

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |                                                                                                |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|------------------------------------------------------------------------------------------------|
| <b>DISTRICT COURT, PARK COUNTY</b><br><b>STATE OF COLORADO</b><br>Park County Combined Courts<br>300 Fourth St. P.O. Box 190 Fairplay, CO 80440                                                                                                                                                                                                                                                                                                                                        |  | DATE FILED<br>January 23, 2025 2:52 PM<br>FILING ID: A9TB25483A3F8<br>CASE NUMBER: 2024CV30019 |
| <b>Plaintiff:</b> Will-O-Wisp Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado,<br><br>v.<br><br><b>Defendants:</b> Board of County Commissioners for Park County, Colorado; and aSkag LLC.                                                                                                                                                                                                                                     |  | <b>▲ COURT USE ONLY ▲</b><br><br>Case Number:<br>2024CV030019<br><br>Div.                      |
| <i>Attorneys for Defendant aSkag LLC</i><br>John D. Coaty, Atty. # 24513<br>Dylan Woods, Atty. #46731<br>Rachael Wachs, Atty. #48809<br>Coaty and Woods, P.C.<br>1202 Bergen Parkway, Suite 110<br>Evergreen, CO 80439<br>Phone: 303-674-0800/ Fax: 303-674-8492<br><a href="mailto:jcoaty@evergreenco.law">jcoaty@evergreenco.law</a> ;<br><a href="mailto:rwachs@evergreenco.law">rwachs@evergreenco.law</a> ;<br><a href="mailto:dwoods@evergreenco.law">dwoods@evergreenco.law</a> |  |                                                                                                |
| <b>FORTHWITH MOTION FOR SUSPENSION OF INJUNCTION</b>                                                                                                                                                                                                                                                                                                                                                                                                                                   |  |                                                                                                |

COMES NOW the Defendant, aSkag, LLC, and moves this Court pursuant to C.R.C.P. 62(c) for a suspension of its permanent injunction upon appeal and in support thereof states as follows:

**C.R.C.P. Rule 121 Certification.** Counsel for Defendant certifies to the Court that he attempted to confer with counsel for Plaintiff and co-defendant regarding the request for suspension. Counsel for Plaintiff objects.

1. On January 23, 2025, the Court issued its Findings and Order on C.R.C.P. 106(a)(4) Review which reversed the Park County Board of County Commissioners approval of the Final Application in Resolution No. 2024-09. The Order further entered a permanent injunction

prohibiting aSkag from operating the Waste Transfer Station on the site approved in Resolution No. 2024-09.

2. Defendant will be filing a Notice of Appeal expeditiously and is only waiting to determine whether the appeal will be joint pursuant to C.A.R. (3)(c)(1). Pursuant to C.A.R. 8(a)(1) a party must ordinarily move first in the district court for an order suspending an injunction while an appeal is pending.

3. When an appeal is taken from an interlocutory or final judgment granting, dissolving, or denying an injunction, the trial court in its discretion may suspend, modify, restore, or grant an injunction during the pendency of the appeal upon such terms as to bond or otherwise as it considers proper for the security of the rights of the adverse party. C.R.C.P. 62(c). There is no money judgment in this matter.

4. “[B]ecause the district court exercises no fact finding authority in [106(a)(4)] cases, the appellate court engages in the same type of record review as did the trial court. It is not, therefore, bound by any determination made by the trial court, but it reviews the issues presented to that court on a de novo basis. *Feldewerth v. Joint Sch. Dist. 28-J*, 3 P.3d 467, 470 (Colo.App. 1999). The Court of Appeals may well determine that the County did not abuse its discretion or exceed its jurisdiction.

5. If operation of the waste station remains enjoined by the Court, waste services for significant portions of Jefferson and Park Counties will be severely disrupted. The transfer station serves approximately 7,000 residential customers, 600 commercial customers, and nearly 100 roll off dumpsters per week. Cessation of these operations will be devastating for these communities. The aSkag Waste Transfer station acts as a transfer station not only for solid waste, but also for septic hauling, transfer, and temporary storage through contractual relationships held by aSkag.

Injunction of operation of the facility will work to severely interfere with septic services for significant portions of Jefferson and Park Counties, as well, and unrelated third parties receiving contractual services through the transfer station will be irreparably harmed as they will be unable to conduct business. aSkag itself will likely be unable to resume business following even a successful appeal without a suspension of this injunction. aSkag is a for-profit business and hitherto has been conducting its business in conformity with applicable laws and regulations.

For the foregoing reasons, aSkag respectfully requests that the Court suspend its order prohibiting aSkag from operating the Waste Transfer Station on the site approved in Resolution No. 2024-09 upon such terms as to bond or otherwise as it considers proper, and for such other and further relief as the Court deems appropriate.

Respectfully submitted this 23<sup>rd</sup> day of January, 2025.

COATY AND WOODS, P.C.

A handwritten signature in cursive script, appearing to read "Dylan Woods", written in dark ink.

---

Dylan Woods  
*Attorneys for Defendant aSkag LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 23<sup>rd</sup> day of January, 2025, I served a true and correct copy of the foregoing via the Colorado Courts E-filing System and or U.S. Mail, postage prepaid all parties of record:

SPENCER FANE LLP  
Jacob F. Hollars, #50352  
Jamie N. Cotter, #40309  
1700 Lincoln Street, Suite 2000  
Denver, CO 80203  
Phone Number: (303) 839-3800  
FAX Number: (303) 839-3838  
E-mail: [jhollars@spencerfane.com](mailto:jhollars@spencerfane.com)  
[jcotter@spencerfane.com](mailto:jcotter@spencerfane.com)  
Counsel for Will-O-Wisp Metropolitan District

MAYNES, BRADFORD, SHIPPS & SHEFTEL  
Erin M. Smith  
Alicia M. Garcia  
600 17th Street, Suite 2150S  
Denver, Colorado 80202-1555  
Phone Number: 720-345-0300  
E-mail: [esmith@mbssllp.com](mailto:esmith@mbssllp.com) [agarcia@mbssllp.com](mailto:agarcia@mbssllp.com)  
Counsel for Defendant the Board of County Commissioners of the County of Park

CHARLES E. NORTON, ATTORNEY & COUNSELOR AT LAW, P.C.  
Charles E. Norton  
600 17th Street, Suite 2150S  
Denver, Colorado 80202  
Phone Number: (303) 292-6400  
E-mail: [cnorton@nortonsmithlaw.com](mailto:cnorton@nortonsmithlaw.com)  
Counsel for Defendant the Board of County Commissioners of the County of Park

/s/ Dylan Woods  
Dylan Woods