

NOTICE OF FILING, REQUEST FOR CONFIRMATION, AND REQUEST THAT THE BOARD QUESTION THE APPLICANT

Before the Board of County Commissioners of El Paso County, Colorado
File No. APP261 — Appeal of Buc-ee's EPCO, LLC from the Determination of Use in File No. ADM264
Hearing of August 27, 2026

I. Transmission of Integrity Matters' written submissions

Integrity Matters transmitted its **Written Public Comment with Exhibits A through N** by electronic mail on **August 23, 2026 at 2:50 p.m.**, addressed to PLNweb@elpasoco.com and to Commissioners Geitner, Nelson, Williams, Applegate and Wysong individually, with copies to the Clerk to the Board and the County Attorney.

Integrity Matters transmitted its **Supplement to Written Public Comment with Exhibits O, P and Q** by electronic mail on **August 24, 2026 at 3:58 p.m.**, to the same recipients.

Both transmissions preceded the noon, August 26, 2026 deadline stated on the County's Public Hearing Participation page. Neither submission appeared on the EDARP project page for File APP261 until August 26, 2026.

Integrity Matters requests written confirmation that both submissions, with all exhibits, have been filed in the administrative record for File APP261 and File ADM264, and were transmitted to each Commissioner in advance of this hearing.

II. Request that the Board require the Applicant to identify which of its descriptions is accurate

Appellant has described this project in two irreconcilable ways, and both descriptions are contained in its own submittal to this Board.

Appellant's engineer, in a Minor Interchange Modification Request Memorandum addressed to the Division Administrator of the Federal Highway Administration dated May 28, 2025, states that the development affecting the interchange is "**a 120-fueling position Buc-ee's gas station with a 74,000 square foot convenience store.**"

Appellant's appeal letter, at page 5, states that "**[t]he proposed Buc-ee's does not meet the Code definition of a Gas Station.**"

The accuracy of an applicant's representations is a condition of the relief sought, not a formality. LDC § 2.2.1(C) empowers this Board to void plats, agreements and other official documents "if it is found there has been a material misrepresentation of fact." The County's current Application Form — which lists "Administrative Determination" first and "Appeal" third among its application types — requires that information submitted be "true, factual and complete" and states that "any misrepresentation of any information on this application may be grounds for denial or revocation." (Exhibit P to the Supplement.)

The classification sought in this proceeding turns entirely on Appellant's description of its own project. The Board cannot make the determination it is asked to make without knowing which description Appellant stands behind.

Integrity Matters therefore requests that the Board require Appellant to state on the record:

- (a) which of its two descriptions of this project is the accurate one; and

(b) whether it has ever, in any filing with any federal or state agency, described this business as anything other than an establishment selling motor fuel together with convenience goods.

Appellant's descriptions of this business in other forums, drawn from public records and submitted as Exhibit Q to the Supplement, are summarized on the following page.

III. Preservation

This notice is submitted as written evidence for the administrative record and is preserved for review under C.R.C.P. 106(a)(4). Nothing herein waives or limits any argument, claim, objection or defense available to Integrity Matters in this proceeding or in any subsequent proceeding.

Respectfully submitted this 27th day of August, 2026.

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HOW THE APPLICANT HAS DESCRIBED THIS BUSINESS

APP261 / ADM264 · Integrity Matters · Drawn from Exhibit Q to the Supplement to Written Public Comment

Every source below pairs the retail sale of motor fuel with convenience retail. None describes this business as a convenience store alone.

Year	Forum	What the applicant said	Source
2007	U.S. Patent and Trademark Office	"Retail store services featuring convenience store items and gasoline. "	Reg. No. 3,246,893, Int'l Class 035; first use claimed July 1, 1982
2010	U.S. Patent and Trademark Office	"Retail store services featuring convenience store items and gasoline. "	Reg. No. 3,763,277, Int'l Class 035; renewed Feb. 1, 2020
2011	U.S. Department of Labor	"a new location of Buc-ee's (gas station and convenience store)" — NAICS 447110, Gasoline Stations with Convenience Stores	76 Fed. Reg. 32989 (June 7, 2011); reports applicant-submitted Form 4279-2
2022–26	OSHA establishment records, five states	NAICS 447110, Gasoline Stations with Convenience Stores — seven records	TX (2), SC, TN, KY, VA (2)
2023	Trademark Trial and Appeal Board	"For several decades, Opposer has offered quality convenience store and gas station services under the mark BUC-EE'S."	Notice of Opposition No. 91285010 (May 15, 2023), ¶ 1, signed by counsel
2025	Federal Highway Administration	"a 120-fueling position Buc-ee's gas station with a 74,000 square foot convenience store"	Minor Interchange Modification Request, Kimley-Horn, May 28, 2025
2026	This Board	" The proposed Buc-ee's does not meet the Code definition of a Gas Station. "	Appeal letter, p. 5

Federal industry classification draws the same line. NAICS 457110, Gasoline Stations with Convenience Stores, covers establishments retailing automotive fuels in combination with a limited line of groceries. The separate category, NAICS 445131, Convenience Retailers, covers convenience stores and food marts "except those operating fuel pumps." Under the 2022 revision, code 447110 corresponds to 457110; the title is unchanged.

Colorado. On page 338 of the staff report, in the County's own community comparison at Exhibit 8, staff recorded the use at the Johnstown Buc-ee's — the only operating Buc-ee's in this State — as "**Commercial Fuel Station/Commercial.**"

Limitations stated by Integrity Matters. NAICS codes in OSHA records may be assigned by the inspecting agency rather than supplied by the establishment; those seven records are offered as a classification pattern, not as statements by the applicant. Federal industry classification is a statistical system and is not binding on the El Paso County Land Development Code, which differs in a material respect: its Convenience Store definition provides that such a store "may include retail sale of gasoline and other petroleum products." This material is offered for a narrower purpose — the applicant has never described this business to any government as anything other than an establishment selling motor fuel together with convenience goods, until this proceeding.

Sources and full documents: Exhibit Q to the Supplement to Written Public Comment of Integrity Matters, APP261/ADM264. Web-hosted records retrieved August 24, 2026.