



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Region 1 - Northern
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GAVIN NEWSOM, Governor
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October 23, 2023

Certified Mail:

7021 0350 0001 9001 8933

Caleb K. O'Connor
307 Queen City Ave.
Tuscaloosa, AL 35401
artistoconnor@yahoo.com

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

Dear Caleb K. O'Connor:

On October 16, 2023, Department of Fish and Wildlife (Department) staff visited your property at Assessor's Parcel Number (APN) 522-022-015-000 (Property) within the Supply Creek Mill Creek-Trinity River watershed, County of Humboldt, State of California. During the visit, staff observed activities that are in violation of Fish and Game Code sections 1602, 5650, 5652. Staff also 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.

FGC 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 one

activity that affected an unnamed tributary to Supply Creek. However, the Department was unable to locate a notification for this activity. The locations and descriptions of the observed violations are provided below (Table 1).

Table 1. Summary of Fish and Game Code (FGC) violations documented during CDFW staff visit on October 16, 2023 to APN 522-022-015-000, Humboldt County.

Violation #	FGC Section	Latitude*	Longitude*	Violation Description	Map & Photo Label
1	1602	40.987483	-123.74677	Failure to notify for maintenance of a failed stream crossing, used to access cannabis cultivation site(s), resulting in substantial obstruction of natural flow of a stream, substantial change to bed and banks of a stream, and placement of materials into a stream.	SC-1
2	5652	40.989111	-123.74312	Water pollution from the placement and abandonment of diversion debris (e.g., plastic pipe), associated with irrigation of cannabis, into and/or where it can pass into waters of the state.	WS-1
3	5650	40.983532	-123.74792	Water pollution from a hydrologically connected road and graded flat used to access a cannabis cultivation site(s), resulting in the placement of sediment (a material deleterious to fish and wildlife) where it can pass into waters of the state and the potential for future delivery.	PP-1

*Units = decimal degrees. Datum = WGS 84

The Department also observed one violation of FGC Section 5650 and one violation of FGC Section 5652 that affected unnamed tributaries to Supply Creek. The locations and descriptions of these activities are provided above (Table 1).

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 Section 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 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, 5650, or 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 Cannabis Control (DCC) is the state licensing authority for commercial cannabis cultivation. DCC 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 DCC. (Bus. & Prof. Code, §§ 26057, 26060.1.)**

As a first step to address this matter, the Department requests you contact Fish and Senior Environmental Scientist Specialist David Manthorne at david.manthorne@wildlife.ca.gov within 14 days of the date of this letter. The Department 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 these 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 sections 1602, 5650, 5652, 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,



Lt. Brendan Lynch
Department of Fish and Wildlife
Cannabis Enforcement Program

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