



GAVIN NEWSOM
GOVERNOR

LEONOR YANAGARCIA
SECRETARY FOR WATER
(NATURAL RESOURCES)

State Water Resources Control Board

OCT 04 2022

CERTIFIED MAIL

In Reply Refer to:
INV ID 14576

John Chen
Sonoma Grange Farms LLC
2777 Yulupa Avenue, Suite 244
Santa Rosa, CA 95405

CERTIFIED MAIL NO: 7020 0090 0000 4006 5362

Dear John Chen,

NOTICE OF VIOLATION FOR UNAUTHORIZED DIVERSION AND FAILURE TO FILE A STATEMENT OF WATER DIVERSION AND USE FOR SONOMA COUNTY ASSESSOR PARCEL NUMBER 049-150-005-000

The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) received information from the California Department of Fish and Wildlife (CDFW) on July 25, 2022, 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 appropriative water right issued by the State Water Board

You are identified as the property owner for Sonoma County Assessor's Parcel Number (APN) 049-150-005-000. 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 appropriative 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.

EILEEN SOBECK, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | www.waterboards.ca.gov

An unauthorized diversion or use of water constitutes a trespass against the State, and the State Water Board may 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 above-mentioned 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. 14576

- 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/mUHome/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/intl_stmnt_form.pdf.

Information on the Cannabis SIUR and Cannabis Policy is available here:
https://www.waterboards.ca.gov/water_issues/programs/cannabis/cannabis_water_rigths.html#siur

If you have any questions regarding this matter, please contact Anthony Southwood at (916) 323-9388 or via e-mail at Anthony.Southwood@waterboards.ca.gov. Written correspondence or inquiries should be addressed as follows: State Water Resources Control Board, Division of Water Rights, Attn: Anthony Southwood, P.O. Box 2000, Sacramento, CA 95812-2000.

Sincerely,

Anthony Southwood

Anthony Southwood
Environmental Scientist
Cannabis Enforcement Unit# 2
Division of Water Rights

Enclosure: CDFW NOV dated July 22, 2022

ec: **Division of Water Rights**
Taro Murano
Taro.Murano@waterboards.ca.gov

Stormer Feiler
Stormer.Feiler@waterboards.ca.gov

Philip Dutton
Philip.Dutton@waterboards.ca.gov

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

Department of Fish and Wildlife
Brendan Lynch
Brendan.lynch@wildlife.ca.gov

Wesley Stokes
Wesley.Stokes@wildlife.ca.gov

Corinne Gray
Corinne/Gray@wildlife.ca.gov

Sonoma County DA
Dustin Hughson
Dustin.Hughson@sonoma-county.org

Ec's continued next page.

Ec's continued.

Sonoma County Code Enforcement

Jesse Cablk

Jesse.Cablk@sonoma-county.org

Department of Cannabis Control

Tabatha Chavez

Tabatha.Chavez@cannabis.ca.gov

Erin Wonder

Erin.Wonder@cannabis..ca.gov



State of California Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



July 22, 2022

John Chen
Sonoma Grange Farms LLC.
2777 Yulupa Avenue, Suite 244
Santa Rosa, CA 95405
bennettrosallic@gmail.com

Subject: Notice of Violation of Fish and Game Code Sections 5650, 5652 and 1602 in Conjunction with Cannabis Cultivation, 4050 and 4065 Grange Road, Santa Rosa, APNs 049-150-005 and 049-130-005

Dear Mr. Chen:

California Department of Fish and Wildlife (CDFW) staff and other agencies visited your properties at 4050 and 4065 Grange Road, Santa Rosa, CA 95403, APN# 049-150-005 and 049-130-005 on March 29, 2022. While on-site, CDFW staff observed the activities described in Table 1 below. In the CDFW's view, these activities are in violation of Fish and Game Code section 1602 5650, and/or 5652. Staff also observed evidence of cannabis cultivation in conjunction with some or all of these activities.

Fish and Game Code, section 1602 requires a person to submit a written notification to CDFW 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 and Game Code, section 1602 without first notifying CDFW violates Fish and Game Code, section 1602.

Fish and Game Codes 5650 and 5652

Fish and Game Code, sections 5650 and 5652 make it unlawful to pollute waters of the state. Fish and Game Code, 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, sediment, agricultural chemicals and other substances. Fish and Game 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.

John Chen
 Sonoma Grange Farms LLC.
 July 22, 2022
 Page 2

CDFW observed trash, refuse, and other deleterious materials deposited in, and placed where they may pass into, waters of the state.

Fish and Game Code Violation Summary

The location and brief descriptions of identified violation sites is shown in Table 1 below:

Table 1 Fish and Game Code Violations					
Site ID	Approximate Location*	Description	Fish and Game Code Section	Violation	Photo #
CS-1	38.40096, -122.65093	Cultivation site located in and around a stream channel. Imported potting soil and cultivation nutrients within cultivation site.	5650(a)(6)	Deleterious material placed where they can pass into waters of the state.	1&2
			1602	Substantial stream channel modifications	
SC-1	38.40090, -122.65115	Stream Crossing. Misaligned culvert with a perched outlet.	1602	Substantial stream channel modifications.	3
WS-2	38.40139, -122.65231	Point of Diversion (POD). Diversion pipe submerged in an onstream reservoir. Water lines appear connected to cannabis cultivation site.	1602	Substantial diversion of natural stream flow	4
HAL-1	38.40138, -122.65224	Onstream reservoir impounding natural stream flow with approximately 20-foot tall concrete dam maintained across a stream channel without finalized Lake and Streambed Alteration (LSA) Agreement.	1602	Substantial obstruction of natural stream flow.	5

John Chen
 Sonoma Grange Farms LLC.
 July 22, 2022
 Page 3

PP-2	38.40121, -122.65143	Cannabis waste and domestic trash deposited near a stream channel.	5650(a)(6)	Deleterious material placed where it can pass into waters of the state.	6
			5652	Placement of trash/debris within 150' of a stream.	
PP-3	38.40128, -122.6510	Cannabis waste and refuse deposited near a stream channel.	5650(a)(6)	Deleterious material placed where it can pass into waters of the state.	7
			5652	Placement of trash/debris within 150' of a stream.	
PL-1	38.40142, -122.65106	Refuse pollution, including plastic pots, plastic sacks, insulation, and tubs deposited near a stream channel	5652	Placement of trash/debris within 150' of a stream.	8
Violation Summary				1602	4
				5650	3
				5652	3
Total				All	10
* Locations were taken using an Apple iPad Air internal GPS while using ArcGIS Field Maps© software, utilizing WGS 84.					

CDFW issued you a draft LSA Agreement (EPIMS-SON-03613-R3) which has not been finalized to date due to the unavailability of a California Environmental Quality Act document. Draft Agreement; No. EPIMS-SON-03613-R3 includes some but not all of

John Chen
Sonoma Grange Farms LLC.
July 22, 2022
Page 4

the activities CDFW staff observed on March 29, 2022.

- The EPIMS-SON-03613 notification and final draft LSA Agreement indicates the sole cannabis irrigation water source as an on-site well. However, CDFW staff traced a pipe submerged within the reservoir to a cannabis cultivation area. This pipe was capable of diverting flow for cannabis irrigation.
- CDFW staff observed an onstream reservoir impounding natural stream flow without a finalized LSA Agreement.
- A misaligned culvert was observed on the site access road with a perched outlet. CDFW did not cover culvert work within the EPIMS-03613 Agreement.

An entity that violates Fish and Game Code, section 1602, 5650 and/or 5652 in conjunction with the cultivation or production of cannabis is subject to significant penalties or fines. Specifically, CDFW may impose civil penalties administratively against any entity found by CDFW to have violated these Fish and Game Code sections in connection with the production or cultivation of cannabis following a complaint and, if requested, hearing.

Pursuant to Fish and Game Code, section 12025(b), CDFW may request a maximum civil penalty of \$8,000 for each violation of Fish and Game Code, section 1602, and \$20,000 for each violation of Fish and Game Code, section 5650 or 5652 documented on private property in conjunction with cannabis cultivation. Each day the violation occurs or continues to occur constitutes a separate violation. (Fish & G. Code section 12025, subd. (b)(2)). Note: In the event of trespass onto private or public lands, the liability increases to \$10,000 for each violation of Fish and Game Code, section 1602, and \$40,000 for each violation of Fish and Game Code, section 5650 or 5652. (Fish & G. Code section 12025, subds. (a)(1)-(a)(3)). Additionally, a local District Attorney's Office or the Office of the State Attorney General may enforce a violation of Fish and Game Code, section 1602 and Fish and Game Code, section 5650 civilly. Under Fish and Game Code, sections 1615 and 5650.1 any entity in violation of section 1602 or 5650 is subject to a maximum civil penalty of \$25,000 for each violation. A local prosecutor or State Attorney General may also file a complaint using Fish and Game Code, section 12025. The District Attorney or Attorney General may also enforce a violation of Fish and Game Code, sections 1602 and 5650 criminally. Under Fish and Game Code, section 12000, each violation is a misdemeanor. Those same sections may also be used to prosecute what would otherwise be misdemeanor illegal cultivation, as a felony. (Cal. Health & Saf. Code section 11358, subd. (d)).

Be advised that absent provisions intended to protect patients and qualified caregivers, commercial cannabis cultivation without a state license is illegal. (Business and Professions Code (Bus. & Prof. Code), § 26032). The California Department of

John Chen
Sonoma Grange Farms LLC.
July 22, 2022
Page 5

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).**

CDFW recommends you seek assistance from a qualified professional to assist with LSA permitting and potentially other permits from agencies with permitting authority. A qualified professional can assist with determination of appropriate project designs of both short-term and long-term actions needed to avoid, minimize and mitigate impacts to fish and wildlife resources for all activities listed in Table 1.

Interim Actions

In order to avoid the potential for incurring additional Fish and Game Code violations, CDFW recommends you immediately stop all work affecting Matanzas Creek and tributaries to Matanzas Creek, including diversion of water from the on-stream reservoir, obstruction of natural streamflow and work involving culverted stream crossings if you have not done so already.

All trash/refuse material on-site should be moved to a minimum of 150 feet from the top of bank of the stream channel or removed from site. CDFW requests you submit photos to Mia Bianchi, Environmental Scientist, at Mia.Bianchi@wildlife.ca.gov demonstrating erosion control measure implementation and that refuse materials have been moved by **July 31, 2022**. CDFW may provide additional recommendations after reviewing the photos.

LSA Notification

CDFW requests you seek LSA permit compliance by submitting a complete 1602 notification package via EPIMS: <https://epims.wildlife.ca.gov/index.do> with correct notification fees for activities listed in Table 1 that are not already described in draft LSA Agreement No. EPIMS-SON-03613-R3. CDFW requests the complete 1602 notification be submitted by **August 21, 2022**. This notification should include itemized project activities by location, with corresponding fees to address both short term and long-term actions needed to protect fish and wildlife resources for the following:

- 1) Culverted stream crossing (38.40090, -122.65115; SC-1). The culvert crossing should be evaluated by a qualified professional for the following: a) proper design, b) proper placement, c) functionality, and d) if any prescribed modifications or upgrades are needed.

John Chen
Sonoma Grange Farms LLC.
July 22, 2022
Page 6

- 2) Onstream reservoir surface diversion (38.40139, -122.65231) or remove all diversion infrastructure and provide photographic evidence to Mia Bianchi at Mia.Bianchi@wildlife.ca.gov.
- 3) Remediation needed to return the stream impacted by cannabis cultivation activities to pre-impacted conditions (38.40096, -122.65093).

In addition to LSA project activity fees, work needed to remediate a cannabis site is subject to a remediation fee. Please reference the following 2022 LSA fee schedule to determine project fees owed:

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=195791&inline>

In addition to receiving the correct fees, the following information is recommended as part of a complete notification:

- An up-to-date site plan documenting all stream crossings, water sources, and water storage. Label existing and proposed features.
- Hydraulic sizing calculations: CDFW requests that all culverts be sized to at least pass the 100-year flood flow, through a single pipe, with consideration to bedload and debris and without impounding water;
- Culvert design and sizing based on a professionally acceptable methodology;
- Volume and type of materials used in construction;
- Rock armor sizing calculations. Appropriate armor material, No use of asphalt, sac-crete or other polluting materials;
- Culvert alignment should be in-line with the stream and set at or slightly below grade;
- Culvert outlets should not be "perched;"
- Each culvert should have a "critical" or "rolling" dip installed with sufficient capacity to eliminate diversion potential if the culvert plugs or fails.
- Culverts should extend lengthwise beyond the toe of fill;
- Roads should be hydrologically disconnected from streams.
 - CDFW recommends that roadway approaches on both sides of the crossings be upgraded for at least 150-feet from the channel so that the roads are hydrologically disconnected from the crossing. CDFW recommends utilizing

John Chen
Sonoma Grange Farms LLC.
July 22, 2022
Page 7

road techniques found in the Handbook for Forest, Ranch, and Rural Roads, available here:

http://www.pacificwatershed.com/sites/default/files/roadsenglishbookapri12015b_0.pdf

- An erosion control plan to prevent any (seasonal) sediment pollution to streamflow once all refuse material is removed from or near stream channels.
- A restoration plan prepared by a qualified restoration specialist addressing all needed activities to remove cannabis cultivation impact from the stream located at 38.40096, -122.65093.
- All water sources used and/or planned to be used onsite.

After CDFW receives the complete LSA notification and correct project fees, CDFW will process the notification and determine if a draft LSA Agreement is needed as described in Fish and Game Code sections 1602 and 1603.

Please be advised, pursuant to Fish Game Code 1613, CDFW has determined activities related to the property listed in EPIMS-SON-03613 are in violation of Fish and Game Code. CDFW intends to suspend further processing of your notification, EPIMS-SON-03613 unless CDFW determines violations in table 1 have been remedied. CDFW may also pursue other enforcement options, including referring the matter to the District Attorney's Office or the Attorney General's Office for civil or criminal prosecution.

CDFW appreciates your cooperation. If you have any questions, contact Mia Bianchi, Environmental Scientist, at Mia.Bianchi@wildlife.ca.gov; or Wes Stokes, Senior Environmental Scientist (Supervisory), at Wesley.Stokes@wildlife.ca.gov.

Sincerely,

DocuSigned by:



Regional Manager
Bay Delta Region

cc: California Department of Fish and Wildlife

Craig J. Weightman, Craig.Weightman@wildlife.ca.gov
Wesley Stokes, Wesley.Stokes@wildlife.ca.gov
Corinne Gray, Corinne.Gray@wildlife.ca.gov
Timothy Dodson, Timothy.Dodson@wildlife.ca.gov
Emma Kennedy, Emma.Kennedy@wildlife.ca.gov

John Chen
Sonoma Grange Farms LLC.
July 22, 2022
Page 8

James Rosauer, James.Rosauer@wildlife.ca.gov
Lt. Douglas Willson, Douglas.Willson@wildlife.ca.gov
California Division of Water Rights

Stormer Feiler, Stormer.Feiler@waterboards.ca.gov
Karen Kramer, Karen.Kramer@waterboards.ca.gov
Taro Murano, Taro.Murano@waterboards.ca.gov

North Coast Regional Water Quality Control Board

David Kuszmar, David.Kuszmar@waterboards.ca.gov
Kason Grady, Kason.Grady@waterboards.ca.gov
Brian Fuller, Brian.Fuller@waterboards.ca.gov
NorthCoast.Cannabis@Waterboards.ca.gov

Department of Cannabis Control

Lindsay Rains, Lindsay.Rains@cannabis.ca.gov
Kevin Ponce, Kevin.Ponce@cannabis.ca.gov
John Anderson, John.Andersen@cannabis.ca.gov

Sonoma County

McCall Miller, Mccall.Miller@sonoma-county.org

John Chen
Sonoma Grange Farms LLC.
July 22, 2022
Page 9

Figure and Photo References



Figure 1: Site Map for 4050/4065 Grange Road sites displaying point locations described in Table 1.

John Chen
Sonoma Grange Farms LLC.
July 22, 2022
Page 10



Photos #1 and #2, Site ID CS-1. The photo on the left shows a growing field with fabric grow pots located throughout. At the center and low point in the field, is a small ephemeral stream channel, depicted by the blue line. The photo on the right is a representative photo of the stream channel within the field. The stream originates upslope of the access road and flows through a culvert at location SC-1.

John Chen
Sonoma Grange Farms LLC.
July 22, 2022
Page 11



Photo #3 site ID SC-1: Location of the stream crossing beneath the access road. A misaligned culvert conveys flows into the field, visible at the left side of the photo. The approximate culvert location is represented by the blue arrow.

John Chen
Sonoma Grange Farms LLC.
July 22, 2022
Page 12



Photo #4, site ID WS-1: The location of a diversion pipe submerged in the reservoir for apparent cannabis irrigation. The pipe was traced back to a cultivation site.

John Chen
Sonoma Grange Farms LLC.
July 22, 2022
Page 13



Photo #5, site ID HAL-1: The location of channel spanning dam. This photo shows a footbridge over the top of the concrete dam. Impounded water is visible on the right side of the photo.

John Chen
Sonoma Grange Farms LLC.
July 22, 2022
Page 14



Photo #6 on left, Site ID PP-2: shows where cannabis and domestic waste are discarded on the ground near a stream. **Photo #7 on right**, Site ID PP-3: shows where cannabis waste is deposited on the ground near a stream.

John Chen
Sonoma Grange Farms LLC.
July 22, 2022
Page 15



Photo #8, site ID PL-1: Refuse has been strewn or allowed to be deposited along the edge of a stream channel.