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BOARD OF SUPERVISORS' MEETING (June 22, 2021)

FILE NUMBER:	CDEF2020-028
PROPERTY OWNER:	Dustin Smith
TYPE OF APPLICATION:	Recovery of Administrative Penalties

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County of Lassen

Department of Planning and Building Services

• Planning

• Building Permits

• Code Enforcement

• Surveyor

• Surface Mining

June 22, 2021

Maurice L. Anderson, Director

707 Nevada Street, Suite 5

Susanville, CA 96130-3912

Phone: 530 251-8269

Fax: 530 251-8373

email: landuse@co.lassen.ca.us

website: www.co.lassen.ca.us

TO: Board of Supervisors
Agenda Date: June 22, 2021

Zoning & Building

Inspection Requests

Phone: 530 257-5263

FROM: Maurice L. Anderson, Director

SUBJECT: Hearing to Consider Recordation of an Administrative Penalty Lien Pursuant to Lassen County Code Section 1.18.170 (i)

Recommendation

1. Receive the Enforcing Officer's Report; and
2. Conduct a hearing; and
3. Adopt a resolution ordering recordation of a lien against real property described herein, on which a public nuisance was identified in violation of Chapter 1.18 of the Lassen County Code, in order to recover administrative penalties as established by the Lassen County Hearing Officer.

Summary

The purpose of this hearing is to determine whether or not the Board of Supervisors should order staff to record a lien against real property located in Lassen County, in order to recover administrative penalties established through enforcement of the Lassen County Public Nuisance Ordinance. As stipulated under Section §1.18.090(c) of County Code, the decision of the Hearing Officer, with regard to the existence a public nuisance, is final. The property described herein (Exhibit A of Draft Resolution), is owned by Dustin Smith and was found to be in violation of Lassen County Code Chapter 1.18 as outlined in the Decision of Hearing Officer dated July 19, 2020.

In this case the identified nuisance was not abated as ordered by the Enforcing Officer and an Administrative Hearing was held on July 19, 2020. The Hearing Officer determined that the nuisance did exist as posted, and that the property owner failed to abate as ordered. In addition to affirming the Enforcing Officers Report, the Hearing Officer ordered Administrative penalties to the property owner in the amount of \$9,000.00. The decision of the Administrative Hearing Officer is attached with this Board letter. Interest has accrued on the unpaid fines bringing the total requested lien amount to \$9,404.38.

RESOLUTION NO. _____**RESOLUTION ORDERING RECORDATION OF AN ADMINISTRATIVE PENALTY
LIEN PURSUANT TO LASSEN COUNTY CODE SECTION 1.18.170 (i)**

WHEREAS, Assessor's Parcel Number 047-090-028, described in Exhibit A, is owned by Dustin Smith; and

WHEREAS, on August 12, 2020, the Administrative Hearing Officer rendered a Decision ordering the abatement of a public nuisance pursuant Lassen County Code Chapter 1.18 and ordered a civil penalty against the property; and

WHEREAS, on June 22, 2021, the Board of Supervisors conducted a noticed hearing whereat evidence was presented and consideration was made regarding administrative civil penalties, attached as Exhibit B.

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. That the foregoing recitals are true and correct.
2. That notice of the hearing has been given as required by the Lassen County Code.
3. That the information provided in the Board packet for this hearing is true and correct.
4. That the administrative civil penalty sum of \$9,000, combined with interest at \$404.38, is hereby affirmed and shall be assessed against real property as described in Exhibit A, also known as Assessor's Parcel Number 047-090-028.
5. That the Lassen County Board of Supervisors hereby orders that a lien be placed against Assessor's Parcel Number 047-090-028 in accordance with Lassen County Code subsection 1.18.170(i), to recuperate the cost affirmed herein (\$9,404.38).
6. Notice of this resolution shall be given to Dustin Smith as follows:
 1. First class mail.
 2. Certified mail.
 3. Posting this resolution on the property.

The foregoing resolution was adopted at a regular meeting of the Board of Supervisors of the County of Lassen, State of California, held on the 22th day of June 2021, by the following vote:

RESOLUTION NO. _____

Dustin Smith

AYES: _____

NOES: _____

ABSENT: _____

CHAIRMAN of the Board of Supervisors,
County of Lassen, State of California

ATTEST:

JULIE BUSTAMANTE

Clerk of the Board

BY _____

MICHELE J. YDERRAGA, Deputy Clerk of the Board

MICHELE J. YDERRAGA, Deputy Clerk of the Board of Supervisors, County of Lassen, do hereby certify that the foregoing resolution was adopted by the said Board of Supervisors at a regular meeting thereof held on the 22nd day of June 2021.

Deputy Clerk of the County of Lassen Board of Supervisors

EXHIBIT "A"
LEGAL DESCRIPTION

All that certain real property situated in a portion of Section 32, Township 35 North, Range 16 East, Mount Diablo Base and Meridian, in the unincorporated territory of Lassen County, California, more particularly described as follows:

Parcel 92, as shown on the map of Secret Valley Ranch Unit No. 1, filed September 28, 1971, in the Office of the Lassen County Recorder in Book 8 of Maps at Pages 64-71.



Don E. Willis

Interest Charge on Administrative Fee

Owner: SMITH, DUSTIN WAYNE

Property Address: 739-400 Marr Road

Print Date: 06/02/2021

APN: 047-090-28

Case Number: CDEF2020-028

Hearing Decision Starting Fine Date	Hearing date	Number of Days	Rate	Interest Thru	Interest Rate	Interest charged	Total Cost
	8/12/2020	9	\$1,000.00				\$ 9,000.00
7/20/2020		164		12/31/2020	10%	\$404.38	\$ 9,404.38
TOTAL							\$ 9,404.38



LASSEN COUNTY
NOTICE TO ABATE – NOTICE OF PROPOSED PENALTY
NOTICE OF ADMINISTRATIVE ORDER TO SHOW CAUSE

Property Owner Name and Last Known Address:

Dustin Wayne Smith

739-400 Marr Road

Ravendale, CA 96123

Site Address:

(no number) Marr Road

Ravendale, CA 96123

Occupant:

Assessor's Parcel Number: 047-090-28

Enforcing Officer: Steen

Inspection Date: 07-06-2020

TO OWNER AND RESIDENT: YOU ARE HEREBY NOTIFIED that conditions exist on the above premises, which constitute a **PUBLIC NUISANCE** under Title 1.18 of the Lassen County Code. Such condition(s) violate(s) the following specific provision(s) of the Lassen County Code:

Marijuana cultivation in violation of the provisions of Title 19 of the Lassen County Code.

You are required to abate the above violation(s) within **TWELVE (12) CALENDAR DAYS** of this notice by: July 19, 2020. To abate the nuisance, you must take the following action: Remove all marijuana cultivated in violation of the provisions of Title 19.

You may present yourself before a hearing officer to show good cause why this nuisance should not be abated by the enforcing officer. The date, time, and location of this hearing are listed below. You will be given an opportunity at this hearing to present testimony or other evidence why the conditions on the listed property do not constitute a nuisance and should not be abated. There is no fee for this hearing if the nuisance is abated by the date on the notice or a **\$500 fee** for this hearing should you fail to comply and are found in violation of Lassen County Code Chapter 1.18.

If you do not abate the nuisance yourself, or show good cause to the hearing officer why it should not be abated, the enforcing officer may come on your property and abate the nuisance him or herself. All abatement costs, including administrative costs, may be made a special assessment added to the tax roll and become a lien on this real property, or be placed on the unsecured tax roll (see back side for more information).

Also, if you do not abate this nuisance by the date set forth above, you will be charged an administrative penalty of **\$1000.00** PER DAY beginning on 07-06-2020 and continuing until the nuisance is abated and the abatement is confirmed by an enforcement officer (see back side for more information).

YOU are responsible for reporting to the County that you have abated this nuisance. To do so, **YOU** must contact the Enforcement Officer at 530-251-8269 to report having corrected the problem.

DATE: July 29, 2020

TIME: At or After 2:00 P.M.

ADDRESS: 1205 Main St. Susanville, CA 96130 – Veterans Hall


 Attestation of Enforcing Officer

07-07-2020
 Date of Notice



Decision of Administrative Hearing Officer
(Lassen County Code Title 1, Chapter: 1.18)

ADMINISTRATIVE HEARING #: 20-028

CDEF: 2020-028

DATE OF HEARING: August 12, 2020

Property Owner Name and Last Known Address:

Occupant:

Dustin Wayne Smith

739-400 Marr Road

Ravendale, CA 96123

Site Address:

Assessor's Parcel Number: **047-090-28**

(no number) Marr Road

Ravendale, CA, CA

Hearing Officer:

Lynn Cottier

Date of Administrative Hearing:

August 12, 2020

WHEREAS, the enforcing officer scheduled an Administrative Hearing on DATE: 8-12-2020, giving the owner(s) and/or occupant(s) of the Premises an opportunity to present evidence and elicit testimony regarding (i) whether the conditions existing on the Premises constitute a nuisance and/or whether there is any good cause why those conditions should not be abated, and (ii) whether the proposed amount of administrative penalty set forth in the Notice shall be imposed, modified, or disapproved, in whole or in part.

The owner(s) and/or occupant(s) and/or representatives/legal counsel appeared:

☒ Dustin Wayne Smith, owner

☐

☒ Failure of an owner or occupant to appear and present evidence at the hearing constitutes a failure to exhaust their administrative remedies. (Lassen County Code (LCC) Title 1, Chapter 1.18.100(c))

NOW, THEREFORE, as the Hearing Officer for the County of Lassen and based upon the record before me, issue the following findings and declarations:

☒ The enforcing officer ☒ DID ☐ DID NOT properly serve the notice of Order to Show Cause on the owners and/or occupants pursuant to LCC Title 1, Chapter 1.18.060 – 1.18.080.

☒ I HEREBY FIND that the alleged violation(s) ☒ DID ☐ DID NOT exist on the Premises and the owner/ occupants failed to abate the nuisance based upon the following evidence presented at this hearing and/or continuance of hearing:

☒ The Staff Report, attached hereto and incorporated herein, as well as the marked exhibits A-1 through 7-3

☒ Statements from the enforcing officer Rob Steen/Matt May attesting that:

☒ The information contained in the Staff Report is true and accurate; and

☐ Other: _____; and

☒ Photograph(s) of the violation(s) taken and submitted as evidence at this Hearing by:

☒ Enforcing Officer: and

☐ Other: _____; and

☒ Other evidence submitted at this Hearing by:

☒ Enforcing Officer: and

☒ Other: Dustin Smith; and

☒ I HEREBY FIND, based on the foregoing evidence presented at this Hearing, the alleged violation(s):

☒ Continued to exist unabated on the Premises; and

☐ Were abated by the county Planning and Building Services Department.

☐ Other: _____; and

☒ I HEREBY FIND that the proposed administrative penalty set forth in the Notice is:

☒ Imposed in the amount stated in the Notice. 9 days 7/20-7/29

☐ Modified to be: _____.

☐ Disapproved.

☐ Other: _____.

☒ Based on the above findings, I hereby find the violation(s) alleged in the Notice are factually true and constitute a public nuisance under Lassen County Code Title 1, Chapter 1.18, as set forth in the Notice; and

☒ The marijuana on the Premises is subject to abatement in accordance with Lassen County Code Title 1, Chapter 1.18, and the means of abatement set forth in the Notice are proper.

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

☒ The Notice issued by the enforcing officer on 07-7-2020 is hereby affirmed in full; and

☒ A public nuisance on the Premises shall be abated by the owner(s) and/or occupant(s) of the Premises, in the manner set forth in the Notice, within FIVE (5) CALENDAR DAYS of service of this Decision (LCC Title 1, Chapter 1.18.120); and

☒ If the owner(s) and/or occupant(s) of the premises fail to abate the nuisance as ordered by the Hearing Officer, and/or the nuisance continues to exist, the Enforcing Officer shall abate, or cause to be abated said nuisance and shall keep an itemized account of the costs incurred by the County to abate the nuisance. The owner(s) and/or occupants shall be liable for all cost in accordance with Lassen County Code Title 1, Chapter 1.18.120. If unpaid, said cost will be charged against the premises in accordance with the provisions of Lassen County Code Title 1, Chapter 1.18.110.

☒ The amount of administrative penalty, as set forth above, shall be final and conclusive. Payment of the administrative penalty specified in this Decision shall be made in the manner set forth in Lassen County Code Title 1, Chapter 1.18.170(g) in accordance with Government Code Section 53069.4. Subsection (b).

ATTENTION!

If the amount of administrative penalty is imposed or modified, you are required to pay that amount within **TWENTY (20) CALENDAR DAYS** after service of this Decision.

If the administrative penalty is not satisfied **IN FULL** within **NINETY (90) DAYS** and/or has not been challenged by a timely writ of mandate or appeal, the Board of Supervisors may authorize recordation of a Notice of Administrative Penalty Lien against the Premises. (Government Code section 53069.4)

ATTENTION!

If the Enforcing Officer is required to abate the nuisance, you are required to pay the cost of abatement, including cost of administration, within **NINETY (90) CALENDAR DAYS** after service of this Decision.

If the cost of abatement, including cost of administration, is not satisfied in full within **NINETY (90) DAYS** and/or has not been challenged by a timely writ of mandate, the Board of Supervisors may specially assess the costs on the County tax roll and authorize recordation of a Notice of Abatement Lien against the *property*

8-12-20

Date of Decision

Lynn M. Cottier

Lynn Cottier
Lassen County Administrative Hearing Officer



County of Lassen
Department of Planning and Building Services

• Planning • Building Permits • Code Enforcement • Surveyor • Surface Mining

Maurice L. Anderson, *Director*
 707 Nevada Street, Suite 5
 Susanville, CA 96130-3912
 Phone: 530 251-8269
 Fax: 530 251-8373
 email: landuse@co.lassen.ca.us
 website: www.co.lassen.ca.us

NOTICE OF HEARING OFFICER DECISION

CERTIFIED MAIL/RETURN RECEIPT
 7017 1070 0000 7542 2214

August 13, 2020

Zoning & Building
 Inspection Requests
 Phone: 530 257-5263

Dustin Wayne Smith
 739-400 Marr Road
 Ravendale, CA 96123

RE: Code Enforcement Case No. 2020-028
 (no number) Marr Road
 Ravendale, CA 96123
 Assessor's Parcel Number: 047-090-28

Dear Mr. Smith:

The intent of this letter is to inform you of the Hearing Officer's decision from the administrative hearing held on August 12, 2020, Hearing Officer Lynn Cottier determined that the voluntary abatement of a public nuisance was not completed by July 19, 2020, as required by the notice and order. An administrative penalty has been set for \$9,000. The Hearing Officer's Decision attached.

TITLE 1.18.170 ADMINISTRATIVE CIVIL PENALTIES

1.18.170 (g): *Payment of an administrative penalty specified in the hearing officer's order shall be made to the county within twenty days of service of the order, unless timely appealed to the Superior Court in accordance with Government Code Section 53069.4, subdivision (b)*

1.18.170 (h): *Interest shall accrue on all amounts due under this section, from the effective date of the administrative penalty order, as set forth in this section, to the date paid pursuant to the laws applicable to civil money judgments.*

1.18.170 (i): *In addition to any other legal remedy, whenever the amount of any administrative penalty imposed pursuant to this section has not been satisfied in full within ninety days and has not been timely appealed to the Superior Court in accordance with Government Code Section 53069.4, subdivision (b), or if appealed, such appeal has been dismissed or denied, this obligation may be enforced as a lien against the real property on which the violation occurred.*

Dustin Smith
August 13, 2020
Page 2


Payment of administrative penalties must be made to Lassen County Planning and Building Services Department located at 707 Nevada Street, Suite 5 Susanville, CA. 96130.

Should you have any questions, contact Code Enforcement Officer Rob Steen (530) 251-8269.

Sincerely,



Maurice L. Anderson,
Director, Acting Building Official

MLA:rls 

Enclosure: Hearing Officer Decision



County of Lassen

Department of Planning and Building Services

• Planning • Building Permits • Code Enforcement • Surveyor • Surface Mining

June 10, 2019

Maurice L. Anderson, *Director*
 707 Nevada Street, Suite 5
 Susanville, CA 96130-3912
 Phone: 530 251-8269
 Fax: 530 251-8373
 email: landuse@co.lassen.ca.us
 website: www.co.lassen.ca.us

NOTICE OF HEARING LASSEN COUNTY BOARD OF SUPERVISORS

Zoning & Building
 Inspection Requests
 Phone: 530 257-5263

The Lassen County Board of Supervisors will hold a hearing in consideration of the following item:

Property Owner: Dustin Smith

File Number: CDEF2020-028

Project: Public Hearing on Accounting pursuant to Lassen County Code Section 19.140; and Consideration of Report of Administrative civil penalties (as ordered to owner, by the Decision of Administrative hearing Officer, CDEF2020-028 on August 12, 2020), charged pursuant to Lassen County code Section 19.170.

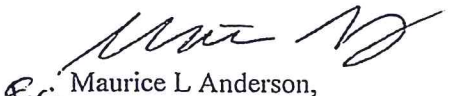
Location: Lassen County (Ravendale)

A.P.N.: 047-090-028

Staff Contact: Chris Martin and Mike Prettyman, Code Enforcement Officers

The Board of Supervisors will hold a hearing on this item at 10:30 AM, on June 22, in the Board Chambers, 707 Nevada Street, Susanville, California. You are invited to attend the meeting and be heard, or to submit comments to the Department of Planning and Building Services, 707 Nevada Street, Suite 5, Susanville, CA 96130.

For the Board of Supervisors,


 Mr. Maurice L. Anderson,
 Director, Acting Building Official

MLA:Cjm

NOTE: Anyone wishing to challenge in court an action on the project described above may be limited to raising only those issues raised at the hearing described in this notice or in written correspondence delivered at, or prior to, said hearing.

Case No: CDEF2020-028

DECLARATION OF SERVICE BY FIRST CLASS MAIL

I, THE UNDERSIGNED, DECLARE THAT:

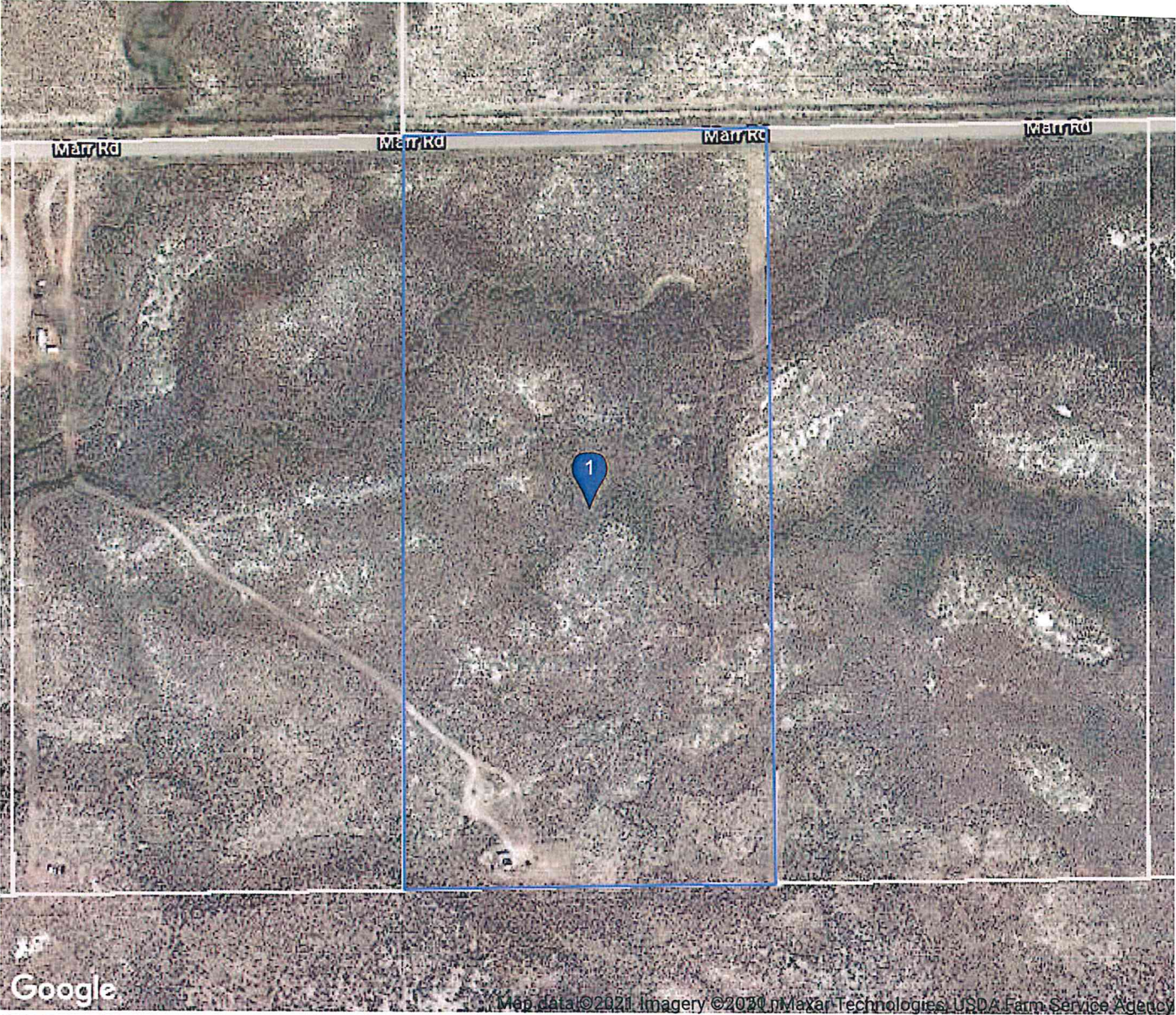
1. I am an employee of Lassen County, California, over the age of eighteen years and not a party to the within entitled cause or matter;
2. My business address is 707 Nevada Street, Room 236, Susanville, California 96130; and;
3. I served the foregoing **NOTICE OF HEARING** on the interested parties in said cause by depositing a true copy thereof enclosed in a sealed envelope and placing the envelope for collection and mailing on the date and at the place shown below following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with first class postage fully paid in Susanville, California, on June 10, 2021, addressed as follows:

SMITH, DUSTIN WAYNE
739-400 MARR RD
RAVENDALE, CA 96123

I declare under penalty of perjury that the foregoing is true and correct.
Executed this June 10, 2021, at Susanville, California 96130.



Brooke Suarez



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