

STATE OF CALIFORNIA  
LEGAL DEPARTMENT

San Francisco, March 12, 1941

Honorable Harry B. Riley  
State Controller  
Sacramento, California

Attention: Mr. Volney Van Dyke  
Asst. Redemption Tax Supervisor

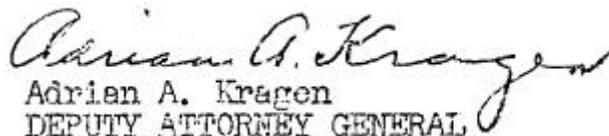
Dear Sir:

I have your letter of March 6, 1941, relative to the removal of timber or mineral from tax dedeed land during the time the property is under an installment plan of redemption and before complete redemption is made.

It is my opinion that a person operating under an installment payment plan is not entitled to remove timber or minerals from the tax dedeed land until the complete redemption is made. Section 4223 of the Revenue and Taxation Code provides that payments under this article are not a redemption or partial redemption and do not affect the basic interest in the real estate. Under the cases decided by our Appellate Courts, the interest of the State is that of absolute owner subject to the right of redemption provided by law.

One of the duties of the Controller is to prevent waste or injury to the property and to prosecute proceedings for that purpose. The removal of timber or minerals from tax dedeed lands by one who is not, at the time, owner of said land is waste. I believe it would be proper for the Controller to enjoin such action on the part of a person who is in possession of the property under an installment plan of redemption.

Yours very truly,

  
Adrian A. Kragen  
DEPUTY ATTORNEY GENERAL

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