



State of California – The Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Bay Delta Region  
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**GAVIN NEWSOM**, Governor  
**CHARLTON H. BONHAM**, Director



**Certified Mail:**

#7016 0750 0001 0397 2721

September 20, 2019

Michael Silva  
PO Box 331  
Cazadero, CA 95421

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

Michael Silva:

California Department of Fish and Wildlife (Department) staff visited your property with no designated street address at the end of Spring Creek Road, Cazadero, CA 95421 (APN 107-140-017, 120 acres) on September 4, 2019. Department staff observed activities that are in violation of California Fish and Game Code. Staff also observed active cannabis cultivation occurring onsite.

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 section 1602 without first notifying the Department violates section 1602.

In the Department's view, notification under FGC section 1602 was required for water diversion, the associated stream modifications, and the installation of culverted stream crossings. However, the Department was unable to locate a Lake or Streambed Alteration Agreement for those activities.

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.

The Department observed trash and deleterious materials placed in and where it may enter waters of the state.

The locations and brief descriptions of identified violation sites is shown in Table 1 below.

<b>Table 1 Alleged Fish and Game Code Violations</b>				
<b>Site ID</b>	<b>Approximate Location*</b>	<b>Description</b>	<b>FGC Section</b>	<b>Violation</b>
A	38.53298 -123.16047	Point of diversion. A lumber constructed impoundment attempting to capture 100% of stream flow into a black poly line.	1602(a)	Substantial diversion of water.
			1602(a)	Substantial modification of the channel.
B	38.53299 -123.16047	Channel modification at an old diversion located 12 feet downstream from the operable POD. A 9-foot wide plastic lined instream dam with dirt and log cribbing was abandoned in place.	5652(a)	Refuse placed in waters of the state.
			1602(a)	Substantial alteration of the stream channel.
C	38.53374 -123.15987	Road Construction. A newly constructed road pushed fill into a stream channel along approximately 50-linear feet of stream. The bank is buried by loose soil	1602(a)	Substantial alteration to bank of the stream channel.
			5650(a)(6)	Deleterious substance placed where it can pass into waters of the state.
D	38.53355 -123.15906	Stream Crossing. Newly installed culvert with poor alignment. The road surface has large drifts and mounds of loose silty sediment along the road. Sediment had entered the channel at both ends of the culvert.	1602(a)	Substantial alteration to the stream channel.
			5650(a)(6)	Deleterious substance placed where it can pass into waters of the state.
E	38.53313 -123.15860	Stream Crossing. Newly installed culvert with poor alignment. The channel upstream of the inlet was over	1602(a)	Substantial alteration to the stream channel.

**Table 1  
Alleged Fish and Game Code Violations**

Site ID	Approximate Location*	Description	FGC Section	Violation	
		excavated. Loose soil from the road construction was entering the channel at both ends of the culvert.	5650(a)(6)	Deleterious substance placed where it can pass into waters of the state.	
F	38.53310 -123.15662	Sediment pollution. Hydrologically connected road surfaces causing concentrated flows to delivery sediment to the stream through a legacy dirt ford crossing.	5650(a)(6)	Deleterious material entering the stream channel.	
G	38.53545 -123.15629	Pollution Source. Human feces, soiled toiled paper, and cannabis plants stalks placed and discarded into the stream channel.	5650(a)(6)	Deleterious substance placed where it can pass into waters of the state.	
			5652(a)	Refuse placed in waters of the state.	
Violation Summary				1602	6
Violation Summary				5650	5
Violation Summary				5652	2
<b>Grand Total</b>				<b>All</b>	<b>13</b>

\*Locations were taken using an Apple iPad Mini 4 internal GPS while using ArcGIS Collector© software, utilizing WGS 84.

A person who violates FGC section 1602, 5650 and/or 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, 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. [FGC section 12025, subds. (b)(1)(A)(B)(C), (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 section 1602 or 5650 is subject to a maximum civil penalty of \$25,000 for each violation. The District Attorney or Attorney General may also enforce a violation of FGC sections 1602 and 5650 criminally. Under FGC section 12000, each violation is a misdemeanor.

As a first step to address this matter, the Department requests you contact Senior Environmental Scientist (Specialist) Timothy Dodson at (707) 944-5513 or via email at [timothy.dodson@wildlife.ca.gov](mailto:timothy.dodson@wildlife.ca.gov) within 14 days of the date of this letter. Mr. Dodson may propose certain actions to protect fish and wildlife resources that have been affected by 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 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,

9/20/2019

X *D. Willson*

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Lieutenant D. Willson  
Law Enforcement Division  
Signed by: Willson, Douglas@Wildlife

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