Exhibits to Coalition's Memorandum dated February 1, 2024

1. Utah Property Rights Ombudsman Advisory Opinion, No. 115
2. Love's Sketch Plan Application
3. Court of Appeals Ruling
4. District Court Memorandum Opinion: Order on Petitioner's Motion for Summary Judgment and Respondent's Cross-Motion for Summary Judgment
5. District Court Judgment
6. County-SITLA-Love's Correspondence
7. Declaration of Marlene Huckabay
8. Declaration of Susan Baril
9. Declaration of Pat Baril
10. Declaration of David Focardi
11. Declaration of Colby Smith
12. 2019 Spanish Valley Zoning Ordinance: accessible at https://sanjuancounty.org/planning/page/spanish-valley-ordinances
13. 2011 San Juan County Zoning Ordinance: accessible at https://sanjuancounty.org/sites/default/files/fileattachments/planning/page/3381/zoningordinance092011.pdf
14. 2018 Area Plan: accessible at https://sanjuancounty.org/planning/page/spanish-valley-ordinances

Exhibit 1

Utah Property Rights Ombudsman Advisory Opinion No. 115

Advisory Opinion #115

Parties: Garyn Perrett and Wellsville City

Issued: August 28, 2012

TOPIC CATEGORIES:

B: Conditional Use Applications
Other Topics(v): Interpretation of Ordinances

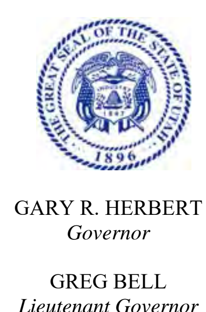
An ordinance should be interpreted to give effect to its intent, as evidenced by its plain language. Discretion allowed to a local government to interpret and apply its own ordinances cannot extend to the point where the ordinance's language is completely ignored. A use that is not listed as an allowed use cannot be "implied" because some similar uses are listed, if the proposed use is significantly different from those listed.

DISCLAIMER

The Office of the Property Rights Ombudsman makes every effort to ensure that the legal analysis of each Advisory Opinion is based on a correct application of statutes and cases in existence when the Opinion was prepared. Over time, however, the analysis of an Advisory Opinion may be altered because of statutory changes or new interpretations issued by appellate courts. Readers should be advised that Advisory Opinions provide general guidance and information on legal protections afforded to private property, but an Opinion should not be considered legal advice. Specific questions should be directed to an attorney to be analyzed according to current laws.

The Office of the Property Rights Ombudsman
Utah Department of Commerce
PO Box 146702
160 E. 300 South, 2nd Floor
Salt Lake City, Utah 84114

(801) 530-6391
1-877-882-4662
Fax: (801) 530-6338
www.propertyrights.utah.gov
propertyrights@utah.gov



GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

State of Utah
Department of Commerce

OFFICE OF THE PROPERTY RIGHTS OMBUDSMAN

ADVISORY OPINION

Advisory Opinion Requested by:	Garyn Perrett
Local Government Entity:	Wellsville City
Applicant for the Land Use Approval:	Greenville Corner LLC
Type of Property:	Commercial Development
Date of this Advisory Opinion:	August 28, 2012
Opinion Authored By:	Elliot R. Lawrence Office of the Property Rights Ombudsman

Issues

May a City's zoning ordinance be interpreted as allowing a truck stop se when that use is not allowed by the ordinance's language?

Summary of Advisory Opinion

A statute or ordinance should be interpreted to give effect to the intent of the ordinance, as evidenced by its plain language. It must be presumed that the language used was chosen advisedly, including terms which were not included. The City's ordinance does not include "truck stop" as an allowed use, and it must be presumed that the City Council could have included the term if it so chose.

Statutory construction rules which favor approval of land uses, and allow discretion to local governments must respect the language of the ordinance, and are not excuses to ignore ordinances or insert terms that were not adopted through the legislative process. Because a truck stop is a distinct land use, with unique impacts, it cannot be implied as an allowable use because a truck stop is similar to allowed uses. The distinction between the allowed uses and a truck stop is too great to simply ignore the plain language of the ordinance.

Review

A Request for an Advisory Opinion may be filed at any time prior to the rendering of a final decision by a local land use appeal authority under the provisions of UTAH CODE ANN. § 13-43-205. An advisory opinion is meant to provide an early review, before any duty to exhaust administrative remedies, of significant land use questions so that those involved in a land use application or other specific land use disputes can have an independent review of an issue. It is hoped that such a review can help the parties avoid litigation, resolve differences in a fair and neutral forum, and understand the relevant law. The decision is not binding, but, as explained at the end of this opinion, may have some effect on the long-term cost of resolving such issues in the courts.

A Request for an Advisory Opinion was received from Garyn Perrett on April 16, 2012. A copy of that request was sent via certified mail to Ruth P. Maughan, of Wellsville City, at 75 East Main Street, Wellsville, Utah. 84339. The City received that copy on April 25, 2012.

.

Evidence

The following documents and information with relevance to the issue involved in this Advisory Opinion were reviewed prior to its completion:

1. Request for an Advisory Opinion, with attachments, submitted by Garyn Perrett, receieved by the Office of the Property Rights Ombudsman on April 16, 2012.
2. Additional Materials submitted by Mr. Perrett, received May 10, 2012.
3. Additional Materials submitted by Mr. Parrett, received May 15, 2012.
4. Response from Greenville Corner, LLC (property owner), submitted by Steve Kyriopoulos, received May 17, 2012.
5. Reply to Greeville Corner, submitted by Garyn Perrett, received May 30, 2012.
6. Response from Wellsville City, submitted by Bruce L. Jorgensen, Olson & Hoggan, PC, received June 1, 2012.
7. Reply submitted by Mr. Perrett, received June 20, 2012.
8. Reply submitted by Mr. Kyriopoulos, received June 21, 2012.
9. Material submitted by Robert Bolton, received July 2, 2012.
10. Reply submitted by Mr. Jorgensen, received July 10, 2012.
11. Reply submitted by Mr. Perrett, received July 17, 2012.
12. Reply submitted by Mr. Jorgensen, received July 23, 2012.
13. Reply submitted by Mr. Perrett, Received July 25, 2012.

Background

Greenville Corner, LLC owns 12 acres in Wellsville, at the intersection of Highway 89/91 and 400 South.[1] The property consists of three parcels, all of which are zoned "CH" (Highway

[1] A map of the area identifies the cross street as both "400 North" and "4700 South" (which may be the designation from another jurisdiction).

Commercial) by the City. The property is located on the east side of the highway, and the surrounding properties on that side of the road are also zoned commercial. There are a few residential properties directly across the highway, and some commercial businesses across 400 South.[2] A railroad track borders these commercial properties. The Greenville Corner property is not developed, but the owners have allowed a temporary produce stand to be placed near the intersection during summer months. The property's owners indicate that a service station was located on the property in the past, but that building was demolished several years ago.

Greenville Corner proposes to construct and operate a truck stop on the property. According to the preliminary plans, access to the truck stop would be directly from Highway 89/91, a short distance from the intersection, with another access point located on 400 North.[3] The proposed truck stop facility described in the application is fairly typical: A convenience store, vehicle maintenance, a car wash, and fuel sales. It would provide fuel, food, and other supplies for travelers and truck drivers. A site plan indicates a pad for a future restaurant, a future RV parking area, and parking areas for semi trucks and trailers. It is not clear whether the facility would include amenities such as showers and a laundry for truck drivers.

The 400 North access point appears to align with the intersection of 900 East, a local road that leads in a southeasterly direction to join "Main Street" (also designated as State Highway 101). There are several homes along 900 East, all south of the railroad tracks, and several hundred feet away from the Greenville Corner property.

All uses in the CH zone are conditional. There are no permitted uses.[4] "Only such uses and facilities as are specifically authorized in this chapter and title as permitted and conditional uses shall be allowed. All other uses and facilities are prohibited." WELLSVILLE CITY CODE. § 10-17-6.[5] There are 17 conditional uses approved for the CH zone including "Automobile service station, auto accessories;" "Car and/or truck wash;" "Convenience store, including self-service gas pumps;" "Repair and maintenance of motor homes, campers, RV trailers and utility trailers;" and "Restaurant or drive-in café." *Id.*, 10-9E-3.

The proposed truck stop garnered opposition from neighboring property owners, including at least one who owns a home on 900 East. These citizens claim that a truck stop will have adverse effects on the community, such as reduced property values, smoke and particulate matter from truck exhausts, increased noise, and increased traffic in residential neighborhoods. The citizens submitted materials detailing the health effects of diesel smoke, noise studies conducted at truck facilities, and crime statistics from Perry, Utah, which has a truck stop.[6] Realtors provided opinions on how the proposed facility might impact the values of nearby properties. The citizens also cited to the City's subdivision ordinance, stating that the proposed truck stop didn't meet the criteria listed in that ordinance. Finally, the citizens argued that a truck stop is not specifically

---

[2] Overall, the immediate area around the property appears to be rural, with some commercial development along Highway 89/91, and a few homes. The property is bounded on the east and north by agricultural land.

[3] The access from Highway 89/91 requires approval from the Utah Department of Transportation.

[4] "The purpose of the CH zone is to provide commercial areas on major highways for the location of traveler services and highway oriented commercial uses." WELLSVILLE CITY CODE, § 10-9E-1.

[5] Title 10 of the City Code is the "Zoning Ordinance of Wellsville City, Utah". *Id.* § 10-1-1.

[6] Perry is located along I-15. It is approximately the same size as Wellsville.

included on the list of conditional uses in the City's ordinance, and so the City cannot approve the truck stop.

The City and Greenville Corners answer that any nuisance conditions would be dealt with through regulation, in the same way that nuisance conditions would be dealt with on any property. In a similar manner, any problems with crime would be dealt with through enforcement. The City noted that the proposed truck stop was not a subdivision, so the subdivision ordinance did not apply.

The City argues that because a truck stop is similar to other uses listed in the CH zone, it is reasonable to conclude that a truck stop should be allowed. The City explains that the CH zone is intended for travel-related commercial uses on highways, and that the list of conditional uses includes automotive sales and service, RV and motor home sales and service, fuel sales, car/truck wash, and restaurant. The City and Greenville Corners argue that these allowed conditional uses are all components of truck stops, so it is reasonable to conclude that a truck stop may be approved in a CH zone.

Analysis

The City's Zoning Ordinance Does Not Include "Truck Stop" as an Allowed Conditional Use, so the Proposed Facility Cannot be Approved as a Truck Stop.

Because the City's zoning ordinance does not list "truck stop" as an allowed conditional use, Greenville Corner's proposed facility cannot be approved. It is acknowledged that the proposed facility consists of component parts which are allowed as conditional uses. Some of the approved uses are typical components of a truck stop, such as fuel sales, automobile service station, convenience store, restaurant, and car or truck wash. Any or all of these components could be approved on the Greenville Corner property, but a truck stop is more than just a combination of uses approved for the CH zone. It is improper to presume that by including such individual components on the list of allowed conditional uses the City had impliedly chosen to allow truck stops as well.

The City's ordinances cannot be interpreted to allow a truck stop on the parcel. There is no question that "truck stop" is not on the list of allowable uses in Wellsville City's CH zone. Section 10-9E-3 of the Wellsville City Code lists 17 conditional uses which are allowed in the CH zone. Those listed uses do not include "Truck stop," or any term similar to "truck stop." In fact, the term does not appear at all in the City's ordinances. As is explained below, the City's code cannot be reasonably interpreted to allow truck stops in the CH zone.

A. Standards of Statutory Interpretation.

Statutory interpretation begins with the plain language of the ordinance. "When interpreting statutes, our primary objective . . . is to give effect to the legislature's intent. To discern legislative intent, we look first to the statute's plain language. In doing so, we presume that the legislature used each word advisedly and read each term according to its ordinary and accepted

meaning. Additionally, we read the plain language of the statute as a whole and interpret its provisions in harmony with other statutes in the same chapter." *Selman v. Box Elder County*, 2011 UT 18, ¶ 18, 251 P.3d 804, 807 (quotations and alterations omitted).

Three specific paradigms of statutory interpretation are important to this analysis: First, "the expression of one should be interpreted as the exclusion of another." *Biddle v. Washington Terrace City*, 1999 UT 110, ¶ 30, 993 P.2d 875, 879. In other words, an omission in an ordinance should be given effect by a presumption that the omission was purposeful. *Id.; see also Carrier v. Salt Lake County*, 2004 UT 98, ¶ 30, 104 P.3d 1208, 1216. Secondly, "since zoning ordinances are in derogation of a property owner's use of land . . . any ordinance prohibiting a proposed use should be strictly construed in favor of allowing the use." *Id.* 2004 UT 98, ¶ 31, 104 P.3d at 1217. Finally, a local government's interpretation of its own ordinances is allowed "some level of non-binding deference . . .." *Fox v. Park City*, 2008 UT 85, ¶ 11, 200 P.3d 182.

B. *The City's Ordinances Cannot be Interpreted as Allowing a Truck Stop as an "Implied" Use Based on Possible Similarity to Other Allowed Uses.*

Using the statutory interpretation rules listed above, the language of the City's ordinance cannot support a conclusion that a truck stop may be approved because it is somewhat similar to allowed conditional uses. The plain language of § 10-9E-3 approves 17 conditional uses for the CH zone.[7] It must be presumed that the City Council chose those 17 uses advisedly, and also chose not to include certain uses, including truck stops.[8] Thus, the legislative intent, evidenced by the plain language of § 10-9E-3, is that truck stops are not allowed uses in the CH zone.

The 17 listed conditional uses allow a fair range of activity, but that range cannot be stretched to include a truck stop. Although a truck stop is similar to some of the allowed uses, it is nevertheless a significantly different land use than those listed in the CH zone. The City and the property owner argue that a truck stop should be allowed because that use is similar enough to some of the uses listed, particularly automotive sales and service, fuel sales, repair and maintenance of RV and motor homes, and even farm equipment sales. Admittedly, this argument is not without merit. In fact, the proposed facility is comprised of four allowed uses: (1) Fuel sales, (2) convenience store, (3) car wash, and (4) auto/truck service.[9] The plans also show a truck parking area, a future restaurant site, and an RV parking area.[10] Truck stops generally include these components.[11]

[7] There are no permitted uses in the CH zone. WELLSVILLE CITY CODE, § 10-9E-2; *see also id.*, § 10-17-6 (Uses not listed as permitted or conditional are prohibited.)

[8] It is not necessary to prove that the City Council expressly rejected "truck stop" as an allowable use. It is presumed that if the City Council had wished to include "truck stop" as an allowed use, it would have.

[9] "Convenience store, including self-service gas pumps" is listed as a use in the CH zone.

[10] RV parking is not a listed use, but "parking lot" is. It is not clear whether the proposed RV parking would include hookups for short-term RV camping.

[11] The City code does not have a definition of "truck stop," nor is one found in the Utah Code. Salt Lake City adopted the following definition, which appears to be typical: "TRUCK STOP: A building site and structures where the business of maintenance, servicing, storage or repair of trucks, tractor-trailer rigs, eighteen (18) wheel tractor-trailer rigs, buses and similar commercial or freight vehicles is conducted, including the sale and dispensing of motor fuel or other petroleum products and the sale of accessories or equipment for trucks and similar commercial

A truck stop, however, is a different and distinct land use, and not just a group of component parts. A truck stop is commonly understood to be a business catering to larger tractor-trailer rigs, in addition to automobile traffic. In general, a truck stop requires a large parcel and large buildings.[12] They also alter traffic patterns, because they are intended to attract commercial trucking traffic.[13] Accommodations for the larger tractor-trailers is a unique impact of a truck stop, and so it is more than just a "supersized" gas station. In addition, a combination of component uses in a single location would have a greater impact than simply the sum of the impacts attributed to each individual part. Accordingly, this Opinion must conclude that a truck stop is more than just a combination of component parts. Even though the proposed facility is an aggregate of allowed uses, those uses cannot somehow combine to allow a different and unique use that is not included in the City's ordinances.

As stated above, the City's interpretation of its own ordinances enjoys a level of "non-binding deference." This deference, however, must operate within the language of the ordinance, and cannot justify inserting uses or terms not found in the language approved by the City. If the City approved a distinct land use not listed in its ordinance simply because that use is somewhat similar to allowed uses, the City would effectively be amending its ordinance without proper approval.[14] This position undermines the City's authority to regulate land use, and would dilute the City's ordinances to little more than general guidelines. In fact, if this approach is followed, a truck stop could be approved in any of the City's other commercial zones, because they include uses "similar" to a truck stop, such as service stations, restaurants, motels, fuel sales, etc. The City could, of course, amend § 10-9E-3 to include "truck stop" as an allowable use.[15] It cannot, however, ignore its own ordinances and grant approval to a use that is not listed.[16]

C. The City Could Approve Any of the Uses Listed in § 10-9E-3.

Although the current language of § 10-9E-3 does not allow a truck stop on the Greenville Corner property, the City may approve any of the other listed uses. Local governments may designate uses as being "conditional," meaning that approval may require compliance with additional conditions meant to mitigate the impact of the use. *See* UTAH CODE ANN. § 10-9a-507(1).[17] If a

---

vehicles. A truck stop may also include overnight sleeping accommodations and restaurant facilities." SALT LAKE CITY CODE, § 21A.62.040.

[12] The Office of the Property Rights Ombudsman researched how other jurisdictions regulate truck stops. There were fairly consistent references to the area and size of buildings, as well as commercial trucking traffic.

[13] The primary customers of a truck stop are not from the local area, although local citizens may stop there as well.

[14] Along the same lines, the rule that land use ordinances should be construed in favor of the property owner must also respect the language of the ordinance. While the rule favors property owners, it is not justification to simply ignore an ordinance in order to achieve a desirable outcome.

[15] This Opinion should not be read as disparaging truck stops. They are perfectly acceptable businesses providing valuable services to travelers.

[16] *See* UTAH CODE ANN. § 10-9a-509(2) ("A municipality is bound by the terms and standards of applicable land use ordinances and shall comply with mandatory provisions of those ordinances").

[17] "Conditional use" means a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts. *Id.*, § 10-9a-103(5).

use is designated as conditional, the local government must also adopt standards that the conditional uses must meet. *Id.*[18] Conditional uses cannot be designated unless standards of compliance are also adopted by ordinance.

Uses are often designated as conditional because there may be detrimental impacts associated with the use. The existence of detrimental impacts, however, does not doom a proposed use. An application for a conditional use may only be denied if the detrimental impacts cannot be mitigated through reasonable conditions.

> (a) A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.
> (b) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

Id, § 10-9a-507(2). In essence, standards are goals or objectives, and the conditions are the means to meet those goals. Adopting objective, measureable standards encourages fairness and provides the means to gauge success or failure of the conditions.

Conclusion

A local government may designate uses as conditional, but must also adopt compliance standards for the uses. The Wellsville City Code does not provide for a "truck stop" as a conditional use in the CH zone. It must be presumed that the City Council left the term out advisedly, and if it wants to include truck stop, it may amend the ordinance. A truck stop is a distinct land use with significantly different impacts than those associated with the component parts. It is therefore inappropriate to conclude that a "truck stop" may be "implied" because other allowed uses are somewhat similar. Even if the proposed facility consists of a combination of otherwise allowed uses, because a truck stop is substantially different, it cannot be allowed without an ordinance amendment.

Brent N. Bateman, Lead Attorney
Office of the Property Rights Ombudsman

[18] The standards do not necessarily need to apply to all conditional uses. An ordinance may designate conditional uses, and also adopt standards tailored to apply to specific uses, or even to conditional uses in specific zones.

NOTE:

This is an advisory opinion as defined in § 13-43-205 of the Utah Code. It does not constitute legal advice, and is not to be construed as reflecting the opinions or policy of the State of Utah or the Department of Commerce. The opinions expressed are arrived at based on a summary review of the factual situation involved in this specific matter, and may or may not reflect the opinion that might be expressed in another matter where the facts and circumstances are different or where the relevant law may have changed.

While the author is an attorney and has prepared this opinion in light of his understanding of the relevant law, he does not represent anyone involved in this matter. Anyone with an interest in these issues who must protect that interest should seek the advice of his or her own legal counsel and not rely on this document as a definitive statement of how to protect or advance his interest.

An advisory opinion issued by the Office of the Property Rights Ombudsman is not binding on any party to a dispute involving land use law. If the same issue that is the subject of an advisory opinion is listed as a cause of action in litigation, and that cause of action is litigated on the same facts and circumstances and is resolved consistent with the advisory opinion, the substantially prevailing party on that cause of action may collect reasonable attorney fees and court costs pertaining to the development of that cause of action from the date of the delivery of the advisory opinion to the date of the court's resolution.

Evidence of a review by the Office of the Property Rights Ombudsman and the opinions, writings, findings, and determinations of the Office of the Property Rights Ombudsman are not admissible as evidence in a judicial action, except in small claims court, a judicial review of arbitration, or in determining costs and legal fees as explained above.

MAILING CERTIFICATE

Section 13-43-206(10)(b) of the Utah Code requires delivery of the attached advisory opinion to the government entity involved in this matter in a manner that complies with Utah Code Ann. § 63-30d-401 (Notices Filed Under the Governmental Immunity Act).

These provisions of state code require that the advisory opinion be delivered to the agent designated by the governmental entity to receive notices on behalf of the governmental entity in the Governmental Immunity Act database maintained by the Utah State Department of Commerce, Division of Corporations and Commercial Code, and to the address shown is as designated in that database.

The person and address designated in the Governmental Immunity Act database is as follows:

Thomas G. Bailey, Mayor
City of Wellsville
75 E. Main Street
Wellsville, UT 84339

On this ___________ day of August, 2012, I caused the attached Advisory Opinion to be delivered to the governmental office by delivering the same to the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the person shown above.

____

Office of the Property Rights Ombudsman

Exhibit 2

Love’s Sketch Plan Application

Proposed Love's Travel Stops and Country Stores, Inc.
May 3, 2019

Love's Travel Stops and Country Stores, Inc. (the "**Applicant**") submits this application for Sketch Plan for a commercial development (the "**Project**"). We are requesting approval of the Sketch Plan Application to allow the development of a Travel Center that will access U.S. Highway 191.

The proposed development property consists of 1 tract totaling approximately 13.06 acres. This tract is within the county limits of San Juan County and in the jurisdiction of Grand County as shown in the Sketch Plan dated 5/3/19. The existing surrounding land use is commercial and the current property zoning is Controlled District-Highway (CD-H).

Project Description

The project will consist of the following:

a) Convenience Store:	±7,862 s.f.
b) Fast Food Restaurant with Drive-Through	±3,252 s.f.
c) Interior Fast Food Restaurant:	±2,536 s.f.
d) Auto Area Fueling Stations:	8 MPD's/16 Positions
e) Auto Area Parking Spaces:	90
f) Truck Area Fueling Stations:	5 Bays
g) Truck Area Parking Spaces:	53

The proposed development will be operational and staffed 24 hours a day/365 days a year.

The information provided above is approximate and subject to minor adjustments during the final planning and plan preparation for the project.

Utilities:

Sewer service will be provided from the existing Grand County gravity sewer system that is located along U.S Highway 191.

Water service will be provided from the existing Grand County water main that is located along U.S. Highway 191.

Stormwater/Drainage:

Stormwater runoff for the Project will be captured onsite via inlets and concrete flumes, and will be conveyed to a detention facility designed to attenuate the adequate volume of runoff per County and State requirements. This detention facility will discharge into the existing ditch located along U.S. Highway 191, within the Utah Department of Transportation owned right of way. A detailed analysis of the pre- and post-development conditions using ICPR routing software will be provided.

Environmental Impact

The total Project site boundary area is 13.06 acres. Of the 13.06 acre site 8.27 acres will be impervious surfaces. The remaining 4.79 acres will be pervious surfaces that include buffer areas, retention areas, and grassed open areas. The proposed Impervious Surface Ratio (ISR) is 63 percent.

There are no proposed environmental impacts planned with the development with respect to wetlands, resource protection areas or any other environmentally sensitive areas.

The property is currently covered by natural grass. The general topography of the property drains to the North. Water quality and water quantity runoff from this development will be handled through the use of Best Management Practices (BMP). These BMP's will provide compliance with County and State regulations and will include structural measures to control runoff from the site. During construction and land disturbing activities standard erosion control devices will be utilized to minimize erosion on the site and downstream siltation.

School Impacts

There are no impacts to schools with this development.

Public Services

We do not anticipate any adverse impacts to County services for the Project beyond the normal and customary services that would be provided for a retail development of this nature.

Other Impacts

We do not anticipate any impacts to historic sites or structures with this development or within the vicinity of this development. Likewise we do not know of any impacts to any rare, endangered, or irreplaceable species or natural areas that would be affected by this development.

200700010 00004

SKETCH PLAN APPLICATION

Grand County Courthouse: 125 E. Center St. Moab, UT 84532; Phone: (435)259-1343

FOR OFFICE USE ONLY

Date of Submittal:__________ Sketch Plan Processing Fees: **$550.00**

Submittal Received by: _______ Amount Paid:_________ Fees Received by:________________

CONTACT INFORMATION

Property owner: State of Utah School and Institutional Trust Lands Administration

Address: 675 E. 500 South, Suite 500, Salt Lake City, UT 84102

Phone: 801-538-5100 or 435-259-7417 cell: 435-259-9565 fax: 801-538-5118 or 435-259-7473

Email address: bryantorgerson@utah.gov or eliseerler@utah.gov

Engineer (if applicable): N/A

Address: ____________________

Phone: __________ cell: __________ fax: __________

Email address: ____________________

Property owner representative: Kym Van Dyke

Address: P.O. Box 26210, Oklahoma City, OK 73126

Phone: (405) 749-1744 cell:__________ fax: (405- 749-9122

Email address: Kym.VanDyke@loves.com

PROJECT INFORMATION

Project name: Love's Travel Stops & Country Stores

General location of the property: Along HWY 191, near the San Juan / Grand County line

Size of the subject property: 13.06 *acres* Number of lots: 1

Surrounding land uses: Commercial

Current Zoning: Controlled District-Highway Cd-h *district*

REQUIRED – Each of the following agencies will review for their ability to serve the proposed development through adequate existing and future easements, or provide a letter with detailed requirements for the proposed development. Applicants are encouraged to consult each of the following agencies prior to submitting a development application. Grand County Community and Economic Development staff will request approval letters or signatures from each agency after a complete application is submitted.

Moab Valley Fire Department
Grand County Road Supervisor
Grand Water and Sewer Service Agency
Rocky Mountain Power
FEMA Floodplain Administrator

SUPPORTING MATERIALS

Sketch plan applications shall contain, at a minimum, the following supporting materials through the approval process according to the following submittal schedule:

1. **APPLICATION SUBMISSION.** Two complete sets of all supporting materials shall be submitted with this application. These complete sets should include one large (24" x 36") and an electronic copy sent to the Planning Department.

2. **POST MEETING.** If the revised sets of plans are not approved as submitted corrected sets of plans shall be submitted that comply with the Planning Commission's approval.

[X] **Sketch Plan.** The subdivision sketch plan shall include conceptual plans for the entire parcel. Such plan shall require at a minimum the following information:

1. Conceptual drawing
2. A conceptual drawing of the lot and street layout drawn at a scale of not less than 1 inch = 200 feet and including the following:
3. Proposed number of lots and the approximate area of the individual lots;
4. Topographic contours at 5 foot intervals and all easements or rights-of-way necessary for drainage within or without the boundaries of the subdivision;
5. Significant natural features of the site including streams, lakes, natural drainage lines, vegetation type, and other similar features;
6. Man-made features such as existing buildings, irrigation ditches, utility lines and easements, bridges, culverts, drainage systems, mines or mine dumps;
7. Zone district boundaries;
8. General land use divisions into residential types, commercial, industrial, community facilities, and open space including proposed boundaries of public use or common areas; parking area, total number of dwelling units and total square footage of non-residential space;
9. Type and layout of water supply and sewage treatment system proposed;
10. Acreage of the entire tract and the area to the nearest one-half acres and percent of total area to be devoted to open space;
11. The name and location of a portion of adjoining subdivisions shall be drawn to the same scale and shown in dotted lines adjacent to the tract proposed for subdivisions in sufficient detail to show actually the existing streets and alleys and other features that may influence the layout and development of the proposed subdivisions; where adjacent land is not subdivided, the name of the owner of the adjacent

200700010 00006

tract shall be shown;

12. A vicinity-topography map (which may be a USGS one (1) inch equals 2000 feet scale) shall locate the property relative to surrounding areas; and

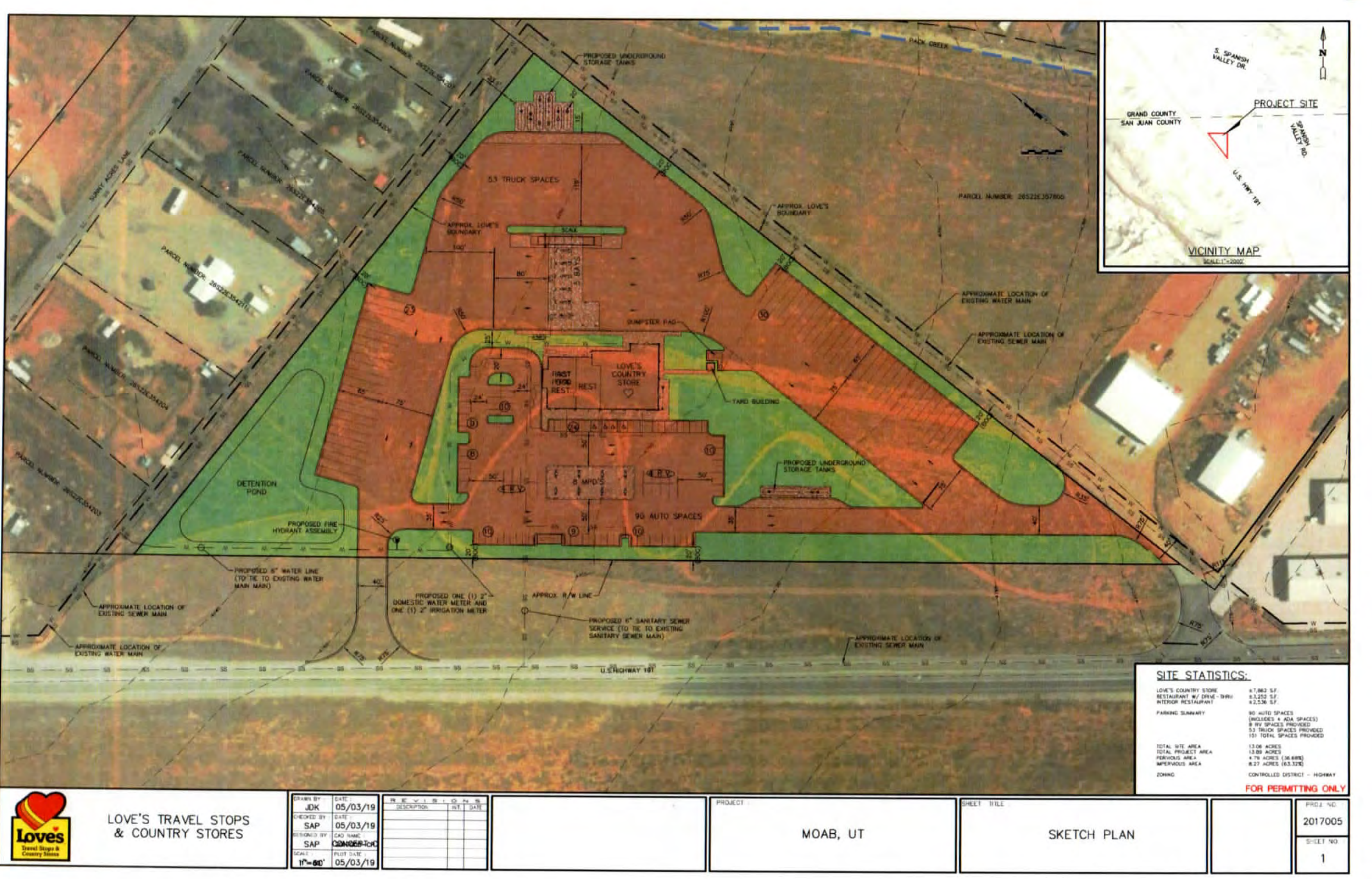
☒ **Application Fee.** The process / filing fee of $550.00 shall be paid in full.

APPLICANT CERTIFICATION

I certify under penalty of perjury that this application and all information submitted as a part of this application are true, complete and accurate to the best of my knowledge. I also certify that I am the owner of the subject property and that the authorized agent noted in this application has my consent to represent me with respect to this application. Should any of the information or representations submitted in connection with this application be incorrect or untrue, I understand that Grand County may rescind any approval, or take any other legal or appropriate action. I also acknowledge that I have reviewed the applicable sections of the Grand County Land Use Code and that items and checklists contained in this application are basic and minimum requirements only and that other requirements may be imposed that are unique to individual projects or uses. Additionally, I have reviewed and understand the section from the Consolidated Fee Schedule and hereby agree to comply with this resolution. I also agree to allow the Staff, Planning Commission, or County Council or appointed agent(s) of the County to enter the subject property to make any necessary inspections thereof.

Property Owner's Signature: [signature] Date: May 2, 2019

200700010 00007



VICINITY MAP
SCALE: 1"=2000'
PROJECT SITE
GRAND COUNTY
SAN JUAN COUNTY
S. SPANISH VALLEY DR.
SPANISH VALLEY RD.
U.S. HWY 191
53 TRUCK SPACES
90 AUTO SPACES
LOVE'S COUNTRY STORE
DETENTION POND
PROPOSED UNDERGROUND STORAGE TANKS
DUMPSTER PAD
YARD BUILDING
PROPOSED FIRE HYDRANT ASSEMBLY
APPROX. LOVE'S BOUNDARY
APPROXIMATE LOCATION OF EXISTING WATER MAIN
APPROXIMATE LOCATION OF EXISTING SEWER MAIN
PROPOSED 6" WATER LINE (TO TIE TO EXISTING WATER MAIN MAIN)
PROPOSED ONE (1) 2" DOMESTIC WATER METER AND ONE (1) 2" IRRIGATION METER
APPROX. R/W LINE
PROPOSED 6" SANITARY SEWER SERVICE (TO TIE TO EXISTING SANITARY SEWER MAIN)
U.S. HIGHWAY 191
PARCEL NUMBER: 26522E357800
SITE STATISTICS:
LOVE'S COUNTRY STORE ±7,862 S.F.
RESTAURANT W/ DRIVE-THRU ±3,252 S.F.
INTERIOR RESTAURANT ±2,536 S.F.
PARKING SUMMARY 90 AUTO SPACES (INCLUDES 4 ADA SPACES) 8 RV SPACES PROVIDED 53 TRUCK SPACES PROVIDED 151 TOTAL SPACES PROVIDED
TOTAL SITE AREA 13.06 ACRES
TOTAL PROJECT AREA 13.89 ACRES
PERVIOUS AREA 4.79 ACRES (36.68%)
IMPERVIOUS AREA 8.27 ACRES (63.32%)
ZONING CONTROLLED DISTRICT - HIGHWAY
FOR PERMITTING ONLY
LOVE'S TRAVEL STOPS & COUNTRY STORES
DRAWN BY: JDK DATE: 05/03/19
CHECKED BY: SAP DATE: 05/03/19
DESIGNED BY: SAP
SCALE: 1"=80' PLOT DATE: 05/03/19
REVISIONS
PROJECT: MOAB, UT
SHEET TITLE: SKETCH PLAN
PROJ. NO. 2017005
SHEET NO. 1

200700010 00009

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER

CHIPOLA ENGINEERING GROUP, INC
4420 JACKSON ST.
MARIANNA, FL 32448

HANCOCK BANK
63-1278/631

002372

5/3/2019

PAY TO THE ORDER OF Grand County Community Development $ **550.00

Five Hundred Fifty and 00/100*** DOLLARS

Grand County Community Development

Memo

AUTHORIZED SIGNATURE

SECURITY FEATURES INCLUDED. DETAILS ON BACK.

Exhibit 3

Court of Appeals Ruling

2023 UT App 12

THE UTAH COURT OF APPEALS

NORTHERN SAN JUAN COUNTY COALITION,
Appellant and Cross-appellee,
v.
SAN JUAN COUNTY,
Appellee,

LOVE'S TRAVEL STOPS & COUNTRY STORES,
Intervenor, Appellee, and Cross-appellant.

Opinion
No. 20210235-CA
Filed February 2, 2023

Seventh District Court, Monticello Department
The Honorable Don Torgerson
No. 200700010

Matthew A. Steward and Shaunda L. McNeill,
Attorneys for Appellant and Cross-appellee

Barton H. Kunz II, Alex J. Goble, and Kendall G.
Laws, Attorneys for Appellee

Matthew J. Ball and Jeffery A. Balls, Attorneys for
Intervenor, Appellee, and Cross-appellant

SENIOR JUDGE KATE APPLEBY authored this Opinion, in which
JUDGES GREGORY K. ORME and RYAN D. TENNEY concurred.[1]

APPLEBY, Senior Judge:

¶1 The Northern San Juan County Coalition (the Coalition) appeals the district court's dismissal of its petition for review. The district court determined that it did not have subject matter

---

1. Senior Judge Kate Appleby sat by special assignment as authorized by law. *See generally* Utah R. Jud. Admin. 11-201(7).

jurisdiction to hear the petition because of the Coalition's failure to exhaust its administrative remedies in its challenge to a land use decision by San Juan County (the County) approving a planned travel stop of Love's Travel Stops & Country Stores (Love's). In response, Love's cross-appeals the district court's preliminary determination that the Coalition had standing to file its petition. We affirm the court's decision as it relates to the cross-appeal but reverse its decision on each of the points raised by the Coalition's appeal.

BACKGROUND

¶2 Because of increased development in Spanish Valley (in northern San Juan County), the County retained a community planning firm to create a new area plan, and the plan was adopted in April 2018. As new zoning ordinances were created to implement the plan, the planning commission considered a possible development moratorium. The moratorium was first proposed on April 16, 2019, but its adoption was postponed as the result of a county official's request and other procedural delays.

¶3 Love's, having been alerted to the impending moratorium, submitted a sketch plan application for a commercial development on May 3, 2019. The proposed development was a travel center on approximately thirteen acres of land, including a convenience store, a drive-through fast food restaurant, gas pumps, ninety automobile parking spaces, and fifty-three truck parking spaces. The County responded on May 10 (the May 10 Letter), acknowledging receipt of the application and stating, "Under San Juan County's code, this proposal is for a commercial development in a commercial zone so there is nothing additional that Love's needs to do at this time."

¶4 Before Love's plan was approved, there was "active community involvement" and "substantial public clamor about the possibility of a Travel Stop in Spanish Valley." The Coalition

emerged in this milieu when, on March 23, 2019, Carolyn Dailey, a community member, sent an email to neighbors and other community members announcing the Coalition's formation, with the purpose "to have our voice heard in our county government." The Coalition held its first meeting in early April and continued to meet regularly. On May 21, the County held a commissioners' meeting at which Dailey spoke on the Coalition's behalf in support of the proposed development moratorium. Dailey also spoke out against "a Love's truck stop with 53 diesel truck parking slots to be built within 25 feet of residential neighborhoods." The County thereafter adopted the moratorium at this meeting.

¶5 On June 6, Dailey emailed the interim county administrator, asking whether Love's would be subject to the moratorium and asking, "We would also like to know whether Love's was able to get applications, fees, etc[.] rushed through the process to be issued a permit before the Moratorium deadline—or tell me who to contact to get that information?" The following day, June 7, the administrator responded,

> According to the County Planning and Zoning staff, [Love's] applied for the permit to have the truck stop there and they engaged in substantial activities in anticipation of the development long before the moratorium was in place (I found references to the truck stop in news articles published in March). So they're likely vested in that sense.
>
> The San Juan County zoning code . . . reads so permissively that it is tough to see how that kind of use would not be permitted there with the current zoning language.
>
> I think the best person to talk with is probably Brian Torgerson with [the Utah School and Institutional Trust Lands Administration] at this

> point, but I will continue to learn about the situation as well.

¶6 This response prompted Jeannie Bondio, another Coalition member, to file a request with the County pursuant to the Government Records Access and Management Act (the GRAMA Request). Bondio filed her request on June 11 and asked the County to provide any permit applications submitted by Love's, any County determination or evaluation of such applications, any fees paid, and all communications between the County and Love's regarding the proposed travel stop.

¶7 The County responded to the GRAMA Request on June 26. Although the response did not provide all documents requested, it produced Love's sketch plan application and the May 10 Letter. This was the first date upon which the Coalition had actual notice of any approval expressed by the County.

¶8 Ten days later, on July 6, Bondio sent a letter (the Bondio Letter) to the San Juan County Commission (the Commission) following up on the GRAMA Request. She first addressed the dearth of records she received in response to her broad request. She then specifically referenced zoning ordinances with which Love's sketch plan application failed to comply. She concluded her letter with a request that the Commission "investigate this matter immediately[] and issue a decision" as to whether Love's sketch plan had been determined to be in compliance with existing zoning ordinances and whether the application was "deemed complete."

¶9 After months with no response from the Commission, the Coalition retained counsel and sent a letter to the Commission on December 16, asking it to hold a hearing to address the issues raised in the Bondio Letter. Upon further prompting, the County eventually responded to counsel on March 13, 2020, explaining that the Commission would not hold a hearing on the matter

because the Coalition had failed to appeal within ten days of the May 10 Letter.

¶10 The Coalition petitioned the Seventh District Court, seeking review of the matter. Upon the County's request, Love's was joined as a necessary party to the action. Eventually, the Coalition and the County filed cross-motions for summary judgment, with the Coalition arguing that the undisputed facts showed the County did not follow the law in approving Love's plan and the County arguing, in part, that the Coalition lacked standing because it did not exhaust its administrative remedies. Around this same time, Love's filed a motion to dismiss, also arguing that the Coalition failed to exhaust its administrative remedies and additionally asserting that the Coalition lacked associational standing.

¶11 After a hearing, the district court granted the County's motion for summary judgment and Love's motion to dismiss. The court determined that the Coalition had associational standing to bring its claims but had not exhausted its administrative remedies because (1) the Coalition could not rely on the Bondio Letter as an appeal on its behalf since it was not sent in a representative capacity, (2) the Bondio Letter was not an appeal in any event, and (3) the Bondio Letter was untimely. The court therefore concluded that it lacked subject matter jurisdiction. The Coalition now appeals each of the determinations regarding the exhaustion of administrative remedies, and Love's cross-appeals, challenging the court's determination as to associational standing.

ISSUES AND STANDARDS OF REVIEW

¶12 The Coalition challenges several aspects of the district court's dismissal of its claims, specifically, those determinations as to the exhaustion of administrative remedies. "Whether a court lacks subject matter jurisdiction due to a party's failure to exhaust administrative remedies is a question of law, reviewed for

correctness." *Republic Outdoor Advert., LC v. Utah Dep't of Transp.*, 2011 UT App 198, ¶ 12, 258 P.3d 619 (quotation simplified).

¶13 Love's challenges the district court's determination as it relates to whether the Coalition had associational standing to pursue its claims. "When evaluating standing at the motion-to-dismiss stage, the question of standing is primarily a question of law, which we review for correctness." *In re John Edward Phillips Family Living Trust*, 2022 UT App 12, ¶ 22, 505 P.3d 1127 (quotation simplified).

ANALYSIS

I. Exhaustion of Administrative Remedies

A. Representative Capacity

¶14 The district court determined that the Coalition did not exhaust its administrative remedies because it could not rely on the Bondio Letter as an appeal to the Commission. The court, citing Utah's assumed name statute, reasoned that this was so because "at the time of the Bondio Letter, the Coalition was not authorized by Utah law to transact any business as an association and could not designate an agent." The court also determined that the Bondio Letter was not an appeal by the Coalition because it "did not transact business in the name of the Coalition" and because "an undisclosed agency relationship does not meet the Zoning Ordinance's requirement that the person affected file the appeal." The Coalition argues that the assumed name statute did not prevent Bondio from acting as an agent when she sent the letter and that she did not need to disclose her agency relationship to act on behalf of the Coalition. We agree.

¶15 Utah's assumed name statute provides that "[a] person who carries on, conducts, or transacts business in this state under an assumed name, whether that business is carried on, conducted, or transacted as an individual, association, partnership,

corporation, or otherwise," shall file a certificate with the State within thirty days "after the time of commencing to carry on, conduct, or transact the business." Utah Code § 42-2-5(2), (3). Although the Coalition filed a certificate to satisfy this statute before it filed its petition in the district court, it had not done so at the time the Bondio Letter was sent to the Commission. The Coalition argues that this failure has no effect on whether Bondio and other Coalition members could act as agents for the Coalition. Love's responds that the Coalition's interpretation "would render the statute meaningless by making compliance with a purportedly mandatory statute entirely voluntary (and depriving Utah's citizens of the protection the statute is obviously intended to provide)." We disagree.

¶16 The assumed name statute "is primarily for the convenience of the public rather than protection of the public." *Platt v. Locke*, 358 P.2d 95, 98 (Utah 1961) (quotation simplified). The penalties for noncompliance with the statute are identified as (1) a prohibition of maintaining any action in the Utah courts and (2) a possible assessment of a late filing fee. *See* Utah Code § 42-2-10. Although failure to comply with the statute prohibits an aggrieved party from maintaining an action in court, it does not prohibit such a party from challenging a land use decision with the appropriate local appeal authority. And "it is generally recognized that the legislature in passing [the assumed name statute] did not intend, in addition to subjecting the offender to an express penalty, also to impose the additional penalty of refusing [the offender] any relief on the contract or transactions entered into without compliance with the statute." *Platt*, 358 P.2d at 98 (quotation simplified); *see also Fillmore Products, Inc. v. Western States Paving, Inc.*, 561 P.2d 687, 689 (Utah 1977) ("This court has not applied the general rule of denying relief to unlicensed persons . . . inflexibly or too broadly."); *cf. Olsen v. Reese*, 200 P.2d 733, 736 (Utah 1948) ("The authorities are fairly uniform to the effect that failure to obtain a license which is required by a statute enacted solely for revenue purposes does not render contracts made by the offending party void. On the other hand, contracts

made by an unlicensed contractor when in violation of a statute passed for the protection of the public are held to be void and unenforceable."). Thus, although the Coalition could not, at the time the Bondio Letter was sent, maintain an action *in court*, it could (and did) appeal *to the Commission*.

¶17 Furthermore, even when an entity fails to timely file the required certificate, our case law is clear that such oversight can be cured upon filing. *See Wall Inv. Co. v. Garden Gate Distrib., Inc.*, 593 P.2d 542, 544 (Utah 1979) ("[The plaintiff]'s *early* failure to comply with the assumed name statute does not disqualify it as a plaintiff in this suit. The only sanction associated with non-compliance is denial of the non-complying entity's access to the courts, and that sanction is removed on compliance." (emphasis added)); *Elite Legacy Corp. v. Schvaneveldt*, 2016 UT App 228, ¶ 53, 391 P.3d 222 (relying on precedent where an entity "conducted business under an unregistered, assumed name" and where we held that this fact did not "make the complaint a nullity on its face" (quotation simplified)); *Graham v. Davis County Solid Waste Mgmt. & Energy Recovery Special Service Dist.*, 1999 UT App 136, ¶ 15, 979 P.2d 363 (determining that an unincorporated association that had never filed under the assumed name statute "could have cured the deficiencies in the complaint by filing"). Thus, the interpretation advanced by Love's is far too restrictive.

¶18 We now turn to the question of whether Bondio could have been acting on behalf of the Coalition when her letter used the first-person pronoun "I" instead of "we" and made no reference to the Coalition. An agent can act on behalf of an entity even when the agent "acts in his own name without disclosing his principal," and "this is true even though the third person dealing with the agent did not learn of the existence of the principal until after the [action] was completed." *Garland v. Fleischmann*, 831 P.2d 107, 110 (Utah 1992) (quotation simplified). Thus, the question is not whether the County could discern from the Bondio Letter that it was sent on behalf of the Coalition but, rather, whether it was actually sent on the Coalition's behalf.

¶19 Ample record evidence demonstrates that the Bondio Letter was sent on the Coalition's behalf. First, there is evidence that the GRAMA Request (which the Bondio Letter addressed) was made in a representative capacity. The day after the GRAMA Request was sent, the Coalition held a meeting, the notes from which reflect that "we have made a GRAMA request" and that the results of that request "will determine our strategy." And when the response to the GRAMA Request was received, it was promptly circulated among Coalition members. Next, the Bondio Letter itself was circulated on the Coalition listserv the same morning it was sent to the Commission. Finally, there is evidence that Bondio worked with other members of the Coalition in preparing both the GRAMA Request and the resulting Bondio Letter.

¶20 Thus, because the late filing under the assumed name statute did not prevent the formation of an agency relationship between the Coalition and Bondio, and because there is evidence supporting the Coalition's assertions that Bondio was acting on its behalf when she sent the Bondio Letter, the district court's determination that the Coalition did not file the appeal is erroneous.

B. Requirements of an Appeal

¶21 The relevant county ordinance provides that "any person affected by the land use authority's decision applying a land use ordinance may . . . appeal that decision to the Appeal Authority by alleging there is error in any order, requirement, decision, or determination made by the land use authority in the decision applying the land use ordinance." San Juan County, Utah, Zoning Ordinance § 2-2(2) (2011); *see also* Utah Code § 17-27a-703(1). The district court determined that the Bondio Letter did not identify the land use decision being appealed or an error made by the decision. We disagree.

¶22 The Bondio Letter begins by expressing frustration with the apparent "shell game" going on in relation to the travel stop and the County's reluctance to reveal the truth. In support of this, the letter discusses the GRAMA Request being answered by production of only (1) the sketch plan application and (2) the May 10 Letter stating "there is nothing additional that Love's needs to do at this time." The Bondio Letter notes that no documents were provided showing any determination that Love's application was complete or showing any evaluation of the application. The Bondio Letter goes on to elaborate on two zoning ordinance sections that were not followed according to the information disclosed, concluding that "[t]he 'sketch plan application' Love's submitted on May 3 does not appear to comply with the requirements of the existing San Juan County Zoning Ordinance, specifically sections 12-2 and 12-4," and that the application was therefore not complete before the moratorium became effective. The Bondio Letter's final section, captioned "Conclusion and Request," states,

> The County must comply with its own Zoning Ordinance. I request that the County Commission investigate this matter immediately, and issue a decision as to whether:
>
> 1. Love's 'sketch plan application' has been determined by the County to be in compliance with its existing Zoning Ordinance; and
>
> 2. The Commission considers Love's sketch plan application to be a land use application that has been 'deemed complete' as of the effective date of the Temporary Moratorium Ordinance as well [as] Utah Code 17-27a-5[0]8.

The Bondio Letter concludes, "I look forward to your response soon."

¶23 Thus, the Bondio Letter did mention Love's sketch plan application, the May 10 Letter stating the position that nothing more was required, and the specific ordinances that the County allegedly violated in relation to such a position. And the Bondio Letter asked the Commission to review the matter and "issue a decision" on it. Under the facts of this case, we determine that this was sufficient to constitute an appeal under the appeal ordinance. *See* San Juan County, Utah, Zoning Ordinance § 2-2(2) (2011).

¶24 Both Love's and the County find fault with the Bondio Letter's failure to specifically include the word "appeal" or to request a hearing. But they provide no authority indicating that those specific words are required.[2] And to the extent that the Bondio Letter was not more specific in singling out the May 10 Letter as the County's erroneous decision, that is largely the result of its expressed (and understandable) uncertainty that the May 10 Letter—hardly the paradigm of clarity itself—was intended to function as a land use decision. Nonetheless, the Bondio Letter raised the May 10 Letter's language that nothing more was required and argued against that proposition, pointing to the specific ordinances that it argued would render such a position erroneous, and asked the Commission to investigate and "issue a decision" on the matter. Thus, the Bondio Letter clearly challenged the assertion of the May 10 Letter.

¶25 In sum, because the Bondio Letter referred to the May 10 Letter and specified which ordinances were inconsistent with the position expressed therein, the Bondio Letter met the requirements for an appeal under the related ordinances.

---

2. Love's also argues that because the Bondio Letter was submitted via email to the county administrator, it does not satisfy the requirement that an appeal "must be filed in writing to the County Administrator," *see* San Juan County, Utah, Zoning Ordinance § 2-2(2)(a) (2011). But this contention is not supported by any authority or reasoned analysis, and we decline to consider it further.

Therefore, the district court's determination to the contrary is erroneous.

C. Timeliness

¶26 The parties agree that the relevant ordinance requires anyone appealing a land use decision in San Juan County to submit the appeal "within ten (10) calendar days of the issuance of the written decision applying the land use ordinance." San Juan County, Utah, Zoning Ordinance § 2-2(2)(a) (2011). And they recognize that the appeal window does not begin with the issuance of the land use decision but, rather, when the appealing party "receive[s] actual or constructive notice of the issuance of [the land use decision]." *Fox v. Park City*, 2008 UT 85, ¶ 25, 200 P.3d 182.

¶27 The Coalition argues that it was not until the June 26 response to the GRAMA Request that the Coalition received actual notice of the County's May 10 Letter, which is the decision relevant to this case. The Coalition therefore argues that its appeal was timely, having been filed on July 6, just ten days after receipt of the response to the GRAMA Request. Although the Coalition recognizes the concept of constructive notice, it contends that the events relied on by the district court would not have provided earlier constructive notice of the County's decision. We agree.

¶28 The district court concluded that three events gave the Coalition earlier constructive notice of the County's decision. First, the court relied on the "substantial public clamor" about the possibility of the truck stop being approved and the "active community involvement" on the matter, including involvement by members of the Coalition. Second, the court pointed to comments Dailey made during a public meeting on May 21 that referred to specific details from the truck stop project, and the court inferred from these comments that the Coalition knew by

that date that Love's had submitted an application.[3] Third, the court relied on the interim county administrator's June 7 email stating that Love's "had applied for the permit after 'substantial activities in anticipation of the development,' and [was] 'likely vested.'" But we agree with the Coalition that none of these events constituted constructive notice that *a decision* on the application had been made.

¶29 In *Fox v. Park City*, 2008 UT 85, 200 P.3d 182, the Utah Supreme Court discussed the constructive notice that would start running the time to appeal. The supreme court stated, "Generally, if a party does not receive actual notice of the issuance of the permit, the party receives constructive notice that a building permit has been issued when construction begins." *Id.* ¶ 27. But this is not the only way constructive notice can occur. *Id.* For example, "the permit holder may devise some method of his own for ensuring that members of the public will be chargeable with knowledge of the permit and his building intentions, such as posting a visible and informative sign on the property prior to construction." *Id.* (quotation simplified). That is, after a transparent action that would clearly convey to affected parties that a decision has been made, those parties will be chargeable with knowledge of the land use decision. Either way, the permit holder has "the responsibility of providing notice of the permit's *issuance*, whether it be by beginning construction or by some other means." *Id.* ¶ 34 (emphasis added).

¶30 But the events relied upon by the district court were not such actions. They did not clearly put the Coalition on notice that a decision had been made. Unlike the start of construction that would communicate that a building permit must have been acquired, the actions here—public clamor, knowledge of an

---

3. The Coalition does not accept this inference drawn by the court. But because we disagree with the district court's timeliness determination, we need not further address the validity of this inference.

application, and being informed that Love's was "likely" vested as a result of the activities it had taken in anticipation of approval—do not clearly indicate that the County had made a decision. And because the short ten-day appeal period starts running upon receipt of constructive notice, *see id.* ¶ 24, it cannot be the case that alerting a party to events that typically occur *prior* to a land use decision being made qualifies as constructive notice of the subsequent decision itself. Indeed, if we allowed notice of an application's pending or submitted status to constitute constructive notice, it could "effectively strip[] potentially aggrieved parties of their right to appeal." *See id.* This is because whenever a party became aware of an application's existence more than ten days before a county acted on the application, then the ten-day appeals period would have commenced and would have completely run before there even existed any decision to appeal.[4]

¶31 Thus, we do not agree that knowledge of precursor events indicating an impending land use decision is sufficient to constitute constructive notice of the issuance of that land use decision. Instead, the time for the Coalition to file its appeal began to run with receipt of the GRAMA response on June 26, thus making its July 6 appeal timely. The district court's determination to the contrary was erroneous.

---

4. To the extent Love's argues that the June 7 email constitutes not just notice that an application had been filed, but also notice that it had been approved, we disagree. The language of the email is unlike the "visible and informative sign" that the *Fox* court opined would convey constructive notice. *See Fox v. Park City*, 2008 UT 85, ¶ 27, 200 P.3d 182 (quotation simplified). Instead, the language of this email was vague and uncertain, stating only that Love's was "likely vested" and hypothesizing that it was unlikely the proposed use "would not be permitted," and then directing Dailey where to obtain more information. That language clearly suggests that a decision had not yet been made.

II. Associational Standing

¶32 Rule 17(d) of the Utah Rules of Civil Procedure provides, "When two or more persons associated in any business either as a joint-stock company, a partnership or other association, not a corporation, transact such business under a common name, . . . they may sue or be sued by such common name." Utah R. Civ. P. 17(d). Love's contests the district court's determination that the Coalition could appropriately bring suit under this rule, specifically challenging whether the Coalition transacted business, as required by the rule.

¶33 As an initial matter, we agree with the Coalition that Love's defines "transacted business" far too narrowly when it argues that the Coalition did not transact business because it "does not claim to have ever contracted with anyone, acquired or transferred any asset, spent any money or purchased any service." The factors relevant to determine whether an entity has "transacted business" depend heavily on the type of business in which the entity typically engages. So although the factors in a for-profit company likely will include many activities with economic implications, the relevant factors will be different for a non-profit association with other organizational goals.

¶34 For example, in a previous case we determined that "an unincorporated, voluntary environmental watch-dog association" met the requirements of rule 17(d) where it had "act[ed] under a common name for several years *in monitoring and working to improve air quality* in Davis County." *Graham v. Davis County Solid Waste Mgmt. & Energy Recovery Special Service Dist.*, 1999 UT App 136, ¶ 12, 979 P.2d 363 (emphasis added). And even in a case involving a bank—an entity whose business clearly revolved around financial transactions—one factor the court listed as relevant was decidedly non-financial: "how the business holds itself out to the public." *Hebertson v. Willowcreek Plaza*, 895 P.2d 839, 840 (Utah Ct. App. 1995), *aff'd*, 923 P.2d 1389 (Utah 1996).

Thus, more factors are relevant to whether an entity "transacted business" than simply those involving financial transactions.

¶35 In its determination of standing, the district court noted,

> There is evidence in the litigation record that the Coalition has engaged in fundraising efforts. Its efforts have expanded and it is involved with general development in the Spanish Valley. The efforts reflect its stated purpose of community activism and advocacy. And it filed its assumed name designation with the State on the day it filed for judicial review. Considering all of the Coalition's activities by the time this case was filed, the court is persuaded that the Coalition could sue as an association . . . .

Love's takes issue with this conclusion and argues that there was no record evidence supporting the court's observation that the Coalition engaged in fundraising.

¶36 Although there are at least some record references to the Coalition's fundraising, many other facts in the record support the district court's ultimate conclusion that the Coalition had standing to bring its claims. Specifically, there is evidence that the Coalition conducted many activities to transact its business of "hav[ing] our voice heard in our county government," such as holding frequent meetings, recruiting members, "monitoring planning and zoning developments in the County, attending and speaking at County Commission and Planning and Zoning Commission meetings," "organizing [public] letter-writing campaigns, meeting individually with public officials and planning consultants, and engaging with the media on news stories and sending Letters to the Editor." These activities show that the Coalition transacted business under a common name, and they support the district court's standing determination. We

therefore decline to disturb the district court's standing determination.[5]

CONCLUSION

¶37 We disagree with the district court on each aspect of its determination as to the exhaustion of administrative remedies. The Bondio Letter was an adequate, timely filed appeal on the Coalition's behalf. We therefore reverse the court's summary judgment and dismissal, and we remand for further proceedings.

¶38 As to Love's cross-appeal, we agree with the district court that the Coalition had associational standing to pursue its claims on appeal. We therefore decline to disturb this portion of the district court's decision.

---

5. The County also argues that there can be "no basis for associational standing" where there exists no single member of the Coalition that both filed an appeal of and was adversely affected by the county's decision. *See generally* Utah Code § 17-27a-801(1)–(2) (requiring an "adversely affected party" to exhaust administrative remedies before challenging a land use decision in district court). But as discussed above, *see supra* Part I.A, the Bondio letter was an appeal on behalf of the Coalition; thus, *the Coalition* filed the appeal. And *the Coalition* also has standing as an adversely affected party because at least one of its members owns property adjoining the land intended for the travel stop. *See* Utah Code § 17-27a-103(2) (including in the definition of "adversely affected party" a person who "owns real property adjoining the property that is the subject of a land use application or land use decision"); *Utah Chapter of Sierra Club v. Utah Air Quality Board*, 2006 UT 74, ¶ 21, 148 P.3d 960 ("An association . . . has standing if its individual members have standing and the participation of the individual members is not necessary to the resolution of the case."). Thus, this argument is not well taken.

CERTIFICATE OF MAILING

I hereby certify that on the 2nd day of February, 2023, a true and correct copy of the attached OPINION was sent by standard or electronic mail to be delivered to:

MATTHEW A. STEWARD
SHAUNDA L MCNEILL
CLYDE SNOW & SESSIONS
MAS@CLYDESNOW.COM
SLM@CLYDESNOW.COM

MATTHEW J. BALL
JEFFERY A BALLS
PARR BROWN GEE & LOVELESS
MBALL@PARRBROWN.COM
JBALLS@PARRBROWN.COM

ALEX J. GOBLE
KENDALL G LAWS
SAN JUAN COUNTY ATTORNEY
AGOBLE@UTCOURTS.GOV
KLAWS@UTAH.GOV

BARTON H KUNZ II
KUNZ PC
BKUNZ@KUNZPC.COM

HONORABLE DON TORGERSON
SEVENTH DISTRICT, MONTICELLO

SEVENTH DISTRICT, MONTICELLO
ATTN: ADRIENNE GARCIA
montscan@utcourts.gov

Judicial Secretary

TRIAL COURT: SEVENTH DISTRICT, MONTICELLO, 200700010
APPEALS CASE NO.: 20210235-CA

Exhibit 4

District Court Memorandum Opinion

IN THE SEVENTH JUDICIAL DISTRICT COURT
IN AND FOR SAN JUAN COUNTY, STATE OF UTAH

NORTHERN SAN JUAN COUNTY COALITION Petitioner, vs. SAN JUAN COUNTY; and BOARD OF SAN JUAN COUNTY COMMISSIONERS, Respondents, and LOVE'S TRAVEL STOPS & COUNTRY STORES, INC. Intervenor.	ORDER ON PETITIONER'S MOTION FOR SUMMARY JUDGMENT AND RESPONDENT'S CROSS-MOTION FOR SUMMARY JUDGMENT Case No. 200700010 Judge Don M. Torgerson

Before the court are cross motions for summary judgment filed by petitioner Northern San Juan County Coalition ("Coalition") and respondents San Juan County and the San Juan County Commission (collectively "County"). Since originally deciding the motions, the court received remand from the Utah Court of Appeals holding that summary judgment should not have been granted for the County because the Coalition had standing and filed an adequate, timely appeal. Having reconsidered the motions, briefing, and argument, the court now decides the motions as explained below.

This petition arises from a decision by the County's Zoning Administrator on May 10, 2019 granting concept approval for a Love's Travel Stop in northern San Juan County. The project has proposed facilities for a convenience store, fast food restaurant, automobile fueling stations and parking, and tractor-trailer fueling stations and parking. The Zoning Administrator apparently determined that the project was a permitted use, stating that the "…proposal is for a commercial development in a commercial zone so there is nothing additional that Love's needs to do at this time."

Upon learning of the approval, the Coalition appealed the land use decision. Under Chapter 2-2(2)(b) of the Zoning Ordinance of San Juan County, Utah ("Zoning Ordinance") the Board of County Commissioners should have heard the Coalition's appeal within 30 days after it was filed. But the Commissioners never heard the appeal and the Coalition's petition for judicial review eventually followed.

RULING AND CONCLUSIONS OF LAW

On a petition for judicial review, a district court must presume that a decision of a land use authority is valid unless the decision is arbitrary and capricious, or illegal.[1] And "illegal" means that the decision is "based on an incorrect interpretation of a land use regulation" or "is contrary to law".[2] Thus, the central question before the court is whether the Zoning Administrator complied with the Zoning Ordinance when issuing his concept approval for the Love's Travel Stop.

The Zoning Administrator is authorized by the Board of County Commissioners to enforce the Zoning Ordinance.[3] But "…shall not issue any permit unless the plans of the proposed erection, construction, reconstruction, alteration and use fully conform to all zoning regulations then in effect."[4] And if there is a question about whether development plans are "…consistent with the general objectives of this Ordinance, the Planning Commission shall make a determination."[5]

The Coalition argues that the Zoning Administrator's approval was illegal because a "truck stop" is not an explicit permitted use under the Zoning Ordinance and required either a conditional use permit or a variance before it could be approved—both of which require Planning Commission authorization. The County and Intervenor both argue that it is a permitted use as an "automobile service station" and could be approved by the Zoning Administrator as it was.

---

[1] Utah Code §17-27a-801(3)(b)
[2] *Id.* at 3(c).
[3] Zoning Ordinance 1-8.
[4] *Id.* at 1-11.
[5] *Id.* at 1-7.

Among the permitted uses in the Zoning Ordinance Highway Commercial CDh zone are "Restaurant or drive-in café" and "Automobile Service Station, Auto Accessories."[6] Also permitted are "Other uses approved by the Planning Commission as being in harmony with the intent of the neighborhood commercial zone and similar in nature to the above listed uses."

The Zoning Administrator approved the Love's Travel Stop concept because, in his interpretation, it was a "commercial development in a commercial zone." But the record contains no explanation for his conclusion. He did not identify which permitted use he was approving or explain why he believed the project fell within the CDh Zone's enumerated permitted uses. Since his decision required him to interpret an ambiguity in the Zoning Ordinance rather than simply apply explicitly identified zoning regulations, the court finds that his decision to approve was illegal.

The Zoning Administrator has little authority to interpret, and no authority to expand the coverage of the Zoning Ordinance. In fact, he may only issue a permit if the plans "fully conform to all zoning regulations then in effect." Any ambiguity in the Ordinance or application beyond its explicit terms require Planning Commission approval. And Love's application here required interpretation that was beyond the Zoning Administrator's limited authority. For example, are mixed uses still permitted uses under the ordinance? Does an "automobile service station" include fueling stations for commercial heavy trucks?

The proposed Love's Travel Stop is neither explicitly a restaurant nor an automobile service station, yet it might be both things (and more). In other words, it is a mixed use and mixed uses are not explicitly permitted under the Zoning Ordinance. Instead, the Planning Commission (not this court) must first determine from substantial evidence whether this project is "an automobile service station," a "restaurant," or both. And if so, whether two or more permitted uses can be combined and still be in harmony with the Highway Commercial zone.

And because the Planning Commission must decide those questions and determine whether the use also requires a variance or conditional use permit, the

---

[6] *Id*. at 12-2.

Zoning Administrator's approval exceeded his limited grant of authority under the Zoning Ordinance and was illegal.

Because the Zoning Administrator's decision was illegal, the court REVERSES the concept approval and REMANDS this matter to the Planning Commission to reconsider Love's land use application.

Petitioner is ordered to submit a proposed judgment for the Court's consideration.

Dated: 10/2/2023

By: ______________________
Don M. Torgerson
District Court Judge

STATE OF UTAH
SEVENTH DISTRICT COURT

Exhibit 5

District Court Judgment

SEVENTH DISTRICT COURT - MONTICELLO
SAN JUAN COUNTY, STATE OF UTAH

NORTHERN SAN JUAN COUNTY COALITION, Petitioner/Plaintiff, v. SAN JUAN COUNTY, BOARD OF SAN JUAN COUNTY COMMISSIONERS, Respondent/Defendant, LOVE'S TRAVEL STOPS & COUNTRY STORES, INC. Intervenor.	**JUDGMENT** **(Court Modified)** Case No. 200700010 Judge: Don M. Torgerson

On October 2, 2023, following a remand from the Utah Court of Appeals, this Court issued an Order on Petitioner's Motion for Summary Judgment and Respondent's Cross-Motion for Summary Judgment (the "Order").

The court has considered Love's objection to the Coalition's proposed order. And the court has again reviewed the Coalition's demand that Love's land use application be reviewed under the land use regulations in effect today. As before, the court declines the invitation to specify the version of law on remand. That issue is not ripe and cannot be determined on the record before the court. As presently situated, specifying the law on remand would constitute an advisory decision without record evidence since the factfinder (Planning Commission) has not yet considered the application,

determined whether it is complete, or made any other reviewable factual determinations about the application.

Based on the findings and conclusions stated in the Order, the Court GRANTS Petitioner's Motion for Summary Judgment and DENIES Respondent's Cross-Motion for Summary Judgment.

Pursuant to Utah Code Section 17-27a-801(3)(d), the Court REVERSES the land use decision wherein Respondent approved Intervenor's land use application and REMANDS this matter to Respondent's land use authority to consider Love's land use application and issue a land use decision consistent with the Order and applicable law.

As there are no outstanding claims remaining before the Court, this order constitutes the Court's final judgment.

__________________ END OF ORDER ___________________

NOT VALID UNTIL EXECUTED AND ENTERED BY THE COURT AS INDICATED BY THE DATE AND SEAL AT THE TOP OF THE FIRST PAGE OF THIS DOCUMENT

Exhibit 6

County-SITLA-Love's Correspondence

D233-1479

Elise Erler <eliseerler@utah.gov>

Re: [EXT] Fwd: Proposed resolution

1 message

Kym Van Dyke <Kym.VanDyke@loves.com> Thu, Apr 25, 2019 at 3:11 PM
To: Elise Erler <eliseerler@utah.gov>
Cc: "Torgerson, Bryan" <bryantorgerson@utah.gov>

Thanks for the clarification.

Sent from my iPhone

On Apr 25, 2019, at 2:40 PM, Elise Erler <eliseerler@utah.gov> wrote:

> Kym,
> My voicemail to you earlier this week may have contained incorrect information. Please see the explanation below from Kelly Pehrson, the County Administrator.
>
> On another topic, Ryan Hales, transportation planner/engineer, will be on vacation from May 1st, returning to work on May 13th. As i recall, he was looking into UDOT access to US-191 for you.
> Let me know if you have any questions.
> Regards,
> Elise
>
> ---------- Forwarded message ---------
> From: **Kelly Pehrson** <kpehrson@sanjuancounty.org>
> Date: Thu, Apr 25, 2019 at 2:33 PM
> Subject: Re: Proposed resolution
> To: Elise Erler <eliseerler@utah.gov>
>
> It will return on May 7th to a commission meeting. Just wow you know just passing a resolution doesn't trigger a moratorium. By state code it has to be an ordinance and in order to pass an ordinance you have to hold a public hearing . Kendall advised the commission of this but I don't know if they full grasp it yet.
>
> Sent from my iPhone
>
> On Apr 25, 2019, at 2:27 PM, Elise Erler <eliseerler@utah.gov> wrote:
>
>> Kelly,
>> On April 16, 2019, did the Commission table the resolution (6-mo moratorium for SV commercial) proposed during work session? If so, when does that resolution return to the Commission agenda? Would that return be in work session or at the formal commission meeting?
>>
>> Thanks,
>> Elise

Love's Travel Stops & Country Stores, Inc.

From the Love's Family of Companies: This email neither constitutes an agreement to conduct transactions by electronic means nor creates or amends any legally binding contract or enforceable obligation in the absence of a fully signed written contract authorizing the same. This email, and any attachments and/or documents linked to this email may contain confidential and/or proprietary information and are nonetheless intended to be viewed and used legally by the individual(s) to whom addressed. Please immediately delete from your system any email you receive from us in

error. Any views or opinions in this email or any attachment are solely those of the author and do not necessarily represent those of our companies.

Exhibit 7

Declaration of Marlene Huckabay

Matthew A. Steward (#7637)
Shaunda L. McNeill (#14468)
CLYDE SNOW & SESSIONS
One Utah Center, 13th Floor
201 South Main Street
Salt Lake City, Utah 84111-2216
Telephone (801) 322-2516
mas@clydesnow.com
slm@clydesnow.com

Attorneys for Plaintiff

IN THE SEVENTH JUDICIAL DISTRICT COURT
IN AND FOR SAN JUAN COUNTY, STATE OF UTAH

NORTHERN SAN JUAN COUNTY COALITION, Plaintiff, v. SAN JUAN COUNTY, BOARD OF SAN JUAN COUNTY COMMISSIONERS, Defendant.	**DECLARATION OF MARLENE HUCKABAY** Case No. 200700010 Judge Don M. Torgerson

I, Marlene Huckabay, state and declare as follows:

1. I am over the age of eighteen and make this Declaration on my own knowledge regarding matters to which I would be competent to testify at trial.

2. I am a founding member of the Northern San Juan County Coalition.

3. I have been a resident of San Juan County since 1994.

4. My address is 4376 Sunny Acres Lane.

5. I purchased my home in Spanish Valley because of the beautiful views and the rural setting.

6. The proposed location for the Love's truck stop borders on my property.

7. I am opposed to the construction of the truck stop for many reasons.

8. First, I oppose the truck stop because I am concerned about my health and that of my visiting family and neighbors. The truck stop will produce diesel exhaust and gas vapors, which are known to cause cancer. These fumes will not only affect me when I am doing yard work and sitting on my deck; they will also seep into my house through cracks and openings and – more importantly – will be drawn inside the house through my swamp cooler during the summer months.

9. Second, I oppose the truck stop because I am concerned about my safety. I am a woman of advanced age, and I live alone. I am afraid of living next door to the vice and crime that truck stops attract and feel like I would be an easy target for burglary, vandalism, and violence.

10. Third, I oppose the truck stop because it would destroy nearly everything I love about my neighborhood and property by generating light pollution and noise and obstructing the beautiful views I currently enjoy.

11. Fourth, I oppose the truck stop because it will cause my home to lose value. Over the past 28 years, I have invested large amounts of time and energy, as well as large amounts of money, into creating a landscaped and comfortable home. Some of the larger expenditures have been for water and sewer connection, solar panels, a new metal roof, and a guest house. I do not want to lose my investment because of this truck stop.

12. Fifth, I oppose the truck stop because the construction alone will cause significant dust, noise, and other disruption to me and my property.

13. Sixth, I oppose the truck stop because it may lead to a shortage of water in the Spanish Valley and may harm the aquifer that is the source for my well.

Pursuant to Utah Code Ann. § 78B-5-705, I declare under criminal penalty of the State of Utah that the foregoing is true and correct.

DATED this 7th day of April 2020.

/s/ Marlene Huckabay
Marlene Huckabay
Signed by Shaunda L. McNeill with permission of
Marlene Huckabay

Exhibit 8

Declaration of Susan Baril

Matthew A. Steward (#7637)
Shaunda L. McNeill (#14468)
CLYDE SNOW & SESSIONS
One Utah Center, 13th Floor
201 South Main Street
Salt Lake City, Utah 84111-2216
Telephone (801) 322-2516
mas@clydesnow.com
slm@clydesnow.com

Attorneys for Plaintiff

IN THE SEVENTH JUDICIAL DISTRICT COURT
IN AND FOR SAN JUAN COUNTY, STATE OF UTAH

NORTHERN SAN JUAN COUNTY COALITION, Plaintiff, v. SAN JUAN COUNTY, BOARD OF SAN JUAN COUNTY COMMISSIONERS, Defendant.	**DECLARATION OF SUSAN BARIL** Case No. 200700010 Judge Don M. Torgerson **PRIVATE DOCUMENT**

I, Susan Baril, state and declare as follows:

1. I am over the age of eighteen and make this Declaration on my own knowledge regarding matters to which I would be competent to testify at trial.

2. My husband, Pat Baril, and I are members of the Northern San Juan County Coalition.

3. My husband and I have been residents of San Juan County since 2011.

4. Our address is 4670 Sunny Acres Lane.

5. We purchased our home in the Spanish Valley because of the dark night skies, clean air, and the small-community atmosphere.

6. I am deeply concerned about the proposed Love's truck stop. The truck stop would be located approximately 440 yards or one-quarter mile from our home. At this distance, the diesel fumes, gas vapors, noise, and light pollution would reach our home and property.

7. I am aware that diesel exhaust and fumes are highly hazardous to human health.

8. I am particularly vulnerable to exhaust and fumes because of the compromised condition of my lungs. I have a history of mycoplasma pneumonia, which led to viral encephalitis. That illness permanently and significantly compromised my lung function. Since that time, I have had pneumonia several times. Because of my compromised lungs, I experience shortness of breath more easily than most people and am vulnerable to any fumes that affect oxygen saturation or lung function.

9. I am concerned because having a truck stop in our neighborhood would change the atmosphere of the neighborhood. It would no longer feel like an intimate, rural community.

Pursuant to Utah Code Ann. § 78B-5-705, I declare under criminal penalty of the State of Utah that the foregoing is true and correct.

DATED this 3rd day of April 2020.

Susan Baril

Signature Certificate

Document Reference: Y54GECJPM4YHZPIBBIFJVU

Susan Baril
Party ID: KCBHSTIAW3Z3DMHSCKFES4
IP Address: 50.109.205.138
VERIFIED EMAIL: barilsue@aol.com

Electronic Signature:

Multi-Factor
Digital Fingerprint Checksum 923987590fbcca5ff3694d56f7e222c295dd0430

Timestamp	Audit
2020-04-03 09:49:03 -0700	All parties have signed document. Signed copies sent to: Susan Baril and Barbara Reissen.
2020-04-03 09:49:02 -0700	Document signed by Susan Baril (barilsue@aol.com) with drawn signature. - 50.109.205.138
2020-04-03 09:48:12 -0700	Document viewed by Susan Baril (barilsue@aol.com). - 50.109.205.138
2020-04-02 14:23:03 -0700	Document created by Barbara Reissen (breissen@clydesnow.com). - 65.126.127.66

This signature page provides a record of the online activity executing this contract.

Exhibit 9

Declaration of Pat Baril

Matthew A. Steward (#7637)
Shaunda L. McNeill (#14468)
CLYDE SNOW & SESSIONS
One Utah Center, 13th Floor
201 South Main Street
Salt Lake City, Utah 84111-2216
Telephone (801) 322-2516
mas@clydesnow.com
slm@clydesnow.com

Attorneys for Plaintiff

IN THE SEVENTH JUDICIAL DISTRICT COURT
IN AND FOR SAN JUAN COUNTY, STATE OF UTAH

NORTHERN SAN JUAN COUNTY COALITION, Plaintiff, v. SAN JUAN COUNTY, BOARD OF SAN JUAN COUNTY COMMISSIONERS, Defendant.	**DECLARATION OF PAT BARIL** Case No. 200700010 Judge Don M. Torgerson **PRIVATE DOCUMENT**

I, Pat Baril, state and declare as follows:

1. I am over the age of eighteen and make this Declaration on my own knowledge regarding matters to which I would be competent to testify at trial.

2. My wife, Susan Baril, and I are members of the Northern San Juan County Coalition.

3. My wife and I have been residents of San Juan County since 2011.

4. Our address is 4670 Sunny Acres Lane.

5. We purchased our home in the Spanish Valley because of the dark night skies, clean air, and the small-community atmosphere.

6. I am deeply concerned about the proposed Love's truck stop. The truck stop would be located approximately 440 yards or one-quarter mile from our home. At this distance, the diesel fumes, gas vapors, noise, and light pollution would reach our home and property.

7. I have read extensively from the scientific literature on the health effects of diesel exhaust and fumes. I am aware, among other things, that the World Health Organization's International Agency for Research on Cancer classifies diesel exhaust as a "Group 1" "known carcinogen." Attached as Exhibit 1 is a true and correct copy of a press release announcing this designation and explaining the significance of "Group 1" designation.

8. I am aware that the U.S. Environmental Protection Agency (EPA) has concluded that diesel exhaust "is likely to be carcinogenic to humans by inhalation." The EPA's 2002 Health Assessment Document for Diesel Engine Exhaust is available at" https://cfpub.epa.gov/si/si_public_record_report.cfm?Lab=NCEA&dirEntryId=29060&simpleSearch=1&searchAll=diesel.

9. I am also aware of a 2018 study by Columbia University and Johns Hopkins University on the fuel vapors that are released through vents in fuel storage tanks at gas stations and truck stops. The study found that the amount of fuel vapors through these vent pipes was 10 times more than previously estimated. The study calls for setback regulations to be recalculated and increased accordingly. Attached as Exhibit 2 is a true and correct copy of an abstract of the published study.

10. I am particularly concerned about the diesel exhaust and fuel vapors because my wife has a compromised respiratory system, as explained in her separate Declaration. She would be particularly vulnerable to the exhaust and fumes because of her condition.

11. I am concerned because the truck stop would use a significant amount of the 5,000 acre feet of water allocated to the San Juan County portion of the Spanish Valley each year. By my calculation, Love's would use approximately 5-10% of that amount.

12. I am concerned because having a truck stop in our neighborhood would change the atmosphere of the neighborhood. It would no longer feel like an intimate, rural community.

Pursuant to Utah Code Ann. § 78B-5-705, I declare under criminal penalty of the State of Utah that the foregoing is true and correct.

DATED this 2nd day of April 2020.

Pat Baril

Exhibit 1

International Agency for Research on Cancer

PRESS RELEASE
N° 213

12 June 2012

IARC: DIESEL ENGINE EXHAUST CARCINOGENIC

Lyon, France, June 12, 2012 -- After a week-long meeting of international experts, the International Agency for Research on Cancer (IARC), which is part of the World Health Organization (WHO), today classified diesel engine exhaust as **carcinogenic to humans (Group 1)**, based on sufficient evidence that exposure is associated with an increased risk for lung cancer.

Background

In 1988, IARC classified diesel exhaust as *probably carcinogenic to humans (Group 2A)*. An Advisory Group which reviews and recommends future priorities for the IARC Monographs Program had recommended diesel exhaust as a high priority for re-evaluation since 1998.

There has been mounting concern about the cancer-causing potential of diesel exhaust, particularly based on findings in epidemiological studies of workers exposed in various settings. This was re-emphasized by the publication in March 2012 of the results of a large US National Cancer Institute/National Institute for Occupational Safety and Health study of occupational exposure to such emissions in underground miners, which showed an increased risk of death from lung cancer in exposed workers (1).

Evaluation

The scientific evidence was reviewed thoroughly by the Working Group and overall it was concluded that there was *sufficient evidence* in humans for the carcinogenicity of diesel exhaust. The Working Group found that diesel exhaust is a cause of lung cancer (*sufficient evidence*) and also noted a positive association (*limited evidence*) with an increased risk of bladder cancer (Group 1).

The Working Group concluded that gasoline exhaust was possibly carcinogenic to humans (Group 2B), a finding unchanged from the previous evaluation in 1989.

Public health

Large populations are exposed to diesel exhaust in everyday life, whether through their occupation or through the ambient air. People are exposed not only to motor vehicle exhausts but also to exhausts from other diesel engines, including from other modes of transport (e.g. diesel trains and ships) and from power generators.

Given the Working Group's rigorous, independent assessment of the science, governments and other decision-makers have a valuable evidence-base on which to consider environmental standards for diesel exhaust emissions and to continue to work with the engine and fuel manufacturers towards those goals.

Increasing environmental concerns over the past two decades have resulted in regulatory action in North America, Europe and elsewhere with successively tighter emission standards for both diesel and gasoline engines. There is a strong interplay between standards and technology – standards drive technology and new technology enables more stringent standards. For diesel engines, this required changes in the fuel such as marked decreases in sulfur content, changes in engine design to burn diesel fuel more efficiently and reductions in emissions through exhaust control technology.

However, while the amount of particulates and chemicals are reduced with these changes, it is not yet clear how the quantitative and qualitative changes may translate into altered health effects; research into

this question is needed. In addition, existing fuels and vehicles without these modifications will take many years to be replaced, particularly in less developed countries, where regulatory measures are currently also less stringent. It is notable that many parts of the developing world lack regulatory standards, and data on the occurrence and impact of diesel exhaust are limited.

Conclusions

Dr Christopher Portier, Chairman of the IARC working Group, stated that "The scientific evidence was compelling and the Working Group's conclusion was unanimous: diesel engine exhaust causes lung cancer in humans." Dr Portier continued: "Given the additional health impacts from diesel particulates, exposure to this mixture of chemicals should be reduced worldwide."(2)

Dr Kurt Straif, Head of the IARC Monographs Program, indicated that "The main studies that led to this conclusion were in highly exposed workers. However, we have learned from other carcinogens, such as radon, that initial studies showing a risk in heavily exposed occupational groups were followed by positive findings for the general population. Therefore actions to reduce exposures should encompass workers and the general population."

Dr Christopher Wild, Director, IARC, said that "while IARC's remit is to establish the evidence-base for regulatory decisions at national and international level, today's conclusion sends a strong signal that public health action is warranted. This emphasis is needed globally, including among the more vulnerable populations in developing countries where new technology and protective measures may otherwise take many years to be adopted."

Summary evaluation

The summary of the evaluation will appear in The Lancet Oncology as an online publication ahead of print on June 15, 2012.

(1) JNCI J Natl Cancer Inst (2012) doi:10.1093/jnci/djs034
http://jnci.oxfordjournals.org/content/early/2012/03/05/jnci.djs034.abstract; and
JNCI J Natl Cancer Inst (2012) doi: 10.1093/jnci/djs035
http://jnci.oxfordjournals.org/content/early/2012/03/05/jnci.djs035.abstract

(2) Dr Portier is Director of the National Center for Environmental Health and the Agency for Toxic Substances and Disease Registry at the Centers for Disease Control and Prevention (USA).

For more information, please contact
Dr Kurt Straif, **IARC Monographs Section**, at +33 472 738 507, or **straifk@iarc.fr**;
Dr Lamia Tallaa, **IARC Monographs Section**, at +33 472 738 385, or **tallaal@iarc.fr**;
Nicolas Gaudin, **IARC Communications Group**, at +33 472 738 478, or **com@iarc.fr;**
Fadela Chaib, WHO News Team, at +41 79 475 55 56, or **chaibf@who.int.**

Link to the **audio file** posted shortly after the media briefing:
http://terrance.who.int/mediacentre/audio/press_briefings/

About IARC

The International Agency for Research on Cancer (IARC) is part of the World Health Organization. Its mission is to coordinate and conduct research on the causes of human cancer, the mechanisms of carcinogenesis, and to develop scientific strategies for cancer control. The Agency is involved in both epidemiological and laboratory research and disseminates scientific information through publications, meetings, courses, and fellowships.

© IARC 2012 - All Rights Reserved.

IARC: Diesel engines exhaust carcinogenic

Annexes

Evaluation groups - Definitions

Group 1: *The agent is carcinogenic to humans.*
This category is used when there is *sufficient evidence of carcinogenicity* in humans. Exceptionally, an agent may be placed in this category when evidence of carcinogenicity in humans is less than *sufficient* but there is *sufficient evidence of carcinogenicity* in experimental animals and strong evidence in exposed humans that the agent acts through a relevant mechanism of carcinogenicity.

Group 2.
This category includes agents for which, at one extreme, the degree of evidence of carcinogenicity in humans is almost *sufficient*, as well as those for which, at the other extreme, there are no human data but for which there is evidence of carcinogenicity in experimental animals. Agents are assigned to either Group 2A (*probably carcinogenic to humans*) or Group 2B (*possibly carcinogenic to humans*) on the basis of epidemiological and experimental evidence of carcinogenicity and mechanistic and other relevant data. The terms *probably carcinogenic* and *possibly carcinogenic* have no quantitative significance and are used simply as descriptors of different levels of evidence of human carcinogenicity, with *probably carcinogenic* signifying a higher level of evidence than *possibly carcinogenic*.

- **Group 2A:** The agent is *probably carcinogenic to humans*.
  This category is used when there is *limited evidence of carcinogenicity* in humans and *sufficient evidence of carcinogenicity* in experimental animals. In some cases, an agent may be classified in this category when there is *inadequate evidence of carcinogenicity* in humans and *sufficient evidence of carcinogenicity* in experimental animals and strong evidence that the carcinogenesis is mediated by a mechanism that also operates in humans. Exceptionally, an agent may be classified in this category solely on the basis of *limited evidence of carcinogenicity* in humans. An agent may be assigned to this category if it clearly belongs, based on mechanistic considerations, to a class of agents for which one or more members have been classified in Group 1 or Group 2A.

- **Group 2B:** The agent is *possibly carcinogenic to humans*.
  This category is used for agents for which there is *limited evidence of carcinogenicity* in humans and less than *sufficient evidence of carcinogenicity* in experimental animals. It may also be used when there is *inadequate evidence of carcinogenicity* in humans but there is *sufficient evidence of carcinogenicity* in experimental animals. In some instances, an agent for which there is *inadequate evidence of carcinogenicity* in humans and less than *sufficient evidence of carcinogenicity* in experimental animals together with supporting evidence from mechanistic and other relevant data may be placed in this group. An agent may be classified in this category solely on the basis of strong evidence from mechanistic and other relevant data.

Group 3: The agent is *not classifiable as to its carcinogenicity to humans*.
This category is used most commonly for agents for which the evidence of carcinogenicity is *inadequate* in humans and *inadequate* or *limited* in experimental animals.
Exceptionally, agents for which the evidence of carcinogenicity is *inadequate* in humans but *sufficient* in experimental animals may be placed in this category when there is strong evidence that the mechanism of carcinogenicity in experimental animals does not operate in humans.
Agents that do not fall into any other group are also placed in this category.

An evaluation in Group 3 is not a determination of non-carcinogenicity or overall safety. It often means that further research is needed, especially when exposures are widespread or the cancer data are consistent with differing interpretations.

IARC, 150 Cours Albert Thomas, 69372 Lyon CEDEX 08, France - Tel: +33 (0)4 72 73 84 85 - Fax: +33 (0)4 72 73 85 75
© IARC 2012 - All Rights Reserved.

IARC: Diesel engines exhaust carcinogenic

Group 4: The agent is *probably not carcinogenic to humans*.
This category is used for agents for which there is *evidence suggesting lack of carcinogenicity* in humans and in experimental animals. In some instances, agents for which there is *inadequate evidence of carcinogenicity* in humans but *evidence suggesting lack of carcinogenicity* in experimental animals, consistently and strongly supported by a broad range of mechanistic and other relevant data, may be classified in this group.

Evidence for studies in humans - Definition

As shown previously, the evidence relevant to carcinogenicity is evaluated using standard terms. For studies in humans, evidence is defined into one of the following categories:

Sufficient evidence of carcinogenicity: The Working Group considers that a causal relationship has been established between exposure to the agent and human cancer. That is, a positive relationship has been observed between the exposure and cancer in studies in which chance, bias and confounding could be ruled out with reasonable confidence. A statement that there is *sufficient evidence* is followed by a separate sentence that identifies the target organ(s) or tissue(s) where an increased risk of cancer was observed in humans. Identification of a specific target organ or tissue does not preclude the possibility that the agent may cause cancer at other sites.

Limited evidence of carcinogenicity: A positive association has been observed between exposure to the agent and cancer for which a causal interpretation is considered by the Working Group to be credible, but chance, bias or confounding could not be ruled out with reasonable confidence.

Inadequate evidence of carcinogenicity: The available studies are of insufficient quality, consistency or statistical power to permit a conclusion regarding the presence or absence of a causal association between exposure and cancer, or no data on cancer in humans are available.

Evidence suggesting lack of carcinogenicity: There are several adequate studies covering the full range of levels of exposure that humans are known to encounter, which are mutually consistent in not showing a positive association between exposure to the agent and any studied cancer at any observed level of exposure. The results from these studies alone or combined should have narrow confidence intervals with an upper limit close to the null value (e.g. a relative risk of 1.0). Bias and confounding should be ruled out with reasonable confidence, and the studies should have an adequate length of follow-up. A conclusion of *evidence suggesting lack of carcinogenicity* is inevitably limited to the cancer sites, conditions and levels of exposure, and length of observation covered by the available studies. In addition, the possibility of a very small risk at the levels of exposure studied can never be excluded.

In some instances, the above categories may be used to classify the degree of evidence related to carcinogenicity in specific organs or tissues.

IARC, 150 Cours Albert Thomas, 69372 Lyon CEDEX 08, France - Tel: +33 (0)4 72 73 84 85 - Fax: +33 (0)4 72 73 85 75
© IARC 2012 - All Rights Reserved.

Exhibit 2

Science of The Total Environment
Volume 650, Part 2, 10 February 2019, Pages 2239-2250

Vent pipe emissions from storage tanks at gas stations: Implications for setback distances

Markus Hilpert[a] Ana Maria Rule[b] Bernat Adria-Mora[a] Tedmund Tiberi[c]

a

https://doi.org/10.1016/j.scitotenv.2018.09.303Get rights and content

Highlights

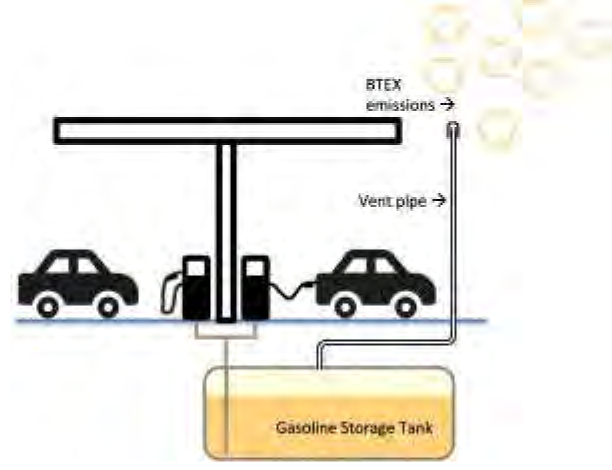
- At gas stations, fuel vapors are released from storage tanks through vent pipes.
- We measured vent pipe flow rates and tank pressure at high temporal resolution.
- Vent emission factors were >10 times higher than previous estimates.
- Modeling was used to examine exceedance of benzene short-term exposure limits.

Abstract

At gas stations, fuel vapors are released into the atmosphere from storage tanks through vent pipes. Little is known about when releases occur, their magnitude, and their potential health consequences. Our goals were to quantify vent pipe releases and examine exceedance of short-term exposure limits to benzene around gas stations. At two US gas stations, we measured volumetric vent pipe flow rates and pressure in the storage tank headspace at high temporal resolution for approximately three weeks. Based on the measured vent emission and meteorological data, we performed air dispersion modeling to obtain hourly atmospheric benzene levels. For the two gas stations, average vent emission factors were 0.17 and 0.21 kg of gasoline per 1000 L dispensed. Modeling suggests that at one gas station, a 1-hour Reference Exposure Level (REL) for benzene for the general population (8 ppb) was exceeded only closer than 50 m from the station's center. At the other gas station, the REL was exceeded on two different days and up to 160 m from the center, likely due to non-compliant bulk fuel deliveries. A minimum risk level for intermediate duration (>14–364 days) benzene exposure (6 ppb) was exceeded at the elevation of the vent pipe opening up to 7 and 8 m from the two gas stations. Recorded vent emission factors were >10 times

higher than estimates used to derive setback distances for gas stations. Setback distances should be revisited to address temporal variability and pollution controls in vent emissions.

Graphical abstract



Signature Certificate

Document Reference: ZL8NI3JMEJEPCURL6KSFJS

Pat Baril
Party ID: M7HZ35J442IXGX4ZYJUU5A
IP Address: 74.214.251.20
VERIFIED EMAIL: pbaril52@aol.com

Multi-Factor
Digital Fingerprint Checksum 27b698943ed5a8e461d530eca603345233861972

Timestamp	Audit
2020-04-02 16:48:49 -0700	All parties have signed document. Signed copies sent to: Pat Baril and Barbara Reissen.
2020-04-02 16:48:48 -0700	Document signed by Pat Baril (pbaril52@aol.com) with drawn signature. - 74.214.251.20
2020-04-02 16:47:10 -0700	Document viewed by Pat Baril (pbaril52@aol.com). - 74.214.251.20
2020-04-02 14:24:37 -0700	Document created by Barbara Reissen (breissen@clydesnow.com). - 65.126.127.66

This signature page provides a record of the online activity executing this contract.

Exhibit 10

Declaration of David Focardi

Matthew A. Steward (#7637)
Shaunda L. McNeill (#14468)
CLYDE SNOW & SESSIONS
One Utah Center, 13th Floor
201 South Main Street
Salt Lake City, Utah 84111-2216
Telephone (801) 322-2516
mas@clydesnow.com
slm@clydesnow.com

Attorneys for Plaintiff

IN THE SEVENTH JUDICIAL DISTRICT COURT
IN AND FOR SAN JUAN COUNTY, STATE OF UTAH

NORTHERN SAN JUAN COUNTY COALITION, Plaintiff, v. SAN JUAN COUNTY, BOARD OF SAN JUAN COUNTY COMMISSIONERS, Defendant.	**DECLARATION OF DAVID FOCARDI** Case No. 200700010 Judge Don M. Torgerson **PRIVATE DOCUMENT**

I, David Focardi, state and declare as follows:

1. I am over the age of eighteen and make this Declaration on my own knowledge regarding matters to which I would be competent to testify at trial.

2. I am a geologist and field biologist.

3. My wife, Jennifer Weidensee, and I are founding members of the Northern San Juan County Coalition.

4. My wife and I have been residents of San Juan County since 2005. From 1993 to 2005, we were residents of Grand County.

5. Our address is 4900 Sunny Acres Lane.

6. Before we purchased our home, we visited the home one evening to lie on the front and back porches and experience the night sky and the noise levels. The sky was pitch black, except for the moon and stars, and there was almost no noise caused by humans. Based on this experience, as well as the proximity of the Colorado River, mountains, canyons, and hiking trails, we bought the house.

7. Our home has cathedral windows in the living room with breathtaking views of the La Sal Mountains, as well as views of the Moab Rim (consisting of red rock walls) from the other windows in the house. The Love's truck stop would be located between our home and the Moab Rim.

8. Our home is approximately one-third of a mile from the truck stop site. At that distance, diesel exhaust and fumes would reach our home, as would engine noise.

9. The glow of the lights at the truck stop would be visible from our home and would interfere with the dark sky.

10. My wife and I are concerned that our property value will be affected. We own not only our home but also three acres to the east of our home.

11. The infrastructure of our neighborhood is not adequate to support a truck stop. Any trucks needing to circle the block or that get lost will end up on very small residential streets with blind corners and limited weight capacities.

12. My wife and I are concerned that leaks from the fuel tanks at the truck stop, as well as run-off pollution from the truck stop, will poison the aquifer that feeds the well on our

property. This well supplies our drinking water and is the sole source of drinking water on our property.

13. From a broader environmental perspective, I am concerned because the truck stop would be in the Pack Creek drainage area, which is a recharge area for some of the shallow aquifers and which ultimately feeds into the Colorado River. (See the U.S. Geologic Survey's Evaluation of Groundwater Resources in the Spanish Valley Watershed, Grand and San Juan Counties, Utah, available at https://pubs.er.usgs.gov/publication/sir20195062.)

14. For all these reasons, I am opposed to the Love's truck stop.

Pursuant to Utah Code Ann. § 78B-5-705, I declare under criminal penalty of the State of Utah that the foregoing is true and correct.

DATED this 3_____ day of April 2020.

/s/ ______________________________
David Focardi

Signature Certificate

Document Reference: J759ZRJB9IDGFK8MG9HPJ8

David Focardi
Party ID: U6VCUTJBAJ6PLV58CSK24W
IP Address: 174.195.135.123
VERIFIED EMAIL: datawrangler81@gmail.com

Multi-Factor
Digital Fingerprint Checksum 86bfdaee403328df7b4fdeb41dcc3f2487d19082

Timestamp	Audit
2020-04-03 13:16:02 -0700	All parties have signed document. Signed copies sent to: David Focardi and Barbara Reissen.
2020-04-03 13:16:01 -0700	Document signed by David Focardi (datawrangler81@gmail.com) with drawn signature. - 174.195.135.123
2020-04-03 13:12:27 -0700	Document viewed by David Focardi (datawrangler81@gmail.com). - 174.195.135.123
2020-04-03 11:47:26 -0700	Document created by Barbara Reissen (breissen@clydesnow.com). - 65.126.127.66

This signature page provides a record of the online activity executing this contract.

Exhibit 11

Declaration of Colby Smith

Matthew A. Steward (#7637)
Shaunda L. McNeill (#14468)
CLYDE SNOW & SESSIONS
One Utah Center, 13th Floor
201 South Main Street
Salt Lake City, Utah 84111-2216
Telephone (801) 322-2516
mas@clydesnow.com
slm@clydesnow.com

Attorneys for Plaintiff

IN THE SEVENTH JUDICIAL DISTRICT COURT
IN AND FOR SAN JUAN COUNTY, STATE OF UTAH

NORTHERN SAN JUAN COUNTY COALITION, Plaintiff, v. SAN JUAN COUNTY, BOARD OF SAN JUAN COUNTY COMMISSIONERS, Defendant.	**DECLARATION OF COLBY A. SMITH** Case No. 200700010 Judge Don M. Torgerson **PRIVATE DOCUMENT**

I, Colby A. Smith, state and declare as follows:

1. I am over the age of eighteen and make this Declaration on my own knowledge regarding matters to which I would be competent to testify at trial.

2. My wife, Holly Sloan, and I are founding members of the Northern San Juan County Coalition.

3. My wife and I have lived in San Juan County since 1995.

4. Our address is 20 Take the Other Road in the Pack Creek Ranch community south and east of Spanish Valley.

5. We are aware that on April 17, 2018, San Juan County adopted an Area Plan for Spanish Valley that envisions decades of future development and the establishment of a community of up to 14,000 people. This Area Plan includes development that reaches up to the doorstep of the Pack Creek community in which we have lived for close to 25 years.

6. In general, we are supportive of the development contemplated by the Area Plan and look forward to the establishment of a thriving community in the San Juan County portion of Spanish Valley (subject, of course, to the limited water supply in the area). For this reason, we have been surprised and concerned that San Juan County officials appeared to approve the Love's Truck Stop as the gateway project for this new community without even attempting to follow the County's own procedures and requirements for approving such a development.

7. As the first significant new project in this newly planned community, we fear that the Truck Stop will set an unfortunate tone for future development. Had the County followed its policies and procedures for a development of this kind, we and other community members would have had the opportunity to let our views be known in proceedings before the San Juan County Planning Commission and the San Juan County Commission. We never had this opportunity because the County did not follow its own requirements.

8. We are especially concerned that certain County officials appeared to rush through the approval of the truck stop – circumventing the County's requirements in the process – while knowing that the County Commission was considering a Development Moratorium that would have temporarily suspended the ability of Love's to seek approval of its plans. We were advocates for the Development Moratorium and from our perspective part of the purpose of the Development Moratorium was to allow the County Commission to consider whether zoning

changes should have been made in light of the Area Plan. The zoning changes that were enacted before the moratorium expired no longer would allow a truck stop at the location proposed for Love's. However, the new ordinances would allow a truck stop further south in Spanish Valley in a location further removed from existing development.

9. As property owners in northern San Juan County, we believe it is vital to require the County, the Board of Commissioners, the Planning Commission, and other County personnel to uphold the policies and procedures for land use approvals contained in County ordinances and procedures. As members of the community, we have been directly injured because we never had the opportunity afforded to us by the County's Ordinances to have input into the County's decision-making processes for a development with impacts as significant as Love's Truck Stop.

10. My wife and I also will be adversely affected by the proposed Love's Truck Stop because it will increase traffic and congestion on Highway 191, which is the main thoroughfare through Spanish Valley that we take when we drive to Moab to purchase groceries or other supplies.

11. Our views and air quality also will be impacted by the emission of light and diesel exhaust fumes from the Truck Stop.

12. In order to show the location of certain Northern San Juan County Coalition members relative to the proposed Love's Truck Stop, I have prepared a map using information from the GAIA GPS website, which includes an overlay that shows land ownership. The map is attached as Exhibit 1. I redacted the names of landowners who are not Coalition members participating in these proceedings. The distance measurements shown on the map were

determined using the GAIA GPS waypoint feature, which can measure distances from point-to-point on the map.

Pursuant to Utah Code Ann. § 78B-5-705, I declare under criminal penalty of the State of Utah that the foregoing is true and correct.

DATED this 7th day of April 2020.

Colby A. Smith

Signature Certificate

Document Reference: 3YLAPFJBX5RKWIJ6U4K9H3

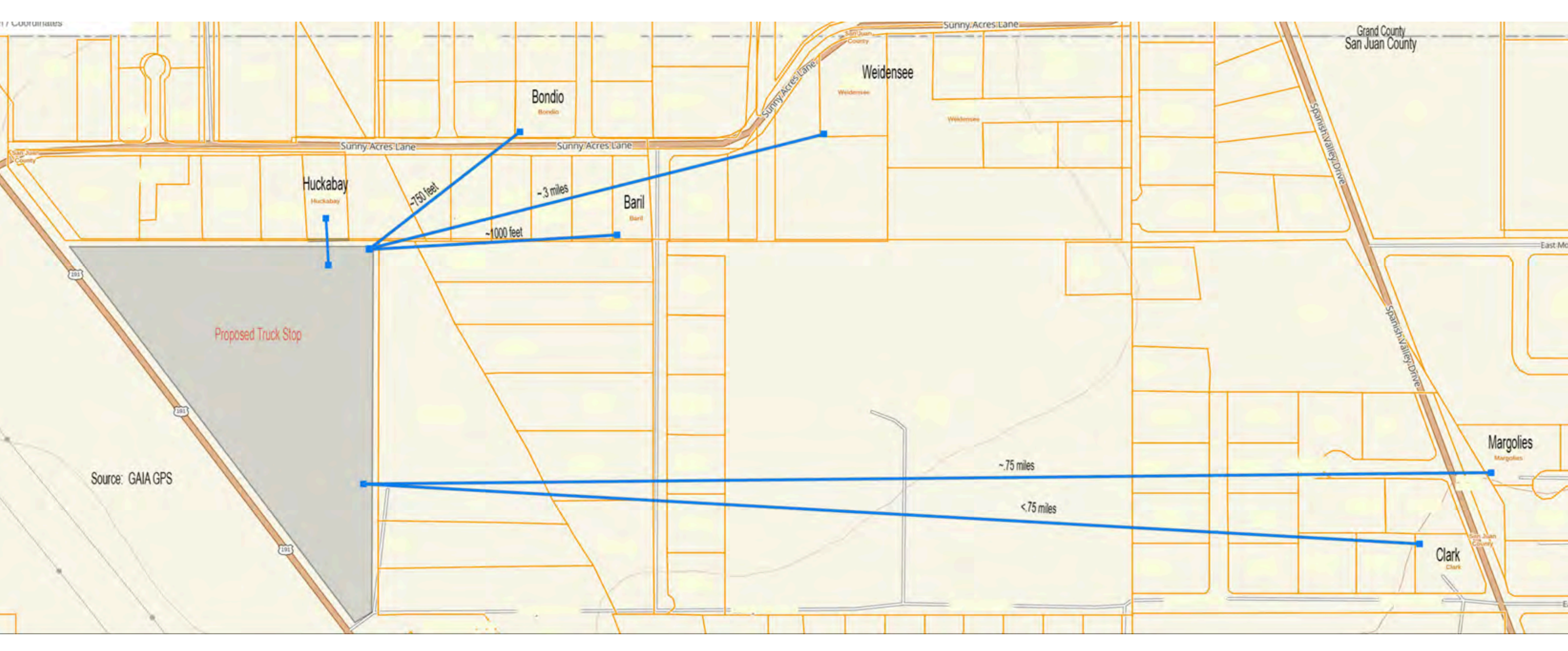
Colby A. Smith
Party ID: BTXG52JBTK5IM9BJX9AFWC
IP Address: 172.103.37.11
VERIFIED EMAIL: casmith101@gmail.com

Electronic Signature:

Multi-Factor
Digital Fingerprint Checksum 917359e9c5f98e69bb8407a477e2ffab0d381b7a

Timestamp	Audit
2020-04-07 11:51:56 -0700	All parties have signed document. Signed copies sent to: Colby A. Smith and Barbara Reissen.
2020-04-07 11:51:56 -0700	Document signed by Colby A. Smith (casmith101@gmail.com) with drawn signature. - 172.103.37.11
2020-04-07 11:48:29 -0700	Document viewed by Colby A. Smith (casmith101@gmail.com). - 172.103.37.11
2020-04-07 11:24:52 -0700	Document created by Barbara Reissen (breissen@clydesnow.com). - 65.126.127.66

This signature page provides a record of the online activity executing this contract.



Sunny Acres Lane
Grand County
San Juan County
Weidensee
Bondio
Huckabay
Baril
~750 feet
~.3 miles
~1000 feet
Spanish Valley Drive
Proposed Truck Stop
Source: GAIA GPS
Margolies
~.75 miles
<.75 miles
Clark