

District Court sets date for landfill appeal



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WINNEMUCCA — A date has been set in the 6th Judicial District Court for a hearing on actions taken by the Humboldt County Board of Commissioners in denying an appeal filed by Robert Dolan and Massey Mayo, of Dolan Law Offices, in regards to the proposed Jungo Rd. Landfill. *Dolan v The Humboldt County Board of Commissioners* will be heard by Judge Richard Wagner on May 5. The hearing will start at 9 a.m. and is expected to take most of the day.

CASE HISTORY: Events leading to the appeal started at the RPC (Regional Planning Commission) level. Dolan and Mayo requested the RPC hold a hearing for the revocation of the conditional use permit (CUP) granted to Jungo Land & Investments for the development of class I landfill. The two alleged Jungo misled RPC members and lied on the CUP application. Specifically, they alleged representatives of Jungo Land & Investments failed to notify RPC board members the landfill would be accepting asbestos. Secondly, Dolan and Mayo argue Jungo Land & Investment representatives improperly denied there would be any affect on abutting property owners. The abutting land is public property managed by the Bureau of Land Management. Representatives from Jungo Land & Investments have denied any wrongdoing.

The appeal to the RPC was denied. Next, Dolan and Mayo appealed to the Humboldt County Board of Commissioners, but that appeal was also denied. The two are now appealing to have the matter reviewed by the district court.

JUDICIAL REVIEW: Dolan and Mayo are asking the court to review three specific issues:

#1) The 3-2 vote taken on November 2 by the county commission that denied a motion made by Commissioner Tom Fransway to have the matter sent back to the RPC for further review and that county funds be made available for expert testimony and research.

#2) The 3-2 vote taken on November 2 by the county commission in upholding the decision made by the RPC in denying the Dolan/Mayo appeal, which was based on certain findings of fact presented by the commissioners. For example, the findings note the RPC did not abuse its discretion on the asbestos issue because the applicants were applying for a CUP to develop a class 1 landfill, the definition of which includes asbesto.

#3) A fresh look at the CUP issued to Jungo Land & Investments. Or, in the alternative, to have the matter sent back to RPC with instructions that they conduct an evidentiary hearing in the matter.

ARGUMENT: In asking the court to review these issues, Dolan and Mayo make the following arguments:

#1) In reference to the vote that failed on Nov. 2, which would have sent the matter back to the RPC, the two claim the Humboldt County commissioners abused their discretion when they voted down the appeal. Dolan and Mayo point out Nevada law allows the commissioners to direct the RPC to hold such hearings. Specifically, the local government retains the right to review the CUP on an annual basis and the alleged misrepresentations made by Jungo Land & Investments gives them cause to do so, Dolan and Mayo argue in the request for judicial review.

#2) Dolan and Mayo dispute the findings of fact presented by the commission at the Nov. 2 meeting. For example, the commissioners said they found that Jungo Land & Investments made no misrepresentations to the RPC on the asbestos issue. However, Dolan and Mayo contend the failure of Jungo Land & Investment to note in CUP application the landfill would be accepting asbestos – even though it was included on the cover sheet -- was a misrepresentation.

3) Dolan and Mayo referenced case law that -- they argue --allows the court to order an evidentiary hearing to determine if the proposed Jungo Rd. landfill will have adverse affects on those who live nearby.