

App 10822
cup 16-157

#210-012-019

The Law Offices of
Thomas M. Herman

Exhibit "A"

POST OFFICE BOX 395
FORTUNA, CALIFORNIA 95540
TELEPHONE: (707) 725-5369 • FACSIMILE: (707) 725-5076
E-MAIL: tmh@reninet.com



June 15, 2012

Dean Bruner
P.O. Box 86
Redcrest, California 95569

Mark and Mary Peruzzaro
58 East 39th Avenue
San Mateo, California 94403

Jared Sandifer
2305 California Street
Eureka, California 95501

Dennis and Karen Silva
225 East Santa Inez #18
San Mateo, California 94401

Re: Maintenance of McClellan Mountain Access Road

Dear Addressees:

I am an attorney representing Graham and Gloria Cottrell. Graham asked me to write to each of you regarding maintenance of the access road that is used jointly by you and the other addressees to access your real property over the Cottrell Ranch.

The subject road was in bad shape from use and abuse and needed some serious maintenance work. The road had fallen in disrepair from your active use of the road and was recently damaged by someone who dragged a shipping container up the road to the Peruzzaro parcel. Graham recently performed maintenance work to get the road back into suitable condition. The cost of the maintenance work on the section of the road located on the Cottrell lands was \$5,192.90. Some accommodation needs to be worked out for a fair contribution from all the users of the road.

Civil Code section 845 provides that when a private road is used by multiple parties and there is no agreement regarding the allocation of maintenance costs, each user is responsible for a share of the costs in proportion to their use. While there are a few other parcels accessed by the road, Graham tells me that your four properties are the ones using the road actively while the other landowners are absentee owners and use the road only infrequently.

Graham thinks a fair split of the costs would be one fifth from Bruner, one fifth from Peruzzaro, one fifth from Sandifer, one fifth from Silva and one fifth from Cottrell. Are each of you willing to pay one fifth of the reasonable costs of maintaining the subject road? If not, is there some other allocation of the costs proportionate to use that you would propose amongst yourselves?

In addition to performing maintenance on the section of the road located on the Cottrell lands, Graham was asked by some of you to repair sections of the road that the Cottrells do not use. He did that work, has allocated those cost in a manner he considers to be equitable based on use and will send each of you an invoice for the work. Your one fifth share of the work on the Cottrell section will be included with those invoices.

Graham and Gloria are hopeful that all of you will recognize your responsibility to participate in the maintenance of the road, and all parties can have a properly maintained road providing reliable access. If the road is not properly maintained there is a risk that the Cottrell lands could be damaged from accelerated erosion, a risk that someone could get injured from dangerous road conditions (owners of road easements are liable for the condition of the road), or that government regulators become involved and impose sanctions on the responsible parties. With those risks in mind, the Cottrells had no choice but to move forward with appropriate maintenance.

If the Cottrells do not get voluntary cooperation from you to share equitably in the cost of maintenance, they will be forced to seek contributions through adversarial legal proceedings. They are hopeful that will not become necessary. However, if they are forced to resort to the courts to compel payment of your statutory maintenance obligations, they will also seek injunctive relief to assure that the road is not further abused, and that the road is used only for "non-commercial" purposes consistent with historic use and deed restrictions. If you have the need in the future to move something large or heavy over the road, please don't damage the road by dragging it. If you will contact Graham, he will work with you to arrange a proper move that won't damage the road. I suggest you all communicate amongst yourselves and work out an agreement to share costs equitably and use the road appropriately.

Please let me know if you are willing to share costs as proposed by Graham, or if there is some other arrangement you propose that would be fair to all involved parties.

Sincerely,



Thomas M. Herman

TMH:th

cc: Clients

Exhibit A



THREE RIVERS LOGGING CO.

STATEMENT
P.O. BOX 399
FORTUNA, CA 95540
(707) 777-3671



6-10-12

Dean Bruner
P.O. Box 86
Redcrest, CA 95569

Mark and Mary Peruzzaro
58 East 39th Avenue
San Mateo, CA 94403

Jared Sandifer
2305 California Street
Eureka, CA 95501

Dennis and Karen Silva
225 East Santa Inez #18
San Mateo, CA 94401

Graham and Gloria Cottrell
29565 Hwy 36
Bridgeville, CA 95526

Road Rocking, Grading and Repair Section 1 from Hwy 36 through Cottrell property. (1.8 miles)

6-4	Road Grader	4 hrs @ \$110/hr	\$ 440.00
	Truck #6 & D5C 1 load of rock	4 hrs @ \$ 95/hr	380.00
	Truck #7 7 loads of rock	6 hrs @ \$ 95/hr	570.00
	Backhoe	1 hr @ \$ 95/hr	95.00
	8 loads of rock @ \$ 85/lb		680.00
	Sales Tax @ 7.25%		49.30
6-6	Truck #6 & D5C 4 loads of rock	7 hrs @ \$ 95/hr	\$ 665.00
	Truck #7 12 loads of rock	7 hrs @ \$ 95/hr	665.00
	16 loads of rock @ \$ 85/lb		1360.00
	Sales Tax @ 7.25%		98.60
6-8	Backhoe ditch & clean culverts	2 hrs @ \$ 95/hr	<u>\$ 190.00</u>
	Total		\$ 5192.90/5=\$ 1038.58

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THREE RIVERS LOGGING CO.
 STATEMENT
 P.O. BOX 399
 FORTUNA, CA 95540
 (707) 777-3671



6-11-12

Dean Bruner
 P.O. Box 86
 Redcrest, CA 95569

Dennis and Karen Silva
 225 East Santa Inez #18
 San Mateo, CA 94401

Road rocking & repair Sandifer Flat to below Von Alvenslaben house (.07 miles) Section 3

6-7	Truck #6 & D5C	3 load of rock	4.5 hrs @ \$ 95/hr	\$ 427.50
	Truck #7	5 loads of rock	3.5 hr @ \$ 95/hr	332.50
	Backhoe		4 hrs @ \$ 95/hr	380.00
		8 loads of rock @ \$ 85/lb		680.00
		Sales Tax @ 7.25%		49.30
6-8	Truck #6 & D5C	8 loads of rock	9.5 hrs @ \$ 95/hr	\$ 902.50
	Truck #7	14 loads of rock	9.5 hrs @ \$ 95/hr	902.50
		22 loads of rock @ \$ 85/lb		1870.00
		Sales Tax @ 7.25%		<u>135.58</u>
6-11	Truck #6 & D5C	6 loads of rock	7 hrs @ \$95/hr	\$ 665.00
	Truck #7	10 loads of rock	7 hrs @ \$95/hr	665.00
		16 loads of rock @ \$ 85/lb		1360.00
		Sales Tax @ 7.25%		98.60
			Total	\$ 8468.48/2=\$ 4234.24

Exhibit A

Three Rivers Logging Co
P.O. Box 399
Fortuna, CA 95540
707-777-3671



Date: November 18, 2012

To: Dean Bruner
P.O. Box 86
Redcrest, CA 95569

Mark and Mary Peruzzaro
58 East 39th Avenue
San Mateo, CA 94403

Jared Sandifer
2305 California Street
Eureka, CA 95501

Dennis and Karen Silva
225 East Santa Inez #18
San Mateo, CA 94401

Graham and Gloria Cottrell
29565 Hwy 36
Bridgeville, CA 95526

Roadwork through Cottrell property

Work on a grant – 8 rolling dips and 18” x 26’ culvert

Equipment, cat and excavator	\$ 3680.00
Seed & straw	\$ 45.58
18” x 26’ culvert	\$ 423.30
18 loads of road rock delivered @ \$120/lb	<u>\$ 2160.00</u>
Total	\$ 6308.88
Less 60% grant	<u>\$ -3785.33</u>
Total	\$ 2523.55

Roadwork not on grant – 2 rolling dips and rock road above & below

Cat	6 hours	\$100/hr	\$ 600.00
Excavator	4 hours	\$120/hr	\$ 480.00
10 loads of road rock delivered			<u>\$ 1200.00</u>
Total			\$ 2280.00

Total \$ 4803.55/5 = \$ 960.71 each