

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

2
3
4 MARY LOU MCSWEENEY-WILSON,
5 Petitioner,

Electronically Filed
Mar 23 2021 03:09 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

6 vs.

Case No.

7 District Court #20 OC 00051E

8 Dept. 1

9 THE FIRST JUDICIAL DISTRICT COURT OF NEVADA,
10 IN AND FOR THE COUNTY OF STOREY,
11 AND THE HONORABLE JAMES TODD RUSSELL,
DISTRICT JUDGE,

12 Respondents,

13 AND THE STOREY
14 COUNTY COMMISSIONERS AND STERICYCLE, INC.,

15 Real parties in interest.
16

17
18 PETITION FOR WRIT OF MANDAMUS OR PROHIBITION

19 Mary Lou McSweeney-Wilson, Petitioner, files this Petition for Writ of
20
21 Mandamus or Prohibition because of the First Judicial District Court's Order of
22 Dismissal, filed on March 12, 2021, for the Storey County Commissioners,
23
24 represented by Keith Loomis, Assistant District Attorney of Storey County, V. V,
25 pp. 1112-16, and the Order Granting Stericycle, Inc.'s Motion to Dismiss, filed

1 March 12, 2021, for Stericycle, Inc., represented by McDonald/Carano Law Firm.
2
3 V. V, pp. 1117-20.

4 NRAP 26.1 DISCLOSURE STATEMENT

5
6 The undersigned counsel of record certifies that there are no corporations or
7 any publicly held company that owns 10% or more of petitioner's stock.
8

9 Undersigned counsel also certifies the following are persons and entities as
10 described in NRAP 26.1(a), and must be disclosed. These representations are made
11 in order that the judges of this court may evaluate possible disqualification or
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recusal.

Keith Loomis, Assistant District Attorney, representing the Storey County District
Attorney

Michael Pagni and Chelsea Latino from the law firm of McDonald/Carano,
representing Stericycle Inc.

DATED this 23rd day of March, 2021.

By: /s/: MARY LOU WILSON
MARY LOU WILSON
Attorney At Law Bar #3329
2064 Regent Street, Reno, Nevada 89509
775-771-8620

1 Routing Statement

2
3 This petition is presumptively retained by the Nevada Supreme Court as the
4 issue it raises is of statewide importance, per Nevada Rules of Appellate Procedure
5
6 (N.R.A.P.) 17 (a).

7 Jurisdiction:

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9 NRS 34.170 Writ to issue when no plain, speedy and adequate remedy in law.
10
11 This writ shall be issued in all cases where there is not a plain, speedy and
12 adequate remedy in the ordinary course of law. It shall be issued upon affidavit, on
13
14 the application of the party beneficially interested. Affidavit attached.

15 In this regard, an appeal is not a satisfactory remedy, since Stericycle
16
17 Corporation will immediately conduct storing and burning of biohazardous
18
19 medical waste, which spews dioxins into the air that travels hundreds of miles,
20
21 causing 100% fatal human “Mad Cow” disease, increase rates of serious diseases
22
23 like cancer, pregnancy complications, birth defects, and autism-among people who
24
25 live within several miles of incinerators. Utah Physicians Study. Petition for
District Court Review of Storey County Commissioners Vote to Permit

1 Stericycle's Special Use Permit, in Violation of Public Health, Safety, and
2
3 Welfare, filed September 10, 2020, V. I, pp.127-128, Utah Physician's Study,
4 Incineration Spreads Disease, specifically, p. 127 (bottom paragraph), and V. V,
5
6 pp. 1128-29.

7 In addition, the residents of Rainbow Bend and Lockwood Community
8
9 Corporation, did not have proper Notice and the Ability to be Heard, because of
10
11 the governor's Order to Stay at Home, during the worldwide pandemic for
12
13 COVID-19. This made it impossible to comply with the statute of NRS 278.3195,
14
15 since residents did not know of the meetings focusing upon the special use permit
16
17 for incineration of biohazardous medical waste during July and August, 2020,
18
19 because there were no Agendas posted in the neighborhoods, and there was no
20
21 ability to appeal the Planning Commission decision, or Commissioner's decision.

22
23 The approval of the special use permit for Stericycle was done during the
24
25 worldwide pandemic, where the focus was on staying alive, and the votes were
done within two months. V. III, pp. 523-615, specifically, Planning Commission

1 Meeting, August 6, 2020, pp. 558-99, and Commissioners Meeting, August 18,
2
3 2020, pp. 601-615.

4 History of the Case:

5
6 Blockchains Corporations, the largest land owner at Tahoe Regional Industrial
7
8 Center, was notified in writing of the Stericycle Corporations request for the
9
10 special use permit and hearings of the Storey County Planning and Commissioners
11
12 meetings, and launched their research and opposition to the company, providing
13
14 stunning examples of bad practices, fines, and rejection by other states, including
15
16 California, Utah, and North Las Vegas, Nevada. V. I, pp. 129-250 and V. II, pp.
17
18 251-47.

19
20 Although Blockchains presented this extensive research to the Planning and
21
22 Commissioners, it was rejected and the special use permit for Stericycle, Inc. was
23
24 approved on August 18, 2020, by two commissioners, Jay Carmona and Marshall
25
26 McBride. Commissioner Lance Gilman recused himself from the vote because he
27
28 sold the land to Stericycle, and there was a conflict of interest. V. III, pp. 523-616,
29
30 specifically, p. 601-615.

1 Petitioner alleges that the district court's Orders amount to unconstitutional
2
3 restraint upon Petitioner, Mary Lou McSweeney-Wilson, homeowner in Rainbow
4 Bend Community, and two individuals that "participated," in the zoom meetings of
5
6 August 6, 2020 and August 18, 2020, opposing the special use permit of Stericycle.
7
8 These individuals are Phillip Hilton, Rainbow Bend Community resident and Sam
9 Toll, Storey County resident. V. I, pp. 1-128, and V. V, pp. 1040-43.

10
11 Within the initial Petition, the caption read, "Mary Lou McSweeney-Wilson, Et.
12 Al, Homeowners of Rainbow Bend Community, and Storey County Residents,
13
14 Petitioners, vs. Storey County Commissioners, Respondents. This caption was used
15
16 throughout the litigation for approximately four (4) months. Petitioner received
17
18 over two-hundred and fifty (250) named residents of Rainbow Bend Community
19
20 and neighboring Lockwood Community Corporation, who were against the special
21
22 use permit of Stericycle Corporation. V. III, pp. 741-750 and V. IV, pp. 751-797.

23
24 These signatures were received going door to door over five (5) days, where
25
residents were provided knowledge of Stericycle, their practices of burning
biohazardous medical waste, located twelve miles from their homes. These

1 residents were unaware of the company and the vote of approval from their county
2
3 commissioners. Most residents did not know of the Planning and Commission
4 Meetings because there were no Agendas posted in the neighborhood, since the
5 Rainbow Bend Clubhouse and Lockwood Senior Center were closed, since March,
6 2020, due to the Governor's Stay at Home Order from March, 2020. V. II, pp. 483-
7 500; 497-99 (Lockwood Senior Center closed); V. III, pp. 507, 509, 511, (Rainbow
8 Bend Clubhouse closed); V. III, pp. 501-11; 555-57; 559-63; 565-76; 578-81; 583-
9 86.

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11
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13
14 The Rainbow Bend Clubhouse and Lockwood Senior Center remain closed to
15 the public as of this writing because of the COVID-19 pandemic.

16
17 Stericycle, Inc. sought to intervene in the Petition, which was objected to by
18 Petitioner, since the focus of the Petition was on the two commissioner's arbitrary
19 and capricious decision-making. Petitioner argued that if Stericycle was allowed to
20 intervene, the district court should Order Blockchains to intervene and join with
21 Petitioner, since Blockchains was given written Notice of the Storey County
22 Planning and Commission meetings, they were located within three hundred (300)
23
24
25

1 feet of Stericycle, and provided the bulk of research in opposition to the special use
2
3 permit for Stericycle. V. V, pp. 1121-27.

4 The district court permitted Stericycle to intervene and both the Storey County
5
6 Commissioner's, represented by Keith Loomis, Assistant District Attorney, and
7
8 Stericycle, represented by McDonald/Carano, filed Motions to Dismiss, based
9
10 upon Petitioner's lack of standing to file a Petition. V. III, pp. 734-40 and V. IV,
11 pp. 898-904.

12 Petitioner opposed the motions to dismiss. V. III, pp. 741-50 and V. IV, pp.
13
14 751-97 and V. IV, pp. 905-18.

15 Storey County Commissioners and Stericycle replied to the Oppositions. V. IV,
16
17 pp. 798-857 and 941-1000 and V. V, pp. 1001-30 and V. IV, pp. 919-23.

18 The district court Ordered a hearing be held regarding the issue of Petitioner's
19
20 "standing" before determination of whether the commissioners had acted in an
21
22 arbitrary and capricious manner. V. V, pp. 1098-1100 and 1101-02.

23 Petitioner filed Notice of Witnesses and Exhibits for the Evidentiary Hearing on
24
25 December 2, 2020, alleging that three witnesses, Larry Huddleson, **Phillip Hilton,**

1 and Scott Martin, would identify photographs of the Rainbow Bend Clubhouse and
2
3 Lockwood Community Senior Center, where there were no Agendas posted and
4 the facilities were closed. V, II, pp. 483-500 and V. III, pp. 501-11, (Notice of
5
6 Witnesses and Exhibits for Hearing, filed December 2, 2020 and V. V, pp. 1106-
7
8 07; 1108-09; and 1110-11, (Subpoenas for Larry Huddleson, filed January 15,
9
10 2021; **Phillip Hilton**, filed January 15, 2021; and Scott Martin, filed January 15,
11 2021).

12 An additional argument was to be included in the Petitioner's evidentiary
13
14 hearing to include the legislative history of NRS 241.020, filed February 12, 2021,
15
16 which provided Petitioner with general standing ability, and a substantive due
17
18 process claim, showing a government deprivation of life, liberty, or property.
19
20 *Nunez v. City of Los. Angeles*, 147 F.3d 867, 871 (9th Cir. 1998), Citing *Capp v.*
21
22 *City of San Diego*, 940 F.3d 1046 (9th Cir. 2019).

23 Four months after the Petition was filed, the State argued that the caption of the
24
25 Petition needed to be changed to exclude Rainbow Bend Homeowners and Storey
County Residents, leaving Mary Lou McSweeney-Wilson as the lone Petitioner. V.

1 IV, pp. 924-31. Petitioner opposed that Motion, asserting that there were over two
2
3 hundred and fifty Rainbow Bend Homeowners and Storey County Residents that
4 had signed a petition opposing the special use permit. V. IV, pp. 932-36 and V. III,
5 pp. 741-50 and V. IV, pp. 751-97, specifically, V. IV, pp. 776-97. The district
6
7 court eliminated Rainbow Bend Homeowners and Storey County Residents from
8
9 the caption, in an Order filed January 12, 2021, leaving only Petitioner in the
10
11 caption. V. V, pp. 1103-05.

12 All parties filed Evidentiary hearing statements, which included names of
13
14 witnesses and exhibits expected to be admitted during the hearing. V. II, pp. 483-
15
16 500 and V. III, pp. 501-22, (Petitioner's); V. III, pp. 523-615 and V. V, pp. 1031-
17
18 39, (Storey County Commissioners); and V. III, pp. 616-20, (Stericycle, Inc.).

19 Before the evidentiary hearing, newly discovered evidence was found by
20
21 Petitioner and brought to the district court in a zoom meeting with the parties. It
22
23 was determined that two (2) individuals had "participated," were "aggrieved," and
24
25 "opposed" Stericycle during the Planning and Commission meetings of August 6th

1 and 18th 2020, and believed to have satisfied the standing requirements of NRS
2
3 278.3195.

4 The district court continued the evidentiary hearing for further research and
5
6 writing regarding this newly discovered evidence. V. V, pp. 1040-43, (Petitioner);
7 V. V, pp. 1044-48, (Storey County Commissioners); V. V, pp. 1049-71,
8
9 (Stericycle).

10 The district court filed two orders without an evidentiary hearing on March 12,
11
12 2021. V. V, pp. 1112-16, (Order of Dismissal); and V. V, pp. 1117-20, (Order
13
14 Granting Stericycle, Inc.'s Motion to Dismiss).

15 Petitioner filed a Motion to Stay the Orders on March 17, 2021 and this Writ
16
17 follows.

18
19
20
21
22 Points and Authorities

23 Petitioner filed the request for judicial review twenty-three (23) days after the
24
25 Storey County Commission approved a special use permit on August 18, 2020, for

1 Stericycle Inc., to incinerate biohazardous medical waste, approximately twelve
2
3 (12) miles from Rainbow Bend Community and Lockwood Community
4 Corporation. V. I, pp. 1-128. The Petition was filed under NRS 278.3195 and NRS
5
6 278.0235.

7 Petitioner was unaware of the Planning and Commission meetings concerning
8
9 Stericycle's burning of biohazardous waste, the deadly toxins that are emitted into
10
11 the air and water, or that they were intending to incinerate twelve (12) miles from
12
13 the residents' homes. This was because no information was provided to the
14
15 residents from Commissioner Lance Gilman, who typically informs Lockwood
16
17 residents, and no Agendas posted at the Rainbow Bend Community Clubhouse or
18
19 Lockwood Senior Center, because of the Governor's Order to Stay At Home,
20
21 issued March, 2020. V. II, pp. 483-500; 497-99 (Lockwood Senior Center closed);
22
23 V. III, pp. 507, 509, 511, (Rainbow Bend Clubhouse closed); V. III, pp. 501-11;
24
25 555-57; 559-63; 565-76; 578-81; 583-86, (Governor's Orders).

 The special use permit was approved within the July and August meetings of
the Planning and Commission meetings. V. I, p. 22 (August 18, 2020, Agenda); pp.

1 51-55 (10-15 trucks of biohazardous waste every day from the Western U.S. and
2
3 Canada travelling to TRI);
4 pp. 99-100 (Stericycle settles with EPA for penalties in waste-handling and storage
5 permit in Washington); and pp. 127-28 (Utah Physicians Study showing dioxins
6 from Stericycle's incineration into the atmosphere, travels hundreds of miles,
7
8 causes 100% fatal human "Mad Cow" disease, increase rates of serious diseases
9 like cancer, pregnancy complications, birth defects, and autism-among people who
10 live within several miles of incinerators.
11
12

13
14 The Petition captioned Homeowners of Rainbow Bend Community and Storey
15 County Residents, which was followed up with an attached exhibit, showing over
16 two hundred and fifty signatures against Stericycle in the two neighboring
17 communities of Lockwood, Nevada. V. IV, pp. 776-97. Most all of these residents
18 of Lockwood were left in the dark regarding what Stericycle's burning of
19
20 biohazardous waste meant or that the air pollution **travelled hundreds of miles**,
21
22 which would impact not only Storey County but Washoe, Carson, Douglas, and
23
24
25

1 Lyon, and adversely affect Pyramid and Tahoe lakes, the Truckee River, and
2
3 protected wild Mustangs. V. I, pp. 127-28.

4 Rainbow Bend Community and Lockwood Community Corporation did not
5
6 receive any hard copy Notice of Agenda meetings of the July and August Planning
7
8 and Commission meetings to discuss the special use permit of Stericycle, because
9
10 of the worldwide pandemic of COVID-19, since the postings occur at the Rainbow
11
12 Bend Clubhouse and Lockwood Senior Center. These areas had been closed since
13
14 March, 2020, because of the Governor's Order to Stay at Home. V. II, pp. 483-
15
16 500; 497-99 (Lockwood Senior Center closed); V. III, pp. 507, 509, 511, (Rainbow
17
18 Bend Clubhouse closed); V. III, pp. 501-11; 555-57; 559-63; 565-76; 578-81; 583-
19
20 86, (Governor's Orders).

21 The Governor's Order of May 28, 2020, focused particular attention on persons
22
23 over the age of sixty-five as a susceptible group for COVID-19 infection. V. III, p.
24
25 568. Many of the residents of both communities are over the age of fifty-five years.
V. IV, pp. 751-797.

1 Blockchains Corporation received written Notice of Stericycle request for
2
3 incineration of biohazardous medical waste, since they were located within three-
4
5 hundred (300) feet of the facility and launched an opposition to Stericycle during
6 the July and August meetings of the Planning and Commission. V. I, pp. 129-250
7 and V. II, pp. 251-471.
8

9 The two (2) Storey County Commissioners voted to approve Stericycle's
10
11 special use permit, despite hearing appalling news of fines, bad business practices,
12
13 and biohazardous pollution from Blockchains Corporation's research, during their
14 August 18th meeting, but Commissioner Carmona reasoned, "There has to be place
15 to get rid of this stuff." III, p. 609.
16

17 The district court intended to provide a hearing on the matter and set it for
18
19 February 19, 2021. V. V, pp. 1101-02.

20 Petitioner was prepared to put witnesses and evidence showing that she, along
21
22 with over two-hundred and fifty residents of Rainbow Bend and Lockwood
23
24 Community Corporation were unaware of the Stericycle company because no
25
physical hard copy postings were available to them in the area and had there been

1 postings, there would have been strong opposition to the special use permit
2
3 requested from Stericycle, Inc. V. II, pp. 483-500 and V. III, pp. 501-11.

4 However, those plans changed when Petitioner attempted to show “standing”
5
6 under NRS 278.3125, with two men that participated in the Planning and
7
8 Commission meetings from Storey County, who were running for Storey County
9
10 Commission seats, and were aware of the zoom capability of these meetings and
11
12 voiced their opposition to Stericycle. Minutes of August 6th and 18th 2020. V. V,
13
14 pp. 1040-43.

15 Petitioner argued that the “standing,” requirement was met upon reviewing the
16
17 State’s exhibits submitted for the evidentiary hearing, which contained Minutes of
18
19 the Planning Commission dated August 6, 2020. Therein it was shown that **Sam**
20
21 **Toll, from Gold Hill, Storey County**, had “participated,” and was an “aggrieved
22
23 party,” voicing his objection to the special use permit for Stericycle, Inc. in the
24
25 Storey County Commissioner’s Evidentiary Hearing Statement, filed February 12,
2021, V. III, pp. 523-615, specifically, p. 531, and Sam Toll participated in the

1 zoom meeting amounted to the Petition satisfying the “standing” issue that the
2
3 district court wanted in the first place.

4 **Sam Toll** stated, “Said he is calling from Gold Hill where his home is perhaps
5
6 the furthest away from this facility that it could be. Speaking in opposition of the
7
8 special use permit. Toll said he shares the concerns that Mr. Digesti from
9
10 Blockchains brought up, and also concerned about the wild horses. Said that even
11
12 though he didn’t participate in the vote, it is his understanding that Storey County
13
14 voted against Yucca Mountain when the opportunity was presented before the
15
16 voters. By the board approving these types of businesses, both Stericycle and the
17
18 Asian Chemical company we are setting a precedent to invite similar types of
19
20 companies in to Storey County. It’s important to recognize the types of firms that
21
22 we are going to let in and be cautious about what the long-term impact is for this
23
24 type of development not only to the horses but the impact to our first responders.
25
Toll stated that if there is an accident what type of equipment and dangers are they
going to be facing when they enter a dangerous situation at either of the two
facilities (Stericycle, AUECC). Said he has talked to folks within the fire

1 department and there is a very big concern about training equipment and potential
2
3 for personal injury and what could be released into the environment. Encouraged
4 the board not to approve this permit.” V. III, p. 531.

5
6 Additionally, the “standing” requirement was satisfied where **Sam Toll and**
7 **Phillip Hilton** “participated,” and were an “aggrieved party,” voicing their
8
9 objections to Stericycle in Minutes of the Storey County Commission Meeting
10 dated August 18, 2020. V. III, p. 610.

11
12 During the August 18, 2020 zoom meeting, where the special use permit was
13
14 approved by Commissioners Carmona and McBride, **Sam Toll** stated,

15 “Echos what Mr. Digesi has said and expressed disapproval at the Planning
16
17 Commission. He is skeptical of self-reporting whether mining income for taxes, or
18
19 emissions from this proposed facility. His “backyard” is as far away from this
20
21 facility as you can get. By approving this type of business, the bar is set for other
22
23 businesses to come in with hazardous materials. With almost a dozen of these
24
25 types of businesses in the County, it sets a dangerous precedent. Mr. Toll agrees
with what’s happening at the industrial park and is encouraged by the diversity of

1 businesses. **This kind of business does not belong near Lockwood and Rainbow**

2
3 **Bend.** Mr. Toll explained how OSHA was turned away from investigating a
4 dangerous machine at Tesla. He encouraged the Commissioners to reject this
5 Special Use Permit.” V. III, p. 610.
6

7 During the August 18, 2020 zoom meeting, **Phillip Hilton**, Rainbow Bend
8 Homeowner and Storey County Resident “participated,” and was an “aggrieved
9 party,” satisfying the standing requirement of NRS 278.3195, when he voiced his
10 opposition to Stericycle’s special use permit, stating, “Has there been any
11 environmental study/studies? Getting environmental waste in and out of the area –
12 has there been a study of traffic impacts? I-80 corridor is prone to accidents,
13 especially in winter. What would the impact be if there was a spill on the
14 highway?”
15
16
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19

20 Commissioner Carmona answered, “Thinks they said about fifteen (15) trucks
21 per day.” V. III, p. 610.
22

23 Commissioner McBride stated, “Yes, 10 to 15 trucks per day. (The County) has
24 a hazmat team and we work with Washoe County. The Fire Department is properly
25

1 trained and equipped to handle any hazmat accident that would occur-whether with
2
3 this company or anyone else on the I-80 corridor.” V. III, p. 610.

4 It should be noted, Rainbow Bend Community and Lockwood Community
5
6 Corporation are located off Exit 22, where it is basically landlocked from retreating
7
8 from the area should I-80 be closed for any reason.

9 The district court opined that the Petition failed to meet the standing
10
11 requirement of NRS 278.3195 because there had not been any appeal to the Storey
12
13 County Commissioners.

14 However, **Sam Toll** had participated in the Planning Commission meeting of
15
16 August 6, 2020, when the Planning Commission voted to approve the special use
17
18 permit and appealed to the Storey County Commissioners during their August 18,
19
20 2020 meeting, when saying,

21 “Echos what Mr. Digesi has said and expressed disapproval at the Planning
22
23 Commission.

24 This kind of business does not belong near Lockwood and Rainbow Bend.” V. III,
25
p. 610.

1 Since NRS 278.3195 demands an appeal from the Planning Commission
2
3 meeting to the Storey County Commissioners meeting, Sam Toll has satisfied the
4 requirement of an “aggrieved party.”
5

6 **Phillip Hilton** had also been one of over two hundred and fifty (250) persons,
7 who signed the petition opposed to Stericycle and participated in the zoom meeting
8 of the Storey County Commissioner’s August 18, 2020 meeting. V. IV, pp. 751-
9 797, Exhibit 4, p. 1, third name from the bottom. (Opposition to Motion to
10 Dismiss, filed October 1, 2020), and Minutes of the August 18, 2020. V. III, p.
11 610.
12
13
14

15 Petitioner explained to the district court that these men had satisfied the
16 “standing” requirement under the statutes and had received approval from them to
17 represent them in the original Petition, which was timely filed on September 10,
18 2020. It was noted that **Rainbow Bend Homeowners and Storey County**
19 **Residents** were in the original caption, so there was no surprise to the parties if
20 they were substituted into the caption. V. V, pp. 1040-43.
21
22
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1 Had the district court permitted the evidentiary hearing, which was scheduled to
2
3 determine whether “standing,” had taken place, Petitioner would have been able to
4 satisfy the statutes. NRS 278.3195 and 278.0235, and the Petition would survive.
5

6 **Petitioner, Phillip Hilton and Sam Toll** did not have a plain, speedy, and
7 adequate remedy in law, because the district court’s Orders dismiss the Petition,
8 and the question of arbitrary and capricious behavior on the part of the Storey
9 County Commissioners cannot be heard, despite initially permitting an evidentiary
10 hearing. V. V, pp. 1101-02; 1117-20; and 1112-16.
11
12

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14 Dismissal of the Petition or reconsidering the district court’s prior Order
15 Correcting Caption, eliminating **Rainbow Bend Homeowner and Storey County**
16 **resident**, when that caption of Mary Lou McSweeney-Wilson, Et. Al.,
17 Homeowners of Rainbow Bend Community, and Storey County Residents,
18 Petitioners, vs. Storey County Commissioners, Respondents, survived for four (4)
19 months. It effectively eliminated **Phillip Hilton, a Rainbow Bend Homeowner**
20 **and Sam Toll, a Storey County Resident**, from proving “standing,” to allow for
21 the survival of the Petition, since they “participated,” in the zoom meetings of
22
23
24
25

1 August 6th and 20th of the Storey County Planning and Commissioners meetings.
2
3 V. III, pp. 531 and 610, (Minutes of August 6th and 18th); and V. V, pp. 1103-05,
4 (Order on Motion to Correct Caption).

5
6 The two Orders of the district court, precluded Petitioner from presenting proof
7 of “standing,” and move to the second prong of the analysis, which was showing
8 that Commissioners Carmona and McBride acted in an arbitrary and capricious
9 manner. As such, Petitioner, Phillip Hilton and Sam Toll were precluded from
10 exercising their Due Process rights under the Fourteenth Amendment to the United
11 States and Nevada Constitutions.

12
13
14
15 “A writ of mandamus may be issued to compel the performance of an act that
16 the law requires as a duty resulting from an office, trust or station, or to control an
17 arbitrary or capricious exercise of discretion.” *Dias v. Dist. Ct.*, 116 Nev. 88, 93,
18 993 P.2d 50, 54 (2000).
19

20
21
22 In the context of mandamus, this Court considers whether the District Court’s
23 evidentiary ruling was a manifest abuse or arbitrary or capricious exercise of its
24
25

1 discretion. NRS 34.160, *Round Hill Gen Imp. Dist. v. Newman*, 97 Nev. 601, 603-
2
3 04, 637 P.2d 534, 536 (1981).

4 An arbitrary or capricious exercise of discretion is one “founded on prejudice or
5
6 preference rather than on reason.” Black’s Law Dictionary 119 (9th ed. 2009)
7
8 (defining “arbitrary”), or “contrary to the evidence or established rules of law,” *Id.*
9
10 at 239 (defining “capricious”) *City Council v. Irvine*, 102 Nev. 277, 279, 721 P.2d
11
12 371, 372 (1986) concluding that “[a] city board acts arbitrarily and capriciously
13
14 when it denies a license without any reason for doing so.” A manifest abuse of
15
16 discretion is “[a] clearly erroneous interpretation of the law or rule. *Steward v.*
17
18 *McDonald*, 330 Ark. 837, 958 S.W.2d 297, 300 (1997) (a manifest abuse of
19
20 discretion “is one exercised improvidently or thoughtlessly and without due
21
22 consideration”); “Manifest abuse of discretion does not result from a mere error in
23
24 judgment, but occurs when the law is overridden or misapplied, or when the
25
judgment exercised is manifestly unreasonable or the result of partiality, prejudice,
bias, or ill will.”

1 The Fourteenth Amendment to the United States Constitution provides that no
2
3 State may "deny to any person within its jurisdiction the equal protection of the
4 laws." U.S. Const, amend. XIV, § 1.

5
6 Equal protection of the law "has long been recognized to mean that no class of
7
8 persons shall be denied the same protection of the law which is enjoyed by other
9
10 classes in like circumstances." *Allen v. State, Pub. Emp. Ret. Bd.*, 100 Nev. 130,
11 135, 676 P.2d 792, 795 (1984).

12 Equitable estoppel operates to prevent a party from asserting legal rights that, in
13
14 equity and good conscience, they should not be allowed to assert because of their
15
16 conduct. *United Brotherhood v. Dahnke*, 102 Nev. 20, 22, 714 P.2d 177, 178-179
17 (1986). The defense of estoppel requires a clear showing that the party relying
18
19 upon it was induced by the adverse party to make a detrimental change in position,
20
21 and the burden of proof is upon the party asserting estoppel. *In re MacDonnell's*
22 *Estate*, 56 Nev. 504, 508, 57 P.2d 695, 696 (1936).

23 In this case, the district court's initial Order for an evidentiary hearing so that
24
25 Petitioner could satisfy the "standing" requirement under NRS 278.2195 was

1 scheduled and appropriate. However, once the newly discovered evidence was
2 found, where **Phillip Hilton and Sam Toll** “participated,” and were “aggrieved
3 parties.” Such Orders violated both men’s constitutional rights under the
4 Fourteenth Amendment Due Process Clause.
5

6
7 NRS 34.320 Writ of prohibition defined. The writ of prohibition is the
8 counterpart of the writ of mandate. It arrests the proceedings of any tribunal,
9 corporation, board or person exercising judicial functions, when such proceedings
10 are without or in excess of the jurisdiction of such tribunal, corporation, board or
11 person.
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15
16 Petitioner alleges that the two Orders authored by the district court should be
17 stayed regarding their enforcement allowing Stericycle Corporation to proceed
18 with its special use permit.
19

20
21 Petitioner asserts that this Petition for Writ of Mandamus or Prohibition shall be
22 considered either alternative or preemptory.
23
24
25

1 The alternative writ is stated against Stericycle Corporation to desist or refrain
2
3 from any further proceedings in the action or matter specified therein, until the
4 further order of this court.
5

6 As such, this Petition for Writ of Mandamus or Prohibition is requested to Stay
7
8 the two district court Orders, permit this Court to hear arguments against those
9
10 Orders, and eventually return the matter for further hearing regarding the arbitrary
11
12 and capricious nature of the Commissioners vote approving the SUP for Stericycle
13
14 Corporation.
15

16 The residents of Rainbow Bend Community and Lockwood Community
17
18 Corporation were unaware of the meetings of the Planning and Commissioners and
19
20 would have voiced their objections to Stericycle's special use permit had they
21
22 received Notice. Petitioner cited to Section 14 of Article 6 of the Nevada
23
24 Constitution, allowing for one form of civil action, and law and equity may be
25
administered in the same action. *Casino Operations, Inc. v. Graham*, 476 P.2d 953,
86 Nev. 764 (Nev. 1970), 4 NRCP 1. V. IV, pp. 932-36, (Opposition to Motion to
Storey County Commissioner's Motion to Correct Caption, filed January 4, 2021).

1 Conclusion: Petitioner's Due Process rights under the Fourteenth Amendment to
2
3 the United States and Nevada constitutions have been violated by the district
4 court's orders because it eliminated the proof necessary to show "standing" so the
5 Petition for Judicial Review of the Storey County Commissioners vote approving
6 the special use permit for Stericycle, Inc. would survive. Petitioner did not receive
7 Notice and did not have an Opportunity to be Heard, since there were no Agendas
8 posted at the Rainbow Bend Clubhouse or Lockwood Senior Center, because of the
9 Governor's Orders to stay at home during the worldwide pandemic for COVID-19.
10
11
12

13
14 Additionally, because of the district court Orders, Petitioner was unable to
15 present Phillip Hilton, Rainbow Bend Homeowner, and Sam Toll, Storey County
16 Resident, who "participated," in the Storey County Planning and Commission
17 meetings of August 6th and 18th 2020, voiced their opposition to the special use
18 permit of Stericycle. Sam Toll satisfied the "aggrieved party" aspect of NRS
19 278.3195, since he appealed to the Storey County Commissioners on August 18,
20 2020, advising them that he had attended the Storey County Planning Commission
21 Meeting of August 6, 2020, objected to the special use permit there during the
22
23
24
25

1 zoom meeting, and again at the Storey County Commission meeting of August 18,
2
3 2020. These two men, who agreed to have Petitioner represent them in the Petition,
4 also had their constitutional rights violated under the Due Process Clause of the
5
6 Fourteenth Amendment.

7
8 DATED this 23rd day of March, 2021.

9 By: /s/: MARY LOU WILSON
10 MARY LOU WILSON
11 Attorney At Law Bar #3329
12 2064 Regent Street, Reno, Nevada 89509
13 775-771-8620
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IN THE SUPREME COURT OF THE STATE OF NEVADA

MARY LOU MCSWEENEY-WILSON,
Petitioner,

vs.

Case No.

District Court #20 OC 00051E

Dept. 1

THE FIRST JUDICIAL DISTRICT COURT OF NEVADA,
IN AND FOR THE COUNTY OF STOREY,
AND THE HONORABLE JAMES TODD RUSSELL,
DISTRICT JUDGE,

Respondents,

AND THE STOREY
COUNTY COMMISSIONERS AND STERICYCLE, INC.,

Real parties in interest.

AFFIDAVIT IN SUPPORT OF PETITION FOR WRIT OF MANDAMUS OR
PROHIBITION

COMES NOW MARY LOU MCSWEENEY-WILSON, and provides this affidavit
in support of Petition for Writ of Mandamus or Prohibition which was filed on
March 23, 2021.

DATED this 23rd day of March, 2021.

By: /s/: MARY LOU WILSON

MARY LOU WILSON

Attorney At Law Bar #3329, 2064 Regent Street, Reno, Nevada 89509
775-771-8620

1 AFFIDAVIT OF PETITIONER

2 STATE OF NEVADA)

3 ss:

4 COUNTY OF STOREY)

5 I, MARY LOU MCSWEENEY-WILSON, do hereby swear under penalty of perjury that the
6 following is a true statement:

7 That I am a lawyer in the State of Nevada and in good standing;

8 That I am the author of the Petition and have litigated the above-referenced action;

9 That I have acted in good faith and not for the purpose of delay in filing this Petition for Writ
10 of Mandamus or Prohibition in a timely manner because there is no plain, speedy and adequate
11 remedy in the ordinary course of law, since the Order of Dismissal and Order Granting
12 Stericycle, Inc.'s Motion to Dismiss, filed March 12, 2021, has the effect of allowing
13 Stericycle's Special Use Permit (SUP) to begin storing and incinerating biohazardous medical
14 waste, with accompanying toxins in the form of dioxins that are hazardous to the health, safety,
15 and welfare of Storey County and the surrounding counties of Washoe, Carson, Douglas, Lyon,
16 and rivers and lakes, such as Truckee River, Pyramid Lake, and Lake Tahoe, including wildlife
17 of the wild horses (Mustangs), cattle, deer, mountain lion, and other wildlife.
18

19 That it is Petitioner's belief that a normal appeal to this Court may take up to one (1) year to
20 complete and the Writ of Mandamus or Prohibition will be completed within a shorter period of
21 time and allow for a return to the district court to allow for a hearing on the second prong of the
22 analysis regarding the arbitrary and capricious nature of the decision to vote for the approval of
23 the Special Use Permit for Stericycle, Inc., which was approved on August 18, 2020.
24
25

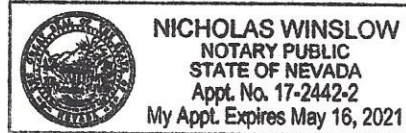
1 Petitioner will present that "standing" has been satisfied under the statutes but the district
2 court's Orders disregarded this fact and violated the two Storey County residents' Fourteenth
3 Amendment rights to Due Process under the United States and Nevada Constitutions.

4 DATED THIS 17 DAY OF March, 2021.

5 Mary Lou Wilson

6 Mary Lou Wilson, Esq.

7 Nicholas Winslow



10 NOTARY

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CERTIFICATE OF COMPLIANCE

1. I hereby certify that this petition complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirement of NRAP 32(a)(6) because:

This petition has been prepared in a proportionally spaced typeface using WORD in font size 14 and Times Roman;

2. I further certify that this petition complies with the page or type volume limitations of NRAP 32(a)(7) because, excluding the parts of the petition excerpted by NRAP 32(a)(7)(c), it

Does not exceed seven thousand (7,000) words as the word count is 4,690.

3. Finally, I hereby certify that I have read this petition, and to the best of my knowledge information and belief, it is not frivolous or interposed for any improper purpose. I further certify that this petition complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the petition regarding matters in the

1 record to be supported by a reference to the page and volume number, if any,
2
3 of the transcript or appendix where the matter relied on is to be found.

4 I understand that I may be subject to sanctions in the event that the
5
6 accompanying petition is not in conformity with the requirements of the Nevada
7 Rules of Appellate Procedure.
8

9 DATED this 23rd day of March, 2021.

10 By: /s/: MARY LOU WILSON
11 MARY LOU WILSON
12 Attorney At Law Bar #3329
13 2064 Regent Street, Reno, Nevada 89509
14 775-771-8620
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Tracie Lindeman
Clerk of the Nevada Supreme Court
201 South Carson Street
Carson City, Nevada 89701

The Honorable Judge James Todd Russell
The First Judicial District Court
Department 1
885 East Musser Street
Carson City, Nevada 89701

Stericycle Inc.
c/o Michael Pagni
Chelsea Latino
McDonald/Carano
100 W. Liberty St.
10th Floor
Reno, Nevada 89501