

1195 Third Street, Suite 210, Napa, California, 94559 • (707) 253-4417

**APPLICATION FOR USE PERMIT
EXCEPTION TO CONSERVATION REGULATIONS**

FOR OFFICE USE ONLY

ZONING DISTRICT: AW- Agricultural watershed Date Submitted: 8.3.12

TYPE OF APPLICATION: USE Permit Exception Date Published: _____

REQUEST: Single family dwelling w/ associated improvements Date Complete: _____

TO BE COMPLETED BY APPLICANT
(Please type or print legibly)

PROJECT NAME: HENNESSEY

Assessor's Parcel #: 025-440-007 Existing Parcel Size: 163 Acres

Site Address/Location: 100 Hennessey Ridge St. Helena CA 92660
No. Street City State Zip

Property Owner's Name: JEP, LLC

Mailing Address: 12 Corporate Plaza, Ste. 150 Newport Beach CA 92660
No. Street City State Zip

Telephone #: () 720 720-8000 Fax #: (949) 720 8080 E-Mail: jphelan@dctindustrial.com

Applicant's Name: JEP, LLC

Mailing Address: 12 Corporate Plaza, Ste. 150 Newport Beach CA 92660
No. Street City State Zip

Telephone #: (949) 720 720-8000 Fax #: (949) 720 720-8080 E-Mail: jphelan@dctindustrial.com

Status of Applicant's Interest in Property: owner

Representative Name: Jeff Phelan

Mailing Address: 12 Corporate Plaza, Ste. 150 Newport Beach CA 92660
No. Street City State Zip

Telephone # () 720-8000 Fax #: () 720-8080 E-Mail: jphelan@dctindustrial.com

I certify that all the information contained in this application, including but not limited to the information sheet, water supply/waste disposal information sheet, site plan, plot plan, floor plan, building elevations, water supply/waste disposal system plot plan and toxic materials list, is complete and accurate to the best of my knowledge. I hereby authorize such investigations including access to County Assessor's Records as are deemed necessary by the County Planning Division for preparation of reports related to this application, including the right of access to the property involved.

Jeffrey Phelan 7.15.2012 Jeffrey Phelan 7.15.2012
Signature of Applicant Date Signature of Property Owner Date

Jeffrey Phelan JEP, LLC, Jeffrey Phelan, Manager
Print Name Print Name

TO BE COMPLETED BY CONSERVATION, DEVELOPMENT AND PLANNING DEPARTMENT

* Application Fee Deposit: \$ 8,000 Receipt No.: 92139 Received by: ST Date: 7.12.12

*Total fees to be based on time and material

RECEIVED

JUN 21 2013

Napa County Planning, Building
& Environmental Services

JEP LLC
12 Corporate Plaza Suite 150
Newport Beach, California 92660

June 20, 2013

Suzanne Gardner-Gambill, Planner I
Department of Building, Planning and Environmental Services
County of Napa
1195 Third Street
Napa, California 94559

Re: Permit Status: Use Permit Exception Application #P12-00265
APN 025-440-007-000

Dear Ms. Gambill:

This letter is in response to your May 16, 2013 request for additional information and clarification regarding the building and planning applications currently on file with your office. It also summarizes your meeting of May 23, 2013 with my representative Jeffrey Redding during which we reviewed that letter. In addition I am enclosing an updated application for use permit exception as requested. Finally as was agreed to at your meeting with Mr. Redding, this letter addresses those items needed to allow for continued processing of the use permit exception. Those items not related to this permit (i.e. item #'s 7, and 16) will be addressed following action on the use permit exception. Below please find our response to each of the questions/requests for information contained in your letter of May 16, 2013

1. The revised site plan remains incomplete, it does not indicate all setbacks from the top of bank of the creek and pond, septic and spring were not identified. Please indicate all improvements on site [within the required stream setbacks].

Response. An updated site plan prepared by Riechers Spence Associates (RSA) dated June 2013 shows the top of bank of the creek and pond and the required setbacks from each. As agreed to at the November 1, 2012 meeting with my representative Jeffrey Redding, those are the streams for which setbacks are required. . . The streams for which setbacks are required are shown in green on Figure 2 of the attached document entitled, "Phelan Ranch Stream Channel Restoration Project," dated October 2012. This exhibit was provided to on April 16, 2013. As requested, the RSA site plan also shows those existing and proposed improvements that encroach into the required setbacks.

2. Your [application for use permit exception @ page 7 item (a)] states that very little change to the location of the existing structures. Please elaborate in detail what changes have occurred.

Response. *The original application for use permit exception filed in July 2012 was attached by mistake to my April 16, 2013 response. My apologies for this oversight. Attached please find an updated application that elaborates on the improvements constructed in the "streams" for which the county has determined that setbacks are required. These "streams" are shown in green on Figure 2 of the document entitled, "Phelan Ranch Stream Channel Restoration Project," dated October 2012 that was submitted on April 16, 2013. These streams are the existing stock pond and the former connection between the pond and the ephemeral channel, located southeast of the main residence. Setbacks based on the requirements of Chapter 18.108.025 are shown on the revised plans prepared by Riechers Spence Associates, dated June, 2013, and included with this letter. Existing improvements that are within these setbacks area are shown in green on this drawing. The improvements I made within the stream setbacks consist of:*

- *Rebuilding of the 864 s.f. main residence constructed in 1973 and a ground floor addition of approximately 382 s.f. to the 1973 residence,*
- *The construction wooden retaining walls creating bocce ball courts and raised garden beds south of the existing stock pond;¹*
- *The construction of wooden planters and steps east of the bocce courts;*
- *Construction of a concrete retaining wall*
- *Replacement of deteriorated above ground redwood flume with underground pipe*
- *Installation of above-ground drainage pipes below the concrete retaining wall; and*
- *Placement of a plastic water slide on top of the pre-existing dock.*

In addition to retaining the existing improvements listed above, I am proposing the following improvements within the required stream setbacks:

- *Replace the existing wooden retaining wall with a concrete retaining wall in the same alignment. New steps are also proposed;*
- *Upsize and replace the existing drainage pipe and extend the existing concrete channel along the east side of the existing residence.*
- *Future replacement of the existing impervious rubber pond liner with concrete at the same elevation as the existing liner.*

¹ I currently have applied for a building permit (#B11-01008) to replace this wooden retaining wall with a concrete wall and add steps.

Existing and proposed improvements are shown on plans prepared by Riechers Spence Associates, dated June, 2013..

I presented some additional background information for you in my letter of April 16, 2013 to put the changes to the county designated streams in context. It is summarized below.

Replacement of Pre-Existing Redwood Flume

The open aboveground redwood flume that I replaced with an underground culvert was originally constructed following completion of the stock pond circa 1902. The flume conveyed passive flows from the existing stock pond during storm events. The underground culvert was placed within the same alignment as the former redwood flume. This underground culvert, which currently serves as the passive spillway for the existing stock pond then daylights into a small constructed rip-rap energy dissipater before it is shunted under an existing access road into an existing natural ephemeral stream channel located south of the main residence. . The real estate company brochure from which I purchased the property shows the former above ground flume. It was included with my letter of April 16, 2013.

The September 2012 biological assessment prepared for the project by Analytical Environmental Services (AES) notes that over time the former redwood flume deteriorated and created a condition where runoff and seepage under and around the structure was causing significant erosion, which compromised the integrity of the hillslope, created routine maintenance and conveyed an aberrant sediment load downstream to the ephemeral drainage below the residence, which is a tributary to the Napa River. For these reasons and due to the dilapidated condition the 100-year old redwood flume was replaced by the current underground culvert, sized to accommodate a 100-year plus storm event modeled for the watershed. The AES analysis concludes that the replacement of the deteriorated redwood flume which functionally decreases the rate of erosion and the contribution of sediment to downstream receiving water body, a tributary to the Napa River is in conformance with the goals and objectives of the Napa River Basin TMDL and provides a net benefit to the Napa River stream system.

Stock Pond

The existing manmade stock pond was determined by county staff to be the other designated stream for which conservation regulation setbacks are required. As noted above I have placed a water slide made of drainpipe on top of the existing dock.

The AES analysis notes that based upon the known age of the cabin on site (ca. 1903) and the fact that the building pad was excavated it appears that

material from this excavation was the primary source of material used to construct the dam that created the existing pond. This indicates that the date of construction of the pond was approximately 1903. This pond is primarily fed from a hillside seep. The pre-existing pipe that transfers water from the seep in the hillside to the pond is shown in photo #3 in the AES analysis provide to you with my April 16, 2013 letter.

The existing pond is currently lined to protect the existing pre-1914 levee from being undermined by seepage from the pond. The pond generally lacks hydric and/or riparian vegetation around the perimeter with the exception of a small patch of cattails and willow that occurs at the transition of the previously mentioned ephemeral drainage and the pond. The pond is a non-consumptive, stock pond and is maintained at maximum capacity on a year round basis that transfers water from the seep located in the hillside to the east. The former redwood flume conveyed passive flows from the pond during storm events.

3. Please clarify the design elements that contribute to reducing the amount of grading and earthmoving activity that has occurred.

Response. Please see paragraph 3, page 7 of my revised supplemental application form that accompanies the use permit exception that is attached to this response.

4. Please submit additional documentation that addresses the inaccurate mapping by the USGS maps, and why this is grounds for granting any exception.

Response. This issue was raised in the previous application for use permit exception that I filed with your office in July 2012. I have attached a revised application that I mistakenly omitted from my April 16, 2013. I am seeking approval of an exception to *the required setbacks from the stream shown in green on Figure 2 of the attached document entitled, "Phelan Ranch Stream Channel Restoration Project," dated October 2012 that was submitted to your office on April 16, 2013.*

5. Please identify possible alternate locations for the construction that has occurred on site.

Response. This issue was raised in the previous application for use permit exception that I filed with your office in July 2012. I have attached a revised application. Please see paragraph 2 on page 7 of that application.

6. Please provide a full landscape plan as recommended in your landscape and re vegetation plan

Response. I am requesting that any landscape plan required by the commission as a condition of approval of my request for exception be deferred until to building permit stage of the process.

7. Installation of new gates shall require review and approval

Response. As you discussed with my representative Jeffrey Redding on May 22, 2013 any required permits for the existing gates would be filed following action on the use permit exception. Any required plans would be submitted at that time. We appreciate your understanding on this matter as our focus is currently on our request for use permit exception.

- 8-12. Please submit additional copies of plans and documents as noted in the letter of May 16, 2013.

Response. Attached please find additional copies of the plans and documents that you requested.

13. Please arrange for a site visit.

Response. I understand you have a site visit scheduled with Jeffrey Redding on May 30, 2013.

14. Please provide documentation that identifies pre-conditions of the creek prior to installation of the pipes and installed structures.

Response. It is my understanding from Jeffrey Redding that you requested a list of those improvements constructed within the required stream setbacks at your meeting of May 22, 2013. Please refer to the previously provided aerials and paragraph 2 above.

15. The proposed bocce ball court lies within the creek setbacks and appears to be completed at this time, please identify when it was completed.

Response. The bocce ball court is listed in paragraph 2 as an improvement that I constructed. It is located within the stream setbacks. An exception to retain it is included in my application for use permit exception that is attached.


16. Installation of signage is not permitted. You will need to secure a sign permit from the Planning Department,

Response. As you discussed with my representative Jeffrey Redding on May 22, 2013 any required permits for the existing signage would be filed following action on the use permit exception. Any required plans would be submitted at that time. We appreciate your understanding on this matter as our focus is currently on our request for use permit exception.

As you may know, I entered into a stipulated judgment with the county that establishes milestones and timelines for the processing of the various applications specified in that judgment. I believe that with this submittal I have provided all the information you have requested to complete the review process. I am most eager to resolve this matter as soon as possible.

Thank you very much.

Sincerely,


Jeff Phelan

SUPPLEMENTAL APPLICATION FORM
USE PERMIT EXCEPTION TO CONSERVATION REGULATION

JUN 21 2013

Napa County Planning, Building
& Environmental Services

1. Please explain the reason for the exception request.

USGS and Napa County environmental sensitivity maps show a blue line stream originating in a manmade stock pond created in 1902 and continuing southeasterly from the pond. The latter portion of the blue line stream was converted to an open redwood flume that was constructed contemporaneously with the stock pond circa 1902. This wooden flume conveyed passive flows during storm events from the existing pond to an existing ephemeral stream located approximately 400 feet downstream from the existing pond. The county has determined that setbacks are required from both the former blue line stream originating in the manmade pond and the former stream segment replaced by the former wooden flume circa 1902 pursuant to the conservation regulations. The redwood flume was in a deteriorated condition when I acquired the property. I replaced it with an underground culvert in the same alignment as the former redwood flume. That reach of the "stream" has not existed since 1902 when both the pond and the wooden flume were constructed. In addition to the replacement of the deteriorated redwood flume conveyance by underground pipe, the following improvements were constructed within the county designated stream setbacks following my acquisition: reconstruction of a 1973 main residence and an addition thereto; the construction of a bocce ball court and raised garden beds south of the existing stock pond; the construction of wooden planters, retaining walls and steps east of the bocce ball court; construction of a concrete retaining wall and replacement of an existing above ground drainage pipe below the concrete retaining wall and placement of a water slide made of drainage pipe on top of an existing dock.

In addition to retention of the existing improvements listed above and in the letter dated June 6, 2013, I proposed to replace the existing wooden retaining wall with a concrete retaining wall and steps in the same location and . a future replacement of the existing impervious rubber pond liner with concrete at the same elevation as the existing liner. I also propose to replace the existing above ground drainage pipe and extend the existing concrete channel and install storm drain pipes to connect to the existing concrete channel along the east side of the main residence.

All existing and propose improvements located within the required stream setbacks are shown on revised plans prepared by Riechers Spence Associates dated June 201. In addition, the extent of required stream setbacks from the pond and the former overflow channel are also on plans on file with the department. I am requesting an exception to the required setbacks for the existing and proposed improvements.

2. Are there any alternatives to the project which would not require an exception? Please explain.

No, I am requesting approval to retain the existing improvements located within the county designated stream setbacks. In addition I am requesting approval to replace certain improvements within the required setbacks as set forth in paragraph 1. Above. The house that I reconstructed and added to was originally constructed and permitted by the county in 1973, before any stream setbacks were required. The unpermitted addition is located no closer than the existing structure to the (former) stream channel that passively conveyed stormwater from the pond to the existing ephemeral stream located below the residence. The potential impacts of constructing and retaining those improvements has been assessed by a qualified biologist who has determined that their retention would not impact the downstream water ways, rare, threatened or candidate plant or animal species. All construction occurred on disturbed portions of the site; no trees were removed to construct the above improvements. In fact, by replacing the deteriorated redwood flume, with the underground pipe will reduce erosion over the baseline conditions. In addition, installing county standard drainage facilities including energy dissipaters, erosion control measures, re vegetation of disturbed areas and the restoration of an ephemeral stream altered by the previous owner will ensure that retention of the improvements will not affect the environment in the long-term. Removal of the improvements would not serve the purpose intended by county setback requirements and may result in more damage to the environment that retaining the structures in their existing configuration.

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3. Describe how the project can meet the findings described in Section 18.104.040 A (structural or road project), or Section 18.108.040B (agricultural project).

Section 18.108.040.A. Structural/road development projects

a. Roads, driveways, buildings and other man-made structures have been designed to complement the natural landform and to avoid excessive grading:

The county permitted the excavation of a flat pad and the construction of an 864 +/- main residence in 1973 before stream setbacks were required. The original structure was rebuilt in the 1973 footprint with the exception of a 382 s.f. ground level addition on the northwest corner. The rebuilt main residence is located on slopes of less than 5% average thus avoiding excessive earthwork. The improvements below the pond and dam area consist of stepped wooden retaining walls to minimize earthmoving. Replacement of the existing impervious pond liner would occur at the same elevation as the existing pond liner. The replacement of the deteriorated redwood flume and drainage facilities all occurred on nearly level terrain.

The former owners constructed a dock extending from the south shore of the existing stock pond. A water slide consisting of corrugated black plastic drainage culverts has been installed on top of the dock. No grading

was needed to install the water slide.

b. Primary and accessory structures employ architectural and design elements which in total serve to reduce the amount of grading and earthmoving activity required for the project, including the following elements:

- i. Multiple-floor levels which follow existing, natural slopes;
- ii. Foundation types such as poles, piles, or stepping level which minimize cut and fill and the need for retaining walls;
- iii. Fence lines, walls, and other features which blend with the existing terrain rather than strike off at an angle against it.

The rebuilt residence and additions are located on slopes of less than 5%, the pad created in 1973 prior to the adoption of the conservation regulations. Thus minimal grading was required to rebuild it and for the addition. The existing and proposed improvements below the pond and dam area consist of stepped wooden retaining walls to minimize earthmoving. The replacement of the deteriorated redwood flume and drainage facilities to the east of the main residence all occurred on nearly level terrain.

The former owners constructed a dock extending from the south shore of the existing stock pond. A water slide consisting of corrugated black plastic drainage culverts has been installed on top of the dock. No grading was needed to install the water slide.

c. The development project minimizes removal of existing vegetation , incorporates existing vegetation into final design plans, and replacement vegetation of appropriate size, quality and quantity is included to mitigate adverse environmental effects.

Constructing the improvements within the designated stream setbacks required minimal grading and no tree removal. A plan to restore and re vegetate the ephemeral reach that feeds the pond is being implemented pursuant to a stream bed alteration agreement with the Department of Fish and Wildlife. The previous property owner had altered this reach. In addition to this restoration project, the area disturbed to replace the deteriorated redwood flume will be revegetated and enhanced through the planting of native grasses and trees. Both plans were prepared by qualified biologists and are detailed in documents on file with the department.

4. Adequate fire safety measures have been incorporated into the design of the proposed

development.

The driveway that provides access to the rebuilt main structure complies with the county's road and street standards. Adequate water storage facilities exist on site. The main building will be required to be sprinklered, the roof fitted with fire-retardant shingles and will meet all applicable fire and building code requirements.

5. Disturbance to streams and watercourses shall be minimized, and setbacks shall be retained as specified in Section 18.108.025.

The September 2012 biological assessment prepared for the project by Analytical Environmental Services (AES) notes that over time the former redwood flume deteriorated and created a condition where runoff and seepage under and around the structure was causing significant erosion, which compromised the integrity of the hillslope, created routine maintenance and conveyed an aberrant sediment load downstream to Clear Creek (the ephemeral drainage below the residence), which is a tributary to the Napa River. For these reasons and due to the dilapidated condition the 100-year old redwood flume was replaced by the current underground culvert, sized to accommodate a 100-year plus storm event modeled for the watershed. The AES analysis concludes that the replacement of the deteriorated redwood flume which functionally decreases the rate of erosion and the contribution of sediment to downstream receiving water body, a tributary to the Napa River is in conformance with the goals and objectives of the Napa River Basin TMDL and provides a net benefit to the Napa River stream system. Further, The area disturbed as part of the undergrounding of the new culvert will be treated for erosion control and be re vegetated pursuant to plans on file with the department

The former property owner altered the northern ephemeral reach that supplies water to the pond during storm events. It is being restored pursuant to a permit from the department of fish and wildlife. This restoration will dramatically reduce soil entering the pond. Additional site drainage facilities were constructed within the required steam setbacks. The result is improved stormwater collection and discharge through on-site energy dissipaters. Those facilities together with the replacement of the former redwood flume will substantially reduce downstream erosion.

6. The project does not adversely impact threatened or endangered plant or animal habitats as designated by state or federal agencies with jurisdiction and identified on the county's environmental sensitivity maps.

Analytical Environmental Services (AES) conducted biological assessments of the project site in September 2012 and March 2013. Both are enclosed with this response letter. Each notes that the habitat type that surrounds the project site, except where the ephemeral drtainagt3s transition to the existing pond is chaparral. Construction activities occurred only in the chaparral areas. AES concludes, "this habitat type will not be impacted by the project." As noted, no trees were removed in the area where improvements were constructed within the designated stream setbacks.

Regarding animal species, the March 2013 assessment indicates that the project vicinity provides habitat for a number of wildlife species common to the area, such as coyote, turkey vulture, western scrub jay, western rattlesnake and western fence lizard. None are state or federally listed as evidenced by consultation with the website below:

<http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/TEAnimals.pdf>

Section 18.108.040.B. Agricultural projects, or Agricultural roads as defined by Napa County Department of Public Works: N/A

7. The erosion rate that results two years from the completion of the proposed agricultural development does not exceed the soil tolerance factor approved by the Natural Resource Conservation Service for the soil type, topography and climatic conditions in which the project is located; (Please attach a copy of the USLE worksheet used to determine the erosion rate).

8. Impacts on streams and watercourses are minimized, and adequate setbacks along these drainageways are or will be maintained.

9. The project does not adversely impact sensitive, rare, threatened or endangered plant or animal habitats as designated by state or federal agencies with jurisdiction and identified on the county's environmental sensitivity maps.

JEP LLC
12 Corporate Plaza Suite 150
Newport Beach, California 92660

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April 16, 2013

Napa County Planning, Building
& Environmental Services

Suzanne Gardner-Gambill, Planner I
Department of Building, Planning and Environmental Services
County of Napa
1195 Third Street
Napa, California 94559

Re: Permit Status: Use Permit Exception Application #P12-00265
Building Permit #B11-01049 & B11-01008—Main Dwelling Replacement &
Retaining Walls
100 Hennessey Ridge Road. APN 025-440-007-000

Dear Ms. Gambill:

This letter is in response to your October 4, 2012 request for additional information and clarification regarding the building and planning applications currently on file with your office. I also wanted to provide some background and context for this information to assist you and other county staff with your subsequent review of them. Below please find our response to each of the questions/requests for information contained in your letter of October 4, 2012.

1. Please submit a complete site plan indicating all existing and proposed improvements on site including but not limited to setbacks from property lines and top of creek banks for all structures, retaining walls, garden area, septic system, well, waterslide, etc.

Response. All existing improvements are shown on the site plan dated January 23, 2013 prepared by Riechers Spence Associates. Pictures of the existing conditions are also provided. While no additional construction is proposed at this time, I have submitted a permit application and paid fees to replace the wooden retaining walls and steps shown on the Riechers Spence Associates drawing with a concrete wall that is lower in height than the existing wooden wall that is being replaced. The building department has advised me that the permit is ready to be issued pending action on the use permit exception application.

Pursuant to your meeting with my representative, Jeffrey Redding on November 1, 2012, we have also provided you with a site plan that indicates which of the existing improvements are within a stream setback areas as agreed to at the November meeting. The streams for which setbacks are required are shown in

green on Figure 2 of the attached document entitled, "Phelan Ranch Stream Channel Restoration Project," dated October 2012. Except for some additional drainage improvements on the southeast side of the main residence, no additional improvements are proposed. The use permit exception on file with your office seeks approval of existing improvements that lie within the required stream setbacks. The extent of those improvements is contained in the updated use permit exception that is attached to this letter.

2. Please clarify in your [use permit exception] application and indentify on your site plan how adequate setbacks are met with minimal impact to the stream.

Response. The "streams" for which the county has determined that setbacks are required are shown in green on Figure 2 of the attached document entitled, "Phelan Ranch Stream Channel Restoration Project," dated October 2012. These streams are the existing stock pond and the former connection between the pond and the ephemeral channel, located southeast of the main residence. Setbacks based up the requirements of Chapter 18.108.025 are shown on plans prepared by Riechers Spence Associates and included with this letter. Existing improvements that are within the required setbacks area are shown in green on this drawing. I would note that deeds provided to the county in January 2012 show that the US government on June 25th 1892 via President Benjamin Harrison deeded the original property owner, Joseph Hager the rights to create ditches and reservoirs on the property.. The original house was built in approximately 1903. Material excavated from the building pad was used to construct the levee and the stock pond that is filled only with water originating on my property. The former redwood flume that conveys passive flows from the stock pond during storm events was constructed at the same time as the pond was created, circa 1903.

The improvements I made within the setbacks from the two streams deemed by the county to be blue line streams consist of: rebuilding of the 864 s.f. main residence constructed in 1973 and a ground floor addition of approximately 382 s.f. to the 1973 residence, the construction wooden retaining walls creating bocce ball courts and raised garden beds south of the existing stock pond; the construction of wooden planters and steps east of the bocce courts; construction of a concrete retaining wall and installation of underground drainage pipes below the concrete retaining wall. In addition, I replaced an open redwood flume that conveyed passive flows from the existing stock pond during storm events with an underground culvert within the same alignment as the former redwood flume. This underground culvert, which currently serves as the passive spillway for the existing stock pond then daylight into a small constructed rip-rap energy dissipater before it is shunted under an existing access road into an existing natural ephemeral stream channel located south of the main residence. . The real estate company from which I purchased the property shows the former above ground flume. It is included with this letter.

The September 2012 biological assessment prepared for the project by Analytical Environmental Services (AES) notes that over time the former redwood flume deteriorated and created a condition where runoff and seepage under and around the structure was causing significant erosion, which compromised the integrity of the hillslope, created routine maintenance and conveyed an aberrant sediment load downstream to the ephemeral drainage below the residence, which is a tributary to the Napa River. For these reasons and due to the dilapidated condition the 100-year old redwood flume was replaced by the current underground culvert, sized to accommodate a 100-year plus storm event modeled for the watershed. The AES analysis concludes that the replacement of the deteriorated redwood flume which functionally decreases the rate of erosion and the contribution of sediment to downstream receiving water body, a tributary to the Napa River is in conformance with the goals and objectives of the Napa River Basin TMDL and provides a net benefit to the Napa River stream system.

As noted, the existing manmade stock pond was determined by county staff to be the other designated stream for which conservation regulation setbacks are required. The improvements that I constructed within this setback are outlined above. I also constructed the water slide in the pond that is present today.

The AES analysis notes that based upon the known age of the cabin on site (ca. 1903) and the fact that the building pad was excavated it appears that material from this excavation was the primary source used to construct the dam that created the existing pond. This indicates that the date of construction of the pond was approximately 1903. This pond is primarily fed from a hillside seep. The pre-existing pipe that transfers water from the seep in the hillside to the pond is shown in photo #3 in the AES analysis.

A secondary source of water that feeds the existing pond is an unnamed ephemeral drainage channel that initiates approximately 250 feet north of the pond at the very top of the watershed, and extends north-to-south before transitioning into the pond. The previous property owner modified the lower 150-200 foot reach of the drainage. While not a designated county stream, this drainage is considered a water of the state. I applied for and received an approved streambed alteration agreement (SAA) from the Department of Fish and Game so that I can restore this reach. A copy is included with this letter.

The existing pond is currently lined to protect the existing pre-1914 levee from being undermined by seepage from the pond. The pond generally lacks hydric and/or riparian vegetation around the perimeter with the exception of a small patch of cattails and willow that occurs at the transition of the previously mentioned ephemeral drainage and the pond. The pond is non-consumptive, used only for recreation and is maintained at maximum capacity on a year round basis that transfers water from the seep located in the hillside to the

east. The former redwood flume conveyed passive flows from the pond during storm events.

The September 2012 assessment prepared by AES also addressed potential impacts with the construction to the south and east of the existing pond. Inasmuch as no alterations to the pond surface or depth, nor changes to the amount of water flowing through the replacement, underground pipe from the pond to the ephemeral drainage located 400 feet south of the pond has occurred from my construction activities, no impact on this stream component has resulted from any changes made physical improvements I installed. In fact, the approved restoration of the ephemeral drainage that feeds the pond will actually improve the pond environment over the conditions that existed when I purchased the property.

In summary, neither the replacement of the deteriorated redwood flume with an underground pipe to carry storm-generated overflow from the pond nor the construction of improvements below the pond have impacted streams that the USGS maps and the county have determined were blue line streams at a point in time. In fact, the replacement of the redwood flume and the restoration of the ephemeral drainage feeding the pond will reduce existing erosion and improve the downstream tributary to the Napa River.

3. Please provide documentation that identifies pre-conditions of the creek prior to installation of the pipes and the newly instead structures.

Response. *As discussed above, I replaced the former above ground, open redwood flume that conveyed passive flows from the pond to the ephemeral drainage below the main residence by an underground culvert that follows the same alignment. It is visible in the sales brochure that is attached to this letter. The condition of the area between the house and the hillside to the east prior to construction of the new drainage facilities is shown in the attached aerial.*

4. Please provide evidence that the on-stream pond and improvements within the creek and creek banks have been authorized by all government agencies.

Response. *As noted in the September 2012 analysis provided by AES, the existing pond was built circa 1902 when the building pad for the original house was excavated and the excavated material used to construct the levee that retains the pond. This pond is not under the jurisdiction of the county.*

According to the State Division of Water Rights, impoundments constructed prior to 1914 and used prior to that date do not need water rights permits if water is used for domestic or for commercial livestock watering; and the maximum water use is less than 10 acre-feet for storage in a pond or reservoir. However, water use must be confirmed by registering the pre-1914 pond. The water rights to this pond were registered with the State's Water Resources

Control Board Division of Water Rights in January 2012. A copy of those applications was sent to Jeannette Doss by letter dated January 27, 2012.

Inasmuch as the replacement of the former above ground, pre-1914 redwood flume with an underground pipe did not involve work within an area of state or federal jurisdiction, no authorization from the Department of Fish and Game is necessary. Staff from that department came out to the site during a meeting with county staff and observed the various improvements made to the property since my acquisition including the expanded 1973 footprint, the replacement of the former redwood flume and drainage facilities constructed adjacent to the main residence. We did apply for and receive a Streambed Alteration Agreement (SBAA) to correct the work performed on the ephemeral reach above the existing pond by the former property owner. A copy of that signed Agreement is attached.

5. Please provide details of the drainage pipes encased in cement located adjacent to the main residence. Please provide details for that work and include a written description of the need for the size of the pipes that have been installed within the creek setbacks.

Response. I am enclosing a copy of the erosion control plan prepared by Riechers Spence Associates, dated January 23, 2013 that includes the location, design and construction details of the drainage system installed on the site including the area within the designated stream setback. Also included is a Storm Water Management plan (SQMP/SRMP). Finally a copy of a 100-year storm event analysis for the existing pond and outlet pipe that replaced the former deteriorated redwood flume is enclosed for your information. Jeff Twitchell, Senior Engineer GEI Consultants, Inc prepared this report.

6. The proposed bocce ball court lies within the creek setbacks. Please include in your request as [a] new improvement.

Response. This improvement is shown on the site plan dated January 23, 2013 prepared by Riechers Spence Associates. A request to retain it in its current location is included in our request for use permit exception.

7. Please identify possible alternate locations for the construction that has occurred on site.

Response. None required. It is my understanding that during your November 2012 meeting with my representative, Jeffrey Redding that no response to this item was required, as the improvements are already existing.

8. The pond is considered an on-stream pond which requires creek setbacks. Please submit details on the installation of the waterslide installed without permits.

Response. I constructed the water slide within the pond after I bought the property. I have included a request to retain it in its current location in the attached application for use permit exception. Its approximate location is shown on the January 23, 2013 site plan prepared by Riechers Spence Associates.

9. It appears that you have cut a new driveway and/or made driveway improvements on slopes greater than 30% without obtaining the appropriate permits. Please identify on the site plan and a topography [sic] map the entire length of the road, all new road improvements and average slope.

Response. Minor grading of the existing driveway was undertaken to widen the road to meet county standards for a residential driveway. Riechers Spence Associates prepared a driveway slope review on the enclosed plans dated November 23, 2012, incorporated by reference. It details the slope percentage at various locations along the length of the road. The average slope is less than 30%. This plan also details the location of a county-standard turnaround area at the terminus of Hennessey Ridge Road, before the entrance to my property.

10. Provide a landscape plan identifying all trees on site Their [sic] DBH, and those that have or will be removed as part of this project. Please identify and describe in writing any proposed restoration of all disturbed areas on site.

Response. No trees were removed as a result of the improvements constructed within the stream setback areas. Rather, disturbed areas that resulted from the replacement of the deteriorated redwood flume and the undergrounding of the replacement culvert will be seeded for erosion control. In addition, I will be restoring 150-200 feet the ephemeral reach impacted by unpermitted construction carried out by the former owner above the existing pond. This restoration plan prepared pursuant to Department of Fish and Game Notification No. 1600-2012-0370-3 is detailed in the attached document entitled, "Phelan Ranch Stream Channel Restoration Project Mitigation, Monitoring and Reporting Plan", dated October 2012, revised March 2013. I also plan to implement the provisions of the attached landscape and re-vegetation plan, dated March 2013. Both the stream channel restoration project and the landscape and re-vegetation plan were prepared by Analytical Environmental Services (AES), a biological consulting company approved by the county to conduct such analyses and planning.

11. Identified on our environmental sensitivity maps are concealed fault lines. Please submit a geotechnical report, prepared by a licensed engineer.

Response. As discussed at the November 2012 meeting with Jeffrey Redding, a geotechnical report will be submitted to the building division as part of the building permit process that follows action on the use permit exception.

12. Please submit a biological report, prepared by a licensed Biologist, that identifies how the project does not adversely impact a sensitive, rare or threatened or endangered species, animal or animal habitat, including but not limited to, the sensitive biotic coniferous forest.

Response. Analytical Environmental Services (AES) conducted biological assessments of the project site in September 2012 and March 2013. Both are enclosed with this response letter. Each notes that the habitat type that surrounds the project site, except where the ephemeral drainag3s transition to the existing pond is chaparral. Construction activities occurred only in the chaparral areas. AES concludes, "this habitat type will not be impacted by the project." As noted, no trees were removed in the area where improvements were constructed within the designated stream setbacks.

*Regarding animal species, the March 2013 assessment indicates that the project vicinity provides habitat for a number of wildlife species common to the area, such as coyote, turkey vulture, western scrub jay, western rattlesnake and western fence lizard. None are state or federally listed as evidenced by consultation with the website below:
<http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/TEAnimals.pdf>*

13. Installation of new gates shall require review and approval.

Response. As discussed at the November 2012 meeting with Jeffrey Redding, I replaced the existing entry gate after I bought the property.

14. Installation of signage is not permitted. You will need to secure a sign permit from the Planning Department.

Response. The existing 'sign', is located entirely on my property at the entrance to the property serves only to identify the "Phelan Ranch" and the Hennessey Ridge Road address to visitors and guests. It is only visible to persons when they are directly in front of the entry gate. No permit is needed for signs associated with an existing residence that only identifies the name and address of the occupant.

15. Page A1.1 indicates demolition of a structure. Please indicate on the [building] plan what it was and provide documentation that it was demolished with the appropriate permits.

Response. I will amend page A1.1 of the building plans to be submitted following approval of the use permit to show the location and use of the demolished building.

16. The supplemental application form is currently incomplete. Please provide full details for each section of the form.

Response. I have updated the application for use permit exception to conservation regulations and completed all sections. The updated form is enclosed with this response letter.

17. Please provide photos of the site and project.

Response. A variety of photos are enclosed with this response letter. These are either stand alone or included in the various biological assessments prepared by AES.

18. Please provide a copy of the assessor's construction records for the site.

Response. A copy of the assessor's records is enclosed with this response letter.

19. Please submit an erosion control plan or equivalent NPDES storm water management plan which includes pre-imposed [sic] conditions and identify that erosion rates do not increase.

Response. Enclosed is an erosion control plan, prepared by Riechers Spence Associates, dated January 23, 2013. Also included is a Storm Water Management Plan (SQMP/SRMP), prepared by Riechers Spence Associates dated January 25, 2013.

20. Please provide eight (8) 24 x 36 full sets of revised drawings and eight (8) 11 x 17 reduce set of drawings.

Response. I will provide the required number and sizes of building plans as part of the building permit application packet following approval of the use permit application.

Ms. Gambill, I have listed the publications and other documents enclosed with this response letter at the bottom of the page. Please note that I resubmitted revised plans for the septic system as required by the environmental services division on February 8, 2013.

As you may know, I entered into a stipulated judgment with the county that establishes milestones and timelines for the processing of the various applications specified in that judgment. I believe that with this submittal I have provided all the

information you have requested to complete the review process. I am most eager to resolve this matter as soon as possible. Please do contact me once you have reviewed this letter and the accompanying documents if you have questions.

Sincerely,



Jeff Phelan

Enclosures

- Revised application for use permit exception
- Copy of Napa County assessor's records
- Phelan Residence Site Plan, RSA 1/23/13
- Phelan Residence Limit of Modifications within creek setbacks, RSA 1/23/13
- Phelan Residence Drainage and Erosion Control Plan, RSA 1/23/13
- Phelan Residence Hennessey Ridge Road Review, RSA 11/12/12
- Request for Design Exception for Hennessey Ridge Road 1/29/13
- Phelan Residence Driveway Slope Review, RSA 11/24/12
- Stormwater Management Plan (SQMP/SRMP) prepared by RSA for Phelan Residence 1/25/13
- Technical Memo 100 Hennessey Ridge Road, APN 025-440-007, Napa County, 100-Year Storm Event Analysis for Pond and Outlet Pipe, Jeff Twitchell, Senior Engineer GEI Consultants, Inc, 1/18/12
- Streambed Alteration Agreement, Department of Fish and Wildlife, issued January 15, 2013; signed 3/7/13
- Phelan Ranch Stream Channel Restoration Project Mitigation, Monitoring and Reporting Plan 10/12, revised 3/13
- Phelan Ranch Stream Channel Assessment, AES, 9/14/12
- Phelan Ranch Stream Channel Restoration, Napa County Draft Landscape and Re-vegetation Plan 3/13
- Division of water Rights, State of California Registration of Small Domestic Use and Livestock Stock Pond Use 1/25/12
- Site Photos