



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Region 1 - Northern
619 Second Street
Eureka, California 95501
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www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



March 5, 2021

Certified Mail:

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Vincent Donchev
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Chicago, IL 60640
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Subject: Notice of Violation of Fish and Game Code Sections 1602 and 5650 in
Conjunction with Cannabis Cultivation and noncompliance with Lake and
Streambed Alteration Agreement 1600-2017-0160.

Dear Vincent Donchev:

On December 7, 2020, Department of Fish and Wildlife (Department) staff visited your property at Assessor's Parcel Number (APN) 217-271-002-000 (Property) within the Larabee Creek watershed, County of Humboldt, State of California. During the visit, staff observed activities that are in violation of Fish and Game Code sections 1602 and 5650. Staff also documented cannabis cultivation in conjunction with these activities. The purpose of this letter is to describe the violations, request next steps and provide you an opportunity to correct them voluntarily.

On August 23, 2017, the Department issued you a Streambed Alteration Agreement No. 1600-2017-0160-R1 (Agreement) for work on seven projects including one water diversion, five stream crossings and upgrading a pond spillway. According to Department records, the status of the Agreement is active but no communication had been received regarding the Agreement since the effective date.

In the Department's view, work conducted on five stream crossings and one water diversion were not conducted in accordance with the measures to protect fish and wildlife resources and are in violation of FGC Section 1602 due to failures to comply the Agreement. The location and description of these activities and a list of the measures violated in the Agreement are provided below (Table 1).

Conserving California's Wildlife Since 1870

Table 1. Summary of Fish and Game Code (FGC) violations documented during CDFW staff visit on December 7, 2020 at Humboldt County Assessor's Parcel Number 217-271-002-000.

Violation #	FGC Section	Violation description	Latitude*	Longitude*
1	1602	Crossing 3: culvert not set to grade, road drainage hydrologically connected. Failure to comply with the following measures to protect fish and wildlife resources: 2.18 Runoff from Steep Areas, 2.19 Culvert Installation, 2.22 Project Inspection, and 3.4 Project Inspection Report.	40.28354	-123.63792
2	1602	Crossing 5: insufficient rock armoring and erosion control. Failure to comply with the following measures to protect fish and wildlife resources: 2.18 Runoff from Steep Areas, 2.19.4 Culvert inlet and outlet armor, 2.20 Rock Armor Placement, 2.22 Project Inspection, and 3.4 Project Inspection Report.	40.28064	-123.63617
3	1602	Crossing 4: no rock armoring at inlet or outlet. Failure to comply with the following measures to protect fish and wildlife resources: 2.19.4 Culvert inlet and outlet armor, 2.20 Rock Armor Placement, 2.22 Project Inspection, and 3.4 Project Inspection Report.	40.28109	-123.63584
4	5650	Crossing 2: no treatment to road approach or inboard ditch. Water pollution from hydrologically connected road surface resulting in the deposition of sediment (material deleterious to fish) into waters of the state and potential for future delivery.	40.28301	-123.63866
5	1602	Crossing 1: culvert undersized, misaligned and not to grade; irrigation line abandoned in stream at outlet; insufficient rock armoring and erosion control. Failure to complete project as proposed and comply with the following measures to protect fish and wildlife resources: 2.14 Stream Protection, 2.18 Runoff from Steep Areas, 2.19 Culvert Installation, 2.20 Rock Armor Placement, 2.22 Project Inspection, and 3.4 Project Inspection Report.	40.28017	-123.63766
6	5650	Crossing 1 - Water pollution from unstable and unarmored fill materials after culvert replacement resulting in the deposition of sediment (material deleterious to fish) into waters of the state and potential for future delivery.	40.28017	-123.63766
7	1602	Lake POD - Failure to comply with the following measures to protect fish and wildlife resources: 2.4 Measurement of Diverted Flow, 2.5 Water Management Plan, 2.6.2 Intake Screening, 2.11 Bullfrog Management, 3.1 Measurement of Diverted Flow Report, 3.3 Bullfrog Monitoring report.	40.28353	-123.63636

* Units = decimal degrees. Datum = WGS 84. ^ Location is same as above violation.

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.

The Department has determined that two activities on the Property, associated with LSAA non-compliance, are violations of FGC Section 5650 and affected unnamed tributaries to Larabee Creek. The locations and descriptions of these activities are provided above (Table 1).

A person who violates FGC sections 1602 or 5650 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

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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. 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 Section 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 or 5650 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.)**

To address this matter, the Department requests that you contact Senior Environmental Scientist Specialist Ryan Bourque (see contact information below), within 14 days of receipt of this letter, acknowledging receipt and understanding of the contents found herein. The Department also requests that you correct the violations described above (Table 1) by satisfying the next steps requested and deadlines provided below (Table 2). If the Department does not receive responses to the requested deadlines, the Department may pursue other options, including suspension or revocation of your LSAA, referring the matter to the District Attorney's Office or the Attorney General's Office for civil or criminal prosecution.

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Table 2. Summary of the next steps requested by the Department to resolve the Fish and Game Code (FGC) violations documented on December 7, 2020 at Humboldt County Assessor's Parcel Number 217-271-002-000.

Request #	NOV		Request description	Deadline
	Violation # *			
1	1, 2, 3, 5 & 7		Submit an major amendment for Agreement 1600-2017-0160-R1, including propose treatments to address the violations and fulfill deficiencies with reporting requirements.	4/5/2021
2	4 & 8		1. Implement and maintain interim erosion control measures to minimize sediment discharge through the winter period(s). 2. Include interim erosion control report and final erosion control plan with LSA major amendment submission.	3/19/2021

* Values correspond to those provided in the Violation # column in Table 1.

Information about submitting an amendment for a Lake or Streambed Alteration Agreement can be found at the following website: <https://www.wildlife.ca.gov/conservation/lisa>. Please review information about amendments and fees as appropriate payment is required for resolution of requested item(s) listed above.

If you have any questions regarding this letter, please contact Ryan Bourque at 707-441-2064 or by email at ryan.bourque@wildlife.ca.gov.

The Department appreciates your cooperation and encourages you to respond to this notice to limit further damage to public trust resources.

Sincerely,

 Recoverable Signature

X *D. Willson*

Lt. D. Willson
Law Enforcement Division
Signed by: 98B2C700-FF1F-43F7-A176-8057709D1472

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