

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD,
NORTH COAST REGION**

**CEASE AND DESIST ORDER No. R1-2024-0035
REQUIRING
VINTAGE WINE ESTATES, INC.
RAY'S STATION WINERY
MENDOCINO COUNTY**

**TO CEASE AND DESIST FROM DISCHARGING AND/OR THREATENING TO
DISCHARGE WASTE IN VIOLATION OF WASTE DISCHARGE REQUIREMENTS**

The California Regional Water Quality Control Board, North Coast Region (Regional Water Board) finds that:

I. Facility Background

1. The Vintage Wine Estates, Inc. (Discharger) owns and operates Ray's Station Winery, located at 13300 Buckman Drive, Hopland, CA 95449 (Facility).
2. The Discharger is enrolled for coverage under the Regional Water Board General Waste Discharge Requirements for Discharges of Wine, Beverage and Food Processor Waste to Land in the North Coast Region (WBFP WDR), Order No. R1-2016-0002.¹
3. Prior to the introduction of the WBFP WDR, previous owners of the Facility were enrolled under Regional Water Board Waste Discharge Requirements (WDR) Order No. R1-2000-81 until it transferred to Vintage Wine Estates, Inc. in July 2012.
4. The process wastewater system serving the Facility is subject to the WBFP WDR as per an August 30, 2021, Regional Water Board Notice of Coverage (NOC) letter. Facility process wastewater is screened for solids and pumped to the wastewater treatment pond system located onsite. The treatment system consists of two lined aeration ponds (Pond 1 and Pond 2), one process wastewater treated effluent storage pond, and five Rapid Infiltration Basins (RIB) for disposal. Effluent is sampled at an above ground pipe outlet located on the west side of the second lined aeration pond and prior to discharge into the effluent storage pond. Each RIB is 0.26 acres in size and is designed to dispose up to 66,400 gallons per wet loading/drying cycle. The wastewater treatment

¹ The WBFP WDR is available online:

https://www.waterboards.ca.gov/northcoast/board_decisions/adopted_orders/pdf/2016/160128_0002_WBFP_WDR.pdf.

pond system is designed to produce effluent in compliance with the WBFP WDR effluent limitations for above ground reuse or disposal. Trash, recyclables, and waste oil are temporarily stored and disposed of by contractors. Processed solids were previously temporarily stored in the solids disposal area located on the southeast corner of the Facility and sold to vendors. According to the Discharger, it ceased crush activities after the 2021 harvest season and no process solids existed onsite as of June 2023. Staff confirmed process solids were not present onsite during a Facility inspection conducted on May 24, 2024.

5. The NOC letter approved enrollment under the WBFP WDR to the Discharger. Permit coverage under the WBFP WDR is based on an application for enrollment submitted by the Discharger, including a Form 200 (Application/Report of Waste Discharge General Information Form for Waste Discharge Requirements or NPDES Permit), Technical Information Form (TIF), and supplemental information. The NOC letter authorized the Facility to dispose of treated process wastewater to a 12-acre vineyard and to the RIBs. Following issuance of the NOC letter, the 12-acre vineyard was removed from the project plan to allow for construction of a stormwater retention basin in the same location. The retention basin has a rocked overflow as well as three polymer pipes which discharge at high water levels to a roadside ditch, a surface water drainage that discharges into the McDowell Valley Vineyard pond, a tributary to the Russian River. Upon removal of the vineyard, the only authorized location for discharges of the Facility's treated effluent under the WBFP WDR is to the RIBs.²
6. The WBFP WDR includes discharge prohibitions, groundwater limitations, compliance provisions, and effluent limitations for discharges of treated process wastewater to the RIBs for the following constituents: Biochemical Oxygen Demand, Ammonia as N, Nitrate as N, Nitrite as N, Sodium, Chloride and pH.
7. The Discharger is discharging and/or threatening to discharge waste to waters of the state in violation of the WBFP WDR.

II. Complaints, Inspections, and Enforcement Actions

1. Beginning in January 2019, nearby residents on multiple sides of the Facility property reported to Staff that they had experienced foul odors emanating from the Facility. Beginning July 24, 2020, Staff conducted multiple inspections of the

² The WBFP WDR pertains to the discharge of winery waste to land. The offsite hauling of wastewater to the City of Santa Rosa's Wastewater Treatment Facility is not necessarily authorized per enrollment under the WBFP WDR, nor need it be authorized, as it is not a discharge to land. Consistent with Water Code section 13260(a)(1), persons discharging waste into a community sewer system are not required to file a report of waste discharge.

Facility, as well as several additional drive-by inspections of the Facility to confirm the presence of odors.

2. During a July 24, 2020 inspection, Staff met with Facility representatives to discuss the odor complaint; the current WDR Order (Order No. R1-2000-0081) authorizing the discharge; a June 2018 application for enrollment under the WBFP WDR; the need to update the application to address the recently implemented odor control corrective actions; and Discharge Prohibition 2 of WDR Order No. R1-2000-0081, under which the Facility was enrolled at the time of the inspection. Discharge Prohibition 2 of WDR Order No. R1-2000-0081 prohibited the creation of nuisances, including odors emanating from the Facility.
3. During the July 24, 2020, inspection, Staff discussed the results of a 2019 investigation of the process wastewater pond subdrains and the presence of sulfate reducing anaerobic microbes in the underdrain water located beneath Pond 1 and Pond 2 conducted by Reed International LTD. The resulting corrective action taken in 2019 was to cap the underdrain to eliminate the subsurface water discharge to a drainage ditch and the associated sulfur odor. Additional corrective actions included increased operation of pond aerators, increased sampling of wastewater effluent and site soils, and an evaluation of the pomace storage area located on the southeast corner of the property, approximately 150 feet from the nearest neighboring residential dwelling. Despite the corrective actions that took place in 2019 and 2020, additional odor complaints were received by the Discharger and the Regional Water Board over the following two-years.
4. Staff conducted a routine inspection of the Facility on June 16, 2022. During the inspection, the Facility manager acknowledged that the Mendocino County Air Board had been to the Facility the previous day to investigate odor complaints concerning odors emanating from Pond 1 on the southeast corner of the Facility. The Facility manager informed Staff that the 50-horsepower aerator was not in operation and had been pulled out of Pond 1 for servicing. Two 25-horsepower aerators were observed by Staff to be in operation on Pond 1.
5. On July 22, 2022, Staff issued a Staff Enforcement Letter to the Discharger citing the alleged violation of Discharge Prohibition, Condition 11 of the WBFP WDR³ in response to nuisance odor concerns noted by the neighboring community.
6. The 50-horsepower aerator was repaired and in operation in July 2022. Facility odors were reported to have diminished in intensity after the 50-horsepower aerator was back in operation in Pond 1 and the issue was considered resolved.

³ Under WBFP WDR, Discharge Prohibition, Condition 11, creation of a nuisance as defined by Water Code section 13050 is prohibited.

7. Between October 2022 and April 2023, the Facility discharged treated effluent onsite to green and landscape areas, via spray irrigation from a mobile water truck. As described by the Discharger, the water truck was filled with effluent pumped directly from Pond 2. Authorized discharges of treated effluent from the effluent storage pond to the RIBs also occurred during this time. The reported volume pumped to the RIBs was less than the volume pumped to the water truck. According to the Discharger, the percolation rate of the RIBs was less than identified in the design plans. The Discharger subsequently reduced the disposal demand on the RIBs by discharging to an alternative, unauthorized, location of the Facility. The Discharger also pumped water out of the RIBs to adjacent surrounding land, creating a threat that treated process wastewater could be comingled with stormwater and be conveyed to waters of the state.
8. Discharges of treated effluent to the green and landscape areas via the water truck, and discharges of water from the RIBs to surrounding land not identified in the TIF as points of discharge were not authorized in the NOC letter.
9. On March 27, 2023, neighboring residents reported to Staff that intense foul-smelling odors were once again emanating from the Facility and that the Facility was “releasing water from the pond,” later identified by Staff as the stormwater retention pond.
10. On March 29, 2023, Staff inspected the Facility in response to the March 27, 2023, complaints. Prior to the inspection, Facility staff acknowledged that they had detected odors on March 24, 2023, and that the odors were generated from a pomace storage pile recently disturbed and partially submerged in water located in the southeast corner of the property. During the inspection, Facility staff stated that the Facility was unable to find an entity willing to accept the stockpiled pomace. Facility staff additionally confirmed a recent discharge from the stormwater retention pond located at the southwest corner of the property as well as multiple discharges of water from the RIBs to land as emergency discharges throughout the rainy season. Facility staff stated the water was discharged out of the RIBs and to land via portable pumps when the water level encroached on the two-foot free board limit, which Facility representatives erroneously believed was allowed per the NOC letter.
11. On April 28, 2023, during a tour of the affected neighborhood, Staff witnessed the discharge of water from the Facility’s water truck. The discharge occurred along the grassy perimeter of the grape pomace storage area in the southeast corner of the Facility, and the stormwater conveyance along the northern and southern portions of the Facility. These areas were not previously identified or approved as land application areas and include rocked drainage features that are part of the Facility’s stormwater conveyance system, that are unpermitted and prohibited areas for process wastewater disposal. Staff additionally detected foul-smelling odors at three separate neighboring homes. Staff observed the large pile of

grape pomace in the southeast corner of the Facility and noted that the odors were emanating from the pomace pile and/or one of three wastewater ponds. Other observations included the presence of organic biofilms located in the rock lined drainage ditch/spillway of the stormwater retention pond and the McDowell Valley Vineyard Pond. The Discharger allegedly violated the WBFP WDR by generating wastewater runoff that was potentially comingled with stormwater and then discharged to the unlined stormwater retention pond. Infiltration of such contaminated (untreated) wastewater runoff via the stormwater retention pond is prohibited and may result in groundwater impacts.

12. The NOC letter states, “As per enrollment under the WBFP WDR, the Discharger is authorized to dispose of treated process wastewater to an adjacent 12-acre vineyard and to onsite rapid infiltration spreading basins”. Following observations made during the April 28, 2023 tour, a Notice of Violation (NOV) was issued to the Facility on May 2, 2023, for violations of the WBFP WDR including for nuisance odors and the unauthorized discharge of treated process wastewater.
13. On December 20, 2023, the North Coast Regional Water Board Assistant Executive Officer issued a California Water Code (Water Code) section 13267 Investigative Order No. R1-2023-0058 (2023 Investigative Order), directing the Discharger to submit sampling and monitoring reports pertaining to alleged discharges from the Facility.
14. On December 20, 2023, Staff also issued an NOV for alleged violations of the WBFP WDR and Industrial General Permit.
15. On January 19, 2024, the Discharger petitioned the 2023 Investigative Order to the State Water Resources Control Board and requested it be held in abeyance as it intended to work with Staff to resolve the issues addressed in the petition. The Discharger did not request or receive a stay of the 2023 Investigative Order while the petition was in abeyance. Therefore, the Discharger was required to comply with all requirements in the 2023 Investigative Order.
16. On January 30, 2024, Staff received another odor complaint regarding the Facility. Staff inspected areas near the Facility on January 31, 2024, confirmed the odor, and identified the presence of organic biofilms on rocks within the roadside municipal drainage ditch which conveys stormwater run-off from the Facility southward down Buckman Drive to the McDowell Valley Vineyard Pond. Staff contacted Mendocino County Department of Environmental Health to investigate if the odors identified were related to concerns or failures of the septic system. Mendocino County determined the odors were not related to the septic system and further investigation was out of their jurisdiction.
17. On March 14, 2024, Staff received complaints from nearby residents of odors

and unauthorized discharges of partially treated wastewater from the Facility, resulting in the discharge of foamy, odor laden water to surface waters including the McDowell water supply reservoir. Staff inspected the Facility and spoke with the Discharger's representatives who stated a hose separated as they were pumping water from a RIB to the treated wastewater storage pond. During this inspection, Staff also identified the presence of biofilm on the rocks within the drainage way connecting the stormwater reservoir spillway to a culvert running underneath Highway 175, at the southwest corner of the Facility property.

18. On March 18, 2024, Staff met virtually with the Discharger and their legal representatives to discuss requirements, compliance dates, and potential revisions to the 2023 Investigative Order, including the modification or removal of requirements and extensions to multiple compliance dates. Staff directed the Discharger to submit the requested revisions and extensions in writing prior to the compliance date.
19. On April 1, 2024, the compliance date for several requirements contained in the 2023 Investigative Order, Staff received a letter containing requests for revisions and extensions to the 2023 Investigative Order and responses to certain requirements in the 2023 Investigative Order from the Discharger.
20. On April 25, 2024, Staff received additional complaints of odors from the Facility from nearby residents. Staff contacted Mr. Rodrigo de Oliveira, head of Facility operations, who indicated he was unaware of the situation and would have staff investigate the following day. Facility staff provided a response on April 29, 2024, reporting that an aerator located in Pond 1 was not functional and was currently undergoing repairs. Facility staff also made dosing adjustments to the bacteria levels in Pond 1 in an effort to subdue odor conditions.
21. On May 1, 2024, the North Coast Regional Water Board Assistant Executive Officer issued an extension letter in response to the April 1, 2024, request for revisions to the 2023 Investigative Order. The extension letter granted extensions for some of the Required Actions, while noting that the requests for additional substantive revisions to the 2023 Investigative Order would be formalized later. The extension letter also included Staff's determination that some of the Discharger's responses were not sufficient to comply with the 2023 Investigative Order.
22. On May 20, 2024, the North Coast Regional Water Board Assistant Executive Officer issued Order No. R1-2024-0028 (2024 Investigative Order), amending and superseding the 2023 Investigative Order, which incorporates several revisions requested by the Discharger and additional extensions to compliance dates. This Cease and Desist Order (Order) in no way is intended to supersede or modify the requirements in the 2024 Investigative Order.

23. Staff received additional complaints from nearby residents on May 10, 15, 22, 23, and 27, 2024, noting odors were once again emanating from the Facility and affecting the neighbors. Staff communicated with one of the complainants via a phone call on May 16, 2024, to gather additional information regarding the complaint. The complainant noted that the most recent odors have been prevalent daily beginning in early May 2024. Staff emailed Facility staff on May 17, 2024, inquiring about any updates regarding the non-operational aerator undergoing repairs and notifying Facility staff of the additional complaints received on May 15, 2024.
24. After receiving an additional complaint of odors emanating from the Facility on May 23, 2024, Staff inspected the Facility May 24, 2024, at approximately 8:30 am, confirming the presence of foul odors emanating from the facility and throughout the neighborhood to the east. Staff interviewed a neighboring resident who alleged the foul odors coming from the Facility off and on for the past five years had severely impacting their quality of life. When Staff spoke to Facility representatives, they noted that the aerator had been broken for several weeks. When Staff inquired exactly how long the aerator had been down, Facility representatives were unable to provide a response with the specific date.
25. Facility staff provided a response on May 24, 2024, noting that the Facility mechanic was unable to source an integral component of the aerator, causing an additional delay in installation to May 29, 2024.
26. Staff received information from neighboring residences that they held a barbeque on May 25, 2024, hosting family and friends. Afterwards, Staff received three complaints: one from the neighboring residents and two from their guests describing the odors from the Facility as horrendous, horrific, like fecal matter, and a constant assault on their living situation.
27. Staff spoke with Facility staff via a phone call on May 29, 2024. Facility staff noted they had an interaction with a neighboring resident regarding the ongoing odor conditions affecting the neighboring community and confirmed the repaired aerator was successfully installed earlier that day. Facility staff also noted that odor conditions may persist throughout the week of May 29, 2024, as the repaired aerator resumes operation and works through the backlog of persisting wastewater in Pond 1.
28. On May 29, 2024, another neighboring resident submitted an odor complaint regarding the Facility for the days of May 28 and 29, 2024 stating that they have “never been at the point of physically gagging as we step outside but the last two days have crossed that threshold.”
29. On June 1, 2024, Staff received two additional odor complaints regarding the Facility, with one stating that it “still smells here and has not let up in the last

three weeks.”

30. On June 4, 2024, a neighboring resident came to the Regional Water Board office in person to notify Staff that the odors from the Facility persisted and that the odors had “ruined our quality of life over the past five years.” The complainant likened the smell to that of “rotting teeth”.
31. On June 12, 2024, Regional Water Board Staff issued an NOV to the Discharger for nuisance odor conditions in violation of Discharge Prohibition 11 of the WBFP WDR and failure to properly operate and maintain all systems of treatment and control in violation of General Provision 4 of the WBFP WDR.
32. On June 13, 2024, the Discharger responded to the June 12, 2024 NOV⁴ detailing its plan to “address issues associated with Pond 1,” which includes installing a hydrogen peroxide injection system at the lift station alongside a bacteria injection system. These systems are intended to “maintain proper pond functions and prevent odor issues from re-occurring.”
33. On June 13, 2024, Regional Water Board Staff issued an NOV to the Discharger related to the unauthorized discharge from the Facility on March 14, 2024 in violation of the WBFP WDR.
34. On June 17, 2024, a Facility representative notified Staff of an upcoming potential discharge of partially treated wastewater after being notified by Facility staff of a “ballooning” effect on the liners of Pond 1 and Pond 2. The Facility representative informed Staff that they suspected that the ballooning effect was a result of capping the underdrain in 2019. Hours later, Staff was notified that a rupture of the liner in Pond 1 was identified, and immediate action was required to prevent discharges to the drainage ditch along Highway 175 and prevent further discharges and potential discharges to waters of the state. The Discharger claims it took immediate actions to start removing wastewater from Pond 1 starting as of June 17, 2024.
35. Facility representatives met with Staff virtually on June 19, 2024 to discuss current conditions and the Discharger’s plan to address the emergency conditions at the Facility.
36. On June 20, 2024, a Regional Water Board Assistant Executive Officer issued Emergency Cleanup and Abatement Order No. R1-2024-0036 (ECAO) related to the emergency conditions caused by the liners at Pond 1 and Pond 2.

⁴ The Discharger claims it would have provided this information to the Regional Water Board regardless of the issuance of the NOV.

37. According to the Discharger, on July 3, 2024, it installed new equipment to inject odor reducing chemicals directly into the wastewater before being discharged to the treatment ponds.
38. On July 3, 2024, Staff received a letter from the Discharger requesting revisions and extensions to the 2024 Investigative Order, the ECAO, and the June 13, 2024 NOV.
39. On July 8, 2024, Staff sent an email granting the Discharger's request to extend the time to respond to the June 13, 2024 NOV until August 15, 2024.
40. Starting as of July 8, 2024, the Discharger submitted weekly progress reports to the Regional Water Board, as required by the ECAO.
41. Starting as of July 9, 2024, and consistent with a plan and proposed schedule to notify neighboring residents of abatement and remediation actions at the Facility required by the ECAO, the Discharger submitted weekly progress reports to neighbors adjacent to the Facility.
42. On July 10, 2024, legal counsel for the Regional Water Board's Cleanup Team for the ECAO sent a request to Ms. Katharine Carter to revise the ECAO based on the Discharger's July 3, 2024, request and to correct minor typographical errors. Ms. Carter was asked to review the request due to the unavailability of Assistant Executive Officer Joshua Curtis who issued the ECAO.
43. On July 11, 2024, Ms. Carter approved the amendments to the ECAO on behalf of Assistant Executive Officer Joshua Curtis by issuing Cleanup and Abatement Order and Investigative Order No. R1-2024-0039 (Amended ECAO).
44. On July 11, 2024, Staff issued a letter granting extensions of deadlines relative to the 2024 Investigative Order.
45. On July 26, 2024, the Discharger submitted three documents prepared by Summit Engineering in response to the Amended ECAO, including a Report for the Characterization of Waste, a Corrective Action Plan for Pond 1 (CAP), and a Plan and Proposed Schedule for Pond 2 Liner Investigation (Pond 2 Liner Plan).
46. On August 1, 2024, Staff sent a letter to the Discharger approving its CAP and Pond 2 Liner Plan
47. On August 15, 2024, the Discharger submitted a response to the June 13, 2024 NOV, including a description of corrective actions.

48. On September 3, 2024, the Discharger submitted a technical report in response to the 2024 Investigative Order. As of the date of this hearing, Staff have not completed their review of the submittal for compliance with the terms of the 2024 Investigative Order.

III. Legal and Regulatory Considerations

1. Discharges to groundwater from the Facility go to the Ukiah Hydrologic Subarea of the Upper Russian River Hydrologic Area.
2. The beneficial uses of groundwater impacted by the Facility's discharge are defined in the Water Quality Control Plan for the California Regional Water Quality Control Board, North Coast Region (Basin Plan).⁵ The beneficial uses within the Ukiah Hydrologic Subarea of the Upper Russian River Hydrologic Area are municipal and domestic supply (MUN), agricultural water supply (AGR), industrial service supply (IND), industrial process supply (PRO), aquaculture (AQUA), and Native American culture (CUL).
3. The beneficial uses applicable to surface waters in the Ukiah Hydrologic Subarea within the Upper Russian River are as follows: municipal and domestic supply (MUN), agricultural water supply (AGR), industrial service supply (IND), industrial process supply (PRO), groundwater recharge (GWR), freshwater replenishment (FRSH), navigation (NAV), hydropower generation (POW), water contact recreation (REC-1), non-contact water recreation (REC-2), commercial and sport fishing (COMM), warm freshwater habitat (WARM) cold freshwater habitat (COLD), wildlife habitat (WILD), rare, threatened, or endangered species (RARE), migration of aquatic organisms (MIGR), spawning, reproduction, and/or early development (SPWN), shellfish harvesting (SHELL), and aquaculture (AQUA). Beneficial uses of any specifically identified water body generally apply to all its tributaries.
4. Water Code section 13301 authorizes the Regional Water Board to issue a Cease and Desist Order, requiring the Discharger to cease and desist ongoing and/or threatened discharges of waste in violation of the WBFP WDR.
5. Water Code section 13301 states: "When a regional board finds that a discharge of waste is taking place or threatening to take place, in violation of requirements or discharge prohibitions prescribed by the regional board or the state board, the board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith,

⁵ The Basin Plan is available online:

https://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/basin_plan_documents/.

(b) comply in accordance with a time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventive action.”

6. General Provision 4 of the WBFP WDR requires that the Discharger “at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the Discharger to achieve compliance with [the WBFP WDR].” This provision also requires that the Discharger operate backup or auxiliary facilities or similar systems when necessary to achieve compliance with the WBFP WDR.
7. The Discharger is in violation of General Provision 4 of the WBFP WDR by failing properly operate and maintain all facilities and systems of treatment and control at the Facility, as evidenced by a history of unauthorized discharges, nuisance odors, effluent limitation violations, failure to have backup or auxiliary systems, and an inadequate capacity to dispose of the volume of treated wastewater from the RIBs, as detailed in Section II, paragraphs 1-36, above, herein incorporated by reference.

a. Unauthorized Discharges:

- i. Discharge Prohibition 2 of the WBFP WDR prohibits the “discharge of wastes to surface waters or surface water drainage courses.”
- ii. Between October 2022 and April 2024, the Discharger violated or threatened to violate Discharge Prohibition 2 of the WBFP WDR by the unauthorized land application of treated effluent from Pond 2 via a water truck and the unauthorized discharge from the RIBs to surrounding land via a pump. On March 14, 2024, the Discharger violated or threatened to violate Discharge Prohibition 2 of the WBFP WDR by the unauthorized discharge from the RIBs to surrounding land via a failure of a pump’s hose line. During a March 29, 2023, Facility inspection, the Discharger identified the area where the unauthorized discharges occurred, both via the water truck and via a pump from the RIBs. The Discharger later provided a map showing the discharge locations for the water truck. The areas where the unauthorized discharges occurred were observed by Staff during a Facility inspection on May 5, 2023, to be adjacent to and hydrologically connected to rock lined drainage ditches that led to the Facility’s stormwater retention pond. Effluent discharged to these areas during times of wet weather in October 2022 through April 2023, as reported by the Discharger, during times when site soils were saturated threatened to or did enter the rock lined ditches and hence the stormwater retention pond. Discharge from the stormwater retention pond to the roadside ditch was documented in Regional Water Board staff photos dated March 29, 2023.

iii. These unauthorized discharges of waste demonstrate a history of such discharges taking place or threatening to take place, in violation of Discharge Prohibition 2 of the WBFP WDR and supports Regional Water Board staff's allegations that the Facility is improperly operated and maintained in violation of the WBFP WDR.

b. Nuisance Odors:

i. Discharge Prohibition 11 of the WBFP WDR prohibits the "creation or pollution, contamination, or nuisance as defined by section 13050 of the Water Code."

ii. Water Code section 13050(m) defines nuisance as "anything which meets all of the following requirements:

a. Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

b. Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

c. Occurs during, or as a result of, the treatment or disposal of wastes."

iii. The odors described in Section II above satisfy the definition of nuisance under Water Code section 13050(m) because they were indecent or offensive to the senses and interfered with the comfortable enjoyment of life or property, affected nearby neighbors, and occurred as a result of the treatment or disposal of wastes from the Facility.

iv. The history of nuisance odors from the Facility in the recent years over the past five years demonstrates improper operation and maintenance of the Facility in violation of the WBFP WDR.

c. Effluent Limitation Violations:

i. The WBFP WDR Effluent Limitations for Above Ground Reuse or Disposal, are included in Table 1-Effluent Limitations of the WBFP WDR as follows:

Constituent	Unit	Average Monthly Effluent Limit	Average Quarterly Effluent Limit	<u>Instantaneous Effluent Limit</u>
Biochemical Oxygen Demand	Pounds/acre/day	100	--	
Ammonia as N	mg/l	1.5	--	

Nitrate as N	mg/l	10.0	--	
Nitrite as N	mg/l	1.0	--	
Sodium	mg/l	--	60	
Chloride	mg/l	106	--	
pH	SU			Less than 6.0 or greater than 9.0

ii. Effluent data submitted in self-monitoring reports (SMRs) and representing effluent quality for the period from September 30, 2021 through December 31, 2023 indicate a total of 59 effluent violations, including 13 Nitrate (as N), eight (8) Sodium, 27 Chloride, two (2) Nitrite a N, four (4) Ammonia (as N), and five (5) pH.

iii. The analytical results provided in the SMRs demonstrate that the Facility is consistently out of compliance with effluent limitations, resulting in discharges and threatened future discharges of waste in violation of the WBFP WDR and demonstrates improper operation and maintenance of the Facility in violation of the WBFP WDR.

d. Failure to have Backup or Auxiliary Systems: By failing to install, or have available to install, backup or auxiliary systems to provide adequate aeration to Pond 1, the Discharger failed to properly operate and maintain its treatment system. Failure to have backup or auxiliary systems, as required by General Provision 4 of the WBFP WDR, creates a threatened discharge of waste and demonstrates improper operation and maintenance of the Facility in violation of the WBFP WDR.

e. Inadequate Capacity: Collectively, the violations alleged herein indicate that the capacity of the wastewater disposal system authorized under the WBFP WDR may be inadequate to dispose of the volume of treated wastewater conveyed to the RIBs. The Discharger's demonstrated need to dispose of treated wastewater to alternative disposal locations across the Discharger's property and to pump and haul treated wastewater to a municipal wastewater treatment plant on multiple occasions supports this contention. Inadequate capacity results in threatened future discharges of waste in violation of the WBFP WDR and demonstrates improper operation and maintenance of the Facility in violation of the WBFP WDR.

8. The Regional Water Board finds that a discharge of waste is taking place or threatening to take place in violation of the requirements and discharge prohibitions of the WBFP WDR, as described herein. This Order requires the Discharger to take appropriate remedial action and to comply in accordance with the time schedule set forth below. The time schedule is as short as possible, based on reasonably expected times needed to complete each task, and considers requirements and

deadlines imposed on the Discharger under the ECAO.

9. Water Code section 13267, subdivision (b), states, in part: “In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region ... shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.”
10. The technical reports required by this Order under Water Code section 13267 are necessary to ensure compliance with the Order, and to protect water quality and the beneficial uses of ground and surface waters in the Russian River watershed. The burden of compiling these reports, including the costs associated with collecting the information, bears a reasonable relationship to the benefits that will be obtained. In general, the benefits to be obtained by these reports are assurances that the design of the Facility wastewater treatment and disposal system will be modified to ensure that the discharge complies with the WBFP WDR. The cost to produce the reports required by this Order is estimated to be between approximately \$17,630 and \$25,6206. The specific reports and estimated costs are as follows:
 - a. One Corrective Action Work Plan: \$6,560 to \$9,528.
 - b. Five Quarterly Progress Reports: 5 reports x \$1,845 to \$2,682 per report = \$9,225 to \$13,410.
 - c. Final Corrective Actions Summary Report: \$1,845 to \$2,682.
11. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code §21000 et seq.), in accordance with section 15321 of title 14 of the California Code of Regulations since this is an enforcement action to cease and desist from discharging and/or threatening to discharge waste in violation of the WBFP WDR.

THEREFORE, IT IS HEREBY ORDERED, that, pursuant to Water Code sections 13301 and 13267, the Discharger shall cease and desist from discharging and/or threatening to discharge waste in violation of the WBFP WDR by complying with the following requirements:

1. The Discharger shall immediately cease and desist from discharging waste to any

⁶ Estimates based on the “Underground Storage Tank Cleanup Fund 2018 Cost Guidelines Update” dated August 2018, which can be found here: [2018 Cost Guidelines Update \(ca.gov\)](#).

location other than the RIBs, unless an alternative location is authorized by the Executive Officer in a modified Notice of Coverage under the WBFP WDR.

2. The Discharger shall cease and desist from discharging and/or threatening to discharge waste in violation of the terms of the WBFP WDR, including the creation of nuisance odors, by complying with the following requirements:

- a. **Within 90 days of adoption of this Order, submit a Corrective Action Work Plan (Plan)**The Discharger shall submit to the Regional Water Board a work plan for proposed corrective actions to be taken by the Discharger at the Facility, such as but not limited to, source control, treatment system upgrades, and expanded disposal capacity, to bring the Discharger into compliance with the WBFP WDR. A time schedule for implementing the recommended actions shall be included with the work plan.

The Plan must additionally include:

- i. An assessment of disposal capacity and percolation rate of each of the RIBs individually and averaged collectively.
- ii. A description of the actions taken to date to remediate each individual RIB and results of those activities on the RIBs' percolation rates.
- iii. A water balance for the current and proposed upgraded treatment and disposal system. The water balances shall include capacity of all components of the wastewater treatment and disposal system, including but not limited to sumps, ponds, RIBs, and other storage. The water balance shall include but not be limited to projected inflow, effluent outflow, annual precipitation, evaporation, and seepage and/or permeability.
- iv. The 100-year, 24-hour peak storm event design standard of the treatment and disposal system.
- v. An operations plan identifying how the wastewater and disposal system will be managed and operated to eliminate the creation of nuisance odors and to avoid future unauthorized discharges.
- vi. Inclusion of emergency contingency plans, including backup and/or auxiliary systems, to mitigate future unauthorized discharges, nuisance odors, or effluent exceedances.
- vii. Identification of the sources of Sodium and Chloride at the Facility that are entering the process wastewater stream, the estimated load from each of these sources, and plans for eliminating or reducing these sources to comply with the WBFP WDR effluent limits.

- b. Complete corrective actions within one year of approval of the Plan by the Executive Officer but no later than March 1, 2026.** The Discharger shall immediately begin implementation of the Plan upon Regional Water Board Executive Officer approval of the Plan with complete implementation of the Plan within one year of approval of the Plan by the Executive Officer but no later than March 1, 2026.
- c. Beginning 3 months after the Regional Water Board Executive Officer's approval of the Plan, submit quarterly Progress Reports.** The Discharger shall submit progress reports that summarize actions taken by or on behalf of the Discharger to implement the Plan. Progress report shall be submitted to the Regional Water Board on February 7, May 7, August 7, and November 7 of every year until submittal of the Final Corrective Action Summary Report.
- d. By April 1, 2026, update the Operation and Maintenance Manual for the Facility.** The Discharger shall update its Operation and Maintenance Manual for the Facility consistent with General Provision 4 of the WBFP WDR and the Plan by April 1, 2026.
- e. By April 1, 2026, submit Final Corrective Actions Summary Report (Report).** After full implementation of the Plan, the Discharger shall submit to the Regional Water Board a summary of the actions taken by or on behalf of the Discharger to implement the Plan. The Report shall include any updated as-built design plans for the Facility wastewater treatment and disposal system and an updated TIF, if needed, for continued enrollment under the WBFP WDR.
- 1. Report Submittal:** All reports and submissions required by this Order must be submitted electronically to the Regional Water Board via the State Water Resources Control Board's Geographic Environmental Information Management System database (GeoTracker). The Discharger-specific GeoTracker Global ID is WDR100040371. In order to submit reports electronically, create a secure GeoTracker Electronic Submittal of Information (ESI) account and log in. The account will be connected to the Global ID. The Discharger can request a username and password online by accessing the 'Getting Started' section on the GeoTracker ESI webpage (https://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal/).
 - 2. Use of Registered Professionals:** The Discharger shall provide technical and monitoring reports prepared under the direction of appropriately qualified professionals. In preparing the technical reports, any engineering or geologic evaluations and judgments shall be performed by or under the direction of registered professionals pursuant to California Business and Professions Code sections 6735, 7835, and 7835.1. Reports submitted by or on behalf of the Discharger shall include a statement of qualifications and registration

numbers of the responsible lead professional. The lead professional shall sign and affix their registration stamp to the report.

3. **Qualified Professionals:** The Discharger's reliance on qualified professionals promotes proper planning, implementation, and long-term cost-effectiveness of investigation, and cleanup and abatement activities. Professionals shall be qualified, licensed, where applicable, and competent and proficient in the fields pertinent to the required activities.
4. **Signatory Requirements:** The technical and monitoring reports shall be signed and certified by either a principal executive officer or the person with overall responsibility for environmental matters for the Discharger. Additional reports submitted in support of the technical report shall be signed by the principal author.
5. **Certification Statement:** Any report submitted in response to this Order shall include the following perjury statement:
"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
6. **Delayed Compliance:** If for any reason, the Discharger is unable to perform any activity or submit any document in compliance with the schedule set forth herein, or in compliance with any work schedule submitted pursuant to this Order and approved by the Executive Officer, the Discharger may request, in writing, an extension of the time specified. The extension request shall include justification for the delay. Any extension request shall be submitted as soon as a delay is recognized but no later than 20 days prior to the compliance date. An extension may be granted by letter from the Executive Officer.
7. **Consequences of Noncompliance:** If the Discharger fails to comply with the requirements of this Order, the Regional Water Board Executive Officer, or his or her delegee, is hereby authorized to take enforcement action or to request the Attorney General to take appropriate actions against the Discharger in accordance with Water Code sections 13268, 13308, 13331, and 13350. Such actions may include injunctive and civil remedies, if appropriate, or the issuance of a complaint for administrative civil liability for the Regional Water Board's consideration.

8. **No Limitation of Water Board Authority:** The Regional Water Board reserves the right to take any enforcement action authorized by law for violations of the terms and conditions of this Order. Furthermore, compliance with this Order is wholly distinct from any possible enforcement that may follow from the discharges themselves, pursuant to violations of the Water Code or other orders issued by the Regional Water Board or State Water Resources Control Board. This Order in no way limits the authority of the Regional Water Board to institute additional enforcement actions or to require additional investigation and/or cleanup of the Facility consistent with the Water Code and all other applicable laws and regulations. This Order may be revised as additional information becomes available.
9. **Compliance with Other Regulatory Requirements:** Nothing in this Order shall excuse the Discharger from meeting any additional regulatory requirement that may be imposed by other local, state, or federal regulatory entities for corrective actions taken by the Discharger to comply with this Order.
10. **Modifications:** Any modification to this Order shall be in writing and approved by the Regional Water Board.
11. **Effective Date:** In accordance with Water Code section 13303, this Order shall become effective and final upon adoption by the Regional Water Board.
12. **Termination:** The Discharger is required to notify the Regional Water Board of any change in ownership or control of land or waste discharge facilities subject to this Order. In the event Discharger (1) is no longer enrolled under WBFP WDR, and (2) either (a) no longer operates, owns, or otherwise controls the land or waste discharge facilities subject to this Order or (b) ceases operations of the process wastewater system subject to this Order, the Discharger shall provide written notification to Regional Water Board staff, and this Order shall terminate upon issuance of notice of termination from the Executive Officer. All other termination requests must be in writing and are subject to approval by the Regional Water Board.

Requesting Review by the State Water Board: Any person aggrieved by this action of the Regional Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition no later than 5:00 p.m., 30 days following the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

I, Valerie Quinto, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order issued by the California Regional Water Quality Control Board, North Coast Region, on October 3, 2024.

Valerie Quinto
Executive Officer

Rays Station Winery CDO