



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