



J. LOHR
VINEYARDS & WINES

April 20, 2007

VIA OVERNIGHT DELIVERY

Mr. Frank Foote
Director, Regulations and Rulings Division
Alcohol and Tobacco Tax and Trade Bureau
P.O. Box 14412
Washington, DC 20044-4412

Re: Notice No. 71, Statement of Opposition to Proposed Paso Robles Westside AVA

Dear Mr. Foote:

I grew up on a farm and was educated as a civil engineer. I've always been keenly interested in soils – my soils maps of Paso Robles are dog-eared. I've driven a tractor, prior to planting, on all of our 17 parcels comprising 2,000 acres in the Paso Robles area acquired since 1985. We are about to close escrow on an additional 108 acres in the proposed Adelaida District of Paso Robles. During the last 25 years, in addition to crushing our own grapes, we have purchased grapes from many areas of Paso Robles for J. Lohr Winery. Our winery is located in Paso Robles near the intersection of Airport and Tower Roads. We never purchase grapes without carefully studying the soil and learning as much about the local climate as possible. Thus I'm quite familiar with many soil and climate combinations in the present Paso Robles AVA, which I understand are important factors for TTB in making determinations on viticultural distinctiveness and new viticultural areas. I have reviewed the Paso Robles Westside petition and submit the following comments for your consideration.

I *strongly oppose* creation of the proposed Paso Robles Westside AVA and urge you to reject that petition on the ground that neither the petition nor the Notice of Proposed Rulemaking for the proposed Paso Robles Westside AVA meets the regulatory requirements for the establishment of an American Viticultural Area. The proposed Paso Robles Westside AVA is poorly conceived and scientifically invalid, and its creation and use on wine labels would mislead consumers.

The data submitted in support of the petition are woefully inadequate and frequently wrong, so much so that several of those who originally supported the proposed Paso Robles Westside AVA, or whose work was relied upon by the petitioners, have urged TTB to reject the proposed Paso Robles Westside AVA:

- The only scientific expert on whose work the petitioners relied, Dr. Thomas Rice, has commented during the notice period that his scientific

study has been “inaccurately quoted” and has been used to reach “erroneous conclusions.” He urges TTB to reject the Paso Robles Westside petition. (Comments 94 and 129)

- Several of the original petitioners for the proposed Paso Robles Westside AVA have withdrawn their support of the proposed Paso Robles Westside AVA, including Justin Baldwin of Justin Vineyard and Winery, Inc. (Comment 124), Mitch and Leslie Wyss of Halter Winery, LLC and Halter Ranch Vineyard (Comment 108) and Elizabeth Van Steenwyk of Adelaida Cellars (Comment 121).

As shown in more detail below, the proposed Paso Robles Westside AVA does not possess geographical features (e.g., climate, soil, elevation, and other physical features) that distinguish it viticulturally from surrounding areas, and it extends far beyond what is locally and/or nationally known by the name “Paso Robles Westside.”

If consistency among viticultural areas is important, TTB must consider the pending petitions submitted by the Paso Robles AVA Committee as part of the agency’s deliberations on the proposed Paso Robles Westside AVA. The AVA Committee’s petitions are incorporated in my comments by reference. This is particularly important with respect to the Committee’s proposed San Miguel District and Templeton Gap AVAs, which are situated on both sides of the Salinas River. I also urge TTB to review the Santa Margarita Ranch petition, which, when contrasted with the San Miguel District petition, demonstrates stark distinctions in viticultural environments between the northern and southern ends of the proposed Paso Robles Westside area. The AVA Committee has proposed a consistent, comprehensive, and coherent overall plan for sub-appellations within the Paso Robles AVA that, in sharp contrast to the proposed Paso Robles Westside AVA, are firmly rooted in science, viticultural distinctiveness and name identification accuracy.

I. THE PROPOSED “PASO ROBLES WESTSIDE” AVA IS SCIENTIFICALLY INVALID AND WOULD MISLEAD CONSUMERS

1. Experts Agree – the Proposed Paso Robles Westside AVA Does Not Capture a Viticulturally Distinct Area.

The proposed Paso Robles Westside AVA is not viticulturally distinct from surrounding areas within the Paso Robles AVA. In fact, extreme differences in viticultural environments exist *within* the proposed Paso Robles Westside AVA. Petitioners assert as the basis for establishing the viticultural distinctiveness of the proposed Paso Robles Westside AVA that the “Westside” of the Paso Robles AVA can be differentiated from the eastside, divided by the current channel of the Salinas River. This is incorrect. The Salinas River is not an appropriate dividing line for climate, geology, soils, topography, elevation, landforms of different origins and ages, natural vegetation, or winegrape growing conditions.

The only expert, scientific or otherwise, cited by the petitioners for the proposed Paso Robles Westside AVA to support their assertions regarding viticultural distinctiveness is Dr. Thomas Rice, a soil scientist at CalPoly San Luis Obispo. The Paso Robles Westside petition includes a report prepared by Dr. Rice and alleges that Dr. Rice’s report “demonstrates that the

soils contained in the Proposed Paso Robles Westside AVA are unique to that area” (Paso Robles Westside petition, page 5). Dr. Rice, however, has stated that he was hired only to prepare a “compilation of soils,” that he did not have any role in the preparation or production of the petition, and that he was not aware his work was even being used for the petition. (Comment 129) Dr. Rice has urged TTB to reject the Paso Robles Westside petition and has pointed out that “some erroneous conclusions regarding the soils of the Paso Robles AVA have been stated in the final petition.” (Comment 94) In his comments to TTB, Dr. Rice sets the record straight:

1. Dr. Rice states that “Similar soil distributions are found both the west and east sides of the Salinas River.” He further notes that “Not a single soil series mapped by the USDA that occurs within the proposed Paso Robles Westside AVA is unique to that area.”
2. Dr. Rice objects to the use of his report to differentiate the topography of the Paso Robles AVA, and states that the table in the petition entitled “Percentage of Terrain Types” is “a distorted condensation from a larger table found in the Executive Summary of [his] soils report. The table in the petition is inaccurate and misleading relative to the ‘terrain types’ in the Paso Robles AVA. The table in [his] original soils report lists several soil distributions relative to various landforms within the Paso Robles AVA” and “was never intended to show ‘Topography’ or landform variability within the Paso Robles AVA.”
3. Dr. Rice recommends that TTB “draw the Paso Robles AVA subdivision boundaries using real environmental parameters (like watershed boundaries, soils maps, geology maps, and climatic zones), but do not exclusively use the ‘market-based’ desires of individual landowners when designating the final AVA subdivision boundaries.”
4. Dr. Rice concludes: “I urge the TTB to reject the Paso Robles Westside petition based on its inaccurate and false statements related to topography and soil diversity within the larger Paso Robles AVA.”

Many of the supporters of the proposed Paso Robles Westside area have commented to TTB that “Dr. Rice has it right.” On this point we agree. Dr. Rice does have it right: erroneous conclusions were drawn from his report, and TTB should reject the Paso Robles Westside petition.

Absent Dr. Rice’s expert report, petitioners are left only with a few references to popular press articles and to winery marketing fliers to support their allegations regarding soils, geology and topography. This complete lack of valid scientific evidence on these critical factors affecting viticulture, and on which any notion of viticultural distinctiveness must rely, should be reason enough for TTB to reject this petition.

Numerous other experts in the fields of soils science, geography, geology and viticulture concur with Dr. Rice’s conclusion that TTB should reject the proposed Paso Robles Westside AVA. Dr. Deborah Elliott-Fisk of the University of California, Davis (see her section of Comment 98), Dr. Lowell Zelinski (Comment 85), Richard Hoenisch (Comment 112), Robert Steinhauer (Comment 97) and John Crossland (Comment 126) have all submitted comments in opposition to the proposed Paso Robles Westside AVA, based on their experience studying

and/or farming vineyards throughout the Paso Robles AVA. Not a single scientific expert has commented in favor of the proposed Paso Robles Westside AVA.

The same inaccuracy and insufficiency that characterizes the petitioners' soils, geology and topography data also pervade petitioners' climate data. Petitioners state that "experts agree that there is a distinct dividing line that differentiates the climates between the Westside and the Eastside." Yet the petitioners refer only to two press articles and one winery's tech sheet to show that "experts agree."

The only objective data submitted by the petitioners for climate concern rainfall. For that, petitioners present only two data points to "prove" that the proposed "Paso Robles Westside" area differs from "Eastside" inside the over 600,000 acre Paso Robles AVA. (Paso Robles Westside petition, pages 6-7.) This is clearly insufficient. Petitioner provides no opinion or data prepared by any experts in climate. For a meteorologist's perspective based on much more extensive data and experience, I refer you to the comment offered by Donald Schukraft of Western Weather Group (Comment 122). Mr. Schukraft analyzes temperatures, growing degree days, wind speed, and rainfall across the Paso Robles AVA, including the proposed Paso Robles Westside AVA, and states:

Recently it has been brought to my attention that a petition has been filed with the Tax and Trade Bureau to establish the Paso Robles Westside Viticultural Area. It is understood that the eastern most boundary of this proposed viticultural area is the Salinas River, the northern most boundary is north of San Miguel, and the southern most boundary is the Santa Margarita Ranch. Having worked with localized vineyard weather information and having provided a detailed weather forecasting service for the Paso Robles growing region since the mid-1990's it is my opinion that (1) the Salinas River is not a suitable boundary to describe the many different microclimates found in the Paso Robles viticultural area (2) the viticultural area extends too far north and too far south to have any viticultural uniformity.

The Salinas River cuts through several different microclimate growing regions. In addition, to the west of the Salinas River there are distinct microclimate regions as one moves from north to south and east to west through the proposed Paso Robles Westside viticultural area....

Having monitored the weather conditions and provided daily weather forecasts for the Paso Robles wine growing region since the mid-1990's it is evident, based on climatic reasons, that the proposed Paso Robles Westside AVA with the eastern most boundary being the Salinas River and with nearly 30 miles from the northern most boundary to the southern most boundary is not supported by the observed weather in the region. The weather data supports multiple viticultural areas within the proposed Paso Robles Westside AVA.

In conclusion, the various expert opinions cited above, all in opposition to the proposed Paso Robles Westside AVA, reveal the absurdity of the petitioners' assertion that the proposed Paso Robles Westside AVA "has its own geology and climate" (Paso Robles Westside petition, page 1). As these professionals point out, the proposed Paso Robles Westside AVA does not

capture an area of viticultural distinctiveness within the Paso Robles AVA. Instead, the proposed Paso Robles Westside AVA lumps together diverse viticultural regions.

2. The Viticultural Distinctions in Paso Robles are Not as Simple as West Versus East.

The Notice of Proposed Rulemaking for the proposed Paso Robles Westside AVA refers to the “rugged terrain” and related topographical differences between the proposed Paso Robles Westside area and the “eastside” of the Paso Robles AVA. Like Dr. Rice, I dispute this claim. The Salinas River is not an appropriate dividing line for landforms. For example, the unifying geographic features in the northern portion of the proposed Paso Robles Westside AVA, near the town of San Miguel, are lower elevation footslopes. These lower elevation footslopes are on both sides of the Salinas River. Another example is that the base of the Santa Lucia Range extends east of the Salinas River near the town of Templeton, to the Rinconada Fault, which defines the eastern boundary of the AVA Committee’s proposed Templeton Gap AVA. In neither the San Miguel area nor the Templeton area is the Salinas River an appropriate boundary. In this regard, I urge TTB to review the petitions prepared by the Paso Robles AVA Committee and, in particular, the petitions for the proposed Templeton Gap and San Miguel District viticultural areas, both of which extend east and west across the Salinas River.

In terms of topography, vineyards in the Paso Robles AVA are planted at elevations of about 720 feet to 1,800 feet above sea level on *both* the west and east sides of the Salinas River. Both the absolute elevations and the relief (difference between highest and lowest elevations) are the same for the vineyards to the west and east of the Salinas River. Furthermore, vineyards are found planted on a diversity of slopes in both areas, from flat ground to steep hillsides, and from small valley floors to ridgelines.

Even the mountain vineyards of the Santa Lucia Range within the proposed Paso Robles Westside AVA are not unique within the larger Paso Robles AVA, as vineyards occur planted on the same bedrock types, alluvial terraces, and soil types east of the Salinas River within the Tremblor Range/Cholame Hills in the northern part of the Paso Robles AVA, and within the La Panza Range in the southern part of the Paso Robles AVA.

As Dr. Elliott-Fisk has explained to the AVA Committee, from a geomorphological and geological perspective, the same types of landforms and bedrock units (geological units) exist both to the west and to the east of the Salinas River. Both areas contain the young to old alluvial terraces and fans, landslide and slope deposits of various ages, and bedrock ridges and outcrops. Both areas contain the recent river alluvium, older alluvial and talus, the Late Cenozoic Paso Robles terrestrial sedimentary formation, the Miocene marine sedimentary Monterey Formation, the late Cretaceous Franciscan Formation, the Cretaceous Great Valley formation, the Mesozoic granitics, and other geological units.

The best indicator of grapegrowing environments inside and outside the proposed Paso Robles Westside AVA is the natural vegetation. As Dr. Elliott-Fisk has noted, the vegetation is very diverse and a function first of the climate gradient from the wet, southern end of the proposed area to the dry, northern end of the proposed area, varying from dense, mixed forest to open, oak savanna. The vegetation also varies with elevation due to differences in orographic

orientation. The same vegetation types and plant communities occur west and east of the Salinas River. No vegetation types are unique to the proposed Paso Robles Westside AVA.

Finally, the Paso Robles Westside petition states “the proposed formation of the Paso Robles Westside AVA seeks to differentiate the area further due to the more advantageous growing conditions to the west of the Salinas River.” This statement is based on a false premise, and is never borne out in the petition. In fact, as noted above, the same soils and similar climates exist on both the east and west sides of the Salinas River. The area of the proposed Paso Robles Westside AVA that is beyond the main Paso Robles aquifer has much poorer water (if water is available at all) than many areas to the east of the Salinas River and makes winegrowing there very challenging. The Salinas River does not differentiate an area of “more advantageous growing conditions” and simply is not the appropriate boundary for capturing the viticultural distinctions within the Paso Robles AVA.

3. The Science Is Wrong, and So Is the Name.

The inaccuracy and insufficiency of the Paso Robles Westside petition is not limited to its scientific evidence. The name evidence submitted by petitioners does not show that the name “Paso Robles Westside” applies to the area proposed. The Paso Robles AVA Committee has submitted a detailed critique on this point (Comment 98), highlighting the location of each data point submitted by the petitioners and demonstrating the petitioners’ lack of evidence for applying the name as far south and north as they propose.

As stated in the Paso Robles AVA Committee’s comment, “Paso Robles Westside” is locally known, but the name does not apply accurately to the area proposed. The name is used locally to refer to the area west of the city of Paso Robles – both inside the city limits and due west in what is more commonly known as the Adelaida District. Supporters of Paso Robles Westside frequently note, without providing historical support, that the area “has been known for 150 years” or more as Paso Robles Westside. However, while there is a published history book entitled “History of Adelaida,” there is no equivalent book for “Paso Robles Westside.” The term “Paso Robles Westside” does not appear on any historical County maps, nor can it be found in the historical literature.

Paso Robles, just like any other town, has a north, south, east and west side, which is used by utility companies, police, firefighters, realtors, and others. One need look no further than *within* the proposed Paso Robles Westside AVA for other such examples. Westside is used by realtors in conjunction with the names of the communities of Atascadero (Atascadero Westside), Templeton (Templeton Westside) and Paso Robles (Paso Robles Westside), to apply to the areas to the west of those communities. Petitioners own exhibits (Attachment 3 to Paso Robles Westside petition) demonstrate this by referring to “Paso Westside and Templeton Westside.” These areas, even collectively, do not extend as far north or south as the proposed Paso Robles Westside AVA. These areas also demonstrate that the term “Westside” is rarely used alone. Even if it were used alone, the term “Westside” does not refer to the broad area proposed by the petitioners.

The name “Paso Robles Westside” has never been applied as broadly as petitioners suggest, either locally or nationally. The Santa Margarita and San Miguel areas are not known locally as “Westside.” In any form, the name “Paso Robles Westside” does not apply to the

southern half of the proposed Paso Robles Westside AVA, south of the town of Templeton, nor does it apply to the northernmost portion of the proposed Paso Robles Westside AVA, to the west of the town of San Miguel.

As further evidence that the petitioners have little scientific or historical evidence on which to stand, the principal proponent of the proposed Paso Robles Westside AVA has stated publicly in recent months that the only way to assure that a brand name "Westside Red" or "Westside White" is made only from grapes grown in the proposed "Paso Robles Westside" area would be to create a Paso Robles Westside AVA; he reiterates in Comment 128 that "[w]ithout the Paso Robles Westside AVA, Paso Robles will open itself up to situations similar to the Napa Ridge fiasco" and he has begged many for support on this basis. This argument, like the rest of the Paso Robles Westside petition, is misguided. The proposed name of viticultural significance is "Paso Robles Westside," not simply "Westside," which is a descriptive term used in other areas (e.g. Westside Road in Russian River Valley). Creation of a "Paso Robles Westside" AVA, therefore, would not prevent a "Westside" brand from being labeled with the San Luis Obispo County appellation, the Central Coast appellation, or even the California appellation.

As a general matter, I would not object to the use of the term "Paso Robles" in the name of a proposed new viticultural area, so long as the area is located within the existing Paso Robles AVA. However, creation of a "Paso Robles Westside" AVA would suggest to consumers that the area of the proposed Paso Robles Westside AVA is viticulturally distinct from the remaining portions of the Paso Robles AVA, which is untrue. The name "Paso Robles Westside" therefore would mislead consumers.

II. CREATION OF "PASO ROBLES WESTSIDE" AVA WOULD UNDERMINE BROAD COMMUNITY EFFORTS TO CREATE COHERENT, CONSISTENT AND MEANINGFUL VITICULTURAL AREAS

The Paso Robles AVA Committee's process and resulting proposed viticultural areas are the product of over a year of time-consuming meetings, hard work, debate and input from its broad base of 59 winery and grower members who collectively farm or manage over 10,000 acres of wine grapes throughout the Paso Robles AVA.

Prior to its formal organization, the AVA Committee announced an open, public call for members. As a measure of its inclusiveness, the AVA Committee's members include signatories to the Paso Robles Westside petition, each of whom have actively participated in and contributed financially to the AVA Committee's work. As noted above, several of these members have now formally withdrawn their support for the Paso Robles Westside petition. Numerous other members of the Paso Robles AVA Committee own wineries and farm vineyards in the area west of the Salinas River.

The AVA Committee was formed as a stand-alone, non-profit trade association, with the stated purpose of developing a master plan for the creation of sub-appellations within the Paso Robles AVA and undertaking activities to fund, promote and implement such master plan. To this end, the AVA Committee budgeted, raised money and retained consultants. Before attempting to draw proposed boundary lines, the AVA Committee established a set of guiding principles under which it would develop its overall plan. The AVA Committee's guiding principles required that the overall plan, among other things, be based on science and objective

data, to capture the differences in geography, geology, climate and viticulture within the Paso Robles viticultural area, to tell a logical story about what makes each sub-area of Paso Robles viticulturally distinctive and how the areas compare and contrast, to provide consumers with accurate, meaningful and comprehensible information about grape origin, and to be readily explainable and defensible to consumers, the trade and the media. All of these factors are essential to the establishment of an AVA under TTB's regulations.

The AVA Committee held initial meetings at which its retained experts presented an overview of the AVA petition process and of the climate, geography, soils and geology of the Paso Robles region. The AVA Committee then held a series of regular meetings of the full Committee, executive sessions by its officers, and meetings of sub-committees of viticultural experts and historical experts and other "regional" groups with particular expertise and interest in a specific area of Paso Robles. All throughout, the AVA Committee members and its experts gathered scientific and vineyard data, conducted historical research, and solicited and submitted comments and proposals from participants on possible new viticultural area boundaries. Based on the AVA Committee members' own knowledge of local viticulture and environmental conditions and on its experts' research, the AVA Committee's members discussed, reviewed and debated the scientific and historical bases for the specific AVA boundaries and names. All told, the AVA Committee held eleven full Committee meetings, the AVA Committee's consultants logged over 1,000 hours on the project and AVA Committee's members spent countless hours gathering data, evaluating potential boundaries and discussing the overall plan. In the end, the AVA Committee's inclusive, time-consuming and deliberative process allowed its members to reach an overwhelming consensus on an overall plan.

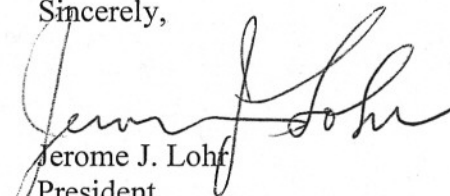
If TTB values consistency among viticultural areas, TTB should not overlook the tremendous amounts of time, effort, expenses and energy spent by the AVA Committee to develop a consensus-based, consistent, comprehensive, and coherent overall plan for sub-appellations within the Paso Robles AVA. TTB should encourage, rather than discourage, such broad-based, community-wide efforts to create consistent viticultural areas that provide meaningful information to consumers and help consumers to understand the viticultural distinctions within a larger AVA and, consequently, to make more informed purchasing decisions.

I urge TTB to carefully review all 12 of the AVA petitions filed by the Paso Robles AVA Committee, including the petition to expand the existing Paso Robles AVA. The Paso Robles AVA Committee is proposing five AVAs located partially or wholly within the area of the proposed Paso Robles Westside AVA – San Miguel District, Adelaida District, Templeton Gap, Paso Robles Willow Creek District and Santa Margarita Ranch. The AVAs that the Paso Robles AVA Committee is proposing east of the Salinas River – Paso Robles Estrella District, Geneseo District, El Pomar District, Creston District, Paso Robles Canyon Ranch, and San Juan Creek – demonstrate that this area also is very diverse, that it is not "flat as a billiard table" and that it instead has many "rugged terrains." Each of the petitions submitted by the AVA Committee is firmly rooted in science, viticultural distinctiveness and name identification accuracy and illustrates how each proposed area is viticulturally distinct from the surrounding areas. The Paso Robles Westside petition, in contrast, is a poorly conceived, scientifically invalid and misleading proposal that fails to demonstrate how the proposed area is viticulturally distinct and, instead, combines viticulturally diverse areas under a name that will confuse consumers.

III. TTB SHOULD REJECT THE PASO ROBLES WESTSIDE PETITION

I urge you to reject the poorly conceived, poorly executed, scientifically invalid and misleading Paso Robles Westside petition. If for any reason you decide not to discontinue the rulemaking process for the proposed Paso Robles Westside AVA by rejecting the petition outright, I urge you to consolidate this rulemaking with the forthcoming rulemaking on the 12 AVA petitions submitted by the Paso Robles AVA Committee and hold a public hearing in light of the significant opposition and public controversy, as reflected in the filing of 129 comments as of this date. This will ensure a consistent result, which all of us who grow grapes and produce wines in the Paso Robles AVA seek. If you value or seek consistency among the viticultural areas that you approve and regulate, you should not allow a line to be hastily drawn in the sand of the Salinas River, dividing the Paso Robles AVA into two viticulturally meaningless and inappropriately named halves.

Sincerely,



Jerome J. Lohr
President
J. Lohr Vineyards & Wines