

To: Board of Supervisors
From: Planning and Building Department
Agenda Section: Consent

SUBJECT:

Summarily approve Nuisance Abatement Assessment on the property located at 3029 Eel River Drive, Loleta

RECOMMENDATION(S):

That the Board of Supervisors:

1. Summarily approve the proposed Nuisance Abatement Assessment for case 15CEU-45 on the property located at 3029 Eel River Drive, Loleta (APN 309-041-016) which is in violation of various Humboldt County Codes in the amount of \$67,821.64 in accordance with Title III, Division 5, Chapter 2, section 351-21 Summary Approval of Proposed Assessments.

SOURCE OF FUNDING:

General Fund, Code Enforcement (1100269) Nuisance Abatement (631130)

DISCUSSION:

The Board is being asked to summarily approve the proposed Nuisance Abatement Assessment for the property located at 3029 Eel River Drive, Loleta (APN 309-041-016) which is owned by Margaret Belli.

The recent case history began in February of 2021 when Code Enforcement began receiving complaints about hazardous waste, junk vehicles, people living in trailers and a lack of a sewage disposal system. A drive-by inspection revealed several code violations including solid waste, junk vehicles, dismantled vehicles and recreational vehicles. Attempts were made to conduct a consent inspection of the property as only a portion of the 60-acre property can be seen from the road. The owner would not agree to an inspection.

In July 2021, Code Enforcement obtained a Notice of Violation from California Department of Fish and Wildlife (dated May 22, 2020) for violations of Fish and Game Code Sections 1602, 5650 and 5652 (see Attachment A).

An inspection warrant was obtained and served in September 2021 (see Attachment B). The following table lists the violations that were observed on the property (see Attachment C for photos):

Code Section	Description	Corrective Action
521-4	Improper Storage and Removal of Solid Waste	Contain and dispose of all solid waste in a proper and legal manner.
354-1	Junk and/or Inoperable Vehicles	a.) Restore vehicle(s) to operative condition, and/or b.) Remove inoperable vehicles, and/or c) Store inoperative vehicles within enclosed legal structure
371-2	Maintaining a Junkyard	a) Contain all debris within 200 square-foot area, and/or b) Remove inoperable vehicles, and/or c) Store inoperative vehicles within within enclosed structure
331-28	Construction of Building/Structure in Violation of Building, Plumbing and/or Electrical Codes	Apply for and obtain permits, complete work required by permit, and complete final inspection to confirm work OR If building permit is unobtainable, apply for and obtain demolition permit, complete required work for permit, and complete final inspection
313-88.1.1.2	Use of a Recreational Vehicle or Mobile Home as a Residence in the Coastal Zone	Disconnect utilities and cease use of recreational vehicle as a residence
314-61.1	Development in a Streamside Management Area Without a permit	Apply for and obtain permits from the Planning and Building Department
331-14	Grading without permits	Apply for and obtain permits from the Planning and Building Department
611-3	Approved Sewage Treatment System Required	Cease discharge of sewage to ground surface and eliminate risk of future discharge. Pump and/or vault all sewage until permanent corrections can be made.
612-5	Declaration of Public Nuisance: the presence of sewage upon the surface of the ground	Remove and properly dispose of any accumulated sewage on ground surface.

A Notice to Abate Nuisance was served on the property owner and all occupants on October 22, 2021 (see Attachment D). There was no appeal filed. Code Enforcement sent the property owner and occupants a letter indicating the county's intent to conduct a public nuisance abatement on the property (see Attachment E). There was still no communication from the property owner.

It became apparent the property owner was not interested working with the county in abating the public nuisances. Therefore, a county abatement was necessary to address the public nuisances. The case required two phases: the clean-up of solid waste and junk vehicles and then the restoration of graded areas and development in the streamside management area. This assessment is for the first phase.

Code Enforcement executed an agreement with K.H. McKenny, Inc to complete the abatement work for the property. An Inspection Warrant and Order of Abatement was obtained to authorize the clean-up of the property (see Attachment F). Abatement began on March 22, 2022 and concluded April 28, 2022 (see Attachment G for post abatement photos and Attachment H for invoices). Approximately 17 tons of solid waste, 40 junk vehicles/vehicle parts and over 250 tires were removed from the property. The junk vehicles and solid waste were intermixed with tools, machinery and equipment that are legitimate items to have on an agricultural property. At the end of the abatement there were still items with value located throughout the property that will remain as part of the agricultural use of the property. There are additional items stored near the main residence that will be addressed in phase two. It was decided to allow the property owner the additional time between phase one and two to obtain permits for the accessory buildings that will store the remaining items. Part of the initial abatement work was to complete a field survey and develop a restoration plan for the grading, streamside development and sewage system issues. The restoration plan will guide the second phase of abatement to bring this property into full compliance.

The first phase of abatement totaled \$61,262.40 for the contract work and \$6,559.24 in staff administrative costs for a total of \$67,821.64. A Notice of Nuisance Abatement Assessment was served on August 25, 2022 and no appeal was requested which put this item before your Board for summary approval (see Attachment I).

Administrative civil penalties are not being sought in this case. The approval of the proposed Nuisance Abatement Assessment will repay the County for the actual costs of abating the public nuisances and correcting the code violations on this property to date. At this point, there is not a rationale for a reduction or elimination of the proposed Nuisance Abatement Assessment because it is based on expenses already paid.

HCC section 351-21 states "if an objection to the proposed assessment is not filed by any Owner, Beneficial Owner, Occupier or any other person in charge or control of the affected property within ten (10) calendar days after service of the Notice of Nuisance Abatement Assessment, the Humboldt County Board of Supervisors shall summarily approve the proposed assessment without holding a Cost Recovery Hearing."

Based upon these factors, it is recommended that the Board of Supervisors confirm the proposed Nuisance Abatement Assessment.

Upon summary approval of the Nuisance Abatement Assessment, a Notice of Nuisance Abatement Assessment Lien will be served on the property. This notice will provide forty-five (45) calendar days for the assessment to be paid before the recording of the Notice of Nuisance Abatement Assessment Lien.

Pursuant to HCC section 351-24 after the Notice of Nuisance Abatement Assessment Lien is recorded “the Humboldt County Auditor-Controller shall enter each Nuisance Abatement Assessment upon the affected Property on the Humboldt County Secured Tax Roll. The Nuisance Abatement Assessment shall continue until it is paid, together with interest at the legal maximum rate computed from the Imposition date until payment is received. The Nuisance Abatement Assessment may be collected at the same time and in the same manner as ordinary property taxes are collected and shall be subject to the same penalties and the same procedures and sale in case of delinquency as provided for ordinary property taxes...”. The Nuisance Abatement Assessment shall also have the same force, effect and priority of a judgment lien governed by the provisions of California Code of Civil Procedure sections 697.310 *et seq.*

FINANCIAL IMPACT:

The cost of preparing the cases and serving the notices has been included as administrative costs in accordance with established policies and code sections. Administrative staff costs associated with this assessment have been budgeted in the salaries and expenses of budget unit 1100-269 (Code Enforcement). The cost of the abatement was paid out of monies set aside for County abatements in the General Fund and transferred to budget unit 1100-269. With staff recommendation, there is minimal impact to the General Fund with this Board item.

STRATEGIC FRAMEWORK:

This action supports your Board’s Strategic Framework by enforcing laws and regulations to protect residents

OTHER AGENCY INVOLVEMENT:

Department of Health and Human Services Environmental Health, Building Division and the Sheriff’s Department.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Board could choose not to approve the Nuisance Abatement Assessment. However, this is not recommended because staff recommendations align with Title III, Division 5 of Humboldt County Code. By choosing this option there will be no reimbursement for the public funds spent to clean up and abate the public nuisance

ATTACHMENTS:

Attachment A – CDFW Notice of Violation

Attachment B – Inspection Warrant

Attachment C – Sept 2021 Photos
Attachment D – Notice to Abate Nuisance
Attachment E – Intent to Conduct Public Nuisance Abatement
Attachment F – Inspection Warrant and Order of Abatement
Attachment G – Post Abatement Photos
Attachment H – Abatement Invoices
Attachment I – Notice of Nuisance Abatement Assessment

PREVIOUS ACTION/REFERRAL:

Board Order No.: [Click or tap here to enter text.](#)

Meeting of: [Click or tap here to enter text.](#)

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