



COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss

BCC MINUTES  
PAGES: 134

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**SANTA FE**

**BOARD OF COUNTY COMMISSIONERS**

**REGULAR MEETING**

**April 13, 2004**

Paul Campos, Chairman  
Michael D. Anaya  
Jack Sullivan  
Paul D. Duran  
Harry B. Montoya

SFC CLERK RECORDED 05/13/2004

**SANTA FE BOARD OF COUNTY COMMISSIONERS**

**COMMISSION CHAMBERS**

**COUNTY ADMINISTRATION BUILDING**

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**REGULAR MEETING  
(Public Hearing)  
April 13, 2004 - 3:00 pm**

***Amended Agenda***

- I. Call to Order**
- II. Roll Call**
- III. Pledge of Allegiance**
- IV. Invocation**
- V. Approval of Agenda**
  - A. Amendments**
  - B. Tabled or Withdrawn Items**
- VI. Approval of Minutes**
- VII. Matters of Public Concern –NON-ACTION ITEMS**
- VIII. Matters from the Commission**
  - Approved* **A. Request Authorization for Commissioner Paul Duran to Travel to Salem, Oregon on Behalf of Santa Fe County to Investigate Election Reform for New Mexico (Paul Duran)**
- IX. Presentations**
  - A. Congressional Update by Congressman Tom Udall Regarding Potential Legislation Affecting Santa Fe County (Approximately 6:00 pm)**
- X. Committee Appointments/Reappointments/Resignations**
- XI. Consent Calendar**
  - A. Request Adoption of Findings of Fact and Conclusions of Law for the Following Land Use Cases:**
    - Approved* **1. CDRC CASE #A/V 03-5741 – Samuel Ortiz Appeal Variance (Approved)**
    - 2. CDRC CASE #DP 03-5960 – Chupadero Water & Sewer Corp Development Plan (Approved)**
    - 3. EZ CASE #S 02-4492 – Las Cordilleras Subdivision (Approved)**
  - B. Request Authorization to Accept and Award a Professional Services Agreement to the Highest Rated Offeror for RFP #24-20 for Consultation and Research Services Related to Santa Fe County Roads \$75,000 (Manager's Office)**
    - Approved* **Resolution No. 2004 <sup>42</sup> A Resolution Requesting an Increase to the General Fund (101)/County Sheriff's Office Budget Traffic Safety Grants Awarded through the New Mexico Department of Transportation, a Joint Powers Agreement with the New Mexico Department of Transportation, an Operating Transfer from the Local DWI Grant Program, an Operating Transfer from the EMS – Healthcare Fund (232), and an Increase to the Law Enforcement Protection Fund (211) for a Grant**

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Awarded through the New Mexico Department of Transportation for Expenditure in Fiscal Year 2004 (Sheriff's Office)

- D. Resolution No. 2004-4 A Resolution Requesting an Increase to the Federal Forfeiture Fund (225)/Region III Program Income to Budget Federal Forfeiture Restitution Revenue Received for Expenditure in Fiscal Year 2004 (Sheriff's Office)
- E. Resolution No. 2004 - A Resolution Requesting an Increase to the Water Enterprise Fund (505) to Budget Prior Fiscal Year 2003 Cash Balance for Expenditure in Fiscal Year 2004 (Utilities Department)

**XII. Staff and Elected Officials' Items**

**A. Community & Health Development Department**

- 1. Request Authorization to Accept and Award Professional Services Agreement #24-0160-CH as a Sole Provider for 24 Hour Crisis Response Services for Santa Fe County

*Approved*

**B. Public Works Department**

- 1. Discussion with Regards to the Current Days and Hours of Operation at the Solid Waste Transfer Stations

**C. Matters from the County Manager**

**D. Utilities Department**

- 1. Reconsideration of the Proposed Water Service Agreement between Santa Fe County and Suerte del Sur
- 2. Consideration of the Amended Water Service Agreement between Santa Fe County and Suerte del Sur

**E. Matters from the County Attorney**

**1. Executive Session**

*Approved None*

- a. Discussion of Pending or Threatened Litigation
- b. Limited Personnel Issues
- c. Acquisition or Disposal of Real Property
- d. Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights
- e. Discussion of Bargaining Strategy Preliminary to Collective Bargaining Negotiations

**XIII. Public Hearings**

**A. Land Use Department**

- 1. Ordinance No. 2004-1 An Ordinance Amending Ordinance No. 1996-16, of the Santa Fe County Land Development Code (Ordinance No. 1996-10) to Amend the Village of Agua Fria Traditional Historic Community Boundary and Traditional Community Zoning District (Second Public Hearing) Robert Griego
- 2. CDRC CASE #DP 03-5970 - Charles Romero Development Plan. Charles Romero Applicant, Request Approval for Master Plan Zoning/Preliminary and Final Development Plan Approval within a Designated Commercial District to Allow the Storage and Transport of Manufactured Homes on a 1.15 Acre Tract. The Property is Located at the Intersection of US 84-285 and Santa Fe County Road 88, within Section 18, Township 20 North, Range 9 East (Commission District 1) Dominic Gonzales TABLED
- 3. CDRC CASE #S 03-5920 - Phyllis Kingsmill, Applicant, Oralynn Guerreortiz, Agent, Request Preliminary and Final Development Plan

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and Plat Approval for a 19 Lot Residential Subdivision on 51.55 Acres. The Property is Located Off State Road 50 in Glorieta, within Sections 1 and 2, Township 15 North, Range 11 East (Commission District 4)  
Wayne Dalton TABLED

4. CDRC CASE #DP 04-5010 – Challenge New Mexico. Challenge New Mexico, Applicant, Courtney Mathey, Agent, Request Master Plan, Preliminary Development Plan, and Final Development Plan Approval for a Riding Facility that Includes a 2,000 Sq. Ft. Riding Arena, a 5,000 Sq. Ft. Eight Horse Barn with Turnouts, a 300 Sq. Ft. Hay Barn, and an 800 Sq. Ft. Riding Center. The Property is Located at 100 B Caja Del Rio Adjacent to the new Santa Fe Animal Shelter, within Section 36, Township 17 North, Range 8 East (Commission District 4) Jan Daniels TABLED
5. EZ CASE #DL 04-4020 – Irene Herrera Family Transfer. Irene Herrera, Applicant, Allen Grace, Agent, Request Plat Approval for a Family Transfer to Divide 5.91 Acres into Four Lots Each Consisting of 1.48 Acres. The Property is Located at 40 Calle Suzanna within the Pinon Hills Subdivision, within Section 25, Township 17 North, Range 8 East (Commission District 2) Jan Daniels
6. CDRC CASE #A/V 04-5020 – Herrera Appeal Variance. Rebecca Herrera, Applicant, is Appealing the Land Use Administrator's Decision to Deny the Placement of a Second Home on 0.75 Acres, which Would Result in a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code. The Property is Located at 9 Honcho Road, Arroyo Seco, within Section 13, Township 20 North, Range 8 East (Commission District 1) Dominic Gonzales
7. CCDRS CASE #Z/DP 00-5302 – Sandia Vista Commercial Property. Sonny Otero, Applicant, Michael Bodelson, Agent, Request a Master Plan Amendment with Preliminary and Final Development Plan Approval for Six Additional Warehouse Buildings Ranging in Size from Approximately 8,000 Sq. Ft. to 10,800 Sq. Ft. for Commercial and Light Industrial Uses and Storage on 5.4 Acres. This Request Also Includes Multiple Variances which Would Allow the Applicant to Utilize an On-Site Well and Septic System Rather than a Public Water and Community Wastewater System; to Exceed 30% Lot Coverage; to Reduce the Amount of Open Space Below 50%; and to Reduce the Parking Below What is Required by County Code. The Property is Located Off of State Road 14, North of the Intersection of NM 599 and SR 14 within the Community College District, within Section 25, Township 16 North, Range 8 East (Commission District 5) Vicki Lucero
8. CDRC CASE #DP 03-6000 – Valley Bible Baptist. Valley Bible Baptist Church, Applicant, Pete Zamora, Agent, Request Master Plan Zoning, Preliminary & Final Development Plan Approval for an Expansion to an Existing Church Facility which Will Include a 13,664 Square Foot Building, with a 4,529 Balcony, a Two-Story Classroom, Floor Consisting of 5,258 Square Feet, and a Multi-Purpose Room Consisting of 12,821 Square Feet. This Request Also Includes a Variance of Article III Section 2.3.6b of the Land Development Code to Allow the Proposed Church Addition to be 30' Feet in Height and a Steeple to be Constructed at 46'

*Tabled*

*Tabled*

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Feet. The Property is Located at 56 Arroyo Seco Circle within Section 18, Township 20 North, Range 9 East (Commission District 1) Dominic Gonzales

*Table*

9. CDRC CASE #V 04-5030 – John Cordova Variance. John Cordova, Applicant, Requests a Variance of Article XIV, Section 6.10.1 (Areas for Commercial Development and Requirements) of the Land Development Code to Allow Commercial Use on 3.00 Acres within the La Cienega/La Cieneguilla Planning Area. The Property is Located at 08 Las Estrellas Road, within Section 27, Township 16 North, Range 8 East (Commission District 3) Dominic Gonzales
10. CDRC CASE #Z/DP 04-5000 – Santa Fe County Fire Station Development Plan. Santa Fe County, Applicant, Rudy Garcia, Agent, Request Master Plan Zoning Preliminary and Final Development Plan Approval for a Community Service Facility to Allow the Eastern Region Headquarters Fire Station on 2.1 Acres. The Property is Located at 645 Old Las Vegas Highway, within Section 3, Township 15 North, Range 10 East (Commission District 4) Wayne Dalton
11. CDRC CASE #V/DP 03-5950 – Verizon Wireless Variance. Verizon Wireless, (Rick Ramirez), Applicant, Jim Siebert, Agent, Request Development Plan Approval for an Overhead Electric Line to Serve the Verizon Wireless Cell Tower Located at the Top of La Bajada Hill, this Request Includes a Variance of Article III, Section 2.3.6b (Height Restrictions for Dwelling or Residential Accessory Structures) of the Land Development code to Allow Electric Line Poles to Exceed 24 Feet. The Property is Located Off County Road 57 East of I-25, within Sections 13,22,23,24,26 and 27 Township 15 North, Range 7 East (Commission District 3) Wayne Dalton
12. BCC CASE #S 04-5050 – Rosa Linda Subdivision. High Desert Partnership LLC. (Russell McMillan), Applicant, Linda Tigges, Agent, Request Final Development Plan and Plat Approval for a 15 Lot Residential Subdivision on 198.78 Acres. The Property is Located South of Spur Ranch Road 5 Miles South of Eldorado, within Sections 25 and 36, Township 15 North, Range 9 East (Commission District 5) Wayne Dalton

**XIV. 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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**SANTA FE COUNTY**  
**REGULAR MEETING**  
**BOARD OF COUNTY COMMISSIONERS**

April 13, 2004

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 3:05 p.m. by Chairman Paul Campos, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Following the Pledge of Allegiance, roll was called by County Clerk Rebecca Bustamante and indicated the presence of a quorum as follows:

**Members Present:**

Commissioner Paul Campos, Chairman  
Commissioner Mike Anaya  
Commissioner Jack Sullivan  
Commissioner Paul Duran  
Commissioner Harry Montoya

**Members Absent:**

[None]

**IV. Invocation**

An invocation was given by Pastor Matt Davis of First Presbyterian Church.

**V. Approval of the Agenda**

- A. Amendments**
- B. Tabled or withdrawn items**

CHAIRMAN CAMPOS: Mr. Gonzalez, any changes from staff?

GERALD GONZALEZ (County Manager): Mr. Chair, members of the Commission, we have the addition of one item under Section VIII, Matters from the Commission, that's item A, request authorization for travel to Salem, Oregon by Commissioner Duran. Not a change, but under Section IX, Presentations, the appearance of Congressman Tom Udall is set for approximately 6:00 this evening. So we have a timing concern there. And then under Section XIII, Public Hearings, under Land Use Department, items number 2

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through 4 have been tabled. And backing up just slightly, under Section XII, staff and elected officials items, Matters from the County Attorney, we've determined there's no need for an executive session this evening.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chair, Gerald, what about items 7 and 8?

MR. GONZALEZ: You're speaking of the Land Use portion? As far as I know  
- well, I'll let Roman go ahead and address those.

ROMAN ABEYTA (Land Use Administrator): Mr. Chair, Commissioner Montoya, Roman Abeyta, Land Use Department, item number 7 we have a request to table that, item number 7, and we also received a request just today in writing to table item number 9, John Cordova.

COMMISSIONER MONTOYA: Okay, so not 8?

MR. ABEYTA: As far as we know, item number 8 was going to be heard.

COMMISSIONER MONTOYA: Mr. Chair, Mr. Abeyta, the only reason I ask is because I didn't have any information in my packet.

MR. ABEYTA: I'm sorry. You're right. There's a request for tabling item number 8 also in the packet. It's pending information on their water budget. So staff is requesting that 8 be tabled also.

COMMISSIONER MONTOYA: So 8 and 9.

MR. ABEYTA: Seven, 8 and 9.

COMMISSIONER MONTOYA: Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Mr. Gonzalez, item XII. B Utilities Department, 1 and 2, were we not going to have public hearings before we decided on that issue?

STEVE ROSS (County Attorney): Mr. Chair, Steve Ross, County Attorney. The direction of the Commission was not to have necessarily a public hearing at this stage. We set it up on the regular agenda under the Utilities Department but we understand that there are people here that want to talk about it. So if you indulge them, it might be the best place to put it. We haven't noticed it as a public hearing. There's no requirement at this point to make it a public hearing.

CHAIRMAN CAMPOS: Would there be any problem from the Commissioners to allow public comment on those items?

COMMISSIONER DURAN: I thought that's what we were doing?

CHAIRMAN CAMPOS: Okay. Is there a motion to approve the agenda as amended.

COMMISSIONER SULLIVAN: Second.

**The motion to approve the agenda as amended passed by unanimous [5-0] voice vote.**

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**VII. Matters of Public Concern -NON-ACTION ITEMS**

CHAIRMAN CAMPOS: Anyone in the public that would like to address the Commission on any issue of public concern? Okay, no one's coming forward.

**VIII. Matters from the Commission**

**A. Request Authorization for Commissioner Paul Duran to Travel to Salem, Oregon on Behalf of Santa Fe County to Investigate Election Reform for New Mexico (Paul Duran)**

COMMISSIONER DURAN: Thank you, Mr. Chair. As I mentioned at the last County Commission meeting, I'm very interested in making some effort, putting some time into some election reform. At this point in time, because I think Santa Fe County, actually the state of New Mexico needs to consider. And I checked with the Secretary of State in Oregon where they have vote by mail and I am requesting the Commission to authorize me to travel there to investigate that.

CHAIRMAN CAMPOS: Any discussion?

COMMISSIONER ANAYA: Move for approval.

COMMISSIONER MONTOYA: Second.

CHAIRMAN CAMPOS: Okay, let me make a couple of comments. I've discussed this with Commissioner Duran and my inclination is that there was not sufficient connection with the County's business to justify a trip to Oregon. And also there's other ways to obtain this information: in writing, regulations, rules, statutes, and also by talking over the telephone. So my inclination was not to approve this and I think when we do approve travel, we have to have a connection with furthering County business. And that's my comment. Any others?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: Personally, I feel that any time we can get out there and see people face to face and actually see exactly what they're doing and have them explain, to me, in person, rather than over the phone, I get much more out of it. So that's why I'm supporting Commissioner Duran.

CHAIRMAN CAMPOS: What about the connection to County purpose?

COMMISSIONER ANAYA: I didn't know we had to bring these issues every time we wanted to go travel to the Commission. I thought it was - I thought we could do it. So I didn't know we had to approve this.

CHAIRMAN CAMPOS: Okay. Any other comments?

**The motion to approve Commissioner Duran's travel expenses passed by majority**



**[4-1] voice vote with Commissioner Campos voting no.**

**CHAIRMAN CAMPOS:** Any other matters from the Commission?

**COMMISSIONER DURAN:** Mr. Chair.

**CHAIRMAN CAMPOS:** Sir.

**COMMISSIONER DURAN:** I think at some point in time, and I know we talked about this at the last Commission meeting, we need to publish to have some discussion and give staff direction on how we want to proceed with our County water system. And I don't know what you heard last night but what I heard is that the City is not capable of providing us with the water that we need because of restrictions placed on them in the Buckman wellfields. So I really think that we need to take hold of our own destiny here and start developing the system of wells, of which I think we're going to talk a little bit about it today, but we need to do something about bringing public awareness up on this issue and actually making a decision as to how we're going to do this.

We've talked about it amongst ourselves and with staff and I think there is some thought that perhaps some agreement amongst the Commission that the development of our system is dependent on our ability to extract water from the aquifer, and that would occur in four or five different locations. So I know we've talked about it amongst ourselves. We've talked about it with staff, but I would like for the County Manager to bring that up as an item at the next County Commission meeting so we can actually have some meaningful discussion and have it open with the public to comment on it so that we can start fielding the community's questions and concerns and develop a plan.

**CHAIRMAN CAMPOS:** Commissioner, is that different from the resolution that we passed at the last meeting, where we directed staff to look into the creation of a regional water system and go out to the community and apprise other towns and the City to further our goal of doing that?

**COMMISSIONER DURAN:** It is. In addition to that I think it's further clarification and more discussion. I think that the direction that we gave last time fell short of what I think needs to be – we need to be given.

**CHAIRMAN CAMPOS:** You're talking about the drilling of the wells, finding locations therefore?

**COMMISSIONER DURAN:** I'm talking about the whole water system and whether there is the desire to do that in the Commission and find out what kind of concerns the community has. And I don't know how quickly that's going to occur but it became evident to me last night that we're going to have to take control of how we're going to get water, where we're going to transfer those rights to, and what kind of impact that is going to have on the surrounding communities. We have a plan right now to do a study. We have an RFP that's out there right now to do a study on several wells, but I think we need to amend that RFP because it doesn't include the Rancho Viejo well. It doesn't include the – several other wells including the one that we're going to discuss later on this evening. So I think that the RFP before it goes out needs to represent the goals and the vision that the Commission has with community

support on how we're going to develop a water system.

CHAIRMAN CAMPOS: Any comments on what Commissioner Duran just said? Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think that in the resolution that we passed we did give the staff the authority to move forward with a regional water authority concept and looking at a number of wells wherever hydrologically the supply is that has least impact and impairment on other residents. So I don't think that we should make an RFP specific to wells. When we say an RFP should look at well-X and well-Y and well-Z, that's spending money to look at specific wells some of which, such as the Rancho Viejo well has already been tested. I think what we want to do is leave that study broad enough so that the engineer and the hydrologist data that comes back gives us a full range of options to look at and existing wells are certainly one of those but I don't think we're to limit that study to that.

As we look at the regional water approach which the County is supporting and I support, I think the only question that really wasn't answered for me yet last night, and maybe within 90 days in our meeting with the City was what's the City's role going to be in that. I think we all agree that we need a regional water authority and we're now at that juncture. The City can either join us in that, be a part of that, and that's what we discussed last night. And there was certainly some reluctance from some of the Councilors to do that. But I didn't see reluctance on the majority of the Councilors to do that. I saw perhaps one or two that indicated that. So it takes a majority to pass a joint powers agreement or a resolution, so I was encouraged that they were at that point now where we're saying we need a regional mechanism to investigate and develop water supply. Do you want to be a part of that? If so, what's your role and the Buckman direct diversion could be the first step in that.

I think the City's thinking about that. So I think it's a bit premature to say let's give the direction we're going to spin off on our own and charge down the road. I think we want to work within this 90-day time frame that we've given ourselves and say, City, we really would like you to be on board, and we think financially it makes sense. It makes sense for the consumers to have one approach to water and not two. I think we should definitely move forward with the study. We want to keep it broad enough, and we should give a priority to that. I think we can do that while we're negotiating with the City and talking about what's your role, if any, in a regional water authority. I think we can accomplish both those goals at that the same time. And within 90 days we'll know whether the City's really wanting to be a partner in this or whether they are just more interested in focusing on the municipal system that they operate. Thank you, Mr. Chair.

COMMISSIONER DURAN: Mr. Chair, can I have some discussion with Jack? Jack, would you agree though that last night they indicated that when the direct diversion project comes on line and they retire or stop using the Buckman well, that the San Juan/Chama allocation is adequate only to provide, to maintain and sustain the water needs of the community as they exist today? That's what I heard. And that's why they wanted to retire the 500 acre-feet is because they want us to go out there and find a way of getting that 500 acre-feet on our own. And I think five years is unreasonable. Maybe ten years is a reasonable number,

but in any case, if they are truly overallocated on their water, and transferring the water rights that we're requiring that Commissioner Montoya mentioned last night at the Buckman wells and then ultimately to the diversion project, are only going to satisfy current needs, then the system that we have been talking about I think needs to be pursued.

We've held off for the last year on that RFP and those studies because we were hoping to continue to cooperate with them. And what I heard last night is that it's not a matter of really cooperation but it's their ability to provide the water as we're requesting. And I understand that the RFP that's out right now isn't as broad as I think you've suggested it should be. I think it's specific in that it's for certain wells. So I'm in agreement with you that it should be broad, provided that it is indeed broad in its current form. Thank you.

CHAIRMAN CAMPOS: Any other comments?

COMMISSIONER MONTOYA: Mr. Chair, has that RFP already been let?

CHAIRMAN CAMPOS: I think - maybe not. Mr. Sayre?

DOUG SAYRE (Acting Utility Director): My name is Doug Sayre. I'm acting director of the County Utility Department. Mr. Chair and Commissioners, I just want to advise you that what happened with the RFP is that it did go out and we took requests for it. Then it was looked at and we had some items in there that were considered that needed to be revised extensively. So then we rejected the RFP and we want to go out again with an RFP that addresses all of the items because we started getting input from the Commission about some other items, some other parts, like the master plan should be included in that as well as consideration of hydrologic study and the possibility of utilizing wells in various parts of the basin to provide supply. So we were trying to restructure the RFP based on the comments that we have received in the last few months to address these things that you're talking about.

COMMISSIONER DURAN: Mr. Chair, one last comment. Since this RFP is an integral part of our planning process, Gerald, would you mind, before it goes out again bringing it before the Commission for us to review and comment on?

MR. GONZALEZ: Mr. Chair, Commissioner Duran, I'd be glad to do that. In fact, we may want to think about, this is possibly two RFPs. One to do a broad master plan kind of study and continue on a track with this one just to look at those specific well locations.

COMMISSIONER DURAN: Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Let me just add that I don't think we need to be too focused on the 500 acre-feet. Our negotiating position is that 500 acre-feet that we're now wheeling with the City is at the heart of our San Juan/Chama water rights, part of the 1100 that should be coming to the County. Whether it ends up that way may or may not be. Whether, even if we're at zero or we're at zero in five years or we're at zero in ten years or some time in the future, the purpose of the Buckman direct diversion is to give us a place to put our water rights and divert water. We're still intending to divert 1700 acre-feet from that diversion project. So whether the 500 comes from the City or whether it doesn't come from the City is what we're going to be thrashing out in this negotiation. But we can't overlook the Buckman direct diversion project because it's the first one that will come on line and we have

an interest to the tune of 1700 acre-feet in it. So we're going of course going to be trying to make the strongest case possible for that 500 acre-feet, plus the 375 that is not in disagreement, I think between our two bodies. But I don't think we want to throw the baby out with the bath water that that diversion project is an integral part of what would be a County regional water system or a County/City regional water system. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chair, I think maybe, kind of alluding to what Commissioner Sullivan talked about, a week from today on the 20<sup>th</sup> we're going to be having that meeting, kind of a summit on the water and discussing that with the City of Española, Rio Arriba County, as far as the Pueblos that are a part of those areas. And I think it's probably going to fit on top of what we have been discussing in terms of what the legislature has introduced in terms of a regional water authority, and that's going to be the discussion that's going to be happening, that we're going to have next week in terms of the domestic water associations. This may be a place for the City to take a look at whether or not they're even going to participate in that. Because they're participating in the Aamodt water settlement and that's the other update that I wanted to bring up was that different community meetings have been held in the past two months or so and those meetings have been a little contentious I guess. That's probably a kind way of saying that. But at some point, this Commission is probably going to have to make a decision in terms of what position we're going to take.

For the record I have stated that I have been neutral in terms of the stance that I've taken because I think a lot of the concerns that people have need to be heard and then the important part to me is what solutions we're going to come up with. I didn't hear any solutions. I heard a lot of concerns. Doug's been to a lot of those meetings as well. But that's something, to give a heads-up as to what decisions this Commission is going to make once we get to that point of what are we going to do, where are we going to do?

COMMISSIONER ANAYA: May I ask a question? The meeting in Española is on 4/20?

COMMISSIONER MONTOYA: Yes.

COMMISSIONER ANAYA: And that's going to address the Aamodt legislation?

COMMISSIONER MONTOYA: No.

COMMISSIONER ANAYA: What legislation are you - it's to talk about the regional water authority?

COMMISSIONER MONTOYA: Yes. Exactly.

COMMISSIONER ANAYA: Okay. Good idea.

CHAIRMAN CAMPOS: Okay. Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I've got a couple of things. First of all I want to name off some new employees in Santa Fe County. Finance Department, they've got Wilbur Wright, who's a contract specialist. In the Assessor's Office, we've got Bernadette Dunbar. The Corrections, we've got Theodore Jackson, Lloyd Montoya and Anthony Trujillo

and we want to welcome them to Santa Fe County.

My next issue, Mr. Chair, is I've received a few calls on junk cars and what our ordinance is. And I would like to hear from the staff on what we are doing to enforce the junk cars in Santa Fe County.

CHAIRMAN CAMPOS: Commissioner, are you asking for this to be placed on a future agenda?

COMMISSIONER ANAYA: No, I just would like to hear what he's doing.

CHAIRMAN CAMPOS: You'd like Mr. Abeyta to come up? Mr. Abeyta.

MR. ABEYTA: Thank you, Mr. Chair, Commissioner Anaya. We, in the Land Use Department have a junk vehicle ordinance that we presently enforce and most of our enforcement comes by the way of concerned residents or neighbors calling our department and then we send a Code Enforcement officer out and we notify the property owner that it's against County ordinance to have a junk vehicle. And we also provide them with names of businesses that will remove the vehicle, some times at no charge and some times even paying for the vehicle.

You can - anybody in the county can register a complaint by just calling is at our main line at 986-6225 or even on our website they can register a complaint. Then again, we have information regarding companies that will actually go to properties and pick up vehicles. And I have that information if you'd like to hear it.

COMMISSIONER ANAYA: Yes, I'd like maybe if you could just say it out loud and that way people would have it. And another question is what is considered a junk vehicle?

MR. ABEYTA: A junk vehicle is a vehicle that's - well, several things. There are several criteria that define that. One is if it's not a registered vehicle and if it's inoperable. If it can't run then it would qualify as a junk vehicle. And companies that pick them up are Capital Scrap Metal and Auto Parts. Their phone number is 471-0740. And they'll actually pay a fee to the owner of the vehicle for it. And they're active in all of Santa Fe County, especially in the southern area of Santa Fe County, the area you represent, Stanley, Edgewood. They've informed us that they're out there almost on a daily basis.

And then in the northern area of the county, Gallegos Scrap Metal in Española, 753-7733. They'll pay owners of vehicles. They'll also pay a fee for vehicles to owners. So once a property owner finds out that companies will actually go pick them up and in some cases pay for the vehicle, that usually resolves the matter without us having to take any further action.

COMMISSIONER ANAYA: Okay, so what about fencing? If somebody has a junk vehicle and they put a fence around it?

MR. ABEYTA: The ordinance states that one of the mitigation measures a property owner can take is they can fence the vehicle so that it not visible from either a public right-of-way or a County road or a neighboring property. And if they agree to do that then that will satisfy the requirements of the ordinance so they can leave the vehicle, in most cases.

COMMISSIONER ANAYA: Okay, and Mr. Chair, I did receive some phone calls and I did send them to Roman Abeyta and those issues are being taken care of. Now what

happens to the individual if he is cited with a junk vehicle?

MR. ABEYTA: Mr. Chair, Commissioner Anaya, we have – first of all we go to the property and we let them know there's a violation and we try to work out an agreement with the property owner. Give them this information to remove the vehicle. If they fail to remove the vehicle, then we'll go back out and we'll issue a final notice within a week. And then give them more time to try to fix the situation. If they don't, then we'll cite them into magistrate court and when we do get a court date a judge will require them to remove the vehicle.

COMMISSIONER ANAYA: Okay. Thank you, Roman. Thank you, Mr. Chair.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: I did forget to mention that the last hearing for the Aamodt is going to be this coming Sunday, the 18<sup>th</sup>. It's going to be at 1:00 at the Pablo Roybal Elementary School there in Pojoaque, Jacona area. And the attorneys have been invited, the judges that have been working on the ruling on this case. So we're hoping that they show up this coming Sunday to present the rulings and explain why they've been presented the way they have. So hopefully that may help dispel many of the myths that are being created. So I wanted to let you all know.

CHAIRMAN CAMPOS: I have a question about the Aamodt suit. What schedule or time line are we on right now? There was a schedule of legislation that talked about April. Mr. Gonzalez, has there been a change on that?

MR. GONZALEZ: Mr. Chair, members of the Commission, my understanding is yes, that the proposed introduction of that legislation has slipped. In consequence of that we have potentially moved Commissioner Montoya's trip to DC to later on this month but we're still monitoring to see if it's going to occur on the 28<sup>th</sup> or not.

CHAIRMAN CAMPOS: Okay. We have no committee appointments.

**XI. Consent Calendar**

- A. Request Adoption of Findings of Fact and Conclusions of Law for the Following Land Use Cases:**
- 1. CDRC CASE #A/V 03-5741 – Samuel Ortiz Appeal Variance (Approved)**
  - 2. CDRC CASE #DP 03-5960 – Chupadero Water & Sewer Corp Development Plan (Approved)**
  - 3. EZ CASE #S 02-4492 – Las Cordilleras Subdivision (Approved)**
- B. Request Authorization to Accept and Award a Professional Services Agreement to the Highest Rated Offeror for RFP #24-20 for Consultation and Research Services Related to Santa Fe County Roads**

SFC CLERK RECORDED 05/13/2004

- \$75,000 (Manager's Office)**
- C. Resolution No. 2004-42. A Resolution Requesting an Increase to the General Fund (101)/County Sheriff's Office Budget Traffic Safety Grants Awarded through the New Mexico Department of Transportation, a Joint Powers Agreement with the New Mexico Department of Transportation, an Operating Transfer from the Local DWI Grant Program, an Operating Transfer from the EMS - Healthcare Fund (232), and an Increase to the Law Enforcement Protection Fund (211) for a Grant Awarded through the New Mexico Department of Transportation for Expenditure in Fiscal Year 2004 (Sheriff's Office)**
  - D. Resolution No. 2004-43. A Resolution Requesting an Increase to the Federal Forfeiture Fund (225)/Region III Program Income to Budget Federal Forfeiture Restitution Revenue Received for Expenditure in Fiscal Year 2004 (Sheriff's Office)**
  - E. Resolution No. 2004-44. A Resolution Requesting an Increase to the Water Enterprise Fund (505) to Budget Prior Fiscal Year 2003 Cash Balance for Expenditure in Fiscal Year 2004 (Utilities Department)**

CHAIRMAN CAMPOS: Is there a motion?  
COMMISSIONER ANAYA: So moved.  
COMMISSIONER MONTOYA: Second.  
CHAIRMAN CAMPOS: Any discussion?

The motion to approve the Consent Calendar as presented passed by unanimous [5-0] voice vote.

## **XII. Staff and Elected Officials' Items**

- A. Community & Health Development Department**
  - 1. Request Authorization to Accept and Award Professional Services Agreement #24-0160-CH as a Sole Provider for 24-Hour Crisis Response Services for Santa Fe County**

LINDA DUTCHER (DWI Program): Mr. Chair, Commissioners, we're requesting authorization to enter into a contract with Crisis Response of Santa Fe to provide mobile assessment and crisis intervention. They are the unique agency here in town that has that capability with trained people who also have the mobile aspect. Santa Fe County as you know is very concerned about persons being taken to the hospital emergency room or to the County jail. With proper intervention we can make more suitable arrangements for them. So we're requesting authorization to enter into a contract which only goes to the end of June. At that time

we hope to have a larger contract with an as yet unknown group or entity as a result of an RFP for the CARE Connection. So this would take us to the end of June. I stand for questions.

CHAIRMAN CAMPOS: Okay, any questions?

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Dr. Dutcher, where do the funds come from for this?

MS. DUTCHER: This is part of the so-called detox money that the state legislature awarded the DWI program. And it would only be used this one time for this. It's non-recurring.

COMMISSIONER SULLIVAN: Specifically, we do these under our memorandum of agreement, don't we? With St. Vincent's.

MS. DUTCHER: This isn't St. Vincent's.

COMMISSIONER SULLIVAN: I understand it's Presbyterian, but typically I haven't seen a separate one like this come forward outside of the normal services that we do through the MOU, MOA.

MS. DUTCHER: I don't know that I can speak to that directly.

STEVE SHEPHERD (Health Division Director): Mr. Chair, Commissioner, we have previously funded – our crisis response has been previously funded out of the MOA. It's also received in a prior year, either the last fiscal year or the year before some money from the DWI-detox grant as well. We felt it was important to – as the MOA monies were divvied up last year they didn't receive the kind of money they had in previous years. But we felt it was important to keep this service alive because it does keep folks out of our jail.

COMMISSIONER SULLIVAN: So it's a service that we had been providing before under the MOA but –

MR. SHEPHERD: Correct.

COMMISSIONER SULLIVAN: But is not now being provided under the MOA.

MR. SHEPHERD: Correct.

COMMISSIONER SULLIVAN: So we're doing it as a separate contract.

MR. SHEPHERD: That's correct. We are going – when the Progress Review Committee meets for the MOA in the future, we are going to talk about future funding for this organization as well.

COMMISSIONER SULLIVAN: Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Thank you. Any other questions?

COMMISSIONER MONTROYA: Mr. Chair, move for approval.

COMMISSIONER DURAN: Second.

CHAIRMAN CAMPOS: Second. Discussion?

**The motion to approve the professional services agreement passed by unanimous [5-0] voice vote.**



**XII. B. Public Works Department**

**1. Discussion with Regards to the Current Days and Hours of Operation at the Solid Waste Transfer Stations**

JAMES LUJAN (Public Works Director): Mr. Chair, Commission, at the February 10<sup>th</sup> meeting we discussed about increasing the hours at the transfer station. We did an analysis and came back. The one we're proposing to open eight hours a day, seven days a week is Eldorado. There's no changes to the other transfer stations. That will include Jacona and Eldorado operating eight-hour days, seven days a week. We will need another FTE to take care of this. For this year's budget I can work in the salary savings that I currently have in that division up until the end of the FY and then at that point we're going to go forward for a new position. But I have enough from salary savings to hire a temporary employee for now.

CHAIRMAN CAMPOS: Mr. Lujan, what are the dollars again, on this proposal? Do you recall?

MR. LUJAN: I don't have them with me.

CHAIRMAN CAMPOS: You discussed them last time. So that requires the hiring of one temporary -

MR. LUJAN: One FTE.

CHAIRMAN CAMPOS: One FTE.

MR. LUJAN: Yes.

CHAIRMAN CAMPOS: And you feel that next fiscal year that that will be picked up?

MR. LUJAN: We're putting that as a building block in the budget for a new person to operate that position.

CHAIRMAN CAMPOS: And if that doesn't happen?

MR. LUJAN: Then we'll have to move it back. We'll have to come up with a different schedule.

CHAIRMAN CAMPOS: And you're talking eight to five?

MR. LUJAN: Eight-hour days. We haven't really looked at - we're just opening the eight-hour days. I didn't put a set time because I'm looking at now in daylight savings of maybe opening at 7:00 and then in the fall when it goes back it will move back to 8:00. We haven't determined that. But they will be eight-hour days.

CHAIRMAN CAMPOS: I guess the question I had last time when we discussed the possibility of maybe opening that until five because a lot of folks work until five.

MR. LUJAN: We looked at that but that was going to take a lot more manpower and different scheduling. So that's why we said eight-hour days and I thought that's what the Commission had discussed the last time was eight-hour days, seven days a week, at those two locations only. The analysis is the numbers aren't that high. We started documenting the times that they're coming in and we're getting very low volume early in the morning.

CHAIRMAN CAMPOS: Okay. Any other questions?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: James, I want to thank you and the Public Works Department for doing that study and looking into that and opening the Eldorado transfer station seven days a week eight hours a day because that's very important. I have received a few complaints on that. And that's not only going to help out the Eldorado but the Lamy and the Galisteo and all that entire area, it's going to help the public out. So thank you for doing that. And then maybe later on we can talk more about if the funding is there, opening up other transfer stations to serve the public well in those other areas. But this, opening up the one in the Eldorado area is a big help and I thank you for that.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: James, if we're not going to be able to work this thing out in the budget, what other alternatives do we have in terms of generating the revenue to cover the costs of operation that are being proposed?

MR. LUJAN: We want to propose an increase in the fees. That's what we're going to look at. I'm hoping to bring something forward or publish title and general summary on the ordinance at the end of the month. I'll bring that forward and we can look at a rate increase for the current - for next FY and if not, we're also looking at the idea of creating a full enterprise fund for solid waste. I think right now, about 15 percent of what we get right now is supplemented [inaudible]

COMMISSIONER MONTOYA: Ten percent of the fees that we generate now offset the cost that we incur?

MR. GONZALEZ: Mr. Chair, Commissioner Montoya, the way I understand it, somewhere between ten and fifteen percent of the costs of operating our solid waste program are generated by the fees. The balance comes out principally of our general fund. And we are at the staff level looking at, studying the ordinances which have been pioneered by both Taos County and Rio Arriba County, which have countywide solid waste fees, but also countywide solid waste disposal as well.

COMMISSIONER MONTOYA: Curiously, what do Taos County and Rio Arriba County -

MR. LUJAN: We did a little study this morning, Commissioner Montoya.

COMMISSIONER MONTOYA: You just happen to have the numbers.

MR. LUJAN: I just happen to have it with me. San Miguel County, for instance, is \$10 a month, which comes out to \$120 a year. The City of Las Vegas is \$25 a month, \$300 a year. Rio Arriba County's at \$10 a month, \$120 a year. Dona Ana County is \$12.60 a month for \$151 a year. So those are some of the counties we called on some prices.

COMMISSIONER MONTOYA: And it costs us now about 50 cents a month?

MR. LUJAN: Approximately, yes. \$25 a year. No, no.

COMMISSIONER MONTOYA: It costs me, to go to the solid waste station, 50 cents a month, more or less.

MR. LUJAN: \$2.50 a month.

COMMISSIONER MONTOYA: So we're significantly lower than -

MR. LUJAN: Surrounding counties.

COMMISSIONER MONTOYA: Surrounding counties then.

MR. LUJAN: Correct.

COMMISSIONER MONTOYA: I would encourage us to look at - particularly if we're going to look at expanding the hours of operation and services, I don't see how we're going to be able to do it without raising fees, I guess is my opinion on that.

MR. LUJAN: Mr. Chair, Commissioner Montoya, I was looking at bringing that forward, an increase at your next meeting.

COMMISSIONER MONTOYA: Thank you, James.

CHAIRMAN CAMPOS: I'd just like to make a comment on the same issue.

Mr. Lujan, we're getting a lot of calls and a lot of work for the dead pinones. That's going to require more and more resources. I think we need to talk, when we talk about the ordinance and enterprise fund, fees, we have to take that into account because there are folks that are calling me that want new tickets and this and that. I just don't know exactly how to deal with that. It requires more manpower and more expense.

MR. LUJAN: Mr. Chair, what the County has put into place for the dead pinons, we've spent almost half a million on new equipment in the last year with the two grinders that we've purchased. So it has gone up quite a bit in expenses.

CHAIRMAN CAMPOS: And it's going to continue to go up in the next three to five years. It's just going to get worse. And it's going to keep coming in. So I appreciate that. Anybody with any specific direction from the Commission, or are we fine? You have your direction?

MR. GONZALEZ: Mr. Chair, members of the Commission, we'll look at those two ordinances, see what can be adapted to the County of Santa Fe and then bring forward for your consideration a potential ordinance that would cover the, would allow us to cover the cost of operation much more.

CHAIRMAN CAMPOS: Okay. Thank you, sir.

## **XII. C. Matters from the County Manager**

MR. GONZALEZ: Mr. Chair, members of the Commission, the only thing that I have is with respect to the Aamodt settlement proposal which is currently being discussed, one issue that has not been raised quite so clearly in the public eye is the fact that we're probably looking at a window of opportunity in terms of the proposed \$200 million or so dollars that would be provided for the settlement. The reason for that is because at the congressional level - it's federal dynamics, essentially. At the congressional level there's an actual proposed trade-off to provide money for CALFED in exchange for being - and that's the proposed water settlement involving California, Arizona and those other states, and providing water for major

projects in the New Mexico, Arizona area.

The Gila settlement, I understand is part of that proposed package. But if we missed that, in the future there will not be that trade-off available and potentially we could also see the possibility that New Mexico's standing in the Congress, given that we currently have two senior senators, but may not at some point in the future, could also disappear. So I just wanted to point out that there is a very narrow window of opportunity, probably limited to this year, in order to be able to receive the money to support that kind of a settlement.

Apart from that, I didn't have anything else to bring forward at this point.

CHAIRMAN CAMPOS: A question for you, Mr. Gonzalez. This agreement requires County approval. And does it require City of Santa Fe approval?

MR. GONZALEZ: Yes, Mr. Chair, members of the Commission. It requires approval by all of the parties to the proposed settlement. So the state would have to sign off, the City, the County and the Pueblos. And I know we've discussed this in some detail at the meetings that have been held with the community. The actual terms beyond that, but the issue of having to do with the fact that this is probably a one-time opportunity has not really been highlighted.

CHAIRMAN CAMPOS: So are we going to -- do you have an idea of when the County Commission will have this on the agenda?

MR. GONZALEZ: That's a call for the County Commissioners. We did do an initial briefing. We discussed, and that took place I think two meetings ago. We discussed the possibility of having one more briefing and then at that point having the Commission consider it for adoption.

CHAIRMAN CAMPOS: Would that be this month?

MR. GONZALEZ: That would either be the last meeting of this month of the first meeting of next month and it depends on whether you want to do one more presentation or just proceed to consideration and adoption.

CHAIRMAN CAMPOS: How does the Commission feel about that? Setting a hearing or asking for another presentation. Any comments?

COMMISSIONER MONTOYA: Setting a hearing for --

CHAIRMAN CAMPOS: For the County Commission considering --

COMMISSIONER MONTOYA: A public hearing?

CHAIRMAN CAMPOS: A public hearing where we would actually take official hearing on the Aamodt case.

COMMISSIONER DURAN: I think it's out of our jurisdiction.

CHAIRMAN CAMPOS: We have to sign it. We are signatories, and we have to approve it at a public meeting.

MR. GONZALEZ: Mr. Chair, the hearing would simply be like we did last time, an informational kind of hearing.

CHAIRMAN CAMPOS: One, informational, but a hearing to actually consider the matter, the approval of the matter would require a formal hearing.

MR. GONZALEZ: I'm not sure a hearing is required for approval. It would be

up to the Commission to decide if they wanted to do that, but it would have to be set as a formal agenda item for your consideration and approval.

CHAIRMAN CAMPOS: And you're saying that would be in April or May?

MR. GONZALEZ: That would probably be – here we are April. If we did one more informational presentation it would be the first meeting in May.

CHAIRMAN CAMPOS: Is there any more information that we need to present or basically, we'd go over the same?

MR. GONZALEZ: It would be basically the same. Perhaps some additional details to address questions that have been raised in the hearings out in the community.

CHAIRMAN CAMPOS: Commissioner Duran.

COMMISSIONER DURAN: I think that it's premature to get involved in this particular issue. I think that there are a lot of issues that haven't been resolved. There are traditional communities out there and well users that refuse to cap their wells and until that whole thing has been discussed and solutions to the community's concerns relative to their wells and the rights that they have to those wells, I don't think that discussing it at this level is going to bring any closure to that particular issue. And I would suggest that we just wait.

CHAIRMAN CAMPOS: Mr. Gonzalez, you're saying that the County Commission has to sign.

MR. GONZALEZ: Ultimately it does have to sign. There's not a deadline at this point.

CHAIRMAN CAMPOS: There is no deadline.

MR. GONZALEZ: No.

CHAIRMAN CAMPOS: So it has to be signed before the legislation is introduced? Or it could be any time?

MR. GONZALEZ: It can be any time. However, it's my understanding that the federal delegation is watching to see whether it moves forward or not in order to introduce the legislation that would fund the settlement. So if there's not movement some time in the near future, they could decide to just scrap the introduction of the funding.

CHAIRMAN CAMPOS: Okay. Any other comments on that issue?

COMMISSIONER MONTOYA: Mr. Chair, I would just suggest that we probably wait as long as we can. If it's the first meeting in May or even the second meeting in May. I did talk to another individual in Chupadero and he's arranging and facilitating some meetings and going to have the attorneys there as well. And those aren't happening to a week and probably two weeks after the last meeting in Pojoaque. So we're looking at the end of April, early May before those meetings happen. And then I don't know if there are going to be some other ones that are going to be arranged subsequent to those. But the impression that I'm getting is that probably the more time that we allow people to really understand what's in that settlement, myself included, the better off we're going to be in terms of demonstrating to our delegation that we're going to make a decision here and make it easy for them to introduce that legislation and they're going to decide, well, maybe there's not enough – but I think people need the time to digest what's going on.

CHAIRMAN CAMPOS: So you would defer the decision to May, preferably the second meeting in May.

COMMISSIONER MONTOYA: Yes. That would be my suggestion.

CHAIRMAN CAMPOS: Okay. That makes sense. I would agree with that. Okay. Anything else?

MR. GONZALEZ: That's it, Mr. Chair, members of the Commission, from the standpoint of the County Manager at this time.

CHAIRMAN CAMPOS: Commissioners, do you mind taking a five-minute break before we start on the next hearing. It may take a little bit. Is that okay?

[The Commission recessed from 4:00 to 4:10.]

**XII. D. Utilities Department**

- 1. Reconsideration of the Proposed Water Service Agreement between Santa Fe County and Suerte del Sur**
- 2. Consideration of the Amended Water Service Agreement between Santa Fe County and Suerte del Sur**

MR. ROSS: Mr. Chair, Steve Ross, County Attorney. Doug Sayre's at the podium. The two of us will tag-team and help you lay some context for this item. Last fall, as everyone recalls, the County learned that Suerte del Sur was interested in developing a well on its property to the west of Santa Fe, and they approached our Utility Department about this issue. Mr. Sayre was involved in those preliminary discussions. Eventually, those discussions turned into a negotiation for a water service agreement and those discussions involved Suerte del Sur, their attorney, Mr. Sayre, Mr. Roybal and I believe Grace Phillips of my office participated as well and between that group they drafted a water service agreement.

That agreement was adapted, I understand, from the County's normal line extension agreement that we've been using, I understand, for years. And it was adapted to provide some additional conditions and terms that deal with this unique issue, the proposed well. County staff was throughout those negotiations quite interested in the approach that the developer suggested because it seemed that it was a potential solution to some of our conjunctive use issues. And so staff went forward with the development of the agreement and it was presented to you in December.

Most of you remember that discussion but in case you don't, the details of that as well as the minutes are in your packets. The agreement that was eventually developed provided in broad terms for a few things. The principle item of course was that the Suerte would develop an exploratory well on their property, and that well would be tested. And if the testing proved that the well was capable of production, then an application would be prepared and submitted to the Office of the State Engineer and ultimately the well would be converted to a production well. The idea at that point was that Suerte would bring – what I was doing was describing the agreement that was ultimately presented to the Commission in December and it provided for the

drilling of an exploratory well on Suerte's property, and then that well would be tested. And depending on the results of that testing, an application would be made to the Office of the State Engineer and eventually the well, if it proved adequate would be converted to a production well.

The idea being that Suerte would then bring to, transfer to those wells water rights which it possesses that would cover the demand that they expected in their subdivision. And the County would bring to the well and transfer to the well its own water rights that the County would then use to supplement the water it gets from the City and from its single other groundwater source. As a result, both parties would own, essentially, interest in the well. Eventually, when the whole system was completed, the well and the associated production facilities, etc. would be transferred to the County.

The agreement also provided that Suerte would provide any necessary treatment facilities and the infrastructure required within the subdivision, as well as infrastructure required to hook the system within the subdivision to the existing County system that exists in the northwest sector there. All that would also be transferred to the County once the system was developed.

In addition, the agreement provided that one acre of land within the subdivision would be dedicated to this production well which in the agreement was referred to as the production well number one, and then an additional two acres would be dedicated to other facilities within the subdivision for tanks, well, storage reservoirs, pumps, things like that. Also, the agreement provided that an additional production well could be located on that parcel, but that well would be a replacement well for the first well.

Suerte would pay for the process at the Office of the State Engineer getting the well permitted and essentially all other costs, and eventually, like I said, the well, the infrastructure, everything would be turned over to the County and it would become a County operation. Now, during the December meeting when this was presented we had a bit of discussion about the text of the agreement. As I told you a minute ago, the agreement was adapted from an existing line extension agreement. It did have a few problems which we worked through during that December meeting and that's all detailed in the minutes and the memo that I've attached to your packet.

Essentially, the clause that was the subject of the most confusion was a clause that provided that, or recognized that the developer was going to bear all the cost of providing this raw water source and that it wouldn't necessarily be fair for other subdividers, other land owners in the area to hook up to the system and benefit from that infrastructure that had been provided free of charge. And the idea was, in the agreement that the County would be required to seek reimbursement from the people who hooked up to that system and benefited from it for a period of ten years.

The language in the agreement wasn't all that clear on that and we all recognized that during the meeting and part of the discussion was that that language needed to be cleaned up. Mr. Vazquez, the attorney for Suerte, has provided some language which I think is attached in your materials behind the next tab. We can talk about that in a minute if you want. Then there

were some other minor technical issues that the Commission wanted to address. One of the issues was concerning the need for Suerte to name the County as a joint applicant on any applications to the State Engineer and some simple language I have drafted to take care of that issue.

There was another issue concerning whether the agreement should be amended if changes were made to the developer's water budget during the subsequent development review process. We've worked up some language on that as well. I'm not sure that that's a point that Suerte is all that comfortable with at this point but while I was in the process of amending the agreement and getting ready for the chairman's signature, the Commission indicated they might want to revisit this issue. So we stopped all our work on it. And since that time, the well itself has become somewhat controversial. I know Mr. Sayre has been to a number meetings that the developer has sponsored with area residents and I think a lot of those folks are here today to speak to this issue.

Suffice it to say though, I think that the agreement that was approved in December, I think I have enough direction based on my research in the minutes and my own recollections from the meeting to draft an agreement and put it in front of the chairman for signature should you choose to do that. Should you choose to reconsider this agreement you would essentially be going back to square one and we would be back to December 16<sup>th</sup>, considering what of the agreement that was presented at that time should be preserved and what shouldn't be. I know that there's a draft, as I said a minute ago of an agreement in your materials that Suerte has prepared but it is the same agreement that was before you in December, save clause 3.3 on page 4, which is the amended language to address the issue about the reimbursement of subsequent developers that I mentioned previously.

Perhaps Mr. Sayre can address some of the concerns or some of the feelings of staff on this particular issue. I know I have some information to share with you on that. I know he's been to a lot of meetings and gotten a lot of input from a lot of people.

MR. SAYRE: Thank you, Mr. Ross. Mr. Chair, Commissioners, my name is Douglas Sayre, acting Utility Director of Santa Fe County. I think you've gotten some background from Steve regarding this agreement. I think that you also need to look at a couple of things in the agreement which would be, if I can refer to it, on page 4, item 2, after drilling an exploratory well to approximately 1200 feet deep, then Suerte, along with the County oversight would prepare a report which would describe the testing procedures and provide results of a long-term sustainable production capacity of that proposed well. That would be provided to the State Engineer and of course the State Engineer's Office still has to look at whether this data is correct and they would do their own analysis to see whether the production that's proposed from this well can be accommodated without impairment of existing wells. And that's always a condition of doing this.

Now, it's also my understanding that what Suerte wants to do is look at one - consider a transfer of 45 acre-feet initially for their phase 1 development and look at how that would be transferred and what the effect of that would be. And we can look at whether that well could sustain additional development if they want to propose for the next phases. So that has been a



part of the discussion.

Now, in meeting with a number of people out there, one of the concerns that they certainly have is impairment of their existing wells. I think that it is the County's, staff's position that the State Engineer will look at that and address that to make sure that that is not a problem. And what we're trying to look at with this exploratory well is that a number, most of the existing wells probably have been developed from 500 to 700 feet deep in the area. And we're looking at is there a deeper portion of the aquifer that can be developed and based on some data that we got from one, the Yates well, which is on the property, which is an old oil field development well that went 4,000 feet, and with the current monitor well that we drilled down at 599, and the Public Works site, that we think that there is a deeper aquifer that could be looked at for possible use in this kind of situation so that we don't necessarily think that we would tap the shallow aquifer for production. It could be the deeper aquifer that we look at for possible production from this well.

I wanted to bring that point up. The other one, I think there is talk of two well sites here. I guess it is referred to as production well #1 and production well #2. I think Steve referred to it a replacement well. I would like to refer to it in this whole thing as a supplemental well. In other words, in any kind of system that you put in, you want to have reliability and adequacy in your system. Whatever we develop in there, it would be with the two wells. It would not be that each well would have its own water rights. Whatever's transferred in, you would have the primary well and you would have a supplemental well so that if you're going to pump this you would pump the water rights with one or the other of adequate amount. So I think it would be a joint look at how we'd develop that. That would be the long term.

I think Suerte is only proposing that they would provide a site for a second production well. That would be up to the County whether they wanted to pursue an additional well at some future date.

This development is certainly in the vicinity of our system. Our system is to the property on the northwest corner. It's within about 1000 feet of its eastern boundary. We expanded the service area. It can be readily served by this. I think that we're looking at could we possibly utilize a development like this and also look at a water supply for providing the necessary production, perhaps for just this development but if it's feasible, for other uses in the county if it would not impair existing water rights in the area. And I think I want to establish that we will not go forward with this if we think there is going to be impairment of any degree on this. But consider that I'm talking about that you can have effects on wells with this pumping, but impairment is another question and we need to make sure that what we advise people is certainly we want no impairment so that they don't have to develop another source for their water and things like that.

The other thing that's been brought up in discussions is a possibility of an impairment fund. I think in the Aamodt study, that has been proposed and that's something that could be considered. We think that that probably should be considered at the time of the Office of State Engineer review on this and if they think that there's some condition that needs to be applied to this then that would be the time to probably set up an impairment fund if they think that's

necessary. Because what we want to do is establish what's the criteria, what's the aquifer capable of, and what do we think we can really sustain, pump that without creating impairment effects to any area wells. Maybe at this time I can answer questions and then however you want to proceed on this.

CHAIRMAN CAMPOS: Commissioner Montoya, you have a question?

COMMISSIONER MONTOYA: On that point on the impairment fund, Mr. Sayre, who would be responsible for that fund? Where would the money come from?

MR. SAYRE: Mr. Chair, Commissioner Montoya, that's a question – it could be addressed different ways. It could be looked at as a possibility of a letter or credit. The concern here is who's creating the impairment? If the initial phases of development, then we could look at maybe they put up a bond or a letter or credit for so many years. If it's long term, then it's probably going to be the County's responsibility to maintain that bond, is my view.

COMMISSIONER MONTOYA: By us taking over the well?

MR. SAYRE: When we take over the system, and then if we transfer additional rights in, it would probably be the County that would have to address possible impairment. I think there's ways to look at it. I think we are trying to look into that. But it is our supposition that this probably should be addressed at the time we go to the State Engineer for approval. And it could be applied during that actual review and submittal for approval of the development that this condition could come forward.

COMMISSIONER MONTOYA: Thank you.

CHAIRMAN CAMPOS: Commissioner Duran.

COMMISSIONER DURAN: Doug, I think in our effort to develop a County water system, production wells like this, provided that they don't have impairment, they don't impair existing users, I think is critical to developing that system. But in addition to that, I think an important element to these production wells is the ability to inject the aquifer and have you had any discussion with the Suerte people relative to how we might be able to treat, or how they would treat their wastewater and inject that into the aquifer. So that's one question that I have. And is it true that if they do inject the aquifer that the impairment issues, if any, are minimized?

MR. SAYRE: Mr. Chair, Commissioner Duran, addressing the first question about possible injection of treated wastewater, it's my understanding that Suerte was going to look at transferring their wastewater over to the Las Campanas treatment system for use over there, and possibly utilizing that. Now, if they want to consider another option, we can probably look at this. This always gets to be kind of a very, I guess contentious question for a lot of people, whether we should be looking at injection of wastewater. I think the discussion I've had with Suerte would be that we could look at aquifer storage and recovery with a well like this also, but probably we would be looking at the Buckman diversion water coming up there. We would interconnect this with the Buckman diversion system in 2008 so that we could possibly do that. In surplus years we could transfer water over and put it into the aquifer at this point and that's what we're looking at in a number of production wells, that they would be joint wells. They could be production wells in some years, but in other years they would be used to

store water in the aquifer or inject water. But this would be good, clean potable water that's been treated for actual use by the public in the system.

COMMISSIONER DURAN: That answered one question. The other question was would an aquifer injection system at this point of diversion minimize the impairment issue that the well might cause?

MR. SAYRE: Mr. Chair, Commissioner Duran, I do think that that would do that. What we try to look at is a net balance. In other words, if we produce the well for some years, then we would look at trying to put water back into the aquifer, and we would look at trying to keep a zero impact possibility on this well, relative to the area. And we would try to maintain that. It would all depend on what we perceive long term and what we can do with the Buckman diversion as far as water supply. But I think we would certainly look at minimizing any effect, long-term effect, by the use of this well. Yes.

COMMISSIONER DURAN: So the answer is aquifer injection at this particular location could minimize the impact that this well could have.

MR. SAYRE: Yes, sir.

COMMISSIONER DURAN: On existing users. Thank you.

CHAIRMAN CAMPOS: Any other Commission questions?

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Doug, when this was first brought forward we talked, or I talked rather, about a concept approval, which would allow the agreement to be amended as the application proceeded through the approval process and that wasn't agreed upon by the Commission but we agreed to a number of conditions and apparently where we are at this point is that the applicant doesn't agree to the conditions that we agreed to. So we'll have to address that, I think, a little later after we hear from the public.

But a question that I had was, we're talking about requiring a minimum 40-year sustainable yield. And I brought this up back in December as to why we weren't requiring a 100-year sustainable yield of the well. And that seemed to me that that could partially address partially at least, impairment questions. The response was I think, and correct me if I'm wrong, that on municipal or public wells, the requirement is only that they be 40 years. So it seems like perhaps this applicant is asking to partner with the County so that the well can be a 40-year sustainable well instead of 100-year sustainable well. In your judgement, would, if it were 100-year sustainable well, and that's what the studies were focused on, would that make any difference?

MR. SAYRE: Mr. Chair, Commissioner Sullivan, it could possibly. I'm saying until we get an exploratory well and test it - we could test it on the feasibility of providing water for 40 years and we could also theorize, okay, what would it be for 100 years and see what kind of effect that has. I think in discussion with Steve Wust in our department we were looking at different scenarios about how we would set up testing and certainly we could look at that. But you're correct. The only requirement the County has is to have a 40-year supply. I don't know that the developer is addressing that with us and going with us for that reason. I

think it was more feasible as far as system connection and feasibility that we look at this aspect. That's how we've looked at it with other developers to the east and to the south about connecting on to the system, but we knew that we needed to look at supply wells also.

COMMISSIONER SULLIVAN: A private applicant that comes to us for a well approval is required to demonstrate 100-year sustainable, is that right?

MR. SAYRE: Mr. Chair, Commissioner Sullivan, that's correct.

COMMISSIONER SULLIVAN: So I was just thinking that there's a few people out in the audience here today that hope to live more than 40 years from today. Don't clap yet. You never know what's outside the door. But it seems a logical question. If we prove we have a 40-year sustainable well, what happens in year 41 to those people. So I'm just wondering whether that would make a significant enough difference in the way we look at any of these wells if we were to apply that criteria.

MR. SAYRE: Mr. Chair, Commissioner Sullivan, I'm sure it will make a difference. I think it would give the people probably more comfortability regarding the use of this well. Certainly the long-term sustainability if more than 40 years. It's 100 years. I think in a number of basins we have looked at that. I think it was just that the requirement for the County and municipalities on their system is that we only have to show a 40-year sustainability on water supply. I think we're looking at it's going to be more long term than that but as I say, within this we could look at, okay, what are the effects on 40 years and what are the effects on 100 years. It's very easy, once we get the data to start modeling these kinds of effect within that. And we could ask also the State Engineer to do the same.

COMMISSIONER SULLIVAN: Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chair, I'm going to kind of go back to the study we had talked about previously. In that study that we had put out, in that RFP, was this area a part of that study?

MR. SAYRE: Chairman Campos, Commissioner Montoya, we really hadn't established exact areas. We had been discussing potential areas that could be possibly developed with an exploratory well. I think we had been looking somewhere, I'd say north of the bypass and along Caja del Rio that could be utilized. And so this gave us an opportunity for a possible exploratory well that we'd been looking at. But very definitely we had been discussing the best locations with some of the geo-hydrologists that were making proposals. We had talked about where the most feasible locations they thought were in the county.

But this was a possible area. Yes.

COMMISSIONER MONTOYA: So the area is a possibility of having something done, somewhere in that northwest quadrant. What were the other ones?

MR. SAYRE: Commissioner Montoya, the other areas, we looked at how we could move the Hagerman well rights, because we have approximately 90 acre-feet that could be moved and we looked at where could we move those that the effects would be less seen probably in the La Cienega area so they were going to be moved east. What we looked at was the possibility of a production well at the junction of 599 and the Santa Fe River where the

County has acquired some land for the Public Works site. That was a well site. We also looked at whether we should just do an additional well or a new well at the Hagerman site, but because of its infrastructure requirement we figured it would be best to move those rights to a well that would be closer to the water system infrastructure as we see it in say, the next ten years. The other one was probably south in the vicinity of 599 and I-25 junction. Another one was discussed probably south of there on County land in the vicinity of 14 and east of the state pen, and another one is probably east of there somewhere in the Rancho Viejo complex as a possibility. And one other well that we looked at was the possibility of the Valle Vista being a possible production site where we have nine wells which have low production, but we could put in a replacement well there that would produce probably as much as those wells combined.

So those were the basic locations that we've been looking at.

COMMISSIONER MONTOYA: So about six.

MR. SAYRE: Yes, sir.

COMMISSIONER MONTOYA: Okay. And I guess as part of that process, what was going to be the responsibility of the contractor in terms of, were they just going to go drill a well and test it, and then cap it? What would the process be?

MR. SAYRE: Mr. Chair, Commissioner Montoya, basically what we were trying to do is look at going and providing initial modeling data where we would look at possible locations for exploratory wells and then they would I guess advise us where they thought good exploratory wells or what we call just drill down and observe the aquifer in test wells to do that. So we had envisioned two exploratory wells and one test well just to look at the aquifer and its possible capability. So that's what we envisioned in that.

We thought we'd get advice from a geo-hydrologist for location of those wells prior to going out and doing it. And that's what we were waiting for was a more or less preliminary modeling of the effects, or the basin and then look at where the effects would be minimal and we could locate possible exploratory wells, but where the aquifer would provide a good production capacity also.

COMMISSIONER MONTOYA: Thank you.

CHAIRMAN CAMPOS: Okay. Thank you, Mr. Sayre.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: I've got a question. Are we - reconsideration of the proposed water service - right now we're just discussing - I don't understand what we're doing here.

CHAIRMAN CAMPOS: Well, basically, what we're going to do is staff put this into context. Next, we're going to let the public speak. Then we're going to decide whether we want to reconsider or we want to consider an amended water service agreement.

COMMISSIONER ANAYA: So after we hear the public speak we will either reconsider or not.

CHAIRMAN CAMPOS: Yes.

COMMISSIONER ANAYA: And then if we reconsider, then we go to the next

one?

CHAIRMAN CAMPOS: I guess if we don't reconsider –

MR. ROSS: Mr. Chair, members of the Commission, there are two items on the agenda. One is to reconsider the approval, the existing approval as of December 16<sup>th</sup> of this water service agreement. It's an approved agreement with conditions. What's before you is the item is whether you should reconsider that approval. If you choose to reconsider that approval and that vote is successful, then you go on to the next item on the agenda if you wish to, which is consideration of an amended water service agreement. At that point we'd have to have a discussion about what the water service agreement should look like, that you would consider as a replacement for the December agreement. But right now what we're talking about is the December agreement, whether it should continue the way it approved it or whether it should be reconsidered, taken off the table.

COMMISSIONER ANAYA: Okay. Mr. Chair, I have some questions then.

CHAIRMAN CAMPOS: Please proceed.

COMMISSIONER ANAYA: Doug, if the developer wishes to drill individual wells for each lot, or if they were going to share lots, how many wells would they be drilling in that aquifer, and how deep would they go, and how deep are the existing wells out there?

MR. SAYRE: Mr. Chair, Commissioner Anaya, there's options as far as development and this is certainly one option the developer could take is that he could look at shared wells to furnish the water supply to the development. If you look at roughly four homes to a well, and I believe the development is about 264 lots, we're talking about somewhere in the vicinity of I think 65 wells or 64 wells, possibly, that would have to be drilled. If you look at that effect, I think that pulling out roughly, I guess one to 1.5 acre-feet per well, you'd be looking at approximately 90, 100 acre-feet of withdrawal annually, if you look at about .25 acre-feet per household on a well, in that criteria. That's what has been normally looked at as far as use.

So I think that the possibility exists that there could be considerable impact from say, 60 to 65 wells on the existing aquifer. The norm in most places is for a well to be drilled so many feet into the existing water table. Most of the wells are about 500 to 700 or 800 feet deep. I would think that these wells would be in that same aquifer, a possibility. So there could be a great effect on area wells with them drilling this many residential wells in the area.

COMMISSIONER ANAYA: Has the applicant given you a water study or how much acre-feet of water that they need for their development?

MR. SAYRE: Mr. Chair, Commissioner Anaya, they have indicated to us that for phase 1 they would need approximately 45 acre-feet. For the overall development they've said about 130 acre-feet. Perhaps the developer and their attorney can confirm this but that's my understanding at this point about how much water would be needed for the first phase and then for the total development that they're talking about.

COMMISSIONER ANAYA: Okay. Thank you. And I guess I'll hear from the residents on how they feel.

MR. SAYRE: Excuse me. One other alternative that the developer has which I

think we've discussed staff-wise, is that they could develop their own community system in which they put in their own well, or wells, probably, and put in a community system that would be similar to the County system but would not be interconnected to it, and develop it that way. That's a third alternative. We have the connect to the County system and do a well, the second is drill shared wells that would provide water to all the residents, and the third would be develop a community system of their own that they would operate and maintain and they would transfer rights into and provide the water to all the proposed development.

COMMISSIONER ANAYA: So right now, they could go to the State Engineer by themselves and prove or drill a well, test it and the State Engineer can either say, Yes, you can pump 130 acre-feet out of there, and they could do it on their own.

MR. SAYRE: Mr. Chair, Commissioner Anaya, basically, yes. They would have to transfer rights in, and that would be part of the process, and 130 acre-feet would have to be transferred in and the State Engineer would evaluate that and tell them whether that's reasonable or if there would be possible impairment or what other conditions could be applied to the use of that well. Yes.

COMMISSIONER ANAYA: Okay. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: I have a quick question, Mr. Sayre. The applicant, if they move forward as a private applicant would have to prove a 100-year water supply, and that's a more difficult standard than a 40-year. So there is a difference as to how it's moved.

MR. SAYRE: Mr. Chair, Commissioner Campos, that's true.

CHAIRMAN CAMPOS: Commissioner, if you have a brief remark so we can go on to the public hearing.

COMMISSIONER DURAN: Well, I don't know how brief they are, but Doug, you said that they have 130 acre-foot requirement. Do you know how much acre-feet they have currently? Do they meet that 130 acre-foot need?

MR. SAYRE: Mr. Chair, Commissioner Duran, it's my understanding in review that they do have 130 acre-feet that could be transferred. They would be Middle Rio Grande rights south of Albuquerque that could be transferred up to a well. Yes.

COMMISSIONER DURAN: So if they have 130 and they ask to transfer 130, is it typical that the State Engineer approves the entire transfer? I ask you that because at the last meeting you talked about our water rights and how we were going to be limited to the transfer of rights that we have.

MR. SAYRE: Mr. Chair, Commissioner Duran, I think there's a question whether all of these rights could be approved. It really depends on the aquifer ability and whether they can show that maybe they can take the water from a deeper aquifer and the effects of that. If the effects can be shown that a lot of the effects would be on the Rio Grande, then probably they could transfer a substantial amount of these rights. But if other cases hold true, they would have to offset the pumpage of these rights with in-basin rights on the effects, such as the existing wells in the vicinity, as well as all the way down to La Cienega. So I think, I guess the answer to that is we need to test the well to find out what the capability is and what the effects would be about different scenarios of transfer.

COMMISSIONER DURAN: So the limitation that the State Engineer would put on this well and their ability to transfer the 130 acre-feet would be based on information gathered through the data received through the testing on that well.

MR. SAYRE: That's correct.

COMMISSIONER DURAN: Mr. Chair, I have one more question just for Roman Abeyta. Under our current Land Use Code, subdivisions in excess of 23 or 24 lots must bring water rights to the subdivision or to a point of diversion. In your analysis of this submittal, would they be able to meet that requirement?

MR. ABEYTA: Mr. Chair, Commissioner Duran, on their own private system, we don't know. We would need a lot more information. With the County system they would be able to.

COMMISSIONER DURAN: But if they came forward with a plan to develop their own system, the only requirement that we would impose - well, not the only one, but a requirement that we would impose on them would be that all of the required water be transferred to that point which has to meet the State Engineer's approval.

MR. ABEYTA: Yes, that's correct, and the County Hydrologist's.

COMMISSIONER DURAN: Right.

MR. ABEYTA: So they would need water rights and also be able to demonstrate a 100-year water supply.

COMMISSIONER DURAN: So a geo-hydro plus supporting documentation from the State Engineer.

MR. ABEYTA: Yes.

COMMISSIONER DURAN: And the water rights.

MR. ABEYTA: Yes.

COMMISSIONER DURAN: Okay, thank you. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Okay. Thank you, Mr. Sayre. We'd like to have some public comment now. How many people here would like to comment? I understand there's four people Mr. Gold has identified, he's told me there's three or four people that are spokespersons for the group. I'd like to have them come forward first. Please state your name and address, sir.

REZA NOVBAKHTIAN: My name is Reza Novbakhtian. I'm a member of the Santa Fe Domestic Well Owners Association. I live in La Tierra and my credentials are as a chemical and mechanical engineer. I worked for many years for a large Fortune-500 company as an engineering manager and during my career, I designed and operated water purification systems. I have a strong interest in hydrology so this March, I attended the USGS-sponsored Española Basin workshop.

What I learned there in talking to a lot of prominent scientists who attended this convinced me that this water service agreement is a bad idea. And I have some points to make here. One point is really the aquifer, how many layers is it? I called the State Engineer's Office and I talked with the father of the model, the co-author who devised it in 1996. This is what he told me. He told me that the model for the aquifer in Tesuque rock formation indicates

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geologically one aquifer. However, it's subdivided into four layers based on grain size. This is the grain size of the rocks in there. So it's not different rocks for formation. The aquifer is continuous and any pumping at any layer will affect the adjacent layers. So that's the position of the State Engineer and that's what the model which is a benchmark and the standard they're going to judge every water right in the case upon.

Then the other issue which again came up here is the 100-year and the 70 percent deflation rule. I again talked to the Office of the State Engineer and I talked with the authorities. The 40-year rule, they said, it's an old misnomer. It's an old understanding. It was when the farmers used to go to the bank and get a loan. The loan was 40 years old. So the bank and the farmer would amortize it on 40 years and they would say, okay, we also make impairment of the well 40 years. So for the full state of New Mexico this 100-year applies to every subdivision. That is just the bank amortization for 40 years. So 40 years really doesn't exist.

Then the other issue is the 100 years and 70 percent deflation is really a rule of thumb. Basically, what it says, again, I talked to the State Engineer Office. Seventy percent of the water column in your well could be used in 100 years. For example, if you have 100 feet of water above your pump, 100 feet of water column. It is permitted by the Office of the State Engineer for this 100 feet to be reduced to 30 feet in 100 years. So that's the 100-year, 70 percent rule.

Now again, this is really a rule of thumb. This is again a quotation, there is no fixed definition of impairment. It is very murky and greatly subject to interpretation by different people. The Office of the State Engineer's goal is to make sure that nobody's impaired, even though there is no definition for impairment. It is on a case by case basis and open to interpretation. Because hydrology is not an exact science it becomes a legal issue. Lawyers will be needed to sort this out.

Then the other subject which we really need to consider here as County Commissioners, is the County should limit its reliance on groundwater. The Buckman wells which began supplying City water in earnest by the mid-eighties and now provides about 60 percent of the City water, this is the groundwater which supplies 60 percent of the City water, has caused the water level to drop by 150 feet. So the water level in our basin has gone down by 150 feet.

The Santa Fe wells are dropping by 1-1/2 feet per year. This means that we are depleting the aquifer at a faster rate than could be replenished by nature. Water recharge has not kept up with our overpumping. The consensus among scientists was unanimous in the conference, that we are depleting the aquifers along the Rio Grande. Now, this overpumping has caused a crack in the land bordering Santa Fe's Buckman wellfield. The consensus amount the researchers is that ground sinking caused by fissures, which extend about one mile across the arroyos and parallel ridges and is [inaudible] in some places. The USGS has classified this as a serious geological hazard. So this overpumping has caused the land to sink and this is unanimous geological USGS environmental hazard.

So we're not sitting on a lot of water. The land is sinking. This is a fact, said John Shomaker, a prominent geologist, familiar with the Buckman wellfields, the overpumping

causing the crack. In the morning before the field-trip to the fissure, Shomaker told the group of scientists and researchers that if engineers had known in the seventies what they know today about the geology and hydrology of the area, Buckman may not have been selected as the site of the City wellfield. The system did not behave as people thought it would, he said.

So in conclusion, our elected officials must demonstrate leadership by saying, It is enough. Our Santa Fe Well Owners Association communities have been residing here for an average of 30 years. The County Commissioners were elected to protect our interests. Again, the County must limit its reliance on the ever-depleting groundwater. Any questions?

CHAIRMAN CAMPOS: Thank you, sir. Next spokesman.

DAVE MUNGER: My name is Dave Munger. I'm at Puesta del Sol Subdivision. I'm representing the Santa Fe Domestic Well Owners Association, Puesta del Sol and myself. At the beginning of the Suerte del Sur project several things started with some encouraging trends that we sort of hadn't seen in previous experiences with development. Mr. Al Lilly over here really worked very hard with the community groups to work with some of the issues on the development proper. And all during that time we kept asking about water and the answer was always, Imported water, no wells.

Now that changed suddenly in September. To our knowledge. Actually, we didn't learn about it until January I suppose. But we were disappointed when we heard that the proposal was to drill a production well in addition to just the needs of the development itself. And this production well would be located in the middle of 270, 280 existing domestic wells, some of them there since the early sixties.

We were further disappointed when reading the minutes of the 12/19/03 BCC meeting discussing the water service agreement. There was really, during that discussion, there was no discussion of neighboring existing wells. Commissioner Anaya did mention La Cienega but basically the total dependence on the OSE determination was the only real discussion in that area. Everything had to do with whether a well could support the production of water. Nothing to do with existing well owners or wells.

In subsequent public meetings, there was no mention of the second production well. In the next meeting after that, the explanation was that it was a supplemental well, although in the presentation in the WSA on the 12/19 presentation it didn't real supplemental at all. It meant 100 percent production. So we're kind of defining as we go here.

Then I read the 40-year plan. I guess it got under our radar screen. It was passed four years ago or so, and was very disappointed to see that there was very little discussion of existing well owners. In fact, if you look at the rules contained in Santa Fe County Resolution 1999-41, the existing well owners, of which practically all of them are not in the existing service area, are specifically excluded from any relief by the regional system. That doesn't seem much like a plan for everybody. It's a plan for development. So our concern is greatly ripened as we read through these documents that are your guiding documents.

Other specifics in the 40-year plan, the 40-year plan calls for balances aquifer use, not depletion. Words used are maintain a balanced aquifer. Other words: sustainable water. All these things imply a stricter mandate than the OSE supplies. Now the OSE, the State Engineer,

just wants to know that you can produce for 40 years before you deplete the well, or that you don't impair existing wells or existing water rights, really. So we think you have a higher standard than the OSE can supply and should look at it that way.

Also there are statements in the 40-year plan that talk about preserving historic uses of water in our community and assuring that the limited water supply available is carefully and effectively managed with due consideration for our neighbors who rely on the same limited supply. Not only is further discussion of that not done in the 40-year plan, it is also completely not discussed in the WSA or any other commitment by the County. We think there are some serious deficiencies like that.

Also, the 40-year plan attaches the line extension policy and specific in the line extension policy is Utilities shall not construct, approve or accept a line extension that would cause undue financial burden to existing utility customers or County taxpayers. Now taken to the extreme, if the state makes a mistake and impairment does occur, in due amount to the taxpayers is – well, take Pinon Hills for example. There's about eight miles of roads and that would be about the amount of infrastructure that would have to be supplied, not counting connections and not counting the last few hundred feet of approximately a million dollars a mile. So for 100 lots or 100 connections, that cost is \$80,000 per lot. They certainly can't afford it. I'm not sure any of us could for the most part and that would go to the taxpayer because of impairment.

There's no discussion of those sort of things in the WSA and there's no discussion other than, really in public other than Doug just mentioned an impairment bond or an impairment note of some sort. The explanation of these wells or the water service agreement are really the subsequent use of the well resulting from the water service agreement was that this would be purely a supplementary well or an emergency well or a back-up well. Anyway, the idea is that in an emergency, when the Chama isn't flowing, San Juan/Chama water isn't flowing these wells are used to supplement that shortfall. However, if you look at the timing, there's no way that the diversion is going to be complete by the time this well goes for approval and potential use. And connection into the northwest sector, anyway of the service area.

I would define that as a primary use. There is no other primary supply at that point, other than the 500 already allocated wheeling agreement acre-feet. So we would like this represented correctly as what it really is. And further, as Commissioner Duran noted, the County is saying it's fully allocated anyway. So there is no other water to come in and supply this subdivision or the areas that are waiting for water in the northwest sector. So the language of back-up or emergency or supplemental really doesn't apply until this fictitious diversion actually occurs which is already ten years late and who knows how much longer.

We were further disappointed. I went to a lot of personal work putting together 23 pages of questions so we could gain knowledge of what's going on so we could make reasonable determination of their negotiation position, of their untenable positions, and forwarded that to the developer's agent and the Santa Fe County and that was over a month ago on the first version of that and we have yet to see any written responses to that whatsoever. We've gotten some verbal responses but no written and we've asked for that.

We need to get some local trust here and that isn't helping much. We need information. Finally we were disappointed that there's no real plan in the first place in real terms. Basically we see this as hopping on the first opportunity that arises with no real backing plan for that. There's some 40-year generalities but it's not very well dealt with in there. And certainly, from our viewpoint, there's no plan for dealing with existing well owners. And every hydrologist we've talked to is saying there will be impairment. So I don't know where all that goes but the State Engineer may have something to say about it eventually.

But there are some encouraging things. One is that you're reconsidering the WSA to begin with. That is a pretty good sign that you're sensitive to the fact that there's a few other people out there that have an interest and that you represent. So we appreciate that. We're also encouraged that many of the northern Santa Fe communities and individuals are coming together concerning this impending threat, presented by the County of all people in our view, or the threats from the County actions impacting the existing wells. That's why you see so many people here and there would be a lot more if they weren't at work today. But that's how that goes. But anyway, thank you for your time.

CHAIRMAN CAMPOS: Thank you, sir.

CHARLES PADILLA: Commissioner Campos, Commissioners, my name is Charles Padilla. I live at Puesta del Sol. My address is 51 Calle Sinsonte. I've lived there and paid taxes to Santa Fe County for seven years. Prior to that I lived close to the Agua Fria Village for the preceding ten. We moved to Santa Fe from Mora in 1958 and lived on College Street. My dad was the barber in Mora and helped to extend the community sewer system there in 1963 and the community water system in 1946. Before that we lived in Penasco and before that we lived in Embudo and we started life in this country in both Santa Cruz and San Juan in the 1600s.

In 1980 I was elected to the first of two terms on the Metropolitan Water Board and I served as your County representative to the County Water Board for eight years. I have a conflict of interest here in that I'm a member of the board of the Catholic foundation who owns a piece of property within this planning jurisdiction so I would like to make that clear ahead of time that I'm not speaking for any interest that they hold in this proceeding.

Beginning in 1980, I participated in a great number of hydrological studies for the Metropolitan Water Board. It's sort of interesting to read even just today's paper concerning your County and City meeting last night because there's some issues that we dealt with from 1980 to 1988 with Frank DiLuzio. They included the planning, the financing and the picking of a site for the Raney Gallery on the Rio Grande. Other issues that we dealt with were the planning, the financing and how you would accomplish a regional water system. And I have to admit that Frank DiLuzio was an exceptional individual back then and most of the stuff that he came up for the County and for the City through the Metropolitan Water Board.

Although we spent about \$2 million in eight years in hydrological and planning studies, I don't tend to think all that has been ignored but a great deal of it has. One of the things that we studied for eight years back in the early eighties was how we would find a way to deliver the County's 375 acre-feet of San Juan water. And that's still an issue 24 years later and I find

that an irony. Now, right now you and the City are trying to find ways to cooperate about water. And I wish and I'll give you this history about being in New Mexico for a long time because I'm not a newcomer to here and I'm not a newcomer to public planning or reading the newspaper.

But where we're at today is that our margins are gone. It's very difficult to negotiate with the City today because in 1980 they were using 4000 acre-feet of water. They have about 10,000 acre-feet of water available to them. In wet years, they've got 8200 in their best yield. What happened from our projections in 1984 were that we never guessed that Santa Fe would put on 4000 hotel rooms in the 1990s. We never guessed that we would have a new tranchable mortgage. That's a movable mortgage. It moves all over the country where you can have a mortgage on a house where you have no fire protection, no sewer, no roads, but you could have a mortgage. Therefore you had growth before you had infrastructure.

I'm here also because in 1984 we never guessed we would have anything like Las Campanas, that with 268 houses, they ran out and used ten percent of the City water supply. So their margin is gone. At the same time, rather than addressing these issues, what happened in the county is that you went through the route of private water wells to serve county development. Within a mile radius of this test well there are almost 300 community, domestic wells. Within a two-mile radius there are 800. And I can tell you one thing that's interesting that's changed from 1980 to now is that we never had anybody appear at a Metropolitan Water Board meeting. But it didn't take us very long to get together 300 members of this group represented today and I think that we could probably get all 800 of these people to a meeting very easily. That has really changed because now we're starting to communicate on the Internet. My e-mail is just chock-full of Internet messages of people sending stuff back and forth about this issue.

I think that what happens to me is that as I look back, we're still trying to plan in the old style. We're still trying to say how do we allow new development to occur? But what's happening in the new world is that there are too many other cross jurisdictional entities that have an interest in what we do for land planning and water planning here. And I would really urge you to get serious about negotiating with the City of Santa Fe, because you are the only two users that are either going to save each other or you're going to fall apart separately. I think that every county that I look at, from El Paso to Dona Ana to Albuquerque has already established a regional water authority, and you can bet that they're frightened for their own life and they're going to be challenging every transfer like this deal to transfer surface water from Socorro to this basin here.

And so right now, this is becoming a very complicated riddle and I really, really do urge you to force the negotiation toward a regional planning commission with the City. You have to do this. I'm also concerned here, and I stand up before you because of what I've seen in these County meetings. And this is one of the first times that I've ever seen that a developer is standing in the shoes of the County. And just a while ago, I really got my ear up when I heard that this developer would be excused, that because he stands in your shoes he would only have to prove a 40-year supply and not 100 year as Jack said. I think that sort of -- all of these

conflicts that start to arise come basically because as a community, what we're hearing is that we're hearing first from your developer and not from our elected official and I think that putting the cart backwards is a very strange possibility.

I think that I have to be here with a concern over what happens to the people that have supported this County for a great many years. There's 800 people that are relying on private water wells. And from my history on this Metropolitan Water Board, the transfer of water rights from Socorro upstream is a very difficult one to pull off. That did not happen when Intel tried it. And they're responsible for all of the growth that occurred in Rio Rancho.

The second thing is that these kinds of transfers involve very, very serious conflicts. And I would expect that I would see the County forwarding this idea because you can really benefit by moving rights from Socorro to the Buckman wellfield if that's a possibility. But I think it's the County that has to front that search because you are the entity that's charged with that, not a developer. We see the here there's a quid pro quo that I think is very scary. If you get the water to our well, we'll give you 264 lots and we may have to ignore these 800 people who for the past 60 or 70 years or 30 years or 20 or whatever they have, they've been there paying your taxes and using a domestic well. And there is no clear way to fight for that offset or for that impairment.

But what happens is that the conflict comes in that if you let the developer stand for you, the money's gone. We have been approached on the County here by a representative of the developer who before he approached us, was an employee of the County. So that every document that we saw was signed by your employee one day, and that was a noxious feeling. And what happened is that when we exposed that conflict, there was nowhere that we could go. And I really recognize Commissioner Sullivan for being at our last meeting and for raising that issue in front of you and I hope that you would act on that.

The last point that I'd like to make is one that concerns land planning. As you know, the issue of this well being put in now is a serious issue because in my community alone of Puesta del Sol we've got 60 families. We've got over 100 at Pinon Hills. Anything that would happen to that water there tells me that the County does not have the revenue to replace our water or to grant us a water line extension on a par with the new lots that are sold. The conflict that I'm going to talk about exists from the standpoint that the gross profit that is due the developer for taking and platting land is gone before the County gets to measure an impact.

I think in the long run what the County has to do is that you have to have somebody like Frank DiLuzio and a very bright joint planning board to try to help you with this issue. But right now we're in the biggest drought that we've seen since 1956. On the Internet, I saw my family moving from San Juan to Embudo to Picuris to Penasco, and then to Mora, and out of Mora in the droughts that occurred in the 1920s and 1950s. What we're seeing in this development here is that we're in the middle of the biggest drought in the history of New Mexico just about, with a population that can barely be supported. But we're talking about taking groundwater before there's a clear way to replace it, or before there's any plan for impairment.

And so outside of all of the conflicts that I've seen in this, this issue here has really

gotten my attention again. And I have to apologize, the last 15 years I spent raising my children. And I think the next 15 years I'm going to spend getting involved in these kind of issues and I'm sure you're going to see me again. Thank you for your time.

DAVE GOLD: Commissioners, my name is Dave Gold. I'm here on behalf of the Santa Fe Domestic Well Owners Association as well as I'm the vice president of the West Santa Fe Association. I'm representing that group and myself. I'll attempt to be brief and quick and to the point.

What's being handed out to you right now is basically a summary of what's been said and I'll just add a few things at the conclusion. [Exhibit 1] Before I get much further, there's several people I have to thank. I appreciate that the developer was willing to meet with us and I'd like to thank Ms. Rosanna Vazquez for that. I would also like to thank, there's been a number of volunteers. In order to make those meetings possible, a number of community members went out and handed out fliers, made signs, did leaflets, all kinds of stuff and I'd like to thank them as well. And finally I'd like to thank everyone that came out today in the middle of a workday. I appreciate it. I'm just wondering, how many people in the audience, if you could raise your hand are here because they're concerned about this well. [Approximately 80 people raised their hand.] Not a small amount anyway.

We have several concerns, really. Some of them have been mentioned. One I'd like to bring up is that basically, this process involving the State Engineer has been presented as some sort of a very simple, easy process. It's actually not. The way it works is that unless you go and protest each well, the State Engineer will not look at that wells. We discovered this in discussion with the State Engineer. Beyond that, as has been stated, the science of hydrology in many senses is more of an art. And as Mr. Novbakhtian at the beginning discussed, and I'll go back to some of that, some of the modeling issues are very tenuous. What ends up happening, in one case - a lot of people have talked to us kind of privately, so I can't really name names but somebody basically said at the State Engineer level it's not a technical or scientific issue, it's a legal issue.

What that means is that our community is going to have to come up with \$30,000 because that's basically what these things cost. So by doing this, you're asking us to come up with \$30,000, make sure that every single one of these 700 or 800 wells is registered and protest with the State Engineer. This well and this water service agreement is not a scientific study. This is a thing that forces our community to take an expensive and complex legal action.

As a County policy, obviously this concerns me. And not just for this well but for any of them that are being discussed. Another issue that came up is the water rights. The water rights for this well, it's not just a question of transferring water rights upstream, which is a pretty well understood process, but according to the State Engineer, this particular water rights transfer, this type of water rights transfer has never been done. This is a water rights transfer that involves transferring surface water inland ten miles and underground. So this is not - and by the County doing this - the basin right now is fully allocated. So basically what you'd be doing is you'd be encouraging further depletion of the basin by even supporting this type of transfer.

I think that's something that concerns a lot of people and not just in this group, but a number of people have called me and said this is really bad news, this type of transfer. And I'm very concerned about it.

Another thing that came up is this developer is asking for 130 acre-feet for 260 lots. That's a half an acre-foot a household. Now if they went and did just regular domestic wells, that would be a quarter of an acre-foot per household under the restrictive County covenants. I'd just like to point that out. That concerns me.

The issue of the aquifer, before I did this, I went and talked with two hydrologists and a developer who I was friends with before I even got involved with any of this stuff. Because I wanted to know whether this was even worth doing. I really don't like spending my time doing this. It takes a lot of time and energy and I really wouldn't like to waste it unless somebody said it was worth it. All of them said, yes it was worth it. Since then, I also attended the EBTAG conference that Mr. Novbakhtian went to and I've talked to – I've kind of lost count but it's sort of like in the eight or nine range of top scientists, hydrologists and all that. Every one of them has stated – when I brought this issue of the two aquifers, one of the top modelers actually laughed and said, "The County told you that?" And they said that's completely untrue. And basically described what Mr. Novbakhtian said, that it's one aquifer. You start pulling on the lower ones, you're going to be affecting the upper ones. It's that simple. They're all interconnected.

To prove in fact, that it's actually separate, you have to start envisioning how much do you know about what's underground? When you have layers of underground strata and you punch a single well in, what does that tell you? Well, it tells you specifically and very directly about that particular well. But the underground, it turns out, is not all nice and layered like a cake or something like that but it's actually very lumpy. It's sort of like the kind of cake I'd probably make if I tried to make a layer cake, which would be all lumpy and weird and would have breaks and all kinds of stuff. So the modeling is very complex, and it turns out unless you really do a lot of testing and a lot of drilling, you cannot know what's underneath there. So the issue of determining impairment is very complex and that's why at the State Engineer level what ends up happening is you get your lawyers and everybody argues and everybody pays \$30,000.

I believe that this Commission is dedicated to the idea of not trying to hurt the county residents. I believe you're trying to watch out for us and I think it's very important that you understand what you're doing here, that this is not just a simple little exercise or something that's going to magically happen. This is a very harsh and intense legal situation. I'm afraid we would be going at it with people that are much better off than we are. Beyond that, even to find – the reason that we're speaking up here instead of a real hydrologist is basically we couldn't find a hydrologist to speak in front of the County. There's a number of conflicts of interest that came up. There was – people felt intimidated, they were concerned professionally that by speaking in front of the County that they would damage their own reputation.

So when we do this, we'll probably have to go to Albuquerque to get our hydrologist. But that's the kind of situation that you're putting us in by doing that. And I think it's important



for you to realize the kinds of people you're doing this to. The people in this audience out here, we're just like – we're regular people. We're the little people. We're the people that are carpenters or artists or work in government. All kinds of things. We're not like this huge, wealthy group. It just doesn't work that way.

Finally, I'd like say some other points. I'm very glad to see the County considering looking at the hydrology. I think it's really important before the County goes and starts putting wells anywhere, to go and actually figure out where are places that are not going to impair existing well owners. Because the County is not going to have the money to make good on that impairment. Right now, look at how difficult it is to raise \$100 million for the San Juan diversion. How easy is it going to be to come up with millions more dollars to start dealing with impairment.

And I actually checked with my developer friend and found out how much water lines cost to do the whole deal. It's millions of dollars to deal with – if you just think about the eight square miles around this well, it's millions of dollars. And you don't have it and I don't see that you're going to get it.

So I think in addition to doing hydrological studies, you also ought to do cost/benefit analysis. How easy, what is it really going to cost to do this? Like relocations of system growth. In other words, the County water system needs to be engineered. I'm an engineer. This is what I do. I'm not a water engineer, I'm an electronic engineer, but I engineer for a living and I'm really kind of surprised that this hasn't been done. If I was in this position I'd feel compelled to sit down and figure all this stuff out going into it. How much will it cost? Where am I going to be putting this? What will happen if I go here? What effects are water rights transfers going to have on the existing system. I don't feel that that's been done. We requested that information and haven't seen it.

Finally, one issue came up about injecting the aquifer. Locating a well – I think injecting the aquifer is a great idea. Problem is it can have consequences that are unforeseen. If you put a well in the middle of a bunch of other domestic wells and you wreck the aquifer for any reason, and what Mr. Novbakhtian described about the ground level sinking, there's a lot of things that can happen to the ground level when you start either pulling water or pushing it and trying to push things back and frankly, I personally as a well owner don't want to be near that. I think injection is great but I think you need to do it in a place that's not going to harm any other well owners.

So with that I would just ask that – we feel that this location is a very poor one. It's in the middle of, as has been stated, 300 within a mile, 800 – we don't even – we haven't counted but it's a number like that within two or three miles. Why not find a place where nobody, none of those 800 people have to even worry about this? And I would urge you to find that place and not to approve this agreement. Thank you.

CHAIRMAN CAMPOS: Thank you.

SEGUNA SEVERSON: I'm Seguna Severson. I'm the president of the West Santa Fe Association, 2 Calle Francisca. I was not going to speak, but something that Mr. Sayre said made me so angry and I'd really like to address this to the County Attorney, because

I feel like there's so much disinformation that comes out of here. I sit here as a single mom with my well that's been there 30 years and I get really upset when I hear disinformation coming from the County. Everyone in my neighborhood is working class. We have City policemen, we have County firemen, we have so many state workers. We depend on our wells and we depend on real information from the County.

I called Mr. Ross, first of all. Nobody told us that you had that first public hearing. You did not tell any of us who live - some people live 100 feet from the Peters' property. You did not tell one of us that you were having a public hearing to talk about the well service agreement. That's why no one was here. I heard that Commissioner Campos had said, How come no one's here from the neighborhood? Nobody told us. You didn't give us written notice. Even the adjacent landowners were not given written notice. And I called Mr. Ross and he said, Well, we don't have to. There's no rule. So just so you know, when it happens in La Cienega or it happens in Pojoaque, there's no rule that you even have to tell anyone that you're going to put a new water service agreement. You don't have to hold a public hearing. That's why so many people are out and came at 3:00 on a workday.

The other thing Mr. Sayre said that got me so upset was he said we're better off getting this big, 1500-foot well that will supply the county, rather than all these little wells that are going to supply Mr. Peters' development. And that's crazy. We agreed with Al Lilly in all those meetings that we would agree to his development. We know development can't be stopped. We're not anti-development but put those wells in to just serve what the County lets every house have, whether on clustered wells or in a community well, but Gary Roybal said in public and it is on the public record. He came to those meetings and said they're going to pump that well 18 hours a day, every day, 365 days a year to supply the County.

There's a big difference between supplying 100 luxury homes where the people probably don't even live there. They have a caretaker come once a week, and supplying the County 18 hours a day. He said to me, because I said, you know we really want 24-hour a day wells in our backyard. He said, It won't be 24. He said it will be 18 hours a day. So again, why are putting a huge production well in the middle of 800 domestic well users and I asked Mr. Roybal, who crafted this, I said, Wouldn't it be better to move it three miles to the east, or four, out on the Caja? And he said, Yes, you're right. That's a much better place. But we don't have time. We're in an emergency. We don't have the Buckman diversion and it's not coming for years. I don't see anybody building it. Does anybody?

So we are not against the Peters' property and I've told that to everybody. We have worked with the developer. We are not anti-this property. We are anti-a production well right in our backyard. Thank you.

CHAIRMAN CAMPOS: I'd like to take a five minute break at this time.

[The Commission recessed from 5:40 to 5:45.]

CHAIRMAN CAMPOS: Okay, let's take out seats. We're going to start the meeting. We're on a short schedule. We want to hear from everybody and we have to have a discussion. So please, come in, take your seats. We're going to start. Who else want's to

testify? How many other people want to testify? One person. Okay. Your name and address please.

CANDICE NOVBAKHTIAN: I'm Candice Novbakhtian and I live in La Tierra. I'm a member of the Santa Fe Domestic Well Owners Association.

CHAIRMAN CAMPOS: Is that a new association?

MS. NOVBAKHTIAN: It has 159 households.

CHAIRMAN CAMPOS: How new is it?

MS. NOVBAKHTIAN: It started when we heard about this.

CHAIRMAN CAMPOS: That's what I thought.

MS. NOVBAKHTIAN: It's going through incorporation right now.

CHAIRMAN CAMPOS: Okay.

MS. NOVBAKHTIAN: I want to bring up the cost/benefit thing. My job, by the way, is I'm a technology proposal manager and I do cost/benefit analyses. And I want to know if you've thought about the fact that once the wells are impaired and you are sued, because of course the County will be liable since you approved the agreement and you'll own the well, my question is what will be the annual cost to the taxpayer, and I'm a taxpayer, of an impairment bond that will have to cover \$50 or \$100 million in lawsuits. I want to know what that bond costs.

And I also want to know what it will cost for the infrastructure, the infrastructure to give us the water that we won't have any more. And third, aquifer injection is an unproved science. It really is unproven. You're talking about putting junk water, chlorinated, poisoned junk water into the aquifer. We're talking about illnesses, we're talking about unknown diseases and things that come from that. But also we're talking about ground movement. What are you going to do about the bond to cover those issues? So I'm asking if we could do a cost/benefit analysis before you go any further with this agreement to see what the implications are to the County and the taxpayers. That's it.

CHAIRMAN CAMPOS: Thank you. Anybody else? Sir.

ELLIOT STREEPER: My name is Elliot Streeper and I'm the president of the Santa Fe Basin Water Association. We're an association that's been around for a number of years working on water issues with the County, the City. I've served on planning committees going back to the late eighties and I was part of the task force, the Mayor's Ad Hoc Water Policy Committee that wrote the water policy for the City of Santa Fe and the County combined in '89-'90.

We've been, we've had a long-term view of water issues in the city and the county. We have also filed protests against some of the City's plans. In particular, we have a protest pending on the Buckman supplemental wells. The Buckman supplemental wells we feel will vastly impact a number of the wells in the Santa Fe Basin inside the city and the county over a period of time if they're used for the period of time which they might use them for. They might use them for 40 years. They might use them less after 2008 but in any case, the projection is not good for the aquifer due to the Buckman supplemental wells.

So that's one impact that's going to already be affecting the people in the area that the

Peters' project is proposed in. Now the other thing that has been mentioned and it is a very serious matter is that the transfer of water rights from the Middle Rio Grande to a basin which is already fully allocated and in a state of decline, in particular the Santa Fe Basin has never been done before. I very much hope that the State Engineer would not approve such a proposal, but if the State Engineer did approve such a proposal I think that my organization would go on aside from filing a protest when the well application was filed and published, we would also go beyond the State Engineer's Office if we had to for relief on that sort of a matter. That's all I have to say.

CHAIRMAN CAMPOS: Thank you, sir. Okay, Congressman Udall is coming to talk to us in a few minutes. We may have to take a ten or fifteen minute break. But at this point, I think Rosanna Vazquez, how much time do you need to respond?

ROSANNA VAZQUEZ: Mr. Chair, Commissioners, I've got about ten minutes worth of comments and I have a couple of responses to some of the questions. Would you like me to wait or would you like me to get started?

CHAIRMAN CAMPOS: If you can do it in ten minutes let's start. I'm assuming he'll be here in about five or ten minutes.

MS. VAZQUEZ: Good evening, Mr. Chair, Commissioners, County staff and all of the residents that are here interested in this water service agreement. My name is Rosanna Vazquez. I represent Suerte del Sur development and I am the lawyer that worked with the County staff to craft the water service agreement. I have some information I'd like to pass out as I discuss with you a little bit. But I attended the City meeting last night where you and the City met to discuss potential offers and settlements for the wheeling agreement. And like you, Commissioner Duran, I left there concerned that there was not going to be agreement on many issues. And it was with that in mind that I started thinking back on what this Commission has done in the last two years and the vision that it has had in the last two years to prepare for a situation in which you are in now.

To recap quickly, the first thing, very clear thing that this Commission did was the 40-year water plan. Although it is not perfect and there have been over time some imperfections pointed out, there was a plan created by this Commission. That plan was taken out to the county. There were public hearings around the entire county to discuss the plan. There were amendments made to that plan and that plan was approved. That plan gave a framework for where you are going now and that framework was just to provide a sustainable water source and a supplementary water source through groundwater.

After that the County furthered their vision. The County requested that there be an RFP done, an RFP to discuss -

CHAIRMAN CAMPOS: Ms. Vazquez, you're making general statements almost in defense of the Commission. I would prefer that you would address specific arguments about impairment, issues like that.

MS. VAZQUEZ: Mr. Chair, Commissioners, I would do that if you'd like me too, yes. But the most important thing that I want to say before I get started, however, is that the approach from this Commission has been regionalism. You went to the legislature and you

requested, exactly as the neighbors have said today, a regional water authority to deal with regional water issues. That was in furtherance of the vision. This water service agreement that was requested to be done in the way that the Commission requested, a water service agreement to be done with the drilling of a well was approved in December in furtherance of that vision.

I just want to go over a couple of options that we have. This development could have gone forward with a cluster development well project. We could have sunk in 80 wells into the aquifer. They can be an average of 700, 800 feet, which is about the average in the two-mile radius around this development. We could also go forward with the drilling of two major wells and get approval from the State Engineer. Everyone is correct that we would have to prove a 100-year water supply at that point. I want to make clear that we have all the water rights that are necessary for this entire subdivision and any offset rights that we would need to deal with if in fact offset became an issue.

But we decided to go with the County system. We started that process back in April of 2003. We requested from the Commission an extension of the boundaries, which finally came up to you in September of 2003. The water service agreement accomplishes a couple of points and I'm going to be very brief on this. There's been a lot of discussion with regards to the master plan and the RFP. That master plan calls for a hydrologic study. The original master plan did not include a site in the northwest sector. And it was at the request of I believe Commissioner Sullivan last year that a well be looked at in the northwest sector for the purpose of studying the hydrology in that area.

This water service agreement is very simple. All it does is require us to build you a well. Require us to test the well. Require us to put a report together on that well. It requires the County participation the entire way. If that well does not prove up. If the well demonstrates impairment. If the well doesn't work, it does not get approved. It will not get approved by the OSE and will not be dedicated to the County as a County well until the OSE makes that approval. Until the OSE and we and you address any impairments that are determined by the OSE.

There's been a lot of comments by the neighbors that we don't necessarily disagree with. I've had numerous conversations with especially David Gold, Mr. Munger. I have responded to countless e-mails. We don't disagree. The impairment issue is an issue. It is an issue to be looked at. It is an issue that needs to be dealt with, and the question is how and when. Right now we have no information with respect to what's under that area at all. We can make assumptions. We can say that we've spoken to hydrologists. We can pull out old geohydros in the area, but until there is a testing of that well, until that well is drilled, until that well is tested, and until there is a modeling that demonstrates what's there, you do not have the information to make a determination on impairment. As well as the fact that impairment is an issue that has to be dealt with through the OSE by statutory jurisdiction in this state.

We want to drill the well. We want to test that well. We want to come back to you. We want to say, Here it is. This is what we've got. And then go to OSE. We want OSE to say, You're going to impair four wells. What are you going to do about it? And then we want to deal with the impairment issue at that point. We want to deal with all of the issues that OSE

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raises at that point but we can't do that now. And we can't even begin to second guess whether or not this is an appropriate place for a well until that well is drilled.

I want to refer to a couple of points that were made and just answer briefly on those. The only amendment that I made to the contract was with respect to III.3. I have not seen the other amendments that have raised by the County Attorney so if I could look at them to make determination as to whether we would agree with those.

I wanted to talk to you Commissioner Duran, about some of your questions on injecting the aquifer. In the earlier draft of this water service agreement, there was some preliminary language that this applicant would work with the County if the County decided to go forward with some sort of injection plan. We thought that was a good idea. There has been some preliminary modeling with respect to the injection. The numbers are good and the concerns that the neighbors have with respect to junk water being injected, that is a definite concern. That could be addressed through a separate agreement or through a plan that this Commission put together. But we are interested in working with you and any state agency with regard to injections of the aquifer.

I wanted to just touch on the secondary well. Mr. Munger did raise a couple of concerns. There was no intention on a secondary well in the contract. The intention of that was to provide the County an option on a piece of property should then want to go forward ever and put in another well. There was never a discussion as to whether that well was going to be a supplementary well, whether it was going to be a back-up well. When that water service agreement was drafted it was drafted and we were told by the County, we want this, this and this. We want an acre of land for a well. We want two acres of land to put a tank on there to do some storage and we want this well drilled and we want to pick a location for it. We agreed. It wasn't some hidden agenda with respect to the second well. There just hasn't been any discussion on there.

The intention originally with the master plan was that we – it is required by Code that we demonstrate that we have the full amount of water for the phases 1 development. That is why we went forward and demonstrated we had 45 acre-feet. At this point, the only intention in the transfer to this well is to transfer 45 acre-feet. Whether or not we transfer other water to this well or whether it goes directly to the diversion is going to be a question that will have to be answered by you, this Commission and by the County when we come forward with the future phases of this development. At this point we only are going to transfer 25 acre-feet to that well.

CHAIRMAN CAMPOS: Is that 45 or 25?

MS. VAZQUEZ: I'm sorry. 45 acre-feet. There was some public comment with respect to the 40-year issue on the municipality. I also contacted OSE and I met with OSE with regard to the 40-year requirement. I met with the previous hydrologist and utility directors that began the utility company for this County. The reason the 40-year number was put into the County Code was because it was understood that a municipality had the ability to acquire other water rights in an easier way than a domestic well owner could. So the 40 years, the availability was lowered to 40 years because of a municipality being able to have that option.

In closing, Commissioners, I just want to say that we agree that the issue of impairment

needs to be dealt with. We agree it's a serious issue, but it's not the only issue in balancing whether or not a well goes in a certain place. There are other issues to be looked at by all of you. One of them is a cost/benefit analysis as was raised by several people. If you drill a well in Caja del Rio, how do you connect it to your system? Who pays for the cost of connecting a well in the middle of BLM land to your system that currently exists? That's also a cost/benefit analysis.

The other very important issue to look at is where is there water? Where is the aquifer able to take a well that deep? You cannot even begin to answer that question until you drill a well and until that well is tested. And at that point you do the balancing. You balance the cost/benefit of putting a well in the middle of a section where there are 800 wells, it's about 700 in a two-mile radius actually. Or, you do that. You take a look at the aquifer and see whether it can sustain a well like this. Then you take a look at connectivity and how it is that you connect that well into your system, which after all is the major reason why you want groundwater resources to supplement your water system. I would be more than happy to answer any other questions, Chairman Campos, that you've got at a later time and I'd like to reserve some time –

CHAIRMAN CAMPOS: Let me ask you a question now. Is the basin fully appropriated?

MS. VAZQUEZ: I'm not sure whether the basin's fully appropriated. I can't answer that question. I'm not sure whether it's fully appropriated. I know that there are water rights in this basin that are being sold and bought currently and so there are water rights available for purchase, which we would need to do to any offsets for the area.

CHAIRMAN CAMPOS: Okay. Any other questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Yes, Mr. Chair, I just wanted to be clear on two things. One is, Ms. Vazquez made a comment that might be interpreted that I requested the staff to study this well. That's not the case. I want to be sure the record is clear on that. This was a proposal that was brought forward by the staff which we evaluated. I have in the past suggested to the staff that when we look at our hydrologic study that we look at all areas because for some time, a great deal of focus was being placed on the southern end of the county, the Route 14 area where there's already been wells that have gone dry and my suggestion was that we look at all of the options. I made no specific recommendations with regard to this well because I didn't even know anything about it.

But I wanted to clarify, Ms. Vazquez, my understanding in several discussions with Mr. Ross, our attorney is that you are not in agreement with the water service agreement as it is being proposed by Mr. Ross. And in specific, I'm looking at some comments that were made during the December 16<sup>th</sup> meeting. I mentioned that I felt we should approve a contract conditional – excuse me, I mentioned that we should have concept approval, because I was concerned that in the preliminary application phase we've been approving an agreement that can't be amended in the future and I wanted something that would give us flexibility to make those amendments as the development moved through the approval process. Those were my comments.

Commissioner Duran's comments were "I think that we could approve the contract conditional upon the Board of County Commissioners amending that contract at the date that this project comes before us to review." My understanding from Mr. Ross is that you are not in agreement with that. Is that correct or not?

MS. VAZQUEZ: Mr. Chair, Commissioner, I haven't even seen the amended language that Steve Ross has put together. What I said to Steve Ross was this. There is no necessity to amend the contract on the issue of the water budget. What you're referring to, Commissioner, was the discussion that you and Commissioner Duran had with respect to putting an allocation amount in the contract. That's what the discussion was, and amending the contract after approval of that water budget. What I said to Steve is that that wouldn't be necessary because you would be able to condition that on the development itself.

COMMISSIONER SULLIVAN: Well, it looks like, at least again, and Mr. Ross can correct me if I'm wrong, is that in several discussions with you, you've represented that the owner is not willing to make any amendments to the contract. So I don't think I had any specific numbers in mind or water budgets, because we haven't seen the development come forward to us. It hasn't gone to the CDRC yet even. So let me just ask you, are you willing to make amendments to the contract in the future with regard to any provisions in the contract that would come forward during the process of the subdivision review?

MS. VAZQUEZ: Mr. Chair, Commissioner, we would be willing to sit down and discuss whether we should agree to an amendment. There is process in the contract to amend the contract. It would have to be an agreement in writing by both parties. We would certainly entertain that idea. We would sit down and try to discuss it and figure out what the amendments were.

COMMISSIONER SULLIVAN: So each party has a veto, as it were, and once you have a contract you need mutual agreement to amend it. So once this contract is signed, then it couldn't be amended at the discretion of the County Commissioners. Is that correct?

MS. VAZQUEZ: Mr. Chair, Commissioner, I think that's a question that your County Attorney-

COMMISSIONER SULLIVAN: No, I'm asking you.

MS. VAZQUEZ: If it's signed, then both parties are bound. But Commissioner, you don't need to. You can condition the development which this Commission does regularly.

COMMISSIONER SULLIVAN: Well, that's what we tried to do, Ms. Vazquez, from December 16<sup>th</sup> until April 13<sup>th</sup>, and Mr. Ross, you can correct me if I'm wrong, but the reports that I've received is that the applicant is not willing to agree to any conditions that would entail the BCC's ability to amend this agreement.

MS. VAZQUEZ: Mr. Chair, you should ask your lawyer because that was not my statement that I made and I apologize if there was some sort of confusion.

COMMISSIONER SULLIVAN: So are you willing then to agree to an agreement that has a condition that the Board of County Commissioners, unilaterally, may amend this agreement during the development review process until it reaches the final approval process?



MS. VAZQUEZ: On any issue that you want to amend?

COMMISSIONER SULLIVAN: On any issue that we want to amend?

COMMISSIONER SULLIVAN: On any issue that we want to amend. Yes.

MS. VAZQUEZ: I don't believe that was the discussion in December 2003.

COMMISSIONER SULLIVAN: I'm not asking what the discussion was in December, I'm just asking are you willing now, at this point in time, to agree to an agreement that can be subsequently amended by the BCC?

MS. VAZQUEZ: On behalf of my client, I cannot agree to an open-ended amendment that the Commission could bring forward on any issue with respect to that contract. No.

CHAIRMAN CAMPOS: Commissioner, could we take a break? I think the congressman is here and he is in a hurry.

COMMISSIONER SULLIVAN: I'm finished. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: We'll continue in a minute. Thank you, Ms.

Vazquez.

MS. VAZQUEZ: Thank you.

COMMISSIONER SULLIVAN: Is there a congressman in the house?

COMMISSIONER DURAN: Should we have a drum roll or something?

COMMISSIONER SULLIVAN: By the way, for those of you who are here, I believe the congressman is going to talk about issues of interest to Santa Fe County which will certainly include water.

CONGRESSMAN TOM UDALL: Well, thank you all for letting me stop by and thank you for the invitation to come and visit with you a little bit. I know you're in the middle of important proceedings here today. So let me just visit with you about a couple of subjects and then you all can get back to the important work that you're doing.

Many of you, several of you know, and we visited at different times, probably not as a whole, because we certainly don't want to be in violation of the Open Meetings Act, but we've talked about this whole water issue that's before you and I thought one of the things that you wanted me to come and talk about a little bit is the federal perspective and things that we're working on. I have been following very closely your negotiations with the City, trying to work on regional water planning and trying to move forward on that very important issue. I can't encourage you enough. I think that this cooperation at least on the City/County level is so important because if you're sending one message to us as to the wavelength that you're on and how you want to proceed in a cooperative fashion then I think you're going to get an awful lot of support from our delegation in Washington to do whatever approach it is that you can agree on.

So my first message I guess is to say it's important for you all to work very closely together and I hope something can be worked out in the coming weeks with respect to the City and County.

One of the things that I thought would give you more of a big picture in talking about water is the piece of legislation that I introduced along the Middle Rio Grande and some of the

principles that are involved there, because what has happened in the Middle Rio Grande is we have enormous pressures on the river itself, everything's appropriated. It's much like the situation up here, so the big question was is where should we be headed in the long run and what actions should we be taking immediately. And there were a couple of important things that people are always asking me and I'm sure they're asking you. Where are we going to get our new sources of water, first of all is the question people say to me. Why don't you go over to one of the these states that's nearby that has a lot of water or over on the Mississippi and just bring it over. I frequently tell people, we're always looking for opportunities like that and if we could find one where there were large amounts of water where they were willing I think there might be the will in the West to move some of it down here. We just haven't found the community yet that's willing to give up their water and many of them are being tested in terms of developing their own resources, even though they have a lot more than us.

So one thing that we could do in terms of additional sources that's being done right now is research at the national labs on desalinization. And many of you know we're looking at that issue around New Mexico. There's research out in the Tularosa Basin to try to look at desalinization. And I think that we may get to the point where we come up with a technology that's going to work but it's clearly going to be more expensive and that's the one thing that I think everybody should understand. We're not going to have the same prices we have now.

The second thing we need to do, and this is sources too because if you're talking about the water you use right now, there are many ways to save with technology. There's a scientist up at Los Alamos now that's studying how you take computer chip manufacturing and use less water. We all know that Intel down in Rio Rancho down on the southern border of my district down there uses millions of gallons of water in this computer manufacturing process. And if there is a scientific technique and the scientists up there think that they're very close, to use 80 percent less water on the manufacturing process, then you've immediately freed up once again a significant amount of water to do things. And this is a principle that can be spread across the board with any industry, any business that's using water, trying to find ways to use it more effectively.

And then the third part of this is conservation. And all of us I think understand more and more how important that is. And we could do a better job across New Mexico and just to give you some very rough figures, the City and County up here I think have been doing a very good job in conservation because if you look at the southwest and the usage per person, we're down at the lower range. We're in the Tucson, Arizona range, which when they hit the wall four or five years ago they had to rethink the whole thing and they brought their water usage down to about 120 gallons per person a day, which is the rough range that Santa Fe is in. Albuquerque is about twice that, so they have a lot of room for improvement. Las Vegas where I was up there today is at about 60, and they've had no outdoor watering for the last three years and they've just barely eased that up. So there's always room for improvement in the conservation area and I think we need to think of ways to encourage that. As I've seen many of your meetings and followed them I have seen you doing that.

Another part of this bill, and you all realize this because of the tribes here surrounding

Santa Fe County is we've got to bring the Indian tribes to the table and give them the ability to have the expertise to enter into discussions with us. I think many of them want to engage in serious discussions on how to cooperate and our bill tries to provide grants to tribes so they can get up to the expertise level to sit down with City and County and other entities and try to move forward with some kind of settlement agreement.

And the last part of the bill is just focusing on our plants that take excess water, our non-native plants like salt cedar and getting the secretary to work with our water associations and other cooperative entities to see that there's less salt cedar and therefore more water to be used for all purposes.

So that's kind of the big picture we're working on at the federal level. I think it fits in with a lot of what you're doing. Just the last thing I'd like to say is on the separate issue and that's the issue on payment in lieu of taxes. I know that that's a program the counties love and it's a great program because there's an awful lot of federal land that you don't get taxes from. And I've cosponsored a piece of legislation in Washington with a Republican and we have many Republicans and Democrats. It's a bipartisan piece of legislation which would fully fund PILT. I think it's about time that we bring PILT to the level that every county knows into the future how much money you're going to get. So we've got that in the hopper. We've got good bipartisan support. We've brought PILT funding up every year despite the fact that the administration usually tried to zero it out or puts a very small amount in that account. So this year I hope is our big year for fully funding.

So with that, if any of you have any questions, happy to answer them. Otherwise, I know you have important things on the agenda and great to be here and visit with you a little bit.

CHAIRMAN CAMPOS: Thank you. There's a question from Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, Congressman, I want to personally thank you for coming to our meeting and discussing some issues. And I also want to thank you for allowing your staff, Michele Jacquez for working with our staff so we can be on the same page on the issues that you've brought up. And Michele, thank you very much. And Gerald could probably talk a little bit about the issues that we've been, your staff and our staff have been talking on a little later. But thank you. And if there's anything that Santa Fe County can do for you, don't hesitate to come and talk with us, and next time you're in town, come by and visit us.

REP. UDALL: Mr. Chair and Commissioner Anaya, the one thing we're lucky and fortunate for is your County Manager spent two years in Washington with me. So we're all on the same wavelength here. He understands Washington just like he understands cities and counties and those two work together and have worked together for several years. So we're fortunate in that respect. Very fortunate.

COMMISSIONER ANAYA: Thank you.

CHAIRMAN CAMPOS: Commissioners.

COMMISSIONER DURAN: Congressman, thank you for joining us today, and

I was happy to hear that you're very interested in the City and County negotiations relative to our water supply. And I was going to save what I am going to say now for later as a possible solution to the problems or the issues that have been raised in this last case. But one of the elements to regional water that we haven't really discussed or we've kind of forgotten over the last few years is the Raney collector. The City and the County have contributed to the pilot project and for the last two years we really haven't brought San Ildefonso Pueblo into the discussion. And I really think it's time now to bring them in.

Last time we met with San Ildefonso they were producing about a million gallons of water per day out of the pilot project, which pretty much translates into about 1100 acre-feet of water per year. So I guess it would be comforting to know that we could come to you so that you could help us negotiate some kind of agreement with the San Ildefonso Pueblo because they are interested in becoming, in using this water supply or this collector as an economic tool for them. Because they're not into gambling and they want to use the Raney collector as a source of revenue for them. So hopefully in the months to come we can ask you to help us participate in the discussion.

REP. UDALL: Commissioner, Mr. Chair, happy to work with you on it. And I think that from everything I hear from the San Ildefonso Pueblo I think that they would like to work with the County and the City on this issue.

COMMISSIONER DURAN: Great.

CHAIRMAN CAMPOS: Other questions.

COMMISSIONER MONTOYA: Mr. Chair, Congressman, good to see you again. Thank you also for being here this evening and one of the other things, we had visited with your staff in Washington back in February, in terms of priorities that are coming from counties nationwide and that's the full funding of the No Child Left Behind Act that impacts our community, our education system here, which impacts everything of course, and we'd just like your support and all that you can do and hopefully encourage your fellow congresspeople to do the same thing with that particular act.

REP. UDALL: Commissioner Montoya and Mr. Chair, let me tell you, if we did anything this year that would make a big difference in our community and better our future, it would be to fully fund No Child Left Behind. And the reason we should be doing that is that we have set down, and there was a big national discussion about this and we had agreement on the kinds of monitoring and testing we were going to do in the schools, but we agreed that the federal government would match it with monies so that if kids were falling behind there could be tutoring, there could be mentoring, there could be after school activities and we could get these students caught up as quickly as possible. And what we are forcing the school system into now is performing the mandates without having the money. So you're right on and most of the schools in my district would qualify for substantial additional sums of money. There has already been substantial increases but we're talking about a sum of close to ten billion dollars. That's the funding level that was agreed to in the Congress. It's the funding level that the president should be pushing for and it would make a real difference in all of our public schools here. So thank you for that and we're going to be pushing hard for that this year and we hope to get as

close to that number as possible.

COMMISSIONER SULLIVAN: Congressman, let me just add to what the rest of the Commissioners have said. Thank you for stopping by and visiting with us and we encourage and invite you to do the same as often as you can.

REP. UDALL: Thank you very much.

CHAIRMAN CAMPOS: Thank you very much.

REP. UDALL: Mr. Chair, thank you. Real pleasure and I always enjoy running into you all individually around town and all the important things that you work on too. Thank you very much and take care.

CHAIRMAN CAMPOS: Okay, any other questions for Ms. Vazquez? Okay.

MS. VAZQUEZ: Mr. Chair, I just forgot to mention one very important thing. The neighbors and Suerte did agree to a couple of things and I do want to put them on the record for purposes of your knowledge too. We did agree – they were concerned. They wanted some monitoring wells in the area. They wanted some of the wells in the subdivisions surrounding Suerte to have monitoring wells. We did agree to have monitoring wells. I did want to put that into the record. We need to meet with the neighborhood associations to figure out which wells would be used as the monitoring wells, and to put together the context that would be done on this well should it go forward. I did want to put that into the record because it wasn't – we have all worked very well together. Mr. Gold and I have kept in constant communication with regard to the concerns of the neighbors and I do want to thank them for working with us as closely and Scott, our planner on this project. I just wanted to put that into the record. And I stand for questions.

CHAIRMAN CAMPOS: Any other questions? Okay. Thank you very much.

COMMISSIONER DURAN: Are we through with public comment?

CHAIRMAN CAMPOS: I'm not sure. Basically I think we are.

COMMISSIONER DURAN: Okay, I have a question for the Land Use

Administrator.

CHAIRMAN CAMPOS: Mr. Abeyta.

COMMISSIONER DURAN: Roman, if the Commission decides to reconsider this request, it's my understanding that the applicant or the developer would have the right to go to the State Engineer and drill a well, a test well, that they would use to provide data and reconsidering this contract with them would not prevent them from doing that, correct?

MR. ABEYTA: Mr. Chair, Commissioner Duran, you're correct. It would not.

COMMISSIONER DURAN: Okay. I was just going to say that this particular issue is an issue that has come up in different areas of the county over the last ten years. When we talked about the Rancho Viejo well that neighborhood, State Route 14 and La Cienega came up in arms against using that well as the production well. When we talked about the transfer or rights or using the Valle Vista well for the same purpose, the neighborhood in that area came up in arms because of the impairment issue. When we talked about the Hagerman well, the La Cienega people came up again. I'm not sure – then as this information starts to unfold in our discussions with the City and as I listened to the testimony tonight, I'm not sure that drilling

production wells out in the county is the most prudent thing to do. And although I think that if the developer pursues drilling their own well and bringing information forward to us to consider, I don't think that the County should be involved in that process at this point.

I think what we ought to do is focus, like I said earlier, in trying to bring San Ildefonso and the Raney collector up to speed on our communities needs. Because like I said earlier, they are very interested in being a wholesale provider of water to our community. And if the Buckman wells are going to be shut down when we open up the diversion project, we're going to need a new source of water. I think that we should consider bringing the San Ildefonso Pueblo into these discussions and try to live up to the commitments we made when we passed the general plan which were to try to prevent the depletion of the aquifer. Although that might be a source that we would have to go to I think it's very premature right now to enter into a service contract. So I would like to move that we – I make a motion that we move to reconsider the service contract.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER SULLIVAN: Second.

CHAIRMAN CAMPOS: Okay. Discussion? Okay, there's a motion to reconsider the proposed water service agreement of 12/16/03.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner.

COMMISSIONER MONTOYA: I just want to echo some of what Commissioner Duran has said in terms of – since I've been on the Commission, I think the vision that I've at least seen here is that we would like to move towards a regional water authority. We want to work with the City. I mentioned earlier, we're having a regional water meeting next week in Española to discuss the situation up in that area. I think we are serious about trying to look at what a regional water system is going to look like. Then I guess my question would be, just in terms of what I've heard. I guess groundwater is something that we're not going to consider, we shouldn't consider, because this is the first that I've experienced it, but in terms of a community coming up against a proposed well. But if it's happened three other times previous to this happening and then the fourth time, what do we look at? I don't know if David or Charles or Mr. Munger, if you have suggestions. What do we look at in terms of a long-term sustainable water supply in a regional manner where we're not going to go and disrupt and disturb different neighborhoods. We're not going to have impairment issues. So that's something – I don't expect an answer not but I would like to get some ideas.

As I mentioned previously in terms of what I've been dealing with with the Aamodt case. I've heard a lot of concerns, a lot of issues, but no solutions in terms of what are we going to look at long term. So that's just my question and I think that there are a lot of questions and we may be putting the cart before the horse right here in terms of looking at this water service agreement. So those are different questions that I have, Mr. Chair, that I think working with the community, getting the community's feedback and input is going to be critical in terms of whatever we do, in terms of a regional water system. So maybe let's take this as a

learning experience and see how we move forward and hopefully do it with as little, creating as little friction as possible in terms of working with the community.

CHAIRMAN CAMPOS: Thank you, Commissioner.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: I agree with Commissioner Duran and Commissioner Montoya, and I sure as heck –

COMMISSIONER SULLIVAN: Not with me?

COMMISSIONER ANAYA: And Commissioner Sullivan and Commissioner Campos. But water is a very difficult issue. And we're up here to make difficult decisions. We are all trying to look for stable water in Santa Fe County and in the region. And when there is somebody out there that wants to try to help us or try to look for water in that area, well, we listen to it. And we try to – I'm not an expert in what's underground. I need to find out what's there and I need to go talk to the experts about what's under there. So in way or means would I sit up here and say to the residents in your community or any community that if that well is going to affect your well I would be dead set against it. I would not let that happen. But how do I know that that's going to happen.

And I hear what Commissioner Duran is saying. Every neighborhood that we go into to try to look for sustainable water, we get opposition. Which is good. That's the process, and I'm glad you all came out today to tell us your concerns. So now we can take a different look and we can take a step back and we can say, Well, maybe not in that area either. Maybe we need to go further out. I don't know. We need your help. We aren't up here with all the answers. We're looking for help.

Mr. Padilla back there, you seem like an expert. Maybe you can help us. We are not up here with all the answers. I'm glad that you came out. We can take a different direction on this and I have some notes here but I think I'm not going to read them because I pretty much said what I had to say, but thank you. And we're going to try to look at different issues and different ways to bring water. We're not going to stop. We're going to try to bring water up from Socorro County. We going to try to do this desalinization project. We're going to try, the congressman, you heard him, hopefully, one of these days we'll get some water from another state. I know they have plenty of water. With that, Mr. Chair, I'll go ahead and thank you sir.

CHAIRMAN CAMPOS: Commissioner Sullivan?

COMMISSIONER SULLIVAN: Nothing.

**The motion to reconsider the water service agreement passed by unanimous [5-0] voice vote.**

CHAIRMAN CAMPOS: Is there a motion not to consider the amended service agreement between Santa Fe County and Suerte del Sur?

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER DURAN: I'd like to make a motion that we table this until a date further – let me ask a question. Do we have to put a date on it?

MR. ROSS: Generally a motion to table is to the next meeting. You mean probably to postpone consideration until a date certain. So if you have a date in mind, you can move to postpone it to July 15<sup>th</sup>.

COMMISSIONER DURAN: Okay, I move to postpone this to on or before – Doug, when is our study going to be done? Would you say six months would be adequate?

MR. SAYRE: Mr. Chair, Commissioner, that probably should be adequate. Keep in mind we have to develop this, bring it to you for approval and go out to receive RFPs on it. And so it could be two months before we get somebody under contract. And so six months probably in my estimation is a little bit tight. Probably eight months is probably what it's going to take to get this complete.

COMMISSIONER DURAN: Then I would make a motion that we postpone this discussion until sometime prior to the first of the year. That would give us nine months. And if new information is made available, or is a plan is developed that is supported by this community and this neighborhood and other neighborhoods, would be effective with the development of a County water system using groundwater sources, then it could be brought forward prior to that.

CHAIRMAN CAMPOS: Okay, there's a motion. Is there a second?

COMMISSIONER ANAYA: Second.

CHAIRMAN CAMPOS: Okay. Discussion?

COMMISSIONER SULLIVAN: Mr. Chair, just a clarification. Was that eight months or nine months?

COMMISSIONER DURAN: Whatever January 1 is.

COMMISSIONER SULLIVAN: You want to postpone it to January 1?

COMMISSIONER DURAN: On or before.

COMMISSIONER SULLIVAN: On or before January 1. Okay. So we'll just put a date certain in there. Okay.

CHAIRMAN CAMPOS: Any other discussion? My comment is that I think we should take this contract off the table at this point and if we ever decide to renew it we can renew it. If all these people here have come to tell us their concerns, it's unfair for us to be dragging them up again in six or nine months. [inaudible]

COMMISSIONER DURAN: Mr. Chair, with that I withdraw my motion.

CHAIRMAN CAMPOS: Would the second withdraw?

COMMISSIONER ANAYA: Yes.

CHAIRMAN CAMPOS: Okay, is there a motion to deny the consideration of an agreement with Suerte del Sur?

COMMISSIONER ANAYA: So moved.

COMMISSIONER SULLIVAN: Water service agreement.

COMMISSIONER ANAYA: So moved.

CHAIRMAN CAMPOS: Is there a second?



COMMISSIONER SULLIVAN: Second.  
CHAIRMAN CAMPOS: Discussion?

**The motion to not consider a water service agreement with Suerte del Sur passed by unanimous [5-0] voice vote.**

[The Commission recessed from 6:45 to 7:15.]

**XIII. Public Hearings**

**A. Land Use Department**

- 1. Ordinance No. 2004-1. An Ordinance Amending Ordinance No. 1996-16, of the Santa Fe County Land Development Code (Ordinance No. 1996-10) to Amend the Village of Agua Fria Traditional Historic Community Boundary and Traditional Community Zoning District (Second Public Hearing) [Map and material attached as Exhibit 2]**

ROBERT GRIEGO (Planner): Mr. Chair, Commissioners, we're here to consider the Agua Fria traditional historic community boundary. This proposed amendment has a few changes from the first public hearing. At the first public hearing on March 9<sup>th</sup>, I presented the history, the process, and proposed amendments to the boundary. At this time I would like to outline the major amendments and identify the changes made since the first public hearing. On your screen and on the big screen behind you is the Agua Fria traditional historic community in relation to the City of Santa Fe. What you see on the screen is the public land adjacent to the traditional historic community, that's outlined in green on the map. That includes the Agua Fria Park, the San Ysidro River Park and properties adjacent to the river that Santa Fe County has purchased.

Additionally, the BLM land is right underneath and you can see that on the cursor which is also to be included in the traditional historic community boundary. This additional public land will give us the opportunity to plan for the Santa Fe River in context with the community planning process. Additionally, the cemetery of Agua Fria is just north, and that's just north of the green area there. That's the Agua Fria Cemetery. The other major amendment to the map includes correcting map errors and adjusting the traditional historic community boundaries to coincide with parcels rather than splitting the parcels.

We also adjusted the traditional historic community boundaries to avoid overlapping jurisdictions with the City of Santa Fe and these adjustments were along Agua Fria Road, and that included the southern right-of-way of Agua Fria Road. So previously, it was the centerline of Agua Fria Road. The amendment would be the southern right-of-way of Agua Fria Road which is owned by Santa Fe County. Along Henry Lynch we adjusted the boundaries to the western boundary of Henry Lynch Road. The previous boundary was along the centerline of the road. The City owns that road, or owns the right-of-way to that so we adjusted the boundary to coincide with that. Also, along Rufina, we adjusted the boundary to the northern right-of-way

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of Rufina. The City owns and maintains Rufina as well.

The other changes, there has been a change since the first public hearing, the property that was added which was owned by Henry Montoya. That property came to the Board in 1997 in a request for inclusion into the traditional historic community. The Board approved this request. We had previously had on the map adjacent to the area, the parcel is corrected as reflected on that map, is the corrected parcel data with Mr. Henry Montoya's property included. What you see in yellow there is all the work that's been done to correct the parcel data in that area. So now we have correct parcel data and Mr. Montoya's property is now included, according to the Board's approval of that.

That concludes my presentation.

CHAIRMAN CAMPOS: Any questions from the Commission?

COMMISSIONER ANAYA: Mr. Chair, Robert, along that long strip that extends out, I believe there's another applicant here that would like to extend their piece. Are you familiar with that?

MR. GRIEGO: We could bring that up on the screen. If you could see that outline – that's the piece, it's that long, skinny piece that we had. That property is owned by Mel Gallegos and we've spoken with him. He came to a community planning meeting and indicated that he would like to include his property in the traditional historic community as well. But the issue as far as this process that we're going through right now, the Agua Fria Planning Committee, have the right to correct map errors and include public land that had previously been in the traditional historic community. It's at the Board's discretion if they would bring that property in.

The ordinance allows property owners outside and contiguous to the boundaries to come in and request inclusion to the Board.

COMMISSIONER ANAYA: And we could do that at this time?

MR. GRIEGO: I believe it's at the Board's discretion.

COMMISSIONER ANAYA: Mr. Chair, I'd like to include that piece.

CHAIRMAN CAMPOS: We're not making any motions yet. Commissioner Duran.

COMMISSIONER DURAN: What happens to the little island that would be created by incorporating that piece into the traditional village?

MR. GRIEGO: Mr. Chair, Commissioner Duran, that seems to be a property in the Extraterritorial Zone. There's two properties that if they were included would both be under County zoning jurisdiction so that could create an island.

COMMISSIONER DURAN: I guess I'm concerned that an applicant – and I have no problem with this if he wants to be included but I guess we just say the heck with any real planning and if you want to be included, we'll include you. To create an island of property in the EZ surrounded by traditional, do you support that kind of planning? Does the Planning Department support that? Put you on the spot, huh?

MR. ABEYTA: Mr. Chair, Commissioner Duran, you did. It's a good question. Part of the traditional historic community of Agua Fria, part of the issues that we and

the community have had to tackle over the past couple of years is a lot of people really identify themselves with that community and they belong within the traditional historic community. And the Board recognized that back in 1997 when the Board said, Well, the only criteria we need then is that if you're contiguous that's good enough for us. From a planning perspective it probably doesn't make a lot of sense to create these islands, but again –

COMMISSIONER DURAN: Why don't we approve that whole piece? What about the people, what about the owners of that island? Are they not interested in being in the traditional community?

MR. GRIEGO: Those property owners may well be, Mr. Chair and Commissioner Duran. I think we've heard that the property owner has put in a request. Mr. Herman Montoya, and I met with him and one of his sons. They do own the land in the island in the middle and they strongly identify themselves with the traditional historic community of Agua Fria. And that was their rationale for wanting to request inclusion in there. Mr. Herman Montoya brought his property in. The property owners in the middle, his sons and daughters, may also want to be included.

COMMISSIONER DURAN: Well, the last thing I'm going to do is argue with them.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: What's the difference in the zoning between the two in terms of lot size? In the traditional historic community you can have 3/4-acre lot sizes, is that correct?

MR. GRIEGO: Mr. Chair, Commissioner Sullivan, that is not correct. That's the traditional community zoning district. Actually, we can show that on the screen. If you could please identify the area. It's in the middle of the traditional historic community. That is a zoning district. That zoning district was created in 1980 and that is the area where there is 3/4-acre zoning.

COMMISSIONER SULLIVAN: Okay and what is the brown area?

MR. GRIEGO: Those properties are under the jurisdictions of Santa Fe County Code. So whatever zone they're in, I believe they're in the urban area of the County Code.

COMMISSIONER SULLIVAN: So what's the purple area?

MR. GRIEGO: It's called the traditional community zoning district.

COMMISSIONER SULLIVAN: Okay. So then these fingers that we're creating, there's no difference in the brown area or the white area that would be left out in the middle?

MR. GRIEGO: The right area is then within the jurisdiction of the Extraterritorial Zoning Authority. As you can see, the properties are adjacent to the City of Santa Fe. So all the white area that you see there is in the Extraterritorial Zoning Authority. So it's in the jurisdiction of the County.

COMMISSIONER SULLIVAN: And what's the lot size there?

MR. ABEYTA: Mr. Chair, Commissioner Sullivan, the lot size is the same in the EZ as it is in the County Code. The one difference or benefit that the property owners

would have is they would be protected from annexation from the City of Santa Fe. But the Extraterritorial Zoning Ordinance and the County Code, the minimum lot size is the same.

COMMISSIONER SULLIVAN: And what is it in that area?

MR. ABEYTA: It ranges from 2.5 to half an acre, depending on the availability of community water and sewer or City water and sewer.

COMMISSIONER SULLIVAN: But within the purple area it's 3/4?

MR. ABEYTA: Three-quarters on wells and septic.

COMMISSIONER SULLIVAN: I'm just getting at by being associated with the traditional historical community, does that give the land owner any zoning benefits?

MR. ABEYTA: Mr. Chair, Commissioner Sullivan, no, not at this time. The next step is for the community of Agua Fria to create a plan, a land use plan. And that could then change what you can do within the historic community as opposed to outside of it. So it's possible in the future there might be a difference between being in and being out.

COMMISSIONER SULLIVAN: I see.

CHAIRMAN CAMPOS: One suggestion to the Commission is that the Agua Fria Planning Committee made recommendations regarding certain pieces of land and if we start adding now without their review I don't think that would be the right procedure to take. I think it's up the Agua Fria Planning Committee to initiate and approve. It would make sense for them as a community as opposed to just anybody coming in at the last minute and saying I want my land included. Okay, any more comments? Okay, this is a public hearing. Please come forward.

MR. FLORES: Mr. Chair, Tony Flores, 41-B Campbell Loop, Director of Project and Facilities Management. As a custodian of the public lands that are included in the revised or amended boundaries of the THC, we stand in support of the including of the Agua Fria Park and the River Park and portion of the Agua Fria River that would be included. This is a benefit to my department who oversees the management of not only the development of these infrastructure and capital improvements, but it furthers along the development of the entire trail network and parks that the County is currently developing. Thank you.

CHAIRMAN CAMPOS: Thank you, sir. Anybody else want to speak either for or against this ordinance. State your name and address please.

MEL GALLEGOS: Mr. Chair, Board, my name is Mel Gallegos. My wife Alice is Tony Montoya's daughter. That extra piece that we're asking to be included is the only property just south of the border, I guess. I think there's a misconception. My uncle Herman and his family thought that that was already included in. The last map, he was told that his property would be in there. He thought his and his children, his three sons and daughter would automatically be included. Apparently they need to come in and apply for that but it would not remain an island. They want in and that was our property right here, it would make it a solid block going all the way up. Unfortunately, they thought they did not to attend because they thought they were going to be in. Tonight's the first time I see this map. I had one before that showed the original boundaries and we definitely want to belong to the traditional historic community designation, to belong to the county to prevent annexation by the City without a

vote. We really do want to belong so at this time to be given the opportunity to come before the Board, before the AFDRC or whatever to get permission to be included in this extension. Thank you.

CHAIRMAN CAMPOS: Thank you, Mr. Gallegos. Anybody else? Sir.

WILLIAM MEE: I'm William Mee of 2073 Camino Samuel Montoya. I'm a member of the Agua Fria Development Review Committee and I'm in favor of the ordinance and I believe that the traditional historic community is an expression of democracy for the people of the Village of Agua Fria. And I think that the 2004 ordinance that you're considering now enables the traditional historic community to become a whole community. What I mean by that is that adding the land of landowners who want to share our fate and destiny and to the add the lands like the cemetery, the health clinic, the river park, the Agua Fria Park, the fire station, the future community center, all the properties that are essential to a fully functioning community will make Agua Fria a real, whole community.

We're working on our land use plan and we intend to have a uniform land use plan for our community and expanding the THC area probably to this whole boundary probably will correct any land use - it's unequal treatment of landowners in this area so that it will be a beneficial thing for the community. Thank you.

CHAIRMAN CAMPOS: Thank you, sir. Anybody else? Last chance. Sir.

HENRY CHAVEZ: Mr. Chair, members of the Commission, my name is Henry Chavez and I'm the chairman of the Agua Fria Planning Committee. I think Robert covered a lot of the information very well but I was going to try to make two points. The committee is trying to expedite this process, not that it has to be done tonight, but in order to get all the public lands in and also to correct the map errors, but one of the things that we'll be looking at, there are other people that would like - that own some of those slivers that might want to be considered to come in. And we've been telling them that during the process, the planning process they'll have an opportunity to bring forward their request and when the plan is completed, perhaps the boundary would change to some extent again. But we would give everyone the right to be included or excluded within this process. Thank you.

CHAIRMAN CAMPOS: The proper procedure would be to go before your committee, right? And ask there first and then have the community's input?

MR. CHAVEZ: Right. And then come along with the plan that we hope to have here sometime soon.

CHAIRMAN CAMPOS: Okay. Any questions?

COMMISSIONER ANAYA: Mr. Chair. Mr. Chavez, so you wouldn't feel comfortable, and the Board probably wouldn't feel comfortable if we included these five pieces of property? You would like to look at it? Give me your opinion on that?

MR. CHAVEZ: Well, as a member of the committee, it's certainly different from my personal view on these cases but I don't see a reason to have those four lots not included, since it is Herman Montoya, for his son. So it's part of the community members. And then on the Mel Gallegos tract, I don't see a problem with that either at this point. But we'll be looking at the rest in the future.

COMMISSIONER ANAYA: And the next thing, if we decide to go with that process, how long, what would be the steps that Mr. Gallegos and the Montoyas would have to take to get on this, on the traditional community? What would be the process if we didn't include them today?

MR. CHAVEZ: I think they would just basically participate in the meetings and the process of looking at the entire area and make a request to include it and I think the committee with the staff would look at all the planning factors in whether we do want to go to 599 or to Arroyo de los Frijoles or to just Alameda. I think those are the things that are really going to be coming up within this process. That would be the process. Then it would go to, I guess the AFDRC and come before the Board again at a future date.

COMMISSIONER ANAYA: So you're telling me that Mr. Gallegos and the Montoyas would have to go to the next meeting that you all have to put a request? I'm trying to guide them.

MR. CHAVEZ: Well, I would say that this committee is not quite there to start entertaining those kinds of requests. We're really into just looking at land issues, roads, and a lot of the planning process. But during the development of this plan that I hope we may have by the end of the year which is even optimistic, that then, not just these two applicants but others would have the opportunity, but it wouldn't be for quite a while, say if they were left out of tonight's meeting.

COMMISSIONER ANAYA: Thank you.

CHAIRMAN CAMPOS: Mr. Chavez. Anybody else? Okay, this ends the public hearing discussion.

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER SULLIVAN: I still have a question. Which map are we considering? Are we considering Exhibit B in the packet, which is the one that I guess went through the historic community board? Or are we considering this one that was just passed out tonight?

MR. GRIEGO: Mr. Chair, Commissioner Sullivan, you are to consider the one that was passed out tonight. That was the amended map. The older one in the packet materials, there was some problems with the parcel data which has been corrected. That's why the maps are difference.

COMMISSIONER SULLIVAN: My question is about this piece, this long piece that goes all the way up to the other side of Alameda to 599. Is that all Herman Montoya's property?

MR. GRIEGO: Yes, it is.

COMMISSIONER SULLIVAN: And it's also Herman Montoya's property, the four little parcels that are not included next to that? Or his sons, or his children.

MR. GRIEGO: That is correct. Actually, I wanted to clarify that. Actually, it's not Mr. Montoya's property; those are his children's properties. But the parcel was one of the old long-lot parcels that was a small holding claim from BLM. It was the long lot that included

those four parcels. So when he came forward, he got the plat for those other properties. He didn't include them in this map because they weren't owned by him at the time that he requested the inclusion of those properties.

COMMISSIONER SULLIVAN: But the new long piece that is included now, including the one that's on the other side of West Alameda, did that go back to the committee? Or did you just put that in?

MR. GRIEGO: We talked about it. This property was supposed to be in along. We weren't able to do it because our parcel data was not corrected. We had an Agua Fria Planning Committee last night and the planning committee strongly felt that this parcel should be in.

COMMISSIONER SULLIVAN: Okay, including the larger piece on the other side of West Alameda.

MR. GRIEGO: That is correct.

COMMISSIONER SULLIVAN: Okay, then what did they think of the four in the middle there?

MR. GRIEGO: That was not discussed. Those properties were not discussed.

COMMISSIONER SULLIVAN: What did they think about Mr. Gallegos' piece?

MR. GRIEGO: Mr. Gallegos discussed his parcel and stated his desire to be part of the traditional historic community. I informed him that we have a process to allow property owners to come in and right now, since this process was once again, correct map errors and bring in the public land outside, there would be another process, the same process that Herman Montoya came through in 1997, they would be able to use that avenue. However, since we are amending the map at this time, it's at the Board's discretion if they would like to bring that property in.

COMMISSIONER SULLIVAN: So the committee thought that this big long piece of Herman Montoya's was in all along, even though there's just a little short piece in your first map?

MR. GRIEGO: They felt that they were in all along. All the parcel data is not correct but the committee has understood that Mr. Herman Montoya's parcel was part of the community.

COMMISSIONER SULLIVAN: Well, since Mr. Gallegos has asked to be in, is there any objection to him on the committee's part for him to be in? Even though it creates an island which I know looks kind of problematic.

MR. GRIEGO: I don't think that there would be a problem with that. As I said earlier, those four pieces in the middle, those property owners could do what Mr. Gallegos did. Those property owners could - they think that they're already in. We couldn't bring them in because Mr. Herman Montoya's parcel, which had these smaller lots in them, he really thought that those parcels were in at the time.

COMMISSIONER SULLIVAN: What process did Herman Montoya go through that Mr. Gallegos didn't go through?

MR. GRIEGO: Mr. Montoya came before the Agua Fria Development Review Committee and requested inclusion in accordance with Ordinance 1996-16. He then came in front of this Board in 1997 and the Board approved his property from 599 all the way to the boundary.

COMMISSIONER SULLIVAN: Okay. Isn't that what Mr. Gallegos is doing now?

MR. GRIEGO: It's similar, yes.

COMMISSIONER SULLIVAN: I'm just trying to get a feel for – I'm not trying to supercede the local committee. If the local committee is comfortable with it, and maybe Mr. Gallegos, you could respond as well. I don't know.

CHAIRMAN CAMPOS: Commissioner, they're not in question. They haven't been presented officially with this issue.

COMMISSIONER SULLIVAN: I thought they met last night.

CHAIRMAN CAMPOS: Two people haven't been presented these issues.

COMMISSIONER SULLIVAN: I guess I'm confused. They met last night, didn't they?

MR. GRIEGO: We did meet last night. Previously the parcel was not on the map so the committee is aware that this parcel was previously included because we had not correct parcel data. So at the first public hearing, that was the parcel that you saw. The planning committee met last night and they said well, he does indeed want to become part of the traditional historic community. We're going along with the process and I think we informed him last night that it is at the Board's discretion, his inclusion is at the Board's discretion.

COMMISSIONER SULLIVAN: Mr. Chavez, could you just clarify the process a little more for me. I don't want to step ahead of your process is what I'm trying to get at here.

MR. CHAVEZ: Mr. Chair, Commissioner Sullivan, we did meet last night and Mr. Rubel or Mel was there and he verbally presented his situation and where he is and I don't think anybody on the committee was objecting to that. In fact they mentioned that if they came here today and got approved that would be fine, but if not we would proceed with the longer process that we're working on. And I think probably the same applies to the four tracts there from Herman Montoya originally and I don't think it's going to be a problem for the committee or anyone that I'm aware of.

COMMISSIONER SULLIVAN: Thank you, sir.

CHAIRMAN CAMPOS: Any other questions? Is there a motion?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: I would like to move that we approve this with the new five tracts, the four from the Montoyas and the one with the Gallegoses.

COMMISSIONER DURAN: Second.

CHAIRMAN CAMPOS: Okay, I have a question for staff and legal. We have the Agua Fria Planning Committee. What is their authority? Do they have to initiate this



process? Or can we just intervene as a County Commission at any time and do whatever we want?

MR. ABEYTA: Mr. Chair, they're a recommending body. The Board does have the discretion to make this decision this evening if they want to.

CHAIRMAN CAMPOS: And you've studied this proposal?

MR. ABEYTA: We have, or Robert has, because we thought a lot of it was actually in and some are even arguing that it is already in. But according to our parcel data and the technical reading of the deeds and the plats that were presented in '96 that's the configuration that we just came up with yesterday.

CHAIRMAN CAMPOS: Okay, Mr. Ross. Does the Agua Fria Planning Committee have to make a recommendation before we have jurisdiction to do this?

MR. ROSS: Mr. Chair, no. The decision to create and change the boundaries of this traditional historic community is the Board's and the Board's alone. By ordinance.

CHAIRMAN CAMPOS: Okay. I still think it's a bad precedent that we don't go through the planning committee and we don't go through the community and let them have the first shot at this. They have the authority to make that decision and we're taking that power away from the community. Okay, there's a motion, a second.

COMMISSIONER ANAYA: Mr. Chair, I'm not discrediting the Agua Fria Planning Committee. They did a wonderful job. I'm here, I made the motion because there is some concerns that citizens are out there that wanted to be a part of it and we as the Commissioners have the right to put pieces of property in that people would like in. It's not like I'm coming in here and just picking out a certain piece of property that I am not aware of and trying to mess with the Agua Fria Planning Committee's decision. I know there's other processes to go through but we heard from Mr. Chavez. We heard from our staff and we heard from Mr. Gallegos. So with that, I'm for it.

CHAIRMAN CAMPOS: Any other discussion?

COMMISSIONER MONTOYA: Mr. Chair, I just need to clarify. The one long stretch is Gallegos, but that's not being recommended.

MR. GRIEGO: The one there being pointed to is the property owned by Mr. Gallegos.

COMMISSIONER SULLIVAN: The real skinny one.

COMMISSIONER MONTOYA: The real skinny one.

MR. GRIEGO: Yes. And that property is adjacent to County Road 70 connector. If you turn on the road grid there, Erle. The road that goes all the way up to 599.

COMMISSIONER SULLIVAN: But the other four are Montoya.

COMMISSIONER MONTOYA: The other four are Montoya.

MR. GRIEGO: Or Montoya heirs, yes. And that's the parcel that was brought in 1997 to the Board for inclusion.

COMMISSIONER MONTOYA: Thank you.

CHAIRMAN CAMPOS: Any other discussion?

**The motion to approve Ordinance 2004-1 passed by majority [4-1] roll call vote, with Commissioners Commissioner Anaya, Duran, Montoya and Sullivan voting yes and Commissioner Campos voting no.**

CHAIRMAN CAMPOS: I'm voting no because I think the Agua Fria Planning Committee should be engaged first. Let the community make the decision. Okay. We have adopted to ordinance 4-1. For those in the audience, you need to know that the John Cordova variance has been tabled. Anybody's who's here for that particular case, it's not going to be heard tonight.

**XIII. A. 5. EZ CASE #DL 04-4020 – Irene Herrera Family Transfer. Irene Herrera, Applicant, Allen Grace, Agent, Request Plat Approval for a Family Transfer to Divide 5.91 Acres into Four Lots Each Consisting of 1.48 Acres. The Property is Located at 40 Calle Suzanna within the Pinon Hills Subdivision, within Section 25, Township 17 North, Range 8 East (Commission District 2)**

JAN DANIELS (Review Specialist): Thank you, Mr. Chair, Commissioners, Allen Grace, agent for Irene Herrera, requests plat approval for a family transfer to divide 5.91 acres into four tracts for a family transfer. The tracts will be known as Lot 5-1, 5-2, 5-3 and 5-4 and will consist of 1.48 acres each. The property is located in the Pinon Hills Subdivision at 40 Calle Suzanna within Section 25, Township 17 North, Range 8 East, Commission District 2.

On February 12, 2004 at its regularly scheduled meeting the Extraterritorial Zoning Commission met and approved the above-referenced case. Chair Long advised the applicant to resolve the notice of violation issues before this meeting. Mr. Herrera has filled some head cuts of an arroyo with concrete and rebar and dead pinones. Most of the rebar and dead trees have been removed. The story drainage enters lot 5-4 through a sheet flow so it needs to be graded within the drainage easement to keep the water where it belongs. That's condition 15, and has been added to bring this lot within compliance of the drainage easement.

The described property lies within the Basin Hydrologic Zone where the minimum lot size for a family transfer is 1.25 acres with a .25 acre-foot per year per lot water restriction. Each proposed lot would be 1.48 acres and lots 5-2, 5-3 and 5-4 will each be transferred to an adult child. Irene Herrera has owned the property since 1974. Lot 5-1 has a residence, well and septic tank and it will be retained by Mrs. Herrera. Lot 5-1 will share its well with lot 5-2, 5-3 and 5-4.

The application was reviewed for the following: Access, water supply, liquid waste, solid waste, terrain management, fire protection and environmental review. It is staff's position that the redivision of lots within the Pinon Hills Subdivision would diminish the

performance of existing infrastructure by potentially doubling the density and therefore intensifying the non-conforming status. Prior to allowing the creation of additional lots within Pinon Hills the subdivision should be upgraded to current subdivision standards.

With respect to the size and number of lots, an upgrade to Pinon Hills would require, among other things, a fire protection plan and existing roads to be substantially improved. Therefore staff recommends denial of this request as proposed. If the BCC recommends approval of the as proposed – Mr. Chair, may I enter the conditions into the record?

CHAIRMAN CAMPOS: Yes you may.

[The conditions are as follows:]

1. Direct access from Calle Suzanna to these tracts shall be provided with a 38' foot easement and a 20' foot driving surface and cul-de-sac meeting minimum SFC Common Roadway Standards. The applicant must provide Santa Fe County with a certified engineer's cost estimate to develop the access. A financial guarantee acceptable to the County in the amount of the approved cost estimate must be included.
2. The applicant must record water restrictive covenants simultaneously with the plat of survey, imposing .25-acre ft. per year per tract. Water meters for each subject parcel must be installed to monitor water use. Annual water consumption reports must be submitted to the County Hydrologist by March 30<sup>th</sup> of each year, and a water meter shall be installed for the existing residential unit prior to recording the plat.
3. A shared well agreement must be approved by the County and executed prior to plat recordation. The plat must indicate shared well easements.
4. The applicant must contact Rural Addressing for assignment of addresses for the proposed tracts.
5. The EZO regulations require a solid waste fee be assessed for all newly created parcels. The fee for this subdivision is \$96.00.
6. Submit access permit as approved by County Public Works.
7. The applicant must obtain approval from NMED for the proposed liquid waste disposal plan, and submit permit for existing residential unit.
8. Easements for all natural drainage ways must be provided.
9. Terrain management improvements in accordance with Santa Fe County regulations will be required for the proposed and existing dwelling.
10. The applicant must comply with the Fire Marshal Review as applicable.
11. The applicant must address all minor redline comments by the County Subdivision Engineer as shown on the plat of survey and terrain management plan. These plans may be picked up from Jan Daniels, Development Review Specialist with the Land Use Dept. These plans must be resubmitted with the Mylar prior to recordation.
12. None of the four lots may be sold for 10 years; however, the applicant does have the right to come before the Board of County Commissioners and ask for removal of the 10-year restriction if the applicant can demonstrate to the satisfaction of the Board of County

Commissioners that the condition would impose unreasonable hardship on the applicant. This note shall be added to the plat.

13. Submit deeds transferring lots to family members and deeds shall be recorded with the plat.
14. The plat shall not be recorded until the Notice-of-Violation with Santa Fe County is resolved.
15. Before plat approval, a V ditch shall be graded into the drainage easement on lot 5-4.

CHAIRMAN CAMPOS: Anything further? Okay, questions for staff. No questions. Okay. Applicant.

[Duly sworn, Allen Grace testified as follows:]

ALLEN GRACE: Allen Grace, 128 Grant Avenue.

CHAIRMAN CAMPOS: Mr. Chair, you've reviewed staff's report?

MR. GRACE: Commissioner, yes I have.

CHAIRMAN CAMPOS: Is it accurate factually?

MR. GRACE: Yes.

CHAIRMAN CAMPOS: Okay. Any questions for Mr. Grace?

COMMISSIONER SULLIVAN: Do you agree with the conditions?

CHAIRMAN CAMPOS: Do you agree with the conditions should this Board approve?

MR. GRACE: Mr. Chair and Commissioners, we do.

CHAIRMAN CAMPOS: Thank you very much. Public hearing. Anybody here for or against, please come forward.

[Duly sworn, Helga Ancona testified as follows:]

HELGA ANCONA: My name is Helga Ancona. I am here representing the West Santa Fe Association. I'm a member of the board of the West Santa Fe Association. The West Santa Fe Association has opposed any lot splits smaller than 2.5 acres for years now because we are a substandard neighborhood division. Actually, Roman Abeyta knows very well because he actually told us about that also. And we have one road of access and one road of egress into the neighborhood. We are concerned about wells. We started out in the neighborhood with 80 lots, now we're down to 91 lots.

We're concerned about sewage and in this particular case we are very concerned, I'm actually very much concerned along with some neighbors around Ms. Herrera because the land is situated on a 100-year flood plain. Actually, when we built our house we were told by Eric [inaudible] who was then the president of the Association of Realtors to build our house higher because of the floodplain. So the land has been filled in and [inaudible] underground at Ms. Herrera's property and this land has been filled in for the last two years and partially with concrete blocks which I think is all right, and also partially with building debris. When Charlie goes out there checking it he said that they should remove the building debris that was in there.

Since then their land has been filled in completely and I still have serious concerns about this and also I'm worried that if we do get a very heavy rain and the arroyo runs it could - it

causes us concern where we live. There are four neighbors who could be affected by this. I'm also concerned because there are going to be four houses on this filled in land and what's going to happen to any of these houses? I can see the lot divided up into two 2.5-acre lots but not into four lots. We have consistently opposed family transfers that have 1.25 acres. Our neighborhood is just not, our neighborhood is substandard and this should not be allowed. That's what I had to say. Thank you.

CHAIRMAN CAMPOS: Thank you. Anybody else?

[Duly sworn, Joseph Herrera testified as follows:]

JOSEPH HERRERA: I'm Joseph Herrera. My father owned that property since 1974. I went to see to get a permit for filling in the arroyo, which I needed to do to fulfil my mom's dream of giving the property to her rightful children. Then I suppose I know which neighbor this one is because I do know whose house is built up higher. And as far as the application, I had to get an engineer's approval for the height of the 100-year flood zone and we're complying with that. Also I did do everything that the County recommended before this meeting. And Charlie was there but I guess he's out of town at the moment and he hasn't been back to determine that it has been done to the satisfaction, which I guess is one of the other criteria. But other than that I'm here because it's kind if important that this does go through because the majority of the neighborhood has split their property, which probably doesn't relate to what I'm trying to do but I'm concerned that it does go through because it's been a long - since 1974, my father kind of planned it to go in that direction to fulfil his dreams. My brothers and sisters have nothing to gain from this but the satisfaction of my father's grave.

CHAIRMAN CAMPOS: Who is actually going to get these lots?

MR. HERRERA: My two sisters who are in the back over there, and then one of my other older brothers. Not me.

CHAIRMAN CAMPOS: Not you.

MR. HERRERA: I'm just helping my mother in getting the lot split. My mother has an existing property up on the top and we have a well-sharing agreement with the other proponents.

CHAIRMAN CAMPOS: Your mother has the fourth lot?

MR. HERRERA: She would be the fourth, yes.

CHAIRMAN CAMPOS: Okay. Any questions?

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner.

COMMISSIONER SULLIVAN: The last lot, 5-4, coming in the driveway, how would you get to lot 5-4?

MR. HERRERA: I spoke with Charlie on that and he told me a little bit about the grade but the grade didn't seem to be a problem. But on the driveway it shows that it goes down to that property with a cul-de-sac at the end of the turn-around.

COMMISSIONER SULLIVAN: The plat shows a watercourse cutting across there.

MR. HERRERA: from that Charlie determined where I had to do a V-cut

they agreed to it, then they'd be bound to it, wouldn't they?

MR. ABEYTA: Yes.

CHAIRMAN CAMPOS: Wouldn't that be a further protection?

MR. ABEYTA: Yes.

CHAIRMAN CAMPOS: Thank you. Any other questions?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: Move for approval with conditions and if you'd like to add that as a 17<sup>th</sup> condition, I'll accept it.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER MONTOYA: Okay.

CHAIRMAN CAMPOS: Okay. Any further discussion? Excuse me. There was someone in the public who wanted to speak. I'm sorry. Did you want to add something, Ms. Ancona? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chair, we've just had problems in this subdivision throughout and I know there have been some variances in the past and I don't think it's appropriate to keep doing that. Thank you.

CHAIRMAN CAMPOS: Mr. Grace, would your clients agree to condition 17, that they would not split their lots again?

MR. GRACE: Yes, they do.

CHAIRMAN CAMPOS: Okay. The motion was to approve with conditions, with an additional condition, 17, saying that these lots would never be split again and the applicant has agreed to that.

COMMISSIONER DURAN: So we're allowing them to go down to -

CHAIRMAN CAMPOS: 1.48.

COMMISSIONER DURAN: 1.48 acres?

CHAIRMAN CAMPOS: Yes.

COMMISSIONER DURAN: Is this not in that same area that we have denied other ones?

CHAIRMAN CAMPOS: Pinon Hills. Yes, we have both denied and granted others. Is that correct?

COMMISSIONER DURAN: Well, the minimum - we've denied family transfers of less than 2.5 acres.

CHAIRMAN CAMPOS: I'm not sure.

MR. ABEYTA: Mr. Chair, I'm not sure if we have either. The Board has denied regular lot splits but has made an exception to family transfers provided that there's a ten-year holding period put on them. But as for the lot size, I can't recall.

COMMISSIONER DURAN: Okay.

CHAIRMAN CAMPOS: Any further discussion?

**The motion to approve EZ Case #DL 04-4020 tied by a 2-2 voice vote, with**

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**Commissioner Sullivan and Commissioner Campos voting against, and Commissioner Duran abstaining.**

COMMISSIONER DURAN: Mr. Chair, I didn't vote.

CHAIRMAN CAMPOS: Oh, you didn't vote. Tell me again, what's the hold period?

CHAIRMAN CAMPOS: Ten years.

COMMISSIONER DURAN: Ten years to hold it?

CHAIRMAN CAMPOS: Yes, sir. They have the right to come back to the Commission and ask for a reduction of that length.

COMMISSIONER MONTROYA: Is that to sell it or to split it?

CHAIRMAN CAMPOS: No, that's to sell it. They have a ten-year limit on reselling this property. That's condition number 12.

COMMISSIONER DURAN: I abstain.

CHAIRMAN CAMPOS: Okay. It's 2-2. The request to divide is therefore denied.

COMMISSIONER DURAN: Oh, wait a minute, Mr. Chair. I wanted - I thought that maybe if I abstained we could move it to the next -

COMMISSIONER SULLIVAN: We're all here.

COMMISSIONER DURAN: We're all here.

CHAIRMAN CAMPOS: We're all here. It's 2-2.

COMMISSIONER SULLIVAN: You want someone else to come next time.

COMMISSIONER DURAN: Give me a few seconds here then please. I'm sorry to delay this.

CHAIRMAN CAMPOS: Who would like to speak? What could they add to the discussion at this point? If you have a question, let him ask it.

COMMISSIONER DURAN: I just want to look at the conditions of approval. So this will be one well?

CHAIRMAN CAMPOS: Sir?

MR. HERRERA: Yes.

COMMISSIONER DURAN: I'm going to ask Roman the questions. Thank you.

MR. ABEYTA: Mr. Chair, yes. They would be on one shared well. Mr. Chair, Commissioner Duran, to your earlier question about whether or not the Board has approved family transfers of 1.25, they have. In fact, Mr. Grace just showed me a plat that the Board just approved this last year where you allowed the creation of 1.25-acre tracts for family transfer purposes. So I can confirm that.

COMMISSIONER DURAN: Okay. I think one of the - so these would be allowed to have one single family residence on them?

MR. ABEYTA: Yes, Mr. Chair, Commissioner Duran.

COMMISSIONER DURAN: And mobile homes would be allowed?

MR. ABEYTA: Mr. Chair, Commissioner Duran, yes. Mobile homes would be allowed.

COMMISSIONER DURAN: So there's no restrictions against that.

MR. ABEYTA: There may be private covenants in the subdivision that would prohibit that, but no County restrictions.

CHAIRMAN CAMPOS: But state law does prohibit discrimination, doesn't it? Against mobile homes?

MR. ABEYTA: Yes, and that's why the County doesn't.

COMMISSIONER DURAN: Well, I'm not discriminating.

CHAIRMAN CAMPOS: I know you wouldn't.

COMMISSIONER DURAN: I vote in favor of the motion.

**The motion to approve passed by 3-2, with Commissioner Anaya, Commissioner Montoya and Commissioner Duran voting in favor.**

CHAIRMAN CAMPOS: The family transfer is granted 3-2. Thank you very much.

- XIII. A. 6. CDRC CASE #A/V 04-5020 – Herrera Appeal Variance. Rebecca Herrera, Applicant, is Appealing the Land Use Administrator's Decision to Deny the Placement of a Second Home on 0.75 Acres, which Would Result in a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code. The Property is Located at 9 Honcho Road, Arroyo Seco, within Section 13, Township 20 North, Range 8 East (Commission District 1)**

DOMINIC GONZALES (Review Specialist): Thank you, Mr. Chair, Commissioners. My name is Dominic Gonzales. I'm a Development Review Specialist with the Land Use Department. On February 19, 2004, the CDRC met and acted on this case. The decision of the CDRC was to uphold the Land Use Administrator's decision to deny the placement of a second home on .75 acre. There is currently one home and one septic system on the property. The property is served by an onsite well, which serves the existing home. The applicant states that her adult son will occupy the second dwelling unit. The applicant's intention is help her son have a home of his own that he can afford.

Staff recommends denial of the appeal, based on Article III, Section 10 of the Land Development Code which states the minimum lot size in this area is 0.75 acres per dwelling. Staff recommends that the request for a variance be denied. The intent of the Code is to set minimum lot size in this area at 0.75 acres per dwelling unit.

Mr. Chair, Commissioners, a letter of intent, a letter from, I think it was back in



1985 when they submitted for the well record and a petition from the neighboring homeowners surrounding them was passed out to you just now by Mr. Dalton. [Exhibit 3]

CHAIRMAN CAMPOS: Mr. Gonzales, are there any conditions that you're recommending should the –

MR. GONZALES: Mr. Chair, there is. May I enter them into the record?

CHAIRMAN CAMPOS: Sure. Where are they?

MR. GONZALES: Exhibit E.

[The conditions are as follows:]

1. Water use shall be restricted to 0.25 acre-feet per dwelling. A water meter shall be installed for both homes. Annual water meter readings shall be submitted to the County Hydrologist by February 28<sup>th</sup> of each year. Water restrictions shall be recorded in the County Clerk's Office. Installation of meters for existing residential units prior to issuing development permits.
2. No additional dwellings will be allowed on the property.
3. The existing driveway will serve all homes.
4. The applicant must follow all other building permit regulations including terrain management improvements are required by staff.
5. Failure to comply with all conditions shall result in administrative revocation of the appeal.
6. The applicant shall submit an Environmental Department liquid waste permit showing lot size and number of dwelling units.

CHAIRMAN CAMPOS: Okay, Exhibit E is the conditions. So condition 1 says .25 acre-feet per dwelling? That's what you recommend?

MR. GONZALEZ: Mr. Chair, that's correct. And actually, condition number 1 should read Water meters shall be installed for both homes instead of all three.

CHAIRMAN CAMPOS: Both homes. No additional dwellings will be allowed on the property. Okay. So entered into the record. Any questions? Who is the applicant? Please come forward and state your name.

[Duly sworn, Rebecca Herrera testified as follows:]

REBECCA HERRERA: My name is Rebecca Herrera. Mr. Chair, Commissioners, as a concerned parent and having financial hardships, I very much want to help my son get established. He's 21. He's just now beginning. I have no other way of helping him to buy land so I am willing to share my land with him and he is my only son. He's my only child. I would like to request permission to have a second dwelling, which would be a mobile home, 14 by 64 on my land and I'm willing to share with him my well and whatever all I need to share with him. The water pressure on my well is very good. I have no problem with sharing that with him. I'm willing to comply with whatever it is that I need to do to help him get established.

CHAIRMAN CAMPOS: You would agree to all the conditions suggested by staff?

MS. HERRERA: I do.

CHAIRMAN CAMPOS: Have you had an opportunity to review them?

MS. HERRERA: Yes I have and I believe that – and can I have Fred Martinez help me with this as well, because he has been assisting me with it.

CHAIRMAN CAMPOS: Sure.

[Duly sworn, Fred Martinez testified as follows:]

FRED MARTINEZ: Mr. Chair, members of the Commission, we're here to ask the Commission for permission to park a second dwelling which will be a trailer, 14 by 64 on the property that belongs to Rebecca Herrera in Arroyo Seco. This property does not have an acre of land. It only has .75 acre, but it's got plenty of room to park a second dwelling into it, even the well she has right now has a lot of pressure which will support the two dwellings. And the measurements that I took from the well to her sewer were more than 100 feet. I took measurements to the neighbors, which were more than 100 feet. And the neighbors that she has do not oppose the decision for her to park a trailer there. They're away about 300 to 400 feet and they signed a petition stating that they will help her. Thank you.

CHAIRMAN CAMPOS: Anything else?

MR. MARTINEZ: No, that's about it. We leave it in your hands.

CHAIRMAN CAMPOS: Questions from the Commission?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER MONTOYA: Just a point of clarification from staff I guess. On the conditions, it says a water meter shall be installed for all three homes.

MR. MARTINEZ: That's supposed to be two, Commissioner Montoya.

COMMISSIONER MONTOYA: Okay. Then Mr. Martinez, Ms. Herrera, do you have a copy of that petition by any chance? It's not in our records.

MR. MARTINEZ: Oh, yes. She does have one right here.

COMMISSIONER DURAN: We found one.

COMMISSIONER MONTOYA: Okay. I've got it here. Thank you. Thank you, Mr. Chair. Oh, one other question. The same well is going to be supplying both dwellings.

MR. MARTINEZ: Yes.

COMMISSIONER MONTOYA: The septic it appears is not going to be a separate --

MR. MARTINEZ: The septic would have to be a second -- because of the terrain of the --

COMMISSIONER MONTOYA: Of where the first septic is.

MR. MARTINEZ: Yes, because the sewer she has is too high to bring the other line to the sewer up. So it would have to be a second sewer.

COMMISSIONER MONTOYA: And that's not going to be within 100 feet of the well?

MR. MARTINEZ: It's still going to be 122 feet away.

COMMISSIONER MONTOYA: Away from the well?

MR. MARTINEZ: Yes.

COMMISSIONER MONTOYA: Thank you.

MR. MARTINEZ: Thank you.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, Mr. Martinez, how deep is your well there?

MR. MARTINEZ: It's about 200 feet.

COMMISSIONER ANAYA: Okay. And you plan on going to the New Mexico Environment Department and getting a septic tank permit.

MR. MARTINEZ: Yes, sir.

COMMISSIONER ANAYA: And you're going to have a licensed contractor put that tank in, or you're going to do it yourself and then get the inspection from the state.

MR. MARTINEZ: Well, we haven't determined that, but if we can install it ourselves and get an inspector over there, we can do it.

COMMISSIONER ANAYA: Okay.

CHAIRMAN CAMPOS: Any other questions? Mr. Gonzales, can you tell us about the properties around this property? How many homes in the lots? How many septic tanks, how many wells? Is there a problem with water contamination in this area?

MR. GONZALES: Mr. Chair, I'm not familiar with any water contamination with the properties throughout. I know on the road coming out there there is I believe three houses before you reach this house. This house is at the end of the road, and then on the other side of that road there's possibly maybe three or four additional homes out there. In this area, I'm not familiar if there's second dwellings on .75 acre, but from what I know there's no water contamination, there's no wells running dry in that area.

CHAIRMAN CAMPOS: Okay. Yes, ma'am.

MS. HERRERA: Mr. Chair, the water is very excellent water. It's one of the best in the vicinity. We have no problems with it.

CHAIRMAN CAMPOS: But you know that the Code is concerned about too many dwellings on small pieces of property because eventually everybody splits and then you get contamination and then the water's no good and then your homes are not as valuable. They lose a lot of the value.

MS. HERRERA: I don't see a problem with that because if they're like far away, and the neighbors are far away and the distance of the wells are far enough.

CHAIRMAN CAMPOS: Okay.

COMMISSIONER DURAN: I don't see a problem with it either.

CHAIRMAN CAMPOS: Mr. Gonzales, this is not a family transfer, right? It's just a straight out variance?

MR. GONZALES: Mr. Chair, that's correct. It's a straight out variance. As part of, I believe it was condition – it's considered a second dwelling.

CHAIRMAN CAMPOS: This is just a second dwelling. It's not a lot split or

anything, right?

MR. GONZALES: Not a lot split.

CHAIRMAN CAMPOS: Okay. Thank you, sir. Any other questions?

COMMISSIONER MONTOYA: Mr. Chair, Mr. Gonzales, in terms of the permitting process then, for the second dwelling, they would follow what's in the Code right now and there's no other restrictions that are being placed.

MR. GONZALES: Mr. Chair, Commissioner Montoya, they would have to follow every requirement for submitting for a second dwelling, or an initial dwelling. They'd have to comply with the Environmental Department, bring in an updated either permit from the Environmental Department approving that system or whatever they approve at that time. It would have to show the water wells with the meters, two separate meters, one for each dwelling, and basically every other requirement that we do require.

CHAIRMAN CAMPOS: One more question. Is this house going to be sold to the son?

MR. GONZALES: Mr. Chair, I'm not aware of that. Maybe the applicant can answer.

MS. HERRERA: No. It will not be sold.

CHAIRMAN CAMPOS: Okay. Is there a motion? We have a public hearing, right? Anybody out there that would like to speak to this case, for or against. Okay, no one coming forward. The public hearing is closed. Is there a motion?

COMMISSIONER MONTOYA: Mr. Chair.

COMMISSIONER ANAYA: Sir.

COMMISSIONER MONTOYA: Move for approval of CDRC Case #A/V 04-5020 with staff conditions.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER ANAYA: Second.

CHAIRMAN CAMPOS: Discussion?

**The motion to approve CDRC Case #A/V 04-5020 passed by majority [4-1] voice vote, with Commissioner Campos voting no.**

**XIII. A. 10. CDRC CASE #Z/DP 04-5000 – Santa Fe County Fire Station Development Plan. Santa Fe County, Applicant, Rudy Garcia, Agent, Request Master Plan Zoning Preliminary and Final Development Plan Approval for a Community Service Facility to Allow the Eastern Region Headquarters Fire Station on 2.1 Acres. The Property is Located at 645 Old Las Vegas Highway, within Section 3, Township 15 North, Range 10 East (Commission District 4)**

MR. DALTON: Thank you, Mr. Chair. Santa Fe County, applicant, Rudy Garcia, agent, request master plan zoning, preliminary and final development plan approval for a community service facility to allow the eastern region headquarters fire station on 2.1 acres. The property is located at 645 Old Las Vegas Highway, within Section 3, Township 15 North, Range 10 East, Commission District 4.

On February 19, 2004, the CDRC met and acted on this case. The decision of the CDRC was to recommend master plan zoning, preliminary and final development plan approval for a community service facility to allow the eastern region headquarters fire station on 2.1 acres.

Recommendation: Staff recommends master plan zoning, preliminary and final development plan approval for a community service facility to allow the eastern region headquarters fire station on 2.1 acres, subject to the following conditions. Mr. Chair, may I enter those into the record?

CHAIRMAN CAMPOS: So entered.

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:
  - a. State Engineer
  - b. State Environment Department
  - c. State Department of Transportation
  - d. County hydrologist
  - e. Development Review Director
  - f. County Fire Marshal (Development plans and building plans)
  - g. County Public Works
  - h. County Technical Review Division
2. The development plan will be recorded with the County Clerk's office.
3. All staff redlines will be addressed, original redlines will be returned with final plans.
4. All outside lighting on the property shall be shielded. The applicant shall provide cut-sheets for all outside lighting and all exterior lights shall be directed downward.
5. The applicant shall provide a driveway permit from DOT prior to recordation of the final development plan.

6. The applicant shall submit a cost estimate and financial guarantee for completion of the requirement improvements as approved by staff, or other method acceptable to staff.
7. The applicant shall comply with the water harvesting requirements of Ordinance 2003-6. A water harvesting plan shall be submitted with the final development plan application.
8. The applicant shall screen all garbage containers or dumpsters with a wall or fence 6 feet in height.
9. The applicant must submit a drainage and grading plan to be approved by staff prior to recordation of final development plan.
10. Upon completion of the new fire station, the existing metal building and mobile home shall be removed from the site.
11. The landscape plan shall include but not be limited to the following:
  - a. Low water tree plantings and evergreen pines less susceptible to bark beetle
  - b. Drip irrigation
  - c. Shrub plantings within landscape buffers
12. The height of the proposed sign shall not exceed ~~five feet~~ twelve feet and shall conform with the Highway Corridor Plan.
13. The applicant shall address the height of the flag poles.
14. The applicant shall record water restrictions/conservation measures limiting water use to one acre-foot.
15. The roof of the proposed building shall be of a non-reflective material.

MR. DALTON: Mr. Chair, I also have some additional language if I may read that into the record on one of the conditions.

CHAIRMAN CAMPOS: Which one, sir?

MR. DALTON: Condition number 12. And that should read the height of the proposed sign shall not exceed five feet and shall conform with the Highway Corridor Plan. Thank you.

CHAIRMAN CAMPOS: Thank you. Are there any questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Dalton, I'm real glad to see this station get going but I had a couple of questions from looking at the documents. It indicates that currently the site is served by a well with a 2,000 gallon storage tank. Is that correct?

MR. DALTON: Mr. Chair, Commissioner Sullivan, that is correct.

COMMISSIONER SULLIVAN: In the regs that are attached in the packet, page 3 of them, it says that the minimum required water storage for fire protection shall meet ISO recommendations but not less than 45,000 gallons. So are we going to go with the 45,000 gallon draft storage tank?

Ws: Mr. Chair, Commissioner Sullivan, I'm not sure. I know Stan is here and can answer that question for you.

TONY FLORES (PFMD Director): Mr. Chair, Tony Flores, Project and Facilities Management Department Director. Yes, we will comply with the ISO requirements of providing a minimum of 45,000 gallons of onsite storage.

COMMISSIONER SULLIVAN: Okay. That answers that question. Second question I had, Mr. Chair, was the State Engineer's report. The State Engineer issued a negative opinion for the project and some of his comments included "the assumptions regarding the water use are not reasonable." And then he goes on to explain why. And he said, "A copy of the State Engineer permit has not been provided." This was apparently a 1990 permit that required the filing of quarterly meter readings, which he also indicates has not been done. It seems like we need to be certainly examples of compliance with our own requirements here or what's going on here?

MR. DALTON: Mr. Chair, Commissioner Sullivan, the applicant is working on these issues with the State Engineer. Condition number 1 does state that the applicant shall comply with the applicable review and agency comments and the State Engineer is one of those in that condition.

COMMISSIONER SULLIVAN: Well, I understand that, but in terms of quarterly reports, but the State Engineer is issuing a negative opinion, that is to say that if it were up to the State Engineer I guess he would deny it. He indicates the water budget is calculated – the Office of the State Engineer is prepared to re-evaluate the proposal when the water budget is calculated correctly, and when water availability is addressed adequately as required by Article VII, Section 6.4.7.b of the County Development Code, and when the past meter readings for well RJ 50-303 are submitted – are any of these conditions deal-killers?

MR. FLORES: Mr. Chair, Commissioner Sullivan, as part of the collaboration of Project and Facilities Management and the Fire Department we have assumed the overall project management of all County facilities. It is my responsibilities as the department director to ensure that the conditions or the issues that were raised by the Office of the State Engineer are met, including the filings and the application permits. As far as the conditions of the water budget or those issues, we are working through those issues. Our architect is working through those issues with the Office of the State Engineer and trying to get the correct information. There's a little bit of difference of opinion to get what type of use we're having out there.

It is our opinion that the use is not increased over the existing condition. We currently have a mobile home out there that's housing our staff and then the building. We are not increasing staff for the facility. We're basically taking a dilapidated, old two buildings and converting them into a new, modern facility. So we are committed to working on the conditions that staff has recommended, and also committed from my department's perspective on ensuring that we have compliance of the Office of the State Engineer's concerns that he's raised in his opinion.

COMMISSIONER SULLIVAN: Mr. Flores, what about the question of the discharge? Will the discharge equal 2,000 or exceed that, gallons per day if the water budget is recalculated?

MR. FLORES: Mr. Chair, Commissioner Sullivan, it will not. Again, this is

not increasing any intensity of the property. Those uses exist today, so it is our opinion that that will not increase over the 2,000 gallons of discharge.

COMMISSIONER SULLIVAN: That's all the questions I had, Mr. Chair.

Thank you.

CHAIRMAN CAMPOS: Mr. Flores, going back to what Commissioner Sullivan said, the assumptions re water use are not reasonable. Are you in a position to effectively provide a budget and any evidence you need to the State Engineer to overcome these apparently unreasonable assumptions?

MR. FLORES: Mr. Chair, yes we are. Our architect of record has done some research and analysis and based upon the use of the facility, as a community service facility but in essence it has a home within that facility. We are prepared to address those issues with the Office of the State Engineer and provide our opinions and the supporting document for that with the Office of the State Engineer.

CHAIRMAN CAMPOS: And you will assure that everything is approved by the State Engineer?

MR. FLORES: Mr. Chair, PFMD's role, it is our goal to lead by example, so yes.

CHAIRMAN CAMPOS: Are you doing water harvesting at this building?

MR. FLORES: Mr. Chair, that is a condition that we are including, actually it's included as part of, that would be an onsite collection system for our drainage. So that will be improved or included as part of the plan.

CHAIRMAN CAMPOS: And it's roof-top catchment.

MR. FLORES: Yes.

CHAIRMAN CAMPOS: What about energy efficiency? We talked about this in the past.

MR. FLORES: Mr. Chair, as the direction of this Board to myself over 2 1/2 years ago, each of our buildings are looked at for not only energy efficiency and the aesthetics or the appearance of it but also the appurtenances inside. Motion sensors to keep lights off, filling up the tankers etc. to be able to draw in, as a Trombe wall would for solar heat or a passive system. So those are built into these buildings as a direction by this Board.

CHAIRMAN CAMPOS: Thank you. Any other questions?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: Tony, I know in the past we gave approvals for other fire stations. Is this building going to be friendly to the County employees? Because I know that the Sheriff Department, driving throughout the county sometimes need a place to eat lunch or use the restroom. Is this going to be maybe a certain room open for them?

MR. FLORES: Mr. Chair, Commissioner Anaya, not only are they going to be County employee friendly, but also community friendly. We have built in as well with the Lamy fire substation a community meeting room so that we can afford community members of that area that serve the Hondo, Glorieta, Lamy, Galisteo and areas the ability to use this



facility.

COMMISSIONER ANAYA: Good. Thank you. That's all I had.

CHAIRMAN CAMPOS: Any other questions?

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER SULLIVAN: I was going to ask about, it is going to be available to the community, Tony, because the ECIA, Eldorado Community Improvement Association facilities are only available to ECIA members. And we don't have a community facility at the time for people to meet. The layout looks the same as the one on Route 14 in San Marcos.

MR. FLORES: Mr. Chair, it's a little bit larger than the Turquoise Trail. That's a fire substation. This one is a regional fire station, which is larger. It mirrors to some degree the Pojoaque, our regional one.

COMMISSIONER SULLIVAN: More like Pojoaque.

MR. FLORES: Yes, Mr. Chair, Commissioner Sullivan.

COMMISSIONER SULLIVAN: Okay. But I do want to be sure that, because I understand in some cases from some of the volunteer fire departments they have occasionally some level of resentment about the public using their facilities, or at least I've heard comments to that regard. And I hope we understand that these are public funds and as much as they might have a problem with perhaps some of their expensive equipment being tampered with and the inconvenience of securing it, I think it's important that these facilities do become available to the public.

JEFF SAUNDERS (Assistant Fire Chief): Mr. Chair, Commissioner Sullivan, this specific design was really intended to separate the private space from the public space. One of the things that we found in the last two designs that we did was we really didn't have that separation between the private space for our crew and the public space for a public meeting. We went to great lengths to make sure that this was done in this particular case so that we really could afford to have any number of activities in that community room and keep the employees off to their own private areas.

COMMISSIONER SULLIVAN: Good. Glad to hear that. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Thank you. Okay, this is a public hearing. Anybody in the audience who'd like to come forward, for or against. Sir. Please state your name and your address.

[Duly sworn, Allan Yaeger testified as follows:]

ALLAN YAEGER: My name is Allan Yaeger, 655 Old Las Vegas Highway. I live on the property adjacent to this site. I'm here on behalf of myself, my father Richard Yaeger and mother, Rose. My parents got this property in 1966. They've been paying taxes since then and I have a whole bunch of points. At the last meeting, the last hearing, none of my points really got addressed, so what I did is I highlighted them to six major points and if I could I would like to present them to you. [Exhibit 4]

CHAIRMAN CAMPOS: Please.

MR. YAEGER: I'm a mechanical engineer. I work in Los Alamos. I've worked for 23 years for Design Engineering and Construction Services, so I've been working on the design and development of new buildings and retrofit of existing buildings. The biggest issue I have here is really again the water, which I was kind of happy to hear you bring up. I ran a quick estimate what I thought was the water usage and I basically see this water, the well would be pumped at least 50 percent of the time in one year. Mr. Flores was totally wrong when he said that there would be no increase in the amount of water for this facility. There are currently two people living in a mobile home there. This new facility is much bigger. And so the amount of water they're going to use, to me, this was my best guess. I tried not to make it too big. It's definitely going to be a lot more water.

This pump pumps two gallons per minute. It doesn't meet the requirement for this facility and the facility size - let me go through my points. My first point was I don't think it meets the water usage rate. Second point, right now - I'm sorry, I'm all mixed up. This site has been developed. It was originally a volunteer fire department. It later developed into adding a mobile home. Since then they've added on. The cars that they do work on which they leave there all the time. It's a terrible mess. They've added a helicopter pad and they've added now recently these burn containers where they're making fires. And my the way the wind blows prevalent to our direction of the property.

So it's a really big mess in there. And I know a new facility would be very nice. Why they're going with such a big facility - they have the other regional, again, Mr. Flores mentioned that the other facility was not regional, but it was my understanding, I was told the other facility is a regional facility. It's 4,000 square feet. This one's approximately 9,000 square feet. I've heard no justification, I really don't know why. They haven't done an engineering study to look at factors such as site location, the water issue and anything, the technical basis of design.

How they came up with the building size, what codes in the area, as being the mountain zone, siting issues. Siting issues - this place is a flood zone, in 1972, the water in that area flooded severely. I have not seen a drainage plan. I asked to see a drainage plan for this site, because even now with these recent rains, it puddles out there. Listening to these previous hearings, I thought of something I didn't even think of, the contamination with sewer. There's just so many things I think they just really haven't done their homework. The side - I really would like to see something newer and nicer. I think they need to plan it better. Making this into a community center where people can come - again, the water usage. To me, the main thing I'd really stress is the water usage. I would like to see the other things taken away, especially the burn containers which Mr. Saunders had mentioned to me that he was prepared to move them. So I just would like to kind of close by saying I was really shocked to hear it's a 45,000 gallon tank. But when you look into the numbers that I came up with you're looking at a lot of water so I'd just like to conclude that please really consider your vote. They need to do an engineering study and really address the issues that I brought up. The main one, water. Thank you.

CHAIRMAN CAMPOS: Anybody else? Any questions of Mr. Yaeger?

COMMISSIONER ANAYA: Mr. Chair, Allan, where exactly do you live in relation to this station?

MR. YAEGER: It is directly adjacent to the property. It is basically east of the property. And as I said to you, the biggest thing is the wind direction, when they make the fires with the containers.

COMMISSIONER ANAYA: Where it says Sweaters?

MR. YAEGER: Yes.

COMMISSIONER ANAYA: That's your place?

MR. YAEGER: That's my parents' business.

COMMISSIONER ANAYA: Okay. Thank you.

CHAIRMAN CAMPOS: Commissioner.

COMMISSIONER DURAN: My knowledge of that area, and that's the Apache Ridge area, is that wells in that particular area go dry, and there's not much water there. So the question I have is are we being asked to approve this without any real hydrology, like a hydrology report on the site? On the well?

MR. ABEYTA: Mr. Chair, Commissioner Duran, it's my understanding that they are going to provide information to our hydrologist and we've put in a condition of approval that they comply with comments from the hydrologist and the State Engineer's Office.

COMMISSIONER DURAN: What if the hydrologist can't give a favorable report?

MR. ABEYTA: The approval is conditional upon that, so if he can't give one then the approval is null and void.

COMMISSIONER DURAN: Well, I move to table this until the hydrology has been provided to the hydrologist and he has had time to provide us with a proper analysis of the water.

COMMISSIONER ANAYA: There's been a motion. Is there a second.

COMMISSIONER MONTOYA: Mr. Chair, are we done with the public hearing?

COMMISSIONER ANAYA: Well, I was going to address the motion first and then go into discussion.

COMMISSIONER DURAN: I think we can table any time.

COMMISSIONER ANAYA: I know you can, but there's no second. So lack of second. Was there any more discussion? Was there anybody else in the public that would like to speak? Okay, hearing none, Commissioner.

COMMISSIONER SULLIVAN: Perhaps rather than tabling, I do share Commissioner Duran's concern that we have what appears to be an incomplete application here. And what's being requested is master plan, preliminary and final, all at one point here. I'm thinking perhaps we should consider master plan and preliminary approval that lets them move forward with the intent of the program so the design can move forward, then they come back for final approval with all of these unresolved questions, the water budget, the well, the

hydrology and everything, should be addressed. I think we're getting too many approvals in one bunch here is what appears to be the problem. Would that cause a problem, Roman?

MR. ABEYTA: Mr. Chair, Commissioner Sullivan, no, it doesn't. We would just want clarification as to whether or not you want the final to go to the CDRC or go to the CDRC and the Board, or just come directly to the Board.

COMMISSIONER SULLIVAN: Well, the CDRC has approved it, all three.

MR. ABEYTA: Right. So then the final would then come back to the Board.

COMMISSIONER SULLIVAN: It's clear the CDRC is comfortable with it. I think from my standpoint we just have to come back to the Board. It would depend on what the other Commissioners think.

COMMISSIONER DURAN: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Duran.

COMMISSIONER DURAN: I think that by taking that course of action you're opening up - you're establishing some precedents there that could be used in other projects. What's good for someone out - what we require people in the community to conform to should be something we do and I'm sure you recall more than once development applications coming before us and when they're incomplete we either table them, and most of the time we table them because they're incomplete. And I don't have a problem with this. My only concern is we're being asked to approve this whether it's master plan and preliminary.

COMMISSIONER SULLIVAN: And final.

COMMISSIONER DURAN: And final. If we take it to preliminary I think we're setting ourselves up for problems with other developments if it doesn't come forward with complete submittals. Thank you.

COMMISSIONER ANAYA: Roman, in the past, if the applicant hadn't completed the whole process, we would grant them master plan and preliminary, and until the did complete the process, then we would give them final development plan. Correct?

MR. ABEYTA: Mr. Chair, Commissioner Anaya, that's - it's different with every case and what the Board feels comfortable with. Sometimes the Board feels that yes, we can do preliminary, have them come back for final, or, if there's only enough there to do master plan, we could hold off on the preliminary. I would say you have enough for master plan for sure. Preliminary, it's at your discretion as to whether or not you want to grant preliminary.

COMMISSIONER ANAYA: Okay, so do I hear a motion?

COMMISSIONER SULLIVAN: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I'd move for the master plan and preliminary approval of CDRC Case #Z/DP 04-5000 with the additional condition that final approval come back before the Board of County Commissioners.

COMMISSIONER MONTOYA: Second.

COMMISSIONER ANAYA: There's been a motion and a second. Any discussion?

The motion to grant CDRC Case #Z/DP 04-5000 master and preliminary approval, but requiring the applicant to return to the BCC for final approval passed by unanimous [5-0] voice vote.

- XIII. A. 11. **CDRC CASE #V/DP 03-5950 – Verizon Wireless Variance.** Verizon Wireless, (Rick Ramirez), Applicant, Jim Siebert, Agent, Request Development Plan Approval for an Overhead Electric Line to Serve the Verizon Wireless Cell Tower Located at the Top of La Bajada Hill, this Request Includes a Variance of Article III, Section 2.3.6b (Height Restrictions for Dwelling or Residential Accessory Structures) of the Land Development code to Allow Electric Line Poles to Exceed 24 Feet. The Property is Located Off County Road 57 East of I-25, within Sections 13,22,23,24,26 and 27 Township 15 North, Range 7 East (Commission District 3)

MR. DALTON: Thank you, Mr. Chair. The applicant is requesting development plan approval for an overhead electric line to serve the Verizon Wireless cell tower located at the top of La Bajada Hill. This request includes a variance of Article III, Section 2.3.6b (Height Restrictions for Dwelling or Residential Accessory Structures) of the Land Development Code to allow electric line poles to exceed 24 feet.

The property is located on County Road 57, east of I-25, within sections 13, 22, 23, 24, 26, and 27, Township 15 North, Range 7 East, Commission District 3. On February 19<sup>th</sup>, 2004, the CDRC met and acted on this case. The decision of the CDRC was to recommend denial of the development plan for an overhead electric line serving the Verizon Wireless cell tower, located at the top of La Bajada hill.

Ordinance Number 1998-15, amending Article III, Section 8 of the Land Development Code, specifies that all new and replacement utilities shall be placed underground or subject to approval by the BCC, who shall consider environmental and visual impact. The proposed line will extend from an existing three-phase line, which is located to the north of the property, for a distance of 31,850 feet, or approximately six miles of new electric line. 74 poles will be required to construct the entire line. The height of the poles will be 34 feet, and the distance between poles will generally be 400 feet. The majority of the overhead electric lines will run parallel to the existing double-pole high voltage electric line.

Recommendation: Staff is in agreement that the proposed overhead utilities will not be visible from I-25. However, it would introduce overhead utilities into a broad view corridor that is presently not interrupted. The issue of utilities across these two tracts of land should be considered as part of the master plan or subdivision development plan. The applicant has not presented information regarding significant impact to animal or plant life, natural landscape,

high groundwater, or a significant archeological site. Staff recommends denial of the proposed development plan and variance.

If the request is approved, Staff recommends the following condition. Mr. Chair, I enter that into the record.

CHAIRMAN CAMPOS: There's one condition?

MR. DALTON: That's correct.

CHAIRMAN CAMPOS: Okay. It will be entered into the record.

[The condition is as follows:]

1. The applicant shall submit an archeological report as required by the State Historic Division.

MR. DALTON: Thank you.

CHAIRMAN CAMPOS: Any questions? I have a question on page 2. At the very top paragraph, it says, "or subject to approval by the BCC." What does that mean?

MR. DALTON: Mr. Chair, what that means is that that section of the Code states that all new and replacement utility lines are to be placed underground or the BCC shall consider environmental or visual impact for overhead utility lines.

CHAIRMAN CAMPOS: Does it say that the Board of County Commissioners has the discretion to waive this requirement?

MR. DALTON: Mr. Chair, Commissioner Campos, it does not state that specific language. All it states in amending that article is what you see here.

CHAIRMAN CAMPOS: Okay. Mr. Ross, could you help us on that?

MR. ROSS: Mr. Chair, members of the Commission, I've looked at this for quite some time in connection with several other applications. It appears to me that the Board has discretion to permit overhead lines, so long as it's somehow related to environmental or visual impact. So your discretion is limited to those two subjects or categories. It's not really an unlimited discretion. That's sort of how I take that language.

CHAIRMAN CAMPOS: So the Board has discretion to waive, but they have the duty to consider environmental and visual impacts?

MR. ROSS: Right.

CHAIRMAN CAMPOS: Okay.

MR. ROSS: I'm not sure if it's a waiver or a variance. I'm not sure how to exactly characterize the language, the most clear language.

COMMISSIONER MONTOYA: Mr. Chair, as I read it, visual impact is going to be exposed if it's not underground, right?

MR. ROSS: Right, I think that could be something you would consider.

CHAIRMAN CAMPOS: Mr. Dalton, another question. You're saying that this violates the 24-foot standard, and the title of the law is "Height Restrictions for Dwellings or Residential Accessory Structures." Does that apply to this particular case?

MR. DALTON: Mr. Chair, the Code is pretty much silent in this particular case. Therefore we had to use that section of the Code for the height of the poles, which we would consider an accessory structure.

CHAIRMAN CAMPOS: So there was really nothing specifically applicable?

MR. DALTON: That's correct.

CHAIRMAN CAMPOS: So you found this section and applied it here?

MR. DALTON: That's correct.

CHAIRMAN CAMPOS: Okay. And the poles and wires, are they visible from any road or the highway?

MR. DALTON: Mr. Chair, I went out to the property, and Jim Siebert had actually put up some 20-foot poles with a balloon attached to the top. And from I-25, you cannot see those poles with the naked eye. It takes a pair of binoculars to barely see the top of the balloon. So in my opinion, it's not visible from I-25, but it is visible on some portions of County Road 57.

CHAIRMAN CAMPOS: Okay. Any other questions for Mr. Dalton?

COMMISSIONER DURAN: Mr. Chair?

CHAIRMAN CAMPOS: Commissioner Duran.

COMMISSIONER DURAN: What's the distance that they would have to bury this if we required them to bury it?

MR. DALTON: Mr. Chair, Commissioner Duran, the total length of this electric line is six miles.

COMMISSIONER DURAN: Oh, okay. Thank you.

CHAIRMAN CAMPOS: Any other questions?

COMMISSIONER MONTOYA: Mr. Chair, what was the basis that the CDRC denied this on?

MR. DALTON: Mr. Chair, Commissioner Montoya, one of their strong points of denial was that somebody was in opposition to this case.

COMMISSIONER MONTOYA: There was an individual that was opposed to this case?

MR. DALTON: Mr. Chair, Commissioner Montoya, that is correct.

COMMISSIONER MONTOYA: Is this the individual who has provided us with a letter this evening? [Exhibit 5]

MR. DALTON: That's correct.

COMMISSIONER MONTOYA: Saying that he's now opposed to it?

MR. DALTON: That's correct.

COMMISSIONER MONTOYA: Okay. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, Wayne, how many miles would the new line run alongside the existing line?

MR. DALTON: Mr. Chair, Commissioner Anaya, I believe it's three miles.

COMMISSIONER ANAYA: It goes three mile along the existing and then three miles out in the open?

MR. DALTON: That's correct.

COMMISSIONER ANAYA: Okay, thank you.





electric poles.

This is what the actual pole would look like. It carries a three-phase line. It would be 34 feet in height, with six feet buried in the ground, a total of forty feet for the length of the pole. It would be a primary line. It would carry a three-phase electric since that's the requirement of Verizon.

The area where it's not adjacent to the roadway is this area right along here. It's approximately, from the highway – I'll pick a point here – approximately from this point here to the line is a little over 4,000 feet, just short of a mile. And I think staff's been out there to see it. It's a considerable distance. You do have a ridgeline that runs in this area here, right through here, that helps to obscure the line from the interstate.

And the reason that they're requesting electric to the cell tower site is, first of all, they need a secure source of power. It's presently operated by a generator. It's subject to not only being re-fueled, but at times power failures, especially during thunderstorms, and also for issues of life safety. There's times that people may have emergencies, may need to use their cell phones in order to call for a traffic accident or something similar to that. And they need two sources of power supply in order to ensure that it operates at all times.

This is the cell site. The generator is immediately in front of it. Actually, this tower is 24 feet tall, below the standard that would require a variance.

This is another cell tower that's in the area. I believe this is AT&T's cell tower. They have not only a generator but solar panels as a backup. And this is another cell tower that's in the same area. And the reason all these towers are located in the same vicinity is that they all did some pretty extensive studies about where they get optimum microwave service, and this is the one place where they get that optimum service.

One thing I need to point out is of these three towers, only Verizon is the one that is going to be paying for the electric service. There's no commitment on the part of the other two towers to participate in the cost of extending the electric line.

Once again, this is taken from I-25, an example of what you see. And then below that is the 20-foot tower. It doesn't have the balloons on it anymore, but we'd attached several helium balloons to them so that the staff would have an opportunity to see if you could actually see these poles from the highway. And it's not – this line would not be visible to the naked eye from I-25.

One of the things we did too is calculate what's the relative disturbance of poles versus an underground line. And you have to remember that this is six miles of line. It's very extensive. If you take a 20 by 20 area that's disturbed by each pole, which would be required in order to set up the trucks and the equipment and drill rigs in order to drill the hole, you'd end up with approximately 30,000 square feet of disturbed area. If you take a look at the underground lines, the same distance – and there's standards that PNM Electric has to meet with the three-phase lines, they have to be 24 inches wide and 42 inches deep, just as the poles have to be 34 feet tall because of various engineering considerations – it would disturb approximately 150,000 square feet. So it's approximately five times as much land that would be disturbed by placing the line underground versus actually putting it on overhead poles.

One thing that's come to light just recently, is there was – and I was unaware of this until a couple days ago– a resident evaluation done, an environmental evaluation done by the PNM Electric of the line. And they did encounter sites that were sensitive in terms of vegetation, and an archeological site that's on the east side or the west side of Waldo road. And what they did is – they had the option in this case of moving the power poles to different locations in order to avoid these sites. And it's an option that if you go underground, you don't have that same ability. And I'll hand out this evaluation of the environmental resources done by PNM.

So the cost of the overhead line is a little over \$200,000. The cost of the underground is approximately \$800,000. And this is considered to be a minimum cost which doesn't include if there is exceptionally extensive rock, which we anticipate there's going to be a considerable amount of basalt that's encountered. The other thing is that if it does have to go through the archeological site, it either has to be avoided by going around it, adding length to it, or there will have to be a mitigation of the archeological site. So that cost does not include that. So it's approximately four times as expensive to go underground as overhead. And in fact, it's just simply not financially feasible to place the line underground. It just doesn't work from a financial standpoint.

Reasons for approving the line, it's a fail-safe power needed by Verizon for life safety and convenience purposes. The cost of the underground line would exceed the Verizon budget, rezoning the continued use of the generator onsite. It actually causes less environmental damage by disturbing significantly less land area. And I think you can – it also was mentioned in the memo, it gives the opportunity to move the poles around, so you can avoid certain sites with environmental sensitivity. And that's the last point there. It also allows other telecommunication users to connect to the line, the other two companies and other two companies that might like to co-locate on the existing towers at some point in the future, should you have that line in place.

I have with me tonight David Buttiker from Verizon, if you have specific questions regarding the cell tower operation itself. Also, I have Steve Alger from PNM Electric, that is here to discuss any specifics of the line extension. The one thing that came up, Commissioner Sullivan asked can you come in from a different source, can you come in either from the existing cell tower that's in the right-of-way and extend electric service, or can you come in from the rest-stop. And what I'd like to do is maybe have Steve Alger address that particular question.

[Duly sworn, Steve Alger testified as follows:]

STEVE ALGER: My name is Steve Alger. I was asked by Jim Siebert to look into providing electrical service from the existing cell tower that's near the rest stop to the edge of La Bajada hill. Following the frontage road, it's also paralleling the fence line, the highway fence line that goes I believe on the south side of Highway 25. And that had been explored one time before. It wasn't with Verizon. I think it was with Sprint. And the cost of doing that would be upwards around \$450,000.

Our big problem is the basalt that we run into, and rock removal in order to place this line. Actually, we do have a cost of about \$30 to \$50 a foot, depending on the amount of rock

that we run into. The way that we would remove the rock, the least expensive way of doing that, would be through explosives, which would probably cause a larger scar than conventional types of removal, such as rock-hammers, such as rock-trenchers. So it's a costly process. And if the power line that we have at the rest stop is a single-phase line, this would not help the requirements of Verizon.

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I had a question. Excuse me, what was your last name again?

MR. ALGER: Steve Alger.

COMMISSIONER SULLIVAN: Alger. Mr. Alger, what about running it from the Budagher cell tower? That's three-phase there, isn't it?

MR. ALGER: No, it's not. It's single-phase.

COMMISSIONER SULLIVAN: It's single-phase. So why do they only need single-phase and you all need -

MR. ALGER: That's a requirement. I'm not really that familiar with the type of communication equipment they're going to use. But we do provide both single-phase and we provide three-phase. Single-phase is a lot less expensive, but basically can't do the same thing that three-phase can do.

COMMISSIONER SULLIVAN: Okay. So we actually have a third alternative between the two that were up on the Powerpoint of 800,000 and 200 and some thousand. There's a 400 and - what did you say, how much?

MR. ALGER: Oh, it's about \$450,000.

COMMISSIONER SULLIVAN: There's about a \$450,000 alternative, if they went along the right-of-way of I-25. Then they'd have to cut cross country to get to the -

MR. ALGER: Yes, they would have to cross country. Extensive rock.

COMMISSIONER SULLIVAN: Okay. Now, have you ever worked with rock-saws before?

MR. ALGER: Yes, I have.

COMMISSIONER SULLIVAN: Could those be used in this area?

MR. ALGER: The rock is too fragmented and blocky at that point. What happens is the rock saw starts to skip, pick up an RPM, and actually damage the equipment. It's malapais in that area. Malapais is pretty chunky. What we like to see is solid monuments of formations, where we could bring rock-trenchers or rock-saws in.

COMMISSIONER SULLIVAN: Okay, so you're figuring some different equipment for the \$450,000.

MR. ALGER: Oh, certainly. We take this all into consideration.

COMMISSIONER SULLIVAN: Okay. So we could go underground for \$450,000.

MR. ALGER: Well, we could go underground for \$450,000. We also looked at going along the gas easement there with the gas power line, the gas twelve-inch high pressure

line. We have a fifty foot easement, 25 feet on either side of that. And the problem with going along that easement that's a 750 PSI line is that any blasting we'd have to do would have to be outside that 25-foot easement or we could damage or rupture that line. So we've pretty well decided that that's not the route we want to go.

COMMISSIONER SULLIVAN: What would be the cost of the option to parallel the high power line, the high voltage line above ground and then go underground for the balance of the -

MR. ALGER: I haven't looked at that option, going above ground and then underground.

COMMISSIONER SULLIVAN: It looks like about half and half on the -

MR. ALGER: It may be. It may be.

COMMISSIONER SULLIVAN: So if was two hundred above - if it's about \$200,000 - how much is it to go-

MR. ALGER: It's \$203,000.

COMMISSIONER SULLIVAN: \$203,000. Call it \$200,000 to go the whole way above-ground and about 800 to go underground. And if it's half, that would be about 400 to go underground half the way and 100,000 to go above ground half the way. So it sounds like that alternative would be about \$500,000. Your underground route would be \$450,000. The fully overhead route would be \$200,000.

MR. ALGER: Right. \$200,000.

COMMISSIONER SULLIVAN: Now, all of these poles exceed the 24-foot requirement. And I recall these cell towers that we approved before, the 18-foot ones, they were quite specific that all these towers would be below the 24-foot height. And the Verizon cell tower is below 24 feet. Is that right?

MR. ALGER: That's correct.

COMMISSIONER SULLIVAN: And since we're dealing with 84 poles now that are 38 feet -

MR. ALGER: Yes, 36 feet.

COMMISSIONER SULLIVAN: 36 feet.

MR. ALGER: We have our standards and requirements for the National Electric Safety Code. Basically, those requirements are set for us to comply with. We really don't have much of a choice with that. In fact, all our minimum-sized poles now are forty feet. And when you place those in the ground, of course we're down six feet, so you have 34 feet above ground.

COMMISSIONER SULLIVAN: Okay.

MR. ALGER: So that's any place we work in the county.

COMMISSIONER SULLIVAN: Let me ask about when these other installations might connect in with you. If you're above ground, then are we going to have those same installations coming and requesting above ground? And in that case, they would be visible, because they're closer to the highway. Is that correct?

MR. ALGER: Well, if we had it alongside the highway, I doubt seriously that

we would be able to use that line for any of the established businesses that we have in the area right now, because the distance would be too great. At PNM, what we recommend with our customers is that if they're going to go with an overhead line in an underground area, they must come in and apply for a variance with the County.

COMMISSIONER SULLIVAN: What I mean is if you went overhead, if the Commission approved the overhead routing, then based on the show here, there would be other potential customers that would want to tie into this line for more reliable power.

MR. ALGER: That's right.

COMMISSIONER SULLIVAN: Now, they would do that overhead, right?

MR. ALGER: That's really - we would go by case-by-case. I think that decision would be the County's decision.

COMMISSIONER SULLIVAN: Well let's assume that obviously since you got approved overhead, if that were the case, then they would want to do that also. Would their lines be visible from I-25?

MR. ALGER: No, I think all the cell sites are all in the same area. In fact, we're stopping the line well before La Bajada Hill. Let me ask - is that correct? We're stopping the line well before La Bajada Hill, and then we'd go underground at that point to a pad-mounted transformer, and then we'll service the cell sites from that pad-mounted transformer.

COMMISSIONER SULLIVAN: So all of the sites that might use this are right around, they're right around your site?

MR. ALGER: That's correct. Right.

COMMISSIONER SULLIVAN: So they would all be served underground.

MR. ALGER: That's right.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN CAMPOS: Mr. Siebert, what about alternative energy sources, like AT&T and their solar panels?

MR. SIEBERT: Well, the problem is that there's no - my guess is that on the solar panels is it serves a very short, temporary emergency situation. One of the issues I noticed out there is that there are such heavy winds that I'm not sure what kind of damage takes place to the solar panels on a fairly frequent basis. One of the issues that came up is why a need for a three-phase line to the tower. And I'm going to have Dave Buttiker -

CHAIRMAN CAMPOS: Before you do that-

MR. SIEBERT: Yes?

CHAIRMAN CAMPOS: If you had solar panels, could they provide three-phase power?

MR. SIEBERT: That I don't - you're out of my league.

CHAIRMAN CAMPOS: What about wind power, if it's so windy up there?

MR. SIEBERT: Then you're back in the same issue. You have a tower that probably - I do know that wind sources need higher heights in order to have consistent winds. And then you're in the same issue of having a variance to get -

CHAIRMAN CAMPOS: Well, if you move back from the edges so you can't see if from the highway.

MR. SIEBERT: It's something that was never discussed, and I don't have the knowledge to speak to that.

CHAIRMAN CAMPOS: Okay.

[Duly sworn, David Buttiker testified as follows:]

DAVID BUTTIKER: My name is David Buttiker. I'm the construction manager for Verizon Wireless, desert mountain region. Our main issue with three-phase is the protection of the line and the capacity of power we're bringing up to the site. We are bringing it up with enough capacity for the current carriers and any future carriers that would be located at this location. So there would be no additional poles required to set for the other carriers to utilize this service.

Mr. Chair, your question in regards to alternate sources of power. We have tried sites in the past using solar panels. We've run into issues regarding weather, bringing those solar panels down quite frequently. Vandalism, we've had a location where all our solar panels were stolen at great cost. The sites we have attempted with it have just turned into failures and we've had to go through other routes for power.

CHAIRMAN CAMPOS: What would it cost to use solar power?

MR. BUTTIKER: The cost would actually be greater than what we're currently looking at with bringing in this power.

CHAIRMAN CAMPOS: Greater than if you used the poles, right?

MR. BUTTIKER: Yes.

CHAIRMAN CAMPOS: Okay. What about wind power?

MR. BUTTIKER: Wind power, you would be looking at extremely tall towers, and the blades on those definitely would be visible from the highway. We have never actually looked into, nor am I familiar with, any case where a cellular carrier has looked into using wind power to power a site. One tower would not be enough. It would take several towers with quite large blades in order to generate enough power.

CHAIRMAN CAMPOS: Thank you.

MR. BUTTIKER: Thank you.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, is this going affect my cell phone bill?

MR. BUTTIKER: No, sir. That's the net cost to our operation. We're constantly building new sites. Actually, currently the generator that is running 24-7 to power that site is costing us over \$5,000 a month to operate.

COMMISSIONER ANAYA: So it'll reduce my bill.

MR. SIEBERT: Well, we can hope.

COMMISSIONER ANAYA: So when the generator goes off, then that's why I keep losing my -

MR. BUTTIKER: That would be possible. There are locations where we do lose service to our customers.

COMMISSIONER ANAYA: My service. Okay. Thank you.

CHAIRMAN CAMPOS: Okay. Public hearing. Anyone out there who would like to speak for or against this application? Ok, no one. We go to Commission discussion. Any further questions or comments?

COMMISSIONER MONTOYA: Mr. Chair?

CHAIRMAN CAMPOS: Sir.

COMMISSIONER MONTOYA: How does this line fit in with some of the proposed plans that PNM has?

MR. SIEBERT: Well, the purpose of the line now is to serve the cell tower. Steve, are there any other plans for usage?

MR. ALGER: Not that I know of.

COMMISSIONER MONTOYA: So it doesn't fit in with the plans that you're proposing for surface expansion?

MR. ALGER: [Inaudible response]

COMMISSIONER MONTOYA: Does this line go through the Harris property?

MR. SIEBERT: Commissioner Montoya, I'll approach if you can't see, there's a 200-acre parcel that immediately fronts I-25. And this is the Harris land. And this is the location of the cell tower. So the answer is no, it does not.

COMMISSIONER MONTOYA: Okay. And then going back to Commissioner Sullivan's suggestion, if you were to go where it's not so visible overhead, where the existing overhead is, that wouldn't be any additional – well, there would be additional poles. If you go underground from, what, County Road 57?

MR. SIEBERT: Correct.

COMMISSIONER MONTOYA: Over to the cell tower. What would that cost you?

MR. SIEBERT: Commissioner Sullivan's back-of-the-napkin analysis is correct. It would be, this is half the distance, so it would be about \$100,000 to here, and it would be \$400,000 to here. So it's \$500,000 at a minimum.

COMMISSIONER MONTOYA: Okay. Thank you, Mr. Chair, that's all I have. Thank you, Mr. Siebert.

CHAIRMAN CAMPOS: Commissioner Anaya?

COMMISSIONER ANAYA: Have you had any public hearings? I know there's nobody that lives there, but I don't want to get in the same situation that we were in today, by approving something and then two months down the road, I get fifty people in here from the Cerrillos area that drive that area and are concerned about what's going on and why weren't we notified about this line that now they can see when they drive through that piece of property. I know that there's probably nobody that could see it – well, I'm not sure. But I just want to make sure that we did some notification.

MR. SIEBERT: Well, we did place the sign highly visible on County Road 57, the Waldo Canyon road. And I've been out to the site several times. And about the only vehicles I ever see traveling on County Road 57 are the mining vehicles that are taking sand and

gravel out of the mine that's kind of the end of the paved section of the road. There's very few vehicles other than those that travel this roadway.

COMMISSIONER ANAYA: And you didn't get any complaints other than the letter that we got from Mr. Harris.

MR. SIEBERT: No.

COMMISSIONER ANAYA: Okay. Thank you, Mr. Chair.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Regarding this memo from Ronald Fields to Donald Ferris, what's OH? [Exhibit 6]

MR. SIEBERT: Overhead.

COMMISSIONER MONTOYA: So we're starting with 01 at La Bajada, so pole 69 is at the end of the - at the cell tower point?

DONALD FERRIS: I'm Donald Ferris.

[Duly sworn, Donald Ferris testified as follows:]

MR. FERRIS: The question about pole 69, so the number 1 pole would be at the top of La Bajada Hill and they're numbered back to the north. So 69 would be someplace -

COMMISSIONER MONTOYA: Nearest the cell tower.

MR. FERRIS: No, it would be further away, to the north.

COMMISSIONER MONTOYA: Okay.

MR. FERRIS: There's approximately 73, 74 poles, 69 is going to be up maybe

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COMMISSIONER MONTOYA: Okay. So there's a total of 74 poles?

MR. FERRIS: I forget the exact number.

MR. SIEBERT: 74.

COMMISSIONER MONTOYA: 74. Okay. Thank you, Mr. Ferris.

CHAIRMAN CAMPOS: Okay. Any discussion on alternative energies like solar panels. That might be an issue that hasn't been fully explored by the applicant. Okay. Any motion? No motion.

COMMISSIONER SULLIVAN: Mr. Chair, move to accept the recommendation of the County Development Review Committee.

CHAIRMAN CAMPOS: The County Development Review Committee and deny the application?

COMMISSIONER SULLIVAN: That's correct.

CHAIRMAN CAMPOS: Okay, is there a second?

COMMISSIONER DURAN: Second.

CHAIRMAN CAMPOS: Okay, further discussion?

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Duran.

COMMISSIONER DURAN: I think the applicant should investigate solar panels as a source of power for this site. They showed in their presentation that there were other



cell companies that were using solar panels successfully and they should try that.

CHAIRMAN CAMPOS: Would it be better then to table or reschedule so that they could look into that and present that to us? Or not?

COMMISSIONER DURAN: Roman, what would be the difference if we tabled it, for them to come back with an alternative source of power, or just deny it?

MR. ABEYTA: Mr. Chair, if they were to come back – first of all, if they came back with solar panels I'm not sure whether or not they would need to come back to you at all with that proposal. That's something they could do administratively. What's causing them to come here is the overhead line and the variance to the pole height.

CHAIRMAN CAMPOS: Okay. Thank you.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: I would recommend that instead of flat-out denying them possibly going overhead half of the way next to the existing overhead lines, and then going underground the rest of the way so that it wouldn't be an eyesore.

CHAIRMAN CAMPOS: On the first leg use overhead on an existing easement.

COMMISSIONER ANAYA: Right. They want to go overhead the total six miles but what I'm suggesting is that they go overhead the first three and then underground – overhead the first three next to the existing line, then underground the last three miles, which would not impact.

CHAIRMAN CAMPOS: Okay, there's a motion and a second, right?

COMMISSIONER SULLIVAN: I would accept that as an amendment if someone was interested.

CHAIRMAN CAMPOS: In the undergrounding?

COMMISSIONER SULLIVAN: For discussion. If we want to discuss it.

CHAIRMAN CAMPOS: Mr. Siebert, are you interested in such a decision, undergrounding? Because I think Mr. Siebert has pointed out there would be a lot of environmental, a lot of disturbance of the rock, the soil, with trenching. What do you think?

MR. SIEBERT: Mr. Chair, Commissioners, it certainly beats the first recommendation. So, yes, we would accept that. We don't know financially if it works or not, but yes.

CHAIRMAN CAMPOS: Okay. The motion then would be to approve this –

COMMISSIONER SULLIVAN: I don't know if the seconder was okay with that or not.

COMMISSIONER DURAN: I'll go with that.

COMMISSIONER SULLIVAN: You're okay with that? Okay.

CHAIRMAN CAMPOS: Okay, there's approval with conditions, and specifically you would be overhead for the first –

COMMISSIONER SULLIVAN: For that section paralleling the high voltage line.

CHAIRMAN CAMPOS: And from that section to the –

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COMMISSIONER SULLIVAN: To the cell tower site, it would be underground.

CHAIRMAN CAMPOS: Okay. Is that okay with the seconder?

**The motion to approve CDRC Case #V/DP 03-5050, with the condition that the line not paralleled by existing overhead lines be placed underground, passed by unanimous [5-0] voice vote.**

- XIII. A. 12. BCC CASE #S 04-5050 – Rosa Linda Subdivision. High Desert Partnership LLC. (Russell McMillan), Applicant, Linda Tigges, Agent, Request Final Development Plan and Plat Approval for a 15-Lot Residential Subdivision on 198.78 Acres. The Property is Located South of Spur Ranch Road 5 Miles South of Eldorado, within Sections 25 and 36, Township 15 North, Range 9 East (Commission District 5)**

WAYNE DALTON (Review Specialist): Thank you, Mr. Chair. The applicant is requesting final development plan and plat approval for a 15 lot residential subdivision on 198.78 acres. Lot sizes will range from 12.5 acres to 18.6 acres with an average lot size of approximately 13.25 acres. No guesthouses or other permanent living quarters will be allowed.

Recommendation: Staff recommends final development plan and plat approval for a 15-lot residential subdivision on 198.78 acres, subject to the following conditions. Mr. Chair, may I enter those conditions into the record?

CHAIRMAN CAMPOS: They'll be so entered.

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:
  - a. State Engineer
  - b. State Environment Department
  - c. Soil & Water District
  - d. State Department of Transportation
  - e. County Hydrologist
  - f. Development Review Director
  - g. County Fire Marshal
  - h. County Public Works
  - i. State Historic Preservation Office
  - j. County Technical Review Division
2. Water use on this property will be restricted to 0.25 acre-feet per year per lot. Water restrictive covenants must be recorded with the final plat. A water meter must be installed for each residence. Annual readings must be submitted to the County Hydrologist by April 30<sup>th</sup> of each year.

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3. All wells to serve the subdivision shall be drilled to a depth of at least 600 feet as recommended by the County Hydrologist.
4. Road names and rural addressing must be approved by the County prior to recording the final plat.
5. The applicant will submit homeowners association bylaws, articles of incorporation, water covenants, disclosure statement, restrictive covenants, maintenance agreement, and shared well agreement subject to staff review and approval prior to recording the final plat.
6. The applicant shall submit a financial guarantee, in the amount approved by the County, for all improvements including fire protection, road improvements, drainage improvements, retention ponding and landscaping/revegetation prior to grading permit issuance. The financial guarantee for landscaping and revegetation will be kept until the plantings have taken, for a minimum of one year.
7. The development plan and plat with the appropriate signatures shall be recorded with the Clerk's office.
8. All staff redlines must be addressed. Original redlines will be returned with final plans.
9. This application is subject to final review and inspection by the County Fire Marshal. The applicant shall comply with all Fire Marshal requirements.
10. The applicant shall pay a fire review fee in the amount determined by the Fire Marshal in accordance with Santa Fe County Resolution 2001-114, prior to recordation of the final development plan.
11. Residential fire suppression systems are required to be installed in all homes. This shall be noted on the plat.
12. All utilities shall be underground. This shall be noted on the plat, covenants and disclosure statement.
13. The applicant shall comply with the water harvesting requirements of Ordinance 2003-6. A water harvesting plan shall be submitted with the final development plan application.
14. The applicant shall define all open space areas on the development plan and plat.
15. No further division of this land will be allowed. This shall be noted on the plat and in the disclosure statement.
16. The applicant shall construct an all-weather crossing at the main entrance to the subdivision to ensure access availability during inclement weather.

MR. DALTON: Mr. Chair, I also have a condition I'd like to add if I can read that into the record.

CHAIRMAN CAMPOS: That would be number 17.

MR. DALTON: That should read The applicant shall address offsite road in conformance with minimum road standards and submit a road maintenance agreement with the Tierra Colinas Homeowners Association.

CHAIRMAN CAMPOS: Thank you. Any questions of Mr. Dalton. Okay, Ms. Tigges. Do you agree, basically with the report made by staff as factually correct?

LINDA TIGGES: I agree generally with the report. I had a comment on item 16 and a clarifying amendment on item 17.

CHAIRMAN CAMPOS: Condition 16?

MS. TIGGES: Yes.

CHAIRMAN CAMPOS: Have you talked to staff about this?

MS. TIGGES: Yes. I first would like to introduce the applicant, Russ McMillan and then Morrie Walker, the engineer sitting behind me. I've shown the locational map in front and also the site plan on my left. The applicant has got almost 200 acres, 198, and he has a geo-hydro report that provided for smaller lots. He chose to go with 12.5-acre lots as shown in the site plan. On item 16, which has to do with an all-weather crossing. The engineer had recommended a low-water crossing. The County staff is recommending an all-weather crossing. We agreed to that but just for the record we want the opportunity to work with the County staff in designing the all-weather crossing. I'm not asking for an amendment there; that's just for the record.

Then on item 17, as you know that came about, the staff recommendation came about this afternoon and it came to us late this afternoon. We just wanted to clarify it and if the clarification of that amendment was helped by a conversation with somebody [inaudible] who has land right to the east of us. We're there and he's up here. [inaudible]

COMMISSIONER DURAN: Linda, could you cite number 17 again? Condition number 17 that you're addressing? Never mind.

MS. TIGGES: Staff had - I don't know if you handed out 17 or just read it.

COMMISSIONER DURAN: Go ahead. Never mind. Go ahead and continue.

MS. TIGGES: This is subject property. Spur Ranch Road is over there. The railroad - the Tierra Colinas, you can just see the yellow edges right here. They have some property that's not developed here. The Rudisch property, I think the Rudisches are here and their property is here and here. And then Mary Clark's property is here. She was here earlier but left.

In talking to her about the maintenance of the road, she provided me with some documents from 2000. I think the concern is by Tierra Colinas that they've been doing all the maintenance, and why shouldn't somebody else help and we are willing to help them with it, with the maintenance as well as the other property owners that have been helping to maintain it. She provided me with a copy of some mailings from some of the people that live there and show that Tierra Colinas, at least in 2000 had been providing about 40 percent of the maintenance for the road and building some of the new roads. And then there's a list of several other people that live in the area, including Mary Clark and some individuals that were also paying towards the road.

So in a way, there's already a road plan. Maybe not a road plan but there are a

group of people, one part of which is Tierra Colinas that's helping to maintain the road. So to get back to the clarification of the staff condition, we would say that we would address the off-site road maintenance in conformance with minimum road standards by submitting a road maintenance agreement with the Tierra Colinas Homeowners Association based on three cost estimates, the cost pro-rated on a per-lot basis. We are willing to do that, and then having found out that there were quite a few other people that were participating in maintaining the road, then the agreement would be with them as well. [Exhibit 7]

So we intend that to be a clarification of staff's additional condition. That's all my presentation. I stand for questions.

CHAIRMAN CAMPOS: Let me ask Mr. Dalton a question. Does staff have a problem with the amended condition 17 as proposed by Ms. Tigges?

MR. DALTON: Mr. Chair, no we don't.

CHAIRMAN CAMPOS: No. So it would be acceptable.

MR. DALTON: That's correct.

CHAIRMAN CAMPOS: Okay.

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Ms. Tigges, you indicated that the applicant chose to go with larger lots although your geo-hydro, I guess showed smaller lots. Is that correct?

MS. TIGGES: It didn't show smaller lots but it showed that there would be water available for a larger number of lots that were smaller.

COMMISSIONER SULLIVAN: Okay. And did that decision have anything to do with the moratorium, which requires a minimum - to be excluded from the moratorium you have to be 12.5-acre lots or more?

MS. TIGGES: No, that was a marketing decision.

COMMISSIONER SULLIVAN: Okay, but were you below 12.5 acres you would come under the Eldorado moratorium, would you not?

MS. TIGGES: I understood that we would not. That because we would be using wells and not connecting to the Eldorado Water Company we would not. Steve can talk to you more about that.

COMMISSIONER SULLIVAN: Okay. How far are you from the Eldorado Utility service boundary?

MS. TIGGES: I believe, I don't know this for a fact but I believe that they serve Tierra Colinas. It's my understanding that they serve Tierra Colinas. I talked to the Eldorado Company and I believe they're right here and right here.

COMMISSIONER SULLIVAN: Okay. So you could - and do you know how far that is?

MS. TIGGES: Approximately a mile.

COMMISSIONER SULLIVAN: So it would be possible to tie into the Eldorado Utilities - the question is, can you tie into Eldorado Utility Company system?

MS. TIGGES: At such time as their service becomes available to us. We would have to extend the line.

COMMISSIONER SULLIVAN: Sure, you'd have to extend the line like any line extension with the County water company or anything like that, but they have a provision even as a part of the moratorium that if you bring water rights into the system you can receive and pay for the appropriate pumping improvements that are needed. You can tie into the Eldorado system. Has that been explored?

MS. TIGGES: We have explored water rights, but we really haven't explored tying into the Eldorado water system.

COMMISSIONER SULLIVAN: How many wells were you going to have here?

MS. TIGGES: Four or five cluster wells.

COMMISSIONER SULLIVAN: So here we go with the cluster wells again. Is that evaluated against, say, a community system of one well? Was there any cost –

MS. TIGGES: We didn't consider that.

COMMISSIONER SULLIVAN: And each lot will be on individual septic systems?

MS. TIGGES: That's correct.

COMMISSIONER SULLIVAN: Maybe I could get a clarification on the moratorium. Roman, can you help me out on that?

MR. ABEYTA: Mr. Chair, Commissioner Sullivan, the moratorium does state that in no case shall lots be created less than 12.5 acres, but it's lots within or proposals within the EDU service area. So if they're within the service area, then you're correct. They have to stay at 12.5 acres. But if they're not within the service area then the moratorium provision does not apply.

COMMISSIONER SULLIVAN: But we're not clear where the service area is.

MS. TIGGES: Actually, we are. If I could –

MR. ABEYTA: If they're in the service area then you're right. They are subject to the 12.5-acre minimum. They can't go below, even if they demonstrate they had more water they couldn't.

COMMISSIONER SULLIVAN: We understand where the Tierra Colinas subdivision is but that doesn't necessarily mean that's where the service area ends.

MS. TIGGES: I'd like to refer to a developer who had different information than I had.

[Duly sworn, Russell McMillan testified as follows:]

RUSSELL MCMILLAN: On the water issue, we approached the Eldorado Utilities and we are outside of the – they will not serve us. We are outside of their area and we're outside, according to Penny Ellis-Green with the County, when we tried to get Eldorado water, we're outside of their district, and we are right outside of the moratorium. We're in the fringe. And being outside of the moratorium, with the hydrology reports that

we had done, we have enough water if we bring in five to seven acre-feet of water rights, the recommendation from the hydrologist that we might be able to go down to five or six-acre tracts. Now that is not anywhere saying that they would get approved. We just would have an opportunity to come in and try to do that because we're not in the moratorium.

But we decided we didn't want to do that. We would keep minimal houses on that land and do as much water restriction covenants as we could, which you'll see in the reports that we did. So that's kind of where it is.

COMMISSIONER SULLIVAN: I understand apparently, your hydrologist who is -

MR. MCMILLAN: James Corbin.

COMMISSIONER SULLIVAN: Said that you were in the Fringe Zone, but the letter dated February 25<sup>th</sup> from the State Engineer says you're not. It says you're in the Homestead Zone. The Homestead Zone is a less water-bearing zone than the Fringe Zone.

MR. MCMILLAN: When I approached Penny Ellis-Green with that letter - these are just conversations I had with them. I don't have anything in writing so I can't give you anything. She was saying that it seemed as though we were outside of the Eldorado moratorium and in the fringe. But that's all I really know about it.

COMMISSIONER SULLIVAN: By fringe, do you mean the hydrologic fringe or some other kind of fringe.

MR. MCMILLAN: I guess whatever they use for that term. She didn't elaborate on it.

COMMISSIONER SULLIVAN: Okay. So you're in the Homestead Zone according to the State Engineer. Also, apparently your hydrologist was incorrect. He indicated you were in the Mancos Formation and the Office of the State Engineer says you're in the San Andres Formation.

MR. MCMILLAN: I think there was a dispute between what my hydrologist said and what they said. I think the total agreement with the State Engineer and the County Hydrologist is that we did prove the water. There may be a discrepancy on a couple of things that were in the report from what I understand in the letter.

COMMISSIONER SULLIVAN: They say also that the performance of the well used for this study should not be viewed as representative of the area. But they do think that the wells can make the 100-year requirement.

MR. MCMILLAN: Right.

COMMISSIONER SULLIVAN: Have you explored this condition with Eldorado Utilities of transferring the water?

MR. MCMILLAN: Yes. They wouldn't. They have all kinds of regulations.

COMMISSIONER SULLIVAN: That's already a current regulation.

MR. MCMILLAN: They would not do it. When we approached them they said no. So we went to wells.

COMMISSIONER SULLIVAN: I guess I don't understand that, because they're under the Public Regulation Commission and their line extension policies are

approved by the PRC and that's to my understanding one of them. So I don't understand how they could turn you down.

MR. MCMILLAN: I think maybe in the sense of not turning us down. From all the rules and regulations that we had to follow in their guidelines, they said that it would not be cost-prohibitive for us to do that because it's so expensive to do that when we're not within their normal area. That's all I know. Then we went a whole different route, as far as doing the hydrology reports, the well studies and all of that.

COMMISSIONER SULLIVAN: Okay. So it was EDU's recommendation to you based on the fact that they felt it would be too expensive for you.

MR. MCMILLAN: Yes.

COMMISSIONER SULLIVAN: Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Okay. Follow up questions for Mr. Dalton on the hydrologic zone? You're pretty sure it's in the Homestead?

COMMISSIONER SULLIVAN: I don't know where it is but the State Engineer says it's in the Homestead.

CHAIRMAN CAMPOS: If it's the Homestead, Mr. Dalton, what difference does that make on lot size?

MR. DALTON: Mr. Chair, according to County mapping the property does lie within the Basin Fringe.

CHAIRMAN CAMPOS: Okay.

COMMISSIONER SULLIVAN: I think the State Engineer was basing his information on the well logs that they used for the geo-hydro.

COMMISSIONER DURAN: In any case, he was wrong, right?

COMMISSIONER SULLIVAN: No, I think the applicant's wrong, according to the State Engineer.

COMMISSIONER DURAN: What about the staff? Staff says it's in the Basin Fringe? Are you saying they're wrong?

COMMISSIONER SULLIVAN: We have -- my understanding of it is that we have a general map that shows where we think these areas are until someone actually drills a well or does a test well or tests a well, then that map may be incorrect. It may need to be adjusted backwards or forwards, depending on where you are and as we know in the Eldorado area it's pretty variable.

COMMISSIONER DURAN: That's not my experience with those maps.

COMMISSIONER SULLIVAN: I don't know. I can't say, Commissioner, that you're right or wrong.

COMMISSIONER DURAN: I'm just saying that the staff is right.

COMMISSIONER SULLIVAN: Well, we have a map, apparently that says that they're in the Homestead Zone, but I'm just reading you the opinion of the State Engineer's technical staff, the map that says they're in the Basin Fringe Zone and it says in here, "The geology recorded in the well logs indicates that by definition, it is in the Homestead Zone." And it says, "While Santa Fe County mapping of the area indicates this



development is in the Basin Fringe, the geology recorded in the well logs indicates that by definition it is in the Homestead Zone.

CHAIRMAN CAMPOS: Mr. Abeyta, what do you do in a case like that? What is the rule or the precedent?

MR. ABEYTA: Mr. Chair, whether you're in the Homestead or you're in the Basin Fringe you can still do a hydrology report and based on the findings of that report, you can still go down to 12.5 acres in the Homestead or even less if you can prove enough water.

CHAIRMAN CAMPOS: So you think the hydro supports the size of lots that they're proposing.

MR. ABEYTA: It's my understanding that based on the County Hydrologist's review it does.

CHAIRMAN CAMPOS: Okay.

COMMISSIONER DURAN: That was my question. You stole it from me. Thank you.

CHAIRMAN CAMPOS: Okay, a question for Mr. Dalton. These lots have all been approved at .25 acre-feet. It seems that we've been making efforts throughout the County to see if we can get that .25 down with water conserving measures. We do have water harvesting, I understand in this subdivision. But are there any other conservation measures or possibilities that could help us reduce that below .25?

MR. DALTON: Mr. Chair, as far as I know, just the water harvesting ordinance that is a condition of approval within the subdivision.

CHAIRMAN CAMPOS: Okay, so we have landscaping regs. The new landscaping regs. Do we have regs that require a certain type of plantings?

MR. DALTON: Mr. Chair, yes that will be regulated, what type of revegetation they can use.

CHAIRMAN CAMPOS: Okay.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER DURAN: I think that if you recall the hydrologist - I understand you might want to bring that .25 down. I don't know if we can impose a requirement on them to do that, because they're not asking for the same things that the other developers were asking for when they asked - when they showed us that they could bring that water usage down. And I think the fact that this hydrology proves that they could even go for a higher density further supports or adds some credence to their request for .25 acre-feet. Thank you.

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Two additional questions. Mr. Dalton, I did not see any CDRC minutes in the packet here. What was the recommendation of the CDRC?

MR. DALTON: Mr. Chair, Commissioner Sullivan, this is classified as a Type V subdivision and the Code states that CDRC recommendation is not – the CDRC does not have to recommend on a Type V subdivision. It comes straight to the Board for review and approval.

COMMISSIONER SULLIVAN: And tell me what a Type V is.

MR. DALTON: A Type V is 2 to 24 lots, 10 acres or more.

COMMISSIONER SULLIVAN: Two to 24 lots, ten acres or more.

MR. DALTON: That's correct.

COMMISSIONER SULLIVAN: My second question was, in the earlier case that we discussed regarding the fire station, the regs indicated that there was a requirement for a minimum water storage of 45,000 gallons for fire flow. And I see in here that they're proposing 30,000 gallons. What's the requirement?

MR. DALTON: Mr. Chair, that's correct. They are proposing a 30,000 gallon water storage tank with fire suppression systems in all homes. I have not received a memo from the Fire Marshal stating what is required for this subdivision, but they will have to comply with all Fire Marshal requirements.

COMMISSIONER SULLIVAN: Would it differ from what the 9,000 square foot fire station had?

MR. DALTON: Mr. Chair, Commissioner Sullivan, in the past, subdivisions that I've done, that's what they require, is a 30,000 gallon storage tank and a draft hydrant system with fire suppression.

COMMISSIONER SULLIVAN: Well, I guess I'm just reading from the regs that it says the minimum required storage tank shall meet ISO recommendations but not less than 45,000 gallons. Does anybody know why?

MR. DALTON: Mr. Chair, Commissioner Sullivan, I just heard from the applicant's agent that the 30,000 gallon storage tank was talked about with the Fire Marshal.

COMMISSIONER SULLIVAN: And he was giving a variance to the regulations?

MR. MCMILLAN: If I may interject. According to the Fire Chief when we sat with them, it was 30,000 gallons in conjunction with fire sprinkling systems in the house. That's all I know. That's the recommendation that he gave. That's what he said to me.

COMMISSIONER SULLIVAN: Do we have a report, Mr. Dalton, from the Fire Marshal?

MR. DALTON: Mr. Chair, Commissioner Sullivan, I did not receive a review from the Fire Marshal as of yet, but they're subject to all Fire Marshal conditions and requirements.

COMMISSIONER SULLIVAN: Because the fire station has sprinklers too. And they're providing a 45,000 gallon storage tank, and they have fire trucks right there. If they catch on fire, they can put that puppy out pretty quick.

MR. DALTON: Mr. Chair, Commissioner Sullivan, with the fire station also that was water storage for fire protection for the building itself and the surrounding area also.

COMMISSIONER DURAN: Why don't you just clarify that in the motion, that we add a condition?

COMMISSIONER SULLIVAN: Well, I guess it's clarified. If they're subject to the requirements of the Fire Marshal, if he's comfortable with 30,000 gallons then -

COMMISSIONER DURAN: And if he's not, they go to 40,000, 45,000, 50,000.

COMMISSIONER SULLIVAN: I was just curious as to why there was a difference in the minimum that they require for draft storage for fire protection. That's all I have. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Okay. This is a public hearing. Anyone in the public wanting to speak for or against. Please state your name and address for the record.

[Duly sworn, Doreen Hutchins testified as follows:]

DOREEN HUTCHINS: My name is Doreen Hutchins. I'm representing the Tierra Colinas Homeowners Association. This afternoon I sent a letter to the Board and I'm like an opportunity to read it. I'm not sure you received a copy of it. [Exhibit 8]

CHAIRMAN CAMPOS: I think we did.

MS. HUTCHINS: You do have a copy. Okay. I certainly appreciate the amendment and the offer to enter into a maintenance agreement with Tierra Colinas. Our concerns are that it's been a very heavy burden on us to maintain this road, one mile of it, which isn't even bordering our property but is our only ingress and egress to a public road. If I could borrow your map. I'd like to explain, just let me orient myself here for a second. Thank you. So here we have 285 and Spur Ranch Road from 285 to the railroad tracks is approximately a mile. Our subdivision, Tierra Colinas, borders the railroad tracks and then goes back a mile to where the proposed subdivision Rosa Linda would be. We've been maintaining this road, even though as we say we don't border any of it and we do border half of the remaining mile. And we've been maintaining that and occasionally a couple other small developments and they have helped out occasionally but there isn't any legal mechanism by which we can really work together. We've sent out letters asking for voluntary contributions but we haven't been successful in getting any contributions this last several years. I've been president of the association for three years and we've gotten \$25 from a couple property owners.

We have 50 lot owners and it's a very expensive proposition, and as I state in my letter, we did, we have petitioned the County for maintenance of Spur Ranch Road but we were denied because it was stated that the road was substandard, that there isn't enough basecourse on it, Commissioners. And we grade it and the next week - it just doesn't hold it.

So then I applied with Max Coll. He was able to find state funds for us in 2001 for

capital improvement to put that basecourse on there and bring it up to standard because we understood that if we did bring it up to standards that the County would then accept it for maintenance. There is a school bus on there and we are almost built out. I'd say we have 30+ homes and there is a new development of Sun Ranch West that has been recently approved or is anyway going forward. So there is a lot of traffic on this road and while I appreciate the offer to enter into a maintenance agreement with Tierra Colinas I really feel that if the developer would contribute to – maybe with an impact fee or something to actually provide that basecourse so that the County then would maintain that road, that that would be the most fair thing to do.

I don't know how we can enter into a maintenance agreement actually on one mile of it which we don't even border, really isn't our road at all and these are our concerns in regard to this. Are there any questions?

CHAIRMAN CAMPOS: Any questions, Commissioners?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Ms. Hutchins, when you say it doesn't border your property for one mile, which mile are you talking about?

MS. HUTCHINS: Yes, sir. That would be the mile from Highway 285 to the railroad tracks.

COMMISSIONER MONTOYA: So what's the property on either side of that road?

MS. HUTCHINS: On the south side there are individual 12-acre lots. There might be a few that are more than 12 acres, but for the most part they're 12-acre lots on the south side. And then there will be 2.5-acre lots that have been approved on the north side.

COMMISSIONER MONTOYA: Okay. And then you're right after the railroad.

MS. HUTCHINS: Right. We're on the north side of Spur Ranch, of the remaining mile of Spur Ranch. We're on the north side.

COMMISSIONER MONTOYA: So there are private properties then.

MS. HUTCHINS: On the south side. In addition to the proposed development.

COMMISSIONER MONTOYA: Okay.

MS. HUTCHINS: No one is living there and for the most part, we just had maybe five homes come in that actually Eldorado Water did provide water on the south side, between 285 and the railroad tracks. We had five new homes go in there within this last year. It's my understanding that Eldorado did supply water to those folks, but actually, that's not my issue.

CHAIRMAN CAMPOS: Any other questions?

COMMISSIONER SULLIVAN: Mr. Chair, I've got a question for Roman as it relates to this too. Is there not a provision in the County Code, and I know it came up

when we reviewed the Gardner Subdivision, that the developer is required to upgrade the road to County standards to the closest County road?

MR. ABEYTA: Mr. Chair, Commissioner Sullivan, yes, you're correct. And I think that was our original intent with condition number 17 the way staff had originally written it, was that they need to address maintenance of the off-side road.

COMMISSIONER SULLIVAN: I thought the Code – not just maintenance but as Ms. Hutchins is indicating, that our requirement is that when you're off-site and you don't have access to a public road, County or state, you need to upgrade the road to County standards, which would mean –

MR. ABEYTA: Mr. Chair, Commissioner Sullivan, yes, you're correct. They need to bring it up to County standards.

COMMISSIONER SULLIVAN: For the mile.

MR. ABEYTA: Yes.

COMMISSIONER SULLIVAN: This provision doesn't indicate that. It indicates that they're going to share in the maintenance and that's what was agreed to in the Gardner Subdivision. I had some disagreement about the right-of-way width but that was because of some inconsistencies in the Community College District Ordinance which didn't specify a right-of-way width. But the road itself had to be basecoursed to six inches at a certain width out to the closest public highway, which in that case was Richards Avenue. I think we have the same situation here. I think they're required to basecourse that road to 285. Now at that point in time it can or can be taken in as a County road. And with the increased amount of development that we're getting out there it's probably getting to the point where it should be considered as a County road, at least that portion of it. But that's yet another issue. But in terms of the requirements on the developer, I believe that's what the Code requires.

COMMISSIONER MONTROYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner.

COMMISSIONER MONTROYA: Besides your 50 property owners, who's on either side of Spur Ranch Road? You mentioned that there's about 300 auto trips. Is that just from Tierra Colinas or are there other developments out there?

MS. HUTCHINS: It would be from Tierra Colinas. I'm sorry I don't know the name – there's a subdivision at the west end of – at the very end of Spur Ranch Road and I think we have members here. There is how many people? There's just five. Okay. So I was estimating 300 trips, if we have 15 new – there's 50 in our subdivision and if we say there's two cars in a physical home and they go in and out and then we add another 30 trips from the new development and they have five. And you've approved – I'm not sure how many lots you've approved for Sun Ranch West, but they would also feed into Spur Ranch Road. That would be their only ingress/egress to a public road.

My point is that Spur Ranch Road can no longer be thought of as a private road, that it really has so much traffic on it and it really should be maintained by the County and I'm hopeful that you will require that this developer bring it up to standards so that we

could move forward in trying to get it accepted for maintenance by the County.

COMMISSIONER MONTOYA: Thank you.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner.

COMMISSIONER ANAYA: For clarification, how much of the road would we make them improve? All the way to their subdivision, or to the tracks?

COMMISSIONER SULLIVAN: My understanding is that our Code requires that they have a road to County standards to the nearest public road. In this case the nearest public road would be US 285. So the requirement would be that they would have to upgrade Spur Ranch Road to County standards from the site to 285. And I guess according to Ms. Hutchins that's about a mile.

COMMISSIONER ANAYA: I've got a question for staff. How come that wasn't taken care of when we did the subdivision? When did the other one come into play?

MR. ABEYTA: Mr. Chair, Commissioner Anaya, which subdivision are you referring to?

COMMISSIONER ANAYA: Well, any one I guess.

MR. ABEYTA: In '96, the road standards got a lot more strict than before '96, and a lot of times the off-site road improvement is dependent on the amount of traffic you're generating and that's already on the road. In this case the level of improvement is dependent on the amount of traffic. In this case, basecourse would probably be adequate, whereas in another case some people have had to pave if they're adding that much more. But in this case basecourse is probably appropriate.

COMMISSIONER ANAYA: So we're looking at 2-1/2 miles? 2-1/4 miles?

COMMISSIONER SULLIVAN: A mile.

MR. ABEYTA: The Code states to the nearest County road or state road.

COMMISSIONER ANAYA: Okay. Thank you.

CHAIRMAN CAMPOS: Okay, this is a public hearing. Anybody else here?

[Duly sworn, Jackie Rudisch testified as follows:]

JACKIE RUDISCH: Good evening. My name is Jackie Rudisch and I live at 230 Spur Ranch Road. I own the property contingent to this new development that they want to put in and I guess I have three or four points. I just found out about this really because we didn't get our registered letter. Anyway, this just kind of came up. But I would like to hopefully see the water report because when we bought our property seven years ago there were three wells on the property. One is our well, the other two belong to Eldorado. We get approximately a half a gallon a minute and the well has been there for quite a long time.

So we use very little water out of our well. We use Eldorado water. And as with all the other neighbors, the little homeowners association with the other people, they use Eldorado water also because there is no water out there. I don't know about the new wells they have found. Hopefully, they're going to be good but it is very, very lacking of water, at least from ours, and I'm very close to this new ranch.

That was the first point and I guess we don't trust the idea that they're going to put all these new wells in because I know what I get and it's very little. And because there are two other wells from Eldorado on the property, they haven't even bothered to activate them because there's no water there to speak of.

CHAIRMAN CAMPOS: How far away are you from this property?

MS. RUDISCH: Seven, maybe eight years. And it was vacant before that for four or five years.

CHAIRMAN CAMPOS: No, how far in distance are you from this property?

MS. RUDISCH: Right next to it. It borders onto it. So my well is not very far, really from the property line. Obviously, the road has been a read discussion and unfortunately, or fortunately, my husband and I, plus Glenn Miller have been grading the road all along because it's been so bad. When we first moved out there was the water. We had ruts that were 12 and 14 inches deep. We bought a Hummer because we couldn't get through with a pick-up truck. And now since we haven't had any rain, now it's just bad. And it is a very bad - with five families, it's really bad and I have a granddaughter that goes to school. We had to really scream at the Eldorado system to pick her up with the school bus because they refused for several months to come down the road. That's how bad the road has been. I don't know about other people grading it. I know that we have spent the money to grade it from the railroad track on and so has Glenn Miller and so have a couple other people from the homeowners association.

So the road is a big - with five families going down it's bad, so you can imagine if there's suddenly going to be 30 or 40 cars, 60 cars more a day. So the road is a big problem. But I guess my main problem is I know how fragile this land is. You can walk down the land and you can see the paths that the snakes make as well as the rabbits. It's very, very fragile. We have a lot of wind and we have a lot of sand that blows out there. It's very complicated to - as I said, I wouldn't like to see a lot of ground breaking because I think we would really have a lot of sand and a lot of wind.

I haven't seen any environmental assessment because we have deer, coyote, rabbits, and a lot of wildlife, not only on our land but on the proposed land. So I don't know if anyone's done anything on that but I really think that there should be a study made. I don't know if you have any questions. That's basically - obviously, I'm not for this because I don't feel they've done as much as they could.

CHAIRMAN CAMPOS: Any questions?

COMMISSIONER MONTOYA: Mr. Chair, the wells that you talked about, are those three on your property?

MS. RUDISCH: Well, we have, say, a variance on our property that is the Eldorado. They have, I think they have three wells and we have one wells. It's a four-acre - on my property, yes. Next to my barn.

COMMISSIONER MONTOYA: Four wells.

MS. RUDISCH: We're using the one - they come out about every two or

three years, do some tests and then leave. So I assume that they don't want to use the other wells because there's no water.

COMMISSIONER MONTOYA: And the one well that you do use, you get

MS. RUDISCH: Well, my husband and I, he just said he thought we got about a half a gallon a minute. Maybe a gallon a minute. It's very low.

COMMISSIONER MONTOYA: And you also have the utility?

MS. RUDISCH: I use the Eldorado water for my main residence. The only thing, we water the horses and a little bit of things down next to the barn with our well water.

COMMISSIONER MONTOYA: Okay. Thank you.

MS. RUDISCH: Thank you, gentlemen.

CHAIRMAN CAMPOS: Thank you. Ms. Hutchins, did you have another comment? I don't know if you were making another comment a few minutes ago. No? Okay.

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER SULLIVAN: I'm still not understanding if the former speaker is on Eldorado water and her property is right next to this property, how this property is not in the Eldorado - you want to just step us sir to the microphone and help me understand how this works.

WALTER RUDISCH: I'm Walter Rudisch and my wife and I, we own the Spur Ranch. It's about 400 acres and it borders right next to this development. We have four wells on our property and we're only using one well. The other three wells actually belong to Eldorado and they have the right to go in there with a line to get that water, but it never got tested. There's not enough water there for them to make the line.

COMMISSIONER SULLIVAN: Okay. But your wife had said that you use the well for watering and the rest of the time you use Eldorado water. What does she mean?

MR. RUDISCH: We have bona fide Eldorado water at our ranch and we pay a bill every month to Eldorado. We have Eldorado water.

COMMISSIONER SULLIVAN: Okay. From the Eldorado Water Utility. EDU?

MR. RUDISCH: Yes. There's a line coming into our ranch.

COMMISSIONER SULLIVAN: And if your ranch is next to this property.

MR. RUDISCH: Our property is further away from Eldorado as this property. So I don't see why they can't get the Eldorado water since we have Eldorado water.

COMMISSIONER SULLIVAN: That's what I was trying to understand. If you have it and you're next to their property, you have a pipeline that comes to your property.



MR. RUDISCH: Yes.

COMMISSIONER SULLIVAN: And you pay a meter charge.

MR. RUDISCH: Yes.

COMMISSIONER SULLIVAN: And how far would that be from where this pipeline is or the closest pipeline to this development?

MR. RUDISCH: The Spur Ranch, our ranch is about 400 acres and it borders right to this new development. So how far would it be? Maybe 400 yards.

COMMISSIONER SULLIVAN: 500 yards to extend that line.

MR. RUDISCH: From our house would be about 200 yards from the border.

COMMISSIONER SULLIVAN: From the border. And you have Eldorado water to your house.

MR. RUDISCH: Yes.

COMMISSIONER SULLIVAN: So they're within -

MR. RUDISCH: So have the other homeowners that are there.

COMMISSIONER SULLIVAN: All the other homeowners have Eldorado water?

MR. RUDISCH: Yes. Because we get one bill for all the homeowners. And our association pays this bill and we divide it up among ourselves.

COMMISSIONER SULLIVAN: I see. So it sounds like they're within 200 yards of the Eldorado water line, water system.

MR. RUDISCH: Yes, yes.

COMMISSIONER SULLIVAN: And then the question always becomes, can Eldorado provide them with water? Do they have enough water? And that's one of the reasons a couple of years ago we passed an amendment to the moratorium saying that Eldorado could provide additional water if the applicant paid for upgrading the system and brought water rights into the Eldorado system to achieve that level of water service. And that's what I've been trying to understand and get to this evening, whether that's a feasible alternative here.

I don't think it's correct. I think this subdivision is in the Eldorado service area and one of the staff recommendations here in the packet is that it was unclear and they asked that somebody check to see if they're in the Eldorado - in fact the hydrologist said, "I cannot tell from the maps I have available, but it appears as if this subdivision will fall just outside the Eldorado Utility service area, therefore outside the moratorium area. This location should be double-checked." It doesn't appear that we have.

COMMISSIONER DURAN: Was it double-checked?

COMMISSIONER SULLIVAN: It doesn't appear that it has, because nobody can give a concrete answer as to whether they're in the Eldorado service area.

COMMISSIONER DURAN: Why don't you ask the hydrologist?

COMMISSIONER SULLIVAN: He's the one that couldn't tell. He's the one that said someone should check it.

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COMMISSIONER DURAN: Is that still your position?

[Hydrologist Wust made comments away from the microphone.]

COMMISSIONER SULLIVAN: I think we need to get with EDU and I'd suggest we table this until we find out exactly what the water situation is.

COMMISSIONER DURAN: Is that a motion?

COMMISSIONER ANAYA: Second.

COMMISSIONER SULLIVAN: Move to table.

MR. ROSS: It's to be postponed to the next meeting?

COMMISSIONER DURAN: Yes.

COMMISSIONER SULLIVAN: To the next land use meeting.

COMMISSIONER DURAN: Thirty days.

CHAIRMAN CAMPOS: There's a second. Come on up to the mike please. State your name and address.

[Duly sworn, Jim Leary testified as follows:]

JIM LEARY: My name is Jim Leary. My address is 287-B Spur Ranch Road. One, to explain on the water situation, I'm part of the homeowners association with Spur Ranch. We pay for a water line that's a mile long that comes from one of the meters at Eldorado that's a mile away from actually this ranch. The next issue that I'd like to address is that I moved out there nearly 14 years ago. The first five years I maintained the road with a tractor and then, I got duped into not opposing Tierra Colinas because it was stated in those covenants that that road would be brought up to County standards and then the County would maintain it. And after you allowed that subdivision it was impossible for me to maintain the road any longer. There was so much traffic, so much construction. And now it's a miserable, miserable road.

You have a school bus that goes over it. You have a railroad track that people could almost lose a car in with the chuckholes there. Tierra Colinas asked me, other people, help them to pay for it when they had the first obligation. That's how that subdivision was granted. And now to be asking other people to help them. They didn't live up to their commitment to this County Board of Supervisors. So that's the first thing about it.

Now, the next thing I would ask is on this public hearing that we have tonight, there's apparently been discussion going on for a long time. We didn't know about this. The next thing I would ask, I was before you folks a couple years ago when I was in cell towers. We had to do all kinds of environmental assessments, what have you. And I ask, with this subdivision if there's been any environmental assessments, any ecological surveys, anything of that sort done on this project. And the reason I want to bring that up to you is that just recently, thanks to Mr. Udall who was heard here earlier, the United States Congress passed legislation to protect the Galisteo Basin. They have, that bill has been passed and signed by President Bush. That bill protects Indian and Hispanic ruins in the Galisteo Basin and it starts in Santa Fe. The largest petroglyph collection, if we can call it that, happens to be at the end of Spur Ranch Road, very close to this development.

The Bureau of Land Management, along with the Archeological Conservancy, on

April 23<sup>rd</sup> is coming out to the end of Spur Ranch Road to survey that property because they have concluded that this property falls under that legislation to protect the Indian ruins. On this property, there's over 200 such petroglyphs and then nearby there are numerous other petroglyphs that date all the way from according to the Museum of New Mexico back to 1100 and up to where we've seen tributes to sheepherders who died in this area, what have you, that are dated 1912. There's a date on another one pointing to a deer in 1876. There's numerous petroglyphs and archeological other sites in this area.

Next to it is the Rudisch place which also has archeological petroglyphs, what have you, and right across the fence from them is the Rancho Viejo southern park where there's a hillside covered with petroglyphs. As a result of all this, like I said, the Bureau of Land Management has agreed that this land falls under the new legislation that's been passed where they can acquire the land if the property owner is willing to sell it and they hope that the property owners are willing to sell their land to the Bureau of Land Management. Also, on this legislation, the Bureau of Land Management has been directed to work with your County to make sure that these petroglyphs, what have you, have been protected.

My question to you is, how come, and how does this land get protected with a new subdivision being built next to it? And how come this hasn't come up? And how come such questions weren't asked of this applicant to do some kind of archeological study, environmental assessments? Where's the State Historic Preservation Office in this? How can something like this, this big, happen next to something as treasured as what's been out there and is out there, but may not be out there in the future if we don't think about protecting it.

Before the Rudisches came here, I had my wife then living, used to run people off their property when she would see them stealing the petroglyphs from their property. In regards to the road, I really think it's a shame that this County grants a subdivision the right to build a subdivision under the agreement that they bring up property to a particular standard, and then when that subdivision doesn't bring it up to that standard, nothing happens. So why would these people bring up the road to some kind of standard when Tierra Colinas has never met that responsibility and you have done nothing.

CHAIRMAN CAMPOS: Excuse me. When was Tierra Colinas approved?

MR. LEARY: '95, '96, somewhere in there.

CHAIRMAN CAMPOS: And there was definitely a condition that the roads be brought up?

MR. LEARY: Exactly. That's what was explained to me and that's what I saw in the paperwork at the time.

CHAIRMAN CAMPOS: Okay. It seems to me there are a lot of issues that are outstanding and haven't been tied up. So there's a motion to postpone and a comment by Commissioner Anaya. Thank you, Mr. Leary.

COMMISSIONER ANAYA: Roman, if you could get the minutes from those meetings and the conditions from the meeting when that subdivision was approved so that we can see in there what the conditions were and if they are supposed to bring that road up to County standards we can hold them to it.

COMMISSIONER SULLIVAN: And also Mr. Chair and Roman, if on this item 17, when the applicant comes back, just some language to consider, because we've just seen this tonight for the first time, would be after the words "The applicant shall" it would read "The applicant shall upgrade Spur Ranch Road to County standards from the site to US 285 and shall address the off-site road maintenance" as it goes on to say. In other words, first the road needs to be upgraded to County standards, then you need to have a road maintenance agreement between everybody indicating how that road is going to be maintained until such time as it is taken over for County maintenance. That's our standard procedure.

COMMISSIONER ANAYA: Mr. Chair, Roman, if you could see if they sent out certified letters to the homeowners and to the homeowner associations, if there is any there, and to the adjacent homeowners. I'd like to see those certified letters.

COMMISSIONER SULLIVAN: And I did want to mention again – sorry, Mr. Chair – to the last speaker, that our packet does indicate that there was an archeological study done. You don't need to respond. It's in the packet and you're welcome to take a look at it. It does say in staff's summary, and I have not seen the study. We do not have a copy of it, but it does say the property is located within a high-potential archeological district. So I think the applicant is aware of that and of course the question that you've raised is how do you properly address that. Thank you, Mr. Chair.


CHAIRMAN CAMPOS: Okay. Motion to postpone, second.

**The motion to postpone BCC Case #S 04-5050 passed by unanimous [5-0] voice vote.**

**ADJOURNMENT**

Chairman Campos declared this meeting adjourned at approximately 10:30 p.m.


Approved by:

  
\_\_\_\_\_  
Paul Campos, Chairman  
Board of County Commissioners

Respectfully submitted:

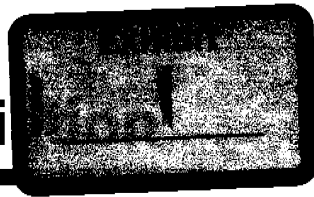
  
Karen Farrell, Commission Reporter

ATTEST TO:

  
\_\_\_\_\_  
REBECCA BUSTAMANTE  
SANTA FE COUNTY CLERK



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## Issues Related to the Peters Well

### 1. Hydrology

- There are not two separate aquifers, only one.
  - There interconnected layers within one aquifer.
  - Even the county hydrologist stated both publicly and when answering SFWOA questions maintained that if there is separation it is unknown how restrictive and where.
  - There is potential that clay lenses or other barriers might tend to transfer the depletion of groundwater to points where the restriction is not as great, maybe even 1 or 2 miles away.
- Modeling hydrology is for impairment is imprecise
  - The ground is not homogenous, or has even layers, like a cake. This fact results in uncertainty in the ability to model impairment.
  - Case in point, the Buckman wells were thought to be directly recharged by the Rio Grande, where in fact only ~40% is being recharged (and these are wells close to the river and relatively shallow), this error in modeling is entirely possible for the proposed wells.
  - Fractures in the area also can make modeling uncertain.
  - Even if many wells are dug, it is difficult to state with a certainty what is happening
- This well will deplete aquifers in upper strata over time
  - The recharge in this area is on the order of 1000's of years. It flows underground from the mountains
- There are concerns that ground contamination from identified sites could be drawn into the aquifer serving either the production well or the existing domestic wells in the vicinity.

### 2. 40-Year Plan and Contradictions

- The 40-year water plan and other plans call for balanced aquifer use, not depletion, and supporting historic use.
  - Page 5 line 4:7 states that the county seeks to "maintain a balance aquifer". This is a stricter mandate than the OSE will require.
  - In section 1.4 SFC Water Utility Planning Strategy, the county is committing itself to "...preserving historic uses of water in our community..." and "...to assure that the limited water supply which is available is carefully and effectively managed with due consideration for our neighbors who also rely on the same limited supply...". This seems to be ignored here.
  - The SFC Water Utility - Line Extension Policy (1998), Section V.H, requires that "The Utility shall not construct, approve or accept a Line Extension that would cause undue financial burden to existing Utility customers or County taxpayers ..." Given the potential cost of litigation and adding spread out areas to satisfy impairments, it seems this is being violated. This means relying on surface water and understanding how much is truly available.
  - The county general plan requires "sustainable water". Mining the aquifer is not sustainable by any definition.
- This is also not "conjunctive" management or planning. It is depleting the aquifer and drilling wells wherever developers want them.
- This type of well development is not contained in the 40-year plan

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# Santa Fe Domestic Well Owners Association

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- Using wells without the San Juan diversion contradicts these goals because as a supplemental well, the initial use of the well will be as primary, with no guarantee that the "primary" river diversion will ever be built.
  - If the Buckman well (and any surface water rights through the city) is fully allocated, how can the proposed wells be called anything but primary?
- This development would not rate high in the Policy on Allocation of Water Rights

### **3. County Water System / Domestic Wells**

- Extending the water system to non clustered areas will result in high future infrastructure and maintenance costs.
- There will always be difficulty acquiring water rights.
- There are tens of miles of water line for the 8 square miles surrounding this well. Costs will run into multi millions of dollars, let alone water rights.
- It is unlikely the system can be extended to cover impairment.

### **4. Conclusion**

- This well will force us to protest at the State Engineer. It is not just a study. This means:
  - Collating and submitting protests of 500 – 700 well owners
  - Hiring a lawyer and hydrologist: estimated cost \$20-30,000.This places an major burden on residents
- We support the concepts of the County Water system, but are concerned about implementation
- This agreement and others like it will effect residents for the next hundred years and more. Prior to any further extensions or Water Service Agreements the County should carefully engineer the water system. This means hydrology and cost studies to determine:
  - Appropriate siting of wells for minimum possible impact or impairment
  - Impact of different types of water rights transfers on the aquifer
  - Cost/benefit analysis of connection to existing domestic wells, including long term maintenance and system losses
  - Likely locations of system growth given availability of money and real water rightsDevelopers should then contribute their pro-rata portion to appropriate projects
- Why put a well in a place it is likely to impact or impair hundreds of wells? We feel it is inappropriate. Please do not approve this agreement.

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1 **Written Description of the**

2 **Village of Agua Fria Traditional Historic Community Boundary**

3  
4  
5 Beginning at the northwest corner of the Agua Fria THC Boundary; also being the  
6 northwest corner of the Cemeterio de la Agua Fria; thence from said point of beginning,  
7 more or less due east, approximately 910 feet along the cemetery's northerly boundary to  
8 a point, said point being the northeast corner of the Cemeterio de la Agua Fria; thence,  
9 more or less due south, along the cemetery's easterly boundary approximately 1113 feet  
10 to a point, said point also being the southeast corner of the Cemeterio de la Agua Fria;  
11 thence, more or less due east, along the northerly boundary of the Agua Fria Park  
12 approximately 1188 feet to a point, said point also being the northeast corner of the Agua  
13 Fria Park; thence in a southeasterly direction along the easterly boundary of the Agua  
14 Fria Park approximately 873 feet to a point; thence in a northeasterly direction along the  
15 Agua Fria Park boundary approximately 36 feet to a point; thence in a  
16 northeasterly direction, along Santa Fe County property (formerly Mike Roybal), as per  
17 plat recorded in the Santa Fe County Clerk's Office in Plat Book 547, Page 034, and  
18 assigned Uniform Parcel Code Number (henceforth UPC) 1-049-097-457-175 by the  
19 Santa Fe County Assessors Office, approximately 1,179 feet to a point; thence in a  
20 northwesterly direction continuing along said Santa Fe County property, approximately  
21 570 feet to a point; thence, more or less due east, still continuing along said Santa Fe  
22 County property, approximately 237 feet to a point, said point also being a United States  
23 Government Land Office (henceforth USGLO) brass cap; thence in a  
24 northeasterly direction along another Santa Fe County property (formerly Richard Cook)  
25 as per plat recorded in Plat Book 473, Page 15, assigned UPC 1-050-097-080-239,  
26 approximately 1918 feet to a point, said point also being the northeast corner of Santa Fe  
27 County property; thence in a northwesterly direction along westerly boundary of  
28 Tract A of property now or formerly belonging to John Stephenson, as per plat recorded  
29 in Plat Book 261, Page 28, assigned UPC 1-050-097-200-407, approximately 987 feet to  
30 a point; thence, more or less due west, continuing along a line dividing said John  
31 Stephenson property into Tracts A and B, as per plat recorded in Plat Book 261, Page 28,  
32 approximately 445 feet to a point, said point also being a USGLO brass cap; thence in a  
33 southeasterly direction continuing along the easterly boundary of Tract A of John  
34 Stephenson property, approximately 391 feet to a point; thence in a northeasterly  
35 direction along the northerly boundary of property belonging now or formerly to Jose  
36 Espinoza, as per Warranty Deed recorded in Book 1784, Page 719, assigned UPC 1-050-  
37 097-236-322, approximately 266 feet to a point; thence in a northwesterly direction  
38 along the westerly boundary of property belonging now or formerly to Bernabe Romero,  
39 as per Deed recorded in Book 2018, Page 361, approximately 313 feet to a point, said  
40 point also being the northwest corner of Bernabe Romero property; thence, more or less  
41 due west, along the northerly boundary of said Bernabe Romero property, approximately  
42 139 feet to a point, said point also being the northeast corner of said Bernabe Romero  
43 property; thence, more or less due east, along the northerly boundary of  
44 property now or formerly belonging to Helen Almanzar, as per Quitclaim Deed recorded

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1 thence in a southeasterly direction along the easterly boundary of property belonging now  
2 or formerly to Michael Montoya, assigned UPC 1-050-097-321-354, approximately 497  
3 feet to a point; thence, more or less due east, along said Michael Montoya property,  
4 approximately 77 feet to a point; thence, more or less due east, along the northerly  
5 boundary of property belonging now or formerly to Melisendro Gallegos, assigned UPC  
6 1-050-097-332-384, approximately 132 feet to a point, said point also being the northeast  
7 corner of said property; thence in a northwesterly direction along the westerly  
8 boundary of land now or formerly belonging to Tony Montoya Jr., assigned UPC 1-050-  
9 097-335-408, approximately 823 feet to a point, said point also being the northwest  
10 corner of said property; thence in a northeasterly direction continuing along the northerly  
11 boundary of said Tony Montoya property, approximately 75 feet to a point, said point  
12 also being the northeast corner of said property; thence in a southeasterly direction  
13 continuing along the easterly boundary of said Tony Montoya property, approximately  
14 847 feet to a point; thence, more or less due east, along property belonging now or  
15 formerly to the estate of Ila Arnold, as per Personal Representative's Deed recorded in  
16 Book 1053, Page 55, approximately 459 feet to a point, said point also being the  
17 northeast corner of said property; thence, more or less due east, along property  
18 belonging now or formerly to Judith Lavendar as per Plat recorded in Plat Book 507,  
19 Page 32, assigned UPC 1-050-097-407-345, approximately 185 feet to a point, said point  
20 also being the northeast corner of said property; thence, more or less due east, along  
21 property belonging to the City of Santa Fe for proposed Richards Avenue Extension  
22 (formerly Judith Lavendar and Ed Visser), as shown on New Mexico State Highway  
23 Final R.O.W. Map for Project No. M-4811(2), sheet 4 of 9, dated October 27, 1988,  
24 approximately 155 feet to a point, thence, more or less due east, along property  
25 belonging now or formerly to Ed Visser and Linda Swanson, approximately 353 feet to a  
26 point, said point also being the northeast corner of said Visser property, thence in a  
27 southeasterly direction continuing along said Visser property, approximately 288 feet to a  
28 point, said point also being the southeast corner of said property; thence in a  
29 southeasterly direction along property belonging now or formerly to Gail Haggard,  
30 assigned UPC 1-050-097-467-312, approximately 64 feet to a point; thence in a  
31 northeasterly direction along property now or formerly belonging to Larry Gonzales, as  
32 per Book 759, Page 954, assigned UPC 1-050-097-487-326, approximately 106 feet to a  
33 point, said point also being the northeast corner of said property; thence in a  
34 northeasterly direction along property now or formerly belonging to Kathleen Laemmle,  
35 assigned UPC 1-050-097-496-332, approximately 125 feet to a point, said point also  
36 being the northeast corner of said property; thence in a northeasterly direction  
37 along property now or formerly belonging to Manuelita Gonzales, Book 483, Page 6,  
38 assigned UPC 1-050-097-510-337, approximately 151 feet to a point, said point also  
39 being the northeast corner of said property; thence in a southeasterly direction  
40 continuing along said Manuelita Gonzales property, approximately 277 feet to a point,  
41 said point also being the southeast corner of said property; thence in a  
42 southeasterly direction along property now or formerly belonging to Marla Laemmle,  
43 being Lot 1-B as per Plat recorded in Plat Book 507, Page 30, assigned UPC 1-050-097-  
44 520-319, approximately 167 feet to a point along the northerly Right Of Way of Agua  
45 Fria Road, said point also being the southeast corner of said property; thence in a  
46 southeasterly direction along the City of Santa Fe City Limit 2003 Boundary, crossing

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1 Rufina Street Limited Partnership, and being the location of Rufina Plaza, assigned UPC  
2 1-050-097-496-056, approximately 338 feet to a point; thence continuing in a  
3 southwesterly direction along a curve and along the 2003 City Limit boundary, also being  
4 the easterly boundary of said property, approximately 245 feet to the center of a curve at  
5 the northwest corner R.O.W. of the intersection of Henry Lynch Road and Rufina Street;  
6 thence along a different southwesterly direction or bearing and still continuing along  
7 same said property and the 2003 City Limit boundary, approximately 566 feet to a point,  
8 said point also being the southwest corner of Rufina Plaza property; thence in a  
9 northwesterly direction along same said property and the 2003 City Limit boundary,  
10 approximately 614 feet to a point, said point also being the northwest corner of said  
11 property; thence in a southwesterly direction along 2003 City Limit  
12 boundary, also being the southerly boundary of property belonging now or formerly to  
13 Thomas Foral, Et al, and being the location of Santa Fe West Mobile Home Park,  
14 assigned UPC 1-050-097-462-108, approximately 309 feet to a point, said point also  
15 being the southwest corner of said property; thence in a southeasterly direction  
16 along 2003 City Limit boundary, also being the easterly boundary of two parcels of land  
17 now or formerly belonging to James Lucero, assigned UPC 1-050-097-417-077 and UPC  
18 1-050-097-424-031, approximately 637 feet to a point, said point also being the southeast  
19 corner of said Lucero property (UPC 1-050-097-424-031) and being a point along the  
20 northerly R.O.W. of Rufina Street; thence in a southwesterly direction along the  
21 northerly R.O.W. of Rufina Street, approximately 959 feet to a point at the intersection of  
22 said R.O.W. and the 2003 City Limit boundary, also being the southwest corner of  
23 property belonging now or formerly to Deluvina Gonzales, assigned UPC 1-050-097-  
24 345-029, and the southeast corner of property belonging now or formerly to Eduardo  
25 Ramirez, assigned UPC 1-050-097-317-047 (Atocha Mobile Home Park),  
26 thence in a northwesterly direction along the 2003 City Limit boundary and  
27 easterly boundary of Atocha MHP, approximately 1,182 feet to a point, said point also  
28 being the northeast corner of the Atocha MHP, thence in a southwesterly direction along  
29 the 2003 City Limit boundary, and northerly boundary of Atocha MHP, approximately  
30 243 feet to a point, said point also being the northwest corner of said property; thence in a  
31 southeasterly direction along the 2003 City Limit boundary and westerly boundary of  
32 Atocha MHP, approximately 1,177 feet to a point, said point also being the southwest  
33 corner of said property and a point along the northerly R.O.W. of Rufina Street;  
34 thence in a southwesterly direction along the northerly R.O.W. of Rufina Street,  
35 and leaving the 2003 City Limit boundary, approximately 4,812 feet to a point which  
36 again intersects with the 2003 City Limit boundary; thence in a northwesterly  
37 direction along the 2003 City Limit boundary, also being the westerly property line of  
38 property belonging now or formerly to the Pacheco Family Trust, as per Plat recorded in  
39 Plat Book 529, Page 3, assigned UPC 1-049-096-420-329, approximately 804 feet to a  
40 point; thence in a northwesterly direction continuing along the 2003 City Limit  
41 boundary, also being the westerly property line of property assigned UPC 1-049-096-  
42 410-400, approximately 792 feet to a point; thence in a northwesterly direction  
43 continuing along the 2003 City Limit boundary, also being the westerly property line of  
44 property assigned UPC 1-049-096-390-480, approximately 633 feet to a point;  
45 thence in a northeasterly direction continuing along the 2003 City Limit  
46 boundary, also being the northerly property line of property assigned UPC 1-049-096-

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1 UPC 1-049-097-229-002, and leaving the northerly R.O.W. of Agua Fria Street,  
2 approximately 212 feet to a point, said point also being the northwest corner of said  
3 property; thence in a northwesterly direction along the westerly boundary of  
4 property belonging now or formerly to Billy Anaya, assigned UPC 1-049-097-223-019,  
5 approximately 201 feet to a point, said point also being the northwest corner of said  
6 property; thence in a northwesterly direction along the westerly boundary of  
7 property belonging now or formerly to Toby Mora, assigned UPC 1-049-097-218-034,  
8 approximately 117 feet to point, said point also being the northwest corner of said  
9 property; thence in a northwesterly direction along the westerly boundary of  
10 another property belonging now or formerly to Toby Mora, assigned UPC 1-049-097-  
11 215-046, approximately 100 feet to point, said point also being the northwest corner of  
12 said property; thence in a southwesterly direction along the southerly boundary of  
13 property belonging now or formerly to the Bureau of Land Management, formerly  
14 Government Lot 16, as per Plat showing Small Holding Claims in Sec. 31, T17N, R09E,  
15 as surveyed July 16, 1914 by the U.S. Surveyor General, approximately 690 feet to a  
16 point; thence, more or less, due west continuing along the southerly boundary of said Lot  
17 16 of BLM property, approximately 1,062 feet to a point; thence in a northwesterly  
18 direction along the westerly boundary of said Lot 16 of BLM property, approximately  
19 119 feet to a point; thence in a northeasterly direction crossing BLM Lot 16,  
20 approximately 241 feet to a point; thence in a different northeasterly direction or bearing  
21 along the northerly boundary of said Lot 16 of BLM property, approximately 857 feet to  
22 a point; thence in a slightly different northeasterly direction or bearing continuing along  
23 the northerly boundary of said Lot 16 of BLM property, approximately 99 feet to a point;  
24 thence in a slightly different northeasterly direction or bearing continuing along the  
25 northerly boundary of said Lot 16 of BLM property, approximately 100 feet to a point;  
26 thence, more or less, due north continuing along the boundary of said Lot 16 of BLM  
27 property, approximately 794 feet to a point, said point also being the southwest corner of  
28 the Agua Fria Park (north of Santa Fe River); thence, more or less, due north along  
29 the westerly boundary of the Agua Fria Park, approximately 1.327 feet to a point, said  
30 point also being the northwest corner of the Agua Fria Park, and also the southwest  
31 corner of the Cemeterio de la Agua Fria; thence, more or less, due north along the  
32 westerly boundary of the Cemeterio de la Agua Fria, approximately 1,110 feet to the  
33 point of beginning for the Agua Fria Traditional Historic Community Boundary, said  
34 point also being the northwest corner of the Cemeterio de la Agua Fria.  
35  
36

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Dominic Gonzales  
Development Review Specialist II  
P. O. Box 276  
102 Grant Avenue  
Santa Fe, New Mexico 87504-0276

March 11, 2004

**SUBJECT: CDRC CASE# A/V 04-5020 APPROVAL OF A SECOND DWELLING  
(MOBILE HOME)**

As a concerned single parent with financial hardships, I do not have much to offer my son in the way of land. However, I am willing to share my land with him. He is responsible, dependable, and is my only child and I want very much to help him establish himself.

At this time, I would like to request permission to place a (14 x 64) Mobile Home on my  $\frac{3}{4}$  acre of land for my son and his daughter (family) to live in. Because I am up in age with health problems my son helps me with maintenances around the house. I would like him to live near me to continue helping me so that I too can help him take care of his daughter as he has some injuries from his last job.

I am more than happy to share my well with my son. The water pressure is excellent and can sustain two (2) dwellings. My house is the last house on the block which is a dead end, we have lived there for 20 years. Both the well and sewer are more than 100 feet away from the neighbors. This mobile home will have its own independent sewer, which will be 144 feet away from my well, and 122 feet away from the existing sewer.

My neighbors support me in helping my son and do not object to my placing a second dwelling on my land. In agreement they have signed the letter attached. Also I am enclosing the State Engineer's permit on my well dated March 5, 1985.

I am trying to help my son get established the best way I know how so he can have his own home to live in. I will be very grateful and would like to thank you for acknowledgment of my request.

Sincerely,

*Rebecca Herrera*

Rebecca Herrera

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STATE OF NEW MEXICO  
STATE ENGINEER OFFICE  
SANTA FE

S. E. REYNOLDS  
STATE ENGINEER

BATAAN MEMORIAL BUILDING  
STATE CAPITOL  
SANTA FE, NEW MEXICO 87503

February 5, 1985

Rebecca Herrera  
General Delivery  
Fairview Station  
Fairview, New Mexico 87533

Dear Ms. Herrera:

Permission is granted for you to proceed with the drilling of a domestic well, with diameter not to exceed 7 inches, located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 13, Township 20 North, Range 9 East, in Santa Fe County; Parcels A & B, within Lot No. 27 Patent No. 1209466 provided that you secure the services of a driller licensed by the State Engineer of New Mexico and that you assume the risk that you will obtain the approval of the State Engineer or the pending application for permit to appropriate.

This authorization will automatically expire on March 5, 1985

Sincerely,

S. E. Reynolds  
State Engineer

By: *Rosabelle Valdez*  
Rosabelle Valdez, Secretary  
Water Rights Division

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February 13, 2004

Reference Case: CDRC CASE# A/V 04-5020

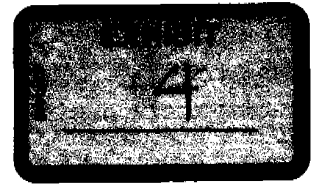
We the undersigned below do not object for Rebecca Herrera to add a second dwelling on her 0.75 acres located at 9 Honcho Road, Arroyo Seco, NM within Section 13, Township 20 North, Range 8 East, (Commission District 1).

*Larry Medina*  
 \_\_\_\_\_  
*Rebecca Herrera*  
 \_\_\_\_\_  
*John L. ...*  
 \_\_\_\_\_  
*James Robin ...*  
 \_\_\_\_\_  
*Michael ...*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*The second dwelling is a mobile home (4 x 64).*

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Key Points by Alan Yaeger and Parents of adjacent property.

1. Not sufficient water for size of facility and amount of people. The well does not meet the requirements for a mountain zone.

Training room seats 124 seats + 6 people on duty = 130 people.

130 people x 2 meetings per day = 260

260 x 3 gallons per flush = 780 gallons per day.

5 trucks washed daily 100 x 5 = 500 gallons per day.

Showers 2 manned people (24 hours per day), workout area 8 people per day = 10 people total x 75 gallons per shower = 750 gallons per day.

Washing cooking general 2 people 300 gallons x 2 = 600 gallons per day.

780 + 500 + 750 + 600 = 2630 gallons per day.

Fill tankers? Thousands of gallons water per day.

2630 gallons per day x 5 days per week x 365 days per year =  
=683,800 gallons per year used.

1 year = 60 min/hr x 24 hr/day x 365 day/year = 525,600 minutes per year.

At 2 gallon per minute well pump will run more than 50% of the time in a year.

2. Move burning area off site. This area is not intended for this and is a fire hazard to adjacent property and prevalent wind blows in our direction. The fire department is prepared to relocate these bins.
3. Move practice cars or at minimum require them to be moved off site within 24 hours before and after a training session.
4. The building size is not justified. The other regional station is about 4000 square feet and this station is about 9000 square feet. This size is not necessary for housing two people full time.
5. There is not sufficient drainage in this location from storm water and no drainage plan has been made to my knowledge.
6. The traffic will be much greater and should require a traffic light installed at the intersection and or included in an engineering study.

***These factors should be addressed one at a time and are all important factors to consider before approving this facility.***

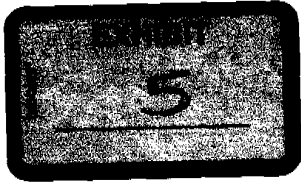
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*Amelia W.*

**Ronald G. Harris**

ATTORNEY AT LAW

7636 Arroyo del Oso NE  
Albuquerque, New Mexico 87109  
telephone: 505-888-5800  
e-mail: rghinabq@yahoo.com



February 26, 2004

Santa Fe County Commission  
102 Grant Ave.  
Santa Fe, New Mexico 87504

Re: Case # DP 03-5950

Dear Commissioners,

On February 19, 2004, at the CDRC hearing I spoke against Verizon's proposed construction of an above ground power line to service their cell site near the Waldo Interchange. Since that hearing I have had a chance to thoroughly review the situation and now support the above ground construction of the power line extension by Verizon.

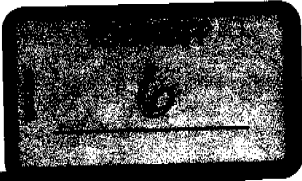
Thank you for your consideration.

Very truly yours,

Ronald G. Harris

cc: James W. Siebert and Assoc., Inc.  
file

SFC CLERK RECORDED 05/13/2004



**Ferris, Donald**

---

**From:** Fields, Ronald  
**Sent:** Monday, December 02, 2002 11:48 AM  
**To:** Ferris, Donald  
**Subject:** OH Siting

Don

Regarding the new OH distribution line siting project here is what I found. I know you don't want me spending much time on this.

I had a day and a half in the field examining each proposed distribution pole location. Here is what I found:

Pole #1 at edge of La Bajada volcanic escarpment found two pot drops - ritual sacrifice? They both appear to be close together and are 68 feet away from the anchor stake and should not be a concern. Recommend installing avoidance flagging but should be a safe distance away.

Pole #14 discovered a arch site. I highly recommend placing the new distribution pole at least 25-30 feet (in line) to the east from its present location. Avoidance flagging should be placed around site during construction. Should be able to slightly jog to the north and avoid the site boundary.

Poles #38 & #39 immediately east of the Waldo Exit Road are proposed to be installed in an arroyo or wide, shallow, drainage vegetated with juniper trees. I'd recommend installing these two poles on the opposite site (northwest side) of the RS right of way to avoid this arroyo.

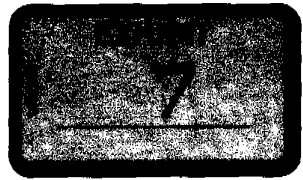
Pole #69 is located in a small rill. Recommend moving it from its present location a few feet and should be fine.

Thanks

**Ron Fields**

Environmental Scientist II  
PNM Environmental  
Cell: (505) 241-2023  
Office: (505) 220-1626

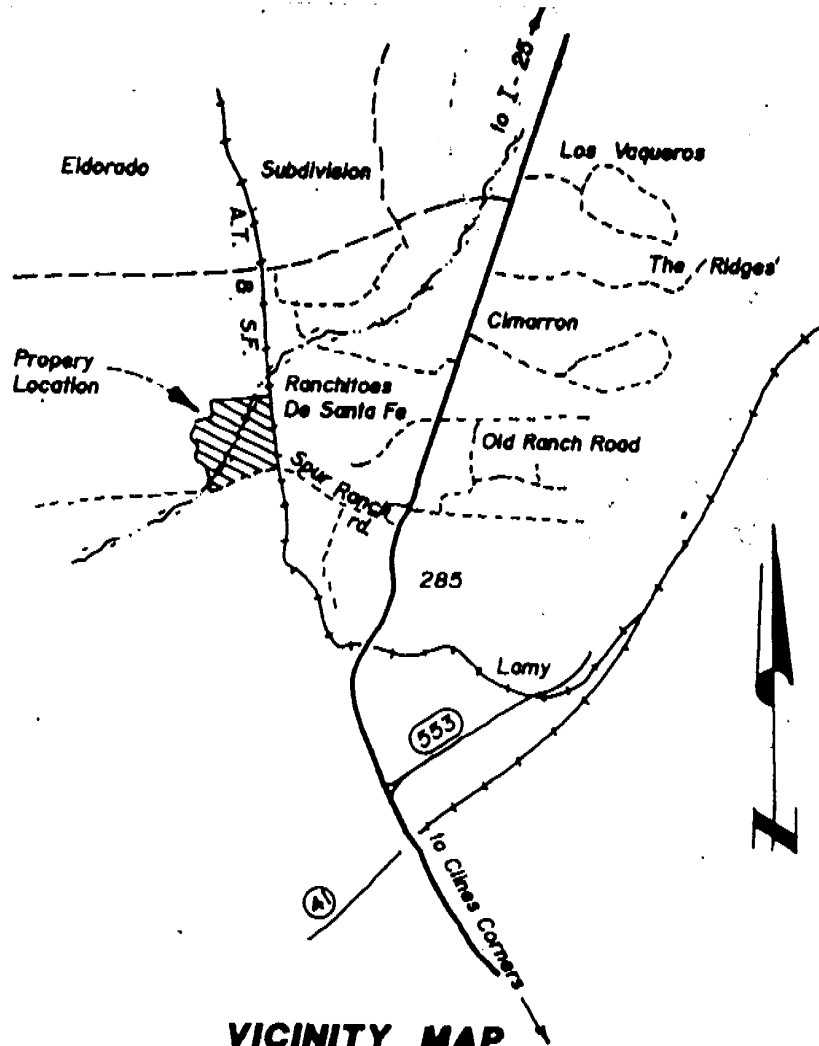
SFC CLERK RECORDED 05/13/2004



ROSA LINDA SUBDIVISION AMENDMENT TO CONDITION OF APPROVAL  
4 13 04

“17. The applicant shall address the off-site road maintenance in conformance with minimum road standards by submitting, and submit a road maintenance agreement with the Tierra Colinas Homeowners Association. The agreement shall be based on three cost estimates, with the cost prorated on a per lot basis.”

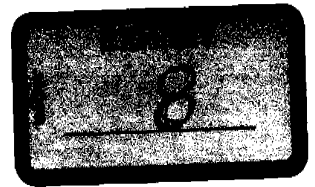
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**VICINITY MAP**  
*not to scale*

**TIERRA COLINAS**  
**1995 APPROVAL**

SFC CLERK RECORDED 05/13/2004



To Santa Fe County Commissioners  
County Land Use Administration Office

April 13, 2004

Re: Petition to Approve ROSA LINDA SUBDIVISION: CDRC # S 04-5050

Dear Commissioners,

**I am writing on behalf of the Tierra Colinas Homeowners Association. We protest the approval of Rosa Linda Subdivision until such time as the County accepts Spur Ranch Road for county maintenance.**

The Tierra Colinas Homeowners Association has been *forced* to maintain Spur Ranch Road between Highway 285 and the Santa Fe Railroad tracks even though we do NOT border this 1 mile section of the road. We are otherwise land locked with *no access* to public roads. Many other property owners in the area use both this section and another mile of Spur Ranch that we do border. Unfortunately, they have declined to help maintain any part of the road. *We have no legal means to assess them* and this situation is not disclosed in title search or by local realtors.

We petitioned the county in 1999 for maintenance of Spur Ranch Road, but were denied. The county accepted a substandard road from the developer, yet we were told we would have to bring the road "up to standard" before the county would accept it for maintenance. This is financially prohibitive for fifty people.

In 2001 we were granted State funds for capital improvement of the road (to help bring it up to standard), but we understand commissioners returned the money to the state; because Spur Ranch Road is a "private road". With several developments we see in excess of 300 auto trips per day. With the addition of Sun Ranch West we will have hundreds more. Spur Ranch Road is NOT a "private road".

**We believe the county has created an unjust burden upon fifty (50) Tierra Colinas property owners by approving subdivisions and failing to accept responsibility for maintaining Spur Ranch Road. We respectfully submit that no further development should be approved unless the county takes over maintenance of Spur Ranch Road.**

Sincerely,

*Doreen Hutchins*  
Doreen Hutchins

Tierra Colinas Homeowners Association  
505-466-4732 or 505-670-8900

SFC CLERK RECORDED 05/13/2004