

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARY LOU MCSWEENEY-WILSON,

Appellant/Petitioner,

vs.

No. 82806

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Jun 10 2021 06:03 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

District No. 20OC000051E

STOREY COUNTY COMMISSIONERS
AND STERICYCLE, INC.,

Respondents.

_____ /

APPELLANT APPENDIX
VOLUME V

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- 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.

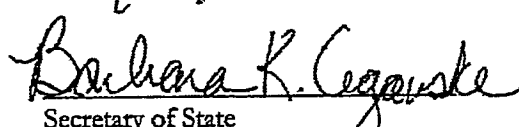
SECTION 40: The State of Nevada shall retain all authority vested in the Governor pursuant to NRS Chapter 414.

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 28th 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

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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.

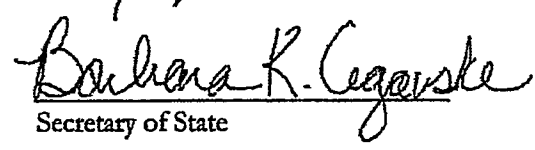
SECTION 2: With limited exceptions identified below, all Nevadans are ordered to stay in their residences. Gatherings of individuals outside the home is prohibited, subject to the same exceptions.

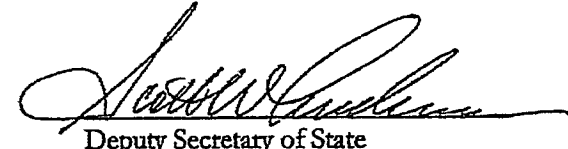
- SECTION 3: Individuals may leave their residences to provide services, perform work necessary, or obtain services from Essential Healthcare operations (as defined by Section 1(a) of the March 20, 2020 Emergency Regulations) on behalf of themselves, pets, or those in their household.
- SECTION 4: Individuals 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


Secretary of State


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 15th 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 2nd 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 2nd 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 2nd 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 2nd 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 2nd 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 2nd 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 2nd 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 2nd 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 2nd 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 2nd 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 1st reading for the approval of the 1st 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 12th 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 18th day of February, 2021

5 

6 Keith Loomis
7 Chief Deputy District Attorney
8 For Storey County Nevada
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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

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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

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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

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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; abaugh@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

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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

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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 18th 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 17th 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 17th 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 17th 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 10th Floor
24 Reno, Nevada 89501

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

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

19 COME NOW, the Storey County Commissioners by and through their attorney, Keith
20 Loomis Chief Deputy District Attorney, and submit this Opposition to the Motion to Shorten
21 Time and Leave of Court to Correct Judge's Order Changing the Caption to Eliminate
22 Homeowners of Rainbow Bend Community and Storey County Residents Pursuant to FJDCR
23 3.13 (Motion for Reconsideration). This opposition is based upon the documents and pleadings
24 on file with the court, the attached Memorandum of Points and Authorities and any evidence that
25 may be produced at a hearing of this matter.

26 Dated this 2nd day of March, 2021

27 Keith Loomis
28 Keith Loomis, Chief Deputy District Attorney

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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

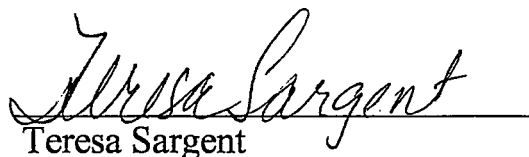
15 addressed to the following:

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 2nd day of March, 2021.

25
26 
27 Teresa Sargent
28

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FILED

2021 MAR -3 PM 1:50

STOREY COUNTY CLERK

BY *[Signature]*
DEPUTY

Michael A.T. Pagni (NSBN 6444)
Chelsea Latino (NBSN 14227)
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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 NRCF 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, 2020.¹ *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 ¹ 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,² 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 ² 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.³ 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 ³ 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

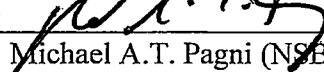
1 respectfully submits that the Court need not hear any evidence to determine, as a matter of
2 law, that NRS 278.3195(4) does not afford Petitioner a right of judicial review of the Board's
3 decision, as this single dispositive issue can be determined on the briefing alone. However,
4 in the event 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.*
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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 3rd 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

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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

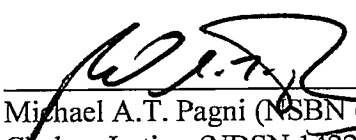
1 **IT IS FURTHER ORDERED** that Stericycle shall serve a notice of entry of this order
2 on all other parties and file proof of such service as soon as practicable and within 7 days after
3 this order is sent.

4 Dated this ____ day of _____, 2020.

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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
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mpagni@mcdonaldcarano.com
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

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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

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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
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6 WL 5256959, at *1 (D. Nev. Sept. 9, 2015); *see also* FJDCR 3.13(a) (“Issues once heard and
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18 challenging Ms. Wilson-McSweeney’s capacity to sue on behalf of the homeowners of
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9 9. Additionally, the Court rejects Petitioner's argument that substitution is
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14 10. Finally, Petitioner argues that the individuals for whom she seeks substitution
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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

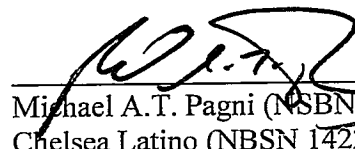
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DISTRICT COURT JUDGE

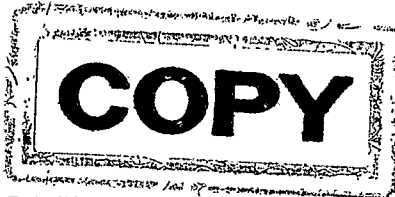
Respectfully submitted on March 3, 2021, by:


Michael A.T. Pagni (NBSN 6444)
Chelsea Latino (NBSN 14227)
McDONALD CARANO LLP
100 West Liberty Street, 10th Floor
Reno, NV 89501
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mpagni@mcdonaldcarano.com
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
12 Petitioner realized this newly discovered evidence showed these two men were "aggrieved"
13 persons and had "standing" under the statute, since they had "participated" in the meetings and
14 voiced their opposition to Stericycle in the zoom meetings from August 6, 2020 and August 18,
15 2020. NRS 278.3195.

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

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

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.

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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 //

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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 6th and 18th 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.

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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.¹
22

23
24 ¹ 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 6th and 18th 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 6th and 18th 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

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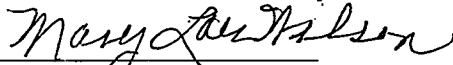
1 hearing witnesses during an evidentiary hearing, such that the second area of concern regarding
2 the arbitrary and capricious nature of the special use permit vote may be discussed.

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.

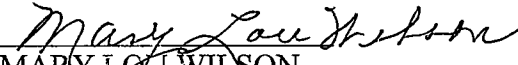
12 Dated this 8th day of March, 2021

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 8th 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 8th 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 10th 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., 10th floor
Reno, NV 89501

Dated this 15th 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

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.¹ 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

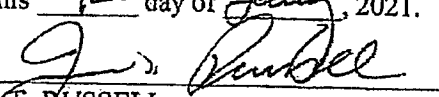
¹ A petition is a complaint under the NRCP. See advisory committee note to NRCP 3

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 12th 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
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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., 10th Flr.
Reno, NV. 89501

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

January 12, 2021

SUBSCRIBED and SWORN to before me this
1st 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
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 28th 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

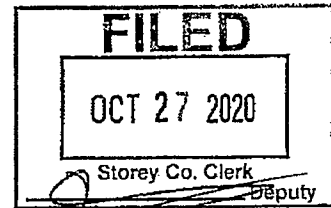
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2	<u>Exhibit</u>	<u>Description</u>	<u>Pages</u>
3	1	Order Granting Stericycle, Inc.'s Motion to Intervene	3
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7	4833-1078-2160, v. 1		
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Exhibit 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").

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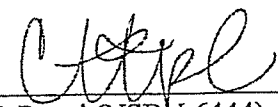
1 5. Stericycle shall file the motion to dismiss attached as Exhibit 3 to its Motion to
2 Intervene within 7 days of entry of this order.

3 **IT IS SO ORDERED.**

4 Dated this 27th day of October, 2020.

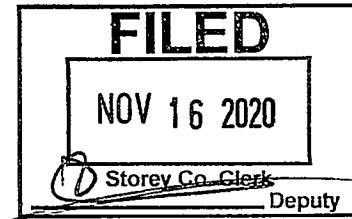
5
6 
DISTRICT COURT JUDGE
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17 Respectfully submitted on September 26th, 2020, by:

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.

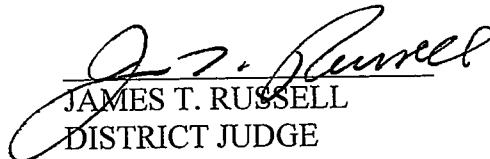
25 This Court has reviewed the Motions and Responses and finds that a hearing regarding
26 this matter would be helpful in determining the merits of the case. Therefore, good cause
27 appearing;

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 16th day of November, 2020.

5 
6 JAMES T. RUSSELL
7 DISTRICT JUDGE
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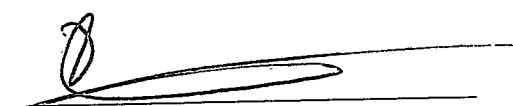
CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the First Judicial District Court, and that on this 16th 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

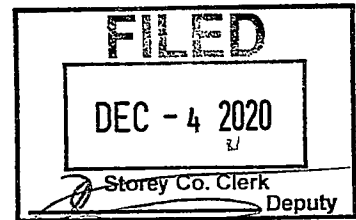
Michael A.T. Pagni, Esq.
Chelsea Latino, Esq.
100 West Liberty Street, 10th Floor
Reno, NV 89501


Angela Jeffries
Judicial Assistant, Dept. 1

001100

1 Case No.: 20 OC 00005 1E

2 Dept. No.: 1



3
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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

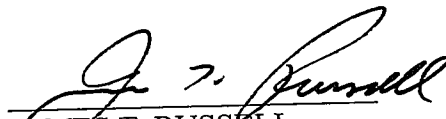
ORDER CONTINUING HEARING

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 
28 JAMES T. RUSSELL
DISTRICT JUDGE

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 4th 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, 10th 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.¹ 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

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

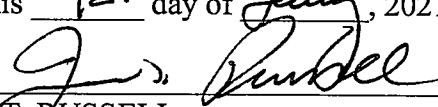
001103

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 12th day of January, 2021.

8 
9 JAMES T. RUSSELL
DISTRICT JUDGE

10
11 Submitted this _____ day of January, 2021

12
13 By _____
14 Keith Loomis Assistant District Attorney for Storey County
15 201 South C Street/ Post Office Box 496, Virginia City, NV 89440
16 Telephone (775) 847-0964
17 e-mail kloomis@storeycounty.org
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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., 10th Flr.
Reno, NV. 89501

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

January 12, 2021

SUBSCRIBED and SWORN to before me this
1st 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 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

001106

CERTIFICATE OF SERVICE

I, MICHAEL WALSON, 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
5TH day of December, 2020, and personally served a copy of the
same upon Larry Huddleston on the 5TH
day of December, 2020.

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

Michael E. Walson
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: *Mary Lou Wilson*
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
7th day of December, 2020, and personally served a copy of the
same upon Phillip A. L. L. L. 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 W. LSC
Signature of Person Making Service

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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

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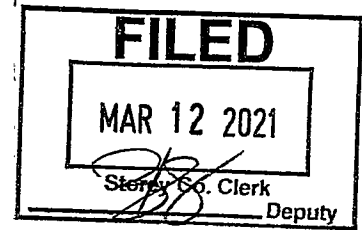
CERTIFICATE OF SERVICE

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 12th 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
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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., 10th Flr.
Reno, NV 89501


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

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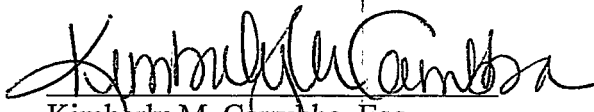
CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the First Judicial District Court, and that on this 12th 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:

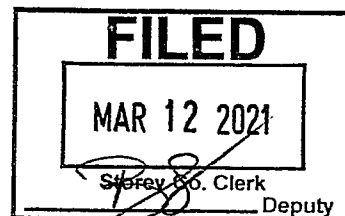
Anne Langer, District Attorney
Keith Loomis, Deputy District Attorney
Storey County
201 S. C St.
Virginia City, NV 89440

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., 10th 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.*

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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).

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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.”).

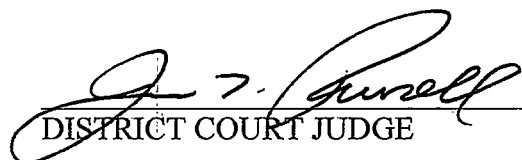
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1 Accordingly, and good cause appearing,

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 12th day of March, 2021.

7
8 
9 DISTRICT COURT JUDGE

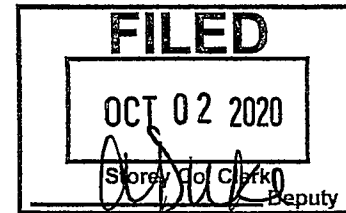
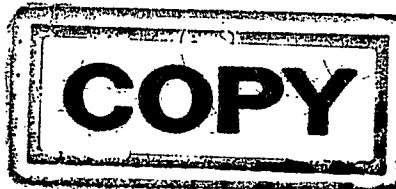
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17
18
19 Respectfully submitted by:

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*

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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.

20 OC 00005 1E

STOREY COUNTY COMMISSIONERS,

Dept. 1

Respondents.

**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, 2020.¹

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

¹ 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; ² (4) At least half, if not more, of the
20

21 ² 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

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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.

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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

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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.

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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 2nd 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 2nd 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 2nd 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

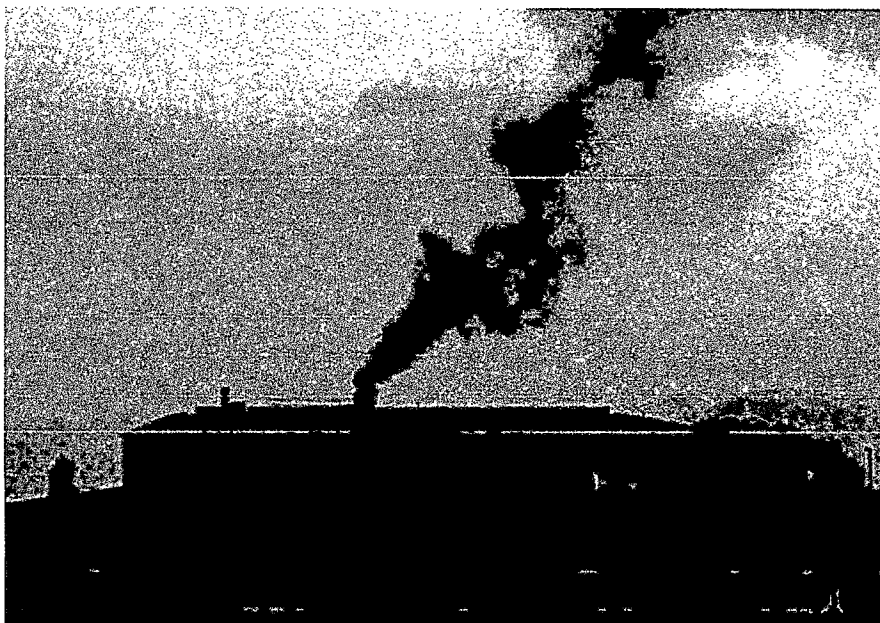
18 McDonald/Carano Law Firm
19 100 Liberty Street
20 10th Floor
21 Reno, Nevada 89501
22 c/o Stericycle Biohazardous Medical Waste Disposal
23 2355 Waukegan Road
24 Bannockburn, Ill. 60015

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

Michael A.T. Pagni (NSBN 6444)
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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,

Respondent.

CASE NO.: 20 OC 00051E

DEPT NO.: 1

STERICYCLE, INC.'S MOTION TO INTERVENE

Pursuant to NRCP 24 and NRS 12.130, Intervenor and Real Party in Interest Stericycle, Inc. ("Stericycle") respectfully moves this Court for an order permitting it to intervene as a respondent in the above-captioned action and to defend against the Petition for District Court Review ("Petition") filed by Petitioners Mary Lou McSweeney-Wilson, et al., Homeowners of Rainbow Bend Community and Storey County Residents ("Petitioners").¹

¹ In accordance with FJDCR 3.7, counsel for Stericycle certifies that efforts to confer in good faith with Petitioners' counsel to resolve this dispute without Court action were unsuccessful. *See* Decl. of Chelsea Latino ¶¶ 4-5, attached hereto as **Exhibit 1**; *see also* Meet and Confer Letter, attached hereto as **Exhibit 2**.

This Motion is made and based on the following memorandum of points and authorities, the exhibits attached hereto, all of the pleadings and papers on file in this action, and any oral argument that the Court may order in this matter. As this case involves a purported petition for judicial review, there is no pleading for Stericycle to file with this Motion as anticipated by NRCP 24(c). *See* NRCP 7 (defining “pleading”). Stericycle seeks to intervene to file the Motion to Dismiss attached hereto as **Exhibit 3**, and otherwise to participate fully as a respondent in this action, including any briefing that may be ordered by the Court. An original and a copy of the proposed order granting this Motion are attached hereto as **Exhibit 4** and **Exhibit 5**, respectively, pursuant to FJDCR 3.10.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Stericycle’s rights will be affected by the Petition though which Petitioners seek to “rescind” the Board’s approval of Stericycle’s request for a special use permit (“SUP”) based on their generalized interests as citizens in protecting “the health, safety, and welfare” of Storey County and “its surrounding areas” from “potential” adverse effects and nonexistent procedural irregularities. Were the Petition to be granted by the Court, Stericycle could be deprived of its property rights and existing land use entitlement, all without having had an opportunity to participate in these proceedings and advocate against those positions in order to protect its interests. Such an outcome would be manifestly unjust and should be forestalled by allowing Stericycle’s intervention.

II. FACTUAL BACKGROUND

On August 20, 2020, the Storey County Board of Commissioner (“Board”) approved Stericycle’s request for a special use permit in connection with the development of a medical and other specialty waste incinerator facility at 1655 Milan Drive in the Tahoe-Reno Industrial Center (the “SUP Application”). Pet. at Ex. 1, p. 7. On September 10, 2020, Petitioners filed a purported petition for judicial review of the Board’s decision, arguing that Stericycle’s SUP Application should have been denied and asking the Court to “rescind” the Board’s approval. Pet. at 18; *see also* Supp. to Pet. at 1. Despite that Stericycle is the

applicant, property owner and permit holder, as well as a party of record to the proceedings before the Board and Planning Commission, the Board is the only named respondent in this action. *See, e.g.*, Pet. at Ex. 1 p. 8. Consequently, Stericycle now seeks to intervene to participate as a respondent in order to protect its property rights and interests related to the SUP and defend against the Petition.

III. LEGAL ARGUMENT

Pursuant to NRCP 24(a), on timely motion, the courts must permit intervention of right to anyone who:

- (1) is given an unconditional right to intervene by a state or federal statute; or
- (2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

See also NRS 12.130(a) ("Before the trial, any person may intervene in an action or proceeding, who has an interest in the matter in litigation, in the success of either of the parties, or an interest against both."); *State Indus. Ins. Sys. v. Eighth Jud. Dist. Ct.*, 111 Nev. 28, 32-33, 888 P.2d 911, 913 (1995). To establish a right to intervene under NRCP 24(a)(2), a non-party must demonstrate:

- (1) that it has a sufficient interest in the litigation's subject matter, (2) that it could suffer an impairment of its ability to protect that interest if it does not intervene, (3) that its interest is not adequately represented by existing parties, and (4) that its application is timely. Determining whether an applicant has met these four requirements is within the district court's discretion.

Am. Home Assurance Co. v. Eighth Judicial Dist. Court, 122 Nev. 1229, 1238, 147 P.3d 1120, 1126 (2006).

NRCP 24(b) permits a non-party to an on-going lawsuit to permissively intervene in certain situations:

On timely motion, the court may permit anyone to intervene who: (A) is given a conditional right to intervene by a state or federal statute; or (B) has a claim or defense that shares with the main action a common question of law or fact.... In exercising its discretion, the court must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights.

1 NRCP 24(b). In determining the timeliness of a motion for intervention, “[t]he most important
2 question” is “the extent of prejudice to the rights of existing parties resulting from the delay,” if
3 any. *Lawler v. Ginocchio*, 94 Nev. 623, 626, 584 P.2d 667, 668-69 (1978); accord *Dangberg*
4 *Holdings v. Douglas Co.*, 115 Nev. 129, 141, 978 P.2d 311, 318 (1999).

5 Here, Stericycle should be permitted to intervene as of right pursuant to NRCP 24(a).
6 First, as the applicant and permit holder of the SUP, and owner of the real property benefitted
7 by and to be operated under the SUP, Stericycle has a direct, substantial, and legally
8 protectable interest in the subject matter of this action. Second, absent intervention and an
9 opportunity to advance its interest on the issues presented in the Petition, Petitioners could
10 obtain a judicial order or negotiated settlement whereby Stericycle’s interest is ignored and
11 its existing property rights and land use entitlement are impaired or subverted. Third, and for
12 these same reasons, Stericycle’s interest is not adequately represented by the existing parties
13 because Stericycle’s direct interest in the SUP is based on a property right belonging to
14 Stericycle only and not to any existing party to this action. Accordingly, while Stericycle and
15 the Board’s positions may appear to align, Stericycle is uniquely harmed by any challenges
16 to the SUP. Lastly, this Motion is timely as there has been no unreasonably delay by
17 Stericycle and intervention at this time will not prejudice Petitioners. Thus, Stericycle
18 satisfies the standard for intervention as of right.

19 Alternately, at a minimum, Stericycle should be granted permissive intervention
20 because Stericycle’s defense has common questions of law and fact with that of the Board’s;
21 namely, whether the determination approving the SUP should be affirmed to prevent
22 curtailment of Stericycle’s land use rights. Therefore, Stericycle satisfies the standard for
23 permissive intervention.

24 ///

25 ///

26 ///

27 ///

28 ///

1 **IV. CONCLUSION**

2 For the foregoing reasons, Stericycle respectfully requests that the Court grant its
3 Motion to Intervene, permit Stericycle to file the attached Motion to Dismiss,² and permit
4 Stericycle otherwise to participate fully as a respondent in this action, including any briefing
5 that may be ordered by the Court.

6 Dated this 16th day of September, 2020.

7 MCDONALD CARANO, LLP

8
9 By 

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

14 *Attorneys for Intervenor Stericycle, Inc.*

26 _____
27 ² Should the Court grant intervention and direct Stericycle to file the Motion to Dismiss, Stericycle
28 will attach an original and copy of a proposed order as exhibits to the same in accordance with
FJDCR 3.10.

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 STERICYCLE, INC.'S MOTION TO INTERVENE 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, NB 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: September 26, 2020.

By: _____

An Employee of McDonald Carano LLP

INDEX OF EXHIBITS

Exhibit No.	Description	Pages
1	Declaration of Chelsea Latino	2
2	Meet and Confer Letter dated September 22, 2020	1
3	Motion to Dismiss (without exhibits) ³	13
4	[Proposed] Order Granting Stericycle, Inc.'s Motion to Intervene	3
5	Copy of [Proposed] Order Granting Stericycle, Inc.'s Motion to Intervene	3

³ See *supra* note 2.

1136

Exhibit 1

Exhibit 1

Michael A.T. Pagni (NSBN 6444)
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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,

CASE NO.: 20 OC 00051E

DEPT NO.: 1

Petitioners,

vs.

STOREY COUNTY COMMISSIONERS,

Respondent.

DECLARATION OF CHELSEA LATINO

I, Chelsea Latino, declare as follows:

1. I am over the age of 18 years and a resident of Washoe County, Nevada. I make this declaration based upon personal knowledge, except where stated to be upon information and belief, and as to that information, I believe it to be true. If called upon to testify as to the contents of this Declaration, I am legally competent to do so.

2. I am an attorney duly licensed to practice law in the State of Nevada with McDonald Carano LLP and counsel for Stericycle, Inc. ("Stericycle").

3. I submit this Declaration in support of Stericycle, Inc.'s Motion to Intervene ("Motion").

4. On September 22, 2020, I advised counsel for all parties of Stericycle's intention

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1 to intervene as a respondent in this action in a good faith effort to resolve the issue raised in the
2 Motion pursuant to FJDCR 3.7(b).

3 5. I left a voicemail for Ms. Wilson, counsel for Petitioners, requesting to meet and
4 confer regarding Stericycle's intervention on September 22, 2020. I also sent a written request to
5 meet and confer via letter, copying counsel for the Storey County Board of Commissioners
6 ("Board"). A true and correct copy of the letter is attached to the Motion as **Exhibit 2**. When Ms.
7 Wilson returned my call that same day, I asked if she would stipulate to Stericycle's intervention.
8 I also advised Ms. Wilson that Stericycle intended to file the Motion to Intervene in the event that
9 we could not reach agreement. Ms. Wilson declined to stipulate to Stericycle's intervention and
10 indicated she would oppose the Motion.

11 6. Counsel for the Board has represented that the Board does not oppose intervention
12 by Stericycle.

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

14 Dated this 25th day of September, 2020.

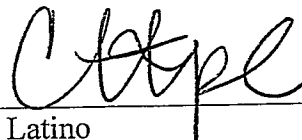
15
16 
17 Chelsea Latino

Exhibit 2

Exhibit 2

McDONALD CARANO

Michael A. T. Pagni, Esq.
mpagni@mcdonaldcarano.com
Chelsea Latino, Esq.
clatino@mcdonaldcarano.com

Reply to: Reno
Our File No.: 30657-2

September 22, 2020

Via U.S. Mail

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

Re: *McSweeney-Wilson, et al. v. Storey County Commissioners*
First Judicial District Court Case No. 20 OC 00005 1E

Dear Ms. Wilson:

This firm represents Stericycle, Inc. ("Stericycle") in connection with the above-referenced action filed on September 10, 2020, challenging the Storey County Board of Commissioners' ("Board") approval of Stericycle's request for Special Use Permit 2020-021. As you know, the Board is the sole respondent named in the action despite that Stericycle is the applicant and permit holder, as well as the party of record in the proceedings before the Planning Commission and Board. Given Stericycle's significant interest in the subject matter of the action, please be advised that Stericycle intends to intervene and defend the action as the real party in interest pursuant to NRCF 24.

This letter serves as our attempt to meet and confer with you prior to filing a motion to intervene as required by FJDCR 3.7(b). Please reach out to schedule a phone conference at your soonest convenience. We look forward to hearing from you.

Sincerely,

/s/ Chelsea Latino

CTL:nh
cc: (via email only)
Keith Loomis
Client

mcdonaldcarano.com
100 West Liberty Street • Tenth Floor • Reno, Nevada 89501 • P: 775.788.2000
2300 West Sahara Avenue • Suite 1200 • Las Vegas, Nevada 89102 • P: 702.873.4100

 MERITAS

1141

Exhibit 3

Exhibit 3

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Attorneys for Respondent 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,

CASE NO.: 20 OC 00051E

DEPT NO.: 1

Petitioners,

vs.

STOREY COUNTY COMMISSIONERS;
and STERICYCLE, INC.,

Respondents.

STERICYCLE, INC.'S MOTION TO DISMISS

Respondent Stericycle, Inc. ("Stericycle") moves to dismiss the Petition for District Court Review filed on September 10, 2020 ("Petition") by Petitioners Mary Lou McSweeney-Wilson, et al., Homeowners of Rainbow Bend Community and Storey County Residents ("Petitioners").¹ This Motion is made and based on the following memorandum of points and authorities, the exhibits attached hereto, all of the pleadings and papers on file in this action, and any oral argument that the Court may order in this matter. An original and a copy of a proposed order granting this Motion are attached hereto as **Exhibit 1** and **Exhibit 2**, respectively, pursuant to FJDCR 3.10.

¹ The Petition does not cite, and Stericycle is unaware of, any legal authority permitting Ms. Wilson to sue in a representative capacity on behalf of other unidentified parties. NRCP 17(b)(1).

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Petitioners Mary Lou Wilson and an unknown number of unidentified homeowners of Rainbow Bend Community and "Storey County Residents" seek judicial review of the Storey County Board of Commissioner's (the "Board") August 20, 2020 unanimous approval of the issuance of a special use permit to Stericycle. Citing to NRS 278.3195 and NRS 278.0235 as the purported basis of the Court's jurisdiction, Petitioners request the Court "rescind" the Board's approval "based upon the potential violation to the health, safety, and welfare of Storey County and its surrounding areas." Pet. at 18; *see also* Supp. to Pet. at 1. However, the Petition suffers from multiple independent jurisdictional defects which compel dismissal.

First, Petitioners lack standing to seek judicial review. 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 has filed an administrative appeal *and* is aggrieved by the administrative decision. Because Petitioners neither filed an administrative appeal nor have demonstrated they are aggrieved, Petitioners lack standing to obtain judicial review based on the plain language of NRS 278.3195(4).

Second, while a challenge to the Board's decision may have been more properly presented as a petition for writ of mandamus, Petitioners independently lack standing to obtain writ relief based on "potential" generalized harm to the public at large and nonexistent procedural irregularities. In any event, Petitioners are precluded from seeking writ relief because the 25-day limitations period in NRS 278.0235 has expired. Accordingly, not only do Petitioners lack standing to seek writ relief, but they are time-barred from doing so. Thus, leave to amend would be futile and the Petition should be dismissed with prejudice.

II. FACTUAL BACKGROUND

On or about June 23, 2020, Stericycle applied 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"), which is approximately 15 miles east of the Rainbow Bend Community. *See* NRS 47.130. The TRI

Center is a 107,000 acre industrial park located in the northern portion of Storey County, the entirety of which is zoned I-2 Heavy Industrial.² I-2 Heavy Industrial zoning “is intended to provide areas for the development and operation of industrial and manufacturing uses which, by nature of their intensity, may be incompatible with other types of land use activities.” 1999 Code § 17.37.020. The TRI Center is expressly authorized and intended to be developed with “heavy industrial” uses and “production processes which should not be located near residential or commercial uses due to the intensive nature of the industrial activity and/or the scale of operation,” including specifically, “[i]ncinerators, of any type and used for any purpose.” Resolution at Ex. C, p. 11; 1999 Code § 17.37.040(R).

Given the SUP Application’s compliance with TRI Center zoning, planning staff prepared a staff report recommending approval with conditions of Stericycle’s SUP Application. *See* Storey Cty. Planning Comm’n Meeting Agenda Packet at pp. 3-19 (Aug. 6, 2020), https://www.storeycounty.org/AgendaCenter/ViewFile/Agenda/_08062020-880.³

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. *See* Storey Cty. Bd. of Comm’rs Meeting Agenda Packet at pp. 408-09 (Aug. 18, 2020), https://storeycounty.org/AgendaCenter/ViewFile/Agenda/_08182020-889; *see* Pet. at Ex. 1.

In addition to reviewing the staff report and recommended findings, the Planning Commission heard from members of the public and representatives from Stericycle. By majority vote on August 6, 2020, the Planning Commission recommended approval of Stericycle’s SUP Application to the Board. *Id.*

² Pursuant to NRS 278.0201 through 278.02053, development on the property is governed by a Development Agreement and Development Handbook adopted by Storey County on February 1, 2000 and the Storey County Zoning Ordinance adopted July 1, 1999 (“1999 Code”). The 1999 Code, as well as the Resolution Determining Similar Uses In The I-2 Heavy Industrial Zone adopted May 3, 2005 (“Resolution”), are judicially noticeable matters of law under NRS 47.140(4) and available online at the following link: <https://www.storeycounty.org/309/Zoning-Ordinances>.

³ The Court may take judicial notice of this and the other documents cited herein, which are matters of public record whose accuracy cannot reasonably be disputed. NRS 47.130. *Cf. Baxter v. Dignity Health*, 131 Nev. 759, 764, 357 P.3d 927, 930 (2015) (providing that a court may “consider unattached evidence on which the complaint necessarily relies if: (1) the complaint refers to the document; (2) the document is central to the plaintiff’s claim; and (3) no party questions the authenticity of the document.”).

The Board considered Stericycle's SUP Application at a regularly scheduled, public hearing on August 18, 2020. *See* Storey Cty. Bd. of Comm'rs Meeting Minutes at pp. 6-12 (Aug. 18, 2020), https://storeycounty.org/AgendaCenter/ViewFile/Minutes/_08182020-889. The Board heard from planning staff, representatives of Stericycle, and members of the public. Based on compliance with the unique, intense industrial zoning within the TRI Center and satisfaction of applicable findings, the Board approved Stericycle's SUP Application by unanimous vote. *Id.* After notice of the Board's final decision was filed with the County Clerk on August 20, 2020, Petitioners filed the Petition initiating this action on September 10, 2020.

III. ARGUMENT

As detailed below, Petitioners have no right to judicial review under NRS 278.3195 or the Storey County Code ("SCC"). Moreover, while a challenge to the Board's decision may have been more properly presented to the district court through a petition for writ of mandamus, Petitioners independently lack standing to obtain extraordinary relief and are otherwise time-barred from doing so pursuant to NRS 278.0235. Accordingly, this Court must dismiss as a matter of law based on lack of jurisdiction or, alternatively, based on the applicable statute of limitations. *See* NRCP 12(b)(1), (5); *see also Washoe Cty. v. Otto*, 128 Nev. 424, 431, 431, 282 P.3d 719, 725 (2012) (providing that noncompliance with the statutory requirements for judicial review is grounds for dismissal for lack of jurisdiction); *Bemis v. Estate of Bemis*, 114 Nev. 1021, 1024, 967 P.2d 437, 439 (1998) ("A court can dismiss a complaint for failure to state a claim upon which relief can be granted if the action is barred by the statute of limitations.").

A. Petitioners Lack Standing to Seek Judicial Review Under NRS 278.3195.

Because petitions for judicial review are statutory creations, the Legislature may limit the availability of judicial review. *See State Dep't of Health & Human Servs. v. Samantha, Inc.*, 133 Nev. 809, 814, 407 P.3d 327, 330 (2017) (acknowledging that a statute limiting the availability of judicial review is well-established as "legislative prerogative"); *Washoe Cty. v. Otto*, 128 Nev. 424, 431, 431, 282 P.3d 719, 724 (2012) (explaining that "[c]ourts have no

1 inherent appellate jurisdiction over official acts of administrative agencies except where the
2 legislature has made some statutory provision for judicial review"). When the Legislature
3 creates a specific procedure for judicial review, "[s]trict compliance with the statutory
4 requirements is a precondition to jurisdiction by the court of judicial review,' and
5 '[n]oncompliance with the requirements is grounds for dismissal.'" *Id.*, 282 P.3d at 725 (quoting
6 *Kame v. Emp. Sec. Dep't*, 105 Nev. 22, 769 P.2d 66 (1989) (alterations in original).

7 Petitioners seek judicial review under NRS 278.3195. Pet. at 18 (requesting "that this
8 Court grant review and rescinding [sic] of the Storey County Commissioner's vote approving
9 the Special Use Permit for Stericycle"); *see also* Supp. to Pet. at 1. NRS 278.3195(1) requires
10 local governments to adopt an ordinance allowing "any person who is aggrieved by a
11 decision" of a planning commission created under NRS 278.030 or "other person appointed
12 or employed by the governing body who is authorized to make administrative decisions
13 regarding the use of land" to "appeal the decision to the governing body." NRS
14 278.3195(1)(a), (d). The ordinance adopted by Storey County in accordance with NRS
15 278.3195(1) is codified at Section 17.03.130 of the Storey County Code of Ordinances
16 ("SCC"). *See* SCC § 17.03.130(A) (allowing an "applicant or any aggrieved party" to appeal
17 certain "administrative decision[s]" to the Board within 10 days of the written administrative
18 decision, which may be affirmed, modified, or reversed by the Board); *id.* § 17.03.130(B)(1)
19 (conferring standing to file an administrative appeal to the applicant or any aggrieved party
20 who has participated in the administrative process).

21 After the governing body renders its decision in an administrative appeal, judicial
22 review is available to a limited category of persons, as follows:

23 Any person who:

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

25 (b) Is aggrieved by the decision of the governing body,
26 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
27 the decision with the clerk or secretary of the governing body, as set forth
in NRS 278.0235.

1 NRS 278.3195(4). Accordingly, NRS 278.3195(4) affords a limited right to request judicial
2 review of final local zoning and land use planning decisions only to a person who (1) has
3 filed an administrative appeal and (2) is aggrieved by the administrative decision. As the
4 Nevada Supreme Court held in *Kay v. Nunez*, 122 Nev. 1100, 1105, 146 P.3d 801, 804 (2006),
5 and has concluded on multiple occasions, “NRS 278.3195(4) is clear and unambiguous, and
6 thus, we follow its plain meaning.” *See also City of Reno v. Citizens for Cold Springs*, 126
7 Nev. 263, 270, 236 P.3d 10, 15 (2010) (acknowledging that “the express language in NRS
8 278.3195(4) ; . . sets forth that a person who administratively appeals a zoning decision under
9 the applicable ordinance to the governing board and is aggrieved by the board’s decision may
10 appeal by timely filing a petition for judicial review in district court”).

11 Based on the plain language of NRS 278.3195(4), Petitioners have no right to judicial
12 review because Petitioners never appeared at nor appealed the Planning Commission’s decision,
13 never appeared at nor participated in the hearing before the Board, and fail to establish they are
14 “aggrieved” for purposes of standing to seek judicial review. *See Kay*, 122 Nev. at 1106, 146
15 P.3d at 806 (holding that “NRS 278.3195(4) governs a party’s standing to challenge the
16 Board’s decision in the district court”).

17 First, not only did Petitioners fail to participate in any administrative appeal, they concede
18 they “were unaware” of Stericycle’s SUP Application and the three public hearings at which
19 it was discussed. Pet. at 17. Judicial review is clearly not available because Petitioners did
20 not appeal to the governing body as required by NRS 278.3195(a)(4) nor exhaust administrative
21 remedies by appearing before the Planning Commission or Board, and, therefore, there is no
22 decision of which Petitioners could demonstrate they were aggrieved as required by NRS
23 278.3195(4)(b). *See Holt-Still*, 2020 WL 3570377 at *2 (“Because appellants did not appeal
24 to the governing body, the district court correctly concluded that they lacked standing to
25 petition for judicial review.”).

26 Second, Petitioners fail to demonstrate they were “aggrieved” under NRS 278.3195(1)
27 and SCC § 17.03.130(B). Both SCC § 17.03.130(B)(1) and NRS 278.3195(4) require that
28 Petitioners demonstrate they are “aggrieved” to have standing. The term “aggrieved party” is

1 “defined as a person with a legal or equitable interest in the property affected by the final
2 decision or property located within the notice area of the property that is entitled by law to
3 notice.” SCC § 17.03.130(B)(1); *see also Va. Beach Beautification Comm’n v. Bd. of Zoning*
4 *Appeals*, 344 S.E.2d 899, 902 (Va. 1986) (recognizing that aggrieved in the land-use context
5 requires an “immediate, pecuniary and substantial interest” such that the land use decision would
6 “amount to a denial of some personal or property right different from that suffered by the public
7 generally”). According to the allegations of the Petition, Petitioners are homeowners of
8 Rainbow Bend Community, which is over 15 miles west of the subject property for which
9 the SUP was granted and well beyond the 300-foot notice area. *See* Pet. at 1, 17; Supp. to
10 Pet. at 1-2; NRS 278.315(3)(b)-(c) (requiring notice be sent to owners and certain tenants of
11 property “located within 300 feet of the property in question”); SCC § 17.03.070(B)(2)-(3)
12 (same). Furthermore, Petitioners fail to allege, let alone demonstrate, how development 15
13 miles away and downwind of their property, within an existing 107,000 acre industrial park
14 that has already been approved for the specific, intended purpose of aggregating the largest,
15 most intense heavy industrial land uses in the County in one location miles away from
16 residential uses, adversely and substantially affects their property. TRI Center was created
17 for the express purpose of establishing compatibility of intense industrial uses, and those
18 heavy industrial entitlements are decades old and well beyond legal challenge by Petitioners
19 here. Given that Petitioners are not “aggrieved” parties and did not participate at any of the
20 public hearings before the Planning Commission as required by SCC § 17.03.130(B)(1), they
21 lacked standing to administratively challenge the Planning Commission’s decision and,
22 therefore, they also lack standing to challenge the Board’s decision in this Court under NRS
23 278.3195(4). *Cf. Kay*, 122 Nev. at 1106-07, 146 P.3d at 805-06 (acknowledging that a party
24 must have standing to challenge the land use decision administratively in order to challenge
25 that decision judicially).

26 Alternatively, Petitioners cannot satisfy the “appeal” requirement under NRS
27 278.3195(4)(a) because there was no “administrative decision” to appeal under SCC §
28 17.03.130(A). The Planning Commission’s recommendation for approval of Stericycle’s SUP

Application was merely “advisory only to the board.” SCC § 17.03.090; *see also* SCC § 17.03.010; NRS 278.030(2) (providing that “counties whose population is less than 45,000 *may* create by ordinance a planning commission” (emphasis added)). Because only a recommendation had been made by the Planning Commission, there was no actual decision for the Board to the review in an administrative appeal. *Cf. Bd. of Comm’rs of Las Vegas v. Dayton Dev. Co.*, 91 Nev. 71, 73, 75-76, 530 P.2d 1187, 1188, 1190 (1975) (determining that a tie vote by the board resulted in no decision where there was only a recommendation from the planning commission, rather than an actual decision, that the board’s tie vote upheld). Accordingly, the Planning Commission’s recommendation for approval did not constitute an “administrative decision” that Petitioners could “[h]a[ve] appealed” as required by NRS 278.3195(4)(a).⁴ 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.” *Holt-Still*, 2020 WL 3570377, at *2. Because Petitioners did not administratively appeal to the Board, NRS 278.3195(4) does not afford Petitioners a right of judicial review. *Id.*

B. Petitioners Lack Standing to Seek the Proper Remedy of Extraordinary Writ Relief and Are Otherwise Time-Barred From Doing So Under NRS 278.0235.

Assuming, *arguendo*, that the proper procedure to challenge the Board’s approval is through a writ of mandamus, Petitioners’ challenge would still be defective as Petitioners lack standing to seek extraordinary relief and are otherwise time-barred from doing so. *See* NRS 34.170; *see also Holt-Still*, 2020 WL 3570377, at *1 (acknowledging that “a party who wins at the planning-commission level but loses at the governing-body level,” and thus lacks standing to

⁴ Notably, the fact that Petitioners did not and could not have appealed to the Board “does not make the words ‘[h]as appealed’ any less clear or ambiguous,” nor would such an interpretation lead to an absurd or unintended result. *Holt-Still*, 2020 WL 3570377, at *1. Not only is a petition for extraordinary relief available where no adequate legal remedy such as judicial review exists, but had the Legislature intended to extend standing to a party who could not appeal to the governing body, “it would not have included a separate subsection expressly requiring a petitioner to ‘[h]a[ve] appealed’ to the governing body.” *Id.* at *2 (quoting NRS 278.3195(4)(a)). To the extent Petitioners seek to proceed in the face of this plain and unambiguous statutory scheme, the Court should decline to broaden the availability of judicial review beyond what the Legislature intended. *See State Dep’t of Health & Human Servs.*, 133 Nev. at 814, 407 P.3d at 330; *Washoe Cty.*, 128 Nev. at 431, 282 P.3d at 724-25.

petition for judicial review under NRS 278.3195, “may petition for extraordinary relief”). Thus, even if Petitioners sought leave to amend to seek writ relief because they lack standing to seek judicial review, dismissal with prejudice and without leave to amend is still warranted.

1. Petitioners Lack Standing to Petition for Extraordinary Writ Relief.

Any attempt to cure the jurisdictional defects of the petition for judicial review through a request for leave to amend and seek a writ of mandamus would present separate jurisdictional defects still requiring dismissal because Petitioners have no beneficial interest in obtaining extraordinary relief. “Although state courts do not have constitutional Article III standing, ‘Nevada has a long history of requiring an actual justiciable controversy as a predicate to judicial relief.’” *In re Amerco Derivative Litig.*, 127 Nev. 196, 213, 252 P.3d 681, 694 (2011) (quoting *Doe v. Bryan*, 102 Nev. 523, 525, 728 P.2d 443, 444 (1986)). Generally, to establish standing, a party must show the occurrence of an injury that is “special,” “peculiar,” or “personal” to him and not merely a generalized grievance shared by all members of the public. *Schwartz v. Lopez*, 132 Nev., Adv. Op. 73, 382 P.3d 886, 894 (2016).

To establish standing in writ proceedings, “the petitioner must demonstrate a ‘beneficial interest’ in obtaining writ relief.” *Heller v. Legislature of State of Nev.*, 120 Nev. 456, 460–61, 93 P.3d 746, 749 (2004) (quoting NRS 34.170). A “beneficial interest” means “a direct and substantial interest that falls within the zone of interests to be protected by the legal duty asserted.” *Id.* at 461, 93 P.3d at 749. “This beneficial interest requirement has been interpreted to mirror the common law standing requirement. . . . In essence, the party seeking writ relief must show a ‘direct and substantial interest’ not just a generalized interest as a citizen.” *Garmon v. Lyon Cty. Bd. of Comm’rs*, No. 74644, 2019 WL 1989191, at *1 (Nev. May 3, 2019) (quotations omitted). Where, as here, “the petitioner[s] will gain no direct benefit from [the writ petition’s] issuance and suffer no detriment if it is denied,” the petitioners have no beneficial interest in obtaining writ relief and, therefore, lack standing to do so. *Heller*, 120 Nev. at 461, 93 P.3d at 749.

Petitioners do not allege any direct and substantial interest in obtaining the relief they seek. Rather, Petitioners allege generalized interests as citizens in protecting “the health, safety, and welfare” of Storey County and “its surrounding areas” from “potential” adverse

effects on (1) “the residences of Rainbow Bend Community”; (2) additional “neighboring residences of Storey County, to include, . . . Lockwood Community Corporation, Virginia City, Virginia City Highlands, Mark Twain, Gold Hill, Mustang, Patrick, Pyramid Lake, Pyramid Lake Indian Reservation, Wadsworth, Nixon, and Truckee River”; (3) “Washoe, Carson, Douglas, Lyon, Churchill, and Storey Counties”; and (4) other unidentified “neighboring communities, livestock, wildlife, including Wile [sic] Mustangs, rivers, lakes, and counties, for hundreds of miles.” Pet. at 17-18. These generalized issues are not only insufficient to establish standing, they are an improper collateral attack on final, nonappealable heavy industrial entitlements vested in the TRI Center decades ago.

Moreover, not only are the “potential” detriments that Petitioners allege entirely speculative and not based on actual harm, but Petitioners cannot show that they will gain any direct benefit if they obtain the relief sought. Pet. at 18. Petitioners allege that they received no notice and “were unaware” of the proceedings, and therefore request that the matter be remanded for another public hearing to allow them to object to the issuance of Stericycle’s SUP. Petitioners have no direct and substantial interest in obtaining such relief given that they reside over 15 miles east of the 300-foot notice area. *See* NRS 278.315(3)(b)-(c); SCC § 17.03.070(B)(2)-(3). Because Petitioners fail to show a direct and substantial injury based on the approved use of the land, and instead rely on a generalized injury that is speculative at best and otherwise based on nonexistent procedural irregularities, Petitioners cannot meet the standing requirement for seeking writ relief. *See Garmong*, 2019 WL 1989191, at *2 (affirming district court’s dismissal of writ petition challenging a governing body’s issuance of a special use permit based on lack of standing). Accordingly, leave to amend would be futile and the Petition should be dismissed with prejudice.

2. Petitioners Are Time-Barred from Requesting Extraordinary Relief.

Leave to amend to request extraordinary writ relief or other equitable remedy would also be futile under NRS 278.0235. NRS 278.0235 contains a 25-day limitations period for challenges to land-use decisions as follows:

No action or proceeding may be commenced for the purpose of seeking judicial relief or review from or with respect to any final action, decision or order of

any governing body . . . unless the action or proceeding is commenced *within 25 days after the date of filing of notice of the final action*, decision or order with the clerk or secretary of the governing body, commission or board.

(Emphasis added.) Here, the filing of the notice of the final action occurred no later than August 20, 2020, when the notice of the final action was provided to Stericycle. *See Cty. of Clark v. Doumani*, 114 Nev. 46, 52, 952 P.2d 13, 17 (indicating that the applicant must be informed of the notice of final action “to give effect to the statute of limitations”), *overruled on other grounds by Kay*, 122 Nev. 1100, 146 P.3d 801. Because the 25-day limitations period expired no later than September 14, 2020, any challenge to the Board’s decision is time-barred under NRS 278.0235. As the Petition fails to invoke the Court’s jurisdiction for purposes of judicial review under NRS 278.3195(4), “it cannot properly be amended outside of the filing deadline.” *Washoe Cty.*, 128 Nev. at 435, 282 P.3d at 727. The Petition should therefore be dismissed.

IV. CONCLUSION

For the foregoing reasons, Stericycle respectfully requests that the Petition for Judicial Review be dismissed with prejudice.

Dated this ____ day of _____, 2020.

McDONALD CARANO, LLP

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

Attorneys for Respondent Stericycle, Inc.

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 STERICYCLE, INC.'S MOTION TO DISMISS 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, NB 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 this ____ day of _____, 2020.

By: _____
An Employee of McDonald Carano LLP

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INDEX OF EXHIBITS

Exhibit No.	Description	Pages
1	[Proposed] Order Granting Stericycle, Inc.'s Motion to Dismiss	
2	Copy of [Proposed] Order Granting Stericycle, Inc.'s Motion to Dismiss	

Exhibit 4

Exhibit 4

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").

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

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

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

CONCLUSIONS OF LAW

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

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

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

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

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

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

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

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

IT IS SO ORDERED.

Dated this ____ day of _____, 2020.

DISTRICT COURT JUDGE

Respectfully submitted on September 26th, 2020, by:



Michael A.T. Pagni (NSBN 6444)
Chelsea Latino (NBSN 14227)
McDONALD CARANO LLP
100 West Liberty Street, 10th Floor
Reno, NV 89501
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mpagni@mcdonaldcarano.com
clatino@mcdonaldcarano.com

Attorneys for Intervenor Stericycle, Inc.

Exhibit 5

Exhibit 5

FIRST JUDICIAL DISTRICT COURT OF NEVADA
STOREY COUNTY

* * * * *

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

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1161

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

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

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

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

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

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

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

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

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

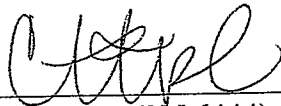
5. Stericycle shall file the motion to dismiss attached as Exhibit 3 to its Motion to Intervene within 7 days of entry of this order.

IT IS SO ORDERED.

Dated this ____ day of _____, 2020.

DISTRICT COURT JUDGE

Respectfully submitted on September 26th, 2020, by:



Michael A.T. Pagni (NSBN 6444)
Chelsea Latino (NBSN 14227)
McDONALD CARANO LLP
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Attorneys for Intervenor Stericycle, Inc.

FILED

Wilson
馬雨
利路

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

2021 JAN 15 PM 2:50



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

9 IN AND FOR CARSON CITY

10 MARY LOU MCSWEENEY-WILSON,
11 Petitioner,

12 vs.

20 OC 00005 1E

13 STOREY COUNTY COMMISSIONERS,

Dept. 1

14 Respondents.

15 NOTICE OF APPEARANCE

16 COMES NOW MARY LOU MCSWEENEY-WILSON, and hereby files this Notice of
17 Appearance for Michael E. Wilson, Attorney At Law, to act as co-counsel in the above-entitled
18 action.

19 DATED this 15th day of January, 2021.

20 By: *Mary Lou Wilson*
21 MARY LOU WILSON
22 Attorney At Law, Bar #3329
23 2064 Regent Street
24 Reno, Nevada 89509
25 Attorney for Petitioner
775-771-8620

1164

1 AFFIRMATION PURSUANT TO NRS 239B.030

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

4 DATED this 15th day of January, 2021.

5 By: Mary Lou Wilson
6 MARY LOU WILSON
7 Attorney At Law, Bar #3329
8 2064 Regent Street
9 Reno, Nevada 89509
10 Attorney for Petitioner
11
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25

1 CERTIFICATE OF SERVICE

2 I, Mary Lou Wilson, hereby affirm that on the 15th day of January, 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 10th Floor
22 Reno, Nevada 89501

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

J. DOUGLAS CLARK
ATTORNEY AT LAW, LTD.

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CERTIFIED PARALEGAL
E-mail kathi@jdouglasclark.com

510 WEST PLUMB LANE, SUITE B
RENO, NEVADA 89509

TELEPHONE (775) 324-7822
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April 29, 2021

Mary Lou Wilson
2064 Regent St.
Reno, Nevada 89509

Chelsea Latino
Michael A. T. Pagni
McDonald Carano LLP
100 W. Liberty Street, 10th Floor
Reno, Nevada 89501

Keith Loomis
Storey Count District Attorney
P.O. Box 496
Virginia City, Nevada 89440

RE: MARY LOU MCSWEENEY-WILSON VS. STOREY COUNTY
COMMISSIONERS
SUPREME COURT CASE 82806

Dear Counsel:

The Nevada Supreme Court has appointed me to be the Settlement Judge for the above-referenced appeal.

I would like to conduct a preliminary telephone conference with counsel for the parties to go over the basics of the appeal and to schedule the actual settlement conference. It is my responsibility to send an Early Case Assessment Report to the Court within 30 days. In order to meet that deadline, the telephone conference call will be held on **May 19, 2021 at 2:00 p.m.** **Please contact my office as soon as possible to confirm you will be able to participate in the telephone conference call.**

For the conference call, please call the following conference call number and enter the access code at the prompt to be connected.

Call No.: (978) 990-5165
Access Code: 8049430

You should have your calendars on hand during the conference call so that we may find a mutually convenient date for the settlement conference. Absent any

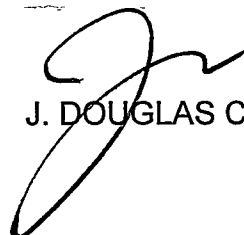
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extraordinary circumstances, clients will be required to physically attend the settlement conference. Plan on spending a full day at the conference.

Although we will discuss the issues on appeal during the conference call, ***I will not require the submission of your written settlement conference statement briefs until two weeks prior to the actual settlement conference.*** Thank you if you have already submitted your briefs in advance. Please remember to copy me with any and all pleadings you may file in this matter during the settlement program.

Thank you for your anticipated cooperation. I look forward to working with you to resolve this case.

Very Truly Yours,

A handwritten signature in black ink, appearing to be 'J. Douglas Clark', written over a horizontal line.

J. DOUGLAS CLARK

kl:JDC

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARY LOU MCSWEENEY-WILSON,
Petitioner,

vs.

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

Respondents,

and


STOREY COUNTY COMMISSIONERS;
AND STERICYCLE, INC.,

Real Parties in Interest.

No. 82652

FILED

MAY 14 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

**ORDER DENYING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION**

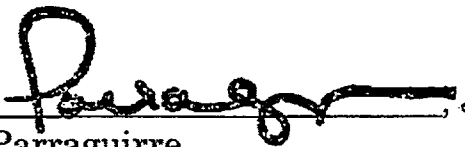
This original petition for a writ of mandamus or prohibition challenges district court orders dismissing a petition for judicial review. Having considered the petition and supporting documents, we are not convinced that petitioner has met her burden of demonstrating that our extraordinary intervention is warranted. *See Walker v. Second Judicial Dist. Court*, 136 Nev., Adv. Op. 80, 476 P.3d 1194, 1196-97 (2020) (refusing to substitute this court's judgment for that of the district court absent a manifest abuse of discretion); *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004) ("Petitioners carry the burden of demonstrating that extraordinary relief is warranted."); *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991) (observing that "the issuance of a writ of mandamus or prohibition is purely discretionary with this court"). In particular, petitioner has an adequate


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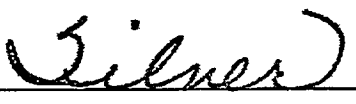
21-13955

legal remedy in the form of an appeal from any adverse final judgment.¹
NRS 34.170; *Pan*, 120 Nev. at 224, 88P.3d at 841 ("[T]he right to appeal is
generally an adequate legal remedy that precludes writ relief.").
Accordingly, we

ORDER the petition DENIED.

 J.
Parraguirre

 J.
Stiglich

 J.
Silver

cc: Hon. James Todd Russell, District Judge
Mary Lou Wilson
Storey County District Attorney
McDonald Carano LLP/Reno
Storey County Clerk

¹Because we deny the petition, we also deny petitioner's request for a
stay of the district court's order as moot.

**IN THE SUPREME COURT OF THE STATE OF NEVADA
OFFICE OF THE CLERK**

MARY LOU MCSWEENEY-WILSON,
Appellant,
vs.
STOREY COUNTY COMMISSIONERS; AND
STERICYCLE, INC.,
Respondents.

Supreme Court No. 82806
District Court Case No. 20OC000051E

**NOTICE OF REFERRAL TO SETTLEMENT PROGRAM AND SUSPENSION
OF RULES**

TO: Mary Lou Wilson ✓
McDonald Carano LLP/Reno \ Chelsea Latino, Michael A. T. Pagni
Storey County District Attorney \ Keith Loomis

This notice is to inform you that this appeal may be assigned to the court's Settlement Program. See NRAP 16(a). The issuance of this notice automatically stays the time for filing a request for transcripts under NRAP 9, and for filing briefs under NRAP 31. See NRAP 16(a)(1).

The docketing statement must be filed and served within 21 days of the date of this notice. This timeline is not stayed by this notice.

DATE: April 26, 2021

Elizabeth A. Brown, Clerk of Court

By: Linda Hamilton
Deputy Clerk

Notification List

Electronic

Mary Lou Wilson
Storey County District Attorney \ Keith Loomis
McDonald Carano LLP/Reno \ Michael A. T. Pagni
McDonald Carano LLP/Reno \ Chelsea Latino

FILED✓

2021 APR -2 AM 11:26

STOREY COUNTY CLERK
BY *ASabe*
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
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 MOTION FOR STAY

Respondent Stericycle, Inc. ("Stericycle") submits its opposition to the *Motion for Stay of Order of Dismissal and Order Granting Stericycle, Inc.'s Motion to Dismiss* filed on March 17, 2021 ("Motion for Stay") 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. A copy of the proposed order denying the Motion for Stay is attached hereto as **Exhibit 1** pursuant to FJDCR 3.10.

MEMORANDUM OF POINTS AND AUTHORITIES

Petitioner seeks to stay the Court's March 12, 2021 Orders pending the Nevada Supreme Court's resolution of Petitioner's Petition for Writ of Mandamus or Prohibition. As those orders dismissed this case with prejudice, there is nothing to stay. Petitioner's Motion is devoid of any facts, law, or analysis to establish otherwise. FJDCR 3.7(e) ("The failure of

1 the moving party to file a memorandum of points and authorities in support of the motion
2 shall constitute a consent to the denial of the motion.”). Therefore, the Motion for Stay should
3 be denied.

4 Respectfully submitted this 2nd day of April, 2021.

5 McDONALD CARANO, LLP

6
7 By 

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

8
9 *Attorneys for Respondent Stericycle, Inc.*
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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 STERICYCLE, INC.'S OPPOSITION TO PETITIONER'S MOTION FOR STAY 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 this 2nd day of April, 2021.

By: 
An Employee of McDonald Carano LLP

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INDEX OF EXHIBITS

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

EXHIBIT 1

EXHIBIT 1

**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 STAY

Currently before the Court is Petitioner's *Motion for Stay of Order of Dismissal and Order Granting Stericycle, Inc.'s Motion to Dismiss* filed on March 17, 2021 ("Motion for Stay"). As those orders dismissed this case with prejudice for lack of standing, there is nothing to stay. Additionally, Petitioner failed to file a memorandum of points and authorities in support of the Motion for Stay, thereby consenting to the denial of the same under FJDCR 3.7(e).

Accordingly, and good cause appearing:

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

///

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///

///

///

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 _____, 2021.

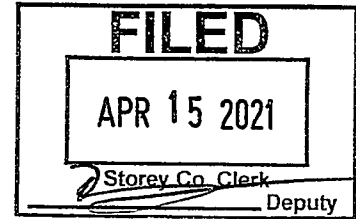
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DISTRICT COURT JUDGE

Respectfully submitted on April 2, 2021, by:


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

Attorneys for Respondent Stericycle, Inc.



**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 STAY

Currently before the Court is Petitioner's *Motion for Stay of Order of Dismissal and Order Granting Stericycle, Inc.'s Motion to Dismiss* filed on March 17, 2021 ("Motion for Stay"). As those orders dismissed this case with prejudice for lack of standing, there is nothing to stay. Additionally, Petitioner failed to file a memorandum of points and authorities in support of the Motion for Stay, thereby consenting to the denial of the same under FJDCR 3.7(e).

Accordingly, and good cause appearing:

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

///

///

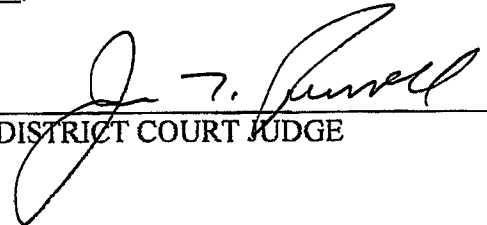
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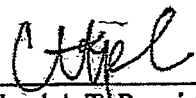
///

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 15th day of April, 2021.

5
6 
DISTRICT COURT JUDGE

7 Respectfully submitted on April 2, 2021, by:

8 
9
10 Michael A. T. Pagni (NSBN 6444)
11 Chelsea Latino (NBSN 14227)
12 McDONALD CARANO LLP
13 100 West Liberty Street, 10th Floor
14 Reno, NV 89501
15 (775) 788-2000
16 mpagni@mcdonaldcarano.com
17 clatino@mcdonaldcarano.com

18 *Attorneys for Respondent Stericycle, Inc.*
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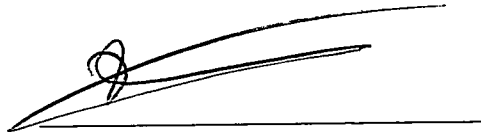
CERTIFICATE OF SERVICE

Pursuant to NRCp 5(b), I certify that I am an employee of the First Judicial District Court, and that on April 16th, 2021, I deposited for mailing, postage paid, 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

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

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


Angela Jeffries
Judicial Assistant, Dept. 1

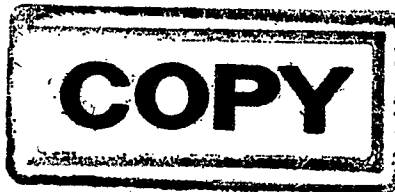
FILED

2021 APR 15 AM 10:40

STOREY COUNTY CLERK

BY *[Signature]*
DEPUTY

1 CODE NO.
2 MARY LOU WILSON
3 Attorney at Law
4 132 Rue De La Noir
5 Sparks, Nevada 89434
6 775-771-8620
7 Attorney for Petitioner



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

9 IN AND FOR THE COUNTY OF STOREY

10 MARY LOU MCSWEENEY-WILSON,
11 Petitioner,

12 vs.

Case No. 200C 0005 1E

Dept. 1

13 STOREY COUNTY COMMISSIONERS, and
14 STERICYCLE, INC.,
15 Respondents.

16 NOTICE OF APPEAL

17 COMES NOW MARY LOU MCSWEENEY-WILSON, and hereby files this Notice of
18 Appeal from the district court's Notice of Entry of Order filed March 16, 2021, Order Granting
19 Stericycle, Inc.'s Motion to Dismiss.

20 DATED this 15th day of April, 2021.

21 By: *Mary Lou Wilson*
22 MARY LOU WILSON
23 Nevada Bar No. 3329
24 132 Rue De La Noir
25 Sparks, Nevada 89434
775-771-8620
Attorney for Petitioner

1 AFFIRMATION PURSUANT TO NRS 239B.030

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

4 DATED this 15th day of April, 2021.

5 By: Mary Lou Wilson
6 MARYLOU WILSON
7 Attorney At Law, Bar #3329
8 132 Rue De La Noir
 Sparks, Nevada 89434
 775-771-8620

1 CERTIFICATE OF SERVICE

2 I, Mary Lou Wilson, hereby affirm that ^{MLW} on the 15th day of April, 2021, the aforementioned
3 document was filed through and hard copies sent through the U.S. Mail to the following parties:

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

8 The Honorable Judge James Todd Russell
9 First Judicial District Court, Department 1
10 885 Musser Street
11 Carson City, Nevada 89701

12 Assistant District Attorney Keith Loomis
13 Storey County District Attorney
14 201 S C St.
15 Virginia City, Nevada 89440

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

21 Stericycle Biohazardous Medical Waste Disposal
22 c/o McDonald/Carano
23 100 West Liberty Street
24 10th Floor
25 Reno, Nevada 89501

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

FILED

2021 APR 15 AM 10:39

STOREY COUNTY CLERK

BY *[Signature]*
DEPUTY

1 CODE NO.
2 MARY LOU WILSON
3 Attorney at Law
4 132 Rue De La Noir
5 Sparks, Nevada 89434
6 775-771-8620
7 Attorney for Petitioner



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

9 IN AND FOR THE COUNTY OF STOREY

10 MARY LOU MCSWEENEY-WILSON,
11 Petitioner,

12 vs.

Case No. 200C 00005 1E

Dept. 1

13 STOREY COUNTY COMMISSIONERS, and
14 STERICYCLE, INC.,
15 Respondents.

16 NOTICE OF APPEAL

17 COMES NOW MARY LOU MCSWEENEY-WILSON, and hereby files this Notice of
18 Appeal from the district court's Notice of Entry of Order filed March 17, 2021, Order of
19 Dismissal.

20 DATED this 15th day of April, 2021.

21 By: *Mary Lou Wilson*
22 MARY LOU WILSON
23 Nevada Bar No. 3329
24 132 Rue De La Noir
25 Sparks, Nevada 89434
775-771-8620
Attorney for Petitioner

1 AFFIRMATION PURSUANT TO NRS 239B.030

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

4 DATED this 15th day of April, 2021.

5 By: Mary Lou Wilson
6 MARY LOU WILSON
7 Attorney At Law, Bar #3329
8 132 Rue De La Noir
 Sparks, Nevada 89434
 775-771-8620

1 CERTIFICATE OF SERVICE

2 I, Mary Lou Wilson, hereby affirm that on the 15th day of April, 2021, the aforementioned
3 document was filed through and hard copies sent through the U.S. Mail to the following parties:

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

8 The Honorable Judge James Todd Russell
9 First Judicial District Court, Department 1
10 885 Musser Street
11 Carson City, Nevada 89701

12 Assistant District Attorney Keith Loomis
13 Storey County District Attorney
14 201 S C St.
15 Virginia City, Nevada 89440

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

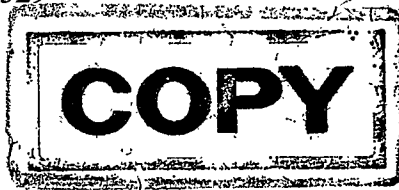
21 Stericycle Biohazardous Medical Waste Disposal
22 c/o McDonald/Carano
23 100 West Liberty Street
24 10th Floor
25 Reno, Nevada 89501

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

FILED
2021 MAR 17 PM 2:08

STOREY COUNTY CLERK
BY *[Signature]*
DEPUTY *[Signature]*

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 FOR STAY OF ORDER OF DISMISSAL AND ORDER GRANTING
STERICYCLE, INC.'S MOTION TO DISMISS**

COMES NOW PETITIONER, and Moves this Honorable Court for its Order Granting Stay
of Order of Dismissal and Order Granting Stericycle, Inc.'s Motion to Dismiss. Both Orders
were filed on March 12, 2021.

This Motion is based upon Petitioner's filing of a Petition for Writ of Mandamus or
Prohibition with the Nevada Supreme Court, no later than Monday, March 22, 2021.

Dated this 17th day of March, 2021

Mary Lou Wilson
MARY LOU MCSWEENEY WILSON
Attorney at Law, Bar Number 3329
2064 Regent Street
Reno, Nevada 89509
775-771-8620
Attorney for Petitioner

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DATED this 17th day of March, 2021

Mary Lou Wilson
MARY LOU WILSON
Attorney At Law, Bar #3329
2064 Regent Street
Reno, Nevada 89509
775-771-8620
Attorney for Petitioner

1 CERTIFICATE OF SERVICE

2 I, Mary Lou ~~Wilson~~ ^{Wilson}, hereby affirm that on the 17th 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 The First Judicial District Court
10 The Honorable Judge Todd Russell
11 885 East Musser Street
12 Carson City, Nevada 89701-4717

13 Assistant District Attorney Keith Loomis
14 Storey County District Attorney
15 201 S C St.
16 Virginia City, Nevada 89440

17 Commissioners Jay Carmona
18 and Marshall McBride
19 P.O. Box 176
20 26 South B Street
21 Virginia City, Nevada 89440

22 Stericycle Biohazardous Medical Waste Disposal
23 c/o McDonald/Carano
24 100 West Liberty Street
25 10th Floor
Reno, Nevada 89501

IN THE SUPREME COURT OF THE STATE OF NEVADA

Case No. 82806

MARY LOU MCSWEENEY-WILSON,

Appellant,

v.

STOREY COUNTY COMMISSIONERS;
and STERICYCLE, INC.,

Respondents.

Electronically Filed
May 14 2021 03:39 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**RESPONDENT STERICYCLE, INC.'S RESPONSE
TO APPELLANT'S DOCKETING STATEMENT**

Michael A.T. Pagni (NSBN 6444)
Chelsea Latino (NSBN 14227)
McDONALD CARANO LLP
100 W. Liberty St., 10th Floor
Reno, Nevada 89501
(775) 788-2000
mpagni@mcdonaldcarano.com
clatino@mcdonaldcarano.com

Attorneys for Respondent Stericycle, Inc.

1191

Pursuant to NRAP 14(f), Stericycle responds to Appellant's docketing statement filed on May 11, 2021. Stericycle strongly disagrees with Appellant's statement of the case and issues on appeal, which mischaracterize the district court's decision and the nature of this case. Appellant incorrectly asserts that this appeal involves novel constitutional issues and disputes between governments, and that there are pending claims and parties remaining below. (Docketing Statement at 4-6, 8-9.) To the contrary, the sole issue presented by this proper person appeal involves the threshold jurisdictional issue of standing under NRS 278.3195(4), which has been addressed by the Nevada Supreme Court on multiple occasions.¹

Specifically, Appellant appeals from the district court's dismissal of her petition for judicial review of the Storey County Commissioners' decision approving Stericycle's land-use application under NRS 278.3195. The district court found that Appellant lacked standing to petition for judicial review under NRS 278.3195(4) because she neither appealed to the governing body nor was aggrieved by its decision, and, therefore, dismissed the *entire* case with prejudice for lack of jurisdiction. Accordingly, this appeal presents no issues of constitutional significance, let alone of first impression, no claims remain pending in the district court, and all parties below are parties on appeal.

¹ See, e.g., *Kay v. Nunez*, 122 Nev. 1100, 146 P.3d 801 (2006); *Holt-Still v. Washoe Cty Bd. of Cty. Comm'rs*, Docket No. 78784 (June 30, 2020 Order of Affirmance).

Dated: May 14, 2021.

McDONALD CARANO LLP

/s/ Chelsea Latino

Michael A.T. Pagni (NSBN 6444)

Chelsea Latino (NSBN 14227)

McDONALD CARANO LLP

100 W. Liberty St., 10th Floor

Reno, Nevada 89501

(775) 788-2000

mpagni@mcdonaldcarano.com

clatino@mcdonaldcarano.com

Attorneys for Respondent

Stericycle, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of McDonald Carano LLP, and on May 14, 2021, a true and correct copy of the foregoing document was e-filed and e-served on all registered parties to the Supreme Court's electronic filing system as listed below:

Mary Lou Wilson
2064 Regent Street
Reno, NV 89509

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

I further certify that a true and correct copy of the foregoing document was served on the Settlement Judge via e-mail and U.S. Mail, postage prepaid, as follows:

J. Douglas Clark
510 West Plumb Lane, Suite B
Reno, NV 89509
doug@jdouglasclark.com

Dated: May 14, 2021.

/s/ Nancy A. Hoy
Nancy A. Hoy

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

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

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

6 vs.

Case No.

7 District Court #20 OC 00051E

8 Dept. 1

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

12 Respondents,

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

15 Real parties in interest.

16
17
18 PETITION FOR WRIT OF MANDAMUS OR PROHIBITION

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

1195

1 March 12, 2021, for Stericycle, Inc., represented by McDonald/Carano Law Firm.

2
3 V. V, pp. 1117-20.

4 NRAP 26.1 DISCLOSURE STATEMENT

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

8
9 Undersigned counsel also certifies the following are persons and entities as
10 described in NRAP 26.1(a), and must be disclosed. These representations are made
11 in order that the judges of this court may evaluate possible disqualification or
12
13
14 refusal.

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

17
18 Michael Pagni and Chelsea Latino from the law firm of McDonald/Carano,
19 representing Stericycle Inc.

20 DATED this 23rd day of March, 2021.

21
22 By: /s/: MARY LOU WILSON
23 MARY LOU WILSON
24 Attorney At Law Bar #3329
25 2064 Regent Street, Reno, Nevada 89509
775-771-8620

1 Routing Statement

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

7 Jurisdiction:

8
9 NRS 34.170 Writ to issue when no plain, speedy and adequate remedy in law.
10
11 This writ shall be issued in all cases where there is not a plain, speedy and
12 adequate remedy in the ordinary course of law. It shall be issued upon affidavit, on
13 the application of the party beneficially interested. Affidavit attached.
14

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

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

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

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

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

4 History of the Case:

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

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

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

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

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

1 residents were unaware of the company and the vote of approval from their county
2
3 commissioners. Most residents did not know of the Planning and Commission
4 Meetings because there were no Agendas posted in the neighborhood, since the
5 Rainbow Bend Clubhouse and Lockwood Senior Center were closed, since March,
6 2020, due to the Governor's Stay at Home Order from March, 2020. V. II, pp. 483-
7 500; 497-99 (Lockwood Senior Center closed); V. III, pp. 507, 509, 511, (Rainbow
8 Bend Clubhouse closed); V. III, pp. 501-11; 555-57; 559-63; 565-76; 578-81; 583-
9 86.
10
11
12

13
14 The Rainbow Bend Clubhouse and Lockwood Senior Center remain closed to
15 the public as of this writing because of the COVID-19 pandemic.
16

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

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

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

11
12 Petitioner opposed the motions to dismiss. V. III, pp. 741-50 and V. IV, pp.
13 751-97 and V. IV, pp. 905-18.
14

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

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

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

1 and Scott Martin, would identify photographs of the Rainbow Bend Clubhouse and
2
3 Lockwood Community Senior Center, where there were no Agendas posted and
4 the facilities were closed. V, II, pp. 483-500 and V. III, pp. 501-11, (Notice of
5
6 Witnesses and Exhibits for Hearing, filed December 2, 2020 and V. V, pp. 1106-
7
8 07; 1108-09; and 1110-11, (Subpoenas for Larry Huddleson, filed January 15,
9
10 2021; **Phillip Hilton**, filed January 15, 2021; and Scott Martin, filed January 15,
11
12 2021).

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

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

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

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

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

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

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

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

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

18
19
20
21
22 Points and Authorities

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

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

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

23 The special use permit was approved within the July and August meetings of
24
25 the Planning and Commission meetings. V. I, p. 22 (August 18, 2020, Agenda); pp.

1 51-55 (10-15 trucks of biohazardous waste every day from the Western U.S. and
2
3 Canada travelling to TRI);
4 pp. 99-100 (Stericycle settles with EPA for penalties in waste-handling and storage
5
6 permit in Washington); and pp. 127-28 (Utah Physicians Study showing dioxins
7
8 from Stericycle's incineration into the atmosphere, travels hundreds of miles,
9
10 causes 100% fatal human "Mad Cow" disease, increase rates of serious diseases
11
12 like cancer, pregnancy complications, birth defects, and autism-among people who
13
14 live within several miles of incinerators.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 department and there is a very big concern about training equipment and potential
2
3 for personal injury and what could be released into the environment. Encouraged
4 the board not to approve this permit.” V. III, p. 531.
5

6 Additionally, the “standing” requirement was satisfied where **Sam Toll and**
7 **Phillip Hilton** “participated,” and were an “aggrieved party,” voicing their
8
9 objections to Stericycle in Minutes of the Storey County Commission Meeting
10 dated August 18, 2020. V. III, p. 610.
11

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

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

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

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

7 During the August 18, 2020 zoom meeting, **Phillip Hilton**, Rainbow Bend
8 Homeowner and Storey County Resident “participated,” and was an “aggrieved
9 party,” satisfying the standing requirement of NRS 278.3195, when he voiced his
10 opposition to Stericycle’s special use permit, stating, “Has there been any
11 environmental study/studies? Getting environmental waste in and out of the area –
12 has there been a study of traffic impacts? I-80 corridor is prone to accidents,
13 especially in winter. What would the impact be if there was a spill on the
14 highway?”
15
16
17
18
19

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

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

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

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

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

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

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

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

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

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

15 Petitioner explained to the district court that these men had satisfied the
16
17 “standing” requirement under the statutes and had received approval from them to
18 represent them in the original Petition, which was timely filed on September 10,
19 2020. It was noted that **Rainbow Bend Homeowners and Storey County**
20
21 **Residents** were in the original caption, so there was no surprise to the parties if
22 they were substituted into the caption. V. V, pp. 1040-43.
23
24
25

1 Had the district court permitted the evidentiary hearing, which was scheduled to
2
3 determine whether “standing,” had taken place, Petitioner would have been able to
4 satisfy the statutes. NRS 278.3195 and 278.0235, and the Petition would survive.
5

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

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

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

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

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

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

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

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

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

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

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

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

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

7 NRS 34.320 Writ of prohibition defined. The writ of prohibition is the
8
9 counterpart of the writ of mandate. It arrests the proceedings of any tribunal,
10
11 corporation, board or person exercising judicial functions, when such proceedings
12
13 are without or in excess of the jurisdiction of such tribunal, corporation, board or
14 person.

15 Petitioner alleges that the two Orders authored by the district court should be
16
17 stayed regarding their enforcement allowing Stericycle Corporation to proceed
18
19 with its special use permit.

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

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

5
6 As such, this Petition for Writ of Mandamus or Prohibition is requested to Stay
7
8 the two district court Orders, permit this Court to hear arguments against those
9
10 Orders, and eventually return the matter for further hearing regarding the arbitrary
11
12 and capricious nature of the Commissioners vote approving the SUP for Stericycle
13
14 Corporation.

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

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

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

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

8 DATED this 23rd day of March, 2021.

9 By: /s/: MARY LOU WILSON
10 MARY LOU WILSON
11 Attorney At Law Bar #3329
12 2064 Regent Street, Reno, Nevada 89509
13 775-771-8620
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25

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARY LOU MCSWEENEY-WILSON,
Petitioner,

vs.

Case No.

District Court #20 OC 00051E

Dept. 1

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

Respondents,

AND THE STOREY
COUNTY COMMISSIONERS AND STERICYCLE, INC.,

Real parties in interest.

_____/

AFFIDAVIT IN SUPPORT OF PETITION FOR WRIT OF MANDAMUS OR
PROHIBITION

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

DATED this 23rd day of March, 2021.

By: /s/: MARY LOU WILSON
MARY LOU WILSON

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

1224

1 AFFIDAVIT OF PETITIONER

2 STATE OF NEVADA)

3 ss:

4 COUNTY OF STOREY)

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

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

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

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

19 That it is Petitioner's belief that a normal appeal to this Court may take up to one (1) year to
20 complete and the Writ of Mandamus or Prohibition will be completed within a shorter period of
21 time and allow for a return to the district court to allow for a hearing on the second prong of the
22 analysis regarding the arbitrary and capricious nature of the decision to vote for the approval of
23 the Special Use Permit for Stericycle, Inc., which was approved on August 18, 2020.
24
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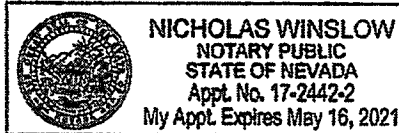
1 Petitioner will present that "standing" has been satisfied under the statutes but the district
2 court's Orders disregarded this fact and violated the two Storey County residents' Fourteenth
3 Amendment rights to Due Process under the United States and Nevada Constitutions.

4 DATED THIS 17 DAY OF March, 2021.

5 Mary Lou Wilson

6 Mary Lou Wilson, Esq.

7 Nicholas Winslow



10 NOTARY

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CERTIFICATE OF COMPLIANCE

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

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

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

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

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

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

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

9 DATED this 23rd day of March, 2021.

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

Keith Loomis
Assistant District Attorney
Storey County District Attorney
201 S. C. Street
Virginia City, Nevada 89440

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

1
2 IN THE SUPREME COURT OF THE STATE OF NEVADA

3
4 MARY LOU MCSWEENEY-WILSON,

5 Appellant/Petitioner,

6 vs.

No. 82806

7 District No. 200C000051E

8 STOREY COUNTY COMMISSIONERS
9 AND STERICYCLE, INC.,

10 Respondents.

11 _____ /
12 DOCKETING STATEMENT

13
14 MARY LOU MCSWEENEY-WILSON
15 Attorney At Law, Bar #3329
16 132 Rue De La Noir
17 Sparks, Nv. 89434
18 775-771-8620

KEITH LOOMIS
Assistant District Attorney
201 S. C. Street
Virginia City, Nevada 89440
775-887-2070

19 Stericycle Inc.
20 c/o McDonald/Carano
21 Michael Pagni and Chelsea Latino
22 100 W. Liberty St.
23 10th Floor
24 Reno, Nevada 89501
25 775-788-2000

Attorney for Appellant

Attorneys for Respondents

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1 4. Nature of disposition below:

2 Dismissal: Other: Lack of Standing to bring a Petition for Judicial Review

3
4 5. N/A, This appeal does not raise issues concerning child custody, venue, or
5 termination of parental rights.

6 6. Pending and prior proceedings in this court.

7 Mary Lou McSweeney-Wilson, Petitioner vs. Storey County Commissioners
8 and Stericycle, Inc., Respondents.

9 Case No. 82652 Mandamus/Prohibition

10
11 7. N/A, There are no other pending or prior proceedings in other courts.

12 8. Nature of the Action: Appellant/Petitioner filed a Petition for Judicial
13 Review of the Special Use Permit granted to Stericycle, Inc., a biohazardous
14 medical waste facility that incinerates waste, which was approved by two (2)
15 Storey County Commissioners during the worldwide COVID-19 pandemic.
16 This vote was done without notice to the residents of Lockwood, Nevada,
17 approximately twelve (12) miles away from the Stericycle incinerator,
18 located at Tahoe Regional Industrial Park. The failure of physical postings at
19 the Rainbow Bend Clubhouse and Lockwood Senior Center was because
20 these facilities were closed due to the Governor's Order to Stay at Home.
21 The failure to receive physical postings of the Agendas for the Storey
22 County Planning and Commission meetings, rendered the residents of
23
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1 Rainbow Bend Community and Lockwood Community Corporation without
2 a voice to oppose this dangerous company. Appellant/Petitioner requested
3 that the district court review the arbitrary and capricious nature of the
4 decision, which occurred during July and August, 2020. However, the
5 district court wanted to satisfy the requirement of Appellant/Petitioner's
6 standing to bring the Petition for Judicial Review first. Initially, the district
7 court had set an evidential hearing to determine the issue of standing.
8

9
10 Appellant/Petitioner located two (2) residents of Storey County that could
11 satisfy the statute but the district court declined to have an evidentiary
12 hearing and filed an Order Dismissing the Petition for the Storey County
13 Commissioners and a second Order Granting Stericycle's Motion to
14 Dismiss.
15

16 9. Issues on Appeal:

17
18 ISSUE 1-Whether Appellant/Petitioner has standing to bring a Petition for Judicial
19 Review of the County Commissioners vote to approve a special use permit for
Stericycle, Inc., a biohazardous waste incineration plant?

20 ISSUE 2-Whether Appellant/Petitioner could satisfy the standing requirement if
21 representing Phillip Hilton, Rainbow Bend resident and Sam Toll, Gold Hill
22 resident, both Storey County residents if they satisfied the statute?

23 ISSUE 3-Whether the district court abused its discretion when granting the Storey
24 County Commissioners Order to Dismiss and Stericycle's Motion to Dismiss
Petition?
25

1 10. The issues raised in this appeal would be similar to the issues raised in the
2 Petition for Writ of Mandamus or Prohibition, except they are phrased in
3 constitutional language. For example, that the district court violated
4 Appellant/Petitioner's constitutional right to Due Process under the
5 Fourteenth Amendment of the United States and Nevada Constitutions.
6 Additionally, the issue regarding the Governor's Order to suspend the Notice
7 Requirement because of the worldwide COVID-19 pandemic amounted to
8 an issue of first impression, since this has never happened in our history and
9 the vote permitting the special use permit for Stericycle, Inc., was made in
10 an arbitrary and capricious manner, violating the public health, safety, and
11 welfare of Storey County, surrounding counties, wildlife, air and water
12 quality, in violation of our Due Process Rights of the United States and
13 Nevada Constitutions.
14

15 11. Constitutional Issues: This appeal challenges the Governor's Order to Stay
16 At Home and forgo physical postings during the worldwide COVID-19
17 pandemic. The Attorney General has been provided notice through the
18 mailings.
19

20 12. Other Issues:
21

22 There is an issue arising under the United States and Nevada Constitutions.
23
24 There is a substantial issue of first impression.
25

1 There is an issue of public policy.

2 13. Routing Statement for Retention by the Nevada Supreme Court

3 NRAP 17 (a) (7) (11) and (12). Cases retained by the Nevada Supreme
4 Court are NRAP 17 (a) (7), Disputes between branches of government or
5 local governments; (in this regard the Storey County Commissioners are the
6 Respondents along with Stericycle, Inc.); NRAP 17 (a) (11), Matters raising
7 as a principal issue a question of first impression involving the United States
8 or Nevada Constitutions or common law; (in this regard, whether the
9 Governor's Order to eliminate the Open Meeting Law requirement of
10 physical posting because of the worldwide pandemic from COVID-19 was
11 constitutional), since the Storey County Commissioners vote to approve the
12 special use permit to incinerate biohazardous medical waste was approved
13 without physical postings of Agendas to Rainbow Bend and Lockwood
14 Community Corporation and residents were unaware of the vote and ability
15 to oppose it) and NRAP 17 (a) (12), Matters raising as a principal issue a
16 question of statewide public importance (as stated above because the health,
17 safety, and welfare of the Rainbow Bend Community and the Lockwood
18 Community Corporation are in question, since the residents live twelve (12)
19 miles from the incineration).

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25 14.N/A, This action did not proceed to trial.

1 15.N/A, There is no intention to disqualify any justice or request a recusal.

2 16. There were two (2) written Orders. One was an Order of Dismissal filed on
3 March 12, 2021. The second was an Order Granting Stericycle, Inc.'s
4 Motion to Dismiss filed on March 12, 2021. Notice of Entry of Order was
5 filed March 16, 2021, Granting Stericycle, Inc.'s Motion to Dismiss and
6 Notice of Entry of Order filed March 17, 2021, Order of Dismissal.
7

8 17. Two (2) district court Orders were delivered through U.S. Mail and the
9 written Notice of Entry of Orders were March 16, 2021, Granting Stericycle,
10 Inc.'s Motion to Dismiss and the second Notice of Entry of Order was filed
11 on March 17, 2021, Order of Dismissal in favor of the Storey County
12 Commissioners.
13
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15 18.N/A, The time for filing the notice of appeal was not tolled by a post-
16 judgment motion.
17

18 19. Notice of Appeal was filed April 26, 2021.

19 20. NRAP 4 (a) (4) Notice of Appeal filed within thirty (30) days.

20 21. A. NRCP 12 (b) (5) An appeal from granting a Motion to Dismiss.

21 B. Authority provides a basis for appeal from the judgment or order.

22 "A district court order granting an NRCP 12(b)(5) motion to dismiss is
23 subject to rigorous appellate review." *Sanchez v. Wal-Mart Stores*, 125 Nev.
24 818, 823, 221 P.3d 1276, 1280 (2009). This court will recognize all factual
25

1 allegations as true and draw all inferences in favor of the nonmoving party.
2 *Buzz Stew. LLC v. City of N. Las Vegas*, 124 Nev. 224, 228, 181 P.3d 670,
3 672 (2008). The petition for judicial review “should be dismissed only if it
4 appears beyond a doubt that it could prove no set of facts, which, if true,
5 would entitle it to relief.” *Id. Citing Humboldt River Ranch Ass'n v. Pershing*
6 *Cnty. Bd. of Comm'rs*, 381 P.3d 622 (Table) (Nev. 2012)
7

8
9 22. Parties:

10 (a) Appellant/Petitioner, Mary Lou McSweeney-Wilson,
11 Appellant/Petitioner and
12 Storey County Commissioners, represented by Assistant District Attorney,
13 Keith Loomis, and
14 McDonald/Carano Law Firm, Michael Pagni and Chelsea Latino,
15 representing Stericycle, Inc., Respondents.
16

17 (b) N/A, All parties in the district court are parties to this appeal.
18

19 23. Appellant/Petitioner Mary Lou McSweeney-Wilson asserts that she has
20 standing. Respondents Storey County Commissioners and Stericycle, Inc.,
21 assert Appellant/Petitioner does not have standing.
22

23 24. No, all claims were not adjudicated.
24
25

1 25. (a) There was not an evidentiary hearing to determine whether
2 Appellant/Petitioner had standing. There was not an evidentiary hearing to
3 determine whether two (2) individuals had standing.
4

5 (b) The parties remaining below are Phillip Hilton and Sam Toll.

6 (c) Yes, the district court made a final judgment.

7 (d) Yes, the district court made an express determination that there was no
8 reason for delay in each Order because it was with prejudice and the district
9 court did not grant a Motion for Stay of the Orders for Appellant/Petitioner
10 to file a Petition for Writ of Mandamus or Prohibition.
11

12 26. Whether there was an abuse of discretion for failure to conduct an
13 evidentiary hearing to determine whether Phillip Hilton and Sam Toll had
14 standing under NRS 278.3195 (4). This is one of the three issues presented
15 within the appeal under NRAP 3A(b).
16

17 27. Order Granting Stericycle, Inc.'s Motion to Dismiss filed March 12,
18 2021, and Order of Dismissal filed March 12, 2021, both in favor of
19 Stericycle Inc. and the Storey County Commissioners.
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1 VERIFICATION

2 I declare under penalty of perjury that I have read this docketing statement, that the
3 information provided in this docketing statement is true and complete to the best of
4 my knowledge, information and belief, and that I have attached all required
5 documents to this docketing statement.
6

7 Mary Lou McSweeney-Wilson, counsel of record, Mary Lou McSweeney-Wilson
8 May 11, 2021, _____
9

10 Storey County, State of Nevada

11 CERTIFICATE OF SERVICE

12 I certify that on the 11th day of May, 2021, I served a copy of this completed
13 docketing statement upon all counsel of record:
14

15 By mailing it by first class mail with sufficient postage prepaid to the following
16 addresses:
17

18 KEITH LOOMIS
19 Assistant District Attorney
20 201 S. C. Street
Virginia City, Nevada 89440

Attorney General
100 North Carson Street
Carson City, Nevada 89703

21 MICHAEL PAGNI and CHELSEA LATINO
22 McDonald/Carano Law Firm
23 100 W. Liberty St., 10th Floor
Reno, Nevada 89501

The Honorable Judge Russell
First Judicial District Court, D. 1
885 E. Musser Street
Carson City, Nevada 89701

24 Dated this 11th day of May, 2021. _____
25

1
2 N THE SUPREME COURT OF THE STATE OF NEVADA
3

4 MARY LOU MCSWEENEY-WILSON,

5 Appellant/Petitioner,

6 vs.

No. 82806

7 District No. 200C000051E

8 STOREY COUNTY COMMISSIONERS
9 AND STERICYCLE, INC.,

10 Respondents.
11 _____ /

12 DOCKETING STATEMENT
13

14 MARY LOU MCSWEENEY-WILSON
15 Attorney At Law, Bar #3329
16 132 Rue De La Noir
17 Sparks, Nv. 89434
18 775-771-8620

KEITH LOOMIS
Assistant District Attorney
201 S. C. Street
Virginia City, Nevada 89440
775-887-2070

19 Stericycle Inc.
20 c/o McDonald/Carano
21 Michael Pagni and Chelsea Latino
22 100 W. Liberty St.
23 10th Floor
24 Reno, Nevada 89501
25 775-788-2000

Attorney for Appellant

Attorneys for Respondents

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1. Judicial District – First Judicial District, County – Storey

Judge – The Honorable Judge James Todd Russell, Department 1, District
Court No. 20OC000051E

2. Attorney filing this docketing statement:

Mary Lou McSweeney-Wilson, 775-771-8620

The Law Office of Mary Lou Wilson

132 Rue De La Noir, Sparks, Nevada 89434

Representing herself

3. Attorneys representing Respondents:

Keith Loomis, Assistant District Attorney of Storey County

Storey County District Attorney's Office, 775-887-2070

201 S. C. Street

Virginia City, Nevada 89440

Michael Pagni and Chelsea Latino

McDonald Carano Law Firm, 775-788-2000

100 West Liberty Street, 10th Floor

Reno, Nevada 89501

1 4. Nature of disposition below:

2 Dismissal: Other: Lack of Standing to bring a Petition for Judicial Review

3
4 5. N/A, This appeal does not raise issues concerning child custody, venue, or
5 termination of parental rights.

6 6. Pending and prior proceedings in this court.

7 Mary Lou McSweeney-Wilson, Petitioner vs. Storey County Commissioners
8 and Stericycle, Inc., Respondents.

9 Case No. 82652 Mandamus/Prohibition

10
11 7. N/A, There are no other pending or prior proceedings in other courts.

12 8. Nature of the Action: Appellant/Petitioner filed a Petition for Judicial

13 Review of the Special Use Permit granted to Stericycle, Inc., a biohazardous
14 medical waste facility that incinerates waste, which was approved by two (2)
15 Storey County Commissioners during the worldwide COVID-19 pandemic.

16 This vote was done without notice to the residents of Lockwood, Nevada,
17 approximately twelve (12) miles away from the Stericycle incinerator,

18 located at Tahoe Regional Industrial Park. The failure of physical postings at
19 the Rainbow Bend Clubhouse and Lockwood Senior Center was because
20 these facilities were closed due to the Governor's Order to Stay at Home.

21 The failure to receive physical postings of the Agendas for the Storey
22 County Planning and Commission meetings, rendered the residents of
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1 Rainbow Bend Community and Lockwood Community Corporation without
2 a voice to oppose this dangerous company. Appellant/Petitioner requested
3 that the district court review the arbitrary and capricious nature of the
4 decision, which occurred during July and August, 2020. However, the
5 district court wanted to satisfy the requirement of Appellant/Petitioner's
6 standing to bring the Petition for Judicial Review first. Initially, the district
7 court had set an evidential hearing to determine the issue of standing.
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10 Appellant/Petitioner located two (2) residents of Storey County that could
11 satisfy the statute but the district court declined to have an evidentiary
12 hearing and filed an Order Dismissing the Petition for the Storey County
13 Commissioners and a second Order Granting Stericycle's Motion to
14 Dismiss.
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16 9. Issues on Appeal:

17 ISSUE 1-Whether Appellant/Petitioner has standing to bring a Petition for Judicial
18 Review of the County Commissioners vote to approve a special use permit for
19 Stericycle, Inc., a biohazardous waste incineration plant?

20 ISSUE 2-Whether Appellant/Petitioner could satisfy the standing requirement if
21 representing Phillip Hilton, Rainbow Bend resident and Sam Toll, Gold Hill
22 resident, both Storey County residents if they satisfied the statute?

23 ISSUE 3-Whether the district court abused its discretion when granting the Storey
24 County Commissioners Order to Dismiss and Stericycle's Motion to Dismiss
25 Petition?

1 10. The issues raised in this appeal would be similar to the issues raised in the
2 Petition for Writ of Mandamus or Prohibition, except they are phrased in
3 constitutional language. For example, that the district court violated
4 Appellant/Petitioner's constitutional right to Due Process under the
5 Fourteenth Amendment of the United States and Nevada Constitutions.
6 Additionally, the issue regarding the Governor's Order to suspend the Notice
7 Requirement because of the worldwide COVID-19 pandemic amounted to
8 an issue of first impression, since this has never happened in our history and
9 the vote permitting the special use permit for Stericycle, Inc., was made in
10 an arbitrary and capricious manner, violating the public health, safety, and
11 welfare of Storey County, surrounding counties, wildlife, air and water
12 quality, in violation of our Due Process Rights of the United States and
13 Nevada Constitutions.
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18 11. Constitutional Issues: This appeal challenges the Governor's Order to Stay
19 At Home and forgo physical postings during the worldwide COVID-19
20 pandemic. The Attorney General has been provided notice through the
21 mailings.
22

23 12. Other Issues:

24 There is an issue arising under the United States and Nevada Constitutions.
25 There is a substantial issue of first impression.

1 There is an issue of public policy.

2 13. Routing Statement for Retention by the Nevada Supreme Court

3
4 NRAP 17 (a) (7) (11) and (12). Cases retained by the Nevada Supreme
5 Court are NRAP 17 (a) (7), Disputes between branches of government or
6 local governments; (in this regard the Storey County Commissioners are the
7 Respondents along with Stericycle, Inc.); NRAP 17 (a) (11), Matters raising
8 as a principal issue a question of first impression involving the United States
9 or Nevada Constitutions or common law; (in this regard, whether the
10 Governor's Order to eliminate the Open Meeting Law requirement of
11 physical posting because of the worldwide pandemic from COVID-19 was
12 constitutional), since the Storey County Commissioners vote to approve the
13 special use permit to incinerate biohazardous medical waste was approved
14 without physical postings of Agendas to Rainbow Bend and Lockwood
15 Community Corporation and residents were unaware of the vote and ability
16 to oppose it) and NRAP 17 (a) (12), Matters raising as a principal issue a
17 question of statewide public importance (as stated above because the health,
18 safety, and welfare of the Rainbow Bend Community and the Lockwood
19 Community Corporation are in question, since the residents live twelve (12)
20 miles from the incineration).

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25 14. N/A, This action did not proceed to trial.

1. 15.N/A, There is no intention to disqualify any justice or request a recusal.

2. 16. There were two (2) written Orders. One was an Order of Dismissal filed on
3. March 12, 2021. The second was an Order Granting Stericycle, Inc.'s
4. Motion to Dismiss filed on March 12, 2021. Notice of Entry of Order was
5. filed March 16, 2021, Granting Stericycle, Inc.'s Motion to Dismiss and
6. Notice of Entry of Order filed March 17, 2021, Order of Dismissal.

7. 17. Two (2) district court Orders were delivered through U.S. Mail and the
8. written Notice of Entry of Orders were March 16, 2021, Granting Stericycle,
9. Inc.'s Motion to Dismiss and the second Notice of Entry of Order was filed
10. on March 17, 2021, Order of Dismissal in favor of the Storey County
11. Commissioners.

12. 18.N/A, The time for filing the notice of appeal was not tolled by a post-
13. judgment motion.

14. 19. Notice of Appeal was filed April 26, 2021.

15. 20. NRAP 4 (a) (4) Notice of Appeal filed within thirty (30) days.

16. 21. A. NRCP 12 (b) (5) An appeal from granting a Motion to Dismiss.

17. B. Authority provides a basis for appeal from the judgment or order.

18. "A district court order granting an NRCP 12(b)(5) motion to dismiss is
19. subject to rigorous appellate review." *Sanchez v. Wal-Mart Stores*, 125 Nev.
20. 818, 823, 221 P.3d 1276, 1280 (2009). This court will recognize all factual

1 allegations as true and draw all inferences in favor of the nonmoving party.
2 *Buzz Stew. LLC v. City of N. Las Vegas*, 124 Nev. 224, 228, 181 P.3d 670,
3 672 (2008). The petition for judicial review “should be dismissed only if it
4 appears beyond a doubt that it could prove no set of facts, which, if true,
5 would entitle it to relief.” *Id. Citing Humboldt River Ranch Ass'n v. Pershing*
6 *Cnty. Bd. of Comm'rs*, 381 P.3d 622 (Table) (Nev. 2012)
7

8
9 22. Parties:

10 (a) Appellant/Petitioner, Mary Lou McSweeney-Wilson,
11 Appellant/Petitioner and
12 Storey County Commissioners, represented by Assistant District Attorney,
13 Keith Loomis, and
14 McDonald/Carano Law Firm, Michael Pagni and Chelsea Latino,
15 representing Stericycle, Inc., Respondents.
16

17 (b) N/A, All parties in the district court are parties to this appeal.
18

19 23. Appellant/Petitioner Mary Lou McSweeney-Wilson asserts that she has
20 standing. Respondents Storey County Commissioners and Stericycle, Inc.,
21 assert Appellant/Petitioner does not have standing.
22

23 24. No, all claims were not adjudicated.
24
25

1 25. (a) There was not an evidentiary hearing to determine whether
2 Appellant/Petitioner had standing. There was not an evidentiary hearing to
3 determine whether two (2) individuals had standing.
4

5 (b) The parties remaining below are Phillip Hilton and Sam Toll.

6 (c) Yes, the district court made a final judgment.

7 (d) Yes, the district court made an express determination that there was no
8 reason for delay in each Order because it was with prejudice and the district
9 court did not grant a Motion for Stay of the Orders for Appellant/Petitioner
10 to file a Petition for Writ of Mandamus or Prohibition.
11

12 26. Whether there was an abuse of discretion for failure to conduct an
13 evidentiary hearing to determine whether Phillip Hilton and Sam Toll had
14 standing under NRS 278.3195 (4). This is one of the three issues presented
15 within the appeal under NRAP 3A(b).
16

17 27. Order Granting Stericycle, Inc.'s Motion to Dismiss filed March 12,
18 2021, and Order of Dismissal filed March 12, 2021, both in favor of
19 Stericycle Inc. and the Storey County Commissioners.
20
21
22
23
24
25

1 VERIFICATION

2 I declare under penalty of perjury that I have read this docketing statement, that the
3 information provided in this docketing statement is true and complete to the best of
4 my knowledge, information and belief, and that I have attached all required
5 documents to this docketing statement.
6

7 Mary Lou McSweeney-Wilson, counsel of record, Mary Lou McSweeney-Wilson

8 May 11, 2021, *Mary Lou McSweeney-Wilson*
9

10 Storey County, State of Nevada

11 CERTIFICATE OF SERVICE

12 I certify that on the 11th day of May, 2021, I served a copy of this completed
13 docketing statement upon all counsel of record:
14

15 By mailing it by first class mail with sufficient postage prepaid to the following
16 addresses:
17

18 KEITH LOOMIS
19 Assistant District Attorney
20 201 S. C. Street
Virginia City, Nevada 89440

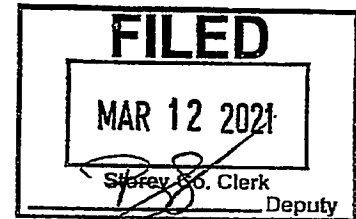
Attorney General
100 North Carson Street
Carson City, Nevada 89703

21 MICHAEL PAGNI and CHELSEA LATINO
22 McDonald/Carano Law Firm
23 100 W. Liberty St., 10th Floor
Reno, Nevada 89501

The Honorable Judge Russell
First Judicial District Court, D. 1
885 E. Musser Street
Carson City, Nevada 89701

24 Dated this 11th day of May, 2021

Mary Lou McSweeney-Wilson
25



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.*

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