

#7

Ramirez, Angelica

Public Comment- Group 5

From: Leigh Johnson <rlj.leigh@gmail.com>
Sent: Friday, May 1, 2020 5:37 AM
To: sbcob
Subject: Santa Rita Ag BOS hearing May 5
Attachments: please reject Santa Rita Ag cannabis venture^.pdf



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Please enter in the file and disperse to the Board of Supervisors.

Thank you

Leigh Johnson

Honorable supervisors:

May 1, 2020

Please take onto consideration the cluster of cannabis grows near the Sta. Rita appellation and the gateway to the valley. Santa Rita Ag project should be rejected. The incompatible crop of cannabis is encroaching on vineyards, farms, ranches and residents throughout the county and especially in sensitive established areas. The cumulative effects of cannabis on industrial levels is effecting everyone and everything and especially our valued wine industry. I may not be a wine connoisseur but I Do appreciate the work and dedication of the vintners of our area for what they have accomplished. Even as a layman I do understand terroir. I'm sure it's been explained many times....the characteristic taste imparted to a wine by the environment in which it's produced; including factors such as soil, climate and geomorphology.

Why does cannabis want to piggy back on our famous vineyards? It's because of terroir and the tannins. The stems often included in the pressing of grape clumps for Pinot Noir can absorb surrounding odors and impart taste such as tannins. Terroir has been sold to cannabis entrepreneurs throughout the country by the County. The previous assistant CEO often promoted Santa Barbara County and the hopes of cannabis being as infamous as Sta Rita and it would develop a similar niche. Why is it such a leap to conclude that the same terroir being touted; can be ruined by an incompatible crop such as cannabis? Why in a situation dependent on taste and atmosphere is the science needing to be proven without a doubt? "Science is science" as quoted frequently. Some people taste and absorb elements that others can not. Cannabis while growing, drying and smoked has a resounding aroma that the vast majority finds pungent. Most people don't care for the smell of skunk; that's not science it's a majority's opinion and even wildlife's reaction to skunk is obvious. Have you ever seen angry bees? Get a skunk to spray near hives and fight or flight kicks and the result is riled up bees. Bears have nothing on a skunk where bees are concerned. That's not science...but it's an affect.

"Funny how a melody sounds like a memory". Music isn't science but has an affect on humans

"A picture is worth a thousand words." Photo memories aren't science but has an affect on humans

Belief in religion. Not science but 86% of the population believes and that is a big percentage of the affect on humans.

"It's a matter of taste" not science... but an affect. Ambience and atmosphere affect humans.

Pheromones...some good some bad. Science doesn't dictate what some people are attracted to but it has its affect.

Anxiety and depression are not a science. Some people get while others don't. I would make a wager that anxiety and depression of residents in the un-incorporated County dealing with the cannabis situation are experiencing anxiety and depression on levels not typical. It's affect is evident on humans.

Terroir elements as explained per Wikipedia:

Human Controlled elements

The definition of terroir can be expanded to include elements that are controlled or influenced by humans. This can include the decision of which grape variety to plant, though whether or not that grape variety will produce quality wine is an innate element of terroir that may be beyond human influence. Some grape varieties thrive better in certain areas than in others. The winemaking decision of using wild or ambient yeast in fermentation instead of cultured or laboratory produced yeast can be a reflection of terroir. The use of oak is a controversial element since some will advocate that its use is beneficial in bringing out the natural terroir characteristics while others will argue that its use can mask the influences of the terroir.

Commercial interests

The importance of terroir affects the price of the agricultural product as well as the products made from the product. Branding, variety, and farmer identification affects the price of a product. The Slow Food movement appreciates history of a variety of plant or animal, the story of the farmer who produced it, and ultimately the quality of the product. Chefs and bakers develop their own list of qualities they desire for their creations, and terroir affects these.

Appellation systems

The influence of terroir means that wines from a particular region are unique, incapable of being reproduced outside that area, even if the grape variety and winemaking techniques are painstakingly duplicated

Thank you for your time and please reject Santa Rita Ag.

Leigh Johnson
Cebada Canyon

Ramirez, Angelica

From: Renee O'Neill <chasingstar2701@yahoo.com>
Sent: Thursday, April 30, 2020 7:09 PM
To: sbcob; Hart, Gregg; Lavagnino, Steve; Hartmann, Joan; Adam, Peter; Williams, Das
Cc: Villalobos, David; Laura Bridley; John Parke; Larry Ferini; Dan Blough; Michael Cooney
Subject: Letter to BOS re Santa Rita Valley Ag
Attachments: Letter to BOS, 5-5-2020, re Santa Rita Valley.docx

Caution: This email originated from a source outside of the County of Santa Barbara. Do not click links or open attachments unless you verify the sender and know the content is safe.

Dear Supervisors,

Attached, please find my letter regarding the Santa Rita Valley Ag project. I plan to attend and speak at the Board Hearing, on May 5th.

"We the People," care deeply about the future of our communities and our county. Maybe we will be happily surprised by the Board majority and have cause to celebrate on Cinco de Mayo? One can always hope...

Have a Great Weekend,

Renee O'Neill

To: Santa Barbara County Board of Supervisors
Re: Santa Rita Valley Ag

April 30, 2020

We strongly recommend that you to deny the Santa Rita Valley Ag cannabis project and protect the Public Health, Safety and Welfare of your constituents.

“We the People,” voted to legalize and decriminalize marijuana. We did not vote for or approve of the irresponsible way this county developed regulations. Most of the contentious issues we are facing, today, are a result of imprudent decisions that were identified in the PEIR, as “Class I Impacts.” Instead of mitigating these Significant Impacts, the BOS chose to override them. By the time the cannabis industry infiltrated and negatively impacted on legacy ag regions, the PEIR was a done deal. However, I disagree with that. Many of the issues that “We the People,” addressed and strongly challenged during that 2017-18 PEIR process, are currently being litigated.

Santa Rita Valley Ag cannabis project is incompatible with the existing vineyards, which have already proven that they generate more revenue than cannabis industry. In addition, growers are destroying scenic lands, the environment and our way of life. As I have said from the outset, “The Cannabis Industry belongs in industrialized ag regions, where it can be monitored, regulated, enforced and taxed.

County is allowing more cannabis than is responsible or necessary to meet the demands of SBC consumers. As a result, you are promoting Black Market Industry. There are more applications in process (or needed) than are currently allowed under the regulations. Cannabis operators continue to plague our communities with their illicit, non-compliant practices. I, personally, have *not* witnessed them being “Good Farmers or Good Neighbors.” They continue violating county, state and federal ordinances. They fail to obtain required permits before developing and drag their feet through the license process to avoid paying taxes.

Blair Pence may be the official “Appellant” on the Santa Rita Valley Ag cannabis cultivation project but “We the People” and everyone who is impacted, either directly or indirectly by this industry, echoes all recommendations to support this appeal, as well as other appeals. We strongly support Attorney, Marc Chytilo, the Santa Barbara Coalition for Responsible Cannabis and those who continually advocate for responsible cannabis legislation. It’s *high time* for the board to take responsibility in amending regulations that were imprudently developed when numerous problems were not considered.

Tepusquet residents have witnessed, first-hand, the devastating impacts to our community, where illicit cannabis growers have continued to operate unhindered, despite multiple county, state and federal violations identified in their county records. We have been told to “be patient...” for too many years. We continue to wait (*impatiently*) for the county to remove the Bad Actors. We will continue to urge the Board of Supervisors to ban cannabis industry in all EDRN’s and adjacent communities, as well as regions where it is either inappropriate and/or incompatible with legacy agriculture.

NOTE - The applicant made poor choices re plants for screening. 1. Grapevines are deciduous and won’t hide or screen anything while dormant.

2. Olive trees grow at a rate of 12” per year. 3. Coast Live Oaks grow 13-24” per year. It will take 15-20 years for these trees to reach a reasonable height.

You may want to check the USDA Zoning recommendations for the olive trees. They are not happy in most regions. Check your zone before planting.

Respectfully Submitted,

Renée O'Neill

Ramirez, Angelica

From: Villalobos, David
Sent: Friday, May 1, 2020 8:56 AM
To: sbcob
Subject: FW: Santa Rita Valley Ag
Attachments: santa rita ag 5-2020.doc

-----Original Message-----

From: Denise Ranch <denise@canyonspringranch.com>
Sent: Friday, May 1, 2020 8:52 AM
To: Williams, Das <DWilliams@countyofsb.org>; Hart, Gregg <gHart@countyofsb.org>; Hartmann, Joan <jHartmann@countyofsb.org>; Adam, Peter <peter.adam@countyofsb.org>; Lavagnino, Steve <steve.lavagnino@countyofsb.org>; Miyasato, Mona <mmyasato@countyofsb.org>; Villalobos, David <dvillalo@co.santa-barbara.ca.us>
Cc: Klemann, Daniel <dklemann@co.santa-barbara.ca.us>; Plowman, Lisa <lplowman@co.santa-barbara.ca.us>; Melekian, Barney <bMelekian@countyofsb.org>; Mason, Steve <Mason@co.santa-barbara.ca.us>; Yee, Steven H - CEO <shyee@countyofsb.org>
Subject: Santa Rita Valley Ag

Caution: This email originated from a source outside of the County of Santa Barbara. Do not click links or open attachments unless you verify the sender and know the content is safe.

Dear Supervisors and all other "key" people in the decision making on this cannabis project, please find attached my letter.

Best regards,
Denise Peterson
Rancho Santa Rita Hills Estates

5-1-2020

To: Santa Barbara County Board of Supervisors
Re: Santa Rita Valley Ag

Please submit this letter into record.

I have lived in the Santa Rita Hills area for over 16 years, Santa Barbara County for over 35 years. Our main route into the Valley and our commute into town are via Highway 246. This has always been a beautiful drive. This is also the gate way into the Santa Rita Hills wine country with its rolling hills, cattle and vineyards. This route is also heavily used by cyclists during the spring, summer and fall seasons for bike races, fund raisers, rallies and clubs. These cyclists fill the hotels of Solvang, Buellton and Lompoc. This brings incredible revenue to our county and local businesses. If the board continues to approve more Cannabis in this area, why would they want to continue to ride this route with the heavy smell, they might as well just keep going north to a fresher air in SLO! This is peak harvest time and the smell will be atrocious!

The Supervisors that my friends, neighbors and I were able to vote for - are trying to protect the very districts they represent by voting NO on the huge Cannabis production projects. While the other sitting supervisors are voting to permit large cannabis grows in our district. This is not right. The supervisors of the district that is in question should have a larger voice than those that do not even represent our district. The supervisors in the other districts do not live here, they do not drive through here, and they could not even name the ranches and vineyards that adorn Highway 246.

I ask you to save our open land, ranches and vineyards. The people that live in the Santa Rita Hills/Buellton area for years that enjoy the fresh air, did not vote to have our county be # 1 in Cannabis production.

There are other areas that do not affect existing farms, residence and vineyards if you must permit these huge projects. These large production grows **belong in industrial areas** where they bother no one. If "locals" already do not want to smell it, it is matter of time before tourist do not want to come out or drive through this hoard of Cannabis grows that are being permitted in our district.

These growers have already proven to be "Bad Neighbors", no regards for the existing farms and residence. A large percent of these growers/operators do not even live here, they have no respect for the land, the people, their neighbors, they ignore the very rules you put in place.

Thank you for your consideration,

Denise Peterson
Rancho Santa Rita Estates

Ramirez, Angelica

From: Ted Fox <tedfox32@gmail.com>
Sent: Friday, May 1, 2020 11:31 AM
To: sbcob
Subject: Written submission for B of S meeting on Tuesday - item 7 Santa Rita Valley Ag appeal
Attachments: Cannabis in the SRH AVA - Facts vs. Fiction.docx

Caution: This email originated from a source outside of the County of Santa Barbara. Do not click links or open attachments unless you verify the sender and know the content is safe.

Please attach the Word file below to the written submissions for this agenda item

Cannabis in the Santa Rita Hills AVA – Facts vs. Fiction

At the March 17th and 24th Board of Supervisors meetings, Supervisor Joan Hartman made several inaccurate statements regarding cannabis cultivation in the Santa Rita Hills AVA (SRH AVA). According to Planning staff, these are the numbers regarding the vis a vis cannabis cultivation and vineyards in the SRH AVA:

Total acreage in SRH AVA: 30,720

Supervisor Hartman said: On March 17th, 2,700 acres (difference from actual -91%)

Total proposed acreage of cannabis in the SRH AVA: 625 acres

Supervisor Hartman said: 970 acres (difference from actual +35.55)

Total percent of proposed cannabis cultivation vs. wine grapes in the SRH AVA: 17%

Supervisor Hartman said: 36% (difference from actual +112%)

Total acreage of cannabis projects along Hwy 246: 261 acres

Supervisor Hartmann said: 970 acres (difference from actual +272%)

Actual vineyard planted acreage in the SRH AVA: 3,640 acres

Supervisor Hartmann said: On March 17th, 2,700 acres; March 24th, 1,700 acres (difference from actual -26% and -53%, respectively)

At the March 17th Board of Supervisors meeting, Supervisor Joan Hartmann stated that there were 970 acres of proposed cannabis cultivation in the Santa Rita Hills AVA (SRH AVA). Further, she noted that vineyard acreage in the SRH AVA totaled 2,700 acres and that cannabis projects in the Planning department LUP queue represented “over 1/3 of the acres grown in the SRH AVA”.

At the subsequent Board of Supervisors Meeting on April 24th, Supervisor Hartmann asked staff for the amount of cannabis acreage “along Highway 246 and in the SRH AVA”.

Planning department staff reported back that the TOTAL acreage of all land associated with the cannabis projects along the Highway 246 corridor was 970 acres, but the requested cannabis cultivation acreage in these LUPs was only 261 acres.

In addition, planning staff noted that the cannabis acreage requested within the entire SRH AVA was 625 acres and the total acreage of all land (including grazing land) in the SRH AVA was not 2,700 acres it is 30,720 acres.

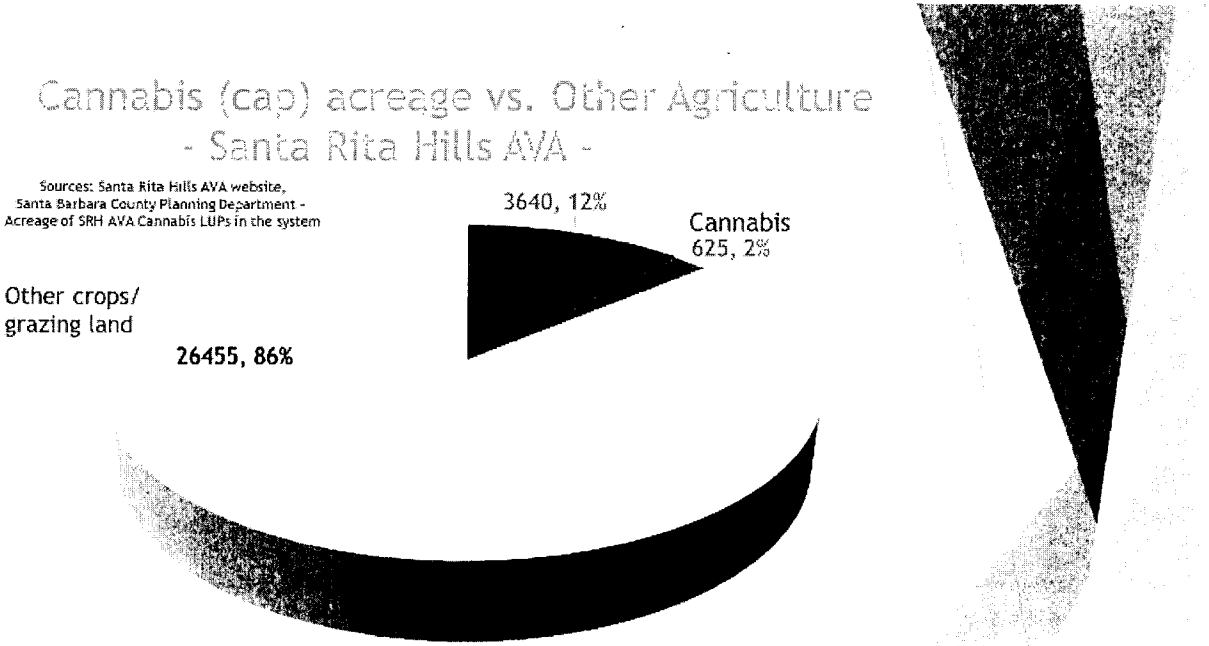
At that same meeting, citing *Wikipedia as her source, Supervisor Hartmann reduced by 1,000 the number of vineyard acreage in the SRH AVA to 1,700 acres in an effort, again, to seemingly support the false narrative that the cannabis acreage is “nearly 1/3 of the acres grown in the SRH AVA”.

*Wikipedia reported “facts” are frequently unreliable because any end-user can edit/“update” the content on a Wikipedia page.

This false narrative, using incorrect, suspect data attempts to paint a picture that the Santa Rita Hills AVA is getting over-run by the cannabis growers. This was done by falsely inflating cannabis acreage in the SRH AVA while at the same time under-reporting actual acreage of the vineyards within SRH AVA

The verified, evidence-based, credibly sourced data tell us the opposite.

- Far from over-running the SRH AVA, the 625 cannabis acres requested represents only 2% of the total acreage in the SRH AVA (Source: Santa Barbara County Planning Department).

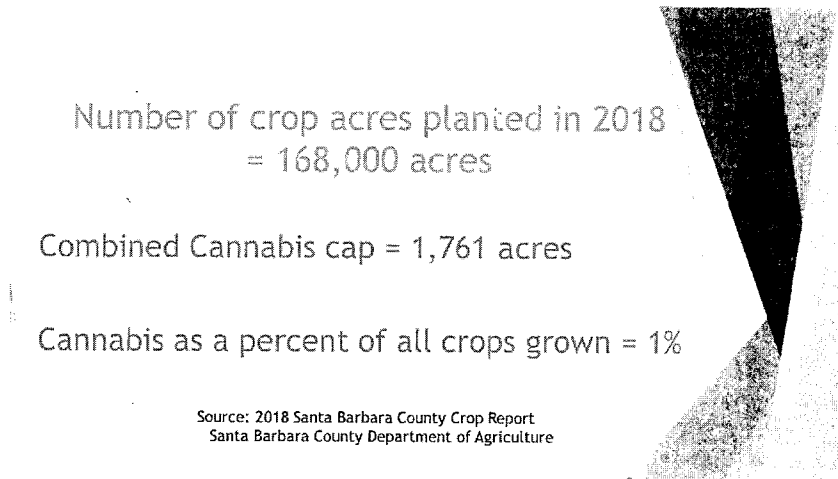


- Bent Rock 85 planted acres
- Pesqu'ile 73 planted acres

Source: Websites of each vineyard and publicly available data

Compared to the above acreage numbers, a 50 acre cannabis grow is hardly huge, in fact, it's just the opposite. If this were a new vineyard project asking for an LUP, it would be considered a small start-up operation in the SRH AVA.

It's also worth noting that the 1,761 acre cap on cannabis cultivation in Santa Barbara County represents a mere 1% of all crops grown.



The most troubling aspect of this false narrative of the “huge” size and overwhelming impact of cannabis cultivation in the SRH AVA is that both the Planning Commission and members of the Board of Supervisors have used this highly inaccurate (some might even say manipulated) data as their rationale for limiting the size of cannabis grows with proposed per parcel caps and setbacks.

There's an old computer adage, “garbage in, garbage out”.

When the data is flawed, then the policy decisions that flow from its use are flawed as well.

Supervisor Hart noted his strong desire for evidence-based facts to help drive policy decisions.

What we've provided is evidence-based facts from credible sources.

These are the numbers that should drive sound cannabis policy making, not the Wikipedia-sourced, spin doctoring, fiction that's being passed on as gospel.

Ted Fox, member, North County Farmers Guild

Ramirez, Angelica

From: Lillian Clary <mzlil2988@gmail.com>
Sent: Friday, May 1, 2020 11:47 AM
To: sbcob
Cc: Lil Clary
Subject: BOS May 5, 2020
Attachments: BOS 5 5 2020.docx

Caution: This email originated from a source outside of the County of Santa Barbara. Do not click links or open attachments unless you verify the sender and know the content is safe.

Please read this item during oral comment for the meeting of May 5, 2020 in reference to the Sta. Rita Valley Ag agenda item.

Thank you.

Lil

Oral public comment for May 5, 2020

Agenda Item #7 Sta. Rita Valley Ag

This situation is appalling.

Three county supervisors are destroying the local viticulture industry in favor of approving cannabis cultivation operations.

I have to ask, who benefits?

Well, here's who DOES NOT benefit:

- Vintners and their families
- Employees of vineyard operations
- Tourists here to visit our incomparable tasting rooms
- Owners of commercial wine storage vaults
- Local agricultural suppliers and service providers
- Hotels
- Restaurants
- Specialty food services
- Winery tour operators
- Theater (PCPA) & movie venues

So I ask again, who benefits?

Lil Clary, Tepusquet Canyon

Ramirez, Angelica

From: Lionel Neff <zuma13@msn.com>
Sent: Friday, May 1, 2020 11:55 AM
To: sbcob
Subject: Santa Rita Valley Ag Hearing
Attachments: In the Matter of Santa Rita Valley AG before the Santa Barbara Board of Supervisors
May 5th.docx

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PLEASE READ INTO THE RECORD AT HEARING

Lionel Neff

In the Matter of Santa Rita Valley AG before the Santa Barbara Board of Supervisors May 5th

My name is Lionel Neff. I have resided in Carpinteria for the past 32 years. I am a Board Member of the Santa Barbara Coalition for Responsible Cannabis which supports a *responsible* cannabis industry. I became a member of the Coalition because of the gross inequities brought on by the inception of cannabis I witnessed taking place in Carpinteria and the wine regions of Santa Barbara County. Unlike other regions in California, wherein cannabis is grown responsibly in sealed greenhouses with carbon filters, the Santa Barbara Board of Supervisors, in their haste to bring cannabis to the forefront, have disregarded any measure of common sense or equitable protections.

As evidenced by the numerous permits being issued to various cannabis growers, no concern nor regard were given to existing businesses, industries, legacy agriculture, nor residential neighbors. The results from which have created havoc to tourism, home valuations, and legacy agriculture. In addition, the increasing health issues from neighbors of the cannabis grows are becoming a source of increasing concern and discomfort.

This brings us to the matter of the application being submitted by Santa Rita Valley Ag. The mantra of the Coalition for Responsible Cannabis, and should be that of the Board of Supervisors, is ***no harm to other neighbors***. Some projects are proposed in the wrong place, and simply cannot be approved. Others may be in an acceptable location, but require extensive conditions following environmental review and public comment. Santa Rita Valley Ag's project is both in the wrong location and lacks adequate analysis or conditions for approval.

The proposed project *will bring harm to its neighbors* and will directly impact the adjacent EDRN and the various nearby wineries whose livelihoods, your decisions, are placing at stake. We all know, from our experience in Carpinteria, that the so-called vapor phase "Odor Abatement Systems" only work part of the time, if any, and at any given moment, one may experience the smell of Ecosorb, the smell of marijuana, or some weird combination. Wineries are sited in specific locations with tasting rooms that bring a multitude of tourists and tax revenues to the Santa Ynez Valley. Tasting rooms cannot function if surrounding land uses are causing offensive odors. The density of cannabis grows proposed and granted by the BOS will prove devastating to the future of the wine industry in the Santa Rita Valley.

I therefore, respectfully request the Board to deny Santa Rita Valley Ag's request.

Ramirez, Angelica

From: Kevin Fox <kevinclarkfox@gmail.com>
Sent: Friday, May 1, 2020 3:05 PM
To: sbcob
Subject: Disregard previous email, use this one. Written Comments for B of S meeting 5/5/2020-
Agenda Item 7 Santa Rita Valley Appeal
Attachments: Ag Conflict white paper - final version.docx; Pesticide drift cases in SB County 1990 -
2020.pdf

Caution: This email originated from a source outside of the County of Santa Barbara. Do not click links or open attachments unless you verify the sender and know the content is safe.

Forgot to include one of the website links in the previous copy I sent you. Please attach this version instead to the official record of this hearing.

--

Kevin Fox
Freelance Film and Television Production
(517) 775-0872

Cannabis and Agriculture Conflict – Are you shooting the Messenger?

The debate over Ag Conflict between cannabis growers and traditional crops centers on 3 primary issues.

- Odor
- Terpene drift
- Pesticide drift

We will address each of these topics separately by first identifying the current assumptions on the topic, introducing pertinent facts and offering mitigation solutions.

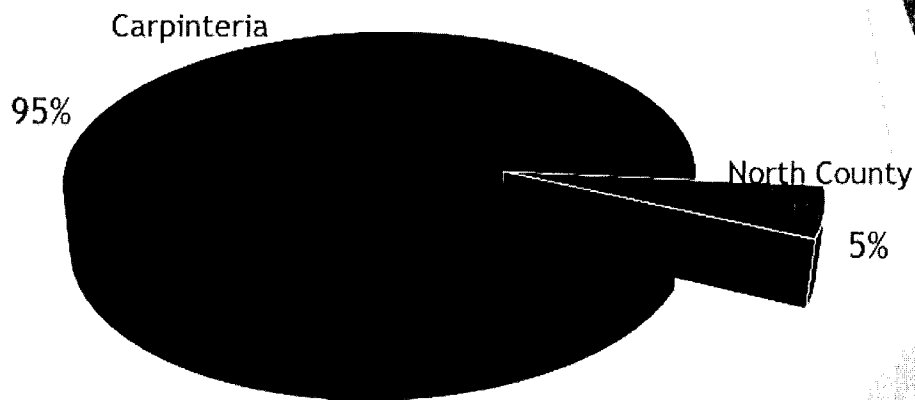
Cannabis (and other ag) Odor

Current Assumption: Cannabis odor is a county-wide issue

Pertinent facts:

Odor Complaints in Santa Barbara County

By location



Total complaints = 234

Recently, the county's lead official on cannabis, Barney Melekian, shared data showing that during the period of August 1, 2019 through October 31st, there were 234 odor complaints in Santa Barbara County. Mind you, this time frame covers the height of the 2019 summer cannabis harvest – a period where cannabis odor is most prevalent in outdoor grows. Of the 234 odor complaints – 221 or 95% - came from the Carpinteria area and just 13 were in reference to odor in North County.

Mason, Steve <Mason@co.santa-barbara.ca.us>
to me, Daniel, Petra

Tue, Feb 25, 1:41 PM (7 days ago)

Below is the location and general description of the odor complaints outside of Carpinteria.

There were 234 odor complaints in Q1 (08/01/2019 – 10/31/2019) of those, 221 were in the Carpinteria and 13 were in the North County. Two (2) (see the two highlighted in yellow below) in the North County were eradicated by the Sheriff and therefore, odor was abated through eradication.

The North County odor complaints received in Q1 broke down as follows:

- 5 - Unknown source/ general odor complaints: (1) Buellton area off of 246 near Buellton, (2) in Santa Maria off of Marvin Street, (2) Lompoc area off Avena Road.
- 3 - Outdoor personal cultivation (not allowed in a residential zone district): (3) Santa Maria.
 - 1 – Self-eradicated in the Santa Ynez Valley (due to Board of Supervisors approving an ordinance amendment to not allow cultivation on properties zoned AG-1 less than 20 acres.
 - 2 – Odor complaint, but no cultivation found by Sheriff: (1) in the Santa Ynez Valley (maybe removed or self-eradicated prior to inspection), and (1) in the Lompoc/Buellton area (maybe removed or self-eradicated prior to inspection) . No odor complaint since.
- 1 – Eradicated by Sheriff (Probyl Cannabis/ 19ZEV-00000-00308/ Cebada Canyon Road, Lompoc). Odor was abated by eradication.
- 1 - Eradicated by Sheriff (Avo Vista Farms Cannabis/ 18ZEV-00000-00347/ Cebada Canyon Road, Lompoc). Odor was abated by eradication.

Regards

Steve Mason
Assistant Director
Planning & Development
123 E. Anapamu St, Santa Barbara, CA 93101
https://www.countyofsb.org/directors/steve_mason.cfm

Breaking those numbers down further finds that 2 of those 13 odor complaints in North County were illegal grows in the Cebada Canyon area and 4 were legal residential grows. Another cannabis operator in the Santa Ynez Valley self-eradicated their crop due to zoning restrictions added last year by the Board of Supervisors on Ag I property on less than 20 acres.

In short, over half of the 13 odor complaints in North County were either illegal grows that were eradicated by the Sheriff, legal residential grows of cannabis consumers or self-eradication of crops in response to changes in the Cannabis Ordinance.

Are cannabis cultivators incident free in north county as it relates to cannabis odor? Not quite, but nearly so. The remaining 6 North County odor complaints at legal, state-licensed cultivation operations during the height of the 2019 summer harvest - represented less than 3% of the total number of odor complaints during peak harvest season.

Proposed mitigation

Existing studies indicate that odor from outdoor cannabis farms rarely leaves property lines. Odor is not an issue in North County, if managed responsibly. In those rare instances where odor is a problem in the North County, the North County Farmers Guild recommends implementing a tiered, odor abatement system if the odor is *persistent, pervasive, intrusive and perceptible outside the property boundary*.

Terpene Drift

Current Assumption: Cannabis has terpenes; eucalyptus leaves have terpenes. Terpenes in eucalyptus leaves are known to affect the taste of wines, based on an Australian study conducted in 2012 (4 years prior to the development of the county's cannabis PEIR).

Assuming all terpenes act the same, cannabis terpenes could affect the taste of wine.

Pertinent Facts:

At the December 6, 2019 Board of Supervisors meeting, Dr. William Vizuetta, Chief Scientific Officer at Pacific Environmental Analytics LLC presented a study entitled, ***Estimated emissions, concentration, and deposition of monoterpenes from an outdoor Cannabis farm.***

Among the findings, the study noted that, "for grape taint to occur (from cannabis), it would take 1,121 continuous days of flowering (assuming cannabis plants emit terpenes for 21 days prior to harvest)". This 12-page report, cites 9 different associated studies, and used proven scientific modeling techniques to draw its conclusions.

The 2012 Eucalyptus study focused exclusively on eucalyptol. No other monoterpenes (such as beta-myrcene, alpha-terpinene and terpinolene) have been found in peer reviewed studies causing taint.

While the 2012 eucalyptus study found that eucalyptol did affect the taste of the wine, when consumers were asked which taste they preferred (untainted wine or the wine tainted by the eucalyptol terpene) over half of them preferred the tainted wine.

Proposed Mitigation

County of Santa Barbara – as well as industry members – have a keen interest in unbiased evidence-based, peer-reviewed research on cannabis terpenes and any provable negative effect on wine grapes. Fund these studies to answer the question once and for all.

Any proposed setbacks would be premature until the opposition can definitively prove that cannabis terpenes negatively harm wine grapes.

Pesticide Drift

"Pesticide Drift is not allowed, not even a little bit."

- Cathy Fisher - Santa Barbara County Agricultural Commissioner

Current Assumption: Pesticide drift is illegal – full stop. Cannabis growers do not utilize pesticides because, if detected, they would be prohibited from selling the tainted cannabis as flower – one of the most lucrative cannabis end products on the market today. Stringent consumer testing – mandated by state regulations – screens for pesticides.

Pertinent Facts

During the course of these hearings, the opposition to cannabis growers have attempted to soft-pedal this issue using such terms as, pesticide “waft” or pesticide “migration”. A rose, by any other name smells just as sweet, and pesticide drift by any other name is still illegal (see Ag Commissioner Fishers’ comment above).

One cannabis opponent went so far as to state as that pesticide migration” can occur, when ants sprayed with the pesticide wander off the property to infect their neighbors’ farm.

Asked to comment on that statement, Ag Commissioner Cathy Fisher responded, “Pesticides are designed to kill on contact; I don’t see how a dead ant can do that.” (use link below to view video from the proceedings)

<https://youtu.be/UFX6EcHhnB0>

Be that as it may, the real issue of this ag conflict is that the proposed solution – requiring buffer zones on cannabis projects – is the equivalent of shooting the messenger.

Cannabis growers – through their stringent product testing – have in essence assumed the role of an unofficial pesticide drift investigative team. They didn’t ask for this responsibility, and quite frankly, resent the fact that it’s been thrust upon them by the laissez faire enforcement of pesticide drift by the County.

As was recently reported by NPR, pesticide drift investigations and enforcement (especially relating to the application and drift of Dicamba) has been stretching resources thin of regulators across the country. These overworked regulators are leaving these positions and officials are finding it difficult finding replacements. (use link below to hear audio from the NPR report)

https://youtu.be/G0_4IdeBbm0

That does not appear to be the case in Santa Barbara County. In a records request filing with the county we asked for the records of all pesticide drift cases in the county going back 30 years. What we received was quite disturbing.

There have been **only 7 pesticide drift cases** recorded in Santa Barbara County in the last 30 years (see attached record request documents).

Proposed Mitigation

What we have is not an ag conflict issue, we have a pesticide drift enforcement issue and the county's solution is to punish the unofficial investigative team (cannabis growers) for "not leaving well enough alone".

Shouldn't the perpetrators of the illegal act (pesticide drift) be the ones that have buffers and setbacks imposed on their property, not the aggrieved party (cannabis cultivators)?

Is it the intent of the County of Santa Barbara to protect these criminal activities at the expense of the victims?

The resolution is simple; aggressively investigate and enforce pesticide drift, punish proven perpetrators and require buffers and setbacks on those farms utilizing pesticides.

In summary, Odor is not illegal on Ag II-100 properties nor should it be, terpene drift is not illegal nor has it been proven to be harmful to wine grapes, however pesticide drift is illegal yet minimally enforced (if at all) in Santa Barbara County.

Kevin Fox, member, North County Farmers Guild



Kevin Fox <kevinclarkfox@gmail.com>

[Records Center] Public Records Request :: R000631-021220

1 message

County of Santa Barbara Public Records Request Center

<santabarbaracountyca@govqa.us>

To: "kevinclarkfox@gmail.com" <kevinclarkfox@gmail.com>

Fri, Apr 3, 2020 at

10:56 AM

--- Please respond above this line ---



RE: PUBLIC RECORDS REQUEST of February 12, 2020, Reference # R000631-021220

Dear kevin fox,

The County of Santa Barbara received a public information request from you on February 12, 2020. Your request mentioned:

"I'm looking for a list of all instances of pesticide drift in Santa Barbara County over the last 30 years. Preferably this list would be compiled in a document."

The County of Santa Barbara has reviewed its files and has located responsive records to your request. Please log in to the County of Santa Barbara Records Request Center to retrieve the appropriate responsive documents.

Public Records Request - R000631-021220

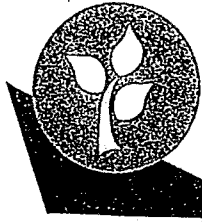
Please respond to this email if you have further questions.

Sincerely,

County of Santa Barbara

To monitor the progress or update this request please log into the County of Santa Barbara Records Request Center





Agricultural Commissioner's Office
Weights & Measures ■ County of Santa Barbara

Notice of Proposed Action
Nature of Violation
And Right to Request Hearing

September 25, 2015
File Number 3-ACP-SB-15/16
Postal Receipt No. 7015 0640 0000 0908 7036

To: Herrera Farming
PO Box 6285
Santa Maria, CA 93456

You are hereby notified that pursuant to the provisions of Section 12999.5 of the California Food and Agricultural Code the Commissioner proposes to fine you **\$1,100.00**.

Grounds upon which the proposed fine is based are as follows:

On September 5, 2014, this office received a complaint of drift from pesticide applications made at site 01 of Herrera Farming located near Blosser and Battles roads in Santa Maria, CA. As a result of the complaint, a representative from this office conducted an investigation which revealed that Herrera Farming applied Malathion 8 Aquamul (Loveland/34704-474), Lorsban Advanced (Dow Agrosciences/62719-591), and Ad Wet 90 CA (Simplot/7001-50005) to strawberries at site 01 on September 2 and 5, 2014. Research into nearby pesticide use revealed no other applications of the above listed pesticides were made within ¼ mile of the complainant's property during late August or early September. Research into the wind direction and speed demonstrated that on September 5, 2014, during the time of the application, the wind was blowing toward the complainant's property. The investigator collected foliage and swab samples to determine whether pesticide drift onto the complainant's property occurred. The results of the analyses of the samples, which had been sent to the California Department of Food and Agriculture Analytical Lab, revealed malathion and chlorpyrifos had drifted onto the complainant's property and house. The pattern and amounts of the pesticides found demonstrated the source of contamination was from one of the September 2014 pesticide applications made by Herrera Farming. The Lorsban Advanced label states,

"Do not allow spray to drift from the application site and contact people, structures people occupy at any time, and the associated property..."

Based on the complainant's testimony, the wind data, the lack of Lorsban and malathion applications made by other growers, and the presence and pattern of contamination, it has been determined that Herrera Farming failed to follow the Lorsban Advanced label directions to not allow spray to drift from the application site. The label violation also represents a violation of the Food and Agriculture section 12973. FAC §12973 states that the use of any pesticide shall not

conflict with labeling registered pursuant to this chapter which is delivered with the pesticide. A Class A fine of \$1,100.00 is proposed for this violation.

The class of the proposed fine and the fine amount are defined in the California Code of Regulations section 6130. CCR §6130 lists three types of violations; Class A, Class B, and Class C. Class A violations are violations of a law or regulation that caused a health, property, or environmental hazard. The fine range for class A violations is \$700.00 to \$5,000.00.

The violation was placed in the A class because drift of the Lorsban Advanced to private property caused a health hazard. The fine was place in the middle of the fine range because although Herrera Farming has no previous enforcement actions, the Commissioner considered the health hazards associated with drifting Lorsban Advanced.

You are entitled to review the Commissioner's evidence supporting these charges during regular business hours at the office of the Agricultural Commissioner located at 624 W. Foster Road, Ste. E, Santa Maria, CA 93455. You may make an appointment to review the evidence against you by calling Debbie Trupe at (805) 934-6200.

You are also entitled to a hearing to review the Commissioner's evidence and present any evidence, oral or written on your behalf, as to why the Commissioner should not take the proposed action. You are not required to be represented by legal counsel at the hearing, but your attorney may accompany and represent you if you wish. You will be provided a written decision of the Commissioner's finding. A transcript or recording will be made of the entire hearing proceeding and will be available for review on appeal to the Director of the California Department of Pesticide Regulation and by the courts.

A hearing in this matter will be scheduled and held at the office of the County Agricultural Commissioner located at the above-noted address, if you request a hearing by signing, dating and returning the enclosed Hearing Request within 20 days of receipt of this notice.

Failure to request a hearing within the allotted time is a waiver of the right to a hearing, and the Commissioner may take the action proposed in this notice without a hearing. Failure to request a hearing is a waiver of your right to appeal.

If you do not wish to request a hearing to contest the charges and proposed action, you may stipulate (agree) to the enclosed order by dating, signing, and returning the Stipulation and Waiver to Order along with your fine payment within 20 days of this notice.

Dated: _____ Signed: _____
Cathleen M. Fisher, Agricultural Commissioner



Agricultural Commissioner's Office
Weights & Measures ■ County of Santa Barbara

Notice of Proposed Action
Nature of Violation
And Right to Request Hearing

November 13, 2015
File Number 4-ACP-SB-15/16
Postal Receipt No. 7015 0640 0000 0908 7043

To: Sorrento Berry Farms, LLC
2615 South Miller, Suite 107
Santa Maria, CA 93455

You are hereby notified that pursuant to the provisions of Section 12999.5 of the California Food and Agricultural Code the Commissioner proposes to fine you **\$400.00**.

Grounds upon which the proposed fine is based are as follows:

On August 22, 2014, this office received a complaint of an odor from a resident of Hancock Park, located in Santa Maria, California. As a result of the complaint, representatives from this office conducted an investigation which included interviewing witnesses, researching pesticide use in the area around Hancock Park, researching wind and spray equipment data, and collecting samples.

The investigation revealed that on August 22, 2014, from 2 a.m. to 4 a.m., Sorrento Berry Farms' employees applied Pristine, Epi-Mek, Rimon, Malathion, and Widespred Max to strawberries growing approximately 114 feet away from the complainant's property. This office collected foliage samples according to the sampling procedures set forth by the Department of Pesticide Regulation from the treated field, the weeds north of the field, and an olive tree on the complainant's property. The samples were sent to the California Department of Food and Agriculture Center for Analytical Chemistry Lab for analysis. The results showed that boscalid, an active ingredient in Pristine, was found in a gradient pattern from the application area to the complainant's property. The presence and pattern of contamination indicated drift from the treated field occurred. Sorrento employees stated the spray rig was equipped with TeeJet Disc-Core type Hollow cone Spray tips size D2, DC25 and the pressure was 150 psi, which according to the manufacture and ASAE (S572) information, produces a very fine droplet size. There was no drift retardant in the tank mix. The wind during the application was calm. The combination of the very fine spray mist from the application equipment and the stagnant air were factors that caused the Pristine to remain aerosolized and move to the Leonard's property. No other growers within a quarter of a mile have reported using Pristine during the two weeks prior to Sorrento's August 22nd application.

Based on the presence and pattern of boscalid contamination, and the fine spray mist produced by the nozzle type and high pressure, it has been determined that a violation of the California Code of

Regulations section 6600(b), General Standards of Care, occurred. CCR §6600(b) states that each person performing pest control shall perform all pest control in a careful and effective manner. A class B fine of \$400 is proposed for this violation.

The class of the proposed fine and the fine amount are defined in the California Code of Regulations section 6130. CCR §6130 lists three types of violations; Class A, Class B, and Class C. Class B violations are violations of a law or regulation that mitigates the risk of adverse health, property, or environmental effects that is not designated as Class A. The fine range for class B violations is \$250.00 to \$1,000.00.

The violation was placed in the B class because the requirement to apply pesticides in a careful manner mitigates the risk of adverse effects of using a pesticide. The fine was placed in the middle of the range because Sorrento Berry Farms has a recent enforcement action.

You are entitled to review the Commissioner's evidence supporting these charges during regular business hours at the office of the Agricultural Commissioner located at 624 W. Foster Road Ste. E, Santa Maria, CA 93455. You may make an appointment to review the evidence against you by calling Debbie Trupe at (805) 934-6200.

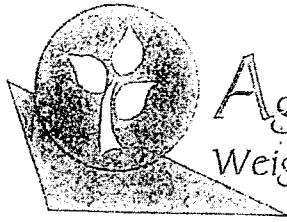
You are also entitled to a hearing to review the Commissioner's evidence and present any evidence, oral or written on your behalf, as to why the Commissioner should not take the proposed action. You are not required to be represented by legal counsel at the hearing, but your attorney may accompany and represent you if you wish. You will be provided a written decision of the Commissioner's finding. A transcript or recording will be made of the entire hearing proceeding and will be available for review on appeal to the Director of the California Department of Pesticide Regulation and by the courts.

A hearing in this matter will be scheduled and held at the office of the County Agricultural Commissioner located at the above-noted address, if you request a hearing by signing, dating and returning the enclosed Hearing Request within 20 days of receipt of this notice.

Failure to request a hearing within the allotted time is a waiver of the right to a hearing, and the Commissioner may take the action proposed in this notice without a hearing. Failure to request a hearing is a waiver of your right to appeal.

If you do not wish to request a hearing to contest the charges and proposed action, you may stipulate (agree) to the enclosed order by dating, signing, and returning the Stipulation and Waiver to Order along with your fine payment within 20 days of this notice.

Dated: _____ Signed: _____
Cathleen M. Fisher, Agricultural Commissioner



Agricultural Commissioner's Office
Weights & Measures • County of Santa Barbara

Notice of Proposed Action
Nature of Violation
And Right to Request Hearing

March 15, 2018
File Number 9-ACP-SB-17/18
Postal Receipt No. 7017 0660 0001 1568 5920

To: Eynon Management, Inc.
600 Airport Road
Oceanside, CA 92058

You are hereby notified that pursuant to the provisions of Section 12999.5 of the California Food and Agricultural Code the Commissioner proposes to fine you **\$2400.00** for one count of violating the California Code of Regulations (CCR) section 6614(a), Protection of Persons, Animals, and Property.

FACTUAL CIRCUMSTANCES:

On May 11, 2017, between approximately 7:30 a.m. and 11:45 a.m., Eynon employee, Saul Mena applied Alligare Tebuthiuron 80 WG (EPA Reg Number 81927-37-AA), Alligare SFM 75 (EPA Reg Number 81927-26-AA), and Alligare Glyphosate 4 (EPA Reg Number 81927-34-AA) as a spot treatment to fence lines to control both pre-emergent and post-emergent weeds at a Phillips 66 site on Battles Road in Santa Maria, CA, using a handheld spray wand attached by hose to a pressurized truck mounted tank. The active ingredient in Alligare Tebuthiuron 80 WG is tebuthiuron and the active ingredient in Alligare SFM 75 is sulfometuron methyl.

The application site consisted of bare ground, and weeds growing primarily in the vicinity of the fence lines along the perimeter of the property. To the south and east of the treated site was a field operated by OSR Enterprises that had been planted in lettuce on four successive dates beginning on April 12, 2017.

Santa Barbara County Agricultural Commissioner's Office (SBCAC) received a complaint of damage from a property operator growing lettuce in a field adjacent to the treated area. The property operator reported damage to the lettuce after overhead irrigating to wash dust off the plants. During a visit to the site, SBCAC staff observed damage to lettuce growing closest to the treated fence lines. The damage was less noticeable further away from the treated area.

SBCAC staff obtained the local weather forecast. The forecast predicted no rain for May 11th or for the following few days. The wind forecast for the morning of May 11th was from the south from 8-18 mph and in the afternoon from the northwest at 32-46 mph. Similar wind direction and speed was forecast for the following few days. Actual wind speeds and direction recorded at and reported from the Santa Maria Airport located approximately 3.5 miles southwest of the treated site during the application were from the west and WNW between 3.5 mph and 5.8 mph, and after the application from the NW at 17.3 mph with gusts up to 23 mph. Wind readings on May 12th were recorded at 29.9 mph with gusts to 39.1 mph.

263 Camino del Remedio • Santa Barbara, California 93110
Phone (805) 681-5600 • Fax (805) 681-5603
www.co.santa-barbara.ca.us/agcomm/

Mr. Mena stated he measured the wind at 7:45 a.m. at approximately 3 mph however, he did not report taking additional readings or that he consulted the weather forecast.

SBCAC staff took soil and foliage samples on June 7th, June 20th, and July 25th to determine if the Eynon application was the source of the damage to the lettuce field. Analyses of the samples taken from the treated area, the area between the treated area, and the adjacent lettuce field all detected tebuthiuron and sulfometuron methyl. The pattern and amounts of the tebuthiuron and sulfometuron methyl indicate the source of the contamination was the Eynon application. SBCAC staff researched pesticide applications to other fields within ¼ mile of the treated area and did not find additional applications of tebuthiuron and sulfometuron methyl.

Additional lettuce samples were taken and analyzed for disease and insects as the cause of the damage, however the results were negative.

Staff review of the Alligare SFM 75 label revealed several statements that warned of hazards to surrounding properties. Under the "Environmental Hazards" paragraph is the statement, "Exposure to Alligare SFM 75 can injure or kill plants. Damage to susceptible plants can occur when soil particles are blown or washed off target onto cropland." and, "Do not apply when weather conditions favor drift from treated areas."

Under the "Application Restrictions" paragraph are the statements, "Applications must not be made to soil that is subject to wind erosion when less than a 60% chance of rainfall is predicted to occur in the treatment area within 48 hours. Soils that are subject to wind erosion usually have a high silt and/or fine to very fine sand fractions. Soils with low organic matter also tend to be prone to wind erosion."

Under the "Important Precautions and Restrictions for Agricultural and Nonagricultural Uses" paragraph are the statements "... (2) Injury to crops may result if treated soil is washed, blown, or moved onto land used to produce crops. Exposure to Alligare SFM 75 may injure or kill most crops. Injury may be more severe when the crops are irrigated. (3) Applications made where runoff water flows onto agricultural land may injure crops."

Under the "Restrictions" paragraph is the statement, "Treatment of powdery, dry soil or light, sandy soil when there is little likelihood of rainfall soon after treatment may result in off target movement and possible damage to susceptible crops when soil particles are moved by wind or water. DO NOT apply Alligare SFM 75 when these conditions are identified and powdery, dry soil or light, sandy soil are known to be prevalent in the area to be treated."

VIOLATION:

The California Code of Regulations (CCR) section 6614(a) states,

"An applicator prior to and while applying a pesticide shall evaluate the equipment to be used, meteorological conditions, the property to be treated, and surrounding properties to determine the likelihood of harm or damage."

Prior to the application, Mr. Mena failed to evaluate the likelihood of damage to surrounding property resulting from the use of Alligare SFM 75 at the Phillips 66 site. The Alligare SFM 75 label warns of potential damage from both drift and soil moving off the treated site.

The weather forecasted no rain for the few days following the application and high wind speeds from the NW to SE on the afternoon of the application and following few days. The actual wind on May 11th during the application was up to 5.8 mph and on May 12th gusted to over 39 mph. There was an agricultural field immediately adjacent to and downwind from the treatment site planted in an agricultural crop (lettuce) that was vulnerable to damage from sulfometuron methyl. The ground at the treatment site was relatively bare of vegetation and consisted of sandy soil subject to movement by the wind.

PENALTY:

A Class A fine of \$2400.00 is proposed for this violation. The class of the proposed fine and the fine amount are defined in the California Code of Regulations section 6130. CCR §6130 lists three types of violations; Class A, Class B, and Class C. Class A violations are defined in relevant part as violations that caused a health, property, or environmental hazard. The fine range for class A violations is \$700.00 to \$5,000.00. The violation was placed in the A class because failure to accurately evaluate a site prior to treatment caused a hazard to adjacent property. The violation was placed in the middle of the range because although Eynon, Inc. has no recent enforcement history, the damage to the adjacent property was substantial.

Enclosures

A copy of the text of Food and Agricultural Code section 12999.5, 3 CCR sections, 6130 and 6614 are enclosed for your convenience.

You May Review the Evidence Against You:

You are entitled to review the Commissioner's evidence supporting these charges during regular business hours at the office of the Agricultural Commissioner located at 624 W. Foster Road Ste. E, Santa Maria, CA 93455. We will provide one copy of the case file free of charge. We may charge you reasonable costs for additional copies. You may make an appointment to review the evidence against you by calling Debbie Trupe at (805) 934-6200.

You May Request a Hearing and Present Evidence at the Hearing

You may request a hearing to review the Commissioner's evidence, and to present any evidence, oral or written, on your behalf. You are not required to be represented by legal counsel at the hearing. Your attorney may accompany you and represent you if you wish. You will be provided a written decision of the Commissioner's finding. Although not required by the authorizing statute, a tape-recording will be made of the hearing proceedings. If you require a translator at the hearing, you must inform the Commissioner within 7 days before the scheduled hearing date.

How to Request a Hearing - Failure to Request – FAC section 12999.5

A hearing in this matter will be scheduled and held at the office of the County Agricultural Commissioner located at the above-noted address, if you request a hearing by signing, dating and returning the enclosed Hearing Request within 20 days of receipt of this Notice of Proposed Action.

Failure to request a hearing within the allotted time is a waiver of the right to a hearing, and the Commissioner may take the action proposed in this notice without a hearing. Further, failure to request a hearing is a waiver of your right to appeal the Commissioner's decision.

Stipulation and Waiver to Order – FAC section 12999.5

If you do not wish to request a hearing to contest the charges and proposed action, you may stipulate (agree) to the enclosed order by dating, signing, and returning the Stipulation and Waiver to Order along with your fine payment within 20 days of this notice.

Appeal Rights After Hearing – FAC section 12999.5

Should you disagree with the Commissioner's decision, you may request an appeal to the Director of DPR within 30 days of receiving the Commissioner's decision and order. However, you waive these appeal rights if you do not request and attend the hearing at the scheduled time and date, or if you fail to request an appeal within the 30-day time frame.

The request for appeal must be mailed to the Director of the Department of Pesticide Regulation (Director), 1001 I Street, P.O. Box 4015, Sacramento, California 95812-4015. The request for appeal:

1. Must be signed by you or your authorized agent; and
2. Must state the grounds for the appeal; and
3. Must include a copy of the Commissioner's Decision and Order; and
4. Must be filed or mailed to the Commissioner at the same time you mail it to the Director.

Failure to follow any of the above requirements may affect your right to appeal. If the Director grants an appeal, you will receive the Director's written decision approximately 45 days after receipt of your appeal, or as soon thereafter as practical.

Pesticide Incident Reimbursement Notice - FAC section 12997.5

Any person found in violation of pesticide laws and regulations that resulted in illness or injury requiring emergency medical transport or emergency medical treatment of any individual, in a non-occupational setting, from a pesticide used in the production of an agricultural commodity shall be liable to the individual harmed or to the medical provider for the immediate costs of uncompensated medical care from acute injuries and illnesses of the exposed individual.

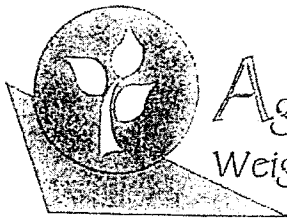
Timely Reimbursement - Penalty Offset and Proof Notice – FAC sections 12996.5 and 12997.5

If you offer to reimburse, or have already reimbursed, the immediate medical costs for acute medical illnesses and injury, the Commissioner may reduce the proposed administrative civil penalty by an amount up to fifty percent. You must request a hearing and provide proof at the hearing of immediate reimbursement in order for the Commissioner to consider reducing the penalty.

Schools Notice – FAC section 12999.5(b)

If you receive a civil penalty for pesticide drift in a school area subject to FAC section 11503.5 that results in a Class A violation as defined in 3 CCR section 6130, the Commissioner shall charge a fee, not to exceed fifty dollars (\$50), for processing and monitoring each subsequent pesticide application that may pose a risk of drift, until you have completed 24 months without another Class A violation (as defined by 3 CCR section 6130).

Dated: 3-15-18 Signed: C. Fisher
Cathleen M. Fisher, Agricultural Commissioner



Agricultural Commissioner's Office
Weights & Measures • County of Santa Barbara

ORDER

To: Eynon Management, Inc.
600 Airport Road
Oceanside, CA 92058

File Number 9-ACP-SB-17/18

Order: It is hereby ordered that Eynon, Inc. be fined \$2400.00. This fine is now due and payable.

C Fisher

Cathleen M. Fisher
Agricultural Commissioner

Instructions to Respondent:

If you wish to pay the fine and not request (waive) a hearing, you may sign the Stipulation and Waiver to Order below. By doing so, you also waive your right to an appeal or any other review in this matter. If you wish to sign the Stipulation and Waiver to Order, you must submit it to the Agricultural Commissioner within 20 days of receipt of this notice.

STIPULATION AND WAIVER TO ORDER

I acknowledge receipt of the Notice of Proposed Action and hereby stipulate that the Agricultural Commissioner's Notice of Proposed Action in the above entitled matter states grounds for disciplinary action based on the evidence now before the Commissioner.

Without admitting to the violations alleged in the Notice of Proposed Action, I stipulate to the Commissioner's Order, as set forth above, and I waive all rights to a hearing and appeal or any other review in this matter.

Dated: _____ Signed: _____

Please make the check payable to County of Santa Barbara. Mail the check and signed Stipulation and Waiver to Order to the:

Santa Barbara County Agricultural Commissioner's Office
624 Foster Road, Suite E
Santa Maria, CA 93455

263 Camino del Remedio • Santa Barbara, California 93110
Phone (805) 681-5600 • Fax (805) 681-5603
www.co.santa-barbara.ca.us/agcomm/



Agricultural Commissioner's Office
Weights & Measures ■ County of Santa Barbara

Notice of Proposed Action
Nature of Violation
And Right to Request Hearing

November 1, 2018
File Number 5-ACP-SB-18/19
Postal Receipt No. 7017 0660 0001 1568 6033

To: Hilltop Produce
1141 Tama Lane
Santa Maria, CA 93455

You are hereby notified that pursuant to the provisions of section 12999.5 of the California Food and Agricultural Code the Commissioner proposes to fine Hilltop Produce **\$1,000.00** for one count of violating the California Code of Regulations (CCR) section 6614(b,1), Protection of Persons, Animals, and Property. A representative of this office witnessed a pesticide application drifting across a public road posing a reasonable possibility of contamination of persons not involved in the application.

FACTUAL CIRCUMSTANCES:

On August 13, 2018, a representative from this office inspected Hilltop Produce employee, Rigo Rivera, applying Acramite 50WS (EPA Reg. No. 400-503), Savey 50 DF (EPA Reg. No. 10163-250), Choice Weather Master (EPA Reg. No. 34704-50038), LI 700 (EPA Reg. No. 34704-50035), and Freeway (EPA Reg. No. 34704-50031) to 15 acres of strawberries growing on site 3. Site 3 is immediately west of and adjacent to Blosser Road, a four lane road on which numerous cars were travelling. The inspector witnessed and videotaped the pesticide drifting onto the cars travelling on Blosser Road. He also recorded wind speeds up to 13 mph and discovered the applicator was using Albuz ATR 80 nozzles, which according to the manufacturer's information produce a "very fine" particle size.

VIOLATION:

The California Code of Regulations (CCR) section 6614(b,1) Protection of Persons, Animals, and Property states:

(b) Notwithstanding that substantial drift would be prevented, no pesticide application shall be made or continued when:

(1) There is a reasonable possibility of contamination of the bodies or clothing of persons not involved in the application process.

Using nozzles that produced a fine spray droplet while spraying during relatively high winds to a field in close physical proximity to Blosser Road where there was constant vehicular traffic supports that it was reasonable people not involved in the application might be contaminated.

PENALTY:

A Class B fine of \$1000.00 is proposed for this violation. The class of the proposed fine and the fine amount are defined in the California Code of Regulations section 6130. CCR §6130 lists three types of violations; Class A, Class B, and Class C. Class B violations are violations of a law or regulation that mitigates the risk of adverse health, property, or environmental effects that is not designated as Class A. The fine range for Class B violations is \$250.00 to \$1000.00.

The violation has been placed in the B class because the requirement to post-pone or stop a pesticide application when there is a reasonable possibility of contamination to people mitigates the risk of adverse health effects. The violation was placed at the high end range because although Hilltop Produce has no prior enforcement history, there was a risk of contaminating people by applying pesticides in high wind conditions adjacent to a public road.

Enclosures

A copy of the text of Food and Agricultural Code sections 12999.5 and California Code of Regulations section 6614 are enclosed for your convenience.

You May Review the Evidence Against You:

You are entitled to review the Commissioner's evidence supporting these charges during regular business hours at the office of the Agricultural Commissioner located at 624 W. Foster Road Ste. E, Santa Maria, CA 93455. We will provide one copy of the case file free of charge. We may charge you reasonable costs for additional copies. You may make an appointment to review the evidence against you by calling Debbie Trupe at (805) 934-6200.

You May Request a Hearing and Present Evidence at the Hearing

You may request a hearing to review the Commissioner's evidence, and to present any evidence, oral or written, on your behalf. You are not required to be represented by legal counsel at the hearing. Your attorney may accompany you and represent you if you wish. You will be provided a written decision of the Commissioner's finding. Although not required by the authorizing statute, a tape-recording will be made of the hearing proceedings. If you require a translator at the hearing, you must inform the Commissioner within 7 days before the scheduled hearing date.

How to Request a Hearing - Failure to Request – FAC section 12999.5

A hearing in this matter will be scheduled and held at the office of the County Agricultural Commissioner located at the above-noted address, if you request a hearing by signing, dating and returning the enclosed Hearing Request within 20 days of receipt of this Notice of Proposed Action.

Failure to request a hearing within the allotted time is a waiver of the right to a hearing, and the Commissioner may take the action proposed in this notice without a hearing. Further, failure to request a hearing is a waiver of your right to appeal the Commissioner's decision.

Stipulation and Waiver to Order – FAC section 12999.5

If you do not wish to request a hearing to contest the charges and proposed action, you may stipulate (agree) to the enclosed order by dating, signing, and returning the Stipulation and Waiver to Order along with your fine payment within 20 days of this notice.

Appeal Rights After Hearing – FAC section 12999.5

Should you disagree with the Commissioner's decision, you may request an appeal to the Director of DPR within 30 days of receiving the Commissioner's decision and order. However, you waive these appeal rights if you do not request and attend the hearing at the scheduled time and date, or if you fail to request an appeal within the 30-day time frame.

The request for appeal must be mailed to the Director of the Department of Pesticide Regulation (Director), 1001 I Street, P.O. Box 4015, Sacramento, California 95812-4015.

The request for appeal:

1. Must be signed by you or your authorized agent; and
2. Must state the grounds for the appeal; and
3. Must include a copy of the Commissioner's Decision and Order; and
4. Must be filed or mailed to the Commissioner at the same time you mail it to the Director.

Failure to follow any of the above requirements may affect your right to appeal.

If the Director grants an appeal, you will receive the Director's written decision approximately 45 days after receipt of your appeal, or as soon thereafter as practical.

Pesticide Incident Reimbursement Notice - FAC section 12997.5

Any person found in violation of pesticide laws and regulations that resulted in illness or injury requiring emergency medical transport or emergency medical treatment of any individual, in a non-occupational setting, from a pesticide used in the production of an agricultural commodity shall be liable to the individual harmed or to the medical provider for the immediate costs of uncompensated medical care from acute injuries and illnesses of the exposed individual.

Timely Reimbursement - Penalty Offset and Proof Notice – FAC sections 12996.5 and 12997.5

If you offer to reimburse, or have already reimbursed, the immediate medical costs for acute medical illnesses and injury, the Commissioner may reduce the proposed administrative civil penalty by an amount up to fifty percent. You must request a hearing and provide proof at the hearing of immediate reimbursement in order for the Commissioner to consider reducing the penalty.

Schools Notice – FAC section 12999.5(b)

If you receive a civil penalty for pesticide drift in a school area subject to FAC section 11503.5 that results in a Class A violation as defined in 3 CCR section 6130, the Commissioner shall charge a fee, not to exceed fifty dollars (\$50), for processing and monitoring each subsequent pesticide application that may pose a risk of drift, until you have completed 24 months without another Class A violation (as defined by 3 CCR section 6130).

Dated: _____ Signed: _____
Cathleen M. Fisher, Agricultural Commissioner



Agricultural Commissioner's Office
Weights & Measures ■ County of Santa Barbara

Notice of Proposed Action
Nature of Violation
And Right to Request Hearing

December 6, 2019
File Number 16-ACP-SB-19/20
Postal Receipt No. 7016 0750 0000 1549 1679

To: Chalky Ridge Vineyard Management
PO Box 190
Arroyo Grande, CA 93421

You are hereby notified that pursuant to the provisions of Section 12999.5 of the California Food and Agricultural Code the Commissioner proposes to fine Chalky Ridge Vineyard Management \$700.00 for one count of violating Title 3 of the California Code of Regulations (CCR) section 6614(a), Protection for Persons, Animals, and Property for failure to accurately evaluate application factors prior to and while applying a pesticide to determine the likelihood of harm or damage.

FACTUAL CIRCUMSTANCES:

On June 12, 2019, this office received a complaint from Central Coast Agriculture of possible drift to their cannabis from a Chalky Ridge pesticide application to Fiddlesticks (dba Fiddlestix) Vineyard. The department began an investigation that included interviewing witnesses, visiting the site, and taking foliage samples as well as researching and reviewing other relevant information.

The relevant results of the investigation are summarized below:

The northern edge Fiddlesticks Vineyard wine grapes is located approximately 150 feet south of Central Coast Agriculture's (CCAg) cannabis growing in open-sided and open-ended hoop houses. Chalky Ridge employees, Manuel Lagunas and Sergio Martinez, applied Rally 40 WSP (Corteva Agrisciences/EPA Reg Number 62719-410) over several days starting May 23, 2019, and ending on May 28, 2019, to wine grapes growing at Fiddlesticks Vineyard. The active ingredient in Rally is myclobutanil. Beginning on June 12, 2019, through June 15, 2019, the same applicators applied Flint Extra (Bayer/EPA Reg Number 264-826) to the same vineyard. The active ingredient in Flint is trifloxystrobin. The Agricultural Commissioner's staff researched pesticide use reports for Rally and Flint applications in areas surrounding Fiddlesticks Vineyard and found no other use of either pesticide for 2019 for at least ½ mile surrounding the Fiddlesticks vineyard. Chalky Ridge employees were aware that cannabis was being grown on the adjacent property, however neither party spoke to one another regarding farming practices. CCAg had moved to that site in March and began harvesting their cannabis crop in June.

The California Code of Regulations Title 16 section 5719, *Residual Pesticides Testing*, establishes action levels for residues of a number of pesticides, including myclobutanil and trifloxystrobin. The action level for both myclobutanil and trifloxystrobin on inhalable cannabis is .1 microgram/gram.

1. The applicators used air blast equipment that is known to produce extremely fine spray droplet sizes.
2. Neither applicator possessed an anemometer or other means to accurately measure the wind speed at the site either before or during their work shifts of approximately nine hours.
3. They also did not determine or record wind direction at regular intervals during their work shift.
4. Fiddlesticks Vineyard is approximately 100 acres and typically the entire vineyard was treated approximately every 14 days. In May, Chalky Ridge applied 31.25 pounds of Rally and in June applied 2.73 gallons of Flint.
5. The two properties are located adjacent to one another with only 150 feet between the vineyard and the cannabis crop.
6. Chalky Ridge employees did not discuss possible pesticide related issues with CCAg to determine whether possible drift or contamination might be a problem, nor were they aware that myclobutanil and trifloxystrobin were pesticides listed in 16 CCR §5719 as having action levels on cannabis.

All of these factors demonstrate that Chalky Ridge failed to adequately determine the likelihood of harm or damage to the adjacent crop in violation of CCR §6614(a).

PENALTY:

A Class A fine of \$700.00 is proposed for this violation. The class of the proposed fine and the fine amount are defined in the California Code of Regulations section 6130. CCR §6130 lists three types of violations; Class A, Class B, and Class C. Class A violations are violations of a law or regulation that caused a health, property, or environmental hazard. The fine range for Class A violations is \$700.00 to \$5000.00.

The violation was placed in the A class because the failure to adequately evaluate the application factors and site conditions resulted in a hazard to CCAg's crop. The fine was placed at the low end of the range because Chalky Ridge Vineyard Management has no history of compliance or enforcement actions.

Enclosures:

A copy of the text of Food and Agricultural Code section 12999.5 and 3 CCR sections 6130 and 6614, are enclosed for your convenience.

You May Review the Evidence Against You:

You are entitled to review the Commissioner's evidence supporting these charges during regular business hours at the office of the Agricultural Commissioner located at 185 W. Highway 246 Suite 101, Buellton, CA 93427. We will provide one copy of the case file free of charge. We may charge you reasonable costs for additional copies. You may make an appointment to review the evidence against you by calling Debbie Trupe at (805) 688-5331.

You May Request a Hearing and Present Evidence at the Hearing

You may request a hearing to review the Commissioner's evidence, and to present any evidence, oral or written, on your behalf. You are not required to be represented by legal counsel at the

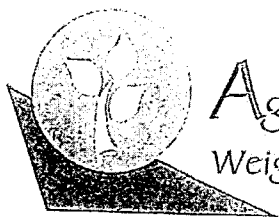
Timely Reimbursement -- Penalty Offset and Proof Notice -- FAC sections 12996.5 and 12997.5

If you offer to reimburse, or have already reimbursed, the immediate medical costs for acute medical illnesses and injury, the Commissioner may reduce the proposed administrative civil penalty by an amount up to fifty percent. You must request a hearing and provide proof at the hearing of immediate reimbursement in order for the Commissioner to consider reducing the penalty.

Schools Notice -- FAC section 12999.5(b)

If you receive a civil penalty for pesticide drift in a school area subject to FAC section 11503.5 that results in a Class A violation as defined in 3 CCR section 6130, the Commissioner shall charge a fee, not to exceed fifty dollars (\$50), for processing and monitoring each subsequent pesticide application that may pose a risk of drift, until you have completed 24 months without another Class A violation (as defined by 3 CCR section 6130).

Dated: 12-6-19 Signed: C. Fisher
Cathleen M. Fisher, Agricultural Commissioner



Agricultural Commissioner's Office
Weights & Measures □ County of Santa Barbara

Notice of Proposed Action
Nature of Violation
And Right to Request Hearing

January 31, 2020
File Number 23-ACP-SB-19/20
Postal Receipt No. 7016 0750 0000 1549 1891

To: Valley Farms
318 N. Pine St.
Santa Maria, CA 93458

You are hereby notified that pursuant to the provisions of Section 12999.5 of the California Food and Agricultural Code the Commissioner proposes to fine you **\$1,100.00** for one count of violating the California Code of Regulations (CCR) section 6600(b) for failure to apply a pesticide in a careful and effective manner.

FACTUAL CIRCUMSTANCES:

On May 8, 2019, a representative of Mesa View Produce reported suspected drift from a Caparol application to Valley Farms strawberries growing on site 01 near Battles and Blosser Roads in Santa Maria. On the same day, Ignacio Partido, Valley Farms owner, reported his employees had applied Caparol (Syngenta/EPA Reg. No. 100-620) that had been delivered to Valley by Helena Chemical Corp. instead of Captan, which Valley Farms had ordered. The active ingredient in Caparol is prometryn, which is an herbicide. The active ingredient in Captan is captan, which is a fungicide. The Valley Farms applicators mistakenly applied the Caparol to Valley Farms' strawberries but Caparol is not registered for use on strawberries. The Caparol label directs users to read the entire label "Directions for Use" before using.

The Santa Barbara County Agricultural Commissioner's Office (SBCAC) began an investigation into the alleged drift that included interviewing witnesses, sampling fruit, and researching weather and surrounding pesticide use. The investigation revealed that each night on May 3 & 4, 2019, employees of Valley Farms applied Caparol 4L to 22.5 and 18.5 acres respectively, of strawberries growing on Valley Farms site 01. Pesticide mix/loader and supervisor Alfonso Quintero, and applicator, Armando Figueroa, stated the applications began around 5:30-6 p.m. and ended at 9:00 p.m. each night. Mr. Quintero stated he transferred the Captan information from the pest control advisor's recommendation for Captan to his phone, and then to a piece of cardboard and did not work from the original recommendation. Both handlers stated they did not read the label and neither noticed the pesticide they were mixing, loading, and applying was Caparol and not Captan. Both handlers stated they evaluated the site for hazards and Mr. Quintero stated they left a buffer zone the size of the spray boom around the field perimeter.

A few days after the applications, Mesa View Produce pest control advisor, Lane Stoeckle, became concerned that the pesticide may have drifted to their strawberries. He called the SBCAC stating he had sent samples of Mesa View's strawberries for laboratory analysis that had come back

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www.co.santa-barbara.ca.us/agcomm/

positive for prometryn. The two farms are located adjacent to one another with a field road separating them. Mesa View is located downwind of the prevailing wind from Valley Farms. To determine whether drift had occurred, the SBCAC staff took a 9 point grid composite sample of Valley Farms strawberry field which came back positive for prometryn at .96 ppm confirming a Caparol application had occurred. The staff also took five samples of strawberries from both farms to determine whether drift had occurred. Two of the samples came back positive; one from Valley Farms treated strawberry field at .63 ppm prometryn, and one from Mesa View Produce's field at .01 ppm, indicating drift had occurred from the Valley Farms application to the Mesa View field.

The SBCAC staff researched surrounding pesticide use and discovered that no use of prometryn had been reported within ¼ mile in the last 30 days.

The applicators stated there was minimal to no wind on either of the nights during the application and Mr. Quintero described the nights as clear. The wind from a weather station located approximately 2 miles south of the Valley Farms field confirmed that several times during the applications the wind was calm. However, the station reported that at 5:51 p.m., just prior to the application beginning on May 3rd, the wind was from the north-northwest at 3 mph and on both nights the sky was either cloudy or foggy.

VIOLATION COUNT 1:

The CCR section 6600(b) states,

"Each person performing pest control shall... (b) Perform all pest control in a careful and effective manner."

Valley Farms applicators stated they did not read the label of the pesticide they were applying and did not notice they applied Caparol instead of Captan on either May 3rd or 4th. Sample analysis results showed the strawberries growing on the adjacent property had been contaminated with prometryn. Failure to insure the correct pesticide was applied and did not contaminate an adjacent crop represents failure to perform the pest control in a careful and effective manner.

PENALTY:

A Class A fine of \$1,100.00 is proposed for this violation. The class of the proposed fine and the fine amount are defined in the California Code of Regulations section 6130. CCR §6130 lists three types of violations; Class A, Class B, and Class C. Class A violations are violations of a law or regulation that caused a health, property, or environmental hazard. The fine range for Class A violations is \$700.00 to \$5000.00.

The violation was placed in the A class because failure to perform pest control in a careful and effective manner in this incident caused a health and property hazard. The fine was placed in the middle of the range because Valley Farms failed to notice they were applying the incorrect pesticide on two separate occasions, the application contaminated a nearby field, and Valley Farms strawberries were harvested and sent to a cooler prior to discovery of the contamination.

Enclosures

A copy of the text of the Food and Agricultural Code section 12999.5 and CCR sections 6130 and 6600 are enclosed for your convenience.

You May Review the Evidence Against You:

You are entitled to review the Commissioner's evidence supporting these charges during regular business hours at the office of the Agricultural Commissioner located at 624 W. Foster Road Ste. E, Santa Maria, CA 93455. We will provide one copy of the case file free of charge. We may charge you reasonable costs for additional copies. You may make an appointment to review the evidence against you by calling Debbie Trupe at (805) 688-5331.

You May Request a Hearing and Present Evidence at the Hearing

You may request a hearing to review the Commissioner's evidence, and to present any evidence, oral or written, on your behalf. You are not required to be represented by legal counsel at the hearing. Your attorney may accompany you and represent you if you wish. You will be provided a written decision of the Commissioner's finding. Although not required by the authorizing statute, a tape-recording will be made of the hearing proceedings. If you require a translator at the hearing, you must inform the Commissioner within 7 days before the scheduled hearing date.

How to Request a Hearing - Failure to Request – FAC section 12999.5

A hearing in this matter will be scheduled and held at the office of the County Agricultural Commissioner located at the above-noted address, if you request a hearing by signing, dating and returning the enclosed Hearing Request within 20 days of receipt of this Notice of Proposed Action.

Failure to request a hearing within the allotted time is a waiver of the right to a hearing, and the Commissioner may take the action proposed in this notice without a hearing. Further, failure to request a hearing is a waiver of your right to appeal the Commissioner's decision.

Stipulation and Waiver to Order – FAC section 12999.5

If you do not wish to request a hearing to contest the charges and proposed action, you may stipulate (agree) to the enclosed order by dating, signing, and returning the Stipulation and Waiver to Order along with your fine payment within 20 days of this notice.

Appeal Rights After Hearing – FAC section 12999.5

Should you disagree with the Commissioner's decision, you may request an appeal to the Director of DPR within 30 days of receiving the Commissioner's decision and order. However, you waive these appeal rights if you do not request and attend the hearing at the scheduled time and date, or if you fail to request an appeal within the 30-day time frame.

The request for appeal must be mailed to the Director of the Department of Pesticide Regulation (Director), 1001 I Street, P.O. Box 4015, Sacramento, California 95812-4015.

The request for appeal:

1. Must be signed by you or your authorized agent; and
2. Must state the grounds for the appeal; and
3. Must include a copy of the Commissioner's Decision and Order; and
4. Must be filed or mailed to the Commissioner at the same time you mail it to the Director.

Failure to follow any of the above requirements may affect your right to appeal.

If the Director grants an appeal, you will receive the Director's written decision approximately 45 days after receipt of your appeal, or as soon thereafter as practical.

Pesticide Incident Reimbursement Notice - FAC section 12997.5

Any person found in violation of pesticide laws and regulations that resulted in illness or injury requiring emergency medical transport or emergency medical treatment of any individual, in a non-occupational setting, from a pesticide used in the production of an agricultural commodity shall be liable to the individual harmed or to the medical provider for the immediate costs of uncompensated medical care from acute injuries and illnesses of the exposed individual.

Timely Reimbursement - Penalty Offset and Proof Notice - FAC sections 12996.5 and 12997.5

If you offer to reimburse, or have already reimbursed, the immediate medical costs for acute medical illnesses and injury, the Commissioner may reduce the proposed administrative civil penalty by an amount up to fifty percent. You must request a hearing and provide proof at the hearing of immediate reimbursement in order for the Commissioner to consider reducing the penalty.

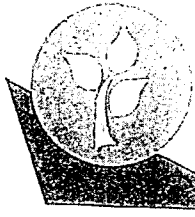
Schools Notice - FAC section 12999.5(b)

If you receive a civil penalty for pesticide drift in a school area subject to FAC section 11503.5 that results in a Class A violation as defined in 3 CCR section 6130, the Commissioner shall charge a fee, not to exceed fifty dollars (\$50), for processing and monitoring each subsequent pesticide application that may pose a risk of drift, until you have completed 24 months without another Class A violation (as defined by 3 CCR section 6130).

Dated: Jan 31 2020

Signed: _____

C. Fisher
Cathleen M. Fisher, Agricultural Commissioner



Agricultural Commissioner's Office
Weights & Measures □ County of Santa Barbara

ORDER

To: Valley Farms
318 N. Pine St.
Santa Maria, CA 93458

File Number 23-ACP-SB-19/20

Order: It is hereby ordered that Valley Farms be fined **\$1,100.00**. This fine is now due and payable.

Cathleen M. Fisher
Agricultural Commissioner

Instructions to Respondent:

If you wish to pay the fine and not request (waive) a hearing, you may sign the Stipulation and Waiver to Order below. By doing so, you also waive your right to an appeal or any other review in this matter. If you wish to sign the Stipulation and Waiver to Order, you must submit it to the Agricultural Commissioner within 20 days of receipt of this notice.

STIPULATION AND WAIVER TO ORDER

I acknowledge receipt of the Notice of Proposed Action and hereby stipulate that the Agricultural Commissioner's Notice of Proposed Action in the above entitled matter states grounds for disciplinary action based on the evidence now before the Commissioner.

Without admitting to the violations alleged in the Notice of Proposed Action, I stipulate to the Commissioner's Order, as set forth above, and I waive all rights to a hearing and appeal or any other review in this matter.

Dated: _____ Signed: _____

Please make the check payable to County of Santa Barbara. Mail the check and signed Stipulation and Waiver to Order to the:

Santa Barbara County Agricultural Commissioner's Office
624 W. Foster Road Ste. E,
Santa Maria, CA 93455

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