

June 10, 2025

Dominic Sisneros  
Building and Development Manager  
Via email: djsisneros@santafecountynm.gov

Roger Prucino  
Assistant County Attorney  
Via email: rlprucino@santafecountynm.gov

Re: Letter from Parties in Case No. 24-5200 pursuant to Order Consolidating Appeals;  
Recognizing Parties with Standing; and Scheduling Pre-Hearing Special Meeting

Dear Mr. Sisneros and Mr. Prucino:

Pursuant to the above referenced Order the parties, including the Applicant, Rancho Viejo Solar, LLC, New Mexicans for Responsible Renewable Energy; Ashley C. Schannauer; The Clean Energy Coalition for Santa Fe County; the San Marcos Association; 350 Santa Fe, Inc.; Santa Fe Green Chamber of Commerce; and the Sierra Club Rio Grande Chapter, met and conferred in good faith on June 6, 2025, from 1:30 p.m. to 3:30 p.m. The Global Warming Express did not attend the meeting.

1. In response to item (i) in the Order the parties did not reach an agreement as to the amount of time needed for presentation of witnesses and other evidence. The parties' requests for time to present are as follows:

Rancho Viejo Solar: 2 hours

Rancho Viejo Solar requests two hours to present the application, with the understanding that under the appeal hearing framework that it is still the Applicant with the burden of demonstrating that the Application meets the criteria of the SLDC.

New Mexicans for Responsible Renewable Energy: 2 hours and 30 minutes

New Mexican for Responsible Renewable Energy requests two hours and thirty minutes for Direct and Rebuttal Testimony.

Ashley C. Schannauer: 1 hour

Ashley Schannauer requests one hour for Direct testimony and thirty minutes for rebuttal testimony.

The Clean Energy Coalition for Santa Fe County: 2 hours

Clean Energy Coalition of Santa Fe County requests two hours to present its appeal. Forty minutes to present its opening statement of issues, presentation of facts and legal arguments, twenty minutes to present Witness #1, twenty minutes to present Witness #2, twenty minutes for rebuttal testimony and twenty minutes for Closing Argument. (the filing Appellant is entitled to, at a minimum, the same presentation time allotted to Rancho Viejo Solar as the Appellee)

The San Marcos Association: 1 hour.

350 Santa Fe, Inc.: 30 Minutes

Santa Fe Green Chamber of Commerce: 30 Minutes, and further requests that each of the parties have the same amount of time for its presentation of witnesses and other evidence, with a maximum time set for related follow-up questions from other parties.

The Sierra Club Rio Grande Chapter: 30 Minutes

2. In response to Item (ii) in the Order, the parties did not reach an agreement as to how much time is needed for public comment. The parties did agree that public comment should be available on each day of the hearing and held at a time that allowed the greatest public participation possible. The parties proposed the following time limits for public comment:

Rancho Viejo Solar, LLC: 2 minutes per comment, with parties able to cede their comment time to others, up to a total of 10 minutes.

- Rancho Viejo Solar requests that the Board grant 2 minutes for public comment based on the exceptional amount of public participation in the prior hearings on this matter. We anticipate a great number of public comments in the upcoming hearing, and a shorter comment period will allow the Board to accommodate all persons wishing to make a comment, while keeping the overall length of the hearing within a reasonable time frame.

New Mexicans for Responsible Renewable Energy: 3-5 minutes, with parties able to cede their comment time to others, up to a total of 15 minutes.

- Clean Energy Coalition of Santa Fe County, San Marcos Association & Ashley Schannauer: Concur with New Mexicans for Responsible Renewable Energy's principal request with an additional caveat that parties with standing and those submitting testimony during the evidentiary phase of the Hearing be prohibited from providing public commentary during the public commentary phase of the proceedings).

3. In response to item (iii) of the Order, the parties agreed to a hearing between the dates of August 7 and August 15, 2025. The parties agreed that the hearing venue should accommodate the anticipated public participation (approximately 300+ people). Furthermore, the parties' consent to holding the hearing at the Santa Fe Convention Center.

4. In response to item (iv) of the Order the parties stipulated to the following procedural orders:

- That the Board establish a service list for the hearing and that all parties shall be required to serve all filings to that service list which shall include the designated representatives the Applicant, each party with standing, County staff, and the members of the Board of County Commissioners.
- That the Board establish filing deadlines for the submittal of all arguments, reports, witness lists and other substantive materials, and for the submittal of presentation materials (including PowerPoint presentations). The parties stipulate that a submittal deadline of 10 days prior to the hearing is adequate for all substantive materials, and that a submittal deadline of 5 days prior to the hearing is adequate for all presentation materials.
- That the Board establish and strictly enforce rules on decorum during the hearing including advising the public to refrain from booing and applauding during the hearing, limiting parties' presentations to their established time limits, and enforcing such restrictions.

- The Santa Fe Green Chamber of Commerce specifically adds that no signs larger than 10x12 inches be permitted, and strict enforcement of time limits with an agreed upon warning (clock, light, or chimes).

In response to item (iv) of the Order the parties discussed, but did not agree on the following proposed procedural orders:

- The Clean Energy Coalition for Santa Fe County, San Marcos Association, New Mexicans for Responsible Renewable Energy & Ashley Schannauer propose an Order setting forth the order of presentation as is the ordinary practice in appeals (and in general accordance with Section 4.7.2.1), the appellants should present first (i.e., as the “applicants” under Section 4.7.2.1). Rancho Viejo Solar and its supporters should present next. Appellants should have the opportunity to respond last to the evidence presented by Rancho Viejo Solar and its supporters pursuant to SLDC Section 4.7.2.1.4. County Staff informed the four appellants that they each needed to file applications and each pay \$200 to appeal the Planning Commission’s March 20 Order. Appellants were also directed to file “Letters of Intent” to identify the issues we intend to raise regarding the March 20 Order. Appellants were told that County Staff would address those issues in the report/recommendation they make pursuant to Section 4.7.2.1.1 of the SLDC. Consequently, Appellants’ issues are therefore the subject and focus of the appeal. We have the burden of moving forward with the evidence, but the burden of proof with respect to the merits of Rancho Viejo Solar’s application remains with Rancho Viejo Solar.
  - Rancho Viejo Solar opposes this proposed Order, and requests that the Board apply SLDC Section 4.7.2.1 governing the conduct of quasi-judicial public hearings. This Section clearly states that the County Land Use Administrator or staff shall present first, followed by the Applicant, then followed by parties with standing. As this matter concerns the Application by Rancho Viejo Solar, LLC, the Board should consider Rancho Viejo Solar as the Applicant in this de novo appeal and apply SLDC Section 4.7.2.1 accordingly.
  - The Santa Fe Green Chamber of Commerce supports guidelines described in SLDC Section 4.7.2.1. Rancho Viejo Solar shall be considered the Applicant, and all parties with standing shall address their independent concerns. The Santa Fe Green Chamber of Commerce would also like to request that the terms of what apply to a ‘de novo’ appeal be clearly defined.
- Ashley Schannauer proposed an Order allowing discovery pursuant to his motion to compel discovery, previously filed with the County on May 12, 2025. (Clean Energy Coalition of Santa Fe County and New Mexicans for Responsible Renewable Energy Concur)
  - Rancho Viejo Solar opposes this proposed Order for the reasons set forth in its response in opposition to Mr. Schannauer’s motion, which was filed with the County on May 27, 2025.
  - The Santa Fe Green Chamber of Commerce opposes the motion to compel discovery.

- Ashley Schannauer proposed an Order allowing for the direct cross examination of the parties at the hearing.
  - Rancho Viejo Solar opposes this proposed order for the reasons set forth in its response in opposition to Mr. Schannauer's motion, which was filed with the County on May 27, 2025, and proposes that all cross-examination questions be directed through the Chair of the Board of County Commissioners.
  - The Santa Fe Green Chamber of Commerce feels that direct cross-examination is not in the best interest of this proceeding's purpose and that questions be submitted to the Chair of the Board of County Commissioners.
  - Clean Energy Coalition of Santa Fe County concurs with Ashley Schannauer's proposed Order allowing for the direct cross examination of the parties at the hearing, specifically because disallowing full and fair cross-examination will fundamentally corrupt the record, which is subject to appellate review. To allow the Board to make relevancy determinations and evidentiary decisions "off the record" violates the most basic tenets of fairness.

Finally, there were several items that were either presented after the parties met to discuss the Order, or that the parties did not agree would be included in this letter. Those matters are addressed in the several addenda submitted by parties that are attached to this letter. The inclusion of these addenda should not be interpreted as the agreement of the parties on the substance set forth therein.

Respectfully submitted,

Luke M. Pierpont  
Counsel for Applicants  
Rancho Viejo Solar, LLC

Approved by:

Robert Stranahan  
Counsel for Clean Energy Coalition for Santa Fe County

Selma Eikelenboom  
New Mexicans for Responsible Renewable Energy

Ashley C. Schannauer

Dennis Kurtz  
The San Marcos Association

Robert Cordingley  
350 Santa Fe, Inc.

Glenn Schiffbauer  
Santa Fe Green Chamber of Commerce

John Buchser

The Sierra Club Rio Grande Chapter

# 350 Santa Fe Inc Addendum

June 9, 2025

Pursuant to the Order Consolidating Appeals, 350 Santa Fe, Inc. understands there is an absence of precedent for the management of the upcoming hearing in Case No. 24-5200. We therefore would like to state our position in addition to the statement filed by AES for the Board of County Commissioners (BCC) to consider.

We think the appeals hearing should be managed as follows:

*SLDC 4.5.4., Appeal of a Final Decision of the Planning Commission*, states “An appeal of the decision of the Planning Commission shall be reviewed *de novo* by the Board.” Thus the BCC will be presented with arguments and testimony of all parties all over again. The hearing should therefore follow the structure of the Planning Commission hearing of Feb 3, including the timing of the original presentations, along with the following enhanced rules:

- enforce the requirement against clapping, cheering, or booing;
- establish before the hearing the mechanism for notifying each party when their presentation time has expired, whether it be by a clock, light or chime.
- cross-examinations:
  - cross examination questions must be submitted to the chair in writing, immediately following each presentation;
  - any party with standing can submit a cross examination question,
  - the chair will filter the questions for duplicates, and then address the question to the witness, while keeping the author anonymous; and
  - all submitted questions should be addressed by the person who testified, subject to the chair filtering out duplicates.

Public comments should be limited to 2 mins each with the option to aggregate 5 commenters into one 10-minute interval. County staff will manage the process.

Robert Cordingley

President

350 Santa Fe, Inc.

## Santa Fe Green Chamber of Commerce Addendum

The Santa Fe Green Chamber of Commerce requests that the County staff make a strong effort to offer alternative and equitable ways for public input, to accommodate those who cannot attend a long public hearing, have differing abilities related to communication skills or have work conflicts. Alternatives may include a way to post a short comment, along with their name and address on the County's website, assigned to "Support" or "Oppose" categories and/or a way to attend remotely to briefly record their views. We also request that public comment take place during evening hours, again to allow those who work to have their voices heard. We request that the County determine a schedule, including times for presentations and public comment in advance. It is preferred to have all presentations on Day 1, followed by an evening public comment period, and follow-up questions from the BCC, with additional public comment on Day 2.

**ADDENDUM**  
**Clean Energy Coalition of Santa Fe County**

**June 10, 2025**

Pursuant to Santa Fe County Board of County Commissioner's Order, issued May 27, 2025, the parties granted standing in Case No. 24-5200 were directed to confer in good faith to reach an agreement on four topics: i) witness presentation times, ii) public comment time, iii) date and location for the hearing, and iv) additional procedural Orders necessary to assure fair and efficient hearing. Appellants raised several issues that the Appellants and their supporters oppose unconditionally. After consultation with AES counsel, Luke Pierpont, Appellees agreed to submit this Addendum seeking a specific Order regarding *ex parte* communications and requesting confirmation and/or clarification on four procedural issues. It is important to note, while these inquiries and requests are attached as an Addendum each inquiry should be treated as an integral part of the communal response proper.

**Proposed Order Request**

- Clean Energy Coalition of Santa Fe County, San Marcos Association, New Mexicans for Responsible Renewable Energy & Ashley Schannauer propose an Order prohibiting *ex parte* communications requiring all future communication amongst participants in these proceedings be disseminated to all participants ASAP. This specifically includes all communications from the SFBCC to County Staff, all communications from the County Staff to the SFBCC, and all communications from the SFBCC and County Staff to any party referencing, regarding or even tangentially involving the subject matter in this case.

**Points of Confirmation and/or Clarification**

1. Please confirm and/or clarify Appellant's interpretation of *De Novo* review: SLDC Section 4.5.4 states that the Administrator shall provide to the BCC "a copy of the record of the proceedings below of the decision appealed." But Section 4.5.4 also states that the appeals of Planning Commission decisions "shall be reviewed *de novo* by the Board." Section 4.3.2 and 4.7.2 provide that the BCC's hearings are quasi-judicial and Section 4.3.2 provides that the BCC will make independent findings of fact and conclusions of law. This appears to indicate that the BCC's hearing will be an evidentiary hearing and that the BCC will make findings of fact and conclusions of law based upon the record that was developed before the Hearing Officer and Planning Commission plus any additional evidence the parties may present at the BCC's hearing. "*De novo*" means that the BCC will not be bound by or give deference to the findings of the Planning Commission (contrary to the deference that is typically provided by appellate courts for factual findings of lower courts). The BCC will make a decision based upon its independent review of the evidence and law.



2. Please confirm and/or clarify the basis for granting standing to 350 Santa Fe, Inc., Santa Fe Green Chamber of Commerce, Sierra Club Rio Grande Chapter & Global Warming Express. These parties i) failed to pay the required appeal fee of \$200, ii) failed to submit Notices of Appeal, iii) failed to file an appeal letter identifying their specific issues of contention in this matter, and iv) appear to have failed to file requests to participate as parties of standing in the appeal proceedings. The SFBCC also failed to give proper public notice at its May 27, 2025, meeting that it intended to recognize the advocacy groups as parties with standing in the appeal proceedings. Consequently, The Board has failed to create a proper record as it relates to standing. Appellants request that all non-filing parties in support of the AES application be required to file formal requests to participate as parties with standing. The Appellants should have the right to respond to these requests and the Board should be required to justify and legally defend any decision as it relates to current standing and subsequent inclusions.
3. Please confirm and/or clarify SFBCC's position on suggested alternatives to public comment. The Santa Fe Green Chamber is requesting the ability to submit public comments in support or opposition to the AES project and have requested that the SFBCC "post" said comments. Appellants object to this alternative method specifically because the introduction of artificial intelligence (AI) has made it functionally possible to generate thousands of support letters in an instant. Consequently, public comment in this form, delivered from unverified sources is suspect at best and misleading in most circumstances. Appellants would ask that template form letters be treated as a single submission and duplicates affixed with different signature containing the same form statement be treated the same.
4. Please confirm and/or clarify the function of the Santa Fe County staff during these proceedings. The parties disagree on the role of Santa Fe County Staff. Appellants have consistently objected to the Santa Fe County Staff acting as both advocate and advisor to the Planning Commission and/or the SFBCC and, at times, as the Decision-Maker. To allow Santa Fe County Staff to play such an influential role violates the fundamentals of due process, ethical canons of judicial fairness and the necessity for an impartial adjudicative process. Such action is akin to allowing a District Attorney to prosecute a case, make all evidentiary decisions, evaluate the evidence and then advise the judge on how to decide the case. Similarly, the parties subject to the requirement of the service list described in the Joint Letter should include County Staff. If County Staff is considered a party to these proceedings or intends to act as if it were a party in these proceedings, then its communications with the BCC should be served upon other parties. If the County Staff are going to continue acting in an advisory capacity to the SFBCC, act on behalf of the SFBCC, and continue meeting separately and secretly with AES and other parties then they should be subject to the requirements of disclosure, notification and discovery.

Respectfully submitted,

Clean Energy Coalition of Santa Fe County  
Lee Zlotoff, President  
Robert A. Stranahan.IV, counsel