SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS COUNTY ADMINISTRATION BUILDING

REGULAR MEETING
(Administrative Items)

January 25, 2000 - 1:30 P.M.

Amended Agenda

I. Call to Order
II. Roll Call
III. Pledge of Allegiance
IV. Approval of Agenda
  A. Amendments
  B. [redacted]
V. Approval of Minutes
VI. Consent Calendar:
  A. Resolution No. 2000-4 A Resolution Requesting a Budget Increase to the General Fund/Sheriff's Department for a Donation Received for K-9 Expenditure in Fiscal Year 2000 (Sheriff's Department)
  B. Resolution No. 2000-5 A Resolution Requesting a Budget Increase to the Fire Protection Fund for a Grant Received from the New Mexico Energy, Minerals and Natural Resource Department for the Volunteer Fire Assistance Program for Expenditure in Fiscal Year 2000 (Fire Department)
  C. Resolution No. 2000-6 A Resolution Requesting a Budget Increase to the Jail Enterprise Fund/Adult Facility to Budget a Subsidy Received from the United States Justice Department for Contractual Services for Expenditure in Fiscal Year 2000 (Finance Department)
  D. Request Authorization to Accept and Award an Indefinite Quantity Price Agreement to the Lowest Responsive Bidder, IFB #20-36, for a Fire Mini-Pumper (Fire Department)

VII. Administrative Items:

A. Committee Expirations/Resignations/Vacancies:

1. Santa Fe County Lodgers' Tax Advisory Board

B. Committee Appointments:

1. DWI Planning Council

2. Senior Services Advisory Board of Directors

VIII. Presentations & Awards:

A. Employee of the Quarter Awards

B. Presentation by L & M Technologies (on behalf of LANL) Regarding the Northern New Mexico Park 'N Ride Project

IX. Staff and Elected Officials Items:

A. Quarterly Report

1. County Sheriff

B. Finance Department

1. Request Authorization to Accept and Award a Professional Services Agreement to the Highest Qualified Respondent, RFP #20-41, for the Design of Nine Dwelling Units for Three Housing Sites within Santa Fe County (Community, Health & Economic Development Department)

C. Fire Department

1. Request Approval of Quitclaim Deeds Between Rancho Viejo and Santa Fe County to Exchange Property for the Purpose of Constructing a Fire Station

2. Request Authorization to Enter into a Joint Powers Agreement with the Town of Edgewood for Emergency Services

D. Health, Community and Economic Development Department

1. Request Approval of the Local DWI (LDWI) Disbursement Proposal Budget for Fiscal Year 2001

2. Request Authorization to Enter into a Joint Powers Agreement with the City of Santa Fe for the Crisis Response Project for Training and Debriefing a DWI Impact Panel

3. Resolution No. 2000-07 A Resolution Amending Resolution No. 1997-37, Section 3-A, Modifying Membership Categories for the DWI Planning Council

E. Land Use Department

1. Resolution No. 2000-08 A Resolution Supporting a Grant Application to New Mexico State Parks Division for Recreational Trails and Ensuring a Local Funds Match
2. Progress Report on the Santa Fe Community College District Plan

F. Public Works Department

1. Request Authorization to Enter into a Lighting Agreement with the New Mexico State Highway and Transportation Department, #MIP-084-6(78) CN 3402, for the South Tesuque Interchange Project
2. Resolution No. 2000-09 A Resolution Establishing a Santa Fe County Solid Waste Advisory Board
3. Resolution No. 2000-10 A Resolution Requesting the New Mexico State Highway and Transportation Department, Litter Control and Beautification Section, to Consider and Approve an Application for New Mexico Beautiful Grant
4. Resolution No. 2000-11 A Resolution Amending Resolution No. 1998-3 Relating to Santa Fe County, New Mexico, Hyde Park Estates Road Improvement Special Assessment District to Delete Three Lots from the Hyde Park Assessment District

G. Resource Development Department

1. Resolution No. 2000-12 A Resolution Dedicating an Easement to U.S. West Communications for Fiber Optic Cable

H. Matters from the County Manager, Samuel O. Montoya

1. Health Planning Commission Annual Report
2. Request Authorization to Enter into an Operating and Lease Agreement with Cornell Corrections Inc.
3. Request Authorization to Enter into a Lease Agreement with General Services Department, State of New Mexico

I. Matters of Public Concern - NON-ACTION ITEMS

J. Matters from the Commission

1. Resolution No. 2000-13 A Resolution Authorizing and Supporting an Application for Federal Highway Enhancement Funds for the Purchase of Open Space
2. Presentation by Patrick Murphy, Santa Fe County's Federal Lobbyist

K. Matters from the County Attorney, Denice Brown

1. Executive Session:

a. Discussion of Possible Acquisition of Real Property or Water Rights

b. Discussion of Pending or Threatened Litigation

c. Limited Personnel Matters

X. Public Hearings:

A. Land Use Department:

1. CDRC Case #MIS 97-5230. Cerrillos Gravel Products. The Land Use Administrator Requests Suspension of the Mining Land Use Permit Due to Failure to Comply with Water Supply Requirements for Dust Control, Reclamation, and Mining Operations, Non-Compliance of Outstanding Conditions, and Exceeding 3 Acre Boundary in the Quarry. The Property is Located North of the Town of Cerrillos within Section 17, Township 14 North, Range 8 East (Commission District 3). Charlie Gonzales

XI. ADJOURNMENT

The County of Santa Fe makes every practical effort to assure that its meetings and programs are accessible to the physically challenged. Physically challenged individuals should contact Santa Fe County in advance to discuss any special needs (e.g., interpreters for the hearing impaired or readers for the sight impaired).

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BOARD OF COUNTY COMMISSIONERS

SANTA FE, NEW MEXICO

REGULAR MEETING

JANUARY 25, 2000

Joe S. Griñé, Jr., Chairman
Paul Duran, Commissioner
Richard Anaya, Commissioner
Marcos Trujillo, Commissioner
Javier Gonzales, Commissioner

SANTA FE COUNTY

REGULAR MEETING

BOARD OF COUNTY COMMISSIONERS

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January 25, 2000

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 1:45 p.m. by Chairman Joe S. Griñé, Jr., in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Roll Call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

Members Present:	**Members Absent**:
Commissioner Joe S. Griñé, Jr., Chairman	None
Commissioner Richard Anaya	
Commissioner Paul Duran, Chairman	
Commissioner Javier Gonzales	
Commissioner Marcos Trujillo	

IV. APPROVAL OF THE AGENDA

A. Amendments

B. Tabled or withdrawn items

CHAIRMAN GRIÑÉ: Sam, do we have any amendments? Any tabled or withdrawn items?

SAMUEL MONTOYA (County Manager): Yes, Mr. Chairman. Good afternoon. We have a few amendments today, Mr. Chairman. Starting on page 2, Section VIII. C. We will have an update to the County Board of Commissioners from the Rancho Viejo Assessment District. That update will be provided by Mr. Swerdling and Mr. Strumor.

Additionally, Mr. Chairman, on page 3, under H. 2, which is a request for authorization to enter into an operating and lease agreement with Cornell Corrections. Mr. Chairman, that is actually going to be a memorandum of understanding under that section. And under H. 3, the same, another memorandum of understanding between the County and

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the General Services Department of the State of New Mexico.

Under item J. 2, we will have a presentation to the Board from Mr. Patrick Murphy, who is the federal lobbyist for Santa Fe County. Mr. Chairman, those are all of the amendments for today's agenda. Relative to tabling issues, Mr. Chairman, going to item VI. D, first page, last item.

CHAIRMAN GRIÑÉ: That will be tabled?

MR. MONTOYA: That will be tabled, Mr. Chairman. Which is a bid on a fire mini-pumper. The other tabling item is on page 2, Mr. Chairman, under D. 2. Which is an authorization request for a joint powers agreement with the City of Santa Fe relative to a crisis response project. We're asking that that be tabled. It's not quite ready.

COMMISSIONER DURAN: Mr. Chairman, Sam, when will that be ready?

SW: Mr. Chairman, at the next meeting, we will have all the details ready on that particular item.

BECKY BUSTAMANTE (County Clerk): Mr. Chairman, I didn't get that. Where is it on page 2? What number?

MR. MONTOYA: Page 2, D. 2.

MS. BUSTAMANTE: Oh, D. 2 under IX?

MR. MONTOYA: Yes.

CHAIRMAN GRIÑÉ: Okay, thank you, Sam. So can I have approval of the agenda as amended and items tabled?

CHAIRMAN GRIÑÉ: Mr. Chairman, so moved.

MS. BUSTAMANTE: Mr. Chairman, may I ask that the Employee of the Quarter Award be moved?

CHAIRMAN GRIÑÉ: What page, Becky?

MS. BUSTAMANTE: It's on page 2, VIII. A. If that can be later on?

CHAIRMAN GRIÑÉ: Okay, to be tabled until later in the day?

MS. BUSTAMANTE: Yes, please.

CHAIRMAN GRIÑÉ: Okay, VIII. A, Employee of the Quarter Award. I understand it might be here later in the afternoon.

COMMISSIONER DURAN: Second.

CHAIRMAN GRIÑÉ: I got a motion to approve the agenda as amended by Commissioner Anaya and seconded by Commissioner Duran. Any further discussion? If not, all those in favor signify by saying "aye." [Unanimous] Ayes have it.

V. APPROVAL OF THE MINUTES: January 11, 2000

CHAIRMAN GRIÑÉ: Is there any changes or deletions or additions to the minutes? If not, what is the wishes of the Board?

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Commissioner Duran moved to approve the January 11, 2000 minutes as submitted. Commissioner Anaya seconded and the motion passed by unanimous voice vote.

V. CONSENT CALENDAR

A. **Resolution No. 2000-4. A resolution requesting a budget increase to the general fund/Sheriff's Department for a donation received for K9 expenditure in fiscal year 2000**

B. **Resolution No. 2000-5. A resolution requesting a budget increase to the Fire Protection Fund for a grant received from the New Mexico Energy, Minerals and Natural Resources Department for the volunteer fire assistance program for expenditure in fiscal year 2000**

MR. MONTOYA: Mr. Chairman, would you like me to read each of the particular issues, or, as we usually do, the Commission calls out any particular questions on any of the items on the Consent Calendar?

CHAIRMAN GRIÑÉ: That's fine, Sam. We can enter them into the record unless the Commissioners have some questions that they would like to discuss on item A, B, and C. Maybe get a couple of minutes to review them and see if you have any questions. If you don't have any questions, I need a motion for approval.

COMMISSIONER DURAN: Mr. Chairman, can I isolate item C just for further informational purposes.

CHAIRMAN GRIÑÉ: It's the Consent Calendar, Commissioner Gonzales. It's only on A. and B. now. D was tabled and C. has been isolated for further discussion. So it would be item A. and B. If you have any questions then on, if you don't have any questions, I need a motion to approve items A. and B.

Commissioner Trujillo moved to approve items A. and B. on the Consent Calendar and Commissioner Anaya seconded. The motion passed by unanimous voice vote.

C. **Resolution No. 2000-6. A resolution requesting a budget increase to the jail enterprise fund/adult facility to budget a subsidy received from the United States Justice Department for contractual services for expenditures in fiscal year 2000**

CHAIRMAN GRIÑÉ: Okay, Commissioner Duran, item C.

COMMISSIONER DURAN: I was just wondering Sam if you could give me a little more information on that. Explain that to me.

MR. MONTOYA: Mr. Chairman, let me defer to our Finance Director, Ms.

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Miller.

KATHERINE MILLER (Finance Director): Mr. Chairman, Commissioner Duran, that is a budget increase for monies that were found by a company that we contracted with, Justice Benefits, Incorporated. And what they do is they look at our inmate population and if someone is eligible for federal funding for their care while they're in our jail, they go forward, they go through everything that we have, all our records, and identify anybody who might be eligible for federal funding and then that money comes to the County and they get a percentage of that and they recovered $73,000 for last year. And they'll get about 22%.

COMMISSIONER DURAN: Great. Okay, thank you.

MS. MILLER: You're welcome.

CHAIRMAN GRIÑÉ: Any other questions? If not, can I get a motion to approve item C?

Commissioner Duran moved to approve item C on the Consent Calendar. Commissioner Trujillo seconded and the motion passed by unanimous voice vote.

VII. ADMINISTRATIVE ITEMS

A. Santa Fe County Lodgers' Tax Advisory Board

MR. MONTOYA: Mr. Chairman, we do want to recommend to the Board that we accept two resignations relative to the Lodgers' Tax Board. Mr. Mike Cerletti and Ms. Maureen O'Dowd have resigned their positions. Mr. Chairman, the second part of our recommendation would be that we instruct the Lodgers' Tax Board to begin the recruitment process to fill these two positions.

CHAIRMAN GRIÑÉ: I know I received a letter Sam, and I think I gave it to Deborah from Mrs. Brown, Florence Brown. That's her name. I know she has a letter. I don't know if we have any other letters that have been submitted since. Do I get a motion to accept the resignation of these two individuals?

Commissioner Trujillo moved to accept Mr. Cerletti and Ms. O'Dowd's resignation and Commissioner Anaya seconded. The motion passed by unanimous voice vote.

VII. B. Committee appointments

1. DWI Planning Council

ROBERT ANAYA (Community Health and Economic Development Director): Mr. Chairman, Commissioners, the DWI Planning Council has endorsed the following

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recommendation. Under resignations, the resignation of Martha Reagan and Captain Terrance Delgado, and under reappointments, Fred Sandoval, Judge Frances Gallegos, Judge Roman Duran, Representative Patsy Trujillo-Knauer, and under new appointments, Corporal Ken Johnson, who would be replacing Mr. Delgado, Allan Wheeler and Judge Bill Dimas.

CHAIRMAN GRIÑÉ: Robert, I think there was an intent by the Board of County Commissioners to make the elected officials as *ex officios* on this committee. I wonder if that's still the same wish that we had previously.

COMMISSIONER GONZALES: I think the multiple elected officials can benefit from the DWI better if they're not voting members than if they're actually voting, so I'm in support of them being *ex officios*.

CHAIRMAN GRIÑÉ: Can I have a motion to that effect? The resignations, the new appointments and to make the elected officials *ex officios*?

Commissioner Gonzales moved to accept the resignations of Ms. Reagan and Capt. Delgado, to reappoint Mr. Sandoval, Judges Gallegos and Duran, and Rep. Trujillo-Knauer, to appoint Cpl. Johnson, Mr. Wheeler and Judge Dimas, and to give the elected officials *ex officio* status. Commissioner Duran seconded.

COMMISSIONER TRUJILLO: Are you talking about the elected officials that have been --

CHAIRMAN GRIÑÉ: Yes, judges and representatives.

The motion passed by unanimous voice vote.

VII. B. 2. Senior Services Advisory Board

MR. MONTOYA: Mr. Chairman, this particular item on the agenda is a joint City/County appointment to the Senior Services Advisory Board. I'd like to introduce to you, Mr. Chairman, Ron Vialpando from the City of Santa Fe.

RON VIALPANDO: Thank you, Mr. Chairman, members of the Commission. I'm Ron Vialpando. I'm here representing the City of Santa Fe, Division of Senior Services. We're here to day requesting your approval to appoint Mr. Ralph Digneo to the joint City and County appointment of the Advisory Board. This is a two-year appointment term.

CHAIRMAN GRIÑÉ: Any questions of Mr. Vialpando?

Commissioner Anaya moved to approve Mr. Digneo's appointment and Commissioner Trujillo seconded. The motion passed by unanimous voice vote.

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VIII. PRESENTATIONS AND AWARDS

B. Presentation by L & M Technologies (on behalf of LANL) regarding the northern New Mexico Park N' Ride

KEN PIN (Planner): Mr. Chairman, Commissioners, Santa Fe County was a participant in the first Park N' Ride project, northern New Mexico Park N' Ride project, a partner in the project as a financially and in the planning stages up until the interruption of the contract last March. There's ongoing planning right now to resume the project and the County is still on the planning team. At this point, the Public Transportation Programs Bureau of the New Mexico State Highway and Transportation Department is the lead planning agency and at this time they'd like to do a presentation to the Board and give the Commissioners an update on the planning of starting up the project again.

CHAIRMAN GRIÑÉ: Thank you, Ken.

MR. PIN: On behalf of the Public Transportation Programs Bureau is Pat Oliver-Wright and Josette Lucero.

PAT OLIVER-WRIGHT: Thank you, Mr. Chairman and Commissioners. I am Pat Oliver-Wright and this is Josette Lucero. I do have the apologies of Tom Garcia who could not make it here today. He is with L & M Technologies and is a contractor for LANL. He's been working with the Park N' Ride Committee and the Highway Department to look for sources of funding and to initiate support for the Park N' Ride project.

But I'm here today to give you a brief overview and let you know pretty much where we've been, give you background, which I won't go into too much. I know most of you have worked on this project previously, but also let you know where we are now and where we plan to go.

We have project goals for our next overhead. They have mainly been environmental. One of our main purposes initially was environmental goals. Also economic development, safety and quality of life. Another was traffic mitigation, particularly on the Pojoaque corridor. As far as environmental goes, the traffic mitigation, we found a reduction in single occupancy vehicles and we'd estimated about 1600 vehicle trips a day could be saved, particularly on the Pojoaque corridor. This project was part of that corridor's environmental impact statement in that there are now four lanes instead of six lanes planned for that project that should start in the spring.

The economic development aspect, there are several parts of that. Welfare to Work was part of the previous contract. We had recruited drivers who were previously welfare recipients and also it provides a low cost means of transportation to work. As far as safety, many of you I'm sure know that the Pojoaque corridor of US 84/285 is a high accident area and both with traffic mitigation and inclement weather conditions the Park N' Ride was anticipated should improve that situation.

For quality of life, we had taken some surveys on this and found that it did reduce stress. It provides a good access for people to interact socially when they're on the Park N'

Ride and have a much more enjoyable trip back and forth to work. So what we've done so far has been two projects on this. And Santa Fe County has participated in both of those projects. The demonstration project was in the summer of 1997 for two weeks. From that we got some funds to initiate contracted services. Santa Fe County contributed $100,000 initially to that contract, of which $30,000 was used. That went from November '98 to March of '99.

The demonstration project had about 1100 passengers a day, operated 24 buses and it served mainly the three large areas of Los Alamos, Española and Santa Fe. Had the participation of all the different groups and still strived toward that goal of 1600 vehicles a day. We were able to do a survey on the demonstration project. On the later contracted service we were just about to do a survey when the project ended. But we have specific statistics on the approval rating. I'm not sure if any of you have gotten telephone calls. I know as a project manager I get calls at least once or twice a week from people anxious to have it start again. We've had tremendous positive feedback on this project. So we're trying to keep plugging away and keep it going.

As far as the contracted service, we had a total again of almost 80,000 trips. It averaged 11,000 a day. We were using approximately five parking lots and took that many people off the road, 25,000 for the four or five-month period, and the total cost was $785,000. So since the contracted service ended what we've been doing, we went out for a request for information over the summer. That was mainly to see what kind of interest was out there still, see anyone was interested in providing this service and we found yes. We got five responses. There are some big national firms who are interested in putting this service together as well as several local firms.

What we did with those five responses was to use the information to put together a request for proposals. We tried to take the best of everything that we saw. We as in the committee of your staff and staffs from around the different municipalities and agencies. And we have an RFP just about ready to go from that request for information. On that request for information we got one contractor who was willing to give us an estimate of a contract cost, and that cost was $3 million a year. They anticipated a 10% increase each year for the next five years.

This was for a very large scale, full-service contract. We have scaled a little bit back on the RFP and we expect to know more detailed numbers when we go out for the next bid on that. The funding sources we have now are, we have still federal grants. We have three federal grants available. We have some local match available. At this point we are looking for a Community Development Block Grant. We are looking at the possibility of using two-cent per gallon gas tax. And that would be, that is really at the direction of our legislators. They have asked that a new tax not be put in place before we examine a two-cent per gallon per gallon gas tax that we understand already exists.

We are researching that much further and at this point we don't have all the details on how that would work but we're trying to see if we can get legislation enacted to have the

state collect that and have that be able to be used for this Park N' Ride service. And then we're also looking into possibilities of a regional transportation authority that would be a separate entity that would control this project. And that would have the participation of all the local entities: county governments, city governments and tribal entities.

So far the federal grants total about $5.5 million. There is some difficulty with those federal grants in that it only pays for 40%. So the local match has to come up with 60%. So even though we have $5.5 million, we have to come up with $8.2 million in order to use it. So that is what we're trying to do know, is come up with that local match.

This is how much we have available right now. The County of Los Alamos has put in $100,000 in their budget this year for continued service, along with the City of Santa Fe. The labs have left the remaining of the $100,000 that they put in last year, and that's that $70,000. And the van pool money is funds that we have had from a van pool program that we were using for this and those are also federal funds. They total $400,000, which at this point is not quite enough match to go out with a bid and award a contract.

We've been partnering with LANL, the labs, they have been very active with us, particularly Tom Garcia who is their contractor, going out and working with all the local governments in trying to get this program started again. Some of the other issues that we are trying to address, the latest proposal is to look at compressed natural gas and to have public-private partnerships with the gas companies in both Santa Fe and Española. Another consideration has been the lots, particularly in Santa Fe, it's been very difficult to find good locations for lots that are large enough to use for this project.

Another thing that we are working on now that will be coming out within the next month is a van pooling project. That project has been considered an interim measure for the Pojoaque corridor construction projects that are starting up in March. And we will be going out to bid for a van pool administrator who can aggressively set up van pool programs in northern New Mexico to try to reduce traffic, particularly on the US 84/285 corridor project.

These have been the participants in this program so far. We'd really like to thank Santa Fe County for their continued participation and excellent staff attendance with our committee and input, particularly Kenny Pin and Jack Kolkmeyer. We have worked with various state agencies. We have been so far, to the city of Santa Fe. We will be going next week to the City of Española. We've been to Los Alamos County, and just before Christmas we went to the eight northern pueblos and have garnered their support for the project.

The next step, again, LANL is taking a lead on creating a forum on regional transportation and he will be getting in touch with you individually to try to get all the elected officials and decision makers in the area to come together and work on this program. We're also, as I had said, trying to work on a local gas tax initiative and to establish a regional transit authority. We're also trying to seek some kind of state matching funds and we plan, hopefully, by mid-February, we have requests for proposals ready to go. It's being reviewed by our legal and the state procurement and so we will go out in February with a

request for proposals and we'll have a more definite figure for you for the cost of continuing the project. So I will be back with you hopefully shortly and give you an update on all of those things: the gas tax and the actual costs.

Here are more details on committee members and that concludes my presentation and I'll be glad to stand for questions at this point.

CHAIRMAN GRIÑÉ: Thank you. Does anybody have any questions?

COMMISSIONER TRUJILLO: Mr. Chairman, did this project end abruptly last year because of health and safety concerns, the contractor that was being retained?

MS. OLIVER-WRIGHT: Mr. Chairman and Commissioner Trujillo, yes it did. Because of safety concerns we canceled the contract.

COMMISSIONER TRUJILLO: And we're taking those things into consideration for the next awarding of the contract?

MS. OLIVER-WRIGHT: Yes, Commissioner Trujillo, we are significantly increasing the safety requirements within the request for proposals and in the contract and we're working very closely with Motor Transportation who would be doing the inspections on vehicles to make sure that all of the inspections are completed before any vehicles, before any contract is awarded at this point.

CHAIRMAN GRIÑÉ: Any other questions? If not, thank you very much for the presentation. Hopefully, we'll get it up and running.

VIII. C. Rancho Viejo Assessment District Update

ROBERT SWERDLING: Good afternoon, Mr. Chairman, members of the Commission. We're here today primarily to give an update on a project that has been in the works for about two years now and let me give a brief economic update as to where we are in the project and then Mr. Strumor as bond council on the project will give a legal update and respond to any questions you have on the legal end.

Approximately two years ago the New Mexico State Legislature passed a statute which allowed for counties to do improve districts which were structured primarily to benefit residential construction. The county would be the issuer of a bond, very much like a conduit issuer and have no liability nor responsibility for the bonds outside the specific taxes that are being collected and levied against the property owners in that district. So all the benefit goes to the district and all the money comes from the district and to the extent there were insufficient monies, the county is not on the hook for it.

With that said, the project, because the legislation was new, bringing the financing to the point that we've gotten to, and it's only about a $2 million financing, has taken as close to two years and the project is well ahead of where we had anticipated it would have been at the time that we did the financing and in fact, of the 340 homes that they expect to go up, 70 are already occupied by new owners, all new construction, 60 more are under

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construction and backlogged for orders that are in and contracts signed. The absorption rate for the project is about ten per months, which is one of the most rapid absorption rates I've seen on a project this size, pretty much in my career. It's a very successful project.

Mr. Strumor will describe to you which steps you have taken to date, but the important reason why we're here today is that we believe that we are finally through the legal process and ready to sell the bonds in the very near future, and thought it would be worth your while to hear a quick update as to where we are before those bonds are sold.

ROBERT STRUMOR: Thank you, Mr. Chairman, members of the Commission. Robert Strumor. The entire district is approximately 25,000 acres of the Rancho Viejo property. Of that, Phase I, which is the current financing is about 350 acres. The $2 million for projects has already essentially been expended by the developer. The big project was Rancho Viejo Boulevard, which is already constructed and that will be acquired with these proceeds. The ordinance was adopted last year authorizing the election, homeowners election and the issuance of the bonds and the imposition of the tax. That election was conducted by the County Clerk and it was successful in favor of both the imposition of the tax and the issuance of the bonds.

What we are doing, one more legal step for Phase I would be coming to the Commission for a bond sale resolution, which is very similar to those sale resolutions you've seen for your general obligation bonds, your gross receipts tax bonds and the multi-family housing bonds. It's the final pricing and sale, which does not require advanced publication except for your agenda item. It would be anticipated that some time in February we would make that request to appear on the agenda.

With regard to the security for the bonds, it's in the event that the homeowner doesn't pay, it is a tax lien as any other tax lien would be. There's also what's called a standby contribution agreement where the developer has obligated itself to pay for the bonds in the event there is a shortfall in money from the tax levy. So it is secured by developer covenants. It's secured by real estate and there would be never any impact on the County general fund. So we expect that this is Phase I. Once Phase I is completed, we've been informed by the developers that they would propose the issuance of Phase II, because the district is already created, we would then come back with not all the steps. However, it would require a subsequent election.

So I stand for questions. This is the first in the state. No one else has gone this far and hopefully soon we'll be successfully concluded. Thank you.

COMMISSIONER GONZALES: Mr. Chairman, Mr. Strumor, this might be a question for Mr. Swerdling as well. What's the benefit of the developer choosing to go this route as opposed to traditional financing? Why was this legislation important? Why is Rancho Viejo using this and not some other means to develop their infrastructure?

MR. STRUMOR: From the legal perspective, it just provides a form of financing that is lower cost ultimately, to the ultimate homeowner. In other words, rather than pass on a higher infrastructure cost to each homeowner when the houses are sold,

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because the cost of the infrastructure is lower, it allows more affordable houses to be developed and sold and I'll leave the --

COMMISSIONER GONZALES: And I guess the question for Mr. Swerdling would be, if today you went to conventional financing to finance infrastructure, roads and sewer and opposed to what these bonds would be issued for, what are we looking at as far as the difference in the borrowing rates? I'm assuming that's what Mr. Strumor just said. The purchasing power, the borrowing rates is better going through this route than going through the conventional.

MR. SWERDLING: Right. The difference between the borrowing rate that the company can get access to through this mechanism and what would be a private loan for development would probably be somewhere in the range of a difference of a seven to a ten percent interest rate for a company of Suncorps' size and reputation. I hesitate to call them a developer; a usually call them a development company. They're owned by the same parent that owns Arizona Public Service Company and they have $300 million in assets so it's a very substantial development company.

But most important to the residents of the county and the residents of this project area, as Mr. Strumor pointed out, if the development company had financed this on their own and passed on the cost as they would have to do unless they were making a charitable contribution to each family, pass on the cost of their share of the infrastructure, it would not only have been more expensive, but through this mechanism, as opposed to others, the cost is lower and in addition to that, the homeowner is able to list taxes as with any other property tax, against their gross income and get a federal tax deduction, which will save them another 20% or so, 20% to 40% depending on their tax bracket, against these expenses.

So the resident in this property, as a result of your choosing to go down this route is benefiting both from the lower cost and from a tax exemption because they're pro[pe]r taxes rather than other costs.

COMMISSIONER GONZALES: So the cost of infrastructure for [be]become a tax exemption, basically, through this route, as opposed to whene[ver] pass on those costs to homeowners, they finance the infrastructure costs [and] to deduct the interest rate.

MR. SWERDLING: Right. The bottom line is the [h]more affordable, and more people have access to those homes [because] the home price, the cost of that infrastructure. It will be pai[d] it makes it easier for people to qualify for homes that the[y] And it's difficult to quantify just how much money th[at] talking about $2 million spread over 300 homes and [it] may be $100 a year or so in savings, maybe a $12[5] provide it to you either in a letter or at the next meeti[ng] and calculating in my head is $100 to $150 dollars per [year]

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COMMISSIONER GONZALES: And there's no exposure to the County at all if these loans go bad or if people don't pay.

MR. SWERDLING: If the bonds were to go into default for non-payment of the property tax, the County would be foreclosing on the home because this is only a very small piece of their total property tax bill. And for whatever you were to receive for the sale, you would pay off the taxes and that's all that you're obligated to do. So there is no liability on part of the County's general fund, water fund, or any other fund whatsoever.

COMMISSIONER GONZALES: Thank you, Mr. Chairman.

CHAIRMAN GRIÑÉ: Any other questions of Bob? Thank you, gentlemen. Job well done.

IX. STAFF AND ELECTED OFFICIALS ITEMS

A. Quarterly Report

1. County Sheriff

BENJIE MONTANO (Deputy Sheriff): Good afternoon, Mr. Chairman, Commissioners. Before I see if you have any questions, I just wanted to fill you in. Mr. Chairman, Commissioner Gonzales, we've met with your people in Madrid a couple of weeks ago and right now we're working with them on the drug problem, the property crime problem and again, without trying to change their style of living as far as people walking across the streets and all that, we're trying to deal with certain individuals that are kind of hampering the things that are going on. We've notified the region and working with state police to try to be there as often as possible.

COMMISSIONER GONZALES: Thank you, Sheriff. I really appreciate that. Mr. Chairman, real quick, I've received lots of calls expressing their gratitude. I appreciate that. One thing that they brought up was the request -- this may have already happened -- but the detectives from the Sheriff's Department to talk about specific issues or concerns that they have. Do you know if that's happened or if that request has been made to your detectives to sit down with some people in Madrid to begin to investigate some of the concerns that they've mentioned to date?

MR. MONTANO: Mr. Chairman, Commissioner Gonzales, yes sir, it has. In fact, next week or the week after, Corporal Johnson and Deputy Chavez are meeting with them to start their neighborhood watches. There's about 25 to 35 people that are real interested in getting strong on that.

Mr. Chairman, Commissioner Trujillo, again the efforts up north have really been put forth in narcotics and between state police, the region and all the entities, I think we've put a big dent in it, and the federal government. That's going to continue. It's continuing as we talk. It has lowered some of the things that are in there.

COMMISSIONER TRUJILLO: Mr. Chairman, thank you, Benjie. The

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community of Chimayo is reaping the benefits of the efforts that you have expended out there together with other law enforcement agencies. That situation down there has really gone low. The community's ecstatic and they're really happy with your efforts and partnering with other law enforcement efforts.

I had a meeting with the community of Arroyo Seco the other night and I just want to mention to you that they talked about a substation in law enforcement in the Arroyo Seco area. I don't know what you feel about that, because I know that we have a substation in Chimayo that's essentially a vacant building and we're not using it. I don't know if that would be a value-added situation or not but that's something that we might want to talk about.

MR. MONTANO: Mr. Chairman, Commissioner Trujillo, yes, we could talk about that. I spoke to Mr. Wheat the day after your meeting, so he filled me in.

COMMISSIONER TRUJILLO: And did they talk to you about the County Road 88 situation?

MR. MONTANO: Yes sir, he did. He's usually pretty good about calling when they have it. We send people every time they call somebody, but he's going to call again when they have it and we'll try to work with them. In fact I think someone was sent up there to see if we could put some relief right away.

Mr. Chairman, Commissioner Griñé, you know that the County and the Sheriff right now are working with the new city in your portion of the county and I think other than that, and some of the problems you're aware of, you were at the meeting a couple of weeks ago, things are pretty stable. Pretty consistent.

Commissioner Duran and Commissioner Anaya, since your area has Ojo de la Vaca and all that, pretty much what we have is consistent. We're trying to run more traffic. Your parts of the city, we're working investigation crimes with the City police, trying to coordinate our efforts a little stronger to help those areas.

Mr. Chairman, I think Mr. Montoya of the County Manager's staff gave you a packet of our quarterly report. Just to go through it real quickly before I ask you if you have any questions. Some of the things I can point out, we only handled about 1,000 more calls more than last year, but a big significant factor here is where we handled 344 residential burglaries last year, we were down to 274 this year, 1999. That's a big drop. Most of the other things remain pretty constant. A big factor would be with the animal control citations and animal violations. They handled about 2,000 more calls. On motor vehicle accidents without injury, last year we only handled about 100. This year we're a little over 400. So that was up.

Fees collected are about the same. We've been trying to, as people call, send deputies to their areas to run traffic surveys and you'll see a thing there which explains that. Homicides, which is a big thing is the same as last year. It was one and hopefully we can keep that. We can't control that but hopefully it stays down.

Pretty much everything else I think is pretty consistent with what it was last year.

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Any questions?

CHAIRMAN GRIÑÉ: When it comes to animal control, normally, where are you having the most problems? What part of the county?

MR. MONTANO: Mr. Chairman, Chairman Griñé, the biggest problem area we have when it comes to animal control is Airport Road, Agua Fria, Highway 14. That general area.

CHAIRMAN GRIÑÉ: But not in the outlying county?

MR. MONTANO: Yes, sir. We have a problem all over, but that's our biggest problem area.

CHAIRMAN GRIÑÉ: In like say, for example, in my district, the southern part of the county, where do you mostly have it? Do you have it down in Edgewood? Eldorado area?

MR. MONTANO: Mr. Chairman, in the southern part of the county, in Edgewood.

CHAIRMAN GRIÑÉ: Edgewood?

MR. MONTANO: Yes, sir.

CHAIRMAN GRIÑÉ: Any questions of Benjie?

COMMISSIONER TRUJILLO: Mr. Chairman, what do you attribute the decrease in residential burglaries? Does that come from your efforts regarding drugs?

MR. MONTANO: Mr. Chairman, Commissioner Trujillo, it has to do with a lot of factors. The change in patrol habits we've had that we change and we do change periodically because people get used to it and people who do property crimes get used to it. It has to do with our efforts with the drug world and it has a lot to do with luck. You just don't know. There are peaks and valleys. I thought several years ago we were down like 50%. This is a big decrease. This is something that's good, but several years ago we were down like 50% or 54%, and then the next year we went up 75% and we did the same efforts. We had the same kind of things. So it's a bunch of things and luck.

MR. MONTOYA: Mr. Chairman, first of all I would like to compliment the Sheriff and the Undersheriff for the quality and I think the detail of the report. I think that it really helps us from a policy perspective and also from an operations perspective to know what our basic issues are in the field. I also want to point out that one issue that keeps coming up repeatedly is the fact that we have these residential alarm calls that number 3,000 now. Commercial has another 500 tacked on to it. I simply want to point out that every time we make one of these runs to a residential home to check on a burglary alarm, most of the time they're false alarms and we're spending quite a bit of time answering these calls, which I think we should. However, at the same point, I think it's important that we should talk about maybe the issue of people compensating the Sheriff's Department for making false alarm runs consistently. If you'll note, the number 3,000 is quite a bit for a 12-month period.

It seems to stay constant. We had 2900 last year and it's peaking out at 3,000 this

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year. Just an observation of some of the issues that obviously the Sheriff has to respond to but there might be a way to defray the cost somewhat. But thank you very much for the report. I appreciate it.

CHAIRMAN GRIÑÉ: Benjie, I think the City, when Ray was there, they tried to I guess charge for false alarms, calls. And something was a problem concerning I guess statutorily and something legally. It could be done, to charge.

MR. MONTANO: Mr. Chairman, I can go research it, but to my recollection we didn't have anyone on staff nor did the County that could follow up with that. And now, we've made a change in our computer system so we're having to start over again as of the first of the year, the end of December.

CHAIRMAN GRIÑÉ: I know there was something on that issue.

RAY SISNEROS (Sheriff): Mr. Chairman, if you recall, under the ordinance that was put together for the County which mirrored the City, there's an administrative way of doing it that's set out in the ordinance but it has to be done administratively. We cannot ourselves in our department fine the people. They're allowed five false alarms a year. The act of God alarms. After that it's set up as to the amount of the fines. I think they're set at like five or ten false alarms increments if I recall correctly. But administratively, that has to be set up by the County. It's in the ordinance, it just hasn't been put together. But we can't do that at the Sheriff's Department. We can't be both the citer and the judge at the same time. So it's an administrative matter that's up to the governing body.

CHAIRMAN GRIÑÉ: Okay, I remember now. You heard that, Sam?

COMMISSIONER ANAYA: Mr. Chairman, I just had a question. Do we charge a fee for any monitoring of this type of service, the Sheriff's Department? I know the City does but I'm not aware of the County's doing it.

MR. MONTOYA: Mr. Chairman, Commissioner Anaya, I really think that we are going to have to restructure the mechanism for dealing with this issue. My understanding is it's a one-time fee and no other compensatory measure is in there for false alarms or anything exceeding five, as the Sheriff stated. I think we probably need to look at the number of occurrences where we have over five and maybe deal with that in a separate resolve coming back to the body.

COMMISSIONER ANAYA: Maybe I didn't make my question clear. Maybe, Ray, you know the answer to this. I think that the City bills every year yearly in order to support any kind of security system, regardless.

MR. SISNEROS: Mr. Chairman, Commissioner Anaya, I worked on the City ordinance when we put it together and I worked on this one with Commissioner Platts when this one was put it. The mechanism is in place in the ordinance currently. Right now, it's a $25, one-time application fee per address. It's not per owner, it's per address. So if they sell the property, the new property owner does not have to pay that fee again. But the mechanism of collecting the fee and notifying the homeowner has to be set up administratively. It's in the ordinance. It can be done today. It just has to be set up

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administratively. The fines are also listed in the ordinance.

COMMISSIONER ANAYA: I guess that's the question. In other words we're not charging -- and I'm not sure whether the City does charge yearly, a renewal fee.

MR. SISNEROS: They're doing it similar to their sewer and refuse assessments. They're doing it on that. If the people don't pay, similar to the their sewer and refuse assessments, they're filing liens on the property so that if and when it does sell, they have to clear that lien before they can sell that property. From what I recall, that's what the City finally instituted.

COMMISSIONER ANAYA: That's what I understand. I think it's $50 a year if I'm not mistaken.

MR. SISNEROS: Fifty dollars for what? Renewal?

COMMISSIONER ANAYA: The assessment.

MR. SISNEROS: Mr. Chairman, I don't know if they changed it from a one-time fee, because theirs used to be one-time also. Or if they changed it to an annual renewal.

COMMISSIONER ANAYA: I'm not sure either but for some reason I think that if they did, it would be worth researching.

MR. SISNEROS: We can do that.

COMMISSIONER ANAYA: Because that would be revenue producing and recovering some of the efforts that you have to do. I think it's five time after that they charge an additional fee. Anyway, I think it's worth looking into. Thank you.

COMMISSIONER TRUJILLO: Mr. Chairman, I don't know, but I think this is another form of an impact fee and I think that the community is getting overwhelmed with impact fees. Understanding that the County has to provide a service in whatever area, health and safety, fire, law enforcement, and that's something we've got to do. But this ubiquitous passing on to the community of impact fees, I think we need to stifle.

COMMISSIONER ANAYA: I think the clarification is this. The calls that they get that are unfounded and usually caused by the system within the house itself, the false alarms. If they're having to answer. That's the man-hours impact that comes in to their system.

COMMISSIONER TRUJILLO: I just feel that the County has to provide a service to the community, whether they're false alarms or not false alarms. Ostensibly, something happened in that house that the security system went off. Somebody might be there, might not be there. Even without a security system. And that's our job. We need to provide a service.

COMMISSIONER ANAYA: Well, it is being provided, Commissioner, but the thing is they have to maintain their own system also so as not to go beyond calls. Five calls, for some reason that comes into my memory banks here, but after five calls they impose an additional penalty fee for them not taking care of their system. I think their concern is how to address that. But they are providing a service. That's undeniable.

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MR. SISNEROS: Mr. Chairman, Commissioner Trujillo, just a little bit of history about the ordinance. The ordinance was brought to the governing body by Commissioner Platts, not by the Sheriff's Department. It's not something that we want to get involved in. It's additional work for us to track them, to be honest with you, and additional staff time to do the permits and everything else. It's an issue that the governing body has to decide. If you want to do away with the ordinance and we provide the service, that's up to you people.

It's the same thing, when we had the meeting in Edgewood, the discussions over the monthly fees for law enforcement services. If the Commission wants to charge Edgewood a dollar a year, that's up to you people. You're the governing body. We'll provide the service. It's just we have to have the budget to provide the service. That's the key issue.

COMMISSIONER TRUJILLO: I think that the protocol now, from what I understand, a little cantankerous. It's hard to monitor and enforce and implement this sort of thing as it exists today. Whether the ordinance that is in place has been serving the purpose or not, adding value, I don't know. I still think we're there to provide a service and that's our job. This ubiquitous impact fee on top of impact fee on top of impact fee is breaking the community's back.

CHAIRMAN GRIÑÉ: I just want to make a comment. The false alarms can happen even by a spider going over that eye, or even a fly flying by it, setting off the alarm.

COMMISSIONER TRUJILLO: It's hard to control.

CHAIRMAN GRIÑÉ: So anyway, let's move on. Are there any other questions of the Sheriff's Department. Thanks, guys.

IX. B. FINANCE DEPARTMENT

1. Request authorization to accept and award a professional services agreement to the highest qualified respondent, RFP #20-41, for the design of nine dwelling units for three housing sites within Santa Fe County

TONY FLORES (Procurement Division): Good afternoon, Mr. Chairman, members of the Commission. The Purchasing Division and the Housing Division solicited a request for proposals for professional architectural and engineering services for a housing project that will construct up to 40 dwelling units at three separate housing sites. The Purchasing Division requested 15 proposals, sent out 15 proposals and we had three respondents back, Conron & Wood, Agnew and Mifsud Architects, and Architects Santa Fe.

An evaluation committee with staff members from both Purchasing Division and the Housing Department evaluated each of these proposals based upon the criteria set forth in the request for proposals and determined at that time that the Conron and Woods was the highest rated firm. We entered into negotiations with that firm. Successfully negotiated a

very good contract to design nine dwelling units that will be used at different sites. Once the approval is granted by the Board, the state's programming and planning phase will be started and at that time we will determine which of the housing units will be used at each site.

So before you today, we're asking for acceptance and authorization of this award.

COMMISSIONER DURAN: Mr. Chairman, Tony, I'm wondering if in this contract it provides for alternate building materials. I had a conversation with the department head, Robert, about that, because I know of some materials that are being produced that aren't really stick-built, they're just different types of materials that provide a higher R-value and they've just been approved as a building material. I just want to make sure that this contract and the architect is aware that when they come up with these plans that they've taken into consideration that there are alternative methods of building that we would like to consider that might be a potential cost savings for us.

MR. FLORES: Mr. Chairman, Commissioner Duran, Mr. Anaya and myself have spoken about that issue. We are going to sit down with the architect at the kick-off meeting, the pre-planning meeting, which will happen, granted this award goes through and sit down and talk about the alternative building methods with the architect.

COMMISSIONER DURAN: So it's not in this contract?

MR. FLORES: This contract was negotiated prior to that being discussed with the architect. My feelings are though, that we can have as part of the building package certain details included for alternative building designs or materials in the package itself.

COMMISSIONER DURAN: Maybe I should talk to Robert, because I've been talking to him about for a year.

MR. ANAYA: Mr. Chairman, Commissioner Duran, what we've done is we've said based on our discussions just to clarify, we will provide an opportunity within the scope of the bid package for the construction of the housing sites for alternative methods, but this architect will only be designing the house based on convention, stick-built method, and then within the bid package, anybody that wants to build with an alternative building method will have to meet the minimum requirements, meaning the same design or floor plan of the unit to be constructed, but they will have an opportunity to build with their alternative method as long as it meets the minimum requirements of insulation in the ceiling and walls and minimum electrical requirements and the state building codes. But they will have an opportunity within the construction bid package to bid the houses, but they will have to bid them within the same design that the architect that we're recommending be approved today.

COMMISSIONER DURAN: So when we spoke about this in the past I thought we had talked about that the architect would be made aware of, when he starts working on these plans that there could be alternative methods of construction then. So now you're telling me that he's going forward without that understanding, that it's only going to be stick-built.

MR. ANAYA: Mr. Chairman, Commissioner Duran, those people that have

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alternative building methods will be able to bid the project as long as they meet those minimum requirements and can provide us the documentation that they meet the minimum requirements. I don't think we're excluding them from being able to bid the project, but because we are not experts on architectural design of alternative building methods to include straw built or rammed earth type housing or any other pre-fabricated type wall construction, we felt it would be more effective to design a stick-built unit with minimum requirements relative to the actual design of the walls and the ceilings, as far as R-values, and that any firm of any contractor or entity that would be willing to bid and meet those minimum requirements related to R-factors and other general requirements we establish would be able to do that, and the architect will be made aware that that's our intent.

I feel we would have broadened the scope too far had we tried to find an architect that would have to design all the units within all alternative building methods and what this does, it gives us an opportunity to leave the door wide open for any and all alternative building methods without us having to segregate and select which ones we wanted them to design for. I think this gives us more of an opportunity to get as many alternative methods in as possible, or anybody that's willing to bid the project in that fashion. And I don't think it takes away from the ability of those people to be able to do that.

COMMISSIONER DURAN: And when do you think it would be a good time for these individuals who have alternative building methods come forward and make these new methods available, or at least have the architect aware of it?

MR. ANAYA: Mr. Chairman, Commissioner Duran, once, Tony and I have talked about this particular issue and once the basic design and floor plans are provided and those plans we intend to bring back to this County Commission to review, and provide some approval of or give us some direction on, once those plans are done and those minimum requirements are set forth, being the actual construction of a stick-built house, the minimum requirements with the R-factors included, then at the time the project is going to be bid, we will provide those bid packages to all, any and all interested alternative builders that are interested in actually building the product and we would be willing to add anybody to the list to make sure that they get packets and would be able to bid the project.

COMMISSIONER DURAN: Well, do you think it would be appropriate for individuals that have alternative building materials and ideas to contact the architect now? Would there be any problem with them doing that?

MR. ANAYA: Mr. Chairman, Commissioner Duran, I think given the nature of this project and the fact that it's been on the books since 1995 and we're under tight guidelines to get the money expended, I think it would be more effective to let the architect design the houses based on the stick-built model, but be in touch. Tony and I can be in touch with any alternative builders that are interested in the project and provide them with copies of those plans to give them an opportunity to bid the project once that's advertised, Commissioner Duran.

COMMISSIONER DURAN: Is there any law against somebody contacting

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this architect?

MR. ANAYA: Mr. Chairman, Commissioner Duran, I'm not sure. I guess we'd have to consult the attorney on that.

COMMISSIONER DURAN: Since the bid process is over and it's public knowledge that the architect is working on these, I was just wondering why it would be a problem with someone with alternative building materials that had been proved to be cost saving and provide even higher R-values that a stick-built, why we wouldn't promote that.

MR. ANAYA: Mr. Chairman, Commissioner Duran, one aspect that would affect this particular agreement quite a bit, I believe, would be the additional cost necessary that we would have to negotiate with the architect. We would have to reopen negotiations with the architect to include whatever additional alternative building methods there are and have him incorporate in his design price, or the firm's design price --

COMMISSIONER DURAN: In other words if we're saving money, if this alternative building material is $60 a square foot, versus a $70 per square foot stick-built house, I think it's worth our while to pursue that and find out and make sure that we're spending the money effectively. I talked to you about this for a year, but we keep on running around the issue. I think that based on what's been represented to me is that there are homes out there, alternative materials that can be built at almost 20% less than a stick-built house and provide higher R-values and provide even a different type of lifestyle, rather than little compartmentalized home. They have trusses and stuff that have open spaces and it gives a totally different feel. And the bottom line is that it saves us money, which means that we can stretch these millions of dollars that we have for our affordable housing even further. So I don't know why we can't just have the architect consider that now, rather than have him do eight full blown drawings of stick-built homes only to find out that if indeed the material, there are materials out there that would allow us to do it for less and then they have to redo the whole thing.

MR. ANAYA: Mr. Chairman, Commissioner Duran, I think that the alternative building contractors and/or developers still have an opportunity to bid that unit as long as they would stay within the minimum requirements. I think they'll still have an opportunity to bid the project. But if the Commission's desire is for us to reopen up negotiations and list out specific alternative building methods which would be what we would need, specific methods which you would want us to try and solicit from the architect. If that's the pleasure of the Commission we'd be more than happy to do that. I do, however, feel that we would be able to entertain those bids at the bid phase instead of doing it at the design phase. But whatever the pleasure of the Commission is we will absolutely follow through on.

COMMISSIONER TRUJILLO: What would the impact be of changing the specifications or the scope of the houses? Would that prolong the time period? What would the financial ramifications be on that?

MR. ANAYA: Mr. Chairman, Commissioner Trujillo, I think it would

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greatly expand the scope of the architectural services that we would require, and we would have to find out what those specific methods are and whether or not that architect or architectural firm had the capabilities to do the alternative design for whatever particular methods we would add. That was another reason why we didn't put it in the packet itself and felt that anybody who was willing to design it and could bid it under price would still have that opportunity, but they would be bringing to the table with them their alternative building method design and documentation that shows that they meet all the state and local building codes. Thus we would continue to move the project forward.

In no way was it an intent for me to leave out alternative building methods. We just felt that those people that are experts in alternative building methods, if they wanted to build the project would be able to bring their documentation to support the fact that their structure meets the codes of HUD and the state and local building codes.

COMMISSIONER TRUJILLO: What standards are you using?

MR. ANAYA: It's basically the state standard, the state building codes, but also they have to be approved by HUD guidelines, any construction methods, similar to requirements required under FHA or VA homeowner financing as to the type of construction method. Standard codes and regulations, I should say. There are alternative building methods that have been approved and endorsed. Straw bale housing to be one example and foam form type housing is another alternative building method that is an approved form of construction. And rammed earth and several others.

COMMISSIONER DURAN: Mr. Chairman, I think it would be fair to those people who have the alternative building materials, that once you sent this out for the architects to come up with the floor plan, that we contact those individuals that have alternative building materials and let them, because if they can't fit it within what the architect has come up with with their plans, they're going to be behind the program here because they may have to go out there and get their own architect and design their own homes based on your criteria in order to show you that their materials work. I think it's something we should consider. So what would be wrong with letting these individuals that have the alternative building materials, make them aware of this so that they have the same amount of time to come up with drawings and architectural drawings that would work with you are hoping to get from this architect. At no charge to us. It would just allow them the time to do the work that they need to do in order to be in line with everyone else.

MR. ANAYA: Mr. Chairman, Commissioner Duran, would it be appropriate to say that if we did an initial design and schematic phase as part of the current architect that we're trying to bring forward, once that initial phase is complete, would it be appropriate at that time for us to provide them with general description of the floor plan and the minimum requirements? Do you think that would suffice?

COMMISSIONER DURAN: For me, it's just as long as the people that have -- this is for our benefit more than anything, is that as long as the individuals that have alternative building materials and other methods of constructing a similar home, perhaps

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even cheaper and with a higher R-value, that they have at least the same amount of time to prepare the materials for our consideration as anyone else. If you can just assure me that that process will take place, I don't have a problem with it. I just want to find someone who can bring us a better built home up against the wall without any time to make a presentation because we put an unreasonable -- we put together a time frame that doesn't work for them, because they have to go back and start from square one in designing a house.

MR. ANAYA: Mr. Chairman, Commissioner Duran, I believe there's a listing at the state Department of Construction Industries, Regulation and Licensing Division, that will list out the existing alternative builders within the state. We'll pursue obtaining a list from them and work in tandem with the architect, Ralph Flores and myself and Tony to try and bring them in the loop without creating an issue where we would have to expand the scope of the current engineer's contract that we're bringing forth today.

CHAIRMAN GRIÑÉ: Is that fine? Any other discussions or questions? If not then, what's the wishes of the Board?

Commissioner Duran moved to approve the contract with Conron & Woods and Commissioner Trujillo seconded. The motion passed by unanimous voice vote. [Commissioner Gonzales was not present for this vote.]

IX. C. FIRE DEPARTMENT

1. Request approval of quitclaim deeds between Rancho Viejo and Santa Fe County to exchange property for the purpose of constructing a fire station

STAN HOLDEN (Fire Chief): Thank you, Mr. Chairman, members of the Commission. The Rancho Viejo Partnership donated approximately one acre of land several years ago for the purpose of constructing a fire station for the Turquoise Trail volunteer fire department on Highway 14. Unfortunately, it's been determined that the location of that piece of property is too close to an existing fire place in the La Cienega, State Pen area. Therefore, we approached the Rancho Viejo group to ask them if they would agree to exchange that piece of property with another piece of property farther south on Highway 14. That piece of property is almost at the junction of Highway 14 and County Road 44.

Rancho Viejo Partnership agreed to do that. The new property is approximately 2 2 acres in size. The exchange of deeds or quitclaim deeds was reviewed and approved by County Legal and we're recommending to the Commission that we approve this exchange of deeds.

CHAIRMAN GRIÑÉ: Thank you, Stan. Any questions of Stan? If not, what's the wishes of the Board?

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Commissioner Anaya moved to approve the exchange of deeds with Rancho Viejo and Commissioner Trujillo seconded. The motion passed by unanimous voice vote. [Commissioner Duran and Commissioner Gonzales were not present for this action.]

MR. HOLDEN: Mr. Chairman, if I could, before you move on to the next item. I have agreed for the Land Use Department's benefit to state for the record that once the exchange of deeds occurs and we're ready to move forward with construction on the property itself, we will go through the County development review process and come before the BCC once again for final approval for that project.

CHAIRMAN GRIÑÉ: That's fine, Stan. Is that okay? That's fine.

IX. C. 2. Request authorization to enter into a joint powers agreement with the Town of Edgewood for emergency services

MR. HOLDEN: Mr. Chairman, the Fire Department has been in negotiations with the Town of Edgewood since its incorporation in July of 1999. The town recently approved last Wednesday a joint powers agreement which calls for the Santa Fe County Fire Department to continue to provide emergency services for the town of Edgewood. This is to include emergency medical services, fire suppression and prevention services, rescue services and dispatch services. The Fire Department is recommending approval of this joint powers agreement which includes a provision for replacement of the quarter percent gross receipts tax that was lost as a result of incorporation, and also includes a provision for the town to impose an impact fee ordinance and collect impact fees within the town limits at an equal amount to what county residents pay.

CHAIRMAN GRIÑÉ: Thank you, Stan. Any questions of Stan?

COMMISSIONER ANAYA: Stan, in other words, the gross receipts tax, it would be their obligation to pay us that in the joint powers agreement?

MR. HOLDEN: Mr. Chairman, Commissioner Anaya, that is correct. The amount of money is up in the air at this time, but what we tried to do is replace the quarter percent gross receipts tax with a quarter percent gross receipts tax because the town does not have an estimate from the Department of Finance about actually what that amount is, we left the wording vague in the joint powers agreement simply to allow for some time to pass so we knew at some point what that amount would be.

COMMISSIONER ANAYA: In other words, what you're striving for is an offset?

MR. HOLDEN: The county residents pay a quarter percent gross receipts tax. Now the town residents will pay a quarter percent gross receipts tax for protection.

COMMISSIONER TRUJILLO: This is essentially status quo, right? We're not taking away from county residents to give to Edgewood residents. We provided that

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service to the Edgewood area for a long time. We're just kind of getting reimbursed for that service.

MR. HOLDEN: Mr. Chairman, Commissioner Trujillo, that's correct.

CHAIRMAN GRIÑÉ: Any other questions of Stan? If not, what's the wishes of the Board?

Commissioner Trujillo moved to approve the joint powers agreement with Edgewood and Commissioner Anaya seconded. The motion passed by unanimous voice vote. [Commissioner Gonzales and Commissioner Duran were not present for this vote.]

IX. D. HEALTH, COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT

1. Request approval of the local DWI (LDWI) disbursement proposal budget for the fiscal year 2001

MR. ANAYA: Mr. Chairman, Commissioners, what you have before you is the recommended budget for 2001 as recommended by the DWI Planning Council and endorsed again this morning at a special meeting of the DWI Planning Council called by Chairman Fred Sandoval. I'll just answer any questions related to the budget, Mr. Chairman.

CHAIRMAN GRIÑÉ: Robert, first thing I notice here, there's almost $50,000 less to the year 2001 than from the year 2000. How come?

MR. ANAYA: Mr. Chairman, if you'll look at the top of the recommended budget under sources, one of the first reductions you'll see is within the community DWI budget that runs through the New Mexico State Highway Department Traffic Safety Bureau. Reduction from $81,787 to $57,584. Another reduction you'll see is under the sources at the top, we received a grant for $25,000 from the Children, Youth and Families Department in the amount of $25,000 that we will not have in the current fiscal year.

CHAIRMAN GRIÑÉ: Is that going to have any effect on the services that they were already providing?

MR. ANAYA: Mr. Chairman, Commissioners, I believe the planning council has done a good job in looking at all the services that are provided through the DWI budget in order to ensure that the services are maximized with the available funds that we have.

CHAIRMAN GRIÑÉ: Thank you. Any other questions of Robert? If not, what's the wishes of the Board?

Commissioner Trujillo moved to approve the DWI Planning Council budget for fiscal year 2001 and Commissioner Duran seconded. The motion passed by unanimous voice vote. [Commissioner Anaya and Commissioner Gonzales were not present for this action.]

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IX. D. 3. Resolution No. 2000-7. A resolution amending Resolution No. 1997-87, Section 3-A, modifying membership categories for the DWI Planning Council

MR. ANAYA: Mr. Chairman, Commissioners, this resolution will bring us in compliance and in line with the Traffic Safety Bureau for community DWI funds. It removes the requirements that the membership on the council be required membership and makes them recommended appointments to the DWI Planning Council.

CHAIRMAN GRIÑÉ: Thank you, Robert. Any questions of Robert? If not, what's the wishes of the Board?

Commissioner Trujillo moved to approve Resolution 200-7, modifying the composition of the DWI Planning Council. Commissioner Duran seconded and the motion passed by unanimous voice vote. [Commissioner Anaya and Commissioner Gonzales were not present for this action.]

IX. E. LAND USE DEPARTMENT

1. Resolution No. 2000-8. A resolution supporting a grant application to New Mexico State Parks Division for recreational trails and ensuring a local fund match

LESLI ELLIS (Planner): Good afternoon, Mr. Chairman, Commissioners. The County submitted an application for federal funding through the TEA-21 Federal Recreation Trails program and this project application is due February 10. It's for the development of trail head and park facilities in the Cerrillos Hills Park, which is a new County acquisition through the bond program. We're working with the National Park Service and the Cerrillos Hills Park Coalition, which is a local organization that's applying for non-profit status.

If awarded this grant, the County and the partners will be eligible for a $40,000 federal grant with a $10,000 local match, and this local match may be in-kind services as well as a cash contribution. The resolution basically says the Board of County Commissioners approves the Recreation Trails program application to be submitted to the New Mexico State Parks Division in February and ensure a local funds match. Do you have any questions at all about this grant application?

CHAIRMAN GRIÑÉ: Thank you, Lesli? Any questions of Lesli? No questions. Job well done, Lesli. What's the wishes of the Board?

Commissioner Trujillo moved approval of Resolution 2000-8, supporting a grant application. Commissioner Gonzales seconded and the motion passed by unanimous

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voice vote. [Commissioner Anaya was not present for this vote.]

IX. E. 2. Progress report on the Santa Fe Community College District pl

JACK KOLKMEYER (Planning Director): Thank you, Mr. Chairman. Go d afternoon, Commissioners. Thanks for the opportunity to spend a couple of minutes w h you, discussing what's become one of our most visible and important projects since t e passage of the Santa Fe County Growth Management Plan, and that is the creation of t e Community College District and the work that the planning group has been doing in t at area. I know this project has been mentioned a couple of times at recent meetings, so w e wanted to make sure that we could spend a couple minutes with you and explain to y u what's going on out there, so if questions come up you have an idea of what's going on n the Community College District.

I just briefly want to remind you that the creation of this district came about as a result of the passage of the Growth Management Plan in October of 1999, and subsequen y we passed Resolution 1999-93 in July which established the Santa Fe Community Colle e District Planning Committee, according to provisions of the Growth Management Plan. T is committee right now, it's loosely organized to start, as we get into more and more detail d land use issues we'll probably come up with some other ways to work this committee b t right now it's comprised of 47 members who've been attending on a regular basis a d include district property owners, the State Land Office, Santa Fe Community College, Sa ta Fe Southern Railroad, IAIA, Santa Fe Public Schools and other interested groups.

The committee started meeting on August 25 at the Santa Fe Community College a d up to this point we have concluded preliminary maps that show a land use analysis, poten al community definition, alternative circulation opportunities, existing and possible trails, a d some suggestions for the locations of village centers. I'll take a couple minutes to show y u these maps. I want to first of all, however, to just show you where we are in the proc ss of the plan right now, and as I mentioned, I trust some of you will be able to see, a I mentioned to you, we started off with the County plan, created the Growth Manageme t Plan, and we have now, since August been working on a land summary, commun ty structure, circulation, community centers and facilities.

We've broken up into groups so that we can directly deal with issues of prope y owners and neighbors in this area and we have a current status of plan that we're work g on that includes maps and we're right here today at this meeting with you. After t is meeting and starting tomorrow, we're going to start working out the detail of the plan so t at we can address issues such as density of these villages and how we proposed to come p with an ordinance for this district. There's been some questions that have been asked of s by various other groups and the media about who's all been involved in this so I wanted to share with you briefly just some of the names and the groups represented.

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You can see that it's a pretty diverse line-up once again. We have regular members from the I-25/Richards Avenue, including the Petchesky and Greer families, members of the Richards Avenue neighborhood association. We have members from Arroyo Hondo West. We have a representative from the City. A number of residents from the Route 14 area which borders this property. Rancho Viejo has several of their owners and members of Suncorps and their development team. Santa Fe Community College has been very active with us. IAIA has attended a couple of meetings. We have residents from throughout the city who are just coming to monitor the work that we're undertaking to be involved with the group as well. Santa Fe Public Schools has been involved. Residents from Eldorado, which borders this district to the south. There are a number of consultants who are working with various property owners who have been regular attendees at this meeting. Several environmental groups have taken an interest in what we're doing. We have a group facilitator. 1000 Friends of New Mexico has been attending and the Santa Fe Southern Railroad has been participating with us.

The first thing that we started working on right away was to take the district as we had defined it and try to figure out as quickly as we could but as simply as we could what is the nature of the land in that area. The way that we did this was to determine areas which should probably be protected and not developed and then consequently areas that would be available to development. It fell out pretty clearly and pretty quickly right away. The light green areas are the arroyo systems that run through the whole Community College area and it's quite extensive. That's the light green. The dark green are the stands of juniper trees throughout that area. Then the yellow areas are the upper flat land areas, so you get an indication pretty quickly that it's the yellow areas that you can develop in this particular district.

Once we were able to discern that, we started to have discussions about what makes up a village and what makes up community and we spent quite a bit of time looking at some of the traditional communities throughout the county, particularly the ones in proximity here, La Cienega, Cañada, and starting to see how land was occupied by some of those areas and we asked the group to then define for us where we might possibly be able to have actual villages. It's these light brown lines here that pretty much then started to define where there were areas where we could have development. There are about 14 of them. So we started off with the premise that it's possible that each one of those areas might be a village. That's a lot.

So we then decided that we needed to take a look at some other things to see if there was really kind of a good, coherent way to think about this, whether there were going to be 14 of them or whether we needed some other arrangements. We looked at existing trails. These green lines, that's the railtrail to the east. The old rail line that runs down the center, and then some of the other trail systems that we're looking at right now. You can see how they begin to run through the areas that are developable once again. Of course one of the major issues there, other than water, but that's where our water definitely runs, thankfully,

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are our roads.

So we went back and we took every road plan that we could find, going back 15 or 20 years and started to look at all the roads that have been suggested and laid them on the map, and we found that there are a number of different connections that are possible in this area. Not a lot. We don't have a lot of road choices, but there are some. There are some difficult areas. Whether we extend down from St. Francis, where Richards Avenue goes, what other connections besides the Richards Avenue there are in the whole entire district, but it became pretty clear that we had some good options, but some limited ones as well.

The next thing that we did was to try to come up with a way to define what our alternatives were to actually having villages and villages centers and how we create neighborhoods. The challenge is there isn't a lot out there right now. We're essentially creating whole new communities. And we came up with an idea that we think that there should be cultural and employment centers in this areas. There need to be village centers somewhere. Then there are neighborhood centers. So in those larger areas that we defined, we found a place, initially, where we think there might be a location of a village center.

That means mixed uses -- commercial, residential, institutional uses, schools. We broke the area up and you can see those smaller brown lines there. They kind of fall out of distinct neighborhoods within the lay of the land. So we have the actual building blocks starting to develop: neighborhood centers and village centers, and then the larger village and then the district. It all kind of started off working pretty nicely. Then overlaid on this map then you can see where we put the same roads in there so we could connect all of these potential centers and villages throughout the whole area.

Just to remind you then how this looks, in the relationship to our overall Growth Management Plan and regional planning issues that are developing right now, we have growth areas inside the bypass and our General Plan talked about an Airport Development District, Highway Corridor District, and then this lays out as a Community College District.

Our next charge is going to be now move forward with some more detail because we think that some of these areas now combine. For example, it's very likely that the rural village that may be there is this area along Route 14, the State Land Office piece and it goes up like that, that that's the village. Perhaps this whole piece is a village and the centerpiece may be one and this area here may be one. So maybe there's four and not 14, or whatever combination. And this is what we intend to start working on as of tomorrow, and we're going to break into smaller groups with the residents, the property owners, and really kind of get down into some detail then about how big a village is, what does it need to provide, where the schools going to go and those kinds of things.

So that's where we are right now and we'll probably come back to you in about three to four months and give you a similar update that will probably be a little bit different than that, but we're getting there and it's been really an exciting group to work with and I'm amazed at the representation that we've had and the cooperation. So I'd be happy to answer any questions you might have, but that's where we're at.

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COMMISSIONER GONZALES: I've got a question, Jack. At this Community College District, is there going to be an opportunity for some large scale economic opportunity, meaning if the County were to be able to attract a large business to come in or if there's a business within Santa Fe that wants to expand very heavily out into this area, are we going to have that opportunity in here, or is it just going to be centered around small commercial, small neighborhood type districts? Because we're going to make a major commitment to infrastructure when it comes to water, sewer and roads, there's a natural opportunity to market some good sites for large scale economic development and I want to see if that can be included in this Community College District or not.

Especially because the Community College is right there, it could be used to be marketed to several large employers, whether it's establishing a training center or some type of job learning center or something of that nature. It just seems that that opportunity might work in that area.

MR. KOLKMEYER: Mr. Chairman, Commissioner Gonzales, we think that's absolutely critical to the success of the whole, overall district. The purple circles that we had up there is where we're looking at right now for some potential employment centers. Of course the County, we already have our economic development park out there as well. We think there's one associated with the State Land Office piece. There's clearly a regional significance right here at 599 and I-25 which could be then, not only the regional center that goes out into this area, but also has a real regional, community connection this way, so it goes both ways in terms --

Then we have housing that always comes up. We try to do these, attract certain economic opportunities and we don't have the housing and we don't have the right connections.

COMMISSIONER GONZALES: Could walk in --

MR. KOLKMEYER: Absolutely. And that's one of them that's right there. Also a little bit further up along the frontage road is another site, where we think has some significance again. It comes back in and kind of relates this way. There's IAIA, which is developing a major campus and they want to become, as Paul Frawa from IAIA told us, they want to become an international art center. So that opens up a whole opportunity for --

COMMISSIONER GONZALES: Economic centers or employment centers as you state them for large scale type opportunity. I picture when we talk about village centers, neighborhood areas that we're talking about smaller mom and pop shops, small groceries, maybe a CPA service or financial service, something like that, bank. But there's going areas for some large scale development.

MR. KOLKMEYER: Basically what we have right now, the purple ones are -- we think there's one to the east of the Community College because if we could hook up that rail line, have a trail over there and hook into the Community College and IAIA, there's a potential for a major Santa Fe County oriented employment center over there. So the red ones are kind of the village centers and then the smaller green ones are neighborhood

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centers. So there's a real hierarchy of things that's developing. Any other questions? Thank you very much. This is a non-action item so we just wanted to keep you posted on what we're doing. Thank you.

IX. F. PUBLIC WORKS DEPARTMENT

1. Request authorization to enter into a lighting agreement with the New Mexico State Highway and Transportation Department, #MIP-084-6(78) CN 3402, for the south Tesuque interchange project

ORLANDO GARCIA (Public Works Director): Good afternoon, Mr. Chairman, Commissioners. Public Works Department recommends approval of the lighting agreement with the New Mexico State Highway and Transportation Department for the south Tesuque interchange.

CHAIRMAN GRIÑÉ: Any questions of Orlando?

COMMISSIONER TRUJILLO: Orlando, this is a proposed project on the re-engineering of the highway, or the existing road?

MR. GARCIA: Mr. Chairman, Commissioner Trujillo, this lighting project will be done in conjunction with the south Tesuque interchange, and it's standard for the Highway Department to ask the most local public entity to pay for the electricity when street lights are put up.

Commissioner Trujillo moved to approve the lighting agreement with the Highway Department and Commissioner Gonzales seconded. The motion passed by unanimous voice vote.

IX. F. 2. Resolution No. 2000-9. A resolution establishing a Santa Fe County Solid Waste Advisory Board

JILL HOLBERT (Solid Waste Manager): Mr. Chairman, Commissioners, this was brought before you as a discussion item in November and you requested it be brought back and this is the resolution that would establish a Solid Waste Advisory Committee to make an effort in planning for the next five years for the solid waste program. If you do approve this, I'll come back in March for appointees for the committee. It will be two per districts, with one alternate, and I will also forward any names if I receive them to you.

CHAIRMAN GRIÑÉ: Thank you, Jill. Any questions of Jill? If not, what's the recommendation of the Board?

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Commissioner Trujillo moved to approve Resolution 2000-9 establishing a Solid Waste Advisory Board. Commissioner Anaya seconded and the motion passed by unanimous voice vote.

IX. F. 3. Resolution No. 2000-10. A resolution requesting the New Mexico State Highway and Transportation Department, Litter Control and Beautification Section, to consider and approve an application for a New Mexico Beautiful grant

MS. HOLBERT: Yes, this grant we apply for every year and we have received monies every year. It is required by the state that we submit a resolution with our application. This application covers the Adopt-a-Road activities that we undertake and litter abatement. Also beautification and recycling in the county. We're asking for a total this year of $20,675.

COMMISSIONER ANAYA: Thank you, Jill. Any questions of Jill?

Commissioner Anaya moved to approve Resolution 2000-10, and Commissioner Duran seconded.

COMMISSIONER TRUJILLO: Mr. Chairman, Commissioner Gonzales had suggested or recommended that we use some of the inmates to go out and clean the countryside and help us in beautifying the community. I'm wondering where that's at.

MR. MONTOYA: Mr. Chairman, we continue to work with Cornell Corrections on this whole initiative and in fact we will be meeting this week to discuss several issues and this is going to be one of the programs that we want to put in place. We have procured a van to move the inmates to respective sites to do this type of work. We'll now be working on the issues relative to the liability issues and how the process and mechanism will work to extrapolate the inmates from the facility to work for public purposes and then get them back into the facility. So we will be working on that very shortly.

COMMISSIONER TRUJILLO: That's something that's a real need out in the community. I just got a call the other day on an adopted road in El Rancho that's just got hundreds of bags of trash and they do that every two weeks. It's a real issue.

CHAIRMAN GRIÑÉ: Any other discussion?

The motion passed by unanimous voice vote.

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IX. F. 4. Resolution No. 2000-11. A resolution amending Resolution No. 1998-3 relating to Santa Fe County, New Mexico, Hyde Park Estates Road improvement special assessment district to delete three lots from the Hyde Park Assessment District

MR. GARCIA: Mr. Chairman, Commissioners, Public Works is recommending this action amending the assessment role to reflect deletion of three lots. Two of these lots are not actually physically in the assessment district, and the third lot, while it is physically in the assessment district, does not benefit from the improvements. This third lot is accessed off of a State Road. Before you, you have affidavits in the form of memos that confirm this fact.

CHAIRMAN GRIÑÉ: Thank you, Orlando. Any questions of Orlando? If not, what's the wishes of the Board?

Commissioner Trujillo moved to approve Resolution 2000-11, amending the Hyde Park Assessment District. Commissioner Gonzales seconded and the motion passed by unanimous voice vote.

IX. G. <u>RESOURCE DEVELOPMENT DEPARTMENT</u>

1. Resolution No. 2000-12. A resolution dedicating an easement to US West Communications for fiber optic cable

DAVID MADRID: Mr. Chairman and members of the Commission, I was contacted by US West a couple of months ago, and they are trying to install a fiber optic cable. It will serve the Santa Fe Public Schools, but a portion of it will run along the east side of the Santa Fe County Health Building. It's just a simple fiber optic cable. I've analyzed the utilities that are in that area. There's nothing critical. It seems like a pretty straight forward project. The easement will be about 333 feet long, five feet wide. In compensation for the easement US West will provide us with $4,000 in cash.

CHAIRMAN GRIÑÉ: Thank you, David. Any questions of David? If not, what's the wishes?

Commissioner Gonzales moved approval of Resolution 2000-12 granting an easement to US West. Commissioner Trujillo seconded and the motion passed by unanimous voice vote.

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IX. H. MATTERS FROM THE COUNTY MANAGER

1. Health Planning Commission annual report

MR. MONTOYA: Mr. Chairman, we do have the members of the Health Planning Commission here to give a presentation to the Board of County Commissioners. I'd like to introduce to you the chairman, Mr. Taaffe.

RICHARD TAAFFE: Mr. Chairman, Commissioners, my name is Richard Taaffe and I'm glad to be here today. As you know, the Health Planning Commission is a new entity and it's just gotten started, and I'd like to introduce the members of that Commission, as well as to give you a brief history of what we've been doing. We're looking at it as an annual report. Also we have some recommendations we'd like to make to you and ask for the adoption of those recommendations.

In terms of the members on the committee, as I say, I'm Richard Taaffe, I'm representing the northern portion of Santa Fe County. I'm with Health Centers from northern New Mexico. We also have -- and if, as I call out, there's a number of these members in the audience, I'd ask them to stand so that you know who your commissioners are for the Health Planning Commission. We have Rebecca Frenkel, who's the vice chair of the Health Planning Commission, and she's with the League of Women Voters. We have Chris Rael, who is representing St. Vincents Hospital. We have Dr. Arturo Gonzales, who is with La Familia Medical Center. We have Whitney Robbins, who is a representative of the Maternal and Child Health Council. We have Mr. Fred Sandoval who is a representative of the City of Santa Fe. We have Dolly Lujan, who is also a representative of the hospital, specifically, the Nurses Union, 1199. We have Brad Hill, who is representing southern Santa Fe County and he's with the Community Housing Assistance program out of the southern part of the county. We also have Glenn Wieringa from the District Public Health Office and representing the DWI Planning Council. We have Jaime Estremera-Fitzgerald who's a consultant and he serves on the committee, and Linda Siegle is the other member and she's also a consultant representing herself and a district in the community.

Thank you, I hope they stood. I'm going to turn it over now to Virginia to kind of give you a brief history. She's been working with us as well and has been a very excellent staff person. I'd like to just commend her publicly for all the work that she's done on behalf of the Health Planning Commission.

VIRGINIA VIGIL (Policy Analyst): Thank you, Richard. Mr. Chairman, members of the Commission, I'm very pleased to be before you with the first annual report from the Health Planning Commission. I'm very excited to be a part of this group. You, by your appointments have actually brought together a very dynamic and diversified and very pro-active group in the area of health. And just a brief statement of their accomplishments. They do meet monthly, and they've had several occasions to have special meetings.

One of the assets that I think your appointments to the commission is that they really serve as your ears. They do take public comment at their hearings and actually make no

decisions or recommendations to you without that public comment. So in a sense, before they come before you, they've really acted in the capacity as your representatives in hearing from the community as a whole on health issues. I think this is probably the one ingredient about this commission that I'm very excited. While your time has to be limited to BCC, they can expand and be your ears and your arms by going into public hearings and public comment.

We've had several special meetings with regard to behavioral health issues and through these meetings we've had the opportunity to hear such a variety of health issues from the spectrum of we need more Spanish-speaking people in the health community, to hearing St. Vincents and Presbyterian Hospital make a recommendation that they would merge their efforts for adolescent psychiatric care, acute adolescent psychiatric care. This commission welcomes public comment to the extent that we've had a representative from Mothers Against Drunk Drivers looking for direction as to where they could go for some of the issues they have, and also they've been participants in a survey to primary care for primary access care for Medicaid.

They've been working very, very hard this past year and I think we'll continue to work. The first time they met, they went right into sub-committee, formed rules and regulations and procedures to get them going and those are what they've been practicing by. Currently they have worked through several retreat days to present before you for your adoption today the Santa Fe Health Planning Commission's strategic plan. They have identified their mission and their vision. They're very simple. It's quite comprehensive, however.

Their vision, where health is understood to mean both wellbeing and the absence of illness, it is also under to be affected by social, personal, environmental and economic determinants and to be interrelated with a wide range of human service issues. The vision statement is as follows: A healthier community, as reflected by the improved health status of Santa Fe County. I believe that they do come to you today with some recommendations in hopes that you will adopt them. One of the things that I'm excited about is that this Health Planning Commission isn't coming to you as the Board of County Commissioners and just identifying the need. They are also coming to you with a recommendation for assessing a need and also the opportunity to present to you a resource for the need to be met.

So from that perspective, I'm going to turn this over to Richard Taaffe, the chairperson so he can make the specific recommendations that this Health Planning Commission is making.

MR. TAAFFE: Thank you, Virginia. We had another staff person from the County who has also been helping. I forgot to mention Terry Brunner. He's also been very instrumental and very helpful and I appreciate all the help that Terry's been giving too. I didn't mean to leave him out earlier.

In terms of the recommendations, we're asking that the County Commission adopt the strategic plan that was presented to you, if you have a copy. If not, we'll certainly make

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those available to you. That was a document, as Virginia said that we spent, the commission members spent several days in session going over. It was a facilitated discussion. We feel like we have some direction and some focus in those two areas in that plan having to do with policy development and then also health planning and needs analysis. We feel like if we can focus on those two issues and those two areas that we can come back and make some recommendations about some specific things that will have an impact on the overall health status of the Santa Fe community.

That is one recommendation. We're asking that you adopt the strategic plan and I'll stand for questions as we go along or after, however you choose, Mr. Chairman.

CHAIRMAN GRIÑÉ: Go ahead and go forward, Richard.

MR. TAAFFE: Thank you. The other item that we're asking, that we're recommending to you is that we pursue an award, a sub-grantee award with the University of New Mexico. The University of New Mexico has a Kellogg Foundation grant, looking at issues of access to health care by the uninsured and medically indigent and we have a representative of the University of New Mexico here and he can help also answer some of those questions. This is a project that's involving six counties throughout the state, Rio Arriba County, Santa Fe County, Doña Ana County, Chavez County, and I believe Bernalillo, Taos and Alamagordo.

We're looking at trying to secure some funds for that through the University as a sub-grantee, approximately $40,000, and we'd like your approval to go ahead with that. The intent of those funds would be to look at hiring consultant or consultants that would assist the health division and the Health Policy Commission with planning as well as policy development. We'd be looking at various, specifically issues around access to care and the Indigent Fund is one of those areas. We'd be looking at seeking other grants in order to support the activities in the Health Policy Commission.

That's a second item. The third item is that you continue allocating staff support to the work of the Health Policy Commission. As I mentioned earlier, both Virginia and Terry have been very, very instrumental and we would hope that we could continue to have support from the County staff. The last item is to look at a joint powers agreement with the City of Santa Fe, specifically the Community Services Department for some limited funding that we could use to match with the UNM funds, the Kellogg grant, again for the work of the Health Policy Commission. We've already been in contact and one of the members of the Health Policy Commission is with the City and has indicated that that would be something that they would certainly entertain.

So those are the four recommendation and I put them to you for your consideration. Thank you.

CHAIRMAN GRIÑÉ: Thank you, Richard. Thank you very much, and also thanks to Virginia and Terry. Any questions of either one?

COMMISSIONER GONZALES: I have a couple of questions, Mr. Chairman. Congratulations on the work that's been done this far. I really appreciate it.

I know there's been a lot of hours spent, all volunteer, by many of these staff members and I know that we've had some hiccoughs along the road thus far and certainly we just need to learn how to communicate a little bit better with each other and I think this is a good first step and I think the administration understands the need to communicate a lot of issues that come before the Commission that may have a need to come before the Health Policy Commission. So I think we all are going to commit to try and be more conscious about those things.

I'm talking specifically about the detox center, in the past, where we started discussing that without your involvement or your participation and things of that nature. So I do want to apologize for that and thank you all for being gracious with us as we try to figure out how our new relationship is going to be working with each other. But one of the ideas that I had when we were working on drafting up this policy or one of the things that was driving this whole issue. It just seemed that there were so many non-profits and so many agencies that were focused on delivering health care or trying to assess health care needs, or going after money to be able to address needs in the area, health care related. It seemed very fragmented and very competitive.

My goal, one of the goals that I had in trying to bring forward this commission was to see how we take that competition out of this community and certainly do away with that fragmentation that occurs often when trying to go after some of these monies that are very limited these days. And I was looking through your strategic plan and I guess I didn't really see in there where the commission was going to focus its efforts in trying to do away with this competition or do away with the fragmentation that exists.

And let me just take it one stop further. In my mind, I knew that there were gaps that existed between what was available as far as delivery of health care and what was needed. I knew that we needed to go to the experts to tell us where those gaps were but more importantly, how to use the resources within the community to do away with competition to be able to fill in those gaps. I didn't know if I missed that in the strategic plan or if it's just kind of underlying that that's going to happen. But one thing I don't want to happen, Mr. Taaffe is that we create another group out there that's going to continue to compete with other groups and continue to participate in this fragmentation that occurs in health care in this community.

I think we would basically have defeated our purposes if that's what's going to happen as a result of this.

MR. TAAFFE: Mr. Chairman, Commissioner Gonzales, I think you would have 100% agreement from all members of the commission that that is an underlying. In the health plan I think it's kind of addressed in two places, or a variety of places but it does underlie for sure. One of the parts on the health planning side of it, we see the need to go ahead and analyze what the gaps in services are, and then begin to leverage and create coordination between the existing programs out there. Specifically, on the second column on page three, number five, Coordination, is one of those activities.

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But I've already had some discussions with the County Manager about the possibility of trying to have the Health Policy Commission, the County, the Board of County Commissioners and the staff of the County help drive how funding goes based on the needs analysis that's conducted. In other words, if we identify that there are certain gaps in services and that those gaps in services are adolescent psychiatric services -- I'm going to just throw that one out there. And that that's a major need that's there. That those entities, those agencies in the county, non-profits, would have to get approval from the County that they're going for grants meet the needs as identified and fill those gaps.

So that's one way that we're talking about trying to leverage things.

COMMISSIONER GONZALES: Do you feel that these other groups would comply with that? This isn't necessarily money they're coming to the County for, but they'd be going out to the feds, non-profit foundations, to the state. That would be wonderful. If we could make that happen, I think that this planning commission is going to be a success. But I've met with a few people and I'm really concerned about this competition, about this need to assure existence and sometimes that means you go on your road.

MR. TAAFFE: Sure it does. There's already some efforts in the state through the Department of Health specifically, because a lot of these funds go through the Department of Health, to look at those types of activities. The Department of Health is currently looking to establish health planning councils or commissions in communities throughout the state and they have a program that I just described happening down in I believe it's in Grant County. It's down in the southwest portion of the state, but I believe it's Grant County, Silver City area.

So they are looking at those types of things. That's a goal. But I think there's other ways of doing it by -- and that's on the policy side of it, looking at the funds that are available, which are specifically the Indigent Funds and how are those funds distributed and looking at how we can use those funds to leverage other funds. I think there's some legislation right now before -- that's going to be introduced if it hasn't already been to try to secure additional funds.

So that gives the County more leverage about how to address those issues.

COMMISSIONER GONZALES: A couple more questions, Mr. Chairman. As it relates to the Indigent Funds because I know that you brought those issues up, and I'm glad you stated in your mission that there is policy development. I just want to be very careful and make sure that the Health Policy Commission doesn't overstep some proceed boundaries about moving into the administration and trying to dictate either to Mr. Anaya or some of the others administratively how to do things. I think it's good to make recommendations but you know there's a big picture here that they have to evaluate and I just don't want to create any bruised feelings if there's not a feeling like the administration isn't conforming to the way the Health Policy Commission is going. Especially when it comes to indigent.

As you know and as many people on this Commission know, we have some issues

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with the indigent that are very real today that we're dealing with with our main provider. I want to make sure as we go through and looking at this relationship that there's not -- that we don't hurt anyone's feelings if the Commission or the administration decides to do things separate when it come to administrative issues from the policy. It's nothing unlike what we have to deal with. We deal in policy. We don't deal in managing. We don't get involved with what the manager does.

And I know that this is new and it's probably petty, but I just want to make sure that that does become a hiccough in the road because there's so many other things that we need to be focusing on working on and it may not happen and I'm sure, with your leadership that it won't. But I want to make sure that I bring that up. And the other thing, and we don't necessarily have to address it now, I just want to make that in the form of a comment.

MR. TAAFFE: Thank you. We understand that.

COMMISSIONER GONZALES: And then the other area was just to make sure that as we identify some of our health goals, I know you put it in item number 7, but you establish accountability and monitor performance, that we do create some measurable goals, and I'm assuming that that's what that's about. So if we're going and we're going to look at adolescent psychiatric care and the delivery of those services, that when we make that commitment that we know that there's some time lines and some measurable goals so we can at least monitor our progress, monitor whether we're successful in this area.

Because I think that's important for going out and getting additional monies, knowing if we should be in this area, all those things. I just want to make sure I understand that correctly.

MR. TAAFFE: Yes, it is. You are correct.

COMMISSIONER GONZALES: And then the other areas that, there are several health initiatives that I want to bring forward that I don't want to state now, necessarily, but I'm assuming that the Health Policy Commission is expecting, which makes sense to my mind any of these issues that come forward in the health planning area, that recommendations or that we make the presentations through your commission, you'll go through and look at it and make some recommendations and feedback. Is that the way you envision it this kind of relationship?

MR. TAAFFE: Yes, that's how I look at it, yes. And I think it's stated right in the beginning of the plan document that we are only an advisory capacity to the Commission.

COMMISSIONER GONZALES: You certainly are experts though.

MR. TAAFFE: I think as Virginia said, we also indicated that we can be your eyes and ears out there. We look at holding focus groups, community forums, soliciting input.

COMMISSIONER GONZALES: Thank you. Thank you, Mr. Chairman.

CHAIRMAN GRIÑÉ: Thank you, Commissioner.

COMMISSIONER ANAYA: Mr. Chairman, I guess all I need is a little

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clarification on Commissioner Gonzales' concern of the competitive factor that he brought forth just a moment ago. Can you give me an example as to what entities would be competing against the future policies that might come forth from this Board?

COMMISSIONER GONZALES: I think I was probably more, Mr. Chairman, Commissioner Anaya, multiple non-profit groups that go out for the same source of money for the same issue that they're addressing, whether it's adolescent psychiatric care, whether it's educating young mothers how to be good mothers. There's so many multiple agencies out there and there's such limited cash that's available that often we have many groups in our community that are competing against each other for the same cash. What I was asking is that this planning commission try and coordinate those efforts so that competition doesn't exist and then we can actually use that money to go farther in those communities as opposed to it being very fragmented.

COMMISSIONER ANAYA: Okay, that was my concern. Thank you for the clarification. I thought that maybe for a while it might be going against the private entities that are out there but I can't think of any that are out there at this moment. But thank you for the clarification.

CHAIRMAN GRIÑÉ: Thank you. Thank you, Richard. I want to thank all the members of this Health Policy Commission too. It's rewarding when we hear from you and I'm sure we'll see much more rewarding things on the outcome of this results, any results come out of this outcome.

COMMISSIONER GONZALES: Mr. Chairman, I would just then, and I apologize, and thank you Robert for bringing to our attention that -- I'd like to move that we adopt the Health Policy Commission's strategic plan as presented, that we dedicate a staff member to pursue the sub-award agreement with the University of New Mexico to hire a consultant to address the areas as presented, continue to provide staff support of at least one policy analyst to the planning commission and item number four, to pursue a joint powers agreement with the City of Santa Fe to pursue support from the Community Services Department for the activities of the County Health Policy Commission. I do that in the form of a motion.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

CHAIRMAN GRIÑÉ: Thank you. I got a motion to approve by Commissioner Gonzales as read and seconded by Commissioner Trujillo. Any further discussion? If not, all those in favor signify by saying "aye." [Unanimous. Commissioner Duran was not present for this action.] Ayes have it.

Thank you again.

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IX. H. 2. Request authorization to enter into a memorandum of understanding and lease agreement with Cornell Corrections, Inc.

3. Request authorization to enter into a memorandum of understanding with General Services Department, State of New Mexico

MR. MONTOYA: Mr. Chairman, members of the Board, I would like to ask your indulgence, Mr. Chairman, to discuss items H. 2 and 3 kind of in tandem because they relate to the same issue. Mr. Chairman, just to preface this discussion, the Board of County Commissioners has challenged the administration to seek ways of generating revenue to the County of Santa Fe that would not create additional burdens on taxing the constituency to allow us to provide more efficient and effective service to our constituents. In pursuit of that goal, Mr. Chairman, we come before you today to bring a proposal to you that we are seeking concurrence from the Board to allow the administration of Santa Fe County to enter into a negotiation with the State of New Mexico and also with the third party provider to acquire the main penitentiary facility, which has been closed now for approximately one year.

It was decommissioned by the State of New Mexico due to the fact that other facilities were built and there were no needs for that facility. Mr. Chairman, we are proposing that the Santa Fe County work with the General Services Department to execute a lease, a long-term lease for approximately 20 years to acquire that facility and then if our negotiations are successful there, we are seeking your concurrence and guidance to move to a relationship with a third party, which at this point in time would be Cornell Corrections to work with them, to operate and manage this facility. And the intent would be, Mr. Chairman, to utilize the facility to house INS detainees, which are basically federal prisoners that are considered to be basically low security adult non-US citizen males that are serving six-month terms or less.

We would utilize this facility approximately 1900 beds to house these individuals. Therefore, what the benefits would be to the County of Santa Fe, Mr. Chairman, is that we would seek to have a lease agreement with the third party vendor, which would be Cornell Corrections for approximately $2 million per annum for the provision of the facility. In terms of what that means to the economy, Mr. Chairman, we are talking about the provision of an additional 267 jobs that would stimulate the economy. We're anticipating through our economic calculations that the annual payroll at this facility would be approximately $7.5 million per year. We are also anticipating based on the federal structure, federal guidelines that the starting salary, starting wage, would be approximately $13.50 per hour at this facility.

We are again, using the economic factor indicating that the economic impact to the region would be approximately $30 million. Now, the interest in moving ahead with this project, Mr. Chairman, requires that there be some serious capital improvements made to

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the facility. Obviously as I stated to you it does have some history in terms of the State of New Mexico, and obviously it has been closed for a year now it does require start-up costs and also some renovation that would approximate, over a 20-year period about $27 million.

Now the third party vendor who is Cornell Corrections has indicated to the County that they are willing to make this capital investment if the County is able to negotiate the lease with the state and again initiate a lease between the County and Cornell Corrections for a 20-year period. What we were hoping to have for you today, Mr. Chairman, was an actual lease between Santa Fe County and the State of New Mexico for your review and we were also hopeful to have the actual lease agreement between the County and Cornell to begin our discussions of the particulars. Due to some heavy time constraints and the pressures of the administrative office due to the legislature and several other issues, we were simply able to put together a memorandum of agreement between the County and the State of New Mexico and also the same memorandum of understanding between Cornell Corrections and Santa Fe County.

As identified before you, Mr. Chairman, the agreement between the state and the County is identified as memorandum of understanding B. It has a small B on your right hand side. And the contractual agreement between, or the memorandum of understanding between Cornell Corrections and the County of Santa Fe has the A provision to it. Mr. Chairman, I want to point out that before I go into the actual content of the memorandum of understanding, I want to point out that the augmentation of the additional lease money to the County of Santa Fe, basically, will allow the County to use these funds in a non-discretionary fashion whereby we would be able to utilize these funds for projects that the County Commission deems to be appropriate. Anything from health-related issues to road development to construction of facilities, operating issues, any of those matters that the Board feels to be a priority at the time.

COMMISSIONER DURAN: Excuse me, Mr. Chairman. Sam, so this money we would not use for recurring date, but rather capital improvements that we deem appropriate?

MR. MONTOYA: Correct, Mr. Chairman. That is at least the current belief that the administration has at this point. As we begin to get a clearer picture on the negotiations between the County and Cornell, the County and the state, we will be able to give you a definitive road plan if you will of how we believe these funds can be better utilized.

COMMISSIONER DURAN: We wouldn't want to rely on this income to satisfy other commitments?

MR. MONTOYA: Mr. Chairman, Commissioner Duran, because of the fact there will be clauses in these agreements where either party can severe the agreement, it's exactly right, Commissioner Duran, that we would not want to utilize these funds for long-term commitments if you will. For example, bonding or other initiatives because of the fact that they could be severed at any point. So we would use it more as a capital fund to go

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after projects that the County deems appropriate.

COMMISSIONER DURAN: What's the total projected revenues from this facility?

MR. MONTOYA: Mr. Chairman, our discussion initially, and obviously we have to work on all the details that are before us, but we're projecting $2 million to the County approximately per annum through the course of the lease.

COMMISSIONER DURAN: What's the total revenues coming from the facility though?

MR. MONTOYA: Mr. Chairman, we've received some spreadsheets from the potential vendor and I'm not sure that we've got the total number ready yet, but we can share that with the Board.

CHAIRMAN GRIÑÉ: Lawrence, if you want to maybe give Commissioner Duran an idea. Lawrence Barelas.

COMMISSIONER DURAN: I mean are we making $2 million and Cornell's making $50 million?

MR. MONTOYA: No, Mr. Chairman, I think the appropriate way to answer that, and I think what we really want to do for you is, obviously we'll have to come back and visit with the Board of County Commissioners when we do have the appropriate lease ready for you to look at and look at all the particular detail. But to answer your question specifically, Commissioner, we want to provide a spreadsheet that has the total capital costs, the operating costs. We will probably have to depreciate this facility and look at amortization and all of those other fiduciary functions that need to be incorporated into the spreadsheet.

We've not gotten to that point yet, Commissioner, but we're approximating that the general revenue to the County would be in that general ballpark. Obviously, we're in the early part of this negotiation and we're seeking your authority to proceed to the next level which then we can bring you the level of detail that I think you really want to see.

COMMISSIONER DURAN: But Cornell cannot do this without us being the -- we're kind of brokering this thing for them, right?

MR. MONTOYA: That's absolutely correct, Mr. Chairman. And I think that in the spirit of continuing use of an asset that belongs to the state currently that we could lease and provide economic stimulus to our county by providing 267 some jobs at $13 an hour is a good economic venue for us to consider and to study. At this point, Mr. Chairman, we're seeking your authority to allow us through these MOUs with the third party vendor and with the state to begin to look at all the particular detail to allow us to bring a lease to you for your review and scrutiny and we will be ready to answer all the particular questions as they evolve.

COMMISSIONER DURAN: My only concern, I have more than one concern. Another concern I have is this is very similar to how we began negotiating with Cornell on the jail and our "free" prisoners are now costing us $4 million a year. So I'm

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real concerned that we move forward with this. I don't see why we have to go forward with the memorandum of understanding. Why can't you just go along in good faith negotiating with them and then when you actually have something we can approve it then. What's the purpose of the memorandum of understanding.

MR. MONTOYA: Mr. Chairman, the purpose of both the MOUs are to lay down basically some ground rules, if you will to begin to narrow the scope of the actual lease agreement. If you will note, Mr. Chairman, or maybe it would be appropriate now to go to the content of the MOUs because most of these particular areas of concern here will allow us then to narrow the scope and to be more specific and give you the kind of clarity on may of these complex issues that I think is going to be required for us to move ahead.

You will note that the first component of the MOU with the State of New Mexico allows us basically to seek your approval to proceed in good faith to negotiate with the State of New Mexico for this unused asset at the current time. We are talking about providing fair market value in the lease to the state, which requires some computations as well. We would be talking about if the third party vendor is unable to secure a contract with the Federal Bureau of Prisoners for the actual use of the facility, that then the lease agreement is not required and goes away.

We're talking about responsibility relative to liability and the actual control of the facility. We're talking about leasehold improvements. We're talking about $27 million worth of improvements over 20 years, who would be responsible for that. We're talking about who owns the improvements once they're completed and done. We're talking about the ability to sublease. That means that if the County enters into a lease with the state, that then we have the ability to sublease that to someone else. We're talking about provision of giving the jailers at the new County annex the authority to have all of the powers that are given to sheriff's deputies and sheriff's jailers to provide the service that is required. We're talking again about commercially using every commercially possible method of hiring local staff and to again augment the economy.

Mr. Chairman, we're looking for issues relative to indemnification and how that relates to the County and the state. We're also looking at the fact that we would not be housing state inmates, so this would not have any impact on the state penitentiary issues. So these would be actually local and federal detainees. Issues that are again relative to the term of the lease. Right now we're seeking a ten-year window with two five-year options. Mr. Chairman, I guess what we're asking to make it as simple and clear as possible is that the MOU will lay out the good faith negotiations that we want to enter into, and if you'll note, these MOUs are very similar in language and I think they lay out the same issues that need to be clarified further. And what we are seeking from you today, Mr. Chairman, is the authority to move to the next step, which is to bring all of the other particular detail that I think you need to see before the actual lease is executed.

That is our component before you today. I believe that it's a good economic stimulus for the County and we would like to move to the next step. It does not have any impact to

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the general fund. Actually it would augment our general fund and I understand the concerns that Commissioner Duran has brought forth. One of the things that we do want to utilize during these negotiations is all of the other issues that we have learned from in past negotiations. I think we're very cognizant of some of the issues that some of the Commissioners have brought to our attention, and we certainly will keep those in the forefront as we move forward toward creating an instrument for your review very shortly if given the guidance today. I stand for any questions, Mr. Chairman.

COMMISSIONER DURAN: Mr. Chairman, Sam, in the last two weeks we negotiated with our jail. There were a lot of oversights. There was a lot of things that weren't incorporated in that contract that we had to kind of patch up over the last several years. The last County Manager who dealt with this didn't take it upon himself to go out and get some real advice. And I'm not saying that our legal department isn't capable of doing it, but the guys that you're dealing with are masters in this stuff, and I'm concerned that you're going to go to the table to negotiate a deal with these people and be at a disadvantage.

So I guess my concern is that when you go forward with these leases that we have as much -- that they go through as much scrutiny as they possibly can to ensure that we don't end up having to come up with new and innovative ways of dealing with our general fund to pay for our prison population.

MR. MONTOYA: Mr. Chairman, the only thing I can say is that most certainly due diligence in this initiative is of key importance and we're very cognizant of the fact that there are many complex issues that relate to this issue and if we need to seek professional assistance to help us get clarity and to be at parity with the actual vendor I intend to do so and I am also not reticent at all to come back to the Board if we cannot negotiate this contract, I'm not afraid to recommend to you that we just end the negotiation at that point.

My intent now is, I think this is a good project if we can work out all the details. I am seeking the Commission's approval to go to the next step. If we cannot make it work I would not be afraid to recommend that either. But certainly I think we have an economic opportunity here and we'd like to study it further and get all the details brought to you with clarity and certainly able to answer any question that you might come up with that is relevant to the project.

COMMISSIONER DURAN: Well, it's obvious that I hate jails. I think that you can go forward with all these negotiations and everything that you think would be appropriate without these memorandums of understanding and I don't see where they really give us anything, really add anything to the negotiation. I'd like to give the direction just to go ahead. When you have a complete document and a full understanding of what you're asking us to consider that you bring it to us at that point instead of kind of piecemeal. I just would rather see it all in one.

CHAIRMAN GRIÑÉ: Commissioner Duran, I think we've done enough of

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this. I think we just put it in the form of a motion and see where the votes go.

COMMISSIONER DURAN: I'd like to make a motion that we do not enter into this memorandum of understanding and that we give Sam direction to continue negotiating with Cornell and with the state void of these memorandums of understanding. And I'm sure that he is articulate enough to let them know that this is our intent and then whenever he has the complete document for us to look at that he brings it forward for us to review.

CHAIRMAN GRIÑÉ: I have a motion. Do I have a second? No second. The motion's dead.

COMMISSIONER ANAYA: I kind of wanted a little bit more clarification on the whole issue. I guess I'm not understanding Commissioner Duran exactly what's wrong with entering a memorandum of understanding to go research any further activity and perhaps acquisition of the property in concern.

COMMISSIONER DURAN: We do this all the time and we don't need memorandums of understanding. We just give staff direction to go forward and pursue.

COMMISSIONER ANAYA: I'd like to hear from our County Manager on that issue.

CHAIRMAN GRIÑÉ: What issue?

COMMISSIONER ANAYA: A response.

MR. MONTOYA: Thank you, Commissioner Anaya. I'd like to simply add, Mr. Chairman, that the rationale for pursuing the memorandum of understanding relates to some time lines that the federal government has as well. The Bureau of Prisons puts out RFPs and they seek provision of beds if they're available around the country and simply I think the guidance that we're seeking today would give the Bureau of Prisons an understanding that we are working with the State of New Mexico, that we are working with Cornell Corrections to work out al the particular details and I think that's really the relativity of having something in hand that show that the governing body has pondered this issue, that you have given us direction to move with the State of New Mexico, to work out the complexities of these problems and to work with the third party vendor as well. That is the rationale for seeking MOUs. I stand for any further questions.

COMMISSIONER ANAYA: So, in other words this is just step one and then from there on the polish would come later to probably perhaps address Commissioner Duran's concerns?

MR. MONTOYA: Exactly, Mr. Chairman, Commissioner Anaya.

COMMISSIONER ANAYA: Thank you.

COMMISSIONER DURAN: I'll withdraw my motion.

COMMISSIONER TRUJILLO: Mr. Chairman, move for approval of both memorandums of understanding.

COMMISSIONER ANAYA: Second, Mr. Chairman.

CHAIRMAN GRIÑÉ: I've got a motion to move forward on both

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memorandums of understanding for approval by Commissioner Trujillo, seconded by Commissioner Anaya. Any more discussion? If not, all those in favor, signify by saying "aye." [Commissioner Gonzales abstained from the vote.]

MR. MONTOYA: Thank you.

COMMISSIONER ANAYA: Mr. Chairman, could I make a statement on this issue, Mr. Chairman.

CHAIRMAN GRIÑÉ: We have County employees here that are waiting for awards. Maybe after the awards.

COMMISSIONER ANAYA: This is related to the issue, concern that just arose.

CHAIRMAN GRIÑÉ: Well, make it brief.

COMMISSIONER ANAYA: How many seconds do I get? Something, just a matter of information to the Commission, the public and I can't remember where I saw it, on 20/20 or one of those that the population, the jail population and people that are jailed is almost to the peak of two million. That's kind of a health and social concern. I think, we can't address it, but it's just a matter of information, Mr. Chairman. Thank you for the 30 seconds.

COMMISSIONER GONZALES: Mr. Chairman, just for the record, I just wanted to note, could I abstain from the vote?

CHAIRMAN GRIÑÉ: Commissioner Gonzales abstains from the vote.

VIII. PRESENTATIONS AND AWARDS

A. Employee of the Quarter Award

CHAIRMAN GRIÑÉ: I just wanted to read the Employees of the Quarter. Santa Fe County Employee of the Quarter is being given to two employees, Virginia Montoya and Esther Artino. Virginia and Esther work for Santa Fe County Clerk's Office and were nominated by the County Clerk. As senior recording clerks for the County they are responsible for helping citizens gather copies of warranty deeds, assisting individuals in researching property records. Virginia and Esther go beyond their normal scope of duties help the County and the citizens of Santa Fe County.

As of late, both employees have identified a federal funding source for a grant to microfilm the documents in the Clerk's Office and have taken on the task of preparing them for filming. The entire project is projected to be completed by December of this year. They also assist citizens in gathering information on this property and go above and beyond in that assistance gathering up information for the citizens to fulfill their needs. This is shown by many commendations, letters, that each of these employees have received. With that, I am pleased to present Virginia and Esther with these certificates of appreciation as Employees of the Quarter, the Employee of the Quarter parking space for the next three months and one

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day of administrative leave each. I think we only have one space. You're going to have to alternate days, maybe. Congratulations and thank you both for a job well done.

The certificates read "In recognition of your having received the Employee of the Quarter Award, I hereby grant you eight hours of administrative leave to be taken at your leisure by December 31, 2000." So would you both come forward.

[Ms. Artino and Ms. Montoya received their plaques and received a round of applause]

IX. I. MATTERS OF PUBLIC CONCERN - NON-ACTION ITEMS

CHAIRMAN GRIÑÉ: Anybody would like to address the Commission? But it has to be not related to the last item on the agenda, which is the Cerrillos Gravel Products. At that time you will address your issues concerning that item. So anybody else would like to address the Commission not related to the last item on the agenda?

CAROLYN SIGSTEDT: Good afternoon. My name is Carolyn Sigstedt. I'm a resident of Santa Fe. There are just a few items that I want to keep before us, because I think it's very timely. One, is the Highway Corridor Plan. That's coming up before the City tomorrow. I'm wondering when it's coming before the County. If you have an answer to that, I would like to know because I think it's very, very important to all of us as citizens of Santa Fe and Santa Fe County.

CHAIRMAN GRIÑÉ: Carolyn, isn't it February? Or Judy, it's February, right?

COMMISSIONER DURAN: She told us at the last meeting.

JUDY MCGOWAN (Planner): The Highway Corridor Plan is going to City Council tomorrow night for presentation. The Board of County Commissioners, you had your presentation last summer. Then it will go back through their process through the Planning Commission. It's not going to be approved tomorrow night. It's going to the EZC at their February meeting, which is whatever the second Thursday in February is, and then it's scheduled to go to CDRC on the last Thursday in February for review and recommendation.

MS. SIGSTEDT: Thank you, Judy. I think that's very important. The other is the northwest sector, which actually, in my opinion, relates to the Highway Corridor. Last -- yesterday afternoon at the City Public Works Committee they were discussing the possibility of annexing the northwest sector. That was tabled. My suggestion at that time was that they consider another venue, which is to do a similar project, similar to the southwest sector where the County staff and the City Planning staff work together to come up with a master plan for the entire area and I think the northwest sector is having a lot of pressures on it right now and a lot of things going on there right now and I think it's imperative that the County Planning staff and the City Planning staff jointly come up with

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a master plan for that area so that the residents are happy and that the County and the City are happy and that it follows both the City and County plans. It's just a thought.

The other thing that I wanted to bring up is that the City and County -- I think the City and County are both constrained in terms of property needs. You're both expanding out of your administration buildings. You're looking for a new judicial complex. The City is looking for a possible convention center. St. Vincent Hospital is one of the cards in this whole picture but my feeling is --

CHAIRMAN GRIÑÉ: Carolyn, that's not true. You conveying the wrong message right there now. The City and County are no longer interested in partnership with the St. Vincents. We have pretty much gone away from the idea of even buying it by ourselves even as a sole entity. So you can't just stand there and just say what you think you want to say. It's not true.

MS. SIGSTEDT: Well, what I'm suggesting is that the County has property constraints or building constraints. The City has constraints. I'm suggesting again that the City Planning Department and the County Planning Department work together for a master plan for all the possibilities that are downtown. But if you all work together you can juggle -- I don't have the answers. I'm just saying there are more possibilities if you work together.

And then the last issue that you want to address is that I think, both at the state level and the County level that many citizens feel that having prisons in the private domain is not working. And I would like for you all to consider prisons being put back in the public domain. In terms of the last matter, the matter before this, who's going to pay the $27 million in capital improvements? There are lots of questions, and those are my concerns.

CHAIRMAN GRIÑÉ: Thank you.

COMMISSIONER ANAYA: Mr. Chairman, I have a question of Carolyn. First of all, what you mentioned about the jails was Commissioner Duran's concern. Are you running for office, Carolyn?

MS. SIGSTEDT: I'm considering a run for office, but I don't see how that relates to this.

COMMISSIONER ANAYA: If you considering that, this is a Matter of Public Concerns and if you're going to use this podium as a platform for your election, I take issue to that. You must go out and earn it the way the rest of us did. You set up your portfolio. You set up your campaign and go out and do it. Preaching to the choir is not the way to do it.

MS. SIGSTEDT: I am here as a citizen bringing concerns and for over a year I have actually brought information that you as a Commission has chosen to take action on in some cases, and in other cases have chosen to disagree with me. I have that right.

COMMISSIONER ANAYA: Well, on three issues today you were incorrect because you're not appreciative of the efforts that we're putting forth. And I do take issue that you use this podium as a political platform for yourself and it's not right.

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MS. SIGSTEDT: I disagree.

COMMISSIONER ANAYA: You go on and consider it.

CHAIRMAN GRIÑÉ: Anybody else in the public like to address the Commission? Nobody else. Thank you.

IX. J. MATTERS FROM THE COMMISSION

1. Resolution No. 2000-13. A resolution authorizing and supporting an application for federal highway enhancement funds for the purchase of open space

MS. VIGIL: Mr. Chairman, members of the Board of County Commissioners, this is a resolution just very basically just requesting that you authorize and give us permission to move forward in allocating some funds for a project that you have previously approved through the open space COLTPAC recommendations, you allocated $300,000 for the purchase of open space. With me today are Nicole Lindon and Ann Lacy. Nicole Lindon and Ann Lacy, by their own initiative contacted Senator Jeff Bingaman's office and found that there were grant monies available for a dollar for dollar match for the purposes of open space purchase and they have processed and Bingaman brought us a draft of a preliminary application to get these matching funds.

The resolution before you authorizes us just to move forward in that grant application. The grant application deadline is January 31 so we need your resolution and approval prior to that and request that we move forward in that way. Nicole and Ann are here to answer any specific questions with regard to the grant application.

CHAIRMAN GRIÑÉ: Thank you, Virginia. Any questions of Virginia?

COMMISSIONER ANAYA: No questions, Mr. Chairman. I like this one.

COMMISSIONER DURAN: Mr. Chairman, Virginia, how long do you think it will take to get these matching funds?

MS. VIGIL: Actually, I'm going to defer to either Ann or Nicole, whoever wants to address that because they just currently gave me an update on that and they know the time line far better than I do.

NICOLE LINDON: Well, it would be nice if we had the money yesterday, but we expect to hear whether we've been approved in October. The funds will be available, I believe January 15, 2001.

COMMISSIONER DURAN: And will Mr. Berridge wait?

MS. LINDON: No, he has given us an April 1 deadline?

CHAIRMAN GRIÑÉ: Of this year?

MS. LINDON: This year. We met with him yesterday and this is his final offer and he intends to proceed with construction of the gas station, convenience center known as "Pop's" on April 1 if he does not have a contract.

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COMMISSIONER DURAN: And how much have you raised?

MS. LINDON: Through the private sector we have raised about $20,000 in a one-month period, which was pretty good, and then we should also mention that tomorrow a bill should come up for funding that is being recommended for $300,000 by Senator Roman Maes out of capital outlay. We are also working with different granting organizations and private fund raising. We're just pulling out all the stops on all the different levels.

Let me read you a description of what the application or the request for proposals reads: "The purpose of the Transportation and Community and System preservations, the TCSP pilot program is to find innovative projects that will increase the knowledge of the cost and benefits of different approaches to integrating transportation investments and strategy, community preservation, land development patterns and environmental quality. Planning and implementation projects may be undertaken at the neighborhood, local, metropolitan, state and regional level by states, local governments and metropolitan planning organizations working in cooperation with non-traditional partners."

CHAIRMAN GRIÑÉ: Any other questions? Thank you, ladies. What's the wishes of the Board?

COMMISSIONER DURAN: Mr. Chairman, I make a motion that we give another $250,000 to acquisition the Pop's location.

COMMISSIONER ANAYA: Mr. Chairman, I want to second that but I'd like to give a little further direction and give approval -- there's a second. Can we go into discussion now? Actually, this is more or less a question. If Senator Maes is out in pursuit of their concerns, let them move forth. I know we have the money in COLTPAC somewhere. And then with the resolution that we area hopefully adopting tonight, pursue perhaps a reimbursement support. These are my constituents.

COMMISSIONER GONZALES: I think this acquisition is important, but you guys just came out of left field here. Are you saying that we couldn't wait a couple of weeks?

CHAIRMAN GRIÑÉ: Denice, this wasn't noticed so we can't make a motion, can we?

MS. BROWN: It wasn't noticed. Only the resolution was noticed.

COMMISSIONER ANAYA: That's true.

COMMISSIONER DURAN: I withdraw my motion.

COMMISSIONER ANAYA: I withdraw my second. But the sentiment or concern is there. Maybe that was a good way --

COMMISSIONER GONZALES: I'd be happy to consider this, because I think it is an important project but I want to visit with Commissioner Duran.

Commissioner Duran moved to approve Resolution 2000-13, authorizing the grant application. Commissioner Anaya seconded.

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CHAIRMAN GRIÑÉ: Is there any further discussion?

COMMISSIONER ANAYA: Yes, Mr. Chairman. I think it's a very important issue and I'd really like those concerns to surface and hopefully all the people that are out promising will come forth with what the request is.

The motion passed by unanimous voice vote.

CHAIRMAN GRIÑÉ: I really hope that Senator Maes pulls it off. He's up for reelection just like Commissioner Anaya is.

COMMISSIONER ANAYA: I don't want to use this as a platform.

IX. J. 2. Presentation by Patrick Murphy, Santa Fe County's federal lobbyist

PATRICK MURPHY: Thank you, Mr. Chairman. It's a pleasure to be here today. I'd like to introduce two of my colleagues who have been with me the last couple of days here in Santa Fe working with Commission members, the staff and other elected officials. Jeff Sharp, who is the legislative director and Greg Selfridge who is the legislative analyst. They'll be working, we'll all be working as a team as we look for the additional federal funds as part of the contract we have with the County of Santa Fe.

Fist of all, I just want to tell you it is an honor to be doing this work for you. In the last two days we've had really a crash course in Santa Fe County's issues and what we've presented to you today is a series of 15 one-pages, sort of a quick overview what feels like and sounds like some of the 15 areas in which we may be able to be of assistance in securing some federal funding for the County in a wide variety of programs. These one-pagers I think should be viewed as certainly a work in progress and we're certainly taking a wide scope of work, really being sort of the universe and trying to nail that very quickly.

Part of the purpose for the quick action on our part is that the budget process is now underway in Washington with the Budget Committee and anything that's going to be in the budget or anything that's going to be appropriated this year has to be in hand by March 1. So there's a lot of pressure on us to make sure that we deliver your message to both the New Mexico delegation as well as other members in the House and the Senate that can be helpful on the larger appropriated items.

The other half of the contract that we're hoping for is money from federal agencies and that money isn't any less difficult to get. It's just that there's generally a faster turn-around. The appropriation process goes anywhere from 12 months to 24 months. Just as a note, we had meetings last week in Washington with the New Mexico delegation and really had I think a tremendous response. The one message we heard from all the officers was that they were happy that we were there and were on-site in Washington because so many things

come up and so many things happen that having additional help there can be a benefit and as you know, the State of New Mexico does not have a Washington, D.C. office.

So one of the things that we've done is we've identified sort of the 15 major issue areas. Given the time that we had, I just spoke briefly today with the Sheriff who talked about some law enforcement issues and also with the Fire Chief relative to EMS and some public safety issues. There's others that I know we haven't had time to get to within the various departments, but we'll be adding those as we go along. I'd just like to say that one of the reasons were doing this is because, as you know, D.C. is such a highly competitive environment right now for funding of local governments. Many local governments have Washington representation or the states are there and we hope on behalf of Santa Fe we can do a lot of work with the New Mexico delegation and in addition sort of bring in sort of the mix of the political network that we've established.

I've been in Washington 20 years now lobbying on Capitol Hill so those contacts and those relationships that we have in place in other committees, in addition to the New Mexico delegation will help us identify some new possibilities of working with your staff and certainly department heads in bringing some more funds to Santa Fe County. If you have any questions I'd be happy to answer them. Again, we really hit the highspots with these 15 issue pages but I think it's a really good start.

CHAIRMAN GRIÑÉ: Thank you, Mr. Murphy and welcome on board. Any questions?

COMMISSIONER GONZALES: I was just going to say, Mr. Chairman, I do know, for the benefit of the Commission that Mr. Murphy would briefly go over the 15 items so we understood what they are and give a clear okay, or if we want to wait. But it might be helpful if we knew what those items were.

CHAIRMAN GRIÑÉ: I'm okay.

COMMISSIONER DURAN: I have a question. Mr. Murphy, in the next several months, I'm sure you'll be available to us in the next several months in case we have a brainstorm and would like for you to pursue some funding for us on some special project that we might have.

MR. MURPHY: Oh, absolutely. This is just sort of the first cut of what seemed to be at the top of most everyone's list across the board but obviously, I was talking to the Fire Chief. He had some ideas and we're very open to that.

COMMISSIONER DURAN: This could open the door to a lot of good things for our community.

MR. MURPHY: I look forward to working with you, Commissioner.

COMMISSIONER GONZALES: Mr. Chairman, one other issue, and I'm not sure if Mr. Murphy -- I think it's important that we understand from the start that in this federal process it's -- we have this relationship with Mr. Murphy for the next six months, I think it's a given that as I've talked to the County Manager that we need to understand that these relationships with the lobbyists need to continue past that because the actual

appropriations don't occur until October and so what's going to happen over this next six months is Mr Murphy and his associates as I understand it will begin to take these priorities that we've set now, begin to identify which House and Senate committees that they'll be heard in, develop the staff contacts, work with the federal agencies.

Commissioner Trujillo and myself spoke with Mr. Murphy on a non-appropriate issue that specifically relates to the lands that were taken from many Hispanic families when the labs were established back in the '40's and seeing what we can do to go into some federal agencies to try and get some compensation for those individuals who lost their lands. But I think it's important that we all understand the reality of this is that there won't be any money for these first six months because there is no money for the first six months and that doesn't happen until the appropriation actually takes place in October.

But it's going to take us all of these nine to ten months collectively to work towards that appropriation. And I think that's something that Mr. Murphy has been very candid with us while he's been here so that we don't have this level of expectation that our new federal lobbyist is going to instantly start raining cash here at the County over the next six months. I just wanted to make sure that that's clear for the record, that the public understands that and most importantly that we understand it that this is the beginning of what's going to have to be a continuous relationship if we're going to see the benefits of having the federal representation in Washington. I don't know if you want to add to that, Mr. Murphy.

MR. MURPHY: If I might, Mr. Chairman. It's interesting because I think part of what people outside Washington don't see, which is just the incredible and competitive environment within the various committees that appropriate money. New Mexico is in a great position with Senator Domenici on Budget and Senator Bingaman on Appropriations. You've got the authorizing and the Appropriating team. As a western state, that's a real great combination as well as the other members of the delegation and well placed as well. So we really intend to tap into that. If you'll notice on each of the individual pages we've put a clause in there on timing. What our timing is on these things, a time line. Some of the issues are obviously some of the large water issues and others are long-term issues, issues we aren't going to resolve very quickly, but within that we've put a status report or an update report within 30, 60, or 90 days.

So we're going to be reporting back to the County Manager and to you on where these issues stand at any particular point so again, this is a working document that it will be a continual combination of contact and I think we'll be spending a lot of time on the phone with your staff as well and the department heads.

CHAIRMAN GRIÑÉ: Thank you, Mr. Murphy. Anybody else has any questions? Well, welcome aboard.

MR. MURPHY: Thank you very much, Mr. Chairman. I'd just like to say that all of the staff people and department heads we've met with have been just terrific and have squeezed us in and as you see have come up with a lot of ideas.

CHAIRMAN GRIÑÉ: And we're going to make Santa Fe County more

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beautiful, right?

MR. MURPHY: Thank you so much.

CHAIRMAN GRIÑÉ: Commissioner Duran, you had an item to discuss under Matters from the Commission? I just wanted to say a few words concerning the previous item, the resolution concerning the Pop's convenience store. I think Mr. BerriDge is kind of just playing the Russian roulette game that it's either April 1 or else, but the real issue here is he hasn't gone forward and built his project because Councilor Montaño on the EZA placed a condition that if the City water service within so many feet, which it is, right across the road, that he has to go to the City for water. And that's where the hang-up is and that's why he hasn't built the convenience store, so I wouldn't worry about that time line at all. I just wanted to say that because I'm very well familiar with that.

COMMISSIONER ANAYA: Plus the legislative session should be over by then.

CHAIRMAN GRIÑÉ: Right. Mr. Chairman, I have matters. I had a discussion again with Lesli and Diane Lucero from Land Use and what I would like to see is a revisitation of the COLTPAC make up, being that they are within themselves diminished itself to a seven-member committee again. I'd like a revisitation on that, being that it serves at our pleasure and I think it's time to revisit since all committee members serve at the pleasure of the Commission. I think it's time to revisit the COLTPAC and I would like the support from the Commission, a consensus support to give direction to staff to bring it forth to us at the next meeting.

CHAIRMAN GRIÑÉ: Commissioner Anaya, I believe, if I may say that, you wanted to increase it from the 30-member board and then they went down to a seven-member board.

COMMISSIONER ANAYA: Seven members, perhaps they could go from seven to nine. At least, what I want to do is bring it forth for discussion at the next meeting.

COMMISSIONER GONZALES: I think, Mr. Chairman, Commissioner Anaya, there are people that didn't know that they could participate in this early on and because of the attention that it's received in the press, I'm starting to get a lot of calls from people who want to participate in understanding the open space issues and they just don't feel like with such a small group that they really had their chance to be a part of a citizen decision making body. So I support your call to reexamine this to see if we can involve more citizens who want to participate in this and still be able to keep that integrity of the citizen-based recommendation board.

But to open up the process because now what I've heard is that people think that it's closed, because you've gone from this 30-member open space committee to now it's seven people deciding how to spend $12 million dollars and it's become a very tight-knit type deal and so how do we assure that it stays open to the public and involve where the public can continue to make decisions on this.

COMMISSIONER ANAYA: That's precisely kind of the feedback that I got

from the public, Commissioner Gonzales. Anyway, that's my request of the Commission and perhaps direction to staff to bring it forward at the next meeting.

CHAIRMAN GRIÑÉ: That's fine. Everybody's okay with that.

COMMISSIONER TRUJILLO: Yes. I got a call the other day -- I wish Jill would not have left -- regarding the transfer stations. We have a situation that is making the transfer stations un-user friendly and unresponsive to the needs of the community. We have residents going to a transfer station in maybe a tandem truck with three or four barrels of residential waste and they're turned away. They can't throw the residential waste because it's a tandem truck. A tandem trailer, a tandem truck. It's bigger than the guideline says, and there's no reason to turn these people away.

Another issue, somebody went last week with a truck, it was a ton truck, but it was all residential waste. And they were turned away. I'm saying that we need to be reasonable in how we admit people to transfer stations for disposal of solid waste We need to make decisions and to send somebody from the transfer station to the regional facility with four barrels of trash because they go in with a tandem trailer is unreasonable. I think we need to be more reasonable at the transfer stations.

MR. MONTOYA: Mr. Chairman, I'd like to take just a few moments to footnote an administrative change I would like to publicly thank the service of Diane Lucero who was our Land Use Administrator, acting Land Use Administrator for some time. We've kind of changed the guard there with Mr. Estevan Lopez who is now going to be the director for that department including Utilities. But I would like to publicly acknowledge the hard work of Ms. Lucero and wish her great success in her retirement as she approaches her time to leave the County, but I did want to thank her for all her hard work and welcome Mr. Lopez to his new position.

CHAIRMAN GRIÑÉ: Orlando, do you want to comment to Commissioner Trujillo's concerns?

MR. GARCIA: Mr Chairman, Commissioner Trujillo, if you would like for us to consider us changing our policies on allowing tandem trucks, we certainly will. That's where we drew the line before, but if you'd like for us to move that line at your direction, at this Commission's direction we will.

CHAIRMAN GRIÑÉ. I think what Commissioner Trujillo's concern is, Orlando, is even if you bring a semi, an 18-wheeler and you've got only four bags of trash, why turn them away. I think that's what he's trying to say.

COMMISSIONER TRUJILLO: That's exactly right. I think we need to have some control. We can let tandem trucks go into a transfer station. But we need to be reasonable in the interpretation of the rules.

CHAIRMAN GRIÑÉ: Of the content and how much, I would say.

COMMISSIONER TRUJILLO: We need the rules. We need control. We can't let just anybody, commercial business get in there with tandem trucks. We need to make the reasonable call.

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MR. GARCIA: Yes sir. I'll convey that to the solid waste people.

CHAIRMAN GRIÑÉ: Any other Matters from the Commission? Commissioner Duran, do you remember what it was?

COMMISSIONER DURAN: I was wondering, Sam, if you could ask Estevan to put together a report for deep well exploration in trying to determine where we're going to develop a point of diversion if that's what we decide we need to do to take care of our water demands and protect the aquifer. I know that there has been some deep well exploration up in Taos that the State Engineer's Office did not recognize. They recognized it as -- they didn't attach any claim to it. My understanding is that if you go down deep enough there is water at a certain level, like 2,000 feet. So what I'd like is for Estevan to come forward sometime in the next couple weeks or by the next land use meeting just to give us a report on deep well exploration and how that relates to what our needs are and our goals. If that's okay.

CHAIRMAN GRIÑÉ: That'd be fine. Everybody okay with that? Everybody's okay. Any other Matters from the Commission?

IX. K. MATTERS FROM THE COUNTY ATTORNEY

1. Executive session

a. Discussion of possible acquisition of real property or water rights

b. Discussion of pending or threatened litigation

c. Limited personnel matters

MS. BROWN: Mr. Chairman, there was another matter that was just brought to my attention by Councilor Martinez from the City. He had asked if we could support a resolution supporting funding from the legislature for the design and construction of athletic fields at the Santa Fe Indian School. I told him because it had not been noticed that we could not pass a formal resolution today, but that if you desire to do so, you could give me direction, maybe for the Chairman's signature that they could take to the legislature. The thought behind it, to support funding and I guess the thought behind it is that the City has been working in conjunction with the Santa Fe Indian School and they would agree to - those fields would be used for the school during the work week but would be open to the public on weekends.

CHAIRMAN GRIÑÉ: What fields are you talking about?

MS. BROWN: At the Santa Fe Indian School. They're looking at money from the state legislature for design and construction of athletic fields on the school campus. I don't know exactly where they'd be located. They just want some support that they could take to the legislature showing that the County supports them. Councilor Martinez is asking the same of the City Council.

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CHAIRMAN GRIÑÉ: That's fine. We can do that in two weeks.
MS. BROWN: So then I'll draft a letter for your signature?
CHAIRMAN GRIÑÉ: Next two weeks. Thank you.

Commissioner Anaya moved to go into executive session to discuss the matters listed above. Commissioner Duran seconded and the motion passed upon unanimous roll call vote, with Commissioner Anaya, Commissioner Gonzales, Commissioner Trujillo, Commissioner Duran and Chairman Griñé all voting in the affirmative.

[The Commission met in executive session from 4:50 to 6:00. Commissioner Duran was absent from the remainder of the proceedings.]

Commissioner Anaya moved to come out of executive session having discussed possible acquisition of real property or water rights, pending or threatened litigation, and limited personnel matters. Commissioner Trujillo seconded and the motion passed by unanimous voice vote.

X. PUBLIC HEARINGS

A. Land Use Department

1. **CDRC Case #MIS 97-5230. Cerrillos Gravel Products. The Land Use Administrator requests suspension of the mining land use permit due to failure to comply with water supply requirements for dust control, reclamation, and mining operations, non-compliance of outstanding conditions, and exceeding three-acre boundary in the quarry. The property is located north of the town of Cerrillos within Section 17, Township 14 North, Range 8 East**

The following exhibits are attached in relation to this case:
Exhibit 1: Distributed by staff marked NN-1 through NN-8
Exhibit 2: MOU BCC/Cerrilos Gravel Products and Associated Asphalt
Exhibit 3: Beverley Baer complaint letter dated 1/25/00 to BCC
Exhibit 4: Rodney Hall, President of the Galisteo Mutual Domestic Water Consumer's Association complaint letter dated 1/24/00 to BCC
Exhibit 5: Alexis Higginbotham, complaint letter, 1/25/00 to BCC
Exhibit 6: Occidental Mineral Properties Corpriation deed supplied by CGP
Exhibit 7. Two complaint letters from SR 14 residents (Baum and Baca) dated 1/25/00
Exhibit 8: Rebecca Walding, complaint letter dated 1/23/00
Exhibit 9: R. Moore, complaint letter no date to BCC
Exhibit 10: Mark Ericson, complaint letter dated 1/25/00 to BCC

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Exhibit 11: Christopher Hodge, complaint letter dated 1/25/00 to BCC
Exhibit 12: Ross Lockridge, complaint letter dated 1/25/00 to BCC
Exhibit 13: Lawry Sager, complaint letter dated 1/25/00 to BCC
Exhibit 14: Busy McCarroll, complaint letter dated 1/25/00 to BCC
Exhibit 15: Ann Murray, complaint letter dated 1/25/00 to BCC
Exhibit 16: William E. Kuchar MD, FAAFP, FACEP, complaint letter dated 1/25/00
Exhibit 17: Helen Boyce, complaint letter undated
Exhibit 18: Rural Conservation Alliance, Edwenna Earnheart: Statement; Terms of Revocation of existing permit; listing of violations; 7/6/99 County letter to CSG
Exhibit 19: Beverly Fung, letter of outrage dated 1/25/00
Exhibit 20: Virginia Morris, complaint letter dated 1/25/00
Exhibit 21: Helge and Gull Dahl, complaint letter dated 1/25/00
Exhibit 22: David Kaufman and Elizabeth Jacobson, complaint letter dated 1/25/00
Exhibit 23: Rev. & Mrs. Christian Koch, complaint letter dated 1/24/00
Exhibit 24: Alison Tinsley, letter to revoke the permit, dated 1/25/00
Exhibit 25: Barbara Hilliard, letter in support of County Attorney s action to stop violations at CGP
Exhibit 26: Mr. & Mrs. Woody Gwyn, Hacienda de Galisteo, complaint letter dated 1/18/00
Exhibit 27: Lucy R. Lippard, complaint letter dated 1/21/00
Exhibit 28: Linda Durham, Contemporary Art in Galisteo complaint letter
Exhibit 29: Romona Scholder, letter and color xerox photos of her home in Galisteo
Exhibit 30: Richard Earnheart, testimoney regarding the revocation of the CGP permit and photos
Exhibit 31: Comments from the Rural Conservation Alliance and support material

CHARLIE GONZALES (Inspections and Enforcement Supervisor): Good evening, Commissioners. First of all I'd like to start by saying it's good to be back. In front of you you have two reports. One is a regular report and the other is an memorandum of understanding. Which one would you like for me to present this evening?

CHAIRMAN GRIÑÉ: The memorandum of understanding.

MR. GONZALES: Okay, I will start with the terms of understanding. First of all, I'd like to for the record, Exhibits NN-1 through Exhibit NN-8 [Exhibit 1] for the record.

CHAIRMAN GRIÑÉ: You want to enter them into the record, Charlie?

MR. GONZALES: Yes.

CHAIRMAN GRIÑÉ: Fine. We'll enter them.

MR. GONZALES: Okay, terms of understanding. Cerrillos Gravel Products and Associated shall immediately halt all mining, material removal and hauling activity at

the site.

COMMISSIONER GONZALES: Charlie, before you go forward I think it might be helpful to give us a recap of why we're here.

MR. GONZALES: We are here today, Cerrillos Sand and Gravel has crossed their three-acre mining area limit and also the situation as far as water restrictions. It was approved in 1997 based on water on site. And also recently, there is evidence that shows in my report that they have expanded out of the three-acre area.

So we are here today to request suspension of the permit.

COMMISSIONER GONZALES: So is that the same as what's in this MOU? That request? That request is outlined in this MOU?

MR. GONZALES: Yes. The memorandum of understanding is an agreement with the Land Use Department and Cerrillos Gravel Products and Associate Asphalt.

COMMISSIONER GONZALES: Okay. And the Land Use Department, I'm assuming up to this point and they were in violation you went through all the regular channels of verification and citation and all that.

MR. GONZALES: Yes, that's correct.

COMMISSIONER GONZALES: And that's where we are today?

MR. GONZALES: That is correct.

COMMISSIONER GONZALES: Okay. Thank you.

MR. GONZALES: Okay. Back to the terms of understanding. Item number one, Cerrillos Gravel Products and Associated shall immediately halt all mining, material removal, and hauling activity at the site.

Item number two is Cerrillos Gravel Products and/or Associated shall secure legally permitted water rights sufficient for the mining dust control and reclamation operations at the site. If Cerrillos Gravel Products and/or Associated do not secure legally permitted on-site water rights, paragraph 4 requiring master plan amendment for use of off-site water rights shall be complied with.

Number three, the County shall permit resumption of operations upon receipt of a letter from the Office of the State Engineer verifying the legality of their use for the purpose and the place intended and upon compliance with the remainder of this agreement.

Number four, if Cerrillos Gravel Products and/or Associated propose to use off-site water, such use will require a master plan amendment.

Number five, Cerrillos Gravel Products and/or Associated must comply with all other terms and conditions of approval, including provision of all necessary financial guarantees.

Number six, representatives of all parties shall meet on site and Cerrillos Gravel Products and/or Associated shall prepare and submit all necessary plans and estimates to enable the parties to arrive at reasonable cost estimates for reclamation.

Number seven, Cerrillos Gravel Products and/or associated shall provide a financial guarantee sufficient to provide for reclamation of all disturbed areas outside the permitted mining area which had been disturbed during the time that Cerrillos Gravel Products and/or

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Associated had been operating the property and a separate financial guarantee sufficient to provide for reclamation of the permitted area in accordance with paragraph six above and the terms and conditions of approval.

Number eight, upon submission of proof of legally permitted rights and if necessary, master plan amendment and upon compliance with all other terms if conditions of the permit approval, and provision of all necessary financial guarantees, Cerrillos Gravel Products and/or Associated shall be permitted to resume mining operations within the permitted area.

Number nine, upon compliance with paragraph 8 above, the County shall either resume the development review process in regard to Cerrillos Gravel Products 1996 application for mining of 30 acres or shall accept Cerrillos Gravel Products resubmittal of that application along with staff review comments. At this time the County does not acknowledge submittal or possession of that application. If such application is denied upon a final non-appealable order of denial of Cerrillos Gravel Products and/or Associates shall comply with the reclamation requirements which are the basis of the financial guarantee required by paragraph seven with regard to the disturbed area outside their currently permitted three acres

Number ten, the agreement is subject to ratification by the Board of County Commissioners of Santa Fe County.

Number eleven, by entering this agreement, Cerrillos Gravel Products does not relinquish or waive any of its rights under its existing permits or mineral zoning. Cerrillos Gravel Products maintains that its 240 acres are specifically zoned for gravel extraction by historical mining use and pursuant to the 1983 and 1997 County Development Review Committee approval and the April 1994 and 1997 Board of County Commissioners action and permit and does not waive any of its rights under common law or to the permits or zoning. By execution of this agreement, Santa Fe County takes no position on Cerrillos Gravel Products's claims.

Number twelve, the parties further agree and acknowledge that this agreement is in settlement of dispute of claims and that the settlement of such claims by mutual agreement shall not be construed, interpreted or represented as admission of faults, culpability or wrong-doing by Cerrillos Gravel Products or Associated and shall never be treated as evidence of liability or responsibility by Cerrillos Gravel Products or Associated at any time or in any manner whatsoever.

That concludes the memorandum.

CHAIRMAN GRIÑÉ: Thank you, Mr. Gonzales. Any of the Commissioners have any questions? Thank you. I'm under the understanding that you as a group have hired legal counsel. Is that correct? Is your legal counsel in the audience? Did you want to address the Commission? Please state your name, address.

[Previously sworn, Mary Humphrey testified as follows:]

MARY HUMPHREY: My name is Mary Humphrey. I'm an attorney from Taos, New Mexico. Before I begin my remarks I want to make sure that the citizens

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actually have an opportunity to speak here tonight too. They've been waiting for five hours and I hope that their right to speak is not denied at this time.

I'm here to speak. I have been hired by the Rural Conservation Alliance. I have a few remarks. I have a lot of remarks which I want to put into the record after I give a brief summary of them, but before we even begin, I want to address this MOU. I notice that it's signed by Mr. Greg Upton. It was only 13 days ago in Magistrate Court when Mr. Joe Mangus stated publicly that Greg Upton does not have the legal authority to sign documents for Cerrillos Gravel Products. He made that statement in a court of law and he is making an appeal of the Magistrate Court's judgement based on that premise. So given that, I think that puts a real -- Cerrillos Gravel Products, once again, you better clarify who's speaking for Cerrillos Gravel Products at what time and what they're speaking for.

The second objection I'll make for this memorandum of agreement is that it includes Associated Asphalt as one of the parties without any kind of clarification as to the delineation of responsibilities or liabilities as between Cerrillos Gravel Products and Associated Asphalt. Cerrillos Gravel Products ostensibly is the holder of this permit. Associated Asphalt is not. I think that the Legal Department of the County should be very careful to clarify exactly who's speaking for what purpose in this document and how they're going to enforce it.

The third comment I will make is enforcement. This memorandum of understanding is just another way that Cerrillos Gravel Products is evading its responsibility. Cerrillos Gravel Products, the County has not been able to enforce any agreement with Cerrillos Gravel Products since the first one it signed in November of 1996. That agreement was that Cerrillos Gravel Products would submit an acceptable reclamation plan within six months. That plan itself was a year late. When they did submit a plan, this Board approved a permit with 22 conditions. They are still out of compliance with at least seven of those conditions. And I've documented this in some of the exhibits I will enter into the record, including most noticeably one they have not complied with the water rights decision, the requirement to provide water rights. In fact, they have misrepresented for 18 years that they have six acre-feet of water rights. That's a blatant misrepresentation and I think that this Board of County Commissioners could consider that when you're thinking about ratifying this agreement.

How is the County going to enforce yet another agreement? Is this just going to be another piece of paper? I'm here for the citizens to ask that the Board of County Commissioners seriously consider revoking this permit permanently, making Cerrillos Gravel Products fully reclaim the three acres that they have and reclaim the disturbed areas before they can go forward and submit another application. Failing to do this, you're undermining your own Land Use Code. If applicants can come, get a permit, and flagrantly abuse the conditions of those permits year after year and get a slap on the hand, how are you going to expect anybody to actually abide by any terms of any conditions at any time.

The comments I want to submit into the record have to do with the various misrepresentations of the water rights. They make references to parts of your own Code and they're attached as exhibits which will clarify. I hope when you make your decision tonight,

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in your findings, that you will actually consider some of this evidence that we present tonight. I don't want to go through all of it. If you want me to go through all of it I will.

CHAIRMAN GRIÑÉ: No.

MS. HUMPHREY: Okay, I will also ask that since Mr. Gonzales did not enter his exhibits or his report into the record, I would respectfully ask that the County enter all of those exhibits into the record in this proceeding right now. I've included one of his exhibits. I believe he was going to put in which is a report might have been submitted to you. I don't know if it was or not.

CHAIRMAN GRIÑÉ: The recorder got them.

MS. HUMPHREY: Okay. I think I will conclude my remarks with that and let the citizens who've been impacted for five years testify as what's in their personal knowledge.

CHAIRMAN GRIÑÉ: Are you done?

MS. HUMPHREY: I'm done.

CHAIRMAN GRIÑÉ: This is a public hearing and I don't want nobody to repeat themselves from one speaker to another, because I will cut you off. If you've got something different to say to this Commission, say it, but it anybody has already mentioned the same subject and is repeated again, I will cut you off. And I will limit each speaker to two minutes, okay? So those that are for, raise your right hand. For this document that's before the Commission. How many are for that? For this document that was given to us by Charlie Gonzales. Okay. How many are against? Okay, I'm going to let the four speak, two minutes please. Don't be repetitive.

COMMISSIONER ANAYA: Mr. Chairman, if I may suggest, couldn't you coordinate to have four speakers because I'm sure you guys are going to repeat the same thing over and over again. Isn't there a possibility that four people can say what all the minds say?

UNIDENTIFIED SPEAKER: Commissioner, these people are entitled to due process.

COMMISSIONER ANAYA: Just a suggestion.

CHAIRMAN GRIÑÉ: I'm going to allow everybody to speak. Going to get two minutes And when I hammer it down, cut it short. Okay, those that are for, please stand up get sworn in by the Clerk.

[Those wishing to speak for the proposal were placed under oath en masse.]

CHAIRMAN GRIÑÉ: And again, two minutes and don't be repetitive after the other speaker.

[Previously sworn, Greg Upton testified as follows:]

GREG UPTON: My name is Greg Upton. I live at 151 Gravel Pit Road in Cerrillos. I'm also the operations manager for Cerrillos Gravel. I just want to state that over the past years we have repeatedly supplied you with petitions and letters from people that do support us. I would like to point out that the product that we provide is used widely

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in the community as elsewhere by businesses, homeowners, municipalities, etc. In fact, some of the people that are here undoubted to speak against us tonight have our gravel in their driveways.

We would just ask that the Board ratify this agreement. Thank you.

CHAIRMAN GRIÑÉ: Thank you very much.

CHRIS GRAESER (Assistant County Attorney): Mr. Chairman, if you could just confirm that Mr. Upton does in fact have the authority to execute this document on behalf of Cerrillos Gravel Products.

CHAIRMAN GRIÑÉ: I didn't hear you correctly.

MR. GRAESER: If you could confirm that Mr. Upton has the authority to sign this document on behalf of Cerrillos Gravel Products, because that question was raised.

MR. UPTON: Yes sir. I received that Monday, yesterday, and through our attorney, and Brad Aiken, the owner gave me the authority to sign this document since he could not be here.

CHAIRMAN GRIÑÉ: Do you have a question, Commissioner Gonzales?

COMMISSIONER GONZALES: I guess I have some concerns in that -- well, first let me ask you this. The permit that you're holding right now to do business in Cerrillos, what does it allow you as far as acreage to mine?

MR. UPTON: It allows three acres for the actual pit and I believe 5.2 acres for the operations area.

COMMISSIONER GONZALES: Is there concurrence with the staff on that? We have concurrence from the staff that the permit currently allows for three acres of mining and 5-/2 acres for total operations?

MR. GONZALES: That's correct.

COMMISSIONER GONZALES: Mr. Upton, let me ask you this next question then. Are you currently mining outside of that three-acre permitted zone?

MR. UPTON: No, we are not.

COMMISSIONER GONZALES: Is there concurrence with the staff on that?

CHAIRMAN GRIÑÉ: I will cut it short if you guys don't have some civility. Nothing's funny.

COMMISSIONER GONZALES: My concern is I think that there's some genuine concern and there has always been in my own personal concern is that Cerrillos Gravel has never really been willing to live by the rules that the Commission has placed for it for this permit. And I want to give you the chance to correct that, because I feel like we had the same issue when you were here last time. There was a lot of concern in the community about what was being promised and was actually being delivered. I think at that point the Commission gave the benefit of the doubt that Cerrillos Gravel was going to honor its commitments that were made and yet here we are, two or three years, and we're having to go through this all over again. And I'm wanting to understand what kind of credibility that you're coming forward and asking us to give to you, or any reliance in your credibility

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when to date, it seems like you really haven't honored the obligations that you told us that you were going to honor.

I'm talking about issues about the mining within that three acres. I understand that it's outside of it and we have documents stating that it is outside the three acre-feet. Promises that were made to the community about hours of operations, all these things that we had all placed a reliance on, I want to know, have they been addressed, and you're under sworn testimony here. You're going to tell us they have been addressed.

MR. UPTON: If I may, I could start with the simple ones first.

COMMISSIONER GONZALES: Sure.

MR. UPTON: The hours of operation restrict truck, semi-tractor trailer through town from 8:30 to 4:30. We have posted an individual at the Cerrillos turn-off on 14 to keep large trucks out. Trucks other than semi-tractor-trailers are not under that requirement and occasionally, not often, but some of the smaller trucks do come in before 8:30 in the morning. The semi-tractor-trailers do not.

COMMISSIONER GONZALES: There was a spirit to this whole issue in addition to the trucks. I mean the fact is, any type of vehicle coming out of there that's hauling gravel is a concern to the community during hours that they feel either kids are playing, waiting for school buses that can affect them. I'm not sure if you want to get into an issue with us about technicalities.

MR. UPTON: It was my understanding, excuse me. I'm sorry. The reason for that delineation was so that persons that live in the area and work during the day could get deliveries on occasion on weekends and later in the afternoon. That was my understanding at the time why the larger trucks were limited and the smaller ones were not.

COMMISSIONER GONZALES: Mr. Upton, let me just ask you, by your signature on this, you basically acknowledge to the issue that under the recitals that Cerrillos Gravel Products is in violation of terms and conditions of the permits of the approval. You basically acknowledge that through your signature on this line. Why should the community or any of us up here believe that you're going to correct and go into compliance with the conditions that were placed on the permit that you currently hold?

MR. UPTON: Are you asking specifically about the water rights and the three acres?

COMMISSIONER GONZALES: I'm just asking why we should believe you that you're going to come into compliance with this when you've been out of compliance and you've forced us to move to this point to have to address this issue when we shouldn't be here if you had met the conditions originally.

MR. UPTON: The water issue, we honestly did not know. We thought that when we purchased the property, at least according to the owner, he believed that we had gotten the water rights along with that. Obviously, as soon as that was brought to our attention we made immediate application with the State Engineer's Office. The dust control issue, which has been brought up several times, we paved the portion of the road in Cerrillos

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that we were required to do. Before that we watered it on a daily basis. We have not had any or seen any requirement that said we were said to water the road all the way to the gravel pit. And I know that that's one issue. We have at this point talked to County Public Works, to Mr. Robert Martinez over there and we have tentatively agreed, basically based on the outcome of this situation, to pave approximately another 3/4 of a mile of that road, starting at where it ends now, which would go up past the only other house on that road.

COMMISSIONER GONZALES: What about the issue of mining outside the three acre-feet and I'll conclude very soon, Mr. Chairman.

MR. UPTON: The mining outside the three acres, I'm not sure exactly how far out we are but basically, the two sides and the front of that pit are in the same place they always have been. The issue is on the south side and a couple of the monuments were moved at one point or run over, whatever, and we are trying to rectify that with a full bond to cover the cost of putting that back the way that it was.

COMMISSIONER GONZALES: What's left of mining inside the three acre? How much more mining are you anticipating that you can continue to do?

MR. UPTON: We can still go deeper inside that three acres.

COMMISSIONER GONZALES: Right. So is there a limit as to how far down you can go?

MR UPTON: I'm sure there probably is, a physical limit.

COMMISSIONER GONZALES: Is there a limit that we have in the Land Use Code as to how far you can go down? No? He can go far down as far as he wants within that three acres?

MR. UPTON: We would prefer not to do that.

COMMISSIONER GONZALES: So what do you plan on doing after you've fully mined the three acres?

MR. UPTON: We've asked the County to continue looking at or relook at our '96 application for the 30 acres in three-acre increments and hopefully we can come to an agreement on that and keep the period that we would like to mine basically within the limits that were disturbed by Occidental Minerals in the '70's.

COMMISSIONER GONZALES: Just a question for staff. Under the current zoning permit, when they've concluded mining the three acres, does the permit allow for them to come into amendment for an additional three acres or would they have to resubmit, or how does this process play out.

MR. GONZALES: Chairman Griñé, Commissioner Gonzales, they would have to come in for a master plan amendment, or they'd have to come back for a hearing to get approval of any additional mining of any acreages.

COMMISSIONER GONZALES: Is that the way it is on any mining permit that exists?

MR. GONZALES: Yes, right now in Waldo we have it broken up in cells. They'll work on a cell then they'll reclaim a cell and continue the next cell of mining.

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COMMISSIONER GONZALES: And before they can move on -- I'm talking they, meaning anyone who's mining would need to reclaim whatever they've done prior to moving on to the next phase?

MR. GONZALES: It's done simultaneously.

COMMISSIONER GONZALES: So Mr. Upton referred to a '96 request of 30 acres. Is there anything that has been approved towards the 30 acres?

MR. GONZALES: Mr. Chairman, Commissioner Gonzales, nothing has been approved. They state they made an application. Staff has not found any record of any of these applications.

COMMISSIONER GONZALES: Thank you, Mr. Upton.

CHAIRMAN GRIÑÉ: You people in the back, who's next? As soon as you see somebody walk away from the podium, please approach and the other speaker approach the podium as soon as possible.

[Previously sworn, Jennifer Burns testified as follows:]

JENNIFER BURNS: Thank you very much, gentlemen. My name is Jennifer Burns. My address is P.O. Box 165 in Cerrillos, 87010. I'm here with several letters from residents in the general area of the gravel pit and some comments on my own. First of all, I'd like to read a letter from Mary Toparra Murran. I Mary Murrah was born in Cerrillos and have lived here almost all of my 81 years. I own the business at the corner of 1st and Main. Every truck going to and from the gravel pit turns at the corner and goes by my front door. I think the newcomers to this area need to understand that the people in this town have always made their living from or benefitted from mining.

We all need and use the materials provided by Cerrillos Gravel Products and they also provide jobs that keep some off welfare. The trucks go by through town and don't cause any more dust or problems than all the cars going by. I hope the County will just let them keep working.

From S. Chris Schneider: As a small-time contractor in the Cerrillos area, I have dealt with the Cerrillos Gravel Company for the last 12 or 13 years. They hire local folks so it is easy to deal with people I already know and I like that it keeps money in the community. I also feel that the community needs Cerrillos Gravel Our driveways and back roads need a source of local, cheap gravel. I would expect my County government to support small businesses such as Cerrillos Gravel Company.

I personally drive on the road that goes up to the gravel pit three to four times a week during the day when the trucks are running, for reasons completely unrelated to Cerrillos Gravel. And I have encountered those trucks on blind curves and hills and they are exceptionally courteous, almost without exception. I have not had a problem with them. They travel at a very slow rate of speed through the town. My car kicks up as much dust as one of those trucks traveling slowly. A running horse will kick up dust. And while I appreciate the comments made from out of town attorneys, there are an awful lot of people in the general area that understand dust is a fact of life. Snakes are a fact of life.

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There are residents of this county who do not have massive disposable funds and time.

CHAIRMAN GRIÑÉ: That's your two minutes.

MS. BURNS: Thank you, sir.

CHAIRMAN GRIÑÉ: Next please. Just come up and line up behind the speakers, so we can same time.

[Previously sworn, Edith Salkeld testified as follows:]

EDITH SALKELD: My name is Edith Salkeld. I reside at 2846 State Highway 14, Madrid and I also conduct my business from there. And I'd like to gentlemen, if I may, make a statement that as a founding member of the Turquoise Trail Association I wish to mention that no one referring to their affiliation with the Turquoise Trail Association represents any opinion of the Association. Commissioners, aside from death and taxes, there are two things of which I am certain. Everyone who moves to New Mexico wishes that they would be the last moving van and in. And that they want their driveway to be the last one paved. Expansion and development in our area is inevitable and with it, the need for sand and gravel. Is it not preferable to have a local citizen, a caring resident, a generous contributor to the community, an employer, provide this service, rather than to farm it out to someone outside of the area. I believe it is.

I have several letters thanking Cerrillos Sand and Gravel for their generous contributions from the Madrid Fire Department, from the Turquoise Trail Fire Department, the Madrid Fire Department again, the Ortiz Mountain Health Center, the Franciscan House of Prayer [inaudible] and its auxiliary. Thank you for hearing me.

CHAIRMAN GRIÑÉ: Thank you. Next speaker

[Previously sworn, Clifford Kithrow testified as follows:]

CLIFFORD KITHROW: My name is Clifford Kithrow and I live at 302 Fire House Lane, Madrid and I am a business owner in the Madrid-Cerrillos area for the past 14 years plus. I've known the operations manager of the Cerrillos Gravel Products Company both professionally and personally for the majority of that time. I have found him to be a reasonable, generous and law-abiding citizen. Any violations that have been brought to his attention concerning the operation of the gravel pit he has tried to rectify as quickly as possible. He's never deliberately or knowingly violated the terms of his permits issued by the Land Use of the State

He does his best to control the independents. If some of the complaints that you hear this evening will be of any examples, Cerrillos may soon end up banning tourist bus driving or delivery trucks and maybe even rerouting the railroad. This is a historical mining district. He was issued a permit over 15 years ago and many of these people bought houses along dirt roads and have now decided to complain about that. As far as anything else is concerned, he is a man of his word. He'll do his best to meet all the requirements the Commission asks of him. Thank you.

CHAIRMAN GRIÑÉ: Thank you. Next speaker please.

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[Previously sworn, Ann Venegoni testified as follows:]

ANN VENEGONI: My name is Ann Venegoni and I live at P.O. Box 87, Cerrillos. I also have some letters that some of the citizens have written in support of Cerrillos Gravel who can't always be at these meetings because of work schedules and business schedules, and I'll just share a couple of them with you.

I've often used Cerrillos Gravel for many products. Not only do they give great service at a great price, they really cater to the customer, whether it's a large or a small purchase. Our community needs more businesses like Cerrillos Gravel. I would definitely feel the loss of them. Respectfully, Linda Corey.

This letter is to inform you of my support for Cerrillos Gravel Products. I personally know that they provide jobs and materials which benefit this area. This county needs more small businesses like Cerrillos Gravel Products. Sianey Brian.

I know them to be responsible people. And I know that they will make every effort to do what's required of them. Thank you.

CHAIRMAN GRIÑE: Thank you. Next speaker please.

[Previously sworn, Greg Ferneau testified as follows:]

GREG FERNEAU: My name is Greg Ferneau. I live at Route 17, Box 60-C Santa Fe. I also have a couple of letters. To Whom it May Concern. This letter it to support Cerrillos Gravel Company. Our business is near Gravel Pit Road. The gravel company has been responsive to our concerns regarding truck traffic and as a result the truck drivers have been for the most part courteous to our riders. If you have questions, please feel free to contact me at home or through my business number. That's signed by Harold Grantham from Broken Saddle Riding Company.

John Boniface writes: I'm writing in support of Cerrillos Gravel Products. Our community needs both their products as well as the jobs created by this company. A growing residential area needs roads. Roads need gravel. Help us keep our costs for these products at a reasonable rate by allowing access to local resources.

Peter M. Bass: I am writing this letter in support of Cerrillos Gravel Products. I have used these guys for the past six years and would not be happy if they had to shut down. It's not often you find a local business that has always be honest and prompt in getting the job down. We really need more businesses like them, not fewer.

For myself, Cerrillos Gravel Products is not a cartel, a multi-national corporation or a syndicate. It is a small group of people who provide a service to the community and the county. I have lived in Santa Fe County for over half my life. It doesn't seem like too long ago that various public relations agencies were trying very hard to convince the rest of the world that New Mexico is part of the United States of America. You probably all remember some of those, or maybe you haven't been here that long. The point is, last time I checked, New Mexico was still part of the United States of America. The notion that any group of people can sit in judgement on who may and who may not earn an honest living in Santa Fe County, USA, makes me ashamed to be a contributing member of this community. Thank

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you for your time and attention.

CHAIRMAN GRIÑÉ: Thank you, sir. Anybody else for? That was pretty good for the ones before. Some of them did it in a minute, some a minute and a half and only one went over by 15 seconds. So now those that are against, I'm going to treat you the same way. Okay, this is a public hearing, everybody that's against stand up and get sworn in

[Those wishing to speak against the proposal were placed under oath en masse.]

[Duly sworn, Fred Montoya testified as follows:]

FRED MONTOYA: I'll try to be as brief as possible. You know there's an important basketball game tonight in Santa Fe. Board of County Commissioners, Chairman Griñé, my name is Fred Montoya. My address is 04 County Road 59, also known as the Gravel Pit Road. Cerrillos, New Mexico. I live right in the middle of all the gravel truck traffic and from where I live, I can see if a truck driver spits out the truck window. I can see the trucks starting to work at 7:00 or 7:30 in the morning. I can also see them speeding down the short stretch of paved road. I see them working on Saturdays and on occasions, on Sundays.

I saw them drop half a load of gravel on the short stretch of paved road and the gravel is still there on the ground. I can see the great plumes of lead-laden dust being driven by the wind towards my house and my neighbors' house. I see young children playing or riding their bikes on the great Gravel Pit Road. I see where gravel trucks have to stop and stand by so that other trucks may pass by on a two-way narrow curve. Trucks pass by me without being tarped, without being covered as required by state law and the County contract. They have never been in compliance with the terms of the County sponsored contract. And why should there be compliance? There never has been enforcement. Enforcement is 25 miles away here in Santa Fe.

Cerrillos Gravel Products have always done what they pleased and damned be the contract. If I see a violation of a County contract, who am I supposed to call? The County Attorney will not take responsibility, nor will the Sheriff, nor will the New Mexico State Police. Enforcement has always been a problem. Who do we report the violations to? There is nobody to report violations to. I have taken it upon myself to research the original permit issued to Cerrillos Gravel Products and what I have discovered is a multi-million dollar hoax.

CHAIRMAN GRIÑÉ: Okay, sir. Your time's up.

MR. MONTOYA: Just a second. The entire application has been fabricated. C J. McFadden who applied for the permit, the original permit has never owned that land.

CHAIRMAN GRIÑÉ: That's enough. Sit down. Next speaker please. You went over by almost 30 seconds. Next speaker please. Please do not be repetitive.

[Previously sworn, Father Chris Koch testified as follows:]

CHRIS KOCH: Father Chris Koch, spelled Koch, not Cook. I'm from County Road 42 right in Galisteo. Don't count this on my two minutes. I want to thank you

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for letting us have this hearing. You're going to hear a lot of bad news tonight and I'm not going to repeat all the horror stories. But my particular bad news is that this summer, while our house was being knocked down around us by these behemoths com- ig by, we tried desperately to get help from this County. We went from office to office to office, and when we finally got to an elected representative, we were told we had to put up with it. In other words, lay back and enjoy it.

No more. We're not going to have our rights ravished, destroyed, when Codes and laws of this state and County are not being adhered to. That's the bad news. The good news is that tonight you have a chance to redeem yourselves by standing up for the little people and there are a lot of little people out there and revoking this license and returning our lives to some kind of peace and safety. That is your sacred duty. Your first duty is to see that we live in health, safety and secur.ty. Thank you.

CHAIRMAN GRIÑÉ: Thank you. If this meeting gets out of control I'm going to ask for the deputies to come in here to control this for me and help me so I mean that we're dealing with business and we're conduct as business. Go ahead, sir.

[Previously sworn, Bill Gillespie testified as follows:]

BILL GILLESPIE: Okay, my name is Bill Gillespie. I live at P.O. Box 13, Cerrillos, New Mexico. I'm not a newcomer. I was assigned from Washington, D.C. by the FBI here 25 years ago. I've been a special agent here from 1979 to 1987. I currently live in Cerrillos. You need to understand the magnitude of our problem. What we have is we have huge trucks flowing through the village, one after the other in the morning starting at 8:30 and they continue all day long. It doesn't end at all. Now, the gravel pit has simply brought havoc to our village. With these trucks coming through the town every few moments, there's no way that we can drive through the town safely because the trucks, when they turn the corner at Mary's, it was brought up before, they actually cross over the roadway and they cross into the opposite lane so if you're sitting there at the intersection of 1st and Main Street, you have to stop and let them go and they do come nose to tail.

Mr. Montoya brought up the situation about the complaints of the citizens. We finally did get somebody to come out We got the Motor Vehicle Transportation Department to come out. Sergeant Mayrant For five hours, he ran checks on the trucks coming through the town He stopped 38 trucks. Of those 38 trucks he found seven violations of overweight One was 12,600 pounds overweight. He found bad tires. He found no insurance. He found other violations. That's one in five, guys. That's a heck of a rate for a random stop to determine how many violations were going on.

Now, what we feel is that we request that the Santa Fe County Commission enforce Santa Fe County Code, specifically, Article XI, Section 1.6, which states: "No mining use activity will be permitted --

CHAIRMAN GRIÑÉ: Sit sir. Next please.

[Previously sworn, Beverly Baer testified as follows:]

BEVERLY BAER: My name is Beverly Baer. I live at 26 River. I

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understand that you have no interest whatsoever in my concerns. I want to make this part of the permanent record.

[Previously sworn, Kathleen Saunders testified as follows:]

KATHLEEN SAUNDERS: My name is Kathleen Saunders, 01 Camino San Cristobal, Galisteo, New Mexico, County Road 42. And I was born in Santa Fe, New Mexico. I've been here a long time. I am for revocation and suspension of the existing permit. Yes, I realize this is a desert and we all have to live with dust but a six-ton overloaded tandem vehicle is going to kick up a lot more dust than my 4-wheeled car and my four-legged horse. I understand Mr Upton and everybody making a living, but because we widely use gravel in this area, it gives people the right to simply break the law and abuse the permit?

I am possibly in danger or health, so as a concerned citizen of Santa Fe and the Galisteo Basin, I am fighting a severe disability and I don't want or need to breather arsenic or lead if this proves to be in the air from the mine. I just want some, if this turns out to true, what is Santa Fe County going to do about it? Simply, the concerns are for illegal and excessive use of water, excessive and unauthorized disturbance of land caused by blatant mining beyond the permitted area, lack of planning for reclamation, clearly visible air pollution from the dust an possible lead particles, documented violation of conditions of operations imposed by Santa Fe County. All we're asking is that people run a business within a community, whether they're locals or not, to go by the permits and go by the laws and have some consideration. The dangerous trucks and the excessive jake brakes going by our house on County Road 42, 40, 50 times a day, that means to me that these trucks are going at high speeds if they have to jake brake before they go around the 90-degree turn. To me that's excessive and that's not being courteous to the community in which you want to make your living. Thank you.

CHAIRMAN GRIÑÉ: Thank you. Next speaker please.

[Previously sworn, Rod Hall testified as follows:]

ROD HALL: My name is Rod Hall. I'm president of the Galisteo Water Association. I've been a resident of Galisteo for 30 years. Our association would like to request the Commission to revoke the permit. There is no reason to believe that these people will follow the regulations which they've already broken over the years and I'm going to submit a letter.

CHAIRMAN GRIÑÉ: Thank you, sir. Next speaker please.

[Previously sworn, Alexis Higginbotham testified as follows:]

ALEXIS HIGGINBOTHAM: I'd like my letter also to be submitted to the records. My name is Alexis Higginbotham. My husband Archie and I have lived off Highway 14 for almost 16 years and I've lived in New Mexico since 1976. Though our complaints about Cerrillos Gravel Products don't even begin to compare to those of the residents of Cerrillos, it is a fact that Cerrillos Gravel Products has negatively affected the quality of life for those of us who live further away. On countless occasions I've clocked

those trucks racing down the Turquoise Trail at 65 to 85 miles an hour when the maximum speed is 55.

Our house is over half a mile away from the road, but when you've got a long line of those gravel trucks screaming down the highway one after the other, the traffic noise is so deafening that sometimes we can't even sit outside. Several times I've seen those trucks on the road long after legitimate hours of operation, and I've also seen trucks on the road on the weekends when they're also supposed to be non-operational. I've seen trucks without tarps to cover their gravel loads so they spew rocks all over the place. We've had four windshields damaged because of flying gravel. Three of those vehicles' windshields should have been replaced three more times each since they'd been hit by rocks on three different occasions.

But the primary reason why CGP should be shut down is quite simple: it's been operating illegally all these years. My questions to you are these. Why haven't you done something about it? Why aren't you doing your job? Why aren't you looking after the needs of the people given the fact that there is so much clear and evident documentation that CGP has consistently and flagrantly broken the law by its extensive overmining, its illegal water use, ignoring health hazards, causing dangerous traffic problems and noise, creating pollution and causing environmental destruction. You have no excuses left but to shut them down.

CHAIRMAN GRIÑÉ: Thank you. Now we are getting repetitious in some areas already so be careful.

[Previously sworn, Archie Tew testified as follows:]

ARCHIE TEW. Mr. Chairman, Commissioners, my name is Archie Tew. I live at 14 Camino Azul. I wasn't born here as you can probably tell, but I've been here a while. I requested Mr. Montoya, I'd like to finish off his letter that he was talking to you. I think it's really important that you hear it. So I'm speaking through his voice. He requested me to.

He says, the rest of his comments were: I have taken it upon myself to research the original permit issued to Cerrillos Gravel Products. And what I have discovered is a multi-million dollar hoax. The entire application for gravel extraction has been fabricated. C.J. McFadden applied for the gravel mine permit and now I find out that C.J. McFadden never had title or even a quasi-judicial claim to the land. The true owners of the gravel mine land at the time of the permit was issued was Robert Aiken of Houston, Texas. Nowhere is C.J. McFadden's name on the claim of title. The original mining permit issued to Cerrillos Gravel Products was based on total fabrication and should be null and void.

At this time, for the record, I would like to introduce as evidence a special warranty deed issued by Occidental Mineral Properties to Robert C. Aiken and not to C.J. McFadden, original applicant. Robert C. Aiken was the true owner of the gravel pit land and not the applicant C.J. McFadden. Thank you.

CHAIRMAN GRIÑÉ: Thank you sir. Next speaker please.

[Previously sworn, David Bacon testified as follows:]

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DAVID BACON: David Bacon, 54 San Marcos Road West. I have two letters to enter into the evidence. I've lived here a long time, since '72. When I found out Cerrillos Gravel Products was local I thought great. I use them because I was building out there. Then I found out what they were up to and who they were owned by and I took all my business elsewhere. I took it to Mr. Ulibarri in town. There's lack of respect, lack of communication. And lack of just common decency in doing business, which seems to be elevated to some kind of religion here. And you guys have let it go too long. It's gotten out of hand. Those trucks, when you go to Cerrillos, it's like an occupied territory there. Have you been there? Have you driven on that highway? Highway 14, it's bad enough as it is, and you add these tandem gravel trucks that are really, really, really bad drivers. I'm amazed no one's been killed yet by these trucks.

And then you add to that the list of abuses that this company had done, it's beyond my comprehension why they're still up and running. Just exercise your authority as the County Commission and shut them down. I don't object in any way to local business. I support local business, but these folks have gone way over the line. Please just do your job. Thank you.

CHAIRMAN GRIÑÉ: Thank you, sir. Next speaker please. Come on people let's move up forward so let's save time.

[Previously sworn, Rebecca Walding testified as follows:]

REBECCA WALDING: Hi. I'm Rebecca Walding. I live at 50 Main Street in Cerrillos in the village. I just want to enter for the records my letter here which repeats everything that's been said.

CHAIRMAN GRIÑÉ: Thank you. Next speaker please.

[Previously sworn, Christopher Hodge testified as follows:]

CHRISTOPHER HODGE: My name is Christopher Hodge. I live in Madrid, 2872 Main Street. I'm an artist. I have a business there and over the last few years, with Richard Cook been involved in the gravel pit and the increase in traffic. I've watched the roadbed deteriorate and I also have had my windshield destroyed. I'm concerned primarily because State Highway 14 is a state scenic highway, byway and I'm part of the Turquoise Trail Association and it is being attempted to make it a national scenic byway and it seemed to me that a state, which is entirely reliant on the tourist dollar, for us to competing a scenic, beautiful road with people driving and enjoying with this huge behemoths is counterproductive and I worry about my livelihood as do many of my neighbors. Thank you.

CHAIRMAN GRIÑÉ: Thank you, sir. Next speaker please.

[Previously sworn, Robert Moore testified as follows:]

ROBERT MOORE: My name is Robert Moore. I live at 3621 State Road 14. I've lived there 17 years and since my comments are redundant, I'm just going to ask if I can submit my letter.

CHAIRMAN GRIÑÉ: Thank you, sir. Next speaker please.

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[Previously sworn, Mark Ericson testified as follows:]

MARK ERICSON: My name is Mark Ericson. I live at P.O. Box 5[illegible]2, Cerrillos, New Mexico. I've lived in Santa Fe County for 18 years. I'm going to abbreviate my comments for the two minutes. South of the mine, just on the east edge of the Gravel Pit Road, which is a County road there is a natural spring with abundant flow. A spring with flow this strong is rare in this region. Any spring this abundant a flow would normally be supporting many different kinds of life. This is not the case. There is one very dust-laden rabbit bush above the spring, a small number of clumps of crabgrass and virtually no other life in the vicinity of this spring.

As I was examining this spring on December 28, 1999, a gravel carrying truck from the mine passed by. The resulting cloud of very fine dust choked me and I had to run out of it to get a fresh breath. I then realized why there was so little life near the spring. The dust is so fine and so abundant that it chokes off the life forms. To my knowledge, this is a violation of the Clean Water Act, which is intended to protect natural surface waters from such abuses. The road has been widened near the spring. The road dust and gravel have been bulldozed to the sides and the spring flow is lost in the piled dirt. There's photos. Because of this, the flow of the spring does not extend very far from the spring and very few animals or other creatures can benefit from this natural miracle of water in this dry part of the world.

Cerrillos Gravel Products, CGP has operated this mine illegally from the beginning. It does not possess water rights required. That's all I'd like to say and ask for revocation of the permit. Also, on December 28 I noticed that one of the heavy machines was going up the east side of the mine dragging down.

CHAIRMAN GRIÑÉ: Thank you, sir. Next speaker please.

[Previously sworn, Ross Lockridge testified as follows:]

ROSS LOCKRIDGE: Ross Lockridge, P.O. Box 22, Cerrillos, New Mexico. This is a Texas operation. It's run by a man from Texas, Aikens. Just to make that clear. It's Aikens Gravel Products. This is not an issue of ideology about mining in general, but rather about a particular mislocated facility that is being operated by a bad actor, who is giving mining a bad name. The observation is made that the Cerrillos Hills is a traditional mining district, but this tradition never included such densities of modern 18-wheelers taking illegally what would be valuable for future sustainable uses. It is my opinion that CGP has no credibility and must be directed to commence with closure and reclamation. I am for suspension and revocation of the existing permit. I'm putting my letter and three other letters into the record from Cerrillos area residents. Lawry Sager, Busy McCaroll and Ann Murray. Thank you.

CHAIRMAN GRIÑÉ: Thank you, sir. Next speaker please.

[Previously sworn, William Kuchar testified as follows:]

WILLIAM KUCHAR: My name is Dr. William Kuchar. My address is P.O. Box 343, Cerrillos. I have property and I have a residence in the village on the corner of

Main Street and 1st Street, so I have been actively exposed to the dust and I'm sorry to be redundant but I've got to talk a little bit about the dust.

Watering the streets once a day doesn't keep the dust down. The trucks, the big 18-wheelers cause a tremendous amount of dust there. There's no question about it. I'm living there, I can assure you it's there and it's there all day. In dust, it's the nature of way of life in the west, that's true. But dust concentration that those trucks create is a medical hazard. It's a valley, it's the Cerrillos Basin, this dust doesn't abate once it comes up in the morning, and it causes a lot of respiratory problems. It really does. And I can assure to that. I'm board-certified in emergency medicine and I'm board-certified in family practice. I can see that.

And I'm not going to spend the time right now to give you medical reasons why the dust is there and it's harmful, but it is there in the present situation is not abating it. Thank you. Thank you

CHAIRMAN GRIÑÉ: Thank you, sir. Next speaker please.

[Previously sworn, Tom Barth testified as follows:]

TOM BARTH: My name is Tom Barth. I live at 8 1st Street, the traditional village of Los Cerrillos. Honorable Commissioners, I'm going to place my remarks in for the record. What I would like to say is this is not about a testimonial for the fine character of Greg Upton. Neither is it about limiting the ability of a company to do business. This has to do with what is right and what is wrong. There are violations of the Commission's own agreements, violations that continue for years and nothing is done about it. Something has to be done about it now. Thank you.

CHAIRMAN GRIÑÉ: Thank you, sir. Next speaker please.

[Previously sworn, Helen Boyce testified as follows:]

HELEN BOYCE: My name is Helen Boyce and I live on State 14. I also like to put a letter not repeating myself about the traffic violation but we do need more Sheriff's protection from irresponsible driving. I would hope that you, when and if you close the mine down, whatever the decision is, that you request and insist on adequate bonding for reclamation. I understand that there's $5,000 somewhere and when two years ago, I believe, I visited up there, Mr. Upton and we came to the conclusion that already 12 acres are destroyed. Five thousand dollars will not even by grass seed to make this a beautiful meadow as he mentioned they would reclaim it.

That's never been a meadow. I hope that you will make sure that many thousands of dollars will be placed in your care to bring this operation back to its natural beauty that I do remember 30 years ago when I walked there. Thank you.

CHAIRMAN GRIÑÉ: Thank you. Next speaker please.

COMMISSIONER TRUJILLO: Can I ask a question of legal?

CHAIRMAN GRIÑÉ: Commissioner Trujillo.

COMMISSIONER TRUJILLO: Yes, the land here, I understand has been designated for mining. Is that right? Or they've got a mining permit? For mining? What

authority does the Commission have to stifle that, to make a decision?

MR. GRAESER: Mr. Chairman, Commissioner Trujillo, they do currently have a mining permit for three acres. The request in front of you by the Land Use Department is for suspension of that permit for the three acres for failure to comply with the conditions on that permit. The Land Use Code does give the Commission that authority.

COMMISSIONER GONZALES: Mr. Chairman, Chris. You can suspend the permit but the zoning stays in place. Is that correct?

MR. GRAESER: Mr. Chairman, Commissioner Gonzales, yes, that is true. I believe -- it's a little bit before my time, but I understand that the zoning of this particular three acres is established as at least legal non-conforming. I don't think that the County map shows this as zoning area. With regard to any area outside the three acres, I think that's an issue that's a bit up in the air right now and the Land Use Department has to determine what exactly the zoning status is.

COMMISSIONER GONZALES: If the permit's revoked, I go to my question again, zoning still stays in place, so that someone can come in and apply for a permit to zone in the same area. Or is that revoked as well?

MR. GRAESER: Mr. Chairman, Commissioner Gonzales, yes, that's true with a three-year limit on it. If this operation were shut down and nothing happened for three years, no activity in the furtherance of mining at all, then it would no longer be grandfathered under the Code.

COMMISSIONER DURAN: But anyone else would be able to come in and request a permit if they followed the basic conditions of the Land Use Code?

MR. GRAESER: Commissioner Gonzales, that is true. The zoning status doesn't depend on who the operator or the owner is.

COMMISSIONER GONZALES: So if someone came in, does the Commission have the right to deny the permit just because we don't want any mining to be put in this area? I thinking this out far, but, or do we just have the ability to evaluate a application to see if it meets the requirements of the Code, and if it does, then they would be granted some form of permit, to my understanding.

MR. GRAESER: Commissioner Gonzales, that is a true statement. Once an area is zoned with a vested right situation like prior non-conforming use, the Commission does not have the authority to revoke that zoning, other than in the way the Code allows by a three-year lapse. You have the authority of issuing the permit and of suspending that permit based on non-compliance but you do not have the authority to flat out prevent mining.

COMMISSIONER GONZALES: Thank you.

CHAIRMAN GRIÑÉ: Any other questions? If not, we'll proceed with the speakers please. Go ahead.

[Previously sworn, Edwenna Earnheart testified as follows:]

EDWENNA EARNHEART: My name is Edwenna Earnheart. I live on Highway 14 in the San Marcos area. Since you're only giving us two minutes I'll cut to the

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chase here. I represent the Rural Conservation Alliance. It's an alliance of citizens from Galisteo, Madrid, Cerrillos and San Marcos that are in opposition to this mine because of their egregious violations that a lot of people have already mentioned. We have written up our own memorandum of understanding that we faxed to the County that was not considered in the memorandum of understanding that they submitted to you. I have another copy that I can give you tonight and I will give a copy for the record as well as some other submittals and violations.

We, the Rural Conservation Alliance are recommending the following: That the County immediately revoked CGP's existing permit based on all the violations you've heard tonight as well as some others you haven't heard, and that is documented by the County Land Use and Charlie Gonzales' excellent presentation that unfortunately you did not hear this evening. The closure at the mine should be initiated immediately and reclamation commence after CGP has acquired the legal water rights as required by state water right law. They have mined illegally for 17 years using water that was illegal and they should not be allowed to continue to mine until they have acquired proper water rights. Everybody else has to comply with the law; they should too.

We are requesting a new independent reclamation specialist be hired to work with the County and CGP on their approved reclamation plan which has still not been approved. The citizens would like to be involved in this process as represented by the Rural Conservation Alliance and perhaps on compliance with all the above, if CGP wishes to continue mining and they want to make application for a brand new permit, I suppose that maybe they would have the legal right to do so, but we're asking you to revoke this existing permit and not allow them to continue to expand and expand and expand on this existing permit.

It is an old permit. It carries a lot of baggage with it and that's one reason we're here tonight. So we're asking you to revoke that permit based on their egregious violations, their overmining and related to the overmining, I have some pictures here and I'm sure you have many pictures that Charlie Gonzales has submitted. I hope you've taken time to look at them. I'd like to just give you these pictures to give you an idea of how much they have illegally overmined and if Greg Upton is not aware of that then he's obviously not doing his job. I also have letters from other people in the community that oppose this mine and support the revocation of permit and I would like to submit these for the record.

COMMISSIONER GONZALES: I'm sorry. I didn't get your name again.

MS. EARNHEART: Edwenna Earnheart.

COMMISSIONER GONZALES: Edwenna, have you represented to the community in the understanding that even if the permit is revoked that mining is still going to be allowed because of the zoning through some other form of application and that the Commission doesn't have the ability to stop mining in that area. Does the community understand that or are they under the belief that once this is revoked that there will no longer be any mining in that area? And I think that's an important distinction to make, because they are two different issues. This is not about stopping mining at the end of Grave Pit

Road. It's about addressing the issues of a permit or of an application of a permit that was submitted and I don't want any false signals to be sent out to the community that this is an issue that mining is going to stop on this area by revocation of the permit.

MS. EARNHEART: We do understand that and I appreciate your bringing that up and that's why we're saying we're requesting you revoke this existing permit, this fifteen-year permit that they continue to amend and expand on illegally, and these terms and conditions that they continue to violate. If they wish to mine, then they should show good faith to the community for which they say they have respect but they don't show they have respect and close this mine, revoke the permit, close this mine, reclaim the entire area. And as I said, we do understand that they, or some other company would have the legal right to come in and unfortunately apply for another permit.

But at least that permit application would be under the new laws of Santa Fe County Code which are more strict than the ones were in the '80's. And certainly we would love to see mining eliminated in that area. It's a very improper location for mining. Richard Cook has a ten-acre and maybe some day bigger mine over on the other side of the hill, over in Waldo, that's not nearly as impacting to the community as this mine is.

COMMISSIONER GONZALES: Let me ask you something. During the open space process when there was applications put in for the Cerrillos and the description was given of the Cerrillos community, mining was stated as one of the attributes of the community and it's something that's part of the culture and the history of that community. I guess I'm trying to understand if you're stating, and obviously you can't speak for the whole community because the community is divided on this issue, but if you're stating that the people that you represent are opposed to mining entirely in this community that has had mining for generations, I'm trying to understand that when that was basically represented in the applications for the open space that mining was a way of life and part of the history of that community.

MS. EARNHEART: My comment to that would be that this area has never seen mining of this caliber. Yes, there has been mining, but previous to Richard Cook involved in this five years ago it was a small Mom and Pop operation. People were not nearly impacted the way that we have been impacted since these huge 18-wheelers have been running through all of our neighborhoods. And the amount of gravel that's being taken out. The size of the operation has really impacted the communities. And it is improper for that kind of industrial operation to be mining in this area.

COMMISSIONER GONZALES: Thank you. That addresses it.

CHAIRMAN GRIÑÉ: Next speaker please. No more speakers? This concludes the public hearing.

COMMISSIONER GONZALES: Mr. Chairman, I just have some questions of staff, again, following along the lines that myself and Commissioner Trujillo started. Basically, under this MOU, you're saying that CGP an Associated, and I guess to the point that was brought up earlier before I go further, why is Associated part of this MOU?

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MR. GRAESER: Mr. Chairman, Commissioner Gonzales, Associated operated the mine. CGP owns it. As I understand it Mr. Brad Aiken is the sole shareholder of Cerrillos Gravel Products. Associated operates the mine and because they have a significant interest in that operation, I believe they've come in and agreed to work with CGP, help CGP with all their submittals and compliance an such, so they're agreeing to this too. I believe there's a representative of Associated here tonight that could speak to that better.

COMMISSIONER GONZALES: That's okay. And I guess to the point where on the first line you're saying CGP and Associated shall immediately halt all mining, so that's basically a suspension of the permit.

MR. GRAESER: Mr. Chairman, Commissioner Gonzales, that's exactly right. This is what the Land Use Department was asking for was suspension of the permit until they come into compliance with the water issue and the post-financial guarantees for the reclamation. But it's agreed upon between the parties, the permit holder and the County, which we're hoping will lead to being complied with a little bit more because it is a true agreement rather than something that's been imposed.

COMMISSIONER GONZALES: So to stop mining immediately means tomorrow morning.

MR. GRAESER: Mr. Chairman, Commissioner Gonzales, I believe they're already stopped.

COMMISSIONER GONZALES: Okay. To the issue of item number 4 under the terms of understanding, if CGP and/or Associated propose to use off-site water, such use will require master plan amendment. Can you explain that to me a little bit more?

MR. GRAESER: Mr. Chairman, Commissioner Gonzales, the current permit anticipated use of on-site water. All the submittals by Cerrillos Gravel Products indicated they would be using on-site water and they had on-site right. One of their possibilities, I know they're exploring several possibilities for water now on different types of permit to get water to use on-site. One of the possibilities would be to haul water in, which isn't necessarily prevented by the Code, but would require amendment to the master plan and as part of that amendment process, staff would review it and make sure there's legal permitted water rights for that water to be hauled in and we'll look at how the trucks hauling in impact the traffic analysis and such.

COMMISSIONER GONZALES: I guess to the other term where you basically mentioned that they would be allowed to continue mining if they meet the terms of this agreement. Is that basically what would happen?

MR. GRAESER: Commissioner Gonzales, that's true. The essential terms of this agreement are getting a legal supply of water and posting reclamation bonds, both for the area where they're currently permitted to be mining and for any areas that are disturbed outside of that area that they may want to move on to later.

COMMISSIONER GONZALES: I guess let me ask you this question again

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to the issue of the actual zoning itself on the property. Is a zone on the property, is it zoned, the mining zone itself, is it for three acres or is it larger than three acres? The mining zone right now.

MR. GRAESER: Commissioner Gonzales, to the best of my knowledge, none of this area was zoned for mining. It's all standard County residential/agricultural zoning. And when they came in in 1997 on that three acres, that three acres got zoned. Nothing outside of the three acres has a master plan approval for mining zoning. So any expansion of this use would have to come back in front of this committee.

COMMISSIONER GONZALES: Why would they have to come back if there's no -- if there's not a designation for this type of zoning to be in that area. Isn't it just limited? Does the Code just prevent any further expansion of the three acres? Or are you saying that they would have to run a contiguous line and this potential mining zone could go up to be 30 acres if this Commission and future Commissions allowed it to go that far through amendments?

MR. GRAESER: Commissioner Gonzales, it's up to the Commission whether to expand that mining zone or not. As to any arguments, and I know there are some, Cerrillos Gravel Products's attorney, I've had some brief conversations with him on this,maintains that they have essentially grandfathered legal non-conforming use status for the entire 240 acres Cerrillos Gravel Products owns. If they could prove that, either convince the County of that or get a declaratory judgement in a court that said that, then in essence the entire 240 acres is zoned in or on the plan approval process for all of that. Baring that proof, the County's position would be that it is not zoned and anything greater than three acres would need mining zoning and would have to come in front of this Commission to get mining zoning.

COMMISSIONER GONZALES: What's the difference between having to come in and get an amendment for a master plan and resubmitting a permit for master plan approval of the zone?

MR. GRAESER: There is not a big difference. It's -- I believe that the thinking by the Land Use Department is just because there was already a master plan for the three acre and the expansion would be on similar terms that you would extend that. Certainly any expansion of the three-acre, the current three-acre zoning would be subject to any terms and conditions that this Commission wanted to impose on that expansion and in that way it would be the same as a new permit. Really it's pretty much a different way of getting to the same thing.

COMMISSIONER GONZALES: So the three-acre currently exists under non-conforming zoning. If they were to come in and ask that that be increased to six acres, doesn't that take them out of non-conforming status and require them to go into some type of conforming status to meet zoning requirements for mining.

MR. GRAESER: Until proven or ruled otherwise, that's the County's position, yes.

COMMISSIONER GONZALES: So is there a big difference between what's out there now and what they would need to conform with mining situations? Do you know what I'm saying? If you go into conformance with meeting the requirements for a mining zone, is there a difference in the conditions that exist out there as a non-conforming zone as opposed to what it would be to be conforming? And I'm thinking about issues like non-conforming commercial is commercial designation that doesn't sit at a node, that was designated prior to the Code coming into place.

MR. GRAESER: Mr. Chairman, Commissioner Gonzales, I understand exactly what you're getting at and I'm going to have to defer to the Land Use Department on that. I've never even been to the site.

COMMISSIONER GONZALES: I don't know if you can draw the same analogy, Charlie or not. But I know that if a non-conforming commercial area wants to expand, they have to go into some conformance with the regulations that placed with the conformance for a commercial zone.

COMMISSIONER ANAYA: Mr. Chairman, I just want to lead into this, if I may.

COMMISSIONER GONZALES: I don't know if they're prepared to answer that real quick.

COMMISSIONER ANAYA: It seems to me that this proposal, when it came before us, there was talk of an alternative route, if I remember correctly. I may not be accurate on this, but it seems to me that there was talk of an alternative route instead of going through the town of Cerrillos.

CHAIRMAN GRIÑÉ: I remember that, Commissioner. There was that. But they couldn't find one. I remember that. They couldn't find an alternative. Let Diane answer Commissioner Gonzales' question.

DIANE LUCERO (Land Use Administrator): Mr. Chairman, Commissioner Gonzales, a non-conforming status, if they comply, they have to comply with the rules that in place today.

COMMISSIONER GONZALES: Okay, so rules that are in place today, so if they followed those rules then they would go into some conformance type of zoning for mining.

MS. LUCERO: That's correct and they would be sections -- if you like I can go ahead and read it for you. The Santa Fe County Board of County Commissioners may create a new mining zone provided the following location standards are satisfied. Demonstrated existence of significant mineral resources, use of the land for mining use is reasonable compatible with other uses in the area affected by the mining, including but not limited to traditional patterns of land use, recreational uses and present or planned population centers or urban and metropolitan areas. 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. The area designated is particularly suited for mining uses in comparison with other areas of the

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county.

COMMISSIONER GONZALES: Thank you. That's my questioning for now.

COMMISSIONER TRUJILLO: Charlie, I've heard here tonight that there's been some egregious, insidious and even baneful abuse of conditions that have been put in place in the past. What guarantee does the community have that this new set of conditions will be complied with so that this community can benefit from a quality of life that all communities should benefit from. The essence of the community of Cerrillos has been mining. Mining has taken place in that community from the beginning, all its history. And it's probably going to happen in and around the area from this day forward.

But there's people that live in that community and I believe we need to make sure that if this memorandum of understanding is approved that it is complied with. It's been fifteen years that it hasn't been complied with and people live there. It affects people. So what guarantees?

MR. GONZALES: Mr. Chairman, Commissioners, the main thing we have on something like that, the main key to it would be the financial guarantee for reclamation and for dust control and everything else. That's the key to it all and all we can do in Code Enforcement is make periodic inspections.

COMMISSIONER GONZALES: Mr. Chairman, I guess and Charlie and to the Commission, I think we need to get this moving along. I think if this MOU is approved, one of the concerns I have is that under the terms of understanding that basically Cerrillos Gravel Products will be allowed to basically resume operating and I think that because of the history of Cerrillos Gravel that I'd be concerned that that would happen without some type of public review, which I don't think that it's uncalled for that we have a public hearing again to review at the point the staff feels that they've satisfied the conditions to come into compliance, that there be another public hearing to review those and to assure --

But there's some issues that will always remain outstanding and that's the issue of the hours of operation, which I think that we continuously get complaint on and because of lack of enforcement. I'm not sure how we enforce that. And I think that's the frustrating thing on this whole issue for everybody. Minus sending a Code Enforcement officer eight hours a day, I don't know how we're going to be able to substantiate how often they're violating this, other than people calling in.

MR. GONZALES: Mr. Chairman, Commissioners, what we have in place is under Penalties in the Code and in order for us to catch someone not in compliance with the conditions of approval, we'd have to come, according to the Code, back before you to suspend the permit.

COMMISSIONER GONZALES: Okay, I guess I'm ready to move forward with a recommendation. And this is going to be -- because I'm going to be bouncing all over this MOU, so hopefully we can get it where it's understood.

I want to move for approval of the MOU with some changes and I'm going to slowly go down here so I can see which changes I want, what I want and what I don't. The issue

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of two refers to item 4? If CGP and/or Associated propose to use off-site water, such use will require a master plan amendment, I don't even want this part of this MOU. They have to have water rights in place. If they don't have water rights, that's failing to comply with the permit so they would have to come in at that point and resubmit for approval and master plan permit. Because I think what's -- my concern on this is that there's going to be some piecemeal adjustments and then all of a sudden we're going to end up over a period of time back to where we are today. So I want for stricken from that and require them that they have to get water rights from the State Engineer and if they don't then they need to come back in with another master plan that addresses that issue.

MR. GRAESER: Mr. Chairman, Commissioner Gonzales, just a matter of housekeeping, if you want to strike condition four, I recommend you strike the second sentence of condition two as well.

COMMISSIONER GONZALES: That's correct.

CHAIRMAN GRIÑÉ: Two-two?

COMMISSIONER GONZALES: That's right.

COMMISSIONER ANAYA: Mr. Chairman, I don't understand why hauling in water from another sources isn't an appropriate approach to meet the conditions, Commissioner.

COMMISSIONER GONZALES: Mr. Chairman, Commissioner Anaya, it may be, but I think I'd rather discuss that under a new permit application so we're not just piecemealing back and forth and having a record of adjusting and tweaking and trying to keep things alive. I think that if it comes up that Cerrillos Gravel Products cannot get their water rights, that they just basically need to fill out, the answer to the question, it's the same thing as an amendment.

COMMISSIONER ANAYA: It would come in as a variance?

COMMISSIONER GONZALES: It would come in as new master plan submission for the permit based on having to import water. But I want that a separate deal. What I'm concerned about is we start taking and putting in and taking and putting in and all of a sudden it's so confusing no one knows what the terms are of their operation out there. So I think we need to stay under the guidelines of what the original permit was granted and that permit was granted based on their being permitted water rights and that's why I'm supporting that this thing be suspended until they get permitted water rights in place. Permitted water rights. If they can't get permitted water rights, what I'm asking is that they just resubmit another master plan that addresses the issue of off-site water, which is the same thing as a master plan amendment but it doesn't create such a convoluted -- just a very mixed up process.

This thing has been going on for fifteen years. I think people are confused as to what rules they have to live under and if we keep changing the rules in the middle of the game no one's going to know so why these people are doing business or if they're allowed to do business. So I'm saying if we're going to go forward from here under this permit, then let's

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get them to comply with the permit and the conditions that we gave in that permit. And that was for permitted water rights.

COMMISSIONER ANAYA: Why can't it go in as an option?

COMMISSIONER GONZALES: Because we're not discussing that tonight. Tonight, all we're talking about is whether they should be able to continue to work towards coming into compliance. By their recital here, they've stated that they are going to continue to pursue water rights from the State Engineer. Am I incorrect in stating that?

MR. GONZALES: Mr. Chairman, Commissioner, that is correct.

COMMISSIONER GONZALES: Okay. So they're going out and they're looking for permitted water rights now, which I'm assuming by their agreement to this signature that they feel they can get permitted water rights and come into compliance. That's why this permit was issued in the first place. That was a condition that was placed on it. They represented, and I remember this Commissioner Anaya, and this is something that goes to the point of accountability is that they represented that they were going to get water rights, that they were going to get permitted water rights. We gave an approval based on the fact that they would go out and get permitted water rights with this specific permit.

So what I'm saying is go out and get those permitted water rights and then we'll come back and look at it. If you don't get the permitted water rights, we know the zoning stays in place. That's not going to go away, they just have to come back in and resubmit a master plan that addresses how they're going to deal with mining in that property with off-site water. And I think that's for a different day and a different discussion and it's going to take us a lot of time to really understand what the difference is between permitted and off-site and a whole other balance of check and balance, prepared to leave any flexibility at this point.

COMMISSIONER ANAYA: Isn't that stated in provision number four?

COMMISSIONER GONZALES: That's why I asked that provision number four be stricken.

COMMISSIONER ANAYA: It's already stated that they would require a master plan amendment which would then come forward again to us under a different scenario.

COMMISSIONER GONZALES: Correct. Commissioner Anaya, I don't want a master plan amendment under this three-acre. I want a new master plan to come in. I want us to start from scratch. If they cannot get permitted water rights, we're going to start from scratch on this and take another look at mining in this area. That's what they represented. We need to give -- I'm all for giving them a chance to go out there and get it. They should be suspended until they get it but if they don't, then come back into the process, follow the rules.

CHAIRMAN GRIÑÉ: Does somebody want to make a comment?

MR. GRAESER: Commissioner Gonzales, if I could suggest two alternatives. Either, perhaps rather than striking four we could say such use will require a new master

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plan application just to clarify what it is you're requesting.

COMMISSIONER GONZALES: That's fine.

MR. GRAESER: In that, I haven't gone out there, but to point out that in condition eight we also either need to change master plan amendment to a new master plan or strike that as well.

COMMISSIONER GONZALES: That's fine.

CHAIRMAN GRIÑÉ: You want to strike it, number 8?

COMMISSIONER GONZALES: We're tweaking with words here. That's all it is. Whether it's a master plan amendment or whether they're submitting a new master plan, it's the same thing. So fine. We can do that.

CHAIRMAN GRIÑÉ: So we're striking number eight too?

COMMISSIONER GONZALES: No, we're just adjusting the words to say that such words will require a new master plan, as opposed to a master plan amendment. And I know you don't want me to beat this to death, but I just want to make sure that Commissioner Anaya understands that this is not going to change what's given to them right now. It's just a different process that they're going to come in under. They're still going to have the right to appear before the Board and request the use of off-site water.

COMMISSIONER ANAYA: I think the bottom line is either you get Engineering water rights from the Engineer or you spirit it to the off-site.

COMMISSIONER GONZALES: Right. But it has to come before the Board.

COMMISSIONER ANAYA: Temporary water, so to speak.

COMMISSIONER GONZALES: Before they go that route, I think it needs to come to the Board so we understand how we plan on doing that under a new master plan.

COMMISSIONER ANAYA: So the option is still there?

COMMISSIONER GONZALES: Yes. The option is always going to be there.

CHAIRMAN GRIÑÉ: Becky, did you want to say something?

MS. BUSTAMANTE: Yes, Mr. Chairman, Commissioners, for the record, we need some clarification, because we have a couple of things. Are we taking out four or are we leaving four in?

COMMISSIONER GONZALES: Four is being left in with the change of words, such use will require a new master plan.

MS. BUSTAMANTE: Okay, and then on number two, are you striking number two or are you just striking number two sentence?

COMMISSIONER GONZALES: No. Number two stays in place.

MS. BUSTAMANTE: It stays in place, just exactly as it is?

COMMISSIONER ANAYA: That makes more sense, Commissioner. Thank you.

MS. BUSTAMANTE: And number eight is just changing a word?

COMMISSIONER GONZALES: Right. Then to the issue of number six,

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representatives of all parties shall meet on the site. I want to include the representatives that stood before on behalf of the Cerrillos Association, and that would be the Rural Alliance?

MS. EARNHEART: Rural Conservation Alliance.

COMMISSIONER GONZALES: Rural Conservation Alliance to be included on that to review the plans. I think that's only fair that the community have an opportunity to see what's been addressed. Okay? Number six, representatives of all the parties shall meet on the site, and I want to make sure that that includes the Rural Conservation Alliance. Okay?

As to the issue outside the sites, I think the site that's been disturbed outside the three-acre, Charlie, we need to sit down with Mr. Upton and I'm not for a bond being put into place to reclaim it. I think they need to start reclaiming it now. Immediately. Stuff outside that three acres needs to be reclaimed. No bonds. No holding out for time. Get to work. Clean it up. Get it done.

MR. GONZALES: Mr. Chairman, Commissioners, there needs to be in bond in place in case someone doesn't do the work.

COMMISSIONER GONZALES: That's fine, but I don't want that bond to suffice for the work.

MR. GONZALES: Okay, there's also a big difference between a full reclamation and remediation. Full reclamation is restoring it back to its original condition.

COMMISSIONER GONZALES: That site outside the three-acre needs to go back to where it was before. I don't care how it gets there. It's got to go back.

MR. GONZALES: Okay and also, I'd like to state for the record is that we're talking about between three to four acres.

COMMISSIONER GONZALES: Anything outside that three acres that they didn't have permission to go and mine, whether they did it by mistake or they did it on purpose, needs to be reclaimed to wherever it was before they started making those mistakes. It's the only fair and right thing to do.

MR. GONZALES: Acknowledged.

COMMISSIONER GONZALES: And then the other and I'm not sure where this comes into place but before the, if they meet all the issues that we talked about, I want it brought back before the Commissioners for review, rather than staff giving administrative approval for the MOU to have them resume. And that would be my motion, Mr. Chairman.

COMMISSIONER ANAYA: I'm going to second, Mr. Chairman.

CHAIRMAN GRIÑÉ: Okay, is the motion completed? And Commissioner Anaya has seconded it. Okay, any further discussion? Any comment from staff?

MR. GRAESER: Mr. Chairman, Commissioner Gonzales, I think at this point we need to check Mr. Upton if he agrees to these conditions. If he does he can put that in the record, and also Mr. Sena. If they don't, what I think the motion is is for suspension of the permit based on these terms, and you can do that with or without the agreement.

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COMMISSIONER GONZALES: That would be correct. The suspension is only to the point that either they come into compliance or they don't and have to resubmit for a new master plan. And I just, again, Edwenna, I just want to make sure the community understands that the zoning stays in place on this and so the best we can do to do our jobs as you guys have asked us tonight, is to make sure that whoever is mining, Mr. Upton or someone else, is complying with these conditions. And I think that's really important to understand out there because the mining isn't going to stop, all that's going to stop is people who are violating the conditions that the Commission has set for them to operate out there. Okay?

COMMISSIONER ANAYA: Mr. Chairman, just a little bit of clarification on live number seven. I think that carries a lot of strength as far as the financial guarantee is concerned. That stays in.

COMMISSIONER GONZALES: I agree.

COMMISSIONER ANAYA: To me it seems like that in itself, I heard some feedback from staff as to the strength of this. I think it's additional strength because the financial guarantee is just as good as bonding if not better to accommodate your concerns, Commissioner.

COMMISSIONER GONZALES: That's true, Commissioner. I appreciate that. And I appreciate that by Associated and Cerrillos Gravel that they're willing to put up significant dollar amounts to make sure this is reclaimed.

CHAIRMAN GRIÑÉ: Yes, Becky.

MS. BUSTAMANTE: I need another point of clarification. I understand the changes you made. Now, if they agree to it, it still comes back to you at the next meeting for approval. Is that right?

COMMISSIONER GONZALES: No, if they agree to it, then we're going to adopt this memorandum of understanding as amended. If they don't agree to it, then it's in the form of a motion to suspend the license, or suspend the permit until these issues have been addressed. And at the point that they've been addressed, they are to return back to the Board for review before they can resume their operations.

MS. BUSTAMANTE: Thank you, Mr. Chairman. Thank you, Commissioners.

CHAIRMAN GRIÑÉ: Okay. Any further discussion?

COMMISSIONER GONZALES: Well, we need to wait to see if Mr. Upton agrees.

CHAIRMAN GRIÑÉ: Mr. Upton, do you agree to the conditions?

MR. UPTON: I would like the opportunity to talk to our attorney on this but based on that, I believe we will agree to this. My understanding is that my boss will agree to that.

COMMISSIONER GONZALES: And all the wording changes on the amendment or whether you come in for a full master plan, it's the same process. It's the

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exact same thing that you have to go through.

MR. UPTON: Yes sir.

CHAIRMAN GRIÑÉ: All right then. Call for the question. No, I think the public hearing is over; okay.

The motion was made by Commissioner Gonzales and seconded by Commissioner Anaya. All those in favor signify by saying "aye." [The motion carries by unanimous 4-0 voice vote: Commissioner Duran was not present for this vote.] Ayes have it.

ADJOURNMENT

Chairman Griñé declared this meeting adjourned at approximately 7:40 p.m.

Approved by:

Board of County Commissioners
Joe S. Griñé, Jr., Chairman

11 07 992

Respectfully submitted:

Karen Farrell, Commission Reporter

ATTEST TO:

REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK

COUNTY OF SANTA FE) SS
STATE OF NEW MEXICO)
I hereby certify that this instrument was filed for record on the 7 day of Mar A.D. 20 00, at 2:02 o'Clock P m and was duly recorded in book 1741, page 006 of the records of Santa Fe County.
Witness my Hand and Seal of Office
Rebecca Bustamante
County Clerk, Santa Fe County, N.M.
Marcella Salazar
Deputy

COUNTY CLERK
REBECCA BUSTAMANTE
SANTA FE COUNTY NEW MEXICO

EXHIBIT 2
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Condition 14.	Revegetation Plans shall be designed by the applicant, and reviewed and approved and accepted by the Building Permit Division Director and County Hydrologist.
Condition 15.	The Reclamation Plan's specified plan for recontouring and preparing reclaimed slopes shall be amended to include drill seeding where physically possible.
Staff response To conditions 13, 14 & 15:	To date the proposed Reclamation Plan has not been approved. The submittals received are based on on-site water availability, which has not been established. Staff held meetings over a two-year period with the operations manager to try to resolve these conditions.
Condition 19.	The time of CGP related semi trailer truck traffic operation within the village of Cerrillos shall be 8:30 to 4:30, Monday through Friday.
Staff response:	Staff has received numerous complaints about truck traffic operation within the village before 8:30 and occasionally working on weekends.
Condition 23.	All commercial, semi, tandem/dual axle trucks must have tarps completely covering their loads and their bumpers and step sides will be cleaned of loose material prior to entering the village.
Staff response:	Staff continues to receive numerous complaints about the requirement to tarp trucks. Staff verified this complaint on one occasion and notified CGP via letter. (Exhibit CC)

Unpermitted Expansion: It is apparent that the applicant has disturbed areas out of the approved 3 acre quarry area. It is presented on the reports to CDRC and BCC along with memos and letters in the file. (Exhibits DD thru. MM)

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Cerrillos Gravel Products
BCC Hearing, Page 5

Additionally, a recent aerial photograph by the NM Highway Dept. dated November 2, 1999 shows evidence of extensive new disturbance outside the permitted 3 acre quarry supported by other photographs as well. (Exhibit NN)

REQUIRED ACTION:

The BCC shall review and consider the findings of the report; and take action to allow Cerrillos Gravel Products to continue mining, or suspend or revoke the mining land use permit.

RECOMMENDATION:

Based on the applicant's lack of appropriate water rights, non-compliance of outstanding conditions, and un-permitted expansion of the 3 acre mining quarry, Staff recommends that the mining permit be suspended until compliance is achieved.

EXHIBITS:

Exhibit "A", 1997 Reclamation Plan Submittal, 1.8 acre feet.
Exhibit "B", 1997 Reclamation Plan Submittal, .33 acre feet.
Exhibit "C", 1997 Reclamation Plan Submittal, 6 acre feet.
Exhibit "D", Letter from State Engineer's Office. 12-14-99.
Exhibit "E", Letter from State Engineer's Office. 12-22-99.
Exhibit "F", Article X1, Section 1.7, Sand & Gravel Ordinance.
Exhibit "G", 1997 Reclamation Plan Submittal, Water Spray bars.
Exhibit "H", Letter to Land Use from McFadden, 10-3-83. 6 ac. feet
Exhibit "I", Letter of app. with conditions from CDRC. 11-23-83.
Exhibit "J", Submittal letter to Land Use, 10-3-83. Capped wells.
Exhibit "K", Submittal letter to Land Use, 10-3-83. 6 acre feet.
Exhibit "L", Response letter from CGP, 12-6-96. Water truck use.
Exhibit "M", John Shoemaker water report, 4-24-97.
Exhibit "N", Letter from Manges, 5-7-97. Water requirements report
Exhibit "O", Memo from Land Use to CGP, 3-4-97. Water supply.
Exhibit "P", CDRC Report, 5-29-97. Wells.
Exhibit "Q", BCC Minutes, 7-8-97. Water truck purchased.
Exhibit "R", BCC Minutes, 7-8-97. Meter ordered, not installed.
Exhibit "S", Letter from CGP to Land Use, 8-27-97. Meter installed
Exhibit "T", 1997 Reclamation Plan Submittal, Temp.sprinklers.
Exhibit "U", 1997 Reclamation Plan Submittal, Water report.
Exhibit "V", 1997 Reclamation comparison, LAC & CGP. Sprinklers.
Exhibit "W", 1997 Reclamation Plan Submittal, Well locations.
Exhibit "X", Letter from Land Use to CGP, 2-13-98. Water meter.
Exhibit "Y", Memo to CGP on status of conditions, 9-10-98. Meter
Exhibit "Z", Letter from CGP reporting water usage, 9-15-98.

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Cerrillos Gravel Products
BCC Hearing, Page 6

Exhibit "AA", CDRC Report, 5-29-97. Existing home using well.
Exhibit "BB", Letter from Associated Asphalt, 1-13-2000. Purchasing water from the City of Santa Fe.
Exhibit "CC", Letter from Land Use to CGP, 8-19-99. Untarped truck
Exhibit "DD", CDRC Report, 5-29-97. More than 3 acres disturbed.
Exhibit "EE", Affidavit from Chuck Heaton, March 1996. More than 3 acres disturbed.
Exhibit "FF", Response from CGP, 12-6-96. Have not disturbed more Than 3 acres.
Exhibit "GG", Letter to CGP on status of conditions, 2-27-98. Have Not Complied with conditions.
Exhibit "HH", Memo in File from Staff, 10-5-98. Expanded out of 3 Acre area.
Exhibit "II", Memo in File from Staff, 6-9-99. Expanded out of 3 Acre area.
Exhibit "JJ", Letter to CGP from Land Use, 6-23-99. Place markers.
Exhibit "KK", Letter to CGP from Land Use, 7-6-99. Response to 1997 Master Plan & 1998 additional 3 acre request. Disturbed more than 3 acres.
Exhibit "LL", Land Use response to proposed Reclamation Plan, 8-24-99.
Exhibit "MM", Response from CGP, 10-13-99.
Exhibit "NN", Aerial photograph of expansion and other photos.

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AGREEMENT

Defendant Cerrillos Gravel Products, Inc. ("CGP") and the State of New Mexico, through the County of Santa Fe, enter into this Agreement on terms as follows:

1. This agreement concerns a criminal *de novo* appeal filed by CGP pursuant to SCRA 1986, § 6-703 from Magistrate Court to District Court of a judgment finding defendant Cerrillos guilty of "unpermitted mining" pending as Santa Fe County Cause No. 96-942 (CR). The judgment ordered Cerrillos to submit a Revised Operating and Reclamation Plan to the County.

2. The *de novo* appeal is presently scheduled for trial on November 19, 1996. CGP and the County agree to stipulate to a *Joint Motion to Vacate the Present Trial Setting* and to a *Joint Motion for Extension of Time* extending the time for a *de novo* trial for a period of six (6) months, or until May 19, 1997.

3. The County shall dismiss the pending unpermitted mining charges upon submission and approval of an acceptable Operating and Reclamation for the entire area that CGP has disturbed, with specific timetables for reclamation and a financial guarantee. The plan is to meet all requirements of the Santa Fe County Land Use Code, and must address and satisfy all of the concerns stated in the County's November 5, 1996 letter to CGP. The final reclamation plan will be due six (6) months from the date of execution of this agreement.

4. The County is willing to approve CGP's mining operations to date, provided an acceptable Reclamation and Operation Plan is prepared and submitted to the County and approved by the County.

EXHIBIT 3
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whatsoever. It is acknowledged that CGP enters this agreement for economic reasons and to avoid protected litigation and to settle its dispute with the County.

DATE: November 19, 1996.

CERRILLOS GRAVEL PRODUCTS, INC. 174100

By _____
Greg Upton, its agent

CARPENTER, COMEAU, MALDEGEN, NIXON & TEMPLEMAN

By _____
Joseph H. Manges
P.O. Box 669
Santa Fe, New Mexico 87504-0669
(505) 982-4611

Attorneys for Defendant Cerrillos Gravel Products, Inc.

and

STATE OF NEW MEXICO
COUNTY OF SANTA FE

_____

Rosanna C. Vazquez
Maryanne Reilly
102 Grant Avenue
Santa Fe, New Mexico 87501
(505) 986-6279

Attorneys for Plaintiff State of New Mexico, County of Santa Fe

Marcos P. Trujillo
Commissioner, District 1

Paul Duran
Commissioner, District 2

Javier M. Gonzales
Commissioner, District 3

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Richard D. Anaya
Commissioner, District 4

Joe S. Griñé, Jr.
Commissioner, District 5

David Wolf
County Manager

August 24, 1999

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Cerrillos Gravel Products, Inc.
c/o Mr. Greg Upton
P.O. Box 87 or 6 Rail Road
Cerrillos, NM 87010

RE: COUNTY STAFF RESPONSES TO THE PROPOSED RECLAMATION PLAN RE-SUBMITTED SEPTEMBER OF 1998.

Dear Greg,

This letter is a follow up as per our meeting on Friday August 20, 1999. As we discussed, staff was consolidating their responses to the Reclamation Plan mentioned above. The following is a list of those comments/questions which need to addressed prior to approval of the proposed Reclamation Plan:

Page 2 ***No work is to be done at Becho Site at all, not even stockpiling.***
In order to address these concerns, CGP will continue to reduce dust by sprinkling the gravel portion of the road and discuss paving of road. ***This is also to your advantage, I am surprised there has not been any accidents yet, there is also actually a visibility problem on your road due to dust. In addition, staff is still receiving complaints about trucks not being tarped.***

Page 10 **If CGP quarry operations are limited to the existing 3 acre area then operations will eventually result in a 50' - 70' deep pit.** ***What elevation are we at currently at this site?***
CGP believes that the County still has the $5000 reclamation bond for this quarry posted by Becho. ***Staff is currently researching this and has found no record of this financial guarantee.***

Page 11 **The pit shall be smoothed out, and terraces or transverse ditches shall be placed to retain natural runoff and rainfall. No high walls would remain and a slope of 1:1 would be maintained from the edges of the pit to down to the center.**

996 6336 Diane Lucero

102 Grant Avenue • P.O. Box 276 • Santa Fe, New Mexico 87504-0276 • 505-986-6225 • FAX: 505-986-6389

EXHIBIT 4 2 4

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Page Two, CGP Reclamation Review

Page 11 **The area outside the pit, and the entire operation area, will be regraded, smoothed out, topsoiled, prepared, planted, mulched and revegetated, using the techniques described below.** ***Please provide details/sections to show this. The detail in exhibit V-7 is too small. Submit a section which shows the terracing and transverse ditches more detailed. Also Exhibit IV-1 calls for transplanting trees. Explain this. According to appendix 1, the earliest reclamation would start on any of the sites is January 2002. Is this correct?***

Page 12 **Based upon consultation with County officials, reclamation was begun to the high wall to 3:1 slope; however, work was later stopped by County officials and presently only the previously stockpiled loose waste rock is being removed as per approval of condition No. 6.** ***This area needs to be left undisturbed at this time, this includes stockpiling of material as well.***
Topsoil will be placed to a depth of 4-6", using a front end loader along with hand finishing. ***Staff would like to see this increased to 8-10". This way this insures more of a revegetation successful rate. Staff is also interested in reviewing the report mentioned.***

Page 13 **The topsoil needed for a 3 acre parcel will take approximately 14 to 21 days to produce under normal operation.** ***Staff would like to see a sample of this material.***

Page 13 **Native trees will be planted on the sloped areas but not in the flats.** ***Reference: Item number 4 of letter from C.J. McFadden dated March 22, 1984 to Mr. John Lopez, Assist. Land Use Administrator, Santa Fe County as exhibit IV-1 stating;*** **"We would like to reiterate our commitment to reclamation of the site at the close of operations as:**

4.) "Replanting of any trees removed in our operation in fertile holes and water holes and water retentive ditching to irrigate replanted trees of Pinon and Juniper varieties native to the landscape."

Staff has not reviewed or received an existing tree count plan to determine the amount of trees this will affect.

EXHIBIT 4
3 9 4 pages

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Page three, CGP Reclamation Review

Page 15, 16 **Estimated Costs of Reclamation. The total cost of reclamation of the existing 3.0 acre quarry and the 5.2 (4.7?) acre operations area is $5,105.00.** ***These estimates are based on your own operation, performing a substantial amount of the work. Staff needs estimates from an outside professional reclamation operation, in order to accept a reasonable estimate for the financial guarantee. Staff has found no record of an existing financial guarantee of $5,000.00 for the Becho Site.***

Page 20 **Sediment Retention Dam.** ***This needs to be inspected by County Staff. Staff could not find a detail in the submittal reviewed. It might have been missed.***

Page 21 **Aquifer recharge rate is far in excess of the relatively small volume of water used for dust control and domestic purposes or even under severe drought conditions for supplementing average rainfall as noted above.** ***Dust control needs to be maintained. Staff would like to see a watering schedule available.***

Page 30,31 **CGP's hours of operation. CGP's quarry, crushing and sorting operations produce minimal amounts of dust and CGP has purchased a water truck to dampen roads in order to minimize road dust.** ***Staff has recently been receiving complaints about trucks coming from CGP as early as 6:30 A.M.***

In addition, as you recall we agreed upon placing larger rocks to protect the existing springs located adjacent to the gravel hauling road.

Thank you for meeting with me on resolving these issues. Please keep in mind, this is only a portion of the condition list you are working on. You need to continue to work with staff to finalize compliance of the conditions of approval. If you have any questions or comments, please contact me at 995-2716.

EXHIBIT 4
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Sincerely,

Charlie Gonzales

Charlie Gonzales
Inspections & Enforcement Supervisor

cc: **Diane Lucero, Land Use Administrator**
Jack Frost, County Hydrologist

EXHIBIT 5 - 2 pages

437005

SPECIAL WARRANTY DEED

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OCCIDENTAL MINERAL PROPERTIES CORPORATION, a California corporation and OCCIDENTAL MINERALS CORPORATION, a Delaware corporation (hereinafter collectively referred to as "GRANTOR"), the addresses of both of which are Irongate Building 4, 777 South Wadsworth Boulevard, Lakewood, Colorado 80226, for consideration paid, hereby grants to ROBERT C. AITKEN (hereinafter referred to as "GRANTEE"), whose address is as follows:

Oil & Gas Specialties Co., 11321 Todd St., Houston, Texas 77055

the following-described real estate in Santa Fe County, New Mexico:

Township 14 North, Range 8 East, N.M.P.M.

Section 8: The northwest Quarter (NW1/4) and the West Half of the Northeast Quarter (W/2 NE1/4);

SUBJECT TO: (1) reservations and exceptions contained in the United States Patent thereto; (2) all existing roads and all easements and rights-of-way of record in the Office of the Clerk and Recorder of Santa Fe County, New Mexico; and (3) taxes, if any, which may by law consitute a lien but which are not yet due and payable.

with Special Warranty Covenants.

EXCEPTING AND RESERVING unto OCCIDENTAL MINERAL PROPERTIES CORPORATION and OCCIDENTAL MINERALS CORPORATION, their respective successors and assigns forever, a royalty on minerals of every nature, kind and description produced and removed therefrom (whether now known or hereafter discovered and including without limitation based on the means or methods of extraction or otherwise, all metals, nonmetals, soil, sand and gravel, oil, gas and other hydrocarbons, all other gases, all fissionable materials, all heat, steam, brines, fluids and other geothermal resources and all thermal and kinetic energy derived therefrom), the amount of which shall be as follows:

EXHIBIT 5

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(i) Ten percent (10%) of the "Gross Revenues" (as defined in Exhibit A attached hereto and made a part hereof) on all sand, soil, gravel, aggregate and rock produced and removed therefrom;

(ii) One-sixteenth (1/16th) of the "Gross Revenues" from all oil, gas and other hydrocarbons produced and removed therefrom; and

(iii) Five percent (5%) of the "Gross Revenues" on all minerals and mineral products produced and removed therefrom other than described in (i) and (ii) above;

definitions pertaining to which royalty, and provisions concerning the computation, payments, reporting, record-keeping, inspection and audit requirements concerning which are all more particularly described in Exhibit A attached hereto and made a part hereof; AND FURTHER EXCEPTING AND RESERVING unto OCCIDENTAL MINERAL PROPERTIES CORPORATION and OCCIDENTAL MINERALS CORPORATION the existing headframe and all equipment remaining underground within the boundaries of the above-described property together with the right to enter thereon and remove the same at any time on or before the date one year from the date hereof.

WITNESS our hands and seals this ____ day of _____, 1982.

OCCIDENTAL MINERAL PROPERTIES CORPORATION

By _____

Attest: _____

OCCIDENTAL MINERALS CORPORATION

By _____

Attest: _____

EXHIBIT 6

Marcos P. Trujillo
Commissioner, District 1

Herman M. Rodriguez
Commissioner, District 2

Javier M. Gonzales
Commissioner, District 3

Richard D. Anaya
Commissioner, District 4

Betty Platts
Commissioner, District 5

Domingo Sánchez III
County Manager

1741006

November 5, 1996

Joe Manges
Carpenter, Comeau, Maldegen, Nixon & Templeman
P.O. Box 669
Santa Fe, New Mexico 87504-0669

RE: County Review of Cerrillos Sand & Gravel Reclamation Plan

Dear Mr. Manges:

County staff has completed a preliminary review of your client's recent submittals. Based upon this review, the County's position is that the submittals do not meet the County standards for either existing mining uses pursuant to Article XI, Section 1.10, or new mining permits pursuant to Article XI, Section 1.5.1.C What follows is an explanation by Code Section, of the insufficiencies of your client's submittals and an explanation of what staff believes is necessary before staff can recommend approval of any development permit.

The submittals were reviewed under two sections of the Code because your client claims it was originally eligible for "grandfather" status as an existing mine. However, due to evidence demonstrating expanded and intensified use, a new permit is required and "grandfather" status, never actually acquired because of prior insufficient submittals, is no longer available. According to Section 1.9.5, the CDRC will need to review your application for approval.

A. ARTICLE XI, SECTION 1.10 - EXISTING MINING USES:

1. DESCRIPTION OF CURRENT OPERATIONS:

A. AREA CURRENTLY MINED:

COMMENT: It is unclear how much area is currently being mined. Cerrillos submitted MAP A & B, and a legal description of its entire property. There is no description of the area mined.

102 Grant Avenue P.O. Box 276 Santa Fe, New Mexico 87504-0276 505-986-6279 FAX: 505-986-6362

MEMORANDUM OF UNDERSTANDING

The undersigned parties to this memorandum are the BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY ("COUNTY"), CERRILLOS GRAVEL PRODUCTS ("CGP") and ASSOCIATED ASPHALT ("ASSOCIATED").

1741096

RECITALS

1. WHEREAS, the COUNTY believes that CGP is in violation of the terms and condition of its permit approval; and
2. WHEREAS, CGP and ASSOCIATED deny that any violations have occurred; and
3. WHEREAS, the parties desire to ensure that CGP's gravel mining operation in Cerrillo NM, is in compliance; and
4. WHEREAS, ASSOCIATED, as operator of the mining operation proposes to assist CG in this endeavor; and
5. WHEREAS, the parties met on January 20, 2000 and agreed upon the following terms,

NOW, THEREFORE, the following terms are agreed upon by all parties hereto:

TERMS OF UNDERSTANDING

1. CGP and ASSOCIATED shall immediately halt all mining, material removal and haulin activity at the site.
2. CGP and/or ASSOCIATED shall secure legally permitted water rights sufficient for the mining, dust control and reclamation operations at the site. If CGP and/or ASSOCIATED do not secure legally permitted on-site water rights, Paragraph 4, requiring master plan amendment for use of off site water rights shall be complied with.
3. The COUNTY shall permit resumption of operations upon receipt of a letter from the Office of the State Engineer verifying the legality of their use for the purpose and the place intended, and upon compliance with the remainder of this agreement.
4. If CGP and/or ASSOCIATED propose to use off-site water, such use will require a master plan amendment.
5. CGP and/or ASSOCIATED must comply with all other terms and conditions of approval including provision of all necessary financial guarantees.
6. Representatives of all the parties shall meet on site, and CGP and/or ASSOCIATED shal prepare and submit all necessary plans and estimates to enable the parties to arrive at reasonable cost estimates for reclamation.
7. CGP and/or ASSOCIATED shall provide a financial guarantee sufficient to provide for reclamation of all [disturbed] areas outside the permitted mining area which have been disturbed during the time that CGP and/or ASSOCIATED have been operating the property, and a separate financial guarantee sufficient to provide for reclamation of the permitted area, in accordance with Paragraph 6, above and the terms and conditions of approval.
8. Upon submission of proof of legally permitted rights and, if necessary, master plan amendment, and upon compliance with all other terms and conditions of permit approval,

and provision of all necessary financial guarantees, CGP and/or ASSOCIATED shall be permitted to resume mining operations within the permitted area.

9. Upon compliance with Paragraph 8, above, the COUNTY shall either resume the development review process in regard to CGP's 1996 application for mining of 30 acres, or shall accept CGP's resubmittal of that application, along with staff review comments. At this time the County does not acknowledge submittal or possession of that application. If such application is denied, upon a final, nonappealable order of denial CGP and/or ASSOCIATED shall comply with the reclamation requirements which are the basis of the financial guarantee required by Paragraph 7 with regard to the disturbed area outside the currently permitted three acres.

10. This agreement is subject to ratification by the Board of County Commissioners of Santa Fe County.

11. By entering this agreement, CGP does not relinquish or waive any of its rights under its existing permits or mineral zoning. CGP maintains that its 240 acres are specifically zoned for gravel extraction by historical mining use and pursuant to the November 1983 and 1997 County Development Review Committee approval and the April 1984 and 1997 Board of County Commissioners action and permit and does not waive any of its rights under common law or to the permits or zoning. By execution of this agreement, Santa Fe County takes no position on CGP's claims.

12. The parties further agree and acknowledge that this agreement is in settlement of disputed claims and that the settlement of such claims by mutual agreement shall not be construed, interpreted, or represented as an admission of fault culpability, or wrongdoing by CGP or ASSOCIATED and shall never be treated as evidence of liability or responsibility by CGP or ASSOCIATED at any time or in any manner whatsoever.

CERRILLOS GRAVEL PRODUCTS

ASSOCIATED ASPHALT

Phillip R. Strauss for Richard C. Cook

SANTA FE COUNTY

BOARD OF COUNTY COMMISSIONERS

LAND USE ADMINISTRATOR

CHAIRPERSON

Beverley S. Baer
P.O. Box 134
Cerrillos, N.M. 87010
471 - 6964

Santa Fe County Commissioners
102 Grant Avenue
Santa Fe, N.M. 87501

January 25, 2000

1741006

Gentlemen:

The County of Santa Fe currently has two price agreements (one dated September 29, 1998 and one dated May 25, 1999) with Espanola Transit Mix to supply the County with gravel. The price agreements are mirror images of each other. Both contain a provision at 5.B that, "All work required hereunder shall be performed by the Contractor or under its supervision, and all personnel engaged in the work shall be fully qualified or authorized or permitted under state and local law to perform such work."

Merriam Webster defines supervision as to, "watch over the work and performance of." Implied in this is the fact that if something in the "work and performance" is deficient, the contractor is responsible for rectifying the deficiencies.

To date, the County's position has been that individuals who have issues with the independent truckers should address those issues to the individual truckers. County attorney Graesser's letter of July 23, 1999 states, "the safety issues of concern...appear to be more appropriately focused on the individual...truck drivers..." In other words, there has been a lack of strict enforcement of the agreement by the county which leaves it up to residents to try and deal with safety issues associated with trucks which often have nothing to identify them, e.g., license plates, PUC number, company name, etc.

The fact that the provisions of the agreement have not, to date, been enforced, does not prohibit the County from doing so now. The Agreement, item 25, provides that, "A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision."

The County has created the problems associated with the trucks and it is time that the County require Espanola Transit Mix to supervise its subcontractors and require compliance with state and local laws related to safety issues.

Beverley S. Baer
Beverley S. Baer

EXHIBIT 4

GALISTEO MUTUAL DOMESTIC WATER CONSUMERS' AND MUTUAL SEWAGE WORKS ASSOCIATION

January 24, 2000

Santa Fe Board of County Commissioners 174100

Dear Commissioners,

Our water association, representing 82 water hook-ups, requests that the County Commission revoke the operating permit for Cerrillos Gravel Products. For 17 years CGP has operated illegally, while violating many federal, state, and county regulations. CPG has given false and misleading information to you and other agencies who depend on that information to assure safe and legal gravel mining operations.

The dwindling water resources of New Mexico must be used fairly by all. The limited budget for enforcement results in water usage based on the honor system. CPG has proven itself unworthy of that trust. There is no reason to believe that after seventeen years of unsafe and illegal operation, CPG will now comply with county regulations. If water use violations by a select few are ignored and tolerated, then present scarcity will only worsen.

CPG's continued operation is a threat to the well-being of our community . In addition to the impact of illegal water use, CPG's trucks have caused damage to our community water lines, degraded our air quality with dust, diesel fumes, and noise, made the road through the center of our village unsafe and caused structural damage to our church and many of our houses.

On behalf of the Galisteo Water User's Association, please revoke the operating permit of Cerrillos Gravel Products.

Sincerely,

Rodney Hall

President of the Galisteo Mutual
Domestic Water Consumer's Association

1741006

January 25, 2000

My name is Alexis Higginbotham. My husband Archie and I have lived off Highway 14 for almost 16 years. Though our complaints about CGP don't even begin to compare to those of the residents of Cerrillos, it is a fact that CGP has negatively affected the quality of life for those of us who live farther away. On countless occasions I've clocked those trucks racing down the Turquoise Trail at 65 to 85 miles an hour when the maximum speed limit is 55. Our house is over a half mile away from the road, but when you've got a long line of those gravel trucks screaming down the highway, one after the other, the traffic noise is so deafening that sometimes we can't even sit outside in our garden. Several times I've seen those trucks on the road, long after legitimate hours of operation, and I have also seen trucks on the road on the weekends, when they are also supposed to be non-operational. I've seen trucks without tarps to cover their gravel loads so they spew rocks all over the place. We've had 4 windshields damaged because of flying gravel, though three of those vehicles' windshields should have been replaced three more times each, since they'd been hit by rocks on three different occasions before we finally had them replaced. But the primary reason why CGP should be shut down is simple: it's been operating illegally all these years. My question to you are these: Why haven't you done something about it? Why aren't you doing your jobs? Why aren't you looking after the needs of the people? Given the fact that there is so much clear and evident documentation that CGP has consistently and flagrantly broken the law by its extensive over-mining, its illegal water usage, ignoring health hazards, causing dangerous traffic problems and noise, creating pollution, and causing environmental destruction, you have no excuses left but to shut them down. Now.

Alexis Higginbotham
14 Camino Azul
Santa Fe, NM 87505

EXHIBIT

I-4

1741006

43005

SPECIAL WARRANTY DEED

OCCIDENTAL MINERAL PROPERTIES CORPORATION, a California corporation and OCCIDENTAL MINERALS CORPORATION, a Delaware corporation (hereinafter collectively referred to as "GRANTOR"), the addresses of both of which are Irongate Building 4, 777 South Wadsworth Boulevard, Lakewood, Colorado 80226, for consideration paid, hereby grants to ROBERT C. ARTHUR (hereinafter referred to as "GRANTEE"), whose address is as follows:

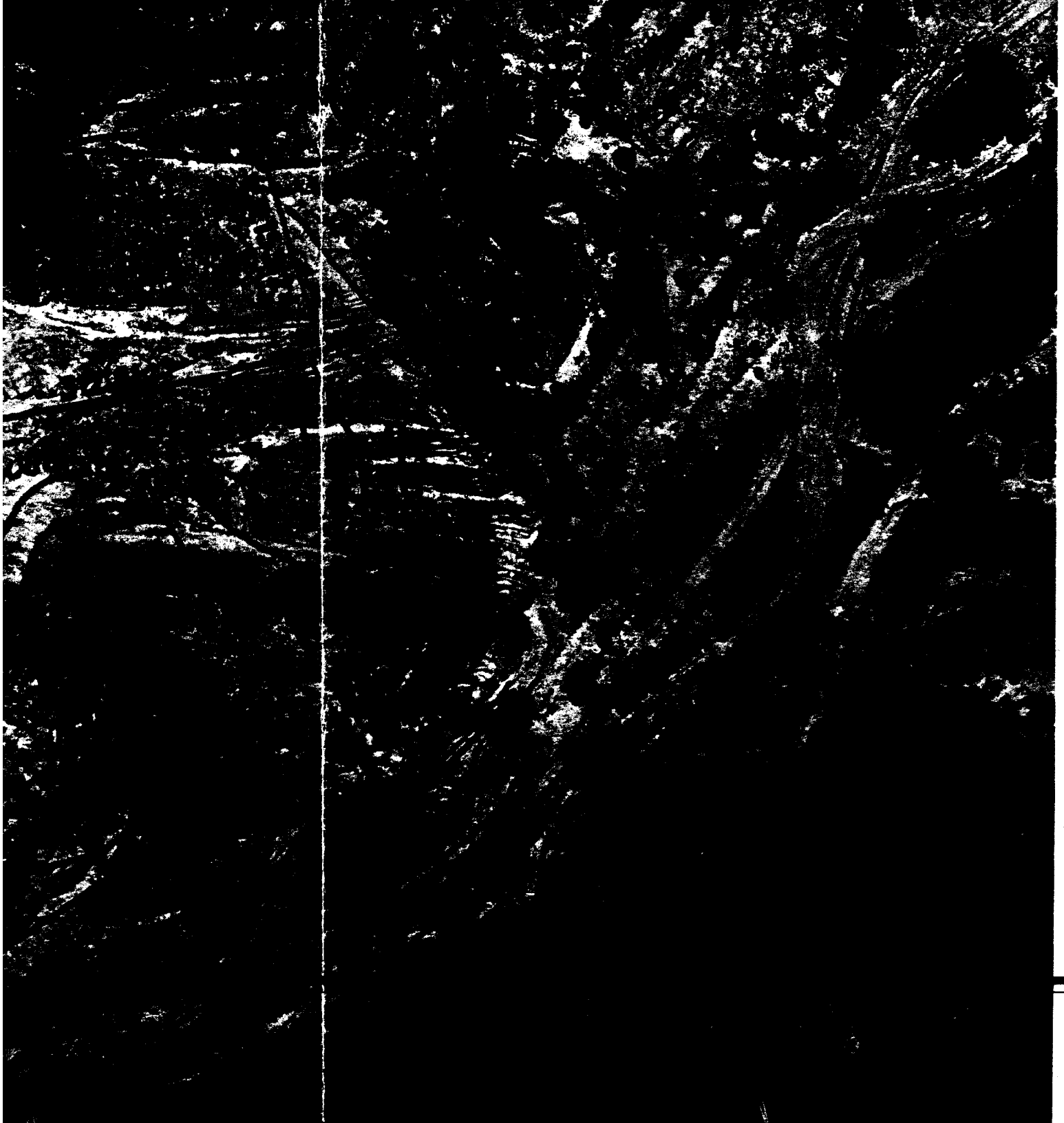
Oil & Gas Specialties Co., 11321 Todd St., Houston, Texas 77055

the following-described real estate in Santa Fe County, New Mexico:

Township 14 North, Range 8 East, N.M.P.M.

Section 8: The northwest Quarter (NW1/4) and the West Half of the Northeast Quarter (W/2 NE1/4);

SUBJECT TO: (1) reservations and exceptions contained in the United States Patent thereof; (2) all existing roads and all easements and rights-of-way of record in the Office of the Clerk and Recorder of Santa Fe County, New Mexico; and (3) taxes, if any, which may by law consitute a lien but which are not yet due and payable.



1741006


STOCK PILE
& PROCESSING
4.7116 AC
N 28°37'31" E
142.84
138.88
312.81
217.03
193.54
99.2
153.24

Exhibit "NW-2"

1741006

Looking @ Site From East
Road Leading To New Disturbed Areas

Exhibit "NN-3"

1741006

Looking @ Site From North East
Road Leading To New Disturbed Areas

Exhibit "NN-4"

1741006

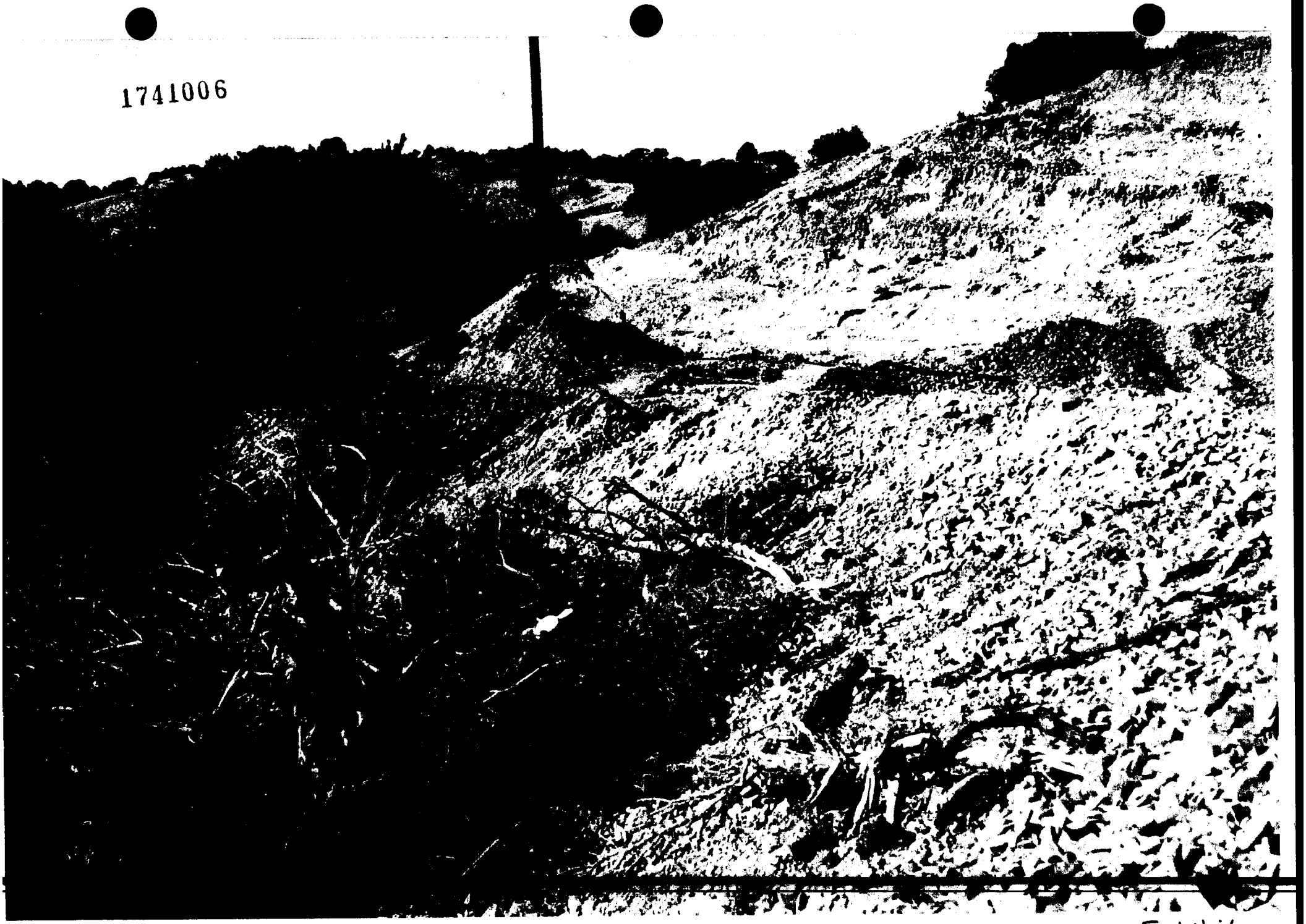
Looking @ Site From North East
Disturbed Area To Power Lines

Exhibit "NN-5"

AREA MINED W/OUT PERMIT

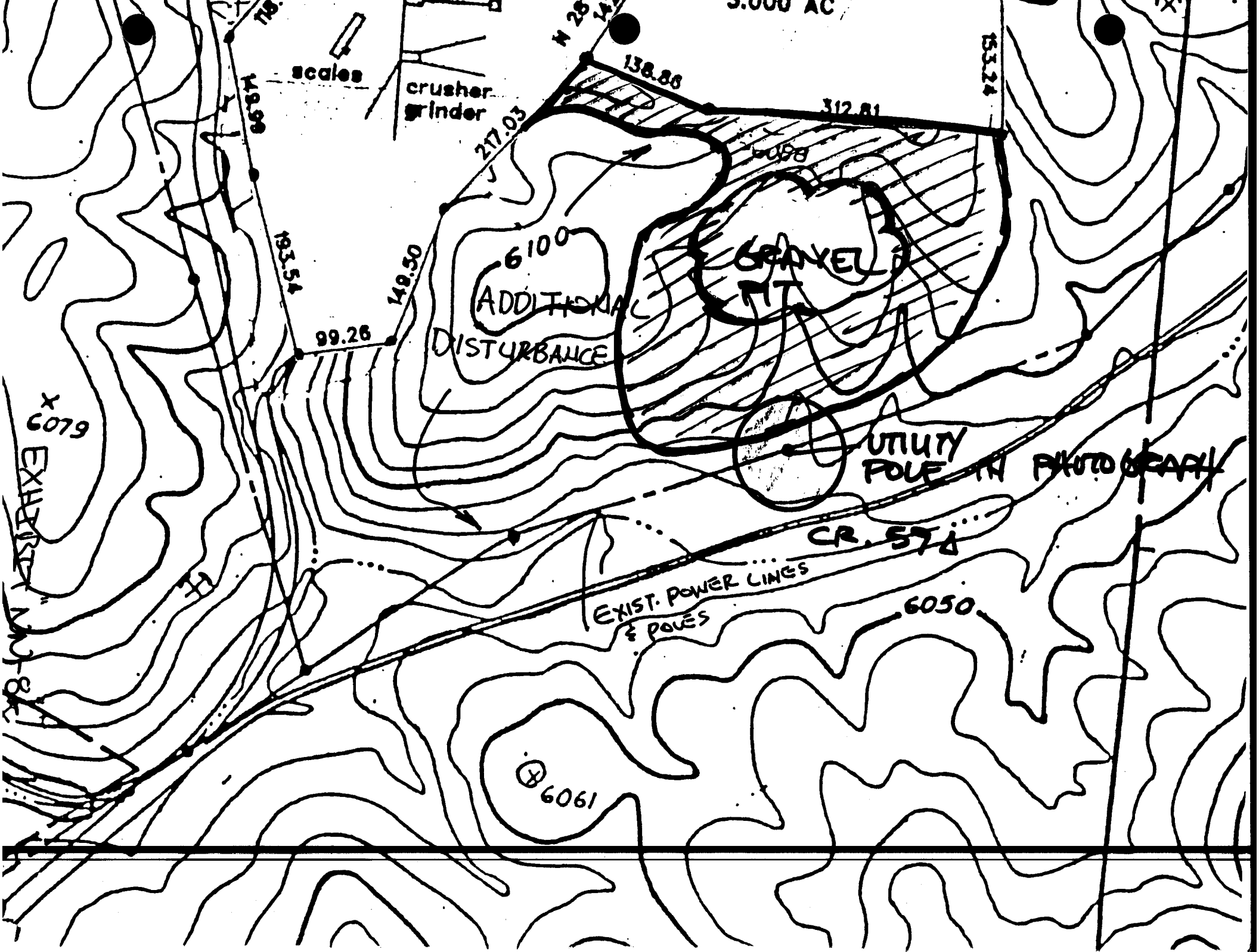
Dec 31, 1999

1741006



NEWLY DOWNED TREES • UTILITY POLE AT EDGE OF NEW PIT

Exhibit "NN-7"


3.000 AC
scales
crusher
grinder
138.86
312.81
153.24
149.98
217.03
193.54
149.50
99.26
6100
ADDITIONAL
DISTURBANCE
GRAVEL
UTILITY
POLE
PHOTOGRAPH
CR. 574
EXIST. POWER LINES
& POLES
6050
6061
6079
EXISTING
MT-84

Jan 25, 2000

[redacted]

To the county commissioners,

1741006

Dear Sirs,

As a resident of Santa Fe county who lives on Rt. 14, between the Lone Butte and Cerrillos I am writing to ask you to revoke CGP's permit now.

For years this company has been mining in excess of their legal permit, and has violated many of their conditions of operation.

The affect on the village of Cerrillos has been terrible. The constant traffic of huge overfilled gravel trucks stirring up dust, driving [redacted] fast has made life there unpleasant, unhealthy, and unsafe.

Driving on Rt. 14 to town I often count in excess of 70 8 trucks. They drive fast, and on the road

Rebecca Walding
50 Main Street (P.O. Box 146)
Cerrillos, NM 87010
505.474.4931

January 23, 2000

1741006

To Board of County Commissioners:

First, let me state that my husband and I have bought several loads of gravel from the Cerrillos Gravel Pit in the past few years. It will be inconvenient, and probably more expensive, to buy gravel in Santa Fe and have it delivered to Cerrillos. That said, Cerrillos is clearly a much nicer living environment when the gravel pit is not operating.

We live in the Village. When the trucks are running, the town is dusty and noisy. They can be heard from almost everywhere. If we are walking in the hills we have to hurry to get far away from the roadways because when the trucks roar by it is impossible to breathe or see your way. There were a number of days when I was headed into work in Santa Fe and there were eight to fifteen trucks all lined up at the entrance of Cerrillos and along Highway 14 - waiting until 8:30 when they were allowed to enter the Village. I cannot imagine how noisy and dusty it must be for those people living along the road that those trucks travel on hour after hour.

The trucks on Highway 14 are positively scary. A person unlucky enough to get stuck behind them, can count almost always count on a cracked windshield and the trip to Santa Fe taking at least fifteen minutes longer than usual. The trucks speed up at all possible passing places and can grind down to 3 miles an hour going uphill. They rarely help a car pass, and in some cases purposely make it impossible. I have seen too many people pass in unsafe places out of sheer frustration. I have two cracked windshields of my own from debris flying off the gravel trucks.

I have often wondered to myself how a business such as this is allowed to operate in a setting like Cerrillos. I was horrified to find out that they are also using water illegally and are in violation of any number of operating conditions. I cannot believe that this Board could, in all good conscience, allow the gravel pit to re-open. It seems to me that there is a flagrant disregard of authority involved. The noise, dust and cracked windshields are the price the community pays daily, not to mention the permanent scar on the hills.

Rebecca Walding

Rebecca Walding

Members of the Commission

I also have complaints regarding the abuse of Highway 14 by rude truck drivers — the heave traffic, noise and dust — and I have replaced a windshield — but for me the real outrage arises from the Countys failure to enforce current laws and the allowing (if in fact true) the breaking of those laws by Portillos Gravel Products. A failure to address this public outcry could result in a class action suit against the County.

1741006

L. Moore
3621 SR 14
Santa Fe 87508

January 25, 2000

To the County Commission of Santa Fe:

Dear Sirs,

1741006

As a resident of Highway 14, I have been subjected to daily disruptions of ~~my~~ commute to and from Santa Fe by the oversized gravel trucks run by the S&S - Contractors of Richard Cooke at the gravel/mine North of Cerrillos. The mine itself has consistently overstepped its bounds in terms of water use, mining boundaries, etc. It is time to shut it down. I urge the Commissioners to excercise their authority over this operation.

Sincerely,

David Bacon
54 San Marcos Road West
S.F. 87505

SANTA FE BOARD OF COUNTY COMMISIONERS
PERSONAL TESTIMONY OF MARK ERICSON
REGARDING CERRILLOS GRAVEL PRODUCTS

January 25, 2000

Santa Fe County Commission Board Members
Santa Fe County Courthouse
102 Grant Avenue

1741006

Dear Sirs:

As a resident of the village of Cerrillos, I have personal experiences regarding the negative impact of the Cerrillos Gravel Mine.

South of the mine, just on the east edge of Gravel Pit Road (a county road), there is a natural spring with abundant flow. A spring with flow this strong is rare in this region. Any spring with this abundant flow would normally be supporting many different kinds of life. This is not the case. There is one very dust laden rabbit bush above the spring, a small number of clumps of crab grass and virtually no other life in the vicinity of the spring.

As I was examining the spring on December 28th, 1999, a gravel carrying truck from the mine passed by. The resultant cloud of very fine dust choked me and I had to run out of it to get a fresh breath. I then realized why there was so little life near the spring. The dust is so fine and so abundant that it chokes off the life forms. To my knowledge, this is a violation of the Clean Water Act, which is intended to protect natural surface waters from such abuses.

The road has been widened near the spring, the road dust and gravel has been bulldozed to the sides, and the spring flow is lost in the piled dirt. (see attached photos) Because of this, the flow of the spring does not extend very far from the spring and very few animals or other creatures can benefit from this natural miracle of water in this dry part of the world.

Cerrillos Gravel Products (CGP) has operated this mine illegally from the beginning. CGP does not possess the water rights required by law in order to operate such a mine, CGP has mined much more than the originally permitted three acres, CGP has not abided by the reclamation conditions stipulated in the operation contract, and then there is this further insult to this natural spring which is not even located on the mine owner's property.

Last February I was nearly run off Highway 14 by three gravel trucks heading south towards Cerrillos at very high speed. I have three cracks in the windshield of my truck that I know have come from rocks dropped by trucks carrying gravel from the mine north of Cerrillos on Highway 14. During the fall of '97 much of Highway 14 south of the Lone Butte was resurfaced and improved. Within days of this careful and time-consuming work, the overweight trucks damaged the road, creating wavy areas that made it hard to hold onto the wheel. The northbound lane, traveled by the loaded trucks, is clearly the most impacted, being more cracked and worn.

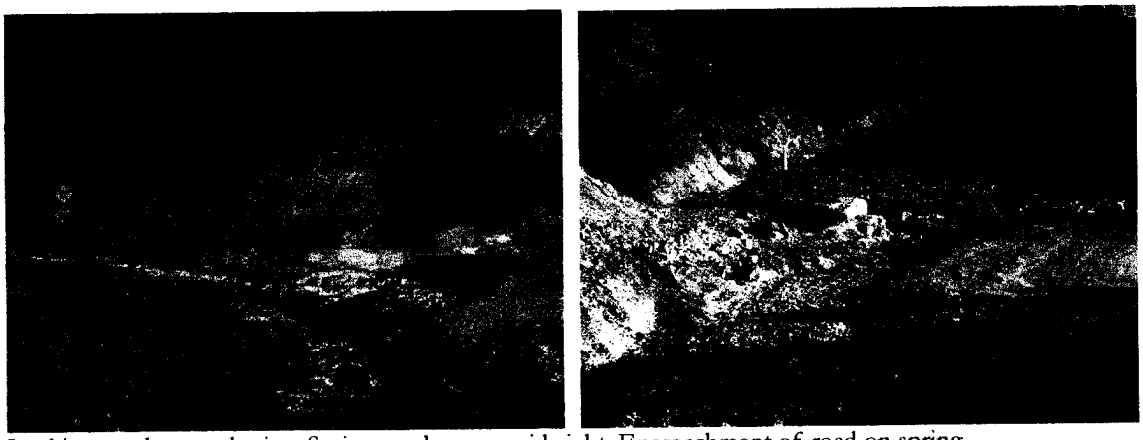
The continued disregard of, and disrespect for the law, and the continued insults to the local citizens, the local highway, and the natural environment warrant only one course of action on the part of the Board of County Commissioners – revocation of Cerrillos Gravel Products' permit to operate.

1741006

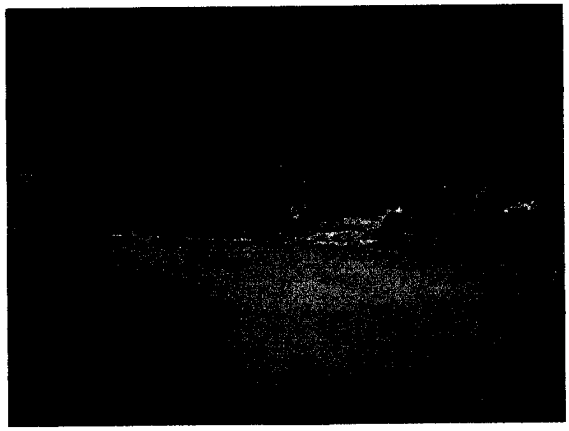
Sincerely,

Mark Ericson

Mark Ericson
P.O.Box 552 / 28 River Street
Cerrillos, New Mexico 87010



Looking north toward mine. Spring can be seen mid-right. Encroachment of road on spring.



Width of road.



Dust and bulldozed area.

comments before the BCC - Jan. 25, 2000

1741006

EXHIBIT 12

This is not an issue of ideology about m
in general, but rather about a particular mislocated facility that is being operated by a bad actor who is giving mining a bad name.

The observation is made that the Cerrillos Hills are a traditional mining district. But this tradition never included such densities of modern 18 wheelers taking illegaly what would be valuable for future sustainable uses.

It is my opinion that CGP has no credibility and must be directed to commence with closure and reclamation.

Ross Lockridge, Resident of Cerrillos
PO Box 22
Cerrillos, NM 87010

EXHIBIT 13

Santa Fe County
23 Jan 00

Comments to the Board of County Commissioners concerning the operation of Cerrillos Gravel Products.

Because I will be unable to attend the meeting I would like these comments entered in the record.

1741006

First, the road up the arroyo/canyon to the CGP site has been gated, effectively blocking traditional access to public (BLM) lands beyond the site. While the road has been maintained to ease the passage of up to 80-100 tractor-trailers per day the choking dust put up by the trucks has covered adjacent vegetation. Eventually this coating of dust will negatively affect the ability of plants to transpire and kill them. The effects of the dust on surface water, in the form of springs and seeps along the road, is, as yet, unknown.

Second, an overview of the quarry to anyone with even a casual knowledge of land dimensions reveals that the size of the disturbed land far exceeds the 3 acres permitted and is likely to exceed 10 acres at present.

Third, the trucks... each morning, approaching Cuillon from the south on SR 14, the first thing I notice is the thick pall of dust over the CGP access road, spilling down over the village cemetery and, in spite of the prevailing winds, over the village itself as both laden and empty trucks speed back and forth. Once on the highway these trucks become a very real danger to other motorists, especially tourists (on whose presence much revenue accrues) who are totally unprepared for the onslaught of over-laden and returning empty trucks. Over the last few years of the intense pressure put on SR 14 by the increased truck traffic of CGP vehicles the deterioration of the road surface is painfully evident. And, although I personally leave a large gap between my vehicle and the trucks while following them - this is often difficult when 2 or 3 of them are creeping up a hill at about 25 mph - I have, on several occasions observed large a

small chunks of pavement break free as the trucks drift over the right side line and onto the road verge.

I have suffered 2 cracked windshields and some paint damage caused by flying gravel from the trucks - some loads are covered by a flapping tarp, most are not.

On 2 occasions I have witnessed CGP trucks forcing smaller vehicles from the road. Both occurrences took place in the vicinity of the San Marcos Feed Store where the highway widens.

Almost daily I find myself confronted by trucks from CGP approaching around curves in my lane as they straddle the center (double yellow) line at excessive speed. It is also disconcerting - and dangerous - to see trucks travelling well in excess of 70 mph closing rapidly on my rear bumper. In light of the fact that a large percentage of these trucks have been

found to have mechanical problems it is a wonder that more accidents have not occurred.

1741006

It is high time for the Santa Fe County Commissioners to stand on their collective hindlegs and address the concerns of their constituency rather than those of the exploiters and developers who currently burden our county's infrastructure and endanger both our lives and quality of life.

Sincerely,

Lawry Sager
P.O. Box 203
Cerrillos, NM, 87010

illegal use of H20 over 17 years; and the violation of conditions of operation; and the state and county being chief benefactors of this gravel operation in the Santa Fe area (ROADS); we must look at the larger picture of the Quality of life for all the local residents of this area, AND that New Mexico's economy is based on tourism at this moment in history, and this mixed use road is counter-productive to the Scenic Drive and Arts related businesses in Madrid-Cerrillos and along the Turquoise Trail. Bigger picture is Tourist dollars for many; not the enrichment of Richard Cook with the disregard of everyone and the environment.

As a foot note; I have no problem with the continuation of C&G as a small local business which supplys the community with gravel products, (as in the distant past). My concern is with the present overblown, greedy, Richard Cook operation.

Sincerely,

Christopher Hodge

Christopher Hodge, PO Box 258, Cerrillos, NM 87010
AKA Woofy Bubbles 2872 Main st. Madrid
(505) 471-1083

over

1/25/00 1741006 #4 RE:
Boards of County Commissioners C.U.P.

I am a concerned citizen of the Madrid-Cerrillos area, I have an Art Business in Madrid; have lived here about 10 years and have experienced the quality of life erode the last couple of years due to the increase of Trucks on the road from the Cerrillos gravel Products mine. There have been more than 80 trucks a day and you can always count on being stuck behind at least one on the commute to Santa Fe. We all have watched the deterioration of the roads and I have had a shower of gravel, "pit" and finally "crack" my windshield (a cost of $200. plus.)

State Highway 14 is a "state scenic Biway" and is in the process of becoming a "National Scenic Biway" and having this extreme Truckload (slow to speeding) is running counter productive to the stream of tourists which use this road and contribute to our local economy. My life depends on this business, and from Santa Fe & ABQ visitors. We have had an increase in gravel Truck traffic thru Madrid as well.

In addition to the over mining;

January 25, 2000

To The Board of County Commissioners: 1741006

My name is Busy McCarroll-Banner. I have lived in the Village of Cerrillos, New Mexico for 19 years. My husband, Baird Banner, has lived in Cerrillos for 27 years. We own 3 buildings on 1 acre of land inside the village (where we have our home and business) and we own 20 acres of land right outside the village east of Highway 14. My husband purchased all of this land in 1973.

Along with many of the other issues that have been addressed regarding the *Cerrillos Gravel Products*, another of my concerns is the gravel trucks and their presence on Highway 14 'The Turquoise Trail'. I have had numerous close calls avoiding automobile accidents with them. They are massive in size and barely fit in the driving perimeters of the Highway. Highway 14 is a very windy and narrow trail. Because of their size and weight, the trucks have a difficult time maneuvering on such a road. They speed down the hills and go incredibly slow up the hills. It is difficult to pass them, because of the road and because, they take up so much room, you can't see around them when it is possible to pass. They don't pull over to allow you to pass them, and they ride dangerously close behind vehicles.

In our family, we have had 3 separate windshields replaced due to the rocks that fall off the trucks.

In the mornings they line up at the entrance into the village across from the Post office, waiting until they can enter for their pick up. Many of the trucks hang out in the road to the village and are sticking obtrusively out onto the highway. When they are there, they create a blind spot and it is often impossible to see the oncoming traffic in order to enter Highway 14.

Being the mother of a teenaged daughter, one of my major concerns is this: she has recently become a new driver and is now on the road with these trucks. This is a constant concern to her father and me. I insist that she call us when she gets to school, so we know that she made it safely on the road with these trucks.

I have a close friend that was in a near fatal accident 2 years ago with one of these trucks and his life is not the same.

Not only are they operating illegally, these gravel trucks are very dangerous, consistently rude in their approach to driving and do not belong on a narrow, windy road such as the Turquoise Trail.

As a concerned citizen and parent, I ask that you please revoke the Cerrillos Gravel Products permit to operate in and around our village.

Thank you very much for your concern in this matter.
Sincerely,

Busy McCarroll
P.O. Box 171
Cerrillos, New Mexico 87010
(505) 471-0051

Busy McCarroll

Concerning Cerrillos Gravel Products
Jan. 25, 2000

1741066

My name is Ann Murray. It has been my honor to have lived in the village of Cerrillos for 27 years. I have worked on both the recent community plan and in development of the Cerrillos Hills Historical Park. I am speaking today as an individual who is concerned with planning the best sustainable future for our area.

The impacts of what has quickly become a large scale industrial enterprise in the Cerrillos Hills are many. Our once quiet village is now dominated by large 18 wheelers spewing diesel fumes, dust and gravel. Cerrillos has one thing happening and that's gravel trucks coming and going nose to tail. We were told by Greg Upton at their last permit hearing that an average of 8 trucks a day was what they were running, but we can experience hundreds a day.

We were told by out of state owner Brad Aikens that trucks were no more commotion than the local hot rod or the train that passes through town. This is not true. Gravel trucks dominate our village downtown area, and then dominate the highway. The 50 mile round trip to Santa Fe instead of a scenic rural route, is now a gravel truck haul route with often 3 trucks in front of you 3 trucks behind you and trucks passing from the other direction every 5 minutes. The once scenic Turquoise Trail is often a dangerous and nasty drive to Santa Fe, stinking of toxic diesel fumes.

The many in our community (Cerrillos is not a rich place) are carrying this heavy burden for the enrichment of Texan Brad Aikens and millionaire Richard Cook. Gravel pit jobs for local villagers are nonexistent and hope for tourist oriented business is limited to weekends only when the trucks are not suppose to be running. Cerrillos Hills Historic Park, a park focused in part on honoring previous historical mining, plans to schedule events on weekends only, mainly because of heavy truck traffic.

How can balance be regained for our community? The Rev. Brad Aikens could do something more creative with his land, something that could benefit himself and the community too. Instead of a pit we cold have an outdoor amphitheater to showcase the talent of our many local musicians. Instead of a crusher, a recreational facility is much needed. He is now surrounded by one of the most exciting parks being purchased by Santa Fe County. This area is soon to be recognized as one of, if not the, oldest mining area in the U.S. He has endangered ancient mine sites just beyond the boundary of the present pit. There is much potential to resolve this conflict and enrich our community but this must be resolved before further damage occurs. I am willing be part of a meeting to discuss community friendly alternatives to what is presently an unhealthy activity focused only on making money.

Ann Murray
PO Box 22
Cerrillos, NM 87010

Ann Murray

William E. Kuchar MD, FAAFP, FACEP
PO Box 343
Cerrillos NM 87010
PH. 424-9660

January 25, 2006

Board of County Commissioners
Mr. Terry Brunner
Mr. Javier Gonzales
Mr. Mark Trujillo
Mr. Joe Grine
Mr. Richard Anaya
Mr. Paul Duran

1741006

Subject: The revocation of Cerrillos Gravel Products Permit of Operation

Gentleman,

As a practicing, licensed medical doctor, board certified in Emergency Medicine and Family Practice and a homeowner in the Village of Cerrillos I wish to address the following issues that pertain to the detrimental effects from the Cerrillos Gravel Products operation.

The detrimental medical effects are from the dust and motor emissions that is created by:

- the gravel trucks carrying dust laden gravel from the quarry
- the dust from the dirt road carried by the winds down the canyon
- the dust stirred up as the trucks drive down not only First St., but also Railroad St, Second Street, and Main Street
- the prolonged stationary idling trucks on main street during the day and at the Post Office intersection on Hi-way 14 before 8:30 AM.

The medical effects are:

- **Respiratory Conditions**:
  - Asthma. Regardless of the type of asthma, thick dust as produced by this operation, is a major factor in aggravating asthma and precipitating attacks. I can speak personally to this as I have family members with this condition.
  - Chronic Obstructive Airway Disease (COPD). Many visitors and several long-term residents of the village, who may or may not have smoked, have definite breathing conditions commonly referred to as emphysema or COPD. These individuals are limited in their breathing reserve and are markedly effected by air pollutants. Like smog, road and gravel dust is a major offending agent. These individuals must stay indoors or avoid the east-end of the village on days when the trucks rolling.
  - Allergies. Individuals suffering from Eye or Ear, Nose and Throat Allergies frequently are allergic to dust or their condition markedly aggravated by dust. Again the conditions created by the continuous dust clouds that the Gravel operation creates make it extremely difficult for such individuals to live in or visit the village on weekdays.
  - Truck Motor emissions. As a homeowner at First St and Main I have personally observed the motor emissions of the trucks as they set idling their engines for prolonged periods of time. This creates pockets of fumes that persist because of the geographic and climate conditions of the village. The are noxious and have a negative effect on visitors and residents of the village suffering from any type of pulmonary condition.
  - Because of the adverse effects of the heavy dust exposure on medical conditions of members of my family I found it of necessity to move from my residence in the village.

- **Dermatological Conditions**

- Atopic Dermatitis and eczema. Residents suffering from these or any skin condition where irritation or dryness are aggravating factors must suffer the deleterious effects the daily coating of dust from gravel trucks.

The Cerrillos hills are known to contain numerous minerals not the least of which are lead and silicone. The medical significance of chronic exposure to these two is well established. Lead veins are known to exist from the early pre-historic miners. Silicone is found in quartz and crushed gravel.

- Lead. Lead dust is found in the paint of earlier homes. Lead dust also can exist in the gravel from this quarry juxtapositioned to the known early Lead veins. It can also exist on the dirt roads leading from the quarry. Lead once inhaled or ingested into the body accumulates and is never excreted or eliminated. If not detected and treated the lead is deposited in the brain and can lead to mental retardation, especially in children.
- Silicone when inhaled can be deposited in the lungs leading to Pulmonary Fibrosis and chronic scarring. Silicone in the lungs of a person who smokes can greatly increase the chance of the individual developing types of lung cancer.

Other heavy metals such as Mercury, Cadmium, Nickel, Arsenic etc. from the quarry rock itself and/or contamination from the previous mining and smelting do exist in the Cerrillos. Are they in toxic levels? The actual content and the medical risks of these metals needs to be determined and preventative measures taken to eliminate any medical risk to the visitors and residents of the village.

The detrimental economic effects of Cerrillos Gravel Products on the village of Cerrillos

- Tourism. Residing at 37 Main Street in Cerrillos I have had the opportunity to personally observe the tourists coming the village especially to First Street. Visitors come in tour buses and in automobiles to experience the historic charm of the village. The gravel trucks also arrive and are noisy, spewing emission fumes, scattering dust from their gravel loads and stirring up dust from the occasionally watered down but mostly dry dirt roads of the village. These tourist visitors must cover their noses cautiously watch to avoid the trucks as they walk down the village to the various points of interest. This is not a happy experience and only hurts the tourist trade that comes to Cerrillos,
- I attempted to start a bakery/food service enterprise in Cerrillos. However this was not completed for various reasons. One important one was the dust and noise from the Gravel truck traffic. These two conditions made it impossible to provide the needed outdoors seating for customers. Noise and dust do not provide for enjoyable eating.
- Cerrillos Gravel Products provides no positive economic input or growth for the Village. The only economic effects are negative to the residents and existing businesses. And negative in that they discourage any new residents or businesses.

I ask the Board of County Commissioners how can they support Cerrillos Gravel Products: when they have grossly violated the Conditions of Operation; when they have overmined their limited acreage; when they have illegally used ground water for 17 years; when they have created conditions that are harmful to the residents and visitors of the village and when they have contributed only negative to the community. Where is your concern and loyalty to the residents of Cerrillos and the county of Santa Fe.

Respectfully submitted

William E. Kuchar MD, FAAFP, FACEP

1741006

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As a resident living on highway 14 - the Turquoise Trail Scenic Route - a very residential area with rapid growth and many residential drive ways between the Galisteo turn-off and County Rd 44/45. I have encountered speeding gravel trucks and irresponsible behavior of it's drivers. Because of excessive speed they have to use their jake-brakes to slow down and are creating acceleration noise pollution which can be heard miles away.

As a member of the San Marcos Assn. I have had many telephone calls from our members relating to these problems. Calls to Cerrillos Gravel and Mt. Upton reduced the problems short term. If you have a chance to drive on SR 14 you will be able to observe the [redacted] tire marks left near most private entrances on SR 14. It verifies the sever danger these trucks are to residential drivers and tourists.

We need more police protection regulating the highway speed with appropriate fines for all drivers !! CGP needs to find another route out of Cerrillos to Interstate 25.

Jean M. Boyce
471-0276

1/25/2000

Santa Fe Board of County Commissioners
Terry Brunner, Javier Gonzales, Mark Trujillo, Joe Grine, Richard Anaya, Paul Duran

1741006

Re: Cerrillos Gravel Products

As MY county commissioners, elected by your respective constituents to oversee and enforce the laws of the county and protect the welfare of its citizenry, I EXPECT you to act within those parameters without giving special consideration to any one interest!

I am OUTRAGED that a business has been operating:
1) With a permit listing the incorrect deeded owner.
2) Extending their area of mining way beyond their permitted boundaries.
3) Without legal onsite water rights.
4) Consistently in violation of their Conditions of Operation
5) With general disregard for the safety and welfare of the local residents.

CERRILLOS GRAVEL PRODUCTS has been documented as operating illegally and without proper oversight for several years and the County has condoned or "just looked the other way"!

As a RESIDENT and VOTING CITIZEN, I respectfully ask the Board of County Commissioners to acknowledge the laws that govern the rights and the welfare of the citizens of Santa Fe County and REVOKE the permit and ENFORCE THE LAWS that apply to this mining operation.

Sincerely,

Beverly Fung
241 Bonanza Trail (1.6 miles NE of CGP's operation)
Santa Fe, NM 87505

1/25/2000

Santa Fe Board of County Commissioners: Javier Gonzales, Mark Trujillo, Richard Anaya, Joe Grine, Paul Duran, Terry Brunner

Re: Cerrillos Gravel Products 1741006

As a resident of the Lone Butte area, I feel it necessary to bring to your attention the extreme danger of speeding trucks racing though this congested area heading to the Cerrillos Gravel Products operation. It is a terrifying experience to turn onto or off of Highway 14 to access any of the business establishments in the area, or driveways on the highway, or county road 44 and 45. I pray you are not waiting for a fatality in this area to address the issue.

In addition, it was recently brought to my attention that CGP has been illegally using ground water in their operation. As my residence and water well are located fairly near their site, it greatly concerns me that they are depleting a very scarce resource of the neighboring residents.

Thank you for your attention.

Virginia Morris
248 Rancho Alegre
Santa Fe, NM 87505

To: The Commissioners (BCC)

1741006

STATEMENT

Because Cerrillos Gravel Products has blatantly and with great disregard for the public welfare, failed to live by the conditions of approval that dictate specific hours of operation, that require dust abatement, that forbid disturbance and mining of the Becco site, that require them to establish and operate within permanent boundary markers, that require them to have legal water rights for their operation, and that require CGP to provide an *approved reclamation plan* to Land Use (as required as well by Magistrate Court in 1996);

Because Cerrillos Gravel Products has failed to act to control independent gravel haulers used as subcontractors and has compromised the health, safety, and well being of the citizens of Santa Fe County, as well as any others that may use State Highway 14, by allowing overweight and ill-equipped trucks to perform services on their behalf;

We, the Rural Conservation Alliance, recommend the following:

1) That the County immediately revoke CGP's existing permit based on the violations as stated above and listed on the attached document, as well as documentation from County Land Use.

2) That closure be initiated at the mining site and reclamation commence after CGP has acquired the legal water rights as required by state water right law.

3. That an <u>independent</u> reclamation specialist be hired to work with the County and CGP on an approved reclamation plan.

4) That the citizens be involved in this process, as represented by the Rural Conservation Alliance.

5) That upon compliance with the above, if CGP wishes to continue mining that they be required to make application for a new and totally separate permit, rather than be allowed to continue to expand and operate under their existing permit.

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The requirements to mine set forth by the Land Use Department of Santa Fe County are intended to protect the health, safety, and well being of the citizens of this county and cannot be selectively abided by. If a single operator is allowed to dictate which regulations to follow and which to ignore, then the system by which Land Use Enforcement attempts to protect the County will collapse, and unregulated and irresponsible mining will explode all over Santa Fe County, compromising scarce resources, endangering the communities, and undermining the rule of law.

RECOMMENDATION

Our recommendations have been detailed by the RCA in an agreement submitted to the County legal department (refer toTerms of Revocation of Existing Permit), and we do hereby formally request that the Board of County Commissioners adopt these recommendations and **revoke CGP's existing permit to mine.**

Edwenna Earnheart
3701 State Rd. 14
Santa Fe 87505

TERMS OF REVOCATION OF EXISTING PERMIT

1741006

The parties referred to in this document are as follows: The Board of County Commissioners ("County"), Cerrillos Gravel Products (CGP), and the Rural Conservation Alliance ("RCA").

RECITALS

1. WHEREAS, the COUNTY has documented repeated violations and numerous citizen complaints that CGP is in violation of the terms and conditions of its operation and of its permit approval; and

2. WHEREAS, CGP has illegally mined outside their originally approved three acres of disturbance, and

3. WHEREAS, CGP does not have legal water rights to mine and have consistently claimed in all of their submittals (since 1984 to present) that they had water rights, and

4. WHEREAS, the COUNTY desires to permanently revoke CGP's existing permit to mine the Cerrillos, New Mexico site and commence closure and reclamation of this site,

Now, therefore, the following terms are agreed upon by all parties hereto:

TERMS OF AGREEMENT

1. CGP and its operator, Associated Asphalt, shall immediately cease all mining, material removal, hauling activities and operations at the site.

2. CGP shall acquire legally permitted water rights and demonstrate proof of said water rights to the COUNTY in a letter from the Office of the State Engineer verifying the legality of their use for the purpose and place intended, prior to any reclamation activities at the mining site, as required by state water right law.

3. CGP shall hire an independent surveyor, approved by the COUNTY, to survey the site using permanent markers, indicating the total amount of disturbed acreage, including the originally permitted three acre area and the Becco site.

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4. CGP will submit a revised Reclamation Plan, which will include all surveyed areas, as indicated above, and must describe in detail current conditions at the mining site. The revised Plan must comply with all the terms of the Conditions of Approval.

5. CGP will hire an independent reclamation specialist, approved by the COUNTY, to review, analyze, and submit a cost estimate for the Reclamation Plan. This analysis must be considered by the COUNTY, prior to approval of said Plan.

6. CGP will provide a financial guarantee, as stipulated in #13 of the Conditions of Approval, to insure sufficient funds to provide for reclamation of all disturbed areas outside the permitted mining area, and a separate financial guarantee sufficient to provide for reclamation of the permitted area, in accordance with Paragraph 5 above.

7. The COUNTY will keep the RCA apprised of the current status of all above requirements, all meetings with CGP, and will send copies of all correspondence relating to CGP to the RCA's attorney.

8. The RCA will be allowed to visit the CGP site, when accompanied by COUNTY officials, to maintain community and citizen involvement in the reclamation and closure process, and to show 'good faith' by CGP to the community that they are in compliance with the conditions stipulated above.

9. Upon compliance with all the above, and when reclamation is completed by CGP and approved by the COUNTY land use, then CGP will be allowed to make application for a new and totally separate permit under the COUNTY land use regulations in existence at the time of permit application.

10. This agreement shall inure to the benefit of, and shall be binding upon, the successors, heirs, executors and administrators of the parties.

VIOLATIONS

171100

1. County Land Use has documented repeated violations and numerous citizen complaints that CGP is in violation of the terms and conditions of its operation and of its permit approval; (Exhibit, Memorandum to BCC from Charlie Gonzales dated January 25, 2000) and (Exhibit Letter to Greg Upton from Diana Lucero dated July 6, 1999).

2. CGP has mined illegally outside the original three acres of disturbance approved by the BCC in 1984. (Exhibit NN, Santa Fe County Land Use and Charlie Gonzales memorandum dated January 25, 2000.) (Exhibits of aerial and 35mm photos taken Nov - Dec 1999)

3. CGP misled County officials in the original application process in 1983 by making false claims of ownership. The permit was granted to a party who was not the deeded owner of the property, making their original permit illegal.

4. CGP misled County officials in every application and submittal since 1983 by claiming that they owned water rights. They have illegally used water for 17 years. CGP has therefore failed to comply with state water right law and with water requirements for dust control, reclamation, and their mining operations as required by County code. (Exhibits as listed on Page 5 of Memorandum to the BCC from Charlie Gonzales dated January 25th, 2000.) (Exhibit letters from the State Engineer's office dated December 22nd, 1999 and December 14th, 1999.)

Marcos P. Trujillo
Commissioner, District 1

Paul Duran
Commissioner, District 2

Javier M. Gonzales
Commissioner, District 3

Richard D. Anaya
Commissioner, District 4

Joe S. Griñé, Jr.
Commissioner, District 5

Samuel C. Montoya
County Manager

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Co./Dept.	Co.	
Phone #	Phone #	
Fax # 758-2203	Fax #	

MEMORANDUM

DATE: January 25, 2000

TO: Board of County Commissioners

1741006

FROM: Charlie Gonzales, Inspections and Enforcement Supervisor
Roman Abeyta, Development Permits Supervisor

VIA: Estevan Lopez, Land Use Administrator

FILE REF: **CDRC CASE #MIS 97-5230, Carrillos Gravel Products - Mining**

ISSUE:

The Land Use Administrator requests suspension of the mining land use permit due to failure to comply with water supply requirements for dust control, reclamation, and mining operations, non-compliance of outstanding conditions, and exceeding 3 acre boundary in the quarry. The property is located north of the town of Cerrillos, within Section 17, Township 14 North, Range 8 East. (Commission District 3)

SUMMARY:

In 1983, BCC granted approval to mine 3 acres. In 1991 the Mining Ordinance changed and all existing mining approvals sunsetted. They had 18 months to request approval of an existing mining use with approval of a Reclamation and Operations Plan for a gravel mine limited to three acres of disturbance. They did not come in and request for approval until July 8, 1997.

In 1997, the Board of County Commissioners (BCC) granted approval to Cerrillos Gravel Products for an existing mining use pursuant to Article XI, Section 1.10, County Code. Staff is requesting that the Board suspend the Cerrillos Gravel Products mining permit pursuant to Article XI, Section 1.11 Penalties, for failure to comply with the following:

Water Supply: In 1997 the applicants submitted a reclamation plan proposing the use of 1.8 acre ft. for night irrigation, and 0.3 acre ft. for dust control. The plan referred to the availability of 6 acre ft. of on site water rights. (Exhibits A,B & C) Staff recommended approval based on the applicants claim to rights to on-site water.

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On December 14, 1999 and again on December 22, 1999 it was brought to Staff's attention by the State Engineer's Office that the applicant did not have 6 acre ft. of water rights for the purpose of mining. The applicant has applied for a domestic well permit, however, if approved, diversion of water by CGP for any purpose associated with gravel crushing and /or dust abatement is prohibited. (Exhibits D & E)

Therefore, the applicant is not in compliance with Article XI, Section 1.7:

The applicant shall submit evidence that the applicant has obtained an adequate water supply as evidenced by the appropriate permits issued by the State Engineer's office/ Interstate State Stream Commission of the State of New Mexico. (Exhibit F).

An adequate water supply is required to accommodate dust abatement for the project along with any additional disturbed areas out of the 3 acre quarry and on the road to the site. According to the 1997 proposed reclamation plan, additional water will also be needed for small water spray bars used to suppress dust created throughout the crushing, screening and conveying operation. (Exhibit G) The water issue will also affect the reclamation submittals. These submittals are based on water availability on-site. The applicant cannot conduct reclamation/remediation without an adequate and legal water source. Extensive research of all files going back to October of 1983 has indicated or required water rights or existing wells. The applicant through its submittals has led staff to believe that the existing wells were supported by adequate water rights, therefore condition number 10 was imposed. (Exhibits H thru. P, before BCC meeting of July 8, 1997) (Exhibits Q thru. Y, after BCC meeting of July 8, 1997 to date). Condition number 10 states that "All water wells which have pumps or are being used must be metered and results reported to the State Engineers Office and the County Hydrologist every six months". In order to attempt to comply with this condition of approval, the applicant has submitted a letter dated September 15, 1998 to report CGP water usage. (Exhibit Z) In addition, the reports to the CDRC and BCC indicated the property has two wells. Many drilling tests have been conducted for exploratory ventures in the past as well as construction of observation wells. The existing home currently utilizes one of the wells for domestic use. (Exhibit AA)

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Carrillos Gravel Products
BCC Hearing, Page 3

The applicant has stated that it is hauling in water to the site. (Exhibit BB) All submittals received have never indicated hauling in water to the site, to include the traffic impact report or proposed Reclamation Plan. This would increase the required Financial Guarantee.

Outstanding Conditions of Approval: The 1997 Board approval was subject to 26 conditions. To date, seven have not been complied with. The following are still outstanding:

Condition 4.	The 3 acre mining area and current operating area shall be defined by a Licensed Land Surveyor, and highly visible (PVC pipe) permanent monuments and markers will be set to define the permitted areas. All future mining and operations shall be confined to the working areas permitted in this application.
Staff response:	The permanent monuments have not been consistently defined and mining has exceeded the 3 acre mining area.
Condition 10.	All water wells which have pumps or are being used must be metered and results reported to the State Engineer's Office and the County Hydrologist every six months. (Explained earlier in report)
Staff response:	Applicant has not been consistent with providing staff with metered results. Further, water rights for commercial use have not been provided.
Condition 13.	The Reclamation Plan shall be revised to include costs of dirt work and reclamation conforming to a current NMSHD cost estimating schedule. When approved by the Building & Hydrology Division Director, a financial Guarantee shall be arranged to cover 120% of estimated project costs.

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Condition 14.	Revegetation Plans shall be designed by the applicant, and reviewed and approved and accepted by the Building Permit Division Director and County Hydrologist.
Condition 15.	The Reclamation Plan's specified plan for recontouring and preparing reclaimed slopes shall be amended to include drill seeding where physically possible.
Staff response To conditions 13, 14 & 15:	To date the proposed Reclamation Plan has not been approved. The submittals received are based on on-site water availability, which has not been established. Staff held meetings over a two-year period with the operations manager to try to resolve these conditions.
Condition 19.	The time of CGP related semi trailer truck traffic operation within the village of Cerrillos shall be 8:30 to 4:30, Monday through Friday.
Staff response:	Staff has received numerous complaints about truck traffic operation within the village before 8:30 and occasionally working on weekends.
Condition 23.	All commercial, semi, tandem/dual axle trucks must have tarps completely covering their loads and their bumpers and step sides will be cleaned of loose material prior to entering the village.
Staff response:	Staff continues to receive numerous complaints about the requirement to tarp trucks. Staff verified this complaint on one occasion and notified CGP via letter. (Exhibit CC)

Unpermitted Expansion: It is apparent that the applicant has disturbed areas out of the approved 3 acre quarry area. It is presented on the reports to CDRC and BCC along with memos and letters in the file. (Exhibits DD thru. MM)

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Additionally, a recent aerial photograph by the NM Highway Dept. dated November 2, 1999 shows evidence of extensive new disturbance outside the permitted 3 acre quarry supported by other photographs as well. (Exhibit NN)

REQUIRED ACTION:

The BCC shall review and consider the findings of the report; and take action to allow Cerrillos Gravel Products to continue mining, or suspend or revoke the mining land use permit.

RECOMMENDATION:

Based on the applicant's lack of appropriate water rights, non-compliance of outstanding conditions, and un-permitted expansion of the 3 acre mining quarry, Staff recommends that the mining permit be suspended until compliance is achieved.

EXHIBITS:

Exhibit "A", 1997 Reclamation Plan Submittal, 1.0 acre feet.
Exhibit "B", 1997 Reclamation Plan Submittal, .33 acre feet.
Exhibit "C", 1997 Reclamation Plan Submittal, 6 acre feet.
Exhibit "D", Letter from State Engineer's Office. 12-14-99.
Exhibit "E", Letter from State Engineer's Office. 12-22-99.
Exhibit "F", Article XI, Section 1.7, Sand & Gravel Ordinance.
Exhibit "G", 1997 Reclamation Plan Submittal, Water Spray bars.
Exhibit "H", Letter to Land Use from McFadden, 10-3-83. 6 ac. feet
Exhibit "I", Letter of app. with conditions from CDRC. 11-23-83.
Exhibit "J", Submittal letter to Land Use, 10-3-83. Capped wells.
Exhibit "K", Submittal letter to Land Use, 10-3-83. 6 acre feet.
Exhibit "L", Response letter from CGP, 12-6-86. Water truck use.
Exhibit "M", John Shoemaker water report, 4-24-97.
Exhibit "N", Letter from Mangas, 5-7-97. Water requirements report
Exhibit "O", Memo from Land Use to CGP, 3-4-97. Water supply.
Exhibit "P", CDRC Report, 5-29-97. Wells.
Exhibit "Q", BCC Minutes, 7-8-97. Water truck purchased.
Exhibit "R", BCC Minutes, 7-8-97. Meter ordered, not installed.
Exhibit "S", Letter from CGP to Land Use, 8-27-97. Meter installed
Exhibit "T", 1997 Reclamation Plan Submittal, Temp.sprinklers.
Exhibit "U", 1997 Reclamation Plan Submittal, Water report.
Exhibit "V", 1997 Reclamation comparison, LAC & CGP. Sprinklers.
Exhibit "W", 1997 Reclamation Plan Submittal, Well locations.
Exhibit "X", Letter from Land Use to CGP, 2-13-98. Water meter.
Exhibit "Y", Memo to CGP on status of conditions, 9-10-98. Meter
Exhibit "Z", Letter from CGP reporting water usage, 9-15-98.

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Cerrillos Gravel Products
BCC Hearing, Page 6

Exhibit "AA", CDRC Report, 5-29-97. Existing home using well.
Exhibit "BB", Letter from Associated Asphalt, 1-13-2000. Purchasing water from the City of Santa Fe.
Exhibit "CC", Letter from Land Use to CGP, 8-19-99. Untarped truck
Exhibit "DD", CDRC Report, 5-29-97. More than 3 acres disturbed.
Exhibit "EE", Affidavit from Chuck Heaton, March 1996. More than 3 acres disturbed.
Exhibit "FF", Response from CGP, 12-6-96. Have not disturbed more Than 3 acres.
Exhibit "GG", Letter to CGP on status of conditions, 2-27-98. Have Not Complied with conditions.
Exhibit "HH", Memo in File from Staff, 10-5-98. Expanded out of 3 Acre area.
Exhibit "II", Memo in File from Staff, 6-9-99. Expanded out of 3 Acre area.
Exhibit "JJ", Letter to CGP from Land Use, 6-23-99. Place markers.
Exhibit "KK", Letter to CGP from Land Use, 7-6-99. Response to 1997 Master Plan & 1998 additional 3 acre request. Disturbed more than 3 acres.
Exhibit "LL", Land Use response to proposed Reclamation Plan, 8-24-99.
Exhibit "MM", Response from CGP, 10-13-99.
Exhibit "NN", Aerial photograph of expansion and other photos.

Marcos P. Trujillo
Commissioner, District 1

Paul Duran
Commissioner, District 2

Javier M. Gonzales
Commissioner, District 3

Richard D. Anaya
Commissioner, District 4

Joe S. Gr[illegible], Jr.
Commissioner, District 5

David [illegible]olf
County Manager

July 6, 1999

1741006

Cerrillos Sand and Gravel
c/o Mr. Greg Upton
P.O. Box 87
Cerrillos, NM 87010

Re: Response to Letter dated June 28, 1999

Dear Mr. Upton:

As per your request, the following is a response to your 1997 master plan and a response to the 1998 request for an additional 3 acre area.

1997 Conditions of approval:

(County Response will be in bold below each condition)

1. Recent, and ongoing unpermitted improvements on the lands owned by the applicant will be brought into compliance with all aspects of the County Land Use Code, including roads, dwellings, liquid waste treatment, etc. An archeological study, all other requirements of the County Code, will be required for any new land development on the 240 acre property.

   A site visit revealed that activity has taken place on the BECCO site, which is clearly a violation of the above condition of approval. An application has never been submitted for any development at the BECCO site.

2. CGP grants enforcement/inspection access to the County during regular business hours. County Enforcement Officers will at that time issue a notice of violation if the property is found to be in violation of the approved plan.

   The Land Use Department concurs that CGP has fulfilled this condition. As of this date, entering the property is not as issue.

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3. All operation and reclamation plans will be revised to more accurately depict the existing mining and operation areas.

All operations and reclamation plans must be up to date as of July 1999. All submittals must reflect current conditions.

4. The 3 acre mining area and current operating area shall be defined by a Licensed Land Surveyor, and highly visible (PVC pipe) permanent monuments and markers will be set to define the permitted areas. All future mining and operations shall be confined to the working areas permitted in this application.

A recent site visit revealed that this condition has been complied with.

5. The current active areas, and areas disturbed by CGP will be accurately depicted on the topographic map and plans; and all mining, operations, and disturbed areas calculated and reported by an LLS or PE.

The actual current state and extent of disturbed areas needs to be accurately depicted on plans and areas calculated by an LLS or PE.

6. All stockpiles outside the permitted area shall be removed within 180 days of CDRC approval.

As in item 5, existing stockpiles need to be shown and areas calculated. As of this date a large stockpile is located at the operations entrance. It is Staff's position that this is not considered a permitted area. Therefore, this must be removed immediately.

7. All areas disturbed by CGP outside the surveyed monuments shall be recontoured and revegetated according to the County approved reclamation and revegetation plan as soon as weather permits but no later than September 1, 1997.

Need a statement as to reclamation efforts conducted to date, and status. No reclamation plan was ever approved by staff.

8. Removed

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9. All excavations and surface hazards on the property shall be fenced and posted.

This condition has been complied with. However, it shall remain in effect throughout the duration of the mining operation.

10. All water wells which have pumps or are being used must be metered and results reported to the State Engineers Office and the County Hydrologist every six months.

Please continue to submit evidence of well metering and water use per month or every six months as required.

11. To protect the springs within the valley occupied by Gravel Pit Road, the existing road will be stabilized, without encroachment, in the vicinity of natural springs, within ninety days of CDRC approval. Natural discharge, flow and ponding points will be protected by large boulders lining the road. CGP will coordinate with the Building and Hydrology Division Director on an acceptable plan.

The position of the Land Use Department is that this road has not been stabilized in the vicinity of the natural springs. Rudy Garcia and Martha Aragon of the Land Use Department were out on the site on August 26, 1998. The vicinity of, and the actual springs were disturbed and a grader was out on the road at that time re-grading the road, which was causing disturbance to these areas.

12. For the purposes of field inspections, and before issuing permits, plans and specification for operation and reclamation specific to the 3 acre mining area and associated operating areas shall be clearly described and reflected on all plats and plans. A copy of the approved plans shall be kept available on site.

Your submittal data of 3-10-98 was received. Please provide up to date maps and plans depicting current state of the project as condition #4 reads.

13. The Reclamation Plan shall be revised to include costs of dirt work and reclamation conforming to a current NMSHD cost estimating schedule. When approved by the Code Enforcement Section Supervisor and County Hydrologist, a Financial Guarantee shall be arranged to cover 120% of estimated project costs.

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The reclamation plan and financial guarantee shall be up to date in accordance with plan approved by staff. Staff to date has not approved a reclamation plan.

14. Revegetation plans shall be designed by the applicant, and reviewed and approved and accepted by the Code Enforcement Section Supervisor and County Hydrologist. Native trees shall be included in the final plan.

The reclamation plan and financial guarantee shall be up to date in accordance with plan approved by staff. Staff to date has not approved a reclamation plan.

15. The Reclamation plan's specified plan for recontouring and preparing reclaimed slopes shall be amended to include drill seeding where physically possible.

The reclamation plan and financial guarantee shall be up to date in accordance with plan approved by staff. Staff to date has not approved a reclamation plan.

16. No post reclamation slopes shall exceed 30%.

Show slope contours on reclamation plan.

17. Natural drainage ways shall be restored to simulate natural flow channels after reclamation.

This condition has not been addressed, please address in reclamation plan.

18. A pre-construction conference shall be held with County Staff prior to any field activity outside the permitted mining area, and prior to any reclamation.

This condition has not been addressed. The applicant has clearly mined outside the 3 acre area (including BECCO site), without a pre-construction conference or County approval, and the applicant has not provided reclamation of any kind.

19. The time of CGP related semi trailer truck traffic operation within the village of Cerrillos shall be 8:30 to 4:30, Monday through Friday.

The Land Use Department finds general compliance with this condition; however, the department staff have monitored area prior to 8:30 A.M. and compliance for traffic control of heavy trucks has been met.

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20. CGP will hire a traffic and road specialist to prepare a report describing alternate shipping routes and their potential that avoid the Village of Cerrillos. The study will consider existing and likely truck routes, terrain, ownership and cost and other impacts. Alternative routes leaving the mine area, and alternative to Highway 14 (i.e. Waldo Exit) must be examined and their feasibility assessed. This report will be made public and reported to County Staff within 6 months of CDRC approval. If no route is found, CGP within 6 months of CDRC approval will engineer and pave Gravel Pit Road from the cattle guard to the railroad tracks on the north side of the Village. Plans to be reviewed and approved by County Staff provided all owners adjoining this portion of the road are in agreement as well as the Public Works Department.

The Land Use Department feels the applicant has exhausted all possibilities to comply with this condition.

21. A speed limit of 10 miles per hour shall be observed approaching and within the village.

The Land Use Department finds this condition to be in general compliance.

22. Until paved, CGP will keep the road watered to control dust as needed from the south bank of the San Marcos Arroyo to the railroad tracks.

The Land Use Department finds the applicant does keep the roads watered to some degree. However, it is unclear as to consistency of this condition by CGP.

23. All commercial, semi, tandem/dual axle trucks must have tarps completely covering their loads, and their bumpers and step sides will be cleaned of loose material prior to entering the village.

The Land Use Department has sent out enforcement officers periodically to verify that condition has been met. It is the County's position that trucks have not been consistent with having loads completely covered, as we have received numerous complaints from Cerrillos area residents.

24. The County may seek to enforce the requirements of these conditions if they are not complied with within twelve (12) months of the CDRC approval, and may do so administratively or in a court of law.

1741006

The Land Use Department finds that some of the above referenced conditions have not been complied with. Roman Abeyta, with the Land Use Department will be in contact with you in the next few days to set up a conference so that we can discuss possible remedies to the outstanding issues. Please be advised, that we are currently reviewing our records in relation to the BECCO site. As stated above, it appears that you may have continued to operate in this area, despite the direction given you in the past either by correspondence or from discussions with County Staff. Any violation of the County Code that may have taken place will be acted upon accordingly.

As per your request to mine an additional 3 acre area, this will not be addressed until such time that the above has been satisfied.

If you have any questions regarding this matter, please do not hesitate to contact this office at 986-6225.

Sincerely,

Jack Kolkmeyer
for
Diana Lucero

Diana Lucero,

Acting Land Use Administrator

Marcos P. Trujillo
Commissioner, District 1

Paul Duran
Commissioner, District 2

Javier M. Gonzales
Commissioner, District 3

Richard D. Anaya
Commissioner, District 4

Joe S. Griñé, Jr.
Commissioner, District 5

David Wolf
County Manager

1741006

August 24, 1999

Cerrillos Gravel Products, Inc.
c/o Mr. Greg Upton
P.O. Box 87 or 6 Rail Road
Cerrillos, NM 87010

RE: COUNTY STAFF RESPONSES TO THE PROPOSED RECLAMATION PLAN RE-SUBMITTED SEPTEMBER OF 1998.

Dear Greg,

This letter is a follow up as per our meeting on Friday August 20, 1999. As we discussed, staff was consolidating their responses to the Reclamation Plan mentioned above. The following is a list of those comments/questions which need to addressed prior to approval of the proposed Reclamation Plan:

Page 2 *No work is to be done at Becho Site at all, not even stockpiling.*
In order to address these concerns, CGP will continue to reduce dust by sprinkling the gravel portion of the road and discuss paving of road. *This is also to your advantage, I am surprised there has not been any accidents yet, there is also actually a visibility problem on your road due to dust. In addition, staff is still receiving complaints about trucks not being tarped.*

Page 10 **If CGP quarry operations are limited to the existing 3 acre area then operations will eventually result in a 50' - 70' deep pit.** *What elevation are we at currently at this site?*
CGP believes that the County still has the $5000 reclamation bond for this quarry posted by Becho. *Staff is currently researching this and has found no record of this financial guarantee.*

Page 11 **The pit shall be smoothed out, and terraces or transverse ditches shall be placed to retain natural runoff and rainfall. No high walls would remain and a slope of 1:1 would be maintained from the edges of the pit to down to the center.**

1741006

Page Two, CGP Reclamation Review

Page 11 **The area outside the pit, and the entire operation area, will be regraded, smoothed out, topsoiled, prepared, planted, mulched and revegetated, using the techniques described below.** ***Please provide details/sections to show this. The detail in exhibit V-7 is too small. Submit a section which shows the terracing and transverse ditches more detailed. Also Exhibit IV-1 calls for transplanting trees. Explain this. According to appendix 1, the earliest reclamation would start on any of the sites is January 2002. Is this correct?***

Page 12 **Based upon consultation with County officials, reclamation was begun to the high wall to 3:1 slope; however, work was later stopped by County officials and presently only the previously stockpiled loose waste rock is being removed as per approval of condition No. 6.** ***This area needs to be left undisturbed at this time, this includes stockpiling of material as well.***
Topsoil will be placed to a depth of 4-6", using a front end loader along with hand finishing. ***Staff would like to see this increased to 8-10". This way this insures more of a revegetation successful rate. Staff is also interested in reviewing the report mentioned.***

Page 13 **The topsoil needed for a 3 acre parcel will take approximately 14 to 22 days to produce under normal operation.** ***Staff would like to see a sample of this material.***

Page 13 **Native trees will be planted on the sloped areas but not in the flats.** ***Reference: Item number 4 of letter from C.J. McFadden dated March 22, 1984 to Mr. John Lopez, Assist. Land Use Administrator, Santa Fe County as exhibit IV-1 stating;*** **"We would like to reiterate our commitment to reclamation of the site at the close of operations as:**

4.) "Replanting of any trees removed in our operation in fertile holes and water holes and water retentive ditching to irrigate replanted trees of Pinon and Juniper varieties native to the landscape."

Staff has not reviewed or received an existing tree count plan to determine the amount of trees this will affect.

1741006

Page three, CGP Reclamation Review

Page 15, 16 **Estimated Costs of Reclamation. The total cost of reclamation of the existing 3.0 acre quarry and the 5.2 (4.7?) acre operations area is $5,105.00.** ***These estimates are based on your own operation, performing a substantial amount of the work. Staff needs estimates from an outside professional reclamation operation, in order to accept a reasonable estimate for the financial guarantee. Staff has found no record of an existing financial guarantee of $5,000.00 for the Becho Site.***

Page 20 **Sediment Retention Dam.** ***This needs to be inspected by County Staff. Staff could not find a detail in the submittal reviewed. It might have been missed.***

Page 21 **Aquifer recharge rate is far in excess of the relatively small volume of water used for dust control and domestic purposes or even under severe drought conditions for supplementing average rainfall as noted above.** ***Dust control needs to be maintained. Staff would like to see a watering schedule available.***

Page 30,31 **CGP's hours of operation. CGP's quarry, crushing and sorting operations produce minimal amounts of dust and CGP has purchased a water truck to dampen roads in order to minimize road dust.** ***Staff has recently been receiving complaints about trucks coming from CGP as early as 6:30 A.M.***

In addition, as you recall we agreed upon placing larger rocks to protect the existing springs located adjacent to the gravel hauling road.

Thank you for meeting with me on resolving these issues. Please keep in mind, this is only a portion of the condition list you are working on. You need to continue to work with staff to finalize compliance of the conditions of approval. If you have any questions or comments, please contact me at 995-2716.

Sincerely,

Charlie Gonzales

Charlie Gonzales
Inspections & Enforcement Supervisor

cc: Diane Lucero, Land Use Administrator
Jack Frost, County Hydrologist

STATE OF NEW MEXICO
OFFICE OF THE STATE ENGINEER
SANTA FE

1741006

THOMAS C. TURNEY
State Engineer

December 22, 1999

BATAAN MEMORIAL BUILDING, ROOM 101
POST OFFICE BOX 25102
SANTA FE, NEW MEXICO 87504-5102
(505) 827-6175
FAX: (505) 827-6188

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Brad Aitken
Cerrillos Gravel Products, Inc.
11603 Easterling
Houston, TX 77065

Dear Mr. Aitken:

On December 2, 1999, a field inspection was made to Cerrillos Gravel Products (CGP). That inspection concluded that CGP is currently in violation of New Mexico water right law and the rules and regulations of the Office of the State Engineer. On the day of the field inspection Greg Upton, site manager for CGP, was informed of this violation. The requirements of this office were explained to him at that time. On December 13, 1999, Mr. Upton filed an application to use an existing well for domestic purposes. Once that application is approved, CGP may divert water from that well for domestic purposes only. **Diversion of water by CGP for any purpose associated with gravel crushing and/or dust abatement is currently and will remain illegal until an application is filed and permit for such use is approved by this office.** New Mexico law requires that an application of this nature be published, and is subject to protest and hearing.

Through its site manager, CGP has been verbally informed of the need to file an application for diversion of any water used at the gravel operation. However, as of today's date, no application has been filed with this office. This letter serves written notice to CGP that until a permit such as the one described above is approved by this office, no water diverted from any well at the CGP site may be used for any purpose associated with the gravel production operation. Use of water from any other source likewise requires permit through this office. **Failure to file the necessary application by January 7, 2000, shall result in referral of this matter to our Legal Services Division.**

Please feel free to contact me if you have any questions regarding this matter or your obligations under New Mexico law.

Sincerely,

Mary K. Young
Water Rights Division

xc: District I/Albuquerque
Santa Fe County Land Use
Mary Humphrey, Esq.

STATE OF NEW MEXICO 1741006
OFFICE OF THE STATE ENGINEER
SANTA FE

THOMAS C. TURNEY
State Engineer

BATAAN MEMORIAL BUILDING, ROOM 101
POST OFFICE BOX 25102
SANTA FE, NEW MEXICO 87504-5102
(505) 827-6171
FAX (505) 827-6188

December 14, 1999

Santa Fe County Land Use Department
P.O. Box 276
Santa Fe, NM 87504

ATTN: Charles Gonzales

Dear Mr. Gonzales:

On December 2, 1999, a field inspection was made to Cerrillos Gravel Products (CGP). That inspection concluded that CGP is currently in violation of New Mexico water right law and the rules and regulations of the Office of the State Engineer. CGP was so informed. On December 13, 1999, CGP filed application to use its well for domestic purposes. Once that application is approved, CGP may divert its well for *domestic purposes only*. Diversion of water by CGP for purposes associated with gravel crushing and/or dust abatement will remain illegal. Such diversion will have to be applied for under as specified under New Mexico statute, will be required to be published, and will be subject to protest.

CGP has indicated an intent to comply with New Mexico statute and the rules and regulations of this office. In the interim, any information Santa Fe County may have regarding historic diversion of water from CGP wells will be helpful in evaluating their application.

Sincerely,

Mary K. Young

Mary K. Young
Water Rights Division

xc: Cerrillos Gravel Products
Mary Humphrey, Esq.
District I/Albuquerque

1741006

STATE OF NEW MEXICO
OFFICE OF THE STATE ENGINEER
SANTA FE

THOMAS C. TURNEY
State Engineer

BATAAN MEMORIAL BUILDING, ROOM 101
POST OFFICE BOX 25102
SANTA FE, NEW MEXICO 87504-5102
(505) 827-6175
FAX: (505) 827-6188

December 14, 1999

Mary E. Humphrey, Esq.
P.O. Box 1574
El Prado, NM 87529

Dear Ms. Humphrey:

In response to your letter of November 16, 1999, an investigation into the state of compliance by Cerrillos Gravel Products (CGP) with New Mexico state law and the Rules and Regulations of the State Engineer was initiated. Said investigation concluded that CGP is currently in violation of the law. On December 2, 1999, CGP was notified of the need to acquire permit through this office for the use of ground water for both dust abatement as well as for domestic purposes. As of this writing, CGP has filed an application for domestic use under NM 72-12-1, and has indicated the intent to file an Application to Appropriate one (1) acre-foot per annum under 72-12-3. That application is expected to be filed on or before December 17, 1999.

Thank you for bringing this matter to my attention. You may be sure that every effort will be made to obtain compliance with the law.

Sincerely,

Mary K. Young
Water Rights Division

xc: District I/Albuquerque

1/25/2000

1741006

Santa Fe Board of County Commissioners
Terry Brunner, Javier Gonzales, Mark Trujillo, Joe Grine, Richard Anaya, Paul Duran
Re: Cerrillos Gravel Products (CGP)

When we moved to Santa Fe (Rancho Alegre subdivision) a year and a half ago, we were looking forward to living in an area with clean air. Very soon we realized that because of our proximity to the CGP operation (about 1.5 miles NE), the predominate southwesterly winds brings us dust and diesel fumes from the gravelpit.
This happens even on weekends (when there is ongoing activity at the mine) as well as weekdays! Sometimes when we are out horseback riding, we have to take another trail to avoid the dust. This is a great health concern for us, for it is known that there is lead content in the ground in this area. Has there been a test for this particulate in the dust near and around the mining area?
Additionally, how come a business such as CGP can operate for so long and even expand so much without legal water rights? We live in an area where there is a water scarcity already! Is not the law the same for everyone?
Why is CGP even given a permit to do business here?
Also the trucks doing business with this gravel operation are driving absolutely too fast on Highway 14, which is a narrow road and not suited for heavy truck traffic.
PLEASE make it a pleasant and safe place to live and lawfully revoke CGP's permit to do business near Cerrillos immediately and definately!

Kindly,

Gull Dahl
Helge Dahl

Helge & Gull Dahl
239 Rancho Alegre Road
Santa Fe, NM 87505

January 25, 2000

To whom it may concern: 1741006

We are residents of the area of Cerrillos, New Mexico and object to the gravel truck traffic on Highway 14. The truck traffic from the gravel pit is a danger and a nuisance. We have lost at least 2 windshields as a result of being hit by gravel from the trucks. Also, the trucks pose a traffic danger in that they speed down hills and crawl up them. The road is narrow and winding and is not suited for heavy truck traffic.

Thank you for your consideration,

David Kaufman
Elizabeth Jacobson
P.O. Box 399
Cerrillos, NM 87010

914 County Road 42
Galisteo, New Mexico 87540

January 24, 2000

Board of County Commissioners
Santa Fe, New Mexico

1741006

Dear Sirs:

For three months late last summer and into the fall the historic village of Galisteo was under siege. Day after day, as relentlessly as tanks marshalling for battle, Cerrillos Gravel Products' colossal trucks thundered through, shattering the peace of this formerly tranquil hamlet and threatening the fabric of its many historic houses. The levels of noise and dust were at times so great that those of us who spend our days at home were forced to barricade ourselves within our walls: to venture out meant to run the risk of choking, or being run off the road, or (not least) subjecting ourselves to the rude gestures and general ill behavior of the truckers themselves. We might as well have been living in a war zone.

There were days when we, who live two doors behind the church on County Road 42, could not see the church tower for the dust. But far more troubling to us was the damage that began to occur to the walls of our house--ours is one of the older properties in Galisteo, the Donaciano Angel Chavez House, built circa 1880, according to the Historic Preservation Division's recent study--within the first weeks of the onslaught. Great cracks appeared in the walls of the two rooms closest to the road, but even at the far end of the house we could feel the floor quaking under our feet as the trucks roared past.

At length we called in Jeff Hockersmith of Structural Systems, Inc., to assess the extent of the damage. Mr. Hockersmith had inspected the house for us in March 1999, just before we bought it; and he confirmed that the cracks in the bedroom and studio walls were indeed new and advised us on what must be done to prevent further deterioration.

Ironically, the day Mr. Hockersmith gave us his evaluation was the day the besiegement came to an end. But we are aware that the truce is at best a fragile one--and of course we are still suffering the effects of air pollution as well as the diminution of our limited water supply. The only real solution is the complete and total cessation of all gravel-mining in the area, **now**, before Galisteo (not to mention Cerrillos) becomes in fact the ghost town that a reporter from the Financial Times of London has already perceived it to be.*

We look to you, our elected representatives, for swift and uncompromising action on this matter.

Faithfully yours,

W. Christian and Joan-Salter Koch

The Rev. and Mrs. W. Christian Koch

* Cf. New Mexico (February 2000), p. 96.

January 25, 2000

1741006

To Whom It May Concern:

I am writing this letter to register my approval of Judge Padilla's decision to fine Cerrillos Gravel Products $10,000 for their blatant disregard of both the law and the well-being of the citizens of New Mexico. I am also writing to encourage the County Commissioners to permanently revoke CGP's permit. CGP has overmined, used water illegally and been responsible in various ways for the destruction and pollution of Santa Fe County. I particularly encourage Commissioner Joe Griñé to support his constituents by voting for revocation of CGP's permit. I will remember his position in the next election.

Sincerely,

Alison Tinsley
05A La Otra Vanda
Galisteo, NM 87540

BARBARA P. HILLIARD

January 20, 2000

County Commissioners
Santa Fe County

1741006

Dear Sirs:

I am writing to urge you to support the County attorney's action against the Cerrillos Gravel Products mine in Cerrillos and its operations.

Twice this past year gravel trucks working for the mine and traveling at excessive high speed on County Road 42 have run my vehicle into a bar ditch. The last time the driver had a concussion and my car was badly damaged. The driver did not stop or even slow down. The accident was reported, and I was told by the Sheriff's deputy that investigating it that there was nothing they could do about it.

These trucks as well as the mining operation itself have created physical and psychological trauma to everyone living in the Cerrillos and Galisteo areas.

I sincerely urge you to stop these ~~these~~ violations against the lives & health of these citizens.

Respectfully,

Barbara P. Hilliard
Galisteo, N.M.

Hacienda de Galisteo

Memorandum

From: Mr. and Mrs. Woody Gwyn
5636 Highway 41
Galisteo, New Mexico 87540

To: Santa Fe County Commissioners

174100

RE: Withdrawal of permit:
Cerrillos Gravel Products

Date: January 18, 2000

In the long history of Galisteo we are now owners of the Hacienda de Galisteo. As many others before us, for the past 289 years, we are quite concerned with the well being and preservation of this historic hacienda and the atmosphere that has made Galisteo unique among locations in New Mexico and the world.

Last summer (summer,1999) the ground began to vibrate to such an extent that walls of old historic buildings began to crack open, the dust in the air increased to such an extent that people could no longer sit on their front porches without choking, a peaceful walk along the dirt road that goes by the church, cemeteries and up to the ridge overlooking the basin became dangerous and ill advised, the level of noise increased to such an extent that when one was working in one's garden one could not hear the birds singing and the beauty of a procession of horses and riders slowly moving through the village was replaced with massive fast moving double load trucks that are dangerous and destructive.

We request that the Cerrillos Gravel Products permit be withdrawn in order to preserve the architecture, air quality, freedom of movement, safety of pedestrians, quiet and quality of life in the village of Galisteo.

Mr. and Mrs. Woody Gwyn

Jan. 21, 2000

To the Santa Fe County Commissioners:

As a resident of Galisteo and founding editor of the monthly newsletter, *El Puente de Galisteo,* I am writing to encourage you to ratify the withdrawal of the Cerrillos Gravel Products' license to mine gravel in Cerrillos. We are concerned as a community because of the dangerous speeds, dust, and threat to historic buildings in Galisteo when the trucks careen across County Rd. 42 to the Rte. 285 construction areas. Not to mention the water rights involved, which affect the whole Galisteo Basin.

Please give further consideration to the County residents who are not just put out, but put in jeopardy by any further delay.

1741006

Sincerely,

Lucy R. Lippard
14 Avenida Vieja, Galisteo 87540
466-1276

LINDA DURHAM CONTEMPORARY ART

12 LA VEGA GALISTEO, NEW MEXICO 87540
505.466.6600 FAX 505.466.6699

1741006

My name is Linda Durham. I live at 12 La Vega in the village of Galisteo. The back of my property, which I purchased five and a half years ago, is on Highway 41. And I do mean ON Highway 41. Part of my wonderful house is actually on highway property—although I don't understand how since the house predates the road by about a hundred years! It seems to me that the highway is on my property! But that's another story. The old part of my house dates from the early 19th century. I understand that many village babies were born in the westernmost room of the house. Many people will tell you about the ghost, Dona Luisa, with whom I share this historic home. I believe that the house is an historic treasure. I consider myself its caretaker.

I write now to express my feelings and views about the dangerous changes to this rural environment that are taking place rapidly, almost clandestinely. Highway widenings! Increased commercial truck traffic! Gravel Businesses! What is happening?

I have lived in Santa Fe County since 1966. I have never tired of the beauty and magic of this special part of the world: the incredible sky; the clear air; the wildlife; the precious sense of community that still exists in this Village and in the surrounding communities. I consider it a privilege to live here. I believe that this place is worth protecting. We, the citizens of Northern New Mexico, must not let the precious qualities of this area disappear. We cannot sacrifice that which is so fragile in these greedy, profits-first times. Once gone, these treasures are gone forever.

In December, I had to repair ugly cracks in the walls of four rooms of my house. These cracks were a result of the heavy, speeding gravel trucks that rattled past my property. I worry about the children on bicycles, the Villagers walking with their dogs, the fragile, historic church and houses...

Before it is too late, let us get our priorities straight. We lose so much when we lose the character of our countryside. I want to raise my voice and cast my votes for the protection of our rural life. No gravel mines, no commercial trucking, no pollution!

Sincerely,

Linda Durham

17 January 2000

ROMONA SCHOLDER
HC 75 BOX 43
GALISTEO, NM 87540

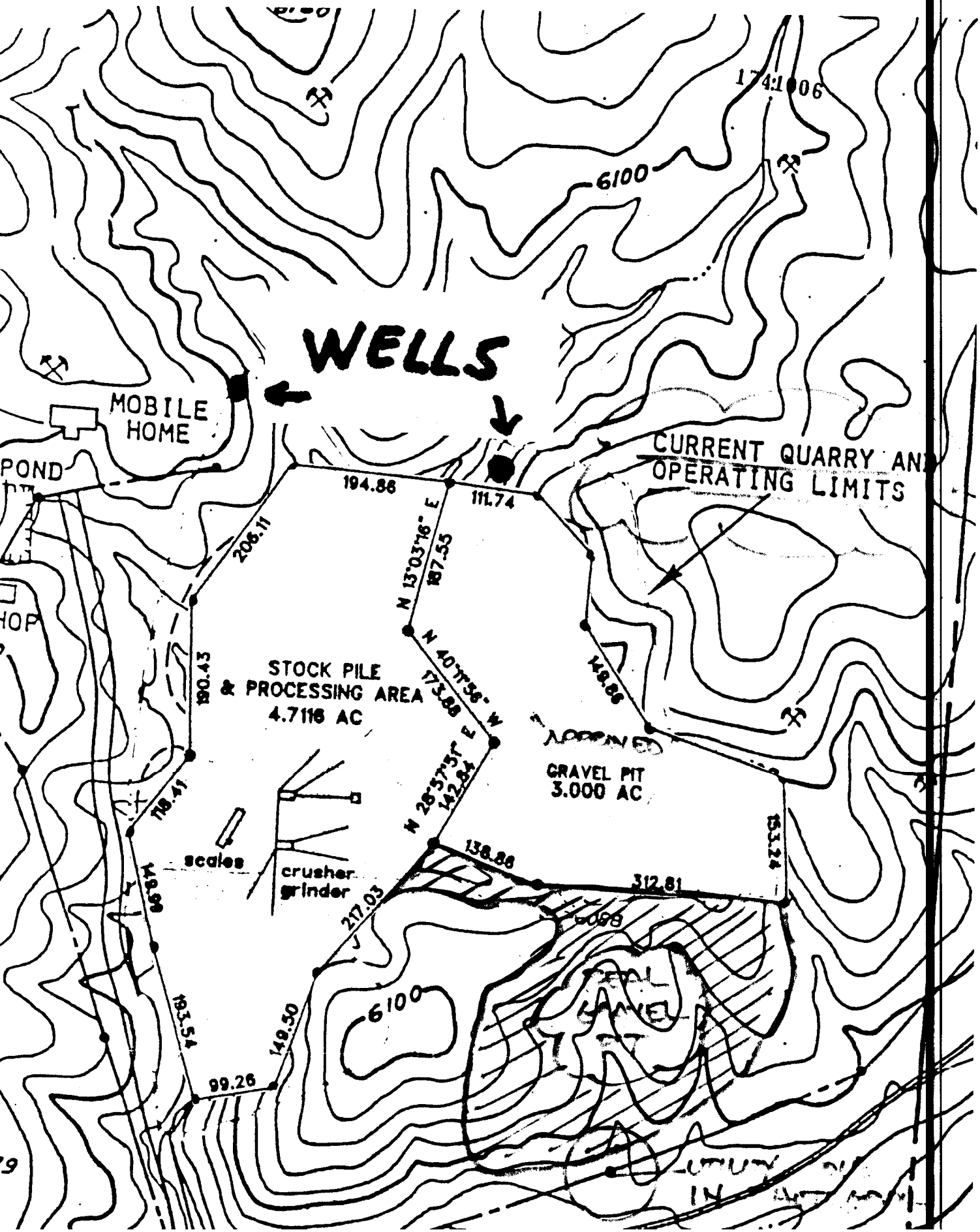
To Whom It May Concern —

1741006

My husband and I moved into our historic Galisteo home on July 15, 1972. It's located on Highway 41, just south of the church. This past summer when the gravel trucks began lumbering past the front of our house, great cracks began appearing in the walls of the room next to the highway. Mr. Manuel Lozoya and his crew began reinforcing the stone foundation with concrete this past summer, in an attempt to stop the movement of the adobe walls. More work is still to be done as the walls have continued to move, slowly but surely. You are welcome to come see for yourselves —

Romona Scholder

466 0697


WELLS
MOBILE HOME
POND
CURRENT QUARRY AND OPERATING LIMITS
6100
194.86
111.74
208.11
N 13°03'16" E
187.55
N 40°11'56" W
173.88
N 28°37'51" E
142.84
148.86
190.43
STOCK PILE & PROCESSING AREA
4.7116 AC
GRAVEL PIT
3.000 AC
118.41
scales
crusher
grinder
138.88
312.81
153.24
148.98
217.03
193.54
149.50
99.26
6100

TESTIMONY SUBMITTED
TO THE BOARD OF COUNTY COMISSIONERS
REGARDING CERRILLOS GRAVEL PRODUCTS
AND THE MOTION TO REVOKE PERMIT

January 25, 2000

1741006

I am compelled at this writing to present what experience and evidence I have to request that the BCC take immediate action to revoke the permit that CGP is presently mining under in Santa Fe County. Submitted with this document is an accompanying topographic enlargement from CGP's proposed reclamation plan as well as a color photo enlargement of the area illegally mined by CGP as of January of this year. This photo accurately locates a utility pole in the photograph as being immediately adjacent to the enlarged pit area thereby discrediting CGP's claim that they are 'in compliance with their permit' and are 'within their allotted three acres.' Other descriptive photographs of this same area are available in the submission by Charlie Gonzales from the Land Use Department, Enforcement Division.

I personally have been run of the road by a double tandem trailer hauling gravel from CGP's operation in the Cerrillos Hills. The date was 8/17/99 and the vehicle was a plum colored trailer with 'Plum Loco' on the cab. I was physically forced off the road (west) by the truck passing me on the left while another vehicle approaching us heading north on Highway 14 was forced off to their right (east). The driver of this gravel truck compromised not only my life but another driver's as well. The license plate was obscured but I followed the trailer at 85 mph until I could not, with any degree of safety, keep up. I abandoned the pursuit at the curves just south of Garden of the Gods on Hwy. 14. I immediately called the Santa Fe County Sheriff's Office and an officer came and made a report of the incident and informed me at the same time that there was little that I could do without witnesses or an actual fatal crash. The same truck was seen for several days delivering gravel north from Cerrillos and returning south empty. Incidents like these are far too common. Horrendous records of overweighted trucks and other violations are entered into the BCC (1/25/00) record from Officer Chris Mayrant of the Transportation Department. They were all delivering gravel from CGP.

It is important to state in this statement to note that I and many other citizens of the County have been trying for five years to bring CGP into some

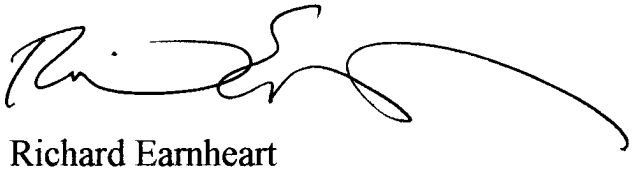
1741006

sort of reasonable compliance with the Land Use code and the Court authorized and BCC mandated conditions of approval. To this date they have failed to comply. CGP's operation is not only unlawful by virtue of the fact that they have overmined their permit, have no water rights, have violated their conditions of approval, and have failed to have an approved reclamation plan, they consistently and flagrantly compromise people's lives on Highway 14, create plums of potentially harmful dust and destroy the integrity and quality of life in Cerrillos, San Marcos, and all the way along CR 42 to Galisteo.

At this time the local citizens of this area have banded together to present an alternative to the BCC and to Land Use that is an informed, fair, and workable compromise to the present destructive and intolerable status of CGP's unlawful operation. This compromise is entitled 'Terms of Revocation of Existing Permit' and I urge you to consider this for passage.

We are under siege, but we will not surrender to the forces that consider us expendable. Richard Cook's operation at the CGP site is destroying the Cerrillos Hills and the village as well as the health, safety, and well being. We urge you to pass this motion quickly and allow everyone involved in this ongoing tragedy to have a fresh, fair start again.

Signed,



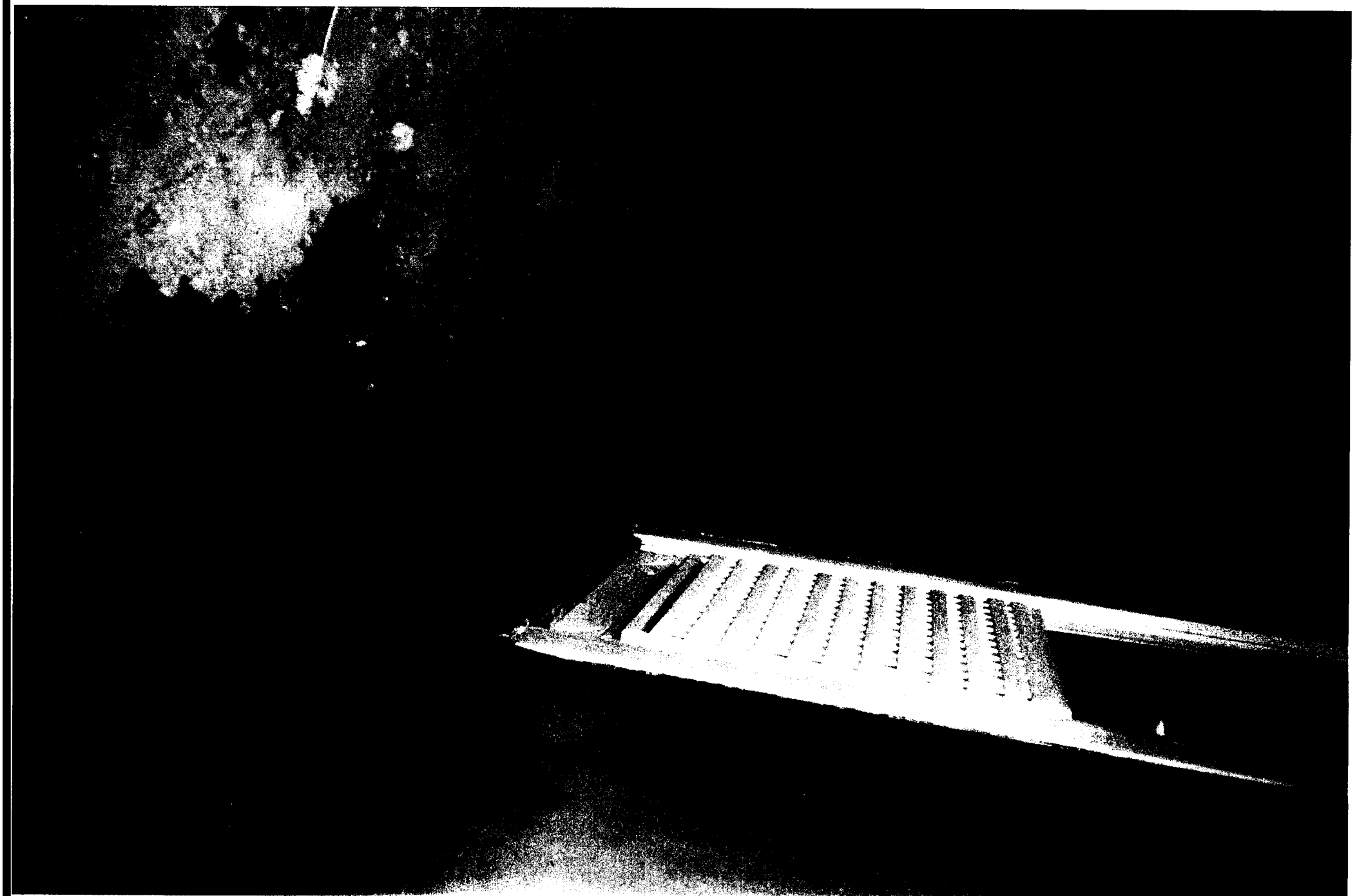
Richard Earnheart
Santa Fe
471-6165



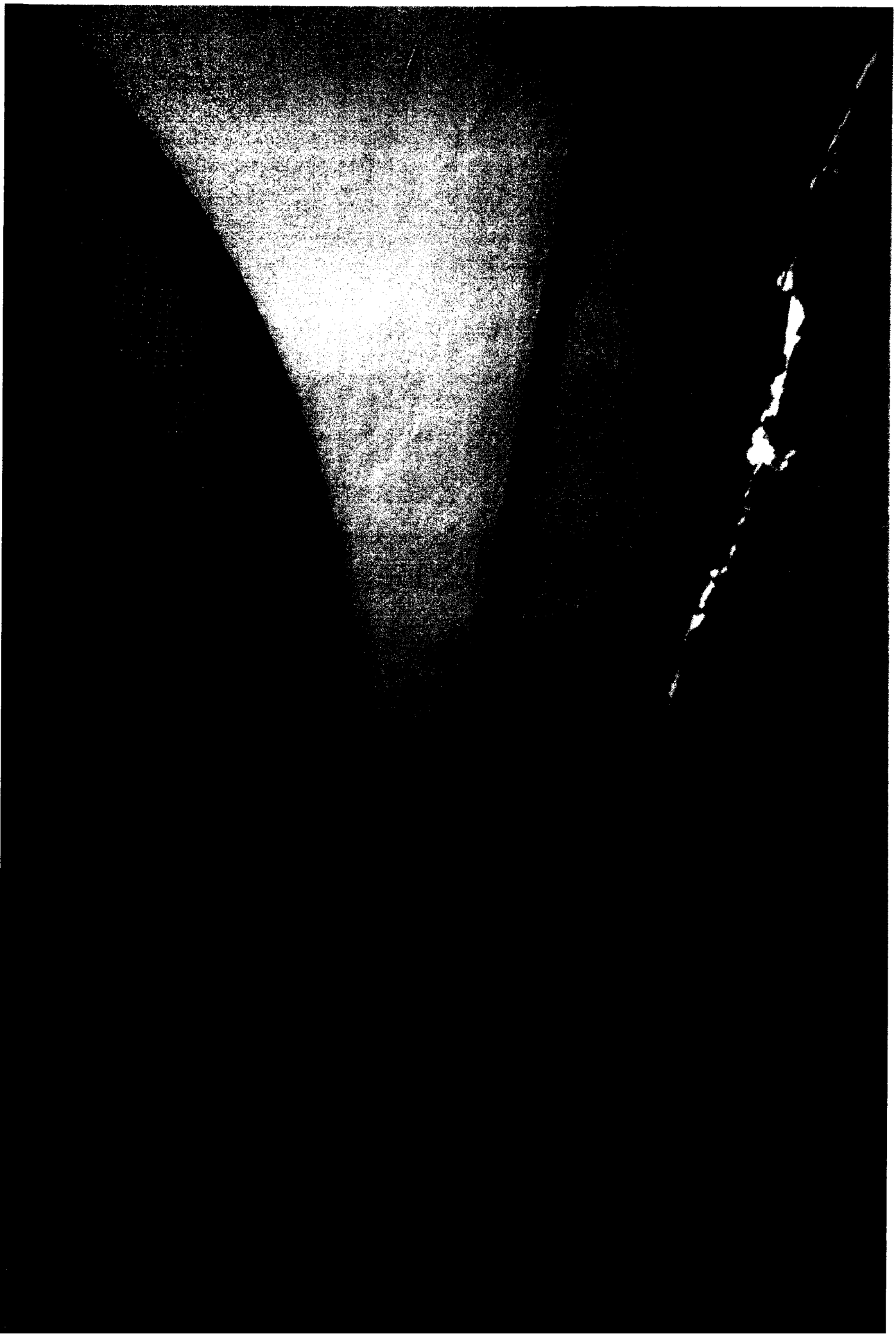


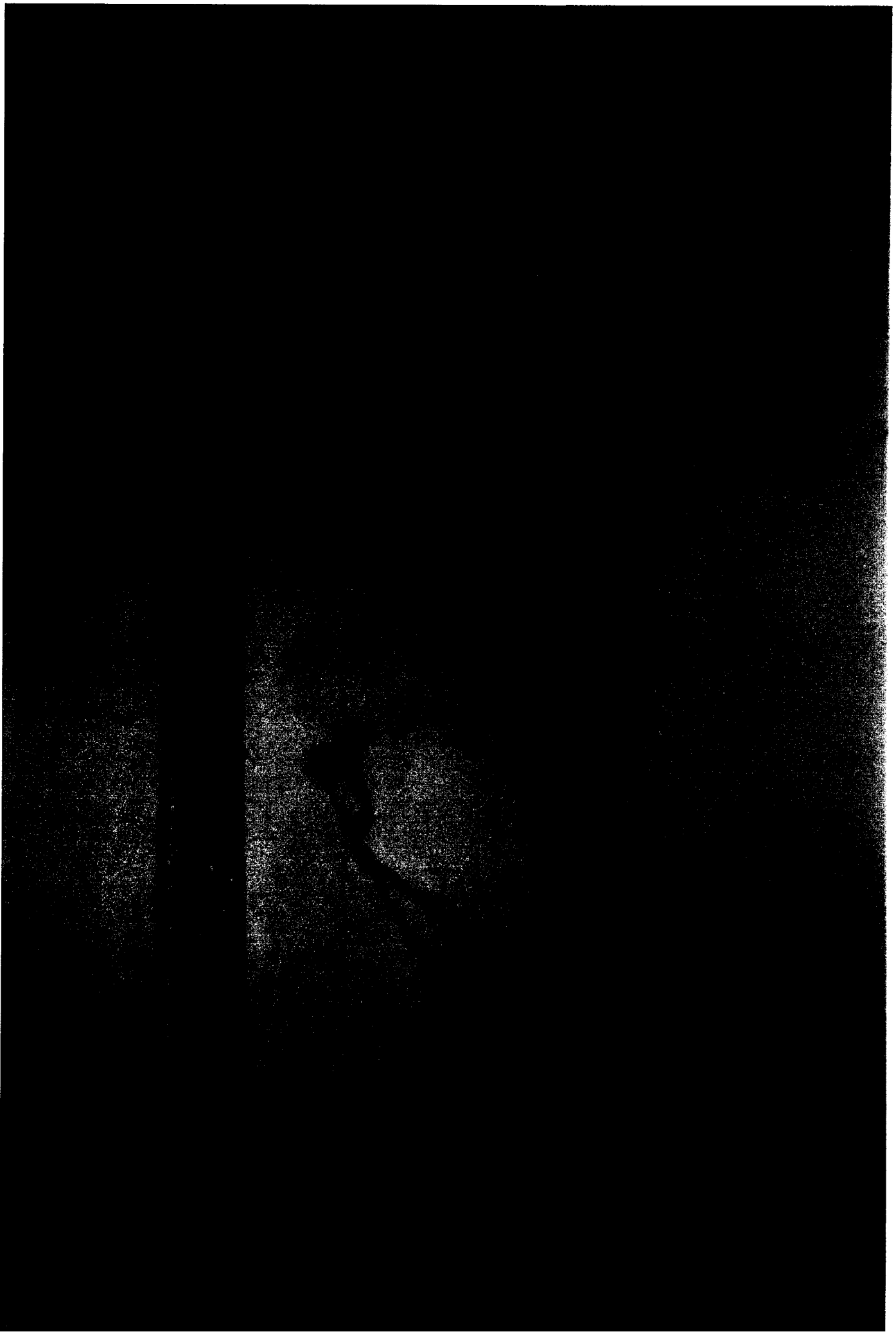












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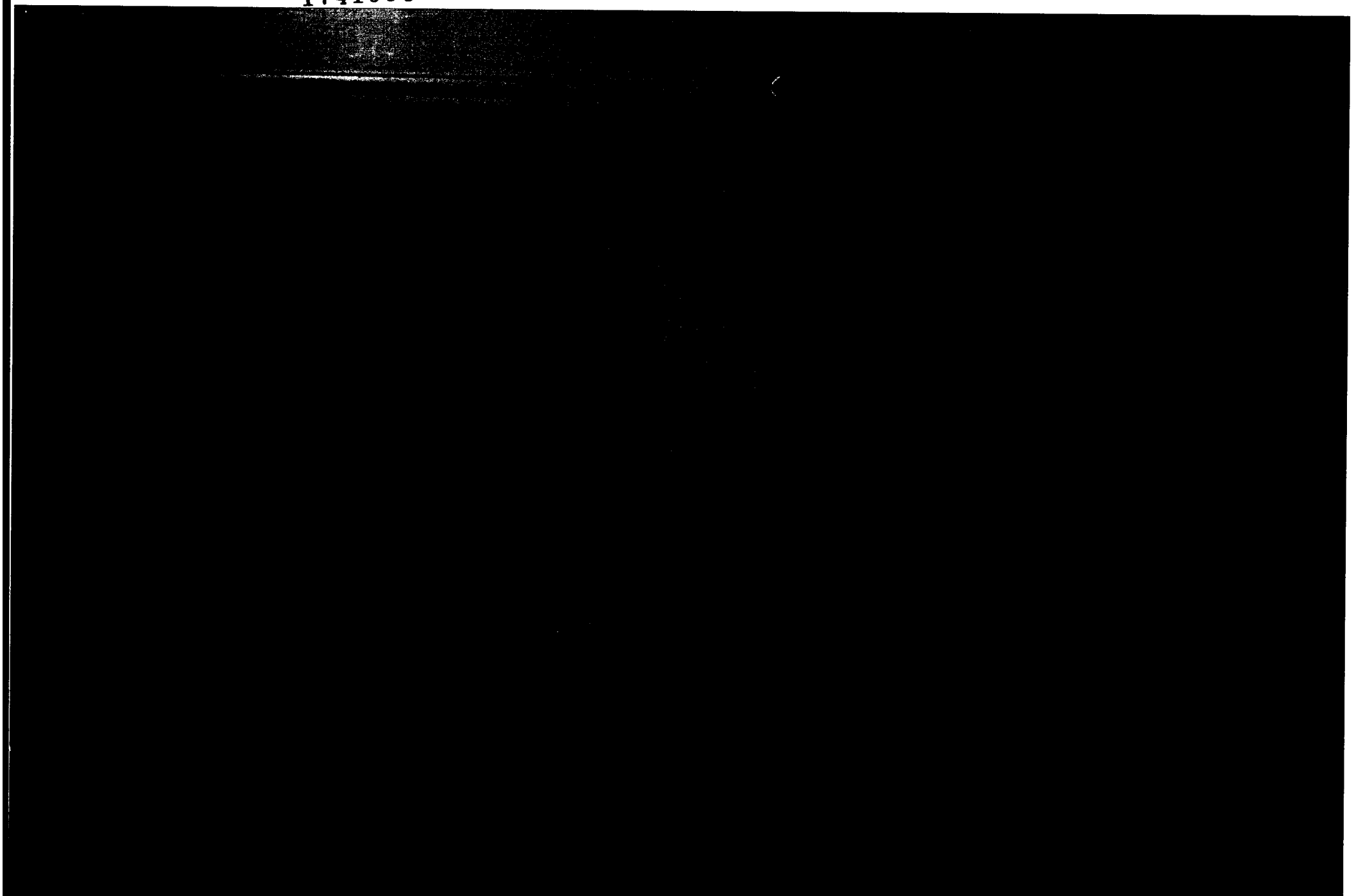




Fig. 6



BEFORE SANTA FE COUNTY BOARD OF COUNTY COMMISSION

CERRILLOS GRAVEL PRODUCTS, CDRC CASE # MIS 97-5230
SUSPENSION/ REVOCATION OF PERMIT

1741006

COMMENTS of RURAL CONSERVATION ALLIANCE
JANUARY 25, 2000

The Rural Conservation Alliance ("RCA")is comprised of citizens of the Santa Fe County communities of Cerrillos, San Marcos and Galisteo. The RCA requests that the Santa Fe County Board of County Commissioners revoke Cerrillos Gravel Products ("CGP") permit to operate a gravel mining facility near Cerrillos, pursuant to LUDC Art XI. 1.11. The following facts mandate permanent revocation of the permit.

1. CGP has misrepresented that it has valid water rights. CGP must have water rights for dust suppression and reclamation. CGP has been illegally using water since its inception for these purposes. This is in violation of LUDC, XI 1.7 and XI.1.7.2(e) of LUDC. Exhibit 1.

2. CGP has disturbed an area vastly greater than three acres. It has done so in defiance of its permit and without regard to Santa Fe County's land use code of the very conditions of its permits imposed by this Board in July 1997 and in violation of LUDC XI.1.10(B). Exhibit 2.

3. CGP has constantly acted in bad faith. CGP has never abided by any agreement into which it has entered with the county. The first agreement was a Settlement Agreement after CGP was found guilty of violating the Land Use code. Magistrate Judge Bill Dimas found CGP guilty of code violations in March 1996. The Settlement agreement was to forestall action in District Court. CGP has flagrantly violated the terms of this Settlement Agreement. Exhibit 3

4. CGP has consistently and flagrantly failed to abide by the conditions of its permits, required by the Board in July 1997. CGP has not complied with nine of these conditions. It has misrepresented material facts both to the Board and the Code Enforcement Officer. Exhibit 4.

5. To this date, CGP has not submitted a Reclamation Plan which has been approved. This is almost four years after this was required by the court and by the county. This is in violation of LUDC XI.1.8(d).

6. CGP misrepresented material facts since 1983. The first application for a permit was signed by Mr. and Mrs. McFadden, who represented that they were the owners of the site in question. The truth is that the McFaddens never owned the property. The application was fraudently submitted, and any permit granted pursuant to it was invalid. Exhibit 5.

7. CGP does not have a "grandfather" mining use. The 1983-84 permit was invalid. It did not comply with Land Use code provisions to obtain grandfather status, when the pertinent section of the code was passed. Exhibit 6. Even if CGP had successfully grandfathered a permit, the mining use can not be enlarged upon without developing a development permit. LUDC XI.1.10.B

8. CGP and its lessee, Associated Asphalt, have violated state environmental law regarding air quality permitting. This is in violation of LUDC XI.1.7.2(d)

9. CGP was fined $10,000 in Santa Fe County Magistrate Court on January 12. 2000 for its failure to comply with conditions requiring dust suppression

10. CGP has failed to provide financial guarantees in violation of LUDC XI.1.8(d).

11. The Land Use Enforcement Officer has confirmed that CGP has been in violation of several other conditions of its permit, including operating outside the hours of operation and failing to place tarps on trucks. Exhibit 7

WHEREFORE, the citizens of the Rural Conservation Alliance respectfully ask the Board of County Commissioners of the County of Santa Fe to have the courage to protect the Santa Fe County Public and to revoke CGPs permit.

Respectfully submitted,

Mary E. Humphrey
Attorney for Rural Conservation Alliance
P. O. Box 1574
El Prado, NM 87529

The address for the Rural Conservation Alliance is P. O. Box 361, Cerrillos, NM 87010.

List of Exhibits

1. Dec. 22, 1999 letter - Office of State Engineer to CGP
   Dec 14, 1999 letter - OSE to Santa Fe County Land Use
   Page 5, CGP Reclamation Plan, March 1998
2. Memo to Board of County Commissioners from Charles Gonzales, 6 pages
3. Settlement Agreement between County (Santa Fe) and CGP, Nov 19, 1996, 2 pp.
4. August 24, 1999 letter from Santa Fe County Land Use to CGP - 4 pp.
5. Special Warranty Deed, Occidental Minerals to Robert Aitken - 2 pp.
6. Letter from Santa Fe County to CGP, November 5, 1996

EXHIBIT 1 - 1 of 3 pages

STATE OF NEW MEXICO
OFFICE OF THE STATE ENGINEER
SANTA FE

1741006

THOMAS C. TURNEY
State Engineer

December 22, 1999

BATAAN MEMORIAL BUILDING, ROOM 101
POST OFFICE BOX 25102
SANTA FE, NEW MEXICO 87504-5102
(505) 827-6175
FAX: (505) 827-6188

Mr. Brad Aitken
Cerrillos Gravel Products, Inc.
11603 Easterling
Houston, TX 77065

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dear Mr. Aitken:

On December 2, 1999, a field inspection was made to Cerrillos Gravel Products (CGP). That inspection concluded that CGP is currently in violation of New Mexico water right law and the rules and regulations of the Office of the State Engineer. On the day of the field inspection Greg Upton, site manager for CGP, was informed of this violation. The requirements of this office were explained to him at that time. On December 13, 1999, Mr. Upton filed an application to use an existing well for domestic purposes. Once that application is approved, CGP may divert water from that well for domestic purposes only. **Diversion of water by CGP for any purpose associated with gravel crushing and/or dust abatement is currently and will remain illegal until an application is filed and permit for such use is approved by this office.** New Mexico law requires that an application of this nature be published, and is subject to protest and hearing.

Through its site manager, CGP has been verbally informed of the need to file an application for diversion of any water used at the gravel operation. However, as of today's date, no application has been filed with this office. This letter serves written notice to CGP that until a permit such as the one described above is approved by this office, no water diverted from any well at the CGP site may be used for any purpose associated with the gravel production operation. Use of water from any other source likewise requires permit through this office. **Failure to file the necessary application by January 7, 2000, shall result in referral of this matter to our Legal Services Division.**

Please feel free to contact me if you have any questions regarding this matter or your obligations under New Mexico law.

Sincerely,

Mary K. Young
Water Rights Division

xc: District I/Albuquerque
Santa Fe County Land Use
Mary Humphrey, Esq.

EXHIBIT 1- 2 of 3 pages

STATE OF NEW MEXICO
OFFICE OF THE STATE ENGINEER
SANTA FE

1741006

OMAS C. TURNEY
State Engineer

BATAAN MEMORIAL BUILDING, ROOM 101
POST OFFICE BOX 25102
SANTA FE, NEW MEXICO 87504-5102
(505) 827-6175
FAX: (505) 827-6188

December 14, 1999

Santa Fe County Land Use Department
P.O. Box 276
Santa Fe, NM 87504

ATTN: Charles Gonzales

Dear Mr. Gonzales:

On December 2, 1999, a field inspection was made to Cerrillos Gravel Products (CGP). That inspection concluded that CGP is currently in violation of New Mexico water right law and the rules and regulations of the Office of the State Engineer. CGP was so informed. On December 13, 1999, CGP filed application to use its well for domestic purposes. Once that application is approved, CGP may divert its well for *domestic purposes only*. Diversion of water by CGP for purposes associated with gravel crushing and/or dust abatement will remain illegal. Such diversion will have to be applied for under as specified under New Mexico statute, will be required to be published, and will be subject to protest.

CGP has indicated an intent to comply with New Mexico statute and the rules and regulations of this office. In the interim, any information Santa Fe County may have regarding historic diversion of water from CGP wells will be helpful in evaluating their application.

Sincerely,

Mary K. Young

Mary K. Young
Water Rights Division

xc: Cerrillos Gravel Products
Mary Humphrey, Esq.
District I/Albuquerque

EXHIBIT 1 - 3 of 3 pages

1741006

II. Location, Ownership and History

The Cerrillos Gravel Products quarry operation is located approximately 10 miles by road south southwest of Santa Fe. Access to the site is from the village of Cerrillos northward on Gravel Pit Road, for 1½ miles to the property, boundary, and followed by ¼ mile of private road to the site. The exact land grid location is T 14N, R8E, NMPM, S8: NW ¼ and W ½ of NE ¼ (Exhibit I-1 & Map A).

Bordering property owners are:

E.P. Ripley	P.O. Box 5011 Santa Fe, NM 87501
Shermack	P.O. Box 301332, Escondido, CA 92030
Tri Cities Syndicate	c/o Roy Glockhoff, 5613 34th Ave., Moline, IL 61265
Steve Aljer & Gene Shelton	Rt 2, Box 440, Santa Fe, NM 87505

The property is bordered by BLM to the NW, by Tri-Cities 400 ac. to the N & NE, by Ripley & Shermack's 40 ac. on the S and by Shelton & Alger's 720 ac. to the W & SW & E & SE (Exhibits I-2 & I-3).

The surface and mineral interest along with 6 acre feet per year water rights was acquired from Occidental Minerals in June of 1981. Title to this 240 acre property is held in fee simple by Robert Aitken of Houston, Texas, who owns all of the capital stock of the operating company, Cerrillos Gravel Products, Inc. (Exhibit I-4). The land was zoned for gravel extraction and CGP obtained a permit in 1983-84 by the CDRC and Board of County Commissioners. *See* CGP-County Correspondence, exs. 3-9. The operation has been in continual operation since 1984 with the exception of brief work stoppages due to equipment repairs, weather or slow demand. *See* federal tax returns, invoices, receipts, etc., CGP-County correspondence, exs 16-26.

EXHIBIT 2 - 1 of 6 pages

Marcos P. Trujillo
Commissioner, District 1

Paul Duran
Commissioner, District 2

Javier M. Gonzales
Commissioner, District 3

Richard D. Anaya
Commissioner, District 4

Joe S. Griñé, Jr.
Commissioner, District 5

Samuel O. Montoya
County Manager

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MEMORANDUM

DATE: January 25, 2000

TO: Board of County Commissioners 1741006

FROM: Charlie Gonzales, Inspections and Enforcement Supervisor
Roman Abeyta, Development Permits Supervisor

VIA: Estevan Lopez, Land Use Administrator ERL

FILE REF: CDRC CASE #MIS 97-5230, Cerrillos Gravel Products - Mining

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ISSUE:

The Land Use Administrator requests suspension of the mining land use permit due to failure to comply with water supply requirements for dust control, reclamation, and mining operations, non-compliance of outstanding conditions, and exceeding 3 acre boundary in the quarry. The property is located north of the town of Cerrillos, within Section 17, Township 14 North, Range 8 East. (Commission District 3)

SUMMARY:

In 1983, BCC granted approval to mine 3 acres. In 1991 the Mining Ordinance changed and all existing mining approvals sunsetted. They had 18 months to request approval of an existing mining use with approval of a Reclamation and Operations Plan for a gravel mine limited to three acres of disturbance. They did not come in and request for approval until July 8, 1997.

In 1997, the Board of County Commissioners (BCC) granted approval to Cerrillos Gravel Products for an existing mining use pursuant to Article XI, Section 1.10, County Code. Staff is requesting that the Board suspend the Cerrillos Gravel Products mining permit pursuant to Article XI, Section 1.11 Penalties, for failure to comply with the following:

Water Supply: In 1997 the applicants submitted a reclamation plan proposing the use of 1.8 acre ft. for night irrigation, and 0.3 acre ft. for dust control. The plan referred to the availability of 6 acre ft. of on site water rights. (Exhibits A, B & C) Staff recommended approval based on the applicants claim to rights to on-site water.

EXHIBIT 2
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Cerrillos Gravel Products
BCC Hearing, Page 2

On December 14, 1999 and again on December 22, 1999 it was brought to Staff's attention by the State Engineer's Office that the applicant did not have 6 acre ft. of water rights for the purpose of mining. The applicant has applied for a domestic well permit, however, if approved, diversion of water by CGP for any purpose associated with gravel crushing and /or dust abatement is prohibited. (Exhibits D & E)

Therefore, the applicant is not in compliance with Article XI, Section 1.7:

The applicant shall submit evidence that the applicant has obtained an adequate water supply as evidenced by the appropriate permits issued by the State Engineer's office/ Interstate State Stream Commission of the State of New Mexico. (Exhibit F).

An adequate water supply is required to accommodate dust abatement for the project along with any additional disturbed areas out of the 3 acre quarry and on the road to the site. According to the 1997 proposed reclamation plan, additional water will also be needed for small water spray bars used to suppress dust created throughout the crushing, screening and conveying operation. (Exhibit G) The water issue will also affect the reclamation submittals. These submittals are based on water availability on-site. The applicant cannot conduct reclamation/remediation without an adequate and legal water source. Extensive research of all files going back to October of 1983 has indicated or required water rights or existing wells. The applicant through its submittals has led staff to believe that the existing wells were supported by adequate water rights, therefore condition number 10 was imposed. (Exhibits H thru. P, before BCC meeting of July 8, 1997) (Exhibits Q thru. Y, after BCC meeting of July 8, 1997 to date). Condition number 10 states that "All water wells which have pumps or are being used must be metered and results reported to the State Engineers Office and the County Hydrologist every six months". In order to attempt to comply with this condition of approval, the applicant has submitted a letter dated September 15, 1998 to report CGP water usage. (Exhibit Z) In addition, the reports to the CDRC and BCC indicated the property has two wells. Many drilling tests have been conducted for exploratory ventures in the past as well as construction of observation wells. The existing home currently utilizes one of the wells for domestic use. (Exhibit AA)

EXHIBIT 2
3 of 6 pages

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Carrillos Gravel Products
BCC Hearing, Page 3

The applicant has stated that it is hauling in water to the site. (Exhibit BB) All submittals received have never indicated hauling in water to the site, to include the traffic impact report or proposed Reclamation Plan. This would increase the required Financial Guarantee.

Outstanding Conditions of Approval: The 1997 Board approval was subject to 26 conditions. To date, seven have not been complied with. The following are still outstanding:

Condition 4. The 3 acre mining area and current operating area shall be defined by a Licensed Land Surveyor, and highly visible (PVC pipe) permanent monuments and markers will be set to define the permitted areas. All future mining and operations shall be confined to the working areas permitted in this application.

Staff response: The permanent monuments have not been consistently defined and mining has exceeded the 3 acre mining area.

Condition 10. All water wells which have pumps or are being used must be metered and results reported to the State Engineer's Office and the County Hydrologist every six months. (Explained earlier in report)

Staff response: Applicant has not been consistent with providing staff with metered results. Further, water rights for commercial use have not been provided.

Condition 13. The Reclamation Plan shall be revised to include costs of dirt work and reclamation conforming to a current NMSHD cost estimating schedule. When approved by the Building & Hydrology Division Director, a financial Guarantee shall be arranged to cover 120% of estimated project costs.