

(4) The amount of the excise tax imposed on the organization under section 4959 during the taxable year.

\* \* \* \*

(k) \* \* \*

(4) The applicability of paragraph (a)(2)(ii)(I) of this section shall be limited to returns filed on or after the date the regulations adding (a)(2)(ii)(I) are published as final or temporary regulations in the **Federal Register**.

## PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

■ **Par. 9.** The authority citation for part 53 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

■ **Par. 10.** Section 53.4959–1 is added to read as follows:

### § 53.4959–1 Taxes on failures by hospital organizations to meet section 501(r)(3).

(a) *Excise tax for failure to meet the section 501(r)(3) requirements*—(1) *In general.* If a hospital organization (as defined in § 1.501(r)–1(b)(16)) fails to meet the requirements of section 501(r)(3) separately with respect to a hospital facility it operates in any taxable year, there is imposed on the hospital organization a tax equal to \$50,000. If a hospital organization operates multiple hospital facilities and fails to meet the requirements of section 501(r)(3) with respect to more than one facility it operates, the \$50,000 tax is imposed on the hospital organization separately for each hospital facility's failure. The tax may be imposed for each taxable year that a hospital facility fails to meet the requirements of section 501(r)(3). The tax imposed by this section may be imposed in addition to any tax imposed by § 1.501(r)–2(d) or as a result of revocation of a hospital organization's section 501(c)(3) status.

(2) *Examples.* The following examples illustrate this paragraph (a):

*Example 1.* (i) U is a hospital organization that operates only one hospital facility, V. In Year 1, V conducts a community health needs assessment (CHNA) and adopts an implementation strategy to meet the health needs identified through the CHNA. In Years 2 and 3, V does not conduct a CHNA. V fails to conduct a CHNA by the last day of Year 4. Accordingly, U has failed to meet the requirements of section 501(r)(3) with respect to V in Year 4 because V has failed to conduct a CHNA in Years 2, 3, and 4. U is subject to a tax equal to \$50,000 for Year 4.

(ii) V also fails to conduct a CHNA by the last day of Year 5. Accordingly, U has failed to meet the requirements of section 501(r)(3) with respect to V in Year 5 because V has failed to conduct a CHNA in Years 3, 4, and 5. U is subject to a tax equal to \$50,000 for Year 5.

*Example 2.* P is a hospital organization that operates only one hospital facility, Q. In

Year 1, Q conducts a CHNA and adopts an implementation strategy to meet the health needs identified through the CHNA. In Years 2 and 3, Q does not conduct a CHNA. In Year 4, Q conducts a CHNA but does not adopt an implementation strategy to meet the health needs identified through that CHNA by the last day of Year 4. Accordingly, P has failed to meet the requirements of section 501(r)(3) with respect to Q in Year 4 because Q has failed to adopt an implementation strategy by the end of the taxable year in which Q conducted its CHNA. P is subject to a tax equal to \$50,000 for Year 4.

*Example 3.* R is a hospital organization that operates two hospital facilities, S and T. In Year 1, S and T each conduct a CHNA and adopt an implementation strategy to meet the health needs identified through the CHNA. In Years 2 and 3, S and T do not conduct a CHNA. S and T each fail to conduct a CHNA by the last day of Year 4. Accordingly, R has failed to meet the requirements of section 501(r)(3) with respect to both S and T in Year 4. R is subject to a tax equal to \$100,000 (\$50,000 for S's failure plus \$50,000 for T's failure) for Year 4.

(b) *Effective/applicability dates.* These rules are effective on the date of publication of the Treasury decision adopting these rules as final or temporary regulations.

**Steven T. Miller,**

*Deputy Commissioner for Services and Enforcement.*

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**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Part 9

[Docket No. TTB–2013–0003; Notice No. 134]

**RIN 1513–AB99**

### Proposed Establishment of the Big Valley District–Lake County and Kelsey Bench–Lake County Viticultural Areas, and Modification of the Red Hills Lake County Viticultural Area

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes to establish the 11,000-acre Big Valley District–Lake County viticultural area and the 9,100-acre Kelsey Bench–Lake County viticultural area, both in Lake County, California. Additionally, TTB proposes to modify the boundary of the established 31,250-acre Red Hills Lake County viticultural area in order to align its border with that of the proposed

Kelsey Bench–Lake County viticultural area. The proposed modification would increase the size of the Red Hills Lake County viticultural area by approximately 7 acres. The proposed viticultural areas and the established viticultural area that are the subject of this proposed rule lie entirely within the existing Clear Lake viticultural area, which, in turn, is within the larger, multicounty North Coast viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. TTB invites comments on these proposed additions and modification to its regulations.

**DATES:** Comments must be received by June 4, 2013.

**ADDRESSES:** Please send your comments on this notice to one of the following addresses:

• <http://www.regulations.gov> (via the online comment form for this notice as posted within Docket No. TTB–2013–0003 at “Regulations.gov,” the Federal e-rulemaking portal);

• *U.S. mail:* Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; or

• *Hand delivery/courier in lieu of mail:* Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 200–E, Washington, DC 20005.

See the Public Participation section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this notice, selected supporting materials, and any comments TTB receives about this proposal at <http://www.regulations.gov> within Docket No. TTB–2013–0003. A link to that docket is posted on the TTB Web site at <http://www.ttb.gov/wine/wine-rulemaking.shtml> under Notice No. 134. You also may view copies of this notice, all related petitions, maps or other supporting materials, and any comments TTB receives about this proposal by appointment at the TTB Information Resource Center, 1310 G Street NW., Washington, DC 20005. Please call 202–453–2270 to make an appointment.

#### FOR FURTHER INFORMATION CONTACT:

Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

#### SUPPLEMENTARY INFORMATION:

## Background on Viticultural Areas

### TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120-01 (Revised), dated January 21, 2003, to the TTB Administrator to perform the functions and duties in the administration and enforcement of this law.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved American viticultural areas.

### Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features as described in part 9 of the regulations and a name and a delineated boundary as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

### Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area.

Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of American viticultural areas. Petitions to establish a viticultural area must include the following:

- Evidence that the area within the proposed viticultural area boundary is nationally or locally known by the viticultural area name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed viticultural area;
- A narrative description of the features of the proposed viticultural area that affect viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed viticultural area distinctive and distinguish it from adjacent areas outside the proposed viticultural area boundary;
- A copy of the appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed viticultural area, with the boundary of the proposed viticultural area clearly drawn thereon; and
- A detailed narrative description of the proposed viticultural area boundary based on USGS map markings.

### Big Valley District–Lake County and Kelsey Bench–Lake County Petitions

TTB received two petitions from Terry Dereniuk on behalf of the Big Valley District and Kelsey Bench Growers Committee proposing to establish the “Big Valley District–Lake County” and the “Kelsey Bench–Lake County” American viticultural areas within Lake County, California. The proposed Big Valley District–Lake County viticultural area has 6 bonded wineries and 43 vineyards containing approximately 1,800 acres of wine grapes. The proposed Kelsey Bench–Lake County viticultural area has 1 bonded winery and 27 vineyards planted with approximately 900 acres of wine grapes. Because the two petitions were submitted simultaneously and the two proposed viticultural areas share a common boundary, TTB is combining both proposals into a single rulemaking document. Unless otherwise noted, all information and data pertaining to the two proposed viticultural areas contained in this document are from the petitions for the two proposed viticultural areas and their supporting exhibits.

The proposed Big Valley District–Lake County and Kelsey Bench–Lake County viticultural areas are located in central Lake County, California. The proposed Big Valley District–Lake County viticultural area is located on

the southern shore of Clear Lake, and the adjacent Kelsey Bench–Lake County viticultural area is located just to the south. The two proposed viticultural areas are surrounded by Mount Konociti and the Red Hills to the east and by the Mayacmas Mountains to the west and south. The two proposed viticultural areas lie entirely within the existing Clear Lake viticultural area (27 CFR 9.99) which, in turn, lies within the multicounty North Coast viticultural area (27 CFR 9.30).

TTB notes that, because the southern portion of the proposed Big Valley District–Lake County boundary abuts the northern portion of the proposed Kelsey Bench–Lake County viticultural area boundary, if the two proposed viticultural areas are established, this shared boundary line would split two vineyards between the two viticultural areas. However, the petition included letters from both vineyard owners stating their understanding of the potential split and their support for the establishment of both of the proposed viticultural areas.

The petitioner also requested a modification of a small portion of the western boundary of the established “Red Hills Lake County” viticultural area (27 CFR 9.169), to align it with the eastern boundary of the proposed Kelsey Bench–Lake County viticultural area using features identifiable on the newest version of the USGS map. The proposed boundary modification is discussed later in this document.

### Big Valley District–Lake County

The proposed Big Valley District–Lake County viticultural area contains approximately 11,000 acres located south of the southern shore of Clear Lake in northern California. There are 6 wineries within the proposed viticultural area, as well as 43 commercially-producing vineyards covering approximately 1,800 acres. The petition states that the distinguishing features of the proposed viticultural area are geology, soils, climate, and topography.

### Name Evidence

The name “Big Valley” has been associated with the region of the proposed viticultural area since the mid-19th Century, appearing in the 1870 Federal Census as a district within Lake County, California. As evidence of the usage of the proposed name, the petitioner references an historical account of the settlement of Napa and Lake Counties, published in 1881, which notes that “Big Valley is the garden spot of Lake County,” and that “small fruits and berries thrive here

also, as do grapes.” (*History of Napa and Lake Counties, California*. Slocum, Bowen, & Co., Publishers, 1881.) The petitioner references another book, published in the 1880s, which includes a section called “Big Valley” in a chapter titled “Lakeport and Its Surroundings.” (*A Description of Lake County*, published by Authority of the Board of Supervisors, 1888.) In addition, the region within the proposed viticultural area also gives its name to the Big Valley Band of the Pomo Indians, a tribe native to the region of the proposed viticultural area. The Big Valley Rancheria, which is currently home to members of the tribe, is located within the proposed viticultural area.

The name “Big Valley” also appears on numerous maps in association with the region of the proposed viticultural area. A 1927 map produced by the United States Department of Agriculture’s Bureau of Chemistry and Soils, as well as the 1989 soil survey map of Lake County, California, published by the USDA Soil Conservation Service both show a region marked as “Big Valley” on the southern shore of Clear Lake. Additionally, the United States Geological Survey (USGS) maps for the Kelseyville, Lucerne, and Highland Springs quadrangles all refer to the region of the proposed viticultural area as “Big Valley.”

The petition included several other examples of evidence that indicate the region of the proposed viticultural area is known as “Big Valley.” The Lake County Winegrape Growers Web site refers to Big Valley as a winegrape growing region and notes that “Big Valley growers were among the first visionaries to discover the region’s winegrape potential \* \* \*.” (See [www.lakecountywinegrape.org](http://www.lakecountywinegrape.org).) The USGS Kelseyville quadrangle map features a road named “Big Valley Road” that runs through the proposed viticultural area. Additionally, the AT&T Yellow Pages for Lake and Mendocino Counties lists several businesses within the proposed viticultural area that use the name “Big Valley,” including Big Valley Electric, Big Valley Truck and Auto Repair, and Big Valley Properties.

TTB notes that the USGS Geographic Names Information System (GNIS) lists 98 entries for “Big Valley” and variations of the name, including 22 listings for schools, churches, populated places, and locales in Lassen, Modoc, Calaveras, Placer, Stanislaus, and San Joaquin Counties in California, as well as in Lake County. Because there are multiple locations known as “Big Valley” throughout the United States,

the petitioner included the modifier “Lake County” in the proposed name to distinguish the proposed viticultural area. Additionally, the petitioner stated that the use of the “Lake County” modifier would conform to the naming convention started by the neighboring Red Hills Lake County viticultural area. TTB notes that the GNIS lists a valley named Big Valley in Lake County, Oregon. However, because there is no commercial viticulture within Lake County, Oregon, TTB believes that there would not be a risk of consumer confusion if the proposed Big Valley District–Lake County viticultural area is established.

#### Boundary Evidence

The proposed Big Valley District–Lake County viticultural area is a bowl-shaped valley located in central Lake County, California, within the established Clear Lake viticultural area. The proposed viticultural area sits at approximately 1,360 feet above sea level and has a generally flat topography that gently slopes downward to the north towards Clear Lake, which forms its northern boundary.

The 1,400-foot elevation contour line and a small portion of Cole Creek form the eastern portion of the proposed boundary. The proposed boundary separates the low, flat valley of the proposed viticultural area from the high, steep elevations of Mount Konocti, to the east, and the Red Hills, to the southeast.

A series of roads, a portion of Hill Creek, and the 1,400-foot elevation contour line make up the southern portion of the proposed boundary. To the south of this boundary is the proposed Kelsey Bench–Lake County viticultural area, which is marked by river terraces and benches, as compared to the relatively flat topography of the proposed Big Valley District–Lake County viticultural area.

The western portion of the proposed boundary follows a series of roads that lead to Thompson Creek. The boundary then follows Thompson Creek to the point where it empties into Clear Lake. This portion of the proposed boundary separates the lower, flatter valley of the proposed viticultural area from the higher, steeper terrain of the Mayacmas Mountains to the west.

#### Distinguishing Features

The distinguishing features of the proposed Big Valley District–Lake County viticultural area are its geology, soils, climate, and topography. Because the proposed viticultural area is bordered by Clear Lake to the north and to the south by the proposed Kelsey

Bench–Lake County viticultural area, which is discussed later in this document, the following sections only contrast the distinguishing features of the proposed Big Valley District–Lake County viticultural area with the regions to the east and west.

#### Geology

During the Jurassic period, approximately 135 million years ago, Lake County was covered by water. About 3 million years ago, side-by-side “strike-slip” movement of tectonic plates along the San Andreas Fault warped the layers of rock on the lake bed and began forming structural basins underneath the water, including the structural basin that comprises the proposed Big Valley District–Lake County viticultural area. The region of the proposed Big Valley District–Lake County viticultural area remained underwater until approximately 460,000 years ago, when Mount Konocti was formed. As the mountain rose, it forced the landmass known today as Big Valley to rise above the surface. When the Big Valley landmass rose, it brought with it the sedimentary lake bed deposits that eventually formed the deep, nutrient-rich soil desired by vineyard owners.

The two major geological units of the proposed viticultural area—the Franciscan Complex and Great Valley sequence—formed through subduction, the process of one tectonic plate sliding beneath another. The formations are comprised of chert, greywacke, shale, metasedimentary rocks, and metavolcanic rocks thrown together as the two plates collided. The weathering of these rocks contributes to the soil nutrient content and soil pH levels within the proposed viticultural area, which affect vine growth and fruit development.

Three fault lines that are part of the San Andreas Fault system run beneath the proposed Big Valley District–Lake County viticultural area: The Big Valley Fault, the Adobe Creek Fault, and the Wight Way Fault. The “strike-slip” movement of these faults throughout the ages has contributed to the gentle northerly downward slope of the basin. The basin shape of the proposed viticultural area and its gentle slope contribute to airflow patterns which cool and dry the vineyards, reducing stress on the vines. Additionally, the nearly level terrain within the basin reduces the risk of soil erosion within the proposed viticultural area.

To the east of the proposed viticultural area, the geology is dominated by Mount Konocti, a dormant volcano. This mountain is part of the Clear Lakes Volcanics formed in

the middle Pliocene Epoch. The rocks are composed of basalt, rhyolite, and other volcanic materials.

The region to the west of the proposed viticultural area is comprised of the Mayacmas Mountains and the uplifted hills and terraces that form their foothills. Rocks of the Franciscan Complex are present, as within the proposed viticultural area, but geological forces have lifted this region high above the valley to form steep and rugged mountains.

#### Soils

The soils of the proposed Big Valley District–Lake County viticultural area have lacustrine (freshwater lake) and alluvial (eroded and re-deposited by moving water) origins. Soil pH levels range from a slightly acidic 6.0 to a mildly alkaline 7.5 which, according to the petition, is within the optimal range for nutrient uptake by the grapevines. The soil drainage is poor by nature but has been improved through artificial means. There is little risk of soil erosion within the proposed viticultural area due to the nearly level topography of the valley.

Major soil series within the proposed Big Valley District–Lake County viticultural area include Cole clay loam, Clear Lake clay, and Still loam, which together make up approximately 75 percent of the soil within the proposed viticultural area. These soils are generally deep, which allows for good rooting. However, in some locations

within the proposed viticultural area, these soils also have “limiting factors,” such as hardpan, rocks, or clay substrata, which prevent the roots from penetrating further. Additionally, Clear Lake clay is a high “shrink-swell” clay soil that forms deep cracks when it dries during summer months. The shrinking and cracking of the dried soil can sever the roots of the vines and prevent them from reaching deep into the soil. Factors that limit root depth can be beneficial to grape growers, according to the petition, preventing excessive foliage growth and producing small grapes that have a desirable concentration of flavors and colors.

East of the proposed Big Valley District–Lake County viticultural area, the soils are primarily of the Konocti–Benbridge series. The soils are formed from volcanic materials such as andesite, basalt, dacite, and pyroclastic tuff. To the west of the proposed viticultural area, the soils are of the Wappo series. Wappo soils are less fertile than the soils within the proposed viticultural area, although they are naturally better drained than the clay and loam soils of the proposed viticultural area. The soils to both the east and west of the proposed viticultural area are generally shallower due to the steeper terrain and are at a greater risk of erosion than the soils of the valley.

#### Climate

The petition to establish the proposed Big Valley District–Lake County viticultural area included information on the wind, growing degree days, frost-free days, and precipitation within the proposed viticultural area and the surrounding regions.

**Wind:** The winds within the proposed Big Valley District–Lake County viticultural area are influenced by the region’s proximity to both Clear Lake and the higher elevations of the neighboring Mayacmas Mountains, Red Hills, and Mount Konocti. Water in Clear Lake warms more slowly than the adjacent land during the day and also holds its heat longer at night. At night, the cool air in the mountains becomes heavy and sinks into the lower elevations. As it flows across the lake, the air is warmed by the heat being slowly released from the water. The warmed air becomes less dense and rises, pulling more of the cooler, heavier air from the shore and creating south–north breezes that blow towards the lake. During the day, the land becomes warmer than the lake, reversing the process and causing north–south winds that blow towards the shore.

The following table shows the average wind speeds gathered from two weather stations within the proposed Big Valley District–Lake County viticultural area (Bell Hill West and Kelseyville). The data was collected from 2008 through 2010.

#### BIG VALLEY WIND SPEEDS

	Bell Hill West (mph)	Kelseyville (mph)
2008 .....	3.59	3.17
2009 .....	3.47	3.18
2010 .....	3.40	3.28
Average wind speed .....	3.48	3.21

According to the petition, the winds within the proposed viticultural area are strong enough to reduce heat stress on the vines and to remove excess moisture that promotes mildew. However, they are not strong enough to damage leaves or buds, nor are they strong enough to force the stoma on the leaves to close. When the stoma on the leaves close, the vines do not photosynthesize efficiently and fruit ripens more slowly.

To the east and southeast of the proposed Big Valley District–Lake County viticultural area, on Mount Konocti and in the Red Hills, the winds are also influenced by both the lake and the slopes of the mountains. However, a diagram produced by the Lake County

Air Pollution Control District included with the petition suggests that the winds in the Red Hills and Mount Konocti blow in a west–east direction, as they are channeled around the ridges and peaks of the rugged terrain. The average wind speeds shown on the diagram also suggest the winds to the east and southeast of the proposed viticultural area are stronger, especially in the afternoon, with speeds ranging up to 10 miles per hour. Winds of this strength stimulate the stoma of the leaves to close and can damage leaves and buds.

**Temperature:** The table below compares the number of growing degree

days (GDDs)<sup>1</sup> from three weather stations within the proposed viticultural area to three stations located in the established Red Hills Lake County viticultural area, to the southeast. According to the petition, weather station data is not available for the region immediately west of the proposed viticultural area, and recent temperature data was also not available

<sup>1</sup> In the Winkler climate classification system, annual heat accumulation during the growing season, measured in annual GDD, defines climatic regions. One GDD accumulates for each degree Fahrenheit that a day’s mean temperature is above 50 degrees, the minimum temperature required for grapevine growth (“General Viticulture,” by Albert J. Winkler, University of California Press, 1974, pages 61–64).

from the Lakeport weather station to the northwest of the proposed viticultural area.

northwest of the proposed viticultural area.

#### GROWING DEGREE DAY TOTALS

Year	Big Valley District—Lake County stations			Red Hills Lake County AVA stations		
	Kelseyville	Kelseyville South	Bell Hill West	Red Hills 1	Red Hills 2	Red Hills 3
2005 .....	2623	2911	2958	3343	N/A	3298
2006 .....	3080	3317	3303	3826	3718	3769
2007 .....	2805	3110	3042	3571	3397	3472
2008 .....	3036	3304	3285	3917	3790	3953
2009 .....	3038	3249	3237	3805	3690	3789
2010 .....	2683	2851	2837	3256	3126	3246
Average .....	2878	3124	3110	3620	3544	3588

According to the data, the proposed Big Valley District—Lake County viticultural area has fewer annual GDDs than the Red Hills Lake County viticultural area, indicating cooler temperatures within the proposed viticultural area. The number of GDDs for the proposed viticultural area classifies it as a high Region II or low Region III on the Winkler classification scale. The Red Hills Lake County viticultural area, by contrast, has

enough GDDs to classify it as a Region IV area. The GDDs of an area play a role in determining the varieties of grapes that are best suited for planting. The cool climate of the proposed viticultural area is suitable for growing Sauvignon Blanc, which is one of the more cultivated grape varieties within the proposed viticultural area but is not grown as commonly in the surrounding regions.

The cooler temperatures also results in fewer frost-free days within the proposed Big Valley District—Lake County viticultural area as compared to the region to the east, within the Red Hills Lake County viticultural area. The table below shows the frost-free dates for three stations within the proposed viticultural area and three stations within the established Red Hills Lake County viticultural area during 2008 and 2009.

#### FROST FREE DAYS

	Big Valley District—Lake County stations			Red Hills Lake County AVA stations		
	Kelseyville	Kelseyville South	Bell Hill West	Red Hills 1	Red Hills 2	Red Hills 3
<b>2008</b>						
Latest frost date .....	May 1 .....	May 1 .....	May 1 .....	April 24 .....	April 24 .....	April 24.
Earliest frost date ...	October 11 .....	October 10 .....	October 10 .....	December 13 .....	December 13 .....	December 13.
Frost-free days .....	162 .....	161 .....	161 .....	232 .....	232 .....	232.
<b>2009</b>						
Latest frost date .....	April 16 .....	April 29 .....	April 29 .....	April 14 .....	April 15 .....	April 15.
Earliest frost date ...	September 30 ....	September 30 ....	October 4 .....	November 19 ....	November 19 ....	December 6.
Frost-free days .....	166 .....	153 .....	157 .....	218 .....	217 .....	234.

The first fall frosts occur earlier within the proposed viticultural area, and the last spring frosts occur later. The longer frost periods can be attributed to cool air drainage. At night, cooler, heavier air drains off the higher elevations of the Red Hills Lake County viticultural area and pools in the lower elevations of the proposed viticultural area, cooling the valley temperatures and increasing the risk of frost, while allowing for warmer temperatures in the mountains and hills.

The number of frost-free days in an area can determine the types of grapes that can be grown. Early frosts can damage vines and fruits and prevent the fruits from ripening or developing the

necessary sugars for successful wine development. Spring frosts that occur after bud break can cause the young shoots to die and reduce fruit yields. Therefore, growers study the frost patterns within their region in order to choose grape varieties that can ripen successfully before frost occurs and that do not begin to produce buds until after frosts are no longer a threat.

*Precipitation:* Precipitation levels in the proposed Big Valley District—Lake County viticultural area differ from those of the surrounding area. The proposed viticultural area is surrounded by higher elevations to the west (Mayacmas Mountains), south (proposed Kelsey Bench—Lake County

viticultural area), and east and southeast (Mount Konocti and the Red Hills). As rain-bearing clouds approach the proposed viticultural area, the clouds drop most of their rain as they rise over the mountains and hills, leaving less rain to fall in the valley.

The following table illustrates the differences in annual precipitation averages between the three weather stations within the proposed viticultural area (Kelseyville, Kelseyville South, and Bell Hill West) and three weather stations within the established Red Hills Lake County viticultural area (Red Hills 1, 2, and 3) to the east.

## AVERAGE ANNUAL RAINFALL (INCHES)

Year	Proposed viticultural area	Red Hills Lake County AVA
2008 .....	15.4	25.42
2009 .....	14.8	22.46
2010 .....	31.5	44.96
Average annual rainfall .....	20.6	37.8

The data in the table shows the higher elevations of the established Red Hills Lake County viticultural area receive more annual rainfall than the lower elevations of the proposed viticultural area. Rainfall plays a critical role in ensuring sufficient water for irrigation of grapevines and recharging the underlying groundwater, but high amounts of rainfall promote soil erosion in regions with steep terrain and cause mildew or root rot in poorly-drained soils.

Annual rainfall amounts also distinguish the proposed Big Valley District—Lake County viticultural area from the proposed Kelsey Bench—Lake County viticultural area to the south, which is discussed later in the document. Precipitation amounts for the region to the immediate west of the proposed viticultural area are not available but the petition states that one can expect rainfall patterns to be greater in the higher elevations of the Mayacmas Mountains to the west than within the lower elevations of the proposed Big Valley District—Lake County viticultural area.

#### Topography

The proposed viticultural area is a bowl-shaped valley with an average elevation of approximately 1,360 feet. With slopes of less than 2.5%, the terrain is almost completely flat, tilting gently downward to the north towards Clear Lake. Higher, steeper elevations are found to the east and west of the proposed viticultural area, as shown on USGS maps. To the east, Mount Konocti reaches a height of 4,300 feet. To the west, the Mayacmas Mountains rise to 3,320 feet at Monument Peak. The low, flat topography of the proposed viticultural area allows cold air draining from the higher surrounding elevations to pool in the valley, as previously discussed, and also contributes to lower annual rainfall amounts and lower risk of soil erosion than in the surrounding regions.

#### Kelsey Bench—Lake County

The proposed Kelsey Bench—Lake County viticultural area contains approximately 9,100 acres immediately

south of the proposed Big Valley—Lake County viticultural area. There are 27 vineyards covering over 900 acres, in addition to one winery. The petition states that the distinguishing features of the proposed viticultural area are geology, soils, climate, and topography.

#### Name Evidence

The proposed name “Kelsey Bench” is a combination of “Kelsey,” the surname of several early settlers in the area, and “bench,” a term used to describe the terraces that rise above the lower elevations of the valley to the north and extend south and east towards the Mayacmas Mountains and the Red Hills.

The name “Kelsey” appears as part of the names of a town, a road, a creek, and several businesses within the proposed viticultural area. The town of Kelseyville is partially located within the proposed viticultural area and appears on the USGS Kelseyville quadrangle map. A creek identified as Kelsey Creek and a road marked as Kelsey Creek Drive also both appear on the USGS Kelseyville quadrangle map within the boundaries of the proposed viticultural area. Finally, the Real Yellow Pages for Lake and Mendocino Counties lists “Kelsey Creek Storage,” “Kelseyville Lumber,” and “Kelseyville Appliance” as businesses within the proposed viticultural area.

The name “Kelsey Bench” also appears on several wine-related Web sites in reference to the region of the proposed viticultural area. The Lake County Winegrape Growers Web page ([www.lakecountywinegrape.org](http://www.lakecountywinegrape.org)) features a regional profile page for “Kelsey Bench.” The Web page for the Rosa d’Oro Vineyard ([www.rosadorowine.com](http://www.rosadorowine.com)), located within the proposed viticultural area, describes the vineyard’s “well-drained Kelsey Bench soil,” and the Catspaw Vineyard, located within the proposed viticultural area, notes on its Web page that, “Kelsey Bench has a mix of gravel, clay, and loam soils \* \* \*.” ([www.northcoastwinegrapes.com/growers/catspaw.pdf](http://www.northcoastwinegrapes.com/growers/catspaw.pdf)). Finally, the North Coast Winegrape Brokers Web page ([www.northcoastwinegrapes.com/](http://www.northcoastwinegrapes.com/)

*growers/grapes-for-sale.php*) listing of 2010 wine grapes and bulk wine for sale includes several entries for Cabernet Franc, Chardonnay, and Merlot grapes and wines from vineyards and wineries in “Kelsey Bench.”

The petition notes that a variant of the proposed name, “Kelseyville Bench,” is often used in relation to the proposed viticultural area. However, the petitioners chose not to propose the name “Kelseyville Bench” because the name could imply the town of Kelseyville was located entirely within the proposed viticultural area. Only a small portion of the town is within the proposed viticultural area, while the rest of the town is within the boundary of the proposed Big Valley District—Lake County viticultural area. Therefore, to avoid potential confusion, the petitioners proposed the name “Kelsey Bench.”

#### Boundary Evidence

The proposed Kelsey Bench—Lake County viticultural area is located in central Lake County, California, within the established Clear Lake viticultural area. Elevations within the proposed viticultural area range between approximately 1,400 and 1,600 feet. The proposed viticultural area is bordered to the north by the proposed Big Valley District—Lake County viticultural area, to the east by Mount Konocti and the Red Hills, and to the south and west by the Mayacmas Mountains.

A series of roads, a portion of Hill Creek, and the 1,400-foot elevation contour line form the northern portion of the proposed boundary. This border separates the proposed Kelsey Bench—Lake County viticultural area from the lower, nearly level terrain of the proposed Big Valley District—Lake County viticultural area to the north.

A series of roads and the 1,600-foot elevation contour line forms the eastern portion of the proposed boundary. A portion of this proposed boundary is also shared with the existing Red Hills Lake County viticultural area. The proposed boundary separates the proposed Kelsey Bench—Lake County viticultural area from the steeper, higher

elevations of Mount Konocti and the Red Hills.

The southern portion of the proposed boundary follows the 1,600-foot elevation contour line and a series of roads. To the south of the proposed boundary is the high, steep terrain of the Mayacmas Mountains.

A series of roads and the 1,600-foot elevation contour line forms the western portion of the proposed boundary. Immediately adjacent to the northwest portion of this boundary is the Highland Springs Reservoir. Although the terrain surrounding the reservoir is similar to that of the proposed viticultural area, the petition states that this land was excluded because it is public park land and is thus unlikely to be available for commercial viticulture. Immediately to the west and southwest of the reservoir are the steeper, higher elevations of the Mayacmas Mountains.

#### *Distinguishing Features*

According to the petition, the distinguishing features of the proposed Kelsey Bench—Lake County viticultural area are geology, soils, climate, and topography.

#### *Geology*

Three faults that are part of the San Andreas Fault system run beneath the proposed Kelsey Bench—Lake County viticultural area: The Big Valley Fault, the Wight Way Fault, and the Adobe Creek Fault. At various times throughout history, the movement of these three faults, along with the San Andreas Fault, has uplifted the region and contributed to the terraced landscape within the proposed viticultural area. The terraces and benches of the proposed viticultural area reduce the risk of frost within the proposed viticultural area because cold air drains off the terraces at night and into the lower, flatter valley to the north, outside the proposed viticultural area.

The Kelseyville Formation is a major geological feature of the proposed Kelsey Bench—Lake County viticultural area. The formation was created during the middle Pleistocene era, between approximately 780,000 and 126,000 years ago, and consists mainly of sandstone, siltstone, and mudstone. Below the formation are rocks of the Franciscan Complex and flows of the Clear Lake volcanic field; above the formation are Quaternary terrace deposits. The Kelseyville Formation contains two volcanic ash aquifers which serve as the water resources of the area. The “ash” consists of angular fragments of volcanic rock ranging from the size of a grain of sand to the size of

pea gravel. These fragments are quite permeable and allow water from stream courses and saturated confining strata to leak into and recharge the aquifers, providing a source of water for irrigating the vineyards within the proposed viticultural area.

To the north of the proposed Kelsey Bench—Lake County viticultural area is the proposed Big Valley District—Lake County viticultural area. The geology of the proposed Big Valley District—Lake County viticultural area is comprised of two major geological units—the Franciscan Complex and the Great Valley sequence. The Big Valley, Wight Way, and Adobe Creek Faults also run beneath the proposed Big Valley District—Lake County viticultural area, where the movement of the faults over the ages has gently tilted the valley downward towards Clear Lake.

To the east and northeast of the proposed Kelsey Bench—Lake County viticultural area are Mount Konocti and the established Red Hills Lake County viticultural area. Both regions are part of the Clear Lake Volcanics, formed in the middle Pliocene Epoch, and have rocks composed of basalt, rhyolite, and other volcanic materials.

The Mayacmas Mountains lie to the south and west of the proposed Kelsey Bench—Lake County viticultural area. The mountain range is comprised of rock from the Mesozoic era that is much older than the Kelseyville Formation. The rocks consist mainly of sandstone, conglomerate, and argillite, with smaller amounts of greenstone, chert, limestone, and blueschist.

#### *Soils*

The soils of the proposed Kelsey Bench—Lake County viticultural area were shaped over time by the forces of geology, water, and weather. Three general soil map units are found extensively within the proposed viticultural area: the Manzanita—Wappo—Forbesville unit (MWF), which comprises approximately 31% of the soils within the proposed viticultural area; the Phipps—Bally unit (PB), which accounts for approximately 26% of the soils; and the Millsholm—Skyhigh—Bressa (MSB) unit, which comprises approximately 14% of the soils. MWF and PB soils are very deep and well drained and formed in alluvium. MSB soils are shallow to moderately deep and are formed from sandstone, shale, and siltstone.

Most of the vineyards within the proposed viticultural area are planted on soils of the MWF general soil map unit, a fact the petition attributes to the relatively milder slopes of soils associated with this unit, as well as the

greater presence of the MWF soils within the proposed viticultural area. MWF soils are acidic, with pH levels between 5.0 and 6.5. The acidity in the soils allows for nutrient uptake by the vines but is low enough to prevent the vines from absorbing nutrients at levels that could become damaging to the plant. Clay accumulates at depths of 16 to 70 inches, which limits root depth and prevents vines from growing too vigorously. MWF soils are low in fertility, which, according to the petition, provides lean conditions that result in grapes with high concentrations of flavor, although the yields may be lower than those of vineyards planted on more fertile soil.

To the north, in the proposed Big Valley District—Lake County viticultural area, 75 percent of the soils are of the Cole clay loam, Clear Lake clay, and Still loam series. By contrast, these soil series comprise only 10 percent of the proposed Kelsey Bench—Lake County viticultural area soils. The MWF, MSB, and PB soils that comprise over 70 percent of the proposed Kelsey Bench—Lake County viticultural area soils are not found in the area to the north. Additionally, the soils in the area to the north are slightly less acidic than those within the proposed Kelsey Bench—Lake County viticultural area.

To the east, the soils of the established Red Hills Lake County viticultural area are composed of Glenview—Bottlerock—Arrowhead, Konocti—Benridge, and Collayomi—Aiken soil types. These soils are formed from volcanic materials such as andesite, basalt, dacite, and pyroclastic tuff and have significant gravel content.

To the south and west, the soils of the Mayacmas Mountains are in the Maymen—Etsel and Henneke—Okiota—Montara general soil map units. These soils are characterized by shallow depths and moderate to severe erosion potential. The Maymen—Etsel soils are derived from graywackes and sandstone while the Henneke—Okiota—Montara soils are predominately derived from weathered serpentine rock.

#### *Climate*

The petition to establish the proposed Kelsey Bench—Lake County viticultural area included information on the wind, growing degree days, frost-free days, and precipitation for the proposed viticultural area. Climate data was not available for the Mayacmas Mountains region to the south and west of the proposed viticultural area.

*Wind:* The petition states that there is only one official weather station located within the proposed Kelsey Bench—Lake County viticultural area, on the

Silva Ranch in the northern portion of the proposed viticultural area. However, only partial wind data from 2011 was available at the time the petition was submitted. Therefore, the petition included testimony from growers concerning the winds within the proposed viticultural area and contrasting them to the winds within the proposed Big Valley District—Lake County viticultural area.

The petition included testimony from the owner of Eutenier Ranches, who has vineyards both within the proposed Kelsey Bench—Lake County viticultural area and in the proposed Big Valley District—Lake County viticultural area to the north. The owner notes that the summer winds in the vineyard in the proposed Kelsey Bench—Lake County viticultural area can become so strong that the stomata on the grape leaves close, reducing photosynthesis and delaying the ripening of fruit. As a result, his grapes within the proposed Kelsey Bench—Lake County viticultural area usually have a later harvest date than those in his vineyard within the proposed Big Valley District—Lake County viticultural area, even though both vineyards are planted with the same variety of grapes.

A second grower who had resided at the Silva Ranch within the proposed Kelsey Bench—Lake County viticultural area for six years and who also had vineyards within the proposed Big Valley District—Lake County

viticultural area also provided testimony. This grower confirms the strong winds within the proposed Kelsey Bench—Lake County viticultural area. The grower also notes that the winds within the proposed Kelsey Bench—Lake County viticultural area begin earlier in the day than within the proposed Big Valley District—Lake County viticultural area. The grower notes that he could have workers spraying crops on his property in the proposed Big Valley District—Lake County viticultural area in the late morning, whereas the winds would already be too strong in the proposed Kelsey Bench—Lake County viticultural area to spray crops safely and effectively.

*Temperature:* The temperatures in the proposed Kelsey Bench—Lake County viticultural area are generally warmer than those of the proposed Big Valley District—Lake County viticultural area to the north and cooler than those of the existing Red Hills Lake County viticultural area to the east.

The petition states that current growing degree day (GDD) data is not available from the one official weather station located within the proposed Kelsey Bench—Lake County viticultural area. However, the petition did include a discussion of GDD totals from Arkley Vineyards for the period from 1999—2002.<sup>2</sup> Arkley Vineyards is located within the proposed Kelsey Bench—Lake County viticultural area.

According to the petition, the average annual GDD total for Arkley Vineyards was 3,225, which is greater than the 3,037 average annual GDD total for the proposed Big Valley District—Lake County viticultural area. To the east in the established Red Hills Lake County viticultural area, the average GDD total from the three weather stations for the period from 2005 to 2010 was 3,584.

In comparison to the proposed Big Valley District—Lake County viticultural area, the proposed Kelsey Bench—Lake County viticultural area has warmer daytime temperatures and a longer frost-free period. Temperature data was collected from the Silva Ranch weather station throughout 2011 and compared to data from weather stations within the proposed Big Valley District—Lake County viticultural area. The data shows that each month had a minimum of 13 days where temperatures within the proposed Kelsey Bench—Lake County viticultural area were higher than within the proposed Big Valley District—Lake County viticultural area, for a total of 283 days with warmer temperatures.

With respect to the frost-free period, the petition gathered temperature data from the Silva Ranch weather station and from three weather stations within the proposed Big Valley District—Lake County viticultural area during 2011. The table below shows the total number of frost-free days as well as the earliest freeze dates for each weather station.

#### FROST FREE DAYS

Location	Kelseyville South	Kelseyville	Bell Hill West	Silva Ranch
Earliest frost date .....	October 26 .....	October 27 .....	October 26 .....	November 3.
Frost-free days .....	179 .....	180 .....	178 .....	187.

The proposed Kelsey Bench—Lake County viticultural area petition did not include 2011 frost data from the region to the east, within the established Red Hills Lake County viticultural area. However, information from 2008 and 2009 was provided in the Big Valley District—Lake County petition and was described in the temperature section of the proposed Big Valley District—Lake County viticultural area discussion portion of this document. That information showed the Red Hills area has an average of 227 frost-free days, longer than that of the proposed Kelsey Bench—Lake County viticultural area.

The Red Hills region also averaged a later first frost date than the proposed Kelsey Bench—Lake County viticultural area.

The length of the frost-free period within the proposed Kelsey Bench—Lake County viticultural area affects the grape varieties grown. According to the petition, the temperatures make the proposed viticultural area suitable for growing red varieties such as Merlot, Cabernet Sauvignon, and Zinfandel. The longer growing season also provides a longer time for the grapes to ripen, which can compensate for the slower ripening conditions that the windy

conditions within the proposed viticultural area create.

*Precipitation:* Precipitation levels in the proposed Kelsey Bench—Lake County viticultural area are generally greater than those within the proposed Big Valley District—Lake County viticultural area. The table below shows annual precipitation amounts measured by two property owners within the proposed Kelsey Bench—Lake County viticultural area and three weather stations within the proposed Big Valley District—Lake County viticultural area. Each data collection period began on

included climate and soil data from his Arkley Vineyards as part of his request to extend the boundary of the Red Hills Lake County viticultural area to include approximately 2,000 acres to the southwest of the viticultural area. The request to

include the region as part of the Red Hills Lake County viticultural area was ultimately rejected. The region described in the comment is currently included in the proposed Kelsey Bench—Lake County viticultural area.

<sup>2</sup> The GDD data for Arkley Vineyards was originally part of a comment submitted in response to the 2002 notice of proposed rulemaking to establish the Red Hills Lake County viticultural area (October 30, 2002, 67 FR 66083). The commenter

July 1 and ended on June 30 of the following year.

**PRECIPITATION TOTALS FOR PROPOSED KELSEY BENCH—LAKE COUNTY AND BIG VALLEY DISTRICT—LAKE COUNTY VITICULTURAL AREAS**

Time Period	Proposed Big Valley District—Lake County Viticultural Area			Proposed Kelsey Bench—Lake County Viticultural Area	
	Kelseyville	Kelseyville South	Bell Hill West	Bell Hill Lane	Boggs Lane
2007–2008 .....	18.33	14.65	13.22	N/A	29.4
2008–2009 .....	16.23	13.09	15.07	18.75	21.6
2009–2010 .....	29.22	31.81	33.43	31.25	39.2

**Topography**

The topography of the proposed Kelsey Bench—Lake County viticultural area is comprised of uplifted dissected terraces or benches, plateaus, and gently rolling hills, with elevations ranging from 1,400 feet at the northern boundary to 1,600 feet near the southern boundary. The topography was formed over time by the movement of the faults beneath the proposed viticultural area, which raised the ground to form the benches and hills. The continued uplifting of the terrain due to fault movement has been recorded as recently as 1906, when a major earthquake along the San Andreas Fault altered the Kelseyville Formation that underlies the proposed viticultural area, uplifting and dissecting portions along the southeastern portion of the proposed viticultural area.

The slopes and terraces allow cool air to drain away from the proposed viticultural area at night and into the

lower elevations of the neighboring proposed Big Valley District—Lake County viticultural area. Although cool air does drain into the proposed Kelsey Bench—Lake County viticultural area from the higher elevations of the surrounding Mayacmas Mountains and Red Hills, most of the cool air does not pool in the proposed viticultural area but instead continues to drain into the even lower elevations of the proposed Big Valley District—Lake County viticultural area. Because most of the cool nighttime air does not settle in the slopes and benches of the proposed Kelsey Bench—Lake County viticultural area, the frost damage to vines and fruit in the early spring and fall is reduced. As evidence of the reduced frost within the proposed Kelsey Bench—Lake County viticultural area, the petitioner provided testimony from the University of California Viticulture and Plant Science Advisor for Mendocino and Lake Counties. The advisor states that

due to the reduced frost within the proposed Kelsey Bench—Lake County viticultural area, many vineyards do not have overhead sprinklers for frost protection, but such protection “is a necessity” for vineyards in the proposed Big Valley District—Lake County viticultural area.

**Summary of Distinguishing Features of the Proposed Viticultural Areas**

The proposed Big Valley District—Lake County and Kelsey Bench—Lake County viticultural areas differ from each other and from the surrounding regions in terms of topography, geology, soils, and climate. The table below provides a summary of the general characteristics of both proposed viticultural areas in comparison to the surrounding regions. Because Clear Lake sits to the north of both proposed viticultural areas, the features of the area to the north are not included in this table.

Area	Description
Proposed Big Valley District—Lake County AVA .....	Generally level land with elevations at about 1,350 feet; younger soils formed from lacustrine and alluvial materials; cool temperatures due to proximity to lake and cool air draining from surrounding higher elevations; vineyards primarily grow sauvignon blanc grapes.
Proposed Kelsey Bench—Lake County AVA .....	Bench lands and terraces with elevations from 1,400 to 1,600 feet; older soils formed from alluvial materials; warm temperatures due to cool air draining into lower neighboring valley; vineyards primarily grow red varieties such as cabernet sauvignon, merlot, and zinfandel.
To the East (Red Hills, Mt. Konocti) .....	Steep mountains with elevations up to 4,300 feet; soils of volcanic origin; warmer temperatures and more frost-free days than both proposed AVAs.
To the South and West (Mayacmas Mountains) .....	Steep mountains with elevations up to 3,320 feet; shallow soils derived from graywackes, sandstone, and serpentine rocks.

**Comparison of the Proposed Big Valley District—Lake County and Kelsey Bench—Lake County Viticultural Areas to the Existing Clear Lake and North Coast Viticultural Areas**

*Clear Lake Viticultural Area*

The proposed Big Valley District—Lake County and Kelsey Bench—Lake County viticultural areas lie entirely within the Clear Lake viticultural area

and, together, cover approximately 11 percent of the larger established viticultural area. The Clear Lake viticultural area was established by T.D. ATF-174, which published in the **Federal Register** on May 8, 1984 (49 FR 19468) and is located within Lake County, California. T.D. ATF-174 describes the Clear Lake viticultural area as 168,960 acres of valley and upland terrain rimmed by steep

mountains. At the center of the viticultural area is the large freshwater lake known as Clear Lake. The lake has a moderating influence on temperatures in the area, warming the air in the winter and cooling it in the summer. Rainfall in the Clear Lake viticultural area averages 37 inches annually and the growing season averages 223 days.

The information provided in the petitions shows that the smaller

proposed Big Valley District—Lake County and Kelsey Bench—Lake County viticultural areas have general characteristics similar to those of the Clear Lake viticultural area. Both proposed viticultural areas are at lower elevations than the Mayacmas Mountains that also border the Clear Lake viticultural area. Additionally, the climate of both proposed viticultural areas is influenced by Clear Lake, with the lake providing a source of cooling breezes that keep temperatures moderate. However, TTB notes that each of the two proposed viticultural areas has a more uniform topography than that of the larger Clear Lake viticultural area. The proposed Big Valley District—Lake County viticultural area is a low, level, basin-shaped valley that lacks upland terrain. The proposed Kelsey Bench—Lake County viticultural area consists of terraces and gently rolling hills and lacks large, level expanses of land. Additionally, the average growing season is slightly shorter than the overall average growing season length within the larger Clear Lake viticultural area.

#### North Coast Viticultural Area

The North Coast viticultural area was established by T.D. ATF-145, which was published in the **Federal Register** on September 21, 1983 (48 FR 42973). It includes all or portions of Napa, Sonoma, Mendocino, Solano, Lake, and Marin Counties, California. TTB notes that the North Coast viticultural area contains all or portions of approximately 40 established viticultural areas, in addition to the area covered by the proposed Big Valley District—Lake County and Kelsey Bench—Lake County viticultural areas. In the conclusion of the “Geographical Features” section of the preamble, T.D. ATF-145 states that “[d]ue to the enormous size of the North Coast, variations exist in climatic features such as temperature, rainfall, and fog intrusion.”

The proposed Big Valley District—Lake County and Kelsey Bench—Lake County viticultural areas share several basic viticultural features of the North Coast viticultural area—moderate growing season temperatures that are cooler than the temperatures in the Central Valley farther inland, and flat valleys and tillable hillsides surrounded by mountains. However, the proposed viticultural areas are much more uniform in their geography, geology, climate, and soils than the diverse multicounty North Coast viticultural area. In this regard, TTB notes that T.D. ATF-145 specifically states that “approval of this viticultural area does

not preclude approval of additional areas, either wholly contained with the North Coast, or partially overlapping the North Coast,” and that “smaller viticultural areas tend to be more uniform in their geographical and climatic characteristics, while very large areas such as the North Coast tend to exhibit generally similar characteristics, in this case the influence of maritime air off of the Pacific Ocean and San Pablo Bay.” Thus, the proposal to establish the Big Valley—Lake County and Kelsey Bench—Lake County viticultural areas is not inconsistent with what was envisaged when the North Coast viticultural area was established.

#### Proposed Boundary Modification of the Established Red Hills Lake County Viticultural Area

The Red Hills Lake County viticultural area was established by T.D. TTB-15, which published in the **Federal Register** on July 12, 2004 (69 FR 41754), and was codified in 27 CFR 9.169. The viticultural area lies to the southeast of the proposed Big Valley District—Lake County viticultural area and due east of the proposed Kelsey Bench—Lake County viticultural area.

When the Red Hills Lake County viticultural area was established, part of its western boundary was determined using a 1959 version of the Kelseyville Quadrangle USGS map with a 1975 photorevision date. A portion of the western boundary follows an unnamed, unimproved road from the intersection of Bottle Rock Road and Coal Creek Road to State Highway 29/175. The boundary then continues across the highway to a second unnamed, unimproved road, and then continues along that road in a northwesterly direction to the intersection with a third unnamed, unimproved road running east-west just north of the common boundary line between sections 24 and 25 on the map. The written boundary description of the viticultural area appears in § 9.169(c) of the current regulations, and paragraphs (c)(15) and (c)(16) refer to the three unnamed, unimproved roads.

The petition to establish the proposed Kelsey Bench—Lake County viticultural area uses the 1993 version of the Kelseyville Quadrangle USGS map, which is the most recent version of the map. According to the petitioner, the intent was to have the eastern boundary of the proposed Kelsey Bench—Lake County viticultural area abut the western boundary of the Red Hills Lake County viticultural area. However, the two unnamed, unimproved roads that appear north of State Highway 29/175 on the 1959 version of the map

mentioned above do not appear on the 1993 version, making it difficult to ensure that the two boundaries actually touch and do not either overlap or leave a gap. After discussions with TTB, the petitioner decided to request a modification of the Red Hills Lake County viticultural area boundary using features that appear on the 1993 version of the Kelseyville Quadrangle map. TTB agrees that aligning the two boundaries by modifying the Red Hills Lake County viticultural area boundary to use features found on the latest version of the map would be more practical and accurate than determining the boundary of the proposed Kelsey Bench—Lake County viticultural area using the outdated 1959 map.

The proposed boundary line between the existing and proposed viticultural areas follows the original Red Hills Lake County viticultural area boundary as closely as possible using features identifiable on the 1993 map. The proposed modification would result in the addition of approximately 7 acres to the Red Hills Lake County viticultural area. According to the petitioner, there are currently no growers in the small region that would be affected by the proposed boundary change. The petitioner also provided TTB with a letter from a representative of the Red Hills Lake County growers committee and from a grower whose vineyard is within the Red Hills Lake County viticultural area near the region of the proposed boundary modification. Both letters express support for the proposed boundary modification.

The proposed boundary change would affect the western portion of the boundary of the Red Hills Lake County viticultural area that appears on the Kelseyville Quadrangle map. The proposed boundary modification continues to follow the unimproved road that runs northeast from the intersection of Cole Creek Road and Bottle Rock Road to State Highway 29/175, which still appears on the 1993 map. From that point, however, the proposed boundary then proceeds east along the highway to the 1,720-foot elevation contour line, just west of the marked 1,758 benchmark. The proposed boundary then proceeds northwest along the 1,720-foot elevation contour line to the common boundary line between sections 23 and 24 on the map, and then proceeds north along the common boundary line to Wilkerson Road. From that point, the written description of the Red Hills Lake County viticultural area boundary remains unchanged.

## TTB Determination

TTB concludes that the petitions to establish the 11,000-acre Big Valley District—Lake County and the 9,100-acre Kelsey Bench—Lake County viticultural areas and modify the boundary of the established Red Hills Lake County viticultural area merit consideration and public comment, as invited in this notice.

### Boundary Description

See the narrative boundary description of the petitioned-for viticultural areas and proposed boundary modification in the proposed regulatory text published at the end of this notice.

### Maps

The petitioner provided the required maps, and they are listed below in the proposed regulatory text.

### Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any reference on a wine label that indicates or implies an origin other than the wine's true place of origin. If TTB establishes these proposed viticultural area, their names, "Big Valley District—Lake County" and "Kelsey Bench—Lake County," will both be recognized as terms of viticultural significance under 27 CFR 4.39(i)(3). TTB believes that the term "Kelsey Bench" also has viticultural significance, as this name appears to apply only to this particular region of Lake County, California, and use of the name could imply that a wine originated within the proposed viticultural area. Additionally, according to both the petition and an Internet search conducted by TTB, the term "Kelseyville Bench" is used synonymously with "Kelsey Bench" to describe the region within the proposed "Kelsey Bench—Lake County" viticultural area. Therefore, TTB believes the term "Kelseyville Bench" also has viticultural significance. If this proposed regulatory text is adopted as a final rule, wine bottlers using "Big Valley District—Lake County," "Kelsey Bench—Lake County," "Kelsey Bench," or "Kelseyville Bench" in a brand name, including a trademark, or in another label reference as to the origin of the wine, would have to ensure that the product is eligible to use the appropriate viticultural area's full name as an appellation of origin. The text of the proposed regulation clarifies this point.

On the other hand, TTB does not believe that the terms "Big Valley," "Kelseyville," or "Lake County," standing alone, would have viticultural significance in relation to this proposed viticultural area. The GNIS Web site

shows the name "Big Valley" used in reference to 98 locations, including populated places in 13 states, so TTB believes that "Big Valley," standing alone, would not necessarily imply that a wine originated within the proposed viticultural area. Although the results of a GNIS search for the term "Kelseyville" all relate to the town of Kelseyville in Lake County, California, the town, itself, is divided between the proposed Big Valley District—Lake County and Kelsey Bench—Lake County viticultural areas. Therefore, because the term is not identified with only one of the proposed viticultural areas, TTB does not believe that "Kelseyville," standing alone, has viticultural significance. Additionally, "Lake County," standing alone, is already a term of viticultural significance as a county appellation of origin under 27 CFR 4.25(a)(1)(iv), and under 27 CFR 4.39(i)(3), which states that a term has viticultural significance when it is the name of a county. Therefore, the part 9 regulatory text set forth in this proposed rule specifies only "Big Valley District—Lake County," "Kelsey Bench—Lake County," "Kelsey Bench," and "Kelseyville Bench" as terms of viticultural significance for purposes of part 4 of the TTB regulations.

The approval of the proposed Big Valley District—Lake County and Kelsey Bench—Lake County viticultural areas would not affect any existing viticultural area, and any bottlers using "Clear Lake" or "North Coast" on their labels as an appellation of origin or in a brand name for wines made from grapes grown within the Clear Lake or North Coast viticultural areas would not be affected by the establishment of these new viticultural areas. The establishment of the Big Valley District—Lake County viticultural area would allow vintners to use "Big Valley District—Lake County," "Clear Lake," and "North Coast" as appellations of origin for wines made from grapes grown within the Big Valley District—Lake County viticultural area, if the wines meet the eligibility requirements for the appellation. The establishment of the Kelsey Bench—Lake County viticultural area would allow vintners to use "Kelsey Bench—Lake County," "Clear Lake," and "North Coast" as appellations of origin for wines made from grapes grown within the Kelsey Bench—Lake County viticultural area if the wines meet the eligibility requirements for the appellation.

For a wine to be labeled with a viticultural area name or with a brand name that includes a viticultural area name or other term identified as being viticulturally significant in part 9 of the

TTB regulations, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name or other term, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with the viticultural area name or other viticulturally significant term and that name or term appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area name or other viticulturally significant term appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label.

Different rules apply if a wine has a brand name containing a viticultural area name or other viticulturally significant term that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

### Public Participation

#### Comments Invited

TTB invites comments from interested members of the public on whether the Bureau should establish the proposed Big Valley District—Lake County viticultural area, and on whether the Bureau should establish the proposed Kelsey Bench—Lake County viticultural area. TTB is interested in receiving comments on the sufficiency and accuracy of the name, boundary, climate, soil, and other required information submitted as part of the petitions in support of the establishment of the two proposed viticultural areas. Please provide any available specific information in support of your comment. In addition, given the proposed Big Valley District—Lake County and Kelsey Bench—Lake County viticultural areas' location within both the existing Clear Lake and North Coast viticultural areas, TTB is interested in comments on whether the evidence submitted in the petitions regarding the distinguishing features of the proposed viticultural areas sufficiently differentiates them from the existing Clear Lake and North Coast viticultural areas. TTB is also interested in comments on whether the geographic features of either or both of the proposed viticultural areas are so distinguishable from the Clear Lake and North Coast viticultural areas that either or both of the proposed Big Valley District—Lake County and Kelsey Bench—Lake County viticultural areas should no longer be part of those viticultural areas. Finally, TTB is

interested in comments regarding the proposed boundary modification of the established Red Hills Lake County viticultural area. Please provide any available specific information in support of your comments.

Because of the potential impact of the establishment of the proposed Big Valley District–Lake County and Kelsey Bench–Lake County viticultural areas on wine labels that include the terms “Big Valley District–Lake County,” “Kelsey Bench–Lake County,” “Kelsey Bench,” or “Kelseyville Bench” as discussed above under Impact on Current Wine Labels, TTB is also inviting comments regarding whether there will be a conflict between the proposed area names and recognized terms of viticultural significance and any brand names currently appearing on existing wine labels. If a commenter believes that a conflict will arise, the comment should describe the nature of that conflict, including any anticipated negative economic impact that approval of the proposed viticultural area will have on an existing viticultural enterprise. TTB is also interested in receiving suggestions for ways to avoid conflicts, for example, by adopting modified or different names for the proposed viticultural areas.

#### Submitting Comments

You may submit comments on this notice by using one of the following three methods:

- **Federal e-Rulemaking Portal:** You may send comments via the online comment form posted with this notice within Docket No. TTB–2013–0003 on “Regulations.gov,” the Federal e-rulemaking portal, at <http://www.regulations.gov>. A direct link to that docket is available under Notice No. 134 on the TTB Web site at <http://www.ttb.gov/wine/wine-rulemaking.shtml>. Supplemental files may be attached to comments submitted via Regulations.gov. For complete instructions on how to use Regulations.gov, visit the site and click on the “Help” tab.

- **U.S. Mail:** You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005.

- **Hand Delivery/Courier:** You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 200–E, Washington, DC 20005.

Please submit your comments by the closing date shown above in this notice. Your comments must reference Notice

No. 134 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. TTB does not acknowledge receipt of comments, and considers all comments as originals.

In your comment, please state if you are commenting on your own behalf or behalf of an association, business, or other entity. If you are commenting on behalf of an entity, your comment must include the entity’s name as well as your name and position title. If you comment via <http://www.regulations.gov>, please enter the entity’s name in the “Organization” blank of the online comment form. If you comment via postal mail or hand delivery/courier, please submit your entity’s comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

#### Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not include, attach, or enclose any material in or with your comments that you consider to be confidential or inappropriate for public disclosure.

#### Public Disclosure

On the Federal e-rulemaking portal, Regulations.gov, TTB will post, and you may view, copies of this notice, selected supporting materials, and any online or mailed comments TTB receives about this. A direct link to the *Regulations.gov* docket containing this notice and the posted comments received on it is available on the TTB Web site at <http://www.ttb.gov/wine/wine-rulemaking.shtml> under Notice No. 134. You may also reach the docket containing this notice and the posted comments received on it through the *Regulations.gov* search page at <http://www.regulations.gov>. For instructions on how to use *Regulations.gov*, visit the site and click on the “Help” tab.

All posted comments will display the commenter’s name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including email addresses. TTB may omit voluminous attachments or material that TTB considers unsuitable for posting.

You may view copies of this notice, all related petitions, maps and other supporting materials, and any electronic or mailed comments TTB receives about this proposal by appointment at the TTB

Information Resource Center, 1310 G Street NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5- x 11-inch page. Contact the information specialist at the above address or by telephone at 202–453–2270 to schedule an appointment or to request copies of comments or other materials.

#### Regulatory Flexibility Act

TTB certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor’s efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

#### Executive Order 12866

This proposed rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, it requires no regulatory assessment.

#### Drafting Information

Karen A. Thornton of the Regulations and Rulings Division drafted this proposed rule.

#### List of Subjects in 27 CFR Part 9

Wine.

#### Proposed Regulatory Amendment

For the reasons discussed in the preamble, TTB proposes to amend title 27, chapter I, part 9, Code of Federal Regulations, as follows:

#### PART 9—AMERICAN VITICULTURAL AREAS

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

**Authority:** 27 U.S.C. 205.

#### Subpart C—Approved American Viticultural Areas

■ 2. Amend § 9.169 by revising paragraphs (b)(4), (c)(15), (c)(16), and (c)(17) to read as follows:

##### § 9.169 Red Hills Lake County.

\* \* \* \* \*

(b) \* \* \*

(4) Kelseyville Quadrangle—California. 1993.

(c) \* \* \*

(15) Proceed east and then northeast approximately 0.4 miles along the unimproved road to the road’s intersection with State Highway 29/175, then proceed east along State Highway

29/175 to the intersection of the highway with the 1,720-foot elevation line located just west of the 1,758-foot benchmark (BM) in section 25, T13N, R9W (Kelseyville Quadrangle); then

(16) Proceed northwest along the 1,720-foot elevation line to the common boundary line between sections 25 and 26, T13N, R9W; then

(17) Proceed north along the common boundary line between sections 25 and 26, T13N, R9W, and then the common boundary line between sections 23 and 24, T13N, R9W, (partially concurrent with Wilkinson Road) to the intersection of the common section 23–24 boundary line with the 1,600-foot elevation line (Kelseyville Quadrangle); then

\* \* \* \* \*

■ 3. Subpart C is amended by adding § 9.\_\_\_\_\_ to read as follows:

**§ 9. Big Valley District–Lake County.**

(a) *Name.* The name of the viticultural area described in this section is “Big Valley District–Lake County”. For purposes of part 4 of this chapter, “Big Valley District–Lake County” is a term of viticultural significance.

(b) *Approved maps.* The four United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Big Valley District–Lake County viticultural area are titled:

- (1) Lucerne, CA 1996;
- (2) Kelseyville, Calif., 1993;
- (3) Highland Springs, Calif., 1993; and
- (4) Lakeport, Calif., 1958; photorevised 1978; minor revision 1994.

(c) *Boundary.* The Big Valley District–Lake County viticultural area is located in Lake County, California. The boundary of the Big Valley District–Lake County viticultural area is as described below:

(1) The beginning point is on the Lucerne map at the point where Cole Creek flows into Clear Lake, section 36, T14N/R9W. From the beginning point, proceed southerly (upstream) along Cole Creek approximately 0.9 mile to the creek’s intersection with Soda Bay Road, section 1, T13N/R9W; then

(2) Proceed east on Soda Bay Road less than 0.1 mile to the road’s intersection with the unnamed light-duty road known locally as Clark Drive, section 1, T13N/R9W; then

(3) Proceed southeast in a straight line less than 0.1 mile to the 1,400-foot elevation line, section 1, T13N/R9W; then

(4) Proceed southerly along the 1,400-foot elevation line, crossing onto the Kelseyville map, to the line’s intersection with a marked cemetery east of Kelseyville (in the northeast

quadrant of section 14, T13N/R9W), and then continue along the 1,400-foot elevation line approximately 0.35 mile to the line’s intersection with an unnamed, unimproved road which runs north from Konocti Road, section 13, T13N/R9W; then

(5) Proceed south-southeast along the unnamed, unimproved road to the road’s intersection with the improved portion of Konocti Road, section 13, T13N/R9W; then

(6) Proceed west on Konocti Road approximately 0.9 mile to the road’s intersection with an unnamed light-duty road within Kelseyville known locally as Main Street, section 14, T13N/R9W; then

(7) Proceed south-southeast on Main Street approximately 0.35 mile to its intersection with State Highway 29/175, section 14, T13N/R9W; then

(8) Proceed west-northwest on State Highway 29/175 approximately 0.4 mile to the highway’s intersection with Kelsey Creek, section 14, T13N/R9W; then

(9) Proceed northwesterly (downstream) along Kelsey Creek approximately 0.5 mile to the creek’s intersection with an unnamed light-duty road known locally as Big Valley Road (or North Main Street), section 15, T13N/R9W; then

(10) Proceed west and then northwest on Big Valley Road approximately 0.35 mile to the road’s intersection with Merritt Road, southern boundary of section 10, T13N/R9W; then

(11) Proceed west on Merritt Road approximately 0.3 mile to the road’s intersection with the 1,400-foot elevation line, southern boundary of section 10, T13N/R9W; then

(12) Proceed northwesterly along the 1,400-foot elevation line to the line’s intersection with State Highway 29/175, section 9, T13N/R9W, and then continue southerly along the 1,400-foot elevation to the line’s intersection with Merritt Road, southern boundary of section 9, T13N/R9W; then

(13) Proceed west on Merritt Road approximately 0.1 mile to the road’s intersection with Hill Creek, southern boundary of section 9, T13N/R9W; then

(14) Proceed southerly (upstream) along Hill Creek approximately 0.9 mile to the creek’s intersection with Bell Hill Road, section 16, T13N/R9W; then

(15) Proceed west then southwest on Bell Hill Road approximately 0.15 mile, passing the intersection of Bell Hill Road and Hummel Lane, to Bell Hill Road’s intersection with the 1,400-foot elevation line, section 16, T13N/R9W; then

(16) Proceed westerly and then southwesterly along the meandering

1,400-foot elevation line, crossing onto the Highland Springs map, to the line’s first intersection with Bell Hill Road in section 20, T13N/R9W; then

(17) Proceed west on the meandering Bell Hill Road, crossing Adobe Creek, to the road’s intersection with Highland Springs Road, section 30, T13N/R9W; then

(18) Proceed north on Highland Springs Road approximately 2.8 miles to the road’s intersection with Mathews Road at the northwest corner of section 8, T13N/R9W; then

(19) Proceed west on Mathews Road approximately 0.7 mile to the road’s intersection with an unnamed paved road known locally as Ackley Road, southern boundary of section 6, T13N/R9W; then

(20) Proceed north on Ackley Road approximately 0.9 mile, crossing onto the Lakeport map, to the road’s intersection with State Highway 29/175, section 6; T13N/R9W; then

(21) Proceed due north-northeast in a straight line approximately 0.15 mile to the unnamed secondary highway known locally as Soda Bay Road, northern boundary of section 6, T13N/R9W; then

(22) Proceed east on Soda Bay Road approximately 0.35 mile to the road’s intersection with Manning Creek, northern boundary of section 6, T13N/R9W; then

(23) Proceed northwesterly (downstream) along Manning Creek to the shore of Clear Lake, section 30, T14N/R9W; then

(24) Proceed easterly along the meandering shore of Clear Lake, crossing onto the Lucerne map, to the beginning point.

■ 4. Subpart C is amended by adding § 9.\_\_\_\_\_ to read as follows:

**§ 9. Kelsey Bench–Lake County.**

(a) *Name.* The name of the viticultural area described in this section is “Kelsey Bench–Lake County.” For purposes of part 4 of this chapter, “Kelsey Bench–Lake County”, “Kelsey Bench”, and “Kelseyville Bench” are terms of viticultural significance.

(b) *Approved maps.* The two United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Kelsey Bench–Lake County viticultural area are titled:

- (1) Kelseyville, Calif., 1993; and
- (2) Highland Springs, Calif., 1993.

(c) *Boundary.* The Kelsey Bench–Lake County viticultural area is located in Lake County, California. The boundary of the Kelsey Bench–Lake County viticultural area is described below:

(1) The beginning point is on the Kelseyville map within the town of

Kelseyville at the intersection of Konociti Road and Main Street (not named on the map), section 14, T13N/R9W. From the beginning point, proceed east on Konociti Road approximately 0.9 mile to the road's 3-way intersection with an unnamed, unimproved road to the south, section 13, T13N/R9W; then

(2) Proceed south on the unnamed, unimproved road approximately 0.35 mile to a fork in the road, and continue on the eastern branch of the fork approximately 0.4 mile to the point where the road intersects a straight line drawn westward from the marked 2,493 elevation point in section 19, T13N/R9W, to the intersection of the 1,600-foot elevation line and the eastern boundary of section 23, T13N/R9W (which is concurrent with Wilkerson Road); then

(3) Proceed westerly along the straight line described in paragraph (c)(2) approximately 0.3 mile to the line's western end at the intersection of the 1,600-foot elevation line and the eastern boundary of section 23, T13N/R9W; then

(4) Proceed south along the eastern boundaries of sections 23 and 26, T13N/R9W, approximately 0.8 mile to the first intersection of the eastern boundary of section 26 and the 1,720-foot elevation line; then

(5) Proceed southeasterly along the 1,720-foot elevation line to the line's intersection with State Highway 29/175, just west of BM 1758, section 25, T13N/R9W; then

(6) Proceed west on State Highway 29/175 approximately 0.15 mile to the highway's intersection with an unnamed, unimproved road, section 25, T13N/R9W; then

(7) Proceed southwest then west on the unnamed, unimproved road approximately 0.4 mile to the road's intersection with Cole Creek Road at Bottle Rock Road, section 25, T13N/R9W; then

(8) Proceed west on Cole Creek Road approximately 0.65 mile to the road's intersection with an unnamed light-duty road known locally as Live Oak Drive (at BM 1625), section 26, T13N/R9W; then

(9) Proceed northwest on Live Oak Drive to the road's intersection with Gross Road (at BM 1423), section 26, T13N/R9W; then

(10) Proceed south on Gross Road approximately 0.65 mile to the road's intersection with the 1,600-foot elevation line, section 26, T13N/R9W; then

(11) Proceed southerly along the meandering 1,600-foot elevation line to

the line's intersection with Sweetwater Creek section 10, T12N/R9W; then

(12) Proceed due west in a straight line approximately 0.6 mile to the line's first intersection with the 1,600-foot elevation after crossing Kelsey Creek, section 10, T12N/R9W; then

(13) Proceed westerly and then northerly along the meandering 1,600-foot elevation line to the line's intersection with Kelsey Creek Drive, section 4, T12N/R9W; then

(14) Proceed west on Kelsey Creek Drive and then Adobe Creek Drive, crossing onto the Highland Springs map, and continue north-northwest on Adobe Creek Drive, a total distance of approximately 3.25 miles, to the marked 1,439-foot elevation point in section 29, T13N/R9W; then

(15) Proceed west-southwest in a straight line that passes through the marked 1,559-foot elevation point in section 29, T13N/R9W, and continue in the same direction to the line's intersection with an unnamed, light-duty road known locally as East Highland Springs Road, a total distance of approximately 0.6 mile, section 30, T13N, R9W; then

(16) Proceed north on East Highland Springs Road approximately 0.5 mile, to the road's intersection with an unnamed road in the northeast quadrant of section 30, T13N/R9W; then

(17) Proceed northwest on the unnamed road to the road's end point, then continue due north-northwest in a straight line, a total distance of approximately 0.3 mile, to the line's intersection with the southern boundary of section 19, T13N/R9W; then

(18) Proceed west along the southern boundary of section 19, T13N/R9W, approximately 0.5 mile to the section's southwest corner; then

(19) Proceed north along the western boundary of section 19, T13N/R9W, approximately 0.3 mile to the section line's seventh intersection with the 1,600-foot elevation line; then

(20) Proceed westerly, northwesterly, and then easterly along the meandering 1,600-foot elevation line to the line's second intersection with the northern boundary of section 19, T13N/R9W; then

(21) Proceed east along the northern boundary of section 19, T13N/R9W, approximately 0.35 mile to the section boundary's intersection with an unnamed road known locally as Fritch Road; then

(22) Proceed east on Fritch Road approximately 0.4 miles to the road's intersection with Highland Springs Road, section 18, T13N/R9W; then

(23) Proceed south on Highland Springs Road approximately 0.8 mile to

the road's intersection with Bell Hill Road, section 19, T13N/R9W; then

(24) Proceed eastward on the meandering Bell Hill Road approximately 1.4 miles to the road's last intersection with the 1,400-foot elevation line in section 20, T13N/R9W; then

(25) Proceed northeasterly along the 1,400-foot elevation line, crossing onto the Kelseyville map, to the line's first intersection with Bell Hill Road in the southeast quadrant of section 16, T13N/R9W; then

(26) Proceed northeast and then east on Bell Hill Road approximately 0.15 mile to the road's intersection with Hill Creek, section 16, T13N/R9W; then

(27) Proceed northerly (downstream) along Hill Creek approximately 0.9 mile to the creek's intersection with Merritt Road, section 16, T13N/R9W; then

(28) Proceed east on Merritt Road approximately 0.1 mile to the road's intersection with the 1,400-foot elevation line, northern boundary of section 16, T13N/R9W; then

(29) Proceed northerly along the 1,400-foot elevation line approximately 0.2 mile to State Highway 29/175, section 9, T13N/R9W, and then continue northerly and then southeasterly along the 1,400-foot elevation line approximately 0.5 mile to the line's intersection with Merritt Road, northern boundary of section 15, T13N/R9W; then

(30) Proceed east on Merritt Road approximately 0.3 mile to the road's intersection with an unnamed road known locally as Big Valley Road (or North Main Street), northern boundary of section 15, T13N/R9W; then

(31) Proceed south then east on Big Valley Road (North Main Street) approximately 0.35 mile to the road's intersection with Kelsey Creek, section 15, T13N/R9W; then

(32) Proceed southerly (upstream) along Kelsey Creek approximately 0.5 mile to the creek's intersection with State Highway 29/175, section 14, T13N/R9W; then

(33) Proceed southeast on State Highway 29/175 approximately 0.4 mile, crossing Live Oak Drive, to the highway's intersection with an unnamed road known locally as Main Street, section 14, T13N/R9W; then

(34) Proceed north on Main Street approximately 0.3 mile, returning to the beginning point.

Signed: March 28, 2013.

**John J. Manfreda,**  
Administrator.

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