

EXHIBIT A

NOTICE OF VIOLATION

# NOTICE OF VIOLATION

The California State Lands Commission will hold an enforcement hearing to determine whether to impose administrative civil penalties and whether to issue an order for removal of structures

against

[Respondent's Name]

[general description of location and structures]

The enforcement hearing has been scheduled before the California State Lands Commission on:

[Date] at [City]

**If you dispute the allegations, you must respond to this notice by [date].** The hearing date above will be postponed and you will be given an opportunity to present evidence in your defense.

**If you do not ~~Failure to respond to this notice,~~** the California State Lands Commission may ~~issue of violation may result in a substantial~~ civil penalty and/or order to remove structures from state land ~~an injunction being issued against you~~ without your having an opportunity to contest the charges or to introduce evidence in your defense.

To minimize or avoid future penalties you should immediately contact the staff identified below to bring your structures into compliance.

## Purpose of Hearing

The California State Lands Commission (Commission) is issuing this Notice of Violation (Notice), along with the enclosed Statement of Defense form because Commission staff believes you may be responsible for ~~or involved with~~ maintaining a structure on land owned by the state and under Commission jurisdiction without appropriate authorization in violation of California Public Resources Code (PRC) § 6224.3.

At the enforcement hearing, the Commission will consider the ~~This Notice contains a brief summary of the evidence that staff currently relies on~~ and determine: 1) whether you are liable for maintaining unauthorized structures on state land; 2) whether a civil penalty and/or order for removal is appropriate; and 3) the amount and conditions of the civil penalty.

## Civil Penalty

The Commission may impose a civil penalty of up to one thousand dollars (\$1,000.00) per day, or 160% of the market rent where the rental value of the property would exceed

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\$360,000 per year, while ~~that~~ the violation continues. (Public Resources Code, § 6224.3(b)).  
The Commission may also issue an injunction against your continued unauthorized occupation of state land or order the removal of the violating structures. **The Commission may rule on the evidence before it and impose a civil penalty and order even if you fail to respond to this Notice or appear at the enforcement hearing.** -You may reduce or avoid penalties by promptly removing any unauthorized structures from state land and submitting proof of restoring state land to Commission staff, or by bringing all structures under lease. The Commission reserves sole and absolute discretion whether to authorize any proposed use of state land.

## Hearing Process

The enforcement hearing is an informal administrative hearing before the Commission. The Commissioners are the Lieutenant Governor, the State Controller, and the Director of the Department of Finance. The Commissioners or their designated alternates preside over the hearings as the hearing officers. A copy of the regulations governing Commission enforcement hearings is included with this Notice for your reference.

**If you do not respond to this Notice by the deadline specified above,** the scheduled meeting will proceed. If the exact address and start time of the enforcement hearing is not specified above, you will be notified at least ten (10) days prior to the meeting. The Commission Enforcement Staff will present its case to the Commissioners. If the Commissioners find the evidence supports a ruling against you, the Commissioners may adopt a ruling, impose a penalty, and issue an order against you. You will be provided with a written copy of the decision.

**You may resolve this matter informally without the need for a hearing and the associated penalties.** If you respond to the contact person identified below before the deadline and state that you wish to resolve the matter, Commission staff may be able to postpone or dismiss this entire action. If you act promptly to either bring the structure under lease or remove it, you will minimize any potential fines and may have the entire proceeding dismissed. You are encouraged to discuss your options with Commission staff.

**If you dispute the allegations, contact the Commission Enforcement Staff identified below before [date].** The hearing date above will be postponed so that you can submit information in your defense. The Commission Enforcement Staff will prepare a statement of position which is a more detailed analysis of the information enclosed with this Notice. You will receive the statement of position between 30 and 180 days of receiving this Notice.

**Once you receive the statement of position from the Enforcement Staff, you have forty-five (45) days to respond.** The statement of position will specify the exact deadline. You may submit any evidence or argument that disproves the allegations, relates to whether you are liable for maintaining unauthorized structures on state land, or might reduce the penalties associated therewith. The enclosed Statement of Defense form is designed to help you focus your evidence and arguments toward the relevant issues. You may use a separate paper and

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enclose any other evidence, but you are strongly advised to respond to each section in the Statement of Defense form. The summary of allegations in this Notice is designed to help you begin preparing your defense. You must submit all evidence and argument in your defense by the date your Statement of Defense is due. Evidence submitted after the deadline may be excluded from consideration.

–The Commission Enforcement Staff may prepare a response to your submitted argument and evidence. This response document is optional. If the Enforcement Staff prepares a response, the response may include new information or evidence limited in scope to responding to your arguments and evidence. Otherwise, the Enforcement Staff is limited to evidence presented with its statement of position. The Enforcement Staff must submit their response at least forty-five (45) days before the enforcement hearing. You will be provided with this document if it produced.

At least thirty (30) days prior to the enforcement hearing, the Advisory Staff will prepare a proposed decision and order. This document will summarize and analyze the argument and evidence submitted by both sides. The proposed decision and order functions like a tentative ruling in a court case by making proposed findings of fact and recommending a specific penalty and any associated orders. This document will also specify the date and location of your hearing.

Your hearing will occur at a regularly scheduled public Commission meeting. Although the date and general city of the Commission's meetings are available in advance, the Commission's meetings can vary greatly in length and the number of persons attending. Accordingly, the specific venue and start time may be adjusted. If the exact address and start time of the Commission's meeting is not specified in the recommended decision and order, you will be notified at least ten (10) days prior to the meeting. You should be prepared for a 9:00 a.m. start time, and set aside the entire day for the hearing. The Commission may address other business before your enforcement hearing, so you should be prepared to wait until your matter is called.

At the hearing, each side will be limited to presenting the argument and evidence already submitted. Your presentation should focus on the law or facts in controversy. Once each side has concluded their presentations, the Commissioners may ask questions and issue a ruling. The ruling may adopt or modify the proposed decision and order. Once the Commission issues a decision and votes to adopt it, the ruling is final. You may appeal this decision to a civil court of competent jurisdiction within sixty (60) days pursuant to Public Resources Code section 6224(e).

## Obtaining Documents and Evidence

The evidence this Notice refers to is available at the Commission's Sacramento office. You can arrange to review these materials at the Commission's Sacramento office, have copies made at your expense, or both by contacting then Enforcement Staff specified below.

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Documents shall be provided within five (5) days of your request and upon paying all copying costs. Alternately, you may enquire whether the documents are available electronically, including the location on the Commission's website.

**Any documents served after this Notice will be delivered by U.S. mail or similar commercial carrier to the location where your property tax bill is sent unless you specify otherwise.** When you respond to this Notice, you may specify the mailing address and/or provide information for electronic delivery of documents via electronic mail or other means. You are strongly encouraged to provide an electronic mail address as this avoids postal delays and ensures you have more time to respond to the allegations.

## Separation of Function

The Commissioners serve as the decision makers in this matter. The Advisory Staff assists the Commissioners and is composed of the Executive Officer and his or her designees. The Enforcement Staff represents Commission staff before the Commission and is composed of the Chief of the Commission's Land Management Division and his or designees.

**In order to maintain separation of functions, the Enforcement Staff and the Respondent (you) are prohibited from communicating with the Commission, the Commissioner's alternates, or the Advisory Staff regarding any substantive matter in this proceeding.** See section 3007 of the enclosed regulations for more information.

## Contact Information

### Enforcement Staff

Name \_\_\_\_\_

Address \_\_\_\_\_

Phone Number \_\_\_\_\_

Email \_\_\_\_\_

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\_\_\_\_\_ of Commission staff at 916-574-1900. This Notice is intended to inform you of the nature of the possible violation so that you can fill out the enclosed Statement of Defense form and otherwise be prepared for the Commission enforcement proceedings.

**\_\_\_\_\_ THE COMMISSION MAY IMPOSE AN ADMINISTRATIVE PENALTY OF UP TO \$1,000.00 PER DAY OR UP TO 160% OF THE MARKET RENT RATE ON PROPERTIES WHERE ANNUAL RENT WOULD EXCEED \$365,000. THE PENALTY MAY BE IMPOSED AT THE CONCLUSION OF THIS HEARING EVEN IF YOU FAIL TO APPEAR.**

Careful reading and a timely response to these materials is essential to allow you to present your side of the case to the Commission. A copy of the regulations governing Commission enforcement hearings is included for your reference. If you have any questions concerning this Notice, the enclosed Statement of Defense form, the enforcement hearing procedures, or anything else pertinent to this matter, you should contact as quickly as possible, \_\_\_\_\_ of Commission staff at 916-574-1900. Thank you for your cooperation.

## Civil Penalty

\_\_\_\_\_ The Commission may impose a civil penalty of up to one thousand dollars (\$1,000.00) per day that the violation continues. (Public Resources Code, § 6224.3(b)) You may reduce or avoid penalties by promptly removing any unauthorized structures from state land and submitting proof of restoring state land to Commission staff, or by bringing all structures under lease. The Commission reserves discretion whether to authorize any proposed use of state land.

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## Enforcement Hearing

~~\_\_\_\_\_ Your matter will be presented to the Commission as an informal administrative hearing on the date set forth below. The start time of your hearing may vary. You should be present at the meeting start time below, and you should set aside the entire day.~~

~~Failure to timely submit the enclosed Statement of Defense form, along with any supporting documents may impair your ability to present argument to mitigate liability for, or the amount of, any civil penalty to the Commission at the date and time set forth below. The Commission may impose a penalty if you fail to respond or appear at the hearing. (Public Resources Code, § 6224.4(d))~~

Date: \_\_\_\_\_

Location: \_\_\_\_\_

Meeting Start Time: \_\_\_\_\_

## Nature of the Violation

1. Person or persons believed responsible for violation:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Location of ~~s~~State Land and basis for Commission Jurisdiction over the land in question~~determining the boundary of state lands:~~

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Basis for Commission jurisdiction over the land in question~~determining the boundary of State Land:~~

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Description of specific structure(s) in violation:

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5. Duration of the violation (if pertinent and known):

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6. Dates of previous attempts by Commission staff to contact persons believed to be responsible for violation (if pertinent and known):

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7. Summary of pertinent information and documentation currently known to Commission staff with reference to supporting evidence contained in the enforcement file. (You may contact the Commission staff member listed above to arrange review of the file maintained at the file is available at the Commission's Sacramento offices for your review; you should call the above listed Commission staff member to arrange to review the file):

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8. If Commission staff is proposing a modification to the penalty described in Title 2, California Code of Regulations, Section 3014 based on the factors described in Public Resources Code § 6224.3(c), then the facts cited and factors relied on are:

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9. Any other statement or information that Commission staff believes is either pertinent to the alleged violation or important to a full understanding of the alleged violation:

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