



WATER AUDIT CALIFORNIA

A PUBLIC BENEFIT CORPORATION

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To: Napa County Board of Supervisors
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Submitted via email to: Laura.Anderson@countyofnapa.org,
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Re: Water Audit California Response to Finding of Facts and Decision on Appeal (“Findings”) in the Matter of:

An appeal filed by Appellant Water Audit California concerning the Napa County Planning Commission’s decision on May 1, 2024, to approve the William Cole Winery Use Permit No. P19-00101-MOD and Variance P19-00441-VAR. The project is an existing winery on 5.72 acre parcel, located at 2849 N. St. Helena Hwy, St. Helena, CA. (Assessor’s Parcel Number 022-230-015.)

Section 3. Findings of Fact and Conclusions of Law on Appeal.

A. First Ground of Appeal.

Appellant’s position: Appellant Water Audit California asserts that the County has failed to properly circulate the project documents to secure regulatory agency approvals.

Water Audit California Response to Findings:

Listing the Regulatory Agencies on the State Clearing House (“SCH”) website does not satisfy proper notice. SCH forms, “Summary Form for Document Submittal” and “Notice of Completion” determine which Reviewing Agencies will receive notice. From the list of Regulatory Agencies included in the Board’s Findings, only Caltrans

Water Audit California Response to Findings:

The proposed water source for the project is a single well, not existing “well(s).” See Water Audit comment above (re A. First Ground of Appeal).

The billing statement, as noted in the Findings, was not posted on the State Clearing House website, nor was it available for the public to review. Staff did not review the billing statement prior to the Planning Commission hearing yet advocated its authenticity blindly. Staff reported at the BOS Hearing that “it was presented at the Planning Commission. It was given to staff at the Planning Commission. It was not included in the staff report. We did not realize that until last week that it wasn’t part of the, you know the record, the administrative record. So, we put it in the record, but we did get it at the meeting. It was discussed at the meeting”. (recording 5:05:43)

There is no transcript attached to this Finding.

The language “Additionally” and “during review” are noted in the Findings (see pg. 5). What does “additionally” and “during review” mean or prove? There is no Local Agency Formation Commission of Napa County (“LAFCO”) reference in either the Current Project folder or the Planning Commission May 1, 2024, Agenda Packet, or State Clearing House documents. LAFCO was not mentioned in the BOS Hearing.

C. Third Ground of Appeal.

Appellant’s position: 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.”

Water Audit California Response to Findings:

The proposed water source for the project is a single well, not existing “well(s).” See Water Audit comment above (re A. First Ground of Appeal).

California Code of Regulations, Title 22, section 64554 requires two approved sources before being granted an initial permit. In part: “(c) Community water systems

The required winery pump test for the public water system permit was not performed. County process requires that the preliminary technical report must be submitted to the Planning Commission with the Application “If your project will be regulated as a small public water system, a water system feasibility report will be required as a completeness item at the time a Use Permit application is submitted. This report ensures that the proposed project can satisfy the technical, managerial and financial requirements set forth by the Water board and must include the information listed on the attached worksheet. There is a possibility that existing wells may not meet the construction requirements for a regulated water system.” (see Memorandum January 5, 2005 Revised December 6, 2018 From Division of Environmental Health Re: Use Permits and Regulated Water Systems PBES Director David Morrison page 1.)

The Technical Worksheet for Use Permit Applications and Water System Feasibility Reports requires pump test criteria: “3. Water supply capacity. Can the water system (including all sources and storage facilities) supply a minimum of three gallons per minutes for at least 24 hours for each service connection served?” (see Memorandum January 5, 2005 Revised December 6, 2018 From Division of Environmental Health Re: Use Permits and Regulated Water Systems PBES Director David Morrison page 2.)

The WAA, 8 hour “pump test” is a tier 2 analysis criteria, not the public drinking water pumping test.

The Findings continue to misrepresent the public water supply source as two wells, including the CSH will-serve alternative. There is no will-serve letter for the Winery. Applicant representative Jon Web stated “In 2019... the Public Works Director at that time, Erika Smithies, we met with her and she said sure we have enough water. We will give you City water. Later the project water source changed, because the City was not able to then provide water for the winery, and we amended the application in July of 2021 to remove the use of City water and to demonstrate that we were going to use the existing well” (recording at 4:46:38). Applicant Representative also clearly explains the will-serve request is withdrawn “Basically, my real point was to get out there, that we are not using or requesting City water for this winery” (recording 4:49:51).

I. Eighth Ground of Appeal.

Appellant's position: 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.

Water Audit California Response to Findings:

The public did not have access to the information as noted in the Eighth Ground of Appeal: (1) Notice to adjoining properties, (2) Assessor parcel page, (3) USGS survey quadrangle. The information was not included in the Current Projects folder. The above referenced "project file" was not available to the public as noted in the Findings.

Section 4. CEQA Determination.

Water Audit California Response to Findings:

The Regulatory Agencies were not fully noticed under CEQA. There cannot be a finding for "no significant effect on the environment" or "will have a potential adverse effect on wildlife resources or habitat" when the only agency with the authority to determine such significance and/or effect is the California Department of Fish and Wildlife ("CDFW"), and CDFW was not noticed as required.

Respectfully,



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