



Decision of Administrative Hearing Officer
UNLAWFUL MARIJUANA CULTIVATION ORDINANCE
(Tehama County Code Chapter 9.06)

ADMINISTRATIVE HEARING: EHCE 24-38
DATE OF DECISION: 10/16/2024

Property Owner Name and Last Known Address:

Mario Martinez
PO Box 261
Proberta, CA 96078

Occupants:

☐ _____
☐ _____
☐ _____

Site Address:

23175 Third St., Proberta

Assessor's Parcel Number:

037-181-009

REGARDING the alleged violation(s) of the Tehama County Code ("TCC") as described below:

Any unlawful cultivation of marijuana. (TCC §9.06.035.)

The Notice of Violation and Proposed Administrative Penalty ("NOV"); Notice to Abate and Administrative Order to Show Cause ("Notice") was heard on **10/16/2024** in Department 4 of the Old Courthouse located on the second floor at 633 Washington Street, the Honorable Amber Lane presiding.

After examining the evidence presented at the hearing and considering the arguments, I find the following:

- ☒ I hereby find, based on the evidence presented at this Hearing, the alleged violation(s):
- ☒ existed on the Premises on the date of Initial Inspection; and
 - ☐ Do continue to exist on the Premises; and
 - ☐ Continues to exist on the Premises pursuant to TCC §§ 9.06.100; and
 - ☐ Was voluntarily abated on _____ and no longer exists on the Premises; and
 - ☒ Other: Abated by law enf. + code enforcement
 - ☐ did not exist on the Premises on the date of the Initial Inspection; and

The basis for existence of the alleged violations is supported by the following evidence presented at the Hearing:

- ☒ The Staff Report; and
- ☒ Statements from the Enforcing Officer attesting that:
 - ☒ The information contained in the Staff Report is true and accurate; and
 - ☐ Other: _____; and
- ☒ Other evidence submitted at this Hearing by:
 - ☒ Enforcing Officer: Weston; and
 - ☒ Other: 3 photos, 3 page notice; and

On **10/2/2024** the Enforcing Officer

- ☒ properly served the NOV and the Notice on owners and occupants identified at the top of this page; and
- ☐ did not properly served the ☐ NOV ☐ Notice; and

The following person(s) appeared:

- ☒ Mario Martinez; and
- ☐ _____; and
- ☒ Parties not appearing at the Administrative Hearing have failed to exhaust their administrative remedies; and

Ruling

- ☒ Based on the above findings, I hereby declare the violations alleged in the NOV and the Notice are factually true and constitute a public nuisance under TCC §9.06.035, as set forth in the NOV and the Notice; and
 - ☒ All unlawful marijuana cultivated on the Premises is subject to abatement pursuant to TCC Chapter 9.06, and the means of abatement set forth in the NOV and the Notice are proper; and
- ☐ Based on the above findings, I declare the violations alleged in the NOV and the Notice are **not** factually true.
- ☒ I hereby find that the proposed daily administrative penalty set forth in the NOV is:
 - ☐ Imposed in the amount stated in the NOV.
 - ☐ Modified to be: _____
 - ☒ Disapproved to be \$NONE.



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NOW, THEREFORE, as the Hearing Officer for the County of Tehama and based upon the record before me, issue the following orders:

- ☒ The NOV and the Notice issued by the Enforcing Officer is hereby affirmed in full; and
- ☒ All unlawful marijuana cultivated on the Premises shall be abated, in the manner set forth in the NOV and the Notice, within **two calendar days** of service of this Decision; and
- ☒ If the nuisance is not abated or is recommenced, the Enforcing Officer may abate the marijuana pursuant to TCC §9.06.085 and shall charge the costs of administration of the abatement against the premises pursuant to Government Code § 25845.
- ☒ The Decision on the Notice is final and conclusive with the service of this decision.
- N/A ☐ The amount of administrative penalty, as set forth above, shall be final and conclusive.
- ☒ The Enforcing Officer shall return on **12/4/2024 at 9:00** to present the report on the administrative penalties and/or the accounting of the abatement.
- ☐ Other: _____

NOTICE IS HEREBY GIVEN. This Decision may be challenged pursuant to Code of Civil Procedure §§ 1094.5 and 1094.6. A writ of mandate must be filed within **90 days** of the service of this Decision. A decision imposing any administrative penalty may be challenged pursuant to Government Code ("GC") § 53069.

ATTENTION!

YOU WILL BE REQUIRED TO PAY THE COST OF ANY ABATEMENT RESULTING FROM THIS DECISION, INCLUDING COST OF ADMINISTRATION, WITHIN 90 CALENDAR DAYS AFTER THE HEARING OFFICER HAS APPROVED OR MODIFIED THE ACCOUNTING OF THE ENFORCING OFFICER. THE BOARD OF SUPERVISORS MAY SPECIALLY ASSESS SAID COSTS ON THE COUNTY TAX ROLL AND AUTHORIZE RECORDATION OF A NOTICE OF ABATEMENT LIEN AGAINST THE PREMISES. (GC § 25845.)

ATTENTION!

YOU ARE REQUIRED TO PAY ANY ADMINISTRATIVE PENALTY IMPOSED OR MODIFIED WITHIN 20 CALENDAR DAYS AFTER THIS DECISION IS SERVED. (TCC § 9.06.165) THE BOARD OF SUPERVISORS MAY AUTHORIZE RECORDATION OF A NOTICE OF ADMINISTRATIVE PENALTY LIEN AGAINST THE PREMISES. (GC § 53069.4.)

10/16/24
Date of Decision

Amber Lane
Amber Lane
Tehama County Administrative Hearing Officer



STAFF REPORT

UNLAWFUL MARIJUANA CULTIVATION (Tehama County Code Chapter 9.06)

EHCE 24-38

Site Address: <u>23175 3RD STREET.</u>	City: <u>GERBER (PROBERTA)</u>
APN: <u>037-181-009-000</u>	
Property Owner(s) Name(s): <u>Mario Martinez</u>	
Last Known Address(es): _____	
Occupant(s) Name(s): _____	

INITIAL INSPECTION DATE: 10/2/2024 BY: RR

The enforcing officer observed the following condition(s) on the premises (in violation of the Tehama County Code):

- ☒ **Outdoor** marijuana cultivation. (§9.06.035, subd. (A).)
- ☒ Building or Structure not permitted for marijuana cultivation, e.g. residence, mobilehome, greenhouse, hoophouse, etc. (§9.06.035, subd. (D) (E).)
- ☐ Building permitted for marijuana cultivation. (§9.06.035, subd. (E).)
- ☒ Approximately 252 to 252 marijuana plants appear, from the enforcing officer's vantage point, to be on the Premises. (§9.06.035, subd. (B).)
- ☒ Premises **not properly registered** as a marijuana grow site with the Department of Environmental Health. (§9.06.035, subd. (F).)
- ☒ Marijuana grow site is **not set back at least one-hundred (100) feet** from all boundaries of Premises. (§9.06.035, subd. (E)(2))
- ☒ Permitted residence. (§9.06.035, subd. (F).) Yes No RV
- ☐ Premises is **located approximately one-thousand (1,000) feet** of the boundary line of a school, school bus stop, school evacuation site, church, park, child care center, or youth-oriented facility. (§9.06.035, subd. (C).)
- ☐ Other: No Historical Grow

DATE POSTED AND SENT BY OVERNIGHT DELIVERY: 10/2/2024 BY: RR

RE-INSPECTION DATE: 10/2/2024 BY: RR

During the re-inspection of the Premises, the enforcing officer observed that the unlawful marijuana cultivation:

- ☐ Continues to exist on the Premises in violation of Tehama County Code;
- ☐ Was voluntarily abated
- ☐ Compliant
- ☐ Owner/occupant failed to provide evidence of the abatement (§9.06.100)
- ☒ Summary Abatement

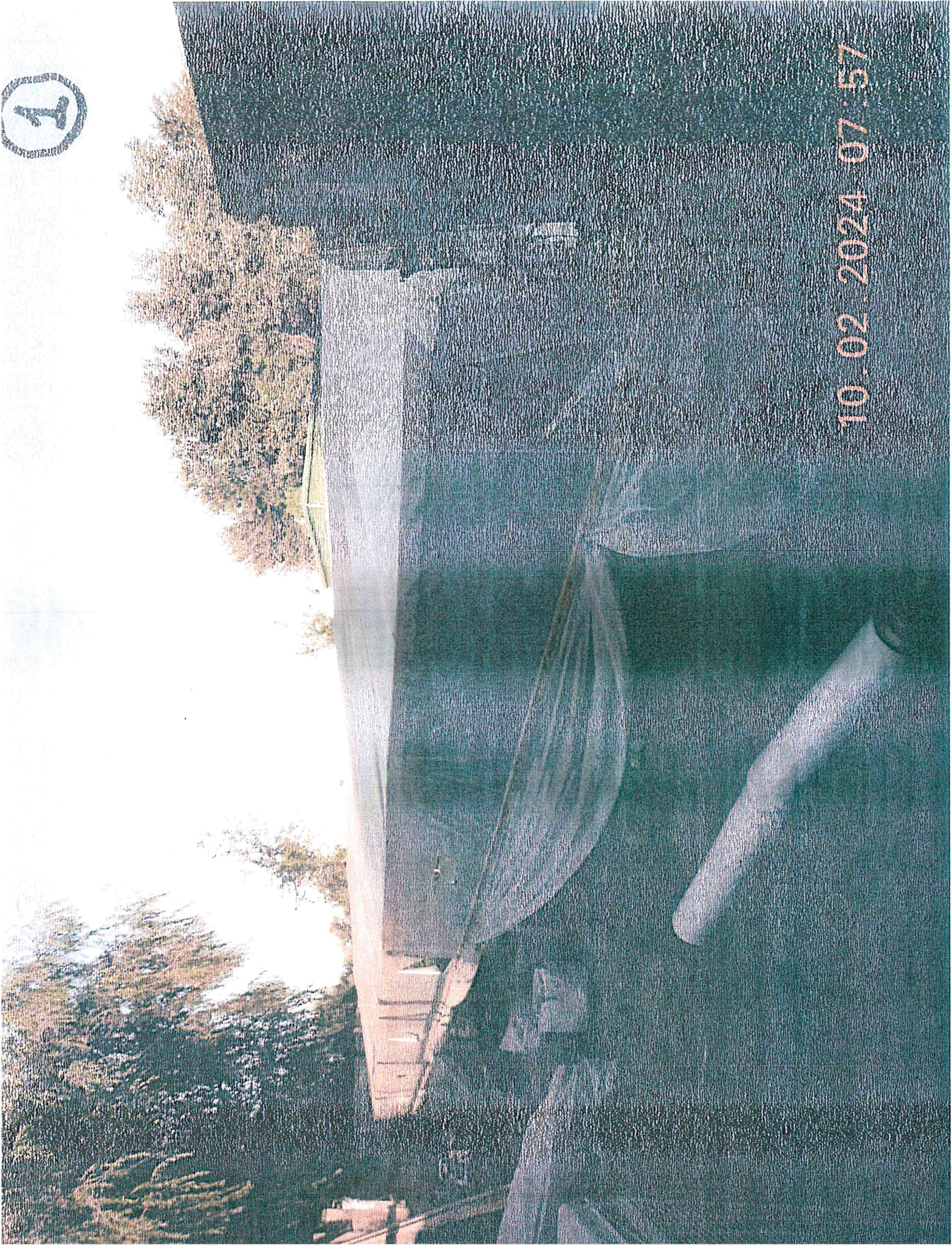
ATTACHMENTS:

- ☒ Notice of Violation and Proposed Administrative Penalty, Notice to Abate and Administrative Order to Show Cause
- ☒ Photo(s) taken at initial inspection
- ☐ Photo(s) taken at re-inspection
- ☐ Other: _____

ADMINISTRATIVE PENALTIES: start _____ to _____ ABATEMENT COSTS: _____

1

10.02.2024 07:57



2

10.02.2024 07:58





10.02.2024 07:57



Notice of Violation and Proposed Administrative Penalty
Notice to Abate and Administrative Order to Show Cause
UNLAWFUL MARIJUANA CULTIVATION ORDINANCE
(Tehama County Code Chapter 9.06)
DATE OF NOTICE: October 2, 2024

TO ALL PROPERTY OWNERS AND PERSONS IN POSSESSION OF THE SITE ADDRESS BELOW:

Property Owner Name and Last Known Address:

Occupant:

Mario Martinez

PO Box 261

Proberta, CA 96078

Site Address:

23175 THIRD ST PROBERTA CA 96078

Assessor's Parcel Number:

037-181-009-1

Enforcing Officer:

C. Weston

Inspection Date:

October 2, 2024

YOU ARE HEREBY NOTIFIED that an unlawful marijuana cultivation exists on the above premises, constituting a public nuisance in violation of Tehama County Code ("TCC") section 9.06.035. The violation is particularly described as:

Outdoor marijuana cultivation – TCC § 9.06.035 (A);

Unpermitted use of building or structure for marijuana cultivation – TCC § 9.06.035 (D), (E)(1);

Premises not registered as a marijuana grow site with Tehama County – TCC § 9.06.035 (F).

THE UNLAWFUL MARIJUANA CULTIVATION MUST BE ABATED BY: October 8, 2024
RE-INSPECTION DATE: October 9, 2024

YOU ARE REQUIRED TO ABATE THE UNLAWFUL MARIJUANA CULTIVATION either using the preferred abatement method identified in the pink attachment which requires that all of each plant be onsite for the inspection or another method as agreed which the Enforcing Officer has approved.

THE ENFORCING OFFICER MUST INSPECT THE PROPERTY TO VERIFY THE ABATEMENT.

If you fail to abate the nuisance, the Hearing Officer may issue a decision allowing the Enforcing Officer to abate the nuisance. The resulting cost of administration, including the cost of abatement, may become a lien on the property and be specially assessed pursuant to Government Code section 25845, or a debt enforced and collected through a civil action.

Penalty

If the nuisance has not been confirmed to be abated by the Enforcing Officer, the daily administrative penalty of up to \$1000 PER DAY with interest shall begin to accrue on pursuant to Government Code section 53069.4 and shall continue until the Enforcing Officer has verified the nuisance has been lawfully abated.

Hearing Date

DATE: October 16, 2024

TIME: 9:00 AM

ADDRESS: 633 Washington St., 2nd Floor, Department 4, Red Bluff, CA

FAILURE TO APPEAR AND PRESENT EVIDENCE at the hearing will result in a decision from the Hearing Officer based solely on the evidence submitted by the Enforcing Officer and shall be deemed a failure to exhaust administrative remedies

If you will require an interpreter, you are responsible for providing one.

Attention

You are responsible for providing evidence of lawful abatement. The violation will be presumed to still exist until the Enforcing Officer is able to verify lawful abatement (TCC § 9.06.110). To notify the Enforcing Officer that you are ready for re-inspection, you must call the Enforcing Officer at 530-527-8020

October 2, 2024
Date of Notice


Enforcing Officer (Ron Robbins/Clint Weston)

Preferred Abatement Options:

Cut and leave in place until re-inspection is confirmed by code enforcement.

Penalty of \$1,000 per day will accrue until you provide evidence of lawful abatement to code enforcement.

DO NOT BURN ANY PLANT MATERIAL

Burning plant material will be considered destruction of evidence and may be considered an illegal burn. Burning any public nuisance could result in the inability of the County to determine that the public nuisance has been lawfully abated and may result in a significant increase in fines that may otherwise be imposed.

Abatement per Tehama County Ordinance 9.06

9.06.100 - Abatement by owner or occupant.

Any owner or occupant may abate the unlawful marijuana cultivation or cause it to be abated at any time prior to commencement of abatement by, or at the direction of, the enforcing officer. An owner or occupant abating unlawful marijuana cultivation hereunder shall notify the enforcing officer upon completion of abatement and shall provide evidence that the unlawful marijuana cultivation has been lawfully disposed or lawfully relocated to another premises in compliance with this chapter or outside the county. Abatement shall not be deemed completed until the unlawful marijuana cultivation has been completely removed from the premises and lawfully disposed or relocated, and notification has been provided as set forth in this section.

PROOF OF SERVICE

I, Margarita Garcia, declare:

1. I am over age 18, not a party to this action, and am employed in Tehama County, California at the Department of Environmental Health - Code Enforcement; my business address is 633 Washington Street, Room 36, Red Bluff, CA, 96080.

2. On October 16, 2024, I served the following documents:

- ☒ Copy of this Proof of Service
☒ Copy of Decision of the Hearing Officer
☐ _____

3. I served the documents on the following person(s):

- ☒ Mario Martinez, P.O. Box 261, Proberta, CA 96078
NAME ADDRESS
☐ _____
NAME ADDRESS

4. The documents were served by the following means, by:

☐ **Personal service.** I personally delivered the documents to the person(s) listed in item 3. Delivery was made to:

- ☐ Party's Attorney: _____
☐ Party: _____

☒ **United States mail.** I enclosed the documents in a sealed envelope addressed to the person(s) at the addresses listed in item 3, and deposited the sealed envelope with the United States Postal Service, with postage fully prepaid, at Red Bluff, CA 96080.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Red Bluff, this October 16, 2024, at 4:30pm.
DATE TIME

Margarita Garcia
NAME OF DECLARANT

Margarita Garcia
SIGNATURE OF DECLARANT