

Complaint accuses county council member of violating ethics rules

by Molly Marcello

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John Weisheit, conservation director for Living Rivers, filed an ethics complaint with the county attorney Nov. 4, alleging that Grand County Council member Lynn Jackson violated state and county law by failing to disclose a potential conflict of interest with the potash industry. Jackson said his actions as a council member have consistently been well within the law, and he views this complaint as just another among a series of attempts to silence his opinions.

Because of his consulting work, including as a subcontracted consultant with Del Fortner Consulting — a firm that assisted American Potash, LLC in acquiring a prospecting permit on federal lands in Grand County — Weisheit alleges that Jackson should recuse himself from voting on all proposals or recommendations involving the potash industry; including the Bureau of Land Management's (BLM) Master Leasing Plan (MLP) process.

“He’s taking a very important vote concerning the BLM’s MLP and he’s pushing the ‘No Action’ A Alternative. My feeling is that potash in Grand County is speculative and very bad for the Colorado River which doesn’t have any water for more potash operations,” Weisheit said. “[Jackson] should know the other half of potash extraction is water. He should be saying to the potash industry, ‘the Colorado River is over-allocated; potash is speculative.’”

Jackson said that from June 2011 to April 2015, he provided Del Fortner Consulting with general guidance on the federal permitting process. He said that because the county council does not — and could not — make any legally binding decisions regarding public lands management, his recommendations during the MLP process do not violate state or county ethics law.

“It’s just another attempt for the people in this town who don’t like what I have to say trying to silence me,” Jackson said. “I know what the ethics rules are and they say if an elected official is involved financially and something comes before the council that we have decision making authority on, that official is to identify the conflict and recuse himself ... If the county owned the land and we were making legally binding decisions on that land and I was involved with a company working on those lands, then yes, I would recuse myself.”

Jackson acknowledged that the county is a cooperating agency with the BLM, but said that does not mean the county has any legal authority over decisions on public lands.

“Just because the county’s a cooperating agency, it does not bind the BLM to do what we suggest to do,” he said. “We do not have legally binding authority. Until I’m told differently, I’m going to keep moving along and doing my best to follow the laws as I understand them.”

But Weisheit disagreed, saying that as a cooperating agency with the BLM, the county's MLP recommendations carry weight and influence.

"I don't see what the difference is — it's comparing apples with apples. The BLM wants buy-in one way or another from the county council. The right thing for [Jackson] to do is not participate in this decision because he's a consultant for the potash industry," Weisheit said.

Jackson said Weisheit's ethics complaint seeks to limit different voices in the community, noting that his consideration of the MLP's "No Action" Alternative A is his personal opinion.

"They don't like me pointing out factual information, that by the BLM's own analysis this is a \$2 billion loss [between 'No Action' Alternative A and the 'Preferred' Alternative D]. They don't like me pointing out that the air quality analysis shows it has improved in the last 15 years. They don't like me pointing out the activity that is out there has had no impact to recreation," Jackson said. "If that side of our community wants to stifle open discussion — shame on them. Why do we stifle open discussions in this community?"

This current ethics complaint is the third time Jackson has faced legal scrutiny since he took his council seat in Jan. 2012.

In Nov. 2013 — during the council's preliminary discussions regarding federal land designations in the Bishop Public Lands Initiative — Grand County resident Bill Love also alleged that Jackson's relationship with Del Fortner Consulting amounted to a conflict of interest. In response to Love's allegations, Grand County Attorney Andrew Fitzgerald investigated and found that Jackson was not in violation of any state or county ordinances and had acted ethically in the performance of his duties.

In September 2014, county council member Chris Baird — then a council candidate — filed a formal complaint, alleging that Jackson violated county and state codes during a Canyonlands Health Care Special Service District meeting. His complaints, which were forwarded to the Utah Attorney General's Office for investigation, were found to "lack a reasonable likelihood of conviction," according to a report from the investigators.

In the summer of 2014, as the sitting county council considered joining the proposed Seven County Infrastructure Coalition, Baird led a recall petition to remove Jackson from office, which failed to gather the required 580 signatures by a September deadline.

"I don't know how much one person has to put up with," Jackson said this week. "I don't understand it."

Fitzgerald said the current allegations are similar to those that Love brought forth two years ago. However, he said Weisheit's lengthy complaint — which includes more than 20 "statements of fact" alone — in combination with Jackson's longer

voting record, makes the allegations more complex.

“The issues are similar, but the facts are much more complex and lengthy. Before when [the allegation] was whether he had done anything wrong regarding his work for potash, [Jackson] hadn’t been in office very long and didn’t have much of a voting record at that point,” Fitzgerald said. “Now he’s got a lot of votes behind his belt. The amount of facts is quite lengthy.”

Fitzgerald said he expects it will take his office several weeks to look into each allegation and complete a thorough investigation.

“We’ll investigate all the allegations. We’re always concerned about the public feeling like their council members aren’t following the law, and it’s pretty important that the public has a level of trust with the government,” Fitzgerald said. “We’ll look into everything they are suggesting and analyze it according to the law.”

As for the Master Leasing Plan, the Grand County Council is scheduled to vote Nov. 17 on recommendations to forward to the BLM.