

**TRANSCRIPT OF THE
SANTA FE COUNTY
SLDC HEARING OFFICER MEETING**

Santa Fe, New Mexico

July 12, 2018

I. This meeting of the Santa Fe County Sustainable Land Development Code Hearing Officer meeting was called to order by Santa Fe County Hearing Officer Richard Virtue on the above-cited date at approximately 3:00 p.m. at the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Staff Present:

Vicki Lucero, Building & Development Services Manager
Tony Flores, Deputy County Manager
John Lovato, Development Review Specialist
Jose Larrañaga, Development Review Specialist
Vicente Archuleta, Development Review Specialist
Paul Kavanaugh, Building & Development Services Supervisor
Cristella Valdez, Assistant County Attorney
Dominic Otero, Fire Department

II. Approval of Agenda

HEARING OFFICER RICHARD VIRTUE: My name is Richard Virtue. I'm the new County Land Use Hearing Officer, and I will now call this meeting of the Hearing Officer to order and ask if there are any proposed amendments or changes to the published agenda.

VICKI LUCERO (Building & Development Services Manager): Hearing Officer Virtue, there are no changes to the agenda.

HEARING OFFICER VIRTUE: Okay. Thank you very much. There being no changes to the agenda I will declare it to be final and we will proceed to the first of three public hearings that we have scheduled for today.

SFC CLERK RECORDED 08/02/2018

III. Public Hearings

- A. **CASE # SVAR 18-5040 Nelson and Darla Vigil Variance.** Nelson and Darla Vigil, applicants, request a variance of Chapter 8.6.4, Table 8-8, (Dimensional Standards) to allow a Family Transfer of 9.53 acres into two parcels, and a variance of Chapter 10.4.2.2 (Size) to allow an Accessory Dwelling to exceed 1,400 square feet of the principal residence. The property is within the Rural Residential Zoning District where the minimum lots size is 10 acres per dwelling unit. The property is located at 23 Camino Chamiso via Santa Cruz Lake Road, within, Section 5, Township 20 North, Range 10 East, SDA-2 (Commission District 1)

JOHN LOVATO (Case Manager): Thank you, Hearing Officer. Currently, the property is vacant and surrounded by lots that range from 6.52 acres to 11.91 acres which were derived from a family transfer land division and lot line adjustment in 1996 as recorded in Plat book 349, page 43. The applicant has a permit to place a 2,662 square foot residence on the property and is requesting a variance to place a 2,000 square foot accessory dwelling.

In part, the applicant is seeking to place the residence and accessory dwelling initially on the property and later hire a surveyor to divide the property. If the variance is granted for the family transfer, the applicant intends to give his adult sons each a lot, so they can have their own parcels. If the lot size variance is denied, the applicant would like to exceed the accessory dwelling size requirements and place the 2,000 square foot modular structure on the property.

The applicant states, "Both my sons want to live close to me. They are remarkable young men. Each has his own career and are successful at what they do, but they are always willing to help me out with whatever project I'm involved in. I own a septic system installation company and they take time to help me whenever they can. We enjoy metal work, working on oldies, and generally fooling around in my shop. Being close is very important to us."

The applicant has addressed the variance criteria and staff has responded to those requests, if it meets or whether it does not meet, and it's noted in the report.

Recommendation: Staff recommends denial of the applicant's request to allow 9.53 acres to be divided by way of a family transfer into two lots and denial of the applicant's request to allow an accessory dwelling to exceed 1,400 square feet. The property lies within the Rural Residential Zoning District. The base density in the Rural Residential Zoning district is ~~five~~ ten acres per dwelling unit. [Corrected below.] Allowing a variance creates a precedent to surrounding properties and creates substandard lot sizes. Previous lot sizes that range from 6.52 to 11.91 acres are legal non-conforming or created prior to the Sustainable Land Development Code.

If the decision of the Hearing Officer is to recommend approval of the request, staff recommends the following conditions be imposed. Hearing Officer, can I enter those into the record?

HEARING OFFICER VIRTUE: Please.

[The conditions are as follows:]

1. No further division of this property will be allowed.
2. Accessory dwelling units will not be allowed on either lots due to the substandard lot size. This shall be noted on the plat.
3. The applicant shall record the plat within 6 months or the variance is void.

MR. LOVATO: Thank you very much, and I stand for any questions.

HEARING OFFICER VIRTUE: Thank you. I may have some questions later, but for now I have none. Let's turn to the applicant. I would ask that the applicant and any persons who are representatives of the applicant to please stand and be sworn.

[Duly sworn, Nelson Vigil testified as follows:]

NELSON VIGIL: This property was originally part of – owned by residents of Rio Chiquito, which is a traditional community. It is situated between Rio Chiquito and Cundiyo, New Mexico. Just kind of no-man's land right between the two villages. My father purchased these properties in the sixties. He split it up and the family primarily owns most of the properties.

Basically, we have split it up among family members, the sons and daughters and I am seeking relief from the rule that states the accessory dwelling is a maximum size of 1,400 square foot. I have two sons, one which recently moved from Denver with his wife and two kids and you would figure that ten acres would be enough to place two homes in for my family, for my sons, but the SLDC states otherwise. So I am seeking relief from that. I am also seeking to eventually do a lot split, so if we end up approving the lot split then the sizing of the home is a moot point, because then we would have two viable lots.

So this is basically what we are after. I would like to move my two sons onto the property as quickly as possible but we have to await the decision of Santa Fe County. That's about it.

HEARING OFFICER VIRTUE: Okay. I may also have some questions for you. If that's all you have we'll move on to testimony from the public. Are there any members of the public that would like to testify on this matter? Yes, sir.

[Duly sworn, Marcos Martinez testified as follows:]

MARCOS MARTINEZ: My name is Marcos Martinez. I am actually Nelson Vigil's brother-in-law, so I would suggest that you guys would grant this. We're trying to get our values for our traditional type of living for our families, our children. A little bit of history about that property is my mother-in-law and my father-in-law, which is Nelson's parents, ended up buying that property which was three lots years ago. And those were also family members of my mother-in-law. So this property has been handed down through generations to the children.

Since we have, on the south side of Cundiyo, we have lots that are presently being developed with a lot less acreage lots. We're 2 ½ miles away so my suggestion would be also is eventually for the Santa Fe County Zoning Committee to be able to look at why is it that we have on the south side of Cundiyo lots that are being split 2 ½ acres, 3 ½ acres, seven-acre lots, and then 2 ½ miles up the road it's ten-acre lots. So it's a little bit confusing to us to try to understand how we can uphold our family traditional values of living together with one another as families. So that's all I have. So I would ask that you would grant this land split.

HEARING OFFICER VIRTUE: Okay. Thank you very much. Are there any other members of the public who would like to speak, either for or against the

application? Seeing that there are none, I will close the public testimony portion of the hearing, and I do have a few questions for staff and possibly Mr. Vigil. In reading the staff report it appears that the basis for the recommendation of denial here was that the lot split and/or increase in size of the secondary home were traffic, water use – I think that's probably the basis for – it seems to me to be the basis for the staff's recommendation, primarily.

MR. LOVATO: Hearing Officer, that is correct, but also when we initially went forward for the SLDC we had numerous community meetings and there was public outreach. There were postings in papers. There were various meetings for this, and this is what we've come up with. Previously, this was a 12.5-acre minimum. So it's gone down in size but it still does not meet the requirements of what the applicant is requesting.

HEARING OFFICER VIRTUE: Okay. Mr. Vigil mentioned that his family owns the surrounding property. Do you know how much of the surrounding property is owned by his family and what the size of the lots are?

MR. LOVATO: Hearing Officer Virtue, there are numerous lots that range from the 6.52 acres to 11. I don't know exactly how many but I do know he is surrounded by many family members and perhaps he can clarify that.

HEARING OFFICER VIRTUE: Okay. So the lot sizes surrounding this particular particle, lot sizes are currently 6.5 to 11 acres. Is that correct?

MR. LOVATO: Hearing Officer Virtue, that is correct.

HEARING OFFICER VIRTUE: Okay, and how many lots are there in that size range that are surrounding this property?

MR. LOVATO: Hearing Officer, there are approximately 10 to 12 that are around that range. There are some smaller lots in the entry point off of Santa Cruz Lake Road.

HEARING OFFICER VIRTUE: Okay. Did the staff consider imposing any kind of limitation on water usage if the lot is allowed to be split? So that you would reduce the impact on water usage from this lot split if it were approved?

MR. LOVATO: Hearing Officer Virtue, we do not impose as conditions but as a standard that it's .25 acre-feet, usually for all development that occurs within Santa Fe County. In this particular matter we would probably recommend a condition that it be a quarter acre-foot per dwelling or per lot.

HEARING OFFICER VIRTUE: So if we were to impose a condition that limits the water usage to a quarter acre-foot per lot would the staff be amenable to recommending approval?

MS. LUCERO: Hearing Officer Virtue, if the variance was approved and they came in to split the lot typically we would recommend or require a condition or a plat note stating that each new residence is limited to a quarter acre-foot per each new residence. However, if there are existing water restrictions on this property then that may change. So we haven't identified if there are existing water restrictions on this property. We can look at the plat and see if it identifies any, but under the new code that's what it would require. If there are no current water restrictions then we would require them to impose a quarter acre-foot for each new residence.

HEARING OFFICER VIRTUE: Okay, so did you consider that restriction in making your recommendation?

MS. LUCERO: Hearing Officer Virtue, we did consider that recommendation. As I mentioned, since it's a quarter acre-foot per dwelling unit, whether they're allowed an accessory unit or whether they're allowed to split the lot it would be the same impact basically.

HEARING OFFICER VIRTUE: So you did consider the quarter acre-foot restriction?

MS. LUCERO: Yes.

HEARING OFFICER VIRTUE: In making your recommendation. You assumed it would be in place after the lot split.

MS. LUCERO: Correct.

HEARING OFFICER VIRTUE: Did staff consider any other kind of restrictions on water usage, use of a cistern, use of graywater to irrigate? Anything like that that might mitigate the impact of water usage?

MR. LOVATO: Hearing Officer, as a requirement per Santa Fe County ordinances, they will be required either if they're under 2,500 square foot heated area, they will be required rain barrels and a minimum 600 cubic foot holding pond/retention pond. If it is above 2,500 square feet they will be required a cistern with an overflow of a 600 cubic foot retaining pond/retention pond.

MS. LUCERO: And also, Hearing Officer Virtue, if I could just add the County does require water conservation covenants on all lots within the county. So that would also be part of the plat. In addition to the quarter acre-foot they would also be imposed water conservation restrictions.

HEARING OFFICER VIRTUE: Okay. Thank you very much. Mr. Vigil, may I ask you a question. I just want to make sure you concur with the staff's statement that the lot sizes in the area are 6.5 to 11 acres in the surrounding area.

MR. VIGIL: Well, actually, the total area that my father first acquired was 100 acres. He split some acreage into half-acre lots which were purchased. Those sit between my property, where I currently reside, and the properties of Mr. Martinez and the lot that I propose to split. So in the surrounding area the next closest lot is around six acres. You have another lot that is 1.5. You have numerous lots that are still half-acre lots and a few that are one-acre lots. The family of Mr. Martinez has actually the largest lots surrounding me with are approximately six to eight acres. And I think my lot is actually the largest one on that road. So I'm surrounded by family and the lots that were previously split are as small as a half-acre.

HEARING OFFICER VIRTUE: Are all these lots owned by family?

MR. VIGIL: The smaller lots? The half-acre lots?

HEARING OFFICER VIRTUE: Well, the larger ones.

MR. VIGIL: The larger ones, yes. All family members.

HEARING OFFICER VIRTUE: Okay, but all are or some of the half-acre lots are not owned by family?

MR. VIGIL: They're adjacent to the properties, but they are within the original purchase that my father made.

HEARING OFFICER VIRTUE: Within the original purchase but not currently owned by family.

MR. VIGIL: A few of them are.

HEARING OFFICER VIRTUE: A few of them are and a few of them aren't.

MR. VIGIL: Yes.

HEARING OFFICER VIRTUE: Okay.

MR. VIGIL: There was an original 15 or so half-acre lots that were set aside.

HEARING OFFICER VIRTUE: Okay, and are you – do you agree with the requirements that were described by staff in terms of water conservation, the quarter acre-foot limit, the water conservation covenants –

MR. VIGIL: Actually, I had read the SLDC and I was aware that the home allotment per well is .25 acre-feet. I conversed with the State Engineer's Office and they informed me that each well allotment is three acre-feet but if you do the math, you can end up with 12 homes serviced per well so that does add up to the .25, which I guess is the newest code so –

HEARING OFFICER VIRTUE: But you would accept that limitation as well as the other water conservation limitations that staff said –

MR. VIGIL: Yes.

HEARING OFFICER VIRTUE: You wouldn't be asking for any additional variances from those requirements if this application were granted?

MR. VIGIL: Yes. I think that would be fine.

HEARING OFFICER VIRTUE: Okay. Thank you very much. I have no further questions. Does the staff have any response to the applicant's statements in response to my questions?

MS. LUCERO: Hearing Officer Virtue, not so much a response just a clarification in the staff report. Under the recommendation it states that the Rural Residential Zoning District is five acres per dwelling; it's actually ten and it was written correctly earlier on in the report. So it's actually minimum is ten acres per dwelling unit within that zoning district.

HEARING OFFICER VIRTUE: Okay. Thank you for that clarification. If there's nothing further I will declare this public hearing closed and we will move on to the next agenda item.

III. B. CASE # CUP 18-5030 CS Bruno's Self-Storage Conditional Use Permit. Vincent Marchi, Applicant, Land Development Planning, Agent, requests approval of a Conditional Use Permit per Chapter 4, Section 4.9.6 Conditional Use Permits (CUP); Chapter 9.8, Table 9-8-15 (Use Table); and Chapter 10, Section 10.13 (Self-Storage Facilities) to allow a 174 unit self-storage facility with an office/residence totaling 30,740 square feet at full build-out on 3.09 acres. The site is within the La Cienega and La Cieneguilla District Overlay and is zoned Commercial Neighborhood (CN). The site is located at 4 Erica Road via the I-25 Frontage Road within Township 16 North, Range 8 East, Section 26, SDA-2 (Commission District 3)

JOSE LARRAÑAGA (Case Manager): Thank you, Hearing Officer Virtue. The applicant is requesting approval of a Conditional Use Permit to allow a 174-

unit self-storage facility on a property zoned Commercial Neighborhood. The storage facility will total 28,740 square feet at full build-out and will include an office/residence which will total a 2,000 square foot footprint. The total square footage for the entire development will be 30,740 square feet.

The property is located within the La Cienega and La Cieneguilla Community District Overlay. Table 9-8-15 of the SLDC lists Mini-warehouse, Mini-storage Units as a Conditional Use which is an allowed use within the Commercial Neighborhood zoning district upon approval of a conditional use permit.

The applicant has addressed the conditional use criteria and staff has responded as contained in the report. Staff has analyzed the application and has determined that the proposed use meets the criteria set forth in Chapter 4, Section 4.9.6.5. This application was reviewed for the following applicable design standards as per Chapter 7, Sustainable Design Standards of the SLDC: access, fire protection, landscaping, buffering, fences and walls, lighting, signs, parking, loading, utilities, water supply, wastewater, water conservation, terrain management, flood prevention and flood control, and solid waste.

Building and Development Services staff has reviewed this project for compliance with pertinent SLDC requirements and has found that the facts presented conditionally support the request for a Conditional Use Permit to allow a storage unit facility: the use is compatible with the current development within the La Cienega and La Cieneguilla Community District Overlay; the use will not impact adjacent land uses; the use meets the standards set forth in Chapter 10, Section 10.13, Self-Storage Facilities; however, the application conditionally satisfies the submittal requirements set forth in the SLDC inclusive of the Conditional Use Criteria set forth in Chapter 4, Section 4.9.6.5.

The review comments from state agencies and County staff have established findings that this application to allow a 174-unit self-storage facility with an office/residence is in compliance with state requirements. However, it does not meet all design standards set forth in the SLDC. The applicant has met with and is working with staff. The conditions recommended below will bring the application into compliance.

Recommendation: This application has come before the Hearing Officer despite all of the above-mentioned discrepancies due to staff errors resulting in various delays for the applicant during the review process. Staff is requiring the applicant provide all revisions and required documentation prior to receiving legal notice for the August 16, 2018 Planning Commission meeting. Legal notice is due to the applicant on July 24, 2018. Should the Hearing Officer recommend approval of a Conditional Use Permit to allow a 174-unit self-storage facility on a property zoned Commercial Neighborhood totaling 30,740 square feet at full build-out including an office/residence, staff recommends the following conditions:

- 1) The applicant shall comply with conditions 2 through 8 prior to being issued legal notice for the next Planning Commission meeting.
- 2) The applicant shall revise the parking plan to show seven parking spaces.
- 3) The applicant shall revise the landscaping plan in order to provide landscaping along the southeastern boundary of the property in order to provide buffering from the I-25 Frontage Road and increase the amount of shrubs required along Erica Road.
- 4) The applicant shall submit revisions to the terrain management plan to show 4,871 cubic feet of stormwater storage.

- 5) The applicant shall submit revisions to the water harvesting plan prior to show 43,110 gallons of cistern(s) directly collecting water draining from the proposed 28,704 square feet of roofed area from the storage units or submit an alternative water harvesting plan for a one month supply of captured water per Section 7.13.11.7.3b.iii to be approved by the Administrator.
- 6) The applicant shall provide lighting cut-sheets.
- 7) The applicant shall provide an approved septic permit from NMED.
- 8) The applicant shall provide 100% design plans for the water connection to be reviewed by the County Utility Division.
- 9) The applicant shall screen the proposed dumpster with a 6-foot high solid wall or fence with a solid gate.
- 10) The applicant shall dispose of solid waste through Santa Fe County or an appropriate solid waste collection service. Solid waste shall be removed from the property on a regular basis but not less than monthly.
- 11) The CUP showing the site layout and any other conditions that may be imposed through the approval process shall be recorded at the expense of the applicant in the office of the County Clerk in accordance with Chapter 4, Section 4.9.6.8.
- 12) The water use for the Storage Unit Facility shall not exceed 0.35 acre-feet per year. Water restrictions shall be recorded with the CUP.
- 13) The applicant shall provide a Water Delivery Agreement from the County Utility Division prior to issuance of any building permits.
- 14) The applicant shall abandon the well once the property is connected to County water.

Staff requests the Hearing Officer memorialize findings of fact and conclusions of law in a written order. The Santa Fe County Planning Commission will be holding a public hearing on this matter on August 16, 2018. And I stand for any questions.

HEARING OFFICER VIRTUE: Thank you. I'll reserve my questions until later. I'd ask that the applicant and any representatives who wish to testify on behalf of the applicant please stand and be sworn.

[The following people were placed under oath: Danny Martinez, Robert Romero, and Vincent Marchi.]

DANNY MARTINEZ: Again, I'm Danny Martinez, Land Development Planning. I represent Mr. Marchi as his project planner/project coordinator. With me is Robert Romero. He's our engineer of record on the property, and Mr. Marchi, who is the owner/developer of the project.

Yes, this has been a tough project because we've gone through months of working through the process with the County and again, we did run into some problems that were related to staff error that resulted in us being delayed and not getting reports back. So the project has actually gone through quite a few months of just not going anywhere. I thank staff for finally working with us on this and letting us move the project forward. I can say I only received the staff comments this morning so we are not even sure what they were but we have received them, we have gone over them, and we're in concurrence with the requirements and the comments that staff is providing.

The issue of water harvesting, which is a big issue in Santa Fe County, especially when you're in a drought like we are. Water harvesting is very costly. We're talking up and around \$50,000 for cisterns and all the necessary requirements to meet water

harvesting. So you can see it just adds a big chunk of cost to the property. But I agree with staff's comments that there's ways to mitigate the amount of storage that's required and we will continue to work with staff to see if we can come down to a reasonable amount of storage that would work with the budget of the project.

In regards to the project itself, again, we have had our meetings with our neighbors. We presented ourselves to the La Cienega board. We've sent certified letters. Everything we've had to do we have followed through with and we really felt that we're on a roll at this point.

The issue of self-storage again – everybody always looks at self-storage as there's too many self-storage units out there. No reports have been completed by anybody that I'm aware of that actually shows that Santa Fe has got a glut of self-storage units. As a matter of fact, the three self-storage facilities that I have worked on in Albuquerque and Santa Fe, these guys are very successful. They're usually right around 70 to 80, 90 percent occupied. In our efforts to bring a self-storage project out to the La Cienega area we just felt that the property has limitations. There's a big curve coming into the frontage road before the property that would limit the property from being developed for anything other than a low-level traffic impact, which is what a self-storage does. So if we tried to put a restaurant on this property, because it is zoned commercial, it would never happen. We would have to put in \$300,000, \$400,000 of highway right-of-way improvements that would just make it impossible to try to put a restaurant.

And example of anything else – anything that's higher density, higher traffic flow, just doesn't work on this particular property. Again, the property was developed back in the eighties, nineties, if I'm correct, and it was zoned commercial. So basically, what you've got is you've got a piece of property that is zoned commercial neighbor and the use they're proposing falls within an acceptable use.

So the reality of the project is it's a very limited use property because of the existing highway conditions. Again, we've looked at multiple possible uses and we had to strike them down and say it's just not possible because of those conditions. So we feel that self-storage is a good fit. We know that there's competition that's behind us and we acknowledge it. In working in our neighborhood meeting there was even a possible acquisition offer that was supposed to come through but I don't think that there was ever an actual offer that came through. The intent of the offer was that there was going to a more roundabout development of the whole quadrant right there on Camino Pinones and this property and the adjoining properties were somewhat tied together in this thought – I can only say it's a thought because I've never seen any true documentation of anything proposed by the neighbors.

So again, the opposition that I anticipated was, if their intent is to buy the property, well, they should issue a purchasing offer. They should take it to that next level and say, we're serious; we want to buy your property. Nothing happened. Mr. Marchi decided he wanted to move forward and make his property useful. Self-storage is what we have come up with. I am available and open for questions, as is Mr. Romero or Mr. Marchi.

HEARING OFFICER VIRTUE: Okay. Does Mr. Romero or Mr. Marchi wish to speak? Either one or both?

ROBERT ROMERO: Yes, Hearing Officer Virtue. I believe this project meets all the requirements for shielding. We're not requesting any variances and it does meet the requirements for this for the area that it's on.

HEARING OFFICER VIRTUE: Thank you. If no one else wishes to speak on behalf of the applicant I would go to the next part of the hearing which is public testimony. Are there any members of the public that wish to testify on this matter? Those who wish to testify please stand up and be sworn.

[The following people were placed under oath: Karl Sommer, Amy Fairchild, Rosemary Thompson, and Denise Carro.]

HEARING OFFICER VIRTUE: Okay, I would ask anyone who's been sworn that is in favor of the application to come forward. Seeing none, we'll go to those opposed.

DENISE CARRO: Hello. So the reason we're opposed to this is because it is, as they were talking about, on a circle, and we're worried about the traffic coming into there. My mom's property is in back of his, adjacent storage unit, which is also going to cause I think a lot of people coming in and out of there. We're worried about the security. There's also a D & G Storage Unit right down the road and I do oppose what the gentleman said about the studies. If you pick up the phone and call them they're not even at 50 percent capacity. There's also a lot of storage units down on Airport Road that aren't even meeting full capacity so we're wondering why would they putting a big structure in back of our house that's really not needed.

Vince had talked to me about putting a restaurant, which I think restaurants are needed out there. I think there's other businesses that we could put out there that are more useful, but I just think that this is not something that's really needed out there at this time. I don't see any studies showing that there's a bunch of people looking for storage out there when the other storage units are not at full capacity that are very close to us. And then again, in that curve, causing a lot more traffic coming into the area I think is going to be a problem. I think if we do a study on that you would see exactly what we mean. Me and my mom live there and so we really oppose this right now.

HEARING OFFICER VIRTUE: Thank you very much for your comments.

AMY FAIRCHILD: Hello. My name is Amy Fairchild. I live directly adjacent to the property. I live there with my family and my three children. We are opposed to the storage facility for various reasons. One, obviously, it's a really big structure that they're proposing to build. Secondly, we're concerned about the noise pollution and the light pollution. In all of the recommendations he still has 14 conditions that he's supposed to meet before that there is approval. One of the things is the boundary walls and also the lighting. We're not the only people, even though this is commercial space, we're not the only residential property there. So the light, the noise, the traffic, and the structure – it impacts a lot of people, but especially us as right next-door neighbors.

I do disagree with the notion that self-storage is needed. There is a self-storage unit literally on the same street. They have three pad sites that are still yet to be developed, and the need hasn't been, but he went ahead and built on the other three pad sites. Additionally, we looked into the storage facilities. There's 11 facilities here in Santa Fe. All of them are under 50 percent. So I disagree that there is a need for that.

The other thing that we're concerned about is the water usage. I saw that he would have to abandon the well once the structure is built, but we're also concerned about runoff water – where does that go? All the property in our area and adjoining is very flat. So with flat roofs on the proposed structure, if he does not have the water containment units in effect, where does all of that water drain to?

The other thing that we're also worried about is the traffic. His report said that there would be four in and out during peak hours. Well, that means that there would only be two cars visiting his space every day. So as a small business owner myself, I wonder, is there really a need that you are going to build this big facility and only have two in and out cars in the morning and in the evening? I'm not quite sure about that.

The other thing that I'm also concerned about is the trash and solid waste, where it said that trash only needs to be removed every 30 days. As somebody that lives right next door to that, that's a big concern for us. I think that with 14 conditions on the recommendations he still has a lot of work to do and I really don't think that this project is ready at this time for approval. Thank you very much.

HEARING OFFICER VIRTUE: Thank you.

ROSEMARY THOMPSON: Thank you. I'm Rosemary Thompson. I have the property adjoining Vince's property that he's looking to build 174 storage units. If I may, may I step over here?

HEARING OFFICER VIRTUE: Certainly.

MS. THOMPSON: Okay, so obviously, the staff, everybody, the recommendation – here is the West Frontage Road and here is Erica Road, and right here, on this piece of property to the north is MCT Waste Management. Directly behind is American Spirit Mobile Homes Sales. Directly behind them is D & G Self-Storage. They said, at the neighborhood meeting that we had at the La Cienega Valley Library that they're at only 50 percent capacity.

Now the new owner of the storage facility, who I spoke with, there are three additional concrete slabs that they did not expand their facility when they first built it, and they have intentions on expanding it now and they have to go back and get it renewed because they didn't do it in the beginning. So they have three additional concrete slabs back here to expand their facility.

So there is no access right here from the West Frontage Road. So this property is our family owned property right here and here's Los Pinos that goes to Las Golondrinas, Sunrise Springs. So there is no access here at all. There's a gate, but there's no access. So the traffic for 174 storage units, residence and office, would have to come through Erica Road. Now, this is a very sharp corner. It is an accident waiting to happen and Mr. Romero, I'm sure your report said there was only four cars in and out in the morning and the afternoon. That math doesn't add up to me if you have 174 storage units. This corner – it's almost a 90 degree angle. It's a blind curve. So having that kind of traffic is not a good thing.

And then again, as Amy said, you have the light pollution. You have the noise if it's open 24/7. It's the fencing. It would need to be completely fenced in so you can't see it. Water is the other issue and where's it going to drain. It can't just be on the flat land, which all of this is flat. And then you also have the issue of water, which we're all familiar with, and the well that was previously drilled was back here in the corner between our property and Denise Chavez' with their mobile home park back here. And I

understand it has been closed, sealed. It's not in use, right? It's not in use. And then the electricity that was pulled from the West Frontage Road was red-flagged by the County because there wasn't a permit to do that.

So there are a number of issues regarding this vacant land. I'm a certified economic developer. I've been a realtor for 39 years and an appraiser, so in my personal opinion this is not the highest and best use for this corner, especially with this corner right here. I'm all for economic development, but this is not the highest and best use for this corner. And in addition you have 14 recommendations that have to be addressed before this August meeting next month. I think this needs to go back to the drawing board and all these 14 recommendations need to be addressed seriously before going before the Planning Commission in August. Thank you for your time. I appreciate it. Any questions for me.

HEARING OFFICER VIRTUE: Thank you for your presentation. I have no questions.

KARL SOMMER: Hearing Officer, I'm Karl Sommer. My address is Post Office Box 2476, Santa Fe, New Mexico, and I've been sworn. I think that's their practice here. I don't intend to offer any factual evidence. I represent Mr. Thompson who is Ms. Thompson's brother who owns the property and is highly concerned about the lack of buffering this project is going to provide for that property and the impact. I'm not going to reiterate the concerns that have been stated by Ms. Amy Fairchild and by Ms. Thompson that are also adopted by Mr. Richard Thompson and for the record he opposes the project for those reasons as well.

I would note – I would ask the Hearing Officer to – I'm not a traffic engineer and I know Mr. Romero is a traffic engineer. He's a certified engineer, but you have a 174-unit storage, at peak hours showing four trips and I'm not an engineer, but I understand that means two cars in the peak hours on 174 units just seems to defy logic. Maybe that's what the manuals say but perhaps the Hearing Officer could inquire as to that and the standard from where that comes. The testimony in the record is that this intersection with a frontage road is less than optimal for its sight distances to the north and that traffic is a great concern to my client and to the occupants. Thank you.

HEARING OFFICER VIRTUE: Okay. Thank you. That concludes the public testimony section and then I will let the applicant respond to the comments of the public, the testimony of the public.

MR. ROMERO: Regarding the TIA, the TIA was done in accordance with national standards. The reason we chose a storage facility is because during the peak hours those volumes are low. Most people don't go to a storage facility at 7:00 or 8:00 in the morning; they usually go during the day. So these numbers were derived some national standards. They were reviewed by the Highway Department. The Highway Department concurred that they are reasonable. So it's four trips in the peak hour, not four trips in two hours, but that's what these things generate. If you pass by one, how many times do you pass by and even see a car going in and out? Not very often.

So I believe that the TIA is accurate. This land isn't flat. It drains from the northeast to the southwest and there's many ways to capture the drainage in ponds or cisterns or other ways. I don't feel that's an issue. Regarding buffering, we're proposing a wall around the entire property so we won't be seen, so it will be buffered. You really won't see what's inside. Water – this type of facility does not require a lot of water.

We're not building anything. It requires very little water. Most of the water is going to be for landscaping, which is required by the County.

So I believe that of the 14 issues – again, we just received them today – but I think it would be very simple for us to mitigate those by the time it goes to the Planning Commission.

HEARING OFFICER VIRTUE: A couple of questions for you, Mr. Romero. Regarding the buffering, what kind of wall does the applicant propose?

MR. ROMERO: We're proposing a wall with pilasters and then metal in between, similar to the metal buildings that are going to be in the facility. ProPanel.

HEARING OFFICER VIRTUE: Okay. Would that be around the entire property?

MR. ROMERO: Yes, it is.

HEARING OFFICER VIRTUE: Okay. And regarding the traffic analysis, did you or anyone do any studies with respect to use of the property, the number of vehicles that would use the property throughout the entire day, as opposed to just the peak hours?

MR. ROMERO: We could have. We usually design for the peak hour because that's when most people are going to work or coming from work. So we counted the two or three hours in the morning, around 7:30, 8:00, and then the same thing in the afternoon. So again, these things just do not generate a lot of traffic. And like I said, the report was submitted, reviewed by the DOT and the DOT approved it.

HEARING OFFICER VIRTUE: Did you prepare any estimates or are there any statistics on total visits to the site per vehicle throughout the day?

MR. ROMERO: The standard is usually ten times what the peak hour is, so it's probably about 40 cars in the whole day.

HEARING OFFICER VIRTUE: Okay. Thank you. Just a question for the staff. The time frame for getting these additional submittals in in time for the August Planning Commission meeting appears to be short. Do you feel comfortable that you can review all the additional submittals and get a recommendation with respect to all those prior to the deadline for submittals to the Planning Commission?

MR. LARRAÑAGA: Hearing Officer Virtue, this isn't my case. I'm just reading the report but I am familiar with the project and from what I see here, yes. They submit in the middle of next week, end of next week we should be able to review it. One thing is an NMED permit, they need to supply that, and the design of the retention pond, design of the cistern, come up with a water budget to reduce the amount of water that's to be captured for landscape. So the conditions 2 through 8, I believe is what he needs to submit prior to getting notice for the Planning Commission. So I think those can be reviewed fairly easily.

HEARING OFFICER VIRTUE: Okay. Thank you. I believe that's all I have so I will conclude this public hearing and will prepare my recommendation, which you should expect to receive in two weeks. Thank you very much.

C. **Case # CUP 18-5050 PNM BB2 345kV Transmission Line Project Conditional Use Permit.** PNM, applicant, Laurie Moye, Agent, are requesting a Conditional Use Permit to construct approximately 31 miles of new single-circuit 345kV transmission line in southern Santa

Fe County. The proposed transmission line will connect PNM's existing Clines Corners 345kV Switching Station (within Santa Fe County) to a new switching station within Sandoval County. The new single-circuit transmission line will be located immediately adjacent to the existing BB 345kV transmission line on a separate 150' easement. The steel "H" frame structures (140 pole sites) will be constructed 120' to 150' in height.

The proposed 31-mile transmission line will meander through State Land (2.5 miles) and through parcels that are zoned Agricultural/Ranching and Rural (31 miles). Ordinance No. 2016-9, the Sustainable Land development Code, Appendix B, Use Matrix, identifies high-voltage electric power transmission lines as a Conditional Use within these Zoning Districts. The proposed transmission line will run east to west within southern Santa Fe County, north of Stanley and north of Golden, meandering through approximately 32 separate parcels of land, within T 10, R 7, 8, 9, 10, 11 E, T 11, R 7, 8, 9, 10, 11 E and T 12 N, R 7, 8, 9, 10, 11 E, SDA-3 (Commission District 3) [Exhibit 1: Map of Gray Vireo Habitat; Exhibit 2: PNM Corrections and Amendments; Exhibit 3: Jeremy Lewis Letter of Support]

MR. LARRAÑAGA: Thank you, Hearing Officer Virtue. Again, clarification on this report: The applicant's submittal and staff report make reference to the "BB Line". The "BB Line" is an existing 345kV transmission line on an existing 150-foot easement, which was constructed in 1984. The CUP request is for the proposed BB2 345kV transmission line on a separate 150-foot easement. The applicant labeled documents as exhibits and/or attachments which are in staff's exhibits and which do not coincide with exhibits listed on page 13 of this report.

HEARING OFFICER VIRTUE: That's the same clarification that you have on the bottom of page 1 of the report.

MR. LARRAÑAGA: Correct.

HEARING OFFICER VIRTUE: Thank you.

MR. LARRAÑAGA: The BB2 Project consists of construction of a single-circuit line within southern Santa Fe County, commencing from the existing PNM Clines Corners 345kV Switching Station, which is on State Land within Santa Fe County, to just west of NM-14 to the Santa Fe County line then to a point in Sandoval County. The BB2 Project is approximately 31 miles on private property for the new single-circuit 345kV transmission line. The line is also located on approximately 2.5 miles of State Land on the existing Clines Corner Switching Station.

The new single-circuit line will be located immediately adjacent to the existing BB 345kV transmission line, built in 1984, within an existing 150 easement and will expand the existing utility corridor. The new construction will require an additional easement 150 feet in width. PNM is currently working with private landowners to obtain this easement. Access for the BB2 Project will be from existing roads adjacent to the site and the existing PNM patrol 2-tracks which is on the existing BB 150-foot easement.

The applicant states, “The BB2 project is proposed in response to a wind farm developer who has entered into an agreement with PNM to transmit into the transmission grid the electricity generated by a new wind development in Torrance County, New Mexico. PNM is required by the Federal Energy Regulatory Commission to develop the requested capacity on its transmission system to serve this wind farm developer. In order to serve the wind farm developer, PNM will need to build a new transmission line in southern Santa Fe County to deliver this new wind energy. The new single-circuit line will be located immediately adjacent to the existing BB 345kV transmission line and this will expand the existing utility corridor.”

Structure type for the BB2 project is a single-circuit H-Frame and will be a dulled galvanized color to match the color of the existing BB structures. The typical height of the structures for the BB2 project is approximately 120 to 150 feet which meets the National Electric Safety Code standards for safety. The BB2 transmission structures will be located generally parallel to the existing BB transmission structures. Final locations of the transmission structures will be subject to site-specific conditions. The BB2 Project consists of approximately 140 pole sites for the transmission structures in Santa Fe County. Each transmission pole site or structure area is approximately 20 x 40 feet. The average span length between transmission structures will be between approximately 1,000 to 1,500 feet. In rugged terrain, structures may be spaced up to 1,900 to 2,000 feet apart.

Ordinance 2016-9, the Sustainable Land Development Code, Section 7.12.1.3, states, “above-ground electric utility lines that transmit electricity at a voltage greater than or equal to 46 kilovolts shall be designed and constructed at the minimum height necessary for the proposed structure to function properly and for public health, safety and welfare, as demonstrated by the applicant.”

The applicant has submitted justification for the need of the requested structure height which is contained in the report. Staff has reviewed the information submitted by the applicant demonstrating the need for the height of the structures and agrees with the applicant that in order for the structure to function properly and for public health, safety and welfare, the structures require a height of 120 to 150 feet.

The applicant has addressed the conditional use criteria and staff has responded as contained in the report. The applicant submitted the required studies, reports and assessments which include an environmental impact report and a fiscal impact assessment which are contained in the record. The applicable SLDC design standards were addressed by the applicant which include the following: access, fire protection, historic and archaeological resources, terrain management and flood prevention and flood control.

Building and Development Services staff has reviewed this project for compliance with pertinent SLDC requirements and has found that the facts presented support the request for a Conditional Use Permit to construct approximately 31 miles of new single-circuit 345kV transmission line in southern Santa Fe County: the use is compatible with the current development within the Agricultural/Ranching and Rural Zoning Districts; the use will not impact adjacent land uses; and the application satisfies the submittal requirements set forth in the SLDC inclusive of the conditional use criteria set forth in Chapter 4, Section 4.9.6.5.

The applicant has demonstrated that the minimum height necessary, for the proposed structures to function properly and for public health, safety and welfare, would be 120 to 150 feet in height.

The review comments from the State Historic Preservation Office and County staff have established findings that this application to construct 31 miles of new single-circuit 345kV transmission line immediately adjacent to the existing BB 345kV transmission line is in compliance with State requirements and design standards set forth in the SLDC.

Recommendation: Staff recommends approval of a Conditional Use Permit to allow a new single-circuit 345kV transmission line, 31 miles in length, running east to west within southern Santa Fe County, meandering through approximately 32 separate parcels of land, with the following conditions:

- 1) The CUP showing the site layout and any other conditions that may be imposed through the approval process shall be recorded at the expense of the applicant in the office of the County Clerk in accordance with Chapter 4, Section 4.9.6.8.
- 2) Prior to recording the CUP the applicant shall submit, to staff for the record, the recorded documentation of the acquisition of the entire 31-mile, 150-foot wide easement utilized by the BB2 345 kV transmission line.
- 3) Prior to recording the CUP the applicant shall submit a Geotechnical Reconnaissance Report on the entire 31-mile, 150-foot wide easement utilized by the BB2 345kV transmission line. If the final design places a structure ("H" Frame) within a no build area, PNM is required to address the requirements specified in Chapter 7, Section 7.17.4. of the SLDC and submit the findings to staff for the record.
- 4) If the final design places a structure ("H" Frame) within a Zone A flood hazard area, PNM is required to work in consultation with the appropriate flood zone authorities to address the requirements specified in Chapter 7, Section 7.18.9.1. of the SLDC and submit the findings to staff for the record.
- 5) The patrol 2-track dirt road shall be capable of supporting emergency apparatus and shall be kept in good condition.
- 6) All mitigation implemented as recommended in the Environmental Impact Report shall be documented and the findings submitted to staff for the record.
- 7) Archaeological sites LA 171600, LA 190494 and LA 191147 shall be avoided and a mitigation plan shall be prepared and implemented for LA 55687 and LA 774436. The plan shall be provided to HPD for review and approval prior to implementation. [Applicant corrected the last site number to LA 77436]
- 8) The maximum height of the "H" Frame structures to be utilized for the BB2 345 kV transmission line shall not exceed 150 feet.

This report and the exhibits listed below are hereby submitted as part of the hearing record. Staff requests the Hearing Officer memorialize findings of fact and conclusions of law in a written order. The Santa Fe County Planning Commission will be holding a public hearing on this matter on September 20, 2018.

Hearing Officer Virtue, a couple of things that were passed out, there was a letter here that was submitted in support for this project from the New Mexico Energy, Minerals and Natural Resources Department, and also there was a map here that PNM

provided where in the environmental impact report, in the report there was a mitigation that needed to be done for the gray vireo bird, and so this addresses that mitigation. And I stand for any further questions.

HEARING OFFICER VIRTUE: Thank you very much. The only question I have at this point relates to the items passed out, is the submission at the public hearing sufficient for the purpose of including the items in the record?

MR. LARRAÑAGA: What I just passed out, I will give them to the recorder so they will be with the minutes for the record.

HEARING OFFICER VIRTUE: Okay. So they will be included in the record by virtue of having been submitted and identified. Okay. Thank you very much.

Okay, I would ask that the applicant and any representatives that wish to speak on behalf of the applicant be sworn at this time.

[The following members of the applicant's team were placed under oath: Laurie Moye, Kirk Allen, Valerie McCoy, and Emily Dolmen]

LAURIE MOYE: Hearing Officer Virtue, I am Laurie Moye with PNM, and I'm here today to talk about the BB2 345 kV transmission line project. I think you're aware of that. It's a new single circuit, 345 transmission line in southern Santa Fe County. I'm going to be repeating some of the things that Jose has said into the record. It's 31 miles on private land plus 2.5 miles on state land in Santa Fe County. It's located in the Agricultural/Ranch Rural and Public Institutional Zoning Districts.

A wind farm developer has entered into an agreement with PNM to transmit electricity generated by the new wind development in Torrance County. PNM is required by the Federal Energy Regulatory Commission, FERC, to develop the requested capacity on its transmission system. This new line will be located in an existing transmission corridor adjacent to an existing 345 transmission line. Estimated property tax payments to be paid by PNM to Santa Fe County are \$386,867 annually. There will be 40 to 50 temporary construction jobs from this project and PNM and its contractors will utilize local workers as much as possible.

This structure type is galvanized steel H-frame, 120 to 150 feet in height, and was selected by the landowners. As Jose said, the span lengths are approximately 1,000 to 1,500 feet in flat terrain and may be up to 1,900 to 2,000 feet in rugged terrain. The poles will be direct buried with one hole for each pole which will be two poles total. A pre-application neighborhood public meeting was held on April 4th in Moriarty with ten attendees. No concerns, issues and problems were identified at the meeting. PNM representatives are currently negotiating with landowners for easements. PNM has held individual meetings with property owners and their representatives, hosted a property owner dinner, and conducted a day and a half utility search conference on March 8th and 9th with representatives selected by the leadership team which met four times.

Updated survey results for the gray vireo bird were submitted to staff on July 9, 2018. The survey results indicate that there were no gray vireos observed or located in Santa Fe County with no nests in the corridor.

I have a series of board illustrating all of my points if you have questions about anything. I have a visual simulation of what the line could look like and this is taken from a road crossing at New Mexico 41.

I have some additions and corrections to the staff report. Staff reported that there are 32 parcels of land; the correct number is 25 with 17 different landowners, and that's on page NBC-1 and NBC-11, and I will with your permission submit this letter. Section 4.9.6.5 CUP of the staff report, page NBC-6, criterion 2: Inspections of the line for routine maintenance will take place every three years, not three months. Additional information is in the future, these inspections may be conducted with drones and not patrol trucks and individuals.

Criterion 6 of that section, the steel structures are galvanized gray steel and they are not painted. Galvanized steel is not painted. These structures dull in color over time. Under Section 6.1.2.1, Environmental Impact Report, the EIR, an updated EIR dated May 3rd was submitted for review, and that's on page NBC-7. And again, updated results for the gray vireo bird were submitted to staff on July 9th. There are no birds in Santa Fe County and no nests in the corridor.

Under the flood prevention, additional information, staff has Section 7.18. Staff has met with the Edgewood Soil & Water Conservation District to discuss the project and will continue to work with them.

On the archaeological section, based on our conversations with SHPO, under Section 7.16, Protection of Historic and Archaeological Resources, on NBC-8, PNM recommends revising the mitigation as follows: Mitigation: recommended for two sites. No further treatment is recommended for the remaining 15 sites as they are either not recommended as eligible or additional ground disturbance will be avoided. One of the sites, LA 171612 is mid-span and can be monitored and avoided.

On page NBC-10, in the HPD comments, the second bullet contains a typographical error. LA 774436 should be LA 77436.

And PNM suggests the following amendment to a condition, #7 on NBC-13: Ground disturbance at archaeological sites LA 171600, LA 171612 and LA 190494 and LA 191147 shall be avoided. A mitigation plan shall be prepared and implemented for LA 55687 and LA 77436. The mitigation plan shall be provided to HPD for review and approval prior to implementation.

May I submit these to the record?

HEARING OFFICER VIRTUE: Please do. Do you have enough copies to give to me and the recorder and the staff? I would ask the staff if they've seen these changes prior to right now.

MS. LUCERO: Hearing Officer Virtue, we have not seen till now.

HEARING OFFICER VIRTUE: Do you have any objections based on what you heard being read? I know it's hard to respond. Let me just rephrase that and say I think I'm going to allow you three days to get any further revisions that you would propose to me so that I can – if you have anything that you don't think is accurate and you want to change you can give them to me and I will look at them and then decide how to incorporate those into my report. If there are differences – what I'd like to do if there happens to be differences – I don't expect there will be any differences but there could be, just so I can hear from the staff and I can incorporate anything that might still be outstanding after the staff has looked at it in my report.

MS. LUCERO: Thank you.

MS. MOYE: Hearing Officer Virtue, that's fine. These were being developed this morning.

HEARING OFFICER VIRTUE: Yes, I understand. That's why I want to slow the process down a little bit and have some time to take a look and make sure we're all on the same –

MS. MOYE: Sure. And that's acceptable to us.

HEARING OFFICER VIRTUE: Okay. Thank you.

MS. MOYE: I'll stand for any questions.

HEARING OFFICER VIRTUE: I have no questions at this time. I will probably have some later.

MS. MOYE: Thank you.

GEORGE CHILTON: [From audience] I have a question.

HEARING OFFICER VIRTUE: Are you a member of the public?

MR. CHILTON: [inaudible]

HEARING OFFICER VIRTUE: Yes. Yes, that's the next phase. What I'm trying to do sir here is I want to let – the applicant had, I think four, if I counted correctly, representatives if they wanted to speak, so I'm going to allow them to speak first and present their case and then at the end of that I will call upon members of the public to present their testimony. So you'll have your opportunity here in a few minutes.

Is there anybody else from the applicant that would like to present testimony? Now is the time. Nothing further from the applicant. Okay. Then I would proceed to the public testimony portion of the hearing and I would ask that any members of the public – for right now, I'd like for all the members of the public to stand and be sworn and identify yourselves and then you may come to the podium after that. You can be sworn from where you are now, and then we'll have you walk up afterwards. It's okay to come up to the podium now. We'll swear you in from there. That would be fine.

[The following people were placed under oath: George Chilton, Lyn Chilton, Jeremy Lewis, Dennis Wallin, Debbie Ortiz, and Myra Pancrazio.]

HEARING OFFICER VIRTUE: Okay, Mr. Chilton, since you're at the podium, go ahead.

GEORGE CHILTON: What I'd like to say is we went to one of their meetings and we of course kind of got the run-around at the meeting. And we let them know that we weren't happy with them putting another line across our property. There's one line on our land now. We have 40 acres, two 40-acre pieces, one to the north, one to the south, and the one to the north is where the line primarily runs now. And I said if you want another line on the north, like you're talking about, then you need to buy that 40 acres, because otherwise that 40 acres is worthless to me. And the way it is right now you put a line through there it's just a matter of ten or fifteen years you're going to have another line through there.

And I intended to do something with that property but I won't be able to do nothing with it when there's high voltage wires running all over it. So my point is if they're going to go through there I don't want somebody giving me \$7,000 or \$8,000 for a right-of-way. I want them to buy that 40 acres. They're destroying the property period. That's my feelings and that's the way – we won't sign no papers otherwise. So if they do it otherwise we're going to have to go to court. That's what I've got to say.

HEARING OFFICER VIRTUE: Okay. Thank you very much.

LYN CHILTON: My name is Lyn Chilton and we are property owners as my husband – I just want to add a little bit to what he said, because once they put more power lines in the property with all those high voltage and it is not healthy for people and there's some homes in there. So we thought that instead, they are big investors. This PNM is a big investor company, so if they would just buy the area where they will put those power lines. We're looking in the future, if they put more power lines they're going to have to go through property owners like us anywhere because they own the property. The value of the property would be so much less once they put those power lines. That's why we were just wishing that they would buy our parcel. That's all.

HEARING OFFICER VIRTUE: Thank you.

DENNIS WALLIN: Hearing Officer, my name is Dennis Wallin. I'm an attorney. I represent the Bill King Ranch, which is a property owner that owns about 20 percent of the total mileage that this line will take up. We're not here to oppose this line. The King Family has always been in favor of economic development and they're in favor of alternative energy resources as well. However, we do, like the Chiltons, want to make sure that PNM understands the diminution of value in their requirement to compensate the landowners for the loss of value for the remainder of their property as well as to take into consideration the highest and best use of the property and I understand that's beyond the purview of what you're hearing today. I just wanted to make a record that the King Family, Bill King Ranch, is not opposed to this. We have just further negotiation and as Ms. Moye said, we're engaged in those negotiations now.

HEARING OFFICER VIRTUE: Thank you. I appreciate your comments and I would encourage Mr. Chilton and Mr. King to continue your negotiations with PNM and hopefully you can resolve the differences you have and you can go from there.

JEREMY LEWIS: Hello, Hearing Officer Virtue. My name is Jeremy Lewis. I'm an employee with the Energy, Minerals and Natural Resources Department. Been employed there since 2007. I'm here to support the BB2. I'm the author of the support letter that you have and have provided three resources for you to consider, the first one being the current New Mexico energy policy. There are some items from there I wanted to point out to you. Wind energy development is now hindered by our inadequate transmission system. This deficient transmission system is limiting our economic development potential in New Mexico. We support the transmission infrastructure investments because they diversify and strengthen our electric system, updating and expanding the New Mexico transmission grid helps increase the penetration of wind energy and it grows the economy.

Another resource I wanted to provide you is the New Mexico energy roadmap. This roadmap advances strategies to strengthen New Mexico's overall energy economy by 2027, and the roadmap calls for optimizing New Mexico's electricity transmission systems.

And then finally the third resource I detailed in my letter is the Western Governors Association Policy Resolution for Energy in the West. A couple of items in there – to ensure the policy resolution asks to ensure energy is clean, affordable and reliable by providing a balanced portfolio of renewable non-traditional and traditional resources and to advance efficient environmental review, siting and permitting processes that facilitate energy development and improvement and construction of necessary electric grid which ensuring environmental and natural resource protection.

And finally, approval of the BB2 transmission line construction will increase economic growth in New Mexico, facilitate a more diverse energy mix with lowest cost electricity, contribute to a more modern and flexible energy delivery system and strengthen both energy resiliency and energy reliability in New Mexico. Thank you.

HEARING OFFICER VIRTUE: Thank you very much. A couple of questions for you. Can you elaborate a little bit upon – this may be a question that PNM will need to answer or at least supplement. The economic development piece, I assume there's a power purchase agreement in place to sell this energy and so in terms of energy sales and energy conservation and alternative energy, that piece of the puzzle has already been taken care of. Are you aware of – do you know how that is all set up?

MR. LEWIS: I am not aware of the power purchase agreement. Those are usually –

HEARING OFFICER VIRTUE: I'll reserve that then for PNM. And are you aware, as I mentioned in the comprehensive plan, I see also even in the Land Development Code about encouraging alternative energy in Santa Fe County. Are you aware if any of the energy that we produce in this line will be used in Santa Fe County? Are there any plans for that or any potential for doing that?

MR. LEWIS: Hearing Officer Virtue, I can speak to the flow of electrons. They go through the path of least resistance, wherever that may be. And once they enter the electric grid it's part of the largest built, man-made system on our continent, which is the electric grid. They can and will flow to –

HEARING OFFICER VIRTUE: So you're sticking to the technical piece and I certainly understand that.

MR. LEWIS: They'll flow north into Santa Fe County when the load is such, or south to Belen. They'll flow throughout the grid.

HEARING OFFICER VIRTUE: Yes. I was thinking in terms of sales and use of the electricity in Santa Fe County. That's something you're not aware of, I take it.

MR. LEWIS: I'm not.

HEARING OFFICER VIRTUE: Okay. Thank you very much. We have one more person. Two more people.

MYRA PANCRAZIO: Myra Pancrazio, Estancia Valley Economic Development. Officer Virtue, I'm here to represent southern Santa Fe County and Torrance County. My counterpart is Chris Hyer, who is the economic development manager for the Growth and Development Department both within Santa Fe County. So we sit together and we were a part of the leadership team for the BB2 project. Our job was to make sure there was a PPA – a power purchase agreement – before we go trying to build transmission lines. It's real important to have a rider on those lines. It's very expensive to build those.

This particular project, the power has been sold to Facebook. One of the criteria for Facebook to come to New Mexico is they wanted to be able to have a certain percent of the energy that they use wind and solar. So NextEra just bought a big wind project in our neck of the woods but also bought – will be putting in the solar project in Cibola County. And Torrance County will be supplying the wind power utilizing the BB2 line. So it's about, I think 160 to 168 megawatts of wind power that would be using this BB2 line.

Economic development seen at the 30,000 foot level, we see developers come into the state all the time. Avangrid out of Spain, Pattern Energy out of Houston, Texas. These are deep pockets. The challenge is, we get all the money and they want to bring in these wind farms and they want to produce all this solar, which southern Santa Fe County is just right for, but we don't have the transmission. We don't have the infrastructure in order to do it. It's kind of like getting a business to come into your area and you don't have any sewer or water lines set up.

So that's why Chris and I felt this project was so important, and it's only one of three projects in the Estancia Valley, which southern Santa Fe County is a part of. We have three major transmission lines right now all going through quasi-[inaudible] planning and zoning, sustainable land use public hearings right now. So we've got the Sun Zia to the south of the basin. We've got the Western Spirit line going through the middle of the basin, and then the BB2 at the north.

So we're very engaged and we're very excited that all this transmission is happening and want to make sure that our developers of the transmission line and our end users of the transmission lines have followed all the procedures and the policies within our government entities. So with that, that's kind of where we're at.

I can give you – I wanted to give you one example of a 298 megawatt wind farm in Torrance County, which is the wind farm that would be producing this wind for Facebook. Just that project, 298 megawatts, will bring the state \$21 million just in construction costs, and \$9 million to the county. And that's been done. That project is up and going. Over ten years the project will bring the state over \$41 million over ten years, just in one 298 megawatt project. Right now the state is in the project with private developers working on 5,000 megawatts of wind throughout the state of New Mexico and 3,000 of that is in the Estancia Basin. So I just wanted you to know. The gentleman before me was absolutely right. We don't have the infrastructure and we're hoping that these transmission projects will help us bring in this infrastructure and more importantly more solar into the southern Santa Fe County area.

HEARING OFFICER VIRTUE: Thank you very much. One question. I must have not understood you. I thought you said there's a power purchase agreement with Facebook for the energy coming off of this line that's the subject of this hearing. Then I heard you say there's another line in Valencia County that has a contract with Facebook. Are they both going to supply Facebook?

MS. PANCRAZIO: Facebook – the criteria was we want solar and we want wind. The solar will be coming out of Cibola County. So PNM is working with Cibola County to bring that solar in from that area, and then PNM is working on this line to help Torrance County to bring the wind to Facebook. So all of this is the Facebook project.

HEARING OFFICER VIRTUE: I got it. The wind is from Torrance County but the line is going to go through Santa Fe County.

MS. PANCRAZIO: Exactly. So how we look at it is Santa Fe County, Torrance County, Valencia County and Cibola County all got a big piece of the Facebook project, I guess is what I'm trying to say.

HEARING OFFICER VIRTUE: Okay. Thank you very much for that clarification.

DEBBIE ORTIZ: Good afternoon, Officer Virtue. I'm Debbie Ortiz and I'm representing the Health Council in Torrance County which covers southern Santa Fe County, the Partnership for Health Tomorrows Community, and we are in support of the BB2 transmission line project. We want to commend PNM for the participation and the involvement that they've had in our community, as far as coming out to our community and doing public hearings and meetings to inform the public of what they're doing. So we in full support. We know it's going to add economic development to our area, which is much needed in that area. And as they said, we've had meetings with them and they are looking at using local workforce from our area, so with that, we're in full support of this project.

HEARING OFFICER VIRTUE: Okay. Thank you very much. If there are no other members of the public wishing to testify I'll declare the public portion of the hearing at a conclusion and then ask the applicant the question I had earlier about how this line implements or does not implement the policy in our land development code. I think it's in our plan too that the County wants to encourage delivery of alternative energy for use in the county.

MS. MOYE: Hearing Officer, this is a map of the wind energy available in New Mexico, and you can see that it's concentrated over here – southern Santa Fe County, Torrance County, and there have been a lot of wind developers and it's also of course a lot on the eastern side of the state. So if you look at the original BB line, which is the existing 345 line that's there now, it runs from Blackwater, which is in Clovis, over to the BA station, which is in Sandoval County. And this line was built in 1974 and we had a lot of capacity as you can see. We are now full, 2017/2018. We are now full. And to reference Myra's testimony, the last wind farm that was built in Torrance County, which is now up and running, which comes into the Clines Corners station where we're going to start follows this line, the existing BB line. And that's the El Cabo wind. Avangrid is planning to build more wind farms in this area. One wind farm has a PPA signed, the wind developer that came in we have an agreement, and that is what triggered the NERC requirements for us to build an additional transmission line.

So that is going to begin at Clines Corners. They've built a transmission line up there. And then it's going to go from Clines Corners into a spot in Sandoval County. You also asked me about where does the energy go. And as Jeremy stated, it is inserted into the grid and you think of it like water in a hose and every time you have some sort of outlet off of the hose the water fills the house and fills the outlets. There are lots of outlets. And this particular line, this particular connection to a point in Sandoval County is actually going to turn and go up to Norton Station in Santa Fe County, which means that the power will go up to Norton and then Norton serves Santa Fe.

Facebook's goal is to insert more renewable energy into the grid universally. And then they say they want to be completely green to offset it and their thought is if they use x-number of megawatts, they want x-number of megawatts of renewable energy. So they've very aggressively been developing – PNM has developed solar for them already. This wind agreement, as Myra indicated, other solar farms around New Mexico to serve them. Was there another question? I'm sure there was.

HEARING OFFICER VIRTUE: No, that answers my question. But there are no power purchase agreements with anybody in Santa Fe County that will buy the energy off of this particular line, but the potential is there for that to happen.

MS. MOYE: That's correct. Yes.

HEARING OFFICER VIRTUE: Okay. Thank you.

MS. PANCRAZIO: I probably should have answered that for you. Now that you have a transmission line that has capacity on it and you have the substation and the interconnection at Clines Corners, Chris and I can market southern Santa Fe County for solar and wind. Up until now, it wasn't available for you. Now we can. So that's what makes this exciting.

HEARING OFFICER VIRTUE: Thank you very much. I appreciate the clarification.

MS. MOYE: Was there another question?

HEARING OFFICER VIRTUE: I have no further questions of the applicant. I have a few questions for the staff. They relate to the conditions. See if I'm understanding how the process works. The conditions contain just generally – what I'm asking about is the conditions require several follow-up reports to nail down some of the pieces in the environmental impact report and do further mitigation studies. It's not clear to me when those have to be done and when they get approved. Just for example, the flood hazard mitigation study has to be prepared and submitted and the findings submitted to the staff for their record. At what point does that happen? What I'm getting to is the staff recommending this all happen before the CUP is actually recorded? Or before construction commences? Or is it when construction commences in the particular areas that are identified for mitigation.

MR. LARRAÑAGA: Let's say the flood hazard, as it stated in the report, these sites where the poles are going to be sited may change and they may – to try to get out of a flood hazard area or an arc site, or another was because of the geotechnical there might be some rock outcroppings on the site where they want to put a pole. They might have to change it. So those have to be addressed and submitted to staff. So the construction will go on. We won't require the conditional use permit, the site development plan for the conditional use permit until the construction is complete, and as they're going along with the construction and they went into, let's say a flood hazard area or whatever kind of thing that needs to be addressed, they would address that to staff as the construction is going. When it's complete, the construction is going and staff does possibly an inspection and then the conditional use permit will be recorded.

HEARING OFFICER VIRTUE: Okay. So it's essentially as the project goes along, the applicant will have to prepare these mitigation studies and submit them to the staff before they actually go into the mitigation – start construction in the mitigation area. Staff will review them and approve them in effect prior to them proceeding to actually construct any mitigation. Do I understand you correctly?

MR. LARRAÑAGA: That's correct.

HEARING OFFICER VIRTUE: Okay. And then the CUP doesn't get recorded until the construction is completed.

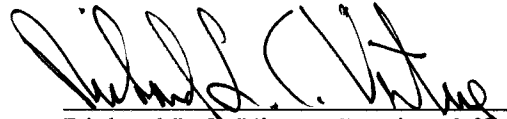
MR. LARRAÑAGA: That's correct.


HEARING OFFICER VIRTUE: Okay. Thank you for that clarification. I believe that's all I have. So I will declare this public hearing to be concluded. This is the final hearing on the agenda today so I will deem this meeting to be adjourned. Thank you very much.

D. Adjournment

The Hearing Office adjourned this meeting at approximately 4:42 p.m.

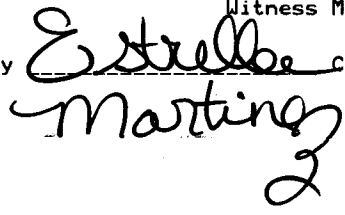
Approved by:


Richard L.C. Virtue, Hearing Officer
Santa Fe County

Transcribed by:

Debbie Doyle, Wordswork

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss
I Hereby Certify That This Instrument Was Filed for
Record On The 2ND Day Of August, 2018 at 10:07:13 AM
And Was Duly Recorded as Instrument # **1864139**
Of The Records Of Santa Fe County



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

SFC CLERK RECORDED 08/02/2018