

STATE OF CALIFORNIA
DEPARTMENT OF FOOD AND AGRICULTURE
MARKETING SERVICES DIVISION

PUBLIC HEARING ON A PROPOSED RULEMAKING
ACTION TO ADOPT OR MAKE CHANGES TO
TITLE 3, DIVISION 3, CHAPTER 2,
ARTICLE 1, SECTION 1700

ONLINE/TELECONFERENCE MEETING
HOSTED BY THE
CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE
SACRAMENTO, CALIFORNIA

VOLUME II OF II

WEDNESDAY, FEBRUARY 28, 2024
10:00 A.M.

Recorded by: Ramona Cota

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Cliff Howard

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PROCEEDINGS

10:06 a.m.

HEARING OFFICER BADYAL: Good morning, everybody.

My name is Hardeap Badyal, I am the Chief Investigator for the Market Enforcement Branch at the California Department of Food and Agriculture, and I am the designated hearing officer for today's hearing. It is now 10:06 a.m. on Wednesday, February 28, 2024, and we are holding this hearing virtually on Zoom video and teleconference originating from Sacramento, California.

We are happy to receive public comments on a proposed rulemaking action by the Department of Food and Agriculture. The regulation we are concerned with today is a proposed amendment to the California Code of Regulations, Title 3, Division 3, Chapter 2, Article 1 - Reports by Grape Processors.

Under the rulemaking provisions of the California Administrative Procedure Act, also referred to as the APA, this is the time and place set for the presentation of statements, arguments, and contentions, orally or in writing, for or against the proposed regulatory change, notice of which was previously published and sent by mail and/or email to grape producers and interested parties.

The purpose of this hearing is only to obtain public comment on the Department's proposal. The

1 Department will not respond to comments at this hearing,
2 nor will the Department engage in a discussion about these
3 regulations at this hearing, other than to seek
4 clarification of comments presented, if necessary. The
5 Department will take all oral and written comments received
6 at this hearing under submission to allow the Department to
7 thoroughly and thoughtfully evaluate to determine how the
8 Department wishes to respond. In accordance with the APA,
9 the Department will respond to all comments in writing in
10 the Final Statement of Reasons, that will be made available
11 to the public once it is completed.

12 This hearing is being recorded by a certified
13 recorder, John Cota, of the firm All American Reporting and
14 Transcription Services located in Rancho Cordova,
15 California. The transcript of the hearing and all exhibits
16 and evidence presented during the hearing will be part of
17 the rulemaking file.

18 If you would like to submit written comments, we
19 will accept written comments until 5:00 p.m. today. Please
20 email your written comments to Kacie Fritz at
21 kacie.fritz@cdfa.ca.gov. Again, that is
22 kacie.fritz@cdfa.ca.gov. We have posted that email address
23 in the Chat. Or we will post it in the Chat if it is not
24 already there.

25 All persons who are in attendance today will have

1 the opportunity to provide oral comments. If you know you
2 would not like to offer comments today, you may send us a
3 message in the Chat or just inform us when we call your
4 name. Everyone is welcome to attend this hearing
5 regardless of whether or not they wish to provide comments.

6 If you would like the Department to notify you of
7 any substantive changes made to the regulation or if any
8 new material relied upon is added to the rulemaking file
9 prior to the Department's adoption of the regulation,
10 please provide your full name and email address during your
11 comment period; or email Kacie Fritz at
12 kacie.fritz@cdfa.ca.gov with this request. Any such notice
13 will be sent to everyone who submits written comments
14 during the written comment period, including those written
15 comments submitted today, and to everyone who asks for such
16 notification. While no one may be excluded from
17 participating in these proceedings for failure to identify
18 themselves, if you choose to provide your name and address,
19 it will be used to provide these notices.

20 If anyone wishing to testify has a time
21 constraint that would preclude you from waiting your turn,
22 please let me know at this time so I can plan accordingly.
23 Otherwise, I will call you in the order you appear on my
24 screen. Does anyone have a time constraint that needs to
25 go at this time, or needs to go first and can't wait a

1 turn?

2 (No response.)

3 HEARING OFFICER BADYAL: Okay, seeing no
4 requests.

5 Each witness may have up to 20 minutes to
6 testify. After we hear from everyone who wishes to
7 testify, if a prior commenter wishes to comment further, he
8 or she will be allowed to do so if time permits.

9 As of today's date, the rulemaking file includes
10 several items, including the Notice of Proposed Action that
11 was published in the California Regulatory Notice Register
12 on June 9, 2023, the express terms of the regulations using
13 underline to indicate additions to the California Code of
14 Regulations, the Initial Statement of Reasons, the
15 documents relied upon, and the STD Form 399 required by the
16 Department of Finance.

17 The regulation was duly noticed more than 45 days
18 prior to today's hearing. The Notice was sent to all
19 interested parties who requested rulemaking notices, as
20 well as those parties required by Government Code section
21 11346.4(a)(2)-(4). The rulemaking documents are posted on
22 the Department's website and available upon request.

23 We will now take oral comments on the proposed
24 regulation. In the interest of time, if you agree with
25 comments made by a prior speaker, please simply state that

1 fact and add any new information that is pertinent to the
2 issue.

3 To improve the audio for this hearing, please
4 mute your device unless you are attempting to speak.

5 MS. JENSEN: We have a question in the Chat.

6 HEARING OFFICER BADYAL: There is a message in
7 here from Lisa Howard. Would you like to go first,
8 Ms. Howard?

9 MS. L. HOWARD: Not necessarily. I was just
10 requesting that we know ahead of time when we will be
11 called upon to just make it more clear, since you said just
12 based on your screen. I just wanted to be prepared.

13 HEARING OFFICER BADYAL: I may be -- I can't. It
14 will be difficult because some people, you know, they are
15 going to get the 20 minutes. We are going to try to keep
16 everybody to the 20 minutes. However, like I can't give
17 you a specific timeframe. But, you know, it appears that
18 you would probably be somewhere like, you know, the tenth
19 person or after that.

20 MS. L. HOWARD: No problem. Thank you.

21 HEARING OFFICER BADYAL: You're welcome.

22 Okay, NASS, would you like to provide a comment
23 this morning?

24 MS. VAN COURT: Yes. Let me share my screen. It
25 says host disabled participant.

1 MS. JENSEN: One moment. Let me get you set up,
2 Jennifer, as a co-host.

3 MS. VAN COURT: Okay. Thank you.

4 MS. JENSEN: You should be set up now.

5 MS. VAN COURT: Can you guys see that? Oh, wait,
6 no, not yet. How about now?

7 MS. JENSEN: Now it's showing, yes.

8 MS. VAN COURT: Does it show the screen with just
9 the slide, not my notes, right?

10 MS. JENSEN: Correct.

11 MS. VAN COURT: Okay. One second. Okay. My
12 name is Jennifer Van Court and I work for the National
13 Agricultural Statistics Service, which is part of US
14 Department of Agriculture. And NASS works in cooperation
15 with the California Department of Food and Agriculture to
16 publish the grape crush report.

17 We conducted a price change analysis study of the
18 proposal to move the boundary between Districts 5 and 17
19 using the 2022 grape crush reported data.

20 I don't know why that's not changing, sorry. One
21 second. Okay, sorry about that.

22 I'll start by going over our methodology. Again,
23 we used the 2022 grape crush data. There were 76 wineries
24 reporting 271 grape purchases from District 5.

25 We recontacted all 76 wineries and -- okay,

1 sorry. We recontacted all 76 wineries to ask the location
2 of each District 5 vineyard they purchased from.

3 Of the 76 wineries, 70 wineries responded. And
4 these 70 wineries covered 258 of the 271 purchases reported
5 in the 2022 District 5 crush report.

6 The 6 that did not answer represented 13
7 purchases; and NASS assumed these vineyards were not from
8 the proposed boundary change area for those 6 vineyards.

9 And this was the same methodology that we
10 followed when we did the same study back in 2019.

11 What did we find in the proposed boundary change
12 area?

13 Of the purchases from District 5, 45 were from
14 vineyards in the proposed boundary change area. We moved
15 these 45 purchases out of District 5 and into District 17
16 and recalculated the weighted average prices for both those
17 two districts. We looked at both Table 6 and Table 10.
18 Table 6 includes all purchases, both related and non-
19 related. And we also looked at Table 10, which is only
20 non-related purchases, meaning there is less than 5% common
21 ownership between the winery and the vineyard.

22 These 45 purchases accounted for 7,096.4 tons
23 of the 15,668.5 tons of grapes purchased from District 5 in
24 2022.

25 Here is the price analysis for District 5 -

1 Tables 6 and 10. Again, Table 6 is all purchases and Table
2 10 is only non-related. So, this slide has the tons and
3 the prices for Total Wine, Red Wine and White Wine.

4 The D5 Actual column are the numbers that are in
5 the crush report or the final or the errata.

6 And the D5 Proposed is the price and tons of
7 moving the grape purchases in the proposed area outside of
8 District 5. So, the tons for all three, Total, Red and
9 White, as expected are all going down. The Total went down
10 45.3%, the Red 32.7, and the White 55.9.

11 The Table 6 All Price went up 32.6% for Table 6,
12 and Table 10 up 35.8%.

13 And the Red Wine Table 6 price went up 19.5% and
14 the Table 10 Red price went up 27.2%. And then for White,
15 Table 6 at 42.3 and Table 10 at 40.9.

16 Next, we will look at the same comparison by
17 variety. Again, we have the D5 Actual, so these are from
18 the crush report and the errata. And then with the
19 proposed changes what the prices would be. These are the
20 varieties that had a change. They all went up. And the
21 rest of, all of the other varieties in District 5 remain
22 the same. The Albarino went up 145.9%, Chardonnay up 16,
23 Chenin Blanc up 138.8, Petite Sirah up 17.3, Pinot Gris
24 97.3, Pinot Noir 14.7, Sauvignon Blanc 25.3, Viognier
25 124.9, and finally White Riesling 67.1.

1 These are the varieties that didn't change. As I
2 mentioned before, they either went up and those are the
3 ones in the previous slide, and these are the rest of them
4 and none of them changed.

5 So now we are going to look at the same slide but
6 for District 17, again using Tables 6 and 10.

7 So, it has it again broken out by Total, Red and
8 White. The District 17 Actual is the numbers in the crush
9 in the final and the errata and then the 17 is with the
10 proposed boundary change. So, since we are moving from 5
11 to 17, as expected, all of the tons are going up. The
12 Table 6 All Price and Table 10 All Price went up .2 and
13 .3%. The Red Tables 6 and 10 went up 1% and 1.4. And then
14 the White one down .3 on both tables.

15 Next, we will look at the varieties for District
16 17. So, these are the varieties that had an increase or a
17 decrease in price by something greater than 1%. So, the
18 Petite Sirah went up 3%, Symphony went down 22%, and the
19 Verdejo went down 10%.

20 The next slide, these are varieties that did not
21 increase or decrease in price by more than 1%. Most of
22 these didn't change at all, but some of them did have some
23 sort of a decrease less than 1%, between zero and 1%.

24 And that concludes the presentation. Here is the
25 website where you can find all of the crush reports.

1 HEARING OFFICER BADYAL: Thank you.

2 Next commenter. Roger King, would you like to
3 provide any comments this morning?

4 MS. JENSEN: Jennifer, could you stop sharing
5 your screen first?

6 MS. VAN COURT: Yes.

7 MS. JENSEN: Thank you.

8 MR. KING: Yes, I would. Can you hear me?

9 HEARING OFFICER BADYAL: Yes, sir, we can hear
10 you.

11 MR. KING: Okay. I will be taking probably the
12 full 20 minutes. I have got, unfortunately, a lot to
13 discuss here so I'll get started with it right away. Can
14 everybody still hear me? Okay.

15 Suisun Valley Vintners and Growers Association
16 believes strongly that extensive harm exists currently, has
17 since 1976, as a result of the assignment of boundary to
18 originally Grape Price District 4 in the original language.
19 It is currently Grape Price District 5 under the Berryhill
20 Act. An indiscriminate use of a USDA Newsletter Map of
21 that era formed the boundaries of the original 11
22 districts. They were simply subdivided by county line with
23 no rationale that has been found.

24 Fifty years later we find a mature grape and wine
25 market structure in place that is mis-served by the

1 original boundary call out. In fact, six more districts
2 have been added, moving past the county line configuration
3 and expanding definition by state and federal highways as
4 well.

5 Ryer Island in the Ryer Island area of Solano
6 County and the Western Solano County is market priced by
7 the market, not by legislation. Market price vastly
8 different in real world terms today in 2024, than it was
9 years ago. These huge price variances exist in base land
10 valuation, grape price asking bid and valuation relative to
11 crop insurance payments. At this time this area has been
12 remained -- at this time this area has remained consistent
13 with its neighbor area of Grape Price District 17,
14 Clarksburg.

15 Harm exists to Western Solano grape growers and
16 landowners as a result of direct district averaging that
17 produces an average well below what would exist in Western
18 Solano and one that is higher than would exist for Ryer on
19 its own merit. That harm occurs directly to a significant
20 grower population in the Western Solano area. Such
21 financial harm will continue, is accelerating, until an
22 appropriate redefinition of boundary alignment results in
23 the Ryer region being joined into Grape Price District 17,
24 where valuations on land and crop pricing are consistent
25 with contracting values and alignments that exist in that,

1 this region, in that the growers and landowners in Western
2 Solano exhibit a significantly larger scale to the same
3 operating in the Ryer area. I have got an appendix that's
4 attached to the submission at my end yesterday on that.

5 To uncover the scope, SVVGA seeks and requests
6 CDFA and NASS to review all existing grape contract pricing
7 currently across this region and be compared to all
8 contracts Foley Family Farming holds demonstrating where
9 harm exists impacting their land valuation. Actual
10 evidence. Land values estimated at 12,500 by market
11 listing of Lee & Associates on Ryer, this was a 2/23/24
12 listing and a map has been attached in the appendix,
13 Appendix 1B, can be financially served by such average
14 rates. Yet the estimated 100,000 per acre land valuation
15 of Western Solano cannot. Grapes are priced much higher to
16 serve as valuation carrying costs. This presents financial
17 harm to growers in Western Solano Grape District 5 with
18 reduced loan values offered and interest rate terms.

19 Averages cannot be supported. Averages cannot
20 support these premium values when used in any fashion in
21 appraisals or loan values. To resolve such imbalances, the
22 question of benefit for one singular entity is if no change
23 is granted, allowing for harm to a much larger group of
24 grower landowners. Valuations must be addressed for those
25 in western District 5. At the same time, historical norms

1 of this averaging have harmed financial expectations for
2 multiple grower investments in western District 5. While
3 the impact was minor in the beginning with the
4 implementation of the Berryhill Act back in the '70s, this
5 gap has spread over the 48 years and it is accelerating
6 rapidly in the last 10 years, specifically in the last
7 several years.

8 Prices actually paid are not reflected in the
9 District 5 average on either side of the ledger. The
10 greatest harm is found in the downside pool of large
11 tonnage, that low price which historically and currently
12 remains in the Ryer area of District 5. District 5 average
13 finds impact in some lending considerations where it can be
14 referenced as a financial expectation. Land valuations
15 cannot be supported by district averages and crop returns,
16 loan amounts and terms can be influenced negatively
17 presenting less advantageous terms. Both sides might be
18 able to claim this harm, but the magnitude of capital is
19 vastly different. Facts need to be established to verify
20 the existence of true harm or simply projected harm. This
21 is a major consideration that we believe the facts need to
22 be established. There is a magnitude of scale that must be
23 argued. Should the objection of one fail to the benefit of
24 a much, much larger group scale?

25 If equity does not have -- does one objection of

1 harm sustain over a much larger scope of continued damage
2 to expectations harming a broad community? CDFA must
3 answer this question while in the interest of the state.

4 Does objection to one sustain when the resulting
5 impact of the change to many others as material? District
6 5 and 17 are extremely close to each other. Is the
7 compelling expectation predicated on an unrealistic attempt
8 to distort the average for valuation benefit? Land
9 valuations that form the expectations of agricultural
10 capital must be supported by accurate regulatory reports
11 issued by the state, which holds a legitimate interest in
12 producing such, as authorized by the Berryhill Act and is
13 known as the Crush Report. Currently Grape Price District
14 5 averages are highly questionable and need clarity.

15 I would like to take the rest of my time to
16 discuss our comments relevant to the last hearing where
17 there were some broad themes that were brought forward.
18 And I will reference these themes and then our comments to
19 that.

20 The continued reference of wanting of higher
21 prices for our grapes. We don't seek higher prices for our
22 grapes. The market is delivering higher prices for our
23 grapes in a very robust fashion. And when I say the
24 market, I am talking about the actual buy/sell market of
25 wine grapes. So, we are not seeking a higher price. What

1 we are seeking is a price that is -- a grape price is a
2 function of what you negotiate. Accurate data is needed to
3 negotiate. The actual understanding only district -- this
4 is understanding -- this is the only district where
5 interior and coastal vineyards are averaged together. That
6 anomaly is undisputable. There is no -- even though
7 there's broad price ranges in other grape price districts,
8 there is no averaging of an interior grape product with
9 averaging of a coastal grape product, delivering the stated
10 average for that district.

11 Cannot find criteria for making change.
12 Admittedly by CDFA through the entire process, it did not
13 exist. Jeff Cesca told me to my face, it doesn't exist.

14 But we created a framework, defined by CDFA
15 Market Division head, was put on paper, and that has been
16 entered into the record at the last hearing. It does
17 signal an update to Berryhill Act is needed and such
18 criteria must be developed and inserted.

19 Land value purchased and planted could be
20 affected if district prices are changed. There is no
21 change in district price. District price prices avoid -- I
22 want to clearly separate grape prices and district average
23 price. There is no change in district prices, every grape
24 lot will be priced as negotiation or contracting. What
25 would happen is averages would become more accepting of the

1 disparate reality between 5 and 17. Prices remain bid and
2 asked. The bid will remain the unspoken line we referenced
3 in the initial hearing. While market, the grape buying
4 market will reject Western Solano ask for Ryer grapes.

5 Requirement that lines be contiguous to county
6 lines or other lines. No such language exists in the
7 Berryhill Act that we have found. It so happened the
8 original map was a county lines base; and it is believed,
9 without direct knowledge, these were expedient to the map
10 that was selected to be used for subdivision. There is no
11 contradictory evidence to that. There is no rational
12 rationale presented for how this was decided. It does not,
13 it does not clarify this need to update the Act.

14 Some highly, some fairly highly analysis of
15 variations of grape price from data that is supposed to be
16 confidential. Yes, this was done from existing crush
17 district average assembled by NASS under contract with
18 CDFA, which is public data. Specifics to individual lots
19 was not disclosed. So what I mean there is that we have a
20 grape lot at a tonnage price. But the specific origin,
21 origination of that lot, where it came from within the
22 defined District 5 boundary, has not been disclosed in our
23 averages. We have made estimates of what that might look
24 like, NASS has just presented some other information to us.
25 The objection does -- the objection does not offer any

1 comparative analysis. We have put in analysis; NASS has
2 put in analysis. The objection provides absolutely no
3 analysis relevant to this.

4 Variations of what pricing is within the existing
5 districts. Yes, that inherently will exist due to supply/
6 demand knowledge of exact vineyard. We are not seeking to
7 define that. Solely seeking to gain accurate averages. In
8 the case of Grape Crush District 5, this is a district that
9 merges coastal and internal considerations and is unique to
10 the entire system. The change in boundary works to
11 eliminate this abnormality from the averaging and produces
12 accurate reflections for each region.

13 Open invitation to anybody just to change
14 boundaries. I have to admit, it can be seen that way. But
15 until you engage this ill-defined process, the difficulties
16 of attempting to make changes to state code are so
17 significant it would eliminate most if not all frivolous
18 efforts but must be feasible for resolution of serious
19 issues.

20 Value, would have values, grape flag lower
21 than -- grape price 17 lower than valued grape price 5.
22 This relates to the stated values in the testimony on 1/18.
23 We are not aware this is a certified appraiser. If so that
24 needs to be, that needs to be made known with license and
25 number of required hours to find. Yes, there is an

1 experienced person to make internal decisions but not
2 qualified to define appraised values.

3 They push into a lower district. Is it really a
4 lower district when talking about average? This argument
5 fits easily to Western Solano. If the average is price, it
6 is being held down by market-created low pricing in Ryer
7 Island. And that area Western Solano has been pushed by
8 Grape District 5 boundary to lower and inaccurate averaging
9 is harmed by that to the benefit of vineyards found in the
10 Ryer region, which see an increase in average due to much
11 higher market pricing in the West.

12 Problem with property lines, yield returns,
13 investment issues of that. We both share this reality, the
14 same holds true in Western Solano.

15 That is the current commentary that I have to
16 place into the hearing.

17 HEARING OFFICER BADYAL: Thank you, Mr. King.

18 Next commenter, John. Sorry, I don't see your
19 last name. Could you please? Would you like to comment
20 today?

21 MR. MACKIE: Yes, I would, please. I assume you
22 mean me.

23 HEARING OFFICER BADYAL: Yes, sir, yes. You are
24 the only John that I can see.

25 MR. MACKIE: Okay. I can't, I don't have the

1 benefit of all the screens.

2 My name is John Mackie, M-A-C-K-I-E. I testified
3 at your last hearing and I appreciate the opportunity to
4 address you again. I am a lawyer with the firm of Carle
5 Mackie Power & Ross in Sonoma County. We represent Foley
6 Family Farms. The Foley Family is a vineyard owner on Ryer
7 Island and that is, as you know, part of the District 5
8 that would be moved to District 17. Foley Family is not
9 the only grower on Ryer Island. There was some suggestion
10 that perhaps it was all about Foley. We may be the primary
11 provider of evidence and testimony, but we are not the only
12 grower. When I say we I mean our client.

13 The reason I wanted to speak to you again was
14 that we have -- I just want to point out that we have made
15 some additional written submissions, which I would advocate
16 you consider. Our updated brief was just submitted this
17 morning, so I don't expect you to have gone through that
18 now. In addition to that we have submitted some additional
19 and updated expert advice in response to the testimony at
20 the last hearing. I don't want to repeat a great deal of
21 what I had said before and I will try to be brief, but I do
22 want to highlight several issues.

23 First, we object to this proposal on a number of
24 grounds. First, we think that it raises and challenges
25 some important public policy issues. Mr. King and I would

1 agree that there were not very clear criteria when this
2 system was adopted and there never has been. And this
3 hearing indicates all the more clearly that the criteria
4 for adopting and the process for adopting changes is not
5 clear and needs to be clarified.

6 There was a great deal of discussion in the last
7 hearing about pricing and again we focused on that this
8 time. Our concern is that pricing shouldn't be the reason.
9 It shouldn't be a reason to change a line because one group
10 of growers feel that they can get more money or there
11 should -- there can be more money. Or on the other hand,
12 any group should be disadvantaged because the line is
13 moved. You know, I think if you look at some of the recent
14 submissions, the Family Winemakers of California, the
15 Sonoma County Wineries Association and some of the other
16 people who have submitted opposition, they will comment
17 that they really don't want to be cast in an environment
18 where everybody is petitioning you to change the line
19 because they want to change their contracts. There should
20 be some other bases or multiple bases for moving the line
21 than who has the loudest voice in petitioning you because
22 they will be advantaged or disadvantaged economically.

23 The second point that I have made before is that,
24 as Mr. King again said, a lot of grape prices can affect
25 the value of property and the covenants that may exist in

1 existing financial arrangements with banks and elsewhere.
2 And I really don't think that it is a good idea for the
3 Department to be risking violations for people's loans, for
4 example, because they move the lines. And you know,
5 Mr. King, I think what he said was that I or others were
6 not qualified appraisers. We have submitted a recent, a
7 letter from Tony Correia who is a qualified appraiser who
8 is well known, and he explains in his terms how a change of
9 line and a change of the district average could affect
10 values. Again, we don't think -- we think that is a
11 dangerous path for the Department to follow.

12 Thirdly, there was -- there has been a lot of
13 discussion about the economic data and the comparative data
14 that we might have from the Ryer Island grapes and the
15 District 5 and District 7 (sic); and I appreciate very much
16 the update by the USDA. But we have submitted an update
17 from our own economic analyst, Dr. Eyler, and he concludes
18 that there is less variation within District 5 than has
19 been asserted by the proponents; and I will commend his
20 analysis to you on that subject.

21 And the fourth point I would like to make is that
22 there were some comparisons of climate, comparisons of
23 geography, comparisons of soils. And I think when we
24 have -- what we submitted in Paul Anamosa's study and the
25 other materials that we provided, indicate that there is

1 less variation in District 5 from the Ryer Island to the
2 rest than seems to be asserted by the proponents. I
3 believe that all that material also addresses the specific
4 question of whether coastal, whether there is a coastal
5 variant of one part of the district to the other.

6 But in any event, our conclusion that we advocate
7 to you is that this proposal should not be adopted, but
8 rather, there should be a recommendation to the legislature
9 to revise their statutory guidance. And by the way, the
10 statutory guidance, as we understand it, says the district
11 boundaries will be set by a reference to some historic
12 documents. It didn't seem to be, and I would agree with
13 Mr. King, a well-established basis for the district lines
14 then and there certainly isn't a well-established basis for
15 changing the lines. And I would say that we all would
16 benefit if the legislature were clearer on what the process
17 is for establishing or changing lines and what the criteria
18 might be that you or others would use when you are faced
19 with these kinds of petitions.

20 So, thank you for your time on this. I am
21 hoping, I don't know how you will sequence people. I would
22 again like to introduce to you Al Wagner who is a
23 representative of Foley Family Farms and you can either
24 hear from him now or hear from him in the sequence that you
25 have set up. So, thank you very much.

1 HEARING OFFICER BADYAL: There's a couple of
2 other people before him and then he would be going; I think
3 he is like third on the list.

4 MR. MACKIE: Okay.

5 HEARING OFFICER BADYAL: Thank you, Mr. Mackie.

6 Jfagundes, would you like to provide any comments
7 this morning?

8 (No response.)

9 HEARING OFFICER BADYAL: Okay, we'll move to Ben
10 Slaughter. Would you like to provide any comments this
11 morning, sir?

12 MR. SLAUGHTER: Yes, I would.

13 HEARING OFFICER BADYAL: Go ahead then,
14 Mr. Slaughter.

15 MR. SLAUGHTER: Sure. My name is Ben Slaughter,
16 S-L-A-U-G-H-T-E-R. I am a certified general appraiser with
17 over 20 years experience. I specialize in agricultural
18 properties; the vast majority of that has been in the wine
19 grape space. I have appraised thousands of vineyards in
20 almost every grape pricing district in California with the
21 exception of I think 15 is in Los Angeles. Twelve
22 different states I have appraised vineyards in. I have
23 spent hundreds and hundreds of hours analyzing grape crush
24 data. I am relatively new to this issue, but I have been
25 brought up to speed with what is going on. I have

1 appraised vineyards in the Ryer Island area, Clarksburg,
2 Lodi, Suisun Valley, Napa, Sonoma, all over the state. In
3 that appraisal work, either in Ryer Island or in Suisun
4 Valley, I have never relied on the District 5 average as an
5 indicator of grape price. It is simply too skewed by the
6 two different growing districts. And those two growing
7 districts have always been different in my mind. Ryer
8 Island has always been part of what I think of as the
9 Delta; and Suisun Valley and the other valleys there in
10 Solano County have always been a coastal market to me.

11 In that type of work when I am thinking about
12 Suisun Valley, because I don't feel like I can rely on the
13 District 5 average, I look to indicators from places like
14 District 1 and District 2, which are in the North Coast
15 AVA. And that North Coast AVA is a major driver for the
16 way that I see market grape prices happen rather than the
17 District 5 average. On Ryer Island, I have always looked
18 to District 17, or District 11 before the creation of
19 District 17, as a better indicator of market grape pricing
20 for the Delta, than the District 5 average. You know, I
21 would submit that the District 5 average, again, having
22 worked in virtually every grape pricing district in the
23 state, the District 5 average is the least useful data
24 point in the grape crush report.

25 Other indicators of value, you know, grape price

1 is not the only thing that drives value of real property.
2 We also look at obviously what people pay for vineyards
3 that are most similar. I would never use a vineyard
4 transaction on Ryer Island to appraise a vineyard in Suisun
5 Valley, or vice versa. Again, they have always been
6 distinct markets in my mind.

7 The other thing I would like to add is that a
8 district average price to me is never the best indicator of
9 the market value of the grapes. The best indicator of the
10 market value of the grapes is an arm's length transaction
11 between unrelated parties. The average is simply a number.
12 These are just, these averages to me are just a benchmark
13 and we have to understand that that is only one indicator
14 that feeds three different calculations that we use to
15 value vineyard real estate. And really value is determined
16 by a willing buyer and a willing seller acting in their own
17 best interest in an open and competitive market.

18 So, I am not going to take all the time. I know
19 you have lots to get to here, but I would like to express
20 support for this. I think this is a very good idea and
21 ultimately I think it will produce a more useful indicator
22 for market participants. And, this change would not affect
23 the way that I would generally view property values on Ryer
24 Island or in Suisun Valley because, again, they have always
25 been distinct markets to me.

1 The NASS Survey update that was done this
2 morning, that is the first time I have seen that. I would
3 say that it fell out exactly the way that I would have
4 expected it to, and I saw no statistically significant
5 change to District 17. And then what I saw in the changes
6 to the proposed District 5 is those grape prices begin to
7 align more with what I have observed in District 1 and
8 District 2. So, that study which I saw for the first time
9 this morning, really does align and support the way that I
10 have historically viewed Solano County as a grape growing
11 district. That is all I've got. I will yield the rest of
12 my time.

13 HEARING OFFICER BADYAL: Thank you,
14 Mr. Slaughter.

15 Al Wagner, would you like to provide comments,
16 sir?

17 MR. WAGNER: Yes, thank you. Good morning. I
18 spoke at the last hearing as well. My name is Al Wagner
19 and I am the Director -- W-A-G-N-E-R, excuse me -- and I am
20 the Director of Governmental Affairs for Foley Family
21 Farms. I have just three short comments to make.

22 And first is I am here to talk some more about
23 the property value problem that will happen in the change
24 of district boundaries. When you are evaluating a vineyard
25 property to purchase you look to see what district it is

1 in. And just like the banks do, buyers and lenders both
2 look at district grape pricing when deciding how much to
3 pay for the purchase and going forward to figure your ROI
4 long-term or whether the bank is going to loan the money
5 for purchase on the property in the first place. District
6 grape prices do matter. It just bothers me that someone
7 can make -- can ask the government to make a change to
8 district boundaries to get themselves more money without
9 taking anyone else into account.

10 Second, I want to talk a little bit about what we
11 grow on Ryer Island. If any Cabernet growers are behind
12 the boundary change, we have news for them, we don't grow
13 any Cabernet. So, nothing about changing the boundary in
14 District 5 will change anything for them. Our primary
15 varietals are Chardonnay and Pinot Noir. And I have worked
16 out price averages for those two grapes over the last three
17 years. The prices we are selling those grapes for is far
18 better aligned with District 5 pricing than it is to
19 District 17.

20 Third, whoever else is on Zoom or going to talk,
21 this is something that will affect everyone, no matter what
22 district you are in. If these people can do it, then so
23 can anyone else. It might work to your advantage, but that
24 would end up being at the expense of someone else. And you
25 might be the other person, the one whose prices go down

1 because someone asked the state to move you into a
2 different price district.

3 So, you know, lastly, there isn't even a set of
4 guidelines anywhere of even how to begin to move the
5 district boundaries, and about what would be enough to do
6 so or what would not be enough to make that change. And
7 that isn't fair in itself.

8 So, in closing, there doesn't seem to be any fair
9 reason for the boundary to change. And again, thank you
10 for taking the time to listen to me today. Thank you very
11 much.

12 HEARING OFFICER BADYAL: Thank you, Mr. Wagner.

13 Ted Rieger, would you like to provide any
14 comments today?

15 MR. RIEGER: No.

16 HEARING OFFICER BADYAL: There is a gentleman,
17 you are identified as WVW. Would you like to provide any
18 comments today?

19 MR. LANZA: Yes, sorry about that.

20 HEARING OFFICER BADYAL: It's okay.

21 #MR. LANZA: Ron Lanza, Suisun Valley,
22 California. My family has been here farming for over 75
23 years in Suisun Valley. We have a small winery, along with
24 today approximately 400 acres of wine grapes. I have been
25 here my entire life and I have seen the whole industry,

1 been pricing change throughout that time.

2 Prior to, prior to 1982 when we were included
3 into the North Coast grape district, pricing throughout the
4 state that I remember, even between Suisun Valley and Napa
5 where it might have been pretty similar. But along with
6 the efforts of the AVA system, Napa got their AVA -- Napa
7 Valley in '81. My father petitioned with another fellow in
8 Green Valley to bring Suisun Valley and Green Valley to get
9 their own appellations and in that we got included in the
10 North Coast grape region. The North Coast, which we are
11 all aware of, is Napa, Sonoma, Solano, parts of Solano,
12 Lake Mendocino and small parts of Marin County. It was
13 then when price separation started to evolve. And that was
14 the point. We're going to evolve price, we're going to
15 get, we're going to get paid for grapes that we can grow,
16 the quality we can grow in our region. And over the years,
17 as Mr. King mentioned, that price separation has grown and
18 grown and grown.

19 What Solano County has is two separate regions.
20 We have Eastern Solano and we have Western Solano,
21 separated by 24½ miles. From our place, from our place
22 where I am sitting today to the center of Ryer Island is
23 24½ miles. If I take that 24½ mile radius and I use that
24 and go west, that'll bring me to Petaluma, it'll bring me
25 to St. Helena. With doing that it brings most of Napa

1 County, to the grapes in Napa, some of Sonoma, Sonoma
2 Valley. And I would very, I would take that if we want to
3 average those into our district, but I don't think that's
4 going to happen.

5 So, what we have is we are merging an area, a
6 region, Eastern Solano, and Western Solano pricing. That
7 price that is created by the grape crush report is not even
8 a price that anybody gets paid for grapes. That's not even
9 a price that a grower gets. It's a lower price than
10 Western Solano and a higher price average than Eastern
11 Solano. So what is the point of the price? What is the
12 point of the grape crush report? It doesn't bring anything
13 to us that we can use.

14 And the way it affects my family, there are
15 several ways. One is price negotiation with large
16 wineries. So, when we go to negotiate a price, the winery
17 has a grape crush report in their back pocket with a price
18 that nobody even gets. So, we are already starting
19 negotiations low, sometimes 50 to 75% lower than we are
20 really getting. So, very difficult to build a good
21 relationship and get fair pricing with wineries when they
22 are using that grape crush report.

23 Bank financing, as the fella Belmont, the one he
24 said about land values. Yeah, I agree with him. Nobody is
25 going to appraise land values on grape crush reports. The

1 banks take cash flow on projections on grape crush reports.
2 They want to know what your grape crush, what is the price
3 you're going to get. Fortunately for us and my family,
4 about 60% of our grapes are uncontracted on the open market
5 to achieve higher pricing. A lot of these grapes are
6 shipped back east. We do that on purpose. Because of
7 that, I don't have a contract price. If a bank doesn't
8 have a contract price, they are going to say, hey, what's
9 the price of that grape, that variety, in that area. So,
10 we have to always argue with the banks to say, hey, this is
11 what we're getting. And eventually we approve that and
12 over time, we can build that. But we are always starting
13 and being harmed by this lower average that nobody gets.

14 Thirdly, crop insurance. Just like I mentioned
15 with the, with the open market grapes, crop insurance will
16 pay for contracted pricing. Fortunately, we sell our
17 grapes, again, on an open market. That open market allows
18 me to determine what price I want to sell my grapes. And I
19 can tell you they are at or above even averages within
20 Suisun Valley. However, the federal crop insurance uses
21 the crush district to determine pricing in the grape -- in
22 the -- for the federal crop insurance payout. So, if I
23 have a variety, for instance, I could tell you the average
24 price for Chardonnay, the insurance is around \$907 a ton
25 and we sell ours between \$1,800 and \$2,000 a ton to the, to

1 our open markets. If something happens to my crop, we are
2 going to get the 900 a ton, we are not going to get what is
3 really happening here in Suisun Valley in western Solano.

4 So, all these areas add up. This has been
5 harming my family for years. There is no, there is no way
6 I would be able to calculate the loss we have had, but it
7 has been -- these few items I just mentioned, they have
8 been harming the family for years.

9 And lastly, crop insurance, excuse me, land
10 values in Suisun Valley are five to six times higher than
11 in Ryer Island, where we have to get higher grape prices.
12 We have to be able to achieve these pricing to pay for this
13 land and pay for the costs that we have here in Suisun
14 Valley.

15 So, since this data is useless to the industry,
16 and as far as I am concerned District 5, if you can't fix
17 it, I propose the CDFA eliminate District 5 from the crush
18 district because it is harming us every year, every day, we
19 have to deal with these numbers. So, please, I encourage
20 you to get this changed and get the numbers right. Thank
21 you.

22 HEARING OFFICER BADYAL: Thank you, Mr. Lanza.

23 Jeff Bitter, would you like to provide any
24 comments today?

25 MR. BITTER: Yes, I would.

1 HEARING OFFICER BADYAL: Go ahead, sir.

2 MR. BITTER: I am Jeff Bitter, the President of
3 Allied Grape Growers, and that's B-I-T-T-E-R for the
4 record. Allied Grape Growers represents about 400 to 500
5 growers and grower-members statewide in the marketing of
6 their grapes. We are the only grape growers association in
7 the state that is focused solely on marketing and sales of
8 wine grapes.

9 As a grower association, AGG serves multiple
10 roles in the industry. The primary one, of course, is the
11 effective marketing of our grower-members grapes, but
12 another is to provide critical and useful market
13 information to industry stakeholders, which include our
14 members or owners, our winery customers, and even third-
15 party entities that may not even have a direct business
16 relationship with us.

17 We believe a more functional marketplace is
18 achieved through transparency, information sharing and
19 cooperation amongst industry stakeholders and we believe
20 the California grape crush report is an integral part of
21 that information sharing and an ability to get that
22 transparent market information.

23 So, I would like to give you a little bit of
24 history of our use of the grape crush report and kind of
25 our position in the industry just to give some context as

1 to why we are concerned with this and have taken a position
2 on this petition. And our petition should very, very
3 clearly be noted as we are in support of the adjustment to
4 the boundary.

5 AGG has a very long history of dissecting and
6 assimilating and communicating wine grape and wine market
7 information and providing such service freely to those
8 stakeholders that are interested. We have done such for
9 over three decades, starting with the actions of, of a
10 gentleman named Barry Bedwell, a previous president of AGG
11 that our own Secretary of Ag Karen Ross affectionately
12 called the Data Man. He was coined that by her because of
13 his use of the crush report and ability to educate industry
14 stakeholders with regard to the market.

15 Now, I was hired by Barry in the 1990s and
16 trained under his expertise to most effectively utilize
17 industry data available to create market presentations and
18 offer advice and forecasting for all who had interest.

19 So, that is where the importance of the grape
20 crush report comes into play for, not only for us and what
21 we do, but for the industry in total. Much of the market
22 information we present from AGG is based on information, at
23 least in part out of the grape crush report, and the report
24 is utilized extensively in the analytics that we perform.
25 We have even performed webinars specifically on the

1 usefulness of the grape crush report and administered
2 tutorials on how to read the various tables and convert the
3 information into useful decision-making tools for growers,
4 wineries and analysts. In fact, next month I am presenting
5 for the Napa Valley Grape Growers Association in a seminar
6 called the Business of Vineyards, the California Grape
7 Crush Report, where I will discuss the '23 crush report and
8 how growers can find balance during challenging market
9 conditions, such as the ones we are currently in.

10 So, with all this being said, it is important to
11 note that I have provided, you know, these types of
12 presentations all over the state for stakeholders in
13 various crush districts over time now for nearly three
14 decades. I can tell you definitively during all the years
15 of doing this that I have never been able to utilize the
16 District 5 average pricing numbers reported in Table 6, 8
17 or 10 to draw any meaningful conclusions about how the
18 market -- about the market or, you know, how that district
19 fits into other California pricing districts. It's simply,
20 it's simply useless. And I am telling you from a market
21 analyst standpoint, from an expert that looks at these
22 numbers inside and out every year and presents them to the
23 industry. There is no value in the numbers that are
24 reported in the District 5 -- as District 5 price averages
25 in the crush report.

1 And that's, again, why I think it is important
2 for us to speak out on this issue because -- I am not
3 representing Suisun Valley growers, I am not representing
4 Ryer Island growers or District 17 growers. I am
5 representing somebody who is interested in a state report
6 that is commissioned to provide good, useful data.

7 So, in fact, the only meaningful analysis I have
8 been able to do regarding District 5 crush report data was
9 in the effort to expose how useless the average price data
10 actually is, and how growers in the coastal portion of the
11 district are being harmed by reporting that as a result of
12 the geographic makeup of the district, and we have talked
13 extensively already about that. But, you know, as the
14 letter I submitted under public comment to the Department
15 two months ago, I said District 5 is the only crush
16 district in the state where interior region grapes and
17 coastal region grapes intersect within a single crush
18 district and those grapes are not at all similarly situated
19 in the grape marketplace.

20 So, you know, basically all of this Pandora's Box
21 argument that it is going to cause all these changes all
22 over the state and district lines are going to be wanting
23 to be adjusted here and there and everywhere. It's just --
24 that's not going to happen. You don't have situations all
25 over the state where there's interior and coastal regions

1 intersecting each other and that that price is reported in
2 the grape crush report.

3 So, this brings me to expand on a couple of
4 points I made in my comment letter of January 9, which is
5 filed with the Department.

6 The first point has to do with the averaging of
7 grape prices. And we kind of touched on that a little bit
8 earlier, one of the speakers did, you know, because it can
9 be argued that other counties or districts such as Napa,
10 for example, have a much larger range of prices to
11 establish the average. So why is it such a big deal in
12 Solano County to have a range of prices from, say, 500 or
13 600 bucks on the low end up to 4,000-plus on the high end?
14 Well, the answer isn't really so much in the range as it is
15 in the dispersion of the data. In any district where the
16 average price actually means something and analysts will
17 find numerous transactions at around the average price.
18 The dispersion of data on a graph would show a
19 concentration of tonnage or transactions in the middle, if
20 you will, near the average. And the shape of such a graph
21 would be your traditional bell curve, where most of the
22 data points reside in the center of the display and the
23 tails on each end fade off with fewer data points.

24 However, in the situation present with the
25 dysfunctional reporting of data in District 5, one would

1 observe a higher concentration of data points on the
2 extremes of the price range, and very few if any data
3 points in the middle of the range near the average. And of
4 course, this is specific to varieties that are grown in
5 both, both regions. As Mr. Wagner commented, there is no
6 Cabernet grown in the Delta and so for the most part it is
7 not a common grape that is going to be grown in that area.
8 So, something like Cabernet is not going to be affected by
9 this. But we are talking about the varieties that are
10 affected by this and there's many, as was reported with the
11 NASS presentation.

12 So, you know, this concept is kind of likened to
13 exploring homeownership in a neighborhood where the average
14 price is reported at 500,000, but the homes actually trade
15 for 200,000 or 800,000. Does the 500,000 home exist? No,
16 not necessarily. Just because it's the average doesn't
17 mean it's useful data or that the purchase options actually
18 exist there.

19 So therefore, I believe it is the Department's
20 obligation to review the petition for boundary adjustment
21 with all seriousness, focused on the usefulness of the
22 reported data for District 5. This is, this is really all
23 it comes down to is the usefulness of that data. The
24 argument that it is somehow going to hurt somebody is
25 really predicated on the existence of their value being

1 tied to those averages. And I can say, unequivocally, in
2 all my years of selling grapes in this state, I have never,
3 and we administer about 800 grape contracts a year
4 throughout California, I have never seen a contract, a
5 grape contract written with a District 5 average reference
6 ever, for anybody in District 5 or otherwise. If there is
7 one that exists, perhaps it is on a related party agreement
8 where you don't have a non-related party arm's length
9 transaction, so that should be explored.

10 And that's kind of my second point in addition to
11 the letter I wrote in January was that we, you know, you
12 really have to have an understanding and recognition of an
13 arm's length non-related party transactions and how they
14 might be coming to play, into play in this situation.
15 Because the Department has made it clear by the creation of
16 Table 10 in the grape crush report in the late 1990s that
17 they recognize the impact that related party transactions
18 have on the skewing of data in the crush report.

19 And many wineries, you know, also function as
20 grape growers in the state of California and there's
21 nothing wrong that. The grape price data can be
22 influenced, though, by the existence of this fact. Because
23 ultimately, internal valuations can be assigned to those
24 grapes for the benefit of the vineyard, or the winery,
25 depending on which way you want to shift or allocate costs

1 and revenue for the overall enterprise. Again, there is
2 nothing wrong with this. There is nothing illegal about
3 it, per se, it is just a business decision for a related
4 party who owns vineyards and wineries to determine the
5 value of their grapes and where they want to shift and
6 allocate costs and revenue.

7 The problem is, you know, where it skews the
8 reporting of what is supposed to be and ultimately should
9 be a non-related party, a reflection of non-replated party
10 transactions. Since the state has already established
11 precedence, that concern exists regarding the difference
12 between non-related and related party transactions. I
13 implore the Department to understand and examine how that
14 specific issue might be influencing the opposition to the
15 boundary adjustment petition by Suisun Valley growers.

16 If there is a predominance of contracts that
17 exist for growers on Ryer Island that reference the
18 District 5 average, those should be coming out of the
19 woodwork. Those should be exposed. Those should be
20 available for the Department to consider in their decision.
21 I would bet my paycheck that there is not a single one that
22 is going to surface from a non-related party transaction
23 that would show reference to District 5 average to
24 influence their pricing and therefore influence any kind of
25 valuation of their property or land or otherwise.

1 So, the remainder of my thoughts on the issues
2 have been summarized extensively in the prior public
3 comments, both verbally in the original hearing back in I
4 think it was 2019, also in writing a couple of times since
5 then, so there's plenty of other opportunities to
6 understand our position as Allied Grape Growers on this
7 issue. But I wanted to at least expand on those two things
8 today in this public comment period and I thank you for
9 your time that you made available for me to do that today.

10 HEARING OFFICER BADYAL: Thank you, Mr. Bitter.

11 Pete Downs, would you like to provide any comment
12 today?

13 (No response.)

14 HEARING OFFICER BADYAL: Okay, moving on to Lisa
15 Howard, would you like to provide any comment today?

16 MS. HOWARD: Thank you, everyone. Lisa Howard,
17 H-O-W-A-R-D. I just want to start off by saying that --

18 THE REPORTER: Ms. Howard, please speak into the
19 microphone. I am barely picking you up.

20 MS. HOWARD: Okay, thank you. Sorry, I have lost
21 my voice a bit so I will try to be louder. Is that better?

22 THE REPORTER: Yes, thank you.

23 MS. L. HOWARD: Okay, I'll try. I just want to
24 start off by saying that it is very clear that this
25 requested change is justified. It was started off on this

1 call very quickly by the NASS report that basically there
2 is no change that will take place in District 17 with the
3 relocation of the boundary.

4 The massive change is truly an alleviation of
5 damage that has been taking place in the rest of the crush
6 district average pricing representation. The pricing
7 average will now show an increase of 20 to 40%. So just
8 like Jeff Bitter mentioned, there has been a disbursement
9 of data of two very clear datasets that have been reported
10 as one, which is not the point of representing an average.

11 There has been talk about growers just wanting
12 more money for their grapes. That is not what the ask is
13 here. We in Suisun Valley and other parts of the crush
14 district have been achieving a higher-than-average price
15 because we have been working hard for that price,
16 regardless of the crush district average publication. We
17 have been working on quality, on marketing, on
18 differentiation of product. That is not what we are
19 talking about when we are talking about average pricing.
20 The average pricing we are asking for to be published is
21 just to stop the bleeding of the anchor that is being put
22 on us when we go to negotiations.

23 Like Ron Lanza mentioned, we would be better off
24 at this point in time to not have this data published at
25 all and let us be on our own merits. The fact that it is

1 required by law to be published demands that the data have
2 proper representation of the data sets; and it is clear
3 that there are two data sets here. Many of us in this room
4 I am sure have taken a statistics class. It is very clear
5 that these are two different data sets.

6 Why does this matter if we are already getting
7 paid a higher value? Why do we care? Well, there are
8 certain things we can't control. We cannot control how
9 crop insurance is issued. Doesn't matter how much
10 marketing effort we put into it. It doesn't matter what
11 our contract prices say. The crop insurance prices are
12 based on crush district averages and that is out of our
13 control. It is not about capitalism, it is not about
14 benefiting a singular party, it is out of our control. And
15 due to that we are being harmed every single year.

16 We have to choose to pay a premium in order to
17 get even close to the amount of coverage we need in case of
18 a crop failure. If you have loans on your property the
19 banks require the coverage, it is not optional. And no, we
20 are not all talking about Cabernet over here. We grow
21 Pinot Noir. My family grows Pinot Noir. We have been
22 harmed from the beginning due to the disparity and pricing
23 average published. We could not pay enough in crop
24 insurance in order to be covered properly during a crop
25 failure. It doesn't even come close to making financial

1 sense. These are factual points. This is not a feeling.
2 This is not a what-if. This is happening now.

3 Additionally, why isn't Ryer Island growing
4 Cabernet? Because they are a different growing region.
5 They are not a coastal growing region. We are growing
6 Cabernet over here successfully because we are different.

7 There are some statements about what happens if
8 we let this cat out of the bag and other places may want to
9 also change their boundaries. Let's do the statistical
10 analysis. How many other boundary crush district averages
11 have these two very significant data points? I think Jeff
12 Bitter said it perfectly. Crush District 5 is the only
13 one. This request is protecting the integrity of the crush
14 report statewide. If we do not continually audit the
15 integrity of this report, why are we doing it? It is
16 necessary to always be making sure we are projecting proper
17 numbers, otherwise, the harm will continue. That is all.

18 HEARING OFFICER BADYAL: Thank you, Ms. Howard.

19 Charles Curley, would you like to provide any
20 comments today?

21 MR. CURLEY: No, thank you.

22 HEARING OFFICER BADYAL: Cliff Howard, would you
23 like to provide any comments today?

24 MR. C. HOWARD: Yes, please. I just have a few
25 comments.

1 HEARING OFFICER BADYAL: Go ahead.

2 MR. C. HOWARD: Thank you for allowing me to
3 speak. My name is Cliff Howard, H-O-W-A-R-D. I think that
4 the goal of the CDFA is likely to produce an accurate crop
5 report. I don't feel like it is accurate as it pertains to
6 Crush District 5. I think that it has been interesting to
7 hear that, you know, in some ways people keep saying that
8 this isn't about money. However, the name at the bottom of
9 your screen here says CDFA Marketing Services and the crush
10 district report is produced by the marketing portion of
11 CDFA, which seems to me that it is about money. And you
12 are reporting on crop prices, which is about money. Yes, I
13 don't think that Suisun Valley wants to be separated just
14 about money but for the harm that exists in the
15 differentiation of pricing throughout different crops.

16 It was, it was said earlier that somebody objects
17 to this because it raises public policy issues. It seems
18 to me that keeping things the same way because that's how
19 it has always been done is not a recipe for success. It
20 is, in fact, the CDFA's job to get this right, and I don't
21 feel that the current allocation is correct.

22 It was also said that we wanted this changed
23 without taking anyone else into account. And I don't think
24 that's accurate because everyone in Suisun Valley is at
25 risk by this remaining the same. It is very clear based on

1 the presentations today that they are two very different
2 areas in crush district -- and the Ryer Island portion is
3 more similar to Crush District 17 than it is to Crush
4 District 5. That's all I have today.

5 HEARING OFFICER BADYAL: Thank you, Mr. Howard.

6 Kim Corcoran, would you like to provide any
7 comment today?

8 MS. CORCORAN: No, thank you.

9 HEARING OFFICER BADYAL: The next one, there is a
10 pkalsched. I'm sorry, I don't know. P-K-L-S-C-H-E-D.

11 (No response.)

12 HEARING OFFICER BADYAL: Okay, moving on to Lise
13 Asimont. Would you like to provide any comment today?

14 MS. ASIMONT: No, thank you.

15 HEARING OFFICER BADYAL: Mary Tran, would you
16 like to provide any comment?

17 MS. TRAN: No, thank you.

18 HEARING OFFICER BADYAL: Mindy DeRohan, would you
19 like to provide any comment?

20 MS. DEROHAN: No, thank you.

21 HEARING OFFICER BADYAL: Natalie Collins, would
22 you like to provide any comment today?

23 MS. COLLINS: No, thank you.

24 HEARING OFFICER BADYAL: And I see one more
25 person, Rocio, R-O-C-I-O, would you like to provide any

1 comment today?

2 MS. JENSEN: She just left.

3 HEARING OFFICER BADYAL: And they just left.

4 Jfagundes, we will go back to you. Would you
5 like to provide any comment today?

6 (No response.)

7 HEARING OFFICER BADYAL: Is there anybody else
8 who wishes to provide any comments right now that hasn't
9 had a chance to do so?

10 (No response.)

11 HEARING OFFICER BADYAL: Okay.

12 MR. KING: If I could, I would like to cover
13 something I missed. My name is Roger King, K-I-N-G. I am
14 an officer and director of Suisun Valley Vintners and
15 Growers Association and currently sit as chair of the
16 Grower Committee. Thank you.

17 HEARING OFFICER BADYAL: Thank you, Mr. King.

18 The time is now 11:24 a.m. Since there's no
19 further speakers at this time and to ensure that there's no
20 latecomers or to ensure that we didn't miss anyone we are
21 going to take a brief 30-minute recess to see if anyone
22 else arrives. Therefore, we will reconvene at 11:54 a.m.

23 (Off the record at 11:24 a.m.)

24 (On the record at 11:55 a.m.)

25 HEARING OFFICER BADYAL: We are going to

1 reconvene after a brief 30-minute recess to allow any
2 latecomers to arrive. Are there any attendees new or old
3 that would like to provide any further comment today?
4 Maybe we missed someone earlier or maybe someone joined
5 after the break?

6 MR. MACKIE: This is John Mackie. I would like
7 to make a response or additional comment. But I believe
8 that there is a representative of Foley Family Wines who
9 would like to make comments. I think before she said she
10 didn't need to, but.

11 HEARING OFFICER BADYAL: Sure. I think it was --
12 was it Lise? We had a comment that Lise Asimont wanted to
13 provide a brief statement.

14 MR. MACKIE: Yes, Lise.

15 HEARING OFFICER BADYAL: Lise, okay.

16 MS. ASIMONT: Yes.

17 HEARING OFFICER BADYAL: Lise, would you like to
18 provide your comment?

19 MS. ASIMONT: Can everybody hear me all right? I
20 happen to be broadcasting from my vehicle. Am I coming in
21 loud and clear?

22 HEARING OFFICER BADYAL: It was a little choppy,
23 but you sound okay right now.

24 MS. ASIMONT: Great. My name is Lise Asimont, I
25 am the Senior Vice President for Foley Family Farms. I

1 have had the opportunity to work for the Foley Family for
2 about 2½ half years now and I have been a viticulturist and
3 a wine grape grower in the California wine industry for 28
4 years. This is my 28th vintage I am coming up on.

5 And I do apologize for asking to comment after
6 not, after passing earlier. The reason why I would like to
7 comment is I am a little bit frustrated and wanted to make
8 sure that I shared the data that my team has so carefully
9 compiled regarding the economics. I wanted to make sure
10 that earlier it seemed as though this data, this might have
11 been skewed or misrepresented. The standard deviation or
12 delta or difference between the lowest paid and the highest
13 paid pricing for Crush District 5, we had this analyzed,
14 and it is actually smaller or tighter than the standard
15 deviation of weighted paid averages for District 3, which
16 is Sonoma County and Marin County, District 4, which is
17 Napa County, and District 8, which is San Luis Obispo,
18 Santa Barbara and Ventura Counties. And I was frustrated
19 because I wanted to make sure that people understood that
20 District 5 does have a smaller standard deviation, it is a
21 tighter difference between weighted paid averages across
22 growers.

23 In addition to that, as someone who has been
24 serving in the wine industry for 28 years, and working in
25 all of the regions of California, it's my gut and my

1 estimation and strong suspicion that should this
2 redistricting of District 5 occur, should this occur, I
3 truly believe that other districts, like District 1, which
4 is Mendocino County that has a tremendous delta, a huge
5 delta in pricing between Anderson Valley and its
6 premiumized (phonetic) position of Pinot Noir and Ukiah
7 Valley with its commoditized pricing for Chardonnay and
8 Cabernet Sauvignon, would come to the table seeking a
9 similar redistricting. Along with Sonoma County and the
10 difference between the fair market value of Russian River
11 Valley Pinot Noir and district average pricing of Pinot
12 Noir for District 3. In addition to Napa County District 4
13 where you have areas like Pope Valley and Chiles Valley
14 that have more commoditized or lower pricing than the main
15 valley-valley of Napa Valley.

16 And let alone District 8, which I have worked in
17 for the past 28 years. In this area it has a remarkable
18 amount of acreage, both internal or valley-like, and
19 coastal. A huge delta with regards to climate
20 representation of its acreage and also a very large delta
21 in pricing for Chardonnay, Pinot Noir and Cabernet
22 Sauvignon.

23 So, I apologize, I was frustrated. I wanted to
24 make sure I said this piece. And on top of this, all of
25 this information is located in a very, very carefully

1 crafted brief that my team has put together and I thank the
2 CDFA legal team for taking the time to review this. I know
3 it was two feet, it was pretty thick, there are a lot of
4 pages. But thank you for your consideration and thank you
5 for reviewing it. That is all.

6 HEARING OFFICER BADYAL: Thank you for your
7 comment, ma'am.

8 Is there anyone else that didn't have a chance to
9 provide a comment earlier or anyone else that would like to
10 provide a brief comment before we close today?

11 MR. MACKIE: Well, I said I wanted to make a
12 comment.

13 HEARING OFFICER BADYAL: Go ahead, Mr. Mackie.

14 MR. MACKIE: Okay. I need to respond to some of
15 the, the sort of the tone and themes of the proponents as
16 presented today. First of all, you know, Bill Foley or
17 Foley Family Wines may not be the most popular kid in town,
18 but I don't think that's a basis for making a decision on
19 your part. And there's a, you know, maybe it's not as
20 clear to you as it is to us, but a lot of the suggestions
21 about, well, this is Foley and it's all about Foley and
22 Foley's, I think it's completely inappropriate. We have
23 submitted not only, you know -- Foley Family Wines is a
24 grower, a significant grower there and elsewhere in the
25 state. We have also submitted materials from other growers

1 in Ryer Island and from the Family Winemakers of California
2 and the Sonoma County Vintners. So, it isn't just about
3 Mr. Foley and I think that personalizing it is not a good
4 idea.

5 I also, I kind of get mixed signals here about is
6 it all about the economics or it's not about the economics.
7 I think people have testified that they are harmed
8 dramatically, at the same time saying, well, it doesn't
9 affect our crops or our crop prices.

10 They have talked about insurance, although I
11 think that there is evidence that crop insurance coverage
12 is determined in large part by the box that is checked.
13 So, I think that for us, yes, our client is affected, I
14 think we admit that it would be affected, we think it would
15 be affected by a change.

16 But we also think that there are larger policy
17 issues here. You know, Tony Carrera -- Correia, who is one
18 of the foremost appraisers in the country, certainly in
19 California, particularly about vineyards, says that he
20 thinks this is a bad move. And he said he does consider
21 grape price districts in valuations and he thinks that if
22 the line were moved it would have an impact on values on
23 either side of the line. And I think he, you know, I think
24 you can't say, oh, this district is so unusual we don't use
25 it for valuing vineyards in this area. I think it is used

1 and it will be used throughout the state. And if these --
2 if this precedential decision to move a line based on this,
3 the criteria that have been talked about which are
4 basically economic, are adopted, it is going to, we are
5 going to have a lot of issues throughout the state.

6 I think the proponents have said, oh, this is
7 unique because it is so varied. But you know, we have
8 presented analysis because we wanted to understand that
9 from Dr. Eyler about whether the economic, the numbers vary
10 and how much they vary in this district, in District 5,
11 versus other districts. I think Lise just spoke to, you
12 know, districts like District 8 or District 1 where we
13 think there's more variation.

14 And the same is true when you get to physical
15 characteristics like geology or soils or climate. The
16 proponents have said, oh, it is a unique situation. Well,
17 in a sense, every place is unique. But we don't think that
18 the factors in this particular situation are sufficiently
19 unique as compared with the rest of California that a
20 special situation should be created here.

21 We, in the end, I am not actually sure, I don't
22 remember who said, we are not looking for harmony. We
23 think every crush report we have looked at is wildly
24 diverse. That's part of what happens is you understand the
25 diversity of the area and the prices that go, that are

1 paid. We are not looking for harmony, but we do advocate
2 consistency, we advocate a rational approach to the
3 district lines. And we think, unfortunately, that this
4 situation, because people feel very strongly about it from
5 one part of the district to the other. And there are
6 proponents and opponents from Family Winemakers to Correia
7 to others, Sonoma County, it, I think, indicates, you know,
8 a sense of chaos, if you will. A sense of uncertainty
9 about what really should guide these decisions. We think
10 that you should not make a decision based on what has been
11 presented to you. You know, if you want to recommend a
12 different process that we have talked about with the
13 legislature, I think that would be appropriate.

14 The statute requires the district's lines as we
15 see it. Are they rational? I can't answer that question.
16 I know what we think the statute is. So, in any event,
17 thank you for your time on this subject.

18 HEARING OFFICER BADYAL: Thank you, Mr. Mackie.

19 Is there anybody else that we may have missed?

20 MR. KING: I would like to make an additional
21 couple of comments here.

22 The notion that this would open the floodgates to
23 others coming in and wanting to make changes, that is
24 already on the table, at least in front of me. I have been
25 contacted by the various elements on the board of the Santa

1 Barbara vintners group, the executive director and one of
2 their board members, about what is it going to take to
3 change a crush district. They were aware that this was
4 going on up here.

5 Their purpose has nothing to do with what we are
6 trying to rectify, which we see as a structural issue.
7 Their purpose is to form a Wine Grape Commission for Santa
8 Barbara County. The way the code is structured right now,
9 they have to have their own grape price district. They are
10 sitting in Grape Price District 8, which is San Luis
11 Obispo, Santa Barbara and Ventura Counties. Santa Barbara
12 wants to break away from that. They feel that they have a
13 number of pricing issues, both in grapes and also over on
14 the wine side, which has nothing to do with what this
15 hearing is about. They have spent a fair amount of time on
16 the phone with me. I have advised them, don't do this. It
17 is too cumbersome to try and get this done. And that their
18 Wine Grape Commission direction is exactly the right
19 direction they should be going to address the anomalies and
20 the various things that they want to pursue. That requires
21 breaking up a much bigger crush district than the one that
22 is here. They have taken a look at that and felt that it
23 is better for the family that was feeling the most impacted
24 by this to physically move from Santa Barbara County to
25 some other county in California. And that is the Miller

1 family with Miller Wine Company in Santa Barbara and they
2 have made that decision to leave Santa Barbara County.

3 So, the reason I bring this up is that one, yes,
4 there will be additional requests to look at crush
5 districts. That, it is already on the table.

6 But two is that we don't have a process in which
7 to do this. As I said, Jeff Cesca created one with me that
8 I followed flawlessly in preparing the original documents
9 that we submitted at the start of this process. There is a
10 need beyond doubt for CDFA -- let me back up a second. In
11 the Grape Commission or Wine Grape Commission process I
12 have been told by the executives of CDFA there's a full
13 process to get that done. You start here, you go there,
14 and you end here. And it is very well laid out.

15 This is what we need across the board relevant to
16 the grape crush system. It doesn't exist right now. It is
17 not going to exist tomorrow morning. And so this might
18 very well be a process where those of us in District 5 will
19 continue to look to CDFA to make this change, but at the
20 same time support, as is counsel for our opponent, also
21 alluding to the fact that they support the notion of this
22 needs to get back to the original legislative effort with
23 better definitions, better processes, totally spelled out
24 how you start and how you end going about doing something
25 like this. But to get there is going to be multiple years,

1 if in fact we even get there.

2 That time period, what we believe to be harm
3 accruing to us on the inaccuracy of averages that are used
4 to start contracting, that are used for crop report, I mean
5 crop insurance, things like that, will continue to take
6 place, if and until a legislative fix were created. So,
7 from that standpoint, we very much want to see and support
8 this petition to be approved and to go forward.

9 But we would not hold any prejudice past that to
10 a legitimate effort in the legislature to improve the
11 Berryhill Act and its lack of definition of how about how
12 you address certain things between crush districts, between
13 CDFA, to ensure that we have ongoing accuracy in the data
14 that is coming out for every crush district, all 17, not
15 16. And I mean, 16 crush districts, not Crush District 16.

16 I will finish by saying Crush District 5 uniquely
17 is the only district in the state of California where
18 interior grape pricing is averaged with coastal grape
19 pricing to come to a district average. Not a single other
20 district in the state does that. We know that there are
21 broad, broad gaps between high and low. A good example is
22 I have been able to identify over 1,000 tons of Napa grapes
23 that are beneath the crust district average of Grape Price
24 District 5. However, they also go to an absurd high. They
25 are all taking place within one small valley that is

1 basically 30 miles long and about 4 miles wide and it is
2 all in the North Coast. So, these are things that must be
3 taken a hard look at as decisions are being made as to how
4 to handle this matter. Thank you.

5 HEARING OFFICER BADYAL: Thank you, Mr. King.

6 Are there any other comments before we go ahead
7 and close this hearing, close the session today?

8 Okay, hearing no requests, I hereby close this
9 hearing.

10 Thank you to those of you who attended this
11 morning. We appreciate your assistance in developing the
12 regulation amendment. As a reminder, the written comment
13 period, including those sent by mail, facsimile or email,
14 will remain open until 5:00 p.m. today. If you would like
15 to be on the rulemaking list or have any further questions
16 regarding this regulation process, please don't hesitate to
17 reach out to the Department or check our webpage at
18 www.cdfa.ca.gov/mkt/grapepetition and we will put that in
19 the Chat box as well. The time is now 12:13 p.m. and the
20 hearing is adjourned.

21 (The public hearing was adjourned at 12:13 p.m.)

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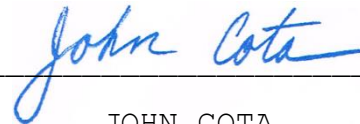
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CERTIFICATE OF REPORTER

I, JOHN COTA, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Department of Food and Agriculture public hearing and thereafter the recording was transcribed.

I further certify that I am not counsel or attorney for any of the parties to said public hearing, or in any way interested in the outcome of said matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of March, 2024.



JOHN COTA

CERTIFICATE OF TRANSCRIBER

I, RAMONA COTA, a Certified Electronic Reporter and Transcriber, certify that the foregoing is a correct transcript, to the best of my ability, from the electronic recording of the proceedings in the above-entitled matter.



March 4, 2024

RAMONA COTA, CERT**478