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Santa Barbara County Air Pollution Control Officer

BEFORE THE HEARING BOARD OF THE AIR POLLUTION CONTROL DISTRICT, COUNTY OF SANTA BARBARA

Wine Institute; Inc. PETITIONER vs. Aeron Arlin Genet, Air Pollution Control Officer; RESPONDENT Central Coast Wine Services, REAL PARTY IN INTEREST (PERMITTEE)	Case No: 2017-21-AP; Case No: 2017-24-AP **Answer to Petitions.** **Date**: Nov. 1, 2017 **Time**: 9:30 AM **Place**: Board of Supervisors Hearing Room, 105 E. Anapamu St., Santa Barbara, California

INTRODUCTION

On August 18, 2017, the Air Pollution Control Officer (hereafter "Control Officer" or "District") issued Authority to Construct Permit No. 15044 (Exhibit 1) to the Central Coast Wine Services ("Central Coast") for modifications to an existing winery at 2717 Aviation Way in Santa Maria, California ("Winery"). Pursuant Central Coast's request, the District issued a modified permit, Authority to Construct No. 15044-1 (Exhibit 2), on September 15, 2017 (collectively the permits are referred to as "Authority to Construct" unless otherwise noted). In the Authority to Construct, the Control Officer made a determination pursuant to District Rule 802 of what constitutes

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"best available control technology" ("BACT") for this winery. That determination is the subject of this appeal. This was the first time in the California that any district required BACT on a winery.

Summary of Answer. On April 26, 2017, Central Coast filed an application for a project to modify its existing winery to allow wine fermentation in 40 existing wine storage tanks and to install a barrel storage room – hereafter the "Project." (Exhibit 3.) After the District deemed that application incomplete, Central Coast resubmitted on May 8 and the District deemed the application complete on May 12, 2017. (Exhibit 4.)

Due to the seasonal nature of winemaking, fermentation activities occur once per year for approximately 60 to 80 days - the "fermentation season." Fermentation in any one tank takes 7 to 15 days and, once a batch is completed, the finished wine is removed and the process is repeated. Although limited in duration, the fermentation of wine in the existing wine storage tanks would cause enough additional air pollution that the Project exceeded the District's New Source Review Rule 802 thresholds for "best available control technology" or "BACT." The pollutant in question is ethanol, a reactive organic compound that is a precursor to ozone, which is a "nonattainment pollutant" in Santa Barbara County.

Prior to its 2017 application, in 2013 and 2015 Central Coast voluntarily applied for permits to install and operate emission control systems, two "NoMoVo" systems (installed in 2013 and 2015) and one "EcoPAS" system (installed in 2015). Central Coast elected to use these controls in order to stay under the offset threshold of District Rule 802. Since the controls were voluntary, they could be operated "as needed" to stay below the offset threshold. This is in distinction to emission controls required as BACT as the District's Policy and Procedure for implementing BACT requires it must be in place at all times of operation during the life of the project.

In April of 2017, Central Coast submitted the application for the expanded fermentation Project and the emissions from this Project exceeded the Rule 802.D.1

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threshold for requiring BACT, which for any reactive organic compound is an increase of 25 pounds/day. On August 18, 2017 the District approved the Project and, in doing so, required BACT. After further discussions with Central Coast, on September 15, 2017 the District issued a modified permit to change to the calculation period for determining compliance with control system performance standard requirements; however, this did not change the equipment that had been designated as BACT. **The technologies the District approved as BACT were the two already in use by Central Coast, the NoMoVo and the EcoPAS.** The Central Coast daily use records showed both systems to be proven technologies, reliable and relatively simple. Both are "passive systems" utilizing technologies that have been around for years.

The successful application of these technologies as BACT to the Central Coast winery is proven by actual data of their use at Central Coast over the last 3 plus years. The District's BACT determination was supported by the Environmental Protection Agency and accepted by the applicant Central Coast. Therefore, the evidence in this case is clear that the Control Officer properly issued the permit.

Response to Petition and Amended Petition. Petitioner Wine Institute has filed two petitions in the matter. The first was on September 15 to contest the Control Officer's issuance of Authority to Construct No. 15044. The second was filed on October 6 in to contest the modified permit, Authority to Construct No. 15044-1. The Wine Institute stated in the second petition that the "issues addressed in . . . the two petitions are nearly identical" and then without identifying the difference between these two petitions requested one hearing on both. (Petition dated Oct. 6, 2017 at p. 2, lines 1-3.) Unless otherwise stated, this Answer responds to the issues raised in the second Petition and all references below to "Petition" are to the second Petition.

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Response to Petition

1. **CENTRAL COAST DID NOT APPEAL THE PERMIT.** The District affirmatively alleges the undeniable fact that the permit holder **Central Coast has not appealed and has accepted the permits** issued by the Control Officer. (See Exhibit 5, Central Coast correspondence to District.) The District notes that the Petition was filed by the Wine Institute, a nonprofit corporation located in San Francisco that represents California wineries throughout the state. The Wine Institute does not represent Central Coast in this matter.

2. In response to the "Executive Summary" of the Petition, the District answers as follows:

a. The District admits the allegations regarding the dates permits were issued to Central Coast and that the Project required BACT.

b. The District denies that the NoMoVo emission control system have not been "achieved in practice," which is a requirement for these technologies to be deemed "best available control technologies." The District affirmatively alleges that in 2013, Central Coast voluntarily installed a "NoMoVo" control system and operated it for part of the 2013 fermentation season and a second unit was installed prior to the 2015 fermentation season. The District affirmatively alleges that the NoMoVo is a passive system that uses piping manifolds connected to closed top fermentation tanks to capture and route fermentation exhaust gases to the control system where they are passed through a wet scrubber that absorbs the ethanol into recirculating water. Clean gases are released to atmosphere and prior to ethanol saturation or at least once per day the ethanol/water slurry is drained from the scrubber and shipped offsite in an airtight container to a District approved facility for treatment and disposal. Each unit is capable of being connected to and controlling several fermentation tanks at one time.

c. The District affirmatively alleges that since installation, both NoMoVo systems have operated continuously and reliably over significant periods of time during each fermentation season. One NoMoVo unit operated partially for the 2013

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season and both units operated for three full fermentation seasons from 2014 to 2016 on an "as needed" basis. In 3 separate fermentation seasons, the NoMoVo operated for 30, 47 and 37 consecutive days. Operation on more days was possible but Central Coast chose not to because pollution levels from fermentation are always low at the beginning and end of the fermentation process. When in operation during the higher pollution stage of the fermentation season, the NoMoVo system operated 147 of 151 days or 97 percent of the time. Additionally, Central Coast's annual reports showed the NoMoVo system achieved an average 26.2 pounds per day of ethanol capture and control when the system was operated.

d. The District denies that the EcoPAS emission control system has not been "achieved in practice." The District affirmatively alleges that Central Coast installed the EcoPAS in August 2015 to control emissions from the series 400 fermentation tanks on an "as needed" basis. Similar to the NoMoVo, the EcoPAS is a passive system that uses a piping manifold system connected to closed top fermentation tanks to capture and route fermentation exhaust gases to the control system. Fermentation exhaust gases are passed multiple times through a glycol chilled tube-in-shell condenser that due to a decreased temperature condenses the ethanol gas into liquid. The condensate is stored on site and then shipped offsite to a District approved facility for treatment or disposal. The system is capable of being connected to and controlling several fermentation tanks at one time.

e. The District affirmatively alleges the EcoPAS has a proven record of reliable and continuous operation. Central Coast operated the EcoPAS on an "as needed" basis for the full 2015 and 2016 fermentation seasons, during which it was used for a cumulative 108 out of 145 days of wine fermentation activities, which is 74 percent of the time. Central Coast has not normally operated the EcoPAS during the beginning and end of the fermentation season when wine fermentation volumes are low and use of controls was not necessary to stay under the offset threshold. Excluding those beginning days and ending days of fermentation, the EcoPAS was

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operated on 108 of 117days or 92 percent of the time. The EcoPAS was operated for 34 consecutive days in 2015 and 37 in 2016. Additionally, Central Coast's annual reports showed the EcoPAS system successfully achieved an average 4.6 pounds per day of ethanol capture and control when the system was operated. It is important to note that the EcoPAS system was mainly connected to tanks used for white wine fermentation during the 2015 and 2016 seasons. Ethanol emissions from white wine fermentation are approximately 60 percent lower than ethanol emissions from red wine fermentation, and the EcoPAS system would be expected to capture and control more ethanol when connected to tanks used for red wine fermentation.

f. The District denies it has not specified a "performance standard" for the EcoPAS and NoMoVo control systems and affirmatively alleges the 67 percent control efficiency required for these units over the fermentation season is a performance standard. The District denies that source specific source testing is needed to determine compliance with the permit. The District affirmatively alleges that using a "mass balance" methodology for determining compliance is scientifically sound and is appropriate for use in the wine industry where emissions are low during the beginning and end of the fermentation cycle. The District affirmatively alleges that this approach has been approved by the Environmental Protection Agency in a letter dated to the San Joaquin Air Quality Valley Unified Air Pollution Control District ("San Joaquin District"), which read:

> ". . . EPA wants to address the [San Joaquin] District's concern that the control equipment at this facility has not been formally source tested. First we note that this control equipment was previously source tested by the Bay Area Air Quality Management District while in use at another facility and was able to achieve a control efficiency of greater than 99% using a direct measurement inlet and outlet source test. **Second, due to the batch nature of the operation and the non-steady state of the wine fermentation process, source testing may not be the best way to accurately measure achieved emission**

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reductions. Instead, **emission calculations using mass-balance may be a better way to measure the actual emissions reductions achieved by the control device**. Mass-balance calculations were used to determine the overall control efficiency of 76.6% for the batch wine fermentation process at this facility. Therefore, this same approach should be used to apply LAER to each of the proposed permits for wine fermentation operations." (See Exhibit 1, Attachment E to the ATC at p. 3, emphasis added.)

g. The District denies it was "forced" to issue the modified permit. The original Authority to Construct required measurement of compliance to be based on a 30-day rolling average, i.e., the control efficiency had to be met or exceeded on average over any 30 day period of a fermentation season. Given the many variables in wine making (e.g., variety of grape, temperature, brix), and the fact that the wine fermentation emission factors are averaged for the length of a fermentation cycle, Central Coast identified a potential scenario where during a rolling 30-day period the mass balance calculations may show less than 67 percent control efficiency even when the systems were in fact achieving greater than 67 percent control. This is simply a mathematical issue due to the nature of the calculation. This concern was addressed by changing the calculation methodology to be based on the entire fermentation season, thereby eliminating the potential for a false non-compliance issue. The District affirmatively alleges the success of this approach is shown in this case by the fact that Central Coast did not appeal the permit.

h. The District admits the San Joaquin District did an analysis of control technologies for wineries and found the emission controls used for years by Terravant and Central Coast were not "achieved in practice" despite the use of such controls in these wineries over many years. The District affirmatively alleges that the Environmental Protection Agency strongly objected to the San Joaquin District analysis and threatened enforcement action if the San Joaquin District did not include BACT on four permits to be issued to large wineries that qualify as Title V sources.

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The District affirmatively alleges that the Environmental Protection Agency subsequently sent a letter to the San Joaquin District on October 7, 2016 **threatening an enforcement action** may occur if the San Joaquin District proceeded:

> "[EPA] remains concerned that the control requirements contained in the proposed permits do not represent 'Best Available Control Technology' (BACT), as required by SIP [State Implementation Plan]-approved SJV [San Joaquin Valley] Rule 2201, section 4.1.3. The definition of BACT in SJV Rule 2201, section 3.10 is equivalent to federal LAER. Accordingly, **until this issue regarding LAER is resolved, construction under these proposed permits may be subject to enforcement action**." (See Exhibit 1, ATC Attachment G, EPA ltr to San Joaquin Valley AQMD, Oct. 7, 2016.)

Further, regarding the San Joaquin analysis, the District affirmatively alleges that in a letter dated October 7, 2016, the San Joaquin District stated that any permit issued by that District for the wineries in question would not include a Certificate of Conformity regarding compliance with Title V, the federal permit operating program, until the BACT issue was resolved. (Exhibit 6.)

i. In response to Petitioner's allegation that requiring BACT may have "potentially devastating economic and operations impacts on wineries across California," the District denies this allegation as it is conclusionary and pure speculation. The District further affirmatively alleges that BACT is determined on a case by case basis and, for the Central Coast Project, the evidence in the record and the District's analysis of that evidence clearly shows that the EcoPAS and NoMoVo are achieved in practice and therefore are appropriate as BACT for the Project. Additionally, this allegation is refuted by the obvious fact that Central Coast had used these technologies in their successful winery for years and rather than suffering "devastating economic and operational impact," Central Coast is growing and expanding its wine making business.

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j. The District further affirmatively alleges that the success of using emission controls on wineries was shown by the Terravant Winery in Santa Barbara County. Prior to 2008, pollution controls on wineries were not done anywhere. But when Terravant proposed a new winery, the District was able to successfully work with Terravant to permit a project that used "off the shelf" technology for a "packed bed scrubber system" to control winery air pollution. (Exhibit 1, Attachment E, "Achieved in Practice Determination for Wine Fermentation Emission Control Technologies Memo," David Harris, Aug. 18, 2016 ("Harris Memorandum") at p. 3.) The chosen control technology had been widely used in many industries and the challenge was to see if it could work in the wine industry. Terravant had not yet constructed its winery so they were able to factor pollution control systems into the physical design of the winery building. (*Id.*) After reviewing many technologies and working with an environmental consultant, Terravant selected a system "commonly used to control emissions from coal plants" but Terravant proposed a "completely different application with completely different chemistry." (Randy Pace, Terravant General Manager, Exhibit 7, APCD Newsletter, Summer 2011.) In this case, an active ventilation system utilizing ducts and blowers would continuously evacuate air from the fermentation room and two storage rooms (all maintained at negative pressure) to route the flow to a packed bed scrubber control system. The system allows the tanks to be uncovered. Operating this system was subject to learning curve. Originally the control efficiency was permitted at 95 percent but initial operation showed control efficiencies were 64 percent. (Harris Memorandum, at p. 4.) Even lower efficiencies were experienced later but were finally corrected when the vendor identified the problem as due to improper maintenance during non-operation between seasons. (*Ibid.*) Terravant obtained a modification to its permit in 2015 to increase wine production. Terravant implemented an "enhanced control system maintenance program" and, since that time, four inlet/outlet source tests during 2015 and 2016 showed the system to have achieved 83.7, 86.3, 80.9, and 83.5 percent control

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efficiencies, respectively. (*Ibid.*) But the real breakthrough had been in 2008 when the system was first installed. At that time, the District Engineering and Compliance Division Manager said, "As far as I know, this control system is the first of its kind in the world, it represents the first time this emission-control technology has ever been effectively used in a winery." The Terravant experience is instructive because it showed that air pollution from wineries can be controlled using well established controls used in other industries. (See Exhibit 7.)

3. In response to paragraphs A, B, and F of the Petition, the District has no information or belief regarding these paragraphs and on that basis denies the allegations therein.

4. The District admits the allegations of paragraph D regarding the equipment description and control systems.

5. In response to paragraph E, this paragraph does not require a response.

6. In response to paragraph G(1), the District denies the Petition's conclusionary allegations that the control systems have not been used continuously and affirmatively re-alleges the evidence of history of use stated in paragraphs 2.c and 2.e, above. Regarding the number of storage and fermentation tanks and their capacity, the District affirmatively alleges this information is in the permit which speaks for itself; therefore, these allegations need no response. The District admits that emission factors have been used for estimating potential air pollution from the fermentation process and affirmatively alleges these emission factors are from the California Air Resources Board. The District admits records are not required regarding ethanol captured from any particular one tank, but affirmatively alleges such information is unnecessary when determining compliance through the mass balance methodology. The mass balance approach is simple and effective, only requiring a determination of the uncontrolled emissions that would occur from the operation (using approved emission factors) and then the control efficiency of the two technologies is determined by calculated the mass of ethanol collected. This is a

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simple engineering task that does not require all of the infeasible and impractical bells and whistles demanded by Petitioner. The District affirmatively alleges that both the EcoPAS and NoMoVo can be hooked up to multiple tanks at one time and thus achieve great efficiencies in controlling air pollution. There is no reason to have data for each tank as long as the total amount of product and its ethanol content is known and the amount of ethanol captured can be measured. The District admits it worked with to Central Coast on how to identify BACT. This is standard District practice, and is outlined in the District's BACT Policy and Procedure section 11.1 (Pre-application meetings for their project), which states that during the pre-application meeting, the District will "[a]s needed, meet with the applicant up front to address what BACT might be for the proposed project."

7. In response to paragraph G(2), the allegations regarding the requirements of District Rule 802 and District Policies and Procedures for BACT do not require a response because these documents speak for themselves. The District notes that BACT is also defined in Health and Safety Code section 40405 as the "most stringent emission limitation that is contained in the state implementation plan for the particular class or category of source, unless the owner or operator of the source demonstrates that the limitation is not achievable" **or** the "most stringent emission limitation that is **achieved in practice by that class or category or source.**" Guidance on BACT is also set forth in the District's Policy and Procedure No. 6100.064.2017 "Best Available Control Technology." (Exhibit 8.) The parties agree that the second prong – achieved in practice- is the issue in this case.

8 In response to Paragraph G(3), the District denies that the NoMoVo and EcoPAS do not have proven records of reliability and continuous operation. The District admits that Central Coast installed controls in order to avoid exceeding the Districts daily emissions threshold for offsets. The District affirmatively alleges that, as a basis for the issuance of the Authority to Construct, Air Quality Engineering Supervisor David Harris prepare an extensive "achieved in practice" memorandum

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entitled "Achieved in Practice Determination for Wine Fermentation Emission Control Technologies Memo," David Harris, Aug. 18, 2016, Attachment E to Authority to construct Permit ("Harris Memorandum"). (See Exhibit 1, ATC Attachment E.) The District affirmatively alleges that the Harris Memorandum demonstrates that while Central Coast historically chose not to operate the control systems at the beginning and end of the fermentation season (because pollution levels from fermentation were low), when in operation, Central Coast's daily logs showed that the NoMoVo operated 147 of 151 days, which was 97 percent of the time and the EcoPAS was operated on 108 of 117days or 92 percent of the time. Additionally, the Harris Memorandum found that Central Coast's daily logs showed the EcoPAS was operated for 34 consecutive days in 2015 and 37 in 2016 and could have operated for longer periods of time if Central Coast chose to do so. And the Harris Memorandum found based on a review of the Central Coast annual reports that over the three fermentation seasons the NoMoVo operated, the system successfully captured and controlled ethanol emissions on every day they were operated. Further, the District affirmatively alleges that the Environmental Protection Agency considered these issues and concluded the data collected by Central Coast, even though done to confirm the Winery would not trigger offsets, does not mean such data cannot support an "achieved in practice" determination for BACT. The Environmental Protection Agency stated in a letter to the San Joaquin District:

> "The Central Coast Winery Service (CCWS) was issued a permit to construct and operate a [control device] in 2013 to control emissions from a portion of their fermentation operations. The equipment . . . has been in use during each crush season since 2013 (three seasons). The facility proposed use of this control equipment not too meet any applicable BACT/LAER requirements, but instead to ensure their daily emissions remained below 55 lbs./day, which is the emission threshold for triggering BACT and offset requirements in the Santa Barbara Air Pollution Control District (APCD). The

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fact that the source was not required to achieve emission reductions to satisfy a new source review (NSR) requirement and instead used the controls to avoid an applicable requirement, does not factor into the evaluation of whether a specific emission reduction rate has been achieved in practice. Similarly, the fact that the source only used the equipment as needed to comply with their 55 lb/day emission limit, does not affect whether a certain control rate has been [achieved in practice]. EPA has reviewed the records from CCWS regarding their wine fermentation operations and using mass balance calculations have determined that the use of add-on controls during portions of the fermentation process have resulted in emission reductions of 76.6 %." (Exhibit 1, Attachment E, Harris Memorandum Attachment 6, "EPA September 30, 2016 comment letter on a proposed Bear Creek Winery in the San Joaquin APCD.)

This letter from the Environmental Protection Agency was one of several agency letter's criticizing San Joaquin's BACT analysis. (See Exhibit 9.)

Finally, the District denies Petitioner's suggestion in Paragraph 3 that the manufacturer of EcoPAS does not support mass-balancing as an acceptable test method for compliance. The District affirmatively alleges the email from P. Thompson of EcoPAS to the District on January 6, 2017 did request the District support further testing when talking to EPA but went on to state "In the mean time we can use mass balance . . ." for compliance purposes.

9. In response to Paragraph G(3)(a), the District denies Petitioner's conclusionary allegations that the data collected by Central Coast and analyzed by the District and the Environmental Protection Agency is inadequate to demonstrate the performance reliability of the EcoPAS and NoMoVo systems. The District affirmatively alleges that Harris Memorandum proves otherwise. The Harris Memorandum described the proposed project and applicable District Rule requirements and determined the key criterion for the Central Coast project was whether any control technology for this particular class or category of source (i.e., a

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winery) had been "achieved in practice, " meeting the requirement of District Rule 802. The Harris Memorandum noted that "achieved in practice" is not defined in federal, state or District regulations; but that the District's BACT Policy provides that "achieved in practice" had occurred if the control technology had a "proven track record" of reliability. (Harris Memorandum at p. 2, citing Exhibit 4 District Policy and Procedure No. 6100.064.2017 for BACT.) To determine if any particular technology had a proven track record of reliability, the Harris Memorandum relied on guidance for the Environmental Protection Agency which stated a technology was achieved in practice if it had achieved "successful operation" for six months. (Harris Memorandum at p. 2, citing letter from EPA Region IX Director Howekamp, Aug. 25, 1997, to South Coast AQMD.) The Harris Memorandum adjusted the 6 month metric to reflect that the fact that a winery fermentation season was only between 60 to 80 days per year and, therefore, successful operation would be achieved if a control technology could successfully operate for this period of time. (*Ibid.* at pp. 2-3.) For the NoMoVo, the Harris Memorandum fully examined Central Coast's daily logs on the use of the NoMoVo system and provided a detailed account of the use of these systems. The Harris Memorandum relied on data of actual use by Central Coast to conclude these control systems had proven to be reliable, efficient and capable of continuous operation. For the NoMoVo, the Harris Memorandum stated:

> "In summary, the NoMoVo emission control system has been successfully operated to control wine fermentation emissions at the CCWS facility for three full fermentation seasons. The control system has been operated on a frequent basis, with nearly continuous operation during the majority of fermentation operations. . . . Based on this information, the NoMoVo control system has achieved a proven track record of reliability for controlling ethanol emissions from wine fermentation. Therefore, the NoMoVo control system is considered achieved in practice emission control technology for wine fermentation operations at new and modified wineries." (*Id.*)

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And for the EcoPAS technology, the Harris Memorandum concluded that the data showed the cumulative use met the District's cumulative days of operation criteria to qualify the technology as achieved in practice and that the "historical system usage demonstrates a clear track-record of frequent operation, with near continuous operation during the bulk of each fermentation season." (*Ibid.*) The technology was therefore found to be "an achieved in practice emission control technology for wine fermentation operations at new and modified wineries." (*Ibid.*, at p. 7.)

9. In response to Paragraph G(3)(b), the District denies that it has not established a performance standard for best available control technology for Central Coast. The District affirmatively alleges that the mass balance compliance methodology is the only practical method of showing compliance due to the characteristics of wine making where emissions vary from tank to tank depending on the grapes used (with white versus red showing significant differences), as well as the brix content and temperature of the grapes undergoing fermentation. The variability of this process was considered by the District, which consulted a study done at U.C. Davis on the issue. (Exhibit 10, Modeling and Prediction of Evaporative Ethanol Loss During Wine Fermentation" Am. J. Enol. Vitic. Vol. 34, No. 4, 1983.) The District affirmatively alleges that given the dynamic nature of the batch process used to ferment grapes into wine, no other compliance method is feasible at this time. The District affirmatively alleges the Wine Institute is aware of this limitation but still demands more rigorous methods which are currently not technically feasible and, as such, would mean no district could require BACT on a winery for years to come, even though the control technologies used by Central Coast and Terravant are proven. The District affirmatively alleges that the Environmental Protection Agency stated this when it objected to the San Joaquin draft permits failure to include BACT. The Agency stated that "due to the batch nature of the operation and the non-steady state of the wine fermentation process, source testing may not be the best way to accurately measure achieved emission reductions. Instead, emission calculations using mass-

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balance may be a better way to measure the actual emissions reductions achieved by the control device." The District admits it would consider an application by Central Coast to modify its permit if the source compliance demonstration period showed the control efficiency was set too high – currently at 67 percent. The District affirmatively alleges that if a permit amendment were necessary, this would be an adjustment to the control efficiency rather than a conclusion that these proven control systems are not BACT. The District affirmatively alleges that the Response to Comments show that this is a "standard District practice" and, rather than indicating the District is unsure of its analysis of BACT, shows the District's cooperative policy of working with business operators in the County so that they can operate successfully and still safeguard air quality in Santa Barbara County.

10. In response to Paragraph G(4) regarding the San Joaquin District staff analysis, the District incorporates by reference its responses as set forth above, including the Environmental Protection Agency's comments and objections to the proposed San Joaquin District permits and the Environmental Protection Agency's threat of an enforcement action under Title V of the Clean Air Act if the BACT issue was not resolved. The District further incorporates by reference its responses above regarding the Harris Memorandum that showed the EcoPAS and NoMoVo have operated continuously and effectively over several fermentation seasons.

11. In response to Paragraph G(5), the District affirmatively alleges that traditional source testing is not needed and that the BACT Policy section 8.1 states, as recognized in Petitioner's own allegations, as follows: "Source testing may not be applicable in some BACT determinations and other means of compliance may be used." (Exhibit 8, § 8.1.) The District denies that the email from the District Engineering Division Manager "implicitly acknowledges" that source testing is feasible or that the mass balance approach is not an appropriate and sound method for determining compliance. In response to the rest of the repetitive allegations in Paragraph 5, the District denies those allegations as stated above. The District

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affirmatively alleges that the manufacturers of the EcoPAS and NoMoVo have provided Central Coast with performance guarantees that meet the requirements of the Authority to Construct.

12. In response to Paragraph G(6), the District denies there is any evidence in the record suggesting or hinting that the control systems may adversely affect wine quality. The District affirmatively alleges that this issue was not raised during the permit process and has been expressly denied by Central Coast. The District denies this unfounded and reckless allegation. The District denies there is an issue of consideration of cost of the technology, as this consideration does not apply where a technology has been found to be "achieved in practice." The District also alleges that the economic feasibility of these control technologies is shown by the fact that Terravant and Central Coast voluntarily installed controls years ago and has operated them successfully.

13. In response to Paragraph 7 "Conclusion," the District incorporates its responses above by reference.

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AFFIRMATIVE DEFENSES

1. Petitioners do not have standing as an "aggrieved person" under Health and Safety Code section 42302.1 to file a petition in this matter.

RELIEF REQUESTED

1. The Control Officer requests both petitions be denied in their entirety.
2. For such other relief as deemed necessary and proper by the Hearing Board.

Dated: October 23, 2017

Respectfully submitted,

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PROOF OF SERVICE
(C.C.P. §§ 1013(a), 2015.5)
STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is 105 East Anapamu Street, Santa Barbara, California.

On October 23, 2017, I served a true copy of the within ANSWER TO PETITION on the Interested Parties in said action by:

☐ personally delivering it to the person(s) indicated below:

☐ via Federal Express Overnight Mail.

☒ by mail. I am familiar with the practice of the Office of Santa Barbara County Counsel for the collection and processing of correspondence for mailing with the United States Postal Service. In accordance with the ordinary course of business, the above mentioned documents would have been deposited with the United States Postal Service after having been deposited and processed for postage with the County of Santa Barbara Central Mail Room.

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☒(State) I declare, under penalty of perjury, that the above is true and correct.

☐(Federal) I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed on October 23, 2017, at Santa Barbara, California.

Natalie M. Warwick

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County of Santa Barbara
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