



COUNTY OF HUMBOLDT

For the meeting of: 10/4/2022

File #: 22-1275

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

SUBJECT:
Summarily Approve Administrative Civil Penalty Assessment on Various Properties

RECOMMENDATION(S):
That the Board of Supervisors:

1. Approve the proposed Administrative Civil Penalty Assessments on property owners who are in violation of various Humboldt County Codes including violation of Commercial Cannabis Land Use Ordinance (CCLUO) (formerly Commercial Medical Marijuana Ordinance) in the amount of \$900,000.00 plus administrative costs incurred in accordance with Title III, Division 5, Chapter 2, section 352-20 Summary Approval of Proposed Administrative Civil Penalty Assessments.

SOURCE OF FUNDING:
Property Owner

DISCUSSION:
The Board is being asked to approve the proposed Administrative Civil Penalty Assessments against 12 properties which have been unresponsive/non-compliant to notices from the county requiring abatement of nuisances and correction of code violations related to cannabis cultivation. Attachments A-L include a record of key noticing documents for each violation, including the name of the property owner, the name of the violator, the Assessor Parcel Number (APN), and notification documents.

Humboldt County Code Section 352-20 states *“If an objection to the proposed assessment is not filed by a Responsible Party within ten (10) calendar days after service of the Notice of Administrative Civil Penalty Assessment, the Humboldt County Board of Supervisors shall summarily approve the proposed assessment without holding an Administrative Civil Penalty Assessment Hearing.*

These assessments are the result of active code enforcement on unpermitted cannabis operations as directed by your Board. Utilizing a combination of satellite imagery, on-site inspections, and in some cases collaboration with law enforcement, the Department issued Notices to Abate Nuisance and

Notices of Violation and Proposed Administrative Civil Penalty (“Notices of Violation”) on each of the properties listed below for unpermitted cannabis operations, and in some cases unpermitted structures, unpermitted grading and other violations of Humboldt County Code.

Bryce Gess CE20-0471 **APN 315-082-004** **TOTAL: \$901,572.13**

- Violation of Commercial Cannabis Land Use Ordinance
- Construction of building/structure in violation of building, plumbing and/or electrical codes
- Grading without permits
- Development within a Streamside Management Area
- Unapproved sewage disposal system
- Improper storage & removal of solid waste

Bryce Gess was issued a Notice of Violation with a proposed daily administrative civil penalty of \$43,000 per day on March 10, 2020. The proposed administrative civil penalty accrued for 90 days, totaling \$3,780,000. The Department is requesting \$900,000 plus administrative costs, which is consistent with previous administrative civil penalty assessments. See Attachment A.

Action	Date
Bryce Gess is Deeded Property	10/18/2018
HCSO warrant served	2/20/2020
NTA and NOV Served	3/10/2020
Mr. Gess makes contact with CEU	3/18/2020
10 Days Expired	3/21/2020
90 Days Expired	6/19/2020
“Notice of Administrative Civil Penalty Assessment” Served	8/24/2021

Wheeler Lumber Co Inc CE19-0225 **APN 211-375-011** **TOTAL: \$901,444.67**

- Violation of Commercial Cannabis Land Use Ordinance
- Construction of building/structure in violation of building, plumbing and/or electrical codes
- Grading without permits

Action	Date
Satellite Review - Active Enforcement for Unpermitted Cannabis Cultivation	9/16 - 9/17/2019
NTA and NOV Served	9/18/2019
Property Owner Makes Contact with P&B Dept.	9/26/2019
10 Days Expired - No Appeal Requested	9/29/2019
90 Days Expired - Penalties Accrue to \$2,700,000	12/28/2019
“Over 90 Days Unresolved Warning” letter sent	3/10/2020
Assisted HCSO Search Warrant	5/11/2020

"Notice of Administrative Civil Penalty Assessment" Served	4/30/2021
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Wheeler Lumber Co Inc was issued a Notice of Violation with a proposed daily administrative civil penalty of \$24,000 per day on September 18, 2019. The proposed administrative civil penalty accrued for 90 days, totaling \$2,160,000. The Department is requesting \$900,000 plus administrative costs, which is consistent with previous administrative civil penalty assessments. See Attachment B.

Wheeler Lumber Co CE19-0226 APN 211-376-027 TOTAL: \$901,444.67

- Violation of Commercial Cannabis Land Use Ordinance
- Construction of building/structure in violation of building, plumbing and/or electrical codes
- Grading without permits

ActionDate	
Satellite Review - Active Enforcement for Unpermitted Cannabis Cultivation	9/16 - 9/17/2019
NTA and NOV Served	9/18/2019
Property Owner Makes Contact with P&B Dept.	9/26/2019
10 Days Expired - No Appeal Requested	9/29/2019
90 Days Expired - Penalties Accrue to \$2,700,000	12/28/2019
"Over 90 Days Unresolved Warning" letter sent	3/10/2020
Assisted HCSO Search Warrant	5/11/2020
"Notice of Administrative Civil Penalty Assessment" Served	4/30/2021

Wheeler Lumber Co Inc was issued a Notice of Violation with a proposed daily administrative civil penalty of \$30,000 per day on September 18, 2019. The proposed administrative civil penalty accrued for 90 days, totaling \$2,700,000. The Department is requesting \$900,000 plus administrative costs, which is consistent with previous administrative civil penalty assessments. See Attachment C.

Thunder Wave Investments LLC 18CEU-425 APN 108-141-032 TOTAL: \$901,565.68

- Violation of Commercial Medical Marijuana Ordinance
- Construction of building/structure in violation of building, plumbing and/or electrical codes
- Development within a Streamside Management Area

Action	Date
Thunder Wave Investments LLC Formed; Allison Berry LLC Member	1/21/2014
Thunder Wave Investments is Deeded Property	7/10/2014
Satellite Review - Active Enforcement for Illegal Cannabis Cultivation	9/10 - 9/12/2018
NTA and NOV Served	9/13/2018
10 Days Expired	9/24/2018

Assisted HCSO Search Warrant	9/26/2018
Signed Appeal Request submitted to P&B; request is outside of 10 days AND no written statement is included describing content of appeal request	9/28/2018
90 Days Expired	12/24/2018
Discuss settlement	Spring/Summer 2019
“Notice of Administrative Civil Penalty Assessment” Served	3/17/2020

Thunder Wave Investments LLC was issued a Notice of Violation with a proposed daily administrative civil penalty of \$10,000 per day on September 14, 2018. The proposed administrative civil penalty accrued for 90 days, totaling \$900,000. The Department is requesting \$900,000 plus administrative costs, which is consistent with previous administrative civil penalty assessments. See Attachment D.

Jalal Tahir CE19-0141

APN 315-173-004

TOTAL: \$901,327.39

- Violation of Commercial Cannabis Land Use Ordinance
- Construction of building/structure in violation of building, plumbing and/or electrical codes
- Grading without permits
- Development within a Streamside Management Area
- Unapproved sewage disposal system
- Improper storage & removal of solid waste

ActionDate	
Jalal A Tahir is Deeded Property	9/23/2016
Satellite Review for Active Enforcement	7/23/2019
NTA and NOV Served	7/30/2019
10 Days Expired - No Appeal Requested	8/10/2019
90 Days Expired - Penalties Accrue to \$1,800,000	11/8/2019
Mr. Tahir makes contact with CEU	12/23/2019
“90 Days Accrued Warning Letter” sent	3/9/2020
HCSO warrant served	8/9/2021
“Notice of Administrative Civil Penalty Assessment” Served	8/24/2021

Jalal Tahir was issued a Notice of Violation with a proposed daily administrative civil penalty of \$16,000 per day on July 30, 2019. The proposed administrative civil penalty accrued for 90 days, totaling \$1,440,000. The Department is requesting \$900,000 plus administrative costs, which is consistent with previous administrative civil penalty assessments. See Attachment E.

Jalal Tahir CE19-0142

APN 315-174-003

TOTAL: \$901,327.39

- Violation of Commercial Cannabis Land Use Ordinance
- Construction of building/structure in violation of building, plumbing and/or electrical codes
- Grading without permits
- Development within a Streamside Management Area
- Unapproved sewage disposal system
- Improper storage & removal of solid waste
- Use of a Recreational Vehicle or Mobile Home as a Residence
- Non-approved Water Supply System

Action	Date
Jalal A Tahir is Deeded Property	9/23/2016
Satellite Review for Active Enforcement	7/23/2019
NTA and NOV Served	7/30/2019
10 Days Expired - No Appeal Requested	8/10/2019
90 Days Expired - Penalties Accrue to \$1,800,000	11/8/2019
Mr. Tahir makes contact with CEU	12/23/2019
"90 Days Accrued Warning Letter" sent	3/9/2020
HCSO warrant served	8/9/2021
"Notice of Administrative Civil Penalty Assessment" Served	8/24/2021

Jalal Tahir was issued a Notice of Violation with a proposed daily administrative civil penalty of \$12,000 per day on July 30, 2019. The proposed administrative civil penalty accrued for 90 days, totaling \$1,080,000. The Department is requesting \$900,000 plus administrative costs, which is consistent with previous administrative civil penalty assessments. See Attachment F.

Moises Roman CE20-0759

APN 530-151-001

TOTAL: \$900,252.88

- Violation of Commercial Cannabis Land Use Ordinance
- Construction of building/structure in violation of building, plumbing and/or electrical codes
- Grading without permits

Action	Date
CCLUO 1.0 Application Submitted (#12000 CUP16-493) for Pre-Existing Cultivation	12/19/2016
Immediate Action Letter for Expansion of Pre-Existing Cultivation Area Sent	10/18/2018
CCLUO 1.0 Application (PLN-12000-CUP) Denied by Planning Commission	6/6/2019
Prior Owner Actions (CE19-0054);	
NTA and NOV Served	6/14/2019
10 Days Expired - No Appeal Requested	6/25/2019
Property Owner makes contact with P&B Dept.	7/12/2019
Assisted HCSO Search Warrant	9/5/2019

90 Days Expired	9/22/2019
"Notice of Administrative Civil Penalty Assessment" Served	10/18/2019
Property transferred to Moises Roman; Mr. Roman's mail address identical to prior owner	10/30/2019
Current Owner Actions (CE20-0759)	
NTA and NOV Served	9/30/2020
10 Days Expired - No Appeal Requested	10/11/2020
90 Days Expired - Penalties Accrue to \$2,700,000	1/9/2021
"No Contact" Warning Letter Sent	4/6/2021
"Notice of Administrative Civil Penalty Assessment" Served	7/2/2021

Moises Roman was issued a Notice of Violation with a proposed daily administrative civil penalty of \$30,000 per day on September 30, 2020. The proposed administrative civil penalty accrued for 90 days, totaling \$2,700,000. The Department is requesting \$900,000 plus administrative costs, which is consistent with previous administrative civil penalty assessments. See Attachment G.

Aldrew Crowe CE21-1101

APN 216-381-028

TOTAL: \$901,253.32

- Violation of Commercial Cannabis Land Use Ordinance
- Construction of building/structure in violation of building, plumbing and/or electrical codes
- Grading without permits
- Development within a Streamside Management Area
- Improper storage & removal of solid waste
- Unapproved sewage disposal system

Action	Date
Property purchased by Aldrew D Crowe	7/29/2019
Large tree removal/grading site development occurs on property	2019-2020
CEU assists HCSO search warrant; active outdoor cultivation operation	5/25/2021
NTA and NOV served	5/28/2021
CEU assists 2 nd HCSO search warrant; active outdoor cultivation operation	8/10/2021
Notice of Admin Civil Penalty Assessment served	9/21/2021

Aldrew Crowe was issued a Notice of Violation with a proposed daily administrative civil penalty of \$42,000 per day on June 1, 2021. The proposed administrative civil penalty accrued for 90 days, totaling \$3,360,000. The Department is requesting \$900,000 plus administrative costs, which is consistent with previous administrative civil penalty assessments. See Attachment H.

Kim Shafer 18CEU-349

APN 210-162-010

TOTAL: \$900,824.56

- Violation of Commercial Medical Marijuana Ordinance
- Construction of building/structure in violation of building, plumbing and/or electrical codes

Action	Date
Kim Shafer, et. al is Deeded Property	10/30/2007
Satellite Review for Active Enforcement	8/3/2018
NTA and NOV Served	8/10/2018
No Contact Warning Letter	11/26/2018
Abandoned cultivation 2018 - 2019; cultivation restarts 2020	2018-2020
Satellite Review for Active Enforcement	7/12/2021
NTA and NOV Served	8/19/2021
Notice of Administrative Civil Penalty Assessment Served	11/1/2021

Kim Shafer was issued a Notice of Violation with a proposed daily administrative civil penalty of \$10,000 per day on August 13, 2018. The proposed administrative civil penalty accrued for 90 days, totaling \$900,000. The Department is requesting \$900,000 plus administrative costs, which is consistent with previous administrative civil penalty assessments. See Attachment I.

Kim Shafer 18CEU-350

APN 210-163-018

TOTAL: \$900,824.56

- Violation of Commercial Medical Marijuana Ordinance
- Construction of building/structure in violation of building, plumbing and/or electrical codes

ActionDate	
Kim Shafer, et. al is Deeded Property	10/30/2007
Satellite Review for Active Enforcement	8/3/2018
NTA and NOV Served	8/10/2018
No Contact Warning Letter	11/26/2018
Abandoned cultivation 2018 - 2019; cultivation restarts 2020	2018-2020
Satellite Review for Active Enforcement	7/12/2021
NTA and NOV Served	8/19/2021
Notice of Administrative Civil Penalty Assessment Served	11/1/2021

Kim Shafer was issued a Notice of Violation with a proposed daily administrative civil penalty of \$10,000 per day on August 13, 2018. The proposed administrative civil penalty accrued for 90 days, totaling \$900,000. The Department is requesting \$900,000 plus administrative costs, which is consistent with previous administrative civil penalty assessments. See Attachment J.

**Evaristo Medrano & Omar Lara 17CEU-99 APN 212-033-006
& Julia Escalante**

TOTAL: \$901,290.94

- Violation of Commercial Cannabis Land Use Ordinance
- Construction of building/structure in violation of building, plumbing and/or electrical codes
- Grading without permits
- Junk and/or inoperable vehicles
- Improper storage & removal of solid waste
- Use of a recreational vehicle or mobile home as a residence

Action	Date
Assisted CDFW Search Warrant	6/22/2017
NTA and NOV Served	8/11/2017
10 Days Expired - No Appeal Requested	8/21/2017
90 Days Expired - Penalties Accrue to \$900,000	11/9/2017
Two New Property Owners (Omar & Escalante Lara) are added to Title with Evaristo Medrano	2/27/2018
Assisted HCSO Search Warrant	9/3/2019
"Notice of Administrative Civil Penalty Assessment" Served	10/21/2019

Medrano, Lara & Escalante were issued a Notice of Violation with a proposed daily administrative civil penalty of \$33,000 per day on October 21, 2019. The proposed administrative civil penalty accrued for 90 days. The Department is requesting \$900,000 plus administrative costs, which is consistent with previous administrative civil penalty assessments. See Attachment K.

Ryan Long 18CEU-164

APN 208-221-005

TOTAL: \$901,796.23

- Violation of Commercial Cannabis Land Use Ordinance
- Construction of building/structure in violation of building, plumbing and/or electrical codes
- Grading without permits
- Development withing a Streamside Management Area
- Use of a recreational vehicle or mobile home as a residence
- Junk and/or inoperable vehicles
- Unapproved sewage disposal system
- Improper storage & removal of solid waste

Action	Date
Ryan B Long is Deeded Property	2/13/2013
Satellite Review for Active Enforcement	6/13/2018
HCSO warrant served	6/20/2018
NTA and NOV Served	6/20/2018

No Contact Warning Letter	11/26/2018
Abandoned cultivation 2018 - 2019; cultivation restarts 2020	2018-2020
HCSO warrant served	8/11/2021
NTA and NOV Served	8/27/2021
"Notice of Administrative Civil Penalty Assessment" Served	11/1/2021

Ryan Long was issued a Notice of Violation with a proposed daily administrative civil penalty of \$44,000 per day on August 23, 2021. The proposed administrative civil penalty accrued for 90 days, totaling \$1,980,000. The Department is requesting \$900,000 plus administrative costs, which is consistent with previous administrative civil penalty assessments. See Attachment L.

Each entity has received proper notices in accordance with Title III, Division 5 which included notification by first class certified mail, posting to the property, and/or legal notices published in the local newspaper. The first contact was a Notice to Abate Nuisance in accordance with County Code section 351-7 and Notice of Violation and Proposed Administrative Civil Penalty County Code in accordance with section 352-7 that were served upon the listed property owner(s) via first class certified mail and posting on the properties. Those who responded to the notification were offered compliance agreements. None of the listed property owners responded to or signed the compliance agreement and letters were sent withdrawing the compliance agreement offer. As a final attempt in the communication process to the property owner(s) the issuance of the Administrative Civil Penalty Assessment, County Code Section 352-15 was served via first class certified mail and posted to the properties. None of the listed property owners have responded to this notification in a timely manner.

Attempts to compel the property owners to respond to the notices, abate the nuisances and correct the code violations, and comply with Humboldt County Code section 314-55.4 and other applicable code sections have been unsuccessful. As a result, the proposed Administrative Civil Penalty Assessments are now before your Board to be approved. The next steps prescribed in Humboldt County Code section 352-21, *et seq.* include:

- a) Issuance of Notice of Administrative Civil Penalty Lien to each Responsible Party.
- b) Imposition of Administrative Civil Penalty Lien. The lien will be recorded 45 days after the service of the Notice of Administrative Civil Penalty Lien is served on the Responsible Party.

Once this is done, interest begins to accrue on the lien and the property may be foreclosed upon and sold subject to filing a complaint for foreclosure through the Humboldt County Superior Court.

FINANCIAL IMPACT:

The cost of preparing the case and serving the notices has been billed to the property owner in accordance with established policies and code sections. This is initially a general fund cost. The general fund will be reimbursed when the property owner pays the administrative cost, or after the

property is held in lien and costs recovered through that process.

STRATEGIC FRAMEWORK:

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

OTHER AGENCY INVOLVEMENT:

The Sheriff's Department, California Department of Fish and Wildlife, Department of Health and Human Services Environmental Health, may also be involved when necessary.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could approve issuance of Administrative Civil Penalty Assessment for all, some or none of the properties listed.

ATTACHMENTS:

Attachment A: Bryce Gess - APN 315-082-004

Attachment B: Wheeler Lumber Co Inc - APN 211-375-011

Attachment C: Wheeler Lumber Co - APN 211-376-027

Attachment D: Thunder Wave Investments LLC - APN 108-141-032

Attachment E: Jalal Tahir - APN 315-173-004

Attachment F: Jalal Tahir - APN 315-174-003

Attachment G: Moises Roman - APN 530-151-001

Attachment H: Aldrew Crowe - APN 216-381-028

Attachment I: Kim Shafer - APN 210-162-010

Attachment J: Kim Shafer - APN 210-163-018

Attachment K: Evaristo Medrano & Omar Lara & Julia Escalante - APN 212-033-006

Attachment L: Ryan Long - APN 208-221-005

PREVIOUS ACTION/REFERRAL:

Board Order No.: N/A

Meeting of: N/A

File No.: N/A