

partnership's taxable year ending January 31, 1987.

Example 2. B, a calendar year individual, is a beneficiary of a trust described in section 651 that has a taxable year ending January 31. The trust conducts a rental activity (within the meaning of § 1.469-1T(e)(3)). Because the trust's taxable year ending January 31, 1987, began before January 1, 1987, section 469 and the regulations thereunder do not apply to the trust for that year. Section 469 and the regulations thereunder do apply, however, to B for B's calendar year 1987. Therefore, income of the trust from the rental activity for the trust's taxable year ending January 31, 1987, that is included in B's gross income for 1987 is taken into account in apply section 469 to B for 1987.

Shirley D. Peterson,

Commissioner of Internal Revenue.

Approved: May 7, 1992.

Fred T. Goldberg, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 92-11310 Filed 5-11-92; 4:45 pm]

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Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-322; Re: Notice No. 726]

RIN 1512-AA07

Escondido Valley Viticultural Area (91F004P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area known as Escondido Valley which is located totally within Pecos County, Texas. The petition was submitted by Mr. Leonard Garcia of Cordier Estates, Inc. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising allows wineries to designate the specific areas where the grapes used to make their wines were grown and enables consumers to better identify wines they purchase.

EFFECTIVE DATE: June 15, 1992.

FOR FURTHER INFORMATION CONTACT: Robert White, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 (202-927-8230).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR

part 4. These regulations allow the establishment of definite American viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin in the labeling and advertising of wine. On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new part 9 to 27 CFR, providing for the listing of approved American viticultural areas.

Section 4.25a(e)(1), title 27 CFR defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in subpart C of part 9. Section 4.25a(e)(2), title 27 CFR outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

Petition

ATF received a petition from Mr. Leonard Garcia of Cordier Estates, Inc., proposing a viticultural area in Pecos County, Texas, to be known as "Escondido Valley." The viticultural area has a land area of approximately 50 square miles and contains one commercial winery which is operated by the petitioner. The petitioner also has about 250 acres of vineyards within the area.

Comments

ATF received one comment during the 45-day comment period which ended on October 25, 1991. The comment was from Mr. Max Goldman of York Mountain Winery. Mr. Goldman does not think the name Escondido Valley should be used for this viticultural area because it might be confused with the Escondido of California. Currently, the Escondido area in California is not a viticultural area nor is it called a valley. However, Mr. Goldman states that it could possibly be called a valley at some future time as are Yucca Valley and Morongo Valley. Mr. Goldman indicates that the Escondido of California is only 30 miles from the well known viticultural area of Temecula and that the whole area south of Temecula and east of Escondido could all become a vast vineyard area in the future. For the reasons mentioned above, Mr. Goldman states that the Escondido name should be reserved for a possible California viticultural area and should not be approved for a Texas viticultural area.

After carefully reviewing Mr. Goldman's comment, ATF has determined that there is no current justification for denying the use of the

name Escondido Valley for the Texas viticultural area. The petitioner has submitted historical evidence which justifies the use of the name Escondido. Since no one has submitted a petition for a viticultural area in California to be named Escondido Valley, ATF has no justification for denying the Texas petitioner's request. If and when a petition is submitted for the Escondido of California, then ATF will have to determine what name should be used to ensure that there is no consumer confusion between the two viticultural areas.

Evidence of Name

The petitioner presented a series of old maps and accounts of early travelers to Pecos County which referred to the creek which runs through the area as Escondido Creek, and to the three springs which feed the creek as Upper, Middle and Lower Escondido Springs. The petitioner also stated that "many members of the old settler families told me that the Indians called the area * * * 'Valle Escondido' (Hidden Valley—in Spanish)." The petitioner submitted an extract from *The Springs of Texas*, by Gunnar Brune, which quotes a description of the proposed area by a traveler in 1849: " * * * we came upon a clear and beautiful spring gushing from the limestone bluff on the N side of the valley. This is the Escondido." In the late 19th century, the name Tunis, or Tunas, began to be used for the creek and springs, and these features are presently known as Tunas Creek and Tunas Springs. However, the petitioner pointed out the name East Escondido Spring still appears on the 1973 revision of the United States Geological Survey map used to delineate the boundaries of the proposed area. The petitioner also presented a letter from the Curator of the Fort Stockton Historical Society, who said "Escondido is the historical name for the springs and creek as well as the draw or valley now known as Tunas. In essence Tunas and Escondido are synonymous."

Boundary Description

The "Escondido Valley" viticultural area is bounded on the north and south by ranges of mesas. The boundary on the eastern end of the viticultural area is a trail which crosses the draw, or valley. Northeast of the trail, the valley floor begins to drop in elevation, and to the east and southeast of the trail are mesa ranges of higher elevation. The western boundary is represented by a line drawn between the western ends of the north and south boundaries just before the

distance between mesas increases and the ground begins to rise.

Distinguishing Features

The petitioner provided the following evidence relating to features which distinguish the viticultural area from the surrounding areas:

Topography

The valley floor which is the site of the viticultural area is 2600 to 2700 feet above sea level. The bases of the mesa ranges which are used as the north and south boundaries of the area are approximately 2900 feet in elevation, and the mesa ranges rise to an elevation of 3200 to over 3400 feet. East of the area, the valley floor drops to 2200 feet, and west of the western boundary of the area, the land rises to 3100 feet or more. Until the 1960s, the area had three natural springs.

Soils

The petitioner submitted a U.S. Department of Agriculture General Soil Map of Pecos County, Texas, showing the predominant soils in the viticultural area are of the Reagan-Hodgkins-Iraan association. These soils extend beyond the boundary to the east and west, but the map shows that the predominant soils on the higher ground to the north and south belong to the Ector-Sanderson-Rock outcrop group.

Climate

The petitioner notes that bud break occurs in the second or third week of March in the viticultural area, and the harvest begins in the third or fourth week of August. The petitioner submitted temperature and rainfall data from the National Oceanic and Atmospheric Administration's Climatological Data Annual Summary, supplemented by measurements taken in his vineyard during the last two years. There are no official weather stations within the viticultural area; the closest is in Bakersfield, Texas, six miles to the east. The petitioner contrasted the Bakersfield readings with those from Fort Stockton, Texas, 19 miles to the west of the viticultural area, and Ozona, Texas, 81 miles to the east of the viticultural area. According to this summary, the average annual temperature from 1979 to 1989 at Bakersfield was 66.6 degrees, 75.0 degrees during the growing season. During the same period, the annual average for Fort Stockton was 64.4 degrees, 72.5 degrees during the growing season, and in Ozona the average was 63.6 for the year and 72.0 for the growing

season. The summary also showed the average annual rainfall from 1979 to 1989 was 14.6 inches at Bakersfield, of which 7.2 inches fell during the growing season. The average for this same period at Fort Stockton was 15 inches for the year and 7.07 inches for the growing season. In Ozona, the average was 18.1 inches for the year, and 9.7 inches for the growing season. The petitioner's own record of temperature and rainfall during the last two years showed slightly warmer temperatures and less rainfall than at Bakersfield. The vineyards are irrigated from wells, using the pressurized drip system. The petition included two letters from Terry Wigham of the U.S. Department of Agriculture's Soil Conservation Service which describe the well water within the viticultural area as lower in total dissolved solids, and therefore higher in quality, than well water elsewhere within Pecos County.

Boundary

The boundary of the Escondido Valley viticultural area may be found on one United States Geological Survey map with a scale of 1:250,000. The boundary is described in § 9.141.

Miscellaneous

ATF does not wish to give the impression by approving the Escondido Valley viticultural area that it is approving or endorsing the quality of the wine from this area. ATF is approving this area as being distinct from surrounding areas, not better than other areas. By approving this area, ATF will allow wine producers to claim a distinction on labels and advertisements as to origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Escondido Valley wines.

Executive Order 12291

It has been determined that this document is not a major regulation as defined in E.O. 12291 and a regulatory impact analysis is not required because it will not have an annual effect on the economy of \$100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required because the final rule is not expected (1) to have significant secondary or incidental effects on a substantial number of small entities, or (2) to impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law 96-511, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Drafting Information

The principal author of this document is Robert L. White, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, Wine.

Issuance

Title 27, Code of Federal Regulations, part 9, American Viticultural Areas is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Par. 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. The Table of Sections in subpart C is amended to add the title of § 9.141 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

§ 9.141 Escondido Valley.

Par. 3. Subpart C is amended by adding § 9.141 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.141 Escondido Valley.

(a) *Name.* The name of the viticultural area described in this section is "Escondido Valley."

(b) *Approved map.* The appropriate map for determining the boundaries of the "Escondido Valley" viticultural area is 1 U.S.G.S. (scale 1:250,000) map. It is titled Fort Stockton, Texas, 1954 (revised 1973).

(c) *Boundary.* The Escondido Valley viticultural area is located in Pecos County, Texas. The boundary is as follows:

(1) The beginning point is the intersection of Interstate Route 10 (I-10) and an intermittent stream approximately 18 miles east of the city of Fort Stockton (standard reference GE3317 on the Fort Stockton, Texas, U.S.G.S. map);

(2) From the beginning point, the boundary follows I-10 in an easterly direction approximately 9 miles until a southbound trail diverges from I-10 just past the point where it intersects horizontal grid line 2 of square GE on the Fort Stockton, Texas, U.S.G.S. map;

(3) The boundary then follows the trail in a generally southeasterly direction about 5 miles until it intersects the 3000 foot contour line;

(4) The boundary follows the 3000 foot contour line in a generally westerly direction approximately 17 miles;

(5) The boundary continues to follow the 3000 foot contour line as it turns sharply northwest, but diverges from the contour line when the contour line turns south again;

(6) From the point where it diverges from the contour line, the boundary follows a straight north-northwesterly line as it returns to the beginning point at I-10.

Signed: February 6, 1992.

Stephen E. Higgins,
Director.

Approved: April 28, 1992.

Dennis M. O'Connell,
Deputy Assistant Secretary (Regulatory,
Trade and Tariff Enforcement).

[FR Doc. 92-11363 Filed 5-14-92; 8:45 am]

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27 CFR Part 9

[T.D. ATF-321:RE:Notice No. 722]

RIN 1512-AA07

Santa Lucia Highlands, CA 91F016P

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area located entirely within

Monterey County, California, to be known as "Santa Lucia Highlands." This final rule is based on a notice of proposed rulemaking published in the *Federal Register* on August 15, 1991, at 56 FR 40583, Notice No. 722.

ATF believes that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers identify the wines they may purchase. The establishment of viticultural areas also allows wineries to specify further the origin of wines they offer for sale to the public.

EFFECTIVE DATE: June 15, 1992.

FOR FURTHER INFORMATION CONTACT: David W. Brokaw, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, (202) 927-8230.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1979, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR part 4. These regulations allow the establishment of definite American viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin in the labeling and advertising of wines.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin. Section 4.25a(e)(1), title 27, CFR defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in subpart C of part 9. Section 4.25a(e)(2), title 27, CFR, outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy or copies of the appropriate U.S.G.S. map(s) with the proposed boundaries prominently marked.

Petition

ATF received a petition from Mr. Barry Jackson of the Harmony Wine Company proposing a viticultural area in central Monterey County, California, to be known as "Santa Lucia Highlands." The area consists of the eastern flank of the Santa Lucia Mountain Range and is located completely within the boundaries of the current Monterey viticultural area. The general boundaries are: Limekiln Creek to the north; the Salinas River and its associated terraces to the east; the western border of the "Arroyo Seco" viticultural area in the Southeast; and the western border of the "Monterey" viticultural area to the west.

The total area of the appellation is approximately 22,000 acres. There are currently 1,850 acres committed to active viticulture, with plans underway to plant an additional 400 acres to winegrapes. Commercial viticulture in the area began in the early 1970's. The following factors differentiate the proposed Santa Lucia Highlands from the adjacent Salinas Valley floor and other viticultural areas in Monterey County: (1) A well defined alluvial terrace running the length of the eastern boundary; (2) Generally cooler microclimate: cool Region I/II vs. Region II/III; (3) Different soil types: gravelly, sandy loam vs. silty clay loam; (4) Higher elevation: initially 40 to 120 feet higher than the valley floor and climbing to 1200 feet above the valley floor; (5) Climate: less wind and earlier fog burn-off with morning sun and; (6) East facing slopes receiving morning sun first.

There are three wineries located within the viticultural area: Smith & Hook, Paraiso Springs, and Robert Talbot.

Evidence of Name

Both wine trade and general publications recognize the Santa Lucia Highlands viticultural area as a grape-growing region. The May, 1990, "Mead on Wine" trade publication discusses the 1987 Smith and Hook "Monterey" Merlot, as having been "grown entirely in the Santa Lucia Highlands." An article in the "Vail Trails Daily Options" entitled, "California Wine Comes To Vail," refers to the Smith and Hook