

Attachment H
**Chair's Determination on Appellant Good Cause
Request**



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Board of Supervisors

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Joelle Gallagher
Chair

**DETERMINATION OF GOOD CAUSE REQUEST TO
AUGMENT THE DOCUMENTARY RECORD
REGARDING THE RUTHERFORD RANCH WINERY
APPEAL HEARING**

December 18, 2023

TO: William McKinnon, Esq. on behalf of Appellant Water Audit California
Christina Guido, Esq. and Richard Tooker on behalf of Applicant Rutherford
Ranch Winery

FROM: 2024 Chair Joelle Gallagher

RE: Rutherford Ranch Winery Appeal Hearing – Good Cause Determination

As the expected 2024 Chair of the Napa County Board of Supervisors, I have received and reviewed Appellant Water Audit California’s (Appellant WAC or WAC) November 9, 2023, request to augment the record with four pages of well monitoring data from the City of Napa and five undated photographs attached as Exhibit 1 (hereafter “well data”). The Chair’s determination to augment the record on appeal requires a finding of “good cause” meaning that the proposed evidence, in the exercise of reasonable diligence, could not have been produced to, or was improperly withheld or excluded from, the Planning Commission. My decision on WAC’s request is as follows:

Appellant WAC requests to augment the record with well data. Appellant WAC requests that the record be augmented to allow well data.

Decision and Rationale: Denied. The Chair finds that Appellant WAC has failed to identify why, in the exercise of reasonable diligence, the well data which spans from 2002 through 2012 and includes undated photographs could not have been provided to the Planning Commission for consideration. Appellant WAC had ample notice and opportunity to provide the well data to the Planning Commission. On May 22, 2023, Notice of the Public Hearing and Intent to Adopt the Negative Declaration was published in the Register almost a month before the hearing on June 21, 2023. The Planning Commission staff report was also posted to the County’s website on June 14, 2023, a week prior to the hearing date. WAC was aware of the hearing as evidenced by

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District 4

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counsel for WAC's submittal of a comment letter to the Planning Commission the day before the hearing regarding public trust. For these reasons, Appellant WAC's request to augment the record with the well data (Exhibit 1) is denied.

Right to Request an Overrule.

Pursuant to County Code Section 2.88.090 (B), at the beginning of the appeal hearing, prior to opening the public hearing, the Chair shall announce any decision regarding the introduction of extrinsic evidence to the record and the whole Board, by majority vote, may overrule any such decision upon request by an appellant or the permittee. The Chair set a deadline of December 29, 2023 for Appellant WAC to inform County Counsel's office in writing of WAC's request that the whole Board overrule the Chair's determinations set forth herein. Upon receipt of such request, Appellant WAC shall be given three minutes to verbally address the Board at the appeal hearing on their request to overrule the Chair. No written arguments are allowed.