

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

2  
3 MARY LOU MCSWEENEY-WILSON,

4 Petitioner,

5 vs.

6 No.

7 District Court No. 20 OC 000051E

8 Dept. 1

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

12 Respondents,

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

15 Real parties in interest.  
16

17 \_\_\_\_\_/  
18 EXHIBITS IN SUPPORT OF PETITION FOR  
19 WRIT OF MANDAMUS OR PROHIBITION  
20 VOLUME V  
21  
22  
23  
24  
25

Electronically Filed  
Mar 23 2021 04:46 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

## TABLE OF CONTENTS

Motion to Shorten Time and Leave of Court to Correct Judge's Order Changing the Caption to Eliminate Homeowners of Rainbow Bend Community, and Storey County Residents, Pursuant to FJDCR 3.13, filed February 17, 2021, .....	1040-1043
Notice of Entry of Order and attached Order Granting Stericycle, Inc.'s Motion to Intervene, filed October 28, 2020 and October 27, 2020, respectively, .....	1091-1097
Notice of Entry of Order and attached Order on Motion to Correct Caption, filed January 15, 2021 and January 12, 2021, respectively, .....	1085-1090
Opposition to Motion to Intervene Petition for District Court Review of the Storey County Commissioners Vote to Permit Stericycle's Special Use Permit, In Violation of Public Health, Safety, and Welfare, .....	1121-1127
Order Continuing Hearing, filed December 4, 2020, .....	1101-1102
Order Granting Stericycle, Inc.'s Motion to Dismiss, filed March 12, 2021, .....	1117-1120
Order on Motion to Correct Caption, filed January 12, 2021, .....	1103-1105
Order of Dismissal (of Petition), filed March 12, 2021, .....	1112-1116
Order Setting Hearing, filed November 16, 2020, .....	1098-1100
Reply to Oppositions to Motion to Correct Order Changing Caption to Eliminate Homeowners of Rainbow end and Storey County per FJDCR 3.13, filed March 8, 2021, .....	1072-1084
Reply to Opposition to Motion to Dismiss Petition for District Court Review of Storey County Commissioners Vote to Permit Stericycle's Special Use Permit, in Violation of Public Health, Safety, and Welfare, filed October 12, 2020, .....	1001-1030
Stericycle Inc.'s Opposition to Petitioner's February 17, 2021, Motion Pursuant to FJDCR 3.13, filed March 3, 2021, .....	1049-1071
Storey County Commissioners List of Additional Exhibits for Evidentiary Hearing, filed February 18, 2021, .....	1031-1039

1	Storey County Commissioners Opposition to Motion to Shorten Time	
2	and Leave of Court to Correct Judge’s Order Changing the Caption	
3	to Eliminate Homeowners of Rainbow Bend Community and	
4	Storey County Residents Pursuant to FJDCR 3.13, filed March 2, 2021, .....	1044-1048
5	Subpoena, Larry Huddleson, filed January 15, 2021, .....	1106-1107
6	Subpoena, Phillip Hilton, filed January 15, 2021, .....	1108-1109
7	Subpoena, Scott Martin, filed January 15, 2021, .....	1110-1111
8	Utah Physicians for a Healthy Environment, Clean Air,	
9	Clean Energy, Clean Future, Stericycle, .....	1128-1129

- SECTION 4: Businesses performing non-retail services, including without limitation, legal services, accounting services, or real estate services, are encouraged to conduct business telephonically or virtually to the greatest extent practicable. These businesses are encouraged to permit employees to work from home to the greatest extent practicable.
- SECTION 5: For the purposes of this Directive, "vulnerable persons" are defined as those who are at heightened risk of complications from COVID-19 disease, and include:
- (1) Individuals who are 65 years of age and older;
  - (2) Individuals with chronic lung disease or moderate to severe asthma;
  - (3) Individuals who have serious heart conditions;
  - (4) Individuals who are immunocompromised;
  - (5) Pregnant women; or
  - (6) Individuals determined to be high risk by a licensed healthcare provider.
- SECTION 6: All vulnerable persons are strongly encouraged to stay at home to the greatest extent possible, except when necessary to provide, support, perform, or operate necessary activities, minimum basic operations, critical government functions, necessary travel, or essential businesses.
- SECTION 7: The phrase "social distancing" references guidance promulgated by the United States Centers for Disease Control and Prevention, including without limitation, maintaining at least six feet of physical distancing from other individuals. The phrase "sanitation requirements," "sanitation measures," and "sanitation guidelines" includes without limitation, washing hands with soap and water for at least twenty seconds as frequently as possible, using hand sanitizer, covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces, and not shaking hands.
- SECTION 8: All Nevadans are strongly encouraged to stay in their residences to the greatest extent possible. Recognizing that COVID-19 is still present in Nevada and highly contagious, Nevadans are advised that they are safer at home and should avoid interpersonal contact with persons not residing in their households to the extent practicable. Nevadans are urged to avoid travel to the greatest extent practicable. To reduce the spread of COVID-19 via respiratory transmission, the Nevada public should utilize face coverings in public spaces.
- SECTION 9: Pursuant to NRS 441A.180, persons testing positive for COVID-19 shall stay at home and "self-quarantine" for a minimum of two weeks, except as necessary to care for themselves or seek medical care. Persons determined to be in contact with an individual who tested positive for COVID-19 must quarantine and stay at home for two weeks, or until a negative test result has been received.
- SECTION 10: Section 1 of Directive 007 is hereby further amended to provide that effective 12:01 am on May 29, 2020, the Nevada general public shall not gather in groups of more than fifty in any indoor or outdoor area subject to the limitations of this section, whether publicly owned or privately owned where the public has access by right or invitation, express or implied, whether by payment of money or not. Section 3 of Directive 007 shall remain in force.
- SECTION 11: Communities of worship and faith-based organizations, including without limitation, churches, synagogues, mosques, and temples, are strongly encouraged to offer online and drive-up services to the greatest extent possible. Effective 12:01 am on May 29, 2020, consistent with other

Directives on public gatherings, houses of worship may conduct indoor in-person services in a manner so that no more than fifty persons are gathered, and all social distancing requirements are satisfied. This limitation shall not apply to houses of worship offering drive-up services pursuant to Section 10 of Directive 016. Houses of worship offering indoor, in-person services are encouraged to follow the guidelines promulgated by the LEAP, as well as the following provisions that are consistent with other Directives on public gatherings:

- (1) Seating must be arranged to ensure a minimum of six feet of separation between congregants who do not reside in the same household.
- (2) Participants, including leaders and staff, are encouraged to utilize face coverings to the greatest extent practicable.
- (3) Houses of worship are encouraged to stagger services so that the entrance and egress of congregants for different services do not result in a gathering greater than fifty persons, and to provide proper sanitation between services.

SECTION 12: All employers must take proactive measures to ensure compliance with the social distancing and sanitation guidelines. All employers shall continue to require employees who interact with the public to wear face coverings, to the maximum extent possible, and shall abide by all other guidelines promulgated by NV OSHA.

SECTION 13: All businesses must adopt measures that meet or exceed the standards promulgated by NV OSHA to minimize the risk of spread of COVID-19. All businesses are encouraged to permit their employees to work from home to the maximum extent practicable. NV OSHA shall continue to ensure that businesses reopened pursuant to this Directive or otherwise operating during the state of emergency provide adequate protections to their workers and adopt sanitation protocols that minimize the risk of spread of COVID-19 among their workforce. NV OSHA shall enforce all violations of its guidance, protocols, and regulations.

SECTION 14: All employers are encouraged to consult guidelines issued by the LEAP for industry-specific information for operating in the phased reopening under the *Nevada United: Roadmap to Recovery* plan. The LEAP guidelines will be posted on the Nevada Health Response website at <https://nvhealthresponse.nv.gov/>.

SECTION 15: To the maximum extent practicable, employers and employees are strongly encouraged to incorporate the following protocols into their business operations:

- (1) Encourage customers to wear face coverings
- (2) Continue to encourage telework, whenever possible and feasible with business operations
- (3) Return to work in phases
- (4) Close common areas where personnel are likely to congregate and interact, or enforce strict social distancing protocols
- (5) Strongly consider special accommodations for personnel who are members of a vulnerable population
- (6) Encourage employees to do a self-assessment each day in order to check if they have any COVID-19 type symptoms, for example, fever, cough or shortness of breath
- (7) Practice hand hygiene
- (8) Perform frequent enhanced environmental cleaning of commonly touched surfaces
- (9) Implement separate operating hours for vulnerable populations
- (10) Provide signage advising the public of appropriate social distancing within the facility, including six feet of social distancing from other individuals; and

- (11) Provide readily available hand sanitizer or other sanitizing products for employees and customers

SECTION 16: All employers operating under Phase Two are encouraged to accommodate vulnerable persons and workers caring for a child whose school or place of care is closed, or childcare provider is unavailable, for reasons related to COVID-19, by promoting telecommuting or other remote work options, flexible schedules, or other means. To the greatest extent possible, employers should extend similar accommodations to workers who live in the same household as a vulnerable person. Upon request, all employers covered by the Families First Coronavirus Response Act ("FFCRA") must provide leave to eligible employees as provided by the Act. Employers covered by the FFCRA must notify covered employees seeking accommodations of their eligibility. The provisions of this Section shall be in effect for the duration that the March 12, 2020 Declaration of Emergency shall be in effect, unless specifically terminated by a subsequent Directive.

SECTION 17: All businesses that engage in retail sales may continue to provide retail sales on a curbside or home delivery basis, or allow onsite customer access, with a maximum occupancy of 50% based on listed fire code capacity. Businesses are strongly encouraged to promote home delivery, curbside delivery, walk-up, drive-through, or window service whenever possible. Businesses must adopt measures promulgated by NV OSHA to minimize the risk of spread of COVID-19 including social distancing and sanitation measures, and abide by all other guidance promulgated pursuant to this and other Directives. To the maximum extent practicable, businesses must provide services in a manner disallowing the formation of queues whereby persons congregate in a manner that violates the social distancing guidelines above. All businesses are encouraged to permit their employees to work from home to the maximum extent practicable. Retail businesses operating in open-air malls or strip malls are expressly permitted to operate under the conditions set forth in this Directive.

SECTION 18: Effective 12:01 am on May 29, 2020, indoor malls may open to the public, and allow retail businesses to operate. Businesses engaged in retail sales at indoor malls are subject to the same restrictions as retail businesses operating at other locations, as provided in Section 17 of this Directive. Mall operators shall discourage the public from congregating by removing or prohibiting access to indoor and outdoor seating, except at food courts. Food courts may reopen to customers, but must abide by all restrictions imposed on restaurants pursuant to Section 25 of this Directive, including without limitation, sanitation protocols, and social distancing seating requirements.

SECTION 19: The limitations imposed on drive-in movie theaters in Section 14 of Directive 018 are hereby amended to provide that concession stands may serve food and drinks on a prepackaged basis only.

SECTION 20: Effective 12:01 am on May 29, 2020, non-retail indoor venues, including without limitation, indoor movie theaters, bowling alleys, or arcades may reopen to the public. Indoor movie theaters operating pursuant to this section must ensure that occupancy shall not exceed the lesser of 50% of the listed fire code capacity or fifty persons, and implement measures to ensure that all social distancing requirements are satisfied. All other businesses operating pursuant to this section must ensure that occupancy shall not exceed 50% of the listed fire code capacity, and implement measures to ensure that all social distancing requirements are satisfied. Businesses operating pursuant to this Section shall limit food and beverage sales to prepackaged products only.

SECTION 21: Effective 12:01 am on May 29, 2020, non-retail outdoor venues, including without limitation, miniature golf facilities, amusement parks, theme parks may reopen to the public. Businesses

operating pursuant to this section must ensure that occupancy shall not exceed 50% of the listed fire code capacity, and implement measures to ensure that all social distancing requirements are satisfied.

SECTION 22: Effective 12:01 am on May 29, 2020, musical performances, live entertainment, concerts, competitions, sporting events, and any events with live performances may resume, but shall remain closed for public attendance. Events held pursuant to this section may be recorded, filmed, streamed or broadcast to the public. Live events ordinarily regulated by the Nevada Athletic Commission or the Nevada Gaming Control Board must be approved by the applicable board prior to the event. All other live events under this Section must be approved by the Nevada Department of Business & Industry, Division of Industrial Relations prior to the event. Events held pursuant to this Section must additionally comply with all guidance promulgated by NV OSHA.

SECTION 23: Nail care salons and hair salons licensed by the Nevada Board of Cosmetology and barber shops licensed by the State Barber's Health and Sanitation shall continue to operate under the Phase One conditions set forth in Section 16 of Directive 018.

SECTION 24: Effective 12:01 am on May 29, 2020, estheticians and salons or businesses that provide aesthetic skin services, including without limitation, facials, hair removal, tanning, eyelash services, professional make-up artist services, eyebrow threading, and salt therapy, may reopen to the public pursuant to all protocols and guidelines promulgated by the Nevada State Board of Cosmetology and LEAP, as well as the following provisions:

- (1) Partitions or walls between each chair or workstation are strongly encouraged.
- (2) Establishments with walls or partitions between stations or chairs may utilize all stations, but under no circumstances may more than one customer or client be seated at any given station or chair.
- (3) Establishments without walls or partitions between stations must only seat customers or clients at every other station or chair, or arrange stations or chairs so that a minimum of 6 feet of separation between customers is maintained.
- (4) Establishments must not accept customers or clients on a walk-in basis, and estheticians and technicians must not serve or accept appointments for more than one customer at any given time.
- (5) Customers waiting for appointments must wait outside the facility and must practice social distancing by maintaining a minimum of 6 feet of separation between customers not residing in the same household.
- (6) Make-up application services must use disposable tools or sanitize tools between customers.
- (7) Estheticians, technicians, and other employees must wear face coverings while interacting with customers and clients. Customers and clients should wear face coverings to the extent practicable.
- (8) These businesses must follow the Enhanced Sanitation Guidelines for Salons in Response to COVID-19 issued by the Nevada State Board of Cosmetology. The Board is directed to take action, including the closure of salons and businesses, for all actions by licensees not in compliance with these Guidelines for Response to COVID-19.
- (9) With the exception of pool usage pursuant to Section 29 of this Directive, steam rooms, saunas, portable saunas, vapor baths, salt therapy rooms, hot tubs, and other communal facilities shall remain closed to the public.

SECTION 25: Restaurants and food establishments shall continue to operate under the Phase One conditions set forth in Section 17 of Directive 018, but may additionally utilize tables and serve food within the bar area. Establishments operating under this provision shall abide by the following provisions:

- (1) Establishments shall require employees to wear face coverings, and should encourage customers to wear face coverings to the maximum extent practicable.
- (2) Areas within establishments that promote congregation, including without limitation, dance floors, arcade areas, billiards, and similar activities shall remain closed to the public.
- (3) Customers may sit at and be served at bar tops only if bar top seating is limited such that barstools are spaced a minimum of six feet apart from other barstools of other customers not in the same party.
- (4) Buffets, cafeterias, and self-serve dining facilities shall remain closed until further notice.

SECTION 26: Section 18 of Directive 018 is hereby amended to provide that effective 12:01 am on May 29, 2020, breweries, distilleries, and wineries not licensed to serve food may open to the public subject to the following provisions:

- (1) Bartenders, waitresses, and other employees must wear face coverings.
- (2) The maximum occupancy of these establishments during Phase Two shall not exceed 50% of the listed fire code capacity.
- (3) Tables, booths, or seats must be spaced, or customers seated a minimum of 6 feet apart from other customers not in the same party. Customers sitting at a table or booth must only be served via table service and may not order from the bar top area.
- (4) Customers may sit at and be served at bar tops only if bar top seating is limited such that barstools are spaced a minimum of six feet apart from other barstools of other customers not in the same party.
- (5) Customers waiting to dine onsite must wait outside the establishment until they can be seated and must practice social distancing by maintaining a minimum of 6 feet of separation between customers not residing in the same household or in the same party.
- (6) Breweries, distilleries, and wineries must continue to operate in a manner consistent with worker safety guidelines promulgated by the NV OSHA.

SECTION 27: The following non-essential businesses shall remain closed during Phase Two of the *Nevada United: Roadmap to Recovery* plan:

- (1) Nightclubs
- (2) Day clubs
- (3) Brothels
- (4) Adult entertainment facilities

SECTION 28: Effective 12:01 am on May 29, 2020, gyms, fitness facilities, and fitness studios, including but not limited to dance and yoga studios, may reopen to the public. Gyms, fitness facilities, and fitness studios that provide services to ten or fewer people at a time may reopen only if they are able to provide services in a manner that does not violate social distancing protocols. Establishments providing services to more than ten patrons at a time shall limit customer access so as not to exceed a maximum occupancy of 50% based on listed fire code capacity. All gyms, fitness facilities, and fitness studios must, without exception, abide by all protocols promulgated by NV OSHA, including sanitation protocols. In addition to the protocols promulgated by NV OSHA and the LEAP, all gyms, fitness facilities, and fitness studios must abide by the following provisions:



- (1) Employees, trainers, and instructors must wear face coverings to the maximum extent practicable, and facilities should encourage patrons to wear face coverings to the maximum extent practicable.
- (2) Regardless of listed fire code capacity, facilities must limit access to patrons to ensure that occupancy at any given time does not become sufficiently dense so as to violate social distancing protocols.
- (3) Equipment must be regulated to ensure a minimum of six feet of social distancing between users, and equipment should be moved, designated inoperable, or turned off to ensure that social distancing standards are maintained.
- (4) Group fitness classes must be limited to ensure at least six feet of separation between participants.
- (5) Contact sports, including without limitation, martial arts, basketball, wrestling, and boxing may only be offered in a manner where participants do not physically contact other participants, or activities that require participants to perform within six feet of each other.
- (6) Locker rooms, showers, steam rooms, saunas, portable saunas, vapor baths, salt therapy rooms, hot tubs, and other communal facilities, not to include restrooms, shall remain closed to the public.
- (7) Pools may open to patrons, but all pool usage is subject to the provisions of Section 29 of this Directive.
- (8) Child care facilities in gyms must remain closed.

SECTION 29: Effective 12:01 am on May 29, 2020, all public aquatic venues, may reopen to the public. For the purposes of this Directive, "public aquatic venues" shall include without limitation venues operated and managed by city and county governments; apartment complexes; home owners associations (HOAs); membership clubs including gyms or other privately owned aquatic centers accessible to the public through paid memberships or fees; schools; and hotels, motels, resorts, time-shares, and other guest lodging facilities. Facilities reopening pursuant to this section must abide by the following provisions:

- (1) Capacity at all public aquatic venues shall be limited to a maximum occupancy of 50% based on listed fire code capacity.
- (2) A minimum of six feet of social distancing between users is required in the pool, the pool deck, and any other areas at the facility. This limitation shall not apply to persons residing in the same household.
- (3) Hot tubs shall remain closed to the public.
- (4) Attendees should be encouraged to bring their own towels, equipment, and arrive and minimize the time spent in the facility by arriving and leaving wearing their swimsuit.
- (5) Public aquatic venues with locker rooms shall limit access to lockers and locker rooms, but should maintain public restrooms and shower facilities and limit the number of users at any one time.
- (6) Deck layouts and furniture in standing and seating areas must be arranged to maintain social distancing standards of at least six feet of separation between persons. This requirement shall not apply to persons residing in the same household.
- (7) In addition to the provisions above, aquatic schools offering swim lessons must require instructors to wear face coverings to the maximum extent practicable, and limit access to one parent or guardian per student.
- (8) Water parks shall control access to the public to ensure that the occupancy does not exceed 50% capacity based on applicable fire code or is sufficiently high that social distancing standards are violated. Water parks shall limit locker room access to restroom usage only.

All employees must wear face coverings to the maximum extent practicable. Concession sales at water parks must be limited to prepackaged foods only.

- (9) In addition to the provisions above, all public aquatic venues are encouraged to abide by all other guidelines promulgated by the LEAP.

SECTION 30: Effective 12:01 am on May 29, 2020, museums, art galleries, zoos, and aquariums may reopen to the public. Capacity at these facilities shall be limited to the lesser of 50% based on listed fire code capacity or fifty persons. Interactive exhibits which encourage touching must remain closed and inaccessible to the public. Facilities operating pursuant to this Section must ensure that employees wear face coverings and shall abide by all other guidelines promulgated by NV OSHA.

SECTION 31: Effective 12:01 am on May 29, 2020, body art and piercing facilities may reopen to the public, subject to the following provisions:

- (1) Capacity at these facilities shall be limited to a maximum occupancy of 50% based on listed fire code capacity.
- (2) Partitions or walls between each workstation are strongly encouraged.
- (3) Establishments with walls or partitions between workstations may utilize all stations, but under no circumstances may more than one customer or client be seated at any given station or chair.
- (4) Establishments without walls or partitions between stations must ensure that a minimum of 6 feet of separation between customers is maintained.
- (5) Establishments must not accept customers or clients on a walk-in basis, and artists must not serve or accept appointments for more than one customer at any given time.
- (6) Customers waiting for appointments must wait outside the facility and must practice social distancing by maintaining a minimum of 6 feet of separation between customers not residing in the same household.
- (7) Artists, employees, and customers must wear face coverings at all times. Body art and piercings that require mask removal, including without limitation, work around the mouth and nose are prohibited.
- (8) Access must be limited to customers only; persons accompanying customers must not be inside the facility while services are performed.
- (9) Artists and facilities operating pursuant to this section must abide by all sanitation and other guidelines promulgated by NV OSHA.

SECTION 32: Effective 12:01 am on May 29, 2020, trade schools and technical schools may reopen to the public. Occupancy in classrooms and instructional areas at schools operating pursuant to this Section shall be limited to the lesser of 50% of maximum occupancy of based on listed fire code capacity or fifty persons, and must abide by all guidelines promulgated by NV OSHA. These provisions shall not be construed to limit the reopening plans of Nevada System of Higher Education institutions, schools under county school districts, charter schools, and the University School for Profoundly Gifted Students.

SECTION 33: Summer camps may continue to operate pursuant to all applicable licensure, regulatory, and statutory requirements and are encouraged to following guidelines issued by the LEAP.

SECTION 34: Effective 12:01 am on May 29, 2020, massage therapists, massage establishments, and other professionals licensed by the Nevada State Board of Massage Therapy may reopen to the public subject to the following provisions:

- (1) Massage establishments must follow all NV OSHA and Nevada State Board of Massage Therapy sanitization guidelines.
- (2) Massage therapists, masseuses, and other employees must wear face coverings at all times. Establishments should strongly encourage customers to wear face coverings to the maximum extent practicable.
- (3) Massage therapists and massage establishments must not accept customers or clients on a walk-in basis, and must not serve or accept appointments for more than one customer at any given time.
- (4) Customers waiting for appointments must wait outside the facility and must practice social distancing by maintaining a minimum of 6 feet of separation between customers not residing in the same household.
- (5) Out-call or in-home service are permitted, subject to all sanitation protocols and face covering requirements provided in this section.
- (6) Establishments, including day and overnight spas, may reopen for massage services as allowed in the Phase 2 Directive. Spas or other establishments that open in Phase 2 must close and prohibit use of steam rooms, saunas, portable saunas, vapor baths, salt therapy rooms, hot tubs, and any other communal facilities (except for pools as allowed in the Phase 2 Directive).
- (7) Persons licensed by the Nevada State Board of Massage Therapy must abide by all guidelines promulgated by the Board. The Board is directed to impose disciplinary measures against licensees who violate this provision.

SECTION 35: Directive 002 and Section 021 of Directive 018 are hereby terminated. The Nevada Gaming Control Board shall promulgate requirements for a phased and incremental resumption of gaming operations, with openings commencing no sooner than 12:01 am June 4, 2020. Failure of a gaming licensee to comply with any such requirements shall be considered injurious to the public health, safety, morals, good order and general welfare of the inhabitants of the State, and constitute a failure to comply with this Directive. The Nevada Gaming Control Board is hereby authorized to enforce this Directive as necessary, including, but without limitation, pursuing disciplinary action to limit, condition, suspend, and/or revoke a license, and/or impose a monetary fine against a licensee in accordance with the Gaming Control Act.

SECTION 36: Cannabis dispensaries shall continue to operate under the Phase One conditions set forth in Section 22 of Directive 018.

SECTION 37: Previous Directives not specifically referenced herein remain in effect for the duration specified in those specific Directives or subsequent extensions, unless specifically terminated or extended renewed by subsequent Directive. Directive 018 and all Directives incorporated by reference within Directive 018 with specific expiration dates are extended until June 30, 2020.

SECTION 38: Pursuant to NRS 414.060(3)(f), I hereby delegate to state agencies, and each county of this state, to include the consolidated municipality of Carson City, and local municipalities, the authority to adopt additional protective measures intended to combat the spread of COVID-19, including without limitation, stay at home and face covering orders, so long as those measures are at least as restrictive as those imposed by all Directives promulgated pursuant to the Declaration of Emergency for COVID-19 issued on March 12, 2020. Additional restrictive measures adopted by counties and municipalities may be implemented without additional approval by the State.

SECTION 39: Pursuant to NRS 414.060(3)(f), I hereby authorize all local, city, and county governments, and state agencies to enforce this Directive and regulations promulgated thereunder, including but not limited to, suspending licenses, revoking licenses, or issuing penalties for violating business, professional, liquor, tobacco, or gaming licenses issued by the local jurisdiction for actions that jeopardize the health, safety, or welfare of the public; conduct which may injuriously affect the public health, safety, or welfare; conduct that may be detrimental to the public peace, health, or morals; or any other applicable ordinance or requirement for such a license.

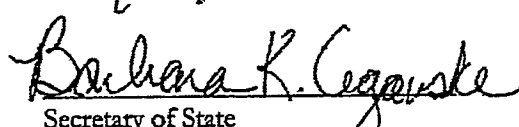
SECTION 40: The State of Nevada shall retain all authority vested in the Governor pursuant to NRS Chapter 414.

SECTION 41: This Directive shall remain in effect through June 30, 2020, unless terminated or extended by a subsequent Directive promulgated pursuant to the March 12, 2020 Declaration of Emergency to facilitate the State's response to the COVID-19 pandemic.

IN WITNESS WHEREOF, I have hereunto  
set my hand and caused the Great Seal of the  
State of Nevada to be affixed at the State  
Capitol in Carson City, this 28<sup>th</sup> day of May,  
in the year two thousand twenty.



  
Governor of the State of Nevada

  
Secretary of State

  
Deputy Secretary of State



## DECLARATION OF EMERGENCY

### DIRECTIVE 010

#### STAY AT HOME ORDER

**WHEREAS**, on March 12, 2020, I, Steve Sisolak, Governor of the State of Nevada issued a Declaration of Emergency to facilitate the State's response to the COVID-19 pandemic; and

**WHEREAS**, on March 13, 2020, Donald J. Trump, President of the United States declared a nationwide emergency pursuant to Sec. 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the "Stafford Act"); and

**WHEREAS**, the World Health Organization and United States Centers for Disease Control and Prevention have advised that there is a correlation between density of persons gathered and the risk of transmission of COVID-19; and

**WHEREAS**, close proximity to other persons is currently contraindicated by public health and medical best practices to combat COVID-19; and

**WHEREAS**, recreational social gatherings unnecessarily extend periods of interpersonal contact and promulgates spread of COVID-19; and

**WHEREAS**, the rate of community spread of COVID-19 can only be reduced by minimizing contact between infected persons and non-infected persons; and

**WHEREAS**, public health experts and epidemiologists indicate that COVID-19 may spread from infected persons to non-infected persons prior to the expression of symptoms in the infected person; and

**WHEREAS**, immediate containment of the spread of COVID-19 is vital to protect the Health and Safety of the Nevada public; and

**WHEREAS**, on March 17, 2020, I directed Nevadans to implement physical distancing measures to minimize opportunities for the disease to spread from infected persons to non-infected persons; and

**WHEREAS**, on March 20, 2020, I issued Directive 003 pursuant to the March 12, 2020 Declaration of Emergency to facilitate the State's response to the COVID-19 pandemic and ordered the closure of all non-essential

001011

businesses, and restricted the activities of essential businesses to reduce opportunities for interpersonal contact whereby the novel coronavirus that causes COVID-19 may be spread from infected persons to non-infected persons; and

**WHEREAS**, on March 20, 2020, the Department of Public Safety promulgated emergency regulations defining essential and non-essential businesses, specifically including Essential Healthcare operations and Essential Infrastructure operations;

**WHEREAS**, on March 24, 2020, I issued Directive 007 pursuant to the March 12, 2020 Declaration of Emergency to facilitate the State's response to the COVID-19 pandemic and ordered Nevadans to cease congregating in public spaces; and

**WHEREAS**, on March 29, 2020, Donald J. Trump, President of the United States, recommended the continuation of limitations on gatherings through April 30, 2020, and

**WHEREAS**, as of March 31, 2020, the State of Nevada Department of Health and Human Services is reporting 1,113 positive cases of COVID-19, and 17 deaths resulting from COVID-19; and

**WHEREAS**, the Governor's COVID-19 Medical Advisory Team has advised that Nevada has not yet experienced its peak infection rates of the COVID-19 disease; and

**WHEREAS**, NRS 414.060 outlines powers and duties delegated to the Governor during the existence of a state of emergency, including without limitation, directing and controlling the conduct of the general public and the movement and cessation of movement of pedestrians and vehicular traffic during, before and after exercises or an emergency or disaster, public meetings or gatherings; and

**WHEREAS**, NRS 414.070 outlines additional powers delegated to the Governor during the existence of a state of emergency, including without limitation, enforcing all laws and regulations relating to emergency management and assuming direct operational control of any or all forces, including, without limitation, volunteers and auxiliary staff for emergency management in the State; providing for and compelling the evacuation of all or part of the population from any stricken or threatened area or areas within the State and to take such steps as are necessary for the receipt and care of those persons; and performing and exercising such other functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population; and

**WHEREAS**, Article 5, Section 1 of the Nevada Constitution provides: "The supreme executive power of this State, shall be vested in a Chief Magistrate who shall be Governor of the State of Nevada;" and

**NOW THEREFORE**, by the authority vested in me as Governor by the Constitution and the laws of the State of Nevada and the United States, and pursuant to the March 12, 2020, Emergency Declaration,

IT IS HEREBY ORDERED THAT:

SECTION 1: The March 12, 2020 Declaration of Emergency is hereby extended to April 30, 2020. All Directives promulgated pursuant to this Declaration shall be in force for the duration that the Declaration of Emergency shall be in effect, unless specifically terminated by a subsequent order.

SECTION 2: With limited exceptions identified below, all Nevadans are ordered to stay in their residences. Gatherings of individuals outside the home is prohibited, subject to the same exceptions.

001012

- SECTION 3: Individuals may leave their residences to provide services, perform work necessary, or obtain services from Essential Healthcare operations (as defined by Section 1(a) of the March 20, 2020 Emergency Regulations) on behalf of themselves, pets, or those in their household.
- SECTION 4: Individuals may leave their residences to provide services or perform work necessary to the operations of Essential Infrastructure operations (as defined by Section 1(b) of the March 20, 2020 Emergency Regulations).
- SECTION 5: Individuals may leave their residences to perform work necessary or obtain services or goods necessary from other Essential Licensed Businesses (as defined by Section 1 of the March 20, 2020 Emergency Regulations).
- SECTION 6: This Directive does not prohibit individuals from engaging in outdoor activity, including without limitation, activities such as hiking, walking, or running, so long as the activity complies with all requirements of Emergency Directive 007, participants maintain at least 6 feet distancing from other individuals, and individuals do not congregate in groups beyond their household members.
- SECTION 7: Individuals experiencing homelessness are exempt from this Directive.
- SECTION 8: This Directive shall remain in effect until April 30, 2020, unless renewed by a subsequent Directive promulgated pursuant to the March 12, 2020 Declaration of Emergency to facilitate the State's response to the COVID-19 pandemic.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Nevada to be affixed at the State Capitol in Carson City, this 31st day of March, in the year two thousand twenty.

Governor of the State of Nevada

Barbara K. Cegavske  
Secretary of State

Scott W. Anderson  
Deputy Secretary of State

001013



# STOREY COUNTY BOARD OF COUNTY COMMISSIONERS MEETING

TUESDAY, AUGUST 18, 2020 10:00 A.M.

DISTRICT COURTROOM  
26 SOUTH B STREET, VIRGINIA CITY, NEVADA

## MINUTES

MARSHALL MCBRIDE  
CHAIRMAN  
ATTORNEY

ANNE LANGER  
DISTRICT

JAY CARMONA  
VICE-CHAIRMAN

LANCE GILMAN  
COMMISSIONER  
TREASURER

VANESSA STEPHENS  
CLERK-

**ROLL CALL via zoom:** Chairman McBride, Vice-Chairman Carmona, Commissioner Gilman, County Manager Austin Osborne, Clerk & Treasurer Vanessa Stephens, Deputy District Attorney Keith Loomis, Tourism Director Deny Dotson, Sheriff Gerald Antinoro, Fire Chief Jeff Nevin, Emergency Management Director Joe Curtis, Senior Planner Kathy Canfield, Senior Center Director Stacey York, Human Resources Director Jeanne Greene, Public Works Director Jason Weizrbicki, Recorder Marney Hansen-Martinez, Communications Director Dave Ballard, Community Chest Director Erik Schoen

### **1. CALL TO ORDER REGULAR MEETING AT 10:00 A.M.**

Meeting was called to order by Chairman McBride at 10:00 A.M.

### **2. PLEDGE OF ALLEGIANCE**

Chairman McBride led the Pledge of Allegiance.

### **3. DISCUSSION/POSSIBLE ACTION:** Approval of Agenda for August 18, 2020.

County Manager Austin Osborne requested item 20 be continued to September 15, 2020. Move item 16 following item 17.

Public Comment: None

**Motion:** I move to approve the Agenda for August 18, 2020, with the changes requested, **Action:** Approve, **Moved by:** Vice Chairman Carmona, **Seconded by:** Commissioner Gilman, **Vote:** Motion carried by unanimous vote, **(Summary:** Yes=3)

### **4. DISCUSSION/POSSIBLE ACTION:** Approval of the Minutes for July 21, 2020.

Public Comment: None

**Motion:** I move to approve the Minutes for July 21, 2020, **Action:** Approve, **Moved by:** Vice Chairman Carmona, **Seconded by:** Commissioner Gilman, **Vote:** Motion carried by unanimous vote, **(Summary:** Yes=3)



## 5. CONSENT AGENDA:

I. For possible action, approval of claims in the amount of \$912,292.23

II. For possible action, approval of business license first readings:

A. **AECOM Design, A Professional Corp.** - Professional / 8985 S. Eastern Ave Ste 130 ~ Las Vegas, NV

B. **Atlas Land Development, LLC** - Contractor / 4363 S. Jumbo Way ~ Carson City, NV

C. **Jimmy's LLC** - Out of County / 3475 Ormsby Ln. ~ Washoe Valley, NV

D. **Road and Highway Builders, LLC** - Contractor / 950 E. Mustang Rd. ~ Sparks, NV

E. **Tenaska Power Services Co** - Out of County / 300 E. John Carpenter Freeway Ste 1100 ~ Irving, TX  
Public Comment: None

**Motion:** I move to approve today's Consent Agenda, **Action:** Approve, **Moved by:** Vice Chairman Carmona, **Seconded by:** Commissioner Gilman, **Vote:** Motion carried by unanimous vote, **(Summary:** Yes=3)

6. PUBLIC COMMENT (No Action) None

## 7. DISCUSSION ONLY (No Action - No Public Comment): Committee/Staff Reports

Sheriff Antinoro:

- Long time Storey County resident, Jim Watson, passed away.
- With the start of school, be on the look-out for kids and school buses out and around. There will be extra enforcement in school zones.

Erik Schoen, Community Chest/Library Director:

- This is the last week for the summer program which has been very successful. With the protocol in place, there were no known cases of Covid 19.
- The library was used as another classroom. This will continue through the fall. People with a Storey County library card will be able to access all resources "virtually".
- Early childhood education will continue to be offered throughout the fall - accommodating up to 18. Some part-time and some full time.
- Before and after school programs will be offered to elementary students, Monday through Thursday, and all day on Friday. Looking at staffing to provide the same programs for middle-school students after school. There are capacity issues, they will do the best they can.
- The tech-center in the library will be staffed by a teacher providing support for students accessing on-line school programs.

Deny Dotson, VCTC Director:

- The VCTC is very concerned with the shutdown and effects on revenue, especially from tourism tax and lodging. Mr. Dotson reviewed the figures (note: difficult to hear him via zoom). Some good news there.
- Hard decisions have been made regarding events - there are concerns with the fall.
- A lot of resources will be going to marketing with radio and billboards.

Joe Curtis, Emergency Management Director:

- Only 5 new cases reported in the Quad County area with 22 recoveries.
- Since March 1, there have been 886 cases - 732 recoveries. 139 still active, 15 deaths.
- In 5 months, there have been only 6 cases in Storey County.
- Reminder - there is potential for exposure within 15 minutes at 6 feet distance.

- The Governor's order still stands for 50% of fire rating occupancy - or 50 people total, whichever is less. Social distancing and masking are still in place.
- At the last test site on August 11, 140 tests were given. Two nurses, a representative from Carson City Health, 4 paid Storey County staff, and 3 Jeep Posse volunteers participated.
- Jeep Posse members have been a huge help at all test sites - with set-up/take down of cones and tables and chairs, in decisions regarding flow of traffic and traffic control. They are always available, show up on time, and are committed to assist in the process. Many of the members have completed County-required MIMS, incident command training.
- The next test date is August 28 at the Lockwood Senior Center, 10am to 11am. Test results should be received in 7 to 10 days. People are lining up about one hour before.
- Tests must be conducted for the next 2 ½ years.
- Plans are being made for the "long haul" and for flu vaccinations, as well as Covid vaccinations when available.
- Equipment has been acquired for the test sites, with more that needs to be acquired to take care of the process - the only outside assistance would be nurses to administer the tests.
- Since the beginning of Covid, Emergency Management and Community Relations have been working about 100% on Covid-related processes and issues.

Chairman McBride asked if (the County) is still required to test 2% of its population per month.

Mr. Curtis: We are far exceeding that.

Austin Osborne, County Manager:

- Working with NACO, the District Attorney, and our team on the mechanics of the program for the \$200,000 grant to be invested in our communities.
- A "town hall" open-air meeting will be held August 27 in Lockwood, 5pm to 6pm. This will take place north of the Truckee River Bridge in an area where people can drive in and stop. People are asked to wear facemasks.
- Working on a request from the last workshop to post the "capital improvement plan" on the link. It is already posted in the budget. A more "user friendly" version is being created.

Vice Chairman Carmona "applauds" the Town Hall meetings. This is an important time to communicate with the community.

Vanessa Stephens, County Clerk:

- This year every active registered voter will receive a mail-in ballot. In addition, we will have the normal polling place. If a voter chooses to not use the mail-in ballot, they can come and vote on a machine as in the past.
- Everyone is encouraged to make sure voter registration is up-to-date. Contact the Clerk's Office with any questions.

#### **8. BOARD COMMENT (No Action - No Public Comment )**

Vice Chairman Carmona:

- A lot of institutional knowledge has been lost with the passing of Jim Watson.

#### **9. DISCUSSION/POSSIBLE ACTION:** Consideration and setting of date for a public hearing on the proposed amended service plan of the TRI GID.

Deputy District Attorney Loomis explained a requirement for amending the service plan is that the Board set a date for a public hearing. Notice must be published. The date being considered is September 15, 2020.

Public Comment: None

**Motion:** I, Jay Carmona, move to set the 15<sup>th</sup> day of September 2020, 10:30 AM, as the date for a public hearing to consider possible approval of an amended service plan for the TRI GID, and authorize the clerk to publish notice of the hearing and to notify interested parties of the public hearing, **Action:** Approve, **Moved by:** Vice Chairman Carmona, **Seconded by:** Commissioner Gilman, **Vote:** Motion carried by unanimous vote, **(Summary:** Yes=3)

**10. DISCUSSION/POSSIBLE ACTION:** Consideration and possible approval of 2<sup>nd</sup> reading for General Home-Based Business License for Highland Arms, internet firearm sales. Applicants are Calvin, Pamela, and Jacob Willey, 2538 Cartwright Rd., Reno, NV 89521.

Sheriff Antinoro said applicants' background has been reviewed - they are pending Federal firearms license approval contingent on County granting business license. The business will primarily be internet and gun-show based. Applicants are connected with a tree service and a long-time gun shop in Reno. There is nothing prohibiting them from having this license.

Public Comment: None

**Motion:** I, Jay Carmona, motion to approve the 2<sup>nd</sup> reading for General Home-Based Business License for Highland Arms, internet firearm sales. Applicants are Calvin, Pamela, and Jacob Willey, 2538 Cartwright Rd., Reno, NV 89521e, **Action:** Approve, **Moved by:** Vice Chairman Carmona, **Seconded by:** Commissioner Gilman, **Vote:** Motion carried by unanimous vote, **(Summary:** Yes=3)

**11. DISCUSSION/POSSIBLE ACTION :** Consideration and possible approval of 2<sup>nd</sup> reading for General Home-Based Business License for Silver State Firearms, 1399 Highland Spur, VC Highlands, NV 89521. Applicants are: David Cooley and Tony Midmore.

Sheriff Antinoro: Applicants are pending Federal Firearms License approval contingent on issuance of County's business license. Applicants will primarily be manufacturing custom firearms. Nothing in their background prohibits this license.

Public Comment: None

**Motion:** I, Jay Carmona, motion to approve the 2<sup>nd</sup> reading for General Home-Based Business License for Silver State Firearms, 1399 Highland Spur, VC Highlands, NV 89521. Applicants are: David Cooley and Tony Midmore, **Action:** Approve, **Moved by:** Vice Chairman Carmona, **Seconded by:** Commissioner Gilman, **Vote:** Motion carried by unanimous vote, **(Summary:** Yes=3)

**12. DISCUSSION/POSSIBLE ACTION:** Consideration and possible approval of 2<sup>nd</sup> reading for General Business License. Out of county Petroleum Distributor, Senergy Petroleum, 464 Andrews St, Ste. 1, North Las Vegas, NV 89081.

Sheriff Antinoro explained Senergy Petroleum will not have an office in Storey County, however they will provide goods and services through local distributors. Nothing was found to preclude them from this license.

Public Comment: None

**Motion:** I, Jay Carmona, motion to approve the 2<sup>nd</sup> reading for General Business License. Out of county Petroleum Distributor, Senergy Petroleum, 464 Andrews St, Ste. 1, North Las Vegas, NV

89081, **Moved by:** Vice Chairman Carmona **Seconded by:** Commissioner Gilman, **Vote:** Motion carried by unanimous vote, (**Summary:** Yes=3)

**13. DISCUSSION/POSSIBLE ACTION:** Consideration and possible approval of 2<sup>nd</sup> reading for General Business License for Tahoe House Hotel & Bar. 162 S C St., Virginia City, NV 89440. Applicant is Paul Hoyle, Lark Lane Hospitality.

Sheriff Antinoro: Background has been completed on this applicant. Mr. Hoyle has a history in the hotel industry and will make a good addition to the community.  
Public Comment: None

**Motion:** I, Jay Carmona, motion to approve 2<sup>nd</sup> reading for General Business License for Tahoe House Hotel & Bar. 162 S C St., Virginia City, NV 89440. Applicant is Paul Hoyle, Lark Lane Hospitality, **Moved by:** Vice Chairman Carmona **Seconded by:** Commissioner Gilman, **Vote:** Motion carried by unanimous vote, (**Summary:** Yes=3)

#### **14. RECESS TO CONVENE AS THE STOREY COUNTY LIQUOR BOARD**

**15. DISCUSSION/POSSIBLE ACTION:** Consideration and possible approval of 2<sup>nd</sup> reading for Liquor License for Tahoe House Hotel & Bar. 162 S C St., Virginia City, NV 89440. Applicant is Paul Hoyle, Lark Lane Hospitality.

Sheriff Antinoro: There is nothing that would preclude Mr. Hoyle from holding a liquor license. He has 20+ years in the hospitality industry based on the reports.

Chairman McBride disclosed he holds a liquor license on C Street, not in proximity to this hotel. Voting on this issue one way or the other would have no affect on this license.  
Public Comment: None

**Motion:** I, Jay Carmona, motion to approve the 2<sup>nd</sup> reading for Liquor License for Tahoe House Hotel & Bar. 162 S C St., Virginia City, NV 89440. Applicant is Paul Hoyle, Lark Lane Hospitality,  
**Action:** Approve, **Moved by:** Vice Chairman Carmona, **Seconded by:** Commissioner Gilman, **Vote:** Motion carried by unanimous vote, (**Summary:** Yes=3)

#### **17. RECESS TO RECONVENE AS THE STOREY COUNTY BOARD OF COUNTY COMMISSIONERS**

**16. DISCUSSION/POSSIBLE ACTION :** Consideration and possible approval of five-year contract with Lenslock for obtaining body cameras to replace the VieVu cameras for a cost of approximately \$20,000.00 per year.

Sheriff Antinoro: Some years ago, a contract with VieVu was entered into for body cameras mandated by the Legislature. VieVu has new owners. There have been issues in keeping the cameras "up and running" and looking at (VieVu), the price goes up significantly to renew the contract and up-grade cameras. Lenslock has a very reliable product, which (the Sheriff) has been testing the last few months, with a very good price. In discussion with the District Attorney's Office, it is probably cheaper to pay off the existing contract with VieVu due to their failure to uphold their end of the contract.

Chairman McBride: It was an "unfunded" mandate, right?

Sheriff Antinoro: At the time, there was an option to initiate a surcharge on the telephone system to

be used for payment of the cameras. The Commission opted not to do that. This is an option moving forward, but he doesn't think anyone wants any increases in taxes or surcharges.

Chairman McBride: Isn't this is a significant increase as opposed to VieVu?

Sheriff Antinoro: It is a significant increase, however it is the most cost effective contract. The company who bought VieVu was quite higher. As this is mandated across the country, there are not a lot of options. This is about the best price.

Deputy District Attorney Loomis: He has looked over the contract and the provisions for termination. The contract could be terminated for "breach" - but the breach standards are very vague. He advised the Sheriff to pay the termination fee, which isn't that high - establishing the breach would be harder. Among other items, the contract with Lenslock has significant limited liability which is not unusual. It is not the greatest, but a contract we have to live with.

Public Comment: None

**Motion:** I, Jay Carmona, motion to approve the 1<sup>st</sup> reading for the approval of the 1<sup>st</sup> reading for cancelling the VieVu camera system and replacing with LensLock camera system, **Action:** Approve, **Moved by:** Vice Chairman Carmona,

Commissioner Gilman asked the Sheriff how he evaluates the (current) camera system and its value to the community. Sometimes these things are not as effective as we would like.

Sheriff Antinoro: Agrees they are not as effective as they would like them to be. He said he testified against them at the Legislature because they really don't accomplish what was intended. They do provide insight in the event of ending up in court on a case. This was implemented because of allegations of police misconduct, shootings, or things of that nature - which have not been an issue in Storey County. It's not uncommon that a camera gets pulled off in a scuffle - you don't necessarily get a good image. The same if someone is being chased because of the way the camera bounces around. A camera in the patrol vehicle versus on the body would be his preference. It was found that the cameras being replaced were not very durable. These (new cameras) have a stronger mounting unit and controls keeping them on. They are not what they could be - we are stuck unless the Legislature changes something.

Commissioner Gilman commented they rarely "roll something back". In watching the news, they (cameras) do not seem to be very effective.

**Seconded by:** Commissioner Gilman, **Vote:** Motion carried by unanimous vote, **(Summary:** Yes=3)

**21. DISCUSSION/POSSIBLE ACTION:** Special Use Permit 2020-021 request by the applicant Stericycle, Inc., to construct and operate a medical and other special waste incinerator facility. The project has the potential to provide generation of excess power, which is considered an "electric or gas power generating plant" which is also subject to a special use permit. The subject property is located at 1655 Milan Drive, Tahoe-Reno Industrial Center, McCarran, Storey County, Nevada, a portion of Assessor's Parcel Number (APN) 005-111-73.

Commissioner Gilman recused himself from vote and discussion on this item as he holds a pecuniary interest in land that is the subject matter of this item.

Senior Planner Kathy Canfield: This application is for a Special Use Permit - a medical waste facility in the Tahoe-Reno Industrial Center. The project is in I-2, heavy industrial zoning, with an I-S overlay. Ms. Canfield described the building - all activities will take place within the building. Applicant is required to obtain permits from Nevada Division of Environmental Protection (NDEP) who regulates emission standards and is permitting authority for air quality.

This project was discussed at the last Planning Commission meeting. Four items of correspondence opposing the project have been received. All items are on the website. The Planning Commission voted 5 to 1 for approval, with one refusal. Staff recommends approval.

Dominic Culotta, Executive Vice President and Chief Engineer of Stericycle introduced the Stericycle team and presented an overview of Stericycle's operations. The plant will be built on a 20-acre parcel on Milan Drive, zoned for heavy industrial with an I-S (Special Industrial Zone) overlay. Approximately 5 acres will be developed for the facility and parking. The rest will be a buffer zone to minimize impact on wildlife and neighbors. Operations will be contained within the 50,000 square foot facility.

Mr. Culotta reviewed the operation of the incinerators which are small compared to large municipal waste incinerators. Traffic impact will be small, with only 10 to 15 trailers expected per day. Construction will support many jobs. The facility will process certain types of medical waste designated for incineration as a best practice.

Mr. Culotta explained the focus on safety which includes enhanced training programs. There is a committee dedicated to health and safety. He addressed issues raised about the Stericycle facility in Utah, as well as in North Las Vegas. A letter has been submitted outlining legal reasons why this is not relevant to the law. A violation at North Salt Lake City, mentioned by those opposed to the facility in Storey County, occurred nine years ago and is the only citation for emission violation in the history of its operation. That facility remains in full operation, in compliance, with a permit through 2022. He discussed concerns with the proposed North Las Vegas facility. That application was withdrawn prior to approval or denial due to a lack of readily available access to water and other utilities.

Mr. Culotta reviewed reasons Stericycle decided on the TRI location for its new facility, including infrastructure, logistics, and the Master Plan. He presented a diagram showing the "state of the art" incineration process that will be installed including an air pollution abatement system. Concerns regarding effect on the environment have been heard. (Stericycle) is subject to stringent federal and state air regulations and follow a proven air pollution control process. The new incinerator will be subject to the most stringent emission standards in any incinerator category. Testing is required by the EPA - with samples and analysis submitted by a third party.

They have reached out to the American Wildhorse Campaign and will hold quarterly meetings throughout this process and believe they will make a positive contribution to the safety and well-being of wild horses.

Stericycle is committed to supporting these missions and participating with business owners of TRI. In addition, they service businesses in Storey, surrounding districts, and counties. This includes doctors, offices, labs, airports, retail, all branches of military, Federal, State, and local governments - as well as others. Mr. Culotta thanked the Board for the opportunity to present this item.

Chairman McBride: What were the negative findings by the Planning Commission in North Las Vegas that were leading to denial of (Stericycle's) SUP?

Dale Rich of Stericycle: The same type of rhetoric and documents being brought forward now may have influenced the decision process. There was not an actual hearing - there was no vote and the application was pulled based on lack of infrastructure.

Selin Hoboy: They were originally approved for the facility in the North Las Vegas situation. Two years later when obtaining a special use permit there was some political opposition in North Las Vegas. Similar information in terms of history at other facilities and the North Salt Lake situation was brought forward. As part of their package, that information was submitted as part of their concerns from a safety perspective. That is why they moved to deny the permit. At the same time, (Stericycle) looked at what was happening in that area and made the decision that the facility would not fit within their time-period and withdrew the application.

Chairman McBride: Special Use Permits are inherent to concern and criticism - that's why they're special use permits. Has Stericycle purchased the property where they plan on building? What is the estimated cost of the facility- how much will you be into it when built out?

Mr. Culotta: They have entered into a contract to purchase the land. Approximately \$40 million - \$14 million could be local. The planning phase and design are underway. When finalized, they can be more cost specific.

Chair McBride: Will the facility be equipped with new equipment or used from other facilities?

Mr. Culotta: The plan is for new equipment.

Mr. Rich: It will be all new with systems based on the latest technology advances.

Chair McBride: New equipment is usually cleaner and more efficient. Will rules be utilized that are put in place by the Treasury Department taking advantage of Storey County as an "opportunity zone"?

Ms. Hoboy responded they are looking at those opportunities - however they wanted to get through this process, then look at the next step and options.

Chair McBride: Will (Stericycle) be asking the Governor's Department of Economic Development for tax abatements?

Ms. Hoboy: They will be looking at what economic opportunities there are within the State. At this point, they have not planned for those - inaudible and plan on funding those themselves. Inaudible. With the potential equipment they are proposing as a "waste energy facility", there might be some options there.

Chair McBride: These questions are asked because we like to have businesses, especially high-tech, move into the industrial park. It doesn't appear (Stericycle) will have a big impact on services, but we like to make sure everyone is paying their fair share.

Vice Chairman Carmona asked how many employees would be working at the facility when it's "up and running".

Mr. Culotta: Approximately 30 employees when it's fully in operation. New technology is very automated. Some others will be coming and going.

Vice Chair Carmona asked Mr. Culotta to explain what would be coming out of the "stack" - would it be equal to emissions from a diesel truck?

Dale Rich: The facility is considered a minor source. Emissions would be fairly low and deminimus- compare it to about 10 trucks driving down the highway.

Vice Chair Carmona: If this is considered a low impact, what would be considered a high impact?

Mr. Rich: High impact would be a very large facility - power plants, manufacturing facilities with enormous emission potential. Our emissions are very low when compared to very large plants.

Vice Chair Carmona: The reality is this is a world where waste is generated that has to be brought down to the safest levels. There has to be place to get rid of this stuff. There will be real time monitoring of the stacks so if there is an issue or failure- what would be the procedure?

Mr. Rich: Emissions will be monitored based on permit conditions per Nevada and EPA regulations. "Site specific" operating parameters will be monitored continuously and recorded. There are "safety's" built in to the facility to stop the process of waste - a "lock-out" condition. Before operation begins, very extensive initial performance testing is done. The parameters established during testing must be complied with at all times. They will continuously "self-report" to NDEP - the regulatory agency. Reports are sent out detailing any deviations. Violations that would occur are reported by Stericycle.

Vice Chair Carmona assumes (Stericycle) would be working with Storey County Emergency Management and if there was an issue (the County) would be notified so the situation could be handled on this end.

Chair McBride asked how many Federal and State "oversight" agencies do you report to or are overseen by?

Ms. Hoboy: Approximately 10 to 15 agencies. There may be a permit for wastewater. We will need Federal and State OSHA permits, as well as permits from Department of Transportation, Nevada Bureau of Air Quality, and Title 5 Air Permit. We are preparing for any additional solid waste permits from the State and any other County permits as needed.

Public Comment:

**Greg Hendricks, American Wild Horse Campaign** : He is relaying appreciation to Stericycle Management Group for openness and willingness to discuss wild horse mitigation impact relating to this facility, its construction, and operation. Their openness is most appreciated. Discussions will continue on a quarterly basis. A commitment letter to continue mitigation discussions has been received. American Wild Horse Connection has been involved in rescue and discussion regarding that - we thank (Stericycle) for that. It's great to see a company look at situations prior to build so that appropriate actions and mitigation are built in - reducing impact on the wild horses.

**Mathew Digesti, Vice President-Government Affairs for Blockchains LLC:** Speaking in opposition to the Special Use Permit requested by Stericycle. A detailed opposition has been provided outlining legal reasons why the SUP does not meet standards for approval. At this time, they would like to focus on the issue of safety in Storey County. It is this (Board's) responsibility to protect the health and welfare of County residents, businesses, and thousands of employees working in close proximity to Stericycle's proposed bio-hazardous site.



Mr. Digesti reviewed other locations where Stericycle's operations were ultimately denied, including in Utah, Arizona, Oakland, and North Las Vegas. Contrary to Stericycle assertions, substantial negative findings were made and are in the staff report. This company has been all over the western United States looking to create a most dangerous, known bio-hazardous service. They have been appropriately challenged or denied everywhere they've been.

Mr. Digesti reviewed various negative issues with Stericycle -including, bio-hazardous pollution, environmental hazards, accidents, fines, and more. In addition, stock prices have declined for five years because the company is harmful and dishonest, among other things. There have been no presentations, no experts, no questions or findings of fact from the County about medical incineration technology or the harmful impact when an accident does happen.

Stericycle did admit to several accidents - the technology is not foolproof. This is not an acceptable risk - it was not to the City of North Las Vegas, Utah, Arizona, or California. What has Stericycle done to make Storey County an acceptable location?

Mr. Digesti feels the Commission does not have enough information regarding impacts. And even if they had enough information, they believe approving the SUP is not worth sacrificing Storey County's future.

Sam Toll: Echoes what Mr. Digesti has said and expressed disapproval at the Planning Commission. He is skeptical of "self-reporting" - whether mining income for taxes, or emissions from this proposed facility. His "backyard" is as far away from this facility as you can get. By approving this type of business, the bar is set for other businesses to come in with hazardous materials. With almost a dozen of these 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 businesses. This kind of business does not belong near Lockwood and Rainbow Bend. Mr. Toll explained how OSHA was turned away from investigating a dangerous machine at Tesla. He encouraged the Commissioners to reject this Special Use Permit.

Philip Hilton: Has there been any environmental study/studies? Getting environmental waste in and out of the area - has there been a study of traffic impacts? I-80 corridor is prone to accidents, especially in winter. What would the impact be if there was a spill on the highway?

Vice Chairman Carmona: Thinks they said about 15 trucks per day.

Chairman McBride: Yes, 10 to 15 trucks per day. (The County) has a hazmat team and we work with Washoe County. The Fire Department is properly trained and equipped to handle any hazmat accident that would occur - whether with this company or anyone else on the I-80 corridor.

Vice Chairman Carmona: Unless there are other questions or concerns that haven't been addressed that would cause putting this off for two weeks, he is confident with answers received. Accusations have been made which he has not seen much evidence in support. He feels they have met all requirements for the heavy industrial zone agreed to 10 years ago with the Master Plan amendment. He is ready to move forward unless there are other concerns raised that have not been addressed.

Chairman McBride: Has confidence in the Planning Commission and Planning staff. He does respect the one dissenting vote on the Commission. He does not, however, see anything that would deter going forward with this.

Ms. Canfield read the Findings of Fact:

This approval is for Special Use Permit 2020-021, a request by the applicant Stericycle, Inc., to construct and operate a medical and other special waste incinerator facility. The project has the potential to provide generation of excess power, which is considered an "electric or gas power generating plant" which is also subject to a special use permit. The subject property is located at 1655 Milan Drive, Tahoe-Reno Industrial Center, McCarran, Storey County, Nevada, a portion of Assessor's Parcel Number (APN) 005-111-73.

The Special Use Permit conforms to the 2016 Storey County Master Plan for the McCarran planning area in which the subject property is located. A discussion supporting this finding for the Special Use Permit is provided in Section 2.E of this staff report and the contents thereof are cited in an approval of this Special Use Permit.

The subject property is located within an existing industrial neighborhood in the McCarran area of Storey County. The zoning is based on the 1999 Storey County Zoning Ordinance which identifies this property as I-2 Heavy Industrial. The proposed facility is defined as a "recycling facilities and operations involving use, recovery or residue of hazardous materials and/or wastes" and has an incinerator and has the potential to provide an "electric or gas power generating plant" and requires a Special Use Permit.

Granting of the Special Use Permit, with the conditions of approval listed in Section 4 of this report, will not under the circumstances of the particular case adversely affect to a material degree the health or safety of persons/property in the neighborhood of the subject property. The project is expected to meet the safety and health requirements for the subject area. The use will also be subject to building and fire plan review in order to ensure compliance with federal, state and other codes.

The Special Use Permit will not impose substantial adverse impacts or safety hazards on the abutting properties or the surrounding area, and it will comply with all federal, state and county regulations.

The conditions under the Special Use Permit do not conflict with the minimum requirements in the 1999 Storey County Zoning Ordinance Sections 17.37 I-2 Heavy Industrial and 17.62 Special Uses.

Granting of the Special Use Permit will not, under the circumstances of the particular case, adversely affect to a material degree the health or safety of persons working in the neighborhood or area of the subject property and will not be materially detrimental to the public welfare or materially injurious to property improvements in the neighborhood or area of the subject property.

Granting of the Special Use Permit would not be incompatible with or detrimental to the surrounding area.

**Motion:** In accordance with the recommendation by staff and the Planning Commission, the Findings of Fact under Section 3.A of this report, and other findings deemed appropriate by the Board of County Commissioners, and in compliance with the conditions of approval, I, Jay Carmona, move to approve of Special Use Permit 2020-21, to construct and operate a medical and other special waste incinerator facility. The project has the potential to provide generation of excess power, which is considered and electric or gas power generating plant which is also subject to a special use permit. The subject property is located at 1655 Milan Drive, Tahoe-Reno Industrial Center, McCarran, Storey County, Nevada, a portion of Assessor's Parcel Number (APN) 005-111-73, **Action:** Approve,

**Moved by:** Vice Chairman Carmona, **Seconded by:** Chairman McBride, **Vote:** Motion carried by unanimous vote, **(Summary: Yes=2)**

**19. DISCUSSION /FOR POSSIBLE ACTION:** Special Use Permit 2020-026 is a request to allow for construction of a 110-foot high public service communication facility associated with the existing Storey County sewer treatment plant. The project includes a tower, equipment shelters and other associated equipment. The tower will be located on the property associated with the Storey County Wastewater Treatment Plant at 1001 Six Mile Canyon Road, Virginia City, Storey County, Nevada and being a portion of Assessor's Parcel Number (APN) 001-311-04.

Senior Planner Kathy Canfield explained this Special Use Permit is for a tower to house public service equipment at the wastewater treatment plant. This will allow for wireless communication at the plant along with providing public service for that area of town that currently has limited coverage. The Planning Commission voted 6-0 for approval and is currently in review with the Historic Commission.

Commissioner Gilman said this is something that has been needed for the health and safety of those in the area.

Public Comment: None

Ms. Canfield read the Findings of Fact:

This approval is for Special Use Permit 2020-026 to allow for construction of a 110-foot high public service communication facility associated with the existing Storey County sewer treatment plant. The project includes a tower, equipment shelters and other associated equipment. The tower will be located on the property associated with the Storey County Wastewater Treatment Plant at 1001 Six Mile Canyon Road, Virginia City, Storey County, Nevada and being a portion of Assessor's Parcel Number (APN) 001-311-04.

The Special Use Permit conforms to the 2016 Storey County Master Plan for the Public Facilities designated area in which the subject property is located. A discussion supporting this finding for the Special Use Permit is provided in Section 2.D of this staff report and the contents thereof are cited in an approval of this Special Use Permit. The Special Use Permit complies with the general purpose, goals, objectives, and standards of the county master plan, the zoning ordinance and any other plan, program, map or ordinance adopted, or under consideration pursuant to the official notice by the county.

The proposal location, size, height, operations, and other significant features will be compatible with and will not cause substantial negative impact on adjacent land uses, or will perform a function or provide a service that is essential to the surrounding land uses, community, and neighborhood.

The Special Use Permit will result in no substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or right-of-way, or other matters affecting the public health, safety, and general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions and policies of the county master plan, this title, and any other plans, program, map or ordinance adopted or under consideration pursuant to an official notice, by the county, or other governmental agency having jurisdiction to guide growth and development.

The proposed use in the proposed area will be adequately served by and will impose no undue burden on any of the improvements, facilities, utilities, or services provided by the county or other governmental agency having jurisdiction in the county.

The Special Use Permit, with the recommended conditions of approval, complies with the requirements of Chapters 17.03.150 - Special Use Permit, 17.12 - General Provisions, and 17.32 - Forestry Zone.

The proposed project is an accessory use to the existing Storey County sewage treatment plant, and therefore is consistent with the land acquisition requirements of Patent 27-2014-0006.

**Motion:** In accordance with the recommendation by staff and the Planning Commission, the Findings of Fact under Section 3.A of this report, and other findings deemed appropriate by the Board of County Commissioners, and in compliance with the conditions of approval, I, Jay Carmona, move to approve Special Use Permit 2020-026 to allow for construction of a 110-foot high public service communication facility associated with the existing Storey County sewer treatment plant. The project includes a tower, equipment shelters and other associated equipment. The tower will be located on the property associated with the Storey County Wastewater Treatment Plant at 1001 Six Mile Canyon Road, Virginia City, Storey County, Nevada and being a portion of Assessor's Parcel Number (APN) 001-311-04, **Action:** Approve, **Moved by:** Vice Chairman Carmona, **Seconded by:** Chairman McBride, **Vote:** Motion carried by unanimous vote, (**Summary:** Yes=2)

**18. DISCUSSION/POSSIBLE ACTION :** Special Use Permit Amendment 2017-020-A1-2020 by applicant Asia Union Electronic Chemicals - Reno, Inc. (AUECC). The applicant requests an amendment to Special Use Permit (SUP) Number 217-020 to modify the language associated with Conditions of Approval C, D, S, T and BB which relate to chemical and substance inventory, outdoor loading/unloading, water/fog deluge systems, bulk product loading/unloading, filling stations, training requirements, outdoor chemical storage, security footage storage and release reporting requirements. The subject property is located at 1400 Waltham Way, APN 004-091-81, McCarran, Storey County, Nevada.

Ms. Canfield explained this is an amendment to the previously issued Special Use Permit, modifying language in 5 of 33 conditions of approval in the original Special Use Permit. At the time of approval, AUECC was a unique business and was given a very detailed review resulting in very detailed conditions of approval. AUECC has since gone to other agencies with similar review processes - some of the (County's) very detailed conditions of approval do not allow the other agencies flexibility to put in their best practices. The recommendation is to modify language to make it more flexible for AUECC to meet requirements of other agencies and the County's SUP by taking out some very specific technical language. None of this changes any safety requirements of the project. Planning Commission voted 7-0 for approval.

Danielle Knight, Environmental Health and Safety Manager at AUECC, introduced several members of the AUECC team. Ms. Knight reviewed AUECC's operations - refining chemistry to a level of ultra-pure chemicals used in semi-conductors to manufacture computer chips. The 2017 Special Use Permit was their first permit obtained. They are now ready for production and would like to revise that permit to insure it matches all other regulatory requirements and includes all stipulations needed for them to conduct business.

Ms. Knight explained changes needed to be made to the original SUP. Including the list of chemicals required to be on site for day to day operations that are not in the original SUP. Also, clarification of items to be moved by forklifts. Some highly technical items could be misconstrued to apply to all their

products. They are clarifying language to differentiate what technology applies to what chemicals. The changes have been assessed by a third-party consultant.

Commissioner Gilman: This is a wonderful company - they have invested millions to move forward in the process. It's very proper to be clarifying the SUP language.

Public Comment: None

Ms. Canfield read the Findings of Fact:

This approval is for Special Use Permit Amendment 2017-020-A1-2020 by applicant Asia Union Electronic Chemicals - Reno, Inc. (AUECC). The applicant requests an amendment to Special Use Permit (SUP) Number 217-020 to modify the language associated with Conditions of Approval C, D, S, T and BB which relate to chemical and substance inventory, outdoor loading/unloading, water/fog deluge systems, bulk product loading/unloading, filling stations, training requirements, outdoor chemical storage, security footage storage and release reporting requirements. The subject property is located at 1400 Waltham Way, APN 004-091-81, McCarran, Storey County, Nevada.

The Amended Special Use Permit 2017-020-A1-2020 conforms to the 2016 Storey County Master Plan for the McCarran planning area in which the subject property is located.

Granting of the Amended Special Use Permit 2017-020-A1-2020 modifying Conditions of Approval C, D, S, T and BB, will not under the circumstances of the particular case adversely affect to a material degree the health or safety of persons/property in the neighborhood of the subject property and will not be materially detrimental to the public welfare or materially injurious to property improvements in the neighborhood or area of the subject property.

The Amended Special Use Permit 2017-020-A1-2020 modifying Conditions of Approval C, D, S, T and BB will not impose substantial adverse impacts or safety hazards on the abutting properties or the surrounding area, and it will comply with all federal, state and county regulations.

The conditions under the Amended Special Use Permit 2017-020-A1-2020 modifying Conditions of Approval C, D, S, T and BB do not conflict with the minimum requirements in the Storey County Zoning Ordinance.

**Motion:** In accordance with the recommendation by staff and the Planning Commission, the Findings of Fact under Section 5.A of this report, and other findings deemed appropriate by the Board of County Commissioners, and in compliance with the conditions of approval, I, Jay Carmona, move to approve Special Use Permit Amendment 2017-020-A1-2020 to modify the language associated with Conditions of Approval C, D, S, T and BB which relate to chemical and substance inventory, outdoor loading/unloading, water/fog deluge systems, bulk product loading/unloading, filling stations, training requirements, outdoor chemical storage, security footage storage and release reporting requirements. The subject property is located at 1400 Waltham Way, APN 004-091-81, McCarran, Storey County, Nevada, **Action:** Approve, **Moved by:** Vice Chairman Carmona, **Seconded by:** Commissioner Gilman, **Vote:** Motion carried by unanimous vote, **(Summary:** Yes=3

**20. DISCUSSION/ FOR POSSIBLE ACTION:** First reading of Bill 118, Ordinance 20-307, text amendments to Storey County Code Title 17 Zoning Districts CR Commercial-Residential ; C Commercial; R1 Single-Family; R2 Multi-Family Residential; E Estate; F Forestry; A Agriculture; I1 Light Industrial and I2 Heavy Industrial; NR Natural Resources and SPR Special Planning Review zones. Additions, modifications, elimination and clarifications including the listed land uses minimum

floor area, setbacks, minimum parcel area, distance between buildings and home enterprises are proposed.

Continued to September 15, 2020.

**22. DISCUSSION/ FOR POSSIBLE ACTION:** Approval of business license second readings:

- A. Adelita's Tamales** - Food Truck / 917 Desert Breeze Way ~ Fernley, NV
- B. Denmark Commerce Park Owner 's Assoc.** - Non-Profit / 1485 La Briana Ave ~ Reno, NV
- C. G3 Solar, LLC** - Contractor / 272 W 200 N. #200 ~ Lindon, UT
- D. Hammond Homes and Construction LLC** - Contractor / 1780 Lattin Road ~ Fallon, NV
- E. Holder Construction Group LLC** - In-County Contractor / 2555 USA PKWY ~ McCarran, NV
- F. QA Group, LLC** - Out-of-County / 3400 E. Third Ave ~ Foster City, CA
- G. Iconic Concrete LLC** - Contractor / 2740 Beach River Dr ~ Reno, NV
- H. Two Rivers Demolition, Inc.** - Contractor/2620 Mercantile Dr. ~ Rancho Cordova, CA

County Manager Osborne: Community Development recommends approval of Items A through H.

Public Comment: None

**Motion:** I, Jay Carmona, motion to approve the Second Reading of Business Licenses A. through H., **Action:** Approve, **Moved by:** Vice Chairman Carmona, **Seconded by:** Commissioner Gilman, **Vote:** Motion carried by unanimous vote, **(Summary:** Yes=3

**23. PUBLIC COMMENT (No Action) None**

**24. ADJOURNMENT OF ALL ACTIVE AND RECESSED BOARDS ON THE AGENDA**

The meeting was adjourned by the Chair at 12:01 PM

Respectfully submitted,

By: \_\_\_\_\_  
Vanessa Stephens Clerk-Treasurer

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of STOREY COUNTY DISTRICT ATTORNEY'S OFFICE and that on this day I personally served a true and correct copy of the attached document by:

- ☒ U.S. Mail  
☐ Facsimile Transmission  
☐ Personal Service/Hand-Delivery  
☐ Reno-Carson Messenger Service  
☐ E-Filing effected by eFlex or CM/ECF

addressed to the following:

Mary Lou Wilson, Esq.  
2064 Regent Street  
Reno, NV 89509  
Attorney for Petitioner

with a courtesy copy sent to:

Mary Lou Wilson  
hawklet2@aol.com

Dated this 12<sup>th</sup> day of October, 2020.

  
Debra Burns

001030

FILED

2021 FEB 18 PM 3:56

STOREY COUNTY CLERK

BY A. Mike  
DEPUTY

1 ANNE LANGER SBN #3345  
2 KEITH LOOMIS SBN #1912  
3 Storey County District Attorney's Office  
4 201 S. C Street, P.O Box 496\Virginia City, NV 89440  
5 Telephone (775) 847-0964  
6 Attorneys for Respondent Storey County Commissioners

7 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

8 IN AND FOR THE COUNTY OF STOREY

9 MARY LOU MCSWEENEY-WILSON,

10 Petitioner

Case No. 20 OC 000051E

11 vs.

Dept. No. 1

12 STOREY COUNTY COMMISSIONERS AND  
13 STERICYCLE, INC.

14 Respondents.

15  
16 **STOREY COUNTY COMMISSIONERS LIST OF ADDITIONAL EXHIBITS FOR**  
17 **EVIDENTIARY HEARING.**

18  
19 COME NOW, the Storey County Commissioners by and through their attorney Keith  
20 Loomis, Chief Deputy District Attorney and identify the following documents as additional  
21 exhibits for the Evidentiary Hearing to be held on February 19, 2021.


- 22 1. Email from Vanessa Stephens to Tiffany Pieretti dated July 15, 2020  
23 2. Email from Vanessa Stephens to Tiffany Pieretti dated August 12, 2020.  
24 3. Email from Lyndi Renaud to Dawn Carlson et al., dated July 7, 2020.  
25 4. Email from Lyndi Renaud to Ashley Mead et al dated July 28, 2020.  
26 5. Email from Lyndi Renaud to Ashley Mead et al dated August 11, 2020  
27  
28

001031



1 6. Email from Lyndi Renaud to Adrienne Baugh et al dated August 11, 2020.  
2  
3

4 Dated this 18<sup>th</sup> day of February, 2021

5   
6 \_\_\_\_\_  
7 Keith Loomis  
8 Chief Deputy District Attorney  
9 For Storey County Nevada  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Tiffany Pieretti**

---

**From:** Vanessa Stephens  
**Sent:** Wednesday, August 12, 2020 2:50 PM  
**To:** Tiffany Pieretti  
**Subject:** Agenda Posting  
**Attachments:** 081820 Agenda.docx

Good Afternoon! ☺

Would you please send out the attached for posting?

Thank You,  
VANESSA

Vanessa Stephens  
Clerk & Treasurer, Storey County  
PO Drawer D, Virginia City, NV 89440  
Office: 775-847-0969  
Fax: 775-847-0921  
[vstephens@storeycounty.org](mailto:vstephens@storeycounty.org)

*Storey County is an Equal Opportunity Provider.*

**CONFIDENTIALITY DISCLAIMER:**

**This e-mail and any attachments are intended only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient, any dissemination, distribution or copying of this e-mail and any attachments is strictly prohibited. If you have received this e-mail in error, please immediately notify me and permanently delete the original and all copies and printouts of this e-mail and any attachments.**

**Tiffany Pieretti**

---

**From:** Vanessa Stephens  
**Sent:** Wednesday, July 15, 2020 7:11 PM  
**To:** Tiffany Pieretti  
**Subject:** 07212020 Agenda.docx  
**Attachments:** 07212020 Agenda.docx

Hi!

Will you please send out the attached for posting?

Thank you!  
V

**Tiffany Pieretti**

---

**From:** Lyndi Renaud  
**Sent:** Tuesday, July 7, 2020 10:58 AM  
**To:** Dawn Carlson; Ashley Mead; Roy Thomsen; jamesandalicia\_kittrell@yahoo.com; Tiffany Pieretti; abaugh@marktwaincc.org  
**Subject:** Agenda  
**Attachments:** AGENDA 07 16 2020.docx; AGENDA 07 16 2020.pdf

Good Morning,

Can you please post the attached agenda when you get a chance?

Thank you, Lyndi

*Lyndi Renaud*  
Planning Assistant  
Storey County Planning Department  
PO Box 176  
Virginia City, NV 89440  
775.847.1144

*Storey County is an Equal Opportunity Provider.*

CONFIDENTIALITY NOTE: This e-mail may contain confidential and privileged material for the sole use of the intended recipient(s). Any review, use, distribution or disclosure by others is strictly prohibited. If you are not the intended recipient (or authorized to receive on behalf of the recipient), please contact the sender by reply e-mail and delete all copies of this message.

**Tiffany Pieretti**

---

**From:** Lyndi Renaud  
**Sent:** Tuesday, July 28, 2020 10:14 AM  
**To:** Ashley Mead; Dawn Carlson; Tiffany Pieretti; jamesandalicia\_kittrell@yahoo.com; Roy Thomsen; abaugh@marktwaincc.org  
**Subject:** Agenda  
**Attachments:** AGENDA 08 06 2020.pdf; AGENDA 08 06 2020.docx

Good Morning,

Can you please post the attached agenda for me?

Thank you and have a good day! Lyndi

*Lyndi Renaud*  
Planning Assistant  
Storey County Planning Department  
PO Box 176  
Virginia City, NV 89440  
775.847.1144

*Storey County is an Equal Opportunity Provider.*

CONFIDENTIALITY NOTE: This e-mail may contain confidential and privileged material for the sole use of the intended recipient(s). Any review, use, distribution or disclosure by others is strictly prohibited. If you are not the intended recipient (or authorized to receive on behalf of the recipient), please contact the sender by reply e-mail and delete all copies of this message.

**Tiffany Pieretti**

---

**From:** Lyndi Renaud  
**Sent:** Tuesday, August 11, 2020 8:00 AM  
**To:** Ashley Mead; Dawn Carlson; Tiffany Pieretti; Roy Thomsen;  
jamesandalicia\_kittrell@yahoo.com; abaug@marktwaincc.org  
**Subject:** Agenda  
**Attachments:** AGENDA 08 20 2020.pdf; AGENDA 08 20 2020.docx

Good Morning,

Can you please post the attached agenda for me?

Thank you and have a good day, Lyndi

*Lyndi Renaud*  
Planning Assistant  
Storey County Planning Department  
PO Box 176  
Virginia City, NV 89440  
775.847.1144

*Storey County is an Equal Opportunity Provider.*

CONFIDENTIALITY NOTE: This e-mail may contain confidential and privileged material for the sole use of the intended recipient(s). Any review, use, distribution or disclosure by others is strictly prohibited. If you are not the intended recipient (or authorized to receive on behalf of the recipient), please contact the sender by reply e-mail and delete all copies of this message.

**Tiffany Pieretti**

---

**From:** Lyndi Renaud  
**Sent:** Tuesday, August 11, 2020 8:55 AM  
**To:** Adrienne Baugh; Ashley Mead; Dawn Carlson; Roy Thomsen; jamesandalicia\_kittrell@yahoo.com; Tiffany Pieretti  
**Subject:** REPLACEMENT agenda  
**Attachments:** AGENDA 08 20 2020.pdf; AGENDA 08 20 2020.docx

Hi again,

Please disregard the earlier email about posting the agenda. That attachment had the incorrect date on it. Please post this one instead.

Thank you and sorry for the confusion.

Lyndi

*Lyndi Renaud*  
Planning Assistant  
Storey County Planning Department  
PO Box 176  
Virginia City, NV 89440  
775.847.1144

*Storey County is an Equal Opportunity Provider.*

CONFIDENTIALITY NOTE: This e-mail may contain confidential and privileged material for the sole use of the intended recipient(s). Any review, use, distribution or disclosure by others is strictly prohibited. If you are not the intended recipient (or authorized to receive on behalf of the recipient), please contact the sender by reply e-mail and delete all copies of this message.

1 **CERTIFICATE OF SERVICE**

2  
3 Pursuant to NRCP 5(b), I certify that I am an employee of STOREY  
4 COUNTY DISTRICT ATTORNEY'S OFFICE and that on this day I personally  
5 served a true and correct copy of the STOREY COUNTY COMMISSIONERS  
6 LIST OF ADDITIONAL EXHIBITS FOR EVIDENTIARY HEARING by:

- 7 ☒ U.S. Mail  
8 ☐ Facsimile Transmission  
9 ☐ Personal Service/Hand-Delivery  
10 ☐ Reno-Carson Messenger Service

11  
12 addressed to the following:

13 Mary Lou Wilson, Esq.  
14 Mike Wilson, Esq.  
15 2064 Regent St.  
16 Reno, NV 89509

17 Michael A. T. Pagni, Esq.  
18 McDonald Carano  
19 100 W. Liberty St., 10th Flr.  
20 Reno, NV 89501

21 Chelsea Latino, Esq.  
22 McDonald Carano  
23 100 W. Liberty St., 10th Flr.  
24 Reno, NV 89501

25 Dated this 18<sup>th</sup> day of February, 2021.

26 Teresa Sargent  
27 Teresa Sargent  
28


001039



FILED

2021 FEB 17 AM 9:11

STOREY COUNTY CLERK

BY  DEPUTY

**COPY**

CODE NO.  
MARY LOU WILSON  
Attorney at Law, Bar Number 3329  
2064 Regent Street  
Reno, Nevada 89509  
775-771-8620  
Attorney for Petitioner

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

IN AND FOR CARSON CITY

MARY LOU MCSWEENEY-WILSON,  
Petitioners,

vs.

STOREY COUNTY COMMISSIONERS,

20 OC 00005 1E

Dept. 1

Respondents.

**MOTION TO SHORTEN TIME AND LEAVE OF COURT TO CORRECT JUDGE'S  
ORDER CHANGING THE CAPTION TO ELIMINATE HOMEOWNERS OF  
RAINBOW BEND COMMUNITY, AND STOREY COUNTY RESIDENTS.  
PURSUANT TO FJDCR 3.13**

COMES NOW MARY LOU MCSWEENEY-WILSON, and hereby requests shortening time  
and leave of Court to Correct Judge's Order signed January 12, 2021, and Notice of Order  
entered January 15, 2021.

Within this Order, the Court granted the State's Motion to Correct Caption, filed December  
28, 2020. Petitioner filed an Opposition on January 4, 2021, indicating that she had over two  
hundred and fifty (250) signatures opposing Stericycle, from Homeowners of Rainbow Bend  
Community, and Storey County residents. Opposition to Motion to Correct Caption, p. 1, filed  
January 4, 2021, and Opposition to Motion to Dismiss, Exhibit 4, filed October 1, 2020.

001040

1 The Order limited the caption to reflect Mary Lou McSweeney-Wilson as the sole petitioner.  
2 However, the Court overlooked or misunderstood a material fact, or overlooked, misunderstood,  
3 or misapplied the law in that the caption which stated that Homeowners of Rainbow Bend  
4 Community, should be deleted; when, in fact, an individual by the name of Phillip Hilton, who  
5 signed the Petition referenced in the Opposition, Exhibit 4, p. 1, third from the bottom, who  
6 "participated" in the Storey County Commissioner's Meeting held on August 18, 2020, where  
7 the special use permit for Stericycle was discussed and approved by the Commissioners. Storey  
8 County Evidentiary Hearing Statement, Exhibit 13, Minutes of the Hearing, p. 10.

9  
10 In addition, the caption wrongfully excluded a resident of Storey County by the name of Sam  
11 Toll, who "participated" in the Storey County Planning Commissioner's Meeting held on August  
12 6, 2020, and the Storey County Commissioner's Meeting held on August 18, 2020, where the  
13 special use permit for Stericycle was discussed and approved by the Commissioners. Storey  
14 County Evidentiary Hearing Statement, Exhibit 12, Minutes of the Hearing, p. 4 and Exhibit 13,  
15 Minutes of the Hearing, p. 10.

16 Therefore, the ruling of the Court on January 12, 2021, affectively eliminated two individuals,  
17 who were within the groups identified in the original caption, who "participated" in the Storey  
18 County Commissioner's Meeting, are therefore are "aggrieved" parties, and have standing under  
19 NRS 278.3195. to present this petition. Failure to allow these two individuals standing to move  
20 forward with this petition affectively eliminates their due process rights and access to the Court.  
21 Fourteenth Amendment to the United States and Nevada Constitutions.

22  
23 The petition was timely filed on September 10, 2020, since it was twenty-three (23) days from  
24 the August 18, 2020, Commissioner's meeting, which approved Stericycle's special use permit.  
25 NRS 278.0235.

1 Both Phillip Hilton and Sam Toll have retained Petitioner to represent them in the above-  
2 referenced Petition.

3 As such, it is respectfully requested that this Court shorten time and grant leave to Petitioner  
4 to correct the Court's change of caption to include the following: Phillip Hilton, Rainbow Bend  
5 Resident, and Sam Toll, Resident of Storey County, represented by Mary Lou McSweeney-  
6 Wilson, Petitioners, v. Storey County Commissioners and Stericycle, Inc., Respondents.  
7

8 Dated this 17<sup>th</sup> day of February, 2021

9   
MARY LOU WILSON

10 Attorney at Law, Bar Number 3329  
11 2064 Regent Street  
12 Reno, Nevada 89509  
13 775-771-8620  
14 Attorney for Petitioner

15 AFFIRMATION PURSUANT TO NRS 239B.030

16 The undersigned does hereby affirm that the preceding document does not contain the social  
17 security number of any person.

18 DATED this 17<sup>th</sup> day of February, 2021

19   
MARY LOU WILSON

20 Attorney At Law, Bar #3329  
21 2064 Regent Street  
22 Reno, Nevada 89509  
23 775-771-8620  
24 Attorney for Petitioner  
25

1 CERTIFICATE OF SERVICE

2 I, Mary Lou Wilson, hereby affirm that on the 17<sup>th</sup> day of February, 2021, I mailed the  
3 aforementioned document and sent a hard copy to the following parties at the following  
4 addresses through the U.S. Mail:

5 The Storey County Clerk of the Court  
6 26 S. B Street  
7 Drawer D  
8 Virginia City, Nevada 89440

9 Billie Shadron (emailed February 16, 2021)  
10 Administrative Assistant to Judge James Wilson

11 Assistant District Attorney Keith Loomis (emailed February 16, 2021)  
12 Storey County District Attorney  
13 201 S C St.  
14 Virginia City, Nevada 89440

15 Commissioners Jay Carmona  
16 and Marshall McBride  
17 P.O. Box 176  
18 26 South B Street  
19 Virginia City, Nevada 89440

20 Stericycle Biohazardous Medical Waste Disposal (emailed February 16, 2021)  
21 c/o McDonald/Carano  
22 100 West Liberty Street  
23 10<sup>th</sup> Floor  
24 Reno, Nevada 89501

25 Office of the Attorney General  
100 North Carson Street  
Carson City, Nevada 89701-4717

001043

FILED

2021 MAR -2 PM 4:23

STOREY COUNTY CLERK

BY Mike  
DEPUTY

1 ANNE LANGER SBN #3345  
2 KEITH LOOMIS SBN #1912  
3 Storey County District Attorney's Office  
4 201 S. C Street, P.O Box 496\Virginia City, NV 89440  
5 Telephone (775) 847-0964  
6 Attorneys for Respondent Storey County Commissioners

7  
8 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

9  
10 IN AND FOR THE COUNTY OF STOREY

11  
12 MARY LOU MCSWEENEY-WILSON,

13  
14 Petitioner,

Case No. 20 OC 000051E

15  
16 vs.

Dept. No. 1

17  
18 STOREY COUNTY COMMISSIONERS AND  
19 STERICYCLE, INC.

20  
21 Respondents.

22  
23 **STOREY COUNTY COMMISSIONERS OPPOSITION TO MOTION TO SHORTEN**  
24 **TIME AND LEAVE OF COURT TO CORRECT JUDGE'S ORDER CHANGING THE**  
25 **CAPTION TO ELIMINATE HOMEOWNERS OF RAINBOW BEND**  
26 **COMMUNITY AND STOREY COUNTY RESIDENTS PURSUANT TO FJDCR 3.13**

27  
28 COME NOW, the Storey County Commissioners by and through their attorney, Keith  
Loomis Chief Deputy District Attorney, and submit this Opposition to the Motion to Shorten  
Time and Leave of Court to Correct Judge's Order Changing the Caption to Eliminate  
Homeowners of Rainbow Bend Community and Storey County Residents Pursuant to FJDCR  
3.13 (Motion for Reconsideration). This opposition is based upon the documents and pleadings  
on file with the court, the attached Memorandum of Points and Authorities and any evidence that  
may be produced at a hearing of this matter.

29  
30 Dated this 2nd day of March, 2021

31  
32 Keith Loomis  
33 Keith Loomis, Chief Deputy District Attorney

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**MEMORANDUM OF POINTS AND AUTHORITIES**

**1. Preliminary Matter**

FJDCR 3.13 provides:

Rule 3.13. Reconsideration of orders.

(a) *Leave required.* Issues once heard and disposed of will not be renewed in the same cause except by leave of court granted upon motion. The court may reconsider a decision if the court overlooked or misunderstood a material fact, or overlooked, misunderstood, or misapplied law that directly controls a dispositive issue.

(b) *Opposition.* An opposition to a motion for leave to file a motion for reconsideration will not be filed unless ordered by the court.

This rule indicates that a party must first file a motion to obtain leave of court in order to renew an argument previously decided. It further provides that an opposition to a request for leave of court cannot be filed unless ordered by the court. In this case, Petitioner has joined her request for leave of court with her argument for reconsideration. The rule does not appear to address this situation. The Order of Continuance does provide however, that the parties shall brief and submit Ms. Wilson's motion in accordance with FJDCR 3.8, 3.9, and 3.11. Accordingly, it is the Respondent Storey County Commissioners intent to address the situation by providing this opposition to the merits of Ms. Wilson's motion for reconsideration.

**2. Introduction.**

Petitioner asserts that the court overlooked or misunderstood a material fact or overlooked, misunderstood or misapplied the law in granting the motion to correct the caption of the petition filed by Ms. Wilson. She asserts this is the case because since the time of the order

1 correcting the caption, Ms. Wilson has discovered a Storey County resident and a homeowner in  
2 Rainbow Bend who attended the meeting of the Board of County Commissioners of Storey  
3 County (Board) at which the Stericycle application for a special use permit was approved. This  
4 assertion however, does not address the reason the court granted the motion to correct the  
5 caption. The court granted the motion to correct the caption because the parties removed from  
6 the caption were fictitious entities. That remains true today.  
7

8  
9 **3. Argument.**

10 **a. The caption of a complaint is required to identify the parties to a lawsuit.**  
11

12 NRCP 10(a) provides in part that the caption of a complaint "must name all the parties".  
13 Ms. Wilson generically named as parties Storey County Residents (Residents) and Homeowners  
14 of Rainbow Bend Community (Homeowners). Neither of these entities has legal status.  
15 Potentially, Ms. Wilson could seek class certification for the Residents and the Homeowners, but  
16 she has made no request for such certification. Accordingly, in the absence of certification or  
17 legal status neither Residents or Homeowners can be parties. They did not belong in the caption.  
18  
19

20 **b. An attorney filing a pleading is required to identify whom the attorney**  
21 **represents.**  
22

23 Under FJDCR 3.2(a) an attorney representing the party filing a pleading is required to  
24 identify the party whom the attorney represents. Ms. Wilson did not identify Homeowners or  
25 Residents as her clients. They were simply fictitious entities. That Ms. Wilson has recently  
26 discovered two individuals both of whom are residents of Storey County and one of whom is a  
27 homeowner in the Rainbow Bend community, does not mean that Homeowners or Residents  
28

1 have achieved legal status. They remain unsuited for being identified as a party to the lawsuit. It  
2 may be that Ms. Wilson can amend her pleadings to add the newly found individuals as parties,  
3 but that motion has not been made. Such a motion may well raise additional issues such as  
4 whether Ms. Wilson may have a conflict of interest in representing herself as well as the  
5 additional parties, whether the addition of new parties is timely, as well as other possible issues.  
6

7  
8 **4. CONCLUSION**

9  
10 It is submitted that the issue raised by the motion to correct caption was correctly  
11 decided. The fact that Ms. Wilson recently discovered two persons who may have standing to  
12 bring a petition for judicial review does not change the correctness of that decision. Accordingly  
13 it is respectfully submitted that the motion for reconsideration should be denied.  
14

15 Dated this 2nd, day of March, 2021.

16  
17 ANNE LANGER Storey County District Attorney

18  
19 By:   
20 Keith Loomis, Chief Deputy District Attorney  
21  
22  
23  
24  
25  
26  
27  
28



1  
2  
3 **CERTIFICATE OF SERVICE**

4 Pursuant to NRCP 5(b), I certify that I am an employee of STOREY  
5 COUNTY DISTRICT ATTORNEY'S OFFICE and that on this day I personally  
6 served a true and correct copy of the STOREY COUNTY COMMISSIONERS  
7 OPPOSITION TO MOTION TO SHORTEN TIME AND LEAVE OF COURT  
8 TO CORRECT JUDGE'S ORDER CHANGING THE CAPTION TO  
9 ELIMINATE HOMEOWNERS OF RAINBOW BEND COMMUNITY AND  
STOREY COUNTY RESIDENTS PURSUANT TO FJDCR 3.13 by:

- 10 ☒ U.S. Mail  
11 ☐ Facsimile Transmission  
12 ☐ Personal Service/Hand-Delivery  
13 ☐ Reno-Carson Messenger Service  
14

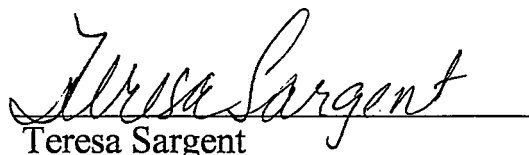
15 addressed to the following:

16 Mary Lou Wilson, Esq.  
17 Mike Wilson, Esq.  
18 2064 Regent St.  
Reno, NV 89509

19 Michael A. T. Pagni, Esq.  
20 McDonald Carano  
100 W. Liberty St., 10th Flr.  
Reno, NV 89501

21 Chelsea Latino, Esq.  
22 McDonald Carano  
100 W. Liberty St., 10th Flr.  
23 Reno, NV 89501

24 Dated this 2<sup>nd</sup> day of March, 2021.

25  
26  
27   
28 Teresa Sargent

001048

**FILED**

**2021 MAR -3 PM 1:50**

**STOREY COUNTY CLERK**

BY *[Signature]*  
**DEPUTY**

Michael A.T. Pagni (NSBN 6444)  
Chelsea Latino (NBSN 14227)  
McDONALD CARANO LLP  
100 West Liberty Street, 10th Floor  
Reno, NV 89501  
Telephone: (775) 788-2000  
Facsimile: (775) 788-2020  
[mpagni@mcdonaldcarano.com](mailto:mpagni@mcdonaldcarano.com)  
[clatino@mcdonaldcarano.com](mailto:clatino@mcdonaldcarano.com)

*Attorneys for Respondent Stericycle, Inc.*

**FIRST JUDICIAL DISTRICT COURT OF NEVADA**

**STOREY COUNTY**

\* \* \* \* \*

MARY LOU MCSWEENEY-WILSON,

Petitioner,

vs.

STOREY COUNTY COMMISSIONERS;  
and STERICYCLE, INC.,

Respondents.

CASE NO.: 20 OC 00051E

DEPT NO.: 1

**STERICYCLE, INC.'S OPPOSITION TO PETITIONER'S  
FEBRUARY 17, 2021 MOTION PURSUANT TO FJDCR 3.13**

Pursuant to the Court's February 24, 2020 Order of Continuance, Respondent Stericycle, Inc. ("Stericycle") submits its opposition to the *Motion to Shorten Time and Leave of Court to Correct Judge's Order Changing the Caption to Eliminate Homeowners of Rainbow Bend Community, and Storey County Residents, Pursuant to FJDCR 3.13* filed on February 17, 2021 ("Motion for Reconsideration") by Petitioner Mary Lou McSweeney-Wilson ("Petitioner"). This Opposition is made and based on the following memorandum of points and authorities, the pleadings and papers on file in this action, and such other information that the Court may wish to consider. An original and a copy of the proposed order denying the Motion for Reconsideration are attached hereto as **Exhibit 1** pursuant to FJDCR 3.10.

///

001049

## MEMORANDUM OF POINTS AND AUTHORITIES

### I. INTRODUCTION

In a futile attempt to avoid dismissal, and a mere two days before the Court was scheduled to hear the pending motions to dismiss challenging her standing to seek judicial review, Petitioner moved the Court to reconsider its prior order amending the caption to reflect Mary Lou McSweeney-Wilson as the only petitioner in this case. According to the Motion for Reconsideration, Petitioner seeks to substitute as petitioners two individuals who she believes will have standing to challenge the Storey County Commissioners' ("Board") approval of Stericycle's SUP Application, alleging that she only recently discovered that these individuals participated in the public meetings at which Stericycle's SUP Application was considered. But Petitioner fails to establish any viable grounds for reconsideration, which would be futile in any event to cure this Court's lack of subject matter jurisdiction.

First, Petitioner points to no new facts or controlling law warranting reconsideration under FJDCR 3.13(a). Rather, Petitioner seeks to improperly supplement her arguments with immaterial facts contained in documents that were filed in this case in October 2020, and publicly available online before then. Petitioner also improperly asserts new grounds for relief, asking that the Court not only reconsider the removal of "et al., Homeowners of Rainbow Bend Community, and Storey County Residents" from the caption, but also add the names of two individuals to the caption to reflect their substitution as petitioners, as follows: "Phillip Hilton, Rainbow Bend Resident, and Sam Toll, Resident of Storey County, represented by Mary Lou McSweeney-Wilson, Petitioners." This request is improper and should be rejected as Petitioner has not filed a motion for substitution, let alone identified any permissible basis for substitution under NRCP 25. Indeed, Petitioner does not cite or analyze any relevant legal authority supporting the Motion for Reconsideration, which lacks merit and should be denied.

Second, the "reconsideration" Petitioner seeks would be futile because the Court lacks subject matter jurisdiction. Because she lacks standing to seek judicial review under the plain language of NRS 278.3195(4), Petitioner's petition is jurisdictionally defective and must be

1 dismissed. Because the petition is jurisdictionally defective, Petitioner failed to invoke the  
2 Court's jurisdiction when she filed the petition on September 10, 2020. Because Petitioner  
3 failed to invoke the district court's jurisdiction within the statutory time limit, the petition  
4 may not subsequently be amended (by substitution or otherwise) in an effort to cure such  
5 jurisdictional defect. Nor would substitution cure the jurisdictionally defective petition given  
6 that the individuals identified by Petitioner likewise lack standing under NRS 278.3195(4).  
7 But even if the substitution of two new petitioners cured the jurisdictional defect (it does not),  
8 the Court lacks jurisdiction to do so outside of NRS 278.0235's 25-day time limit.

9 For these reasons and as detailed herein, the Court should deny the Motion for  
10 Reconsideration and rule on the pending dispositive motions based on the briefing that has  
11 been submitted. Alternatively, in the event the Court is inclined to reset the motions for  
12 hearing for the third time, that hearing should be limited to oral argument only as the Court  
13 need not hear any evidence to determine, as a matter of law, that Petitioner lacks standing to  
14 seek judicial review under the plain and unambiguous language of NRS 278.3195(4).

## 15 **II. FACTUAL & PROCEDURAL BACKGROUND**

16 In June of 2020, Stericycle applied to Storey County for a special use permit ("SUP")  
17 for the development of a medical and other specialty waste incinerator facility at 1655 Milan  
18 Drive in the Tahoe-Reno Industrial Center (the "SUP Application"), a 107,000 acre industrial  
19 park specifically zoned to be developed with heavy industrial uses. *See* Petition for District  
20 Court Review ("Petition") at 4; *see also id.* at Ex. 1, p. 7. After considering the SUP  
21 Application at two regularly scheduled public meetings on July 16, 2020 and August 6, 2020,  
22 the Storey County Planning Commission recommended the approval of Stericycle's SUP  
23 Application to the Storey County Board of County Commissioners ("Board"). *See id.* at Ex.  
24 1, p. 7. The Board approved Stericycle's SUP Application at a regularly scheduled meeting  
25 on August 18, 2020. *Id.* at Ex. 1. This action followed.

26 On September 10, 2020, Petitioner Mary Lou McSweeney-Wilson ("Petitioner")—  
27 who concedes she lives 12 miles away from the subject property, did not appear in opposition  
28 of Stericycle's SUP Application at either Planning Commission meeting, did not appeal the

1 decision of the Planning Commission to the Board, and did not appear in opposition of  
2 Stericycle's SUP Application at the Board meeting—commenced this action, seeking judicial  
3 review of the Board's decision under NRS 278.3195. *See generally* Petition; Supplement to  
4 Petition for District Court Review ("Supplement"). As set forth in the Petition, Petitioner  
5 asks the Court to "rescind" the Board's approval of the SUP, as well as interpret or otherwise  
6 rewrite NRS 278.315(3) to require that written notice be sent to Petitioner and other owners  
7 of property located over 63,000 feet (nearly 12 miles) outside of the 300-foot notice area, and  
8 order the Board to conduct another public meeting. *See id.* Ultimately, Stericycle intervened  
9 and both the Board and Stericycle moved to dismiss the Petition. *See* Oct. 27, 2020 Order  
10 Granting Stericycle, Inc.'s Mot. to Intervene; *see also* Mot. to Dismiss for Lack of Standing  
11 filed Sept. 23, 2020; Stericycle, Inc.'s Mot. to Dismiss filed Oct. 28, 2020.

12 On September 23, 2020, the Board filed a Motion to Dismiss for Lack of Standing,  
13 which was fully briefed and submitted on October 12, 2020. *See* Mot. to Dismiss for Lack  
14 of Standing ("Board's MTD"). Stericycle likewise filed a Motion to Dismiss on October 28,  
15 2020, which motion was fully briefed and submitted on November 23, 2020. *See* Stericycle,  
16 Inc.'s Mot. to Dismiss ("Stericycle's MTD") (collectively, with the Board's MTD, the  
17 "MTDs"). Both MTDs were originally scheduled for hearing on December 19, 2020.<sup>1</sup> *See*  
18 Nov. 16, 2020 Order Setting Hearing. After the Court granted Petitioner's request for a  
19 continuance, the hearing was rescheduled for February 19, 2021. *See* Dec. 4, 2020 Order  
20 Continuing Hearing.

21 On December 28, 2020, the Board moved the Court to amend the caption to reflect  
22 Mary Lou McSweeney-Wilson as the sole petitioner, which the Court granted. *See* Mot. to  
23

---

24 <sup>1</sup> Notably, before Stericycle was granted intervention, Petitioner filed "Oppositions" to the  
25 requests for submissions of the Board's MTD and Stericycle's Motion to Intervene on  
26 October 14 and October 19, 2020, respectively. In addition, and among multiple other rogue  
27 filings, Petitioner filed a Motion for Leave of Court to Allow for the Oppositions to Request  
28 Submission Filed by the State and Stericycle ("Petitioner's Leave Motion") on October 26,  
2020, as well as a Motion for Leave to Supplement Opposition to Motion to Intervene on  
October 27, 2020. These motions are moot as it pertains to Stericycle, which has since been  
granted intervention.

1 Correct Caption; Jan. 12, 2021 Order on Mot. to Correct Caption. Just two days before the  
2 rescheduled hearing on the MTDs, on February 17, 2021, Petitioner filed her Motion for  
3 Reconsideration, requesting that the Court reconsider its Order on Motion to Correct Caption  
4 and further amend the caption as follows: "Phillip Hilton, Rainbow Bend Resident, and Sam  
5 Toll, Resident of Storey County, represented by Mary Lou McSweeney-Wilson, Petitioners."  
6 Mot. for Reconsideration at 3.

7 At a teleconference with the Court on February 18, 2021, Petitioner requested a second  
8 continuance of the hearing on the MTDs in light of her Motion for Reconsideration. *See* Feb.  
9 24, 2021 Order of Continuance. The Court granted Petitioner's request, over Stericycle's  
10 objection, ordered the hearing to be reset on a date and time to be determined, and ordered  
11 that the parties brief the Motion for Reconsideration. *Id.*

### 12 **III. ARGUMENT**

13 According to the title of the Motion for Reconsideration, Petitioner seeks  
14 reconsideration of the Court's January 12, 2021 Order on Motion to Correct Caption pursuant  
15 to FJDCR 3.13. Reconsideration is appropriate only "if the court overlooked or  
16 misunderstood a material fact, or overlooked, misunderstood, or misapplied law that directly  
17 controls a dispositive issue." FJDCR 3.13(a); *Masonry & Tile Contractors v. Jolley, Urga &*  
18 *Wirth*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997) ("A district court may reconsider a  
19 previously decided issue if substantially different evidence is subsequently introduced or the  
20 decision is clearly erroneous."); *Moore v. City of Las Vegas*, 92 Nev. 402, 405, 551 P.2d 244,  
21 246 (1976) ("Only in very rare instances in which new issues of fact or law are raised  
22 supporting a ruling contrary to the ruling already reached should a motion for rehearing be  
23 granted."). Reconsideration is not a means by which to reargue a party's position or to assert  
24 new grounds for relief, let alone "on the basis of new evidence which could have been  
25 discovered prior to the court's ruling." *Quevado v. Smith*, No. 3:10-cv-00200-LRD, 2015  
26 WL 5256959, at \*1 (D. Nev. Sept. 9, 2015); *see also* FJDCR 3.13(a) ("Issues once heard and  
27 disposed of will not be renewed in the same cause except by leave of court granted upon  
28 motion."); DCR 13(7). Here, not only does Petitioner fail to establish any viable grounds for

1 reconsideration, but reconsideration would be futile in any event because it would still not  
2 cure Petitioner's failure to invoke this Court's subject matter jurisdiction.

3 **A. Petitioner Fails to Establish Any Viable Grounds for Reconsideration.**

4 Petitioner seeks to improperly supplement her arguments with immaterial facts based  
5 on documents that were available to her and filed in this case months before the Court ruled  
6 on the Board's Motion to Correct Caption. Specifically, Petitioner argues that the Court  
7 overlooked that "et al., Homeowners of Rainbow Bend Community, and Storey County  
8 Residents" included two individuals who participated at the meetings before the planning  
9 commission and Board—i.e., Phillip Hilton and Sam Toll, as identified in the minutes of the  
10 public meetings. Motion for Reconsideration at 2. Those minutes were available to Petitioner  
11 and she was or should have been aware of the same by no later than October 12, 2020 – nearly  
12 two months before the Motion to Correct Caption was filed – when the Board filed those  
13 documents as exhibits to the reply in support of its motion to dismiss. *See* Reply to Opp'n to  
14 Board's MTD filed Oct. 12, 2020, at Ex. 5, Ex. 11. These facts are not material or new, nor  
15 do they justify reconsideration under FJDCR 3.13(a). The Court can deny the Motion for  
16 Reconsideration on this basis alone.

17 In addition, Petitioner seeks to improperly assert new grounds for relief, asking the  
18 Court to amend the caption as follows: "Phillip Hilton, Rainbow Bend Resident, and Sam  
19 Toll, Resident of Storey County, represented by Mary Lou McSweeney-Wilson, Petitioners."  
20 Mot. for Reconsideration at 3. Essentially conceding she lacks standing to seek judicial  
21 review and without citing or analyzing relevant legal authority to support her last-minute  
22 request,<sup>2</sup> Petitioner summarily argues that these two individuals "have standing under NRS  
23 278.3195" and so the Court must allow them to substitute in as petitioners. *Id.* at 2. Notably,  
24 Petitioner has not filed a motion for substitution, let alone identified any permissible basis for  
25 substitution under NRCP 25. *See* NRCP 25(a)-(c) (allowing substitution of parties upon the  
26

27  
28 <sup>2</sup> FJDCR 3.7(d) (requiring that motions "[c]ite the legal authority that supports the party's  
position" and "[i]nclude analysis of the facts and law and the party's argument").

1 original party's death, incapacitation, or transferred interest); *see also Edwards v. Emperor's*  
2 *Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (recognizing that  
3 courts need not consider issues that are not cogently argued or supported by relevant  
4 authority). In any event, the Court lacks jurisdiction to grant the "reconsideration" Petitioner  
5 seeks.

6 **B. Reconsideration Is Futile Because the Court Lacks Jurisdiction.**

7 "Courts have no inherent appellate jurisdiction over official acts of administrative  
8 agencies except where the legislature has made some statutory provision for judicial review."  
9 *Crane v. Cont'l Tel.*, 105 Nev. 399, 401, 775 P.2d 705, 706 (1989). Consequently, "[w]hen  
10 a party seeks judicial review of an administrative decision, strict compliance with the  
11 statutory requirements for such review is a precondition to jurisdiction by the court of judicial  
12 review," and "[n]oncompliance with the requirements is grounds for dismissal." *Kame v.*  
13 *Emp. Sec. Dep't*, 105 Nev. 22, 25, 769 P.2d 66, 68 (1989). To invoke a district court's  
14 jurisdiction to consider a petition for judicial review under NRS 278.3195(4), the petition  
15 must be filed within 25 days and by a petitioner with standing:

16 NRS 278.3195(4) governs a party's standing to challenge the Board's decision  
17 in the district court; it provides that a person who has appealed an administrative  
18 decision to the Board under the local ordinance and is aggrieved by the Board's  
19 decision may file a petition for judicial review in the district court.

20 *Kay v. Nunez*, 122 Nev. 1100, 1106, 146 P.3d 801, 806 (2006); *see also* NRS 278.0235 ("No  
21 action or proceeding may be commenced for the purpose of seeking judicial relief or review  
22 from or with respect to any final action, decision or order of any governing body, commission  
23 or board authorized by NRS 278.010 to 278.630, inclusive, unless the action or proceeding is  
24 commenced within 25 days after the date of filing of notice of the final action, decision or  
25 order with the clerk or secretary of the governing body, commission or board.").

26 Where, as here, a petitioner lacks standing to seek judicial review, the petition is  
27 jurisdictionally defective and must be dismissed. *See Holt-Still v. Washoe Cty. Bd. of Cty.*  
28 *Comm'rs*, No. 78784, 2020 WL 3570377, at \*2 (Nev. June 30, 2020) (holding that NRS  
278.3195(4)'s plain language "requires a petitioner to have appealed to the governing body,"



1 and that “[b]ecause appellants did not appeal to the governing body, the district court correctly  
2 concluded that they lacked standing to petition for judicial review”). Further, “if the  
3 petitioner fails to invoke the district court’s jurisdiction . . . within the statutory time limit,  
4 the petition may not be subsequently amended to cure the jurisdictional defect.” *Washoe Cty.*  
5 *v. Otto*, 128 Nev. 424, 426, 282 P.3d 719, 721 (2012).

6 Petitioner has failed to invoke this Court’s jurisdiction because she lacks standing to  
7 obtain judicial review under the plain language of NRS 278.3195(4), as detailed in the  
8 Board’s and Stericycle’s MTDs. Specifically, Petitioner concedes she did not file an  
9 administrative appeal as required by the plain language of that statute, and she cannot  
10 establish she is aggrieved given that the property she owns is located farther than 63,000 feet  
11 beyond the 300-foot notice area set forth NRS 278.315(3). *See* SCC § 17.03.130(A) (allowing  
12 an “applicant or any aggrieved party” to appeal certain “administrative decision[s]” to the  
13 Board); *id.* § 17.03.130(B)(1) (conferring standing to file an administrative appeal to the  
14 applicant or any aggrieved party who has participated in the administrative process, and  
15 defining “aggrieved party . . . as a person with a legal or equitable interest in the property  
16 affected by the final decision or property located within the notice area of the property that is  
17 entitled by law to notice”). Accordingly, not only does the plain language of NRS  
18 278.3195(4) compel dismissal of the jurisdictionally defective Petition, but the Court lacks  
19 jurisdiction to permit Petitioner to amend the Petition outside of NRS 278.0235’s 25-day time  
20 limit to name the individuals for whom she seeks substitution. *Cf. Washoe Cty.*, 128 Nev. at  
21 426, 282 P.3d at 721.

22 This is true notwithstanding that Petitioner included “et al.” language in the original  
23 caption to seemingly encompass all Rainbow Bend homeowners and Storey County residents.  
24 Because NRCP 10 only allows for the use of a fictitious name to identify an unknown  
25 defendant—i.e., an adverse party, the Court correctly concluded that there is no provision  
26 within NRCP to identify fictitious parties as complainants. NRCP 10(d) (“Using a Fictitious  
27 Name to Identify a Defendant”); Order at 1. Even if NRCP 10 allowed for using a fictitious  
28 name to identify a complainant, Petitioner did not plead the basis for naming this universe of

1 unknown individuals other than by their true identities in the Petition, did not exercise  
2 reasonable diligence in ascertaining their true identities, and has yet to even attempt to address  
3 what, if any, authority she had to commence this action in a representative capacity to begin  
4 with. *See Nurenberger Hercules-Werke GMBH v. Virostek*, 107 Nev. 873, 881, 822 P.2d  
5 1100, 1106 (1991) (listing the requirements for “pleading fictitious or doe defendants in the  
6 caption,” such as “pleading the basis for naming defendants by other than their true identity”  
7 and “exercising reasonable diligence in ascertaining the true identity of the intended  
8 defendants”), *abrogated on other grounds by Costello v. Casler*, 127 Nev. 436, 254 P.3d 631  
9 (2011). Instead, the Petition merely contains vague allegations about homeowners and  
10 residents who were unable to voice their opposition at the public meetings, which surely  
11 would not encompass individuals like Mr. Toll and Mr. Hilton, who in fact participated and  
12 voiced their opposition. *See* Pet. at 16-17; Supp. to Pet. at 2. Only until Petitioner’s allegedly  
13 recent discovery did Mr. Toll and Mr. Hilton apparently agree to retain Petitioner to represent  
14 them in this case, and so Petitioner seeks not only to add these individuals as parties but  
15 wholly substitute them in her stead. Mot. for Reconsideration at 3. But as explained above,  
16 Petitioner cites to no legal authority to support this request and no permissible basis for  
17 substitution under NRCP 25 appears to apply. *See* NRCP 25(a)-(c).

18 As a result, even if the Court overlooked the first threshold jurisdictional defect with  
19 respect to Petitioner’s standing and substituted Mr. Toll and Mr. Hilton as petitioners, the  
20 Petition would remain jurisdictionally defective and NRS 278.3195(4) would still compel  
21 dismissal as neither Mr. Toll nor Mr. Hilton timely petitioned for judicial review within 25  
22 days as required by NRS 278.0235. Even if Petitioner were seeking reconsideration based  
23 on evidence that was actually new (she is not), her discovery of two individuals’ participation  
24 at the public meetings does not exempt those individuals from strictly complying with the  
25 time limit in NRS 278.0235 and all jurisdictional requirements for judicial review under NRS  
26 278.3195(4). *See Nationstar Mortg. v. Rodriguez*, 132 Nev. 559, 561-62, 375 P.3d 1027,  
27 1029 (2016) (declining to read a discovery component into a time limit for judicial review of  
28 a foreclosure mediation matter and providing that the Nevada Supreme Court “has never

1 applied a discovery rule to any type of petition for judicial review”). In other words, Mr. Toll  
2 and Mr. Hilton are time-barred from challenging the Board’s decision.

3 But even overlooking the jurisdictional defects above, reconsideration is still futile as  
4 Mr. Toll and Mr. Hilton likewise lack standing to petition for judicial review. Petitioner  
5 summarily argues that these individuals have standing because they participated in the public  
6 meetings before the Board. Mot. for Reconsideration at 2. However, standing requires that  
7 a petitioner establish both that the petitioner (1) “[h]as appealed to the governing body, *and*  
8 (2) [i]s aggrieved by the decision of the governing body.” NRS 278.3195(4). In Storey  
9 County, whose population is less than 700,000, a person is aggrieved and can administratively  
10 appeal only if the person has “a legal or equitable interest in the property affected by the final  
11 decision or property located within the notice area of the property that is entitled by law to  
12 notice” *and* “has participated in the administrative process before filing the appeal.” SCC §  
13 17.03.130(B)(1). *Cf.* NRS 278.3195(1) (“In a county *whose population is 700,000 or more*,  
14 a person shall be deemed to be aggrieved . . . if the person appeared, either in person, through  
15 an authorized representative or in writing, before a person or entity described in paragraphs  
16 (a) to (d), inclusive, on the matter which is the subject of the decision.”).

17 Neither Mr. Hilton or Mr. Toll filed an administrative appeal to the Board as required  
18 under NRS 278.3195(4)(a), and both lack standing on that basis alone.<sup>3</sup> Moreover, and  
19 notwithstanding that they respectively appeared at one or two of the public meetings, neither  
20 is aggrieved by the Board’s decision as required under NRS 278.3195(4)(b) because they  
21 have no interest in Stericycle’s property or “property located within the notice area of the  
22 property that is entitled by law to notice.” SCC § 17.03.130(B)(1); *see also* NRS 278.315(3)

---

23  
24  
25 <sup>3</sup> As detailed in the pending MTDs, the planning commission’s recommendation for approval of  
26 Stericycle’s SUP Application was not an “administrative decision” that could have been appealed  
27 as required by NRS 278.3195(4)(a). *See* Stericycle’s MTD at 7-8 & n. 4; *see also* *Holt-Still*,  
28 2020 WL 3570377 at \*1, \*2 (noting that the plain language of NRS 278.3195(4), “even when  
liberally construed and broadly interpreted, requires a petitioner to have appealed to the  
governing body” and that the fact that a party could not appeal “does not make the words  
‘[h]as appealed’ any less clear or unambiguous”).

(providing that properties within a 300-foot notice area are entitled by law to notice). Rather, and just like Petitioner, it appears Mr. Toll and Mr. Hilton reside miles outside of the 300-foot notice area. *See* Reply to Opp'n to Board's MTD filed Oct. 12, 2020, at Ex. 5, p. 4 ("Sam Toll: Said he is calling in from Gold Hill where his house is perhaps the farthest away from this facility that it could be."); *id.* at Ex. 11, p. 10 ("Sam Toll: . . . His 'backyard' is as far away from this facility as you can get."); Mot. for Reconsideration at 2 (alleging Phillip Hilton is a homeowner of Rainbow Bend); Opp'n to Board's MTD filed Oct. 1, 2020, at Ex. 4 (identifying Phillip Hilton's address in Rainbow Bend); Notice of Witnesses and Exhibits for Hearing filed Dec. 2, 2020, at 2 (same). Thus, for multiple, independent reasons, reconsideration is futile because this Court lacks jurisdiction to consider the Petition.

**C. The Court Should Rule on the Motions to Dismiss Without an Evidentiary Hearing or, Alternatively, With Oral Argument Only.**

Though Petitioner certainly could have obtained notice online and virtually participated at the public meetings just like Rainbow Bend resident Mr. Hilton did, Petitioner seeks to introduce evidence at the hearing on the MTDs regarding an alleged "lack of Notice to the areas of Rainbow Bend and Lockwood Community Corporation" and to show "where Notice would have been located had not the Governor's Order to stay at home not been in place." Notice of Witnesses and Exhibits for Hearing at 1; *see also* Reply to Opp'n to Board's MTD filed Oct. 12, 2020, at Ex. 11, p. 10. This purported evidence bears no relevance to the single dispositive issue of whether Petitioner lacks standing under NRS 278.3195(4) and Petitioner should not be permitted to avoid dismissal under the plain and clear statutory language, all the while requiring the parties and Court to expend additional time and resources addressing the red-herring issue of notice. It is undisputed that Petitioner is not entitled by law to receive notice under NRS 278.315(3), and Petitioner does not meaningfully dispute that notice was provided in accordance with Nevada's open meeting laws as temporarily adjusted by the Governor's Emergency Directives issued in light of the COVID-19 pandemic. *See* Reply in Support of Stericycle's MTD filed Nov. 23, 2020 at 3 & n.1; *see also* Corrected Storey Cty. Comm'rs Mot. in Limine filed Jan. 22, 2021. Accordingly, Stericycle


1 respectfully submits that the Court need not hear any evidence to determine, as a matter of  
2 law, that NRS 278.3195(4) does not afford Petitioner a right of judicial review of the Board's  
3 decision, as this single dispositive issue can be determined on the briefing alone. However,  
4 in the event the Court is inclined to set a hearing on the MTDs for the third time, Stericycle  
5 would respectfully request that the hearing be limited to oral argument only. FJDCR 3.12.

6 **IV. CONCLUSION**

7 For the foregoing reasons, Stericycle respectfully requests that the Motion for  
8 Reconsideration be denied.

9 Dated this 3rd day of March, 2021.

10 McDONALD CARANO, LLP

11 By   
12 Michael A.T. Pagni (NBSN 6444)  
13 Chelsea Latino (NBSN 14227)

14 *Attorneys for Respondent Stericycle, Inc.*  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I hereby certify that I am an employee of McDONALD CARANO  
3 LLP and that I served the foregoing STERICYCLE, INC.'S OPPOSITION TO PETITIONER'S  
4 FEBRUARY 17, 2021 MOTION PURSUANT TO FJDCR 3.13 by placing a true and correct copy  
5 thereof enclosed in sealed envelopes, upon which first class postage was prepaid, in the United  
6 States mail addressed to the following parties at the addresses listed below:

7 Mary Lou Wilson  
8 2064 Regent Street  
9 Reno, NV 89509

10 Anne Langer  
11 Keith Loomis  
12 Storey County District Attorney's Office  
13 201 S. C Street, P.O. Box 496  
14 Virginia City, NV 89440

15 I declare under penalty of perjury that the foregoing is true and correct.

16 Dated this 3<sup>rd</sup> day of March, 2021.

17 By: 

18 An Employee of McDonald Carano LLP

**INDEX OF EXHIBITS**

Exhibit No.	Description	Pages
1	[Proposed] Order Denying Motion for Reconsideration	2

4846-3723-9774, v. 2

# **Exhibit 1**

# **Exhibit 1**

001063



**FIRST JUDICIAL DISTRICT COURT OF NEVADA  
STOREY COUNTY**

\* \* \* \* \*

MARY LOU MCSWEENEY-WILSON,

CASE NO.: 20 OC 00051E

Petitioners,

DEPT NO.: 1

vs.

STOREY COUNTY COMMISSIONERS;  
STERICYCLE, INC.,

Respondents.

**ORDER DENYING PETITIONER'S MOTION FOR RECONSIDERATION**

Currently before the Court is Petitioner's *Motion to Shorten Time and Leave of Court to Correct Judge's Order Changing the Caption to Eliminate Homeowners of Rainbow Bend Community, and Storey County Residents, Pursuant to FJDCR 3.13* filed on February 17, 2021 ("Motion for Reconsideration"). Having reviewed and considered the pleadings, the Motion for Reconsideration and all related documents, the applicable law and facts, this Court finds and concludes as follows:

1. "The court may reconsider a decision if the court overlooked or misunderstood a material fact, or overlooked, misunderstood, or misapplied law that directly controls a dispositive issue." FJDCR 3.13(a); *Masonry & Tile Contractors v. Jolley, Urga & Wirth*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997) ("A district court may reconsider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous."); *Moore v. City of Las Vegas*, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976) ("Only

001064

1 in very rare instances in which new issues of fact or law are raised supporting a ruling contrary  
2 to the ruling already reached should a motion for rehearing be granted.”).

3 2. Reconsideration is not a means by which to reargue a party’s position or to  
4 assert new grounds for relief, let alone “on the basis of new evidence which could have been  
5 discovered prior to the court’s ruling.” *Quevado v. Smith*, No. 3:10-cv-00200-LRD, 2015  
6 WL 5256959, at \*1 (D. Nev. Sept. 9, 2015); *see also* FJDCR 3.13(a) (“Issues once heard and  
7 disposed of will not be renewed in the same cause except by leave of court granted upon  
8 motion.”); DCR 13(7).

9 3. Petitioner commenced this action under NRS 278.3195(4) and NRS 278.0235 on  
10 September 10, 2020, seeking judicial review of the Storey County Commissioners’ (“Board”) approval of Stericycle, Inc.’s application for a special use permit (“SUP Application”). The  
11 petition filed by Petitioner (“Petitioner”) identified the petitioners as follows: “MARY LOU  
12 MCSWEENEY-WILSON, ET AL., HOMEOWNERS OF RAINBOW BEND COMMUNITY,  
13 AND STOREY COUNTY RESIDENTS.”

14 4. Both the Board and Stericycle moved to dismiss the Petition for lack of standing.  
15 Those motions were originally scheduled for hearing on December 19, 2020, and upon Petitioner’s  
16 request for a continuance, subsequently rescheduled for hearing on February 19, 2021.

17 5. On December 28, 2020, the Board filed a Motion to Correct Caption  
18 challenging Ms. Wilson-McSweeney’s capacity to sue on behalf of the homeowners of  
19 Rainbow Bend Community and Storey County Residents, as well as seeking to amend the  
20 caption to reflect Ms. Wilson-McSweeney as the sole petitioner.

21 6. On January 12, 2021, the Court entered an order granting the Board’s Motion  
22 to Correct Caption (“Order”).

23 7. On February 17, 2021, Petitioner filed the instant Motion for Reconsideration  
24 arguing, *inter alia*, that reconsideration was necessary because the Court overlooked that two  
25 individuals had participated in the public meetings at which Stericycle’s SUP Application  
26 was considered. Petitioner further argues that these individuals have standing to seek judicial  
27 review and must be substituted in as petitioners. Petitioner requests that the caption therefore  
28

1 be amended as follows: "PHILLIP HILTON, RAINBOW BEND RESIDENT, AND SAM  
2 TOLL, RESIDENT OF STOREY COUNTY, REPRESENTED BY MARY LOU  
3 MCSWEENEY-WILSON, PETITIONERS."

4 8. However, reconsideration is not a means by which to reargue a party's position  
5 based on evidence that was available prior to the Court's ruling. Because Petitioner cites to  
6 the minutes of the public meetings that were filed in this case months before the Order, the  
7 participation of Mr. Toll and Mr. Hilton at one or more of the public meetings is not a new  
8 or material fact warranting reconsideration.

9 9. Additionally, the Court rejects Petitioner's argument that substitution is  
10 required. As set forth in the Order, "[t]here is no provision within the NRCP to identify  
11 fictitious parties as complainants." Petitioner does not cite to any legal authority to support  
12 substitution here. Nor does Petitioner argue that the Court misapplied law that directly controls  
13 a dispositive issue. Petitioner therefore has not identified any viable grounds for reconsideration.

14 10. Finally, Petitioner argues that the individuals for whom she seeks substitution  
15 have standing under NRS 278.3195(4). However, if Respondents prevail on the pending  
16 dispositive motions, the Court would lack jurisdiction to grant the reconsideration Petitioner  
17 seeks, and, in any event, the time-frame in which to seek judicial review from a decision  
18 rendered by the Board over six months ago has long expired. *See generally Washoe Cty. v.*  
19 *Otto*, 128 Nev. 424, 282 P.3d 719 (2012) (requiring strict compliance with statutory  
20 requirements for judicial review and providing that a petition cannot be amended to cure a  
21 jurisdictional defect outside of the statutory time limit for seeking judicial review). Thus, Mr.  
22 Hilton and Mr. Toll are time-barred from challenging the Board's decision under NRS  
23 278.0235 and, therefore, reconsideration to substitute them as petitioners would be futile.

24 Accordingly, and good cause appearing, the Court orders as follows:

25 **IT IS SO ORDERED** that Petitioner's Motion for Reconsideration is **DENIED**.

26 **IT IS FURTHER ORDERED** that the hearing on the pending dispositive motions is  
27 vacated and the matter is hereby submitted on the papers.  
28

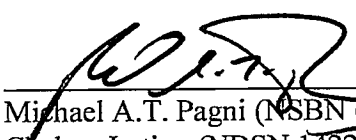
001066

1           **IT IS FURTHER ORDERED** that Stericycle shall serve a notice of entry of this order  
2 on all other parties and file proof of such service as soon as practicable and within 7 days after  
3 this order is sent.

4           Dated this \_\_\_\_ day of \_\_\_\_\_, 2020.

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
  
\_\_\_\_\_  
DISTRICT COURT JUDGE

Respectfully submitted on March 3, 2021, by:

  
\_\_\_\_\_  
Michael A.T. Pagni (NBSN 6444)  
Chelsea Latino (NBSN 14227)  
McDONALD CARANO LLP  
100 West Liberty Street, 10th Floor  
Reno, NV 89501  
(775) 788-2000  
[mpagni@mcdonaldcarano.com](mailto:mpagni@mcdonaldcarano.com)  
[clatino@mcdonaldcarano.com](mailto:clatino@mcdonaldcarano.com)

*Attorneys for Respondent Stericycle, Inc.*

001067

**FIRST JUDICIAL DISTRICT COURT OF NEVADA**  
**STOREY COUNTY**

\* \* \* \* \*

MARY LOU MCSWEENEY-WILSON,

Petitioners,

vs.

STOREY COUNTY COMMISSIONERS;  
STERICYCLE, INC.,

Respondents.

CASE NO.: 20 OC 00051E

DEPT NO.: 1

**ORDER DENYING PETITIONER'S MOTION FOR RECONSIDERATION**

Currently before the Court is Petitioner's *Motion to Shorten Time and Leave of Court to Correct Judge's Order Changing the Caption to Eliminate Homeowners of Rainbow Bend Community, and Storey County Residents, Pursuant to FJDCR 3.13* filed on February 17, 2021 ("Motion for Reconsideration"). Having reviewed and considered the pleadings, the Motion for Reconsideration and all related documents, the applicable law and facts, this Court finds and concludes as follows:

1. "The court may reconsider a decision if the court overlooked or misunderstood a material fact, or overlooked, misunderstood, or misapplied law that directly controls a dispositive issue." FJDCR 3.13(a); *Masonry & Tile Contractors v. Jolley, Urga & Wirth*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997) ("A district court may reconsider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous."); *Moore v. City of Las Vegas*, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976) ("Only

001068

1 in very rare instances in which new issues of fact or law are raised supporting a ruling contrary  
2 to the ruling already reached should a motion for rehearing be granted.”).

3 2. Reconsideration is not a means by which to reargue a party’s position or to  
4 assert new grounds for relief, let alone “on the basis of new evidence which could have been  
5 discovered prior to the court’s ruling.” *Quevado v. Smith*, No. 3:10-cv-00200-LRD, 2015  
6 WL 5256959, at \*1 (D. Nev. Sept. 9, 2015); *see also* FJDCR 3.13(a) (“Issues once heard and  
7 disposed of will not be renewed in the same cause except by leave of court granted upon  
8 motion.”); DCR 13(7).

9 3. Petitioner commenced this action under NRS 278.3195(4) and NRS 278.0235 on  
10 September 10, 2020, seeking judicial review of the Storey County Commissioners’ (“Board”) approval of Stericycle, Inc.’s application for a special use permit (“SUP Application”). The  
11 petition filed by Petitioner (“Petitioner”) identified the petitioners as follows: “MARY LOU  
12 MCSWEENEY-WILSON, ET AL., HOMEOWNERS OF RAINBOW BEND COMMUNITY,  
13 AND STOREY COUNTY RESIDENTS.”

14 4. Both the Board and Stericycle moved to dismiss the Petition for lack of standing.  
15 Those motions were originally scheduled for hearing on December 19, 2020, and upon Petitioner’s  
16 request for a continuance, subsequently rescheduled for hearing on February 19, 2021.

17 5. On December 28, 2020, the Board filed a Motion to Correct Caption  
18 challenging Ms. Wilson-McSweeney’s capacity to sue on behalf of the homeowners of  
19 Rainbow Bend Community and Storey County Residents, as well as seeking to amend the  
20 caption to reflect Ms. Wilson-McSweeney as the sole petitioner.

21 6. On January 12, 2021, the Court entered an order granting the Board’s Motion  
22 to Correct Caption (“Order”).

23 7. On February 17, 2021, Petitioner filed the instant Motion for Reconsideration  
24 arguing, *inter alia*, that reconsideration was necessary because the Court overlooked that two  
25 individuals had participated in the public meetings at which Stericycle’s SUP Application  
26 was considered. Petitioner further argues that these individuals have standing to seek judicial  
27 review and must be substituted in as petitioners. Petitioner requests that the caption therefore  
28

1 be amended as follows: "PHILLIP HILTON, RAINBOW BEND RESIDENT, AND SAM  
2 TOLL, RESIDENT OF STOREY COUNTY, REPRESENTED BY MARY LOU  
3 MCSWEENEY-WILSON, PETITIONERS."

4 8. However, reconsideration is not a means by which to reargue a party's position  
5 based on evidence that was available prior to the Court's ruling. Because Petitioner cites to  
6 the minutes of the public meetings that were filed in this case months before the Order, the  
7 participation of Mr. Toll and Mr. Hilton at one or more of the public meetings is not a new  
8 or material fact warranting reconsideration.

9 9. Additionally, the Court rejects Petitioner's argument that substitution is  
10 required. As set forth in the Order, "[t]here is no provision within the NRCP to identify  
11 fictitious parties as complainants." Petitioner does not cite to any legal authority to support  
12 substitution here. Nor does Petitioner argue that the Court misapplied law that directly controls  
13 a dispositive issue. Petitioner therefore has not identified any viable grounds for reconsideration.

14 10. Finally, Petitioner argues that the individuals for whom she seeks substitution  
15 have standing under NRS 278.3195(4). However, if Respondents prevail on the pending  
16 dispositive motions, the Court would lack jurisdiction to grant the reconsideration Petitioner  
17 seeks, and, in any event, the time-frame in which to seek judicial review from a decision  
18 rendered by the Board over six months ago has long expired. *See generally Washoe Cty. v.*  
19 *Otto*, 128 Nev. 424, 282 P.3d 719 (2012) (requiring strict compliance with statutory  
20 requirements for judicial review and providing that a petition cannot be amended to cure a  
21 jurisdictional defect outside of the statutory time limit for seeking judicial review). Thus, Mr.  
22 Hilton and Mr. Toll are time-barred from challenging the Board's decision under NRS  
23 278.0235 and, therefore, reconsideration to substitute them as petitioners would be futile.

24 Accordingly, and good cause appearing, the Court orders as follows:

25 **IT IS SO ORDERED** that Petitioner's Motion for Reconsideration is **DENIED**.


26 **IT IS FURTHER ORDERED** that the hearing on the pending dispositive motions is  
27 vacated and the matter is hereby submitted on the papers.  
28

1           **IT IS FURTHER ORDERED** that Stericycle shall serve a notice of entry of this order  
2 on all other parties and file proof of such service as soon as practicable and within 7 days after  
3 this order is sent.

4           Dated this \_\_\_\_ day of \_\_\_\_\_, 2020.

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
  
DISTRICT COURT JUDGE

Respectfully submitted on March 3, 2021, by:

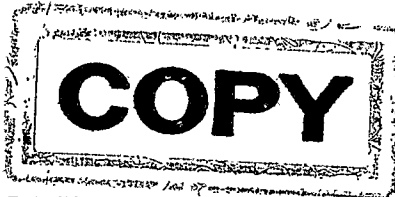
  
Michael A.T. Pagni (NBSN 6444)  
Chelsea Latino (NBSN 14227)  
McDONALD CARANO LLP  
100 West Liberty Street, 10th Floor  
Reno, NV 89501  
(775) 788-2000  
[mpagni@mcdonaldcarano.com](mailto:mpagni@mcdonaldcarano.com)  
[clatino@mcdonaldcarano.com](mailto:clatino@mcdonaldcarano.com)

*Attorneys for Respondent Stericycle, Inc.*

001071



1 CODE NO.  
2 MARY LOU WILSON  
3 Attorney at Law, Bar Number 3329  
4 2064 Regent Street  
5 Reno, Nevada 89509  
6 775-771-8620  
7 Attorney for Petitioner



FILED

2021 MAR -8 AM 9:46

STOREY COUNTY CLERK

BY  DEPUTY

*Wilson  
Copy*



IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

IN AND FOR CARSON CITY

8 MARY LOU MCSWEENEY-WILSON,  
9 Petitioners,

10 vs.

11 STOREY COUNTY COMMISSIONERS,

20 OC 00005 1E

Dept. 1

12 Respondents.

13 \_\_\_\_\_ /  
14 **REPLY TO OPPOSITIONS TO MOTION TO CORRECT ORDER CHANGING**  
15 **CAPTION TO ELIMINATE HOMEOWNERS OF RAINBOW BEND AND**  
16 **STOREY COUNTY PER FJDCR 3.13**

17 COMES NOW MARY LOU MCSWEENEY-WILSON, and hereby Replies to two  
18 Oppositions to Motion to Correct Order Changing Caption to Eliminate Rainbow Bend  
19 Homeowners and Storey County Residents pursuant to FJDCR 3.13.

20 Petitioner received two Oppositions, one from Keith Loomis, Chief Deputy District Attorney,  
21 filed March 2, 2021, representing the two commissioners and one from Michael Pagni, filed  
22 March 3, 2021, representing Stericycle. In the interest of convenience, this Reply will respond to  
23 both Oppositions.

24 //

25 //

1 History:

2 FRDCR 3.13 allows for reconsideration of this Court's Order through Leave of Court. It is  
3 noted that FRDCR 3.13 does not limit the time within which a Motion to Reconsider a Court's  
4 Order may be requested.

5 Petitioner filed an Evidentiary Hearing Statement on February 16, 2021, which was emailed  
6 to the parties on February 14, 2021. It was when reviewing the State's Evidentiary Hearing  
7 Statement and preparing for the evidentiary hearing that Petitioner discovered the Minutes of the  
8 Storey County Planning and Commission Meetings of August 6, 2020 and August 18, 2020,  
9 respectively, that Phillip Hilton of Rainbow Bend and Storey County, and Sam Toll of Storey  
10 County, spoke against the special use permit of Stericycle.

11 Petitioner realized this newly discovered evidence showed these two men were "aggrieved"  
12 persons and had "standing" under the statute, since they had "participated" in the meetings and  
13 voiced their opposition to Stericycle in the zoom meetings from August 6, 2020 and August 18,  
14 2020. NRS 278.3195.

15 Petitioner immediately contacted Mr. Loomis and spoke to him over the telephone about this  
16 discovery. Petitioner left a message on Ms. Latino's voice machine concerning the issue and  
17 wrote the Motion to Shorten Time and Leave of Court to Correct this Court's prior Order  
18 Changing the Caption to Eliminate Rainbow Bend Homeowners and Storey County Residents.  
19 The Motion was immediately emailed to Mr. Loomis and Ms. Latino on February 16, 2021 and  
20 filed on February 17, 2021.

21 Although the evidentiary hearing was only two-days away, Petitioner acted quickly and in  
22 good faith to bring this issue to the parties as soon as possible. After all, Mr. Loomis had filed  
23 additional exhibits for the hearing on February 18, 2021, one-day prior to the scheduled hearing.  
24  
25

1 Nevertheless, all the parties were able to voice their concerns over a zoom meeting with  
2 Judge James Wilson on Thursday, February 18, 2021, whereupon Mr. Loomis requested a  
3 continuance to brief the legalities of Petitioner's Motion but Stericycle wanted to proceed on  
4 February 19, 2021. The Court continued the matter for further briefing.

5 Commissioner's Opposition

6 The State argued that the caption of the complaint is required to identify the parties to the  
7 lawsuit under NRCP 10(a). Opposition, p. 3.

8  
9 However, as stated, Petitioner put Rainbow Bend Homeowners and Storey County Residents  
10 in the initial petition filed September 10, 2020, which was twenty-three (23) days after the  
11 August 18, 2020 approval by the Storey County Commissioners of Stericycle's SUP, making it  
12 compliant with the 25-day rule of NRS 278.0235.

13 When the State opposed the caption, Petitioner argued that she had received over two hundred  
14 and fifty (250) signatures of Rainbow Bend and Lockwood Community Corporation residents  
15 who had signed the Petition against Stericycle's special use permit. Opposition to Motion to  
16 Correct Caption, filed January 4, 2021 and Opposition to Motion to Dismiss, filed October 1,  
17 2020, Exhibit 4.

18 Although not discovered at the time of both filings, Phillip Hilton was one of the two hundred  
19 and fifty residents that had signed the petition. Opposition to Motion to Dismiss, Exhibit 4, p. 1  
20 (third from the bottom).

21  
22 Petitioner had not discovered Phillip Hilton had "participated" in the zoom meeting of August  
23 18, 2020 and was an "aggrieved person" under the statute, since he voiced opposition to  
24 Stericycle at that meeting until it was discovered upon preparing for the evidentiary hearing and  
25

1 reviewing the State's Storey County Commissioner's Evidentiary Hearing Statement filed  
2 February 12, 2021, Exhibit 13, showing the Minutes of the meeting, where Phillip Hilton spoke.

3 Similarly, Sam Toll was an "aggrieved person" and "participated" in the zoom meetings of  
4 August 6, 2020, Storey County Planning Commission, and August 18, 2020, Storey County  
5 Commission Meeting, satisfying the statute for standing, where he voiced his opposition to  
6 Stericycle's special use permit and explained that he lived in Gold Hill, Storey County. State's  
7 Storey County Commissioner's Evidentiary Hearing Statement filed February 12, 2021, Exhibit  
8 12, showing the Minutes of the meeting, where Sam Toll spoke.

9 Both Phillip Hilton and Sam Toll have "standing" under NRS 278.3195.

10 Although these two men were not named specifically within the caption, they were  
11 discovered to satisfy the standing requirement after reviewing the Minutes of both meetings in  
12 preparation for the evidentiary hearing set for February 19, 2021.

13 Even this Court did not know about these two men's participation in the meetings, since none  
14 of the parties had exposed this important nugget in the standing discussion.

15 Had Petitioner named these two men in the initial petition filed on September 10, 2020, there  
16 would not have been any motions to dismiss, since they clearly satisfy the statute for standing  
17 and the petition was timely filed.

18 The State argued that Phillip Hilton and Sam Toll remain fictitious entities, even though they  
19 were recently discovered to be a Rainbow Bend Homeowner (Phillip Hilton) and Storey County  
20 Residents (Phillip Hilton and Sam Toll). The State also argued that the two men remained  
21 unsuited and they may be added if Petitioner amends her pleadings. The State also argued that  
22 the motion to amend has not been made, and if made, there may be a conflict of interest in  
23 representing herself and them. Opposition, pp. 3-4.

001075

1 As stated within the Motion to Shorten Time and Leave of Court to Correct Order Changing  
2 Caption to Eliminate Rainbow Bend Homeowners and Storey County Residents, filed February  
3 17, 2021, Phillip Hilton and Sam Toll have retained Petitioner to represent them in the Petition  
4 filed September 10, 2020. Petitioner would relinquish her role as petitioner should this Court  
5 reinstate the caption to read, Phillip Hilton, Rainbow Bend Homeowner and Sam Toll, Storey  
6 County Resident vs. Storey County Commissioners and Stericycle, Inc. Respondents. Motion, p.  
7 3.

8  
9 Stericycle's Opposition:

10 Ms. Latino and Mr. Pagni never filed an Opposition to Change Caption.

11 As a result, it is argued that they do not have standing to oppose Petitioner's Motion to  
12 Reconsider Order.

13 In addition, Ms. Latino failed to request a continuance of the February 19, 2021 evidentiary  
14 hearing. In fact, she adamantly opposed the continuance, despite the State requesting one for  
15 further litigation. Therefore, this Court should not consider their Opposition. Zoom meeting,  
16 February 18, 2021.

17 However, in the event this Court permits Stericycle to Oppose this Motion to Reconsider  
18 Order, the following argument is made in Reply:

19 Stericycle asserts that Petitioner failed to establish any viable grounds for this Court's  
20 reconsideration of the prior Order changing the caption to include only Petitioner's name.

21  
22 Opposition, p. 2.

23 However, there are legitimate grounds for this Court's reconsideration of the Order dated  
24 January 12, 2021, where Stericycle failed to participate in that decision.

25 //

001076

1       Importantly, newly discovered evidence was found which allowed for an easy satisfaction of  
2 the statutes, who were within the groups identified in the original caption, who “participated” in  
3 the Storey County Planning and Commission Meetings, are therefore “aggrieved” parties, and  
4 have standing under NRS 278.3195 and NRS 278.0235. Failure to allow these two individuals  
5 standing to move forward with this petition affectively eliminates their due process rights and  
6 access to the Court. Fourteenth Amendment to the United States and Nevada Constitutions.  
7

8       As discussed above, although the Minutes were presented within the State’s documents,  
9 Petitioner did not review the Minutes and notice Phillip Hilton and Sam Toll’s participation in  
10 the August 6<sup>th</sup> and 18<sup>th</sup> meetings, lodging their opposition to Stericycle’s special use permit until  
11 preparing for the evidentiary hearing and immediately contacted the parties regarding this  
12 important discovery.

13       Both the State and Stericycle lodged their complaints about Petitioner’s lack of standing and  
14 satisfaction of the statutes in their respective Motions to Dismiss and Replies to Oppositions.  
15 Now, when the statutes have been satisfied, they argue again. These parties cannot have it both  
16 ways.

17       Stericycle argued that the newly discovered names of Phillip Hilton and Sam Toll are not  
18 newly discovered because they were available in prior documents and available online.

19       Opposition, p. 2.

20  
21       As they have argued, had Stericycle known about Phillip Hilton and Sam Toll’s participation  
22 in the planning and commission meetings, since the minutes of the hearings were available and  
23 online, Petitioner questions why the resources of the State have been used to litigate this issue  
24 regarding standing. Clearly, Sam Toll identified himself within the minutes as a resident of Gold  
25 Hill, Storey County.

001077

1        Additionally, Phillip Hilton was among the named two hundred and fifty people listed in a  
2 signed petition against Stericycle when Petitioner walked the neighborhoods of Rainbow Bend  
3 and Lockwood Community Corporation with four other individuals, which was filed as an  
4 exhibit attached to the Opposition to Motion to Dismiss, Exhibit 4, p. 1, third from the bottom.

5        However, at that time, Petitioner was unaware of Phillip Hilton's voice heard during the  
6 Commissioner's Meeting of August 18, 2020, until the State presented Storey County  
7 Commissioner's Evidentiary Hearing Statement, where the Minutes were attached as exhibits  
8 and Petitioner reviewed documents for the upcoming hearing on February 19, 2021. Immediately  
9 upon discovery, parties were notified.  
10

11        Indeed, the State, Stericycle, and this Court, along with Petitioner, were unaware of these two  
12 men participating in zoom meetings of the Planning and Commission meetings.

13        Interestingly, Phillip Hilton was prepared to testify during the evidentiary hearing there were  
14 no Agenda Meetings posted at the Rainbow Bend Clubhouse, Senior Center, and Lockwood Fire  
15 station, despite him participating in zoom meetings opposing Stericycle.

16        Phillip Hilton's potential testimony was provided to the parties on December 2, 2020. Had  
17 Petitioner learned that Phillip Hilton had participated in the zoom meeting of August 18, 2020,  
18 and launched his opposition to Stericycle during that meeting, she would have immediately  
19 alerted the parties to at least one person satisfying the standing requirement under the statutes.  
20 Phillip Hilton's participation in the zoom meeting of August 18, 2020 was discussed  
21 immediately with Mr. Loomis when it was discovered.<sup>1</sup>  
22

---

23  
24 <sup>1</sup> It should be noted that both Phillip Hilton and Sam Toll were running for commissioner in the upcoming election  
25 and were involved in Storey County matters at that time, which would not reflect upon the average residents of  
Rainbow Bend and Lockwood Community Corporation as a whole.

1 Stericycle argued that the motion for reconsideration should now be dismissed because the  
2 Court lacks jurisdiction. Opposition, pp. 2-3.

3 However, it appears clear to Petitioner that including the language of Rainbow Bend and  
4 Storey County Residents within the caption of the petition filed September 10, 2020, would  
5 satisfy this Court's delineation of the names of Phillip Hilton, a Rainbow Bend and Storey  
6 County Resident, and Sam Toll, a Storey County resident.

7  
8 As such, this fact would not be a surprise to the parties and would not create any prejudice to  
9 them in their arguments, except that now the petition cannot be dismissed based upon the failure  
10 to satisfy the statutes for standing and timely being filed.

11 Stericycle implores this Court to limit the evidentiary hearing to arguments only. Opposition,  
12 p. 3.

13 Petitioner has no objection to that request, provided the parties agree that the petition is alive  
14 and well, the parties of Phillip Hilton and Sam Toll have standing under the statute, the petition  
15 is timely filed under the statute, and the matter can be moved along to the second prong of the  
16 Commissioner's arbitrary and capricious decision to approve this dangerous company into the  
17 Storey County area and surrounding communities.

18 Stericycle reviews factual and procedural background of the petition. Opposition, pp. 3-5.

19 Petitioner makes no comment on this material.

20  
21 Stericycle argued that this Court could reconsider its Order if there were matters that were  
22 overlooked, misunderstood, or had misapplied law controlling dispositive issues. Opposition, p.

23 5.

24 //

25 //

001079



1 Petitioner agrees with Stericycle's cited law and believes that the discovery of Phillip Hilton  
2 and Sam Toll as "aggrieved persons," who "participated" in the planning and commission  
3 meetings goes to the very heart of the litigation regarding "standing."

4 As such, this Court may reconsider its prior ruling to eliminate the caption to only include  
5 Petitioner and expand it to the named people that live in Rainbow Bend and Storey County,  
6 satisfying NRS 278.3195 and 278.0235.

7 Stericycle argued that Petitioner failed to establish any viable grounds for reconsideration.  
8 Opposition, p. 6.

9  
10 Stericycle's primary complaint was that the Minutes were available before the February 17,  
11 2021 filing. However, as stated above, these two men were not discovered before that time  
12 because of review of the State's Storey County Commissioner's Evidentiary Hearing Statement,  
13 where they were reviewed in preparation for the upcoming evidentiary hearing.

14 Also, as stated, it became a surprise that Petitioner's primary witness, Phillip Hilton, had  
15 participated in the zoom meeting of August 18, 2020, when he was going to present evidence of  
16 the lack of Notice of the Agendas of the Planning and Commission meetings provided to  
17 Rainbow Bend and Lockwood Community Corporation residents.

18 Phillip Hilton and Sam Toll were both seeking Storey County Commissioner seats at the time  
19 and were not your average citizens who were focused upon staying alive from the COVID-19  
20 worldwide pandemic and staying at home to comply with the governor's Order.

21 Stericycle argues that Petitioner concedes that she lacks standing. Opposition, p. 6.

22 As stated, Petitioner would gladly remove herself from the caption and seek the substitution  
23 of Phillip Hilton and Sam Toll, since they meet the statutes that Stericycle and the State rely  
24  
25

001080

1 upon within their motions to dismiss petition. However, Petitioner does not concede that she  
2 lacks standing for all the reasons presented within this litigation.

3 Stericycle argues that this Court cannot reconsider its Order because the Court lacks  
4 jurisdiction. Opposition, pp. 7-8.

5 Stericycle reiterates its language from the motion to dismiss and asserts Petitioner lacks  
6 standing. However, Petitioner has filed its Oppositions to the State and Stericycle's Motion to  
7 Dismiss and relies upon those documents.

8 Stericycle argues that Petitioner failed to exercise reasonable diligence in ascertaining Phillip  
9 Hilton and Sam Toll's identifies to begin with. Opposition, p. 9.

10 Obviously, if Petitioner lacked reasonable diligence in discovering the men participating in  
11 the zoom meetings of August 6<sup>th</sup> and 18<sup>th</sup> so did Stericycle and the State, since had Phillip Hilton  
12 and Sam Toll been discovered to have participated in the planning and commission meetings,  
13 nobody would have wasted their time on the "standing" issue and moved to the arbitrary and  
14 capricious argument of the commissioners.

15 Stericycle argues that even if the Court were to permit Phillip Hilton and Sam Toll to  
16 substitute into the petition, it would be untimely filed. Opposition, p. 9.

17 However, as stated, should the Court permit the substitution, the timely filing would be  
18 satisfied because the petition was filed twenty-three (23) days after August 18, 2020.

19 Stericycle argues that even if both men were included and the timeliness was satisfied, the  
20 Petition would still fail because the two men have not appealed to the governing body and are  
21 aggrieved by the decision. Opposition, p. 10.

22 //

23 //

001081

1 However, as stated in prior filed documents, there was no appellate capacity from the  
2 commissioners vote because Storey County had not provided an appeal from the commissioner's  
3 vote, and the district court was the only legitimate appellate body able to review the decision by  
4 the commissioner's vote, approving the special use permit. NRS 278.3195 (4).

5 Stericycle argued that Phillip Hilton and Sam Toll were not aggrieved persons under the  
6 statute, despite participating in the meetings and lodging their objection, because they did not  
7 have property within three hundred feet from the Stericycle site, like Blockchains. Opposition,  
8 pp. 10-11.

9  
10 However, like Petitioner, the same argument would apply to both Phillip Hilton and Sam Toll,  
11 to wit, they reside in Rainbow Bend, Lockwood, Nevada, and Gold Hill, both residents of Storey  
12 County and property owners within that county. NRS 241. Opposition to Motion in Limine, filed  
13 January 25, 2021. The Nevada Legislature adopted Chapter 241 of the Nevada Revised Statutes  
14 and thereby gave each citizen of this State, "standing," to be informed, and take whatever action  
15 they deem necessary at least three (3) days before that action is taken by their elected officials.  
16 NRS 241.020(4)(a). Stericycle cannot assert that the only "aggrieved" person under the statute  
17 was Blockchains company because the Planning and Commission meetings would have been  
18 closed to only Blockchains to lodge an objection.

19 Such was not the case. Both Phillip Hilton and Sam Toll lodged verbal complaints and  
20 oppositions to Stericycle on August 6<sup>th</sup> and 18<sup>th</sup> meetings.

21 Stericycle requests that this Court only listen to oral arguments and not entertain any  
22 witnesses or evidence. Opposition, pp. 11-12.

23  
24 However, as stated, should the parties agree that Phillip Hilton and Sam Toll have standing  
25 under the statutes and the petition was timely filed, Petitioner has no objection to eliminate

001082

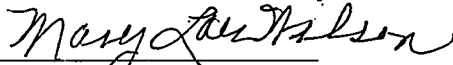
1 hearing witnesses during an evidentiary hearing, such that the second area of concern regarding  
2 the arbitrary and capricious nature of the special use permit vote may be discussed.

3 On the other hand, should the parties want to continue to banter about standing, Petitioner  
4 requests that all witnesses be allowed to be heard, with the addition of Sam Toll, who was not  
5 previously named.

6 Conclusion:

7  
8 Because of the foregoing, it is respectfully requested that this Court reconsider its Order and  
9 allow for the Caption of the Petition to be Phillip Hilton, Homeowner of Rainbow Bend  
10 Community and Sam Toll, Storey County Resident, represented by Mary Lou McSweeney  
11 Wilson, Petitioners vs. Storey County Commissioners and Stericycle, Inc., Respondents.

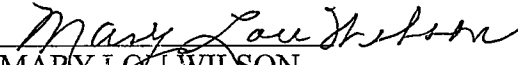
12 Dated this 8<sup>th</sup> day of March, 2021

13   
14 MARY LOU WILSON  
15 Attorney at Law, Bar Number 3329  
16 2064 Regent Street  
17 Reno, Nevada 89509  
18 775-771-8620  
19 Attorney for Petitioner

20 AFFIRMATION PURSUANT TO NRS 239B.030

21 The undersigned does hereby affirm that the preceding document does not contain the social  
22 security number of any person.

23 DATED this 8<sup>th</sup> day of March, 2021

24   
25 MARY LOU WILSON  
Attorney At Law, Bar #3329  
2064 Regent Street  
Reno, Nevada 89509  
775-771-8620

1 CERTIFICATE OF SERVICE

2 I, Mary Lou Wilson, hereby affirm that on the 8<sup>th</sup> day of March, 2021, I mailed the  
3 aforementioned document and sent a hard copy to the following parties at the following  
4 addresses through the U.S. Mail:

5 The Storey County Clerk of the Court  
6 26 S. B Street  
7 Drawer D  
8 Virginia City, Nevada 89440

9 Assistant District Attorney Keith Loomis  
10 Storey County District Attorney  
11 201 S C St.  
12 Virginia City, Nevada 89440

13 Commissioners Jay Carmona  
14 and Marshall McBride  
15 P.O. Box 176  
16 26 South B Street  
17 Virginia City, Nevada 89440

18 Stericycle Biohazardous Medical Waste Disposal  
19 c/o McDonald/Carano  
20 100 West Liberty Street  
21 10<sup>th</sup> Floor  
22 Reno, Nevada 89501

23 Office of the Attorney General  
24 100 North Carson Street  
25 Carson City, Nevada 89701-4717

FILED

2021 JAN, 15 PM 1:01

STOREY COUNTY CLERK

BY [Signature]  
DEPUTY

1 Anne M. Langer, SBN #3345  
2 Keith Loomis, SBN #1912  
3 Storey County District Attorney's Office  
4 P.O. Box 496, 201 South C Street  
5 Virginia City, Nevada 89440  
6 (775) 847-0964

7 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
8 IN AND FOR THE COUNTY OF STOREY

9  
10 MARY LOU MCSWEENEY-WILSON,

Case No.: 20 OC 00005 1E

11 Petitioner,

Dept. No. 1

12 vs.

13 STOREY COUNTY COMMISSIONERS,  
14 and STERICYCLE, INC.

15 Respondents.  
16

17 **NOTICE OF ENTRY OF ORDER**

18 NOTICE is hereby given that on January 12, 2021, the Court duly  
19 entered an ORDER ON MOTION TO CORRECT CAPTION in the above-  
20 referenced matter. A copy of said Order is attached hereto as Exhibit 1.

21 **AFFIRMATION PURSUANT TO NRS 239B.030**

22 The undersigned affirms that the preceding document does not  
23 contain the social security number of any person.

24 DATED this 14th day of January, 2021.

25 [Signature]  
26 Keith L. Loomis  
27 Assistant District Attorney  
28

ANNE M. LANGER  
STOREY COUNTY DISTRICT ATTORNEY  
P.O. Box 496 • 201 South C Street  
VIRGINIA CITY, NEVADA 89440  
TELEPHONE (775) 847-0964 FAX (775) 847-1007

001085

ANNE M. LANGER  
STOREY COUNTY DISTRICT ATTORNEY  
P.O. Box 496 • 201 South C Street  
VIRGINIA CITY, NEVADA 89440  
TELEPHONE (775) 847-0964 FAX (775) 847-1007

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of STOREY COUNTY DISTRICT ATTORNEY'S OFFICE and that on this day I personally served a true and correct copy of the NOTICE OF ENTRY OF ORDER by:

- ☒ U.S. Mail
- ☐ Facsimile Transmission
- ☐ Personal Service/Hand-Delivery
- ☐ Reno-Carson Messenger Service

addressed to the following:

Mary Lou Wilson  
2064 Regent St.  
Reno, NV 89509

Michael A. T. Pagni, Esq.  
Chelsea Latino, Esq.  
McDonald Carano LLP  
100 West Liberty St., 10<sup>th</sup> floor  
Reno, NV 89501

Dated this 15<sup>th</sup> day of January, 2021.

  
Teresa Sargent

001000

FILED

2021 JAN 12 PM 2:55

STOREY COUNTY CLERK

BY *[Signature]*

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF STOREY

MARY LOU MCSWEENEY-WILSON, ET AL.,  
HOMEOWNERS OF RAINBOW BEND  
COMMUNITY, AND STOREY COUNTY  
RESIDENTS,

Petitioners

vs.

STOREY COUNTY COMMISSIONERS AND  
STERICYCLE, INC.

Respondents.

Case No. 20 OC 000051E

Dept. No. 1

ORDER ON MOTION TO CORRECT CAPTION

A Motion to Correct the Caption in this matter has been filed by the Storey County Commissioners. NRCP 10(a) requires that the complaint in a civil action filed in the District Court must identify all of the parties in the action.<sup>1</sup> It is undisputed that Homeowners of Rainbow Bend and Storey County Residents are not legal entities. There is no provision within the NRCP to identify fictitious parties as complainants. While under NRCP 9(a) a party need not allege the legal existence of an organized association of persons that is made a party, the existence of this issue can be raised by a responding party and has been done so here by Respondent Storey County Commissioners. Accordingly the caption shall be corrected by removing the Homeowners of Rainbow Bend Community and Storey County Residents as petitioners in this matter. Further the designation of "et al" in the petition also fails to identify

<sup>1</sup> A petition is a complaint under the NRCP. See advisory committee note to NRCP 3

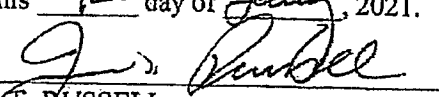


1 the parties to this matter. Accordingly, the "et al" designation in the caption shall also be  
2 removed.

3  
4 Mr. Loomis shall serve a notice of entry of this order on all other parties within seven (7)  
5 after the date the court sends this order to Mr. Loomis.

6 IT IS SO ORDERED

7 Dated this 12<sup>th</sup> day of January, 2021.

8   
9 JAMES T. RUSSELL  
10 DISTRICT JUDGE

11 Submitted this \_\_\_\_\_ day of January, 2021

12 By \_\_\_\_\_

13 Keith Loomis Assistant District Attorney for Storey County  
14 201 South C Street/ Post Office Box 496, Virginia City, NV 89440  
15 Telephone (775) 847-0964  
16 e-mail kloomis@storeycounty.org  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Storey County District Court Clerk's office and that on this day I personally served a true and correct copy of the Order On Motion To Correct Caption filed JANUARY 12, 2021 by U.S. Mail.

Addressed to the following:

-----  
-----  
Keith Loomis, Esq.  
Assistant DA, Storey County  
PO Box 496.  
Virginia City, NV. 89440

Mary Lou Wilson, Esq.  
2064 Regent St.  
Reno, NV. 89509

Michael A. T. Pagni, Esq.  
McDonald Carano  
100 W. Liberty St., 10<sup>th</sup> Flr.  
Reno, NV. 89501

Chelsea Latino, Esq.  
McDonald Carano  
100 W. Liberty St., 10<sup>th</sup> Flr.  
Reno, NV. 89501

*January 12, 2021*

SUBSCRIBED and SWORN to before me this  
1<sup>st</sup> day of October 2020.

Vanessa Stephens, Clerk

By *Alicia Duke*, Deputy

FILED

2020 OCT 28 PM 1:08

STOREY COUNTY CLERK

BY  DEPUTY

Michael A.T. Pagni (NSBN 6444)  
Chelsea Latino (NBSN 14227)  
McDONALD CARANO LLP  
100 West Liberty Street, 10th Floor  
Reno, NV 89501  
Telephone: (775) 788-2000  
Facsimile: (775) 788-2020  
[mpagni@mcdonaldcarano.com](mailto:mpagni@mcdonaldcarano.com)  
[clatino@mcdonaldcarano.com](mailto:clatino@mcdonaldcarano.com)

*Attorneys for Intervenor Stericycle, Inc.*

**FIRST JUDICIAL DISTRICT COURT OF NEVADA**

**STOREY COUNTY**

\*\*\*\*\*

MARY LOU MCSWEENEY-WILSON, ET.  
AL., HOMEOWNERS OF RAINBOW  
BEND COMMUNITY AND STOREY  
COUNTY RESIDENTS,

Petitioners,

vs.

STOREY COUNTY COMMISSIONERS,  
and STERICYCLE, INC.

Respondent.

CASE NO.: 20 OC 00051E

DEPT NO.: 1

**NOTICE OF ENTRY OF ORDER**

PLEASE TAKE NOTICE that on October 27, 2020, the above-entitled Court entered its ORDER GRANTING STERICYCLE, INC.'S MOTION TO INTERVENE. A true and correct copy of that Order is attached hereto as Exhibit 1.

Dated this 28<sup>th</sup> day of October, 2020.

McDONALD CARANO, LLP

By 

Michael A.T. Pagni (NSBN 6444)  
Chelsea Latino (NBSN 14227)

*Attorneys for Proposed Intervenor Stericycle, Inc.*

001091

McDONALD CARANO

100 WEST LIBERTY STREET, TENTH FLOOR • RENO, NEVADA 89501  
PHONE 775.788.2000 • FAX 775.788.2020

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I hereby certify that I am an employee of McDONALD CARANO LLP and that I served the foregoing NOTICE OF ENTRY OF ORDER by placing a true and correct copy thereof enclosed in sealed envelopes, upon which first class postage was prepaid, in the United States mail addressed to the following parties at the addresses listed below:

Mary Lou Wilson  
2064 Regent Street  
Reno, NV 89509

Anne Langer  
Keith Loomis  
Storey County District Attorney's Office  
201 S. C Street, P.O. Box 496  
Virginia City, NV 89440

I declare under penalty of perjury that the foregoing is true and correct.

DATED: October 28, 2020.

By: 

An Employee of McDonald Carano LLP

001092

# INDEX OF EXHIBITS

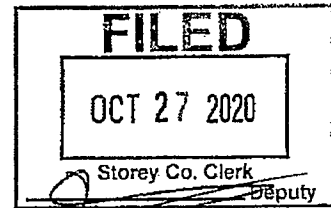
1			
2	<u>Exhibit</u>	<u>Description</u>	<u>Pages</u>
3	1	Order Granting Stericycle, Inc.'s Motion to Intervene	3
4			
5			
6			
7	4833-1078-2160, v. 1		
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			

001093

# **Exhibit 1**

# **Exhibit 1**

001064



FIRST JUDICIAL DISTRICT COURT OF NEVADA

STOREY COUNTY

\*\*\*\*\*

MARY LOU MCSWEENEY-WILSON, ET.  
AL., HOMEOWNERS OF RAINBOW  
BEND COMMUNITY AND STOREY  
COUNTY RESIDENTS,

CASE NO.: 20 OC 00051E

DEPT NO.: 1

Petitioners,

vs.

STOREY COUNTY COMMISSIONERS,

Respondent.

**PROPOSED ORDER GRANTING STERICYCLE, INC.'S MOTION TO INTERVENE**

Currently before the Court is Stericycle, Inc.'s Motion to Intervene. Having reviewed and considered the pleadings, the Motion and all related documents, the applicable law and facts, and good cause appearing, the Court finds and concludes as follows:

**FINDINGS OF FACT**

1. At a regular meeting of the Storey County Board of Commissioners ("Board") on August 18, 2020, the Board approved Stericycle, Inc.'s ("Stericycle") application for a special use permit to construct and operate a medical and other special waste incinerator facility ("SUP Application"). See Pet. at Ex. 1 pp. 1, 7-12.

2. On September 10, 2020, Petitioners filed their *Petition for District Court Review of Storey County Commissioners Vote to Permit Stericycle's Special Use Permit, In Violation of Public Health, Safety, and Welfare* ("Petition").

12 001095

1           3.     In the Petition, Petitioners seek judicial review of the Board's decision with respect  
2 to Stericycle's SUP Application and request that the Court "rescind" approval of the same.

3           4.     The Petition names the Board as the sole respondent.

4           5.     Following a meet and confer effort between respective counsel for Stericycle and  
5 Petitioners, Stericycle filed the Motion to Intervene.

6                               **CONCLUSIONS OF LAW**

7           The Nevada Rules of Civil Procedure allow for intervention of right to any non-party who,  
8 on timely motion, "claims an interest relating to the property or transaction that is the subject of  
9 the action, and is so situated that disposing of the action may as a practical matter impair or impede  
10 the movant's ability to protect its interest, unless existing parties adequately represent that  
11 interest." NRCP 24(a)(2); *see also Am. Home Assurance Co. v. Eighth Judicial Dist. Court*, 122  
12 Nev. 1229, 1238, 147 P.3d 1120, 1126 (2006) (listing the elements of intervention as of right).

13           Intervention of right is warranted under NRCP 24(a)(2) as Stericycle is the holder of the  
14 special use permit that is the subject of this action, as well as the of the real property benefitted by  
15 and to be operated under the SUP, and is therefore so situated that disposing of the action by  
16 judicial order or negotiated settlement may as a practical matter impair or impede Stericycle's  
17 ability to protect its property rights and land use entitlement. As a result, Stericycle could be  
18 uniquely harmed by the disposition of this action if it were not permitted to intervene as a party.  
19 As this matter was only recently commenced and is in its initial stages, Stericycle's intervention  
20 is timely and would not prejudice the existing parties.

21           Accordingly, and good cause appearing therefor, **IT IS HEREBY ORDERED:**

22           1.     Stericycle, Inc.'s Motion to Intervene is **GRANTED**.

23           2.     Stericycle, Inc. shall be joined as a respondent in this action and shall be entitled  
24 to file pleadings and papers, fully participate in the action, and present argument and legal briefs  
25 as its interest may appear on issues developed during the course of these proceedings.

26           3.     The caption of this action shall reflect Stericycle, Inc. as a respondent.

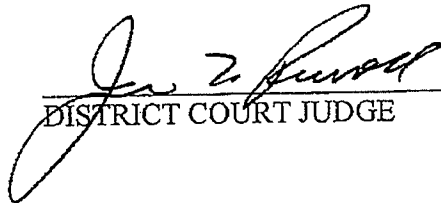
27           4.     Stericycle shall serve a notice of entry of this order on all other parties and file  
28 proof of such service within 7 days after this order is sent.



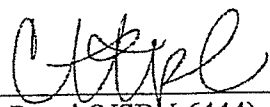
1           5. Stericycle shall file the motion to dismiss attached as Exhibit 3 to its Motion to  
2 Intervene within 7 days of entry of this order.

3           **IT IS SO ORDERED.**

4           Dated this 27<sup>th</sup> day of October, 2020.

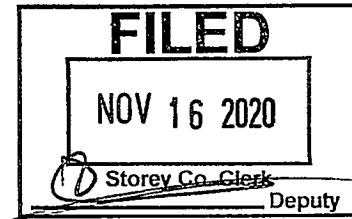
5  
6             
7           DISTRICT COURT JUDGE  
8  
9  
10  
11  
12  
13  
14  
15  
16

17           Respectfully submitted on September 26<sup>th</sup>, 2020, by:

18             
19           \_\_\_\_\_  
20           Michael A.T. Pagni (NSBN 6444)  
21           Chelsea Latino (NBSN 14227)  
22           McDONALD CARANO LLP  
23           100 West Liberty Street, 10th Floor  
24           Reno, NV 89501  
25           (775) 788-2000  
26           mpagni@mcdonaldcarano.com  
27           clatino@mcdonaldcarano.com  
28           Attorneys for Intervenor Stericycle, Inc.

1 Case No.: 20 OC 00005 1E

2 Dept. No.: 1



3  
4  
5  
6 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF STOREY

8  
9 MARY LOU McSWEENEY-WILSON, ET.  
10 AL., HOMEOWNERS OF RAINBOW BEND  
11 COMMUNITY, AND STOREY COUNTY  
12 RESIDENTS,

13 Petitioner,

14 vs.

15 STOREY COUNTY COMMISSIONERS,

16 Respondent.

**ORDER SETTING HEARING**

17 THIS MATTER is currently pending before the Court on a Motion to Dismiss for Lack  
18 of Standing filed by Respondent on September 23, 2020. Petitioners filed an Opposition thereto  
19 on October 1, 2020. Respondent filed a Reply to Opposition and a Request for Submission on  
20 October 12, 2020. Thereafter, Petitioners filed an Opposition to Respondent's Request for  
21 Submission, Respondent filed a Motion to Strike Opposition to Request for Submission, and  
22 Petitioners filed a Motion for Leave of Court to Allow for the Oppositions to Request for  
23 Submission. Also pending is a Motion to Dismiss filed by Intervenor Stericycle, Inc., on October  
24 28, 2020. On November 4, 2020, Petitioners filed a Request for Submission.

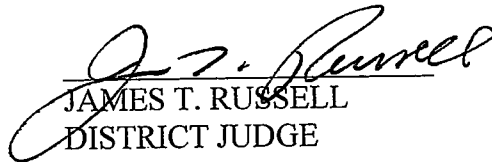
25 This Court has reviewed the Motions and Responses and finds that a hearing regarding  
26 this matter would be helpful in determining the merits of the case. Therefore, good cause  
27 appearing;

28 ///

001098

1 IT IS HEREBY ORDERED that this matter is set for a hearing before the First Judicial  
2 District Court, Storey County, located at 26 South B Street, Virginia City, Nevada, on December  
3 18, 2020, at 10:30 a.m.

4 Dated this 16<sup>th</sup> day of November, 2020.

5   
6 JAMES T. RUSSELL  
7 DISTRICT JUDGE  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

001009

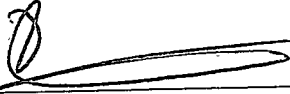
**CERTIFICATE OF MAILING**

Pursuant to NRCP 5(b), I certify that I am an employee of the First Judicial District Court, and that on this 16<sup>th</sup> day of November, 2020, I deposited for mailing at Carson City, Nevada, a true and correct copy of the foregoing Order addressed as follows:

Mary Lou Wilson, Esq.  
2064 Regent Street  
Reno, NV 89509

Anne M. Langer  
~~District Attorney~~  
P.O. Box 496  
Virginia City, NV 89440

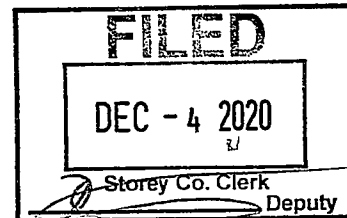
Michael A.T. Pagni, Esq.  
Chelsea Latino, Esq.  
100 West Liberty Street, 10<sup>th</sup> Floor  
Reno, NV 89501

  
Angela Jeffries  
Judicial Assistant, Dept. 1

001100

1 Case No.: 20 OC 00005 1E

2 Dept. No.: 1



3  
4  
5  
6 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF STOREY

8  
9 MARY LOU McSWEENEY-WILSON, ET.  
10 AL., HOMEOWNERS OF RAINBOW BEND  
COMMUNITY, AND STOREY COUNTY  
11 RESIDENTS,

12 Petitioner,

13 vs.

14 STOREY COUNTY COMMISSIONERS,

15 Respondent.  
16

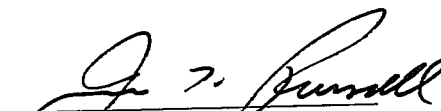
**ORDER CONTINUING HEARING**

17 THIS MATTER is currently pending before the Court on a Motion to Continue Hearing  
18 Date of December 18, 2020 Due to Christmas Plans in Florida, filed by Petitioner Mary Lou  
19 McSweeney-Wilson on November 18, 2020.

20 — This Court has reviewed the Motion finds it appropriate to continue the hearing in this  
21 case. Therefore, good cause appearing;

22 IT IS HEREBY ORDERED that the hearing before the First Judicial District Court,  
23 Storey County, located at 26 South B Street, Virginia City, Nevada, set for December 18, 2020,  
24 at 10:30 a.m. is CONTINUED to February 19, 2021, at 10:30 a.m.

25 Dated this 4th day of December, 2020.

26  
27   
JAMES T. RUSSELL  
DISTRICT JUDGE  
28

001101

**CERTIFICATE OF MAILING**

Pursuant to NRCP 5(b), I certify that I am an employee of the First Judicial District Court, and that on this 4<sup>th</sup> day of December, 2020, I deposited for mailing at Carson City, Nevada, a true and correct copy of the foregoing Order addressed as follows:

Mary Lou Wilson, Esq.  
2064 Regent Street  
Reno, NV 89509

Anne M. Langer  
District Attorney  
P.O. Box 496  
Virginia City, NV 89440

Michael A.T. Pagni, Esq.  
Chelsea Latino, Esq.  
100 West Liberty Street, 10<sup>th</sup> Floor  
Reno, NV 89501



Angela Jeffries  
Judicial Assistant, Dept. 1

001102

FILED

2021 JAN 12 PM 2:55

STOREY COUNTY CLERK

BY W. D. Se  
F. P. L. T. Y.

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF STOREY

MARY LOU MCSWEENEY-WILSON, ET AL.,  
HOMEOWNERS OF RAINBOW BEND  
COMMUNITY, AND STOREY COUNTY  
RESIDENTS,

Petitioners

Case No. 20 OC 000051E

Dept. No. 1

vs.

STOREY COUNTY COMMISSIONERS AND  
STERICYCLE, INC.

Respondents.

### ORDER ON MOTION TO CORRECT CAPTION

A Motion to Correct the Caption in this matter has been filed by the Storey County Commissioners. NRCP 10(a) requires that the complaint in a civil action filed in the District Court must identify all of the parties in the action.<sup>1</sup> It is undisputed that Homeowners of Rainbow Bend and Storey County Residents are not legal entities. There is no provision within the NRCP to identify fictitious parties as complainants. While under NRCP 9(a) a party need not allege the legal existence of an organized association of persons that is made a party, the existence of this issue can be raised by a responding party and has been done so here by Respondent Storey County Commissioners. Accordingly the caption shall be corrected by removing the Homeowners of Rainbow Bend Community and Storey County Residents as petitioners in this matter. Further the designation of "et al" in the petition also fails to identify

<sup>1</sup> A petition is a complaint under the NRCP. See advisory committee note to NRCP 3

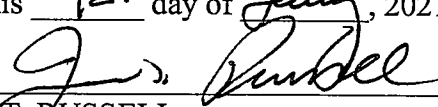
001103

1 the parties to this matter. Accordingly, the "et al" designation in the caption shall also be  
2 removed.

3 Mr. Loomis shall serve a notice of entry of this order on all other parties within seven (7)  
4 after the date the court sends this order to Mr. Loomis.  
5

6 IT IS SO ORDERED

7 Dated this 12<sup>th</sup> day of January, 2021.

8   
9 JAMES T. RUSSELL  
DISTRICT JUDGE

10  
11 Submitted this \_\_\_\_\_ day of January, 2021

12 By \_\_\_\_\_  
13 Keith Loomis Assistant District Attorney for Storey County  
14 201 South C Street/ Post Office Box 496, Virginia City, NV 89440  
15 Telephone (775) 847-0964  
16 e-mail kloomis@storeycounty.org  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Storey County District Court Clerk's office and that on this day I personally served a true and correct copy of the Order On Motion To Correct Caption filed JANUARY 12, 2021 by U.S. Mail.

Addressed to the following:

-----  
-----  
Keith Loomis, Esq.  
Assistant DA, Storey County  
PO Box 496.  
Virginia City, NV. 89440

Mary Lou Wilson, Esq.  
2064 Regent St.  
Reno, NV. 89509

Michael A. T. Pagni, Esq.  
McDonald Carano  
100 W. Liberty St., 10<sup>th</sup> Flr.  
Reno, NV. 89501

Chelsea Latino, Esq.  
McDonald Carano  
100 W. Liberty St., 10<sup>th</sup> Flr.  
Reno, NV. 89501

January 12, 2021

SUBSCRIBED and SWORN to before me this  
1<sup>st</sup> day of October 2020.

Vanessa Stephens, Clerk

By Alicia Duke, Deputy

Case No 20 OC 00005 1E

Dept. No. 1

FILED

2021 JAN 15 PM 2:53

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR CARSON CITY

STOREY COUNTY CLERK  
BY M. Wilson  
DEPUTY

MARY LOU MCSWEENEY-WILSON, ET. AL.,  
HOMEOWNERS OF RAINBOW BEND COMMUNITY,  
AND STOREY COUNTY RESIDENTS,  
Petitioners,

vs.

STOREY COUNTY COMMISSIONERS,

Respondents.

**SUBPOENA**

To: LARRY HUDDLESON, 306 Ave De La Couleurs, Sparks, Nevada 89434,  
775-301-0306

YOU ARE COMMANDED to appear before the First Judicial District Court, State of Nevada, Virginia City, at the courtroom of said court, Department 1 at 26 S B Street, Virginia City, Nevada 89440, on 19<sup>th</sup> of February at 10:30 a.m. to testify on the part of Mary Lou McSweeney Wilson.

Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. [Nevada Rules of Civil Procedure, Rule 45(e)]

Dated this 5<sup>th</sup> day of December, 2020.

By: Mary Lou Wilson  
Law Office of Mary Lou Wilson  
2064 Regent Street  
Reno, Nevada 89509  
(775) 771-8620

001106

CERTIFICATE OF SERVICE

I, MICHAEL WILSON, hereby certify that I am a citizen of  
the United States, over 18 years of age, and that I received the within subpoena on the  
5<sup>TH</sup> day of December, 2020, and personally served a copy of the  
same upon Larry Huddleston on the 5<sup>TH</sup>  
day of December, 2020.

The undersigned does hereby affirm that this document does not contain the social  
security number of any person.

Michael E. Wilson  
Signature of Person Making Service

001107

Case No. 20 OC 00005 1E

Dept. No. 1

FILED *copy*

2021 JAN 15 PM 2:53

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR CARSON CITY

STOREY COUNTY CLERK  
BY *[Signature]*  
DEPUTY

MARY LOU MCSWEENEY-WILSON, ET. AL.,  
HOMEOWNERS OF RAINBOW BEND COMMUNITY,  
AND STOREY COUNTY RESIDENTS,  
Petitioners,

vs.

STOREY COUNTY COMMISSIONERS,

Respondents.

**SUBPOENA**

To: PHILIP HILTON, 382 Rue De La Rouge, Sparks, Nevada 89434 775-745-6272

YOU ARE COMMANDED to appear before the First Judicial District Court, State of Nevada, Virginia City, at the courtroom of said court, Department 1 at 26 S B Street, Virginia City, Nevada 89440, on 19th of February at 10:30 a.m. to testify on the part of Mary Lou McSweeney Wilson.

Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. [Nevada Rules of Civil Procedure, Rule 45(e)]

Dated this 5th day of December, 2020.

By: *[Signature]*  
Law Office of Mary Lou Wilson  
2064 Regent Street  
Reno, Nevada 89509  
(775) 771-8620

001108

CERTIFICATE OF SERVICE

I, MICHAEL W. LSC, hereby certify that I am a citizen of  
the United States, over 18 years of age, and that I received the within subpoena on the  
7<sup>th</sup> day of December, 2020, and personally served a copy of the  
same upon Phillip A. L. L. L. on the 7<sup>th</sup>  
day of December, 2020.

The undersigned does hereby affirm that this document does not contain the social  
security number of any person.

Michael W. LSC  
Signature of Person Making Service

001109

copy

FILED

Case No. 20 OC 00005 1E

Dept. No. 1

2021 JAN 15 PM 2:53

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR CARSON CITY

STOREY COUNTY CLERK

BY [Signature]  
DEPUTY

MARY LOU MCSWEENEY-WILSON, ET. AL.,  
HOMEOWNERS OF RAINBOW BEND COMMUNITY,  
AND STOREY COUNTY RESIDENTS,  
Petitioners,

vs.

STOREY COUNTY COMMISSIONERS,

Respondents.

**SUBPOENA**

To: SCOTT MARTIN, 7445 Estates Road, Reno, Nevada 89506, 775-745-6272

YOU ARE COMMANDED to appear before the First Judicial District Court, State of Nevada, Virginia City, at the courtroom of said court, Department 1 at 26 S B Street, Virginia City, Nevada 89440, on 19th of February at 10:30 a.m. to testify on the part of Mary Lou McSweeney Wilson.

Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. [Nevada Rules of Civil Procedure, Rule 45(e)]

Dated this 5th day of December, 2020.

By: Mary Lou Wilson  
Law Office of Mary Lou Wilson  
2064 Regent Street  
Reno, Nevada 89509  
(775) 771-8620

001110

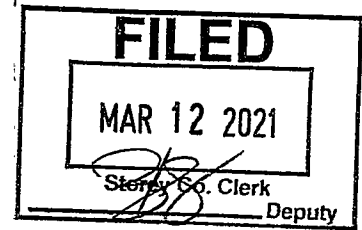
CERTIFICATE OF SERVICE

I, Michael E. Wilson, hereby certify that I am a citizen of the United States, over 18 years of age, and that I received the within subpoena on the 7th day of December, 2020, and personally served a copy of the same upon Scott Martin on the 7th day of December, 2020.

The undersigned does hereby affirm that this document does not contain the social security number of any person.

Michael E. Wilson  
Signature of Person Making Service

001111



IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF STOREY

MARY LOU MCSWEENEY-WILSON,  
Petitioner,

vs.

STOREY COUNTY COMMISSIONERS,  
STERICYCLE, INC.

Respondents.

Case No. 20 OC 00005 1E

Dept. No. 1

**ORDER OF DISMISSAL**

This case arises out of the filing by Petitioner Mary Lou McSweeney-Wilson (Wilson) of a pleading entitled **Petition for District Court Review of Storey County Commissioners Vote to Permit Stericycle's Special Use Permit, In Violation of Public Health, Safety, and Welfare** (hereafter Petition). Both the Storey County Commissioners and Stericycle Inc. have moved to dismiss the Petition on the ground that Petitioner lacks standing to seek review of the decision of the Board of County Commissioners granting Stericycle Inc. a special use permit. The Court agrees and will subsequently expand upon the reason for that opinion.

Preliminarily, there is a pending motion for reconsideration of this court's order granting a motion to correct the caption of this case. The court's order removed two fictitious entities as plaintiffs in this case, i.e., Storey County Residents and Homeowners



1 of Rainbow Bend Community as well as an et al designation following petitioner's name.  
2 A motion for reconsideration can be made if the court overlooked or misunderstood a  
3 material fact, or overlooked, misunderstood, or misapplied law that directly controls a dispositive  
4 issue. FJDCR 3.13(1). Petitioner contends that because she has recently discovered an actual  
5 Storey County resident and a homeowner within Rainbow Bend, that she would like to include as  
6 plaintiffs, that the order granting correction of the caption should be reconsidered. Such a  
7 contention does not demonstrate a misunderstanding or the overlooking of a material fact, nor  
8 does it demonstrate the overlooking, the misunderstanding or the misapplication of law.  
9 Accordingly, that motion is denied.


10 That leaves the court with the substantive issue of Petitioner's standing to seek review of  
11 the Board decision to issue a special use permit to Stericycle Inc. NRS 278.3195(1) a party  
12 aggrieved by a decision of the planning commission, may appeal the decision to the governing  
13 body. Under NRS 278.3195(4) any person who has appealed the decision to the governing body  
14 and is aggrieved by the decision of the governing body may appeal that decision to the district  
15 court by filing a petition for judicial review. While the Legislature has defined whom is an  
16 aggrieved party to mean a person who appeared in person or through an authorized  
17 representative or in writing before e.g., a planning commission in counties whose population is  
18 700,000 or more, it has not provided a similar definition for counties with a lesser population. In  
19 *City of Las Vegas v. Eighth Judicial District Court*, 122 Nev. 1197, 1206 (2006) the court  
20 explained that the Legislature did not define "aggrieved" for appeals in smaller counties  
21 in order to allow ordinances adopted pursuant to NRS 278.3195(1) to address who may  
22 appeal from a planning commission decision. In Storey County, the Planning  
23 Commission is advisory only to the Board and does not make decisions other than to  
24 recommend approval or denial of an application. Decisions are made by the Board.  
25 Planning staff has some authority to make final decisions. See Storey County Code  
26 (hereafter SCC) Section 17.03,110. In order to appeal a staff decision, the aggrieved  
27 party must have participated in the administrative process. SCC 17.030.130(B)(1). In  
28 *Holt-Still v. Washoe Cty. Bd. Of Cty. Comm'rs*, 2020 Nev. Unpub LEXIS 649, the Court

1 held that under NRS 278.3195(4) an aggrieved party must have appealed to the governing  
2 body and be a party aggrieved by the governing body's decision. Again, participation in  
3 the administrative process is required. In *Kay v. Nunez*, 122 Nev. 1100 (2006) an  
4 appellant clearly had standing where he appealed a decision of the planning commission  
5 to the governing body and then filed a petition for judicial review challenging the  
6 governing body's decision. In all these cases and statutes and ordinances some  
7 participation in the process was required. In this case there is no allegation of any  
8 participation in the proceedings by Ms. Wilson and she has essentially acknowledged that  
9 she did not participate in any of the proceedings for which she now seeks judicial review.  
10 For that reason, Petitioner lacks standing to seek review of the Board's decision to issue a  
11 special use permit to Stericycle Inc. Accordingly the Petition for Review is dismissed.

12 Mr. Loomis shall serve a notice of entry of this order on all other parties and file  
13 proof of such service within 7 days after the date the court sent the order to the attorney.

14 IT IS SO ORDERED.

15  
16 DATED this 12<sup>th</sup> day of March, 2021.

17  
18   
19 DISTRICT COURT JUDGE

20 Submitted this 11th day of March, 2021.


21 By \_\_\_\_\_  
22 Keith Loomis Chief Deputy District Attorney for Storey County  
23 201 South C Street/Post Office Box 496, Virginia City, NV 89440  
24 Telephone (775) 847-0964  
25 e-mail kloomis@storeycounty.org  
26  
27  
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Anne Langer, District Attorney  
Keith Loomis, Deputy District Attorney  
Storey County  
201 S. C St.  
Virginia City, NV 89440

Mary Lou McSweeney-Wilson, Esq.  
Michael E. Wilson, Esq.  
2064 Regent St.  
Reno, NV 89509

Michael Pagni, Esq.  
Chelsea Latino, Esq.  
McDonald Carano  
100 W. Liberty St., 10<sup>th</sup> Flr.  
Reno, NV 89501

  
Kimberly M. Carrubba, Esq.  
Law Clerk, Dept. 1

001115

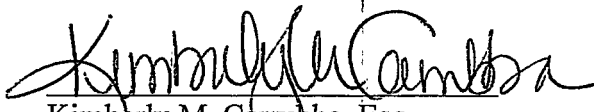
**CERTIFICATE OF MAILING**

Pursuant to NRCP 5(b), I certify that I am an employee of the First Judicial District Court, and that on this 12<sup>th</sup> day of March, 2021, I served the foregoing Order by depositing a copy thereof in the United States Mail at Carson City, Nevada, postage paid, addressed as follows:

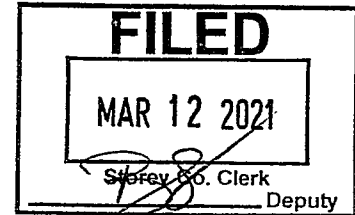
Anne Langer, District Attorney  
Keith Loomis, Deputy District Attorney  
Storey County  
201 S. C St.  
Virginia City, NV 89440

Mary Lou McSweeney-Wilson, Esq.  
Michael E. Wilson, Esq.  
2064 Regent St.  
Reno, NV 89509

Michael Pagni, Esq.  
Chelsea Latino, Esq.  
McDonald Carano  
100 W. Liberty St., 10<sup>th</sup> Flr.  
Reno, NV 89501

  
Kimberly M. Carrubba, Esq.  
Law Clerk, Dept. 1

001116



**FIRST JUDICIAL DISTRICT COURT OF NEVADA**  
**STOREY COUNTY**

\*\*\*\*\*

MARY LOU MCSWEENEY-WILSON,

CASE NO.: 20 OC 00051E

Petitioner,

DEPT NO.: 1

vs.

STOREY COUNTY COMMISSIONERS;  
STERICYCLE, INC.,

Respondents.

**ORDER GRANTING STERICYCLE, INC.'S MOTION TO DISMISS**

Currently before the Court is Respondent Stericycle, Inc's Motion to Dismiss. Having reviewed and considered the pleadings, the Motion and all related documents, the applicable law and facts, and good cause appearing, the Court finds and concludes as follows:

**FACTUAL BACKGROUND**

1. In or about June of 2020, Stericycle applied to Storey County for a special use permit ("SUP") for development of a medical and other specialty waste incinerator facility at 1655 Milan Drive in the Tahoe-Reno Industrial Center ("TRI Center") (the "SUP Application"). See Pet. at Ex. 1.

2. The Storey County Planning Commission ("Planning Commission") considered the SUP Application at two regularly scheduled, public meetings on July 16, 2020 and August 6, 2020. By majority vote on August 6, 2020, the Planning Commission recommended approval of Stericycle's SUP Application to the Board. See *id.*

001117

3. At a regular meeting of the Storey County Board of Commissioners ("Board") on August 18, 2020, the Board approved Stericycle's SUP Application. *See* Pet. at Ex. 1 pp. 1, 7-12.

4. Petitioner Mary Lou McSweeney-Wilson concedes she did not appear in opposition of Stericycle's SUP Application at either the July 16, 2020 or August 6, 2020 Planning Commission meeting, did not appeal the decision of the Planning Commission to the Board, and did not appear in opposition of Stericycle's SUP Application at the August 18, 2020 Board meeting. *See* Pet. at 16-17.

5. On September 10, 2020, Petitioner filed a *Petition for District Court Review of Storey County Commissioners Vote to Permit Stericycle's Special Use Permit, In Violation of Public Health, Safety, and Welfare* ("Petition"). Petitioner seeks judicial review of the Board's decision with respect to Stericycle's SUP Application and requests that the Court "rescind" approval of the same under NRS 278.3195 and NRS 278.0235.

6. After intervening, Stericycle moved to dismiss the Petition for, among other things, lack of standing under NRS Chapter 278.

#### LEGAL ANALYSIS

NRS 278.3195(1) requires local governments to adopt an ordinance allowing "any person who is aggrieved by a decision" of a planning commission created under NRS 278.030 or "other person appointed or employed by the governing body who is authorized to make administrative decisions regarding the use of land" to "appeal the decision to the governing body." NRS 278.3195(1)(a), (d). After the governing body renders its decision in an administrative appeal, judicial review is available to a limited category of persons, as follows:

Any person who:

(a) Has appealed a decision to the governing body in accordance with an ordinance adopted pursuant to subsection 1; and

(b) Is aggrieved by the decision of the governing body, may appeal that decision to the district court of the proper county by filing a petition for judicial review within 25 days after the date of filing of notice of the decision with the clerk or secretary of the governing body, as set forth in NRS 278.0235.

NRS 278.3195(4).

001118

Accordingly, NRS 278.3195(4) affords a limited right to request judicial review of final local zoning and land use planning decisions only to a person who (1) has filed an administrative appeal and (2) is aggrieved by the administrative decision. *See Kay v. Nunez*, 122 Nev. 1100, 1105, 146 P.3d 801, 804 (2006) (“NRS 278.3195(4) is clear and unambiguous, and thus, we follow its plain meaning.”); *see also City of Reno v. Citizens for Cold Springs*, 126 Nev. 263, 270, 236 P.3d 10, 15 (2010) (acknowledging that “the express language in NRS 278.3195(4) . . . sets forth that a person who administratively appeals a zoning decision under the applicable ordinance to the governing board and is aggrieved by the board’s decision may appeal by timely filing a petition for judicial review in district court”); Storey County Code of Ordinances (“SCC”) § 17.03.130(B)(1) (defining “aggrieved party . . . as a person with a legal or equitable interest in the property affected by the final decision or property located within the notice area of the property that is entitled by law to notice”); NRS 278.315(3)(b)-(c) (requiring notice be sent to owners and certain tenants of property “located within 300 feet of the property in question”).

Here, on the face of the Petition, Petitioner concedes she did not appeal the decision of the Planning Commission to the Board as required under NRS 278.3195(4)(a). In addition, despite alleging a generalized interest in protecting the “the health, safety, and welfare” of Storey County and “its surrounding areas” from “potential” adverse affects of the Board’s decision approving Stericycle’s SUP Application, *see* Pet. at 17-18, Petitioner cannot establish she is aggrieved by that decision as required under NRS 278.3195(4)(b) because it is undisputed that Petitioner has no “legal or equitable interest in the property affected by the final decision or property located within the notice area of the property that is entitled by law to notice.” SCC § 17.03.130(B); NRS 278.315(3). Thus, Petitioner lacks standing to petition for judicial review under the plain language of NRS 278.3195(4). *See Kay*, 122 Nev. at 1106, 146 P.3d at 806; *see also Holt-Still v. Washoe Cty. Bd. of Cty. Comm’rs*, No. 78784, 2020 WL 3570377, at \*2 (Nev. June 30, 2020) (“Because appellants did not appeal to the governing body, the district court correctly concluded that they lacked standing to petition for judicial review.”).

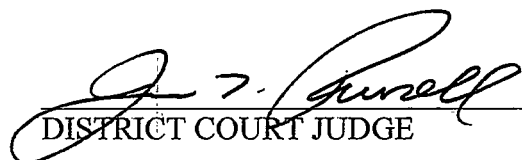
001119

1 Accordingly, and good cause appearing,

2 **IT IS SO ORDERED** that Stericycle's Motion to Dismiss is GRANTED and the Petition  
3 is dismissed WITH PREJUDICE.

4 **IT IS FURTHER ORDERED** that Stericycle shall serve a notice of entry of this order  
5 on all other parties and file proof of such service within 7 days after this order is sent.

6 Dated this 12<sup>th</sup> day of March, 2021.

7  
8   
9 DISTRICT COURT JUDGE

10  
11  
12  
13  
14  
15  
16  
17  
18  
19 Respectfully submitted by:

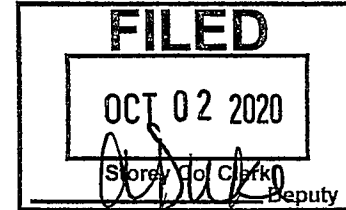
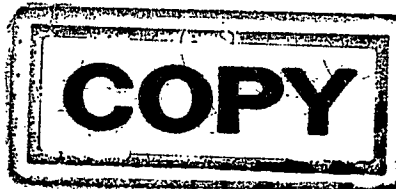
20  
21 /s/ Chelsea Latino  
22 Michael A.T. Pagni (NSBN 6444)  
23 Chelsea Latino (NBSN 14227)  
24 McDONALD CARANO LLP  
25 100 West Liberty Street, 10th Floor  
26 Reno, NV 89501  
27 (775) 788-2000  
28 mpagni@mcdonaldcarano.com  
clatino@mcdonaldcarano.com

*Attorneys for Respondent Stericycle, Inc.*

001120



CODE NO.  
MARY LOU WILSON  
Attorney at Law, Bar Number 3329  
2064 Regent Street  
Reno, Nevada 89509  
775-771-8620  
Attorney for Petitioner



*Wilson  
Copy*

*3:01 PM*

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
  
IN AND FOR CARSON CITY

MARY LOU MCSWEENEY-WILSON, ET. AL.,  
HOMEOWNERS OF RAINBOW BEND COMMUNITY,  
AND STOREY COUNTY RESIDENTS,  
  
Petitioners,

vs.

STOREY COUNTY COMMISSIONERS,  
  
Respondents.

20 OC 00005 1E

Dept. 1

**OPPOSITION TO MOTION TO INTERVENE PETITION FOR DISTRICT COURT  
REVIEW OF STOREY COUNTY COMMISSIONERS VOTE TO PERMIT  
STERICYLE'S SPECIAL USE PERMIT, IN VIOLATION OF  
PUBLIC HEALTH, SAFETY, AND WELFARE**

COMES NOW MARY LOU MCSWEENEY-WILSON, et.al., Homeowners of RAINBOW  
BEND COMMUNITY, and Storey County Residents, and hereby Opposes the Motion to  
Intervene filed by Stericycle on or about September 25, 2020. <sup>1</sup>

Stericycle argued that NRCP 24 and 12.130 provides authority for them to intervene in the  
petition for review. Motion to Intervene (MTI) p. 1. Petitioner acknowledges a telephone call  
received attempting to resolve the issues presented within the Petition without district court

<sup>1</sup> Counsel associated with the Motion was filed on September 25, 2020 because the copy received was signed on that date  
but counsel did not receive a file-stamped copy of the Motion.

1 review and counsel's rejection of that offer under FJDCR 3 and 7, since it appears that there is  
2 no agreement that could ever be reached between Petitioner and Stericycle, except for the  
3 biohazardous medical waste company to leave the area, giving up their special use permit that  
4 was erroneously given to them by the two commissioners, McBride and Carmona.

5 Stericycle claims under NRCP 24(c) and NRCP 7, there is no pleading for Stericycle to file  
6 regarding the petition for judicial review. Stericycle asks this Court for the ability to participate  
7 fully in the action. MTI, p. 2.  
8

9 **Argument** -- Stericycle should not be permitted to intervene in this judicial review for several  
10 reasons. (1) The judicial review involves the two county commissioners that erroneously voted to  
11 approve a special use permit allowing Stericycle to incinerate highly toxic biohazardous medical  
12 waste in an arbitrary and capricious vote; (2) The judicial review involves the fact that Petitioner  
13 and members of the communities of Rainbow Bend and Lockwood Community Corporation  
14 were unable to voice their objections because of the governor's Order to stay at home due to the  
15 COVID-19 worldwide pandemic, as shown in the two governor's Orders in Exhibits 1 and 3,  
16 Opposition to Motion to Dismiss, filed October 1, 2020; (3) Notice to Petitioner and the two  
17 communities were sorely absent, as shown in the attached Exhibit 5 of the Opposition to Motion  
18 to Dismiss, filed October 1, 2020, wherein most signatures included that they were not notified  
19 about the commissioner's meeting through the internet; <sup>2</sup> (4) At least half, if not more, of the  
20

---

21 <sup>2</sup> It should be noted that Petitioner was able to receive these signatures and related information from  
22 Rainbow Bend and Lockwood Community Corporation residents in a short time period, from when DA  
23 Keith Loomis filed the Motion to Dismiss, which was September 23, 2020 until October 1, 2020. Given  
24 additional time, it is believed that most all of both communities would sign the petition opposing the  
25 commissioner's vote. Petitioner was obligated to spend up to half an hour and sometimes longer on each  
resident who signed the petition, in order to explain what Stericycle was and how the commissioners

001122

1 residents who signed from Rainbow Bend and Lockwood Community Corporation were over the  
2 age of sixty-five, which was a named protected group under the Governor's Orders to stay at  
3 home. Exhibit 3 and 5, Opposition to Motion to Dismiss, filed October 1, 2020.

4 Nothing within the Petition, Supplement, or Opposition to Motion to Dismiss entertains  
5 Stericycle as an aggrieved party. Quite the contrary, the focus for judicial review is only to ask  
6 the Court to rescind the vote, since Petitioner and residents of the two communities were  
7 ignorant of this vitally important and potential health hazard decision made by McBride and  
8 Carmona.

9  
10 Petitioner asserts that Stericycle can re-apply for the special use permit again should this  
11 Court grant the Petition. However, at this time, Stericycle is not a Respondent in a lawsuit.  
12 Rather, they are only the subject of the commissioner's vote; nothing more or less.

13 Stericycle argued that without allowance to intervene and the Court's rescinding of the  
14 commissioner's vote, they would be deprived of their property rights and land use entitlement.  
15 Stericycle would not have the opportunity to present and advocate to protect their interests in the  
16 special use permit that they were granted on August 18, 2020. MTI, p. 2.

17 **Argument** – Should this Court find that Petitioner has satisfied the burdens argued within the  
18 Opposition to Motion to Dismiss filed October 1, 2020 and also found that the four areas of  
19 violations listed above were satisfied enough to rescind the vote, Stericycle would have the  
20 opportunity to re-apply for its special use permit.  
21

22  
23  
24 voted for the special use permit, since these residents were completely ignorant to what had happened  
25 regarding the failure to receive notice due to the Governor's Orders to stay at home. Exhibits 1 and 3 of  
the Opposition to Motion to Dismiss, filed October 1, 2020.

001123

1 Stericycle argues that under NRCP 24(a) this Court can permit them to intervene because the  
2 property or transaction is the subject of the action, and is so situated that disposing of the action  
3 may as a practical matter impair or impede the movant's ability to protect its interest, unless  
4 existing parties adequately represent that interest. NRCP 24(a)(2). Also citing NRS 12.130(a)  
5 (before trial, any person may intervene in an action or proceeding who has an interest in the  
6 matter in litigation, in the success of either of the parties, or an interest against both). *State Indus.*  
7 *Ins. Sys v. Eighth Jud. Dist. Ct.*, 111 Nev. 28 (2005). MTI, p. 3.

8  
9 **Argument** - Petitioner is not suing Stericycle. There is no lawsuit, trial, or appeal. This is a  
10 review of the commissioner's vote, which excluded Petitioner and residents of Rainbow Bend  
11 and Lockwood Community Corporation. Petitioner for Judicial Review, filed September 10,  
12 2020, Supplement to Petition, filed September 11, 2020, and Opposition to Motion to Dismiss,  
13 filed October 1, 2020.

14 Stericycle goes on to argue similar sections of the statute and cases dealing with non-party's  
15 in an on-going lawsuit. MTI, p. 3.

16 **Argument** - However, Stericycle is not in any lawsuit at this time. Petitioner only seeks a  
17 review of the two commissioner's vote for a special use permit based upon the four errors that  
18 produced this vote; nothing more or less. If the Court deems fit to allow Petitioner a review, and  
19 if the Court deems fit to rescind the vote of the two commissioners for one of the four reasons  
20 presented above or for any other reason, then Stericycle can re-apply to the county  
21 commissioner's again. At this time, there is no property loss, no interest in any litigation, and no  
22 impairment of the ability to protect its interest. At this time, Stericycle is in the catbird seat, since  
23 it was granted the special use permit by Commissioners McBride and Carmona on August 18,  
24  
25

001124

1 2020. Nothing has changed that vote. Unless and until that happens, Stericycle's property  
2 interests remain intact.

3 Next, Stericycle argues that they are the holder of the special use permit, the owner of real  
4 property benefitting from the special use permit, and they have a substantial and protectable  
5 interest in the subject matter of the action. Absent intervention, they will not have an opportunity  
6 to advance their interest and could be ignored of its existing property rights and land usage  
7 would be impaired or subverted. They argue that Stericycle's interest is not adequately  
8 represented by Petitioner, which is against the special use permit, and although the  
9 commissioners appear to be aligned with Stericycle, it is uniquely harmed by the challenges  
10 made to the special use permit. MTI, p. 4.

12 ***Argument*** --Obviously, the commissioners that voted to approve the special use permit are  
13 aligned with Stericycle, since they heard opposition from Blockchains Corporation, and were not  
14 persuaded by the many amazing violations attributed to the company's performances, fines  
15 Stericycle was Ordered to pay for fraudulent conduct, and biohazardous toxic medical waste  
16 incineration resulting in the Utah Physicians article showing cancer, birth defects, autism, and  
17 *Mad Cow* disease. Exhibit 8, Petition for Review, filed September 10, 2020.

19 However, again, the judicial review is not litigation in the typical sense of the word. Petitioner  
20 is a homeowner and filed the Petition pro bono in support of our small communities, which are  
21 the closest large residences to the Stericycle's purchased land.

22 Should this Court permit Stericycle to intervene, counsel would request two things in order to  
23 be fair -- (1) Order Blockchains LLC to intervene; and (2) Request compensation for any further  
24 preparation, motion practice, and oral argument, paid by Storey County in order to defend this  
25 judicial review.

001125

1 Then, and only then, would the tables be fair.

2 Conclusion -- Because of the foregoing, Petitioner requests that this Court deny Stericycle's  
3 Motion for Intervention. In the alternative, should this Court decide to allow Stericycle's  
4 intervention, it is requested that this Court Order Blockchains LLC to intervene and compensate  
5 Petitioner for any further preparation, motion practice, and oral argument at her government rate,  
6 which is \$100. per hour, which she normally receives in appointed habeas corpus petitions, paid  
7 by the State of Nevada through the Nevada Public Defender's Office.  
8

9 Should this Court deny intervention, counsel will continue to manage this petition for judicial  
10 review pro bono.

11 DATED this 2<sup>nd</sup> day of October, 2020.

12 By: Mary Lou Wilson  
13 MARY LOU WILSON  
14 Attorney At Law, Bar #3329  
15 2064 Regent Street  
16 Reno, Nevada 89509  
17 Attorney for Petitioner  
18 775-771-8620  
19

17 AFFIRMATION PURSUANT TO NRS 239B.030

18 The undersigned does hereby affirm that the preceding document does not contain the social  
19 security number of any person.

20 DATED this 2<sup>nd</sup> day of October, 2020

21 By: Mary Lou Wilson  
22 MARY LOU WILSON  
23 Attorney At Law, Bar #3329  
24 2064 Regent Street  
25 Reno, Nevada 89509  
Attorney for Petitioner

001126

1 CERTIFICATE OF SERVICE

2 I, Mary Lou Wilson, hereby affirm that on the 2<sup>nd</sup> day of October, I mailed the  
3 aforementioned document and sent a hard copy to the following parties at the following  
4 addresses through the U.S. Mail:

5 The Storey County Clerk of the Court  
6 26 S. B Street  
7 Drawer D  
8 Virginia City, Nevada 89440

9 Assistant District Attorney Keith Loomis  
10 Storey County District Attorney  
11 201 S C St.  
12 Virginia City, Nevada 89440

13 Commissioners Jay Carmona  
14 and Marshall McBride  
15 P.O. Box 176  
16 26 South B Street  
17 Virginia City, Nevada 89440

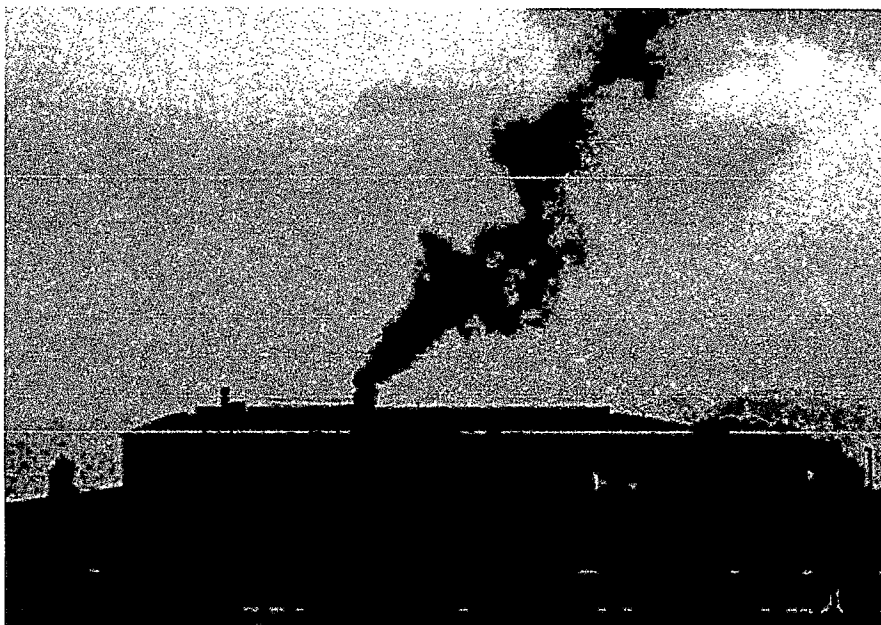
18 McDonald/Carano Law Firm  
19 100 Liberty Street  
20 10<sup>th</sup> Floor  
21 Reno, Nevada 89501  
22 c/o Stericycle Biohazardous Medical Waste Disposal  
23 2355 Waukegan Road  
24 Bannockburn, Ill. 60015

25 Office of the Attorney General  
100 North Carson Street  
Carson City, Nevada 89701-4717

001127



## STERICYCLE



You may read UPHE's indepth, thoroughly researched report on Stericycle [here](#). A shorter summary of the issue is below.

Stericycle imports and burns waste from eight surrounding states, making Utah a pollution dumping ground with no off setting benefit realized by our community. As those communities have become cleaner, Salt Lake has become dirtier.

During start-ups, shut downs and "upset" conditions, an incinerator completely bypasses their pollution control equipment, emitting raw, contaminated smoke. Studies of the industry show that these conditions exist about 10% of the time, and during these conditions the amount of dioxins released can equal two years worth of emissions found during "normal" conditions. A dramatic video of a recent Stericycle "upset" can be seen [here](#).

Small, even brief exposures to toxins like those from Stericycle, can have profound, life long impacts if the exposure occurs during critical stages of [fetal development](#).

### NO NEED FOR INCINERATION

there is no law requiring incineration, including medical waste. 98% of the nation's medical waste incinerators in the nation have been closed in the last 15 years. The only reason to treat medical

### PRIORITY ISSUES

UPHE REPORT ON WOOD  
BURNING, UPDATED 2016

LEAD POISONING  
PREVENTION

INLAND PORT

UPHE SUES DIESEL  
BROTHERS

ENEFIT UTILITY  
CORRIDOR

PURPLEAIR'S CITIZEN AIR  
MONITORS

NEW PROPOSED AIR  
QUALITY RULES

OFFICIAL COMMENTS  
FOR GOVERNMENT  
AGENCIES

UPHE RESPONSE TO  
UDOH'S UPDATED  
STERICYCLE REPORT

WOOD BURNING

GENEVA ROCK POINT OF  
THE MOUNTAIN

REFINERY EXPANSION

RIO TINTO - KENNECOTT

> STERICYCLE

- 001128



eliminated, but steam autoclaving and burial is just as effective as incineration in eliminating those pathogens that can be eliminated. There are better alternatives to incineration available right now. Several countries, states and cities have banned medical waste incineration.

## INCINERATION SPREADS DISEASE

Incineration does not remove toxins and actually creates new ones by merely concentrating and redistributes existing ones. Emissions from incinerators are probably the most toxic type of air pollution and include the deadliest compounds known to science; dioxins, furans, heavy metals, radioactive elements and even prions (the highly infective proteins that cause the 100% fatal human "Mad Cow" disease). Because incinerator emissions contain these deadly toxins, large medical studies show increased rates of serious diseases—like cancer, pregnancy complications, birth defects, and autism—among people who live within several miles of incinerators.

Utah has the highest rates of autism in the nation, double the national average. Wide spread suspicion in Foxboro, the closest subdivision to Stericycle, that there were high rates of serious diseases including cancer, is what prompted the residents to contact the Utah Physicians for a Healthy Environment for help. The state has not done any studies to explore the issue. This is not just a one neighborhood issue. Emissions from incinerators can travel hundreds of miles. Residents throughout Salt Lake, Davis, Utah, and Weber Counties are undoubtedly being affected.

## CRIMINAL INVESTIGATION

Stericycle is under criminal investigation by the state and federal government for emitting hundreds of times more dioxins and furans than their permit allows (dioxins are considered the second most toxic man-made substance after plutonium), falsifying their records, and packing their incinerator with atypical waste to cheat on their stack tests. Even the best managed incinerators are a health hazard, but Stericycle is more like "worst managed."

## PUBLIC HEALTH ISSUE

The Governor has the executive authority to close down Stericycle in the name of public health protection under state statute 19-2-112. He needs to exercise that authority now. UPHE participated in a townhall meeting in North Salt Lake. Comments expressed by UPHE members are published below.

- [Dr. Scott Hurst](#)
- [Dr. Kirtley Jones](#)
- [Dr. Tyler Yeates](#)
- [Dr. Ellie Brownstein](#)
- [Dr. Cris Cowley](#)
- [Dr. Brian Moench](#)

STATE BOARD OF  
EDUCATION'S  
CURRICULUM ON THE  
CLIMATE CRISIS

OFFICIAL COMMENTS  
FOR GOVERNMENT  
AGENCIES

PRESERVING WASATCH  
MOUNTAINS

SEARCH

Search

001129

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5

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.  
10<sup>th</sup> Floor  
Reno, Nevada 89501