

Planning, Building & Environmental Services

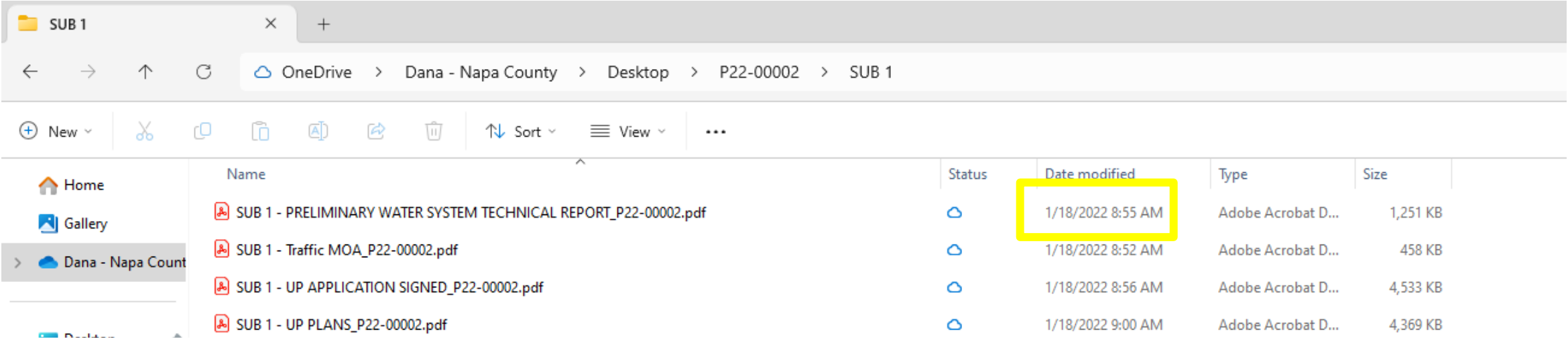
# Bonny's Vineyard New Winery Appeal Permit #P25-00020-Apl

Dana Morrison, Supervising Planner



# WAC May 1, 2025 Letter

- Water Audits most recent claim that the Preliminary Water System Technical Report was not provided with the initial submittal is unfounded



The screenshot shows a OneDrive file explorer window with the address bar indicating the path: OneDrive > Dana - Napa County > Desktop > P22-00002 > SUB 1. The left sidebar shows the 'Dana - Napa County' folder selected. The main area displays a table of files in the 'SUB 1' folder.

Name	Status	Date modified	Type	Size
SUB 1 - PRELIMINARY WATER SYSTEM TECHNICAL REPORT_P22-00002.pdf	Cloud icon	1/18/2022 8:55 AM	Adobe Acrobat D...	1,251 KB
SUB 1 - Traffic MOA_P22-00002.pdf	Cloud icon	1/18/2022 8:52 AM	Adobe Acrobat D...	458 KB
SUB 1 - UP APPLICATION SIGNED_P22-00002.pdf	Cloud icon	1/18/2022 8:56 AM	Adobe Acrobat D...	4,533 KB
SUB 1 - UP PLANS_P22-00002.pdf	Cloud icon	1/18/2022 9:00 AM	Adobe Acrobat D...	4,369 KB

- Document was modified on April 23, 2025 to add the BOS Header “Attachment M” but document was originally submittal in January of 2022.
- The Agenda was published on May 1 at 2:21 pm, and no documents were added at 11:05 pm as asserted by WAC
  - Appeal documents were released early to the BOS, applicant and WAC on 4.25.2025.
  - Cloud folder and Granicus Agenda contains the same documents: the staff report and 23 attachments
    - The only document not included on Granicus was PC hearing transcript

# Agenda

- Project Introduction
- Planning Commission Approval
- Focus Appeal Grounds Discussion
- Board Decision-Making Options
- Conclusion







# Topic one

## Project Introduction



# Introduction

- Use Permit Application #P22-00002-Up as approved by the Planning Commission on December 18, 2024
- Notice of Intent submitted by Water Audit California (the Appellant) on January 10, 2025
- Appeal Packet was submitted by Water Audit California (the Appellant) on January 27, 2025





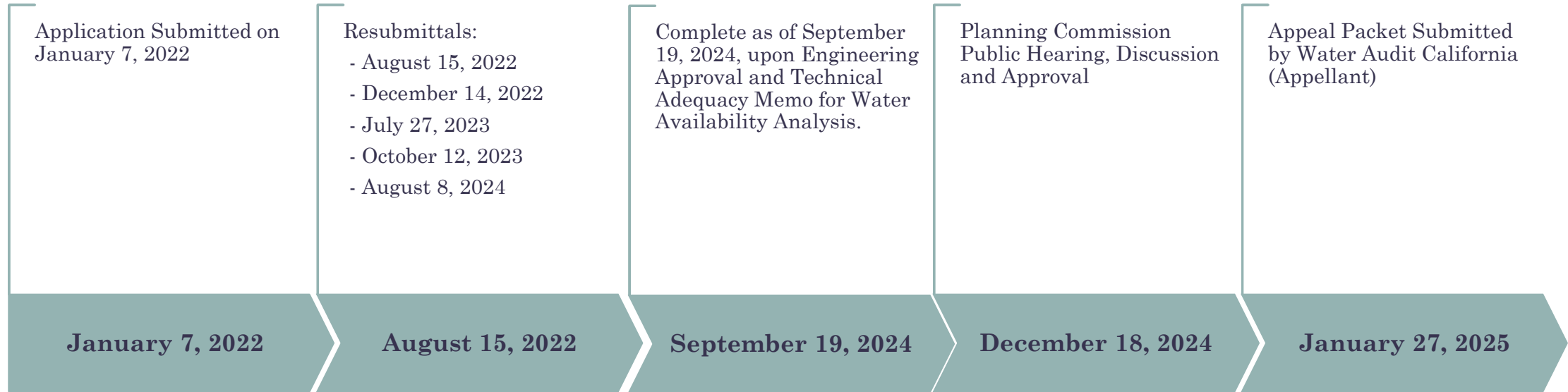


# Topic two

Planning Commission Approval



# Timeline



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Bonny's Vineyard Winery was  
Considered and Approved by the  
Planning Commission on  
December 18, 2024





- Adoption of the Initial Study/Mitigated Negative Declaration
  - Mitigations required to ensure no significant impacts to western pond turtles, as well as Swainson's hawk, White-tailed kites and nesting birds.
  - Condition of Approval to reduce impacts to streams – staking of stream setback during construction, with no staging or parking occurring therein and no event overflow parking permitted to occur within stream setbacks during operations.
- Use Permit for a new winery with an annual production capacity of 30,000 gallons per year, 6 FT employees, 45 visitors per day, and 11 marketing events per year (two with 150 visitors & nine with 80)



# Project Location:

- Project Site 1555 Skellenger Lane; APN 030-200-080-000; 25.54 acres
- Accessed via an existing driveway off Skellenger Lane.
- General Plan Designation: Agricultural Resource (AR)
- Zoning Designation: Agricultural Preserve (AP)



# Project Proposal:

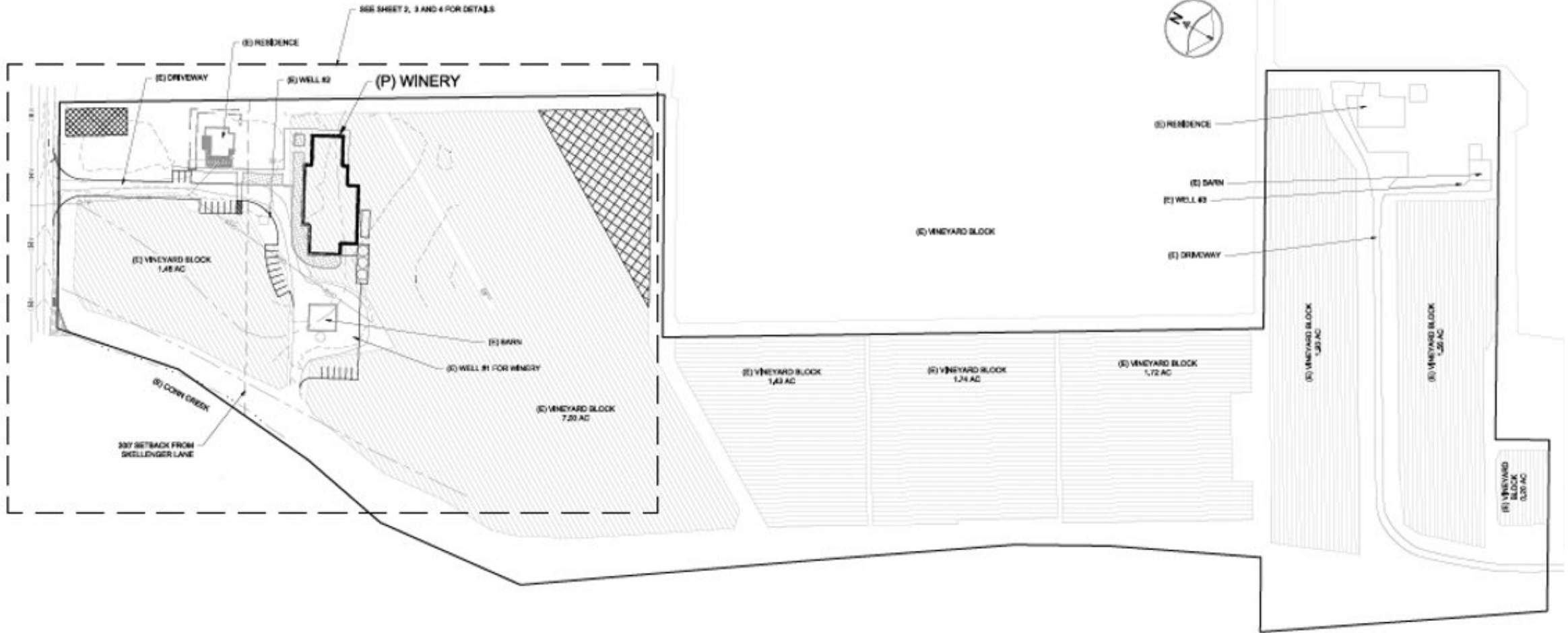
Approval of a Use Permit to allow new winery with annual production of 30,000 gallons with the following characteristics:

1. A 10,996 square foot (sf) winery building with a 1,426 sf covered crush pad, a 392 sf uncovered mechanical yard and 1,255 sf of covered loggia (patio space);
2. Six (6) full-time employees;
3. By appointment tours and tastings for a maximum of 45 visitor per day with catering provided; catering will be prepared offsite, including outdoors tastings;
4. A marketing program consisting of two (2) large events per year with a maximum of 150 visitors and nine (9) smaller events per year with a maximum of 80 visitors;
5. Production seven (7) days per week between 9:00 AM to 5 :00 PM, visitation seven (7) days per week between 10:00 AM to 5:00 PM;
6. Parking for 20 cars with overflow event parking occurring on-site, and as needed along the existing vineyard avenues for events (but outside of stream setbacks);
7. On-site landscaping;
8. On-site domestic wastewater treatment system and drip dispersal system, with a 3,616 sf dispersal area;
9. Widening existing driveway to Napa County Road and Street Standards (NCRSS)and,
10. Three (3) 10,000-gallon water storage tanks.





# Civil Plans:



# Adopted CEQA Document

- An Initial Study/Mitigated Negative Declaration (MND) was prepared by Staff, circulated for review, considered and adopted by the Planning Commission. According to the MND, the proposed project would not have any potentially significant environmental impacts after implementation of 3 mitigation measures.
- 3 Mitigation Measures have been proposed for the project:
  - Biological Resources (BIO-1 – Western Pond Turtle, BIO-2 – nesting and migratory birds, and BIO-3 – Swainson's Hawk and White-tailed kite)



# Conditions of Approval (COAs)

- COAs reiterated required Mitigation Measures and additional COAs were included to address Ground Water Management:
  - A. Parcel was limited to 10.16 acre-feet (af) of groundwater per year for all water consuming activities
  - B. Installation of Well Flow Regulation Devices to limit pumping capacity to less than or equal to existing operations on the Winery/Project Well – Well #1, and on Well #2 (residential/irrigation well) and Well #3 (residential/irrigation well).
  - C. Preparation and implementation of a Groundwater Demand Management Program and inclusion in County's well monitoring program.







# Topic three

Focused Appeal Grounds Discussion



# Focused Appeal Grounds

- Project Application misstates its purpose as a Major Modification rather than a new use (Appeal Ground No. 1)
- Water Availability Analysis Not Adequate (Appeal Grounds Nos. 2, 3, 4, 5, 6, 7, 8 & 9)



# Appeal Ground No. 1: Project Application misstates its purpose as a Major Modification rather than a New Use.

- Application was clearly processed, assessed, as well as publicly noticed and described in the IS/MND, Public Hearing Notice, and Staff Report as a New Winery use.
- County's application for a New Winery is also the same application for a Major Modification, labeled as "Use Permit/Major Modification Application Winery Uses". Given this naming applicant likely thought they were required to select both since that is the title for the application type.
- Project was analyzed as a New Winery, not a Modification.





# Appeal Grounds Nos. 2 - 9:

## Water Availability Analysis Not Adequate

### Ground No. 2:

- Appellant cites no authority to support its assertion
- Water Availability Analysis (WAA) prepared identified three existing wells on the property; only one well (Well #1) was identified and assessed to serve proposed winery's water use demands.
- Well #1- used for vineyard irrigation and is proposed to serve the new winery
- Well #2 and Well #3 (non-project wells) serve existing residences and irrigate vineyard and will continue to do so.
- Proposed new winery does not require more than one source of water; only Well #1 will serve as winery well.
- Existence of a fourth potential parcel well was discovered during a review of the building permit history. According to the applicant said well is not in use and Staff is recommending that the Board adopt a condition of approval to require destruction of said well, unless it is confirmed to already be destroyed.



## Ground No. 2 Continued...Appellant asserts two sources of water are needed:

- County Environmental Health Division did not require well construction permits until 1971, which is why the two residential wells do not have a County-issued permit numbers. Proposed winery well was approved in 2011 as noted in the Response to Comments.
- State Water Resources Control Board permits multiple types of public water systems; regulations vary depending on the type of water system.
- Classification based on total number of users, frequency of users, and type of individuals utilizing water system.
- California Health and Safety Code §116275 provides information on public water systems; following definitions have been listed for reference:
  - California Health and Safety Code §116275
    - (h) “Public 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.
    - (i) “Community water system” means a public water system that serves at least 15 service connections used by yearlong residents or regularly serves at least 25 yearlong residents of the area served by the system.
    - (o) “Transient noncommunity water system” means a noncommunity water system that does not regularly serve at least 25 of the same persons over six months per year.



## Ground No. 2 Continued...Appellant asserts two sources of water are needed:

- Winery required to install a “**Transient noncommunity** water system”. Described in the Preliminary Water System Technical Report, prepared by CMP Civil Engineering & Land Surveying,(Attachment M in the appeal packet).
- Per California Code of Regulations (CCR) Title 22 §64554(c) “Community water systems using only groundwater shall have a minimum of two approved sources before being granted an initial permit”. As noted above, the winery water system will **not** be a “community water system”, therefore the referenced requirement for two (2) wells is inaccurate.
- Per CCR Title 22 §64554(a), at all times, a public water system's water source(s) shall have the capacity to meet the system's maximum day demand (MDD). The proposed winery well is an existing well (well #1) that will be the primary source of water for the winery
- **Necessary information on the existing well will be provided during the water system permitting process, prior to building permit approval, to demonstrate that it currently meets standards or that improvements will be completed to comply with regulations.**





# Water Availability Analysis Not Adequate (con't)

## Ground No. 3:

- Contrary to Appellant's assertions, application and WAA included well drilling information for project well:
  1. Well #1 (proposed winery well) approved 2011 for a well with an 8-inch casing diameter, 15-inch boring diameter, with a 3-inch annual seal under E11-00266
  2. Well #2 (the 2nd residence well) – no well permit history. Non-project well
  3. Well #3 (the primary residences well) – no well permit history. Non-project well
  4. Unidentified Well #4 ('Well for House' is no longer in use and was not observed during reconnaissance work of the site)
    - Staff recommends new COA to require destruction of well #4
- A Preliminary Water System Technical Report was provided with original submittal, the report concluded:
  1. There are no public water systems within three (3) miles of the proposed project,
  2. That the water supply to the proposed system is more than enough for the proposed use,
  3. And that the only viable option for the proposed winery is to develop its own transient non-community water system



# Water Availability Analysis Not Adequate (con't)

## Ground No. 4:

- Unclear how conditions tangentially reference need for additional water supply.
- Specific COAs require monitoring and installation of flow regulation devices on all three parcel's wells, not just winery well.
- Not a reference to need for additional water sources, rather a limitation on pumping capacity of other existing wells on site to ensure overall water demand of 10.16 af/yr is not exceeded ensuring project results in reduced groundwater demand.
- Interim Napa County Well Permit Standards and WAA Requirements do not require a Tier II interference and Tier III interaction analysis if there is no increase in water use.
- COAs will require demolition of potential 4<sup>th</sup> well and monitoring of all three wells (Well #1, Well #2 and Well #3) to ensure overall water use is reduce from 10.18 af/yr to 10.16 af/yr.
- Staff recommending revisions to COAs to reduce the annual pumping time for parcel as well as limiting pumping rate.



# Water Availability Analysis Not Adequate (con't)

## Ground No. 5:

- WAA data provided by Applicant was reviewed by County staff and complies with requirements set forth in WAA Guidance Document
- Winery will utilize Well #1 to serve all winery uses.
- Project has been designed to offset increase in water use through:
  - removal of 0.63 acres of vineyard resulting in a 0.189 af/yr reduction in water use
  - watering of portions of existing vineyard with process wastewater from winery,
  - reducing annual pumping time for parcel and limiting pumping rate for project well (Well #1) to 160 gallons per minute, and for two residential/irrigation wells (Well #2 and #3) to less than or equal to existing operations
  - require parcel's overall groundwater use be limited to 10.16 af/yr
  - development of a Ground Water Management Plan, and inclusion of project in County's well monitoring program.





# Water Availability Analysis Not Adequate (con't)

## Ground No. 6:

- Appellant has not identified inconsistencies, and staff is unclear specifically where different input values appear
- Project Description, WAA and Wastewater Feasibility Report are all consistent in their representation of pre- and post-water uses
- Other project studies and reports such as Bio, Traffic Study, Noise and Stormwater Control do not speak to, or concern water use; no inconsistencies found
- WAA was reviewed and complies with standards set forth in WAA Guidance Document;
  - allows applicants to provide reasonable estimates of existing extraction volumes based on land use when actual monitoring or well pumping data has not been collected and provided by the applicant.
- As noted COAs have been included to ensure project maintains a 10.16 af/yr water use limit for the entire parcel
- If water use exceeds 10.16 af/yr measures can be implemented, as discussed at the 12/18/2024 PC hearing, such as:
  - installing a cover on pool, replacing existing landscaping with low water use plantings, installing water saving fixtures in the residences, removal of existing vineyard to reduce water demand.



# Water Availability Analysis Not Adequate (con't)

## Ground No. 7:

- Appellant has not identified what non-conforming numbers have been utilized.
- Not uncommon for older wells in Napa County to not have meters or actual data.
  - Houses built prior to 1955
  - Parcel has been actively managed as agricultural land since prior to 1940
- Contrary to Appellant's assertions, Applicant's groundwater estimates are reasonable and consistent with the estimates provided in the County's WAA Guidance Document



# Water Availability Analysis Not Adequate (con't)

## Ground No. 8:

- Proposed water use calculations already accounted for 45 daily visitors and both medium and large events hosting up to 800 people
  - page 13 of WAA for Proposed Use Calculations and page 17 for Wastewater Calculations.
- WAA demonstrated overall water use on subject parcel will decrease by 0.02 af/yr, due to removal of 0.63 acres of vines, and use of process water which reduces the parcel's water use demand by an additional 0.46 af/yr
- From a historic perspective groundwater has been reduced when 2011 Lot Line Adjustment was processed
  - parcels went from two primary residences to one primary residence with one accessory dwelling
- Additionally, parcel was historically planted with orchard (~8.5 acres); converted to vineyard prior to 1993.
- Historically water use for site would have been 35.2 af/yr due to two primary residences (1.2 af/yr – estimated water demand of 0.60 af/ac/yr per residence), plus a water demand of 34 af/ac/yr for ~8.5 acres of orchard (8.5 acres x 4.0 af/ac/yr)
- Post project water demand of 10.16 af/yr is over three times less than historic water demands of parcel





# Water Availability Analysis Not Adequate (con't)

## Ground No. 9:

- County does not dispute it has an affirmative duty to take Public Trust into account
- Projects extracting water from wells within 1,500 feet of defined “Significant Streams” (Conn Creek) must submit a Tier III or equivalent analysis for County to discharge its legal duties under Public Trust doctrine,
- While a Tier III review is County’s adopted method for complying with its duties under the Public Trust Doctrine, project will comply with the WAA Guidance document because project proposes to modify site’s groundwater pumping operational characteristics which will reduce existing groundwater extraction from project well which offers the greatest leverage in reducing stream flow depletion and any alleged harm to public trust resources.
- A Tier III equivalent analysis was prepared which demonstrates that project will reduce alleged harm to public trust resources by:
  - reducing the overall water use for the parcel by 0.02 af/yr and by complying with the approved COAs, including the addition of new recommended COA requiring the destruction of potential well #4, and modifications to COA 4.20.b to limit the pumping time in addition to the flow regulation devices to limit pumping rate to less than or equal to existing operations for ALL parcel wells.



# Letter from Neighbor Dennis and Suzane Groth

- Project was assessed with access occurring off of Skellenger Lane.
- Easement is a civil matter and would detail what the access could be used for.
- However, including a COA to require winery access to occur from Skellenger Lane is an easy request and applicant has agreed to this.
- Staff recommends a new COA speaking to this.







# Topic four

Board Decision-Making Options





# Board Decision-Making Options

## Staff Recommendation

- Deny the Appeal in its entirety and uphold the Planning Commission's approval of the project. Direct Staff to revise applicable COAs as discussed and with timelines affected by the appeal process
- Return with Findings and Decision on Appeal on June 24, 2025

## Other Available Options

- Modify the scope of the Project and/or Conditions of Approval with or without granting or denying the Appeal;
- Uphold one or more Grounds of the Appeal and reverse the Planning Commission's decision, thereby denying the Project; or
- Remand the matter to the Planning Commission with direction.





# Questions?



# Applicant & Appellant

**Katharine Falace**

Counsel – Bonny’s Vineyard

**Matt Meyer**

Owner – Bonny’s Vineyard

**William McKinnon**

General Counsel –  
Water Audit California





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# Thank you

Dana Morrison, Supervising Planner

[Dana.Morrison@countyofnapa.org](mailto:Dana.Morrison@countyofnapa.org)

707-253-4437

[www.countyofnapa.org](http://www.countyofnapa.org)



@countyofnapa



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# Thank you

Dana Morrison, Supervising Planner

[Dana.Morrison@countyofnapa.org](mailto:Dana.Morrison@countyofnapa.org)

707-253-4437

[www.countyofnapa.org](http://www.countyofnapa.org)



@countyofnapa

# Extra Supporting Slides for May 1 WAC letter, if needed

### Ground No. 3 continued....:

- Preliminary Water System Technical Report was provided with original submittal, however, said report was not included in the Planning Commission Hearing documents as the Report is only required to be submitted as part of the initial submittal, and then prior to approval of building permits needs to be reviewed and approved by the Regional Water Quality Control board.
- Report was reviewed by EH during 1<sup>st</sup> Completeness Review, and a COA was included in EH COA Memorandum (that was provided at the PC hearing) that speaks this:
  - Per EH COA #4: The water supply and related component must comply with the California Safe Drinking Water Act and Related Laws. This will require plan review and approval PRIOR to approval of building permits. The technical report (Preliminary Water System) must be completed by a licensed engineer with experience in designing water systems. The preliminary technical report must be submitted to the Regional Water Quality Control Board staff a minimum of six (6) months prior to beginning any water-related improvement in accordance with the California Health and Safety Code, Section 116527.
- A copy of the Preliminary Water System Technical Report was included in the BOS May 6 Appeal Hearing packet to refute the WAC claim that this report was not submitted, as required, with initial Use Permit submittal.
- Screen shots are provided on following pages showing January 18, 2022 Submittal 1 Documents which includes the Technical Report





# Ground No. 3 continued....:

- Water Audits most recent claim that the Preliminary Water System Technical Report was not provided with the initial submittal is unfounded

SUB 1

OneDrive > Dana - Napa County > Desktop > P22-00002 > SUB 1

New

Sort View

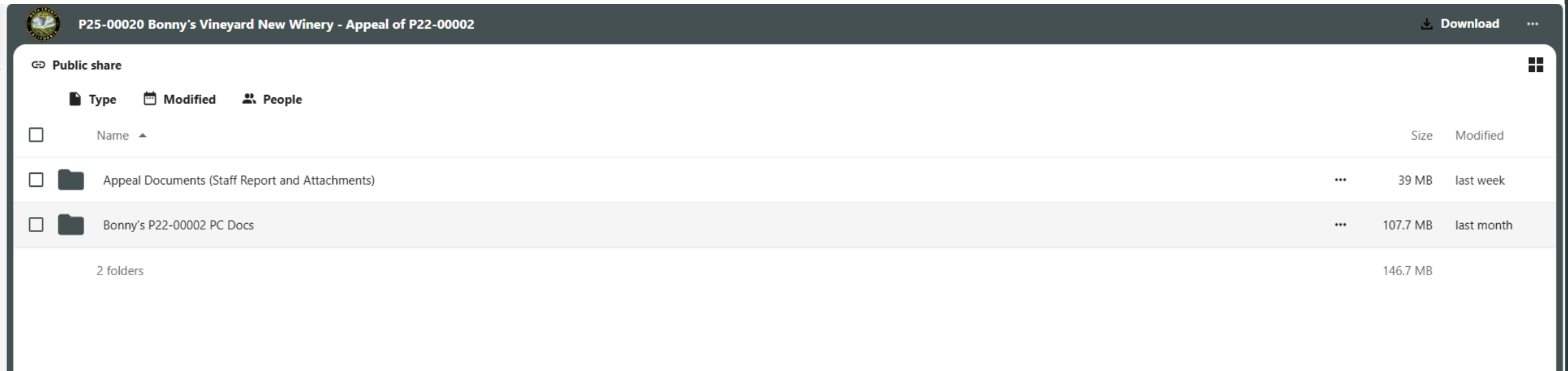
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# Water Availability Analysis Not Adequate (con't)

Ground No. 3 continued....:

- Water Audits most recent claim that new documents were added to the BOS Cloud folder on May 1, 2025, are unfounded:



- Screenshot was pulled from the Public Facing Current Project Explorer; all appeal Documents were added on 4.25.2025 when the Notice of Availability of Agenda Report was sent to the BOS.



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