

## **Calaveras Cannabis: Public Debates Future Role in State's Fast-growing Industry**

Calaveras Enterprise  
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Trevor Wittke's vision for marijuana in Calaveras County is one that resembles that of a Napa or Sonoma area wine region, where high-end agritourism could draw thousands to indulge where cannabis is grown best.

Though he did not think any "on-site consumption" would be possible, people would be able to see how plants are grown, learn about day-to-day operations, interact with experts and maybe even take something home from the gift shop.

There's a market for those who want to see a farm, he said. It would be no different than a wine vineyard, just in a smaller footprint.

"When my wife and I go to Mendocino, she goes to a winery. I go meet people with cannabis," said Wittke, the recently appointed executive director of the Calaveras Cannabis Alliance. "People will like to go to a farm and see what a legal, safe operation is."

The details are part of a vision some five or 10 years out if permanent regulations were to somehow play out in Calaveras County.

In that time, Wittke said Calaveras, expected to be much smaller than Humboldt, Mendocino and other growing areas within the "Emerald Triangle" cannabis region, would be able to develop a niche similar to Murphys' role among the prominent wine regions in the state.

The distinction would come from the superior quality of the plant. The climate in Calaveras, very hot and dry, allows for a flower that is very golden and dense. Given the lack of humidity, it remains relatively dry throughout the farming process.

"We're able to pull very large, very dense flowers without mold and fungal problems. It makes it so some of our finest herbs are viable," Wittke said. "In other areas, the largest and most dense and desirable flowers end up rotting. That makes it so they have to harvest early or select other varieties that can't get as large or chunky."

### **Building a brand name**

Quality will be the focus of the area, in the years following regulation, Wittke said. Entities throughout the state will have the capacity to produce the product on a mass scale. Calaveras cultivators will emphasize potency, something that's becoming increasingly important he said.

“We need to focus on quality if we’re producers. That’s where the full aesthetic experience (from the potency) comes in,” Wittke said. “We’re not situated to compete with the Central Valley areas in mass production. We need to be branding ourselves now, getting out there and letting people know Calaveras cannabis is the best.”

Calaveras County is not well positioned in terms of geographics. It is a lengthy detour away from the major California highways. Areas within many of the popular cannabis regions have a jump on Calaveras because they are connected via such corridors.

“The way Calaveras County could benefit from the cannabis industry is if they get out ahead of the ball before some of these places come online because Calaveras is not customarily going to be seen as the name-brand Napa Valley of cannabis initially,” Wittke said. “The only way we can end up being seen as Napa Valley is if we get a foot in the door, establish an appellation varietal and actually get recognized as a place developing high quality cannabis at the opening of the market.”

The “opening of the market” concept refers to the start of 2018 when the state begins handing out licensure for cannabis and other related activities. It would come after a time when conflicting legislation regarding medical and adult-use recreational marijuana is harmonized.

It’s important because Calaveras, currently ahead in priority than other larger jurisdictions for the state licensing process, will have the ability to legally operate throughout the state and legitimately market and sell to dispensaries around the state.

“Calaveras will be able to build a name for itself,” Wittke said.

None of this will really matter if Calaveras decides to ban the industry, something a majority of the county’s Board of Supervisors has expressed intentions to do with a proposed moratorium.

## **Prohibition history**

Mike Renner, the former interim director of the Calaveras County department in charge of civil and code enforcement for the cannabis program, said a ban would not work.

“My personal opinion is that throughout history, prohibition has proven time and time again it’s not going to work. It’s the same thing in this instance,” said Renner, who headed the county’s building department throughout the lifetime of the urgency ordinance. “If you think about it the way we’re thinking about it, cannabis has been banned in this county for many years. That did not make it any less accessible. It didn’t keep anyone from growing.”

“I think if the board decides to ban it at this point, they would be asking code enforcement (enforcing civil violations), the sheriff (enforcing the criminal violations) and all the other county agencies involved in the program to enforce something with less resources than we have now; it’s an impossible task. It’s setting the county up for failure.”

Regarding resources available to enforce a ban, county code enforcement may take the largest hit from an efficiency standpoint. Currently staffed at six enforcement officers funded largely by monies obtained from urgency ordinance application fees, the department will see its staffing shrink by half if cannabis is banned.

That means three code enforcement officers would be in charge of addressing every civil infraction that would come from cannabis (and every noncannabis related civil enforcement problem throughout Calaveras as well).

At that point, the issue could be black and white. Unless there is a criminal component to a grow, code enforcement would take the lead in addressing any grow that is determined to be out of compliance (meaning someone is growing more than the six plants authorized via Proposition 64).

Renner said it would be much “cleaner” to deem each grow a nuisance and attempt to abate it if no criminal component is involved. He did not know what the disparity would be of criminal-to-civil violators in relation to the code.

The nuisance abatement process through code enforcement would begin either when a violator is cited via a citizen complaint or aerial imagery captures the violation. In the event of a ban, the county would provide a timeline to comply to remove or reduce plants to six before abatement.

“If they don’t comply, a code enforcement officer goes out with the sheriff and private contractors and abates the nuisance,” Renner said. “I.E., they pull the plants.”

Even with a ban, however, abatement efforts pause and cultivation could continue with an appeal of the violation, Renner said.

### **Appealing a violation**

Renner said those growers who appeal the notice of violation for a nuisance would be able to continue to grow marijuana, even if cultivation is prohibited in Calaveras.

Currently, the length of time existing cultivation could continue before abatement is executed remains relatively short. A recently adopted nuisance abatement process has expedited all judiciary hearings to about two weeks. Abatement activities likely occur after a legal determination is made.

The new process consolidated all judicial duties relating to the nuisance abatement process to an administrative hearing board that has been delegated authority to make final determinations on nuisances related to cannabis.

It replaced an outdated and bloated system that took up to 90 days to come to a resolution when an appeal had to pass through the previous hearing board, the Calaveras County Planning Commission, and the Calaveras County Board of Supervisors.

Ethan Turner, a deputy county counsel, said those served with a notice of violation in the previous system could appeal the determination within 25 days. The appeal would be heard by the Planning Commission acting as the administrative hearing body at a scheduled meeting date. An appeal after that would be directed to the Board of Supervisors during a different scheduled meeting date. Only after the whole process concludes could abatement occur.

“In the summer of 2016, Calaveras County received over 400 complaints, yet carried out approximately four-to-six abatement orders. The public found it infuriating and county staff found it embarrassing and frustrating,” Turner said. “The slow response rate and slow-moving process was attributable to the county’s outdated nuisance abatement protocol, ... which was not designed to handle the unique demands of a cannabis regulatory program.”

Under a new system, implemented about a month ago, abatements occur at a much faster pace. Renner said the county has the capacity to eradicate up to 15 noncompliant grows per week.

Turner said the current nuisance abatement system will continue, even if cannabis cultivation is banned. It is a process approved permanently by the Board of Supervisors. But that doesn’t mean the county will have the resources to continue to employ the system.

Ultimately, the administrative hearing board, made up of lawyers contracted to be the administrative hearing bodies, costs money. Renner said Calaveras, which just approved a preliminary budget with a general fund shortfall of \$3 million even with using some Measure C marijuana tax funds, may not have the resources to continue the program if the revenue stream from cannabis disappears with a ban.

Turner said there would be an opportunity for the county to pursue cost recovery mechanisms like administrative fines and assessment liens for the cost of abatement, but the program would need continued financial support.

If the county is unable to fund the program, Renner said administrative decisions for nuisance abatement processes could return to the Planning Commission and Board of Supervisors. Cultivation activities would continue as the lengthy appeal process plays itself out.

Even then, a ban might not be successful. Renner said many growers out of compliance with a ban would be able to harvest within 90 days.

In that window, they could harvest their crop and leave, Renner said.

### **Calaveras trailblazers**

Calaveras contradicted a trend last year when supervisors approved an urgency ordinance to permit commercial cannabis cultivation, Ben Bradley, operations director for the California Cannabis Industry Association, said.

He said many areas throughout the state have been conservative and restrictive with their laws to start off. A common theme has been to impose a ban or moratorium on cannabis and develop a system of regulations later on.

Paul Smith, vice president of governmental affairs with the Rural County Representatives of California, said many counties have decided against sanctioning commercial activities.

Calaveras appears to be almost alone among counties in deciding to permit marijuana activities, then threatening to impose a ban later on. But there are others.

Bradley referred to legislation passed by the San Diego County Board of Supervisors in March that banned all marijuana operations, dispensaries and other entities when it already had two dispensaries operating in the unincorporated area of its county.

He said any jurisdiction that took money from an entity in order to partake in an activity would be at risk of legal action if they decided to revoke privileges a short time later. Last year, Calaveras County received \$3.7 million in registration fees from cannabis cultivators to grow in the county.

“You have these businesses hire consultants to apply and put together their applications and give application fees,” said Bradley. “They have that all revoked over a ban? It would be very likely for the companies to pursue legal action.”

Bradley said the potential for a lawsuit could remain even if Calaveras elects to return whatever is unspent in urgency ordinance application fees to cultivators in the event of a ban. He said cultivators invested money into the application process. That money would not be returned.

“Those cannot be returned,” Bradley said.

County supervisors are expected to decide whether to ban commercial cannabis grows sometime in the next few months.

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