

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARY LOU MCSWEENEY-WILSON,

Appellant/Petitioner,

vs.

No. 82806

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Elizabeth A. Brown
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District No. 20OC000051E

STOREY COUNTY COMMISSIONERS
AND STERICYCLE, INC.,

Respondents.

APPELLANT REPLY BRIEF

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1 IN THE SUPREME COURT OF THE STATE OF NEVADA

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4 Appellant/Petitioner,

5 vs.

No. 82806

6 District No. 20O000051E

7 STOREY COUNTY COMMISSIONERS
8 AND STERICYCLE, INC.,

9 Respondents.

10
11 APPELLANT REPLY BRIEF

12
13 Appellant (Wilson) replies to Stericycle's and Commissioner's Answering
14 Brief.

15
16 ISSUE 1 IN REPLY:

17 *Did Wilson have standing under NRS 278.3195(4)?*

18 Wilson had general standing under Chapter 241 and the legislative intent of that
19 Chapter. However, because the governor suspended the Open Meeting Law
20 requirements and Ordered citizens to stay at home because of the COVID-19
21 worldwide pandemic, Wilson, Rainbow Bend Homeowners, and Storey County
22 Residents did not have notice and an opportunity to be heard regarding the special
23 use permit request of Stericycle, Inc. at the Storey County Planning and
24 Commission meetings in July and August, 2020.
25

1
2 Stericycle argued Wilson had no right to judicial review, was not an aggrieved
3 person, and did not file an administrative appeal, despite there being no avenue for
4 an appeal. RAB, pp. 11 and 26, footnote 5.

5
6 However, Wilson's rights come from general standing language of NRS
7 241.023(1)(b) for meetings of public bodies where members of the public are
8 permitted to attend and participate and NRS 241.020(4)(a) that public notice
9 agendas be posted in physical locations within the State of Nevada.

10
11 Unfortunately, the governor's order suspending the physical postings of public
12 agendas had no rational basis to curtail the spread of COVID-19 infections as
13 shown in United States Supreme Court cases. As such, Wilson, Rainbow Bend
14 Homeowners, and Storey County residents were unaware of the actions of the
15 Storey County public officials approving the special use permit of Stericycle, Inc.

16
17 Wilson and other residents of Storey County were limited to notice through the
18 electronic media as presented within the governor's order. These orders held,
19 "public notice agendas be posted to Nevada's notice website, along with providing
20 a copy to any person who has requested one via U.S. mail or electronic mail," and
21 NRS 241.020(3)(c) be suspended for physical locations. III;555-56. However, this
22 zoom capability for Storey County Planning and Commission meetings were of no
23 interest to the public when their focus was trying to stay alive. The signed petition
24 of over two hundred and fifty (250) persons showed that citizens did not know
25

1 about Stericycle, Inc., what they did, what they burned, and had they known,
2 would have opposed it. III;741-50 and IV;751-97.

3
4 Respondent also argued that Wilson was not an aggrieved party, had to be in a
5 county of less than 700,000 persons, and have a property interest within three
6 hundred (300) feet. RAB, pp. 14-15.

7
8 However, Wilson resides in such a county, has a home approximately twelve
9 (12) miles away, and is within the hundreds of miles adversely affected by the
10 Stericycle, Inc. air pollution resulting from burning biohazardous medical waste.
11 The (300) feet rule for written notice must have been intended for physical
12 location, not for dangerous incineration that contaminates Storey, Washoe, Carson,
13 Douglas, Lyon, and the Pyramid Lake Indian Reservation.

14
15 Only Blockchains, Inc. received written notice of the special use permit request
16 from Stericycle, Inc., they appeared and opposed Stericycle, Inc. with over three
17 hundred (300) pages of violation reports, fines, and notice of other states rejecting
18 the company, but the Planning and Commissioners failed to listen. I;129-250 and
19 II;251-471.
20

21
22 Respondent argued that Wilson never alleged what the adverse effects would be
23 to her property. RAB, p. 15. However, Wilson showed the air pollution increased
24 the level of autism, cancer, birth defects, and 100% fatal Mad Cow disease. Utah
25

1 Physicians Study, II;126-28 and V;1128-29. Utah recently received a large sum of
2 money because of Stericycle's violations of business practices.

3
4 Respondent argued that Wilson could not have appealed the Planning
5 Commission's recommendation because it was merely advisory to the board and
6 should have filed an extraordinary writ but was time-barred from seeking an
7 extraordinary writ. RAB, pp. 16-17. However, Wilson did file an extraordinary
8 writ in the form of a petition for writ of mandamus or prohibition on March 23,
9 2021, in case number 82652. This Court denied the petition, stating there was an
10 adequate legal remedy in the form of an appeal from any adverse final judgment.
11 Therefore, Wilson relied upon this appeal for relief.
12

13
14 Wilson relied upon the doctrine of relation back to argue timely filing, since
15 the petition for judicial review was filed September 10, 2020, twenty-three (23)
16 days after the August 18, 2020 decision. Thereafter, the extraordinary writ in the
17 form of the petition for writ of mandamus or prohibition filed on March 23, 2021,
18 could relate-back to the original filing of the petition for judicial review and
19 become timely, since both documents are mirror images of each other.
20

21
22 In *Wilburn v. Dial Corp.*, 724 F.Supp. 530 (W.D. Tenn. 1989), (subsequent
23 complaint may relate back to the prior one, preventing a time bar of the second
24 complaint); *In re Osburn*, 203 B.R. 811 (Bankr. S.D. Ga. 1996), (relate back to the
25

1 date of the original filing when the claim arose out of the conduct, transaction, or
2 occurrence set forth in the original pleading); *Bardo v. Clark* (N.D. Cal. 2021),
3 (relate back when 'the conduct, transaction, or occurrence' is the same as original
4 petition). Therefore, Wilson had general jurisdiction under Chapter 241 and its
5 legislative history, filed in a Notice of Additional Argument, February 12, 2021,
6 including Assembly Bill No. 1, Chapter 23, and Assembly Bill No. 437, Chapter
7 527, approved May 14, 1977. II;475-82.
8

10 The Commissioner's present that the Zoom meeting of the Storey County
11 Planning and Commission meetings were placed on the agendas of public notice
12 required by NRS 241.020, along with the link to the Zoom meetings allowing
13 members of the public with computers to participate in the meeting, making it
14 easier for members of the public to participate in the public meetings either by
15 telephone or on the computer. Commissioner's Answering Brief (CAB), p. 4.
16
17

18 However, the Agendas were not posted in Lockwood so that people from
19 Rainbow Bend or Lockwood Community could participate either by Zoom or
20 telephone because they did not know about it. Wilson received over two-hundred
21 and fifty (250) names of residents of those communities that had not heard about
22 Stericycle, Inc. and what they burned near their homes. III;741-50 and IV;751-97.
23

24 Commissioners argued that rather than have people drive to Virginia City, they
25

1 could participate from the comfort of their own homes. CAB, pp. 4-5.

2
3 However, nobody from Lockwood could have participated in the meetings
4 because they did not know about them. Wilson filed Subpoenas for three (3)
5 witnesses, Larry Huttleston, Phillip Hilton, and Scott Martin, to testify regarding
6 the lack of physical postings at the Rainbow Bend Clubhouse, Lockwood Senior
7 Center, and Lockwood Fire station on January 15, 2021. V;1106-07; 1108-09; and
8 1110-11. They were prepared to testify that there were no physical postings during
9 an evidentiary hearing that was scheduled and subsequently cancelled because of
10 the district court's orders dismissing the petition.
11

12
13 Commissioners acknowledge that this was a contested matter in a footnote.
14 CAB, p. 5, footnote 2.

15
16 Commissioners argue that the Stay At Home Order did not prevent residents
17 from hiking, walking, or running during the July and August period in 2020.
18 CAB, p. 6.

19
20 However, even if residents of Lockwood could have walked to where they
21 normally would receive physical postings of the Storey County Planning and
22 Commission meetings, there were not any Agendas posted where they could have
23 participated. As stated, there were no physical postings.
24
25

1 ISSUE 2 IN REPLY: Wilson’s Argument regarding the Nevada Governor’s
2 Executive Order suspending the Open Meeting Law requirement for three (3)
3 physical postings in three (3) locations within Storey County and the Order to Stay
4 at Home during the worldwide COVID-19 pandemic had merit because it was an
5 issue of first impression, created a Due Process violation under the United States
6 and Nevada Constitutions, and had no rational basis for curbing the spread of the
7 virus.

8 *Did the governor’s executive orders have a rational basis to stopping the spread of*
9 *COVID-19 worldwide pandemic?*

10 Respondent presented Wilson and Storey County Residents argument that they
11 were unaware of the Storey County Planning and Commission meetings to discuss
12 and pass the special use permit for Stericycle, Inc., because of the Governor’s
13 Order to stay at home and suspend the Open Meeting Law. RAB, p. 19.

14 Wilson argued that she was deprived of her property interest.

15 *In re Maui Elec. Co., Ltd.*, 408 P.3d 1 (Haw. 2017), (“[c]onstitutional due
16 process protections mandate a hearing whenever the claimant seeks to protect a
17 ‘property interest,’ in other words, a benefit to which the claimant is legitimately
18 entitled.” *Pele Def. Fund v. Puna Geothermal Venture*, 77 Hawai‘i 64, 68, 881
19 P.2d 1210, 1214 (1994)). The Court stated, due process hearing is required when
20 the claimant seeks to protect ‘property’ and the interest is ‘property.’ *Sandy Beach*
21 *Def. Fund v. City Council of Honolulu*, 70 Haw. 361, 376, 773 P.2d 250, 260
22 (1989); *Sylvia Landfield Trust v. City of L.A.*, 729 F.3d 1189 (9th Cir. 2013),
23 (“Substantive due process protects individuals from arbitrary deprivation of their
24
25

1 liberty by government.”); *Marsh v. Cnty. of San Diego*, 680 F.3d 1148, 1154 (9th
2 Cir.2012), (a violation of substantive due process, the alleged deprivation must
3 “shock the conscience and offend the community's sense of fair play and decency).
4

5 In this case, Wilson is clearly the owner of real property, 132 Rue De La Noir,
6 which is adversely affected by the Stericycle, Inc. air pollution that travels
7 hundreds of miles from the incinerator burning biohazardous medical waste. To
8 allow the special use permit without Wilson or other residents of Storey County to
9 have received notice and an opportunity to be heard is conscience-shocking and
10 this Court should reverse the district court’s grant of the motion to dismiss. II;126-
11 28 and V;1128-29.
12

13
14 Respondent argued that the governor’s emergency orders suspending physical
15 postings and only requiring online postings via email or mail upon request should
16 be enough notice. ED 026; ED 029; IV AA 995-96. RAB, p. 20. However, that
17 notice was insufficient for Rainbow Bend Homeowners and Storey County
18 Residents as evidenced by over two-hundred and fifty (250) signatures opposing
19 Stericycle, Inc. IV;776-97.
20

21 Wilson argued that the Nevada Governor’s Executive Order suspending the
22 Open Meeting Law requirement of posting because of the COVID-19 worldwide
23 pandemic had no *rational basis* to have been implemented. This issue is one of
24 first impression for the State of Nevada and the United States. *Agudath Isr. of Am.*
25

1 v. *Cuomo*, 983 F.3d 620 (2nd Cir. 2020), (Governor's emergency authority in
2 response to natural disasters, severe storms or flooding). The case law stated the
3 test for emergency approval of the governor's emergency orders was one of
4 "rational-basis." Looking to other States for emergency government orders during
5 the COVID-19 worldwide pandemic showed Constitutional issues of impacting
6 freedom of religion and association, not suspending physical postings, which
7 prevented citizens from voicing opposition to the passing of special use permits on
8 a biohazardous medical waste incinerator, resulting in air pollution that travels
9 hundreds of miles. The COVID-19 cases focused upon relieving the spread of a
10 worldwide pandemic. See *Beshear v. Acree*, 615 S.W.3d 780 (Ky. 2020), ("to
11 protect life and property of the people of the Commonwealth, and to protect public
12 peace, health, safety and welfare ... and in order to ensure the continuity and
13 effectiveness of government in time of emergency, disaster or catastrophe...."
14 Further, the Court gave examples such as the Governor working with the executive
15 branch and emergency management agencies to determine what is necessary for
16 the specific crisis at hand, such as floods, tornadoes, ice storms, nuclear, chemical
17 or biological agents or biological, etiological, or radiological hazards but the
18 emergency powers are always limited by the legislative criteria, i.e., they must be
19 exercised in the context of a declared state of emergency.
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1 In the present case, the governor's order suspending the physical posting
2 requirements of NRS 241.020, had the reverse effect, and unintended
3 consequences by allowing a dangerous company, Stericycle, Inc., to be approved
4 without Storey County citizens being aware of and able to voice opposition.
5 Rather, Stericycle, Inc., and the Storey County Commissioners took advantage of
6 the governor's emergency order to suspend the Open Meeting Law, violating
7 citizens Constitutional rights without any rational basis for stopping the spread of
8 COVID-19.
9

11 Respondent argued that there can be no open meeting or due process violation
12 based upon lack of notice where notice did not exist in the first place. RAB, p. 21.
13 *Crown Point I, LLC v. Intermountain Rural Elec. Ass'n*, 319 F.3d 1211, 1216-17
14 (10th Cir. 2003). This case is inapplicable because it is a 1983 action, which
15 involved many notices and hearings regarding the activity of a governmental
16 action. In the present case, Commissioners McBride and Carmona made a quick
17 decision to approve in less than two months without any research and
18 environmental study, with only two (2) citizens verbally opposing, Phillip Hilton
19 and Sam Toll, who were running for Commissioner seats.
20

23 Respondent also cited to case law indicating that there were no property rights
24 for neighboring property owners to challenge special use permits. *Hillside Cmt.*
25 *Church v. Oldon*, 58 P.3d 1021, 1026, 1030-31 (Colo. 2002). RAB, p. 21.

1 However, *Olden*, held there was an adequate remedy for their claims under state
2 law, and therefore no basis upon which to seek recourse under § 1983. Wilson was
3 not seeking attorney fees or remedy through a 1983 action; rather a State remedy,
4 which had been pursued throughout this litigation.
5

6 In sum, there are no cases showing governor's suspending physical postings for
7 county commissioners' meetings, since there is no rational basis to prevent the
8 spread of COVID-19 infection.
9

10 In contrast, all United States Supreme Court COVID-19 cases focus upon the
11 importance of curbing the spread of the worldwide pandemic. Therefore, the
12 citizens of Storey County had a fundamental constitutional right to know that their
13 county planning and commissioners were about to approve a very dangerous
14 company, Stericycle, Inc., to pollute the air with biohazardous medical waste for
15 hundreds of miles, violating NRS 241.020 and their rights under the United States
16 and Nevada constitutions. II;126-28 and V;1128-29.
17
18

19 Commissioners argue that Wilson cannot bring forward a due process argument
20 because the petition for judicia review looks to the sufficiency of the record
21 supporting the administrative decision. CAB, p. 9.
22

23 Historically, the guarantee of due process has been applied to deliberate
24 decisions of government officials to deprive a person of life, liberty, or property.
25 See *Archuleta v. McShan*, 897 F.2d at 497 (quoting *Daniels v. Williams*, 474 U.S.

1 327, 331 (1986)). *Hernandez v. Frias* (D. N.M. 2011). Therefore, it appears that
2 the Storey County Commissioners actions amounted to a deliberate deprivation of
3 life, liberty, or property, when they approved the special use permit of Stericycle,
4 Inc. without any notice given to residents that opposed its incineration of
5 biohazardous medical waste in their backyards.
6

7 ISSUE 3 IN REPLY: Wilson’s argument for the district court’s order to reconsider
8 eliminating Rainbow Bend Homeowners and Storey County Residents in the
9 caption had merit, since both Phillip Hilton, Rainbow Bend Homeowner, and Sam
10 Toll, Storey County Resident, had standing under NRS278.3195(4).

11 *Did the district court abuse its discretion when failing to reconsider its prior order*
12 *and dismissing the petition absent an evidentiary hearing?*

13 Unlike Stericycle’s Answering brief, when claiming that there were citizens on
14 the zoom meeting during the planning and commission meetings during July and
15 August, 2020, there were only two (2) citizens present. Those two citizens were
16 Phillip Hilton and Sam Toll. They were aware of the Stericycle, Inc. plan and
17 spoke during the zoom meetings because they were running for public office as
18 Storey County commissioners. III;610. These men were not your average Storey
19 County resident, who were focusing on staying alive. They were running for
20 commissioner seats.
21

22
23 Respondent argued the district court should have removed that caption of
24 “Rainbow Bend Homeowners and Storey County Residents” to be included with
25 Wilson. Respondent argued that Phillip Hilton, a Rainbow Bend Homeowner, and

1 Sam Toll, a Storey County Resident, were an unidentified group, and Wilson had
2 no viable grounds for reconsideration. RAB, p. 22.

3
4 However, Respondent complained throughout the litigation that Wilson wasn't
5 an "aggrieved party," because she failed to appear at the meetings. IV;898-904;
6 919-23. When it was discovered that these two men fit the original caption, which
7 was initially filed on September 10, 2020 and September 11, 2020, Respondent
8 complained. V;1040-43.

9
10 The first of two (2) citizens appearing during the Storey County Commissioner
11 meeting on August 18, 2020, was Phillip Hilton, Rainbow Bend Homeowner, and
12 opposing candidate against Commissioner, Lance Gilman. Phillip Hilton verbally
13 opposed Stericycle, Inc. The second citizen appearing and opposing Stericycle,
14 Inc. at the Storey County Planning and Commission meetings was Sam Toll, who
15 was running against Commissioner Jay Carmona. III;523-616, specifically, pp.
16 601-15.

17
18
19 Once it was discovered that these two (2) men were "aggrieved" because they
20 "participated" in the meetings, Wilson presented that fact to the district court in the
21 hopes of reconsideration of the prior Order, which precluded Rainbow Bend
22 Homeowners and Storey County Residents from the caption that had been used for
23 almost half the year. V;1040-43.
24
25

1 These two (2) men were not specifically named in the original caption but
2 Phillip Hilton was a Rainbow Bend Homeowner and Sam Toll was a Storey
3 County resident. Both men agreed to allow Wilson to represent them. V;1040-43.
4

5 Rather than continue the evidentiary hearing to allow for Wilson to prove she
6 had standing, either generally, through constitutional means, or through
7 representation of Phillip Hilton and Sam Toll, the district court dismissed the
8 petition and evidentiary hearing.
9

10 Respondent and the district court could not have been surprised by adding
11 Phillip Hilton and Sam Toll as petitioners, since the original caption was “Rainbow
12 Bend Residents,” which Phillip Hilton is one, and “Storey County Residents,”
13 which Sam Toll is one. See *Garrett v. Wexford Health*, 938 F.3d 69 (3rd Cir.
14 2019), (enable a party to assert matters that were overlooked or were unknown at
15 the time the party interposed the original complaint), (federal courts’ policy of
16 liberal pleading amendment by ensuring that an inadvertent error in, or omission
17 from, an original pleading will not preclude a party from securing relief on the
18 merits of his claim); *Arthur v. Maersk, Inc.*, 434 F.3d 196, 202 (3d Cir. 2006); *Mo.*,
19 *K&T Railway Co. v. Wulf*, 226 U.S. 570, 575, 33 S.Ct. 135, 57 L.Ed. 355 (1913),
20 (amended petition related back to commencement of action and cured initially
21 improper pleading); *New Rock Asset Partners, L.P. v. Preferred Entity*
22 *Advancements, Inc.*, 101 F.3d 1492, 1503 (3d Cir. 1996); *Bain v. Cal. Teachers*
23
24
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1 *Ass'n*, 891 F.3d 1206 (9th Cir. 2018), (adding a party is only appropriate where the
2 party seeking joinder, among other things, "offer[s] all the same reasons for
3 relief"), (granting a Rule 21 motion to cure a jurisdictional defect is "rare" and
4 must be " 'exercised sparingly' " (quoting *Newman-Green, Inc. v. Alfonzo-Larrain*
5 490 U.S. 826, 837, 109 S.Ct. 2218, 104 L.Ed.2d 893 (1989))).
6

7 Although the Minutes of the Storey County Planning and Commission meetings
8 were presented within the Commissioner's documents in preparation of the
9 evidentiary hearing, Wilson did not notice Phillip Hilton or Sam Toll as
10 "participating" and "aggrieved" until days before the scheduled hearing. V;1040-
11 43. These two citizens that were present and opposed Stericycle, Inc. during the
12 meetings, satisfied the criteria for NRS 278.3195(4)(b) standing requirements.
13
14

15 Had the parties known, it would have been brought forward months earlier.
16 Respondent knew that Phillip Hilton was a known witness for the evidentiary
17 hearing because he was made part of the record in the petition signed by over two-
18 hundred and fifty (250) people that opposed Stericycle, Inc. IV;751-97.
19

20 Additionally, Phillip Hilton was known to be a witness within the Notice of
21 Witnesses filed on December 2, 2020, along with photographs of areas in
22 Lockwood that failed to have postings of Agendas. II;483-500 and III;501-11. As
23 such, Phillip Hilton as a party represented by Wilson would not have been a
24 surprise to anyone in the litigation and he could have testified during an
25

1 evidentiary hearing regarding his qualification as an aggrieved person that opposed
2 Stericycle, Inc. during the Storey County Commission meeting, when Stericycle,
3 Inc. special use permit was approved. See *Nurenberger Hercules-Werke GMBH v.*
4 *Virostek*, 822 P.2d 1100, 107 Nev. 873 (Nev. 1991), (Court inferred parties could
5 be added if “already parties in legal contemplation.”), (automatically relates back
6 to the commencement of the action). As such, Phillip Hilton and Sam Toll were
7 already parties in legal contemplation because Wilson had named Rainbow Bend
8 Homeowners and Storey County residents in the caption of the original petition.
9

10
11 Respondent opined that the district court was in its discretion to deny
12 reconsideration of its Order eliminating Rainbow Bend Homeowners and Storey
13 County Residents. RAB, p. 23.
14

15 FJDCR 3.13(a) allowed the district court to reconsider the prior order
16 eliminating Rainbow Bend Homeowners and Storey County Residents because the
17 district court overlooked, misunderstood a material fact, or overlooked,
18 misunderstood, or misapplied law that directly controlled a dispositive issue.
19

20 In this regard, the district court overlooked that Phillip Hilton and Sam Toll fit
21 the description of Rainbow Bend Homeowner and Storey County resident and
22 would have satisfied the standing statute, since they both appeared at the Storey
23 County Commission meeting on August 18, 2020, and opposed Stericycle, Inc.
24 And, one could argue that Sam Toll appealed the Storey County Planning
25

1 Commission meeting of August 6, 2020, when he appeared and opposed
2 Stericycle, Inc., which then went to the Storey County Commission meeting for
3 approval.
4

5 Respondent argued that Wilson never attempted to find out the true identity of
6 Phillip Hilton and Sam Toll. RAB, p. 24, footnote 4.

7 However, it was only when reviewing the minutes in preparation of the
8 evidentiary hearing were the two (2) men discovered had participated in the zoom
9 meeting. It was at that time that Wilson immediately contacted the parties.
10 Therefore, due diligence for discovering them was had.
11

12 Further, Respondent argued that Phillip Hilton and Sam Toll had to file their
13 petition within twenty-five (25) days and did not. RAB, p. 25. However, both men
14 agreed to have Wilson represent them in the petition and the district court should
15 have permitted an evidentiary hearing to allow for that representation to be placed
16 on the record. V;1040-43. See *Hibbler v. Benedetti*, 693 F.3d 1140 (9th Cir. 2012),
17 (state court's failure to hold an evidentiary hearing may render its fact-finding
18 process unreasonable).
19
20

21 In this regard, the district court erred in initially having an evidentiary hearing
22 to determine standing and then, when Wilson found two people that would satisfy
23 the “aggrieved person” and “appealed” aspect of NRS 278.3195(4), the district
24 court dismissed the petition without an evidentiary hearing.
25

1 Respondent argued that Sam Toll did not appeal to the Board because there was
2 no means for an appeal. RAB, p. 26.

3
4 Although Sam Toll did not file a document appealing the Storey County
5 Planning Commission's recommendation to the Storey County Commission, Sam
6 Toll did appear at the Commission meeting on August 18, 2021, and advised them
7 that he opposed Stericycle, Inc.

8
9 Respondent argued that Phillip Hilton and Sam Toll were in the same position
10 as Wilson, and have no property interest, since they did not receive written notice,
11 like Blockchains, Corp. because their residences are not within three hundred (300)
12 feet of the Stericycle, Inc. site. RAB, p. 26.

13
14 However, as stated above, all litigants have residential homes that are adversely
15 impacted by the biohazardous medical waste incinerator air pollution that travelled
16 hundred of miles. V;1128-29.

17
18 The statute requiring notice to property within three hundred (300) feet must be
19 intending to alert owners of building sites; not air pollution.

20
21 Commissioners argue that Wison cannot rely upon the standing of others to
22 establish her own standing. CAB, p. 17.

23
24 However, as stated above, Wilson attempted to bring to the district court's
25 attention that standing under the statute was satisfied by two men that were running
for Storey County Commission seats and participated in the Storey County

1 Planning Commission meeting in July, 2020 (Sam Toll) and participated in the
2 Storey County Commission meeting in August, 2020 (Sam Toll and Phillip
3 Hilton). Wilson was not attempting to seek her own standing through these men.
4 Rather, Wilson had received approval to represent them in the petition, since they
5 satisfied the statute. Both men agreed to allow Wilson to represent them. V;1040-
6 43. Unfortunately, the district court declined to have an evidentiary hearing to have
7 all of these witnesses testify so that a complete record could be brought before this
8 Court on appeal.
9

10 CONCLUSION

11
12 For the foregoing reasons, Wilson respectfully requests that the Court reverse
13 the district court's decision. Wilson had standing to bring the petition for judicial
14 review, had authority to represent Phillip Hilton, Rainbow Bend Homeowner, and
15 Sam Toll, Storey County Resident, and the district court abused its discretion when
16 not reconsidering its prior order and allowing an evidentiary hearing. The
17 governor's orders to suspend the open meeting law had no rational basis to curb
18 the spread of COVID-19, leaving Storey County residents ignorant of their right to
19 oppose Stericycle, Inc., a biohazardous medical waste incinerator near their homes.
20

21
22 There were contested matters that should have been brought before the district
23 court in an evidentiary hearing so that this Court could have a complete record on
24 appeal.
25

1 AFFIRMATION

2 Pursuant to NRS 239B.030, the undersigned does not hereby affirm that the
3 preceding document does not contain the social security number of any person.
4

5 Respectfully submitted this 16th day of August, 2021.

6 LAW OFFICE OF MARY LOU WILSON

7 /s/ Mary Lou Wilson

8 Mary Lou Wilson, Bar #3329

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1 I understand that I may be subject to sanctions in the event that this brief is not
2 in conformity with the requirements of the Nevada Rules of Appellate Procedure.
3

4 DATED this 16th day of August, 2021.

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