

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: July 29, 2014

TO: Board of County Commissioners

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

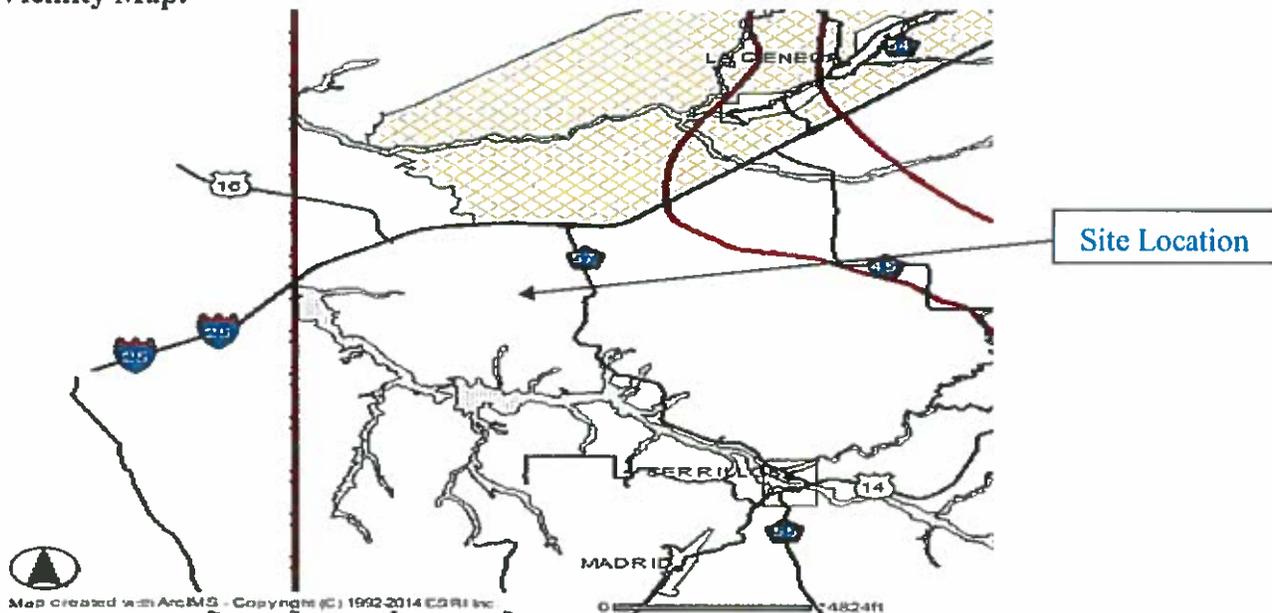
VIA: Katherine Miller, County Manager
Penny Ellis-Green, Growth Management Director *PEG*
Vicki Lucero, Building and Development Services Manager *VL*
Wayne Dalton, Building and Development Services Supervisor *WD*

FILE REF.: CDRC CASE # ZMXT 13-5360 Buena Vista Estates, Inc. & Rockology LLC.

ISSUE:

Buena Vista Estates, Inc, Applicant, Jim Siebert, Agent, requests zoning approval to create a mining zone, on a 50 acre \pm site, to allow the extraction of aggregate for use as construction material. The site will take access off of Waldo Canyon Road (County Road 57) and the property is located on the south side of I-25, within Section 21, Township 15 North, Range 7 East (Commission District 3).

Vicinity Map:



SUMMARY OF ADDITIONAL INFORMATION REQUESTED AND OBTAINED:

On June 11, 2014, the Board of County Commissioners (BCC) held a special meeting on the above-referenced case. Staff presented a staff report (Exhibit 1), with exhibits, to the BCC, the Agents for the Applicant presented material and testified in support of the application, and the BCC heard testimony from the public. The BCC continued the public hearing until July 8, 2014, at 10:00 a.m. On June 17, 2014, the Agent representing the Applicant submitted a request to postpone the continued public hearing until August 12, 2014, due to neither the Attorney nor Agent for the applicant being available on July 8.

The BCC identified specific issues to be addressed at the continued public hearing and by the Santa Fe County Attorney, directing staff to obtain additional information on those issues. Those issues are identified below along with the response by staff:

1. Provide a review of the maps provided by the public relative to proximity of the mine to homes and roads:

Santa Fe County Geographic Information Systems Division (GIS) has reviewed the maps provided by the public at the June 11th hearing. GIS has determined that these maps show a view shed from both Waldo Canyon Road and I-25 and that no determination can be made on the accuracy of these maps due to the following reasons: unknown source of data; unknown map creator; and unknown GIS system used. In addition to this lack of data, there was no information provided on the analysis itself, such as if the view shed was done from ground level, eye level, or a 20 foot level (Exhibit 3).

2. Provide maps showing the proximity of the proposed mine to homes, businesses within a 15 mile radius, communities, including but not limited to La Cienega, La Cieneguilla, Cerillos, La Bajada and Madrid. Attain additional information associated with the view shed beyond the scope of the immediate area of the proposed mine site:

GIS has created maps which illustrate the view shed within a 1, 5, 10 and 15 mile radius of the proposed 50 acre mine site along with homes, businesses, and communities within these radii (Exhibit 4).

On July 24, 2014, GIS staff conducted a site visit to the proposed mine site. The Applicant placed a 20' story pole at the northern corner of the 50 acre site. GIS took photographs from various points within the view shed to demonstrate the actual view of the subject area from those points (Exhibit 13).

3. Request formal feedback from the Pueblo of Cochiti and the Pueblo of Santo Domingo:

On June 16, 2014, a set of plans, the Applicants' report, and a cover letter requesting a formal review and/or comments was hand delivered to the Honorable Oscar K. Lovato, Governor of the Pueblo of Santo Domingo, and the Honorable Joseph H. Suina, Governor of the Pueblo of Cochiti (Exhibit 5). There has not been a response to those requests to date.

The Pueblo of Tesuque, however, contacted staff to discuss the proposed mine and mailed staff a letter, dated June 20, 2014, in regards to the application (Exhibit 6). It states that “strip mining in this area would have a detrimental impact to historical and archeological resources and Pueblo cultural sites that, since time immemorial, have traditional, religious, and cultural significance to the Pueblo.”

4. Are improvements of the road (County Road 57) part of the process:

Santa Fe County Public Works Department has recommended as a condition of approval that County Road 57 be improved by applying a two inch overlay of hot mix asphalt (HMA), starting from the East Interstate 25 Frontage to the most southern boundary of the access road to the site as per Code requirements (Exhibit 1, pgs. 10 & 11).

5. An evaluation of gross receipts that can clearly and simply be transparently delineated with this particular project:

A review of the projected gross receipts was done by the County Finance Department (Exhibit 7). The Finance Department’s conclusion was that: “Buena Vista Estates, Inc. and Rockology, LLC estimates of the taxable gross receipts and corresponding tax revenue from the proposed mining operation involve a number of assumptions with which the Finance Division has no basis to agree or disagree. Without knowing who will purchase the materials (as a taxable transaction or a non-taxable transaction), a solid estimate cannot be provided. In the best case scenario, if 100% of the Rockology mining operation’s transactions are gross receipts taxable, then the directly attributable revenue would be \$240,625 of which \$179,375 would be revenue to the State of New Mexico and \$61,250 would be revenue to Santa Fe County. However, in the worst case scenario, if 100% of the transactions are non-taxable, then there would be no directly attributable revenue derived from the Rockology mining operation.”

6. Provide information on the material being mined at the Santo Domingo Mine and the size of the site:

Staff was in contact with Kenneth Pin, Planning Director for the Santo Domingo Pueblo, and he stated that the site is leased to and operated by Lafarge.

The Applicant provided some information concerning this mine site, as follows: The material extracted from this site is sand and gravel and the site is estimated to be between 200 and 300 acres. This site accesses off of NM Highway 22 (Exhibit 8).

7. How the property is being marketed:

Staff has researched the advertisement for the sale of this property and found a website listing the property. The property is advertised as a 5,200 ± acre site with “tremendous development potential, both in terms of a residential master plan and as an aggregate

resource.” (Exhibit 9 contains a listing printed on July 28, 2014, from the website www.cbre.us.)

8. County policies associated with the sale of potable water, for either residential or commercial use, from the bulk water services from the Santa Fe County Utilities dispensing facility located at 13B Camino Justicia:

The process for becoming a bulk water customer is to fill out an application, providing proof of address and indicating type of customer (residential or commercial). The new customer is given an account number and must pre-pay. At the bulk water dispensing station, the customer enters the customer number into the machine and buys water on a debit basis, drawing against the pre-payment. Customers then periodically recharge their account. This is the same process that other area bulk water suppliers use (City of Santa Fe, City of Rio Rancho, for example).

Current rates are \$0.01/gallon residential, \$0.02/gallon commercial.

The bulk water station makes water available for potable domestic use and commercial uses, and has several purposes:

- Make access to water more convenient for those lacking waterlines for regular water service and having poor groundwater resources.
- Prevent or minimize water theft from hydrants.
- Minimize predatory water sales practices.

For these reasons, the County has not promulgated any policies that would limit potential customers from signing up. Market forces are also involved. The commercial rate is such that it makes sense for a temporary use like a construction project or occasional dust control, but is generally prohibitively expensive for a sustained use.

The County does monitor usage to make sure we stay within the total water allocation. The County allocated 30 acre-feet/year of water of total County capacity to bulk water sales in 2004 or earlier. In 2013, total bulk water sales amounted to 13.9 acre-feet, or less than half of the total allocation. Using a 2% growth in bulk water sales per year, which is slightly higher than the projected population growth rate, the total allocation will last 32 years. The Rockology water budget is 2.19 acre-feet/year. As indicated above, there is adequate room in the bulk sales water allocation to accommodate this use.

(Exhibit 10 contains documents concerning County bulk water sales, including purchases by customer during calendar year 2013).

9. The use of City effluent water: how a business or an individual attains the use of the effluent water; can City effluent water be used for the proposed use; does dispensing of reclaimed water for application to any area on an ongoing basis require a ground water discharge permit:

(Exhibit 11 contains documents regarding this issue.)

The City of Santa Fe issued a letter to Mr. Steven A. Hooper, owner of Rockology Limited LLC, in regards to the reclaimed water use agreement and permit that the City issued to Rockology. The letter states: “By code, the term of the effluent use must be less than twelve (12) months. Rockology received the Permit in May 2, 2014. Therefore Rockology’s Permit to receive treated effluent will expire prior to May 2, 2015. The City further notes that it has no release of liability for the City of Santa Fe on file. In addition, the *Reclaimed Water Use Requirements* Form provided by the City also states that uses are limited to temporary or intermittent uses, and, dispensing of reclaimed water for application to any Area on an ongoing basis rather than temporary or intermitted, shall require a ground water discharge permit. Any long term use of treated effluent requires a contract authorized by the governing body under Santa Fe City Code § 22-13.9. At present, Rockology has no long term effluent agreement with the City.”

The New Mexico Environmental Department Ground Water Quality Bureau reviewed this application and stated: “in order for NMED to make an official determination whether a Discharge Permit might be required, the Applicant is advised to file a Notice of Intent (NOI) with the Ground Water Quality Bureau, which would include the submittal of information relevant to the potential impacts to ground water quality”.

10. What are the regulatory responsibilities and requirements associated with mining and the connection with the Land Development Code and the regulatory framework of the State of New Mexico; an analysis of the potential litigation of this case; the cost of land and the increase of the cost of land associated with what occurred on the La Bajada Mesa and the relevance to this case; ownership of mineral rights on this property:

These questions were directed to the Santa Fe County Attorney for discussion during the closed deliberations of the BCC with regard to this administrative adjudicatory proceeding.

11. During the June 11th hearing, there was discussion regarding the water budget submitted by the Applicant for dust control and reclamation of the mine site. As a result, a review of the proposed water budget was done by the County Hydrologist (Exhibit 14). The conclusions were that:
 - a. “without more specific information on the proposed mining operation, namely, duration of crushing operation and area involved in dust control, it is not possible to determine if the proposed water budget for dust control is reasonable”; and
 - b. “it appears amount of water proposed for re-vegetation purposes may not be sufficient to meet the water demand of grasses in this area.”

In addition to the information gathered by staff, the following information was submitted to staff and is attached as exhibits to this memorandum:

Exhibit 12: July 23, 2014 letter from Santa Fe Solid Waste Management Agency

Exhibit 15: Rural Conservation Alliance Documentation Regarding Commissioner Questions

Exhibit 16: Letters from Citizens Received after June 11, 2014

RECOMMENDATIONS:

CDRC Recommendation: The County Development Review Committee recommended denial of the Applicants request for zoning approval to create a mining zone by a 5-2 voice vote.

Staff Recommendation: Conditional approval for the creation of a mining zone, on a 50 acre \pm site, to allow the extraction of aggregate for the use as construction material subject to the following conditions:

1. Master Plan for all three Phases with appropriate signatures shall be recorded with the County Clerk, as per **Article V, § 5.2.5 of the Land Development Code.**
2. Staff recommends that the Board of County Commissioners require the Applicant to submit a financial security for completion of the reclamation in accordance with **Article XI, § 1.5.1.d of the Land Development Code.**

EXHIBITS:

1. May 27, 2014 Staff Report (without exhibits)
2. Minutes of June 11, 2014 BCC Meeting
3. Santa Fe County GIS Analysis of Maps Provided at June 11, 2014 BCC Meeting
4. Santa Fe County GIS Maps of View Shed Along with Homes, Businesses, and Communities
5. Letters to Pueblo of Santo Domingo and Pueblo of Cochiti
6. Letter from Tesuque Pueblo
7. Santa Fe County Finance Department Memo
8. Santo Domingo Mine Site
9. Listing of property from website
10. Santa Fe County Bulk Water Information
11. City of Santa Fe Effluent Information/ Ground Water Quality Bureau Review
12. Letter from the Santa Fe Solid Waste Management Agency
13. Visibility Analysis - Photos
14. Water Budget Analysis by Karen Torres, County Hydrologist
15. Rural Conservation Alliance Documentation Regarding Commissioner Questions
16. Letters from Citizens Received after June 11, 2014

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County Manager

MEMORANDUM

DATE: May 27, 2014

TO: Board of County Commissioners

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

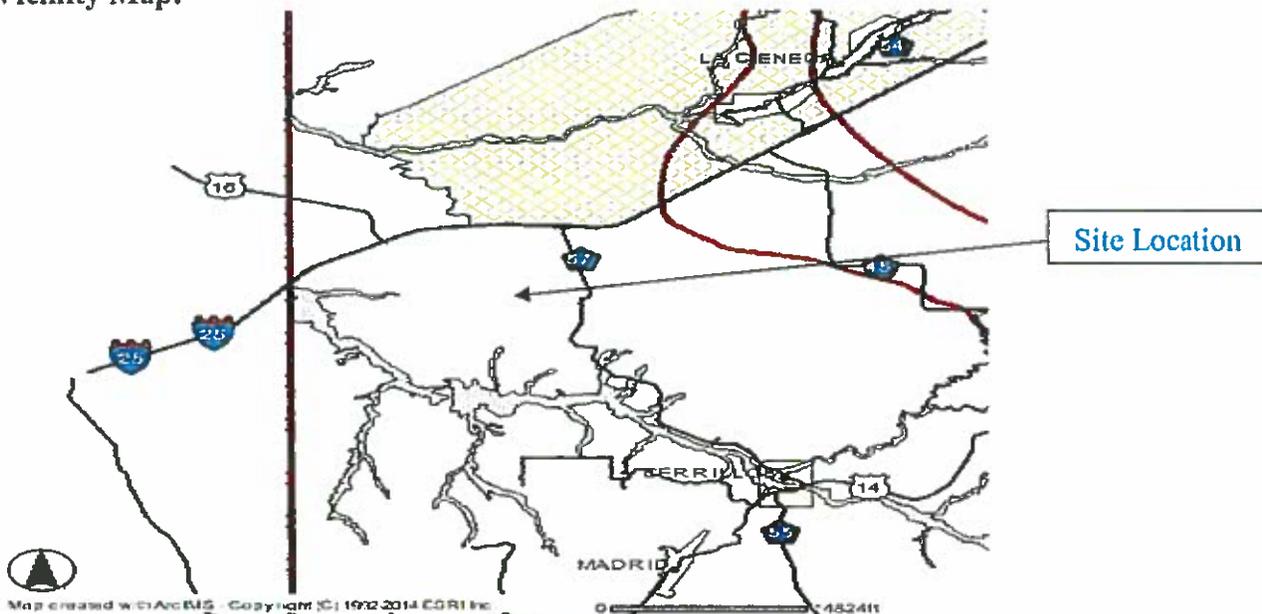
VIA: Katherine Miller, County Manager
Penny Ellis-Green, Growth Management Director
Vicki Lucero, Building and Development Services Manager *VL*
Wayne Dalton, Building and Development Services Supervisor *WD*

FILE REF.: CDRC CASE # ZMXT 13-5360 Buena Vista Estates, Inc. & Rockology LLC.

ISSUE:

Buena Vista Estates, Inc, Applicant, Jim Siebert, Agent, requests zoning approval to create a mining zone, on a 50 acre \pm site, to allow the extraction of aggregate for use as construction material. The site will take access off of Waldo Canyon Road (County Road 57) and the property is located on the south side of I-25, within Section 21, Township 15 North, Range 7 East (Commission District 3).

Vicinity Map:



SUMMARY:

On March 20, 2014, the County Development Review Committee (CDRC) met and acted on this case. The decision of the CDRC was to recommend denial of the Applicant's request. The CDRC's findings for the recommendation of denial included: the proposed mining activity would have a significant adverse effect on the general welfare of the citizens of the area; not compatible with the transportation aspect of I-25; the area is not suited for mining because of the visibility; the history of mining is not in that area; the water supply and the way they want to obtain water is not acceptable.

Buena Vista Estates, Inc. owner, Rockology Limited, LLC, operator, are requesting approval of the creation of a Mining Zone to allow the extraction of aggregate for construction purposes to be used in redi-mix concrete, asphalt, landscaping, and base coarse. The Applicant states: "the basaltic material is a durable, sound aggregate, which is needed in construction of roads, bridges, homes, schools, buildings, and public works projects. The quality of the aggregate pits in the Santa Fe area generally does not meet the requirements for these types of construction projects". The mining will encumber 50 acres of land within a 1,359 acre parcel owned by Buena Vista Estates, Inc.

The mining operation is expected to last 25 years with the operation to be conducted in three phases. A materials stock pile and crusher will be located in each of the three phases (pits) to be excavated. The mining for each phase (cell) will occur over an approximate seven to eight year period. Rock drilling will follow the removal of overburden, drilled in accordance with the approved blasting plan. A licensed and insured blaster will perform the blasting operations in compliance with all regulatory agencies, including Santa Fe County, MSHA (Mine Safety & Health Administration) and Federal ATF regulations.

Article XI, § 1.1 (Applicability) states: "mineral extraction activity for construction materials, including but not limited to, stone, sand, gravel, aggregate, or similar naturally occurring materials, (hereinafter: construction materials) shall be allowed anywhere in the County, provided the requirements of this Ordinance are met".

Article XI, § 1.2 (Location Standards for Creation of New Mining Zones) states: "the Santa Fe County Board of County Commissioners may create new mining zones, provided the following location standards are satisfied: 1. Demonstrated existence of significant mineral resources. 2. Use of the land for mining uses is reasonably compatible with other uses in the area affected by the mining use, including but not limited to traditional patterns of land use, recreational uses, and present or planned population centers or urban and metropolitan areas. 3. A history of significant mining activity in the area, if mining has been conducted in the area (not required for creation of new mining zones). 4. The area designated is particularly suited for mining uses, in comparison with other areas of the County".

The Applicants have submitted an analysis of the above mentioned location standards criteria: 1. A soils investigation of the site was conducted. An aggregate summary report, prepared by AMEC Earth Environmental, Inc., describes the type of material found on the site. Basaltic material was found to the limits of the depth that can be achieved by an excavator, or approximately 20 feet.

2. Currently the property is being used for grazing purposes which would continue during the mining operation. The site is privately owned and is not an open area for public use. The site is not within a present or planned population district. 3. There are several mine sites in the vicinity of this property (Waldo Quarry, Gypsum Mine-Santo Domingo, San Pedro Mine & Rosario Asphalt). 4. The site is not neighboring any residences. The traffic created by the mine will not go through residential communities. The mine site will not impact the neighboring properties.

Article XI, § 1.5.1.d (Submittals for Mining Uses) states: “a plan to provide for reclamation of the mine site. For mining uses involving open pit mining operations, the mining operator shall be required to submit a plan for re-contouring and re-seeding or re-vegetation of the mine site or any phases thereof when the property or portions thereof has been mined. The plan for re-seeding or re-vegetation may not require seeding or re-seeding or re-vegetation of the open pit, but it shall require a plan to re-seed or re-vegetate the remaining disturbed areas of the mine site, excluding roads, with reasonable allowances to recognize areas that cannot be practically seeded or re-vegetated because of slope, rock conditions or other limitation factors, in an attempt to provide roughly comparable vegetation to that which existed in the area prior to mining, through a single reasonable effort. The Board may require a security for completion of the reclamation required under the section. The security may be in the form of a:

- (1) surety bond issued by an insurance company which is rated "A" or better by Standard and Poors or a comparable rating service; or
- (2) by a letter of credit in a form approved by the Board, issued by a state or national bank whose deposits are insured by the Federal Deposit Insurance Corporation; or
- (3) if approved by the Board, by a corporate undertaking issued by the applicant corporation or its parent corporation listed on the New York or American Stock Exchange or major foreign stock exchange”.

This Application was submitted on December 6, 2013.

Building and Development Services staff has reviewed this project for compliance with pertinent Code requirements and has found that the following facts presented support the request for the creation of a Mining Zone: the Application is comprehensive in establishing the scope of the project; existence of significant mineral resources has been demonstrated by the Applicant; the use of 50 acres of land, within a 1,359 acre parcel, for a mining use is reasonably compatible with other uses in the vicinity; the designated 50 acre site is particularly suited for mining uses, in comparison with other areas of the County; the review comments from State Agencies and County staff have established that this Application is in compliance with State and County requirements and Article XI, § 1 of the Land Development Code.

APPROVAL SOUGHT: Creation of a Mining Zone to allow the extraction of aggregate for construction purposes on 50 acres of land within a 1,359 acre parcel.

**SUBMITTAL FOR MINING
USES:**

The following was submitted by the Applicant as required by Article XI, § 1.5.1: a vicinity map showing the mine site and the area within a three (3) mile radius of the mine site drawn on a U.S.G.S. topographic quadrangle map; a map for the mine site, general survey, aerial photograph illustrating the existing site data; an operations plan in accordance with Article XI, § 1.5.1 – 8; a plan to provide reclamation of the mine site; an estimate of the average annual payroll/economic benefit of the mine site; a list of permits required to be obtained to engage in the mining use on the mine site (Development Permit; Air Quality Permit; Mine Registration, Reporting, & Safe Guarding Program Services; Petroleum Storage Tank Bureau; Occupational Health & Safety Bureau; Mine Safety, Health Administration; Blasting); submission of an affidavit of ownership of mineral rights (Exhibit 8).

**AREA OF MINERAL
EXTRACTION ACTIVITIES:**

The neighboring activities are all industrial or transportation uses: the Waldo Quarry is 1.5 ± miles southeast of the proposed site; the New Mexico Rail Runner track traverses south of the proposed site; the Rosario Asphalt Terminal is located approximately three miles southwest of the proposed site; and in 1998, sand and gravel was mined in the area by Corn Construction for the I-25 construction.

ARCHAEOLOGIC:

Medium Potential, archeological report required for development of more than 10 acres. An archaeological report has been submitted for review. The Historic Preservation Division (HPD) reviewed the archaeological report prepared by Townsend Archaeological Consultants and concurred with the findings that no additional archaeological investigations are necessary. Because of the presence of segments of U.S. 85/66 and Camino Real within one mile of the project area, a line of site analysis was conducted to determine whether the materials pit would be visible from each of the segments. This analysis showed that the materials pit would not be visible from most locations because of intervening topography. Based on this analysis HPD had no concerns with the proposed project.

ACCESS AND TRAFFIC:

The site will be accessed from I-25 and Waldo Canyon Road (County Road 57). The distance from I-25, measured along County Road 57, to the access point to the site is approximately .6 miles. A Traffic Impact Analysis was

submitted for review. NMDOT stated that traffic impact from the development would be minimal to the state roadway system and that no further action would be required. Santa Fe County Public Works Department has imposed conditions that County Road 57 be improved (a two inch overlay of HMA shall be applied on County Road 57 starting from the East Interstate 25 Frontage to the most southern boundary of the access road to the site) as per Code requirements. Truck traffic both to and from the site will utilize I-25 and County Road 57 (north of the site) as described on page 13 of the Applicants Report (Haul Road Access). Traffic generated by the mine site will not go through any community, Traditional Community or pass any existing residences.

FIRE PROTECTION:

Turquoise Trail Fire District. Santa Fe County Fire Marshal recommends approval of the proposed project conditioned on compliance with Article 1, Section 103.3.2 of the Uniform Fire Code. A 10,000 gallon water tank will be dedicated for fire protection on the site. A draft hydrant will be attached to the tank to be accessible to fire trucks. A Knox lock will be installed on the gate located on County Road 57.

WATER SUPPLY:

Subsequent to the CDRC hearing, a water agreement was acquired from the City of Santa Fe for treated effluent from the City Wastewater Treatment Plant, located on County Road 56. This water will be used for dust control purposes and for establishing the re-vegetation of the site during the reclamation process. The County has issued a ready and willing letter to provide bulk water services from the SFCU dispensing facility located at 13B Camino Justicia. Santa Fe County Utilities Department has reviewed the project and has verified the issuance of a ready and willing letter to provide bulk water services to this project. Rockology will retain the right to utilize the bulk water services from Santa Fe County. The City non-potable water will serve as the primary water source with potable County water as a backup water source. The Applicant submitted a water budget of the annual use of water for dust control.

LIQUID WASTE:

Portable toilets will be brought on site for sanitary purposes for the employees. The operator will enter into a contract to supply and maintain the portable toilets.

SOLID WASTE:

The solid waste produced on site will be associated with trash generated by the employees eating lunch at the plant.

This trash will be placed in bags and taken to the Rockology office in Albuquerque to be disposed of in Albuquerque.

FLOODPLAIN &

TERRAIN MANAGEMENT:

The Applicant has submitted Topography data, a Soils map, Grading and Drainage Plan, and Reclamation Plan. A 31,245 cubic foot retention pond is proposed which will serve as drainage control for onsite drainage. The total amount of ponding required is 22,264. Therefore, the submittal is in conformance for phases I, II, and III and complies with Article VII, Section 3.4.6 and Ordinance 2008-10 Flood Damage Prevention and Stormwater Management Ordinance.

The site contains slopes of 0-15% and slopes from northeast to southwest portion of the extraction. The site is located outside of the 100 year FEMA designated flood hazard area and contains one small drainage location on the site. The Submittal is in conformance of Article VII, Section 3.4.6 and Ordinance 2008-10 Flood Damage Prevention and Stormwater Management Ordinance

SIGNAGE AND LIGHTING:

No signage has been proposed for this project. A portable generator will serve the electric needs for this project. There will be periods of time that the extraction of material will not take place therefore a consistent source of electricity is not required. Temporary, portable lights will be used in the crusher/screener area, not to exceed 20 feet in height.

EXISTING DEVELOPMENT:

The 1,359 acre parcel is currently vacant. The property is currently being assessed as agricultural.

ADJACENT PROPERTY:

The 50 acre site is bordered on all sides by property owned by Buena Vista LTD. County Road 57 is approximately 1,250 feet away from the site to the east. The site is set back from I-25 and the Waldo Canyon overpass 4,250 feet at the northern boundary. The set back from the southern property line is 1,250 feet and 9,000 feet from the west property line.

PHASING:

The project will be completed in 3 phases within a 25 year period. The estimated time frame from start to completion of Phase I is 2014-2021, with approximately 326,000 cubic yards of material to be removed from the site. The estimated time frame from start to completion of Phase II is 2021-2028, with approximately 397,000 cubic yards of material to be removed from the site. The estimated time frame from start to completion of Phase III is 2028-2039, with

approximately 543,000 cubic yards of material to be removed from the site. Reclamation will take place upon completion of each phase.

VISIBILITY:

On February 28, 2014, staff conducted a site visit to the proposed mine site. The Applicants placed 20' story poles, with white banners, at each corner of the 50 acre site. The Applicants also placed 20' story poles, with brown banners, where material would be stored within the 50 acre site. The purpose of placing the story poles was for staff to take photos at different locations to analyze the visibility of the proposed site. Staff GPS'd the property corners and the proposed stockpile location. Staff then went out onto I-25, I-25 Frontage Rd. and County Rd. 57 and took photos at locations where the poles or a portion of the poles were visible to the naked eye, these locations were also GPS'd. Staff also went out to areas to the south of the site and took photos of the general site using the cell tower as a landmark, the location of these photos were also GPS'd. Attached as Exhibit 6 is a map of the area which illustrates the location of the story poles and photos from different vantage points where staff could see the poles or a portion of the poles (each photo is matched up to the location where it was taken). Staff's conclusion is that the site will be visible on I-25 going west (headed towards Albuquerque), there will be very little visibility heading into Santa Fe on I-25. The site will be visible on County Rd. 57 at the entrance to the site.

AGENCY REVIEW:

| <u>Agency</u> | <u>Recommendation</u> |
|-------------------------|--------------------------|
| County Fire | Approval |
| County Utilities | Approval |
| NMDOT | Approval |
| Public Works | Approval with Conditions |
| Traffic Planner | Approval with Conditions |
| OSE | Declined Comment |
| SHPO | Approval |
| NMED- | |
| Ground Water | Approval |
| NM Energy & Minerals | Approval |

RECOMMENDATION:

CDRC Recommendation: The County Development Review Committee recommended denial of the Applicants request for zoning approval to create a mining zone by a 5-2 voice vote.

Staff Recommendation: Conditional approval for the creation of a mining zone, on a 50 acre \pm site, to allow the extraction of aggregate for the use as construction material subject to the following conditions:

1. Master Plan for all three Phases with appropriate signatures shall be recorded with the County Clerk, as per Article V, § 5.2.5 of the Land Development Code.
2. Staff recommends that the Board of County Commissioners require the Applicant to submit a financial security for completion of the reclamation in accordance with Article XI, § 1.5.1.d of the Land Development Code.

EXHIBITS:

1. Applicant Report
2. Proposed Plans
3. Reviewing Agency Responses
4. Aerial Photo of Site
5. Article XI, § 1
6. Visibility Assessment
7. Aerial of SFCU Dispensing Facility located at 13B Camino Justicia
8. Aerial of City of Santa Fe Wastewater Dispensing Facility
9. Affidavit
10. CDRC Minutes & Exhibits (letters received after March 12, 2014)
11. Letters of Concern

SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS
SPECIAL MEETING

June 11, 2014

- Danny Mayfield, Chair - District 1
- Robert Anaya, Vice Chair - District 3
- Miguel Chavez - District 2
- Kathy Holian - District 4
- Liz Stefanics - District 5



BCC MINUTES
PAGES: 155

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

I Hereby Certify That This Instrument Was Filed for
Record On The 11TH Day Of July, 2014 at 02:25:55 PM
And Was Duly Recorded as Instrument # 1741173
Of The Records Of Santa Fe County

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



SPECIAL MEETING
of the
SANTA FE COUNTY

BOARD OF COUNTY COMMISSIONERS

June 11, 2014

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 4:00 p.m. by Chair Danny Martinez in the Santa Fe City Convention Center, 201 Marcy Street, Santa Fe, New Mexico

Roll was called by County Clerk Geraldine Salazar which indicated the presence of a quorum as follows:

Members Present:

Commissioner, Danny Mayfield, Chair
Commissioner Robert Anaya, Vice Chair
Commissioner Miguel Chavez
Commissioner Kathy Holian
Commissioner Liz Stefanics

Members Excused:

None

Chair Mayfield advised the public that this meeting would be streamed live on the website: www.santafecounty.gov . KSFR, *The Santa Fe New Mexican* as well as the *Albuquerque Journal* were present.

CHAIR MAYFIELD: Respectfully, I going to establish some ground rules, if you don't mind. This is at least them biggest meeting that I've held on the Commission. And with that I'm just going to read to you some notes that were given to me by our attorney. So, again, there are many interested members from the public here tonight and we want to thank each and every one of you for being here tonight to voice your comments and concerns and your civic participation of what's going on in Santa Fe County.

It's necessary for orderly and proper functioning of this hearing and the ground rules will be established and are as follows – among other benefits this will insure that all members of the public have an opportunity to participate. So the orders of proceedings will be as follows. First will be staff's presentation. Second will be the applicant's presentation and third I will ask members of the public who are interested in speaking to identify themselves.

But even before I do all of this tonight and I'm not going to get there yet, I'm going to ask by a show of hands who is support of this application and who is opposed. That will come a little later, please.

Members of the public will be allowed right now no more than three minutes to speak. But we will ask if you want to get together with your time and allocate that to another individual you can do that. We're going to let those folks who have those blocks of time to respect that process and

SFC CLERK RECORDED 07/11/2014

have them present first. Also what I'm going to do because everyone knows I let people speak a lot and that's okay, but if anybody feels that they haven't had enough to say in their three minute allocation, we'll just ask that you get at the back of the line and you can come back up and speak again. Just so you all are afforded the amount of time you need to address this. And I appreciate your accommodation on that.

And, again, you are welcome to give some of your time to someone else but if you do just respect the folks that haven't spoken in front of you and allow them to speak and then again you can go to the back of the line and make any additional statements.

I will ask all members of the public giving their time to identify themselves before you begin and tell us how many minutes you will – excuse me, just to identify yourself to the record so that we know you're affording your time to somebody else.

I think with Karen tonight we're going to do a mass swearing in so her right arm doesn't get too tired. We'll do that in a few minutes also.

I encourage individuals representing several members of the public to go first as was just stated and since such group presentation will likely cover a lot of ground that individuals may want to go over and they may address your question or your statement to this commission, therefore, you may not need to or you can think of something else to address.

As Chair I will be enforcing and prohibiting redundant, irrelevant and harassing testimony and comments. You may not get the three minutes to speak if you're really going off topic a lot. This means that if someone else has already testified to something I'm not going to allow someone else to testify to it as well. If the testimony is not relevant to the issues raised by the applicant, I will not allow the testimony. If the testimony consists of personal or other improper attacks or otherwise out of order, I will ask you to please stop it.

I also have a general note concerning decorum and protocol. We have a beautiful small community and we're all neighbors and we all will be living with each other tomorrow. Again, just respect and accept other peoples' points of view. I would ask that you respectfully hold applause for later in the evening. I understand that there will be some general applause once in awhile and that's acceptable and accepted. But if we can just be respectful of the speakers up here and when they make a statement in the middle of their presentation and there's a big outburst of applause they may not be afforded their whole time to speak, just for the fact they won't be hearing or we won't be hearing them speak over all the applause – or hopefully, no boos.

So these are just some general proceedings and I'm amenable to changes as we go along but I probably won't because I have four other colleagues up here who will keep me in check on these operating procedures tonight. I think these ground rules are very necessary with a group such as what we have tonight and I just respect your patience and your accommodations to this. I'm going to ask staff really quick, if we have any one else wishing to sign in.

With that I'm going to go ahead and start this off and I'm going to just respectfully just ask by a show of hands and if you care to stand that's fine, who is in support of this application tonight. [Two individuals stood] We almost got Representative Egolf to stand up — joking, that was a joke. Okay, so I'm going to expect a pretty big stance, who is opposed to this application tonight. [Approximately 650 individuals stood] Okay, get your applause in. Thank you everybody, and thank you again for accommodating me and hearing me out. Julie is going to hand us out some caffeine that I think is going to be much needed tonight and once she does that we will get started with staff presentation.

So Commissioners with those ground rules are there any other suggestions from Commissioners tonight?

COMMISSIONER STEFANICS: Mr. Chairman, will we be going into executive session during the evening or do we have the ability to go into executive session?

CHAIR MAYFIELD: Commissioner Stefanics, I did consult with the attorney. If it is needed there is a room for the County Commission to go into deliberation and executive session. Can I confirm with our attorney and make certain with that.

MR. SHAFFER (County Attorney): Mr. Chairman, Commissioner Stefanics, that is correct. Under the Open Meetings Act the Board can close an open meeting in order to deliberate on administrative adjudicatory matter and the Board can make a motion at the appropriate time to do so and there is space in this building that would be available for such closed deliberations.

COMMISSIONER STEFANICS: Thank you, Mr. Shaffer. Thank you, Mr. Chairman.

CHAIR MAYFIELD: Thank you. And, Mr. Shaffer, and we also have with us Manager Miller, Deputy Attorney Brown, Rachel Brown with us – we are only afforded so much time in this room tonight. Can we just let everybody in the public know that please..

KATHRYN MILLER (County Manager): Mr. Chairman, Commissioners, that is correct. We have the facility until 11 o'clock. Everybody must be out of the building and the building must be closed by 12 a.m. Additionally, there is a space limit, a capacity limit and we are getting close to that. So the Fire Marshal is watching that for us.

CHAIR MAYFIELD: Okay, so, again, we had to make accommodations for this room for the public that is here tonight. So if we are to capacity, after you speak, people can still stand in the hallway and then they can come in. If you could just give them your seat so everyone that is here has an opportunity tonight to speak.

Commissioners, with that, we have an agenda in front of us and Manager Miller, do you have any amendments on this?

MS. MILLER: Mr. Chairman, we do not have any amendments from staff for that agenda.

COMMISSIONER HOLIAN: Mr. Chairman.

CHAIR MAYFIELD: Commissioner Holian.

CHAIR MAYFIELD: I move for approval of the agenda.

COMMISSIONER STEFANICS: Second.

The agenda was approved by unanimous [5-0] voice vote.

CDRC CASE # ZMR. CZXT 13-5360 Buena Vista Estates, Inc. & Rockology LLC
Buena Vista Estates, Inc, Applicant, Jim Siebert, Agent, requests zoning approval to create a mining zone, on a 50 acre ± site, to allow the extraction of aggregate for use as construction material. The site will take access off of Waldo Canyon Road (County Road 57) and the property is located on the south side of I-25, within Section 21, Township 15 North, Range 7 East, Commission District 3
Attached Exhibits:

Exhibit 1: Steve Hooper/Rockology, written presentation dated 6/11/2014

Exhibit 2: Applicant submission addressing County requirements

Exhibit 3: Photograph – advertisement for “No Country for Old Men” La Bajada view

Exhibit 4: Graeser & McQueen, letter to BCC dated 6/11/2014

Exhibit 5: Graeser – notes for hearing

Exhibit 6: Graeser referenced exhibits 1-6

Exhibit 7: League of Women Voters position statement, dated 6/11/2014

Exhibit 8: Old Santa Fe Trail Association letter

Exhibit 9: County Planner Arnold Valdez, memo 4/3/2008

Exhibit 10: The Santa Fe Reporter article re: Real estate pyramid scheme

Exhibit 11: State Register of Historical Properties map, Ross Lockridge

*Exhibit 12: City of Santa Fe Executive summary, Reclaimed Wastewater Resource Plan
Dated 4/2013*

Exhibit 13: Michael Romero Taylor letter to BCC, dated 6/11/2014

Exhibit 14: Pam Bennett-Cummings letter to BCC, dated 6/11/2014

Exhibit 15: Russell Bennett-Cumming letter to BCC, dated 6/11/2014

Exhibit 16: Statement of Sterling Grogan, dated 6/11/2014

Exhibit 17: San Marcos Association Letter, dated 6/11/2014

*Exhibit 18: Don Van Doren: Views by map and elevation of “La Bajada Mesa Strip
Mine”*

Exhibit 19: Meeting sign-in sheets

CHAIR MAYFIELD: We have our staff here and I’m going to defer to Mr. Larrañaga, our case manager tonight.

COMMISSIONER STEFANICS: Mr. Chairman.

CHAIR MAYFIELD: Yes, Commissioner Stefanics.

COMMISSIONER STEFANICS: I have a question to start off with. What pages in our book relate to your presentation? Not the public comments but your presentation? Since we have several hundred pages here, I’d like to identify what staff is presenting us.

JOSE LARRAÑAGA: Mr. Chairman, Commissioner Stefanics, it’s up NVB 8, 1 to 8 is the presentation.

COMMISSIONER STEFANICS: Thank you very much.

JOSE LARRAÑAGA (Case Manager): Thank you, Mr. Chairman. On March 20, 2014, the County Development Review Committee met and acted on this case. The decision of the CDRC was to recommend denial of the Applicant’s request. The CDRC’s findings for the recommendation of denial included: the proposed mining activity would have a significant adverse effect on the general welfare of the citizens of the area; not compatible with the transportation aspect of I-25; the area is not suited for mining because of the visibility; the history of mining is not in that area; the water supply and the way they want to obtain water is not acceptable.

Buena Vista Estates, Incorporated, owner, Rockology Limited, LLC, operator, are requesting approval of the creation of a Mining Zone to allow the extraction of aggregate for construction purposes to be used in redi-mix concrete, asphalt, landscaping, and base coarse. The Applicant states: The basaltic material is a durable, sound aggregate, which is needed in construction of roads, bridges, homes, schools, buildings, and public works projects. The quality of the aggregate pits in the Santa Fe area generally does not meet the requirements for these types of construction projects. The mining will encumber 50 acres of land within a 1,359 acre

parcel owned by Buena Vista Estates, Incorporated.

The mining operation is expected to last 25 years with the operation to be conducted in three phases. A materials stockpile and crusher will be located in each of the three phases to be excavated. The mining for each phase will occur over an approximate seven to eight year period. Rock drilling will follow the removal of overburden, drilled in accordance with the approved blasting plan. A licensed and insured blaster will perform the blasting operations in compliance with all regulatory agencies, including Santa Fe County, MSHA, and Federal ATF regulations.

Article XI, 1.1 states: Mineral extraction activity for construction materials, including but not limited to, stone, sand, gravel, aggregate, or similar naturally occurring materials, shall be allowed anywhere in the County, provided the requirements of this Ordinance are met.

Article XI, Section 1.2 states: "the Santa Fe County Board of County Commissioners may create new mining zones, provided the following location standards are satisfied: 1) Demonstrated existence of significant mineral resources. 2) Use of the land for mining uses is reasonably compatible with other uses in the area affected by the mining use, including but not limited to traditional patterns of land use, recreational uses, and present or planned population centers or urban and metropolitan areas. 3) A history of significant mining activity in the area, if mining has been conducted in the area. 4) The area designated is particularly suited for mining uses, in comparison with other areas of the County."

The Applicants have submitted an analysis of the above mentioned location standards criteria: 1) A soils investigation of the site was conducted. An aggregate summary report, prepared by AMEC Earth Environmental, Inc., describes the type of material found on the site. Basaltic material was found to the limits of the depth that can be achieved by an excavator, or approximately 20 feet. 2) Currently the property is being used for grazing purposes which would continue during the mining operation. The site is privately owned and is not an open area for public use. The site is not within a present or planned population district. 3) There are several mine sites in the vicinity of this property which is the Waldo Quarry, Gypsum Mine-Santo Domingo, San Pedro Mine and Rosario Asphalt. 4) The site is not neighboring any residences. The traffic created by the mine will not go through residential communities. The mine site will not impact the neighboring properties.

Article XI, Section 1.5.1.d states: "a plan to provide for reclamation of the mine site. For mining uses involving open pit mining operations, the mining operator shall be required to submit a plan for re-contouring and re-seeding or re-vegetation of the mine site or any phases thereof when the property or portions thereof has been mined. The plan for re-seeding or re-vegetation may not require seeding or re-seeding or re-vegetation of the open pit, but it shall require a plan to re-seed or re-vegetate the remaining disturbed areas of the mine site, excluding roads, with reasonable allowances to recognize areas that cannot be practically seeded or re-vegetated because of slope, rock conditions or other limitation factors, in an attempt to provide roughly comparable vegetation to that which existed in the area prior to mining, through a single reasonable effort. The Board may require a security for completion of the reclamation required under the section. The security may be in the form of a:

- (1) surety bond issued by an insurance company which is rated "A" or better by Standard & Poor's or a comparable rating service; or
- (2) by a letter of credit in a form approved by the Board, issued by a state or national bank whose deposits are insured by the Federal Deposit Insurance Corporation; or

- (3) if approved by the Board, by a corporate undertaking issued by the applicant corporation or its parent corporation listed on the New York or American Stock Exchange or major foreign stock exchange.

This Application was submitted on December 6, 2013. Building and Development Services staff has reviewed this project for compliance with pertinent Code requirements and has found that the following facts presented support the request for the creation of a Mining Zone: The Application is comprehensive in establishing the scope of the project; existence of significant mineral resources has been demonstrated by the Applicant; the use of 50 acres of land, within a 1,359 acre parcel, for a mining use is reasonably compatible with other uses in the vicinity; the designated 50 acre site is particularly suited for mining uses, in comparison with other areas of the County; the review comments from State Agencies and County staff have established that this Application is in compliance with State and County requirements and Article XI, Section 1 of the Land Development Code.

The approval sought is the creation of a Mining Zone to allow the extraction of aggregate for construction purposes on 50 acres of land within a 1,359-acre parcel. The following was submitted by the Applicant as required by Article XI, Section 1.5.1: a vicinity map showing the mine site and the area within a three mile radius of the mine site drawn on a USGS. topographic quadrangle map; a map for the mine site, general survey, aerial photograph illustrating the existing site data; an operations plan in accordance with Article XI, Section 1.5.1 – 8; a plan to provide reclamation of the mine site; an estimate of the average annual payroll/economic benefit of the mine site; a list of permits required to be obtained to engage in the mining use on the mine site, those permits would be Development Permit; Air Quality Permit; Mine Registration, Reporting, & Safe Guarding Program Services; Petroleum Storage Tank Bureau; Occupational Health & Safety Bureau; Mine Safety, Health Administration; Blasting; and, submission of an affidavit of ownership of mineral rights.

Area of mineral extraction activities: The neighboring activities are all industrial or transportation uses: the Waldo Quarry is 1.5 miles southeast of the proposed site; the New Mexico Rail Runner track traverses south of the proposed site; the Rosario Asphalt Terminal is located approximately three miles southwest of the proposed site; and in 1998, sand and gravel was mined in the area by Corn Construction for the I-25 construction.

Archaeological: Medium Potential, archeological report required for development of more than 10 acres. An archaeological report has been submitted for review. The Historic Preservation Division reviewed the archaeological report prepared by Townsend Archaeological Consultants and concurred with the findings that no additional archaeological investigations are necessary. Because of the presence of segments of U.S. 85/66 and Camino Real within one mile of the project area, a line of site analysis was conducted to determine whether the materials pit would be visible from each of the segments. This analysis showed that the materials pit would not be visible from most locations because of intervening topography. Based on this analysis HPD had no concerns with the proposed project.

Access and traffic: The site will be accessed from I-25 and Waldo Canyon Road. The distance from I-25, measured along County Road 57, to the access point to the site is approximately .6 miles. A Traffic Impact Analysis was submitted for review. NMDOT stated that traffic impact from the development would be minimal to the state roadway system and that no further action would be required. Santa Fe County Public Works Department has imposed

conditions that County Road 57 be improved with a two-inch overlay of hot mix-asphalt shall be applied on County Road 57 starting from the East Interstate 25 Frontage to the most southern boundary of the access road to the site as per Code requirements. Truck traffic both to and from the site will utilize I-25 and County Road 57 as described on page 13 of the Applicants Report. Traffic generated by the mine site will not go through any community, Traditional Community or pass any existing residences.

Fire protection: Turquoise Trail Fire District. Santa Fe County Fire Marshal recommends approval of the proposed project conditioned on compliance with Article 1, Section 103.3.2 of the Uniform Fire Code. A 10,000-gallon water tank will be dedicated for fire protection on the site. A draft hydrant will be attached to the tank to be accessible to fire trucks. A Knox locks will be installed on the gate located on County Road 57.

Water supply: Subsequent to the CDRC hearing, a water agreement was acquired from the City of Santa Fe for treated effluent from the City Wastewater Treatment Plant, located on County Road 56. This water will be used for dust control purposes and for establishing the re-vegetation of the site during the reclamation process. The County has issued a ready and willing letter to provide bulk water services from the SFCU dispensing facility located at I3B Camino Justicia. Santa Fe County Utilities Department has reviewed the project and has verified the issuance of a ready and willing letter to provide bulk water services to this project. Rockology will retain the right to utilize the bulk water services from Santa Fe County. The City non-potable water will serve as the primary water source with potable County water as a backup water source. The Applicant submitted a water budget of the annual use of water for dust control.

Liquid waste: Portable toilets will be brought on site for sanitary purposes for the employees. The operator will enter into a contract to supply and maintain the portable toilets.

Solid waste: The solid waste produced on site will be associated with trash generated by the employees eating lunch at the plant. This trash will be placed in bags and taken to the Rockology office in Albuquerque to be disposed of in Albuquerque.

Floodplain and terrain management: The Applicant has submitted Topography data, a Soils map, Grading and Drainage Plan, and Reclamation Plan. A 31,245 cubic foot retention pond is proposed which will serve as drainage control for onsite drainage. The total amount of ponding required is 22,264. Therefore, the submittal is in conformance for phases I, II, and III and complies with Article VII, Section 3.4.6 and Ordinance 2008-10 Flood Damage Prevention and Stormwater Management Ordinance. The site contains slopes of 0-15% and slopes from northeast to southwest portion of the extraction. The site is located outside of the 100 year FEMA designated flood hazard area and contains one small drainage location on the site. The Submittal is in conformance of Article VII, Section 3.4.6 and Ordinance 2008-10 Flood Damage Prevention and Stormwater Management Ordinance.

Signage and lighting: No signage has been proposed for this project. A portable generator will serve the electric needs for this project. There will be periods of time that the extraction of material will not take place therefore a consistent source of electricity is not required. Temporary, portable lights will be used in the crusher/screener area, not to exceed 20 feet in height.

Existing Development: The 1,359 acre parcel is currently vacant. The property is currently being assessed as agricultural.

Adjacent Property: The 50 acre site is bordered on all sides by property owned by Buena

Vista LTD. County Road 57 is approximately 1,250 feet away from the site to the east. The site is set back from I-25 and the Waldo Canyon overpass 4,250 feet at the northern boundary. The set back from the southern property line is 1,250 feet and 9,000 feet from the west property line.

Phasing: The project will be completed in 3 phases within a 25-year period. The estimated time frame from start to completion of Phase I is 2014-2021, with approximately 326,000 cubic yards of material to be removed from the site. The estimated time frame from start to completion of Phase II is 2021-2028, with approximately 397,000 cubic yards of material to be removed from the site. The estimated time frame from start to completion of Phase III is 2028-2039, with approximately 543,000 cubic yards of material to be removed from the site. Reclamation will take place upon completion of each phase.

Visibility: On February 28, 2014, staff conducted a site visit to the proposed mine site. The Applicants placed 20-foot story poles, with white banners, at each corner of the 50 acre site. The Applicants also placed 20-foot story poles, with brown banners, where material would be stored within the 50-acre site. The purpose of placing the story poles was for staff to take photos at different locations to analyze the visibility of the proposed site. Staff GPS'd the property corners and the proposed stockpile location. Staff then went out onto I-25, I-25 Frontage Rd. and County Road. 57 and took photos at locations where the poles or a portion of the poles were visible to the naked eye, these locations were also GPS'd. Staff also went out to areas to the south of the site and took photos of the general site using the cell tower as a landmark, the location of these photos were also GPS'd. Attached as Exhibit 6 is a map of the area which illustrates the location of the story poles and photos from different vantage points where staff could see the poles or a portion of the poles. Each photo is matched up to the location where it was taken. Staff's conclusion is that the site will be visible on I-25 going west, there will be very little visibility heading into Santa Fe on I-25. The site will be visible on County Road 57 at the entrance to the site.

Agency Review: County Fire, approval; County Utilities, approval; NMDOT, approval; Public Works, approval with conditions; Traffic Planner, approval with conditions; OSE, declined comment; SHPO, approval; NMED-Ground Water, approval; NM Energy & Minerals, approval

Recommendation: CDRC Recommendation: The County Development Review Committee recommended denial of the Applicants request for zoning approval to create a mining zone by a 5-2 voice vote.

Staff recommendation: Conditional approval for the creation of a mining zone, on a 50 acre site, to allow the extraction of aggregate for the use as construction material subject to the following conditions:

1. Master Plan for all three Phases with appropriate signatures shall be recorded with the County Clerk, as per Article V, Section 5.2.5 of the Land Development Code.
2. Staff recommends that the Board of County Commissioners require the Applicant to submit a financial security for completion of the reclamation in accordance with Article XI, Section 1.5.1.d of the Land Development Code.

Mr. Chair, I stand for any questions.

CHAIR MAYFIELD: Mr. Larrañaga, thank you. Commissioners, are there any questions of staff?

COMMISSIONER HOLIAN: Mr. Chairman.

CHAIR MAYFIELD: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chairman. Mr. Larrañaga, as I understand it this application – what we're doing tonight is considering whether to create a mining zone, but removal of quarry rock is not actually considered mining according to the New Mexico Mining Act; is that correct.

MR. LARRAÑAGA: Mr. Chairman, Commissioner Holian, I do not know the answer to that.

COMMISSIONER HOLIAN: Perhaps, our County attorney could answer that.

MR. SHAFFER: Mr. Chairman, Commissioner Holian, if I understand the question correctly, it's whether or not extraction of construction minerals is considered mining subject to the New Mexico Mining Act; is that the question?

COMMISSIONER HOLIAN: Yes, it is. We are creating a mining zone as I understand it but this is not regulated according to the New Mexico Mining Act because it's extraction of quarry rock.

MR. SHAFFER: Mr. Chairman, Commissioner Holian, in your material under Exhibit 3 there are reviewing agencies' comments including a letter from the Energy Minerals and Natural Resources Department of the State. And they do articulate that position, that position that mining does not mean the extraction of sand, gravel – I'm sure I'm going to butcher the pronunciation of this word glych - borrow dirt as used as aggregate construction.

COMMISSIONER HOLIAN: Thank you and I have another question. If the developments of Countywide impacts part of the Sustainable Land Development Code were implemented, would this proposed use be regulated under that part of the ordinance?

MR. LARRAÑAGA: Mr. Chairman, Commissioner Holian, yes, it would.

COMMISSIONER HOLIAN: Thank you, Mr. Larrañaga. Thank you, Mr. Chairman.

CHAIR MAYFIELD: Thank you. Commissioners.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIR MAYFIELD: Vice Chair Anaya.

COMMISSIONER ANAYA: Mr. Chairman, Commissioner Holian, I guess my question is what's your point relative to the question relating to mining, just so I'm understanding for clarity. What's your point?

COMMISSIONER HOLIAN: Commissioner Anaya, I just wanted to put it on the record.

COMMISSIONER ANAYA: Okay, thank you.

COMMISSIONER STEFANICS: Mr. Chairman.

CHAIR MAYFIELD: Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chairman, I would have something related to that, Commissioner Anaya, and that would be whether or not our code, our new code still needs a section to address the question that Commissioner Holian brought up and we hadn't done that even though it had been debated a bit. So I do see this perhaps as a future topic, thank you.

COMMISSIONER ANAYA: So, Mr. Chairman, I would respond to that in saying that's my recollection as well. We did not on purpose in the development of the final code discuss mining and sand and gravel in particular and that was going to be a future discussion. I guess, for the record, I would say that as well. Thank you.

CHAIR MAYFIELD: Commissioners, thank you. Question to staff for myself, and I won't go off topic but we also have our Solid Waste Management Authority out where we have our landfill transfer. Explain to me the difference between this application and the one that was needed for that site for where we dump our solid waste out on 599 please?

Commissioner Anaya, while staff is waiting, please.

COMMISSIONER ANAYA: Mr. Chairman, Commissioners and members of the public those here and those listening in, I want to say that associated with this particular topic this is an adjudicatory hearing and I have not had any specific conversations with any individuals associated with this specific case because as it is an adjudicatory hearing and we acting as judges in making the determination on this case. So I want to say that on the record. Thank you, Mr. Chairman.

CHAIR MAYFIELD: Thank you. Also on that, Commission, just for our audience today. I can say for myself and I'm going to make an assumption for all of my colleagues we have received numerous emails from the public on this matter. They timely as possible get forwarded to our legal department. So just so everybody does know that for the record. There's been various email communications and I can say I haven't responded back to any of those but what I do receive would be forwarded on to our legal department.

So staff I'll wait for an answer on that a little bit and I'm going to move forward. Before we go to our applicant, I would like to recognize as we customarily do in all of our Commission meetings, recognize with us tonight we have Senator Peter Wirth, thank you for being here Senator. We also have with us Representative Brian Egolf, thank you for being here. We also are joined by Representative Stephanie Garcia Richards, sometimes I get that wrong. I know I saw Councilor Patti Bushee back there somewhere, thank you, Patti. And I also believe we have one if not two Pueblo governors as I was told but I just don't have their names. If I am missing any other elected officials please stand up and be recognized. Seeing none, we will move on to the applicant's presentation please.

MR. SHAFFER: Mr. Chairman, before you move on – at this point in time I don't know that we are prepared to answer your question concerning SWMA. It is a joint board with its own independent counsel so staff is not familiar with the analysis that went into a decision if it was made that they did not need to go through this process.

CHAIR MAYFIELD: Well, I'll just cite from what I know is that, I know I have asked these questions in the past of that operation and I was told by staff because it was government operation that there was no permit needed for that facility. So I just wanted to get that also on the record. Thank you.

Mr. Siebert, please. Oh, I'm sorry, let's just do this in one shot. Anybody who is an application pertaining to this matter if you all could just stand up and be sworn at one time. And our County Clerk will be doing this, Ms. Geraldine Salazar.

[Duly sworn, Jim Siebert provided the following testimony]

JIM SIEBERT: My name is Jim Siebert. My business address is 915 Mercer. Let me say this is probably one of the first cases I've handled where I think they'll be any complaints regarding adequate notice.

What we're going to do tonight is to present the facts that are part of the application and the facts that we believe are supportable and in any subsequent venue that may take place. Our intent tonight is simply to inform you that this particular request is in

conformance with the Land Development Code, the conclusion that the staff came to after they did a great deal of study on the case. At the CDRC Steve Hooper was at the meeting to present his description of how the actual process would take place. Steve unfortunately has the flu and can't get out of bed. So I'm going to have to stand in his stead and ask you to kind of pretend her for awhile that I'm Steve Hooper. Steve was going to give a presentation on himself. He is a native New Mexican. He is a professional engineer licensed in New Mexico. He is also the owner of Buildology and Materials, Inc. And Buildology has actually has been in business for about 30 years. Buildology is a specialty aggregate and landscape supply company. Started in 2001. Buildology serves the State of New Mexico for specialty materials including landscape, aggregates, construction aggregates, natural stone, baseball infield mix and golf course sands. Material, Inc. is a pre-concrete produced located in Bernalillo selling products over the country not only in Bernalillo County but all over the State. Materials, Inc. produces custom architectural concrete products, retaining walls and highway products. Materials, Inc. has been in business for over 30 years.

Mr. Hooper's entire career has been dedicated to aggregate, redi-mix concrete and asphalt industries. In terms of the work history and his experience between 1972 and 1978 he was the manager behind the Albuquerque Gravel Products, sometimes referred to as the Shakespeare Pit. It's now where the Renaissance Center is in Albuquerque where the Costco and Home Depot is located indicating the kind of redevelopment that can occur with these sites. He was from 1978 to 1982, he ran Fountain Sand & Gravel in Pueblo, Colorado. From 1982 to 1997 he was involved with Springer Building Materials which later became Western Mobile. He was charge of the Sedillo Hill Limestone Quarry. He mined and reclaimed where the General Mills Plant is in Albuquerque and the Albuquerque Balloon Park. He was in charge of the Edgewood Pit which actually was permitted through Santa Fe County. He opened the Placitas pit and the Santa Ana Pit on the pueblo land and operated Santa Fe Brown Pit here actually in Santa Fe County by the wastewater treatment plant. And then from 1998 to 2001, he was involved with the Sandia Pit with partial reclamation under his tenure and the Baca Pit in Algodones. The Baca Pit is the one as you drive down I-25 and you will see the kinds of operation there. There's kind of a tram that takes material underneath that's on the pueblo. He was involved in that particular pit.

So what he is saying is that he has considerable experience for both large pits and smaller pits. He has awards – he has received an award from the National Stone, Sand and Gravel Association for the About Face Award for site beautification, for community relations, for MSHA awards for safety records. He's familiar with state and federal requirements associated with initiating and operating a pit. He has never received a notice of violation associated with any Hooper operation.

We're going to go to the slides now and what Steve describe to you would be – and some of you may not be familiar with how sand and gravel operations work and that's what we're going to do with the slides initially to tell what really that consists.

CHAIR MAYFIELD: Mr. Siebert, one second. I think the Commissioners are going to rearrange themselves so we can see the slide presentation. Thank you.

MR. SIEBERT: Certainly. Next slide. This a description of an operation in another location but what it does is it shows you the kind of equipment that will be located on this site. They'll be a crusher which you can see up here in the corner. There will be conveyor belts that are moving the material around. There's screeners, there's screeners associated with it.

And then we'll show you in the next slide the actually – excuse me, this is the type of truck would be most common for hauling the material and I forget how many cubic yards it holds. Next slide. This is kind of a typical operation it's taking place and it shows you how the material will be stockpiled. There will be conveyor belts that move the material around and stockpile it at locations within the 50-acre site. You'll notice in the background this pit has already started to be excavated and this is down inside the pit. That's the way the equipment will be located at this particular site. Next. And this is the other type of loader, truck that will take place. There are 12 to 15 cubic yard trucks. Next. This is, you can go back one, we skipped something. We can talk in this slide, maybe I'll take a crack at answering the question that Commissioner Mayfield had regarding Caja del Rio's pit, but these are actually registered mines. Registered with the Mines and Mineral division and you don't see the Caja del Rio pit here and the reason for this is that it operates under the landfill permit that was granted so it's not – it's not really recognized technically, at least with Mines and Minerals, as a sand and gravel operation. But there are currently listed seven sand and gravel operations. The two with the material that would be closest to what is proposed to be excavated at this site is the Waldo Quarry which is down here at the bottom and is actually closest to this site and then the San Lazarus Gulch Site which is here and operated by Paul Parker Construction. And they're similar in the sense that they're hard rock – they're hard material and they're suitable for both concrete and asphalt. Paul Parker's operation, really I'm familiar with that because I represented Paul for years is really oriented more toward landscape material and you've probably seen a lot of it down in Albuquerque along the interstates, it is kind of this nice golden tone material. But he specializes in that particular area. Waldo Quarry is something that does have material that would be very similar to what we would be excavating. Next.

This is the haul road site; there's always a question of who you get the trucks in and out. What you see is, I realize now that we skipped a slide here something. On County Road 57 or Waldo Canyon Road they would be going from the site to county road and then going down County Road 57 to the I-25 interchange at Waldo and then either going north or south. Next. The – there was a question of how the trucks that are bringing water or treated effluent would get to the site. The effluent stand pipe is located near the City wastewater treatment plant and what they would do is follow the same road we discussed before, they go Interstate 25, New Mexico 599 and then down Airport Road. The thing here is that this entire length there are no residential development that directly accesses any of this particular route. Next.

This is if there would be a need to use potable water and once again the primary source of water is going to be treated effluent from the City wastewater treatment plant. If for some reason there is something operationally, the plant can't provide the water, then we would be using potable water at the Santa Fe County standpipe. And this site would use, once again, it would be the same, I-25, get off on State Road 14, come down State Road 14 and come into the area where the Camino de Calle Justicia is located by both the Sheriff and jail are located. Next.

In terms of water use, let's go to the next slide, Steve prepared this evaluation and prepared this evaluation based on his experience at other sites. And there's two kind of formulas he's using. If you have a .5 percent moisture content then you end up with .92 acre feet per year. If you have 1 percent you end up with 2.2 acre-feet per year. And what Steve pointed out to me and the point is not to saturate the material. The sole purpose of this is to keep the dust from leaving the site and what it is used for, the water will be used for five purposes. One, the first

one being up here, the pre-wetting of shot rock, that's before you actually do the blasting. The second would be the entry road. There would be some kind of dust surfactant that would be added to that to keep the dust down. And then of course dust suppression, the crushers and transfer points, the belt conveyor transfer points would be covered as well. And then the stockpiles would have the overburden. What Steve is proposing to locate on areas, once you've excavated the pit, down and more out of the wind.

So, in terms of water we have secured an agreement with the City of Santa Fe a right to use their effluent. We have a long-term agreement with Santa Fe County for the use of their water when City effluent is not available and it would be used only as a backup source. The primary source would be treated city effluent. And there was, the opponents had used engineer Colpers that said this would use some substantial amount of water. His assumption was based on the fact that this operation would take place 40 hours a week, 52 weeks out of the year. Well, it's just simply not how sand and gravel operations work. They blast it, they crush it, they prepare the material and then it is stockpiled for periods of time. And there may be maybe weeks or months where there is actually no activity on the site. Next.

So to give you a little information on the site itself, next, we feel that this is located regionally in a location that can serve both the regions to the south easily and the regions to the north. Next.

The specific location of this and this an aerial photograph of Santa Fe County, it's located off County Road 57 approximately 1/4 of a mile and it's located off I-25 approximately .5 mile. This site here is actually not a part of the ownership for Buena Vista. The actual ownership of this particular tract is 1.58 acres. It is owned by Buena Vista. Next.

In terms of existing conditions, I think there's this perception that this land is totally pristine and nothing has ever taken place on this land and the actuality of it is that there is a PNM transmission line, your large scale, double-pole, 35 to 40 foot poles that carry transmission lines through the property at the south end. There is a three-phase electric line which comes out, it's underground, comes out to provide electric surface to cell towers that are on the site. There is a major gas transmission line that goes through the property and this is actually the gas transmission line that feeds the entire City of Santa Fe. Then there's the controversial cell tower within the I-25 right-of-way and then this is the Rail Runner that comes right adjacent, right to the south of this particular property. Next.

This is kind of an overview of how the operations begin initially. The next slide will be an enlargement of this. This is the area of retention so that the water basically drains from kind of the northeast to the southwest. We will be capturing that water, release the historical amount at the very corner of the property. This road, by the way, is the existing road that goes to service the cell tower. So we're proposing to create any new roads in this property to get to the site. The road currently goes off at this direction and does go over to the cell towers. Next.

And this just gives you an idea of how the equipment works. There will be a trailer. They'll be a 5,000-gallon diesel tank. There's also a 10,000-gallon tank for – two 10,000 gallon tanks for fire protection purposes. Some of the crushers and conveyors will be located here and what we've just shown this as kind of the initial part of the operation but as the site is excavated, this will be moved down into the pit and further out of view.

This is the description – there's always concern, well, what about contamination from the diesel fuel tank. One of the requirements is that you have a double protection system so that if

there is any spillage that this liner has to be able to contain 1.1 of the volume in the tank itself. So this is a 50-mil liner and it would be built according to state and federal regulations. Next.

One of the requirements of the Code is, is there a history of mining. Although it's not a mandatory requirement for a new mining zone, but we felt it was appropriate for you to understand what kind of history has taken place in this area. Next. This is something actually out of Northrop report done in 1959 and he's describing the historic district that has taken place in this particular area. Now, we're over here and we're not within this particular district but there's a reason why this is called Waldo Canyon Road is that it led to the city in the Town of Waldo that was a major coal mining site at one point in the history of Santa Fe County. Next.

This is taken from the New Mexico Geologic Society book. Our particular site is located here but what it does is it points out that there has been a substantial number of mining activity that has occurred and it ranges from silicon to sand, ordinary sand and gravel. Next.

And this is the description in yellow is the outline of the Cerrillos Hill State Park and around it is in orange-ish/yellow tone is the historic mining district. Now we're located here and the Waldo Pits kind of located here but it does indicate the kinds of mining activity that have taken place in this general area. Next.

There was a real concern that somehow this was going to severely impact Cerrillos Hills State Park and what we did is did an estimate from the furthest north point and in this case it's to the property but if you take it to the actual edge of the site itself, it's about 3.3 miles. The other thing that takes place and this was just taken off the USGS map, there's a ridgeline that runs right down here and this ridgeline is really a visual barrier between the park and this particular site. Next.

And then the question is then there's a history of mining but what, what about the current more recent mining activities have taken place. Well, the closest actual land use to this property is the Waldo Quarry and that the quarry that operated on the same basis as we're proposing to operate. Blast, crushes and then it sorts the material for transport. This kind of graded area here was used during the construction of I-25 as actually a borrow pit for the I-25. Down here there's actually a siting that is kind of hard to see this, that ties back into the Atchison Topeka Railroad and there's petroleum tanks that sit down here and those petroleum tanks are actually used as the binder material for asphalt. And it's used actually throughout the state. And then this is the location of the old gypsum mine that's on the Santo Domingo Pueblo. And then the railroad of course. These are the tracks for the Rail Runner on the property. Next, next.

To discuss the traffic; first of all, from our point of access to County Road 57 it's 4,400 feet to the interstate and then this is the actual interchange itself and then further down, just a little further down is the access to the Waldo Quarry and the pavement ends right at that access point. Next. This is the description of the traffic that is existing on County Road 57 during a.m. and peak p.m. periods. The a.m. period is measured from 7 a.m. to 9 a.m. and the p.m. is measured from 4 p.m. to 6 p.m. and those are traditional periods of which you get your highest volume of traffic. So it's in any one-hour period during those two periods that the counts are calibrated. So southbound you're looking in the morning you get four trips either direction and the evening p.m. you have seven trips southbound and 11 trips northbound. Now, the person taking the traffic observed that a substantial number of those trips were the traffic that was generated by the Waldo Quarry. Next.

And this is an estimate of the kind of traffic that would take place in 2034 when we

assume that the pit would be fully developed. There was concern that somehow we undercounted the trips that would be generated by the trucks that would be bringing in treated effluent to the site. So what we did was take an absolute worst case situation and ran the level of service analysis that was part of the original traffic study. But the initial traffic study indicated that the level of service is A which is the highest level of service you can get which most traffic engineers would kill for. So we asked the traffic engineer what would happen if you take this conflicting movement, because this isn't really concerned a conflicting movement, and you kept increasing it to the point where it would trigger a level of service B. And the engineer said it would take 78 trips before that even gets to level of service B. Level of service B is still an exceptionally high level of service. Next.

So, we talked about this, this is kind of a description of how what I just state, how that worked. As you can loading on traffic at some point you'll see a diminution in the level of service and it's not until you get 78 eastbound exiting units that you find that you are reduced to a level of the service B.

Visibility and it's a pretty important factor in all of this. Let's go to the next slide. What we did is we set up – typically you'd put up poles but the problem is if you just put up a PVC poles and they're 20 feet tall you really don't see them if you're this far away. So we'll show you how we created the structure that made it a little more visible. What we did was we put white flags at each of the four corners and then where the actual construction activity would take place we put brown flags because the actual equipment will be a darker color and the material that is being removed would be darker color, it would black. Next. And this is what the structures look like. We put mast arms on them and then we put a white or brown fabric here so that the fabric itself was almost 15 feet tall. The total structure was 20 feet tall and it was something that you could actually see more easily, would be more easily visible. Next.

And then this is the description of where we took the slides you'll see later. This is on I-25 beginning at this point. The reason we didn't go any further back is that there's a cut slope in this particular area and all you see is the cut slope. Next. So we're going to be going from the south to the north and this is kind of a locational beacon here, the for sale sign, probably people will recognize that. So there's no visibility as you're climbing up La Bajada the I-25, La Bajada driving towards the top, the site is not visible. Next. So the next series of slides are just simply moving to the north. Next. Again, further to the north. We're getting closer to the intersection/interchange at this point. Next. And then after you pass the interchange you can see the very tip of one of the white flags which is a corner flag. Next. And then this is further up but at this point you're looking over your right shoulder, you'd be looking behind you. So you can see the tips of two of the corners and that would be furthest to the north. Next. So there is some limited visibility and it's kind of approximately in this location. If you would be southbound you would get a glimpse of it as you look to the left. If you're northbound you would be swiveling and looking over your right shoulder in order to see this particular location. Next. And then this is the visibility from County Road 57 and we're beginning, we'll be showing the slides from the south point and proceeding north. Next. So as you begin from the south point, you do have some visibility of these two points here and they actually are the southern points of the property. Next. As you proceed towards the interchange you can see the tops of the observation flags. This by the way are – these two things are the height of the poles for the electric high transmission line. It kind of gives you a point of reference to. So now we're at the high

transmission line and there's one pole visible at that point. Next. So this is probably, these next two, I noticed there's one here we didn't pick up an arrow, but there's two points you would see at the south end of the site. Next. And then this is where the vehicles are stationed and it would be the entry to the project and you see that there would be visibility at this point as well. Now, what happens as we're going to be proceeding towards the interchange to the north, is as you proceed north it does become less visible. Next. And it starts at this point you see one pole. Next, next. And then there's this is one of the corners that still remains visible. Next, next, next. And at this point we're getting to approach the interchange and it becomes much less visible. Next. And then you're seeing just the very top of the poles at this point. Next, next. And then at this point we're approaching the interchange and it is no longer visible. Next. And then this is the pullout area where you can see the materials stockpiled by the Highway Department and you can see there's no visibility at this point. Next.

So what is the impact on residential development? What we did with this is we took a high level photograph and used a high level photograph and you can see the closest residence to this site is 2.9 miles and it's on the other side of I-25 and on the other side of the Rail Runner. But typically they're anywhere from – the nearest residence is anywhere from 4 to 5 miles away. This by the way is the Rail Runner right here. Next.

And then this shows how the site actually will be excavated. Each of these is a phase. Phase 1 will take it down approximately 30 feet at which point a lot of the equipment will be located in the area where various amounts of excavation takes place. And then it will just keep going down below each of those phases. Next. Then this is the reclamation that will take place and it will be over a five year or three – it will take place during the three stages when we complete Phase 1 the reclamation will take place and that will consist of taking the overburden, putting it back, reseeding and watering it to make sure that germination takes place. And there was concern about that the water budget did take into account the reclamation and that's correct it didn't. So we went back and corrected that error. And it takes anywhere from 3 to 5 acre-feet to do the kind of irrigation that is needed to get the grass to grow again. Next. This would be the second reclamation phase. Next. And then this would be the last phase and the combination of all three phases, the whole area is then reclaimed and reseeded. Next.

This is a description, there was concern about dust blowing off the site but the typically winds in the winter are from the north this area and there's no residential here. The typical winds in the summer from the southwest and the closest residence is 3 miles away on the other side of the interstate. Next.

So what does the Sustainable Growth Management Plan say about this; how is it relevant? Well, the plan estimates over a 20-year period there's going to be 12,195 new residential dwellings that are needed and this outside the City limits to satisfy the demand in Santa Fe County. And all those building need aggregate material and that 12,000 new residential dwellings does not take into account the commercial that would take place, the institutional development that would take place for schools and fire stations, etcetera and the public and private infrastructure. The roads and utilities that would take place during that time. And what we're finding is that Santa Fe County is just beginning to emerge out of the recession so we see that really the demand for sand and gravel is going to begin to increase in time. There was a time period during the depths of the recession when there was very little sand and gravel activity taking place. Next.

So one of the concerns was you're going to be blasting and this going to create a great deal of problems to the environment, noise, to water. We checked on the Waldo Quarry to see, and they've been operating since 1997, if there's ever been a registered complaint about blasting at the Waldo Quarry and once again the Waldo Quarry is only 2 miles away and actually it is closer to Cerrillos than this particular site is located. There have been no – during its operation there have no registered complaints to Santa Fe County. Next.

The key standards that the County Commission has to consider are really four and we'd like to go through each of those standards and how we think we're addressing them. Next. You have to demonstrate that there's an existence of significant mineral resources. Next. So, Steve Hooper has proven through testing that there is basaltic material of a very high density to it. One thing I forgot to tell you in the presentation that Steve would have because he is very excited about these things, the material is very low porosity and very high density. And the reason that people like to have this kind of material with low porosity the concrete mixture and the asphalt mixture doesn't get absorbed into it so you need less cement or less petroleum in order to make your product. The other issue was there was discussion that there was only one pit – that's not the case, there was one pit dug but there were several tests holes that were also dug and Steve inspected it and that's the reason he selected this site. I mean if Steve didn't think there was the kind of material needed he wouldn't be going through this process. Next.

So this is one of the other four criteria: Use of land for mining uses is reasonably compatible with other uses in the area affected by mining use including and not limited to traditional patterns of land use, recreational use and present or planned population centers or urban metropolitan areas. Next. So, we think in terms of compatibility that mining is compatible with the ranching activity that is currently taking place and will continue to take place on the property and if you take a look at other mineral extraction sites you'll find that they were generally, previously, located on ranching areas where ranching had taken place. The concern somehow that this is going to adversely impact the Cerrillos Historic State Park which is actually 2.9 – it should read 3.3 miles from the site, but besides the distance there is a ridge that serves as a visual barrier. There is no residential development that is located within approximately 3 miles of this site. And this site certainly will not have any impact on the future growth patterns, certainly for Santa Fe and Santa Fe County, which is recommended for lower residential development under the SLDC. Next.

The other criteria is a history of significant mining activity in the area – if mining has been conducted in the area and it says not required for the creation of a new mining zones. Well, we're establishing a new mining zone but we still feel that we should address that particular criteria. Next. So the closest land use to this particular property other than ranching that is taking place now is the Waldo Quarry. The borrow material bit that is immediately to the south was used during the I-25 construction. There's the gypsum mine on the Santo Domingo Pueblo and the petroleum tanks at the Santo Domingo Pueblo. And the site, we think the site has very little visibility from I-25 and with the actual construction of the pit and the lowering of the pit we think it will have very little visibility to County Road 57. Next.

This is the last criteria. The area designated is particularly suited for mining uses in comparison with other areas of the County as set forth in the prior criteria. Next

So we feel that this resource material is uniquely suited for the protection of concrete and asphalt. It is situated in a location that serve regional areas both to the north and to the south.

There's no residential uses between the access point of County Road 57 and I-25. There's no impact to traffic on County Road 57 or I-25 interchange given the limited traffic volumes and those limited traffic volumes were taken from a traffic study. Next.

To cut our rebuttal period here at the end of public comments Chris Graeser and Mr. McQueen were good enough to provide us with a statement that they're going to be presenting and we would just like to have our response to some of those comments.

[Graeser/McQueen points in italics]

The extraction use, this is the Graeser and McQueen brief in blue, *the extraction use is not compatible with historic use*. Well, historic use has really been ranching the last 40 or 50 years. That's all that has really taken place on this site. And as pointed out earlier most extraction site when they were established they were part of a ranching operation. *No testing material site from one excavation*. Well, there were several test holes drilled. I guarantee you that Steve Hooper would not be going out there and putting all this effort into it if he didn't feel that the material was adequate and consistent throughout the site. *It destroys the gateway to Santa Fe*. We did do the visual analysis The County staff was out there and conducted their own visual analysis and feels like it did support our claim that there really is very little detriment to the visual impact from I-25. Next. *The basaltic material is not unique to Santa Fe County*. And we have responded to this to some degree that -- and what you're going to hear is that at the regional landfill site they are already mining basalt material. Well this is distinct from that material. It less porosity and it has higher density. And I think the one thing I'd like to point out, too, well, what's the difference between Calle del Rio and this site? To some degree there isn't. If you take a look at the way the Calle del Rio site is processed, the same thing. You have to blast it. You've got to crush it. You have to screen it. You've got to store it. And they've got materials stored out there now. If you take a look at -- Steve Hooper attended a bid opening and as part of the information that was provided in the packet provided to the Commission, that it stated to the Commission there is no potable water on site. The water that is used for that mining operation for that excavation for the basaltic material comes from City effluent and if City effluent isn't available, it comes from potable water either from the City or the County.

A substantial part of the mine is visible from the Camino Real de Tierra Adentro. We're going to go to a slide and I'll show you why that's not the case. And *the project is within a major wildlife corridor per the Sustainable Growth Management Plan*. Now we're going to go to two slides that address both of those issues. This is the route for the El Camino Real de Tierra Adentro. It's correct it has some visibility at the very south end of the south. It's 3,600 feet from the El Camino Real de Tierra Adentro to the edge of the site. But what happens is the Rail Runner follows the exact same route. So if there's been an impact to the Camino, the impact really comes from the existing Rail Runner. Next. So this is the wildlife corridor study that is referring to that's in the Sustainable Growth Management Plan and actually, it's a draft. This has never been adopted by any -- by the County or by any state agency. It's a worthwhile work product, obviously. Our site is at the very kind of northwest end of this and in actuality, assuming this is accurate, it's an area that has the lowest area of animal migration to it. Next.

There is no economic benefit from this operation. Well, it does add jobs. It does provide gross receipts for the County from the material. It does increase property tax both for land and equipment. And it provides competition in the market place. [Audience jeers] You've been pretty good so far.

The other issue is whether *it will prevent travelers from using County Road 57 to visit Cerrillos Hills Historic State Park*. I went on the website for the state park and it tells you how to get to the state park and it says on the website that there's two ways to get there. One being County Road 57 and it says State Road 14 is the reliable route and they list County Road 57 as the adventurous route and it is. Once you leave the pavement it becomes a very rugged road. That and there's very limited traffic on it and a lot of that traffic is associated with the Waldo Quarry.

Next, so with that I'd like to thank the audience for their cooperation in this and to be able to get through this as quickly as we did. Next, Pete Domenici, Jr. is going to do a presentation on the legal considerations involving this case, thank you.

PETE DOMENICI, JR.: Good evening, Mr. Chairman and Commissioners. I also have a power point. If you could hand it out to the Commissioners.

CHAIR MAYFIELD: Mr. Domenici, do you have it already loaded? How long do you think this presentation will be?

MR. DOMENICI: I would say about 15 to 20 minutes, sir. [Audience groans]

CHAIR MAYFIELD: Everybody, respectfully we're going to afford the time for the presentation, just as we will afford all of you the time to speak on this, please. It's a very important matter in front of this Commission, and we are going to afford the presentation to happen and then we will give adequate time for everybody to have their opportunity to speak tonight.

Mr. Domenici, proceed please.

MR. DOMENICI: Thank you, Mr. Chairman. By way of introduction I've been doing environmental and natural resource law for close to 30 years now in New Mexico and I've been on both sides of projects like this around the state. I want to answer one of the Commissioners' questions; I think it was Commissioner Holian. The New Mexico Hard Rock Mining Reclamation Act is referred to as the New Mexico Mining Act and it only reclaims and regulates hard rock mining. So when they define mining in that statute they were careful to exclude common minerals that are still mined, like sand and gravel, like we have here, caliche and clay and potash. So I don't think the definition of mining there is in anyway the definition of mining that is commonly used. This site will be regulated under MSHA the federal Mine Safety Health Administration. So this site is clearly a mine site for purposes of not only your County ordinance but virtually every county in the state has a mining ordinance that deals with sand and gravel similar in some ways to this and there's really never a contention somehow that because the State Mining Act excludes sand and gravel those ordinances don't apply. So I just wanted to clarify that.

Federal law makes it very clear that this mining, common understanding does and virtually all other counties take that same position. But it is not regulated by the State Energy and Minerals. I think that's an important point. It is regulated primarily by a county or municipal body.

If I could go to the first page of my slide. The owners of this property – [audience grumbling]

CHAIR MAYFIELD: Most respectfully, please. Folks, this will be done a lot more timely if you allow Mr. Domenici to proceed.

MR. DOMENICI: And I appreciate people's concern. A lot of the issues that I'm

raising are to respond to testimony that I expect will be coming. Testimony that occurred at the CRCD and as I will show in the second page – we are not going to cross-examine witnesses which is something that we would normally have a right to do, so this is really our opportunity to present our side of this proposal and not have to go bit by bit for each one of you as you testify. Which we are allowed to under any quasi-adjudicatory proceeding. So just bear with me here. I want you, the members of the audience and the Commission to know that the owners of this property are long standing, taxpaying members of Santa Fe, New Mexico. They have a successful history of many projects that have been beneficial. They chose Steve Hooper because he knows everything you can about gravel mining but also you can know about reclaiming gravel mine sites. So they have chosen the best operator with the best experience with the best record in New Mexico to operate this site. They intend it to be well run and make productive use of these high quality resources in a way that is compatible to both the historic and current land use. This is a small operation. I've seen the statements about this being a strip mine, and, yes, it's an open mine, it's not underground, but it is 50 acres and the quantities to be produced here are probably 25 percent a typical full-scale New Mexico gravel mine. It is also, the pit will be excavated and then the equipment will be dropped to limit the visibility. It is phased to be as unobtrusive as possible. The equipment is temporary. It will be moved on the site when there is a need for material and moved off when there is no processing taking place.

And, it's sensitive to the concerns of the residents. It uses the – which are far away as indicated – but it uses the existing road to get to the site. It's centered within their private parcel. And the nearby activities that it needs to be compatible with and it is, are the Rail Runner, the Waldo Quarry which hauls down the road, and rural grazing activities. Next page, please.

At this hearing and I know the Commissioners are aware of this but I'm not sure the public is, this is like a court hearing as has been stated. It's quasi-judicial which means evidence is required to make decisions. The applicants have a right to cross-examine witnesses. We are not going to do that. But we understand and expect the Commission will take into account that the testimony of witnesses should be reliable. It should be based on personal evidence or if it's opinion, it should be based on some expertise. Not speculation. We have an opportunity to be heard and present evidence and I appreciate that which the Chairman just made that clear, and, also, the Commission's decision should be made on a fair application of the applicable ordinances using reliable evidence. Next slide, please.

The property is 50 acres of private property within 1,359 acres. This property is no subject to any conservation easements. It's not subject to any covenants. It's not subject to any view easements which means that no private party has a right, implied right of any fashion to a view within or through or over this property. New Mexico requires that view easements be expressed by a grant of easement. That has not occurred here and that is not in effect here. There is no ownership of this property by Santa Fe County or any other government or non-governmental entity.

Much of the comment and testimony that I expect you will hear because it's in the record and part of the CRDC is in the nature of claiming that there is an expectation to a particular view or aesthetic condition with respect to this private property. But that view has not been acquired, established or purchased by Santa Fe County or any other governmental or non-governmental entity nor any private person. Next slide, please.

The staff analysis exhibits the evaluation of reliable facts applied to the ordinance and

reaches a reasoned determination. The staff indicated and I'm just going to read the indicated portion, the use of 50 acres of land within 1,359 acre parcel is reasonably compatible with other uses in the vicinity. This acreage is particularly suited for mining uses and Mr. Siebert explained why that is the case. Next slide, please.

The basis for the denial by CRDC which was set forth at the start of the staff, frankly, was illegal and contrary to law. Two committee members stated justification. The main one was Commissioner Katz. He relied on the general welfare provision in the ordinance. I put it here. It says that no mining use will be permitted if it is determined it will have adverse affect on the -- and I'm paraphrasing here -- general welfare of the County or its residents. Reliance on a general welfare provision to deny this kind of application is limited by law and should be carefully and narrowly utilized as the primary basis to deny an application which it was by CRDC. General welfare provisions like this are not favored. They can be arbitrary. They can be vague. They don't provide notice to parties that are affected as to how they might apply to their property. They are capable of an extremely slippery slope that could affect not just my clients, not just these applicants but people throughout this County if general welfare statements become a basis to deny applications that meet all of the other requirements. Next slide, please.

The manner which the CRDC used general welfare is particularly, I think needs review and consideration by you as Commissioners, if you will. What the CRDC said is that -- and particularly they said, quoting the growth management policy, there's a policy to not allow development near prominent landmarks, natural features, distinctive rocks and land forms. However, there has been no formal designation process to identify any of those with respect to the property at issue. If that's going to occur the owners of that type of property need to be notified. They need to be told, your property is going to be designated as a land form or some other prominent land mark. You need to come in and be heard on that because it is going to limit your activity. In fact, what the testimony was at the CRDC and will be here is that these features comprise thousands of acres that are undefined. They are on both sides of the interstate. They go to the east, west, south and north of my clients' properties and they are unlimited essentially. And, frankly, those types of landmarks as the development code indicates, excuse me, the sustainable development policy indicates, those types of landmarks are throughout Santa Fe County. They are everywhere. So to basically say that we are going to establish at the time an application occurs after the property has been owned, without designating a land form or landmark, that this policy restricts the use of your property, that frankly and therefore violates the general welfare of the County -- the allegation is that this development of 50 acres within this large tract with all the protections affects the general welfare of the County, that can apply anywhere in Santa Fe County, frankly. [Applause] It is not limited -- in fact, and I'm moving on.

The testimony that I'm referring to actually supports and I'm glad the elected officials are here from the legislature, and I appreciate them coming -- it actually supports the County or the State or non-profit organizations following appropriate constitutional proposes to designate and acquire property within the Bajada mesa landscape. Not rely on general welfare provisions to deny individual applications, particularly where they are limited, unobtrusive, and otherwise fully compliant. So all of you in this room I think would be appropriate to attend a meeting of the County where they're talking about open space acquisitions, a meeting of the legislature, a meeting of non-profits and raising the same exact issues. But to content that there is a view easement over this property is not the case. To content that these features are well defined

enough to allow for a general welfare or other non-compatibility basis to deny that is not a well informed decision and does not comply with legal requirements. Thank you. Next page, please.

An example of this happened in this County when the City tried to take all of the billboards down by ordinance and they relied upon stating that the visual impacts of billboards adversely affected the general welfare of the City of Santa Fe. That was appealed. The district judge and this was 40 years ago stated, no, the visual impact of these billboards does not adversely affect the general welfare.

That decision was reversed on other grounds but the similar circumstance in this same general area with a visual type of concern, the general welfare was not sufficient to uphold that ordinance which was struck down. Excuse me, which was struck down by a district court and reinstated for other reasons. Next slide, please.

Water and mineral rights will be mentioned by many of you. There have been many good comments and statements about both of these but the fact of the matter is they are fully and appropriately addressed by the application. For the material at this site is not a mineral. There is a legal opinion in the application stating such. Title opinions by attorneys are the way minerals' title is established. And, certainly, zoning hearing is not the place to decide title to minerals. So, respectfully sufficient information is in the record to satisfy mineral rights questions. Thank you. Next slide, please.

Water issues have been satisfied and I want to add one thing here. As we indicated in the presentation, the first source of water will be effluent from the City. The secondary or backup source will be County water from a standpipe which is relied upon and used for other County approval as a reliable water source. Both the City and County have permitted water rights and that's why they're allowed to distribute water through their respective water systems. So the water coming through as effluent or the water coming through the standpipe as potable is fully permitted by the State Engineer's Office.

I also want to indicate and start a theme here that basically highlights that condition and enforcement are the way to address many of the concerns of the audience. So conditions stating you have to use the effluent first are fine, they're appropriate. But denial by stating we don't like the fact that you have effluent as your primary source and potable water as a secondary and therefore there's some issue; that's inappropriate. [Audience interrupts asking why] Okay, the reason why and I don't want to take questions but the reason why –

CHAIR MAYFIELD: Excuse me, one second, Mr. Domenici. Folks, I'm just going to ask you to please let Mr. Domenici get through his presentation. It will be a lot more orderly. Let's extend that courtesy please. And then we can ask questions later in your comments, please. Thank you.

MR. DOMENICI: The reason why is respectfully is because the condition will establish a reliable, sufficient, adequate source of water that also meets conservation objectives. Next slide, please. Next slide, I already discussed this. Thank you.

I want to talk about compatibility just briefly. The compatibility indicates requirements are that the mining use is compatible with other uses in the area affected by the mining use. That requires the Commission to look at the record as far as evidence regarding uses in the area affected by the mining use. That evidence has been presented. It is another mine, it's the Rail Runner, it's the high voltage power lines, it's a road use for gravel trucks and it's the rural grazing. Just as staff indicated, the mining use is compatible with these affected uses. Next slide,

please.

There's some question and there was also a question from one of the Commissioners about the SLDC and clearly that code does not apply to this application. That's a ruling by the Commission is my understanding already embodied in that code. So I think it would be highly illegal frankly and reversible to try to apply that code to this application. Thank you. Next slide, please.

I'm winding up so please bear with me. Conditions and enforcement can address many of the concerns. We've already indicated that we have the best operator that we can find. The most experienced, the best track record, a small footprint, an operation that moves the equipment down into the pit, but conditions are attached including a bond. So a bond would protect the reclamation in the event the gravel operation isn't profitable. That's exactly why a bond is used then the reclamation takes place by relying on the bond.

This County has already enforced permit conditions to shut down the Cerrillos Gravel Product Mine. They went through a long court battle which started in the late '90s and ended maybe in the mid 2000s. So there's a history here, a precedent of the County enforcing conditions and enforcing the ordinance that would also apply if there were any issues and we don't expect will be. We are highly regulated. For dust we're regulated by the Air Quality of the State of New Mexico. We have multiple overlapping regulations and then we have a County permit that can be enforced, if the Commission grants it. And I just gave a proposed condition there, next slide please –

In conclusion, my client request the permit be granted and recognizable concerns be addressed by permit conditions and enforcement. The ordinance, Section 1.1 indicates mineral extraction for construction materials shall be allowed anywhere in the County provided the requirements are met. And I think the information submitted shows they have been met. I would also indicate that the fact that there is this subpart of your zoning code indicates a desire to have these types of building materials available. This is a local market. There have been statements that this is the start of a major mining operation. The fact that it's gravel, transported gravel limits the sphere in which it can be marketed. This mine will be sufficient along with perhaps the mine or two to satisfy the local demand. There is very little likelihood that there would be any reason or any financial benefit to expand this mine. However, having local aggregate, which is exactly why this is in your code, benefits everyone in the County. So there was economic discussion about tax benefit, job benefit – the fact is, local aggregate means lower construction costs. If you're transporting your aggregate from Sandoval County or from Albuquerque, you're going to have higher marginal construction costs and that will be borne – the for public projects by the taxpayers, and for private homes by those private property owners.

There is insufficient evidence that the impacts will be severe enough to interfere, frankly, with the probably legitimate concerns about the broad landscape and other cultural resources that many of you will talk about. The evidence simply indicates that the view will not be affected. The dust will be highly regulated. The traffic can be more than handled by the roads. The residences are far away so frankly with all due respect my clients contend that the way they have designed this project, the way they intend to operate it, the way they intend to phase it in, the way they intend to conduct the traffic, the way to intend to reclaim it makes it a small, unobtrusive, appropriate facility to create aggregate for this community that meets all of the applicable standards and since this proceeding is in the nature of a quasi-judicial or a judicatory

proceeding and it's based on reliable evidence as applied to the ordinances which need to be given the same affect that they have been given to other applicants and the same affect common sense reading of those ordinances gives them that the applicants meets all the requirements and we request the application be granted. Thank you very much.

CHAIR MAYFIELD: Gentleman, thanks for your presentation. The Commissioners are going to come up. So, respectfully, I'm just going to ask everybody to stand up and take a quick stretch. There will be questions of the applicants by the Commission if they care to.

While we're all standing, one thing we didn't do at the onset of this meeting, is the State Pledge and the salute to our state flag. So as long as everyone, let's all do a quick, Pledge of Allegiance and Manager Miller if you would just lead us please.

[The Pledge of Allegiance and State Pledge occurred]

CHAIR MAYFIELD: Commissioners, do you have any questions? And could we get the lights on please. We're going to hold off on questions right now and we're going to move to public comments. A couple of things – just housekeeping. One, is get our lights on. Two, respectfully, if everybody has their cell phone off and if you could just take a quick look and turn if off, I'd appreciate that. And, three, anybody who will be wanting to make any testimony to this Commission tonight, if you will all just stand once again and be sworn in at one time and our County Clerk Salazar will be administering that oath.

[Those wishing to speak stood and County Clerk Salazar administered the oath to tell the truth under the penalties of perjury. Approximately 200 individual stood. The Clerk instructed those individuals that when they appear at the podium to state and spell their name, provide their address and verify that they are speaking under oath. She also asks the speakers to identify if they were speaking on behalf of a group. A reminder note reflected those instructions was placed at the podium.]

CHAIR MAYFIELD: So a couple of things. We have two aisles here and you can come to either side. We're going to ask that both aisles be filled up with no more than six people at one time to accommodate our Fire Marshal's request. Also, if you have to make your way through the aisles I understand that.

Also, if you're speaking on behalf of a group and you're having your time designated to you by them, just if the individuals behind you could stand up who are giving you their time. Again, we will ask that there's three minutes for each speaker knowing that you can be afforded additional time and knowing after everybody makes their comments you can come back if you felt the clock ran out on you and you need to add some additional comments.

So with that, we're going to go to my left and if you could all state your name, again, for the record. And you're all under oath.

JON HENDRY: Hello, Commissioners. I'm Jon Hendry, J-O-N H-E-N-D-R-Y. 1418 Cerrillos Road, Santa Fe, New Mexico. I'm here representing the IATSE Local 480. We're the film technicians, the union film technicians of the State of New Mexico. I'm also the president of the New Mexico Federation of Labor.

And with all due respect to the applicants, I sat there and saw my business completely ignored. I'm sorry but if you think putting a gravel pit in one of the middle of our sets is not

going to affect our business, then you don't know much about the movies. [audience outburst]

I think you can see a picture over here of *No Country for Old Men*. We won an Oscar there but not only did we win an Oscar but we put hundreds of New Mexicans to work. We put dozens of county residents to work. We made millions of dollars for this County. We made millions of dollars for this State and if you want to put a gravel pit in there then that's fine. We're not going to be able to shoot there anymore. And if we don't shoot there anymore where are we going to shoot. We've been making movies on La Bajada Mesa for a long time. I personally remember shooting back there on *Earth II*, a TV series. We're just completing shooting for *Longmire*, a show that goes around the world and showcases Santa Fe County. And frankly in the County's economic development plan, I see a references to movies as well as a lot references to mining. If you want to create good jobs, sustainable jobs, 21st Century jobs that are the extraction industry in this County you need to look at opportunities for us to be able to conduct our crafts and you're taking one of our main shooting sites out of the equation.

I'm asking that the petitioners at least address our issues. They have totally ignored us in this whole argument. We're talking about recreational. We're talking about use of the road. They're talking about how far they are from the State parks. As anybody going to have a conversation about my business? Are we not obvious here; no, we're not because we don't impact people. You know what we do? We make money. We make money for our members. We make money for this County. We make money for the State of New Mexico and we bring in a hell of a lot of people to fill the hotel rooms and rent the cars of Santa Fe County; what you need to do to provide the economic growth. [Applause] I'm asking – I'm simply asking that the motion picture business be included in this plan because we have been totally ignored and frankly, I find that just a touch offensive. It's not like we're not here.

Thank you, thank you for your time. [Eruption of applause]

CHAIR MAYFIELD: Really quick again, Mr. Hendry, thank you for that. If anybody has handouts for us, Mr. Jose Larrañaga, our case manager, you could walk behind the podiums and not in front of the speakers, I would appreciate, hand him and hand outs you care to pass out to this Commission. We can also assure that Jane has these for our official record and again, I think it's very important. Everybody has very important things to say to this Commission – I appreciate everything that is being said. But if we could please reserve applause during their statements so they can get through their presentation to this Commission and at the end of every speaker if you want to have a say, a short applause would be appropriate but if you could just please reserve it during their statements. Thank you.

We're going to go the right. We're going to go back and forth.

CHRISTOPHER GRAESER: Thank you, Mr. Chair. I have about 25 folks who signed on willing to cede time to me, Mr. McQueen, and Representatives and the Senator. So maybe I'll ask the folks who did sign up to cede their time, if they'll stand up staff can get a count of –

CHAIR MAYFIELD: Yes, I'd like that. That was a request. So if you gave your time you're going to have to kind of wait at the end until everybody makes their statements.

COMMISSIONER ANAYA: Mr. Chair.

CHAIR MAYFIELD: Vice Chair Anaya.

COMMISSIONER ANAYA: Mr. Chair, Mr. Graeser, I'm going to make a suggestion and it's at the pleasure of the Chair but I'd like to hear from as many people as I can

and if – and I appreciate that there’s people that granted you a lot of time in minutes but if we have a couple of people who end up speaking 20-30 minutes I think we might end up with frustrated people in the audience [audience comments] – no, no, Mr. Chair, the other thing I’ll say is that we need to be respectful of what’s happening in the process and I would recommend that we’ve got to keep a good decorum here. So what I’m suggesting is that we allow 3 minutes per speaker and then have people go to the back of the line – but I understand that there might be more time for others. I’m suggesting for the people’s benefit that if we let each person speak a minute and rotate it then we’re not going to have people who are going to hold onto the mike for too long a period of time.

That’s my recommendation.

MR. GRAESER: Thank you, Mr. Chair, Commissioner Anaya. With all due respect, we were informed that we were allowed to cede. We will certainly keep it as tight in as we can. This is 75 minute and we’re not going to take anywhere near that. We just want to make sure we have the bases covered but we will hold it as tight as we can Mr. Chair, Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair. Mr. Graeser, I respect that. I’m speaking of that line of people that’s standing behind you waiting. So as long as they’re aware that people granted you that time and they’re willing to stand there and that’s their prerogative, so be it. But I was trying to get through as many as we could so they wouldn’t have to stand in line so long.

CHAIR MAYFIELD: Thank you, Vice Chair Anaya. Really quick, just by a show of hands who cares to make a three minute presentation to the Commission at this time? Were all of you sworn in? Okay. So let’s do this. We also had some initial ground rules that we laid out that we would allow for the consolidation of time for some presenters. Knowing that we went through a big presentation with our applicants I will ask to Mr. Graeser to make his comments then we will go back to a handful of individuals for the three-minute time limitation for an equitable amount of time and then we’ll go back to the group time allotments again. So thank you for that. Commissioner Anaya, I really appreciated what you stated also. Mr. Graeser, please.

MR. GRAESER: Thank you, Mr. Chair. Shall I hand the list to staff?

CHAIR MAYFIELD: Please, and you said nowhere near 75 minutes.

MR. GRAESER: Yes, Mr. Chair. I’ll have you know the list includes my mother on there.

CHAIR MAYFIELD: Is she here?

MR. GRAESER: She is.

CHAIR MAYFIELD: If you’re allocating time, great, just make sure you’re here to allocate the time.

MR. GRAESER: Mr. Chair, Commissioners, Mr. McQueen and myself represent a coalition of community organizations and individuals concerned about the preservation and protection of La Bajada Mesa. For the record, we also represent several individuals who are present tonight, have participated including Diane Senior, Don Van Soren, Kim Sorvig, Ross Lockridge and Ann Murray. We do not represent a slick, national, organized environmental group but rather a grassroots community that has supported, really, supported the County’s stewardship efforts and the stewardship efforts of County citizens for decades. You’ve seen

many of these folks in front of you in similar circumstances and in better circumstances over the years.

Ten years ago, New Mexico Heritage Preservation Alliance listed La Bajada as one of New Mexico's most endangered specifically because of mining pressures. And as it turns out that caution – as they said, La Bajada represents a key landscape demarcation between what the Spanish Colonia world terms the Rio Abajo and the Rio Arriba regions of New Mexico. The lower and upper land with distinct ecologies and climates. It also represented the greatest single obstacle for movement across the land.

La Bajada remains the gateway to the urban areas of Santa Fe County. It needs to be protected a cultural landscape. The arts, film, tourism attest to the profound significance of La Bajada Mesa to New Mexico's culture and its economy. And that is why you have also 7,000 signatures on a petition in front of you. I've never seen anything like this. And if you've taken the time to look through there are just heartfelt amazing comments. Again, almost 7,000 people and they're protesting incompatible, inappropriate, insensitive application. This is most certainly a development of Countywide impact that is trying to come in under the wire, and avoid the Sustainable Land Development Code regulations.

Our clients and the hundreds of folks here and thousands of other individuals who oppose this now third application to rezone part of Buena Vista's property for mining. There are many reasons this application should be denied. I'll talk about few but primarily you'll hear from members of the community. I also want to talk with you about your discretion to deny the application. Meaning that – the applicant's have no right to have the mesa zoned for mining.

First, I ask you to consider the CDRC's recommendation. They recommended denial for cogent and sensible reasons. Nothing has changed since the CDRC hearing to warrant rejecting the CDRC's recommendation. If anything, the Applicant has muddied the water further by changing their water supply, changing a map, although it's still in correct as you'll hear.

The CDRC's reasons included the policy of the County to not allow development near prominent landmarks, natural features, distinctive rocks and land forms. And this is a historic landscape, a cultural heritage a scenic byway not compatible for mining uses.

One of the best comments because you've heard the criticism of NIMBYs is this one is everybody's back yard, finding by the CDRC. And, on that topic, the Applicants can't really have it both ways. They try to say that this was in a historic mining area because there was mining just a couple of miles away. They also said it's not near any residences. It's not near the park because it's a couple of miles away for it. You really can't have it both ways.

There should be a compelling basis for rejecting the CDRC's recommendation. Here, there is none. Staff did recommend approval but there's no indication why that recommendation changed since the same or similar application was submitted and recommended denial by staff twice; 2004, 2008. The important point is that the official recommendation going forward to the Commission by the CDRC is for denial.

As far as specific reason, water supply, of course, is always an issue. And our main concern here is that there is no County hydrologist review of this application. Why not? We don't know. We requested the County hydrologist review the application. We requested the County hydrologist be here for you to question. And that hydrologist review is essential for three reasons really. The first is, the Code requires a water availability assessment. I gave you a handout the first sheet makes it clear that Section 6.5 applies; 6.5 is water availability

assessment. One was not done. One was not submitted. One was not reviewed by the County hydrologist. And the Code requires permitted water rights. The State Engineer permitted water rights. There is no evidence that either of the water sources qualify.

In 2005, the same landowner proposed a mine in the same place, using that same source of water, City reclaimed water and that's the second handout I gave you. The hydrologist at that time, which I believe is Mr. Wust, said the water source does not meet the requirements because there is no commitment for a long term supply. There's ready, willing and able to serve you but that's not the same as a commitment for the duration required by the Code. We have the exact same issue here. Same application, same water source.

In 2008, the same landowner proposed a mine in the same place using trucked in water. If you turn to the next exhibit I handed out which is Exhibit 3, again, staff recommended denial because staff did not support trucked in water. Same issue in front of you today.

The Code requires an applicant to prove they will have enough water and the applicant says they have secured the right to use treated effluent. But they have no right at all. They are just another subscriber to an oversubscribed City utility and they are an at-will customer subject to policies that the City intends to develop because its reclaimable effluent is over prescribed. The community is under no illusion that mining will stop if the water supply for dust control dries up and dust is going to be a huge issue.

Approval now in absence of a review by the County hydrologist when twice before two different County hydrologist reviewed the application and recommended denial would be arbitrary and capricious.

The fourth exhibit is simply the staff analysis in is draft memo recommending denial. Our next concern and reason for denial is precedent. This really is the foot-in-the-door, the camel's-nose-under-the-tent. Mr. Domenici said this was a small operation. Well, you know, last time they applied for 108 acres, they got recommended denial. They're applying for 50 now.

My biggest concern, if you turn to the fifth handout I put out, the property is being marketed as included 5,200 acres of aggregate suitable for mining. These are he applicants' own marketing materials: 5,200 acres suitable for mining. This isn't small. This is a foot in the door. And, it's an ingenious foot in the door because if they approval for 50 acres, as you know, the review criteria looked at other mining operations in the area. They get 50 acres and they'll says, Well, we're right next door to a mine. It's a 50-acre; let's do another 50 acres. It's really ingenious. They get to be their own precedent.

The community is worried for these many reasons. But another group that should be worried and is not here are the mineral rights holders. The Code requires, requires, submission of an affidavit of ownership of mineral rights. The applicants have not submitted an affidavit identifying the mineral rights owners, as required. They've submitted an affidavit saying they don't know who they are. They've submitted a legal opinion saying it doesn't matter. And it's with a promise to indemnify the County if they turn out to be wrong.

If you look at my sixth exhibit, this is a legal opinion by the Holland & Hart law firm to the Solid Waste Management Authority; it says the applicants are wrong. Solid Waste Management Authority pays 95¢ a ton for all the basalt extracted to its mineral rights' owner. Mr. Domenici and I can argue about this or let Holland & Hart argue with the other law firm.

The fact is they intend to extract down to 60 feet and this could easily impact other mineral even other than basalt without the knowledge of the owners. And it is exactly why the

County requires you to identify those owners. Are you willing to accept the applicant's LLC has your back if this turns out to be wrong and you get caught up in that lawsuit?

The biggest point, I want to make though, is that your approval or denial of this is fully discretionary. It's within the Commission's discretion. I submitted a letter to you earlier this afternoon, it should have been in front of you, that asked you keep in mind that this discretionary authority to approve or deny this request. Please do not give up your right to make optional zoning decisions for the community because of spurious concerns over litigation by the applicants. I don't know if anyone other than the lawyers in the room caught the code words for a threatened lawsuit, but I did.

Under New Mexico law it's the Commission, the Commission, not County staff, not the landowners, not the community members, not their lawyers who decide whether to create a new mining district and whether that zoning [inaudible] to mining is appropriate. Under Article 11, Section 1.2, the Board of County Commissioners may create new mining. It may create new mining zones. Section 1.6 has been quoted to you already, No mining use activity will be permitted if it is determined that the use will have a significant adverse affect on health, safety, morals or general welfare of the County and its residents. Mr. Domenici cautioned you in applying that section. We agree. We accept that caution. The evidence in the record already, even prior to what you're going to hear tonight is more than enough to justify denial on health, safety, welfare grounds. You can not deny it on health, safety, welfare grounds for unspecific, general, unsubstantial reasons. You have very specific, very substantial evidence in front of you allowing you to deny on that ground as well as the others we've discussed.

Mr. Domenici also said he resident of the County have no expectation of a particular view. His client legitimate expectation of its property zoned for mining, precisely because the Code afford the Commission broad latitude to protect this health, safety, welfare grounds. And this is what he court case, and I've submitted these to you, look at. Whether you have a reasonable expectation to a zoning. You do not in New Mexico and under federal court precedent as cited. It's important for you to worry about being sued to know that this case is different than the UDV case that you've heard me front of you talking about. In that case there was a specific federal protecting a religious exercise. Here, there is no federal law protecting gravel mining. This is also different than the big damages case you've heard about which is the Albuquerque Common's Case. In that case, the City of Albuquerque took it on its self to down-zone a property so the applicants couldn't move forward with a project. That is not the case here at all. There's no legal authority requiring you to approve this zoning request.

In short, the applicants have no legitimate claim of entitlement to approval of their zoning request. Any zoning approval is purely discretionary on the part of the Commission. The application must be denied if it would have a significant adverse affect of the health, safety, welfare of the County. Please do not allow your control of County zoning to be taken away from you over a concern the County might be sued no matter how weak that lawsuit would be. After all, the reason we have a public hearing is because we assume that the outcome isn't predetermined by a legal threat.

We've prepared detailed proposed findings of fact and conclusions of law supporting the ultimate decision that we trust the Commission will make. Certainly what's in there now is super adequate to support denial and after the evidence comes in to night, we will propose an amended proposed findings of fact and conclusions of law that are even stronger.

We ask that you please listen to the applicants, carefully consider their application, their fuzzy math, their misdirection regarding traffic impacts, their failure to provide a water commitment, their failure to consider significant impacts to the community; the huge financial tradeoffs associated with their proposed economic development. We ask that you listen to the CDRC's recommendation. We ask that you listen to your fellow elected officials some of whom are here tonight. More importantly, we ask that you listen to your community members. The hundreds who are here, the hundreds who have written letters. The nearly 7,000 – this just amazes me – who have signed a petition, they're looking to you tonight to protect this endangered resource. Because once it is mined it's gone. We can't get it back

Finally, we ask that you make a decision on this application tonight in front of all the folks who have such a stake and have such a stake in the outcome and have a right to understate what the action is taken by the County.

Thank you very much. After the other folks have a chance to go, Mr. McQueen will talk to you and the Representatives and Senator I believe will want to talk and if we have anything else we'll add it. Thank you. [Applause]

CHAIR MAYFIELD: Again, folks, I know it's important for you to get your voices heard through applause. It is eating up time. We will be vacating from this building before 11 p.m. I want everybody to understand that.

CARMEN QUINTANA: Good evening County Commissioners. I am very happy to be here tonight to share an experience with you. I really –

CHAIR MAYFIELD: Would you state your name for the record, please.

MS. QUINTANA: My name is Carmen Quintana.

CHAIR MAYFIELD: Thank you, Ms. Quintana.

MS. QUINTANA: I have been involved land grant and water use in the State of New Mexico for over 35 years. And I am very happy tonight to let you know that I am so proud that Mr. Graeser spoke of the 7,000 signatures that he on record. New Mexico is a treaty rights state. We are bound by the Treaty of Guadalupe Hidalgo. So if you approve this transaction, you would be approving that you doubt that the Treaty of Guadalupe Hidalgo allows all of those people their rights and all of the people in New Mexico have the right at are bound by the Treaty of Guadalupe Hidalgo. I just wish to tell you that I am involved with the Americans Lands Council, Incorporated which is a group of people all of the United State that are asking for all of their federal lands back to be bound by state law. And we have been involved in this for many, many years. I'm very pleased to say that we were part of the association that spoke to you about the Mesita de Juana Lopez land grant years ago when the County Commission approved the Richard Cook development which he uses for sand and gravel use right now. And we opposed it on the basis that it was a land grant. It is still a land grant and the water in New Mexico has never been adjudicated.

So we ask that you disapprove this proposal on the basis of all those 7,000 people who have the treaty rights under the Treaty of Guadalupe Hidalgo. Thank you. [Applause]

CHAIR MAYFIELD: I am going to move to the audience for 15 minutes total. So whoever is up for three-minute presentation, please.

CHRIS FURLANETTO: County Commissioners, my name is Chris Furlanetto. I live at 6 Redondo Peak, Santa Fe, 87508. I understand that I am under oath and I am her speaking for the League of Women Voters of Santa Fe County.

The League studies issues, develops positions and advocates for them with local government and other entities as you know. The League has closely followed and we've commented and we've supported both a strong sustainable growth management plan and a sustainable land development code. The Board of County Commissioners has approved the Code but it will not officially implemented until adoption of the zoning map, possibly at your June 25th meeting in just two weeks. We believe it is incumbent on the Board to obey the spirit of the Code you have already adopted.

The League of Women Voters of Santa Fe County strongly oppose a mining zone on La Bajada Mesa. The League believes as this project has been rejected before under the old code and should be rejected again and we're here to ask you to reject the proposal today. The League believes that highway corridors should aim to retain scenic approaches such as La Bajada Mesa. We believe this is a development of Countywide impact and even though the Code is not yet finalized, there are principles in the code that should be adhered to. We believe an environmental impact study should be required. Careful consideration of its findings should be an important part of any decision on this proposed development. We believe that any development should be tied to the availability of water. The County must take into account both the short term and long term or cumulative effects and impacts of the quantity of water regarded by this project.

In summary, the League believes that it behooves the County to adhere to the spirit of what they have put in place. The proposed mining zone will adversely impact the principles that you have adopted and on behalf of the League I urge you to reject it. Thank you. [applause]

CHAIR MAYFIELD: Thank you. Also, Ms. Furlanetto, I apologize I got your name wrong, last name but we did receive a written document from you and that will be forwarded to our County attorney's office, thank you.

So whoever on this side would like to speak for 3-minutes please, on my right.

REPRESENTATIVE STEPHANIE GARCIA RICHARD: My name is Stephanie Garcia Richard and my address is 30 Glenview Court, Los Alamos, New Mexico.

Mr. Chair, members of the Board, good evening and thank you all for allowing us to address you this evening. I am a State Representative and my district includes Los Alamos, portions of Sandoval, Rio Arriba and portions of our beautiful Santa Fe County here. Which the good applicants were good enough to show you in their slides. We saw some lovely pictures of my district.

I've been asked to let you all know who I am representing this evening. I am here to represent our shared constituents in Santa Fe, in Santa Fe County, some of which are here this evening and all of which have the potential to have their quality of lives severely impacted by the decision you make here this evening.

I also represent a caudra of state legislators from Santa Fe County who banded together during the legislative session to compose a letter to you all back in February. We do have extra copies of the letter if you'd like to refresh your memory. I'm not going to rehash the letter this evening but you know three of the four members who sent the letter to you all are here tonight because understand the significance of this decision and we want to state, it cannot be overstated the unequivocal importance of this decision and its potential to impact the quality of life for our New Mexicans. In the instances that have already been mentioned here I will add that you are talking about taking water from an already disputed water source. I personally have been

involved and there are members here who are users of the water source that the applicants are proposing removing from the Santa Fe River. They are talking about the effluent. I know the effluent well. Another avenue could potentially be impacted has already been mentioned more eloquently by Jon Hendry would be our very clean, pristine and lucrative industry of film and tourism. So, I'm here this evening to stand in opposition of this application and to let you know that from a State's perspective and from my home district of District 43. Thank you. [applause]

CHAIR MAYFIELD: Representative, thank you. Also, I believe the fourth signature on that letter was Senator Phil Griego.

REPRESENTATIVE GARCIA RICHARD: Correct, sir and he unfortunately could not be here this evening.

CHAIR MAYFIELD: Thank you, and if we have questions from the Commission, I will afford for them.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIR MAYFIELD: Commissioner Stefanics, please.

COMMISSIONER STEFANICS: Thank you. Thank you for being here to the elected officials. Representative Garcia Richard, you have La Cienega in your district.

REPRESENTATIVE GARCIA RICHARD: That is correct.

COMMISSIONER STEFANICS: How close is La Cienega to this area?

REPRESENTATIVE GARCIA RICHARD: Mr. Chair, Commissioner Stefanics, I believe that in some of the slides some of my constituents' homes are in the vicinity that you witnessed there. La Cienega itself – Ray, how close is La Cienega?

COMMISSIONER STEFANICS: Well, maybe somebody else later is going to talk about that.

REPRESENTATIVE GARCIA RICHARD: Three miles.

COMMISSIONER STEFANICS: So when they talk – so maybe you're not the right person to ask. So the three-mile distance was the La Cienega reference?

REPRESENTATIVE GARCIA RICHARD: The three-mile distance was a reference to my constituency because all of that is my district. The distance to La Cienega specifically, I do not know.

COMMISSIONER STEFANICS: Thank you so much.

CHAIR MAYFIELD: Thank you, Representative. Sir, and I believe you provided us a hand out a little earlier.

STERLING GROGAN: I did, Mr. Commissioner.

Mr. Chair: Let me just take one second so I can pull it out. Thank you, please.

MR. GROGAN: I understand that I'm under oath. My name is Sterling Grogan, S-T-E-R-L-I-N-G G-R-O-G-A-N. I live at 12 Artisan Lane, Santa Fe 87507.

Thank you. Good afternoon, Commissioners and thank you for this opportunity to address you. I'm an ecologist and a resident of Santa Fe County. For more than 40 years I have worked with the mining industry to prevent or overcome the negative environment effects of mining in New Mexico and elsewhere. I manage the public process that developed the first set of regulations to implement the New Mexico Mining Act which of course has been a subject of discussion already this evening. Unfortunately, the New Mexico Mining Act does not cover sand and gravel mining as you know. Therefore, the proposed service on La Bajada Mesa would not be regulated by the State. Seriously environmental problems that are common in surfacing

mining, such as, accelerated erosion, destruction of wildlife habitat and spill of oil or fuel or hydrologic fluid could not be addressed by the state officials who are trained and equipped to regulate mining. I doubt you would want such problems to become the responsibility of Santa Fe County even though it is your zoning decision before us tonight.

Therefore, I urge you to table the application for a new surface mine on La Bajada Mesa. To place a one year moratorium on new sand and/or gravel mines in Santa Fe County and support an effort that you will see coming up in the legislature to bring sand and gravel mining under the New Mexico Mining Act and on the handout I gave you there are specific that it would just require eliminating a very short phrase in the act to cover sand and gravel mining. Thank you for your time. [Applause]

CHAIR MAYFIELD: Thank you, Mr. Grogan. So I'm going to afford two more speakers their three minutes. Representative Egolf, are you speaking on behalf of a group or just on your –

REPRESENTATIVE BRIAN EGOLF: Just me and my folks, Mr. Chair.

CHAIR MAYFIELD: Thank you, Mr. Representative.

REPRESENTATIVE EGOLF: My name is Brian Egolf. I represent District 47 in the State House which is here in Santa Fe County. My address is 128 Grant Avenue, 87501.

I think Mr. Graeser did an excellent job of hitting a lot of the points that I wanted to make. I think, Mr. Chair, members of the Commission, you're all familiar with the work that your Santa Fe delegation does in the legislature working to expand and diversify the economy of Santa Fe County and northern New Mexico and one of our great successes has been in supporting film and television and with the increase to 30 percent on the rebate for film you're starting to see tremendous work coming back to Santa Fe County. We put big time state resources, for better or worse, and Santa Fe Studios and now we have it and we have to do what we can to support that so you get return on the County's investment as well as the State's investment on that.

This poster here of *No Country for Old Men* is not just a nice vista of New Mexico but this is where the gravel mine will be so it will be directly in the center of this photo that was the poster for that academy award-winning movie. It is entirely appropriate for this Commission to consider not just the public welfare that was mentioned by Mr. Katz at the CDRC but to also consider the appropriateness of the proposed use here. And when making that consideration under the ordinance to think about the appropriateness not just as it relates to other current activities that are ongoing and have very low employment and very low economic impact. The number of employees at the other facilities that were mentioned, very, very small. The number of employees and people that derive a livelihood though film in this County is very, very large and it is entirely appropriate to consider appropriateness of use the an eye toward the relative employee and relative economic benefit.

As far as where I represent, the mine is within the district that I represent. Madrid and Cerrillos now communities that I represent and all of the other dots besides the one that Stephanie represented are my constituents and they don't want this – having all the dust and all the impacts that are coming down.

No mentioned, by the way, that if there is a spill it is in contained by the pools on the top of the mesa, the drainage is right into the Galisteo Basin. And if there is a large rain water event. If there's a spill and other materials that are derived mixed with diesel during a large flash flood

event during the monsoon season, that rushes right now the hillside and straight into the Galisteo Basin and Galisteo Creek. I didn't hear anything to address that from the applicant and that is a serious concern because that obviously goes far beyond the mining application and does implicate the environment laws of the state and the health and welfare of all those folks who live down stream as well as everyone who pulls their water out of that aquifer there.

I would urge all of you to say no to this application and to stand with the folks. And, by the way, Mr. Chair, I love your clock. And next session when my committee is flooded with oil and gas industry lobbyist I would like to borrow it so I could put the timer on those guys. Thanks, Chairman. [Applause]

CHAIR MAYFIELD: Representative, I did read the excerpts from the CDRC minutes and I noticed you made that statement but I'm glad you didn't make it applicable to the County lobbyists this time, so thank you.

Sir, please.

RAYMOND MCQUEEN: My name is Raymond McQueen and I reside at 49 Bonanza Trail, Santa Fe, 87508. And I do understand that I am under oath.

Honorable Commissioners, as a Santa Fe County resident and property owner in District 3, I feel compelled to address the Board today as you consider this application. My spouse and I live in the closest residential development to the proposed mining site. The area is called Rancho Alegria and it was carved from the Eaves Ranch in the 70s. It's just over the Cerrillos Hills State Park from the site. It's my understanding that your consideration of a land use application is a quasi-legal procedure and that the Board essentially acts in a legal capacity to endorse applicable County and State laws in impartial ways. Having said this, I and my neighbors have the greatest respects for the private property rights of the New Mexico citizens to do what they want with their property. I must emphatically remind the Board that these rights are not absolute. The Board must give the consideration to the inherent rights of all adjacent property owners to the quiet enjoyment of their property free from the constant constructive nuisances of noise, dust, light, and traffic that the site would engender I suppose despite the representations made by the applicant.

Moreover, you must give full regard to the comparative water rights and usage of a diminishing commodity of entire county versus one for an unneeded business plan. These are substantive rights not derivative rights. Moreover, these rights apply to the State Park and its visitors who wish to enjoy its attractions not its potential detriments.

In addition, the applicant/landowner has failed to demonstrate to the Board that the use of the property for the extraction of road surface materials is of any strategic importance to the county, state or nation and that demand for such materials has risen to such an extent that a new operation is imperative. Another entrance into this materials market would only cannibalize current suppliers causing contraction of their business and resulting unemployment of their workers. On a larger scale, residents and citizens of this County and statewide have spoken through thousands of petitions to the Board voicing their concerns about how ill advised this operation would be in dismantling the physical gateway between the Rio Abajo and Rio Arriba. We do not want a strip mine as our gateway.

I, hereby, respectfully request that the Board fulfill their constitutional duty and deny this land use application. [Applause]

CHAIR MAYFIELD: Are you speaking on behalf of a group?

MATTHEW MCQUEEN: I am.

CHAIR MAYFIELD: How many people please?

MR. MCQUEEN: I was part of the group – Chris Graeser is my law partner and I'm part of that same group. So some of that ceded time was intended for me.

CHAIR MAYFIELD: We're going to move on to some other 3-minute presenters right now and seeing that you guys will split that up amongst you all. And, Mr. Graeser and Mr. McQueen and if we can afford some speakers to speak for three more minutes and then we'll go back to you.

MR. MCQUEEN: Okay, you said about 15 minutes and it's been about 15 minutes so I'm happy to wait.

CHAIR MAYFIELD: How much time will you be needing?

MR. MCQUEEN: I just need about four or five minutes.

CHAIR MAYFIELD: Okay, let me just go to one more and then we'll come back to you. Thank you.

MR. MCQUEEN: Thank you.

CHAIR MAYFIELD: Okay, please, come up.

EVERETT CHAVEZ: Good evening, honorable Commissioners. My name is Everett Chavez. I'm from the Pueblo of Kewa otherwise known as Santo Domingo Pueblo. I come to you with permission from my leadership which represents about 5,000 plus people in our complete opposition to this effort to mine the top of – La Bajada Mesa.

A little quick history, many of you may or may not know, the property that is being spoken of just to the north of the Interstate Santa Domingo now owns a lion's share of what used to be Thompson Properties. This was part of our aboriginal lands that we claimed. Which we were in courts for 44 years until we decided to do a global settlement with specific intent to reacquire all of those lands. That property, that 5,200 some acres has been offered to us at least four times. We probably would have been able to buy it had the prices had not outrageously gone off the charts because we wouldn't be talking about this.

But let me speak to this from a different perspective if I may. [Speaks in his native Keresan languages] Those are the names of those important peaks that surround that entire area. I want to speak to this from a cultural property perspective. That entire corridor as we're finding working on the Santa Fe River Adjudication process more and more evidence of the presence of our people in that entire area. Today there's very significant cultural sites that we continue to utilize in our pilgrimages. This is a special summer solstice period and that's why you probably aren't able to see many tribal leaders here because they're in prayer. So I want to ask that the Commission consider the important cultural properties that surround all of us and that we have the right to pay homage to and protect so that the generations that aren't here yet will be able to enjoy them as well. And so that when we go in and enter into prayer we're talking about the good of the entire universe, the nation, our people collectively.

So I want to ask you because sometimes we don't articulate our positions enough, but as the representative said, we are immediately downstream of potential not only adverse environmental impacts but I think as a collective property that we all own, yes they're in private hands, but I think we need to represent the numbers of people that are speaking in opposition of this and particularly us as tribes. Cochiti had planned to be here because we jointly also support the opposition of this effort. But unfortunately not everyone is available. Thank you for your

time. [Applause]

CHAIR MAYFIELD: Thank you. Thank you, everybody, thank you. Please.

MATTHEW MCQUEEN: My name is Matthew McQueen. You've already heard from my law partner, Chris Graeser. I would like to note that I am of no relation to Mr. Raymond McQueen, although, I appreciate him being here. And I am told that La Cienega is a mile and a quarter from the proposed site.

I'd like to talk to you – I was ceded time and I think I'll only need around four or five minutes.

I'd like to talk to you today a little bit about the Sustainable Growth Management Plan. The County adopted the Sustainable Growth Management in 2010. It is the statutorily adopted general plan of Santa Fe County. The purpose of the existing code, that's 1996 Land Development Code, is to implement the policies of the Sustainable Growth Management Plan. That's the general plan of the County. There's also a general requirement in the existing code, again, the '96 code, not the Sustainable Land Development Code but the 1996 Land Development Code, that says the code shall be liberally interpreted to carry out the objectives of the County General Plan. That General Plan is the Sustainable Growth Management Plan. Even Mr. Siebert in his presentation cited the Sustainable Growth Management Plan to support his position. So when Mr. Domenici says that to use the Sustainable Land Development Code would be illegal and result in a lawsuit, this is the point. The point here is that the Sustainable Growth Management Plan.

Several of the provisions of the Sustainable Growth Management Plan directly impact the proposed mine. One of the key provisions is the protection of gateways and corridors and I think most people would agree that La Bajada Mesa is the most important gateway in all of Santa Fe County. This mine would be visible from Waldo Canyon Road, from the Turquoise Trail National Scenic Byway, the historic El Camino Real, and I-25 and the Rail Runner. So the applicant's suggested that the vista was in fact destroyed by the Rail Runner. In reality the Rail Runner opens that vista up to another class of traveler. [Applause]

Sustainable Growth Management Plan states that mining and quarrying or extraction activities impact communities, roadways and scenic landscapes. Locations for resource extraction developments should not adversely impact existing communities, infrastructure and the tourist economy. These are important considerations to keep in mind and they are part of the sustainable growth management plan. Another fundamental aspect of the Sustainable Growth Management Plan which we're already touched on is the concept that developments of countywide impact. According to the plan TCIs should be regulated to protect the health, safety, and welfare of the citizens, residents and businesses of Santa Fe County from harmful or hazardous adverse impacts or effects or nuisances resulting from mining. It is very clearly stated. Allowing this project to sort of slip under the wire and not be subject to the Sustainable Growth Management Plan would be a mistake. And even under the existing code however, we have that same general welfare requirement. The existing 1996 land development code states, No mining use or activity will be permitted if it is determined the use will have a significant adverse effect on health, safety, morals or general welfare of the County or its residents. Mr. Domenici has suggested that we narrowly apply; I don't have a problem with that. He suggested in his written materials that there was not substantial evidence to support the CDRC decision and you know, he was at the same hearing I was. I don't know what he missed. There was overwhelming evidence

to support that decision and there will be overwhelming evidence tonight to support your decision.

Once again, this is a discretionary approval. All that we ask is that you listen to the evidence presented and you consider the general welfare of the community and you make a decision as appropriate. Thank you for your time. [Applause]

CHAIR MAYFIELD: Thank you, Mr. McQueen. Sir. Everybody, they brought me a gavel now just so you all are aware of that - it's a joke.

JOHN PENN LAFARGE: Thank you. I am John Penn LaFarge. I am speaking as president of the Old Santa Fe Association. I live at 647 Old Santa Fe Trail and I am under oath.

CHAIR MAYFIELD: Sir, would you repeat your name for me please?

MR. LAFARGE: John Penn LaFarge.

CHAIR MAYFIELD: Thank you.

MR LAFARGE: The Association has been the protector and the preserver of Santa Fe's authenticity and history since 1926. We contend that the history of La Bajada is critical. First, this discussion has been going on for centuries. The first La Bajada Land Grant was made in 1782 by Governor Juan Bautista de Anaza, he being, quote, cognizant that the issuance of the grant would afford greater protection to the vicinity of the capital, made the requested concession in the name of the King for the sole purpose of pasturing stock.

This deed restrict has never been altered. It was even confirmed by the US Congress in 2879. The County zoning of 1980 lists the bulk of the original grant as agricultural/ranch, 160 acres to the dwelling. The 1,500-acre portion under discussion today was listed as Rural, 40 acre to the dwelling. The County's pending zoning update will return it to agricultural/ranch land use.

Second, the Juana Lopez San Felipe branch of El Camino Real passed across this la Bajada landscape and became the preferred route into La Cienega and Las Golondrinas. The camino is located immediately across Waldo Canyon Road from the development under consideration. The trail's path is shown on the USGS Quadrant Map.

The Las Golondrinas portions of this Juana Lopez Trail were accepted last year by both the State and Federal governments for registration on the National Register of Historic Places. The portion of this trail that runs across the face of La Bajada has not been studied for such a listing; however, when the Rail Runner was built, the Department of Transportation's Cultural Resources Board field investigation found evidence of the Juana Lopez Trail's location and guided the rail line to avoid this path. Quote, The Camion Real, which not listed on the National or State Register, is treated as an eligible historic property, closed quote.

A new mining district would not be consistent with the centuries long history of the grand entrance to Santa Fe.

Third, the Old Santa Fe Association made a study of the number of Santa Fe area jobs that exist because of the historic ambiance of our area. The conclusion was some 15,000 jobs. Preserving the gateway to Santa Fe is not a theoretical exercise without consequences.

Finally, the worst aspect of the request made of you is this: Approval of a new mining district will open the entire parcel to 2.5 acre zoning, allowing 600 building lots on this historic landscape.

The Old Santa Fe Association asks that you deny this petition. Thank you. [Applause]

CHAIR MAYFIELD: Mr. LaFarge, thank you. In my opinion, you definitely

made for radio.

MR. LAFARGE: I'm sorry, pardon.

CHAIR MAYFIELD: You definitely have a voice made for radio. Thank you very much.

MR. LAFARGE: Thank you, sir. Thank you.

HAROLD GRANTHAM: I'm Harold Grantham owner of the Broken Saddle Riding Company in Cerrillos, New Mexico, PO Box 286, Cerrillos, 87010.

I started my business down there in 1993 with four horses. Just myself working and an old man helping me. Right now I have 27 horses. I have seven employees, four of which are locals. I take mostly tourists riding although over the years I've taken quite a few locals riding and I recognize a few here tonight. Peter Wirth and his daughter, Brian Egolf I'd never met but I took his wife riding and her friend and countless people – and Pete Domenici, your family has given me quite a bit of money over the years, Nella I think her name is. You know Nella, right? I've taken the Domenicis riding so I do take Republicans riding.

I respect what Jim Siebert has done on his research, I mean I don't know how to do all that stuff. Don't know how to use a computer and never will, just learned how to text. But in all that research he's got he talks about a residence being so far from where is pit is going to be or wants to be. He doesn't have any research showing where my trails go. I lease the New Mexico State Parks. I pay them 7 percent of my gross receipts each month. I pay my taxes. I pay employees and my trail goes through the park through the BLM and goes to the ridgeline that he points out. And if he doesn't want to believe that I would be more than happy to take anybody from his office and anybody he recommends riding on Friday morning, I've got a two hour ride and a three hour ride going up to La Bajada Mesa which I named in 1991 and I have to get up there now a days and I see that god awful cell phone tower and the people say, What's that Harold? And I say, We got Roswell the aliens and something landed from Roswell. And I have a story for everything but I'm not going to have a story for what I'm going to hear. The crushers, I had to deal with when Richard Cook was in the hills. I had to deal with his trucks going through the town and I can hear the crushers. I can hear the Waldo Quarry. And, yes, Mr. Siebert mentions that there is no – nobody complained about it. Well, I didn't know there was a place to complain. And, if I hear it again, I'll complain. [Applause]

I've been doing this for 21 years. I've got four kids; I've got to get three of them through college. I'm not going to have a business. If I can't have that two- and three-hour ride, I'm not going to have a business. I feel kind of like Jon Hendry, the first gentleman that spoke, I feel left out. Nobody has talked about my business. I have a trail that goes to the beautiful La Bajada Mesa and I'm going to have to abort that and rely on one- and two-hour rides or one hour rides, I can't make a living like that. I would like the County to think about that.

I know I'm going over time but I don't think it's fair that I have to explain myself and my 21 years of hard work in 3 minutes.

CHAIR MAYFIELD: Sir, again, you can go back at the end of the line and then – folks, we set the ground rules a long time ago tonight. I want to respect everybody's time here tonight. By you having me provide my commentary tonight is eating up some time too. Sir, I appreciate what you are saying. We will hear from everybody else but you are still more than welcome to come and make more presentation as the night goes forward.

MR. GRANTHAM: Well, I thank.

CHAIR MAYFIELD: And everybody just keep that in mind when you're applauding when they're making their presentations, please. Thank you so much.

MR. GRANTHAM: I want to thank you. [Applause]

DIANNE STRAUSS: Just to let you know, Gail Robertson has given me her three minutes, so I'll have six but I think I'll only need three, three and a half, four maybe.

CHAIR MAYFIELD: Great.

MS. STRAUSS: My name is Dianne Lee Strauss. I live at 1043 Rock Road. I'm the president of Portfolio Groups Long Purvey a registered business in the county of Santa Fe and I serve as a private citizen as executive director of the Coalition to Protect La Bajada Mesa.

Good afternoon, Chairman and County Commissioners. La Bajada Mesa and its escarpment located adjacent to the Caja del Rio Plateau and near the Galisteo Basin is a cultural, historical, environmental and scenic viewshed of renowned significance. It contains some of New Mexico's most important cultural history for a period of inhabitation from 4,000 BC to the present. This region contains significant numbers of irreplaceable cultural and religious sites of Native American tribes and pueblos. Kewa Pueblo, Pueblo of Cochiti as well as Navajo, Hopi and Apache tribes. But it also has important pre-contact in the European settlement sides. Four hundred years ago the El Camino Real de Tierra Adentro, the royal road to the interior land crossed this vast terrain. La Bajada Mesa has defined Spanish New Mexico for 250 years the dividing line between the Rio Arriba and Rio Abajo, upper and lower New Mexico. It remains among the most significant geographical landmarks of our nation. This spectacular viewshed has been known to thousands of national and international travelers for centuries. It is the southern gateway of arrival to the City of Santa Fe, the oldest capital in the United States and it is a pivotal tourism feature for our visiting guests. To reiterate once again, the New Mexico Heritage Preservation Alliance lists La Bajada Mesa and its escarpment as one of the most endangered places in the state of New Mexico. Equally the watersheds associated with La Bajada Mesa and its escarpment including the Santa Fe River, the Galisteo River, the Rio Grand and the Alamo Creek are critical to long-term future production of high quality water necessary for the health of our ecosystem, agriculture and public welfare. Article XI under the Santa Fe Land Development Code cites 1.6, performance standards, no mining use activity will be permitted if it is determined that the use will have a significant adverse effect on health, safety, moral or general welfare of the County or its residents.

Therefore, we respectfully request the denial of this mining application for it has a direct negative consequence and adverse effects to health and the general welfare of residents. In addition the County conducted a survey vis-à-vis a portion of La Bajada Mesa, the majority of residents requests that it remains open space. Thank you for your consideration to deny this mining application for public welfare. [Applause]

CHAIR MAYFIELD: Sir, please.

LAIRD GRAESER: Mr. Chair, Commissioners, thank you for the opportunity to address you this evening. My wife Jonelle Maison has ceded her three minutes to me. My name is Laird Graeser and full disclosure, Chris Graeser is my son and I have a relationship as colleagues with both your County attorney and County manager from our joint time at the Department of Finance Administration.

I have 28 years experience looking at gross receipts, other tax issues and the interaction between the economy and other tax revenues. I think I can clearly call myself an expert in this

area. I want to not address some of these other issues which we call negative externalities but I want to go right to the core of the economics of this situation. I believe that there is adequate productive of gravel in Santa Fe County. Two statistics: production exceeded demand in Santa Fe County by 210,000 tons during the period of 2008 through 12. There's currently at the Caja del Rio Quarry which had been discussed earlier, alone has a stockpile of 1.6 million tons of basalt gravel ready for sale. This is a 10 to 20 year supply currently anticipated future usage levels.

This is important because as Mr. McQueen already noted to you, gravel is not an independent commodity. It is demanded by other projects, other construction products. So if we do that, 12,000 houses we will need gravel. If we get road building we will need that gravel but the current supply of gravel in the County is adequate. Therefore, any new production will simply cannibalize or be displaced. Not only is the production going to be displaced but also the jobs. This is going to be an efficient operation. It's modern. It's highly mechanized. So if there are six jobs provided in this quarry there's going to be more than six jobs lost in other operations. I estimate eight or nine will be lost. So there is no economic benefit.

Now let's talk about the tax benefit. The application indicates that 50 percent of the sales would be taxable to the mine mouth. For this kind of operation looking at statewide averages I estimate not 50 percent but only 10 percent of production that this mine mouth will be taxable at the mine mouth. Construction, if any of the production is used for either manufacturing, subsequent manufacturing or construction will be taxed to the location of use. Now, running those things through also it is important to realize that \$122,500 estimated by the applicant is state and county. Only 25 percent of the gross receipts tax comes back to the County. So immediately if you take not 50 percent taxable and find out they're only 10 percent and take 25 percent rather than \$122,000 in potential gross receipts impact you're down to \$6,000. Now as I mentioned, this is an efficient operation and therefore that the price delivered to job sites in Santa Fe County will be up to \$5 a ton less than the current market supports. That's \$5 a ton less gross receipts tax that will be paid to Santa Fe County.

These are benefits that have been claimed by the applicant that I do not see. In 28 years of professional experience I cannot see any economic benefits to this.

Let me talk a little bit to Mr. Domenici indicated that the owners of this property are Santa Fe and New Mexico residents. Mr. Hooper is a resident of Albuquerque. To the extent that there are profits from this operation they will not be recycled here within Santa Fe County. They may be recycled within New Mexico but that doesn't benefit us. The current owners of the productive capacity here in New Mexico and particularly in Santa Fe County are our neighbors. They have been our neighbors for generations. And these are the people that we are going to take employment from. Take profits from and those profits now recycle within Santa Fe County. So to the extent that the owners of this mine, if you approved, remember as Mr. Graeser said, 5,200 acres have been advertised internationally. If people invest in this mine and if the mine is sold to outside interests then the profit from this mine doesn't even benefit New Mexico. It certainly doesn't benefit Santa Fe.

So, this is what economists call a market failure. That's when government has to stand in and do what's right for the community and not for commercial interest. Thank you very much for your time. [Applause]

CHAIR MAYFIELD: Mr. Graeser, I have a question of you please. Mr. Graeser,

really quick, briefly, can you tell me your citing sources for the aggregate material in Santa Fe County?

MR. GRAESER: Yes, the New Mexico Energy, Minerals and Natural Resources Department publishes a report on mine by mine basis and we supplemented that with an investigation of what was produced at a particular prices at the Caja del Rio Mine. I also mined all of the information that I could from Taxation and Revenue Department report DD which reports gross receipts tax. I have all of that data available and I would be very happy to share it with you.

CHAIR MAYFIELD: Thank you. And I'm going to go to staff now with a question. Where is the Caja del Rio Mine?

MR. GRAESER: It's at the landfill.

CHAIR MAYFIELD: It should be -- and I'm bringing it up for a point everybody just so you know of the landfill. And I'll talk about that later I won't talk about it now. But the way the permitting was done or wasn't done on the Caja del Rio for the aggregate material that was extracted, I've made my viewpoints on that time and time again and I will probably continue to make them. Thank you, sir.

ERIC JOHNSON: My name is Eric Johnson. I was the only person I think ever to receive a Juris Doctorate while living in Madrid and while I was in law school I served as a judicial extern at the New Mexico Supreme Court and was a member of the Law Review. I mention these facts because I think under those circumstances there is a code of professional responsibility requires that I let you know that since I've been practice in Illinois not in New Mexico, I am not currently licensed as an attorney in New Mexico. I affirm that I am under penalty of perjury.

I am speaking because it occurred to me that attorney for appellants argument was essentially a flagrant and open attack on the power of the County Commission and the County of Santa Fe to defend the general welfare of its people. That's almost certainly an outrageous claim. The legal case that the counsel referred to about the billboards, is almost certainly legal dictum because the final decision upheld the ordinance against the billboards and therefore has no force of law. A technicality of that sort probably is something that we ought to understand from counsel given that this is a quasi judicial hearing and you guys aren't necessarily held to the responsibility of having had legal education. So, that's my first thought.

My second thought is counsel suggested that the La Bajada had never been designated as sort of special landmark and I can say from personal experience that there has been a state highway historic landmark sign for La Bajada at least since 1970 which is the farthest back I can remember. So it certainly can't be a surprise for anybody who owns it that there's something special about it.

It seems to me that there are two ways that this issue can be resolved. One would be by a consideration of community interest and whether or not we need another gravel pit in Santa Fe County. And I think my friends and neighbors have made it pretty clear that we don't and if that were the only consideration it would just be the end of the matter. However, it isn't the only matter because the property rights of the landowner are also important and as folks have pointed out the property rights of other people in Santa Fe County are also at least equal in value to those of the landowner of that particular activity and since they're in conflict the one doesn't necessarily prevail over the other and for that reason it seems to unfair to let them do what they

want no matter how it affects the rest of us. Thank you. [Applause]

CHAIR MAYFIELD: Thank you, sir.

DON VAN DOREN: I'm Don Van Doren. I live at 317B Camino Cerro Chato, Cerrillos. I am under oath.

CHAIR MAYFIELD: Mr. Van Doren, are you going to be speaking for –

MR. VAN DOREN: No, this is my Vanna White, almost. .

CHAIR MAYFIELD: Thank you.

MR. VAN DOREN: I'm speaking about visual impacts today. La Bajada Mesa is our gateway to Santa Fe. I think many people have spoke to this issue. It's not like any other place in Santa Fe County. The mine will be visible for hundreds of square miles, especially to the south. This picture here for example, you can see the slope of La Bajada Mesa. So when we talk about this equipment is going to be buried in the pit, no, not from the south. Look at the diagrams of how this thing is going to be extracted. It will be fully visible. It's also visible along I-25 and along Waldo Canyon Road. The visual impact affects all of the residents, the tourists that sustain our economy and all the local businesses. You've heard from several eloquent speakers about that point.

The applicant's assertion about minimal visual impact comes from the way that they did the analysis. They erected 2-inch diameter poles with 2 or 3 foot-wide banners. Many of these were brown that blended in nicely with the surrounding area. I saw a lot of yellow trucks in those earlier pictures. The dimensions that they show are minuscule when compared to the gravel piles and mining activities that will be going on. The poles that they used were 20 feet high. Code allows heights almost twice that. The impact is that the actual operations will be much more visible than what the applicant has represented.

Let's look at some alternative analysis. Rick Wessel spoke at the CRCD [sic] hearing. He is an experienced archaeologist who works for NM DOT's environmental development section. He formally objected to the analysis that Mr. Larrañaga showed about Camino Real because it was conducted from only two points along that line. The first page of what you're looking at here is his analysis that shows that most of the mine area is clearly visible from the historic Camino Real. He did his points from 27 to 28 points along that line.

Let's look at I-25. We're heard some things about I-25 and how minimal impact there is. Well, here's another analysis of this. It shows sight lines from five points along I-25 to the mine site. This is using Google Earth Path Profiles. The chart shows what's visible to someone in a car to each of these points. If we go to the next one, I'm sorry.

CHAIR MAYFIELD: Sir, we'll give you another minute. I think the speaker timed out on you. Go ahead please.

MR. VAN DOREN: This chart shows what's visible from someone in a car to each of these points. At the crest of La Bajada, as the applicant mentioned, only the dust plum is visible. They didn't talk about that but that's going to be fully visible. Shortly after that, the operations come into full view. And, of course, a dust plum would be must higher and really provide some additional area. I mentioned to the south, clearly the mine operation will be fully visible from that location and even without direct views of the mesa itself, the dust and the lights will permeate this and severely affect visibility for miles and miles around. Hundreds of miles. Tourists don't come to seeing mining operations and local businesses and our residents rely on the viewshed they create

I'd like to just quote one very brief point. This is from an article in the *New York Times* in 2010. La Bajada Hill is one of those approaches, those arrivals that seem mythical, impossibly grand. A place that could change not only one's external life but also inner spiritual life. You will never be the same again.

We heard from the pueblos about how important this is to them. This is a very special place. It's not just anywhere in Santa Fe County. Thank you. [Applause]

CHAIR MAYFIELD: Thank you.

RAY ROMERO: My name is Ray Romero. I was born and raised in La Cienega going on 80 years next month or in a couple of months. I live right across the project approximately two miles, to answer your question. A little bit of information, I don't want to take too much of the time. My grandfather, great-great grandfather owned all that Mesita de Juana Lopez Grant Land in the 1800s and I'm not going to say anymore than that but I just want to let you know that was in our family.

The other thing I want to say is my main concern is that the City has promised us water to make up for the water loss and make up for the Buckman Wells that have depleted our aquifer. I have talked to the County Commission I don't what the status is that we need help in Cienega. That we are trying out and I cannot see water going down this area here without us being helped at all. And that's all I have to say, thank you very much. [Applause]

CHAIR MAYFIELD: Thank you, Mr. Romero. Ma'am, please.

MARIANNE HATTEN: Hello my name is Marianna Hatten and I've been sworn in. I'm the owner and recently retired, hopefully, chief, cook and bottle washer at High Feather Ranch Bed & Breakfast. That's located in the foothills of the Ortiz with a direct view to La Bajada. I've had TV shows filmed there, a full-length movie, print advertising and magazines, weddings, B&B guests, it's been a busy place. And people come there for the views, the quiet, the scenery. It's a very prominent landmark to look out from my house and see La Bajada clearly in view and I often suggest Waldo Canyon as an alternate route or what was it called, an adventurer route or adventuresome route to my guests. I mean, they come to New Mexico and they come and stay someplace out in the boonies as well like to say because they are adventuresome. So I-25 is not the only way to Santa Fe. And none of the applicants pictures took anything into account as to the views from the Ortiz Mountain Educational Preserve which is in the Ortiz Mountains and I sit about 2 miles below that. And the views of La Bajada can't be -- can't be better on earth than they are from where I live. And that whole area there's probably about 300 homes up there now, tucked in here and there, and certainly for my guests, I'd hate to think of sending my adventuresome guests from New York City off into a blasting zone filled with dust and following a gravel truck.

So, I really urge you vote on no on this request. It is your discretion. It is a request and I ask you who gains? Who gains from allowing the destruction of La Bajada Mesa and what do they gain? And it's not a very long list in my mind what I can come up with even after sitting through the CRCD [sic] meeting and then this one of their presentation but who loses? We all lose. We all lose. The tourists who are coming next fall, they lose. I'd even say those not yet born lose. What would it be like to lose La Bajada and for what? To blast it to bits, crush it up and haul it away. Twenty-five years of operation like that mostly likely would create this fugitive dust for at least 50 years and an irreparable scar for centuries

The fact that the land is already being offered for sale as aggregate some 5,200 acres

seems very ominous to me. Is there a hidden agenda here? Is it getting the foot in the door with parcel being rezoned.

CHAIR MAYFIELD: Ma'am, we going to have to ask that you go to the end of the line if you want to provide more testimony.

MS. HATTEN: Thirty seconds? [Applause]

CHAIR MAYFIELD: Again, just for everybody standing, I believe that you've all been sworn in and if you haven't just please let our County Clerk know and raise your right hand. Otherwise, also, everyone is presumed to be under oath. Thank you.

PETER LIPSCOMB: Good evening, Mr. Chair and Commissioners, ladies and gentlemen. My name is Peter Lipscomb. I understand I'm under oath. I live at 1710 West Alameda Street in Santa Fe and I own a small independent business currently based at the location of the High Feather Ranch, 29 High Feather Ranch Road. My business is called Astronomy Adventures.

That location I chose specifically because of the quality of the night sky. Over the past 12 years I have conducted educational and entertaining guided night tours for thousands of visitors from across the United States and around the world. They are astonished by what they see. They repeatedly tell me about how amazing it is to experience the glory of a night sky speckled with countless stars. I am constantly reminded of the value of the night sky as both a natural and cultural resource. Most of my clients live in a place where they no longer see stars. They live under a perpetual twilight of artificial light. What will the mine bring us? Is it a foot in the door?

Moving ahead with that proposed mine site would allow installation of lighting that could potentially devastate the quality of the night sky and adversely affect my business. The mining industry is one of the several specially granted generous exemptions under the New Mexico Night Sky Protection Act. It may be tempting to think that night sky quality is something that only a guy like me should worry about but wasteful and excessive lighting is something we all need to pay attention to. It's squanders financial and energy resources. Medical research is beginning to show that a lack of natural darkness may have serious consequences to human health. Evidence gathered to date prompted the World Health Organization to declare shift work as a probably carcinogen. The unchecked glare and light trespass of non-shielded or improperly aimed lighting creates hazardous conditions preventing many from being able to navigate safely at night. Now if those reasons aren't enough to raise concern about night sky conservation and sensible lighting practices consider this: what would it be like at some point in the future to plan a star gazing evening with a loved one, a child, your grandchildren only to find out the starry night sky you remember from childhood was no longer visible being shrouded by the glow of artificial lighting. What will this mine bring us? What about the night sky? Thank you. [Applause]

APRIL JEAN TAFOYA: Good evening, Commissioners. I live at – my name is April Jean Tafoya. I live at 1600 Elena Street, Santa Fe, New Mexico and I understand that I'm under oath.

I hold a master's in earth and planetary sciences from the University of New Mexico with a specialty in hydrogeology. Part of my previous work includes the reconstruction of the Jemez River incision through San Diego Canyon.

La Bajada Mesa exists as a mesa as opposed to the sandy basin that surrounds it due to

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that basalt flow that caps and hold it in place, the unconsolidated Santa Fe group that sits underneath it. I am citing the work of USGS professional papers by Dealer and Sawyer published in 2006. That basalt flowed down the bottom of a canyon and everything else eroded around it because it's a hard rock cap. If you remove that basalt cap the unconsolidated material beneath it will face serious erosion issues in a matter of decades.

The Watershed Restoration Action Strategy for the Galisteo Creek Watershed funded primarily by grants from the Surface Water Quality Bureau of the New Mexico Environment Department and authorized by the Clean Water Act lists soil erosion and runoff control as a restoration priority. An increase in the sediment load to the Galisteo Creek which is an inevitable consequence of mining the basalt will decrease the clarity and the water quality and effects that will carry on to the Rio Grande and downstream to the Albuquerque Diversion Dam.

Sediment management has been identified by the State Office of the Engineer as a major area of concern for the City of Albuquerque's \$400 million drinking water project. So what does it cost to remove sediment when public health and drinking water supplies are at risk? Well, FEMA contributed \$11.2 million in 2012 for labor, equipment, and disposal of sediment load after an increase in retaining ponds in the Santa Clara Pueblo due to heavy rains after a burn increased erosion in their watershed and that was only 75 percent of the cost.

Land management should be organized around watersheds. It is the key to development and success in arid west and not around short-term benefit mining operations as in this proposal. Thank you. [Applause]

LOUISE BAUM: I am Louise Baum. I reside at 54 San Marcos Road West which I would just mention in passing is in the wind currents that would carry dust from the mine. It's very windy out there.

Santa Fe calls itself the City Different and it is different. It is beautiful. La Bajada Hill has a long history. It's very meaningful to the pueblos and it's the entrance to Santa Fe. When settlers came in wagons they paused there for the night to rest and gather strength for the difficult ascent up La Bajada Hill. Now it's much easier, a six-lane highway takes us up but still when we reach La Bajada it is significant. We know we've come home. Everyone here has deep feeling for La Bajada. If we let this gravel mine go ahead, who does it benefit? Not the people who depend on water. Not the people who depend on tourism. Not the people who like to breathe clean air. Not the people with the most ancient claim to this place. What we value and what people come here for are the vast open, unspoiled desert expanses; the deep silence, for the nourishment of ancient places, continuing and respecting their history to a lively and beautiful city. Another gravel mine is not necessary not on La Bajada Mesa. It will trash the beautiful entrance to our beautiful city. Instead of the City Different we'll be one more ecologically ruined industrial landscape like just the same as so much of the modern world.

We don't have to do this. We value the beauty of this place. Let's keep it beautiful. Let's keep it different. Say no to the gravel mine. [Applause]

CHAIR MAYFIELD: We're going to take a break here. Please remember where you are in line and we'll be back at 8.

[The Commission recessed from 7:50 to 8:10]

CHAIR MAYFIELD: If you could just respect the order that you were in and try and get back in that place in line I'd appreciate that. Okay, thank you. Okay, folks, if we can quiet down; we've got a quorum back and we're going to get started again respecting everybody's comments and their time. Sir, you're up, please. Everybody, just call order back for individuals who'd like to comments, thank you so much. Sir, please.

RUSSELL BENNETT-CUMMING: Thank you. I'm under oath. I'm Russell Bennett-Cumming, MIT, educator, retired, 286 Camino Cerro Chato, Cerrillos.

The Commissioners and the voting public through hearings, testimony, petitions, editorials, and research already have had ample opportunity to weigh and evaluate presentations about the proposal for a gravel strip mine on La Bajada Mesa. The testimony for the applicants is weak from every perspective including economic, aesthetic, historical, environmental, and impact on surrounding communities.

In contract, the opposition testimonies from experts in several fields and from impassioned pleas of outraged citizen voters have lodged substantial and overwhelming negative concerns. These concerns include non-conforming and inappropriate business expansion, water rights issues, excessive dust and particulate pollution, noise pollution from blasting and rock crushing, light pollution from high intensity security lighting, curtailment of tourism and distain of historical preservation to highlight the most obvious.

Nothing about the proposal adheres to the vision of the County as set forth in the approved and adopted Sustainable Growth Management Plan for Santa Fe County. Approval of such a devastating and detrimental project is clearly not in the best interest of the community nor does it support the current and future growth that Santa Fe has proposed for the County through scripted, thoughtful and meaningful development plans.

As a concerned voter and landowner in the County I urge the Commissioners to rally with the greater community and deny this devastating proposal. [Applause]

CHAIR MAYFIELD: Thank you. Ma'am to my left. Can we have a mike check on the mike to my left.

MARIE HARDING: It's happening, yes it is. It's happening. Okay, good.

Honorable Commissioners and neighbors, my name is Marie Harding. I am under oath. I am also speaking for some people here in the audience, over there if you can raise your hands if I need more time, if.

I am president of Cieneguilla Ranch LLC which is a retreat center that hosts guest, makes money, I pay my gross receipts. I'm also the president of the Silver Hills Homeowners Association which is right next door to Rancho Alegre. Between that subdivision and our subdivision we have on the order, I'm not saying exactly because I don't exactly know, 135 lots. So that many people would be impacted. We are approximately 3 miles over the Cerrillos Hills exactly down wind – I shouldn't say exactly – as the crow flies and the crow and the wind are flying in the same direction. I do think this would impact my business and another business that resides at this property was the one that sold the lots to the Silver Hill homeowners with the idea of quiet enjoyment and relaxation and being away from pollution and the city.

I have actually one idea I really want to say, that is instead of all the man hours of the neighbors and the people have spoken and who have signed a petition being used as volunteers, I would like to see the County or whatever body actually either purchase or either dedicate the La Bajada as the entry way so we do not need to do this fight any longer. It has been fought for

many, many years. I have so much respect for the people who have brought this fight to the fore.

I've lived here – I've had that property for 45 years and I lived previously in Cerrillos. And I am not a young woman and I do wish to live the rest of my life here without impact. Thank you. [Applause lessening with reduction in crowd]

CHAIR MAYFIELD: Ma'am please.

PAM BENNETT-CUMMING: Pam Bennett-Cumming. I reside at 286 Camino Cerro Chatos, Cerrillos and I have been sworn in. And I'm part of a large rural community who looks at this everyday. It's the community that hasn't been taken into account in any of the view evaluations. What I'd like to say that I believe the County's stated vision is not to create a stripe-mine spot zone on this historic site. On this visible sweeping vista, the County's own gateway which is currently not a mining zone. This land has certain development rights already. It's one dwelling per however many acres the hydrologic zone is or in the future zoning will be one dwelling per however many acres that would be. In other words, it is not a mining zone.

The 1996 Development Code asks for thoughtful consideration before acting. The County may create mining zones providing standards are met. May not shall. One standard states the mining use must be reasonable, compatible with other uses in the area affected including but not limited to – that's important – but not limited to suggests impacts should be considered broadly and not limited to the particular uses stated which include the community and it also includes – let me get it, I'm losing it here, hold on – recreation and population. So that not limited to could be other uses, tourism, film.

The Commission created and adopted the 2010 Sustainable Growth Management Plan as the County's vision for the future. That vision I was talking about in the beginning. It values the people, the history, then landscape and the tourist, movie and other sustainable economies so successful here it states, Santa Fe is known worldwide for its special landscapes. Mining, quarrying of extractive industries impact communities' roadways and scenic landscapes. Location for resource extraction industries should not adversely impact existing communities, infrastructure and the tourist economy. Development should be sited and designated to limit the impact on viewsapes that define the County as a tourist destination. Since Santa Fe County's historic and cultural resources draw visitors to the area preservation is also an element to the County's economy. Protect and preserve the County's archaeological, historic, cultural community and scenic area. Scenic viewsheds should be preserved and protected as an important resource. Limit development near prominent natural features such as distinctive rock formations. Planning and development take into account the cumulative impact of individual projects and just finally, in fact, the resource conservation section of I believe it is Chapter 2, uses an image of La Bajada in support –

CHAIR MAYFIELD: Ms. Bennett-Cumming, and I know you want to finish but if we can just afford everybody else their chance to speak.

MS. BENNETT-CUMMING: Thank you. Thank you for letting me speak. I appreciate it. [Applause]

CHAIR MAYFIELD: Thank you so much. Sir.

KEVIN BOX: Mr. Chair, Commissioners, I appreciate the opportunity to speak. My name is Kevin Box. I live 3453 State Highway 14 North in Cerrillos, New Mexico. I am the current president of the Turquoise Trail Association, the owner of Box Studio LLC as well as the Turquoise Trail Sculptured Garden and Studio.

The Turquoise Trail Association shares a mission with many of you and with something that has been stated tonight over and over again and that is a sustainable growth management. We had to acquire and achieve a sustainable corridor management plan in order to designate Highway 14 as a national scenic byway. Not a state scenic byway but a national scenic byway that goes directly through the area that is question.

I'm one of the token young people here tonight and I really like plans because they are something that we can all follow and can adhere to and it's something that we get together with and we discuss, and we create together and it gives us something to move forward with. I grew up as a boy, I'm an Eagle Scout, I grew up as a boy learning that you make decisions based on the ancestors that were before you as well as the ancestors that are coming after you and you should be able to make better plans with that in mind. The corridor management plan of the Turquoise Trail is not unlike any of the other management plans and the sustainable development plans that are being presented tonight. They're very clearly stated. What everybody here is asking for tonight than to stick to the plan. We have a plan. We have a great future here in Santa Fe, a creative future. We are young. We are smart. We've got great economies before us, creative economies, low impact economies that are high value jobs. This is an old school approach to things. It's very destructive. There's no question, there's no argument as was stated before, you've heard enough. It's really clear. Everyone has been clear and you're clear and we're clear. They're clear about their intentions and they have every right to ask but we're asking and everyone here is asking stick to the plan. In just a few more months we're going to make that zoning even broader to protect that area. There's a lot of opportunity in the future in the 21st Century that is my future and a lot of people's future to do something great with that planned zoning that honors the area and that honors the genius loci of Santa Fe that makes it a sacred space and that makes it a special place in United States of America. I'm an artist. I make a living as a sculpture in the United State of America. There is nowhere else in the world that I know of really. And Santa Fe is one of the top art markets in the country and that's why I moved here. That's why my business is here and that's why I've committed the rest of my life to contribute to the 21st Century economic future and sustainable plan that we have.

I urge you not to table this but to deny it. [Applause]

CHAIR MAYFIELD: Thank you. Sir, please.

ROBERT WILLIAM ROSS, JR.: Mr. Chair, fellow Commissioners, my name is Robert William Ross, Junior, I reside at 630 East Alameda, that's dirt side Alameda, 87501. I'm a landscape architect. I served as a chief landscape architect for the USDA Forest Service for 17 years in Washington, DC where I oversaw the management of the visual quality and visual impact programs for the more than 150 national forests in this country. Additionally, I worked with the State Department on special projects in North Africa and with the Scottish Forestry Commission in Edinburgh, Scotland. During this time I was selected to become a Loeb Fellow in advanced environmental studies at Harvard's Graduate School of Design. I'm also president of the Santa Fe Farmers Market Institute, the non-profit arm of the market.

The western United States has many significant and great landscapes that are not only outstanding in terms of visual integrity but also for the historical, wildlife and water resource values. I simply want to speak to the visual quality issue and how that relates to each of standing and sitting in this room right now. I can easily think of several significant landscapes in northern New Mexico. The first that comes to my mind is driving past Eldorado, coming up the rise and

peering into the amazing view of the Galisteo Basin and the hog back that crosses it in a most majestic way. There's also coming up the drive approaching Taos as you peer into the Rio Grande Valley with the upper reaches of the sacred Sangre de Cristo Mountains as a backdrop, especially after a fresh snow and the pink light of a later afternoon sun. There are many more here in northern New Mexico and especially the Valle Caldera just to the north. But the last I will mention is La Bajada, like a coat of many colors full of light and history and life and memories for each of us. We call attention to this place when we bring friends and family members to our homes in Santa Fe for the first visit to northern New Mexico. And when we drive by by ourselves it's a significant presence in our silence.

Finally, I found the visual impact analysis presented by the proponent this evening to be greatly lacking in thoroughness and integrity. And frankly, very misleading. It demonstrated little and was confusing. I respectfully ask that you not damage this pristine and special place. Thank you. [Applause]

LYNN ALLEN: Hi, my name is Lynn Allen I live at 307 Red Rock Road which is the southern most boundary of Santa Fe County. Looking north I see the proposed site but I'm here to talk to you as the people that I elected to represent me. You were elected to be the best and the brightest. To carry out that sacred trust of determining what's best for us, our County, our homes, our welfare. You've heard 7,000 signed a petition. Seven thousand from the pueblos and that's 14,000. Each one of us knows another couple of people. There's a bunch that weren't here tonight. No one is for it. When you opened the meeting you said, How many are against it? And all the hand raised. And how many are for it? That is what you need to remember. It is you sacred duty to act in our welfare. We know why we live here and I hope you know why you live here too. Please, act accordingly and thank you for your service. [Applause]

CLERK SALAZAR: Do you confirm your oath?

MS. ALLEN: I confirm my oath. Yes, I was sworn.

CHAIR MAYFIELD: Thank you. Please.

JOANNA CONTE DURHAM: Thank you for the opportunity to speak. I am JoAnna Conte Durham. I'm a resident 10 years of Cerrillos, number 6 Anthracite Avenue. I stood for the oath and I hope that you hear our concerns. I appreciate the chance to speak and I appreciate you listening.

My family owns 40 acres two miles west of the mine which is on the other side of the ridge that they're talking about so it is visible. I hope you reject this strip mine. This is the historic Cerrillos Hills and as a younger generation of Cerrillos this impacts my home and my many neighbors. It impacts my farm. It impacts my studio and my business. In my studio I work with kids and adults as a healing modality as art as therapy and this does affect the general welfare which is the concern of the government for the health, the peace, the morality and the safety of the citizens. Obviously, with the consistent turnout it is affecting our peace, our morality of the citizens' right there in the area. Who knows about the future of the health of this. So you see different pictures and slides and charts but if you went there your heart will see that you cannot isolate this strip mine. Everything is connected and will be affected especially hearing from the pueblo and their spiritual use, I hope that this isn't even an issue anymore that you do reject it. Sure, there has been history and impacts in the hills but please can we have the consciousness now of the impact of man in the overuse in the recklessness of the earth. Please choose the environment over the economy.

I am concerned because we live off the land in our community. We live off tourism, the beauty of the land. Our charming land that we love. This impacts our small businesses. It disrupts our homes. I'm still concerned about the limited water. I'm concerned about the contamination of the water. These are life and health concerns. The impact on the earth for the future generations as well as now. There is history and there is beauty, there is charm and magic in this land of enchantment. I am concerned about the wildlife in the hills. Who is protecting the natural order of life? The hills is still wild. There's deer, there's wildcat, there is coyotes. There is turquoise mining but with hand tools. I am concerned about the noise pollution. The disruption of the blasting rocks. This disrupts our domestic animals, our farm animals, the wild animals. We are an agricultural community: our food our life – it impacts. Our chickens and our goats and the horse trails and the businesses in the hills being so close to these blasting rocks. The light pollution. The noise pollution. The vibration. Animals and nature can feel this –

CHAIR MAYFIELD: Ms. Conte Durham, thank you. Your time is limited right now but you can go back if you care to speak any more.

MS. CONTE DURHAM: All right thank you. [Applause]

KIM SORVIG: Mr. Commissioner or Mr. Chairman, Commissioners, my name is Kim Sorvig. I've been sworn in and I'm sure I've been sworn at a few times. My friend Colin Green there in the Hawaiian shirt, -- Bramble in the back with the dreads have both donated their time to me. I promise I will not take 9 minutes.

I live at 103C Camino Los Abuelos which used to be plain old County Road 42. I'm a UNM Research Associate Professor in architecture and planning and a licensed landscape architect for 25 years both here and in Pennsylvania.

The first thing I'd like to do and I know several of you were here when the oil and gas ordinance has to be passed. And the first thing that the oil and gas industry did was to send in lawyers to attack the Commission's right to make a decision. They tried, they insisted, they said they were going to sue us back to the Stone Age. The Commissioners had the courage to stand up to that. And I hope that you have that same courage under the same kind of attack. Because as someone said earlier that is exactly what the suggestion that you make a discretionary decision would be illegal – that's what it is, it's an attack.

I know how hard it is to review these kinds of large-scale projects. I did so for many years. I reviewed project proposals and project construction documents for both technical and contractual compliance. In reviewing this application there is a pattern that emerges and that is what I wish to speak to tonight from several angles. It's a pattern in which risks are underestimated, supposed benefits are exaggerated and assertions are made as facts without support. Including, I might say, Mr. Domenici's rather arrogant assumption that the public was really capable of speaking truthfully under oath. That we would just come up here and emote and talk about beauty. That's what the oil and gas lawyer said too, NIMBYS who don't like the looks of oil drilling; okay. That is not a legitimate argument.

I'll start with the construction drawings submitted by Buena Vista and Rockology. They follow this pattern of selective documentation and they have inadequate and improper measures for public health and safety. I will also say that the idea that general welfare is the same as protecting public health and safety is not legitimate. Public health and safety is the first charge of local government. General welfare is a much broader term and admittedly it is one that can be interpreted too loosely. Public health and safety is not open to that attack. This is another

example of selective cherry picking of facts and arguments by the applicants. Let's start with dust.

Let's start with dust. They have selectively throughout this presentation failed to mention the dust plume. They're acting as if it stays at ground level. They seem to think that they control dust by installing silt fence. That's in one of these drawings. Silt fence is the 18-inch high black stuff that is used to keep mud out of streams. It is absolutely ineffective and inappropriate for controlling fugitive dust. That is a public health hazard. There can be Valley Fever that is a soil born disease. If you crust basalt there is something called basalt pneumoconiosis which almost nobody can pronounce, that is a threat to the workers. These are serious health issues that are dust bombs. It is also as we just saw in southern New Mexico a safety issue. There was blowing dust that caused an accident that killed seven people – last couple of weeks. I don't remember the exact date. So we don't need to take a cavalry issue about dust as an issue.

Revegetation is a federal mandate under NPDES. The applicants, you've seen their slides, propose to stockpile the soil in gigantic piles half of size of this auditorium. That is entirely contrary to best practices in the landscape and restoration industry. It will result in dead soil organisms and that basically means you've got giant piles of dust. That means that the restoration is starting with dead soil and has very good chances of failing.

Runoff threatens drinking water unless it is adequately retained. The applicants calculate that stripping 50 acres of vegetative soil down to bedrock that they themselves have said is extra non-porous is only going to result in a 2 percent increase in runoff. If they're underestimating that could as people have said send contaminated water into the Rio Grande Valley. They also show and you saw it up here, one of their ponds for Phase 2 is so large that the 5,000-gallon diesel tank is standing it – speaking of contaminant. Now, I don't know if this is the level of competence Mr. Hooper is famed for but I wouldn't be advertising if it is.

This habit of downplaying issues is pervasive. People have mentioned it that while applying to mine 50 acres they're advertising 5,200 acres for sale for mining for which they do not have a permit [Applause] And meanwhile just to add to this they have been warning the County that zoning had better not limit their plans for residential development on the same property. Does each of their 40-acre tracts come with a 50-acre swimming pool?

This pattern also has a history and I really one to close with this because I feel it is the root of this and it is a continuing pattern in 1978 *The Santa Fe Reporter* did a series on that they legitimately called a pyramid scheme in the sense that people bought into it with no guarantee that they would get any money out of it and the people above them were guaranteed the return. The people above them included the man behind Buena Vista, Mr. Peter Naumburg he and his friends according to the documentation by *The Santa Fe Reporter* inflated La Bajada land prices by selling to one another in a round robin. In one day they drove the prices up from \$300 an acre to \$1,200 on paper and then they went to potential investors and said, Look, at all these documented sales at \$1,200 an acre. They also misled investors about water availability. Didn't reveal that they did not own mineral ownership and at the same time they were claiming that this land could be both a 70,000 person suburb and a profitable mine. Sound familiar? It certainly does to me.

State and County investigations followed the investigation by *The Santa Fe Reporter* those investigations led to a consent decree requiring restitution of nearly half a million dollars to the investors. So this is not just the newspaper raking up mud and making charges without

substantiating. This was the State Attorney General, the Securities Commission and the County attorney at the time.

I want to suggest that it's not the public that can't be trusted to tell the truth. This is not a pattern that should be repeated. It's not a pattern that should be rewarded. I strongly second the motion that you have the discretionary power and ability to make this decision and to make it tonight. [Applause]

CHAIR MAYFIELD: Sir, please sorry about the interruption.

PATRICK ALLEN MOHN: My name is Patrick Allen Mohn. I live at 14 Cerrillos Heights in Cerrillos. I've been asked by our esteemed County Clerk to explain that because of my beliefs I do not swear oaths. But I will tell the truth to the best of my ability.

I am a professional photographer. I've lived in Cerrillos since 1970 and I've been a professional photographer since 1998 and I do a lot of work in the Galisteo Basin and one of the my favorite subjects is La Bajada Mesa. [Displayed photos on an easel] The two bottom photographs I brought to make the point that I could not have made those photographs had the proposed mine already been in place. I could not do that again if that mine were to be there. The top photograph I brought to show you the foreground. In the foreground I have some basalt or the black lava rock. I specifically put in the foreground because of its aesthetic beauty. Now that photograph was made very close to although not on the land where the mine is proposed to be sited. And I just want to make the point that the basalt is itself a resource as something of beauty and to me it would be a great shame to use it, to crush it up, to put in asphalt or cement.

I would like to comment that La Bajada Mesa Escarpment is a very unique, primordial landscape that we have. It's part of our landscape and is not something that I have seen anywhere else. It's very special to me. It's also a part of the Galisteo Basin and the Galisteo Basin is far more significant than I think any of us realizes. For instance, just to make one point, archaeologist believe that the four largest pueblos ever built within the borders of the United States are in the Galisteo Basin. We who live in the Galisteo Basin are already seeing people coming from all over the world to appreciate the heritage that we have there. And La Bajada Mesa is a significant part of that heritage. For me as a photographer I would say that that proposed mine would not be compatible for me.

I would just like to make one last comment the gentleman commented about the power lines and the gas line, it's as if, it's okay to put the mine there because La Bajada Mesa Escarpment is not a designated pristine wilderness. I don't think that's a bona fide argument. [Applause]

CHAIR MAYFIELD: Thank you, sir. Mr. Taylor, please.

ROGER TAYLOR: Roger Taylor, 54 Camino los Angelitos, Galisteo, New Mexico and I understand I'm under oath. I'm here as the head of the Santa Fe Basin Water Association which has worked for close to 40 years to protect our local aquifers. We're going on record as strongly protesting the La Bajada Mesa mining application due to our concerns of potential harm to others over the use and misuse of the water. We have serious concerns about the significant water use, whether it's potable or treated effluent, over the 25 year lease period it'll have to be hauled to the mesa for this proposed operation.

A history of mining was presented by the applicant referencing Madrid, Cerrillos, and other parts of that area. We all know what the result of that past mining has been on the water table in the area. Severely depleted or contaminated. The location of the proposed mine in terms

of the proximity to the Galisteo Basin Watershed could increase that contamination in case of undesirable spillage. The lack of water on the mesa means it will have to be bulk hauled in through a County supply contract. The great majority of this water will not be recoverable due to evaporation and direct business usage. Given the drought issues this County is facing we believe this is a questionable use of millions of gallons of water needed by County residents or which could be used by a more appropriate business. But to use that for dust control; we all live here, we know what winds do. Just a personal anecdote, I live adjacent to a 25,000 acre ranch. When the winds blow from 30 miles to 50 miles per hour I can see a huge dust cloud picked up from the ground from miles away coming towards my home. I have a view that's spectacular to the Ortiz Mountains but I can see weather coming from many, many miles away so to say that this is limited damage to only people within a couple of miles away is not accurate.

I think we have to question the use of extending water to an area in which it does not exist to support a business enterprise which does not have significant return to the County.
[Applause]

CHAIR MAYFIELD: Miss, please.

SASHA PYLE: Commissioners, thank you for sacrificing your evening as well as the way that we are trying to take our time to have an important turning point in this conversation.

CHAIR MAYFIELD: Could we have your name please?

MS. PYLE: My name is Sasha Pyle. I live on Cerro Gordo Road for 25 years now. I am under oath and I would say I think you guys are somewhat lucky to be elected officials in a community like Santa Fe because we do have a sense of community here and what that means is that most of the time we get a long with each other and we have shared interests and we know that sometimes we have to sacrifice for the common good.

Why you guys found yourselves so incredibly popular today is that your constituents could tell from a mile away that we're being asked to sacrifice not for the common good but for private greed in this situation. And it doesn't feel right and it doesn't seem like an example of good stewardship or good policy to let these people do a smash and grab and pollute when the rest of us here and are committed to this community and are committed to this economy and are not just trying to grab something out of it. And, I live in the watershed of the Santa Fe River Canyon. I find myself thinking about water and water resources and water management a lot. And I have seen a lot of incredibly beautiful trees die around my property and on my property but I obey the watering regulations. That's an example of sacrificing for the common good. I've lost beautiful trees from around my house because I don't break those regulations and I don't want to see a situation where there's two sets of rules. One for people like me that are really trying and another for people that just want to take. And I think you have a choice to make and you need to come down in favor of your capacity, your right, and your responsibility to craft policy that will work for us going forward as we learn more about climate change, the extended drought that we're in, the wildfires that we may be facing, water policy matters a whole lot more to me as a voter and taxpayer and homeowner and business owner and parent and volunteer than whether I can save a nickel on my gravel next time I have to buy gravel. [Applause] Thank you.

CHAIR MAYFIELD: Sir, please.

ALLEN SINDELAR: My name is Allen Sindelar. I live at 39 Villa de Loma which is south of Madrid. My post office is care of Cerrillos. I have recently retired from

Positive Energy Solar where I served as founder. And I am under oath, thank you.

County Code requires submission of a traffic generation report. The applicants have submitted a traffic impact analysis that considered morning and evening rush hours but additional traffic throughout the day. Further, the report estimated trip generation numbers based on information from Rockology itself for a similar sand and gravel operation. No information about the characteristics or production of that similar operation are provided. The applicant's engineer did not independently assess the expected production volumes of this mine to accurately estimate truck traffic. We know the applicant's plan to sell 250,000 tons per year based on their own projections. Assuming 20 tons per truck load that is 25,000 one-way truck trips per year in and out of that mine. That's an average of 88 trips per day based on their projected hours of operation. Over a 10-hour day that is nine trucks per hour or one truck every 7 minutes not including water hauling trucks or employee trucks on an average day not a busy day. This is significantly more traffic than the traffic impact section of the application would lead you to believe. Heavy truck traffic will add to road deterioration and taxpayers will be on the hook to prepare road damage from heavy traffic.

Please don't let their lack of clarity on this point distract you from the very real and significant truck traffic impacts to this quiet and rural area and the potential road repair burden on tax payers. Thank you. [Applause]

CHAIR MAYFIELD: Ma'am please, come up to the mike please.

KATHRINE KURLAND: Hello, my name is Katherine Kurland I live at 19 Camino Monterrosa and I need to take the oath. [Administered the oath]

I'm speaking on behalf of myself and also I'm reading a letter on behalf of Michael Romero Taylor of 52 Sunset Road, La Cienega. He had hoped to be here tonight but unfortunately could not be. This is Mr. Taylor's letter: Dear Santa Fe County Commissioners, La Bajada is probably the most important natural landmark in New Mexico. Traditionally, separately Rio Arriba from Rio Abajo and symbolically uniting our great land of enchantment. I am a 17th generation New Mexican whose ancestors have been ascending and descending La Bajada Escarpment for over 400 years. Movement through this incredible landscape continues today as we travel Interstate 25 back and forth to Albuquerque. It is truly the perfect gateway to the north and an almost pristine approach to Santa Fe. Some may think that approving this mine will be negligible impacts. I am thousands of others know that it will be the crack in the door to allow for repeated abuse of our sacred cultural landscape, our common wealth. The litany of common sense reasons to deny the permit is huge as each of you knows by now. Allowing the mining will be allowing a huge gash into the heart and soul of who we are. [Applause] Please deny the permit, your constituents will be forever grateful. Sincerely, Michael Romero Taylor. [Applause]

So I just want to say that as resident – that I would just like to say a few words as a resident of Santa Fe County and New Mexico and as a member of El Camino Real de Tierra Adentro Trail Association best known as CARTA which is the non-profit support arm for the national historic trail of El Camino Real de Tierra Adentro. La Bajada is the most important landmark on the national historic trail. It is also arguably the most important landmark on the Camino Real international trail. We have a moral obligation to preserve the integrity of the trail for present and future generations.

I implore you, Commissioners, to do the right thing. Deny the permit. Thank you very

much for your time. [Applause]

CHAIR MAYFIELD: Thank you, Ms. Kurland. Mr. Wait.

WALTER WAIT: My name is Water Wait, 48 Bonanza Creek Road and I am under oath. I am here representing the San Marcos Association. The San Marcos Board of Directors are on record as opposed to this application. However, what we would like to do today is to address the issue of the existing code's intent. We would argue that the proposed mine should never have been evaluated under Santa Fe County Ordinance number 1996-10 Article XI which is the Santa Fe County Gravel Mining Regulations. But should have been evaluated under Article III, Section 5, the Santa Fe County Mineral Exploration and Extraction Regulations. We believe that the regulations for gravel mining were intended for operations that remove naturally occurring gravel, gravel, from a defined place not for the production of gravel from hard rock formations. Naturally occurring gravel is found throughout Santa Fe County in old riverbeds and in geologic formations that simply require sifting, washing and sorting and that is clearly stated in Article XI-I-1. The key phrase that signifies intent is similar naturally occurring material. In order for the proposed development to qualify under Article XI, the material proposed to be extracted must be naturally occurring. That is it say, it must be already in a state that would qualify as sand, gravel or stone useful in construction activities. In this instance the materials to be mined is not gravel and Article XI doesn't apply.

Since Section XI doesn't apply then Article III Section 5 must be applied to the application. As to whether or not sand and gravel can be treated as a mineral to be mined this has been addressed in New Mexico's Supreme Court ruling *Roe versus the State of New Mexico*. In that ruling the court said that the question of whether sand and gravel are minerals as that term is used in general mining reservations is to answered on a case-by-case basis by examining the intent of parties. It's important then to evaluate the intent of the code as it applies to sand and gravel, Article XI only refers to temporary uses where the duration of the permit is not to exceed 180 calendar days. There is no instructions for evaluation of a longer term permanent installation. The intent of Article XI, therefore, would appear to only apply to applications for temporary use of 360 days or less. Rockology has requested a permit for 25 years, hardly a temporary use.

Again, it would appear that the intent of the rule is to regulate temporary removal of the construction material and not to permit a long-term mining operation. The assumption therefore is that the intent of the code would be to apply Article III Section 5 to any application for a mining permit last over one year.

CHAIR MAYFIELD: Mr. Wait, thank you.

MR. WAIT: Thank you. I got it. [Applause]

CHAIR MAYFIELD: Sir, please, please.

[The County Clerk administered the oath to a number of audience member wishing to speak]

TREVOR BURROWES: My name is Trevor Burrowes. I live at 2836 State Highway 14, Madrid and I've been sworn in. Senator Tom Udall says, and I quote, Our state is in the midst of one of the worst droughts in recorded history and the negative effects of manmade climate change are only making things worse, end quote.

The climate centers on the artic which is predicted to be free of summer by decade end or sooner. The current reduction of ice is already greatly affecting global climate by slowing the jet stream, earth's air conditioner, and causing it to meander widely locking in drought in some

places and floods in others. This is the new normal. And when as it will the arctic summer ice disappears the climate crisis will worsen.

The County Sustainable Growth Management Plan is a perfect start for a new strategy suited to our climate challenges. It emphasizes conservation of natural resources especially water. Approving Rockology's La Bajada Mesa Mining project contravenes the spirit and the substance of the plan and would waste water. Why are we even here discussing it? Is it purely for legal reasons and fear of being sued by Rockology? If so, we could alternatively be sued by our youth. From *The Nation* magazine, youth are taking the government to court over its failure to address climate change in an unprecedented federal court case that has made it to the DC Circuit Court of Appeals, young people from California are suing the EPA and Departments of the Interior, Agriculture, Commerce, Energy and Defense under the historic Public Trust Doctrine for failing to devise a climate change recovery plan. The suit is joined by our Children's Trust of New Mexico. On one hand, Rockology could sue to protect its pound of flesh. On the other hand the youth could sue because the pound of flesh comes from their bodies. [inaudible] natural heritage specifically the Galisteo Basin and the Galisteo Creek Watershed. Without which they cannot survive.

I trust the County will choose the youth over the status quo even if that is a difficult political decision to make. And I thank you for your time and your service and I've been asked to request out of consideration for the group – the amount of time that people have spent on this issue and the passion they feel if the decision about it came be made tonight. Thank you so much.

CHAIR MAYFIELD: Thank you, sir.

MICHAEL COLLINS: Hi, thanks again for your service and your time. My name is Michael Collins I'm under oath and I live on Old Santa Fe Trail. I just had a couple of words. To me the night sky is not negotiable. The potable water is not negotiable even if it's back-up water I don't think it should be a back-up position. As far the general welfare, the constitution right at the beginning says provide for the common welfare – that's not a joke and I'm surprised at Mr. Domenici saying that it's not relevant or its illegal. That's what this is all about, the general welfare, the common welfare and that's what we're trying to protect. It's talking about quality of life. Maybe those terms are too general for you, sir. Thank you. [Applause]

CHAIR MAYFIELD: Sir, please.

XUBI WILSON: My name is Xubi Wilson. I live at number 35 Encantado Loop in Santa Fe, New Mexico in the large rural subdivision of Eldorado, land of the flea, home of the plaque. And I am sworn and under oath. Speaking of oaths, I believe that all of you here had to take an oath of office and in that oath of office you pledged to uphold the constitution of the State of the New Mexico; is that correct? Correct, Madam Clerk?

CHAIR MAYFIELD: Sir, will you just proceed with your comment, please.

MR. WILSON: Well, it's a good – an important question for me to ask because I have a whole favorite section of the state constitution, Section II which states that our government is derived from authority of the people, executed based on their will and solely for their benefit. Now I understand that you hire a County attorney and other County staff who work for the corporation of Santa Fe County. But you as officers were not elected by stakeholders of the corporation of Santa Fe County but by the citizens and the populist of Santa Fe County. So

you're a very distinct responsibility is different than your attorneys who are there to represent the interest of the corporation. You are here by the state constitution to serve by the will of the people and solely for our benefit, all other things aside.

Now, I've been a standing here now for five hours and save a couple very long presentations in the beginning I have not heard one person, resident of Santa Fe County get up here and express an interest or their will or their intent that they think this is a good idea. So I think it is very important that you understand that there will be people who will threaten lawsuits against the corporation but I think it's important that you understand that you represent us and your responsibility under the state constitution is first and foremost to the people and the electorate of Santa Fe County and to manage the County for their benefit. Your responsibility is not to protect the corporation but to represent the people. I think it is an important distinction to make and something that will be an ongoing theme going forward as people try to run the Santa Fe County corporation through threats of lawsuits and to try to hold us all, the people here, you and I and everyone in our county hold us hostage to some very errant legal decisions made over the years. Not incidentally by corporate attorneys who found their ways into judgeships up into the courts of appeals and the supreme courts. So I think it is very important that you understand your duty and you represent us here, the people of Santa Fe County. [Applause]

CHAIR MAYFIELD: We all have a long night ahead of us. I think you all know that we will be vacating this room at 11 p.m. So if we can just proceed along, please.

YOLANDA MIERA: Okay, I'm Yolanda Miera. Do you need me to spell it? But I am under oath. 38 B Los Tapias Lane. I just wanted to – I was very moved and I want to thank everybody who's spoken because you've all done such a wonderful job. I want to thank them from the bottom of my heart because I love La Bajada Hill. I remember about 43 years ago a very good friend of mine was saying that he felt that he came home when he would see – when he would be on the top of La Bajada Hill and he was home from Vietnam and he just felt like he was home. And I think a lot of us feel that way. And I would rather pass a horse a La Bajada Hill than a big old diesel truck and I have been behind one of those gravel trucks more than once and had windshield cracked. Thank you very much. [Applause]

CHAIR MAYFIELD: Thank you, Ms. Miera. Sir.

ANDREW BRAMBLE: Andrew Bramble, 36 White Rock Road. I live off of Rogersville Road and I have a lot of neighbors, many of us have a view similar to this. All of us are downwind of this site. A bunch of us live off or rainwater at least partially so any dust this blowing – and dust will definitely blow no matter what they do to try to wet it down, whatever the plan is, that's going to impact our water supplies.

But what I really want to talk about is beauty. I don't know if lately you've taken Route 14, the Turquoise Trail north, when you're above Madrid and you crest that hill and you out, the view is stunning. You have the Ortiz Mountains, the Galisteo Basin, the Sangre de Cristos and La Bajada Mesa and if you've lived there for any amount of time with even a small amount of awareness the land becomes part of you. We're part of the land and the land is part of us. To put a 60 foot hole in La Bajada Mesa, you're putting a hole in us whether it's 50 acres, 5,000 acres that's a hole that is us. That's adverse affect. Thank you. [Applause]

CLERK SALAZAR: Do you confirm your oath?

CHAIR MAYFIELD: Excuse me, sir. Clerk Salazar has a question for you.

CLERK SALAZAR: Do you confirm your oath?

MR. BRAMBLE: I do.

CHAIR MAYFIELD: Thank you. Ma'am, please.

JAN UDELL: Good evening. Thank you for hearing all of us and your patience with all of us. My name is Jan Udell. I live at 5 Pajaro Blanco Road, Santa Fe. And I have been sworn. I have a question I suppose and my question has to do with money. Hardly anybody has talked about money much tonight. Over 40 years ago I bought a beautiful 20-acre parcel down I would say about 2 miles south of the proposed mine site. All those years I paid Santa Fe County property taxes on that place. I'm still paying them. If that mine goes in I would assume just out of the air that my property would fall in value 50 to 75 percent. That would be good for me, I'd get off cheap. But it seems to me that all the property owners there paying their property taxes every year have a much bigger impact on Santa Fe County than this mine would from a financial point of view.

Has anyone explored this? Mr. Domenici stressed the phrase the – I can't remember now, I saw it up there – but anyway it was talking about the good of things. Well, the welfare of the County was the phrase. It seems to be that in a money point of view the welfare of the County would be much better with the taxpayer than with this mine. And I'm wondering if that's been explored by the County. Thank you again. [Applause]

CHAIR MAYFIELD: Thank you, Ms. Udell.

MARIA DE ANDA HAY: Thank you, Commissioners. Maria de Anda Hay at 961 Acequia de las Joyas in Santa Fe and I am under oath. And first of all I think we all know that the La Bajada Mesa was not created by any of us and yet we as a community and you as a Board of County Commissioners are being asked whether it's better to exploit it and destroy it or to preserve and protect it. And naturally the applicant, Rockology, is asking you to decide that it's better to destroy it and exploit it for financial gain than it is to preserve it and protect it for the benefit of the entire community. I think one of the things that was stated earlier by a presenter was that Rockology should not have brought its application before the current code, under the current code, but instead under the Sustainable Land Development Code. I'm not sure that that's a correct legal analysis because the current code is in effect but the important thing about that is that as that's been stated, it's a discretionary decision that the BCC has before it because the language of the current code says that the BCC may approve a mining operation or a mining zone if it meets the location standards set out in the current code. So because it says may, it doesn't say must, it doesn't say shall. If the applicant meets those standards. Under the Sustainable Land Development Code, the Code in appendix B does say that sand and gravel mining or extraction with or without blasting will be permitted or may be permitted under the Sustainable Land Development Code. But only as a DCI, a development with countywide impacts. If you read through the lengthy code you will see that in the very last, I think it's chapter 11, when it comes to sand and gravel mining or extraction with or without blasting the BCC has expressly reserved the two provisions that deal with that. They did not – you did not draft any provisions that will regulate or allow an applicant to meet certain standards in order for the BCC to approve an application for sand and gravel extractions in this County.

You expressly explicitly reserved the right to come back after the Code was adopted to draft amendments to the code to provide for that. So under the Sustainable Land Development Code currently there's just no provisions, none, no language that allows the BCC to review such an application. And, -- I can go around, thank you.

CHAIR MAYFIELD: Ma'am.

DIANE SENIOR: My name is Diane Senior and I am under oath. Two members of the audience have volunteered their time for me: that is Janet McVickar and Bob Hildendorf.

CHAIR MAYFIELD: Are they here tonight?

MS. SENIOR: They were here earlier. One of them is still here.

CHAIR MAYFIELD: Okay, they you have six minutes.

MS. SENIOR: In an attempt to mitigate public outrage out of the use of County potable water for dust control the applicants have added another source of water, City treated effluent. This does not fix the problem. Code requires, quote, an adequate water supply as evidence by appropriate permits issued by the State Engineer's Office. Attempting to side step that requirement the applicant instead plan to purchase water. Water treated at public expense to either potable or non-potable standards and haul it be truck to their mine site for dust control. Neither source guarantees adequate supply nor availability over the operational timeframe. The application fails to meet code. Adding effluent water raises new issues. The County's [inaudible] supply of effluent irrigates parks and golf courses and supports the Santa Fe Living River and local agriculture. A recent City report shows this water is already overextended by as much as 40 percent with no protocol to allocate water in times of shortage. Effluent for this mine would directly compete with the established water needs of the community.

Even worse, the applicant's water budget has quietly increased by 75 percent since the CDRC hearing. The first application budgeted no water for reclamation. We now see that it will take more than 270,000 gallons to reclaim each acre. So addition to the 18 million gallons budgeted for operations they will need an additional 13.5 million gallons to reclaim all 50 acres with no guarantee that the reclamation effort will be successful.

Then there's the low-ball water budget itself. Where Caja del Rio uses 2 to 9 million gallons of water for dust the applicants claim that they will use less than a million while producing significantly more gravel. Given the importance of water to our community and the rampant errors and omissions in this application we simply cannot accept these unsubstantiated claims as accurate.

Inadequate dust control is a direct threat to the safety of residents and visitors. As Kim Sorvig already referenced just last month seven people in southern New Mexico died when a dust storm hit I-10. A major gravel operation on a notoriously windy mesa top half a mile from I-25 is not a theoretical hazard. It is an accident waiting to happen. An accident that you are fully capable of preventing.

That was the end of my prepared statement but Mr. Domenici made some comments that I think deserve to be commented back on. One of his points says that no one has an easement on their view. But we do have a reasonable expectation that a mine would not be sited there. That property is zoned residential and agricultural, as is most of the property in the area. We may not have an easement view but we have a reasonable expectation that industrial activity will not impact our lifestyle. Now, as part of what they bought the property as and what we bought the property as. They are now asking for special permission to put in industrial operations that will negatively impact the other residential areas of the County. Mr. Domenici also advised that arguments against the mine are not factually based. I have personally sent several detailed letters analyzing their numbers and showing that the factual problems are actually theirs. Almost any place you run the numbers the math simply doesn't add up. I urge you, if you haven't already,

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look at the numbers, run the metrics, it doesn't work

Further, they argue, Mr. Domenici argues that restricting the use of the property, that not allowing mining would restrict the use of the property. And the answer is it wouldn't because they don't actually have a right to mine there. That's why they're here tonight. They have a right to use their property as residential/agricultural land. They do not have the right to mine it. Denying their request for special permission to change the zoning actually doesn't restrict their abilities at all and I ask you respectfully to please deny this application. [Applause]

CHAIR MAYFIELD: Please. JJ, come up.

JJ GONZALES: Thank you, Commissioners for this opportunity to address the Commission. My name is JJ Gonzales. I live at 54 Entrada La Cienega and I have been sworn in.

I respectfully ask you to support the recommendation made by the CDRC at their March 20th meeting. They found that there was adverse impact. They found that there was traffic impact. They found visibility from I-25 and one of the major things was they did have water rights to support this application. The City of Santa Fe says that they have water, effluent water to sell to whoever wants to pull up their tankers and load up, yet in 2004 they made an application for the Buckman Wellfield and they were required by the State Engineer to provide offsets to the farmers of La Cienega and La Cieneguilla and they have refused to do that. Yes, they have water to sell to whoever wants to buy it. The County has a water dispensing station on Camino Justicia and that was built there and put there so people on 14 or in the surrounding area that did not have the extra water in their well, they could go there with a tanker, a 500 or 1,000 gallon tank and purchase water at a very reasonable price. It was never intended for a commercial operation to pull up a 10,000-gallon tanker and take two hours to fill up. That was not the intent of that and these people they think that that is what they can do and the County seems to support that. They have a letter from the County ready, willing and able to sell water.

This application needs their own source of water. They need to go to the State Engineer, make an application and transfer water rights to their site. They have a development here that has a life of 25 years who would build something for 25 years and then expect to run it on borrowed water. They need their permanent source of water.

The other thing is mining, this is not just a gravel mine. This is basalt. Basalt is a very hard stone. It's one of the – on the scale of hardness it's like number four on that scale. It's a very hard stone. It's just not something that you can start digging up. And, also they greatly exaggerate for the need for aggregate in Santa Fe. There is an abundance of aggregate in the City of Santa Fe, the Buckman Caja del Rio area has a big pile of basalt and along I-25 there's an abundance of gravel pits. There's so many gravel pits there they've already dug, all they're doing there by the San Felipe, Peña Blanca and I think they exaggerate the need for more gravel. Thank you very much. [Applause]

CHAIR MAYFIELD: Thank you, Mr. Gonzales. Sir, please.

CHARLES ZWIEBACK: My name is Charles Zwieback. I live at 218 Houses Road in Santa Fe and yes, I'm sworn. I'm going to make this relatively quick.

I'm delighted to be part of democracy in action. I am truly impressed by the amount of talent that I've seen in the audience: architects, engineers, professors that made excellent points. So I would like to make two suggestions. To the people of Rockology, all the rocks that you want you can get in Afghanistan.

CHAIR MAYFIELD: Sir, please.

MR. ZWIEBACK: Number two, the other suggestion is I would like to see you perhaps approve this outrage but with the condition that they pay, the limited partnership, \$100 per pound of water. That's about \$85 per gallon. I think that would take all of the fun out of it. And, I would like to see that happen. There's not enough penalty that they're paying for this water and you can make it a condition of this quote approval if you do that.

The 500 or 600 people that showed up for this hearing I hope that you are truly impressed by it and I think that these people deserve your best shot. Thank you. [Applause]

CHAIR MAYFIELD: Thank you. Mr. Kippenbrock.

RANDALL KIPPENBROCK: Good evening. My name is Randall Kippenbrock, executive director for the Santa Fe Solid Waste Management Agency that oversees the Caja del Rio Landfill. For the folks in the audience every one of the Commissioners has served on the Joint Powers Board for the Solid Waste Management Agency. Liz Stefanics is my Commissioner in the district where I live in. And I want to do two things. As I mentioned my name is Randall Kippenbrock I swore in earlier and I'd like to also swear in again as individual. I just want to give you some information that is related to Caja del Rio and the information that I heard tonight from the applicants. They indicated about 250,000 tons potential market in this area. For the past eight years that we have with the contractor, Delhur Industry, we sold approximately 440,000 tons. That's not quite – some years we're very lean. During the Great Recession, some of the better years it's below 100,000. However, for the next eight years which we approved last month we are anticipating about 110,000 tons supply agreement with the Richard Cook Company with potentially 50,000 additional ton through a smaller contractors and suppliers. Most of our materials are sold to federal FAA projects at the Santa Fe Airport, State Highway projects as well as City and County projects as well as the private individual.

The current stockpile that you heard earlier, the 1.6 million tons I've vowed to reduce it as quickly as possible and being in the landfill business only. Granted with the figures that I just mentioned earlier, it's about 10 to 16 years, potentially more. The terms of the operation with Delhur Operation currently there is one full time operator on the site Monday through Friday, sometimes on Saturday. That does not include the salesperson that maybe working also. Then during the crushing operation you may get three to four or more full-time temps whether it's for one week, two weeks, or a month at a time. They generally do that two or three times as needed per year. Very similar to what the applicant had said.

One thing we have in our contract the operation is done by electric motors not diesel that reduces emission and there's no asphalt plant, no concrete plant and so on.

Some of the things I would like to say to the Board for your consideration is as related to environmental need, I would recommend a double-L diesel tank for the AST rather than the lined pit. Dust can be an issue. And when I say dust, you can't control dust during high wind days, bad weather days. Generally, your air permit is geared toward your crushing operation.

CHAIR MAYFIELD: Mr. Kippenbrock, I think you're out of time. I have a few questions to the presenter. Are you here tonight as Randall Kippenbrock or the Director of Santa Fe Solid Waste Management Authority?

MR. KIPPENBROCK: The first part all as the director. I just had one small comments as an individual. Those two were separate.

CHAIR MAYFIELD: Thank you. We'll go back. Also, a couple of questions Mr. Kippenbrock as far as the director of Santa Fe Solid Waste Management Authority; what permits

have you received for the Caja del Rio operation from Santa Fe County?

MR. KIPPENBROCK: We have not received a permit there.

CHAIR MAYFIELD: And why is that?

MR. KIPPENBROCK: We're working with the Santa Fe County on that issue.

My understanding they are working with the new zoning map to correlate with the existing activity there.

CHAIR MAYFIELD: Thank you, Mr. Kippenbrock. We are now going to move over to the left hand side. Thank you all for your patience. Mr. Kippenbrock, you can come back at the end if you need to address any additional comments. Thank you.

MR. KIPPENBROCK: Thank you. [Applause]

CHAIR MAYFIELD: Sir, please.

ALAN OSBORNE: Mr. Chair, Commissioners, it's a blessing to have you represent us. It's a privilege to be here tonight and thank you for this opportunity. I know I'm under oath. My name is Alan Osborne. I've lived in Santa Fe County for 36 years. I've lived in Santa Fe for a total of 40. I came here to study cultural history. I studied with some of the most important scholars in the west. I remember very clearly in the Ken Burns National Park documentary one of our most esteemed citizens in this community for so many years, Mr. Stewart Udall, says so poignantly, you can destroy something of beauty in an eye blink. In an instant it can be gone forever. To save it requires generations – every generation – it requires to save that which is beautiful and that's a fact. When I went to school and studied with Hispano, Indio, peoples of the pueblos and the villages I came to learn that the first they do is thank the ancestors for the privilege of being here and then they look forward seven generations.

So what I want to do is just that you make a decision tonight. I plead with you to deny the application, the request for change, and I do so based simply on thinking of those ancestors who brought us here and the seven generations of our children and their children who will have to live in the world that are creating. [Applause]

Thank you so much.

CHAIR MAYFIELD: Thank you.

MARGARET KUHNER: Commissioners, my name is Margaret Kuhler. I am under oath. I live at 2800 Cerrillos Road and – I said I am under oath, yeah.

I oppose this application for economic, moral, ethical, health and aesthetic reasons. I have a degree in pastoral counseling. I am a licensed practical nurse and I'm a painter and printmaker and the coordinator of the Santa Fe Time Bank. These experiences inform my thinking on this subject.

I agree with most of prior speakers but two things I personally need to say again. I oppose this application because of the negative impact on the respiratory health of the citizens in northern New Mexico where asthma is a major health concern to have this increase in dust carrying toxic particles in unpredictable pattern of winds is just unacceptable and unconscionable in my mind.

Another thing that people were concerned about, the economic impact of this application and in this discussion and in the interest of the sustainable growth philosophy that is well known to be accepted by ever so many of us in this room. And the thoughts about competition as the applicant did mention. I would like to suggest that construction materials could better be met by developing in an industrial hemp industry, investing in the emerging recycling glass foam

building materials industry and utilizing recycled plastics. These alternatives to this proposal for economic and job creating benefits I think would provide greater opportunity. Thank you very much. [Applause]

CHAIR MAYFIELD: Thank you very much, Ms. Kuhler. Ma'am, please.

VIRGINIA MILLER: Good evening. Commissioners, thank you for listening. My name is Virginia Miller. I've been a resident of Santa Fe for over 22 years. I have been sworn in. I live at 125 Calle Don Jose, 87501.

I oppose this new gravel mine and please do not allow this mine or more mining now or ever on La Bajada Hill/Mesa. Please help protect La Bajada Mesa as the natural, historical, cultural, and ecological treasure it is. The mine's industrial operations would threaten public health and safety with the disturbed large mass of disturbed land on this dry windy mesa. One time as I approached the top of the mesa/the hill, there was a whirlwind of dust that came tearing across I-25 and it was very dangerous, we couldn't see anything.

But I am also concerned about the health. We must create conditions for health if we want to be healthy. Clean air is essential and this mine would create a lot of dust and I already cough and sneeze everyday and that would just make it worse in the whole area. So for myself and our whole community we must be careful – we must make – create the conditions for health which means clean air and this mine would be a detriment to that.

Also the still and beauty are values that we must not forget. They also provide for our mental and emotional health and are very important. So please deny this application and thank you. [Applause]

CHAIR MAYFIELD: Thank you, Ms. Miller. Ma'am please.

GAIL GILES: Hello, good day. My name is Gail Giles and I'm a citizen and resident of the Galisteo Basin. I live at 769 Camino Los Abuelos, New Mexico, 42. My view is one of the most beautiful in New Mexico. I see the Ortiz Mountains outside my front door. I moved there as an artist and a water activist. Today there were probably around 1:30, 2:00 the winds picked up very expectedly as they do here in New Mexico and especially in the outer areas of the County of at least 50, 60 miles an hour gusts. Now, I don't see how if these individuals aren't going to be on the premises for much of the time as they describe how they intent to keep the dust down when they're not there.

I'd also like to make a comment – oh, I also would like to say, I am under oath. And on the power point presentation under legal continued whichever page that was, there was a comment which was not discussed by the attorneys which said, highly, I quote, unlikely there will be any water shortages. That was rather convenient that this point wasn't discussed despite all of the discussion on all of the other points. For them to make some kind of a comment, which is an unconscionable comment considering where we are in our planet with global climate change, where we are in New Mexico with an extreme drought which is continuing and will not be abated despite the fact we may have time to time more rainfall or snowfall than normal. And I would like to add since I have a minute and 13 that my partner, Joseph Hemply who sitting here has ceded me his extra three minute if I need them.

Anyway I don't see how a company wants to come in for pure profit at the expense of beauty as if that is not commodity which we require on this planet. It is time for us to stop allowing corporations, especially LLCs which means limited liability. And if this company has on the market already before they even have a permit to sell this property then what is the net

gain for them. What have they – I mean, I don't even know what the price is. But if they're already looking to sell this property before they even started a business there it begs to question what is the ulterior motive? It's just the Gila Diversion projection which is fixing to come up and many of us will be on that issue as well where all of the commodity is going somewhere else besides here just like they were talking about the profits, the jobs, and everything. Six jobs is not enough to destroy La Bajada Mesa. Six jobs is not enough to take potable water which we may despise their belief that we're not in a drought situation for anything but putting gravel on the road. That will be the last thing that we will be needing to worry about is more gravel on the road when we're all thirsty. And this state and all of the west is dying and so I beg – I get enough three minutes. I may not need it all but I would like to express myself more.

Anyway, I moved to Galisteo as an artist and I want to speak in my next three minutes as an artist because that's a constituency of people that come here, writers, playwrights, actors, who come here for the beauty and who express that around the world through their paintings, their writings, their stories, their plays. That is integral part of New Mexico and our world and our culture and everything and to say that that doesn't matter. We probably have more artists here than any other type of industry in New Mexico but we're the unseen because most of us are underemployed or not employed because we're doing things which are not in the normal course of business and so we rely on the beauty. And we rely on the hearts and minds of the citizens and the human beings on this planet to see our art and to see what we have to express so that so that they can rise to their creative potential too.

And what that brings me to is that there's so much more potential for different types of industry and different types of sustainable businesses in New Mexico besides do more of the same which has caused the harms which we have basically sacrificed New Mexico – it's called the land of enchantment for a reason. And it's not the land of sacrifice and it should no longer be so.

So I ask you with all my heart as a human being on this planet to hear the nearly 1,200 people who showed up today in this room, not 500, that we ask you to follow your code of ethics as a civil servant. To follow your oath as Mr. Xubi Wilson pronounced today. That you have an oath to us and we ask you, deny this petition it is out of context with where our planet is going and especially for New Mexico. Thank you. [Applause]

ROSS LOCKRIDGE: Ann Murray has ceded her time as mine will reach around four minutes. I'm Ross Lockridge, PO Box 22, Cerrillos and I'm sworn.

I'm a current president of the Cerrillos Hills Park Coalition and the Coalition has long formally opposed all of the applications over the years to mine the mesa. It's disturbing, ironic, how applicants are using a New Mexico cultural property in their effort to zone this area for modern mining to accomplish what would essentially degrade a grandeur of cultural heritage. In their attempt to demonstrate a history of mining in the area they reference the historic Cerrillos Mining District, the CMD. The CMD defined as the state registry of cultural properties is not what's presented on the applicant's map figure 2 – I passed out that figure 2 – not even close. Theirs is labeled mines and mineral processing facility locations. The CMD is public information easily available at the State Registry. New Mexico is so old that signs of digging the earth are everywhere. Some are sacrificial lands. We will let you do it here if you don't do it there. That is I recall for the Waldo Quarry.

There is no history of mining on the mesa. With a few exceptions the mining of the

Cerrillos Hills ended around World War I. Exceptions a zinc smelter west of Waldo, 1918 to about 1928 and now a heavily polluted site. The railroads furlough attempt to make use of Devil's Throne and a late 20th Century gravel operation closed far out of compliance with its permit.

There's a long history of the presence of cultures of New Mexico in the area of CMD cultural property. Native Americans were in the Cerrillos Hills 10,000 years ago or more and a handful of Spanish colonial silver mines, turquoise before 900, Galena used lead glazed pottery from around 1320. The railroad, in 1880, brought easterners and a brief speculative boom – all of this heritage, almost all of the 19th Century and earlier is commemorated by its entry in the State Registry which makes it eligible under the Sustainable Land Development Code to be protected under a historic preservation overlay zone. The character of the area has transformed from its past and should not be portrayed otherwise.

La Bajada Mesa itself is one of the most important, if not the most important, geographical feature of the Galisteo Basin and historically of our state. It lies at the entry of both Santa Fe and the Cerrillos Hills Park lands and is mapped in the SGMP for its gateway attributes. The Cerrillos Hills State Park is located in this cultural property which again is not a mining zone as applicants would like you to think. The original designation of the Cerrillos Mining District in the 1880s was for the convenience of miners to sort out small claims and the district was already defunct in 1889. The mesa is directly visible from the higher elevations of the Cerrillos Hills. Trails from the park are in the planning to the highest elevations. You heard from Harold Grantham's testimony. The incompatibility of the proposed mine site would also occur along Waldo Canyon Road. The State Park's feasibility study identifies Waldo Canyon Road as the best future access to the parklands. At the current rate of growth of both visitation and volunteers it's thought it will be a few years before they're ready to receive the additional visitorship that promotion of this entrance will induce.

Under Article XI, the Commission has the legal discretion to deny this zoning application. For the good of the County, please have the courage to do so. Thank you.
[Applause]

CHAIR MAYFIELD: Sir, please. Please.

[Clerk Salazar administered the oath to John Herbrand]

JOHN HERBRAND: My name is John Herbrand and I live at 37 Paseo Cde Baca, La Cienega, Santa Fe, New Mexico. One of the reasons I came up here was because earlier you asked a question about the proximity of La Cienega to this mining area. And I think somebody gave you an answer of about a mile and three quarters. But I think that's not a real good correlation because in effect it's kind of like talking driving distances and Los Angeles versus Santa Fe and how long it takes you to get there. So I thought you should probably know this.

I live equal distance probably to this mine site and to the National Guard site on I-25 and that National Guard site has a shooting range and in La Cienega in the evening when they're shooting we hear that, that mile and three quarters pretty significantly. Enough that my dog takes shelter and you're talking about a mining application that talks about explosions, explosive devices – you will be hearing that in the residential areas of La Cienega, Silver Hills, and other areas regardless of what people say because it does travel in that area. And they are equal distance.

The other thing I was going to tell you, this last week I was coming up from Albuquerque

and we had that rainstorm that came into Santa Fe and there were rainbows that came literally right across the Cerrillos Hills, the Sangre de Cristo mountains and there were probably about 30 cars pulled over to the side of the highway and motorcycles as well and they were all taking photographs. And right next to where all of these people park is the property that they're talking about. Those people were standing next to a sign or not far from a sign, that is adjacent to this property that says, next five exits museums and historic areas. And, I think for your sake and the community's sake we're talking about some people who bought a property here and as a speculative adventure and sometimes you win and sometimes you lose. But in this case that sign is next to their property. They knew what they bought. They knew it was zoned residential. They now that the area had – I didn't realize I was at three minutes.

CHAIR MAYFIELD: You can still speak after everyone else. Please.

MR. HERBRAND: Sure. [Applause]

DANA MAIBEN: Hi. Thanks for being here. It's a long haul for you guys as well as us. My name is Dana Maiben I moved to Cerrillos not quite a year ago. And in the interest of full disclosure, I do not yet vote in Santa Fe County but I will. I am under oath.

The things that I've noticed in the course of the two hearings that I have attended include things like a little bit of ambiguity in the law. There is a new code that is not yet in effect. There's an old code that gives provisions for general welfare and counsel for the petitioners has I think assumed too much under that general welfare rubric because that old code also includes health, safety, morals not and general welfare, but, or general welfare and I think that gives you guys a big responsibility and also an opportunity when there's that kind of ambiguity you have the opportunity and I think the responsibility to look beyond what the law covers because the law doesn't cover every single possible situation and circumstances that is going to come before you and I think this is a perfect example of that. There are many, many people who would be affected adversely by the presence of any kind of a mine on La Bajada Mesa and I think particularly this kind of a mine which uses a lot of water, creates a lot of dust which the water is not even necessarily going to contain. It's a health hazard because basalt is very bad for your lungs. It's a safety hazard because of the dust. Everybody who has spoken has addressed one or another of these issues. My own personal concern, I'm a musician, I love the quiet. I can't stand the idea of these blasts going on and then waking up to coughing from basalt – it's just not healthy for anybody. And the runoff from the site and damage when the basalt is gone to the water table – I think the reasons are compelling, really compelling to deny this petition. Thank you very much. [Applause]

CHAIR MAYFIELD: Thank you. Is there anybody in the audience who hasn't had an opportunity to speak yet? Please.

GAIL KARR: Yes, my name is Gail Karr. I live at 100 Rancho Alegre Road in Santa Fe County. I'm pretty close to where this proposed strip mine will go in. I have been sworn in and I have some different note that I'll be reading from or trying to put together after hearing what everybody else has said. Basically, what I realize that we all take it for granted how beautiful a place we live. And we forget how outstanding it is all the time. And today is perfect day to have a hearing about this mine because we got to watch dust blow and lose our visibility of the mountains so fast, it's just incredible when the dust blows. It's like being sandblasted out there. I live I Rancho Alegre which is the closest subdivision to this proposed mine and I'm really against it because it will destroy our way of life, totally. This has become an

area of a neighborhood – I specifically moved here because it was quiet. I’ve lived in the area for over 40 years and I sat on this land for a long time before I decided to buy it and build a house because I wanted someplace quiet and against what people have been saying about no complaints about the noise, everybody, when there’s a blast they got on email and everybody says, What was that? Nobody knew there was a place to complain. We just kept getting upset. I mean, it really gets scary because the sound travels really far with the wind. On a quiet day when I bought it I knew I could hear the old train way in the distance and I knew to expect that. But I didn’t expect more blasts coming from this area. I mean who could have anticipated this years ago. It just will destroy the peace and quiet that we have in the neighborhood. I mean, when a plane flies occasionally, it shakes the houses. Nobody has talked about the impact of these blasts on the old adobes and sites.

Okay, the other thing is that since this has come up real estate isn’t selling out there. Nobody knows what is going to happen next and so the market in some places has gone for less than half of the asking price. That really impacts the economy for the whole County once you lose the real estate values. And, also, I know that this is a really visible area because I get off of I-25 right by –

CHAIR MAYFIELD: Thank you. So right now is there anybody else who hasn’t had the opportunity to speak that – Sir, right now I’m just going to go over here really quick. Is there anybody who has not had the opportunity to speak that would like to speak? Come on up please.

PETER CHRISTENSEN: My name is Peter Christensen I live at 7 Bethlehem Hill, Madrid, New Mexico. I have been sworn. I stand tonight in opposition of this proposal of this mine at La Bajada. It looks like we’ve got about one more hour that we can be in this room and I just respectfully ask – thank you for your service, esteemed Commissioners, and I ask and I strongly ask that you make your decision tonight. We’ve all including the applicants waited long enough to hear what is going to happen to La Bajada. I ask that you make a decision this evening. Thank you very much. [Applause]

CHAIR MAYFIELD: Thank you. So everybody knows, this is general protocol, the applicants are going to have an opportunity to have some rebuttal and these five Commissioners up here have an opportunity to ask additional questions of staff and/or the applicants. So if we can have that within an hour; we’ll soon find out.

So, as long as nobody – I’m just going to go back to the audience. Has anybody who has not comments care to provide any additional comments? Okay, then we are going to go back to our second round and we’re going to limit everybody to three minutes again, please.

MARIANNA HATTEN: I will finish I 20 seconds. I just wanted to say – Marianna Hatten is my name again.

CHAIR MAYFIELD: Ma’am –

MS. HATTEN: I’m sworn.

CHAIR MAYFIELD: -- will you just state your name again for the record.

MS. HATTEN: Marianna Hatten.

CHAIR MAYFIELD: Thank you.

MS. HATTEN: All right. Let’s move forward with this. I heard some discussion earlier about well, maybe we should table this – moratorium, a year – there’s no reason for that. This is the applicant’s third time. Third go around at this attempt to mine gravel which is

blasting the heck out of La Bajada so I beg you please let's have the vote and please vote no.
[Applause]

JOANNA CONTE DURHAM: Hi, again. I'm JoAnna Conte Durham. I stood for the oath and since we're so close I was going to finish my story. So where I left off we were talking the impact of the animals, the businesses in the hills, the horses and us being so close to the blasting rocks and the light pollution. Many people have talked about the noise pollution and the light pollution and the foreign materials that are going to the earth, and the treated water that is going into our water and along with being on Highway 14 my family, as I stated before owes 40 acres west of the proposed mine off of Waldo Canyon and on this land as a professional helping profession, art as therapy, I use this site for the health and well being of our community, for the emotional and mental needs and balance of our community. I use it for eco-psychology, which is reconnecting people with nature. And it is a legit road. It is a signed road. It is called Camino Irrevichi and the sign has been sawed off but many people use this for mining and future residential places.

So, please we are the stewards of the earth and the animals and the health and the beauty of our future, please choose the people. Please honor our unique community. We survive on the land. We love the land. Keep Cerrillos wild, please. We honor our land. Honor our voices. Honor the residents and the citizens. Honor the native cultures and their prayers. Please, honor our life. Thanks. [Applause]

CHAIR MAYFIELD: Thank you.

MARIA DE ANDA HAY: I'm Maria De Anda Hay. I just wanted to make two points. One is that, you know, the basis for denying an application in the current code states that if the BCC determines that granting a new mining zone would adversely impact the health, safety or general welfare of the community then that is a basis for denial. I think all the testimony given here tonight is a basis for determining that the general welfare of the community would indeed be adversely impacted by a mining zone. The other point that I wanted to make is that if the BCC denies the application a Sustainable Land Development Code will take effect once the zoning map, as well all know, is adopted. In that case they would have an opportunity to come before you again with a new application I suspect under the Sustainable Land Development Code. We spent four years both as CDRC and as the BCC and as the community as a whole developing the principles as to how we would develop a sustainable community and it seems to be that sets the public policy for the County. We did it through the Sustainable Growth Management Plan and we've done it through the Sustainable Land Development Code

There are just two provisions that I want to point out which I discussed earlier. And that is that the Sustainable Land Development expressly reserved two sections related to sand and gravel extraction. They're section 11.3.2 that relates to sand and gravel extraction and 11.3.6 that relates to sand and gravel extraction with blasting. And what the code says, is that pending subsequent amendments to the Sustainable Land Development Code which would require such activity be regulated as they development with countywide impact. Clearly, this type of mining zone and operation has countywide impact and I think you've heard that tonight with the testimony that comes from throughout the County. It doesn't just impact one area. It doesn't just impact one part of the community. It would impact the entire community and that seems to me to be the appropriate way to handle these types of requests, thank you. [Applause]

COMMISSIONER ANAYA: Thank you, Ms. De Anda. Go ahead, ma'am.

GAIL KARR: Yes, my name is Gail Karr. I just want to talk about some of the economic impacts. I take the Waldo exit when I get off of I-25 and I got past that cell tower and I look back on that land where they're proposing this mine to be and I know how visible it is when I look there and from on own experience in doing construction I know that this building site, that that building is going to look a lot bigger than those poles do once you get a solid wall up.

The other thing is that it also – we're working on economic development in New Mexico and we have a visitor's center right there. That looks back and will hear every boom from blasting and this is not someplace you want to go on vacation, in fact, it may resemble or be worse than where you came from. This is very bad for our economy which depends on tourism and then there you are making a movie and it's all set up and ready to go and then there's a blast right in the middle of. No director is going to want to come back and blow their money here anymore. That's just a fact.

We need these other industries. We don't need dirt anymore, thank you. [Applause]

COMMISSIONER ANAYA: Go ahead, Mr. Graeser.

MR. GRAESER: Thank you, Mr. Chair. I'm kind of amazed there was not a single person in support. I don't know that I've ever seen that.

In 2005 the applicant submitted the same application. Staff recommended denial. 2008 the applicant submitted the same application, staff recommended denial. And with regard to water, it's clear what changed. In 2005, the County hydrologist said the water sources are not sane water sources that they're proposing; water source is inadequate, recommend denial. In 2008, different County hydrologist, still trucking water, said water source is inadequate, recommended denial. Tonight, no County hydrologist recommendation. No indication that this was ever sent to the County hydrologist for review and we did submit a letter requesting that the County hydrologist should review that for that exact reason.

The second aspect is a County planner specifically looking at historic, cultural and visual impacts, 2008, senior planner Arnold Valdez reviewed this; recommended denial. And I'll quote, Clearly, La Bajada Mesa is a significant historic, cultural resources that embodies the early Spanish Colonial historic road alignments amidst a fragile, ecological setting. Extraction of construction aggregates within La Bajada Mesa will degrade the integrity of the historic landscape. Because of its open landscape, vast panorama and pronounced topography, the scenic quality of Santa Fe County as a whole is very vulnerable. That means the extraction of construction aggregates within La Bajada Mesa will easily degrade the County's scenic beauty. With that recommendation by a County planner specifically looking at historic, cultural and visual impacts 2008, no indication that a County planner superficially looking at those areas made a recommendation tonight. And I submit that it would be arbitrary and capricious to have those reviews, have them come out negative and then just simply ignore the possibility of those reviews next time around.

Representative Garcia Richard could not be here but she did want me to convey, Commissioner Stefanics, that her district is 1.4 miles from the mine site. Thank you. [Applause]

CHAIR MAYFIELD: Again, we're going to go back to our public hearing. Is there anybody else who would care to provide any testimony here tonight in front of the County Commission? Seeing none, this portion of our public hearing is now closed.

We're going to move back to our applicants, please. Do you care to provide any rebuttal?

And, if so, Mr. Siebert, how much time do you need, please?

MR. SIEBERT: Oh, about a minute.

CHAIR MAYFIELD: Thank you.

MR. SIEBERT: Maybe less. We were anticipating some of the concerns and objections and those were actually listed in the power point. So I'll just simply refer you back to the power point. Thank you.

CHAIR MAYFIELD: Thank you, Mr. Siebert. Mr. Domenici.

MR. DOMENICI: Thank you. I would need about five minutes, please.

CHAIR MAYFIELD: Please.

MR. DOMENICI: I want to thank all the public participants for all of their courtesy and politeness to Mr. Siebert and myself as the only two proponents here. We were quite outnumbered and we appreciate the politeness.

I want to just hit on a couple of points. First of all, we had statements from the manager of Caja del Rio. The problem with Caja del Rio and the reason they have so much material stockpiled is the quality is not suitable. And that is what Mr. Hooper's testimony indicated. It is a much more limited quality and its use is much more limited. So it will be stockpiled for a long time. But the material that it is not sufficient for continues to be trucked in either provided by the Waldo Quarry or trucked from Algodones. And the Algodones pits are running out and are closing so we're looking at losing that source and I think we are going to need a source for Santa Fe to keep aggregate affordable for these construction that is anticipated by the various plans that we've discussed.

With respect to water, respectfully, I would indicate that when someone goes to open a business in the City of Santa Fe they don't have a water right. When someone goes to build a house and put a 30-year mortgage on it, they don't have a water right. They hookup to a utility. That is exactly what my client is doing here. They are no different. They have met the requirements for the life of the mine by having a certificate from the County that water will be available to them for that life. So I suggest that that is somewhat of a red herring that there is not a sufficient and adequate and reliable supply unless we want to start telling businesses when you hookup to a utility or homes, when you hookup that you have to go do something unusual or other county entities that use the same certificate as my client has to get approvals through the same zoning process. They may not reach the Commission and an issue may not be as controversial but other applicants use the same protocol. So the water availability, in my view, is a red herring. [Audience grumbling]

CHAIR MAYFIELD: Folk, if we can let Mr. Domenici finish, please.

MR. DOMENICI: The issue of general welfare I think is really the nub of this case. I know everyone and there's a lot of expertise here and a lot of discussion about other issues but just to touch on one or two. There will be a stormwater pollution plan that will be approved by the State and the Federal EPA that will take care some of the concerns regarding water on and off the site, surface water. So there are a lot of protections, I think. And I think there's been very little testimony or evidence of any true health or safety or moral concerns. So I think we are moving toward a general welfare provision. And the issue of a general welfare provision as I've heard it tonight is that generally speaking a general welfare provision is to prevent a nuisance. That's where it has been used and upheld is when – [applause]

CHAIR MAYFIELD: Please.

MR. DOMENICI: I'm not sure what the purpose of the clapping was. But a nuisance, generally a nuisance is different than an aesthetic concern and you're being asked to blend those two. And I understand and the audience is asking you to blend those two. But I just want to let you know that is not typically how general welfare provisions are used which is to put an overlay of an aesthetic on top of a proposed activity. It's to look at more concrete defined impacts in the vicinity just as the staff looked at in their report. And that's why I wanted to reiterate, bring that to your attention earlier so you would have plenty of comments from the public but I don't think any of those have really strayed from the fact that there's an effort to work your general welfare protocol from what it has typically been upheld as a direct nuisance to an approximate property owner to an aesthetic type of value and that's where we're heading with this case. It's a difficult decision because of that.

My last point, is the economic discussion I think has included a lot of speculation. And I know one gentleman indicated that I was being arrogant for asking for cross-examination, in my business cross-examination is the foundation of due process. So I didn't mean to be arrogant. I meant to indicate that is how you get the truth in a hearing just like this. And we don't have that opportunity because of the number of people. But, certainly, cross-examination would indicate many of the economic concerns may be some well founded by the individual but I don't think they are based on merit and they are speculative.

So I think when this all boils down to what you're looking at and what you're going to be asked to decide is the general welfare provision, perhaps a little bit look at compatibility but I don't think is nearly as broad and is intended to give nearly the type broad concerns that the opponents have asked for. And whether one of those two criteria is a grounds to deny this application.

And I would stand for questions and I'm sure Mr. Siebert will too.

CHAIR MAYFIELD: Thank you, Mr. Domenici. So I'm going to go to my Board here. Commissioners, do you have any questions right now?

COMMISSIONER STEFANICS: Mr. Chair, I'm a little concerned about the time. If we wanted to go into executive session to ask our attorney some questions I believe we would actually run out of time before we leave this evening. And so I'd like to know what the rest of the Commissioners would like to do.

[Audience: Vote Now]

CHAIR MAYFIELD: Sir, please. Vice Chair Anaya.

COMMISSIONER ANAYA: Excuse me, sir, I didn't hear that. Say it again? Who said that? Go ahead, I'm listening.

AUDIENCE MEMBER: Vote now.

COMMISSIONER ANAYA: Well, I'm going to make some comments. Thank you for repeating it.

I have 19 different things that I'm going to raise questions on, clarity on that I'm going to get from staff, from our legal counsel as well as other perspectives. But I'm not going to go into those 19 items right now because I would concur with you, Commissioner Stefanics, one of those things is going to be questions for legal and deliberations and feedback before I make a determination from my perspective.

But I will go to one of the items. It's item 18 in front of me. I have in front of me sitting in this packet 1,093 pages of information that we've received relative to this particular land use

case. That includes testimony of two hearings that were conducted by the County Development Review Committee. That includes all of the comments tonight that I greatly appreciate and respect that everybody made that I made numerous notes on as the discussions transpired and made the comments that I'm going to raise questions to at the appropriate time. That also includes in addition to those 1,093 pieces of paper in this document in front of me another inch thick of additional documents provided by many of you sitting in this room that I'm being asked to review and consider and deliberate upon before I render a decision.

I heard many things in today's discussion over the last six plus hours and I quietly listened to all of those items with the exception of maybe a few when I was walking back in from taking a brief break.

I heard discussion of morals, ethics, constitutional responsibility, representative of the public, determination of general welfare, protection of health, safety and wellness to name a few of the key items that came about. And I'm going to respectfully say to you in line with what Commissioner Stefanics is suggesting relative to the time that I'm not going to deliberate 1,000 plus documents of paper, plus this inch thick of additional documents in 45 minutes and render a decision tonight. I don't think that would be fair to the public and I don't think that's fair to any of the policy makers sitting on this bench to evaluate and take those items into consideration especially given the fact that there are additional questions that I have that I'll raise in a public setting as well as some legal questions that I'll raise with our County attorney.

So, Mr. Chairman, members of Board that's my perspective going forward. I believe we have had an extensive process of public hearing and input. I believe the County has gone above and beyond the call to make sure that not only were you able to come make comment to us and provide the great testimony and many factual items and many interests of the entire community but we provided an appropriate venue to do so.

I think now it's time for this Board to have the opportunity to adequately take in the many pages that we have in front of us, not only the pages in front of us but the testimony that's been provided here today to be assembled so that we can appropriately and adequately review that information before we render a decision.

So I respect that many of you would like to end this today and have a decision today, but with all due respect to what you asked of us as elected officials, I ask you to respect our opportunity to deliberate and review the documents in a fashion that's appropriate, that's moral, that's ethic, that's constitutionally responsible as representatives that we sit here for Santa Fe County.

That said, I'm going to look, Mr. Chairman, if I could, to you, Mr. Shaffer, relative to the public hearing. We've closed the public hearing process how is it that we would do this? Would this be similar to other land use cases? Let me ask this first, there was some reference to other land use cases, I think, Mr. Graeser, you referenced some other land use cases this Commission has had. Typically, you have an applicant and then another directly affected party in the land use case that becomes two entities. You mentioned UDV, I'll use that as an example. How does the County, Mr. Shaffer, how do you we as the Commission, you know, we closed the public hearing but how do we assure that we afford full transparency associated with discussions and deliberations given that we're talking about one applicant and we had hundreds of people here? How do you afford and assure that we maintain that transparency in that fair treatment of time given that we don't have two – an applicant and somebody objecting to it as one as we normally

do with land use cases, if you know what I'm asking?

MR. SHAFFER: Mr. Chairman, Commissioner Anaya, I think if I can rephrase the question back to you, you're wondering what the road ahead would be from here in a way that would allow the Board to deliberate and then render a decision in a transparent manner; is that the question?

COMMISSIONER ANAYA: It is and also comment as to if, obviously the applicant is going to have opportunity to provide response to questions that potentially might be raised by us. We would raise questions to individuals that have made any testimony or are we merely deliberating on the information that we have before us and any clarifying questions that we may have that we would address publicly, I guess is what I'm asking.

MR. SHAFFER: Mr. Chairman, Commissioner Anaya, I think that if you are going to want to have additional factual information to come into the record and to become part of the record upon which the Board bases its decision, you would be looking at continuing the public hearing and requesting that specific factual information be brought back to the Board. I think that would be the motion that you would be looking at making with perhaps some direction to staff to gather the information you're desirous of and providing a limited opportunity for additional comment on those specific points. In other words, it would not be another open, free-for-all public hearing. It would be limited to the specific things that you ask for follow up on, that's if you want additional factual information to be part of the record upon which you base your decision.

If you're satisfied with the factual record that's been presented both before the CDRC and here, well, then you're looking at a different process which would involve deliberations of the Board and a properly called closed session. And in terms of the final decision, that would be a written decision which would be adopted in a public meeting. Does that answer your question, Commissioner?

COMMISSIONER ANAYA: Mr. Chairman, Mr. Shaffer, given the time of the evening how would we – so a motion would be in order to postpone the public hearing to another date certain to be able to, in my opinion, obtain the additional information that we may request as Commissioners and also have an opportunity for the information that we've already been provided to be continually reviewed by the Board of County Commissioners. So is that an accurate representation of what should transpire going forward?

MR. SHAFFER: Mr. Chairman, Commissioner Anaya that is correct. If, again, you want to hold the record open so that additional evidence can be brought in.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. That's all I have right at this moment. I defer to my colleagues.

CHAIR MAYFIELD: Thank you. I hope every Commissioner can have the opportunity to provide a little bit of comment before any motion is made tonight. With that, Commissioner Chavez, do you have anything?

COMMISSIONER CHAVEZ: The only thing I want to add is that I just want to thank everyone that has stayed this long. I want to thank all of those that were here earlier and had to leave. I know it's a long process. It's very frustrating sometimes because you wait and I think that some people left early because they felt that the process was just too cumbersome and they were not able to stay long enough. So I want to thank all of those that were here earlier that had to leave and thank all of those that stayed this long.

I concur with Commissioner Anaya. I know that many of you want us to make a decision tonight. I have maybe three or four questions. I don't have maybe the 19 questions that Commissioner Anaya has but I would be more comfortable processing the information a bit longer, not too much longer, but I don't want to do anything in haste. I want to think about it. I want to be clear in my decision and fair to the public. So I would ask for a little bit more time to understand the information that is in front of us, deliberate the issues, get some legal direction from staff and then move forward. Thank you, Mr. Chair.

CHAIR MAYFIELD: Thank you, Commissioner Chavez. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. First, I also want to thank all of you who were here and all of you who spoke tonight. I know that everyone of you essentially spoke from your heart and there was a lot of really good information too that I learned.

I am actually ready to vote but having said that I realize that this is a very important decision that we are making. And, in fact, it is a precedent setting decision. So out of respect to my colleagues I think that it is important to us to be able to ask all of our questions too. To have discussions, to be able to ask our attorney questions and to make sure that whatever decision that we make is very carefully framed because that's in all of our best interests to do that.

Thank you, Mr. Chair.

CHAIR MAYFIELD: Thank you, Commissioner Holian. Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair. I was prepared to make a motion and as Commissioner Holian indicated out of respect for my colleagues having their questions answered, I'll defer.

CHAIR MAYFIELD: Just my brief comments. I want to thank all of you for public participation. I think it is essential. I also want to thank our staff tonight for all your work and your efforts that you have put into this. Without our staff this would not be possible tonight. And, also, I just want to thank my colleagues for time and patience.

I too have a few questions I'd like to ask. I don't know whether they'll be answered within a half an hour. And for all I know, Commissioner Anaya and any of my other Commissioners may ask the same question that I'm thinking of asking. But I have some questions of the applicant and I also have some questions of staff. One quick question I'm going to ask because I want this to be stated, this is the first time any such application has ever come in front of me on the County Commission pertaining to this entity. So what is the general process and I know we had a couple of reports that this is the second or third time this application has come in front of the Commission. Maybe it was denied in the past – I don't know if it was five years ago, ten years ago, but can you just do a general statement of how applications if they are either approved or denied how they can come back again in front of the Commission, please. And if that's Mr. Shaffer, if that's the case manager Larrañaga, or whoever could answer that please.

MR. LARRAÑAGA: Mr. Chairman, in '05 this application was submitted to the County. It was withdrawn by the applicant. And in 2008 it was also withdrawn by the applicant. So the application has not been heard by the Board.

CHAIR MAYFIELD: Thank you, so I just want our listening audience to know that also. This is the first time the Commission is hearing this. And as was stated previously and

I won't try trend anywhere that's been stated but this is very important for all of us to make a decision and we don't want to make a hasty decision. I don't want to do that. It's been a long evening and there is a lot of information as stated that needs to be digested. Your great comments also need to be taken into account. Respecting the applicant's rights to process need to be taken into account. So, again, I appreciate your patience. I also want to acknowledge our local law enforcement from both the Santa Fe County Sheriff's Office and the City of Santa Fe that were here tonight and I just want to thank all of you for your public participation and affording us the process.

So, with that Commissioners, I am going to go back to our County attorney, Mr. Shaffer, I believe there would be need for executive session on this matter. I don't think that there would be time permissible tonight to do that. Can we hold this in continuance where we can have an executive session meeting at the BCC under the notice. And then could we go back out to a formal hearing on this again. And if you could try and give me some general timeframe so the individuals that are here and/or those who have left. I know we still have media accounts here tonight so we can just have a general understanding of when we will be addressing this.

MR. SHAFFER: Mr. Chair, again, I believe it depends upon what it is that the Board is desirous of doing. If at this point the record is closed and all that is left to do is deliberate and render a decision that's going to define one path. If you're going to want to potentially have additional factual information come into the record upon which you base your decision then my recommendation and suggestion would be that you pick a concrete date that you could announce this evening as to when that would be for that purposes. So, again, I think it depends on what it is that the Board is desirous of doing.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIR MAYFIELD: Thank you, Mr. Shaffer and Commissioner Stefanics, my suggestion would be that we continue at our next land use meeting. Commissioner Stefanics.

COMMISSIONER STEFANICS: I was just going to ask the attorney, Mr. Chair, what kind of notice has to be given for continuation? For example, do we continue this week?

MR. SHAFFER: Mr. Chair, Commissioner Stefanics, I think if you are continuing and you're announcing it at the meeting you have some flexibility. However, I think we need to be mindful of space requirements as well as other scheduling issues. So I think if you're prepared to set a date certain you have some flexibility but, again, I am not mindful of everyone's schedule nor the space restrictions that might be applicable.

CHAIR MAYFIELD: Commissioner Stefanics, does that answer your question?

COMMISSIONER STEFANICS: That answers my question for right now.

CHAIR MAYFIELD: Thank you, I'm going to go back to Commissioner Anaya, please.

COMMISSIONER ANAYA: Mr. Chairman, I'm going to read in some of comments. That might help you help us determine response and the questions that I have associated therein. So I'm just going to go through them, if that's okay, Mr. Chairman?

CHAIR MAYFIELD: Please.

COMMISSIONER ANAYA: Is that okay?

One of the things that there was a lot of discussion about tonight, a lot of different maps and perceptive relative to proximity of homes and roads. I would like our internal team at the County which I know they can do in an efficient manner, to provide a review of the maps in

proximity to homes and communities, including but not limited to La Cienega, La Cieneguilla, Cerrillos, La Bajada, and Madrid. That's one.

There have been comments relative to the regulatory responsibility and requirements associational with mining and a connection to our Land Use Development Code that's in play. I would like a review by yourself to provide clarity as to the regulatory framework by which we are going to make this determination and this decision, including the regulatory framework of the State of New Mexico that also comes into play based on the packet and the information that I've taken in this evening.

Stephanie Garcia Richards State Representative and others made specific comments relative to water and specifically relative to contested water and whether or not the use of City effluent water is in play or could be used and even questions relative to County water. So I would like to have a public reading of the County policies associated with the use of our water at the location off of Highway 14 that's potable and I would also like a more definitive analysis of the City water and what it -- what you have to do associated with attaining that effluent water by [inaudible] water.

I heard references to business. We had several cases at our land use meeting yesterday and in prior cases about review of businesses in proximity to land use cases, I would like to know what are the actual businesses in proximity to this particular site and I would say 15 mile radius.

Did we ask for formal feedback from the pueblos of Cochiti and Santo Domingo? I would like formal feedback from the pueblos of Cochiti and Santo Domingo. Did we ask for any formal feedback, Ms. Ellis-Green or Mr. Shaffer or who would appropriately address this? Mr. Larrañaga?

MR. LARRAÑAGA: Mr. Chair, Commissioner Anaya, no we did not.

COMMISSIONER ANAYA: I request that. A thorough analysis of potential litigation. This is something that has come up as part of the discussion tonight. I think our chair and several of my colleagues have mentioned this. A review of what those potential litigations might be. This is something that I would agree with the Chairman that this is a discussion we'll probably need to have in closed session.

A breakdown of gross receipts was questioned tonight in the hearing as to the accuracy of the gross receipts that would be taken in. I would like our internal staff to give us a breakdown of what the gross receipts is keeping in mind that there's a benefit of gross receipts in any business not even this particular business, beyond what the County retains. So I'd like an evaluation of gross receipts that can clearly and simply be transparently delineated associated with this particular project.

Relative to Santo Domingo, there was a reference to mining and location of mining in the region. Santo Domingo has a mine. I'd like to know how large that mine is and what they mine out of that mine. I have a general idea but I'd like to know specifically what they mine and how large that mine is.

I already mentioned the use of -- and I rewrote it again -- but I already mentioned wanting clarity on the use of effluent water and how a business or an individual accesses that effluent water.

There's been numerous comments that we heard tonight that talk about the viewsheds beyond the scope of the immediate area of the project. I think we should attain additional

information associated with viewshed outside of the realm of the immediate area of the facility. So the Ortiz Mountains was referenced today as an area associated therein so, I'd like some feedback on that.

I guess I would like to know from legal and I don't know if you could provide it today or would provide it at the next hearing, there was commentary associated with the cost of land and the increase cost of land associated with what occurred on the mesa. I'd like to hear from our legal staff as to the relevance of that to this particular case if there's any?

I just wrote a comment and this is more of a commentary than a question but I understood, and maybe this is for the applicant, but I understood in the reviewing of the packet that the improvement of the road is part of the process and there'll be an overlay. Did I hear that correctly, on the road, Mr. Siebert?

MR. SIEBERT: Mr. Chairman, Commissioner Anaya, yes, it's one of the conditions of approval of the project.

COMMISSIONER ANAYA: Thank you, Mr. Siebert. Just a few more.

There was numerous comments as to the sale of the property. I would like feedback on if this property being marketed? Or let me just ask it? Is this property, Mr. Domenici or Mr. Siebert, being marketed in its entirety 5,000 + acres on the international market for aggregate use? Does either or you want to respond to that?

MR. DOMENICI: My understanding and we could bring the listing agent, but I think the listing information you have is correct. I don't think -- I don't have knowledge that it's actually being promoted as 5,000 acres for mining purposes but I think the listing that indicates the reserve information is that is what the listing says.

COMMISSIONER ANAYA: Okay, thank you, Mr. Domenici for saying that on the record.

I already mentioned that I'd like to see what our process is for selling water either for residential purpose or commercial purpose. Mr. Gonzales brought that up and I think that's something that I would like to have clarity on as to what people afford to the public -- or what people have to do to buy our water essentially.

So I requested the information, Mr. Shaffer, those are the items that I'd like to get some feedback on. I'm going to absorb and take in that information and may raise additional questions if necessary. I'm going to review the transcripts of this meeting and I also am going to request a closed session to have other deliberations. So at this time, Mr. Chairman, I don't have any other comments. I do not think a few days is enough time to absorb everything that has to be done as well as provide staff the opportunity to provide comment so I'm amenable to your recommendation of the next land use meeting to reconvene.

CHAIR MAYFIELD: Thank you. Commissioner Chavez, please.

COMMISSIONER CHAVEZ: Thank you. Thank you, Mr. Chairman. I want to follow up on just one point that Commissioner Anaya brought up. It's a big point. It's the point of water and whether it's potable or reclaimed water. We do have, Commissioner Anaya, in our packet information from the City of Santa Fe Wastewater Management reclaimed water, it's a fact sheet on reclaimed water. On September 13, 2000, Santa Fe City Council amended Stage 3 emergency water shortage requirements to prohibit use of potable water from fire hydrants for construction purposes. Construction projects were directed to use reclaimed water from the City's fill station. But the dispensing of reclaimed water for application to any area on an

ongoing basis, rather than temporary or intermittent shall require a groundwater discharge permit pursuant to the New Mexico Water Quality Control Commission regulation 3104. And, so, I don't know if this project has gone through that formulated process but it does state that the uses are limited to the temporary or intermittent uses and I see this more as a long term use. But I think your question goes a little further and we can ask that question and bring that information back again for both effluent water for both the City and the County.

So I do appreciate you bringing that up. We have some information but I think we can expand on that. Thank you, Mr. Chairman.

CHAIR MAYFIELD: Thank you. A couple of questions I do have and I'll be brief because we've got to be out of here in 10 minutes. So one of handouts that was given to me of Mr. Graeser, I believe it was Mr. Graeser who handed this to me, is a property overview. And as I am looking at it includes 5,200 +/- acres of rich aggregate deposits for possible mining. So looking at the application and how the application has come to use and also looking at how this is being advertised and/or who it is being advertised to, I'd like a little more clarification from that. And I would ask that the applicant and/or staff I would appreciate having some of that come to me at the next meeting.

Also of staff because it was either alluded to or stated on several occasions tonight that our water policy, that there will be if this does go forward and does go through that there's going to be water afforded – if the City can't deliver the non-potable and we are delivering the potable, then it would be afforded in perpetuity. So I want to see where our policy states that, if it does state that? That would something that would be very beneficial to me to look at.

And for now I think that that is all I have in respect of time. Commissioner Anaya, please.

COMMISSIONER ANAYA: Mr. Chairman, respecting all of the comments, I'm going to move to postpone the hearing, Mr. Shaffer. I'm going to move to postpone the hearing taking into consideration the request to the next land use meeting in July.

MR. SHAFFER: If I could, if we could just get the specific date. So, Commissioner, the specific date for that land use meeting July 8th which I think should be included in your motion. And, I would respectfully suggest that you include within that motion that the continued public hearing would be limited to those factual matters. As you said there's a mix of your list there, things that were legal that would be privileged advice to the Board in privileged communications but that the continued public hearing take place on July 8th and be limited to those factual matters that you had identified.

COMMISSIONER ANAYA: Um, Mr. Chairman.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIR MAYFIELD: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you. Is Penny here? Ms. Ellis-Green, how many land use cases will we have that day, do you have any idea?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Anaya, it looks like we have the Elevations case which has been quite a controversial case. That's due to come up and two to three smaller items on the agenda as well.

COMMISSIONER STEFANICS: Okay. So, Mr. Chairman, I would recommend that if we are moving this to that date, that we adjust the time the time, our start time instead of 2 o'clock perhaps starting at 10 in the morning or 9 in the morning so that we can really handle

this case and the other land use cases that will be on our agenda.

CHAIR MAYFIELD: Commissioners, is that okay?

COMMISSIONER ANAYA: Mr. Chairman, on you on because you might have a conflict.

CHAIR MAYFIELD: Just respecting our audience and my colleagues, I have been putting off a medically necessary appointment for my son for some time and I will be attending out of state and I just have to see that schedule and get with my wife. So I may have to call in telephonically which I've been known to do in the past – just so everybody is cognizant of that, wherever we decide to move this date to.

Commissioners, one other thing before I second that motion, Commissioner, one other thing that I would like to know because I did hear from the audience tonight who owns the mineral rights of this property. So I would like to have staff answer that question to me if they are in fact owned by anybody and that's one of the questions I have.

So, Commissioner, I'm going to second your motion.

COMMISSIONER ANAYA: So if I could, Mr. Chairman, I'm going to restate the motion based on the recommendation of our County attorney.

I would move to postpone this hearing to the 8th of July to convene the meeting, Commissioner Stefanics and Commissioners, at 10 a.m. to handle the other land use cases as well as this case and that the hearing will only be focused on those items raised here for factual review. Is that appropriate, Mr. Shaffer? And that there will be other deliberations, privileged deliberations in executive session at that time between the Board and our legal counsel. Is that good? Mr. Chair, do you second that?

CHAIR MAYFIELD: Second. Commissioners, any other discussion? Seeing none.

The motion passed by unanimous 5-0 voice vote.

CHAIR MAYFIELD: Ma'am, I am not going to entertain a whole lot of questions tonight, please. [Audience member speaks away from microphone] Ma'am, thank you for that. I don't think that was intended by any means – ma'am, ma'am, I have the floor right now, please. I appreciate your comments. I don't believe that that was intended in any way in malice. So I appreciate what you had to state Miss. Mr. Shaffer would you care to restate your position on that please, your comments?

MR. SHAFFER: Thank you, Mr. Chair. I certainly meant no disrespect to any of the members of the public or the comments that were provided. Perhaps it was an inartful choice of words. All that I was saying is that there was no limit on the subject matters that were brought up whereas the refocused on the continued public hearing would be limited on factual matters. Again, I meant no disrespect to any members of the public who were here. And if it was an inartful choice of words my apologies. But that was the limited intent.

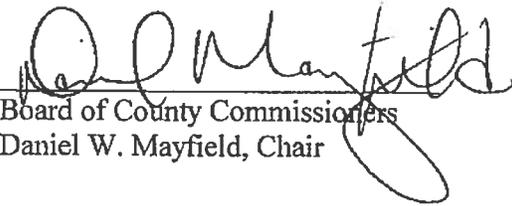
CHAIR MAYFIELD: Thank you, Mr. Shaffer.

Commissioners, seeing as we have no other further business in front of us tonight and respecting the patience of our audience and our listening, is there a motion for adjournment.

V. Adjournment

Having completed the agenda and with no further business to come before this body,
Chair Mayfield declared this meeting adjourned at 10:55 p.m.

Approved by:


Board of County Commissioners
Daniel W. Mayfield, Chair

ATTEST TO:


GERALDINE SALAZAR
SANTA FE COUNTY CLERK

7-8-2014

Respectfully submitted:


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



SFC CLERK RECORDED 07/11/2014



Steve Hooper Santa Fe County presentation Jun 11, 2014

Explain who and what is Rockology

Rockology is an LLC with the Buena Vista Landowners and Steve Hooper. The purpose for the organization is to engage in the business of selling aggregates.

Provide background on Steve Hooper

NM Native

Professional Engineer, licensed in New Mexico

Current: Owner of Buildology and Materials Inc.

- Buildology is a specialty aggregate and landscape supply company. Started in 2001, Buildology serves the state of New Mexico for specialty materials including landscape aggregates, construction aggregates, natural stone, baseball infield mix, golf course sands.
- Materials Inc is a precast concrete producer located in Bernalillo, selling products over the country. Materials Inc produces custom architectural concrete products, retaining walls, and highway products. Materials inc has been in business for over 30 years.

Entire career has been dedicated to aggregate, ready-mix concrete, and asphalt industries.

Work History (including pits that I have been involved with)

- Albuquerque Gravel Products 1972-1978
 - (Shakespeare Pit); now the Renaissance area, home to Costco, Home Depot, etc (Montgomery & I-25).
- Fountain Sand and Gravel, Pueblo CO 1978-1982
- Springer Building Materials - (became Western Mobile NM) 1982-1997
 - Sedillo Hill limestone quarry
 - Mined and reclaimed where General Mills plant is and Albuquerque Balloon Park
 - "Edgwood Pit" - permitted through SF Cty
 - Opened up the Placitas Pit on private land
 - Santa Ana pit on pueblo land
 - Operated "SF Brown" pit in early 1990's next to waste treatment plant
- Waycor 1998-2001
 - Sandia Pit - partial reclamation under my tenure, now fully reclaimed
 - Baca Pit in Algodones

Experience in operating and managing material extraction pits

- Have worked large pits, and small pits with varying production capacities
- Awards from National Stone Sand and Gravel Association for:
 - About Face Award for site beautification
 - Community Relations
 - MSHA awards for safety records
 - Am familiar with State and Federal requirements associated with initiating and operating a pit.
 - There has never been a notice of violation associated with any of the Hooper operations

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Operation Description:**1. Equipment (show pictures of plant, trucks)**

- NM Environment Department permitted portable crushing and screening plant, consisting of primary and secondary crushers, screens and conveyors. The plant is self-contained and operates on generators. The plant will only be brought in based on market demand. It is anticipated that the plant will operate 3-4 months out of the year.
- Front end loaders for plant operations and truck loadout
- Track dozer for pit operations
- Truck scale and scalehouse
- Trailers for parts and equipment storage
- Portable toilets
- Fuel Storage tank
- Recycled oil storage tank
- Water truck
- Water tank for plant dust suppression system
- Semi-trailer dump trucks for delivery of product
- Track drill for blasting (owned and operated by Wesco, the same contractor used by Del Hur at Caja del Rio, and other major quarries in NM)

2. Employees

- Number of people to be employed at site: Anticipate 7 full-time employees at average wages of \$40,000 + benefits. Estimated annual payroll of \$280,000, plus cost of holidays, vacation, and insurance.
- Hours of operation and time of year that site will most likely operate.
 - Will use portable plant and only operate based on market demand.
 - Anticipated hours when plant is operating will be 7am to 5pm weekdays, occasional Saturdays 7am to noon. During winter months, hours reduced to 9 am to 4pm

3. Reasons for selecting the proposed site:

1. Area is compatible with other land uses
 - a. Show map of Adjacent Land Uses
 - b. History of significant mining in area (although Art. XI Sec. 1.2.3 states history is not required for creation of new mining zone)
 - i. Waldo – currently operating
 1. Waldo was approved with the same county conditions and requirements that we are under.
 2. Same activities as our request
 - a. Blasting
 - b. Crushing
 - c. Hauling
 - ii. Gypsum - inactive
 - iii. Sand and gravel source was used for I-25
 - c. Other uses
 - i. Grazing
 - ii. Telecommunications

- iii. I-25
 - iv. Rail
 - v. Gas
 - d. Closest activities to mine
 - i. Cerrillos Hills State Park 5.75 mi (Waldo quarry is 4.25 miles)
 - ii. House <3 miles

- 2. The material is high quality basalt with very good physical properties
 - a. Primary uses for this material
 - i. Concrete aggregate
 - ii. hot mix asphalt
 - iii. erosion control
 - iv. base course
 - v. riprap
 - b. We have tested and proven the quality and quantity of material exists
 - i. Testing
 - 1. Backhoe and drill testing for quantity
 - 2. I have been involved in quantifying reserves for over 30 years.
 - 3. Estimate 3-3.5 million cubic yards for the proposed area
 - 4. Used independent driller and testing agency
 - ii. Owners have vested interest in ensuring quantities are available, and have proven that adequate quantities are available.
 - iii. There are other geological formations that were evaluated within the owned property. Quality monzonite is abundant further south on the County road. The proposed basalt site was selected in order to maintain the maximum distance from Cerrillos and other communities in the area.
 - c. Quality
 - i. Independent lab testing has verified the basalt quality to be used for asphalt, concrete, and other construction aggregate uses
 - ii. Quality of other SF sources
 - 1. Currently there are only 7 SF County aggregate sources registered with the State of NM Mining and Minerals Division

| | | | |
|-------------------------------|-----------------|------------------|---|
| Aviation Mine | Santa Fe | Aggregate | Montano's Excavating Monarch Mountain Minerals & Aggregates, LLC |
| Cerrito Pelado Mine | Santa Fe | Scoria | Superlite Block |
| La Cienega Mine | Santa Fe | Scoria | Paul Parker Construction |
| San Lazarus Gulch Mine | Santa Fe | Aggregate | Eker Brothers, Inc. |
| Santa Fe River Pit | Santa Fe | Aggregate | Oro Blanco Mining Company, LLC |
| Silver Silica Mine | Santa Fe | Other | Associated Asphalt & Material |
| Waldo Quarry | Santa Fe | Aggregate | |

Of these seven registered sources, only two produce aggregates that can be used for construction aggregates (Waldo and San Lazarus. San Lazarus is located in the San Pedro mtns, and only producing landscape agg and road base). Due to the lack of quality aggregate reserves in the county, most of the construction grade aggregates are imported from mines in Placitas, Algodones, and to a lesser extent from Espanola.

In addition to these registered mines, the county has a basalt quarry at the Caja del Rio landfill, which is not registered with the NM Mining and Minerals.

With respect to the quality of the basalt at the SF Caja del Rio landfill/quarry:

- The absorption of the rock is too high to be used for asphalt
- The specific gravity of 2.518 is low compared to quality basalt sources
- Because of the marginal quality, no producer is using the material for aggregates in concrete, as the mix designs with these aggregates require additional cement as compared to available sources in Placitas and Algodones.
- Caja del Rio has sold 408,500 tons in an 8 year period (2006- Jan 2014), average of 51,000 tpy.
- Caja del Rio uses reclaimed wastewater for dust control. The county allows use of trucked in water for dust control if effluent water is unavailable.

There is no potable water on site at the Landfill. Currently, the Agency receives treated effluent wastewater (reclaimed wastewater) from the City of Santa Fe Wastewater Plant via Marty Sanchez Golf Course. The Agency operates and monitors the use of Class 1B reclaimed wastewater under NMED Discharge permit number DP-1120. Dust suppression for the crushing operation is one use of the reclaimed wastewater. If reclaimed wastewater is not available on site for the Contractor, then the Contractor will be responsible for transporting reclaimed wastewater to the crusher facility for dust control. The Contractor will be responsible for the cost of reclaimed water used at the Landfill. An indirect cost will be incorporated into the professional services agreement for the use of the reclaimed wastewater.

Source for above two bullet points City of Santa Fe Solid Waste Management Agency, Request for Proposals for Basalt Rock Crushing at Caja del Rio.

- The Caja del Rio mining has been approved by the county, although the location of the mining activity is significantly closer to residential and other land uses than the proposed Buena Vista mine. The blasting and crushing activities at Caja del Rio are similar to that proposed at Buena Vista.

4. The proposed operation will not have a significant effect on health and safety of the county

- a. The Buena Vista site has the same regulations for health and safety that are required for Waldo and Caja del Rio, which are both closer to residential and other land uses.
- b. The health and safety are highly regulated and require continual compliance to federal, state, and county regulations. These are outlined in Table 5 of our submittal, Permitting Requirements:

- i. NM Environment Department (EPA) Air Quality Permit
 - 1. Air quality is regulated by the NM Environment Department under the EPA requirements
 - a. Dust suppression on the plant will use atomized sprays and enclosures at material transfer points.
 - b. Haul road will be constructed of base course and treated with a dust palliative.
 - c. The water budget for the plant is based on 250,000 tons per year.
 - d. A portable plant will be relocated to the site based on sales demand. Opposition concerns about the water budget of 2-3 ac-ft/yr assumes that the plant will run 40 hours/week, 52 weeks/yr.
- ii. Mine Registration, Reporting and Safeguarding Program
- iii. Petroleum Storage Tank Bureau-Petroleum Storage Tank Requirements
- iv. Mine Safety and Health Administration (MSHA)
 - v. Blasting under MSHA and ATF (Alcohol, Tobacco and Firearms)
- vi. DOT
- vii. Storm Water Pollution Protection Plan

Recap:

- 1. I have 30 plus years of proven experience with aggregate operations and have demonstrated compliance and a history of involvement in working with the surrounding communities.
- 2. The surrounding area has a history of mining and industrial activities. The closest non-industrial activity is 4 miles
- 3. There will be no significant adverse effect on health, safety, morals or general welfare.
- 4. The quality and quantity of reserves have been proven and will provide a closer and economical resource of quality material to the market.

**Concrete Mix Design Test Data Summary
Caja del Rio Aggregates vs. Local Gravel Aggregate**

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| Mix Design Proportions (1-cu.yd. SSD Weights; lbs.): | Control (Local River Gravel) | Caja Del Rio (Crushed) | |
|---|---------------------------------|---------------------------|----------|
| Type I/II L.A. Portland Cement: | 517 | 517 | |
| Coarse Aggregate (ASTM C 33 – Size No. 57): | 1800 | 1800 | |
| Fine Aggregate (Natural River Sand): | 1300 | 1236 | |
| Water (Corrected for Yield): | 236 | 239 | |
| Air Entraining Admix (oz/cu.yd.): | 2.3 | 2.3 | |
| Water Reducing Admix (oz/cu.yd.): | 20.7 | 20.7 | |
| Plastic Properties: | | | |
| Slump (Inches) (ASTM C 143): | 4.5 | 4.26 | |
| Air Content (%) (ASTM C 231): | 6.3 | 6.9 | |
| Unit Weight (pcf) (ASTM C 138): | 143.4 | 138.5 | |
| Yield (cu.ft./cu.yd.) (ASTM C 138): | 26.85 | 27.40 | |
| Temperature (°F) (ASTM C 1064): | 77 | 77 | |
| Set Time (HR:MIN.) (ASTM C 431): | | | |
| Initial: | 6:20 | 7:01 | |
| Final: | 6:20 | 8:30 | |
| Hardened Properties: | | | |
| Compressive Strength (psi) (ASTM C 39): | | | |
| Average 7 day: | 4670 | 3965 | |
| Average 28 day: | 5870 | 5360 | |
| Flexural Strength (psi) (ASTM C 78): | | | |
| Average 7 day: | 753 | 720 | |
| Average 28 day: | 810 | 890 | |
| Freeze/Thaw Durability (DF %): | | | |
| (ASTM C 666): | In Progress | In Progress | |
| Length Change (%) (ASTM C 157): | | | |
| Expansion: | 7 day (air): | + 0.013 | + 0.005 |
| | 14 day (air): | 08-12-05 | 08-12-05 |
| | 28 day (air): | 08-26-05 | 08-26-05 |
| Chloride Ion Penetrability (Coulombs): | | | |
| (ASTM C 1202): | In Progress | In Progress | |

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Caja del Rio Quarry Site
Aggregate Test Results

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| Sieve Analysis: (ASTM C 136/AASHTO T-27) | | |
|---|-----------|---|
| Sieve Size | % Passing | NMDOT, Item 510 1-inch Coarse Aggregate |
| 1 1/2-inch | 100 | 100 |
| 1-inch | 100 | 95-100 |
| 3/4-inch | 83 | --- |
| 1/2-inch | 27 | 25-60 |
| 3/8-inch | 9 | --- |
| No. 4 | 3 | 0-10 |
| No. 8 | 3 | 0-5 |
| Decant: (ASTM C 117/AASHTO T-11) | | |
| % Passing No. 200: | 1.9 | Maximum 2.0 (100% 2 or more fractured faces) |
| Magnesium Sulfate Soundness: (ASTM C 88/AASHTO T-104) | | |
| Weighted Percentage Loss (5 cycles): | 0.7 | Not Specified |
| Los Angeles Abrasion: (ASTM C 131/AASHTO T-96) | | |
| Percent Wear: | 22.5 | Not Specified |
| Specific Gravity & Absorption: (ASTM C 127/AASHTO T-95) | | |
| Dry Bulk: | 2.456 | Not Specified |
| SSD Bulk: | 2.518 | Not Specified |
| Apparent: | 2.618 | Not Specified |
| Absorption (%): | 2.6 | Not Specified |
| Aggregate Index: (Section 910) | | |
| A.I.: | 10.2 | Maximum 25 |
| Crushed Particles: (ASTM C 5821) | | |
| Crushed Faces (2 or More): | 100 | Minimum 100 (for Decant over 1.0%) |
| Flat and/or Elongated Particles: (ASTM D 4791) | | |
| Total Flat or Elongated Particle at 3:1: | 1.7 | Maximum 15 |
| Alkali Silica Reactivity (% Expansion (16 day Test): | | |
| ASTM C 1260: | 0.02 | Maximum 0.1 (based on AASHTO T-303) |
| AASHTO T-303: | 0.03 | |
| Clay Lumps & Friable Particles: (ASTM C 142/AASHTO T-112) | | |
| % Clay Lumps: | 0.0 | Maximum 0.25 |
| % Soft Particles: | 0.0 | Maximum 2.0 |
| Freeze/Thaw Durability of Aggregates: (TxDOT, 432-A) | | |
| Total Percentage Loss (after 50 cycles): | 4.69 | Not Specified |
| British Pendulum Number: (Skid Resistance at 10 hrs of Polishing) | | |
| ASTM D 3319: | 35 | Not Specified |
| TEX-438-A: | 40 | Minimum 32 |

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INTRODUCTION

1. The owners of the 1,359 acres are native New Mexicans and longstanding tax paying members of the Santa Fe and greater New Mexico community.
2. The owners have a history of successfully completing other projects in New Mexico that have proven to benefit the surrounding community.
3. The owners intend for this project to be well run and positive, and they plan to make productive use of resources in a way that is compatible with both historic and current land use.
4. The operation is small (a phased operation which will quickly place all onsite equipment into the excavated pit so the limited visibility will be reduced to no visibility from nearby viewpoints), unobtrusive (the site is limited to 50 acres and the phased development will utilize portable, temporary equipment for seasonal production), and is sensitive to the concerns of neighboring residents. The residents are over four miles away and nearby activities include the Rail Runner and the Waldo Quarry with its operations and hauling activities and rural grazing activities, which have been determined as compatible.

REQUIREMENTS OF THE SANTA FE COUNTY COMMISSION

1. The hearing on the Application is quasi-judicial, meaning that the Applicants have a right to have the matter decided on competent evidence of the applicable Santa Fe County Ordinance using standard statutory construction techniques. The requirements for this hearing include:
 - a. A right to cross-examine witnesses.
 - b. Opportunity to be heard and present by evidence.
 - c. Your decision must be made on a fair application of the applicable ordinances using reliable evidence.

PROPERTY AT ISSUE

1. The property at issue is 50 acres of private property within a 1,359 acre parcel of private property.
 - a. The 1,359 acres and the 50 acres proposed for the zoning change are not subject to any of the following:
 - i. Conservation easements.
 - ii. Covenants or other restrictions.
 - iii. View easements (which are legally enforceable restrictions placed on a property protecting giving other parties a right to a particular view). Under New Mexico law there are no implied view easements; a view easement requires an express easement grant. New Mexico law establishes there are no implied view easements; an express easement grant is required.

(*Winrock Inn Co. v. Prudential Ins. Co. of America*, 928 P.2d 947, 122 N.M. 562 (N.M. App. 1996))

2. There is no ownership by Santa Fe County or any other governmental or non-governmental entity.

Much of the comments and testimony is in the nature of claiming an expectation to a particular view or aesthetic condition with respect to the Applicant's property that has not been acquired, established, or purchased by Santa Fe County, any other governmental or non-governmental entities, or any private persons.

3. The Santa Fe County staff analysis of the Application exhibits the evaluation of reliable facts applied to the ordinances and reaches a reasoned determination. The staff recommended approval of the Application with some conditions:

"...the following facts presented support the request for the creation of a mining zone; the Application is comprehensive in establishing a scope of the project; existence of significant mineral resources have been demonstrated by the Applicant; the use of 50 acres of land within a 1,359 acre parcel for a mining use is reasonably compatible with other uses in the vicinity; the designated 50 acres site is particularly suited for mining uses, in comparison with other uses in the County..." [emphasis added]

4. The basis for the denial by the CRDC was illegal, was contrary to law, arbitrary and capricious, and not supported by substantial evidence.

The two committee member stating justifications for the denial on the record relied on improper Application of fact to the ordinance for their denial.

Commissioner Katz relied on the general welfare provision of the ordinance, (1.16 states, "no mining use activity will be permitted if it is determined that the use will have a significant adverse effect on health, safety, morals or general welfare of the County or its residents.")

The reliance upon "general welfare" provisions to deny this type of Application is limited by law and should be carefully and narrowly utilized as the primary basis to deny this Application that meets applicable requirements.

The manner in which the CRDC used the "general welfare" provision is unconstitutionally vague. Mr. Katz states there is a policy of the County to not allow development near prominent landmarks, natural features, distinctive rocks and landforms of that sort. However, there has been no formal designation process to narrowly and specifically identify such features. Owners of such property need the opportunity to have input on such designation and to request compensation or other appropriate relief for a harm caused by such designation. Nothing of this sort has been done with respect to the 50 acres at issue. The 50 acres may be within an

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area as large as many thousands of acres that could contain or comprise prominent landmarks, natural features, and distinctive rocks and landforms to which the CRDC referred. Even assuming a distinctive landscape, the evidence does not demonstrate that the operation as applied for will affect that landscape in any meaningful way.

Most of the testimony supports the County or other governmental or non-governmental entities following appropriate constitutional processes to designate and acquire property within the so called Bajada Mesa landscape, not rely on the “general welfare” provisions of the ordinance to deny individual Applications which provide for limited, unobtrusive, and otherwise fully compliant activities.

See for example *Holiday Management Co. v. City of Santa Fe, et. al.* 1971-NMSC-088 (1971). The trial court in a decision reversing a sign ordinance that phased out billboards stated, “...that the economic life of the sign was thirty to forty years; that it was not a health, safety or moral hazard and did not adversely affect the general welfare...” (This decision was reversed on other grounds but shows that the general welfare clause does not support broad view protections.)

5. Argument and testimony at this hearing that suggests the general welfare provision of the ordinance justifies denial does not provide a basis for the denial is not persuasive.

WATER AND MINERAL RIGHT ISSUES

1. Water and mineral right issues are fully and appropriately addressed by the Application.
 - a. The Applicant submitted a legal opinion that the material excavated is not a “mineral” subject to mineral ownership. Legal opinions are the recognized method for determining title to minerals or material. Staff or the Commission does not have the expertise or the jurisdiction to determine that the legal opinion provided by the Applicant is inaccurate or insufficient. No competent evidence has been presented challenging the legal opinion which the Applicant presented. The Applicant, staff and the Commission are entitled and required to rely upon a legal opinion with respect to title to the material. The provisions of the ordinance requiring information regarding mineral rights need to be read with an interpretation which means that the County is entitled to require that the Applicant demonstrate that they have title to the material at issue. This has been satisfied by the Applicant.
 - b. Water issues have been fully satisfied by the Applicant.
 - i. The Applicant has demonstrated that is has commitment of potable water from the County water source. This type of

commitment is allowed and accepted in other County Applications and it is sufficient to establish that the mine has sufficient water for the life of the mine. The calculations regarding water amounts are accurate.

- ii. In the event there are any issues regarding sufficiency of water for operations or reclamation the County can address those through an enforcement of its ordinances and the mining permit and satisfy any deficiencies by the bond that has been placed. It is highly unlikely there will be any water shortage issues.
2. The County can condition the use such that the mine must use effluent to the extent it is available. The Applicant has made arrangements to obtain effluent and will use effluent as the water source for the location and has a backup, dedicated and committed source in the event the affluent is unavailable.
 3. Finally, the quantities of water that are not used at the operation are minimal.

MINERAL EXTRACTION MEETS COMPATIBILITY REQUIREMENTS

Article XI, Section 1.2.2 establishes compatibility requirements. 1.2.2 requires that,

Use of the land for mining uses is reasonably compatible with other uses in the area affected by the mining use, including but not limited to, traditional patterns of land use, recreational uses, and present or planned population centers or urban metropolitan areas. [emphasis added]

Reading 1.2.2 requires that the Commission look at other uses in the area affected by the mining use. The record clearly indicates that the mining use is compatible to activities within a several mile vicinity. The activities within the several mile vicinity include another mine, the Rail Runner, high voltage power lines, a road used primarily by gravel trucks and rural grazing. The well operated largely non-visible mining activities are compatible with these uses.

NEW SSLDC (2013) DOES APPLY TO THIS APPLICATION

1. Contrary to statements made in writing and perhaps by witnesses, the new SSLDC on its face does not apply to this Application. The SSLDC applies prospectively and has no role in this decision. Any reference to or Application of the SSLDC would result in an illegal and reversible decision. See attachment.

CONDITIONS AND ENFORCEMENT ADDRESS MANY CONCERNS

1. Many of the concerns of interested parties can be addressed by permit conditions or enforcement of the permit or ordinances. Santa Fe County, with the involvement or the Rural Conservation Alliance, has already been involved in a lengthy legal proceeding regarding suspending and revoking the permit of Cerrillos Gravel Products, Inc. That permit had twenty conditions and Santa Fe County was able to enforce those conditions and other provisions of the ordinance. (see *Cerrillos Gravel Products v. Board of County Commissioners*, 2005 NMSC 0-23).

For example a condition regarding water use can resolve many of the concerns regarding water conservation. A condition stating that effluent must be used if available before potable water is used is agreeable. Denying the Application because of water conservation concerns is inappropriate.

CONCLUSION

The Applicant's request should be granted and recognizable concerns can be addressed by permit conditions and enforcement.

As set forth in the staff report, the Applicant has met the requirements for a mining zone. The ordinance dictates that, "Mineral extraction for construction materials.... shall be allowed anywhere in the County provided requirements of the ordinance are met." Article XI, Section 1.1 Applicability.

There is insufficient evidence that the mining operations subject of the Application will be significant enough to interfere with or cause impacts that justify denial of the Application. The Applicants have demonstrated that the proposed operation is small, unobtrusive, and meets all of the standards.

Based on the evidence as applied to the applicable ordinances, the Applicants strongly urge the Board to approve the Application.

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3
 EXHIBIT

Graeser & McQueen, LLC
— ATTORNEYS AT LAW —



Wednesday, June 11, 2014

To: Santa Fe County Board of County Commissioners
From: Chris Graeser
Re: Commission Discretion to Deny Zoning Request

We ask that you please keep in mind your **discretionary authority** to approve or deny a zoning request. Please do not give up your right to make optional zoning decisions for the community because of spurious concerns of litigation by the applicants. Under New Mexico law it is the Commission, not county staff, not landowners, not community members, not their lawyers, who decide whether creating a new zoning classification is appropriate.

Art. XI, Sec. 1.2: "the Santa Fe Board of County Commissioners may create new mining zones." Sec. 1.6:

No mining use activity will be permitted if it is determined that the use will have a significant adverse affect on health, safety, morals or general welfare of the County or its residents.

As Assistant County Attorney Brown stated during the CDRC meeting, this is "A discretionary discussion as to whether to allow that use..." The Commission alone has the right and responsibility to determine whether the mine will affect the health, safety and welfare of the community. The evidence in the record already, even prior to the public hearing, is more than enough to justify denial.

State and Federal law is also very clear regarding the Commission's discretion. In *Hyde Park Co. v. Santa Fe City Council* the 10th Circuit Court of Appeals in Denver confirmed:

Without clearly defined limitations on the City Council's exercise of discretion... we hesitate to... involve this federal court in a land use regulation dispute which is **purely a matter of local concern**. Because the ordinances as written contain no standards governing the City Council's exercise of discretion, the ordinances simply do not impose significant substantive restrictions on the City Council's power of review.

That court also considered when an applicant has a right to rezoning in *Jacobs v. City of Lawrence*, stating: "Appellants must therefore demonstrate that there is a set of conditions the fulfillment of which would give rise to a legitimate expectation to the rezoning of their property. Otherwise, the city's decision making lacks sufficient substantive limitations to invoke due process guarantees." In *Norton v. Village of Corrales*, the same court was unable to find any substantive New Mexico law giving rise to such an expectation. **Rockology has no legitimate expectation to its property zoned for mining precisely because the Code affords the Commission broad latitude to protect the public health, safety and welfare.**

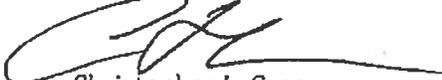
It is important to note that this case is different than the *UDV* case, in which there was a specific federal law protecting religious exercise – there is no federal law protecting gravel mining. It is also different than the *Albuquerque Commons* case, in which the city downzoned a parcel in the absence of a "change or mistake" in the original zoning. **There is no legal authority requiring you to approve the zoning request.**

In short, (1) Applicants have no legitimate claim of entitlement to approval of their zoning request; (2) any zoning approval is purely discretionary on the part of the Commission and (3) The application must be denied if it would have a significant adverse affect on the health, safety and welfare of the community.

Please do not allow **your control of the county's zoning** to be taken away from you over concern that the county might be sued, no matter how weak that lawsuit would be. After all, **why have a public hearing if the outcome is predetermined?**

We thank your for considering all the evidence in the record and make an independent decision based on the best interests of the County as whole.

Sincerely,



Christopher L. Graeser

Notes for Hearing

(individuals ceding time)



Rep: coalition of community organizations and individuals concerned about the preservation and protection of La Bajada Mesa. (For the record, Diane Senior, Don Van Doren, Kim Sorvig, Ross Lockridge, Anne Murray).

We do not represent a slick, organized national environmental group, but rather a grassroots community that has supported the stewardship efforts of county government and its citizens for decades now.

10 years ago NM Heritage Preservation Alliance listed La Bajada as one of New Mexico's most endangered places specifically because of mining pressures; that caution was prescient.

At that time, they said "La Bajada represents a key landscape demarcation between what the Spanish colonial world termed the Rio Abajo and Rio Arriba regions of New Mexico--the lower and upper lands with their distinct ecologies and climates. It also represented the greatest single obstacle for movement across the land...."

La Bajada Mesa is the gateway to the urban area of Santa Fe County and needs to be a protected cultural landscape. The arts, film and tourism attest to the profound significance of La Bajada Mesa to New Mexico's culture and economy.

That is why you have almost 7,000 signatures opposing this incompatible, inappropriate and insensitive application. This is most certainly a development of countywide impact that is trying to come in under the wire and avoid SLDC regulation.

Our clients, and thousands of other individuals, oppose this 3rd application to zone part of Buena Vista's land for mining.

There are many reasons that this application should be denied. I will talk about a few, but primarily you will hear from members of the community. I also want to talk with you about your *discretion* to deny the application, meaning that the applicants have no *right* to have the mesa zoned for mining.

But first, I ask you to consider the CDRC's recommendation

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The CDRC recommended denial for cogent, sensible reasons. Nothing has changed to warrant rejecting the CDRC's recommendation. If anything, the Applicant has muddied the waters by changing their water supply and changing their math (although it is still incorrect). CDRC's reasons included:

- "the policy of the County to not allow development near prominent landmarks, natural features, distinctive rocks and landforms"
- "a historic landscape, a cultural heritage, a scenic byway ... not compatible for a mining use."
- "It's in everybody's backyard in this County"

There should be a compelling basis for rejecting a CDRC recommendation, and here there is not one.

Staff recommended approval, but there is no indication why that recommendation changed since the same application was submitted and denied twice before. The important point is that the official recommendation to Commission, from CDRC, is for denial.

Water supply always an issue. Main concern here is no hydrologist review.

Why not?

We asked for County Hydrologist to review application

We asked for County Hydrologist testify here

Hydrologist review essential for 3 reasons:

Code requires water availability assessment

<1st ex>

(6.5) – water availability assessment

Availability assessment not submitted OR reviewed by hydrologist

Code requires permitted water rights (Art XI, Sec.

2005 same landowner proposed mine in same place using same source of water.

<2nd ex>

Hydrologist said water source does not meet requirements

Because no commitment for long-term supply

Same issue now

2008 same landowner proposed mine in same place also using trucked in water
<3rd ex>

At that time, staff did not support trucked water
Same issue now

The code requires an applicant to prove they will have enough water, and the Applicant says they have “secured the right to use treated effluent.” But they have no right at all, they are just another oversubscribed City utility at-will customer subject to policies the City is looking to adopt. The community is under no illusion that the mining will stop if the dust control water source dries up.

Approval now, in absence of hydrology review, with a prior hydrologist recommendation of denial, would be arbitrary and capricious

<4th ex>

In that respect, no apparent reason for change of recommendation.

Next concern precedent

Foot in the door/camel’s nose under the tent

Previously they applied for 108 acres, and stated application was an “initial” site

<5th ex>

Property is being marketed as including 5,200 acres of aggregate for mining !!

Getting approval for 50 acres is ingenious, because review criteria look at existing mining uses in the area. They get to be their own precedent.

Community is worried, but one group that should be worried and is not here is mineral rights holders

Code requires submission of an affidavit of ownership of mineral rights

Applicants have not submitted an affidavit identifying the mineral rights owners as required – just an affidavit stating that they do not own them, a legal opinion saying it doesn’t matter who owns them and a promise to indemnify the County if they are wrong.

<6th ex>

We have submitted legal opinion given to SWMA that says applicants are wrong. SWMA pays .95/ton to mineral rights holder.

Argue that aggregate is not subject to mineral rights, but they intend to excavate to 60 feet. This could easily impact mineral rights owners without their knowledge. This is exactly why the County requires information about rights owners. Are you willing to accept that they have your back if you get sued?

--
Biggest, most important point for me is approval is discretionary

I have submitted a letter to you.

We ask that you please keep in mind this **discretionary authority** to approve or deny a zoning request. Please do not give up your right to make optional zoning decisions for the community because of spurious concerns of litigation by the applicants. Under New Mexico law it is the Commission, not county staff, not landowners, not community members, not their lawyers, who decide whether creating a new zoning classification is appropriate.

Art. XI, Sec. 1.2: the Board of County Commissioners **may create** new mining zones But Sec. 1.6:

No mining use activity will be permitted if it is determined that the use will have a significant adverse affect on health, safety, morals or general welfare of the County or its residents.

The Commission alone has the right and responsibility to determine those effects. The evidence in the record already, even prior to the public hearing, is more than enough to justify denial.

Rockology has no legitimate expectation to have its property zoned for mining precisely *because* the Code affords the Commission broad latitude to protect the public health, safety and welfare.

It is important to note that this case is different than the *UDV* case, in which there was a specific federal law protecting religious exercise – there is no federal law protecting gravel mining. It is also different than the *Albuquerque Commons* case, in which the city downzoned a parcel in the absence of a “change or mistake” in the original zoning. There is no legal authority requiring you to approve this zoning request.

...
In short, (1) Applicants have no legitimate claim of entitlement to approval of their zoning request; (2) any zoning approval is purely discretionary on the part of the Commission and (3) The application must be denied if it would have a significant adverse affect on the health, safety and welfare of the community.

Please do not allow **your control of the county's zoning** to be taken away from you over concern that the county might be sued, no matter how weak that lawsuit would be. After all, why have a public hearing if the outcome is predetermined?

We have prepared detailed proposed findings of fact and conclusions of law supporting the ultimate decision that we trust the Commission will make. The testimony tonight will only further reinforce that support.

We ask that you please listen to the applicants – carefully consider their fuzzy math, their misdirection on traffic impacts, their failure to provide a water commitment, their failure to consider significant impacts on the community, the huge financial tradeoffs associated with their proposed economic development.

Listen to the CDRC. Listen to fellow elected officials (Sen Wirth, Sen Griego, Rep Egolf, Rep Garcia Richard)

Most importantly, please listen to your community members. The hundreds here tonight, the thousands (7,000) that signed the petition. They are looking to you to protect this endangered resource – once it's mined, it's gone.



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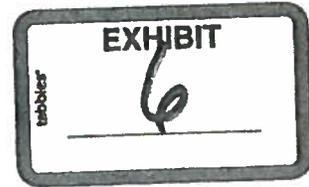
| TABLE 7.4 - REQUIRED CODE SECTIONS FOR WATER SUPPLY | |
|--|--|
| <u>Development Type</u> | <u>Required Sections</u> |
| Any development which includes construction or expansion of a community water system | 6.3, 6.4, 6.5, 6.6, 6.7 |
| All subdivisions containing 6 or more lots | 6.2.2 as applicable, 6.4, 6.5, 6.6, 6.7 |
| All subdivisions containing 5 or fewer lots | 6.2.2 and 6.3 if applicable 6.4.7, 6.5, 6.6 |
| All subdivisions required to have community water systems as listed on Article V, Section 9, Table 5.1 | 6.2.2, 6.3, 6.4, 6.6, 6.7 |
| All large scale residential development | 6.4, 6.5, 6.6, 6.7, 6.3 if applicable |
| All non-residential development in which the project uses more than 0.25 acre feet of water annually or in which the applicant obtains water other than through a well which is permitted under Section [72-12-1 NMSA 1978 as it may be amended | 6.4, 6.6, 6.7, 6.5 (depending on use) |
| All development in which the applicant requests a density adjustment based on water availability | 6.4, 6.6, 6.7 |
| All development in which the applicant requests a density adjustment based on water conservation. | 6.4, 6.6, 6.7 |
| All lots created in accordance with Article II, Sections 2.3.1a.ii (b), (d), (f), (g) and (h) | 6.6.2 |

6.2.2. Required Water Right Permits

- 6.2.2a For all subdivisions containing twenty (20) or more parcels, any one of which is two (2) acres or less in size, the subdivider shall provide proof that the person providing the water has a valid water right permit issued by the State Engineer pursuant to Sections 72-5-1, 72-5-23, 72-5-24, 72-12-3 or 72-12-7 NMSA 1978, sufficient in quantity to meet the maximum annual water requirements of the proposed subdivision. The Board shall not approve the final plat unless the State Engineer has issued a water permit for subdivision use.
- 6.2.2b For all subdivisions within a critical water basin identified by the Board, proof of valid water right permits other than domestic wells pursuant to Section 72-12-1 NMSA 1978 shall be provided prior to final plat approval.

6.3 Community Water Systems

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Existing Development

The property is currently vacant. The co-applicants own the vacant properties surrounding the proposed project.

Public Concerns/Issues

The Land Use Department has received numerous telephone calls in opposition of the proposed project. No letters of support have been received. (Exhibit "I").

Access

Access to the property is from County Road 57 (Waldo Canyon Road). The site will have a single driveway, located to the south of the property.

The proposed haul route for aggregate hauling from the site will be northward for approximately one mile along County Road 57 to the I-25/Waldo Interchange. County Road 57 is currently paved from the I-25/Waldo Interchange to the driveway turn off this project will be utilizing.

The Public Works Department has reviewed this application and recommends that a 40' paved apron at the intersection of the proposed driveway and CR57 be constructed. (Refer to "Exhibit-B " reviewing agency responses)

Water

The applicant proposes to utilize non-potable water from the City of Santa Fe Water Treatment Plant for dust control purposes. **Water will be hauled by truck from City of Santa Fe Sewer Treatment Plant located at Airport Road, to the site.** The applicant states that the water will be stored in a 10,000-gallon tank located onsite. The applicant also states that truck will shuttle water during off peak hours. Drinking water will be purchased in twenty-gallon containers for daily use. (Exhibit "J").

The County Hydrologist has reviewed this application, and commented that even though the applicant states that the proposed project is to utilize City effluent, no letter of commitment from the City was included with the submittal. **The County Hydrologist states that for the applicant to meet the water availability requirements, the applicant must provide documentation from the City committing to supplying water to this project for the time period the expect to run this operation.** Also the water budget did not reflect whether any water would be needed in the utilization of the crusher and conveyor sprays.

The Office of the State Engineer deferred its review to the County.

Liquid and Solid Waste

The applicant states that portable toilets will be brought onsite for the sanitary purposes of the employees, and a specified maintenance period will be included in the contract for service of the portable toilets.

The Environment Department is currently reviewing this application.

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Additionally, an onsite source of water is not proposed, rather the Applicant is proposing to truck in water for dust control. As required by Article XI, Section 1.7.2 and Article VII Section 6, 100-year water availability has not been adequately demonstrated and staff does not support the use of trucked in water (Exhibit "P"). It is important to note that the Applicant states that Phase I of the proposed mine will supply material for the construction of the Rail Runner. The contract the Applicant provided for water needed for dust control and reclamation was reviewed and approved by the State Engineer. This contract is exclusive for the Rail Runner project. Any use of this water other than for the Rail Runner project will void the contract, so project viability has clearly not been demonstrated. The reclamation needs associated with a project of this magnitude, landscaping needed to buffer the visibility of the project, and water required for long-term dust control requires a sustainable water supply which can not be maintained under the Applicant's proposal. A geohydrology study must be prepared to prove water availability sufficient to accommodate the long term needs of the proposed development.

Due to the proposed project duration, the magnitude and impact of the proposed development, combined with the lack of water availability needed to support reclamation and create landscape buffers to reduce site visibility, compounded by the potential long term impacts to riparian habitat, archeological sites and historic land use in the area, along with the lack of proven market need for the product as required under Article XI, 1.5.1(f), staff believes that when considering these aspects of this operation, the Applicant has not adequately demonstrated that area designated is suitable for mining activity.

REQUIRED ACTION:

The CDRC should review the attached material and consider the recommendation of staff; take action to approve, deny, approve with conditions, or table for further analysis of this request.

RECOMMENDATION:

Article XI, Section 1.2 (Location Standards for Creation of New Mining Zones) allows for the creation of new mining zones, provided certain location standards are satisfied as noted herein. Additionally, as noted in Article XI, Section 1.7.2 (Environmental Review) this Application must adhere to the criteria set forth in Article VII of the Code (Exhibit "N", Environmental Requirements).

Final Construction Improvement Plans are required per Article XI, Section 1.5.1 and the information as provided by the Applicant is conceptual in nature, similar to plans submitted under Article III of the Code for Master Plan, therefore more detailed

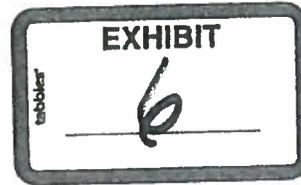
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Improvement Plans would be required prior to final approval of a Mining Zone and permit issuance for this operation. Further, this Application does not meet the criteria established in Article VII, Section 6 (Exhibit "O", Water Supply) and when considering the criteria set forth in Article XI, Section 1.2.2 the proposed location is not reasonably compatible with the area and is not particularly suitable for mining as required by Article XI, Section 1.2.4.

Staff does not support the creation of a Mining Zone, as requested by Rockology, Inc., on a fifty (50) acre tract within 1358 acre parcel located in Section 22, Township 15 North, Range 7 East. Therefore, staff recommends **denial** of this request.

ATTACHMENTS:

- Exhibit "A" – Applicants Report
- Exhibit "B" – Vicinity Map
- Exhibit "C" – Site Plan
- Exhibit "D" – Article XI, Zoning for Extraction of Construction Materials
- Exhibit "E" – Review from N.M. State Engineer
- Exhibit "F" – Santa Fe County Fire Department Review
- Exhibit "G" – Santa Fe County Engineering Technician Review
- Exhibit "H" – Letters from Reviewing Agencies
- Exhibit "I" – Comments of Opposition
- Exhibit "J" – Summary of Community Meetings
- Exhibit "K" – Mine Site and Mining Use-Definition
- Exhibit "L" – Letter from Applicant on Water Supply
- Exhibit "M" – GIS Aerial-Visibility
- Exhibit "N" – Article VII, Environmental Requirements
- Exhibit "O" – Article VII, Section 6, Water Supply
- Exhibit "P" – Memo from County Natural Resources Services



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The applicant addresses Significant Mineral Resource, Mining Use Compatibility, History of Significant Mining Activity in the Area, and Area Suitable for Mining Uses. (Refer to applicant's Report "Exhibit- "C"). The applicant states that a soils investigation of the site was conducted using an excavator to determine the type and depth of the material.

Basaltic material was found at approximately 20 feet, and the basaltic material was relatively constant for the entire depth.

During the construction of I-25, a mine construction site was located directly east of the subject proposed development, which was used for the purpose of loading aggregate ballast materials to be used for the making of base course and asphalt aggregates for the interstate highway construction. A gypsum mining plant was located on Santo Domingo Pueblo property, located to the south and west of the proposed development. The aggregate ballast material was used for the bedding of the railway located to the south and west of this proposed project.

Article XI, Section 1.6 (Performance Standards) of the Land Development states "no mining use activity will be permitted if it is determined that the use will have a significant adverse affect on health, safety, morals or general welfare of the County or its residents."

Reclamation

The applicant states that reclamation will take place upon the completion of each phase of the operation. The sides of the excavation will be cut at a ratio not to exceed 3:1, which will allow for the revegetation of the disturbed sites. The stock piled overburden will be returned to the site and will be used as the base for reseeding. The applicant also states that where the terrain contours are susceptible to erosion, furrows will be created to prevent soil erosion.

REQUIRED ACTION:

The CDRC should review the attached material and consider the recommendation of staff; take action to approve, deny, approve with conditions or table for further analysis of this request.

RECOMMENDATION:

Staff's position is that this location is not compatible or suitable for mining. The cultural significance of the Los Cerrillos Mining District, and without a Archeological Report to address the potential of any significant archaeological sites, ~~and~~ Buffalo Mountain ^{has} recently being ~~been~~ recognized as one of New Mexico's most endangered places. ^{THIS} demonstrates the cultural significance and importance of protecting this area.

Handwritten notes:
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Due to
Please Note That Buffalo ~~is~~

Staff is concerned about the potential impacts of this project on adjacent lands in this area. There is a Public Open Space Park and residential developments in close proximity to the proposed mine. Also, Staff has major concerns regarding the applicant's water supply plan. Staff recommends denial on the application based on the reasons stated above.

If the application is approved, staff recommends the following conditions:

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Property Overview

CB Richard Ellis Land Services Group has been engaged as the exclusive listing representative for the sale of La Bajada. The property consists of approximately 5,421 +/- acres of vacant land of which includes 5,200 +/- acres of rich aggregate deposits for possible mining. (See Buildology correspondence).

La Bajada is the largest privately owned parcel of land located on Interstate 25 between Albuquerque and Santa Fe in New Mexico. It features over 10,000 feet of Interstate 25 frontage with two major north and south interchanges into the site. Exit 264 (State Highway 16) located at the northwest corner of the property connects to the Cochiti Indian Reservation and Santo Domingo Pueblo. Exit 267 (County Road 57) is at the northeast corner of the La Bajada property and connects Highway 14 to the Madhd/Cerrillos Mountains. La Bajada is approximately 35 minutes from the Albuquerque International Sunport and 15 minutes from Santa Fe Plaza.

This exceptional property has tremendous development potential, both in terms of a residential master plan and as an aggregate resource. La Bajada is uniquely situated between Albuquerque, New Mexico's largest metro area with a population of over 850,000, and the exclusive Santa Fe market. With an elevation of over 6,100 feet, La Bajada's terrain is rich and has varied scenic views from within the heart of the property, including views of Santa Fe National Forest, Cerrillos Mountains, Jemez Mountains, Sangre de Cristo Mountains, Sandia Mountains and the Ortiz Mountains.

The general area is recognized for its mining and railroad history. Existing mines within the area include Rosario and older mining towns of Waldo, Cerrillos and Madrid all adding to the ambiance of the area. Even today, the main rail line to northern New Mexico and Colorado runs through the heart of the land with plans to have the new Rail Runner spur come directly off the main line within the site. The light rail commuter train is due to be in service in late 2008.

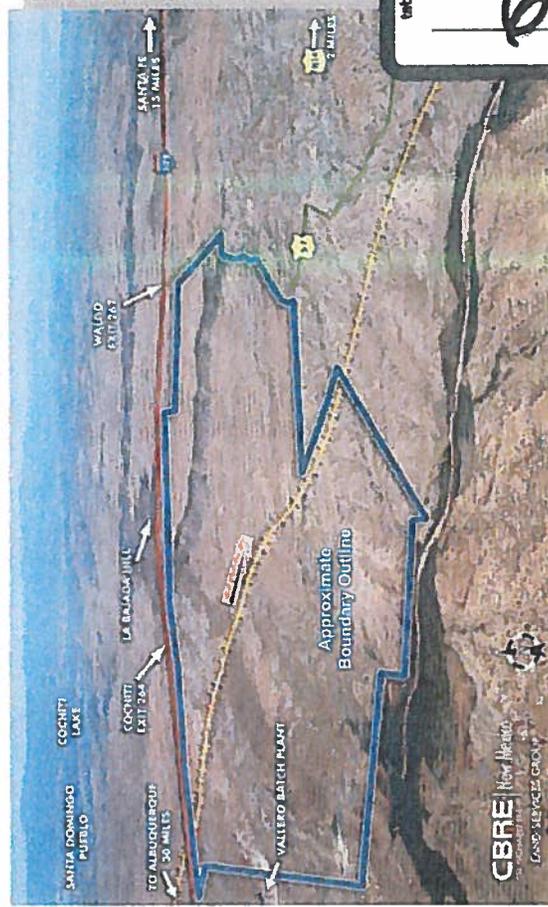
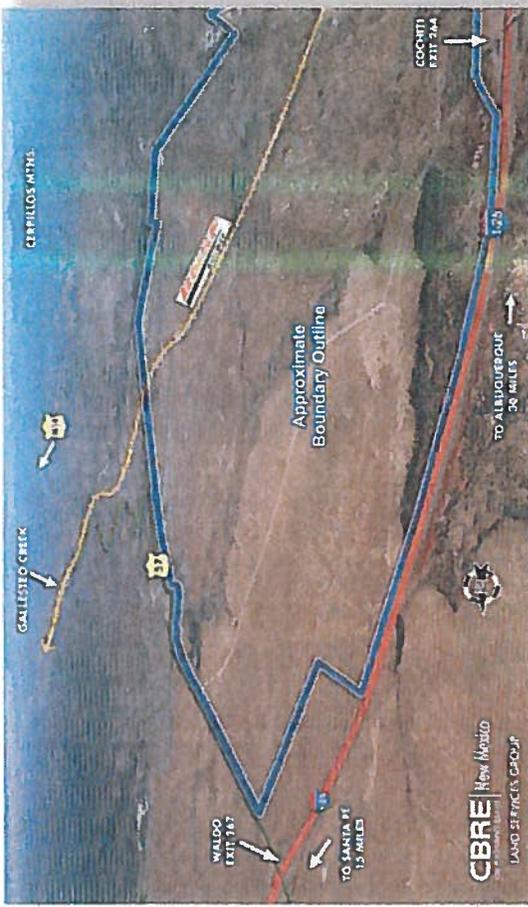
INVESTMENT SUMMARY

Price: \$65,052,000 (\$12,000/acre)

Site Area: Approx. 5,421 +/- Acres.

Property Description: The improvements consist of existing cell towers which are not part of offering, existing main line rail, and 5,200 +/- Acres of Aggregate

Legal Description: Tract A, B, & C La Bajada





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HOLLAND & HART 

CONFIDENTIAL
ATTORNEY-CLIENT PRIVILEGED

TO: SFSWMA, Randall Kippenbrock, P.E., and Mark T. Baker, Esq.
FROM: Mark F. Sheridan, Esq., and Larry J. Montafio, Esq.
DATE: August 4, 2010
RE: preliminary assessment of legal issues respecting SFSWMA dispute with USA based on excavation and sale of basalt from Caja del Rio Landfill

The Santa Fe Solid Waste Management Agency ("SFSWMA") seeks advice on certain issues arising out of its dispute with the Bureau of Land Management ("BLM") respecting the excavation and sale of basalt from the Caja del Rio Landfill. In order to address those issues, as framed in Mark Baker's June 22, 2010 letter, we will: (I) describe the underlying facts of the parties' dispute as we understand them; (II) explain the parties' respective interests in the subject property's split estates; (III) evaluate their respective claims and defenses; and, (IV) evaluate the BLM's potential damages.

I. Factual Background.

The City of Santa Fe and Santa Fe County entered into a joint powers agreement ("JPA") for the purpose of creating a regional solid waste disposal facility, now known as the Caja del Rio Landfill ("Landfill"). See City/County Landfill Joint Powers Agreement; see also Santa Fe County Resolution No. 2005-77. Under the JPA, the City was tasked with obtaining the necessary landfill permits and the County was tasked with acquiring the real property for the landfill facility. To that end, the City obtained a landfill permit from the New Mexico Environment Department and the County obtained certain real property from the BLM and private land owners.

The real property acquired by the County for use as the Landfill was subject to several Patents from the United States of America ("USA"). Each one of those Patents reserves to the USA "the coal and other minerals in the lands so entered and patented, together with the right to prospect for, mine, and remove the same pursuant to the provisions and limitations of the Act of December 29, 1918 (39 Stat. 862)." See, e.g., Patent from the USA to Abel Ortiz, dated July 16, 1926, and recorded as Instrument No. 1404638 in the County records; Title Commitment issued by Chicago Title Insurance Company to SFSWMA, effective October 21, 2005 (identifying Patents). Neither the City nor the County obtained a lease, contract, or other express permission from the BLM to excavate or sell any minerals located in the subject lands.

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After completing their respective tasks, pursuant to the JPA, the City and County created the SFSWMA to operate the Landfill. The SFSWMA is a public entity duly created under New Mexico's Joint Powers Agreements Act. *See* NMSA 1978, §§ 11-1-1, *et seq.* As required under that statute, the City and County obtained the Secretary of Finance and Administration's approval of their JPA. *See id.*; *see also* Joint Powers Agreement. As a duly created public entity, the SFSWMA considers itself to be and likely is a "local public body" within the meaning of New Mexico's Tort Claims Act, and is therefore benefited by any immunities and protections afforded to a local public body. *See* NMSA 1978, §§ 41-4-1, *et seq.*; *see also* *Tompkins v. Carlsbad Irrigation Dist.*, 630 P.3d 767 (Ct. App. 1981).

Beginning in 2001 and continuing to the present, the SFSWMA engaged certain contractors, first Santa Fe Aggregate LLC and then Del Hur Industries, Inc., to develop cells for landfill disposal. In order to develop those cells, the contractors had to excavate the Landfill, which involved the removal of the basalt on location. Initially, it appears that SFSWMA did not perceive the basalt as having any independent value. It later entered into agreements with its contractors, however, pursuant to which they paid SFSWMA a "royalty" for each ton of basalt they extracted from the Landfill. The monies paid to SFSWMA for the basalt were far less than the monies it had to pay for the contractors' services. Nonetheless, SFSWMA received value for the basalt.

In the Fall of 2009, for the first time, the BLM contacted SFSWMA about the excavation and sale of the basalt at the Landfill. The BLM and the Department of Justice ("DOJ") seek damages arising out of SFSWMA's unauthorized excavation and sale of the basalt. The DOJ's counsel has suggested that the BLM will seek to recover double or triple damages from SFSWMA, with damages being measured as the value of the basalt when sold and after being blasted, excavated, and processed into aggregate for various road projects by the contractors paid to excavate it. SFSWMA has asked Holland & Hart, LLP to address those points in preparation for settlement discussions.

II. The Parties' Interests In The Property's Split Mineral And Surface Estates.

The threshold issues in this dispute are whether the USA owns the mineral estate beneath the Landfill, whether basalt is part of the mineral estate and, ultimately, whether SFSWMA sold the basalt without authority to do so. Each one of these questions may be answered in the affirmative, as follows:

A. The Landfill Is Burdened By The USA'S Patents Which Include Express Mineral Reservations.

The first issue is whether the USA owns the mineral estate beneath the Landfill, with SFSWMA only owning the surface estate. In order to address that issue, SFSWMA provided us with several documents, including but not limited to the following: a Boundary Survey for the

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Landfill, which contains a legal description for the subject property; the USA's Patents and associated mineral reservations; the documents by which the County obtained an interest in the subject property; a Title Commitment issued by Chicago Title Insurance Company to SFSWMA respecting the subject property; and, correspondence from Matthew McQueen to the County's lawyer respecting that Title Commitment and which specifically notes the existence of the USA's Patents with mineral reservations.

We have compared and matched the USA's Patents with the legal description for the Landfill. Based on our review, we may confidently report that the USA does in fact own the mineral estate beneath the Landfill. We positively confirmed that the lands are burdened by the USA's mineral interest, save for one lot located in the SW/4 NE/4 of Section 28. With respect to that lot, we have not located any documents suggesting that it is not burdened by the USA's mineral interest; however, we simply were unable to locate any documents specifically proving the same. We would be surprised, however, if that lot were not also subject to the USA's mineral interest.

The short answer to the first issue, therefore, is that the USA does own the mineral estate beneath the Landfill.

B. Basalt Is Likely Subject To The USA's Mineral Reservation.

The next issue is whether the basalt located at the Landfill is part of the USA's mineral estate. We have not located any authority specifically holding that basalt is a mineral within the meaning of the USA's mineral reservation. However, there are myriad cases explaining the breadth of minerals reserved unto the USA through statute, lease, and otherwise. For example, in *Watt v. Western Nuclear, Inc.*, 462 U.S. 36 (1983), the United States Supreme Court found that the mineral estate includes "substances that are mineral in character (i.e., that are inorganic), that can be removed from the soil, that can be used for commercial purpose and that there is no reason to suppose were intended to be included in the surface estate." While *Watt* involved mineral reservations under a statute, there is no reason to expect that that definition is any narrower in the Patents at issue here.

Taking a step back from statutory law and case law defining what the "mineral estate" consists of, it is worth noting how the USA approaches the classification of minerals and how those classifications dictate whether it will claim an interest in the minerals under its Patents. Not surprisingly, the federal government classifies different minerals in different ways. For example, if a mineral is deemed to be a "common variety," then it would be considered a "saleable mineral" under the Minerals Material Act (30 U.S.C. § 601). As a saleable mineral, it would be subject to the USA's mineral reservation in its Patents. On the other hand, if a mineral is deemed to be an "uncommon variety," then it would be considered a "locatable mineral" under the Mineral Materials Act and, thus, not subject to the government's mineral reservation in the subject Patents. Critically, those classifications can change over time, such that a mineral that



was once considered a "common variety" mineral may later be considered "uncommon variety" mineral, and vice versa.

As noted, in the case of basalt, we have not located any definitive written authority indicating whether basalt would generally be considered a "common variety" mineral as opposed to an "uncommon variety" mineral. However, given basalt's widespread existence in the United States, particularly in New Mexico, it is likely that basalt would fall under the category of "common varieties" and, thus, it would generally be classified as a "saleable mineral" under the Mineral Materials Act.

To confirm that view, without revealing SFSWMA's identity or the reason for our interest, we spoke to BLM geologists about this common/uncommon issue, including Bill Auby from the BLM's New Mexico State Office here in Santa Fe. Mr. Auby explained that the BLM does consider basalt to be a "common variety" mineral. And, while he could not cite any particular federal regulations specifically defining basalt as a "common variety" mineral, he believed it would fall into the general category of "aggregate" or "crushed stone." Mr. Auby's observations are buttressed by the fact that SFSWMA's contractors refined and processed the basalt into aggregate.

The short answer to the second issue, therefore, is that the basalt would be subject to the USA's mineral reservations in the Patents burdening the Landfill property.

III. The Parties' Likely Claims And Defenses.

The BLM has colorable claims against SFSWMA for excavating and selling basalt from the Landfill without the authority to do so via lease, contract, or otherwise. The causes-of-action that best encompass those claims sound in trespass, conversion, and unjust enrichment. Accordingly, the next issue we will address concerns the bases for the BLM's claims and SFSWMA's best defenses to them.

A. BLM's Likely Claims Against SFSWMA.

I. Trespass And Conversion.

The BLM's most viable claims against SFSWMA are for trespass and conversion. In order to understand why, you should know that the BLM is responsible for administering myriad regulations respecting the exploration, development, and disposal of natural resources on public lands. With respect to minerals, the operative regulations governing the BLM's responsibilities are contained at 43 C.F.R. §§ 3601.1, *et seq.* Further, with respect to any trespass of those resources, the operative regulations are contained in 43 C.F.R. §§ 9239.0-3, *et seq.* (Note: we understand from Mark Baker's letter that the DOJ's counsel has cited 43 C.F.R. § 2920.1-2 for the BLM's trespass claim. Counsel has cited the wrong, albeit more favorable regulations, as



LEAGUE OF WOMEN VOTERS®
OF SANTA FE COUNTY

June 11, 2014

To: Board of County Commissioners
CC: Jose Larrañaga, Case Manager
Katherine Miller, County Manager
Penny Ellis-Green, Director of Growth Management
Gregory Shaffer, County Attorney



SFC CLERK RECORDED 07/11/2014

From: League of Women Voters of Santa Fe County

Re: Case # ZMXT 13-5360 Buena Vista Estates, Inc. & Rockology LLC

The League of Women Voters of Santa Fe County strongly opposes the proposed mining zone on La Bajada Mesa. The League followed, spoke frequently and supported enactment of both a strong Sustainable Growth Management Plan (SGMP) and the Sustainable Land Development Code (SLDC). The Code has been approved by the Board of County Commissioners but will not be officially implemented until the Zoning Map is adopted, possibly in only two weeks time. We believe it is incumbent on the BCC to obey the spirit of the Plan and the Code you have adopted.

The CDRC, after its review of the proposal, declined to recommend approval. We ask that the BCC also reject the proposal today. We believe that:

- Highway corridors should aim to retain scenic approaches such as La Bajada Mesa.
- This is a Development of County-wide Impact, and even though the DCI code is not yet finalized, there are core principles in the SGMP and SLDC that should be adhered to.
- An environmental impact study must be required. Careful consideration of its findings should be an important part of any decision on this proposed development.
- Any development must be tied to the availability of water. The County must take into account both the short-term and long-term (cumulative) impacts of the quantity of water required by this project.

The SLDC includes several elements that we believe must be carefully considered when any development is reviewed. Examples include:

- Section 7.16 of the Code requires protection of historic viewsheds, but everyone approaching Santa Fe will see this operation.
- Section 11.1.3 of the Code requires measures to preserve quality of life, natural and cultural resources and natural landscapes. This development would require substantial land alteration.

The League believes, again, that it behooves the County to adhere to the spirit of what they have put in place. Section 2.2.6 of the SGMP contains the principle that development should protect visual and scenic qualities. The proposed mining zone will adversely impact this principle.

Sincerely,

Chris Furlanetto, Action & Advocacy Chair, LWVSFC

1010



OSFA COUNTY HEARING PRESENTATION 6/11/14

Re: Proposed Gravel Mine on La Bajada Mesa

I am John Pen La Farge, president of The Old Santa Fe Association. The association has been the protector and preserver of Santa Fe's authenticity and history since 1926. We contend that the history of La Bajada is critical.

First, this discussion has been going on for centuries. The first La Bajada land-grant was made in 1782 by Gov. Juan Bautista de Anza, he being, "... cognizant that the issuance of the grant would afford greater protection to the vicinity of the capital, made the requested concession. . . in the name of the King for the sole purpose of pasturing stock." This deed restriction has never been altered; it was, even, confirmed by the U.S. Congress in 1879. The County Zoning of 1980 lists the bulk of the original grant as Agricultural/Ranch (160 acres/dwelling). The 1500-acre portion under discussion today was listed as Rural (40 acres/dwelling). The county's pending zoning-update will return it to Agricultural/Ranch use.

Second, the Juana Lopez - San Felipe branch of El Camino Real passed across this La Bajada landscape and became the preferred route into La Cienega and Las Golondrinas. The *camino* is located immediately across Waldo Canyon Rd. from the development under consideration. The trail's path is shown on the USGS Quadrant Map. If you agree to the requested changes, a hiker on this trail would be treated to a lovely view of the proposed mine.

The Las Golondrinas portions of this Juana Lopez Trail were accepted last year by both the state and federal governments for registration on the National Register of Historic Places. The portion of this trail that runs across the face of La Bajada has not been studied for such listing; however, when the Rail Runner was built, the Department of Transportation's Cultural Resources Board field investigation found evidence of the Juana-Lopez Trail's location and guided the rail line to avoid this path, "The Camino Real, while not listed on the National or State Register, is treated as an eligible historic property."

The application before you calls for creation of a new mining district. This would not be consistent with the centuries-long history of the grand entrance to Santa Fe.

Third, The Old Santa Fe Association made a study of the number of Santa Fe area jobs that exist because of the historic ambiance of our area. The conclusion was some 15,000 jobs. Preserving the gateway to Santa Fe is not a theoretical exercise without consequences.

SFC CLERK RECORDED 07/11/2014

Finally, the worst aspect of the request made of you is this: Approval of a new mining district will open the entire parcel to 2-1/2 acre zoning, allowing 600 building lots on this historic landscape.

The Old Santa Fe Association asks that you deny this petition.
Thank you.

SEC CLERK RECORDED 07/11/2014

SOURCES

(1) J.J.Bowden, New Mexico Office of the State Historian, Mesita de Juana Lopez Grant

(2) OSFA 2005 unpublished study based on Univ. of New Mexico Bureau of Business & Economic Research Study 2002 and City of Santa Fe Planning & Land Use Dept. "Santa Fe Trends" Report 2003

(3) (3.1) National register of Historic places, El Rancho de las Golondrinas Section E1, El Camino Real, 2013

(3.2) USGS Quad Map NAD27 106deg. 07min. W, 35 deg., 30 minN, (3.3) Rural Conservation Alliance Viewshed Analysis from Juana Lopez branch of Camino Real 2013

(4) Cultural Resources Investigations for the NM Rail Runner, Phase 2, PB Report 2007-33582-1, 5/2007

NOTE: This analysis is the initial product of OSFA's ongoing South Santa Fe History Project

SFC CLERK RECORDED 07/11/2014

Harry B. Montoya
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Michael D. Anaya
Commissioner, District 3



Paul Campos
Commissioner, District 4

Jack Sullivan
Commissioner, District 5

Roman Abeyta
County Manager

Date: April 3, 2008
To: Shelly Cobau, Development Review Division Director
Cc: Jack Kolkmeier, Land Use Administrator
Judy McGowen, Planning Division Director
From: Arnold Valdez, Senior Planner
Re: Construction Materials Extraction Master Plan Report for 50 Acre Site Located in Township 15N, range 7E, Section 22, Santa Fe County, New Mexico



As per your request to review the amended master plan report for Rockology LLC., I have reviewed the entire document and would like to submit some comments regarding potential impacts to historic and cultural resources and visual impact on the landscape.

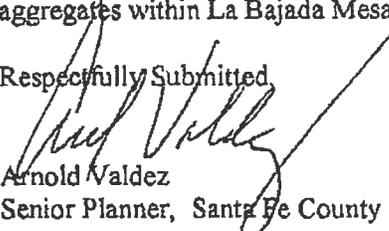
Historic and Cultural Resources:

The site of the proposed extraction area for construction aggregates is located on La Bajada Mesa, a key landscape demarcation between the Rio Abajo and Rio Arriba regions of Santa Fe County. Located at the west boundary of Santa Fe County, La Bajada Mesa is the gateway to the county and entrance to the Cerrillos Hills/Galisteo Basin State Park via CR 57. Historically portions of El Camino Real traversed the landscape south of the proposed extraction site area (Map 5, El Camino Real Adentro National Historic Trail-Comprehensive Management Plan/Impact Statement). Additionally, La Bajada Mesa was listed in 2003 as one of the most endangered places in New Mexico by The New Mexico Heritage Preservation Alliance. Clearly, La Bajada Mesa is a significant historic/cultural resource that embodies the early Spanish Colonial historical road alignments amidst a fragile ecological setting. Extraction of construction aggregates within La Bajada Mesa will degrade the integrity of the historic landscape.

Visual Impact

The potential visual impacts from the proposed extraction area does not address the impact on the viewshed from Interstate 25, CR 57 and Highway 14, a National Scenic Byway. The map attachments excerpted from "Santa Fe County Visual Resources and Analysis" illustrate the scenic priority areas, scenic views, panoramic views and scenic roads and trails. The proposed extraction area appears to obstruct and impact the panoramic views from Interstate 25 and CR 57 at several different points. Because of its open landscapes, vast panoramas, and pronounced topography, the scenic quality of Santa Fe County as a whole is very vulnerable. This means that extraction of construction aggregates within La Bajada Mesa will easily degrade the County's scenic beauty.

Respectfully Submitted


Arnold Valdez
Senior Planner, Santa Fe County

102 Grant Avenue

P.O. Box 276

Santa Fe, New Mexico 87504-1985

www.santafecounty.org

SFC CLERK RECORDED 07/11/2014

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EXHIBIT

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THE SANTA FE REPORTER

A Weekly Journal

City Edition

SANTA FE'S LOCALLY OWNED NEWSPAPER Vol. 4 No. 47 Thursday, May 18, 1978 20 Cents

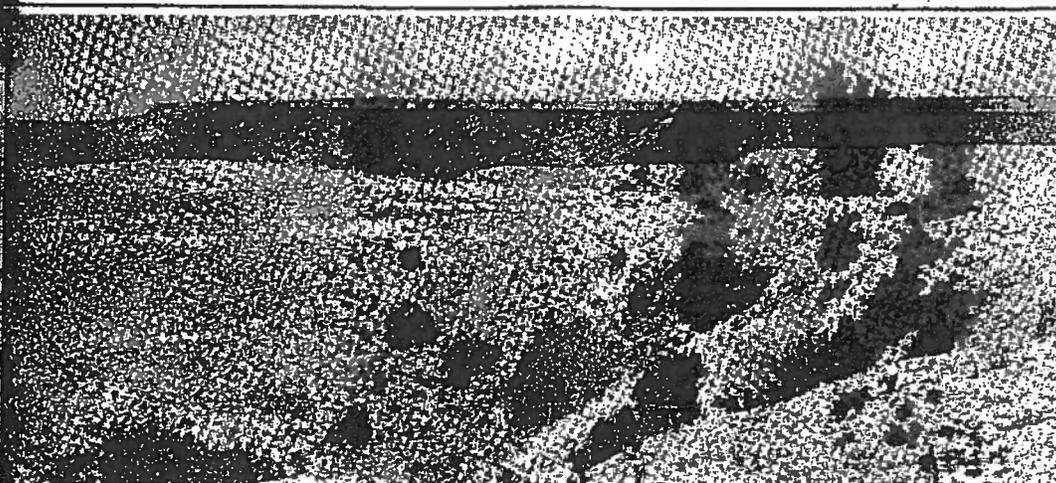


Photo by Terry O'Brien

The Promised Land

call it "The Ranch": 11,600 acres of hogback and mesa on the lip of La Bajada mesa 15 miles south of Santa Fe that has become the magnet for a multimillion-dollar real estate speculation scheme.

A sprawling cattle ranch owned by former New Mexico governor John Simms. It now is being peddled as the great piece of private land along the 60-mile highway between Santa Fe and Albuquerque.

The people behind the deal, three New Mexico real estate promoters including Peter Naumburg of Santa Fe, so far have drawn more than 300 investors to the property. They have netted close to \$6 million in sales contracts for land that barely cost \$1 million five years ago.

Most of the participants have invested between \$12,500 and \$25,000 at the bottom level of a complex pyramid plan. Included among them are residents of New Mexico and more than half a dozen other states, from California to New York.

The promoters of The Ranch have been promoting it as the setting for a new town—a 70,000-resident city, powered by solar energy and populated by people eager to escape the traumas of urban existence in Albuquerque and Santa Fe.

The ranch's vision, however, is tainted by speculators who plan to slice through the land. An earlier plan to build a new town at the site ended in collapse seven years ago. The long-awaited Santa Fe County General Plan has outright opposition to high-density population in the area. Moreover, both the county and the State Planning Commission, after learning of The Ranch from the Santa Fe Reporter, have launched investigations to determine whether the scheme is in violation of the law.

The prospect of a new town to develop, or of an equally ambitious alternative to take its place, could result in heavy losses for investors at the lower levels of the pyramid financing plan. But whether the land is sold or sits untouched, full payment of already made purchase contracts by small investors will result in multimillion-dollar profits for the original promoters at The Ranch.

According to those promoters, their plan is a sound investment based on solid research, designed to make money not just for them but also for anyone involved when the new town is built.

The Ranch is my vision of a whole new living



*An Investigative Report
By Frank Clifford*

For the past five years, a small group of land promoters has been working quietly and energetically to sell, parcel by parcel, a huge tract of land on the highway to Albuquerque 15 miles south of Santa Fe. Called The Ranch, the 11,600-acre tract, mapped in outline form above, has been sold in a pyramid scheme to investors who were told the site is perfect for a new city of 70,000 people. The promoters behind the scheme stand to make millions of dollars in profits—unless uranium mining, lack of water, or the law shuts them down.

Other Stories on Pages 3 and 5

environment," said Albuquerque realtor Ernest Cummins, the member of the trio who bought the acreage and engineered the project. "The Ranch has been identified as an excellent site for a community based on solar, wind and other exotic energies," reads a segment of the promotional literature distributed to prospective investors.

Local officials, however, take a different view of the property. An environmental analysis contained in the proposed Santa Fe County General Plan indicates that The Ranch is located in an area of the county least suitable for large-scale development. Poor water supplies, ground water contamination, steep slopes and fragile soils combine to make the area particularly unaccommodating, according to the plan.

If the General Plan is adopted by the Santa Fe County Commission, it would in effect impose countywide zoning laws. No new construction that did not comply with the zoning regulations could be undertaken. And under the most stringent recommendations of the plan, settlement of The Ranch property would be limited to one house per 40 acres—a total of 290 houses.

Yet a preliminary master plan commissioned by Cummins calls for a total of 24,000 dwelling units on The Ranch's 11,600 acres.

There are still other reasons for apprehension about the prospect of an ideal community on the mesa.

State Highway Department officials say a distinct possibility remains that a new section of I-25 between Weldo and Hernandez will have to be built. If the current contingency design plan is followed, the road would be built right through the Ranch property.

When interviewed, Cummins conceded that the construction of such a road "would be very detrimental" to any major development plans.

Mineral rights could pose another problem. Some 25 people unaffiliated with The Ranch own subsurface mineral rights to much of the property. Those rights give them license to explore or mine anywhere on that property.

While the promoters of The Ranch have been soliciting investments in the land for more than four years, county and state officials responsible for overseeing land and investment transactions say they have had no knowledge of the enterprise.

(Continued on page 8)

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From \$300 to \$1200 per Acre in One Day

day, Sept. 9, 1975, a parcel of property at The Ranch quadrupled in value. The fourfold increase was the result of improvements made upon the land. Not only were there pressures of the marketplace, but there were clamoring to buy the property, whatever the price.

The incredible one-day rise in the land's cost was the product of a series of "paper transactions," managed by three real estate promoters who acquired the land. And when their day's work was done, the property that had started out with a value of \$300 per acre had been elevated to a per-acre price tag of \$1,200.

The 300-acre parcel of land had been sold the previous year by Ranch owner Ernest Cummins for \$300 per acre. The partnership called Mesita de Santa Fe, managed by Albuquerque realtor Lauren Peppier and Peter Naumburg, sold the land to Cummins himself. With Cummins and Peppier, Santa Fe realtor Peter Naumburg comprised the partnership. In 1975, they were ready to act.

The partnership sold the \$300-per-acre parcel to Peppier as an individual, at a per-acre cost of \$1,200. Next, public records show; Peppier sold the

parcel to Naumburg at \$1,080 per acre. Finally Naumburg sold it, at \$1,200 per acre, to another partnership, called Mesita Two, which he himself headed. Two of the other members of that nine-man partnership were Cummins and Peppier.

When the dust settled, the flurry of transactions had benefitted Cummins, Peppier and Naumburg in at least three ways.

An
Investigative
Report
By Frank Clifford



THE RANCH

First, the precedent of selling land at The Ranch for \$1,200 per acre, the same price charged subsequent investors in the scheme, had been set.

Second, duly documented land sales had established a \$1,200-per-acre value that would have to be reckoned with should the State Highway Department condemn portions of the property for a new corridor for the Interstate 25 highway.

And third, according to Naumburg, the fast-shuffle transactions between him and Peppier enabled both of them, as general partners in their respective partnerships, to pay themselves commissions without paying sales taxes on the deals. Under the structure of the deals, their commissions were disguised as profits on land sales.

Looking back recently on the final aspect of the dealings of Sept. 9, 1975, Naumburg admitted that the interim exchanges between Mesita de Santa Fe, Peppier, and himself were "phony" transactions. Then he chuckled.

"We did it that way one time," Naumburg said. "Then my lawyer suggested it wasn't the best way to do things."

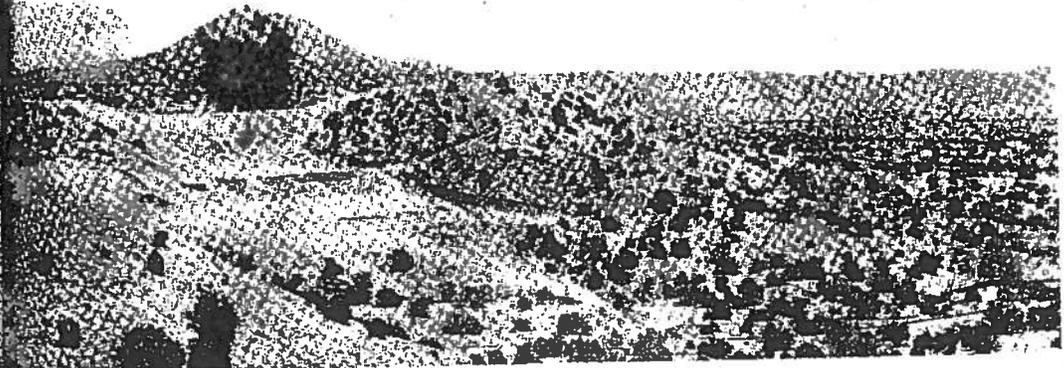


Photo by Tony O'Brien

It Is a Sales Spiel, and It Is Not True

Ranch, they tell you, offers just about the best opportunity for investing in raw land anywhere west of here and east of Albuquerque.

Conventional literature on The Ranch tells you that the price per acre you pay is "well below market." It says it is very difficult to find comparable land at any other price.

It is a sales spiel, and it is not true.

Peter Naumburg, a Santa Fe real estate broker and principal in The Ranch investment project, began his sales spiel in the sale of Ranch property to new investors.

Naumburg and his associates began selling the land at a price of \$300 per acre in parcels of 100 to 250 acres.

During the same period, Naumburg also was involved in selling the same property, in particular by buying a parcel that originally had been part of the ranch owned by former governor John S. Sununu but had been sold during the early 1970s by a Chicago firm.

The 300-acre parcel contained many of the best parcels of land offered to Ranch investors.

Naumburg closed in existing roads and offered access to gas, water and telephone lines. It was not merely a sales spiel, but a real estate transaction. It had more potential for commercial development than did a great many other parcels being offered to investors.

While the investors were paying the so-called "market price" per acre of \$1,200, Naumburg paid only a few cents per acre for the parcel he bought.

Naumburg's purchase is not the only example of recent real estate transactions in which property near The Ranch has been sold for cheaper prices.

The Highway Department records of private land sales during the past three years show that undeveloped land near The Ranch has been selling for as little as \$200 to \$300 per acre in parcels of less than 100 acres. These prices were being paid during the same time when Ranch parcels of 100 to 250 acres of undeveloped land were commanding prices of \$1,200 and more per acre.

But you don't hear about those prices from Ranch property promoters.

Instead, they hand you a map of the area surrounding The Ranch, with figures written in purporting to demonstrate how high prices are in the vicinity of the investment property. Those figures could lead you to believe that property anywhere in the vicinity is selling for prices that range from \$2,000 to \$40,000 per acre.

But curiously, the only such expensive lots noted on the map happen to be located in well-established well-watered spots: the Downs at Santa Fe race track, Cochiti Lake, and the villages of La Cienega, Cerrillos and Madrid. No recent sale price for arid outback land, such as the property at The Ranch, is mentioned.

The Ranch sales spiel falls short of full disclosure in other areas as well.

It says that artesian and well water is present on the property. It does not say that official studies have concluded that there is virtually no surface water and that ground water in the general area is scarce and often highly contaminated.

The sales spiel tells you that the property offers convenient access to three maintained state and county roads. It does not tell you that a State Highway Department contingency plan calls for rerouting Interstate 25 directly through The Ranch property if current efforts to expand the existing I-25 corridor from La Bajada to Bernalillo break down.

The present route passes through Santa Domingo Indian land south of La Bajada, and the department has been trying for years, so far without success, to reach a mutually acceptable agreement to acquire Indian land for the purpose of expanding the present I-25 right of way.

But since 1975, according to department officials, alternative routes for the interstate have been planned in case they are needed. All three of the alternative routes that have been mapped out pass through The Ranch.

Ernest Cummins of Albuquerque, the driving force behind The Ranch, conceded recently that the effect of the road going through the property would be very

detrimental to development plans.

On the subject of subsurface minerals, the sales spiel states that Ranch investors and Union Carbide Corp. control all mineral rights attached to the property. In addition, it states that Union Carbide, which has been exploring for uranium on the land, would have to share the fruits of any uranium "harvest" with investors.

In fact, Union Carbide owns no mineral rights on the property. It is currently leasing them from some 25 people, not affiliated with The Ranch, who with Cummins own all the mineral rights on the property. For purposes of promotion, the potential role of Union Carbide has been hailed. "If Union Carbide should decide to harvest minerals, the picture would change from only an outstanding land investment to something even more rewarding," prospective land buyers read in the sales spiel. What they are not told, however, is that Cummins has tried his best to force Union Carbide off The Ranch.

Unlike the other mineral owners, Cummins chose not to lease his rights to Union Carbide. And last month, he took Union Carbide to court in an effort to compel the company to get off the land. In his lawsuit, Cummins said Union Carbide's presence was doing "irreparable damage" to the land and that its exploratory work could endanger real estate development plans.

Cummins' suit was thrown out of court, and Union Carbide was permitted to stay on the land.

More important, mineral owners, whose rights take priority over surface owners, are virtually free, if and when valuable underground deposits are discovered, to do what they want in the way of drilling and mining on the property, providing they compensate surface owners for any damage done to surface property.

Their license to probe the land, combined with the growing interest in uranium exploration across La Bajada mesa, could prove to have an inhibiting effect on any plans for real estate development at The Ranch.

But in the hands of the promoters, the question of mineral rights at The Ranch, like so many other aspects of the development scheme, has remained far below the surface.

The Top of the Pyramid: Millions in Profits

Cummins. The Ranch is a plain, a windblown land with an unknown capacity for millions. The Ranch is a pyramid with a base that generates millions of dollars for those at the apex.

Cummins, an Albuquerque realtor, stands on the top of the pyramid. He bought The Ranch in 1973 from the late governor, John F. Simms.

Under the terms of the sales contract, Cummins received more than \$1 million for 11,283 acres of land. He was paying for the property through a series of \$100,000 at six percent interest.

The contract on file at the Santa Fe County clerk's office indicates that Cummins was required to make a down payment. Rather, the first was to be made in April of 1974. (Peter Naumburg, a partner and an associate of Cummins, said that Cummins made a down payment.)

Under the terms of the contract with Simms, Cummins was to pay \$100 per acre for the property. In 1974, when the first installment was due, Cummins had raised \$140,000 through

the resale of 4,000 acres of the same land he was buying from Simms. By June of that year, through the sale of another 2,500 acres, he had raised an additional \$80,000 in cash, according to the records.

Cummins raised the money by negotiating sales contracts with three investor groups. In addition to their down payments, the three groups contracted to pay via annual installments a total of \$1,785,000, most of it bearing seven percent interest. (One group contracted to pay just six percent.)

Thus, in one year's time, Cummins had signed contracts calculated to give him double his money back. He paid slightly more than \$1 million and would get back slightly more than \$2 million. Moreover, he still owned more than 40 percent of the land he had bought.

At that point, The Ranch speculative venture had just begun.

In his three 1974 transactions Cummins had raised the price of the land from \$100 per acre to around \$300. During the next year the price would rise sharply.

In 1976 the three investor groups began selling off large portions of the land they were buying from Cummins. And in each of the investor structures, Cummins himself was still very much in the picture. He

was a controlling member of one of the groups and a participant in the other two.

Naumburg and a second Cummins associate, Lauren Peppler, also participated as controlling partners in two of the three original investor groups. They would control other groups to be formed later. And Cummins would re-emerge as the general partner of yet another group established in 1976.

By the end of 1976 the first three investor groups had sold 2,709 acres, about 40 percent of the land they had bought from Cummins.

But they had sold that 40 percent for more than \$3 million against the \$2 million they had paid. In addition, the 30 or so investors in those first groups also had agreed to pay almost \$400,000 in interest on the sales.

The original investor groups had bought the land at about \$300 per acre from Cummins in 1974. Their sales price to the next level of investors during the next two years, however, was \$1,200 per acre. In The Ranch's pyramid financial structure, they were selling to a third level, which brought in about 120 new investors. But several of those third-level groups were headed once again by Naumburg, Peppler and Cummins. Thus, the

[Continued on page 9]

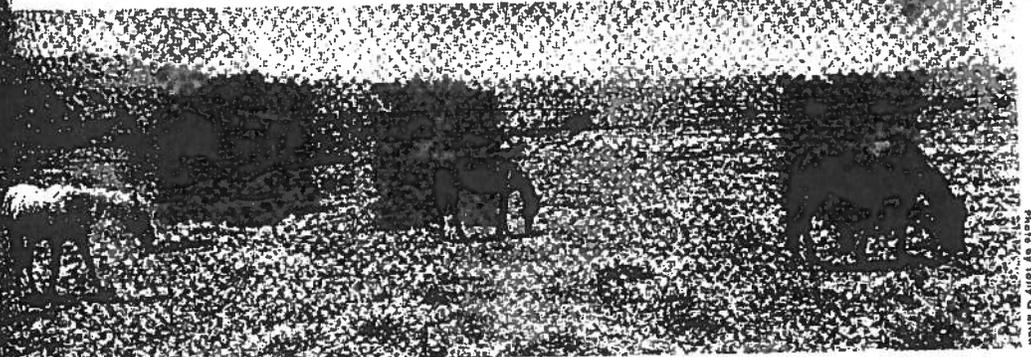


Photo by Tony Orlick

The Laws—And How to Avoid Them

Laws govern the conduct of real estate sales. The Ranch.

The New Mexico Subdivision Act, designed to ensure that land being divided and sold into several pieces has adequate resources, such as water, to support life.

The act also permits the state securities commissioner to exempt small, relatively simple investment ventures, including certain limited partnerships.

Under the act, all investment ventures, including ones that are exempt, must notify the commissioner of their intent to do business in the state.

Members of The Ranch acknowledged in recent years that they did not comply with the notification requirements of either law and, as a result, avoided opening their projects to official scrutiny.

Cummins and Peter Naumburg, two of the original investors in The Ranch, said their lawyers advised them that their project did not fall under the jurisdiction of either law.

The two men said they themselves did not understand the fine points of real estate law and could not explain why The Ranch was exempt within the scope of those laws.

"It is this: We wouldn't have the prominent lawyers involved that we do have if there was anything wrong with this deal," Naumburg said. "It's the cleanest deal I have ever seen."

Investment investors he was referring to include state Treasurer Kenneth Johnson, State Representative (D-Albuquerque), two bank officials and two attorneys.

Cummins, two officials here, Santa Fe County Clerk Earl Potter and New Mexico Securities Commissioner A.M. Swarthout, said last week they have made investigations to determine if either the subdivision law or the securities law has been violated by the project.

An

Investigative

Report

By Frank Clifford

THE RANCH

The subdivision law requires that anyone dividing a piece of property into five or more parcels for the purpose of sale in Santa Fe County must show how the property can be made suitable for development.

For example, the subdivider must be able to guarantee the availability of water for at least 40 years. "If someone is found guilty of violating the subdivision law, that person can be fined as much as \$1,000 for each piece of property illegally subdivided."

Records in the Santa Fe County courthouse show that The Ranch's original promoter, Ernest Cummins, has divided and sold about 20 parcels of Ranch property during the past five years.

Moreover, Cummins indicated in conversation he was not completely confident of the advice he apparently received that his transactions were not subject to the subdivision law.

"I think it's probably a debatable point. I think it's questionable."

The sale and resale of property at The Ranch has been carried out through transactions involving investment groups known as limited partnerships. More than 25 such partnerships, each consisting of 10 to 15 investors, have been established to buy and sell Ranch property.

Public records show, however, that only two of the partnerships filed notice with the securities commissioner in efforts to seek the exemption. In addition, the records do not reflect that the remaining

partnerships filed any kind of notice with the securities commissioner.

The point of the legal restrictions is to insure that the limited partnership is a small investment entity, both in terms of the number of participants and the financial liability of the general partner.

By not filing notice of their existence with the securities commissioner, the limited partnerships avoided the risk that they would be ruled ineligible for the exemption.

Without the exemption they would have been subject to the official investigation normally made into larger investment groups.

The purpose of that investigation, done by the securities commissioner, is to make sure that any large-scale investment scheme is "fair, just and equitable"—in other words, that investors stand a reasonable chance of benefiting financially from the project into which they are putting their money.

If the scheme involves investing in land, part of the commissioner's examination may be aimed at determining if the land has the potential in terms of future sales or development to reward the investor.

"In making a determination I would be inclined to ask many of the same questions that the subdivision law raises," securities commissioner Swarthout said. "For example, I would want to know if there was water. And I would want to know if the project was likely to fall afoul of any local regulations like the county plan."

Someone who violates the securities law also is liable to criminal prosecution. A conviction can lead to the imposition of \$5,000 fine and a three-year prison term.

"It is possible that he (the securities commissioner) could find some problem on paper as far as what we've done," Naumburg said. "But he'd find no problem as far as intent."

"People got involved in this deal because they knew us and trusted us with their money. We're going to take care of the investors. No one has gotten hurt. That's the important thing. And no one is going to get hurt."

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of the Pyramid

(Continued from page 5)

The pyramid could manipulate sales prices of groups which they themselves controlled. At the same time that Cummins, Peppler and Naumburg were selling land at \$1,200 an acre, Naumburg was selling the only piece of the original Simms tract that he had acquired. It was a 358-acre parcel with a house on two roads. Naumburg bought it from the firm for \$421 per acre.

According to the records, 16 groups had been formed and sold parcels of The Ranch. Cummins, Peppler and Naumburg were involved in eight of them. In the next 16 months Cummins began selling off a portion of the approximately 5,800 acres he had bought. He sold the property in tracts of 200 acres to 17 new partnerships, many of which were organized or headed by employees of the firm Realty of Albuquerque.

In 1977 partnerships, he sold the land for \$1,200 an acre, for a total of just over \$2.6 million, including interest, which could amount to an additional \$1,000, according to the records.

Two years after he bought the Simms Ranch for \$1.2 million, Cummins had personally received more than \$1 million. In the next 16 months Naumburg and Peppler each had benefited from \$1 million worth of sales negotiated by the first group.

There is another way in which the venture could have benefited Cummins.

When he had signed the contracts with the first group in 1974, he used those contracts to secure a \$750,000 loan which he received from the Grande Valley Bank in Albuquerque.

Richard Elkins signed the loan, according to records. And Elkins himself became a partner in the Lopez Limited Partnership, one of the investment groups whose contracts were sold.

In a recent interview that he was not one of the Lopez investors but that he bought a partnership sometime after it was formed. He did not indicate that Cummins paid back the loan to the Grande Valley Bank but on the same day he received \$1,000 from the First National Bank of Santa Fe for the contracts with the three groups as well as the bank officer who signed the loan.

Cummins became an investor in one of the partnerships which the law defines such loans, in which a bank is involved on both sides of a transaction, as long as the loan can be done legally providing the bank officer makes a full disclosure of his interest to the bank's loan-approval committee.

In this year, more than 300 people had bought property in The Ranch. Most were bottom-level investors who are not presently on the selling end of the pyramid.

Naumburg says they are confident these investors will make money eventually.

They are working on a plan to sell The Ranch at \$2,000 per acre to a developer interested in the alleged community on the property. If that happens, say the two realtors, bottom-level investors bought in at \$1,200 and \$1,250 an acre and would make \$2,500 per acre.

In putting together the deal, the Ranch investors would pay themselves the remaining \$500 per acre they would gross an additional \$5.5 million from what they have already made. Cummins and Peppler last week they have not yet located a developer, Cummins said he already has spent \$20,000 in advertising in The Ranch appealing to a developer. "It is as exciting and as easy as possible for a developer to come along and buy it up," he said.

The proposed scheme, it would cost more than \$30 million just to buy the property, and investors would be required to spend millions more to build the houses and generally making it fit for a water system alone could cost several million to build.

State officials, citizens groups and consultants have viewed the area where The Ranch is one of the county's local attractive for development.

Adoption of a proposed county general plan, in the next stages of preparation, would make it possible to develop a community on The Ranch.

Some promoters continue to talk in optimistic terms. One, for one, said he has little respect for the consultants and county consultants. "When it's all over, I wish they had put their money where

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Back at the Ranch

Editor:

When I moved to Santa Fe, one of my first business encounters was with Peter Nannburg. I had made an offer on a property Peter was handling, and while waiting for the answer as to whether it had been accepted I realized I had made a mistake. Having been in real estate my 20s, I knew that my offer was binding on me; nevertheless I went to Peter and asked him would he please release me. He did so without asking a single question. This was not a matter of friendship, because we had never met before and knew nothing about each other. I considered his action one of simple generosity and fairness.

Since then I have gotten to know Peter and have heard him speak in the privacy of his home, with great conviction and compassion of the needs of the various organizations under the care of United Way, in which he has been active. His concern was genuine and affected me deeply. I mention this together with my memory of the day Peter drove my wife and me to the Waldo property, in order that your readers may consider another description of this man.

On that day Peter told me most of what supposedly been revealed as secret history to the Waldo property, that is, he indicated the purchase price he had paid. I don't recall the exact figures or his precise words, but I remember my knowledge that he had paid far less than what he was offering it to me for sale. In other words, he did not misrepresent the deal he was presenting me, insofar as I can tell from the newspaper accounts.

What he said to other potential investors, I of course have no way of knowing. I did not buy into the property, but I have never bought anything for investment, so the quality of the deal was not the issue for me.

Cities, like people, develop prejudices, and Santa Fe has a prejudice against real estate developers and promoters. A prejudice includes a certain degree of blindness. I do not believe that the sale or development of real estate is inherently evil or that those associated with it are automatically tainted.

Hugh Prather
Tano Rd.
Santa Fe

Editor:

The significance, timeliness and importance of the investigative article "THE RANCH" by Frank Gifford in the May 15th edition of your paper is difficult to overestimate.

As a resident of Santa Fe for many years, and one who has been active in certain areas of city government and other organizations, I have seen great change. I am always in favor of change, if it is constructive and in the interest of everyone concerned. However, I believe I speak for a large number of citizens of Santa Fe when I say that I find no place or excuse for the change that revolves from personal greed and misrepresentation.

The obvious and flagrant avoidance of laws in this case by the promoters of the property known as The Ranch, as well as adjoining properties, must not be allowed to continue.

It is interesting to note that, by their own word, these promoters do not stand to lose anything, whatever the outcome of the "deal." I believe that other means in New Mexico, and other and better means in New Mexico are available, with whom and with which we can build and develop our state.

Emily Otis Barnes
P.O. Box 4908
Santa Fe, N.M. 87502

Editor:

The Santa Fe Karate School and I would like to express our sincere appreciation for the excellent article that Mr. Tim Fleming wrote about the Kaju Kenpo Open Classic

Karate Tournament April 15, 1978 in the sports section of your newspaper. We feel that the article was very accurate and done in very good taste.

J. Michael Moore
Tournament Director

Editor:

We at the Santa Fe Rape Crisis Center would like to endorse Sheriff Eddie Escudero for re-election. Sheriff Escudero and the police persons under his guidance at the Santa Fe County Sheriff's Office are doing an excellent job. Our contact with the office on sex-related crimes has been wholly good because his staff and he are dedicated, compassionate, and intelligent representatives of our legal system. All promote the most sensitive and careful treatment of the rape victim, and each cooperates to the fullest with other law enforcement agencies and victim advocates to insure that justice, in its most selfless sense, is served.

Sholbee Matis, Director
Santa Fe Rape Crisis Center

Editor:

Re Dr. Kramer's article on abortion (Open Door, Apr. 27), anaesthesia was, indeed, known in 1807 and had been for the past 21 years. The first operation under anaesthesia took place at Massachusetts General Hospital in 1846. It was a partial amputation of a tumorous tongue, an operation which, prior to anaesthesia, was usually followed promptly by the death of the patient from shock. The medication used was ether, whose use as an anesthetic was discovered by one William Morton, but the first anesthetic, nitrous oxide, was discovered and used in 1845 by a Connecticut dentist, Horace Wells, who was the true discoverer of the pain-killing properties of inhaled gases and fluids. This discovery revolutionized the entire world of medicine.

Anaesthesia for childbirth was widely condemned by the clergy who based their opposition on Genesis 3:16: "I will greatly multiply thy sorrows and thy conception in sorrow thou shalt bring forth children." This nonsense ended in 1853 when Victoria of England gave birth to her fourth child under chloroform anaesthesia, and confinement a la reine became the vogue.

Julie D. Bradford
P.O. Box 1895
Santa Fe

Letters Welcome

The Santa Fe Reporter welcomes letters to the editor. Letters should be sent to The Santa Fe Reporter, P.O. Box 2306, Santa Fe, N.M. 87501, and must include the writer's name and address, which may be withheld on request.

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Investors Bought The Ranch Without Looking

By FRANK CLIFFORD

Investors in The Ranch, the mammoth mine project now under investigation by state officials, readily admitted they never looked at the property before investing in it.

"I didn't see it," said state Rep. Lenton Mabry, an Democrat who would have passed by The Ranch if it had not been for the fact that the time he commuted from his home via I-25 to the mine site was the focus of official scrutiny—by the state's Public Lands Commission, the attorney general's office and the Santa Fe county attorney—after a recent series of newspaper articles raised questions about the feasibility of the Ranch investment project.

The Ranch, about 11,600 acres, is located approximately 20 miles south of Santa Fe and is easily viewable and accessible from U.S. Highway 125. The majority of the Ranch is owned by individuals, live within a few miles of The Ranch.

Even before the Ranch became the focus of public attention, Mabry said he decided to put money into the Ranch at the recommendation of a friend. In fact, his friend was Ernest Cummins, one of three men who had the most money from the Ranch venture and who have stood by the investment.

Cummins is a neighbor of mine and he just sold me the Ranch. He said that it was a good investment," Mabry said. "I think that his total pledged investment was around \$1 million, which is about the same as most of the 300-plus investors who have put money into the Ranch."

Forre Col. Buckley Walters is another investor who said he put money into the

project without first looking at the land or investigating its potential.

"A friend of mine said it was a good deal, so I thought I'd take a flier," Walters said Monday. "I never went to see it. I didn't ask anyone in Santa Fe about it. I did ask a couple of realtors in Albuquerque, but they didn't know anything about it. . . I'm just one of those guys who agreed to put down \$100 a month and hoped to double my money one day. Maybe I was dumb."

At the time they were interviewed, neither Mabry nor Walters had seen Santa Fe Reporter articles concerning The Ranch.

The newspaper articles, published last month, revealed that:

- The Ranch project, involving some \$8 million worth of real estate sales through a vast network of investor partnerships, was carried out over the past five years without the knowledge of state and county officials responsible for approving subdivision of land and the sale of securities.
- The promotional material used in attracting investors to The Ranch omitted any discussion of possible risks involving the availability of water, the construction of new roads and the pre-existing rights of mineral owners on the property.
- The final draft of the county's general plan characterizes the area where The Ranch is located as one of the least suitable for future development.

The articles also disclosed that even if The Ranch is not developed, the handful of people who initiated the project stand to make millions of dollars on the basis of investments solicited over the past few years.

Most of 10 investors interviewed recently said they had put their money in The Ranch with the expectation that demand for the land would allow them to resell at a profit within two to five years from the time they invested.

"The sales pitch was that The Ranch was the sort of property that would be appealing to a large-scale developer," said investor Randy Sabre of Albuquerque.

Sabre said he invested—through a limited partnership—in a parcel of the Ranch property that he believed would have commercial development potential if it turned out that the entire Ranch site was not purchased for a single massive development.

Sabre said his parcel of land was located south of La Bajada Hill adjacent to I-25. "So even if the dream of a big development should fizzle I think I'm pretty well situated to recoup my investment," he said.

Sabre said he invested in the property during the past year. He was asked if he was aware of planning by the State Highway Department that could lead to a rerouting of I-25 in such a manner that the road no longer would abut his property. (The planning has come about because of the inability, so far, of the department to negotiate with the Santo Domingo Pueblo for more land needed to widen I-25 south of La Bajada and The Ranch. For the past several years the state has been trying to work out a price with the Indians for the property necessary to broaden the highway right of way through Indian land. If an acceptable price cannot be negotiated, highway officials say that I-25 probably will have to be rerouted east of its present course. For the past three years officials say they have been doing contingency planning, including mapping out

(Continued on page 4)



A class at Chaparral's. We thought that's the way open schools looked.

Parents Figure Out What to Do

Two weeks ago Jerry Ortiz y Pino, like most of the parents of Chaparral Elementary School students, was just fine over there.

He had noticed that the huge room where his son and 416 other children were taught in the schoolroom system seemed rather crowded, he said, and thought that's the way all the open schools were.

Reports of overcrowding and poor ventilation in the May 26 edition of The Santa Fe Reporter said, "most of us would have said there was nothing to worry about."

Recently last week, as part of the aftermath of the school board's decision, Ortiz y Pino found himself selected as one of a group of anxious and confused parents determined to confront the angry school administrators and board members at the scheduled June 7 meeting of the school board.

He would be carrying a petition signed by 100 parents demanding immediate improvement in Chaparral school's ventilation system and a reduction in enrollment.

Ortiz y Pino said he felt optimistic that steps would soon be taken to fix the faulty fans that have stifled ventilation in the school's music room to the point that children reportedly have "vomited and fainted." He said he already learned that Santa Fe School Superintendent James Miller would ask the school board for funds for an

And as he spoke last Monday, he had only two days left before the meeting.

"We're operating out of real ignorance," he conceded, as he busily made notes on a pad at his office in the PERA Building, where he is a planner in the social services division of the state Human Resources Department.

But this is not the first time Ortiz y Pino has jumped into the midst of a school controversy. Four years ago he was a member of a task force formed as a result of low test scores among the district's junior high students. The task force created a social work program within the school system.

Ortiz y Pino was also very clear about one point he would stress to the school board June 7 as the parents' spokesman.

It was that whatever other problems plague the Chaparral school, the parents do not believe its educational standards have dropped. "Parents are basically happy with the quality of education at the school," he said. They feel that the staff, under principal Imelda Baca, is unusually fine, he said, adding that his son has had an excellent year in the second grade. (But next year David will attend the newly created Pinon Elementary School as the family lives south of Rindes Road and falls within the new district.)

As to the insistent demands of the parents' petition, Ortiz y Pino said he felt optimistic that steps would soon be taken to fix the faulty fans that have stifled ventilation in the school's music room to the point that children reportedly have "vomited and fainted." He said he already learned that Santa Fe School Superintendent James Miller would ask the school board for funds for an

(Continued on page 8)

Inspectors Find Chaparral Lacks Room and Air

By HOPE ALDRICH

State building inspectors, called in by parents to inspect alleged overcrowding and poor ventilation at Chaparral Elementary School, have determined that the school this year enrolled 72 more students than is legal under the state building codes, and that ventilation there was "very poor."

In a report delivered Tuesday to the Construction Industries Commission of the state Department of Commerce and Industries, the inspector, Harvey King, stated that occupancy of the main school building should not exceed 345. The occupancy this spring has been 417.

The department can close a building if occupancy regulations are not complied with, a state official said.

King reported also that several of the huge roof fans intended to cool the building did not turn on when he flicked the switches during his inspection June 2, and the temperature had reached 75 degrees, too hot for classrooms, he said.

Teachers at the school have said they asked the school administration for repairs many times over the last five years but that the administration did not respond.

But last Tuesday, a day before the June 7 school board meeting at which Chaparral parents have said they will present a petition of complaints, Santa Fe school superintendent James Miller said he would request funds from the school board to hire an engineer to inspect the ventilation system.

Miller said funds for improvements to the faulty system, if recommended, could be drawn from the school district's operating budget or its minor-projects building fund. He added that he wanted the work done before school reopened.

This move seemed in contradiction to statements made by assistant superintendent for elementary schools Walter Wier on May 11. At that meeting, called by the teachers at Chaparral, Wier said no improvements could be expected next fall in either the overcrowding or the ventilation system, teachers said.

After that meeting, teachers called The Santa Fe Reporter, and in its May 26 edition, the newspaper detailed overcrowding and overheating problems, which teachers claimed were so severe they interfered with the children's education.

The recent building inspection report states "the ventilation in the building was very poor. . . The doors have to be opened to get ventilation, and this is a bad situation for the students being exposed to the outside elements. . ."

"The occupant load of the building was checked and was

(Continued on page 8)

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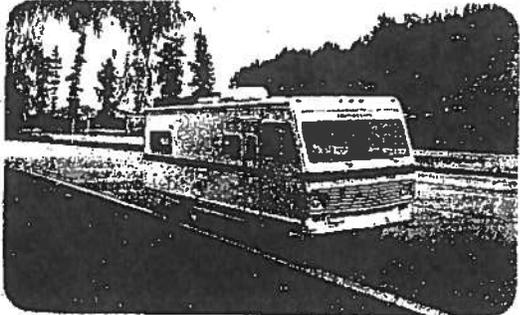
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Holy Spirit 7

[Continued from page 2]

many that would be perverted in this death of many singers, the hillbilly type rock and roll singers. It will be a disaster, a catastrophe (sic).

The revival audience grows excited as he speaks of his fulfilled predictions. He says America in which traditional religious values and standards have eroded, and the crowd is waving hands and hissing "yes."

Padgett's text tonight is the "Bible Revelation" and, wrapping the tenor of his preaching in the sad bromstone, death and Outside the wind has risen, and it makes loose lips snap as the audience grows in eerie counterpoint to his preaching.

"Repent!" is the key word. The tempo of Padgett's voice rises until he is shouting into microphones and the overloaded sound system buzzes with fuzzy distorted words. "The harvest here is a scream, and then releases his audience's forehead and begins again in a soft voice. Time and again he does this, gradually the rhythm of the preaching to a loud boom. "God give a little TRUTH, ah, unto this people... Jesus is the LIFE, ah, Jesus is the WORK with the odd inflections of an auctioneer.

Padgett's face is red, he is perspiring. He has taken off his jacket. "Whoooo," he hollers, he says, and twitches, shivers as if he has an electric shock, his feet beating, stamping an odd tattoo that raises pools of dust.

"We don't want death," he chants. "We want life in the woodwork, ah... God's dealing with you to get saved!" Padgett's head is tilted back, closed, and gradually members of the audience toward the stage and the worn carpets, kneel, their raised arms waving slowly like water.

The people return finally to their seats, calls for "people with needs." Three women, small children, come forward. The preacher whispers wishes, places his hand on the heads of each, and with his otherworldly shiver, prays with strange words: "Selah the michah," he says. "Selah the michah."

But this laying-on of hands is anticlimactic, a lively narrative and choreography of the scene are no obvious miracles, and the revival ends down to the collection of offerings.

"God said someone would give \$100 tonight," says brightly. But apparently no one does. "Some say even one with a tent is out for me. I ain't," says Padgett, relaxed now and smiling. "Shake hands, be friendly and we'll see you tonight," he says, and the organ launches into a tune as the audience files out of the big tent. Of the world, it is happy music.

Investors Bought

[Continued from page 3]

alternative routes for I-25.]

All of those routes would bypass Sabre's Sabre said Monday he knew nothing of the plans. "This is the first I've heard about it. Someone had told me anything about this might not have invested."

Three of the 10 investors recently interviewed, although they were hearing for the first time the possible risks associated with The Ranch, remained confident that their investments would pay off.

Mel LaVail, a retired Air Force officer who "heavily invested" in The Ranch, said this week he decided to become an investor.

LaVail said he grew confident enough of the investment to "get most of my money involved." On the subject of water, he said there had been enough accidental findings in drilling operations to indicate that there were water supplies beneath the ground.

While LaVail has been instrumental in a substantial number of investments in The Ranch, he has not been acting as an employee or a principal in The Ranch. "I have been in deals with them," he said without naming any of the deals.

"I spent a lot of time walking around standing at the edge of that cliff and looking down the valley. It's one of the most enchanting spots I've ever seen. I'd like to build there myself one day, but I don't know if I can do that or not. I think my investment up there is a good one," LaVail said.

"Maybe I won't make all the money I hoped for in my investment. But when push comes to shove, I think you'll find I've lost my hat, ass and spine."

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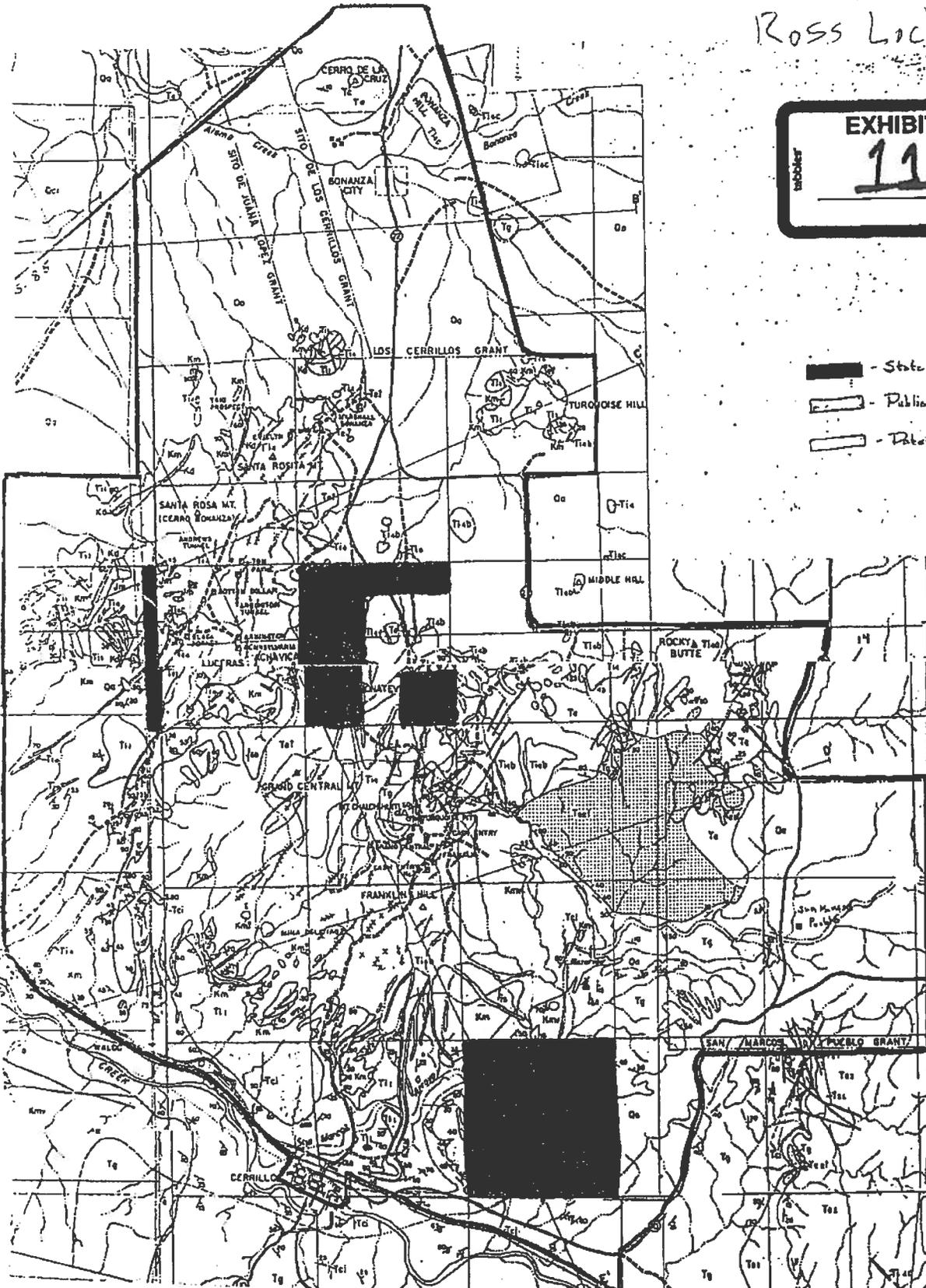
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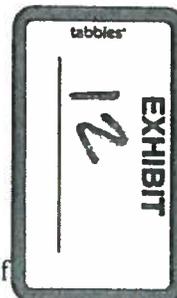
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Executive Summary

Reclaimed wastewater (RW) is a vital and valuable water resource that helps the City of Santa Fe meet its current water supply needs; it can also play a critical role in meeting future potable water supply demand. Since the adoption of the previous RW plan, the Treated Effluent Management Plan (TEMP) in 1998, the quantity of available RW has been reduced by 29% because of the City's comprehensive indoor water conservation programs while RW use has more than doubled (Figure 3). This Reclaimed Wastewater Resource Plan (RWRP), developed with the assistance of the "Working Group" members identified on the cover page, prioritizes current RW uses and identifies strategies and implementing actions to optimize current and future use of the resource. This analysis concluded that RW availability is currently limited during the peak summer irrigation months and that the shortfall will increase in the future with new RW uses anticipated by the City. The methodology used for prioritizing RW uses herein can be applied in the future to new circumstances; thus, this plan serves not only as a blueprint for RW use today, but also serves as a roadmap for the future.

This RWRP considers the City's current and projected RW needs through the 2020s. RW availability is projected 40 years in to the future through 2052. Based on the City's average RW production of 1,887 million gallons/yr (5,790 af/yr) over the past five years, this RWRP assumes that 1,825 mg/yr (5,600 af/yr) and 152 mg/mo (467 af/mo) of RW is available (Section 4) at a steady daily and monthly rate for the 40-year planning period. The difference (62 mg/y; 190 af/yr) between the RW produced and the amount allocated in this Plan is reserved to accommodate for changes in use, metering uncertainty, and/or changes in future conditions.

The RW use options considered in this analysis include current uses: direct sale for dust control and other construction purposes; irrigation of municipal recreational fields at the Municipal Recreational Complex (MRC) and the infield at Santa Fe Downs; irrigation of the Marty Sanchez Links de Santa Fe and the Santa Fe Country Club golf courses; dust control at the regional landfill; watering livestock on the Caja del Rio; irrigation of the education-scapes at the New Mexico Game and Fish facility; and for Santa Fe River flows downstream of the City's wastewater treatment plant to support the river/riparian ecosystem and local agriculture (Section 5). The analysis also includes potential future uses: irrigation of the turf at the Santa Fe Equestrian Center (also a previous use); irrigation of the Southwest Area Node Park; irrigation of turf at schools, the library and other open space along the Southwest Sector effluent pipeline; offsetting the surface water depletions in the La Cienega area caused by the City's pumping of the Buckman well field; piping RW upstream to the Santa Fe River; and future potable water supply (Section 5).

For this analysis, an annual, monthly and maximum peak daily RW budget for all of the current and potential future RW uses was determined, either based on past usage, contracts, requests, or estimates (Section 6). The demand for monthly and daily RW is great. The combined monthly demand for all the options, except RW for potable water supply, is 213 mg/d (Table 2), 40% more than the RW available; the combined daily demand of all the options (except RW for potable water) supply is 6.9 mg/d (Table 2), 38% more than the available amount. Hence, RW demand is greater than available supply under



graphs), the unit most commonly used in water and wastewater production, million gallons, has been employed.

2 Management, Production, and Regulations

RW is recycled wastewater that has been treated to meet specific water quality criteria, in part, with the intent of being reused for a wider range of purposes. In Santa Fe, RW is produced from the collection and treatment of indoor water use (e.g. wastewater or sewage) from homes, businesses, and industry that is then treated at the City's WWTP located off Airport Road (Figure 2) and adjacent to the Santa Fe River. The wastewater is treated by a combination of pre-treatment, primary sedimentation, secondary biological treatment, and tertiary multi-media filtration before being disinfected with ultraviolet (UV) disinfection. For the past five years, 62% of the potable water delivered to Santa Fe residences and businesses is collected as wastewater; the other 38% is consumed, most commonly by outdoor irrigation. Currently about 5 million gallons per day (mg/d) of wastewater is treated at the City's WWTP.

2.1 Management of Reclaimed Wastewater

The City of Santa Fe Wastewater Management Division (WWMD) is responsible for the production and management of the RW. As the bulk provider of RW, the WWMD responsibilities include: providing a finished RW product that is in compliance with state water quality regulations; coordinating the use of RW among users; assembling meter information; billing RW users, where appropriate; maintaining the WWTP effluent discharge flow meter to the Santa Fe River; monitoring and reporting per the City's discharge permit, in some cases including the land application by other entities; developing RW contracts; and informing City's management and decision makers on the matters related to RW use. The WWMD is not responsible for maintaining distribution systems and pumping stations, reading or calibrating RW meters, operation and maintenance (O&M), and costs associated with O&M and RW delivery.

During the irrigation season, WWMD staff determines a schedule whereby different users can withdraw RW from the post-treatment outfall channel via one of the six distribution lines that exit the WWTP facility: 1) SF Country Club golf course (GC), 2) SF Downs, 3) the pipeline to the on-demand stand pipe on the east end of the property, 4) the "northern" purple pipeline (MRC, Marty Sanchez GC, Landfill, etc.), 5) Las Campanas via a 2 MG storage tank (not currently in use), and 6) SF Equestrian Center (not currently in use).

Most of the diversion pumping equipment and the meters are housed in the small buildings on either side of the canal (Figure 4). The RW flows discharged to the Santa Fe River are measured via an ultrasonic level recorder that continuously records flow at the effluent Parshall flume. In many ways WWMD staff act as the "mayordomo" of RW, determining when to allow the various users access to the RW based on the daily production rate fluctuations. The WWMD does not currently have a protocol or a list of priorities by which the RW users receive RW under shortage scenarios during critical summer months.

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Engineer (OSE) state that, unless priorities change, adjudication of this basin is still decades away. City of Santa Fe founding documents support the notion that a portion of the City's Santa Fe River water rights have a 1609 priority date, placing the City's rights among the oldest in the watershed (City Attorney Office, communication).

- Projected climate change impacts suggest that more RW will be needed to irrigate the same acreage because of projected hotter and possibly drier weather conditions. By mid-century stream flow throughout the Rio Grande basin, including the Santa Fe River, may be reduced by 10-25% (Climate Change and the Santa Fe Basin, 2013).
- The Club at Las Campanas, Inc. (CLCI; the golf course owners) will no longer purchase the City's RW. CLCI forfeited the right to the RW by not renewing the renewal term under the 2003 Settlement Agreement. Under the agreement, the City has the option to purchase the 2 million gallon storage tank at the WWTP from LC W&S Coop. The effluent pipeline and ancillary infrastructure that extends from the WWTP to the Las Campanas wastewater facility remains the property of LC W&S Coop.
- The impacts of annexation have only been considered in this plan to the degree that the projected population increases include the potential future wastewater customers within the presumptive City limits.

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- **RW budget:** Annual: 31 mg/yr (95af/yr); Peak month: 4 mg/mo (14 af/mo); Daily maximum: 140,000 g. The stand pipe sales will generate up to approximately \$94,000 annually. **[Amount sold in 2007: 40 mg/yr (123 af/yr)]**

11. **NM Game & Fish:** The New Mexico Department of Game and Fish has their headquarters on One Wildlife Way off Caja del Rio Road. The agency uses RW for a small pond and native vegetation that is all part of an on-site wildlife educational center. Water is pumped to NM Game & Fish from one of the storage ponds at Marty Sanchez GC. Relative to other uses, very little RW is used. The annual contract with NM Game & Fish allows the agency to use up to 1.6 mg/yr (4 af/yr).



- **RW budget:** Annual: 1.6 mg/yr (4 af/yr); Peak month: 0.23 mg/mo (0.55 af/mo); Daily maximum: 10,000 g. The City will collect about \$5,000 under this contract in 2013.

12. **Landfill:** Caja del Rio Landfill uses RW for dust control and rock crushing/screening during landfill operation. Use has varied between 2 to 9 mg/yr (7- 18 af/yr).



- **RW budget:** Annual: 6 mg/yr (17 af/yr); Peak month: 1.3 mg/yr (4 af/mo); Daily maximum: 40,000 g. RW use by the Landfill generates approximately \$17,000 per year. **[Requested annual RW budget is 12 mg/yr (37 af/yr)]**

13. **BW Permit Compliance:** The Buckman Well Field Permit Compliance option is a way for the City to fulfill to a New Mexico Office of the State Engineer (OSE) permit condition associated with pumping the City's Buckman wells (RG-20516 et al). The OSE annually calculates impacts from Buckman well groundwater pumping on the surface waters, including the springs in the La Cienega area using a groundwater model. The City is currently seeking recognition from the OSE that the release of water from the WWTP has mitigated the impacts over the past decades and that future offset calculations need to include RW released to the river. Other downstream discharges, like Option 5, could likely also to be counted toward permit compliance. The RW budget presented herein is preliminary. This budget assumes a constant pattern of release over the course of a year, although the OSE may ultimately require a different flow schedule.



- **RW budget:** Annual: 33 mg/yr (100 af/yr); Peak month: 3 mg/mo (8 af/mo); Daily: 90,000 g. The annual value of the RW use is \$99,000.

(EMAIL)

June 11, 2014



Dear Santa Fe County Commissioners:

La Bajada is probably the most important natural landmark in New Mexico, traditionally separating Rio Arriba from Rio Abajo, and symbolically uniting our great Land of Enchantment. I am a 17th generation New Mexican whose ancestors have been ascending and descending La Bajada escarpment for over ~~the~~ ^{for} hundred years. Movement through this incredible landscape continues today as we travel Interstate 25 back and forth to Albuquerque. It is truly the perfect gateway to the north, and an almost pristine approach to Santa Fe. Some may think that permitting this mine will have negligible impacts. I, and thousands of others, know that it will be the crack in the door to allow repeated abuse of our sacred cultural landscape - our common wealth. The litany of common sense reasons to deny the permit is huge as each of you know by now. Allowing the mining would be allowing a huge gash into the heart and soul of who we are. Please deny the permit. Your constituents will be forever grateful.

Sincerely,

Michael Romero Taylor, 52 Sunset Rd.
La Cienega 87507

6/11/14 Read by KATHY L. KURLAND

SFC CLERK RECORDED 07/11/2014

June 11, 2014



TO: Honorable Santa Fe County Commissioners

CC: Penny Ellis-Green, Director; County Attorney, Case Manager

FROM: Pam Bennett-Cumming M.E.S. Retired county land use & watershed planner. 286 Camino Cerro Chato, Cerrillos NM 87010

RE: Rockology - La Bajada Mesa proposed mining zone ZMIN13-5360

I believe the County's stated vision is not to create strip mine spot-zoning on this historic site – this visible sweeping vista, its own gateway.

1. The 1996 Development Code¹ asks for thoughtful consideration before acting: "...the County may create mining zones provided the following standards are satisfied..." **May**, not shall.

One standard states: *"The mining use must be reasonably compatible with other uses in the area affected by the mining use including but not limited to..."*

Examples given include recreation, population... Stating **"but not limited to"** suggests impacts should be considered broadly.

2. The Commissioners created and adopted the 2010 Sustainable Growth Management Plan² as the County's vision. It values the people, history and landscape, and the tourist, movie, and other sustainable economies so successful here. It states:

"Santa Fe is known worldwide for its special landscapes."

"Mining, quarrying or extraction activities impact communities, roadways and scenic landscapes. Locations for resource extractive industries should not adversely impact existing communities, infrastructure and the tourist economy."

"Development should be sited and designated to limit the impact on viewscapes that define the County as a tourist destination."

"...since Santa Fe County's historic and cultural resources draw visitors to the area, preservation is also an element of the County's economy."

"Protect and preserve the County's archaeological, historic, cultural, community and scenic areas."

"Scenic viewsheds should be preserved and protected as an important resource."

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"Limit development near prominent natural features such as distinctive rock formations."

"Planning and development take into account the cumulative impact of individual projects."

In fact, the Resource Conservation Chapter uses an image of La Bajada in support of its section on conservation easements. It would then seem incongruous to take this example and approve dynamiting it for road gravel.

This citizen urges the Commission to vote denial of this project.

¹ Santa Fe County. Land Development Code, 1996

² Santa Fe County. Sustainable Land Development Plan, 2010

Personal statement against the La Bajada strip mine proposal for the BCC hearing, June 11, 2014

Russell J. Bennett-Cumming, MIT, educator, retired
286 Camino Cerro Chato
Cerrillos, NM 87010



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The Commissioners and the voting public through hearings, testimony, petitions, editorials and research, already have had ample opportunity to weigh and evaluate presentations about the proposal for a gravel strip mine on La Bajada Mesa. The testimony from the applicants is weak from every perspective, including economic, aesthetic, historic, environmental and impact on surrounding communities. In contrast, the opposition testimonies from experts in several fields and from impassioned pleas of outraged citizen voters have lodged substantial and overwhelming negative concerns. These concerns include non-conforming and inappropriate business expansion, water rights issues, excessive dust and particulate pollution, noise pollution from blasting and rock crushing, light pollution from high intensity security lighting, curtailment of tourism and disdain of historical preservation to highlight the most obvious. Nothing about the proposal adheres to the vision of the County as set forth in the approved and adopted Sustainable Growth Management Plan for Santa Fe County. Approval of such a devastating and detrimental project is clearly not in the best interests of the community nor does it support the current and future growth that Santa Fe has proposed for the County through scripted, thoughtful and meaningful development plans. As a concerned voter and landowner in the County, I urge the Commissioners to rally with the greater community and deny this devastating proposal.

A large, stylized handwritten signature in black ink, appearing to be "Russell J. Bennett-Cumming".



June 11, 2014 Before the Santa Fe County Commission

Statement by Sterling Grogan (sterling.grogan@gmail.com) in opposition to the proposed gravel surface mine on La Bajada Mesa

Good afternoon Commissioners. Thank you for this opportunity to address you. My name is Sterling Grogan. I am an ecologist and a resident of Santa Fe County. For more than 40 years, I have worked with the mining industry to prevent or overcome the negative environmental effects of mining in New Mexico and elsewhere. I managed the public process that developed the first set of regulations to implement the New Mexico Mining Act.

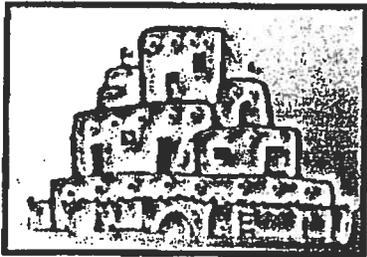
Unfortunately, the New Mexico Mining Act does not cover sand and gravel mining. Therefore, the proposed surface mine on La Bajada Mesa would not be regulated by the State. Serious environmental problems that are common in surface mining such as accelerated erosion, destruction of wildlife habitat, and spills of oil or fuel, could not be addressed by the State officials who are trained and equipped to regulate mining. I doubt you would want such problems to become the responsibility of Santa Fe County.

Therefore, I urge you to table the application for a new surface mine on La Bajada Mesa, place a one-year moratorium on new sand or gravel mines in Santa Fe County, and support an effort in the Legislature to bring sand and gravel mining under the New Mexico Mining Act. A simple modification of Section 69-36-3 NMSA 1978 (as follows) would remove the exemption for sand and gravel that is currently in the definition of "mining":

H. "mining" means the process of obtaining useful minerals from the earth's crust or from previously disposed or abandoned mining wastes, including exploration, open-cut mining and surface operation, the disposal of refuse from underground and in situ mining, mineral transportation, concentrating, milling, evaporation, leaching and other processing. "Mining" does not mean the exploration and extraction of potash, [~~sand, gravel, caliche, borrow dirt and quarry rock used as aggregate in construction,~~] the exploration and extraction of natural petroleum in a liquid or gaseous state by means of wells or pipes...;

SFC CLERK RECORDED 07/11/2014

June 11, 2014



THE SAN MARCOS ASSOCIATION

June 11, 2014

To: Santa Fe County BCC

From: Walter Wait
President
San Marcos Association
P.O. Box 722
Cerrillos, New Mexico 87010

Dear Members of the Commission:

We would argue that the proposed mine should not be evaluated under Santa Fe County Ordinance 1996-10 Article XI, the Santa Fe County gravel mining regulations but should be evaluated under Article III, Section 5, the Santa Fe County Mineral Exploration and Extraction regulations.

We believe that the regulations for gravel mining were intended for operations that remove naturally occurring gravel from a defined place, not for the production of gravel from hard rock formations. Naturally occurring gravel is found throughout Santa Fe County in old river beds, and in geologic formations that simply require sifting, washing and sorting. This is clearly stated in Article XI.1.1 which states:

Mineral extraction activity for construction materials, including but not limited to, stone, sand, gravel, aggregate, or similar naturally occurring materials, (hereinafter: construction materials) shall be allowed anywhere in the County, provided the requirements of this Ordinance are met.

The key phrase that signifies intent is " similar naturally occurring material". In order for the proposed development to qualify under Article XI, the material proposed to be extracted must be naturally occurring. That is to say, it must be already in a state that would qualify as sand, gravel, or stone - useful in construction activities. In this instance the material to be mined is not gravel and Article XI does not apply.

Mineral Extraction, on the other hand requires removal of overburden, and breaking up of generally solid rock for removal and processing. This is a far different mining process that is clearly under the purview of Article III, Section 5.

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June 11, 2014

Article III, Section 5.1.2 (D) states:

" this section applies to all mining land uses notwithstanding the provisions of article 1, Section 8.12 of the Code except for sand and gravel mining operations which are regulated elsewhere in the code".

Since Section XI does not apply, then Article III, Section 5 must be applied to the application. As to whether or not Sand and gravel can be treated as a "mineral" to be mined , this has been addressed in New Mexico Supreme Court ruling *Roe v State of New Mexico ex rel., State Highway Dept, 103 NM 517,520,710P.2d, 84.87 (1985).*

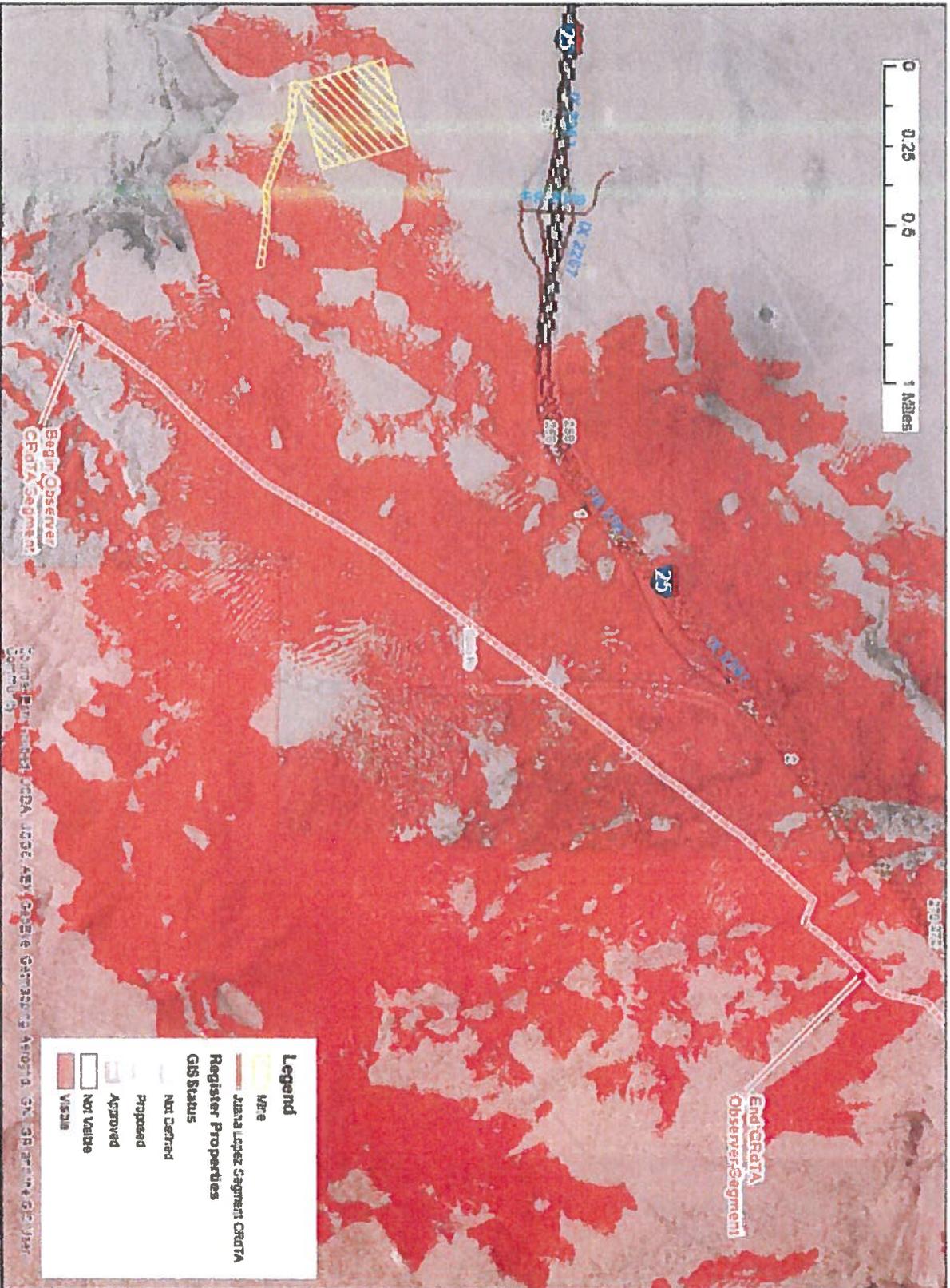
In that ruling the Court held that *"the question of whether sand and gravel are "minerals" as that term is used in general mining reservations ,is to be answered on a case by case basis by examining the intent of the parties"*.

It is important then, to evaluate the intent of the code as it applies to Sand and gravel. Article XI only refers to temporary uses (1.9 General Review) where the duration of the permit is not to exceed 180 calendar days (360 with an extension). There are no instructions for evaluation of a longer term "permanent" installation. The intent of Article XI, therefore would appear to apply ONLY to applications for a temporary use of 360 days or less. Rockology has requested a permit for twenty five years - hardly a temporary use. Again it would appear that the intent of the rule is to regulate temporary removal of construction materials, and not to permit a long term mining operation. The assumption therefore is that the intent of the code would be to apply Article III, Section 5 to any application for a mining permit lasting over one year.

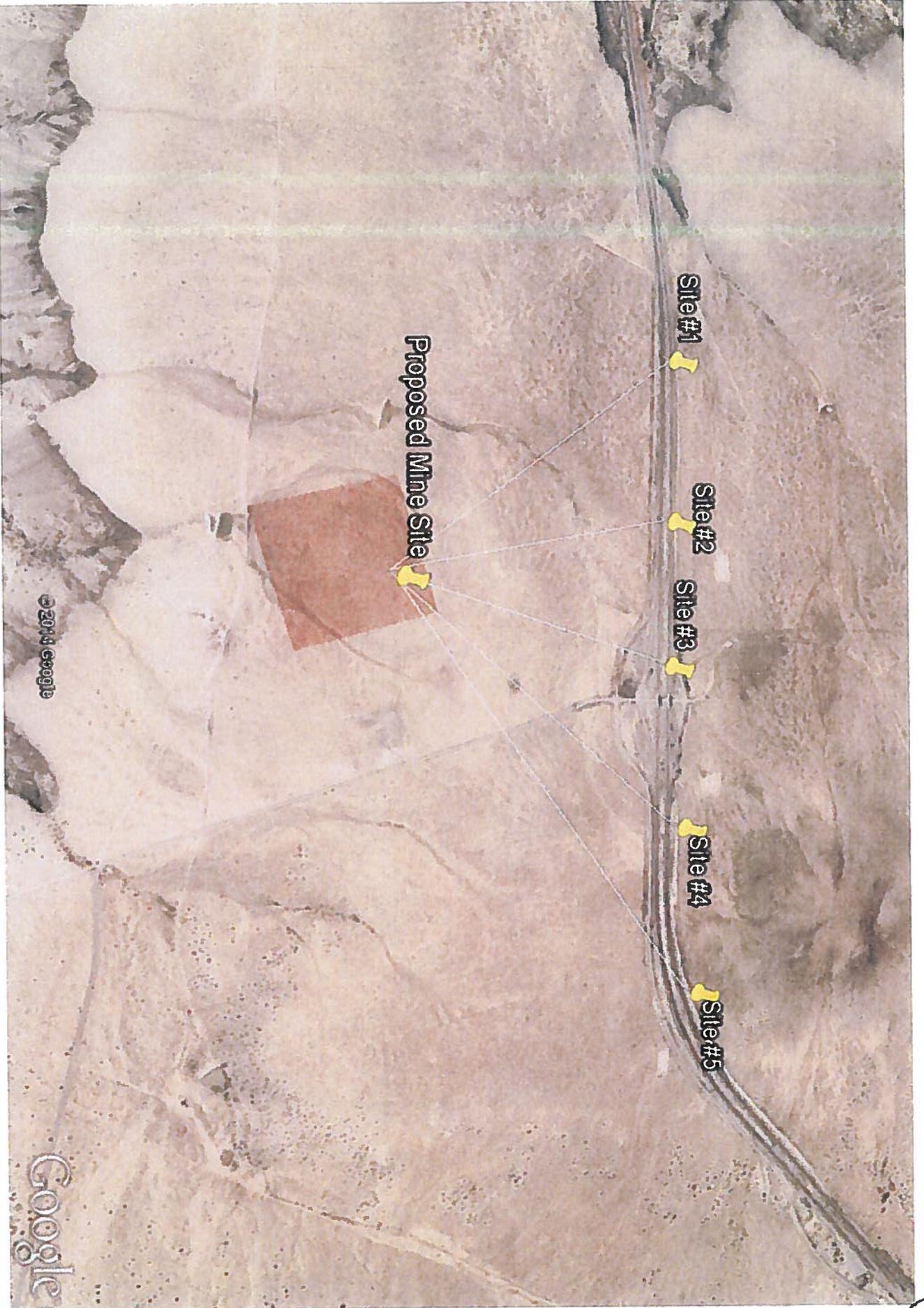
We believe, therefore, that the application should have been rejected before it came before the CDRC because it does not follow the requirements set forth in Either Article XI, or Article III, Section V, Mineral Exploration and Extraction., We urge the BCC to reject the application on these same grounds.

Walter Wait

La Bajada Mesa Strip Mine Visual Impact from the Camino Real



Viewshed from Juana Lopez Road Segment of Camih Realds Terra Adanto and Buena Vista & Rockology Mining Site



Views of Proposed Mine Site from I-25

Cresting the Mesa – #1 Elevation 6087– Dust is visible



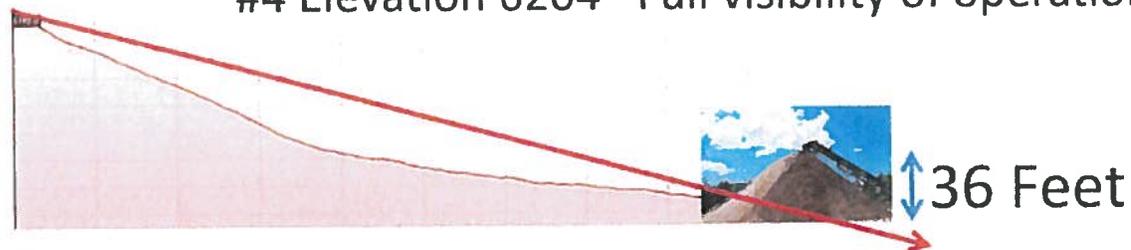
#2 Elevation 6124– Structures or gravel over 20 feet visible



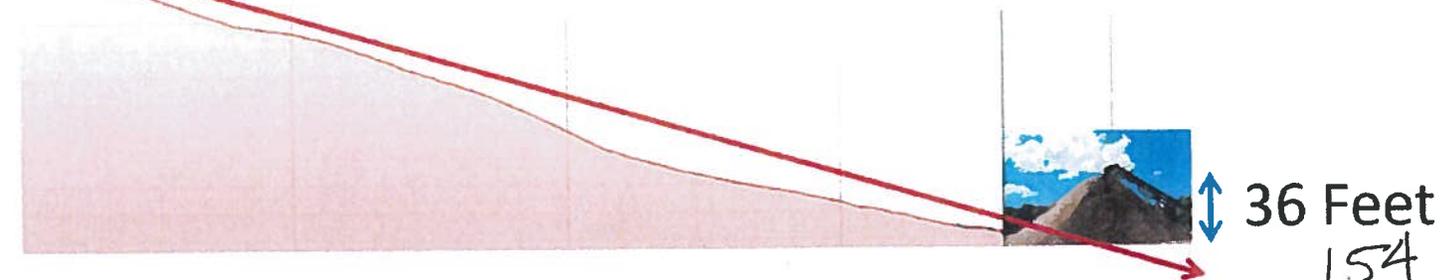
#3 Elevation 6154– Full visibility of operations



#4 Elevation 6204– Full visibility of operations



#5 Elevation 6245 – Full visibility of operations



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| Ellen Witham | 228 E Cordova 87505 | | X | |
| Patricia Parise | Eldorado 87506 | | X | X |
| TREVOR BURROWES | | TREVOROCHE@AOL.COM | | |

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| 6 Pam Bennett-Lumming | 2816 Camino Cerro Chato, Cerillos | pbennettlumming@gmail.com | <input checked="" type="checkbox"/> | |
| 7 Conchita L. Lopez | 250 E. Alameda Apt 208 | | | <input checked="" type="checkbox"/> |
| 8 Raymond M. Herrera | 379 Hillside Ave. S.F. | r.d.herrera379@gmail.com | <input checked="" type="checkbox"/> | |
| 9 Emil Graesser | 394 Camino Cerro Chato, Cerillos | engraesser@yahoo.com | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| 10 DEXTER ESPINOSA | Po Box 23551, S.F. | | | -- |
| 11 Laird Graesser | 115 Rancho Alegre | lgraesser@cybermesa.com | <input checked="" type="checkbox"/> | |
| 12 Jennifer Dwayne | 2729 Camino Chueco SF 87505 | | <input checked="" type="checkbox"/> | |
| 13 STEVE BENNYHOFF | 2729 CAMINO CHUECO SF 87505 | | | |
| 14 BARBARA LANNING | 1006 DON CUBERO AVE SF | | <input checked="" type="checkbox"/> | |
| 15 Rommy Streeter | 1340 Avenida Pinson #203 | | | <input checked="" type="checkbox"/> |
| 16 Roger Miller | 1022 Foothills Trail SE | rmiller@yahoo.com | <input checked="" type="checkbox"/> | |
| 17 Ann Morgan | 730 Juniper Dr. SE | momorgan@msn.com | <input checked="" type="checkbox"/> | |
| 18 Puck Hogenboom | 59 Dancing Horse Madrid | puck.hogenboom@hotmail.com | <input checked="" type="checkbox"/> | |
| 19 JAN Udell | 5 Pajaro Blanco Rd SF | None | <input checked="" type="checkbox"/> | |
| 20 Oneta Shepherd | PO Box 516, Cimarron NM | bshepherd@holma.com | <input checked="" type="checkbox"/> | |
| 21 Charisse LaChapelle | 219 Pecos Subst | charisselachapelle@gmail.com | <input checked="" type="checkbox"/> | |
| 22 JANA THEIS | 33 Ave. Frijoles | | <input checked="" type="checkbox"/> | |
| 23 DENNIS THEIS | 38 ave Frijolas | | <input checked="" type="checkbox"/> | |
| 24 JOHN SHEPHERD | 2Y CHUSCO RD | | | |
| 25 Elizabeth Rickert | 3033 Primo Colotes | lizrickert@hotmail.com | | <input checked="" type="checkbox"/> |
| 26 Herb Rickert, Jr. | 3033 Primo Colotes | ohmygod60@juno.com | | <input checked="" type="checkbox"/> |
| 27 GAIL KARR | 100 RANCHO ALEGRE RD. | gailkarr@yahoo.com | <input checked="" type="checkbox"/> | |
| 28 NICBOUNTILE | ABANITA ST | | | <input checked="" type="checkbox"/> |
| 29 S LIGHTLYN | 118 RINCON DE BAZ | SLIGHTLYN@mac.com | | <input checked="" type="checkbox"/> |
| 30 MERVIN MOORE, AKA | 245 CLOSSE ST 87501 | mervinm@sbcglobal.net | <input checked="" type="checkbox"/> | |
| 31 Patricia Holbrook | 836 Camino Ranchitos SF 87505 | | | <input checked="" type="checkbox"/> |
| 32 ANITA SHERMAN | 105 OLD LAMM TR LANN ST | | | <input checked="" type="checkbox"/> |
| 33 Burnique Gladden | 427 Camino de Monte Santa Fe | | | |
| 34 MIRIAM BLAKE | 1677 Cerro Gordo Rd #2B Santa Fe 87501 | | | <input checked="" type="checkbox"/> |
| 35 DEANNA MARTINEZ | 3 PALACIO RD, SANTA FE, NM 87508 | | | <input checked="" type="checkbox"/> |
| 36 DENNIS M. CICK | 4354 LAUGHING CROW | 87507 | | <input checked="" type="checkbox"/> |
| 37 Louise Baum | 54 San Marcos Rd W. | 87508 | <input checked="" type="checkbox"/> | |
| 38 Gwen Kinderman | 106 Hazous Rd. SF, NM | 87508 | | <input checked="" type="checkbox"/> |
| 39 JAS DELATRICADE | 155 CALLE ANFERIZ, SF | 87505 | | <input checked="" type="checkbox"/> |
| 40 Wendy Chaplin | 113 CALLE DON JOSE | 87501 | | <input checked="" type="checkbox"/> |
| 41 EVA M. EVES | 525 TONY ST SF 87501 | eeves@uchicago.edu | | <input checked="" type="checkbox"/> |
| 42 MARIAL MORENO | 1901 Calle de Sebastian | 87505 | | <input checked="" type="checkbox"/> |
| 43 LOIS SWYDERMAN | 912 LOS LOVATES SF 87501 | BLUESKIES@ymail.com | | <input checked="" type="checkbox"/> |
| 44 Harriet Rosenstern | 104 Camino del Campo SF | | | |
| 45 Rebecca VanDuck | 31 Cueta Rd | | | <input checked="" type="checkbox"/> |
| 46 Ron Frier | 571 Appaville Rd | | | <input checked="" type="checkbox"/> |
| 47 Terry Ashar | HCG3, Box 7, Pecos Blanco | caia40@gmail.com | | <input checked="" type="checkbox"/> |
| 48 Jox & Ken Pranda | 4 White Water Ct | | | |
| 49 Dick Rosemont | 701 Bishop's Lodge Rd SF | | | <input checked="" type="checkbox"/> |
| 50 GAIL BUONO | 19 Espana Trail 87508 | gail@gailbuono.com | | <input checked="" type="checkbox"/> |

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ARE YOU
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| NAME (PLEASE PRINT) | ADDRESS | EMAIL | YES | NO |
|-----------------------------------|----------------------------------|---------------------------------------|-----|----|
| 1 Janey Phillips | 1 Aitezita | janeycphillips@airmail.net | | ✓ |
| 2 Mike Williams | 135CR 84 Santa Fe 87506 | mlw3292@AOL.COM | | ✓ |
| 3 JACK CLARK | 16 LIMEKILN RD. 87545 | jkclark.ccs@csdmail | | X |
| 4 Nancy Atroyd | 3625 Red 87541 | nlenboa@yahoo.com | | X |
| 5 DAVE C WITWER | 100 RIVIERA 87541 | WITWER@AOL.COM | X | |
| 6 J. BURTON-CARVALAL | MONTREY, CALIFORNIA | jcbumeto@UCSC.EDU | | ✓ |
| 7 April Sean Tofuya | 1600 Linn St. Suite F4, 87525 | apriljtofuya@gmail.com | X | |
| 8 JEFF SCHAMIS | 545 TONY ST SANTA FE | JSCHAMIS@SETEARTH.COM | | X |
| 9 JAMES DUPE | HC 24 111 | | | X |
| 10 Mary S. Schuber | 219 R 5 Rd SF ND US | | | X |
| 11 BRIAN HARWELL | 24 Avenida de la Paz | | | X |
| 12 Shelly Bailey | 47 Vereda Sereno | | | X |
| 13 Jannika Kuyaca | 12 Pasaillo Chico | Kamla.Kuyaca@johs | | X |
| 14 Isabelia d. Ramirez | 1748 Camino Peraltes, S.F. | isabelia_ramirez@gmail.com | | X |
| 15 Diane Smith | 522 Magdalena FR | | | X |
| 16 Karen Joyce | 1912 Calle de Sebastian | karenjoyce49@yahoo.com | | X |
| 17 Robert Kankel | 965 Camino De Canelas | robkankel@verizon.net | | X |
| 18 Philip J. Taccetta | 4601 Penn. St NE Bldg 8710 | ptaccetta@gmail.com | | X |
| 19 CAROL RICHTE | 18013 Hamlet Rd | carolr@abasonline.com | | X |
| 20 ROBERT SAYLOR | 1643 CALLE SOTERO SF | rgdyler@earthlink.net | | X |
| 21 John Zion | 225 El Diamante St. | johnzion@earthlink.net | | X |
| 22 Ed Fields | 1501 Montano 448 | doctorperubusa@yahoo.com | | ✓ |
| 23 Nadine Polman | 100 Rio Vista place, 3F | madinipolman@yahoo.com | | X |
| 24 Dr. Rubin S. Cedeno | 11 Little hills Ct Cerrillos | rscedeno@aol.com | | X |
| 25 John Otter | 2300 W Hamada | johnotter@a.com | X | |
| 26 Aaron Teehee | 02 Eken Rd. Edward NM 8705 | aaronteehee@gmail.com | | X |
| 27 ROBERT PREG | 630 E. Alameda | | X | |
| 28 LENA SKIPPER | | skipperl@unm.edu | | X |
| 29 DAN PIBURN | 1212 Don Gaspar Ave SF | daniel.piburn@gmail.com | ✓ | |
| 30 JOHN TRAPP | 815 GILBERSLEEVE | flytrapper7@gmail.com | | X |
| 31 Kirsteen Johnson | 07 Kirkwood Madras | Kirsteenlj@yahoo.com | | X |
| 32 Melanie West | 48 Dorset Loop, SF, NM 87508 | melanie@melaniwestphotography.com | | ✓ |
| 33 Melissa Pardeghatta Houser | 130 Valley Drive, 87501 | missa.houser@gmail.com | | ✓ |
| 34 Lucy Fippert | 174 V. V. 19 Caledonia | flp14@wildblw.net | | ✓ |
| 35 Merrill | 7 Doveia Rd 87501 | | X | |
| 36 LYN KALLEN | 307 Red Rock Rd. SF | lynkallen@gmail.com | | X |
| 37 HELMER | Box 284 - Tesiste 87574 | steterson@earthlink.net | | X |
| 38 Nancy Woodward | 1435 Santa Cruz St SF 87505 | Nancy.Woodward@earthlink.net | | X |
| 39 Martha Burt | 137 E Lucha Rd, Santa Fe 87505 | mrbconsulting.nm@gmail.com | | X |
| 40 Susan Bell | 192 Calle Josephina 87506 | sbell41@gmail.com | | X |
| 41 Lisa Pacheco | 210 1/2 E. Bison Vista St 87505 | elizabeth73@earthlink.net | | ✓ |
| 42 Merle Lefkoff | 25 Pasco C de Bata, SF | merlelefkoff@e-mail.com | | ✓ |
| 43 LINDA Prince | | | | ✓ |
| 44 Sandi Taceony | 2836 Steele Hwy 14 N | | | ✓ |
| 45 Brigitte White | 1605 Young St. Santa Fe 87505 | shandiinsky@gmail.com | | X |
| 46 Travis Gibson | 2373 Camino Capitan #4 SW | tgibson1672@gmail.com | | ✓ |
| 47 Phyllis L. P. Swomb | 1710 West Alameda St | phlpswomb@gmail.com | X | |
| 48 Judy Anastasio | 147 Calle Ojo Feliz S.F. | | | X |
| 49 Susan Gibson | 724 Canyon Rd SF | suhana.gibson@gmail.com | | X |
| 50 Betsy Sivula Brandt | 95 Vista del Oro Cerrillos | betsy@earthlink.net | X | |

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| NAME (PLEASE PRINT) | ADDRESS | EMAIL | YES | NO |
|------------------------|--------------------------------|-------------------------------|-----|----|
| 1 DIANE SENIOR | 317-B CH. CERRO CHATO, MADRID | | ✓ | |
| 2 BEGG TAYLOR | 5100N LOS ANGELES, GARFIELD | CLASASKYJIM@gmail.com | ✓ | |
| 3 JESSE ALLEN | 91 CAMINO SUDESTE, SF | jessercallen@msn.com | | ✓ |
| 4 Ed Munde | 45 Bonanza Tr SE | mundezuu@sbglobal.net | ✓ | |
| 5 KAREN M. BRYCE | 3741 Tropic Tr SF 14 | | | ✓ |
| 6 JANDY SMITH | 149K ALLE OJO FELIZ SF | | | ✓ |
| 7 Gail Robertson | 1624 Paseo de la Conquistadora | gailr777@a.comcast.net | ✓ | |
| 8 DAVID CAMPBELL | 5 WALTON CERRILLOS RD | DAVID@CAMPBELLWORLDSELEUC.COM | ✓ | |
| 9 Lois Rudnick | 59 Condusa Rd | lois.rudnick@umb.edu | | ✓ |
| 10 M R RANDES | PO BOX 2 3375 SF 87502 | mbrancler@a9.com | | ✓ |
| 11 | | | | |
| 12 ANN MURPHY | Po Box 22 Cerrillos NM | HuxLocke@rainforestcounty.com | ✓ | |
| 13 Pats Lockridge | " | " | ✓ | |
| 14 HAROLD GRANTHAM | POB 2810 " " | NO EMAIL | ✓ | |
| 15 JOAN DICKERSON | 4156 Big Sky Rd SF 87507 | SISTERDICKERSON@EMAIL.COM | | ✓ |
| 16 DOREEN SETHAN | " | DS8447@gmail.com | | ✓ |
| 17 Diane Keville | 1006 Calle Catalina SF 87521 | diane.keville@msn.com | | ✓ |
| 18 Dorita Frazier | 624 Calle San Martin SF 87506 | dfrazier@bluewin.ch | | ✓ |
| 19 Michael T. Collins | 3 Old Summit Way SF 87505 | | ✓ | |
| 20 MELISSA ALMOND | 21A Calle Costas SF 87502 | | ✓ | |
| 21 SHARON DAVIS | 3036 Pineda Pkwy SF 87507 | | | ✓ |
| 22 MARY ANN | 662 Alhambra St. SF 87505 | | | ✓ |
| 23 Alexis Higginbotham | 171 Silver Hills Rd | | | ✓ |
| 24 Archie Tull | " | | | ✓ |
| 25 DOUGLAS MAGNUS | 905 EARLST 87505 | DOUGLAS.MAGNUS@LOWE.COM | | ✓ |
| 26 Joyce Blacklock | 1301 ARENAL CT 87501 | | | ✓ |
| 27 MARTHA BROWN | 94 HACIENDA 87506 | | | ✓ |
| 28 TRACY SIBBLEY | 18 Talacin Rd 87508 | | | ✓ |
| 29 RICK GREEN | 511 ROSEVILLE RD 87010 | SANTAFERLCA@AOL.CO | | ✓ |
| 30 George G. Sorely | 47 Vereda Serena 87505 | gg.sorely@yadmo.com | | X |
| 31 RUTH LATHROP | 1813 OTAWI Dr. 87505 | | | X |
| 32 Alan Kin Royal | 37 Apache Ridge Rd. 87505 | lynxroybal@gmail.com | | X |
| 33 MICHAEL JARVIS | 911 CERRO DE LA PAZ 87501 | | | ✓ |
| 34 Kendall Harris | 1208 Vision Verde Ct. | khumbly@epkmar.com | | X |
| 35 SANDRA RUDY | 132. CR. 14- Tinguine | | | ✓ |
| 36 Peter Norby | 58 Henry Tent Road | norby@quotidian.com | | ✓ |
| 37 Patricia Smith | 2323 Casarby Ave. Rm 404 | knsmn@comcast.net | | ✓ |
| 38 GIG ROSEN | 4770 TRAVELER AVE | LIRKOS@AOL.COM | | X |
| 39 Claudia Cielenky | 37 Wide View Santa Fe | GreyhoundGrcl@hotmail.com | | X |
| 40 PLUMMER LITTON | 1714 Madrid Pl. #703 | plumml@comcast.net | | X |
| 41 JOHN DUNSTON | 810 Juniper Dr 87501 | jd.blogg. | | X |
| 42 Jody Larson | 101 Tierra Rica 87505 | | | X |
| 43 Nancy Halko | 3 Middle Rd, Cedarvale | 87540 | | X |
| 44 David Bacon | 369 Montezuma | 87501 | ? | |
| 45 ROBERT ELLIS | 15 Taylor Rd Santa Fe 87508 | bigbacon@comcast.net | | ✓ |
| 46 MELBA ANTONIA | 37 Calle Encino SF 87501 | | | ✓ |
| 47 RICH FERRER | 855A Camino Los Arboles Blvd | RICHARD.FERRER@CAD | | ✓ |
| 48 DANA JORDAN | 200 S HENRYWAY 14 | djordan@vulcan.com | | ✓ |
| 49 M. NELLE MACHING | 109 Joya del Pueblo Blvd NM | | | ✓ |
| 50 Yolanda Miera | 35 13 Las Tapas Ln | Santa Fe NM NA | ✓ | |

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| NAME (PLEASE PRINT) | ADDRESS | EMAIL | YES | NO |
|---------------------------|---------------------------------------|---|-----|----|
| 1 Josh Chavez | 3016 Don Juan St | JoshChavez@gmail.com | | X |
| 2 Alicia Fooks | 2255 Camino Frijoles | afooks@unm.edu | | X |
| 3 Eileen Blau | 60 Rattler Rd Madrid NM | eblau2001@hotmail.com | | X |
| 4 Gregory Pratt | 120 Severn Dr. South Fe 87501 | | | X |
| 5 Nicmar McCallan | 627 Camino Mrs. Emilia SF 87507 | nmcallan@ramapo.org | | X |
| 6 Dyan Davila | 715 Adunla P. S. Santa Fe, NM 87501 | DyanDavila1502@att.net | | X |
| 7 Eutimio Lopez | 2924 Alamosa Dr | | X | |
| 8 Carol Akide | 4941 Alamosa Cerrillos, NM | | X | |
| 10 Erin Lujan | 400 Graham Ave SE | erinj@jmail.com | | X |
| 11 Louis Hoffmann | 247, Moberwick Rd | | | X |
| 12 A Kay Pitts | 4572 Camino Verde | | | X |
| 13 Esha Chiochis | 2300 W. Alameda St A3 | eshachiochis@earthlink.net | | X |
| 14 Eric Giles | 7693 Camino Las Abiertas | calister@unm.edu gilesquill@sbglobal.net | X | |
| 15 | | | | |
| 16 Laura Skaps | 36 E San Marcos Rd | laura.skaps@yahoo.com | | ✓ |
| 17 Bill Skaps | 36 E San Marcos Rd | billskaps@earthlink.net | | ✓ |
| 18 Paula Hillman | 1304 Camino La Comada | PaulaHillman@gmail.com | | ✓ |
| 19 Anne H. Staci | 1604 Young St | staci@unm.edu | | ✓ |
| 20 Denise Fry | 2610 Cimarron (unm) St | denise.fry@unm.edu | | ✓ |
| 21 Catherine Burton | PO Box 745 Tesuque NM | cburton@unm.edu | | X |
| 22 Berrien Norn | 1761 W. Alamosa St 87507 | berrien@unm.edu | | X |
| 23 Judy Klinger | 501 Rinconada Ave. SW, SF 87501 | | | X |
| 24 Robert Lucas | 4 Jornada Ln 87508 | robbstf@unm.edu | | X |
| 25 Hayden Winkler | 95 Elk Lane Redstone CO 81613 | haydenwinkler@gmail.com | | X |
| 26 Xubi Wilson | 35 Encanto Ln Loop 87505 | xubi@unm.edu | X | |
| 27 Leigh A. Hudacek | 31369 PO BOX SANTA FE 87594 | leigh@unm.edu | | X |
| 28 Percyne Gardner | 837 Highland Dr. Tow Uga 87701 | percyne@unm.edu | | X |
| 29 Wantha Dunneil | 1426 Miraceros Ln SF 87505 | wantha@unm.edu | | X |
| 30 Sarah P. M. | 2710 Unit A Galisteo Land | n/a | | X |
| 31 Janet Egan | 6 Verano Drive SF | janetegan@unm.edu | | X |
| 32 Carol Cayer | PO Box 1574 SF | carolcayer26@gmail.com | | X |
| 33 Norma Rose Peth | 2303 Cielo, Halton | normarose@unm.edu | | X |
| 34 Jackson Duff | 663 Canyon Rd | magbeath@unm.edu | | X |
| 35 Tom Gorman | 31 Coyote Spgs Rd SF 87508 | gorman@unm.edu | | X |
| 36 GAVIN F. STRATHDEE | 2857 Shutekin N, MADRID | 471-7296 | | X |
| 37 Sheila Sullivan | 3 Avenida Loop SF 87508 | | | ✓ |
| 38 Patricia Oliver Wright | 37 Camino de Pinos | patoliverwright@comcast.net | | ✓ |
| 39 Muel A. Mora | 1324 Madonia St. | muelamora@gmail.com | | ✓ |
| 40 Kristin Cristova | 1324 Madonia St. | Kristin@deserttheatre.com | | ✓ |
| 41 WINDRA VIGIL | P.O. Box 323 TSC NM 87574 | | | ✓ |
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| NAME (PLEASE PRINT) | ADDRESS | EMAIL | YES | NO |
|----------------------|---|-------------------------------|-----|----|
| 1 Peggy Grebinska | 44 Condesa Rd SF | peggyin.santa.fe@hotmail | | ✓ |
| 2 Virginia J. Miller | 125 Calle Don Jose SF | | ✓ | |
| 3 Teresa Siamata | 104 Vaguardo rd. | tc.seamator@gmail.com | | ✓ |
| 4 JUDY CATRON | 205 W. Lupita | judycatron@comcast.net | | ✓ |
| 5 Terri Norlund | 21 Triun Trail | terrinorlund@yahoo.com | | ✓ |
| 6 Richard Linde | 4154 The Palms Dr | 505 007 5758 cell | ✓ | |
| 7 Betty Williams | 132 Elm Lds Apts | | | ✓ |
| 8 Anthony Reiz | 517 JUANITA ST | AnthonyReiz@aol.com | ✓ | |
| 9 Alan Eric Russell | 662 Bonanza St. | alan.russell@gmail.com | ✓ | |
| 10 Mark Gordon | 2528 Av de Esidro | | ✓ | |
| 11 ELLIOTT LEE | 1087 Mission Rd. Rd | | X | |
| 12 Elizabeth Gossin | 1917 Calle Vistoso SF 87501 | | ✓ | |
| 13 Barbara Husak | 36 Woodstock Ln. N. 87010 | barb@q.com | ✓ | |
| 14 Bart Kallenbach | 36 Woodstock Ln. 87010 | | ✓ | |
| 15 Joseph McKenna | 1700 Camino de la Buena Vista | | ✓ | |
| 16 Ted Harrison | 2112 Paseo del Monte San F. N. 87501 | | X | |
| 17 Diana Lahr | 18 Camino Caballos Spur, Lamy, NM 87540 | | ✓ | |
| 18 Barbie Robertson | 35 N. Rock Santa Fe, NM 87508 | barbie@robertson.com | X | |
| 19 Sheldon Krevit | 6 DOVELA RD., Santa Fe, 87508 | | X | |
| 20 Shalom Aronson | 481 Camino de la Piedad | Shalom@arons.com | X | |
| 21 Lorie Maciver | 5449 NORDEN ST. NE ARD | lorie-maciver@yahoo.com | X | |
| 22 [unclear] | 145 N. [unclear] ALIE [unclear] | | X | |
| 23 Gillian [unclear] | 1347 Canyon Road | santa.fe.illexantique@att.net | X | |
| 24 ROBERT TOLL | 6.5 Camino [unclear] | | X | |
| 25 Paul Binnan | 6617 V. [unclear] | p.binnan@q.com | X | |
| 26 Ian Scott | 3542 Calle LOMA NORTE | | X | |
| 27 Ray Kersting | 3 First Light SF | Ray3553@gmail.com | X | |
| 28 Luana Cates | 2 Midflower Way SF | jkcoles@mac.com | X | |
| 29 [unclear] | 608 Omate SF | | X | |
| 30 [unclear] | 915 Los Louafos S | | X | |
| 31 Madeleine Wells | 34 Sibley Rd, SF | madeleine-wells@yahoo.com | ✓ | |
| 32 John Robson | 301 Old Pecos Trail SF | | X | |
| 33 Jennifer Wylie | 106 Sycamore St SF | jenny.wylie@yahoo.com | | X |
| 34 Catherine Pruitt | 88 Rocinante Rd Cerrillos, NM | | X | |
| 35 Caleb Pruitt | 88 Rocinante Rd Cerrillos, NM | | X | |
| 36 | | | | X |
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agun: [unclear]

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| NAME (PLEASE PRINT) | ADDRESS | EMAIL | YES | NO |
|------------------------|-------------------------------------|-------------------------------|-----|----|
| 1 Susan Gallaher | 853 Alto St 87501 | gallarier@msn.com | | |
| 2 Maham Lujan | 410 Hurdleem St | lujanmaham@aol.com | | X |
| 3 Joe Wilson | 223 W. Guadalupe St #219 | joewilson1@msn.com | | X |
| 4 MARISA FRANZ | 1249 HOENTONO RD. CERRILLOS | marisafantz@yahoo.com | | X |
| 5 MARCE JOHNSON | 57 LAUREL FIREHOUSE RD | anabulleyluc@gmail.com | | X |
| 6 | ESPANOLA 87532 | | | |
| 7 Reto Wolfgang Brandt | 95 Vista del Omi Cerrillos NM 87010 | | | X |
| 8 Sheila E. Smith | 42 Calle Estevan | Sheilaesmith11@mp.com | | X |
| 9 Michelle Morrison | 3192 La Avenida de San Marcos | michelle@space.com.wv | | X |
| 10 Michelle Morrison | 3192 La Avenida de San Marcos | michelle@space.com.wv | | X |
| 11 Janet P. Koppert | 453 Apodaca Hill | | | X |
| 12 MICHAEL SWANER | 14 UVALDO, EST | | | X |
| 13 Michelle Bonomo | 1429 Tierra Rd | mc.ccd@ca.comcast | | X |
| 14 Amy E. Koppert | 2212 Malcolm Street | amykoppert@yahoo.com | | X |
| 15 Scott Stricker | 609 B BAZA ST. | | | X |
| 16 A KAY PITS | 4514 CAMINO VERDE, SF | | | X |
| 17 Zubin M. Gillings | 2300 West Alameda | zmanstealth@gmail.com | | X |
| 18 R. Dawn Koppert | Rock - SFSWMA | r.koppert@rock.com | | X |
| 19 JANE OMARA | 140 CEDAR ST. SF 87501 | | | X |
| 20 Oksana Fort | 2610 Caminito Cunitos | ofort1732@gmail.com | | X |
| 21 PAULA ZIMLA | 10 BLUE RAVEN RD. | COMMENT@PAULAZIMLA.COM | | X |
| 22 JOSEPHINE PAULAN | ADON 7415 TOSQUE 87574 | | | X |
| 23 SUSANA DAVIS | 504 ADELFO ST. 87501 | SUSANM.DAVIS@verizon.net | | X |
| 24 Denise Houlton | 18 Camino Caballero San, NM 87540 | denisehoulton79@gmail.com | | X |
| 25 KAREN GREEN | BLANCO TERNER, NM 87574 | kgreen@greengreen.com | | X |
| 26 JOHNNY GOETT | 1600 LEVA ST. STE 4 SANTA FE | GOETT@CPSMAIL.COM | | X |
| 27 ellen dupuy | 1380 CANYON RD 87501 | dupuyej@gmail.com | | X |
| 28 James Emerson | abasco | asche@emerson.com | | X |
| 29 Matthew Flores | matt.flores45@hotmail.com | 2255 Camino Iris | | X |
| 30 Louise Krevit | 6 Duvalz Rd. SF 87508 | debytag.11@hotmail.com | | X |
| 31 Gary Dantzic | 2 Singer Rd SF 87506 | | | X |
| 32 M. J. Conley | 9 Encantado Rd 87508 | | | X |
| 33 Orla Trepanier | 735 Gregory Lane | inforanga@aol.com | | X |
| 34 Spencer Martin | 1426 Miracerrita Ln. So | | | X |
| 35 KEVIN BOX | 3453 HWY. 14, N 87010 | KEVIN@OUTSIDETHEBOXSTUDIO.COM | | X |
| 36 KARE SAN | 6000 2nd | | | X |
| 37 MARGARET BETTUS | 663 CANYON RD SF. NM 87501 | MargaretBettus@gmail.com | | X |
| 38 KENT BRESSE | 3230 LA AVE. DE SAN MARCOS | | | X |
| 39 Eleanor Strathlee | 2557 Hwy. 14, Madrid 87010 | 471-7296 | | X |
| 40 Gale Smith | 1 Opera House Rd Madrid | gsmith1031@gale.com | | X |
| 41 Rosemary Smith | 4. Santa Fe Ct | | | X |
| 42 ONIWA BROOKS | 1901 ARROYO CIAMILO | brooksgummersan@gmail.com | | X |
| 43 Anna Cardenas | 897 Cam. Los Abuelos, Culiver | anna.cardenas@chubnet | | X |
| 44 Diane Volelich | 510 Sonnet St | | | X |
| 45 Bruce Cooper | 224 E. Buena Vista | brucecooper@aol.com | | X |
| 46 Sammi Triolo | 202B County Rd 55 | Sammi.triolo@gmail.com | | X |
| 47 Sammi Triolo | 202B County Rd 55 | Sammi.triolo@gmail.com | | X |
| 48 | | | | |
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| NAME (PLEASE PRINT) | ADDRESS | EMAIL | YES | NO |
|-----------------------|--------------------------------------|---------------------------|-----|----|
| 1 Stibs Wilson | 4222 Twin Yuccas Ln | weswil@comcast.net | | ✓ |
| 2 Dana Hill | 8 First St Camillo | dana.mackin@comcast.net | | ✓ |
| 3 JANSBART | 47 CALIS BENTON | | ✓ | |
| 4 GARY R. PADILLA | 3025 CALLE CASALE LC | None | ✓ | |
| 5 Donna O'Donovan | 7 CAVERA MADRID | | ✓ | |
| 6 Beverly Gene Leeds | 2441 Summit Rd #1903 | | ✓ | |
| 7 WALTER JIMENEZ | 662 ADVENTIST | WALTERJIMENEZ@COMCAST.NET | | ✓ |
| 8 Seth Cohn | 5197 Beacon | | ✓ | |
| 9 Esteban O'Connor | Santa Fe SF 87507 | | ✓ | |
| 10 Celia Stillings | 200 W. ALANIDA ST | | X | |
| 11 Ryan O'Donoghue | 18 Cougar Ridge Rd | dyrawi@yahoo.com | X | |
| 12 Hanung Zhang | 1123 Paseo Priante | | X | |
| 13 SHARON ROSE | 9 CAMINO DE REY CIRCLE | sharonr1f@gmail.com | X | |
| 14 Juliane Hope | PO Box 8431 SF 87507 | jthope@comcast.net | ✓ | |
| 15 Bill Dwyer | 1380 Canyon Rd SF 87501 | | ✓ | |
| 16 Liliana Brea | 1624 Camino de la Caridad | libreale@gmail.com | ✓ | |
| 17 T. Dawn Latta | 35 South of Main Ave | tdawnlatta@comcast.net | X | |
| 18 Jhurnal Homan | 2008 KIVA Rd SF | dawnhdesign@comcast.net | X | |
| 19 Kathleen Sullivan | 172 Terrapine Village Rd | | X | |
| 20 Edward L. Quintana | P.O. Box 4321 | Suzie 87507@yahoo.com | | X |
| 21 John Hebl | 37 Paseo de la Brea | Suzie 87507@yahoo.com | X | |
| 22 Levene Alarid | 1823 Kiva Rd | SF 87505 | | X |
| 23 Betty Keating | 3 First Light | SF | | X |
| 24 Rhob Brandon | 3230 L. Wood San 71610 | SF 87507 | | X |
| 25 Lela Kunnell | 2853 Hwy 14 Madrid 8700 | heavenlylola@gmail.com | | X |
| 26 Catharina Calvillo | 2857 State Hwy 14 Madrid 8700 | | | X |
| 27 Todd Kerei | 1804 Twin Oaks SF | 87507 jkerei@comcast.net | | X |
| 28 Jill Gibson | 5100 E. Ave 45 Crazy Rabbit Dr 87508 | jkcliburn@gmail.com | | X |
| 29 MERRILEE DEVORE | 132 W. Buena Vista SF NM | | ✓ | |
| 30 Marilyn Finken | 312 Reed St SF NM | | ✓ | |
| 31 Ross Hofer | 73 Dancing Horse Madrid | | ✓ | |
| 32 PETER GORDON | 1402 Condo Gutera St 87501 | prdrogord1@yahoo.com | ✓ | |
| 33 Benjamin West | 15 Shenandoah Trail | | ✓ | |
| 34 Marc C. Oyst | 312 Boca St SF 87505 | | | |
| 35 | | | | |
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SFC CLERK RECORDED 07/11/2014

**SIGN IN SHEET
BCC MEETING
JUNE 11, 2014**

ARE YOU
PLANNING TO
SPEAK?

| | NAME (PLEASE PRINT) | ADDRESS | EMAIL | YES | NO |
|----|---------------------|-----------------------------|--------------------------------|-----|----|
| 1 | Mary A Judge | 708 Franklin Ave SF | mjudge214@gmail.com | | ✓ |
| 2 | Mary Peck | P.O. Box 1131 SF | | | ✓ |
| 3 | Lona Bennett | 6677 Vanscoy ave CL | | | ✓ |
| 4 | John MacCallum | 39 SALTBUSH RD SF 87501 | argos@rationalparadise.org | | ✓ |
| 5 | Silvia MacCallum | " | " | | ✓ |
| 6 | Pat D. Dundera | 1023 Cielo Azul | | | ✓ |
| 7 | Nona Lee (PREG.) | 3471 CERRILLOS RD #164 | | | ✓ |
| 8 | Margie Sills | 56 Windstark Madrid | | | ✓ |
| 9 | John Bushnell | 124 Mesa Vista St SF 87501 | pjbushnell@ | | ✓ |
| 10 | John Bushnell | 4C 123 Loop 127 Santa Fe | sanrafaelnm.com | | ✓ |
| 11 | Patricia Simpson | 110 Oak Rd Santa Fe | | | ✓ |
| 12 | Patricia Simpson | 1804 Camino a Canyon SF | patrickingsimpson@gmail.com | | ✓ |
| 13 | Kimberly MacCord | 47 Herrada Rd SF | kimberly@spider.net.com | | X |
| 14 | Eralyn Benis | Santa Fe | | | X |
| 15 | Leatha Wilson | Santa Fe | | | X |
| 16 | Leatha Wilson | Santa Fe | | | X |
| 17 | Chloe Buzzetta | Santa Fe | | | X |
| 18 | Steve Lawrence | 514 Velarde St SF | lawrence@bestnet.com | | X |
| 19 | Maribel Nanas | 1433 Spruce Rd SF NM | maribel@southwestsemminar.com | | X |
| 20 | Tara E. Zanghi | 125 W. Booth St #3 SF NM | | | X |
| 21 | Carol Ann Kozel | 260 Cam de las Montañas SF | | | X |
| 22 | Benjamin West | Santa Fe County | | | X |
| 23 | Amy Bertelli | 3 AZUL PL | | | X |
| 24 | Maria Cisneros | 2012 HAZELBERRY | | | X |
| 25 | Maria Cisneros | P.O. Box 367, CERRILLOS NM. | | | X |
| 26 | Alan Brooks | 2120 Conejo Dr SF NM 87505 | colture@nets.com | | X |
| 27 | DIANA BAKER | 105 LA JOYA DR SF | | | ✓ |
| 28 | Bob Joseph | 2303 Calle Hacer SF | rajoseph@jusa.com | | ✓ |
| 29 | Samuel Budoff | 663 Canyon Rd, SF, NM | | | ✓ |
| 30 | Lois Taylor | 124 Yukon St SF 87501 | Lupin15@usa.com | | ✓ |
| 31 | Alan C. Osborne | 219 Cjo de la Vaca 87501 | southwestseminar@earthlink.com | | ✓ |
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| NAME (PLEASE PRINT) | ADDRESS | EMAIL | YES | NO |
|--------------------------|------------------------------------|--------------------------------|-----|----|
| 1 Jim Elva Smith | | | X | |
| 2 JEANNIE MAGILL | 5 GRAYHAWK PLACE | | | X |
| 3 Christopher Chavez | Santa Domingo NM | | X | |
| 4 Edward b. Paest | 3 ALTEZITA | | | X |
| 5 Marjorie T. Moran | 1052 Sierra del Norte | | | X |
| 6 Maria Sampson Michael | 958 Old Santa Fe Tr. | | X | |
| 7 Marianna Hatten | Cerrillos | | | |
| 8 Grace Dundeen | 818 Pádelas de la Sierra SF | | | |
| 9 Tom Carr | 3046 PLAZA BLANCA | | X | |
| 10 Ray Gulick | 1933 Morris Pl, SF 87505 | | | |
| 11 David Soufer | 452 CAM DE JAMES #100 | | | |
| 12 LEA SOIFER | 452 CAM DE JAMES #100 | | | |
| 13 Andrew Bramble | 36 White Wolf Cerrillos 87010 | | X | |
| 14 RYAN TOUPS | 36 RAVEN RAUNE, SF 87507 | | ? | |
| 15 RA TOUPS | " " " " | | | X |
| 16 Mary Siretka | 1405 Virga Verdeas #124 87507 | | | X |
| 17 Susan McKenny | 607 Avenida Calaya | | | X |
| 18 Butch Martin | 20 Avenida Azul 87508 | | | X |
| 19 Stanley LABELLE | 104 Camino Del Campo SF 87501 | | | X |
| 20 Elizabeth Lee | 3 Mariposa Rd, Santa Fe 87505 | | | X |
| 21 BETH MILES | 2 MOUNTAIN ACRES PLACES SF 87509 | | | X |
| 22 Monica Welch | 5 Raven View Rd Lang 87540 | | | X |
| 23 Janet Escobedo | 4307 Sleeping Bear 87592 | | | X |
| 24 Marcia De Anda | 101 Ace. de Los Joyas SF | | X | |
| 25 Paula Eastwood | 834 1/2 Allendale, SF 87508 | | | X |
| 26 Allan Swadlow | P.O. Box 96 Cerrillos 87010 | als@similar solar.com | X | |
| 27 Campbell Kravitz | 13A Camino Capilla | 767 4710361 | | |
| 28 Bob Hiltz | 310 McKenna St | | X | |
| 29 Tooty Payne | 26 Camino 12a, Santa Fe, NM 87501 | | | X |
| 30 RENEE (ARSWELL) | 800 Camino MILITARY | carswell@via.edu | | X |
| 31 Kimberly Freeman | 607 Salazar St SF NM 87505 | | | X |
| 32 RAD ACTON | 1206 UPPON CANYON RD SP87101 | radacton@earthlink.net | | X |
| 33 Bob Kennerly | 605 Wagon Wheel Trl SF 87010 | | | X |
| 34 CHIP CONWAY | 1019 Calle don Roberto 87507 | | | X |
| 35 Jeannette Caviness PC | 377 General Goodwin | DrCaviness@outlook.com | | X |
| 36 Nancy Suter | 3219 Agua Fria | nsuter@nets.com | | X |
| 37 Frances Madresin | 22A San Sebastian, 87505 | francesmadresin@gmail.com | | X |
| 38 Patrick Allen Mahan | P.O. Box 37 Cerrillos 87010 | pd.mahan@netzovo.com | X | |
| 39 Marissa Weber | 2300 West Alameda #14 | mgweber@globalwarmingpress.com | | X |
| 40 Mitch Ackerman | 31 Bonanza Creek Rd SF 87509 | mackerman_email@gmail.com | | X |
| 41 William Mee | 2513 Camino Samuel Mathey SF 87507 | WilliamHenryMee@aol.com | | |
| 42 Pennie Trist | 4 Orchard Rd SF 87508 | | | |
| 43 Kea Hayers | 74 Monte Alto Rd 87508 | | | |
| 44 Tom Lustik | 1705 1/2 B Agua Fria 87505 | | | |
| 45 Voet Delia | 2300 - Ab West Alameda | | | |
| 46 ED COX | P.O. Box 28484 | EDWXCX@GMAIL.COM | | X |
| 47 Syd Walter | 2501 WILIA RD 87505 | sydwalter@swcp.com | | |
| 48 Margaret Kuller | 2800 Cerrillos Rd #156 | mikekuller@gmail.com | | X |
| 49 Janey di Giorgio | 65 Coyote Trl SF 87508 | janeydiorgio@gmail.com | | X |
| 50 Angie Riemann | 48 Calle San Martin 87506 | angieriemann@gmail.com | | X |

| | | | | |
|-----------------|-------------------------------|-------------------------|------------------------------|--|
| Iscah Carey | 505 Apodaca Hill St. | iscah505@gmail. | YES <input type="checkbox"/> | NO <input checked="" type="checkbox"/> |
| Padme Ostrander | " | | | ✓ |
| Matt Ostrander | " | | | ✓ |
| DAVID STURIN | SI VISTARER DONDA SF 97506 | STURIN44@COMNELL.COM | X | ✓ |
| DENISE HARDY | PO box 743, Cenillo, NM 87010 | denisehardy@hotmail.com | | ✓ |

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SPEAK?

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| NAME (PLEASE PRINT) | ADDRESS | EMAIL | YES | NO |
|------------------------|--------------------------------------|-------------------------------|-----|----|
| 1 CHARLES SCOTT | 2216 Wilderness Arroyo 87505 | | | ✓ |
| 2 Marc Hagenboom | 59 Dancing Horse Madrid | | ✓ | |
| 3 BENZAD DAYANI | P.O. Box 31091 SF 87594 | | | ✓ |
| 4 ZEPHYR DAYANI | // // | | ✓ | |
| 5 ALLEN DAYANI | // // | | | ✓ |
| 6 JANET MEVKEA | 17 VISTA AVONDE 87508 | janvickert@gmail.com | ✓ | |
| 7 CAROLINA STEVENSON | 1006 CALLE JOSEPHINA | carostevens@gmail.com | ✓ | |
| 8 GERRY HAY | 1006 CALLE JOSEPHINA | | | |
| 9 Paul Leitner | 1523 OLD PECOS TRL | POEITNE@MSN.COM | | ✓ |
| 10 Kim Servig | 1026 Camino los Abuelos 87508 | | ✓ | |
| 11 Michele Adrechenko | 2312 Gold Canyon Rd 87508 | | ✓ | |
| 12 Eileen Pison | 53 Baldcat Trail | | | ✓ |
| 13 Mimi Day | // | | | ✓ |
| 14 LORRAINE WILSON | 3 Heraclea Way SF | the starz 21st century? | | ? |
| 15 Sue Hune | 1677 Cerro Gordo Rd | Suehune@earthlink.net | ✓ | |
| 16 SHERYL GRAEB | 92 HAZOUS RD SF | Kgrueb@me.com | ✓ | |
| 17 KEN GRAEB | // // | // // | | ✓ |
| 18 WALTER WAIT | 43 BONANZA CREEK RD | waitwait@q.com | ✓ | |
| 19 PAMELA THOMS | 36 RAVEN RAVINS | pf.thoms@earthlink.net | | ✓ |
| 20 PAUL FEELER | 2013 CERRILLOS AVENUE | pfeiler@earthlink.net | | ✓ |
| 21 HEIKE STROBEL | 3600 Cerrillos Rd. Santa Fe | 7707 heikestrob@earthlink.net | ✓ | |
| 22 Tim Wilmenny | 677 Ave. Celaya | | | ✓ |
| 23 Alan Bied | 423 Hilltop St 87501 | alanobied@earthlink.net | | ✓ |
| 24 T J LAST | 4102 Journal | tlast@abqjournal.com | ✓ | |
| 25 Elicinda Robles | 1090 Avenida Dewdney | elicinda7@gmail.com | | ? |
| 26 Rita Gentry | 3466 Cerrillos Rd. B1 SF | ritagentry@cybermesa.com | | ✓ |
| 27 J J BOYBROS | 54 Embury Lo. Corral | | | |
| 28 Roxanne Hays-Murphy | 1474 La Loma Vista St | roxanne@deepcoaching.com | | ✓ |
| 29 Rachel Zinn | 265 El Paseo Ct SF | rachel@cybermesa.com | | ✓ |
| 30 Collin Green | P.O. Box 955 Tesimque NM 87574 | collin7@gmail.com | | ✓ |
| 31 Elliott Eidan | 58 Sunrise Rd 87507 | 438-7267 | | ✓ |
| 32 LISANNE GALE | 1518 TIERRA M 87508 | giasound@yahoo.com | | ✓ |
| 33 Robert Anne Johnson | 98 Laughlin Road 87508 | | ✓ | |
| 34 Jan Butcher | 2227 Vuelta San Marcos SF | janbutcher5@gmail.com | | ✓ |
| 35 Martha Schreiner | 108 8343 Santa Fe 87504 | | | ✓ |
| 36 Leslie Lukin | 204 W. San Mateo Ct. SF 87505 | leslie.lukin@gmail.com | | ✓ |
| 37 Ivy St. Clair | 2804 Camino Alfredo | ivy.st.clair@gmail.com | ✓ | |
| 38 Cynthia Geconegan | 2747 Via Verado 87505 | redstart15@gmail.com | | ✓ |
| 39 William Green | 2747 Via Verado 87505 | geconegan@earthlink.net | | ✓ |
| 40 Chris Burk | 16 Roni Road 87508 | chrisbk@centurylink.net | | ✓ |
| 41 Mel Galligan | 1001 Vereda San Antonio | melrubel@gmail.com | | ✓ |
| 42 SARA ANN HANCOCK | 1354 GARCIA Ct. 87505 | SILIREIA@gmail.com | | ✓ |
| 43 Bruce Bardeen | 36 Copper Trail 87508 | mburden@g.com | | ✓ |
| 44 THOR V. SIGSTED | 82 SPIRIT VALLEY, 87508 | adventuretrails@earthlink.net | | ✓ |
| 45 Tom Johnson | 1201 Madrid Road 87505 | tom@tjohnson.com | | ✓ |
| 46 Lynn McKelvey | 1202 Placita Bena 87501 | | | ✓ |
| 47 Gilbert Gagnon | 65 Coyote Trail | ARTIST 2GETHER@gmail.com | | ✓ |
| 48 Destiny Krupnick | 120 Avenida Ligero 87505 | senddestinyanemail@gmail.com | | ✓ |
| 49 MIKE KRUPNICK | 1201 VALENCIA RD 87505 | MIKEKRUPNICK@earthlink.net | | ✓ |
| 50 Susan Westbrock | 171 Dancing Horse Cerrillos Nw 87110 | | | ✓ |

Lester Adla to Connie Cero Christo Cerullo 8700

Speak

YES

NO
X

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Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

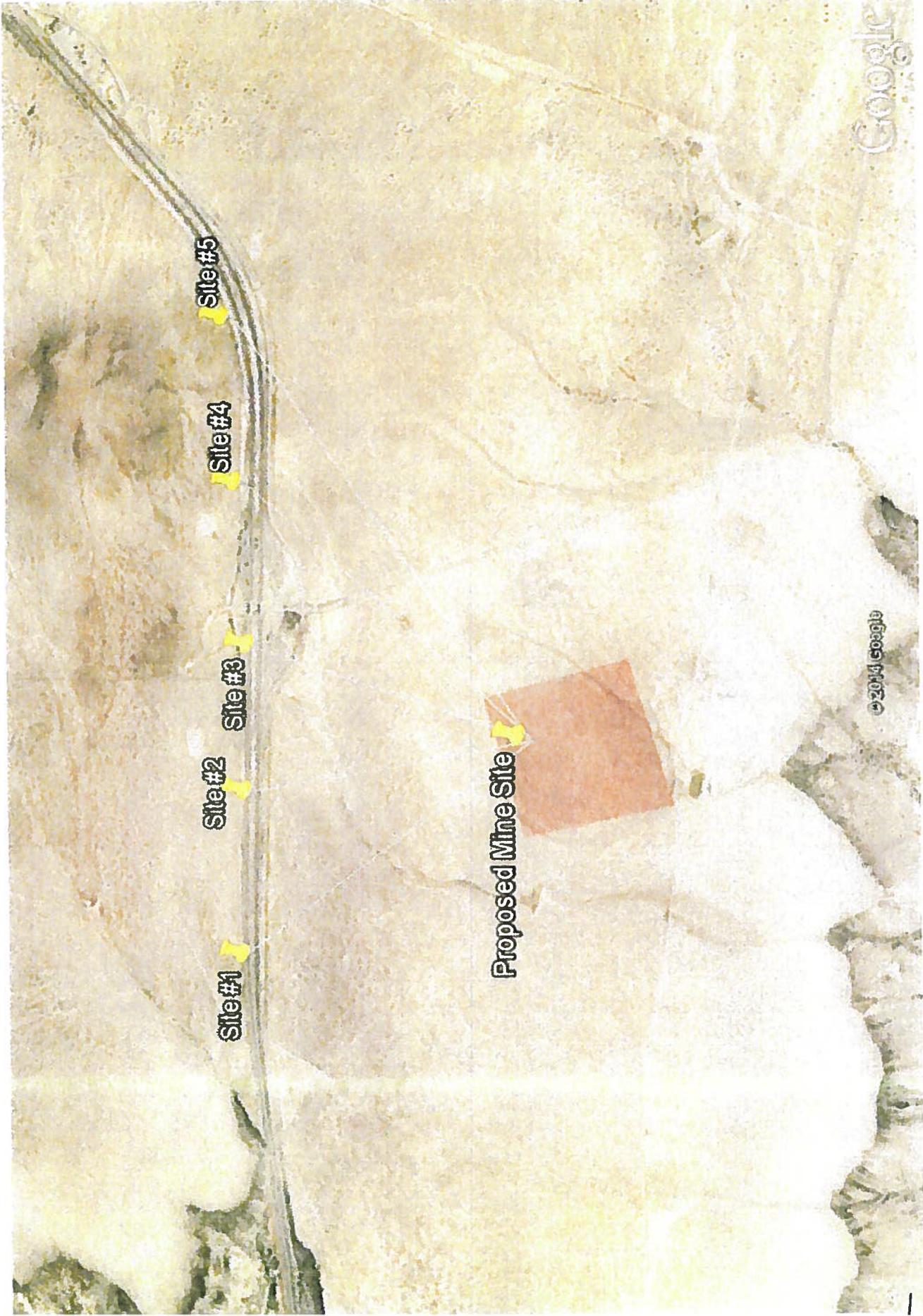
Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

July 29, 2014

Santa Fe County Geographic Information Systems Division (GIS) has reviewed the maps provided by the public at the June 11th hearing. GIS has determined that these maps show a viewshed from both Waldo Canyon Road and I-25 and that no determination can be made on the accuracy of these maps due to the following reasons: unknown source of data; unknown map creator; and unknown GIS system used; in addition to this lack of data, there was no information provided on the analysis itself, such as if the viewshed was done from ground level, eye level, or 20 foot level.





Views of Proposed Mine Site from I-25

Cresting the Mesa – #1 Elevation 6087– Dust is visible



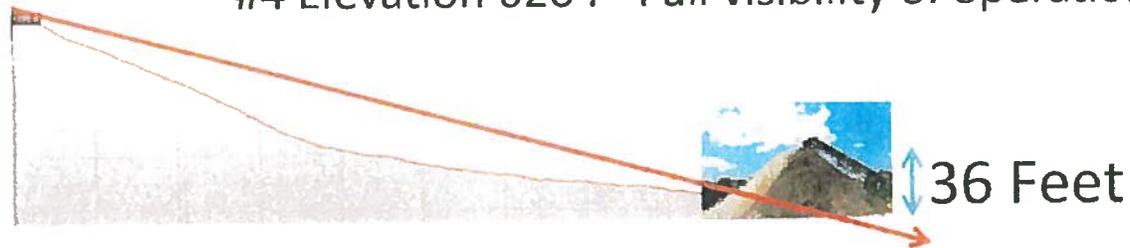
#2 Elevation 6124– Structures or gravel over 20 feet visible



#3 Elevation 6154– Full visibility of operations



#4 Elevation 6204– Full visibility of operations



#5 Elevation 6245 – Full visibility of operations



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La Bajada Mesa Strip Mine Visual Impact from the Camino Real

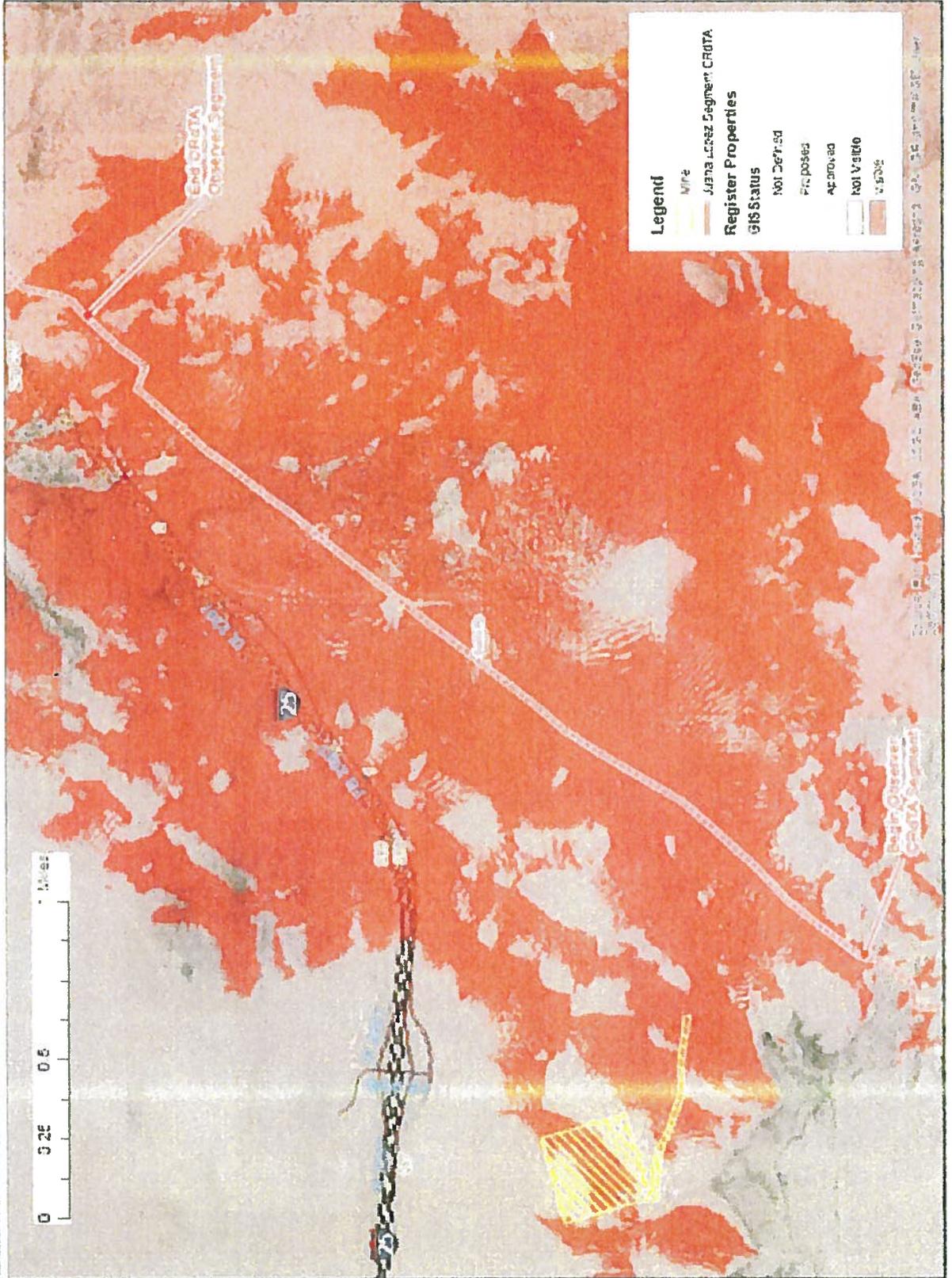


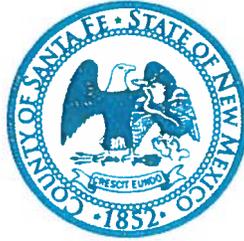
EXHIBIT
18

Viewshed from Juana Lopez Road Segment of Camihin Realis Tierra Adentro and Buena Vista & Rockology Mining Site

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

July 29, 2014

MAP A:

Map A shows the viewshed of the proposed mine site. The light blue areas indicate where the mine could be potentially be seen, excluding vegetation, structures and any other possible obstructions. This map is based on elevation data obtained from USGS 10 meter (cell size) Digital Elevation Models (DEMS). In order to perform the viewshed, ESRI 3D analyst viewshed tool was used with observer height set to ground level view. The map also shows 1, 5, 10, and 15 mile radius rings from the proposed mine site and the areas of surrounding traditional and historical communities.

MAP B:

Map B shows the residences that fall within the viewshed shown in Map A. The locations of these houses came from the E-911 database for Santa Fe County. The red triangles each represent one household that can potentially see the mine site, again excluding vegetation, structures and any other obstructions. A total of 179 residences fall within this viewshed. Map B also shows 1, 5, 10, and 15 mile radius rings from the proposed mine site and the areas of surrounding traditional and historical communities.

MAPS C AND MAP D:

Maps C and D show businesses that fall within a 15 mile radius of the proposed mine site and also the businesses that fall within the viewshed shown in Map A. The locations of these businesses were derived from the Santa Fe County business license database. The dark pink dots indicate a business location within 15 miles of the proposed mine site. The light pink dots indicate a business that falls within the viewshed of the proposed mine. A total of 16 businesses fall within this category. Maps C and D also shows 1, 5, 10, and 15 mile radius rings from the proposed mine site and the areas of surrounding traditional and historical communities.

