

Landfill appeal heads to district court



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WINNEMUCCA — Opponents of the proposed Jungo Rd. landfill filed an appeal on Friday (Nov. 13) with the 6th Judicial District Court. Robert Dolan and Massey Mayo, of Dolan Law Office, are asking the court to review the case and determine whether the Humboldt County Board of Commissioners abused their discretion when the matter was before them on appeal.

CASE HISTORY: Events leading to the request 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 application for the CUP. Specifically, they alleged 1) representatives of Jungo Land & Investments failed to notify RPC board members the landfill would be accepting asbestos and 2) they denied there would be any affect on abutting property owners. The abutting land is managed by the Bureau of Land Management and open to the public for recreational purposes.

The appeal 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. The matter will be heard by Judge Richard Wagner.

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 the Dolan/Mayo request to have the matter sent back to the RPC for a hearing.

#2) The 3-2 vote taken on November 2 by the county commission to uphold the decision made by the RPC to deny the Dolan/Mayo RPC appeal, which was based on certain findings of fact presented by the commissioners

#3) They also asked the court to take 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.

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. They claim the failure of local government to act on this issue was an abuse of discretion.

#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's failure 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.

The appeal argues the proposed landfill will negatively impact the area because of fugitive dust from the site, odors, and could possibly contaminate localized aquifers. Dolan and Mayo note, "The planned landfill of Jungo will adversely affect the air, water and peace and contentment of the petitioners as they use the aforesaid abutting land to the landfill site."

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