



Attachment C
California Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Northern Region
619 Second Street
Eureka, CA 95501
www.wildlife.ca.gov

EDMUND G. BROWN, JR., Governor
CHARLTON H. BONHAM, Director



October 14, 2015

Mr. Javier Tapia
Mr. Kevin Harvey
Mr. Ken Seckora
Rhys Vineyards
11715 Skyline Blvd.
Los Gatos, CA 95033

Subject: Notice of Violation of Fish and Game Code Sections 1602 and 5650

Dear Mr. Tapia, Mr. Harvey, Mr. Seckora:

On September 18, 2015, Department of Fish and Wildlife (Department) Warden Brandon Rose received a complaint of possible illegal activity on the property of the old Clarke Ranch that may be impacting aquatic life in the Ten Mile Creek and the South Fork Eel River watersheds. The old Clarke is located at 6501 Branscomb Rd, Laytonville CA 95454.

On September 22, 2015, Warden Rose visited the above mentioned property and found a significant portion of land being graded with the possible filling of stream channels and the construction of an apparent pond, as well as work on an access road that included fresh fill material in stream beds, banks and channels. Warden Rose contacted Mr. Ken Seckora, the principal of MBC Construction, on the property. Mr. Seckora advised Warden Rose the property belonged to Rhys Vineyards. Rhys Vineyards is owned by Mr. Kevin Harvey and managed by Mr. Javier Tapia. MBC Construction had been contracted by Rhys Vineyards to complete all dirt-work necessary for the installation of an approximate 16 acre vineyard. Mr. Seckora advised the Department had not been notified, and there was not currently, nor had there ever been, a Lake or Streambed Alteration (LSA) Agreement issued by the Department.

On September 29, 2015 Warden Rose, accompanied by California Department of Fish and Wildlife Environmental Scientist Wesley Stokes, North Coast Regional Water Quality Control Board Environmental Scientist Stormer Feiler, State Water Resources Control Board Environmental Scientists Stephanie Ponce and Skyler Anderson, and U.S. Army Corps of Engineers Daniel Breen, met with Mr. Javier Tapia and Mr. Ken Seckora at the old Clarke Ranch and conducted a site inspection. The following activities described below were confirmed at multiple locations and are subject to FGC section 1602:

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- Obstruction of the natural flow of a river, stream, or lake.
- Substantial changes to the bed, bank or channel of a river, stream, or lake.

FGC section 1602 requires: a person to notify 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.

In this case, the Department determined that notification was required because the activities substantially obstructed and/or changed the bed, bank and/or channel of tributaries to Ten Mile Creek and the South Fork Eel River, and deleterious material was deposited where it may pass into waters of the State.

The activity described below is subject to Fish and Game Code Section 5650:

- Unlawful to deposit in, permit to pass into, or place where it can pass into the waters of this state any substance or material deleterious to fish, plant life, mammals, or bird life.

To bring your project into compliance with FGC sections 1602 and 5652, you will need to:

- 1) Using the emergency guidelines of Fish and Game Code Section 1610, immediately remove all fill materials placed within the bed, banks and/or channels of affected streams as a result of recent road work/vineyard development,**
- 2) All bare mineral soil exposed in conjunction with recent road work/vineyard development must be treated with adequate and effective erosion and siltation control measures to prevent sediment and/or silt-laden water from entering waters of the state,**
- 3) Retroactively notify the Department for a LSA Agreement for any stream bed, banks and/or channels that were graded as a result of road work/vineyard development, and the construction of any on-stream ponds.**

You may notify the Department by submitting a complete notification package and notification fee to the Department Eureka office. More information can be found on-line at: <http://www.dfg.ca.gov/habcon/1600/forms.html>.

Be advised, failure to notify the Department and complete an LSA Agreement may result in the Department taking additional enforcement action.

Mr. Tapia, Mr. Harvey, Mr. Seckora

October 10, 2015

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If you have any questions regarding this letter, please contact Warden Brandon Rose at 707-459-1001 or brandon.rose@wildlife.ca.gov or Environmental Scientist Wes Stokes at 707-799-7106 or wesley.stokes@wildlife.ca.gov.

Sincerely,

Warden Brandon Rose
California Department of Fish and Wildlife
Law Enforcement Division

cc:

California Department of Fish and Wildlife
Wes Stokes, Jane Arnold, Lt. Steve White, Laurie Harnsberger
wesley.stokes@wildlife.ca.gov, jane.arnold@wildlife.ca.gov,
steve.white@wildlife.ca.gov, laurie.harnsberger@wildlife.ca.gov

Regional Water Quality Control Board
Stormer Feiler, Scott Gergus
stormer.feiler@waterboards.ca.gov and scott.gergus@waterboards.ca.gov

State Water Resource Control Board
Division of Water Rights Enforcement Unit
Taro Murano, Stephanie Ponce, Skyler Anderson
taro.murano@waterboards.ca.gov, stephanie.ponce@waterboards.ca.gov,
sanderson@waterboards.ca.gov

U.S. Army Corps of Engineers
Regulatory Division, North Branch
Daniel.b.breen@usace.army.mil