

# GRAPE PRESS

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The Quarterly Newsletter of the Virginia Vineyards Association

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## Winemaking Perspective on the 2011 Vintage

Emily Pelton, Veritas Winery

In putting together this article I canvassed my colleagues in Central Virginia, and asked many to contribute a paragraph on the winemaking perspective of the 2011 Vintage. Many of the comments I received could never be printed, some were very funny, like 'how does one write a paragraph with only frowny faces?' and some were outright morose and summed up what many of us could not verbalize without seeming borderline depressive. But, such was the vintage.

While 2010 provided us with unique challenges as a result of extreme heat, 2011 was the polar opposite, handing us challenges few have seen since 2003. The abundance of rain proved devastating in

the vineyard. As a winemaker it was a struggle to stay ahead of berry splitting, sour rot and botrytis. Picking decisions, (which is where the winemaking truly starts) were often made not as a result of the maturity of fruit, but rather as a race to beat the rain, or the progression of rot. I can distinctly remember verbalizing to another winemaker early in the reds that I had 'screwed up and pushed a vineyard too far' losing the majority of the crop. When I recounted my ripeness indicators he said, 'Emily, you did not screw up, Mother Nature let you down.' And so she did, and continued to do throughout the remainder of harvest. The vintage was

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## President's Corner ...

Bill Tonkins, VVA President

I volunteered to be considered for the appointment of President of the VVA because I thought it would be a great way to meet wonderful and knowledgeable people in the industry and a great educational experience. This vintage has proved me right. Wow! I have needed all the help and guidance that I could muster and I have learnt so much more about grape growing than the past few vintages put together.

Virginia in Keats' terms is "a vale of tears and a place of soul-making." It is a place where the hardships and difficulties of the weather experienced by grape grow-

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## VIRGINIA GRAPE GROWERS: Get Yourself Paid

Riley C. Walter, Walter & Wilhelm Law Group

It is beginning to sound like there is an increasing risk of non payment to grape growers. Winegrape growers have a lot at risk when selling their products. Care on the front end is the first line of defense. But, knowing your lien and bankruptcy rights, and acting promptly, are also important. Growers do have rights, even in bankruptcy.

### Good Relations

The best situation for all parties is a solid working relationship. By knowing

your buyer and your rights you can better insure a good, lasting relationship with your buyer. Neither of you want surprises and both of you want a deal that works for both of you.

### Know Your Buyer

Even though wine grape growers have experienced strong demand in recent years, some segments are feeling the effects of weakened demand due to

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**VVA**  
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# Regional Reports

## Central Virginia

*Turtle Zwadlo, Pollak Vineyards*  
*Guest perspective: Chris Hill*

The following is a harvest synopsis written by Chris Hill who consults with many growers in the Central Virginia region and is reprinted with his kind permission. I felt his insight was worth sharing in lieu of my regular report. I would add a couple of points from my conversations with area growers that he does not mention. One is that pressure from wildlife was reported as unusually high this season, one vineyard having a 25% loss attributed to wildlife, and they have a deer fence and use bird netting! The other is that many vineyards had at least one if not more success stories. Several picks of Petit Verdot had great chemistry, and some other reds that survived into the first weeks of October were able to be harvested with good chemistry if low yields due to extensive field sorting. Several wine makers said they were happy with the flavors and maturity of some (not all) fruit even though sugars were low. So, a tough year, the most challenging I've experienced in my seven years in the industry, but still survivable, and besides there's no time to feel bad about it. It's already time to be preparing for next year.

*From Chris Hill:*

When it started raining in September, it continued raining regularly for the entire month, interrupted only by a few very cloudy days. In my household we hang laundry out to dry. There was no drying of laundry for the month, except in the drying machine in the basement.

We could have possibly washed the laun-

dry outside, perhaps spraying on the detergent solution and then waiting a day or two for it to wash out thoroughly. My wife thought this a completely crazy idea. She may have been right {ow!}.

The lack of sunshine probably had as big an impact on the crop as anything. Photosynthesis and ripening slowed to a crawl, and of course growers beset with infections of foliar downy mildew had rates of photosynthesis and ripening slowed further. The growers who used Captan aggressively saw much less downy mildew than those who relied solely on Prophyt and the like.

In the Charlottesville area, in general, our white varieties, Pinot Gris, Viognier, Chardonnay, Vidal and Sauvignon Blanc ripened before the rains really set in. In this regard we were really lucky and those wines are very good. The red varieties, in general, needing more time to ripen, and needing to ripen more thoroughly to eliminate methoxypyrazine flavors in the wine, got caught in the steady rain events. The red varieties that were ripest when the rains began fared most poorly. August was a very good ripening month and the Cabernet Franc advanced in its ripening very quickly. When the rains began ripening ceased and growers started the wait. A lot of Cabernet Franc fell apart before the wine makers could realistically use it for red wine. Some Cabernet Franc was picked for rosé. In general we lost some of all the reds but from my perspective the Cabernet Franc took the biggest hit.

There were no silver bullets this year that saved the day. Dropping lots of fruit in the vineyard helped. Spraying lots of Captan helped. Having a clean, tidy vineyard helped. But in the end, we all lost fruit and most of that loss was unavoidable. I thought growers and wine makers cooperated with each other very well this season, better than I have ever seen before, and that probably saved more fruit and wine than anything else.

The drying (dehydration) of fruit was employed more this year than previously and it remains to be seen what wines emerge from that practice. This technique should be discussed more thoroughly in our industry.

Next year has started already. Let's get back to work.

## Eastern Virginia Report

*By Pete Johns*

The weather conditions here in the Eastern Region of Virginia during the last two months of the growing season were some of the most

difficult conditions any of our growers have experienced. First the hurricane, then 20 " of rainfall in less than 2 weeks followed by a stalled cold front that dropped temperatures over night and kept a fine mist in the air for 10 days all contributed to a very challenging season. With all that said, some of us had very good luck with various elements of our 2011 Harvest.

In our vineyard we were pleasantly surprised with several varieties that handled these conditions well. Our Norton and Cab Franc varieties were the best we have ever grown, with uniformity throughout the vineyard and the highest quality of fruit.

Other growers reported that one or two of their varieties provided excellent fruit and others, mostly reds, were not up to the standards they expected nor the tonnage they would have liked in this year's harvest.

Several growers were forced to pick their Chardonnay grapes earlier than anticipated due to the approaching hurricane. With Brix counts at 20 to 21, it will take some work to achieve great wines with this fruit. Our region, especially those vineyards near the Chesapeake Bay, suffered more damage from this storm than previous storms. This damage was apparent in most vineyards affecting the fruit as well as the trellis systems. Metal posts actually snapped like twigs during the storm, heavier wooden posts were bent to 45%, line wires were broken and some of the vines were whipped in the high winds. The damage to these vines will not be apparent until next spring. All we can do now is cross our fingers, say a prayer and hope for the best.

I feel in talking with our growers in the region that our red varieties suffered the most damage this season. The high winds of the hurricane, the heavy rains at the end of the season, the lack of sunlight to properly ripen the fruit along with the disease pressures of molds and mildews all contributed to a lackluster crop of reds. The white varieties seemed to have come through these conditions better than our reds.

Tonnage on the whole for our region was also down from previous years. Some of our growers actually had to drop their entire crop due to the damage or the quality. Here in this region, late harvest will be almost impossible.

Several new wineries and growers have joined our ranks in our region. As a whole the entire Virginia wine industry is growing at a record rate and this trend seems to be continuing. I sincerely believe that Virginia is destined to be "the most attractive" place on the east  
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## Regional Reports

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coast for celebrities and new investors to enter the wine business. As more wineries open, the need for quality fruit will continue grow.

Additional good news is that the third quarter of 2011 saw a rise in tourism throughout the Commonwealth and especially in our region. This is very important to the wine industry because tourists drink local wines more than any other adult beverages when they visit an area. Growth in tourism means growth in the wine industry.

### Northern Virginia

*Dean Triplett, Willowcroft Farm Vineyards*

“May you live in interesting times”.... Old Chinese proverb.

Boy, how interesting was the harvest of 2011? For the past several years I've kind of had this nagging feeling that a year like 2003 would raise its ugly head again. Well, this was our year! Our harvest started off on August 24th with Muscat Ottonel. This was followed shortly by Seyval. These two varieties were harvested fairly easily without much problem other than some major raccoon damage in the Seyval. Then Mother Nature opened up the skys and it got wet. First Hurricane Irene came up the coast. We were pretty lucky with this one. It dropped about an inch and a half of rain with some high wind gusts but little to no damage to speak of. Then tropical storm Lee moved up dropping about three inches of rain. Again not too bad all things considered. Then a low pressure system stalled out near Chicago and just basically sat there for what seemed like an eternity. The three systems combined for over 200% of normal rainfall for the month of September. This last system was the icing on the cake though. With chilly, damp, cloudy days stretching on for well over a week, ripening just came to a halt. As most of us have heard, Lucie Morton's advice was, “pick or perish!” So we picked, along with lots of cluster sorting. We'd get a break from the bad weather on occasion and we'd tell ourselves that maybe the reds would ripen up a little. Oh hopeful dreamers! Then a late season Downey mildew outbreak hit what hadn't been picked. Quick phosphorous acid sprays seemed to help slow the disease. We finally picked our last fruit on October 28th. Whereas last season started early and seemed like a sprint to the end, this year just went on forever. I forgot to mention that we got 4 inches of snow on the 29th of October.

As rough as this year was, there were some bright spots. The early varieties that missed most of the bad weather came in with good

flavors and nice numbers. Our Albarino was the best white variety we harvested with pretty, ripe fruit. It's through fermentation now and is tasting very nice. The Petit Manseng we purchased was beautiful, is currently in fermentation, and should make a very good wine. The other whites, while displaying less varietal character than the wines of 2010, are nonetheless clean, with the exception of one batch of Seyval with reductive notes that we are working on. One grower we purchased Chardonnay from got hit by three hail storms throughout the summer and then a fourth time shortly before harvest. He and his team did a yeomen's job of working their tails off in order to get us quality fruit. This included multiple post veraison sprays and cluster sorting just before harvest. It paid off with the best Chardonnay we have in the winery. I've always been very leery of putting on sprays close to harvest, but this year proved their worth. Had I been a bit more aggressive with the late season sprays in our vineyards I might have had a bit less rot to work through. I'll talk to growers I respect, as well as Tony and Mizuho, in the off season. I hope to work out some kind of worst case spray option program to implement should we run into a repeat of this harvest next year, (Heaven help us all should that happen).

On the less than bright side, there are the reds. Can you say Rosé!!! While we are making more rosé this year than we normally would, I think some of the reds have the potential to make nice wines. The Petit Verdot, Chambourcin and Cab Franc are in barrel now. The Cab Franc is a bit on the light bodied side, while the other two wines have good color and could wind up being the basis for a nice blend. Whereas last year's red crop was defined by big sugars, few of this year's reds ripened to the flavor/sugar level we would have liked. The Petit Verdot and Chambourcin had the best numbers and flavors at harvest. I'll be curious to see how the wines progress in barrel over the winter.

As I write this piece in the beginning of November, there are vineyards with grapes still on the vines. And this with ripening pretty much coming to an end with the snow fall of October 29th. There also was more than one vineyard that had fruit damaged by rot to the point of not being worth picking. The Traminette in one of our vineyards got hit so hard by raccoons and then by sour rot/botrytis that I didn't bother harvesting what little fruit there was. The Traminette in one of our other vineyards however came through with much

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less rot and less critter damage and made a nice wine. We've always said that wine is made in the vineyard. In good vintages this is true. A year like this will require plenty of work in the vineyard, in the winery, and skill by the wine-maker, to make a decent wine.

A larger than average crop load was an issue that many vineyards in our region had to cope with. At least one grower had berry weights 20% higher at harvest than he anticipated. In our vineyards we saw better fruit set this year with increased cluster numbers in most varieties. Take this scenario into a less than perfect ripening period and you've got a real problem. Some growers dropped quite a bit of fruit before harvest trying to save what they could. While this didn't help with ripening, it may have helped slow the spread of rot by getting more air circulation around the remaining clusters.

In a year that had more than its fair share of weirdness, the situation with "critters" was particularly strange. First the good news. Brown Marmarated Stink Bugs did not rear their ugly heads in our location to the extent predicted last year. Some growers further west of us did see large numbers, but the incidence seemed to be very site specific. I have not heard of any real problems with these bugs in the winery. Japanese Beetles again were absent from most vineyards in our region. Also, Yellow Jackets, which were present at harvest last year in huge numbers, were mysteriously absent. No complaints here on this one since everyone involved with harvest or processing of fruit last year got multiple stings. The Honey Bee population though did seem to be well represented. Now, the bad news. Raccoons were a major issue for me again this year. I had to capture and dispatch 36 of them this year. This was between 5 separate vineyards spaced out over

two miles. All fruit had some damage, with the earliest varieties getting the lion's share of the damage. Besides trapping, we also put up bird netting which seemed to confuse the raccoons a little. One grower I know up in Maryland has a very nice vineyard surrounded by plastic mesh fencing with heavy gauge metal mesh extending 18 inches from the soil line up. Raccoons chewed through this metal fence in order to get to the vines. Besides raccoons, we also had one vineyard that a doe and her fawn decided was a nice place to hang out. A black bear also found this same vineyard inviting. We worked on the fence and got through harvest with only minimal damage from these two critters though again raccoons were a problem.

This was for sure a harvest for the record books. Vintage definitely makes a difference in a continental climate. They say when life hands you lemons, make lemonade. What do you do when life hands you rotten lemons?

## Southern Region

Paul Ancil, Sans Soucy Vineyards

We say it every year but I think this is truly one of those years where everyone is glad the harvest is in. The Southern Piedmont region always presents a challenge for wine growers but this was one of the most unique years that most of us can remember. The spring was overly damp and cool for too many days preventing the calyptra from properly releasing pollen. (kind of a wet t-shirt effect) The resulting poor fruit set was significant. Depending on the varietal the reduction varied from 15- 25%; but we all ended up with sufficient fruit set to move on to the next stage.

The canopies on my farm and most every one's in the region grew vigorously, too vigorously! Hybrid varietals like Traminette

required more than one hedging to keep them within the trellising. Several vineyards reported a greater incidence of secondary and lateral cane development which required more labor to keep the leaf-to-fruit ratio in balance. I think this was crucial for encouraging an early veraison. And as the season progressed, I think this proved to be enormously important when the summer became very hot, very dry, very early. Many of those lateral canes also spawned more than the normal quantity of berry clusters high in the canopy.

Labor needs were much higher this year trying to control excessive shading and to remove all the nutrient-consuming unwanted fruit clusters developing away from the fruit wire. I think this proved to be a crucial factor in ending the season with good fruit. Also, this was the first year where I saw significant evidence of micro-nutrient deficiencies. I first thought that I was having a major out break of PM or DM. The leaves developed major discoloration of magenta, purple, stippling of yellow and brown. It wasn't fungus. The excessive heat and lack of moisture apparently prevented the root system from properly drawing magnesium, boron, and other important nutrients. I have never seen such a dramatic effect on my canopy before. Clearly, extensive soil sampling is needed this year and a ready supply of foliage grade fertilizer.

Comments from the region indicated a common observation: How far along veraison had progressed before the serious heat and lack of rain really impacted the final fruit quality. Varietals that had completed veraison were able to complete ripening. Those that didn't complete veraison never did fully develop proper color or metrics. My Tempranillo, whose name means "the little early one" was really early. We harvested that during the second week of August. Way too early! We don't irrigate but the vines are well established and can survive drought. But they did go into a survival mode and accelerated the fruit ripening. I was concerned that they needed more hang time but the metrics were great: Brix 24, PH 3.4, and TA 7. How do you argue with those numbers?

We pulled Viognier a week later with brix 23, PH 3.6 and TA 6.5. This presented another challenge: harvesting fruit when day-time temperatures hit 90 by 10 am. So for the first time ever, here at Sans Soucy Vineyards, we harvested in the dark. I purchased enough LED head lamps for the whole crew. There are many options when it comes to LED head lamps. You don't

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# Regional Reports

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want the real cheap ones, but you don't need the most expensive either. I settled for those that costs about \$12 each. I positioned the tractor work lights to illuminate the rows and every worker had his own light zone from the head lamp. Everyone loved the experiment. All the fruit was safely in the cool confines of the winery before 9 am. No flies, no bees, no sticky juice attracting pests, no sweat dripping into eyes, and everyone was on their way home by 10 am.

I went back through the vineyard later during full daylight to see how many clusters were missed. I was pleased to see that we missed very little fruit. Not enough to be concerned about. To my surprise the crew asked that we do harvesting in the dark for all the remaining varietals. I don't know if the dark had anything to do with it, but I didn't detect a single stink bug in the lugs. If you haven't tried picking in the dark, I highly recommend it! The fruit, the grower and the workers all unanimously voted to do it again next year. Hickory Hill Vineyard also experimented with harvesting in the early morning hours and agreed that it was a much more pleasant experience.


Everyone in the region reported very little evidence of the brown stink bug this year. They were present but not in great numbers. Maybe the heat held them back. One vineyard, The Homeplace, used hormone traps to determine the incidence of GBM and saw little evidence of that pest. They did find evidence of the spotted wing drosophila. I haven't yet, but I really didn't devote much time searching for it. Now that it has been positively seen in the area, we will all have to develop a program to identify and treat the fruit for this invasive pest. The sharp price increases for agricultural chemicals really impacted margins this year. This latest threat won't make things any easier.

So this growing season ended with grower satisfaction levels being plotted all over the spectrum. The early part of the season was cool and wet for too long a period. Late spring and early summer brought a series of violent storms, including hail. The extensive heat forced the vines into survival mode. The mid-September rains really affected the later ripening varietals. Many draught-shriveled skins cracked from the sudden infusion of moisture. A few growers noted a sharp decrease in brix levels following the rain. The combination of all these encouraged more than normal late

season mold growth, and it wasn't the "noble rot."




Now we wait to see if the wine produced evolves into a good or poor vintage. My guess

is that there will be major differences depending on where in the state the vineyard is located and the varietal grown.




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## Winterizing Your Most Valuable Asset

*Turtle Zwadlo, Pollak Vineyards*


Harvest is over, leaves have dropped, and it's time to reflect on the year and prepare for next season. As the 2011 season winds down don't forget to prepare your sprayer for the upcoming winter months, you'll be depending on it again next season.

A thorough cleaning is recommended inside and out. Chemicals left on the outside of your sprayer can cause rust and corrosion. Water and a good brush will usually do the trick. Be sure to collect and dispose of the rinsate properly. You should also fill your tank at least 25% with clean water and a cleaning agent. Different products are available from all the chemical vendors, most are ammonia based to help break down residue in the tank and hoses. Circulate the solution through the sprayer and spray it into the vineyard, which puts the chemicals you are cleaning from the sprayer onto the crop they are labeled for.

Next run a mixture of 50/50 water and antifreeze, or even better RV antifreeze, through

the pump and spray lines for at least 5 minutes. Capture the antifreeze solution in the system by closing valves and remove all gauges, filters, and nozzles. Store the sprayer inside for the winter if possible or at least under cover. If you don't have a building or other structure available, a tarp and bungee cords will do. Screens and nozzles can be kept in a container with some light oil such as diesel fuel or kerosene. Don't forget to mark any parts removed and store them indoors.

Finally don't neglect any left over chemicals from the season. They need to be kept dry and liquids must not be allowed to freeze. An oil filled radiator style heater (not ceramic or electric coil) with a tip over switch on a protected circuit works well in our chemical room.

These few simple steps will make sure your sprayer is ready when you need it in the spring which will be here before you know it. 

## Virginia Wine Council Update

*Katie K. Frazier, Director*

Greetings! As the new Director of the Virginia Wine Council, I'm excited to have this opportunity to share updates from the VWC with you. With two months until the 2012 General Assembly Session, there are plenty of issues on the horizon to keep us fully engaged throughout the coming year. The election of all 140 members of the Virginia General Assembly in early November will bring a new crop of legislators to Richmond, and signals a shift in party power from Democrats to Republicans in the state Senate.

A few months ago we were asked by ABC to provide input and feedback to the agency for a comprehensive regulatory review process, which occurs about every five years. We submitted an extensive list of suggestions in mid-October, and negotiations with ABC and other stakeholders begin mid-November. In addition, the VWC has been monitoring

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## President's Corner

*Continued from page 1*

ers and winemakers are necessary for the development of individual character. It is a place where grape growers and winemakers achieve their full potential to make them the best in the world. All of our regional reports contain the same trials and tribulations and yet are full of triumph and good expectations.


Dean Triplett's report reminds us of the adage that wine is made in the vineyard and he goes on to say: "In good vintages this is true. A year like this will require plenty of work in the vineyard, in the winery, and skill by the winemaker, to make a decent wine." Chris Hill also "thought growers and wine makers cooperated with each other very well this season, better than he has ever seen before, and that this probably saved more fruit and wine than anything else". If each of us succeed we will all succeed and in this respect we have included an article from Emily Pelton on how wine makers in the Central Region are making the very best of the vintage to produce wine with more nuances and greater finesse.

While there is evidence that grape growers and winemakers have been working well together, this is not always the case. In years like this there is not only a need for good relations but also for good contracts. We have, therefore, included an article titled: "Get Yourself Paid." Some members may also wish that they had good crop insurance but, as the Dr tells me, this is just like dental insurance. It is not worth it. We will look into this and find out more about it for subsequent issues or inclusion in our Technical Meeting.

We have also included a blog from Jeff Miller of Artisan Family of Wines on "Lower yields make better wine. Or do they?" An interesting subject, which Andrew Hodson, Lucie Morton and Chris Hill have made comments on. My thought is that I only wish I had thinned those late ripening grapes that much earlier to help them ripen but then as Dean

Triplett points out it was the fruit that ripened early this year that was more susceptible to rot from the rains! The bottom line is that there needs to be a spirit of cooperation between growers and wineries — what's good for each is good for all and somehow a contract needs to be drawn up along these lines. Lucie has a good formula for this.

I have been appointed to the Wine Board as a successor to Dean and shall try to look after our interests as well as he has done. There have been 2 significant changes affecting the wine industry recently. The first is the Commonwealth Quality Alliance (CQA) initiative, which was covered in our last edition of the Grape Press. This is now gathering steam and the highlight for us is that this initiative will not only promote quality standards of Virginia wines but its seal denotes that wines are 100% grown, produced and bottled in the Commonwealth of Virginia. The second is that the Wine Board is funding major changes to the Governor's Cup competition and marketing efforts. The aim is to create an accurate, consistent judging process that will determine the highest quality wines being produced in Virginia. Most importantly, the wines will be made from 100% Virginia grapes and details of the vineyard from which the wine is produced will be recorded and maintained in a data base. Jay Youmans CWE, MW has been contracted by the VWA to organize the competition and a copy of the competition methodology is included in this edition.

Last but not least, your committee is working hard to deliver what promises to be another interesting Winter Technical Meeting and Trade Show. The content will be based on feedback from last year's meeting — details to follow separately. I look forward to seeing you on the 2nd, 3rd and 4th of February at the Omni. 

— Bill

# Virginia Wine Council


Continued from page 6

the efforts of the DGIF Kill Permit study as stakeholders, including the VVA, worked this summer on proposals to streamline processes for agricultural producers who suffer from wildlife damage from deer and bear. This group has come out with some good recommendations, some of which may translate into legislative fixes this year.

Over the next few weeks the VWC will be organizing final recommendations for a 2012 legislative agenda. We continue to encourage all wineries and vineyards to contact us with any issues that you may be having on a state or local level so we may consider them for inclusion in our 2012 Legislative Agenda. Outlined below are some of the potential issues that may come up during the next year. During the General Assembly session, we'll be publishing weekly reports from the Capital to bring you critical information about the progress of wine related legislation. To sign-up for our newsletter, visit [www.virginiawine-council.org](http://www.virginiawine-council.org).

- **ABC Privatization:** All indications are that the Governor will likely come back to the General Assembly with another proposal on ABC privatization this year. We'll engage to ensure that proposals are as beneficial to wineries as possible.
- **Funding for Wine Industry Programs:** We'll be working through the Governor's two-year budget and General Assembly to make sure that adequate funding for the Virginia Wine Board, the Vineyard Tax Credit Program, and the Virginia Winery Distribution Company are continued.
- **Local Issues:** From streamlining local licensing requirements for wineries to addressing some specific concerns from wineries regarding their approval of other associated activities on site, conflicts with local governments continue to be an issue for the wine industry that may find their way to Richmond.
- **Remotes:** An ongoing concern, and a very real one based on actions in other states, is a potential attack on farm wineries' ability to utilize remote licenses. We will continue our defensive stance on this issue, and monitor every bill to ensure something does not slip through the cracks!

As we enter the legislative season, your input, actions and financial support are critical to the development of another successful

session for the wine industry. Whether large or small, we encourage you to provide what you are able, to ensure that our expenses, much like our benefits, are shared fairly across the industry. It's our job to be the voice and face for the wine industry in Richmond, but we must have partners like you to help us be successful! Best wishes for a great end to 2011, and we look forward to working with you in 2012. 

## VWC Website Now Available!

The Virginia Wine Council website has launched! The site will serve as a resource to keep our membership informed of all legislative activity pertaining to the Commonwealth's wine industry. In addition to providing a snapshot of current wine council activity, the site will contain an archive of past legislative victories, past VWC newsletters, information on membership and fundraising, and a comprehensive listing of winery regulation resources.

Stop by the site and feel free to provide us with any feedback you think may help us to improve.

## The Governor's Cup Competition Methodology

*Jay Youmans CWE, MW, The Capital Wine School*

*Note that the proposal detailed below is subject to final contract arrangements.*

### *Objective:*

To create an accurate, consistent judging process that will determine the highest quality wines being produced in Virginia. The ultimate goal will be to identify the 12 most outstanding wines in Virginia. The top wine from this final stage will be awarded the Governor's Cup.

### *Judges:*

The Governor's Cup judges would consist of industry professionals from all levels of the industry: retail, restaurant, hotel, wholesale & distribution, press, and education.

Ideally the judges would hold certifications such as: Advanced Level Sommelier, Master Sommelier, Certified Wine Educator, International Sommelier Guild Diploma, Wine and Spirit Education Trust (WSET) Advanced Level 3, or WSET Diploma Level 4, and Master of Wine. Industry experience would also be an important consideration in inviting trade professionals to participate, particularly those responsible for making the buying decisions at the retail and restaurant levels. No one working for or owning a Virginia winery or vineyard will be allowed to judge.

Most of the judges selected will be from Virginia, Washington, DC, and Maryland. The primary consideration, however, is that the judges possess the skills to accurately assess wines under blind tasting conditions.

### *The Process:*

Registration and submission of the wines: all the wines would be submitted in early January. All wines must be received during this time period. Any wines received after the deadline will be ineligible.

### *Stage I: The Preliminary Round – Mid-January*

Wines will be tasted to determine approximately 120 wines to go on to the Final Round. This round will be conducted over 2 days. There would be a morning and an afternoon session. No panel would taste more than 50 wines in a day.

*continued on page 8*

# “SA” and “SAR”

## Salicylic Acid and Systemic Acquired Resistance

Don't leave yet! This really is interesting stuff!

Christine Vrooman

The discussion that follows is truly interesting and offers some thought-provoking material. Have you ever had the good fortune of eating wild blackberries? Or lying in a field of wild strawberries as a kid, plucking those luscious morsels of sweetness and plopping them into your mouth? If so, you know that the flavors of the cultivated farm grown berries of today don't hold a candle to the intense flavor of fruits grown in the wild. The reasons

for the difference in flavors are many, but one of these explanations, considered important by many in the scientific community, was very intriguing to me and one I had never considered.

While doing some viticulture reading a few years back I came across an article that picqued my curiosity (see link at end). The article discussed the innate ability of plants to create a systemic defense in response to a

localized attack by a pathogen. Why is this of interest to grape growers? Because in grapevines, this response, known as Systemic Acquired Resistance, “SAR,” produces phenolic compounds which are major contributors to the taste, color and mouthfeel of the wine made from these grapes. The flavor intensity of fruit grown in the wild for centuries is a response to generations of this self-defense.

*continued on page 9*

## The Governor's Cup Competition Methodology

*Continued from page 7*

For the preliminary round, there will be 10 panels. Each panel would consist of 3 judges. Each judge would taste, assess, and score the wines in each flight. The panel chair would be responsible for collecting and submitting the scores and notes to the Competition Director. The scores and tasting sheets for each wine would be submitted without discussion. The three scores from each panel would be recorded and averaged.

All the wines would be tasted “single blind.” The judges would know the grape or category being tasted, but not the vintage, price or producer. The wines will be presented to judges in coded glasses. No bottles or labels will be visible to judges at any time during the competition. Staff members and volunteers will be instructed to avoid discussing wineries or brand names, whether they are part of the competition or not.

If the judges are faced with an obviously flawed bottle of wine, an additional bottle will be opened and tasted.

Wines with more than 0.3% residual sugar (r.s.) must have the percent listed on the entry form. Wines entered in categories defined by r.s. must list the percent on the entry form. Alcohol, residual sugar, and pH will be requested on entry forms.

Each wine in the preliminary round will be tasted and assessed by two different panels and the scores will be averaged. It is possible for a wine to receive a medal, yet not to advance to the final round. During the Preliminary Round, each wine will be assessed by 6 judges.

### *Stage II: The Final Round—Late January*

Wines would be tasted to determine the top 12 wines in the state. Three panels, each consisting of 5 judges, will assess the wines over 3 days. The scores from the 15 judges would be averaged. By the end, each panel would have assessed all the wines qualifying for the Final Round.

Each wine in the Final round will receive a final average score. The 12 wines with the highest average score will be identified as the “Governor's Case” (12 wines). The wine with the highest overall score will be the Governor's Cup Winner. In the event that there is a tie between two wines vying for the “Governor's Case”, their scores will be averaged with scores from the Preliminary Round

### *Scoring:*

The scoring would be done using the 100 point scale. The 100 point scale as defined by the Wine Spectator:

95-100	A Classic Wine – Among The Best Wines In The World
90-94	Outstanding – Superior Character And Style
85-89	Very Good – A Wine With Special Qualities
80-84	Good – A Well Made Wine Of Good Quality
75-79	Average – A Drinkable Wine That May Have Minor Flaws
50-74	Not Recommended (NR)
49 & Under	No Score (NS)
Gold	Great – Outstanding
Silver	Very Good
Bronze	Good

### *Tasting Notes:*

To ensure consistency, the tasting note would be recorded on a pre-formatted form. This form would include the numeric score, and, in some cases, comments by the judge.

Each tasting note will include an assessment of the appearance (clear or dull, color, intensity, and other visual observations), aroma (descriptors as to clean or faulty aromatics, fruit, floral, vegetal, spice, oak, chemical, animal, and intensity), flavor (dry, off dry, etc. RS, character of the alcohol, acidity, body, tannin, oak, fruit, floral, vegetal, spice, oak, chemical, animal, and intensity), a mention of overall quality, and commercial suitability.

The average score and tasting note for each wine will be sent to the winery upon completion of the Final Round. These results will be confidential, and used at the discretion of the winery. The identity of the judges responsible for writing the notes and scoring the wines will also remain confidential.





## “SA” and “SAR”

*Continued from page 8*

The role of salicylic acid (SA) on vines, in particular its effect on powdery mildew, was researched in a study by Atkus and Guven (see link at end) in 2007. A little background on salicylic acid: Its history goes back to ancient times, when in the 5th century BC, the Greek physician, Hippocrates, discovered that the bark of willow trees could ease aches and reduce fevers. It has since been discovered that this bark contains high levels of SA. Willow bark has been a natural remedy ever since, and its properties eventually led to the development of the current, commercially produced compound, acetylsalicylic acid, better known as aspirin.

The referred research shows that the level of SAR response in vines is affected by the accumulation of salicylic acid. It was observed that the external application of SA on plants led to a greater systemic resistance to powdery mildew. Could a spray made of willow bark, a natural source of SA, increase the production of desired phenolic com-

pounds and stimulate SAR? Many organic and biodynamic growers do incorporate willow bark sprays. At Ankida Ridge, we use them in addition to a couple of conventional fungicides. It is hard to measure the willow bark spray's efficacy, but after reading the attached research paper, we will continue to use willow bark spray, probably incorporating it even more than in the past. Quoting the last paragraph of this research paper:

“In conclusion, foliar SA sprays may provide remarkable protection against powdery mildew disease of *Vitis Vinifera*... by triggering systemic acquired resistance components. Our results suggest that SA treatment holds promise in substituting for fungicidal control of powdery mildew disease in grapevine.”

We are all well aware, especially after a season like 2011, that in our region it is currently necessary to incorporate non-organic sprays in our vineyards to combat

the multitude of pathogens that thrive here. The pressures are many and widely varied. I asked Virginia Tech's, Dr. Tony Wolf his thoughts on this topic and he shared the following:

“SAR has been recognized for some time and remains an active area of research and paper production. Folks have tried a number of the "down-stream" biochemical products (such as jasmonic acid -- methyl jasmonate, salicylic acid, ethylene, and probably others...). Perhaps the key to integrating these naturally occurring compounds into crop management is to start with relatively disease resistant cultivars and species that take advantage of a wide range of defense mechanisms to combat common pathogens. I would disfavor taking a reductionist view that enhancing SAR alone would provide sufficient defense against a competent pathogen such as *Guignardia bidwellii* (Black Rot). However, couple enhanced SAR with good sanitation, good canopy management, and prudent fungicide use, and you have a recipe for sustainability.”

Many questions arise. If we allow a plant the opportunity to defend itself for a brief period of time, and then spray, would this encourage the vine to produce enough additional flavor-enhancing phenolic compounds worth facing the possible increased risk of disease development? The challenge would be recognizing that fine line when spraying might be too late, with the greater burden being on the larger vineyards where it might be difficult to monitor closely enough. To this question, Dr. Wolf replied:

“Allowing the vine's natural defense mechanisms to be stimulated makes a heck of a lot of sense. But you're right on the "fine line" part of it. Pathogenesis, the development of disease, can occur extremely rapidly leaving little recourse for the grower.”

It would be helpful and interesting to see more research in this field, perhaps even a study on SA's effect on Black Rot. I am not aware of any such studies at his point. Many questions linger. Can giving a vine some time to defend itself produce enough response to have any measureable effect? And how much time would that be? Would the use of such sprays reduce the amount of chemicals used? Are man-made reproductions of these naturally occurring elements less effective, in that many of the down-stream natural components that play a role in efficacy would be missing? Could an SA spray be combined with something else to enhance the end result? Could further investigation of SA/SAR lead to greater discoveries? Only more research will give us some definitive answers.

*continued on page 10*

## Winemaking Perspective

*continued from page 1*

fraught with low sugars and immature flavor profiles, that lacked intensity and haunted me with surprisingly high pHs. Those choosing to let fruit hang, were met with downy mildew and resulting canopy loss, halting maturity of the fruit on the vine.

I am historically hypercritical, and was therefore very underwhelmed with my early ripening whites. This was until the reds started coming in, and I realized they were the best wines we had in the cellar. While the 2011 white wines are developing into balanced, elegant wines, it will be a challenge to winemakers to provide red wines with the color, tannin, flavor and style of red wines we have grown accustomed to create in Virginia over the last decade. That said, while the 2011 vintage was a very challenging year, it allowed winemakers throughout the state to question common practices, think outside of the box, and in a lot of instances to look past the 'numbers' and focus more on making it work. I had to ignore the numbers this year and pick primarily on fruit cleanliness and radar loops.

Another positive that I would like to point to occurred at an informal gathering of Central Virginia winemakers tasting through Cabernet Franc. We got together to talk about what worked and what didn't work in process-

ing in the winery. Two important observations came about: 1) The best Cabernet Francs were truly vineyard driven, sourced from vineyards that just seemed to get less rain or ripened before other sites. But the really interesting thing was that in our region we did not find a huge level of methoxypyrazines. Given the 'numbers' one would expect more underripe, or green fruit characters in the finished wine. Not so in our tasting. The fruit was ripe, it just lacked the flavor intensity, colors and tannins we wanted due to the constant wet.

In closing, I just wanted to state that if I hear the statement "well this is a winemakers year" one more time I think my head will explode. Poor winemakers, only being given the credit in the worst years on record. I say this in jest really, as I do understand where this statement comes from. The best wines truly do make themselves, as the quality is defined in the vineyard. Lesser wines have to be manipulated and coddled by winemakers in order to pass in consumer acceptability. But I just want to clarify, and make sure everyone knows that 2011 was not the year of the winemaker, it was the year of the Sorting Table!

On to the next vintage... may this one be gone from memory, and only told in folklore style ways to our children.



# Lower yields make better wine. Or do they?

**Blog post by Jeff Miller reprinted with permission from Artisan Family of Wines, [artisanfamilyofwines.com](http://artisanfamilyofwines.com). Discussion follows**

If there is an axiom of wine lore that is sacrosanct, it's the belief that lower yields translate into better wine. But do they?

Let's start with some grape growing basics. Like any living organism, the grapevine needs energy sources to drive its biological functions. The vine's leaves are what transform sunlight into carbohydrates, the grapevine's food. This is the "source" of the vine's energy system.

That energy is then used by the grapevine. A place where the energy is used is called a "sink." There are two main sinks: vegetative growth (leaves and the canes that they are attached to) and the fruit.

At the beginning of each growing season, the vine's buds start growing ("budburst"). Each of those buds produces a cane with a limited number of fruit clusters (two is normal). That cane, however, has no corresponding built-in limit on the number of leaves. While each cane can produce only a few fruit clusters, no matter what, it can go on and on producing more and more leaves as long as the energy is available. The only thing that keeps the canes from growing longer and longer is the fruit, by competing for the vine's resources.

As a grape grower, what you want to see is a vine that devotes the early part of the season to producing leaves, and then switches over mid-season from leaf growing to fruit ripening.

A grapevine with too little fruit is "undercropped." Since the fruit sink is small, the vine keeps feeding the vegetative sink (i.e., growing more leaves). The result is not just lower yields, but poorer fruit quality as well. Since the fruit can't compete successfully with the actively growing canes, it doesn't get the nourishment it needs. To add insult to injury, the heavy vegetation shades the fruit (not a good thing) and creates a closed-in canopy that both promotes unwanted infec-

## "SA" and "SAR"

*Continued from page 9*

I asked Dr. Bruce Zoecklein to weigh in on organic practices, including the SAR topic. I will include his response in its entirety below. I think his perspective is very balanced. Thank you to Drs. Wolf and Zoecklein for their time and sharing of their thoughts.



### **Links:**

*Atkas & Guven Paper on SA/SAR:*

(<http://www.pakbs.org/pjbot/PDFs/39%281%29/PJB39%281%29183.pdf>)

*Wine Quality, Organic Viticulture and Vine Systemic Acquired Resistance to Pests:*

(<http://www.organicwinejournal.com/index.php/2008/11/wine-quality-organic-viticulture-and-vine-systemic-acquired-resistance-to-pests/>)

## Organic Is Better-Right?

*Dr. Bruce Zoecklein, Professor Emeritus, Virginia Tech*

The greatest obstacle to discovering the truth is being convinced that you already know it.

There is no word for winemaker in French, Spanish, Italian or German. This points to the deeply ingrained European belief that wine is made by nature, not man. This is a belief that has been held for centuries in the Old World, that wine is, at its core, the reflection of a place. While there is no single-word translation of terroir into English, the French will often use this one word to explain why a wine tastes the way it does, as a result of place. This is a basis for a present-day concern: Is industrialization muting the effect of place?

The consumer is left to answer his or her own questions: Did this fine wine I am enjoying come from a great vineyard in a top appellation, from a talented winemaker using some dazzling new technique, and/or from a slue of agricultural and/or processing chemicals?

The sense of place, or lack of it, is a concern as the world and its products become more and more neutralized. This has sparked renewed interest in the food supply and, specifically, chemicals used in our foods, including wines.

A capstone event occurred in 1990 with the Alar episode. Alar, a growth-regulating chemical widely used in orchards at the time, was later listed as a carcinogen. The consumer's very negative reaction was a potent catalyst for the organic food movement. The question of

whether agricultural chemicals are good or bad was catapulted to the forefront and remains.

Currently, there are at least two general theories as to why the lack of chemicals may be a good thing (beyond the purely psychological), both relating to the production of so-called secondary plant metabolites. In grapes, we know these as aroma/flavor and phenolic compounds. Each group is tied directly to potential wine quality. They were originally called secondary metabolites due to our lack of understanding as to their importance to the plants.

Plants produce these for several reasons, including defending themselves against pests and disease. The more pressure there is from pathogens, the more phenols are produced, for example. They are the result of the co-evolutionary relationship between plants and their environment.

It is believed by some that plants being defended by man-made chemicals do not need to work as hard to make their own natural pesticides, such as phenolic compounds. They do not need to expel their limited energy on producing these so-called secondary metabolites.

Another theory suggests that soils that have been significantly altered with chemicals are simpler. While they may contain the required NPK etc., these soils do not contain all of the raw ingredient precursors that plants need to produce the vast array of secondary metabolites in optimum quantities or proportions.

There is some scientific evidence for both of these theories. For the wine industry, however, the important question is not simply whether grapes produce a different quantitative or qualitative array of secondary metabolites in the presence or absence of chemicals, like they do. Rather, the question comes down to wine quality. To date, there have been few studies that suggest that the lack of approved chemicals consistently produce better wines.

Not using chemicals, particularly agricultural chemicals, sounds great and is certainly consistent with our general notion of sustainable. It is that notion that usually carries the day. Unfortunately, there remains a large void of good scientific data suggesting that not using chemicals will improve wine quality-all other factors being equal. Unfortunately, at this time the choices may be like the old joke – I have a theory that it's impossible to prove anything-but I cannot prove it.



*Continued on page 12*

# Turning Water, Soil and Sunshine Into Wine - Part III

Kelly Carr

The balance of this edition of *The Grape Press* is filled with detailed, specific information regarding the mercurial summer precipitation issues that affected our state, and the aftermath thereof. Ours is a beautiful, albeit fickle region that will indubitably drive some of us batty as we wrestle with the romance of wine making and the reality of grape growing. You must carefully read and absorb all the knowledge and experience the other writers and growers have put down. But really, we have all the answers.

You may recall, Larry and I have embarked on a test vineyard in the Shenandoah Valley. In the Spring, we planted 250 vines: 10 varieties (1 of table grapes, 5 whites, four reds.) Everything has survived, and our secret is this: benign neglect. Of course, we have not the first grape to show for it, but being newbees, we have granted ourselves a certain amount of leeway. Some would call it artistic license, even. I think we tried spraying one time. That is so messy.

As the rain continued (and persisted, and kept on, and on), a new idea emerged which we are sure will be the next big thing in viticulture: fungus-eating stink bugs that gorge so much they drop dead. Yeah, you read it here first. Mycology meets entomology (or is it the other way around?) You skeptics out there will probably next ask about the specifics of this plan. Sheesh. We are BIG IDEA people. We will naturally turn to all the little people to work out the details. They are around here somewhere...

Remember Cab Frank? He was the leftover that got planted by the porch, as there was not room left within the planned vineyard. Well, he took off like a teenager with the car keys. It might have had to do with the sprinklings of water he would occasionally get, as he sits near where the tomatoes were planted. Amazing what a little H<sub>2</sub>O will do. If you want to avoid deer damage, make sure to plant juicy tomatoes nearby. Works like a charm.

Back to the test vineyard. Yep, it is there alright. But did I tell you about the 29 chickens that are now laying eggs? You would not expect us to prepare for the good life of wine and song without the basics for souffles and quiches. On top of which, photos of vines and chickens make spectacular montages of rural life. Which brings me back to the vineyard. This winter we will prune, and finally get around to staking and building the trellises. We believe with all our hearts that because of this year's drought in early summer, the deluge in early fall, and our careful abandonment, the vines will emerge next spring the better for having had a tough beginning. As we all know, vines have to suffer. You just wouldn't think it would be at the hands of their owners.



## Food: Transforming the American Table 1950-2000

VVA Members:

*Food: Transforming the American Table 1950-2000* is a new exhibit to be opened at the Smithsonian's National Museum of American History on the Washington DC mall in August 2012. The exhibit will have a section devoted to wine for the table which will highlight technological changes in American viticulture and winemaking during this 50-year period. Though the exhibit will cover wine production around the nation – the proximity of Virginia wineries to the exhibit in DC will allow Virginia wineries special access to interest in wine generated by this exhibit. The museum curator (Paula Johnson) and her designers are interested in “artifacts” that may be loaned or donated to the Smithsonian to benefit this exhibit; think: old equipment, pictures, historical letters, hand pruners, videos – things that are appealing to view and tell a story about the change that our industry saw between 1950 and 2000 without taking up a huge amount of space. Get in touch with Tony Wolf [vitis@vt.edu](mailto:vitis@vt.edu) or Tremain Hatch [thatch@vt.edu](mailto:thatch@vt.edu) with potential ideas.

## EXCHANGE

Due to the large number of items for sale, I would direct our members to the following web site:

[virginiavineyardsassociation.com](http://virginiavineyardsassociation.com)

Editors note:

Please take note of the change of email address for our office manager Katie Meeks [vavineyardsassoc@gmail.com](mailto:vavineyardsassoc@gmail.com)

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# Lower yields make better wine

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tions and hinders the penetration of the sprays that combat those infections.

The opposite of “undercropping” is “overcropping,” where too much fruit is left on the vine. The excess fruit appropriates the vine’s resources at the expense of vegetative growth. Without enough leaves, there’s not enough nourishment to produce high quality fruit. An overcropped vineyard may produce lots of mediocre fruit.

So what the grape grower wants is a vine that’s “in balance,” with the right amount of leaves in relation to the fruit. While a number of ways of determining when a vine is in balance have been developed, one of the simplest is one of the best—canes should grow to be about four feet long. Since there is no way of directly regulating the amount of vegetative growth, we achieve this balance indirectly by regulating the amount of fruit on the vine (i.e., more fruit, fewer leaves and shorter canes). The main way of doing this is by leaving the right number of buds on the vine at pruning

time.

What is the right number of buds? It depends on many factors. The vineyard’s climate and the fertility of its soil are critical. The choice of grape variety, as well as the rootstock (the underground part of the vine that the grape variety is grafted onto), will also affect how much fruit the vine can support. No mathematical formula can tell you the right number of buds to leave – only the grape vine can do that. At pruning time, you take a look at the vine and see how it did last season. If it was too vigorous, you increase the number of buds, and vice versa.

If you have low producing varietal planted in a relatively cool location on poor shallow soil, the vines can only produce a small crop. A vigorous variety planted in deep rich soil in a warm location can produce a much larger one. Both vines have, in theory, the ability, to produce high quality fruit.

So let’s take two vineyards, each of which produced 4 tons per acre last season. The first

had short stubby canes; the second very long ones. The first vineyard should be “pruned back,” that is, left with fewer buds, which will reduce its yield, but result in better fruit. To do the same with the second vineyard (applying the formula that lower yields automatically translate into better quality) would be a horrible mistake. That vineyard should be less severely pruned (i.e., leave more buds and therefore more fruit), which will increase both quantity and quality. Both vineyards should be allowed to produce whatever amount of fruit will result in balanced vines. If that turns out to be 2 tons/acre in one, and 8 tons/acre in the other, then so be it.

In the end, the goal is not to mindlessly reduce yields, but to find that yield (high or low) that allows the vine to come into balance, at which point the quality of its grapes will be the best that they can be.



## A response from Andrew Hodson:

For me the opening statement, “if there is an axiom of wine lore” is off putting.

While an “axiom” has several meanings depending on the context, generally it is taken as “a saying that is widely accepted on its own merit.”

However, in logic it takes on a more meaningful definition as “a proposition that is not susceptible of proof or disproof – its truth is assumed to be self evident”

Then the author goes on to link the axioms with “wine lore” that for me has me dreaming of “folk lore.”

The article is really an affirmation of the core belief of the VVA “Is Iustus Pendet” - it all depends.

Never take anything at face value especially if they are axiomatic and who believes in folk lore any way.

On September 20th I responded to the blog.

I am concerned that we tend to make generalities that make it easier not to be specific about ones own particular terroir.

It is meaningless to talk about “tons per

acre” without knowing the density of planting. It is far more useful to talk in terms of kilograms or pounds per plant or for that matter weight per linear foot of cordon depending on the training system.

From personal experience pruning tactics do not determine the output per vine in the vigorous soils of Virginia.

In 2005 following the tenet of this article I pruned my vines so that they would yield one bunch per shoot – that indeed reduced the number of bunches but each was twice the size – so I got exactly the same yield – except the skin to pulp ratio was markedly reduced so that the quality of wine was reduced.

A lesson for those of us who believe in axioms of wine folk lore.



## What the Experts think:

*Lucie Morton says:*

I agree with Andrew at the passive aggressive tone of axiom and folk lore.

As I told Andrew most axioms, truisms, and old wife’s tale are generally based on some pretty solid, experiential foundations--even if not applicable in all circumstances!

If I had to say one thing about yields, it is that they do matter. The question then becomes how and to what end?

Clearly there is a bell curve where too low or too high crops are not good. One should keep in mind that higher crops do tend to delay maturity. In a good ripening year this is not a problem, but sometimes being able to harvest sooner than later is a big benefit. Fair compensation is critical to this discussion. I think the 1 to 100 formula, whereby the grower receives 100x the bottle price of the wine, has merit. This gives incentives to growers to keep yields to appropriate levels for the quality expectations. Exactly what that yield is in terms of lbs per vine or tons per acre will vary from site to site, variety to variety, and year to year.

*Chris Hill says:*

“Hear him! Hear him!”



# Get Yourself Paid

Continued from page 1

increased production and enhanced competition. As some predict higher interest rates in the near future, coupled with declining demand in some categories, growers need to be more clear than ever as to who they are selling their grapes to and how to best protect themselves from non payment. Getting wiped out by weather or pests is one thing. Not getting paid after delivery of crop is quite another. No one relishes the thought of going unpaid.

Growers first should satisfy themselves that their buyers are financially capable of paying for the crop. Some wineries will have no problem demonstrating financial ability. Some wineries will gladly have their lenders confirm that growers will be paid. As in all business dealings, a promise is only as good as the promisor. Sometimes you just have to ask to see the financials.

The point here is that the grower's first line of defense is to know the buyer and the buyer's financial reputation. However, this alone will not guarantee payment, so proactive growers will also want to know their legal rights before they agree to sell to a buyer.

Most wineries are in good shape and have good financial reputations but it is just good business to know who you are dealing with and what your rights are.

## Know Your Contract

Perhaps the first thing to do is carefully review the contract. (See "Contract Negotiations and Considerations For the Winegrape Grower" (Revised 1996) and "Be a Smart Marketer: Are You Positioned for Payment" March 1998," both available from California Association of Wine Grape Growers)

A contract is an agreement to which both sides must concur before it is binding. It is not necessary that you accept the buyer's "standard" contract, unless you are perfectly happy with all of its terms. Because agreement is needed, consider negotiating provisions that meet your mutual needs. Many wineries understand and expect some give and take.

## Waiver of Rights

Of late, one of the more common provisions in winery contracts is a provision calling for growers to waive their rights. By doing so the grower is agreeing to be an unsecured creditor of the processor, something growers should be reluctant to do. The waiver of the

rights favors the processor's bank, not the growers who deliver their grapes to the processor. It is usually requested of the winery by its lender.

## Chapter 11 Protections

Sometimes all the care in the world is not enough and the winery files Chapter 11. This is not where the winery or grower wants to be, although it is at least a place with relatively well defined rules and procedures and works to the advantage of those who best know the rules.

Growers facing the prospects of a buyer or processor filing Chapter 11 must act fast. Immediately contact legal counsel with a solid working knowledge of bankruptcy and producer's liens. Either through your attorney or personally:

- Request to be put on the notice list of creditors;
- Notify the debtor that it may not use, sell or dispose of product without your consent or a court order obtained on notice to you with payment of "adequate protection"; and
- Demand that your statutory lien rights, if any, be honored.

Remember, do not idly wait for someone to contact you. Be proactive. Delay favors the debtor not the grower.

Growers in a Chapter 11 situation may consider going together with other growers to seek appointment of a growers' committee, which can hire legal counsel, maybe at the expense of the bankruptcy estate, and negotiate with the debtor and the unsecured creditors' committee to resolve disputes and claims. Remember the debtor's loans are probably personally guaranteed so the guarantor(s) usually prefer to see the bank paid rather than growers. Similarly, unsecured creditors will seek to defeat lien claims to free up proceeds for unsecured creditors.

There is so often a battle over the validity of these statutory liens because others benefit from defeating them. If the lien is defeated the grower will have only an unsecured claim to

be paid after other higher priority creditors.

## Custom Crush Agreements

Also be careful with custom crushing/bottling arrangements. Growers will want to be very clear in their contracts that they own the winegrapes and proceeds; that the grapes, juice, must, etc. shall be kept separate; that the crusher cannot pledge the grapes or proceeds as collateral; and that in the event the crusher files bankruptcy the winegrapes and products are not property of the crusher's bankruptcy estate. Even with these safeguards in place growers must file a motion to lift the automatic stay in the bankruptcy case to retake possession of the juice or negotiate the terms and conditions on which the product can be sold. Remember, also, to follow the steps outlined above about requesting notice and demanding that the product not be used or sold without your consent.

## Conclusion

It is said that eternal vigilance is the price of a good right. This is especially true here. Grape growers have rights but these can be lost due to inaction or delay. By knowing your rights you can best protect your rights. Knowledge is power.

For further information, please contact: Riley C. Walter, Walter & Wilhelm Law Group, The Tower, 205 E. River Park Circle, Suite 410, Fresno 93720; telephone: (559) 435-9800, fax (559) 435-9868 or e-mail riley-walter@W2LG.com.

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# Stop! Before You Choose a Name, Give Some Thought to Trademark Selection, Searching and Registration.

Heather Balmat, Law Office of Heather Balmat

Imagine that you are getting ready to name a new wine that you are about to start selling, or perhaps you are thinking of rebranding your vineyard. What considerations should you keep in mind during your brainstorming and selection process?

It's clear that brand names (trademarks and service marks) are important from a marketing perspective – they communicate a lot about the product, the manufacturer and maybe even the customer. For example, when you select a name for a wine, you are choosing an ambassador to tell the marketplace what you and your wines are all about. Is the name you choose traditional? Irreverent? Silly? Literary? Selecting a brand name is a great opportunity to shape the way you and your products are seen in the marketplace and make them attractive to consumers.

Yet, trademarks serve another important function: they serve as source indicators that let consumers know who is providing the product or service they are buying. In order to do this effectively, a trademark must meet a couple of important criteria: it must be sufficiently distinctive (rather than generic or descriptive), and it must not be confusingly similar to a mark that is already in use in the marketplace. By selecting a mark that meets both criteria – distinctiveness and availability – a mark owner can focus on building his or her brand rather than worrying about whether its trademark is vulnerable to claims of infringement or descriptiveness. Once you have selected and “cleared” your mark, you should consider registering it with the United States Patent and Trademark Office in order to make your ownership of the mark public record and to take advantage of the benefits of federal registration.

## Distinctiveness

The degree to which a trademark is distinctive, rather than descriptive or generic, is an important factor in determining how strong it is. In increasing order of distinctiveness and strength, marks may be:

- **Generic:** generic terms are never protectable as trademarks;
- **Descriptive:** descriptive terms are not protectable as marks initially, but may “acquire distinctiveness” through continuous use over time;
- **Suggestive:** a step up from descriptive, suggestive marks are protectable from the start; or
- **Arbitrary/Fanciful:** marks that are either arbitrary as applied to the goods (Apple for computers) or fanciful (made-up terms like Exxon and Kodak); these are also protectable from the start.

Generic marks (“Wine” for wine, for example) are never protectable. On the other end of the spectrum are arbitrary or fanciful marks, which are the strongest marks and are always sufficiently distinctive to function as trademarks. In arbitrary marks, the words or symbols in the mark have nothing to do with the goods. “Apple” for computers is a classic example. Some real-world examples of arbitrary marks being used for wines include Red Bicycle, Fat Bastard, and Yellow Tail – none of those things have anything to do with wine. Equally strong are “fanciful” marks, which consist of made-up terms, like Exxon or Kodak.

Most marks fall in the “murky middle” of the spectrum – they are neither generic nor arbitrary/fanciful. Instead, they are either descriptive or suggestive. As mentioned above, a descriptive mark is not initially protectable, though it may “acquire distinctiveness” through long use over time, provided no one else is using it for similar goods during that time. Descriptive marks can be attractive from a marketing perspective

because they communicate a lot about the product to the consumer, but they do not make for strong marks and can be difficult if not impossible to enforce, especially in the first years they are used.

Suggestive marks are similar to descriptive marks in that they tell the consumer something about the product, but they do so in a less direct way that requires the consumer to make a few mental leaps to think of the mark might be for. For example, “Tiny Bubbles” for a sparkling wine might be considered suggestive. They are not as strong as arbitrary or fanciful marks, but they can be an attractive option because they still communicate something about the nature or quality of the product without being so descriptive as to be unprotectable.

When thinking of potential names for your wines, aim to select something that falls in the suggestive, fanciful or arbitrary categories, and avoid names that could be considered generic or descriptive.

## Availability

The other major factor to consider when naming your wine is to make sure you pick a trademark that is not identical or similar to another trademark used in the wine industry. This is to avoid confusing consumers as to the source of the wine they are buying. It also helps you to avoid infringing the trademark rights of other parties who may already have earlier rights in an identical or similar mark. Even if unintentional, infringement of another party's mark is not only legally problematic, it can also make the infringer appear to be attempting to trade off its competitors' success. Selecting a mark that not too close to marks already in use in the marketplace will allow you to build your own brand without running the risk of conflict with other mark owners.

## Clearance

So how do you find out if a mark is available? In the United States, you need to search for both registered marks (or pending applications) and common law marks. You can start this process by conducting your own preliminary search of the trademark database on the United States Patent and Trademark Office (“USPTO”) web site ([www.uspto.gov](http://www.uspto.gov)). This will show you if there are identical or near-identical marks being used in the wine industry. If you find a live registration or pending application for the mark covering wine, you should probably move on to another mark. If the USPTO search looks good, you should do an Internet search for the mark in connection with wine. An Internet search will help you identify marks that are being used in commerce, which allows the owners to accrue enforceable common law trademark rights, even if those marks have not been registered. (Note that while federal registration of a trademark is often a good idea, it is not required to have enforceable trademark rights in the United States.)

If your preliminary search of the mark is clean, this is a good start, but it doesn't necessarily mean the coast is clear. Because marks that are similar rather than identical can be considered “confusingly similar,” it is important to conduct a comprehensive search before moving forward with a mark. A comprehensive search covers a number of databases and uses a broad search query to identify existing marks that could create a conflict. Analyzing the results of a comprehensive search to determine the availability of a mark is fairly complicated, and you may wish to enlist the help of an attorney specializing in trademark law to assist

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# Trademark Selection, Searching and Registration

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you. Although conducting a preliminary search is an investment, it is much less expensive than putting time, money and effort into a new mark only to have to start all over when a conflict reveals itself later. In a sense, it is a form of insurance against unpleasant trademark surprises.

## Registration

Once you have selected and cleared a mark, you should consider applying for a federal trademark registration. While not required in the United States, federal trademark registrations provide significant benefits to mark owners, including the ability to use your U.S. registration as a basis for obtaining registrations for your mark in foreign jurisdictions, the right to use the federal registration symbol ®, listing of your mark in the United States Patent and Trademark Office's online databases (which can deter others from adopting similar marks for their goods), and ability to record your trademark registration with the U.S. Customs and Border Protection Service, which helps prevent the importation of infringing foreign goods. In addition, if you have selected a mark but will not be ready to use it in the marketplace for a while, filing a trademark application on an "intent-to-use" basis will enable you to "reserve" it for your future use for a few years.

Making the effort to select a distinctive mark, conduct a thorough search and the file to register it may make the naming process longer and more difficult, but it is worth doing it right the first time.

Law Office of Heather Balmat ([www.balmatlaw.com](http://www.balmatlaw.com))



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## Sustainability Workbook Update & Survey Results

You should have received an email with the updated copy of the Sustainability Workbook by now. We definitely would like all of you to take a few moments to read it, think about how we want to move forward with the project and offer any suggestions to make the workbook more functional. Tremain Hatch, of VA Tech and coordinator of the program, wants to reiterate that this workbook must be developed and enhanced by the members of the Virginia wine industry, so please do become actively involved. You are invited to join the working committee on Wednesday, January 11, 11:00 am at the VT AREC in Winchester VA to further discuss the feedback we have received about the workbook and how to move the project forward. The project will be discussed at the annual meeting in February. The sustainability concept is here to stay and Virginia needs to create its own version of the program that suits our viticulture community. We need your input to make that happen.

### Survey Results:

We had a good response to the survey that was sent out several weeks ago, receiving feedback from nearly 25% of vineyards. I am including the results in their entirety below. Reading others' opinions and suggestions can serve as a springboard for further discussion on how best to move ahead on the project, so we do hope you will take the time to review your fellow growers' responses and be prepared to discuss this at the annual meeting.



### Sustainability Survey Responses:

[http://www.virginiavineyardsassociation.com/wp-content/uploads/2011/11/SurveySummary\\_11102011.pdf](http://www.virginiavineyardsassociation.com/wp-content/uploads/2011/11/SurveySummary_11102011.pdf)

## VVA Sponsored Travel

Turtle Zwadlo

VVA created a questionnaire to determine member's interest. The results are in.

We had 43 members complete the questionnaire, out of approximately 300 dues-paying VVA members, for a response rate of approximately 13%. Respondents were asked to rate their level of interest, from a score of 1 (not at all interested) to 5 (strongly interested). Only the "5s" are discussed below.

Nearly a third of the respondents stated that, if their interests were addressed, they would consider a VVA sponsored tour.

An overwhelming majority said that Time of Year is the most significant factor, and nearly two thirds said winter was the preferred time, while almost half would also consider post-harvest fall.

Slightly more than half said Region, Content, and Price were major factors. Of the regions offered, approximately half chose Bordeaux or Burgundy, while about one-third chose Piedmont Italy or New Zealand.

Approximately half stated that wine tasting and vinification techniques were the most important Content, while about half said the expected cost should be less than \$1500, and another 30% would allow up to \$2500.

Duration was the fourth most cited factor, and approximately half of the respondents preferred a trip of 6-8 days.

As a result of your responses, the VVA board will begin surveying tour operators for a 6-8 day tour of Bordeaux or Burgundy in winter 2013 or late fall 2012, at a cost of less than \$2500. If any VVA members would like to offer input (tour operators, specific locations, activities, etc.), please contact Treasurer Jim Benefiel ([Jim@BenevinoVineyards.com](mailto:Jim@BenevinoVineyards.com)). If you have had a particularly memorable travel experience in Burgundy/Bordeaux or have connections, please, please contact us. If you might consider such travel, and wish to be kept abreast of our progress, send your contact info to [VaVineyardsAssoc@gmail.com](mailto:VaVineyardsAssoc@gmail.com). When contacting us, please use the subject "VVA Travel", so that we can readily recognize and track your interest.



## Calendar

### VASWCD Annual Meeting

December 4 - 6, 2011

Omni Downtown Richmond

The Virginia Association of Soil & Water Conservation Districts will hold its annual meeting at the Omni Hotel – Downtown Richmond on December 4-6, 2011.

Virginia has 6 of the 187 AVA's (American Viticultural Areas) in the United States – 160 vineyards in Virginia ranking it fifth in the USA. The VASWCD annual meeting will have representatives from most or all 95 counties in Virginia representing the Soil and Water Conservation Districts. For more information please contact Kendall Tyree, MPA, VASWCD Executive Director, 7308 Hanover Green Drive, Suite 100, Mechanicsville, Va. 23111 Telephone 804-559-0324 (800-727-6345)

### Commercial Grape Growing Workshop

December 6, 2011

Charlotte County Hunt Club

Dr. Tony Wolf (VA Tech), Bob Jones (Virginia Cooperative Extension), Dr. Mizuho Nita (VA Tech) and Tremain Hatch (VA Tech) will conduct a workshop targeting beginner and prospective wine grape growers on 6 December 2011. This full-day course will provide an overview of commercial wine grape vineyard development and basic operations including economics, grape marketing, equipment needs, site evaluation and preparation, planting, young vine care, with a specific focus on the wine grape variety Norton. The information gained from this workshop will provide a foundation upon which you can build your vineyard project. Classroom instruction will be followed by a visit to a commercial vineyard in Charlotte County. Be prepared to go outside rain or shine.

Directions: From Charlotte Court House take VA-40 (west) go 12.9 miles turn left onto Mt. Carmel Rd. go 0.3 mi. Take the 1st. right onto Hunt Club Lane.

Cost: \$35 per person (payable "Virginia Tech Foundation") if registration is received by 1 December. Registration includes morning coffee, lunch and notebook. Mail check with name(s) of attending person(s) to: Tremain Hatch, Virginia Tech, 595 Laurel Grove Rd., Winchester VA 22602. Cost is \$50 per person if received after 1 December, or if paying at door.

### Sustainable Viticulture Workbook Industry Steering Committee

January 11, 2012

Alson H. Smith, Jr. AREC

Now that the 2011 harvest is behind us – we are recirculating the Sustainable Viticulture Workbook. The project has been an industry initiative from the start, and will continue to need input from end-users such as you, and from an industry steering committee.

We would like to receive comments back on this version of the document prior to January 2012. Please use the workbook in assessing the sustain-

ability of your own vineyard and let us know about your experience. What worked, what didn't, and what would you like to see that was not included here? Please submit feedback to [thatch@vt.edu](mailto:thatch@vt.edu).

Your input will help determine the next steps of this initiative. Let us know what you would like to see in a future phase of this project. Let us know if you are interested in joining a core committee that will meet to move this project forward at 11:00 am Wednesday, 11 January 2012 at the AHS Jr. AREC in Winchester VA. All feedback will be organized and shared anonymously with the core committee in January 2012.

### VVA Annual Technical Meeting

February 2-4, 2012

Omni Charlottesville

Join us for our Annual Technical Meeting & Trade Show.

Vendors the registration form is available on-line

<http://www.virginiavineyardsassociation.com/events/upcoming/>

More details to follow.

### Wines and Vines Day at the Capitol

February 9, 2012

General Assembly and State Capitol

Meet with House Members and State Senators to promote the wine industry and voice your opinion about critical issues.

### Eastern Winery Exposition

March 7-8, 2012

Lancaster County Convention Center

The Eastern Winery Exposition is a two day expo for the wine industry. Featuring over 100 vendors and seminars discussing Enology, Viticulture, Wine Business and Marketing. There are also sessions specifically for the new grower as well. Visit their website for registration and lodging details.

### Wineries Unlimited

Conference: March 27-29, 2012

Trade Show: March 28-29, 2012

Greater Richmond Convention Center, Richmond, VA

Join us as Wineries Unlimited celebrates its 36th year. This is the largest, longest running, and most powerful wine industry event in the eastern US.

Early Birds Save by 1/31/12

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