

CERTIFIED MAIL RETURN RECEIPT REQUESTED

November 21, 2013

Mr. Larry J. Gutierrez
(Address withheld)
Richmond, California 94806

Re: Amateur License KG6ZDL
Warning Notice
EB-FIELDNER-13-00012210

Mr. Gutierrez:

Since January of 2013, the Commission has received multiple notifications from the Official Observer (OO) program that you have been operating outside of your station class, in the so-called "freeband." Indeed, according to the OOs, you have been sent several OO Advisories explaining that you were not authorized to be operating in that band, but you have continued to do so. Since you have continued to operate out of band, the OOs contacted the Commission and asked us to remind you that your continued operation outside the scope of your station class constitutes a violation of our rules. Operation in the so-called "freeband" is prohibited.

Operation of radio transmitting equipment outside of authorized frequencies is a violation of Section 301 of the Communications Act of 1934, as amended,¹ and may subject the responsible parties to substantial monetary forfeitures,² *in rem* arrest action against the offending radio equipment, and criminal sanctions including imprisonment.³ Because unlicensed operation creates a danger of interference to important radio communications services and may subject the operator to severe penalties, this warning emphasizes the importance of complying strictly with these legal requirements.

UNAUTHORIZED OPERATION OF THIS RADIO STATION MUST CEASE IMMEDIATELY.

You have ten (10) days from the date of receipt of this warning to respond to this office. The response must contain a statement of the specific action(s) taken to come into compliance with the Commission's rules and should include a time line for completion of pending corrective action(s). **You are directed to support your response with a signed and dated affidavit or declaration under penalty of perjury, verifying the truth and accuracy of the information submitted in your response.** Your response should be

¹ 47 U.S.C. § 301.

² Fines normally range from \$7,500 to \$10,000.

³ See §§ 401, 501, 503, 510.

sent to the following address: 1270 Fairfield Road, Gettysburg, Pennsylvania 17325 and reference the listed case number.

In an inquiry of this type we are required to notify you that under the Privacy Act of 1974, 5 U.S.C. § 552a(e)(3), the Commission's staff will use all relevant information before it, including information you disclose in your reply, to determine what, if any, enforcement action is warranted in this matter.

Sincerely,

Laura L. Smith, Esq.
Special Counsel

Cc: San Francisco Field Office
Western Regional Director