

ATTACHMENT C

Notice of Violation and Proposed Administrative  
Civil Penalty 10-25-2017



COUNTY OF HUMBOLDT  
CODE ENFORCEMENT UNIT  
3015 H Street  
Eureka, California 95501  
(707) 476-2429

# NOTICE OF VIOLATION AND PROPOSED ADMINISTRATIVE CIVIL PENALTY

[Humboldt County Code §352-7]

**Address of Affected Property:** 6000 Elk River Road, Eureka, CA 95503

**Assessor's Parcel Number:** 304-211-011

<b>Owner:</b> Werner Weltsch	Sarah Weltsch	Jonathan Weltsch
<u>6451 Elk River Road</u>	<u>6451 Elk River Road</u>	<u>6451 Elk River Road</u>
<u>Eureka, CA 95503</u>	<u>Eureka, CA 95503</u>	<u>Eureka, CA 95503</u>

**NOTICE IS HEREBY GIVEN** that conditions described in “Attachment A – Conditions Constituting a Violation” exist on property situated in the County of Humboldt, State of California, as described in “Attachment B – Legal Description,” which are in violation of state law and/or the Humboldt County Code. Such conditions exist to an extent that constitutes a “violation” pursuant to Humboldt County Code Section 352-3(t).

**YOU ARE HEREBY ORDERED** to **CORRECT** or **OTHERWISE REMEDY** said violation within ten (10) calendar days after service of this Notice of Violation and Proposed Administrative Civil Penalty.

**NOTICE IS FURTHER GIVEN** that, if the required corrective action or actions set forth in “Attachment A – Conditions Constituting a Violation” is not commenced, prosecuted and completed within ten (10) calendar days after service of this Notice of Violation and Proposed Administrative Civil Penalty, a daily administrative penalty of **eight-thousand dollars (\$8,000)** will be imposed for a period of up to ninety (90) calendar days pursuant to Humboldt County Code Section 352-5.

**NOTICE IS FURTHER GIVEN** that each calendar day the violation occurs, continues or exists between the date on which the civil administrative penalty is imposed and the date on which the violation is corrected or otherwise remedied shall constitute a separate violation up to the ninetieth (90<sup>th</sup>) calendar day.

APN: 304-211-011

**NOTICE IS FURTHER GIVEN** that you may file with the Code Enforcement Unit an appeal of the determination that a violation has occurred or exists and/or the amount of the proposed administrative civil penalty within ten (10) calendar days after service of this Notice of Violation and Proposed Administrative Civil Penalty.

**NOTICE IS FURTHER GIVEN** that an appeal of the Code Enforcement Unit's determination that a violation has occurred or exists and/or the amount of the proposed administrative civil penalty must be prepared using the form attached hereto as "Attachment C – Administrative Civil Penalty Appeal Hearing Request Form," and signed under penalty of perjury.

**NOTICE IS FURTHER GIVEN** that, upon receipt of an appeal of the determination that a violation has occurred or exists and/or the amount of the proposed administrative civil penalty, the Code Enforcement Unit shall set the matter for hearing before a County appointed hearing officer and issue a Notice of Administrative Civil Penalty Appeal Hearing as set forth in Humboldt County Code Section 352-9.

**NOTICE IS FURTHER GIVEN** that the date of the Administrative Civil Penalty Appeal Hearing shall be no sooner than fifteen (15) calendar days after the date on which the Notice of Administrative Civil Penalty Appeal Hearing is served.

**NOTICE IS FURTHER GIVEN** that the imposition of the administrative civil penalty shall become final and the Code Enforcement Unit shall acquire jurisdiction to collect the full amount thereof, along with any and all administrative costs and/or attorney's fees associated therewith, as follows:

- Within ten (10) calendar days after service of this Notice of Violation and Proposed Administrative Civil Penalty, if an appeal of the Code Enforcement Unit's determination that a violation has occurred, and/or an appeal of the amount of the administrative civil penalty, is not filed; or
- Within twenty (20) calendar days after service of the Finding of Violation and Order Imposing Administrative Civil Penalty, if a request for judicial review of the Hearing Officer's imposition of the final administrative civil penalty is not filed with the Humboldt County Superior Court as set forth in California Government Code Section 53069.4(b)(1)-(2); or
- Within ten (10) calendar days after service of the Humboldt County Superior Court's decision regarding the hearing officer's imposition of the final administrative civil penalty, if the Court finds in favor of the Code Enforcement Unit.

**NOTICE IS FURTHER GIVEN** that the final administrative civil penalty, along with any and all administrative costs and/or attorney's fees associated therewith, may become a lien against the property on which the violation occurred or exists that has the same force, effect and priority of a judgment lien governed by the provisions of California Code of Civil Procedure Sections 697.310, et seq., and may be extended as provided in California Code of Civil Procedure Sections 683.110, et seq.

**NOTICE IS FURTHER GIVEN** that an additional Notice of Violation and Proposed Administrative Civil Penalty can be served upon you, if the violation occurs, continues or exists after ninety (90) days from the date on which the initial civil administrative penalty is imposed.

**FOR THE HUMBOLDT COUNTY CODE ENFORCEMENT UNIT:**

Signature: Bernadette Arwood

Name: Bernadette Arwood

Title: Code Compliance Officer

Date: October 16, 2017

APN: 304-211-011

## ATTACHMENT A CONDITIONS CONSTITUTING A NUISANCE

County Code	Description	Corrective Action
371-2	Maintaining a Junkyard	a) Contain all debris within 200 square-foot area, and/or b) Contain all debris within an enclosed structure, and/or c) Remove all debris
354-1	Junk and/or Inoperable Vehicles	a) Restore vehicle(s) to operative condition, and/or b) Remove inoperable vehicles, and/or c) Store inoperable vehicles within enclosed structure
331-28	Construction of Building/Structure in Violation of Building, Plumbing and/or Electrical Codes	Apply for and obtain permits
331-14	Grading Without Permits	Apply for and obtain permits
314-61.1	Development in a Streamside Management Area Without a Permit	Apply for and receive permit from the Planning Division

**ATTACHMENT B  
LEGAL DESCRIPTION**

That real property situate in the County of Humboldt, State of California, described as follows:

**PARCEL ONE:**

BEGINNING at a point 404.25 feet West and 495.66 feet South from the Northeast corner of Section 16, Township 4 North, Range 1 West, Humboldt Meridian (6 chains 12½ links West and 7 chains 51 links South per 31 D 391);  
thence South 0 degrees 19 minutes 15 seconds West 34.98 feet (-South 53 links per 31 D 391) to the South line of the parcel of land conveyed by S.F. Pine, by Deed to Thomas Hinch, recorded June 26, 1899 in Book 31 of Deeds, Page 397, Humboldt County Records;  
thence along said South line, North 70 degrees 00 minutes 00 seconds East 670.38 feet to an iron pipe marked L.S. 5996 shown on the Record of Survey for Walt Giacomini filed in Book 68 of Surveys, Page 65;  
thence leaving said line North 20 degrees 00 minutes 00 seconds West 58.00 feet to an iron pipe marked L.S. 5996 as shown on said Record of Survey;  
thence from a tangent bearing North 46 degrees 26 minutes 55 seconds East along a curve concave to the Northwest having a radius of 140.00 feet through a central angle of 46 degrees 26 minutes 55 seconds an arc distance of 113.50 feet to an iron pipe marked L.S. 5996 as shown on said Record of Survey;  
thence tangent to said curve, North 25.00 feet to an iron pipe marked L.S. 5996 as shown on said Record of Survey;  
thence along a tangent curve to the right having a radius of 140.00 feet through a central angle of 40 degrees 00 minutes 00 seconds an arc distance of 97.74 feet to an iron pipe marked L.S. 5996 as shown on said Record of Survey;  
thence tangent to said curve, North 40 degrees 00 minutes 00 seconds East 32.33 feet to a point on the North line of Section 15, Township 4 North, Range 1 West, Humboldt Meridian, that bears South 89 degrees 21 minutes 33 seconds East 300.00 feet from the Northwest corner of Section 15, said point marked by an iron pipe marked L.S. 5996 as shown on said Record of Survey;  
thence along said North line, North 89 degrees 21 minutes 33 seconds West 300.00 feet to the Northwest corner of Section 15;  
thence along the North line of Section 16, North 89 degrees 23 minutes 50 seconds West 404.25 feet;  
thence South 0 degrees 19 minutes 15 seconds West 497.66 feet to the point of beginning.

EXCEPTING therefrom however, an undivided one-half interest in and to all oil, gas, petroleum, naphtha or other hydrocarbon substances and minerals of whatsoever kind and nature in, upon or beneath the property above described, together with the right of entry and all other rights including all rights of way and easements which may be necessary for the development, production and removal of all such substances and the full enjoyment thereof. Said rights having been excepted in the Deed recorded January 19, 1942 in Book 253 of Deeds, Page 490, Humboldt County Records.

See Record of Survey for Walt Giacomini filed in Book 68 of Surveys, Page 65.

**PARCEL TWO:**

All the real property situated in Section 10, Township 4 North, Range 1 West, Humboldt Meridian, in the County of Humboldt, State of California, described as follows:

A non-exclusive easement for ingress, egress, and utilities together with the right to build, maintain, repair and replace a road and being a portion of Parcel "A" and Parcel "C" as shown on the Record of Survey for Walt Giacomini, filed in Book 68 of Surveys, Page 65, and described as follows:

BEGINNING at the Northeast corner of said Parcel "B", said corner marked by an iron pipe marked LS 5996 as shown on said Record of Survey;  
thence along the Southeast line of said Parcel "A", North 40 degrees 00 minutes 00 seconds East 218.92 feet;  
thence leaving said Southeast line, North 52 degrees 54 minutes 27 seconds East 50.00 feet to West line of Elk River Road as described in the Easement Deed granted to the County of Humboldt by as Instrument No. 1994-21415-6, Humboldt County Records;  
thence along said West line of Elk River Road, North 37 degrees 05 minutes 33 seconds West 11.46 feet to the Southeast line of said Parcel "A";

thence continuing along said West line of Elk River Road, North 37 degrees 05 minutes 33 seconds West 41.04 feet;  
thence along a line parallel with and 40.00 feet distant to said Southeast line of Parcel "A", South 40 degrees 00 minutes 00 seconds West 50.00 feet;  
thence South 50 degrees 00 minutes 00 seconds East 15.00 feet;  
thence along a line parallel with and 25.00 feet distant to said Southeast line of Parcel "A", South 40 degrees 00 minutes 00 seconds West 249.89 feet to the North line of said Parcel "B";  
thence along said North line, South 89 degrees 21 minutes 33 seconds East 32.33 feet to the point of beginning.

**ATTACHMENT C**  
**ADMINISTRATIVE CIVIL PENALTY APPEAL HEARING**  
**REQUEST FORM**

**Address of Affected Property:** \_\_\_\_\_

**Assessor's Parcel Number:** \_\_\_\_\_

**To:** Humboldt County Code Enforcement Unit  
3015 H Street  
Eureka California, 95501

Pursuant to Humboldt County Code Section 352-9, I am requesting a hearing to contest the Humboldt County Code Enforcement Unit's determination that a violation has occurred or exists on the above-referenced property and/or the amount of the proposed administrative civil penalty.

[Brief statement setting forth the interest that the requesting party has in the Code Enforcement Unit's determination that a violation has occurred or exists on the affected property]: \_\_\_\_\_

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

[Brief statement of the material facts that the requesting party claims support the contention that a violation has not occurred, and/or does not exist, on the affected property, if applicable]: \_\_\_\_\_

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

[Brief statement of the material facts that the requesting party claims support the contention that the amount of the proposed administrative civil penalty is inappropriate under the circumstances, if applicable]: \_\_\_\_\_

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



[Address at which the requesting party agrees to accept service of any additional notices or documents relating to the Code Enforcement Unit's determination that a violation has occurred or exists on the affected property and/or the amount of the proposed administrative penalty]:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

I hereby declare under the penalty of perjury, under the laws of the State of California, that the foregoing is true and correct to the best of my knowledge.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

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

**PROOF OF SERVICE**

STATE OF CALIFORNIA )

) ss

COUNTY OF HUMBOLDT )

I, LACY MITCHELL, say:

I am a citizen of the United States, over 18 years of age, a resident of the County of Humboldt, State of California, and not a party to the within action; that my business address is Humboldt County Planning and Building; 3015 H Street, Eureka, CA 95503; that on October 25, 2017, I served a true copy of **NOTICE TO ABATE NUISANCE; NOTICE OF VIOLATION AND PROPOSED ADMINISTRATIVE CIVIL PENALTY;**

\_\_\_\_\_ By placing a true copy thereof enclosed in a sealed envelope and depositing the envelope at my place of business for same-day collection and mailing with the United States mail, following our ordinary business practices with which I am readily familiar, addressed as set forth below:

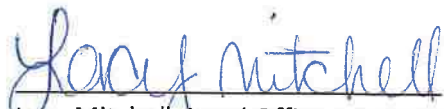
XX by placing a true copy of the aforementioned document in a sealed envelope individually addressed to each of the parties and caused each such envelope to be deposited with the U.S Postal Service and/or picked up by an authorized representative, on that same day with fees fully prepaid at Eureka, California, in the ordinary course of business as set forth below with return receipt requested: (First Class & Certified Mail)

Werner Weltsch  
Sarah Weltsch  
Jonathan Weltsch  
6451 Elk River Road  
Eureka, CA 95503

\_\_\_\_\_ by personally posting a copy thereof on the premises located at:

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

Executed on the 25th day of October, 2017 in the City of Eureka, County of Humboldt, State of California.

  
Lacy Mitchell, Legal Office Assistant

PROOF OF SERVICE

STATE OF CALIFORNIA    )  
  ) ss.  
COUNTY OF HUMBOLDT )

I, BERNADETTE ARWOOD, say:

I am a citizen of the United States, over 18 years of age, a resident of the County of Humboldt, State of California, and not a party to the within action; that my business address is Humboldt County Courthouse; 825 Fifth Street, Eureka, California; that on October 20, 2017, I served a true copy of **NOTICE OF VIOLATION AND PROPOSED ADMINISTRATIVE CIVIL PENALTY.**

\_\_\_\_\_ by placing a true copy of the aforementioned document in a sealed envelope individually addressed to each of the parties and caused each such envelope to be deposited with the U.S. Postal Service and/or picked up by an authorized representative, on that same day with fees fully prepaid at Eureka, California, in the ordinary course of business as set forth below: (First Class & Certified Mail)

\_\_\_\_\_ by personally hand delivering a true copy thereof to the occupant who resides at the premises located at:

by personally posting a true copy thereof on the premises located at:

**6000 Elk River Rd  
Eureka, CA 95503**

\_\_\_\_\_ by placing a true copy thereof in the designated place at Court Operations to the attorney/parties named below:

\_\_\_\_\_ by placing a true copy in the County's Mailroom designated to the attorney named below:

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

Executed on this 20<sup>th</sup> day of October, 2017, in the City of Eureka, County of Humboldt, State of California.

  
\_\_\_\_\_  
Bernadette Arwood, Code Compliance Officer

WELTSCH, Werner & Sarah & Jonathan