response to this solicitation, Mr. Planson respectfully requested to review the cost estimates of the bridge project. This was a reasonable request, which was denied without cause or explanation. As a member of the PCA, Mr. Planson, as well as all other members of the PCA, are entitled to know how their contributions are being spent, and where the additional sum will go.

Further, consider this letter a formal request to remove Mr. Steve Imbimbo as the Project Manager of the bridge project. Since Mr. Imbimbo is no longer a resident of the PCA, there is no reason for him to be running such a project or have any involvement whatsoever. Please confirm Mr. Imbimbo has been removed from the project and will not be included on further bridge related correspondence. Failure to do so will serve as another fiduciary duty breach example considering you know well the discord between Mr. Imbimbo and our client and are obviously encouraging it by allowing Mr. Imbimbo to continue his involvement.

In addition to all bids and estimates for the bridge project, please remit all reports stating that the bridge requires repair or replacement within 5 days of this letter.

Very truly yours,

Michael G. Miller

cc: Client

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438 First Street, 4th Floor, Santa Rosa, CA 95401

VIA ELECTRONIC MAIL

June 15, 2020

**Palmer Creek Association Board Members**

Pete Pistochini, Peterpistochini@gmail.com  
Toney Prussiamerritt, Toney\_merritt@yahoo.com  
Nancy Turner, Tomamini@sonic.net  
Jeff Winters, Braggi@aol.com  
Cecile Isaacs, Cecile.isaacs@gmail.com  
Douglas Fisher, Pacer8901c@gmail.com  
Brian Griffiths, Vido1970@gmail.com

160 Foss Creek Circle, Suite 2302  
Healdsburg, California 95448

Re: **Thomas Planson and Evergreen Acres, LLC**

Dear Palmer Creek Association Board Members:

This firm represents Thomas Planson, his family and his business, Evergreen Acres, LLC. As you know, Mr. Planson is a member in good standing of the Palmer Creek Association ("PCA" or "Association"). Since Mr. Planson announced his plans to start a legal organic farm on his property, he has been met with nothing but resistance, harassment and intimidation from other members of the PCA. The harassment has become so severe that Mr. Planson's wife and young daughter are terrified to be on their property, which has impacted the Planson family's right to quiet enjoyment of their land.

In addition to personally harassing Mr. Planson and his family, the PCA has also unreasonably interfered with his prospective business. At every turn, the PCA has fought Mr. Planson from being able to start his farm. The PCA has physically interfered with engineers contracted by Mr. Planson and prevented them from taking soil samples from his property, they have tried to engage the Sonoma County Permit and Resources Management Department to interfere with his legitimate use permit and have now resorted to harassment and intimidation.

The PCA must immediately cease and desist from interfering with Mr. Planson's use of his property and his prospective business opportunities. Mr. Planson's planned use of his property is legal with a use permit. Mr. Planson does not expect everyone to agree with the use of his property but expects the PCA to play by the rules, as he has, and not abuse their position and use harassment and intimidation to prevent Mr. Planson from starting his farm.

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The PCA has not only physically interfered with Mr. Planson's use of his property but has also interfered with his rightful access to documents and information.

Mr. Planson has made several proper requests for documents from the PCA. Most recently, on June 4, 2020, Mr. Planson again requested documents. Consider this letter a formal renewal of Mr. Planson's document request. Please provide all of the below listed documents to us either as hardcopies or electronic files within 5 days of this request.

1. All construction documents including civil engineering plans, bridge drawings and designs, abutment and foundation plans, and any technical drawings or plans related to the bridge.
2. All bridge replacement related studies and reports from all contractors including civil, geotechnical, etc.
3. All State and County agency documents, permits, and correspondence; including, but not limited to the Sonoma County Permit and Resources Management Department and the California Department of Fish and Wildlife.
4. All bids, estimates, invoices, expenses and contracts from any contractor, consultant, or professional that has been consulted with or retained relative to the bridge project.
5. The last 12 months of PCA accounting files, PCA bank statements, and financial records related to the bridge replacement, allotment shares, and any and all invoices & expenses for the last 12 months related to the bridge replacement.
6. Approved minutes from every PCA meeting and bridge committee meeting for the last 12 months.

As a member of the PCA, Mr. Planson is entitled to the records he seeks per your own Bylaws, specifically Article 9, Section 4, cited below.

#### **SECTION 4. MEMBERS INSPECTION RIGHTS**

Each and every member shall have the following inspection rights, for a purpose reasonably related to such person's interest as a member:

(c) To inspect at any reasonable time the books, records, or minutes of proceedings of the members or of the Board or committees of the Board, upon written demand on the corporation by the member, for a purpose reasonably related to such person's interests as a member.

The documents requested are "records" of the corporation, to which Mr. Planson, as a member, is entitled. Your refusal to produce these documents is in direct violation of your responsibilities and duties to the members of the PCA. The PCA Board's actions have seriously called into question their ability to efficiently and properly run this



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Association impartially. The documents sought by Mr. Planson are reasonably related to his land and his business opportunities. Your conduct has breached your fiduciary duty owed to Mr. Planson but the hope is to avoid court intervention to address that breach.

Last, regarding the Palmer Creek Bridge, the PCA owes a duty to its members to be transparent about the costs of the bridge as well as the reasons why the bridge must be replaced. Mr. Planson has already given the PCA \$10,000.00 for the bridge project. Asking for an additional \$6,590.00, and then refusing to provide an explanation for the need for the extra funds, is a reasonable cause for concern. The lack of transparency calls into question what the PCA has done with the significant funds already collected, supposedly for this project, appearing to be another fiduciary duty breach.

As previously stated, remit all documents requested within 5 days of this letter. Thank you in advanced for your cooperation.

Very truly yours,

Michael G. Miller

cc: Clients

LAW OFFICES OF  
PERRY, JOHNSON, ANDERSON,  
MILLER & MOSKOWITZ LLP  
438 First Street, 4th Floor, Santa Rosa, CA 95401

VIA ELECTRONIC MAIL

June 15, 2020

Steve Imbimbo  
steve.imbimbo@gmail.com

Re: Thomas Planson and Evergreen Acres, LLC

Dear Mr. Imbimbo:

This firm represents Thomas Planson, his family and his business, Evergreen Acres, LLC. The purpose of this letter is to demand that you immediately cease and desist your harassment of Mr. Planson, his family and business.

Your actions are unreasonably interfering with Mr. Planson's property rights as well as the prospective, legal business of his farm. Your repeated attempts to thwart Mr. Planson's business development plans through threats and intimidation must end. You are formally advised to not contact Mr. Planson or his family through any means. Any such desired communication must be through my office.

We look forward to your expected cooperation so as to avoid the need for court intervention.

Very truly yours,

Michael G. Miller

cc: Clients

William D. Anderson  
David F. Beach  
Isaac M. Gradman  
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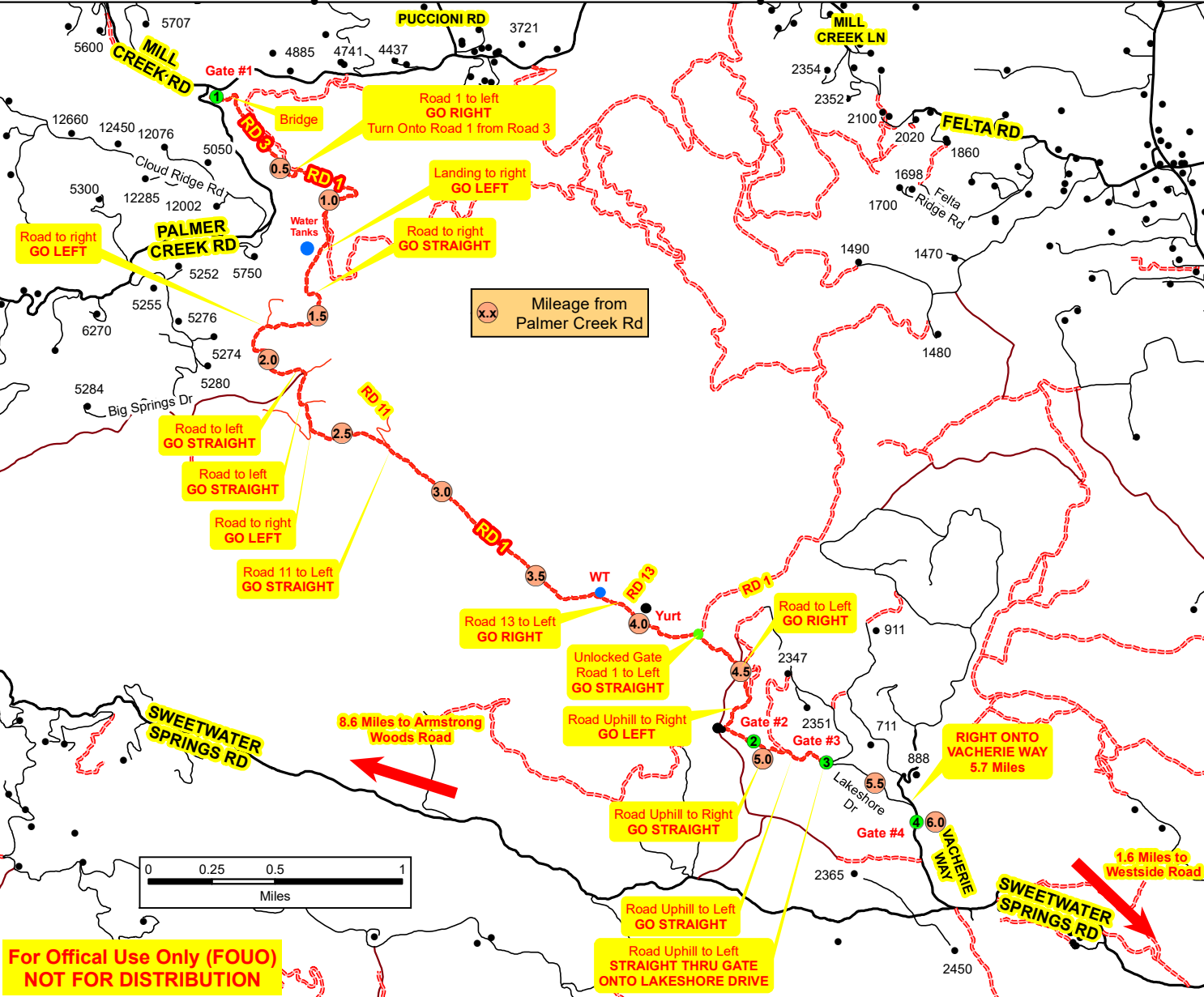


Ranch Manager Rafael: (707) 486-6019 rafgraham@lve.com

# EVACUATION ROUTE OPTION MAX PROPERTY

For Official Use Only (FOUO)  
NOT FOR DISTRIBUTION

M. Turbeville 3/2022 1:30,000  
VERSION 4



For Official Use Only (FOUO)  
NOT FOR DISTRIBUTION



# Mill Creek Pre-Attack Map



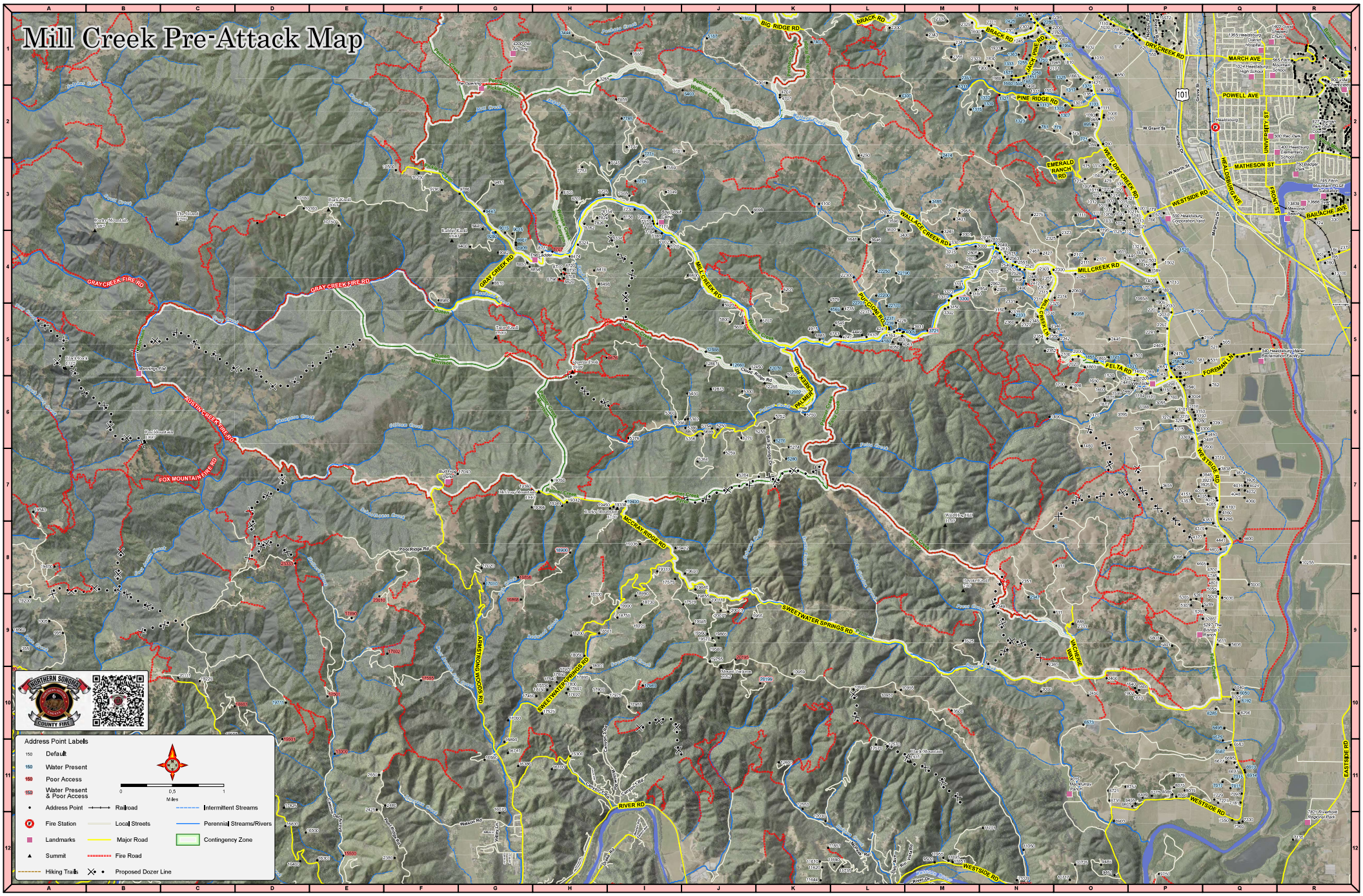
**Address Point Labels**

- 150 Default
- 150 Water Present
- 150 Poor Access
- 150 Water Present & Poor Access

**Legend:**

- Address Point
- Railroad
- Intermittent Streams
- Fire Station
- Local Streets
- Perennial Streams/Rivers
- Landmarks
- Major Road
- Contingency Zone
- Summit
- Fire Road
- Hiking Trails
- Proposed Dozer Line

Scale: 0 0.5 1 Miles





**From:** Julia Kozitsyna juliakozi@gmail.com  
**Subject:** Fwd: [Palmer Creek] [Mill Creek Ready] Saturday June 18th COPE Evacuation Drill sign up  
**Date:** June 13, 2022 at 6:45 PM  
**To:** palmercreek@googlegroups.com

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Hi all - quick reminder to sign up for the evac route drill next weekend if you haven't been down the Oliver Max route yet!

Julia

----- Forwarded message -----

**From:** Dan Grout <[grout.dan@gmail.com](mailto:grout.dan@gmail.com)>  
**Date:** Mon, Jun 13, 2022 at 6:42 PM  
**Subject:** [Mill Creek Ready] Saturday June 18th COPE Evacuation Drill sign up  
**To:** Mill Creek Ready Resident Group <[mill-creek-ready@googlegroups.com](mailto:mill-creek-ready@googlegroups.com)>

Just a reminder that Mill Creek COPE will be **conducting a "dry-run drill" of the Alternate Evacuation Route (AER) on Saturday June 18<sup>th</sup>** at 9 &/or 11:30am for any residents who would like to participate as a way to familiarize yourselves with the route. If you are interested in participating you must sign up here: <https://docs.google.com/forms/d/e/1FAIpQLSfEUQcQL4LjPbKgzJWomreWho1Wi6lixDzTesPak2eMCiMIA/viewform> .

Our **Mill Creek COPE** Leadership team has been working to ensure the signed Max **Alternate Evacuation Route (AER)** at the base of Palmer Creek Road is passable & ready in case a fire or other emergency effectively blocks the normal evacuation route along Mill Creek Road. This alternative route could be vital to those residents who live in the more remote sections of Mill Creek Road and other tributary roads. This AER runs through private property and is only accessible once per year for non-emergency access with either Fire Personnel or COPE Leadership. We have created a map of the AER which can be found here: <https://drive.google.com/file/d/13z0JWNjdhC3FuUNhtkCXUTeIXyl0laq4/view?usp=drivesdk>

We encourage you to familiarize yourselves with this map and add a printed copy in your Go Bag or car in case of any fast evacuations. We also suggest a snapshot of the map so that you have a copy easily available on your phone.

**Mill Creek COPE** Leaders will escort those signed up in groups of approximately 5 vehicles through the AER starting at Palmer Creek Road and ending roughly 7 miles later at Sweetwater Springs Road. We anticipate this drill will take about 1 hour. Please note that although this route can accommodate small or low chassis vehicles (like a Prius) it does have some rough areas, and for the sake of the drill we would recommend a higher chassis vehicle if you have one. As this route was in the burn area of the Walbridge fire there is always the possibility of a fallen tree across the road so if you have a battery operated chainsaw it would not hurt to have one in your trunk during an actual evacuation. We will drive the route Friday before the drill to make sure it is clear of any hazards on Saturday.

If you plan on attending please make sure you **RSVP** so that we know exactly how many vehicles we are dealing with at any one time.

**We have sign up slots at both 9am or 11.30am.** If you cannot make June 18<sup>th</sup> but would be interested in driving the route please check the third option on the form and we will endeavor to set up a mutually agreeable day in July to have another drill. If for any reason you cannot sign up on the link above please don't hesitate to email **Lisa Groom** or give her a call on the number below so she can add you to the list.

Cheers,

*Lisa Groom*

Mill Creek COPE Lead for Neighborhood 1

[lisa@groomwines.com](mailto:lisa@groomwines.com)

(707) 486-4758

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**Mill Creek COPE**





— **MILL CREEK** —

**Communities Organized to Prepare  
for Emergencies**

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You received this message because you are subscribed to the Google Groups "Mill Creek Ready" group.

To unsubscribe from this group and stop receiving emails from it, send an email to [mill-creek-ready+unsubscribe@googlegroups.com](mailto:mill-creek-ready+unsubscribe@googlegroups.com).

To view this discussion on the web visit <https://groups.google.com/d/msgid/mill-creek-ready/CAKguYSqc29%2B-9E4enW6c0CU9zUjOseQsb%3DtNapXWYQnyUqBHNA%40mail.gmail.com>.

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Keep your Palmer Creek Emergency Contact information current. Go here to make any updates: <https://tinyurl.com/3jqmdae6>

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To change your settings for this email group, go to: <https://groups.google.com/g/palmercreek/members>

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You received this message because you are subscribed to the Google Groups "Palmer Creek Community" group.

To unsubscribe from this group and stop receiving emails from it, send an email to [palmercreek+unsubscribe@googlegroups.com](mailto:palmercreek+unsubscribe@googlegroups.com).

To view this discussion on the web visit <https://groups.google.com/d/msgid/palmercreek/CADn3rUubJXwkGVh-Jmpj0oL8ESVeUtm%2BG9sNVnc7b0WS9c%3DEA%40mail.gmail.com>.

LAW OFFICES OF  
PERRY, JOHNSON, ANDERSON,  
MILLER & MOSKOWITZ LLP

438 First Street, 4th Floor, Santa Rosa, CA 95401

June 14, 2019

Jeffry Winters  
Palmer Creek Association  
160 Foss Creek Circle, Suite 2302  
Healdsburg, California 95448

Re: **Palmer Creek Association**

Dear Mr. Winters:

Please be advised that our office is assisting Thomas Planson/Evergreen Acres, LLC with regard to his application for a use permit and his use of Palmer Creek Road. This letter is addressed to you as you are identified as the chief executive office on the most recent Secretary of State filing.

There are many issues that have come up with regard to the actions of the Board of Directors and individual directors, two of which will be addressed here.

The first issue relates to Mr. Planson's rights to use Palmer Creek Road. Specifically, the right to undertake improvements to one of the bridges. I believe you and your board members are aware of this issue. Mr. Planson is attempting to verify the condition of the bridge and determine what, if anything, will be required to secure its safe condition. A step in that process is obtaining soil samples to be analyzed by his engineer.

Mr. Planson made arrangements for his engineering consultants to come to the bridge, with the necessary equipment, to conduct the required tests and obtain the necessary samples. When the engineering crew arrived at the site they were confronted by some residents, including board members of the Palmer Creek Association. The crew was told by those present that they had no rights to conduct the planned soil sampling.

Mr. Planson is completely within his rights as an easement holder to undertake repairs, maintenance and improvements of the road, including this bridge. As an easement owner, he has an implied right of entry to the extent it is necessary to perform repairs, maintenance or improvements. "Every easement includes what are termed 'secondary easements,' that is, the right to do such things as are necessary for the full enjoyment of the easement itself." *North Fork Water Co. v. Edwards* (1898) 121 Cal. 662, 665-666. A secondary easement includes the right to make "repairs, renewals and replacements on the property that is servient to the easement" *Donnell v. Bisso Brothers* (1970) 10 Cal.App.3d 38, 43, "and to do such things as are necessary to the exercise of the right". *Smith v. Rock Creek Water Corp.* (1949) 93 Cal.App.2d 49, 53.

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Palmer Creek Association  
Jeffrey Winters  
Palmer Creek Association

June 14, 2019  
Page 2

In addition, the Palmer Creek Association does not have any ownership or control rights over the road and has no legal basis to dictate who uses the road or the manner in which it is used.

Based on the foregoing, it is hereby demanded that the Association and its Directors purporting to act on behalf of the Association take no further actions designed to interfere with Mr. Planson's use and rights to the road. Obviously, the cost of having his engineers come to the site was significant and now lost. Just as important is the delays in his ability to use his property. If Mr. Planson is further interfered with he will seek all available judicial remedies.

The second issue relates to his request for a copy of the executed contract for bridge work and the related engineering report. He has made a formal request but been denied the documents.

Article 8, Section 1 of the Association Bylaws requires a resolution allowing a director to execute a contract. Article 9, Section 4(c) grants to each member the right to inspect the books, records, or minutes of proceedings, upon written demand on the corporation for a purpose reasonably related to the members interests as a member. Section 5 provides that the right to inspect includes the right to copy. The documents requested are "records" of the corporation, which Mr. Planson as a member is entitled. It should be noted that Mr. Planson made a significant contribution for this report.

Please consider this a formal, second request for the documents. Advise either this office or Mr. Planson directly when he can review and copy the documents. A prompt response, no later than 10 days from the date of this letter, is necessary.

Finally, it has been apparent to Mr. Planson that the Association is using its position to interfere with his use permit request. He understands that there are residents in the vicinity that are opposed to the requested use. That is normal and occurs often, with any kind of use permit request. What is critical for everyone to understand is that there is a forum for properly addressing the use permit issues. Using a road association as a tool to thwart the use if his land is not proper. Such actions are an interference with his business opportunities and economic interests and are legally actionable. Mr. Planson is, and will be a good neighbor. His proposed use is allowed by the County with a use permit. He is honoring the rules and expects others to do the same.

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Palmer Creek Association  
Jeffry Winters  
Palmer Creek Association

June 14, 2019  
Page 3

The Association's anticipated cooperation will be appreciated.

Very truly yours,



Leslie R. Perry

Cc: Thomas Planson

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cc: Thomas Planson