



North Coast Regional Water Quality Control Board

Notice of Public Hearing and Final Hearing Procedure

Draft Cease and Desist Order No. R1- 2024-0035

Ray's Station Winery, Vintage Wine Estates Inc.
13300 Buckman Drive, Hopland, CA

Notice of Public Hearing
October 3, 2024
Remote and In-Person Meeting

Draft Cease and Desist Order

On July 2, 2024, the Executive Officer of the North Coast Regional Water Quality Control Board (Regional Water Board) was notified that Regional Water Board staff had issued a draft Cease and Desist Order, (CDO or Order) to Ray's Station Winery. The Respondent is currently regulated under Regional Water Board Order No. 2016-0002, Waste Discharge Requirements for Discharges of Wine, Beverage, and Food Processor Waste to Land in the North Coast Region (Permit). The draft CDO includes proposed requirements under Water Code sections 13301 and 13267 and requires that the Respondent immediately cease and desist from discharging waste or threatening to discharge waste in unauthorized locations. The draft CDO requires that the Respondent to complete a Corrective Action Work Plan, submit quarterly progress reports, update the Facility's Operation and Maintenance Manual, and submit a final Corrective Actions Summary Report.

Pursuant to Water Code section 13301, the Regional Water Board is required to hold a hearing to adopt, modify or rescind a CDO. The Board has therefore scheduled a hearing to consider the matter at its upcoming public meeting scheduled for October 3, 2024. At the public hearing the Regional Water Board will consider whether to affirm, reject, or modify the draft CDO.

HECTOR BEDOLLA, CHAIR | VALERIE QUINTO, EXECUTIVE OFFICER

In Person and Video and Teleconference Meeting

This meeting is scheduled to occur with both a physical meeting location and an option for the public to participate from a remote location.

Live video and audio broadcasts of the public hearing will be available via the internet and can be accessed at the CalEPA Public meeting live webcasts page (<https://video.calepa.ca.gov>). The public hearing will be recorded.

This meeting is scheduled to occur on **October 3, 2024**. In accordance with the Bagley-Keene Open Meeting Act (Gov. Code, § 11120 et seq.), an agenda will be posted to the Board's website at least 10 days in advance of the meeting.

Please follow the Regional Water Board website at www.waterboards.ca.gov/northcoast for updates.

Hearing Procedure

Attached to this Notice is a Final Hearing Procedure that will apply to the proceedings related to the Regional Water Board's consideration of the CDO.

The Prosecution Team and Respondent have commented on the Hearing Procedure and changes to the Procedure have been made in consideration of those comments.

Opportunity for Public Participation

The Regional Water Board will consider written comments submitted by members of the public that are interested in the pending matter (Interested Persons). Interested Persons may also request to participate directly in the hearing as a Designated Party. See the Hearing Procedure attached for deadlines and instruction on submitting a request to be considered a Designated Party. No Interested Person submitted a request to be considered a Designated Party to the hearing. Interested Persons who are not the parties to the proceeding will be permitted to submit formal written comments. All written comments shall be submitted as early as possible, and in no case later than **September 2, 2024**. Comments should be submitted electronically to Advisory Team members identified in the Hearing Procedure.

Interested Persons will also be provided the opportunity to orally present general policy statements to the Regional Water Board members at the hearing. Such statements will generally be limited to **5 minutes** per Interested Person, though the Board may grant additional time upon request. Interested Persons do not need to submit written statements in order to speak at the hearing. Interested Persons who wish to be considered designated parties to the proceeding please see the attached Hearing Procedures for instructions. Please follow the Regional Water Board's website and

posted agenda for this Board meeting for instructions on how to participate in this meeting remotely.

Document Review

The draft Order and related documents, including any comments that are received on the draft Order are part of the Regional Water Board's public file for this matter and may be inspected or copied at the Regional Water Board's office, 5550 Skylane Blvd, Suite A, Santa Rosa, CA. Contact the Regional Water Board Prosecution Team to obtain a copy of the file record.

The draft Order(s) and other relevant documents will also be available on the Regional Water Board's website.

Accessibility

Anyone requiring reasonable accommodation to participate in the public meeting should contact Deidre Wilkerson at 707-576-2220 at least five days prior to the scheduled meeting. The Regional Water Board hearing room is accessible. TTY users may contact the California Relay Service at 800-735-2929 or voice line at 800-735-2922.

Questions

Questions regarding the draft CDO, this public notice, or the hearing procedure should be directed to Nathan Jacobsen, Nathan.Jacobsen@waterboards.ca.gov, or Bayley Toft-Dupuy, Bayley.Toft-Dupuy@waterboards.ca.gov.

Valerie Quinto

Executive Officer

For Hector Bedolla

Board Chair, Presiding Officer

Attachment: Hearing Procedure

Final Hearing Procedure

Proposed Action: Consideration of Draft Cease and Desist Order No. R1- 2024-0035

Hearing Date: October 3, 2024

Location: 1) North Coast Regional Water Quality Control Board, 5550 Skylane Blvd., Santa Rosa, California 95043; and 2) Zoom Videoconferencing (online)

Respondent: Vintage Wine Estates Inc.

IF EITHER PARTY INTENDS TO PARTICIPATE IN THE HEARING REMOTELY, PLEASE CONTACT THE ADVISORY TEAM TO OBTAIN SPECIFIC INSTRUCTIONS ON HOW TO PARTICIPATE REMOTELY VIA VIDEOCONFERENCE OR TELEPHONE

A. Applicable Laws and Regulations

This hearing constitutes an “adjudicative proceeding.” This proceeding is governed by the following statutes, regulations and policies:

- (1) Title 23, sections 648 through 648.8, available on the State Water Board’s laws and regulations page (https://www.waterboards.ca.gov/laws_regulations);
- (2) Division 7 of the Water Code (Wat. Code § 13000 et seq.);
- (3) Chapter 4.5 of the Administrative Procedure Act (Gov. Code, § 11400 et seq.);
- (4) Evidence Code sections 801 through 805;
- (5) Government Code section 11513; and
- (6) State Water Resources Control Board’s Water Quality Enforcement Policy (https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf).

B. Parties and Separation of Functions

To ensure that the Respondent receives a fair hearing, Regional Water Board staff and counsel have undertaken a separation of functions. Board members will be advised by an “Advisory Team” comprised of staff and counsel that have not participated in development of the draft CDO. The Regional Water Board staff and attorneys that have issued the CDO (the Prosecution Team) have been separated from the Advisory Team regarding the development of the CDO. Members of the Prosecution Team have not communicated with the Regional Water Board nor the Advisory Team regarding any substantive matter at issue in this proceeding. The Prosecution Team is subject to all applicable rules and regulations as any other party to this proceeding, including the prohibition on ex parte communications with the Regional Water Board and members of the Advisory Team.

The members of the Advisory Team, Prosecution Team and the Respondent are listed below with contact information for each.

Advisory Team

Valerie Quinto
Executive Officer, North Coast Regional Water Quality Control Board
5550 Skylane Blvd., Suite A, Santa Rosa, CA 95043
Valerie.Quinto@waterboards.ca.gov

Nathan Jacobsen
Attorney, State Water Resources Control Board
1001 I Street Sacramento, CA 95814
(916) 341-5181
Nathan.Jacobsen@waterboards.ca.gov

Bayley Toft-Dupuy
Attorney, State Water Resources Control Board
1001 I Street, Sacramento, CA 95814
Bayley.Toft-Dupuy@waterboards.ca.gov

Prosecution Team

This Final Hearing Notice and Hearing Procedure sent via email only to the following:

Kailyn Ellison
Attorney, State Water Resources Control Board, Office of Enforcement
801 K Street, Suite 2300, Sacramento, CA 95814
Kailyn.Ellison@waterboards.ca.gov

Claudia Villacorta, North Coast Regional Water Quality Control Board,
Claudia.Villacorta@waterboards.ca.gov

Jeremiah Puget, North Coast Regional Water Quality Control Board,
Jeremiah.Puget@waterboards.ca.gov

Kason Grady, North Coast Regional Water Quality Control Board,
Kason.Grady@waterboards.ca.gov

Charles Reed, North Coast Regional Water Quality Control Board,
Charles.Reed@waterboards.ca.gov

Rachel Prat, North Coast Regional Water Quality Control Board
Rachel.Prat@waterboards.ca.gov

Kelsey Cody

Kelsey.Cody@waterboards.ca.gov

Jordan Filak

Jordan.Filak@waterboards.ca.gov

Respondent

This Final Hearing Notice and Hearing Procedure sent via email only to the following:

Mr. Rodrigo de Oliveira, Head of Operations
Vintage Wine Estates, Inc.
205 Concourse Boulevard
Santa Rosa, CA 95403
RdeOliveira@vintagewineestates.com

Theresa A. Dunham Esq., Counsel for Respondent
Kahn Sores & Conway, LLP
tdunham@kscsacramento.com

C. Ex Parte Contacts Prohibited

To maintain the Regional Water Board's impartiality, ex parte contacts are prohibited. (See, e.g., Gov. Code, § 11430.10 et seq.) Ex parte contacts are those communications that are directed at the Regional Water Board members or the Advisory Team members, regarding the pending matter, and which are made without notice and opportunity for all parties to participate. Communications regarding non-controversial procedural matters are not considered ex parte contacts and are therefore not restricted under this Hearing Procedure.

To avoid ex parte contacts in pre-hearing communications, the Respondent should ensure that the Prosecution Team is copied on all correspondence directed to the Advisory Team, and *vice-versa*.

D. Interested Persons

The Regional Water Board will consider written comments submitted by members of the public that are interested in the pending matter (Interested Persons). The parties to the proceeding will be permitted to submit formal written responses to Interested Person written comments. To allow for such responses, all written comments shall be submitted as early as possible, and in no case later than **September 2, 2024**. Interested Persons will also be provided the opportunity to orally present general policy statements to the Regional Water Board at the hearing. Such statements will be limited to 5 minutes, though the Board Chair may grant additional time on a case-by-case basis. Interested Persons do not need to submit written statements in order to speak at the hearing.

Interested Persons may not submit evidence (e.g., photographs, eye-witness testimony, and monitoring data) and are not subject to cross-examination but may be asked to respond to clarifying questions from the Regional Water Board and Advisory Team.

1. Requesting Designated Party Status

By default, the only parties to an adjudicative enforcement proceeding are: (1) the Prosecution Team; and (2) the Respondent named in the draft Order. In some circumstances, however, it may be appropriate for certain Interested Persons to participate directly in the proceeding as a “Designated Party.” Such determinations shall be made discretionarily on a case-by-case basis by the Advisory Team, in consultation with the Board Chair.

To request “Designated Party” status, Interested Persons are required to submit a written request to the Advisory Team, including any comments on the Hearing Procedure no later **July 22, 2024**. The request must include a brief explanation of how the person will be affected by the potential action, the person’s need to present evidence and/or cross examine witnesses, and why an existing Party (Prosecution Team or Respondent) will not adequately represent the person’s interest. No person requested Designated Party status by the above deadline.

E. Pre-Hearing Submittals

To avoid the introduction of surprise testimony and exhibits (title 23, § 648.4, subd. (a)), and to minimize the need for oral argument and testimony at the hearing, this Hearing Procedure requires the parties to submit documentary evidence, witness information, and legal/technical memoranda to the Advisory Team prior to the hearing. Absent a showing of good cause and lack of prejudice to the parties, the Board Chair may exclude materials that are not submitted in accordance with this Hearing Procedure. Excluded materials will not be considered by the Board. (§ 648.4, subd. (e).)

1. Submittals shall be submitted electronically

All communications related to this proceeding shall be submitted electronically via email, per the email addresses listed in section B “Parties”. All communications to the Advisory Team shall be directed to the attorney(s) for the Advisory Team, who shall serve as the primary point of contact for the Advisory Team; the parties may elect to include other members of the advisory team on submissions. Communications to the Prosecution Team shall, at a minimum, be sent to the attorney(s) for the Prosecution Team. The Board will accept required pre-hearing submittals and evidence via a FTP site. Instructions for uploading and downloading documents on the FTP site will be provided. Parties must provide notice via email to the Advisory Team and to the other party when documents are uploaded to the FTP site.

2. Prosecution and Respondent Submittals

The following items shall be submitted prior to the hearing by the dates specified:

(1) The Prosecution Team shall submit all documentary evidence supporting adoption of the draft CDO. The Respondent shall submit all documentary evidence that supports its position with respect to the draft CDO. Each document submitted shall be separately designated as sequentially-numbered exhibit (i.e., Exhibit 1, Exhibit 2, Exhibit 3, etc.).

(2) The Prosecution Team and Respondent may submit a memorandum articulating the party's legal arguments and technical analyses in support of its position on the draft CDO.

(3) The Prosecution Team and Respondent shall submit a Witness Information Sheet containing the name of each witness the party intends to call to testify at the hearing; the subject matter of their testimony and the estimated time required for each witness.

The Prosecution Team shall submit items (1)-(3) above no later than **August 13, 2024**, to the Advisory Team with a copy provided to the Respondent:

The Respondent shall submit these items no later than **September 13, 2024**, to the Advisory Team with a copy provided to the Prosecution Team.

(4) Written Evidentiary Objections from the Parties must be received by **September 20, 2024**.

(5) Rebuttal Evidence and responses to any written comments received from Interested Parties. Both Parties may submit Rebuttal evidence. "Rebuttal" means evidence, analysis, or comments offered to disprove or contradict other Designated Parties' submissions. Both parties may also submit written responses to comments received from Interested Persons. Rebuttal and responses to comments from Interested Persons must be received by **September 20, 2024**. Parties may rebut oral testimony offered at the hearing.

(6) The Prosecution Team issued the draft CDO on July 2, 2024. The Respondent may submit a draft CDO to the Advisory Team by **September 20, 2024**. The Prosecution Team may submit any revisions to its draft CDO by **September 20, 2024**.

(7) Slide Presentations. Slide presentations (e.g., PowerPoint) may be used at the hearing provided their contents do not exceed the scope of previously submitted material. Regional Water Board administrative staff will be running the presentation at the party's direction. Copies of the slide presentation must be provided to the Advisory Team by **the day prior to the hearing**.

F. Conduct of Hearing

1. The following Time Limits apply to the hearing.

Prosecution Team: 90 minutes

Respondent: 90 minutes

Interested Persons [*if any*]: 5 minutes

The above time limits are proposed by the Board Chair based on a review of the draft CDO and in consideration of title 23, section 648.5, subdivision (a), which specifies that adjudicative proceedings be conducted with a view toward securing relevant information expeditiously without unnecessary delay and expense to the parties and the Board. The parties may propose alternative limits for the Board Chair's consideration.

The parties may allocate their allotted time as they see fit between presenting evidence and testimony, cross-examining adverse witnesses, making opening and closing statements. A timer will be used to track how much time has elapsed. This timer will be paused during Board questions and party responses to Board questions. Additional time may be provided at the discretion of the Board Chair (at the hearing), upon a showing that additional time is necessary.

2. Witness Testimony

All witnesses who have submitted written testimony shall be available to appear during the hearing to affirm that the written testimony is true and correct, and shall be subject for cross-examination. All persons intending to testify at the hearing shall take the oath administered by the presiding officer. (Gov. Code, § 11513; Cal. Code Regs., tit. 23, § 648.5, subd. (a)(3).)

3. Rules of Evidence

The proceeding shall be conducted in accordance with the provisions and rules of evidence set forth in Government Code section 11513. Hearsay evidence may be used to supplement or explain other evidence, but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in a civil action. Evidence already in the Regional Water Board's files may be submitted by reference if the location of the evidence is clearly identified. (Cal. Code Regs., tit. 23, § 648.3.)

G. Hearing Order

The hearing will generally proceed in the order listed below, subject to modification by the Board Chair:

- i. Opening Statements (Prosecution followed by Respondent)
- ii. Prosecution Team Case Presentation and Direct Testimony from Witnesses
- iii. Cross-Examination of Prosecution Witnesses
- iv. Respondent Case Presentation and Direct Testimony from Witnesses

- v. Cross-examination of Respondent witnesses
- vi. Rebuttal (Prosecution followed by Respondent)
- vii. Closing Arguments (Prosecution followed by Respondent)
- viii. Public Comments
- ix. Board deliberation and consideration; the Board may meet in closed session

Note: The Parties are allowed to use their time for re-direct or re-cross examination.

H. Important Deadlines

The following list summarizes the important deadlines in this matter. The parties may request extensions or modifications to the deadlines; however, any granting or denial of a request shall be at the discretion of the Board Chair in consult with the Advisory Team. All submissions are due at 5 p.m. on the listed date, unless otherwise noted.

Important Dates:

July 2, 2024: Prosecution Team issues draft Cease and Desist Order R1-2024-0035

July 12, 2024: Advisory Team issues Notice of Public Hearing and Tentative Hearing Procedure

July 22, 2024: Parties submit any comments or objections to the Tentative Hearing Procedure. Interested Persons submit requests to be Designated Parties including any comments or objections on the Hearing Procedure.

August 7, 2024: Board Chair issues final Hearing Procedure.

August 13, 2024: Prosecution Team submits supporting evidence, legal/technical memorandum, witness list.

September 2, 2024: Interested Persons submit written comments.

September 13, 2024: Respondent submits supporting evidence, legal/technical memorandum, witness list.

September 20, 2024: Parties submit written rebuttal evidence, responses to Interested Persons' comments.

September 20, 2024: Respondent submits draft CDO, Prosecution Team submits revisions to CDO, if any. Written objections to evidence due.

Day before hearing: Parties submit presentation slides.

I. Prehearing Conferences and Summary Report

The Advisory Team may schedule additional pre-hearing conferences to resolve objections or any other outstanding prehearing issues, if needed. Pre-hearing conferences will be held telephonically or through videoconferencing. Prior to the hearing, the Advisory Team will prepare an Executive Officer Summary Report summarizing the matters involved in the proceeding, and the positions taken by each of the parties. Once finalized, the Summary Report will be provided to the parties and included in the agenda materials for the proceeding.