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Staff Response to the Grounds of Appeal

GROUND OF APPEAL:

The following outlines the basis of the appeal as contained in Appellant Water Audit California Appeal dated May 30, 2024 (See **Attachment A.**). For convenience, staff has provided a summary below, but recommends the Board review the actual Water Audit California Appeal for details.

Appeal Ground No. 1: Appellant Water Audit California asserts that the County has failed to properly circulate the project documents to secure regulatory agency approvals.

Staff Response:

Contrary to Appellant's assertion, State and Federal agencies were provided the opportunity to review and comment on the Project. The State Clearinghouse (SCH) within the Governor's Office of Planning and Research (OPR) is responsible for managing the State's environmental review process under CEQA. CEQA and the state CEQA Guidelines require lead agencies to file or submit many types of environmental documents to OPR under certain circumstances, including draft Negative Declarations. Appellant misunderstands which documents are required to be submitted to SCH. Only actual CEQA documents such as Notices of Determination, Notice of Preparation, Notice of Exemption, and draft environmental documents are to be sent. The entire project record does not get uploaded to SCH. That is not the purpose of SCH and their own guidance documents make clear which documents are properly submitted.

The Initial Study/Negative Declaration (IS/ND) was submitted to the State Clearinghouse on March 13, 2024, SCH No. 2024030466 for review by the following agencies:

California Air Resources Board (ARB), California Department of Fish and Wildlife, Northern and Eureka Region 1 (CDFW), California Department of Forestry and Fire Protection (Cal Fire), California Department of Parks and Recreation, California Department of Transportation, District 4 (DOT), California Department of Water Resources (DWR), California Highway Patrol (CHP), California Native American Heritage Commission (NAHC), California Natural Resources Agency, California Regional Water Quality Control Board, San Francisco Bay Region 2 (RWQCB), California State Lands Commission (SLC), Department of Toxic Substances Control, Office of Historic Preservation, State Water Resources Control Board, Division of Drinking Water, State Water Resources Control Board, Division of Water Quality.

Furthermore, Cal Fire and the newly staffed Fire Marshal's office review all discretionary development projects like wineries, and provide comments typically in the form of a memorandum with conditions of approval. The application was sent directly to Cal Fire for review at the same time the application was sent for review to all other internal County Divisions. Cal Fire issued a memorandum, dated October 10, 2020, with their recommended conditions of approval (**see Attachment E**).

The County did not circulate the IS/ND to the City of St. Helena as there are no proposed changes to the existing domestic residential water services that are provided by the City. The proposed winery project and the existing vineyard rely on two existing wells of which the City has no permitting or regulatory authority.

Furthermore, comments were received from both Caltrans and the State Water Resources Control Board (Waterboard) providing guidance to the applicant to ensure any permitting or notification requirements are met. The comment letters were provided to the applicant's team and to the Planning Commission for the hearing on April 17, 2024, and May 1, 2024.

Appeal Ground No. 2: Appellant contends that there is no proven water source for the project. Water for the project is represented to be supplied by a "will serve" letter from the City of St. Helena ("CSH"). No such letter was provided to the Planning Commission; only a request for a will serve letter is part of the packet. The existing water supply agreement with CSH states that it is for fire suppression only.

Staff Response:

As detailed in the IS/ND, the project analyzed the existing water sources for the winery and the vineyard, as well as the proposed increases in production, employees, visitation and marketing as using groundwater from two existing wells. Water from the City of St. Helena serves the existing residence, pool, and is used for domestic irrigation, none of which are part of the proposed project. Although a will serve letter was not provided as part of the application, Jon Webb, the project representative, submitted a billing statement from the City of St. Helena into the record during the Planning Commission hearing on May 1, 2024. The billing statement included monthly domestic water use for the residential uses on the property, including the residence, domestic landscaping and pool with associated charges dating back to 2005.

Additionally, during review of the application materials, staff reviewed the County's GIS layer that outlines parcels overlain by a water service district as mapped by the Local Agency Formation Commission of Napa County, also referred to as LAFCO.

Appeal Ground No. 3: Appellant asserts that the application is incomplete for a private water source. In 2019 the Environmental Health Services commented in a P19-00101 Application Status Letter that application was INCOMPLETE: "Because the total number of users (combined employees, visitors and residents and/or the total number of employees and residents) proposed exceeds 25 on a peak day, the water supply and related components serving this facility will have to comply with the California Safe Drinking Water Act and related Laws. If the existing water sources will not meet the construction requirements for a regulated water system, a new well (source) may have to be developed. Please review the enclosed information and prepare the required water system feasibility report as outlined in the enclosed handout."

Staff Response:

Water for the project is from existing groundwater well(s) as identified in the project description, the staff report, the IS/ND, and supporting Water Availability Analysis (WAA) prepared by Richard C. Slade & Associates. As mentioned previously in Staff Response Appeal Ground No. 2 above, water from the City of St. Helena serves the existing residence, pool, and is used for domestic irrigation, none of which are part of the proposed project. In response to the 2019 Application Completeness Letter, application and supplemental documents were submitted and

reviewed by the Environmental Health Division and determined to be complete to approve with conditions of approval outlined in the memorandum (see **Attachment E**), dated November 27, 2023. The Environmental Health memorandum includes Condition No. 4 which was included to ensure compliance with the California Safe Drinking Water Act and Related Laws, including the notification deadlines for submittal of a technical report to the State Resources Control Board, which was reiterated in a comment letter provided by the Waterboard on April 5, 2024. The Environmental Health memorandum also states that the Division has no objections to approval of the application subject to the conditions recommended in the memorandum.

Furthermore, in compliance with Title 22, California Code of Regulations (CCR) Section 64554, the Winery will be required to provide a pump test for the public water system permit. There is no connection to the Tier 2 analysis for the WAA; however, the pump test can also satisfy the water system pump test, so long as the test is performed in accordance with Title 22. The process for the pump test depends upon the geology of the area where the well is constructed. Environmental Health requires a technical report and plans with pump test prior to issuance of a building permit. A public water system pump test and technical report are not typically required during the Use Permit process.

Appeal Ground No. 4: Appellant contends that the well pumping data from a single well is inadequate for a public water system.

Staff Response:

The Appellant mistakenly states that the well data from a pump test is inadequate for the public water system. The requirement for a public water system is triggered by the total number of users, and the project's maximum day demand (MDD). The total number of users includes the combined employees (full time and part time), visitors and residents, and/or the total number of employees and residents. If the total number of users exceeds 25 on a peak day over a 60-day period, the water supply and related components of the facility will have to comply with the California Safe Drinking Water Act and Related Laws.

State Water Resources Control Board, Division of Drinking Water has delegated authority to Napa County to oversee water systems with less than 200 service connections in Napa County. A water system serving only one parcel is a service connection. In the instance of a large community system such as the City of Napa, each individual house is considered a service connection. A water system" means a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. (Cal.Health & Safety Code § 116275(h).) A transient noncommunity water system is defined as a public water system that is a noncommunity water system and does not regularly serve at least 25 of the same persons over six months per year. (Cal.Health & Safety Code § 116275(o).)

Here, the William Cole Winery water system is not a community water system. The winery requires a transient noncommunity water system because it has fewer than 25 employees, even with the proposed expansion beyond existing winery use permit entitlements. Additionally, it will host public wine tastings for at least 25 visitors daily for a minimum of 60 days each year. Pursuant

to Section 64554 of Title 22, a public water system must have the capacity to meet the system's MDD. The MDD for a system with less than 1,000 service connections shall be required to have storage capacity that is equal to or greater than the MDD, unless the system can demonstrate it has an additional source of supply or has an emergency source connection that can meet the MDD requirements.

As the local primary agency, the Napa County Planning Building and Environmental Services' Division of Environmental Health is the permitting agency for the proposed public water system. The project, as approved by the Planning Commission on May 1, 2024, included recommended Conditions of Approval from Environmental Health, with condition of approval No. 4 outlining the requirements for a public water system. Also refer to Staff Response to Grounds of Appeal #2 above.

As part of the process for obtaining a permit for a public water system, the Environmental Health Division requires the applicant to submit plans and a technical report completed by a licensed engineer with experience designing water systems. The plans and technical report must be submitted, reviewed, and approved prior to obtaining a building permit. If any modifications are required to the water system, the improvements must be inspected and finalized before final occupancy. An annual operating permit must be obtained. The subject project will require a building permit to convert the existing agricultural barn to a winery. Please also refer to Staff Response to Appeal Ground No. 3 above.

As for the well pumping data, the Water Availability Analysis Guidance Document, adopted May 12, 2015, states that the project is subject to preparing a Tier 2 analysis as the Project well is located within less than 500 feet of both onsite and offsite non-project wells. The Criteria does not require testing of all onsite wells, but rather that onsite or offsite wells under common ownership within 500 feet of the Project well may be assessed for potential drawdown.

Appeal Ground No. 5: Appellant asserts that the Conditions of Approval are not consistent with the Caltrans comments and requirements.

Staff Response:

The County received two comments from Caltrans; the first was submitted via email on March 29, 2024, to address highway operations and traffic safety, hydrology, encroachment permit, equitable access and construction related impacts. A second comment letter was submitted via email, received on April 11, 2024, to address design features, including consideration of pedestrian accessibility and sight distance for vehicles existing the proposed driveway.

The project proposed onsite improvements to the existing driveway and internal circulation, required by the Napa County Roads and Street Standards. The required improvements included widening the driveway within the boundary of the parcel from 20 feet to 25 feet. This section of driveway widening would include a section located approximately 84 feet from the property boundary, north of the shared driveway, adjacent to the winery and proceed north to the barn where additional improvements are proposed. Those improvements included additional widening and applying gravel to the emergency vehicle turnaround, also known as a hammerhead.

Conditions of approval were provided by the Engineering Division in a memorandum dated, November 9, 2023, also included as part the project Conditions of Approval. The memorandum included requirements to obtain a grading permit prior to reconstruction of the driveway including all civil improvements to comply with the Napa County Roads and Street Standards, as well as Chapter 16.28 of the Napa County Code, and Appendix J of the California Building Code, which are designed to prevent stormwater issues. As outlined in the Engineering Memorandum, Conditions of Approval Nos. 5 through 7 require submission of documentation detailing erosion control measures, a Regulated Project Stormwater Control Plan, and an Operation and Maintenance Plan, which in combination are designed to reduce stormwater issues resulting from the proposed site improvement and ongoing maintenance.

Regarding Caltrans comments about traffic safety, encroachment permits, and access to the property from Highway 29, the application included a trip generation sheet with the existing and proposed vehicle trips. The County maintains a set of Transportation Impact Study Guidelines that define situations and project characteristics that trigger the need to prepare a Traffic Impact Study (TIS). Per the County's current TIS Guidelines dated February 2022, a project is required to prepare a TIS if it generates 110 or more new daily vehicle trips. The proposed project would not result in increases in daily vehicle trips beyond the 110 thresholds; therefore, a TIS was not required, nor did the total number of trips trigger the need for improvements to the existing shared driveway that would necessitate an encroachment permit or safety measures where the access connects with from Highway 29.

Appeal Ground No. 6: Appellant contends that the Conditions of Approval did not incorporate the Cal Fire comments regarding the proposed change in occupancy to create a second floor tasting room in the “barn.”

Staff Response:

The Cal Fire memorandum erroneously references conversion of the existing barn to include public space such as a tasting room. The application does not propose changes to the existing winery that would result in relocating or adding an additional tasting room to a 2nd floor of the barn. The existing agricultural barn has a single floor with an area of approximately 3,120 square feet. The project proposes to change the use of the barn from agriculture to winery barrel and production space. The application did not propose additional alterations to the barn, nor did the application request the barn to include public spaces such as a tasting room. The proposed uses of the barn would be for production, fermentation, barrel storage, aging and bottling only. The project as presented and approved by the Planning Commission on May 1, 2024, represents modifications to the existing Use Permit as proposed in the application material, as well as improvements specified in the Final Conditions of Approval (see **Attachment E**).

Appeal Ground No. 7: Appellant asserts “that the Conditions of Approval did not provide the necessary and conceded provision for the preservation of cultural resources.”

Staff Response:

The project does in fact contain conditions protecting potential discovery of cultural resources. The project site has largely been previously disturbed, including the area of proposed driveway widening. If during construction archeological resources are discovered, both the IS/ND and the Conditions of Approval included standard conditions on how to handle such discoveries. Adopted Condition of Approval No. 7.2 states the following:

In the event that archeological artifacts or human remains are discovered during construction, work shall cease in a 50-foot radius surrounding the area of discovery. The permittee shall contact the PBES Department for further guidance, which will likely include the requirement for the permittee to hire a qualified professional to analyze the artifacts encountered and to determine if additional measures are required. (Note the condition goes on to address the requirements if human remains should be encountered.)

Furthermore, on December 7, 2023, Staff sent invitations to consult on the proposed project to Native American tribes who have a cultural interest in the area. No comments were received.

Appeal Ground No. 8: Appellant contends that the Application was incomplete, without (1) adjoining property owners list (2) associated Assessor's parcel book pages; (3) USGS Survey Quadrangle per Checklist Requirement; (4) grape source statement; (5) storm drainage plan.

Staff Response:

The Application was deemed complete by staff on February 18, 2024, and satisfied all County requirements for processing. Items (#1) through (#3): information regarding property owners within 1,000 feet for the proposed project, Assessor parcel book pages, and the USGS Survey Quadrangle were included in the project file and available for public review. These items are not included as part of the Planning Commission packet of materials for the project because this information is incidental, used by staff for review and confirmation of the project during the course of permit processing and not germane to final Commission review and action. The Planning Commission does not determine application completeness and although materials supporting the application do not go to the Commission, the documents are available for public review.

Item (#4): The Initial Statement of Grape Source was included in the application packet as well as the Planning Commission Staff Report on page 12. Standard Condition of Approval No. 4.6 requires the permittee to comply with maintaining 75% of the grapes used to make the winery's still wine or the still wine used by the winery to make sparkling wine shall be grown from Napa County grapes. The permittee is also required to maintain annual production records to ensure compliance. Such information must be made available upon request of the PBES Department, and this information is considered proprietary. Therefore, letters of commitment from grape suppliers and supporting documents may be requested by the Director of Planning Building and Environmental Services anytime during the course of winery operations.

Item (#5): The project plans illustrate the existing Storm Drainage Plan, with no additional improvements requested. Additionally, pursuant to County Code Section 16.28.100, which outlines requirements for a stormwater control plan and references the Bay Area Stormwater Management Agency Association (BASMAA). Based on the guidelines, a stormwater control plan would be required if a project were to create 2,500 to 5,000 square feet of new or additional impervious surface area. The subject project proposes to create less than 800 additional square feet of impervious surface area (**see Attachment H**); therefore, no stormwater control plan was required as part of the application submittal.