



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Region 1 - Northern  
619 2<sup>nd</sup> Street  
Eureka, CA 95501  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



September 24, 2020

**Certified Mail:**

# 7017 1450 0001 7871 9060

Altan Chimedkhuyag  
Denali Property LLC  
4230 Fitzwilliam Street  
Dublin, CA 94568

Subject: Notice of Violation of Fish and Game Code Sections 1602, 5650, and 5652 in  
Conjunction with Cannabis Production

Dear Altan Chimedkhuyag:

On September 18, 2020, Department of Fish and Wildlife (Department) staff visited your properties, Assessor Parcel Number (APN) 210-250-008 (Property) located on unnamed tributaries to Butte Creek and the Van Duzen River. During the visit, staff observed activities that are in violation of Fish and Game Code sections 1602, 5650, and 5652. Staff observed active cannabis cultivation in conjunction with these activities.

Fish and Game Code (FGC) section 1602 requires a person to submit a written notification to the Department before: 1) substantially diverting or obstructing the natural flow of a river, stream, or lake; 2) substantially changing the bed, channel, or bank of a river, stream, or lake; 3) using any material from the bed, channel, or bank of a river, stream, or lake; and/or 4) depositing or disposing of debris, waste, material containing crumbled, flaked, or ground pavement where it may pass into a river, stream, or lake. Hence, any person who engages in an activity subject to FGC section 1602 without first notifying the Department violates section 1602.

Sections 5650 and 5652 make it unlawful to pollute waters of the state. FGC section 5650 makes it unlawful to deposit in, permit to pass into, or place where it can pass into waters of the state any substance or material deleterious to fish, plant life, mammals, or bird life, including, but not limited to gasoline and oil, as well as sediment. FGC section 5652 makes it unlawful to deposit in, permit to pass into, or place where it can pass into waters of the state, or to abandon, dispose of, or throw away, within 150 feet of the high water mark of the waters of the state, any garbage, refuse, or waste, among other materials.

In the Department's view, notification under FGC section 1602 was required for activities that affected unnamed tributaries to Butte Creek. However, the

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Department was unable to locate a notification for these activities. The Department also observed activities in violation of FGC sections 5650 and 5652. The locations and descriptions of these activities are provided below (Table 1).

**Table 1.** Summary and description of Fish and Game Code (FGC) violations documented during CDFW staff visit on September 18, 2020.

Violation #	FGC Violation	Latitude/Longitude	Description
1 (POD1-V)	1602	40.4636, -123.6792	Substantial alteration of the natural flow of a Class III stream by water diversion using a plastic structure and poly pipe
2 (POD2-V)	1602	40.4639, -123.6792	Substantial alteration of the natural flow of a Class III stream by water diversion using a plastic structure and poly pipe
3 (STX1-V)	1602	40.4604, -123.6758	Substantial alteration of the bed, bank, and channel from an existing 18" diameter culvert at a road stream crossing with substantial gully and erosion
4 (STX2-V)	1602	40.4608, -123.6787	Substantial alteration of the bed, bank, and channel by constructed a temporary road through two stream channels to make a ford crossing
5 (PP1-V)	5650/5652	40.4603, -123.6748	Deposition of graded dirt and debris at the top of bank and in the channel of a Class III stream
6 (PP2-V)	5650	40.4604, -123.6758	Deposition of potting soil (> 10 cubic yards) within the channel of a Class III stream
7 (PP3-V)	5652	40.4608, -123.6787	Deposition of pallets within the channel of a Class III stream/wet area for use of driving through a wet stream channel

A person who violates FGC sections 1602, 5650, and 5652 in conjunction with the cultivation or production of cannabis is subject to significant penalties or fines. Specifically, the Department may impose civil penalties administratively against any person found by the Department to have violated these FGC sections in connection with the production or cultivation of cannabis following a complaint and, if requested, a hearing.

The Department may request a maximum civil penalty of \$8,000 for each violation of FGC section 1602, and \$20,000 for each violation of FGC section 5650 or 5652. Each day the violation occurs or continues to occur constitutes a separate violation. (Fish & G. Code, § 12025, subds. (b)(1)(A), (2); (e).) Also, the District Attorney or the Attorney General may enforce a violation of FGC section 1602 and FGC section 5650 civilly. Specifically, under FGC sections 1615 and 5650.1, a person who violates FGC section

1602 or 5650 is subject to a maximum civil penalty of \$25,000 for each violation. The District Attorney or the Attorney General may also enforce a violation of FGC sections 1602, 5650, and 5652 criminally. Under FGC section 12000, each violation is a misdemeanor.

Be advised that absent provisions intended to protect patients and qualified caregivers, commercial cannabis cultivation without a state license is illegal. (Bus. & Prof. Code, § 26032.) The California Department of Food and Agriculture (CDFA) is the state licensing authority for commercial cannabis cultivation. CDFA and the Department are members of a multi-agency task force created to protect the state's resources from the adverse impact of cannabis cultivation. (Fish & G. Code, § 12029.) **Pursuant to state law, failure to address these violations may affect your ability to obtain a commercial cannabis cultivation license or license renewal from CDFA. (Bus. & Prof. Code, §§ 26057, 26060.1.)**

As a first step to address this matter, the Department requests you contact the assigned Senior Environmental Scientist David Manthorne at [david.manthorne@wildlife.ca.gov](mailto:david.manthorne@wildlife.ca.gov) within 14 days of the date of this letter. CDFW personnel may propose certain actions to protect fish and wildlife resources that have been or could be affected by the activities described above, and may ask you to submit a written notification and fee for the activities. While the Department, District Attorney, or Attorney General may still decide to initiate an enforcement action against you if they determine these activities are in violation of FGC section 1602 and 5650, we encourage you to respond to this notice so that we may better assess the activity and limit any damage to resources.

The Department appreciates your cooperation.

Sincerely,

 Recoverable Signature

X *D. Willson*

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Lt. D. Willson

Law Enforcement Division

Signed by: 31ed880b-49a7-4150-942e-df2dbc6f5c00

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