



State Water Resources Control Board

NOV 07 2022

CERTIFIED MAIL

In Reply Referto:
INV ID 14578

Povang Noutru .

CERTIFIED MAIL NO: 7021 0950 0000 6905 0143

Dear Povang Noutru:

NOTICE OF VIOLATION FOR UNAUTHORIZED DIVERSION AND FAILURE TO FILE A STATEMENT OF WATER DIVERSION AND USE FOR TRINITY COUNTY ASSESSOR PARCEL NUMBER 018-040-002-000.

The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) received information from the California Department of Fish and Wildlife alleging that you are diverting surface water for cannabis cultivation. You cannot divert water during the Cannabis Cultivation Policy's forbearance period of April 1 - October 31, nor can you divert water to storage without an appropriate water right issued by the State Water Board

You are identified as the property owner for County Assessor's Parcel Number APN 018-040-002-000. The Division is contacting you to provide you notice that you are in violation of the California Water Code (WC) and the State Water Board's Cannabis Cultivation Policy (Policy) requirements. The purpose of this letter is to gather information, provide you notice that your diversion of water is subject to the State Water Board's permitting authority, and to inform you of your regulatory compliance options, or you risk administrative civil liability. This letter is your notice that you are in violation of the WC and Policy. You must take immediate action to come into compliance or risk civil liability on a per day, per violation.

The information obtained by the State Water Board identifies that you are diverting water subject to the State Water Board's permitting authority for cannabis cultivation without an appropriate water right that authorizes your water diversion and use. A diversion of water subject to the State Water Board's permitting authority without a basis of right is an unauthorized diversion or use of water. An unauthorized diversion or use of water constitutes a trespass against the State, and the State Water Board may

E. Jo11ou1N Esou1VEL, CHAIR | EILEEN SOBECK, EXtounvc DIRECTOR

impose a civil liability in an amount not to exceed \$500 or \$1,000 during a critically dry year (drought), for each day that the unauthorized diversion or use of water occurs, plus \$2,500 for each acre-foot of water (drought). (WC§ 1052, et seq.)

The Policy requires cannabis cultivators who divert and use surface water for cannabis cultivation must obtain an appropriative water right (ex: Cannabis Small Irrigation Use Registration) prior to diverting and storing water for use. Failure to obtain an appropriative water right and failure to cease your water diversion constitute ongoing violations. The State Water Board can impose civil liability in the amount of \$500 for each Policy violation and \$250 for each day the violation continues after notice of the violation is provided by the State Water Board. (WC§ 1847).

In addition, WC section 5101 requires, with minor exceptions, that a person who diverts water from a stream in the absence of a permit, license, or registration must file a Statement with the State Water Board. If you divert water, then you are required to report your water diversion and use to the State Water Board for October 1 - September 30 prior to February 1 of the succeeding year by filing a Statement pursuant to WC section 5101.

If you have multiple diversion locations (i.e., you divert water from a stream from multiple locations or divert water by use of a dam), a separate Statement is required to be filed for each diversion location. If you have any questions about how many diversion points your water infrastructure uses, please contact the Division at the phone number or email provided below.

The State Water Board may administratively impose a civil liability in the amount of \$1,000 for the failure to file a Statement for each point of diversion, plus \$500 per day for each additional day on which the violation continues if the person fails to file a Statement within 30 days after the State Water Board has called the violation to the attention of that person. (WC§ 5107, subd. (c)(1)).

This letter constitutes your notice of the abovementioned WC and Policy requirements. Your response to the allegations listed in this notice is required and should be submitted within a timely manner. The State Water Board has discretion when considering an enforcement action and shall consider your corrective actions taken in response to this notice in determining whether and what civil liability is appropriate for violations. Therefore, this matter requires your immediate attention.

Within 30 days from the date of this notice letter you should take the following corrective actions:

1. You must cease your diversion of water and use for cannabis cultivation until you obtain an appropriative water right like a SIUR; and
2. You must obtain an appropriative water right like a SIUR or file an application to appropriate water by permit; and
3. You must file a Statement for each diversion location on your property whether you use water diverted for cannabis or other uses.

You must also submit photographic proof and/or other documentation that supports your corrective actions taken whether you choose compliance option 1, 2 and 3. You can submit your documents through the State Water Board's Cannabis Compliance Response Portal referenced below.

To facilitate your response, we are providing you with an Investigation Identification Number (Investigation ID No. listed below), which you can use to respond electronically. You can also contact Division staff by phone or by email provided at the bottom of this notice letter. To use your Investigation ID No., follow the steps provided below.

Investigation ID No. 14578

- Step one:** Go to the State Water Board's Cannabis Cultivation Programs Portal at: <https://public2.waterboards.ca.gov/CGO/>
- Step two:** Register or login to your account
- Step three:** Under survey Click "**New**" for the "Division of Water Rights Cannabis Compliance Response Portal"
- Step four:** When you fill out your response to this NOV use the Assessor Parcel Number listed in this NOV in Part I.
- Step five:** Additionally, in your response use the Investigation ID listed above.

You can submit an appropriate water right SIUR application at:

<https://public2.waterboards.ca.gov/cgo> Need Help? Contact us at 916-341-5362 or email at dwr.cannabisenforcement@waterboards.ca.gov

If you would like to file an application to appropriate water by permit, you can find information and file your application at the weblink listed at:

Application: <https://public2.waterboards.ca.gov/mt/Home/Index>

Appropriate water by permit information:

https://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/

Information relating to the filing of a Statement can be found at:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/diversion_use/docs/initial_stmt_form.pdf.

Information on the Cannabis SIUR and Cannabis Policy is available

here: https://www.waterboards.ca.gov/water_issues/programs/cannabis/cannabis_water_rights.html#siur

If you have any questions regarding this matter, please contact Laura Cunningham at 916-327-8696 or via e-mail at Laura.cunningham@waterboards.ca.gov. Written correspondence or inquiries should be addressed as follows: State Water Resources Control Board, Division of Water Rights, Attn: Laura Cunningham, P.O. Box 2000, Sacramento, CA 95812-2000.

Sincerely,

Laura Cunningham

Laura Cunningham, Analyst
Cannabis Enforcement Unit 2
Division of Water Rights

Enclosure: California Department of Fish and Wildlife Notice of Violation

cc: Division of Water Rights

Taro Murano
Taro.Murano@waterboards.ca.gov

Stormer Feiler
Stormer.Feiler@waterboards.ca.gov

Cannabis Registration Unit
DWR-CannabisReg@waterboards.ca.gov

Department of Fish and Wildlife

Lt. Brendan Lynch
Brendan.Lynch@wildlife.ca.gov

Barry Powell
Barry.Powell@wildlife.ca.gov

Region 1 CEP
R1cepredding@wildlife.ca.gov

North Coast Regional Water Quality Control Board

Kason Grady
Kason.Grady@waterboards.ca.gov

Trinity County District Attorney

David Brady
DBrady@trinitycounty.org

Trinity County Code Enforcement

Kristalynn Anderson
KAnderson@trinitycounty.org

Trinity County Cannabis Program

Kim Hunter
khunter@trinitycounty.org

Trinity County Sheriff's Office

Sergeant Nate Trujillo
ntrujillo@trinitycounty.org

Sergeant Joshua Ford
jford@trinitycounty.org

Deputy Justin Hayslett
jhayslett@trinitycounty.org

Cannabis Control

Tabatha Chavez
Tabatha.Chavez@cannabis.ca.gov

Lindsay Rains
Lindsay.Rains@cannabis.ca.gov

Erin Wonder
erin.wonder@cannabis.ca.gov



State of California Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Region 1 - Northern
619 Second Street
Eureka, California 95501
(707) 445-6493
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



October 11, 2022

Certified Mail:

7020 1810 0000 0508 3984

Povang Noutru

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

Dear Povang Noutru:

On September 9, 2022, Department of Fish and Wildlife (Department) staff visited your property at Assessor's Parcel Number (APN) 018-040-002-000 (Property) within the Lamb Creek watershed, County of Trinity, State of California. During the visit, staff observed activities that are in violation of Fish and Game Code sections 1602 and 5652. Staff also observed active cannabis cultivation in conjunction with some of 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 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 three activities that affected Unnamed Tributaries to Lamb Creek. However, the Department was unable to locate a notification for these activities. The locations and descriptions of

these activities are provided below (Table 1).

Table 1. Summary of Fish and Game Code (FGC) violations documented during Department staff visit on September 9, 2022, to APN 018-040-002-000, Trinity County.

Violation#	FGC Section	Latitude*	Longitude*	Violation Description
1	5652	40.45659	-123.48789	Water pollution from the placement and abandonment of water diversion debris (e.g., plastic pipe, plastic containers, etc.), associated with cannabis cultivation, into waters of the state.
2	1602	40.45659	-123.48789	Failure to notify for the diversion of surface water, used to irrigate cannabis, resulting in substantial diversion of the natural flow from waters of the state.
3	1602	40.46178	-123.48151	Failure to notify for the diversion of surface water from U.S. Forest Service property, used to irrigate cannabis, resulting in substantial obstruction and diversion (90%) of the natural flow from waters of the state.
4	1602	40.457216	-123.48711	Failure to notify for the diversion of surface water, used to irrigate cannabis, resulting in substantial diversion of natural flow from waters of the state.

*Units = decimal degrees. Datum = WGS 84

The Department also observed one activity on the Property that is a violation of FGC Section 5652 that affected an Unnamed Tributary Lamb Creek. The location and description of this activity is provided above (Table 1).

A person who violates FGC sections 1602 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, 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 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 civilly. Specifically, under FGC sections 1615, a person who violates FGC Section 1602 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 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 Senior Environmental Scientist Specialist Ryan Bourque at ryan.bourque@wildlife.ca.gov within 14 days of the date of this letter. Mr. Bourque 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 or 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
CDFW Law Enforcement Division

Ee: Brendan Lynch, Joshua Zulliger, Scott Bauer, Rebecca Garwood, Matthew Jones, Jaymes Silveira and Ryan Bourque
Department of Fish and Wildlife
Brendan.lynch@wildlife.ca.gov; joshua.zulliger@wildlife.ca.gov;
scott.bauer@wildlife.ca.gov; rebecca.garwood@wildlife.ca.gov;
matthew.jones@wildlife.ca.gov; jaymes.silveira@wildlife.ca.gov;
ryan.bourque@wildlife.ca.gov

Kason Grady and Adona White
Northcoast Regional Water Quality Control Board
kason.grady@waterboards.ca.gov; adona.white@waterboards.ca.gov;
northcoast.cannabis@waterboards.ca.gov

Taro Murano and Stormer Feiler
State Water Resources Control Board, Division of Water Rights
taro.murano@waterboards.ca.gov; stormer.feiler@waterboards.ca.gov;

Janet Ruiz, Michael Vella and Erin Wonder
Department of Cannabis Control California
janet.ruiz@cannabis.ca.gov; michael.vella@cannabis.ca.gov;
erin.wonder@cannabis.ca.gov; investigations@cannabis.ca.gov



State of California - Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 Region 1 - Northern
 601 Locust Street
 Redding, CA 96001
 (530) 225-2300
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



July 18, 2022

CERTIFIED MAIL:

7021 2720 0002 7237 3577

Povang Noutru

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

Dear Povang Noutru:

On June 30, 2022, California Department of Fish and Wildlife (Department) staff visited your property, identified by Assessor's Parcel Number 018-040-002-000 located on an unnamed tributary to Lamb Creek in Trinity County within the Mad River Watershed. During the visit, staff observed the activities described below, which are in violation of Fish and Game Code (Fish & G. Code) sections 1602 and 5652. Staff also observed active cannabis cultivation on the property.

The number of Fish & G. Code violations documented during the inspection is three (3) and includes two (2) 1602 violations, and one (1) 5652 violation. A summary description of the violations is included in Table 1 below. A site map is enclosed with this letter for reference.

Table 1. Summary of Fish and G. Code Violations

Violation #	Site Name	GPS Location (NAO 83)	Fish & G. Code Section	Violation Description
1	Water Diversion (POD 1)	40.45726 -123.48683	1602(a)	Substantial diversion of the natural flow of any river, stream, or lake without notification. An irrigation line was placed in the stream and was actively diverting water. Figure 1
2	Water Diversion (POD 2)	40.45439 -123.48296	1602(a)	Substantial diversion of the natural flow of any river, stream, or lake without notification. An irrigation line was placed in the stream and was actively diverting water. This POD was off parcel. Figure 2

Povang Noutru; APN 018-040-002-000

July 18, 2022

Page 2 of 7

Violation #	Site Name	GPS Location (NAD 83)	Fish & G.Code Section	Violation Description
3	Pollution Polygon (PPG-1)	Multiple locations	5652(a)	Abandonment, placement, or disposal of cans, bottles, garbage, motor vehicle, rubbish, litter, refuse, waste, debris within 150 feet of, or where it can pass into waters of the state. Cultivation, household waste and motor vehicle placed within 150 feet of the high-water mark of unnamed tributary to Lamb Creek. Ficrnres 3 and 4
Total Fish and G. Code Violations= 3				



Figure 1. 1602(a) violation includes substantial diversion of the natural flow of an unnamed tributary to Lamb Creek. The screen box was the intake for POD 1 while the corrugated plastic pipe collected flow and directed it to the intake. The black poly pipe was supplemental water diverted from POD 2.

Povang Noutru; APN 018-040-002-000
July 18, 2022
Page 3 of 7



Figure 2. 1602(a) violation includes substantial diversion of the natural flow of an unnamed tributary to Lamb Creek. The photo is of the screened intake for POD 2.



Figure 3. 5652(a) violations include domestic and cannabis related waste within 150 ft. of the high-water mark of waters of an unnamed tributary to Lamb Creek.

Povang Noutru; APN 018-040-002-000

July 18, 2022

Page 4 of 7



Figure 4. 5652(a) violations include domestic/ cannabis related waste and abandoned vehicle within 150 ft. of the high-water mark of waters of an unnamed tributary to Lamb Creek.

Additionally, while CDFW staff were conducting their inspection it was documented that the waterline from POD 2 split at the location marked as POD 3 on the enclosed map. This supply line led towards the same stream that POD 1 diverted from, and it is highly likely that this was an additional surface water diversion. However, at this point, staff determined that logistics no longer made following this additional water line feasible.

Fish & G. Code 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 Fish & G. Code section 1602 without first notifying the Department violates section 1602.

In the Department's view, notification under Fish & G. Code section 1602 was required because the activities substantially diverted the natural flow of unnamed tributaries to Lamb Creek. However, the Department was unable to locate a notification for these activities. In addition, POD 2 was located on a parcel of which you are not the owner of record, therefore, it is documented as a trespass.

Fish & G. Code 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.

A person who violates Fish & G. Code sections 1602 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 Fish & G. Code sections in connection with the production or cultivation of cannabis following a complaint and, if requested, a hearing.

Povang Noutru; APN 018-040-002-000

July 18, 2022

Page **5 of 7**

The Department may request a maximum civil penalty of \$8,000 for each violation of Fish & G. Code section 1602, and \$20,000 for each violation of Fish & G. Code section 5652. Furthermore, the Department may request a maximum civil penalty of \$10,000 for each violation of Fish & G. Code section 1602 and \$40,000 for a violation of Fish and G. Code section 5652 conducted while trespassing on other public or private land. Each day the violation occurs or continues to occur constitutes a separate violation. (Fish & G. Code, section 12025, subds. (a)(1), (a)(3); (b)(1)(A), (b)(1)(C), (b)(2); (e).) Also, the District Attorney or the Attorney General may enforce a violation of Fish & G. Code section 1602 civilly. Specifically, under Fish & G. Code section 1615, a person who violates Fish & G. Code section 1602 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 Fish & G. Code sections 1602 and 5652 criminally. Under Fish & G. Code 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 Senior Environmental Scientist (Specialist) Sam Plemons at (530) 605-8317 or R1CEPRedding@wildlife.ca.gov within 14 days of the date of this letter. ***Do not attempt to remedy or mitigate these violations before contacting the Department, as doing so could constitute additional violations.*** Mr. Plemons 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 Fish & G. Code sections 1602 or 5652, we encourage you to respond to this notice so that we may better assess the activities and limit any damage to resources.

The Department appreciates your cooperation.

Sincerely,

[br.

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Lieutenant Brian Boyd

Cannabis Enforcement Program 1

Povang Noutru; APN 018-040-002-000
July 18, 2022
Page 6 of 7

Enclosure: Site Map

cc: Matthew Jones, Lt. Brian Boyd, Lt. Brendan Lynch, Tobi Freeny, Ashley Worth, Scott Bauer, and Curt Babcock
Department of Fish and Wildlife
R1CEPRedding@wildlife.ca.gov

Stormer Feiler, Karen Kramer, and Taro Murano
State Water Resources Control Board
stormer.feiler@waterboards.ca.gov, karen.kramer@waterboards.ca.gov,
taro.murano@waterboards.ca.gov

Mona Dougherty, Jeremiah Puget, Kason Grady and the North Coast Cannabis Regulatory Program
North Coast Regional Water Quality Control Board
mona.dougherty@waterboards.ca.gov, jeremiah.puget@waterboards.ca.gov,
kason.grady@waterboards.ca.gov, northcoast.cannabis@waterboards.ca.gov

Kristalynne Anderson and Sean Connell
Trinity County Planning and Environmental Health
kanderson@trinity.org, sconnell@trinity.org

Janet Ruiz, Michael Vella, and Erin Wonder
Department of Cannabis Control California
Janet.Ruiz@cannabis.ca.gov, Michael.Vella@cannabis.ca.gov,
erin.wonder@cannabis.ca.gov, investigations@cannabis.ca.gov

Deputy Rob Barcellona
Trinity County Sheriff's Office
rbarcellona@trinitycounty.gov

Battalion Chief Seth Toerpe
USFS Shasta Trinity National Forest
seth.toerpe@usda.gov

Povang Noutru; APN 018-040-002-000

July 18, 2022

Page 7 of 7

Site Map- TRI APN 018-040-002-000

