



Diving Dog Vineyard
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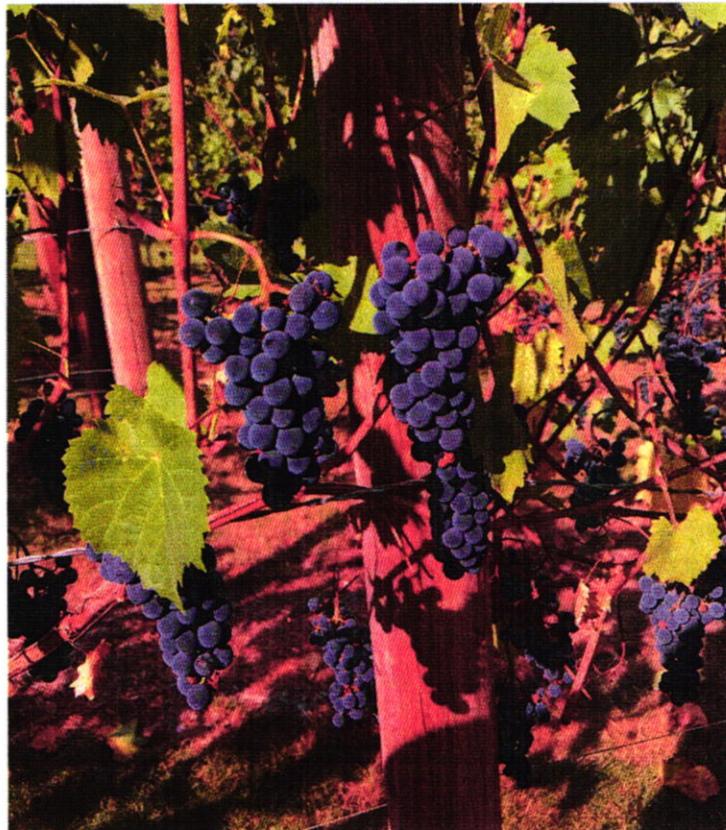
Thank you for taking the time to hear our concerns about the future of small agriculture in MT. I am not a lawyer or paid lobbyist. To say that appearing here is not in my comfort zone is an understatement, plus it is a pretty long morning drive from Polson to get to Helena so please excuse my lack of polished presentation. I am here to represent my husband and myself and an expanding group of concerned small orchard and vineyard owners/operators. (I drew the short straw). I was told I have 15 minutes so I am going to talk fast.

My name is Deb Carstensen a co-owner of Diving Dog Vineyard. I am a fourth generation Montanan. I come from a blue collar working class family and it is has always been my dream to live on the shores

of Flathead Lake. 20 years ago my husband and I saved a ramshackle lake place two steps ahead of the wrecking ball and have been slowly making improvements to our property ourselves ever since. In 2013 we purchased the lot adjacent to our property for the purpose of creating a retirement produce business. A key component of our business plan was to obtain Agricultural Tax Classification of our properties to free funds required to invest in, build and maintain that business. We sought recommendations from local orchardists, grape growers and representatives from the Lake and Flathead County DOR.

We had originally considered planting a cherry orchard, however, after researching viable crops found late producing cherry varieties being introduced in Oregon and Washington could ultimately hurt our local market. Therefore, we looked at ways to diversify production to generate a higher level of reliable, qualifying income.

Our research led us to an option of growing cold-resistant hybrid wine grapes. We found a ready and motivated market for Montana-grown grapes.



During the construction and planting process, we were inspected by several times by the Lake County DOR and in June of 2014 were found to be in compliance with existing law and were granted the agricultural classification so needed to allow us to continue investment.

At no time in our conversations, email exchanges, etc. with the Lake County Department of Revenue were we ever alerted to pending rules changes that would nullify our property from future consideration as a viable agricultural operation. We were told we were required at the end of a five-year grace period to document \$1,500 of annual production revenue regardless of product to continue to qualify. Thus, we moved forward with extensive investment and sweat equity to build our business in 2014.

In 2015 word came our application documenting the second-year grace period had been rejected based on a DOR acreage requirement. We subsequently found the DOR also denied Agricultural Tax Classification to another vineyard owner: Don Goodspeed and Bill & Jane Yeager (small orchard owners) stipulating the same acreage requirement. While we prepared an appeal to this decision, our case was mysteriously dropped while the Yeager's and Don Goodspeed took their cases to the State Tax Appeal Board. In both cases the DOR resoundingly lost when it was shown no such acreage requirement exists under state statute or internal DOR regulations. (See the Yeager, Goodspeed, and Beyer-Ward cases on the MTAB website).

This is about the time when the DOR turned 180 degrees from decades of supporting and encouraging orchards and vineyards as they pulled the five-year grace period allowing orchards and vineyards time for their crops to come to maturity. As a side note to the subject, it is interesting that just a few months ago a new vineyard owner in the Bitterroot Valley told us that his vineyard had recently qualified for an Ag exemption and that he was given the 5-year grace period. If this is indeed true, why is it that Flathead growers are denied this grace period? The DOR also pulled the 100-tree or 120 vine requirement for an unknown reason, and thus the recently coined notion that all you need is a tree in the ground is catchy but

disingenuous and deceptive. For decades it has been clear that, at a minimum, you needed at least 100 trees for an orchard or 120 vines to qualify.

DOR's Orchard Qualification handout

The DOR handed out this sheet to guide people who were interested in putting in an orchard or vineyard because they were part of the DOR rules. As you can see those rules required a minimum number of plantings that obviously need sufficient, but not specifically specified, acreage for proper spacing, etc. Note all the other requirements. The 100 tree minimum was in the DOR rules until last Fall when the DOR decided on its own to repeal them claiming they had to because of the MTAB rulings in the three Lake County cases DOR lost when trying to unlawfully "legislate" a minimum of one acre for an orchard/vineyard. THE 100 TREE MINIMUM AND THE 5 YEAR PROVISIONAL AG CLASSIFICATION, which was also repealed, WERE NOT EVEN AT ISSUE IN THE MTAB CASES and the DOR essentially eliminated them on their own accord.

Based on DOR having their hands slapped by the State Tax Appeal Board the DOR further proceeded to craft three bills which they called "housekeeping" measures to create this "acreage requirement", increase agricultural income requirements and raise the tax base for agricultural residences. It was shown through exhibit and testimony the falsehood of the DOR's claim of these being house-keeping matters, but were in fact attempts through legislation to attack, deny or withdraw agricultural tax classification to many small Ag producers, myself included. Fortunately, none of these bills were successful in passing in the last legislative session.

It was by sheer accident that we learned, virtually at the last moment, of HB 29 last session. The topic in that bill, along with its companion "dead" HB's 27 and 28, after being studied in the previous interim and all of which being killed last session, show unsurprising legislative resiliency by showing up again in this study bill, HJR 22. A skeptic would call it a waste of legislative, DOR, and public time, resources and money.

There are two types of property that appear to be at issue here in HJR 22—(a) producing small Ag orchards and vineyards and (b) 20 to 160 acres that are non-producing. My comments are solely directed at the first one—small Ag orchards and vineyards.

It should be apparent this is primarily a Lake County and Flathead County issue but other counties, mainly, but not completely, in Western Montana (Missoula, Ravalli, Sanders, Mineral) which have significant grape-growing potential and economic upside may also be impacted. Or is it, based on what we were told by new vineyard owner down the Bitterroot in October? Are Lake and Flathead counties, and in particular lakeshore properties, the sole target of this treatment by the DOR??



	acres	frontage	depth	ag value	market value
Prop 1	1.62	176	288	\$3,271	\$646,800
Prop 2	1.558	164	414	\$3,174	\$625,200
Prop 3	1.43	150	331	\$2,974	\$600,000

One thing that needs to be addressed relates to the DOR's prejudicial flashing of aerial photos of neighboring properties on Flathead Lake at the Interim Committee hearings last September and in 2015 with the implication some "equity concern" among the neighbors needs to be solved. Montana law and regulations clearly state it is the USE of

the property not who the neighbor is, or what the neighbors choose to do or not do with their property that determines its classification. The neighbors in these photos all could put in and work a 100-tree orchard, for example, but for whatever reason (probably because it takes a lot of work and expense) they chose not to. It is like having a commercial property (taxed) next to a church (exempt from property tax). The property owners chose their respective uses and are taxed or not taxed accordingly.

Constitution of Montana – Article XII – DEPARTMENTS AND INSTITUTIONS

Section 1. Agriculture. (1) The legislature shall provide for a Department of Agriculture and enact laws and provide appropriations to protect, enhance, and develop all agriculture.

(2) Special levies may be made on livestock and on agricultural commodities for disease control and indemnification, predator control, and livestock and commodity inspection, protection, research, and promotion. Revenue derived shall be used solely for the purposes of the levies.

Before I address the topics in my invite here, it would be helpful to take a quick look at our 1973 Montana Constitution, Article XII, Section 1. AGRICULTURE. It unequivocally states “the legislature shall.... enact laws ...to protect, enhance, and develop all agriculture.” It says, “Protect, enhance and develop“ ALL Ag—not “some”, not “with the exception of orchards and vineyards on lakeshore properties in some counties” or, not just “big Ag operations”---“**ALL**”.

It doesn't take a lawyer to make a compelling argument that the DOR apparently took the constitutional mandate to “PROTECT, ENHANCE AND DEVELOP ALL AGRICULTURE”, a bit more seriously for decades up to 2014 than it has since then.

It is of interest that our research into the proceedings of the last Interim Committee, this present Interim Committee, and the 2017 legislative activities on HB's 27, 28, 29 and HJR 22 there is not a single reference, direct or indirect, to this clear, important, and relevant constitutional mandate

I will now address the points raised in the set forth in my “invite’ to participate in this meeting.

The invite states: "The specific topic of interest to the committee is " how to determine whether property is part of a bona fide agricultural operation" and goes on to add "whether that varies based on, and then lists various subtopics.

BONA FIDE AG OPERATION - There is an easy answer with respect to orchards and vineyards. As the issue is stated at the outset, the answer seems fairly obvious and logically should end any further discussion about "whether property is part of a bona fide agricultural operation" if it is a producing orchard or vineyard. DOR Administrative Rule 42.20.601(7) states: "'Bona fide agricultural operation' is an agricultural enterprise in which the land actually produces agricultural crops defined in 15-1-101 MCA that directly contribute agricultural income to a functional agricultural business." This seems pretty straightforward.

Unlike the 20-160 acre NON-PRODUCING parcels (the other properties which seem to be mainly the object of HJR 22), Ag classified orchards and vineyards do what orchards and vineyards do—produce fruit which produce "agricultural income". These orchards and vineyards are "bona fide agricultural operations" under even the most twisted interpretation of the above rule and Montana law.

But, continuing on with the bullet points, AGAIN FROM THE SOLE VANTAGE POINT OF ORCHARDS AND VINEYARDS.

ACREAGE - I have all ready spoken about the need of space for crops and this area varies based on the crop in question and husbandry practices so I will not say more here other than to point out a "one-size fits all" rule for all crop types and required minimum acreage is illogical and counter-productive.

TYPE OF AGRICULTURAL PRODUCTION AND INCOME

DERIVED FROM THE PROPERTY - In our area, there have been production and sales of huge volumes of fruit for years from orchards--- and vineyard operations are growing significantly and will continue to grow if we can get the DOR off our backs. Anyone who has been in the Flathead in the summer knows about production with sale destinations locally (fruit stands, farmers markets, and schools, for

example), in Montana, the U.S, and overseas and all resulting in agricultural income.

Unlike the other issue (the 20-160 acres in Ag classification with no production), specialty crops under 20 acres have always had an agricultural income requirement (\$1,500, similar to neighboring States) and it works well.

The other side of this coin which no one seems to want to discuss or focus on is the huge amount of money on the expense side of orchard/vineyard operations that is injected into the local and Montana economy on an annual basis. It can cost tens of thousands of dollars to put in an orchard (fencing, planting, irrigation systems, land prep, equipment costs, etc.) and a significant annual expense outlay to maintain the Ag operations—such as spraying, weed control, mowing, pruning, harvesting, marketing and selling, storage, more equipment purchases, annual irrigation upkeep and other appropriate husbandry practices. Virtually all this money is spent locally.

THE PROPERTY'S PROXIMITY TO A CITY - Because of the unique climate and growing conditions around Flathead Lake, most of the orchard/vineyard Ag activity is here in rural settings and not close to any major city. Polson, Bigfork and Kalispell are the nearest towns.

SERVICES AVAILABLE TO THE PROPERTY - This is relevant to the typical orchard/vineyard operation in that there are virtually no government-supplied services. Few, if any, of these operations are close enough to be hooked up to city water/sewer. Water is provided from wells or from the lake. Individual septic systems are the norm. Where I live, Finley Point Road is plowed if it snows in the winter but not because of my or others' orchard/vineyard property—it is because people live in this rural area. The road gets a cosmetic patch job about once a year but it hasn't been resurfaced or paved in recent memory. Same with school buses----the bus comes out here to transport the few school-age children to Polson. Once in a while you may see a sheriff's car—but not frequently. Rural fire departments, like the Finley Point or Rollins Fire Departments are located at various places around the area. Electric service is from the S&K

Tribe—Mission Valley Power and, like the phone service, is subject to storm outages, sometimes longer than one would expect. Depending on location around the lake, residents are at least ½ hour to an hour plus away from ambulance and hospital services.

In closing, I would like to say a few words in the “Be careful what you wish for” department. Over the last several years, the targeting of small Ag orchards and vineyards appears from our vantage to have had a one-sided, shortsighted, “shoot from the hip” approach. For example, some of it has, quite predictably, been found unlawful by the MTAB and, surprisingly, often erroneously mischaracterized as a “simple housekeeping” bill (remember the hearings on HB 29)--where it was anything but. I have not been able to check, but I strongly doubt that the sabre rattling in last session and the last Interim about DOR about to be swamped with new applications for Ag classification has even remotely occurred.

It does not appear that, in the quest for more property tax revenue from small Ag, the government officials, including at the local level and the DOR, have thought about longer-term consequences. Our research indicates the original law in 1985 setting up the parameters for small Ag operations was actually done in the backdrop of the rampant, somewhat uncontrolled subdivision development in Montana in the late 70's and early 80's. It was as much a land-use planning effort as anything to slow the subdivision threat by encouraging property owners with smaller than 20 acre parcels to be able to do an Ag business as opposed to being incentivized to sell to the subdivision crowd. The law was also passed clearly with a full understanding and appreciation of Montana's Constitution Article XII, Section 1(1), discussed above, mandating support of agriculture. Such support for retaining agricultural use of small parcels was also written into the zoning regulations governing Finley Point.

Arguably, making it more difficult or worse, impossible to continue small-orchard operations or maybe start a vineyard, particularly in the unique micro climate of the Flathead, falls right in the trap of potentially more subdivision development because landowners in certain areas, such as rural orchard/vineyard operations around the lake, would have a strong incentive to break up their orchard properties and sell them. Over the years, there has been a

documented concern about increasing pollution of the pristine waters of Flathead Lake—including concern from additional land development and associated septic systems on the East shore whose effluents would easily find their way into the lake. There and on Finley Point are where many of these orchard/Ag operations are located.

Further, I believe there is also a strong argument that having the DOR orchard qualification regulations (100 tree minimum and 5 year provisional Ag classification) in place at the time of 1989 “Big Freeze” which killed most of the trees in orchards around Flathead was of significant importance in encouraging replanting the orchards and keeping the Ag provisional qualification for the property owners while the trees matured. Without an ability to keep the Ag qualification while new trees mature, the orchard owners would have had an incentive to subdivide the land particularly along the East shore and Finley Point and do just what our legislature was trying to avoid in passing the original small Ag law in 1985.

Thank you again for allowing me to present our group’s concerns and research. While a few documents (Positive Effects of Small Farms and Information on Grapes and Small Specialty Crop Agricultural Businesses) are attached to this document I’ve provided today, we have extensive research documenting in more detail many of the points raised.

In closing: There is evidence Montana’s wine industry is expanding. In 2003 Montana produced 1000 gallons of wine, in 2016 it increased to about 35,000 gallons. Most grapes for wine currently made in Montana come from out of state sources, mainly Washington. Today about 16 wineries are operating in Montana with only a few producing wine from Montana grown grapes and fruit. The success of Montana’s wine grape and fruit industry is dependent on expanding fruit production for wineries.



This is East Shore Red is made in Montana by Bitterroot Hidden Legend winery from our Diving Dog Vineyard Marquette Grapes. It is marketed by Super One Foods in Polson and Kalispell and is a good example of value added tax for Montana's coffers.



I thank you again for letting me be heard. I think it's important to add a human face to this process. Please remember, you're not just raising money here, you have the potential to hurt people, hurt me.

Information on Grapes and Small Specialty Crop Agricultural Businesses

November 2017

My Personal Story:

I am presenting this information as a private citizen. I have my own vineyard on Finley Point and just licensed a bonded winery in July in Polson where I also have a small orchard. I have worked for the USDA Natural Resource Conservation Service for almost 35 years. I have specialized in orchards and vineyards out of the Ronan office since 2003. My emphasis over the last several years has been vineyard management working with vineyards from Eureka to Hamilton. I helped establish the Montana Grape and Winery Association and am their technical advisor.

Introduction:

Agricultural land tax exemption requirements for small orchard, vineyard, vegetable and other specialty crop production have seen many changes recently due to Department of Revenue rulemakings aimed at orchards. These then led to the Montana State Tax Appeal Board's decisions supporting the landowners and now further DOR rulemakings. The recent agricultural exemption changes affected all of Montana's small agricultural producers in many ways, not just those around the shores of Flathead Lake.

Specialty crop enterprises allow small agricultural producers to supplement their annual income which adds significantly to Montana's economy. I work with several small Ag producers trying to earn a living from the land to support their families. These hard working citizens produce enough off small parcels, often less than an acre, to generate thousands of dollars of income.

The following information highlights a few topics of the wine grape specialty crop industry in Montana. Cold hardy grape wine production probably has one of the largest potential for growth of all specialty crop industries in Montana.

Cold Hardy Grape Research Trials, 2012-2014:

Pat McGlynn, Flathead County Extension Agent, secured a grant in 2012 to research cold hardy grape varieties for use in western Montana. The research study confirmed that many areas in Montana are suitable to growing cold hardy grapes. See Grape Trials Poster attached.

The Montana Grape and Winery Association (MGWA) was formed in 2015 as a result of the grape research trials in which several growers and wineries were involved with. The MGWA helps direct development of a home grown grape and wine industry in Montana including co-sponsorship of the USDA Specialty Crop Block Grant mentioned below. See MGWA poster attached.

There were roughly 20 vineyards prior to 2012 when the grape trials started and in just over 5-6 years there are over 50 today, at least 40 of commercial significance.

USDA Specialty Crop Block Grant (SCBG) Awarded in 2017:

The Western MT Ag Experiment Station in Corvallis, in partnership with MGWA, was awarded a \$120,000 grant to research cold hardy grape water use and stress in order to grow the best quality fruit possible. The project runs for three years which started in October 2017 and expects to develop best management practices for quality grape production in Montana. The grant will also analyze small fruit varieties in producing quality wines.

Montana's home-grown wine industry is expanding:

In 2003 Montana produced 1000 gallons of wine, in 2016 it increased to about 35,000 gallons where Montana now ranks 40th in US wine production. Most grapes for wine currently made in Montana come from out of state sources, mainly Washington. Today about 16 wineries are operating in Montana with only a few producing wine from Montana grown grapes and fruit. The success of Montana's wine grape and fruit industry is dependent on expanding fruit production for wineries.

Two key issues relating to grape and wine production in Montana:

Case for the 5-year Establishment Rule for Ag Exemption:

I'm using the example of cold hardy wine grape production, but other specialty crops such as apple, cherry or other fruit orchards, haskap or other perennial berry production also relate. Growing grapes in Montana requires significant infrastructure investment and several years of labor and expense nurturing vines to start producing a marketable product. Eliminating the 5 year establishment rule has already discouraged several vineyards from starting.

Grapes require trellising, about \$10-15,000/acre; add site prep, irrigation, deer/bear fence, about \$15-30,000/acre more. Then add annual costs of 750 hours of labor/acre, another \$10-15,000 per year every year plus fertilizer and chemicals. Add a tractor and spraying equipment, another \$20-60,000? Yes, even small agriculture can have large expenses depending on the operation. Bottom line: Growers that produce income out of the ground, a renewable natural resource, deserve to have an agricultural exemption. If more support and encouragement went into promoting small agriculture in Montana, like other states do, instead of trying to find out ways to inhibit them and reduce their potential contribution to Montana's economy, then maybe attitudes should change.

Wine tasting events:

Another issue dealing with the MT wine industry is being able to sell bottles of wine at wine tasting events. Montana wineries can get only 10 special permits for wine tasting events per year. The problem is if a customer likes the wine they taste the winery is not allowed selling them a bottle.

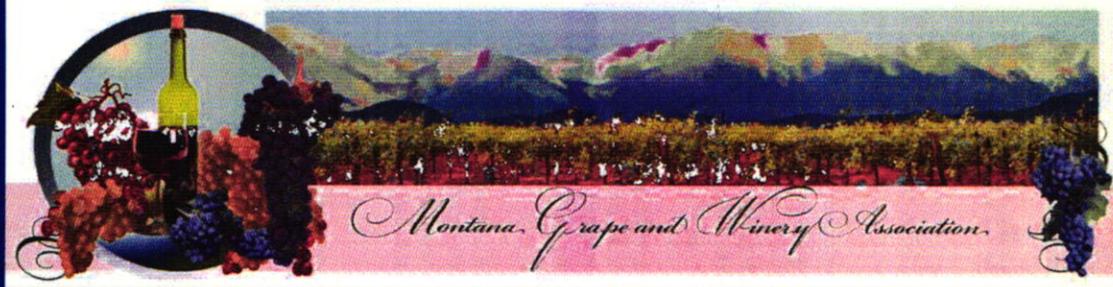
North Dakota and several other states allow bottle sales (sealed containers) at special permit events. Bob Thaden with Tongue River Winery cannot remember the number of times that he's done a presentation about Montana wines, then shared samples and sold wine by the glass to participants, who

then ask if they have wine with them IN BOTTLE that they can buy. Other wineries have had similar experiences. Allowing wineries to sell wine IN BOTTLE at special events helps to broaden Montana's reputation and gather new customers. This in turn makes Montana wineries more attractive to retailers and distributors. A couple of notes about the ND law:

1. 24 special permits are available to each winery each year— in Montana it is only 10.
2. Events sponsored by Pride of Dakota (their version of Made in Montana) allow wine sales by the bottle and do NOT count toward their special permit limit.
3. Special permits can be approved for virtually any off-site sale, including Farmer's markets.

Encouragement of Montana's fledgling wine industry will pay large dividends in the future! As it stands now, many obstacles impede the development of a home grown wine industry just as we realize that Montana's climate is conducive to growing the highest quality cold hardy grapes in the world.

We need to realize the potential for a vibrant, world class wine industry in Montana, yes world class, and take steps to encourage fruit production to meet the demand to achieve this.



A growing industry in Montana

A Montana Industry whose time has come!

- A wine industry is underway in Montana! It could significantly add to Montana's \$2.3 billion tourist industry.
- Hybrid wine grapes and other cold-tolerant fruits developed by University of Minnesota, Cornell University, and private breeders have produced plants that can thrive in our cold climate.
- Initial research trials in Kalispell, Yellow Bay, Ronan and Plains, along with long-term efforts in western and eastern Montana, are proving that a viable industry has potential for sustained growth, similar to other northern tier States.
- At least 14 varieties of grapes are being grown, including Marquette, Marechal Foch, Petite Pearl and many other varieties.
- These high value specialty crops, and a Montana wine industry, is on the move and growing.

Grape growing for wine production was mostly started in the early 1980's around Flathead Lake. Early efforts focused on Pinot Noir, with the thought that Montana's cool climate would be perfect since it was successful in other cool climate areas. Early lessons showed that Pinot does not ripen consistently in our cooler, shorter growing season.

The 1990's brought experimentation with hybrid grapes. Several new hybrids were being developed in Minnesota, Wisconsin and across to New York and Canada, fueling plantings across Montana. Early success by growers around Flathead Lake led to success growing hybrids across Montana. This has led to a growing number of small vineyards across the Montana landscape since the turn of the century. Currently, there are over 15 wineries in Montana, several utilizing locally grown grapes and fruits in their wine production.

Grape growers and those interested in grape production came together in 2014 to share experiences, and formed the Montana Grape and Winery Association in 2015. Encouragement of growers to start on a small scale has allowed testing of varieties over a wide range of sites to determine which varieties are better suited to Montana's climate and environment.

Montana is currently ranked 49th out of 50 states in wine production [source?? is this still true?]. The good news is the number of vineyards in Montana have doubled over the past 4 years and many more are planned that will effectively double production every few years as Montana's wine industry expands. Other wine products made from apples (ciders), honey (meads), and fruits (aronia, haskaps, cherries, and other cold tolerant fruit) are also being produced and leading to an expanded industry in the Treasure State.

Varieties being grown in Montana

A partial list includes –

White Varieties:
 Frontenac Blanc
 Frontenac Gris
 L'Acadie Blanc
 La Crescent
 Louise Swenson
 Prairie Star
 St Pepin

Red Varieties:
 Marquette
 Petite Pearl
 Frontenac
 Marechal Foch,
 Leon Millot
 Crimson Pearl
 St Croix

More varieties are coming on line thanks to partnerships with Montana State University Extension and Montana Department of Agriculture Specialty Crop Grants.

For more information

Montana Grape and Winery Association:
www.montanagrapeandwine.com

Facebook: Montana Grape and Winery Association



(NRCS & MDA logos here)





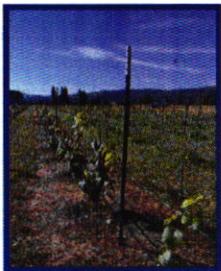
Cold Hardy Wine Grape Trials In Western Montana

Patricia McGlynn, Ph.D., Montana State University Extension, P.I.
Larry Robertson, USDA Natural Resources Conservation Service



Introduction

- An expanded wine industry could significantly add to Montana's \$2.3 billion tourist industry.
- European vinifera grapes had been tried in Montana without success. These grape varieties require very mild winters and 3-4,000 GDD (growing degree days). Montana averages 1,600-2,200 GDD and dips below zero in the winter.
- Cold hardy, hybrid wine grapes have been developed at Cornell University and the University of Minnesota that require only 2,000 GDD and can withstand 30 below zero..
- Ten Spoon Winery in Missoula, MT and Tongue River Winery in Miles City, MT have had success growing the hybrid gapes and producing award winning wines with these varieties.
- The hybrid wine grapes may be a high value, small acreage alternative crop for agriculture producers facing increasing land values and development pressure.



Grapes trials established in 2012



Tim Martinson, Cornell University Extension Specialist, provides vineyard management expertise for Montana growers.

Methods

- An advisory panel of grape growers identified challenges to the industry. The growers pinpointed the need for Montana based research to help farmers make decisions on new varieties and vineyard management.
- McGlynn, Montana State University Extension agent, wrote and received two grants to conduct research outlined by the advisory group, collected data and conducted evaluations.
- Harlene Hatterman-Valenti, Ph.D., North Dakota State University high value crop specialist, was hired as a consultant for the project.
- Robertson, USDA NRCS, assisted with vineyard management and in grape variety and collaborator selections.

Results

- Four research plots were planted in May 2012.
- Field days and educational seminars were held in June 2013 and June 2014 for Montana grape growers. Specialists from North Dakota State University, University of Minnesota and Cornell University presented information on wine making, vineyard management and the nuances of working with the new hybrids.
- June 2015 the inaugural meeting of the Montana Grape and Winery Association was held in Kalispell, MT. The association consists of the original advisory members, new growers and wineries. It is a resource for growers to obtain education and the ability to purchase chemicals and containers at bulk prices.



<http://www.montanagrapeandwine.com/>

Less than 20 vineyards were in Montana preceding the research and in 2017 there are over 50.

- Montana grape growers donated hybrid grapes to the newly re-opened MSU Western Ag Research Experiment Station and are developing new research priorities related to deficit irrigation studies and pathology.

Conclusions

- The cold hardy wine grapes in the trials were successful in many locations around Montana.
- The formation of the Montana Grape and Winery Association has provided an organized method for establishing research priorities and educational opportunities for new vineyard and winery owners. -In its 4th year now it is a networking resource for growers and wineries and an ally bringing together national experts in Montana to help grow our industry.
- The Montana State University Western Agriculture Experiment station was reopened, with a horticulture research focus, in great part due to the efforts of local grape growers.
- Montana has been featured in numerous wine websites, magazines, newspaper articles and television news programs, highlighting the burgeoning new wine industry.



Funding

Montana Department of Agriculture and United States Department of Agriculture Specialty Crop Block Grant programs

POSITIVE EFFECTS OF SMALL AGRICULTURE-SUMMARY 11-15-17

By Frank Mutch Finley Point, MT 406-887-2377

Please take the time to read the attached paper as it contains a lot of background and information that should be of interest to anyone directly engaged in Government and/or Agriculture. It also should be of interest to the general public as we all depend on Agriculture and take for granted the benefits it provides, both to our very survival and to the general economy.

Mainly because of the recent losses in tax revenue especially in Lake County, Montana there has been and continues to be a direct attack of many segments of Small Agriculture. Sadly many segments of government think it is their job to fulfill every wish and demand of the public and the solution always seems to be more government spending. Lake County recently discovered that a number of tax payers were underpaying real estate taxes because the Montana Department of Revenue, DOR, had missed updating some valuations. Also, both County and DOR officials have been very upset over the number of lake property owners who have planted orchards and vineyards and have qualified for agriculture classification. Many misunderstandings and even lies are circulating about this practice, but the net result has been and continues to be an all out attack on this segment of small agriculture. DOR has led this attack by writing legislation and changing administrative rules, and the legislature in the recent past, has allowed it to happen. During the last legislative session 4 bills were introduced to effectively kill Small Ag but they failed. Now a study bill HJ22 is in progress which is clearly intended to bring new life to this effort.

The attached paper proves in great detail that Small Ag. is very beneficial in every way it can be measured. It provides quality products close to the consumer as has been promoted and touted by virtually everyone, government, non profit, and private. The Montana Constitution, many laws, local zoning and right to farm regulations, and the platforms of both political parties strongly support and encourage agriculture of all kinds and levels.

Small orchards and vineyards generate primary dollars by nurturing and providing natural resource products, and dollars are 'recycled' many times in the local economy which significantly strengthens and increases the tax base. Revenue and taxes from natural resources continues to dwindle in Montana, and major segments of the economy now consist of government and service jobs. Agriculture provides real and essential products. Agriculture is good for the environment, it provides and protects open space, is a wholesome and healthy vocation, and is even used for physical and mental rehab.

The Legislature is to be commended for cutting spending during the November, 2017. It is our hope and strong recommendation that the Legislative Branch of Government continues to take charge of taxing and spending as it is uniquely able to see the big picture and to represent the people.

POSITIVE EFFECTS OF SMALL AGRICULTURE
By Frank Mutch, Finley Point, MT 59860 11-8-17

BACKGROUND AND CONCERNS

Some people think that having a small orchard, vineyard, truck garden, etc. with agricultural tax classification is, somehow, unfair and want to change these laws. Many public officials seem to support this view and think this causes revenue problems for government. They have openly criticized people who have small orchards or vineyards and thus contribute to the misunderstandings and resentment.

In Lake County, Montana the local tax revenues have been severely reduced by recent transfers of private property to the Tribes, thus eliminating millions of dollars. The trend toward eliminating non-tribal ownership of land, uncertainty about the future supply of cheap and adequate water to private land and municipalities along with reduced property values, caused, in part by the above actions and uncertainties, just make it worse. So, in a very short sighted approach, small agriculture, especially orchards and vineyards on high value property such as waterfronts, has clearly become a target. The Montana Department of Revenue, DOR is leading this attack and it is clear that local officials, including County Commissioners, State Legislators, and State Senators support this effort. Small agriculture is not the cause nor is it the problem. A more informed and long range view should conclude that small agriculture is really part of the solution, and that a strong agricultural industry of all sizes strengthens the economy and helps to increase tax revenues in the long run.

Waterfront property is still being assessed unrealistically far above the real market value. Short sales and repossessions are not considered the DOR according to their own unique rules, however real values are based on all sales and the action in lake property is still focused on the "screaming deals". Average folks, mostly Montanans, are doing whatever they can to hold on to their places including establishing orchards, vineyards, small home based businesses, rentals and so on. In 2016 the DOR changed some rules for small agriculture including eliminating the 5 year grace period to establish an orchard. This effectively eliminates the economic incentive for new orchards, is very short sighted, and will, in the long run, adversely effect agriculture, the overall economy and tax base. This seems to favor the wealthy, and many whom are out of state owners who can afford to wait 5 years or meet what ever other new rules are written. This will result and is already resulting in the highest value properties getting or keeping agriculture classifications. Instead of targeting the wealthy it will severely restrict, even eliminate, small, middle class agriculture. Middle class Montanans will give up and often have to sell out. The current trend in lakeshore property is for wealthy buyers to consolidate, establish, continue, or expand agricultural activities mainly for the tax advantages.

Legislators are too busy to examine the underlying goals of State Agencies, such as the DOR and are usually told these new rules or laws are "just housekeeping" when

the real reasons are otherwise. In the 2017 session, DOR with the complicity of the leader of the Republican Party and other so called Republicans used a shot gun approach to kill small ag. in the form of 5 bills. Fortunately none of these became law. Such measures included mandating minimum acreage requirements, eliminating farmstead agriculture classifications for ALL Montana farms and ranches, increasing income requirements and arbitrarily applying different standards than the IRS uses for income, making new restrictions retroactive, and so on. Clearly this was and continues to be an all out war to destroy small agriculture which will also restrict/harm all agriculture in Montana.

Now, we have House Joint Resolution 22 to contend with. It too was written by the DOR and introduced by the then State Republican Chairman. You know, the party that "stands for" small government, small business, agriculture, responsible natural resource development, and so on. I have written a separate paper on this bill, but suffice it to say that it is clearly written to justify the destruction of small ag. and even extends to medium ag. from 20 to 160 acres. This DOR effort is never ending and the Republican majority state legislature goes along with it. To try and have its way, the DOR employs lies, class envy, neighborhood jealousy, government greed, anti business bias and similar classic tactics used by radical socialists..

Government at all levels, non profits, associations, media, education and all segments of society constantly tout all the benefits of agriculture, both economic and social. How is it that this attack continues and even grows? High social and environmental value is placed on open land and agriculture, but, in reality, more sub divisions and development will provide the increased revenue that government is addicted to.

One of the purposes of this paper is to promote small agriculture, especially orchards, gardens and vineyards and illustrate the many positive effects of these small businesses

My wife, Mary, and I have worked hard in our orchard for over 4 years and have invested significant time and money-mostly spent locally. We met and exceeded all the DOR requirements that applied when we started. Sadly, it is clear that DOR is trying everything it can do to eliminate an activity such as ours by imposing ever more restrictive rules and regulations and making them retroactive so even if we invest more money and work to comply with the latest versions, there is no guarantee that we can continue to stay in agriculture. Everyone we have talked to with both large and small orchards on the lake say that without ag. classification, they could not stay in this business. Is that your real goal, DOR, County, and State Legislature? We, and everyone we know who is associated with or benefits from such agricultural activities, are convinced that the economic and other benefits of these businesses-and they are businesses-far outweigh the wrongly perceived "damages" to the tax base, and that doing this has significant negative impacts on the economy which the DOR and others have ignored. As word and information about this issue gets out, more and more voters, agencies, and associations, are supporting our views.

SOME FACTS AND POSITIVE EFFECTS: (AND THERE ARE MORE).

1. Agriculture is the number one industry in Montana, a major one in Lake County and has always been protected, promoted, respected, and encouraged as reflected in national, state, and local laws and regulations, including the Montana Constitution, zoning regulations, and so on.. Food, shelter, water, and fuel are basic human needs and have always been protected, even subsidized, by government for the common good. These protections help other businesses such as food markets, and benefit society by reducing costs and increasing availability.
2. Article XII Section 1 of the Montana Constitution says, "The legislature shall...enact laws and provide appropriations to protect, enhance, and develop all agriculture" It says ALL agriculture. MCA 72-6-901 (1) Right to Farm and Ranch says, "The legislature finds that agricultural lands and the ability and right of farmers and ranchers to produce a safe, abundant, and secure food and fiber supply have been the basis of economic growth and development of all sectors of Montana's economy. In order to sustain Montana's valuable farm economy and land bases associated with it, farmers and ranchers must be encouraged and have the right to stay in farming."
3. "Buy local" is a popular and logical program, especially for food products. Natural, organic, non GMO and similar products are popular with a broad spectrum of people. Many local co-ops, farmers markets, and small stores depend on these products.
4. These are significant business investments in work, time and money. Even for a small orchard/vineyard/etc. it costs multiple thousands of dollars and years of effort. The costs per unit of production such as each tree are higher than for large operations. Many of the costs are recurring for maintenance, supplies, and labor. Virtually all of the money is spent locally. These are primary dollars gained from the original production of a product. These dollars recycle or multiply up to seven times in the local economy and beyond, creating and sustaining such businesses such as services, retail, construction, maintenance, medical, legal, and even government to name a few. That is why communities seek industries such as manufacturing. They want these primary dollars. Compared to much of manufacturing, agriculture is clean, natural, wholesome and is already here. It is easy to see how much more tax revenue is generated-not lost- by encouraging agriculture of all sizes and types. Local orchard and vineyard products attract tourists, thus supporting another major Montana industry. The significant investment in time and money do not always offset the tax savings, but there are far more benefits to individuals, government and society in protecting small agriculture than only taxes.
5. Agriculture preserves and protects the rural character and culture of Lake, Flathead, and virtually all Counties of Montana. Lower density development outside towns is sustained, including green and open areas. Plants and trees consume CO2. Many other positive environmental effects derive from

agriculture. Noxious weeds are easily controlled, and dead, dying and diseased timber is cleared which also helps reduce wild fires, a very serious threat on Finley Point and elsewhere.

6. Social benefits are significant. For many, this is a retirement enterprise which requires hard work out-of-doors, engages the mind, and opens up new scopes of interest, new friends, new knowledge, and broader networks. It just might keep the old folks healthy, gainfully employed, and less of a drag on society in general.
7. Small agriculture is less mechanized than big operations and provides much needed entry level work. Young people can learn how to work and how hard work can be, thus preserving well known and sought after Montana characteristics.
8. It has been difficult and complicated to design new laws that would target just small orchards, say just on Flathead Lake, without it being clearly unlawful or even unconstitutional. How would you just soak the rich lake property owners and protect the middle or lower classes? That seems to be the current trend. Anyway, what is America about? Property rights and freedom should still be fundamental American values. It is hard to limit agricultural activities to any extent or anywhere in Montana without harming lots of people, and reducing business revenue, especially for small/family owned operations. If many of the above restrictions are imposed it will just further protect the “rich” large property owners. It might even be political suicide for career politicians.
9. Laws, rules, and practices of DOR prior to 2016 imposed strict requirements to establish and maintain the agricultural classification for small orchards, vineyards and truck gardens. For example, you cannot just jam a bunch of sticks in the ground and call it an orchard. This is a lie but is being repeated and even believed by many in the hallowed halls of Helena. New agriculture activities requesting reclassification were inspected by the DOR over many years and the rules were known, were consistent and were enforced. These operations are also closely regulated under existing laws to protect the environment, and to deal with pests and diseases.
10. All locally grown food supplies are sustainable and greatly enhance the ability to provide a local food supply in case of natural, or man caused disasters. Farmers markets are great places to buy local products are fun to go to, and help bind society together.
11. Small orchards are ideally suited for experimentation on new varieties/procedures because of their scale and independence.
12. The Party Platforms of Montana Democrats and Republicans clearly support all agriculture, small farms, and small businesses. This should cause all elected officials, state and local to actively be on board. It is clearly evident that government is not consistent in its goals and practices.

IF IT WORKS, DON'T FIX IT

For all the above reasons, and more, what we had prior to 2016 was working, was fair, was legal, and was not just a “free ride” for the elite. Taking away the tax

benefits of agricultural classification would do more harm than good and is almost impossible to do in a fair and equitable way. Taking away the five year grace period, arbitrarily increasing the required acreage now or in the future, redefining gross income, not grandfathering, applying rules retroactively, and other limits being imposed on other small agriculture takes away the economic viability and will severely harm or even eliminate most of these enterprises. This trend to limit and control through tax and revenue measures could easily extend to larger agricultural businesses. These seem to be goals of the DOR and the politicians who support such measures. Last, but not least, this hurts many people both in agriculture and the many associated businesses of Montanans. Do not pass any bills that would harm or restrict agriculture of any size. Let's take another look at the changes in Administrative Rules the DOR pushed through in 2016 and go back to the original regulations. Please protect small agriculture.

Many of us who have invested so much in these businesses share the goal of insuring that only serious operators get the agriculture classification. DOR local agents have done a good job of checking us and the old rules were fair and effective. We would happily assist in supporting this goal and would willingly work with DOR to resolve these issues in a positive and cooperative way. Suggested guidelines to deal with this basic issue are outlined in another paper that is being prepared.

Please contact me or other small agriculture operators/ owners if you have any questions, or concerns. Tel: 406-887-2377 or email us back. Most importantly, if you agree, please feel free to distribute this paper or similar ideas through your network as well as contacting elected officials at local, county, and state levels. It is most important to contact State Senators and Representatives now as in reality, State Agencies and the Legislature are always active.

Orchard Qualification

The requirements for ag qualification are spelled out in Montana Administrative Rule, ARM 42.20.620. The property must have a minimum of 100 live trees maintained at all times using accepted fruit tree husbandry practices. When the application is filled out you are claiming to be an agricultural business.

The following practices are part of a viable and legitimate ag operation:

1. Minimum of 100 live trees at the time of my visit (I recommend planting at least 10% more to allow for mortality)
2. Fencing around the perimeter of the orchard (deer can devastate an orchard in 1 night)
3. Fruit trees require a lot of water so an irrigation system is usually necessary
4. Pest control of some kind to insure the trees remain healthy
5. Adequate spacing of trees depending on the recommended distance for each particular species (typically 8, 10, or 12 feet depending on canopy)

Newly planted trees take approximately 4 – 6 years to mature and produce fruit. A property owner is given a "grace" period and may be monitored during that time to make sure there is still a minimum of 100 viable trees on the property. If you are only here 5 – 6 months out of the year you may need to consider having someone take care of the orchard during your absence.

The actual orchard will be classed in the continuously cropped 1A4 category. Excess land not planted to fruit trees and the 1 acre homesite (if any) will be the grazing category based on a soil survey of the property. The 1 acre farmsite will be assessed at \$1667. If the property is on the water, the valuation for the frontage will be deleted. The improvement value will be based on the cost approach to value. The ag land is a class 3 with the same tax rate as the full market valuation. The rate is phased in at 16.666% over 6 years (MCA 15.6.134).

One last important point is the time of year the trees are planted. The lien date in Montana is January 1. This means that property is taxed for what is in place as of January 1 of any given year. What does this mean to you? It means that if you don't have trees in the ground and actively growing by January 1, you will not qualify for ag that year. For example, if you plant trees in the late fall of 2010, you would file for ag status for the following year, 2011. If you plant trees in the spring of 2011, you would file your ag application for the 2012 tax year.