

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF ARIZONA**

DWA  
10/25/07

**UNITED STATES OF AMERICA**

**V.**

**CRIMINAL COMPLAINT**

- 1. Ignacio Mendoza-Guesar and
- 2. Adrian Quiroz-Gutierrez

CASE NUMBER: 07-0290M

*(Name and Address of Defendant)*

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief.

See Attachment A

I further state that I, Christopher L. Boehm, an a Special Agent with the United States Forest Service andt that this complaint is based on the following facts:

See Attached Statement of Probable Cause

Continued on the attached sheet and made a part hereof:  Yes  No

AUTHORIZED BY: AUSA Glenn B. McCormick <sup>GOM</sup>

Christopher L. Boehm

Name of Complainant



Signature of Complainant

Sworn to before me and subscribed in my presence,

October 26, 2007

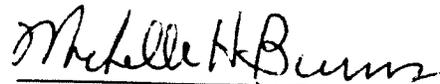
Date

at Phoenix, Arizona

City and State

Hon. Michelle Hamilton Burns, U.S. Magistrate Judge

Name & Title of Judicial Officer



Signature of Judicial Officer

## ATTACHMENT A

### COUNT 1

Beginning on or before July 26, 2007, the exact date being unknown and continuing to on or about October 16, 2007, both dates being approximate and inclusive, in the District of Arizona, the defendants **IGNACIO MENDOZA GUESAR** and **ADRIAN QUIROZ GUTIERREZ** intentionally; combined, conspired, confederated and agreed with others, to commit the following offense against the United States, to wit: cultivation of in excess of 1,000 marijuana plants, a Schedule I controlled substance, on federal property located within the Promontory Butte area of the Tonto National Forest, in Gila County Arizona, in violation of Title 21, U.S.C. Sections 841(a)(1), (a)(1)(A)(vii) and (b)(5).

All in violation of Title 21, Unites States Code, Section 846.

### COUNT 2

Beginnning on or before July 26, 2007, the exact date being unknown and continuing to on or about October 16, 2007, both dates being approximate and inclusive, in the District of Arizona, the defendants, **IGNACIO MENDOZA GUESAR** and **ADRIAN QUIROZ GUTIERREZ**, knowingly and intentionally committed the following offense against the United States, to wit: cultivation of in excess of 1,000 marijuana plants, a Schedule I controlled substance, on federal property located within the Promontory Butte area of the Tonto National Forest, in Gila County Arizona.

All in violation of Title 21, U.S.C. Sections 841(a)(1), (b)(1)(A)(vii) and (b)(5).

## PROBABLE CAUSE STATEMENT

**RE: Ignacio Mendoza GUESAR and Adrian Quiroz GUTIERREZ**

On July 26, 2007, the United States Forest Service Law Enforcement & Investigation (LEI) received information about a marijuana cultivation site in the Promontory Butte area of the Tonto National Forest near Payson Arizona. The cultivation site was believed to be near See Canyon adjacent to the Rim Road- Forest Development Road (FDR) 300. This is an area of significant historical marijuana cultivation activity by foreign Drug Trafficking Organizations (DTO).

On September 6, 2007, Gila County Narcotics Task Force (GCNTF) and LEI personnel conducted a ground reconnaissance of the See Canyon area near Christopher Creek. Personnel located an active marijuana cultivation site West of See Springs. Thousands of marijuana plants and an irrigation system were observed. Personnel then left the area to avoid detection.

On September 20, 2007, GCNTF members conducted an optical reconnaissance of the cultivation area from an observation point (OP) on Promontory Butte and observed two male subjects in the cultivation site. The two subjects were described as Hispanic males with both wearing dark pants and with one subject wearing a tan shirt and the other a darker colored shirt. One subject was also wearing a turquoise and blue ball cap. The subjects were observed moving through the marijuana plants, spraying them with a pump sprayer, and also watering them.

On October 5, 2007, at about 1500 hours, LEI Special Agent (SA) BOEHM conducted an optical reconnaissance from the Promontory OP. SA BOEHM observed two male Hispanic subjects working in the cultivation site. One subject was wearing a woodland pattern camouflage shirt, dark pants, and a white ball cap with writing on the front. The other subject

was wearing dark pants, a tan shirt, and a blue and turquoise ball cap with writing on the front. The subjects were observed for approximately one hour moving through the cultivation site and working on the plants.

On October 16, 2007, at about 0630 hours, personnel from the Drug Enforcement Agency (DEA), Arizona Department of Public Safety, Phoenix PD DEB, GCNTF, and LEI conducted a raid on the See Canyon cultivation site. While moving into the cultivation area, law enforcement personnel observed three subjects moving through the cultivation area and into a camp site. Drying marijuana was also observed near the camp site. The subjects were all Hispanic males. Subject one was described as older (40-50), 5-10 to 5-11, with a thin build and wearing dark pants and a camouflage shirt and hat. Subject two was described as older with a grey stubbly beard, approximately 5-5, wearing dark pants and a camouflage shirt. The third subject was described as young, 5-6 to 5-8 wearing camouflage pants and a white ball cap.

At about 0730 hours, the subjects became aware of law enforcement personnel. The officers announced their presence and the subjects initially complied with orders and placed their hands in the air. As law enforcement approached, all subjects turned and began to run from the area. The subject with the white ball cap was apprehended after a short foot pursuit. The other subjects evaded capture. *DEA Agents observed all three subjects processing marijuana in the camp area. MB*

The cultivation site was eradicated and 7987 mature marijuana plants were counted. Also, 3-4 pounds of processed marijuana bud in one pound oven bags ready for transport was also found.

The subject taken into custody, later identified as Jose Valencia HERNANDEZ, was

interviewed in Spanish at the scene by DEB Detective Keith YINGLING. The subject was advised of Miranda Warnings in Spanish and advised that he understood and would speak with YINGLING.

HERNANDEZ advised that he was a Mexican National and had been living in Phoenix, Arizona when he was approached and asked if he wanted a good paying job. HERNANDEZ was advised that he would be living in the woods and growing marijuana. HERNANDEZ advised that money for the work would be sent back to his family in Mexico. HERNANDEZ stated that he did not know the persons name that hired him and did not see his face.

HERNANDEZ advised that he had been in the site for about three months. HERNANDEZ advised that he was the only person working at the site for the first month. HERNANDEZ advised that the other two subjects working with him had been at the site for about two months. HERNANDEZ advised that he did not know their names and did not talk to them. HERNANDEZ advised that they were responsible for watering and caring for the plants. HERNANDEZ advised that they had just started harvesting the plants and were preparing them for drying and processing.

SA BOEHM recognized HERNANDEZ as one of the subjects he had observed working in the cultivation site on October 5.

On October 25, 2007, at about 1015 hours, Javier Mendoza CUEVAS and two subjects were contacted on a traffic stop while serving a search warrant at CUEVAS' residence at 3514 E. Yale St. in Phoenix. CUEVAS was arrested pursuant to a Federal Arrest Warrant. The other two subjects, Ignacio Mendoza GUESAR and Adrian Quiroz GUTIERREZ, were recognized

by Law Enforcement Personnel as the two subjects who had fled from the See Canyon cultivation site on October 16. DEA personnel also positively identified the two subjects who had fled.

GUESAR was advised of the Miranda Warnings in Spanish and interviewed in Spanish. GUESAR denied any knowledge of the See Canyon cultivation site.

GUTIERREZ was advised of the Miranda Warnings in Spanish and interviewed in Spanish. GUTIERREZ advised that he and GUESAR and a third person (HERNANDEZ) had been at the See Canyon Cultivation site. GUTIERREZ advised that he had been there for approximately four months. GUTIERREZ advised that he was paid to grow and tend the marijuana.

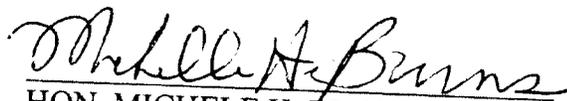
SA BOEHM recognized GUTIERREZ as one of the subjects he had observed working in the cultivation site on October 5.

GUESAR and GUTIERREZ were arrested and transported to the Maricopa County 4<sup>th</sup> Avenue Jail.



Special Agent Christopher L. Boehm  
United States Forest Service

Subscribed and sworn before me this 26 day of October, 2007.



HON. MICHELE H. BURNS  
United States Magistrate Judge

FILED  
 RECEIVED  COPY  
OCT 24 2007  
CLERK U.S. DISTRICT COURT  
DISTRICT OF ARIZONA  
BY \_\_\_\_\_

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

United States of America,

Plaintiff,

v.

1. Javier Mendoza Cuevas,  
(Counts 1-3)

2. Jose Mendoza Cuevas, and  
(Counts 1-2)

3. Jose Valencia Hernandez,  
(Counts 1 and 3)

Defendants.

CR07-1178 PHX -SNB

INDICTMENT

VIO: 21 U.S.C. § 846  
(Conspiracy to Cultivate Marijuana,  
a Controlled Substance)  
Count 1

21 U.S.C. §§ 841(a)(1),  
841(b)(1)(A)(vii)  
(Cultivation of Marijuana, a  
Controlled Substance)  
Count 2

21 U.S.C. §§ 841(a)(1),  
841(b)(1)(A)(vii)  
(Cultivation of Marijuana, a  
Controlled Substance)  
Count 3

18 U.S.C. § 2  
(Aid & Abet)  
Counts 1- 3

21 U.S.C. § 853  
(Forfeiture Allegation)

THE GRAND JURY CHARGES:

COUNT 1

Beginning in or before August of 2006, and continuing through October 16, 2007, in the District of Arizona, the defendants, JAVIER CUEVAS, JOSE CUEVAS, and JOSE VALENCIA HERNANDEZ, knowingly and intentionally; combined, conspired, confederated and agreed together and with each other, and with others known and unknown to the grand jury, to commit

1 the following offense against the United States, to wit: cultivation of in excess of 1,000  
2 marijuana plants, a Schedule I controlled substance, on federal property located within the Maple  
3 Springs Draw, Pigeon Springs and Promontory Butte areas of the Tonto National Forest, in Gila  
4 County Arizona, in violation of Title 21, U.S.C. §§ 841(a)(1), (b)(1)(A)(vii) and (b)(5).

5 All in violation of Title 21, United States Code, Section 846 and Title 18, United States  
6 Code, Section 2.

7 **COUNT 2**

8 Beginning on or before July, 2007, the exact date being unknown, and continuing to on or  
9 about October 3, 2007, both dates being approximate and inclusive, in the District of Arizona,  
10 the defendants, JAVIER CUEVAS, JOSE CUEVAS, and others known and unknown to the  
11 grand jury, knowingly and intentionally committed the following offense against the United  
12 States, to wit: cultivation of in excess of 1,000 marijuana plants, a Schedule I controlled  
13 substance, on federal property located within the Pigeon Springs area of the Tonto National  
14 Forest, in Gila County Arizona.

15 All in violation of Title 21, U.S.C. Sections 841(a)(1), (b)(1)(A)(vii) and (b)(5) and Title 18,  
16 U.S.C. Section 2.

17 **COUNT 3**

18 Beginning on or before July 26, 2007, the exact date being unknown to the grand jury, and  
19 continuing to on or about October 16, 2007, both dates being approximate and inclusive, in the  
20 District of Arizona, the defendants, JAVIER CUEVAS, and JOSE VALENCIA HERNANDEZ,  
21 and others known and unknown to the grand jury, knowingly and intentionally committed the  
22 following offense against the United States, to wit: cultivation of in excess of 1,000 marijuana  
23 plants, a Schedule I controlled substance, on federal property located within the Promontory  
24 Butte area of the Tonto National Forest, in Gila County Arizona.

25 All in violation of Title 21, U.S.C. Sections 841(a)(1), (b)(1)(A)(vii) and (b)(5) and Title 18,  
26 U.S.C. Section 2.

27 **FORFEITURE ALLEGATION**

28 Upon conviction of one or more of the controlled substance offenses alleged in Counts One

1 through Three of this Indictment, defendants shall forfeit to the United States of America:

2 1. All right, title, and interest in (1) any property constituting, or derived from, any  
3 proceeds the person obtained, directly or indirectly, as the result of the said violations and  
4 (2) any property used, or intended to be used, in any manner or part, to commit, or to  
5 facilitate the commission of the said violations, as to which property the defendants are  
6 jointly and severally liable, including but not limited to the following:

7 A. A sum of money equal to \$250,000.00 in U.S. currency and all interest and  
8 proceeds traceable thereto, in that such sum in aggregate represents the amount of proceeds  
9 obtained as a result of the offenses, for which the defendants are jointly and severally liable.

10 B. Real and personal property acquired, derived, or purchased in relation to drug  
11 cultivation or trafficking, or used to facilitate drug cultivation or trafficking.

12 If any of the above-described forfeitable property, as a result of any act or omission of the  
13 defendants: (1) cannot be located upon the exercise of due diligence; (2) has been transferred or  
14 sold to, or deposited with, a third party; (3) has been placed beyond the jurisdiction of the court;  
15 (4) has been substantially diminished in value; or (5) has been commingled with other property  
16 which cannot be divided without difficulty; it is the intent of the United States to seek forfeiture  
17 of any other property of said defendant(s) up to the value of the above-described forfeitable  
18 property.

19 All pursuant to Title 21, United States Code, Section 853 and Rule 32.2.(a), Federal Rules  
20 of Criminal Procedure.

21 A TRUE BILL

22 *Carol Wilson*  
23 FOREPERSON OF THE GRAND JURY  
24 Date: October 24, 2007

25 DANIEL G. KNAUSS  
26 United States Attorney  
27 District of Arizona

28 *Glenn B. McCormick*  
GLENN B. MCCORMICK  
Assistant U.S. Attorney

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF ARIZONA**

*Def: 10/18/07*

**UNITED STATES OF AMERICA**

**V.**

**JOSE VALENCIA HERNANDEZ**

*(Name and Address of Defendant)*

**CRIMINAL COMPLAINT**

**CASE NUMBER: 07-3923M**

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief.

See Attachment A

I further state that I, Christopher L. Boehm, am a Special Agent with the United States Forest Service and that this complaint is based on the following facts:

See Attached Statement of Probable Cause

Continued on the attached sheet and made a part hereof:

Yes     No

AUTHORIZED BY: AUSA Glenn B. McCormick *G.B.M.*

Special Agent, Christopher L. Boehm



Name of Complainant

Signature of Complainant

Sworn to before me and subscribed in my presence,

10-19-07

at Phoenix, Arizona

Date

City and State

HONORABLE LAWRENCE O. ANDERSON

United States Magistrate Judge



Name & Title of Judicial Officer

Signature of Judicial Officer

**ATTACHMENT A**

**COUNT 1**

Beginning on or before July 26, 2007, the exact date being unknown to the grand jury, and continuing to on or about October 16, 2007, both dates being approximate and inclusive, in the District of Arizona, the defendant, JOSE VALENCIA HERNANDEZ intentionally; combined, conspired, confederated and agreed with others unknown to the grand jury, to commit the following offense(s) against the United States, to wit: cultivation of in excess of ~~1,000 marijuana plants, a schedule I controlled substance, on federal property located within~~ the Promontory Butte area of the Tonto National Forest, in Gila County Arizona, in violation of Title 21 U.S.C. 841(a)(1), (b)(1)(A)(vii) and (b)(5).

All in violation of Title 21 United States Code, Section 846.

**COUNT 2**

Beginning on or before July 26, 2007, the exact date being unknown to the grand jury, and continuing to on or about October 16, 2007, both dates being approximate and inclusive, in the District of Arizona, the defendant, JOSE VALENCIA HERNANDEZ, knowingly and intentionally committed the following offense against the United States, to wit: cultivation of in excess of 1,000 marijuana plants, a schedule I controlled substance, on federal property located within the Promontory Butte area of the Tonto National Forest, in Gila County Arizona.

All in violation of Title 21 U.S.C. 841(a)(1), (b)(1)(A)(vii) and (b)(5).

## PROBABLE CAUSE STATEMENT

RE: Jose Valencia HERNANDEZ

On July 26, 2007, the United States Forest Service Law Enforcement & Investigation (LEI) received information about a marijuana cultivation site in the Promontory Butte area of the Tonto National Forest near Payson, Arizona. The cultivation site was believed to be near See Canyon adjacent to the Rim Road- Forest Development Road (FDR) 300. This is an area of significant historical marijuana cultivation activity by foreign Drug Trafficking Organizations (DTO).

On September 6, 2007, Gila County Narcotics Task Force (GCNTF) and LEI personnel conducted a ground reconnaissance of the See Canyon area near Christopher Creek. Personnel located an active marijuana cultivation site West of See Springs. Thousands of marijuana plants and an irrigation system were observed. Personnel then left the area to avoid detection.

On September 20, 2007, GCNTF members conducted an optical reconnaissance of the cultivation area from an observation point (OP) on Promontory Butte and observed two male subjects in the cultivation site. The two subjects were described as Hispanic males with both wearing dark pants and with one subject wearing a tan shirt and the other a darker colored shirt. One subject was also wearing a turquoise and blue ball cap. The subjects were observed moving through the marijuana plants, spraying them with a pump sprayer, and also watering them.

On October 5, 2007, at about 1500 hours, LEI Special Agent (SA) BOEHM conducted an optical reconnaissance from the Promontory OP. SA BOEHM observed two male Hispanic subjects working in the cultivation site. One subject was wearing a woodland pattern camouflage shirt, dark pants, and a white ball cap with writing on the front. The other subject was wearing dark pants, a tan shirt, and a blue and turquoise ball cap with writing on the front. The subjects were observed

for approximately one hour moving through the cultivation site and working on the plants.

On October 16, 2007, at about 0630 hours, personnel from the Drug Enforcement Agency (DEA), Arizona Department of Public Safety, Phoenix Police Department, DEB, GCNTF, and LEI conducted a raid on the See Canyon cultivation site. While moving into the cultivation area, law enforcement personnel observed three subjects moving through the cultivation area and into a camp site. Drying marijuana was also observed near the camp site. The subjects were all Hispanic males. Subject one was described as older (40-50), 5'10" to 5'11", with a thin build and wearing dark pants and a camouflage shirt and hat. Subject two was described as young, approximately 5'5", wearing dark pants and a camouflage shirt. The third subject was described as young, 5'6" to 5'8" wearing camouflage pants and a white ball cap.

At about 0730 hours, the subjects became aware of law enforcement personnel. The officers announced their presence and the subjects initially complied with orders and placed their hands in the air. As law enforcement approached, all subjects turned and began to run from the area. The subject with the white ball cap was apprehended after a short foot pursuit. The other subjects evaded capture and remain at large.

The cultivation site was eradicated and 7987 mature marijuana plants were counted. Also, 3-4 pounds of processed marijuana bud in one pound oven bags ready for transport was also found.

The subject taken into custody, later identified as Jose Valencia HERNANDEZ, was interviewed in Spanish at the scene by DEB Detective Keith YINGLING. The subject was advised of Miranda warnings in Spanish and advised that he understood and would speak with YINGLING.

HERNANDEZ advised that he was a Mexican National and had been living in Phoenix,

Arizona, when he was approached and asked if he wanted a good paying job. HERNANDEZ was advised that he would be living in the woods and growing marijuana. HERNANDEZ advised that money for the work would be sent back to his family in Mexico. HERNANDEZ stated that he did not know the persons name that hired him and did not see his face.

HERNANDEZ advised that he had been in the site for about three months. HERNANDEZ advised that he was the only person working at the site for the first month. HERNANDEZ advised that the other two subjects working with him had been at the site for about two months. HERNANDEZ advised that he did not know their names and did not talk to them. HERNANDEZ advised that they were responsible for watering and caring for the plants. HERNANDEZ advised that they had just started harvesting the plants and were preparing them for drying and processing.

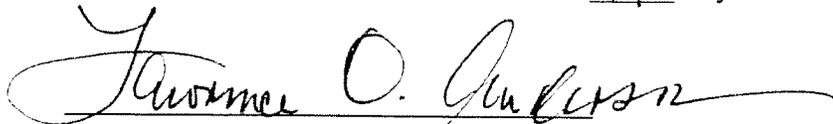
SA BOEHM recognized HERNANDEZ as one of the subjects he had observed working in the cultivation site on October 5, 2007.

HERNANDEZ was arrested for violations of Arizona Revised Statute 13-3405A3, Production of Marijuana, and transported to the Gila County jail.



Special Agent, Christopher L. Boehm  
United States Forest Service

Subscribed and sworn before me this 19<sup>th</sup> day of October, 2007.



HONORABLE LAWRENCE O. ANDERSON  
United States Magistrate Judge

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

FILED  LODGED  
 RECEIVED  COPY  
OCT 16 2007  
CLERK U.S. DISTRICT COURT  
DISTRICT OF ARIZONA  
BY \_\_\_\_\_ SECURITY  
DISCLOSURE

UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

United States of America,

Plaintiff,

v.

1. Victorino Penaloza Cardenas,  
(Counts 1-3)

2. Martin Martinez-Coss,  
(Counts 1-3)

3. Jesus Hernandez-Ley,  
(Counts 1-3)

4. Rigoberto Mendoza Guesar,  
(Counts 1, 2 & 4)

5. Filiberto Franco Chavez,  
(Counts 1, 2 & 4)

Defendants.

**CR07-1135 PHX-NVW(mtb)**

**INDICTMENT**

VIO: 21 U.S.C. § 846  
(Conspiracy to Cultivate  
Marijuana, a Controlled  
Substance)  
Count 1

21 U.S.C. §§ 841(a)(1),  
841(b)(1)(A)(vii) and 841(b)(5)  
(Cultivation of Marijuana, a  
Controlled Substance)  
Count 2

21 U.S.C. §§ 841(a)(1) and  
841(b)(1)(C)  
(Possession of Marijuana Plants  
With Intent to Distribute)  
Count 3

18 U.S.C. § 924(c)(1)  
(Possession of a Firearm During  
and in Relation to a Controlled  
Substance Offense)  
Count 4

18 U.S.C. § 2  
(Aid & Abet)  
Counts 1 - 4

18 U.S.C. § 924(d) and  
28 U.S.C. § 2461  
(Forfeiture Allegation)

1 THE GRAND JURY CHARGES:

2 COUNT 1

3 Beginning on or before July, 2007, the exact date being unknown, and continuing to on  
4 or about October 2, 2007, both dates being approximate and inclusive, in the District of  
5 Arizona, the defendant(s), VICTORINO PENALOZA CARDENAS, MARTIN MARTINEZ-  
6 COSS, JESUS HERNANDEZ-LEY, RIGOBERTO MENDOZA GUESAR, and FILIBERTO  
7 FRANCO CHAVEZ, knowingly and intentionally; combined, conspired, confederated and  
8 agreed together and with each other, and with other unknown to the grand jury, to commit the  
9 following offense(s) against the United States, to wit: cultivation of in excess of 1,000  
10 marijuana plants, a Schedule I Controlled Substance, on federal property located within the  
11 Pigeon Springs area of the Tonto National Forest, in Gila County Arizona, in violation of Title  
12 21 U.S.C. §§ 841(a)(1), (b)(1)(A)(vii) and (b)(5).

13 All in violation of Title 21 U.S.C., Section 846 and Title 18 U.S.C., Section 2.

14 COUNT 2

15 Beginning on or before July, 2007, the exact date being unknown, and continuing to on  
16 or about October 2, 2007, both dates being approximate and inclusive, in the District of  
17 Arizona, the defendant(s), VICTORINO PENALOZA CARDENAS, MARTIN MARTINEZ-  
18 COSS, JESUS HERNANDEZ-LEY, RIGOBERTO MENDOZA GUESAR, and FILIBERTO  
19 FRANCO CHAVEZ, knowingly and intentionally committed the following offense against the  
20 United States, to wit: cultivation of in excess of 1,000 marijuana plants, a Schedule I  
21 Controlled Substance, on federal property located within the Pigeon Springs area of the Tonto  
22 National Forest, in Gila County Arizona.

23 All in violation of Title 21 U.S.C. Sections 841(a)(1), 841(b)(1)(A)(vii) and 841(b)(5) and  
24 Title 18 U.S.C. Section 2.

25 COUNT 3

26 On or about October 2, 2007, within the District of Arizona, VICTORINO PENALOZA  
27

1 CARDENAS, MARTIN MARTINEZ-COSS, and JESUS HERNANDEZ-LEY did knowingly  
2 and intentionally possess with the intent to distribute less than 100 but more than 50 marijuana  
3 plants, a Schedule I Controlled Substance.

4 All in violation of Title 21, U.S.C., Sections 841(a)(1) and 841(b)(1)(C) and Title 18  
5 U.S.C. Section 2.

6 **COUNT 4**

7 On or about October 2, 2007, in the District of Arizona, defendants, RIGOBERTO  
8 MENDOZA GUESAR, and FILIBERTO FRANCO CHAVEZ, knowingly used, carried, and  
9 possessed a Fabrinor Victoria, Model Firestorm, .45 caliber handgun, serial number  
10 71400936101 and a Browning Special 20 gauge shotgun, serial number 07518631RT, in  
11 furtherance of and during and in relation to a drug trafficking crime for which they may be  
12 prosecuted in a court of the United States, to wit: Counts 1 and 2, incorporated herein by  
13 reference.

14 In violation of Title 18, United States Code, Section 924(c)(1) and 2.

15 **FORFEITURE ALLEGATION**

16 As a result of committing the forgoing offenses in violation of 18 U.S.C. § 924(c) alleged  
17 in Count 3 of this indictment, defendants, RIGOBERTO MENDOZA GUESAR, and  
18 FILIBERTO FRANCO CHAVEZ shall forfeit to the United States pursuant to 18 U.S.C. §  
19 924(d) and 28 U.S.C. § 2461, all firearms and ammunition involved in the commission of the  
20 offense listed in Count 3, including but not limited to a Fabrinor Victoria, Model Firestorm,  
21 .45 caliber handgun, serial number 71400936101 and a Browning Special 20 gauge shotgun,  
22 serial number 07518631RT.

23 If any of the above-described forfeitable property, as a result of any act or omission of the  
24 defendant: (1) cannot be located upon the exercise of due diligence; (2) has been transferred  
25 or sold to, or deposited with, a third person; (3) has been placed beyond the jurisdiction of the  
26 Court; (4) has been substantially diminished in value; or (5) has been commingled with other  
27

1 property which cannot be subdivided without difficulty; it is the intent of the United States  
2 pursuant to 21 U.S. C. § 853(p), to seek forfeiture of any other property of said defendant(s)  
3 up to the value of the above forfeitable property.

4 All in violation of Title 18, U.S.C., Section 924(d), Title 28, U.S.C., Section 2461.

6 A TRUE BILL

8 s/

9 ~~FOREPERSON OF THE GRAND JURY~~  
10 Date: October 16, 2007

11 DANIEL G. KNAUSS  
12 United States Attorney  
13 District of Arizona

13 s/

14 ~~GLENN B. MCCORMICK~~  
15 Assistant U.S. Attorney

AUSA

UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

UNITED STATES OF AMERICA

V.

CRIMINAL COMPLAINT

CASE NUMBER: 07-6260M

10/12/07

- 1. Victorino Penaloza Cardenas;  
(Counts 1-3)
- 2. Martin Martinez Coss;  
(Counts 1-3)
- 3. Jesus Hernandez Ley;  
(Counts 1-3)
- 4. Rigoberto Mendoza Guesar; and  
(Counts 1-2)
- 5. Filiberto Franco Chavez.  
(Counts 1-2)

**Redacted for  
Public Disclosure**

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief.

See Attachment A

I further state that I, Christopher Boehm, am a Special Agent with the United States Forest Service and that this complaint is based on the following facts:

See Attached Statement of Probable Cause

Continued on the attached sheet and made a part hereof:

Yes     No

AUTHORIZED BY: AUSA Glenn B. McCormick *GBM*

Special Agent Christopher Boehm  
Name of Complainant

*GBM*  
Signature of Complainant

Sworn to before me and subscribed in my presence,  
10-12-07  
Date

Phoenix, Arizona  
City and State  
at

HONORABLE DAVID K. DUNCAN  
United States Magistrate Judge  
Name & Title of Judicial Officer

*[Signature]*  
Signature of Judicial Officer

## ATTACHMENT A

### COUNT 1

Beginning on or before July, 2007, the exact date being unknown, and continuing to on or about October 2, 2007, both dates being approximate and inclusive, in the District of Arizona, the defendant(s), VICTORINO PENALOZA CARDENAS, MARTIN MARTINEZ COSS, JESUS HERNANDEZ LEY, RIGOBERTO MENDOZA GUESAR, and FILIBERTO FRANCO CHAVEZ, knowingly and intentionally; combined, conspired, confederated and agreed together and with each other, and with other unknown to the grand jury, to commit the following offense(s) against the United States, to wit: cultivation of in excess of 1,000 marijuana plants, a schedule I controlled substance, on federal property located within the Pigeon Springs area of the Tonto National Forest, in Gila County Arizona, in violation of Title 21 U.S.C. 841(a)(1), (b)(1)(A)(vii) and (b)(5).

All in violation of Title 21 United States Code, Section 846 and Title 18 United States Code, Section 2.

### COUNT 2

Beginning on or before July, 2007, the exact date being unknown, and continuing to on or about October 2, 2007, both dates being approximate and inclusive, in the District of Arizona, the defendant(s), VICTORINO PENALOZA CARDENAS, MARTIN MARTINEZ COSS, JESUS HERNANDEZ LEY, RIGOBERTO MENDOZA

GUESAR, and FILIBERTO FRANCO CHAVEZ, knowingly and intentionally committed the following offense against the United States, to wit: cultivation of in excess of 1,000 marijuana plants, a schedule I controlled substance, on federal property located within the Pigeon Springs area of the Tonto National Forest, in Gila County Arizona, in violation of Title 21 U.S.C. 841(a)(1), (b)(1)(A)(vii) and (b)(5).

**COUNT 3**

On or about October 2, 2007, within the District of Arizona, VICTORINO PENALOZA CARDENAS, MARTIN MARTINEZ COSS, and JESUS HERNANDEZ LEY did knowingly and intentionally possess with the intent to distribute less than 100 but more than 50 or marijuana plants, a Schedule I Controlled Substance in violation of Title 21, United States Code, Section 841(a)(1) and 841(b)(1)(C).

## PROBABLE CAUSE STATEMENT

**RE: Victorino Penaloza CARDENAS  
Martin Martinez COSS  
Jesus Hernandez LEY  
Rigoberto Mendoza Guesar  
Filiberto Franco Chavez**

On July 18, 2007, the United States Forest Service Law Enforcement & Investigation (LEI) received information about a marijuana cultivation site in the Mazatzal Wilderness of the Tonto National Forest near Sunflower Arizona. The cultivation site was believed to be near Pigeon Springs adjacent to Forest Development Road (FDR) 201. This is an area of significant historical marijuana cultivation activity by foreign Drug Trafficking Organizations (DTO).

On August 9, 2007, Gila County Narcotics Task Force (GCNTF) and LEI personnel conducted a ground reconnaissance of the Pigeon Springs area near the South Fork of Deer Creek. An irrigation system consisting of 1 inch water lines was found drawing water from Pigeon Springs. The irrigation line was followed and led to a large cultivation site. Approximately ½ pound of marijuana bud drying in the sun was observed near the cultivation site. Personnel then left the area to avoid detection.

On September 4, 2007, LEI began surveillance of FDR 201 and the Pigeon Springs area. Members of the Arizona Department of Public Safety Special Operations Unit (DPS-SOU) conducted an optical and ground

reconnaissance of the cultivation area and observed two male subjects in the cultivation site. The two subjects were described as Hispanic males both wearing dark pants with one subject wearing a tan shirt and the other a darker colored shirt. The subjects were observed spraying the marijuana plants with a pump sprayer and also watering them.

On September 10, 2007, at about 1230 hours, a red Toyota 4Runner, AZ plate : , was observed in the area of Pigeon Springs. The vehicle was in the area for approximately 50 minutes and stopped at FDT 47. The vehicle is registered to an . at , Phoenix.

On September 17, 2007, at about 2200 hours, the red Toyota 4Runner returned to the Pigeon Springs area. The vehicle was in the area for approximately 50 minutes.

On September 28, 2007, at about 2045 hours, the red Toyota 4Runner was observed entering the Pigeon Springs area. The vehicle stopped in the FDT 47 area for approximately 90 minutes. The vehicle was then observed leaving the area and driving South on Highway 87. The vehicle was occupied by one subject. The vehicle was followed by LEI officers in unmarked vehicles.

At about 2300 hours, the 4Runner was stopped by Arizona Department of Public Safety for unsafe lane usage, a violation of Arizona Revised Statute (ARS) 28-729 and speed, a violation of ARS 28-701 on Highway 87 at Ft.

McDowell. Officer Merrill contacted the driver and observed an open container of "Tekate" brand beer. The subject, Jose Luis VANEGAS, also did not have a valid AZ drivers license. The subject was removed from the vehicle and the officer performed field sobriety tests and determined that VANEGAS was under the influence of alcohol.

During the sobriety tests, a Ft. McDowell Police Department K-9 Officer conducted an exterior sniff of the vehicle with his canine. The canine indicated a positive alert and the vehicle was searched. Three large black trash bags were located in the rear of the 4Runner. The trash bags each contained several clear plastic oven bags with marijuana bud. Also, a small clear plastic baggie with a white powdery substance that field tested positive for cocaine was found in the center console area of the vehicle.

Jose Luis VANEGAS, was arrested by AZ DPS for violations of ARS 13-3405A3 Production of Marijuana, ARS 13-3405A4 Transport Marijuana for Sale, and ARS 13-3408A1 Possession of a Narcotic Drug- Cocaine. The three black trash bags contained approximately 32 pounds of marijuana. The plastic baggie contained approximately 3 grams of cocaine.

On October 4, 2007, Jose Luis VANEGAS was deported by Immigration and Customs Enforcement. It was determined that VANEGAS had also been deported on March 2, 1999.

On October 2, 2007, law enforcement agents conducting surveillance of the area around the Pigeon Springs marijuana cultivation sites observed three subjects leaving the Pigeon Springs area toward FDR 201.

Later on October 2, 2007, at about 1545 hours, LEI Special Agent (SA) Terry McGaha and SA Chris Boehm observed a dark blue colored Chevrolet ½ Ton truck, AZ plate , occupied by three subjects driving south on FDR 201. The vehicle was stopped for Driving Left of Center on a Mountain Road- a violation of 36 CFR 212.5- Violate State Traffic Law (per ARS 28-726).

The occupants of the vehicle were contacted and identified. The driver was Victorino Penaloza CARDANAS, the front passenger was Martin Martinez COSS, and the rear passenger was Jesus Hernandez LEY. A distinct odor of marijuana was present in the vehicle. The subjects were removed and the vehicle was searched. A black duffle bag containing sixty (60) unprocessed marijuana plants with root balls still attached was found in the rear passenger area of the vehicle. Based on training and experience, each plant is conservatively the equivalent of one half pound of cultivated marijuana. When all 60 plants are cultivated and dried they would conservatively produce ten (10) pounds of marijuana. Based on training and experience the 60 plants represent a distribution quantity of marijuana because users of marijuana do not typically maintain 10 pounds of marijuana on hand.

Tire tracks matching the dark blue colored Chevrolet ½ Ton truck, AZ plate \_\_\_\_\_, were found near the area where agents had observed the three men leaving the Pigeon Springs area toward FDR 201. The tracks indicate that the truck was stopped in the area. Shoe prints were found where the truck had stopped. The shoe prints appeared to match the tread of the shoes worn by the three men subsequently found in the truck. No other vehicles were observed in the area on FDR 201.

The subjects were arrested by Gila County Sheriff's Office for violations of ARS 13-3405A3 Production of Marijuana and ARS 13-3405A4 Transport Marijuana for Sale.

On October 3, 2007, at about 0600 hours, personnel from the Drug Enforcement Agency (DEA), DPS SOU, GCNTF, and LEI conducted a raid on the Pigeon Springs cultivation site. During a security sweep of the cultivation area, DPS SOU members observed three subjects leave a camp site and walk into the cultivation area. The subjects were all observed tending to the plants. The subjects were described as one older Hispanic male subject with a short beard or stubble and two younger male Hispanic subjects.

At about 0812 hours, the two younger subjects returned to the camp area and were taken into custody without incident. At about 0832, the older subject returned to the camp area and was also taken into custody.

The cultivation site was eradicated and 7926 mature marijuana plants were counted. Also, 20-30 pounds of processed marijuana bud ready for transport was also found.

The three subjects taken into custody were interviewed at the scene by a Spanish speaking officer. All of the subjects were advised of the Miranda Warnings in Spanish and advised that they understood. The older male subject, Rigoberto Mendoza-GUESAR, advised that he had been hired to help in the marijuana garden and was being paid \$200 a day. GUESAR also advised that his son, a juvenile, was one of the other subjects in custody.

The juvenile was interviewed and it was determined that he was seventeen years old. The subject was questioned and advised that he was also being paid to work in the marijuana garden.

The third subject, Filiberto Franco CHAVEZ, advised that he had also been hired to work in the marijuana garden and had been there for approximately 3-4 days.

///

///

///

GUESAR and CHAVEZ were arrested on violations of ARS 13-3405A3  
Production of Marijuana and transported to Gila County Jail. The juvenile was  
transported to Gila County Juvenile Detention.



---

Special Agent Christopher Boehm  
United States Forest Service

Subscribed and sworn before me this 12 day of October, 2007.



---

HONORABLE DAVID K. DUNCAN  
United States Magistrate Judge



1 District of Arizona, the defendant(s), JOSE TAPIA VARELAS, DISIDORO TAPIA-LOPEZ,  
2 NICANOR VILLALOBOS ARELLANO, JULIAN OLIVAREZ GALLARDO, JORGE  
3 ALEJANDRO-GARCIA, JUAN CARLOS SANDOVAL BARRAGAN, JESUS TAPIA  
4 LOPEZ and ANASTACIO AGUILAR GARCIA, knowingly and intentionally; combined,  
5 conspired, confederated and agreed together and with each other, and with other unknown to  
6 the grand jury, to commit the following offense(s) against the United States, to wit: cultivation  
7 of in excess of 1,000 marijuana plants, a Schedule I Controlled Substance, on federal property  
8 located within the Cherry Creek area of the Tonto National Forest, in Gila County Arizona, in  
9 violation of Title 21 U.S.C. 841(a)(1), (b)(1)(A)(vii) and (b)(5).

10 All in violation of Title 21 U.S.C., Section 846 and Title 18 U.S.C., Section 2.

11 **COUNT 2**

12 Beginning on or before June, 2007, the exact date being unknown to the grand jury, and  
13 continuing to on or about October 2, 2007, both dates being approximate and inclusive, in the  
14 District of Arizona, the defendant(s), JOSE TAPIA VARELAS, DISIDORO TAPIA-LOPEZ,  
15 NICANOR VILLALOBOS ARELLANO, JULIAN OLIVAREZ GALLARDO, JORGE  
16 ALEJANDRO-GARCIA, JUAN CARLOS SANDOVAL BARRAGAN, JESUS TAPIA  
17 LOPEZ and ANASTACIO AGUILAR GARCIA, knowingly and intentionally committed the  
18 following offense against the United States, to wit: cultivation of in excess of 1,000 marijuana  
19 plants, a Schedule I Controlled Substance, on federal property located within the Cherry Creek  
20 area of the Tonto National Forest, in Gila County Arizona.

21 All in violation of Title 21, U.S.C., Sections 841(a)(1), 841(b)(1)(A)(vii) and 841(b)(5)  
22 and Title 18, U.S.C., Section 2.

23 **COUNT 3**

24 On or about the August 21, 2006, in the District of Arizona, defendant, JOSE TAPIA  
25 VARELAS, knowingly used, carried, and possessed a Glenfield, Model 25, .22 caliber rifle,  
26 serial number 69279360, in furtherance of and during and in relation to a drug trafficking  
27

1 crime for which he may be prosecuted in a court of the United States, to wit: Count 1,  
2 incorporated herein by reference.

3 In violation of Title 18, U.S.C., Section 924(c)(1).

4 **FORFEITURE ALLEGATION**

5 As a result of committing the forgoing offenses in violation of 18 U.S.C. § 924(c) alleged  
6 in Count 3 of this indictment, defendant, **JOSE TAPIA VARELAS** shall forfeit to the United  
7 States pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461, all firearms and ammunition  
8 involved in the commission of the offense listed in Count 3, including but not limited to one  
9 **Glenfield, Model 25, .22 caliber rifle, serial number 69279360.**

10 If any of the above-described forfeitable property, as a result of any act or omission of the  
11 defendant: (1) cannot be located upon the exercise of due diligence; (2) has been transferred  
12 or sold to, or deposited with, a third person; (3) has been placed beyond the jurisdiction of the  
13 Court; (4) has been substantially diminished in value; or (5) has been commingled with other  
14 property which cannot be subdivided without difficulty; it is the intent of the United States  
15 pursuant to 21 U.S. C. § 853(p), to seek forfeiture of any other property of said defendant(s)  
16 up to the value of the above forfeitable property.

17 All in violation of Title 18 U.S.C., Section 924(d), Title 28, U.S.C., Section 2461.

18  
19 A TRUE BILL

20 s/  
21 FOREPERSON OF THE GRAND JURY  
22 Date: October 16, 2007

23 DANIEL G. KNAUSS  
24 United States Attorney  
25 District of Arizona

26 s/  
27 GLENN B. MCCORMICK  
28 Assistant U.S. Attorney

UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

UNITED STATES OF AMERICA

V.

CRIMINAL COMPLAINT

CASE NUMBER:

07-6259M

1. Jose Tapia Varelas;  
(Aka: Jose Manuel Mendoza-Lopez)
2. Disidoro Tapia Lopez;
3. Nicanor Villalobos Arellano;
4. Julian Oilvarez Gallardo;
5. Jorge Alejandres Garcia;
6. Juan Carlos Sandoval Barragan;
7. Jesus Tapia Lopez; and
8. Anastacio Aguilar Garcia,

**Redacted for  
Public Disclosure**

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief.

See Attachment A

I further state that I, William Mickle, am a Special Agent with the United States Forest Service and that this complaint is based on the following facts:

See Attached Statement of Probable Cause

Continued on the attached sheet and made a part hereof:  Yes  No

AUTHORIZED BY: AUSA Glenn B. McCormick *GBM*

Special Agent, William Mickle  
Name of Complainant

  
Signature of Complainant

Sworn to before me and subscribed in my presence,

10-12-07  
Date

Phoenix, Arizona  
City and State

at

HONORABLE DAVID K. DUNCAN  
United States Magistrate Judge  
Name & Title of Judicial Officer

  
Signature of Judicial Officer

**ATTACHMENT A**

**COUNT 1**

Beginning on or before June, 2007, the exact date being unknown, and continuing to on or about October 2, 2007, both dates being approximate and inclusive, in the District of Arizona, the defendant(s), JOSE TAPIA VARELAS (aka: Jose Manuel Mendoza-Lopez), DISIDORO TAPIA LOPEZ, NICANOR VILLALOBOS ARELLANO, JULIAN OILVAREZ GALLARDO, JORGE ALEJANDRES GARCIA, JUAN CARLOS SANDOVAL BARRAGAN, JESUS TAPIA LOPEZ and ANASTACIO AGUILAR GARCIA, knowingly and intentionally; combined, conspired, confederated and agreed together and with each other, and with other unknown to the grand jury, to commit the following offense(s) against the United States, to wit: cultivation of in excess of 1,000 marijuana plants, a schedule I controlled substance, on federal property located within the Cherry Creek area of the Tonto National Forest, in Gila County Arizona, in violation of Title 21 U.S.C. 841(a)(1), (b)(1)(A)(vii) and (b)(5).

All in violation of Title 21 United States Code, Section 846 and Title 18 United States Code, Section 2.

**COUNT 2**

Beginning on or before June, 2007, the exact date being unknown, and continuing to on or about October 2, 2007, both dates being approximate and inclusive, in the District of Arizona, the defendant(s), JOSE TAPIA VARELAS (aka: Jose Manuel

## PROBABLE CAUSE STATEMENT

RE: Jose Tapia Varelas (Aka: Jose Manuel Mendoza-Lopez)  
Disidoro Tapia Lopez  
Nicanor Villalobos Arellano  
Julian Oilvarez Gallardo  
Jorge Alejandres Garcia  
Juan Carlos Sandoval Barragan  
Jesus Tapia Lopez  
Anastacio Aguilar Garcia

On August 21, 2006, Gila County Sheriff's Office Deputy Links observed Jose Tapia VARELAS operating a vehicle on Highway 288 near milepost 279. VARELAS was operating the vehicle in violation of Arizona state law. Deputy LINKS stopped VARELAS in the vehicle. During this contact VARELAS fled the scene and was able to avoid arrest. A search of the vehicle revealed VARELAS was transporting approximately 14 pounds of suspected marijuana. Also located in the vehicle was a Mexican identification card bearing the name of Jose Tapia VARELAS. The identification card also bore a photograph. Deputy Links identified the photograph as being the same individual that fled from the scene.

During the month of June, 2007, it was determined that VARELAS was residing in Phoenix, Arizona. Also during June, 2007, VARELAS was observed on five separate occasions operating a 1993 Maroon Nissan Pathfinder bearing Arizona license plate number . . . . .

On June 15, 2007, VARELAS was stopped by Phoenix Police for a traffic violation. Upon contact, VARELAS presented Phoenix Police Officers a

Mexican identification card bearing the name of Jose Manuel Mendoza FARIAS. Also present in the vehicle was a passenger identified as Disidoro Tapia LOPEZ.

On June 15<sup>th</sup>, 18<sup>th</sup>, and 24<sup>th</sup> of 2007, the maroon Nissan Pathfinder was observed on Cherry Creek road in the Tonto National Forest. The maroon Nissan Pathfinder was observed stopping on Cherry Creek road in the vicinity of Gold Creek and Hinton Canyons. This area of the Tonto National Forest has been historically used for illegal marijuana cultivation.

On July 7, 2007, VARELAS was observed operating the maroon Nissan Pathfinder and was observed purchasing groceries in Globe, Arizona. The maroon Nissan Pathfinder was observed stopping on Cherry Creek road in the vicinity of Gold Creek and Hinton Canyons. I know from my training and experience that subjects involved in the cultivation of marijuana often hire workers to live and work in the marijuana gardens. The workers must be supplied with groceries and other items to maintain the gardens.

On July 19, 2007, the maroon Nissan Pathfinder was observed stopping on Cherry Creek in the vicinity of Gold Creek and Hinton Canyons.

On August 10, 2007, VARELAS was observed operating the maroon Nissan Pathfinder. The maroon Nissan Pathfinder was observed stopping on Cherry Creek road in the vicinity of Gold Creek and Hinton Canyons.

On August 22, 2007, law enforcement located and confirmed a marijuana cultivation site was located within Gold Creek canyon. Law enforcement

recognized the marijuana plants from their training and experience, and knows that sites with these types of irrigation systems typically contain large amount of marijuana plants.

On August 28, 2007, at approximately 0800 hours, Gila County Narcotics Task Force agents observed a black Chevrolet Tahoe parked in an area just south of Cherry Creek road.

At approximately 1247 hours, law enforcement agents observed the maroon Nissan Pathfinder drive up to the black Chevrolet Tahoe. Four Hispanic males were observed occupying the maroon Nissan Pathfinder. VARELAS was observed exiting the maroon Nissan Pathfinder and transferring two white plastic bags from the maroon Nissan Pathfinder to the black Chevrolet Tahoe. VARELAS then entered the black Chevrolet Tahoe and left the area. The three other subjects followed in the maroon Nissan Pathfinder. Law enforcement agents know from training and experience, that drug traffickers often extract harvested marijuana in bags and transport it by vehicle. Law enforcement also knew that VARELAS had fled from the same area in August, 2006 after transporting harvested marijuana. Law enforcement also knew this area was in close proximity to the marijuana gardens located off Cherry Creek road and that August is the time of year marijuana gardens begin to be harvested.

Law enforcement agents followed the maroon Nissan Pathfinder and black Chevrolet Tahoe south on highway 288 where it was stopped by law

enforcement. Both the maroon Nissan Pathfinder and the black Chevrolet Tahoe were stopped for speeding.

Since it was known VARELAS fled during a similar traffic stop in the past, that he is not a licensed driver and is an undocumented Mexican National; VARLEAS was immediately detained. A Mexican identification card bearing the name of Jose Manuel Mendoza FARIAS was located on VARELAS. A search of the black Chevrolet Tahoe revealed the two white plastic bags law enforcement had seen VARELAS possess.

Further inspection of the white plastic bags revealed eleven clear plastic bags containing a green leafy substance. Law enforcement immediately recognized the substance as marijuana from their training and experience. VARELAS was also found to be in possession of a cellular telephone. The bags were later weighed and totaled approximately eleven pounds.

Due to law enforcement's observations of the other three suspects, who were occupying the maroon Nissan Pathfinder, they were arrested for the transportation of the suspected marijuana. The four other suspects were identified as Nicanor Villalobos ARELLANO, Julian Oilvarez GALLARDO and Jorge Alejandro GARCIA. ARELLANO and GARCIA were also found to be in possession of cellular telephones, which were seized as evidence.

VALERAS, ARELLANO, GALLARDO and Jorge Alejandro GARCIA were booked into the Gila County jail for state narcotics offenses.

On August 31 and September 1, 2007, a raid and eradication of the marijuana gardens located in Gold Creek and Hinton Canyons was conducted by law enforcement.

During the initial stages of the raid, no suspects were located in the marijuana garden, but a camp was located. A total of 1759 marijuana plants were located and seized.

Also on August 31, 2007, a marijuana garden was located in Hinton Canyon by a law enforcement helicopter.

On August 31, 2007, at approximately 1600 hours, law enforcement observed four Hispanic males walking south on Highway 288 at milepost 284.

The subjects looked dirty and as if they had been living in the forest for an extended period of time. Law enforcement agents know growers from these marijuana gardens often flee to nearby roads. This area of highway 288 is a dirt road and is the closest main road to the marijuana gardens located in Gold Creek and Hinton canyons.

The four subjects were identified as Disidoro Tapia LOPEZ, Juan Carlos Sandoval BARRAGAN, Jesus Tapia LOPEZ and Anastacio Aguilar GARCIA. Law enforcement agents immediately recognized Disidoro Tapia LOPEZ as an associate of VARELAS. Disidoro Tapia LOPEZ was contacted by Phoenix Police while in the company of VARELAS on June 15, 2007. Jesus Tapia

LOPEZ was found to be in possession of a cellular telephone and a disposable camera.

Disidoro Tapia LOPEZ, Jesus Tapia LOPEZ, BARRAGAN and Anastacio Aguilar GARCIA were all detained and transported to the Gila County jail to be interviewed.

Law enforcement interviewed Disidoro Tapia LOPEZ, BARRAGAN, Jesus Tapia LOPEZ and Anastacio Aguilar GARCIA. All were read their Miranda rights in the Spanish language and waived their right to have an attorney present during questioning.

Disidoro Tapia LOPEZ initially denied any involvement in cultivating marijuana. During a later interview, Disidoro Tapia LOPEZ admitted he cultivated and harvested marijuana in the Gold Creek marijuana garden. He said he lived and worked in the marijuana garden for approximately two months. He stated he knew VARELAS, and that VARELAS transported him to the marijuana gardens. He said after they harvested the marijuana, they would put it out to dry, and that unknown persons would come retrieve the marijuana.

BARRAGAN stated he cultivated and harvested marijuana in the Gold Creek marijuana garden. He stated he lived and worked in the marijuana gardens for approximately three months. He said he was told he could be paid \$5,000.00 after all the plants were harvested. He stated he was told the marijuana garden was worth approximately \$5,000,000.00. He said he had been recruited to work

in the gardens while working on a ranch in Michoacoan, Mexico. He stated he knew VARELAS and that VARELAS delivered supplies to the marijuana garden.

Anastacio Aguilar GARCIA stated he tended and watered marijuana plants while living in the Gold Creek Canyon marijuana garden. He said he had only been living and working in the marijuana garden for eight days. He said he did not want to implicate anyone else.

Jesus Tapia LOPEZ stated he is the brother of Disidoro Tapia LOPEZ and he also cultivated and harvested marijuana plants in the Gold Creek canyon marijuana garden. He said he had no knowledge of the marijuana garden in Hinton canyon and was told he was not to leave the marijuana garden. When shown a surveillance photograph of him with VARELAS, he identified VARELAS as delivering supplies to the marijuana garden. He said he was told he would receive \$100.00 per day to work in the marijuana garden. He said after they harvested the marijuana, they would put it out to dry, and that unknown persons would come retrieve the marijuana. He said that at one point, an unknown subject came to the marijuana garden and told them how to harvest the plants. He stated they had been harvesting the marijuana plants for approximately 15 days.

Disidoro Tapia LOPEZ, BARRAGAN, Jesus Tapia LOPEZ and Anastacio Aguilar GARCIA were all booked into the Gila County jail for state narcotics offenses.

On September 1, 2007, the marijuana garden in Hinton Canyon was eradicated. A total of 5266 marijuana plants were located and seized.

On September 5, 2007, law enforcement applied for and received three state search warrants authorizing them to view the memory of the cellular telephones seized from VARELAS, ARELLANO, Jorge Alejandro GARCIA and Jesus Tapia LOPEZ. One search warrant also authorized law enforcement to develop the film in the disposable camera that was seized from Jesus Tapia LOPEZ.

On September 6 and 7, 2007, law enforcement served the search warrants on the four telephones and disposable camera.

Three pictures of marijuana plants were located in the memory of a black Verizon Audiovox, Ser#:                      The landscape in the photographs was the same or similar to the landscape in Gold Creek and Hinton Canyons. There were numerous photographs of VARELAS. There was also one photograph of VARELAS standing next to the maroon Nissan Pathfinder. This is the telephone found in the possession of VARELAS.

Two pictures of landscape the same or similar to the landscape in Gold Creek and Hinton Canyons were located in the memory of the blue and gray cellular telephone, a Sanyo, Ser#:                      This telephone was found in the possession of Jorge Alejandro GARCIA.

Five pictures of marijuana plants were located in the memory of the black and gray Sprint LG, Ser#: . This telephone was found in the possession of ARELLANO.

The disposable camera was found to contain numerous photographs depicting Disidoro Tapia LOPEZ, BARRAGAN, Jesus Tapia LOPEZ and Anastacio Aguilar GARCIA and GALLARDO in forested areas. GALLARDO was wearing the same or similar shoes when he was arrested on August 28, 2007 as depicted in the aforementioned photograph. The landscape is the same or similar to that in the area of Gold Creek and Hinton Canyons. There are also pictures that are in the area of the camp associated with a marijuana garden located in Gold Creek canyon. This camera was found in the possession of Jesus Tapia LOPEZ.

On September 6, 2007, law enforcement conducted follow-up interviews of VARELAS, ARRELANO, Jorge Alejandro GARCIA and GALLARDO. All were read and stated they understood their Miranda Rights.

VALARES waived his right to have an attorney present during questioning. VARELAS admitted to being involved in the cultivation and supply of the marijuana gardens in Hinton and Gold Creek Canyons. VARELAS said he transported the workers, food, irrigation and other items needed to maintain and harvest the marijuana gardens. He stated the marijuana he was found in possession of came from these marijuana gardens. He said he has been involved

in the cultivation of marijuana in the United States for the last two years. He stated last year he had four marijuana gardens. He said two were located in Hinton and Gold Creek canyons and the other two were located near Payson. He said he did not cultivate the two additional gardens this year, because the police found and eradicated the two additional gardens last year. VARELAS admitted he was stopped by police in 2006 while in possession of marijuana. He said admitted he was in possession of a .22 rifle at the time and fled the scene. VARELAS related he works directly for subject in Michoacan, Mexico. He said he was to get paid \$15,000.00 for his role in the cultivation of the gardens. He said he was paid \$15,000.00 the previous year for his role in the cultivation of the four marijuana gardens.

GALLARDO waived his right to have an attorney present during questioning. When he was shown surveillance photographs of the Cherry Creek road area, he stated he wasn't there at the time the surveillance photographs were taken. When asked what time he was present in the marijuana gardens, he requested to have an attorney present during questioning.

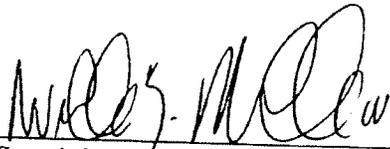
ARRELLANO and Jorge Alejandro GARCIA both requested to have an attorney present during questioning.

A check of Immigration and Customs Enforcement (ICE) fingerprint databases indicates Jorge Alejandro GARCIA is a citizen and national of Mexico

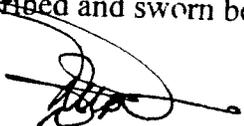
and is illegally present in the United States. Jorge Alejandro GARCIA was deported or removed from the United States on January 14, 2007 by ICE.

A check of ICE fingerprint databases indicates VARELAS, Disidoro Tapia LOPEZ, Anastacio Aguilar GARCIA, ARRELLANO, BARRAGAN, and Jesus Tapia LOPEZ are citizens and nationals of Mexico and are illegally present in the United States.

ICE records indicate GALLARDO is a lawful permanent resident of the United States, but is deportable or removable from the United States due to a previous domestic violence conviction.

  
Special Agent William Mickle  
United States Forest Service

Subscribed and sworn before me this 12 day of October, 2007.

  
HONORABLE DAVID K. DUNCAN  
United States Magistrate Judge