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Appellant Opposition Letter



WATER AUDIT CALIFORNIA

A PUBLIC BENEFIT CORPORATION

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June 4, 2025

County of Napa
Board of Supervisors
1195 Third Street
Napa, CA 94559

Sent via email to:

Laura.Anderson@countyofnapa.org, clerkoftheboard@countyofnapa.org

RE: Sattui Appeal Process

Dear Ms. Anderson and Board of Supervisors:

As you are aware, Water Audit California (“Water Audit”) currently has a timely submitted and pending appeal of the April 2, 2025, decision of the Napa County Planning Commission to adopt the Dario / Sattui / Castello Di Amorosa Use Permit Major Modification Application #P19-00459-MOD.

We are in receipt of Ms. Anderson’s recent communications, which state that Staff intends to request that the Board of Supervisors (“BOS”) remand the matter back to the Planning Commission “on the topic of groundwater” and that “[t]he appeal would remain in abeyance until the updated WAA has been considered by the Commission.”

We have carefully reviewed Napa County’s appeals ordinance, as set forth in Chapter 2.88 of the Napa County Code and found no provision that authorizes a remand outside of the scope of the full appeal process. Specifically, the mandatory process prior to appeal hearing includes:

2.88.050 Appeal packet and payment of fees and costs

2.88.080 Scheduling and notice of the hearing; Prehearing conference.

2.88.085 Mandatory prehearing conference procedures.

2.88.090 Hearing—Conduct and procedures—Decision.

A. Standard of review. The board shall exercise its independent judgment, based on substantial evidence on the record on appeal, or such extrinsic evidence as

may be allowed pursuant to this Section, in determining whether to grant or deny the appeal, or remand the matter, in whole or in part, to the decision maker.

We have also reviewed Part I: Section 8B, Rules 13-17 (i.e. Rules of Conduct and Business before the BOS), which include the preparation of certified transcripts (required prior to hearing of appeal), and procedures for testimony provided and evidence submitted for the appeal hearing.

Only after hearing, as provided in 2.88.090, and after the aforementioned appeal procedure, does the code and/or rules provide for remand by the BOS (Napa County Code, Chapter 2.88.090, C.)

As Water Audit noted in both its comment letter to the Planning Commission for its hearing on April 2, 2025, and in this appeal before the BOS, its principal objection to this Application is to the failure of Napa County to consider the impact of this project on the public trust interests by the depletion of water resources. Specifically, Water Audit noted that there was no metering data and no pumping data for the project wells. Now it appears Water Audit's concerns were validated, and that groundwater use exceeded that what was avowed in the WAA, resulting in Staff's and the Planning Commission's failure to adequately consider the County's public trust responsibilities.

However, as opposed to bringing the process to a full hearing before the BOS, or the Applicant simply withdrawing the appeal (as happened with Inglenook), and granting Water Audit's appeal, the County plans to provide the Applicant a "do-over" and disregard Water Audit's investment of time and money in bringing this appeal.

Furthermore, based on new evidence and a possible new decision by the Planning Commission, Water Audit's current claims for appeal may be inapplicable, which will necessitate an additional expenditure of time and money to modify the appeal. It is also possible, although unlikely, Water Audit might conclude that a second appeal is not necessary. Regardless, a remand at this juncture in the process is highly prejudicial to the rights of an appellant, and highly biased towards an individual applicant.

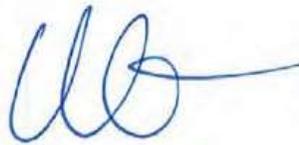
It is our considered opinion based upon more than a year of consistent effort, that the County of Napa has engaged in conduct that violated constitutional rights during administrative proceedings. The decisions of the County of Napa's Planning Commission and the Board of Supervisors on land use proposals and entitlements, including Use Permits and Exceptions, Subdivisions and Parcel Maps are adjudicative proceedings. Under the U.S. Constitution and the California Constitution, due process of law provisions applies to adjudicative proceedings (see 1 California Environmental Law

& Land Use Practice § 10.04 (2025).) The County of Napa has had a longstanding policy, custom and practice to exclude due process in administrative proceedings by arbitrarily and capriciously not following its own code, ordinances, and rules. The right to due process, especially during processes that impact public trust resources, is inherently protected by the Constitution. Napa County, acting under the color of law, has deprived Water Audit of its rights under the Constitution in this matter and in numerous other matters previously brought to your attention

As Einstein stated, one cannot solve a problem on the same level on which it was created. We have caused this series of problems to be brought to each Supervisor's attention, and yet with minor inconsistent improvement, the underlying problems remain the same. It appears that Water Audit is left with only two alternatives: let the present substandard conduct to continue injuring the public trust, or to do something different on a different level.

We look forward to observing your attention to this matter.

Respectfully,



William McKinnon
General Counsel
Water Audit California