

STATE OF CALIFORNIA  
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

CERTIFICATE OF DECISION

FILE: 17/20-364998  
REG: 00049322

It is hereby certified that the Department of Alcoholic Beverage Control, having reviewed the findings of fact, determination of issues and recommendation in the attached proposed decision submitted by an Administrative Law Judge of the Administrative Hearing Office, adopted said proposed decision as its decision in the case therein described on October 19, 2000.

THIS DECISION SHALL BECOME OPERATIVE **DECEMBER 4, 2000.**

Sacramento, California  
Dated: October 19, 2000

Rheba Chastain  
Supervisor, Hearing and Legal Unit

Any appeal of this decision must be made in accordance with Chapter 1.5, Articles 3, 4 and 5, Division 9 of the Business and Professions Code. For further information, call the Alcoholic Beverage Control Appeals Board at (916) 445-4005, or mail your written appeal to the Alcoholic Beverage Control Appeals Board, 660 J Street, Suite 443, Sacramento, CA 95814.

ABC-127 (9/00)

BEFORE THE  
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
STATE OF CALIFORNIA

In the Matter of the Protest of:

David Blasko, et al

3493 Soda Canyon Road

Napa, CA 94558

Against the Issuance of a

Beer & Wine Wholesaler License/

Off-Sale Beer & Wine License To:

Krupp Brothers, LLC

Krupp Brothers

3265 Soda Canyon Road

Napa, CA 94558

File: 17/20-364998

Reg: 00049322

License: 17/20

Pages: 40

Reporter: Sims & Sims

**PROPOSED DECISION**

Robert R. Coffman, Administrative Law Judge of the Alcoholic Beverage Control, Administrative Hearing Office, heard this matter on October 3, 2000, in Napa, California.

John Peirce, Staff Counsel, Department of Alcoholic Beverage Control, represented the Department.

Jay M. Behmke, Attorney at Law, represented the applicant Krupp Brothers LLC.

Protestants Cheryl Hankins and Paul M. Doucette were present, but were not otherwise represented.

There was no appearance by or on behalf of protestants David Blasko, Reyna Blasko, John Harrison Cohn, Ed Johnson, Julie Johnson, Jeanne Mason Chasey, Gloria Maring, Raul Maring, Joseph C. Ramos, Dorothy Lee Ramos, Joseph A. Schreuder and Mary L. Schreuder. Joseph and Mary Schreuder submitted a Declaration, outlining their opposition to the issuance of the license. Their Declaration was considered along with their protest.

## FACTUAL FINDINGS

1. The proposed premises is located at 3265 Soda Canyon Road in an unincorporated area of Napa County. The proposed premises is approximately six miles from Silverado Trail, a north-south thoroughfare that is east of Highway 29, and is accessible from Silverado Trail by a steep, narrow, winding road. The elevation rises approximately 1,450 feet from Silverado Trail to the proposed premises.

The proposed premises is a business office located on the first floor of a two story residence. Alcoholic beverages will not be offered for sale at the premises or stored at the premises. Transactions related to the sale of wine will be conducted solely by mail, telephone or computer.

2. Napa County issued applicant a use permit for the business use of the premises, but with several conditions and restrictions including the following: only a 221 square foot portion of the residence may be used for the business and no business related visitors are allowed at the premises.

3. Applicant has petitioned for a conditional license that includes the following conditions:

(a) Subject premises will be solely a business office and no alcoholic beverages will be possessed, stored, or delivered from this location, nor shall there be any direct sales to consumers or retailers from this location.

(b) The off-sale beer & wine license shall be held only in conjunction with, and at the same location as, a beer and wine wholesale license.

(c) The off-sale beer and wine license shall be restricted to sales solicited and accepted by direct mail, telephone, or on-line computer. The off-sale beer and wine license shall not be used for operations conducted from a retail store open to the public.

4. Protestants live on Soda Canyon Road in the vicinity of the proposed premises. No residence is within 100 feet of the proposed premises. Access to protestants' residences is by the same road as described in Finding 1.

Protestants are opposed to the issuance of the license on the grounds that issuance would aggravate a very bad traffic problem caused by vehicles using the above road, including heavy trucks involved in construction work in the area, vehicles of construction workers, agricultural workers, and winery workers. This traffic has created a dangerous condition on a winding, narrow, steep road that is also used by school buses.

Protestants believe that issuance of the license would attract persons seeking to purchase wine at the premises. Even if applicant is unable to conduct such transactions at the

premises, protestants are fearful that issuance of the license would be a foot in the door for future development in the area, including a winery operation and other tourist attractions. They also fear that the use of heavy equipment, necessary for further development projects and to crush grapes, would create an even more dangerous road condition.

Protestants are further concerned about the area being developed into more tourist attractions that would endanger the environment of the area

5. Business and Professions Code section 23958.4, dealing with undue concentration of licenses, and section 23817.5, placing a moratorium on the issuance of original off-sale beer and wine licenses, are not applicable to the instant application in that it comes within the exception specified in section 23817.8, i.e., the license shall be restricted to sales solicited and accepted by direct mail, telephone, or on-line computer.

### LEGAL CONCLUSIONS

1. Evidence clearly established that the issuance of the license with the conditions set forth in the two petitions for conditional license (Exhibits 3 and 4 herein) will not cause or aggravate any of the problems or potential problems or conditions raised by the protestants. The granting of the license would not be contrary to public welfare and morals under section 23958 of the Business and Professions Code and Section 22 of Article XX of the State Constitution.

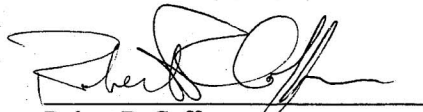
2. Protestants' concerns about the changing nature of the Napa Valley environment are legitimate ones. They cannot be faulted for their interest in this application and their overall concerns about developments in their county, including the proliferation of "tourist theme parks" and "concession stands" that go by the appellation of "boutique wineries." However, issuance of the applied for license, with conditions, will not affect the changing nature of their county.

### ORDER

1. The protests are overruled.
2. The application is granted, subject to the conditions set forth in the petitions for conditional license.

Dated: \_\_\_\_\_

October 3, 2000.

  
Robert R. Coffman  
Administrative Law Judge

**BEFORE THE**  
**DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL**  
**OF THE STATE OF CALIFORNIA**

In the Matter of the Protest of:

David Blasko, et al  
3493 Soda Canyon Road  
Napa, CA 94558

File: 17/20-364998  
Reg.: 00049322

AGAINST THE ISSUANCE OF A  
BEER & WINE WHOLESALER AND AN  
OFF-SALE BEER & WINE LICENSE TO:

Krupp Brothers, LLC  
Krupp Brothers  
3265 Soda Canyon Road  
Napa, CA 94558

**DECLARATION OF  
SERVICE BY MAIL**

under the Alcoholic Beverage Control Act.

I am over eighteen years of age, and not a party to the within cause; my business address is 3810 Rosin Court, Suite 150, Sacramento, California 95834. I served by X-CERTIFIED & \*-REGULAR mail a copy of the following documents:

**DECISION**

on each of the following, by placing same in an envelope(s) addressed as follows:

- \*-Krupp Brothers, LLC, Krupp Brothers, 3265 Soda Canyon Road, Napa, CA 94558
- \*-Jay M. Behmke, Attorney at Law, 930 Valley View Road, Healdsburg, CA 95448

**X & \*-SEE ATTACHED LIST**

Each said envelope was then, on October 19, 2000 sealed and deposited in the United States Mail at Sacramento, California, the county in which I am employed, with the postage thereon fully prepaid.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 19, 2000 at Sacramento, California.

  
Declarant

ATTACHMENT TO DECLARATION OF SERVICE BY MAIL

KRUPP BROTHERS LLC

File 364998; REG.00049322

October 19, 2000

Page 1 of 1

\*-David Blasko  
3493 Soda Canyon Road  
Napa, CA 94558

\*-Reyna Blasko  
3493 Soda Canyon Road  
Napa, CA 94558

\*-John Harrison Cohn  
1355 Loma Vista Drive  
Napa, CA 94558

X-Paul M. Doucette  
3240 Soda Canyon Road  
Napa, CA 94558

X-Cheryl Hankins  
3354 Soda Canyon Road  
Napa, CA 94558

\*-Ed Johnson  
3540 Soda Canyon Road  
Napa, CA 94558

\*-Julie Johnson  
3540 Soda Canyon Road  
Napa, CA 94558

\*-Jeanne Mason Chasey  
c/o Johnson  
3540 Soda Canyon Road  
Napa, CA 94558

\*-Gloria Maring  
3516 Soda Canyon Road  
Napa, CA 94558

\*-Raul Maring  
3516 Soda Canyon Road  
Napa, CA 94558

\*-Joseph C. Ramos  
2929 Soda Canyon Road  
Napa, CA 94558

\*-Dorothy Lee Ramos  
2929 Soda Canyon Road  
Napa, CA 94558

X-Joseph A. Schreuder  
2882 Soda Canyon Road  
Napa, CA 94558

X-Mary L. Schreuder  
2882 Soda Canyon Road  
Napa, CA 94558