

SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS
MEETING

March 12, 2019

Anna T. Hamilton, Chair - District 4
Henry Roybal, Vice Chair - District 1
Rudy Garcia - District 3
Anna Hansen, Chair - District 2
Ed Moreno - District 5

SFC CLERK RECORDED 04/10/2019

SANTA FE COUNTY

REGULAR MEETING

BOARD OF COUNTY COMMISSIONERS

March 12, 2019

I. A. This regular meeting of the Santa Fe Board of County Commissioners was called to order following the CDBG Special Meeting at approximately 2:30 p.m. by Chair Anna Hamilton in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

B. Roll Call

Roll was called by Estrella Martinez from the County Clerk's Office and indicated the presence of a quorum as follows:

Members Present:

Commissioner Anna Hamilton, Chair
Commissioner Henry Roybal, Vice Chair
Commissioner Rudy Garcia
Commissioner Anna Hansen
Commissioner Ed Moreno

Members Excused:

None

C. Pledge of Allegiance

D. State Pledge

E. Moment of Reflection

The Pledge of Allegiance was led by Anna War, the State Pledge by Helen Campion, and the Moment of Reflection by Gina Montoya of the Community Services Department.

I. F. Celebrating Santa Fe County's People, Talents and Initiatives

CHAIR HAMILTON: Before we actually go on to the rest of the agenda we have this little fun segment celebrating Santa Fe County people, talents and initiatives. So is Ambra around? You guys should come up, and Jerome and Joseph. So it turns out that most of you know our very own Ambra Baca. She sat in the Manager's Office. Now she's moving up in the world as a constituent liaison, which is a fabulous thing, but we still get to have her around, and if we could actually get the slides up.

Part of what we do this for is we see each other all the time and we know what we

SFC CLERK RECORDED 04/10/2019

do at work, but so many people at the County, and not just employees, but people all over the County, do things we have no idea what else goes on on the outside. So then one day I walk into the Manager's Office and somebody shows me Edible New Mexico magazine and there's Urban Rebel Farms winning an award from the magazine. This is a really pretty big deal and I realized that one of our own is involved in something that's really interesting. It's a contribution to the community and something different from the kind of management stuff we do at the County.

So we put a whole bunch of slides together that we'll roll through and you'll see how the families are involved in this and everything, but Ambra, if you could start and the three of you could tell us a little bit about what this is all about.

AMBRA BACA (Constituent Liaison): Well, thank you. Urban Rebel Farms started two years ago and they grow micro-greens and they sell them at the local farmers market here and in Albuquerque and to restaurants here and in Albuquerque and they've just made it huge. The restaurants love them, the chefs love them. That is actually their new location right behind Meow Wolf that they just moved to, and they're expanding and it's been really great for the community. Definitely go check them out at the farmers market. I don't know. It's amazing. It's been an amazing experience and I'm so proud to be a part of it.

CHAIR HAMILTON: So Jerome, Joseph, would you like to say something about what you guys do and what got you motivate into this.

JEROME BACA: So we started a couple years ago and we decided to get into farming. My background is in hydroponics and Joey's background is in the restaurant business. We figured let's do something crazy and start this business growing micro-greens to provide kind of the garnish to restaurants. It's a high-dollar crop so we decided we could do that indoors in a controlled environment and that's how we do things. We sell living trays to restaurants and it's been a wild journey. Lots of work.

We're in the process – we started the business in the county. We're currently trying to get a license to be able to move into the city, so we're still working through some permitting and working through that. We started in 300 square feet and we're expanding to 3,600 square feet.

CHAIR HAMILTON: That's a lot of micro-greens.

JOEY JAQUEZ: It's been a great project. I couldn't ask for a better partner. Jerome, he's been a trooper through all of this because it is a lot of work. Like he said, we're in the process of expanding so we're doing some leafy vegetables, edible flowers. So some of the restaurants that you go to in town, keep an eye out for some of the micro-greens that we have. They're small but they pack a huge punch. I greatly appreciate it because we are looking to be able to contribute to the local economy as well as produce some food and maybe eliminate some of these food deserts in the future.

CHAIR HAMILTON: That's really great. The idea that the county has room to support local entrepreneurs who can then do something good and keep the county healthy and support all kinds of activities through the restaurants and what not is really wonderful. Commissioner Hansen.

COMMISSIONER HANSEN: Yes. I discovered them when I was at the picnic for the farmers market that we had earlier this year, or last year, and it was great.

Great to discover them. I keep asking them where they are at the farmers market and they just told me because they're new they have to keep moving around. So we have to keep looking for them. But I'm a big supporter of the farmers market and I think it's a wonderful product. And it's in my district, your new location. So I'm really happy that you're in that area even though it's in the city. I don't have jurisdiction. I can't change it but you're still part of my district. So that's great. Thank you for moving there and helping that whole area become a really revitalized and up and coming area for business. I think it's really great. Thank you so much.

CHAIR HAMILTON: Well, I'm jealous. Commissioner Roybal.

COMMISSIONER ROYBAL: I just want to say thank you for coming here today and presenting your business to us. I think it's really a great business that you started and you guys, just looking at how healthy the greens look, it's something I want to really look for now and maybe we can make it into a treasure hunt. Whenever we go to the farmers market you can give us some clues how to get to you. I think it will be great. I'm really proud to see you guys bring this company to Santa Fe County. Thank you.

CHAIR HAMILTON: Commissioner Garcia.

COMMISSIONER GARCIA: Madam Chair, this is actually great. Awesome. Three young individuals from Santa Fe actually making a great enterprise. Very good job. Congratulations and good luck. And they actually do grow some stuff in my district, in La Cienega. You're doing a good job. You guys should be proud. That's good. Congratulations.

CHAIR HAMILTON: That's really great. Yes, Commissioner.

COMMISSIONER MORENO: I also want to compliment you with your enterprise. It's really exciting and once you get big enough you can move to the county and expand.

CHAIR HAMILTON: That's right. So we actually have certificates of appreciation and our classic, hopefully little photo opportunity.

[Photographs were taken.]

CHAIR HAMILTON: Thank you guys for coming and being part of this.

COMMISSIONER GARCIA: Madam Chair.

CHAIR HAMILTON: Yes, Commissioner Garcia.

COMMISSIONER GARCIA: I'd like to recognize Sheriff Mendoza out there in the audience as well as his undersheriff, Mr. Johnson. Thank you for being here.

I. G. Approval of Agenda
1. Amendments
2. Tabled or Withdrawn Items

KATHERINE MILLER (County Manager): Madam Chair, yes, we have some amendments to the agenda. These amendments were posted on Friday, the 8th at 3:27 pm. On page 2, under the Consent Agenda, item A. 4, that item was added, and then

SFC CLERK RECORDED 04/10/2019

at the end of Consent, while you can't see it on here, if you would, please move under Matters from the County Manager, Presentation V. C, if you would move that to the end of Consent we'd appreciate that. We have a special guest here for that and they need to get back to the facility.

CHAIR HAMILTON: Right. No problem.

MS. MILLER: And then under Action Items, item III. C. 1, that item has been withdrawn. It's not in blue on your agenda but that item should be withdrawn. It will come back to you at a future meeting. Item III. C. 2 was added to the agenda.

Then on page 4, go all the way to page 4, under Matters from the County Attorney, item VIII. A. 2, the litigation update, that caption was corrected, and then item VIII. A. 4, the request to join an amicus brief was added. And those are all the changes to the agenda.

CHAIR HAMILTON: Great. Thank you very much. So what's the pleasure of the Board?

COMMISSIONER HANSEN: I move to approve the agenda with changes.

COMMISSIONER MORENO: Second.

CHAIR HAMILTON: Thank you. So I have a motion and a second.

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

I. H. Approval of Minutes

1. Request Approval of the February 12, 2019, Board of County Commission Meeting Minutes

COMMISSIONER HANSEN: Commissioner Hamilton, I will give all of my typos to the stenographer, but I have a few questions because I don't want to assume something and make a wrong correction. On page 12, Commissioner Roybal, made a motion: I move to approve this contract, but then Commissioner Roybal also seconded, and I don't believe he seconded because he can't make a motion and a second. So I don't know who seconded it. Commissioner Garcia, did you make the second? That would be my guess. It's on page 12, Request approval of construction contract between Santa Fe County and Cornerstones. Commissioner Roybal made the motion to approve. Maybe it was the other way around. I don't know. But somebody has to take credit for either making the motion or seconding it.

COMMISSIONER GARCIA: Madam Chair, I was the one that seconded it.

COMMISSIONER HANSEN: Okay. Thank you. I just don't want to – then also on page 19, three paragraphs down, Chair Hamilton said excuse me, but I think we might want to move – and then it's inaudible, and I think it was just move on. It's on page –

CHAIR HAMILTON: I think you're right.

COMMISSIONER HANSEN: Then I believe the rest of my changes are just typos. Or there is one other one, where you're speaking on page 34 and you're speaking, it's right up at the top, Commissioner Hamilton, Commissioner Hansen,

SFC CLERK RECORDED 04/10/2019

Commissioner Garcia, Commissioner Hamilton, and then it's Commissioner Hamilton again, and that was actually me, Commissioner Hansen.

CHAIR HAMILTON: Yes.

COMMISSIONER HANSEN: That one I could have let go and then the rest of these are typos.

CHAIR HAMILTON: Excellent. I appreciate your looking at that. So with those changes, what's the pleasure of the Board?

COMMISSIONER GARCIA: Madam Chair, move for approval.

COMMISSIONER ROYBAL: I'll second.

CHAIR HAMILTON: Thank you. And I assume the motion is as amended.

COMMISSIONER GARCIA: Yes.

CHAIR HAMILTON: And the second?

COMMISSIONER ROYBAL: Yes.

CHAIR HAMILTON: So I have a motion and a second.

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

II. CONSENT AGENDA

A. Resolutions

- 1. Resolution No. 2019-36, a Resolution Repealing and Replacing Various Policies Regarding Fringe Benefits (Finance Division/Yvonne Herrera)**
- 2. Resolution No. 2019-37, a Resolution Authorizing Acceptance and Approval of the FY 2018 Audit (Finance Division/Yvonne Herrera)**
- 3. Resolution No. 2019-38, a Resolution Requesting a Budget Increase to the Law Enforcement Protection Fund (211) in the Amount of \$21,282, for the Law Enforcement Protection Fund Grant (Finance Division/Erika Thomas)**
- 4. Resolution No. 2019-39, a Resolution Requesting a Budget Increase to the General Fund (101) in the amount of \$29,337, for the Senior Services Program (Finance Division/Erika Thomas) *[Exhibit 1: Staff Report]***

B. Miscellaneous

- 1. Request Approval of Multiple Source Award, Indefinite Quantity Contracts Nos. 2019-0130-a-PW/MAM and 2019-0130-B-PW/MAM for the Purchase of Various Culverts for Public Works Road Maintenance and Granting Signature Authority to the County Manager to Sign the Purchase Order**

COMMISSIONER GARCIA: Madam Chair, I'd like to make a motion for approval.

COMMISSIONER MORENO: Second.

CHAIR HAMILTON: So I have a motion and a second. Is there any

SFC CLERK RECORDED 04/10/2019

discussion or anything anybody wanted taken off of the Consent? Hearing none, I have a motion and a second on Consent.

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

[Clerk Salazar provided the resolution numbers throughout the meeting.]

V. C. Presentation and Update on Matrix Recovery Module

CHAIR HAMILTON: So we've moved up V. C.

MS. MILLER: And I'll let Pablo start us off and introduce all of his guests.

CHAIR HAMILTON: Thank you very much Director Sedillo.

PABLO SEDILLO (Public Safety Director): Good afternoon, Madam Chair, members of the Commission. I'm here today to speak about our Matrix program that was initiated back in May of 2018. The warden and I have been working on this probably about a year and a half, looking at what is going to be in the best interest of Santa Fe County as well as the Santa Fe County inmates that reside at our facility. This program is a therapeutic community program. It is designed for the purpose of sobriety, education, and training.

So what we do on this Matrix program, I'm going to defer this to our program behavioral health manager who actually is overseeing this program. We do have a power point presentation that he's going to go over with you. This program has been very successful thus far and there has been a lot of participation by our inmate staff as well as our inmates. I have a few people here I'd like to introduce: Mark Boschelli who is our behavioral health manager, Ms. Kemp, who actually is a facilitator of that program, our re-entry specialist, Warden Williams, of course, and I have a couple of my staff with the inmate as well, that is going to have a testimony after Mr. Boschelli kind of gives you an overview of our Matrix program.

So at this time I'm going to go ahead and turn this over to Mr. Boschelli. That's fabulous. Thank you very much.

MARK BOSCHELLI (Behavioral Health Manager/Corrections): Good afternoon, Madam Chair, Commissioners. My name is Mark Boschelli. I'm the behavioral health manager at the Santa Fe County adult detention facility. I oversee behavioral health processes as well as treatment for our inmates. Just a note, think about our inmates being there from one day to thirty days to six months at times.

The presentation is implementing this pilot which is a modified therapeutic community utilizing the treatment modality of the Matrix in a correctional setting, which is basically our jail. The Matrix is a SAMHSA, evidence-based program, so this has been studied, this has been practiced, there are outcomes that are consistent across all spectrums numerous times. As the director had said, we started this in May 2018 with one pod of male individuals to try this as a pilot to see if this was workable. The therapeutic community is a long-term concept that's been around since the fifties helping individuals battle substance abuse issues by putting them in an environment that promotes sobriety.

SFC CLERK RECORDED 04/10/2019

Our Matrix program covers basically 30 days of treatment as we work with those individuals. We also utilize coming out of UNM, the psychology department, the motivational interviewing as a style of engagement with these individuals, as well as dialectical therapy. That's where if we started today with a mindfulness practice, that's where DBT comes from – dialectical behavioral therapy of starting to be mindful of what we're trying to do and accomplish.

Sobriety is the hallmark of this program, so we don't allow any substances. We don't promote any substances. We want people to be sober. So to start out in the program you have to have a UA that's clean and then throughout the duration of the program, the security staff will do random UAs to make sure people are attempting to stay clean. Upon the completion of this program, there's actually a ceremony. The warden takes time out of his busy day, meets everybody who's graduated, awards them a certificate and usually we have some other enhanced incentives such as a piece of pizza. Kind of keep it simple.

The motivation is trying to change your life so that's what we focus on. The Matrix that we follow focuses on relapse prevention. We're trying to be realistic. We ask people to rate where they're at regarding the stages of change. We work on triggers of criminal behavior. This is purposely done in the Matrix program in the correctional setting. We use trigger, thought, craving, use processes. Thought stopping techniques. How to stay busy. How to be in recovery. How to actually totally abstain from use of substances.

We also teach them how to take care of business, managing their money. These are simple things but if you don't know how to do that you'd be surprised. And then we link them up purposely to 12-step groups. Twelve-step groups come in. We introduce them to the idea, so upon exiting the program they can be linked up to 12-step programs. So there's a bunch of research that talks about therapeutic communities, that they're effective. I'm not really going to go into detail about that.

We use a modified therapeutic community at the Santa Fe Detention Center on purpose. What that means is it's a shorter stay. It's simpler processes. The groups are smaller. The groups are shorter. We really want to have the attention of the individual, but we embrace both the Matrix foundation as well as modified therapeutic foundation ideas of complete sobriety.

What we do see is people being able to think clearer. So our goal is to use positive peer culture. We actually have graduates who will stay on. In other words they're still sentenced at the detention center and they become a peer advocate and support for the new individuals coming into the program, as well as a vibrant exhibit of what one can do when they decide to make a change in their life.

Once again, the Matrix has some research behind it that shows that it works. We also back up that research. We've had good experiences coming out of this program. We've done around five rounds of the Matrix program. We've had graduates. Our recidivism rate is pretty good. It will of course go down as we continue to do this pilot and expand out this program. We expect to usually have the same type of rates that are shown in research, which is around 50 percent, but over time we'll see what really happens. But we've had good results. We're surprised and pleasantly surprised.

Currently, we've expanded the matrix program as of the beginning of March. These are inmate volunteers. No one is forced to participate, so we have one pod set up

for males. It's set up as a modified therapeutic community. There's no harshness in it. There's no confrontation; it's actually supportive for everybody in that pod. Currently we have ten to twelve participant males who have started the next round of the Matrix. In addition, this is our new expansion of this pilot.

We have started a women's pilot project, set up another modified therapeutic community in a separate pod for women. We have nine women who are interested. We have a couple more that might join. We're just trying to figure out if they're able to join. We'll be able to compare both the males as well as the females, and see if we get the same type of results over time. So we're interested in this.

The reason I moved to the detention center, just a side note, is I come from one of the federal qualified healthcare centers for over 30 years in a community, working with medication assisted treatments such as Suboxone. I had concerns of when we were going to actually start titrating people off of these opiate replacement medications and there really was no plan. When I moved to the detention center I was able to work with people who are actually sober. There's no substances involved. What I found was concentration was vibrant. There were interactions that I did not see on the outpatient basis and I put this akin to sobriety going on for these individuals.

The goal of our Matrix program is hopefully over time we'd like the courts to be able to recognize this as a regular 30-day treatment program to see if somebody graduates from this program, that this could be in lieu of going on and being judge-ordered to another 30-day program. Ideally, we'd only have to be able to link these inmates into our community, into intensive outpatient programs, which there is room to do that. Otherwise they have to sit around and continue to be in a detention center for an inpatient program, which are few and far between.

Finally, we do endorse medication assisted treatment except we're endorsing a little bit different than what people have been talking about. We're endorsing our opiate overdose prevention program which is both a didactic as well as video presentation of what an overdose looks like, how to help someone in an overdose situation, what to do, what not to do. In addition, if the inmate wishes, upon discharge they get two doses of Narcan actually distributed to them in their possession so they can go right out – they are part of our cure into the community. On top of that we are able to start Vivitrol shots upon discharge and graduation from the Matrix program to decrease opiate as well as alcohol cravings. So that is our program at this time. Thank you for your attention.

CHAIR HAMILTON: Thank you so much. Director.

MR. SEDILLO: Madam Chair, members of the Commission, to piggyback on a couple of topics that Mr. Boschelli mentioned, our re-entry specialist, is one in the community. Ms. Torres is the one that kind of helps them in that transition from inside the facility after they complete the program and try to find a program for these individuals as a follow-up as well. So we are start to finish, so to speak, and Ms. Torres works very closely with stakeholders around the community, which is a big blessing for us as well as the community.

At this time I'm going to turn it over to William. Come on up, William. And I think he's going to give you a quick testimony, because he has been through the program. He's graduated from the program and now he is a mentor in the program.

CHAIR HAMILTON: Thank you. Welcome.

SFC CLERK RECORDED 04/10/2019

WILLIAM: How are you doing? My name is William. I am a Santa Fe Detention Center inmate. I have been into drugs, got introduced to drugs when I was 16. Been in and out of institutions since I was 16. First thing I got at 16, first joint at 16, started cocaine at 18. Went from cocaine to heroin. Heroin, I went from there to speed-balling – cocaine and heroin, as we call it, speed-balling.

But anyway, I as well experienced with methamphetamines, of course. It's running rampant here, which is pretty sad, and heroin. Had my dealings with Methadone. I weren't in the program. I lived in Ohio for briefly two years. Got hooked on Methadone. Now, the truth about Methadone from my standpoint, from my heart, okay? It's worse than heroin. I've been a heroin addict for 35 years, ladies and gentlemen, off and on. And it's nothing to play with. But Methadone is worse. The addiction is worse, the trying to come off it is worse, and it will kill you quicker than heroin. That's the truth. I've experienced; I know.

I'll go into what I know about the Matrix program. I came into the facility, Santa Fe Corrections almost a year ago now. I'm fighting a case, but now I'll get out in April. But anyway, long story short, Ms. Kemp does a really good job on the Matrix program. I graduated it last month. It's a really good program. It helped me tremendously. It has brought memories back to me that I never thought I would remember, from my childhood. And this is being honest with you. I'm not a liar at all.

I'm in that program trying to mentor people, the men, if they'll listen. Hopefully they will. Some of the do, some of them don't. You know how it goes. You can't make somebody be sober. I've been sober now for a year and I wouldn't change it for anything in the world. I would rather live under a bridge and be sober than be rich and be a drug addict again. And I've had everything, anything anybody could want in life, and I lost it all. I lost my family. I lost my kids. I won't go into detail about it because I'll be up here crying. I've got five kids back home in North Carolina, four grown. One little girl that will soon be 14. Hadn't seen her daddy in eight years. Why? Because of drugs, to be honest with you.

I thank you folks for listening to me. It's a privilege and I hope this can help somebody out here that's a drug addict, even somebody in the community that wants to help. When I get out of jail I do intend on pursuing a career in helping people in Taos. That's my goal; that's what I want to do, thanks to Ms. Kemp and the warden here and even the COs in Santa Fe Detention Center. It's a really fair place. Can't say I enjoy being there but it's what you do, you know. It's called doing time. Thank you.

CHAIR HAMILTON: Thank you. That is very good to hear. And it takes a lot of courage to come and talk about it and to share the experience and that's frankly very meaningful for us. Director, were you going to say some more?

MR. SEDILLO: Madam Chair, Commissioners, no. I think it's been all said.

CHAIR HAMILTON: Thank you. Commissioners, this is just informational but are there questions or comments? Commissioner Garcia.

COMMISSIONER GARCIA: Thank you. First of all, Mr. William, thank you for coming and giving your testimony. That's probably a hard job to do and you did very well at the podium. Good job. I just have a couple of questions. This is something near and dear to my heart. Actually I have a couple of good friends that their daughters

are -- one's doing good, one's doing good also. It's also an important thing to the sheriff as well as some of the community leaders and the community of what's happening in our community.

One of the things I'd like to act, the recidivism rate that we have at the jail, do we actually follow the individuals after the jail? After they leave the program?

MR. SEDILLO: Madam Chair, Commissioner Garcia, I'm going to defer some of that to our re-entry specialist who works very closely with stakeholders in our community. This is Priscilla Torres.

PRISCILLA TORRES (Re-entry Specialist/Corrections): Madam Chair, members of the Commission Board, my name's Priscilla Torres and I'm the Community Re-entry Specialist there at the Santa Fe County Detention Center. To answer your question, Commissioner Garcia, yes. I usually meet with these individuals while they're going through the program and try to kind of figure out what's going on with their current court case. Depending on when their release is expected we try to set up services. Some of these individuals request sometimes medicated assisted treatment, whether it be Suboxone or continuation or Naltrexone. I try to refer them out to providers that we have with our community. We also ensure that their insurance is up to date and Medicaid is reinstated or they need to enroll as well, and try to keep track of them the best we can.

As you know, some of these individuals lack housing. They jump around from place to place so sometimes that can be a little difficult for us to track them and get a hold of them. But there have been some success stories where I have been able to track them and they did follow through with the appointments scheduled.

COMMISSIONER GARCIA: Thank you. Also, in the presentation, there's some SAMHSA funding, I think. Do we receive SAMHSA funding from the state or federal government? Or do we apply for grants?

MR. SEDILLO: Madam Chair, Commissioner Garcia, we have not received any funding from SAMHSA yet.

COMMISSIONER GARCIA: Also, so have we actually talked about our program to other clinicians or other organizations in the community as to how it's working or some ideas that we could utilize from other clinics possibly?

MR. SEDILLO: Madam Chair, Commissioner Garcia, again, this program was initiated in May of 2018, and you really can't get any real statistics until it's gone a little bit further than more than a year. I would defer that again to Ms. Torres as the re-entry. I do believe she speaks for our Matrix program. She sits on several committees within the community as well.

COMMISSIONER GARCIA: Then just one last question and once again thank you for the presentation. Mr. William, thank you for coming forward. In regards to this is a voluntary program for the individuals that are incarcerated. What about the individuals that actually go into the facility that, for lack of a better term, are really high and messed up. How do we handle them if they don't want to have any part of the volunteer program?

MR. SEDILLO: Madam Chair, Commissioner Garcia, I'll turn that over to the warden on that question

DEREK WILLIAMS (Warden/Corrections): Madam Chair, Commissioners, currently, as we mentioned, it's important that this program, and being

that it is a pilot, is voluntary, because we want them to be heart-felt. We want them to be sincere about the program. We want them to be mature and take it serious. We have a townhall with all the inmates when we are trying to put together a list for people who want to partake in the program that we have and we're pretty blunt with them, as far as the expectations from them and from the program.

Basically, the talk that we have with them is for those who are in custody who are serious about having a better way of life, a better quality of life, family reunification, enhanced education, then we're here to help. And we're going to give them tools to conduct, to complete that. And we hear from them. After that process there's a little – there's a couple tough processes that we have to go through with respect to classification. We have to review enemy concerns, with the mixture of the group that we're putting together, that they meet without any security concerns amongst themselves.

So classification, behavioral health, re-entry, they all play a key role in that. They have to communicate and they have to go through the list and then we kind of put people in there. So having someone who is forced to go in that program could be disruptive to the rest who voluntarily want to have a better way of life and are trying to participate in that program. We have close to about 22 other evidence-based programs that are all either educational or have a factor with rehabilitation that are also being rolled out on an daily basis with some of the population that you're talking about that don't necessarily want to volunteer for this program. And some of those programs are anger management, domestic violence, which we have a partnership with CYFD, and many other programs.

So we're trying to – between the six licensed therapists that we have, the three re-entry and our new volunteer services coordinator, and then we have a new teacher, our objective is to make sure that we have ample programming for all the population that we have. But we do want them to voluntarily want to be a part of it, because we want them to take it serious. If we forced them to go through it, they're just going to go through the motions and that's – we want to be honest and sincere about the outcome of this.

COMMISSIONER GARCIA: So Madam Chair, Mr. Warden, so right now we're still a little bit challenged as to the individuals that don't want help and go into the facility high, right?

WARDEN WILLIAMS: Yes, sir. That's still a challenge.

COMMISSIONER GARCIA: Thank you. Thank you for your presentation.

CHAIR HAMILTON: Thank you. Commissioner Hansen.

COMMISSIONER HANSEN: Thank you very much for coming forward and talking to us about this. Thank you, Mr. Williams also for being here. So one of my big concerns is how many AA meetings or how many other meetings do you have in the facilities? Is it bi-weekly? Weekly? Daily? How often?

MR. SEDILLO: Madam Chair, Commissioner Hansen, there are several different programs as the warden indicated, with NA, AA, and other programmatic services that we provide. It's on a weekly basis that the volunteers do come in to our facility but not only the volunteers but Santa Fe is very fortunate to have six licensed therapists that work with that as well.

COMMISSIONER HANSEN: Okay, so then, I think it's fantastic that we have this program. I think it's really important that people want to get sober, but then,

once they get released, this is where I think we really need to have some kind of follow-up. Are they attending these 12-step meetings once they get released? What kind of – I know this might be a judicial issue, like is the judge recognizing that these people have gone through this matrix program and then are they adding possibly to their probation or something that they attend weekly, or AA meetings.

I'm concerned about recidivism. I'm concerned about follow-up and making sure that we provide or that some kind of service is provided to people when they leave the detention center, because that is where we have a lot of challenges and we don't have half-way houses in Santa Fe. We don't have places for them to check in that I know of, and I feel like those are really an important part of this whole process, in order to help people recover and make sure that this is long term, that they have a pathway.

MR. SEDILLO: Madam Chair, Commissioner Hansen, let me kind of explain something on that, and thank you for that question. I think it's a great question. Santa Fe County Detention Center works with the inmates inside the facility. We were very fortunate through the County Manager and our Finance Department and our HR Department to get three re-entry specialists and two of them work inside the facility with these inmates. One person, Ms. Priscilla Torres, is the one that works with the stakeholders outside, so what she does is she tries to make that connection as she indicated for those individuals who come out of the institution to have them placed in certain placements for them for follow-up.

Her responsibility now is to start following those individuals and I think she made a very good point when she indicated sometimes they'll go – if it's a voluntary placement that they go for, they may only stay for a week, two weeks, and leave. And we have no clue where they go. So that is a problem in following up with these individuals. Ms. Torres does a pretty good job in regards to coordinating with the stakeholders in our community for that purpose alone.

I believe, William, [speaking to Williams] you're going into a program after you leave the detention center, right? And where's that at? He's going to Inside Out. Was that the judge mandating that? Volunteer. So that's a good sense of what happens. Unfortunately, New Mexico does not have a lot of centers or places for these individuals to follow up on, to go to. So we do our best while they're inside our facility and I think Ms. Torres does a really good job in following up on these as well.

COMMISSIONER HANSEN: Thank you.

CHAIR HAMILTON: Thank you. Commissioner Moreno.

COMMISSIONER MORENO: Thank you. Mr. Director, when an inmate is released from this program, does a judge get involved in this transaction?

MR. SEDILLO: Madam Chair, Commissioner Moreno, actually there's some good times that we send letters to the judge if I'm not mistaken. Is that correct, Warden? So we send good time letters to the judges letting them know that this individual has gone through this program successfully, has graduated from the program. As I indicated before, once they graduate they have the ability to stay in those areas, in that therapeutic community to mentor those other people that come in.

COMMISSIONER MORENO: I think it occurred to me that if the judiciary would really embrace this program that we could really maximize it and help more people.

MR. SEDILLO: Madam Chair, Commissioner Moreno, you're absolutely correct, but it's very difficult because you have to have those individuals who want to make that change. And we give every opportunity for that, for them wanting to make that change. But you're absolutely right. The judiciary probably needs to know a little bit more about our program.

WARDEN WILLIAMS: Madam Chair, I just want to make a point on that note. With the CYFD course that has been approved by them, kind of what happens there is some of these children that are taken away from their families while they're in custody, sometimes the courts will not allow them to go back with their children when they get released until they accomplish a course that's approved through CYFD. So us having that course internally allows the inmate to have that certificate and that completion, so as soon as they get out there's no more delay in the family unification.

This kind of works the same way. We're hoping that eventually, with the courts, because I do anticipate soon presenting this to the judges. I think they're going to be very supportive over it, when they have situations where they're trying to sentence someone to some type of program outside, we're hoping that they'll be able to do that internally so when they get out, again, it's a quicker release back to their family and jobs. We're a little ways away from that. I think we're definitely showing some great progression, and I think this year now with the addition to the staffing that we got, our administrative staff and our programming staff, we're going to have some really awesome programs coming out so we're very excited about that.

And just on a quick note, I do want to take a minute while Ms. Kemp's here. She's very shy, but I do want to commend her because she's a very passionate facilitator. She gets great rapport and success from inmates she's involved with, so I do appreciate you, Ms. Kemp.

COMMISSIONER MORENO: Thank you. Mr. Director, when the inmates are released, what is the frequency of contacting them to make sure that they're still on the right track?

MR. SEDILLO: Madam Chair, Commissioner Moreno, I'm going to defer that to our re-entry specialist. That's her forte. That's what she does.

MS. TORRES: Madam Chair, Commissioner Moreno, so basically, when these individuals are released from our custody, depending on where they've been referred to, as the warden mentioned, some of these individuals are actually being court mandated to inpatient treatment programs across the state. So usually it makes it a lot easier for me to contact someone if they've made it to their treatment program. Part of that process is getting a release of information and just having those strong ties with these programs throughout the state, and just verifying whether or not they arrive.

Now, when individuals are being released on probation, that's pretty simple too. I can follow up with the probation officer and make sure that that individual reported within 24 hours and whatever services we set up for them, usually I convey that to the probation officer as well.

And then there are those individuals that get released and we had no idea they were going to get released. And those are a little more difficult to track. I do my best to go through our jail management system and try to follow up with the last provided phone

number and see if I can make contact with them. But it's usually upon their release, I am tracking them just to make sure.

COMMISSIONER MORENO: Okay. I'm assuming you're collecting data on the whole program.

MS. TORRES: Yes, sir. That's correct.

COMMISSIONER MORENO: I would like to see some reports if you have any.

MS. TORRES: Yes, sir. I do keep a tracking log and I just document basically what the status was, the last known status of that individual after making contact upon their release.

COMMISSIONER MORENO: Thank you.

CHAIR HAMILTON: Thank you. Commissioner Roybal.

COMMISSIONER ROYBAL: Thank you, Madam Chair. First and foremost, I want to say thank you for the presentation. I really appreciated it and I want to say thank you to William for sharing your experience and struggles with addiction and now your victory. I'm really pleased to see that. I do want to ask though, have you ever stopped using for this long of a period, or has this been the only time?

WILLIAM: With my second marriage, I know that doesn't sound good, but with my second marriage I was sober for nine years, up until the end. That's been 1996 is when that marriage ended. Three beautiful kids out of it and I love them to death, but long story short, up until then, until now, a year and a half. I'm a year and half sober again now. Off anything. Everything. I'll take a drug test every day. I don't care. I love being sober.

COMMISSIONER ROYBAL: Great. Well, I appreciate your honesty and your being here today. Thank you. The other thing I wanted to ask is a lot of the individuals that get released from the jail are on probation for a certain time and they do have meetings or scheduled times to meet with their probation officer. So I was curious, is there any way to integrate certain questions that might help us collect information about how they're doing, to help our re-entry specialists. I think there's quite a few meetings that happen for our re-entry specialists to be at those meetings with the probation officer, but are there a series of questions that might help her with them collecting their data?

MR. SEDILLO: Madam Chair, Commissioner Roybal, we're very fortunate because Ms. Torres used to work for DOC, for probation, so she had very good communication with them.

COMMISSIONER ROYBAL: Okay. So you're getting a lot of information from them? Okay.

MS. TORRES: Madam Chair, Commissioner Roybal, actually I do have very strong ties. I was a probation/parole officer for five years before taking on this role here with Santa Fe County. So I'm familiar with a lot of the officers throughout the state so usually they're really good about letting me know if that individual made it or not. I work closely with them ensuring that these individuals get transitioned out correctly, out into our community.

COMMISSIONER ROYBAL: Okay. Great. I appreciate that. And if they reach out for additional services, they probably can get that through the probation officer, through the re-entry.

MS. TORRES: Yes, and you'd be surprised, Commissioner Roybal, sometimes they actually call me directly at the facility and request additional services. Sometimes they need their Medicaid reinstated or they need a follow-up with some type of resource or things of that nature. But a few of them actually do call me back to the facility and it's great always hearing back from them and being able to touch base to see how they're doing.

COMMISSIONER ROYBAL: That's awesome. I'm glad to hear that you have that type of communication and open door policy. That's great. I think on the last question here, or maybe not the last, Pablo, is I wanted to see – I know like Commissioner Garcia mentioned earlier that we do sometimes have challenges with some of our detention center attendees that don't want to accept help at a certain time so we all pretty much know if they're not ready to move forward and get better then we're kind of spinning our wheels probably sometimes with trying to provide that help to them. So I mean it's something they have to be there and volunteer to do for it to be successful.

MR. SEDILLO: Madam Chair, Commissioner Roybal, thank you for that question. I think the warden has put together a very good staff in terms of a multidisciplinary team that looks at all these individuals as well. We have all our therapists and unit managers in our units all the time, having dialogue with those inmates too. Just because you do not want to volunteer into this program doesn't mean that you're forgotten. I think that our staff does a really good job in open dialogues with these individuals as well.

WARDEN WILLIAMS: I'd just add to that. I was talking with a therapist this morning and sometimes, these programs, they're not ready for the substance abuse part yet. Sometimes they need the anger management, the domestic violence course. Once we get their behaviors tamed down to where they're not as violent then they start to more so want the substance abuse programming. Sometimes we look at their charges and we have to create programming that fits the nature of their charges, if we're really sincere about making them a better citizen going back to the community. So that's what the behavioral health team is really tasked with doing is finding a program that's specific to the needs of the offenders that we have. And they have a whole group of different types of those services.

So sometimes the substance abuse, they may need it, but they may need the anger management, the parenting, and some of those courses first. And then they start to become better prepared for the substance abuse where they're going to be more receptive to it.

COMMISSIONER ROYBAL: Okay. Great. Thank you for that clarification. And I was curious. I know for the program they meet weekly I think is what I heard earlier. And I was curious, during that time, if one of the participants is going through something that they need some additional time or help with somebody, we do provide that for them, right? If they're going through something in between that week's meeting that they want to meet with somebody, we do provide that as well?

MR. SEDILLO: Madam Chair, Commissioner Roybal, we are going to get the shy one up here and speak a little.

COMMISSIONER ROYBAL: I was hoping I'd ask the right question, because I always like to hear somebody that's passionate.

BIANCA KEMP (Facilitator): Can you repeat the question just one more time so I could answer it fully?

COMMISSIONER ROYBAL: What I was wondering, we have – you were saying that you meet once a week, and I was wondering, if there's a participant in the program that needs some extra help in the middle of the week – they're going through something, they got a letter they got upset with because something from family or whatever. Some sort of news, or even just a situation in the jail. Do we provide extra help during that time if they need support?

MS. KEMP: Right. First of all the Matrix intensive IOP that we have here at the Santa Fe County Adult Detention Facility, we actually meet nine hours a week, Monday through Friday. I kind of have different hours that I meet with them throughout the week.

If somebody is in crisis or feeling they got some rough news, I'm always willing to speak with them after group or whenever. They just have to let one of the officers know and I'll be available as soon as I can.

COMMISSIONER ROYBAL: Great. Thank you for that and thank you also for being passionate about your job, but I think everybody here is and I think that William now has a passion that he wants to pursue to help others to be drug-free as well, so I appreciate all of you for being here. Thank you.

MS. KEMP: Thank you.

CHAIR HAMILTON: Thank you. I can't pass up my turn for one question, especially with William here. It's just too good an opportunity to get some direct feedback from somebody who knows. You know, in this legislative session, there was a Methadone bill that was being discussed and clearly we're supporting at the moment a different kind of program. But you have some direct experience and what you said about Methadone was really clear to me and made an impression. I've never heard that kind of comparison. But is there any value to a Methadone program in general, or other kinds of programs?

WILLIAM: Commissioner, in my opinion, and like I said, I was hooked on it. I thought it was good, but it weren't. When it's harder to get off of that than it is of heroin, then that's the problem. In my opinion, you're substituting one drug for another. Methadone has got a more addictive rate than heroin ever had. I used to think heroin was the most addictive drug in America and it is not. Truthfully, I think Methadone is. I've had my experiences with both. Not as many years on Methadone. But Methadone, I almost died coming off of it. It's that bad. And I've had the experience with heroin but not as bad, trying to come off of heroin. Not near as bad as Methadone. Does that answer your question?

CHAIR HAMILTON: It does. It does. There's nothing like some direct experience to add some reality to our thinking about it. That's why I asked. I really appreciate it.

WILLIAM: You're welcome.

MS. MILLER: Madam Chair, I just wanted to ask William something about that experience. When you were on Methadone as a treatment, were you able to actually look at making the life changes that you're experiencing with the Matrix program, or are you really under the influence of a substance that makes it difficult for you to really reflect and make the changes in your life?

WILLIAM: With that, honestly, it was just like being on the heroin. It gives you energy, but it's got the nod, the pass-out episodes like you did with heroin. Just like it but worse. And trying to come off of it, wean yourself off of that, it's unreal. I mean when you get up to 200-some milligrams a day, if they will prescribe you this much, that's a problem. That's just like doing a gram of heroin a day or more. I mean, you're killing yourself.

But as for me, no, I couldn't think about the aspects of everyday life and treatment and what have you. No, I could not. I couldn't function. I tried; I couldn't. I thought it was the answer. It wasn't the answer, truthfully.

MS. MILLER: Okay. Thank you.

WILLIAM: You're welcome.

MR. SEDILLO: Madam Chair, members of the Commission, I'd like to make one last comment on this. This could not happen without the vision of Warden Williams coming to me, sitting down, talking about what he would like to see at this facility. We had long discussions with regard to this, but most importantly, the support of the County Manager, the Deputy County Manager, and I hope the support of the County Commission, that we can continue this program. When we asked for behavioral health therapist, when we ask for a psychiatrist, when we ask for a behavioral health manager, those were all inclusive of what we want to accomplish for Santa Fe County. So without the support of the County Manager's Office, and again, the support with the County Commissioners we would be stagnated in what we're doing at our facility. And always remember something in corrections, that I learned a long, long time ago. It's easy to warehouse people. It's difficult to manage them, program them, educate them. But I tell you what, it's all worth it.

CHAIR HAMILTON: Thank you. Commissioner Garcia.

COMMISSIONER GARCIA: Just really quick. Mr. Sedillo, thank you for those comments. That's actually a good segue into – obviously our budget is coming here soon, so how many individuals get released from being incarcerated that need help, that we're actually assisting Ms. Torres' hard job that she's had and the passion the two ladies have that obviously as probation officer – very hard job.

MR. SEDILLO: Madam Chair, Commissioner Garcia, that's a very difficult question to answer but I can tell you this. We book about 9,500 to 9,800 people a year. We release about 9,500 people a year. Everybody that comes in that facility, we have a high percentage of people who have dual diagnose of substance abuse and mental illness. So to capture all that is very difficult. But we do have a high percentage of those people that have substance abuse in our institution.

COMMISSIONER GARCIA: And I'm sorry, Madam Chair, I forgot to ask this question, but Director Sedillo brought his up. I've had several people from the community call me. Once again, on this presentation in regards to the substance abuse,

thank you all. Can you briefly describe what we're doing with the mentally challenged individuals that are in our facility?

MR. SEDILLO: Madam Chair, Commissioner Garcia, again, I'll defer that to our behavioral health manager who deals with that as well.

MR. BOSCHELLI: Madam Chair, Commissioner, either mental illness, substance abuse or mentally handicapped individuals are all basically looked at, especially when we are talking about the mentally challenged individuals. We will do interdisciplinary team meeting around that type of individual. That interdisciplinary team meeting consists of the warden, of security, of the medical staff, as well as the behavioral health staff so that we can actually wrap around services for those individuals. We do find them as vulnerable individuals. We are concerned about their placement. This is why security statements and ideas are paramount in that meeting.

So it's not from a medical viewpoint or a behavioral health viewpoint. It's a mixed viewpoint that we'll work and try to house that individual in the safest environment possible. We've been pleased with being able to integrate, whether the individual is mentally ill, substance abusing and/or mentally challenged into the general population. We've been surprised at the success of that but part of that is because all of our behavioral health staff are actually situated in the units. They're not up front in the administrative section. They're back in the units. They have a pulse of their clientele in those units as well as communication on an hourly basis with security.

So specific programming – we are now in the process of trying to formulate additional mental health understanding type of group therapy that we're wanting to implement. We have not as of yet. We have a past history of doing it successfully. And so the mentally challenged individual once again, we're thinking about them, looking at them, trying to make sure that there's a safe environment around them.

COMMISSIONER GARCIA: Thank you.

CHAIR HAMILTON: Thank you. There's only one more thing I want to add and that is to thank you, Director, and the warden for not just making a sanitized presentation but bringing everybody who's involved, including William with direct experience that can share with us. It's so much more meaningful to really understand what's going on. And that's what this Commission really – everybody can speak for themselves, but motivated to really know what we're doing and what the successes and the challenges are. This was really meaningful to me and I think to us in terms of sharing. So I really appreciate you thinking to do this.

MR. SEDILLO: Madam Chair, members of the Commission, thank you very much. I'd like to thank the staff who do this every single day, day in and day out. They are the heartbeat of the facilities. And thank you, William, for taking the opportunity to come up here and speak.

COMMISSIONER GARCIA: And also, thanks to you for the correctional officers also, the men and women on the front lines there.

GERALDINE SALAZAR (County Clerk): Chair Hamilton, I'd like to say something. Mr. Boschelli, it's good seeing you again. Over 20 years ago I was BHSD Director Division of Substance Abuse and it's a pleasure to see that you've left the bureaucracy where you see all the plans and the programs that are shelved and you bring

all that knowledge into Santa Fe County. That's so exciting. It's so exciting to hear that, that you are doing this work. I'm so proud of Santa Fe County.

Heroin's been around for a long time where I come from. I come originally from East Los Angeles. I used to see heroin addicts. I could spot them, who was who and who's mother was concerned when they were on heroin, and they'd buy them short dogs just to keep them drunk enough to see if they could get off heroin. And I can remember when I was division director, going to Delancey and I talked to a program person there who was from a gang, from *El Hoyo Maravilla*, and she said we do not accept anyone with Methadone. It's the worst withdrawal than even heroin. Our treatment process is we give them a shovel and we make them work and get detoxed on their own.

So a lot of people do not understand that. The difference between Methadone and heroin, and also the model you have here, it really follows a model of looking at trauma also, because many individuals who start abusing at a very young age, they use all that developmental capability of being resilient, of being able to participate in the community, in society, so by you having these tools for the to see what their triggers are, they're going back into their brain and connecting into the humanity of the person who they are. So I'm very proud of you. Thank you so much. And good luck, William. May you succeed and be in recovery forever.

CHAIR HAMILTON: Thank you very much. That was an incredibly useful informational item.

III. ACTION ITEMS

A. Items from Consent Agenda Requiring Extended Discussion/ Consideration

No items were isolated.

B. Resolutions

1. Resolution No. 2019-40, a Resolution Adopting the Santa Fe Rail Trail Management Plan

MARIA LOHMANN (Open Space and Trails): Madam Chair, Commissioners, the Santa Fe Rail Trail is one of Santa Fe County's most used and well loved trails. It's a multi-use rail with trail, within railroad right-of-way, so there's a lot of complicated construction associated with it. We've been very lucky in the last couple of years to get some federal funding to construct the trail. Right now it ends at Avenida Eldorado and very soon the construction will be complete to Spur Ranch Road. We also have plans to connect all the way to Lamy.

But over the last year or so we've been working with volunteers, trail stewards, trail users, community members, to develop a management plan to keep this very important and practically brand new facility safe and comfortable for our trail users. This management plan identifies short-, mid- and long-term maintenance and management needs for this property in particular. This plan emphasizes working with volunteers and regular trail users – they're usually the same – to monitor the trail in order to quickly address small issues before they become larger issues.

In the short term we're working to address safety concerns, erosion, weed and soil management and volunteer protocols. We've developed a pretty involved database with little gullies and things where we will go back and maintain the trail.

The long-term needs may include surfacing treatments to reduce our long-term maintenance, especially in some of the more complicated trail construction areas, and we might also be looking at developing additional neighborhood connections to this trail.

This plan guides management and maintenance on the existing constructed trail but it is easily translated into these future segments. Implementing this plan requires inter-departmental coordination with Public Works, Growth Management and Community Services, as well as consistent community outreach. The short-, mid-, and long-term projects will be updated as necessary and as they are completed. We're requesting adoption of this plan in order to guide staff in management of the trail and in implementation of the identified projects. And I can answer any questions you might have.

CHAIR HAMILTON: Thank you very much, Maria. So Commissioners, are there any questions? Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Maria, of course. So this last week I was at NACo and NACo has now created a subcommittee of trails, open space, so it's really great. I have a brochure for you on rail trails throughout the country. That was one of the things that was brought forward and I was also appointed to the Open Space, Trails and Parks Open Space. And when I mentioned that we have over 6,000 acres of open space everyone was impressed. I can tell you that. So I was very proud to be able to say that. I think this plan looks really good. It's always so impressive to see the work that you have done for the County in the Planning Department and on the trails. It's really rewarding. I'm sorry, but I've given all my copies of the open space plan that you gave me. I've given them all away.

MS. LOHMANN: We can make more. I promise.

COMMISSIONER HANSEN: Thank you. I think it's a really important product to be able to share with people throughout the country and thank you for this.

MS. LOHMANN: Thank you.

CHAIR HAMILTON: Thank you. Commissioner Moreno, did you have –

COMMISSIONER MORENO: Yes. The Rail Trail runs through my district and I'm so proud of it, but it is starting to get a little raggedy. And so I'll be supporting this whole re-do. Sometimes it seems like when I ride on my bike I can go a long way, but when you're just trying to access a point it's not usually accessible. The one area that would really benefit would be the people who live in Commissioner Hamilton's district, enticing the people in that area, maybe with signage so they get access at the nine-mile point. That would be one of my ideas.

MS. LOHMANN: Madam Chair, Commissioner Moreno, I just want to address a couple of things. We've had a particularly wet winter, which is great, but it also does cause a little bit of extra wear and tear on our trails. And so we are working to address that and one of the things that we've determined about the Rail Trail is that maintenance on the Rail Trail is way more complicated than some of our other trails, and it's hard for volunteers to do, because of the requirements of the multi-use transportation facility hard-packed surface. So we are working with our maintenance staff to do that.

There are fewer of them than volunteers. And so we're getting there, but we're making progress.

The other thing I to address is signage and trailheads and access. We are working on improving a couple of access points, trailheads. In our upcoming schedule we have some funding for improving trailheads, especially at nine mile. We're also working on implementing our signage plan to do a little bit more wayfinding.

CHAIR HAMILTON: Great. Thank you. Commissioner Garcia.

COMMISSIONER GARCIA: Madam Chair, Maria and your colleagues, you guys have been working on it for a little while, a very thick, detailed plan. You guys did an excellent job, anywhere from working with David Padilla's shop to Risk Management, what the involvement is with the entire County. Thank you. Some of the questions I have is stewards – who's actually going to initiate getting all those stewards? Is that you? Is that Planning? Community Services Department? Who actually now is getting these stewards to actually go and help us maintain the trails? Because just keep in mind, this is just for one trail.

MS. LOHMANN: Yes.

COMMISSIONER GARCIA: We've got a lot more other trails out there. So just to get into that, as we're going into the budget hearing or the budget situations and that and so what we need to talk to Manager Miller about is if our maintenance department needs a person or two, additional crew members to help out then we need to consider that. So just keep that in mind. So who goes out and gets the stewards?

MS. LOHMANN: Madam Chair, Commissioner Garcia, we do have two existing Rail Trail stewards who are regular trail users. And so they're out there almost every day because they love it, and they report issues to us. We are working on getting a new volunteer coordinator who will help us organize better, more volunteers. But again, the maintenance of this trail is really complicated for volunteers to do. And so those volunteers that we have a very large list of and we're trying to organize and get to utilize will be helping us with the monitoring and the data collection. This erosion here needs to be fixed – those kinds of things.

COMMISSIONER GARCIA: So Madam Chair, Maria, does the County have – let's just assume the trail is wiped out because of rain or what not. Is there some sort of a maintenance program, something that the road department has where you actually call or you fill out something on the computer and then – what is it called? Whenever there's a pothole in the road we can fill it out and Mark Rodriguez fills it out and then it goes to the maintenance crew. Do we have something similar to that with the trails?

MS. LOHMANN: Madam Chair, Commissioner Garcia, we do have something that's probably a little less formal than that. We work with our trail stewards to report issues, definitely, and we also have an emergency protocol. Especially with the Rail Trail, right there at Rabbit Road, we know that that part of the trail, because we had to fit it into the railroad right-of-way has some steep parts that are prone to more erosion than some of the other trails, parts of the trail, that we go out and monitor that for safety hazards every time it rains. So as staff we have those internal protocols and we also do rely on our trail stewards to provide that information for us.

ROBERT MARTINEZ (Deputy Public Works Director): Madam Chair,

Commissioner Garcia, Property Control, Building Services and Open Space and Trails are all linked to the maintenance connection software that when people call in, whether it's for trail maintenance, or building maintenance, a work order is generated and given to the appropriate section. David Padilla gets these work orders, and if you see in your monthly Public Works report, we report on there. We show how many work orders Open Space and Trails receives and how many they close out. So we do have the means from the public to the actual maintenance technicians to get the work order.

COMMISSIONER GARCIA: Thank you. And also, thank you for including the schools in here in the outreach or the educational piece of it. And then also, what's a trail counter? How does a trail counter work? That basically counts the number of people? Bikes?

MS. LOHMANN: Madam Chair, Commissioner Garcia, yes. It's very similar to how we count traffic on roadways. It is a little air compressor thing that when bikes or people walk over it it will signal. And so we have a couple of those with Dave Padilla in our maintenance yard right now that we just need to install, because we know that lots of people use the Rail Trail and we should know what those numbers are.

COMMISSIONER GARCIA: And then one last thing. Thank you. One last thing in regards to the list of improvements to the Rail Trail, it's a pretty big hefty list. And I don't know if anybody looked at it, that's just for one trail. So are these all phased out? This is the highest priority first, or it's just a list of all the improvements, money, budget, needed for just the Rail Trail?

MS. LOHMANN: Madam Chair, Commissioner Garcia, it's been a while since I've looked at it. I believe that it is listed in location, where it is on the trail, not by priority. In another table there is a list of priority projects and that actually has to do more with intersections than that very large list of projects. That very large list is more identifying the smaller projects that we should get out and deal with now before they become larger issues.

COMMISSIONER GARCIA: Thank you.

CHAIR HAMILTON: Thank you. Commissioner Moreno.

COMMISSIONER MORENO: A follow-up. Yesterday when I was out there on the Rail Trail, I noticed – well, I've noticed along the way, that especially in Eldorado, and there may be other communities along there that are further south or more to the north, but in Eldorado particularly because it's very well used and it gets a lot of impact, and you referred in the report to the social trails that kind of impact the Rail Trail. Would there be a way to include the people who live on either side of the Rail Trail so that they might take some interest in helping with monitoring the situation? I just dreamed that up yesterday and that would have to go through the ECIA and that have them designating trails within the community property. Is that something that would be useful or wanted?

MS. LOHMANN: Madam Chair, Commissioner Moreno, absolutely. We're hoping that by having staff out there more and having our stewards out there more we will generate a lot of that interest from the neighbors. And one thing that we do recognize is that we do have a lot of those social trails that connect to the Rail Trail, because everybody wants to access it from their backyard, and that's what makes this trail so successful. So we do need to make those social trails more official and do an

analysis of how we can do that and where it's most appropriate and where it's safe to access the Rail Trail from the neighborhoods. And again, working with the neighborhoods to have those conversations is the only way that we're going to be able to succeed in that.

COMMISSIONER MORENO: Thank you.

CHAIR HAMILTON: Thank you. If there isn't any further discussion, what's the pleasure of the Board? Commissioner Hansen.

COMMISSIONER HANSEN: I move to approve a resolution adopting the Santa Fe Rail Trail Management Plan.

COMMISSIONER MORENO: Second.

CHAIR HAMILTON: Thank you. So I have a motion from Commissioner Hansen and a second from Commissioner Moreno.

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

III. C. Miscellaneous

1. Request Approval of Amendment No. 4 to the Professional Service Agreement No. 2015-0188-CSD/MM Between Santa Fe County and Presbyterian Medical Services, Extending the Term of the Agreement an Additional Year and Increasing the Compensation an Additional \$425,000, Inclusive of NM GRT for a Total Agreement Amount of \$2,025,000, for the Operation of the Mobile Crisis Response Team and Granting the County Manager Authorization to Sign the Purchase Order **WITHDRAWN**

1. **Request Approval to Utilize General Service Administration Price Agreement No. GS-07F for the Purchase of an Indefinite Quantity of Self-Contained Breathing Apparatus for the County Fire Department for a Not-to-Exceed Amount of \$2,000,000.00 and Authorizing the County Manager to Negotiate and Execute the Contracts, if Necessary, and Sign the Purchase Orders [Exhibit 2 :Staff Memo]**

BILL TAYLOR (Purchasing Director): Thank you, Madam Chair, Commissioners. What's before you is a request for, first, our current County purchasing regulations require that use of outside contracts in excess of an amount of \$250,000 requires approval by the Board of County Commissioners. So before you is approval to utilize a federal supply list, a General Services Administration – GSA – price agreement for the purchase of self-contained breathing apparatus for the Fire Department. It also authorizes the County Manager to finalize negotiations and sign the purchase order.

There are multiple vendors on the GSA price agreement. It's similar to our statewide price agreements that Procurement has done. These vendors provide these services. It's a Schedule 84 GSA price agreement and also the state procurement code allows this under 13-1-129 to utilize the existing contracts. So with that I will stand for any questions.

SFC CLERK RECORDED 04/10/2019

CHAIR HAMILTON: Great. Commissioners? Commissioner Garcia.

COMMISSIONER GARCIA: Madam Chair, I just have a really quick question. What does the County – I don't know, Manager Miller, Chief Sperling, what does the County do with the other apparatus?

MR. TAYLOR: Good question. I'll turn that over to Chief Sperling.
Thank you.

COMMISSIONER GARCIA: And one of the reasons I'm asking is we get \$2 million of new apparatus, the old apparatus goes where? Does it go to auction? Can we actually donate it? Give it to a third world country of some sort or somebody in another area that needs it?

DAVE SPERLING (Fire Chief): Madam Chair, Commissioner Garcia, generally if the vendor doesn't take the material back in exchange we'll send it to auction. We have had requests in the past for donation of apparatus. Not SCBA per se, because not many departments are looking to use used SCBA. But in general, I think in this occurrence it will probably end up going to auction.

COMMISSIONER GARCIA: Thank you. I would just like to see if the County could possibly just look into some other departments that aren't as fortunate as Santa Fe County. Thank you.

CHIEF SPERLING: Madam Chair, Commissioner, I'll see if we can do that. Thank you.

CHAIR HAMILTON: Thank you. Other questions?

COMMISSIONER MORENO: I'll move for approval.

COMMISSIONER ROYBAL: Second.

CHAIR HAMILTON: I have a motion and a second, but I actually have a question. With regard to the Fire Department personnel evaluating these, I understand the evaluation is going to be at the end of March and I assume on the record that includes paid and volunteer personnel.

CHIEF SPERLING: Madam Chair, that's correct. We will be utilizing both career and volunteer personnel to do the evaluation.

CHAIR HAMILTON: That's fabulous to hear. Any other discussion? So I have a motion and a second.

The motion passed by unanimous [4-0] voice vote. [Commissioner Hansen was not present for this action.]

III. D. Ordinances

- 1. Ordinance No. 2019-__, Request Authorization to Publish Title and General Summary of an Ordinance Amending the Sustainable Land Development Code, Ordinance No. 2016-9, to Restate Chapter 11 (Developments of Countywide Impact), Adopt Regulations for Mineral Resource Extraction and Processing, and Add Definitions to Appendix A [Exhibit 3: Power Point Presentation; Exhibit 4: Notice of Public Hearings]**

ROBERT GRIEGO (Planning Manager): Good afternoon, Madam Chair,

Commissioners. This request is to publish title and general summary of an ordinance amending the Sustainable Land Development Code, Ordinance 2016-9 to restate Chapter 11, Developments of Countywide Impact, adopt regulations for mineral resource extraction and processing, and add definitions to Appendix A.

The SLDC was adopted in December 2015 and Section 11.3, Regulations for Mining and Resource Extraction was reserved until staff was able to develop regulations. A stakeholder group was established in early 2016 which included interests from the development community, the mining, sand and gravel, and community groups as part of the process to develop the regulations. The stakeholder group continued to work with staff through 2018.

Staff also worked with an expert hard rock mining consultant to develop the regulations. Community Planner Jacob Stock will provide the Board with a presentation of the process and the proposed amendments.

CHAIR HAMILTON: Thank you, Robert and thank you, Jacob. This was going to be the very, very long and very, very boring one, correct?

JACOB STOCK (Planner): Yes, that's correct, Madam Chair, so everyone buckle in. Madam Chair, Commissioners, I've been working on this project along with other County staff including Robert Griego and Paul Olafson.

I'll be presenting on the proposed amendments to Chapter 11 of the SLDC concerning developments of countywide impact. I'll start with the definitions of developments of countywide impact, or DCIs, then go on to the rationale for these amendments, the process of developing the proposed amendments, an overview of the amendments, and a proposed schedule before standing for questions.

The SLDC defines developments of countywide impact as developments which place major demands on public facilities and budget, affect environment, health, safety and welfare beyond immediately neighboring properties, and create serious adverse noise, light, odor, vibration and traffic impacts. DCIs currently identified in the SLDC include landfills, junkyards and large-scale sand and gravel extraction and processing. Oil and gas production is regulated under a separate ordinance. Concentrated animal feeding operations or feedlots are reserved. And regulations for mining and resource extraction are addressed in the proposed amendments.

The Sustainable Land Development Code or the SGMP calls for DCI regulations that protect scenic vistas and natural landscapes, environment, flora habitats, wildlife corridors and wildlife habitats, environmentally sensitive areas, wetlands, rivers and streams, and flood hazard areas, archaeological, historical and cultural resources, and of course, the health, safety and general welfare of Santa Fe County citizens.

The SGMP also identifies developments that may be regulated as DCIs. These are largely the same as the list in the SLDC with the addition of wind farms and major reshaping of land surfaces.

Section 2.2.6.2 of the SGMP sets out the rationale for these proposed amendments. It states that the County's regulations and standards for hard rock mining will be updated and incorporated into the SLDC as a development of countywide impact. This put simply is what we're proposing to do with these amendments. The SLDC was adopted in 2016 with Chapter 11 regulating DCIs. We were not able to complete the mining regulations at that time, but Section 11.13 reserves regulations for mining and

resource extraction while regulations from 1996 remain in place.

The proposed amendments introduce new mining regulations consistent with the SLDC and in accordance with the SGMP. Our goal in developing these proposed amendments to Chapter 11 was to create a complete and reasonable regulatory process that prevents negative environmental and social impacts, avoids long-term treatment requirements, requires the operator to bear all present and future costs associated with the DCI and establishes regulations for mineral resource extraction and processing.

The resulting amendments clarify and establish requirements applicable to all DCIs, address errors in the current chapter and clarify language, clarify procedures for DCI overlay zoning districts, and DCI conditional use permits, which I'll talk about later, and establish regulations for mineral resource extraction and processing.

So staff carried out an extensive process to develop these proposed regulations. We held multiple meetings with stakeholders and the community, and received public comments during the public comment period and four public meetings that were held throughout the county. All public comments were recorded on a spreadsheet included in your packet. It's got a green header on it so you can find those there. We also reviewed mining regulations and standards from other counties and from abroad. We worked with a national expert in mine regulation, and we consulted with state agencies in New Mexico which are charged with mine regulation at the state level.

So now I'm going to get into a little more detail about the contents of our proposed DCI regulations and the proposed amendments. I'll keep it pretty general. First, let's start with the procedure. An applicant, to operate a DCI in the county is required to obtain a DCI overlay zoning district. Then an applicant should acquire all federal and state permits before applying for a DCI conditional use permit. The DCI conditional use permit would allow the operator to operate the DCI in the county. Both the overlay and the permit process have separate application requirements which I'll go over later in the presentation, and require hearings before the Hearing Officer, Planning Commission and the BCC.

Now, getting into the contents of the amendments. All changes are in the redline document which is included in your packet. It's the messy one with all the blue and green in it. So Section 11.5 sets out the general regulations applying to all DCIs. We identified some existing regulations in Chapter 11 that should be applicable to all DCIs and brought them into this section. So for example, we felt that language on existing uses should apply to all DCIs. We also clarified some confusing language in the text. The most significant addition to this section was the section on financial guarantees. These generally ensure that the County is able to recover the cost of reviewing the application and monitoring and enforcement of compliance with the permit, to recover costs to public facilities and services, and to secure adequate financial guarantees to reclaim the site and remediate any potential damages to the site.

Section 11.6 sets out the requirements for a DCI overlay zoning district application and review. Much of this section was unchanged from the existing Chapter 11. The proposed amendments add to required studies, reports and assessments and they include requirements that the applicant demonstrate that they will not impede on the water rights of other individuals in the county, that the cost of environmental impacts are calculated as a fiscal impact, and that the operator/applicant has previously complied with

the laws and regulations in other municipalities.

Section 11.7 sets the requirements for a conditional use permit. Each class of DCI has its own supplemental requirements for a conditional use permit in addition to Section 11.7, but the requirements in this section apply to all DCIs. Proposed additions to this section include requirements for proof of technical and financial feasibility, a report on previous business practices, and plans for handling hazardous materials, and a plan for reducing and offsetting emissions associated with the DCI.

Performance standards are proposed as a new section in Chapter 11. This is Section 11.8. They set the standards for DCIs during operation. Some important elements of this section include standards for the protection of water quality and quantity in the county, the financial feasibility of the proposed operation, and continued demonstration of compliance with air quality standards.

Now, getting into Section 11.14. These are supplemental requirements in addition to sections 11.1 through 11.7 and they apply just to mineral resource extraction and processing. The design criteria are the foundation of this mining section. These are standards applying to all mining applications, operations and the closure of mines. They are meant to start out as basic criteria for evaluating a mining application. This section states that there will be no degradation of water resources, no perpetual treatment of water and other resources, and that the mine will be designed to withstand a 1,000-year flooding event.

So the supplemental requirements for a mining conditional use permit are in addition to the general requirements for DCIs set out in Section 11.7, like I mentioned before. Generally the proposed amendments create a process which focuses on collecting baseline environmental conditions, modeling the potential effects of a mine on those conditions, proving a mine proposal meets the County's design criteria and standards, and providing additional financial guarantees that may be needed for the mine.

The application requirements are designed to generally follow this process. They include baseline data collection requirements, detailed project description, environmental studies in addition to those already required, operating, closure, and reclamation plans. The section also includes performance standards. These are standards designed to ensure compliance during mine operation and to act as contingency measures against any possible non-compliance.

So this concludes my summary of the proposed amendments to Chapter 11 and before I stand for questions with my colleagues I'll briefly review our proposed schedule for moving forward from today. Today, we will request that the Board direct staff to publish title and general summary of an ordinance to amend Chapter 11. If the Board takes that action we will hold a public hearing before the Planning Commission on March 21st and a second public hearing before the Board on April 9th. And it's during this April 9th hearing where the Board may consider to take action on the ordinance.

So this concludes my presentation and I'll stand with my colleagues for questions.

CHAIR HAMILTON: Thank you very much. Are there questions?
Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Jacob. I've spent a little bit of time reading over some of these changes. According to Senator Stefanics this is one of the most progressive regulations in the country and I personally really like that. I think

that it's really important to do what we can to protect our environment and I think that a lot of these regulations help to set that out. I know there might be some concern with the intensity of these regulations but at the same time I think that being progressive in our concerns about the county is really important. So I don't have questions today. I'm looking forward to the hearing. Who was the professional that you consulted with?

MR. STOCK: Madam Chair, Commissioner Hansen, the consultant's name is Don Sutton. He works for a company called Spectrum Engineering out of Montana and they've worked on a number of mining regulations in other states and counties around the country, as well as in the State of New Mexico.

COMMISSIONER HANSEN: And so are we going to be – are we outside of any state regulations? Or are we pushing the envelope?

MR. STOCK: Madam Chair, Commissioner Hansen, we've done our best to stay in our lane as far as what we're allowed to regulate and what is in the state's jurisdiction. And we consulted with the state as well, with the Environment Department and with the Mining and Minerals Division specifically. They had a chance to look at the regulations and we spoke with them about their questions.

COMMISSIONER HANSEN: And they're good with what we're doing?

MR. STOCK: Yes, generally speaking, yes.

COMMISSIONER HANSEN: That's good to hear, because that has – I think that our oil and gas rule has been well received and we took the right approach and we went as far as we could go in regulating that without creating detriment to the county. And I want to see us do the same thing with the mining, that we go as far as we can without any detriment to the county. That is my job and my concern. So I will continue to read and I look forward to the public hearing and I appreciate what everyone has done. I know this has taken a long time and that this is hard work. It's hard rock mining, I don't mean to make a pun, but it is hard work and I appreciate that very much.

MR. STOCK: Thank you, Commissioner.

CHAIR HAMILTON: Thank you. Commissioner Garcia.

COMMISSIONER GARCIA: Just a couple of quick questions, and actually, I'd just like to sit down with staff because I have a lot of questions. And in regards to regulations, sometimes regulations actually – regulations are very difficult and as policymakers we need to really think in depth as to how regulations can help, not help, the local government, economy and so on and so forth. An example is, Hvtce Miller actually, the last three, five, seven, eight years ago, because of our oil and gas regulations which the policymakers adopted years ago, there was a lot of legislators from the northwestern part of the state and from the southeastern part of the state, as Manager Miller knows, where they actually wanted to pass bills, the oil and gas individuals wanted to pass bills through the state legislature not allowing Santa Fe County to have any capital outlay money because of our so restrictive oil and gas regulations.

Some of the things that we need to think about hard rock mining. Anybody drives down that road over there, that basecourse road or that asphalted road or any time you fill a pothole, if we have very strict regulations the cost of the price of aggregate goes from here to here because we now have to bring in aggregate from further away than where the existing aggregates are. So just always keep in mind sometimes regulations are good; sometimes they can be bad. I hope that we all continue to read the articles.

One of the things you had here – these are amendments to Chapter 11, or Chapter 11 is brand new?

MR. STOCK: Madam Chair, Commissioner Garcia, these are amendments to Chapter 11. There's an existing Chapter 11 in the SLDC as it currently stands. It does not include regulations for mining and resource extraction.

COMMISSIONER GARCIA: And the stakeholders that the staff actually met with? Can you name three or five? Or how many were there? Ten? Twenty?

MR. STOCK: Robert has a list.

MR. GRIEGO: Madam Chair, Commissioner Garcia, going back to 2016 when we initially set up the stakeholders groups, we had representatives from the development community. I've got a list here somewhere; I'm looking for it. And we had representatives from the mining. We had representatives from sand and gravel, from the Cook Aggregate. We had community members. It looks like – did you mean name individuals? Or the number?

COMMISSIONER GARCIA: I just want to make sure that we had individuals from environmental concerns, individuals from the business community and any individuals that actually do extract currently sand and gravel or hard rock. So I just want to make sure everybody was at the table whenever we –

MR. GRIEGO: I've got a list here that shows –

COMMISSIONER GARCIA: Okay. We can talk about it later. Thank you. And then in regards – one last question. I think I have this. In regards to the redline document that you all brought forward. Is that redline the existing Chapter 11 or is that redlining the 1996 combining ordinance?

MR. GRIEGO: Madam Chair, Commissioner Garcia, as Jacob was pointing out, we've got new regulation for hard rock mining and that replaced the 1996 regulations we had in the old code, but other changes to Chapter 11 were also made in this, so we've restated Chapter 11 in its entirety and that's the redline document that you see. Because we brought forward some of the regulations that should apply to all DCIs and then we created new regulations specifically for mining and resource extraction.

COMMISSIONER GARCIA: Thank you. And the group that actually helped us out? The engineering firm out of Montana – what type of engineers are they?

MR. GRIEGO: Mining engineers.

COMMISSIONER GARCIA: Mining engineers? Thank you. I'll sit down with staff maybe in the next week or so and go through some of the other questions I have, but thank you for this good document. It looks like a very good document. You guys put a lot of work into it. Thank you.

CHAIR HAMILTON: Thank you. Are there other questions? So what is the pleasure of the Board?

COMMISSIONER HANSEN: I move to publish title and general summary.

COMMISSIONER GARCIA: I'll second.

CHAIR HAMILTON: Thank you. I have a motion and a second.

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

SFC CLERK RECORDED 04/10/2019

CHAIR HAMILTON: Good. So it passes. Thank you very much for the presentation. Jacob, you're going to have to improve. It wasn't nearly long or boring enough.

MR. STOCK: I'm sorry, Madam Chair.

CHAIR HAMILTON: That was from an earlier joke we were making, by the way.

IV. MATTERS OF PUBLIC CONCERN

CHAIR HAMILTON: Is there anybody here from the public who in general wants to speak to the Commissioners? Again, is there anyone from the public who has something to present to the Board? Seeing nobody, I will close Matters of Public Concern.

V. MATTERS FROM THE COUNTY MANAGER

A. Legislative Update

A. Discussion of, Direction on and Possible Vote of Support for or in Opposition to Bills Introduced or Proposed for Introduction in the First Session of the 54th Legislature of the State of New Mexico [*Exhibit 5: Legislative Report*]

MS. MILLER: Madam Chair, I'll have Hvtce – do you have reports? As you know, we are entering the final hours of the session and Hvtce has been over there tracking all the bills, so let them know where we stand, Hvtce.

HVTCE MILLER (County Manager's Office): Good afternoon, Madam Chair, Commissioners. As the County Manager just stated, it's getting exciting finally. We're in the home stretch and the legislature is going to wrap up on Saturday. I was just sitting there listening to the tax reform bill in Senate Corporations and it still looks like there is a lot of compromise that needs to occur. I was just going to go over some of the big items here with you regarding what has been going on, more or less in the few days and even today regarding the budget. The junior bills, capital outlay, and the film tax credit bills, and also our reauthorizations.

So I'll maybe begin by going over House Bill 2 which is the State budget. Yesterday that passed through Senate Finance and it was amended. And there were 123 different changes that the Senate made on that side. But overall, the budget is 11 percent bigger than it was last year and there was \$19 million added in the Senate version which was passed yesterday. The major components of those changes were increased funding to economic development, increased funding to Medicaid, the Corrections Department and also services for people with developmental disabilities. Also, increased funding from the Senate side was to higher education.

For public education as a whole, \$448 million of new money or 16 percent is being added to the State budget for education for this current budget cycle. The version that was passed yesterday, there is 22 percent left in the general fund for State reserves, meaning kind of contingency things, like if the price of oil goes down or what not – 22 percent.

Going next, there were two junior bills. There's a House Bill 548 and a Senate Bill 536. These are some things that haven't occurred for a while. I believe the last one was in 2007 when the State had money to provide such to the legislators. These funds are separate from capital outlay expenditures and they are supplemental projects and services to provide the State departments. The bill for the Senate which passed through Senate Finance yesterday is still being categorized into its different departments and what not so I have the information for the House Bill but I can get you the information for the Senate Bill which probably will become available later today. But just to overlook at the House Bill 548, there's \$30.4 million in that bill, and the 70 members of the House got an extra \$400,000 to appropriate to different State departments for projects and services that they wanted. That's in addition to the capital outlay projects. Going back, those two junior bills are House Bill 548 and Senate Bill 536.

The capital outlay bill, which also was a committee sub yesterday in Senate Finance, it was approved and passed through Senate Finance and that had a grand total of \$933 million worth of project funding in that. That's a lot different this year over the fact that it's not using severance tax bonds; it's all general fund. So we're not going to be issuing bonds from the state this year. They're going to give that bonding capacity a rest for the time being and they're just using the general fund money for that.

In total, for Santa Fe County as a whole, there was over \$89 million in projects in Senate Bill 280. Was there information passed out regarding the projects themselves? So the Santa Fe County projects are from page 27 of 34 to page 30 of 34, and I haven't highlighted in particular the Santa Fe County managed projects as our Deputy Manager Tony was looking over that still and I'm not sure, he said he was working on a spreadsheet for that, but I'm not sure if that had been provided to you yet, but we can clarify that information to you if you have any questions regarding that.

House Bill 568 was the reauthorization bill for capital projects and there were two Agua Fria water projects and then there was an Eldorado fire station project which were all included in the bill. And so those were the reauthorization projects for Santa Fe County and they are contained within the bill and should not be an issue.

Like I mentioned when I began, House Bill 6 is the tax reform package and this carries a lot of weight on how the budget is going to go through because there are assumptions within the budget itself as to what tax reforms are going to take place for the State. The main reason for the tax reform package is because the State is trying to lean away from its reliance on the oil and gas taxes. Listening right now they were just restating again that over 40 percent of the budget for the state comes from oil and gas revenues, so this is an attempt to go over and change some of the issues that the state has and broaden the base overall for the state.

I would note that within House Bill 6 is part of the bill to eliminate the hold harmless payments to the County and I'm looking – I believe it's July of 2021 when they are going to eliminate the hold harmless and the compensating revenue, which will be provided to counties and municipalities will be our collection of internet sales. So currently right now the State is only collecting from Amazon sales but they are not collecting the local component of those sales. So we and all other counties and all the other municipalities will be getting our share of GRT from internet sales if it is approved this year.

Also here, bolstering revenues for the County should occur through the passage of House Bill 479, which is consolidating certain local option taxes. Currently now there are – I'm not certain of the exact number but there are a lot of many different local options that counties have to raise revenues but a lot of the time not every county is able to use every option and they're not able to raise the right revenues that they'd be able to if these local options did not contain the earmark like they currently have. This has passed through both houses right now and I believe it will be heading to the governor's office pretty soon, so that's another element of a revenue stream that counties will be obtaining in the upcoming – I believe it's 2021 as well.

And within the report itself I have provided all the House bills and Senate bills which Santa Fe County is tracking which are near or close to be completed through both houses and also includes those bills which have also been signed into law already at the governor's office.

And with that I'll go ahead and address any questions that you have for me.

CHAIR HAMILTON: Thank you. Commissioners, are there questions?
Commissioner Hansen.

COMMISSIONER HANSEN: Thank you. So on the capital outlay for the County, it looks like some of it includes city projects. So within Santa Fe County is Santa Fe City projects also included. I will give you one specific point, South Meadows improvement. Agua Fria Street and South Meadows improvement is a City project.

CHAIR HAMILTON: What page is it?

COMMISSIONER HANSEN: I'm on the first page. And I've seen some other places that looked like – so is this City and County or is this –

MR. MILLER: Madam Chair, Commissioner Hansen, you are correct. This listing here is anything within the geographical boundaries of Santa Fe County. So that, as you look at the list includes City projects, State buildings, tribal buildings, as well as the County managed projects as well.

MS. MILLER: Madam Chair, Commissioners, where it says City, that's not necessarily a city because it has pueblos listed as well, but that's usually an indication that it's not to the County.

COMMISSIONER HANSEN: Where do you see this?

MS. MILLER: If you go across the top of the page, where it says Project, Title, Amount, City, Fund.

COMMISSIONER HANSEN: Oh, okay. I see.

MS. MILLER: So in a lot of cases there's no city listed. That means it's either going to go likely to a State agency and then be administered through a grant process, like for the acequias, probably go to the State Engineer and then it won't go directly to the acequias, except through grant agreements through the State Engineer. So the whole chunk might go to the State Engineer. Some could go to the acequias but a lot of them aren't able to be their own fiscal agent. And then where you see maybe nothing, that could indicate Santa Fe County. So if you look over on page 29 there's kind of a stretch where it doesn't say Santa Fe, under City, about a third of the way down the page, and that's likely most of those go to Santa Fe County. So it's like – and it says Santa Fe County, Santa Fe County, Santa Fe County, Santa Fe County.

COMMISSIONER HANSEN: So we're not mentioned. We're the ones

that are not – there's a blank under the –

MS. MILLER: And it says Santa Fe County. If there's a blank and doesn't say Santa Fe County it doesn't mean it won't come to us. It could potentially. It just depends on who needs to be the fiscal agent. And you also can't see on this listing, you can't see the descriptor, which will have more information as to who gets that. That's why Tony was going to analyze it because you actually have to go into the bill rather than read just this summary to see who the intended recipient is. But just for purposes of reading this, if it says Santa Fe County it's likely – and then it doesn't have the City of Santa Fe listed next to it, that's a more likelihood that it would come to us so when you look at that page 29 out of 34, from a third of the way down it's got Santa Fe County, Agua Fria wastewater and utility system expansion, \$375,000, Santa Fe County facility photovoltaic, \$505,000, so those were the things that we asked for. Fire Department equipment, but I don't know specifically what that is. We did specifically ask for Fire Department improvements for up north. Highway 14 Senior Center construction, that's one we specifically asked for. Santa Fe Recovery program building improvement, that's not likely Santa Fe County but it's likely to come to Santa Fe County, but I don't know until we read the description what facility that's in reference to. It could be the Recovery Center is what it's intended for. It could be our crisis center.

Santa Fe Mountain Center, we didn't specifically ask for a yurt but that is our building. The Santa Fe Mountain Center is owned by us but if Santa Fe Mountain Center went and requested funding for a yurt that money would come to us because the building belongs to us. But I can't give you much more detail than that but just going down the list, that's kind of a good indicator whether it came to us. It might have come to us if we own the building as well.

CHAIR HAMILTON: Commissioner Garcia.

COMMISSIONER GARCIA: Hvtce, thank you for the update. A couple of questions I have is who's carrying House Bill 6? It's the tax reform.

MR. MILLER: Madam Chair, Commissioner Garcia, House Bill 6 is carried by the chairman of Tax & Revenue Stabilization and that's Jim Trujillo.

COMMISSIONER GARCIA: And also, Mr. Miller, in regards to the bill that's going through in regards to the internet sales, can they actually determine how much sales are within Santa Fe County, and not, let's just say, Otero County? Does the bill outline that?

MR. MILLER: Madam Chair, Commissioner Garcia, that is one of the issues at hand that local governments are questioning at the current moment, whether sales and reimbursement of GRT to local governments will meet the expectations as outlined within the new internet sales taxation scheme. Right now, the analyst for the bill as I was watching it moments ago was still working on the analysis of the bill and the changes that were coming in the Senate Corporations Committee currently, so I would hope that there is a more definitive answer once the bill reaches the floor but at this time I wouldn't say that there's definitive information available to the local governments.

COMMISSIONER GARCIA: Thank you. And so the capital outlay bill, Senate Bill 280, has it already gone past both houses? Chambers?

MR. MILLER: Madam Chair, Commissioner Garcia, no. It was just substituted with all the different projects from both house members and senate members

SFC CLERK RECORDED 04/10/2019

and introduced and approve in Senate Finance yesterday afternoon.

COMMISSIONER GARCIA: And then one last question. This might be for Manager Miller or Attorney Frederick. One of the projects in here is actually \$2 million for the Aamodt water settlement. Is that actually beyond what we're asking for? Do you know?

MS. MILLER: Madam Chair, Commissioner Garcia, we actually requested, but it's more than likely – if you notice most of this is all general fund. Another thing to look at is that last, that column "Funding Source". All the GF is general fund. It's probably been ten years since there's been general fund appropriations for capital outlay to local governments. It's been a long time. It's kind of good news for us because it's gets to you quicker. But as far as the Aamodt settlement goes, what we were requesting, along with our partners, the pueblos, was \$18 million, which was \$9 million to make up for last year's state required contributions as well as \$9 million for this year. In addition we had requested that they have additional funding beyond that to help meet the shortfalls. We'll have to look in other bills because my guess is that it's severance tax and also could be in the – there's another fund that they pulled it from last year. So it came from a couple different sources in a few different bills. So we'll have to take a look and see if it's – it's my understanding that they were going to try to fund the \$18 million at a minimum this year.

COMMISSIONER GARCIA: And then one other last question, probably, Manager Miller, in regards to why would they actually use general fund instead of tax – what was it? STBs? For capital outlay.

MS. MILLER: So Madam Chair, Commissioner Garcia, part of where the State was considered awash in money and doing so well, so to speak was that over the past year they essentially had general fund revenues, predominantly due to oil and gas but the overall economy being better, they got a lot of additional revenue over their operating budget. And so it's one-time money. It's not likely to be available on a recurring basis. They do have an estimate of recurring funds. As Hvtce said, their operating budget is up by ten percent. But they also had a large influx of cash above and beyond their recurring budget this past year that's available for one-time expenditure. There's always a debate at the state as to whether that should be held back for State appropriations or whether it should go – and when I say State appropriation, appropriations to agencies to do their capital needs. That's usually an executive position to want, because it's the more flexible funding, versus severance tax bonds which they only issue in June and December.

So I think the legislators like using general fund for the local projects because it's available sooner. And so my guess is that the legislature – this is where we want the general fund excess revenues to go for one-time expenditures is out to local entities. Part of the down side in that though is if they have an economic downturn it's also the easiest money to pull back to shore up the budget if they ever have a situation like they did in 2009, 2010, and also I think during Martinez' administration that happened. So it happened under Richardson's as well as Martinez' to have to try to pull back capital appropriations, general fund is easier to pull back for purposes of plugging the budget. You can't use severance tax bond money to fix a hole in your budget.

COMMISSIONER GARCIA: Thank you. And one last thing. Great picture. Kind of miss that guy over there.

MR. MILLER: Madam Chair, Commissioner Garcia, actually I included that because me and Commissioner Hansen were speaking about that. One day when we were over there I was telling her how I was lost and looking to the buffalo to find my way over there on the third floor.

CHAIR HAMILTON: Everybody uses that one.

COMMISSIONER HANSEN: Madam Chair.

CHAIR HAMILTON: Yes.

COMMISSIONER HANSEN: Where is the community solar bill at the moment?

CHAIR HAMILTON: I don't think it's listed. It's House Bill 210. I was going to ask if we could follow that. FIY, it passed committee, but with amendments.

MR. MILLER: Madam Chair, Commissioner Hansen, currently that is scheduled for Senate Conservation Committee but it has passed the House and also has been referred to Senate Judiciary on the Senate side. So two committees yet on the Senate side for House Bill 210.

COMMISSIONER HANSEN: And so what's the likelihood of it making it through in the next four days?

MR. MILLER: Madam Chair, Commissioner Hansen, anything is possible as long as there's time on the clock at the capitol.

COMMISSIONER HANSEN: Okay. Good answer.

CHAIR HAMILTON: Thank you.

MS. MILLER: Madam Chair, did you say you had heard it did pass Senate Corporations, but it did have –

CHAIR HAMILTON: It just passed Conservation a couple hours ago, a 5-3 vote but with amendments and many of them were – one or two of them were considered –

MS. MILLER: Unfriendly?

CHAIR HAMILTON: Yes. Not beneficial. But that's why it would be nice to have, if maybe we could follow that and get an assessment of those amendments. But it still has to go to judiciary, as you say, and it has to go back to the House, even though it passed the House, because of the amendments. That's true, right?

MR. MILLER: Madam Chair, that's correct. Madam Chair, I just wanted to add two more items which weren't on the report because they're not things that are close to being passed but they're actually things that have died over there. Those are HB 290, the mandated Methadone therapy for inmates, which was sponsored by Representative Andrea Romero, and that particular bill was something that three counties which were slated to be the test subjects for this project were not fully aware of all that was involved with that project. So it was opposed in committee and they're going to be working with the sponsor through the interim period as to see what she was wanting as a result of that piece of legislation. But for now, that is not going through.

The other item I wanted to mention was Senate Joint Resolution number 8, and that was a constitutional amendment, and that was granting County Commissioners the ability to eliminate the County Probate Court. But that had a lot of opposition today in committee and that did not succeed in committee either, so that was tabled as well.

CHAIR HAMILTON: Interesting. Thank you. Thank you very much.

Very, very useful.

V. B. Presentation on Transition from Existing Mobile Health Van Program to Navigation Services

RACHEL O'CONNOR (Community Services Director): Good afternoon, Madam Chair, members of the Commission. I'm going to speak just briefly to a proposal that I've spoken with, I believe, all of you about, and that is transitioning the services that we're currently providing through our mobile health van into navigation services that better serve, we believe, our community and the Accountable Health Community that the Community Services Department is creating and funding.

I want to talk just a little bit about the history. In 2007 the County purchased a mobile health van and through 2018 that van served our community largely through preventative care by providing things like blood pressure checks, blood sugar checks, cholesterol checks and flu shots for our community. We had a wonderful nurse. The program was staffed by one full-time nurse, one part-time nurse and a driver and the total budget, I believe was about \$276,000.

In 2016 we did two things. One is that the Board of County Commissioners passed a three-year plan for the development of an Accountable Health Community that created a hub at the Santa Fe County Community Services Department for navigation services across our community. In addition to that, we funded as part of the three-year plan, a gap analysis that identified gaps in our community and they recommended to us that we move towards a more intensive navigation system to provide care and particularly around what we call the social determinants of health. Things like housing, things like food security, things like safety in your home, to the residents within our county.

You might recall last year that the Board of County Commissioners and the County Manager's Office funded a navigation position at the Senior Services Division within the Community Services Department and that we have created a network now across our community of a minimum of 15 organizations that are now part of the Accountable Health Community that are meeting regularly, that are uniform in the service that they're providing to our community.

We are recommending that we use the dollars that initially supported the mobile health van for the creation of one new navigation position and the bolstering up of a second, which will give us a total of three what we call free-standing navigators in our community. It means someone could call our office and receive navigation services. We're in the process through our Accountable Health Community of linking all those organizations so that we can follow people from one service to another and ascertain how well they are doing and how successful a warm hand-off or link was in our community.

I've listed in here a number of reasons that I think that's an appropriate move, in part because since 2007 the way we provide healthcare services has changed, and the things that people need have changed. And I think it's appropriate that we move along with the times and try to provide a state of the art service that is really related to healthcare for all of us. In closing, I want to say I have a certain fondness for the van. I'm happy to report that we have been working with the governor's office and the New Mexico Department of Health. We have an MOA in place where the van is providing

SFC CLERK RECORDED 04/10/2019

now services in the border area, so it's still productive. That agreement terminates at the end of the fiscal year and then I think we will be revisiting what to do next with the van but it is out and working. I think it was a great service for its time but I think that the County could find a more appropriate outcome from the navigation services that we're proposing.

CHAIR HAMILTON: Thank you very much. Commissioners, are there questions? Comments?

COMMISSIONER HANSEN: Comment.

CHAIR HAMILTON: Commissioner Hansen.

COMMISSIONER HANSEN: I think it's a good use of the van along the border, so thank you for finding that solution.

MS. O'CONNOR: Thank you, Madam Chair. Commissioner Hansen. It found us, actually. But I think it's great and I really want to thank the Legal Department. We turned it around really quickly and it's nice to see it working in southern New Mexico.

COMMISSIONER GARCIA: So really quick, did you say our van's in Mexico? Or the border?

MS. O'CONNOR: Madam Chair, Commissioner Garcia, it isn't. It's actually being used by the New Mexico Department of Health to provide healthcare services, I believe, to children in the southern part of New Mexico in areas where they're saving some emergency issues with regard to border issues.

CHAIR HAMILTON: Excellent. That does seem like a very good use. I think this is pretty forward-thinking in terms of use of the funding. Manager Miller.

MS. MILLER: Madam Chair, Commissioners, it's just on a short-term lease with them. We had it parked, not using it, because we did not have a nurse or a driver and so they asked us if they might be able to use it for some immunizations and we thought that that was a good use for a few months to really partner with the Department of Health in the state and trying to utilize it.

CHAIR HAMILTON: Excellent. That's really great.

MS. O'CONNOR: Madam Chair, as I said, the agreement does terminate at the end of the fiscal year and I think at that point in time we'll revisit what the best use of it would be going forward.

CHAIR HAMILTON: Right. Great. Thank you very much.

COMMISSIONER GARCIA: Also, just one little last comment. I'm definitely interested in these navigators, how their job description works and what exactly their role is. I'd like to know how my grandparents know about them, so we can sit down – we already sat down a little bit but I'd like to talk to you a little bit more about them.

MS. O'CONNOR: Madam Chair, Commissioner Garcia, I'd be happy to. We just created a new job description. I'd be happy also – I believe in the month of April to have our first County-funded navigator come and speak about the navigation services and the outcomes that he's had at the Senior Services Division and show you some of the things that you're purchasing and some of the things I think the other navigators will be able to do.

COMMISSIONER GARCIA: That will be great. Because back in the days when none of us were sitting up here, whenever the great late Speaker Ben Lujan was

actually in office I can remember a lot of the senior centers were packed. A lot of senior centers were packed and now, I don't know. It seems like there's three, five, seniors that actually are coming to our centers so I'd be interested in how your department could actually get our seniors back into our centers. Kind of a nutshell. Thank you.

CHAIR HAMILTON: Thanks. Any more questions? Very much appreciate it.

MS. O'CONNOR: Thank you.

VI. MATTERS FROM COUNTY COMMISSIONERS

A. Resolutions

1. **Resolution No. 2019-41, a Resolution Supporting the County's Transition to Clean, Renewable Electricity by Participating in the Public Service Company of New Mexico Solar Direct Program**

CLAUDIA BORCHERT (Sustainability): Good evening, Madam Chair, members of the Commission. This is a resolution that Commissioner Hamilton and I have been working on and what this resolution proposes is that the County work with PNM to consider subscribing for renewable electricity through a Solar Direct program that PNM is working on. It directs the County Manager to monitor and if necessary comment on the program development as it moves through the Public Regulation Commission process. It directs the County Manager to negotiate a subscription agreement with PNM for that program and it directs the County Manager to consider other options for offsite renewable energy production as they arise.

So that's the heart of this resolution and I think it's important for me to explain a little bit more about what is it that the PNM Solar Direct program is so that you can understand why we might be interested in that.

So the way the program works as proposed is PNM is seeking subscribers to a renewable energy supply from government customers and other non-government customers who have an aggregated demand of 2.5 megawatts or more. Just as a reference, our annual use is equivalent to about 1.7 megawatts a year. And so they will need to get subscribers first and then go to the PRC and get approval for this voluntary renewable program. Apparently the statutes already exist for them to be able to do this. Then they will build a 50-megawatt facility. They have already gone out to competitive RFP for that 50-megawatt facility and we heard from them that they got some very cost-competitive responses.

Then PNM would send a bill to all the subscribers for their percent of the subscription that they have entered into a contract for, and the way that the funding would work as it's proposed right now is say, for example, we would be paying what they call a premium for the renewable energy at about three cents per kilowatt hour, and that places a component on our electric bill where we pay 2.2 cents per kilowatt hour for our fuel charge. That's just one piece of our electric bill. So that's a .8-cent difference and over time, as the fuel charges increase, then we should come at parity where we're actually not paying any more for our electric bill in about five to ten years than we do initially when we pay a little bit more.

SFC CLERK RECORDED 04/10/2019

So that's how it's proposed to work and I think Commissioner Hamilton might want to say a little bit more about it.

CHAIR HAMILTON: Yes. Thank you. I'm sure you guys have had some chance to read this, but the reason I was really interested in moving forward with this was first of all because Claudia and her team researched some of the questions. Was it good for the County? How did it fit in with our programs? The County has been putting out a lot of effort to achieve renewable energy goals. We're putting out a lot of effort to do solar on our buildings. We're talking about other things we can do to help the community.

People who have the wherewithal can go out and get solar on their houses. But there are a lot of people who aren't necessarily able to do that. It leaves lots of groups out. So what we really need is every tool that we have in the toolbox. And even with the County doing some of our independent solar projects, we're still buying electricity from PNM. So the bill on community solar was mentioned just a little while ago. That's another wonderful tool that I personally, and I think others here clearly, strongly support, even if we're successful this year getting that all the way through the legislature, that will take some time to implement.

So once again, my view on this was having as many tools to get us to our renewable energy goals as quickly as possible. And this, PNM is to the extent they are kind of entering whatever century we're in, the idea of working with and encouraging moving towards what is a more sustainable way to produce energy makes sense to me. It's something we can achieve earlier and get to our renewable energy goals sooner and not preclude any other options, including individuals doing solar and community solar.

So that's just my point of view on this, looking to move forward with as many tools and to do this in a way that doesn't preclude being able to do that.

So do people have comments or questions? Commissioner Roybal.

COMMISSIONER ROYBAL: I just want to make the comment that I'm really grateful that the County is moving forward and participating in this program. I'd like to thank PNM for bring the Solar Direct program forward and I'm really excited to see how it works out for the County. And I do want to recognize that we have Jamie Aranda here from PNM. I'm glad they're here as well and being involved. And I'm excited to see where it goes. Thank you.

CHAIR HAMILTON: Commissioner Hansen.

COMMISSIONER HANSEN: Yes. I think this is a good project. I want us to get there, but also, I feel very strongly that PNM needs to realize that community solar is a really important part of the portfolio for all of us. And it disturbs me what's happening over at the legislature and they're trying to undermine the community solar bill. So I think they need to hear from us. We want to do this. This is a good project. But at the same time we want to do community solar and we do not want that undermined. And I feel very strongly about that. I don't think I'm the only one up here who feels strongly about that. So if I have to, I'm willing to bring forward a resolution that states that community solar is really important to us, that we need to be able to offer that.

I'm opposed to monopolies. I don't want PNM to be the only community solar provider in the game. I want other entities to be out there being able to do that. So of course I'm going to support this because I think this is a good way forward, but also at

the same time, PNM needs to understand that we also want community solar and I'm not happy that they're trying to undermine the community solar bill at the Roundhouse.

CHAIR HAMILTON: Thank you very much for that, and in all fairness I have to say that Jamie and I actually had an initial brief conversation about exactly that point which was very well received and we're planning others that we can coordinate on and do together. So very much appreciate that, but I just wanted to say I appreciated the openness that this particular PNM representative presented and it leaves room for that conversation which is very much appreciated. Other comments? Commissioner Garcia.

COMMISSIONER GARCIA: Thank you for your presentation. In regards to the resolution, I certainly understand Commissioner Hansen's concerns in regards to if that's what's happening out there. This actually is a transition to clean, renewable energy. I would assume that solar would be included in renewable energy, would it not?

CHAIR HAMILTON: For clarification, are you talking about the transition bill? It is, but that bill is focusing on different things than community solar in particular. I think that's an enabling legislation.

COMMISSIONER GARCIA: One of the other things is where would this 50-megawatt facility be built?

MS. BORCHERT: Madam Chair, Commissioner, we have not been given detailed information on the responses to the RFP that PNM issued and I don't know that they've chosen their provider yet. So I imagine that the place where this will be will be dependent on what solar provider they pick. In other words, it hasn't been decided yet. It will tie directly into their transmission line, so that will be a limiting factor. It has to be somewhere close to their transmission lines.

COMMISSIONER GARCIA: Also, that's what's interesting. I believe five, seven years ago the State actually introduced a bill or so in regards to that they had to have so much solar provided to the grid. And so I think PNM has been working on the solar facilities throughout New Mexico to put more solar on the grid. One of the interesting things in the State legislature, a bill that's moving forward as we speak. I believe it's moving forward, is in regards to renewable energy it seems like PNM is actually going to by 2045, they're going to close down the San Juan coal – I don't know what it's called, out there in the northwest corner of the state.

CHAIR HAMILTON: Farmington?

COMMISSIONER GARCIA: So that's 26 years from now. So I'll be 84 years old. It's just interesting to see. It seems like that's where the State of New Mexico and PNM is actually going into this renewable energy. It seems like that's what the state would like, once.

CHAIR HAMILTON: I thought that was closing down sooner than that. I thought there was just a bill having to do – do you want to speak? Do you have an answer for that?

MS. BORCHERT: May I also speak to that?

CHAIR HAMILTON: Yes.

MR. BORCHERT: So there's the Energy Transition Act that has now cleared both the Senate and the House; it's moving to the Governor's desk. And it has the provision that the San Juan Generating Station get closed by 2022, one stack, and then PNM will I think also have the option to close down the second. And then we move

towards 50 percent renewables by 2030, I believe. Eighty percent renewables by 2040, and 100 percent renewables by 2045. And so the exciting thing about pairing the Solar Direct program that you guys are considering now with the renewable portfolio standards that the utilities will be required is that if PNM is required to go 50 percent renewable by 2025 or 2030, I forget which one it is, then by going renewable ourselves, that means that we actually become an over-producer and we'll also be able to turn our attentions – this is for our own operations, and I think what's really important here is when we can check the box and say we are renewable in our own electricity operations we can turn to our other greenhouse gas emission sectors like transportation which is a much harder nut to crack, and to our community and figure out how to get low to medium income qualified folks into community solar programs. And that's going to be – so we're going to be putting our energy towards getting our community to the place that we can say that we've already achieved by participating with PNM on this. And I'll be happy to let Jamie speak to it more.

CHAIR HAMILTON: Thank you for adding that. That was really important. Thank you, and if you don't mind just stating your name because we probably butchered it.

JAMIE ARANDA: I'm Jamie Aranda. I'm with PNM. Madam Chair, Commissioners, the closure of the San Juan plant, if the governor does sign this bill, will be in 2023 is what we're looking at and there will be some decommissioning of the plant after that. So I hope that answers your question.

CHAIR HAMILTON: Thank you. Commissioner Hansen.

COMMISSIONER HANSEN: I would like to move to approve a resolution supporting the County's transition to clean renewable electricity by participating in the Public Service Company of New Mexico Solar Direct program.

COMMISSIONER ROYBAL: I'll second.

CHAIR HAMILTON: Thank you very much. I have a motion and a second.

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

COMMISSIONER GARCIA: Madam Chair, just real quick. I'd like to recognize the ex-Attorney General in the audience, Mr. Gary King. Welcome. Thank you for being here.

CHAIR HAMILTON: Thank you very much, and welcome.

VI. A. 2. Resolution No. 2019-42, a Resolution Urging the New Mexico State Legislature to Enact the Healthy Soil Act, House Bill 204, During the 2019 Legislative Session and Directing Staff to Explore Ways to Incentivize Soil Health Improvements

COMMISSIONER HANSEN: Thank you. I brought this forward because I believe that healthy soils has to do with climate change and the issues that we are facing. This bill, House Bill 204 was introduced by Senator Liz Stefanics and Representative Nathan Small, and Representative Melanie Stansbury. The bill has now

SFC CLERK RECORDED 04/10/2019

passed, I believe, the House and the Senate, but Jeff Goebel is here with the Healthy Soils people and if you would just like to say a few words and give us an update of what is exactly happening I would be grateful.

CHAIR HAMILTON: Welcome.

JEFF GOEBEL: Thank you, Madam Chair and Commissioners. I am Jeff Goebel. I have a little farm down in Belen. I'm on the Valencia Soil & Water Conservation District and I also serve on the State Board of New Mexico Association of Conservation Districts. I've been working on the Healthy Soils legislation for about six months. It's focused on how we create healthier soils in our state, statewide. Some of the foundational things we were looking at with this is five soil health principles that are really critical to improving the health and condition of the soil.

With that, we also realized that the only people who really touch the earth are the farmers, the ranchers, the foresters and gardeners. They're the ones who on a daily basis have influence on the land, whether the land gets better or gets worse. So what we've done with this legislation is really focused on how to help farmers, ranchers, how to help land managers do a better job of enhancing the soils of New Mexico.

There's huge benefits and opportunities from it. One of the things that I'm looking at is our water situation in the state. The rain that we get is what we get and if the soil is in better condition it's phenomenal how much water we can store in the soil, but as the soil deteriorates as we go to lower quality most of it goes up in evaporation. A lot of it is runoff, so we really don't have that recharging opportunity. So as we can restore the earth, restore the soils, it's just phenomenal what we can do. So if there's any questions or anything like that that I can answer – the current situation: it's passed both the House and the Senate and it's now at the governor's office and so we're awaiting signature there. And we've gotten – it sounds pretty favorable in the governor's office.

CHAIR HAMILTON: That's good to hear. Go ahead.

COMMISSIONER HANSEN: Thank you, Jeff. Madam Chair, I respectfully request that we support this and I know that it has an extremely favorable outlook in the House and in the Senate and also from the Governor. I heard her speak about this at an event and she was really enthusiastic about healthy soils and recognized how much it has to do with climate change. And further, the act also identifies ways to increase the generation use of compost used to build healthy soils. It directly supports the work that is being done in Santa Fe County through multiple public and private initiatives to improve soil health by composting food waste. The programs are consistent with Santa Fe County's priorities to emphasize the importance of soil health and support active projects to improve soil health condition and mitigate erosion on Santa Fe County open space properties.

So I think that's really important. Also I did talk to the County Manager about possibly changing the wording but I think that we are urging the New Mexico State Legislature to enact the Healthy Soils Act but we are now – I think that it is adequate that we are supporting this and on the record as supporting this and we will share this resolution and a letter with the governor as soon as possible so that she knows that we're on board with you and on board with everybody. Because healthy soils provide better community throughout New Mexico.

MR. GOEBEL: Thank you.

CHAIR HAMILTON: Just for the record, this is one of those things that people will look at and go why should anybody care so much about healthy soils? And it is actually an incredibly important thing. It is very much linked to our ability to mitigate climate change effects and manage our water resources and that sort of thing. The connection to agriculture should be clear to people but this is incredibly important and I think last time I commended Commissioner Hansen for the insight to bring this forward and get involved in this and it really is important. However, as chair, as much as I'd like to do it I don't think I can make a motion, so what's the pleasure of the Board?

COMMISSIONER MORENO: I move approval.

COMMISSIONER HANSEN: I'll second.

CHAIR HAMILTON: Great. I have a motion and a second.

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

COMMISSIONER HANSEN: Thank you, Jeff, so much for being here.

VI. A. 3. Resolution No. 2019-43, a Resolution Requesting the US Department of Energy Rescind or Substantially Revise Order 140.1 to Remove Restrictions on the Defense Nuclear Facility Safety Board's Access to Information

COMMISSIONER HANSEN: Thank you so much. It was actually quite enlightening to be in Washington and to be able to speak about this order and recognize that it is really under the radar. I was able to bring it forward at the Energy, Environment and Land Use Committee that I sit on for NACo and I got a number of responses and people were really grateful that I brought this information forward to them. I also had a very positive and rewarding conversation with Senator Heinrich's office who is extraordinarily concerned about this issue and we are working on steps to move forward. I also had a meeting with Senator Udall's office who is also working on this and both of the Senators were extraordinarily grateful that I'd kind of taken on this effort to educate people. It is really under the radar and now with the current regime in Washington where they want to increase nuclear facilities to not have oversight is really detrimental, and actually this order, if you didn't know, would take away all oversight of WIPP, which is really shocking, considering that three years ago we had a major explosion there and it is thanks to the Defense Nuclear Facilities Safety Board that they had to be brought into compliance.

So I think I have spoken last time about how important this is. You have the resolution and if there's any questions or issues that you have, I would respectfully request that we as a Board write a letter and pass this resolution for this.

COMMISSIONER ROYBAL: Okay, do we have any questions from Commissioners? Commissioner Garcia.

COMMISSIONER GARCIA: I just have a couple comments. Thank you for going to Washington and actually talking with the congressional delegation. I didn't realize exactly what we were on at the last meeting. If not I would have definitely supported it, but I think you did a good job there in DC, so thank you for that.

SFC CLERK RECORDED 04/10/2019

COMMISSIONER HANSEN: I also spoken with Assistant Speaker Ben Ray Lujan and he was also incredibly supportive of this and grateful, because they all know how important the Defense Nuclear Facility Safety Board is to the nation's nuclear facilities and health.

CHAIR HAMILTON: Are there questions? I want to echo Commissioner Garcia's comments. Thank you for doing this. What's the pleasure of the Board?

COMMISSIONER HANSEN: I'll move to approve a resolution requesting the US Department of Energy rescind or substantially revise Order 140.1 to remove restrictions on the Defense Nuclear Facilities Safety Board access to information.

COMMISSIONER GARCIA: Second.

CHAIR HAMILTON: Thank you. I have a motion and a second.

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

COMMISSIONER HANSEN: Madam Chair, thank you very much for your support on this, everyone. I really am grateful. As someone said to me, Oh, you take on the really easy issues. As a joke, of course. Fighting the Department of Energy on this order is not an easy undertaking but I feel very passionately and strongly about our protection of public health and safety.

CHAIR HAMILTON: Thank you very much.

VI. B. Recognitions and Acknowledgements
C. Commissioner Issues and Comments, Including but not Limited to Constituent Concerns, Recognitions, and Requests for Updates or Future Presentations

CHAIR HAMILTON: Commissioner Hansen.

COMMISSIONER HANSEN: I'm just going to give the briefest of reports but I would love to speak with all of you about what happened at NACo. But one of the really exciting things that I want you to all learn about and download is that NACo has launched a mobile app that is called TestIT and what it does is it tests your broadband wherever you are in the country and it's a way to start reporting on what's happening on the levels of broadband. It's a sampling tool and a measuring. And I did it a little earlier because I of course downloaded the TestIT and I'd love everybody to download it, because we can start figuring out what our broadband is applicable.

So I did it in the chambers here and I'm sitting right next to the IT and the download speed is 3.41 megaBPS and the upload speed is 8.44 mBPS. This is below the national average and below the FCC minimum. So this is one of the things that NACo is doing for us. I will pass this around so you can see how to download it and you can test anywhere. Commissioner Garcia can test out in La Cienega and I can test out in Agua Fria and we can start to really see what kind of broadband service we're getting, and it reports back. This is a way to start improving broadband.

CHAIR HAMILTON: In that regard, does this actually upload information to NACo's database on it?

COMMISSIONER HANSEN: Yes.

SFC CLERK RECORDED 04/10/2019

CHAIR HAMILTON: Really. That makes it useful.

COMMISSIONER HANSEN: It's very useful. This was introduced at the rural caucus for NACo and so I just wanted to share that also.

There was a number of really good meetings and a lot of information. I have a whole definition of Waters of the US that we can use for our letter writing campaign that we are working on. I'm wondering, Mr. Frederick, are you working on that letter for Waters of the US.

BRUCE FREDERICK (County Attorney): Madam Chair, Commissioner, I am not personally working on it. I don't know if Rick is working on it or not.

COMMISSIONER HANSEN: Okay. I trust somebody in your office is going to be working on it because the deadline is April 15th.

MR. FREDERICK: Madam Chair, I'll check with Rick on that and see if he's working on something.

COMMISSIONER HANSEN: Then I have another – there's just a few packets to boost broadband deployment and accessibility. These are the priorities of NACo. Promote county infrastructure priorities in the comprehensive infrastructure package, promote mental health treatment from substance and disorders and criminal justice reform, support payment in lieu of taxes and secure rural schools. I went to a press conference on the capitol triangle supporting PILT and I of course spoke to all of our legislators about supporting PILT. NACo is also supporting implementation of the farm bill, establishing a more effective definition of Waters of the US and promoting economic mobility and opportunities across all counties.

There are many more other things that were talked about and I would be happy to share that all with you in different meetings that we all talk about. One of the more interesting things though that happened to me on the way home is I happened to sit next to a gentleman who works in the solid waste industry in Connecticut. And in Connecticut they ship all of their trash to the Midwest. Just so you know that. That was really disturbing to me to hear. And then the other thing that he mentioned to me, and I just got an email from him is that India has now closed their recycling facilities also or made them in parity with what is happening in China. So it is really an opportunity that we need to, in this country, start looking at recycling as an economic development tool, and that Commissioner Garcia and I had the pleasure of meeting with somebody who is talking about taking plastics and creating gasoline, and I think that those of us who sit on SWMA really need to start thinking outside the box of how we are going to deal with the recyclables and what we are going to do about this serious issue.

We started recycling because we are trying to reduce the stuff that goes into our landfill, and the more things that we keep out of the landfill the longer our landfills are going to last, and that is a really important issue. And to think that back east they have no landfills and they ship all that stuff to the middle of the country, farmland, is concerning. We really need to start thinking outside the box. So that's all I have to share at the moment.

CHAIR HAMILTON: That's great. Thank you very much. Go ahead, Commissioner Garcia.

SFC CLERK RECORDED 04/10/2019

COMMISSIONER GARCIA: Thank you, Madam Chair. Commissioner Hansen, you have some good ties over there in DC I think I'm going to need to go out there with you one of these days, but very good job.

In regards to the app, the Santa Fe County Trails app is actually live now, which is something similar to what – in regards to the NACo broadband app. So if you look on our webpage for everybody out there listening, so you can actually look at all of our trails through an app on your phone, which is a good thing.

Another thing is – I don't know if anybody passed by 100 Catron Avenue today, or Catron Street. That's actually where our administration project is going up and we actually have the columns going up in that building as of today. So I think very good job out there, Tony, you and your team, because once the columns start going up then it starts moving a little bit faster, so good job. I passed by there today.

And also, one thing I know I'm not at my school board meeting but I'd just like to give a shout-out to Santa Fe High. They actually play tomorrow night against Manzano, I believe, so if the community can go support the local team, that'd be great. And the state tournaments do start on Wednesday in Albuquerque. Thank you.

CHAIR HAMILTON: Thank you. Commissioner Hansen.

COMMISSIONER HANSEN: Mentioning that, one of the coincidences of being in Washington, DC I ran into the architect of our new building at Senator Udall's office and then Tony, the minute he sees me back here, he says, Oh, I saw a selfie of you and Jennifer, the architect for our new building. It's always a coincidence and positive energy to see people in Washington, DC. So that was at Senator Udall's office that I ran into them.

CHAIR HAMILTON: Thank you. Other matters from other Commissioners? Thank you.

VII. MATTERS FROM OTHER ELECTED OFFICIALS

A. Elected Officials Issues and Comments, Including but not Limited to Updates, Concerns, Recognitions

CHAIR HAMILTON: Madam Clerk.

CLERK SALAZAR: Yes, Chair Hamilton, Commissioners, the public, I'd like to mention that we did open up an election, the Santa Fe School Board election February 5th and the election day was March 5th. Historically, we had an all-mail ballot where over 80,000 ballots were mailed to qualified voters in Santa Fe County within the Santa Fe School Board District. I'd like to give some numbers that state the unofficial results. We had 29,103 participate in this all-mail ballot special election. If we look at statistics, in 2018, we had 7,734 out of 80,820 eligible voters. And if we go down the line from 2017, 2016, 2015, all the way to 2011, in 2011 Santa Fe Public School election, back then we had 45,176 eligible qualified voters and only 3,477 participated, which was three percent of the eligible voters.

So for this election our unofficial results show us that we had over 58 percent who voted for – 17,098, and 41.25 percent – 12,005, with a total of 29,103 participating. So I want to thank the eligible voters who voted, who received their ballot by mail and who

also contacted our office stating that they did not receive their ballot and they came into our office, received a provisional ballot and voted in this election. So thank you so much.

CHAIR HAMILTON: Thank you very much. I see no other elected officials so I'll close the Matters from other Elected Officials.

VIII. MATTERS FROM THE COUNTY ATTORNEY

- A. Executive Session: Limited Personnel Matters, as Allowed by Section 10-15-1(H)(2) NMSA 1978; Board Deliberations in Public Hearing(s) on the Agenda, as Allowed by Section 10-15-1(H)(3) NMSA 1978; Discussion of Contents of Competitive Sealed Proposals Pursuant to the Procurement Code During Contract Negotiations as Allowed by Section 10-15-1(H)(6); Threatened or Pending Litigation in which Santa Fe County is or May Become a Participant, as Allowed by Section 10-15-1(H)(7) NMSA 1978; and, Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights, as Allowed by Section 10-15-1 (H)(8) NMSA 1978, including:**
- 1. Regional Water System Related to Aamodt Settlement**
 - 2. Litigation Updates: Case No. D-101-CV-2017-01619**
 - 3. Pending Litigation Concerning Horcado Ranch Road**
 - 4. Request to Join Amicus Brief in Support of an Appeal of a Federal District Court Decision Invalidating the Affordable Care Act**

CHAIR HAMILTON: I know there are people here for the next agenda item, Public Hearings. We have to go to executive session first. We will make it as efficient as possible. I am truly sorry if that inconveniences anybody. I very much appreciate that you're all here. But if we could go to the County Attorney, Mr. Frederick could you tell us what we would be dealing with?

MR. FREDERICK: Madam Chair, we're requesting to go into executive session to discuss the matters listed under agenda item VIII. pursuant to the authority listed in the same agenda item.

CHAIR HAMILTON: Thank you very much, and just before we take a vote to go into executive session, do you have a rough estimate of time?

MR. FREDERICK: I am hoping optimistically between a half hour and 45 minutes.

CHAIR HAMILTON: That's great. I just wanted – that would have been my guess. Thank you very much.

COMMISSIONER ROYBAL: Madam Chair.

CHAIR HAMILTON: Yes.

COMMISSIONER ROYBAL: I'd like to move that we go into executive session for the items that were outlined by County Attorney Frederick.

COMMISSIONER GARCIA: Second.

CHAIR HAMILTON: Thank you. So I have a motion and a second. Can I have a roll call please?

The motion to go into executive session pursuant to NMSA Section 10-15-1-H

SFC CLERK RECORDED 04/10/2019

(2, 3, 6, 7, and 8) to discuss the matters delineated above passed by unanimous roll call vote as follows:

Commissioner Garcia	Aye
Commissioner Hamilton	Aye
Commissioner Hansen	Aye
Commissioner Moreno	Aye
Commissioner Roybal	Aye

[The Commission met in closed session from 5:45 to 7:00.]

CHAIR HAMILTON: Can I have a motion to come out of executive session?

COMMISSIONER GARCIA: Madam Chair, I'd like to make a motion to take us out of Matters from the County Attorney, executive session, which items we discussed was item #1, the regional water system related to the Aamodt settlement, #2, litigation updates, #3, pending litigation concerning Horcado Ranch Road, and item #4 which is request to joint amicus brief in support of an appeal of federal district court decision, and which no action was taken on any of those items.

CHAIR HAMILTON: Thank you. Do I have a second?

COMMISSIONER MORENO: I'll second.

CHAIR HAMILTON: Thank you. I have a motion and a second.

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

IX. PUBLIC HEARINGS

A. Land Use Cases

- 1. BCC CASE #LIQ 19-5030 Santa Fe Craft Cider, LLC Winegrower Liquor License/Wholesaler Liquor License. Santa Fe Craft Cider, LLC, Applicant, Requests Approval of a Winegrower's Liquor License (with Manufacturing, on Premises Consumption and Package Sales) and a Wholesaler Liquor License. The Property is Located at 21 Bisbee Court, Suite C and is Zoned as Employment Center (EC) within the PD-1 Community College District (CCD-EC), within Section 35, Township 15 North, Range 8 East**

JOSE LARRAÑAGA (Case Manager): Thank you, Madam Chair. The zoning for this property is regulated by Ordinance No. 2016-9, the Sustainable Land Development Code, Chapter 8, Section 8.10.3, Planned District Santa Fe Community College District. The site is zoned as Employment Center within the PD-1 Community College District. Table 8.44: CCD Use Table, illustrates the uses allowed within the above-mentioned zoning district subject to all other applicable standards of the SLDC.

The CCD Use Table allows for warehouse or storage facility, wholesale trade,

durable and non-durable goods, refrigerated warehouse or cold storage, beer, wine, and tap or tasting room as a permitted use. Manufacturing is illustrated in the CCD Use Table, as a conditional use.

The initial approval of this development was granted under Community College District Ordinance No. 2000-12, adopted by the Santa Fe County Board of County Commissioners on September 11, 2007. The CCD Ordinance listed manufacturing as an eligible use. Ordinance No. 2000-12, Section 5.A.1 stated, "Eligible uses may be proposed anywhere within a zone in which they are allowed pursuant to the Land Use Table.

This site has historically been utilized by some type of small-scale manufacturing business.

Existing uses, on this site, not allowed in Table 8.44 are covered in Chapter 1, Section 1.11.3 of the SLDC which states, "Development permits and final approvals granted by the Board, County Development Review Committee or the Administrator prior to enactment of the SLDC for which rights have vested shall remain valid, and development and use of the property shall be allowed so long as the development and use is in accordance with the development permit and final approval."

The State Alcohol and Gaming Division granted preliminary approval of this request in accordance with Section 60-6B-4, NMSA of the Liquor Control Act. The Liquor Control Act requires the Board of County Commissioners to conduct a public hearing on the request to grant a Winegrowers Liquor License and a Wholesaler Liquor License at this location. In accordance with the Liquor Control Act the BCC may disapprove the issuance of the license if the location is within 300 feet of any church or school; the issuance would be in violation of zoning or an ordinance; or the issuance would be detrimental to public health, safety or morals of the residents of the local option district.

Growth Management staff has reviewed this request for compliance with pertinent code requirements and finds the following facts to support the submittal: CCD Use Table 8.44 allows the requested use; Chapter 1, Section 1.11.3 validates the existing uses which were previously approved by the County prior to enactment of the SLDC; the applicant has met the State of New Mexico requirements for noticing. Staff recommendation is for approval of a Winegrowers License with on premises consumption, patio service, and package sales, and a Wholesaler Liquor License to be located at 21 Bisbee Court, Suite C.

Madam Chair, I stand for any questions.

CHAIR HAMILTON: Thank you very much. So is the applicant here and does the applicant wish to make a statement? [From the audience the applicant declined to make a statement.] Thank you.

COMMISSIONER GARCIA: Madam Chair.

CHAIR HAMILTON: Yes.

COMMISSIONER GARCIA: I'd like to move for approval.

CHAIR HAMILTON: I can't do that yet. So I will go ahead and open public hearing on this. Is there anybody here from the public who wishes to speak to this application? Again, is there anybody here who is wanting to speak to this application? Seeing none, I'm going to close the public hearing and now I'll entertain any motions.

COMMISSIONER GARCIA: Motion to approve.

COMMISSIONER HANSEN: Second.

CHAIR HAMILTON: Thank you. So I have a motion and a second.

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

- IX. A. 2. Case #SCSD 18-5190 Village At Galisteo Basin Preserve (Aka “Trenza”) Conceptual Plan. Commonweal Conservancy, Applicant, Ted Harrison, Agent, Request Approval for an Amendment of a Conceptual Plan to Allow a 36-Foot Tall Communications Tower (and its Associated Switching Infrastructure) as an Allowed Use within the Galisteo Basin Preserve/Trenza Planned Development District (PD-2). The Proposed Cell Tower will be on Lot 22 Which Comprises 468.08 Acres. The Site Would Take Access From Astral Valley Road, Via US 84-285. Lot 22 is Located At 99 Astral Valley Road within T15N, R10E, Section 31, SDA-2 (Commission District 3) [Exhibit 6: Roger Taylor Letter]**

COMMISSIONER GARCIA: Madam Chair, just really quick, it is appropriate for Mr. – I’ve already read the packet. It is appropriate for Mr. Larrañaga to read the entire memo word by word. Can he just easily summarize it for us?

CHAIR HAMILTON: Yes. That’s certainly an option, but yes. In my mind, everyone has read it, having an explanation, but I know you want to include details we need to know, but if you can summarize that’s fine as well.

MR. LARRAÑAGA: Madam Chair, I do believe I’ll kind of summarized it as much as I can.

CHAIR HAMILTON: That’s great. Thank you.

MR. LARRAÑAGA: Vicki is handing out an email I got from Mr. Roger Taylor in support of this project.

On June 12, 2007, the Village at Galisteo Basin Preserve was approved by the Board of County Commissioners. On December 10, 2015, the BCC approved an amendment to the master plan to reduce the density from 965 residential units and 150,000 square feet of commercial, educational and civic land uses to allow 275 residential units and 71,000 square feet of commercial, educational and civic land uses.

The prior approvals did not address communication towers as an allowed use. On December 8, 2015, with the implementation of the Sustainable Land Development Code, the 2,502-acre planning envelope associated with the approved master plan was designated as a Planned Development District.

The applicant is requesting approval of an amendment to the conceptual plan to allow a 36-foot tall communications tower as an allowed use within the Galisteo Basin Preserve/Trenza Planned Development District. The applicant does not propose any other changes to the existing Conceptual Plan.

SLDC, Section 8.10.10.3, Expansion of existing PDs states, “An expansion of an existing PD is a request for any enlargement, greater density or intensity of non-

SFC CLERK RECORDED 04/10/2019

residential uses, relocation, decrease in a project's size or density, or modification of any condition of a previously approved and currently valid PD."

SLDC, Section 4.9.9.1, Purpose, states, "A conceptual plan is comprehensive in establishing the scope of a project, yet is less detailed than a site development plan. It provides a means to review projects and obtain conceptual approval for proposed development without the necessity of expending large sums of money for the submittals required for a preliminary and final plat approval. A conceptual plan submittal will consist of both plans and written reports."

The applicant has addressed the conceptual plan criteria and staff has responded as contained in the report. 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 conceptual plan to allow a communications tower as an allowed use within the Galisteo Basin Preserve/Trenza Planned Development District: the proposed use is a permitted use or a conditional use within a planned development district as per Appendix B: Use Matrix; and the application satisfies the submittal requirements set forth in the SLDC inclusive of criteria set forth in Section 4.9.9.

Staff has established findings that this application for an amendment of the conceptual plan to allow a communications tower as an allowed use within the Galisteo Basin Preserve/Trenza Planned Development District is in compliance with criteria set forth in the SLDC.

The recommendation of the Planning Commission and staff's recommendation is for approval of the request for an amendment of the conceptual plan to allow the proposed 36-foot tall communications tower as a permitted use or a conditional use within the Galisteo Basin Preserve/Trenza Planned Development District to be located on Lot 22 which comprises 468.08 acres with the following conditions:

1. The Conceptual Plan showing the site layout and conditions of approval shall be recorded at the expense of the applicant in the office of the County Clerk in accordance with Chapter 4, Section 4.9.9.9.
2. The proposed communications facility (and its associated switching infrastructure) shall comply with all criteria set forth in the SLDC prior to approvals of the development.
3. All conditions of approval of the prior or existing Conceptual Plan shall be complied with.

This report and the exhibits listed below are hereby submitted as part of the hearing record. Madam Chair, I stand for any questions.

CHAIR HAMILTON: Thank you. So before we go to any questions from the Board, I would open the public hearing. Is there anybody here in the public who wants to speak to this application? Yes, please come up and give you name and address for the record.

[Duly sworn, Ted Harrison testified as follows:]

TED HARRISON: Madam Chair, members of the Commission, my name is Ted Harrison. I will keep this very brief. I just want to thank you for the opportunity to present this amendment to our master plan. The proposal for the communications tower has been well received by members of the public. You have a letter now in front of you from Roger Taylor who by many accounts is kind of the mayor of the Galisteo Basin and

SFC CLERK RECORDED 04/10/2019

his support is I think indicative of the kind of response we've had and speaks to Commissioner Hansen's comments earlier about the need to improve the broadband and communication ability, capabilities of our rural infrastructure. So hopefully this tower, kept to what we feel is a minimum height to protect against any kind of visual impacts along the escarpment ridge will be improving the safety of the 285 Corridor and County Road 41, as well as improving safety for hikers, equestrians, and mountain bikers who use the trail network of the Galisteo Basin, as well as improve communications capabilities of the neighborhoods that have been developed in the Galisteo Basin Preserve.

Staff has been very helpful and supportive of the application process and I've appreciated that and wanted to just be available to you if you have any questions.

CHAIR HAMILTON: Thank you so much. Is there anybody else? And you'll be available for questions. Is there anybody else from the public who wishes to speak to this application? So I just want to ask, did you get a copy of this? The letter in support of this is entered into the record. So I'll go ahead and close public comment. Are there questions or actions from the Board.

COMMISSIONER GARCIA: I have some questions.

CHAIR HAMILTON: Go ahead.

COMMISSIONER GARCIA: Mr. Harrison, good to see you. Really quick, the mono-pole will actually be – it will look, resemble a tree, correct? Or is just going to be a tower pole?

MR. HARRISON: It's supposed to be a mono-pine, so it would, yes, resembles a tree.

COMMISSIONER GARCIA: Okay. Thank you. And who's the carrier?

MR. HARRISON: Verizon.

COMMISSIONER GARCIA: Verizon. Thank you.

MR. HARRISON: Although the developer of the communications tower could come forward with a supplemental carrier if that was judged appropriate or if there was a demand for that.

COMMISSIONER GARCIA: Thank you. And also just to add, it is correct. Whenever you're going up the hill from Lamy to Eldorado and all the way down 41, 285, the service area isn't too good so this will actually help with that entire area.

MR. HARRISON: That's true.

COMMISSIONER GARCIA: Thank you.

CHAIR HAMILTON: Commissioner Hansen.

COMMISSIONER HANSEN: Those were some of my same questions, but is the only option you have this monopole? Is it going to look like a tree? Or is it – what is the aesthetic going to be like? I looked through the book and I saw one picture but that was it. Is there another picture that I missed?

MR. HARRISON: The developer and applicant, which is Hemphill Communications and Verizon did some photo-simulations of the mono-pine relative to different vantage points within the Galisteo Basin Preserve, so those are included in your packet.

COMMISSIONER HANSEN: What page? I think I saw this page.

MR. HARRISON: NBA-25. So those are the photo-simulations of what

the mono-pine. How it would present.

COMMISSIONER HANSEN: Is that your only choice?

MR. HARRISON: A pole, just how it would be in a typical situation or a mono-pine are the two options that are typically provided for. Either a standard pole, which actually some people have advocated for is why we go through the exercise of trying to pretty it up or make it something that it isn't. I think in the context of the preserve it will actually be less visible if it has a well constructed set of artificial branches. We don't have great examples of this but we will have control over the design as the owner of the property and the County staff will also be attentive to the actual aesthetics of the mono-pine.

COMMISSIONER HANSEN: I would prefer the mono-pine or something that had some disguise, so to speak. And then I know Commissioner Garcia asked, but so anybody is going to be able to use this. And what's the radius area?

MR. HARRISON: I believe the new tower, Commissioner, will extend for at least five miles, in that range.

COMMISSIONER HANSEN: And then at the moment only Verizon is on there but you're hoping that it will – other carriers will be able to jump on?

MR. HARRISON: Madam Chair, Commissioner Hansen, we actually kept the pole at a low height which limits the number of other carriers that could be on the pole. Originally, I think Verizon or the developer for Verizon had wanted a 50-foot pole, and we felt like that was going to be too distracting and too disruptive to the skyline and viewshed of the escarpment. So we kept them to the 36-foot height which they felt was the minimum in that location to provide at least service for one provider. So Verizon, being the dominant provider I think in Santa Fe County and the city area generally, seemed to be the best choice for us.

COMMISSIONER HANSEN: Okay. Thank you.

CHAIR HAMILTON: Thank you. Commissioner Moreno.

COMMISSIONER MORENO: Thank you. I know it probably hurt you to probably have to make this decision. The property is so unique in that part of the world. But there comes a time, and I'm sure anybody would say the same thing that it's a balance of how are we going to be able to have reliable communications that is desperately needed in that area and in Roger's letter he remarked that the only way that people living there have to drive to the Goose Down farms to get their emails.

And moving into the future, there will be some measure of development on the corridor for 14 or 41 and just for safety's sake, I think this is going to be a good addition to the infrastructure for communications in that area.

MR. HARRISON: Commissioner, I agree. If we'd had the option to have a technology that didn't have any visual impact on the escarpment that would be the preferred approach and it's unfortunate that even at 36 feet there will be some limited visibility of this mono-pine. I don't think even attentive drivers or many of the hikers within the larger Galisteo Basin Preserve, much less residents of Lamy or Galisteo will ever see this mono-pine as anything but just part of the larger forest structure of the escarpment.

So that's good, but I wish we had a different technology than a tower. So you're right. I'm sorry that this is our way but I think public safety does override the very

limited visual impact this will have.

CHAIR HAMILTON: Thank you. Commissioner Garcia.

COMMISSIONER GARCIA: In regards to staff, we didn't make a recommendation that it be a mono-pole to look like a tree? Or is that what's going to happen?

MR. LARRAÑAGA: Madam Chair, Commissioner Garcia, in the report I kept on referring to a stealth that would be a permitted use; a mono-pole would be a conditional use. The application is really for the mono-pine. So if they come in for just a pole, that would have to go through the committee process again to get approval through the Planning Commission. So again, it's just the use of – adding the use to have a cell tower site on this property is what we're looking at tonight.

COMMISSIONER GARCIA: Okay. Also, in regards to the letter from Roger Taylor, which I totally agree with, as well as Commissioner Moreno brought up, so this will actually – Commissioner Moreno is correct. For the Goose Down Farms is the only place where you start getting connection when you drive through the Village of Galisteo. So this will cover that entire Village of Galisteo? Because there in Galisteo you actually have that hog-ridge that actually – and if it's going to be located on the south portion of the hog ridge, would it actually go over to the north part of it? Do you know?

MR. HARRISON: Madam Chair, Commissioner Garcia, the cell single I believe has a five-mile reach and it will have a gradation of strength as it moves past that five-mile area. Because of the hogback, this is located on the north side of the escarpment, so we're projecting out towards Clines Corners and towards Galisteo, but the hogback will be a limitation. Apparently, the cell signal rolls over topography and the newer technology does that better than the older technology so there should be some improvement within the village proper. But this is just part of a larger infrastructure improvement plan that needs to be put in place, I think, for this area of the county, and it's just one element of that improvement.

COMMISSIONER GARCIA: Thank you. And just one last comment/question is in regards to – so is this a Verizon tower or a Sprint tower, T-Mobile? And the reason why I'm asking because if it's a Verizon, T-Mobile or Sprint, and then once, we're going to have a Sprint tower coming in here, and then we're going to have a T-Mobile coming in here. So I'm just trying to see who actually owns the tower and who's going to do the subleasing to the other carriers.

MR. HARRISON: Commissioner, the owner of the tower will be Hemphill Communications, which is based in Oklahoma and they are doing the lease with Verizon. So they are hoping that there's enough space on the tower that would allow for at least one other carrier. And I know it's the County policy to aggregate the antennas and transmission technology on as few number of towers as possible. So that's why we're doing this balancing act of 36 feet could allow for at least one other carrier.

COMMISSIONER GARCIA: Thank you. I have no further questions, Madam Chair. If there are no other questions I'd like to make a motion.

CHAIR HAMILTON: Hang on for one minute. Vicki.

VICKI LUCERO (Land Use): Madam Chair, if I could just clarify. The request is to add the use of cell towers to the list of allowed uses within the development. So they wouldn't actually be limited to one tower. It would be an allowed use within the

development as a whole.

CHAIR HAMILTON: Yes.

COMMISSIONER GARCIA: I'd like to make a motion for approval with the condition that it be a mono-pine.

CHAIR HAMILTON: Hang on. Is that an appropriate condition? This is approval for the land use, so multiple poles, every time this comes up there can be other –

MS. LUCERO: Madam Chair, that's correct. If the use is allowed then they would be allowed to come in for a mono-pine or a different kind of stealth facility. That would require a conditional use permit. So basically what it is is they're asking to allow the use within the development.

CHAIR HAMILTON: So for clarity, what I'm asking is it's not really relevant to put that type of condition on the motion. Is that true or not true?

COMMISSIONER GARCIA: So Madam Chair, where I'm going with this is I think the Board of County Commissioners as policymakers can put any condition on any development we'd like within reason, in accordance with the attorney. I would just like to see a pole come here that looks like a tree instead of this silver white pole or silver red pole or a silver orange pole, because if we're approving the use right now, which we're approving the use, who's to say they can come in here – and correct me if I'm wrong, Mr. Attorney – is that they can come in here with any color of pole because we allowed the use. So I would like to approve the use and allow the use to be approved subject to a condition or two.

CHAIR HAMILTON: Okay, so let the question be answered. I'm going to let them answer the question. I understand there might be more than one way to skin this. That's why I'm asking their opinion. Because this is requesting approval of the use.

COMMISSIONER HANSEN: Madam Chair, I just want to say that I also support what Commissioner Garcia is –

CHAIR HAMILTON: I respect that and it's possible that it could be approval of the use and a condition on this application of the use perhaps. I just want to find out what's appropriate.

MS. LUCERO: Madam Chair, Commissioners, the use table in the SLDC does have two separate categories so you could essentially limit the uses to a stealth tower only, which would include the mono-pine that they've presented.

CHAIR HAMILTON: Okay, I'm not sure that that actually totally answers the question. So the question is, so we could limit the approval of use, and what would we be eliminating?

MS. LUCERO: Any other type of a cell tower. A brand new tower that's anything other than a stealth, a mono-pine, that sort of thing.

CHAIR HAMILTON: That's appropriate? Okay. Fine. So your motion can stand. Thank you. And thanks for your indulgence to get that answer. And do I have a second?

COMMISSIONER ROYBAL: I'll second.

CHAIR HAMILTON: Thank you. So I have a motion and a second.

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

SFC CLERK RECORDED 04/10/2019

CHAIR HAMILTON: Thank you very much and good luck with this.

COMMISSIONER HANSEN: Vicki, are you clear with what we passed?

MS. LUCERO: Madam Chair, Commissioner, I believe so. So it's just the use of the stealth facilities. So no other towers would be allowed. Or no other types of tower.

- IX. A. 3. **BCC Case #SLAP 18-5051 PNM BB2 345kV Transmission Line Project, CUP Appeal. Bill King, Appellant, Karl Sommer, Agent, are Appealing the Planning Commission's Final Order Regarding a Conditional Use Permit (CUP) 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 25 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 7: PNM Power Point Presentation; Exhibit 8: National Electric Safety Code Information; Exhibit 9: Recommended Decision to the PRC]**

MR. LARRAÑAGA: Thank you, Madam Chair. Just for clarification, PNM's submittal and staff report make reference to the BB Line. The BB Line is an existing 345kV transmission line on an existing 150' easement, which was constructed in 1984. The CUP request is for the proposed BB2 345kV transmission line on a separate 150-foot easement. PNM 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.

Appeal: On January 16, 2019, Mr. Bill King submitted an appeal of the Planning Commission's findings of fact and conclusions of law regarding the approval of a conditional use permit to construct approximately 31 miles of new single-circuit 345kV transmission line in southern Santa Fe County as requested by PNM.

The appellant states the proposed 150-foot right-of-way is inadequate and

SFC CLERK RECORDED 04/10/2019

contrary to SLDC requirements. The appellant submitted the reasons for the repeal and staff and PNM have responded to the appellant's comments as contained in the report.

Summary of CUP review: 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-foot 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 two-tracks which is on the existing BB 150 foot easement.

PNM 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."

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

SFC CLERK RECORDED 04/10/2019

PNM addressed the conditional use criteria and staff has responded which is contained in the report. PNM submitted the required studies, reports and assessments which included an environmental impact assessment, which are contained in the report.

The applicable SLDC design standards were addressed by PNM which include the following: fire protection, historic and archaeological resources, terrain management and prevention flood control.

CUP recommendation: Building and Development Services staff reviewed the conditional use permit for compliance with pertinent SLDC requirements and found that the facts presented support the request for a CUP 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.

PNM 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.

The recommendation of the Hearing Officer, Planning Commission, and staff was for 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 25 separate parcels of land, with the following conditions. Madam Chair, I'd like to enter those conditions into the record.

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. Ground disturbance at archaeological sites LA 171600, LA 171612, LA190494 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 the Historic Preservation Division for review and approval prior to implementation.
8. The maximum height of the "H" Frame structures to be utilized for the BB2 345 kV transmission line shall not exceed 150 feet.

Appeal recommendation: Staff recommends that the Board of County Commissioners uphold the Planning Commission's final order regarding the conditional use permit in its entirety and deny the appeal. This report and the exhibits listed below are hereby submitted as part of the hearing record. Madam Chair, I stand for any questions.

CHAIR HAMILTON: Thank you very much. So the appellant is here and Mr. Sommer, would you like to make a presentation or a statement about the appeal?

KARL SOMMER: Yes.

CHAIR HAMILTON: Thank you.

MR. SOMMER: Madam Chair, my name is Karl Sommer. My mailing address is Post Office Box 2476, Santa Fe, New Mexico, 87504. I don't know if you swear lawyers in anymore or not. I have an obligation to tell you the truth anyway.

CHAIR HAMILTON: And we appreciate that.

MR. SOMMER: Madam Chair, I'm here tonight with Bill King who is at the back. You all may know Mr. King. He owns a good deal of property through which this line will go in southern Santa Fe County. This appeal from our perspective, in front of you, is directed right at the fundamental function that you serve, which is to look at a conditional use permit application and you have discretion to approve, deny, and as Commissioner Garcia said, condition, reasonably so as you see fit. That is your discretion and that is your duty. You all have been through several conditional use permit applications that were very contentious. You know your job and you know your discretion.

What we are calling upon you tonight is to exercise that discretion in favor of the protection of the health, safety and welfare of Santa Fean in general and Mr. King's property in particular. I'll go through the specifics of that. I'm not an engineer, as you know. There are many engineers and probably much brighter lawyers over there dealing with this stuff every day. I don't pretend to be an engineer. I don't mostly understand it. But I do understand common sense and our appeal is an appeal to your common sense.

And then there's one other critical factor. This case is just simply about this. PNM's application is to allow for them to put this transmission line through these properties and provide it in a 150-foot right-of-way. And these 150 foot poles will go in the center of that right-of-way. It's parallel to an existing line, in a 150-foot right-of-way, with poles in the center of that, transmission poles and the particular kinds of poles in the center of that. These poles, in their design, will be 150 feet apart. So you have 150-foot poles parallel to one another. If they fall, they don't hit each other. They are in the middle

of easements that on the outside of this easement is only 75 feet away. So if this pole or this transmission facility falls over, it's going into somebody's private property. Not just somebody's private property, but Mr. King's private property. And he has been telling PNM, Look, you haven't provided sufficient right-of-way to cover if this thing falls. And the response has been, Well, look, from an engineering standpoint we don't design for a topple event.

These things are way over built. We don't design for them to fall down. They're not going to fall down. That's the answer. From an engineering standpoint, we don't design for them to fall down because they're not going to fall down. But oddly enough, where they have two poles right next to one another, they're not closer than 150 feet. I'm sure they'll tell you, Well, there's a lot of engineering and reasons for that, but it is no coincidence that they're not within 150 feet of each other.

Private property owners are going to bear the risk of that fall zone. Staff says, Well, we don't regulate fall zones. That's what conditions in a conditional use permit are all about. The code doesn't adequately protect; you can adequately protect. So all we're simply saying is the 150-foot right-of-way that they propose is inadequate to protect the public safety.

Now, the implication will be as well, Mr. King just wants more money. And that's rich, coming from a company that makes billions of dollars that it's all about money. It's not about money; it's about safety. That pole, 150 feet, can a property owner use the property in between the edge of that right-of-way to that 75 feet out? Not without risk. And I submit to this Board that it is not unreasonable and in fact, public health and safety militate in favor of adding a condition that says, Your right-of-way on the outside is inadequate and you need an additional 75 feet so that you are protected, that the property owner is protected. That's how simple this appeal is. It's that simple.

Now, there's been lots in your staff memo and we've raised some questions from an engineering standpoint. Well, looking at their studies that they've presented to the PRC, we had questions about well, they don't look like they designed for their own purposes the calculations and we raised questions. Again I say, I'm not an engineer and they're response has been, well, you know, Mr. Sommer is misreading this stuff and he's taking it out of context and he doesn't really know what he's talking about – that might be the case. That might be right. We raised questions. They answered them and said, no, no, no, no, no. From an engineering standpoint, we're correct.

Importantly, what happened yesterday was the Hearing Officer, who's hearing this case at the PRC raised some of the very same questions and extended requirement for a right-of-way from 150 feet to 200 feet, not based on the position that we're taking here about the topple, but based on the calculations that the designed for and the events that they designed for on this system. The recommended decision by the Hearing Officer who has heard this case – I mean he knows more about this case than anybody has said the calculations that have been submitted are not adequate and she recommends a 200-foot right-of-way.

That is somebody who's in that business. She knows this engineering stuff. She's a very bright woman, Carolyn Glick. That's her opinion. I submit to you that if the Hearing Officer who has studied this stuff and knows the law and knows the engineering has said to the PRC, these calculations are inadequate for their design purposes, that this

Board should take that into account and not reduce the requirement that is being required at the PRC, it should be at least equal to it. The more cautious thing for this Board to do is to table this and see what the PRC does. If the PRC comes back and says, Look, we think it should be 200 feet, that should inform your decision about what the recommended right-of-way should be and what the requirement should be. You don't want to require something less than the PRC who's regulating the public health and safety as well. You don't want to require less than they do. It's not fair to the citizens of Santa Fe and it's not fair to Mr. King.

So our appeal is very simple. They've provided inadequate right-of-way for the topple. The second thing is is even though my questions about their engineering may be foolish, uninformed, Ms. Glick is not foolish and she's not uninformed. She recommends a greater right-of-way to 200 feet, and I submit to the Board that that should give you pause as to whether or not the conditions on this permit, this conditional use permit, are adequate for these purposes.

Mr. King is here and can answer questions specifically. He may want to address you, but that's how straightforward this appeal is and we would stand for any questions you might have.

CHAIR HAMILTON: Thank you. And for clarity, that Hearing Officer you're referring to is hearing specifically on this case.

MR. SOMMER: That's correct. This line.

CHAIR HAMILTON: Thank you. So I can go ahead and open public comment. There are people here and is there a – how many people are here who want to speak to this case?

MR. FREDERICK: Madam Chair, I imagine PNM –

CHAIR HAMILTON: Would like to do the presentation first, and that's not part of the public. So why don't we have PNM do their presentation and then I'll take other public comment beyond that.

[Duly sworn, Laurie Moye testified as follows:]

LAURIE MOYE: I'm Laurie Moye, 2401 Aztec NE, with PNM. Madam Chair, Commissioners, good evening. I'm Laurie Moye. I'm coordinator of Regulatory Project and Public Participation for the Project and Program Management Department at PNM. I'm here to talk about the BB2 345kV transmission line project in Santa Fe. The project is an electric transmission system improvement that proposes a new single-circuit 345 transmission line in southern Santa Fe County.

You're going to have to fuss with these a little bit because when we made copies it's a little goofy. So if you bend the corners it's easier to flip it. So I'm on page 2, Renewables. There's an increase in wind production in the US. It's growing nationally. The systems are more efficient and affordable and due to renewable requirements in many states, due to an increase in public interest and demand for renewable energy there've been a lot more wind and solar developments.

In 2003 the first wind farm in New Mexico interconnected to the PNM grid. That's 2003. In 2016, 13 years later, there's been nationally a 20-fold increase. So if you look at 2003, New Mexico was a leader in wind energy and connecting and you look now and you see – look at what the jump has been. So if we flip to slide 3, wind generation potential in New Mexico is enormous, especially on the eastern plains. New Mexico has

the potential to produce many times its own electric consumption, which puts it in a position to export wind energy.

What makes good wind? Consistent wind speeds for a significant portion of the year. That means very few still times and very few extreme wind times. The red oval is a very high wind development potential for the state. Wind developers do studies for specific sites under their consideration.

So on slide 4 then, this map is from the National Renewable Energy Lab, NREL, which is a national research laboratory of the US Department of Energy and Office of Energy Efficiency and Renewable Energy. NREL has identified the annual average wind resource potential in the United States using a system of wind power classes that range from one to seven, with seven being the highest. Classes six and seven are found in offshore locations. We don't have any offshore locations here, but if you look at Santa Fe County, you look at the eastern plains including Santa Fe County, we have Class 3, 4 and 5 as identified on the map.

So slide 5, Avangrid Renewables, LLC, has requested and entered into an agreement with PNM to transmit electricity from new wind development in Torrance County. PNM is required by the Federal Energy Regulatory Commission, FERC, to develop the requested capacity. The BB2 project meets the need for this service request. The added transmission capacity needs to be in place by fall 2020.

So slide 6, says the BB line with future wind development and the BB2 line. The PNM existing BB line from the BA station on the eastern side of the state to the – I'm sorry BA is in Sandoval County. Blackwater is on the eastern side of the state. It's been in place, this BB line has been in place since 1985. It's 216 miles long. This line had a total maximum of 1,000 megawatts of capacity. That's capacity available. The solid red line shows the alignment of the BB line and it shows you the existing wind farms that have connected to BB line. If you add up all of the wind farms you'll see that they represent 1,000 megawatts of total transmission service commitments. The BB line is fully subscribed and cannot accept any more wind energy.

The addition of the BB2 line between the BA and the Clines Corners station would serve future wind energy development in Torrance County.

So if we move to slide 7, the BB2 project supports the requested capacity. PNM will acquire all applicable permits at the local and state level. No federal permits are required. Single-circuit 345 transmission line and expansion of the existing station in Santa Fe County, as Mr. Larrañaga said, the current zoning for the area is agricultural-ranch, rural state land zoning districts. The current uses are ranching and dispersed residential. Those uses can continue. This requires an additional 150-foot wide easement adjacent to the existing BB line with a new 150-foot easement. Access will be the patrol two-tracks as much as possible

This added transmission capacity needs to be in place by the fourth quarter of 2020 to support the additional capacity requested. A new transmission project will effectively meet the need. The BB2 project, I already said, is a 345 transmission line, a new switching station and expansion of an existing station. The project will allow for an additional 362 megawatts of transmission service to be provided from Clines Corners switching station west and the existing patrol two-track system for the original BB line for access and as agreed to with the Santa Fe County Fire Marshal condition the access is

suitable for use by heavy vehicles.

And if we now switch to slide 8. So we have that board right here – we had a leadership team. We had three meetings on the leadership team. We conducted a day and a half utility search conference on March 7th, 8th, and 9th, 2018 with representatives selected by the leadership team. A community working group was formed, which is an offset of the utility search conference. These are people who attended the utility search conference who said that they would like to have the opportunity to continue meeting with PNM to discuss project updates and other relevant information. We've had five meetings with them so far and these meetings are continuing.

As required by Santa Fe County we did have a pre-application neighborhood public meeting which was held on April 4, 2018 in Moriarty. We contacted 180 property owners, shown on this map, on this board, and we had ten people show up and there were no concerns, issues, and their problems were identified at the meeting. Also PNM has held individual meetings with the property owners and their representatives and we hosted a property owner dinner on March 22, 2018. We are continuing to negotiate in good faith with the three remaining landowners for the last of the easements in Santa Fe County.

If we flip to slide 9, you can see Clines Corners down in the lower right-hand side. You can see the BB and the BB2 lines together and up to the far left-hand corner is the new Diamond Tail switching station. It's adjacent and Clines Corners switching station is located about six miles north of I-40 on the west side of US 285.

If we go to slide 10, the existing BB structure is called a guyed delta. It's the one on the right-hand side of your page. It's a guyed delta. The proposed structure type is the one on the left. It's gray galvanized steel H-frame. You can see that it looks like an H, so that's why they call it an H-frame. This particular design was selected by the landowners whose properties the line would cross. This particular structure is between 120 and 150 feet tall, depending on the terrain that the line is crossing.

The span lengths are approximately 1,000 to 1,500 feet. In our May 18, 2018 application submittal we anticipated there might be longer spans in a rugged terrain where structures may be spaced up to 1,900 to 2,000 feet, but after further reviews, there are no 1,900, 2,000 foot spans in Santa Fe County.

This is the board that was used at the open house. It talks about the span lengths and the distance between the ground and the maximum what is called sag. And there's always a 30-foot minimum clearance between a very hot line that sags and the ground.

Again, another board that was used at the open house is showing terrain, so to avoid the terrain the structures would be taller which allows for a longer span length. So when you go taller you can have a longer span length and you still maintain the sag and the distance between the ground. This was used at the – this is what the pole site looks like under construction, so if you see that there are two poles that are dug and this area will be disturbed and not every pole site will have this level of disturbance.

Now I'm done. The pole sites, as I said, are direct bury. Two poles for the H-frame structures. We are going to attempt to match a structure for structure placement. So the structures on the original BB line and the structures on the BB2 line. Now, if there is an archaeological site there, or there is an arroyo and we need to avoid it, we will move the pole location slightly to get out of the way of that so we don't disturb that property.

This board here is a visual simulation of what the line could look like, and the photo was taken from the road crossing at New Mexico 41 looking north. So if we turn to slide 11, this is a photo of the existing Clines Corners station. It's a view from northbound 285. I don't know if anybody's driven past it. I don't know if you've noticed it. I had a hard time finding it originally when I had to post the signs for the hearings, but once I found it then of course I saw it every time I drove by it and I guess that's my job to see these things. So I did see it.

So the net benefit on PNM ratepayers is beneficial or neutral. Santa Fe County will directly benefit, \$386,876 from PNM for property tax payments. Forty to fifty temporary construction jobs will be created and we will utilize local workers as much as possible. There are permanent renewable energy jobs in the area being create by the wind farm and this is assisting economic development for the State of New Mexico by helping to address the public's interest in renewable energy development. The State of New Mexico citizens, Santa Fe County citizens, and nationally, the public wants renewables like wind and New Mexico has it. This project is consistent with Chapter 7 of the Santa Fe County Sustainable Growth Management Plan, also known as SGMP, which support regional infrastructure for renewable energy – that's your goal 24 in your plan. Transmission projects such as BB2 in the southern part of Santa Fe County, were anticipated in the Sustainable Growth Management Plan in order to deliver available wind and solar resources.

As stated in the Sustainable Growth Management Plan, Section 7.2.1.1 on page 118, delivery of adequate and reliable electric service is deemed as being in the public interest, protecting public health, safety and welfare, and a reliable power delivery from facilities like BB2 is promoting economic vitality and economic development. In addition, as stated by Mr. Larrañaga, the project also complies with the County's Sustainable Land Development Code applicable standards.

PNM has agreed to the conditions placed on this project by the Hearing Officer and the Planning Commission. This concludes my presentation.

[Mr. Sommer made remarks away from the microphone.]

CHAIR HAMILTON: Yes, but I was just going to ask about procedure. Bruce, what order do we do things in?

MR. FREDERICK: You can change around the order if you'd like, but Mr. Sommer is right. He does have the right to cross-examine a witness.

MR. SOMMER: I'll be brief.

CHAIR HAMILTON: Absolutely. I just wanted to know what sequence I needed to go in. Absolutely. Come right up and do this. You both have to speak into the microphone.

MS. MOYE: You ask your question and then I'll [inaudible]

COMMISSIONER HANSEN: Madam Chair, you have to both speak into the microphone.

CHAIR HAMILTON: Okay, well, I was already telling them that. That's fine.

MR. SOMMER: So my first question is, you said that PNM has two property owners –

CHAIR HAMILTON: So Mr. Sommer, can you just use the mike.

MR. SOMMER: You said that PNM has two property owners left to negotiate with. Is that correct?

MR. FREDERICK: Madam Chair, let me just suggest that Karl maybe sit over here and use the mike here.

CHAIR HAMILTON: There's no problem. Thank you.

MR. SOMMER: Ms. Moye, you indicated that, or I thought I heard you testify that PNM has negotiated in good faith with and has two property owners left that they're dealing with. Is that right?

MS. MOYE: Madam Chair, Mr. Sommer, that's not correct.

MR. SOMMER: Okay. What was that reference to?

MS. MOYE: There are three remaining landowners, the last easements in ss.

MR. SOMMER: Okay. And so have those all been acquired at the 150-foot width?

MS. MOYE: Yes, they have been.

MR. SOMMER: Okay. So you are aware that Ms. Glick recommended a 200-foot easement. Is that right?

MS. MOYE: When I read the Hearing Examiner's request it said up to 200 feet. Up to, not 200 feet. 150 to 200 feet. So PNM has the ability to use 150 or if they need 200 feet they can go to 200 feet.

MR. SOMMER: And my simple question is is with those people that PNM has already negotiated with, will you have to go back and deal with them?

CHAIR HAMILTON: Okay, if you could come to the microphone and state your name for the record.

KIRK ALLEN: I'm counsel for PNM and I'm going to –

CHAIR HAMILTON: What's your name, sir?

MR. ALLEN: Kirk Allen.

CHAIR HAMILTON: Thank you.

MR. ALLEN: And I would ask the Commissioners that if Mr. Sommer is going to cross-examine Ms. Moye about documents that he specifically show her the document that he's referencing. He's paraphrasing a decision that just came out late yesterday and I think he's mischaracterizing it, frankly, because I have the document with me. So if he would like to ask her some questions about it I would ask the Commission to ask Mr. Sommer to actually specifically show her in the document what he's talking about.

MR. SOMMER: Madam Chair, my question doesn't go to what the document says. My question is just simply I'm wondering whether or not they have to go back and renegotiate with those people they've already negotiated with. It's just a yes or no answer. I just don't know.

CHAIR HAMILTON: Right. I understand that. I actually think that – because you've also asked us to consider this document, probably having the document and being able to examine it would be beneficial. Mr. Frederick, do you have an input on that please?

MR. FREDERICK: Yes, Madam Chair. The document is in front of us. The person who wrote the document isn't in front of us. It's what we would call hearsay

evidence. If Karl has a question about the document, which I understand just came out yesterday, it would be great to produce a copy of that document. I'm also wondering if the PRC has come out with an order. Of course PNM can't do anything inconsistent with PNM's [sic] order and you can condition your order on complying with all PRC requirements.

MR. SOMMER: Madam Chair, I don't have any further questions for this witness.

CHAIR HAMILTON: Thank you.

MS. MOYE: Madam Chair, if I may, I would like to have some additional people address Mr. Sommer's presentation.

CHAIR HAMILTON: That's fine because this is going to be a public hearing so we can have anybody who wants to speak to this speak to this. They just come up and state their name and address for the record.

MS. MOYE: Thank you very much.

[Previously sworn, Doug Campbell testified as follows:]

DOUG CAMPBELL: Hi. I'm Doug Campbell with PNM.

CHAIR HAMILTON: If this is testimony can you get sworn in?

MR. CAMPBELL: I've been sworn.

CHAIR HAMILTON: Oh, that's right. Thank you very much. Sorry.

MR. CAMPBELL: Actually, PNM's brought a whole crowd with us tonight in order to be able to fully address any questions the Commission has and respond to the issues on the appeal of this case. As I mentioned, I'm Doug Campbell. I'm with the – one of the project managers for this BB2 project. I would just agree; this is complicated stuff and I'm not an engineer either. I'm just someone who's worked on these types of projects for 35 years. So it's complicated stuff and there's a lot of engineering detail that goes into compliance with the case before you.

I guess there's just a few points that I'd mention and we have actually the professional engineer who's developed the calculation for these right-of-way widths that we presented in the original Planning Commission case here and also at the Public Regulation Commission case as well. So he can address some more of the specifics of the code requirements. But I'll make just a couple of observations. One is that the code, which we're talking about, which is this National Electric Safety Code, is a code that's been adopted by the County and so the County has basically told us this is the way you're going to build transmission lines. It's also been adopted by the State.

As I mentioned, there is no Commission order on this from the PRC. We have just yesterday saw a recommended decision that was put out by the Hearing Examiner in the case, a case I participated in. And so I'll have Mr. Mark Petrie, who is the PE address the issue of structures falling over and the health and safety issues of the way that we design the line. There's also the question of the 200 feet or what is the appropriate right-of-way width. I'm not an expert on what the County needs to require but I would just point out in the case record that the staff response that's in the staff report mentioned that – and I'll just read it – under Ordinance 2016-9, the Sustainable Land Development Code, Section 7.12, Utilities, does not regulate the width of an easement for this type of utility. Section 7.12.2 states, "All utilities shall be placed in designated utility easements."

I guess one of the things we're considering is that the County has an obligation to

make sure that we protect the health, safety and welfare. To date that's been done by requiring compliance with this National Electric Safety Code. The more practical point I'd mention is in Santa Fe County, the 140 structures that would be constructed, this recommended Hearing Examiner, the recommended decision was kind of a surprise for us as well, since PNM has designed many, many facilities and always built it to this standard. So we've gone back and looked at what this standard, what this recommendation might imply and there would be – as we've said in our presentation, we're trying to match the existing structures with the new structures so they'd be marching down side by side. That reduces disturbance by allowing us to use all of the existing patrol trails that we have on our line, but it also limits visual impact.

So doing that, we would have four structures that we would have to adjust the span lengths on. So that is the PRC order on that matter; we'll of course do that.

CHAIR HAMILTON: And are we referring to, in this case, the width of the easement that was referenced?

MR. CAMPBELL: We are.

CHAIR HAMILTON: And do we actually have anything that shows whether it said 200 feet or up to 200 feet? Because –

MR. CAMPBELL: I do. I'm not sure it's been – I'm not clear if it's appropriate for us to read that into the record but I have that right here, carefully tabbed.

CHAIR HAMILTON: I'm not even certain it's a matter of prime concern since our hearing is based on – PRC can make their decisions and we have the option of either referencing that or conditioning to that or not.

MR. CAMPBELL: Just to briefly quote from the decision: "Therefore, PNM's request that the Commission determine that a maximum 150-foot right-of-way with this necessary should be rejected and the Commission should determine that a 200-foot right-of-way is necessary." This does not mean that PNM must obtain a 200-foot right-of-way. It means that PNM should comply with the NESC requirements for extreme wind conditions for all sections of the line.

CHAIR HAMILTON: I'm sorry. Should comply with – for all what conditions?

MR. CAMPBELL: NESC requirements.

CHAIR HAMILTON: Thank you.

MR. CAMPBELL: For an extreme wind condition.

CHAIR HAMILTON: Extreme conditions. Thank you.

MR. CAMPBELL: Just to summarize it, this is all revolving around what – when the wind blows, it blows on the wires. The wires will then swing out and under extreme wind condition, which is characterized as a 90-mile an hour wind for more than several minutes, the conductor would sway out, mostly in the middle of that span that we have in the drawing, and it would move out towards the side of the easement. So the question is, how much is enough and the current code in Santa Fe County, and I'll have Mark address and get into how you calculate that.

CHAIR HAMILTON: Well then why don't we go that? That would be great.

MR. CAMPBELL: So if you're ready for that we can talk about the two sections of the code and what applies here and what does not.

CHAIR HAMILTON: Thank you.

MARK PETRIE: Thank you, Mr. Campbell. Madam Chair, Commissioners, thank you for the opportunity to talk through all of this.

CHAIR HAMILTON: Can you please state your name?

[Duly sworn, Mark Petrie testified as follows:]

MR. PETRIE: Again, thank you. And to concede Mr. Sommer's point, this is complicated stuff and Mr. Campbell reiterated. And thankfully, because I've been fortunate enough to build my career off of just these questions. So there is a lot to consider, and I think Mr. Campbell, do you want to walk through those slides as an orientation to all of these issues?

We put together just a couple of slides just to talk about the two different points that are under consideration here. One is the clearance calculations in one section and then the strength requirements in another section. So while they're getting started I'll just do a brief introduction. The National Electric Safety Code is really the building code for electric utility lines, up to the point where there's a meter on a facility, so your house or the store. Another code takes over at that meter and goes into the building. The National Electric Code covers everything from generation, once that energy is generated, all the way to that meter. And it's sort of the law of the land and as Mr. Campbell said it is adopted – every time there's a new edition comes out it's formally adopted by all the jurisdictions. Right now that code is the 2017 code. Hundreds of sections in there. It's 290-some sections in that code book.

Two of them are really the ones that we want to talk about tonight. One is Rule 234, and if I just start using the numbers and it doesn't make sense please stop me. But there's Rule 234, and Rule 250. And we'll start with Rule 250. And this section is a strength section, so how strong do the structures need to be? What environmental conditions do we need to impose on the structure to make sure that it's going to stand up? This is the section that has the requirement for a 90-mile an hour wind in this region of New Mexico, and this is the section that's extracted straight out of the ASCE manual. American Society of Civil Engineers have done a lot of studies in this and so the National Electric Safety Code doesn't try to reinvent that. They just adopt what they consider to be the good work. There's no reference in there to easement widths or how they're calculated.

Rule 234, this is the rule that we look to to decide what clearances we need under all conditions, to buildings, to other wires, to any other facility that might be over, under or beside the transmission line. In here there's no buildings adjacent to these easements but if there were we would have to maintain clearances according to that section of the code. In that section the code dictates we use a six pound per square foot wind. Well, what does that mean? A 48-mile an hour sustained wind, displacing those conductors out to the side of the line is what the code feels is appropriate for calculating those clearances. So we displace that conductor and then we look at the voltage of the line. We come up with a buffer and that's how wide the easement needs to be, basically.

So as we get longer spans we get more sag.

COMMISSIONER HANSEN: Could I please ask –

CHAIR HAMILTON: Yes. Absolutely. Go ahead.

COMMISSIONER HANSEN: So 48 miles per hour wind, we have that all

SFC CLERK RECORDED 04/10/2019

the time here.

MR. PETRIE: Yes.

COMMISSIONER HANSEN: That's not a high wind speed for New Mexico.

MR. PETRIE: No.

COMMISSIONER HANSEN: So I just am asking if you're basing the calculation on that, it seems low.

MR. PETRIE: Madam Chair, Commissioner Hansen, so that is – it's going to displace the conductor a certain distance. That section of the code requires an additional calculation for if that conductor is blown out, how much extra do we have to allow? So it's conceding your point, specifically, that there could be greater wind than that, and so we have to have this additional buffer for that unknown.

CHAIR HAMILTON: So just to the point, why was 48 miles per hour used?

MR. PETRIE: That's what comes out of the ASCE codes and they've done all of their empirical studies and decided what the right wind speed is across the country.

COMMISSIONER HANSEN: Okay.

MR. PETRIE: And so they've adopted it into the National Electric Safety Code.

COMMISSIONER HANSEN: Okay.

MR. PETRIE: And I think I'll get to the high wind section and it might make sense when we talk about that part.

COMMISSIONER HANSEN: Okay.

MR. PETRIE: Because I didn't answer your question completely yet. So the wind and wires. So yes, the wind moves the wires, the longer the span, the more wire, the more sag. I think that's –

CHAIR HAMILTON: Logical.

MR. PETRIE: And so the tale of two towers, that just describes that again. We've got the sag and then we've got ground clearance we've got to maintain. In Santa Fe County there are spans in the range of 1,350 to 1,552, actually. Correct? Currently, on the existing BB line, my slide here says 1,350 to 1,450. We found today there's actually 1,552. So it's all about the conductors. The transmission design is about conductors, not about towers and how you hold those conductors, so that's why we wanted to make sure we show this. So in this graphic we have a calculated blow-out of a little over 22 feet. We add to that the required buffer that we've calculated based on the voltage of the line, so a little over 11 feet, and then even with our 150-foot wide easement, we still have 14 feet on either side that's outside of what NESC is requiring for that calculation.

And this assumes a 1,400-foot span. So history and engineering help us decide these, based on the code. We follow the code. NESC 2017 is the current, which you all have adopted. And then the BB2 will be designed in accordance with that, so that's the basics of the code.

NESC 250 – should I discuss that? 250 is the structural code and it prescribes a 90-mile an hour wind. I think as Commissioner Hansen was asking about, and then the opportunity for a 90-mile an hour wind to be sustained is probably not very great. In fact

in all of the ASCE manuals they say it's a twice every 100 year event to get sustained winds of 100 miles an hour. And they don't even say that they're going to be sustained. It's a gust that lasts three seconds. So if you imagine a three-second gust and we've got from the center of our easement, 75 feet, it's not going to move that wire out 75 feet in three seconds.

CHAIR HAMILTON: Just for the record, those kinds of statistics, just like FEMA floodplains, are out of date. Do we know some of those statistics are out of date, frankly?

MR. PETRIE: They are, and they're evaluated periodically, and that's why the code is updated every four years. So it's constantly looking at those and making sure that it still agrees. There may be opportunities [inaudible]

CHAIR HAMILTON: Well, FEMA updates their maps, but they still consider the magnitude of a 100-year flood is not really occurring at 100-year intervals anymore. And some of these other climatic conditions are also changing and they're not being accommodated in regulation.

MR. PETRIE: Agreed. And one of the two ways that the National Electric Safety Code also addresses that, there are two factors that we have to add. For structures that are taller than 60 feet, because they know that that 90-mile an hour gust is empirical. I mean, somebody calculated it, and there is a potential for something higher. So there is what they call the gust response factor, which is about 15 percent overload on that, and then there's – they call it the KZ factor, which is just a height factor that takes into account how high you are over that 60 feet. So we add all of those in, and the calculations that we did here for strength on the Rule 250 have that 90, that three-second gust, they have a couple of adders on top of that, and then we add safety factors or strength factors to our towers themselves. We don't get to take the manufacturer's recommendation for strength. We have to de-rate everything. So that's all about the strength of it.

So it's often a question of, okay, if we do have a 90-mile an hour wind, because we recognize that there's a good potential for it, where will the wire be? And we look at that in relation to the easement and that's why that was in that report because the question is asked. As engineers we want to be able to answer that. But the easement is designed around that Section 234, with buffers built in, and in this case there's even some additional.

CHAIR HAMILTON: Excellent. Thank you. We'll get to questions from the Board momentarily. So are there other people here from the public who wish to speak to this appeal. I see a hand in the back. I can't see everybody through this board, so anybody else, if they'd please stand up and come forward. It's no problem. Everybody can just stand – whatever you want to do. You could do that. That would be fine. And if you don't mind, if you could state your name and address and get sworn in.

[Duly sworn, Rob Heineman testified as follows:]

ROB HEINEMAN: Madam Chair, Commissioners, my name is Rob Heineman. I live in Jacona, north of here. I'm not horribly concerned about this particular power line falling over on my property because I'm 80 miles away. I am part of a local community action committee called Stop Hunt Power, which has to do with a different power line, the Verde line, which is a private line, not a PNM line. I'll just make a couple quick comments about engineering standards. I'm a quasi-electrical guy. I am not a

professional engineer but I did spend four years in the construction industries business here and served on the State Technical Advisory Committee for the Electrical Board for 16 years so I do have a little bit of information.

Engineering is a wonderful thing. Engineers take a series of data points and they string them together and they are looking at providing for a safe and reliable installation that doesn't cost them a lot to maintain. That's their job. Also, their job is to equate the economic side of things. You can build a tower that's 200 feet long or 200 feet high and is so braced that a 1,000-mile an hour wind isn't going to destroy it, but that's not economically feasible. So engineering has to balance the technical side of things with the cost of things as well and I'll just leave that point there.

My big point this evening though is that I believe this Commission is going to, over the next several years have many more instances of power lines coming before it and as it stands right now the SLDC is only addressing power lines as a conditional use, kind of like a tuff shed, and the private lines that are coming your way, we do not have the benefit of them going in front of the PRC and being scrutinized for their need or for their safety or for their siting. And unfortunately, since the state is not going to push for legislation to make that happen, it's going to fall on the County. You guys are going to get stuck with it. And so you might consider moving your transmission lines over to the countywide impacts such as the extraction industry. And I've been looking at the sign behind you all evening: Protection of property and boy, it just kind of comes down to that with respect to these issues – mining or power lines or any of this stuff and I just want to say please help out the rank and file here in the county and thank you so much for all your hard work.

CHAIR HAMILTON: Thank you. Is there anybody else who would like to speak to this appeal? Yes, by all means.

MR. SOMMER: When I stood up, I told you our appeal was very simple and I told you exactly what their engineers would say: It's not going to fall over. That's what he just said. We build it so it doesn't fall over. That's what he said. Your job is to protect the safety and welfare and to consider that. If it does fall over, who pays the prices of that? The property owner who's not protected by the easement. That's what this appeal is about. Jose was nice enough to print out the recommended decision of Ms. Glick and I don't believe that I mischaracterized the import of what Ms. Glick says. And I'll just read it to you and I can leave it in the record with you all. And I'll read the paragraph. Here's what she said about their evidence at the PRC.

"PNM submitted no evidence explaining why it should only comply with the clearance requirement for a blow-out condition and not an extreme wind condition." They provided no evidence why they shouldn't do that. I think you all have here tonight why they should do that and I think the Chair alluded to, what if these calculations are not right? What if things are changing?

She goes on to say that – and this is on page 46 – she says at the bottom of that paragraph, "Therefore it should be determined that the maximum right-of-way width to construct and maintain the BB line is 200 feet." Period. This does not mean that PNM is required to obtain a 200-foot right-of-way for the entire BB line. It means that PNM must comply with the clearance requirements for extreme wind conditions for all sections of the line, meaning they haven't done it for any sections of the line, meaning that the

information in front of the PRC is inadequate, meaning that she rejected their request for a 150-foot right-of-way, which we're suggesting to you that it's inadequate for other reasons. That's what the order says and I'll make this as part of the record so you all have it.

Again, our appeal is very simple. I told you they'd tell you it wouldn't fall. That's their response to the appeal: It's not going to fall over. Well, you have an opportunity and an obligation to judge whether or not the property owners is protected adequately by that representation.

CHAIR HAMILTON: So is there anybody else who wishes to address the Board? If not, I'm going to go ahead and close the public hearing and I'm going to request that we adjourn to executive session to discuss certain points to deliberate on this.

MR. FREDERICK: Yes, Madam Chair, you can make a motion to go into executive session.

CHAIR HAMILTON: I didn't know if I could make it or if I had to request somebody else to. I'd like to make that as a motion.

COMMISSIONER ROYBAL: Second.

CHAIR HAMILTON: Thank you. Can I have a roll call?

The motion to go into executive session pursuant to NMSA1978 Section 10-15-1-H (3) to discuss the matter delineated above passed by unanimous roll call vote as follows:

Commissioner Garcia	Aye
Commissioner Hamilton	Aye
Commissioner Hansen	Aye
Commissioner Moreno	Aye
Commissioner Roybal	Aye

[The Commission met in closed session from 8:35 to 8:57.]

CHAIR HAMILTON: Can I have a motion to come out of executive session?

COMMISSIONER HANSEN: I move that we come out of executive session and the only thing we spoke about was this case that we are now deliberating.

COMMISSIONER ROYBAL: Second.

CHAIR HAMILTON: Thank you. I have a motion and a second.

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

COMMISSIONER GARCIA: So Madam Chair, can we ask questions?

CHAIR HAMILTON: Can I entertain a motion first or do you want to ask your questions first?

COMMISSIONER GARCIA: It doesn't matter. Ask questions first.

CHAIR HAMILTON: Okay. Go ahead, Commissioner Garcia.

COMMISSIONER GARCIA: So I just have some questions and I don't know who wants to answer these. One of these is the 31 miles in Santa Fe, so I guess I'd like to start with Mr. Sommer. In Mr. King's area, what's under these lines or near these lines? Is there homes? What's out there under these lines?

[Duly sworn, Bill King testified as follows:]

BILL KING: There are some scattered homes, like they said, but they're not directly under it. There's one old homestead house that's just about 20 feet off of it. But at least through my part of my ranch, they come about a quarter mile from the headquarters of one segment of the ranch. And I don't – they go through some little subdivisions on both sides and I don't know – I assume they don't go over any houses. I'm sure they don't.

COMMISSIONER GARCIA: Mr. King, Madam Chair, do you have cattle? Is all your property agricultural under these lines?

MR. KING: I have cattle that run under where this line goes through, yes. All cattle, grazing.

COMMISSIONER GARCIA: Okay. Thank you. So here are some questions from PNM. The 31 miles in Santa Fe, the 31 miles of the BB2 line that actually goes across Santa Fe County, are these property owners compensated?

MS. MOYE: Madam Chair, Commissioner Garcia, could you repeat the question?

COMMISSIONER GARCIA: So the 31 miles of BB2 that actually goes through Santa Fe County, are the property owners within that 31 miles, are they compensated?

MS. MOYE: We have negotiated with them and as I said earlier, we have agreements with all but three of the property owners in Santa Fe County. Yes, and they are compensated. I'm sorry.

COMMISSIONER GARCIA: I have another question. Thank you. Another question, Madam Chair is the arc sites. Who actually determines whether there's an arc site or not? And how is arc sites determined?

MS. MOYE: I'm going to defer to our archaeologist.

MR. CAMPBELL: So as part of our preparation for our application we had professional archaeologists walk the entire 31 miles according to the state standards for conducting cultural resource surveys and then once the results of those surveys were done we consulted with the assistance of staff with the State Historic Preservation Officer and that's how those conditions got into the –

MS. MOYE: Madam Chair, Commissioner Garcia, we're required to give that report to SHPO and it's in the file. They determine them.

COMMISSIONER GARCIA: Also just really quick, in regards to H-frame. Is the H-frame actually lower than the existing BB line out there?

MS. MOYE: Madam Chair, Commissioner Garcia, yes, it is.

COMMISSIONER GARCIA: And then another question for the gentleman, the engineer, in regards to the 30-foot, is that the 30-foot height from the ground to the line, where it sags?

MR. CAMPBELL: Yes, it is.

COMMISSIONER GARCIA: Okay. And they really quick also, what

about when the line is hot? Does it actually have more sagging in it or when the line gets hot it goes higher than 30 feet?

MR. CAMPBELL: It's a variable sag. It doesn't go any lower than 30 feet. I think we've calculated this recently. It's about a 12-foot variation, depending on load and temperature. Well, from 30 feet up. So some days it may be 42 feet, other days it's going to be less.

CHAIR HAMILTON: The minimal clearance is 30 feet.

COMMISSIONER GARCIA: I want to try to stick to the appeal. But just really quick, the \$386,000-odd for taxes, where did we come up with the \$386,000-odd tax dollars?

MS. MOYE: Madam Chair, Commissioner Garcia, we went to our tax department at PNM, we looked up the tax codes in the area and they figured the value of the construction and the tax district to come up with that number.

COMMISSIONER GARCIA: I don't have any more questions.

CHAIR HAMILTON: Thank you. I'd like to move along and kind of stay on issues that are going to affect our decisions. So I'll entertain motions. Commissioner Hansen.

COMMISSIONER HANSEN: So I would like to make a motion. I'd like to deny the appeal but require PNM to comply with all PRC orders. So that is a new stipulation and the order will be written by our Attorney and it will be clear as to – go ahead, Mr. Frederick.

MR. FREDERICK: And Madam Chair, I just want to clarify, you would adopt the Planning Commission's order in the case but add a condition that they comply with PRC's final order in the case that's pending before the PRC. What about the 150-foot width?

CHAIR HAMILTON: You want to specify –

COMMISSIONER HANSEN: 150 feet or 200. Whatever PRC –

MR. FREDERICK: Whichever is greater?

COMMISSIONER HANSEN: Yes. Whichever is greater. So my motion is a combination of myself and Mr. Frederick.

CHAIR HAMILTON: So I have a motion. Do I have a second?

COMMISSIONER MORENO: Second.

CHAIR HAMILTON: Thank you. Do we need a roll call or is this a voice vote.

The motion to accept Commissioner Hansen's motion as delineated above passed [3-2] as follows:

Commissioner Garcia	Nay
Commissioner Hamilton	Aye
Commissioner Hansen	Aye
Commissioner Moreno	Aye
Commissioner Roybal	Nay

SFC CLERK RECORDED 04/10/2019

COMMISSIONER GARCIA: I'd like to explain my vote if you want me to explain my vote.

MR. SOMMER: Madam Chair, members of the Commission, thank you very much for hearing us tonight.

VIII. CONCLUDING BUSINESS

A. Announcements

B. Adjournment

Upon motion by Commissioner Hansen and second by Commissioner Roybal, and with no further business to come before this body, Chair Hamilton declared this meeting adjourned at 9:06 p.m.



TEST TO:

Geraldine Salazar
GERALDINE SALAZAR
SANTA FE COUNTY CLERK

Approved by:

Anna Hamilton
Board of County Commissioners
Anna Hamilton, Chair

Respectfully submitted:

Karen Farrell
Karen Farrell, Wordswork
453 Cerrillos Road
Santa Fe, NM 87501

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC MINUTES
PAGES: 272

I Hereby Certify That This Instrument Was Filed for
Record On The 10TH Day Of April, 2019 at 11:17:35 AM
And Was Duly Recorded as Instrument # **1883465**
Of The Records Of Santa Fe County

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

2019/04/10 11:17:35 AM
BCC MINUTES
PAGES: 272

Amended Agenda



Henry Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Rudy N. Garcia
Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4


Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: *March 12, 2019*

TO: *Santa Fe County Board of County Commissioners*

FROM: *Erika Thomas, Budget Administrator* 

VIA: *Katherine Miller, County Manager*

RE: *Resolution No. 2019-____, A Resolution Requesting a Budget Increase to the General Fund (101) in the amount of \$29,337, for the Senior Services Program. (Finance Division/Erika Thomas)*

SUMMARY:

The Finance Division and the Community Services Department requests approval of a resolution to budget an increase to the General Fund (101) of \$29,337 for additional funding received for the Nutrition Incentive Program (NSIP).

BACKGROUND:

The Santa Fe County Senior Services Program submits reimbursement requests for units of service for Congregate Meals, Home Delivered Meals, and Transportation through the NSIP and Non Metro AAA Grant agreement.

The funding reflects an increase in the Non-Metro Area Agency on Aging funding in the amount of \$68,081 and a decrease to federal funding for \$38,744, for a net increase of \$29,337.

ACTION REQUESTED:

The Finance Division requests approval of this resolution to increase the General Fund (101) for \$29,337.

SANTA FE COUNTY

RESOLUTION 2019 -

A RESOLUTION REQUESTING AUTHORIZATION TO MAKE THE BUDGET ADJUSTMENT DETAILED ON THIS FORM

Whereas, the Board of County Commissioners meeting in regular session on, did request the following budget adjustment:

Department / Division: Community Services/Seniors Fund Name: General Fund (101)

Budget Adjustment Type: Budget Increase/Decrease Fiscal Year: 2019 (July 1, 2018 - June 30, 2019)

BUDGETED REVENUES: (use continuation sheet, if necessary)

FUND CODE XXX	DEPARTMENT/ DIVISION XXXX	ACTIVITY BASIC/SUB XXX	ELEMENT/ OBJECT XXXX	REVENUE NAME	INCREASE AMOUNT	DECREASE AMOUNT
101	0490	371	24-00	General Fund/Health/State	21,215	
101	0490	372	12-00	General Fund/Health/Federal		36,215
101	0490	381	04-01	General Fund/Health/NSIP	8,004	
TOTAL (if SUBTOTAL, check here X)					29,219	36,215

BUDGETED EXPENDITURES: (use continuation sheet, if necessary)

FUND CODE XXX	DEPARTMENT/ DIVISION XXXX	ACTIVITY BASIC/SUB XXX	ELEMENT/ OBJECT XXXX	CATEGORY / LINE ITEM NAME	INCREASE AMOUNT	DECREASE AMOUNT
101	0490	461	60-12	General Fund/Health/Rehab/Prgm/Facility Food	29,219	14,639
101	0490	461	40-02	General Fund/Health/Equipment		14,729
101	0490	461	10-24	General Fund/Health/Temp		4,497
101	0490	461	50-90	General Fund/Health/Other Services		2,350
101	0490	461	60-03	General Fund/Health/Uniform		2,529
101	0492	461	50-90	General Fund/Health/Other Services	26,362	
101	0492	461	60-12	General Fund/Health/Rehab/Prgm/Facility Food	12,500	
101	0493	461	20-05	General Fund/Health/Health Care		
TOTAL (if SUBTOTAL, check here X)					68,081	38,744

Requesting Department Approval: *[Signature]* Title: *Director* Date: *3/5/19*

Finance Department Approval: *[Signature]* Date: *3-6-17* Entered by: Date:

County Manager Approval: Date: Updated by: Date:

Log #1238

6102/01/70 61019

SPEC CLERK RECORDED

SANTA FE COUNTY

RESOLUTION 2019 -

BUDGET ADJUSTMENT CONTINUATION SHEET

BUDGETED REVENUES: (use continuation sheet, if necessary)

FUND CODE XXX	DEPARTMENT/ DIVISION XXXX	ACTIVITY BASIC/SUB XXX	ELEMENT/ OBJECT XXXX	REVENUE NAME	INCREASE AMOUNT	DECREASE AMOUNT
101	0492	371	24-00	General Fund/Health/State	5,000	2,529
101	0492	372	12-00	General Fund/Health/Federal	21,362	
101	0492	381	04-01	General Fund/Health/NSIP		
101	0493	371	24-00	General Fund/Health/State	10,000	
101	0493	372	12-00	General Fund/Health/Federal	2,500	
TOTAL (if SUBTOTAL, check here)					68,081	38,744

BUDGETED EXPENDITURES: (use continuation sheet, if necessary)

FUND CODE XXX	DEPARTMENT/ DIVISION XXXX	ACTIVITY BASIC/SUB XXX	ELEMENT/ OBJECT XXXX	CATEGORY / LINE ITEM NAME	INCREASE AMOUNT	DECREASE AMOUNT
TOTAL (if SUBTOTAL, check here X)						

SANTA FE COUNTY

RESOLUTION 2019 - _____

ATTACH ADDITIONAL SHEETS IF NECESSARY.

DEPARTMENT CONTACT: Name: Gina Capener Dept/Div: Community Services Phone No.: 992-9830

DETAILED JUSTIFICATION FOR REQUESTING BUDGET ADJUSTMENT (If applicable, cite the following authority: State Statute, grant name and award date, other laws, regulations, etc.):

- 1) Please summarize the request and its purpose.

a) Employee Actions

Line Item	Action (Add/Delete Position, Reclasse, Overtime)	Position Type (permanent, term)	Position Title

b) Professional Services (50-xx) and Capital Category (80-xx) detail:

Line Item	Detail (what specific things, contracts, or services are being added or deleted)	Amount

- 2) Is the budget action for RECURRING expense _____ or for NON-RECURRING (one-time only) expense ☒ X _____

SANTA FE COUNTY

RESOLUTION 2019 -

ATTACH ADDITIONAL SHEETS IF NECESSARY.

DEPARTMENT CONTACT:

Name: Gina Capener Dept/Div: Community Services Phone No.: 992-9830

DETAILED JUSTIFICATION FOR REQUESTING BUDGET ADJUSTMENT (If applicable, cite the following authority: State Statute, grant name and award date, other laws, regulations, etc.):

- 3) Does this request impact a revenue source? If so, please identify (i.e. General Fund, state funds, federal funds, etc.), and address the following:
 - a) If this is a state special appropriation, YES NO X
If YES, cite statute and attach a copy.

- b) Does this include state or federal funds? YES X NO
If YES, please cite and attach a copy of statute, if a special appropriation, or include grant name, number, award date and amount, and attach a copy of a award letter and proposed budget.

The State Fire Marshal's approval to carry over fire protection funds into the current fiscal year. (Attached)

- c) Is this request a result of Commission action? YES NO X
If YES, please cite and attach a copy of supporting documentation (i.e. Minutes, Resolution, Ordinance, etc.).

- d) Please identify other funding sources used to match this request.
Not Applicable.

SANTA FE COUNTY

PAGE 5 OF 5

RESOLUTION 2019 - _____

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Santa Fe County that the Local Government Division of the Department of Finance and Administration is hereby requested to grant authority to adjust budgets as detailed above.

Approved, Adopted, and Passed This _____ Day of _____, 2019.

Santa Fe Board of County Commissioners

Anna T. Hamilton, Chairperson

ATTEST:

Geraldine Salazar, County Clerk

SFC CLERK RECORDED 04/10/2019

Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Rudy N. Garcia
Commissioner, District 3



Anna Hansen
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: *March 6, 2019*

TO: *Board of County Commissioners*

FROM: *Bill Taylor, Procurement Manager, CPO*

VIA: *Katherine Miller, County Manager
Tony Flores, Deputy County Manager
David Sperling, County Fire Chief
Erika D. Thomas, Interim Finance Director*

ITEM AND ISSUE: BCC Meeting March 12, 2019

Request Approval to Utilize General Service Administration Price Agreement No. GS-07F for the Purchase of an Indefinite Quantity of Self-Contained Breathing Apparatus for the County Fire Department for a Not-to-Exceed Amount of \$2,000,000.00; Authorizing the County Manager to Negotiate and Execute the Contracts, if Necessary, and Sign the Purchase Orders.
(Bill Taylor, Purchasing Division/David Sperling, Fire Chief)

ISSUE:

County Ordinance 2012-5, Section One. Outside Contracts, requires that any procurement pursuant to NMSA 1978, Section 13-1-129 (1984, 1991), should not be used unless the Procurement Manager makes a specific finding that competitive bidding for the particular product would not be advantageous to the County. In no event shall a contract in total value exceeding \$250,000 be awarded without competitive bidding unless the Board of County Commissioners specifically approves.

The Federal General Services Administration (GSA) provides various Price Agreements available to local public bodies for procuring these emergency equipment and services for law enforcement, fire and security equipment.

There are 59 Manufacturers and Distributors (Vendors) of SCBA equipment and supplies that are currently listed on the GSA Price Agreement. The Department, together with Purchasing will select a minimum of six (6) Vendors who will provide sample SCBA gear to be field tested and evaluated by a selection Committee of Fire Department Personnel. The vendor selection will be based on geographic location and capacity to provide timely support.

The top ranked Vendor resulting from the field tests and evaluation will be selected to procure the SCBA's.

BACKGROUND:

The County Fire Department is requesting the purchase of new self-contained breathing apparatus (SCBA) to replace the current MSA equipment at all Fire Districts. SCBA's have a ten year life expectancy and the current MSA-SCBA equipment now being used by all districts have exceeded that threshold. The Fire Department is requesting the purchase of the SCBA equipment to replace the current equipment in order to comply with the National Fire Protection Administration (NFPA) and OSHA safety standards.

ACTION REQUESTED:

Approval to utilize the GSA Price Agreement No. GS-07F for the Purchase of an indefinite quantity of self-contained breathing apparatus for the County Fire Department for a not-to-exceed amount of \$2,000,000.00; authorizing the County Manager to negotiate and execute the contracts, if necessary, and sign the purchase orders.

Santa Fe County Proposed Amendments to Chapter 11 of the SLDC – Developments of Countywide Impact

Developments of Countywide Impact

Sustainable Land Development Code Chapter 11: Developments of Countywide Impact (DCI) Section 11.1 identifies DCIs as developments that:

1. Place major demands on public facilities and budget;
2. Affect the environment, health, safety, and welfare beyond immediately neighboring properties; and
3. Create serious adverse noise, light, odor, vibration, and traffic impacts

Developments of Countywide Impact

Developments of Countywide Impact identified in the SLDC include:

- Landfills
- Junkyards
- Large-scale sand and gravel extraction and processing
- Mining and Resource Extraction (Reserved)
- Concentrated Animal Feeding Operations (Reserved)
- Oil and Gas Drilling and Production (Ordinance 2008-19)

Sustainable Growth Management Plan

Regulation of DCIs is important for the protection of:

- scenic vistas and natural landscapes;
- environment, flora habitats, wildlife corridors and habitats;
- environmentally sensitive areas;
- wetlands, rivers and streams, and flood hazard areas;
- archaeological, historical, and cultural resources;
- health, safety and welfare of the citizens (2.2.6)

Sustainable Growth Management Plan

Types of development regulated as DCIs may include:

- oil and gas drilling;
- hard rock mining;
- largescale sand and gravel mining;
- sand and gravel mining including blasting;
- Major reshaping of land surfaces;
- Feedlots and factory farms;
- Junkyards;
- Landfills;
- Wind farms (2.2.6)

Sustainable Growth Management Plan

“The County’s regulations and standards for hard rock mining will be updated and incorporated into the SLDC as a Development of Countywide Impact.” (2.2.6.2)

Sustainable Land Development Code

Sustainable Land Development Code (SLDC):

- Adopted in December 2016
- Chapter 11 regulates Developments of Countywide Impact
- Section 11.13 reserves regulations for mining and resource extraction
- Proposed amendments introduce new mining regulations in accordance with Section 2.2.6 of the SGMP

Purpose

To amend Chapter 11 of the SLDC to provide a complete and reasonable regulatory process that:

1. Prevents negative environmental and social impacts;
2. Avoids long term treatment requirements;
3. Requires the operator to bear all present and future costs associated with the DCI; and
4. Establishes regulations for mineral resource extraction and processing

Proposed Amendments to Chapter 11:

1. Clarify and establish requirements applicable to all DCIs;
2. Address errors and clarify language;
3. Clarify procedures for DCI Overlay Zoning District and Conditional Use Permit; and
4. Establish regulations for mineral resource extraction and processing

Public Participation

- Held Stakeholder Working Group Meetings
- Conducted 30 day public comment period
- Held 4 public meetings throughout the County
- Public comments recorded on database

Review and Consultation

- Reviewed national and international standards and regulations
- Contracted with expert in mining regulations
- Consulted with state agencies

Application Procedure

1. Applicant applies for a DCI Overlay Zoning District
 - Reviewed by County staff for compliance
 - Public Hearings:
 - Hearing Officer
 - Planning Commission
 - Board of County Commissioners (BCC)
2. Applicant obtains all necessary federal and state permits
3. Applicant applies for a DCI Conditional Use Permit
 - Reviewed by County staff for compliance
 - Public Hearings:
 - Hearing Officer
 - Planning Commission
 - BCC

Regulations for all DCIs

General Provisions for all DCIs (11.5)

- Refined General Regulations for all DCIs
 - Brought forward provisions applicable to all DCIs
 - Added details to clarify and strengthen existing provisions
- Added provisions for Costs, Fees, and Financial Assurances (11.5.6)
 - Recover cost of application review and compliance measures
 - Recover cost of all necessary public facilities improvements and maintenance
 - Financial assurance for reclamation and remediation at 125% of estimated cost

Regulations for all DCIs

DCI Overlay Zoning Districts (11.6)

- **Application Requirements (11.6.1)**
 - Brought forward application requirements applicable to all DCIs
 - Added details to clarify and strengthen existing application requirements
- **Review Criteria (11.6.2)**
 - Refined application review criteria

Regulations for all DCIs

DCI Conditional Use Permit (11.7)

- Application Requirements (11.7.1)
 - Brought forward application requirements applicable to all DCIs
 - Added details to clarify and strengthen existing application requirements
 - Added requirements for technical and financial feasibility, history of business practices, hazardous materials, and emissions
- Review Criteria (11.7.2)
 - Refined application review criteria

Regulations for all DCIs

Performance Standards (11.8)

- Added standards for water resource protection
 - No degradation beyond Water Quality Act; shall not exceed right to use or cause any detriment to water rights; multiple factors to determine impact
- Added standard for feasibility
 - Shall demonstrate that the DCI, including reclamation and remediation, is financially feasible
- Added standard for air quality
 - Shall demonstrate compliance with federal air quality standards

Regulations for Mineral and Resource Extraction and Processing

Design Criteria (11.14.3)

- All aspects of the mine's conditional use permit application shall demonstrate compliance with these criteria:
 - No degradation of water resources;
 - No perpetual treatment; and
 - Designed to withstand a 1,000-year flood event

Regulations for Mineral and Resource Extraction and Processing

Conditional Use Permit

- In addition to 11.7. Focus on:
 - Baseline data collection
 - Modeling potential environmental effects
 - Proving compliance with standards and criteria
 - Additional financial assurance

Regulations for Mineral and Resource Extraction and Processing

Conditional Use Permit

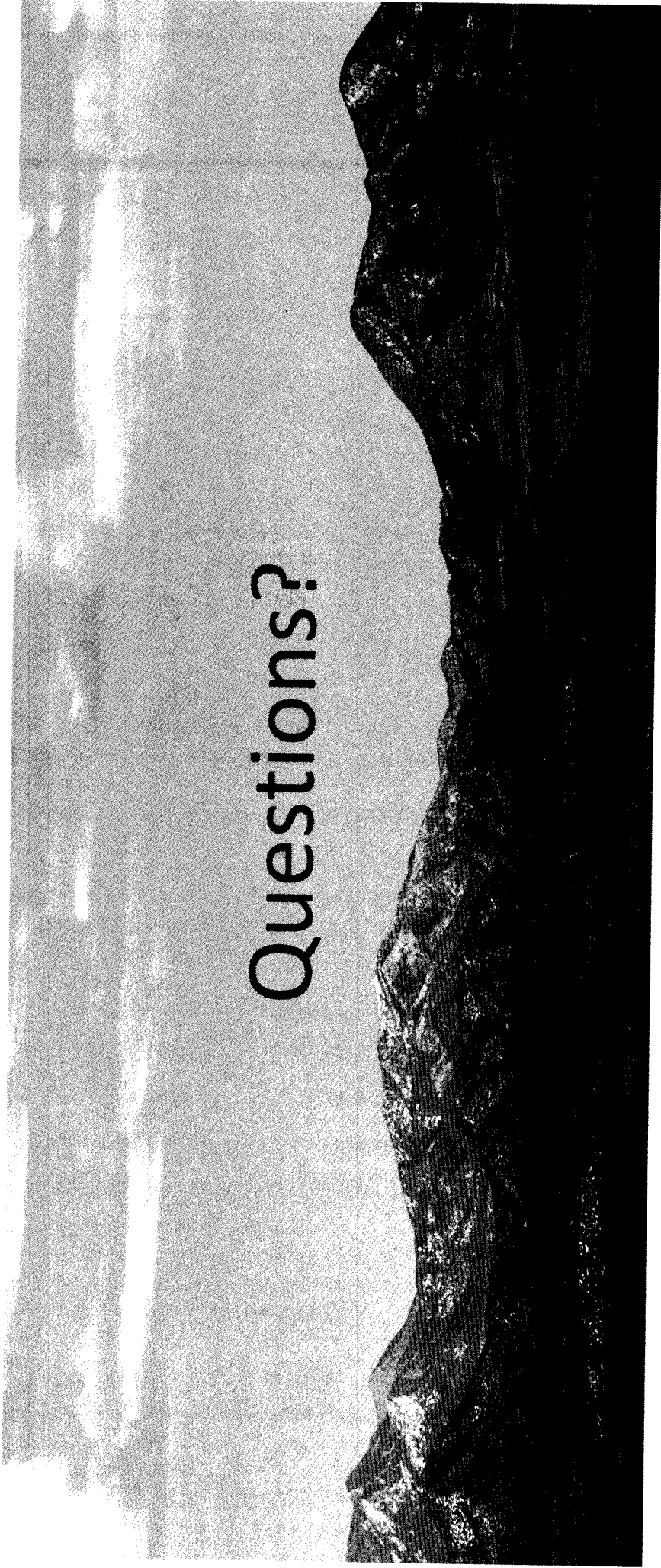
- Application Requirements (11.14.4)
 - Requirements for project description, baseline data collection, additional EIR requirements, operating and closure plans, and reclamation
- Performance Standards and Conditions (11.14.6-11)
 - Control standards for facility design, operation, and closure including additional financial assurances

Proposed Schedule

March 12: Presentation to BCC; Request to Publish Title and General Summary

March 21: Public Hearing Before the Planning Commission

April 9: Public Hearing Before the BCC to consider an Ordinance to Amend Chapter 11 and Appendix A of the SLDC



Questions?

NOTICE OF PUBLIC HEARINGS ON AND GENERAL SUMMARY OF A SANTA FE COUNTY ORDINANCE TITLED “AN ORDINANCE AMENDING THE SUSTAINABLE LAND DEVELOPMENT CODE, ORDINANCE NO. 2016-9, TO RESTATE CHAPTER 11 (DEVELOPMENTS OF COUNTYWIDE IMPACT), ADOPT REGULATIONS FOR MINERAL RESOURCE EXTRACTION AND PROCESSING, AND ADD DEFINITIONS TO APPENDIX A.”

Notice is hereby given that the Santa Fe County Planning Commission will conduct a public hearing on the Proposed Ordinance in the Chambers of the Board of County Commissioners (BCC), 102 Grant Avenue, Santa Fe, NM, no earlier than 4:00 p.m. on March 21, 2019, and that the BCC will conduct a public hearing on the Proposed Ordinance in the BCC Chambers no earlier than 2:00 p.m. on April 9, 2019.

General Summary of the Proposed Ordinance. The Proposed Ordinance will amend the Santa Fe County Sustainable Land Development Code (SLDC), Ordinance No. 2016-9, to restate Chapter 11 (Developments of Countywide Impact), adopt regulations for Mineral Resource Extraction and Processing, and add definitions to Appendix A.

SFC CLERK RECORDED 04/10/2019

Proposed Amendments. The proposed amendments to Chapter 11 (Developments of Countywide Impact) of the SLDC establish general provisions for developments of countywide impact; clarify the application procedures for obtaining a DCI Overlay Zoning District and a DCI Conditional Use Permit including review criteria; establish requirements for financial guarantees; clarify requirements for studies reports and assessments; add new requirements for plans and reports detailing project feasibility, reclamation, emissions, toxic materials, and impacts on wildlife; clarify requirements for large-scale sand and gravel extraction; establish new regulations for mineral resource extraction and processing including design criteria, additional requirements for the Environmental Impact Report, and performance standards.

Public Hearings and Submissions of Written Comments. The Planning Commission and BCC will hear comments from all interested parties at the public hearings prior to the BCC taking final action. Additionally, an interested party may submit written comments to the BCC, which must be received by the Growth Management Department no later than April 2, 2019. Written comments may be delivered in person to the Department at 102 Grant Avenue, Santa Fe, NM, or mailed to the Department at P.O. Box 276, Santa Fe, NM 87504-0276.

Possible BCC Action on April 9, 2019. After the public hearing on April 9, 2019, the BCC may adopt the Proposed Ordinance, with or without changes, vote not to adopt the Proposed Ordinance, recess the public meeting in accordance with the Open Meetings Act, or postpone the public hearing or otherwise delay action on the Proposed Ordinance until a future meeting of the BCC. The County is not required to, and will not, publish additional notice for a recessed meeting or postponed hearing or action. Persons wanting to know the status of the BCC’s action on the Proposed Ordinance should contact the County for more information.

Copies of Proposed Ordinance. Copies of the Proposed Ordinance may be inspected and copied at the Santa Fe County Clerk’s Office, 102 Grant Avenue, Santa Fe, NM, or viewed on the County’s website, www.santafecountynm.gov.

2019

LEGISLATIVE SESSION REPORT



SFC CLERK RECORDED 04/10/2019

MARCH 12, 2019

Santa Fe County
102 Grant Avenue, Santa Fe NM
www.santafecountynm.gov



Table of Contents

Regular Session Calendar	3
Bill Statistics	4
SFC Legislative Related Resolutions	5
Senate Bills Tracked with most progress	6
House Bills Tracked with most progress	10
All Bills with furthest progress	13

2019 REGULAR SESSION SCHEDULE (60-Day Session)

March 16

Session ends (noon)

April 5

Legislation not acted upon by governor is pocket vetoed

June 14

effective date of legislation not a general appropriation bill or a bill carrying an emergency clause or other specified date

SFC CLERK RECORDED 04/10/2019

Bill Statistics

Current Statistics for All Bills (2019 Reg)	Total	Ratio
Bills Introduced	1654	100.00%
Bills Passed in 1st House	593	35.85%
Bills Passed in 2nd House	119	7.19%
Bills Sent to Governor	47	2.84%
Bills Signed into Law	45	2.72%

Current Statistics for House Bills only (2019 Reg)	Total	Ratio
Bills Introduced	813	100.00%
Bills Passed in 1st House	316	38.87%
Bills Passed in 2nd House	52	6.40%
Bills Sent to Governor	19	2.34%
Bills Signed into Law	18	2.21%

Current Statistics for Senate Bills only (2019 Reg)	Total	Ratio
Bills Introduced	841	100.00%
Bills Passed in 1st House	277	32.94%
Bills Passed in 2nd House	67	7.97%
Bills Sent to Governor	28	3.33%
Bills Signed into Law	27	3.21%

SFC Legislative Related Resolutions

Resolution 2018-72

A Resolution Adopting Projects for Inclusion In Santa Fe County's Infrastructure Capital Improvement Plan for Fiscal Years 2020-2024; Authorizing Submittal Of Plan To The New Mexico Department of Finance and Administration And Replacing Resolution 2017-86.

Resolution 2018-96

A Resolution Adopting Projects for Inclusion in Santa Fe County's Senior Services Infrastructure Capital Improvement Plan for Fiscal Years 2020-2024; and Authorizing Submittal of Plan to the New Mexico Department of Finance and Administration.

Resolution 2018-110

A Resolution in Support of Legislation in the 2019 Legislative Session to Authorize the Practice of Dental Therapy and Govern the Training and Licensure of Dental Therapists in New Mexico.

Resolution 2018-118

A Resolution in Support of the Appropriation of Funds by the New Mexico Legislature for the "New Mexico Grown Fresh Fruits And Fresh Vegetables for School Meals Program" and Related Education Programs.

Resolution 2018-123

A Resolution in Support of Items on the New Mexico Mortgage Finance Authority's (MFA) Legislative Agenda for 2019 That May Directly Benefit Santa Fe County Residents.

Resolution 2018-124

A Resolution in Support of State of New Mexico Legislature Initiatives and Administrative Actions that Reduce Greenhouse Gas Emissions Through Energy Efficiency, Renewable Energy Production, Water Conservation and Watershed Management.

Resolution 2018-125

A Resolution Opposing any Legislation that Affects Santa Fe County Revenues, Programs or Services.

Senate Bills Tracked with most progress

BILL	DESCRIPTION	House 1			House 2			PL/Chap	Last Action	Status
		I	C	RC	P	C	RC			
SB41	<i>Papen (D38)</i> MEDICAID PROVIDER AND MANAGED CARE ACT (Identical to final version of 2018 SB2, passed unanimously by both chambers but pocket vetoed by the Governor) (For the Legislative Health and Human Services Committee) Provides for maintenance of Medicaid services pending determination of disputes regarding overpayments and allegations of fraud. Establishes due process for providers and subcontractors in such disputes. Provides for audits and prohibition of extrapolation of audit findings. Establishes provider rights to request an informal conference and expedited adjudicatory proceedings from an administrative law judge in the Department of Finance and Administration, pursuant to the Administrative Procedures Act. Provides for release of suspended payment on posting of a surety bond; judicial review of final determinations; and award of costs.	.	.	.	.	.	.	.	03/11/2019	HPASS
SB84	<i>Stefanics (D39); Armstrong, G. (R49)</i> SENIOR CENTER FOOD GARDENS (For the Legislative Health and Human Services Committee) Permits food gardens at senior centers and directs the Aging and Long-Term Services Department to adopt rules addressing food safety and good agricultural practices for the gardens.	.	.	.	.	.	.	.	03/10/2019	EEP
SB88	<i>Tallman (D18)</i> REORGANIZATION PROCUREMENT CONTRACTS: AUTHORITY TRANSFER FROM DFA TO GSD A structural and functional government reorganization bill that transfers authority over certain procurement functions from the Department of Finance and Administration to the General Services Department related to professional services contracts, small purchases under \$60,000, sole-source contracts, and emergency procurements. DFA's Financial Control Division is assigned the duty to collect	.	.	.	.	.	.	.	03/09/2019	HCAL

and maintain contract information regarding in-state and out-of-state contract awards. Where protests are made to sole-source contract, the award shall be reconsidered.

SB124 *Padilla (D14)* 03/09/2019 EEP

BREASTFEEDING AND LACTATION POLICIES FOR INMATES
(Similar to 2017, HB 277) Requires correctional facilities to develop and implement policies for lactating inmates.

SB126 *Papen (D38)* 03/11/2019 HCAL

PRIMARY CARE CLINICS CAPITAL FUNDING
(Related to 2019, SB0128) (Endorsed by the New Mexico Finance Authority Oversight Committee) Amends the Primary Care Capital Funding Act to make county- or municipality-owned primary care clinics in rural or underserved areas eligible for primary care capital funding; permits the New Mexico Finance Authority to recover from the Primary Care Capital Fund the costs of administering the fund and originating loans up to an amount equal to ten percent of original loan amounts. (2019:SB128)

SB128 *Papen (D38)* 03/10/2019 HCAL

LOCAL GOVERNMENT BEHAVIORAL HEALTH CLINIC FUNDING
(Related to 2019 SB126) (For New Mexico Finance Authority Oversight Committee) Amends the Behavioral Health Capitol Funding Act by redefining "eligible entity" in two ways. (2019:SB126)

SB165 *Sanchez, C. (D30); Powdrell-Culbert (R44)* 03/09/2019 HCAL

MUNICIPALITY AUTHORITY: PLEDGE ANY REVENUE TO REPAY REFUNDING BONDS
(For the New Mexico Finance Authority Oversight Committee) Removes restrictions on the pledging of gross receipts tax revenue to refund various types of municipal bonds and explicitly provides that a municipality may pledge revenues from one source to the payment of bonds that refund bonds payable from a different source of revenue. Effective July 1, 2019.

SB167 *Sanchez, C. (D30)* 03/08/2019 HCAL

SECRETARY OF STATE AUTHORITY TO ACCEPT ELECTRONIC SIGNATURES

	Authorizes the Secretary of State to permit, without adopting a rule, electronic filing of documents, including original documents, and accept for filing a document by electronic filing containing a signature, however made.		
SB219	<i>Wirth (D25); Egolf (D47)</i> STATE PROJECTS SUBJECT TO HISTORIC DISTRICT OVERSIGHT (Virtually identical to 2017 SB409, passed unanimously by both chambers but vetoed by the Governor.) Makes all new construction or renovation projects on state-owned land or land held in trust by the state, regardless of funding source, subject to municipal and local government oversight pursuant to the Historic District and Landmark Act.	• • • • •	03/11/2019 HCAL
SB227	<i>Stefanics (D39)</i> UNLAWFUL DISCRIMINATION PRACTICES BY EMPLOYERS Amends the Human Rights Act to add sexual orientation and gender identity to the protected classes against which all employers, regardless of number of employees, are prohibited from discriminating unless based on a bona fide occupational qualification or other statutory prohibition.	• • • • •	03/11/2019 HCAL
SB264	<i>Ortiz y Pino (D12); Armstrong, G. (R49)</i> RURAL LIBRARIES ENDOWMENT ACT Provides for either a constitutional amendment to create an endowment to support the preservation, development and establishment of rural libraries in New Mexico or alternative provisions for that purpose, creates the Rural Libraries Endowment Fund, Program Fund and Grant Program, appropriates \$50 million (GF, nonreverting) to the Rural Libraries Endowment Fund in FY 2020.	• • • • •	03/11/2019 HPASS
SB473	<i>Rodriguez (D24)</i> ADDITIONAL INVESTMENT VEHICLES FOR STATE AND LOCAL TREASURERS Allows the State Treasurer and county and municipal treasurers more options for investing funds under their control.	• • • • •	03/11/2019 HCAL
SB489	<i>Candelaria (D26); Small (D36); Egolf (D47)</i> ENERGY TRANSITION ACT: BOOSTING QUOTAS	• • • • •	03/11/2019 HCAL

	FOR RENEWABLE ENERGY PRODUCTION (Related to 2019, HB498) An 83-page bill that relates to electricity production and boosts state quotas for production of renewable energy. Cited as the Energy Transition Act, it aims at easing the financial, employment and other strains anticipated to occur as a result of the near-future closing of the San Juan Generating Station in the Four Corners area.	.	
SB535	Cisneros (D6) TEMPORARY CAP ON SUPPLEMENT SEVERANCE TAX BONDS Bars the State Board of Finance from issuing and selling more than \$181 million in supplemental severance tax bonds in 2019. Requires a distribution of \$23,690,000 on June 14, 2019 and by each December 29 from 2020 through 2028 from the Severance Tax Bonding Fund to the Severance Tax Permanent Fund.	. . . . .	03/11/2019 HPASS
SB566	Ingle (R27) BONDING OF GROSS RECEIPTS TAX INCREMENTS FOR TIDDS Tightens conditions for dedicating gross receipts tax increments for tax increment development district bonds by municipalities and counties. Authorizes the State Board of Finance to dedicate state gross receipts increments for TIDD projects.	. . . . .	03/10/2019 HCAL

House Bills Tracked with most progress

BILL	DESCRIPTION	House 1			House 2			P	G	PL/Chap	Last Action	Status
		I	C	RC	P	C	RC					
HB100	<i>Lente (D65)</i> REPLACE COLUMBUS DAY WITH INDIGENOUS PEOPLE'S DAY Renames the public holiday on the second Monday in October as Indigenous People's Day.	.	.	.	.	.	.				03/09/2019	SCAL
HB124	<i>Sweetser (D32)</i> FIRE PROTECTION FUND FOR LAND PURCHASE (Endorsed by the New Mexico Finance Authority Oversight Committee) Clarifies that money from the Fire Protection Fund may be used to purchase land for fire stations and substations; allows fund awards to entities with outstanding obligations associated with prior fund awards.	.	.	.	.	.	.	.			03/09/2019	EEP
HB137	<i>Allison (D4)</i> COUNTY AND TRIBAL HEALTH PLAN ACT Creates the County and Tribal Health Plan Act; repeals the Maternal and Child Health Plan Act.	.	.	.	.	.	.	.			03/09/2019	EEP
HB241	<i>Lundstrom (D9); Candelaria (D26)</i> PUBLIC PROJECT REVOLVING FUND LOANS TO 192 RECIPIENTS (Endorsed by the New Mexico Finance Authority Oversight Committee) Authorizes the New Mexico Finance Authority to make the 192 loans listed below, all in excess of \$1 million each, for public projects from the Public Project Revolving Fund.	.	.	.	.	.	.	.			03/09/2019	EEP
HB342	<i>Maestas (D16); Rue (R23)</i> CRIMINAL JUSTICE REFORMS (Identical in part to 2019 HB43, similar in part to 2018 HB160, vetoed by the governor) A criminal justice reform measure that addresses offenders with behavioral health diagnoses and related jail incarceration procedures; immunity for assisting with overdose cases; procedures for pre-prosecution diversion programs; probation and parole procedures;	.	.	.	.	.	.	.			03/08/2019	CONCUR

	pre-sentence reports; requirements for crime victims' reparations; accurate eyewitness identification requirements; duties of N.M. Sentencing Commission; eyewitness identification policies and training.		
HB407	<i>Trujillo, L. (D48); Ivey-Soto (D15)</i> ELECTION CODE OVERHAUL A 472-page bill that provides substantive and pro forma changes to each of the sections of the Election Code listed below, reading almost like a handbook for county clerks on how to conduct and resolve issues that arise in the complicated world of running elections in New Mexico. To undertake an analysis of this bill would be an exercise in futility in the short timeframe available to NMLR. The fiscal impact report prepared by Legislative Council Service will be posted on NMLR's website when it is available and related actions and amendments will be reported as they occur. The 44 key subjects addressed by the bill are listed below.	. . . . .	03/11/2019 SCAL
HB479	<i>Harper (R57); Ivey-Soto (D15)</i> CONSOLIDATING CERTAIN LOCAL OPTION TAXES, DE-EARMARKING REVENUES (Relates to HB6, SB358 & SB421) 76-page bill folds several of the municipal local option gross receipts taxes into the municipal gross receipts tax and several county local option gross receipts taxes into the county gross receipts tax. (2019:HB6; 2019:SB358; 2019:SB421)	. . . . .	03/09/2019 EEP
HB534	<i>Lundstrom (D9)</i> PUBLIC-PRIVATE PARTNERSHIP ACT (Related to 2019 HB 286 and 2017 HB275 and SB143) Creates the Public-Private Partnership Act, the Public-Private Partnership Board and the Public-Private Partnership Project Fund to allow state and local governments to enter into partnerships with private sector entities for infrastructure projects related to transportation or broadband telecommunications network facilities. (2019:HB286)	. . . . .	03/09/2019 SCAL
HB564	<i>Maestas (D16); Rue (R23)</i> PROBATION AND PAROLE GOOD BEHAVIOR	. . . . .	03/10/2019 SCAL

	(Similar in part to 2019 SB73) Declares the purpose of probation to be to enforce victim restitution, hold persons accountable, promote re-integration into law-abiding society, and reduce the risks of re-offense. (2019:SB73)		
HB568	<p><i>Trujillo, J. (D45)</i></p> <p>CAPITAL PROJECTS: REAUTHORIZATION OF GF AND STB REVENUES</p> <p>Reappropriates remaining balances from previously authorized projects for new purposes; expands and changes purposes for others; extends time for use of revenue; and establishes conditions for the reversion or transfer of prior appropriations either from Severance Tax Bonds or the General Fund. Projects involved are listed below.</p>	• • • • •	03/11/2019 SCAL
HB694	<p><i>Ruiloba (D12)</i></p> <p>LOCAL GOVERNMENT TRANSPORTATION PROJECT FUND</p> <p>House Transportation, Public Works and Capital Improvements Committee substitute for a dummy bill, HB694, creates the Local Government Transportation Project Fund administered by the Department of Transportation, to make grants for up to 95 to 100 percent of total costs to local governments for projects on a prioritized list approved by the State Transportation Commission.</p>	• • • • •	03/10/2019 EEP

All Bills with furthest progress

BILL	DESCRIPTION	House 1			House 2				PL/Chap	Last Action	Status	
		I	C	RC	P	C	RC	P				G
HB1	<i>Stapleton (D19)</i> LEGISLATIVE FEED BILL Makes a series of General Fund appropriations to cover expenses of the 2019 Session of the Legislature and the operation of legislative agencies during FY2019 and FY2020.	•	•	•	•	•	•	•	•	P.L.2019, c.1	01/28/2019	SIGNED
HB24	<i>Lara (D34)</i> NO PASSING STOPPED SCHOOL BUSES Requires monitoring equipment on school buses to record passing motorists’ actions; increases penalty for passing a stopped school bus.	•	•	•	•						03/11/2019	HPASS
HB44	<i>Stapleton (D19)</i> TECHNICAL TEACHER & EDUCATION ASSISTANT DEVELOPMENT FUNDS (Identical to 2017 HB307, unanimously passed by both chambers and vetoed by the Governor as unnecessary) Amends the School Personnel Act to require the Public Education Department to provide development training for career-technical teachers and educational assistants.	•	•	•	•	•	•	•	•	P.L.2019, c.2	02/05/2019	SIGNED
HB50	<i>Martinez, R. (D39)</i> AUDIT REVIEWS BY BOARD OF FINANCE Mandates Educational Retirement Board, State Treasurer, Public Employees Retirement Association and State Investment Council to present the agency’s current annual financial audit to the State Board of Finance within six months after the report is due to the State Auditor.	•	•	•	•	•	•	•	•	P.L.2019, c.3	02/05/2019	SIGNED
HB66	<i>Thomson (D24)</i> PATIENT ACCESS TO MAMMOGRAPHY INFORMATION (Almost identical to 2017 HB243, passed unanimously by both chambers but pocket vetoed by the Governor) Requires facilities	•	•	•	•	•	•	•	•	P.L.2019, c.4	02/05/2019	SIGNED

SFC CLERK RECORDED 04/10/2019

HB72	<p><i>Thomson (D24)</i></p> <p>OCCUPATIONAL THERAPY DEFINITION AND SCOPE OF PRACTICE</p> <p>(For the Legislative Health and Human Services Committee) (Identical to 2017 HB253, passed by both chambers but pocket vetoed by the Governor).</p> <p>Redefines the meaning of “occupational therapy” and delineates in greater detail the scope of practice of occupational therapy services; eliminates the definition of and provision for an unlicensed “occupational therapy aide or technician”; and requires supervision for an occupational therapy assistant.</p>	• • • • • • • •	P.L.2019, c.5	02/05/2019	SIGNED
HB74	<p><i>Gonzales (D42)</i></p> <p>TRADITIONAL HISTORIC COMMUNITY QUALIFICATIONS</p> <p>(Identical to 2018 HB 81, passed by both chambers but pocket vetoed by the governor; related to 1995 HB 1171)</p> <p>Removes condition that Class B counties be considered an urbanized territory.</p> <p>Revises definitions of traditional historic communities and urbanized territories by removing the exception for urbanized territories in unincorporated areas of Santa Fe County (class B counties with populations between 95,000 and 99,500).</p>	• • • • • • • •	P.L.2019, c.6	02/05/2019	SIGNED
HB97	<p><i>Salazar, T. (D70)</i></p> <p>ERB, PERA, SIC IN LOCAL GOVERNMENT INVESTMENT POOL</p> <p>(Identical to 2017 HB215, passed by both chambers but vetoed by the Governor on the grounds that it is unnecessary)</p> <p>Clarifies that the Educational Retirement Board, the Public Employees Retirement Association, and the State Investment</p>	• • • • • • • •	P.L.2019, c.7	02/05/2019	SIGNED

HB203 *Small (D36)* P.L.2019, c.8 02/05/2019 SIGNED

HB216 Trujillo, L. (D48) P.L.2019, c.9 02/05/2019 SIGNED

HB217 *Trujillo, L. (D48)* P.L.2019, c.10 02/05/2019 SIGNED

HB226 Harper (R57) P.L.2019, c.11 02/05/2019 SIGNED

HB227 Harper (R57) P.L.2019, c.12 02/05/2019 SIGNED

(Virtually identical to 2017 HB241 as HEC

Amends the School Personnel Act to ensure that a teacher's use of personal leave and up to ten days of sick leave annually, consistent with board policy, shall not affect the teacher's annual performance evaluation. Permits a performance evaluation to reflect the lowest score as to attendance if sick leave use contravenes board policy, PED rules, or terms of a collective bargaining agreement.

REGIONAL AIR CENTER SPECIAL
ECONOMIC DISTRICT ACT

• • • • • P.L.2019, c.13 02/05/2019 SIGNED

UNIVERSITY POLICE OFFICERS AUTHORITY
BOUNDARIES

• • • • • P.L.2019, c.14 02/05/2019 SIGNED

REGULATION OF CONTACT LENS AND GLASS PRESCRIPTIONS

• • • • • P.L.2019, c.15 02/05/2019 SIGNED

unlicensed persons from performing an eye exam on an individual physically present in the state or from writing a prescription for contact lenses or spectacles. Prohibits writing a prescription for contact lenses or spectacles unless based upon a prior eye examination and its findings.

HB250 *Lente (D65)* P.L.2019, c.16 02/05/2019 SIGNED

NATIVE AMERICAN EDUCATION STUDENT NEEDS ASSESSMENT

Amends the Indian Education Act to require school districts and charter schools to conduct assessments of needs for services to help Indian students graduate and be college- and career-ready, and to develop and publish systemic frameworks of measures to close the achievement gap between Indians and all other student groups in New Mexico.

HB257 *Ezzell (R58)* P.L.2019, c.17 02/05/2019 SIGNED

EXPANDS USES OF MUNICIPAL ENVIRONMENTAL SERVICES GRT

Allows revenue from municipal environmental services gross receipts tax to be dedicated, in addition to existing uses, to acquisition, construction, operation and maintenance of infrastructure necessary for storm water runoff control and expands operation of solid waste facilities to include collection of solid waste and disposal of demolition debris.

HB276 *Sweetser (D32)* P.L.2019, c.18 02/05/2019 SIGNED

ADVANCED MAPPING FUND FOR STATE ENGINEER

Creates a nonreverting Advanced Mapping Fund to be administered by the Office of the State Engineer and funded by appropriations, donations, income from investment and money otherwise accruing. Money in the fund is subject to appropriation by the Legislature.

HB306 *Fajardo (R7)* 03/11/2019 HPASS

WORTHY PUBLIC PURPOSES LICENSE PLATE AND FFA DECAL

(Similar to 2019, SB 269; related to 2017, HB 186) Directs the issuance of standardized vehicle license plates with space for special registration decals for worthy public purposes for an additional annual fee of \$10 for the plates and a fee for a decal to cover the cost of manufacture; directs the issuance of a special registration decal indicating support for the National FFA Organization for an annual fee of \$25 to be appropriated to NMSU's Agricultural Experiment Station to fund programs for FFA chapters. (2019:SB269)

HB343 *Powdrell-Culbert (R44)*

03/04/2019 HPASS

MECHANICS' AND MATERIALMEN'S LIENS

Requires the county clerk where a mechanic's or materialman's lien is recorded to mail a copy of the lien to the owner of record of the encumbered property within ten business days; permits the clerk to charge the recorder of the lien a fee of not more than \$25 for providing a copy of the lien to the real property owner.

HB349 *Dow (R38)*

03/11/2019 HPASS

BIRTHING WORKFORCE RETENTION FUND

Amends provisions of the Birthing Workforce Retention Fund to add licensed midwives to those for whom the fund is to provide malpractice insurance premium assistance; requires that the fund award go to the individual or employer who is the actual purchaser of the malpractice liability insurance policy.

HB421 *Romero, G. (D10)*

03/11/2019 HPASS

INDOOR TANNING ACT

(Identical to 2017, HB 212) Proposes the Indoor Tanning Act to ban the use of indoor tanning devices by minors, establish safety standards, provide for rulemaking and licensure by the Department of the Environment, and establish civil penalties for operators in violation of the act or rules.

HB509	Akhil (D20)	. . . .	03/11/2019	HPASS
CRIMINALIZING THE ILLEGAL DISMANTLING OF STOLEN VEHICLES Adds a new section to the Criminal Code creating the crime of illegally dismantling stolen vehicles, defined as a person knowingly:				
HB522	Garratt (D29)	. . .	03/11/2019	HPASS
NO AUTOMATIC RENEWAL OF CONSUMER CONTRACTS WITHOUT PRIOR CONSENT (Related to 2019, HB329 and SB350) Adds a section to the Unfair Practices Act to prohibit renewal of a contract for or continue delivery of a product or service to a consumer, including free trials and other introductory offers, after the expiration of the contract term without the consumer's prior explicit consent. (2019:HB329; 2019:SB350)				
HB548	Lundstrom (D9)	. . .	03/11/2019	HPASS
SPECIAL APPROPRIATIONS FOR STATE AGENCIES, HIGHER ED, LEGISLATURE (Duplicate of 2019 SB536) Appropriates \$14.675 million (GF) for six state agencies and institutions for use in FYs 2019 and 2020, as follows: (2019:SB536)				
HB558	Dow (R38)	. . . . .	03/11/2019	SPASS
GILA REGIONAL MEDICAL CENTER CANCER TREATMENT CENTER BONDS Authorizes the New Mexico Finance Authority to issue revenue bonds for terms up to 20 years and a maximum of \$1.25 million for services and equipment for the Cancer Treatment Center at the Gila Regional Medical Center in Grant County.				
HM16	Romero, A. (D46)	. . .	03/07/2019	HPASS
ECONOMIC DEVELOPMENT INNOVATION TASK FORCE Requests the Secretary of Economic Development to convene an economic development innovation task force by May 1, 2019 to create new economic development concepts to benefit the state's economy.				

HM36	<i>Lundstrom (D9)</i>	• • •	03/07/2019 HPASS
	STUDY TO AVOID INMATE RECIDIVISM Requests the Corrections Department and Workforce Solutions Department to undertake a feasibility study of steps to assist newly-released inmates with transitional housing and employment and successful reintegration into society.		
HM37	<i>Pratt (D27)</i>	• •	03/11/2019 HPASS
	"MILITARY AND VETERANS DAY" Declares March 11, 2019 as "Military and Veterans Day" in the House to honor the service of armed forces personnel and veterans.		
HM38	<i>Alcon (D6)</i>	• • •	03/07/2019 HPASS
	INCORPORATE MUNICIPALITY OF SANTA CRUZ DE LA CANADA Encourages Rio Arriba County to facilitate the incorporation of Santa Cruz de la Canada as a municipality to provide adequate governing authority to protect the health, safety and welfare of its residents, and requests that the Guadalupe Hidalgo Treaty Division of the Attorney General's Office examine the land claims of Santa Cruz de la Canada as to whether there is cause to approach the U.S. government to address land claims Santa Cruz de la Canada is making under the Treaty of Guadalupe Hidalgo.		
HM39	<i>McQueen (D50); Wirth (D25)</i>	• • •	03/10/2019 HPASS
	NATIONAL MUSEUM OF NEW DEAL ART Requests the New Mexico congressional delegation to investigate the possibility of establishing a National Museum of New Deal Art to be located in the National Park Service Building in the Museum Hill neighborhood of Santa Fe.		
HM40	<i>Figueroa (D30)</i>	• • •	03/07/2019 HPASS
	PAID TEACHER RESIDENCY PROGRAMS Requests that the Legislative Education Study Committee study the efficacy and logistics of implementing paid teacher residency programs in New Mexico.		

HM42	<i>McQueen (D50)</i>	• • •	03/07/2019	HPASS
	PRESCRIBED FIRE WORKING GROUP			
	Requests that the Energy, Minerals and Natural Resources Department convene a working group to study the expansion of prescribed fire in New Mexico.			
HM45	<i>Trujillo, L. (D48)</i>	• • •	03/07/2019	HPASS
	CIVICS EDUCATION IN PUBLIC SCHOOLS TASK FORCE			
	Requests PED to convene a civics education task force to determine how to improve civics curriculum and to report to the appropriate interim legislative committee by November 1, 2019.			
HM50	<i>Salazar, T. (D70)</i>	• • • •	03/07/2019	HPASS
	REGIONAL COLLABORATION IN HEALTH SERVICES			
	Discusses the significant challenges in access to health care due to New Mexico's large rural and frontier areas which is related to primary care provider shortages and lack of awareness of insurance availability. Encourages regional mental and physical health service providers to collaborate to provide exceptional service at all levels of care.			
HM51	<i>Louis (D26)</i>	• • •	03/07/2019	HPASS
	TRIBAL CUSTOMARY ADOPTION PLAN			
	Requests CYFD, in collaboration with Indian nations, tribes and pueblos, to develop a tribal customary adoption plan, policies and procedures and to make legislative recommendations for review and approval by all parties.			
HM53	<i>Figueroa (D30)</i>	• •	03/08/2019	HPASS
	UNM WORLD LANGUAGE EXPO DAY			
	Declares March 8, 2019 as "UNM World Language Expo Day" in the House to celebrate its 20 years of diversity of world languages and cultures and to recognize the inspiring work of New Mexico's language teachers.			
HM56	<i>Montoya (R1)</i>	• • •	03/07/2019	HPASS
	FREIGHT HAULING STUDY GROUP			
	Requests that the Economic Development			

SFC CLERK RECORDED 04/10/2019

	Department convene a study group to analyze options for freight hauling from San Juan County to the major transportation corridor, with a report to be presented to the relevant interim committee prior to November 1, 2019.				
HM57	<p><i>Trujillo, L. (D48)</i></p> <p>TASK FORCE ON ETHICAL MISCONDUCT BY SCHOOL STAFF</p> <p>Requests that the Public Education Department convene a task force by August 1, 2019 to identify concerns within the state's education system involving moral turpitude and to develop a plan to ameliorate such concerns; requests a study of possible changes to the Public School Code regarding ethical misconduct.</p>	•	•	•	03/07/2019 HPASS
HM58	<p><i>Garratt (D29)</i></p> <p>ADULT EDUCATION</p> <p>Requests that PED and HED study issues pertaining to adults attending public school and the availability and competence of adult basic education and other equivalency programs; requests a report with recommendations to the Governor and the LESC by December 1, 2019.</p>	•	•	•	03/07/2019 HPASS
HM60	<p><i>Romero, A. (D46)</i></p> <p>SCHOOL FLOOR PLANS DISCLOSURE</p> <p>Requests PED to provide a copy of the floor plan of each public and private school to the Department of Public Safety, to provide each law enforcement agency with copies of the floor plans for those schools within the agency's jurisdiction, and to recommend legislation to protect school floor plans from disclosure pursuant to a public records request.</p>	•	•	•	03/07/2019 HPASS
HM61	<p><i>Gonzales (D42)</i></p> <p>RURAL ELECTRIC COOPERATIVE REGULATION AND GOVERNANCE</p> <p>Requests that the appropriate interim legislative committee receive testimony on PRC regulation of rural electric cooperatives, on how the state may foster REC self-governance and on how best to</p>	•	•	•	03/07/2019 HPASS

	allow an REC to implement policies including decoupling rates, passing fixed costs onto members, supporting emerging technologies, and different rates within a customer class.				
HM67	<i>Stapleton (D19)</i> WORKING GROUP ON DRIVER'S LICENSES FOR OLDER ADULTS (Duplicate of 2019 SM93) Requests the Motor Vehicle Division to convene a working group to research and refine best practices for the issuance and denial of driver's licenses and state identification cards to older adults. (2019:SM93)	• • •		03/07/2019	HPASS
HM68	<i>Armstrong, G. (R49)</i> RECOGNIZING WOMEN IN THE U.S. MILITARY Recognizes the contributions of women in the U.S. military services and their sacrifices and bravery.	• •		03/11/2019	HPASS
HM78	<i>Stapleton (D19)</i> RESOLVES THAT LILY GONZALES BE HONORED FOR HER DEDICATION TO NEW MEXICO AND HER MANY YEARS OF PUBLIC SERVICE IN LAW ENFORCEMENT AND AS A PROBATE JUDGE. COPY OF THE MEMORIAL IS TRANSMITTED TO THE FAMILY OF LILY GONZALES. Declares March 7, 2019 to be A Call to Prayer for America Day in the House of Representatives.	• •		03/07/2019	HPASS
SB8	<i>Martinez, Richard (D5)</i> FIREARM SALE BACKGROUND CHECK (Duplicate of 2019 HB8) (Related to 2019 HB40 and SB201. Similar to 2017 HB50) Requires a background check when conducting sales of a firearm; provides penalties. (2019:HB82; 2019:HB40; 2019:SB201)	• • • • • • • •	P.L.2019, c.45	03/08/2019	SIGNED
SB9	<i>Papen (D38)</i> PSYCHOLOGIST PRESCRIPTION CERTIFICATES (Identical to 2017 SB90 as SJC substituted; passed unanimously but pocket vetoed by the Governor). Clarifies requirements of a	• • • • • • • •	P.L.2019, c.19	02/04/2019	SIGNED

conditional prescription certificate to prescribe psychotropic medications and the types of licensed clinicians who may act as supervising clinicians for a psychologist with a conditional certificate. Clarifies conditions of liability.

SB11 *Cisneros (D6); Romero, A. (D46)* P.L.2019, c.44 02/28/2019 SIGNED

GROSS RECEIPTS TAX APPLICATION: LANL (Identical to 2018, SB 17 – vetoed by governor as tax increase, singling out of one nonprofit – LANL operator – and potential hardship to New Mexicans) Amends the Gross Receipts Tax Act to apply the tax to a prime contractor who operates a national laboratory in New Mexico, whether or not the prime contractor qualifies as a Section 501(c)(3) nonprofit organization. The bill does so by amending Sec. 7-9-29 relating to I.C. exemptions to specifically exclude a nonprofit prime contractor of a national lab from the exemption.

SB18 *Candelaria (D26)* P.L.2019, c.20 02/04/2019 SIGNED

LOCAL GOVERNMENT PLANNING FUND (Endorsed by the New Mexico Finance Authority Oversight Committee) Appropriates \$3 million from the Public Project Revolving Fund to the Local Government Planning Fund (administered by N..M. Finance Authority) for use in FY 2020 and subsequent fiscal years to make grants to evaluate and estimate the costs of implementing the most feasible alternatives for water or wastewater public projects or to develop water conservation plans, long-term master plans, economic development plans or energy audits and to pay the administrative costs of the Local Government Planning Program.

SB21 *Kernan (R42)* 03/11/2019 HPASS

HEALTH PROFESSIONAL LOAN REPAYMENT THROUGH PHYSICIAN FEES (Essentially identical to 2018 SB10 and 2017 SB152). Establishes a Physician Excellence Fund and authorizes the Higher

	Education Department to apply appropriated funds for health professional loan repayment to assist licensed allopathic and osteopathic primary care physicians trained in family medicine, general internal medicine, obstetrics, gynecology or general pediatrics, and who practice in designated underserved areas.		
SB25	<i>Padilla (D14)</i> BANS DIFFERENTIAL PRICING BASED ON GENDER Adds to the Unfair Practices Act's definition of "unfair or deceptive trade practice" "offering or providing unposted or unadvertised pricing or service based on the buyer's gender or perceived gender identity". This provision does not apply to persons regulated by the Office of Superintendent of Insurance.	• • • • • • •	03/11/2019 HPASS
SB28	<i>Padilla (D14)</i> CHILD PROTECTIVE CUSTODY, PREFERENCE TO RELATIVES (Related to 2017, SB 18, vetoed by governor as unnecessary) Requires a child in need of services be placed in the home of a relative in preference to any other shelter care facility.	• • • • • • • P.L.2019, c.21	02/04/2019 SIGNED
SB41	<i>Papen (D38)</i> MEDICAID PROVIDER AND MANAGED CARE ACT (Identical to final version of 2018 SB2, passed unanimously by both chambers but pocket vetoed by the Governor) (For the Legislative Health and Human Services Committee) Provides for maintenance of Medicaid services pending determination of disputes regarding overpayments and allegations of fraud. Establishes due process for providers and subcontractors in such disputes. Provides for audits and prohibition of extrapolation of audit findings. Establishes provider rights to request an informal conference and expedited adjudicatory proceedings from an administrative law judge in the Department of Finance and	• • • • • • •	03/11/2019 HPASS

	Administration, pursuant to the Administrative Procedures Act. Provides for release of suspended payment on posting of a surety bond; judicial review of final determinations; and award of costs.		
SB43	<p><i>Martinez, Richard (D5)</i></p> <p>DRINKING WATER SYSTEM FINANCING (Endorsed by the New Mexico Finance Authority Oversight Committee) Appropriates \$2.5 million (nonreverting) from the Public Project Revolving Fund to the Drinking Water State Revolving Loan Fund for use in FY 2020 and subsequent fiscal years to provide state matching funds for federal Safe Drinking Water Act of 1974 projects and to fulfill purposes of the Drinking Water State Revolving Loan Fund Act.</p>	• • • • •	03/11/2019 HPASS
SB48	<p><i>Stewart (D17)</i></p> <p>STUDENT DIABETES MANAGEMENT ACT (Very similar to final version of 2017 SB148, passed by both chambers but vetoed by the Governor as an unfunded mandate, among other reasons). Creates the Student Diabetes Management Act to mandate that by December 31, 2019, the Secretary of Health shall adopt rules for school boards to provide diabetes care training for nurses and diabetes care personnel. Mandates parents who seek diabetes care at school to submit a diabetes medical management plan, and school boards to ensure the student gets the care laid out in the plan. Provides for diabetes self-management by students while at school or school functions.</p>	• • • • •	P.L.2019, c.22 02/04/2019 SIGNED
SB58	<p><i>Rue (R23)</i></p> <p>ACCOUNTABILITY IN GOVERNMENT ACT, EVIDENCE & RESEARCH BASED FUNDING Requires the annual proposed budgets submitted by the Governor and the LFC to contain the amount of the budget recommendation intended for evidence-based, research-based and promising sub-programs. The portion concerning an agency may contain recommendations for</p>	• • • • •	P.L.2019, c.23 02/04/2019 SIGNED

SB77 *Soules (D37)* P.L.2019, c.24 02/04/2019 SIGNED

SB95 Tallman (D18) • • • 03/11/2019 SPASS

SB96 O'Neill (D13) • • • • • 03/11/2019 HPASS

SB106 *Sapien (D9)* P.L.2019, c.25 02/04/2019 SIGNED

SB117 Martinez, Richard (D5) P.L.2019, c.26 02/04/2019 SIGNED

SB118	<i>Candelaria (D26); Hochman-Vigil (D15)</i> CONFIDENTIALITY OF CRIME VICTIMS AND WITNESSES Protects confidentiality of victims, of or non-law-enforcement witnesses to assault (including against a household member) with intent to commit criminal sexual penetration, stalking/aggravated stalking, criminal sexual penetration or criminal sexual contact.	• • • • • • • •	P.L.2019, c.27	02/04/2019	SIGNED
SB131	<i>Steinborn (D36); Ferrary (D37)</i> INTERAGENCY PHARMACEUTICALS PURCHASING COUNCIL (Similar to 2018, HB 59 and SB 8; 2017, SB 354) Establishes the Interagency Pharmaceuticals Purchasing Council to study cost-containment strategies to consolidate the purchase of pharmaceuticals or pharmacy benefit purchasing by state and local government “constituent agency” participants, appropriates \$400,000 (GF) for use in FY 2020 to the General Services Department to staff the council and for professional services.	• • • • • • • •		03/11/2019	HPASS
SB145	<i>Tallman (D18)</i> EMS TRANSPORT, TRIAGE FOR MYOCARDIAL INFARCTIONS (Very similar to 2017 SB80) Amends the Emergency Medical Services Act to require the Department of Health to coordinate with local and regional emergency medical services on the development and implementation of “ST segment elevation myocardial infarction” (STEMI) triage and transport plans.	• • • • • • • •	P.L.2019, c.28	02/04/2019	SIGNED
SB149	<i>Griggs (R34)</i> RENAME ALCOHOL AND GAMING DIVISION Reorganizes the Regulation and Licensing Department by restoring the Alcohol and	• • • • • • • •	P.L.2019, c.29	02/04/2019	SIGNED

Gaming Division to its previous name of Alcoholic Beverage Control Division. Makes the appropriate transfer of all assets, contractual obligations and statutory authority from one division to the other.

SB150 *Stewart (D17)* P.L.2019, c.30 02/04/2019 SIGNED

HOMEOWNER ASSOCIATION ACT
AMENDMENTS
(Similar in most respects to 2019 SB49; identical to the final version of 2017 SB244, unanimously passed by both chambers but vetoed by the Governor as burdensome and costly to associations) Proposes to amend the Homeowner Association Act to broaden its applicability; provide for alternative dispute resolution; amend disclosure requirements; and give homeowner's associations authority to levy reasonable fines for violations of or failure to comply with any provision of the community documents. Provides for removal of board members; holding of annual meetings; enforcement of covenants; and dispute resolution. Sets or limits fees to be assessed for preparation of a Disclosure Certificate; (2019:SB49)

SB157 *Soules (D37)* P.L.2019, c.31 02/04/2019 SIGNED

EDUCATION RETIREMENT: CONVERT UNUSED SICK LEAVE TO SERVICE CREDIT
(Identical to final version of 2018 HB85, passed unanimously by both chambers but vetoed by the Governor because of its negative impact on the Educational Retirement Fund) Authorizes Educational Retirement Program members who are eligible for retirement to convert unused sick leave to service credit.

SB164 *Sanchez, C. (D30)* P.L.2019, c.32 02/04/2019 SIGNED

ALLOWS INSURANCE AGENTS TO GIVE CUSTOMERS LIMITED GIFTS
(Related to 2017 SB79) Amends the Insurance Code to allow prizes and gifts with a value of no more than \$100 to be given to an insurance customer or

SB178 *Neville (R2)* • • •

SB178 *Neville (R2)*

ALCOHOL ALLOWED ON GAMING FLOORS
(Similar to 2018 HB239) Amends the Gaming Control Act (Sec. 60-2E-27) regarding Gaming Operator Licensees, by allowing alcohol to be consumed, although not sold, served or delivered, on the portion of a gaming floor of certain horse racetrack casinos where gaming machines are located.

SB179 *Stefanics (D39)*

LOTTERY SCHOLARSHIP FOR STUDENTS WITH DISABILITIES
(Identical to 2017 SB188, passed unanimously by both chambers but vetoed by the Governor as unnecessary, Senate Executive Message 48) Amends the Lottery Tuition Scholarship Act to clarify that a student who had to leave the state to receive an education pursuant to the Individuals with Disabilities Education Act is qualified to receive a Lottery Tuition Scholarship under certain circumstances.

SB188 Kernan (R42)

HEALTH INSURANCE: PRIOR
AUTHORIZATION ACT

Creates the Prior Authorization Act to streamline the prior authorization process for non-emergency medical care. Provides for duties for the Office of the Superintendent of Insurance to administer the act. Imposes requirements on health insurance providers and pharmacy benefits managers with respect to prior authorization.

SB189 *Rue (R23)*

MOBILITY LIMITATION TRANSPORT
LICENSE PLACARDS

(Identical to 2017 SB69, passed unanimously but pocket-vetoed by the Governor) Authorizes the Motor Vehicle Division to issue a four-year distinctive registration placard to organizations that own or lease vehicles that primarily

transport persons with significant mobility limitations.

SB191 *Ivey-Soto (D15); Chandler (D43)* P.L.2019, c.35 02/04/2019 SIGNED

LOBBYIST REPORTING REQUIREMENTS—
EXPENDITURES UNDER \$100
(Very similar to 2018 SB67, passed
unanimously by both chambers but vetoed
by the Governor) Requires lobbyist
expenditure reports to additionally include
the cumulative total of all individual
expenditures of less than \$100 made or
incurred by the employer or lobbyist
during the covered reporting period. The
list shall be separated into three
categories: (1) meals and beverages, (2)
other entertainment expenditures, and (3)
other expenditures.

SB193 *Woods (R7)* P.L.2019, c.36 02/04/2019 SIGNED

BEEF COUNCIL ASSESSMENT OPT-OUT &
RATE
(Identical to 2018 HB164) Provides a
method for beef producers who choose
not to participate in the Beef Council
assessment for registered livestock brands
to opt-out of the assessment. Changes the
rate the Council reimburses the Livestock
Board.

SB197 *Martinez, Richard (D5)* P.L.2019, c.37 02/04/2019 SIGNED

JUDGE PRO TEMPORE FUND
(Virtually identical to final version of 2017
SB49, passed by large margins in both
chambers but pocket vetoed by the
Governor) Creates the Judge Pro Tempore
Fund in the state treasury to be
administered by the Administrative Office
of the Courts. The fund is to be used to
pay the costs of judges pro tempore and
shall consist of appropriations and gifts
made to the fund.

SB198 *Martinez, Richard (D5)* P.L.2019, c.38 02/04/2019 SIGNED

ADMINISTRATIVE OFFICE OF THE COURTS
DIRECTOR FUNDS
Expands the authority of the Director of
the Administrative Office of the Courts to
allow it to apply for and receive any
available public or private funds, including

- U.S. government funds, to carry out its programs, duties or services.
- SB199** *Wirth (D25)* P.L.2019, c.39 02/04/2019 SIGNED
ELECTRONIC COMMUNICATIONS PRIVACY ACT
(Identical to 2017 SB 61, passed/vetoed by Governor as a burden on law enforcement, harmful to law enforcement's ability to preserve investigative information and unnecessary) Cited as the Electronic Communications Privacy Act, the bill provides protections from government access to electronic communications by specifying the conditions under which a government entity may compel the production of or access to electronic communication information from a service provider. Requires the issuance of a warrant and specifies conditions that must be satisfied before a warrant or wiretap is authorized.
- SB200** *Wirth (D25)* P.L.2019, c.40 02/04/2019 SIGNED
MASSAGE THERAPY PRACTICE ACT CHANGES
(Essentially identical to 2016, SB 275 as passed unanimously/vetoed by Governor on grounds of lowering instructional standards) Amends the Massage Therapy Practices Act by restating the scope of practice, expanding continuing education course work subject matter; reinforcing the Massage Therapy Board's authority to license a massage therapist; authorizing the board to set requirements for registration as a massage therapy school and to establish minimum curricula for massage therapy schools; and providing for the issuance and revocation of massage therapy school registrations.
- SB204** *Gould (R10)* 03/11/2019 HPASS
MEDICAL CANNABIS IN PUBLIC SCHOOLS
(For the Legislative Health and Human Services Committee) Requires school boards to establish rules that allow for possession, storage and administration of

medical cannabis by authorized adults to students in a school setting, with express limitations and exceptions; Decriminalizes possession or use of medical cannabis in or on a school bus, public vehicle, or school grounds.

SB215 *Rodriguez (D24)* P.L.2019, c.41 02/04/2019 SIGNED

MATERNAL MORTALITY AND MORBIDITY PREVENTION ACT

(For the Legislative Health and Human Services Committee) (Virtually identical to 2017 SB137, passed unanimously by both chambers but vetoed by the Governor) Creates the Maternal Mortality and Morbidity Prevention Act. Establishes a review committee in the Department of Health charged with making recommendations to prevent further maternal mortality. Defines its composition and prescribes its duties. Authorizes the committee to access medical records and other health information. Authorizes creation of an abstractor subcommittee to access and report data cleaned of personal identifiers, and otherwise provides for confidentiality. Requires DOH to promulgate rules.

SB236 *Brandt (R40)* P.L.2019, c.42 02/04/2019 SIGNED

DISABLED VETERANS LICENSE PLATE FEES (Essentially identical to 2018 HB 230 and 2017 SB 297 – vetoed by Governor due to revenue loss to state) Amends the Motor Vehicle Code to clarify that a 50% or more disabled veteran shall be issued up to two special registration plates for which the veteran is eligible in any combination free of charge, notwithstanding any fee that would otherwise be charged for a special registration plate.

SB244 *Ortiz y Pino (D12)* P.L.2019, c.43 02/04/2019 SIGNED

LAND GRANTS & ACEQUIAS LEGAL SERVICES

(Identical to 2017 SB 12 as amended and passed – pocket vetoed) Creates the Community Governance Attorney and Conditional Tuition Waiver Program to

	provide attorney services for acequias, land grants, and low-income residents of colonias. Establishes two mechanisms to achieve its purpose: contracting with nonprofits that provide free legal services to low-income New Mexicans and tuition waivers and stipends for third-year law students who will work for at least two years as community governance attorneys. Establishes a five-member commission and a nonreverting fund.		
SB261	<i>Payne (R20)</i> COMPILATION COMMISSION CHANGES AND FREE ONLINE ACCESS Changes the membership of the Compilation Commission and amends its mandate to include providing free online access to statutory and legal publications. Provides for publication of print versions of publications by licensing agreements. Requires the Attorney General to provide all opinions and advisory letters to the Commission. Eliminates the State Records Administrator as a Commission member.	. . . . .	03/11/2019 HPASS
SB264	<i>Ortiz y Pino (D12); Armstrong, G. (R49)</i> RURAL LIBRARIES ENDOWMENT ACT Provides for either a constitutional amendment to create an endowment to support the preservation, development and establishment of rural libraries in New Mexico or alternative provisions for that purpose, creates the Rural Libraries Endowment Fund, Program Fund and Grant Program, appropriates \$50 million (GF, nonreverting) to the Rural Libraries Endowment Fund in FY 2020.	. . . . .	03/11/2019 HPASS
SB314	<i>Papen (D38)</i> NMSU CAMPUS IN SAN LUIS POTOSI, MEXICO Authorizes New Mexico State University board of regents to establish a campus in San Luis Potosi, Mexico.	. . . . .	03/11/2019 HPASS
SB326	<i>Cervantes (D31)</i> WATER PROJECT FUND – AUTHORIZED PROJECTS (Endorsed by the New Mexico Finance	. . . . .	03/11/2019 HPASS

	Authority Oversight Committee) Authorizes the N.M. Finance Authority to make loans or grants from the Water Project Fund for the 30 water projects listed below.		
SB329	<i>Lopez (D11); Louis (D26)</i> PUBLIC SCHOOLS ON INDIAN LAND Amends the Public School Code to require the Public Education Department to consult with tribal leaders, members, and families of students when considering opening or closing a school on tribal lands.	. . . . .	03/11/2019 HPASS
SB339	<i>Lopez (D11)</i> MEDICAID TOBACCO CESSATION COVERAGE Amends the Public Assistance Act to require Medicaid coverage for certain tobacco use cessation benefits.	. . .	03/11/2019 SPASS
SB401	<i>Cisneros (D6)</i> FEDERAL MINERAL LEASING FUNDS TO TAX STABILIZATION RESERVE (For the Legislative Finance Committee) Requires any receipt of federal mineral leasing payments in excess of the average annual amount over the previous five fiscal years to be distributed to the Tax Stabilization Reserve. Permits federal mineral leasing funds to be appropriated to the Instructional Material Fund and to the Bureau of Geology and Mineral Resources of NM Institute of Mining and Technology instead of flowing to the Public School Fund.	. . . . .	03/11/2019 HPASS
SB431	<i>Martinez, Richard (D5)</i> NNMC BRANCH VO-TEC COLLEGE *Revised 02/27/2019. Authorizes the Board of Regents of Northern New Mexico College to partner with area school districts to administer a branch community college to provide vocational and technical education; however NNMC vocational technical courses transferred to the branch college are not eligible for land grant permanent funding.	. . . . .	03/11/2019 HPASS

SB535	<i>Cisneros (D6)</i>	• • • • • •	03/11/2019	HPASS
	TEMPORARY CAP ON SUPPLEMENT SEVERANCE TAX BONDS Bars the State Board of Finance from issuing and selling more than \$181 million in supplemental severance tax bonds in 2019. Requires a distribution of \$23,690,000 on June 14, 2019 and by each December 29 from 2020 through 2028 from the Severance Tax Bonding Fund to the Severance Tax Permanent Fund.			
SB549	<i>Sanchez, C. (D30)</i>	• • •	03/09/2019	SPASS
	ELIMINATES TAX DEDUCTION FOR SELLING CHEMICALS IN CARLOAD LOTS Deletes the deduction for selling chemicals or reagents in carload lots from the gross receipts deduction at Section 7-9-65. Leaves intact the deduction for selling those same items to mining, milling or oil companies.			
SJR2	<i>Martinez, Richard (D5); Garcia, Miguel (D14); Herrera (D41)</i>	• • • • • •	03/10/2019	HPASS
	LAGUNA DEL CAMPO LAND TRACT (For the Land Grant Committee) Authorizing the transfer of land in Rio Arriba County to the Tierra Amarilla land grant-merced.			
SM21	<i>Campos, P. (D8)</i>	• •	02/14/2019	SPASS
	"RUDOLFO ANAYA I LOVE TO READ DAY" Declares February 14, 2019 as "Rudolfo Anaya I Love to Read Day" in the Senate to encourage children to read and keep on reading.			
SM24	<i>Campos, P. (D8)</i>	• • •	03/10/2019	SPASS
	FUTURE ENERGY CAREERS Requests state agencies to advance and support policies and programs that remove access barriers, improve outreach and better align education and training with energy workforce needs; requests the Senate support enabling diverse opportunities in energy careers as a priority and support the continued implementation of the New Mexico energy roadmap.			

SM27

Soules (D37)

03/10/2019

SPASS

ASSESSMENT OF SCHOOL LIBRARIES AND LIBRARIANS

Requests the Public Education Department to assist the New Mexico Library Association and the Libraries Transform New Mexico Steering Committee to undertake a joint comprehensive assessment of school libraries and librarians in public schools and charter schools to determine resources and needs for their operation.

SM83

Payne (R20)

03/11/2019

SPASS

MILITARY AND VETERANS' DAY

(Duplicate of 2019 HM37) Declares March 11, 2019 as "Military and Veterans Day" in the Senate to honor the service of armed forces personnel and veterans.
(2019:HM37)

SFC CLERK RECORDED 04/10/2019

Bill Research Report

Bill: HB221
Sponsors: McQueen (D50)
Title: HOME ENERGY EFFICIENCY INCOME TAX CREDIT
Summary: For tax years 2019 through 2024, taxpayers may claim a refundable one-time home energy efficiency income tax credit provided the taxpayer does not claim a solar market development tax credit in the same year. Amount of tax credit ranges from \$2,000 to \$4,000 depending on the percentage of energy efficiency increase.
Subjects: Business, Manufacturing and Economic Development; State Affairs and State Agencies; Construction and Materials; Environment and Pollution; Taxation, Fees and Audits
Progress: 1st House: Passed
Status: 03/10/2019 – Passed in the House
History: 01/11/2019 – H Prefiled in the House.
01/17/2019 – H Introduced and referred to House Energy, Environment & Natural Resources.
01/17/2019 – H Also referred to House Taxation & Revenue.
01/31/2019 – H Reported Do Pass as amended by House Energy, Environment & Natural Resources.
03/07/2019 – H Reported Do Pass by House Taxation & Revenue.
03/08/2019 – H Note: HTRC Committee Report expunged and replaced to reflect 10-2 vote..
03/10/2019 – H Opened for floor debate.
03/10/2019 – H Passed 48-14.
Tracking: HOUSE TRACK

Bill: HB238
Sponsors: Ruiloba (D12)
Title: CHILDHOOD TRAUMA AWARENESS TRAINING ACT
Summary: Creates the Childhood Trauma Awareness Training Program within the Public School Code to train school employees in the effects of childhood trauma on the academic achievement and social development of students.
Subjects: Schools and Teachers; State Affairs and State Agencies; Health and Medical Practice; Human Services; Family and Juveniles
Progress: 1st House: Passed
Status: 03/10/2019 – Passed in the House
History: 01/17/2019 – H Introduced and referred to House Health & Human Services.
01/17/2019 – H Also referred to House Education.
02/04/2019 – H Reported Do Pass by House Health & Human Services.
03/06/2019 – H Reported Do Pass as amended by House Education.
03/10/2019 – H Opened for floor debate.
03/10/2019 – H Passed 58-0.

Bill: HB343
Sponsors: Powdrell-Culbert (R44)
Title: MECHANICS’ AND MATERIALMEN’S LIENS
Summary: Requires the county clerk where a mechanic’s or materialman’s lien is recorded to mail a copy of the lien to the owner of record of the encumbered property within ten business days; permits the clerk to charge the recorder of the lien a fee of not more than \$25 for providing a copy of the lien

SFC CLERK RECORDED 04/10/2019

to the real property owner.

Subjects: County Affairs; Business, Manufacturing and Economic Development; Land, Housing and Real Estate

Progress: 1st House: Passed

Status: 03/04/2019 – Passed in the House

History: 01/24/2019 – H Introduced and referred to House Local Government, Land Grants & Cultural Affairs.
01/24/2019 – H Also referred to House Judiciary.
02/12/2019 – H Reported Do Pass as amended by House Local Government, Land Grants & Cultural Affairs.
02/22/2019 – H Referral withdrawn from House Judiciary.
02/22/2019 – H Also referred to House Commerce & Economic Development.
03/01/2019 – H Reported Do Pass by House Commerce & Economic Development.
03/04/2019 – H Opened for floor debate.
03/04/2019 – H Passed 59-0.

Tracking: COUNTY AFFAIRS

Bill: HB432

Sponsors: Herrera (D41)

Title: AFFORDABLE SOLAR ENERGY ACT

Summary: Permits utilities to enter into a written “on-line financing agreement” with a customer to finance the purchase and installation of a renewable energy system, energy efficiency device, energy storage device or energy conservation system in an eligible building or residence to be paid by the assessment of a meter conservation charge on the customer’s utility bill.

Subjects: Municipalities/City Government; Utilities; Family and Juveniles; Banks, Securities and Loans; Environment and Pollution

Progress: 1st House: Passed

Status: 03/10/2019 – Passed in the House

History: 01/31/2019 – H Introduced and referred to House Energy, Environment & Natural Resources.
01/31/2019 – H Also referred to House Judiciary.
02/18/2019 – H Reported Do Pass by House Energy, Environment & Natural Resources.
03/06/2019 – H Reported Do Pass as amended by House Judiciary.
03/10/2019 – H Opened for floor debate.
03/10/2019 – H Passed 42-23.

Tracking: HOUSE TRACK

Bill: HB582

Sponsors: Martinez, J. (D11)

Title: INVESTMENT CREDIT CHANGES

Summary: Revises the rate of the investment credit applied against qualifying equipment to be equal to either the compensating tax (on imported equipment) or the seller’s gross receipts tax (on in-state purchases). Extends from July 1, 2020 to July 1, 2030 the sunset of certain of the Investment Credit Act’s provisions. Reduces the employment criterion for the first \$30 million in a claim to one new full-time employee per \$750,000 in qualifying equipment instead of one per \$500,000.

Subjects: Business, Manufacturing and Economic Development; Taxation, Fees and Audits

Progress: 1st House: Passed

Status: 03/10/2019 – Passed in the House

History: 02/13/2019 – H Introduced and referred to House Taxation & Revenue.
03/07/2019 – H Reported Do Pass by House Taxation & Revenue.
03/08/2019 – H Note: HTRC Committee Report expunged and replaced to reflect 10-2 vote..
03/10/2019 – H Opened for floor debate.
03/10/2019 – H Passed 64-0.

Bill: HB592
Sponsors: McQueen (D50)
Title: LA MERCED DEL MANZANO LAND GRANT-MERCED
Summary: Includes the Manzano Land Grant-Merced in Torrance County under the general provisions of Chapter 49, Article 1 concerning land grants; repeals the existing sections of Chapter 49, Article 7 that specifically address the Manzano Grant.
Subjects: Land, Housing and Real Estate
Progress: 1st House: Passed
Status: 03/10/2019 – Passed in the House
History: 02/14/2019 – H Introduced and referred to House Local Government, Land Grants & Cultural Affairs.
03/05/2019 – H Reported Do Pass by House Local Government, Land Grants & Cultural Affairs.
03/10/2019 – H Opened for floor debate.
03/10/2019 – H Passed 58-0.

Bill: HB643
Sponsors: Martinez, R. (D39)
Title: TRANSFER VETERANS’ HOME OVERSIGHT TO DOH
Summary: Transfers oversight of the New Mexico State Veterans’ Home to the Department of Health from the Veterans’ Services Department.
Subjects: Health and Medical Practice; State Affairs and State Agencies; Veterans and Military Affairs
Progress: 1st House: Passed
Status: 03/10/2019 – Passed in the House
History: 02/14/2019 – H Introduced and referred to House Health & Human Services.
03/09/2019 – H Reported Do Pass as amended by House Health & Human Services.
03/10/2019 – H Opened for floor debate.
03/10/2019 – H Passed 63-0.
Tracking: DUMMY BILLS

Bill: HJM5
Sponsors: Martinez, R. (D39)
Title: “GRANT COUNTY DAY”
Summary: Declares January 30, 2019 as “Grant County Day” in the legislature in recognition of the many great people and places of Grant County.
Subjects: County Affairs; Municipalities/City Government
Progress: 2nd House: Passed
Status: 03/08/2019 – Passed in the Senate
History: 01/24/2019 – H Introduced and placed on Speaker's Table.
01/30/2019 – H Removed from Speaker's table.
01/30/2019 – H Opened for floor debate.

01/30/2019 – H Passed 70-0.
02/01/2019 – S Received in the Senate and placed on President's Table.
03/08/2019 – S Placed on Senate Calendar.
03/08/2019 – S Removed from President's table.
03/08/2019 – S Opened for floor debate.
03/08/2019 – S Passed 30-0.

Tracking: COUNTY AFFAIRS

Bill: HM16
Sponsors: Romero, A. (D46)
Title: ECONOMIC DEVELOPMENT INNOVATION TASK FORCE
Summary: Requests the Secretary of Economic Development to convene an economic development innovation task force by May 1, 2019 to create new economic development concepts to benefit the state’s economy.
Subjects: Business, Manufacturing and Economic Development; State Affairs and State Agencies; Higher Education
Progress: 1st House: Passed
Status: 03/07/2019 – Passed in the House
History: 01/24/2019 – H Introduced and referred to House State Government, Elections & Indian Affairs.
02/18/2019 – H Reported Do Pass as amended by House State Government, Elections & Indian Affairs.
03/07/2019 – H Opened for floor debate.
03/07/2019 – H Passed 53-0.

Bill: HM36
Sponsors: Lundstrom (D9)
Title: STUDY TO AVOID INMATE RECIDIVISM
Summary: Requests the Corrections Department and Workforce Solutions Department to undertake a feasibility study of steps to assist newly-released inmates with transitional housing and employment and successful reintegration into society.
Subjects: State Affairs and State Agencies; Public Safety and Corrections; Interim Studies and Interim Committees
Progress: 1st House: Passed
Status: 03/07/2019 – Passed in the House
History: 02/08/2019 – H Introduced and referred to House Judiciary.
02/21/2019 – H Reported Do Pass as amended by House Judiciary.
03/07/2019 – H Opened for floor debate.
03/07/2019 – H Passed 53-0.

Bill: HM37
Sponsors: Pratt (D27)
Title: “MILITARY AND VETERANS DAY”
Summary: Declares March 11, 2019 as “Military and Veterans Day” in the House to honor the service of armed forces personnel and veterans.
Subjects: Veterans and Military Affairs
Progress: 1st House: Passed

Status: 03/11/2019 – Passed in the House
History: 02/08/2019 – H Introduced and placed on Speaker's Table.
03/11/2019 – H Removed from Speaker's table.
03/11/2019 – H Opened for floor debate.
03/11/2019 – H Passed 70-0.
Scheduled: 03/11/2019 – House Calendar, 11:00 a.m., House Chambers

Bill: HM38
Sponsors: Alcon (D6)
Title: INCORPORATE MUNICIPALITY OF SANTA CRUZ DE LA CANADA
Summary: Encourages Rio Arriba County to facilitate the incorporation of Santa Cruz de la Canada as a municipality to provide adequate governing authority to protect the health, safety and welfare of its residents, and requests that the Guadalupe Hidalgo Treaty Division of the Attorney General's Office examine the land claims of Santa Cruz de la Canada as to whether there is cause to approach the U.S. government to address land claims Santa Cruz de la Canada is making under the Treaty of Guadalupe Hidalgo.
Subjects: County Affairs; Municipalities/City Government; State Affairs and State Agencies; Land, Housing and Real Estate; Interim Studies and Interim Committees
Progress: 1st House: Passed
Status: 03/07/2019 – Passed in the House
History: 02/11/2019 – H Introduced and referred to House Local Government, Land Grants & Cultural Affairs.
02/19/2019 – H Reported Do Pass by House Local Government, Land Grants & Cultural Affairs.
03/07/2019 – H Opened for floor debate.
03/07/2019 – H Passed 53-0.
Tracking: COUNTY AFFAIRS
Tracking: GIS
Notes: Santa Cruz incorporation

Bill: HM39
Sponsors: McQueen (D50); Wirth (D25)
Title: NATIONAL MUSEUM OF NEW DEAL ART
Summary: Requests the New Mexico congressional delegation to investigate the possibility of establishing a National Museum of New Deal Art to be located in the National Park Service Building in the Museum Hill neighborhood of Santa Fe.
Subjects: Cultural Affairs
Progress: 1st House: Passed
Status: 03/10/2019 – Passed in the House
History: 02/11/2019 – H Introduced and referred to House Local Government, Land Grants & Cultural Affairs.
02/22/2019 – H Reported Do Pass by House Local Government, Land Grants & Cultural Affairs.
03/10/2019 – H Opened for floor debate.
03/10/2019 – H Passed 63-1.

Bill: HM40
Sponsors: Figueroa (D30)

Title:	PAID TEACHER RESIDENCY PROGRAMS
Summary:	Requests that the Legislative Education Study Committee study the efficacy and logistics of implementing paid teacher residency programs in New Mexico.
Subjects:	Schools and Teachers
Progress:	1st House: Passed
Status:	03/07/2019 – Passed in the House
History:	02/13/2019 – H Introduced and referred to House Education. 02/20/2019 – H Reported Do Pass by House Education. 03/07/2019 – H Opened for floor debate. 03/07/2019 – H Passed 53-0.
<hr/>	
Bill:	HM42
Sponsors:	McQueen (D50)
Title:	PRESCRIBED FIRE WORKING GROUP
Summary:	Requests that the Energy, Minerals and Natural Resources Department convene a working group to study the expansion of prescribed fire in New Mexico.
Subjects:	Energy Resources and Chemicals; Natural Resources (Parks and Wildlife); Interim Studies and Interim Committees
Progress:	1st House: Passed
Status:	03/07/2019 – Passed in the House
History:	02/13/2019 – H Introduced and referred to House Energy, Environment & Natural Resources. 02/26/2019 – H Reported Do Pass by House Energy, Environment & Natural Resources. 03/07/2019 – H Opened for floor debate. 03/07/2019 – H Passed 53-0.
<hr/>	
Bill:	HM45
Sponsors:	Trujillo, L. (D48)
Title:	CIVICS EDUCATION IN PUBLIC SCHOOLS TASK FORCE
Summary:	Requests PED to convene a civics education task force to determine how to improve civics curriculum and to report to the appropriate interim legislative committee by November 1, 2019.
Subjects:	Schools and Teachers; Interim Studies and Interim Committees
Progress:	1st House: Passed
Status:	03/07/2019 – Passed in the House
History:	02/13/2019 – H Introduced and referred to House Education. 02/20/2019 – H Reported Do Pass by House Education. 03/07/2019 – H Opened for floor debate. 03/07/2019 – H Passed 53-0.
<hr/>	
Bill:	HM50
Sponsors:	Salazar, T. (D70)
Title:	REGIONAL COLLABORATION IN HEALTH SERVICES
Summary:	Discusses the significant challenges in access to health care due to New Mexico’s large rural and frontier areas which is related to primary care provider shortages and lack of awareness of insurance availability. Encourages regional mental and physical health service providers to collaborate to provide exceptional service at all levels of care.
Subjects:	Health and Medical Practice; Human Services

Progress: 1st House: Passed
Status: 03/07/2019 – Passed in the House
History: 02/15/2019 – H Introduced and referred to House Health & Human Services.
03/05/2019 – H Reported Do Pass by House Health & Human Services.
03/07/2019 – H Opened for floor debate.
03/07/2019 – H Passed 53-0.

Bill: HM51
Sponsors: Louis (D26)
Title: TRIBAL CUSTOMARY ADOPTION PLAN
Summary: Requests CYFD, in collaboration with Indian nations, tribes and pueblos, to develop a tribal customary adoption plan, policies and procedures and to make legislative recommendations for review and approval by all parties.
Subjects: Family and Juveniles; Indians; Interim Studies and Interim Committees
Progress: 1st House: Passed
Status: 03/07/2019 – Passed in the House
History: 02/15/2019 – H Introduced and referred to House State Government, Elections & Indian Affairs.
03/01/2019 – H Reported Do Pass by House State Government, Elections & Indian Affairs.
03/07/2019 – H Opened for floor debate.
03/07/2019 – H Passed 53-0.

Bill: HM53
Sponsors: Figueroa (D30)
Title: UNM WORLD LANGUAGE EXPO DAY
Summary: Declares March 8, 2019 as “UNM World Language Expo Day” in the House to celebrate its 20 years of diversity of world languages and cultures and to recognize the inspiring work of New Mexico’s language teachers.
Subjects: Higher Education; Schools and Teachers; Miscellaneous
Progress: 1st House: Passed
Status: 03/08/2019 – Passed in the House
History: 02/15/2019 – H Introduced and placed on Speaker's Table.
03/08/2019 – H Removed from Speaker's table.
03/08/2019 – H Opened for floor debate.
03/08/2019 – H Passed 70-0.

Bill: HM56
Sponsors: Montoya (R1)
Title: FREIGHT HAULING STUDY GROUP
Summary: Requests that the Economic Development Department convene a study group to analyze options for freight hauling from San Juan County to the major transportation corridor, with a report to be presented to the relevant interim committee prior to November 1, 2019.
Subjects: County Affairs; Transportation; Business, Manufacturing and Economic Development; Energy Resources and Chemicals; State Affairs and State Agencies; Agriculture and Ranching; Interim Studies and Interim Committees
Progress: 1st House: Passed
Status: 03/07/2019 – Passed in the House

History: 02/15/2019 – H Introduced and referred to House Commerce & Economic Development.
02/28/2019 – H Reported Do Pass by House Commerce & Economic Development.
03/07/2019 – H Opened for floor debate.
03/07/2019 – H Passed 53-0.

Bill: HM57
Sponsors: Trujillo, L. (D48)
Title: TASK FORCE ON ETHICAL MISCONDUCT BY SCHOOL STAFF
Summary: Requests that the Public Education Department convene a task force by August 1, 2019 to identify concerns within the state’s education system involving moral turpitude and to develop a plan to ameliorate such concerns; requests a study of possible changes to the Public School Code regarding ethical misconduct.
Subjects: Schools and Teachers
Progress: 1st House: Passed
Status: 03/07/2019 – Passed in the House
History: 02/15/2019 – H Introduced and referred to House Education.
02/24/2019 – H Reported Do Pass by House Education.
03/07/2019 – H Opened for floor debate.
03/07/2019 – H Passed 53-0.

Bill: HM58
Sponsors: Garratt (D29)
Title: ADULT EDUCATION
Summary: Requests that PED and HED study issues pertaining to adults attending public school and the availability and competence of adult basic education and other equivalency programs; requests a report with recommendations to the Governor and the LESC by December 1, 2019.
Subjects: Higher Education; Schools and Teachers; State Affairs and State Agencies
Progress: 1st House: Passed
Status: 03/07/2019 – Passed in the House
History: 02/15/2019 – H Introduced and referred to House Education.
02/24/2019 – H Reported Do Pass by House Education.
03/07/2019 – H Opened for floor debate.
03/07/2019 – H Passed 53-0.

Bill: HM60
Sponsors: Romero, A. (D46)
Title: SCHOOL FLOOR PLANS DISCLOSURE
Summary: Requests PED to provide a copy of the floor plan of each public and private school to the Department of Public Safety, to provide each law enforcement agency with copies of the floor plans for those schools within the agency’s jurisdiction, and to recommend legislation to protect school floor plans from disclosure pursuant to a public records request.
Subjects: Schools and Teachers; Public Safety and Corrections
Progress: 1st House: Passed
Status: 03/07/2019 – Passed in the House
History: 02/19/2019 – H Introduced and referred to House Education.
02/25/2019 – H Reported Do Pass by House Education.

03/07/2019 – H Opened for floor debate.
03/07/2019 – H Passed 53-0.

Bill: HM61
Sponsors: Gonzales (D42)
Title: RURAL ELECTRIC COOPERATIVE REGULATION AND GOVERNANCE
Summary: Requests that the appropriate interim legislative committee receive testimony on PRC regulation of rural electric cooperatives, on how the state may foster REC self-governance and on how best to allow an REC to implement policies including decoupling rates, passing fixed costs onto members, supporting emerging technologies, and different rates within a customer class.
Subjects: Utilities; Interim Studies and Interim Committees
Progress: 1st House: Passed
Status: 03/07/2019 – Passed in the House
History: 02/19/2019 – H Introduced and referred to House Energy, Environment & Natural Resources.
03/03/2019 – H Reported Do Pass by House Energy, Environment & Natural Resources.
03/07/2019 – H Opened for floor debate.
03/07/2019 – H Passed 53-0.

Bill: HM67
Sponsors: Stapleton (D19)
Title: WORKING GROUP ON DRIVER'S LICENSES FOR OLDER ADULTS
Summary: (Duplicate of 2019 SM93) Requests the Motor Vehicle Division to convene a working group to research and refine best practices for the issuance and denial of driver's licenses and state identification cards to older adults.
Subjects: Civil Rights; Aging; Interim Studies and Interim Committees; State Affairs and State Agencies
Related: 2019:SM93
Progress: 1st House: Passed
Status: 03/07/2019 – Passed in the House
History: 02/22/2019 – H Introduced and referred to House Transportation, Public Works & Capital Improvements.
03/05/2019 – H Reported Do Pass by House Transportation, Public Works & Capital Improvements.
03/07/2019 – H Opened for floor debate.
03/07/2019 – H Passed 53-0.

Bill: HM78
Sponsors: Stapleton (D19)
Title: RESOLVES THAT LILY GONZALES BE HONORED FOR HER DEDICATION TO NEW MEXICO AND HER MANY YEARS OF PUBLIC SERVICE IN LAW ENFORCEMENT AND AS A PROBATE JUDGE. COPY OF THE MEMORIAL IS TRANSMITTED TO THE FAMILY OF LILY GONZALES.
Summary: Declares March 7, 2019 to be A Call to Prayer for America Day in the House of Representatives.
Subjects: Legislature
Progress: 1st House: Passed
Status: 03/07/2019 – Passed in the House
History: 03/04/2019 – H Introduced and placed on Speaker's Table.
03/07/2019 – H Removed from Speaker's table.
03/07/2019 – H Opened for floor debate.

03/07/2019 – H Passed 70-0.

Bill: SB549
Sponsors: Sanchez, C. (D30)
Title: ELIMINATES TAX DEDUCTION FOR SELLING CHEMICALS IN CARLOAD LOTS
Summary: Deletes the deduction for selling chemicals or reagents in carload lots from the gross receipts deduction at Section 7-9-65. Leaves intact the deduction for selling those same items to mining, milling or oil companies.
Subjects: County Affairs; Municipalities/City Government; Energy Resources and Chemicals; Environment and Pollution; Taxation, Fees and Audits
Progress: 1st House: Passed
Status: 03/09/2019 – Passed in the Senate
History: 02/13/2019 – S Introduced and referred to Senate Corporations & Transportation.
02/13/2019 – S Also referred to Senate Finance.
02/25/2019 – S Reported without recommendation by Senate Corporations & Transportation.
03/09/2019 – S Reported Do Pass as amended by Senate Finance.
03/09/2019 – S Opened for floor debate.
03/09/2019 – S Passed 36-3.
Tracking: COUNTY AFFAIRS

Bill: SJR2
Sponsors: Martinez, Richard (D5); Garcia, Miguel (D14); Herrera (D41)
Title: LAGUNA DEL CAMPO LAND TRACT
Summary: (For the Land Grant Committee) Authorizing the transfer of land in Rio Arriba County to the Tierra Amarilla land grant-merced.
Subjects: County Affairs; Land, Housing and Real Estate; Natural Resources (Parks and Wildlife); State Affairs and State Agencies; Cultural Affairs
Progress: 2nd House: Passed
Status: 03/10/2019 – Passed in the House
History: 12/18/2018 – S Prefiled in the Senate.
01/16/2019 – S Introduced and referred to Senate Rules.
01/16/2019 – S Also referred to Senate Conservation.
01/28/2019 – S Reported Do Pass by Senate Rules.
02/07/2019 – S Reported Do Pass by Senate Conservation.
02/13/2019 – S Opened for floor debate.
02/13/2019 – S Passed 42-0.
02/14/2019 – H Received in the House and referred to House Local Government, Land Grants & Cultural Affairs.
02/14/2019 – H Also referred to House Judiciary.
02/28/2019 – H Reported Do Pass by House Local Government, Land Grants & Cultural Affairs.
03/08/2019 – H Reported Do Pass by House Judiciary.
03/10/2019 – H Opened for floor debate.
03/10/2019 – H Passed 54-0.
Tracking: COUNTY AFFAIRS

Bill: SM21

Sponsors: Campos, P. (D8)
Title: "RUDOLFO ANAYA I LOVE TO READ DAY"
Summary: Declares February 14, 2019 as "Rudolfo Anaya I Love to Read Day" in the Senate to encourage children to read and keep on reading.
Subjects: Schools and Teachers; Miscellaneous
Progress: 1st House: Passed
Status: 02/14/2019 – Passed in the Senate
History: 01/25/2019 – S Introduced and placed on President's Table.
02/14/2019 – S Removed from President's table.
02/14/2019 – S Placed on Senate Calendar.
02/14/2019 – S Opened for floor debate.
02/14/2019 – S Passed 43-0.

Bill: SM24
Sponsors: Campos, P. (D8)
Title: FUTURE ENERGY CAREERS
Summary: Requests state agencies to advance and support policies and programs that remove access barriers, improve outreach and better align education and training with energy workforce needs; requests the Senate support enabling diverse opportunities in energy careers as a priority and support the continued implementation of the New Mexico energy roadmap.
Subjects: Business, Manufacturing and Economic Development; Energy Resources and Chemicals; Higher Education; Labor; Natural Resources (Parks and Wildlife); State Affairs and State Agencies
Progress: 1st House: Passed
Status: 03/10/2019 – Passed in the Senate
History: 01/25/2019 – S Introduced and referred to Senate Rules.
01/25/2019 – S Also referred to Senate Conservation.
02/11/2019 – S Reported Do Pass by Senate Rules.
03/07/2019 – S Reported Do Pass by Senate Conservation.
03/10/2019 – S Opened for floor debate.
03/10/2019 – S Passed 43-0.

Bill: SM27
Sponsors: Soules (D37)
Title: ASSESSMENT OF SCHOOL LIBRARIES AND LIBRARIANS
Summary: Requests the Public Education Department to assist the New Mexico Library Association and the Libraries Transform New Mexico Steering Committee to undertake a joint comprehensive assessment of school libraries and librarians in public schools and charter schools to determine resources and needs for their operation.
Subjects: Schools and Teachers; Public Employees/Retirement; State Affairs and State Agencies; Interim Studies and Interim Committees
Progress: 1st House: Passed
Status: 03/10/2019 – Passed in the Senate
History: 01/25/2019 – S Introduced and referred to Senate Rules.
01/25/2019 – S Also referred to Senate Education.
02/25/2019 – S Reported Do Pass as amended by Senate Rules.
03/08/2019 – S Reported Do Pass by Senate Education.
03/10/2019 – S Opened for floor debate.

SFC CLERK RECORDED 04/10/2019

03/10/2019 – S Passed 43-0.

SENATE TRACK (2019 Reg)

Bill: SB41
Sponsors: Papen (D38)
Title: MEDICAID PROVIDER AND MANAGED CARE ACT
Summary: (Identical to final version of 2018 SB2, passed unanimously by both chambers but pocket vetoed by the Governor) (For the Legislative Health and Human Services Committee) Provides for maintenance of Medicaid services pending determination of disputes regarding overpayments and allegations of fraud. Establishes due process for providers and subcontractors in such disputes. Provides for audits and prohibition of extrapolation of audit findings. Establishes provider rights to request an informal conference and expedited adjudicatory proceedings from an administrative law judge in the Department of Finance and Administration, pursuant to the Administrative Procedures Act. Provides for release of suspended payment on posting of a surety bond; judicial review of final determinations; and award of costs.
Subjects: Insurance; Health and Medical Practice; Courts and Civil Matters; Criminal Code; State Affairs and State Agencies; Taxation, Fees and Audits
Related: 2018:SB2
Progress: 2nd House: Reported from Committees
Status: 03/08/2019 – House Calendar
History: 12/20/2018 – S Prefiled in the Senate.
01/16/2019 – S Introduced and referred to Senate Judiciary.
01/16/2019 – S Also referred to Senate Finance.
01/22/2019 – S Reported Do Pass by Senate Judiciary.
02/12/2019 – S Reported Do Pass as amended by Senate Finance.
02/14/2019 – S Opened for floor debate.
02/14/2019 – S Passed 38-0.
02/15/2019 – H Received in the House and referred to House Health & Human Services.
02/15/2019 – H Also referred to House Judiciary.
03/05/2019 – H Reported Do Pass by House Health & Human Services.
03/08/2019 – H Reported Do Pass by House Judiciary.
Scheduled: 03/11/2019 – House Calendar, 11:00 a.m., House Chambers

Bill: SB84
Sponsors: Stefanics (D39); Armstrong, G. (R49)
Title: SENIOR CENTER FOOD GARDENS
Summary: (For the Legislative Health and Human Services Committee) Permits food gardens at senior centers and directs the Aging and Long-Term Services Department to adopt rules addressing food safety and good agricultural practices for the gardens.
Subjects: Aging; Agriculture and Ranching; Environment and Pollution; Health and Medical Practice; Human Services; Water
Progress: 2nd House: Passed
Status: 03/10/2019 – Enrolling and Engrossing Pending
History: 12/17/2018 – S Prefiled in the Senate.
01/16/2019 – S Introduced and referred to Senate Public Affairs.
01/16/2019 – S Also referred to Senate Conservation.
01/28/2019 – S Reported Do Pass as amended by Senate Public Affairs.
02/07/2019 – S Reported Do Not Pass but Do Pass as substituted by Senate Conservation.

SFC CLERK RECORDED 04/10/2019

02/08/2019 – S Opened for floor debate.
02/08/2019 – S Passed 38-0.
02/11/2019 – H Received in the House and referred to House Health & Human Services.
02/11/2019 – H Also referred to House State Government, Elections & Indian Affairs.
02/28/2019 – H Reported Do Pass by House Health & Human Services.
03/07/2019 – H Reported Do Pass by House State Government, Elections & Indian Affairs.
03/10/2019 – H Opened for floor debate.
03/10/2019 – H Passed 50-0.

Bill: SB88
Sponsors: Tallman (D18)
Title: REORGANIZATION PROCUREMENT CONTRACTS: AUTHORITY TRANSFER FROM DFA TO GSD
Summary: A structural and functional government reorganization bill that transfers authority over certain procurement functions from the Department of Finance and Administration to the General Services Department related to professional services contracts, small purchases under \$60,000, sole-source contracts, and emergency procurements. DFA's Financial Control Division is assigned the duty to collect and maintain contract information regarding in-state and out-of-state contract awards. Where protests are made to sole-source contract, the award shall be reconsidered.
Subjects: Business, Manufacturing and Economic Development; State Affairs and State Agencies; Construction and Materials; Labor
Progress: 2nd House: Reported from Committees
Status: 03/09/2019 – House Calendar
History: 12/20/2018 – S Prefiled in the Senate.
01/16/2019 – S Introduced and referred to Senate Public Affairs.
01/16/2019 – S Also referred to Senate Judiciary.
02/01/2019 – S Reported Do Pass by Senate Public Affairs.
02/07/2019 – S Reported Do Pass by Senate Judiciary.
02/08/2019 – S Opened for floor debate.
02/08/2019 – S Passed 33-0.
02/11/2019 – H Received in the House and referred to House State Government, Elections & Indian Affairs.
02/11/2019 – H Also referred to House Judiciary.
03/03/2019 – H Reported Do Pass by House State Government, Elections & Indian Affairs.
03/09/2019 – H Reported Do Pass as amended by House Judiciary.
Scheduled: 03/11/2019 – House Calendar, 11:00 a.m., House Chambers

Bill: SB124
Sponsors: Padilla (D14)
Title: BREASTFEEDING AND LACTATION POLICIES FOR INMATES
Summary: (Similar to 2017, HB 277) Requires correctional facilities to develop and implement policies for lactating inmates.
Subjects: Family and Juveniles; Health and Medical Practice; Human Services; Public Safety and Corrections
Related: 2017:HB277
Progress: 2nd House: Passed
Status: 03/09/2019 – Enrolling and Engrossing Pending
History: 12/20/2018 – S Prefiled in the Senate.
01/16/2019 – S Introduced and referred to Senate Judiciary.

01/22/2019 – S Reported Do Pass by Senate Judiciary.
 01/23/2019 – S Referred to Senate Judiciary (Removed from Calendar; returned to Judiciary).
 01/31/2019 – S Reported Do Not Pass but Do Pass as substituted by Senate Judiciary.
 02/07/2019 – S Opened for floor debate.
 02/07/2019 – S Passed 37-0.
 02/08/2019 – H Received in the House and referred to House Health & Human Services.
 02/08/2019 – H Also referred to House Judiciary.
 02/28/2019 – H Reported Do Pass by House Health & Human Services.
 03/06/2019 – H Reported Do Pass by House Judiciary.
 03/09/2019 – H Opened for floor debate.
 03/09/2019 – H Passed 58-2.

Bill: SB128
Sponsors: Papen (D38)
Title: LOCAL GOVERNMENT BEHAVIORAL HEALTH CLINIC FUNDING
Summary: (Related to 2019 SB126) (For New Mexico Finance Authority Oversight Committee) Amends the Behavioral Health Capitol Funding Act by redefining "eligible entity" in two ways.
Subjects: Health and Medical Practice; County Affairs; Municipalities/City Government; Business, Manufacturing and Economic Development; Appropriations; Public Finance and Budgets
Related: 2019:SB126
Progress: 2nd House: Reported from Committees
Status: 03/10/2019 – House Calendar
History: 12/20/2018 – S Prefiled in the Senate.
 01/17/2019 – S Introduced and referred to Senate Public Affairs.
 01/17/2019 – S Also referred to Senate Finance.
 02/01/2019 – S Reported Do Pass by Senate Public Affairs.
 02/20/2019 – S Reported Do Pass by Senate Finance.
 02/22/2019 – S Opened for floor debate.
 02/22/2019 – S Passed 42-0.
 02/24/2019 – H Received in the House and referred to House Local Government, Land Grants & Cultural Affairs.
 02/24/2019 – H Also referred to House Appropriations & Finance.
 03/08/2019 – H Reported Do Pass by House Local Government, Land Grants & Cultural Affairs.
 03/10/2019 – H Reported Do Pass by House Appropriations & Finance.
Scheduled: 03/11/2019 – House Calendar, 11:00 a.m., House Chambers

Bill: SB165
Sponsors: Sanchez, C. (D30); Powdrell-Culbert (R44)
Title: MUNICIPALITY AUTHORITY: PLEDGE ANY REVENUE TO REPAY REFUNDING BONDS
Summary: (For the New Mexico Finance Authority Oversight Committee) Removes restrictions on the pledging of gross receipts tax revenue to refund various types of municipal bonds and explicitly provides that a municipality may pledge revenues from one source to the payment of bonds that refund bonds payable from a different source of revenue. Effective July 1, 2019.
Subjects: Municipalities/City Government; Banks, Securities and Loans; Public Finance and Budgets
Progress: 2nd House: Reported from Committees
Status: 03/09/2019 – House Calendar
History: 12/27/2018 – S Prefiled in the Senate.

01/17/2019 – S Introduced and referred to Senate Public Affairs.
01/17/2019 – S Also referred to Senate Corporations & Transportation.
02/04/2019 – S Reported Do Pass by Senate Public Affairs.
02/11/2019 – S Reported Do Pass by Senate Corporations & Transportation.
02/13/2019 – S Opened for floor debate.
02/13/2019 – S Passed 42-0.
02/14/2019 – H Received in the House and referred to House Local Government, Land Grants & Cultural Affairs.
02/14/2019 – H Also referred to House Taxation & Revenue.
02/28/2019 – H Reported Do Pass by House Local Government, Land Grants & Cultural Affairs.
03/09/2019 – H Reported Do Pass by House Taxation & Revenue.
Scheduled: 03/11/2019 – House Calendar, 11:00 a.m., House Chambers

Bill: SB167
Sponsors: Sanchez, C. (D30)
Title: SECRETARY OF STATE AUTHORITY TO ACCEPT ELECTRONIC SIGNATURES
Summary: Authorizes the Secretary of State to permit, without adopting a rule, electronic filing of documents, including original documents, and accept for filing a document by electronic filing containing a signature, however made.
Subjects: Business, Manufacturing and Economic Development; State Affairs and State Agencies
Progress: 2nd House: Reported from Committees
Status: 03/08/2019 – House Calendar
History: 12/27/2018 – S Prefiled in the Senate.
01/17/2019 – S Introduced and referred to Senate Corporations & Transportation.
01/17/2019 – S Also referred to Senate Judiciary.
01/31/2019 – S Reported Do Pass by Senate Corporations & Transportation.
02/12/2019 – S Reported Do Pass by Senate Judiciary.
02/14/2019 – S Opened for floor debate.
02/14/2019 – S Passed 37-0.
02/14/2019 – H Received in the House and referred to House State Government, Elections & Indian Affairs.
02/14/2019 – H Also referred to House Judiciary.
03/03/2019 – H Reported Do Pass by House State Government, Elections & Indian Affairs.
03/08/2019 – H Reported Do Pass by House Judiciary.
Scheduled: 03/11/2019 – House Calendar, 11:00 a.m., House Chambers

Bill: SB264
Sponsors: Ortiz y Pino (D12); Armstrong, G. (R49)
Title: RURAL LIBRARIES ENDOWMENT ACT
Summary: Provides for either a constitutional amendment to create an endowment to support the preservation, development and establishment of rural libraries in New Mexico or alternative provisions for that purpose, creates the Rural Libraries Endowment Fund, Program Fund and Grant Program, appropriates \$50 million (GF, nonreverting) to the Rural Libraries Endowment Fund in FY 2020.
Subjects: Constitutional Issues and Amendments; Appropriations; Municipalities/City Government; Indians
Progress: 2nd House: Reported from Committees
Status: 03/09/2019 – House Calendar

History: 01/21/2019 – S Introduced and referred to Senate Public Affairs.
01/21/2019 – S Also referred to Senate Finance.
02/11/2019 – S Reported Do Pass as amended by Senate Public Affairs.
02/27/2019 – S Reported Do Pass as amended by Senate Finance.
03/01/2019 – S Opened for floor debate.
03/01/2019 – S Floor substitute adopted (Substitute 1) (Sen. Gerald Ortiz y Pino) Voice Vote.
03/01/2019 – S Passed 34-6.
03/04/2019 – H Received in the House and referred to House Local Government, Land Grants & Cultural Affairs.
03/04/2019 – H Also referred to House Taxation & Revenue.
03/08/2019 – H Reported Do Pass by House Local Government, Land Grants & Cultural Affairs.
03/09/2019 – H Reported Do Pass by House Taxation & Revenue.
Scheduled: 03/11/2019 – House Calendar, 11:00 a.m., House Chambers

Bill: SB535
Sponsors: Cisneros (D6)
Title: TEMPORARY CAP ON SUPPLEMENT SEVERANCE TAX BONDS
Summary: Bars the State Board of Finance from issuing and selling more than \$181 million in supplemental severance tax bonds in 2019. Requires a distribution of \$23,690,000 on June 14, 2019 and by each December 29 from 2020 through 2028 from the Severance Tax Bonding Fund to the Severance Tax Permanent Fund.
Subjects: State Affairs and State Agencies; Banks, Securities and Loans; Public Finance and Budgets
Progress: 2nd House: Reported from Committees
Status: 03/10/2019 – House Calendar
History: 02/12/2019 – S Introduced and referred to Senate Finance.
02/15/2019 – S Reported Do Not Pass but Do Pass as substituted by Senate Finance.
02/18/2019 – S Opened for floor debate.
02/18/2019 – S Floor amendments adopted (Amendment 1) (Sen. Carlos Cisneros) Voice Vote.
02/18/2019 – S Passed 37-0.
02/19/2019 – H Received in the House and referred to House Taxation & Revenue.
02/19/2019 – H Also referred to House Appropriations & Finance.
03/07/2019 – H Reported Do Pass by House Taxation & Revenue.
03/10/2019 – H Reported Do Pass by House Appropriations & Finance.
Scheduled: 03/11/2019 – House Calendar, 11:00 a.m., House Chambers

SFC CLERK RECORDED 04/10/2019

Bill: SB566
Sponsors: Ingle (R27)
Title: BONDING OF GROSS RECEIPTS TAX INCREMENTS FOR TIDDS
Summary: Tightens conditions for dedicating gross receipts tax increments for tax increment development district bonds by municipalities and counties. Authorizes the State Board of Finance to dedicate state gross receipts increments for TIDD projects.
Subjects: County Affairs; Municipalities/City Government; Banks, Securities and Loans; Taxation, Fees and Audits
Progress: 2nd House: Reported from Committees
Status: 03/10/2019 – House Calendar
History: 02/14/2019 – S Introduced and referred to Senate Corporations & Transportation.
02/14/2019 – S Also referred to Senate Finance.

02/28/2019 – S Reported Do Pass by Senate Corporations & Transportation.
03/05/2019 – S Reported Do Pass as amended by Senate Finance.
03/07/2019 – S Opened for floor debate.
03/07/2019 – S Floor amendments adopted (Amendment 1) (Sen. Daniel Ivey-Soto) Voice Vote.
03/07/2019 – S Passed 38-0.
03/08/2019 – H Received in the House and referred to House Appropriations & Finance.
03/10/2019 – H Reported Do Pass by House Appropriations & Finance.
Scheduled: 03/11/2019 – House Calendar, 11:00 a.m., House Chambers

HOUSE TRACK (2019 Reg)

Bill: HB100
Sponsors: Lente (D65)
Title: REPLACE COLUMBUS DAY WITH INDIGENOUS PEOPLE’S DAY
Summary: Renames the public holiday on the second Monday in October as Indigenous People’s Day.
Subjects: Miscellaneous; Cultural Affairs
Progress: 2nd House: Reported from Committees
Status: 03/09/2019 – Senate Calendar
History: 12/22/2018 – H Prefiled in the House.
01/16/2019 – H Introduced and referred to House Consumer & Public Affairs.
01/16/2019 – H Also referred to House State Government, Elections & Indian Affairs.
01/30/2019 – H Reported Do Not Pass but Do Pass as substituted by House Consumer & Public Affairs.
02/01/2019 – H Reported Do Pass by House State Government, Elections & Indian Affairs.
02/07/2019 – H Opened for floor debate.
02/07/2019 – H Note: Floor Sub 1 (Rep. Montoya) Motion to table adopted (43-22).
02/07/2019 – H Passed 50-12.
02/08/2019 – S Received in the Senate and referred to Senate Indian & Cultural Affairs.
02/08/2019 – S Also referred to Senate Public Affairs.
02/19/2019 – S Reported Do Pass by Senate Indian & Cultural Affairs.
03/09/2019 – S Reported Do Pass by Senate Public Affairs.
Scheduled: 03/11/2019 – Senate Calendar, 11:00 a.m., Senate Chambers

Bill: HB124
Sponsors: Sweetser (D32)
Title: FIRE PROTECTION FUND FOR LAND PURCHASE
Summary: (Endorsed by the New Mexico Finance Authority Oversight Committee) Clarifies that money from the Fire Protection Fund may be used to purchase land for fire stations and substations; allows fund awards to entities with outstanding obligations associated with prior fund awards.
Subjects: Land, Housing and Real Estate; State Affairs and State Agencies; Public Safety and Corrections; County Affairs; Municipalities/City Government
Progress: 2nd House: Passed
Status: 03/09/2019 – Enrolling and Engrossing Pending
History: 12/21/2018 – H Prefiled in the House.
01/16/2019 – H Introduced and referred to House Local Government, Land Grants & Cultural Affairs.
01/16/2019 – H Also referred to House Appropriations & Finance.
01/30/2019 – H Reported Do Pass as amended by House Local Government, Land Grants & Cultural Affairs.
02/27/2019 – H Referral withdrawn from House Appropriations & Finance.
03/01/2019 – H Opened for floor debate.
03/01/2019 – H Passed 65-0.
03/02/2019 – S Received in the Senate and referred to Senate Finance.
03/09/2019 – S Reported Do Pass by Senate Finance.
03/09/2019 – S Passed 41-0.

Bill: HB137
Sponsors: Allison (D4)
Title: COUNTY AND TRIBAL HEALTH PLAN ACT
Summary: Creates the County and Tribal Health Plan Act; repeals the Maternal and Child Health Plan Act.
Subjects: Health and Medical Practice; County Affairs; State Affairs and State Agencies; Family and Juveniles; Indians
Progress: 2nd House: Passed
Status: 03/09/2019 – Enrolling and Engrossing Pending
History: 12/21/2018 – H Prefiled in the House.
01/16/2019 – H Introduced and referred to House State Government, Elections & Indian Affairs.
01/16/2019 – H Also referred to House Health & Human Services.
01/31/2019 – H Reported Do Pass by House State Government, Elections & Indian Affairs.
02/18/2019 – H Reported Do Pass by House Health & Human Services.
02/20/2019 – H Opened for floor debate.
02/20/2019 – H Passed 63-0.
02/21/2019 – S Received in the Senate and referred to Senate Indian & Cultural Affairs.
02/21/2019 – S Also referred to Senate Public Affairs.
02/26/2019 – S Reported Do Pass by Senate Indian & Cultural Affairs.
03/08/2019 – S Reported Do Pass by Senate Public Affairs.
03/09/2019 – S Opened for floor debate.
03/09/2019 – S Passed 40-0.

Bill: HB241
Sponsors: Lundstrom (D9); Candelaria (D26)
Title: PUBLIC PROJECT REVOLVING FUND LOANS TO 192 RECIPIENTS
Summary: (Endorsed by the New Mexico Finance Authority Oversight Committee) Authorizes the New Mexico Finance Authority to make the 192 loans listed below, all in excess of \$1 million each, for public projects from the Public Project Revolving Fund.
Subjects: Banks, Securities and Loans; Business, Manufacturing and Economic Development; Construction and Materials; County Affairs; Higher Education; Land, Housing and Real Estate; Municipalities/City Government; Public Safety and Corrections; Taxation, Fees and Audits; Utilities; Water; Schools and Teachers
Progress: 2nd House: Passed
Status: 03/09/2019 – Enrolling and Engrossing Pending
History: 01/17/2019 – H Introduced and referred to House Appropriations & Finance.
02/26/2019 – H Reported Do Not Pass but Do Pass as substituted by House Appropriations & Finance.
02/28/2019 – H Opened for floor debate.
02/28/2019 – H Passed 65-0.
03/01/2019 – S Received in the Senate and referred to Senate Finance.
03/08/2019 – S Reported Do Pass by Senate Finance.
03/09/2019 – S Opened for floor debate.
03/09/2019 – S Passed 38-0.

Bill: HB342
Sponsors: Maestas (D16); Rue (R23)

Title: CRIMINAL JUSTICE REFORMS

Summary: (Identical in part to 2019 HB43, similar in part to 2018 HB160, vetoed by the governor) A criminal justice reform measure that addresses offenders with behavioral health diagnoses and related jail incarceration procedures; immunity for assisting with overdose cases; procedures for pre-prosecution diversion programs; probation and parole procedures; pre-sentence reports; requirements for crime victims' reparations; accurate eyewitness identification requirements; duties of N.M. Sentencing Commission; eyewitness identification policies and training.

Subjects: Health and Medical Practice; County Affairs; Criminal Code; State Affairs and State Agencies; Human Services; Family and Juveniles; Public Safety and Corrections

Progress: 2nd House: Passed

Status: 03/08/2019 – Concurrence Pending

History: 01/24/2019 – H Introduced and referred to House Judiciary.
02/21/2019 – H Reported Do Not Pass but Do Pass as substituted by House Judiciary.
02/24/2019 – H Opened for floor debate.
02/24/2019 – H Passed 61-0.
02/25/2019 – S Received in the Senate and referred to Senate Public Affairs.
02/25/2019 – S Also referred to Senate Judiciary.
03/02/2019 – S Reported Do Pass as amended by Senate Public Affairs.
03/07/2019 – S Reported Do Pass by Senate Judiciary.
03/08/2019 – S Opened for floor debate.
03/08/2019 – S Passed 39-0.

Scheduled: 03/11/2019 – House Calendar, 11:00 a.m., House Chambers

Bill: HB479

Sponsors: Harper (R57); Ivey-Soto (D15)

Title: CONSOLIDATING CERTAIN LOCAL OPTION TAXES, DE-EARMARKING REVENUES

Summary: (Relates to HB6, SB358 & SB421) 76-page bill folds several of the municipal local option gross receipts taxes into the municipal gross receipts tax and several county local option gross receipts taxes into the county gross receipts tax.

Subjects: County Affairs; Municipalities/City Government; Business, Manufacturing and Economic Development; State Affairs and State Agencies; Taxation, Fees and Audits

Related: 2019:HB6; 2019:SB358; 2019:SB421

Progress: 2nd House: Passed

Status: 03/09/2019 – Enrolling and Engrossing Pending

History: 02/05/2019 – H Introduced and referred to House Local Government, Land Grants & Cultural Affairs.
02/05/2019 – H Also referred to House Taxation & Revenue.
02/14/2019 – H Reported Do Pass as amended by House Local Government, Land Grants & Cultural Affairs.
02/20/2019 – H Reported Do Pass by House Taxation & Revenue.
02/22/2019 – H Opened for floor debate.
02/22/2019 – H Passed 64-0.
02/25/2019 – S Received in the Senate and referred to Senate Corporations & Transportation.
02/25/2019 – S Also referred to Senate Finance.
03/02/2019 – S Reported Do Pass by Senate Corporations & Transportation.
03/09/2019 – S Reported Do Pass by Senate Finance.
03/09/2019 – S Opened for floor debate.
03/09/2019 – S Passed 37-4.

Scheduled: 03/11/2019 – *BILL REMOVED* House Calendar, 11:00 a.m., House Chambers

Bill: HB534
Sponsors: Lundstrom (D9)
Title: PUBLIC-PRIVATE PARTNERSHIP ACT
Summary: (Related to 2019 HB 286 and 2017 HB275 and SB143) Creates the Public-Private Partnership Act, the Public-Private Partnership Board and the Public-Private Partnership Project Fund to allow state and local governments to enter into partnerships with private sector entities for infrastructure projects related to transportation or broadband telecommunications network facilities.
Subjects: Transportation; Business, Manufacturing and Economic Development; State Affairs and State Agencies; Telecommunications; Public Finance and Budgets
Related: 2019:HB286; 2017:HB275; 2017:SB143
Progress: 2nd House: Reported from Committees
Status: 03/09/2019 – Senate Calendar
History: 02/11/2019 – H Introduced and referred to House Labor, Veterans' & Military Affairs.
02/11/2019 – H Also referred to House Judiciary.
02/15/2019 – H Reported Do Pass as amended by House Labor, Veterans' & Military Affairs.
02/26/2019 – H Reported Do Pass by House Judiciary.
03/01/2019 – H Opened for floor debate.
03/01/2019 – H Floor amendments adopted (Amendment 1) (Rep. Patricia Lundstrom) Voice Vote.
03/01/2019 – H Passed 64-0.
03/02/2019 – S Received in the Senate and referred to Senate Judiciary.
03/09/2019 – S Reported Do Pass as amended by Senate Judiciary.
Scheduled: 03/11/2019 – Senate Calendar, 11:00 a.m., Senate Chambers

Bill: HB564
Sponsors: Maestas (D16); Rue (R23)
Title: PROBATION AND PAROLE GOOD BEHAVIOR
Summary: (Similar in part to 2019 SB73) Declares the purpose of probation to be to enforce victim restitution, hold persons accountable, promote re-integration into law-abiding society, and reduce the risks of re-offense.
Subjects: Health and Medical Practice; Courts and Civil Matters; Criminal Code; Human Services; Public Safety and Corrections; Aging; Civil Rights
Related: 2019:SB73
Progress: 2nd House: Reported from Committees
Status: 03/10/2019 – Senate Calendar
History: 02/13/2019 – H Introduced and referred to House Judiciary.
02/21/2019 – H Reported Do Pass as amended by House Judiciary.
02/24/2019 – H Opened for floor debate.
02/24/2019 – H Passed 51-16.
02/26/2019 – S Received in the Senate and referred to Senate Judiciary.
02/26/2019 – S Also referred to Senate Finance.
03/07/2019 – S Reported Do Pass as amended by Senate Judiciary.
03/10/2019 – S Reported Do Pass by Senate Finance.
Scheduled: 03/11/2019 – Senate Calendar, 11:00 a.m., Senate Chambers

Bill: HB694
Sponsors: Ruiloba (D12)
Title: LOCAL GOVERNMENT TRANSPORTATION PROJECT FUND
Summary: House Transportation, Public Works and Capital Improvements Committee substitute for a dummy bill, HB694, creates the Local Government Transportation Project Fund administered by the Department of Transportation, to make grants for up to 95 to 100 percent of total costs to local governments for projects on a prioritized list approved by the State Transportation Commission.
Subjects: County Affairs; Municipalities/City Government; Transportation; State Affairs and State Agencies; Construction and Materials; Public Finance and Budgets
Progress: 2nd House: Passed
Status: 03/10/2019 – Enrolling and Engrossing Pending
History: 02/14/2019 – H Introduced and referred to House Rules & Order of Business.
02/27/2019 – H Note: Removed from House Rules and referred to HTPWC.
02/28/2019 – H Reported Do Not Pass but Do Pass as substituted by House Transportation, Public Works & Capital Improvements.
03/04/2019 – H Opened for floor debate.
03/04/2019 – H Passed 58-0.
03/05/2019 – S Received in the Senate and referred to Senate Finance.
03/08/2019 – S Reported Do Pass by Senate Finance.
03/10/2019 – S Opened for floor debate.
03/10/2019 – S Passed 39-0.

SFC CLERK RECORDED 04/10/2019

NMC Update - March 11, 2019

Bill: HB2
Sponsors: Lundstrom (D9)
Title: GENERAL APPROPRIATION ACT OF 2019
Summary: This represents a shell for a more comprehensive bill that will emerge later in the legislative session. Cited as the General Appropriation Act of 2019, authorizes funding to various state agencies from the General Fund, Internal Services and Transfers, Other State Funds and Federal Funds in FY 2020.
Progress: 2nd House: Referred to Committee
Status: 02/22/2019 Senate Finance Committee

HB2 is still in negotiations between the House and Senate. We are talking to both committees to try and find the timelines and contents of HB 2, plus the junior finance bills.

Bill: HB6
Sponsors: Trujillo, J. (D45)
Title: TAX PACKAGE: MAJOR TAX PROGRAM CHANGES
Summary: A 139- page House version of the tax package assembled by the Revenue Stabilization and Tax Policy Committee. Substantial changes to most major tax programs. It is a blend of new ideas with proposals advanced in prior sessions.
Progress: 2nd House: Referred to Committee
Status: 03/02/2019 Senate Corporations and Transportation Committee

HB 6 looks to be the tax bill that will survive the session, although it will be in a much different form than passed the House last week. We don't expect the personal income tax provisions to survive, but we expect counties will get new internet tax and compensating tax increments. We also expect the hospital tax to survive in some form because it is connected to provider rate increases that have been planned and budgeted.

Bill: HB43
Sponsors: Stapleton (D19)
Title: HSD: BEHAVIORAL HEALTH INTERVENTIONS FOR INCARCERATED PERSONS
Summary: (Related to 2018 HB160) Appropriates \$1.5 million (GF) to Human Services Department for use in FY 2020 to fund awards to counties that apply for behavioral health services funding. Adds a duty to the Behavioral Health Services Division of HSD to provide for interventions for nonviolent adult and juvenile offenders with behavioral health diagnoses
Progress: 2nd House: Referred to Committee
Status: 02/25/2019 Senate Public Affairs Committee

HB 43 passed this weekend in Senate Public Affairs and now goes to Senate Finance, but we're told the money is already in the budget, so we feel like this bill will pass and help mostly rural and frontier counties.

Bill: HB269, SB 565, HM 79 & SM 114
Sponsors: Martinez, R. (D39); Dow (R38); Gonzales (D42); Sanchez (D40); Lara (D34)
Title: GOVERNMENT REORGANIZATION: CREATES STATE FIRE MARSHAL'S OFFICE
Summary: A government reorganization measure that removes the Fire Marshal Division from the Public Regulation Commission and transfers its functions and authority to a separate entity called the Fire Marshal's Office as an autonomous agency that is administratively attached to the Office of Superintendent of Insurance. Creates a quasi- policy and advisory Fire Services Council to oversee the Office and hear appeals taken from State Fire Marshal orders.
Progress: Introduced
Status: 01/17/2019 House State Government, Elections and Indian Affairs Committee

These bills and memorials reflect our effort to get the Fire Marshal's office out of the PRC. It has been a fascinating process... find one of your Fire Chiefs for the rest of the story. HB269 is tabled in the House State Government, Elections, and Indian Affairs Committee and HM79 has not yet been scheduled. SB565 received a do pass out of Senate Judiciary on Saturday. SB565 and SM114 are on the Senate calendar today. We do not anticipate that the bill will pass, but hope that the memorial will continue the dialogue during the interim.

SFC CLERK RECORDED 04/10/2019

Bill: HB308
Sponsors: Gallegos, Doreen (D52)
Title: DENTAL THERAPIST LICENSURE
Summary: (Similar to 2017 HB264 as amended; 2016 HB191 and SB217). Revises the Dental Health Care Act and related statutes to provide for the licensing, regulation, supervision, scope of practice, and allowable practice environments of dental therapy, a new category of dental health care service. Establishes qualifications for director of the Office of Oral Health in the Department of Health. Requires public school students to obtain or opt out of dental examinations prior to annual school enrollment. Provides for reimbursement of dental therapy under the Public Assistance Act and the Nonprofit Health Care Plan Law. Requires a study and report.
Progress: 2nd House: Referred to Committee
Status: 03/06/2019 Senate Judiciary Committee

HB 308 is about providing mid-level dental practitioners for mostly rural communities. This concept has been debated for years, but is closer to the finish line than ever before.

Bill: HB312
Sponsors: Chandler (D43)
Title: FORFEITURE ACT AMENDMENTS
Summary: For forfeitures under local law, requires conviction by a criminal court of a felony offense and clear and convincing evidence that the property is subject to forfeiture. Generally makes explicit that forfeitures under local law must follow the same rules as forfeitures under state law.
Progress: 2nd House: Reported from Committees
Status: 03/07/2019 Senate Finance Committee

HB 312 is our forfeiture priority bill. It is scheduled today in Senate Finance, since there is no fiscal impact it should go to the floor for final passage.

Bill: SB643
Sponsors: Cervantes (D31)
Title: TORT CLAIMS ACT LIABILITY
Summary: Increases the maximum total liability of a governmental entity or public employee under the Tort Claims Act from \$750,000 to \$2 million.
Status: 03/02/2019 Senate Judiciary Committee
Scheduled: 03/11/2019—Senate Judiciary Committee, 1:30 p.m., Room 321 (Revised 03/10/2019)

SB 643 is a “dummy bill”, basically a blank bill that can be used to create legislation after the bill introduction deadline. When you see these scheduled in a committee, you can’t tell what they are until the new language gets “substituted” in committee. These are the bills that keep us awake at night. This bill has now become the “Tort Claims Act Liability” bill, raising the tort claim cap from \$750,000 to \$2 million dollars.

Bill: HB356
Sponsors: Martinez, J. (D11)
Title: CANNABIS REGULATION ACT
Summary: (Related to 2018 HB332, 2017 HB89, 2016 HB75, 2015 HB160) Cited as both the Cannabis regulation Act and the Cannabis Tax Act, the 140- page bill sets up a comprehensive scheme to regulate, license and tax activities related to the production, distribution, sale and consumption of cannabis and cannabis products.
Progress: 1st House: Passed
Status: 03/07/2019 Passed in the House

The cannabis bill passed out of the House about midnight on Thursday night. The original bill was substituted on the House floor to ban personal growing, more local taxes and state owned stores (there is considerable internal staff debate whether this a good idea or not ... interestingly enough, it’s Senate Republicans who have pushed the state-owned store debate). Counties would be allowed to impose up to 4% tax county-wide, on top of our share of the gross receipts taxes.

Bill: HB439 & SB 472
Sponsors: Trujillo, J. (D45)
Title: ENHANCED 911 ADVISORY BOARD
Summary: Creates a nine voting- member Enhanced 911 Advisory Board to consult with DFA’s Local Government Division on administering the Enhanced 911 Fund, report to the Legislature, adopt rules, funding enhanced 911 systems and establish service areas.

Progress: 1st House: Reported from Committees
Status: 03/08/2019 House Calendar
History: 01/31/2019—H Introduced and referred to House Local Government, Land Grants & Cultural Affairs.

Our 911 advisory board bills have been substituted to a bill that moves the 911 fund to the Department of Information Technology and increases the administrative fee from 5% to 7%.

Bill: HB479
Sponsors: Harper (R57); Ivey- Soto (D15)
Title: CONSOLIDATING CERTAIN LOCAL OPTION TAXES, DE- EARMARKING REVENUES
Summary: (Relates to HB6, SB358 & SB421) 76- page bill folds several of the municipal local option gross receipts taxes into the municipal gross receipts tax and several county local option gross receipts taxes into the county gross receipts tax.

Progress: 2nd House: Referred to Committee
Status: 03/02/2019 Senate Finance Committee

This is our de-earmarking bill that would be really good for local governments. It passed the Senate on Saturday and is on the way to the Governor.

Bill: HB590
Sponsors: Chandler (D43)
Title: CLARIFIES WHICH OIL AND GAS PROPERTY IS SUBJECT TO PROPERTY TAXATION
Summary: Requires that property regulated by the Federal Energy Regulatory Commission must be valued in accordance with the special method of valuation at 7- 36- 27 for property used in connection with oil, natural gas, carbon dioxide or liquid hydrocarbons, as opposed to the general methods of valuation.

Progress: 1st House: Referred to Committee
Status: 02/25/2019 House Taxation and Revenue Committee

HB 590 addresses a problem counties have had with TRD for years about centrally assessed property. HB 590 would have made some intra-county pipelines subject to county assessor's valuation. This bill was gently tabled in House Tax on Friday, with promises from the new TRD secretary to try and resolve this issue.

Bill: HB647
Sponsors: McQueen (D50)
Title: NARROWING LIMIT ON INCREASE IN RESIDENTIAL PROPERTY VALUATION
Summary: Limits the three percent cap on year- to- year increase in residential property valuation to owner- occupied residences. Applies to 2020 and subsequent property tax years.

Progress: 1st House: Reported from Committees
Status: 03/04/2019 House Taxation and Revenue Committee

This bill is in response to a series of articles in the Santa Fe New Mexican a few weeks ago about the 3% cap on residential properties and how that applies to second homes and investor owned properties. There has been a ton of opposition from apartment owners, so we expect the bill will die. It has prompted some vigorous debate and some ideas about how to fix this problem.

Bill: SB437
Sponsors: Sanchez, C. (D30)
Title: INCREASE MINIMUM WAGE, SEPARATE MINIMUM WAGE FOR STUDENTS
Summary: (Related to 2019, HB 31 and HB 46) Increases minimum wage after October 1, 2019 to \$9.25 per hour and after April 1, 2020 to \$10 per hour; increases minimum wage for tipped employees after October 1, 2019 to \$2.38 per hour and after April 1, 2020 to \$3 per hour; sets a separate minimum wage of \$8.50 per hour after October 1, 2019, for students regularly enrolled in secondary school working after school or when school is not in session (unless they are tipped employees).

Progress: 1st House: Reported from Committees
Status: 03/06/2019 Senate Calendar
History: 01/31/2019—S Introduced and referred to Senate Public Affairs.

This appears to be the minimum wage bill that can pass the legislature and get to the Governor's desk. It starts at \$9.25 and goes to \$10 per hour with a slight rise in tipped wages and no CPI increases.

Bill: SB473
Sponsors: Rodriguez (D24)
Title: ADDITIONAL INVESTMENT VEHICLES FOR STATE AND LOCAL TREASURERS
Summary: Allows the State Treasurer and county and municipal treasurers more options for investing funds under their control.

SFC CLERK RECORDED 04/10/2019

Progress: 2nd House: Referred to Committee
Status: 03/08/2019 House State Government, Elections and Indian Affairs Committee

SB 473 is the Treasurer's affiliate bill to give them more investment options. It passed the Senate yesterday and only has one committee in the House.

Bill: SM107
Sponsors: Ramos (D28)
Title: STUDY OF EMERGENCY RESPONSE SERVICES
Summary: Requests that the Emergency Medical Systems Bureau of DOH initiate a study to examine regulations, training, certification, licensing and relicensing, and funding options for emergency response services, fire departments, service levels, geographical limitations and other factors.

Progress: Introduced
Status: 02/28/2019 ñ Senate Rules Committee

We got this memorial to Senator Ramos a bit late in the session, but he has been working behind the scenes to get the memorial passed, and start some conversations with the Secretary of the Health Department.

Capital Outlay Projects
Chart by County

SFC SUB SB280

Legislative Council Service
54th Legislature, 1st Session, 2019

Project Title	Amount	City	Fund	Track
4912 SAN FELIPE PUEBLO SENIOR CENTER CONSTRUCT	\$50,000	San Felipe Pueblo	GF	
4915 SAN FELIPE PUEBLO WATER LINES REPLACE	\$1,231,200	San Felipe Pueblo	GF	
5618 SAN LUIS-CABEZON MDWA RGNL WATER SYS PHASE 2	\$115,000		GF	
4849 SAN YSIDRO POLICE INFO TECH UPGRADE	\$50,000	San Ysidro	GF	
4848 SAN YSIDRO TRAFFIC SAFETY EQUIPMENT	\$60,000	San Ysidro	GF	
6441 SANDIA PUEBLO MISSION HILLS CONSTRUCT	\$1,311,795	Sandia Pueblo	GF	
6442 SANDIA PUEBLO SOLID WASTE TRANSFER STN	\$1,695,047	Sandia Pueblo	GF	
6440 SANDIA PUEBLO WATER & WWATER LIFT STN	\$292,000	Sandia Pueblo	GF	
6482 SANDOVAL CO DOMESTIC VIOLENCE SHELTER	\$320,000		GF	
6602 SANDOVAL CO FAIR BOARD BLDG PRCHS & CONSTRUCT	\$70,000	Cuba	GF	
7185 SANTA ANA PUEBLO ED CMLPX	\$380,000	Santa Ana Pueblo	GF	
5897 SANTA ANA PUEBLO ELECTRICAL GRID SYSTEM CONSTRUCT	\$90,000	Santa Ana Pueblo	GF	
5895 SANTA ANA PUEBLO PUBLIC SERVICES COMPLEX CONSTRUC	\$835,000	Santa Ana Pueblo	GF	
5896 SANTA ANA PUEBLO WATER STORAGE TANK & WATER SYS	\$545,000	Santa Ana Pueblo	GF	
6456 SANTO DOMINGO PUEBLO BACKHOE PRCHS	\$50,000	Santo Domingo Pueblo	GF	
6458 SANTO DOMINGO PUEBLO WWATER LAGOON SYS CONSTRUC	\$1,200,000	Santo Domingo Pueblo	GF	
4941 SSCAFCA CORONADO ARROYO IMPROVEMENTS	\$136,000	Bernalillo	GF	
4931 SSCAFCA LISBON ARROYO IMPROVEMENTS	\$408,000		GF	
4935 SSCAFCA LOMITAS NEGRAS PHASE 3 DRAINAGE	\$145,000		GF	
4939 SSCAFCA RIO MORA RD DRAIN & FLOOD CONTROL	\$200,000		GF	
8027 TORREON-STAR LAKE CHP EMERGENCY SERVICE BLDG	\$150,000	Torreon-Star Lake Cha	GF	
8028 TORREON-STAR LAKE CHP WWTR SYS CONSTRUCT	\$50,000	Torreon-Star Lake Cha	GF	
5507 V. SUE CLEVELAND HIGH SCHL GATES REPLACE	\$300,000	Rio Rancho	GF	
4979 VERANDA ROAD SAFETY IMPROVEMENTS RIO RANCHO	\$630,000	Rio Rancho	GF	
5511 VISTA GRANDE ELEM SCHL SECURITY IMPROVE	\$200,000	Rio Rancho	GF	
5759 ZIA PUEBLO CHILD DEVELOPMENT CTR	\$1,915,820	Zia Pueblo	GF	

Summary for Sandoval

\$28,221,069

County: Santa Fe

6731 1ST JUD DIST ATTORNEY BLDG UPGRADE	\$10,000		GF	
7014 1ST JUD DIST ATTORNEY VEH PRCHS	\$60,000	Santa Fe	GF	
6732 1ST JUD DIST CT SANTA FE SECURITY CAMERA SYS	\$60,000	Santa Fe	GF	
6411 1ST JUD DIST HERRERA CMLPX CONFERENCE ROOM	\$222,000	Santa Fe	GF	
6409 1ST JUD DIST HERRERA CMLPX JURY ROOM SPEAKER SYS	\$19,800	Santa Fe	GF	
7216 AAMODT INDIAN WATER RIGHTS SETTLEMENT INCREASE	\$2,000,000		GF	
6508 ACADEMY FOR TECH & CLASSICS CH SCHL	\$100,000	Santa Fe PSD	GF	
6307 ACEQUIA DE LA CIENEGA IMPROVE	\$53,000		GF	
5878 ACEQUIA DE LA COMUNIDAD IMPROVE	\$68,890	Nambe	GF	
5007 ACEQUIA DE LA OTRA BANDA IMPROVE SANTA FE CO	\$47,950		GF	
6319 ACEQUIA DE LOS ORTIZ DE NAMBE IMPROVE	\$133,200		GF	
6725 ACEQUIA DE LOS TRUJILLOS IMPROVE	\$27,750		GF	
6912 ACEQUIA DE SANTA CRUZ IMPROVE	\$90,000		GF	
4868 ACEQUIA DE SOMBRILLO IMPROVE SANTA FE CO	\$74,685		GF	
4864 ACEQUIA DEL BARRANCO ALTO IMPROVE	\$13,135		GF	
6758 ACEQUIA DEL MOLINO DIVERSION DESIGN	\$15,000		GF	
6507 ACEQUIA MADRE ELEM SCHL PLAYGROUND IMPROVE	\$10,000	Santa Fe PSD	GF	
5476 ACEQUIAS DE CHUPADERO IMPROVE SANTA FE CO	\$35,861		GF	
6877 AGUA FRIA CWSA OFFICE IMPROVE	\$100,000		GF	
6865 AGUA FRIA CWSA WATER SYS IMPROVE	\$550,000		GF	
5985 AGUA FRIA ST & S MEADOWS RD IMPROVE	\$125,000	Santa Fe	GF	

Sunday, March 10, 2019

5:31 PM

Chart Funded Projects by County 3A

sort order: County/Project Title

Page 27 of 34

SFC CLERK RECORDED 04/10/2019

Capital Outlay Projects
Chart by County

SFC SUB SB280

Legislative Council Service
54th Legislature, 1st Session, 2019

Project Title	Amount	City	Fund	Track
6928 AGUA FRIA WWATER SERVICE EXPAND	\$100,000		GF	
6182 ASPEN COMMUNITY MAGNET SCHL FENCE	\$50,000	Santa Fe	GF	
6506 ATALAYA ELEM SCHL PLAYGROUND	\$50,000	Santa Fe PSD	GF	
6860 CAD CENTER FOR CONTEMPORARY ARTS IMPROVE	\$314,000	Santa Fe	GF	
4671 CAD NM MUSEUM OF ART VLADEM CONTEMPORARY	\$4,010,000	Santa Fe	GF	
6183 CAPITAL HIGH SCHL CAFETERIA COURTYARD IMPROVE	\$40,000	Santa Fe	GF	
6969 CERRILLOS HILLS STATE PARK SITE IMPROVE	\$25,000		GF	
6088 CHAPARRAL ELEM SCHL SIDEWALK SANTA FE	\$40,000	Santa Fe PSD	GF	
6193 CHUPADERO WATER SYSTEM IMPROVE SANTA FE CO	\$110,000		GF	
6551 CHURCH ST IMPROVE EDGEWOOD	\$450,000	Edgewood	GF	
4688 DMA NM NAT GUARD BATAAN MILITARY MUSEUM	\$500,000	Santa Fe	CBRF	
7128 DMA NM NAT GUARD MILITARY MUSEUM ELECTRICAL SYS	\$200,000	Santa Fe	GF	
4678 DOH VITAL RECORDS & STATS BLDG CONSTRUCT - CBRF	\$400,000	Santa Fe	CBRF	
4691 DPS EVIDENCE RECORDS & CRIME LAB PHASES 1 & 2	\$33,000,000	Santa Fe	GF	
6086 E.J. MARTINEZ ELEM SCHL PLAYGROUND	\$30,000	Santa Fe PSD	GF	
6855 EDGEWOOD HEALTH COMMONS PH 2 CONSTRUCT	\$568,273	Edgewood	GF	
6557 EDGEWOOD WWATER TREATMENT PLANT UPGRADE	\$625,728	Edgewood	GF	
6185 EDWARD ORTIZ MIDDLE SCHL PLAYGROUND IMPROVE	\$10,000	Santa Fe	GF	
6512 EL DORADO CMTY SCHL IMPROVE	\$15,000	Santa Fe PSD	GF	
6755 EL GUICU COMMUNITY DITCH IMPROVE	\$100,000		GF	
6560 ELDORADO AREA WSD WATER SUPPLY SYSTEM IMPROVE	\$312,000		GF	
6534 ELDORADO HIKE-BIKE NETWORK EXTEND	\$200,000	Eldorado	GF	
6545 ELDORADO ROADS IMPROVE	\$150,000	Eldorado	GF	
6770 GALISTEO CMTY PARKS IMPROVE SANTA FE CO	\$50,000		GF	
7123 GALISTEO MDWCA IMPROVE	\$86,000		GF	
6529 GONZALES COMMUNITY SCHL PGRND	\$15,000	Santa Fe PSD	GF	
6481 GREATER GLORIETA CRMDWC & SW DRINKING WATER PRJT	\$260,000		GF	
6980 HARRISON RD IMPROVE SANTA FE CO	\$200,000	Santa Fe	GF	
4683 HSEMD GARAGE EXTENSION - CBRF	\$200,000	Santa Fe	CBRF	
4711 IAIA CAMPUS INFRASTRUCTURE UPGRADES	\$275,000		GF	
6068 KEARNY ELEM SCHL IMPROVE SANTA FE	\$35,000	Santa Fe PSD	GF	
6107 LA BAJADA COMMUNITY DITCH IMPROVE SANTA FE CO	\$45,000		GF	
6192 LA BAJADA MDWCA WATER SYS IMPROVE	\$50,000	Santa Fe	GF	
6968 LA CIENEGA LIBRARY IMPROVE	\$5,000	La Cienega	GF	
6762 MADRID BALLPARK UPGRADE	\$125,000	Madrid	GF	
6757 MADRID WATER MDWCA FIRE SUPPRESSION	\$235,000		GF	
6075 MANDELA INTERNATIONAL MAGNET SCHL IMPROVE	\$10,000	Santa Fe PSD	GF	
4799 MARY ESTHER GONZALES SENIOR CENTER - MEALS EQUIP	\$22,850	Santa Fe	GF	
4788 MARY ESTHER GONZALES SENIOR CENTER - VEHICLES	\$110,890	Santa Fe	GF	
6076 MILAGRO MID SCHL LIBRARY RESOURCES	\$50,000	Santa Fe PSD	GF	
6044 MUSEUM OF INDIAN ARTS & CULTURE EXHIBIT SANTA FE	\$1,211,000	Santa Fe	GF	
6137 NAMBE PUEBLO ADMIN BLDG CONSTRUCT	\$1,880,000	Nambe Pueblo	GF	
6723 NAMBE PUEBLO HEALTH & WELLNESS CTR EXPAND	\$543,000	Nambe Pueblo	GF	
7165 NAMBE PUEBLO TEEN CTR FACILITY CONSTRUCT	\$1,260,000	Nambe Pueblo	GF	
6084 NINA OTERO CMTY SCHL OUTDOOR SEATING CONSTRUCT	\$35,000	Santa Fe	GF	
6906 NM SCHOOL FOR THE ARTS DORMITORY/CAFETERIA	\$4,257,500	Santa Fe	GF	
4723 NMSD ROOF/WINDOWS/STUCCO IMPROVE	\$875,000	Santa Fe	GF	
5712 POJOAQUE FIRE STATION 2 CONSTRUCT	\$100,000		GF	
7171 POJOAQUE PUEBLO ADMIN BLDG CONSTRUCT	\$157,500	Pojoaque Pueblo	GF	
5865 POJOAQUE PUEBLO CHILD DEV CTR CONSTRUCT	\$99,750	Pojoaque Pueblo	GF	

Sunday, March 10, 2019

5:31 PM

Chart Funded Projects by County 3A
sort order: County/Project Title

Page 28 of 34

Capital Outlay Projects
Chart by County

SFC SUB SB280

Legislative Council Service
54th Legislature, 1st Session, 2019

Project Title	Amount	City	Fund	Track
5873 POJOAQUE PUEBLO POEH CENTER IMPROVE	\$470,000	Pojoaque Pueblo	GF	
5871 POJOAQUE PUEBLO WELLNESS CTR IMPROVE	\$700,000	Pojoaque Pueblo	GF	
5886 POJOAQUE PUEBLO WWATER FCLTY EXPAND	\$540,850	Pojoaque Pueblo	GF	
4687 PUBLIC RECORDS, COMM OF CARRUTHERS BLDG REN - CBRF	\$953,000	Santa Fe	CBRF	
6087 RAMIREZ THOMAS ELEM SCHL SHADE STRUCT	\$30,000	Santa Fe PSD	GF	
6081 SALAZAR ELEM SCHL ART STUDIO REN	\$50,000	Santa Fe PSD	GF	
7177 SAN ILDEFONSO MUSEUM & CULTURAL CTR CONSTRUCT	\$2,016,000	San Ildefonso Pueblo	GF	
5858 SAN ILDEFONSO PUEBLO IRRIGATION SYS IMPROVE	\$2,015,000	San Ildefonso Pueblo	GF	
4798 SAN ILDEFONSO PUEBLO SENIOR CENTER - CODE COMPLY	\$23,000		GF	
4790 SAN ILDEFONSO PUEBLO SENIOR CENTER - VEHICLES	\$68,000	San Ildefonso Pueblo	GF	
5863 SAN ILDEFONSO PUEBLO WWATER SYS PH 2 CONSTRUCT	\$1,040,985	San Ildefonso Pueblo	GF	
4978 SANTA CRUZ IRRIGATION DIST ELEC LINES IMPROVE	\$52,000		GF	
6869 SANTA FE BOYS AND GIRLS CLUB FCLTY IMPROVE	\$191,250		GF	
4869 SANTA FE BUSINESS INCUBATOR IMPROVE	\$260,000	Santa Fe	GF	
6431 SANTA FE CHILDREN'S MUS IMPROVE	\$193,777	Santa Fe	GF	
5691 SANTA FE CO AGUA FRIA WWATER & UTLTY SYS EXPAND	\$375,000		GF	
5692 SANTA FE CO FCLTY PHOTOVOLTAIC UNITS INSTALL	\$505,000		GF	
6066 SANTA FE CO FIRE DEPARTMENT EQUIP	\$220,000		GF	
4770 SANTA FE CO NM HWY 14 SENIOR CTR - CONSTRUCT	\$800,000		GF	
6884 SANTA FE CO RECOVERY PROGRAM BLDG IMPROVE	\$1,500,000		GF	
7141 SANTA FE CO SANTA FE MOUNTAIN CTR YURT	\$95,000		GF	
7142 SANTA FE CO SANTA FE MOUNTAIN URBAN ADVENTURE CTR	\$84,500		GF	
6882 SANTA FE CO SHERIFF'S OFFICE BODY CAMERAS	\$80,000		GF	
6565 SANTA FE CO WRONG-WAY DRIVING DETECTION TECH	\$200,000		GF	
5693 SANTA FE COMUNIDAD DE LOS NINOS BLDG IMPROVE	\$50,000	Santa Fe	GF	
6306 SANTA FE EL MUSEO CULTURAL IMPROVE	\$180,000	Santa Fe	GF	
7212 SANTA FE ELECTRIC VEH CHARGING STATIONS	\$1,500,000	Santa Fe	GF	
5944 SANTA FE HORTICULTURE THERAPY GREENHOUSE	\$150,000	Santa Fe	GF	
5977 SANTA FE MUNI COURT BULLETPROOF WINDOW INSTALL	\$117,000	Santa Fe	GF	
6196 SANTA FE MUNI RECREATIONAL CMPLX SOCCER IMPROVE	\$250,000	Santa Fe	GF	
5911 SANTA FE MUSEUM HILL PH 1 IMPROVE	\$50,000	Santa Fe	GF	
6195 SANTA FE PSD ALTERNATIVE SITES ED SPEC PLAN	\$10,000	Santa Fe	GF	
5852 SANTA FE PSD DANCE BARNS ADDITION	\$530,000	Santa Fe	GF	
6069 SANTA FE PSD EDUCATIONAL SERVICES CTR GENERATOR	\$330,800	Santa Fe PSD	GF	
5976 SANTA FE PUBLIC RESTROOMS CONSTRUCT	\$550,000	Santa Fe	GF	
5970 SANTA FE RGNL AIRPORT PASSENGER TERMINAL CONSTRUC	\$9,000,000	Santa Fe	GF	
6800 SANTA FE SOLACE CRISIS TREATMENT CTR REPAIR	\$100,000	Santa Fe	GF	
5975 SANTA FE SOLAR FACILITIES PPP PLAN	\$925,000	Santa Fe	GF	
5971 SANTA FE SOUTHSIDE TEEN & RESOURCE CTR CONSTRUCT	\$1,100,000	Santa Fe	GF	
6967 SANTA FE ST VINCENT HOSPITAL SUBSTANCE ABUSE	\$50,000	Santa Fe	GF	
5987 SANTA FE WELCOME SIGNAGE CONSTRUCT	\$50,000	Santa Fe	GF	
6387 SFCC ADULT EDUCATION INFRA IMPROVE	\$10,000	Santa Fe	GF	
6386 SFCC CONTROLLED ENVIRONMENT GREENHOUSE LAB IMPRO	\$150,000	Santa Fe	GF	
6309 SFCC EMERGENCY PREPAREDENESS	\$15,000	Santa Fe	GF	
6308 SFCC FILM AND MEDIA DEPT IMPROVE	\$25,000	Santa Fe	GF	
6310 SFCC HEALTH SCIENCES SIMULATION LAB	\$115,000	Santa Fe	GF	
4739 SFCC ROOF UPGRADES	\$1,000,000	Santa Fe	GF	
4740 SFIS ACCESS ROAD PHASE 1	\$1,095,000	Santa Fe	GF	
7118 SFIS LEADERSHIP INSTITUTE EQUIP	\$25,000	Santa Fe	GF	
7228 SLO ELECTRICAL SYSTEM REPLACE - SLMF	\$390,000	Santa Fe	SLMF	

SFC CLERK RECORDED 04/10/2019

Capital Outlay Projects
Chart by County

SFC SUB SB280

Legislative Council Service
54th Legislature, 1st Session, 2019

Project Title	Amount	City	Fund	Track
6082 SWEENEY ELEM SCHL PLAYGROUND IMPROVE	\$35,000	Santa Fe PSD	GF	
6330 TEODORO Y TEODORA DITCH IMPROVE SANTA FE CO	\$17,945		GF	
5890 TESUQUE PUEBLO FIRE EQUIP PRCHS	\$128,020	Tesuque Pueblo	GF	
7182 TESUQUE PUEBLO STORM DRAIN CONSTRUCT	\$1,500,000	Tesuque Pueblo	GF	
6727 TIERRA ENCANTADA CH SCHL CONSTRUCT	\$10,000	Santa Fe	GF	
4753 TRD MAIL INSERTERS	\$275,000	Santa Fe	GF	
5875 TURQUOISE TRAIL CHARTER SCHOOL	\$50,000	Santa Fe	GF	
6080 WOOD GORMLEY ELEM SCHL IMPROVE	\$20,000	Santa Fe PSD	GF	
6864 ZAFARANO DR CONSTRUCT SANTA FE CO	\$100,000		GF	
Summary for Santa Fe	\$89,654,489			
County: Sierra				
6344 CAMINO CINCO IMPROVE SIERRA CO	\$198,771	Elephant Butte	GF	
5705 SAN MIGUEL COMMUNITY DITCH PIPELINE CONSTRUCT	\$100,000		GF	
4866 SIERRA CO SIERRA VISTA HOSPITAL CONSTRUCT	\$1,259,229	Truth or Consequences	GF	
4674 SIERRA VISTA HOSPITAL RENOVATION - PCCF	\$4,000,000	Truth or Consequences	PCCF	
7214 SPA SPACEPORT AMERICA IMPROVE	\$19,000,000		GF	
7211 VSD NMSVH SURVEILLANCE	\$151,467	Truth or Consequences	GF	
4694 VSD NMSVH WALKWAYS & PARKING REPAIR & REPLACE	\$958,619	Truth or Consequences	GF	
Summary for Sierra	\$25,668,086			
County: Socorro				
6410 ACEQUIA DE LA JOYA IMPROVE SOCORRO CO	\$50,000		GF	
6167 ALAMO CHP GRADER PRCHS	\$500,000	Alamo	GF	
7101 ALAMO CHP WELL DRILL	\$787,500	Alamo Chapter	GF	
7143 COTTONWOOD VALLEY CHARTER SCHOOL SECURITY	\$12,000		GF	
6830 COTTONWOOD VALLEY CHARTER SCHOOL SOCORRO	\$28,000		GF	
6938 LA JOYA GYMNASIUM REN	\$100,000	La Joya	GF	
4801 MAGDALENA SENIOR CENTER - CODE COMPLY	\$34,980	Magdalena	GF	
4719 NMIMT ELEC DOOR LOCK SYSTEM UPGRADE CAMPUSWIDE	\$1,295,000	Socorro	GF	
4718 NMIMT KELLY & GOLD BLDGS & WORKMAN CTR ROOFS	\$2,056,600	Socorro	GF	
6576 NMIMT MESA INFO TECH	\$15,000	Socorro	GF	
5932 NMIMT MINER MEMORIAL CONSTRUCT	\$10,000	Socorro	GF	
6957 NMIMT VEH PRCHS	\$94,000	Socorro	GF	
6260 SABINAL COMMUNITY CTR PH 4 CONSTRUCT	\$370,000		GF	
6264 SOCORRO ANIMAL SHELTER PORTABLE BLDG	\$75,000	Socorro	GF	
6270 SOCORRO COUNTY COURTHOUSE COMPLEX IMPROVE	\$100,000	Socorro	GF	
6274 SOCORRO COUNTY DETENTION CTR FULL BODY SCANNER	\$150,000	Socorro	GF	
6272 SOCORRO COUNTY DETENTION CTR RENEWABLE ENERGY SY	\$150,000	Socorro	GF	
6275 SOCORRO COUNTY SOLID WASTE ROLL-OFF VEH	\$200,000		GF	
6281 SOCORRO FINLEY GYM & YOUTH CTR REN	\$100,000	Socorro	GF	
4802 SOCORRO SENIOR CENTER - CODE COMPLY	\$116,532	Socorro	GF	
4796 SOCORRO SENIOR CENTER - VEHICLES	\$63,262	Socorro	GF	
6263 SOCORRO STREETS CONSTRUCT	\$200,000	Socorro	GF	
4793 VEGUITA SENIOR CENTER - CODE COMPLY	\$64,236	Veguita	GF	
4797 VEGUITA SENIOR CENTER - VEHICLES	\$50,820	Veguita	GF	
Summary for Socorro	\$6,622,930			
County: Statewide				
7226 ALTS SENIOR CTR EMERGENCY REPAIRS STATEWIDE	\$500,000		GF	
7227 ALTS SENIOR CTR SMALL EQUIPMENT	\$500,000		GF	

Sunday, March 10, 2019

5:31 PM

Chart Funded Projects by County 3A
sort order: County/Project Title

Page 30 of 34



Jose Larranaga

From: Roger Taylor <clearskynm@gmail.com>
Sent: Monday, March 11, 2019 6:28 PM
To: Henry P. Roybal; Anna C. Hansen; Rudy Garcia; Anna T. Hamilton; Edward H. Moreno; Jose Larranaga
Cc: Orlando A. Romero; Sara Smith; Ambra Baca; Tina Salazar; Julia Valdez
Subject: Galisteo Village Support for Proposed "Trenza Cell" Tower

Dear Commissioners and Jose Larranaga

I am writing on behalf of the residents of Galisteo NM, in support of the proposed communications cell tower to be located on Lot 22 of the Galisteo Basin Preserve/Trenza Planned Development District.


Our area of the County has long had great difficulty with cell coverage, and many of our residents cannot receive (or leave) cell phone messages or texts without having to drive on NM 41 to Goose Down Farms or beyond, toward Lamy. While landlines are a given in our homes, our concern is the inaccessibility of communications while traveling between Galisteo and Lamy, and often between Galisteo and Lamy Hill. Potential vehicle breakdowns, poor weather driving conditions, and an aging population in general are all concerns when there is not adequate coverage.

In terms of business support, cell service is almost a given these days for both owners and patrons. La Sala de Galisteo Arts Center will be opening for its Spring - Fall season of exhibits, films, and guest speakers; the Galisteo Community Center markets its rental opportunities and community events; the Wisdom Chi Center as well; and all the private artisan studios located in our Village. Certainly the addition of cell connectivity would be a help to these rural-based businesses.

We strongly urge you to approve this request.

Best Regards

Roger Taylor, President
Galisteo Community Association

 Virus-free. www.avast.com

SFC CLERK RECORDED 04/10/2019

Thank you



Talk to us.



SFC CLERK RECORDED 04/10/2019

EXHIBIT

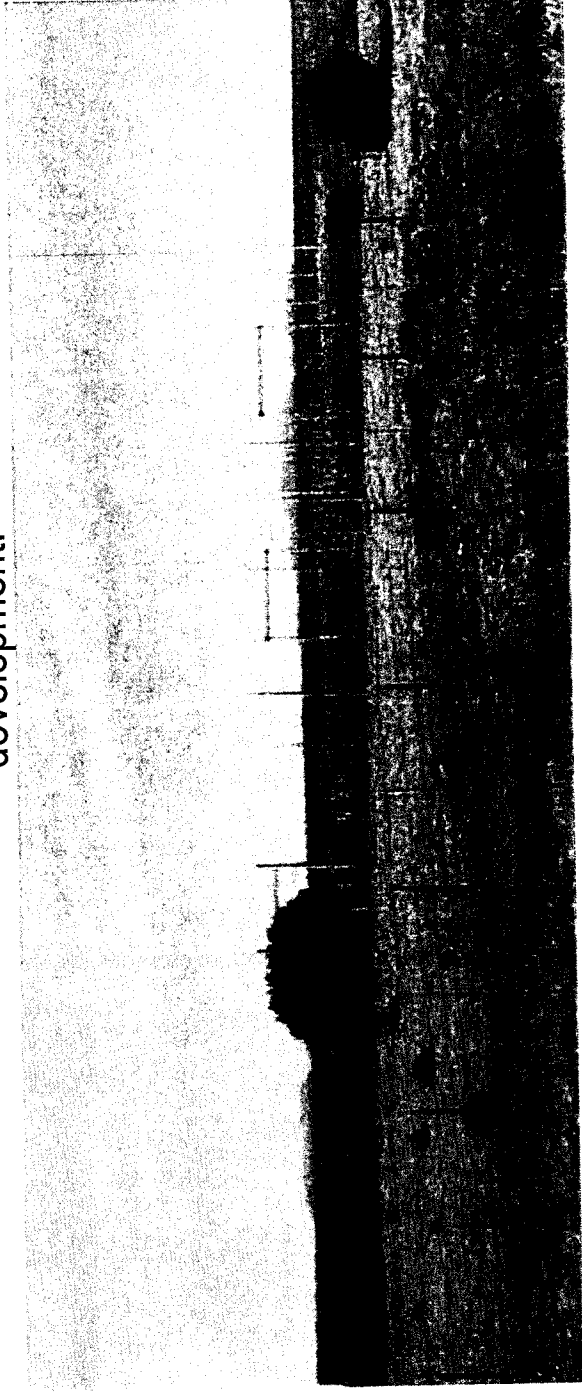
7

tabbles

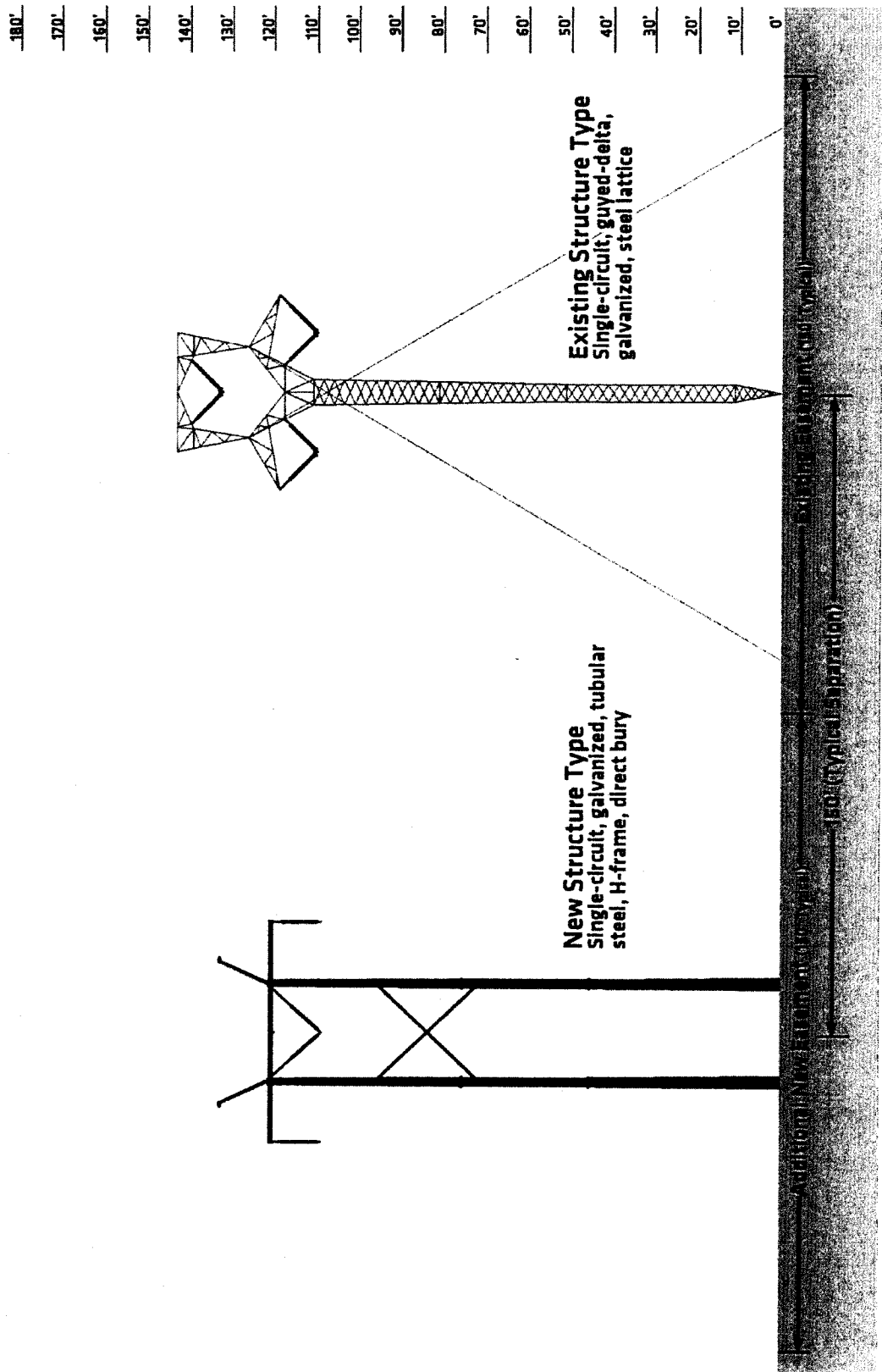
NEW MEXICO ECONOMY

LOCAL BENEFITS

- Net effect on PNM ratepayers is beneficial or neutral
 - Santa Fe County will directly benefit \$386,876 from PNM property tax payments
 - 40-50 temporary construction jobs created in the area & will utilize local workers as much as possible.
- Permanent renewable energy jobs in the area
 - Economic development for the State of New Mexico by helping to address the public's interest in renewable energy development.



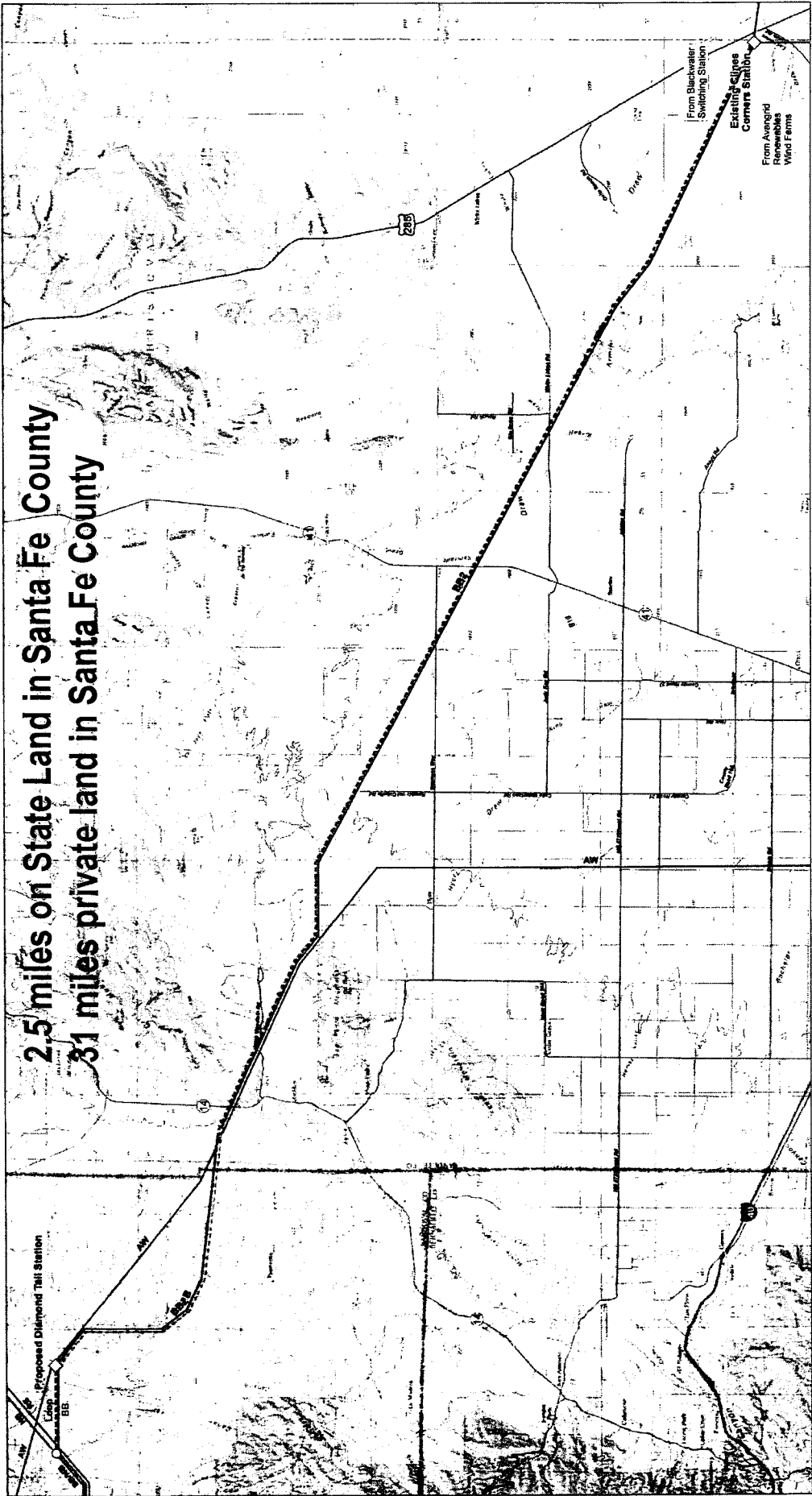
RIGHT-OF-WAY CORRIDOR



Talk to us.



BB2 PROJECT



2.5 miles on State Land in Santa Fe County
31 miles private land in Santa Fe County

BB2 345kV Transmission Line
Project Map

- Transmission Lines
 - Existing 15kV
 - Existing 345kV
 - Proposed 345kV Loop
 - Proposed 345kV
- Point of Connection
- Switching Station
- Roads



Scale: 1 inch = 1 mile
Map Date: 03/18/18
Map Title: BB2 345kV Transmission Line

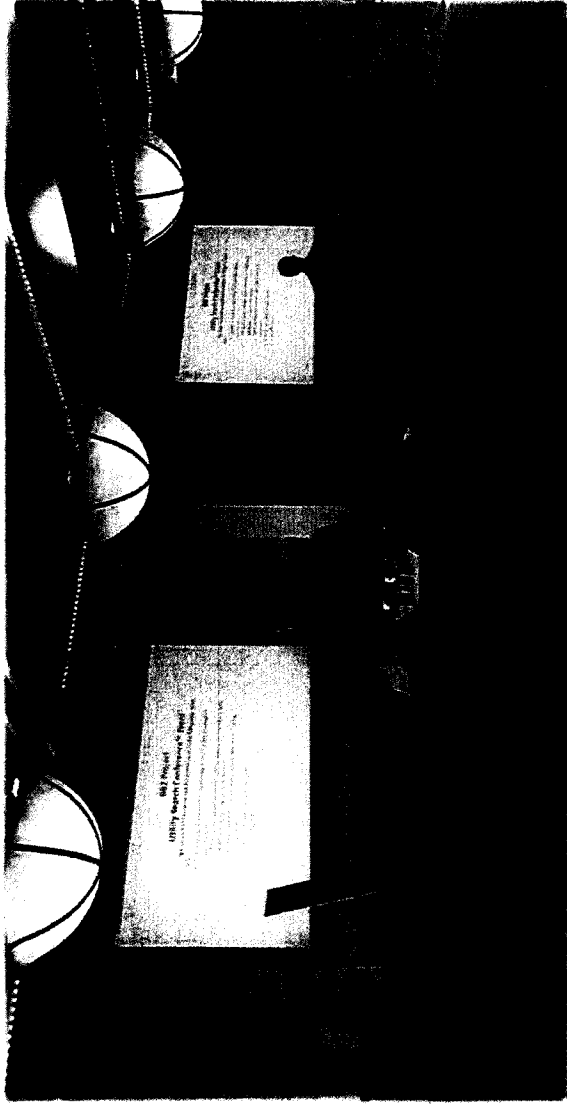


PUBLIC PARTICIPATION

STAKEHOLDER ENGAGEMENT

PNM has engaged in a variety of public outreach:

- Leadership Team, 3 meetings
- Utility Search Conference, 1½ day event
- Pre-Application Neighborhood Meeting required by Santa Fe County
- Meeting with property owners and their representatives in Moriarty
- Community Working Group, 3 meetings held so far and meetings are continuing



Talk to us.

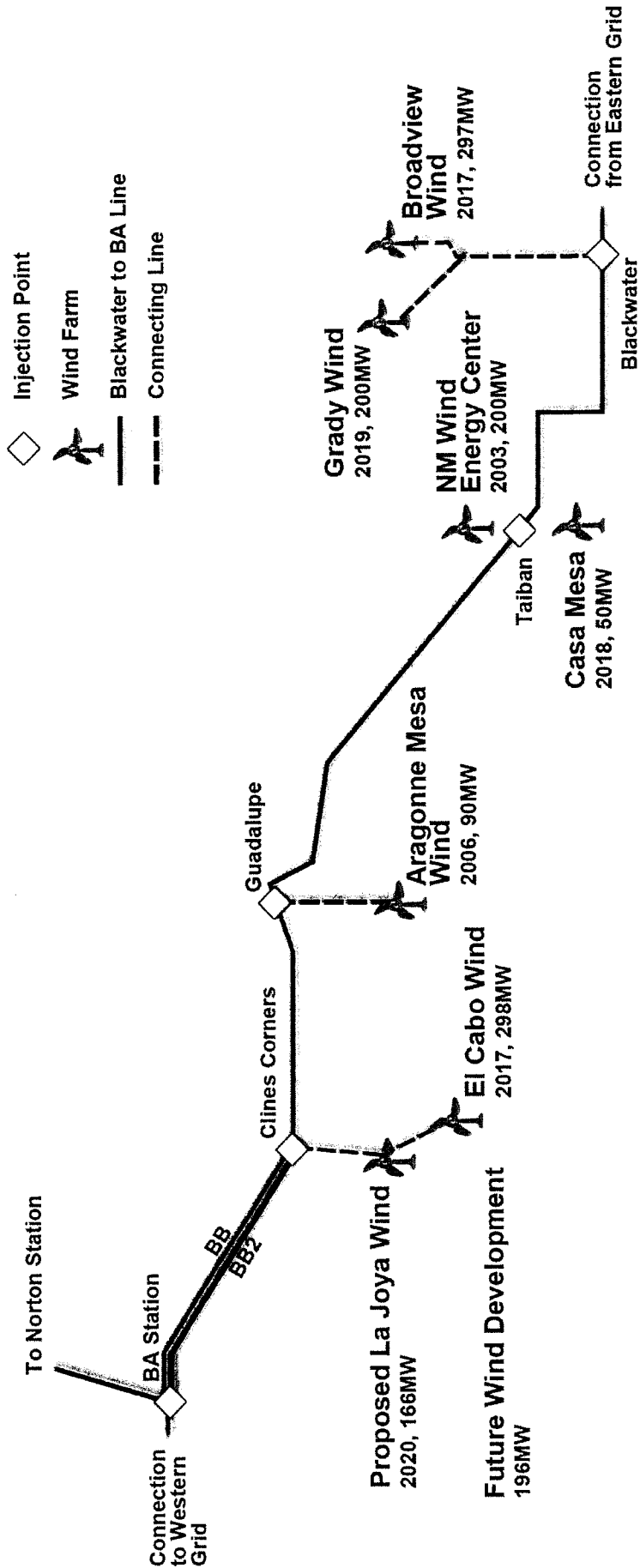


THE BB2 PROJECT

- Supports requested capacity.
- PNM will acquire all applicable permits at the local and state level. No federal permits are required.
- New single-circuit 345kV transmission line and expansion of an existing station.
- Current zoning for the area is Agricultural/Ranch, Rural and State Land Zoning Districts. Current uses are ranching and dispersed residential – these uses can continue.
- Requires additional 150-ft wide easement adjacent to the existing BB Line with a new 150 ft easement.
- Access will be patrol 2-tracks as much as possible



BB LINE WITH FUTURE WIND DEVELOPMENT AND BB2 LINE

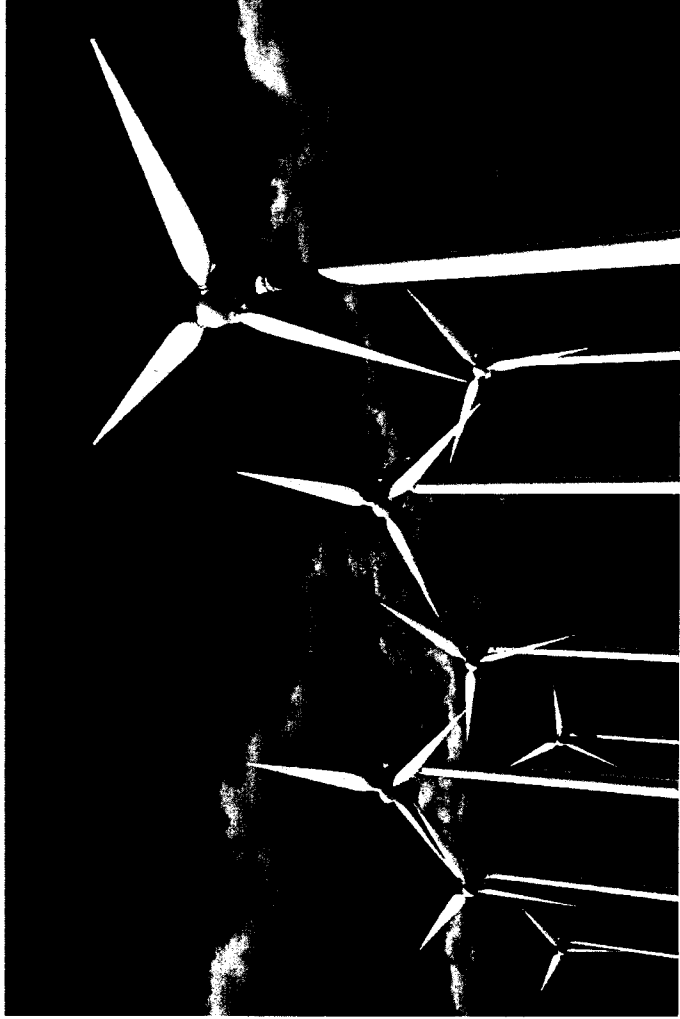


Talk to us.



REQUEST

WIND FARM DEVELOPER'S REQUEST TO PNM FOR CAPACITY



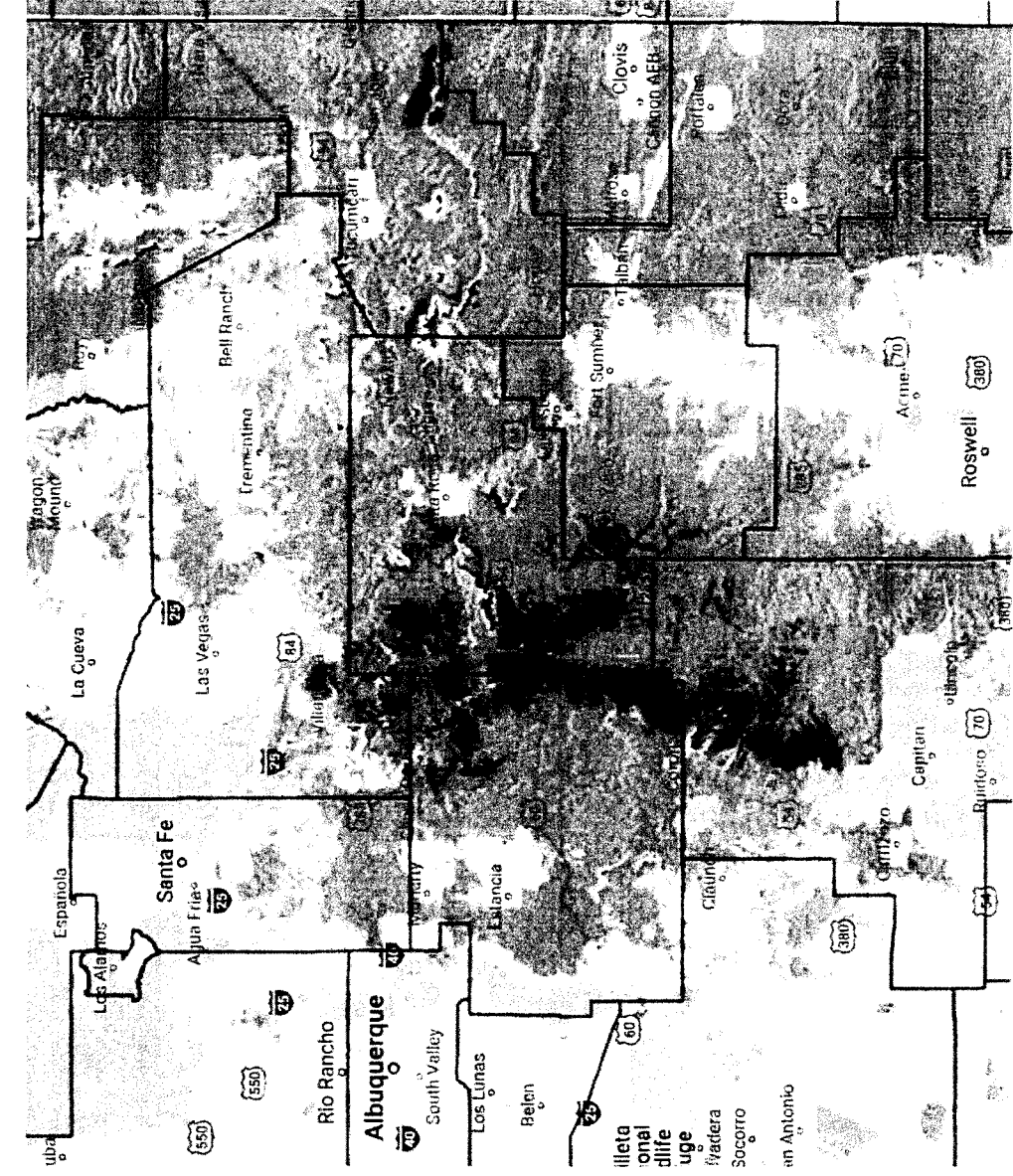
- Avangrid Renewables requesting capacity for new wind development in Torrance County
- PNM required by Federal Energy Regulatory Commission (FERC) to develop capacity



Talk to us.



WIND POTENTIAL IN SANTA FE COUNTY



- Class 3
- Class 4
- Class 5
- Class 6
- Class 7

In New Mexico, Classes 3, 4 and 5 are identified on the NREL map with the highest wind potential in the southeast quadrant of the state.

Santa Fe County has wind potential in the southern portion of the county.



Talk to us.



VAST NEW MEXICO RENEWABLE ENERGY POTENTIAL

WIND RESOURCE POTENTIAL



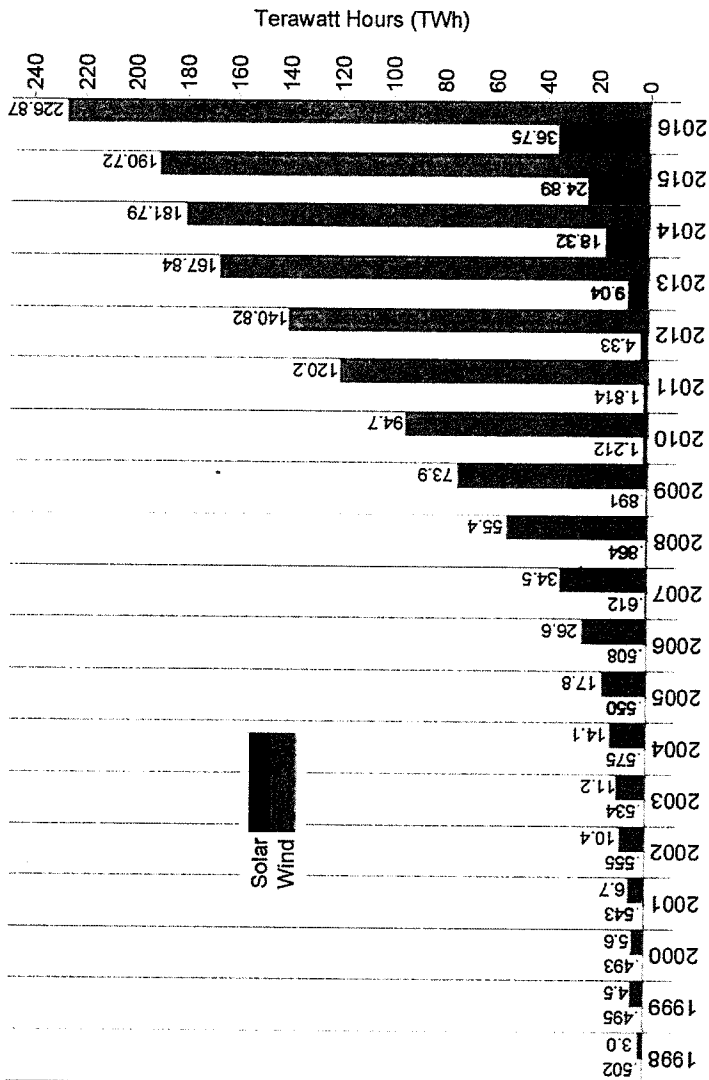
- Wind generation potential is huge primarily in Eastern NM
- State can produce many times its own electrical consumption because of this potential
- In a position to export wind electric power

RENEWABLES

INCREASE IN WIND PRODUCTION IN US

- Growing nationally
- Systems are more efficient and affordable
- Due to renewable requirements in many states due to increase in public interest and demand for renewable energy

YEARLY WIND & SOLAR PRODUCTION IN THE U.S.



From: Electric Power Monthly US Energy Information Administration



Talk to us.



THE BB2 345kV TRANSMISSION LINE PROJECT

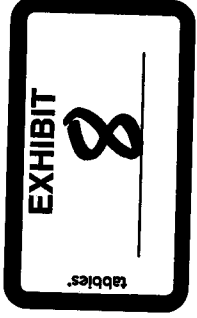
BB2 PROJECT OVERVIEW

SANTA FE COUNTY PLANNING COMMISSION
September 20, 2018



Talk to us.





What is the National Electric Safety Code?

Like a building code only better

NESC

- The law of the land. Adopted per state regulation.
- Supported for BB2 and all projects by PRC Staff
- Many hundreds of provisions.
- Mostly for utility work “in front of the meter”
- Two provisions have been confused with respect to transmission lines,
- Rules 234 and 250

Rule 250

- This section ONLY addresses the load a structure must be designed to withstand.
- The code requires that structures in New Mexico be able to withstand a 90 mph wind.
- Has no direct relevance to easement widths.

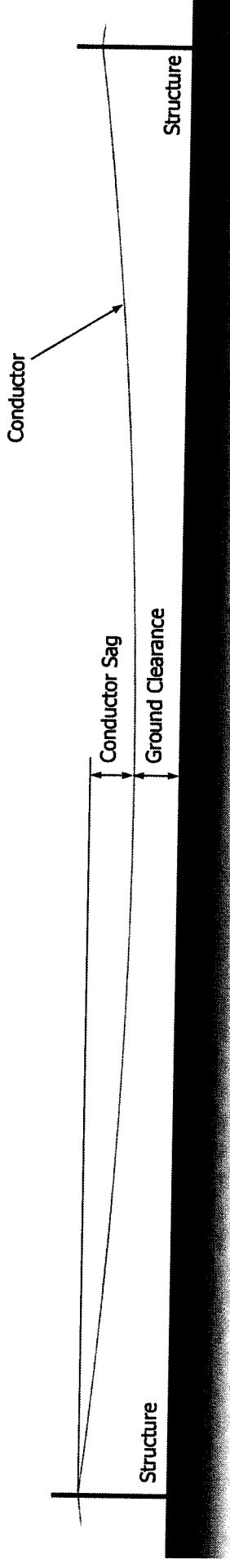
Rule 234

- Details the required distance from conductors to buildings.
- There are no buildings adjacent to proposed easements for the BB2 project.
- BUT, if there were, the displacement of the wires (“conductors”) due to wind should maintain a minimum clearance to buildings.
- Clearance to buildings is based on a 6lb/sq ft wind (which equates to approx. 48 mph wind)

Wind and wires

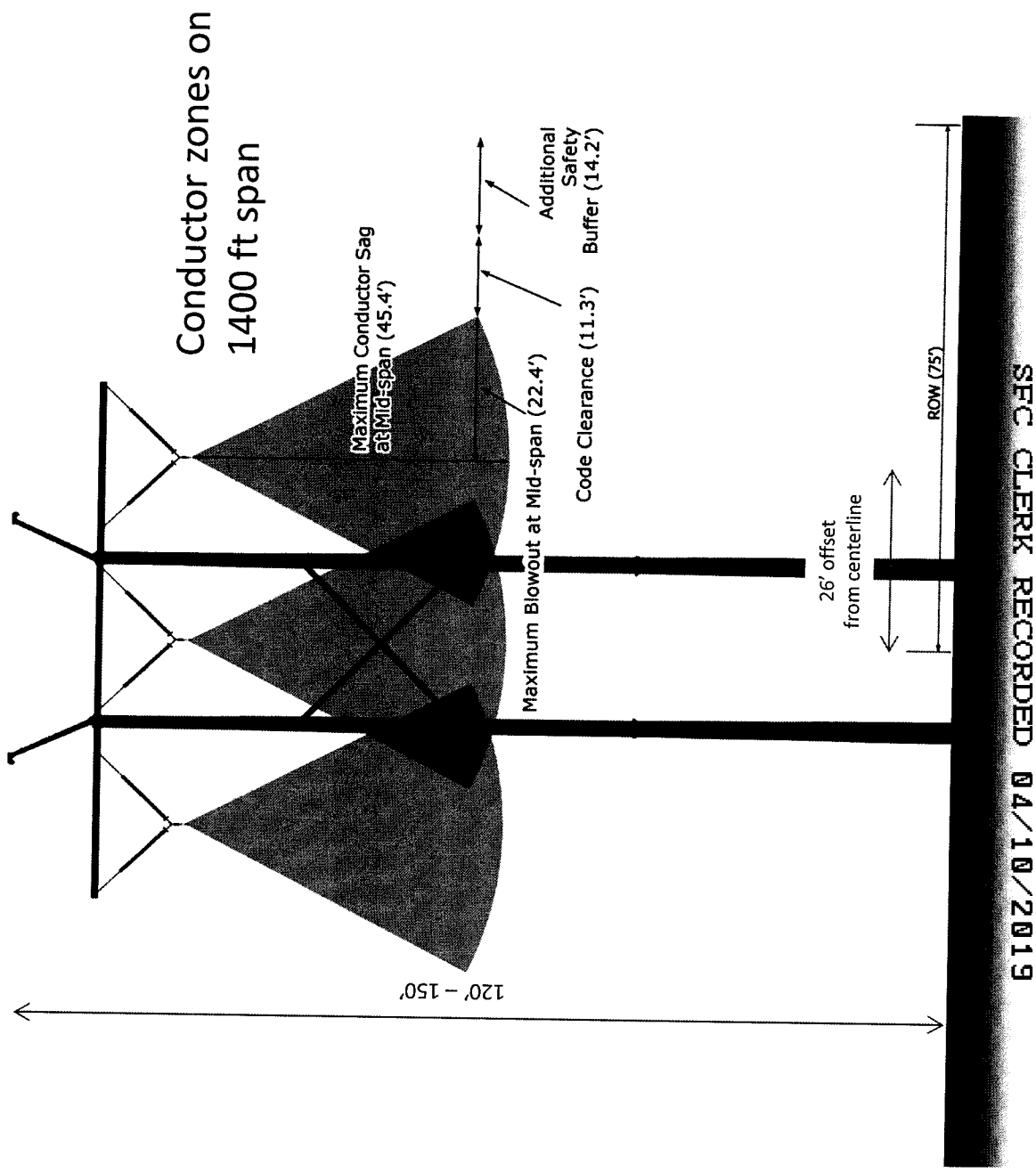
- Fun facts for conductors:
- They get longer when they get hot or have more weight on them. This is called Sag
- Conductors move when pushed by the wind, they generally move the most at the midpoint between the structures and hardly at all at the structures.
- The longer the span, the deeper the sag. The deeper the sag the more potential wind deflection.

A tale of two towers



- The longer the span, the deeper the sag. The deeper the sag the more potential wind deflection (blow out).
- In Santa Fe County, spans are in the range of 1350-1450 ft. ¹⁵⁵²
- Blow out on long spans is accounted for

It's not the structures, it's the
conductors!



NESC is like a Building Code

- How strong is strong enough?
- History and engineering help us decide.
- Codes may change over time
- NESC 2017 is the current code.
- The BB2 project is designed in accordance with this safety code.

Thank you



BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF PUBLIC SERVICE)
COMPANY OF NEW MEXICO'S)
APPLICATION FOR APPROVAL OF A)
345 KV TRANSMISSION LINE)
AND ASSOCIATED FACILITIES)
PURSUANT TO THE PUBLIC UTILITY ACT)**

Case No. 18-00243-UT

RECOMMENDED DECISION

March 11, 2019

SFC CLERK RECORDED 04/10/2019

Table of Contents

I.	Statement of the Case.....	1
II.	Summary of (1) PNM's Application; (2) Parties' Positions; and (3) Hearing Examiner's Recommendations	3
	A. PNM's Application.....	3
	B. Parties in the Case.....	6
	C. BKR's Primary Argument.....	6
	D. PNM's Request for a CCN	7
	E. PNM's Request for Location Approval.....	8
	F. PNM's Request for Right-of-Way Width Determination	8
	G. PNM's Request for Ratemaking Treatment	9
III.	Bill King Ranch's Primary Argument	11
IV.	PNM's Request for CCN	15
	A. Statutory Requirements for CCN Approval.....	15
	B. PNM's Evidence in Support of Request for CCN	16
	1. Need for Proposed BB2 Project.....	16
	2. Consideration of Alternatives	17
	C. Requirements from Case No. 2382	17
	1. All efforts to collaborate with interested constituents and reach a consensus, and the results of such efforts.....	18
	2. The ramifications of any increase in PNM's ability to wheel into its service area	18
	3. The current status of any other projects or planned projects which would significantly affect the transmission grid, and how such projects affect the current application.....	19
	4. The current status of any plans to change the ownership or operation of significant portions of the New Mexico transmission grid and how such change would affect the current application.....	19
	5. How PNM's transmission needs have been integrated with PNM's generation/power purchase plans and needs, including how such transmission will affect or be affected by present or future generation configurations.....	20
	6. If the project is to benefit the Department of Energy, Los Alamos National Laboratory or Los Alamos County, updates to their load growth or shrinkage.....	20
	7. Progress on and analysis of all reasonable alternatives to the current application.....	20
	8. All assumptions to which PNM's proposal is significantly sensitive.....	20
	D. Parties' Positions on PNM's Request for CCN	21
	E. Hearing Examiner's Recommendation on PNM's Request for CCN	21
V.	PNM's Request for Location Approval	23
	A. Statutory and Regulatory Requirements for Approval	23
	B. PNM's Evidence In Support of Its Request for Location Approval	25
	1. Description of Transmission Line (17.9.592.10(A)).....	25
	a. Location of Transmission Line	25

b.	Identification of Ownership of the Land the Transmission Line Will Cross and the Number of Feet the Transmission Line Will Cross Over Each Owner's Land	25
c.	Total Length of Each Transmission Line in Feet	26
d.	Description of Interconnection Facilities	26
e.	Map Showing Location of Transmission Line	27
f.	Schematic Diagram Showing the Transmission Line and the Interconnection of the Transmission Line to the Transmission Grid	28
2.	Identification of Applicable Land Use Statutes and Administrative Regulations and Proof of Compliance or Statement of Noncompliance with Each (17.9.592.10(B)).....	28
a.	Santa Fe County	28
b.	Sandoval County	28
c.	New Mexico State Land Office	28
d.	New Mexico Department of Transportation	28
3.	Environmental Report (17.9.592.10(C)-(E))	29
4.	Written Federal, State and Local Environmental Authorizations Necessary to Begin Construction of the Transmission Line (17.9.592.10(F)).....	29
5.	Written Federal, State and Local Environmental Authorizations Necessary to Begin Operation of the Transmission Line; if Such Authorization Cannot Be Obtained Until After Construction of the Transmission Line, Proof of Application for Such Authorization (17.9.592.10(G))	29
6.	Testimony Demonstrating that the Transmission Line Will Not Unduly Impair Important Environmental Values (17.9.592.10(H))	30
7.	Expected Date that the Transmission Line Will be Online.....	34
8.	Proof that the Application Has Been Served on All Local Authorities in Each County and Township Where the Transmission Line Will be Located, the New Mexico Attorney General, the New Mexico Environment Department and the New Mexico State Engineer	34
C.	Parties' Positions on PNM's Request for Location Approval.....	34
1.	Staff's Position.....	34
2.	Bill King Ranch's Position	34
a.	Argument that Location Approval Is Premature.....	34
b.	Argument that PNM Has Not Shown that the Proposed BB2 Project Would Not Unduly Impair Important Environmental Values.....	38
D.	Hearing Examiner's Recommendation on PNM's Request for Location Approval.....	40
VI.	PNM's Request for Right-of-Way Width Determination	40
A.	Statutory Requirements	40
B.	PNM's Evidence in Support of Its Request for a Right-of-Way Determination.....	41
C.	Staff's Position on PNM's Request for Right-of-Way Determination.....	44
D.	Bill King Ranch's Position on PNM's Request for Right-of-Way Determination	45
E.	Hearing Examiner's Recommendation on PNM's Request	45
VII.	PNM's Request for Ratemaking Treatment	47
A.	Statutory Authority for Request.....	47
B.	Terms of Special Service Contract with Facebook, Rate 36(B) and Rate Rider Nos. 47 and 49.....	47
C.	PNM's Evidence in Support of Request.....	50

D. Parties' Positions on PNM's Request53

E. Hearing Examiner's Recommendation on PNM's Request53

VIII. BKR's Allegation of Denial of Due Process, Arbitrary and Capricious Actions, Actions Not in Accordance with Law and Not Supported by Substantial Evidence 67

IX. Findings of Fact and Conclusions of Law.....69

X. Decretal Paragraphs70

Carolyn R. Glick, Hearing Examiner for the New Mexico Public Regulation Commission (Commission), submits this Recommended Decision to the Commission pursuant to 1.2.2.37(B) NMAC. The Hearing Examiner recommends that the Commission adopt this Recommended Decision in its Final Order.

I. STATEMENT OF THE CASE

On August 10, 2018, Public Service Company of New Mexico (PNM) filed an Application requesting that the Commission grant PNM the following relief:

- a. Issue a certificate of public convenience and necessity authorizing PNM to construct, operate and maintain a 345-kilovolt transmission line and associated facilities (the BB2 Project);
- b. Determine the ratemaking principles and treatment to apply to the BB2 Project;
- c. Approve the location of the BB2 Project; and
- d. Authorize a right-of-way width greater than 100 feet.

The following persons filed motions for leave to intervene:

- Bill King Ranch (BKR)
- The Coalition for Clean Affordable Energy (CCAIE)
- The New Mexico Industrial Energy Consumers (NMIEC)

PNM filed an Affidavit of Publication attesting that the Notice of Application was published on August 25, 2018 in the *Albuquerque Journal* and the *Santa Fe New Mexican*.

The Commission appointed the Undersigned to preside over a January 16, 2019 hearing. During the January 16, 2019 hearing, the Commission appointed the Undersigned as Hearing Examiner to preside over the case and issue a recommended decision. During that hearing, the parties agreed to extend the six-month statutory deadline to May 10, 2019 for the Commission to issue a final order on PNM's request for a determination of the necessary right-of-way width

to construct and maintain the transmission line. Tr. 1-16-19 at 93-94.¹ The hearing continued and concluded on February 4, 2019.

The following witnesses testified:

For PNM:

- Jeff Mechenbier, Director of the Transmission/Distribution Planning and Contracts Department, PNM
- Douglas Campbell, Project Manager, PNM Environmental Services Department
- Eric Johnson, Senior Environmental Project Manager, Marron and Associates
- Kelli Alcantar, Manager, Cost of Service, PNMR Services Company

For BKR:

- Bill King, Owner and Operator, Bill King Ranch

For Staff:

- Jack Sidler, Electrical Engineer, Utility Division Staff

The following exhibits were admitted into evidence:

PNM Exhibits:

- 1 Direct Testimony of Jeff Mechenbier
- 2 October 17, 2018 Supplemental Testimony of Jeff Mechenbier
- 3 Rebuttal Testimony of Jeff Mechenbier
- 4 Direct Testimony of Douglas Campbell
- 5 Rebuttal Testimony of Douglas Campbell
- 6 Direct Testimony of Kelli Alcantar
- 7 Direct Testimony of Eric Johnson
- 9 Photograph

¹ Extension of the statutory deadline was necessary to allow time for issuance of a recommended decision, the filing of exceptions and issuance of a final order following the relatively late appointment of a hearing examiner. The Commission's approval of extension of the statutory deadline is without precedent. Tr. 1-16-19 at 78.

BKR Exhibits:

- 1 Direct Testimony of Bill King
- 7 Photograph

Staff Exhibits:

- 1 Direct Testimony of Jack Sidler
- 2 January 9, 2019 Supplemental Testimony of Jack Sidler

Commission Exhibits:

- 1 Special Service Contract Between PNM and Facebook
- 2 PNM's Third Revised Rate No. 36B
- 3 PNM's First Revised Rider No. 47
- 4 PNM's Original Rider No. 49
- 5 Special Service Contract Between PNM and Greater Kudo

PNM, BKR and Staff filed Initial Posthearing Briefs. PNM and BKR filed Posthearing Response Briefs.

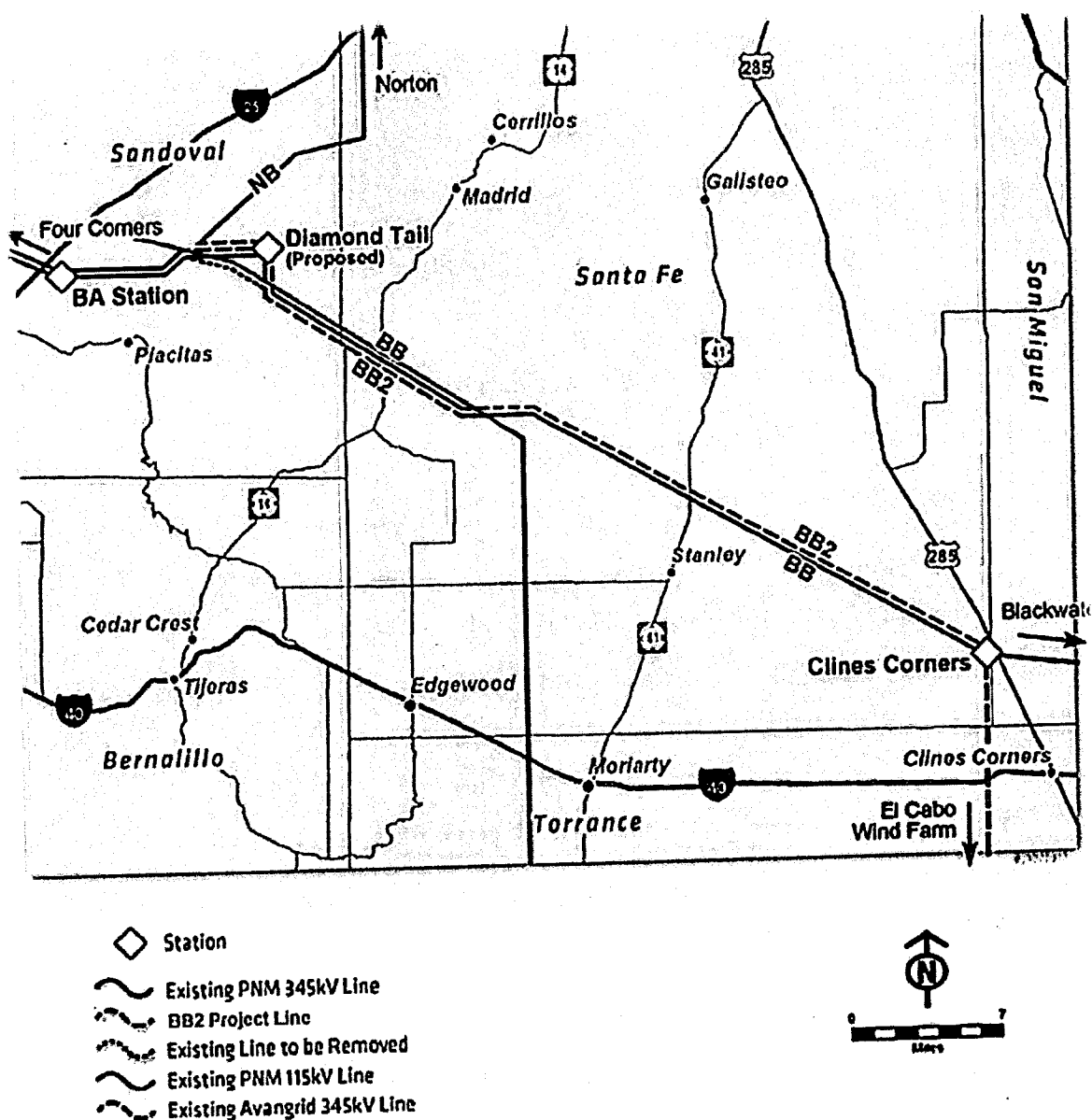
II. SUMMARY OF (1) PNM'S APPLICATION; (2) PARTIES' POSITIONS; AND (3) HEARING EXAMINER'S RECOMMENDATIONS

A. PNM'S APPLICATION

PNM seeks a certificate of public convenience and necessary (CCN), location approval and a determination of right-of-way width to construct and operate a 345 kilovolt (kV) transmission line and associated facilities, referred to as the Proposed BB2 Project. PNM also seeks approval of its proposed ratemaking treatment for the Proposed BB2 Project.

The BB2 Project, which would run adjacent to PNM's existing BB Line, would be located on lands in Santa Fe and Sandoval Counties owned primarily by private landowners. A few

miles would be located on state land managed by the New Mexico State Land Office. The map below shows the location of the Proposed BB2 Project.



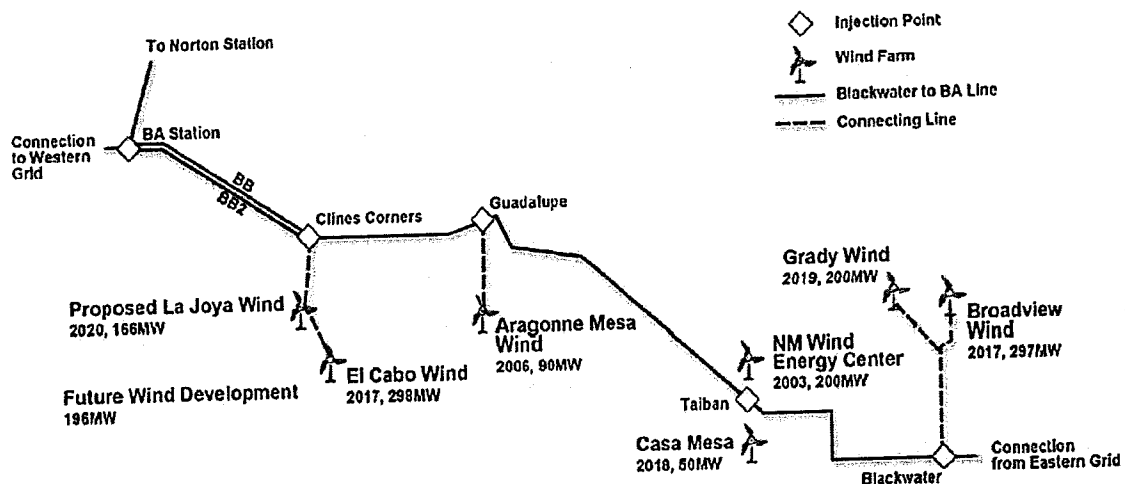
In New Mexico, wind resources are concentrated in the eastern part of the State. To reach the PNM system and the western energy market, these wind resources need access to the interstate transmission network. The following wind farms have already been developed in eastern New Mexico: the New Mexico Wind Energy Center; Aragonne Mesa; Broadview; El Cabo;

and Casa Mesa. These existing wind farms interconnect to PNM's BB Line, which has a maximum capacity of 1,000 megawatts (MWs) and is fully subscribed. With the BB Line fully subscribed, PNM cannot offer additional transmission service even if existing interconnected wind farms can produce more power.

The maximum capacity of the BB2 Line is 362 MW, and PNM has already committed the entire 362 MW of capacity to Avangrid Renewables, LLC, a PNM wholesale transmission service customer who does not purchase electricity from PNM but purchases transmission service from PNM to move Avangrid's own energy.

In Case No. 16-00191-UT, the Commission approved a Special Service Contract (SSC) between PNM and Facebook that requires PNM to procure sufficient renewable energy to meet Facebook's load as it increases over time at its Data Center in Los Lunas. In Case No. 18-00009-UT, the Commission approved a purchased power agreement (PPA) between PNM and Avangrid for PNM to purchase the output of the 166 MW La Joya wind facility, to be owned and operated by Avangrid, to meet Facebook's increased load.

The BB2 Line is necessary to move power from the La Joya facility to PNM's system. Of the total 362 MW of capacity of the Proposed BB2 Line, 166 MW would be used to deliver wind energy from the La Joya wind farm. The remaining 196 MW of capacity would be used to deliver energy from future wind farms developed by Avangrid. The diagram below shows the location of the existing wind farms, the La Joya wind farm, the existing BB Line and the proposed BB2 Project:



The BB2 Line would be built to meet the needs of only two PNM customers: Facebook and Avangrid. Of the total 362 MW of capacity of the BB2 Line, 166 MW is dedicated to serving the needs of one PNM retail customer: Facebook. None of the BB2 Line capacity is needed to meet the needs of PNM's other retail customers. The only reason that PNM is pursuing the BB2 Project "is because of the transmission commitments that have been made on it." PNM would have not have pursued the BB2 Line solely to enhance the reliability of its system and provide backup for the BB Line.

B. PARTIES IN THE CASE

The parties are Bill King Ranch (BKR), the Coalition for Clean Affordable Energy (CCAIE), the New Mexico Industrial Energy Consumers (NMIEC) and Staff. However, CCAIE and NMIEC did not participate and did not file briefs stating their positions.

C. BKR's PRIMARY ARGUMENT

PNM seeks to acquire 6.25 miles, or 113 to 114 acres, of BKR for the BB2 Project, equal to about 1.3% of BKR's holdings in the area. BKR has not granted PNM an easement for a right-of-way. PNM and BKR representatives met or spoke ten or more times between June and

September 2018. PNM and BKR attended a mediation on December 18, 2018, but did not reach an agreement. BKR opposes approval of PNM's Application.

BKR's most strenuous objection to the Application is that, allegedly, "PNM, Avangrid and Facebook are cooperating to misuse PNM's limited power to condemn." BKR says that Facebook has been technically identified as a PNM retail customer through its SSC with PNM, but is, in reality, Avangrid's customer. BKR argues that the Legislature granted PNM condemnation power to benefit its retail customers, but that the BB2 Project "is being constructed for Avangrid." BKR argues that it is Avangrid, who does not have condemnation power, who should be required to obtain easements from property owners, and that PNM should not be allowed to use its condemnation authority to acquire private property for a transmission line that benefits only Avangrid and Facebook. BKR is not asking the Commission to decide the amount that PNM should pay it for a right-of-way.

To the extent that BKR asks the Commission to deny PNM's Application to prevent PNM from exercising its condemnation power, the Commission lacks such authority. The proper remedy available to BKR to prevent PNM from exercising its power of condemnation is to seek a change in state law. However, rejection of BKR's argument does not dismiss BKR's legitimate concern that blanket approval of the Application would be unfair to PNM's retail ratepayers other than Facebook, as shown below.

D. PNM'S REQUEST FOR A CCN

The Public Utility Act (PUA) requires a public utility to obtain a CCN before constructing or operating any public utility plant or system, including a transmission line. To obtain a CCN, a utility must show that it needs the additional capacity to be provided by the proposed plant and that the proposed plant is the most cost effective among feasible alternatives.

BKR did not state a position on PNM's request for a CCN, but urges the Commission to deny PNM's Application. Staff recommends that the Commission issue a CCN.

PNM has shown that it needs the additional capacity of the Proposed BB2 Project to serve Facebook's expanded load and that the BB2 Project is the most cost effective project among feasible alternatives. Therefore, the Commission should issue a CCN for the Proposed BB2 Project.

E. PNM'S REQUEST FOR LOCATION APPROVAL

The PUA requires public utilities to obtain location approval to construct transmission lines and associated substation facilities in New Mexico that are designed for, or capable of, operating at 230 kV or more. The Commission shall approve an application for the location of transmission lines and associated facilities unless it finds that the proposed facilities will unduly impair important environmental values.

BKR opposes PNM's request for location approval, arguing that granting the request would be premature and that PNM has not shown that the Proposed BB2 Project would not unduly impair important environmental values. Staff recommends that the Commission grant location approval.

PNM has shown that the Proposed BB2 Project would not impair important environmental values, and the Commission should grant location approval.

F. PNM'S REQUEST FOR RIGHT-OF-WAY WIDTH DETERMINATION

Under the PUA, no person shall begin construction of a transmission line requiring a right-of-way width greater than 100 feet without first obtaining from the Commission "a determination of the necessary right-of-way width to construct and maintain the transmission line." PNM asks the Commission to determine that a maximum 150 foot right-of-way width is necessary.

BKR argues that PNM has not shown that a 150 foot right-of-way width would safely support the BB2 Line. Staff recommends that the Commission approve PNM's request for a determination that a maximum 150 foot right-of-way width is necessary.

PNM said that the maximum distance between towers (the span length) for the Proposed BB2 Line would be 1760 feet. *Under wind blowout conditions*, for a DBD-1901 tower, which PNM proposes to use, and a span length of 1760 feet, a 150 foot right-of-way width would comply with the National Electric Safety Code (NESC). However, *under extreme wind conditions*, a right-of-way width of 200 feet is necessary to comply with the NESC. In recent cases, the Commission has determined necessary right-of-way widths based on extreme wind conditions. Therefore, PNM's request that the Commission determine that a maximum 150 foot right-of-way width is necessary should be rejected, and the Commission should determine that a 200 foot right-of-way width is necessary. This does not mean that PNM must obtain a 200 foot right-of-way width for the entire BB2 Line; it means that PNM must comply with NESC requirements for an extreme wind condition for all sections of the Line.

G. PNM'S REQUEST FOR RATEMAKING TREATMENT

A public utility may, in its application for a CCN, request that the Commission determine the ratemaking principles and treatment for the facilities for which a CCN is requested. If such a request is made, the Commission shall set forth the ratemaking principles and treatment that will apply to the facilities in rate cases.

PNM requests ratemaking treatment for the Proposed BB2 Project. The estimated cost of the BB2 Project is \$85 million. The estimated revenue requirement of the BB2 Project (both wholesale/FERC and retail) is \$10.5 million. The revenue requirement is less than the cost of the Project, and is the annual amount that PNM would recover from ratepayers for the Project. PNM requests authority to recover from its New Mexico retail customers, in a future rate case,

an estimated \$5.4 million for the BB2 Project, which is the estimated retail allocation of the revenue requirement.

BKR opposes PNM's request. Staff supports it.

PNM's request for ratemaking treatment should be denied because approving it would preclude the Commission from enforcing the Special Service Contract (SSC) between PNM and Facebook and ordering Facebook to directly reimburse PNM for costs of the Proposed BB2 Project.

In Case No. 16-00191-UT, in which the Commission approved the SSC between PNM and Facebook, PNM witnesses said *"that Facebook does not wish, and has not requested, that the cost of the electric service for its data center be subsidized by any other customers."*

Section 3.3 of the SSC ensures that other retail customers do not subsidize the cost of transmission system upgrades necessary to meet Facebook's increased load. Section 3.3 states:

Electric Facilities. Transmission system upgrades will be required to provide electric service to meet Customer load, the costs of which shall be recovered by PNM through direct reimbursement by Customer under a separate Electric Facilities Agreement between Customer and PNM. Other transmission facility upgrades to PNM's transmission system that may be required to serve additional Customer load, and associated costs, shall be addressed in separate electric facilities agreements between PNM and Customer.

Facebook has previously paid up front for the cost of an extension of PNM's 115 kV system necessary to serve the Data Center site. However, PNM did not ask Facebook to pay for costs of the BB2 Project up front pursuant to Section 3.3 of the SSC. PNM said that Facebook is not required to directly reimburse PNM for costs of the BB2 Project because the Project is a system improvement that will benefit all customers.

To the contrary, the Proposed Project is not necessary to serve any retail customers other than Facebook. It is necessary to serve Facebook because expansion of the Facebook Data Center necessitated the La Joya PPA, and the BB2 Project is necessary to move the energy from the La Joya wind facility to PNM's system.

Once electrons enter PNM's system, they cannot be traced. Therefore, while the La Joya energy may be delivered to PNM retail customers other than Facebook, that energy is not necessary to serve them, nor is the Proposed BB2 Project. PNM witness Mechenbier repeatedly said that capacity of the Proposed BB2 Project would only "serve" one retail customer: Facebook. *See infra* pp. 57-59. The only PNM retail customer that the Proposed BB2 Project is necessary to serve is Facebook, and Facebook agreed in the SSC to directly reimburse PNM for costs of transmission system upgrades necessary to provide electric service to meet its load. The SSC was approved by the Commission and became a Commission order, and the Commission may use all of its available authority to enforce that Order. Under generally accepted principles of cost causation, Facebook should be required to directly reimburse PNM for 45.9% of the costs of the Project (166 MW ÷ 362 MW), or an estimated \$39,015,459 (\$85,001,000 x 45.9%).²

The ratemaking principles and treatment that should apply to the BB2 Project once it is placed in service are that PNM should not be allowed to recover any cost of the Proposed BB2 Project from retail ratepayers other than Facebook unless and until otherwise ordered by the Commission. Therefore, PNM's requested ratemaking treatment should be denied.

III. BILL KING RANCH'S PRIMARY ARGUMENT

Bill King, who is BKR's witness, is the owner of BKR. Tr. 2-4-19 at 257 (King). PNM seeks to acquire 6.25 miles, or 113 to 114 acres, of the BKR for the BB2 Project, equal to about 1.3% of BKR's holdings in the area. *Id.* at 120 (Campbell); Campbell Rebuttal at 2. BKR has not granted PNM an easement for a right-of-way. PNM representatives and BKR representatives met or spoke ten or more times between June and September 2018. Campbell Rebuttal at 4. PNM and BKR attended a mediation on December 18, 2018, but did not reach an agreement. Mediator Report (12-18-18). BKR opposes approval of PNM's Application.

² This is an estimated amount. The actual amount likely would not include AFUDC and might have to be grossed-up for taxes among other possible adjustments.

BKR's most strenuous objection to the Application is that, allegedly, "PNM, Avangrid and Facebook are cooperating to misuse PNM's limited power to condemn." BKR's Initial Posthearing Brief at 2. BKR argues that the Legislature granted PNM condemnation power to benefit its retail customers, but that the BB2 Project "is being constructed for Avangrid." *Id.* BKR says that Facebook has been technically identified as a PNM retail customer through its SSC with PNM, but is, in reality, Avangrid's customer. *Id.* at 2-3, 9.

BKR quotes much testimony from the hearing to illustrate how PNM allegedly is misusing the Commission's ratemaking process to enable PNM to use its condemnation power "for the sole benefit of two private entities and not New Mexico's retail customers." *Id.* at 4, 10. BKR argues that it is Avangrid, who does not have condemnation power, who should be required to obtain easements from property owners, and that PNM should not be allowed to use its condemnation authority to acquire private property for a transmission line that benefits only Avangrid and Facebook. *Id.* at 10-11. It further argues that PNM "is serving as a front for Avangrid and Facebook to obtain private land . . . at bargain-basement-low prices." *Id.* at 12.

Bill King clarified that BKR is not asking the Commission to decide the amount that PNM should pay it for a right-of-way. Tr. 2-4-19 at 274, 278 (King). He said:

In think my interest in this line is the fact that I do not feel that electric lines that are used to carry FERC power to wholesale customers in California should be eligible for condemnation under the New Mexico law. I think condemnation was meant to serve the retail customers.

Id. at 274.

To the extent that BKR asks the Commission to deny PNM's Application to prevent PNM from exercising its condemnation power, the Commission lacks such authority. "It is well settled that the power of eminent domain may be delegated by the legislature to a private corporation, such as a utility which serves the public." *North v. Public Serv. Co.*, 1983-NMCA-124, ¶ 16, 101 N.M. 222. The New Mexico Legislature delegated the power of eminent domain to public utilities through Section 62-1-4. *El Paso Elec. Co. v. Real Estate Mart, Inc.*, 1979-NMSC-

023, ¶ 12, 92 N.M. 581 (“Among the powers granted to a public utility in ss 62-1-1 and 62-1-4 is the power of eminent domain.”). Section 62-1-4 states in part, “If a corporation cannot agree with the owners as to a right-of-way or the compensation for a right-of-way, the corporation may proceed to obtain the right-of-way in the manner provided by law for condemnation of such property.”

In *United Water v. New Mexico Public Utility Commission*, the New Mexico Supreme Court made clear that the Commission has no authority over condemnation actions. *United Water New Mexico, Inc. v. New Mexico Pub. Regulation Comm’n*, 1996-NMSC-007, ¶ 26, 121 N.M. 272. The Court vacated a Commission order that blocked the City of Rio Rancho’s condemnation and acquisition of Rio Rancho Utilities Corporation (RRUC), a public utility. A district court had approved the condemnation and a stipulated amount of just compensation. Following that, the Commission ordered RRUC to file an application for approval of the sale and abandonment of its water and sewer systems. In its final order, the Commission concluded that it had jurisdiction over the transfer and denied RRUC’s application for approval of the transfer as not being in the public interest. *Id.* ¶¶ 2-7. The Commission said that, regardless of the trial court’s decision, RRUC had to petition for and receive Commission approval before the condemnation transfer could be completed. *Id.* ¶ 11.

The Supreme Court held that the Commission had no jurisdiction over the transfer. *Id.* ¶ 7. It said that the Commission’s statutory authority over utility-related sales and abandonments applied only to voluntary sales and abandonments. *Id.* ¶ 16. The Supreme Court rejected the Commission’s argument that the Commission and the district court had concurrent jurisdiction over condemnation actions for public utilities. The Commission had argued that the district court would initially determine if the municipality has the right to condemn the public utility’s systems and, if so, the court would calculate the amount of just compensation to be paid. Then, the Commission argued, it would have authority to determine if the amount of compensation to be paid is in the public interest and to approve or deny the transfer based on that determination.

Id. ¶ 27. In rejecting the Commission’s argument, the Court declared, “The determination of what constitutes just compensation, however, is a judicial function. . . . The amount of just compensation cannot be limited by an administrative agency either directly or indirectly.” *Id.* ¶ 28.

Moreover, the New Mexico Supreme Court’s opinion in *Sandel v. New Mexico Public Utility Commission* compels the conclusion that this Commission lacks power to prohibit PNM from exercising its statutory right of condemnation. In *Sandel*, the Commission issued an order that would have had the end result of deregulating the retail side of the electric power industry, contrary to the Public Utility Act’s traditional regulation of public utilities. The Supreme Court held that the Commission’s order exceeded its authority and violated state constitutional provisions requiring separation of powers by effectively deregulating the retail side of the electric power industry in the absence of a statutory mandate from the Legislature. *Sandel v. New Mexico Pub. Util. Comm’n*, 1999-NMSC-019, ¶ 26, 127 N.M. 272. While the Supreme Court recognized the Commission’s limited power to make policy, it concluded that the Commission had gone beyond the law it was charged with administering and modified existing law and created new law on its own. *Id.* ¶¶ 12, 27. The Court noted that changes that had taken place in the regulation of the electric power industry at the federal level did not give the Commission the authority “to erase the NMPUA as it is presently written.” *Id.* ¶ 16.

“The granting of the power of eminent domain, and the parameters thereto, is a matter of public policy for the Legislature’s determination.” *El Paso Elec. Co. v. Real Estate Mart*, 1979-NMSC-023, ¶ 17. The proper remedy available to BKR to prevent PNM from exercising its power of condemnation is to seek a change in state law. *See id.* (reversing district court’s order that permitted plaintiffs to condemn two 100 foot easements contrary to a previous version of Section 62-1-4 that prohibited easements exceeding 100 feet, and stating that plaintiffs’ remedy was a change in legislation).

The rejection of BKR's argument does not dismiss BKR's legitimate concern that blanket approval of the Application would be unfair to PNM's retail ratepayers other than Facebook. This concern is relevant to whether PNM has established a need for the BB2 Project and whether PNM's request for ratemaking treatment should be approved, and is discussed in *infra* Sections IV(E) & VII(E).

IV. PNM'S REQUEST FOR CCN

A. STATUTORY REQUIREMENTS FOR CCN APPROVAL

The PUA requires a public utility to obtain a certificate of public convenience and necessity (CCN) before constructing or operating any public utility plant or system. NMSA 1978, § 62-9-1(A) (2005). In determining whether any certificate shall issue, the Commission shall give due regard to public convenience and necessity. *Id.*, § 62-9-6. The "public convenience and necessity" standard implies a net public benefit. *Re Valle Vista Water Utility Co.*, 212 P.U.R. 4th 305 (2001). The Commission has equated the "public convenience and necessity" with the public interest. *Re Public Serv. Co. of N.M.*, 119 P.U.R. 4th 48, 50 (1990), *aff'd*, *Public Serv. Co. of N.M. v. New Mexico Pub. Serv. Comm'n*, 1991-NMSC-083, 112 N.M. 379. In cases in which a utility requests a CCN for generation not to be used toward compliance with the Renewable Portfolio Standard, the "public convenience and necessity" standard requires a utility to show that it needs the additional capacity to be provided by the proposed plant. *E.g.*, Case No. 11-00313-UT, Certification of Stipulation at 11-14, 19 (1-3-12), adopted by Final Order Approving Certification of Stipulation (2-7-12); Case No. 2717, Final Order at 5-8, 10-11 (3-5-97).

Additionally, a utility must show that the facility it proposes is the most cost effective among feasible alternatives. Case No. 15-00205-UT, Order Partially Granting PNM Motion to Vacate and Addressing Joint Motion to Dismiss at 10-11 (12-22-15). A reasonable utility must consider alternatives before going forward with a project, and a new facility will not be approved

if a better alternative is available. Case No. 15-00261-UT, Corrected Recommended Decision at 96 (8-15-16), adopted in relevant part by Final Order Partially Adopting Corrected Recommended Decision (9-28-16). In Case No. 2382, the Commission rejected PNM's request for a CCN for the Ojo Line Extension (OLE) because "PNM's alternatives analysis [was] not sufficiently reliable to determine whether OLE is in fact the best alternative among those presented by PNM." Recommended Decision at 98 (7-5-95), adopted by Final Order (11-20-95). The Commission said, "Thus even assuming a need on the transmission system for the sake of argument, the Commission remains unconvinced that the public convenience and necessity require or will require the OLE Project as the proper response to such a need." *Id.* at 102. The Commission recognized its authority to examine alternatives to needs identified by a utility, that there may be various solutions for such needs, and that it would not be in the public interest for the Commission to grant a CCN for a proposed project that might meet needs but is the worst among a range of alternatives. *Id.* at 49.

B. PNM'S EVIDENCE IN SUPPORT OF REQUEST FOR CCN

1. *Need for Proposed BB2 Project*

PNM says that the BB2 Project is needed to accommodate a particular customer request for transmission service by Avangrid Renewables, LLC (Avangrid) under PNM's Open Access Transmission Tariff (OATT). Mechenbier Direct at 11. PNM witness Mechenbier testified that PNM has an obligation under the OATT to build out its transmission system to provide transmission service to wholesale renewable power generators who ask to interconnect under PNM's OATT. *Id.* at 10; Tr. 1-16-19 at 103. Avangrid develops and operates wind energy projects in the United States. Avangrid is not a PNM retail customer, but an eligible transmission customer under PNM's OATT who does not purchase electricity from PNM but purchases transmission service from PNM to move Avangrid's own energy. *Id.* at 27, 35 (Mechenbier).

2. *Consideration of Alternatives*

PNM considered alternatives to the Proposed BB2 Project including building no new transmission line. PNM rejected the no new construction alternative because no additional wind generation can be accommodated in the area where the La Joya wind facility is to be located without adding a new transmission circuit. Mechenbier Direct at 17-18.

All alternatives that would add a new transmission circuit would require a new 345 kV transmission corridor. The shortest effective alternative to the BB2 Project would be similar in length and would need to be routed through the mountains east of Albuquerque to PNM's Sandia switching station southeast of Albuquerque. Additional permitting would be required to locate a line through the Interstate 40 corridor in Tijeras Canyon, which would move the in-service date well beyond the in-service date required by Avangrid. Also, the cost of routing a line through areas with significant congestion and populations would be much greater. *Id.* at 18.

A feasible alternative could be running a line from Torrance County south of the Manzano Mountains north to the existing PNM Rio Puerco Switching Station. However, such a line would require permitting a new corridor more than three times the length of the BB2 Project, exceeding the projected BB2 Project cost by two to three times. *Id.* at 18-19.

PNM said that a lower voltage project was not a feasible alternative because it would not provide sufficient capacity. Expanding the capacity of the existing BB Line is not a feasible alternative because thermal limits of the conductor have been reached for the Line. Reconductoring the BB Line also is not a feasible alternative because of the existing transmission obligations on the Line and the length of the outage required to reductor the Line. *Id.* at 19.

C. REQUIREMENTS FROM CASE NO. 2382

In Case No. 2382, the Commission rejected PNM's request for a CCN for the proposed Ojo Line Extension Project. In its decision, the Commission ordered PNM, in future

applications for approval to construct major plant additions to address its transmission system, to address listed matters. Case No. 2382, Recommended Decision at 104. PNM addressed the required matters, as follows:

1. All efforts to collaborate with interested constituents and reach a consensus, and the results of such efforts

PNM conducted public outreach about the BB2 Project and held 11 meetings with interested constituents. PNM used the Utility Search Conference (USC) process, a model used nationwide to bring together utilities and stakeholders to address their respective needs. The goal is to identify recommendations that all stakeholders can support. USC meetings were held on March 8 and 9, 2018, and 30 stakeholders participated. Discussions were facilitated by STAR Group, LLC, an independent consulting firm. Participants made recommendations to PNM representatives, who reviewed the recommendations and advised the participants of PNM's ability to incorporate the recommendations. PNM formed a Community Working Group from a subset of individuals who participated in the USC to continue to address issues through ongoing meetings and discussion. Additionally, PNM held a Pre-Application Neighborhood Meeting and individual meetings with property owners and their representatives. The BB2 Project incorporates public support for locating the BB2 Line adjacent to the existing BB Line and property owners' preference for H-frame steel pole structure design and shape and galvanized pole surface color to reduce visibility. Campbell Direct at 10-13; Exh. DC-8 to Campbell Direct.

2. The ramifications of any increase in PNM's ability to wheel into its service area

PNM would be able to accommodate 362 MW of additional wind farm generation from eastern New Mexico to PNM northern New Mexico load centers after completion of the Proposed Project. Mechenbier Direct at 24.

3. The current status of any other projects or planned projects which would significantly affect the transmission grid, and how such projects affect the current application

System improvements and upgrades include installation of a Static Var Compensator for voltage support at Guadalupe 345 kV Switching Station which went into service in March 2018. PNM is currently installing a synchronous condenser³ at Blackwater Station, which is expected to be operational in March of 2019. The synchronous condenser provides voltage and dynamic support to allow the remaining 200 MW of capacity in the existing BB Line to be used for transmission service for the Grady wind farm, bringing the total transmission service on the line to 1,000 MW. These projects do not affect the Proposed BB2 Project, which is separately proposed to accommodate customer requests for transmission service beyond the 1,000 MW already allocated. *Id.* at 25.

In addition, PNM has completed technical studies for both the Western Spirit and Verde merchant transmission projects. These projects have a wires-to-wires interconnection agreement with PNM that allow them to be interconnected to PNM's transmission system. Neither project would address the identified Clines Corner transmission limitations, nor are these projects anticipated to be in service when required by the end of 2020. *Id.* at 25.

4. The current status of any plans to change the ownership or operation of significant portions of the New Mexico transmission grid and how such change would affect the current application

PNM has no plans, and is not aware of any plans, to change ownership of significant portions of the New Mexico transmission grid. *Id.* at 27.

³ A synchronous condenser is essentially a generator without the turbine to provide synchronous current compensation.

5. How PNM's transmission needs have been integrated with PNM's generation/power purchase plans and needs, including how such transmission will affect or be affected by present or future generation configurations

The Proposed BB2 Project would support and expand PNM's 345 kV transmission system that is in place today in northern New Mexico and was developed in the late 1960s and early 1970s. The last PNM 345 kV transmission line was completed in 1985 when PNM constructed the BB Line. Since that time, PNM focused its efforts on transmission reinforcements that maximized using existing northern New Mexico system transmission lines including building load-side generation resources. *Id.* at 27.

6. If the project is to benefit the Department of Energy, Los Alamos National Laboratory or Los Alamos County, updates to their load growth or shrinkage

The Proposed BB2 Project is not needed to benefit the Department of Energy, Los Alamos National Laboratory or Los Alamos County. *Id.* at 27-28.

7. Progress on and analysis of all reasonable alternatives to the current application

PNM performed an analysis of reasonable alternatives. *See supra* § IV(B)(2).

8. All assumptions to which PNM's proposal is significantly sensitive

Not applicable. The proposed 362 MW of transmission capacity is already committed. Mechenbier Direct at 27-28.

D. PARTIES' POSITIONS ON PNM'S REQUEST FOR CCN

BKR does not state a position on PNM's request for a CCN, but urges the Commission to deny PNM's Application. BKR's Initial Posthearing Brief at 20.

Staff concluded that PNM met the statutory and regulatory requirements for issuance of a CCN, and Staff recommends that the Commission issue a CCN subject to the following conditions, which are unopposed by PNM:

1. PNM shall file copies of all construction permits received for the BB2 Project within two weeks of receipt.
2. PNM shall file a summary of the actual cost of the BB2 Project for comparison to PNM's Exhibit JRM-9 on Page 11 of Appendix A within 60 days after all final costs have been incurred and cleared the accounting system.
3. PNM shall file a notice of the date that the BB2 Project is placed into service.

Sidler Direct at 3, 13-16; Sidler 1-9-19 Supp. at 3.

E. HEARING EXAMINER'S RECOMMENDATION ON PNM'S REQUEST FOR CCN

Typically, in CCN cases, a utility establishes the need for proposed public utility plant or system by showing that it is needed to meet the utility's peak demand plus reserve margin.⁴ The capacity of the Proposed BB2 Project is not needed to meet PNM's peak demand. The only reason that PNM is pursuing the BB2 Project "is because of the transmission commitments that have been made on it." Tr. 1-16-19 at 113-14 (Mechenbier). PNM would have not have pursued

⁴ *E.g.*, Case No. 12-00317-UT, Recommended Decision at 31 (11-1-12) (finding that El Paso Electric Company (EPE) required additional generating resources to meet load growth and reserve margin), adopted by Final Order Adopting Recommended Decision (1-23-13); Case No. 11-00313-UT, Certification of Stipulation at 19 (finding that Southwestern Public Service Company (SPS) required additional generating resources to provide adequate and reliable service and provide an adequate reserve margin), adopted by Final Order Approving Certification of Stipulation (2-7-12); Case No. 10-00301-UT, Certification of Stipulation at 21 (6-23-11) (finding that EPE required additional generating resources to meet load growth and provide an adequate reserve margin), adopted by Final Order Adopting Certification of Stipulation (6-23-11).

the BB2 Line solely to enhance the reliability of its system and provide backup for the BB Line. *Id.* at 114 (Mechenbier). It is questionable whether, in the context of a utility's request for a CCN, a transmission line is "necessary" when it is being built only to accommodate a request by a transmission customer to move its own energy.⁵ In recent cases, independent transmission project companies and wind project developers have themselves requested location approval of transmission lines from the Commission, obviating the need for a utility to request a CCN.⁶ However, it is unnecessary to decide this issue because the BB2 Project is necessary for PNM to serve the increased demand of Facebook, a retail customer, through renewable energy under the SSC, and the SSC was approved by the Commission. PNM stated in Case No. 18-00009-UT that the La Joya PPA was necessary for, and would be used by, PNM to provide service to Facebook under the SSC, Rate No. 36B and Rate Rider No. 47. Case No. 18-00009-UT, Final Order at 8, ¶ 24. The existing BB Line is the only existing transmission facility in the area of where the La Joya facility will be located, and it is fully subscribed. Mechenbier Direct at 17. The BB2 Line is necessary to move power from the La Joya facility to PNM's system. *Id.* at 12; Case No. 18-00009-UT, Final Order at 18-19, ¶ 47.

Therefore, PNM has demonstrated by a preponderance of the evidence⁷ that it needs the additional capacity to be provided by the BB2 Project. It has also shown by a preponderance of

⁵ The Hearing Examiner also questions whether PNM has an obligation under the OATT to build a new transmission line solely upon request of a transmission customer. PNM made this assertion, but cited to no section of the OATT to support the assertion. PNM's OATT was not moved or admitted into evidence. ⁶ Case No. 18-00049-UT (Zia Transmission, LLC); Case No. 18-00065-UT (Corona Wind Companies); Case No. 17-00040-UT (Southline Transmission, LLC). In Case No. 17-00040-UT, the Commission described the project as a merchant transmission project, which differs from a traditional utility project in that all development costs of the project are borne by the sponsor who does not have captive ratepayers from which to recover the costs of the project. Case No. 17-00040-UT, Certification of Stipulation at 8 n.7 (8-7-17), adopted by Final Order Approving Stipulation (8-30-17).

⁷ The standard of proof in administrative adjudications is, unless expressly provided otherwise, the preponderance of the evidence. Case No. 12-00131-UT, Recommended Decision at 16 (11-7-12), adopted in relevant part by Final Order (12-11-12). Preponderance of the evidence means the greater weight of the evidence. *Campbell v. Campbell*, 1957-NMSC-001, ¶ 24, 62 N.M. 330. It is evidence that, when weighed with that opposed to it, has more convincing force. It has superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other. *Black's Law Dictionary* 547 (2nd pocket ed. 2001).

the evidence that the BB2 Line is the most cost effective project among feasible alternatives and that it has complied with the requirements of Case No. 2382. Accordingly, PNM's request for a CCN should be granted.

V. PNM'S REQUEST FOR LOCATION APPROVAL

A. STATUTORY AND REGULATORY REQUIREMENTS FOR APPROVAL

The PUA requires public utilities to obtain location approval to construct transmission lines and associated substation facilities in New Mexico that are designed for, or capable of, operating at 230 kV or more. NMSA 1978, § 62-9-3 (2005). The Commission shall approve an application for location of transmission lines and associated facilities unless it finds that the proposed facilities will unduly impair important environmental values. *Id.*, § 62-9-3(F). In determining whether a proposed transmission line would unduly impair important environmental values, the Commission may consider: (1) existing plans of the state, local government and private entities for other development at or in the vicinity of the proposed location; (2) fish, wildlife and plant life; (3) noise emission levels and interference with communications signals; (4) the proposed availability of the location to the public for recreational purposes, consistent with safety considerations and regulations; (5) existing scenic areas, historic, cultural or religious sites and structures or archeological sites at or near the vicinity of the proposed location; and (6) additional factors that require consideration under applicable federal and state law pertaining to the location. *Id.*, § 62-9-3(M). The Commission shall not approve an application if it violates a state, county or municipal land use statutory or administrative regulation unless the Commission finds that the regulation is unreasonably restrictive and compliance is not in the interest of the public convenience and necessity. *Id.*, § 62-9-3(G).

To implement Section 62-9-3, the Commission adopted 17.9.592 NMAC, which states that an application for location approval shall contain:

- A. A description of the transmission line;
- B. Identification of all applicable land use statutes and administrative regulations and proof of compliance or statement of noncompliance with each;
- C. If required under the National Environmental Policy Act (NEPA), an environmental assessment;
- D. If required under NEPA, an environmental impact statement and record of decision or a finding of no significant impact;
- E. If preparation of a federal environmental assessment or environmental impact statement is not required, then a report, comparable to an environmental impact statement;
- F. All written federal, state and local environmental authorizations necessary to begin construction of the transmission line;
- G. All written federal, state and local environmental authorizations necessary to begin operation of the transmission line or proof of application for such authorization;
- H. Testimony demonstrating that the transmission line will not unduly impair important environmental values, which include but are not limited to, preservation of air and water quality, land uses, soils, flora and fauna, and water, mineral, socioeconomic, cultural, historic, religious, visual, geologic and geographic resources;
- I. The expected date that the transmission line will be online;
- J. Proof that the application has been served on all local authorities in each county and township where the transmission line will be located, the New Mexico Attorney General, the New Mexico Environment Department and the New Mexico State Engineer; and
- K. Any other information which the applicant wishes to submit.

17.9.592.10 NMAC.

B. PNM’S EVIDENCE IN SUPPORT OF ITS REQUEST FOR LOCATION APPROVAL

PNM submitted the following information to meet the requirements of Section 62-9-3 and 17.9.592 NMAC:

**1. Description of Transmission Line
(17.9.592.10(A))**

a. Location of Transmission Line

As the map in *infra* Section V(B)(1)(e) shows, the proposed BB2 Project would be located in Santa Fe and Sandoval Counties and would originate at the PNM Clines Corner 345 kV Switching Station and proceed west for about 45 miles to a point of interconnection with the existing PNM Norton-BA NB 345 kV Line.

The BB2 Project would consist of about 45 miles of utility corridor within a 150-foot wide right-of-way and 40-acre switching station. In total, about 812 acres would be part of the right-of-way. Exh. DC-5 at 26, to Campbell Direct.

b. Identification of Ownership of the Land the Transmission Line Will Cross and the Number of Feet the Transmission Line Will Cross Over Each Owner’s Land

The table below identifies the ownership of the land that the BB2 Line would cross and the number of feet it would cross over each type of land.

Ownership type	Approximate distance in linear feet
Private	217,047
New Mexico State Trust Land	20,106
County of Santa Fe	270
New Mexico Department of Transportation	273

Campbell Direct at 6.

c. Total Length of Each Transmission Line in Feet

The table below states the total length of each proposed transmission line in feet.

Transmission Line	Approximate distance in linear feet
Double Circuit 345 kV Tap of NB345 kV Line	11,637
Diamond Tail Switching Station to Clines Corners switching station 345 kV single circuit	226,059

Id.

d. Description of Interconnection Facilities

The Proposed Project has four components:

1. Construction of an approximately three mile-long double-circuit 345 kv transmission line
2. Construction of a 345 kV switching station called Diamond Tail Switching Station
3. Construction of 42 miles of a single-circuit 345 kV transmission line from the new switching station east to PNM’s Clines Corners 345 kV Switching Station
4. Expansion of facilities inside of the Clines Corners Switching Station

Mechanbier Direct at 13.

The 42-mile section of new line would be constructed beginning at the Clines Corner Switching Station and ending at the new proposed 345 kV Diamond Tail Switching Station. It would be located adjacent to the existing BB Line and expand an existing utility corridor. *Id.* at 14.

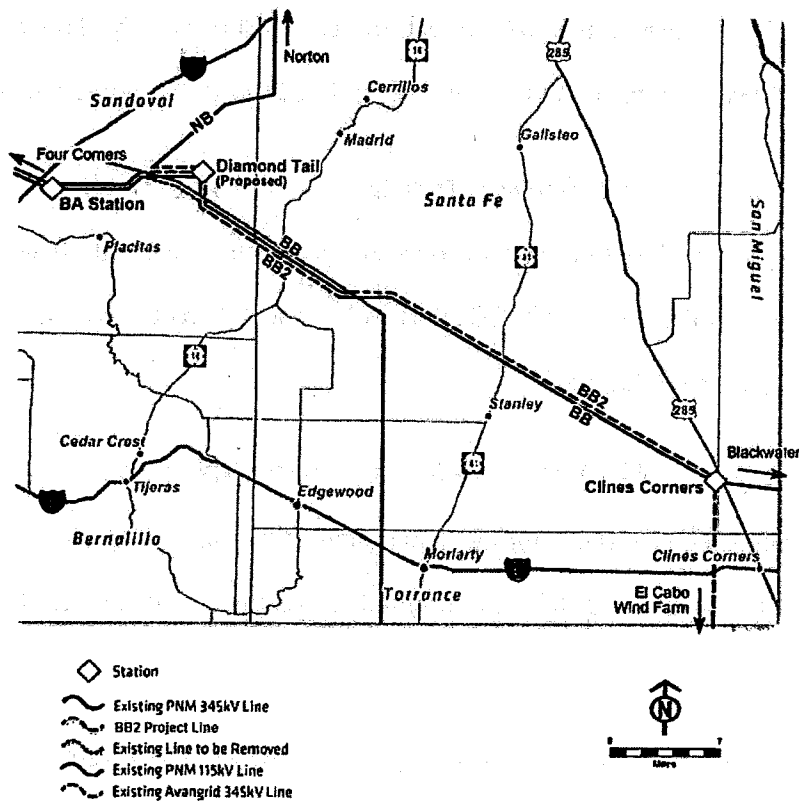
The three-mile transmission loop would be constructed beginning at the proposed Diamond Tail Switching Station and ending west at a point of interconnection on the NB 345 kV Line. It too would be located adjacent to the existing BB Line and expand an existing utility corridor. *Id.* at 15.

The Diamond Tail Switching Station would be located east of Interstate 25 and west of NM State Highway North 14. The Station footprint of about 25 acres would be located within a larger area of about 40 acres. If the proposed BB2 Project is approved, this new switching station would be needed to tie the existing BB Line to the new transmission lines. *Id.*

The Clines Corner Switching Station would be expanded to accommodate the new transmission line interconnection. The expansion would include adding four 345 kV circuit breakers, developing a new line terminal position and converting from a ring-bus to a breaker-and-half station configuration. Expansion would occur within the footprint of the existing Station. *Id.* at 13-14.

e. Map Showing Location of Transmission Line

The map below shows the location of the proposed BB2 Project:



Exh. JRM-6 to Mechanbier Direct.

f. Schematic Diagram Showing the Transmission Line and the Interconnection of the Transmission Line to the Transmission Grid

Exhibit JRM-7 to Jeff Mechenbier's Direct Testimony is a schematic diagram showing the proposed BB2 Project and its interconnection to the transmission grid.

2. Identification of Applicable Land Use Statutes and Administrative Regulations and Proof of Compliance or Statement of Noncompliance with Each (17.9.592.10(B))

a. Santa Fe County

The BB2 Project requires approval of a Conditional Use Permit and Site Development Plan from Santa Fe County. Exh. DC-2 at 1, to Campbell Direct. PNM has received these approvals, although BKR has appealed approval of the Conditional Use Permit. Tr. 1-16-19 at 117 (Campbell).

b. Sandoval County

The BB2 Project requires zone change approval (from Rural Residential/Agricultural to Special Use) from Sandoval County. Exh. DC-2 at 2, to Campbell Direct. PNM has received this approval. Tr. 1-16-19 at 149 (Campbell).

c. New Mexico State Land Office

The BB2 Project requires the granting of an easement by the New Mexico State Land Office. The New Mexico State Land Office has granted an easement to PNM. *Id.* at 153 (Campbell).

d. New Mexico Department of Transportation

The BB2 Project requires the granting of a New Mexico Public Highway Utility Accommodation Permit by the New Mexico State Highway and Transportation Department. To

obtain this Permit, PNM must submit as-built plans within 30 days of completion of the installation pertaining to the location of the facility installed. 17.4.2.12(G) NMAC. These plans will not be available before final engineering, structure placements and designs are complete. PNM will submit the plans to the Department once the BB2 Project is sufficiently developed. Exh. DC-2 at 3-4, to Campbell Direct.

3. *Environmental Report (17.9.592.10(C)-(E))*

The BB2 Line would not cross federal land so NEPA requirements do not apply. Campbell Direct at 7-8; Johnson Direct at 3. PNM retained Marron and Associates to prepare the PNM BB2 Transmission Line Environmental Analysis Report (EAR). The EAR (i) summarizes the purpose and need for the BB2 Project and alternatives to the Project, including a no action alternative; (ii) discusses the affected environment; (iii) examines environmental consequences of the BB2 Project; and (iv) outlines mitigation measures. Campbell Direct at 8-9. The Report is comparable to an environmental impact statement required by NEPA. Johnson Direct at 3.

4. *Written Federal, State and Local Environmental Authorizations Necessary to Begin Construction of the Transmission Line (17.9.592.10(F))*

PNM submitted a list of written federal, state and local environmental authorizations necessary to begin construction and the status of each. Exh. DC-3 to Campbell Direct.

5. *Written Federal, State and Local Environmental Authorizations Necessary to Begin Operation of the Transmission Line; if Such Authorization Cannot Be Obtained Until After Construction of the Transmission Line, Proof of Application for Such Authorization (17.9.592.10(G))*

PNM submitted a list of three written federal, state and local environmental authorizations necessary to begin operation of the transmission line. PNM has not received any of the required authorizations, and it is too early for PNM to apply. *Id.*

6. Testimony Demonstrating that the Transmission Line Will Not Unduly Impair Important Environmental Values (17.9.592.10(H))

PNM retained Marron and Associates to prepare the PNM BB2 Transmission Line Environmental Analysis Report (EAR). Marron considered all of the important environmental values identified in 17.9.592.10(H) NMAC: preservation of air and water quality, land uses, soils, flora and fauna, and water, mineral, socioeconomic, cultural, historic, religious, visual, geologic and geographic resources. Marron also specifically considered the factors listed in Section 62-9-3(M) that the Commission has not incorporated into 17.9.592 NMAC: existing plans of the state, local government and private entities for other developments at or in the vicinity of the proposed location, noise emission levels and interference with communication signals, the proposed availability of the location to the public for recreational purposes, consistent with safety considerations and regulations, and existing scenic areas or archaeological sites at or in the vicinity of the proposed location. For each of these important environmental values and factors, Marron evaluated the nature of the current environment, focusing on existing conditions, and determined whether the BB2 Project would have adverse impacts on each value. Marron proposes measures in the EAR to minimize or avoid environmental impacts where appropriate. Section 5.0 of the EAR describes these mitigation measures, including transmission line reclamation, noxious weed species, restoration success criteria and post-construction monitoring, restoration of temporary disturbance areas, erosion control, standard mitigation measures/best management practices, cultural resources, public safety and standards safety measures. Johnson Direct at 4-5.

Marron conducted field surveys to collect cultural resource, biological resource, waterway and wetland data. The cultural resource investigations included a review of known cultural resource sites including archaeological sites and historic properties. Archaeologists conducted a walking survey of the entire BB2 Project area. Cultural resource sites were recorded and mapped. For biological resources, biologists conducted a walking survey of the entire BB2 Project area. Observed plant and animal species were recorded. Signs of animal activity, such as tracks and nests, were also recorded. Protocol surveys were conducted for the gray vireo, southwestern willow flycatcher and yellow-billed cuckoo. The biologists also identified and delineated wetland areas based on the presence of wetland indicator plants species, hydric soils and wetlands hydrology. Environmental data was obtained from on-line and literature sources. Data was collected on landforms, geology, soils, surface and groundwater, wetlands vegetation, wildlife, cultural resources, climate and air quality, visual resources, communities and land use, development plans, socioeconomics and environmental justice, recreation, noise, electromagnetic fields and hazardous materials. The environmental data was used to prepare the affected environment sections of the EAR. Environmental impacts were evaluated based on the proposed action and affected environment. Opportunities to mitigate environmental impacts were identified, such as moving a structure location to avoid a cultural resource site. *Id.* at 5-6.

Rural residential and ranching are the main land uses near the BB2 Project corridor. In Sandoval County, the closest community to the BB2 Project is Algodones and is primarily scattered, sparse residential property. The closest communities to the BB2 Project in Santa Fe County are Golden and Stanley, which are also sparsely populated. Aerial surveys identified 37 dwellings and 40 non-residential structures within one mile on either side of the BB2 Project corridor. Exh. DC-5 at 10, to Campbell Direct.

The following is a summary of Marron's conclusions:

1. The location of the BB2 Project would have minimal impact on community values because it would be adjacent to the existing BB Line and structures would be located to minimize impacts to sensitive resources.
2. The BB2 Project is not expected to alter land uses or prevent current land uses because any impacted land uses are already occurring directly adjacent to an existing powerline right-of-way.
3. No parks or recreation areas would be impacted by the BB2 Project.
4. The BB2 Project would not adversely impact visual resources because it would be located next to the existing BB Line, which has already modified the landscape. Lighter galvanized color on structures would lessen visual impacts.
5. Wildlife is not abundant in the BB2 Project area. Observations totaled 67 vertebrate animal species including 49 bird species, 16 mammal species and two reptile species.
6. Threatened species identified in the BB2 Project area are the gray vireo and peregrine falcon. The BB2 Project might remove some perching trees for the gray vireo, but abundant trees are available on adjoining lands. Mitigation measures would be taken to minimize impacts to the gray vireo. The BB2 Project would not affect the peregrine falcon because no suitable nesting habitat is present within or near the Project area.
7. Potential southwestern willow flycatcher and yellow-billed cuckoo habitats are in the Project area, although none of these species was observed in the area. The southwestern willow flycatcher is a federal and state endangered species. The yellow-billed cuckoo is a federal threatened species. PNM would conduct surveys in 2019 to ensure the absence of both species. If either species is found in the area, PNM would coordinate with the U.S. Fish and Wildlife Service to develop mitigation measures.
8. No geological hazards were identified.

9. The BB2 Project would not cross any permanent surface waters, and it is not expected that construction activities would significantly impede the seasonal flow of water within the watersheds.
10. The BB2 Project is not expected to adversely affect groundwater resources.
11. In Sandoval County, 19 newly recorded historic sites, 10 previously recorded historic sites and three segments of the same historic railroad grade were found. Six previously recorded sites were not found within the BB2 Project limits. In Santa Fe County, six newly recorded sites, 10 previously recorded sites, a segment of the New Mexico Central Railroad grade and 58 isolated occurrences were recorded. Three previously recorded sites were not found. Twenty-one of the cultural resource sites were determined to be eligible to the National Register of Historic Properties ("NRHP"). Without avoidance, site treatment, consisting of excavation and documentation of site features, is recommended at 15 of the sites. As many sites as possible would be avoided by sensitive structure placement.

Johnson Direct at 6-23.

Marron concluded that the selected route of the BB2 Project would not have a significant impact on the human environment and would not unduly impair any important environmental values. *Id.* at 6. Mr. Johnson considers "unduly impairs" to mean "a large negative environmental impact." Tr. 4-2-19 at 195.

PNM would incorporate mitigation measures throughout each phase of the BB2 Project. These mitigation measures are identified in Exhibit DC-5 to Mr. Campbell's Direct Testimony. PNM would retain one or more environmental monitors who would be responsible for overseeing implementation of the mitigation measures. Campbell Direct at 9.

7. *Expected Date that the Transmission Line Will be Online*

The expected date that the BB2 Line would be online is November 2020. Mechenbier Direct at 16.

8. *Proof that the Application Has Been Served on All Local Authorities in Each County and Township Where the Transmission Line Will be Located, the New Mexico Attorney General, the New Mexico Environment Department and the New Mexico State Engineer*

The Certificate of Service attached to PNM's Application indicates that PNM served its Application on all required persons.

C. PARTIES' POSITIONS ON PNM'S REQUEST FOR LOCATION APPROVAL

1. *Staff's Position*

Staff concluded that PNM met the statutory and regulatory requirements for location approval, and Staff recommends that the Commission grant PNM's request for location approval. Sidler Direct at 23-24.

2. *Bill King Ranch's Position*

a. *Argument that Location Approval Is Premature*

As of January 16, 2019, PNM had acquired easements⁸ for 22% of the privately-owned land. Four private landowners, including BKR, had not granted easements to PNM. Tr. 1-16-19 at 123-24 (Campbell). As of January 16, 2019, PNM was continuing negotiations with three of those four private landowners. *Id.* at 152 (Campbell). PNM and BKR attended a mediation on

⁸ An easement is the right or interest obtained to construct, maintain and operate transmission facilities within a right-of-way. Exh. DC-7 at 30, to Campbell Direct.

December 18, 2018, but did not reach an agreement. Mediator Report (12-18-18). PNM seeks an easement for about 6.25 miles or 113 acres from BKR. Tr. 1-16-19 at 120 (Campbell).

BKR argues that it is premature to approve PNM's Application because PNM has not acquired easements from private landowners who own a majority of the private land over which PNM must acquire rights-of-way for the BB2 Project. BKR's Initial Posthearing Brief at 12-14.

The Location Control Statute and 17.9.592 NMAC do not specifically require an applicant to acquire all of the rights-of-way for a transmission line before seeking and receiving Commission approval. Case No. 18-00049-UT, Recommended Decision at 36 (7-31-18), adopted by Final Order (9-5-18) (*SunZia Case*). Whether the lack of acquisition of rights-of-way precludes location control approval depends on the extent to which it creates uncertainty of the location of the proposed project. In the *SunZia Case*, the Commission found that the proposed location was not sufficiently final to grant location approval because right-of-ways were still needed from the Bureau of Land Management (BLM), the State Land Office and private landowners. While SunZia's Application with the Commission was pending, it also had pending before BLM a request to amend the right-of-way previously granted by the BLM. This request was necessitated by new right-of-way alignments for six properties, which in turn modified the proposed route through BLM land. SunZia also had pending its request for a right-of-way from the State Land Office for which it would have to seek route modifications if and when SunZia received BLM approval for the requested amendments. Also of significance was that the State Land Office told SunZia that it would not issue a right-of-way if any portion of the proposed transmission line on state trust land was located within a mile of any residence, without the written consent of the property owner. As of the date of the hearing, SunZia had acquired options for rights-of-way for 82% of the private land for which it needed rights-of-way. Three private landowners who were Intervenor in the case had indicated that they did not intend to grant SunZia the requested easements. If the landowners continued to refuse to grant easements, SunZia would have to either pursue an alternate route or pursue eminent domain. Both of these options were uncertain. Pursuing an

alternate route was uncertain because SunZia had not sought alternate routes to the easements it sought from two of the Intervenor, and alternate routes likely would require further negotiations with the Department of Defense and White Sands Missile Range. Pursuing eminent domain was also uncertain because SunZia itself did not have eminent domain authority. Potentially, SunZia could enter into an agreement with the New Mexico Renewable Energy Transmission Authority (RETA) to qualify the SunZia project as a RETA project, which would allow RETA to use its eminent domain authority to acquire easements from the Intervenor. This would require a formal public process which the Commission described as “uncertain and potentially time-consuming.” *SunZia Case*, Recommended Decision at 36-44. The Commission described SunZia’s application as “unique . . . for the size of the project, for the degree of opposition to the location as it has been described, the uncertainty of the locations described and the likelihood of relocation[.]” *Id.* at 34.

The Commission concluded:

Accordingly, the number and extent of the changes currently proposed and potentially required in the future create too much uncertainty for the Commission to approve a location at this time. It is not clear whether the currently proposed changes will be approved. The extent of future changes is also not clear.

Id. at 44.

The Commission explained that possession of eminent domain authority by an applicant is not required to obtain location approval. However, the Commission said,

It should be clear from the circumstances of this case and the opposition of the certain private landowners that without eminent domain power, SunZia’s ultimate inability to adhere [to] its chosen location for the proposed transmission line renders the need for more relocations of the proposed line location more likely.

Final Order at 10. The Commission distinguished its location approval of a transmission line proposed by Southline Transmission, LLC (Southline) over the objections of landowners/Intervenor in Case No. 17-00040-UT. Because the proposed project was a public/private endeavor between Southline and the Western Area Power Administration (WAPA), “any nonconsensual land acquisition will proceed through the exercise of WAPA’s

eminent domain powers.” Case No. 17-00040-UT, Final Order Approving Stipulation at 4, ¶ 10 (8-30-17).

PNM’s lack of acquisition of all easements over private land does not preclude location control approval because it does not create uncertainty of the location of the Proposed Project. This is because PNM has the power of eminent domain and can acquire easements from private landowners for its proposed location even if no agreements are reached with those landowners.

BKR also argues that it is premature to grant PNM location approval because PNM has not received a conditional use permit from Santa Fe County. BKR’s Initial Posthearing Brief at 14. BKR argues that “[a]s indicated in the testimony of Douglas Campbell, that matter [PNM’s request for a conditional use permit from Santa Fe County] is under review.” *Id.* at 14.

The testimony of Douglas Campbell cited to by BKR Ranch is that Santa Fe County issued a final order granting PNM a conditional use permit, but the final order had been appealed by BKR. Tr. 1-16-19 at 119. BKR’s attorney asked Mr. Campbell whether PNM had actually received a permit and further asked, “You can’t receive the permit until all of the appeal rights have run, correct?” *Id.* Mr. Campbell answered:

I’ll just respond to that by making note of earlier transmission lines that we’ve built in Santa Fe County where we’ve received the final order. And I’m not sure they actually – we actually are issued a final permit that – after that point.

Id. BKR’s attorney then asked Mr. Campbell, “The previous ones you’re talking about weren’t appealed, correct?” Mr. Campbell answered, “Correct.” *Id.* at 119-20.

17.9.592 NMAC requires an applicant for location approval of a transmission line to include in its application all written federal, state and local environmental authorizations necessary to begin construction of the line. 17.9.592.10(F) NMAC. Mr. Campbell’s testimony establishes that PNM received authorization from Santa Fe County through the County’s issuance of a final order granting PNM a conditional use permit. While BKR’s attorney suggested, through his cross examination, that PNM did not have authorization because the final order had been

appealed, this argument is not evidence. Rule 13-119 NMRA (“Statements of the lawyers, however, are not themselves evidence.”).

b. Argument that PNM Has Not Shown that the Proposed BB2 Project Would Not Unduly Impair Important Environmental Values

BKR argues that PNM has not satisfied its burden of proving that the Proposed BB2 Project would not unduly impair important environmental values. BKR’s argument appears on pages of 14-15 of its Initial Posthearing Brief where it says:

The Environmental Analysis Report commissioned by PNM acknowledges numerous impacts on wildlife — including species listed as threatened in New Mexico — and on currently pristine components of the environment. The Report does not compare alternatives or potentially mitigating measures, but instead tends to write off casualties to the environment as collateral damage. Had the Hearing Officer allowed introduction of Bill King’s exhibits, they would reveal impairment of important environmental values and the quality of life on Bill King Ranch. Even without those exhibits, however, PNM has not provided substantial evidence that its Project will not unduly impair environmental concerns, including avian habitat and noxious weeds. (Citations omitted).

This argument is conclusory, and BKR identifies no specific facts supporting its allegation.

Bill King’s prefiled Direct Testimony also is conclusory. Mr. King quotes repeatedly from a Public Service Commission (PSC) of Wisconsin publication entitled “Environmental Impacts of Transmission Lines.” The quotations identify general impacts from transmission lines. For example, one quotation is, “Locating a new transmission line ROW parallel with an existing line on separate structures can increase impacts to agricultural operations.” King Direct at 2. Another is, “Increasing the width of an existing corridor can increase edge effects and barriers to wildlife.” *Id.* However, Mr. King does not state how the Proposed BB2 Project would increase impacts to agricultural operations or increase edge effects and barriers to wildlife.

Mr. King said that PNM “has not adequately accounted for evidence of historic Native American culture. I have personally found arrowheads and pottery shards on the land.” *Id.* at 4. However, Mr. King said that he did not read the EAR. Tr. 2-4-19 at 286.

Mr. King said that the Proposed BB2 Line “would be placed almost directly over” the Miller Family Homestead. He said that the Miller Family homesteaded and built a farmhouse over 100 years ago. He said that highway contractors flagged the Homestead for historical preservation purposes and that the Site has been used for movie sets “because of its rare historical value and aesthetics.” Mr. King also said that the Site has great historical significance to him and his family because the land has been in his family for five generations and it is “more than real estate.” King Direct 3.

Eric Johnson, Senior Environmental Project Manager with Marron and Associates, described the Homestead as “an artifact scatter,” meaning debris evidencing a human presence. He testified that only a small portion of the Miller Family Homestead and artifact scatter is within the Project area. The structure on the Homestead is outside the Project area. Tr. 2-4-19 at 221-22. Mr. Campbell said that the Site, “as provided in the conditions for Santa Fe County approval of the land use, will be avoided by construction and operations and is located south of the existing BB 345 kV transmission line.” Campbell Rebuttal at 6.

It is undisputed, as the title of the Wisconsin PSC publication says, that transmission lines have environmental impacts. The key question, however, is whether PNM has shown that the Proposed BB2 Project would not “unduly impair important environmental values.” PNM, through its witnesses’ testimonies and the EAR, has shown by a preponderance of the evidence that the Proposed BB2 Project would not unduly impair important environmental values. PNM’s specific evidence is more persuasive than Mr. King’s general testimony that transmission lines have environmental impacts. Additionally, Mr. King’s testimony is less credible given that he told the Santa Fe County Planning Commission in September 2018 that he was “in favor of this project,” and that he said that he would set aside his concerns if PNM offered him sufficient annual payments for an easement. Exh. DC-1 Rebuttal at 2, to Campbell Rebuttal; Tr. 2-4-19 at 283.⁹

⁹ When faced with conflicting witness testimonies, the trier of fact determines the weight to be given to each’s testimony and to the credibility of the witnesses. *Fitzgerald v. Fitzgerald*, 1962-NMSC-028, ¶ 5, 70 N.M. 11 (rejecting appellant’s argument that trial court should have based its findings upon the testimony

D. HEARING EXAMINER'S RECOMMENDATION ON PNM'S REQUEST FOR LOCATION APPROVAL

PNM's Application contains all information required by 17.9.592.10 NMAC. *See* Campbell Direct at 4-5. Additionally, PNM has shown by a preponderance of the evidence that the Proposed BB2 Project would not unduly impair important environmental benefits. Accordingly, PNM's request for location approval should be granted.

VI. PNM'S REQUEST FOR RIGHT-OF-WAY WIDTH DETERMINATION

A. STATUTORY REQUIREMENTS

Under Section 62-9-3.2 of the PUA, no person shall begin construction of a transmission line requiring a width for right-of-way greater than 100 feet without first obtaining from the Commission "a determination of the necessary right-of-way width to construct and maintain the transmission line." A utility requesting a ROW width determination must provide notice of the time and place of the hearing to any owner of property proposed to be taken and, if applicable, the person in actual occupancy of the property. *Id.*, § 62-9-3.2(D) (2001).

On September 18, 2018, PNM filed the Affidavit of Brian Buffington, PNM's Project Manager, Regulatory. Mr. Buffington attested that on September 5, 2018, PNM mailed notice of the time and place of hearing to all landowners and persons in actual occupancy of all lands crossed by the BB2 Project that were known to PNM at that time. He further attested that after September 6, 2018, PNM became aware of additional persons in actual occupancy of lands crossed by the BB2 Project and mailed notice to them on September 14, 2018. He said that if

of appellant's witness, who was allegedly better qualified). In assessing credibility, the trier of fact may consider a witness's interest in the case. UJI 13-2003 NMRA ("Jury sole judges of witnesses") (in determining credit to be given to the testimony of any witness, jury may take into account any interest that the witness may have).

PNM became aware of additional persons in actual occupancy of lands crossed by the BB2 Project, it would serve notice on them and file additional affidavits.

B. PNM'S EVIDENCE IN SUPPORT OF ITS REQUEST FOR A RIGHT-OF-WAY DETERMINATION

PNM asks the Commission to determine that a maximum 150 foot right-of-way width is necessary. If the BB2 Project is approved and PNM finds that more than 150 feet is necessary, PNM will seek Commission approval of the greater width. Tr. 1-16-19 at 48-49 (Mechenbier).

The BB2 Project would consist of about 45 miles of utility corridor within a 150-foot wide right-of-way and 40-acre switching station. In total, about 812 acres would be part of the right-of-way. Exh. DC-5 at 26, to Campbell Direct. The 150-foot right-of-way would span 75 feet on each side of the center line. Campbell Direct at 16-17. The BB2 Project would generally parallel the existing BB Line with about 150 feet of separation between the two lines, requiring an additional 150 foot right-of-way. Exh. DC-7 at 25, to Campbell Direct.

The BB2 Project would be built using about 175 structures placed next to existing BB Line structures.¹⁰ Structure heights would range from 120 to 150 feet varying with terrain and span lengths. Each typical H-frame pole would be installed by directly embedding the poles 15 to 30 feet deep. Each structure site would be about 20 feet by 40 feet. Exh. DC-5 at 20, to Campbell Direct; Tr. 2-4-19 at 234 (Johnson).

Span lengths would typically be spaced about 1,000 to 1,500 feet apart, resulting in about 4 to 5 structures per mile of line. However, in rugged terrain, structure placement may require longer spans. The actual right-of-way widths throughout the length of the BB2 Line, which at all times would be a minimum of 150 feet, would be finalized based on the engineering requirements that dictate the location of the structures along the Line's route. Campbell Direct at 16-18. Because final engineering specifications and local site conditions and terrain could

¹⁰ A structure is a steel or wood pole or lattice-steel support for line conductors. Exh. DC-7 at 34, to Campbell Direct.

require a right-of-way width greater than 150 feet, “PNM does not know precisely a maximum width that could be required in the rare event a 150 foot width must be exceeded.” Mechenbier 10-17-18 Supp. at 4. Mr. Mechenbier said that the maximum span length that PNM would use in connection with a 150-foot right-of-way would be 1760 feet. Tr. 1-16-19 at 47-48.

Mr. Campbell said that a 150-foot right of way is required to comply with Section 234 of the National Electrical Safety Code (NESC), which has been adopted by the State of New Mexico. The NESC contains requirements for the design, construction, maintenance and operation of electric supply and communication lines, equipment and supply stations to safeguard persons from hazards associated with those activities. Exh. DC-7 at 32, to Campbell Direct. The NESC requires minimum horizontal and vertical clearances for overhead lines, which vary depending on voltage. Campbell Direct at 17. The clearance requirement under the NESC is used as the minimum right-of-way width. Factors that influence the clearance requirement or right-of-way width include the type of support structures used, span length, conductor size and type, the number of circuits, wind speed and conductor blowout (the distance the wires are moved by a crosswind). Sidler Direct at 16.

David Evans and Associates performed an analysis to determine for PNM the minimum right-of-way width required under the NESC for two proposed structure types: the DBD-1901 and the DBD-603. Exh. JRM-1 Rebuttal at 1, to Mechenbier Rebuttal. The DBD-1901 is described as “single-circuit, H-frame, self-weathering or galvanized tubular steel, vertical conductor bundle.” The DBD-603 is described as “double-circuit, galvanized or self-weathering tubular steel, vertical conductor bundle.” *Id.* at 3. The DBD-603 is available only for a short distance on the western edge of the Proposed Project area. Exh. DC-7 at 24, to Campbell Direct.

Evans and Associates applied Section 234 of the NESC, which specifies horizontal clearance requirements for two conditions: (1) the conductor without wind displacement (at rest); and (2) the conductor with wind displacement. The conductor is the wire cable strung between transmission towers. Exh. DC-7 at 30, to Campbell Direct. Wind displacement is the

adjusted position of a conductor as a result of wind blowing the conductor. “Blowout” is the magnitude of the horizontal displacement of a conductor due to wind. Exh. DC-7 at 30, to Campbell Direct.

For each of the DBD-1901 and the DBD-603 structures, Evans and Associates calculated the minimum right-of-way for various span lengths and, for each span length, for load cases under a variety of wind and weather scenarios. The two weather case descriptions that Evans and Associates emphasized, and which produced the greatest right-of-way width requirements, are the “blowout” and “extreme wind” scenarios. The greatest right-of-way widths resulted from the longest span lengths under an extreme wind scenario. See Exh. JRM-1 Rebuttal at 6-7, to Mechenbier Rebuttal. Evans and Associates’ Report says that while there are no required clearances under NESC for an extreme wind event (although there is a strength requirement), “[t]ypically an extreme wind case is considered as part of risk management for reliability concerns” and “often energy providers will examine clearances for an extreme wind event[.]” *Id.* at 1, 4.

The results of Evans and Associates’ analysis show that, for a DBD-1901 structure, the minimum right-of-way widths for a blowout scenario and an extreme wind scenario, assuming a span length of 1400 feet, are 121.5 feet and 143.6 feet, respectively. The minimum right-of-way width for an extreme wind scenario and assuming a span length of 1445, is 149.7. If the span length is increased to 1600 feet, the minimum right-of-way widths for a blowout scenario and an extreme wind scenario are 135.8 feet and 170.1 feet, respectively. If the span length is increased to 1800 feet, the minimum right-of-way widths for a blowout scenario and an extreme wind scenario are 152.7 feet and 202.8 feet, respectively. *Id.* at 6-7.

The results of Evans and Associates’ analysis show that, for a DBD-603 structure, the minimum right-of-way widths for a blowout scenario and an extreme wind scenario, assuming a span length of 1100 feet, are 78 feet and 92 feet, respectively. The minimum right-of-way width for an extreme wind scenario and assuming a span length of 1525 feet, is 149.7 feet. *Id.*

C. STAFF'S POSITION ON PNM'S REQUEST FOR RIGHT-OF-WAY DETERMINATION

In his initial Direct Testimony, Staff witness Jack Sidler recommended that the Commission reject PNM's request for a determination that a *minimum* 150 foot width is necessary, for two reasons. First, Mr. Sidler said that PNM's evidence was deficient because PNM had not provided calculations and drawings with each page wet-stamped by a New Mexico licensed Professional Engineer. Sidler Direct at 17-21. Second, Mr. Sidler said that the Commission should never approve a request for determination of a *minimum* right-of-way width "because this gives the requesting party an unlimited ROW width without having to return to the Commission." Mr. Sidler said that the Commission should make determinations of the *maximum* right-of-way width. *Id.* at 21-22.

In response to Mr. Sidler's recommendations, PNM, as part of Mr. Mechenbier's Rebuttal Testimony, submitted right-of-way width calculations with each page wet-stamped by a New Mexico licensed Professional Engineer. *See* Exh. JRM-1 Rebuttal, to Mechenbier Rebuttal. Additionally, while Mr. Mechenbier noted that the Commission has determined *minimum* right-of-way widths under Section 62-9-3.2, he said that "PNM has confirmed that a maximum 150 feet ROW width is adequate for the entire line and provided a New Mexico professional engineer stamp to support the calculations." Mechenbier Rebuttal at 4 (emphasis in original). Mr. Mechenbier said that PNM agrees with Mr. Sidler's recommendation that the requested right-of-way width should be expressed as a maximum width in this case. Tr. 1-16-19 at 48.

In Supplemental Testimony in response to Mr. Mechenbier's Rebuttal Testimony, Mr. Sidler acknowledged that the Commission had determined *minimum* right-of-way widths in two cases and said that "[t]he implications of Commission approval of minimum ROW widths did not occur to Staff until this case." Sidler 1-9-19 Supp. at 5. He said, "Staff appreciates PNM's willingness to accept a maximum ROW width of 150 ft. in this case." *Id.* In light of PNM's agreement to accept a determination of a maximum right-of-way width and its submission of

stamped calculations by a New Mexico licensed Professional Engineer, Mr. Sidler said that Staff's new position was that the Commission should approve PNM's request for a maximum 150 foot right-of-way width for the BB2 Line. *Id.* at 6.

D. BILL KING RANCH'S POSITION ON PNM'S REQUEST FOR RIGHT-OF-WAY DETERMINATION

BKR argues that PNM has not met its burden of proving that a 150 foot right-of-way width would safely support the BB2 Line. BKR's Initial Posthearing Brief at 15. BKR is correct, as discussed in *infra* Section VI(E).

E. HEARING EXAMINER'S RECOMMENDATION ON PNM'S REQUEST

Evans and Associates concluded:

It was found that 150 feet is the recommended minimum right-of-way width to accommodate the conductor displacement caused by wind (blowout) under the National Electrical Safety Code (NESC) Rule 250C Extreme Wind Load Case with a suitable margin for construction and other tolerances.

Exh. JRM-1 Rebuttal at 1, to Mechenbier Rebuttal. However, as shown in *supra* Section VI(B), this conclusion only applies, for a DBD-1901 structure, if the span length is no more than 1445 feet, because at a span length of 1600 feet, the minimum right-of-way is 170.1 feet in an extreme wind condition. *Id.* at 7.

The following questions and answers of Mr. Mechenbier show that PNM's intent is to comply with the clearance requirement for a blowout weather condition, not an extreme wind condition:

Question: And what was the conclusion of David Evans and Associates as to whether or not a right-of-way width of 150 feet was a safe right-of-way width?

....

Answer: If you go to page 7 of 12, Table 3, the calculation using what's [the] approved National Electric Safety Code *for the blowout*, looking at the structure DBD-1901, it's the

first one in that table of a ruling span. And what a ruling span means [is] between structure to structure of 1760 [feet], based on the calculation, the minimum right-of-way would be 149.4. (Emphasis added).

....

Question: [W]hat is the maximum ruling span that PNM would use in connection with the requested 150-foot right-of-way?

Answer: The National Electric Safety Code *per the blowout* for the structure DBD-1901 is 1760. (Emphasis added)

....

Question: What right-of-way do you believe would be safe?

Answer: Per the calculations, 150 feet.

Tr. 1-16-19 at 39, 42, 47-48.

PNM submitted no evidence explaining why it should only comply with the clearance requirement for a blowout condition and not an extreme wind condition. Evans and Associates' report indicates that it is prudent to comply with the clearance requirement for an extreme wind condition. *Supra* § VI(B). In three recent cases, this Commission determined that 180 and 200 foot right-of-way widths were necessary to meet clearance requirements under an extreme wind scenario.¹¹ To comply with an extreme wind condition, a 1760 ruling span for a DBD-1901 structure requires a minimum right-of-way width close to 202.8 feet. Exh. JRM-1 Rebuttal at 7, Table 2, to Mechenbier Rebuttal (minimum right-of-way for DBD-1901 structure under extreme wind condition and 1800 foot ruling span). Therefore, it should be determined that the maximum right-of-way width to construct and maintain the BB2 Line is 200 feet. This does not mean that PNM is required to obtain a 200 foot right-of-way width for the entire BB2 Line; it

¹¹ Case No. 18-00065-UT, Recommended Decision at 71, 75 (10-3-18), adopted by Final Order Adopting Recommended Decision as Modified by Supplemental Recommended Decision and Errata to Recommended Decision (10-3-18); Case No. 17-00275-UT, Certification of Stipulation at 55, 113 (4-13-18), adopted by Final Order Adopting Certification of Stipulation (5-2-18); Case No. 17-00040-UT, Certification of Stipulation at 31 (8-7-17), adopted by Final Order Approving Stipulation (8-30-17).

means that PNM must comply with the clearance requirements for an extreme wind condition for all sections of the Line.

VII. PNM'S REQUEST FOR RATEMAKING TREATMENT

A. STATUTORY AUTHORITY FOR REQUEST

Section 62-9-1(B) states in part:

If a certificate of public convenience and necessity is required pursuant to this section for the construction or extension of a generating plant or transmission lines and associated facilities, a public utility may include in the application for the certificate a request that the commission determine the ratemaking principles and treatment that will be applicable for the facilities that are the subject of the application for the certificate. If such a request is made, the commission shall, in the order granting the certificate, set forth the ratemaking principles and treatment that will be applicable to the public utility's stake in the certified facilities in all ratemaking proceedings on and after such time as the facilities are placed in service. The commission shall use the ratemaking principles and treatment specified in the order in all proceedings in which the cost of the public utility's stake in the certified facilities is considered.

B. TERMS OF SPECIAL SERVICE CONTRACT WITH FACEBOOK, RATE 36(B) AND RATE RIDER NOS. 47 AND 49

In Case No. 16-00191-UT, the Commission approved a Special Service Contract (SSC) between PNM and Facebook, Inc. Comm'n Exh. 1. Effective December 5, 2017, Facebook assigned its interest in the SSC to its wholly-owned subsidiary, Greater Kudu LLC. The current version of the SSC is the Second Amended and Restated SSC between PNM and Greater Kudu LLC, which the Commission approved in Case No. 18-00269-UT. Comm'n Exh. 5. This Recommended Decision refers to Facebook and Greater Kudu as "Facebook."

Under the SSC, monthly charges for electric service to Facebook are set forth in three PNM rates or rate riders:

1. PNM Rider No. 47, Green Energy Rider
2. PNM Rate No. 36B, Special Service Rate-Renewable Energy Resources

SFC CLERK RECORDED 04/10/2019

3. PNM Rider No. 49.

Comm'n Exh. 5, § 5.

Under Rider No. 47, if PNM acquires renewable resources for Facebook under a PPA, Facebook "shall pay PNM the full cost of the PPA in periodic, typically monthly, payments that coincide with PNM's payment obligation under the PPA." Comm'n Exh. 3, under "Rate Methodology."

Under Rate No. 36B, the Special Service Rate (SSR), Facebook pays the following charges to PNM:

1. A customer charge
2. A transmission demand charge
3. An energy charge for system supplied energy
4. An energy-related non-fuel charge for system supplied energy
5. A contribution to production component

Comm'n Exh. 2. The first four listed charges above recover "Customer's allocated share of customer costs, transmission costs, System Supplied Energy costs, and energy-related non-fuel costs." These charges are subject to adjustment in PNM general rate cases. Comm'n Exh. 5, § 5.2.1.1. The contribution to production component was originally fixed for ten years beginning on the commercial operation date of the Data Center but this was changed in the Second Amended and Restated SSC to be reset in PNM's next general rate case as a demand-based charge. Case No. 18-00269-UT, Final Order, ¶ 46.

Under Rider No. 49, Facebook pays the amount of any under-collection resulting from the reconciliation of production cost allocations. Comm'n Exh. 4.

Section 3.3 of the SSC states:

Electric Facilities. Transmission system upgrades will be required to provide electric service to meet Customer load, the costs of which shall be recovered by PNM through direct reimbursement by Customer under a separate Electric Facilities Agreement between Customer and PNM. Other transmission facility upgrades to PNM's transmission system that may be required to serve

additional Customer load, and associated costs, shall be addressed in separate electric facilities agreements between PNM and Customer.

PNM's 3rd Revised Rate No. 36B states in part:

EXPLANATION OF RATE: . . . If the electric service requested by the customer requires the Company to extend or upgrade its transmission or other facilities, the cost of the extension or upgrade shall be paid by the customer to the extent consistent with generally accepted regulatory principles of cost causation, and shall be included in the rates set in the Special Service Contract, with adequate provisions to secure the customer's payment obligation.

....

SUBSTATION EQUIPMENT: All substation and distribution transformers, the necessary structures, voltage regulating devices, lightning arrestors, and accessory equipment required by the customer in order to utilize the Company's service at 115 kV or higher voltage shall be installed, paid for, owned, operated, and maintained by the customer.

In Case No. 16-00191-UT, the Commission approved three PPAs between PNM and PNMR Development and Management Corporation for PNM to procure a total of 30 MW of solar capacity and energy (the Initial Solar Facilities PPAs) "as the initial step in complying with the SSC's requirement that PNM acquire sufficient renewable resources to match the electric service needs of Customer as its needs expand over time." Case No. 18-00009-UT, Final Order at 10, ¶ 30. The only incremental capital cost incurred by PNM associated with serving Facebook at that time was for the extension of PNM's 115 kV system necessary to serve the Data Center site. As provided in the SSC, Facebook paid the full cost for this extension up-front. The Commission stated:

[T]he addition of this new load to PNM's system will not result in any additional transmission system costs to any of PNM's other customers. PNM states that separate facilities agreements will be entered into as necessary for the delivery of Additional Renewable Energy Procurements.

Case No. 16-00191-UT, Final Order at 18, ¶ 46 (citation omitted).

In Case No. 18-00009-UT, the Commission approved three more PNM PPAs "to provide service to Customer [Facebook Inc. subsidiary Greater Kudu LLC] pursuant to the terms, conditions and cost recovery provisions of the SSC, Rate No. 36B and Rider No. 47[.]" Case No. 18-00009-UT, Final Order at 8, ¶ 24. The proposed PPAs were with (1) Casa Mesa Wind, LLC

for 50 MW of capacity and wind energy and one MW of battery storage; (2) Avangrid Renewables, LLC for 166 MW of capacity and wind energy, referred to as the “La Joya PPA”; and (3) Route 66 Solar Energy Center, LLC for 40 MW of capacity and solar energy. *Id.* at 7-8, ¶ 22.

In Case No. 18-00269-UT, the Commission approved two more PNM PPAs totaling 100 MW of solar generation pursuant to the SSC. The Commission said, “The energy and capacity provided by the two PPAs are necessary to meet the Customer’s electric service requirements at its Data Center.” Case No. 18-00269-UT, Final Order, ¶ 24(b) (10-17-18).

C. PNM’S EVIDENCE IN SUPPORT OF REQUEST

PNM requests that the Commission determine the ratemaking principles and treatment that would apply to the BB2 Project in all future ratemaking proceedings. More specifically, PNM requests:

1. That the Commission include, in its Order, the “certificated estimated cost” for the Proposed BB2 Project pursuant to 17.3.580 NMAC (“Rule 580”);¹²
2. To include the actual cost of the BB2 Project, estimated to be \$85 million (including estimated AFUDC of \$3.5 million), in PNM’s rate base; and
3. To recover the reasonable actual operation and maintenance costs, property taxes and depreciation expenses of the BB2 Project.

¹² Rule 580.11 states that no utility shall obtain rate recovery of any cost overrun in the construction of electric generating plant until the Commission determines, upon notice and hearing, whether those costs have been incurred prudently. “Cost overrun” means — in instances where an allowance for contingencies was included by the utility in the certificated estimated cost — that portion of the costs of construction which exceeds the certificated estimated cost by any amount. 17.3.580.7(D) NMAC. “Cost overrun” means — in instances where no allowance for contingencies was included in the certificated estimated cost — that portion of the costs of construction which exceeds the certificated estimated cost by 10% or more. *Id.* “Certificated estimated cost” means the total cost of construction of electric generating plant for the utility, including allowances for funds used during construction, as estimated by the utility at the time of issuance by the Commission of a CCN for the plant and reflected in the order issuing the CCN. 17.3.580.7(A) NMAC.

The purpose of Rule 580 is to clarify and implement the Public Utility Act by providing that no cost overruns incurred in construction of new electric generating plant will be included in rates unless the Commission determines whether they were prudently incurred. 17.3.580.6(A) NMAC. Nothing in Rule 580 binds the Commission to any particular ratemaking methodology or diminishes the Commission’s authority to review the prudence of all costs incurred by a utility, including the certificated estimated cost of plant. 17.3.580.13 NMAC.

4. To recover, through its retail revenue requirement in its next general rate case, the revenue requirement of the BB2 Project allocated to the retail jurisdiction.

Alcantar Direct at 2, 8; Tr. 2-4-19 at 171 (Alcantar); PNM's Initial Posthearing Brief at 10 ("PNM seeks to include the costs of this Project in its next rate case insofar as those costs are allocated to its retail customers").

Under PNM's proposed ratemaking treatment, the Commission would determine in PNM's next general rate case the actual cost of the BB2 Project. If the actual cost is less than the estimated cost, PNM would seek to recover only the actual cost. If the actual cost is more than the estimated cost, the Commission would determine if the additional costs are prudent. Under PNM's proposal, the Commission would examine the used and usefulness of the Proposed BB2 Project in its next general rate case only if there has been a material change in circumstances. Tr. 2-4-19 at 235-36 (Mechenbier).

The total estimated revenue requirement of the BB2 Project (wholesale/FERC and retail) is \$10,446,619. The estimated amount that PNM would seek to recover from its New Mexico retail customers is \$5,371,282, which is 51.16% of \$10,446,619. Exh. KCA-2 to Alcantar Direct.

PNM allocated the total estimated cost of the BB2 Project between its retail and FERC/wholesale jurisdictions based on each jurisdiction's contribution to the 12-monthly coincident peak (CP) demand on the transmission system, which is the same method that PNM used to allocate transmission system costs in its most recent New Mexico base rate case — Case No. 16-00276-UT. Alcantar Direct at 4. The CP Method in general divides costs among jurisdictions in proportion to the peak demands imposed by the jurisdictions at the time of the system peak. The 12-CP Method in particular identifies each month's system peak and defines the system peak as the average of the monthly system peaks. Tr. 2-4-19 at 177 (Alcantar).

In Case No. 16-00276-UT, PNM allocated 51.82% of transmission system costs to its retail jurisdiction. PNM expects that approval of its request for ratemaking treatment would decrease the percentage allocation of transmission costs to its retail jurisdiction to 51.16%

because adding the BB2 Project would reduce the allocation of total transmission costs to PNM retail customers and increase the total allocation to FERC/wholesale customers. This is because adding the BB2 Project would increase the 12-CP demand of the wholesale jurisdiction. Tr. 2-4-19 at 177 (Alcantar).

PNM anticipates that recovery of the estimated \$5,371,282 retail revenue requirement from PNM retail customers would not result in an incremental cost increase to these customers because of the expected reduction in total transmission costs allocated to the retail jurisdiction if the BB2 Project is approved and increased transmission revenues from Facebook because of the Data Center's increased energy use. Alcantar Direct at 5. In Case No. 18-00009-UT, PNM witness Henry Monroy said that approval of the BB2 Project would result in a reduction of total transmission costs allocated to the retail jurisdiction by \$8.6 million on a net present value basis based on a 38-year life of the BB2 Project.

PNM argues that because neither Staff nor Intervenors asserted nor presented any evidence that Facebook should be required to directly reimburse PNM for costs of the BB2 Project, "there is no factual support in the record for such a result." PNM's Initial Posthearing Brief at 27. Underlying PNM's assertion is the oft-repeated, but unsupported, argument that a presiding officer cannot develop a record necessary for the Commission to make a decision in the public interest. This argument has been consistently rejected by the Commission. *See, e.g.*, Case No. 15-00261-UT, Order Reopening Proceeding, ¶ 13 (5-18-16) ("The Commission has broad plenary authority to inquire into matters within its jurisdiction and is not only entitled, but obligated, to exercise that authority to ensure that a sufficient factual record is developed to support its decision on all of the issues presented by an application.").

D. PARTIES' POSITIONS ON PNM'S REQUEST

BKR opposes PNM's request for ratemaking treatment, arguing that it is inconsistent with principles of cost causation and used and usefulness. BKR's Posthearing Response Brief at 3, 6.

Staff recommends that the Commission authorize PNM to include the Proposed BB2 Project in rate base in its next general rate case in an amount up to \$85 million, subject to adjustment upon a true up, less depreciation and amortization. Sidler Direct at 4. Staff agrees with PNM that unless there is a material change in circumstances between this case and the next general rate case in which PNM seeks recovery of the costs of the BB2 Project, the need and usefulness of the BB2 Project should not be subject to relitigation. Sidler 1-9-19 Supp. at 4.

E. HEARING EXAMINER'S RECOMMENDATION ON PNM'S REQUEST

PNM's request for ratemaking treatment should be denied because approving it would preclude the Commission from enforcing the SSC and ordering that Facebook shall directly reimburse PNM for costs of the Proposed BB2 Project.

In its Initial Posthearing Brief, PNM argues that its request for ratemaking treatment is unrelated to whether Facebook should be allocated costs of the BB2 Project. PNM's Initial Posthearing Brief at 25. However, PNM witness Alcantar testified at the hearing that approval of PNM's requested ratemaking treatment would not leave open the possibility of the Commission allocating part of the BB2 Project cost directly to Facebook. Tr. 2-4-19 at 171. This is consistent with her testimony that PNM seeks authority to recover from retail ratepayers in its next general rate case the estimated \$5.37 million retail revenue requirement of the BB2 Project. *Id.* If Facebook were ordered to directly reimburse PNM for costs of the BB2 Project pursuant to principles of cost causation, no portion of the revenue requirement of the Project would be recoverable from other retail ratepayers.

PNM's primary argument against requiring Facebook to directly reimburse PNM for costs of the Proposed BB2 Project is that the Project would be a network upgrade that would benefit all retail customers and, therefore, all retail customers should share in its cost. For example, PNM witness Mechenbier said that the Proposed Project is "a system improvement to the overall transmission grid, and it's going to be used to serve retail customers and FERC wholesale customers." Tr. 2-4-19 at 236. He later added that because the output of the La Joya wind facility will serve all PNM customers, the BB2 Project would be a system improvement. *Id.* at 245. He emphasized that "the physical output of La Joya" will serve all retail customers because energy travelling over the BB2 Line would not only serve Facebook. *Id.* at 246-47, 254 (Mechenbier).

Mr. Mechenbier further said that the Proposed BB2 Project "directly benefits all retail customers because it will transmit power acquired for retail customers, including meeting a portion of the projected demand of the Data Center Customer, under Commission-authorized system resource PPAs." Mechenbier Direct at 23. Other alleged benefits of the Proposed BB2 Project are that it would provide opportunities to transmit power for off-system sales and provide enhanced system reliability and redundancy from the Clines Corners Switching Station west to the BA Switching Station by adding interconnection and delivery points to the existing network. Mechenbier Direct at 23.

Traditionally, a public utility does build its system to serve the needs of its entire service territory and adds plant to contribute to the efficient and adequate operation of its whole system and serve system load. Typically, ratepayers served by an interconnected utility system all bear the costs of that system. When the Commission sets revenue requirements and designs rates, it does so on the basis of total utility system. Case No. 15-00185-UT, Recommended Decision at 13 (9-30-15), adopted in relevant part by Final Order Adopting Recommended Decision with Modification (10-7-15).

Conversely, public utilities traditionally have not built plant to serve a single customer because, in general, a customer should not be allowed to pick and choose the type of energy generation that serves it. This is because doing so could result, for example, in a public utility building generation plant with a low cost fuel source for a large business customer, and the large business customer leaving the utility's system to receive service at a lower cost than the utility's other customers, possibly resulting in unlawful discrimination. *Id.* at 13-14.

Additionally, if a public utility builds new plant for an existing customer, costs are at risk of becoming stranded as a result of the customer leaving the utility's system. A stranded cost is the portion of any prudent investment, deferred cost or commitment not yet paid for by a customer choosing to leave a utility's system, which was made to serve that customer during a period when regulatory statutes imposed a requirement to serve it at a regulated price. A customer leaving the system will not inevitably cause an increase in rates to other customers, but the potential exists that captive customers remaining on the system will be unduly burdened with fixed costs, including the cost of generation plant no longer needed. *Id.* at 14.

In Case No. 15-00185-UT, the Commission recognized that these two situations — allowing customers to choose their energy source and creating the risk of strandable costs — have materialized through the increasing role of renewable energy in electric power generation. *Id.* at 14. In that case, the Commission granted a CCN to El Paso Electric Company (EPE) for a solar generating facility on land wholly within Holloman Air Force Base (HAFB). The energy from the facility was to be an EPE-owned resource dedicated to serve HAFB. Pursuant to a contract between EPE and HAFB, EPE was to recover all project costs from HAFB. The Commission recognized that EPE's Application was unlike traditional applications for CCNs in that EPE sought to build plant dedicated to a single customer's use. However, under the unique circumstances of the case, the Commission found that issuance of a CCN was in the public convenience and necessity because it helped HAFB to meet its renewable energy goals. *Id.* at 17. The Commission ordered that EPE's ratepayers shall be held harmless for the costs of the

project if HAFB ceased to receive service from EPE before paying the costs of the project. *Id.* at 21.

This case, and other Commission cases involving service to Facebook, are like Case No. 15-00185-UT in that PNM, through the SSC, committed to serve Facebook, theoretically at least, with only renewable energy: PNM allowed Facebook to pick the type of energy generation that serves it. PNM acknowledged the uniqueness of this arrangement in Case No. 16-00191-UT, in which it stated that because it was proposing the Initial Solar Facilities PPAs to match “the special renewable energy service requirements of a particular potential new customer” — Facebook — it was not seeking to recover the costs of the PPAs from its general body of customers. Instead, pursuant to Rider No. 47, “all costs associated with the Initial Solar Facilities PPAs will be directly assigned to Facebook[.]” PNM stated that the proposed Initial Solar Facilities PPAs were not “a typical resource for PNM to add to its supply portfolio in that PNM typically adds resources, including renewable energy resources, to its supply portfolio as ‘system resources’ based on its determination that they are necessary for PNM to provide reliable, cost-effective service to all of its customers, rather than to match a particular customer’s service needs[.]” PNM testified that any additional renewable energy procurements by PNM pursuant to the SSC and Rider No. 47 “would be of a similar nature.” Case No. 16-00191-UT, Final Order at 24, ¶ 56.

PNM’s emphasis on the Proposed BB Project being a “network upgrade” is unpersuasive because any transmission upgrade will add reliability and redundancy to the system. PNM’s emphasis that the La Joya energy would serve all PNM retail customers because, once electrons enter PNM’s system, they cannot be traced, while true, is unpersuasive. What PNM ignores is that, in the words of its own witness, 166 MW of capacity from the Proposed BB2 Project would be “dedicated” to Facebook’s contractual entitlement to be served, at least in theory, by renewable energy.

PNM's assertion that the BB2 Project "is needed and proposed as an upgrade to PNM's overall transmission system," PNM's Initial Posthearing Brief at 29, is contradicted by the evidence. PNM is proposing the BB2 Project to serve two customers. One of those two customers is Facebook, a single PNM retail customer. The other customer is Avangrid, who is a PNM point-to-point transmission customer, not a PNM retail customer. Tr. 1-16-19 at 33 (Mechenbier). The 362 MW of capacity is not needed to meet PNM's peak demand: it is only necessary, in part, to serve Facebook. *Id.* at 99 (Mechenbier). The only reason that PNM is pursuing the BB2 Project "is because of the transmission commitments that have been made on it." *Id.* at 113-14 (Mechenbier). PNM would have not have pursued the BB2 Line solely to enhance the reliability of its system and provide backup for the BB Line. *Id.* at 114. There are no plans for the BB2 Line to be used to serve PNM retail customers other than Facebook. *Id.* at 100 (Mechenbier).

PNM's argument that the BB2 Project is a system resource conflicts with PNM witness Mechenbier's testimony on the first day of the hearing that:

Example 1 (Tr. 1-16-19 at 24):

Question: I saw percentages referred to in the testimony of PNM that only about 50 percent of the power that's going to be transmitted by this line will go to New Mexico retail customers, correct? In fact, that's one customer, correct?"

Answer: At this time we only know of the one customer.

Example 2 (Tr. 1-16-19 at 31):

Question: So, Mr. Mechenbier, I want to make sure I understand this. You have one – for this particular line, there's one retail customer, and that's Facebook, correct?

Answer: The data center in Los Lunas, yes, Facebook.

Example 3 (Tr. 1-16-19 at 33):

Question: [T]here was testimony in this case by PNM that approximately 50% of the power that's being transmitted is going to the data center, Facebook, and approximately

50%, and I don't recall the exact percentages, it's within 1 or 2, was being sold otherwise.

Is that right?

Answer: To be exact, 196 [MW] of it is a point-to-point transmission from Clines Corner to Four Corners. That's the point to point. *And then 166 megawatts would be serving the data center.* (Emphasis added).

Example 4 (Tr. 1-16-19 at 59):

Question: As we sit here today, how much capacity have they [Avangrid] requested on the BB2 Line?

Answer: They've requested a total of 362 megawatts, *but 166 megawatts of that would be reallocated to the Data Center.* (Emphasis added).

Example 5 (Tr. 1-16-19 at 98):

Question: And has PNM granted firm transmission capacity to Avangrid for the 166 megawatts that would serve Facebook?

Answer: They have signed [a] transmission service agreement for firm transmission for 166 megawatts *that will be converted once the line is in service to serve Facebook.* (Emphasis added).

Question: *So is that capacity, can we say it's been dedicated to serving Facebook?* (Emphasis added).

Answer: *Correct.* (Emphasis added).

Question: And so has the remaining 196 megawatts been dedicated or has firm transmission been granted by PNM to anyone?

Answer: That is correct. To Avangrid.

Example 6 (Tr. 1-16-19 at 99):

Question: Is the transmission capacity, the 362 megawatts from the Proposed Project, is that capacity required to meet PNM's peak load?

....

Answer: No, it's not needed. *It's needed to serve – a portion of that is needed to serve the Data Center.* (Emphasis added).

Example 7 (Tr. 1-16-19 at 100):

Question: So currently there are no plans for the Proposed Line to be used to serve PNM retail customers other than Facebook?

Answer: That is correct.

Example 8 (Tr. 1-16-19 at 103):

Question: Currently are there any plans to use the Proposed Line to serve PNM retail customers other than Facebook?

Answer: At this time I'm not aware of the use of the transmission facility beyond Facebook.

In Case No. 16-00191-UT, in which the Commission approved the SSC between PNM and Facebook, PNM witnesses said *"that Facebook does not wish, and has not requested, that the cost of the electric service for its data center be subsidized by any other customers."* Case No. 16-00191-UT, Final Order at 11, ¶ 30 (emphasis added).

Section 3.3 of the SSC ensures that other retail customers do not subsidize the cost of transmission system upgrades necessary to meet Facebook's increased load by requiring Facebook to directly reimburse PNM for "transmission system upgrades" required to serve Facebook's load. The Final Order in Case No. 16-00191-UT states in part:

PNM states that the only incremental capital cost incurred by PNM associated with serving Customer's data center will be for the extension of PNM's 115 kV system necessary to serve the data center site. *As provided in the Contract, Facebook has elected to pay the full cost for this extension up-front. Thus, according to PNM, the addition of this new load to PNM's system will not result in any additional transmission system costs to any of PNM's other customers.* PNM states that separate facilities agreements will be entered into as necessary for the delivery of Additional Renewable Energy Procurements.

Id. at 18, ¶ 46 (emphasis added).

The SSC was approved by the Commission upon PNM's request in Case No. 16-00191-UT. "Any agreement that must be filed and approved by an agency loses its status as a strictly private contract and takes on a public interest gloss. That means that when the agency reconciles ambiguity in such a contract it is expected to do so by drawing upon its view of the public interest." *Cajun Elec. Power Coop., Inc. v. F.E.R.C.*, 924 F.2d 1132, 1135 (D.C. Cir. 1991). As such, upon approval by the Commission, the SSC became an order of the Commission, and the Commission may use all of its available authority to enforce that order. Case No. 04-00237-UT, Final Order at 29 (4-14-05).

PNM did not ask Facebook to pay for costs of the BB2 Project up front pursuant to Section 3.3 of the SSC. Tr. 1-16-19 at 101 (Mechenbier). PNM has not entered into a separate electric facilities agreement with Facebook under Section 3.3 of the SSC. When asked why not, Mr. Mechenbier said that "[t]he BB2 Project is a system improvement for the overall transmission system to move resources to retail customers such as Facebook" and that the energy from the La Joya wind project will be delivered to all PNM customers. *Id.* at 250-52.

PNM tried to reconcile Facebook's up-front payment in Case No. 16-00191-UT of 115 kV line extension costs necessary to serve Facebook with Facebook's nonpayment of any costs of the BB2 Project upfront: Mr. Mechenbier said:

Those were facilities required to serve the Data Center. Very specific, 115 line extensions that the customer paid those costs up front rather than have a minimum demand rate. The BB2 Project is different. It's a system improvement to an overall transmission grid that will serve both retail and FERC transmission customers.

Id. at 237. He explained that if Facebook had not paid that cost up front, it would have been charged a minimum demand rate. *Id.* PNM does not plan to add a demand rate to the SSC. *Id.* at 245 (Mechenbier).

Contrary to Mr. Mechenbier's testimony, the BB2 Project, like the 115 kv line extensions paid for by Facebook as part of Case No. 16-00191-UT, is required to serve Facebook. It is necessary to serve Facebook because expansion of the Facebook Data Center necessitated the La

Joya PPA, and the BB2 Project is necessary to move energy from the La Joya wind facility to PNM's system. PNM's Application in Case No. 18-00009-UT stated that PNM would recover from Facebook the costs of three PPAs, including the La Joya PPA, as provided in the SSC approved in Case No. 16-00191-UT. PNM's Application also stated that "the three PPAs are necessary because Customer is building out its Data Center and expanding its load as anticipated in the SSC." Case No. 18-00009-UT, Final Order at 1-2, ¶ 1. PNM witness Gerard Ortiz testified, and the Commission repeated, that expansion of the Data Center "necessitate[d] the three PPAs[.]" *Id.* at 12, ¶¶ 33, 70. All of the renewable energy certificates associated with energy provided under the three PPAs was to be solely dedicated to Facebook. *Id.* at 13, ¶ 34. PNM witness Jeff Mechenbier testified in Case No. 18-00009-UT "that to deliver power from the La Joya facility to PNM's system, PNM must construct 42 miles of 345 kV transmission line paralleling its existing 'BA-Clines Corner' transmission line." *Id.* at 18-19, ¶ 47. He also testified that PNM signed the La Joya PPA with Avangrid so that PNM will be serving Facebook through the BB2 Line. Tr. 1-16-19 at 102 (Mechenbier).

The Proposed BB Project, as described at pages 13 through 16, is a "transmission system upgrade" required to serve Facebook's increased load and subject to Section 3.3 of the SSC. *See* PNM's Initial Posthearing Brief at 27 ("[O]ne relevant and uncontroverted fact is that the proposed BB2 Project is a transmission system component[.]"). Therefore, Facebook is required to directly reimburse PNM for costs of the BB2 Project through a separate Electric Facilities Agreement. Contrary to Staff's circular argument, the lack of an existing Electric Facilities Agreement between PNM and Facebook does not mean Facebook is not required to directly reimburse PNM for costs of the BB2 Project. Staff's Initial Posthearing Brief at 27-28. It means that PNM and Facebook should be required to entered into an Electric Facilities Agreement pursuant to the Commission's authority to enforce the terms of the SSC.

PNM also argues that Facebook should not be required to directly reimburse PNM for costs of the BB2 Project because recovery of the costs of the Project through the normal

ratemaking process allegedly would not result in an incremental cost increase to PNM's other retail customers. PNM witness Alcantar relied on Henry Monroy's testimony in Case No. 18-00009-UT in which Mr. Monroy said that approval of the BB2 Project would result in a reduction of total transmission costs allocated to the retail jurisdiction by \$8.6 million on a net present value basis based on a 38-year life of the BB2 Project. Alcantar Direct at 5.

PNM relies on the following Recital and Definition in the SSC:

[Recital:] PNM and Customer intend that this Contract and all of the PNM tariffs described in this Contract will allow PNM to recover its reasonable costs of providing electric service to Customer for the Data Center in a manner that results in No Net Adverse Impact (as defined in this Contract) to any other PNM retail electric service customers.

....

[Definition:] "**No Net Adverse Impact**" means that, on balance, this Contract and the PNM tariffs described herein result in a neutral or positive impact on rates and service for PNM's other retail electric service customers considering all relevant benefits generated and burdens created by this Contract and those PNM tariffs.

Comm'n Exh. 5, Recitals, ¶ I; § 1 (Definitions). PNM's argument is unpersuasive for several reasons.

First, PNM's calculation that approval of the BB2 Project would reduce transmission costs allocated to the retail jurisdiction by \$8.6 million on a net present value (NPV) basis is flawed. To derive the \$8.6 million, PNM calculated the NPV of the difference between its transmission costs multiplied by 51.82% and its transmission costs multiplied by 51.16%. For example and hypothetically, if PNM's total transmission costs were \$100 million, PNM calculated the NPV of the difference between (\$100 million x 51.82%) and (\$100 million x 51.16%), or the NPV of \$660,000. Tr. 2-4-19 at 178-81 (Alcantar). PNM's calculation is faulty because its total transmission costs shouldn't be kept constant when determining savings from a reduction in the allocation percentage. Addition of the BB2 Project is what would cause the percentage allocation to the retail jurisdiction to decrease, so the difference should be between total transmission costs without the BB2 Project multiplied by 51.82% and total transmission

costs with the BB2 Project multiplied by the lower 51.16% allocation percentage. For example and again hypothetically, if PNM's total transmission costs without the BB2 Project are \$100 million and its total transmission costs with the BB2 Project are \$180 million, the correct method would be to calculate the NPV of the difference between (\$100 million x 51.82%) and (\$180 million x 51.16%), or the NPV of -\$40,268,000. In this hypothetical, there is no savings because decreasing the percentage allocation to the retail jurisdiction does not outweigh the increased cost allocated to the retail jurisdiction because of adding \$80 million in transmission costs. Tr. 2-4-19 at 179 (Alcantar).

Second, PNM's assertion that the cost of the BB2 Project would not result in an incremental cost increase to PNM's other retail customers is not convincing because the actual percentage allocations to the retail and wholesale jurisdictions will not be determined until PNM's next base rate case, and PNM is not committing to using a 51.16% retail allocation in its next general rate case. Alcantar Direct at 4-5, 7; Tr. 2-4-19 at 181 (Alcantar).

Third, PNM's reliance on the Commission's Final Order in Case No. 18-00009-UT is not persuasive. PNM relies on the following statement from that Final Order:

Mr. Monroy's Direct Testimony "demonstrates that on a net present value basis the additional transmission revenues Customer is expected to provide due to its increased load, and the reallocation of transmission costs from the retail jurisdiction to the wholesale jurisdiction will more than offset the revenue requirement of the interconnection and transmission investments needed to support the Route 66 and La Joya PPAs, so that PNM's other retail customers are currently projected to realize a net present value benefit in revenue requirements of \$21.4 million.

PNM's Initial Posthearing Brief at 28 (citing Case No. 18-00009-UT, Final Order at 26, ¶ 60).

While this statement indicates that the Commission in that case found Mr. Monroy's testimony credible, the Commission in that case evidently did not probe Mr. Monroy's analysis in any depth. Also, the Commission in Case No. 18-00009-UT did not determine the ratemaking treatment of the Proposed BB2 Project. The Commission's only action in Case No. 18-00009-UT was to approve the PPAs. Case No. 18-00009-UT, Final Order at 34, ¶ B ("Because the three

proposed PPAs meet the requirements of Rule 551 and are consistent with the SSC approval in Case No. 16-00191-UT, they are in the public interest and are approved.”). Therefore, Paragraph 60 of the Final Order is *dictum* and not binding. *Kent Nowlin Constr. Co. v. Gutierrez*, 1982-NMSC-123, ¶ 8, 99 N.M. 389 (“Dictum is unnecessary to the holding of a case and therefore is not binding as a rule of law.”).

Fourth, PNM’s emphasis on “No Net Adverse Impact” to other retail customers is misplaced because, under the SSC, Facebook is required to pay for the cost of transmission improvements necessary to serve it regardless of whether there is no net adverse impact on other retail ratepayers from the cost of the improvement. If PNM’s proposed ratemaking treatment is adopted, Facebook would not pay any cost of the BB2 Project unless the Transmission Rate under the SSC is increased in PNM’s next general rate case: when asked whether Facebook would pay any of the estimated \$5.37 million revenue requirement of the Proposed BB2 Project, Ms. Alcantar said that Facebook would pay “a transmission rate per their usage on the system.” Tr. 2-4-19 at 172. She testified, however, that it appears that the revenue requirement of the Proposed BB2 Project is not currently being recovered from Facebook through the transmission charge in the SSC. Therefore, under PNM’s proposal, the only way that Facebook would pay for any part of the BB2 Project is if the SSC transmission charge is increased in PNM’s next general rate case. Tr. 2-4-19 at 173-74 (Alcantar).

Rate 36B requires Facebook to pay the cost of extending or upgrading its transmission or other facilities to the extent consistent with generally accepted regulatory principles of cost causation and states that the cost shall be included in the rates set in the SSC, with adequate provisions to secure Facebook’s payment obligation. Comm’n Exh. 2. PNM and Staff argue that Facebook’s responsibility for payment of transmission service is addressed in Section 5.2.11 of the SSC, which provides that, under Rate 36B, PNM will recover “Customer’s allocated share” of transmission costs through the Special Service Rate set forth in Exhibits D1 and D2 to the SSC. PNM’s Initial Posthearing Brief at 30; Staff’s Initial Posthearing Brief at 27. The Special Service

Rate includes a Transmission Demand Rate which is applied to a customer's monthly on-peak billable demand "and is designed to recover costs related to PNM's transmission capacity, as determined and allocated to customer in PNM general rate cases." Comm'n Exh. 5 at 198. The current Transmission Demand Rate set forth in Rate 36B is \$3.90 per billable on-peak kW. Comm'n Exh. 2. The Transmission Demand Rate addresses how the cost of *system* transmission upgrades are allocated to Facebook, as PNM recognizes. *Id.* at 30-31, 33; *see also* Comm'n Exh. 5 at 196 (Exh. D1). As demonstrated above, the BB2 Project is not a typical system project: 166 MW of the capacity of the Proposed Line is dedicated to a single retail customer: Facebook. The remaining capacity is dedicated to a transmission customer. Under these circumstances, the cost of the Proposed BB2 Project to Facebook is not to be recovered through the Transmission Demand Rate in the SSC, but through Section 3.3 of the SSC, which applies because the BB2 Project is required to meet Facebook's increased load and not the load of other PNM retail customers. Section 3.3 of the SSC is among "the rates set in the SSC," referred to in Rate No. 36B, because "direct reimbursement" falls within the definition of "rate" under the Public Utility Act. NMSA 1978, § 62-3-3(H) ("rate" means every rate, tariff, charge or other compensation for utility service rendered or to be rendered by a utility[.]).

Lastly, PNM and Staff cite to the Commission's granting of a variance from 17.1.210.12(B) and PNM Rule No. 4 in Case Nos. 16-00191-UT and 18-00269-UT. PNM says that the granting of these variances means that the method set forth in the SSC for determining Facebook's allocated share of PNM's transmission costs is not subject to modification. PNM indicates that these variances were granted because Facebook was concerned that 17.1.210.12(B) and PNM Rule No. 4 "might be used in the future to deprive it of the benefits of the bargain it struck to locate its Data Center in New Mexico." PNM's Initial Posthearing Brief at 31. Staff argues that the Commission is precluded from requiring Facebook to directly reimburse PNM for costs of the Proposed BB Project because it granted the variances to PNM. Staff's Initial Posthearing Brief at 28.

Requiring Facebook to directly reimburse PNM for costs of the Proposed BB2 Project is not inconsistent with the Commission's granting of the variances: it is consistent with Section 3.3 of the SSC, which is too part of the bargain that Facebook struck to locate its Data Center in New Mexico.

The Commission should use its authority to enforce the SSR as an order of the Commission. Section 3.3 of the SSC requires Facebook, as part of the benefit it struck, to directly reimburse PNM for costs of the BB2 Project pursuant to generally accepted principles of cost causation. Cost causation means attributing costs to those customers or classes that cause them to be incurred and benefit from them. Case No. 12-00020-UT, Certification of Stipulation at 32 (7-11-12), adopted by Order on Reconsideration (8-14-12). Of the total 362 MW of capacity of the Proposed BB2 Project, 166 MW of capacity has been dedicated to serving the increased load of Facebook. Therefore, under generally accepted principles of cost causation, Facebook should be required to directly reimburse PNM for 45.9% of the costs of the Project (166 MW ÷ 362 MW), or an estimated \$39,015,459 (\$85,001,000 x 45.9%).¹³ This is consistent with Facebook's declared wish that the cost of electric service for its Data Center not be subsidized by any other customers. The ratemaking principles and treatment that should apply to the BB2 Project once it is placed in service are that PNM should not be allowed to recover any cost of the Proposed BB2 Project from retail ratepayers other than Facebook unless and until otherwise ordered by the Commission. Therefore, PNM's requested ratemaking treatment should be denied.

Because Facebook is required to directly reimburse PNM for costs of the BB2 Project under the SSC, it is unnecessary to determine whether PNM's request for ratemaking treatment violates its agreement in Case No. 10-00086-UT "not to request from the Commission rate recovery of any transmission costs that are not caused by, or do not directly benefit, New Mexico

¹³ This is an estimated amount. The actual amount likely would not include AFUDC and might have to be grossed-up for taxes among other possible adjustments.

retail customers.”¹⁴ Case No. 10-00086-UT, Amended Stipulation to Conform to Commission Order, ¶ 36 (8-11-11).

Contrary to BKR’s assertion, *see* BKR’s Initial Posthearing Brief at 16, the Hearing Examiner’s recommended ratemaking principles and treatment are based on evidence in the record. They are based on the requirements of the original and current versions of the SSC, which were admitted into evidence as Commission Exhibits 1 and 5 and Rate No. 36, which was admitted into evidence as Commission Exhibit 2.

VIII. BKR’S ALLEGATION OF DENIAL OF DUE PROCESS, ARBITRARY AND CAPRICIOUS ACTIONS, ACTIONS NOT IN ACCORDANCE WITH LAW AND NOT SUPPORTED BY SUBSTANTIAL EVIDENCE

At the February 4, 2019 hearing, when BKR’s attorney put Mr. King on the stand, BKR’s attorney sought to admit exhibits not attached to Mr. King’s prefiled testimony. He referred to the Wisconsin PSC Report, cited in, but not attached to, Mr. King’s prefiled testimony, and a study titled “Valuing Large-Scale Electric Transmission Line Right-of Way Corridors on New Mexico State Trust Land.” Tr. 2-4-19 at 170, 260. The Hearing Examiner denied admission, explaining that testimony at a hearing before the Commission is generally restricted to questioning about prefiled testimony and exhibits to prefiled testimony. When BKR’s attorney asked how he was to rebut testimony from PNM witnesses from the January 16, 2019 hearing, the Hearing Examiner said that he could do so through cross examination. *Id.* at 261. BKR’s attorney argued that this procedure violated his client’s due process rights, and BKR makes this argument again in its Initial Posthearing Brief. *Id.* at 261; BKR’s Initial Posthearing Brief at 16-19.

BKR’s due process rights were not violated because first, the Wisconsin PSC Report was cited repeatedly by Mr. King in his prefiled Direct Testimony, and the Hearing Examiner denied

¹⁴ The Amended Stipulation says, “‘Directly benefit’ includes transmitting power for retail customer use, transmitting power for off-system sales, and enhancing system reliability.” *Id.*

PNM's Motion to Strike Mr. King's references to the Report. Tr. 1-16-19 at 8. Second, the study on valuing transmission line right-of-way corridors on New Mexico State Trust Land is not relevant. Admissible evidence is restricted to relevant evidence. 1.2.2.35(A)(1), (L)(4) NMAC. The Hearing Examiner, "with or without objection may exclude inadmissible, incompetent, cumulative, or irrelevant evidence or order the presentation of such evidence discontinued." 1.2.2.35(L)(2) NMAC. Bill King testified that BKR is not asking the Commission to decide the amount that PNM should pay to BKR for a right-of-way. Tr. 2-4-19 at 278. And, as explained in *supra* Section III, the Commission lacks jurisdiction to determine what constitutes just compensation. *United Water New Mexico, Inc. v. New Mexico Pub. Regulation Comm'n*, 1996-NMSC-007, ¶ 28, 121 N.M. 272. Admission of the study would have injected an issue into the case that is beyond the Commission's jurisdiction and therefore irrelevant.

BKR argues that, "in glaring contrast," following the first day of the hearing on January 16, 2019, the Hearing Examiner allowed PNM witness Jeff Mechenbier to be recalled to provide additional oral testimony when the hearing continued on February 4, 2019. BKR's Initial Posthearing Brief at 18-19. What BKR ignores is that on January 29, 2019, PNM filed a Motion to Recall Jeff Mechenbier to Provide Supplemental Oral Testimony, which BKR did not oppose. PNM's Motion to Recall Jeff Mechenbier to Provide Supplemental Oral Testimony at 4.

BKR points out that at the end of the first day of the hearing on January 16, 2019, BKR's attorney asked whether he could continue to serve discovery on PNM during the period until the hearing was scheduled to continue on February 4, 2019, and the Hearing Examiner responded that there was no rule prohibiting it. BKR argues that the results of that discovery could not have been attached to Bill King's prefled Direct Testimony. BKR's Initial Posthearing Brief at 18. What BKR ignores is that the Hearing Examiner allowed BKR's attorney to ask Mr. Mechenbier questions about PNM's response to that discovery request, over PNM's objection, even though it was outside the scope of Mr. Mechenbier's supplemental oral testimony. The

Hearing Examiner allowed the questioning because she said it might be relevant. Tr. 2-4-19 at 238-39.

IX. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Hearing Examiner recommends that the Commission **FIND AND CONCLUDE** as follows:

1. All findings of fact and conclusions of law contained in all Sections of this Recommended Decision are adopted as findings of fact and conclusions of law of the Commission.
2. PNM is a public utility as defined by NMSA 1978, § 62-3-3(G) and its New Mexico retail service is subject to the jurisdiction of the Commission.
3. Reasonable, proper and adequate notice of PNM's Application has been provided.
4. The Proposed BB2 Project is required by the public convenience and necessity and will not result in unnecessary duplication or economic waste. Issuance of a certificate of public convenience and necessity for the Proposed BB2 Project is in the public interest and should be approved.
5. The location of the proposed transmission line will not unduly impair important environmental values.
6. The maximum right-of-way width necessary to construct and maintain the BB2 Line is 200 feet.
7. Facebook should be required to directly reimburse PNM for costs of the BB2 Project pursuant to generally accepted principles of cost causation.
8. The ratemaking principles and treatment that should apply to the BB2 Project once it is placed in service are that PNM should not be allowed to recover any cost of the Proposed BB2 Project from retail ratepayers other than Facebook unless and until otherwise ordered by the Commission.

X. DECRETAL PARAGRAPHS

The Hearing Examiner recommends that the Commission order as follows:

A. The findings, conclusions and rulings contained in this Recommended Decision are adopted and approved as findings, conclusions and rulings of the Commission.

B. PNM is granted a certificate of public convenience and necessity to construct, operate and maintain the Proposed BB2 Project, subject to the following conditions:

1. PNM shall file copies of all construction permits received for the BB2 Project within two weeks of receipt.

2. PNM shall file a summary of the actual cost of the BB2 Project for comparison to PNM's Exhibit JRM-9 on Page 11 of Appendix A within 60 days after all final costs have been incurred and cleared the accounting system.

3. PNM shall file a notice of the date that the BB2 Project is placed into service.

C. The location of the Proposed BB2 Project is approved under NMSA 1978, Section 62-9-3.

D. PNM's requested ratemaking treatment is denied.

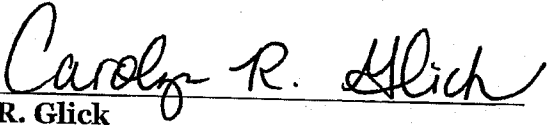
E. Facebook shall directly reimburse PNM for costs of the BB2 Project pursuant to generally accepted principles of cost causation.

F. The ratemaking principles and treatment applicable to the BB2 Project once it is placed into service are that PNM shall not recover any cost of the Proposed BB2 Project from retail ratepayers other than Facebook unless and until otherwise ordered by the Commission.

G. This Order is effective immediately.

ISSUED at Santa Fe, New Mexico on March 11, 2019.

NEW MEXICO PUBLIC REGULATION COMMISSION


Carolyn R. Glick
Hearing Examiner

SFC CLERK RECORDED 04/10/2019

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF PUBLIC SERVICE)
COMPANY OF NEW MEXICO'S)
APPLICATION FOR APPROVAL OF A) Case 18-00243-UT
345 KV TRANSMISSION LINE AND)
ASSOCIATED FACILITIES PURSUANT)
TO THE PUBLIC UTILITY ACT)
_____)

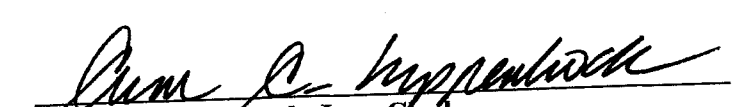
CERTIFICATE OF SERVICE

I CERTIFY that on this day I sent to the parties listed below, via email only, a true and correct copy of the **Recommended Decision** issued on March 11, 2019.

Rick Alvidrez	ralvidrez@mstlaw.com ;
Peter J. Gould	pgouldlaw@gmail.com ;
Charles F. Noble	Noble.ccae@gmail.com ;
Ramona Blaber	Ramona.blaber@sierraclub.org ;
Don Hancock	srcdon@earthlink.net ;
Stacey Goodwin	Stacey.Goodwin@pnmresources.com ;
Ryan Jerman	ryan.jerman@pnmresources.com ;
Steve Schwebke	steven.schwebke@pnm.com ;
Mark Fenton	Mark.fenton@pnm.com ;
Brian Buffington	Brian.buffington@pnm.com ;
Dennis Wallin	wallin@spencelawyers.com ;
Amy Winn	winn@spencelawyers.com ;
Bill King	billkingranch@gmail.com ;
Judith Amer	Judith.amer@state.nm.us ;
Jack Sidler	Jack.sidler@state.nm.us ;
John Bogatko	John.Bogatko@state.nm.us ;
Carolyn Glick, Hearing Examiner	Carolyn.Glick@state.nm.us ;

DATED this 11th day of March, 2019.

NEW MEXICO PUBLIC REGULATION COMMISSION



Ana C. Kippenbrock, Law Clerk