

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

406B



FROM: County Counsel/TLMA
Code Enforcement Department

SUBMITTAL DATE:
January 27, 2011

SUBJECT: Order to Abate [Excess Outside Storage & Accumulated Rubbish]
Case No: CV 09-10816 [BENITEZ]
Subject Property: 31980 Northwood Road, Desert Hot Springs;
APN: 750-170-032

District: Four

RECOMMENDED MOTION: Move that:

1. The Findings of Fact, Conclusions and Order to Abate in Case No. CV 09-10816 be approved;
2. The Chairman of the Board of Supervisors be authorized to execute the Findings of Fact, Conclusions and order to Abate in Case No. CV 09-10816; and
3. The Clerk of the Board of Supervisors be authorized to record the Findings of Fact, Conclusions and Order to Abate in Case No. CV 09-10816.

(Continued)

L. Alex Fong
L. ALEXANDRA FONG, Deputy County Counsel
for PAMELA J. WALLS, County Counsel

| | | | | |
|-----------------------|-------------------------------|--------|-------------------------|-----|
| FINANCIAL DATA | Current F.Y. Total Cost: | \$ N/A | In Current Year Budget: | N/A |
| | Current F.Y. Net County Cost: | \$ N/A | Budget Adjustment: | N/A |
| | Annual Net County Cost: | \$ N/A | For Fiscal Year: | N/A |

| | | |
|-------------------------|----------------------------------|--------------------------|
| SOURCE OF FUNDS: | Positions To Be Deleted Per A-30 | <input type="checkbox"/> |
| | Requires 4/5 Vote | <input type="checkbox"/> |

C.E.O. RECOMMENDATION:

APPROVE

County Executive Office Signature

Jennifer L. Sargent
BY: Jennifer L. Sargent

- Policy
- Policy
- Consent
- Consent

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Stone, seconded by Supervisor Benoit and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: February 8, 2011
xc: Co.Co.(3); Recorder

Kecia Harper-Ihem
Clerk of the Board
By: *Kecia Harper-Ihem*
Deputy

Dept Recomm.:
Per Exec. Ofc.:

Prev. Agn. Ref.: 1/11/11; 9.11 | District: 4 | Agenda Number:

2.17

Order to Abate
Case No. CV09-10816 [BENITEZ]
31980 Northwood Road, Desert Hot Springs
District Four
Page 2

BACKGROUND:

On January 11, 2011, this Board received the declaration of the Code Enforcement Officer in the above-referenced matter. At the conclusion of the hearing, this Board declared the excess outside storage and accumulated rubbish located on the subject property to be a public nuisance. The Board ordered the property owner to abate the violative conditions on the property and directed County Counsel to prepare Findings of Fact, Conclusions and Order to Abate.



1 RECORDING REQUESTED BY:
2 Kecia Harper-Ihem, Clerk to the
3 Board of Supervisors (Stop #1010)

4
5 WHEN RECORDED PLEASE MAIL TO:
6 L. Alexandra Fong, Deputy County Counsel
7 County of Riverside
8 OFFICE OF COUNTY COUNSEL
9 3960 Orange Street, Suite 500 (Stop #1350)
10 Riverside, CA 92501

| S | R | U | PAGE | SIZE | DA | MISC | LONG | RFD | COPY |
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EXEMPT 6103

11 **BOARD OF SUPERVISORS**
12 **COUNTY OF RIVERSIDE**



11 IN RE ABATEMENT OF PUBLIC NUISANCE:) CASE NO. CV 09-10816
 12 [EXCESSIVE OUTSIDE STORAGE AND)
 13 ACCUMULATED RUBBISH];) FINDINGS OF FACT,
 14 APN 750-170-032, 31980 NORTHWOOD ROAD,) CONCLUSIONS AND ORDER TO
 15 DESERT HOT SPRINGS, COUNTY OF) ABATE NUISANCE
 16 RIVERSIDE, STATE OF CALIFORNIA; VICTOR)
 17 M. BENITEZ AND CYNTHIA P. BENITEZ,)
 18 OWNERS.) [R.C.O. No. 348, RCC Chapter 17,
 19) R.C.O. No. 541, RCC Chapter 8.120]

20 The above-captioned matter came on regularly for hearing on January 11, 2011, before the
21 Board of Supervisors of the County of Riverside, State of California in the Board Room, First Floor
22 Annex, County Administrative Center, 4080 Lemon Street, Riverside, California regarding the real
23 property described as 31980 Northwood Road, Desert Hot Springs, Riverside County, California and
24 further described as Assessor's Parcel Number 750-170-032 and referred to hereinafter as "THE
25 PROPERTY."

26 L. Alexandra Fong, Deputy County Counsel, appeared along with Brian Black, Supervising
27 Code Enforcement Officer, on behalf of the Director of the Code Enforcement Department.

28 No one appeared on behalf of Owners and did not address the Board of Supervisors.

The Board of Supervisors received the Declaration of the Code Enforcement Officer together
with attached Exhibits, evidencing the excessive outside storage of materials and accumulation of

1 rubbish on THE PROPERTY as violations of Riverside County Ordinance Nos. 348 (Riverside
2 County Code Chapter 17.144) and 541 (Riverside County Code Chapter 8.120) and as a public
3 nuisance.

4 **SUMMARY OF EVIDENCE**

5 1. Documents of record in the Riverside County Recorder's Office identify the owners of
6 THE PROPERTY as Victor M. Benitez and Cynthia P. Benitez ("OWNERS").

7 2. Documents of title indicate that other parties potentially hold a legal interest in THE
8 PROPERTY to wit: Recontrust Co., NA., BAC Home Loans Servicing, LP, and GCFS, Inc.
9 ("INTERESTED PARTIES).

10 3. THE PROPERTY was inspected by Code Enforcement Officers on October 6, 2009,
11 November 16, 2009, December 16, 2009, February 4, 2010, March 24, 2010, April 26, 2010, June 1,
12 2010, August 18, 2010, October 7, 2010, November 5, 2010, December 16, 2010 and January 10,
13 2011.

14 4. During each inspection, the outside storage of materials and accumulation of rubbish
15 were observed on THE PROPERTY. The materials and rubbish were intermingled and included but
16 were not limited to: household trash, tires, furniture, appliances, scrap wood, plastic and
17 miscellaneous trash and debris. The officer visually estimated the amount of accumulated rubbish and
18 excess outside storage of materials was approximately four thousand five hundred (4,500) square
19 feet. Given the size of the unimproved parcel (4.29 acres) and the zoning classification (W-2,
20 Controlled Development), it allows the amount of outside storage to be two hundred (200) square
21 feet for properties that are a minimum of one acre in size and no accumulation of rubbish is allowed
22 on THE PROPERTY.

23 5. THE PROPERTY was determined to be in violation of Riverside County Ordinance
24 Nos. 348 (RCC Chapter 17.144) and 541 (RCC Chapter 8.120) by the Code Enforcement Officer.

25 6. A Notice of Noncompliance was recorded on December 3, 2009, as Document
26 Number 2009-0622647 in the Office of the County Recorder, County of Riverside.

27 7. On October 6, 2009, Notices of Violation for violation of Riverside County Ordinance
28 Nos. 348 and 541 were posted on THE PROPERTY. On October 8, 2009, Notices of Violation



1 were mailed to OWNERS via certified mail with return receipt requested. On August 20, 2010,
2 Notices of Violation were mailed to OWNERS and INTERESTED PARTIES by certified mail with
3 return receipt requested. On October 8, 2010 and October 20, 2010, Notices of Violation were
4 mailed to OWNERS by certified mail with return receipt requested.

5 8. On December 14, 2010, the "Notice to Correct County Ordinance Violations and
6 Abate Public Nuisance" providing notice of the public hearing before the Board of Supervisors
7 scheduled for January 11, 2011, was mailed by certified mail, return receipt requested, to OWNERS
8 and INTERESTED PARTIES and was posted on THE PROPERTY on December 16, 2010.

9 **FINDINGS AND CONCLUSIONS**

10 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in
11 regular session assembled on January 11, 2011, finds and concludes that:

12 1. WHEREAS, the excess outside storage of materials and accumulation of rubbish on
13 the real property located at 31980 Northwood Road, Desert Hot Springs, Riverside County,
14 California, also identified as Assessor's Parcel Number 750-170-032 violates Riverside County
15 Ordinance Nos. 348 (RCC Chapter 17.144) and 541 (RCC Chapter 8.120) and constitutes a public
16 nuisance. Under Riverside County Ordinance No. 348, the parcel being unimproved is allowed only
17 an amount of outside storage of materials to be two hundred (200) square feet for a minimum of one
18 acre in size. Under Riverside County Ordinance No. 541, no amount of rubbish is allowed to be
19 accumulated on THE PROPERTY.

20 2. WHEREAS, the OWNERS, INTERESTED PARTIES, occupants or any person
21 having possession or control of the premises shall abate the condition by removal of all outside
22 storage of materials and removing and disposing of all accumulated rubbish from the subject real
23 property in strict accordance with all Riverside County Ordinances, including but not limited to
24 Riverside County Ordinance Nos. 348 (RCC Chapter 17.144) and 541 (RCC Chapter 8.120) within
25 ninety (90) days.

26 3. WHEREAS, the OWNERS and INTERESTED PARTIES ARE HEREBY
27 FURTHER NOTICED that the time within which judicial review of the administrative determinations
28 made herein must be sought is ninety (90) days from the posting and mailing of the Findings of Fact,

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02/09/2011 10:40A
3 of 6



1 Conclusions and Order To Abate Nuisance, and is governed by California Code of Civil Procedure
2 Section 1094.6.

3 **ORDER TO ABATE NUISANCE**

4 IT IS THEREFORE ORDERED that the excess outside storage of materials and
5 accumulation of rubbish on THE PROPERTY be abated by the OWNERS, specifically Victor M.
6 Benitez, Cynthia P. Benitez, or anyone having possession or control of THE PROPERTY, by
7 removing all of the outside storage of materials and removing and disposing of all accumulated
8 rubbish from the subject real property in strict accordance with all Riverside County Ordinances,
9 including but not limited to Riverside County Ordinance Nos. 348 (RCC Chapter 17.144) and 541
10 (RCC Chapter 8.120) within ninety (90) days of the date of this Order to Abate Nuisance.

11 IT IS FURTHER ORDERED that if the materials and rubbish are not removed and disposed
12 of in strict accordance with all Riverside County Ordinances, including but not limited to Riverside
13 County Ordinance Nos. 348 (RCC Chapter 17.144) and 541 (RCC Chapter 8.120) within ninety (90)
14 days of the date of this Order to Abate Nuisance, the excess outside storage of materials and
15 accumulation of rubbish may be abated and disposed of by representatives of the Riverside County
16 Code Enforcement Department, a contractor or the Sheriff's Department upon receipt of an owner's
17 consent or a Court Order when necessary under applicable law.

18 IT IS FURTHER ORDERED that reasonable abatement costs, after notice and opportunity
19 for hearing, shall be imposed as a lien on THE PROPERTY, which may be collected as a special
20 assessment against THE PROPERTY pursuant to Government Code section 25845 and Riverside
21 County Ordinance Nos. 348 (RCC Title 17), 541 (RCC Title 8), and 725 (RCC Chapter 1.16).
22 Under Riverside County Ordinance No. 725, "abatement costs" means "any costs or expenses
23 reasonably related to the abatement of conditions which violate County Land Use Ordinances, and
24 shall include, but not be limited to, enforcement, investigation, collection and administrative costs,
25 attorneys fees, and the costs associated with the removal or correction of the violation." Reasonable
26 abatement costs accrued by the Code Enforcement Department will be recoverable from the property

27 ///

28 ///



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02/03/2011 10:40A
4 of 6

FORM APPROVED COUNTY COUNSEL
BY: *Bill Fong* 2/7/11
L. ALEXANDRA FONG DATE

1 owner(s) even if THE PROPERTY is brought into compliance within ninety (90) days of the date of
2 this Order to Abate Nuisance.

4 Dated: February 8, 2011

COUNTY OF RIVERSIDE

5
6 By *Bob Buster*
Bob Buster
Chairman, Board of Supervisors

7 ATTEST:

8 KECIA HARPER-IHEM

9 Clerk to the Board

11 By *Kalumpigian*

12 Deputy

13 (SEAL)

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25 L:\Code Enforcement\Abatements\2010\2009\CV09-10816\348 541 FOF.DOC



2011-0064011
02/09/2011 10:40A
5 of 6



**LARRY W. WARD
COUNTY OF RIVERSIDE
ASSESSOR-COUNTY CLERK-RECORDER**

Recorder
P.O. Box 751
Riverside, CA 92502-0751
(951) 486-7000

<http://riverside.asrcrkrec.com>

CERTIFICATION

Pursuant to the provisions of Government Code 27361.7, I certify under the penalty of perjury that the following is a true copy of illegible wording found in the attached document:

(Print or type the page number(s) and wording below):

CLARIFICATION OF THE SEAL for the Riverside County Board of Supervisors
(embossed on document)



Date: 2-8-11

Signature: *Karen Barton*

Print Name: Karen Barton, Board Assistant, Riverside County Clerk of the Board



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Business Solutions

Track & Confirm

You entered: 7010167000172321640

Status: Delivered

Your item was delivered at 12:55 pm on March 18, 2011 in PASO ROBLES, CA 93446. Additional information for this item is stored in files offline.

Additional information for this item is stored in files offline. You may request that the additional information be retrieved from the archives, and that we send you an e-mail when this retrieval is complete. Requests to retrieve additional information are generally processed within four hours. This information will remain online for 30 days.

I would like to receive notification on this request



Find Another Item

What's your label (or receipt) number?

LEGAL

- Privacy Policy >
- Terms of Use >
- FOIA >
- No FEAR Act EEO Data >

OTHER USPS SITES

- Business Customer Gateway >
- Postal Inspectors >
- Inspector General >
- Postal Explorer >

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| U.S. Postal Service™ | |
| CERTIFIED MAIL™ RECEIPT | |
| <i>(Domestic Mail Only; No Insurance Coverage Provided)</i> | |
| For delivery information visit our website at www.usps.com | |
| OFFICIAL USE | |
| Postage | \$.61 |
| Certified Fee | 2.80 |
| Return Receipt Fee (Endorsement Required) | 2.30 |
| Restricted Delivery Fee (Endorsement Required) | |
| Total Postage & Fees | \$ 5.71 |

Mailed 3/15/11

Postmark Here

| | |
|-----------------|---------------------------|
| Sent To | GFS INC |
| Street, or PO # | C/O MICHAEL W ROBERTS ESQ |
| City, St | 4301 SECONDWIND WAY |
| | PO BOX 3410 |
| | PASO ROBLES CA 92447 |

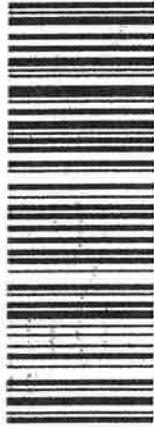
PS Form 3800, August 2006 See Reverse for Instructions

NOTICE LIST

Subject Property: 31980 Northwood Road, Desert Hot Springs
Case No.: CV09-10816; APN: 750-170-032; District 4

Office of County Counsel
3960 Orange Street, Suite 500
Riverside, CA 92501

CERTIFIED MAIL™



7010 1670 0001 7232 1596



PITNEY BOWES
\$ 005.710
02 1P
0003958246 MAR 15 2011
MAILED FROM ZIP CODE 92501

Handwritten: N 3/17/11 3/22

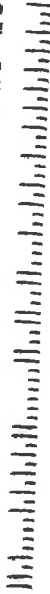
VICTOR M. BENITEZ
CYNTHIA P BENITEZ
31980 NORTHWOOD ROAD
DESERT HOT

NIXIE 929 SE 1 00 04/07/11

RETURN TO SENDER
UNCLAIMED
UNABLE TO FORWARD

BC: 92501964425 *2604-20999-16-99

9224145150109644



NOTICE LIST

Subject Property: 31980 NORTHWOOD RD., INDIO HILLS

Case No.: CV09-10816

APN: 750-170-032; District 4

| SENDER: COMPLETE THIS SECTION | | COMPLETE THIS SECTION ON DELIVERY | |
|--|--|--|---------------------|
| <ul style="list-style-type: none">■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits. | | A. Signature X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee | |
| 1. Article Addressed to: RECONTRUST CO NA 1800 TAPO CANYON ROAD SIMI VALLEY CA 93063 | | B. Received by (Printed Name) Nelson Hernandez | C. Date of Delivery |
| 2. Article Number (Transfer from service label) | | D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No | |
| CV09-10816 (Benitez) For 6 | | 3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. | |
| | | 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes | |
| | | 7010 1670 0001 7232 1602 | |

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

NOTICE LIST

Subject Property: 31980 NORTHWOOD RD., INDIO HILLS

Case No.: CV09-10816

APN: 750-170-032; District 4

| SENDER: COMPLETE THIS SECTION | COMPLETE THIS SECTION ON DELIVERY |
|--|---|
| <ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. | <p>A. Signature <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <input type="checkbox"/> Nelson Hernandez</p> <p>C. Date of Delivery</p> |
| <p>1. Article Addressed to:</p> <p>BAC HOME LOANS SERVICING LP FKA COUNTRYWIDE HOME LOANS SERVICING LP 400 COUNTRYWIDE WAY SV-35 SIMI VALLEY CA 93065</p> <p><i>CV09-10816 (Benitez) For 6</i></p> | <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p> |
| <p>2. Article Number (Transfer from service label)</p> | <p>7010 1670 0001 7232 1619</p> |
| <p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p> | |

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|---|----------------|-------------------------------------|
| Postage | \$.61 | Mailed 3/15/11 Postmark Here |
| Certified Fee | 2.80 | |
| Return Receipt Fee (Endorsement Required) | 2.30 | |
| Restricted Delivery Fee (Endorsement Required) | | |
| Total Postage & Fees | \$ 5.71 | |

Sent To

| | |
|-------------------------------|---|
| Street, Apt. 1 or PO Box N | VICTOR MANUEL BENITEZ |
| City, State, 2 | 4071 4 TH STREET #12 LOS ANGELES CA 90020 |

PS Form 3800, August 2006 See Reverse for Instructions

7010 1670 0001 7232 1619

NOTICE LIST

Subject Property: 31980 NORTHWOOD RD., INDIO HILLS

Case No.: CV09-10816

APN: 750-170-032; District 4

Office of County Counsel
3960 Orange Street, Suite 500
Riverside, CA 92501

CERTIFIED MAIL™



7010 1670 0001 7232 1626



VICTOR M BENITEZ
1111 WAKEHAM AVE
SANTA ANA CA 92705

NIXIE 927 5C 1 00 03/26/11

RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

BC: 92501364425 *2504-17937-16-33

92705+4150 ~~92705+4150~~



NOTICE LIST

Subject Property: 31980 Northwood Road, Desert Hot Springs
Case No.: CV09-10816; APN: 750-170-032; District 4

VICTOR M. BENITEZ
CYNTHIA P BENITEZ
31980 NORTHWOOD ROAD
DESERT HOT SPRINGS CA 92240

RECONTRUST CO NA
1800 TAPO CANYON ROAD
SIMI VALLEY CA 93063

BAC HOME LOANS SERVICING LP
FKA COUNTRYWIDE HOME LOANS SERVICING LP
400 COUNTRYWIDE WAY SV-35
SIMI VALLEY CA 93065

VICTOR M BENITEZ
1111 WAKEHAM AVE
SANTA ANA CA 92705

VICTOR MANUEL BENITEZ
4071 4TH STREET #12
LOS ANGELES CA 90020

GFS INC
C/O MICHAEL W ROBERTS ESQ
4301 SECONDWIND WAY
PO BOX 3410
PASO ROBLES CA 92447

PROOF OF SERVICE

Case No. CV09-10816

STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

I, Brenda Peeler, the undersigned, declare that I am a citizen of the United States and am employed in the County of Riverside, over the age of 18 years and not a party to the within action or proceeding; that my business address is 3960 Orange Street, Suite 500, Riverside, California 92501-3674.

That on March 15, 2011, I served the following document(s):

FINDINGS OF FACT, CONCLUSIONS AND ORDER TO ABATE NUISANCE

by placing a true copy thereof enclosed in a sealed envelope(s) addressed as follows:

**OWNERS OR INTERESTED PARTIES
(SEE ATTACHED NOTICE LIST)**

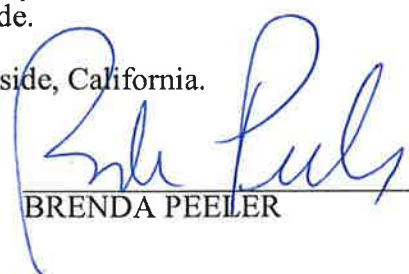
XX **BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.** I am "readily familiar" with the office's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Riverside, California, in the ordinary course of business.

— **BY PERSONAL SERVICE:** I caused to be delivered such envelope(s) by hand to the offices of the addressee(s).

XX **STATE - I declare under penalty of perjury under the laws of the State of California that the above is true and correct.**

— **FEDERAL - I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.**

EXECUTED ON March 15, 2011, at Riverside, California.



BRENDA PEELER

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**CODE ENFORCEMENT DEPARTMENT
COUNTY OF RIVERSIDE**

GLENN BAUDE
Director

AFFIDAVIT OF POSTING OF NOTICES

March 21, 2011

RE CASE NO: CV0910816

I, Rusty Hannah, hereby declare:

I am employed by the Riverside County Code Enforcement Department; that my business address is 31-290 Plantation Drive, Thousand Palms, California 92276 .

That on 03/21/2011 at 1:20 pm, I securely and conspicuously posted Findings of fact, conclusions and order to abate nuisance at the property described as:

Property Address: 31980 NORTHWOOD RD, INDIO HILLS

Assessor's Parcel Number: 750-170-032

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

Executed on March 21, 2011 in the County of Riverside, California.

CODE ENFORCEMENT DEPARTMENT


By: Rusty Hannah, Code Enforcement Officer