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BEFORE THE STATE OF NEVADA,
STATE ENVIRONMENTAL COMMISSION

In Re:)
)
Appeal of Class 1 Air Quality Operating)
Permit to Construct: Permit No. AP4953-2525)
Jungo Land & Investment, Inc.)

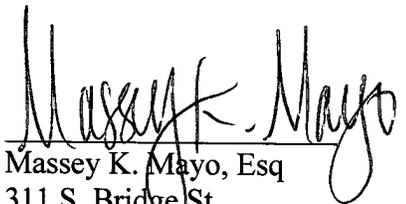
FIRST SUPPLEMENT TO APPELLANTS' BRIEF
ROBERT E. DOLAN & MASSEY K. MAYO

COMES NOW, the Appellants, Robert E. Dolan, and Massey K. Mayo, pursuant to NAC 445B.8925, and in connection with the above stated matter, respectfully submits this opening brief.

Dated this 18 day of May, 2010.



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STATEMENT OF ISSUES

The decision of BAPC in granting the air quality permit was clearly erroneous in view of reliable, probative and substantial evidence on the whole, and was arbitrary and capricious and constitutes an abuse of discretion, and was violative of the declared public policy of the State of Nevada.

Appellants restate and repeat the issues raised in the appeal document, Supplement to Form 3, and specifically challenge the accuracy of the data submitted by Jungo (exhibit H).

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STATEMENT OF FACTS

1) The Humboldt County Regional Planning Commission (RPC) granted Jungo Land & Investments, Inc. (Jungo) the Conditional Use Permit (CUP), # UH-07-05 on April 12, 2007, said CUP purported to grant authority to Jungo to operate a landfill in Humboldt County.

2) On April 12, 2007 it was not legal under the Humboldt County Ordinance then in effect to operate a landfill site in Humboldt County other than at the Humboldt County Regional Landfill.

3) That subsequent to the grant of the CUP, the Humboldt County Ordinance was amended on October 15, 2007, and the City of Winnemucca's ordinance on October 23, 2007, to allow for a second landfill site to operate in Humboldt County.

4) Jungo submitted various exhibits to its application below including exhibit H which contain misleading and/or false data regarding wind speed at the landfill site.

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CHANGES IN FACTS AND CIRCUMSTANCES SINCE DATE OF APPEAL

5) That on February 11, 2010 the RPC held a hearing at the request of Jungo to extend the CUP for five years. The RPC granted Jungo a 5 year extension. Dolan and Mayo appealed this decision of the RPC to the Humboldt County Board of Commissioners (Board).

6) That on April 5, 2010 the (Board) unanimously voted to reverse the February 11, 2010 decision of the RPC.

1 7) That on April 23, 2010 Jungo appealed the Board's decision (Case No. CV 18,226).
2 Jungo also, in the Sixth Judicial District Court, County of Humboldt (Case No. CV 18,226)
3 brought a sweeping lawsuit (under, inter alia, 42 USC § 1983) against not just Humboldt County,
4 but the five members of the Board, in their individual (and official) capacities, alleging various
5 things against said individual members including, without limitation, violations of their (or its)
6 alleged civil rights.
7

8 8) That in connection with Jungo's aforesaid appeal it sought a stay, nunc pro tunc to
9 April 5, 2010, of the aforesaid decision of the Board, and said stay was granted in early May.
10

11 9) That both judges of the Sixth Judicial District Court (Wagner and Montero) recused
12 themselves from any further involvement in the "Jungo" case, and Senior Judge Robert Estes
13 was appointed to the case(s) by the Nevada Supreme court on April 28, 2010. Therefore the
14 issue of whether the CUP is effective, or not is "up in the air".
15

POINTS AND AUTHORITIES

16 Appellants restate and repeat the issues raised in the appeal document, Supplement to Form 3.

17 Jungo submitted an Exhibit H to the NDEP which is full of inaccurate, misleading and
18 incomplete data as regards wind speed and gusts of wind. Dr. Austin will testify about this
19 matter. The Jungo data substantially misstates the history of wind speed and the landfill site, and
20 fails to generally present reliable information on that point.
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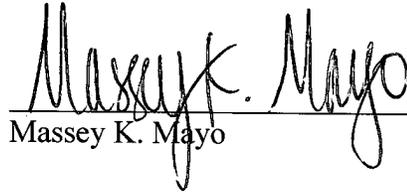
PROPOSED LIST OF WITNESSES

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24 Jim French-He can testify about issues related to the wind, wind speed and direction,
25 earth (including the size and height of the landfill, dust devils, and how it relates to particulate
26 matter and fugitive dust, and the adverse affects to wildlife.
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1 Dr. Elizabeth Austin- She is an expert on climate issues and can and will testify about
2 how the climate, including wind speed and direction, and matters related to same have not been
3 effectively or accurately presented by Jungo and how said data of Jungo failed to meet
4 reasonably accepted standards in the field of presenting relevant climate history, data or the like.
5 Under separate cover, on May 5th, 2010, Dr. Austin's curriculum vitae and list of cases wherein
6 she was qualified as an expert witness was submitted to the SEC and to all parties herein.
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12 Robert E. Dolan

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Massey K. Mayo

CERTIFICATE OF SERVICE

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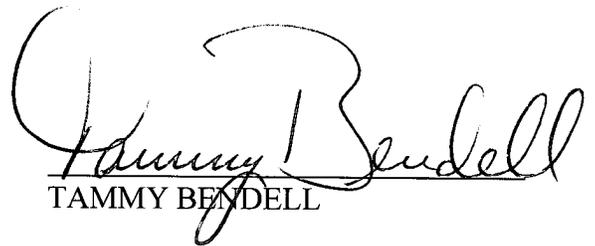
I hereby certify that on this 6th day of May, 2010, pursuant to NRCP 5(b), I have deposited, as stated below, at Winnemucca, Nevada, a true and correct copy of the APPELLANT’S FIRST SUPPLEMENT TO THE OPENING BRIEF BEFORE THE STATE ENVIORNMENTAL COMMISSION, addressed to the following:

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- First Class U.S. Mail
- Via Fax Transmission
- Box in District Court Clerk Office
- Box in Justice Court Clerk Office
- Hand Delivered


TAMMY BENDELL