

RESOLUTION NO. # \_\_\_\_\_

**A RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF TEHAMA DECLARING THE EXISTENCE OF A PUBLIC NUISANCE ON THE PROPERTY LOCATED AT DIGGER PINE, COTTONWOOD, CALIFORNIA (APN: 007-110-008) IN THE UNINCORPORATED AREA OF THE COUNTY OF TEHAMA; ORDERING THE ABATEMENT THEREOF; AND DIRECTING AN ITEMIZED ACCOUNTING OF THE COSTS INCURRED IN ABATING THE NUISANCE**

**WHEREAS**, Tehama County Code section 9.42.399, subdivision (E) provides that any dormant well that is not idled in the manner set forth is a public nuisance and may be abated in the manner set forth in Chapter 10.16; and

**WHEREAS**, Tehama County Code section 10.16.020, subdivision (D) provides that any use or condition of the premises that (i) poses a danger to human life or (ii) is unsafe or detrimental to the public health, safety, or welfare is declared to be unlawful and a public nuisance; and

**WHEREAS**, Tehama County Code section 10.16.020, subdivision (E) provides that any use or condition of land, buildings, or premises established, operated, or maintained in violation of this code or state law is declared to be unlawful and a public nuisance; and

**WHEREAS**, Tehama County Code section 10.16.060, authorizes the enforcing officer to issue and serve a "Notice to Abate Public Nuisance and Administrative Order to Show Cause" ("Notice") in accordance with Tehama County Code sections 10.16.070 and 10.16.080 in order to commence abatement proceedings under Chapter 10.16 of the Tehama County Code; and

**WHEREAS**, under Tehama County Code section 10.16.100, the Tehama County Planning Commission shall hold an administrative hearing, not less than fifteen (15) calendar days after service of the Notice, to determine whether the conditions existing on the property subject to the Notice constitute a nuisance under Chapter 10.16 of the Tehama County Code, or whether there is any other good cause why those conditions should not be abated; and

**WHEREAS**, on 8/14/2017, the Tehama County Code Enforcement Officer, Clint Weston, issued and served, by posting and certified mailing, a Notice in accordance with Tehama County Code section 10.16.080 upon the owner(s) and occupant(s) **DIGGER PINE, COTTONWOOD, CALIFORNIA (APN: 007-110-008)** ("Premises"); and

**WHEREAS**, the Notice complied with all relevant provisions of Chapter 10.16; and

**WHEREAS**, pursuant to Tehama County Code section 10.16.070, the Notice advised that an administrative hearing before the Tehama County Planning Commission was set for 9/7/2017, in accordance with Tehama County Code section 10.16.100; and

**WHEREAS**, on 9/7/2017 the Tehama County Planning Commission conducted a duly noticed hearing, and heard and considered de novo the evidence presented by the enforcing officer and other interested persons; and

**WHEREAS**, the evidence presented at the hearing clearly shows there presently exists a dormant well on the Premises, pursuant to Tehama County Code section 9.42.399, subdivision (A); and

**WHEREAS**, the evidence presented at the hearing clearly shows the dormant well presently existing on the Premises was not idled in the manner set forth in section 9.42.399, subdivision (B), in violation with Tehama County Code sections 9.42.399, subdivision (E) and 10.16.020, subdivisions (D) and (E); and

**WHEREAS**, the evidence presented at the hearing clearly shows that water was extracted from the dormant well, in violation of Tehama County Code sections 9.42.399, subdivision (C) and 10.16.020, subdivisions (D) and (E); and

**NOW THEREFORE BE IT RESOLVED** that the Tehama County Planning Commission hereby finds and declares that:

1. The foregoing recitals are true and correct.
2. The public nuisance, as defined above, presently exists on the Premises.
3. A dormant well, not idled in accordance with Tehama County Code, presently exists on the Premises. Such condition constitutes a public nuisance, in violation of Tehama County Code sections 9.42.399, subdivision (E) and 10.16.020, subdivisions (D) and (E); and
4. Extracting water from a dormant well constitutes a public nuisance, in violation of Tehama County Code sections 9.42.399, subdivision (C) and 10.16.020, subdivisions (D) and (E), and is unsafe or detrimental to public health, safety, and/or welfare; and
5. The public nuisance(s) presently existing on the Premises constitute(s) a threat to public health, safety, and/or welfare, is subject to abatement in accordance with Chapter 10.16 of the Tehama County Code, and the means of abatement set forth in the Notice are proper.

**BE IT FURTHER RESOLVED** that the Tehama County Planning Commission of hereby orders that:

1. The "Notice to Abate Public Nuisance and Administrative Order to Show Cause" issued by the enforcing officer on 8/14/2017 is hereby affirmed in full.
2. Pursuant to Tehama County Code sections 9.42.399, subdivision (E) and 10.16.020, subdivisions (D) and (E), the dormant well presently existing on the Premises constitutes a violation of Tehama County Code and is a public

nuisance. Such condition(s) shall be abated within fourteen (14) days upon service of the Decision of the Board of Supervisors requiring abatement.

- 3. Pursuant to Tehama County Code sections 9.42.399, subdivision (C) and 10.16.020, subdivisions (D) and (E), extracting water from a dormant well presently existing on the Premises constitutes a threat to public health, safety, and/or welfare and is a public nuisance. Such condition(s) shall be abated within fourteen (14) days upon service of the Decision of the Board of Supervisors requiring abatement.
- 4. In the event that such nuisance is not abated by the owner or occupant as set forth above, the enforcing officer shall abate, or cause to be abated, the public nuisance(s) in the manner set forth in Tehama County Code section 10.16.130, and shall keep an itemized account of the costs incurred by the County to abate the nuisance, to be charged against the Premises and against each person who causes, permits, suffers, or maintains the public nuisance to exist, in accordance with the provisions of Chapter 10.16 of the Tehama County Code .

The Clerk of the Tehama County Planning Commission shall promptly transmit this Recommended Decision (“Recommendation”) to the Tehama County Board of Supervisors to adopt without further notice of hearing, or to set for de novo hearing. The Board of Supervisors’ Decision shall be final and conclusive.

You may challenge this Decision by timely filing a writ of mandate, pursuant to Code of Civil Procedure section 1094.5 and 1094.6, in the Tehama County Superior Court. A writ of mandate must be filed within ninety (90) days of service of this Decision.

The foregoing resolution was offered on a motion by Planning Commissioner \_\_\_\_\_, seconded by Planning Commissioner \_\_\_\_\_, and carried by the following vote of the Planning Commission:

AYES:

NOES:

ABSENT OR NOT VOTING:

\_\_\_\_\_  
CHAIRPERSON, Planning Commission

STATE OF CALIFORNIA        )  
  ) ss  
COUNTY OF TEHAMA )

I, \_\_\_\_\_, Administrative Secretary for the Tehama County Planning Department and ex-officio Clerk of the Planning Commission of the County of Tehama, State of California, hereby certify the above and foregoing to be a full, true and correct copy of a resolution adopted by said Planning Commission on the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

DATED: This \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_, Administrative Secretary for the Tehama County Planning Department and ex-officio Clerk of the Planning Commission of the County of Tehama.

By \_\_\_\_\_