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Commissioner, District 1

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Commissioner, District 5

Katherine Miller  
County Manager

**DATE:** November 24, 2015

**TO:** Board of County Commissioners

**FROM:** Jose E. Larrañaga, Development Review Team Leader *JEL*

**VIA:** Katherine Miller, County Manager  
 Penny Ellis-Green, Growth Management Director *PEG*  
 Vicki Lucero, Building and Development Services Manager *VL*  
 Wayne Dalton, Building and Development Services Supervisor *VD for WD*

**FILE REF.:** CDRC CASE # Z/DP 14-5370 PNM Caja del Rio Solar Energy Center Project

**ISSUE:**

In accordance with an Order from the First Judicial District Court in Case D-101-CV-2015-01488, Public Service Company of New Mexico, Applicant, Laurie Moye, Agent, is requesting to vacate a Master Plan Zoning, Preliminary and Final Development Plan approval which allowed a 5 megawatt electric Solar Facility on a 40 acre site. The property is located north of New Mexico Highway 599 and takes access via Caja del Rio Road, within Section 3, Township 16 North, Range 8 East, (Commission District 2).

**VICINITY MAP:**



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**SUMMARY:**

The above referenced matter came before the Board of County Commissioners of Santa Fe County (BCC) for hearing on March 24, 2015, on the Application of the Public Service Company of New Mexico (PNM or Applicant) for Master Plan Zoning, Preliminary and Final Development Plan approval, in accordance with the Santa Fe County Land Development Code, Ordinance 1996-10 (Code), as amended by Ordinance No. 1998-15 (amending Article III § 8, "Other Development"), to allow a 5 megawatt solar electric generating facility on a 40 acre site. The BCC approved the application by a unanimous 4-0 vote. (Exhibit 1)

The Final Order was approved by the BCC and recorded with the Santa Fe County Clerk's Office on May 27, 2015, (Exhibit 2) which, pursuant to Section 39-3-1.1 NMSA 1978, may be appealed by filing a timely Notice of Appeal in the appropriate District Court.

On June 22, 2015, Mr. Ronald VanAmberg, on behalf of Phillip Baca, Mathew Baca, and PMB, LTD filed a Notice of Appeal with the Santa Fe County First Judicial District Court. The Notice of Appeal stated the following, "[c]ome now the Plaintiffs/Appellants and pursuant to Rule 1-074, NMRS 2001, appeal to this District Court as against the Defendants/Appellees the Order of the Santa Fe County Board of County Commissioners in CDRC Case # Z/DP 14-5370, entered and recorded on May 27, 2015." (Exhibit 3)

On October 19, 2015, a Stipulated Order of Remand was filed with the office of the District Court Clerk. (Exhibit 4) The Order stated the following:

The Public Service Company of New Mexico no longer intends to purchase and use the property at issue in this land use matter making its application moot. As a result, the parties have agreed to this stipulated order of remand.

This matter is dismissed as being moot and is remanded to the Board of County Commissioners for Santa Fe County (BCC) for consideration of PNM's request that the BCC's Order of May 27, 2015, approving the Application, including any possible effects on zoning, in CDRC case # Z/PDP/DP 14-5370, PNM Caja del Rio Solar Energy Center Project, be vacated. This dismissal is without prejudice to Appellant's right to appeal the BCC's May 27, 2015, Order that is subject of this appeal or any additional orders on remand in the event the BCC does not vacate its May 27, 2015, Order.

Mr. Richard Cook, owner of the 40 acre tract on which PNM was approved for the Master Plan Zoning, Preliminary and Final Development Plan, is in agreement to vacate the BCC approval, as per the First Judicial District Court Order. (Exhibit 5)

PNM submitted a letter which states:

PNM respectfully submits a request, due to the remand of October 19, 2015, from the State of New Mexico County of Santa Fe First Judicial District Court, that the Board of County Commission vacate PNM's approved Application of May 27, 2015, approving

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the Application, including any possible effects on zoning, in CDRC case # Z/PDP/DP 14-5370, PNM Caja del Rio Solar Energy Center. (Exhibit 6)

The owner of the Property acquired the Property by warranty deed recorded as Instrument # 1152069 in the Santa Fe County Clerk's records dated April 16, 1995. PNM was authorized by the property owner to pursue the request for Master Plan Zoning, Preliminary and Final Development Plan approval to allow a 5 megawatt electric Solar Facility on the 40 acre site as evidenced by a copy a of a purchase agreement contained in the record. (Exhibit 7)

Notice requirements were met as per Article II § 2.4.2, of the Land Development Code. In advance of a hearing on the Application, the Applicant provided a certification of posting of notice of the hearing, confirming that public notice posting regarding the Application was made for twenty-one days on the property, beginning on November 17, 2015. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on November 17, 2015, as evidenced by a copy of that legal notice contained in the record. Receipts for certified mailing of notices of the hearing were also contained in the record for all adjacent property owners. (Exhibit 8)

**STAFF RECOMMENDATION:** The Board of County Commissioners vacate the Master Plan Zoning, Preliminary and Final Development Plan, to allow a 5 megawatt electric Solar Facility on a 40 acre site, pursuant to the Order from the First Judicial District Court, Case D-101-CV-2015-01488, Public Service Company of New Mexico.

**EXHIBITS:**

1. March 24, 2015, BCC Minutes
2. BCC Final Order
3. Notice of Appeal
4. Stipulated Order of Remand
5. Cook Letter
6. PNM Letter
7. Deed and Purchase Agreement
8. Proof of Legal Notice
9. Aerial Photo of Site

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willing to support this project and other similar projects. So I just wanted to mention that for the record, Mr. Chair. Thank you.

CHAIR ANAYA: Thank you, Commissioner Chavez. Any further discussion? Seeing none.

The motion passed by unanimous [5-0] voice vote.

- VII. B. 3. **CDRC CASE # Z/PDP/FDP 14-5370 PNM Caja del Rio Solar Energy Center Project**. Public Service Company of New Mexico, Applicant, Laurie Moye, Agent, Request Master Plan Zoning, Preliminary and Final Development Plan Approval to Allow a 5 Megawatt Electric Solar Facility on a 40-Acre Site. The Property is Located North of New Mexico Highway 599 and Takes Access Via Caja del Rio Road, Within Section 3, Township 16 North, Range 8 East (Commission District 2) [Exhibits 5 – 12 submitted by the Baca Family: Exhibit 5: Blue folder titled Santa Fe County Board of County Commissioners PNM Caja del Rio Solar Energy Center Project, contents A-M; Exhibit 6: Photo of activity on the subject site; Exhibit 7: Letter to Jose Larrañaga and Ms. Green, dated 3/19 from Dr. Claus Benkert; Exhibit 8: Santa Fe County Ordinance 1996-10; Exhibit 9: State of New Mexico Commission of Public Lands letter dated 3/20/15 to Baca Ranch/Lessee; Exhibit 10: Three photos of the posted property; Exhibit 11: Santa Fe New Mexican, editorial re: solar energy panels in Eldorado, dated 1/29/15; Exhibit 12: CDDRC Case #Z/DP 14-5370 PNM Caja del Rio Solar Energy Center Project, December 18, 2014, page one of CDRC staff report]

MR.LARRANAGA: Thank you, Mr. Chair. Public Service Company of New Mexico, applicant, Laurie Moye, agent, request master plan zoning, preliminary and final development plan approval to allow a 5 megawatt electric solar facility on a 40-acre site. The property is located north of New Mexico Highway 599 and takes access via Caja del Rio Road, within Section 3, Township 16 North, Range 8 East, Commission District 2.

On December 18, 2014, the County Development Review Committee met and acted on this case. The decision of the CDRC was to recommend approval of the Applicant's request for Master Plan Zoning, Preliminary and Final Development Plan approval to allow a 5 megawatt electric solar facility on a 40-acre site, with staff conditions by a unanimous 4-1 voice vote [sic]. The December minutes were approved by CDRC on February 19, 2015 and recorded on February 20, 2015.

Public Service Company of New Mexico is requesting Master Plan Zoning, Preliminary and Final Development Plan approval to allow a five megawatt tracking solar

SFC CLERK RECORD04/29/2015



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electric generating facility on a 40-acre site. The solar panels are tracking panels which will be configured together in long rows which will be oriented north-south. Each row of panels are approximately 210 feet in length and will rotate together, making adjustments as the panels move to track the sun east to west. The solar modules will be mounted on a ground-mounted rack. The height of the top of the panels at full-rotation will not exceed seven feet from the natural grade. A distribution line will be extended to the site for the delivery of the electricity being generated by the facility. For safety and security reasons the facility will be enclosed by a chain link fence seven feet in height with three strands of barbed wire eight feet in total height.

The Applicant states: "the solar generating facility is needed to meet PNM's 2015 Renewable Energy Plan. The project is part of a utility distribution system for utility use for the greater public good and for the health, safety and welfare of the residents of Santa Fe County, and will provide the community with a source of clean, renewable energy to support growth and economic development in the area."

The Applicant has submitted a subsequent letter and drawings in response to staff and review agency comments. The Applicant states that typically there are 4,000 panels per megawatt, therefore the proposed five megawatt site will contain approximately 20,000 panels and will encompass approximately 24 acres of the 40-acre site. The site will also house five power converters and one switchgear facility. On October 28, 2014, the Applicant held an open house to discuss the proposed development. Notice was sent to ten adjacent property owners and three attended the meeting. The Applicant states that "concerns of the individuals who attended the open house were primarily related to uncertainty as to what the facilities would look like and visibility of the site."

Building and Development Services staff have reviewed this project for compliance with pertinent Code requirements and have found that the facts presented support the request for Master Plan Zoning, Preliminary and Final Development Plan: the Application is comprehensive in establishing the scope of the project; the proposed use is in compliance with the uses associated with Other Development; and the Application satisfies the submittal requirements set forth in the Land Development Code.

The review comments from State Agencies and County staff establish that this Application for Master Plan Zoning, Preliminary and Final Development Plan, is in compliance with: State requirements; Ordinance No. 1998-15, § 8, Other Development; Article V, § 5 Master Plan Procedures; and Article V § 7.2 Final Development Plan of the County Land Development Code.

Staff and CDRC recommendation: Approval of Master Plan Zoning, Preliminary and Final Development Plan to allow a 5 megawatt electric Solar Facility on a 40-acre site subject to the following staff conditions. Mr. Chair, may I enter the conditions into the record?

[The conditions are as follows:]

1. The Applicant shall comply with all review agency comments and conditions, as per Article V, § 7.1.3.c. Conditions shall be noted on the Master Plan/Final Development Plan.
  - a. Santa Fe County Public Works Department and Santa Fe County Fire will require that access to the site be constructed with six inches of compacted

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base course and twenty feet in width.

2. Master Plan/Final Development Plan with appropriate signatures shall be recorded with the County Clerk, as per Article V, § 7.2.2.

I stand for any questions and also I stand for any questions on the handouts.

CHAIR ANAYA: Okay. Is there any questions of staff or do we go to the applicant? Commissioners? We'll go to the applicant.

MS. MOYE: Mr. Chair, members of the Commission, Laurie Moye with PNM. I have a power point presentation I'm going to go through quickly for you. As Mr. Larrañaga indicated we are seeking approval of master plan zoning, preliminary and final development plan for a five megawatt solar tracking, electric solar site on a 40-acre site. This is an example of your typical electric power grid. The solar that is being developed in Santa Fe goes directly into the distribution lines that feed your homes and business in Santa Fe and that's on the bottom left-hand portion of the slide. You can see we have several different generating stations, transmission lines, power substations and then distribution substations and the solar actually goes directly into the distribution lines, into the substations and is distributed throughout the community.

The proposed Caja del Rio Solar Energy Center is located on the west side of Caja del Rio Road. This solar generating facility is one of two tracking solar centers. You just approved one - thank you - and this one is up for approval. These projects will be the first PNM solar projects in Santa Fe County.

I also have on the stand here a picture of where this is located if you can see it. Again, the project is located on the west side of Caja del Rio Road. It's approximately ¼ of mile away from the road. Approval is necessary in order to accommodate this use where space and performance characteristics demand a specialized locale. You can't put solar just anywhere. You have certain things that you need to look for and this site meets those things. This is a parcel of vacant land and it meets both PNM solar requirements and the layout for a successful solar generating station. There is a nearby electric distribution line in Caja del Rio Road that will be extended to this site to transmit the generated energy.

Access to the site will be directly from Caja del Rio on an exiting road which will be improved to the site entrance. We will be using legal access to this site. A driveway between 20 and 24 feet in width is proposed into this site and then there will be a locked entrance gate. There will be a temporary increase in traffic during construction. The project not generate traffic once it's built. The facility will be operated remotely and is only visited as PNM or authorized contract personnel is needed for maintenance or repair. No septic, sewer or gas lines are needed. No water lines are needed. PNM will take advantage of natural moisture to clean the tracking solar panels. For public safety and security reasons the site will be enclosed by a chain link security fence, seven feet in height, topped with an additional one foot of three strands of barbed wire for a total of eight feet.

The completed facility will generate undetectable sound. Construction activities consisting of trucks entering, exiting and moving around the site may generate temporary noise during daylight hours until the project is developed. No odors are created. There are

no harmful effects from the project site. Approximately 20,000 panels will be used. The proposed Caja del Rio Solar Energy Center will not be open to the public.

Access to the project will be directly from the existing road off of Caja del Rio Road. Again, it's legal access. The site is approximately 40 acres in size and PNM has an option to purchase the property. The \$11 million project will generate approximately five megawatts of solar power, the equivalent energy used by 1,190 average residential customers. Construction of the project, hopefully, will begin in 2015. My notes say early 2015 but I think we've missed that. We hope to be operational before the end of 2015 or shortly thereafter.

The total height of the tracking panels will be just under seven feet above ground when it's at its maximum tilt, approximately 6'8". Each row segment is approximately 210 feet long and the rows can be connected. The row lengths vary on the amount of developable land. The piers that the panels sit on, they're pile-driven to various depths depending on the soil conditions but to a minimum depth of six feet. The piles are driven in, the racks are attached, the panels are attached to the racks, then they're attached to each other so that they rotate in concert.

The ground under the solar panels will be treated for dust suppression, soil stabilization and weed control. It is PNM's process now to minimally grade if at all. The site, we do some trimming and some grubbing but we like to leave the dirt as undisturbed as possible.

Now, this is a small site that's at Sue V. Cleveland High School. It's 600 kW but it will give you a look of this is what it's going to look like and the panels are going to rotate.

Again, access. Access will be from Caja del Rio on an existing road which will then be improved to the site entrance and we again, are using legal access. A driveway 20 to 24 feet in width is proposed to the site, again, with a locked entrance gate, and PNM will continue to work with County Public Works Department regarding the access and that's one of the conditions.

In summary, PNM is seeking approval of a master plan zoning, preliminary and final development plan for this five megawatt tracking solar site on 40 acres. It's clean, renewable energy using a low-profile tracking solar design. It creates no air emissions or waste products and uses no water. Santa Fe County and local schools will benefit through increased property taxes of about \$96,000. With that I'd be happy to stand for any questions. We also did pueblo consultation on this site, Mr. Chair, with Cochiti and with Tesuque and in your packet I believe you have two additional letters from PNM, a letter from Cochiti and the former Governor is here to address your concerns as well.

CHAIR ANAYA: Thank you.

MS. MOYE: I stand for questions.

CHAIR ANAYA: I'll go to Governor Dorame first for comments and then questions of the applicant. Governor Dorame.

[Previously sworn, former Governor Dorame testified as follows]

GOVERNOR DORAME: Thank you, Chairman, members of the committee. We went through the same presentation at our council meeting and it was very informative in the relationship that we've managed to come up with with PNM has

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been very fruitful in these two projects. Having said that again, after our meeting a date was determined to have a site visit at which time Governor Milton Herrera, former Governor Mark Mitchell, Jose [inaudible] historic preservation officer accompanied PNM and when they came back and reported to the tribal council, the tribal council found that there was no findings of any significant effect or any TCPs, which are tribal cultural properties in the immediate area of the proposed project. And if you have any questions I'd be glad to answer them. Thank you.

CHAIR ANAYA: Are there any questions of Governor Dorame? If not, Governor, I have a request that I would ask that you take back to the Governor and the tribal council. We had a little bit of a dialogue or comments at the meeting. I made some comments relative to – you touched on respecting tribal entities and tribal lands and trying to create a better dialogue or more information as it related to items that might affect our tribal lands and tribal governments. Could you request that I would ask that we have some consideration in the same way of projects and proposed developments of land use on tribal lands that we be given an opportunity to understand the things that you're going to be doing and maybe have an opportunity to provide some feedback that I'm requesting as the chair of the Commission and would like to get some feedback from the Governor and the tribal council on that.

GOVERNOR DORAME: Thank you, Chairman, I will go ahead and relay that message to my Governor and it will be top of discussion at our next council meeting.

CHAIR ANAYA: Thank you very much, Governor. Commissioner Chavez.

COMMISSIONER CHAVEZ: Yes, Governor. Would it be appropriate for me at this time to mention correspondence that we have in front of us this evening that also mentions the Governor from Cochiti Pueblo and the meeting that they've had with PNM also? Is it okay if I read that into the minutes?

GOVERNOR DORAME: I would think so. It's really another pueblo's letter that you want me to comment on. But we do concur with the Pueblo of Cochiti on their letter.

COMMISSIONER CHAVEZ: That's what I was looking for, because I think the applicant has done outreach to Cochiti Pueblo as well as Tesuque Pueblo and I just wanted to mention that for the record. Thank you, Governor.

CHAIR ANAYA: Thank you, Commissioner Chavez. Questions of the applicant?

COMMISSIONER HOLIAN: Mr. Chair.

CHAIR ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: I had one question for Ms. Moye. Do you have any idea whether the weed control company uses glyphosates? Those are the type of weed control that Roundup uses.

MS. MOYE: Mr. Chair, Commissioner Holian, we have our senior environmental scientist here. I would like to have him address that if I may?

COMMISSIONER HOLIAN: Thank you, yes.

[Duly sworn, Doug Campbell testified as follows:]

DOUG CAMPBELL: Doug Campbell, PNM in Albuquerque.

COMMISSIONER HOLIAN: Do you know whether the weed control company uses glyphosates?

MR. CAMPBELL: Of course the weed control for the properties that would be developed here, we don't necessarily use the same weed control company in all our divisions. So for solar plants we have some limited weed control on most of these sites now. And yes, that product has been used at other sites. So I can't say for sure it would be used at these sites. We target the weed control to specific species that would respond to it and we actually try to use targeted herbicides to allow native vegetation to persist on the site.

COMMISSIONER HOLIAN: Well, I'm wondering if PNM would be amenable to asking the weed control company not to use that kind of weed control that's in Roundup because there's more and more evidence that it has pretty negative effects on the health of people and animals.

MR. CAMPBELL: PNM wouldn't be averse to a condition for these sites of that nature. Thank you.

COMMISSIONER HOLIAN: Thank you.

COMMISSIONER STEFANICS: Clarification, Mr. Chair. Did he say they would not be averse? Okay. Thank you.

MS. MOYE: Yes. Thank you. He said PNM would not be averse to a condition regarding the use of that product.

COMMISSIONER HOLIAN: Thank you.

CHAIR ANAYA: Are there any other questions of the applicant? If there are none, this is a public hearing and we will go to public hearing now. The public hearing is open. Are there any individuals that would like to come before the Commission regarding this case? Please come forward and be sworn in.

[Those wishing to speak were placed under oath.]

CHAIR ANAYA: So what we'll start with is we're going to start with those people that are opposed to this particular application if we could. Any individuals opposed to this application please come forward.

RON VANAMBERG: May it please, Mr. Chair, we're handing out some handouts – materials and exhibits that we would like to have as part of the record.

CHAIR ANAYA: Okay, sir. Go ahead.

MS. MOYE: Do you have one for the applicant? Thank you.

MR. VANAMBERG: Mr. Chair, members of the Commission, my name is Ron VanAmberg. I'm an attorney and I represent the Baca family who in turn is represented here by Philip Baca and Matthew Baca. I'd like to start out and ask whether the County is aware that PNM is now proceeding with the development of its property and is pounding these piers into the ground in preparation for setting of these solar units. To my knowledge they do not have a development approval yet which would support such an activity. I may stand corrected, but there was nothing posted there which would indicate that they had permission to make this major improvement to their property.

We again – I represent PNB, Ltd., Philip Baca and Matthew Baca and their respective families and we are here appealing or at least contesting the CDRC Case Z/PDP/FDP 14-5370, which I understand are only recommendations and there has been

no final decision made there so it is on the basis of that representation we are here in opposition to any approval that is being recommended.

There are several procedural issues that we would like to bring to the attention of this Commission.

CHAIR ANAYA: Hold on one second. If the applicant would go to the microphone real quick for me.

MS. MOYE: Mr. Chair.

CHAIR ANAYA: Relative to the first comments made, is there work going on on this site?

MS. MOYE: Mr. Chair, that is typical survey work that's being done, geo-testing. It is not pounding of any of the piers; it's simply geo-testing to determine the soil quality, and we had permission from the landowner to do that, and we surveyed both sites in Santa Fe. It's typical survey work, Mr. Chair.

CHAIR ANAYA: So I'm going to go to the County Attorney because I want to get clarity on this before we go any further. Mr. Shaffer, were you aware of the work that was happening over there and what is your comment relative to work happening at the site and provide me some framework as to our development review process and whether or not work – what's allowable or disallowable on a site relative to land use?

MR. SHAFFER: Mr. Chair, I believe there are two questions there. In answer to the first, I was not aware of any activity taking place on the property. With respect to the second I would ask the Land Use Administrator to comment on her views as to what the Land Development Code allows by way of the described activity, if I could, Mr. Chair.

MS. MOYE: Mr. Chair, I –

CHAIR ANAYA: Before you comment, hold on. Hold on a second. I've got a question for you and then hold any other remarks for a second.

MS. MOYE: Yes, sir.

CHAIR ANAYA: So I've been around capital projects for many years and you said there was survey work and geo-testing work. Because typically, what happens with surveying, geo-testing work is you're drilling into the soil and taking soil samples. You're not typically pounding and banging in the ground. This does look like you're pounding the anchors essentially for the site. So I know what geo-testing is and I know what soil sampling is and this doesn't look like that. Have you had a chance to look at this, but I can assure you that this is soil sampling. This is not the size of a rack. A rack – the posts that we would pound in look like the posts along the highway guardrail. They're fairly good size, and this is simply soil sampling. We have to do lots of preparation before we would put up any piers. This is geotech testing of the soil, Mr. Chair.

CHAIR ANAYA: So let me just give you a little bit of background. So when we do land use cases as a Commission and somebody, whether it's a multi-million dollar project that's being built or whether it's John Doe Public Citizen that's wanting to build a wall, we have a process and when John Doe Public Citizen goes to build a wall, if they start digging the trench for that wall and somebody says they don't have a permit yet, essentially we go out and we tell people you can't do anything until you can get your

permit. Is that correct, Ms. Ellis-Green? If that sequence of events occurs for construction? We don't let people do any – until they get a permit, right?

MS. ELLIS-GREEN: Mr. Chair, Commissioners, if you're dividing land you would get a survey done and a surveyor would go out on the property to do the survey before you make a submittal to the County, otherwise you wouldn't have a survey to submit to the County. If you have to do some kind of soil sampling, if you have to do a geohydro, those are done before you make application to the County in general, and I've just confirmed with Vicki that we don't issue a permit for those.

CHAIR ANAYA: So you're concurring that this is soil sampling?

MS. ELLIS-GREEN: Mr. Chair, Commissioners, I don't know where this picture is. I wouldn't be able to tell from that.

CHAIR ANAYA: Okay. Are there any other remarks that you want to make, Mr. Shaffer or anybody else from the County?

MR. SHAFFER: Not at this time, Mr. Chair.

CHAIR ANAYA: Okay. Thanks. Okay, sir, you have the floor again.

MR. VANAMBERG: If I could, Mr. Chair, I would like to show the Commission a picture of what it is that is supposed out there that is doing soil sampling, and then I would request that we be able to print this and supplement the record.

COMMISSIONER CHAVEZ: Mr. Chair, can I ask – these pictures, did Mr. Baca have permission from anyone to take those photographs? Just wondering, just asking the question. Let me do that again please. Let me do that again. So you said this was taken yesterday?

MS. MOYE: Mr. Chair, did Commissioner Chavez have a question for me.

COMMISSIONER CHAVEZ: No.

CHAIR ANAYA: So, sir, you have the floor. Go ahead and continue with your testimony.

MR. VANAMBERG: There is a procedural issue that I would like to address and that is under Section 3-21-6. It provides that if the owners of 20 percent or more of the land within 100 feet of land to be rezoned protest the rezoning then a 2/3 vote of all the members of the Board of County Commissioners is required for any rezoning. In your handout, what it being handed to you right now. For the record is a protest that has been prepared by the property owner to the north of the property, which is the subject of this application. It has been sent to the County and I am assuming it's been included in your packet but I don't know.

If you look at Exhibit C of the handouts that I gave you this is an email from Mr. Benkert who is the owner of the company or the entity that owns the property to the north of the subject property. Exhibit C-1, shows the Benkert property as being tracts 2 and 3, which is directly to the north of the subject property and Exhibit C-2 shows the warranty deed to Mr. Benkert's entity to tracts 2 and 3, which comprises now 25 percent of the ownership, so that I'm submitting that any decision for approval of this zoning request requires a 2/3 vote.

Concerning the zoning application there are additional procedural defects. The development zoning application notes a request for a zoning change and that has not

really been a serious focus of the presentation on behalf of staff or addressed at all by the applicant but it is a major issue that is involved in the procedure. The proposed change, and I will deal with this in a little more detail, is from residential/agricultural zoning, which is what the County is zoned. That's the default zoning. And what is being proposed here is a rezoning to an industrial use. Now, it's been sort of slid over in the report and the presentation saying that this is just an Other Development without really addressing the details of what's really being requested.

There is no doubt that there is a zoning change being requested and I would refer the Commission to Board packet which is NBE page 2, and it's significant that this Board packet which was dated February 24, 2015 has some changes to it that were not present in the Board packet that was prepared for the previous meeting. That never came to fruition for one reason or another. But I note that what is being represented by the County and which I applaud them for because it clarifies what is really being requested here is that at the bottom of page 2 it says Ordinance No. 1998-15, an ordinance amending Article III, Section 8, "Other Development" states, "Subject to the requirements of this section all uses not otherwise regulated by the code are permitted anywhere in the county provided a request for zoning approval is granted per Article III."

The amended Board packet then continues and states that Article III, Section 4.4.1.a, Submittals, states, "To zone or rezone any parcel for a commercial or an industrial non-residential district a master plan shall be submitted." So what is going on here is not a use that can take place, not an Other Development that can take place anywhere in the county. This is another development which needs and is requesting by the application a major zoning change from rural residential to industrial.

Article III, Section 4, and you have these parts of the ordinance before you, Article III, Section 4 states that commercial and industrial non-residential land uses are permitted only in zoned districts. The code then goes on into detail on how commercial areas are zoned and are established and the types of uses that are then permitted. However, following this disclosure to the Commission that there is a zoning request being made and it really is going from rural residential over to industrial the staff then in this memorandum, instead of addressing the need for the zoning change and the ramifications, they simply state in NBE-3 that the facts support the request for master plan zoning, preliminary and final development plan. The application is comprehensive in establishing the scope of the project, the proposed use is in compliance with the uses associated with other development.

Other development is not a zoning status. Other development describes activities which, depending on what they are require zoning changes. There is no compliance with other development here because it's not a zoning designation.

However, in another attempt to really gloss over what is being presented to this County which is an attempt wholly inconsistent with the other development argument, the staff represents at NMB 19 that the project is in a proposed industrial zone where commercial solar production facility would be a permitted use. What they are doing here is admitting that this is an industrial use that's being requested, but how they come to the conclusion at least at this part of their contention that no formal zoning change needs to be done the staff relies upon the Santa Fe County Sustainable Growth Management Plan,

and states that this whole application has been reviewed based upon the Santa Fe County Sustainable Land Development Code and the zoning map.

Well, as you know, the zoning map has not been approved. The zoning map is still a work in progress. Trying to justify a zoning change by referring it to a variant to a zoning map which is not law is simply inappropriate. We come back to again the question as to what is being asked here. And what is being asked here is for a major zoning change in this property which is the middle of property which is otherwise zoned agricultural and residential.

Again, Section 4 says Commercial and industrial non-residential land uses are permitted only in zoned districts of various sizes and locations in the county. The intent is to require commercial activities such as that being proposed be located in appropriately zoned areas, not just to be arbitrarily placed within residential and agricultural lands. That is not the structure of the code.

If you also look at guidelines for permitted uses and structures and types of permitted uses and structures in commercial and industrial zones it includes professional business services, research and development, office, studios, clinics, laboratories, private or public utilities, and I'm referring to 4.3.1 which is what this is, light industry and manufacturing, which is what this is, wholesale warehouse, distribution and general industry which is what this is. This is clearly an activity that needs to go into a zoned area.

And this sort of dovetails into a due process issue. As you know, there are notice requirements to the public so that projects such as this are not sort of sneaked through without the public really knowing what is going on. And our position is that neither the applicant nor the County provided adequate notice to either the CDRC or the public of the nature of the zoning changes that were being proposed, namely rural residential to industrial.

NMSA 1978, Section 3-21-6 requires that whenever there is a proposed change in zoning notice needs to be provided to the property owners within 100 feet of the proposed area affected and notices must be posted and published. Further, all notices must fairly apprise the average citizen reading them of the general purpose and nature of what is contemplated. If the notice is – and I'm quoting from case law – insufficient, ambiguous, misleading or unintelligible to the average citizen it is inadequate. The notice that was published, if you look at notices which got attached here as Exhibit A, this is the notice to the public as to what is being proposed. And this is in the *Santa Fe New Mexican*. Request by Public Service Company of New Mexico for master plan zoning, preliminary and final plat approval, to allow a five megawatt electric solar facility on a 40-acre site. Then it says where the location is, and that's it. It does not announce to the public that there's a major rezoning going on here to industrial.

Now, everybody likes solar activities. Everybody agrees with Commissioner Chavez that the more we switch to alternative sources of energy the better off this planet is. However, when you do a major rezoning you're not limiting yourself to solar activities. Bear in mind that this is a 40-acre parcel, 23 or so acres or so of it is going to have this activity on it and the 40-acre parcel really is not a 40-acre parcel; it's never been subdivided. This is a 160-acre parcel.

So is this industrial zoning that these applicants are seeking, is that going to apply to the entire 160-acre parcel and suddenly any type of industrial activity that you want can be operated there? Can it be solar facilities today and – I don't know – a tanning facility tomorrow? And that's the danger of what is being requested here. The notice on the sign, the posting sign is shown in Exhibit 1-D and again, it says master plan zoning, preliminary and final development plan to allow a five megawatt electric solar facility on a 40-acre site. That's it. That provides no notice to the general public that there's a major rezoning in the works.

CHAIR ANAYA: Sir.

MR. VANAMBERG: Yes.

CHAIR ANAYA: You're starting to repeat yourself, so if you would wrap up your comments so that we can move to some other public comments that we're going to take on the case I'd appreciate it.

MR. VANAMBERG: Right. I understand, sir, but the problem I have, Mr. Commissioner, is this is a quasi-judicial proceeding. Out on appeal there's a whole record review and I will certainly try to speed this up but I need to make my record and I hope that the Chair understands that.

CHAIR ANAYA: I'm telling you again as a quasi-judiciary chair that I'm asking you to wrap up your feedback because you're starting to repeat yourself.

MR. VANAMBERG: All right. I would point out that the zoning change that is being requested is essentially a spot zoning. This is not a general rezoning which is of a comprehensive nature. This is a spot zoning and I think your counsel can advise you as to the state of the law as to spot zoning. I would also point out that the County is currently in the process of developing a comprehensive zoning plan and now coming in and doing a spot zoning for industrial use certainly does not make any sense. If there are going to be uses such as that allowed on this property then they should be part of the process.

I submit that there's also a violation of the Subdivision Act in that a subdivision needs to be approved before they can lease out any 40-acre parcel. Leasing out 40 acres of 160 acres constitutes a subdivision under the County code. Concerning the access roads, there is a suggestion – the Bacas will address the Cochiti Trail Road and the implication of what is going on there, but I would point out that the suggestion is that the road which runs from north to south up along the property that's going to be developed is a public road and I do not know how PNM can justify closing off a public road. What will happen when that road is developed and the Cochiti Trail Road is developed, you're going to have another artery there that people are going to utilize as a shortcut and the idea that there is no traffic study that's needed, I think is not an accurate assessment.

Finally, the relief that we're seeking is that this matter really should be remanded back to the CDRC so that proper notice can be given, so the public is aware of what is going on, and we would request that this application at this stage be denied. Thank you.

CHAIR ANAYA: Thank you, sir. Other comments against the proposed application?

[Previously sworn, Philip Baca testified as follows:]

PHILIP BACA: Mr. Chair, members of the Commission, my name is

Philip M. Baca. I reside at 6209 Acacia Street NW in Albuquerque, 87120. I stood up a few minutes ago [inaudible] Mr. Chair, I'd like to refer you to the blue notebook that Mr. VanAmberg handed out and I would refer you to Exhibit H. Exhibit H is a plat of small holding claims that was done in May of 1915, two months shy of 100 years ago. It shows the Cochiti Trail along the northern boundary of all the small holding claims and it shows three different Baca properties that are in that area. I also would like to show that the animal shelter, the golf course, the rugby fields are approximate to that area to the north. The notice on the plat surveyed in 1915, it says Cochiti Road right above all of the small holding claims.

The Cochiti Road or Trail as a lot of people refer to it went from Cochiti Pueblo to Santa Fe and I'd like to, with all due respect, you received a letter from Cochiti Pueblo here where they say there's no claim that the Tesuque-Cochiti Trail ran through the Caja del Rio site. They've got themselves in the wrong place. The Cochiti-Tesuque Trail is approximately half a mile west of the site. It connected the Pueblo of Cochiti to Tesuque Pueblo and all of you know Tesuque Pueblo is to the north of here about ten miles. And the cutoff from the Cochiti Trail is approximately a mile west from there. The Cochiti Trail and the Tesuque Trail was actually about ¼ of a mile or destroyed as I told you last October in another meeting. When the City and County developed the landfill they destroyed part of the Cochiti-Tesuque Trail. We're not talking – we have never claimed that this trail that is next to this property is part of the Cochiti-Tesuque Trail. I just wanted to – with all due respect to the Governor of Cochiti Pueblo they got their trails mixed up. There's two separate destinations of these trails.

Secondly, I'd like to call your attention to Exhibit I in this handout. Exhibit I is a 1999 letter from the Bureau of Land Management, Taos Area Director, Sam DesGeorges, which recognizes all the roads in that area. Some of you know there are two different areas in there that describes the roads that the Bureau of Land Management recognizes the Cochiti Trail being one of them. They indicate in there that information.

Next I'd like to take you to Exhibit E – no, I'm sorry. Exhibit J. That is a letter from Dr. Mike Mier on December 1, 1999. Originally, the city and the County when they started developing that area for the landfill they took the position that there was no roads in that area. Then they got the letter, came, applied to City officials and after they got the letter from BLM this letter came from Dr. Mier, the City Manager of Santa Fe and indicated in there about the Cochiti Trail and they also indicate if you read there that they instructed their staff to build around and respect the Cochiti Trail, which I had showed you had been developed and I showed them at that time, in 1916 had been surveyed.

Next I'd like to take you to Exhibit K and this is a survey which if you look at it on the left side is Caja del Rio. It is a survey done by the City that surveyed the Cochiti Trail going eastward, 60-foot wide to all our properties in there. And this was done when the City leased some land to the Santa Fe Animal Shelter and the Challenge New Mexico group, which has their facilities to the north of that trail, but it is part of the Cochiti Trail which connected Cochiti to Santa Fe Pueblo. That's Exhibit K.

Next I'd like to take you to C-I.

CHAIR ANAYA: Mr. Baca, I have a question for you.

MR. BACA: Yes.

NB-15

CHAIR ANAYA: On your property that's referenced throughout all of the documents, do you have access to all of your property, regardless of what happens on the proposed site that's being solicited today? Do you have access to your property, all of your property on your site?

MR. BACA: No. The 40 site that is being projected in there is Cochiti Trail goes right to the north of it and then to the west, the northwest corner, and cuts through it. I was going to show you another survey. If you look at –

CHAIR ANAYA: No, Mr. Baca, I understand that you're putting forth that the Cochiti Trail has been around forever, for a long time, and that it's to be used by the individuals that – you're stating that it's to be used by the individuals that have property. What I'm asking you is do you have access to your property regardless of the use of this particular site or not?

MR. BACA: It would block one of our accesses.

CHAIR ANAYA: No, no, no. Do you have access to get to your property, to all your property? Do you have a way to get to all your properties exclusive of this particular –

MR. BACA: No. This is one of our accesses.

CHAIR ANAYA: No, no, no. I didn't say one of them. I said can you get to all of your properties if this site is utilized without this access?

MR. BACA: In a circuitous way we probably could but not in a way of management of the ranch. This is a working ranch that's been there since the 1920s. My father started there in –

CHAIR ANAYA: No, I understand, I just wanted to know –

MR. BACA: The thing about ranching, you know that you don't just go on the road out there and you've seen your 25,000 acres. You have several roads, several places for watering, many pastures – you want a winter pasture, whole new pastures, trucks, roads that you can allow semis on and there's roads that you cannot allow semis on to get cattle in and out. So we – you have a network of roads with a 25,000-acre area and they're all necessary for operation of a working ranch.

CHAIR ANAYA: Thank you for answering the question.

MR. BACA: Sure.

CHAIR ANAYA: Go ahead.

MR. BACA: I hope it answers you. And if you go to Exhibit C-1, Mr. VanAmberg also referred to this exhibit. If you look at that exhibit, when the Baca family sold some of this property last year and it was surveyed, you can see at the bottom right hand corner the Cochiti Trail goes into it. It goes into the property we sold. It goes right along the border with the subject property for the PNM site and it's our road and the Cochiti Trail straddles both properties, straddles the PNM site and straddles the Baca property that sold last summer.

As you go to the left you will see that the Cochiti Trail cuts off a corner of the proposed 40-acre site. It would become the northwest corner of the PNM site and it cuts right into it. Our surveyor, and as any of you have ever dealt with surveyors you know that there's a lot – they have to show anything that is manmade or other than by nature on a survey. Our surveyor showed it. The surveyor that did the survey for PNM, if you look

at it under Exhibit L does not show the Cochiti Trail tracking the same pieces of property. Their surveyor completely left out the Cochiti Trail and that is a violation of surveying laws according to the state statutes. They have to show anything and they never showed the Cochiti Trail. If you look at Exhibit L and then you compare it to C-1 you see the difference in what shows on the surveys.

Next I'd like to take you to Exhibit G and this is a road. We refer to it as the Jim Lujan Road which is a real controversial road. It was done by County staff without County Commission approval and some rights-of-way and surveys were done without County approval. After it came to light the County Commission rubberstamped it after it was all surveyed and this road was done to basically reach the Cook property which is some of these LLCs that own the site in question and some other land in that area. And you can see where the dark part is the new road, the Jim Lujan Road. It cuts at a hell of a 90 degree - 45 - 33 degree angle into the Cochiti Trail which makes it one heck of a dangerous situation when you start developing 160 acres that Mr. VanAmberg was talking about and trying to keep also traffic where the Cochiti Trail is at going to the 360 acres that the Baca family sold to another entity last year.

Then it angles - it goes - as you can see the Baca property in the center there, we have a small holding claim 480. The Jim Lujan Road encroaches on the north boundary of it and that has never been corrected. And then it turns to the south and again, at a real bad angle with the Cochiti Trail, that's to the other Baca property that uses the Cochiti Trail as its access to those 329 acres there. So that's - and this has been brought to the attention of the County. Various letters that Mr. VanAmberg has written to them. They have never been answered. We had a meeting with Ms. Penny Ellis-Green about two or three years ago and at that time we were told but we were never able to get anything in writing that this road was supposed to be only an emergency access. Because Mr. Cook has his asphalt plant by the Santa Fe River and if the Santa Fe River is running he would be able to have another way to get out with his big trucks of asphalt and so on.

We were never able to get that in writing from the County staff but Penny Ellis-Green at that time did inform us that it would be only an emergency access. It's not stated as such anywhere. And we've been through - written letters and they've never been answered.

Lastly I'd like to call your attention to one other item. I'm sorry. Got our wires crossed a little bit over here. In my old days I used to be able to get information - for those of you who might not know I served as president of the school board of Santa Fe Public Schools. I served as City Manager of the City of Santa Fe so I used to be used to these meetings. I also served as director of the Legislative Finance Committee. I worked with it for 11 years. But I retired 25 years ago so I've forgotten a lot of procedure in getting information.

This is a letter that I received a few days ago and it's from the State Land Commissioner. And it's addressed to GS 2065, which is the number of the lease that we have, land that we lease from the state, which the - what I call the Jim Lujan Road goes on as you go south by my last exhibit, it was hatched in there, 50 feet I would give in the Land Office, and the legislature - it has come to our attention that the following paragraph was added without adequate advance notice and the paragraph says, in addition

to reservations stated in 11 in our lease the lessor reserves the right to execute leases for renewable energy projects in lands granted by this lease. Lessee consents to any such language. Lessee agrees to cooperate in any such lease and failure to do so shall constitute a violation of paragraph 9.

The last paragraph in this letter says, this paragraph has never been included in previous agricultural leases from the Land Office and upon further review of this substantive condition I have decided to remove the above-referenced paragraph from your lease effective immediately. Please retain this letter along with your lease agreement for your record. Aubrey Dunn.

This constitutes quite a situation for the Jim Lujan Road because part of the Jim Lujan Road, 50 feet of it by almost  $\frac{3}{4}$  of a mile going to Mr. Cook's asphalt plant is on state land that they lease from the Land Office for the road and that falls under the – a different animal when it comes to cultural situations and my son Matthew will address these situations that would be basic. To our knowledge PNM has not contacted the Land Office and tried to get anything resolved as far as cultural situations in regard to that area. At this point I'd like to turn it over to my son Matthew and he can appraise the Commission on that. I'd like to thank you and I'd be happy to answer any questions you have.

CHAIR ANAYA: Thank you, Mr. Baca.

[Previously sworn, Matthew Baca testified as follows:]

MATTHEW BACA: I swear and affirm that I am still under oath. My name is Matthew Baca and you heard from me at the last meeting. I'm sorry I'm going to have to cover a couple things because this is a different record and as our attorney Mr. VanAmberg said it is an adjudicatory hearing.

I live in Albuquerque, New Mexico, 5125 Northern Trail NW and I've spent considerable time out here on our family ranch which was started in 1928 by my grandfather and just to let you know my father was one of the last of our family born in Rancho de las Golondrinas, the museum out there, which I think is a very impressive thing. I graduated UNM with a degree in mechanical engineering. However, the only engineering company that I ever did work for was Scanlon and Associates. If you have long memories it was a civil engineering geotechnical surveying company and I can tell you that what I saw today out there at the site was not surveying and geotechnical. There were large I-beams being slammed into the ground. The one that you saw a picture of, I personally viewed it had foot markings in increments on it ranging, I believe, from one to seven and by the time I took that picture it had been gone into the ground at least seven feet. The noise was incredible. The workers refused to identify themselves. I asked them who they were working for. I asked if they were working for PNM. They refused to give me their names. Only when I used Ms. Moyer's name did they recognize that I knew somebody and they said, yes, that's who we're working for and they were told not to stop for nothing – that was their double negative, not mine. And they told me that I was in a dangerous situation because of the equipment and that I had to leave immediately. The picture you saw, the rig was actually taken from property next to where the work is going on. And no, I didn't ask permission but I never thought to ask permission to tell you the truth.

SFC CLERK RECORD004/29/2015

NB-18

The first issue, and I'll try and go through this quickly. I was former president of the New Mexico Solar Energy Industry Association and the Renewable Energy Development Association. In this position, and you ask, well, why were there two associations, and that's because even alternative energy has rivalries. The wind and solar energy industries formed in the early eighties and they were rivals. And they still are today in many ways because there's a big competition as to where the federal money is going to go and what's going to happen.

I was selected because of them both by both of them because they knew they had complementing goals and because they looked at me as being an honest, neutral person who would work to the best in bringing all their goals together. And I think I did a good job. Unfortunately, there was an election and elections have consequences. President Reagan had different ideas about energy than I did.

I am going to pass out a handout because the first issue I'm going to talk about is the road signing/posting issue. This is what I told the CDRC and it's in the minutes and I'm going to repeat it here quickly. The green gate to the left in this photograph is the entrance to the Cochiti Trail and the building on the left is the Center for New Mexico Archaeological Studies, the CNMA. You'll note the road that runs down there and the fact that the building and the lights are moved over to the left, that was a result of the Cochiti Trail being there and that is our front gate that we use there.

The reason you're looking at - if you look in between those two middle posts, those two yellow posts that are set in the middle you will see in the very back if you have good eyesight, if not with a magnifying glass, the notice for the CDRC hearing. The second page is now behind the Cultural Affairs building, still on their campus, and if you look down that rutted road there's the notice for this meeting today on the campus. And if finally turn to the third page, when you get to the gate where the notice was posted, far, far from Caja del Rio where I originally started this series of photographs, and yet on the campus of the CNMA, the Center for New Mexico Archaeology but still a quarter mile away from the site where this was going to take place. We do not believe that a reasonable person wanting public notice should have to travel down that dirt road to see this, and we do believe that notice should be placed at the site or closer to the site than a quarter mile away. Again, we believe that this was a disingenuous attempt to comply with the notice requirements and they were not met.

I'm actually going to ask - not right now but in about five minutes for the PNM presentation to be put back up on the screen, but I would like to now move over to some of the archaeological aspects of this. This should be provided in your project. Eric Blinman is the state archaeologist and he is the director of the Center for New Mexico Archaeology. He led the effort to get capital monies you were talking about earlier today, get the funding to create the center out there. It's a beautiful center if any of you haven't seen it out there. He took it upon - as being the responsibility of the state to check for archaeological effects.

This is a letter written March 19<sup>th</sup>, which is last week. It was the findings of the state archaeologist out there have not been made public in a published report. There is a draft report that I knew of because I watched them do the excavations and I thought they had thousand-year-old artifacts next to the Cochiti Trail. I don't know what the proper

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words would be but I was just like blown away when I found out that these were not 1,000-year-old artifacts that they found out here but there were artifacts that stretch back as far as 4350 BC. And we're talking the distance from the site – the site's redacted in the report. Under state statute you can't show where the sites are but we walked out there to look at it and I don't want give the distance but it's probably more than – I could probably throw a rock on Cochiti Trail and hit the sites that they were talking about.

Included is the draft report and I've just highlighted on part of it and that is in the first page, technological and raw material procurement patterns suggested occupation by hunter-gatherers, puebloan tasks and based on these results, OAS, which is then the Office of Archaeological Studies, recommended the site as eligible for nomination to the National Register of Historic Sites.

Second page, I highlighted some of the more – or the third page, some of the more notable findings and I'll get to the second page, including crystals, which was accommodated to accord – these are human made with things like this. The archaeological study, Marron and Associates who did the study for PNM wouldn't have known about these things because the report is still not yet public. I'm releasing it now because I requested it for quite a while and finally I was able to get it from them. Thank you, Mr. Blinman. I know you're a real busy man but appreciate it.

And now I'm just going to refer to something that you may or may not have got that in your package, but it's the Cultural Properties Act, that's the state act. The state act is – this is Section 8, Article VI, I believe, 18-6.1 through 18-6.8-8, so it's fairly long. I think it's about 30 pages long, which shows you and the reason why is that the very first sentence, the purpose of the act. The legislature hereby declares that the historical and cultural heritage of the state is one of the state's most valued and important assets that the public has an interest in the preservation of all antiquities, historic and prehistoric ruins, sites, structures, objects and similar places.

That pile-driving I saw today was going down at least seven feet and as I saw on the presentation if you noticed there's going to be one of these piles every 18 feet on center driven into the ground. Standing next to it you felt the whole ground shake for many, probably about two meters or six feet at least out from their – I actually saw a visible thing. As a private property owner there's a lot of things that are exempt from this act in protection but the access to this property goes on state property, the state road that we talked about earlier that has – upon which a right-of-way has been given by the State Land Office.

Any work, and I want to make this very clear to management especially because I don't think the Commissioners will be consulted. Any work out there now, you're on notice that there are historical artifacts, 4,000 of them were found out there dating back 6,000 years and they are very near surface artifacts, so any type of work that's done in creating this state road on state property is going to have to comply with all the requirements of the Cultural Resources Act.

I'm just going to make a – just one thing on the road that my dad didn't include and I'll just make that. When Congress and the president signed in the Small Homestead Act they were opening up the West to people, giving out 160-, 320-acre, even up to 640-acre sections and keeping land around it. This is why the BLM has so much land around

and the Forest Service also. But after the people had gone to live on these properties and work these properties for I think it was five years they got to own the properties. They had to live there and work them, and the government said we're going to make sure that when you – that property goes to you that you don't even lose your access to it and they created Section 932 of the federal code that says roads that lead to lands that were homesteaded on federal property could never be taken away. This survey permit provided by – in the application takes away that right that we were given under our federal law.

We talked a bit about the James Lujan – I was actually the point person on James Lujan who you all know has pled guilty to bribery. When he started trying to build this road without any public notice, without any hearings, without any applications, without any notification to anyone, I met with them the late County Manager Gerald Gonzalez who said he would investigate the motivations behind Mr. Lujan and why he was building it. He never received a clear answer from Mr. Lujan. Later we worked in the legislature together, the chief analyst for the Senate Rules Committee, and Mr. Gonzalez said that he could never get anything out of Lujan while he was doing it but Lujan quit for a while. After Mr. Gonzalez was gone he started up activities again, even grading portions of the road, probably grading in violation of the state cultural act that I was just talking about.

I went to see Roman Abeyta, then County Manager, and he said that he would have an investigation and he would investigate and report back to him within 30 days. Well, he was shortly thereafter gone. We will shortly be sending a letter to the County Manager Miller and copies to yourself outlining all the specifics, more detail than I just gave you saying we are requesting again that that investigation occur and find out how this road got to be here without ever having a hearing and without ever having any kind of input. So with the 932s.

Is it possible to put up a siting – the project site plan contours?

CHAIR ANAYA: Yes, go ahead and put it up for him.

MR. M. BACA: I'm almost done. In the meantime I'm going to pass this out. I passed it out for the previous – at the previous meeting that you had with the hearing on the Cerrillos site and I just want to make it part of the record again, just as a cherry on the top on the zoning issues, and that is the problems that happened in Eldorado, and you brought up the land use, and back when I used to do so I designed solar collectors and the placement on them. People started putting them on the front of their homes too. You said rooftop, if you want them on the rooftop so that they're also hidden. Solar is a great thing and a great tool and for it to become what it really needs to be it's going to have to be like a washing machine, a refrigerator, appliance, and that is it's going to be just something you buy and you put on naturally, like a TV. It's not going to be something special. We all remember color TVs. They were special black and white back in the days. Solar to succeed it's just going to become a commonplace like a swamp cooler on your home.

What I am reading into the record is an editorial from Thursday, January 29<sup>th</sup> from the *New Mexican* that I'll supplement if possible later.

CHAIR ANAYA: You don't need to read it into the record; we can include it into the record.

MR. M. BACA: Okay, I've provided it. We need to go to the contour map, the project site plan's contour. Before that. There. There. I would ask the Commission to look at that there and if you haven't read a contour map before you will see that the closer those lines are together the steeper the slope. At the bottom you see those are contour lines. They don't have the demarcation on them but my guess it's probably 10-, 15-, or 20-foot – probably 20 foot contours. So that is going, as you approach from the bottom, I'm sorry – as you approach from the bottom you'll notice it's quite a good slope, heading up to the top PNM did testify that you can't just place solar anywhere and where they've placed it is at the top of the property on a flat area where it will be seen for miles. And that may not be a problem except you have this huge seven-foot fence with wires, barbed wire on top of it. Even the Santa Fe landfill which has barbed wire around it; it's adjacent to our property, put up chain links that were earth-colored so you can't even see the metals. Hopefully, that if you did that would be something that PNM would consider doing at some point so that we don't have just a huge metal thing with the solar collectors. But it will be seen for miles. You saw the pictures I provided of the archaeology center. It's wide open spaces out there with beautiful views and it's a matter of taste as to whether this is something you want breaking up your horizon and your viewshed even though the application said that there wasn't any problem to the viewshed. Okay, you can go ahead and turn that off now.

Lastly, I think this is lastly. We're almost there. I'm going to pass out – I'm going to pass out a December 18, 2014 memo to the County Development Review Committee from this development review team leader, Mr. Larrañaga, via Penny Ellis-Green, Vicki Lucero, Wayne Dalton, and it's the first page. And I would ask the Commission to compare it with the first page of today's, of February 24 file reference case that you have in front of you. The notice, the operations, everything we did at the CDRC, and we were unprepared in many ways because if you'll notice the difference, the site has moved over half a mile, or shifted over a full quarter mile from the original document that's provided to the CDRC and in the application.

If you go to Exhibit 4 in your package, in that same package dated February 24<sup>th</sup> you'll see the map with an arrow showing the site, an aerial map, and again, the site is not in this position. This is in your today's application, not the CDRC. When we showed up at the hearing we were speaking to the wrong site for probably half the meeting before somebody said, oh, you're looking at the wrong site. Again, this has to do with notice. This has to do with people knowing and being aware of what the government's doing and even you now in front of you have a package that shows one exhibit, shows the front page with the site in one location and then an aerial map of the site in the other. When we were at the CDRC we had it in a different place on that front page that I just showed you.

You know I don't know what – I worked for government for quite a while and I'm not quite sure what to say to that other than PNM again, I think has been disingenuous in what they pointed out or they have been very careless in preparing some of the things that they've done.

Madam Chairman – I'm sorry. I work for the Senate Rules Committee who has a woman chairman so I'm always saying Madam Chair. Chairman Anaya, members of the Commission, thank you very much.

CHAIR ANAYA: Thank you, Mr. Baca. I have one question before you leave.

MR. M. BACA: Yes, sir.

CHAIR ANAYA: In this picture you've provided of the gate, it looks like there's a chain on it. I can't see that great. Is there a chain on there and is there a lock on that gate? That's the first question I have.

MR. M. BACA: This – both the gate that you see there and our gates that have the standard construction with the green chain they are not kept locked. In the minutes you have the CDRC here testimony from Ms. Moye that she encountered a locked gate there and you'll see me countering that testimony we have never drove, we have never put locks on either of those gates.

CHAIR ANAYA: Who uses that gate other than you?

MR. M. BACA: We are the only ones.

CHAIR ANAYA: What's that?

MR. M. BACA: The Baca family is the only ones who use that gate.

CHAIR ANAYA: The Baca family is the only that uses the gate. Okay.

Thank you.

MR. M. BACA: But it's open to everybody. Any body could use that gate.

CHAIR ANAYA: But you're the only ones that use that gate.

MR. M. BACA: That I'm aware of.

CHAIR ANAYA: Okay. Thanks. That's all I have. Okay, so other individuals that are here to speak against the application? Seeing none, I would ask those that are here to speak in favor of the application to come forward.

[Previously Kimberly Griego Kyle sworn, testified as follows:]

KIMBERLY GRIEGO KYLE: Good evening. My name is Kimberly Griego Kyle. I affirm I am under oath. My address is 698 Old Las Vegas Highway, Santa Fe, New Mexico, 87505. I am the board chairman of the Santa Fe Green Chamber of Commerce and I'm here this evening. I'm not going to take very much of your time; I'll be brief. I'm representing over 150 sustainable businesses of the city and the county of Santa Fe. We also represent approximately 900 to 1,000 businesses across the state.

As a green business chamber we would like to share our support of this solar project in the Santa Fe County. While we recognize that this is not the long-term community solar project that we also want to support but it is a project that would provide a great deal of renewable energy production in the city and county of Santa Fe and across the state of New Mexico. It would also provide a number of much needed renewable energy jobs in Santa Fe County. It is our understanding that there is a possibility that this project would be funded, or not funded but provide jobs through a local company, a statewide company and we hope that that would be a possibility.

We also believe that the longer-term picture of bringing renewable energy to New Mexico and placing this project in our community is a good thing for the Santa Fe County. We believe this is a perfect alignment with the Commission's energy efficiency and renewable energy goals in reducing greenhouse gas emissions and we urge you to vote in favor of this project for the sake of the county and its residents and ultimately for the betterment of our planet. Thank you very much for your time this evening.

CHAIR ANAYA: Thank you. Next individual.

[Previously sworn, Scott Hoeft testified as follows:]

SCOTT HOEFT: Scott Hoeft, Santa Fe Planning Group. I represent the landowner of the project, which in this case is Richard Cook. I've been working with PNM to help them out with any questions that they have. The application has been theirs over the last year. I have heard the Baca's presentation on several occasions. I'm not going to go into too much detail on each of the points but I will say that just kind of taking some of the things in turn and I will be brief.

I'm the one that pointed out to them that they had the wrong site and it wasn't an error on the County's part it was the fact that they weren't paying attention to where the site was, the main subject area. The SHPO review and the archaeology, we do have a letter from SHPO that states that the site is clean of archaeology; there's no issues there. The dangerous 100-foot within the 24 feet road that was pointed out, that easement is 100 feet in width. The road is going to be 24 feet wide, the gravel basecourse road. There's plenty of room within that 100 feet if easement to be able to appropriately make a safe road at that turn.

The Bacas do have access to their site, which is no longer their site. My understanding is they sold it last year for \$2.3 million. The lot line adjustment, we followed everything that the County has said regarding getting in to proceed with the lot line application when we are ready to move forward and we stated that at the CDRC hearing. In terms of the land, Mr. Baca was pointing out the subject site and access, it isn't coming from the south; it's always been coming from the north.

I also have in attendance with me Rick Chatroop who's the original surveyor on the project who can speak to any further questions that you have regarding the road. It's my understanding that the Bacas do not even abut the subject site in terms of their property. They do have a parcel that is between the subject site and Caja del Rio where Cochiti Trail ends, where that fence is that we're all pointing out. That is where the sign was posted by PNM. If we posted it beyond that no one would be able to get to see the sign. So PNM posted the sign where it was at the best location and when you drive down Caja del Rio you can clearly see the sign. We went through these issues again at the CDRC. There's a long laundry list of items that are throwing out here that hopefully something sticks here and it seems like each of the issues have been combated.

The applicant followed the proper procedure offered for the rezoning, that was offered by Santa Fe County staff to the team and through the master plan, preliminary and final development plan process. That's currently what the code affords us and the applicant and they followed it to the T. This site is surrounded by, or at least on the south side by industrial uses. When you drive 599 you look over and you see the gravel plants, the light industrial area, that's our abutter to the south. This is an area that is a light industrial area. So with that I do stand for questions. I don't want to take too much of your time and I'll field any questions that you have. I do feel that the staff report speaks for itself and the approval that has been granted by the Santa Fe County staff, they've gone through all of these issues as well. Thank you very much.

CHAIR ANAYA: Thank you, very much. Other individuals wishing to come forward to speak in favor of the project? Are there any questions of anyone?

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Commissioners? Commissioner Chavez.

COMMISSIONER CHAVEZ: Thank you, Mr. Chair. I think it would be appropriate at this time and I'll yield to Legal, but there was someone here earlier that did want to comment on one or both these cases. Would it be appropriate for me to read their statement into the record at this time? Someone who was here earlier that was not able to stay left.

CHAIR ANAYA: Sure, Commissioner, go ahead. Read it in.

COMMISSIONER CHAVEZ: Okay. These comments are from Teresa Seamster on behalf of the statewide Rio Grande Chapter of the Sierra Club. She states that they strongly support development of solar facilities in our communities – rooftop, community solar projects, municipal and utility-owned, including shared energy facilities. The kilowatt cost of solar has dropped to 6.8 cents per kilowatt-hour with no accompanying cost of water use, air pollution, or water contamination. And so they're asking for support of this request. Thank you, Mr. Chair.

CHAIR ANAYA: Thank you, Commissioner Chavez. Any other questions or comments? What's the pleasure of the Board? Commissioner Stefanics.

COMMISSIONER STEFANICS: I have – so the public hearing is closed?

CHAIR ANAYA: The public hearing is closed.

COMMISSIONER STEFANICS: Thank you. I have some concerns about this whole application now. I am totally supportive of solar and I'd like to see some projects going on but I believe that there are some issues around the property, the adjacent property and some of the environmental issues based upon some of our archaeological as well, but some of the environmental issues as well. So I would like to ask our staff, because I believe it's our staff's role to get into the nitty-gritty of each one of these issues and I'd for them to go through everything they heard tonight and tell us why it's still okay to proceed with this project. I think a ton of issues have been brought up and I'd like to know why the staff believes this is appropriate to move ahead.

MS. ELLIS-GREEN: Mr. Chair, Commissioner Stefanics, I'll take a stab at a few of these. As far as the archaeological is concerned this project was sent to the State Historic Preservation Office and did get approval from SHPO, so that is how we address archaeology on the site.

COMMISSIONER STEFANICS: On that point, did you see some of the materials presented today from other sources?

MS. ELLIS-GREEN: Mr. Chair, I wasn't given any.

COMMISSIONER STEFANICS: So if you were given more materials today that indicated that another study had been done and there had been items found, what would you do with that, in terms of a recommendation?

MS. ELLIS-GREEN: Mr. Chair, Commissioner Stefanics, I believe actually that Mr. Baca had emailed us several days ago his concern regarding archaeological requirements and Jose did email Michelle Ensey this morning and sent that information on. And she said that they did not identify a prehistoric site. I have no reason to believe the prehistoric sites like LA 153360 are located at the proposed solar facility and so she did respond back, so I think that that has been addressed. We did get that email back from State Historic Preservation Office this morning.

Mr. Chair, Commissioner Stefanics, I understand that they did hand that out at the beginning. Some of the other issues to do with zoning, rezoning. Under Article III, Section 8 of the code, that is in Exhibit 5 of your report, utilities fall under other development and that states that these uses are permitted anywhere in the county providing a request for zoning approval is granted per Article III. The Article III section that is quoted, Article III, Section 4 gives you the procedure of submitting a master plan. It does not say – this is under Other Development and does not require it to be located in a commercial or an industrial non-residential district. So it kicks you into the same section but this application falls under Article III, Section 8, which is Other Development.

The only – the other sections of the code do that as well: community service facility, large-scale residential, will kick you into those same requirements for a master plan.

COMMISSIONER STEFANICS: So Ms. Ellis-Green, are we rezoning this though?

MS. ELLIS-GREEN: Mr. Chair, Commissioner Stefanics, no. This is a request for zoning, not rezoning. There's no comprehensive zoning in Santa Fe County, which is why we're going through the zoning map process, other than probably the Community College District and the existing community districts that were approved as zoning districts.

COMMISSIONER STEFANICS: Okay, so before you keep going on, back to the archaeological. I had the same email you had, but then there were some other materials from Dr. Eric Blinman. Did you review those as well?

MS. ELLIS-GREEN: Mr. Chair, Commissioners, I'm understanding we didn't get a copy of that.

COMMISSIONER STEFANICS: And then do you have the materials from Jessica Badner, the archaeologist?

MS. ELLIS-GREEN: Mr. Chair, Commissioner Stefanics, that is – the one from Jessica Badner is the one that was mailed over to Michelle Ensey.

COMMISSIONER STEFANICS: Okay, so it's possible – it's possible that we were given some materials that you don't have?

MS. ELLIS-GREEN: Mr. Chair, Commissioner Stefanics, Jose is telling me that things that were handed out we didn't get copies of.

COMMISSIONER STEFANICS: Okay. So my point, Mr. Chair, is that for our staff to do a thorough vetting and recommendation they need all of the materials and they didn't have all the materials. So I think that there's some big question marks here for me. So Penny, you can continue or we could just stop to see what other people think. But it's up to you.

CHAIR ANAYA: Thank you, Commissioner Stefanics. I'm going to just offer one comment and then if any other Commissioners want to comment. I think on any land use case or any matter that comes before the Commission we could continually have things being brought to the Commission at a meeting and I think that's the purpose of having a meeting noticed and feedback offered and having a CDRC component as well as a BCC component. I think there may very well be documents that were given today that

staff maybe didn't see but I think that could happen in perpetuity. And so I think there has to be some process and some timeline, and I think to go along with those comments, I think any applicant, and this speaks to this applicant or any other applicant, any applicant or citizen has a right once a determination has been made, either for or against a project, to appeal that project to district court, somewhere else. And everybody does that. I mean, not everybody appeals cases but everybody has that right to appeal cases. So I'd like to hear from my other colleagues but I think that if we got into a pattern of any time a new document was provided at a meeting that we said, we'll, we've got to give it to staff to review I don't think we'd ever make a decision on some cases. We'd just continue in perpetuity and be given more documents to analyze. So I see what you're saying and I have one thing that I'm going to say again and it has to do with construction work that may have started and I'm going to come back to that. But I don't know that we can in perpetuity keep sending stuff back to staff. We might not make any decisions. So that's my general thought. Are there any other thoughts from the Commissioners?

COMMISSIONER HOLIAN: Mr. Chair.

CHAIR ANAYA: I'm ready to make a motion. Are there any other comments?

CHAIR ANAYA: Are there any other comments is what I was asking? Do you have any other comments? Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. I would like to make a motion for approval of CDRC Case Z/DPF/FDP 14- 5370, PNM Caja del Rio Solar Energy Center project. I will note that I think that this is very light industrial activity with very little activity, that there will be very low activity on the site and very little traffic to the site so it will not be of heavy impact to that area, and I also do trust that our County staff has investigated access issues, archaeological issues, and that they also made sure that there was proper noticing for this particular project.

COMMISSIONER CHAVEZ: Mr. Chair, I'd like to second the motion and ask the maker of the motion if that would include staff and CDRC recommendations?

COMMISSIONER HOLIAN: Yes. And I would actually like to add one other condition, and that would be that the application shall give direction to the entity in charge of weed control that glyphosates not be used.

CHAIR ANAYA: There's a motion from Commissioner Holian with staff conditions. A second from Commissioner Chavez. Under discussion. Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair, I don't usually do this but I'm going to announce in advance that I'm going to abstain from the vote. I just think there's too many questions.

CHAIR ANAYA: So I'd like to ask – is it Moya or Moye? If you'd come forward again please. I've already said that I believe that there's a process by which anybody has the opportunity to not only come and provide feedback and input to the Commission. They also have a process by which they could appeal the decision of they so choose. And that being said, I'm going to ask you on the record, the one thing that does bother me is if any work took place. And by voting for a case, if I so choose to vote for a case, that also gives me an opportunity to vote to reconsider a case in real short

order. And so I'm going to ask you on the record, if I went out to that site this evening, what would I find? Would I find pillars that have already been driven in the ground for these panels to be set on? Would I find pillars in the ground that are ready to set pillars or would I not find anything in the ground? What would I find if I went and what are the purpose of what I would find there?

MS. MOYE: Mr. Chair, I'm going to ask Mr. Campbell to answer your question so we give you more specifics about the geo-tech site process.

MR. CAMPBELL: Thank you, Mr. Chair. I want to be very clear about what we're doing right now and how that in any general sense that isn't construction. You seem to be aware of other types of geo-technical investigations – coring, that's one of the activities, so we have a small drill to extract core samples. What we're trying to get at is whether – what type of engineering would be necessary for the construction in order to have the posts that are going to be driven in, those direct pile posts, the appropriate height. So two things that you probably wouldn't see in just a straight coring and two additional investigations that are being done are a backhoe is going in for a small test pit.

CHAIR ANAYA: Hold on a second. You've got a – it's for him. He's fine. He's good. So you have a process by which you want to find a site to place solar panels. We're way past that. It's my understanding by the time – you've already submitted that this is your site that you want to go to. I saw the detail on what you're proposing to do and on the detail it showed me that there's a range of depth of what those pillars might end up being, based on what you're talking about.

MR. CAMPBELL: Absolutely.

CHAIR ANAYA: But the site's already been selected. You've already made a commitment to buy the property, utilize the property and do everything you need to do to build this out. So why now would you be doing that sampling now when you already made a commitment and the only thing lacking is an approval and then the ultimate depth? Tell me – and I understand for construction. I understand what you're saying about construction. But that's well after you have a bird in the hand, I guess is what I'm suggesting. So I guess the timing of it bothers me. Okay. Frankly it bothers me. So tell me, tell me why it's necessary and why it is part of the soils aspect when I already know from your detail – you already told me it could be a range from 7 to 18 – is that what I understand?

MR. CAMPBELL: Six to ten is probably more accurate.

CHAIR ANAYA: Okay. Six to ten.

MR. CAMPBELL: So what I can tell you is on most of our sites we actually do this activity much earlier. This activity is actually kind of late in the game in terms of our overall process. Most of our sites we've done this months in advance.

CHAIR ANAYA: Just thinking out loud, wouldn't you want to do that in advance of even committing to purchase property so you can evaluate the cost of construction and depth associated with the work you're going to do?

MR. CAMPBELL: It speaks to final engineering and being able to order materials. So the additional work is to be able to estimate the deformation that would occur under wind loads. So you go out and actually drive a pier and pull on it. It's not where the construction is going to occur. It's just in several random places across the site.

When it's done those piers are pulled out and they're removed.

CHAIR ANAYA: Okay. So all the piers – there's no piers over there now?

MR. CAMPBELL: They probably are leaving – they're not complete with the work yet. They do it over a period of a couple of days, but after a couple of days they'll be out of there. The piers will be removed and basically the site is as it was initially.

CHAIR ANAYA: So final engineering with the assumption that you already maybe have approval. Maybe. That there's a high likelihood.

MR. CAMPBELL: Yes. It's totally reversible and it's just to verify the soil characteristics.

CHAIR ANAYA: I got you. Okay. That's all I have. Anybody else. We're not taking any more time, Mr. Baca. We're done, Mr. Baca. We're done. I've had my question answered. I don't – I'm not taking any more feedback. So thank you.

MR. M. BACA: I think you missed over one thing though.

CHAIR ANAYA: Mr. Baca, thank you very much.

MR. M. BACA: Making the fence like the Santa Fe County landfill fence so that it blends in.

CHAIR ANAYA: Mr. Baca, thank you very much. There's a motion on the floor. Is there any further discussion on the motion? Seeing none.

The motion passed by unanimous [4-0] voice vote with Commissioner Stefanics abstaining.

VII. B. 4. CDRC CASE # Z 06-5033 Village at Galisteo Basin Preserve ("Trenza") Master Plan Amendment. TABLED

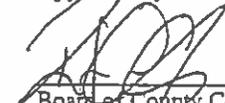
VIII. CONCLUDING BUSINESS

A. Announcements

B. Adjournment

Having completed the agenda and with no further business to come before this body, Chair Anaya declared this meeting adjourned at 9:30 p.m.

Approved by:

  
\_\_\_\_\_  
Board of County Commissioners  
Robert A. Anaya, Chair

**Henry P. Roybal**  
*Commissioner, District 1*

**Miguel M. Chavez**  
*Commissioner, District 2*

**Robert A. Anaya**  
*Commissioner, District 3*



**Kathy Holian**  
*Commissioner, District 4*

**Liz Stefanics**  
*Commissioner, District 5*

**Katherine Miller**  
*County Manager*

**CDRC CASE # Z/PDP/DP 14-5370  
PNM CAJA DEL RIO SOLAR ENERGY CENTER PROJECT  
PUBLIC SERVICE COMPANY OF NEW MEXICO, APPLICANT**

**ORDER**

**THIS MATTER** came before the Board of County Commissioners of Santa Fe County (BCC) for hearing on March 24, 2015, on the Application of the Public Service Company of New Mexico (PNM or Applicant) for master plan zoning, and preliminary and final development plan approval, in accordance with Santa Fe County Ordinance No. 1996-10, the Santa Fe County Land Development Code (Code), as amended by Ordinance No. 1998-15 (amending Article III § 8, "Other Development"), to allow a 5 megawatt solar electric generating facility on a 40 acre site. The BCC, having reviewed the Application, supplemental materials and staff report, and having conducted a public hearing on the request, finds that the Application is well-taken and should be granted subject to certain conditions, and makes the following findings of fact and conclusions of law:

1. The Applicant, represented by Laurie Moye, Coordinator of Regulatory Project & Public Participation for PNM, seeks approval to allow a five (5) megawatt solar electric generating facility on a 40 acre site.
2. This Order will set forth the basis for the BCC's approval of the Application, including the following:



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- A. The use proposed by the Applicant is allowed anywhere in the County;
  - B. The Application meets the criteria for master plan approval;
  - C. Applicant submitted all required submissions for this Application;
  - D. The Application established that the development will have almost no impact on the surrounding area, taking into consideration noise, water use, generation of wastewater, generation of solid waste, light, traffic, maximum height, disturbance of archaeological artifacts, slope disturbance, terrain management, signage and parking;
  - E. The property is surrounded by vacant land, is near industrial and other non-residential properties, is not highly visible, is situated close to electric infrastructure which can be used to distribute the electricity generated at the site, and is adjacent to pre-existing road infrastructure and rights-of-way for use on those rare occasions when the remotely operated facility has to be accessed;
  - F. Approval of the Application does not constitute spot zoning; and
  - G. Approval of the Application would be supported even if a determination were made that the approval constituted re-zoning because the Application comports with the Santa Fe County's comprehensive plan referred to as the Sustainable Growth Management Plan (SGMP), and is advantageous to the community.
3. The proposed site is located north of New Mexico Highway 599 and is accessed via Caja del Rio Road, within Section 3, Township 16 North, Range 8 East, (Commission District 2), and is hereinafter referred to as the Property.

4. The Property is part of a 160 acre tract which will be divided by the owner in order to complete the sale of property to Applicant if this Application is approved.
5. The current owner of the Property acquired the 160 acre tract, which includes the Property, by warranty deed recorded on April 16, 1995 as Instrument # 1152069 in the Santa Fe County Clerk's records. Applicant is authorized by the property owner to pursue this Application, as evidenced by a copy of a purchase agreement for the Property.
6. The solar facility is proposed to consist of solar tracking panels, which will be configured in long rows oriented north-south. Each row of panels will be approximately 210 feet in length (the row length varies depending on the amount of developable area) and will rotate together, making adjustments as the panels move to track the sun east to west. The solar modules will be mounted on a ground mounted rack. The height of the top of the panels at full-rotation (90 degree range of motion) will not exceed seven feet from the natural grade. The site will contain approximately 20,000 panels on approximately 24 acres of the 40 acre site. The site will also house five power converters (9' 11" in height, 14' 10" wide, and 4' 10" deep) and one switchgear facility (7' 10" in height, 12' 8" wide, and 4' deep). A distribution line will be extended to the site for the delivery of the electricity being generated by the facility. For safety and security reasons the facility will be enclosed by a chain link fence (7 feet high) with three strands of barbed wire totaling eight feet in height.
7. The facility will be operated remotely, and will only be visited as needed for maintenance or repair.

- 8. Applicant must install the solar generating facility to meet its 2015 Renewable Energy Plan. The facility is part of a utility distribution system designed to provide the community with a source of clean, renewable energy to support growth and economic development in the area.
- 9. The Applicant held an open house on the Application, and notice of the open house was sent to ten adjacent property owners, three of whom attended the meeting. Concerns regarding the appearance of the proposed development were discussed at that meeting.
- 10. On December 18, 2014, the County Development Review Committee (CDRC) held a public hearing on the Application. Following the public hearing, the decision of the CDRC was to recommend approval of the Application subject to conditions proposed by staff. The recommendation passed by a vote of 4 in favor and one opposed to the Application. Member Gonzales recused himself from the case.
- 11. On January 15, 2015, the CDRC Meeting was cancelled due to a lack of a quorum; therefore, the December CDRC minutes were approved by the CDRC at their February 19th meeting and recorded on February 20, 2015.
- 12. The Application was scheduled for a public hearing before the BCC on February 10, 2015. Prior to the February 10, 2015 BCC public hearing, Applicant requested that the Application be tabled. The March 10, 2015, BCC Public Hearing was postponed, due to a lack of a quorum, and the Public Hearing was rescheduled for March 24, 2015.

13. Notice requirements for the public hearing were met as per Article II, § 2.4.2 of the Code. In advance of a hearing on the Application, the Applicant provided a certification of posting of notice of the hearing, confirming that public notice posting regarding the Application was made for twenty-one days on the property, beginning on January 20, 2015. Staff confirmed that the posting was properly accomplished. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on January 20, 2015, as evidenced by a copy of that legal notice contained in the record. Receipts for certified mailing of notices of the hearing were also contained in the record for all adjacent property owners.
  
14. The notice was specific as to the nature of the Application and read as follows:
 

“Notice is hereby given that a public hearing will be held to consider a request by Public Service Company of New Mexico for Master Plan Zoning, Preliminary and Final Development Plan approval to allow a 5 megawatt electric solar facility on a 40 acre site. The property is located north of New Mexico Highway 599 and takes access via Caja del Rio Road, within Section 3, Township 16 North, Range 8 East (Commission District 2).”
  
15. On March 24, 2015, the BCC convened a public hearing on the Application. Staff presented a staff report with exhibits to the BCC, the Agent for the Applicant presented material and testified in support of the Application, and the BCC heard testimony from the public.
  
16. Mr. Charlie Dorame, Governmental Affairs Pueblo of Tesuque, testified that after meeting with the Applicant and conducting a site visit, the Pueblo of Tesuque was in support of the Application. He reported that there are no archeological findings

of any significant effect or tribal cultural properties in the immediate area of the proposed project.

17. J. Leroy Arquero, Governor of the Pueblo de Cochiti wrote to Commission Chairman Robert Anaya and advised that after consulting with Applicant regarding the Property and the proposed development of that land, the elders of the Pueblo determined that the solar site did not cross the path of the Tesuque-Cochiti Trail, and therefore no objections to the project were submitted.
18. Mr. Doug Campbell from PNM, testified regarding Applicant's use of glyphosates to control weeds at solar facilities and Applicant's willingness to use alternative methods of weed control as a condition of approval.
19. Ms. Kimberly Griego Kyle, Board Chairman of Santa Fe Green Chamber of Commerce, testified in support of the application because of the renewable energy that it will generate and the jobs that it will create.
20. Teresa Seamster provided written comment in strong support of the Application on behalf of the Rio Grande Chapter of the Sierra Club. The Sierra Club supports the project because it provides electricity with no use of water, no air pollution and no water contamination.
21. Jim Walters wrote to the Santa Fe County Land Use Administrator to ask that the Applicant take precautions to protect any populations of burrowing owls that might be disrupted by the development of the Property. Mr. Walters advised that burrowing owls are listed as a "Bird of Conservation Concern" by the U.S. Fish and Wildlife Service. The Code does not prohibit Applicant's proposed development because of the burrowing owl, however to the extent any federal

SEC CLERK RECORDED 05/27 015

laws and regulations govern this topic, we have been given no reason to doubt that Applicant will abide by all such laws and regulations.

- 22. Mr. Scott Hoeft, from the Santa Fe Planning Group speaking on behalf of the current owner of the 160 acre tract, testified in support of the Application. Mr. Hoeft confirmed that the owner of the 160 acre tract is poised to divide the property in order to sell the forty acres to the Applicant once the Application is approved. In response to concerns about archeological sites on the Property, he asserted that the New Mexico Historic Preservation Division (HPD) had informed him that the Property is clean of archaeological sites. He responded to concerns expressed by the opponents about possible road alignments, confirming that the 100 foot wide easement for Old Cochiti Road would be constructed with a much narrower driving surface than 100 feet, and could be aligned to ensure appropriate intersections with adjoining roads at the stage of development when alignments are evaluated.
- 23. Dr. Claus Benkert, general manager of Charyb LLC, the company which acquired 200 acres adjacent to the Property from the Bacas, submitted a written objection to the Application based on his understanding that the properties had been zoned rural residential. He was primarily concerned about the appearance of the development.
- 24. Mr. Mathew Baca and Mr. Phillip Baca, represented by attorney Ronald Van Amberg (hereinafter the Bacas), testified in opposition to the Application, raising concerns about roads, zoning procedures, notice, and archeological sites.

25. Mr. Hoeft pointed out that the Bacas sold all land they owned adjacent to the Property last year. A warranty deed transferring ownership of two tracts of land from Phillip L. Baca and Thomas L. Popejoy, as Co-Trustees of the Antonio J. Baca Revocable Trust to Charyb KG German limited partnership, and recorded on July 16, 2014 confirmed that assertion.
26. The Santa Fe County Planning staff reviewed the Application and confirmed that the facility would be consistent with the SGMP adopted by Santa Fe County in Santa Fe County in Resolution No. 2010-210 and 255 and with the Sustainable Land Development Code which is adopted but not yet in effect. Chapters 2 (land use element), 3 (economic development element), and 7 (renewable energy and energy efficiency element) of the SGMP all confirm overarching policies targeting green industry, businesses that deploy renewable energy technologies, infrastructure development that includes renewable energy to keep the local economy advancing, and efforts to foster green grid infrastructure. The Property is within the growth area of the County, is likely to be within a mixed use non-residential zone once this area is zoned, and would therefore be intended for light industrial and commercial uses. The SGMP also emphasizes the increased need for energy provided by Applicant, the need for a local electric supply, the importance of large-scale solar generating facilities, and the likely development of utility scale solar energy projects.
27. The Property will be accessed via the existing fully constructed Caja del Rio Road onto Old Cochiti Road, a right of way granted by the Bureau of Land Management. The County Public Works Department reviewed the access and

road components of the Application for conformance with the Code and supported the Application. Old Cochiti Road has been in existence since at least 1994. A portion of the road is already paved, and Applicant will place six inches of compacted base course twenty feet in width on the easement from the end of pavement to the end of the Property.

28. Opponents expressed concern about the alignment of Old Cochiti Road and what they referred to as the historic Cochiti Trail. The opponents confirmed that they had access to all of their properties even if Applicant built the proposed solar facility.
29. The Santa Fe County Fire Prevention Division reviewed the Application and recommended approval subject to the development complying with Article 1, § 103.3.2-New Construction and Alterations of the 1997 Uniform Fire Code.
30. There is no on-site water required for this type of development; nor will there be solid waste created on the Property.
31. No on-site liquid waste system is required for this type of development. The New Mexico Environmental Department (NMED) reviewed the Application and had no comments other than a concern related to the proposed weed control, to ensure that the herbicides used are approved for this type of application and that they are applied using methods to avoid run-off or off-site drift.
32. PNM confirmed that it contracts for weed control using a certified weed control specialists and they are willing to comply with the Board's direction that herbicides with glyphosates not be used.

33. The Property contains slopes less than 15%, and minimal disturbance is expected. The disturbed area will be reseeded with native vegetation. The facility complies with Article VII, § 3, Terrain Management. The Applicant's proposed site plan shows existing topography and vegetation. Disturbed areas will be reseeded and the reseeded is reliant on rain fall to take root. The facility will have minimal runoff from any storm event. Therefore, the submittal is in conformance with submittal requirements and complies with Article VII, § 3.4.6 and Ordinance No. 2008-10, Flood Damage Prevention and Stormwater Management.
34. The facility will have a PNM sign not to exceed 16 square feet (4'x4') to be mounted on the chain link fence at the entry of the site. The sign will not exceed 5 feet in height with a set back from the property line of 5 feet. The signage element of the Application complies with Article VIII (Sign Regulations).
35. No outdoor lighting is proposed for this development.
36. No parking is proposed for this development and there will be no impact on schools because the development has no residential component and generates negligible traffic.
37. The 40 acre parcel is currently vacant and is bordered on all sides by vacant land. It has never been the subject of a zoning or development process under the Code. The State Archeological Center lies approximately 0.5 miles to the east of the site and a sand and gravel mining operation lies approximately 0.5 miles to the south of the site.

38. The Application sought master plan approval, which is evaluated pursuant to the criteria set forth at Article V, § 5.2.4 (Master Plan Approval) of the Code. All criteria were addressed by the Application. The Application also sought preliminary development plan approval, which is governed by Article V, § 7 (Development Plan Requirements) of the Code. There are 29 submittal requirements all of which were met, and only one of which was contested by the opponents of the project.
39. Opponents questioned whether Applicant had met a submittal requirement of Article V, § 7.1.2(a), evidence of legal lot of record. In that regard, Applicant provided proof of ownership of the 160 acre tract of land, and a fully executed real estate purchase agreement between the owner and Applicant for a forty acre lot, proposed to be created through a summary subdivision. The sale may not be completed if the project described in the Application is not approved, and so the lot has not yet been created. The proposed development will not result in split zoning because the master plan will only apply to the 40 acre lot to be created. We find that Applicant has met the submission requirement set forth at Article V, Section 7.1.2(a) of the Code. Applicant has already prepared the plat to divide the 160 acre parcel into four forty acre lots, and will move forward with that process upon approval of the Application. The division of five or fewer lots is an administrative process governed by Article II, Section 2.3.1a.vii which can be completed after approval of a master plan and prior to recordation of the final plat.

40. The Application sought final development plan approval, which is governed by Article V, § 7.2 (Final Development Plan) of the Code, which states:

The final development plan shall be submitted to the County Development Review Committee accompanied by a staff report. The County Development Review Committee shall review the plan and make a determination as to its compliance with the County General Plan and Code. The County Development Review Committee may recommend changes or additions to the plan as conditions of its approval. The final development plan as approved by the County Development Review Committee shall be filed with the County Clerk. The approved final development plan becomes the basis of development permits and for acceptance of public dedications. Any changes in the plan must be approved by the County Development Review Committee.

Here the final development plan is before the BCC for approval because it was submitted simultaneous with the master plan and preliminary development plan, both of which required BCC approval.

41. The review comments from the New Mexico Environment Department, New Mexico State Historic Preservation Division and County staff establish that this Application is in compliance with State requirements and the Code, including: Ordinance No. 1998-15 (Ordinance amending Article III § 8 "Other Development"); Article V, § 5 Master Plan Procedures; and Article V, § 7.2 Final Development Plan.

42. Article V, § 5.2 (Master Plan Procedure), § 1.b provides:

"A master plan is comprehensive in establishing the scope of a project, yet is less detailed than a development plan. It provides a means for the County Development Review Committee and the Board to review projects and the subdivider to obtain concept approval for proposed development without the necessity of expending large sums of money for the submittals required for a preliminary and final plat approval."

Thereafter, the submittal requirements are contained within § 5.2.2 (Master Plan Submittals) and include: a vicinity map; existing site data; a conceptual environmental plan when appropriate; master plan maps showing the proposed development in sketch form; a phasing schedule if applicable; a schematic utilities plan; and a master plan report. Applicant's Master Plan submittal met all of these requirements.

43. Master plan reports must address archaeological sites associated with the property, and the Applicant submitted reports and letters confirming that the requirement was met. The record reflects that the New Mexico State Historic Preservation Division (HPD) reviewed the archaeological report by Marron and Associates for this Property and determined that the archaeological report identified one cultural resource site and three road/trail segments. All of these cultural resources were recommended not eligible for inclusion on the National Register of Historic Properties or the New Mexico Register of Cultural Properties. HPD concluded that no historic properties would be affected by the undertaking. Additionally, HPD reviewed the June 9, 2009 letter from the Office of Archaeological Studies, raised by opponents as a basis for rejecting the Application. That letter describes the excavation conducted on a different property and found the letter did not change their view regarding the Property.
44. The Code addresses regulation of utility infrastructure under Ordinance No. 1998-15, which amended Article III, § 8, "Other Development", of the Code, to clarify the process for developing land for a utility. The relevant provisions of Ordinance No. 1998-15 provide:

“Subject to the requirements of this Section, all uses not otherwise regulated by the Code are permitted anywhere in the County provided a request for zoning approval is granted per Article III, except for utility lines which may be approved administratively per subsection 8.3.7 set forth below. Such uses specifically include, but are not limited to utilities, parking facilities, and cemeteries. Notwithstanding the fact that these uses are permitted, a development permit is still required.”

Article III, § 8.2 provides that development standards and criteria and submittal requirements are set forth in Article III, § 4.4, which in turn refers to Article V, § 5.2 for submittal requirements.

45. There is no comprehensive zoning in Santa Fe County, although zoning has been established in the Community College District and certain community districts. The Property is not within an existing zoned area, and the Application is therefore a request for zoning. The property has never been the subject of a zoning application or development application. Utilities are allowed anywhere in the County. The Code addresses regulation of utilities under Ordinance 1998-15, which amended Article III, § 8, “Other Development”, of the Code, to clarify the submission requirements for utilities. To obtain authorization for a solar facility such as that proposed, the Applicant must obtain master plan zoning pursuant to the Code as amended by Ordinance No. 1998-15. Given that utilities are allowed anywhere in the County, and given that this is a request for zoning, any references to rezoning in the Application or elsewhere in the record are erroneous. The criteria for master plan zoning are set forth at Article V, § 5.2.4:

- “1. Conformance to County and Extraterritorial Plan;
2. Suitability of the site to accommodate the proposed development;

3. Suitability of the proposed uses and intensity of development at the location;
4. Impact to schools, adjacent lands or the County in general;
5. Viability of proposed phases of the project to function as completed developments in the case that subsequent phases of the project are not approved or constructed;
6. Conformance to applicable law and County ordinances in effect at the time of consideration, including required improvements and community facilities and design and/or construction standards.”

46. Approval of the Application does not constitute spot zoning for the following reasons:

- A. The approval applies to a parcel that will be 40 acres in size and complies with the SGMP for the reasons stated in Paragraph 26.
- B. The project does not harm neighboring properties, and is not inconsistent with surrounding properties, because it generates no noise, will not generate traffic once it is built, does not use water, generates no onsite liquid waste, does not require parking, has no outdoor lighting, and has minimal height because the solar panels will be only 6 feet, 8 inches, more or less, off of the ground.
- C. The Property is surrounded on the south by vacant land and in close proximity to a gravel plant and a light industrial area, as well as the State Archeological Center.

D. The approvals granted hereby do not grant a discriminatory benefit to the Applicant or the owner of the subject property because other applicants and property owners would be entitled to seek and obtain similar approvals.

47. Even if the Application did request a rezoning, a position explicitly rejected by the BCC, it is apparent that even under the case of *Albuquerque Commons v. City of Albuquerque*, 144 N.M. 99 (2008) (the Commons), the proposed development of the Property can be approved. Stability of zoning, a concept recognized in *the Commons*, is not triggered by allowing property to be used for a utility because under the Code utilities are allowed anywhere in the County. The Court in *the Commons* declined to rigidly apply a requirement that rezoning occur only where there is a change in the community or a mistake in the original zoning. *Id.* at 108. Under *the Commons*, zoning amendments are allowed where there is evidence that a change in zoning is more advantageous to the community, as articulated in a comprehensive plan. *Id.* As set forth in detail in Paragraphs 26 and 54 of this Order, the record confirms that installation of a solar facility on the Property is supported by the SGMP and is advantageous to residents of Santa Fe County. It is also worthy of repeating that the land surrounding the Property is vacant and the State Archeological Center is in close proximity, as is a sand and gravel mining operation. Placing an unmanned solar facility close to these non-residential operations is advantageous to the community. It is also worthy of note that, unlike the rezoning at issue in *the Commons*, this Application is supported by the owner of the property.

48. The Application is comprehensive in establishing the scope of the project.

- 49. The preliminary development plan substantially conforms to the approved master plan.
- 50. The final development plan conforms to the preliminary development plan.
- 51. The proposed use is in compliance with the uses associated with Other Development and is in accordance with the Code.
- 52. The BCC supports staff's recommendation of the following conditions for approval of the Application, and the Applicant was in agreement with all conditions:
  - A. The Applicant shall comply with all review agency comments and conditions, as per Article V, § 7.1.3.c. Conditions shall be noted on the master plan/final development plan.
  - B. The proposed access, to the site, shall be constructed with six inches of compacted base course and twenty feet in width.
  - C. Master plan/final development plan with appropriate signatures shall be recorded with the County Clerk, as per Article V, § 7.2.2.
- 53. Commissioner Holian inquired during the public hearing about the methods utilized by Applicant for weed control and then requested the additional of the following condition if the Application were approved: That the Applicant shall give direction to the entity in charge of weed control that glyphosates will not be used.
- 54. The application will be approved because it meets all relevant Code requirements and:

A. Solar (and other renewable) energy production is beneficial to residents of the County, as articulated in the SGMP (e.g., Chapter 7), and fosters “green grid” infrastructure;

B. There is a public need for regulated utilities, such as PNM, to develop renewable energy sources, as demonstrated by renewable energy requirements imposed upon PNM by the New Mexico Public Regulation Commission;

C. The Property is particularly appropriate for a solar energy generation facility because:

- i. The Property is not highly visible;
- ii. There is a nearby electric distribution line which can be used to transmit the generated electricity;
- iii. The facility will not generate detectable sound;
- iv. Traffic to the facility will be minimal;
- v. The property falls within an area designated as having the most potential for solar power on Map 7-1 A of the SGMP adopted by the BCC and contained within Chapter 7 of that plan;
- vi. There is an existing right of way to the property and sufficient acreage for installation of a driveway and placement of a gate to lock the facility;
- viii. The Property is a size and shape that will easily accommodate the twenty-four acres of solar panels

55. To the extent opponents raised concerns that under NMSA 1978, Section 3-21-6, approval of the Application would require a 2/3 vote of all the members of the

BCC, that statutory provision is inapplicable. Additionally, the Application was approved by four of the five members of the BCC, with one member abstaining.

56. Having established that the Master Plan conforms to the SGMP, that the site is suitable to accommodate the proposed development, that the proposed use and intensity of development is suitable for the Property, that there will be no impact to schools, adjacent lands or the County in general, that there is no phasing to this project, and given the conformance of the Master Plan to all relevant aspects of the Code, we find that the Application should be granted.

WHEREFORE the BCC hereby approves the Application to allow a 5 megawatt electric solar facility on a 40 acre site subject to the conditions set forth in paragraphs 52 and 53 above. Commissioner Stefanics abstained from the vote, while Commissioners Anaya, Chavez, Holian, and Roybal unanimously voted 4-0 to approve the Application.

This Order was approved by the Board of County Commissioners of Santa Fe County on this 26<sup>th</sup> day of May, 2015.

THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY

By:  \_\_\_\_\_  
Robert A. Anaya, Chair

ATTEST:

*Geraldine Salazar*  
Geraldine Salazar, County Clerk



APPROVED AS TO FORM:

*Gregory S. Shaffer*  
Gregory S. Shaffer, County Attorney

REC CLERK RECORDED 05/27/2015

COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss  
BCC ORDER  
PAGES: 20

I Hereby Certify That This Instrument Was Filed for  
Record On The 27TH Day Of May, 2015 at 11:21:27 AM  
And Was Duly Recorded as Instrument # 1765373  
Of The Records Of Santa Fe County



Deputy *Marella Salazar* )  
Witness My Hand And Seal Of Office  
Geraldine Salazar  
County Clerk, Santa Fe, NM

Veronica Rivera

STATE OF NEW MEXICO  
COUNTY OF SANTA FE  
FIRST JUDICIAL DISTRICT COURT

No. D-101-CV-2015-01488

PHILLIP BACA, MATTHEW BACA AND  
PMB, LTD,

Plaintiffs/Appellants,

v.

THE SANTA FE COUNTY BOARD OF  
COUNTY COMMISSIONERS AND THE  
PUBLIC SERVICE COMPANY OF  
NEW MEXICO.

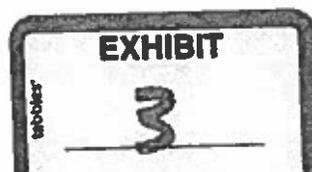
Defendants/Appellees.

**NOTICE OF APPEAL**

COME NOW the Plaintiffs/Appellants and pursuant to Rule 1-074, NMRA 2001 appeal to this District Court as against the Defendants/Appellees the Order of the Santa Fe County Board of County Commissioners in CDRC case # Z/DP14-5370, entered and recorded on May 27, 2015, a copy of which is attached hereto as Exhibit A.

"Electronically Filed"

By: /s/ Ronald J. VanAmberg  
VanAmberg, Rogers, Yepa,  
Abeita, Gomez & Works LLP  
347 East Palace Avenue  
Post Office Box 1447  
Santa Fe, New Mexico 87504-1447  
(505) 988-8979  
(505) 983-7508 (fax)  
[rvanamberg@nmlawgroup.com](mailto:rvanamberg@nmlawgroup.com)



NB-51

**CERTIFICATE OF SERVICE**

It is hereby certified that on the 22nd day of June, 2015, I filed the foregoing electronically, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

Rachel A. Brown  
Santa Fe County  
Deputy County Attorney  
P.O.Box 276  
Santa Fe, New Mexico 87504-0276  
(505)-986-6326  
[rabrown@santafecountynm.gov](mailto:rabrown@santafecountynm.gov)

Patrick V. Apodaca  
414 Silver Avenue, SW  
FL 12 Mail Stop 1245  
Albuquerque, NM 87102-3239  
(505)241-4218  
[patrick.apodaca@pnmresources.com](mailto:patrick.apodaca@pnmresources.com)

**CERTIFICATE OF SERVICE**

It is hereby also certified that on the 22nd day of June, 2015, a true and correct copy the foregoing was mailed, First Class mail, postage prepaid to:

Lauri Moye  
Coordinator Regulatory Project and  
Public Participation  
Public Service Company of New Mexico  
414 Silver Avenue, SW  
Albuquerque, NM 87102

Rachel A. Brown  
Santa Fe County  
Deputy County Attorney  
P.O.Box 276  
Santa Fe, New Mexico 87504-0276

Patrick V. Apodaca  
414 Silver Avenue, SW  
FL 12 Mail Stop 1245

NB-52

Albuquerque, NM 87102-3239

By: /s/ Ronald J. VanAmberg

NB-53

STATE OF NEW MEXICO  
COUNTY OF SANTA FE  
FIRST JUDICIAL DISTRICT COURT

D-101-CV-2015-01488

PHILLIP BACA, MATTHEW BACA,  
and PMB, LTD,

Plaintiffs/Appellants,

v.

THE SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS and  
THE PUBLIC SERVICE COMPANY OF NEW MEXICO,

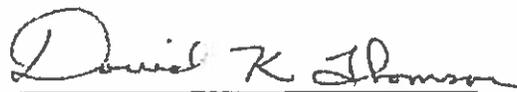
Defendants/Appellees.

**STIPULATED ORDER OF REMAND**

The Public Service Company of New Mexico no longer intends to purchase and use the property at issue in this land use matter making its application moot. As a result, the parties have agreed to this stipulated order of remand.

**IT IS ORDERED AS FOLLOWS:**

This matter is dismissed as being moot and is remanded to the Board of County Commissioners for Santa Fe County (BCC) for consideration of PNM's request that the BCC's Order of May 27, 2015 approving the application, including any possible effects on zoning, in CDRC case # Z/PDP/DP 14-5370, PNM Caja Del Rio Solar Energy Center Project, be vacated. This dismissal is without prejudice to Appellant's right to appeal the BCC's May 27, 2015, Order that is the subject of this appeal or any additional orders on remand in the event the BCC does not vacate its May 27, 2015 Order as set forth above.

  
David K. Thomson, District Judge



NB-54

Submitted:

VANAMBERG, ROBERTS, YEP, ABEITA, GOMEZ & WORKS LLP

By: approved via email on 8/25/15  
Ronald J. Van Amberg  
Counsel for Plaintiffs/Appellants

Approved:

MILLER STRATVERT P.A.

By: /s/ Dylan O'Reilly  
Dylan O'Reilly  
Counsel for Public Service Company of New Mexico

By: approved via email on 8/25/15  
Rachel A. Brown  
Deputy County Attorney  
County of Santa Fe

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PNM  
2401 Aztec NE, Z200  
Albuquerque, NM 87107  
505-241-  
www.pnm.com



October 30, 2015

Mr. Jose Larranaga  
Santa Fe County  
Development Review Team Leader  
P.O. Box 276  
Santa Fe, NM 87504

Subject: Caja del Rio Solar Energy Center remand and vacate request

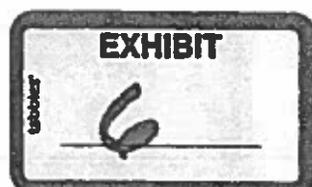
Dear Mr. Larranaga:

PNM respectfully submits a request, due to the remand of October 19, 2015 from the State of New Mexico County of Santa Fe First Judicial District Court, that the Board of County Commission vacate PNM's approved application of May 27, 2015 approving the application, including any possible effects on zoning, in CDRC case # Z/POP/DP 14-5370, PNM Caja del Rio Solar Energy Center.

Sincerely,

Laurie Moye

Coordinator Regulatory Project & Public Participation



NB-57

WARRANTY DEED

1152069

THOMAS L. MOORE, JR. and JAMES R. MOORE, each a married man dealing with his separate property, and THE WILL C. NEAL LIVING TRUST, grant to RICHARD P. COOK, the following described real estate in Santa Fe County, New Mexico:

The Northeast Quarter (NE 1/4) of Section Three (3) Township Sixteen North (16N) Range Eight (8), N.M.P.M.

Subject, however, to patent reservations and all real estate taxes accruing from the date hereof.

With warranty covenants as to Thomas L. Moore, Jr. and James R. Moore and special warranty covenants as to The Will C. Neal Living Trust

Executed on the dates shown in the acknowledgments.

Thomas L. Moore, Jr.  
THOMAS L. MOORE, JR.

James R. Moore  
JAMES R. MOORE

THE WILL C. NEAL LIVING TRUST

By: Ann B. Neal  
ANN B. NEAL CO-TRUSTEE

Valerie Wilson, Sr. V.P.  
FOR FIRST NATIONAL BANK, HOT SPRINGS ARKANSAS CO-TRUSTEE



899-883  
COUNTY OF SANTA FE STATE OF NEW MEXICO  
I hereby certify that this instrument was filed for record on the 4th day of April A.D. 19 95 at 2:53 p.m. and was duly recorded in book 152 page 069 of the records of Santa Fe County.  
Witness my Hand and Seal of Office  
Jona G. Armijo  
County Clerk, Santa Fe County, NM  
[Signature]  
Deputy



NB-58

STATE OF NEW MEXICO )  
 ) ss.  
COUNTY OF SANTA FE )

1152070

The foregoing instrument was acknowledged before me this 17 day of February, 1994, by Thomas L. Moore, Jr. and James R. Moore.



\_\_\_\_\_  
Notary Public

STATE OF ARKANSAS )  
 ) ss.  
COUNTY OF GARLAND )

The foregoing instrument was acknowledged before me this 15 day of February, 1994, by Ann B. Neal, Co-Trustee of The Will C. Neal Living Trust and Velzine Wilson, the Senior Vice President of First National Bank, Hot Springs, Arkansas, Co-Trustee of The Will C. Neal Living Trust on behalf of said Bank.

Virginia Whitfield  
\_\_\_\_\_  
Notary Public

My commission expires:  
12-15-99



NB-59

## OPTION TO PURCHASE AGREEMENT

This Option to Purchase Agreement ("Option Agreement") is made and entered into this 14<sup>th</sup> day of May, 2014 ("Effective Date") by and between PUBLIC SERVICE COMPANY OF NEW MEXICO ("PNM"), a New Mexico corporation, and RICHARD P. COOK ("Owner"). PNM and Owner may be referred to individually herein as "Party" and collectively as "the Parties."

### RECITALS

A. Owner owns certain real property more particularly described as follows:

A portion of the Northeast Quarter (NE ¼) of Section Three (3) Township Sixteen North (16N) Range Eight (8), N.M.P.M comprising Forty (40) Acres situate in the northwest corner of said Quarter Section, Santa Fe County, New Mexico, to be further described by survey, together with additional property owned by Owner and which is in proximity to the above-described tract and may be used for ingress and egress to and from the above-described tract, as further shown on Exhibit A attached, and as shall be further described by survey ("Owner's Property").

B. PNM desires to obtain and Owner desires to grant to PNM an option to purchase, upon the terms and conditions hereinafter set forth, a portion of Owner's Property, consisting of approximately Forty (40) acres ("Solar Site"), as generally shown on Exhibit A, attached hereto and made a part hereof, and as shall be depicted more particularly by the plat of a final survey of the Solar Site prepared by PNM as set forth in Section 7 below.

C. The Solar Site is hereafter referred to as the "Solar Property."

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants, promises and undertakings set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the Parties hereto agree as follows:

### AGREEMENT

#### I. GRANT OF OPTION:

In consideration of the sum of \$ \_\_\_\_\_ (the "Option Fee"), which at the time of PNM's execution of this Option Agreement, shall be deposited by PNM in an interest bearing account with and held in escrow by Stewart Title of New Mexico ("Title Company"), whose address is 6759 Academy NE Albuquerque, New Mexico 87109, and upon the following terms and conditions. Owner hereby grants to PNM an exclusive and irrevocable option ("Option") to acquire the Solar Property; provided, however, that in the event that PNM exercises its Option, the Option Fee shall be credited against the payment of the Purchase Price, as defined below:

2. OPTION PERIOD:

The initial option period ("Option Period") shall commence upon the Effective Date and end on the first (1st) day of the 14th month after the Effective Date ("Termination Date").

3. PURCHASE PRICE:

In the event the Option is exercised pursuant to Section 4 below, the purchase price for the Solar Property shall be

("Purchase Price"). The Purchase Price shall be paid by PNM as follows:

(a) The Option Fee shall be delivered to Owner as provided in Section 1, above, and, if PNM exercises the Option, the Option Fee shall be credited against the Purchase Price; and

(b) If PNM exercises the Option, the balance of the Purchase Price shall be paid by PNM to Owner at Closing (defined below) as set forth in Section 11.b, below.

4. EXERCISE OF OPTION AND RENEWAL:

PNM may exercise its initial Option to purchase the Solar Property at any time on or before the Termination Date, by delivery to Owner of written notice thereof ("Option Notice"). The Option may be renewed by PNM for an additional Option fee c and subject to Owner's written approval. PNM shall deliver to Owner a written notice ("Renewal Notice") of its intent to renew the Option fifteen (15) days in advance of the Termination Date. The renewed Option shall be in effect until the first day of the twelfth (12<sup>th</sup>) month following the date of the Renewal Notice ("Renewal Period"). The renewal Option fee shall be delivered to Owner as provided in Section 1 above, and will be credited against the payment of the Purchase Price should PNM exercise the Option. The initial Option Period and any renewal thereof shall be referred to throughout this Option Agreement as the Option Period.

5. FAILURE TO EXERCISE OPTION:

If PNM elects not to exercise its Option for any reason, PNM may deliver written notice to Owner of such election ("Termination Notice") and, except as otherwise provided in this Option Agreement, all further rights and obligations of the Parties hereunder shall be terminated. If PNM does not elect to exercise the Option and does not terminate the Option, the Option shall terminate automatically at the Termination Date, and, except as otherwise provided in this Option Agreement, all further rights and obligations of the Parties hereunder shall be terminated. In either case, Owner shall retain the Option Fee(s) so long as Owner has met its obligations under Section 1, above. PNM shall immediately direct the Title Company to release the Option Fee(s) and any interest thereon to Owner.

6. GOVERNMENTAL APPROVALS AND DUE DILIGENCE:

PNM may, at its own expense, during the Option Period, attempt to secure from the appropriate municipal or county offices all necessary approvals, including but not limited to zoning, subdivision of land, road dedication or vacation, soil survey, environmental and habitat studies on the Solar Property ("Governmental Approvals"), in order for PNM to own and use the Solar Property for PNM's intended use, and PNM may at any time during the Option Period, or if the Option is exercised, up until Closing, at its option and expense, have a Phase I environmental study performed on the Solar Property. Upon Owner's request, PNM shall provide copies of any studies conducted on the Solar Property.

Owner shall cooperate in good faith with PNM to secure all necessary governmental approvals and allow PNM to perform any due diligence activities or studies, including but not limited to, signing any necessary correspondence, consents, road vacation or dedication requests, or other related documents, and attending and participating in, as necessary, any public hearings in furtherance thereof. Owner has granted a right of entry to PNM to enter onto the Owner's Property for survey and other due diligence purposes as further provided below at Section 22, including, but not limited to, a Phase I environmental study if PNM so chooses.

7. SURVEY:

A sketch of the Solar Property is attached hereto as Exhibit A. Should the sketch as depicted on Exhibit A be determined to be incomplete or inaccurate, this shall not serve to invalidate this Option Agreement; a final survey will be completed to meet the requirements of the Title Company for purposes of issuing the Title Insurance Policy (defined below). A surveyor will be selected by PNM and a survey of the Solar Property will be completed as soon as practical after execution of this Option Agreement at PNM's expense (the "Survey"). The Survey shall be used by Owner for the purpose of obtaining a Lot Split Plat/ Lot Line Adjustment Plat (as defined below).

8. SUBDIVISION:

During the Option Period:

- (a) Owner shall cooperate in good faith with PNM in acquiring the Survey.
- (b) Owner shall cooperate in good faith in the submission of the plat to the appropriate office of Santa Fe County, New Mexico for review, and obtain approval of a Lot Split/Lot Line Adjustment Plat (the "Lot Split Plat"), creating a legal description of the Solar Property for conveyance to PNM. Owner will use its best efforts to obtain such approval upon terms that are reasonably acceptable to both Owner and PNM and shall consult with and obtain PNM's approval and consent prior to finalizing any Lot Split Plat. Upon obtaining approval, filing and recording such Lot Split Plat with the Santa Fe County Clerk, the recorded Plat shall provide the official legal description of the Solar Property to be used for the

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Closing. If the legal description of the Solar Property is not complete or is inaccurate, this will not serve to invalidate this Option Agreement, and the legal description will be completed or corrected to meet the requirements of the Title Company for issuance of the Title Insurance Policy.

- (c) During the Option Period, Owner shall not subdivide the remaining portions of the Owner's Property by claiming an exemption to the applicable laws, ordinances and regulations regarding subdivision. During the Option Period, Owner shall provide PNM with written notice of Owner's intention or desire to subdivide any portion of the remaining Owner's Property before an application for a subdivision is made to any governmental entity.

9. TITLE POLICY:

If PNM exercises this Option, as soon as practical after delivery of the Option Notice, Owner shall at its expense order from the Title Company an interim title insurance binder ("Title Binder") showing that at Closing Owner will be able to deliver an owner's title insurance policy insuring PNM, as owner of the Solar Property, for the full amount of the Purchase Price, and showing that good and marketable fee simple title to the Solar Property is vested in Owner, free of all liens, encumbrances, tenancies and restrictions with no exceptions other than a standard printed exception on the form of the title insurance policy relating to taxes for current and future years (the "Title Insurance Policy").

If there are any exceptions in the Title Binder, other than such printed exception, that, in PNM's sole judgment, render the Solar Property, or any portion thereof, unusable for PNM's intended use, then PNM shall have thirty (30) days from the date of delivery to PNM of the Title Binder to so advise Owner. Owner shall then have thirty (30) days from receipt of such notice in which to cure such defects. If Owner does not take reasonable steps to cure such defects within the thirty (30) day period, then PNM may unilaterally terminate this Option Agreement. If PNM determines that any exception set forth in the Title Binder renders the Solar Property, or any portion thereof, unusable for PNM's intended use, then PNM shall have the unilateral right within such thirty (30) day period to terminate this Option Agreement, or, in its sole discretion, PNM may waive any or all of such exceptions and proceed to Closing.

10. THE CLOSING AND CLOSING COSTS:

"Closing" is defined as the date on which Owner is required to execute a Special Warranty deed transferring title to the Solar Property to PNM and PNM pays Owner the balance of the Purchase Price. If PNM exercises this Option, Closing shall be held at the offices of the Title Company as soon as practicable, but in no event later than fifteen (15) business days after PNM has notified Owner that an interim title insurance binder in conformity with Section 9 has been approved by PNM, and all requisite Governmental Approvals and due diligence activities have been obtained and completed to PNM's satisfaction pursuant to Sections 6 and 7. PNM shall pay all escrow fees and 50% of closing costs except that the Owner shall pay the costs of the title insurance and binder.

11. OBLIGATIONS AT CLOSING AND TRANSFER OF TITLE:

(a) **By Owner:** At Closing, Owner shall deliver to PNM:

- (i) a final title insurance binder updated as of the date of Closing and showing that the Solar Property continues to be free and clear of all liens, encumbrances, tenancies, restrictions and other matters of record, other than such as may have been waived, accepted and/or agreed to in writing by PNM;
- (ii) a good and sufficient Special Warranty deed in proper recordable form, conveying the Solar Property to PNM or its nominee good and marketable fee simple title to the Solar Property, free and clear of all liens, encumbrances and restrictions other than such as may have been approved by PNM;
- (iii) the Title Insurance Policy;
- (iv) an affidavit for Title Company, whereby Owner agrees to allow the Title Company to remove deleteable, standard, printed exceptions (see Schedule B); and
- (v) an affidavit whereby Owner attests that it is not a Foreign Person, Foreign Company, Corporation or Partnership, or a non-resident Alien subject to the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA) income tax withholding.

Owner further agrees to provide a copy of the deed to PNM prior to Closing for PNM's approval.

(b) **By PNM:** At Closing, PNM shall pay the balance of the Purchase Price after deduction of the Option Fee.

12. OWNER REPRESENTATIONS AND WARRANTIES:

Owner hereby represents and warrants to PNM that as of the Effective Date of this Option Agreement and at Closing:

- (a) there is no civil or administrative or other legal action or disputes against or involving the Solar Property;
- (b) it owns, or will own prior to PNM's exercise of this Option, the Solar Property in fee simple, subject to no liens, encumbrances, mortgages, easements, servitudes, liens, unpaid taxes or any other charges or encumbrances;
- (c) it has full rights of entry;
- (d) it is, or will be prior to PNM's exercise of this Option, fully authorized to enter into this Option Agreement, to sell the Solar Property, and to grant the rights and agree to the terms and conditions herein; and
- (e) it has not left, buried or disposed of any pollutant, contaminant, industrial waste, or hazardous material on or in the Solar Property, and has no knowledge of the existence of such waste or material on the Solar Property.

13. PNM REPRESENTATIONS AND WARRANTIES:

PNM hereby represents and warrants to Owner that as of the Effective Date of this Option Agreement and at Closing:

- (a) PNM is a corporation duly organized, validly existing and in good standing under the laws of the State of New Mexico, has corporate power to carry on its business as it is now being conducted, and is qualified to do business in the State of New Mexico;
- (b) PNM has the full right, power and authority to enter into this Option Agreement and each agreement, document and instrument to be executed and delivered by PNM pursuant to this Option Agreement and to carry out the transactions intended in this Option Agreement. No waiver or consent of any person is required in connection with the execution, delivery and performance by PNM of this Option Agreement and each agreement, document and instrument to be executed and delivered by PNM pursuant to this Agreement;
- (b) The undersigned PNM representative has the full right, power and authority to enter into this Option Agreement on PNM's behalf;
- (c) PNM has received the requisite corporate authority and approvals to deliver the Option Fee(s) into escrow;
- (d) PNM intend to purchase the Solar Property for its own use and investment, and no sale to any third party by PNM is contemplated now or in the future; and
- (e) PNM has neither made any representations to Owner that it knows to be untrue, nor has it made any material omissions in an effort to encourage Owner to enter into this Option Agreement upon the terms and conditions contained herein.

14. OWNER'S OR PNM'S FAILURE TO CLOSE:

If either the Owner or PNM willfully and wrongfully fails to close this transaction for any reason, except as provided in this Option Agreement, and if PNM or the Owner has fully performed or tendered performance of all the obligations as provided in this Option Agreement, then the Owner or PNM may specifically enforce performance of this Option Agreement and may recover any other remedies available to it at law or equity, including, but not limited to recovery of its attorneys' fees and costs.

15. SUCCESSORS AND ASSIGNS:

PNM may not transfer, assign or convey any interest in whole or in part under this Option Agreement without obtaining the prior written consent of Owner, which consent shall not be unreasonably withheld, unless such assignment is to an Affiliate of PNM because of the reorganization of the assets, business function or structure of PNM, in which case only reasonable written notice provided by PNM to Owner shall be required, and the prior written consent of the Owner shall not be required. Owner may transfer, assign or convey its interest in whole or in part under this Option Agreement to a trustee of a revocable trust which the Owner, as settlor, has established, in part, for the Owner's benefit or for the benefit of the Owner's spouse or descendants. In such case, reasonable written notice to PNM by Owner shall be required, and the prior written consent of PNM shall not be required. All of the terms and provisions of this Option Agreement run with the land and shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

16. EXCLUSIVE AGREEMENT:

This Option Agreement shall constitute an exclusive arrangement between the Parties, and from and after the Effective Date of this Option Agreement, the Owner, its agents, affiliates, employees, contractors, or representatives, shall not negotiate for or otherwise deal in the sale, purchase, or lease of the Solar Property with any person or entity while this Option Agreement is in effect.

17. SURVIVAL:

All statements made by Owner and PNM contained in this Option Agreement will be deemed representations and warranties made by Owner and PNM and will survive Closing.

18. NOTICES:

- (a) All notices and requests permitted or required to be given hereunder shall be in writing and shall be deemed effective:
- (1) On the date delivered, if hand delivered, or
  - (2) On the date mailed by registered or certified U.S. Mail, return receipt requested, with adequate postage affixed, or
  - (3) On the date when sent, charges pre-paid, if delivered by reputable commercial overnight delivery service or U.S. Express Mail as evidenced by service receipt or by express mail postmark.

- (b) All notices shall be addressed to the addressee at the address written below or to the owner of record, if different, at the address of record or at such other address as either Party shall designate in writing in the manner provided by this Section 17.

19. CHOICE OF LAW:

This Option Agreement shall be construed under the laws of the State of New Mexico without regard to any conflicts of law or choice of law rules that would direct the application of the laws of another jurisdiction.

20. BROKERS OR AGENTS:

Neither Owner nor PNM have utilized the services of a broker or other agent in connection with this Option Agreement.

21. MODIFICATIONS OR AMENDMENTS:

This Option Agreement may not be amended, modified or changed, nor shall any waiver of any provision hereof be effective except by an instrument in writing and signed by the Party against whom enforcement of any such waiver, amendment, modification, change or discharge is sought. This Option Agreement represents the entire agreement and understanding of the Parties hereto with reference to the transactions set forth herein, and no representations, warranties or covenants have been made in connection with this Option Agreement other than those expressly set forth herein, in the exhibits, schedules, certificates, agreements and other documents delivered in accordance herewith. This Option Agreement supersedes all prior negotiations, discussions, correspondence, communications, understandings and agreements between the Parties relating to the subject matter of this Option Agreement.

22. RIGHT OF ENTRY:

While this Option Agreement is in effect Owner hereby grants and agrees to allow PNM and its authorized agents, employees, contractors, subcontractors, successors, and assigns the right to immediate entry and free and unfettered access to and from the Solar Property and adjoining lands owned by Owner as reasonably required and at such reasonable times to conduct the survey and all due diligence activities and studies ("Right of Entry"). The duration of the Right of Entry shall last until the survey and all due diligence work and studies are completed to the satisfaction of PNM.

23. COUNTERPARTS:

This Option Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

24. RECORDATION:

This Option Agreement shall be executed in recordable form, and, if PNM elects, a redacted version may be recorded at its expense with the County Clerk of Santa Fe County, New Mexico. For purposes of this Option Agreement, a redacted version of the Option Agreement shall eliminate all financial details of the transaction.

IN WITNESS WHEREOF, PNM and Owner have executed this Option Agreement as of the date(s) set forth above.

OWNER:

By: Richard P. Cook  
(Signature)  
Date: 05-13-14

Name (Print): Richard P. Cook  
Notice Address:  
c/o Katharine Cook Fishman, Esq.,  
PO Box 38  
Española, New Mexico 87532

PUBLIC SERVICE COMPANY OF NEW MEXICO:

By: Gary Barnard  
(Signature)

Name: Gary Barnard  
Title: Director, Renewable Generation Development

Date: 5/14/2014

Notice Address:  
PNM Land Services Department  
2401 Aztec Road NE, Bldg. A  
Albuquerque, New Mexico 87107

ACKNOWLEDGEMENTS

For Owner:

STATE OF NEW MEXICO  
COUNTY OF RIO ARRIBA

This instrument was acknowledged before me on

May 13, 2014

By (Print Signatory name)

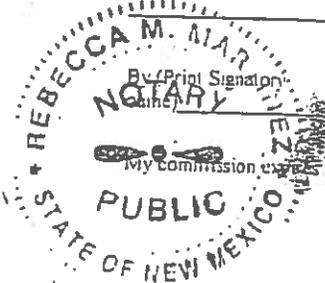
Richard P. Cook

My commission expires

March 31, 2017

Notary Signature

*[Handwritten signature of Notary]*



For PNM

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO

This instrument was acknowledged before me on

May 14

2014

By (Print Signatory name)

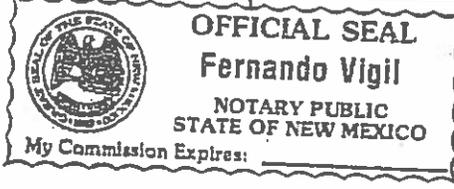
Gary Barwood

My commission expires

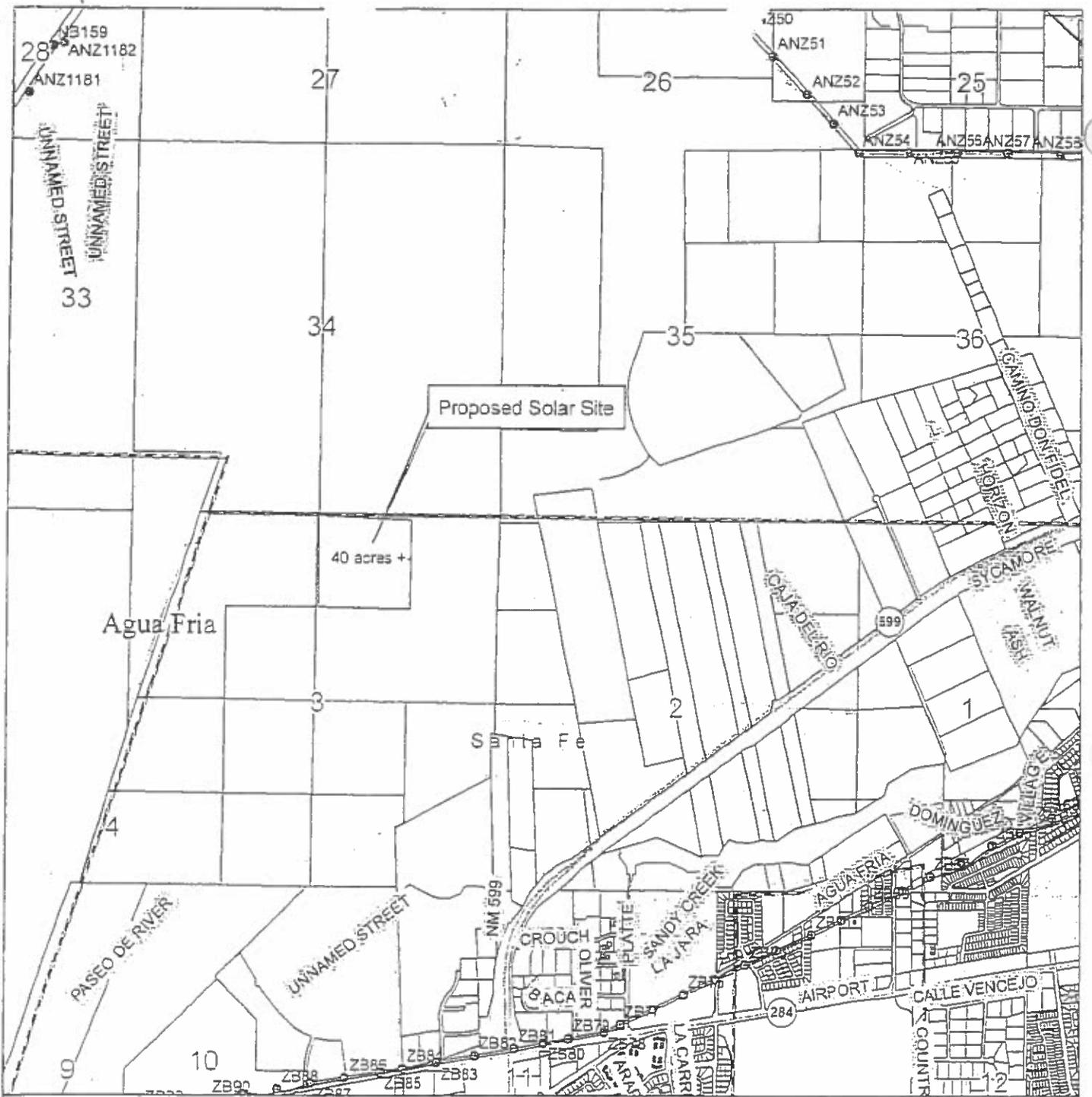
April 15<sup>TH</sup>, 2018

Notary Signature

*[Handwritten signature of Notary]*



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**Exhibit A**  
**The NW 1/4 and a portion of the NE 1/4**

Quad Map: Agua Fria  
 Section: 3  
 Township: 15N  
 Range: 08E  
 County: Santa Fe, New Mexico  
 Not to scale/Cook Offer



N13-70

LEGAL # 80153

CDRC CASE #  
Z/PDP/FDP 14-5370  
PNM Caja del Rio So-  
lar Energy Center  
Project

NOTICE OF PUBLIC  
HEARING

Notice is hereby given that a public hearing will be held to consider a request in accordance with an Order from the First Judicial District Court in Case D-101-CV-2015-01488, by Public Service Company of New Mexico to vacate a Master Plan Zoning, Preliminary and Final Development Plan approval which allowed a 5 megawatt electric Solar Facility on a 40 acre site. The property is located north of New Mexico Highway 599 and takes access via Caja del Rio Road, within Section 3, Township 16 North, Range 8 East, (Commission District 2).

A public hearing will be held in the County Commission Chambers of the Santa Fe County Courthouse, corner of Grant and Palace Avenues, Santa Fe, New Mexico on the 8th day of December 2015, at 5 p.m. on a petition to the Board of County Commissioners.

Please forward all comments and questions to the County Land Use Administration Office at 986-6225.

All interested parties will be heard at the Public Hearing prior to the Commission taking action.

All comments, questions and objections to the proposal may be submitted to the County Land Use Administrator in writing to P.O. Box 276, Santa Fe, New Mexico 87504-0276; or presented in person at the hearing.

Published in The Santa Fe New Mexican on November 17, 2015.

EXHIBIT

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**CERTIFICATION OF POSTING**

I hereby certify that the public notice posting regarding Land Development  
Case # Z/PDP/FDP 14-5370 was posted for 21 days on the property beginning

The 12 day of November, 2015. \*\*

Laurie Moye  
Signature

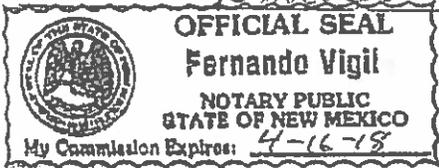
\*Photo of posting must be provided with certification

\*\***PLEASE NOTE:** Public notice is to be posted on the most visible part of the property. Improper legal notice will result in re-posting for an additional 21 days. It is the Applicant's responsibility to ensure that the notice is on the property for the full 21 days.

STATE OF NEW MEXICO }  
COUNTY OF SANTA FE }

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of

November, By Laurie Moye.



Fernando Vigil  
Notary Public

My Commission Expires:

4-16-18

**PUBLIC NOTICE**  
 Notice is hereby given that an application has been filed with Santa Fe County for VARIATION OF A MASTER PLAN ZONING, PREVIOUSLY A FINAL DEVELOPMENT NONCONFORMING WHICH ALLOWED A GOLF COURSE FACILITY TO BE LOCATED ON A 40 ACRE SITE, IN ACCORDANCE WITH AN ORDER FROM THE PROBATE COURT, DISTRICT COURT, IN CASE D-101-20-2015-014123.

Name of Applicant: **PLANT SERVICE COMPANY OF NEW MEXICO**  
 Address of Applicant: **1000 N. 1st St., Santa Fe, NM 87501**  
 Legal Description: **Section 5, Township 10 North, Range 11 East, NMPM-Santa Fe County, New Mexico**

A **PUBLIC HEARING** will be held at the Old Santa Fe County Courthouse, corner of Foothill and Grant Avenues, Santa Fe, New Mexico on **February 10, 2016** at **10:00 AM** at **10:00 AM** before the **BOARD OF COUNTY COMMISSIONERS**.

Further information can be obtained by contacting the Land Use Department, P.O. Box 276, Santa Fe, NM 87504. Phone: (505) 833-3333.

NO  
 TRESS PASS  
 COUS VEG

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**Legend**  
 — ROADS  
 □ PARCELS



1:6,000  
 1 inch represents 500 feet  
 0 125 250 500 750 1,000 Feet



World Imagery  
 2 FOOT CONTOURS

This information is for reference only.  
 Santa Fe County assumes no liability for errors associated with the use of these data.  
 User are solely responsible for confirming date accuracy.



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