

HEARING PROCEDURES

FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R3-2023-0050

ISSUED TO JSM ORGANICS, INC.
EL RANCHO TRIPLE M
MONTEREY COUNTY

HEARING SCHEDULED FOR OCTOBER 19, 2023

PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR SUBMITTAL.

California Water Code sections 13268 and 13323 authorize the California Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) to impose a fine, called administrative civil liability, against any person who violates water quality requirements. The Central Coast Water Board's Prosecution Team has issued an Administrative Civil Liability (ACL) Complaint, No. 2023-0050, for violations of the Agricultural Order General Waste Discharge Requirements for Discharges from Irrigated Lands Order No. R3-2021-0040 (Agricultural Order). The ACL Complaint proposes the Central Coast Water Board impose civil liability against JSM Organics, Inc.¹ (Respondent) in the amount of **\$49,415** for the violations alleged in the ACL Complaint.

I. Hearing Date and Location

The Central Coast Water Board has scheduled a hearing to consider this matter on **October 19, 2023**. At the hearing, the Central Coast Water Board will consider evidence regarding the violations alleged in the ACL Complaint. After considering the evidence, the Central Coast Water Board may impose the proposed civil liability, impose a higher or lower amount, or decline to impose any liability.

The hearing will be held at the following location:

Central Coast Water Board Office
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401

The Central Coast Water Board's meeting agenda will be issued at least ten days before the meeting and posted on the Central Coast Water Board's website at [2023 Adopted Meeting Dates and Locations | Central Coast Regional Water Quality Control](#)

¹ In the ACL Complaint, at footnote 1, the Prosecution Team explains that the electronic Notice of Intent (eNOI) submitted for the relevant ranch identified the permittee as "jsm organics." Based on publicly available information, the ACL Complaint states that the correct entity name is "JSM Organics, Inc." As used herein, JSM Organics, Inc. refers to jsm organics and El Rancho Triple M.

[Board](#). The hearing may be rescheduled or continued to a later date. Please check the Central Coast Water Board's website for the most up-to-date information.

II. Presiding Officer

For the purposes of this Hearing Procedure, the Presiding Officer is the Chair of the Central Coast Water Board, or another member of the Central Coast Water Board designated in writing by the Chair of the Central Coast Water Board.

A. Hearing Waiver and Subsequent Hearing Date

Water Code section 13323, subdivision (b), requires a hearing on the ACL Complaint within 90 days of service of the ACL Complaint; however, the Respondent may waive this right. The ACL Complaint was served with a waiver form that allows Respondent to waive the hearing requirement and pay the full proposed liability amount and settle the ACL Complaint, contingent on the Central Coast Water Board's approval of the settlement.

To waive the hearing requirement and pay the full proposed liability amount, the Respondent should complete and submit the Waiver Form for Administrative Civil Liability Complaint (Waiver Form), included in the ACL Complaint, by the deadline listed under "Important Deadlines" below.

Any request to postpone the hearing for any other reason than that set forth in the Waiver Form must be submitted by the deadline listed under "Important Deadlines" below. Additional reasons to postpone the hearing could include (a) discussion of settlement with the Prosecution Team or (b) request additional time to prepare for the hearing. If additional time is requested to prepare for the hearing, Respondent should explain why such time is needed and any hardship associated with the inability to conduct the hearing on October 19, 2023.

III. Adjudicatory Hearing Regulatory Framework

A. Applicable Statutes and Regulations

The following statutes and regulations, and any additional statutes and regulations cross-referenced or referred to in the following statutes and regulations, as implemented by this Hearing Procedure, govern the hearings on the ACL Complaint:

1. California Water Code sections 13268 and 13323.
2. Chapter 4.5 of the Administrative Procedure Act (Gov. Code, § 11400 et seq.), excluding Article 8 (Language Assistance), Article 13 (Emergency Decision), Article 14 (Declaratory Decision) and Article 16 (Administrative Adjudication Code of Ethics).
3. Evidence Code sections 801 through 805.
4. Government Code section 11513.
5. California Code of Regulations, title 23, section 648 et seq.

6. State Water Resources Control Board's Water Quality Enforcement Policy (Enforcement Policy).

These statutes and regulations are available online at https://www.waterboards.ca.gov/laws_regulations. Except as otherwise provided, Chapter 5 of the California Administrative Procedure Act (Gov. Code, § 11500 et seq.) does not apply to this hearing. (23 Cal. Code Regs., §648 subd. (b).)

B. Separation of Prosecutorial and Advisory Functions

Central Coast Water Board staff and attorneys who have prepared the ACL Complaint (Prosecution Team) have been separated from Central Coast Water Board staff and attorneys who will advise the Central Coast Water Board on the ACL Complaint (Advisory Team). The Prosecution Team will present evidence for consideration by the Central Coast Water Board. The Advisory Team provides legal and technical advice to the Central Coast Water Board. Members of the Advisory Team and Prosecution Team are identified below.

Advisory Team:²

Matthew Keeling, Executive Officer
Ryan Lodge, Senior Water Resource Control Engineer³
Harvey Packard, Supervising Water Resource Control Engineer
Sophie N. Froelich, Attorney IV

Prosecution Team:

Julie Macedo, Attorney V
Thea Tryon, Assistant Executive Officer
Tamara Anderson, Senior Water Resource Control Engineer
Mary Hamilton, Environmental Program Manager I
Stephanie Young, Senior Water Resource Control Engineer
Todd Stanley, Water Resource Control Engineer
Paula Richter, Senior Environmental Scientist
Jesse Woodard, Associate Governmental Program Analyst

Any members of the Prosecution Team who supervise any members of the Advisory Team are not acting as their supervisors in these proceedings. Further, members of the Advisory Team have not exercised any authority over the Prosecution Team, or advised them with respect to this matter, or vice versa. Some members of the Prosecution Team, specifically Thea Tryon and Mary Hamilton, regularly advise the Central Coast Water Board in other, unrelated matters, but are not advising the Central Coast Water Board in these proceedings. Members of the Prosecution Team have not had any

² Additional staff may be added to (or removed from) the Advisory Team, if necessary.

³ Mr. Lodge will become the Executive Officer of the Central Coast Water Board upon Mr. Keeling's retirement.

substantive ex parte communications with the members of the Central Coast Water Board or the Advisory Team regarding these proceedings.

1. Ex Parte Communications

Any communication regarding any issue in this proceeding to a Central Coast Water Board member or member of the Advisory Team by a Party or Interested Person that is made without notice and opportunity for all Parties to participate in the communication is considered an “ex parte” communication. Ex parte communications are prohibited, except as authorized by statute (e.g., communications regarding non-controversial procedural matters). (Gov. Code, § 11430.10 et seq.)

2. Evidentiary Standards

Government Code section 11513 and Evidence Code sections 801 through 805 apply to this proceeding.

The technical rules of evidence do not apply to this proceeding. The Parties may submit any relevant evidence that is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions.

Hearsay evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter stated. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. An objection is timely if made before conclusion of all testimony or closing statement if one is provided.

IV. Hearing Participants

A. Parties

Parties are the primary participants in the hearing. Parties may present written evidence, offer witness testimony, cross-examine witnesses, and provide closing statements. Parties may be asked to respond to questions from the Central Coast Water Board and Advisory Team.

The following are Parties to this proceeding:

1. Central Coast Water Board
2. Prosecution Team
3. JSM Organics, Inc.

Any other person or entity designated as a party by the Presiding Officer in accordance with Section V.C.

1. Interested Persons (Non-Parties)

Interested Persons include any persons or entities that are interested in the outcome of the proceeding but that have not been designated as a party. Interested Persons may present written or oral non-evidentiary policy statements. Interested Persons are not subject to cross-examination but may be asked to respond to clarifying questions from the Central Coast Water Board and Advisory Team.

Interested Persons may not submit evidence (e.g., photographs, eye-witness testimony, and monitoring data). Any person or entity that would like to submit evidence should request to be designated as a party pursuant to Section V.C.

2. Requesting Party Status

Any Interested Person who wishes to participate in the hearing as a party must submit a request in writing by the deadline listed under “Important Deadlines” below. The request must include the following information at a minimum:

1. How the issues to be addressed at the hearing substantially affect the requestor’s interests, and
2. Why the existing Parties do not adequately represent the requestor’s interests.

The request for party status must also include any requested revisions to the Hearing Procedure.

A Party must submit any written objection to a request for party status by the deadline listed under “Important Deadlines” below.

Following the deadline to submit objections to party status requests, the Presiding Officer will promptly issue rulings on requests for party status by the deadline listed under “Important Deadlines” below. The Presiding Officer will not grant a request for party status if the Presiding Officer determines the designation of the requestor as a party will impair the interests of justice or the orderly and prompt conduct of the proceeding. The Presiding Officer, when granting a request for party status, may impose restrictions on the requestor’s hearing participation, including limiting or excluding the use of cross-examination and other procedures, to promote the orderly and prompt conduct of the proceeding. Unless and until an Interested Person is granted party status, the deadlines for Interested Persons shall continue to apply.

V. Prehearing Submittal of Non-Evidentiary Policy Statements by Interested Persons

A. Non-Evidentiary Policy Statements

Interested Persons must submit any written non-evidentiary policy statements regarding the ACL Complaint by the deadline listed under “Important Deadlines” below.

Interested Persons are not required to submit written statements to speak at the hearing.

1. Responding to Interested Person Non-Evidentiary Policy Statements

A Party must submit any response to Interested Person written policy statements by the deadline listed under "Important Deadlines" below.

VI. Prehearing Submittals by Parties

A. Prehearing Evidence and Argument Submittals (Excluding Rebuttal Evidence)

The Parties must submit the following information in advance of the hearing by the deadline listed under "Important Deadlines" below:

1. All evidence (excluding witness testimony to be presented orally at the hearing) and an exhibit list providing an exhibit number and brief description of each exhibit. Evidence already in the Central Coast Water Board's public files may be submitted by reference as long as the evidence and location are clearly identified. The file names of any electronic copies of exhibits must identify the Party submitting the exhibit, the exhibit number, and a brief identification of the exhibit (e.g., "Resp Ex. 1 - Permit.pdf").
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the Party intends to call at the hearing; the subject of each witness' proposed testimony; and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.
5. Unless otherwise noted herein, any motions or briefs shall be no more than 10 double-spaced pages and shall include citations to specific exhibits. All cited evidence shall be submitted with the motion(s) or brief(s), together with a supporting affidavit, if necessary. Please note that allegations in an ACL Complaint are not evidence and may not be relied upon as such.

1. Prehearing Rebuttal Evidence Submittals

Rebuttal evidence is evidence offered to disprove or contradict evidence presented by an opposing Party.

The Parties must submit any rebuttal evidence in advance of the hearing by the deadline listed under "Important Deadlines" below. Rebuttal evidence shall be limited to

rebutting the scope of previously submitted materials; rebuttal evidence that is not responsive to previous submittals may be excluded by the Presiding Officer.

The requirement to submit rebuttal evidence in advance of the hearing applies only to rebut timely submitted written evidence. Rebuttal evidence pertaining to an issue raised solely during oral testimony need not be submitted in advance of the hearing.

2. Prehearing Objections to Evidentiary Submittals

A Party must submit any objections to prehearing evidentiary submittals by the deadlines listed under “Important Deadlines” below. The other Parties will have an opportunity to submit responses to the objections before the Presiding Officer rules on the objections, as listed under “Important Deadlines” below.

These deadlines do not apply to objections to late-submitted evidence. Objections to late-submitted evidence must be made within seven days of the late submittal or at the hearing, whichever is earlier.

3. Prehearing Proposed Findings of Fact and Conclusions of Law

The Prosecution Team must submit, and the other Parties may submit, Proposed Findings of Fact and Conclusions of Law for consideration by the Central Coast Water Board and Advisory Team. The Proposed Findings of Fact and Conclusions of Law must include the Party’s proposed penalty calculation, using the methodology prescribed by the Enforcement Policy. The Parties may use this opportunity to highlight specific evidence and argument for the Central Coast Water Board’s consideration.

Proposed Findings of Fact and Conclusions of Law must be submitted in Microsoft Word format by the deadline listed under “Important Deadlines” below. The Presiding Officer may prescribe a page limit for the Proposed Findings of Fact and Conclusions of Law.

4. Prohibition on Surprise Evidence

It is the policy of the Central Coast Water Board to discourage surprise testimony and exhibits. The Presiding Officer may refuse to admit proposed exhibits or testimony that are not submitted in accordance with this Hearing Procedure and shall refuse to do so when there is a showing of prejudice to any Party or the Central Coast Water Board. Excluded material will not be considered.

VII. Revisions to Hearing Procedure and Prehearing Conference

A. Revisions to Hearing Procedure

The Presiding Officer may revise this Hearing Procedure for good cause (1) on the Presiding Officer’s own motion or (2) upon request from any Party or Interested Person seeking party status. A Party or Interested Person seeking party status requesting revisions to this Hearing Procedure must submit the request in writing by the deadline

listed under “Important Deadlines” below. Before revising this Hearing Procedure, the Presiding Officer will provide the Parties an opportunity to comment.

The Prosecution Team shall ensure that all Parties are served with, and interested persons receive a copy of, these Draft Hearing Procedures, the Final Hearing Procedures, and any revisions thereto.

1. Prehearing Conference

The Presiding Officer or their designee, upon their own motion or upon request from a Party, may schedule a Prehearing Conference with the Parties to discuss any prehearing matter, such as revisions to this Hearing Procedure, designation of additional parties, or evidentiary objections.

VIII. Hearing

A. Order of Proceeding

The Presiding Officer will conduct the hearing on the ACL Complaint generally in the order listed under California Code of Regulations, title 23, section 648.5. The Presiding Officer may modify the order of proceeding for good cause.

The following is a preliminary order of proceeding, subject to modification:

1. Prosecution Team opening statement
2. Respondents’ opening statement (Respondents may reserve their opening statement until after the Prosecution Team concludes its case)
3. Prosecution Team witness testimony
 - a. Cross examination by Respondents
 - b. Re-direct, if appropriate
4. Respondents’ opening statement, if reserved
5. Respondents’ witness testimony
 - a. Cross examination by Prosecution Team
 - b. Re-direct, if appropriate
6. Comments by Interested Persons, if any
7. Closing comments by Prosecution Team
8. Closing comments by Respondents

1. Administration of Oath and Translation Services

All persons intending to testify at the hearing must take the oath administered by the Presiding Officer.

Any persons requesting Spanish or other translation services must do so no later than October 5, 2023, in advance of the hearing.

2. Witnesses

Any witness providing written testimony must appear at the hearing and affirm that the written testimony is true and correct and be available for cross-examination.

3. Hearing Time Limits

Parties: Respondent will have up to **30 minutes** to present evidence (including examining witnesses), cross-examine witnesses, and provide a closing statement. The Prosecution Team will have up to **30 minutes to use as it sees fit**, to present its case pertaining to Order no. 2023-0050, the ACL Complaint, and/or to explain the background of the order alleged to have been violated, Agricultural Order No. R3-2021-0040.⁴

Interested Persons: Each Interested Person will have **three minutes** to present oral, non-evidentiary comments or policy statements.

Questions from the Central Coast Water Board and the Advisory Team, responses to such questions, and discussion of procedural issues do not count against these time limits.

4. Requesting Additional Hearing Time

Hearing participants who would like additional time must submit their request by the deadline listed under “Important Deadlines” below. Additional time may be provided at the discretion of the Presiding Officer upon a showing that additional time is necessary.

5. Visual Presentations

Each Party may use PowerPoint and other visual presentations at the hearing. The presentation content shall not exceed the scope of previously submitted written material. The Parties must submit their presentations, if any, by the deadline listed under “Important Deadlines” below.

Interested Persons may use a visual presentation as an aid to their oral, non-evidentiary comments or policy statements only with the Presiding Officer’s prior approval. Deadlines associated with Interested Persons submitting visual presentations are listed under “Important Deadlines” below.

⁴ If more than one ACL Complaint concerning the same or similar violation(s) described herein is presented on October 19, 2023 to the Central Coast Water Board, the Prosecution Team shall present **only one** 15 minute overview of the background of the order alleged to have been violated, Agricultural Order No. R3-2021-0040.

IX. Miscellaneous

A. Submittal Timing and Format

All submittals made pursuant to this Hearing Procedure must be **received by 5:00 p.m. on the respective due date within the “Important Deadlines” below**. All submittals must be sent to the “Primary Contacts,” identified below. Electronic copies are encouraged. Parties without access to computer equipment are strongly encouraged to have their materials scanned at a copy or mailing center. The Presiding Officer will not reject materials solely for failure to provide electronic copies.

1. Availability of Documents

The ACL Complaint and all submittals made in accordance with this Hearing Procedure are available upon request by contacting the Advisory Team, identified in the “Primary Contacts” below.

Interested Persons may request to be included in the transmission of all submittals by contacting the Advisory Team.

2. Questions

Questions concerning this Hearing Procedure may be addressed to the Advisory Team attorney, identified in the “Primary Contacts” below.

3. Obligation to Provide Lists of Interested Persons; Notification of Interested Persons and Affected Communities

In order to ensure appropriate outreach is done to notify affected communities of this action, all Parties will submit a list of interested persons and entities in this action to the Advisory Team by the date set forth in the Important Deadlines section below. Each person shall be identified by their name, contact information, and their email address, if any. Each entity shall be identified by its name, primary contact person, and their email address, if any.

PRIMARY CONTACTS

Advisory Team:

Harvey Packard, Supervising Water Resources Control Engineer, 895 Aerovista Place, San Luis Obispo, California 93401. Harvey.Packard@waterboards.ca.gov; (805) 542-4639.

Sophie Froelich, Attorney IV, State Water Resources Control Board, Office of Chief Counsel, 1001 I Street, 22d Floor Sacramento, California 95814. Sophie.Froelich@waterboards.ca.gov; (916) 319-8557.

Prosecution Team:

Thea Tryon, Assistant Executive Officer, Central Coast Water Board, 895 Aerovista Place, San Luis Obispo, California 93401.
Thea.Tryon@waterboards.ca.gov; (805) 542-4776

Julie Macedo, Attorney V, State Water Resources Control Board, Office of Enforcement, 801 K Street, Suite 2300, Sacramento, California, 95814.
Julie.Macedo@waterboards.ca.gov; (916) 323-6847

Tamara Anderson, Senior Water Resources Control Engineer, Central Coast Water Board, 895 Aerovista Place, San Luis Obispo, California 93401.
Tamara.Anderson@waterboards.ca.gov; (805) 549-3334

Mary Hamilton, Environmental Program Manager I, Central Coast Water Board, 895 Aerovista Place, San Luis Obispo, California 93401.
Mary.Hamilton@waterboards.ca.gov; (805) 542-4768

Respondent(s):

Javier Zamora
El Rancho Triple M
17575 Ramadero Way
Aromas, California 95004
javzam@yahoo.com; jsmorganics@gmail.com

IMPORTANT DEADLINES

Note: Where a deadline falls on a weekend or state holiday, the deadline is extended to the following business day.⁵

Deadline	Event	Hearing Procedure Section
July 21, 2023	Prosecution Team issues ACL Complaint	N/A
August 4, 2023	Advisory Team issues Draft Hearing Procedures	N/A
August 11, 2023	All Parties must submit a list of all known interested persons and entities to the Advisory Team. The Prosecution Team shall ensure that all interested persons on this list get notice of these Hearing Procedures as soon as possible to ensure that Interested Persons can comply with the August 21, 2023 deadline to request party status and revisions to Hearing Procedures.	
August 21, 2023	Respondents' deadline to submit Waiver Form. Parties' deadline to submit requested revisions to Hearing Procedure ⁶ . Interested Persons' deadline to request party status (If requesting party status, this is also the deadline to request revisions to Hearing Procedures)	Section III Section VIII.A Section V.C
August 28, 2023	Parties' deadline to submit objections to party status requests	Section V.C
September 1, 2023	Interested Persons' deadline to submit written, non-evidentiary policy statements	Section VI.A
September 4, 2023	Prosecution Team's deadline to submit prehearing evidence and argument (excluding rebuttal evidence)	Section VII.A

⁵ Any written submissions to the Central Coast Water Board shall be no more than 10 pages in length, unless otherwise noted. All Proposed Findings of Fact and Conclusions of Law must cite to specific evidence and attach that evidence to the submission itself.

⁶ If any Party wishes that the Presiding Officer consider a discovery cutoff date or a motion cutoff date, those date(s) should be submitted at this time.

Deadline	Event	Hearing Procedure Section
September 18, 2023	Remaining Parties' (including Respondent's) deadline to submit prehearing evidence and argument (excluding rebuttal evidence)	Section VII.A
September 29, 2023	Parties' deadline to submit prehearing rebuttal evidence	Section VII.B
	Parties' deadline to submit responses to Interested Persons' non-evidentiary policy statements	Section VI.B
	Parties' deadline to submit objections to prehearing evidence submittals (excluding rebuttal evidence)	Section VII.C
	Deadline to submit requests for additional hearing time	Section IX.E
October 5, 2023	Deadline by which to request Spanish (or other language) translation services	Section IX.B
October 13, 2023	Parties' deadline to submit objections to prehearing rebuttal evidence	Section VII.C
	Parties' deadline to submit Proposed Findings of Fact and Conclusions of Law	Section VII.D
October 18, 2023	Parties Deadline to submit copy of visual presentations	Section IX.F
October 19, 2023	Hearing Date	N/A