



Agenda Date: 3/11/2008  
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## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors  
**FROM:** Howard Siegel - Director  
Community and Intergovernmental Affairs Division  
**REPORT BY:** Howard Siegel, DIR OF COM AND INTERGOV AFFAIR - 253-4621  
**SUBJECT:** Resolution and Letter of Support for New Calistoga Appellation

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### **RECOMMENDATION**

Director of Community and Intergovernmental Affairs requests adoption of a resolution and approval of and authorization for the Chair to sign a letter supporting the creation of a Calistoga American Viticultural Area (AVA) and protecting wine industry practices of truth-in-labeling and nesting of AVA appellations. **(UNANIMOUS VOTE REQUIRED)**

### **EXECUTIVE SUMMARY**

The Napa Valley Vintners (NVV) has requested that the Board of Supervisors adopt a resolution and letter of support for submittal to the United States Alcohol and Tobacco Tax and Trade Bureau (TTB). The resolution and letter supports Calistoga's petition to become an American Viticultural Area (AVA) but objects to TTB's inclusion of a special grandfather clause. The clause would allow pre-existing winemakers to continue to use the name "Calistoga" while not meeting the requirement that 85 percent of the grapes used must be grown in the proposed Calistoga AVA. The NVV also seeks the Board's support to protest TTB's proposed discontinuance of the wine industry's practice of "nesting" smaller AVA's within larger AVA's.

### **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

## **BACKGROUND AND DISCUSSION**

The United States Alcohol and Tobacco Tax and Trade Bureau (TTB) is the regulatory authority that establishes American viticultural areas (AVA's) in the United States.

In 2003, the TTB received a petition from James P. "Bo" Barrett of Chateau Montelena proposing to establish the Calistoga area as an AVA. Under TTB regulations, any interested party may petition TTB to establish an AVA. There are 28 wineries in Calistoga, according to the Calistoga Chamber of Commerce. In 2004, the TTB recognized the Calistoga petition as complete and accurate.

On March 31, 2005, the TTB published a notice of rulemaking to establish the Calistoga area as an AVA and solicited public comment on the Calistoga petition. On May 31, 2005, the public comment period ended with only two parties submitting comments. Both parties supported the Calistoga AVA petition.

However, the TTB received comments after the deadline from Calistoga Partners, L.P., d.b.a. Calistoga Cellars, and Chateau Calistoga LLC, which uses "Calistoga Estate" as its trade name, protesting the Calistoga petition.

Both winemakers objected to TTB regulations that – if the Calistoga petition passed – would require all winemakers within the Calistoga AVA that use "Calistoga" on their wine labels to use at least 85 percent of their grapes from vineyards located within the Calistoga AVA. Both also stated that they've spent considerable amounts of money and time building name recognition for their respective wines.

In response to these two protests, the TTB subsequently amended the Calistoga AVA petition to include a special "grandfather" clause that would allow winemakers to continue using the Calistoga name without binding them to the 85 percent requirement. However, the following caveats apply: the wine must be labeled with information that dispels the impression that the wine conforms to the appellation of origin requirement (85 percent rule); that the brand name must have been in commercial use under an existing certificate of label approval (COLA) issued prior to March 31, 2005. However, it should be noted that the TTB already has a grandfather clause that allows winemakers to continue using the name of a newly established AVA as long as that winemaker had a COLA before July 7, 1986. In other words, this grandfather clause has been common knowledge to all who start wineries. Calistoga Partners, L.P., which has sold Calistoga Cellars brand wine since 1998, qualifies for TTB's special grandfather clause. But Chateau Calistoga LLC, which did not have a COLA for its Calistoga Estate brand prior to the March 31, 2005, deadline, does not qualify.

On July 10, 2007, the Napa County Board of Supervisors passed Resolution No. 07-88 supporting Calistoga's petition to create its own AVA. This action occurred before the two protests and TTB's amendment of the Calistoga AVA petition fully came to light.

On January 22, 2008, the Napa Valley Vintners (NVV), which has been working with Mr. Barrett for several years to pass the Calistoga AVA petition, sent a letter to Supervisor Diane Dillon requesting the Napa County Board of Supervisors take action against TTB's special grandfather clause, as well as TTB's proposed elimination of the wine industry's long tradition of "nesting" smaller AVA appellations within larger AVA appellations.

The NVV, which was founded in 1944 and represents 305 Napa Valley wineries, has worked tirelessly to raise awareness about truth-in-labeling and to protect and promote Napa Valley and its 14 viticultural sub-areas. It is of the utmost importance to protect these viticultural areas as distinct and by so doing, protect the longterm viability of Napa County agriculture. Creating a Calistoga AVA will help preserve the Calistoga area wine producing heritage and promote the distinctiveness of this viticultural area. The establishment of a Calistoga AVA and ensuring it be identified as a name of viticultural significance, not only elevates this region in the minds of consumers, but ensures they are receiving the highest level of consumer protection in the marketplace. Any Calistoga brand owner

could continue to use the Calistoga name in an appropriate and non-misleading fashion, on wines that qualify for the Calistoga AVA.

The NVV approached Calistoga Partners, L.P. to try and work out a solution to the impasse by offering to find appropriate Calistoga grapegrowers to sell to Calistoga Partners, L.P. But Calistoga Partners majority partner, Roger Louer, who owns and operates vineyards in St. Helena, refused. The NVV also suggested to Louer to change his wine brand from Calistoga Cellars to "Louer Family Estates," but Louer refused.

Further, concerning a related matter that would affect all American winemakers, the TTB is proposing elimination of the longtime, international practice of "nesting" smaller AVA appellations within larger AVA appellations. For example, the proposal would prevent a Rutherford AVA wine from also using the larger Napa Valley AVA on its label and marketing. The NVV believes the elimination of this practice would cause egregious harm to all American winemakers by blocking the transmission of critical information about their products to consumers. The NVV requests that the Board voice its objection to the TTB proposal and ask that the TTB continue the internationally-respected practice of nesting.

TTB's public comment period on the amended Calistoga AVA petition, including the grandfather provision and the TTB's proposed elimination of nesting, ends on March 20, 2008.

Those supporting the original, unamended Calistoga AVA petition (no special grandfather exemption) and the continuance of the industry practice of nesting include: Congressman Mike Thompson, State Senator Patricia Wiggins, State Assemblywoman Noreen Evans, NVV, Napa Chamber of Commerce, Calistoga Chamber of Commerce, City of Calistoga, California Association of Winegrape Growers, Washington Association of Grape Growers, Oregon Wine Board.

The Napa County Board of Supervisors can add its voice to this growing list of supporters who seek to protect the Calistoga name as a distinct, historic, renown, and unique place for the growing of grapes and making of wine as well as protecting the wine industry's critical truth-in-labeling standards.

Staff recommends adoption of the proposed resolution and letter of support, and that they both be sent to the TTB before the March 20, 2008, public comment deadline.

### **SUPPORTING DOCUMENTS**

- A . Calistoga AVA Resolution
- B . Calistoga AVA Support Letter

CEO Recommendation: Approve

Reviewed By: Karen Collins