



DEPARTMENT OF FORESTRY AND FIRE PROTECTION

Willow Creek Resource Management
 P.O. Box 513
 Salyer, CA 95563
 (530) 629-3242
 Website: www.fire.ca.gov



October 27th, 2014

DOMINIC GABRIEL
 P O BOX 2249
 MCKINLEYVILLE, CA 95519

NOTICE OF VIOLATION OF FOREST PRACTICE LAWS

Section 4604 of the Public Resources Code (PRC) requires the department to inspect timber operations for compliance with the Forest Practice Act and rules of the Board of Forestry and Fire Protection. Violations may be cause for prosecution as a misdemeanor (Public Resources Code 4601), action against a Timber Operator License (PRC 4573 and 4576), injunction action (PRC 4605 and 4606), or a combination of the foregoing actions. Civil penalties may also be imposed (see PRC 4601.1). The following letter details code sections violated, mitigations required and date by which all work must be completed.

Harvest Document: 1-14NON-019-HUM
 Violator: **Dominic Gabriel**
 Inspection Date: September 29, 2014
 Inspection Type: Post-harvest
 Inspection Number: 1
 Person Contacted: DOMINIC GABRIEL

Violation of PRC 4581 Necessity of a Timber Harvest Plan

Rule: No person shall conduct timber operations unless a timber harvest plan prepared by the registered professional forester has been submitted for such operations to the department pursuant to this article. Such plan shall be required in addition to the license required in section 4571.

Violation: Dominic Gabriel conducted timber operations by removing trees for the purpose of growing marijuana on property identified by Humboldt County Assessor Parcel #522-031-007, without a timber harvest plan.

Correction or Mitigation: This violation is non-correctable. If additional timber operations are needed to continue or complete your timberland conversion project an applicable operational document is required from the California Department of Forestry and Fire Protection.

Comments: Timber Operations is defined by PRC4527

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(a) (1) "Timber operations" means the cutting or removal, or both, of timber or other solid wood forest products, including Christmas trees, from timberlands for commercial purposes, together with all the incidental work, including, but not limited to, construction and maintenance of roads, fuel breaks, firebreaks, stream crossings, landings, skid trails, and beds for the falling of trees, fire hazard abatement, and site preparation that involves disturbance of soil or burning of vegetation following timber harvesting activities conducted after January 1, 1988, but excluding preparatory work such as tree marking, surveying, or road flagging.

(2) "Commercial purposes" includes (A) the cutting or removal of trees that are processed into logs, lumber, or other wood products and offered for sale, barter, exchange, or trade, or (B) the cutting or removal of trees or other forest products during the conversion of timberlands to land uses other than the growing of timber that are subject to the provisions of Section 4621, including, but not limited to, residential or commercial developments, production of other agricultural crops, recreational developments, ski developments, water development projects, and transportation projects.

Clearing timberland for the purpose of growing marijuana meets the definition of a commercial purpose.

Violation of PRC 4571(a) Necessity of License

Rule: No person shall engage in timber operations until he/she has obtained a license from the board

Violation: Dominic Gabriel conducted timber operations without a license by removing trees for the purpose of growing marijuana on property identified by Humboldt County Assessor Parcel #522-031-007.

Correction or Mitigation: This violation is non-correctable. If additional timber operations are needed to complete your timberland conversion project a timber operator's license issued by the State of California is required to do the work.

Comments: CAL FIRE Timber Operators licensing was contacted and it was determined that Dominic Gabriel does not possess nor has possessed a valid timber operator's license issued by the State of California.

Violation of 14CCR 1103.1(a) Prohibited Activity - Conversion Activities without Conversion Permit

Rule: No timber operations or other conversion activities shall be conducted on timberland which is proposed to be converted to a use other than the growing of timber unless a conversion permit has been issued by the Director or the Board upon appeal and the permit has been recorded in compliance with 14 CCR [1106.3](a).

Violation: Dominic Gabriel conducted timber operations or other conversion activities without a conversion permit issued by the Director or Board of Forestry and Fire Protection.

Correction or Mitigation: This violation is non-correctable. If additional timber operations are needed to continue or complete your timberland conversion project an applicable operational document is required from the California Department of Forestry and Fire Protection.

Comment: For any subsequent timber harvesting or conversion activities, the timberland owner shall obtain a conversion permit and/or a timber harvesting plan, or a conversion exemption under 14 CCF 1104.1 from the Department prior to further timber operations or conversion activities. Further legal action may be pursued on this violation.

Violation of 14CCR 923.5(b) Landing Construction

Rule: On slopes greater than 50%, fills greater than 4 ft. in vertical height at the outside shoulder of the landing shall be: 1) constructed on a bench that is excavated at the proposed toe of the fill and is wide enough to compact the first lift, and 2) compacted in approximately 1 ft. lift from the toe to the finished grade.

Violation: Dominic Gabriel placed fill material on slopes over 50% in steepness without establishment of a bench. Furthermore, fill failure has already begun indicating the fill was placed on the steep slope without compaction specified in 14CCR 923.5(b). Mr. Gabriel was advised of the requirement of this rule during the September 29th, 2014 site visit.

Correction or Mitigation: All fill material placed on slopes greater than 50% shall be relocated to a stable location by January 1st, 2015. This violation is correctable.

Comments: By placing uncompacted fill on slopes over 50% in steepness without a bench at the toe of the fill, Dominic Gabriel is in violation of 14CCR 923.5(b). The likely failure of the fill placed on the steep slope, unless relocated as specified in the Correct Mitigation described, may result in damage to the neighboring property located south and downslope from Conversion Area #2.

Violation of 14CCR 923.5(c) – Waste organic material shall not be buried in landing fills

Rule: Waste organic material, such as uprooted stumps cull logs, accumulations of limbs and branches, or unmerchantable trees, shall not be buried in landing fills.

Violation: While conducting timber operations under this THP, Dominic Gabriel buried waste organic material in fill material. Evidence of this violation consisted of waste organic material partially buried in fill material. Mr. Gabriel was advised of the requirement of this rule during the September 29th, 2014 site visit.


Correction or Mitigation: All buried and partially buried organic material shall be removed from any landing fills by January 1st, 2015.

COMMENTS: An inspection of property owned by Elizabeth Lux was conducted on September 29th, 2014 at the invitation of Dominic Gabriel who claimed to be the husband of Elizabeth Lux. Mr. Gabriel was on site at the time of the inspection where he explained the situation of the property including an illegal conversion of timberland. The property is located approximately 7 miles west of Willow Creek, California and 3 miles north of Berry Summit on Highway 299. The property is identified as Humboldt County Assessor Parcel Number (APN) 522-031-007. Humboldt County Assessor records were researched and it was determined that Elizabeth Lux was the property owner. During the inspection, an area approximately 2 acres in size was observed to have been cleared of Douglas-fir and tanoak trees identified in 14CCR 895.1 as Commercial Species. This conversion of timberland was conducted without a Timber Harvest Plan, Timber Conversion Permit, or a valid timber operator's license. A majority of the area cleared was to facilitate earthwork and the establishment of a marijuana garden. The cleared vegetation in the form of slash, logs, and woody debris was observed on all sides of the cleared area. Uncompacted fill material was placed on slopes greater than 50% without proper compaction in violation of 14CCR 923.5(b). Slash and woody debris were also buried in the fill material on the west side of the cleared area in violation of 14CCR 923.5(c) as well as below the road located along the lower portion of the cleared area. Portions of fill material have already begun to fail due to buried organic debris and incompetent compaction of fill material. The slash and woody debris left on site increases the fire hazard potential of the property in an area already designated as having a Very

High Fire Hazard Severity Rating. During the inspection Mr. Gabriel was cooperative and verbally accepted responsibility for the conversion of timberland and associated timber operations as well as lack of a timber operator's license and lack of a Conversion Permit. In relation to this violation, Elizabeth Lux, the timberland owner, will be issued a Notice of Violation of PRC 4621(a) for not filing an application for a Conversion with the Board of Forestry and Fire Protection. During the inspection photographs were taken of the converted timberland for documentation purposes.

ADDITIONAL ENFORCEMENT OPTIONS INCLUDING CRIMINAL OR CIVIL PENALTIES MAY BE PURSUED.

Any questions can be directed to the CAL FIRE – Willow Creek Management Office at the telephone number listed on the first page of this Notice of Violation.



signature

Kurt McCray RPF# 2618
Forester II
CAL FIRE – Willow Creek

For Tom Hein, Unit Chief
California Dept. of Forestry and Fire Protection
Humboldt-Del Norte Unit

Cc:
CAL FIRE Santa Rosa
CAL FIRE Humboldt-Del Norte Unit
CAL FIRE Willow Creek
Timberland Owner: Lux
On-site Contact: Gabriel

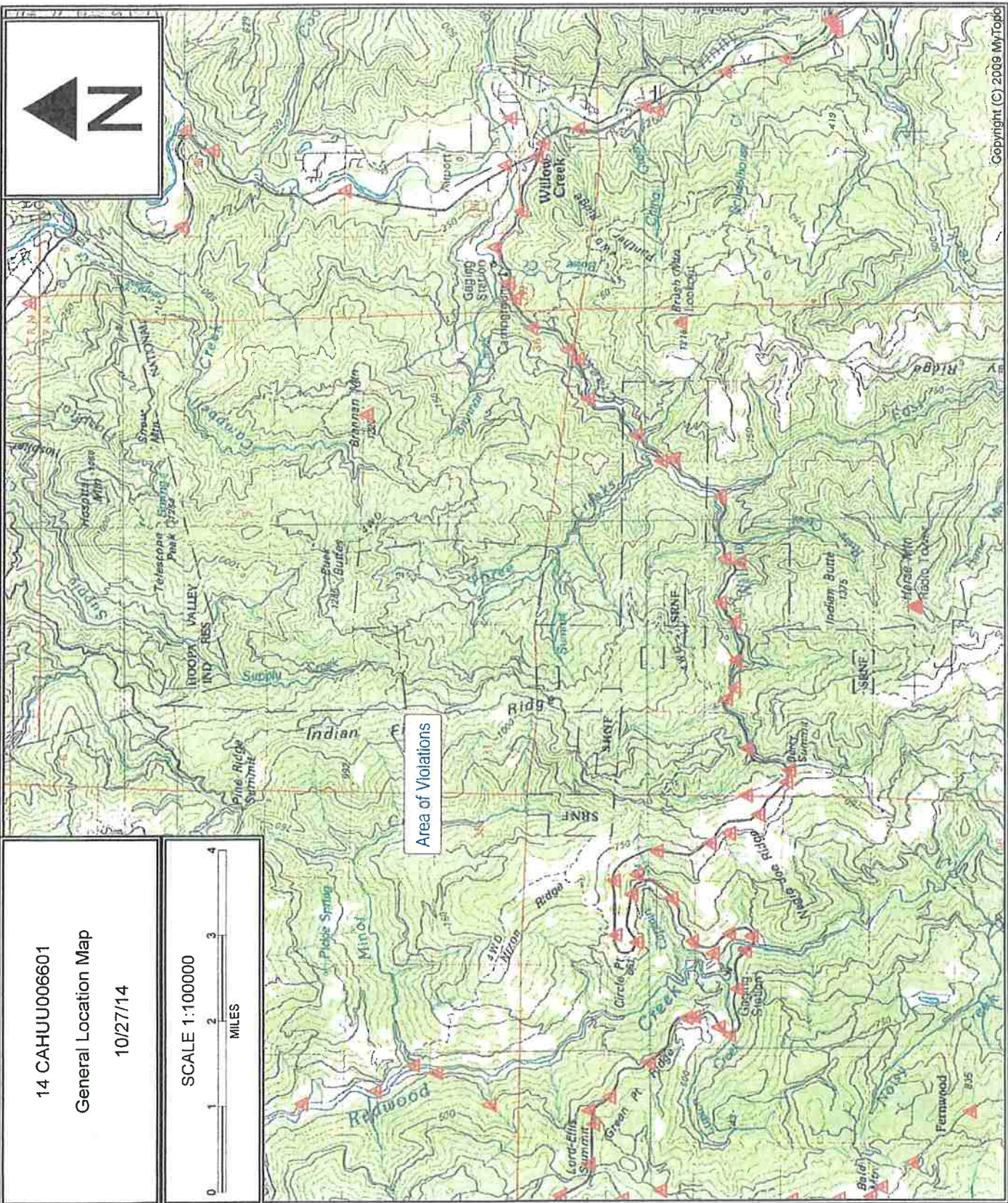
Attachments: Map
 Photographs

14 CAHUU006601
General Location Map
10/27/14

SCALE 1:100000
0 1 2 3 4
MILES



Area of Violations





Photograph IMG0112: Upper slope view of Conversion Area looking west.



Photograph IMG0113: View of logs from clearing of trees within Conversion Area.



Photograph IMGP0116: View of failing fill material placed on slopes greater than 50%.



Photograph IMGP0117: View of organic debris buried in fill material.



DEPARTMENT OF FORESTRY AND FIRE PROTECTION

P.O. Box 944246
SACRAMENTO, CA 94244-2460
(530) 524-8151-5296
Website: www.fire.ca.gov



R-14

February 25, 2015

Dominic Gabriel
P.O. Box 2249
McKinleyville, CA 95519

Dear Mr. Gabriel:

The Department has received your payment for settlement of CP-14-09. Enclosed is a copy of the fully executed settlement agreement for your records.

If you have any questions please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Cary Japp".

for

Cary Japp
Division Chief
Forest Practice Enforcement

Enclosures

**BEFORE THE DIRECTOR
OF THE DEPARTMENT OF FORESTRY AND FIRE PROTECTION
FOR THE STATE OF CALIFORNIA**

**In the Matter of the Complaint for
Administrative Civil Penalties Against:**

**Dominic Gabriel
P.O. Box 2249
McKinleyville, CA. 95519**

Respondent.

Docket No.: CP-14-09

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into by the Director of Forestry and Fire Protection and the California Department of Forestry and Fire Protection (collectively, “Department”), and Respondent Dominic Gabriel (“Respondent”), as follows.

1. The Department is prepared to serve a Complaint and Proposed Order (“Complaint”) upon Respondent. Said complaint is referenced as Department Docket No. CP-14-09 (“Case No. CP-14-09”) (attached as Exhibit A). The facts alleged in paragraphs 13 through 21 of the Complaint are incorporated herein by reference.

2. The parties entered into settlement negotiations, and the Department and Respondent agreed to terms of settlement. This Agreement sets forth the terms of settlement agreed to between the Department and Respondent.

3. Respondent hereby enters into this Agreement with the Department in lieu of a hearing on the allegations contained in Case No. CP-14-09. This Agreement is made and entered into by and on behalf of CAL FIRE only. Nothing in this Agreement is intended or shall be construed to preclude any other state, local, or federal agency, board, department, office,

DEPARTMENT OF FORESTRY AND FIRE PROTECTION
P.O. Box 513
Salyer, CA 95563
(530) 629-3242

Date: June 8th, 2015

ELIZABETH LUX
P O BOX 2249
MCKINLEYVILLE, CA 95519

NOTICE OF INSPECTION

Harvest Document: 1-14NON-019-HUM
Inspection Date: May 11, 2015
Inspection Number: 3
On-site Contact: DOMINIC GABRIEL

Section 4604 of the Public Resources Code (PRC) requires the Department to inspect timber operations for compliance with the Forest Practice Act and rules of the Board of Forestry.

An on-site inspection was conducted on Harvest Document 1-14NON-019-HUM on May 11, 2015.

OTHER INSPECTION: This inspection report is to document the completion of remediation work specified by a settlement agreement between Mr. Dominic Gabriel and CAL FIRE. All work has been completed under the remediation work agreed by CAL FIRE and Mr. Gabriel. No further obligations exist related to the remediation work agreed between CAL FIRE and Mr. Gabriel. This letter also serves to remind the landowner and his representatives that an approved valid harvest document is required prior to commencement of any commercial timber operations.



signature

Kurt McCray, RPF #2618
Forester II

cc:
CAL FIRE Santa Rosa
CAL FIRE Fortuna
CAL FIRE Willow Creek
CAL FIRE: C. Japp
Timberland Owner: Lux
On-site Contact: D. Gabriel