

VII. B. 2. CDRC CASE # Z/PDP/FDP 14-5380 PNM Santa Fe County Solar Energy Center Project. Public Service Company of New Mexico, Applicant, Laurie Moye, Agent, Request Master Plan Zoning, Preliminary and Final Development plan Approval to Allow a 10 Megawatt Electric Solar Facility on a 100-Acre Site. The Property is Located South of the National Guard Site and Takes Access Via the East I-25 Frontage Road, Within Sections 3 & 4, Township 15 North, Range 8 East, (Commission District 5)

[Exhibit 4: PNM letter to Chair Anaya, dated 3/18/15; Exhibit 5: Packet of correspondence provided by staff: PNM letter to Chair Anaya, dated 2/20/15; PNM letter to Chair Anaya, dated 3/28/15; PNM letter to Chair Anaya, dated 3/19/15; Pueblo of Cochiti letter to Chair Anaya, dated 3/23/15; Dr. Claus Benkert email to Jose Larrañaga, Penny Ellis-Green, Matthew Baca and Jeremy Gonzales, dated 3/19/15; Jim Walters letter and information regarding Burrowing Owls dated 3/2/15; Email exchange between Jose Larrañaga and Michelle Ensey, Archaeologist with NM SHP dated 3/24/15]

COMMISSIONER STEFANICS: Mr. Chair.

COMMISSIONER CHAVEZ: Yes, Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you. I believe we started this one at the last meeting. Is that correct?

COMMISSIONER CHAVEZ: Yes.

COMMISSIONER STEFANICS: So maybe we could just hear new information, versus repeating the entire thing?

COMMISSIONER CHAVEZ: Are you okay with that?

JOSE E. LARRAÑAGA (Case Manager): Mr. Chair, yes. So I have an outline of the summary with additional information requested and obtained by the report.

On February 10, 2015, the Board of County Commissioners (BCC) met on the above-referenced case. Staff presented a staff report with exhibits to the BCC. The Agent for the Applicant presented material and testified in support of the Application, and the BCC heard testimony from the public. The BCC tabled this case until the March 10, 2015, BCC Public Hearing.

The BCC identified specific issues to be addressed by staff. Those issues are identified below along with the response by staff:

1. Provide additional information on the two cultural resource sites identified in the archaeological report, prepared by Marron and Associates, and reviewed by the New Mexico Historic Preservation Division.

Staff asked SHPO to elaborate on their comments regarding the two cultural

resource sites identified in the archaeological survey. SHPO responded by stating the following:

- Archaeological site LA 180083 is a historic artifact scatter (40 artifacts total) dating from the 1880s to 1945. The artifacts are food-related such as cans, crockery and glass stoppers. The site also has barrel hoops and a piece of windowpane. The site is interpreted as a single episode trash dump.
- Archaeological site LA 180084 is also a historic artifact scatter with a corral dating from the 1880s to 1945. Artifacts are similar to that of LA 180083 and comprise cans, glass, crockery, etc. The corral is constructed of juniper posts, sheep wire, and barbed wire. The artifact scatter is interpreted as a single episode trash dump.
- The historic trail is approximately 5 m wide and was noted by a faint swale. Aerial maps of the project area were inspected and the segment appears to head in the direction of the modern community of Eldorado. The area in the vicinity of the project has been developed and it is unknown where the segment goes. It is likely that the segment is related to ranching in the area and is not associated with major road/trails in the area which includes the Camino Real. The Camino Real is closer to the Santa Fe River, which is to the west of the surveyed area.
- The area was historically used for ranching and General Land Office records indicate that Tomas Narvaez obtained the area in 1922, so the artifacts, corral, and road segment may relate to his use of the area.
- In our opinion, all three historic properties are not significant and are not worthy of preservation. Although they will be impacted by the proposed development, because they are not significant, they do not need to be placed in a non-disturbance easement.

The next item was to provide information on efforts made by PNM to reach out to the Tesuque Pueblo in regards to cultural sites on the proposed site. PNM states that representatives from PNM met with Tesuque Pueblo Governor Milton Herrera and key members of the pueblo council on Tuesday, February 17, 2015. The pueblo leaders communicated their concerns and all agreed that working together during the early stages of a proposed project will help to avoid similar situations in the future. During the meeting, pueblo leaders provided a historical and traditional perspective that helped PNM representatives understand and appreciate their concerns of identifying and protecting cultural findings on their traditional homelands. PNM described the resources documented by cultural resource professionals, the state review process, and PNM's internal environmental protection processes. The pueblo had no additional site-specific information regarding the project.

In addition to the constructive dialogue between the pueblo and PNM, a site visit has been scheduled for March 3rd. PNM will be sharing its standard discovery action plan, so that if any cultural remains are discovered during construction, all parties will understand the actions that will be initiated to respectfully address the pueblo's cultural traditions and religious beliefs.

Provide information on other development and master plan zoning: Ordinance No. 1998-15 states: "Subject to the requirements of this section, all uses not otherwise regulated by the Code are permitted anywhere in the County provided a request for zoning approval is granted per Article III." Article III, § 4.4.1.a states "to zone or re-zone any parcel for a commercial or industrial non-residential district a master plan shall be submitted. Submittals and procedures for master plans are set forth in Article V, § 5.2". Article III goes on to require a Development Plan be submitted for individual uses to be permitted within the district.

Provide approved/recorded County Development Review Committee minutes of the December 18, 2014 meeting. On December 18, 2014, the County Development Review Committee met and acted on this case. The decision of the CDRC was to recommend approval of the Applicant's request for Master Plan Zoning, Preliminary and Final Development Plan approval to allow a 10 megawatt electric solar facility on a 100-acre site, with staff conditions by a unanimous 6-0 voice vote. On January 15, 2015, the CDRC meeting was cancelled due to a lack of a quorum. The December minutes were approved by the CDRC at their February 19th meeting and recorded on February 20, 2015.

Staff and CDRC recommendation: approval of Master Plan Zoning, Preliminary and Final Development Plan to allow a 10 megawatt electric solar facility on a 100-acre site subject to the following staff conditions. Mr. Chair, may I enter these conditions into the record.

[The conditions are as follows:]

1. The Applicant shall comply with all review agency comments and conditions, as per Article V, § 7.1.3.c. Conditions shall be noted on the Master Plan/Final Development Plan.
 - a. The development shall comply with Article 1, Section 103.3.2-New Construction and Alterations of the 1997 Uniform Fire Code.
 - b. The proposed access, to the site, shall be constructed with six inches of compacted base course and twenty feet in width.
2. Master Plan/Final Development Plan with appropriate signatures shall be recorded with the County Clerk, as per Article V, § 7.2.2.

Mr. Chair, I stand for any questions.

CHAIR ANAYA: Okay, Mr. Larrañaga, we had a public hearing at the last meeting and we closed the public hearing at the last meeting. And we had four items that we requested as a Commission, four items that you just reviewed to us. So at this time I would like to ask the Commission if they have any questions pertaining to the feedback that we've received based on the input we asked for. Commissioners?

COMMISSIONER HOLIAN: Mr. Chair.

CHAIR ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: My question is what happened at the March 3rd site inspection that's mentioned in the report here?

MR. LARRANAGA: Mr. Chair, Commissioner Holian, I think that handout that we just touched on a little bit – I believe the applicant has more information

but in conversations with the applicant the Tesuque Pueblo had no further comments on the site itself.

COMMISSIONER HOLIAN: Thank you.

COMMISSIONER CHAVEZ: Mr. Chair.

CHAIR ANAYA: Commissioner Chavez.

COMMISSIONER CHAVEZ: I forgot earlier that we had already closed the public hearing so this is probably not appropriate. There was someone here from the Sierra Club who wanted to make comments and I don't think I'll be able to do that because the public hearing has already been closed. So I'll have to just put that to the side for now.

CHAIR ANAYA: What's the pleasure of the Board?

MR. SHAFFER: Mr. Chair, if I could, respectfully, I think since the Board held open the public record to take in additional information in evidence as presented by staff, I would respectfully suggest that it would be appropriate to allow either the applicant or the public to talk to those very limited and specific issues and that's consistent with how we've handled these sorts of situations in the past.

CHAIR ANAYA: Mr. Shaffer, I think I would agree with you to a point. I think we took in comment. If there's additional comment from individuals that didn't have an opportunity to make comment I would 100 percent occur, but what's the pleasure of the Commission? Do you want to limit feedback to the four points as the Attorney's suggesting? What's the pleasure of the Commission?

COMMISSIONER CHAVEZ: Mr. Chair, I think that if you do allow public comment it would be in our best interest just to keep it focused on those four topics, those four points that were mentioned earlier. I feel that sufficient information has been provided but I think that if we keep it narrow and specific to those four points I think we would be okay.

CHAIR ANAYA: Okay. We'll go ahead and do that then. We'll do public comment. Do you concur with that, Commissioners?

COMMISSIONER ROYBAL: Yes.

CHAIR ANAYA: Okay. We'll do it to focus to these items and we'll let the applicant make comment and then we'll go ahead and do a public hearing focused on these items and we'll not rehash items we've already gone through at the last meeting.

[Duly sworn, Laurie Moye testified as follows:]

LAURIE MOYE: Laurie Moye, PNM, Albuquerque, 87158. Thank you. Mr. Chair, members of the Commission, I'm going to focus on Mr. Larrañaga's four points. We did provide additional information as requested. SHPO's report reviewed. I would also like to support Mr. Larrañaga's description of other development and master plan zoning as PNM is utilities as named in that section and when we had our staff meeting with him that was the direction that we've always gone and that's the direction we went.

I also attended the CDRC meeting and saw that the minutes were approved. But at this time what I'd like to do – I believe you have a handout. You have three letters from

PNM updating you on our meetings with Tesuque and Cochiti. I have former – I'm sorry. Only one letter on this case.

CHAIR ANAYA: And I also want to acknowledge former Governor Dorame is here and he may want to provide some –

MS. MOYE: I was about to invite the former Governor Charlie Dorame to come up and address his consults with PNM, or PNM's consults with Tesuque. Governor.

[Duly sworn, Charlie Dorame testified as follows:]

CHARLIE DORAME: I do.

CHAIR ANAYA: Governor, thank you for being here. Appreciate your feedback. Who was at the meeting? Just so I can understand who was present at the meeting.

GOVERNOR DORAME: I was present at the meetings that we had with PNM prior to a site visit. I did not attend the site visit. That is the responsibility of former Governor Mark Mitchell who is our FIPO, and Governor Milton Herrera.

CHAIR ANAYA: Okay. There was no County staff?

GOVERNOR DORAME: Not that I'm aware of, because I didn't go on the site visit.

CHAIR ANAYA: Okay. Thank you. Go ahead, Governor.

GOVERNOR DORAME: Okay. Mitchell -- Tribal Council has determined that there are no findings of significant effect or any TCPs in the noted areas. I was privy to that information after the site visit by former Governor Mitchell and Governor Milton Herrera and they advised me to come to this meeting because they're in another meeting right now, which I have to go to, so thank you very much for allowing me the opportunity to go ahead and present the findings of our tribal council.

CHAIR ANAYA: Thank you very much for being patient and being with us, Governor. We appreciate it.

GOVERNOR DORAME: Mr. Chair, members of the Commission, there's also another site. I can wait in preference to the meetings on my time on the tribal council so Commission meetings are important to me and I would like to remain for the other area that's being proposed.

CHAIR ANAYA: Okay. Thank you, Governor.

MS. MOYE: That concludes the PNM presentation. I'll stand for any questions, Mr. Chair.

CHAIR ANAYA: Are there any questions of the applicant? Seeing none –

COMMISSIONER HOLIAN: Mr. Chair.

CHAIR ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: Mr. Chair, is it possible for me to ask the PNM representative about another issue than these four issues? I can ask it for the next case if you think it would be more appropriate.

CHAIR ANAYA: I think it might be better to wait till the next case since we already made a determination that this would be limited to the four, if that's okay.

COMMISSIONER HOLIAN: Yes. My questions is about weed control, so it [inaudible]

CHAIR ANAYA: Thank you, Commissioner.

MS. MOYE: Thank you.

CHAIR ANAYA: So this is a public hearing and specifically related to the four items that we received feedback on. I will open the public hearing to those items. Is there anybody here that wants to speak on any of those items? Is there anybody here that would like to speak on any of those items that we opened the public hearing for? Seeing none, the public hearing is closed. What is the pleasure of the Commission?

COMMISSIONER HOLIAN: Mr. Chair.

CHAIR ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: Mr. Chair, I would like to move for approval of CDRC Case Z/DPD/FDP 14-5380, Santa Fe County Solar Energy Center, and I would like to make a few comments if there is a second.

COMMISSIONER CHAVEZ: I'll second that, Mr. Chair.

CHAIR ANAYA: There's a motion from Commissioner Holian to approve CDRC Case Z/DPD/FDP 14-5380, second by Vice Chair Chavez. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. I'm very supportive of this project, but I think it's also important to note that this 10 megawatts of capacity requires roughly 75 acres of land for the solar panels. And ten megawatts is actually a very small fraction of I think it's roughly 850 megawatts, if I'm not mistaken, that PNM provides to Santa Fe County. Something on that order. And so I just want to make a point that this illustrations why rooftop solar, when possible, is more desirable. It does not require so much land to be occupied by solar panels. Thank you, Mr. Chair.

CHAIR ANAYA: Thank you, Commissioner Holian. Real quick, if we could, Commissioner Chavez, before I go to you. Ms. Lucero, do you have something you want to add?

VICKI LUCERO (Building & Development Services): Mr. Chair, just for clarification, does the motion include approval with staff conditions?

COMMISSIONER HOLIAN: Yes. Yes, it does. Thank you.

MS. LUCERO: Thank you.

CHAIR ANAYA: So motion with staff conditions, and that's clear with the seconder as well?

COMMISSIONER CHAVEZ: Yes.

CHAIR ANAYA: Commissioner Chavez.

COMMISSIONER CHAVEZ: I just wanted to touch on the concept that many of us are focusing on, and that is to become less dependent on coal. I know that's a separate debate that's working its way through the court system as to how that's done and what the impact on the ratepayer is. But these smaller projects at least get us there one rooftop at a time and with these smaller projects, smaller projects at a time to get to the way we would like to be, which is less dependence on coal. That's one reason why I was

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

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

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

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

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

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

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

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

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

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

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

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

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

[The conditions are as follows:]

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

base course and twenty feet in width.

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

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

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

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

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

I also have on the stand here a picture of where this is located if you can see it. Again, the project is located on the west side of Caja del Rio Road. It's approximately $\frac{3}{4}$ of mile away from the road. Approval is necessary in order to accommodate this use where space and performance characteristics demand a specialized locale. You can't put solar just anywhere. You have certain things that you need to look for and this site meets those things. This is a parcel of vacant land and it meets both PNM solar requirements and the layout for a successful solar generating station. There is a nearby electric distribution line in Caja del Rio Road that will be extended to this site to transmit the generated energy.

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

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

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

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

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

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

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

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

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

CHAIR ANAYA: Thank you.

MS. MOYE: I stand for questions.

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

[Previously sworn, former Governor Dorame testified as follows]

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

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

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

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

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

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

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

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

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

COMMISSIONER HOLIAN: Mr. Chair.

CHAIR ANAYA: Commissioner Holian.

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

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

COMMISSIONER HOLIAN: Thank you, yes.

[Duly sworn, Doug Campbell testified as follows:]

DOUG CAMPBELL: Doug Campbell, PNM in Albuquerque.

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

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

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

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

COMMISSIONER HOLIAN: Thank you.

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

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

COMMISSIONER HOLIAN: Thank you.

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

[Those wishing to speak were placed under oath.]

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

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

CHAIR ANAYA: Okay, sir. Go ahead.

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

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

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

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

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

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

MS. MOYE: Mr. Chair.

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

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

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

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

MS. MOYE: Mr. Chair, I –

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

MS. MOYE: Yes, sir.

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

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

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

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

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

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

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

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

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

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

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

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

COMMISSIONER CHAVEZ: No.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAIR ANAYA: Sir.

MR. VANAMBERG: Yes.

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

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

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

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

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

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

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

[Previously sworn, Philip Baca testified as follows:]

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

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

The Cochiti Road or Trail as a lot of people refer to it went from Cochiti Pueblo to Santa Fe and I'd like to, with all due respect, you received a letter from Cochiti Pueblo here where they say there's no claim that the Tesuque-Cochiti Trail ran through the Caja del Rio site. They've got themselves in the wrong place. The Cochiti-Tesuque Trail is approximately half a mile west of the site. It connected the Pueblo of Cochiti to Tesuque Pueblo and all of you know Tesuque Pueblo is to the north of here about ten miles. And the cutoff from the Cochiti Trail is approximately a mile west from there. The Cochiti Trail and the Tesuque Trail was actually about $\frac{3}{4}$ of a mile or destroyed as I told you last October in another meeting. When the City and County developed the landfill they destroyed part of the Cochiti-Tesuque Trail. We're not talking – we have never claimed that this trail that is next to this property is part of the Cochiti-Tesuque Trail. I just wanted to – with all due respect to the Governor of Cochiti Pueblo they got their trails mixed up. There's two separate destinations of these trails.

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

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

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

Next I'd like to take you to C-1.

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

MR. BACA: Yes.

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

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

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

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

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

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

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

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

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

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

CHAIR ANAYA: Thank you for answering the question.

MR. BACA: Sure.

CHAIR ANAYA: Go ahead.

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

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

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

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

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

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

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

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

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

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

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

CHAIR ANAYA: Thank you, Mr. Baca.

[Previously sworn, Matthew Baca testified as follows:]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MR. M. BACA: Yes, sir.

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

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

CHAIR ANAYA: Who uses that gate other than you?

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

CHAIR ANAYA: What's that?

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

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

Thank you.

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

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

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

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

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

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

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

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

CHAIR ANAYA: Thank you. Next individual.

[Previously sworn, Scott Hoeft testified as follows:]

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

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

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

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

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

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

Commissioners? Commissioner Chavez.

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

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

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

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

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

CHAIR ANAYA: The public hearing is closed. —

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COMMISSIONER HOLIAN: Mr. Chair.

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

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

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

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

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

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

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

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

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

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

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

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

MR. CAMPBELL: Absolutely.

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

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

CHAIR ANAYA: Okay. Six to ten.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

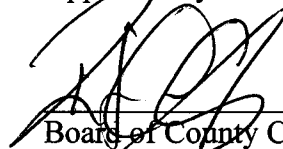
VIII. CONCLUDING BUSINESS

A. Announcements

B. Adjournment

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

Approved by:



Board of County Commissioners
Robert A. Anaya, Chair

ATTEST TO:

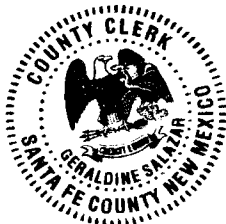
Geraldine Salazar
GERALDINE SALAZAR
SANTA FE COUNTY CLERK

4-28-2015



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: 220

I Hereby Certify That This Instrument Was Filed for
Record On The 29TH Day Of April, 2015 at 01:30:59 PM
And Was Duly Recorded as Instrument # 1763042
Of The Records Of Santa Fe County

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

SFE CLERK RECORD 04/29/2015

NORTHEAST CONNECTOR
RABBIT ROAD TO RICHARDS AVE

INTERSTATE 25



SEE PLAT NOTE #1

TRACT 2-A
59.62 AC.
#481 (RABBIT RD)
#400

EXISTING NORTHEAST CONNECTOR

NEEDED EXTENSION
APPROX. LOC
20' PUBLIC TRAIL
EASEMENT
#482

TRACT 4
84.01 AC. ±

TRACT 1-A
326.87 AC. 1
#470 (RABBIT RD)

IN 60' R.N. 1/4
#470 (RABBIT RD)

326.87 AC. 1

#470 (RABBIT RD)

ALL TRAFFIC GOES THROUGH OSHARA VILLAGE

RICHARDS AVENUE

3/24/2015

SFC CLERK RECORD04/29/2015



SANTA FE
COUNTY

2015 LEGISLATIVE REPORT



Board of County Commissioners Report

DATES

March 21, 2015 - Session ends (noon)

April 10, 2015 - Legislation not acted upon by governor is pocket vetoed

June 19, 2015 - Effective date of legislation other than a general appropriation bill or a bill carrying an emergency clause or other specified date.

All other acts become effective 90 days after adjournment of Legislature or at date specified in the act.

BILL STATISTICS**Current Statistics for All Bills (2015 Reg)**

	Total	Ratio
Bills Introduced	1731	100.00%
Bills Passed in 1st House	703	40.61%
Bills Passed in 2nd House	215	12.42%
Bills Sent to Governor	21	1.21%
Bills Signed into Law	5	0.29%

Current Statistics for House Bills only (2015 Reg)

	Total	Ratio
Bills Introduced	816	100.00%
Bills Passed in 1st House	374	45.83%
Bills Passed in 2nd House	98	12.01%
Bills Sent to Governor	11	1.35%
Bills Signed into Law	2	0.25%

Current Statistics for Senate Bills only (2015 Reg)

	Total	Ratio
Bills Introduced	915	100.00%
Bills Passed in 1st House	329	35.96%
Bills Passed in 2nd House	117	12.79%
Bills Sent to Governor	10	1.09%
Bills Signed into Law	3	0.33%

PASSED LEGISLATION RELATED TO SANTA FE COUNTY ACTIONS

Senate Bill 319 (Sen. C. Leavell) – Industrial Revenue Bonds to Pay for Fracking, Mining

Is related to **Resolution: 2014-111** this resolution supports legislation that expands the list of eligible projects for IRB's. It also supports legislation that removes the authority of the state Board of Finance to consider a complaint of direct or substantial competition with existing businesses near or within a proposed county IRB project.

House Bill 2 – Fresh Produce for School Meals Funding: budget funding is \$364,300

Is related to **Resolution: 2014-135** the healthy kid, healthy economy concept promotes the purchase of New Mexico fruits and vegetables for school lunch programs in order to enhance the diet of school children and help school meal programs comply with new Federal rules that require additional servings of fruits and vegetables in school lunches.

House Bill 67 (Rep. J. Trujillo) – Correction of Property Tax Schedule Errors by County Treasurer or Property Owner

Is related to **Resolution: 2014-109** that supports legislation that will change NMSA 1978, Section 7-38-77 and NMSA 1978, Section 7-38-78 to clarify the authority and reasons necessary for tax schedule changes.

Senate Joint Memorial 4 (Sen. S. Rue) – Requests Study of Options for Mentally Ill Awaiting Trial

Is related to **Resolution: 2014-108** this memorial requests the New Mexico Association of Counties to convene stakeholders to study and make recommendations for clinically appropriate housing options for persons with serious mental illness who are in custody in county detention facilities. Asks that findings be reported to the appropriate interim legislative committees by December 1, 2015.

Senate Memorial 29 (Sen. B. Shendo) – Study Impacts of Increased Natural Gas Flaring and Venting

This memorial requests the Energy, Minerals and Natural Resources Department, Department of Environment, Indian Affairs Department, and Department of Finance and Administration to convene a Joint Task Force to study the economic and environmental impacts of the increase in natural gas flaring and venting in New Mexico.

PASSED LEGISLATION SANTA FE COUNTY RELATED

House Bill 204 Distribution of Liquor Excise Tax Proceeds – Rep. C. Trujillo

Proposes a temporary increase in the percentage of liquor excise tax revenue distributed to the Local DWI Grant Fund. Currently the 41.5% goes to that fund. For the period July 1, 2015 through June 30, 2018, that fund would receive 46% but thereafter the distribution reverts to 41.5%.

House Bill 324 Public Records; Filing and Recording Copies of Instruments – Rep. B. Egolf

In situations where an original instrument of writing is unavailable for filing and recording, a copy of it will be accepted for filing and recording if an accompanying document is presented with the proper information.

House Bill 475 Disclosure of Tax Information to New Mexico Finance Authority – Rep. J. C. Hall

Allows the Taxation and Revenue Department to disclose to the New Mexico Finance Authority the amount of municipal and county gross receipts taxes collected from any local option gross receipts tax imposed and the amount of governmental gross receipts tax paid by every state agency, institution, instrumentality or political subdivision.

House Bill 581 Revising Procedure for Adjusting Distributions to Local Governments – Rep. G. Dodge

HGEIC substitute for HB581 (almost identical to SCORC substitute for SB669), like the original, significantly revises procedures whereby distributions of certain tax revenues in prior periods to municipalities and counties are corrected when the correction results in the local government being required to return previously distributed funds. The substitute corrects minor language errors noted in the LFC's fiscal impact report; for example, by including "or county" in subparagraphs (a) through (c) on page 11. More substantively, trims somewhat the information that may be released to a municipality or county concerning a recoverable amount by denying access to any amended returns associated with a refund. Otherwise, major provisions of the substitute are like those in the original bill. (2015:SB669)

House Joint Memorial 9 Increase Local Procurement Related to LANL Environmental Cleanup – Sen. R. Martinez & Rep. S. Garcia Richard

Requests that the Economic Development Department, the Workforce Solutions Department, the Regional Development Corporation, the Regional Coalition of Los Alamos National Laboratory Communities and representatives of county, municipal and tribal governments of north-central New Mexico work with the consortium of major Los Alamos National Laboratory subcontractors to study the prospective impact of the federal Department of Energy's decision to transition environmental mitigation work at LANL from the national Nuclear Security Administration to environmental management oversight, and to identify strategies to mitigate the impact on local New Mexico businesses. Also requests that the New Mexico congressional delegation be requested to support efforts by state and local stakeholders to maintain contracts awarded and to increase local business procurement by federal department of energy institutions.

Senate Bill 104 County Treasurer: Installment Payments for Delinquent Property Taxes – Sen. B. Sharer

Clarifies that Taxation and Revenue Department's authority to designate county treasurers to act as its agents in accepting delinquent tax payments extends to and includes the acceptance of installment payments from the property owner.

Senate Bill 112 Expands Definition of "Agricultural Use" for Property Valuation – Sen. C. Cisneros & Rep. B. Gonzales

(Duplicates HB112) Expands the definition of "agricultural use" for property valuation purposes and prohibits sole consideration of acreage in a determination of whether land is primarily used for agriculture. (2015:HB112)

Senate Bill 114 Local Government Special Fuel Tax – Sen. R. Griggs

(For the Transportation Infrastructure Revenue Committee) Amends and re-names the County and Municipal Gasoline and Special Fuel Tax Act to allow municipalities and counties to impose by ordinance a tax of one or two cents per gallon sold at retail within the jurisdiction.

Senate Bill 125 Change County Roads Speed Limits – Sen. P. Woods & Rep. D. Roch

Amends the Motor Vehicle Code to limit the maximum speed on a county road, without a posted speed limit, to 55 miles per hour.

Senate Bill 227 Mutual Domestics Eligible for Wastewater Facility Construction Loan – Sen. R. Martinez

Provides that a mutual domestic water consumers association, as defined in the Sanitary Projects Act, is included within the definition of local authority in the Waste Water Facility Construction Loan Act, thus making such associations eligible for financial assistance under the act.

Senate Bill 398 County Discretion to Prohibit Livestock Running at Large – Sen. P. Campos

Changes from mandatory to discretionary the authority of a board of county commissioners to prohibit the running at large of livestock within the limits of a platted townsite and addition, a conservancy, an irrigation district or a military reservation or enclave.

Senate Bill 565 Revises Film Production Tax Credit Act – Sen. W. Payne

SCORC substitute for SB565 apparently means to bifurcate the film production tax credit into two segments: one for films that begin principal photography prior to January 1, 2016 and those that begin on or after January 1, 2016. No language, such as effective date or applicability sections or time references within the text of the bill, actually makes this segregation but, to make sense of it, the bill has to be read as if it did.

Senate Bill 643 Omnibus Election Code Revision – Sen. L. Torraco

Senate Floor Amendment 1 (Senator Torraco) to SJC substitute for SB643 is comprised of 115-single-spaced pages of amendments containing 103 sections of law. The measure combines almost all provisions from four bills, HB62, SB195, SB617 and SB643, to form an omnibus Election Code.

Senate Bill 669 Revising Procedures for Adjusting Distributions to Local Governments – Sen. S. Ingle

Significantly revises procedures whereby distributions of certain tax revenues in prior periods to municipalities and counties are corrected when the correction results in the local government being required to return previously distributed funds.

TOPICS NO LEGISLATION PASSED

Minimum Wage

Bill(s) introduced: HB20, HB75, HB138, HB180, HB360, SB10, SB342, SJR9

Oil & Gas Preemption

Bill(s) introduced: HB199, HB366, SB184, SB421, SB601

Hold Harmless

Bill(s) introduced: HB421, SB101, SB266, SB274, SB555, SB621, SB633, SB712

Right to Work

Bill(s) introduced: HB75, SB92, SB93, SB103, SB183, SB664

Ballot Questions

Bill(s) introduced: HB501

ALL LEGISLATION PASSED BOTH HOUSES

BILL	DESCRIPTION
HB2	<i>Larranaga (R27)</i>
	GENERAL APPROPRIATION ACT OF 2015
	HAFB substitute for HB2 and HB4 is a 201-page bill, cited as the "General Appropriation Act of 2015," that makes appropriations to state agencies for expenditure in FY 2016. Includes additional FY 2016 recurring GF appropriations, including HB1, of \$81.7 million, or 1.3 percent, over the FY 2015 operating budget. Notable increases include \$36.6 million for public education, \$10.5 for the Corrections Department, \$8.2 million for CYFD, \$7 million for DPS, and \$3.5 million for tourism and economic development. (2015:HB5)
HB38	<i>Bandy (R3); Wirth (D25)</i>
	FOREST AND WATERSHED RESTORATION ACT
	(For the Water and Natural Resources Committee) Proposes the Forest and Watershed Restoration Act to provide for long-term funding for forest and watershed restoration, and creates the Forest and Watershed Restoration Board and the Forest and Watershed Restoration Fund. (Monthly distribution of \$1,250,000 from Insurance Department Suspense Fund to Forest and Watershed Restoration Fund.)
HB39	<i>Trujillo, J. (D45)</i>
	INCOME TAX REFUND DESIGNATION FOR SENIOR SERVICES
	Starting with the 2015 taxable year, allows income taxpayers who are owed a refund to designate all or part of the refund amount to be paid to the North Central New Mexico Economic Development District. That district is the non-metro Agency on Aging for providing supplemental senior services throughout the state.
HB53	<i>Espinoza (R59)</i>
	SCHOOL PERSONNEL: PROHIBITS COMPELLING USE OF PSYCHOTROPIC DRUGS
	Requires each local school board or governing body to adopt policies that prohibit school personnel from denying any student access to programs or services because the parent or guardian has refused to place the student on psychotropic medication.
HB54	<i>Espinoza (R59)</i>
	ANESTHESIOLOGIST ASSISTANTS ACT CHANGES
	Provides that anesthesiologists and anesthesiologist assistants may practice in New Mexico outside the employment of the Department of Anesthesiology at the UNM Medical School.
HB65	<i>Trujillo, C. (D46)</i>
	AUTOCYCLE REGISTRATION AND LICENSURE
	Relates to the use of autocycles. A new section of the Motor Vehicle Code provides for autocycles to be registered as motorcycles and, for the purpose of proof of financial responsibility, allows them to be characterized as a motorcycle. However, the driver of an autocycle is not required to have a motor cycle endorsement to operate an autocycle nor is the use of a helmet required. Prohibitions against leasing a motorcycle to persons under the age of 18 do not apply to autocyclers. (2015:SB185)
HB67	<i>Trujillo, J. (D45)</i>
	CORRECTION OF PROPERTY TAX SCHEDULE ERRORS BY COUNTY TREASURER OR PROPERTY OWNER
	(For the Revenue Stabilization and Tax Policy Committee) Expands and clarifies what types of errors the county treasurer may correct once the annual property tax schedule is transmitted to the treasurer by the county assessor. Also, allows property tax owners additional grounds for challenging property tax schedule errors through actions brought in district court.

HB83	<i>Trujillo, C. (D25)</i>
	AUTHORIZES DEPOSIT OF LAND GRANT FUNDS IN CREDIT UNIONS
	(For the Land Grant Committee) (Similar to 2014 SB92) Authorizes Land Grant-Mercedes funds to be deposited in a credit union and imposes accounting recordation requirements for payments made with land grant funds.
HB84	<i>Trujillo, C. (D25)</i>
	FREESTANDING BIRTH CENTER LICENSURE
	Amends the Public Health Act to include freestanding birth centers in the definition of health facilities licensed by the Department of Health, and provides that such a center accredited by the Commission for Accreditation of Birth Centers shall be granted a license renewal based on that accreditation.
HB89	<i>Herrell (R51)</i>
	COURT LANGUAGE ACCESS SERVICES FUND
	(For the Courts, Corrections and Justice Committee) Creates the Language Access Fund to be administered by the Administrative Office of the Courts upon appropriation by the Legislature for paying the costs of court interpreters, staffing and operating the New Mexico Center for Language Access, language access services training, and other activities necessary to meet constitutional and statutory language requirements.
HB101	<i>Gallegos, David (R61)</i>
	PENALTIES FOR SEXUAL EXPLOITATION OF CHILDREN BY PROSTITUTION
	(Identical to 2014 HB46, as amended by SPAC) Amends the age of criteria for three categories of felonies involving exploitation of children by prostitution.
HB103	<i>Gallegos, David (R61)</i>
	AUTISM AWARENESS LICENSE PLATES AND APPROPRIATION
	Directs the Division of Motor Vehicles to offer to applicants a standardized special registration plate with a logo commemorating autism awareness. The fee for the plate and each renewal shall be \$35 in addition to regular registration fees, with \$10 from each fee to defray production costs and \$25 from each fee to be appropriated to the Department of Health for the purpose of funding autism research, outreach and education.
HB107	<i>Gallegos, David (R61)</i>
	JUNIOR COLLEGE LICENSE PLATE CREATED
	Authorizes the Motor Vehicle Division to issue a special automobile registration plate commemorating New Mexico Junior College in Hobbs for a fee of \$35 in addition to the regular registration fee.
HB108	<i>Lundstrom (D9)</i>
	INVESTMENT ZONES FOR BEHAVIORAL HEALTH SERVICE DELIVERY
	(Similar to SB566) (Related to SB522) HHC substitute for HB108 continues as a measure that directs the Interagency Behavioral Health Purchasing Collaborative to divide the state into designated investment zones to prioritize the delivery of non-Medicaid behavioral health services. (2015:SB566; 2015:SB522)
HB121	<i>McMillan (R37)</i>
	NURSE EDUCATORS FUND PURPOSE EXPANSION
	(Virtually identical to 2014 HB59; related to 2014 SB48) Expands the purpose of the Nurse Educators Fund to allow registered nurses seeking employment as nurse educators in public, post-secondary educational institutions, not just those presently employed as nurse educators by public universities or colleges, to receive loans to obtain bachelor and master of science, or doctorate of nursing practice and doctor of philosophy in nursing programs. The Higher Education Department is to adopt rules for continuing employment or pay-back provisions for current and future nursing educators.

HB122	<i>McMillan (R37)</i>
	SCOPE OF PRACTICE OF HEALTH PROFESSIONS
	(Related to 2014 HB143, HJM9, HM28, SB14, SB58, SB76, SB329) Requires that a member or licensee of a health profession licensing board who seeks a change in the scope of practice shall request a hearing from that board on the matter. The board shall collect data, make a technical assessment of the proposed change and report its analysis, conclusions and recommendations to the New Mexico Legislative Council. The council shall assign the proposed change to a committee for its review and shall report on its assessment, analysis and recommendations to the Legislature.
HB130	<i>Garcia Richard (D43)</i>
	PROCUREMENT STANDARDS AND SPECIFICATIONS, SMALL BUSINESS REDEFINED, RFP REVIEWS
	For purposes of the Procurement Code revises the definition of a "small business" to include businesses with up to 150 employees; requires the State Procurement Standards and Specifications Committee to meet monthly and review requests for proposals; and revises the composition of the committee by adding two more public members.
HB139	<i>Salazar, T. (D70)</i>
	DESIGNATION AND TRAINING OF AFTER-CARE LAY CAREGIVERS
	Directs hospitals to provide each patient or patient's legal guardian with an opportunity to designate one lay caregiver following the patient's admission and before the patient's discharge. Directs the hospital to consult with a designated lay caregiver to prepare the lay caregiver for aftercare, to provide a discharge plan detailing the patient's aftercare needs, to engage the patient or lay caregiver in the discharge planning process and to educate the lay caregiver in a manner consistent with current accepted practices.
HB142	<i>Egolf (D47)</i>
	CRIMINAL PENALTIES FOR UNAUTHORIZED DISTRIBUTION OF SENSITIVE IMAGES
	(Identical to 2014 HB238 as amended and reported favorably by HCPAC) Establishes new criminal penalties under the Criminal Code for the unauthorized distribution of sensitive images with any of the following intents:
HB146	<i>Stapleton (D19)</i>
	INSTRUCTIONAL MATERIAL DEFINITIONS AND DISTRIBUTION
	(Identical to 2015 SB225) Broadens the definition of "instructional material" in the Instructional Material Law, eliminates a requirement that local policies guarantee that every student have a textbook for each class, deletes limits on types of material that can be chosen for purchase and eliminates the need for a waiver for selecting materials not on the multiple list. (2015:SB225)
HB155	<i>Steinborn (D35)</i>
	LOBBYIST REPORTING REQUIREMENTS
	Requires certain reports to be made by lobbyists' employers; changes reporting requirements; extends the retention period for reports; requires reports to be posted online; and raises registration fees.
HB156	<i>McCamley (D33)</i>
	INNOVATIONS IN TEACHING ACT
	Creates a new short-titled act to implement the "Innovations in Teaching Program." Recites findings and purpose, defines terms, requires the Public Education Department to develop an application and award process, specifies required contents of the application, provides for a waiver of students' standards-based assessments on the teacher's evaluation, waives use of results of students' standards-based assessments in A-B-C-D-F School Rating System, and provides for evaluations, reports, and early termination of a project where warranted.

HB164	<i>Roch (R67)</i>
	SCHOOL TRANSPORTATION REPORTING DATES AND ALLOCATIONS
	(For the Legislative Education Study Committee) (Similar to 2013 HB419) Provides that allocations from public school transportation disbursements for an entire school year will be based on an average of the amounts reported by school districts and state-chartered charter schools to the PED transportation director on the second and third reporting dates of the previous school year. Eliminates allocations for the first six months of the school year based on tentative district transportation budgets with adjustments for the remainder of the year based on the November 15 student count.
HB165	<i>Roch (R67)</i>
	ADEQUATE YEARLY PROGRESS SYSTEM REPEAL
	(For the Legislative Education Study Committee) (Conflicts with SB223) In general, eliminates language or repeals provisions that conflict with the A-B-C-D-F Schools Rating Act. Removes the definition of “adequate yearly progress” in the Public School Code, the “adequate yearly progress program” and references throughout to “adequate yearly progress,” and replaces that language with references to “progress,” “measuring students’ academic performance” and “reporting annual progress.” Regarding priorities for school enrollment, gives second priority to a students in a school “rated ‘F’ for two of the prior four years pursuant to the A-B-C-D-F Schools Rating Act” rather than ranked “needs improvement” or “subject to corrective action.” (2015:SB223)
HB170	<i>Larranaga (R27)</i>
	HIGHER EDUCATION ENDOWMENT FUND CHANGES
	(Related to 2013’s HB170 and 2011’s HB353) Changes the distribution process and uses of the Higher Education Endowment Fund; creates the Higher Education Endowment Committee and prescribes powers and duties, provides for merit-based awards from the fund; and makes an \$8 million (GF nonreverting) appropriation to the Endowment Fund.
HB171	<i>Herrell (R51)</i>
	ESTABLISHED CONDITIONS FOR BIRTHING WORKFORCE RETENTION FUND AWARDS
	Proposes to amend the Medical Malpractice Act to establish certain conditions for awards from the Birthing Workforce Retention Fund. The fund provides malpractice assistance insurance premium assistance for certified nurse-midwives and physicians whose insurance premium costs jeopardize their ability to continue their obstetrics practice in the state.
HB174	<i>Maestas Barnes (R15)</i>
	REQUIRES TEXT MESSAGE NOTIFICATION OF AMBER ALERTS
	Requires all cellular service and paging service companies to send, free of charge, a text message to all customers located in a geographic area where an amber alert has been issued.
HB178	<i>Stapleton (D19)</i>
	CAREER TECHNICAL EDUCATION PATHWAYS AND ELECTIVES
	(Relates to 2015’s SB14, SB229 and HB145) Defines terms relevant to career technical education; requires that career and technical education courses be offered as a high school elective; and requires the Public Education Department to promulgate rules to allow students who successfully complete an industry-recognized program to receive a maximum of 1.0 in calculating the student’s grade point average. (2015:SB14; 2015:SB229; 2015:HB145)
HB192	<i>Armstrong (D17)</i>
	CHANGES SCOPE OF PRACTICE UNDER THE OCCUPATIONAL THERAPY ACT
	Proposes to amend sections of the Occupational Therapy Act to make changes to the scope of practice of persons licensed or certified pursuant to the act.

HB198	<i>Maestas (D16)</i>
	ALCOHOLIC BEVERAGE SALES AT MUNICIPAL GOLF COURSES
	Strikes the governmental liquor license limitation allowing only beer and wine to be sold and served at municipal golf courses. The bill will now allow the sale of spirituous liquors by the drink.
HB202	<i>Baldonado (R8)</i>
	PENALTY ASSESSMENT OPTION FOR MINOR HUNTING AND FISHING INFRACTIONS
	Proposes to expand the list of game and fish penalty assessment misdemeanors at Sec. 17-2-10.1 by providing a penalty assessment option of \$50 for fishing, hunting or trapping without the proper stamp or validation; and another of \$125 for a manner and method rule violation contrary to adoption by State Game Commission rule.
HB204	<i>Trujillo, C. (D46)</i>
	DISTRIBUTION OF LIQUOR EXCISE TAX PROCEEDS
	Proposes a temporary increase in the percentage of liquor excise tax revenue distributed to the Local DWI Grant Fund. Currently the 41.5% goes to that fund. For the period July 1, 2015 through June 30, 2018, that fund would receive 46% but thereafter the distribution reverts to 41.5%.
HB213	<i>Maestas Barnes (R15)</i>
	NICOTINE LIQUID: CHILD-RESISTANT PACKAGING
	Prohibits the sale of nicotine liquid (used in e-cigarettes) unless it is contained in child-resistant packaging. Authorizes the Attorney General to institute a district court civil action for a violation, or to prevent a violation. Relief may include an injunction, restraining order or civil penalty of up to \$1,000 per violation.
HB216	<i>Trujillo, J. (D45)</i>
	ASSIGNMENT OF FILM PRODUCTION TAX CREDITS
	Allows the film production company eligible to receive a film production tax credit to assign it to a financial institution. Taxation and Revenue Department would direct the tax credit amount to the financial institution instead of the film production company.
HB218	<i>Gallegos, David (R61); Sanchez, C. (D30)</i>
	TAX DEPARTMENT MAY LEVY ELECTRONICALLY
	(Duplicate of HB135) Empowers the Taxation and Revenue Department and a financial institution to agree that the department may serve levies on the institution electronically pursuant to the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act. Also allows personal service of the department's levies by certified law enforcement officers of the Department of Public Safety. (2015:HB135)
HB220	<i>Zimmerman (R39)</i>
	INCREASED NATIONAL GUARD INSURANCE ELIGIBILITY
	Makes a finding that the eligibility limits for members of the National Guard of New Mexico for life insurance through the Federal Servicemembers' Group Life Insurance program are increased from \$250,000 to \$400,000.
HB236	<i>Harper (R57); Cisneros (D6)</i>
	INCREASES SEVERANCE TAX DISTRIBUTION AND REDUCES BONDING CAPACITY
	(Identical in substance to SB150) (Endorsed by the Investments and Pensions Oversight Committee) Provides for increased distributions to the Severance Tax Permanent Fund by phasing in reductions to severance tax and supplemental severance tax bonding capacity. (2015:SB150)

HB243	<i>Rodella (D41)</i>
	ALCOHOLIC BEVERAGES: LIQUOR CONTROL ACT CHANGES
	(Relates in part to SB258) Adds powdered alcohol and frozen or freeze-dried alcohol to the definition of alcohol in the Liquor Control Act. Adds the definition of “growler” to the act, meaning a clean, refillable, resealable container having a liquid capacity not exceeding one gallon, and that is intended for the sale of beer, wine or cider for off-premise consumption. (2015:SB258)
HB254	<i>Pacheco (R23); Rue (R23)</i>
	COMPELLED STATEMENTS OF HAZARDOUS DUTY OFFICERS
	Amends the Hazardous Duty Officers’ Employer-Employee Relations Act to clarify the nature of compelled statements of a hazardous duty officer and requirements with respect to the taking and release of such compelled statements.
HB258	<i>Garcia, Miguel (D14)</i>
	PATIENT FREEDOM OF CHOICE TO INCLUDE MENTAL HEALTH PROFESSIONALS
	(Similar to 2013’s HB208) Amends the Insurance Code, under the Freedom of Choice section, to include a licensed professional mental health counselor or therapist among the list of practitioners that an insured person has the right and freedom to choose for treatment of an illness or injury. That right shall not be restricted under any new policy of health insurance, contract or health care plan.
HB274	<i>Armstrong (D17)</i>
	SYNCHRONIZATION OF PRESCRIPTIONS
	Proposes new sections of the Health Care Purchasing Act, the Public Assistance Act, the Insurance Code, the Health Maintenance Organization Law and the Nonprofit Health Care Plan Law to allow synchronization of prescriptions.
HB277	<i>Martinez, J. (D11)</i>
	KINSHIP GUARDIANSHIP
	(Related to 2014 HB160) Eliminates a child’s marital status from the information required of a petition seeking the appointment of a guardian. Eliminates the requirement of a petitioner to obtain an order of the court setting a hearing date; directs the court to set a hearing date no less than 30 and no more than 90 days from the date of the filing of a petition. Eliminates, in order to comport with current federal law, the requirement that the burden of proof be beyond a reasonable doubt for cases involving an Indian child; provides that the burden of proof for all cases shall be by clear and convincing evidence.
HB282	<i>Montoya (R1)</i>
	HIGHER ED COMMON COURSE NAMES AND NUMBERS
	Establishes a deadline of August 1, 2017 for the Higher Education Department to establish a common course name and numbering system for lower-division courses in the comprehensive statewide articulation plan for educational programs.
HB287	<i>James (R24)</i>
	MODIFIES SECRETARY OF STATE FEES AND REQUIREMENTS
	Relates to corporations and related businesses administered by the Secretary of State: modifies application and filing requirements; adjusts fees for copying services; imposes a fee for credit and debit card payments; suspends filing privileges for entities owing payments. Also makes an appropriation.
HB296	<i>Maestas Barnes (R15)</i>
	LEASES QUALIFY FOR SOLAR MARKET DEVELOPMENT TAX CREDIT
	(Related to HB70 and SB371) Allows taxpayers who lease, rather than purchase, qualifying solar or photovoltaic systems to apply for a solar market development tax credit against personal income tax. Not clear whether claims retroactive to installations on or after January 1, 2006 are intended to be included. (2015:HB70; 2015:SB371)

HB318	<i>Pacheco (R23)</i>
	LEVEL THREE SCHOOL COUNSELORS
	(Almost identical to 2013 HB623, pocket vetoed by the governor; similar to 2013 SB590; conflicts with 2015 HB71 and SB153; HB76 and SB91) Amends the School Personnel Act to provide that the minimum salary for a counselor who holds the highest-ranked counselor license provided by the act and Public Education Department rules shall be the same as provided for Level Three-A teachers.
HB320	<i>Baldonado (R8); Sanchez, C. (D30)</i>
	LIMIT HOMEOWNER RESTRICTIONS ON FLAG FLYING
	Proposes to amend the Homeowner Association Act to specify that an association shall not adopt or enforce any restriction related to the flying or displaying of flags that is more restrictive than the applicable state law or county or municipal ordinance.
HB324	<i>Egolf (D47); Ivey-Soto (D15)</i>
	PUBLIC RECORDS: FILING AND RECORDING COPIES OF INSTRUMENTS
	In situations where an original instrument of writing is unavailable for filing and recording, a copy of it will be accepted for filing and recording if an accompanying document is presented with the proper information.
HB327	<i>Zimmerman (R39)</i>
	NATIONAL GUARD ASSISTANCE ELIGIBILITY
	(Related to 2015 HB220) Changes the requirement for New Mexico National Guard members and their families to be eligible to receive assistance pursuant to the Income Tax Act rather than the active service in the global war on terrorism would now require deployment overseas for a period of 30 or more consecutive days. Provides that the temporary suspense account from which such distributions are made shall be nonreverting. (2015:HB220)
HB328	<i>Rehm (R31)</i>
	MOTOR VEHICLE AIRBAG REQUIREMENTS
	(Almost identical to HB193 in 2014) Prohibits manufacturing, selling or installing counterfeit or substandard airbags; misrepresenting counterfeit or substandard airbags as airbags; or intentionally altering an airbag to make it counterfeit or substandard.
HB332	<i>Maestas (D16)</i>
	PROBATION AND GOOD BEHAVIOR
	Decreases a person's period of probation by 30 days for every 30 days served without a probation violation.
HB335	<i>Trujillo, J. (D45)</i>
	LIQUOR CONTROL ACT: TASTING PERMIT VIOLATION PENALTIES
	Provides that the director of the Alcohol and Gaming Division of RLD may impose administrative penalties on the holder of a small brewery, winegrower or craft distillery tasting permit for violations of the Liquor Control Act that occur during tastings.
HB339	<i>Garcia Richard (D43); Griggs (R34)</i>
	LIQUOR CONTROL ACT: SMALL BREWERS AND WINEGROWERS RECIPROCITY
	(Same as SB440) Provides reciprocity between winegrowers and small brewers licensed under the Liquor Control Act, meaning that each can buy products from the other and sell and serve them in the same manner as is already provided by law. (2015:SB440)

HB341	<i>Hall, J. C. (R28)</i>
	CYFD WORKER EDUCATION LOAN REPAYMENTS
	Proposes the Children, Youth and Families Worker Loan Repayment Act, whose stated purpose is to increase the number of public service workers employed with CYFD who are direct service providers in the CYFD Protective Services Division or Juvenile Justice Division. Provides for repayment of the principal and reasonable interest accrued on higher education loans obtained from the federal government or a commercial lender.
HB369	<i>Cook (R56)</i>
	GENETIC ANALYSIS INFORMED CONSENT EXCEPTION
	Existing statute prohibits genetic analysis on a person without first obtaining informed and written consent, with a number of exceptions. The bill adds another exception to consent, thereby authorizing a laboratory to conduct an analysis or test of a specified individual based on a written order from a health care practitioner (or agent).
HB377	<i>Gonzales (D42)</i>
	PROVIDES FOR APPORTIONABLE MOTOR VEHICLE FEES
	Makes technical (nonsubstantive) changes to a gallimaufry of statutory provisions in order to comply with the International Registration Plan, a registration reciprocity agreement among states of the United States, the District of Columbia and provinces of Canada providing for payment of apportionable fees on the basis of total distance operated in all jurisdictions.
HB386	<i>Lundstrom (D9)</i>
	APPROPRIATION: LOCAL GOVERNMENT PLANNING FUND
	Appropriates \$3 million (GF) from the Public Project Revolving Fund to the Local Government Planning Fund administered by the New Mexico Finance Authority to make grants to evaluate and make cost estimates for infrastructure, water and waste water projects, water conserve action plans, master plans, economic development plans, energy audits and to pay the administrative costs of the local government planning program.
HB403	<i>James (R24)</i>
	PUBLIC AGENCY LEAVE DONATION POLICY
	Requires state agencies, political subdivisions and school districts to implement policies that allow employees who earn annual or sick leave the opportunity to donate leave to another employee in the event of a medical emergency.
HB404	<i>Lewis (R60)</i>
	DRIVER'S LICENSE QUALIFICATIONS FOR OUT-OF-STATE DUI
	(Related to 2014 HB10 and HB191; related to 2015 HB86 and HB131) Provides that the qualifications of the Ignition Interlock Licensing Act for issuance of a New Mexico driver's license after conviction of DUI shall not apply if a person has only one DUI conviction in another state or the District of Columbia and presents proof of successful completion of all the conditions of the person's sentence, whether or not installation of an ignition interlock device was a condition of that sentence. (2015:HB86; 2015:HB131)
HB415	<i>Trujillo, C. (D46)</i>
	STATEWIDE ANIMAL SPAY AND NEUTER PROGRAM MANDATED; INCOME TAX CHECK-OFF
	Requires the state Animal Sheltering Board to develop and implement a statewide dog and cat spay and neuter program in conjunction with animal shelters and euthanasia agencies. Allows income taxpayers due a refund to donate all or part of the refund to a fund to support the statewide spay and neuter program.

HB427	<i>Garcia Richard (D43)</i>
	RESIDENT TUITION RATES FOR VETERAN'S SPOUSE OR CHILD
	Extends in-state tuition to the spouse or child of a veteran of the Armed Forces that is eligible for benefits under the federal Post-9/11 Veterans Educational Assistance Act of 2008 or any other federal law authorizing educational benefits for a veteran or the dependents of a veteran.
HB428	<i>Garcia Richard (D43); Ivey-Soto (D15)</i>
	SOME COUNTIES TO SET OFFICIALS AND OFFICERS SALARIES
	Provides that an urban county (Bernalillo) or incorporated county (Los Alamos) that has adopted a charter may by ordinance set the annual salary for some or all of its elected or appointed officers, but that no salary may exceed \$95,000. Permits this action notwithstanding existing statutory salaries set for Bernalillo, Doña Ana, Sandoval, San Juan and Los Alamos Counties. Bernalillo County.
HB431	<i>Wooley (R66)</i>
	MOUNTED PATROL WAIVER OF CONCEALED FIREARMS TRAINING AND FEES
	Grants an exemption to a current member of the New Mexico Mounted Patrol from application or renewal fees, and training courses, necessary to carry a concealed firearm. The exemption applies to mounted patrol members who have successfully completed a Law Enforcement Academy basic law enforcement training program for mounted patrol members.
HB441	<i>Gonzales (D42)</i>
	TAX CREDIT: CONTRIBUTIONS FOR TUITION SCHOLARSHIPS AND FOR EXTRACURRICULAR ACTIVITIES
	(Duplicate of SB556) Authorizes Taos Ski Valley Tax Increment Development District to issue \$44 million in bonds backed by gross receipts tax increments, subject to review and approval of the New Mexico Finance Authority; authorization lasts for 25 years. (2015:SB556)
HB460	<i>Ruiloba (D12)</i>
	LOTTERY SCHOLARSHIP MENTORING PILOT PROJECT
	Creates a six-year pilot project administered by the Higher Education Department for 500 Legislative Lottery Tuition Scholarship recipients annually to voluntarily provide community outreach, chiefly through mentoring public school students, to study the mutual benefits of such mentoring. Does not include an appropriation.
HB463	<i>Cook (R56)</i>
	BARBER'S LICENSE FOR REGISTERED APPRENTICE
	Provides that a barbering license will be issued to a person who shows proof of having successfully completed a registered barbering apprenticeship approved by the State Apprenticeship Agency, and who meets the other requirements already established by law.
HB475	<i>Hall, J. C. (R28)</i>
	DISCLOSURE OF TAX INFORMATION TO NEW MEXICO FINANCE AUTHORITY
	Allows the Taxation and Revenue Department to disclose to the New Mexico Finance Authority the amount of municipal and county gross receipts taxes collected from any local option gross receipts tax imposed and the amount of governmental gross receipts tax paid by every state agency, institution, instrumentality or political subdivision.
HB478	<i>Trujillo, J. (D45)</i>
	LIQUOR LICENSES: FEE PRORATION, STAGGERED RENEWAL
	Provides for the proration of fees for new dispenser, retailer, club and public service liquor licenses issued after the first of the year as follows: for licenses issued in the first quarter of the license year, the full amount; issued in second quarter, three fourths of the fee, issued in the third quarter, half the amount, and for licenses issued in the fourth quarter, one fourth.

HB479	<i>Adkins (R29)</i>
	EXPAND SCHOOLS ELIGIBLE FOR K-3 PLUS
	Expands eligibility of schools that can conduct K-3 Plus programs to include those that improved their school grade with the K-3 Plus program and wish to continue the program.
HB487	<i>Powdrell-Culbert (R44)</i>
	TRANSFER OF MUNICIPAL COURT FEES TO THE MUNICIPALITY'S GENERAL FUND
	Increases the population threshold from 3,000 to 10,000 for municipalities that are authorized to transfer fund balances from a Special Account into its General Fund. Applies to fees collected by a municipal judge that are placed into a Special Account.
HB489	<i>Irwin (D32)</i>
	WINEGROWER INTERNET SALES
	Provides that licensed winegrowers may accept and fulfill orders for wine placed by purchasers through an Internet website. Allows transactions to be administered by winegrowers or their agents.
HB505	<i>Armstrong (D17)</i>
	PUBLIC ASSISTANCE FOR FORMER FOSTER CARE RESIDENTS
	(Duplicate of 2015 SB139) Proposes a new section of the Public Assistance Act that makes it mandatory for the Human Services Department to provide medical assistance coverage for New Mexico residents who are former recipients of foster care, regardless of the state where the foster care was received, until the person reaches the age of 26. (2015:SB139)
HB519	<i>Herrell (R51)</i>
	PHYSICAL THERAPY ACT CHANGES
	(Identical to 2015 SB571. Related to 2014 HB284 and 2015 HB192 and SB359) Provides that a physical therapist is a licensed health care provider conducting the practice of physical therapy and is fully responsible for managing all aspects of the physical therapy care of each patient served. (2015:SB571)
HB560	<i>Cook (R56)</i>
	REVISING FORFEITURE ACT PROCEDURES
	(Related to 2015 SB441) Specifies the purposes of the Forfeiture Act (FA) to deter criminal activity and protect against wrongful forfeiture. Provides that FA shall not apply to the seizure of contraband. Defines key terms. Specifies that forfeiture shall apply to property of a person upon conviction of a crime to which FA applies if the state proves by clear and convincing evidence that the property is subject to forfeiture. (2015:SB441)
HB563	<i>Steinborn (D35)</i>
	RIO GRANDE TRAIL COMMISSION
	Creates the Rio Grande Trail Commission to establish the trail to run the length of the state from Colorado to Texas. Prescribes membership; attaches the Commission to the Energy, Minerals and Natural Resources Department; establishes duties and requires reports. Creates the nonreverting Rio Grande Trail Fund.
HB578	<i>Ezzell (R58)</i>
	NMFA LOANS FOR WATER PROJECT FUNDS
	Authorizes the New Mexico Finance Authority to make loans or grants from the Water Project Fund for 127 water projects throughout the state.

HB581	<i>Dodge (D63)</i>
	REVISING PROCEDURE FOR ADJUSTING DISTRIBUTIONS TO LOCAL GOVERNMENTS
	HGEIC substitute for HB581 (almost identical to SCORC substitute for SB669), like the original, significantly revises procedures whereby distributions of certain tax revenues in prior periods to municipalities and counties are corrected when the correction results in the local government being required to return previously distributed funds. The substitute corrects minor language errors noted in the LFC's fiscal impact report; for example, by including "or county" in subparagraphs (a) through (c) on page 11. More substantively, trims somewhat the information that may be released to a municipality or county concerning a recoverable amount by denying access to any amended returns associated with a refund. Otherwise, major provisions of the substitute are like those in the original bill. (2015:SB669)
HJM6	<i>Nunez (R36)</i>
	NEW MEXICO WATER AWARENESS WEEK
	Declares February 5 through 11, 2015 as "New Mexico water Awareness Week at the Legislature. Asks that the Interstate Stream Commission, in partnership with relevant nonprofit organizations, be requested to consider the development of a future forum or policy brief comparing the water planning process in New Mexico with other states, enabling lawmakers and community members to learn from best practices in other locations.
HJM8	<i>Fajardo (R7)</i>
	SEPTEMBER 2015: BRAIN ANEURYSM AWARENESS MONTH
	Asks the Governor to designate September 2015 as "Brain Aneurysm Awareness Month" in New Mexico. Cites risk factors and health statistics related to brain aneurysms and discusses advancements that have been made regarding its detection, including computerized tomography (CT) scan and magnetic resonance imaging (MRI).
HJM9	<i>Garcia Richard (D43); Martinez, Richard (D5)</i>
	INCREASE LOCAL PROCUREMENT RELATED TO LANL ENVIRONMENTAL CLEANUP
	Requests that the Economic Development Department, the Workforce Solutions Department, the Regional Development Corporation, the Regional Coalition of Los Alamos National Laboratory Communities and representatives of county, municipal and tribal governments of north-central New Mexico work with the consortium of major Los Alamos National Laboratory subcontractors to study the prospective impact of the federal Department of Energy's decision to transition environmental mitigation work at LANL from the national Nuclear Security Administration to environmental management oversight, and to identify strategies to mitigate the impact on local New Mexico businesses. Also requests that the New Mexico congressional delegation be requested to support efforts by state and local stakeholders to maintain contracts awarded and to increase local business procurement by federal department of energy institutions.
HJR20	<i>Trujillo, J. (D45)</i>
	TRANSFER OF REAL PROPERTY IN SANTA FE FROM GSD TO AOC
	Resolves to ratify the proposed transfer of certain real property located in Santa Fe, New Mexico from General Services Department (GSD) to the Administrative Office of the Courts (AOC) for a future magistrate court facility. The property is described as lots 1A through 5A, as shown in the plat of survey entitled "Lot Line Adjustment Plat— adjusting the line between lots 1 and 5, Joseph E. Valdes Industrial Park."
HM19	<i>Salazar, T. (D70)</i>
	AMERICAN ASSOCIATION OF UNIVERSITY WOMEN NEW MEXICO DAY
	Proclaims February 9, 2015 "American Association of University Women New Mexico Day" in the House, in recognition of the important role the Association has played in empowering women since 1981.

HM57	<i>Larranaga (R27)</i>
	"UNM DAY" IN THE HOUSE OF REPRESENTATIVES
	"UNM Day" in the House of Representatives
SB4	<i>Leavell (R41)</i>
	VOLUNTEER FIREFIGHTERS RETIREMENT: LIMITS TIME PERIOD FOR POSTING OR ADJUSTING SERVICE CREDIT
	Specifies that volunteer firefighters may post or adjust service credit earned for a period not to exceed the two preceding calendar years. (Current statute allows firefighters to post credit dating back to January 1, 1979.)
SB8	<i>Cisneros (D6); Gonzales (D42)</i>
	CHARTER SCHOOL ELIGIBILITY FOR EDUCATION TECHNOLOGY EQUIPMENT ACT
	(Identical to 2015 HB 19) (Similar in intent to 2014 HB 260 and Senate Floor Sub for SB6) Makes locally-chartered and state-chartered charter schools eligible for a pro-rata share of education technology equipment acquired by a school district through lease-purchase. (2015:HB19)
SB42	<i>Ortiz y Pino (D12)</i>
	MEDICAID FOR CERTAIN INCARCERATED PERSONS
	(For the Legislative and Human Services Committee and the Courts, Corrections and Justice Committee) Directs the Secretary of Human Services to adopt and promulgate rules to provide continued Medicaid enrollment to eligible, incarcerated individuals.
SB52	<i>Papen (D38)</i>
	EXTEND PORT OF ENTRY OVERWEIGHT ZONES
	(For the interim Transportation Infrastructure Subcommittee) Present law permits the operation of a motor vehicle, or a combination of motor vehicles, of a gross weight of 36,000 pounds or less, to operate on state roads within a zone of six miles from a port of entry on the U.S.-Mexican border without first obtaining an overweight permit from the Transportation Department. The bill extends that distance to 12 miles.
SB62	<i>Rue (R23)</i>
	AFFORDABLE HOUSING TAX CREDIT ACT DEFINITION CHANGE
	(Endorsed by the Mortgage Finance Authority Act Oversight Committee) Removes "county" and "municipality" from the Affordable Tax Credit Act definition of "person." The act does not apply directly to city or county governments, but only to a housing authority that might be established by local government; and the term housing authority is included within the definition of "person."
SB70	<i>Padilla (D14)</i>
	LABOR LAW: REPEAL OF 2013 PROVISION
	(Pertains to HB352 enacted in 2013) Although the title of this bill indicates that its subject matter is permitting airline workers to voluntarily change shifts, that is not the bill's intention. Actually the bill repeals language pertaining to cotton gin employees that was added as a 2013 House floor amendment upon passage of HB352, which did in fact pertain to airline workers.
SB81	<i>Morales (D28); James (R24)</i>
	EMS PRE-HOSPITAL PROTOCOLS FOR STROKE PATIENTS
	Proposes to amend the Public Health Act to provide for new pre-hospitalization protocols for stroke patients and to expand the allowable sources of accreditation for stroke centers.
SB83	<i>Candelaria (D26)</i>
	CRIMINAL SENTENCING ACT TECHNICAL CORRECTIONS
	(For the Courts, Corrections and Justice Committee) Makes technical corrections–gender neutrality and statutory citation re-ordering–to the provision of the Criminal Sentencing Act related to multiple violent sexual offense convictions.

SB94	<i>McSorley (D16)</i>
	INDUSTRIAL HEMP FARMING ACT
	(Identical to 2011 HB565 and 2009 HB403) The Industrial Hemp Farming Act allows the production and sale of industrial hemp and amends the definition of controlled substances to exclude hemp from the definition of marijuana. Makes \$150,000 in GF appropriations in support of the act's provisions.
SB100	<i>Burt (R33)</i>
	NEW MEXICO MAGAZINE ADVERTISING SALES
	Adds a new exemption from the Procurement Code for procurement of services of advertising sales representatives for New Mexico Magazine.
SB104	<i>Sharer (R1)</i>
	COUNTY TREASURER: INSTALLMENT PAYMENTS FOR DELINQUENT PROPERTY TAXES
	(For the Revenue Stabilization and Tax Policy Committee) Clarifies that Taxation and Revenue Department's authority to designate county treasurers to act as its agents in accepting delinquent tax payments extends to and includes the acceptance of installment payments from the property owner.
SB105	<i>Martinez, Richard (D5)</i>
	SPECIAL COUNTY EDUCATION GROSS RECEIPTS TAX
	(Same as 2014 SB82) Provides authority for Rio Arriba County to enact a Special County Education Gross Receipts Tax of three-fourths of one percent on all businesses within the county to pay for revenue bonds issued for capital improvements, school grounds improvement and educational technology equipment.
SB106	<i>Martinez, Richard (D5)</i>
	AUTHORIZES AOC TO RECEIVE PUBLIC OR PRIVATE FUNDS
	(Endorsed by the Courts, Corrections and Justice Committee) Authorizes the Director of the Administrative Office of the Courts to apply for and receive any public or private funds (including U.S. government monies) available to carry out AOC programs, duties and services.
SB107	<i>Martinez, Richard (D5)</i>
	MAGISTRATE COURT CIVIL JUDGMENTS LANGUAGE CHANGE
	(Endorsed by the Courts, Corrections and Justice Committee) Removes unnecessary language from the law relating to limitations on civil actions. Present law is written in such a way as to apply to a court of record and a "court not of record" (magistrate court). In actuality the law applies equally to all courts in which civil actions may be brought (district court, metropolitan court and magistrate court.) Thus the reference to a "court not of record" has been stricken from the statute that provides for limitations on actions based on certain private written instruments.
SB112	<i>Cisneros (D6); Gonzales (D42)</i>
	EXPANDS DEFINITION OF "AGRICULTURAL USE" FOR PROPERTY VALUATION
	(Duplicates HB112) Expands the definition of "agricultural use" for property valuation purposes and prohibits sole consideration of acreage in a determination of whether land is primarily used for agriculture. (2015:HB112)
SB114	<i>Griggs (R34)</i>
	LOCAL GOVERNMENT SPECIAL FUEL TAX
	(For the Transportation Infrastructure Revenue Committee) Amends and re-names the County and Municipal Gasoline and Special Fuel Tax Act to allow municipalities and counties to impose by ordinance a tax of one or two cents per gallon sold at retail within the jurisdiction.
SB115	<i>Neville (R2)</i>
	REORGANIZATION OF THE CITIZEN SUBSTITUTE CARE REVIEW ACT STRUCTURES
	The SPAC substitute retains the original intent of SB115 to reorganize the implementation of the Citizen Substitute Care Review Act (CSCRA) in order to provide for independent and objective monitoring of children placed in the custody of CYFD.

SB125	<i>Woods (R7); Roch (R67)</i>
	CHANGE COUNTY ROAD SPEED LIMITS
	Amends the Motor Vehicle Code to limit the maximum speed on a county road, without a posted speed limit, to 55 miles per hour.
SB128	<i>Stewart (D17); Smith (R22)</i>
	CAPITAL ALLOCATIONS FOR SCHOOL DISTRICT BUILDING SYSTEMS
	(For the Public School Capital Outlay Oversight Task Force and the Legislative Education Study Committee) (Similar to 2014 HB68) Provides that up to \$15 million of the Public School Capital Outlay Fund may be spent annually in FYs 2016 through 2020 by the Public School Capital Outlay Council for school building system repairs, renovation or replacement projects, provided that allocations shall be expended within three years of the allocation.
SB129	<i>Stewart (D17)</i>
	LIENS ON CONTRACTOR-OWNED SCHOOL BUSES
	(For the Legislative Education Study Committee) Requires that a school district file a lien on every contractor-owned school bus under contract to the district, not only on those where the bus contractor still owes money. The lien shall have priority second only to one securing a purchase-money obligation.
SB130	<i>Stewart (D17)</i>
	PUBLIC SCHOOL LEASE PURCHASE ACT CLARIFICATIONS, CLEAN-UPS AND CHANGES
	(For the Legislative Education Study Committee) Changes definitions and modifies existing language to clarify the relationship between charter schools and local school boards with respect to the acquisition of public school facilities through lease purchase and use of resources to make lease purchase payments.
SB144	<i>Padilla (D14)</i>
	MILITARY AIRBORNE HAZARDS AND BURN PIT REGISTRY ACT
	Cited as the Military Airborne Hazards and Open Burn Pit Registry Act, its purpose is to provide outreach, education and advocacy for New Mexico service members and veterans who have been exposed to open burn pit smoke or other airborne hazards during their service in Operation Iraqi Freedom, Operation Enduring Freedom, Operation New Dawn, the Gulf War 1990-1991, or other conflicts or theaters that may later be identified.
SB146	<i>Cisneros (D6); Gonzales (D42)</i>
	MINING ACT NOTIFICATION REQUIREMENTS
	Amends the Mining Safety Act to provide two distinct definitions for what constitutes an "accident" in (1) a surface mine and what constitutes an accident in (2) an underground mine or the surface areas of an underground mine. The definitions differ in five areas and thereby change the types of accidents that would come within the purview of the state mine inspector for purposes of responding to and investigating a fatal or serious accident. Current law in New Mexico uses the definition provided in federal regulations, 30 C.F.R. 50.2, for both types of mining. The majority of those provisions have been retained, except those specified below.
SB148	<i>Stewart (D17)</i>
	CHARTER SCHOOL DEFINITIONS AND RESPONSIBILITIES
	(For the Legislative Education Study Committee) (Conflicts with 2015 HB74) Defines certain terms related to charter schools; puts governing bodies of charter schools on an equal footing with local school boards for purposes of bullying and cyberbullying prevention, prioritization of resources when schools are rated D or F, and participation in programs funded under the Fine Arts Education Act and Bilingual-Multicultural Education Act; clarifies the responsibilities of the Public Education Commission and the Public Education Department regarding approval of charter school budgets; and modifies requirements for contracts between chartering authorities and charter schools, and the performance frameworks in those contracts.

SB158	<i>Munoz (D4)</i>
	PUBLIC WORKS CONTRACTS BOND CLAIMS
	SCORC substitute for SB158 continues the intent of the bill to clarify evidentiary standards for claims made by the state against an out-of-state contractor's payment bond for taxes due for furnishing labor and materials under a public works contract.
SB174	<i>Wirth (D25)</i>
	ADMINISTRATIVE AND QUALIFYING CHANGES FOR STATE INVESTMENTS
	Proposes a series of administrative changes applicable to the State Investment Council, State Investment Officer, and State Investment Office. Eliminates the Private Equity Investment Advisory Committee.
SB189	<i>Beffort (R19)</i>
	GOOD SAMARITAN LIABILITY IMMUNITY FOR AIDING PERSON IN NEED OF DEFIBRILLATION
	Changes the standard for immunity from civil liability under the Cardiac Response Act for persons who render emergency care or treatment by the use of an automated external defibrillator.
SB200	<i>Sanchez, C. (D30); Smith (R22)</i>
	SPEECH AND HEARING PROFESSIONS LICENSING
	(Related to 2015 HM3 and HM4; 2014 HJM1, HJM2, SJM1 and SJM2;) Clarifies the definition and use of certain terms in the Speech and Hearing Professions Licensing Act; provides for a bilingual-multicultural license endorsement.
SB208	<i>Payne (R20)</i>
	EXTENDS COVERAGE OF FRAUD AGAINST TAXPAYERS ACT
	Expands the definition of "state" in the Fraud against Taxpayers Act to include public schools, local governments and other recipients of state funds. This would allow the Attorney General to file a civil action or any private person to bring a qui tam action against any person who presented what is alleged to be a false or fraudulent claim for payment to a public school, local government or other recipient of state funds.
SB220	<i>Pirtle (R32)</i>
	ESTABLISHED HEALTH CARE PROVIDER CREDENTIALING REQUIREMENTS
	SJC substitute for SB220 maintains the intent of the original measure, but does so in a clearer, if less concise, fashion. Proposes new and amended sections of the Insurance Code, the Health Maintenance Organization Law and the Nonprofit Health Care Law to establish provider credentialing requirements and define "credentialing."
SB226	<i>Martinez, Richard (D5)</i>
	USE OF PUBLIC WATER; LANDOWNER LIABILITY PROTECTION; INJUNCTIVE RELIEF AGAINST TRESPASSERS
	SJC substitute for SB226 (also previously substituted by SCONC) narrows the scope of the original bill down to a single section of law that provides landowners with legal protections from intrusions onto their land by unauthorized persons seeking to gain access to public waterways. While this version of the bill maintains the overall intent of the original, it is considerably narrower in scope.
SB227	<i>Martinez, Richard (D5)</i>
	MUTUAL DOMESTICS ELIGIBLE FOR WASTEWATER FACILITY CONSTRUCTION LOAN
	Provides that a mutual domestic water consumers association, as defined in the Sanitary Projects Act, is included within the definition of local authority in the Waste Water Facility Construction Loan Act, thus making such associations eligible for financial assistance under the act.

SB231	<i>Shendo (D22)</i>
	OUTDOOR RECREATION AND WILDLIFE VOLUNTEER RULES
	Requires the State Game Commission to adopt rules regarding recruitment, training and acceptance of services of volunteers for education and outreach activities, hunter and angler services, and wildlife conservation services administered by the Department of Game and Fish; and provides that a volunteer shall comply with all department policies and procedures and shall not be deemed a state employee.
SB233	<i>Woods (R7); Trujillo, C. (D46)</i>
	LIMITS TEMPORARY DISABILITY BENEFITS
	Proposes to amend the Workers' Compensation Act and the New Mexico Occupational Disease Disablement Law to limit temporary disability benefits.
SB238	<i>Beffort (R19)</i>
	ALLOWS SMALL BEER AND WINE BREWERS TO HOLD WHOLESALER'S LICENSE
	Allows a small beer or wine brewer to hold an interest in a legal entity that holds a restaurant or a dispenser's license, and a wholesaler's license issued under the Liquor Control Act.
SB248	<i>Sanchez, M. (D29)</i>
	PROPERTY OWNED BY DISABLED VETERANS EXEMPT FROM SPECIAL BENEFIT ASSESSMENTS
	(Identical to 2014 SB312; related to 2014 HB347 and to 2015 SB218) Exempts the property of a disabled veteran, including the joint or community property of the veteran and the veteran's spouse, from special benefit assessments if the property is occupied by the veteran as the veteran's principal place of residence. (2015:SB218)
SB249	<i>Ingle (R27)</i>
	RENEWABLE ENERGY CERTIFICATES FOR THERMAL ENERGY
	(Related to 2013 SB204) Provides additional standards for renewable energy certificates to be issued for the generation and use of thermal energy; also defines "useful thermal energy" as used in the Rural Electric Cooperative Act.
SB255	<i>Sanchez, C. (D30)</i>
	AUTHORIZES VALENCIA COUNTY INSTRUCTIONAL CENTER
	Authorizes the UNM Board of Regents to create an off-campus instructional center in Valencia County.
SB257	<i>Ivey-Soto (D15); Hall, J. C. (R28)</i>
	ALLOWS SEPARATE AUDITS FOR GOVERNMENT COMPONENT UNITS
	Proposes to amend the Audit Act to authorize the component unit of a primary government entity (as determined in accordance with generally accepted accounting principles) to choose to be audited separately from the audit of the primary government entity. If the component unit chooses to have a separate audit conducted, the component unit audit shall be included in the primary government entity's audit but need not be conducted by the same auditor. Applies to FY 2016 and all subsequent fiscal years.
SB270	<i>Smith (D35)</i>
	TOBACCO SETTLEMENT PERMANENT FUND DISTRIBUTION
	(For the Legislative Finance Committee) Provides that, for FY 2016, the 50 percent of the annual distribution from the Tobacco Settlement Permanent Fund not already directed by the enabling act to the Tobacco Settlement Program Fund should likewise be appropriated, as it was in FY 2009 through 2013, to the Tobacco Settlement Program Fund, the purposes of which are stated in law. Does not make an appropriation.
SB271	<i>Munoz (D4)</i>
	EXCLUDES OUT-OF-STATE ACTIVITIES FROM GOVERNMENTAL GROSS RECEIPTS TAX
	The base of the governmental gross receipts tax is trimmed to exclude performance of, or admissions to, recreational, athletic or entertainment services or events taking place outside New Mexico.

SB275	<i>Candelaria (D26)</i>
	BODY ART PRACTICE, PRACTITIONER'S FUND AND APPROPRIATION
	Separates supervision of the Body Art Safe Practices Act from the Board of Barbers and Cosmetologists and vests that authority in a newly created Board of Body Art Practitioners. Requires that an owner of a body art establishment obtain a body art operator license. Provides for the restoration of an expired license.
SB276	<i>Pirtle (R32); Wooley (R66)</i>
	STATE ENGINEER HEARING VENUE
	Requires that hearings held before the State Engineer or the Engineer's appointed examiner must be held in the county in which the water right at issue is adjudicated, licensed or permitted, unless the parties and the State Engineer stipulate to another site for the hearing.
SB279	<i>Wirth (D25); Trujillo, C. (D46)</i>
	SUSTAINABLE BUILDING TAX CREDIT CHANGES
	Senate Finance Committee substitute for SCONC-amended SB 279 drops all changes to the existing sustainable building tax credit. The new sustainable building tax credit kicks in on January 1, 2017, as in the original bill. For the new sustainable building tax credit, cuts the aggregate tax credit amounts claimable in any year, however, by one-half, to \$1, 250,000 for sustainable commercial buildings, \$3,375,000 for sustainable residential buildings that are not manufactured housing and \$375,000 for manufactured housing. Updates citation of Build Green New Mexico certification standards from the January 2013 standards to its November 2014 standards.
SB291	<i>Cisneros (D6)</i>
	REALLOCATES THREE SEVERANCE TAX BOND PROJECTS
	Reallocates three appropriations.
SB299	<i>Morales (D28)</i>
	ADVANCED PRACTICE RNS, CERTIFIED NURSE-MIDWIVES, PHYSICIAN ASSISTANTS
	(An expanded version of 2013 HB414) Updates sections of existing statutes to authorize advanced practice registered nurses, certified nurse-midwives and physician assistants to approve certain certificates and perform other duties now required of physicians. State and local government agencies must conform rules to the expanded scope of the health care practitioners' practice.
SB300	<i>Candelaria (D26); Maestas (D16)</i>
	ALCOHOLIC BEVERAGE SALES AT MUNICIPAL GOLF COURSES, STATE MUSEUM
	(Duplicate of HB198) Strikes the governmental liquor license limitation allowing only beer and wine to be sold and served at municipal golf courses. The bill will now allow the sale of spirituous liquors by the drink. (2015:HB198)
SB302	<i>Munoz (D4)</i>
	CHANGE TO DEDUCTION FOR ADMINISTRATIVE AND ACCOUNTING SERVICES
	To qualify for the gross receipts deduction for receipts from providing administrative, managerial, accounting and customer service to an affiliate, the taxpayer has to be under control of another entity. Currently "control" is defined as equity ownership in the entity that meets two tests. It must represent at least 50% of the total voting power and have a value equal to at least 50% of the total equity of the entity. Under the bill "control" occurs if either test is met.
SB311	<i>Torraco (R18)</i>
	AMENDS SELF-SERVICE STORAGE LIEN ACT
	Proposes to amend the Self-Service Storage Lien Act to provide for electronic notifications and advertisement of sales; provide for the sale of abandoned personal property; and provide for the assessment of late fees.

SB318	<i>Cisneros (D6)</i>
	EXTENSION OF SUNSET DATES FOR OCCUPATION AND MILITARY BOARDS
	(For the Legislative Finance Committee) Delays the sunset termination dates for several military and occupation boards and extends the term of their existence to the following dates:
SB319	<i>Leavell (R41)</i>
	INDUSTRIAL REVENUE BONDS TO PAY FOR FRACKING, MINING, HOUSING PROJECTS
	Expands the definition of “project” within the County Industrial Revenue Bond Act to include the extraction phase of mining or energy development, thereby creating the possibility for energy companies to seek public financing for hydraulic fracturing projects.
SB323	<i>Moore (R21)</i>
	SAFE DISCLOSURE OF HEALTH INFORMATION
	Proposes to amend sections of the Health Information System Act to provide for the safe disclosure of information related to specifically identifiable data sources; proposes a new section of the act to establish a Health Information System Advisory Committee.
SB334	<i>Griego (D39)</i>
	12TH DISTRICT COURT JUDGE RESIDENCE
	Provides that at least one judge of the 12th District Court shall reside in Lincoln County and maintain the judge’s principal office there.
SB341	<i>Campos, P. (D8)</i>
	NURSE EDUCATORS FUND FOR ALL NURSING DEGREES
	(Similar to 2013 HB204) Would remove the limitation on use of the Nurse Educators Fund solely to supporting college- and university-employed nursing educators who are pursuing higher degrees, and broadens the fund’s purpose also to allow support for registered nurses seeking employment as nursing educators in public postsecondary education institutions.
SB356	<i>Candelaria (D26)</i>
	ADMINISTRATIVE HEARING OFFICE ACT
	Places the tax and motor vehicle hearing officers of the Taxation and Revenue Department into a new agency, the Administrative Hearing Office which is attached to the Department of Finance and Administration.
SB357	<i>Ivey-Soto (D15); Espinoza (R59)</i>
	HIGH SCHOOL EQUIVALENCY CREDENTIAL
	(Similar to 2013 SB183) This 60-page bill simply substitutes the generic term “high school equivalency credential” for several other terms with the same meaning used inconsistently throughout state statute. By making this change, removes some language that is subject to copyright.
SB358	<i>Torraco (R18)</i>
	CORRECTIONAL HALFWAY HOUSES AND TRANSITIONAL RESIDENTIAL FACILITIES
	(For the Courts, Corrections and Justice Committee and the Criminal Justice Reform Subcommittee) Directs the Corrections Department to divide the state into at least four probation and parole regions and to operate or contract with a third party to operate in each region at least two halfway houses or transitional residential facilities, one each for men and for women.
SB367	<i>Sanchez, M. (D29)</i>
	INCREASES OPTOMETRISTS’ PRESCRIBING POWERS
	Provides greater prescribing powers to optometrists and clarifies the powers of the Optometry Board.

SB369	<i>Burt (R33)</i>
	MILITARY BASE PLANNING OFFICE CHANGES
	Eliminates the July 1, 2016 sunset of the Office of Military Base Planning and Support and of the Military Base Planning Commission, leaving the office and the commission with no termination date. Reorganizes the entities to make the governor, rather than the homeland security advisor, the appointment authority for the director of the office and reducing membership on the Military Base Planning Commission from 17 to 11.
SB379	<i>Sapien (D9); Larranaga (R27)</i>
	CHILD CARE ASSISTANCE ACCOUNTABILITY ACT
	(For the Legislative Finance Committee) Proposes the Child Care Assistance Accountability Act; requires CYFD to establish the Child Care Assistance Accountability Program.
SB381	<i>Candelaria (D26)</i>
	CARLOS VIGIL MEMORIAL ACT
	(Very similar to 2014 SB293) Would create a new short-titled act, the Carlos Vigil Memorial Act, with the stated purpose to cultivate a culture where bullying is not accepted; educate the New Mexico community about bullying behaviors and the potential consequences of bullying; and provide grants for the prevention, resolution and eradication of bullying in schools. Creates the Carlos Vigil Memorial Board, including one member from the Department of Health staff, to review grant applications and to award grant applications and to award grants from the Eradicate Bullying Fund.
SB386	<i>Ingle (R27)</i>
	MINI TAX RELIEF PACKAGE
	HWMC amendments to SB386, converts bill into a mini tax relief package re Angel Investment Credits; tech jobs, research and development tax credit; single sales factor for corporate income; Dept. of Defense energy gross receipts; estate-trust tax deduction; border zone gross receipts; TRD info to other states; tax filing due dates; and medical expense tax deduction. Signing of the tribal gambling compacts is estimated to yield about \$10 million in additional FY2016 revenue. Under an informal agreement, the House and the Senate each have \$5 million in additional spending authority. The House has opted to tack on the substance of nine other proposals as an amendment to SB386. The first seven spend revenue; the other two have a zero fiscal impact. The entire package is contingent upon the signing of the compacts.
SB389	<i>Leavell (R41)</i>
	FILING RULES UNDER OIL AND GAS ACT
	No rule may be adopted under the Oil and Gas Act until after a hearing by the Oil and Gas Commission. Any rule adopted shall be filed and published in accordance with the State Rules Act. Any person affected by the rule may appeal to the Court of Appeals within 30 days after filing. The Court may set the rule aside only if it is found to be (1) arbitrary, capricious or an abuse of discretion; (2) not supported by substantial evidence in the record; or (3) otherwise not in accordance with law.
SB391	<i>Stewart (D17)</i>
	EXTENDS SOLAR MARKET DEVELOPMENT TAX CREDIT
	Extends the sunset date of the solar market development personal income tax credit from December 31, 2016 to December 31, 2020.
SB398	<i>Campos, P. (D8)</i>
	COUNTY DISCRETION TO PROHIBIT LIVESTOCK RUNNING AT LARGE
	Changes from mandatory to discretionary the authority of a board of county commissioners to prohibit the running at large of livestock within the limits of a platted townsite and addition, a conservancy, an irrigation district or a military reservation or enclave.

SB412	<i>Leavell (R41)</i>
	AMENDS THE ESCROW COMPANY ACT
	(Related to 2013 HB254 and SB282) Proposes to amend the Escrow Company Act to change the requirement for bonds; require audit reports, account statements and reports of condition; and provide for an exception to the Inspection of Public Records Act.
SB433	<i>Ryan (R10)</i>
	E-CIGARETTE REGULATION
	SPAC substitute for SB433 expands the scope of the bill to include regulation of nicotine liquid containers in addition to e-cigarettes. Expands and renames the existing Tobacco Products Act to include e-cigarettes and nicotine liquid containers within the renamed Tobacco Products, E-Cigarette and Nicotine Liquid Container Act. Prohibits the sale of e-cigarettes and nicotine liquid containers to minors in person or via the internet; requires nicotine liquid containers to be sold in child resistant packaging; provides for penalties. (2015:HB42; 2015:SB360)
SB438	<i>Griego (D39)</i>
	CORPORATE APPLICATION AND FILING REQUIREMENTS
	Changes certain filing fees required of corporations with the Secretary of State; provides for a flat fee for copying documents and authorizes charging fees for payment to the secretary by credit or debit card; and suspends the privilege of filing for any entity that is liable for payments to the secretary. Appropriates to the secretary fees charged for handling credit and debit card payments.
SB440	<i>Martinez, Richard (D5)</i>
	LIQUOR CONTROL ACT: SMALL BREWERS AND WINEGROWERS RECIPROCITY
	Provides reciprocity between winegrowers and small brewers licensed under the Liquor Control Act, meaning that each can buy products from the other and sell and serve them in the same manner as is already provided by law.
SB442	<i>Leavell (R41)</i>
	BLANKET FINANCIAL ASSURANCE FOR TEMPORARILY ABANDONED OIL AND GAS WELLS
	(Related to 2015 HM16, SB335, SB389, SB421 and SM29; 2014 HB373 and HM76) Provides discretion to the Oil Conservation Division to allow an operator of an oil or gas well held in temporarily abandoned status for more than two years to choose to cover those wells by increasing its blanket plugging financial assurance or to require one-well financial assurance on each abandoned well. An operator granted and electing blanket plugging financial assurance shall increase that assurance as follows: (2015:HM16; 2015:SB335; 2015:SB389; 2015:SM29; 2015:HB383)
SB446	<i>Sapien (D9)</i>
	INTERSTATE DISTANCE EDUCATION ACT
	Creates a new short-titled act, the Interstate Distance Education Act, requiring the Higher Education Department to establish a program to facilitate receipt of distance education by students in New Mexico, and provision of distance education by participating state post-secondary institutions to students in other states. Requires HED to enter into interstate agreements and create an application process for in-state institutions to participate in the program. Provides for complaint resolution and sanctions. Exempts from the Out-of-State Proprietary School Act courses offered under a participation agreement pursuant to the act.
SB448	<i>Burt (R33)</i>
	MAKES MILITARY ACQUISITION PROGRAMS DEDUCTION PERMANENT
	(Duplicate of HB520) Deletes the sunset date of June 30, 2016 from the gross receipts deduction for receipts from transformational acquisition programs performing research and development, test and evaluation services at White Sands Missile Range.

SB450	<i>Burt (R33)</i>
	STANDARDIZES MUSEUM AND MONUMENT BOARD AND DIRECTOR DUTIES
	Relates to cultural affairs; standardizes museum and monument board and director duties and provides other cleanup of statutes.
SB453	<i>Pirtle (R32)</i>
	INCREASES PAYMENTS FOR AGENCY-RELATED DISPLACEMENT
	Amends the Relocation Assistance Act to increase amounts authorized for payment to a person or business displaced by an agency program or project.
SB459	<i>Leavell (R41)</i>
	INCREASING CONTRACT EXTENSION TERMS FOR JAIL CONTRACTORS
	Increases from one or two years to three years the length of permissible extensions of contracts with a private independent contractor for the operation of a jail or for the incarceration of prisoners.
SB471	<i>Sapient (D9); Smith (R22)</i>
	LIQUOR CONTROL ACT: ALTERNATING SMALL BREWER PROPRIETORSHIP
	Provides for alternating proprietorships of the manufacturing facilities and equipment of a small brewer's licensee so that another person who holds a small brewer's license may use them to produce beer.
SB474	<i>Ortiz y Pino (D12)</i>
	SAFE DISCLOSURE OF HEALTH INFORMATION
	(Virtually identical to SB323) Proposes to amend sections of the Health Information System Act to provide for the safe disclosure of information related to specifically identifiable data sources; proposes a new section of the act to establish a Health Information System Advisory Committee. (2015:SB323)
SB480	<i>Rue (R23)</i>
	REQUIRES STATE PURCHASING AGENT TO DEVELOP CLASSIFICATION CODES
	Requires the State Purchasing Agent to develop a standardized classification code for each expenditure by a state agency or local public body.
SB482	<i>Rue (R23)</i>
	RELATES TO PROCUREMENT: GSD DESIGNEE MAY SERVE ON ARCHITECTURAL COMMITTEE
	Current statute requires the Director of the Facilities Management Division of GSD to serve on the Architect, Engineer, Landscape Architect and Surveyor Selection Committee. This bill allows the director to provide a nominee instead.
SB489	<i>Papen (D38)</i>
	HORSE RACE DRUG TESTING
	Requires the State Racing Commission to adopt rules regarding the handling of pre- and post-race, out-of-competition and necropsy testing of plasma, urine and other samples. Such rules shall follow the guidelines established by the Association of Racing Commissioners, International or by another nationally recognized organization. (2015:HB379)
SB503	<i>Ortiz y Pino (D12); Smith (R22)</i>
	BEER AND WINE DELIVERY LICENSES
	Authorizes local option districts to approve beer and wine delivery licenses, for the sale of wine and beer along with the sale and delivery of prepared foods, by holding an election on the question. The license confers the ability to sell up to 144 ounces (two six-packs) of beer and up to 1.5 liters (two bottles) of wine. The annual fee for the license is \$1,300.

SB506	<i>Payne (R20)</i>
	DISABLED VETERAN'S PROPERTY TAX EXEMPTION OPTIONS
	When the principal place of residence of a disabled veteran (or that veteran's surviving spouse) granted a 100% exemption for that property under Section 7-37-5.1 is transferred during a tax year, the veteran or surviving spouse may either (1) maintain the exemption on the transferred residence or (2) move the exemption to the new principle place of residence regardless of the statutory deadlines for applying and claiming the exemption.
SB507	<i>Torraco (R18)</i>
	CLARIFYING THE STATUS OF THE TAX FRAUD INVESTIGATIONS DIVISION
	Reconciles conflicting amendments to Section 9-11-4 to explicitly include the Tax Fraud Investigations Division as a division of the Taxation and Revenue Department.
SB510	<i>O'Neill (D13)</i>
	EXPANDING CRIME VICTIMS REPARATIONS
	(Related to 2015 HB167, HB 245 and SB46) Changes the enumeration of crimes to which the Crime Victims Reparation Act applies to delete aggravated arson, qualify the dangerous use of explosives to require bodily harm as a result, delete the limitation of stalking to aggravated stalking and add assault against a household member and battery against a household member. (2015:HB167; 2015:HB245; 2015:SB46)
SB519	<i>Rodriguez (D24)</i>
	FIREFIGHTERS' FIRE FUND
	Raises the required balance in the Firefighters' Survivors Fund from \$50,000 to \$250,000. Requires that, upon certification by the Fire Marshall that the balance of the Firefighters' Survivors Fund is less than \$250,000, the State Treasurer must distribute the amount needed to bring the balance to \$250,000.
SB537	<i>Rue (R23); Garcia Richard (D43)</i>
	STATE CONTRACT INFORMATION ON SUNSHINE PORTAL
	Requires specific elements of contracts entered into by a state agency regarding the sale, lease or development of state land, to be posted on the Sunshine Portal. Applies to contracts with a total price of more than \$20,000.
SB552	<i>Cervantes (D31)</i>
	APPROPRIATION: DRINKING WATER SYSTEM FINANCING
	Appropriates \$1,800,000 (nonreverting) from the Public Project Revolving Fund to the Drinking Water State Revolving Fund for expenditure in FY 2016 and subsequent fiscal years to provide state matching funds for federal Safe Drinking Water Act projects and to carry out the purposes of the Drinking Water State Revolving Fund Act.
SB565	<i>Payne (R20)</i>
	REVISES FILM PRODUCTION TAX CREDIT ACT
	SCORC substitute for SB565 apparently means to bifurcate the film production tax credit into two segments: one for films that begin principal photography prior to January 1, 2016 and those that begin on or after January 1, 2016. No language, such as effective date or applicability sections or time references within the text of the bill, actually makes this segregation but, to make sense of it, the bill has to be read as if it did.
SB571	<i>Shendo (D22)</i>
	PHYSICAL THERAPY ACT CHANGES
	Provides that a physical therapist is a licensed health care provider conducting the practice of physical therapy and is fully responsible for managing all aspects of the physical therapy care of each patient served.

SB622	<i>Burt (R33)</i>
	MULTIPLE-TRIP PERMITS FOR CERTAIN LARGE SPECIALIZED VEHICLES
	Allows a special multiple-trip permit to be issued for a single vehicle with a load in excess of that allowed under Sec. 66-7-410 that governs gross weight of vehicles and loads.
SB643	<i>Torraco (R18)</i>
	OMNIBUS ELECTION CODE REVISION
	Senate Floor Amendment 1 (Senator Torraco) to SJC substitute for SB643 is a daunting piece of legislation, comprised of 115-single-spaced pages of amendments containing 103 sections of law. The measure combines almost all provisions from four bills, HB62, SB195, SB617 and SB643, to form an omnibus Election Code.
SB669	<i>Ingle (R27)</i>
	REVISING PROCEDURE FOR ADJUSTING DISTRIBUTIONS TO LOCAL GOVERNMENTS
	Significantly revises procedures whereby distributions of certain tax revenues in prior periods to municipalities and counties are corrected when the correction results in the local government being required to return previously distributed funds.
SB723	<i>Ingle (R27)</i>
	CAPITAL PROJECT ADMINISTRATIVE COST INCREASE
	SFC substitute for dummy bill SB0723 changes the administrative fee that is included in the cost of a capital project from one percent of estimated construction cost to four percent of the appropriated amount of the project.
SJM4	<i>Rue (R23)</i>
	REQUESTS STUDY OF OPTIONS FOR MENTALLY ILL AWAITING TRIAL
	(For the Courts, Corrections and Justice Committee) Requests the New Mexico Association of Counties to convene stakeholders to study and make recommendations for clinically appropriate housing options for persons with serious mental illness who are in custody in county detention facilities. Asks that findings be reported to the appropriate interim legislative committees by December 1, 2015.
SJM5	<i>Papen (D38)</i>
	COLONIAS DAY AT THE LEGISLATURE
	(This measure has been introduced in each regular session for the past several years.) Declares February 19, 2015 as Colonias Day at the Legislature to call attention to quality of life issues that make life challenging in small unincorporated communities around the state called colonias.
SJM13	<i>Kernan (R42)</i>
	ROBOTICS EDUCATION AND COMPETITION WEEKEND
	Requests recognition, support and promotion of robotics education and competition in the state, and asks the Governor to proclaim the first weekend in May as "New Mexico Robotics Education and Competition Weekend." Copies of the memorial will be transmitted to the Governor, the secretary of Higher Education, the secretary of Tourism, the secretary of Economic Development, and the co-chairs of the New Mexico Legislative Council.
SJM14	<i>Papen (D38)</i>
	SOIL AND WATER CONSERVATION DISTRICT DAY
	Proclaims February 12, 2015 as "Soil and Water Conservation District Day," at the Legislature. Recognizes the men and women who serve to protect the fragile environment that is crucial to the well-being of the state. A copy of the memorial will be transmitted to the New Mexico Association of Conservation Districts.

SJM16	<i>O'Neill (D13)</i>
	"TWO EAGLES DAY" IN THE LEGISLATURE
	In recognition of the successful balloon flight from Japan to Baja, Mexico from January 25 to January 31, 2015, which set a record for time in the air and distance travelled, resolves that February 3, 2015, be declared "Two Eagles Day" in the Legislature, and that balloon pilots Troy Bradley of Albuquerque and Leonid Tiukhtyaev of Moscow be recognized for their soaring, adventuresome spirits and record-shattering flight across the Pacific.
SJM17	<i>Woods (R7)</i>
	"4-H DAY" IN THE LEGISLATURE
	Resolves, in recognition of the contributions of 4-H to the state, that February 17, 2015 be declared "4-H Day" at the Legislature.
SJM22	<i>Ingle (R27)</i>
	NEW MEXICO LEGISLATURE'S 200,000TH "202" FILE
	Resolves that the Legislature be requested to pause and reflect on the Legislative Council Service filing system, which gives expression to a nation's finest creation, the Legislature, in which each member represents the constituents of the member's district while balancing the needs of all residents of the state.
SJM25	<i>Sanchez, M. (D29)</i>
	HONORING MIKE RUNNELS
	Recognizes and remembers Mike Runnels for his outstanding service to the State of New Mexico.
SJR7	<i>Rodriguez (D24)</i>
	TRANSFER OF ELEVEN ACRES OF LAND IN SANTA FE
	Resolves to ratify the proposed transfer of certain real property located north of Siringo Road in Santa Fe, New Mexico to the New Mexico School for the Arts.
SJR19	<i>Sanchez, C. (D30)</i>
	TRIBAL-STATE GAMBLING COMPACT APPROVAL
	The Legislative Committee on Compacts submits to the Legislature, along with its recommendation for approval made on February 28, 2015, the proposed Class III gaming compacts between the state and the Navajo Nation, the Jicarilla Apache Nation, the Mescalero Apache Tribe, the Pueblo of Acoma and the Pueblo of Jemez that was submitted by the Governor to the committee on February 1, 2015.

COUNTY ECONOMIC TRACKER 2014

Progress through Adversity

Nicholas Lyell and Emilia Istrate

NACo TRENDS ANALYSIS PAPER SERIES • ISSUE 3 • JANUARY 2015 • www.naco.org

EXHIBIT

3

KEY FINDINGS

County economic trends are an essential measure of the well-being of county residents. The conditions of a county economy can constrain and challenge county governments, residents and businesses, while also providing opportunities. This analysis of county economic conditions identifies patterns of growth and recovery in 2014 across the 3,069 county economies by examining annual changes in jobs, unemployment rates, economic output (GDP) and median home prices. In addition, it explores 2013 wage dynamics, by adjusting average annual wage in county economies for the local cost-of-living and inflation. The overall analysis reveals that:

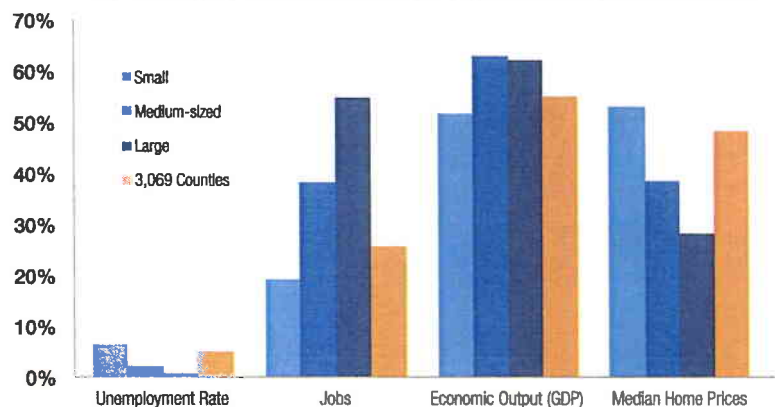
95%
OF COUNTY
ECONOMIES

HAVE NOT RECOVERED ON
UNEMPLOYMENT RATES
BY 2014

1

2014 was a year of recovery, but unemployment has yet to return to pre-recession lows in most county economies. Economic output (GDP) surpassed the peak recorded before the latest downturn in an additional 88 county economies relative to 2013. Housing prices recovered in just under half of county economies. Employment levels recovered in an additional 130 county economies in 2014. At the same time, nearly three quarters of county economies are still below their pre-recession employment levels and unemployment is not back to pre-recession rates in 95 percent of the 3,069 county economies. Nearly 80 percent of county economies in the Northeast and Midwest still have a jobs gap.

UNEMPLOYMENT HAS NOT RECOVERED IN 95 PERCENT OF COUNTY ECONOMIES TO PRE-RECESSION LEVELS



Percent of county economies recovered by indicator and population size

Notes: This report examines only the economies of counties with county governments. Large county economies are in counties with more than 500,000 residents. Medium-sized county economies are in counties that have between 50,000 and 500,000 residents. Small county economies are in counties with less than 50,000 residents.

Source: NACo Analysis of Moody's Analytics 2014 Data

TO ACCESS THE COMPANION INTERACTIVE
MAPS, INDIVIDUALIZED COUNTY PDF
PROFILES AND OTHERS, GO TO
WWW.NACO.ORG/COUNTYECONOMIES



NACo National Association of Counties

SEC CLERK RECORD 04/29/2015

COUNTY ECONOMIC TRACKER 2014

Progress through Adversity

2

Job growth accelerated in 2014, while economic output expansion and county housing markets stabilized across the country.

Almost half of county economies saw growth across all four indicators included in the 2014 analysis, an 11 percent increase over the previous year. Western county economies have seen the most improvement, with more than a half recording growth across the board. Sixty-three (63) percent of county economies witnessed faster job growth than in 2013, with 130 additional county economies closing their

63%
OF COUNTY
ECONOMIES

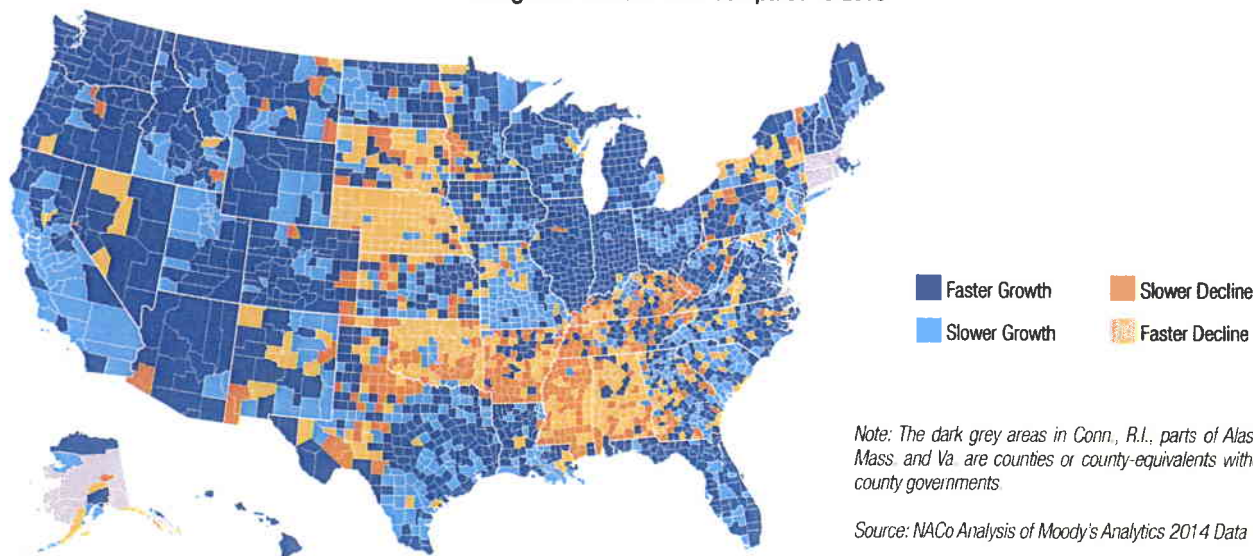
WITNESSED FASTER JOB
GROWTH THAN IN 2013

jobs gap in 2014. This trend was most pronounced in medium-sized county economies — in counties with populations between 50,000 and 500,000 in 2013 — with 65 percent of them recording faster jobs gains than in 2013. This job growth helped unemployment decline in almost all county economies during the last year. Economic output (GDP) expanded in more than half of county economies, though at lower rates in most of them. In 81 percent of county economies, the

housing prices continued to rise in 2014, but at a much slower rate than in the previous year.

JOB GROWTH IMPROVED IN ALMOST TWO-THIRDS OF COUNTY ECONOMIES

Job growth rates in 2014 compared to 2013



Note: The dark grey areas in Conn., R.I., parts of Alaska, Mass. and Va. are counties or county-equivalents without county governments.

Source: NACo Analysis of Moody's Analytics 2014 Data

3

Economic recovery is starting to spread, although only 65 county economies have fully recovered to pre-recession levels.

Seventy-two (72) percent of county economies recovered in at least one of the four indicators included in the 2014 analysis. For the first time, one large county economy (Kent County, Mich.) out of the 124 large county economies — in counties with more than 500,000 people — reached its pre-recession unemployment rate. However, none of the large county economies recovered on all four indicators examined in the 2014 analysis. Sixty-five (65) county economies recovered on all four indicators by 2014. The majority of the fully recovered county economies are small, in counties with less than 50,000 people. Most of them have booming energy and agriculture sectors (in states such as Alaska, Kansas, Montana, North Dakota or Texas).

65
COUNTY
ECONOMIES

FULLY RECOVERED ON ALL
INDICATORS BY 2014

County Explorer: Mapping County Data



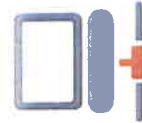
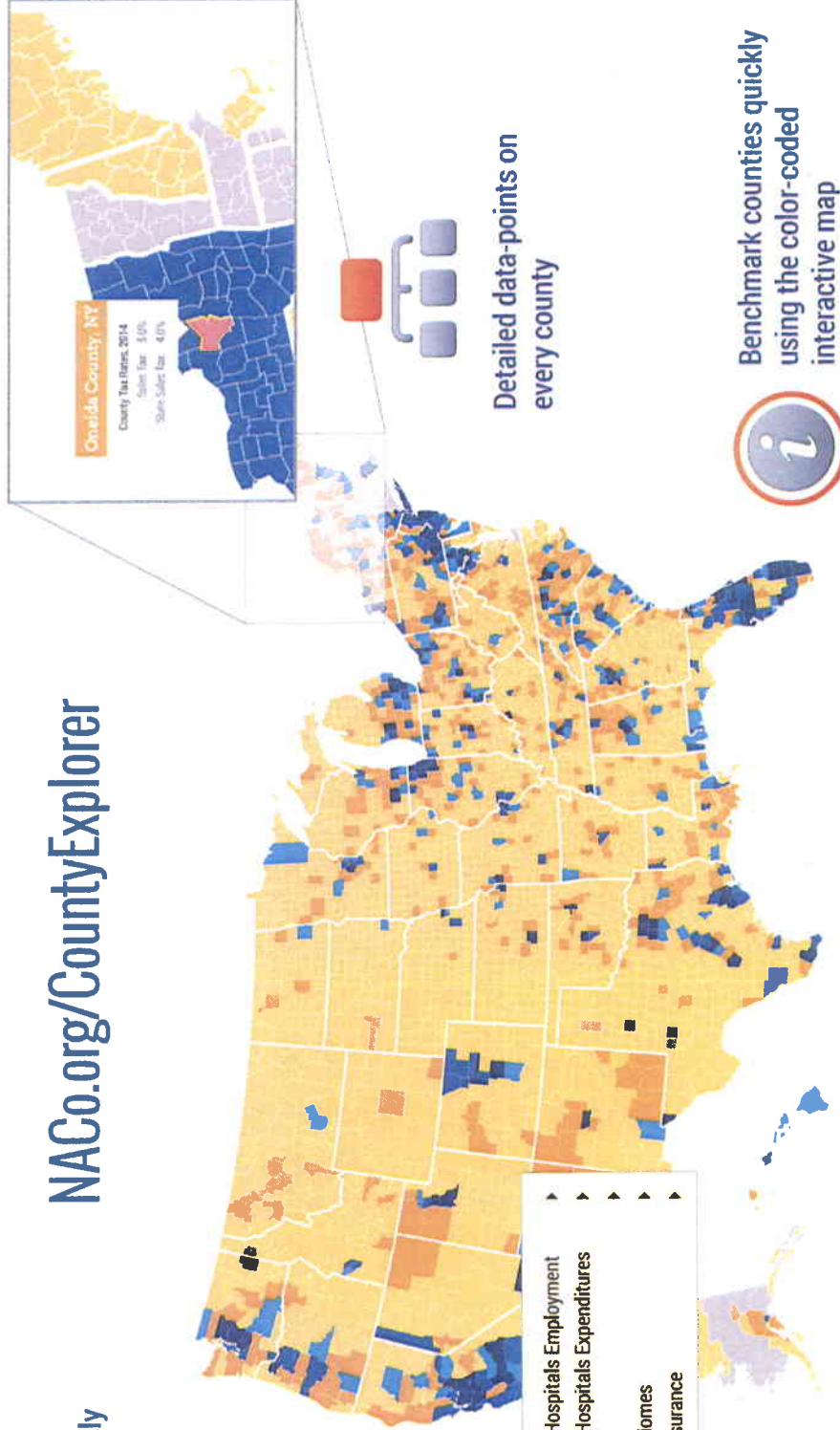
Compare: See multiple indicators simultaneously for any county

NACo.org/CountyExplorer

Primary Indicator ▼ Secondary Indicator ▼

- Administration
- County Employment
- County Finance
- County Structure
- Demographics
- Economy
- Education
- Federal Funding
- Geography
- Health & Hospitals
- Housing & Community Development
- Justice & Public Safety
- Public Amenities
- Public Welfare
- Transportation
- Utility
- Water, Sewerage & Solid Waste Management

- Health & Hospitals Employment
- Health & Hospitals Expenditures
- Hospitals
- Nursing Homes
- Health Insurance



Monthly data updates bring the latest data to your fingertips

2013 Population Level



2007 Administration Revenue



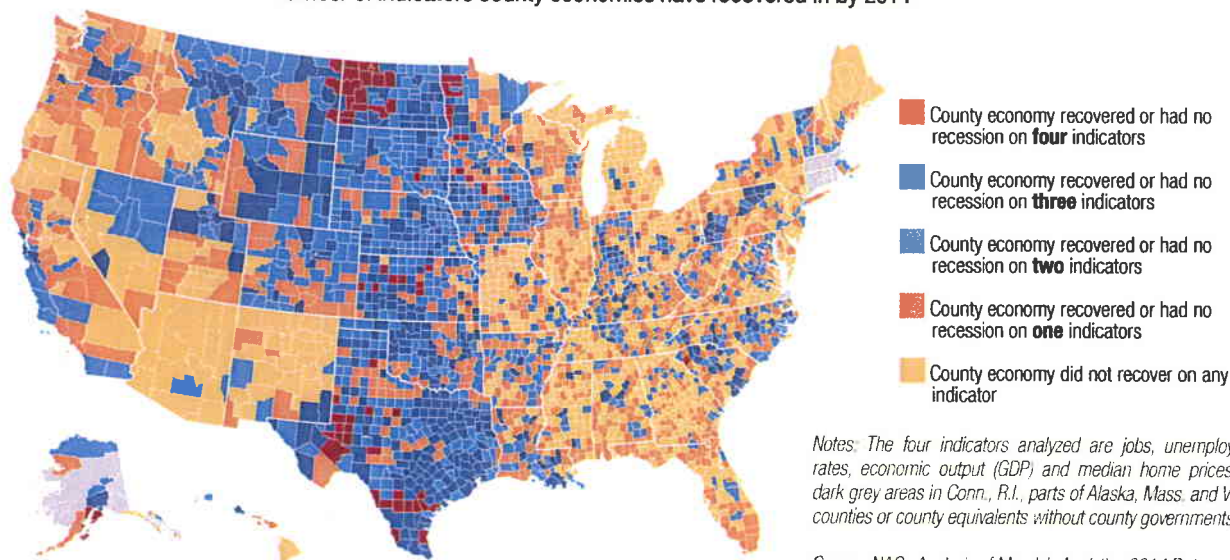
County Explorer Extraction Tool

Get full access to data for 19 categories and more than 500 indicators for 3,069 counties from 2000 to the latest year available. Available with paid annual subscription. Click "Access More Data" Button at the top-right hand corner of the interactive map to contact us for the price for an account.



65 COUNTY ECONOMIES RECOVERED ON ALL FOUR INDICATORS BY 2014

Number of indicators county economies have recovered in by 2014



Notes: The four indicators analyzed are jobs, unemployment rates, economic output (GDP) and median home prices. The dark grey areas in Conn., R.I., parts of Alaska, Mass. and Va. are counties or county equivalents without county governments.

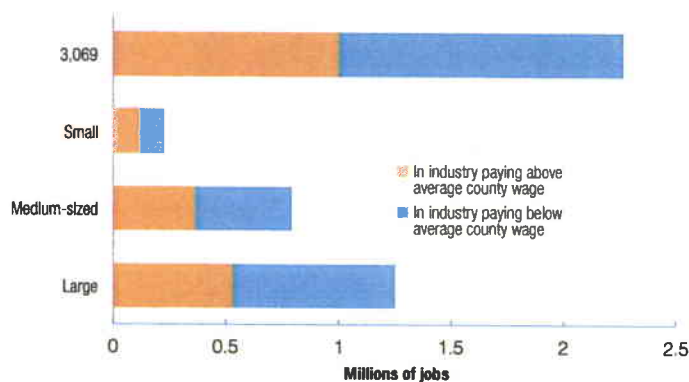
Source: NACo Analysis of Moody's Analytics 2014 Data

40%
OF NEW
JOBS

ARE IN INDUSTRIES PAYING
ABOVE THE AVERAGE
COUNTY WAGE

40 PERCENT OF NEW JOBS ARE IN INDUSTRIES EARNING ABOVE AVERAGE COUNTY WAGE

Total jobs created in 2014, by county population size and annual average county wage



Notes: This report examines only the economies of counties with county governments. Large county economies are in counties with more than 500,000 residents. Medium-sized county economies are in counties that have between 50,000 and 500,000 residents. Small county economies are in counties with less than 50,000 residents. This analysis considers job wages based on the industry wage in the county where the job resides relative to the average county wage. For this analysis, industry-level employment data is not entirely consistent with the employment totals reported in other parts of the analysis.

Source: NACo Analysis of Moody's Analytics 2014 Data; U.S. Bureau of Labor Statistics

4

2014 recorded higher net job creation than the previous year, with 40 percent of the new jobs in industries earning more than the average county wage. In 2014, the 3,069 county economies generated 2.0 million net new jobs, one and a half times as many as in 2013. The bulk of these new jobs were located in county economies in the Southern and Western part of the country. Small county economies created almost 150,000 of the net jobs in 2014, a turnaround from near-stagnant net jobs creation in 2013. Large county economies continued to generate a disproportionate share of the new jobs in 2014, 57 percent relative to their 49 percent share of total county employment. Only 38 percent of the net jobs created in the 124 large county economies were in industries paying above the 2013 average wage in their residing county. In the small county economies — with less than 50,000 people — 45 percent of the jobs created were in industries paying above the county average, most often in industries such as oil, gas and mining, manufacturing and construction.

COUNTY ECONOMIC TRACKER 2014

Progress through Adversity

Nicholas Lyell and Emilia Istrate

NACo TRENDS ANALYSIS PAPER SERIES • ISSUE 3 • JANUARY 2015 • www.naco.org

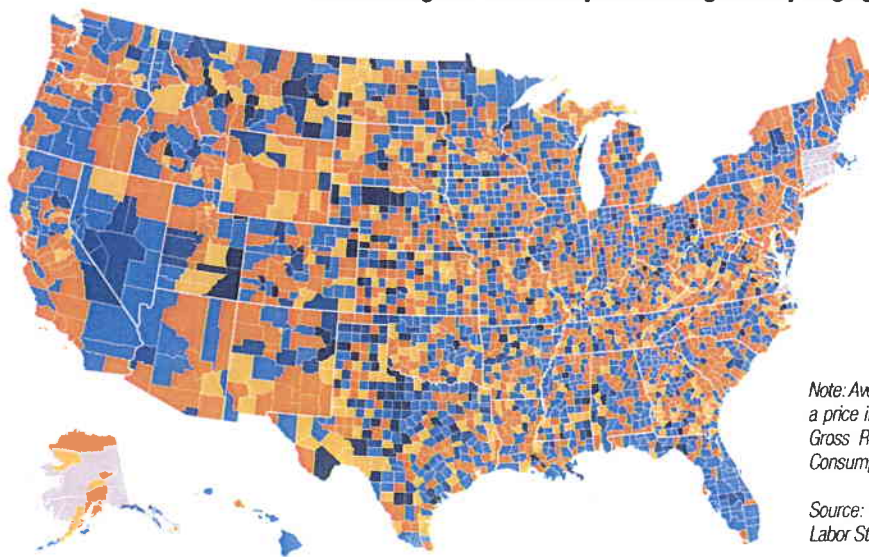
5 **Average annual wage in half of county economies declined between 2012 and 2013.** In nearly a third of county economies the low cost of living increases the purchasing power of the average county wage in the county by more than 10 percent. The bulk of county economies with these savings due to the low cost of living are small county economies in the Midwest and South. Gains in average county wage between 2012 and 2013 varied across county economies. Between 2012 and 2013, in states such as Pennsylvania, New Mexico and Maryland, only a third of county economies saw growth in their cost-of-living and inflation adjusted wages. Average county wage grew in 37 percent of large county economies — in counties with more than 500,000 people — especially in the Northeast. Small county economies, in counties with less than 50,000 people, fared better than the rest, with average county wage growing in 53 percent of them between 2012 and 2013.

50%
OF COUNTY
ECONOMIES

**HAD DECLINING ADJUSTED
WAGES IN 2013**

ADJUSTED WAGES DECLINED IN HALF OF COUNTY ECONOMIES IN 2013

Cost-of-living and inflation adjusted average county wage growth rate, 2012-2013



2013 Cost of Living
and Inflation Adjusted
Average County Wage
Growth Rate

- Less than -5%
- 5% - 0%
- .01% - 5%
- 5% - 10%
- Greater than 10%

Note: Average County Annual wage was adjusted for the cost of living with a price index based on the U.S. Census Bureau 2012 and 2013 Median Gross Rent. For inflation adjustment, this analysis used U.S. Personal Consumption Expenditures Price Index.

Source: NACo Analysis of Moody's Analytics 2014 Data; U.S. Bureau of Labor Statistics; U.S. Bureau of Economic Analysis; U.S. Census Bureau

The **County Economic Tracker** is a reminder that county economies are where Americans feel the national economy. Economic data reveals that all county economies faced challenges through the latest downturn, but growth accelerated across county economies in 2014. Most county economies still have not recovered in terms of unemployment, many already had 2013 declines in county wages and others are still below their pre-recession peaks when it comes to jobs, economic output (GDP)

or housing markets. The analysis also shows that economic growth is spreading, with jobs and unemployment rates improving across nearly all county economies. This progress through adversity indicates the success of county economic development efforts, but also the continued need for a strong local-state-federal partnership in securing a strong economy.

FOR MORE INFORMATION, CONTACT

Dr. Emilia Istrate
NACo Research Director
research@naco.org

Nicholas Lyell
Senior Research Associate
research@naco.org

PNM
528 Don Gaspar
Santa Fe, New Mexico 87501
(505) 438-6987 Office
(505) 428-9013 Mobile
PNM.com



March 18, 2015

Hon. Commissioner, Chair Robert Anaya
Santa Fe Commissioner, District 3
102 Grant Ave
Santa Fe, NM 87501-2061

DELIVERED TO STAFF AND HAND DELIVERED

Subject: SECOND UPDATE - PNM Santa Fe County Solar Energy Centers

Dear Commissioner, Chair Anaya:

In our continued effort to bring more solar energy to Santa Fe County, I am writing today to provide a second update on the efforts made to address Tesuque Pueblo's concerns with regard to our proposed Santa Fe County Solar Energy Center, the proposed 10 MW adjacent to the National Guard Armory south of Santa Fe. PNM is also proposing a 5 MW solar facility, the Caja del Rio Solar Center, near the airport.

We are providing this second update today in advance of the March 24 County Commission meeting because of the critical timelines involved with the project.

The proposed 10 MW facility is part of the 40 MW of solar that PNM is scheduled to build and bring online this year. This facility partially fulfills PNM's requirements under the New Mexico Renewable Portfolio Standard. This 40 MW solar project was approved by the New Mexico Public Regulation Commission (NMPRC) last year and must be complete and in service by the end the year. In order to meet this aggressive schedule, the project will need to be approved at the March 24 hearing. If the project is not approved during that hearing, PNM will be forced to move the 10 MW project to an alternative site in another county.

Because of the strict deadline, we want to be transparent about the steps taken to address the concerns of Tesuque Pueblo and our efforts to consult with Tesuque Pueblo. The leaders of Tesuque Pueblos have also been copied on this letter.

After a constructive meeting with the Tesuque Pueblo on February 17, we conducted a visit to both sites on March 3 with Tesuque Governor Milton Herrera and former Governor Mark Mitchell. PNM shared its standard discovery action plan to help the Pueblo leaders understand what actions will take place if any

S F C C L E R K R E C O R D 0 4 / 2 9 / 2 0 1 5

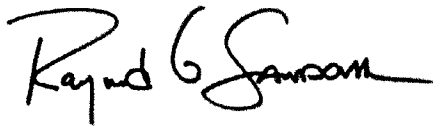
cultural remains are discovered during construction. We did this so that all parties would understand the actions that will be initiated to respectfully address the Pueblo's cultural traditions and religious beliefs. The Pueblo requested immediate consultation should any remains or artifacts be discovered which PNM committed to. PNM agreed to consult with Tesuque Pueblo should any human remains or artifacts be discovered during the construction process.

After the site visits, Tesuque had no further issue with either site and they have no opposition to both projects moving forward.

Finally, I also am writing today to share the NMPPRC-required legal notice that ran in the Santa Fe New Mexican on March 6, 2015. The language was carefully crafted to make sure to give deference to the County's decision making progress. The key language is as follows: "PNM has determined that the site described above is consistent with the criteria and has initiated activities to acquire the various permits required to pursue construction at that site pending the Santa Fe County Commission approval of the pending zone change and use." The full notice is attached for your convenience.

Thank you for taking the time to read this additional projects update. Please let us know if you have any questions or concerns or if we can provide additional information that will help you make a decision on the applications.

Sincerely,



Raymond G Sandoval
Santa Fe Community Relations
PNM Resources

Cc: Hon. Milton Herrera, Governor
Tesuque Pueblo

Hon. Charlie Dorame,
Government Affairs Director,
Tesuque Pueblo

Hon. Mark Mitchell
Former Governor
Tesuque Pueblo

Cc: Hon. Leroy Arquero, Governor
Cochiti Pueblo

Hon. Richard Pecos
Tribal Administrator,
Cochiti Pueblo

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF PUBLIC SERVICE)	
COMPANY OF NEW MEXICO'S)	
RENEWABLE ENERGY PORTFOLIO)	
PROCUREMENT PLAN FOR 2015 AND)	
PROPOSED 2015 RIDER RATE)	
UNDER RATE RIDER NO. 36)	Case No. 14-00158-UT
)	
PUBLIC SERVICE COMPANY OF NEW)	
MEXICO)	
Petitioner.)	
)	

**PUBLIC SERVICE COMPANY OF NEW MEXICO'S PUBLIC NOTICE OF
INTENT
TO CONSTRUCT A 9.5 MW SOLAR PHOTOVOLTAIC FACILITY**

PNM hereby provides a Public Notice of Intent to Construct a 9.5 MW Solar Photovoltaic ("PV") facility to be located at 27302 I-25 East Frontage Rd., east of the intersections of Pablo Drive and E Frontage Rds. in Santa Fe, NM. The site is located in Santa Fe County. (Tract B Section 34 T15N, R8E, NMPM).

The PV facility will be comprised of approximately 40,000 solar panels installed on trackers covering 160 acres. The installed panels will reach a height of less than ten feet. The trackers will enable the solar panels to follow the sun as it moves across the sky during the day and thereby enhance the energy generation output of the facility. The facility will connect to PNM's distribution system and provide enough energy to supply approximately 2,660 residential homes annually. PNM anticipates that initial site construction of the PV facility will commence during the first quarter of 2015 and the entire facility will be completed by the fourth quarter of 2015.

A Final Order by the New Mexico Public Regulation Commission ("Commission") regarding PNM's Renewable Energy Portfolio Procurement Plan for 2015 approved PNM's

proposal to construct solar photovoltaic “PV” facilities to be located at 4 or more new sites in its service area, which would be determined by PNM based on siting, environmental, cost and other factors. PNM has determined that the site described above is consistent with the criteria and has initiated activities to acquire the various permits required to pursue construction at that site pending the Santa Fe County Commission approval of the pending zone change and use.

Consistent with the Commission’s Final Order, PNM is providing this Public Notice of Intent to Construct. Within 15 days from the publication date of this Public Notice, any person objecting to the construction or operation of this proposed solar facility may file a protest to the Commission setting forth the person’s objections. All such protests should reference Case No. 14-00158-UT and be addressed to Records Bureau Chief, Records Division, New Mexico Public Regulation Commission, P.O. Box 1269, Santa Fe, NM 87504-1269.

PNM
528 Don Gaspar
Santa Fe, New Mexico 87501
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(505) 428-9013 Mobile
(505) 241-4361 Fax
PNM.com



February 20, 2015

Hon. Robert Anaya
Commissioner, Chair
Board of County Commissioners,
102 Grant Ave
Santa Fe, NM 87501-2061

Dear Commissioner Anaya:

DELIVERED TO STAFF AND HAND DELIVERED

Subject: PNM Santa Fe County Solar Energy Center

I am writing you to update you on the efforts made to address Tesuque Pueblo's concerns with regard to PNM's proposed 10 megawatt (MW) solar facility, Santa Fe County Solar Energy Center, adjacent to the National Guard Armory.

We are updating you via letter prior to the March 10 County Commission meeting because of the critical timeline involved. I think we would all like to see a large scale renewable energy solar site located inside Santa Fe County.

The proposed 10 MW facility is part of the 40 MW of solar that PNM is scheduled to build and bring on line this year. This facility partially fulfills PNM's requirements under the New Mexico Renewable Portfolio Standard. This 40 MW solar build was approved by the New Mexico Public Regulation Commission (NMPRC) last year and must be complete and in service by the end of December 2015. In order to meet this aggressive schedule the project will need to be approved at the March 10 hearing. If the project is not approved, PNM will move to an alternative site in another county.

Because of the strict deadline, we want to be transparent about the steps taken to address the concerns of Tesuque Pueblo and more importantly we want to communicate those steps so you have time to consider all the relevant information before making a judgment. We want to respect the democratic process by

relating information within a timetable that can be digested, questioned and verified while at the same time complying with the NMPCRC deadline.

In order to be transparent, a copy of this letter will be sent to Tesuque Pueblo leaders.

Representatives from PNM met with Tesuque Pueblo Governor Milton Herrera and key members of the pueblo's council on Tuesday, February 17, 2015. The pueblo leaders communicated their concerns and we all agreed that working together during the early stages of a proposed project will help to avoid similar situations in the future. During the meeting, pueblo leaders provided a historical and traditional perspective that helped PNM representatives understand and appreciate their concerns of identifying and protecting cultural findings on their traditional homelands. PNM described the resources documented by cultural resource professionals, the state review process and PNM's internal environmental protection processes. The Pueblo had no additional site-specific information regarding the project.

In addition to the constructive dialogue between the Pueblo and PNM, a site visit has been scheduled for March 3. PNM will be sharing its standard discovery action plan, so that if any cultural remains are discovered during construction, all parties will understand the actions that will be initiated to respectfully address the Pueblo's cultural traditions and religious beliefs.

Thank you for taking the time to read this update. Please let us know if you have any additional questions or concerns or if we can provide additional information that will help you make a decision on the application.

Sincerely,



Raymond G Sandoval
Santa Fe Community Relations
PNM

Resources

PNM
528 Don Gaspar
Santa Fe, New Mexico 87501
(505) 438-6987 Office
(505) 428-9013 Mobile
PNM.com



March 18, 2015

Hon. Commissioner, Chair Robert Anaya
Santa Fe Commissioner, District 3
102 Grant Ave
Santa Fe, NM 87501-2061

DELIVERED TO STAFF AND HAND DELIVERED

Subject: SECOND UPDATE - PNM Santa Fe County Solar Energy Centers

Dear Commissioner, Chair Anaya:

In our continued effort to bring more solar energy to Santa Fe County, I am writing today to provide a second update on the efforts made to address Tesuque Pueblo's concerns with regard to our proposed Santa Fe County Solar Energy Center, the proposed 10 MW adjacent to the National Guard Armory south of Santa Fe. PNM is also proposing a 5 MW solar facility, the Caja del Rio Solar Center, near the airport.

We are providing this second update today in advance of the March 24 County Commission meeting because of the critical timelines involved with the project.

The proposed 10 MW facility is part of the 40 MW of solar that PNM is scheduled to build and bring online this year. This facility partially fulfills PNM's requirements under the New Mexico Renewable Portfolio Standard. This 40 MW solar project was approved by the New Mexico Public Regulation Commission (NMPRC) last year and must be complete and in service by the end the year. In order to meet this aggressive schedule, the project will need to be approved at the March 24 hearing. If the project is not approved during that hearing, PNM will be forced to move the 10 MW project to an alternative site in another county.

Because of the strict deadline, we want to be transparent about the steps taken to address the concerns of Tesuque Pueblo and our efforts to consult with Tesuque Pueblo. The leaders of Tesuque Pueblos have also been copied on this letter.

After a constructive meeting with the Tesuque Pueblo on February 17, we conducted a visit to both sites on March 3 with Tesuque Governor Milton Herrera and former Governor Mark Mitchell. PNM shared its standard discovery action plan to help the Pueblo leaders understand what actions will take place if any

cultural remains are discovered during construction. We did this so that all parties would understand the actions that will be initiated to respectfully address the Pueblo's cultural traditions and religious beliefs. The Pueblo requested immediate consultation should any remains or artifacts be discovered which PNM committed to. PNM agreed to consult with Tesuque Pueblo should any human remains or artifacts be discovered during the construction process.

After the site visits, Tesuque had no further issue with either site and they have no opposition to both projects moving forward.

Finally, I also am writing today to share the NMPRC-required legal notice that ran in the Santa Fe New Mexican on March 6, 2015. The language was carefully crafted to make sure to give deference to the County's decision making progress. The key language is as follows: "PNM has determined that the site described above is consistent with the criteria and has initiated activities to acquire the various permits required to pursue construction at that site pending the Santa Fe County Commission approval of the pending zone change and use." The full notice is attached for your convenience.

Thank you for taking the time to read this additional projects update. Please let us know if you have any questions or concerns or if we can provide additional information that will help you make a decision on the applications.

Sincerely,



Raymond G Sandoval
Santa Fe Community Relations
PNM Resources

Cc: Hon. Milton Herrera, Governor
Tesuque Pueblo

Cc: Hon. Leroy Arquero, Governor
Cochiti Pueblo

Hon. Charlie Dorame,
Government Affairs Director,
Tesuque Pueblo

Hon. Richard Pecos
Tribal Administrator,
Cochiti Pueblo

Hon. Mark Mitchell
Former Governor
Tesuque Pueblo

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF PUBLIC SERVICE)
 COMPANY OF NEW MEXICO'S)
 RENEWABLE ENERGY PORTFOLIO)
 PROCUREMENT PLAN FOR 2015 AND)
 PROPOSED 2015 RIDER RATE)
 UNDER RATE RIDER NO. 36)
)
 PUBLIC SERVICE COMPANY OF NEW)
 MEXICO)
)
 Petitioner.)
 _____)

Case No. 14-00158-UT

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 INTENT
TO CONSTRUCT A 9.5 MW SOLAR PHOTOVOLTAIC FACILITY**

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proposal to construct solar photovoltaic "PV" facilities to be located at 4 or more new sites in its service area, which would be determined by PNM based on siting, environmental, cost and other factors. PNM has determined that the site described above is consistent with the criteria and has initiated activities to acquire the various permits required to pursue construction at that site pending the Santa Fe County Commission approval of the pending zone change and use.

Consistent with the Commission's Final Order, PNM is providing this Public Notice of Intent to Construct. Within 15 days from the publication date of this Public Notice, any person objecting to the construction or operation of this proposed solar facility may file a protest to the Commission setting forth the person's objections. All such protests should reference Case No. 14-00158-UT and be addressed to Records Bureau Chief, Records Division, New Mexico Public Regulation Commission, P.O. Box 1269, Santa Fe, NM 87504-1269.

PNM
528 Don Gaspar
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PNM.com



March 19, 2015

Hon. Commissioner, Chair Robert Anaya
Santa Fe Commissioner, District 3
102 Grant Ave
Santa Fe, NM 87501-2061

DELIVERED TO STAFF AND HAND DELIVERED

Subject: THIRD UPDATE - PNM Santa Fe County Solar Energy Centers

Dear Commissioner, Chair Anaya:

In an effort to include all parties in order to bring more solar energy to Santa Fe County, we proactively reached out to Cochiti Pueblo due to some unsubstantiated claims that the Cochiti Tesuque trail may have run near the Caja del Rio Solar project site. Although Tesuque Pueblo has already confirmed the proposed site is not near any of their historical or artifact sites, we wanted to extend the same courtesy to the Pueblo of Cochiti.

To show our commitment to transparency and cooperation and give proper respect to all potentially affected Pueblos, PNM also met with Governor Leroy Arquero and tribal administrator Richard Pecos from Cochiti Pueblo on Friday, March 6. After our meeting, Governor Arquero consulted with his elders and confirmed that Cochiti has no significant cultural findings near either of the proposed sites as well.

Also, both Pueblos requested immediate consultation should any remains or artifacts be discovered which PNM committed to. PNM agreed to consult with Cochiti Pueblo should any human remains or artifacts be discovered during the construction process.

We appreciate the education Tesuque and Cochiti Pueblos have provided to PNM in regards to locations in Santa Fe County which may hold significance to our native brethren.

Thank you for taking the time to read this third project update. Please let us know if you have any questions or concerns or if we can provide additional information that will help you make a decision on the applications.

Sincerely,



Raymond G Sandoval
Santa Fe Community Relations
PNM Resources

Cc: Hon. Milton Herrera, Governor
Tesuque Pueblo

Hon. Charlie Dorame,
Government Affairs Director,
Tesuque Pueblo

Hon. Mark Mitchell
Former Governor
Tesuque Pueblo

Cc: Hon. Leroy Arquero, Governor
Cochiti Pueblo

Hon. Richard Pecos
Tribal Administrator,
Cochiti Pueblo

J. Leroy Arquero
Governor



Dwayne Herrera
Lt. Governor

P.O. Box 70
255 Cochiti Street
Cochiti Pueblo, NM 87072-0070
PH# (505) 465-2244 FAX# (505) 465-1135

March 23, 2015

The Honorable Robert Anaya
Chairman
Santa Fe County Commission
102 Grant Avenue
Santa Fe, NM 87501-2061

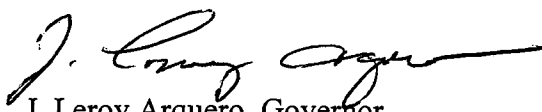
Dear Commissioner Chair Anaya,

This letter is to inform the Santa Fe County Commission that the Pueblo de Cochiti has been briefed by PNM on both of their proposed solar sites that are before the Commission. My staff and I met with PNM on March 6, 2015.

It is our understanding that there is a claim that the traditional Tesuque-Cochiti Trail ran through the Caja De Rio site. After consultation with the elders of my Pueblo, we have determined that neither of these proposed solar sites cross the path of the Tesuque-Cochiti Trail.

We appreciate the efforts of PNM to inform us of their projects and further appreciate the discovery and notification plan put in place between PNM and the Pueblo if any remains or cultural artifacts are found.

Sincerely,


J. Leroy Arquero, Governor
Pueblo de Cochiti

SFC CLERK RECORD04/29/2015

Jose Larranaga

From: Claus Benkert <claus.benkert@gmail.com>
Sent: Thursday, March 19, 2015 3:25 AM
To: Jose Larranaga; Penny Ellis-Green
Cc: matthewrbaca@yahoo.com; Jeremy Gonzales
Subject: March 24th BCC

Dear Ms. Green, dear Mr Larranaga,

I was recently provided, by Mr.Larranaga in your office, the application from the Public Service Company of New Mexico (PNM) to develop a forty acre solar energy center, entitled Caja del Rio Solar Energy Center. I am the general manager of Charyb LLC that acquired last summer approximately 200 acres of land directly adjacent to the proposed development site.

With this correspondence I wish to formally protest and oppose the application, which Charyb LLC has previously stated in a correspondence to your office. Charyb LLC owns more than 20% of the adjacent land that is currently zoned rural residential and we oppose any change of this zoning to industrial.

The reasons for my protest are as follows:

- 1) Though the application was filed in September, Charyb was only recently notified of the proposed land use change. Charyb did not receive adequate notice of PNM's request, has not been contacted by PNM, and has many questions related to the impact on Charyb's property. It also lost its opportunity to participate in the CDRC proceedings, which was its right.
- 2) Approval of the application is premature as the county is developing a comprehensive zoning plan that is scheduled to be finalized in the near future. There are meetings and hearings that will take place as this process moves forward, and it is incumbent upon the commission that they weigh the opinions, concerns and analysis of landowners within the county before approving an application that may lead to heavy industry in an area that is has always been rural in nature.
- 3) The properties in the area have been used traditionally for agrarian purposes. The application describes a forty acre site in the middle of these areas that will contain a large solar array surrounded by six foot chain link fence topped with barbed or concertina wire that will destroy the views for miles around. It will look like a penal colony in a sea of beautiful open space. Additionally, it will significantly diminish the value of the propoerty that Charyb owns. This carving out of a small section of land for this type of land use is unacceptable and completely out of character with the surrounding landscape and illustrates why targeted zoning such as this is detrimental to surrounding to landowners and generally prohibited.

I must also note that Charyb purchased this property with a desire to preserve and protect this beautiful open space in a manner consistent with the ambience of the historical city of Santa Fe. The proposed land use change does not do this. Charyb is also evaluating options to acquire properties adjacent to, and in the surrounding areas, that will fulfill this desire. Charyb has communicated this intention to both Jeremy Gonzales and Matthew Baca, who represent the surrounding landowners. I am copying them with this correspondence so they may know of our position.

Lastly, I ask that this notice of protest be provided to the County Commission when they consider the application. As always, please do not hesitate to contact me if you should require additional information or if the applicant wishes to discuss this further.

Sincerely,

Dr. Claus Benkert
General Manager
Charyb LLC

S F C C L E R K R E C O R D 0 4 / 2 9 / 2 0 1 5

March 2, 2015

Santa Fe County Land Use Administrator

P.O. Box 276

Santa Fe, New Mexico 87504-0276

Dear County Land Use Administrator,

I am submitting these comments in response to the proposal to establish a Solar Facility on 40 acres of public land Section 3, Township 16 North, Range 8 East and within Commission District 2. I am specifically concerned about the potential of this project to impact the Burrowing Owl population known to frequent the general vicinity of the project.

For the past ten years I have been monitoring the declining population of Burrowing Owls in and around the City of Santa Fe. In 2014 I received a banding permit from the U.S. Geologic Survey and the New Mexico Game and Fish Department allowing me to capture and attach leg bands to the owls. I initiated this work during the summer of 2014. My field data is submitted to the U.S.G.S Bird Banding Laboratory and the New Mexico Burrowing Owl Working Group, an organization of which I have been a member for several years. I have observed a steady decline in the Burrowing Owl population in and around Santa Fe from its high in 2008, when there were at least 68 pairs of nesting owls in the city and county, to the 2014 observation and banding season where only 6 pairs of birds could be found.

Burrowing owls are listed as a "Bird of Conservation Concern" by the U.S. Fish and Wildlife Service in much of the West and Southwest. In New Mexico, they are listed as a species of "Greatest Conservation Need" by the New Mexico Department of Game and Fish, and as a "sensitive species" by both the U.S. Forest Service and the U.S. Bureau of Land Management. As a migratory species, the Burrowing Owl is also listed and protected by the Migratory Bird Treaty Act of 1918.

The decline of the Burrowing Owl population throughout its range can largely be attributed to the destruction of prairie dog populations which the owl depends upon for its nest burrows and related food sources. Unfortunately, in the recent past the city and county of Santa Fe has contributed to the decline of both the prairie dog and burrowing owl populations by projects involving the removal and/or destruction of remaining prairie dog populations. The area proposed for the solar generation facility does contain a remnant population of prairie dogs and the local rancher reported seeing a pair of nesting burrowing owls within this area last year.

The few remaining burrowing owls we have left in Santa Fe will be returning from their annual southern migration beginning by the end of March. These birds will be returning to nest burrows used last year or

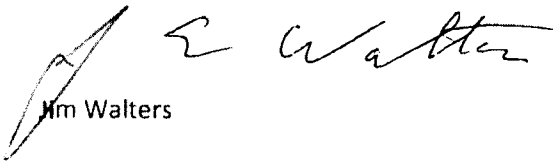
SFC CLERK RECORD 04/29/2015

seeking nearby vacant prairie dog burrows to use as nest sites this year. After only a week or two, the adult pair will begin laying eggs and incubating up to a dozen eggs for the nesting season.

While my personal preference is that this land remain in as natural a state as possible, I strongly recommend that any field activities associated with the proposed project include appropriate surveys to determine the possible presence of nesting burrowing owls in the area and that all appropriate efforts be made not to disturb the nest site until the chicks are hatched, emerge from the burrow, learn to fly, and finally leave the area by September and October of each year. These birds are not difficult to locate and are usually very protective of their nest burrows through a display of warning flights and constant calling.

If the proposed project advances, I would be glad to assist city and county managers in any efforts to determine the presence of burrowing owls in this area and in mitigating impacts to the birds.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Walters". The signature is fluid and cursive, with a large initial "J" and "W".

Jim Walters

505 471-8392 hm

505 577-6647 cl

3913 Calle Tangara

Santa Fe, NM 87507

Email: jewalters1@comcast.net

March 2, 2015

Santa Fe County Land Use Administrator

P.O. Box 276

Santa Fe, New Mexico 87504-0276

Dear County Land Use Administrator,

I am submitting these comments in response to the proposal to establish a Solar Facility on 40 acres of public land Section 3, Township 16 North, Range 8 East and within Commission District 2. I am specifically concerned about the potential of this project to impact the Burrowing Owl population known to frequent the general vicinity of the project.

For the past ten years I have been monitoring the declining population of Burrowing Owls in and around the City of Santa Fe. In 2014 I received a banding permit from the U.S. Geologic Survey and the New Mexico Game and Fish Department allowing me to capture and attach leg bands to the owls. I initiated this work during the summer of 2014. My field data is submitted to the U.S.G.S Bird Banding Laboratory and the New Mexico Burrowing Owl Working Group, an organization of which I have been a member for several years. I have observed a steady decline in the Burrowing Owl population in and around Santa Fe from its high in 2008, when there were at least 68 pairs of nesting owls in the city and county, to the 2014 observation and banding season where only 6 pairs of birds could be found.

Burrowing owls are listed as a "Bird of Conservation Concern" by the U.S. Fish and Wildlife Service in much of the West and Southwest. In New Mexico, they are listed as a species of "Greatest Conservation Need" by the New Mexico Department of Game and Fish, and as a "sensitive species" by both the U.S. Forest Service and the U.S. Bureau of Land Management. As a migratory species, the Burrowing Owl is also listed and protected by the Migratory Bird Treaty Act of 1918.

The decline of the Burrowing Owl population throughout its range can largely be attributed to the destruction of prairie dog populations which the owl depends upon for its nest burrows and related food sources. Unfortunately, in the recent past the city and county of Santa Fe has contributed to the decline of both the prairie dog and burrowing owl populations by projects involving the removal and/or destruction of remaining prairie dog populations. The area proposed for the solar generation facility does contain a remnant population of prairie dogs and the local rancher reported seeing a pair of nesting burrowing owls within this area last year.

The few remaining burrowing owls we have left in Santa Fe will be returning from their annual southern migration beginning by the end of March. These birds will be returning to nest burrows used last year or

SFC CLERK RECORD 04/29/2015

seeking nearby vacant prairie dog burrows to use as nest sites this year. After only a week or two, the adult pair will begin laying eggs and incubating up to a dozen eggs for the nesting season.

While my personal preference is that this land remain in as natural a state as possible, I strongly recommend that any field activities associated with the proposed project include appropriate surveys to determine the possible presence of nesting burrowing owls in the area and that all appropriate efforts be made not to disturb the nest site until the chicks are hatched, emerge from the burrow, learn to fly, and finally leave the area by September and October of each year. These birds are not difficult to locate and are usually very protective of their nest burrows through a display of warning flights and constant calling.

If the proposed project advances, I would be glad to assist city and county managers in any efforts to determine the presence of burrowing owls in this area and in mitigating impacts to the birds.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Walters". The signature is fluid and cursive, with a large initial "J" and "W".

Jim Walters

505 471-8392 hm

505 577-6647 cl

3913 Calle Tangara

Santa Fe, NM 87507

Email: jewalters1@comcast.net

**Burrow Analysis
PNM Renewable Energy Development
Caja del Rio Solar Project
Santa Fe County, New Mexico**



Burrowing Owl (*Athene cunicularia*)

Date of Nest Search:
March 11, 2015

Submitted to:
Doug Campbell
PNM
4201 Edith Blvd NE
Mail Stop ES-30
Albuquerque, NM 87107

Submitted by:
Hawks Aloft, Inc.
P.O. Box 10028
Albuquerque, NM 87184
505-828-9455
www.hawksaloft.org

March 18, 2015

Introduction

In March of 2015, Hawks Aloft, Inc. was contracted by Doug Campbell of PNM Resources to perform a comprehensive prairie dog (*Cynomys gunnisoni*) burrow search on 40 acres intended for the construction of the Caya del Rio Solar Project in Sante Fe County, New Mexico. The purpose of this project was to identify potential burrowing owl habitat.

Although Burrowing Owl (*Athene cunicularia*) is not classified as threatened or endangered, it is a U.S. Fish and Wildlife Service Species of Conservation Concern (USFWS 2008), listed as Sensitive in Region 3 (NM, AZ); and a New Mexico state Species of Greatest Conservation Need (BISON-M 2010). To enable future construction, Hawks Aloft surveyed the 40-acre project site for Burrowing Owl activity and documented all prairie dog burrows.

Burrow Search Methods

On 11 March 2015, Laurie Marnell, Ph.D., biologist, initiated a comprehensive burrow search of the 40 acre project area. The UTM coordinates of boundaries were provided by PNM Resources. Dr. Marnell placed temporary flagged stakes at the corners and surveyed all areas within the flagged stakes. All burrow mounds were marked with a Garmin etrex GPS and the UTM coordinates were recorded in NAD 83. A total of 25 mounds containing 145 burrows were located and photos taken. The photos are numbered by mound number and photo number.

Results

No Burrowing Owls or their sign were observed in the survey area on 11 March 2015 . There were 36 holes that showed fresh small mammal tracks.

Acknowledgements

This report was prepared by Laurie Marnell and reviewed by Gail Garber, Executive Director. Laurie Marnell conducted the burrow search. We thank Doug Campbell of PNM Environmental Services for his assistance and for the site map.

Literature Review

[BISON-M] Biota Information System of New Mexico. June 5, 2010. BISON-M home page. <http://www.bison-m.org>. Accessed 15 April, 2011.

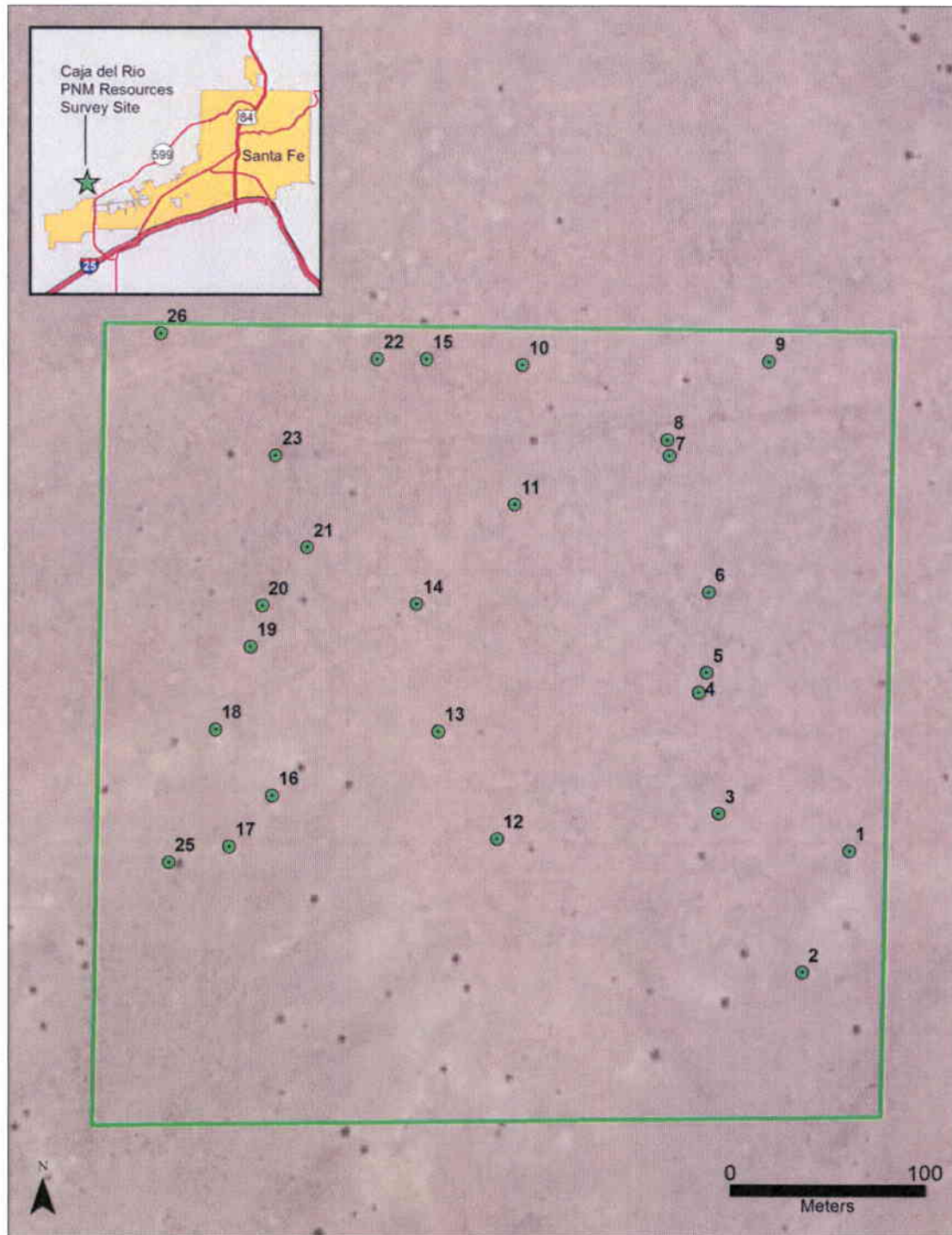
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New Mexico Partners in Flight. 2008. New Mexico Bird Conservation Plan Version 2.1. C. Rustay and S. Norris, compilers. Albuquerque, New Mexico.

Parmeter, J., B. Neville, and D. Emkalns. 2002. New Mexico bird finding guide. New Mexico Ornithological Society, Albuquerque, NM.

[USFWS] U.S. Fish and Wildlife Service. 2008. Birds of conservation concern 2002. U.S. Fish and Wildlife Service, Division of Migratory Birds, Arlington, Virginia.

Figure 1. Map of the of burrow mounds, located on 11 March 2015 at the Caja del Rio Solar Project, Santa Fe County, New Mexico. Green lines designate boundary of the area, with mounds shown in green dots. Note that there is no #24, which was eliminated because it was outside of the study area.



Appendix 1. UTM coordinates (NAD 83) of burrow mounds located on 11 March, 2015 at the Caja del Rio Solar Project, Sante Fe County, New Mexico. No burrowing Owls were observed. Note that there is no #24, it was eliminated because it was outside of the study area.

Mound_No	Easting	Northing	Number holes/mound	Number active for small mammals
1	402557	3945753	2	0
2	402533	3945691	1	0
3	402490	3945772	16	0
4	402480	3945834	1	1
5	402484	3945844	4	4
6	402485	3945885	6	0
7	402465	3945955	4	0
8	402464	3945963	4	4
9	402516	3946003	5	0
10	402390	3946001	7	7
11	402386	3945930	12	4
12	402377	3945759	5	0
13	402347	3945814	6	3
14	402336	3945879	12	0
15	402341	3946004	3	3
16	402262	3945781	3	0
17	402240	3945755	2	0
18	402233	3945815	6	2
19	402251	3945857	8	1
20	402257	3945878	3	1
21	402280	3945908	15	0
22	402316	3946004	4	1
23	402264	3945955	6	2
25	402209	3945747	7	0
26	402205	3946017	3	3

Appendix 2. Numbered burrow images are included on the CD attached to this report.

Response to Mr. Baca's email on Archaeological Excavation

Jose Larranaga

From: Ensey, Michelle, DCA <michelle.ensey@state.nm.us>
Sent: Tuesday, March 24, 2015 1:42 PM
To: Jose Larranaga
Subject: RE: Please comment

Jose,

The letter provided by Mr. Baca summarizes the excavations of archaeological site LA 153360, located where the Center for New Mexico Archaeology is located. LA 153360 was an extensive prehistoric archaeological site. However, it was located about ½ mile away from the proposed location of the solar facility and it no longer exists because it was completely excavated.

The survey conducted by Marron and Associates did not identify a prehistoric site similar to LA 153360. The archaeological site identified by Marron and Associates was historic in age. I have no reason to believe that prehistoric sites like LA 153360 are located within the proposed solar facility. Marron did not document one and it is unlikely that a site like LA 153360 would exist without a surface manifestation in this area.

Michelle M. Ensey
Archaeologist
NM State Historic Preservation Office
407 Galisteo Street, Ste. 236
Santa Fe, NM 87501
(505) 827-4064
www.nmhistoricpreservation.org

From: Jose Larranaga [<mailto:jose.larra@santafecountynm.gov>]
Sent: Tuesday, March 24, 2015 9:04 AM
To: Ensey, Michelle, DCA
Subject: Please comment

Hello Michelle,

I received the attached correspondence from Matthew Baca, in reference to a parcel on which PNM is proposing a solar facility. The site is west of Caja del Rio Road and the property is owned by Richard Cook. Also attached is your comment on the site.

This project is being heard by the Board of County Commissioners this evening, any response you can give me on this will be greatly appreciated.

Thank you,

Jose

Jose E. Larranaga
Development Review Team Leader
Building and Development Services
Santa Fe County

S F C C L E R K R E C O R D 0 4 / 2 9 / 2 0 1 5

Jose Larranaga

From: Matthew Baca <matthewrbaca@yahoo.com>
Sent: Friday, March 20, 2015 8:46 AM
To: Imoye@pnm.com; Penny Ellis-Green; Jose Larranaga
Cc: Rachel A. Brown; Ronald VanAmberg; Phil Baca; Vicki Lucero; Blinman Eric DCA; Mark Mitchell
Subject: Archaeological excavation
Attachments: CNMA excavation results to Williams redacted.pdf
Categories: Red Category

Dear Peggy, Laurie and Jose:

As you recall, I testified on the Old Cochiti Trail at recent hearings, and the lack of any mention of the Trail in the plattes that were submitted with the Pena Blanca and PNM land use applications. I am attaching with this correspondence a draft report, provided to me late yesterday afternoon, on the findings by the New Mexico Cultural Affairs Department Center for New Mexico Archaeological (CNMA) of the excavations that took place on or near their site (this is the campus adjacent to the Old Cochiti Trail where PNM posted notice of the CDRC meeting regarding their application).

I was also told in an e-mail yesterday by the Director of the CNMA, Doctor Eric Blinman, that "... since this (referring to the attached report) was written, they have radiocarbon and optically stimulated luminescence dates from several of the features. The dates indicate sporadic use of this area, probably by hunting groups, as early as 4350 BC..."

In the draft report you'll note that approximately 4000 artifacts were found, mostly near surface. The site maps are redacted per state statute. I was also told during a meeting at CNMA approximately two weeks ago, which included Governor Mitchell from Tesuque Pueblo, that as the report is not in the public domain, Marron & Associates would not have had this information while performing their archaeological study for the PNM application. As such, their study is clearly deficient.

I am writing to request that PNM defer, if not completely withdraw, its application for the solar energy center. This is obviously not an area where anyone would want to level a 40 acre site and pound hundreds of support risers six feet into the ground. Also, in support of this request, I am suggesting the parties review NMSA Article 6 - Cultural Properties as activities described in the application, including the access road which will be constructed on New Mexico State Land Office property, is in non-compliance. (<http://public.nmcompcomm.us/nmpublic/gateway.dll/?f=templates&fn=default.htm>).

I will be providing the draft report to the BCC at the hearing on Tuesday, and request they not move forward on the hastily considered application. It is only slightly over 90 days since the application had its first hearing, and I think we can all agree that it is incumbent upon PNM and the County to pause in this rush towards approval so as to weigh the consequences of the destruction of 6000 year-old artifacts.

Sincerely,

Matthew Baca
Baca Ranch

S F C C L E R K R E C O R D 0 4 / 2 9 / 2 0 1 5



Office of Archaeological Studies

Museum of New Mexico ~ Preserving Our Heritage Since 1909

P.O. Box 2087
Santa Fe, New Mexico 87504-2087
www.nmarchaeology.org

Bataan Memorial Building
407 Galisteo Street, B-100
Santa Fe, New Mexico 87501

Joseph C. Harkin Building
404 Montezuma Street
Santa Fe, New Mexico 87501

June 9, 2009

MNM Project No. 41.880

Mr. Paul Williams
Archaeologist
Taos Field Office
Bureau of Land Management
226 Cruz Alta Road
Taos, NM 87571

Dear Mr. Williams,

The Department of Cultural Affairs, Office of Archaeological Studies (OAS) has completed excavation at LA 115360 located within Lots 6 and 19, SE ¼ of SE ¼ of SW ¼ of Section 35, T17N, R8E, in Santa Fe County, New Mexico. This status report describes archaeological excavation conducted from March 23, 2009 to May 26, 2009 at the request of Dr. Eric Blinman, Director, Office of Archaeological Studies, New Mexico Department of Cultural Affairs. Excavation was conducted under the direction of Jessica Badner, OAS Field Director, under Bureau of Land Management Cultural Resource Use Permit # 21-8152-09-17.

During preliminary site evaluation in May of 2006, OAS recorded obsidian and basalt debitage scattered over a 6,229 m area. Artifact concentrations in two loci provided evidence of extensive core reduction and biface manufacture. Eight test pits excavated during archaeological testing conducted from December 8 to 19, 2008 exposed shallow cultural deposits. Chipped stone indicated late stage core reduction and tool manufacture. Fire-cracked rock containing thermally altered ground stone suggested a wider range of site activities. Technological and raw material procurement patterns suggested occupation by Archaic hunter-gatherers or highly mobile Ancestral Puebloan task groups. Based on these results, OAS recommended LA 153360 as eligible for nomination to the National Register of Historic Places under 36 CFR 60.4 Criterion d. Because of the site's shallow nature, OAS recommended site mitigation within the Area of Potential Effect (APE), an area including and extending 17 m south of the proposed construction zone.

Most recently OAS has completed hand and mechanical excavation of a 603 sq m area surrounding original Test Units 3 and 8, located within the APE defined in the data recovery plan (Post and Badner 2009) submitted to BLM on January 15, 2009. Excavation to a depth of 5-15 cm exposed an extensive chipped stone scatter indicative of

late stage core reduction and tool manufacture. While surface stripping we exposed and excavated five thermal features. Nine additional 1-by-1 meter excavation units to the west and one 1-by-2 m excavation unit to the north of the main artifact and feature concentration yielded no artifact content. The remaining western portion of the APE was stripped mechanically. In addition to mechanical scraping in the western APE extent a 5 to 10 m buffer was scraped along the APE's northern boundary. A 3 m wide strip to the east of the main hand excavation was also removed. The backhoe scrape ranged in depth from 5 to 10 cm and covered a 2856 sq m area (See Figure 1).

OAS excavation recovered approximately 4,000 artifacts. Artifact densities were highest in the upper 5 cm of the cultural deposit which yielded the bulk of the assemblage. More than 98 percent of the artifact assemblage was chipped stone. Preliminary observations indicate that material frequencies are similar to testing. The assemblage is dominated by basalt and Polvadera Peak and undifferentiated obsidian with lower frequencies of Madera, possible Pedernal, and undifferentiated chert, low frequencies of quartzite and trace amounts of rhyolite and silicified wood. As expected, the assemblage is indicative of late stage core reduction and tool manufacture, although at least 2 cores and 2 tested cobbles were recovered. A quartz chopper was recovered in addition to one preform, two obsidian projectile point tips, and one complete obsidian projectile point with a concave base.

Groundstone artifacts include a single one hand mano and fragmentary groundstone found as part of fire-cracked-rock scatter associated with thermal features. Approximately 60 small pieces of animal bone were recovered. Other artifacts included a piece of olivella shell, a possible piece of Cerrillos turquoise, and two quartz crystals, one of which was modified to accommodate a cord. Chipped stone, ground stone and fauna will be analyzed in accordance with guidelines outlined in the research design (Post and Badner 2009).

Five thermal features were located within and to the east and northeast of the main artifact concentration. A series of potential post holes turned out to be hoof marks, resulting in non-sequential feature numbers. Features were predominantly surface hearths ranging in condition from partially intact to extremely deflated. Partially intact features had small fire-cracked rocks evident just below ground surface and they were bounded by large cobbles measuring 10 to 20 cm in diameter imbedded in substrate. Deflated hearths were marked by a few large fire cracked rocks. None of the feature fill yielded charcoal.

Feature 1, farthest to the east and most deeply buried, was likely a discard pile. Features 9 and 12 were small, shallow hearths ranging from 60 to 90 cm in diameter. Feature 12 was completely deflated reduced to large cobbles. Feature 9 was partially intact with a hardened rind. Features 2 and 10 were large, shallow surface hearths. Feature 10 was completely deflated and heavily impacted by cattle trampling, with no discernible boundary. Feature 2 was partially deflated with an inferred diameter of 1.74 m although large rock bounded the feature at 3.90 m. Feature 8 was intact with visible reuse. The shallow (10 to 12 cm) hearth depression had accumulated a layer of partially oxidized clay at its base from which the only C-14 sample was recovered. The hearth also had a burned rind.

Archaeomagnetic, c-14 and thermoluminescence samples were recovered from some of the features. Archaeomagnetic samples were taken from Feature 8 and 9 rinds. These should be effective for dating post-A.D. 400 contexts and potentially useful for

building the curve for sites with pre-A.D. 400 components. Thermal luminescence samples were taken from the most intact and burned hearth contexts and will be further evaluated in light of C-14 and archaeomagnetic results before submittal.

Subsistence questions may be addressed by phytolith and flotation samples. Phytolith samples were taken from beneath large hearth rocks and surface scatters. One flotation sample was also collected and will be submitted for analysis by the OAS ethnobotanical lab under the direction of Mollie Toll.

OAS has completed excavations in accordance with the research design and modifications submitted to BLM April 9, 2009. These modifications were: 1) to maintain 1/8 inch screening in the first 5 cm, but allow for 1/4 inch screen use in the lower 5 cm level for grid units with artifact frequencies ranging from 3 to 6 in number; 2) to limit excavation of grid units with 2 or fewer artifacts to the upper 5 cm, because these units rarely yield artifacts in the lower 5 cm; and 3) to halt excavation at Level 2, unless there are other indicators, such as fire-cracked rock or staining that indicate a more deeply buried manifestation.

OAS has excavated a much larger area within the APE than was originally proposed in the data recovery plan, located the artifact boundary within the APE, and determined with a program of excavation units to the west of the main artifact concentration and mechanical surface scraping to the west, north, and east of the artifact concentration that there are no additional features or artifact concentrations within the currently defined limits of the APE. Based on these results OAS recommends that the APE is fully mitigated and that there is no potential for additional cultural remains within the construction area or the APE as currently defined. OAS recommends that the Bureau of Land Management grant clearance for the construction as currently proposed.

Currently, Dr. Eric Blinman is working with the Bureau of Land Management Realty Specialist to schedule the 2-week advanced notice meeting for OAS and its contractors. OAS expects to break ground on the construction phase soon after this meeting is completed. Also, the construction footprint may expand beyond the currently defined APE. OAS would like to complete any additional archaeological investigation that may be required under the existing data recovery plan and cultural resource use permit.

If you have any questions I can be reached at 982-1375 or by e-mail at jessica.badner@state.nm.us.

Sincerely,



Jessica Badner
Archaeologist, OAS

EXHIBIT

5

**SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS
PNM CAJA DEL RIO SOLAR ENERGY
CENTER PROJECT**

SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS

APPEAL OF RECOMMENDATIONS AND/OR FINAL DECISIONS OF CDRC
CASE NO. Z/DP14-5370,
PNM CAJA DEL RIO SOLAR ENERGY CENTER PROJECT

Appellants, PMB Ltd., Phillip Baca and Matthew Baca (collectively "Bacas") hereby appeal the development decision in CDRC Case Z/DP 14-5370 and oppose the development approval and proposed zoning change in 14-5370. The Bacas have an ownership interest in properties that are adjacent to or in the vicinity of the property involved in the development and zoning application and also own properties affected by the proposed access road leading to the project property.

PROCEDURAL ISSUES

1. NMSA 1978 Section 3-21-6 provides that if the owners of 20% or more of land within 100 feet of land to be rezoned protest the rezoning, then "a two-thirds vote of all the members of the board of county commissioners" is required for any rezoning. As shown in Exhibit C, C-1 and C-2, the owner of the property to the north of the subject property has protested in writing this application. Since he borders the entire north boundary, he comprises 25%.

3. Concerning the Zoning Application there are procedural defects:

a. The development/zoning application notes a request for a zoning change. However, none of the notices adequately indicate the nature of the proposed change, what the current zoning is and what proposed zoning was being sought. (Exhibit

A, newspaper notice and Exhibit B, language on sign notice) There is no doubt that a zoning change is being requested. See Board Packet NBE 2, 3, 4, 9, 18¹, and 19² for example.

Staff and the applicant have been less than candid about what is being requested. In the first Board Packet prepared for the last BCC meeting where this case was tabled, instead of staff describing the requested zoning change they simply stated in their report that the use to be made of the property was consistent with the currently proposed Sustainable Land Development Code and proposed Zoning Map. NBE 18, 19 of original Packet. The new Packet is a bit more candid, but not much. Now at NBE-2 Staff makes reference to Article III, Section 8.1 as providing “Ordinance No 1998-15 (an Ordinance amending Article III Section 8 ‘Other Development’ states: ‘subject to the requirements of this Section , all uses not otherwise regulated by the Code are permitted anywhere in the County provided a request for zoning approval is granted per Article III..” Staff then refers to Article III Section 4.4.1a which provides “to zone or re-zone any parcel for a commercial or industrial non-residential district a master plan shall be submitted.” Accordingly, at this point Staff accurately states that this application is seeking to rezone the property from residential to industrial. Article III Sections 1 and 2 zone the county as agricultural and residential. Article III Section 4 provides that “Commercial and industrial non-residential land uses are permitted only in zoned districts...” This section

¹ Staff is reviewing zoning based upon the Sustainable Growth Management Plan which does not take effect until the zoning map is approved and it has not been. Accordingly, this is a false zoning analysis.

² Describes the project being “in a proposed industrial zone...” where this “would be a permitted use.” It is not a permitted use in a residential area.

of the Code then goes into detail on how commercial zones are established and the types of uses allowed.

However, instead of addressing the need for the zoning change and the ramifications, Staff then ignores the requirements of establishing a commercial zoning district and simply states at NBE 3: “the proposed use is in compliance with the uses associated with Other Development...” However, Other Development is not a zoning designation. It requires a rezoning to accommodate the requested use, as recognized by Staff at NBE-2.

In another attempt to skip over the required rezoning process, which attempt is wholly inconsistent with the “Other Development” argument, Staff represents at NMB 19 that this massive solar project requires industrial zoning, but at NBE 4 and 18 states that the zoning analysis is conducted by reference to the Sustainable Growth Management Plan zoning map. However, this zoning map has not been approved and cannot be a point of reference. In effect, Staff has not done the required analysis and is trying to slip this project by this commission based upon positions Staff knows to be untenable. What is being requested here is a dramatic spot zoning in the middle of a rural residential area. This was recognized by CDRC committee member Booth who at the end finally wrestled out of staff that the CDRC was being asked to recommend a major zoning change which was otherwise not apparent from the Staff report.

Apparently at least some of the staff believe that this proposed PNM operation which takes up 24 acres, houses 20,000 solar panels which are moved electronically to track the sun, five power converters 9’11” in height and 14’ wide with a 7’ 10” high

switchgear facility and is surrounded by 8' high barbed wire security fencing with rolled concertina wiring on top is a minor unaddressed activity which can apparently go in the middle of a residential community without any zoning considerations.

SECTION 4 - COMMERCIAL AND INDUSTRIAL NON-RESIDENTIAL DISTRICTS

4.1

Purpose and Intent

Commercial, and industrial non-residential land uses are permitted only in zoned districts of various sizes and locations in the County of Santa Fe. Non-residential districts specifically for commercial or industrial land uses are established in order:

Clearly, the intent is to require commercial activities, such as that being proposed by PNM to be located in appropriately zoned areas. The County Development Code continues:

4.3

Guidelines for Permitted Uses and Structures

The following lists represent suggestions only. Uses assigned to a district are not necessarily limited by the list. The Standard Industrial Classification (SIC) may also be used to compare categories not listed here.

4.3.1

Guidelines for Types of Permitted Uses and Structures in Major or Community, Commercial or Industrial Non-residential Districts

- a. Professional, business or governmental offices;
- b. Business services;
- c. Research and development businesses and laboratories;
- g. personal service establishments;
- k. Offices, studios, clinics and laboratories;
- n. Public or private utilities;
- cc. Light industry and manufacturing;
- dd. Wholesale, warehouse, distribution and general industry.

Again, activities and structures proposed by PNM fit at least within the categories of public or private utilities, light industry and manufacturing and general industry. A zoning change from rural residential to industrial is absolutely required or the activity must be more appropriately located. This should have been presented to the CDRC, this Board and to the

public in precisely these terms – not by masking the true nature of this operation and the zoning needs by telling the public this is a Master Plan Zoning application, or telling the CDRC and this Board that zoning is not an issue because of some future possible zoning map or because this is an unregulated activity that needs no zoning approvals. This less than candid presentation is a matter between the Board and its staff. But as far as the public is concerned, it renders these proceedings jurisdictionally defective as there is a lack of due process and reasonable notice of what is being proposed.

Neither the applicant nor the County staff, accordingly, provided adequate notice to either the CDRC or the public of the nature of the zoning changes that were being proposed, namely, Rural Residential to Heavy Industrial. This is a denial of due process.

b. NMSA 1978 § 3-21-6 requires that whenever there is a proposed change in zoning, notice needs to be provided to property owners within 100 feet of the proposed areas affected and notices must be posted and published.

c. Further, all notices provided must fairly apprise the average citizen reading them of the general purpose and nature of what is contemplated. If a notice is “insufficient, ambiguous, misleading or unintelligible to the average citizen,” it is inadequate. *Nesbit v. City of Albuquerque*, 91 N.M. 455. By not describing the full nature and import of the zoning change requested, the notice as to everyone, including the general public, is deficient.

d. The notice that was published only provides that the hearing will be “for a Master Plan Zoning, Preliminary and Final Development Plan approval to allow a 5 megawatt solar facility on a 40 acre site.” The message on the sign only indicates “Master

Plan Zoning.” This does not provide the average reader with any notice of what is actually being proposed by way of zoning – bestowing heavy industrial zoning on a parcel currently zoned rural residential. No average person reading this would know what Master Plan Zoning is. In fact it took, fortunately, one diligent and astute CDRC member to wrestle out of staff what zoning actions were actually being proposed. If the CDRC did not know, certainly the public does not. There is a vast difference between approving a particular use, such as solar panels, and changing the entire zoning of a piece of property which would allow the owner to scrap the proposed use and introduce a far more impacting use that fits within heavy industrial zoning.

The following excerpts from New Mexico cases are instructive and are conclusive that notice requirements for this zoning change proposal have not been met and these and the CDRC proceedings are jurisdictionally defective.

Miller v. City of Albuquerque, 89 N.M. 503, 554 P.2d 665 (N.M. 09/09/1976)

By failing to comply with its own published procedures, specifically by failing to give reasons for the proposed change, the EPC deprived petitioner of notice and the opportunity to prepare an adequate defense. This was a denial of procedural due process.

Eldorado at Santa Fe Inc. v. Cook, 113 N.M. 33, 822 P.2d 672 (N.M.App. 10/11/1991)

Our decision is additionally mandated by constitutional due process requirements. Petitioners were entitled to notice and an opportunity to be heard. See Nesbit v. City of Albuquerque, 91 N.M. 455, 575 P.2d 1340 (1977) (in zoning action, due process requires notice where change in zoning restriction would amount to change in fundamental character of property, and failure to give notice renders void all subsequent acts of zoning authority); *Miller v. City of Albuquerque* (same). Failure to follow statutory procedures violated petitioners' due process rights, and no subsequent act could correct the defect. See *Miller v. City of Albuquerque* ; *Nesbit v. City of Albuquerque*. Consequently, Eldorado's arguments that petitioners were not a party to the state engineer's proceedings and that they can

assert their alleged prior water rights in a separate action for damages and injunction lack merit.

Nesbit v. City of Albuquerque, 91 N.M. 455, 575 P.2d 1340 (N.M. 12/20/1977) Where substantial compliance with mandatory publication requirements is not met, the action of the zoning authority is invalid. *Hopper v. Board of County Commissioners*, 84 N.M. 604, 506 P.2d 348, cert. denied, 84 N.M. 592, 506 P.2d 336 (1973).

The zoning authority need not follow the entire statutory procedure whenever a minor change is requested, but when the deviation is of such importance or materiality as to amount to a change in the fundamental character of the property then due process requires notice to be given. *St. Bede's Episcopal Church v. City of Santa Fe*, 85 N.M. 109, 509 P.2d 876 (1973).

Section 14-20-4(B) requires a published notice and a public hearing for changes in zoning restrictions. The consideration of a new development plan for an SU-1 zoned property is an amendment to a zoning restriction. Lack of notice is a jurisdictional defect which renders the proceedings void. The decision of the City Planning Department at the July 18, 1972 and August 15, 1972 hearings was legally ineffective. *Louisville & Jefferson County Plan. & Z. Comm'n v. Ogden*, 307 Ky. 362, 210 S.W.2d 771 (Ky. App.1948); *Alderman v. Town of West Haven*, 124 Conn. 391, 200 A. 330 (1938).

In order to meet the statutory requirement of adequate notice, it must be determined whether notice as published fairly apprised the average citizen reading it with the general purpose of what was contemplated. *St. Bede's Episcopal Church v. City of Santa Fe*, supra. If the notice is insufficient, ambiguous, misleading or unintelligible to the average citizen, it is inadequate to fulfill the statutory purpose of informing interested persons of the hearing so that they may attend and state their views. *Hawthorne v. City of Santa Fe*, supra; *Holly Development, Inc. v. Board of County Comm'rs*, 140 Colo. 95, 342 P.2d 1032 (1959). The September 8, 1972 notice was clearly inadequate and the actual notice of four of the Neighbors was legally insufficient. Therefore, the City Commission's decision of October 2, 1972, is also void.

St. Bede's Church v. City of Santa Fe, 85 N.M. 109, 509 P.2d 876 (N.M. 05/04/1973)

We believe the rule governing the sufficiency of the original notice, or the need for additional notice, when changes are made by a zoning commission in a rezoning request, is set forth in 1 Anderson, *American Law of Zoning*, 179 (1968), as follows:

[25] "If the change is so fundamental that it is no longer within reach of the notice of hearing, it will be necessary to publish a new notice. * * * If, however, the change is not substantial, a second hearing will be unnecessary. The problem was concisely summarized by a Florida court in the following language: 'As a general rule the notice must apprise the public of the suggested changes, and the zoning amendment must conform substantially to the proposed changes. Some deviation, however, may be immaterial where the variance is a liberalization of the proposed amendment rather than an enlarged restraint on the property involved. * * * A change may, of course, be "substantial" where an amendment makes a greater or more significant change than that requested.'"

[26] In 1 Rathkopf, *The Law of Zoning and Planning*, 165-6 (Supp. 1972), the principle governing the sufficiency of the original notice to embrace changes made in proposals is stated as follows:

[27] "The true test (as to adequacy of notice) is whether the notice as published fairly apprised the average citizen reading it with the general purpose of what is contemplated.

[28] "The final form of a proposed amendment may differ from the draft submitted to the public hearing. Changes may be made in passage if they are not of fundamental character." (Citing *Leventhal v. Buehler*, 346 Mass. 185, 191 N.E.2d 128 (1963).

[29] See also *Heaton v. City of Charlotte*, supra; *Naylor v. Salt Lake City Corporation*, 17 Utah 2d 300, 410 P.2d 764 (1966); *McGee v. City of Cocoa*, 168 So.2d 766 (Fla. App. 1964).

e. County Code 2.3.2C requires that 21 calendar days prior to any public meeting, the applicant shall post notice of filing of the application prominently on the land which is the subject of the application. The posted notice of the PNM application did not comply. Instead, notice was posted almost one quarter of a mile away from the subject property, and, again, was insufficient in its content. See Exhibit D.

f. The zoning request is apparently only being made for 40 acres of a 160 acre parcel. The request is not only a spot zoning request, it is a request to have split zoning on a single parcel. It is anticipated, that a change in zoning to heavy industrial to part of the property will be a springboard to a subsequent request to rezone the balance of the property similarly.

g. As discussed above, Article III section 4.2 identifies the types of and locations for commercial zoning. The proposed location is in violation of these ordinance requirements. See also Article III section 4.2.3.

h. Article III section 4.2.5, and specifically 4.2.5(b), set forth the requirements that staff present to the CDRC an analysis of a number of issues whenever there is a rezoning request. None of this occurred. In fact at the staff presentation of the application, no one ever mentioned anything about a rezoning request until one committee member finally understood what the applicant was actually trying to do and forced an admission out of staff that a dramatic zoning change was actually part of the application the CDRC was being asked to approve or recommend approval of.

ZONING CHANGE

1. The proposed zoning change is effectively a spot zoning and there is no showing that the current zoning, Rural Residential, was the product of an initial mistake or that there has been a significant change in the neighborhood to the extent that a Rural Residential zoning should be changed to Heavy Industrial. *Albuquerque Common Partnership v. City Council of the City of Albuquerque*, 2009-NMCA-065; *Albuquerque Common Partnership v. City Council of the City of Albuquerque*, 2008 NMSC 0025.

Bennett v. City Council for the City of Las Cruces, 1999-NMCA-015, ¶¶ 17-20, 126 N.M. 619, 973 P.2d 871 (Ct.App 12/21/1998) explains illegal spot zoning:

"Spot Zoning is an attempt to wrench a single lot from its environment and give it a new rating that disturbs the tenor of the neighborhood, and which affects only the use of a particular piece of property or a small group of adjoining properties and is not related to the general plan for the community as a whole, but is primarily for the private interest of the owner of the property so zoned."

2. The entire county is currently the subject of a comprehensive rezoning process. What is being proposed is a dramatic spot zoning which under the circumstance is not permitted and is otherwise inappropriate at this time. There are other locations available for this type of commercial activity. Opening the door to heavy industrial use, while only accommodating a solar project today, could involve a concrete plant tomorrow.

VIOLATION OF SUBDIVISION ACT

The proposal is to lease a portion (a 40 acre tract out of the 160 acre parcel) of property to PNM for the installation of solar collectors. According to PNM the 40 acre parcel to be leased will be fenced off. The CDRC packet included an unrecorded plat showing the 160 acre parcel being divided into four lots, (See NBE-30) with the North West lot No. 4 apparently being the lot being leased to PNM for the project. The property, however, has not been subdivided. (staff's response is that administration will take care of that later) A subdivision is defined by statute and County Ordinance as property which is divided into two or more parcels for sale or lease. Until Lot 4 is a legal

lot of record, the proposed lease to PNM is in violation of the subdivision statutes and ordinances.

ACCESS ROADS

The proposed off-site access to the project property includes a new configuration of the Cochiti Trail Road. This historic road has been used for centuries and is a federally established road under 43 USC § 932. See letter to Vickie Lucero Exhibit E. If the existing road is vacated and is replaced by the newly configured road, then this will cut off access to and otherwise interfere with the historic use of certain properties owned by the Bacas and will constitute a taking. See, *State v. Danfelter*, 72 N.M. 361 and *Hill v. State Highway Commission*, 85 N.M. 689.

If the new configuration of the road is allowed to coexist with the original Cochiti Trail Road, then the County will be creating a dangerous condition which would present a serious risk of injury to the travelling public because of the severity of the angle at the point the two roads join. This could subject the County to liabilities, but more importantly is an unnecessary risk being imposed. While the current proposed use may not generate significant traffic, once this road is opened up, it will be used by the public. The access road runs to a 100 foot wide public easement which cannot be blocked off.

Article III section 2.4.2b(3) requires that subdivisions upgrade off site access roads so they are up to County standards. For this lease of land to PNM to even be considered, there must be a subdivision. For a subdivision to be approved, this road issue must be addressed.

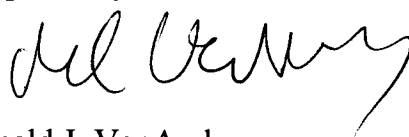
The staff essentially states that despite the years of trying to have this important issue addressed, it “has not reviewed the proposed Plat for compliance with the alignment of the platted easement. This review will be done when a submittal for Land Division to create the 40 acre tract.” NBE 5. Certainly there was enough time to review this issue. Taking care of the road issue when it is out of public light and out of commission control should not be acceptable. This ordinance requirement needs to be addressed now and not ignored during this final approval stage. Simply dealing with this important issue by staff administratively is not the responsible way to proceed.

The Appellants request the following relief:

1. Remand these proceedings back to the CDRC and require that published, posted and mailed notices provide expressly that the applicant seeks to change the zoning of the 40 acre parcel from Rural Residential to Heavy Industrial.
2. Require that this specific notice be mailed to all property owners within 100 feet of the subject property.
3. Require that notice of the public meeting be posted at least 21 days prior to any CDRC meeting prominently on the subject property.

Thereafter, the CDRC can then consider its recommendations as to zoning and its decision as to the development application. At that point this matter can be appropriately brought before this Commission. Right now this application is a disaster.

Respectfully submitted,



Ronald J. VanAmberg

VanAmberg, Rogers, Yepa,
Abeita, Gomez & Works, LLP
P.O. Box 1447
347 E. Palace Avenue
Santa Fe, New Mexico 87501
505-988 8979
505-983-7508 (fax)
rvanamberg@nmlawgroup.com

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SANTA FE NEW MEXICAN

LEGAL # 97940

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

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held to consider a request by Public Service Company of New Mexico for Master Plan Zoning, Preliminary and Final Development Plan approval to allow a 5 megawatt electric Solar Facility on a 40 acre site. The property is located north of New Mexico Highway 599 and takes access via Caja del Rio Road, within Section 3, Township 16 North, Range 8 East, (Commission District 2).

A public hearing will be held in the County Commission Chambers of the Santa Fe County Courthouse, corner of Grant and Palace Avenues, Santa Fe, New Mexico on the 10th day of February, 2015, at 5 p.m. on a petition to the Board of County Commissioners.

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

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

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

Please forward affidavit of publication to the County Land Use Administrator, P.O. Box 276, Santa Fe, New Mexico 87504-0276.

Published in The Santa Fe New Mexican on January 20, 2015

Ad Proof / Order Confirmation / Invoice

Account Number

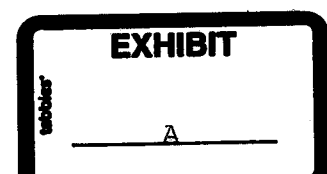
2300

Ad Order Number

0000105870

PNM REGULATORY POLICY DEPT

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MASTER PLAN ZONING, PRELIMINARY AND FINAL DEVELOPMENT PLAN TO ALLOW A FIVE
MEGAWATT ELECTRIC SOLAR FACILITY ON A 40 ACRE SITE

Name of Applicant: PUBLIC SERVICE COMPANY OF NEW MEXICO
Address of Request: TAKES ACCESS VIA CAJA DEL RIO ROAD

The legal description is Section 3 Township 16 North Range 8 East

The notice on the meeting is 10th of February, 2015 at 6:00 p.m. before the Board of County
Commissioners. Contact information is Land Use Department Po 276 Santa Fe, NM 87504 505-986-
6225

Development Permit # 14-5370

See NBE 79

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EXHIBIT

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From: Jose Larranaga
Sent: Monday, February 9, 2015 6:23 PM
To: Claus Benkert ; Penny Ellis-Green
Subject: RE: CDRC CASE # Z/DP 14-5370 PNM Caja Del Rio Solar Energy Center Project

Mr. Benkert,

The Board of County Commissioners (BCC) will hear a request made by PNM, to construct a 5 megawatt solar facility on a 40 acre site, on February 10, 2015. The public hearing will start after 5PM. An Agenda and staff report with exhibits are posted on the County Web Site. This is a public hearing and staff encourages you to speak at the hearing under comments/concerns from the public or if you wish you can email me your concerns and I will present your letter to the BCC during the hearing. Your letter should outline your concerns on the project, how it may affect your property, location of your property in relation to the proposed solar site, and of course the name of the registered owner of your property (warranty deed).

If you have any questions please do not hesitate to contact me.

Thank You,

Jose E. Larranaga

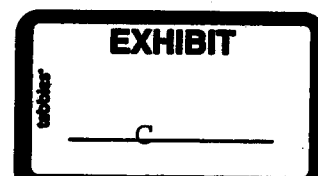
From: Claus Benkert [<mailto:claus.benkert@gmail.com>]
Sent: Monday, February 09, 2015 12:03 AM
To: Jose Larranaga; Penny Ellis-Green
Cc: matthewrbaca@yahoo.com
Subject: Re: CDRC CASE # Z/DP 14-5370 PNM Caja Del Rio Solar Energy Center Project

Dear Ms. Ellis-Green, dear Mr. Larranaga,

at the end of last week I received an email from Mr. Matthew Baca, asking me whether I had been informed about an upcoming hearing of the solar energy development project. You had sent me some information about the application of the project on January 22 but I was not informed that there will be a meeting in which I can state my position on the development of an industrial site adjacent to the property that was bought by the company that I manage. I am particularly concerned about a big industrial facility with an 8 feet high fence with barbed wire at the top in the beautiful terrain that eventually will be used as residential property. So, following the suggestion of Mr. Matthew Baca I want to notifying the County of Santa Fe that I formally protest the placement of the facility as outlined in the application. Please let me know whether there are more formal requirements for stating my position on the planned industrial development and please keep me informed about the next steps regarding this matter.

Thank you very much for your help,

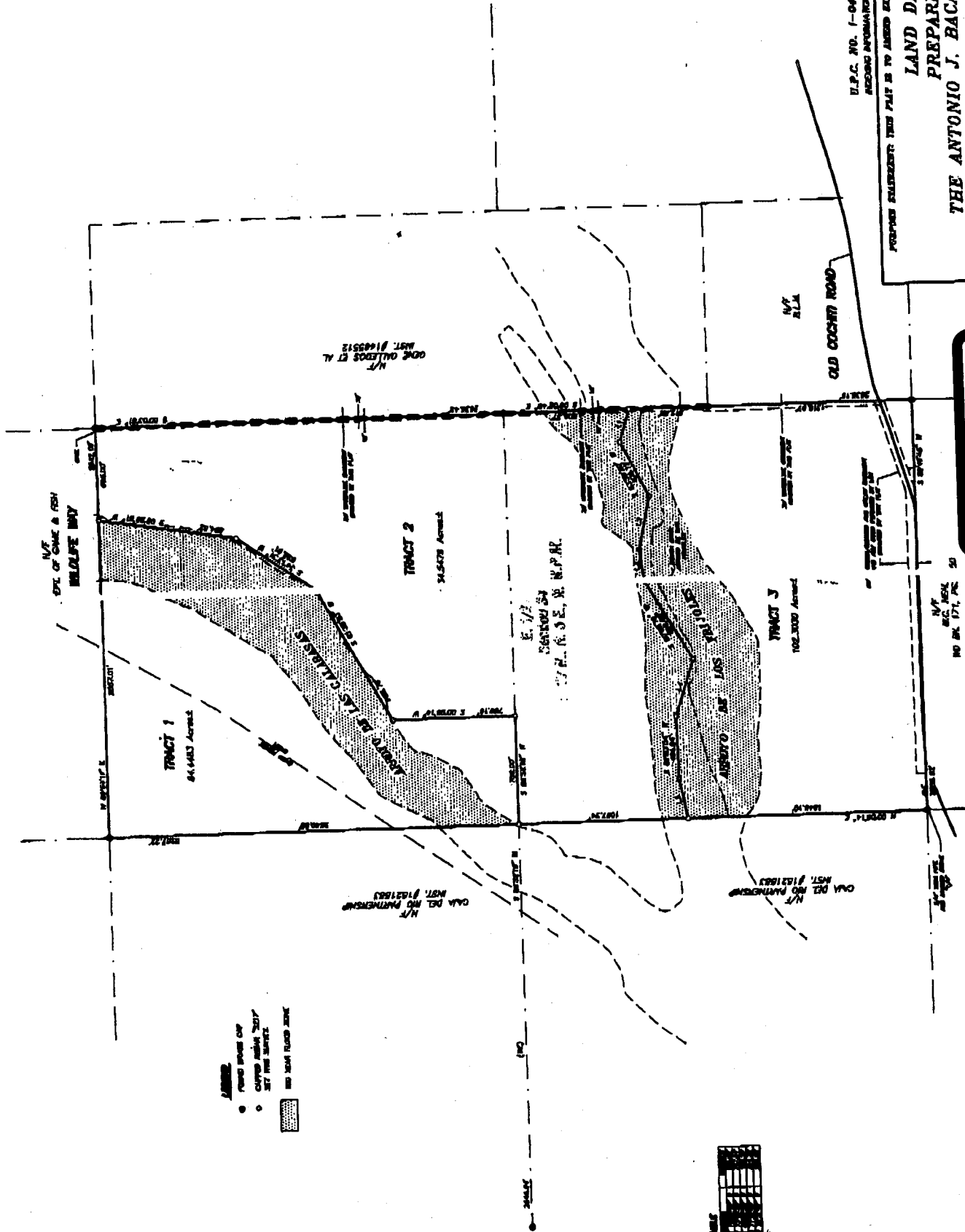
Dr. Claus Benkert
 Managing Partner
 CHARYB



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- FUND SOURCE OF
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 - SET THE SURVEY
 - NO SIGN PLACED HERE



U.P.C. NO. 1-047-058-384-284
RECORDING INFORMATION FOR COUNTY CLERK

FORWARDED HEREWITH THIS FILE TO AMEND EXISTING LAR INSTRUMENTS & CREATE SERIAL

LAND DIVISION

PREPARED FOR

THE ANTONIO J. BACA REVOCABLE TRUST

IN THE E 1/2, SECTION 34, T.17N., R.8E., N.M.C.

SANTA FE COUNTY, NEW MEXICO

PROJECT NO. 14-07 PC

EXHIBIT

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WARRANTY DEED

Philip L. Baca and Thomas L. Popejoy, as Co-Trustees of the Antonio J. Baca Revocable Trust Under Trust Agreement Dated December 26, 1995, Amended and Restated on August 3, 2005 for consideration paid, grant(s) to Charyb KG, German limited partnership whose address is Ammersee St. #25, Inning, Germany 82266, the following described real estate in Santa Fe County, New Mexico:

Tract 2 and Tract 3, as shown and delineated on plat of survey entitled "Land Division Created by 35 Acre Exemption Prepared for The Antonio J. Baca Revocable Trust in the E 1/2, Section 34, T.17N., R.8E., N.M.P.M. Santa Fe County, New Mexico", recorded July 15, 2014 in Plat Book 776, Page 11-13, # 1741457, records of Santa Fe County, New Mexico.

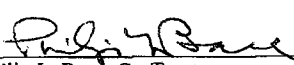
SUBJECT TO: taxes and assessments for 2014 and subsequent years.


SUBJECT TO: matters described in Exhibit "A" attached hereto.

with warranty covenants.

Witness our hands this 8 day of July, 2014.

ANTONIO J. BACA REVOCABLE TRUST
dated December 26, 1995; amended August 3, 2005


Philip L. Baca, Co-Trustee


Thomas L. Popejoy, Co-Trustee

ACKNOWLEDGMENT FOR NATURAL PERSONS

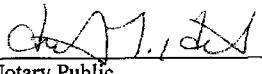
State of AZ

County of Maricopa

This instrument was acknowledged before me on July 8, 2014 by Philip L. Baca, as Co-Trustee of the Antonio J. Baca Revocable Trust Under Trust Agreement Dated December 26, 1995; Amended and Restated on August 3, 2005.

My commission expires: 11-20-2016




Notary Public

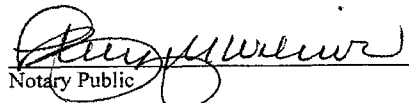
ACKNOWLEDGMENT FOR NATURAL PERSONS

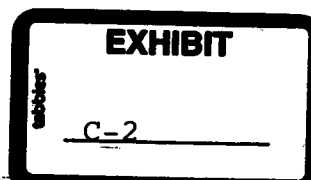
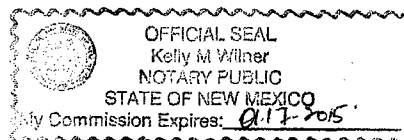
STATE OF New Mexico

COUNTY OF Santa Fe

This instrument was acknowledged before me on July 15, 2014 by Thomas L. Popejoy, as Co-Trustee of the Antonio J. Baca Revocable Trust Under Trust Agreement Dated December 26, 1995; Amended and Restated on August 3, 2005.

My Commission Expires: 01-17-2015


Notary Public



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EXHIBIT

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VANAMBERG, ROGERS, YEP, ABEITA & GOMEZ, LLP

ATTORNEYS AT LAW

RONALD J. VANAMBERG (NM)
CARL BRYANT ROGERS (NM, MS)**
DAVID R. YEP (NM)
CAROLYN J. ABEITA (NM)**
DAVID GOMEZ (NM, NAVAJO NATION)**
SARAH WORKS (NM, AZ, DC)

**NEW MEXICO BOARD OF LEGAL SPECIALIZATION
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SUITE C
ALBUQUERQUE, NEW MEXICO 87102
(505) 242-7352
FAX (505) 242-2283

December 15, 2014

HAND DELIVERED

Vickie Lucero
County Land Use
102 Grant Avenue
Santa Fe, New Mexico 87501

Re: Application of El Llano Summit Caja del Rio, LLC Application for Development
and Rezoning

Dear Ms. Lucero:

This letter is on behalf of Philip Baca, Matthew Baca, Michael Baca, Phyllis Baca and Loretta Baca, some of the heirs and successors in interest to Antonio Baca and who own a substantial amount of property in the State Road 599 and Caja del Rio area. I will collectively refer to my clients as "the Bacas." The Bacas have no problem with PNM creating solar power for its system and encourage such activity. However, the Bacas have concerns about the above referenced application because it involves a request for spot zoning to allow for commercial and industrial uses on a single tract (Lot 1 as shown on the survey draft which is Exhibit F) and will involve use of an ill-advised administratively created road superimposed in part over a historic road referred to as the Cochiti Trail, which road is also a 42 USC 932 road created by federal law. Some history should be helpful.

THE ROAD SITUATION

Several years ago, the Bacas had to address a situation where the Office of Archaeological Studies (OAS) was intending to develop property in the 599 area that had been acquired from the Bureau of Land Management (BLM) under the provisions of the Recreation and Public Purposes Act. Apparently the OAS and the County intended to request or did request the Bureau of Land Management to vacate and relocate a road known historically as the Cochiti Trail that passes through the OAS property. As will be discussed further, the Cochiti Trail has been a historic road for centuries and any vacation and relocation of it would be problematic for a variety of reasons. The Bacas expressed their concerns about moving the Cochiti Trail and thought better judgment had prevailed. However, under the direction of James Lujan and with no public input, a new road ("New

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Road") has been created that intersects the Cochiti Trail road at dangerous angles, while incorporating part of the Cochiti Trail for a distance. (See, portion of plat which is Exhibit A showing the relocation in relation to the Cochiti Trail). As shown in Exhibit A the new road deviates from the Cochiti Trail road, angles into it from the east and then curves away as the new portion swings to the south, (the "South Road") instead of following the Cochiti Trail, coming to a stop and turning left.

Matthew Baca wrote Mr. Lujan about his family's concerns, and queried him as to what the motivating factors were in creating the road for a single property owner. Mr. Lujan did not respond to several queries from Matthew, except for a violent verbal outburst from Mr. Lujan, directed at Matthew in the state capitol during a legislative session, that did nothing to explain why he was building the road, but did result in Mr. Lujan being banned from the Senate Rules Committee offices.

The Cochiti Trail road services several of the Bacas' properties. One property is a small holding claim that extends into the southern portion of Section 35 and is surrounded by the OAS property within Section 35. Another parcel is the east ½ of Section 34 which bounds Section 35 to the west. These lands are indicated on Exhibit B, which is a 1915 survey showing the Cochiti Road. A third parcel is to the west of the area where the proposed new road swings to the south. The Bacas also own a small holding claim which is on the eastern side of Exhibit B. This property is directly impacted by the proposed road vacation as the Cochiti Trail directly traverses Caja del Rio Road and serves as an access road for the eastern property. Caja del Rio Road and the Cochiti Trail have only one intersection point that allows, again historically, easy and quick access to the properties. Additionally, Challenge New Mexico, a non-profit serving developmentally disabled children through horse riding therapy, has its access to Caja del Rio adjacent to the Cochiti Trail.

The two small holding claims are located within the Airport Development District created by the County in 1999 for master planning efforts. These planning efforts clearly recognized the Cochiti Trail road running in a straight line adjacent to the small holding claim properties and into the property to the west. The county recognized the road in the late 1990s, authorizing the placement of water lines and other infrastructure that would service the various Baca properties and facilitate developing the highest and best use for the properties. During the past two years, the Bacas, the County and the New Mexico Game and Fish Department have worked together on the possible placement of a county waterline along this access route for service to the Game and Fish Department, which desires to move onto the county water system. When building Caja del Rio, the County provided gates to the Cochiti Trail on both the east and west side of Caja del Rio.

Vacating a portion of the Cochiti Trail would frustrate these infrastructure plans and would significantly devalue the Baca properties.

The Cochiti Trail has at least two statuses. First, it is the historic Cochiti Trail, used for centuries (prior to and after European Colonization) to travel from both the Santa Fe and San Ildefonso area to the La Bajada area and beyond. The road is shown on the Exhibit B 1915 plat. As noted in the previous paragraph, the road travels across the top of the Bacas' small holding claim, which is labeled on the map, and continues on to the Bacas' Section 34 property.

In 1998-1999, the City of Santa Fe questioned whether the Cochiti Trail and another road leading to the Bacas' small holding claim property, shown on the eastern portion of the 1915 survey, were public roads. After investigating this issue, a letter was written by the BLM informing the City that one of the roads was part of the Cochiti Trail (Exhibit C). Following this letter, the City fully acknowledged the trail and also acknowledged that it was prohibited from blocking or altering the trail. The integrity of the trail was then respected and continued as access to the Baca properties (Exhibit D). Consistent with this position is Exhibit E, which is a City plat that shows the Cochiti Trail being incorporated into the City's property as a 60' wide road.

Second, the Cochiti Trail is a 42 U.S.C. §932 road. While this federal law has been repealed, roads created under this federal law remain viable and are the subject of enforceable rights. *See, Quintana v. Knowles*, 115 N.M. 360, 851 P.2d 482 (App. 1993). 42 U.S.C. §932 was a federal statute which constituted an offer by the federal government to homesteaders to allow these homesteaders to create public roads across federal unpatented lands so that permanent access could be created to these homesteads. The Bacas' Section 34 property was homesteaded by a Luis Romero in the early 1900s and the Cochiti Trail was used by Mr. Romero to travel to his property during the homesteading process. The road at that time traveled across unpatented federal land. The road continued to be used and continues to be used up until the present day. The establishment of this road by Mr. Romero and his successors created a right associated with the Section 34 property, which cannot be impeded or destroyed without the permission of the Bacas. Under Federal law this is a public highway created by a federal dedication.

First, this is a road developed through a *federal* dedication. *See, Quintana v. Knowles*. The County does not have any jurisdiction or right to vacate this road once created under federal authority.

Second, the vacation of any public road has to follow statutory procedures which include notice, hearing and action by the governing body. This vacation and relocation did not even begin to follow these procedures.

Third, since the vacation and relocation of the road involves altering and perhaps eliminating the access to the Baca properties and otherwise results in a reduction in the value of these properties, a taking has occurred for which compensation is due. In addition to the problems described above, this change in access affects the small holding claim properties of the Bacas and impacts the western property owned by the Bacas, for now instead of the road leading directly into this western Baca property the road curves to the south, requiring the Bacas to enter at the point of a dangerous curve which likely would prevent any governmental approvals for any extensive development of this Baca property.

Finally, if this new road is considered an additional road and the traveling public continues to have access to the Cochiti Trail road, the angles of the road where it meets and departs from the Cochiti Trail road results in the public having to merge into the new road without having the ability to safely view oncoming traffic. This dangerous, life threatening condition exists both at the east and west ends of the new road.

Additionally New Road will physically separate approximately 500 acres of Baca Ranch land to the east from the main body of the ranch. This acreage is used for cattle grazing, with any cattle in this area cut off from their water supply to the west of the road. This road will either endanger the travelling public because of the existing cattle operation or, if the road is fenced, will cause damage to the Baca cattle operation, requiring additional compensation.

In a meeting between Phil Baca, Matthew Baca and Ms. Ellis-Greene and several of her staff members, it was represented that both roads would remain open, but the New Road would only be for emergency access. That satisfactorily took care of the Baca's concerns. However, now it appears that the New Road will be a primary access to the proposed solar project to be located on the Applicant's Lot 1, giving new life to the above stated concerns. The Bacas did send their concerns recently to the County Attorney and understand that his plate is full with other pressing matters. See attached.

THE ZONING REQUEST

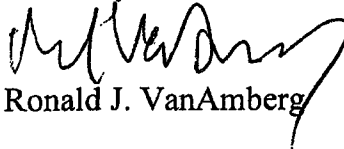
The request being made is for a new industrial/commercial zoning designation for Applicant's Lot 1 as shown on the Exhibit F plat so that, at least under the current represented plans, a solar farm can be created for use by PNM. Again, while solar energy

Vickie Lucero
December 15, 2014
Page 5

should be encouraged, the Bacas believe that the solar farm is more appropriately placed on Applicant's property to the south which is already zoned for industry. Changing the zoning on one of Applicant's lots would likely be viewed as spot zoning, since Lot 1 is a relatively small parcel at 40 acres and is surrounded by a rural residential zoning. Zoning should be the result of a comprehensive plan which, as you know, is under consideration by the County as it proceeds with development of its zoning map.

Thank you for your consideration.

Sincerely,



Ronald J. VanAmberg

RVA/tmb
Enclosures as indicated

SFC CLERK RECORD 04/29/2015

Survey accepted September 26, 1910 G.L.O.

PLAT
showing
Small Holding Claims
in Sec. 35

T.17N., R.8E.

New Mexico Prin. Base & Mer. in
New Mexico

as surveyed August 17-23, 1910 by

Bart A. Nymeyer

U.S. Dep. Sur.

Under Cont. No. 431 Dated Dec. 2, 1909

and

as surveyed May 20-22, 1915 by

Chas. W. Devendorf

U.S. Surveyor

Under Ins. for Group 44, Dated May 15, 1915

Scale: 6 Chs. = 1 inch

Sec. 35
598.57

BACA PROPERTY ←

Fourth

Standard

Parallel North

(Resur. 6)

EXHIBIT

B

T.17N., R.8E. -- C

SFC CLERK RECORD 04/29/2015



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Taos Resource Area
226 Cruz Alta Road
Taos, New Mexico 87571-5983

2000 (020)

October 29, 1999

Mayor Larry Delgado
City of Santa Fe
P.O. Box 909
Santa Fe, NM 87504

Dear Mayor Delgado,

This office has been asked by Philip Baca, representing the Baca family land interests west of Santa Fe, at your office's suggestion, to verify the existence of two roads crossing Bureau of Land Management Land (BLM) in T. 17 N., R. 8 E., NMPM. (see attached map and Baca letter to BLM) The first road is located in sections 23 and 26 and crosses BLM land only in section 26 within lots 13, 14 and 19 which are located in the NE1/4NW1/4 of the section according to BLM land status records. The second road has been historically referred to as the Cochiti Trail which extends from Santa Fe to the community of La Bajada and further south. This road is located on BLM land in lots 2-5, inclusive, (S1/2S1/2) within section 35 according to BLM land status records..

BLM recognizes the existence of these roads as being located on BLM land as depicted on maps of this area and their physical location on the ground. Recognition of their existence does not confer any special status on these roads. Persons using them may do so under Federal regulations in 43 CFR 2800 0.5 pertaining to casual use of roads on BLM land.

If you need any additional information in regards to this matter please do not hesitate to contact Hal Knox of my staff at (505) 751-4707.

Sincerely,

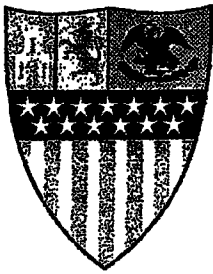
Sam DesGeorges
Assistant Field Manager

c.c. Mark Basham
Philip Baca

EXHIBIT

C

SFC CLERK RECORD04/29/2015



City of Santa Fe, New Mexico

Larry A. Delgado, Mayor

Dr. Mike Mier, City Manager

Councillors: Art Sanchez, Mayor Pro Tem, Dist. 3

Patti J. Bushee, Dist. 1

Jimmie Martinez, Dist. 1

Cristopher Moore, Dist. 2

Molly Whitted, Dist. 2

Frank Montañño, Dist. 3

Peso Chavez, Dist. 4

Carol Robertson Lopez, Dist. 4

December 1, 1999

Mr. Philip Baca
2902 Karen Dr.
Las Cruces, New Mexico 88001


Dear Mr. Baca:

This letter is in response to our meeting last week in my office regarding the trails which you have been using to access your property across the BLM land, which land will eventually be deeded to the City of Santa Fe. In the meeting, you requested that the City recognize a portion of the Cochiti Trail which runs through this property in its Master Plan so that the trail will remain in perpetual existence.

Because of the Cochiti Trail's historical nature, the City and its successors are prohibited from altering, diverting or destroying any portion of the trail. Therefore, the trail will remain in perpetual existence because of its historical status. Furthermore, I have asked John Griego to prepare a revised Master Plan showing the existing trails in this area, as well as trail improvements and the animal shelter project which will be constructed in the near future.

I am hopeful that this will satisfy your request of the City in regard to this matter. Please contact me if you have any further questions in regard to this matter.

Sincerely,


Dr. Mike Mier
City Manager

200 Lincoln Avenue, P.O. Box 909, Santa Fe, N.M.

EXHIBIT

D

SEC. CLERK RECORD 04/29/2015

PUBLIC NOTICE

THE LANDS OF COUNTY LAND ARE CURRENTLY BEING ACQUIRED BY THE STATE OF CALIFORNIA FOR THE PURPOSE OF CONSERVING THE NATURAL BEAUTY AND SCENIC QUALITIES OF THE AREA. THE LANDS ARE CURRENTLY BEING ACQUIRED BY THE STATE OF CALIFORNIA FOR THE PURPOSE OF CONSERVING THE NATURAL BEAUTY AND SCENIC QUALITIES OF THE AREA. THE LANDS ARE CURRENTLY BEING ACQUIRED BY THE STATE OF CALIFORNIA FOR THE PURPOSE OF CONSERVING THE NATURAL BEAUTY AND SCENIC QUALITIES OF THE AREA.

SYMBOL LEGEND

- FOUND U.S. AIRCRAFT AS SHOWN
- FOUND AIRCRAFT AS SHOWN
- FOUND AIRCRAFT WITH CAP NO. 1000 SET B

— THE PRESS

**SURVEY OF LAND LEASED
BY
THE CITY OF SANTA FE
TO
SANTA FE ANIMAL SHELTER**

& HUMANE SOCIETY
LOCATED OFF CAYA DEL RIO ROAD WITHIN
SECTION 35, T.77 N., R.8 E., N.M.P.M., COUNTY
OF SANTA FE, STATE OF NEW MEXICO

SEARCHING INFORMATION FOR COUNTY CLERK
CONNECTIONS: 2005-2006, 2007-2008, 2009-2010, 2011-2012, 2013-2014, 2015-2016, 2017-2018, 2019-2020, 2021-2022, 2023-2024, 2025-2026, 2027-2028, 2029-2030, 2031-2032, 2033-2034, 2035-2036, 2037-2038, 2039-2040, 2041-2042, 2043-2044, 2045-2046, 2047-2048, 2049-2050, 2051-2052, 2053-2054, 2055-2056, 2057-2058, 2059-2060, 2061-2062, 2063-2064, 2065-2066, 2067-2068, 2069-2070, 2071-2072, 2073-2074, 2075-2076, 2077-2078, 2079-2080, 2081-2082, 2083-2084, 2085-2086, 2087-2088, 2089-2090, 2091-2092, 2093-2094, 2095-2096, 2097-2098, 2099-2100, 2101-2102, 2103-2104, 2105-2106, 2107-2108, 2109-2110, 2111-2112, 2113-2114, 2115-2116, 2117-2118, 2119-2120, 2121-2122, 2123-2124, 2125-2126, 2127-2128, 2129-2130, 2131-2132, 2133-2134, 2135-2136, 2137-2138, 2139-2140, 2141-2142, 2143-2144, 2145-2146, 2147-2148, 2149-2150, 2151-2152, 2153-2154, 2155-2156, 2157-2158, 2159-2160, 2161-2162, 2163-2164, 2165-2166, 2167-2168, 2169-2170, 2171-2172, 2173-2174, 2175-2176, 2177-2178, 2179-2180, 2181-2182, 2183-2184, 2185-2186, 2187-2188, 2189-2190, 2191-2192, 2193-2194, 2195-2196, 2197-2198, 2199-2200, 2201-2202, 2203-2204, 2205-2206, 2207-2208, 2209-2210, 2211-2212, 2213-2214, 2215-2216, 2217-2218, 2219-2220, 2221-2222, 2223-2224, 2225-2226, 2227-2228, 2229-2230, 2231-2232, 2233-2234, 2235-2236, 2237-2238, 2239-2240, 2241-2242, 2243-2244, 2245-2246, 2247-2248, 2249-2250, 2251-2252, 2253-2254, 2255-2256, 2257-2258, 2259-2260, 2261-2262, 2263-2264, 2265-2266, 2267-2268, 2269-2270, 2271-2272, 2273-2274, 2275-2276, 2277-2278, 2279-2280, 2281-2282, 2283-2284, 2285-2286, 2287-2288, 2289-2290, 2291-2292, 2293-2294, 2295-2296, 2297-2298, 2299-2300, 2301-2302, 2303-2304, 2305-2306, 2307-2308, 2309-2310, 2311-2312, 2313-2314, 2315-2316, 2317-2318, 2319-2320, 2321-2322, 2323-2324, 2325-2326, 2327-2328, 2329-2330, 2331-2332, 2333-2334, 2335-2336, 2337-2338, 2339-2340, 2341-2342, 2343-2344, 2345-2346, 2347-2348, 2349-2350, 2351-2352, 2353-2354, 2355-2356, 2357-2358, 2359-2360, 2361-2362, 2363-2364, 2365-2366, 2367-2368, 2369-2370, 2371-2372, 2373-2374, 2375-2376, 2377-2378, 2379-2380, 2381-2382, 2383-2384, 2385-2386, 2387-2388, 2389-2390, 2391-2392, 2393-2394, 2395-2396, 2397-2398, 2399-2400, 2401-2402, 2403-2404, 2405-2406, 2407-2408, 2409-2410, 2411-2412, 2413-2414, 2415-2416, 2417-2418, 2419-2420, 2421-2422, 2423-2424, 2425-2426, 2427-2428, 2429-2430, 2431-2432, 2433-2434, 2435-2436, 2437-2438, 2439-2440, 2441-2442, 2443-2444, 2445-2446, 2447-2448, 2449-2450, 2451-2452, 2453-2454, 2455-2456, 2457-2458, 2459-2460, 2461-2462, 2463-2464, 2465-2466, 2467-2468, 2469-2470, 2471-2472, 2473-2474, 2475-2476, 2477-2478, 2479-2480, 2481-2482, 2483-2484, 2485-2486, 2487-2488, 2489-2490, 2491-2492, 2493-2494, 2495-2496, 2497-2498, 2499-2500, 2501-2502, 2503-2504, 2505-2506, 2507-2508, 2509-2510, 2511-2512, 2513-2514, 2515-2516, 2517-2518, 2519-2520, 2521-2522, 2523-2524, 2525-2526, 2527-2528, 2529-2530, 2531-2532, 2533-2534, 2535-2536, 2537-2538, 2539-2540, 2541-2542, 2543-2544, 2545-2546, 2547-2548, 2549-2550, 2551-2552, 2553-2554, 2555-2556, 2557-2558, 2559-2560, 2561-2562, 2563-2564, 2565-2566, 2567-2568, 2569-2570, 2571-2572, 2573-2574, 2575-2576, 2577-2578, 2579-2580, 2581-2582, 2583-2584, 2585-2586, 2587-2588, 2589-2590, 2591-2592, 2593-2594, 2595-2596, 2597-2598, 2599-2600, 2601-2602, 2603-2604, 2605-2606, 2607-2608, 2609-2610, 2611-2612, 2613-2614, 2615-2616, 2617-2618, 2619-2620, 2621-2622, 2623-2624, 2625-2626, 2627-2628, 2629-2630, 2631-2632, 2633-2634, 2635-2636, 2637-2638, 2639-2640, 2641-2642, 2643-2644, 2645-2646, 2647-2648, 2649-2650, 2651-2652, 2653-2654, 2655-2656, 2657-2658, 2659-2660, 2661-2662, 2663-2664, 2665-2666, 2667-2668, 2669-2670, 2671-2672, 2673-2674, 2675-2676, 2677-2678, 2679-2680, 2681-2682, 2683-2684, 2685-2686, 2687-2688, 2689-2690, 2691-2692, 2693-2694, 2695-2696, 2697-2698, 2699-2700, 2701-2702, 2703-2704, 2705-2706, 2707-2708, 2709-2710, 2711-2712, 2713-2714, 2715-2716, 2717-2718, 2719-2720, 2721-2722, 2723-2724, 2725-2726, 2727-2728, 2729-2730, 2731-2732, 2733-2734, 2735-2736, 2737-2738, 2739-2740, 2741-2742, 2743-2744, 2745-2746

EXHIBIT

1

COUNTY CLERK

COUNTY OF SANTA FE

DOCUMENT NO. 1151882

CHARTERED BY STATE DEPARTMENT: 11/11/1968

ASSOCIATES, L.L.C.

SANTA FE

ALARID

AMENDMENT CERTIFICATE

THE SUNNY PLAT HAS BEEN ALIGNED TO INCLUDE A 10 FOOT PERCENTAGE OF THE 100 PERCENT.

James G. Clavin 10, 29, 01

CERTIFICATE

[illegible][illegible]

100-44388-1000

NAME	DATE
Perkins, G. L. (Leland)	10-23-06

SECRET

1

Page

Break

for Exhibit 5

Job Work Order

DATE OF ORDER

CUSTOMER'S ORDER NO.	PHONE	MECHANIC	HELPER	STARTING DATE 1/16/15
BILL TO				ORDER TAKEN BY
ADDRESS VANAMBERG, ROGERS, YEP, ABREA & GOMEZ, LLP				<input type="checkbox"/> DAY WORK
CITY BOX 1447				<input type="checkbox"/> CONTRACT
JOB NAME AND LOCATION SANTA FE, NEW MEXICO 87504-1447				<input type="checkbox"/> EXTRA

DESCRIPTION OF WORK

- TO: Santa Fe County Land Use
- Please file the Notice of Appeal of CDRC Case NO. 2/DPI4-5370, PNM Caja del Rio Solar Energy Center Project to the Santa Fe Board of County Commissioners
 - Please have them stamp the extra copy of the letter & the additional pleadings and return it
 - Please have them sign this page and return it

DATE COMPLETED	WORK ORDERED BY	TOTAL MATERIALS	
	RVA/KTB	TOTAL LABOR	
		TAX	
		TOTAL AMOUNT	

I hereby acknowledge the satisfactory completion of the above described work.

SIGNATURE

CTOPS 3888

ORIGINAL

- ☐ NO ONE HOME
- ☐ TOTAL AMOUNT DUE FOR ABOVE WORK; OR
- ☐ TOTAL BILLING TO BE MAILED WHEN JOB FINISHED.

03-11



SANTA FE COUNTY
Growth Management Department
Building & Development Services Division

Jose E. Larrañaga
Development Review Team Leader

102 Grant Avenue - P.O. Box 276
Santa Fe, New Mexico 87504-0276
Phone: (505) 986-6296
Fax: (505) 986-6389
E-mail: joselarra@co.santa-fe.nm.us
www.santafecountynm.gov

EXHIBIT

F

SEC. CLERK RECORD 04/29/2015

VANAMBERG, ROGERS, YEP, ABEITA & GOMEZ, LLP

ATTORNEYS AT LAW

RONALD J. VANAMBERG (NM)
CARL BRYANT ROGERS (NM, MS)**
DAVID R. YEP (NM)
CAROLYN J. ABEITA (NM)**
DAVID GOMEZ (NM, NAVAJO NATION)**
SARAH WORKS (NM, AZ, DC)

P.O. BOX 1447
SANTA FE, NM 87504-1447
(505) 988-8979
FAX (505) 988-7508

347 EAST PALACE AVENUE
SANTA FE, NEW MEXICO 87501

ALBUQUERQUE OFFICE

1201 LOMAS BOULEVARD, N.W.
SUITE C
ALBUQUERQUE, NEW MEXICO 87102
(505) 242-7352
FAX (505) 242-2283

**NEW MEXICO BOARD OF LEGAL SPECIALIZATION
CERTIFIED SPECIALIST IN THE AREA OF FEDERAL
INDIAN LAW

January 16, 2015

Code Administrator
Santa Fe County
102 Grant Avenue
Santa Fe, New Mexico 87501

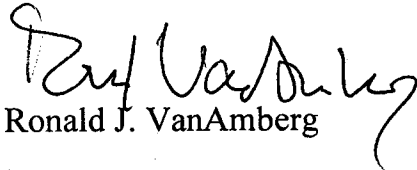
Re: *CDRC Case No. Z/DP 14-5370 PNM Caja Del Rio Solar Energy Center
Project*

Dear Code Administrator:

Please find enclosed a Notice of Appeal of the above-referenced matter on behalf of Phillip Baca, Matthew Baca, and PMB Ltd to the Santa Fe County Board of County Commissioners.

Thank you very much.

Sincerely,


Ronald J. VanAmberg

Enclosure as indicated

cc: Laurie Moye, Coordinator
Regulatory Project and Public Participation
Public Service Company of New Mexico
414 Silver Avenue SW
Albuquerque, New Mexico 87102

SFC CLERK RECORD04/29/2015

VANAMBERG, ROGERS, YEP, ABEITA & GOMEZ, LLP

ATTORNEYS AT LAW

RONALD J. VANAMBERG (NM)
CARL BRYANT ROGERS (NM, MS)**
DAVID R. YEP (NM)
CAROLYN J. ABEITA (NM)**
DAVID GOMEZ (NM, NAVAJO NATION)**
SARAH WORKS (NM, AZ, DC)

P.O. BOX 1447
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(505) 988-8979
FAX (505) 988-7508

347 EAST PALACE AVENUE
SANTA FE, NEW MEXICO 87501

**NEW MEXICO BOARD OF LEGAL SPECIALIZATION
CERTIFIED SPECIALIST IN THE AREA OF FEDERAL
INDIAN LAW

ALBUQUERQUE OFFICE
1201 LOMAS BOULEVARD, N.W.
SUITE C
ALBUQUERQUE, NEW MEXICO 87102
(505) 242-7852
FAX (505) 242-2283

January 16, 2015

Code Administrator
Santa Fe County
102 Grant Avenue
Santa Fe, New Mexico 87501

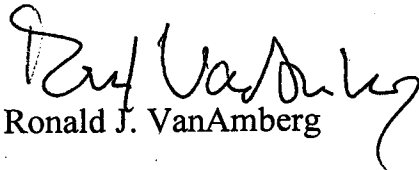
Re: *CDRC Case No. Z/DP 14-5370 PNM Caja Del Rio Solar Energy Center
Project*

Dear Code Administrator:

Please find enclosed a Notice of Appeal of the above-referenced matter on behalf of Phillip Baca, Matthew Baca, and PMB Ltd to the Santa Fe County Board of County Commissioners.

Thank you very much.

Sincerely,


Ronald J. VanAmberg

Enclosure as indicated

cc: Laurie Moye, Coordinator
Regulatory Project and Public Participation
Public Service Company of New Mexico
414 Silver Avenue SW
Albuquerque, New Mexico 87102

SFC CLERK RECORD04/29/2015

SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS

NOTICE OF APPEAL OF CDRC CASE NO. Z/DP14-5370,
PNM CAJA DEL RIO SOLAR ENERGY CENTER PROJECT
TO THE SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS

Appellants, PMB Ltd., Phillip Baca and Matthew Baca (collectively "Bacas") hereby appeal the development decision in CDRC Case Z/DP 14-5370 and oppose the development approval and proposed zoning change in 14-5370. The Bacas have an ownership interest in properties that are adjacent to or in the vicinity of the property involved in the development and zoning application and also own properties affected by the proposed access road leading to the project property.

PROCEDURAL ISSUES

1. Concerning the Zoning Application there are procedural defects:

a. The development/zoning application notes a request for a zoning change. However, in the CDRC packet the notices did not clearly indicate the nature of the proposed change, what the current zoning is and what the proposed zoning was being sought. Instead, staff simply stated in its report that the use to be made of the property was consistent with the currently proposed Sustainable Land Development Code and proposed Zoning Map. Neither the applicant nor the County staff, accordingly, provided adequate notice to either the CDRC or the public of the nature of the zoning changes that were being proposed, namely, Rural Residential to Heavy Industrial. The County staff and applicant knew that the proposed PNM project was not in compliance with existing zoning and that the current Zoning Map has not been approved and is still in a state of

flux. Compliance with a current iteration of an unapproved zoning map accomplishes nothing and reference to it was only to mask the true nature of the application. This is a denial of due process.

b. NMSA 1978 § 3-21-6 requires that whenever there is a proposed change in zoning, notice needs to be provided to property owners within 100 feet of the proposed areas affected.

c. Further, all notices provided must fairly apprise the average citizen reading it of the general purpose and nature of what is contemplated. If a notice is "insufficient, ambiguous, misleading or unintelligible to the average citizen," it is inadequate. *Nesbit v. City of Albuquerque*, 91 N.M. 455. By not describing the full nature and import of the zoning change requested, the notice as to everyone, including the general public, is deficient.

d. County Code 2.3.2C requires that 21 calendar days prior to any public meeting, the applicant shall post notice of filing of the application prominently on the land which is the subject of the application. The posted notice of the PNM application did not comply. Instead, notice was posted almost one quarter of a mile away from the subject property, and, again, was insufficient in its content.

e. The zoning request is apparently only being made for 40 acres of a 160 acre parcel. The request is not only a spot zoning request, it is a request to have split zoning on a single parcel. It is anticipated, that a change in zoning to heavy industrial to part of the property will be a springboard to a subsequent request to zone the balance of the property similarly.

f. Article III section 4.2 identifies the types of and locations for commercial zoning. The proposed location is in violation of these ordinance requirements. See also Article III section 4.2.3.

g. Article III section 4.2.5, and specifically 4.2.5(b), set forth the requirements that staff present to the CDRC an analysis of a number of issues whenever there is a rezoning request. None of this occurred. In fact at the staff presentation of the application, no one ever mentioned anything about a rezoning request until one committee member finally understood what the applicant was actually trying to do and forced an admission out of staff that a dramatic zoning change was actually part of the application the CDRC was being asked to approve or recommend approval of.

ZONING CHANGE

1. The proposed zoning change is effectively a spot zoning and there is no showing that the current zoning, Rural Residential, was the product of an initial mistake or that there has been a significant change in the neighborhood to the extent that a Rural Residential zoning should be changed to Heavy Industrial. *Albuquerque Common Partnership v. City Council of the City of Albuquerque*, 2009-NMCA-065; *Albuquerque Common Partnership v. City Council of the City of Albuquerque*, 2008 NMSC 0025.

2. The entire county is currently the subject of a comprehensive rezoning process. What is being proposed is a dramatic spot zoning which under the circumstance is not permitted and is otherwise inappropriate at this time. There are other locations available for this type of commercial activity. Opening the door to heavy industrial use,

while only accommodating a solar project today, could involve a concrete plant tomorrow.

VIOLATION OF SUBDIVISION ACT

The proposal is to lease a portion (a 40 acre tract out of the 160 acre parcel) of property to PNM for the installation of solar collectors. According to PNM the 40 acre parcel to be leased will be fenced off. The CDRC packet included an unrecorded plat showing the 160 acre parcel being divided into four lots, with the North West lot No. 4 apparently being the lot being leased to PNM for the project. The property, however, has not been subdivided. A subdivision is defined by statute and County Ordinance as property which is divided into two or more parcels for sale or lease. Until Lot 4 is a legal lot of record, the proposed lease to PNM is in violation of the subdivision statutes and ordinances.

THE DEVELOPMENT

The Development approval should be reversed because it violates subdivision statutes and ordinances and violates existing zoning.

ACCESS ROADS

The proposed off-site access to the project property includes a new configuration of the Cochiti Trail Road that has been used for centuries and is a federally established road under 43 USC § 932. If the existing road is vacated and is replaced by the newly configured road, then this will cut off access to and otherwise interfere with the historic use of certain properties owned by the Bacas and will constitute a taking. See, *State v. Danfelter*, 72 N.M. 361 and *Hill v. State Highway Commission*, 85 N.M. 689.

If the new configuration of the road is allowed to coexist with the original Cochiti Trail Road, then the County will be creating a dangerous condition which would present a serious risk of injury to the travelling public because of the severity of the angle at the point the two roads join. This could subject the County to liabilities, but more importantly is an unnecessary risk being imposed. While the current proposed use may not generate significant traffic, once this road is opened up, it will be used by the public. The access road runs to a 100 foot wide public easement which cannot be blocked off.

Article III section 2.4.2b(3) requires that subdivisions upgrade off site access roads so they are up to County standards. For this lease of land to PNM to even be considered, there must be a subdivision. For a subdivision to be approved, this road issue must be addressed.

The Appellants request the following relief:

1. That this application be remanded to the CDRC with instruction that it be put into abeyance until such time as the County Commission has adopted the County Sustainable Land Development Code and zoning map so that it can be determined the extent to which applicant needs to apply for a rezoning.

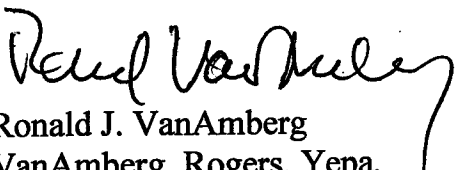
2. Prior to any proceedings that involve a rezoning before the CDRC, applicant be required to publish, post and mail notices that provide expressly that the applicant is seeking to change the zoning, identifying the existing zoning and the requested zoning.

3. That this specific notice be mailed to all property owners within 100 feet of the subject property.

4. That notice of the public meeting be posted at least 21 days prior to any CDRC meeting prominently on the subject property.

Thereafter, the CDRC can then consider its recommendations as to zoning, and its decision as to the development application including the off-site road issues. At that point this matter can be appropriately brought before this Commission.

Respectfully submitted,


Ronald J. VanAmberg
VanAmberg, Rogers, Yepa,
Abeita, Gomez & Works, LLP
P.O. Box 1447
347 E. Palace Avenue
Santa Fe, New Mexico 87501
505-988 8979
505-983-7508 (fax)
rvanamberg@nmlawgroup.com

Copy to applicant PNM

((RADIUS= 100.0))
 ((LENGTH= 1711.3))
 ((CH= N 13°18'23" W))
 ((1620.90))

DELTA= 27°51'19"
RADIUS= 1450.00'
LENGTH= 704.94'
CH= S 68°21'02" W
698.02'

BLM LANDS
WITHIN SEC. 35

三

(DELTA= 26°25'45")
(RADIUS= 1432.39')
(LENGTH= 660.73')
(CH= S 57°05'36" W)
(577.49)

$\lambda = 62^{\circ}12'05''$
 $US = 540.12'$
 $TH = 586.36'$
 $51^{\circ}10'39''$ W
 557.99

3, T16N, R8E,
35, T17N, R8E

117N. R8E.
16N. R8E.

160.00.

S 18°16'09" W
151.99

WATCHED AREA
S. ROAD & UTIL.
STATE LANDS
ITA FEE CO.

DELTA= 1°48'27"
RADIUS= 540.12'
LENGTH= 17.04'
CH= S 19°10'23" W
17.04'

STATE LANDS
WITHIN SEC. 2

**100' WIDE
RELOCATED
ROADWAY
EASEMENT**

80°51'08" W)
(517.09)

16'42" E
3.40
3AC4

N 89°39'11" E
961.65

001.00

BASIS	OF	BEARING
(N 89°36'34" E)	
.....	2641.98	
	(2641.98)	

**S.H.C. 480
PRIVATE
LAND OWNER**

N 89°27'41" 190.74

**S.H.C. 3173 TR.1
PRIVATE
LAND OWNER**

SHADE AREA
DENOTES FORMER
BLM ROAD ESMT.
FROM NOTE #1
WHICH ENCROACHES
ON PRIVATE LAND
S.H.C. 480

(DELTA= 26°25'45")
(RADIUS= 1432.39')
(LENGTH= 660.73')
(CH= S 67°38'15" W)
(654.89)

54°25'23"
(564.33)

39°28'31
420.38

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EXHIBIT

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for Exhibit 5

Survey accepted September 26, 1913, G.L.O.

PLAT
showing
Small Holding Claims
in Sec. 35

T. 17N., R. 8E.

New Mexico Prin. Base & Mer. in
New Mexico

as surveyed August 17-23, 1910 by

Bart A. Nymeyer

U.S. Dep. Sur.

Under Cont. No. 431 Dated Dec. 2, 1909

and

as surveyed May 20-22, 1915 by

Chas. W. Devendorf

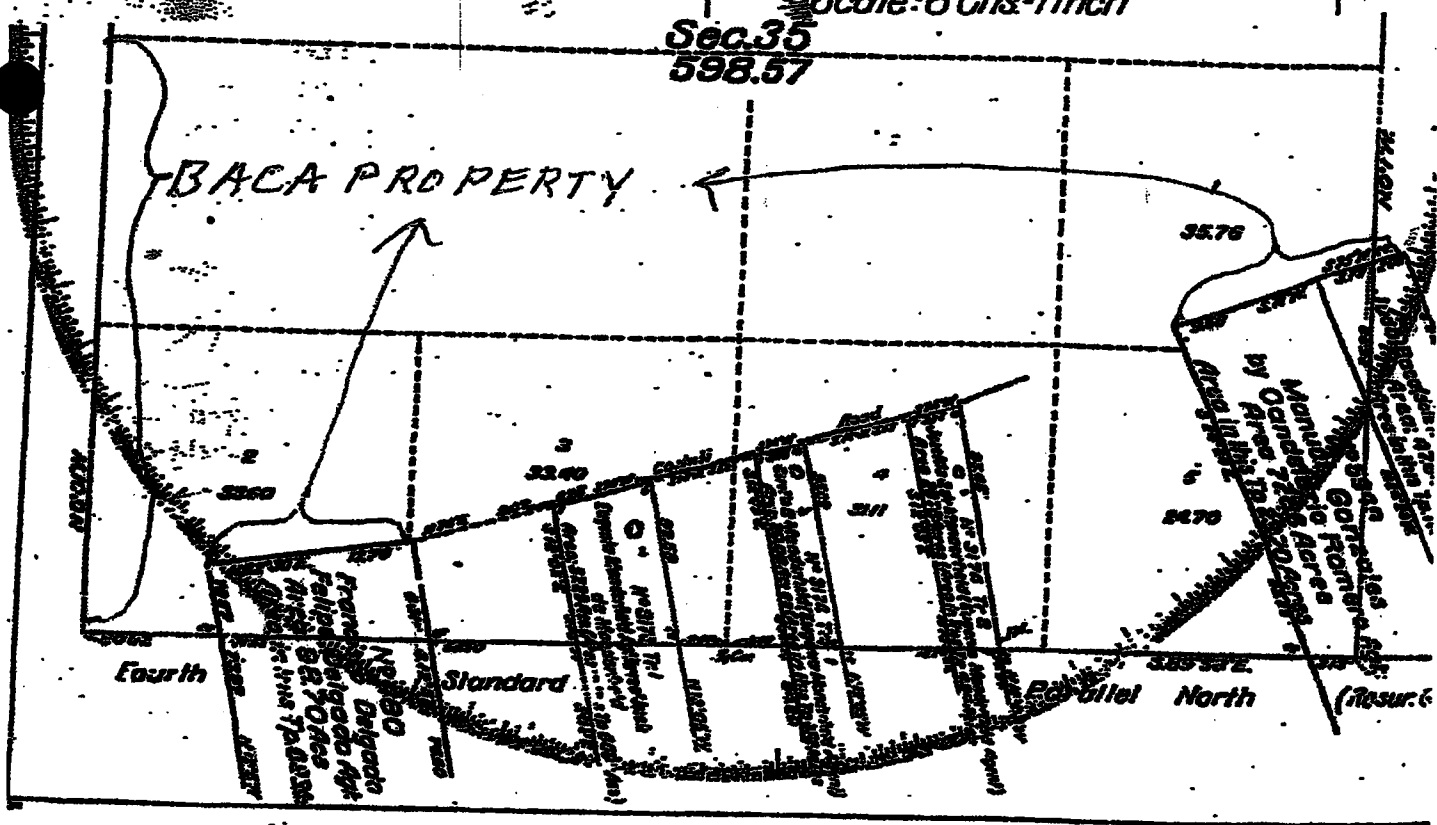
U.S. Surveyor

Under Ins. for Group 44, Dated May 15, 1915

Scale: 6 Chs. = 1 inch

Sec. 35
598.57

BACA PROPERTY



EXHIBIT

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T. 17N., R. 8E. -- C

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for Exhibit 5



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Taos Resource Area
226 Cruz Alta Road
Taos, New Mexico 87571-5983

2000 (020)

October 29, 1999

Mayor Larry Delgado
City of Santa Fe
P.O. Box 909
Santa Fe, NM 87504

Dear Mayor Delgado,

This office has been asked by Philip Baca, representing the Baca family land interests west of Santa Fe, at your office's suggestion, to verify the existence of two roads crossing Bureau of Land Management Land (BLM) in T. 17 N., R. 8 E., NMPM. (see attached map and Baca letter to BLM) The first road is located in sections 23 and 26 and crosses BLM land only in section 26 within lots 13, 14 and 19 which are located in the NE1/4NW1/4 of the section according to BLM land status records. The second road has been historically referred to as the Cochiti Trail which extends from Santa Fe to the community of La Bajada and further south. This road is located on BLM land in lots 2-5, inclusive, (S1/2S1/2) within section 35 according to BLM land status records..

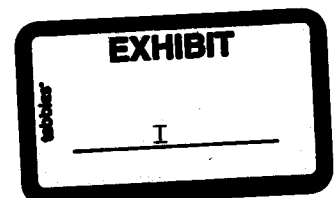
BLM recognizes the existence of these roads as being located on BLM land as depicted on maps of this area and their physical location on the ground. Recognition of their existence does not confer any special status on these roads. Persons using them may do so under Federal regulations in 43 CFR 2800 0.5 pertaining to casual use of roads on BLM land.

If you need any additional information in regards to this matter please do not hesitate to contact Hal Knox of my staff at (505) 751-4707.

Sincerely,

Sam DesGeorges
Assistant Field Manager

c.c. Mark Basham
Philip Baca

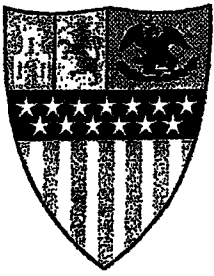


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for Exhibit 5



City of Santa Fe, New Mexico

Larry A. Delgado, Mayor

Dr. Mike Mier, City Manager

Councillors: Art Sanchez, Mayor Pro Tem, Dist. 3

Patti J. Bushee, Dist. 1

Jimmie Martinez, Dist. 1

Cristopher Moore, Dist. 2

Molly Whitted, Dist. 2

Frank Montañño, Dist. 3

Peso Chavez, Dist. 4

Carol Robertson Lopez, Dist. 4

December 1, 1999

Mr. Philip Baca
2902 Karen Dr.
Las Cruces, New Mexico 88001


Dear Mr. Baca:

This letter is in response to our meeting last week in my office regarding the trails which you have been using to access your property across the BLM land, which land will eventually be deeded to the City of Santa Fe. In the meeting, you requested that the City recognize a portion of the Cochiti Trail which runs through this property in its Master Plan so that the trail will remain in perpetual existence.

Because of the Cochiti Trail's historical nature, the City and its successors are prohibited from altering, diverting or destroying any portion of the trail. Therefore, the trail will remain in perpetual existence because of its historical status. Furthermore, I have asked John Griego to prepare a revised Master Plan showing the existing trails in this area, as well as trail improvements and the animal shelter project which will be constructed in the near future.

I am hopeful that this will satisfy your request of the City in regard to this matter. Please contact me if you have any further questions in regard to this matter.

Sincerely,


Dr. Mike Mier
City Manager

200 Lincoln Avenue, P.O. Box 909, Santa Fe, N.M.

EXHIBIT

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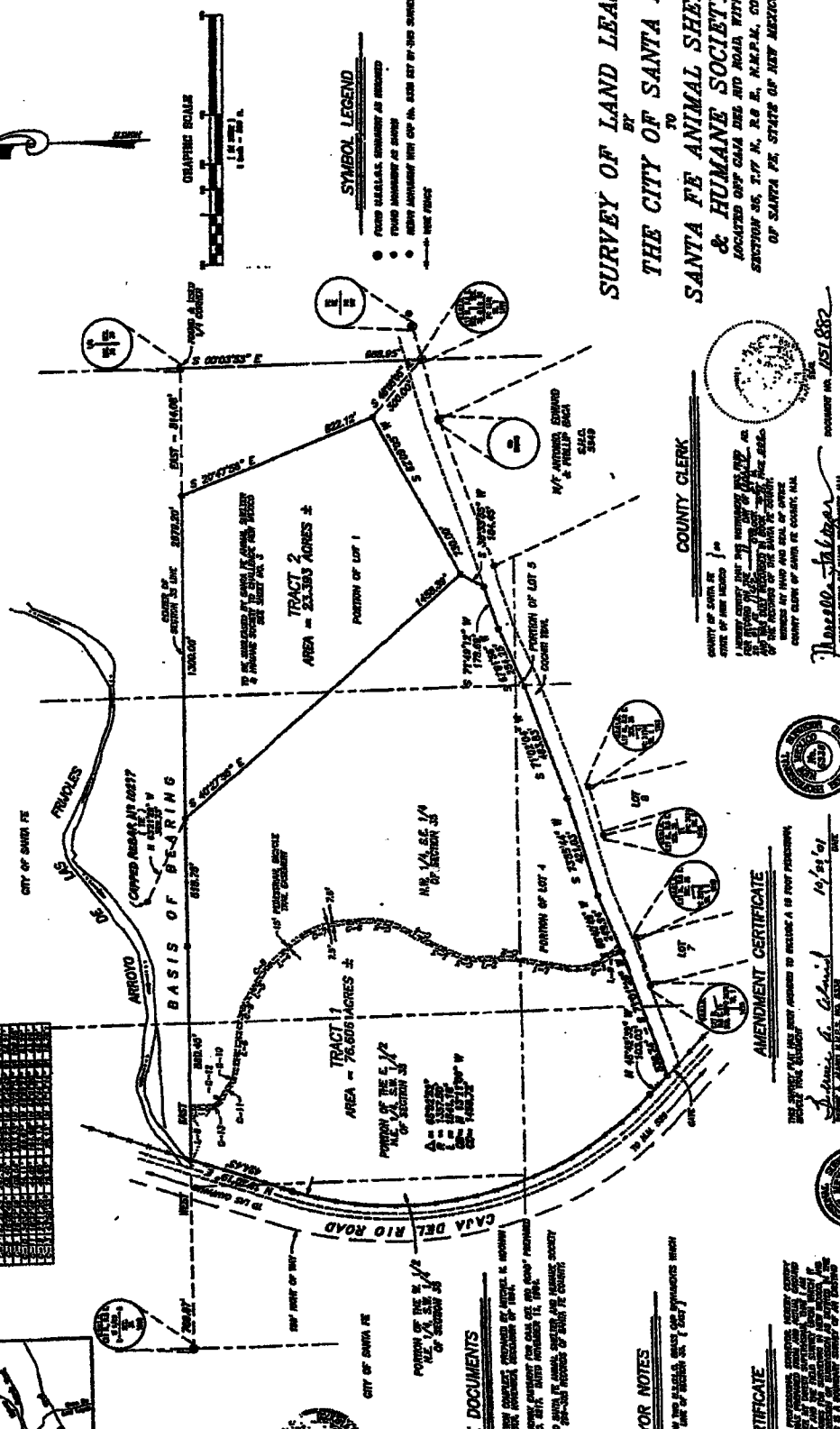
for Exhibit 5

EXHIBIT

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PUBLIC NOTICE

THE COUNTY OF SANTA FE, NEW MEXICO, HAS RECEIVED THE FOLLOWING SURVEY OF LAND, TO-WIT: A SURVEY OF LAND IN THE CITY OF SANTA FE, NEW MEXICO, FOR THE PURPOSE OF THE ESTABLISHMENT OF A TRACT OF LAND TO BE USED AS A SITE FOR THE CONSTRUCTION OF A NEW BUILDING. THE SURVEY WAS MADE BY THE SURVEYOR, JAMES C. ALARID, AND THE RESULTS THEREOF ARE SET FORTH IN THE ACCOMPANYING SURVEY MAP. THE SURVEY MAP IS ON FILE IN THE OFFICE OF THE COUNTY CLERK, SANTA FE, NEW MEXICO, AND IS AVAILABLE FOR PUBLIC INSPECTION. THE SURVEY MAP IS SUBJECT TO THE APPROVAL OF THE COUNTY ENGINEER, SANTA FE, NEW MEXICO, AND THE COUNTY CLERK, SANTA FE, NEW MEXICO. THE SURVEY MAP IS SUBJECT TO THE APPROVAL OF THE COUNTY ENGINEER, SANTA FE, NEW MEXICO, AND THE COUNTY CLERK, SANTA FE, NEW MEXICO.



SURVEY OF LAND LEASED BY THE CITY OF SANTA FE TO SANTA FE ANIMAL SHELTER & HUMANE SOCIETY
 LOCATED OFF CALA DEL RIO ROAD, WITHIN SECTION 35, T17 N., R. 8 E., N.M.P.M., COUNTY OF SANTA FE, STATE OF NEW MEXICO

COUNTY CLERK

James C. Alarid
 COUNTY CLERK OF SANTA FE COUNTY, N.M.
 DOCUMENT NO. 151,882

ASSOCIATES, L.L.C.

ALARID AND

AMENDMENT CERTIFICATE

THIS AMENDMENT CERTIFICATE WAS PREPARED BY JAMES C. ALARID, SURVEYOR, AND THE RESULTS THEREOF ARE SET FORTH IN THE ACCOMPANYING SURVEY MAP. THE SURVEY MAP IS ON FILE IN THE OFFICE OF THE COUNTY CLERK, SANTA FE, NEW MEXICO, AND IS AVAILABLE FOR PUBLIC INSPECTION. THE SURVEY MAP IS SUBJECT TO THE APPROVAL OF THE COUNTY ENGINEER, SANTA FE, NEW MEXICO, AND THE COUNTY CLERK, SANTA FE, NEW MEXICO.

CERTIFICATE

JAMES C. ALARID, SURVEYOR, HAS RECEIVED THE FOLLOWING SURVEY OF LAND, TO-WIT: A SURVEY OF LAND IN THE CITY OF SANTA FE, NEW MEXICO, FOR THE PURPOSE OF THE ESTABLISHMENT OF A TRACT OF LAND TO BE USED AS A SITE FOR THE CONSTRUCTION OF A NEW BUILDING. THE SURVEY WAS MADE BY THE SURVEYOR, JAMES C. ALARID, AND THE RESULTS THEREOF ARE SET FORTH IN THE ACCOMPANYING SURVEY MAP. THE SURVEY MAP IS ON FILE IN THE OFFICE OF THE COUNTY CLERK, SANTA FE, NEW MEXICO, AND IS AVAILABLE FOR PUBLIC INSPECTION. THE SURVEY MAP IS SUBJECT TO THE APPROVAL OF THE COUNTY ENGINEER, SANTA FE, NEW MEXICO, AND THE COUNTY CLERK, SANTA FE, NEW MEXICO.

REFERENCE DOCUMENTS

1. THE OFFICE RECORDS CONTAINING THE FOLLOWING SURVEY OF LAND, TO-WIT: A SURVEY OF LAND IN THE CITY OF SANTA FE, NEW MEXICO, FOR THE PURPOSE OF THE ESTABLISHMENT OF A TRACT OF LAND TO BE USED AS A SITE FOR THE CONSTRUCTION OF A NEW BUILDING. THE SURVEY WAS MADE BY THE SURVEYOR, JAMES C. ALARID, AND THE RESULTS THEREOF ARE SET FORTH IN THE ACCOMPANYING SURVEY MAP. THE SURVEY MAP IS ON FILE IN THE OFFICE OF THE COUNTY CLERK, SANTA FE, NEW MEXICO, AND IS AVAILABLE FOR PUBLIC INSPECTION. THE SURVEY MAP IS SUBJECT TO THE APPROVAL OF THE COUNTY ENGINEER, SANTA FE, NEW MEXICO, AND THE COUNTY CLERK, SANTA FE, NEW MEXICO.
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SURVEYOR NOTES

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for Exhibit 5

Ronald VanAmberg

From: Rachel A. Brown <rabrown@santafecountynm.gov>
Sent: Thursday, January 22, 2015 2:44 PM
To: Ronald Van Amberg
Subject: appeal of master plan and preliminary and final development plan approval/CDRC case z/dev 14-5370
Attachments: Development Permit Application.doc

Dear Ron,

I am in receipt of your email which purports to appeal a recommendation from the CDRC to the BCC pertaining to an application for Master Plan and Preliminary and Final Development Plan approval.

The matter is not ripe for appeal. Article II, Section 2.3.4.c pertains to appeals of decisions of the CDRC, and does not govern recommendations made by the CDRC to the BCC. The minutes of the CDRC hearing reflect that the CDRC made a recommendation of approval of the application for Master Plan and Preliminary and Final Development Plan approval to the BCC, rather than making a decision as to any aspect of that application.

Until such time as the BCC takes action on the pending application, and a final order reflecting that decision is recorded, no appeal can be taken pertaining to the application for Master Plan and Preliminary and Final Development Plan approval. Article II, Section 2.3.4.c.ii specifies that the decision of the Board shall become final on the date when the decision is filed.

The application for Master Plan and Preliminary and Final Development Plan approval is expected to be on the BCC agenda for February 10th, 2015. Upon recordation of an order reflecting any BCC action which stems from that hearing, your time for appeal pursuant to NMSA 1978, Section 39-3-1.1 and 1-074 NMRA shall commence.

Additionally, for future submissions, I note that your letter is not sufficient to commence an appeal. To commence an appeal the Land Use Department requires that you submit a complete application form. I have attached a copy of the form for your convenience. The application must be submitted in conjunction with payment of the appeal fee which, pursuant to Ordinance 2008-12, is \$275.

Please contact me if you would like to discuss this matter further. I encourage you to participate in the upcoming public hearing on CDRC case z/dev 14-5370.

Sincerely,

Rachel

Rachel Brown
Deputy County Attorney
505-986-6326
505-986-6362 (f)
P.O. Box 276
Santa Fe, New Mexico 87504-0276

S F C C L E R K R E C O R D 0 4 / 2 9 / 2 0 1 5

-----Original Message-----

From: Ronald VanAmberg [<mailto:rvanamberg@nmlawgroup.com>]

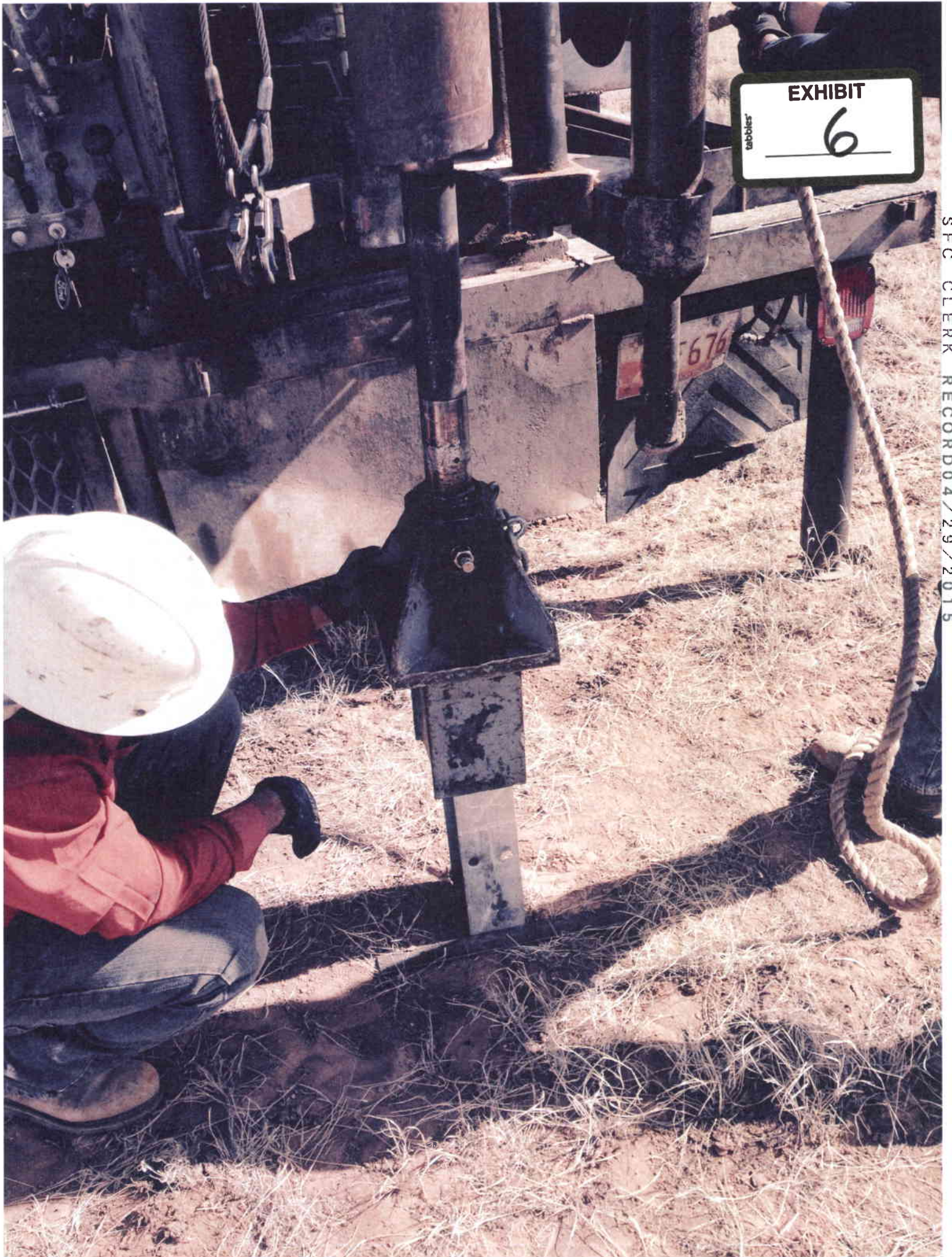
Sent: Friday, January 16, 2015 4:05 PM

To: Penny Ellis-Green; Vicki Lucero; Rachel A. Brown

Subject: CDRC case z/dev 14-5370

Dear Rachel -- I am attempting to file a notice of appeal in the above referenced matter. When we tried to file it, Land Use was apparently instructed by Mr. Larranage to refuse the filing. My concern is that the ordinance requires that an appeal be filed within 30 days of a decision and I want to avoid an argument by PNM that the decision was made on December 18, 2014. While I know the position of the County is that the development application and the rezoning application were only recommendations, I note that the CDRC has final approval jurisdiction over development applications.

I want to avoid an argument from PNM that the development portion of the application received final approval. Accordingly please accept this as a filing of the notice of appeal as this is the only process the County has left for my clients. Happy to discuss. Thanks. Ron VanAmberg





To
Jose Larranaga pengreen@santafecountynm.gov
CC
Matthew Baca, Jeremy Gonzales
Mar 19 at 3:25 AM
Dear Ms. Green, dear Mr Larranaga,

I was recently provided, by Mr.Larranaga in your office, the application from the Public Service Company of New Mexico (PNM) to develop a forty acre solar energy center, entitled Caja del Rio Solar Energy Center. I am the general manager of Charyb LLC that acquired last summer approximately 200 acres of land directly adjacent to the proposed development site.

With this correspondence I wish to formally protest and oppose the application, which Charyb LLC has previously stated in a correspondence to your office. Charyb LLC owns more than 20% of the adjacent land that is currently zoned rural residential and we oppose any change of this zoning to industrial.

The reasons for my protest are as follows:

1) Though the application was filed in September, Charyb was only recently notified of the proposed land use change. Charyb did not receive adequate notice of PNM's request, has not been contacted by PNM, and has many questions related to the impact on Charyb's property. It also lost its opportunity to participate in the CDRC proceedings, which was its right.

2) Approval of the application is premature as the county is developing a comprehensive zoning plan that is scheduled to be finalized in the near future. There are meetings and hearings that will take place as this process moves forward, and it is incumbent upon the commission that they weigh the opinions, concerns and analysis of landowners within the county before approving an application that may lead to heavy industry in an area that is has always been rural in nature.

3) The properties in the area have been used traditionally for agrarian purposes. The application describes a forty acre site in the middle of these areas that will contain a large solar array surrounded by six foot chain link fence topped with barbed or concertina wire that will destroy the views for miles around. It will look like a penal colony in a sea of beautiful open space. Additionally, it will significantly diminish the value of the propoerty that Charyb owns. This carving out of a small section of land for this type of land use is unacceptable and completely out of character with the surrounding landscape and illustrates why targeted zoning such as this is detrimental to surrounding to landowners and generally prohibited.

I must also note that Charyb purchased this property with a desire to preserve and protect this beautiful open space in a manner consistent with the ambience of the historical city of Santa Fe. The proposed land use change does not do this. Charyb is also evaluating options to acquire properties adjacent to, and in the surrounding areas, that will fulfill this desire. Charyb has communicated this intention to both Jeremy Gonzales and Matthew Baca, who represent the surrounding landowners. I am copying them with this correspondence so they may know of our position.

Lastly, I ask that this notice of protest be provided to the County Commission when they consider the application. As always, please do not hesitate to contact me if you should require additional information or if the applicant wishes to discuss this further.
Sincerely,

Dr. Claus Benkert
General Manager
Charyb LLC



1305912

SFC CLERK RECORD04/29/2015

SANTA FE COUNTY LAND DEVELOPMENT CODE

SANTA FE COUNTY ORDINANCE 1996 - 10

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS

ON SEPTEMBER 10, 1996

EFFECTIVE OCTOBER 10, 1996

This is a recompiled version of
the Santa Fe County Land Development Code
(1992-1) which incorporates
the following amendments:

- County Ordinance 1993-3 - Hardrock Mining
- County Ordinance 1995-2 - School Impact Notices
- County Ordinance 1995-4 - Fire and Rescue Impact Fees
- County Ordinance 1995-6 - Submittal Requirements
- County Ordinance 1996-2 - Local Development Review Committee
- County Ordinance 1996-3 - Terrain Management
- County Ordinance 1996-8 - Subdivision Ordinance

1305913

ARTICLE III
ZONING REGULATIONS, SUBMITTALS & REVIEWS

SECTION 1 - AGRICULTURAL, GRAZING AND RANCHING USES

Agricultural, grazing and ranching uses and construction of fences and accessory structures related to those uses are permitted anywhere in the County, provided the use of the land or the fence or accessory structure complies with the requirements of other sections of the Code, including but not limited to the density regulations of the Code. Application for a development permit is not required for these uses, unless the provisions of other sections of the Code apply. For purposes of this Section, commercial feedlots are not considered to be agriculture, grazing or ranching uses. The height of all structures associated with uses listed in this Section shall be limited to a maximum of thirty six (36) feet in height.

History. 1980 Comp. 1980-6. Section 1 was amended by County Ordinance 1984-3 to provide a height limitation for agricultural uses.

SECTION 2 - RESIDENTIAL USES

Structures and use of land for agricultural, grazing and ranching purposes are specifically excluded from the requirements of this Section 2. The following site planning standards are applicable to all new development.

2.1 Location Of Residential Uses

Residential uses are allowed anywhere in the County provided all of the requirements of the Code are met.

2.2 Lot Requirements For Residential Use

Residential uses are permitted under the following circumstances:

- 2.2.1 The density requirements of Section 10 of this Article III are met; or
- 2.2.2 The lot or parcel meets the requirements of Article II, Section 4.

2.3 Site Planning Standards For Residential Uses

2.3.1 Purpose and Intent

- 2.3.1a. To encourage new development to adapt to the existing natural topography, soils, vegetation, geology, hydrology, landforms and other conditions existing on a site as well as being sensitive to the existing built environment in the local neighborhood or community;
- 2.3.1b. To minimize the visual effects of development and protect the natural appearance and integrity of hillside, ridgetop, and escarpment areas;
- 2.3.1c. To protect neighborhoods from nuisance effects of outdoor lighting and unsightly trenching or overhead utility installations; and
- 2.3.1d. To demonstrate existence of a Buildable Area on each lot for structures and support facilities (water supply, liquid waste disposal, access, and utilities).

2.3.2 Each lot shall have a designated Buildable Area which shall meet the criteria set forth in Article VII, Section 3.4, Terrain Management Performance Standards.

2.3.3 Development of the lot shall occur only within approved development sites.

2.3.3a No development sites may occur on a natural slope of thirty percent (30%) or greater. Exceptions may be approved by the Code Administrator for:

1. access corridors, utility corridors, and landscape areas proposed on natural slopes in excess of thirty percent (30%) that disturb no more than three (3) separate areas of no more than one thousand (1000) square feet each, provided the applicant demonstrates that no alternative development location is available;
2. arroyo crossings may be approved which disturb more than one thousand (1000) square feet in each instance provided that slope stability and hydrologic/hydraulic conditions are not changed from pre-development values; and
3. siting of structures to preserve remaining traditional agricultural lands and uses.
4. The applicant shall demonstrate that crossing such slopes has minimal impact to terrain or to visual quality and otherwise would conform to the purposes and standards set forth in this Section 2.3 and Article VII, Section 3.4, Terrain Management Performance Standards. See the Guidelines for Site Planning and Development in Santa Fe County

2.3.3b. A complete terrain management plan (see Article VII, Section 3, Terrain Management) shall be required if any portion of land within a development site has a natural slope of fifteen percent (15%) or greater; for construction of one dwelling or accessory structure, the terrain management plan shall address the land proposed to be disturbed only; the Code Administrator may waive this requirement if the portion of the development site over 15% slope is incidental to the entire site.

2.3.3c. Density transfers are encouraged to take advantage of naturally occurring development sites below ridgetops and to set aside ridgetop areas for open space.

2.3.3d Any legal nonconforming lot, that is, a legal lot of record which was created before May 1, 1996 (Ordinance 1996-3 adopted March 12, 1996), and which does not contain a Buildable Area as defined in Article VII, Section 3.4.1.b of the Code, is eligible for application for a variance to the Buildable Area standard. See Article II, Section 3, Variance.

2.3.4 Setbacks

2.3.4a In order to avoid flood and erosion hazards, a twenty-five foot (25') minimum set back from the natural edge of streams, waterways, drainage ways or arroyos pursuant to Article VII, Section 3.4.6 j of the Code is required; the required setback may be increased if the Code Administrator determines that a clear hazard exists because of slope stability and hydrologic/hydraulic conditions. In evaluating the need to increase the setback, the Code Administrator shall consider property and channel slope, velocity of channel flow, hydraulic radius, roughness coefficient, and sectional area of the particular drainage way.

- 3.3.6 Mechanical and electrical equipment necessary to the conduct of the home occupation use;
- 3.3.7 Amount, location and method of storage of supplies and/or equipment;
- 3.3.8 Location of parking;
- 3.3.9 Type and amount of traffic generated.

SECTION 4 - COMMERCIAL AND INDUSTRIAL NON-RESIDENTIAL DISTRICTS

4.1 Purpose and Intent

Commercial, and industrial non-residential land uses are permitted only in zoned districts of various sizes and locations in the County of Santa Fe. Non-residential districts specifically for commercial or industrial land uses are established in order:

- 4.1.1 To permit intensive development of selected land uses at designated locations;
- 4.1.2 To avoid strip commercial and industrial patterns of development along highways, arterials, collectors, and local roads of the County;
- 4.1.3 To protect the function of the County's highways, arterials, collectors, and local roads by controlling the number of access locations to commercial and industrial use areas;
- 4.1.4 To prevent the preemption of prime areas for commercial or industrial development by residential development;
- 4.1.5 To protect existing and future residential development from encroachment of non-residential uses;
- 4.1.6 To provide the opportunity to master plan non-residential use areas, so that adequate fire and police protection may be provided and appropriate infrastructure constructed.

4.2 Types and Locations of Commercial or Industrial Districts

4.2.1 Types of Districts and Location Criteria

- a. There are four types of commercial or industrial non-residential districts which may be established at specific qualifying intersections of various types of roads in the County:
 - 1) Regional or major center districts, which are established or may be established, shall be located at intersections of major arterials and major highways. The purpose of major center or regional districts is to concentrate extensive regional non-residential activities. Section 4.3.1 infra, defines uses which may be established.
 - 2) Community center districts, which are or may be located at intersections of arterial and/or collector roads for the purpose of concentrating community oriented commercial uses, shopping, offices and service businesses, including travelers services; light industry; research and development complexes and other similar uses. Sub-section 4.3.1, defines uses which may be established.
 - 3) Local or village center districts, which are or may be located at intersections of collector and local roads and in traditional community areas for the purpose of concentrating activities which serve such neighborhood areas for shopping, travelers' and personal services. Section 4.3.2, lists suggested uses.
 - 4) Neighborhood or small scale center districts, which are or may be located at intersections of local roads or in traditional community areas. Uses similar to those which may be established in local or village center districts may be established.

- b. A non-residential use district may be established within a traditional community at a qualifying intersection or at an area which is pursuant to the criteria set forth in Sub-section 4.2.2.
- c. Spacing Between Districts. Intersections which qualify for a commercial or industrial non-residential use district are established either by the proximity of established or potential districts as follows:
 - 1) the exterior boundary of a proposed major center or community center commercial or industrial non-residential district, or parcel proposed for zoning or rezoning near the boundary of a proposed or established district, must be one (1) mile from the exterior boundary of another established or proposed district or parcel proposed for zoning in such district; and
 - 2) The exterior boundary of a proposed local or village center or neighborhood or small center commercial or industrial non-residential district or parcel proposed for zoning or rezoning near the boundary of a proposed or established district, must be one-half (1/2) mile from the exterior boundary of any other type established or proposed district, or parcel proposed for zoning in such district.
 - 3) Spacing between districts as described above is intended to assure the integrity of commercial or industrial use areas, residential neighborhoods, and highways. Uses which may locate between the districts are residential, large scale residential, community facilities, or large scale master planned development.
- d. Large Scale Mixed Use Development
 - 1) Master Plan Required. Proposed developments which are planned for a mix of residential, large scale residential, and/or non-residential uses and large scale developments or subdivisions which may be developed in phases shall present a master plan for development to the County pursuant to Article V, Sections 5.1 and 5.2 of the Code.
 - 2) Location Criteria. Proposed mixed use developments are allowed to locate anywhere in the County, except that the location of any specific commercial or industrial non-residential use area designated by such proposals shall be subject to the purposes and intent of Subsection 4.2.3. and 4.1.
 - 3) Uses. See Sub-section 4. 3., Guidelines for Permitted Uses and Structures, and Uses Not Listed.
 - 4) Design Standards and Review Criteria: Refer to Section 4.4.
 - 5) Review Requirements: Section 4.5, establishes the applicable reviews.

History. 1980 Comp. 1980-6. Sections 4.2.1 Types of Districts, was amended by County Ordinance 1990-11, adding the term Regional to Sub-section 1; retitling neighborhood as local or village center in Sub-section 3; and adding the term neighborhood to Sub-section 4; specifying new criteria for traditional village areas; criteria for spacing between districts; and adding a provision for large scale mixed use master planned developments.

4.2.2 Traditional Community Districts

- a. Mixed Uses Permitted
Traditional Community districts established by the Code are intended to accommodate a mixture of uses such as agriculture, residential, large scale residential, community service, institutional, non-residential or recreational uses anywhere inclusive of the boundaries of the village, provided the performance standards and criteria set forth by the Code are met.

b. Commercial and Industrial Uses Requirements

- 1) Location. Commercial or light industrial zoning may be approved in the traditional community where no qualifying intersection appears to be present provided:
 - a) Similar uses have been established as non-conforming on contiguous and adjacent locations in the community;
 - b) The re-zoning to be approved is similar in type and scale to those uses suggested for neighborhood or small scale districts by Article III, Section 4.3.2;
 - c) The re-zoning is compatible with neighboring uses;
 - d) It is the consensus of the local community to allow the proposed re-zoning and use; or
 - e) The re-zoning is pursuant to a general plan amendment for a local land use plan for the community which establishes the location for a local or small commercial center.
- 2) Development and Design Standards and Review Criteria. Commercial, light industrial and other non-residential uses proposed for approval are subject to the requirements set forth by Article III, Sections 4.4, 4.5 and 4.6.

History. 1980 Comp. 1980-6. Section 4.2.2 is new material for non-residential uses in Traditional Communities areas added by County Ordinance 1990-11.

4.2.3 General Scale and Size of Districts

The location or scale of a commercial or industrial non-residential district may be considered according to each of the following criteria:

- a. Location is dependent upon a qualifying intersection:

Type of District	Type of Roads Creating Intersection
Regional or Major	Controlled access highway such as the Santa Fe Relief Route or I-25 and 4 to 6 lane roads
Community Center	2 to 6 lane arterials or highways
Local or Village Center	2 to 4 lane arterials or collector roads
Neighborhood or Small Scale Center	2 lane sub-collector or local roads

- b. The boundary of a district is limited as follows along roads emanating from the qualifying intersection:

Regional or Major Center	2,500 feet
Community Center	1,750 feet
Local or Village Center	1,000 feet
Neighborhood or Small Scale	500 feet

- c. The maximum net developable number of acres, excluding public rights-of-way, in each type of districts is as follows:

Regional or Major Center	250 acres
Community Center	80 acres
Local or Village Center	40 acres
Neighborhood or Small Scale	20 acres

- d. The size of a commercial or light industrial non-residential use district in a traditional community zone shall be limited in acreage to local or neighborhood or small scale centers; pursuant to the location criteria set forth in Subsections 4.2.3b. and c.
- e. Appropriate roads must be in place or constructed to create a district at the time of project development except in cases referred to in 4.2.2. Creation of a district is possible where new roads are created or at intersections of existing roads which are not anticipated by this Code, provided the criteria set forth by this section is adhered to. Neither the locations listed in this subsection nor those specified by a Local Land Use Plan confer zoning status on any parcel in these areas.
- f. It is assumed that the initial scale of a district may be small in terms of number of acres actually zoned, and will increase in size, over time, as zoning requests are approved.

History. 1980 Comp. 1980-6. Section 4.2.3 was revised by County Ordinance 1990-11.

4.2.4 Non-conforming Uses; Zoning Map; Rezoning; Permitted Uses; Infill Zoning for Existing Small Parcels

a. Non-conforming Uses

- 1) Existing development will be allowed to continue as a non-conforming use, pursuant to Article III, Section 4.5.
- 2) Non-conforming uses which contribute to strip commercial or industrial development patterns will not be permitted to expand, or to re-establish if abandoned. Non-conforming uses which meet the location criteria set forth in Article III, Section 4.2.2 will be allowed to re-develop provided they are brought into conformance with Code requirements.

b. Zoning Map

- 1) Districts or portions of districts created from time to time will constitute amendments to the zoning map.
- 2) The zoning map shall also depict both legal non-conforming uses and zoning approvals.
- 3) Zoning approvals obtained prior to the enactment of this 1990 Amendment to the Code shall not constitute districts or be the precedent for the creation of a district, where such approvals do not meet the location criteria for a district as set forth by Section 4.2.2, Types and Location of Commercial or Industrial Districts. See also non-conforming uses in Section 4.2.3a. Non Conforming Uses and Sub-section e., Infill.

c. Rezoning

An application to establish a new district or to amend an existing district shall be considered a re-zoning and subject to the review and recommendation of the County Development Review Committee and approval by the Board.

d. Permitted Uses

- 1) Permitted uses are assigned to a parcel of land which has been re-zoned pursuant to a master plan for all or part of a commercial or industrial non-residential district.
- 2) Guidelines for permitted uses are set forth in Article III, Section 4.3.
- 3) Permitted uses shall be reviewed for a development permit according to the procedures set forth in Article II, Section 2.
- 4) A development plan shall be submitted for each permitted use as set forth by Article III, Section 4.4 and 4.5.
- 5) Development plans for permitted uses shall conform to the master plan and use list approved for the zoning or rezoning of the parcel.

e. Infill non-residential zoning outside approved districts may be granted to uses on small parcels of land which are:

- 1) in existence at the time of adoption of this amendment to the Code; and
- 2) between two existing developed or approved commercial or industrial uses; and
- 3) of such a size that makes it impractical to develop the parcel for a large scale residential use, institutional use or single family residential use on lots which are one acre or less or which have one hundred fifty feet (150') or less of frontage with the adjacent highway, arterial, collector, or local road.

History. 1980 Comp. 1980-6. Section 4.2.4 was revised by County Ordinance 1990-11.

4.2.5 Criteria for the Establishment of Districts; Findings of Fact

- a. Establishment of districts will require a review according to the procedures for a master plan as set forth in Article V, Sections 4.4 and 5.2, the performance and location criteria set forth by this Section 4 and the notice requirements of Section 3-21-6B, N.M.S.A. 1978. Permitted uses shall be specified when a district is created.
- b. To establish a non-residential district the following shall be used in formulating a recommendation to the County Development Review Committee by the staff and the County Development Review Committee to the Board:
 - 1) an evaluation of the type of traffic to be generated by the types of uses (see Sub-section 4.4) proposed to be permitted in the new district and the relationship of such traffic to traffic being carried on existing or proposed roads providing vehicular access to the site or intersection;
 - 2) existing and future economic benefits to the vicinity of the site and/or intersection proposed for district classification and the County of Santa Fe, especially as that relates to projected new employment;
 - 3) an evaluation of infrastructure availability such as existing or future streets, water supply, sewage treatment facilities, police and fire protection, and other services;
 - 4) an evaluation of compatibility with existing land use patterns especially existing residential areas, land ownership characteristics, and geographic features near the proposed district, and the relationship to existing master plans on adjacent properties in order to coordinate site planning and access.
 - 5) an adequate site, sized in relation to the radius and acreage requirements set forth in Section 4.2.3;
 - 6) the proposed district shall be located according to the requirements described in Subsections 4.1 and 4.2, 4.2.3; and
 - 7) uses proposed for approval for the district must meet the design and development standards established by Sub-sections 4.4 and 4.5.
- c. Acreage for a district may be allocated to one, two or three of the quadrants of an intersection area where circumstances such as excessive slope, flood hazard areas or

flood plains, land ownership patterns, existing land uses, spacing or sizes of other existing districts, right-of-way configurations, utility corridors, other natural or man-made barriers, or other constraints, prevent its assignment to four quadrants.

- d. Amendments to the list of uses assigned as permitted in a district or an amendment to the boundary of a district, must be approved by the County Development Review Committee and the Board, as per the requirements of Subsection 4.2, for the establishment of districts.

History. 1980 Comp. 1980-6. Section 4.2.5 was revised by County Ordinance 1990-11.

4.3 Guidelines for Permitted Uses and Structures

The following lists represent suggestions only. Uses assigned to a district are not necessarily limited by the list. The Standard Industrial Classification (SIC) may also be used to compare categories not listed herein.

4.3.1 Guidelines for Types of Permitted Uses and Structures in Major or Community, Commercial or Industrial Non-residential Districts

- a. Professional, business or governmental offices;
- b. Business services;
- c. Research and development businesses and laboratories;
- d. Retail establishments;
- e. Restaurants and bars;
- f. Gas or service stations, tire recapping or retreading and repair garage establishments and related uses;
- g. personal service establishments;
- h. Hotels, motels, bed and breakfast inns;
- i. Commercial indoor recreational uses and structures, such as theaters (but not drive-in theaters), bowling alleys, poolrooms, game rooms, skating rinks;
- j. Commercial parking lots and garages;
- k. Offices, studios, clinics and laboratories;
- l. Banks or other financial institutions;
- m. Private clubs and lodges;
- n. Public or private utilities;
- o. Veterinary hospitals or establishments;
- p. Public buildings and grounds other than elementary or high schools;
- q. Churches and other religious institutions;
- r. Business and vocational schools;
- s. Greenhouses and plant nurseries;
- t. Auto, truck or RV dealerships;
- u. Mobile home sales and service;
- v. Art galleries or dealers;
- w. Planned unit or master planned developments for mixed uses;
- x. Clubs or other not-for-profit uses, lodges or museums;
- y. Office parks or other theme developments;
- z. Shopping centers;
- aa. Colleges or universities;
- bb. Hospitals, medical or dental clinics;
- cc. Light industry and manufacturing;
- dd. Wholesale, warehouse, distribution and general industry.

History. 1980 Comp. 1980-6. Sub-section dd. was added to Section 4.3.1 by County Ordinance 1990-11.

4.3.2 Guidelines for Types of Permitted Uses and Structures in Local or Small Scale Districts

- a. Retail establishments including supermarkets, drugstores, bakeries, meat markets, liquor stores, hardware, paint and wallpaper stores, camera shops, florist shops, gift shops, stationery shops, bookstores, apparel shops, shoe stores, variety stores, jewelry stores, pet shops, toy stores, movie-video stores, music or record stores, household goods stores;
- b. Restaurants and bars;
- c. Personal service establishments including barbershops, beauty shops, dry cleaning and laundromat establishments, shoe repair shops, tanning salons, spas, exercise or dance studios;
- d. Office and studios, medical offices and/or clinics;
- e. Banks or other financial institutions;
- f. Churches or other religious institutions;
- g. Public parks, public buildings (such as libraries) and community facilities or utility substations;
- h. Private day care;
- i. Dwelling units for occupancy only by owners or employee;
- j. Automotive service stations and repair garages not industrial in nature;
- k. Liquor and package liquor stores;
- l. Mini-storage units;
- m. Galleries;
- n. Private clubs and lodges;
- o. Veterinary establishments;
- p. Commercial indoor recreation;
- q. Shopping centers;
- r. Outdoor markets.

History. 1980 Comp. 1980-6. Sub-section v. was added to Section 4.3.2 by County Ordinance 1990-11.

4.3.3 Accessory Uses

Accessory uses and structures are considered an amendment to an approved development plan, and may be permitted provided the requirements of the Code are met. Residential uses for security purposes may also be considered, provided the use can meet the minimum requirements of the Code for residential uses.

4.3.4 Uses Not Listed

- a. Proposed uses or use groups either generalized or not listed as suggested to be permitted for zoning districts by the Code shall be evaluated by the Code Administrator to determine how a proposed use or use group should be categorized.
- b. Evaluations or interpretations of uses not listed shall be made in writing; shall state any precedent, reasons or analysis on which the evaluation is based; and shall be kept on file in the Land Use Department. The Standard Industrial Classification Manual, U.S. Department of Commerce, latest revision, may be used as a reference for such evaluations.
- c. Disagreement with an evaluation or interpretation of the Code Administrator may be appealed to the County Development Review Committee.
- d. New and unlisted uses that cannot logically be included in existing categories or that could not reasonably be anticipated at adoption of this Code may be added to these regulations by recommendation of the County Development Review Committee and approval by the Board.

4.4 Design Standards and Review Criteria

In addition to the other requirements of the Code, the following standards and criteria will be applied in the review process:

4.4.1 Submittals

- a. To zone or re-zone any parcel for a commercial or industrial non-residential district a master plan shall be submitted. Submittals and procedures for master plans are set forth in Article V, Section 5.2.
- b. A development plan shall be submitted for individual uses to be permitted within the district, as follows:
 - 1) Vicinity Map: A vicinity map drawn at a scale of not more than one inch equals two thousand feet (1"=2000') showing contours at twenty foot (20') intervals showing the relationship of the lot, tract or parcel to its general surroundings, and the location of all existing drainage channels, water courses and water bodies within one mile of the development site.
 - 2) Existing Site Data: A description of existing conditions on or adjacent to the lot, tract or parcel, including proof that the parcel is a legal lot of record. Maps shall be at a scale of one inch (1") to one hundred feet (100') or larger and shall include the following:
 - (a) Boundary lines, bearings and distances: The error or closure shall be of a third order survey, and no discrepancy between computed and measured distances shall exceed one (1) part in one thousand two hundred eighty (1,280) parts.
 - (b) Easements: Location, width and purposes.
 - (c) Streets on and immediately adjacent to the tract, name and right-of-way width.
 - (d) Utilities on and immediately adjacent to the tract.
 - (e) Owners of record or unplatted land and existing subdivision plats by name and recordation, shall be shown for property within one thousand feet (1,000') of that tract.
 - (f) Title and certificates: Present tract designations according to official records in the County Clerk's Office, title under which the proposed development is to be recorded with name and address of owner, notation stating acreage, scale, true and magnetic north arrow, U.S.G.S. datum and benchmarks, if any, certification of the engineer or land surveyor licensed in accordance with the laws of the State of New Mexico who prepared the plat.
 - 3) Site Plan
 - (a) The site plan consisting of a map and other drawings or documents drawn to a scale of one inch (1") to one hundred feet (100'), or larger, shall show the following:
 - (1) proposed arrangement of buildings;
 - (2) proposed off-street parking and loading facilities;
 - (3) proposed access to the site and internal vehicular circulation;
 - (4) existing and proposed landscaping;
 - (5) proposed location and type of fences, walls, and signs;
 - (6) drainage and grading plan indicating existing and proposed contours; soils and flood plain areas;
 - (7) a lighting plan;

- (8) proposed architectural treatment;
 - (9) The Buildable Area and the No Build Area(s) on each lot shall be clearly indicated by shading, pattern or comparable graphic method (see Article VII, Section 3.4.1 for Buildable Area Performance Standards.)
 - (b) The site plan shall respond to Section 4.4.3 Site Planning Standards for driveway access, building placement, parking lot location and terrain management.
- 4) Development Plan Report
The development plan report shall include all submittals pursuant to this Article III, Section 4 of the Code.
- 5) Traffic Generation Report
- a) The amount of traffic generated by the development shall not at any time impede traffic flow, or cause public roads to operate at over capacity.
 - b) If a fair and substantial showing is made that the development will increase the burden on inadequate public roads, utilities or other services, the use may be denied, or the developer may be required to undertake the full cost of improvements to the public road or other services in order to meet the test of adequacy.
 - c) A traffic report shall be prepared, signed and sealed by a registered New Mexico professional engineer, or other qualified professional as determined by the Code Administrator. Report contents shall be based upon existing traffic conditions in relation to existing road capacity and level-of-service (LOS); a projection of traffic to be generated by the development; and recommendations for mitigating any negative effects to existing road capacity which may occur as a result of new development. Where applicable, the International Traffic Engineers (ITE) Trip Generation Report 1987, 4th Ed. shall be used as a reference in calculating traffic projections. Copies of the ITE Trip Generation Report are available in the Land Use Administrators Office.

History. 1980 Comp. 1980-6. Section 4.4.1 Submittals was amended by County Ordinance 1990-11, to clarify and make additions to the submittals required of the applicant for non-residential use zoning.

4.4.2 Environmental Performance Standards

The proposed development shall utilize standard techniques available in order to minimize noise, vibration, smoke and other particulate matter, odorous matter, toxic or noxious matter; radiation hazards; fire and explosive hazards, or electromagnetic interference. The Code Administrator may refer an application to the New Mexico Environment Department for comment concerning the performance standards. If it is determined that the development will create any dangerous, injurious, noxious or otherwise objectionable condition, noise or vibration; smoke, dust, odor, or other form of air pollution, electrical or other disturbance, glare or heat, in a manner which causes a significant adverse impact to the adjacent areas, a plan shall be submitted which states how such conditions will be mitigated.

History. 1980 Comp. 1980-6. Section 4.4.2 was amended by County Ordinance 1990-11. This Section was previously 4.4.3.

4.4.3 Site Planning Standards

a. Driveway Access

- 1) All uses proposed for zoning shall share points of ingress and egress to the development site, unless it can be demonstrated that additional or separate access is required.
- 2) Spacing between points of ingress and egress shall be determined by the posted design speed and intended function of the road creating access to the development site, as follows:

<u>MPH</u>	<u>FEET</u>
25-30	200
30-35	270
35-40	315
40-45	375
45+ *	400+

* For driveway spacing at speeds greater than forty-five miles per hour (45 mph) consult Table 6, Speed Change - Lane Length Requirements, for Driveway Spacing; New Mexico State Highway and Transportation Department, Regulations for Driveways and Median Openings on Non-Access Controlled Highways.

- 3) Driveway profiles shall be submitted to assure the access is constructed to accommodate projected traffic for the uses and requirements of the Uniform Fire Code; in no case shall driveway grades exceed fifteen percent (15%).
- 4) Where additional access points are required, such points shall be located no less than three hundred feet (300') apart. Provisions for circulation between adjacent parcels shall also be provided through coordinated or joint parking systems, or other methods, as specified in the master plan.
- 5) No driveway access may be located closer than one hundred feet (100') from an intersection.
- 6) No driveway may be located closer than fifty feet (50) from the transition point of a turning lane at intersection locations.
- 7) Driveway profiles, design elements, corner clearance, and performance standards for acceleration or deceleration lanes shall conform to the New Mexico State Highway and Transportation Department's Regulations for Driveways and Median Openings on Non-Access Controlled Highways.
- 8) Driveway design and placement must be in harmony with internal circulation and parking design such that the entrance can absorb the maximum rate of inbound traffic during a normal weekday peak traffic period as determined by a competent traffic survey.
- 9) Uses which generate more than one hundred (100) trips per day shall be required to submit an on-site circulation plan for approval and may be required to contribute to off-site improvements to mitigate the traffic hazards they create, such as, but not limited to traffic signals and acceleration or deceleration lanes.

b. Building Placement

Buildings shall be placed or oriented on a site to:

- 1) enhance the logical development of the site and its relationship to the scale and design of adjacent development;
- 2) adapt to natural topography;

- 3) create a buffer or screen for storage or parking areas; and
- 4) take advantage of solar gain in winter months. See also the setback requirements set forth in Section 4, Design Standards.

c. Parking Lot Location.

Parking lots shall be placed or oriented on a site:

- 1) to the rear or side of buildings (or both); and
- 2) to encourage pedestrian safety and convenience.

d. Terrain Management

All development of a lot, tract or parcel shall be done in accordance with Article VII, Section 3 of this Code.

History. 1980 Comp. 1980-6. Section 4.4.3 was amended by County Ordinance 1990-11 adding all new material for site planning standards.

4.4.4 Development and Design Standards

a. Screening

Outdoor storage, parking and loading areas which are visible from public roads or from abutting public lands or residential areas shall be screened. Such screening may be landscaping, walls, fencing, building placement, berms, or any combination thereof. For landscaping plans and standards relating to screening see Sub-section f.

b. Buffer Zones and Setbacks

- 1) Proposed non-residential districts or uses that adjoin parcels on which dwellings are located within 100 feet of the property line adjacent to the parcel on which the use is to be located shall be set back 100 feet from the property line in major or community center districts and 25 feet in local or small scale districts. The 100' setback area may be used to meet the off-street parking requirement of Section 9 of Article III except that no parking may be provided within twenty five (25) feet of the property line in Major and Community Center Districts and five (5) feet from property lines in Local and Small Scale Districts. In the setback area, existing vegetation shall be preserved and natural topographic features, planting, building placement, walls, fencing, earth berms or landscaping or any combination thereof, shall be used to keep buildings, parking or outdoor storage unobtrusive.
- 2) Alternatives to the 100 foot setback are specified in Article V, Section 8.1.4 e. 1-5.
- 3) Side and rear yard setbacks shall apply only to lots at the edge of a non-residential district. Zero lot lines (no setback) for building placement may be allowed, if fire resistive construction between buildings is provided directly adjacent or adjoining on interior property lines.

c. Maximum Height

Structures shall be limited to a maximum height of thirty six (36) feet from the highest point of the surface of the ground at the perimeter of the structure in Major or Community Center Districts and to twenty four (24) feet in height in Neighborhood or Local Center Districts.

d. Parking

Compliance with the parking standards set forth in Article III, Section 9, is required.

- 3) create a buffer or screen for storage or parking areas; and
- 4) take advantage of solar gain in winter months. See also the setback requirements set forth in Section 4, Design Standards.

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d. Parking

Compliance with the parking standards set forth in Article III, Section 9, is required.

e. Maximum Lot Coverage

Maximum lot coverage for all structures for any development shall not exceed thirty percent (30%) in major or community center districts or twenty percent (20%) in neighborhood or small scale center districts.

f. Landscaping4.4.4 f. 1) Purpose and Intent

Landscape treatments are applicable to all development for the following purposes:

- (a) To assure that new development creates an amenity and improves and enhances the visual quality of an area;
- (b) To buffer or screen visually unattractive land uses from roadways and residential areas;
- (c) To shade, cool and define large parking areas;
- (d) To define the separate function of thoroughfares and other land uses;
- (e) To minimize erosion, dust and slope instability;
- (f) To assure that landscape treatment and improvements are designed, installed and maintained so that they conform to submitted plans or master plans for landscaping;
- (g) To preserve both native vegetation and landscapes and to protect the visual and structural integrity of hillsides or steep or mountainous areas from the effects of development by revegetation of disturbed areas; and
- (h) To promote conservation of water through the use of drought tolerant plant materials and xeriscape techniques.

4.4.4 f. 2) The landscaping requirements of this Code are cumulative; applicants shall meet:

- the standards for minimum area on a development site (Sections 4.4.4 f 4, 9, and 10); plus
 - any required road frontage area (Article III, Sections 4.4.4 f 10 and 13 and Article V, Sections 8.1.4); plus
 - landscaping for parking lots (Sections 4.4.4 f 11), plus
 - landscaping for drainage ponding areas (Article VII, Section 3.4.6 f); and
 - revegetation (Article VII, Section 3.4.5),
- except where specific substitutions or adjustments are provided for in these regulations.

4.4.4 f. 3) Native Vegetation: Preservation(a) Intent

It is the intent of the Code to protect and retain native vegetation and landscapes for all development. Native trees, shrubs and other natural vegetation stabilize steep slopes, retain moisture, prevent erosion, provide habitat for wildlife, play a role in the prevention of air and noise pollution and enhance natural scenic qualities.

(b) Limitations on grading and clearing.

- (1) Grading shall be limited to the development site within the Buildable Area on a lot or tract
- (2) Clearing of existing native vegetation shall be limited to approved development sites. No significant tree may be removed from slopes greater than thirty percent (30%).

- (3) Cleared or graded areas which are not built on and cut and fill areas shall be revegetated to the approximate original density and type of vegetation existing prior to disturbance. Areas to be used for recreation or park landscaping or rural agricultural uses shall be excluded from this requirement.
- (4) Any transplantable tree that will be displaced by construction shall be the primary source of new vegetation required for screening, buffering or other landscaping purposes. (See Appendix 3.C, incorporated by reference herein for tree preservation and transplanting guidelines.)
- (5) Native trees, shrubs and landscape shall be retained within any designated landscape areas set aside for buffers; retention of the natural vegetation will reduce the requirement for new planting. Native trees which are to be preserved on a development site shall be protected during construction from such hazards as damage by vehicles and equipment compaction of soils, and spills of contaminants by temporary fences or barricades erected at the perimeter of the critical root zone. Permanent installation of such techniques as retaining walls, terracing and tree wells with drainage shall be used to protect trees in areas where significant grade changes are approved.

4.4.4 f. 4) Landscaping Plan

A landscaping plan is required for all new development and shall be presented for review with either the master plan or the preliminary development plan and shall contain the following information:

- (a) a landscaping map drafted to scale describing the lot(s) or parcel(s), the development site, proposed structures and other development, the designated landscape areas, including revegetation areas; private gardens are not included;
- (b) within the designated landscape areas, including revegetation areas, the plan shall locate and label:
 - (1) existing vegetation which will be retained by type and size;
 - (2) existing vegetation which will be transplanted, or removed by type and size; and
 - (3) location, type, and size of plants to be installed;
- (c) all plant material to be retained or installed shall be located and labeled, footprinted according to the spread of the plants at maturity;
- (d) a list of the type and number of plants to be retained and installed, with common and botanical names, showing the existing size of specific trees and plants by approximate width of canopy, spread and caliper or gallon size at time of planting and the size of the plant material at maturity in height and width;
- (e) methods and details for protecting existing vegetation during construction;
- (f) the location and quantity of all other materials to be used as part of the landscape treatment; planting and installation details as necessary to show conformance with all standards;
- (g) a description of the proposed system of irrigation including the use of on-site storm water collection, drip irrigation, recycled water or other systems;
- (h) methods for protecting required landscaping from damage by automobiles and run off containing salts from paved areas;
- (i) the purpose of each plant material to be used, e.g., for screening, ornament, shade or other purpose;

- (j) a description of proposed structures or other buffering devices, such as walls, fences or earth berms, including location, height, building materials and/or exterior finish treatment which are part of the landscape treatment;
- (k) a water use budget which includes the type of vegetation, the type of irrigation system (drip, flood, or sprinkler), the area in square feet that will be planted in each type of vegetation and the irrigation application requirement in gallons per square foot per year, for each type of vegetation. See Landscape Irrigation Requirements in New Mexico, New Mexico State Engineer's Office.
- (l) an estimate of the cost of installation of the landscape materials; and
- (m) the landscaping plan submitted with the preliminary development plan for an individual use shall be in conformance with the approved master plan for landscaping.
- (n) Landscape areas shall be designated only on the development site within the Buildable Area of the lot and shown on the development plan and where applicable, the plat.

4.4.4 f. 5) Landscaping Design Standards

All landscaping shall meet the following requirements:

- (a) Proposed landscaping plans shall promote water conservation, provide planting materials that are appropriate to the growing conditions of the site, and provide buffers and landscaped areas which are proportionate to the area and height of the proposed development.
- (b) Native vegetation shall be protected pursuant to the standards of Section 4.4.4 f. 3.
- (c) Landscaped areas shall be a minimum of ten percent (10%) of the approved development site. Limitations may be placed on the maximum landscaped area in order to meet water conservation requirements.
- (d) Pedestrian, bike or equestrian pathways or trails are allowed within landscape areas on street frontages provided that no plant material is eliminated and the total width of the buffer is maintained;
- (e) Parking, loading and outdoor storage are prohibited within a landscaped area;

4.4.4 f. 6) Xeriscape Principles: Water requirements shall be reduced by:

- (a) Native vegetation or introduced vegetation that is freeze or drought resistant shall be used for new landscaping in an effort to conserve water use once the plants are established. Botanical materials shall be chosen so they fit within the water budget or water use plans for the development. Plant materials, their size at maturity, how they can be used, their water use and other information is listed in Appendix 3.C, and incorporated by reference herein.
- (b) Limiting the amount of lawn grass areas:
 - (1) Lawn or turf areas shall be limited to no more than twenty-five percent (25%) of landscaped areas. Areas dedicated to recreational playfields or to the production of food crops such as vegetable gardens or orchards are not included;
 - (2) Lawn areas shall not be planted in strips eight feet (8') wide or less.
- (c) Xeriscape principles shall be followed in the design, installation and maintenance of landscaping, pursuant to Appendix 3.C, and incorporated by reference herein.

4.4.4 f. 7) Planting Standards:

- (a) A minimum of seventy five percent (75%) of an area designated for landscaping shall be developed with living plant materials including areas seeded with grasses and flowers. See references in Appendix 3.C for information and recommendations on use of water efficient planting.
- (b) Designated landscape areas or buffer zones shall be planted according to a ratio of one tree at a minimum height at maturity of twenty-four feet (24') for each five hundred (500) square feet, and one shrub of a minimum height and spread at maturity of four feet (4') for each sixteen (16) square feet.
 - (1) Where the required buffer is five hundred (500) square feet or less (for small parcels only) a minimum of two (2) trees shall be planted.
 - (2) Larger trees are required for large parking lots and buildings; see Subsections 4.4.4 f 11 and 12.
- (c) Non-vegetative landscape materials may include gravel, rock and bark mulch. Walls, fences and berms are types of non-vegetative landscape structures which may be incorporated into landscape areas pursuant to these standards.

4.4.4 f. 8) Adjustments

Minor adjustments to the landscape standards may be permitted in accordance with this subsection, subject to the approval of the Code Administrator pursuant to a site visit and provided that the modifications shall not be inconsistent with the purposes of this Section.

- (a) Adjustments will be considered for existing heavily vegetated areas or for plant materials with varying characteristics provided that:
 - (1) The ratio of living plant material to inorganic material is maintained at seventy-five percent (75%) living materials to twenty-five percent (25%) inorganic materials; and
 - (2) The living plant material is installed so as to provide a continuous visual screen or may be planted in drifts or clumps with pockets of open areas providing the sense of continuity with the street edge is maintained; and
 - (3) screening of cuts or retaining walls in steep slopes from public rights of way is maintained.
- (b) Additional trees meeting minimum planting standards may be substituted for shrubs in rural locations or where water restrictions are severe, provided that the buffering or screening function is maintained; each additional tree may substitute for fifteen (15) shrubs.
- (c) Adjustments of up to fifty percent (50%) to the width of the Road Frontage landscape area (See Section 4.4.4 f 10) will be considered where a four foot (4') high masonry wall or a six foot (6') high opaque fence or earth berm is constructed.
- (d) Plant materials required for screening of cuts, fills or retaining walls in areas of steep terrain may not be adjusted.
- (e) In other areas, the ratio of living plant materials may be reduced by fifty percent (50%) where the landscape treatment includes walls, fences or berms. Walls or fences should be located in the landscape area to accommodate the installation of the living plant materials.
- (f) Minor design adjustments may be made to the designated landscape areas on the development site to accommodate solar access for solar design as long as the substance of landscape standards for screening and buffering are met.

4.4.4 f. 9) Buffering and Revegetation for Ridgetops and Development Sites with a Natural Slope of fifteen percent (15%) or greater

Any cut slope greater than four feet (4') in height or with a grade of two and one half to one (2.5:1) or steeper, retaining walls and erosion control structures and the facades of any building visible from a public way shall be screened or otherwise landscaped as follows:

- (a) A minimum of fifty percent (50%) of the visible portion of a facade or retaining wall shall be screened; trees shall be planted or retained within fifteen feet (15') of all retaining walls to be screened and in an area no less than twenty-five feet (25') and no more than fifty feet (50') from any facade to be screened;
- (b) Trees shall be planted on the downhill side of road cuts and of fill areas. Cuts and fills may be required to be terraced and planted in order to provide screening and slope stabilization;
- (c) Top soil shall be removed and stockpiled for later use in re-vegetation of the disturbed areas;
- (d) New vegetation (trees and seeded areas) shall approximate existing vegetation in type, density, and natural pattern of occurrence on the lot; density shall be determined by an inventory of existing vegetation within the development site prior to grading;
- (e) Density in landscape and revegetation areas shall approximate the density of vegetation prior to disturbance; in no case shall density in landscape and revegetation areas be less than one (1) tree per one thousand (1000) square feet of designated area;
- (f) New trees shall be spaced at a distance equal to the the average diameter of the spread of the crown of the typical mature specimen of the species planted under similar growing conditions;
- (g) New trees shall be a minimum of six feet (6') in height, which, at maturity, will approximate the height of existing native trees and be as tall as the cut and fill or structure to be screened;
- (h) Seeded areas shall be protected by accepted horticultural practices to assure germination; See Appendix 3.C, incorporated by reference herein.
- (i) Seeding or planting may be delayed for the optimum germination or planting season, provided such delay is conditioned on the development permit and bonding or other financial warranty is secured.
- (j) Designated landscape areas for screening on ridgetops and steep terrain may be included in the minimum 10% development site landscape area required pursuant to Section 4.4.4 f.5.

4.4.4 f. 10) Landscaping for Road Frontage Areas

- (a) The width of landscape areas between the street or road right of way and any developed areas of a parcel shall be as follows:
 Highways or Arterials - 25 feet
 Collector or Local - 10 feet
- (b) Upon approval of the governmental agency responsible for the maintenance of the adjoining roadway, any public right-of-way between the front property line and the street may be landscaped and maintained by the property owner retaining native materials or using grass, groundcovers, or low growing shrubs having a maximum mature height exceeding two (2) feet, or be treated with a non-vegetative cover such as bark mulch or gravel. Where appropriate, such areas may be considered as part of the width of landscape areas as set forth in Section 4.4.4 f.10 (a).

- (c) Living plant materials installed in areas designated for landscaping on road frontages shall be planted so as to create the appearance of a continuous edge occasionally punctuated with dissimilar materials.
- (d) In order to avoid a tunneling effect where a development borders on a highway or arterial street or road for more than one thousand (1000) feet, developers or builders shall vary the masonry structures, fences or walls with living plants.

4.4.4 f. 11) Landscaping for Parking Lots

- (a) Except as otherwise provided in this Section f, perimeter landscape screening providing a visual buffer is required in the following circumstances:
 - (1) along the front for parking lots with more than ten (10) parking spaces or four thousand (4,000) square feet, which ever is less; and
 - (2) along the front, side and rear property lines, as applicable, where parking is located within twenty five (25) feet of a property line adjoining residential uses. Standards for landscaping the front of the lot are set forth in Section 4.4.4 f. 10, Standards for side lot landscaping are set forth in Section 4.4.4 f. 13.
- (b) Interior landscaping is required for parking lots with more than forty (40) parking spaces and/or more than twelve thousand (12,000) square feet. Interior landscaping shall cover a minimum area equivalent to one (1) parking space or one hundred sixty (160) square feet for every twenty (20) parking spaces.
 - (1) Interior landscaping shall be designed to shade the parking spaces and provide a visual break to the parking lot surface. Plant material shall consist of a minimum of one (1) deciduous shade tree and three shrubs for every ten (10) parking spaces. The shade trees shall be a minimum of one and one-half inch (1.5") caliper and six (6) feet tall and meet current American Association of Nurserymen standards at the time of planting, and have a thirty foot (30') minimum mature height, with a clear trunk at least five feet (5') above the finished grade. Shrubs shall be five (5) gallon size at the time of planting and shall have a minimum mature height of three (3) feet;
 - (2) Non-vegetative cover including but not limited to gravel or bark is required under trees where other planting is not provided.
 - (3) Interior landscaping planting islands shall have a minimum area of one hundred sixty (160) square feet and a minimum dimension of four (4) feet;
 - (4) Interior landscaping shall be uniformly distributed throughout the parking lot;
 - (5) Pedestrian pathways or sidewalk areas shall be incorporated into the parking area landscape treatment.
- (c) Large parking lots (100 spaces or more and/or 30,000 square feet in area or larger) shall provide interior planting area equal to at least ten percent (10%) of the parking lot area; and
 - (1) Interior landscaping shall be designed to shade the parking spaces and provide a visual break to the parking lot surface. Plant material shall consist of a minimum of one (1) deciduous shade tree and two (2) shrubs for every five (5) parking spaces. Shrubs shall be five (5) gallon size at the time of planting and shall have a minimum mature height of three (3) feet. Shade trees must have a clear trunk at least five feet (5') above

the finished grade to allow vehicular circulation beneath the tree canopy and shall have a minimum height at maturity of forty feet (40'); shade trees shall be a minimum of three inch (3") caliper and six (6) feet tall at the time of planting; all plant and tree sizes must meet current American Association of Nurserymen standards at the time of planting.

- (2) Non-vegetative cover including but not limited to gravel or bark is required under trees where other planting is not provided.
- (3) Larger planting islands connected by pedestrian access ways shall be provided for greater visual relief from paved expanses, to reduce high summer temperatures and to create an environment more conducive for healthy tree growth; tree planting areas must be at least eight feet (8') in any dimension; planting islands parallel to parking spaces must be at least nine feet (9') wide to allow car doors to swing open.
- (4) Tree species chosen should require little maintenance, and be able to tolerate harsh growing conditions such as sun, wind, glare, reflected heat, drought, salt and other chemicals.
- (5) Interior landscaped areas not dedicated to trees or to preservation of existing vegetation shall be landscaped with native grasses, ground cover, shrubs, or other appropriate landscape treatment.
- (6) To calculate parking lot area, all areas within the lot perimeter are counted, including planting islands, curbed areas, sidewalks, parking spaces and all interior driveways and aisles. Landscaped areas outside the parking lot may not be used to meet the interior planting requirement.

4.4.4 f. 12) Landscape Treatments Shall be Scaled

Landscape treatments shall be scaled to screen multi-story commercial, industrial, and large scale residential structures and/or buildings of 30,000 square feet or larger by:

- (a) Use of trees in road frontage areas and residential buffer areas which have a minimum height at maturity of forty feet (40'); shade trees shall be a minimum of three inch (3") caliper and six (6) feet tall at the time of planting; all plant and tree sizes must meet current American Association of Nurserymen standards at the time of planting;
- (b) Use of evergreens and canopy or shade trees should predominate in road frontage areas; ornamental trees and shrubs and smaller native trees may be interspersed in groups which simulate natural tree stands;
- (c) Placement of landscaping materials to screen the bulk of buildings and provide visual relief and protection from high summer temperature for large areas of impervious surface (buildings, paving, courtyards, etc);
- (d) Existing vegetation and native species may be retained on site and counted toward required trees and shrubs in landscape areas, but the plant reduction of Section 4.4.4 f 2. shall not apply to large scale buildings.

4.4.4 f. 13) Buffering Residential Uses from Nonresidential Uses and Roadways

- (a) Commercial, office or industrial developments located at the perimeter of nonresidential districts where there are existing residential uses may be required to provide a landscaped area and structural buffer between any nonresidential use and residential use on the side or rear lot lines. Such buffer shall consist of a six foot (6') masonry wall or fence constructed of opaque materials and a three foot (3') wide planting area. Trees and shrubs

selected for the three foot planting area may be used to create shade or visual amenity. Trailing vines for the wall may also be considered.

- (b) Screening and Buffering for Residential Uses. The requirements for screening residential areas from roadways and nonresidential uses, and for landscaping residential common open space, may include one or more of the following:
 - (1) stuccoed poured concrete walls;
 - (2) stuccoed masonry walls of cement block, brick or adobe;
 - (3) earthen masonry walls;
 - (4) rock or field stone walls;
 - (5) wood fences of materials at least 3/4 inch thick with crossbracing secured with posts on maximum eight (8) foot centers set in concrete or posts treated with preservatives set twenty four (24) inches deep;
 - (6) earth berms with shrubs and vegetative groundcovers;
 - (7) any combination of shrubs and trees which effectively creates a screen; or
 - (8) a combination of the above. The developer may choose any of the above screening methods at his discretion.
- (c) Density of vegetation shall meet standards of Section 4.4.4 f 7, Planting Standards and 4.4.4 f 8, Adjustments.

4.4.4 f. 14) Installation, Maintenance, Inspection, Enforcement

- (a) Landscaping shall be installed for inspection prior to the issuance of a Certificate of Occupancy or Business License unless appropriate financial warranty has been approved by the Code Administrator. Also see revegetation requirements of Article VII, Section 3, Terrain Management.
- (b) A bond or letter of credit in an amount reasonably required by the Code Administrator shall be submitted if seeding or planting of required landscaping and revegetation must be delayed for optimum results. The applicant may be required to submit a cost estimate by a licensed landscape architect. Such delay shall be specified on the development permit.
- (c) All vegetation installed pursuant to an approved landscaping or terrain management plan which later dies shall be replaced.
- (d) Trees and large shrubs shall be supported after planting in such a way that the plants will not be injured by strong winds.
- (e) Responsibility for the success of landscaping installations belongs entirely to the property owner and may be subject to periodic inspections by the Code Administrator. The property owner shall be responsible for control of plant growth by pruning or trimming so that it will not interfere with the installation, maintenance or repair of any public utility, pedestrian or vehicular access or constitute a traffic hazard.

4.4.4 h. Outdoor Lighting

1) Purpose

Outdoor lighting standards are applicable to all development in the County. Outdoor lighting shall be designed and arranged to enhance the safety of areas designated for pedestrian use during evening hours, to provide security, to conserve energy, to protect the night sky and in particular, to prevent the spillover, nuisance or hazard effects of light and glare on adjacent locations and uses of land.

2) Definitions

- (a) cut-off - the point at which all light rays from the light source or luminaire is completely eliminated at a specific angle above the ground.
- (b) cut-off luminaire - a luminaire with shield, reflectors, reflector panels or other housing which directs and cuts off light rays from direct view.
- (c) footcandle - a unit of illumination produced on a surface, all points which are one (1) foot from a uniform point source of one (1) candle. A comparative measure is the brightness of a full moon which is equal to .01 footcandle.
- (d) glare - the brightness of a light source which causes eye discomfort.
- (e) luminaire - a complete lighting unit consisting of a light source and all necessary mechanical electrical and decorative parts.

3) Submittals

- (a) For all development involving outdoor lighting fixtures a lighting plan shall be submitted for master plan or preliminary development plan or Development Permit review, as applicable, showing the location, mounting height, types of luminaires, accessory equipment such as shades, deflectors or other housing controlling the direction of light on a surface and the beam direction of any luminaire. Descriptions of all illuminating devices shall include, as applicable, manufacturers' drawings showing sections and photometric data showing the angle of cut off of light emissions.
- (b) The plan shall be drawn to scale and shall also include elevations of building facades showing the location of, and shielding devices for, wall mounted luminaires and detailed drawings of the luminaires and accessory equipment to be used.
- (c) Additional submittals that may be required include, but are not limited to, preparation of a visual impact analysis for alternative types of lighting solutions for the project as those would affect and be seen from adjacent properties and public ways, a comparative analysis of performance standards relating mounting height, footcandles, footcandle levels and location for various types of lighting which could be developed for the proposed use and types of shields, deflectors and adjustments on orientation or other buffers which could be implemented to mitigate glare, nuisance or hazardous effects of any night lights.

4) Off-Street Lighting Design Standards

- (a) The use of cut-off type luminaires is required. All light bulbs and light sources shall be shielded so that they are not directly visible from any adjacent lot or public roadway. All outdoor lighting fixtures shall meet requirements for lamp type and shielding set forth in Table 3.1, Outdoor Lighting Requirements, below.
- (b) Spillover of lighting for adjacent properties shall not exceed one half of one (.50) footcandle measured at any point ten feet (10') beyond a property line.
- (c) For residential uses, no luminaire shall be installed higher than the building(s) on the lot. For all other uses and for parking lots for multi-family residential uses, no luminaire shall be installed higher than one and one half (1.5) the height of any structure proposed for development or twenty four feet (24'), whichever is less.
- (d) All light bulbs and light sources shall be recessed into any canopy structure that is designated for pedestrian use, loading or service, unless a suitable alternative is submitted for approval. Decorative lamps housing an

incandescent light source of 160W or less for hanging under portals are exempted.

- (e) In nonresidential districts building facades may be illuminated with ground floodlamps installed close to the structure; wall mounted floodlamps shall be shielded so that the light source is not visible. Spotlights without a shielding device are prohibited. Ground mounted luminaires for building facade illumination are not permitted in residential districts.
 - (f) Control of the distribution of illumination for outdoor recreation areas, outdoor storage areas or outdoor display of merchandise is subject to additional submittals.
 - (g) Automatic timing devices may be required to turn off lighting installed for display or outdoor sporting events at specified hours. The use of security lights using motion sensors is encouraged, especially for residential applications.
 - (h) A range of lighting design solutions for the various aspects of a development shall be considered over a single lighting solution.
- 5) Street Lighting Design Standards
- (a) It is the intent of these Regulations to require installation of street lights only where necessary to continue the urban streetscape or to provide for pedestrian and motorist safety. It is not the intent to require or encourage installation of street lights in subdivisions with a rural character.
 - (b) Street lights are required in the following circumstances:
 - (1) on paved streets and roads where curb, gutter and sidewalk are required;
 - (2) for safety purposes on arterial roads or at intersections of any road with a highway or arterial.
 - (c) Standards for street light installations:
 - (1) Lighting shall be provided in accordance with a plan designed using guidelines and standards set forth by the Illuminating Engineers Society (IES) Lighting Handbook, latest revision, and the standards set forth in this section. Recommended lighting levels and uniformity ratios are found in Appendix 3.B of the Code.
 - (2) Plans designed by utility companies shall meet the standards in this section.
 - (3) Low or high pressure sodium lamps or other energy efficient sources shall be used in all installations.
 - (4) Cut-off luminaires shall be used to direct light downward in order to prevent the spillover, nuisance or hazard effects of light and glare on any adjacent locations. Cobra head fixtures shall be equipped with skirting or other design features to shield the light source. See Table 3.1, Outdoor Lighting Requirements.
 - (5) Street lights shall be located and designed to enhance the safety of motorists and pedestrians during evening hours. Location shall be planned to provide a transition from unlit areas to lit areas and continuity and uniformity of lighting. Street lights shall be installed so as to create a transition from dark to illuminated areas and avoid blind spots or dark shadows which are hazardous to drivers.
 - (6) The maximum height of standards (upright supports) shall not exceed twenty-four feet (24'), except on public roads wider than two (2) lanes and arterials where taller standards up to thirty-six feet (36') may be used. This height limit may be varied by the Code Administrator if a site specific study clearly demonstrates that use of a taller standard will

better achieve the purposes of this subsection 4.4.4 h, Outdoor Lighting, and these Street Light Design Standards.

- (7) Street lights in subdivisions shall be equipped with electric meters to allow billing to the developer or owners' association unless other arrangements are agreed to by the Board.
 - (8) All street light conductors shall be installed underground.
 - (d) Safety. Notwithstanding other requirements of this Section, the County Development Review Committee or Board may require installation of street lights whenever needed to protect the safety of motorists and pedestrians due to the particular characteristics or location of the site.
 - (c) Maintenance. Payments for operations, maintenance and energy charges shall be the responsibility of the developer or owners' association. The disclosure statement and owners' association by-laws shall set forth an acceptable method for charging each lot owner for maintenance and operation.
- 6) Non-Conforming Outdoor Lights
- (a) Mercury vapor lamps in use for outdoor lighting on the effective date of this amendment to the Code (April 30, 1996, Ordinance No. 1996-3) shall be removed or replaced with lamp fixtures meeting the standards of this Article III, Section 4 within five (5) years.
 - (b) All other outdoor light fixtures lawfully installed prior to and operable on the effective date of this Code amendment (April 30, 1996, Ordinance No. 1996-3) are exempt from the requirements of this Section. However, whenever there is a change in use or lamp type or any replacement or structural alteration made to such non-conforming outdoor light fixtures, they shall be made to conform to all applicable requirements of this Code.
 - (c) Non-conforming outdoor lights which are found by the Code Administrator or the County Development Review Committee to create a nuisance or hazard and are in violation of this ordinance shall be required to be replaced with lamp types or fixtures which conform to the requirements of this Code.

TABLE 3.1 OUTDOOR LIGHTING REQUIREMENTS

FIXTURE LAMP TYPE	SHIELDING	DETAILED STANDARDS/NOTES
Low pressure sodium	Partial*	Shielding shall permit no more than ten percent (10%) of light rays emitted at angles above the horizontal plane running through the lowest part of the fixture as certified by photometric test report. This is the preferred light source to minimize undesirable light emission into the night sky.
High pressure sodium	Full*	Full shielding shall permit no light rays emitted by the installed fixture at angles above the horizontal plane running through the lowest part of the fixture, as certified by photometric test report.
Metal halide	Full*	To be used for display purposes; the light source shall be filtered by a glass, acrylic or translucent enclosure; may be subject to timing devices or restricted hours of operation.
Fluorescent, quartz, incandescent greater than 160W	Full*	Signs constructed of translucent materials and lit from within do not require shielding. See Art. VIII, Sign Regulations.
Incandescent 160W or less	None	
Any light 50W or less	None	
Halogen	Prohibited except for special uses approved by CDRC	For outdoor display of merchandise or sporting events; may be subject to timing devices or restricted hours of operation.
Mercury vapor, laser	Prohibited	
other sources	As approved by CDRC	May be conditioned as part of development approval or temporary use permit.

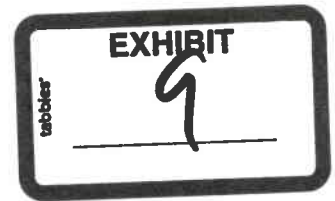
See Appendix 3.A for illustration.

SECTION 5 - MINERAL EXPLORATION AND EXTRACTION

5.1 General Provisions

5.1.1 Applicability

- A. Any person who conducts or intends to conduct a mineral exploration or extraction activity or an expanded use of a mining land use within Santa Fe County shall be subject to the provisions of this Code, as applicable, and this Section 5. Mining uses



Aubrey Dunn
COMMISSIONER

State of New Mexico
Commissioner of Public Lands

310 OLD SANTA FE TRAIL
P.O. BOX 1148
SANTA FE, NEW MEXICO 87504-1148

COMMISSIONER'S OFFICE

Phone (505) 827-5760

Fax (505) 827-5766

www.nmstatelands.org

March 20, 2015

BACA RANCH
6209 ACACIA STREET NW
ALBUQUERQUE, NM 87120

Re: GS-2065

Dear Lessee(s),

It has come to our attention that the following paragraph was added, without adequate advanced notice, to the above-referenced lease at the time of its renewal with the State Land Office:

Paragraph 21 (Renewable Energy). In addition to the reservations stated in paragraph 11 ("Reservations"), Lessor reserves the right to execute leases for renewable energy projects on the land granted by this lease, Lessee consents to any such language, Lessee agrees to cooperate in any such lease, and failure to so shall constitute a violation per paragraph 9 ("Default and Cancellation").

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

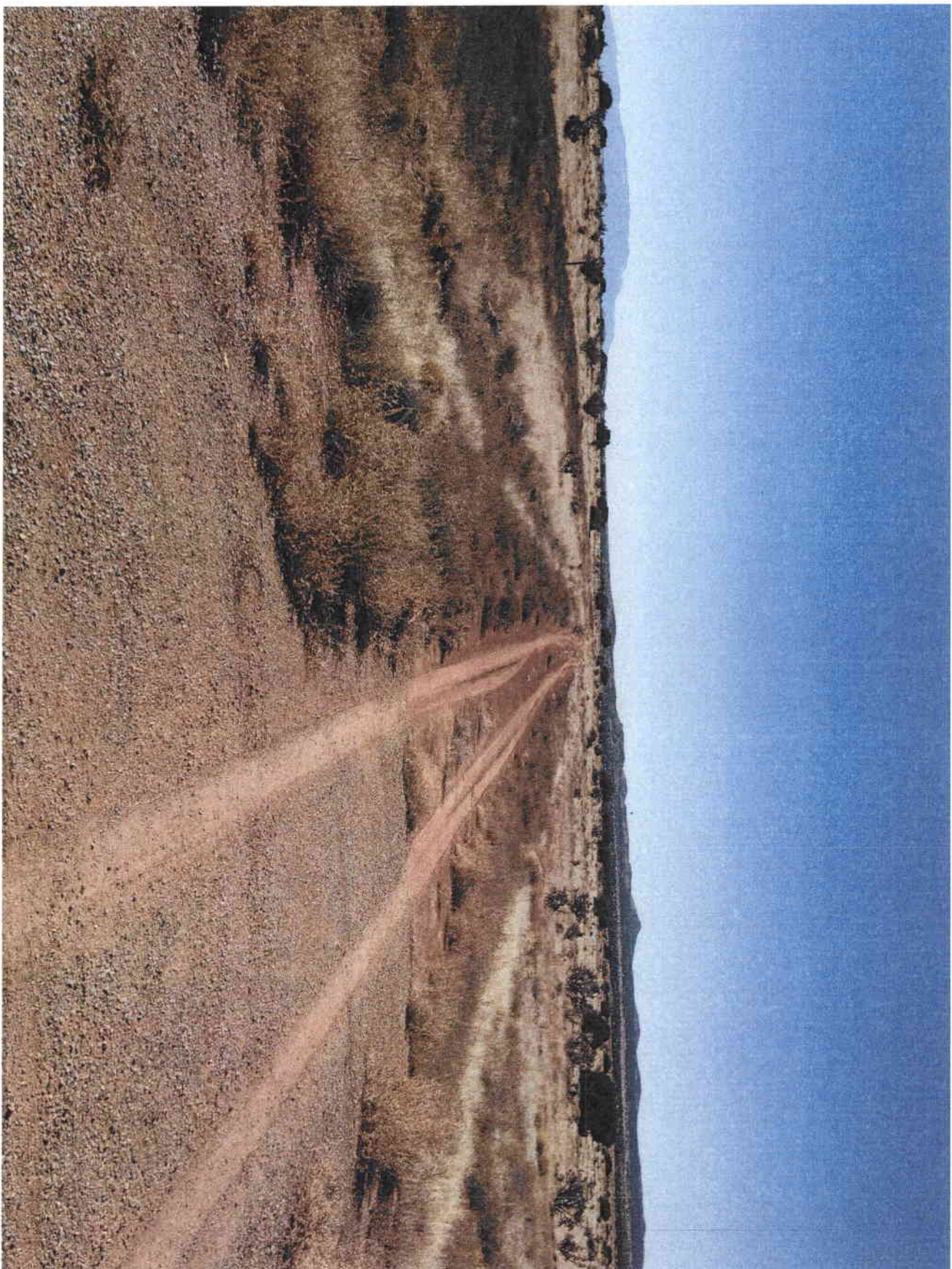
Sincerely,

Aubrey Dunn
Commissioner of Public Lands

S F C C L E R K R E C O R D 0 4 / 2 9 / 2 0 1 5

EXHIBIT
10







SANTA FE NEW MEXICAN

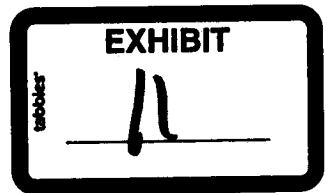
The West's oldest newspaper, founded 1849

Robin M. Martin
Owner

Robert M. McKinney
Owner, 1949-2001

Inez Russell Gomez
Editorial Page Editor

Ray Rivera
Editor



S F C C L E R K R E C O R D 0 4 / 2 9 / 2 0 1 5

OUR VIEW

In Eldorado, solar flares

That ever-congenial community of Eldorado — so divided over backyard chickens — now is fighting over the sun. Long a leader in solar energy for residential homes, the residents of the covenant-governed subdivision are debating how much solar is too much. It's yet another divide to split neighbors and underscoring again that disputes that can arise when covenants and state laws are unclear.

Legally, residents have a right to tap into the power of the sun to run their homes. Historically, Eldorado has long been known as a place where renewable energy matters. In the 1970s, houses were built using passive solar techniques and today, there are some 200 solar installations in a community made up of 2,776 households. Solar is a way of life, in other words.

So much so that some neighbors are complaining about solar panels becoming eyesores, as unwanted as a car on blocks or a washing machine left for parts in the backyard. After all, the point of a homeowners association with covenants is to protect property values and maintain appearances. Too many panels get in the way, say critics.

Rather than having Eldoradoans fight Eldoradoans once more, enriching lawyers and creating ill will, this issue should be punted to the Legislature. We need a common standard across New Mexico that allows homeowners their rights to access solar power (after all, aren't we all interested in more renewables to save the planet while protecting the community?).

State standards would remove the dispute from the neighborhood level and should, we trust, reduce the disagreements from house to house. We can't imagine the uncomfortable nature of a dinner party in Eldorado. Hen lovers, solar activists and those who want covenants strictly enforced, all sitting around the table, trying to avoid controversy.

In the meantime, we want to ensure Eldorado residents remain neighborly. Those who have ground-based solar arrays — which some Eldorado residents don't believe are allowed — need to put up fences or install native plants to hide the panels from view, when possible. Beauty matters, too. However, the need for renewable energy is too important to stop people who want to invest in solar from moving forward. There will need to be give on all sides as standards are put together.

Right now, Eldorado's covenants dealing with solar are ambiguous — there's a clause that allows rooftop solar panels, but ground installations aren't really addressed. There needs to be a clear, understandable state law so that solar is encouraged and property rights respected. Those rights do include views and aesthetics.

In the meantime, for everyone who doesn't like the appearance of solar panels, take a deep breath. That clean air filling your lungs will stay that way — especially if New Mexico keeps adding renewable energy sources.

DATE: December 18, 2014

TO: County Development Review Committee

FROM: Jose E. Larrañaga, Development Review Team Leader

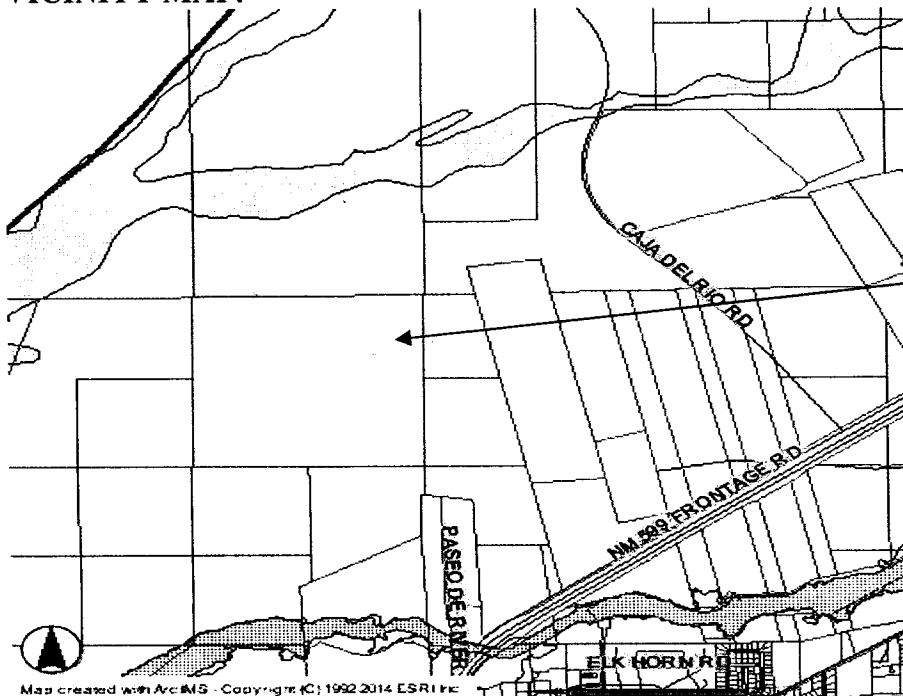
VIA: Penny Ellis-Green, Growth Management Director
Vicki Lucero, Building and Development Services Manager
Wayne Dalton, Building and Development Services Supervisor

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

ISSUE:

Public Service Company of New Mexico, Applicant, Laurie Moya, Agent, requests Master Plan Zoning, Preliminary and Final Development Plan approval to allow a 5 megawatt electric Solar Facility on a 40 acre site. The property is located north of New Mexico Highway 599 and takes access via Caja del Rio Road, within Section 3, Township 16 North, Range 8 East, (Commission District 2).

VICINITY MAP:



*What is
a 5 megawatt
electric Solar Facility
zoned?*

SITE

SUMMARY: