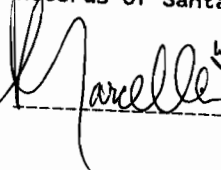


COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC MINUTES
PAGES: 150

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SANTA FE COUNTY

BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

June 14, 2011

Virginia Vigil, Chair – District 2
Liz Stefanics, Vice Chair – District 5
Robert Anaya – District 3
Kathy Holian – District 4
Danny Mayfield – District 1 [excused]

SANTA FE COUNTY

REGULAR MEETING

BOARD OF COUNTY COMMISSIONERS

June 14, 2011

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 2:00 p.m. by Chair Virginia Vigil, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Employees of the Treasurer's Office led the Pledge of Allegiance and State Pledge, following roll call by County Clerk Valerie Espinoza and indicated the presence of a quorum as follows:

Members Present:

Commissioner Virginia Vigil, Chair
Commissioner Liz Stefanics Vice Chair
Commissioner Kathy Holian
Commissioner Robert Anaya

Members Excused:

Commissioner Danny Mayfield

V. INVOCATION

An invocation was given by Lillian Armijo from the Treasurer's Office.

VI. APPROVAL OF THE AGENDA

- A. Amendments**
- B. Tabled or Withdrawn Items**

KATHERINE MILLER (County Manager): Yes, Madam Chair. On the agenda, item VIII, we added the minutes of the Board of County Commissioners special budget meeting. Also under Consent Calendar, item XI, items C. 1 and 2 were just amended to add the balance amounts of those budget adjustments. And item XII. C. under Staff and Elected Official Items, Matters from the County Manager, there is a resolution. This was actually on there but the caption was changed and that's a resolution appointing Commissioner Mayfield as delegate of the Jemez Mountain Electric Co-op. And under item XIII. Public Hearings, case #2, 3, and 4 are tabled.

CHAIR VIGIL: Any other changes?

COMMISSIONER HOLIAN: Madam Chair, I move for approval of the agenda as amended.

COMMISSIONER STEFANICS: Second.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: You have a question?

COMMISSIONER ANAYA: Just a comment on item X. E. That update, just for the public's knowledge was tabled because our regional Forest Service Director have been working on the fires and is appropriately in the right place. But I would like to ask, based on discussions with Madam Chair that we put it on for the next meeting if they're available but that we put the entire Commission as requesting this item. I think it's an item, as the chair pointed out, that we're all getting calls and concerns on, and so if we could put that on the next meeting from the entire Commission. Thank you, Madam Chair.

CHAIR VIGIL: Thank you. I have a motion and a second.

The motion passed by unanimous [4-0] voice vote.

VII. APPROVAL OF CONSENT CALENDAR

A. Consent Calendar Withdrawals

CHAIR VIGIL: Are there any items that anyone would like to consider for discussion? Seeing none –

COMMISSIONER HOLIAN: I move for approval of the Consent Calendar.

COMMISSIONER ANAYA: Second.

CHAIR VIGIL: And with amendments, because there were some changes. The motioner and seconder agree?

COMMISSIONER HOLIAN: Yes.

The motion passed by unanimous [4-0] voice vote.

XI. CONSENT CALENDAR

A. Final Order

1. **BCC Case # MIS 11-5020 Albert Sedillo Land Division Authorization. Albert Sedillo, Applicant, Requested Authorization to Subdivide 3.96 Acres into Two Lots Via Small Lot Family Transfer Located in a Previously Approved Subdivision (Pinon Hills). The Property is Located at 13 Calle Estevan, within Section 25, Township 17 North, Range 8 East, (Commission District 2) APPROVED 5-0 Wayne Dalton**

B. Miscellaneous

1. **Approve Amendment #2 to a Professional Service Agreement Between Santa Fe County and the United Way Project Launch**

- Program in the Amount of \$83,519 (Community Services/Health & Human Services)**
2. **Request Approval of an Indefinite Quantity Price Agreement for the Delivery and Installation of Kitchen Equipment for Santa Fe County (Community Services/Senior Services)**
- C. **Budget Adjustments**
1. **Resolution No. 2011-84, Budget Increase for Grant PA# 11-RF-DS-091/Selective Traffic Enforcement Programs (S.T.E.P.)- Traffic Safety-Related Enforcement Overtime Aimed at Reducing Traffic-Related Injuries and Fatalities/\$4,999.00 (Sheriff's Office)**
 2. **Resolution No. 2011-85, Requesting an Increase to the Section 8 Voucher Fund (227) to Budget Cash Carryover to Cover Housing Assistance Payments for the Remainder of the Fiscal Year/\$35,000.00 (Community Services Department/Housing)**

VIII. APPROVAL OF MINUTES

A. Board of County Commissioners Special Budget Meeting May 10, 2011

CHAIR VIGIL: Are there any changes?

COMMISSIONER STEFANICS: Madam Chair.

CHAIR VIGIL: Commissioner Stefanics.

COMMISSIONER STEFANICS: I move for approval of the minutes from

May 10, 2011.

COMMISSIONER HOLIAN: Second.

CHAIR VIGIL: Are there any questions?

The motion passed by unanimous [4-0] voice vote.

IX. MATTERS OF PUBLIC CONCERN –NON-ACTION ITEMS

CHAIR VIGIL: We're under Matters of Public Concern. Matters of Public Concern are brought up to the Commission with items that are not currently on the agenda. So is there anyone out in the audience that would like to address the Commission on any item that is not on the agenda? Please come forth. You're going to steal my thunder, aren't you? Go right ahead.

DAVID COPHER: Hi. I'm David Copher. I'm with Rodeo de Santa Fe, and we would like to invite everyone here and everyone you know to come out to our rodeo and we would like to thank the council for supporting us in everything we do over there and we would like to invite you all there of course. Come see us at the rodeo and we'll have a great time.

CHAIR VIGIL: Okay. Would you like to introduce other representatives who are here on behalf of the Rodeo de Santa Fe.

MR. COPHER: Let me embarrass the heck out of Jim Butler.

CHAIR VIGIL: You're welcome. Pilar, welcome.

MR. COPHER: She's our representative.

CHAIR VIGIL: And did you state your name?

MR. COPHER: I'm David Copher.

CHAIR VIGIL: Okay. David, thank you very, very much and thank you. It is through your all that I had the opportunity to judge the Rodeo Queen Contest which I was very impressed with. I've already addressed it when we crowned the Santa Fe County Fair Queen last time. These girls are tremendous. They're very impressive and I really enjoyed it. Thank you for the opportunity. I look forward to going to the rodeo June 22nd through 25th, correct?

MR. COPHER: June 22nd through the 25th. Big parade downtown will be on the 18th.

CHAIR VIGIL: Great. Thank you so much. Thank you for being here. Are there any other Matters from the Public? Is there anyone else who would like to address the public. Jim, thanks for coming forward. Let me just point out, I'd like to recognize Pablo Sedillo with Senator Bingaman's office. Thank you for joining us. Appreciate your being here. Jim Siebert, you'd like to address the Commission?

JIM SIEBERT: Madam Chair, Commissioners, what I'd like to ask the Commission would be a reconsideration of the action that was taken on the Polk Oil request that was submitted at the last County Commission meeting. I think part of it was it was a rather unique application. We were really not asking for rezoning or any other land use issue. It was really dealing with the potential conflict with the City-County settlement agreement on annexation. And I think that because of that, the normal kind of issues are discussed, the conditions of approval associated with that really weren't presented to the County Commission and what I have is something that I think would help to ameliorate a lot of the concerns that the County Commission has, and they are conditions that the applicant would be willing to accept, if you decide to reconsider this. I'll hand this out if I may. *[Exhibit 1]*

If you recall, what was requested was a very tiny piece of a 1.45-acre tract that would be .63 acres. It would be immediately adjacent to Rodeo Road. And the three conditions would the lot line adjustment plat separating .63 acres from the 1.45 acres of land from the 1.5-acre lot described in the Town and County Subdivision will be incorporated into the 1.35-acre commercial tract on Rodeo Road. That's the one that's already owned by Polk Oil. The C-2 commercial zoning shall be limited to the .63-acre tract located between the 1.3-acre tract zoned C-2 which is the existing zoning and the right-of-way for Richards Avenue. Only the .63 acres severed from Lot 1, Block 1 of the Town and Country Subdivision shall be annexed into the city limits. The remainder of the lot, Lot 1 of Block 1 shall remain rural residential. I'm hoping that these issues, these conditions have added to the consideration would be sufficient for you to take another look at this.

CHAIR VIGIL: Okay.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: I don't know if I – can I ask a question? Because this is an item that came up during the deliberations, and I had questions and I know other

Commissioners had, but is the segregation of these conditions different? Because I asked the question at the end of the meeting – I'll go back and look at the minutes again, but I think the angst that I heard in the discussion was because there was a lot that was right adjacent to the gas station that I'm thinking is this .63 that you're referring to now, and there was a lot on the opposite side of the arroyo next to the residential units where we had an older gentleman came forward, Mr. Montoya, I believe his name was, that was raising issues about that piece. And my question then and still is now is: are you separating that all together, because you had them together, right? You had the two items together. You've got the lot next to the gas station as well as the one on the other side of the arroyo. Is that accurate? I think I asked that question at the meeting but I don't know that I got a clear answer in my mind associated with the question.

MR. SIEBERT: Madam Chair, Commissioners, that's exactly right. One of the conditions says that that lot, the 1.45-acre lot, will break it into two pieces with the .63 acres facing only Rodeo Road and Richards Avenue. That other remainder parcel is still owned by Polk Oil. It's not owned by the other gentleman.

COMMISSIONER ANAYA: Madam Chair, Mr. Siebert, but you were trying to get both tracts to be recognized commercial or take them through the process, correct?

MR. SIEBERT: No. We're only trying to get the .63 acre that's immediately at the corner of Rodeo Road and Richards Avenue as C-2, annexed to the City and C-2. The remainder of the lot, which kind of squares out the Town and Country Subdivision would remain rural residential.

COMMISSIONER ANAYA: So, Madam Chair, Mr. Siebert, is that now or before you wanted to get both sides commercial, and now you're pulling back, saying we just want the one directly adjacent? The reason I'm asking the question is I think for me, as one Commissioner, the lot immediately next to the gas station seems to make logical sense to have as commercial. But your request last time wasn't just that. It was both lots?

MR. SIEBERT: No, Commissioner. It was only that lot. I'm beginning to see where the confusion comes in. The problem is if you're able to go to the City and ask for a lot split then we could come back to you and say we have a defined lot, the .65-acre lot. We can't do that. We have to take the lot split, the rezoning, and the annexation all through at the same time. But we can't do that until we get some direction from the County Commission that there's not a conflict with the settlement agreement in taking that process.

COMMISSIONER ANAYA: Madam Chair, as one Commissioner, if there was a way to isolate the .63 and tie up through condition that there wouldn't be any deviation on the other side of the arroyo I'd be willing to reconsider.

CHAIR VIGIL: Steve, I guess I have a legal question here. Reconsideration has to come from someone in the minority or majority?

STEVE ROSS (County Attorney): Madam Chair, the majority.

CHAIR VIGIL: Okay. So can we move forward in this way? Thank you for the additional information, Mr. Siebert. Based on this additional information, if there is anyone at this point that would like to reconsider I would – I don't think we'd be able to entertain that motion. We'd actually have to notice for this, or what is the legal?

MR. ROSS: Madam Chair, the way we normally do it is when one Commissioner in the majority informs us that there's – that they would like to make a motion

to reconsider we put it on the agenda with an item – reconsideration of this case. And then we add a second item which is the case itself. So there would be two action items on the next agenda.

CHAIR VIGIL: So we would have to wait until next meeting if anyone wants to reconsider. Thank you very much for that, Mr. Siebert, and thank you for clarifying that, Steve.

MR. SIEBERT: Thank you for the time.

CHAIR VIGIL: Is there anyone else in the public that would like to address the Commission? Seeing none, we are now –

COMMISSIONER STEFANICS: Madam Chair.

CHAIR VIGIL: Yes.

COMMISSIONER STEFANICS: A clarification on this discussion. So would somebody need to bring this up today in order for it to get on the agenda on the next meeting?

CHAIR VIGIL: When is the deadline for the next meeting?

MR. ROSS: Madam Chair, actually, the rules say that the item needs to be up for reconsideration in the next successive meeting of the same type of meeting, so I believe this came up at the last land use meeting so someone would have to let me or the Manager know today that we need an item on an upcoming agenda. Someone in the majority.

CHAIR VIGIL: Okay. If anyone cares to do that, I'm fine with it.

COMMISSIONER HOLIAN: Madam Chair.

CHAIR VIGIL: Yes.

COMMISSIONER HOLIAN: I believe I was in the majority and I am willing to reconsider it.

CHAIR VIGIL: Okay. Then you can notice it. Okay, you got what you came for, Jim.

MR. SIEBERT: Thank you.

CHAIR VIGIL: We are now under Matters from Commission, unless there's anyone else from the public. Let me ask one more time.

X. MATTERS FROM THE COMMISSION

A. Proclamation Honoring Patty Adam (Commissioner Stefanics)

COMMISSIONER STEFANICS: Madam Chair, I would first like to move the proclamation honoring Katherine Patty Adam, who was instrumental in creating the vision, planning and obtaining the funding for the Ken and Patty Adam Center in Eldorado, and if we have a second then we'll have the presentation.

COMMISSIONER HOLIAN: I'll second.

COMMISSIONER STEFANICS: Thank you. And we have with us today Steve Shepherd and Ron Pacheco to actually do the presentation.

CHAIR VIGIL: Mr. Pacheco, please proceed. And Mr. Shepherd.

RON PACHECO (Senior Services): Thank you, Madam Chair and Commissioners. I might just add, Madam Chair and Commissioners, that last week we lost Patty Adam so I think the timing is appropriate and certainly she has been the initiative

behind the Adam Senior Center, a fantastic lady up until the last days, who really participated in the program. She was at the center as recently as last month, I believe, visiting the center, so we are dedicated to Patty Adam and proudly so, and we thank you for the recognition on her behalf.

CHAIR VIGIL: Thank you, Madam Chair. Mr. Shepherd.

STEVE SHEPHERD (Health & Human Services Director): Patty Adam did a lot for the folks in Eldorado and the surrounding areas and every time people go to that center it's great that they'll remember her.

CHAIR VIGIL: Thank you. Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you very much.

Whereas, Katherine Patty Lucas was born on November 23, 1917 to American parents then living in Anking, China. After the death of her mother in 1925 she and her father moved to Berkeley, California; and

Whereas, she married Kenneth Dunstan Adam, settled in Berkeley and raised four children. She lived a busy life as PTA president, scout leader, youth group sponsor, and was active in other community service activities; and

Whereas, soon after the passage of the National Environmental Policy Act of 1969 which gave citizens the right to speak at hearings on matters of importance to the environment, she soon became state chair of natural resources for the League of Women Voters and served on several state environmental policy committees; and

Whereas, she and Ken moved to Santa Fe, New Mexico in 1973 where she became active in the League of Women Voters; and

Whereas, she was instrumental in getting dollars and political support for the senior center in Eldorado and was proud and honored to have it bear her name; and

Whereas, she was a mentor and an inspiration in keeping senior issues such as the Elder Americans Act at the forefront of various policy makers with whom she met, being direct but always polite; and

Whereas, she will be remembered for her devotion to her family and community, her concern for the environment and education, and her love for the animals;

Now, therefore, be it resolved by the Santa Fe Board of County Commissioners that Katherine Patty Adam be recognized for her many contributions to Santa Fe County.

Thank you very much, Madam Chair.

CHAIR VIGIL: I would just like to comment that I feel very fortunate in having been a participant in the process when the senior center was named after Patty Adam. I'm glad that she was here to be a part of that and I'm glad that we were able to do that on her behalf because of all the contributions she's made to that community. Thank you for bringing this forth, Commissioner Stefanics.

COMMISSIONER STEFANICS: Madam Chair, after we vote for it we will be transmitting it to the family via snail mail or hand delivery.

The motion passed by unanimous [4-0] voice vote.

X. B. Proclamation Honoring Minnie Gallegos (Commissioner Stefanics)

COMMISSIONER STEFANICS: Thank you very much, Madam Chair. I would move the proclamation honoring Minnie Gallegos, past director of the Santa Fe County Housing Authority.

COMMISSIONER HOLIAN: Second.

COMMISSIONER STEFANICS: Whereas, Minnie LaComb Gonzales was born in Cuesta and moved to Santa Fe as a child and later married State Police officer Samuel Gallegos in the 1950s; and

Whereas, she worked for Santa Fe County as the director of the Santa Fe County Housing Authority from October 1975 until her retirement in 1990, during which time the Camino Jacobo and Santa Cruz housing projects were built; and

Whereas, housing was her professional life. She served as the first president of the Northern New Mexico Housing Authority Association, the first president of the National Association of Housing and Rural Officials, and as a member of the State Housing Authority under Governors Bruce King and Bill Richardson; and

Whereas, Minnie Gallegos was a passionate fighter and advocate for social justice values serving the state of New Mexico as the Governor's constituent manager in the community of Santa Fe in various professional and volunteer posts; and

Whereas, as a political activist in the Democratic party she served in various posts, occasionally headed the Democratic Women, served as a county chairwoman from 2001 to 2009, and was recognized for her active coordination of presidential campaigns of Bill Clinton, John Kerry and Barack Obama; and

Whereas, Minnie Gallegos passed away on May 29, 2011 at the age of 82 following a lengthy illness;

Now, therefore be it resolved by the Santa Fe County Board of County Commissioners that Minnie Gallegos be recognized for her contributions to the community of Santa Fe.

The motion passed by unanimous [4-0] voice vote.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, once again, my condolences go out to the entire family, the Honorable Judge Sandy Miera as well as Mr. Brian Gallegos, long-time classmate and friend of mine throughout my school years. Minnie was a houser like myself and I had a great deal of respect for her and what she did throughout the community and the party and wherever she went she always let you know she was there and spoke on behalf of those people she was trying to serve and help. So condolences to the family, but congratulations. Thank you, Commissioner Stefanics, for bringing this forward.

CHAIR VIGIL: I attended services for Minnie Gallegos and I really was touched by the fact that the grandchildren went up during the services and made statements with regard to their experiences with Minnie. It was very insightful, because I knew Minnie more on a professional level, her motherhood and her grandmotherhood were incredible also,

so condolences on my behalf also. Thank you, Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you. This will be transmitted to the family.

X. C. Recognition of Cathy Berkley for Dedication and Service to the Santa Fe County Senior Services Program (Commissioner Stefanics)

COMMISSIONER STEFANICS: Thank you, Madam Chair. And I believe that we have Steve and Ron again as the duo over here who will recognize Cathy. I was at the townhall meeting in Eldorado and one of the seniors there was asking about some transportation arrangements and I said, oh, don't worry about it. Cathy Berkley will come over and talk to you about all of this. And then our County liaison came running to me and said, Cathy's leaving. And unexpectedly, I wanted to make sure that we recognized her. We have recognized her in the past for her service and we'll have a small celebration at the senior center on Friday for her but Ron and Steve, do you have some words for Cathy.

MR. SHEPHERD: Madam Chair, Commissioners, we're really going to miss Cathy. She's leaving a big hole in our senior services organization. I really started to talk her out of leaving until she told me why she had to; she needs to go take care of herself and her family. We're really going to miss her and we're going to try to keep in contact with her. And we wish her well.

COMMISSIONER STEFANICS: Thank you very much.

MR. PACHECO: Madam Chair, Commissioners, I might just add that I couldn't – Cathy is going to be very difficult to replace and it's been a joy to work with her. As you know, we're moving through a very important time now with the senior program and to the last minute Cathy's been incredibly helpful. She will be missed in general. She will be missed very dearly by me. It's been a pleasure to work with her. I've learned so much from her. And I might just add that Cathy is old enough to be a member of that center, yet she's done an incredible job running that center. We always so nobody's irreplaceable but she's as tough as it's going to be and we will miss her, and we're wishing her the best, and we thank you, Commissioner Stefanics, for bringing this action.

COMMISSIONER STEFANICS: Before I read the proclamation I'd just like to share that Cathy Berkley recently would not let me have lunch until I filled out the appropriate paperwork, and I thank her for her attention to detail.

A proclamation honoring Cathy Berkley for her dedication and hard work for Santa Fe County's senior citizens and senior services program.

Whereas, Cathy Berkley joined the Santa Fe County Senior Services program on October 21, 2008;and

Whereas, she was the first program manager for County Senior Services and the director of the Ken and Patty Adam Senior Center in Eldorado; and

Whereas, she has grown the program in Eldorado from 60 registered senior citizens to more than 450 participants in the 285 Corridor; and

Whereas, under her management the activities offered at the center have expanded to include regular arts and activity classes, group trips, an organic garden, musical

performances, and speakers on topics of general interest; and

Whereas, she has grown the nutrition program so that meals are served at the center five days a week and has expanded the home-delivered meal program to three routes that provide lunch to home-bound seniors seven days a week; and

Whereas, she has reached out to the most vulnerable and neediest senior citizens to find medical care, housing, heat, and specialized services for them; and

Whereas, she has formed formal and informal alliances with agencies and groups all over the state of New Mexico to help build a safety net for the senior citizens in Santa Fe County; and

Whereas, she has built strong relationships with other senior programs throughout the state of New Mexico and with the New Mexico Non-Metro Area Agency on Aging; and

Whereas, she has played a large role in bringing about the expansion of the Santa Fe County Senior Services program to include all the senior centers in the county;

Now, therefore be it resolved by the Santa Fe Board of County Commissioners that Cathy Berkley be declared the Queen of Senior Services;

Be it further resolved that Cathy Berkley be honored for her service to senior citizens in Santa Fe County Senior Services program.

Thank you very much.

CHAIR VIGIL: We're going to include the word proclamation on item C in recognition of Cathy Berkley, so the motion would include that and the seconder I'm sure would allow that.

COMMISSIONER HOLIAN: Oh, yes. I would just like to add that I am truly going to miss Cathy as well. I didn't realize she was going until I just saw this in our packet, but she has done so many programs that have really reached out to not only the senior centers but to people who are really far away from the seniors like in my district, out in District 4, out in Glorieta with the Meals on Wheels program. So it's not just the senior centers it's all the seniors in Santa Fe County. I'll miss her.

MR. PACHECO: Madam Chair, if I may add, I would just like to extend an invitation to all of you to join us on Friday for her going away. I just want to make sure that I personally invite you all in this room if at all possible, and thank you very much.

COMMISSIONER HOLIAN: What's for lunch?

MR. PACHECO: Her favorite, chicken-fried steak. We changed the menu just for this time, Madam Chair and Commissioner Holian.

The motion passed by unanimous [4-0] voice vote.

- X. C. **Resolution No. 2011-86, Requesting the United States Postal Service to Issue a Commemorative Stamp Honoring the Sesquicentennial Anniversary of the Battle of Glorieta Pass in New Mexico and Recognizing the Importance of the Battle of Glorieta Pass (Commissioners Vigil & Holian) [Exhibit 2]**

CHAIR VIGIL: This is being brought forth by myself and Commissioner

Holian. There are two gentlemen here, Bill Zinkel, who is president of Friends of the Pecos National Historic Park, and Andres Romero, who is vice president. Gentlemen, I first of all want to thank you for all of the hard work that you've put into this. This project is long overdue, and it wouldn't have happened without volunteerism such as yours. Commissioner Holian will be reading the resolution, then you'll have an opportunity to speak.
Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. I just wanted to say beforehand that typically, somewhere in March I bring a resolution forward honoring the history of the battle in the Civil War that occurred at Glorieta Pass, because it's just a pivotal battle in the Civil War. But this coming year is really, really exciting because of the sesquicentennial – I love that word – the 150th anniversary. So with that, A Resolution requesting the United States Postal Service to issue a commemorative stamp honoring the sesquicentennial anniversary of the Battle of Glorieta Pass in New Mexico and recognizing the importance of the Battle of Glorieta Pass.

Whereas, in January 1862, Confederate General Henry Hopkins Sibley with a brigade of 2,600 volunteer Texans invaded the Territory of New Mexico with the intention of claiming the territory and the West for the Confederacy; and

Whereas, the Texas Confederate forces were victorious in defeating the Union forces at the Battle of Valverde on February 21, 1862, capturing Socorro, and then on March 7, 1862 capturing Albuquerque; and

Whereas, the Confederate forces captured Santa Fe on March 10, 1862. However, the capital had earlier been moved by the New Mexico Territorial governor, Henry Connolly to Las Vegas, New Mexico; and

Whereas, following these battlefield successes, the Texas Confederate forces planned to conquer Fort Union and then march to Colorado to take over the mines; and

Whereas, from there, the forces intended to form an alliance with the Mormons and together take over the goldfields of California, which would have provided much needed capital for the Confederacy; and

Whereas, the conquest of California would additionally provide two sorely needed ports free of Union blockades; and

Whereas the fulfillment of these plans would sever the western territories from the Union and strengthen the position of the Confederacy; and

Whereas, the Confederates' next plan to take over the Mexican states of Lower California, Sonora, and Chihuahua, which had the potential to gain much needed recognition by foreign countries; and

Whereas, the Texas Confederate forces were met in a skirmish and fought two battles with the Union forces at Glorieta Pass from March 26 through 28, 1862; and

Whereas, even though the Confederate forces were victorious in these two battles they were forced to abandon their dream of taking over Fort Union and conquering the West when their 60 to 80 wagons loaded with weapons, medical supplies, food and blankets were burned, and 400 mules and horses were captured by a contingent of volunteers from Colorado and New Mexico; and

Whereas after this tremendous loss the Confederate Texas had no other choice but to abandon General Sibley's dream and retreat to Santa Fe, then Albuquerque, and eventually

out of New Mexico and back to Texas; and

Whereas, this turning point in the Confederate campaign in New Mexico, the Battle of Glorieta Pass, is referred to by some historians as “the Gettysburg of the West”; and

Whereas, all the loss of many killed, wounded or missing in the Civil War battles fought in New Mexico may seem insignificant compared to the carnage of the Civil War battles that were fought in the East and South, the importance and significance of this battle cannot be overstated, as the ultimate outcome helped hold the Union together and assured its survival in what we now know as the United States of America;

Now, therefore be it resolved by the Santa Fe Board of County Commissioners that the New Mexico congressional delegation be requested to introduce a congressional resolution requesting the United States Postal Service to issue a commemorative stamp honoring the sesquicentennial anniversary of the Battle of Glorieta Pass in New Mexico and recognizing the importance of the Battle of Glorieta Pass;

And be it further resolved that copies of this resolution be transmitted to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the members of the New Mexico congressional delegation, the Secretary of the United States Department of the Interior, and the non-profit organization the Friends of the Pecos National Historic Park.

So I move for approval, Madam Chair.

COMMISSIONER STEFANICS: Second.

CHAIR VIGIL: I have a motion and second. Are there any questions, comments?

The motion passed by unanimous [4-0] voice vote.

CHAIR VIGIL: Gentlemen, would any of you like to address the Board of County Commission on this? By the way, I should mention that each one of us do have a brochure and some information that was delivered by you. Thank you very much.

BILL ZINKEL: Madam Chair, Commissioners, this is the second time that I have been to the Commission. The first time was to thank you for the generous donation and contribution by the County to the completion of the 2 ¼ mile trail. I wish to thank the Commission the second time for the previous donation that the County made toward the completion of the Civil War trail that we have out there, the 2 ¼ mile trail, and that was introduced by Commissioner Sullivan some years back, and we're most grateful for that, because the trail is very complete and very, very popular.

We wish to thank you for reading the complete resolution. That is a history lesson in itself and anyone that would read that and be privileged to have a copy of it would certainly learn something about New Mexico. The Friends of Pecos National Park is an arm of the park that is designed to assist the park in non-budget item. Well, my colleague, Andres Romero, is the person that has really spearheaded this move to ask for a commemorative stamp. Andres, would you like to say a couple of words about that? Okay.

But I wish to say that we are most delighted that the County has backed this concept. There's a phrase: it can't hurt to ask and so we've gotten extreme cooperation from political elements around the state and we're most grateful and thank you for this time.

CHAIR VIGIL: Thank you very much. Andres, did you want to say anything at all? I just would restate that sitting in the back of the room is Senator Jeff Bingaman's liaison. You may want to connect with Pablo Sedillo. We have taken official action on this so you might want to give him a copy. It's a great start to get this going. Thank you very much, gentlemen.

X. F. Update on the Santa Fe County Fair (Commissioner Anaya)

COMMISSIONER ANAYA: Thank you, Madam Chair. I have Ms. Reyer here with us today. She's going to provide us with a snapshot of the indoor exhibit aspect of the fair. When many people think of the County Fair they think of the animals primarily but as you all know as Commissioners and many in the public know there's much more to the fair than just the animals. So, Ms. Reyer, thank you for being here. You have the floor.

KAREEN REYER: Thank you. Good afternoon, and thank you, Madam Chair and the Commissioners. This is a wonderful opportunity to be able to share the information that the fair is more than what a lot of people think of – cows and cookies. It's for the community. It's for the entire county. It's for everyone. The indoor exhibits, I think people forget that those really do reach out to the full community, not just the 4-H youth. So I'd like to give you a little snapshot of what we do on the indoor side.

We have four main populations that we service with the indoor activities. The first one is of course recognized and well known, the 4-H youth indoor. These youth then have to enroll their projects in October. As they complete their projects and work on them the items they make and create they can then bring to the Santa Fe County Fair as part of their 4-H completion for their projects in the 4-H youth indoor items.

The second population is our open youth. The open youth is for any youth living in Santa Fe County who would like to create items and bring them. The one requirement we have is that they have to make them from September 1, 2010 to present day. So it has to be made within the last 12 months from the last County Fair.

The third population is our open adult items. This is for any adult that lives in Santa Fe County anywhere, and again, items must be made within the last 12 months, and they can bring them and exhibit them in the Santa Fe County Fair indoor items.

The fourth population, which is one that a lot of the public sometimes doesn't think about for County Fair, and that is our general public items. Under the general public items we have our salsa contest, we have our chile cook-off we have our small pet show and we have our barnyard Olympics and we also have entertainment that we pay for to be there for the general public. And that usually has some mariachi bands and dance groups, and those are usually associated with the indoor items and the superintendent for the indoor, which is my position and the hat I wear.

The award system for the indoor is a little different than what happens with the livestock outside so I'd like to share that with you as well, because a lot of people get confused when they come to the County Fair. Our County Fair award system for the indoor is called a modified Danish system, and that's defined basically as recognition and encouragement for all skill levels. Every item that is brought to the 4-H youth, open youth

and adult youth to the indoor gets a ribbon. It's not first, second, third place placings the way it is in the outside for the livestock. It's very unique. It's recognition for skill level. The blue represents exceptional work. The red represents very good quality work and the white represents thank you for coming; we'd really like to see you improve and keep growing in your skills. And so every item that enters the building gets a ribbon. And you may have four or five blue ribbons in one class. It's not based on competition with each other; it's based on the actual skill level that's presented in the exhibit. I don't know how many people know that but we really like that modified Danish system because it's very encouraging to everyone that comes.

We also, for the 4-H youth and the open youth, we have plaques. We have best of show ribbons, which are – they take a lot, which would be a category, say photography, black and white pictures, and under that there's a number of classes – portraits, landscapes, story-telling – and each class is placed, and under that lot, which would be black and white photography, there's a best of show that's chosen. So they take all the blue ribbon winners and choose one best of show. So then we have photography where we have black and white photography, color photography and digital photography – that's a division – photography. We then, for the adult side, issue sweepstake ribbons for one of the best of shows. Under the youth we have plaques for highpoints. Under the 4-H we have senior, junior, and novice age divisions. So the children earn points with all these ribbons that they are awarded and at the end of the fair someone will get a highpoint novice, a highpoint junior and a highpoint senior for what they've done at the fair.

That's the same for open youth. It's not called senior, junior, novice, under the open youth because they're not 4-H. We just do it by age divisions, 9-11, 12-13, and 14-19. Those are our plaque systems. The County has been very nice in supporting the salsa contest and the barnyard Olympics which a lot of the open public comes to. Those usually happen on the weekend. On Saturday the salsa contest takes place during the 4-H auction. A lot of people come to watch the auction but some people don't and so the salsa contest and our art and craft exhibits from the Yucca Club, the Rainbow Makers, the Quilters Guild, those groups I've invited them to the fair every year and they come and they have presentations and demonstrations as well on Saturday when the 4-H auction is happening.

On Sunday the public is there for the watermelon eating contest, the stick horse race, toss the tortilla, all those activities that are categorized under the barnyard Olympics, and those again are modified Danish system. Every child and person that participates in our barnyard Olympics gets a ribbon of some kind, either participation or a first, second, third, which I believe are red and white for that activity.

Anyway, I'd like to invite you to come to the County Fair. It starts on July 31st. That's our grand opening day. It is with the 4-H horseshow which is located in the Northern New Mexico Horseman's Arena, which is right behind the fairgrounds, and then it will continue all the way through the first week of August and it will culminate on August 7th with the people coming to pick up their items and take their animals home and clean up. So please come to the County Fair. Just a little tidbit of information: I've been volunteering and helping at the County Fair close to 22 years now, and when I first started it was maybe 15 items on the indoor that were exhibited in a little office down in the Extension Office building. And to see the fair building when it was put up, the barns that have been improved, the invitations that

have gone out to the community and the growth that I have seen, especially over the last six to eight years, has been just amazing. It is so exciting. And I can actually, looking at the statistics for the indoor, I can say that there's been over a 300 percent increase in participation from the general public in the last six to eight years and that's just wonderful.

It's happened because the County Commissioners, the County employees, the departments, have all really stepped forward more than what – 20 years ago we didn't see anybody at the County Fair and now we do, and the support has made such a difference in reaching the general public and making this a true community fair. It really has made a difference. So please come to the County Fair. I'd like to invite all of you to see what's happening and come for our entertainment.

One of the problems we have is we're outgrowing our building already, that great big building. It's really exciting. We've filled every cabinet. We've overflowed into our storage rooms now. There's just been so much growth and it's a problem, but what a problem to have, right? The growth of the fair has been almost, just over 200 percent in the last six to eight years and again it's because of the County and the Commission and the support that's been there lately, and I appreciate that. Thank you.

COMMISSIONER ANAYA: Thank you, Ms. Reyer, very much for your work. Just a couple side notes. As Ms. Miller and this Commission know, this Commission has been very supportive prior to me ever getting here and supporting the fair but in the last several months I want to commend the Manager and all of the staff throughout the County that have been working closely with you, the Fair Board, the many other volunteers to do the work that's been done and so at the Fair Board meeting last night, as you know, because you participate in it, was very appreciative of that. So I did want to pass that on to the whole Commission as well as all the staff that has put in a lot of work.

MS. REYER: It's made a huge difference for everyone living in Santa Fe County to have this opportunity. Thank you again.

CHAIR VIGIL: Thank you very much. I do believe, Commissioner Anaya, you did want to continue to table item E. Is that correct?

COMMISSIONER ANAYA: Yes. That's correct, Madam Chair.

X. OTHER MATTERS FROM THE COMMISSION

CHAIR VIGIL: I'll turn it to you, Commissioner Stefanics, first.

COMMISSIONER STEFANICS: Thank you, Madam Chair. I have announced that I was holding townhall meetings throughout several communities, and I do have one more scheduled next Monday evening at the Turquoise Trail Fire Department on Highway 14. I would in advance like to thank all the staff who are attending. Sometimes the audience has some difficult questions for staff and sometimes they're just really appreciative that our County staff come and visit with them.

Madam Chair, at the townhall meeting last night it came to my attention and maybe I knew this and maybe I've just been letting it slide over my head. I learned that the Fire, the RECC and the Sheriff's communication to the public are different systems and not coordinated, so there is not one way that a resident in Santa Fe County can get information. And I had assumed it was through one particular way. So, Madam Chair, I'd like to ask the

County Manager if she would have Kristine Mihelcic start talking to the three entities, Fire, RECC and the Sheriff's Office, to see how we could bring this all together. But anyway, I'm sure we'll talk about it again in the future.

The next item, Madam Chair, is that I also would like to ask the chair if you have any specific plans around redistricting. The City of Santa Fe has started some public meetings on redistricting and I know that several members of the public including the League of Women Voters would like to know what we plan to do. So I'm just wondering if there's been any –

CHAIR VIGIL: I'm going to turn that over to our County Manager who's been spearheading that through staff. Ms. Miller.

MS. MILLER: Madam Chair, Commissioner Stefanics, the first thing that we needed to do before we could get to that point is actually on today's agenda or is on the end of the month? I can't remember. But it's actually approving the – I was looking at both agendas yesterday, so I think it's on the one that's at the end of the month. We have to get an approval from the Secretary of State's Office to have our precinct boundaries adopted. Then at that point, when you do that then we can go forward with actually doing the redistricting. And we're going to be having several public meetings bringing maps forward, showing what we would need to do in order to balance our districts and bringing those forward and then having public meetings and getting input from the public on those through the next couple of months, through July and August. And then hopefully bringing back in September options to the Commission for actual approval.

But we're planning several public meetings and study sessions to go over all of the different options and the issues and concerns.

COMMISSIONER STEFANICS: So Madam Chair and Katherine, do you think that when you come forward next month that maybe there could be a draft or a tentative agenda or a timeline for some of these activities?

MS. MILLER: Madam Chair, Commissioner Stefanics, yes. We were waiting for – we didn't set any dates for anything until we got the letter of confirmation from the Secretary of State's Office which we just received so we'll be able to now set more specific dates.

COMMISSIONER STEFANICS: Thank you very much. The next item I have, Madam Chair, is that I did attend the pushing of the button for the model railroad at the Railroad Museum in Lamy this last Saturday. And if anybody has not been out there, the old Legal Tender was purchased by a non-profit. It is a model railroad museum, and there is now a display of what the community of Lamy used to look like with trains running through the community and the hills and the mountains surrounding. So if anybody has not been out it would be a nice little trip for people to go to. About 300 people were in attendance. It was from all over the state. They are 55 people in the model railroad club from the Santa Fe area, but some of the residents of Lamy who now live all throughout the state and all through other states came back to attend this particular event. So that was well worthwhile.

And then Madam Chair, I'm assuming you'll talk about the Buckman. And that's all I have today. Thank you.

CHAIR VIGIL: Thank you. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Madam Chair. A few items. I've been appreciative of the discussions and process taking place with the Land Development

Code. I am, however, getting a lot of questions about the additional discussion items, discussion points we're going to have, specifically getting more into the meat of the code, like density being a large one and family transfers among others. So at some point I'd like to get some feedback on Mr. Kolkmeyer on what you've found so far and what our thoughts are going forward. I know it's been a new process that's been real technologically advanced, in addition to the regular process we historically followed, so I'd like to hear some feedback on that.

I enjoyed, and I plan on doing it with the rest of my fellow Commissioners, by I enjoyed being able to participate in Commissioner Stefanics' community meeting in Eldorado. I think it was a valuable meeting and there are some items that I'm going to be talking to her about that I believe we can work together on to complement each other because we serve many of the same people as is the case with my other fellow Commissioners. I was not able to go to Commissioner Holian's fire meeting but I do plan on attending some of yours as well as Commissioner Vigil's and Commissioner Mayfield's. But I do appreciate the discussions I've had with some of the similar community meetings as well.

I did want to ask, Madam Chair, Ms. Miller, if I could get the information on the historical overview of the budget, because I'm going to utilize that to make the request before the final budget comes forward. So I know that's going to be a lot of information for me to read and absorb so I look forward to getting that.

Also, several months back, and it also ties to the budget, I had a request relative to workforce at specifically assessors' offices. I'd like to see how – I know that's been a big discussion about the number of employees and whether or not there's an adequate level or not. And I think it was probably February of this year that I asked for some baseline information on Dona Ana County, for example. How many assessors does Dona Ana County have in comparison to their population? I know they're larger than us. As well as a few other counties. I'll just name a few of them: San Juan County, Lee County, maybe even Bernalillo County for comparison. And any others that you might feel. Just some general numbers of employees, overall assessed value maybe, and population. I think those are some key things that might be helpful for us to look at.

Ditto with Commissioner Stefanics. I missed you the other day at the opening at the rail, but I ditto and echo those comments. It's quite a nice historical presentation of what occurred previously, so I would encourage people to get out and see it.

I want to follow in the footsteps of my colleague to my right, Commissioner Holian, and express publicly that I thank Mr. Christopher Barela, my constituent liaison for the work that he does day in and day out. I want to give his number. It's 986-6377. I just want to thank him publicly. He does a great job helping me. So thanks for your time.

CHAIR VIGIL: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. Well, in District 4 we've been having a lot of fire safety meetings. In fact there have been three I think in this last month and I would really like to thank Captain Buster Patty and Chris Nystrom from our Fire Prevention Division for coming out with the Sim Table and illustrating what can happen when a fire starts spreading in these wildland areas. And I would also very much like to thank Martin Vigil, our emergency preparedness coordinator, for coming to the meetings last night. We had a meeting with the people in the Apache Ridge area, and Martin Vigil was there

having had only three hours of sleep the night before because he was helping to fight the fire in Raton, and he drove back that morning to be able to come to the meeting.

And also I would like to thank Fire Chief Tom Chilton. He's the chief of the Hondo Volunteer Fire Department and he's given some really interesting presentations on what's going on. In fact I learned that in the last two months we've had 157 fires in Santa Fe County. And only – this is amazing to me – only 30 acres have been affected. And you compare that to the fire that's going on in Arizona and Chief Chilton made the very important point that the reason that they have lost thousand and thousands of acres is because nobody really saw the fire until it had gotten going, until it was really too big to control. And what has really helped in Santa Fe County with us dealing with our fires is our community. Our community has been crucial in reporting the fires so they can get out there and stop them before they really get going. So that's the huge difference. Because the conditions are the same here as there.

I'll say that I'm having another fire safety meeting next Wednesday. This is mostly for the Sunlit Hills folks but certainly anybody who wants to can come. I would also like to thank Commissioner Vigil for bringing up the idea of a fire safety cleanup day, which is very relevant and I know that she'd going to talk about that, but one point I wanted to make with regards to that is that fires are starting to almost start spontaneously and last night we heard about – you may have heard about a home and a guesthouse that were burned on Apache Ridge. Well, that fire started because they had some oil soaked rags which they put into a metal trash can that was sitting on their wooden deck. Those rags spontaneously combusted. They smoldered for several days until the smoldered their way through the bottom of this metal trash can and it caught the deck on fire.

So there is spontaneous combustion occurring out there. There was a second fire in the Eldorado area in a horse stable, and there was a layer of horse manure on the ground. It spontaneously combusted. Conditions are dry; it's hot; it's scary out there. So thank you, Madam Chair.

CHAIR VIGIL: Thank you. And I will point out to the Commission and the audience and the people that we do have two items under Community Services declaring hazardous fire conditions. We can discuss some of the issues that we have with regard to that as these are ordinances. Commissioner Anaya, you wanted to make a statement?

COMMISSIONER ANAYA: Madam Chair, I appreciate the opportunity. I had one other item. I know you are acknowledging Mr. Sedillo. I would like to have – Mr. Sedillo, I think you have a couple of additional updates on work that the Senator's office is doing and it's always a pleasure as you always note, Madam Chair, but it's a pleasure to have you. So Mr. Sedillo, if you could.

PABLO SEDILLO (Senator Bingaman's Office): Madam Chair, Commissioner Anaya, Commissioner Holian, thank you for the opportunity to give you a snapshot of what's going on in Washington, but before I do that I'd like to commend the Commissioners for your work and particularly Commissioner Stefanics, those townhall meetings – I think they're important. There are issues that are important that need to be discussed in the community with regard to water and to waste and some other environmentally important things that are occurring. And I want to commend you, Commissioner Anaya, for your participation and your advocacy of the RTD, the Regional

Transit District. You've been very vocal and you've been, I think, very balanced in what you're trying to do in terms of getting the board to respond to some things that are not only important to Santa Fe County but certainly to the whole district. So thank you for your work.

I also want to report that I have been meeting with the staff, with Duncan Sill on energy matters that Commissioner Holian continues to advocate. I thank you for all of your work. It's unfortunate that the regs that have been approved have been rolled back. I think it's sort of a set back. All of the work that's been done it's been done in hearings and I attend some of those hearings. But I think we're going to continue to do what we can to ensure that we're going to safeguard our environment and have some energy things that are important.

I've also been having discussions with Patricio Guerrerortiz on water issues. We're trying to work together on regionalization on some of these water issues that are affecting Glorieta and other areas of the county. So those are very fruitful and we're really trying to address those matters.

In regards to what's going on in the Congress and the Senate, the Senator continues to try to pass energy legislation that is important to the entire country and certainly is important for New Mexico. And it's not only about protecting our environment but putting people to work, and that's important.

The Senator was appointed to a six-person – six Senators, they were going to try to make some suggestions to both the Senate and the House and the President on education. Well, that lasted very short. The six Senators that had been appointed have now gone to two. Senator Alexander from Alabama [sic] decided to drop out. He felt they don't need an Education Department, so they asked Senator Bingaman to withdraw from the committee as well. So now we have two committees.

It seems like the normal thing is happening in the Congress today. It's just bogged down with things that just can't get done, things that are important to this country. I know the Senator never complains, never states that he's frustrated. He never tells us to give up. He tells us to continue. He keeps telling staff that he has until January 3, 2013, that will be his last day in the Senate, and he's asked us to make sure that we do everything we can to put in place projects throughout the state that when the new Senator comes in, is sworn into office, that he's going to have something to work on and that will not be able to be repealed, hopefully, because this is really communities that are asking for us to work on these issues.

So I wish that there were more positive things that I could report in terms of the Senate and the House but it's at a standstill. The Fourth of July recess the Senator will be in Santa Fe and will be in the state for three days and hopefully he can continue to work hard and do some of the important things that need to be in place, like the broadband. We've discussed the broadband in Santa Fe County. So those are areas that we're working on.

So again, thank you for the opportunity to address the Commission and if you have any questions I'd be happy to answer.

COMMISSIONER STEFANICS: Madam Chair.

CHAIR VIGIL: Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Sedillo, thanks for always coming to our meetings. Please do let the Senator know that we really appreciate all of his work for us over the many years and we will have an opportunity I'm sure to say that to him, and that we

know that even though the last year or so might be difficult for him that we appreciate him standing up for the State of New Mexico and for our community. Thank you, Madam Chair.

CHAIR VIGIL: I think we're still under Matters from the Commission. Thank you very much, Mr. Sedillo. Does anyone have a specific question for Mr. Sedillo?

COMMISSIONER ANAYA: I just want to thank him, Madam Chair. Thank you, Pablo.

CHAIR VIGIL: Commissioner Holian.

COMMISSIONER HOLIAN: I just want to thank you, Mr. Sedillo, and I really want to pass on my thanks to Senator Bingaman for all that he's done on the energy issues. As you know, that's a subject that's near and dear to my heart.

MR. SEDILLO: Thank you so much.

CHAIR VIGIL: Thank you very much.

MR. SEDILLO: Madam Chair, I have just one last announcement. I think the community is getting confused. My son was recently appointed by the governor to head up the juvenile justice and the probation and parole for the State of New Mexico. And his name is Pablo Sedillo. So people have been calling and asking, saying, gee, I didn't realize the governor had appointed you. Are you jumping ship before the Senator leaves? Just to make it very clear: it's not me. I am still with the Senator and you probably will be hearing about my son Pablo. He started yesterday and is very interested. He was in Arizona for 11 years heading up the probation and parole for the State of Arizona. So I'm glad that he's back and he's got a tough job ahead of him. So thank you so much.

CHAIR VIGIL: Thank you, Mr. Sedillo. Mr. Sperling, I don't mean to have you on the spot but I don't have all the information with regard to the free waste day, and I just wanted to clarify. The idea came to the Commission through Liz Stefanics and I believe she had some constituents who brought it to her attention and while she was gone I sort of took the ball and got staff involved because it's the one thing we can do as a policy to help out Santa Fe County residents. Do you want to highlight what that's all about?

DAVE SPERLING (Fire Chief): Certainly, Madam Chair. Thank you, Commissioners. We've initiated a wildfire protection cleanup day scheduled for this month, Saturday, June 25th at the Buckman Recycling and Transfer Center, also called BuRRT, which is located on Buckman Road in Santa Fe. And the concept is to allow Santa Fe County residents one free day to drop off green waste and yard waste in an effort to clean up around their property and protect their home and valuables from wildfire.

We thought about the possibility of doing it countywide utilizing the transfer stations, and recognized that this year we do not have the resources to manage that process but we're hopeful that with the success of this upcoming day on the 25th of June that's something we can move towards in the future. We're working in cooperation with BuRRT and SWMA as well as our own Utilities Department, the transfer folks, to make this a reality. And I wanted to thank both of you Commissioners for instigating this discussion and giving us good direction here.

CHAIR VIGIL: Okay. The date being June 25th. Do you know the times that delivery will be accepted? I think that's 8:00 to 5:00.

CHIEF SPERLING: Madam Chair, I was told it was 8:00 to 4:30.

CHAIR VIGIL: Okay. Commissioner Stefanics.

COMMISSIONER STEFANICS: Madam Chair, I would just like to thank Olivar and Dave Sperling and Randall Kippenbrock for coming together to do this. I did let them know that I had a chicken coop to bring and they said, well, that's not really the intent. The intent is for the green waste around the home. And you indicated to several public meetings that 30 feet from the house is what should be kept clear. Could you just clarify that a little bit so people can plan what they should be cleaning out and bringing in on June 25th?

CHIEF SPERLING: I can, Commissioner Stefanics, Madam Chair. The purpose of this is to encourage people, as I mentioned, to clean up around their house approximately 30 feet, is what the Fire Wise organization recommends. So in that area around your home you would be cleaning up weeds, shrubs, things that are very flammable and if a ground fire were approaching your home would encourage that fire, allow that fire to spread to your house. So it's not just green waste, per se, which might be branches from trees that you trim, but also at this time of year and given the conditions that we've encountered, grasses, pine needles, leaves, anything that you could rake up and dispose of and again would prevent fire from encroaching on your home. It's not intended for household trash, old appliances, cars, that kind of stuff. That's not what we're looking for. It's specifically related to wildfire protection cleanup.

CHAIR VIGIL: Okay. And should anyone have any questions on this, is there a number that they could call?

CHIEF SPERLING: Certainly, Madam Chair. They can call our Prevention Division at 992-3070. We also have information posted on the Santa Fe County website as well as the Fire Department website. That Fire Department website is also a great place to go to look for helpful tips on how you can clean up around your yard. All the information is published and easily accessible through the site.

CHAIR VIGIL: Thank you very much. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you. I would also like to thank Commissioner Stefanics. I didn't realize that she was the one who originally came up with, initiated this and so definitely this is really a great thing for our community and I hope that we can do it yearly now.

COMMISSIONER STEFANICS: Well, Madam Chair, thank you, Commissioner, but I can't take the credit. Some of my constituents in Eldorado wanted something specifically for their community and I had to explain that it's very hard to do something free for one part of the county and not the entire county. So I expressed my concern to all the Commissioners. Those Commissioners who sit on the SWMA board were very interested in making this happen. So I would say that lots of times members of our public have great ideas but we just need to be able to translate those ideas for everybody and not just one small segment. And this is an example of how we had to take something – it didn't happen over night, but we had to take something and work it out so that it could benefit the entire county. Thank you very much.

CHAIR VIGIL: Thank you. And thank you, Mr. Sperling for really stepping up to the plate and helping us out here. Olivar, also, Patricio, I think, and his work with Randall Kippenbrock as was mentioned earlier.

I want to thank everyone who participated in the ribbon cutting ceremonies today at the Mountain Center. Commissioner Stefanics was there, Katherine Miller, thank you for

being there. Speaker Lujan was there and Representative Brian Egoff. I want to particularly thank and I hope that staff felt appreciated at the opening ceremonies because it was really Santa Fe County staff that put the work behind this to make it happen. And I know there were many barriers to move forward with the Mountain Center. I want to thank the Manager's Office. I want to thank Projects and Facilities. I want to thank the Community Services Department, our Procurement Division, our Legal Division. These are really key divisions that have to step up to the plate when it comes to making these projects happen. It made me realize how many of the projects that we've partnered with the State of New Mexico and our legislature are really coming to fruition right now. We actually will be having ceremonies for Esperanza in August. Women's Health Service has moved forward quite a bit in many of the services they're providing between the County and the state. Our judicial complex, we have scheduled a tour. I think they are going to be pouring concrete further and further and we're going to be touring it with the judges.

South Meadows which opened up. Agua Fria, Phase 3. There are so many projects that are coming to fruition as a result of all of the work that I want to recognize staff coming forth with. So thank you all. You deserve far more credit than we ever give you but I want to recognize you particularly today.

I also want to make statements about the Buckman Direct Diversion. That's probably the largest project that has come to fruition. It's been about a month that the water has been running through that project. The Buckman Direct Diversion had its ceremonial opening this weekend on Sunday. Commissioner Holian and Commissioner Stefanics were there, and probably the highlight of that ceremony was touring the facility for most folks. It is a state of the art facility and it is available for tours if staff is contacted way in advance. What they've done engineering-wise for this particular project is phenomenal. Some of the buildings you walk into you'd really think you were walking into a Star Wars set, because it's so state of the art. There's quite complicated everything in many of these buildings.

I want to thank all of those people who worked on the Buckman Direct Diversion, including previous Commissioners who had to do a lot of the negotiations for this particular project. This is a \$214 million project that took a lot of work to make happen and again, staff needs to be recognized for this. Buckman Direct Diversion staff, Santa Fe County staff, City of Santa Fe staff, City Councilors, County Commissioners, private partnerships with PNM, private partnerships with CMH2Hill. We had a contract with them, with Western Summit. Everyone who participated in this, it's really in my mind a very glowing example of what communities can do when they work together, both through local, state and federal government and through private partnerships. So I'm very, very pleased that this project has come to fruition. It's feeling like quite a bit of these projects are going to be happening.

I think the only other thing I'd like to point out is there has been a change in scheduling for the accessibility of South Meadows. Do we have any update on that, Robert? Or is that something we can get out by e-news. I know that the issue has been that the City of Santa Fe has been needing to have some closures on portions of the road and they've negotiated some dates for those closures.

ROBERT MARTINEZ (Public Works Director): Madam Chair, Commissioners, my understanding is that the South Meadows from Agua Fria to Airport road will be closed till around the middle of July. We have authorized the City of Santa Fe to close

the intersection of Agua Fria and South Meadows, which is the County portion, for the weekend of June 18th and June 19th.

CHAIR VIGIL: Okay. Will there be any closures between Agua Fria and County Road 62 or 599 access?

MR. MARTINEZ: Madam Chair, the South Meadows entire roadway between Agua Fria and 599 will be closed only that weekend of June 18th and June 19th because there's no way to detour southbound traffic once you get across the bridge. So that entire section will be closed just for that weekend only.

CHAIR VIGIL: Thank you very much, Robert. Commissioner Stefanics

COMMISSIONER STEFANICS: Madam Chair, before Robert leaves. Robert, would you just mention as much as you know about the Richards Avenue potential closure for the development of a new roundabout?

MR. MARTINEZ: Madam Chair, Commissioner Stefanics, Santa Fe Community College and the County have been working together to come up with a design for the new entrance into the Community College and they have hired an engineering firm that has designed a roundabout for a new entrance that will be approximately 300 feet south of the existing entrance. So there will be a two-week period, and we're not sure of the dates yet, but they're wrapping up the traffic control plan and the construction schedule. But Richards Avenue south of the existing entrance into the Community College will be fully closed for approximately two weeks. Detours will be set up which will detour traffic through Rancho Viejo Boulevard, Dinosaur Trail, back to Richards Avenue. When we get more information as to the exact dates we will do a press release. Message boards will be put up about seven to ten days prior to the closure and we will make sure that all efforts are made to inform the public.

CHAIR VIGIL: Thank you. So –

COMMISSIONER STEFANICS: I just want to clarify, Madam Chair and members of the public, people will be able to get down Richards Avenue to the Community College. It is the stop sign on the south side of the Community College entrance, from that point down to Avenida del Sur stop sign. Is that correct? That will be closed. Which is a very short period. I drive frequently to the Community College, so I actually timed what the detour would take. From Highway 14 to that Community College entrance it takes 15 minutes if you're doing the speed limit and you're stopping at all the stop signs. And everybody last night at Rancho Viejo laughed at me for taking it that slow. But what I explained was it is far better to take 15 minutes at the max, because most people don't live at that stop sign, to take 15 minutes and have continuous traffic to Highway 14 and then to Governor Miles Road into the college or into town than to go up to the college entrance, stop for perhaps 20 minutes, and then go. Because if you do not close the road then there will be stop and go and you might be caught in the 20 minutes of stopping. Whereas if you close and you just go you have 15 minutes of continuous driving and you know you won't be stopped. And I know it's a difficult situation either way and I thought that we could have a bonfire last night but it actually was rather calm in terms of people thinking about it and knowing that yes, they would not like to sit in the hot sun waiting. And the purpose is to do this work before school starts in the fall. So I'm sorry if I interrupted you, Commissioner Anaya.

CHAIR VIGIL: Actually, I'm not done with mine but go ahead.

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COMMISSIONER ANAYA: Madam Chair, Commissioner, just Mr. Martinez, on the message boards, I'd ask the DOT to let us use the message boards and we couldn't for the particular meeting we wanted to, but I'd like to see if we could look into costs associated with maybe at some point in the future getting our own. You know we're always talking about notifying the public and those message boards for the highway projects were an excellent tool to get to those folks who don't have the internet, who don't use technology like others, but I know they're not cheap but I think it would be good for us to look at. Maybe that's something that you and the Manager can kind of get some prices on, but something that we could utilize to move around to different parts of the county when Commissioner Stefanics or other Commissioners are having community meetings. So just a thought to look at. Maybe done the road maybe we can have some of our own.

CHAIR VIGIL: Thank you, Robert, very much. The only other item I wanted to mention is we had quite a bit of discussion at our budget hearings with regard to how the Board of County Commission engages with education and it got all of us to thinking. And perhaps we don't really communicate well with the public with regard to how we do. I think we could delineate quite a bit. I just wanted to make a statement about the most recent engagement the County Commission has been involved with education. There is a two-day conference being held at the Santa Fe Community College. I know Commissioner Stefanics was there. I was there partially. We can't be there because of the Board of County Commission today, but in fact this conference is a strong initiative sponsored by United Way but really pushed forth issues that will address any of the gaps in our education system here in Santa Fe.

I actually participated in one of the training sessions yesterday. I was very impressed by the vast array of representatives in this community that were a part of this initiative. I think United Way has done a very good job of moving forward in addressing the issue of education and I think the Board of County Commissioners, many have participated in one way or another. I in particular was in the core group to try and identify the process for this and I'm anxiously awaiting the outcomes because today that's actually what they're working on, outcomes and recommendations in the community. Thank you to all those who participated. There's well over 100 representatives from the community and northern communities of Santa Fe County and the state.

So with that I think we're done with Matters from the Board.

II. STAFF AND ELECTED OFFICIALS' ITEMS

A. Community Services

- 1. Approve a Professional Services Agreement with Financial Marketing Concepts Inc. for the Provision of the Coast 2 Coast Discount Card Providing Prescription and Other Health Services and Products Discounts to the Residents of Santa Fe County (Health & Human Services)**

STEVE SHEPHERD (Health & Human Services Director): Madam Chair, Commissioners, this is a PSA that will allow us to enter into an agreement for the Coast 2

Coast discount card. To be honest with you we're real excited to be able to do this and get going on it. We've given a couple presentations to the Commission on it. They've kicked in a few additional services that are listed on the little spreadsheet on the back of the packet. We think it's a great deal for the county residents and like I said we're ready to get started.

COMMISSIONER ANAYA: Move for approval, Madam Chair.

CHAIR VIGIL: I have a motion. Is there a second?

COMMISSIONER HOLIAN: Second.

CHAIR VIGIL: Okay, questions? Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. Steve, how does this work if you already have medical insurance and it partially covers your prescriptions? How does this card work with that?

MR. SHEPHERD: Generally what we tell people, Madam Chair and Commissioner, generally what we tell people is to take your insurance and the discount card and see which one will give you a better deal. And we've had several people do it with some mixed success. It's basically aimed at folks who don't have any insurance or anywhere else to turn.

COMMISSIONER HOLIAN: So sometimes it's better one way and sometimes the other.

MR. SHEPHERD: The pharmacist should be able to tell you that.

COMMISSIONER HOLIAN: And one thing that I want to know is what does Coast 2 Coast get out of this? What is their motivation for doing this? It seems like an awfully good deal for us.

MR. SHEPHERD: Madam Chair, Commissioner, they get a royalty such as they're going to pay the County for non-generic prescriptions, for prescriptions that are billed under this program. And that's how they make their money.

COMMISSIONER HOLIAN: I see. Okay. Thank you, Steve.

CHAIR VIGIL: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Madam Chair. Steve, the one thing I can say is that the card does assist if you have animals that need prescriptions.

MR. SHEPHERD: Yes it does.

COMMISSIONER STEFANICS: That our own medical care won't cover. But if our medical coverage does not cover a specific drug because it's not on a formulary, that discount card can assist with that as well. My other question was wasn't there a laboratory service that went along with this new card?

MR. SHEPHERD: Madam Chair, Commissioner, yes there is. And we're going to work in the time between now and the time we terminate the NACo contract, we're going to work at identifying those labs. We have identified the imaging sites.

COMMISSIONER STEFANICS: Okay. Because the reason I bring that up, Madam Chair, is that last year our County employees' health insurance, including ours, started charging for lab work when in the past it was totally covered. And now we're paying ten percent. So it is possible, and we should figure this out, from Commissioner Holian's question, is whether or not one card would take care of that ten percent and the other would not. So we might just look at that as well.

MR. SHEPHERD: We'll do that.

COMMISSIONER STEFANICS: Okay. And when do we envision this starting?

MR. SHEPHERD: We've got a 60-day period to cancel the NACo contract, so I would say probably mid-August would be the date, sometime in there would be what we'd be targeting.

COMMISSIONER STEFANICS: Okay. And Madam Chair, Commissioners, I had asked that when we do this, when we do start it, that we try to do it with a splash so that many of our county residents know about it and that it's not a well kept secret, because I think it could benefit many, many people.

MR. SHEPHERD: I've talked to Kristine about it, so we'll get going on that.

COMMISSIONER STEFANICS: Okay. Thank you very much, Madam Chair.

CHAIR VIGIL: I have a motion and a second. Any further discussion?

The motion passed by unanimous [4-0] voice vote.

XII. A. 2. Ordinance No. 2011-4, an Emergency Ordinance Declaring Hazardous Fire Conditions and Imposing Restrictions on Open Fires, Smoking and Other Ignition Sources (Fire Department)

CHIEF SPERLING: Thank you, Madam Chair, members of the Commission. As you know, this is our third time this season bringing forward this emergency ordinance. I'm hopeful that this is our last 30-day period and that this will take us into the start of our monsoon season in July. But it is as you know necessitating by our continuing drought conditions and the last 60-day period has been relatively effective in banning open flames, campfires, open burning of rubbish and vegetation, smoking within county parks, littering on public roadways in areas with ignited smoking materials, use of off-road vehicles and motorbikes within county parks, campgrounds and wildland areas, and we've been prohibited from issuing licenses or permits for open burning.

So I'm asking for your approval of this emergency ordinance for another 30-day period to prohibit those specific activities which will give us another tool in our toolbox to try to keep the community safe in Santa Fe County.

CHAIR VIGIL: Okay. Are there – Commissioner Anaya.

COMMISSIONER ANAYA: Actually, this is a public hearing, so we don't need a motion yet?

CHAIR VIGIL: No. I'm asking for questions, if you have a question.

COMMISSIONER ANAYA: No.

CHAIR VIGIL: Okay. This is a public hearing. Is there anyone in the public that would like to address the Commission on this item? The public hearing is closed. I'll entertain your motion, Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, move for approval.

COMMISSIONER STEFANICS: I'll second.

CHAIR VIGIL: I have a motion and a second.

The motion passed by unanimous [4-0] roll call vote with Commissioners Anaya, Holian, Stefanics and Vigil all voting in the affirmative.

XII. A. 3. Resolution No. 2011-87, to Proclaim Extreme or Severe Drought Conditions within Santa Fe County and to Ban the Sale and Use of Certain Fireworks in the Unincorporated Portions of the County and within Wildlands in the County (Community Services Department/Fire)

CHIEF SPERLING: Thank you, Madam Chair, members of the Commission. We're asking your approval to proclaim extreme or severe drought conditions within Santa Fe County and to ban both the sale and use of certain fireworks in accordance with state law in the unincorporated portions of the county and in the wildlands of the county. And I can confirm that there currently exists in Santa Fe County extreme or severe drought conditions and the probability of wildland fuels and the spread of fire is very high. These conditions have created a significant and immediate threat to life, safety, health and the welfare of the citizens of Santa Fe County and to both public and private property located within the county.

We're requesting permission to ban, in accordance with state law both the sale and use of fireworks of the following type: missile-type rockets, helicopters, aerial spinners, stick-type rockets, roman candles, shells and ground audible devices such as firecrackers, and to ban the use of all fireworks within wildlands in Santa Fe County. The use of permissible fireworks such as cones, fountains, ground spinners and sparklers shall be limited to areas that are paved or barren. In addition, public displays of fireworks are permitted. This resolution and proclamation would be effective for 30 days and may be re-issued if warranted. With that I'd also like to encourage the public to consider completely avoiding consumer fireworks this year and to seek out a public display and find another way to celebrate our nation's independence this year. I think it's critically important that we avoid all sources of ignition throughout Santa Fe County in this Fourth of July season. So with that I would stand for questions.

COMMISSIONER HOLIAN: Madam Chair.

CHAIR VIGIL: Commissioner Holian, then Commissioner Stefanics, then Commissioner Anaya.

COMMISSIONER HOLIAN: Thank you, Madam Chair. Chief, why is this done by resolution as opposed to ordinance?

CHIEF SPERLING: Madam Chair, Commissioner Holian, I believe this kind of piggy-backs on our no-burn ordinance. If I'm in any way mistaken on that I think the County Attorney may be able to weigh in as well.

MR. ROSS: Madam Chair, Commissioner Holian, this is the way it's done under state law. There's a very specific state law on the topic of fireworks. So it's a little odd, but that's how it works.

COMMISSIONER HOLIAN: Thanks, Steve. And then what would be the penalty for violating this resolution?

MR. ROSS: Madam Chair, Commissioner Holian, the penalties are specified in the state law. It's a little different from the way we normally do it.

COMMISSIONER HOLIAN: Okay. Thank you. So I would like to again emphasize for the public that all fireworks are banned in the wildland areas and I think that's a really good thing. So thank you, Chief.

CHAIR VIGIL: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Madam Chair. Last evening we had a small boy at our townhall meeting when the Fire Chief talked about this ban and his face – the Fire Chief was talking about what was not banned but that was still very dangerous and that perhaps parents could keep children from using the caps, etc. And I could see this small boy's face just fall. And I thought, how is the mother going to handle this? So afterwards I talked to the family and I thought, there are other ways to celebrate, and especially when it's so hot, we talked about water balloons, and having water fights or water balloons or good old fashioned water hose things that we just don't do anymore. So I think it is time for the parents to be creative and to think about this, especially for small children who might be expecting something exciting that day. Thank you.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Chief, we have one issue that deals with no open burning whatsoever, including smoking a cigarette. And then we have this that deals with fireworks alone. So explain to me legally how do we deal with an issue of not being able to allow somebody to light a cigarette but they're allowed to light a firework. Help me out here. How do we communicate this? Theoretically, they could light fireworks but the minute they light the match we could theoretically cite them I would think.

CHIEF SPERLING: Madam Chair, Commissioner Anaya, theoretically I believe you're correct, and I did mention that at our last meeting. However, going back to what the state allows regarding prohibition against fireworks it really does get kind of messy and we're prohibited from banning all fireworks by state law. So some fireworks continue to be allowed. The industry classifies those as the safe and sane variety. Professionally, I have a hard time calling them that. Any firework I think has the potential of creating destruction and injury. So the ordinance, the resolution kind of go hand-in-hand. I think we'd have a difficult time, honestly, completely enforcing everybody's effort to light a sparkler, for instance, in a barren area on a driveway.

So I think these two tools in our toolbox are really what we will rely upon to try to do as much as we possibly can to prevent unnecessary fire this Fourth of July. I think that's the best way I can phrase it.

COMMISSIONER ANAYA: Thank you, Madam Chair. Thanks, Chief.

CHAIR VIGIL: Any other questions?

COMMISSIONER HOLIAN: Move for approval.

CHAIR VIGIL: I have a motion. Is there a second?

COMMISSIONER STEFANICS: Second.

The motion passed by unanimous [4-0] voice vote.

XII. B. Public Works/Utilities Department

1. Resolution No.-88, Adopting Recommendations From the Water Focus Group and Directing Utility Staff to Update the Conjunctive Management Plan for the Santa Fe Basin (Utilities Department)

KAREN TORRES (County Hydrologist): Good afternoon, Madam Chair, Commissioners. Thank you so much for this opportunity. The Water Focus Group was formed to work on a project that had started prior to me coming on board with the County in 2006, to look at backup strategies for supply to the Buckman Direct Diversion. So it's been a rather extensive process. Along the way the Commission appointed a Water Focus Group due to the contentious nature of water not only in this county but in the West in general. The focus group did put together a very aggressive work plan and they did complete their final recommendation back in August of 2010. And since that time the Buckman Direct Diversion has come on line. We have had negotiations with the City, so we have a backup supply right now from the City.

The focus of the group – I hate to say the focus of the focus group shifted a bit and instead of proceeding with funding drilling wells immediately they came up with some strategies on backup supply and recommended some paths forward and some tasks for staff to complete. So the resolution that is before you today outlines the major recommendation of this group.

One of the members of the group is here, Dave Gold, which I have to give accolades to this group of volunteers. They worked very hard. They had to learn a lot of technical issues and had to go over a lot of data that I presented to them. There was a lot of negotiations I'd like to call. Maybe we might call it arguing, but we all came to a consensus. I want to note that their original memo that's in your packet, all of the analysis was done by staff. We did not hire a consultant to complete all this work. So there was considerable cost savings done for the taxpayers.

Again, this group was voluntary. They did a great job and again, I just thank them for all their hard work. Getting back to the resolution, the key elements that they're recommending is that we number one, negotiate further with the City of Santa Fe to secure backup supplies, not only for the County but in the context of a regional water system. That we also update the conjunctive management plan that was approved back in 2009 to address changed conditions and to also look at other technologies that may be available for backup supplies, specifically the concept of aquifer storage and recovery, which is the ability to take water, put it into the aquifer for storage and then take it out when it's needed.

It hasn't been – it's not very successful in New Mexico but recently the City of Albuquerque has gotten a permit to not only store but to extract water which was a major event as far as us water folks go. So I think they have paved the way for this technology to be explored further. Traditionally, the group did feel that this citizen-based focus group was a really great vehicle for public input. They worked very hard on trying to figure out the best ways to reach the public and discuss these very technical water issues. They ended up looking at several different strategies for public outreach and I think the one that was most effective for them was actual direct mailing. That meeting got the most folks to attend.

The charge of the focus group was fairly limited but they would recommend that if there was another major water issue that comes up for a policy that perhaps the Board would reconsider reconvening a group like this with a specific task. Additionally, this resolution calls for, as I mentioned earlier, staff to immediately look at aquifer storage and recovery potential for a backup supply, and additionally to seek funding to monitor the La Cienega and La Cienega Springs. That is an area in this local basin that is an area that is what we call the discharge area. It means that groundwater discharges there. So if there are changes in the aquifer above that there could be changes to the spring output, but without monitoring it's very hard to measure. So that's one of the key recommendations of this group. With that I'll stand for questions.

CHAIR VIGIL: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. Well, first of all, Karen, I really want to say thank you to you and to the Water Focus Group. It's clear that all of you did a lot of hard work and serious study on this issue and I take your recommendations very seriously. Also I really like the monitoring plans that you came up with. That is an excellent idea. Also the public outreach was terrific. And I like what you included, the draft wording to the Office of the State Engineer. So I think that will help with that application. But I do have a number of questions.

First of all, on the aquifer storage strategy, who will do the research on that? I mean mainly will it be you?

MS. TORRES: The entire hydrology staff will be working on this. How I envision that is to first do some research on it, to see how the state has approved other applications and look at the feasibility. There is also staff at the BDD who also has interest and skill in this area. Bob Mulvey in his previous position, he drilled I believe five aquifer storage and recovery wells in Arizona. So he has some experience in that area and is willing to share that experience. I think once we figure out – sort of research this and develop a strategy we should probably start looking at some public scoping meetings and see what issue arise from there.

COMMISSIONER HOLIAN: And I'm really curious about this aquifer storage because it's my understanding that aquifers flow. They're like a giant underground body of water that flows. So if you put water into the aquifer is it going to stay there or is it just going to flow away?

MS. TORRES: Well, the aquifer does flow but the rate that it flows is very slow. It's not necessarily something that's very easy to detect. In the areas where it does flow faster, like streambeds and things like that, I wouldn't necessarily say it's like an underground river but it's more like a preferential pathway for the flow of water. It kind of depends on the area and the materials of the aquifer. But the rate is relatively slow, so it should stay there for a duration of time. I think the main goal of it is more like a mass balance, or a total look at the aquifer. If you are injecting in say, 100 acre-feet in a certain area, that adds 100 acre-feet to the aquifer. So then extracting it shouldn't totally have a negative impact on that aquifer, though there could be local impacts that would be addressed.

COMMISSIONER HOLIAN: Okay. It's interesting and I'll be interested to hear further research in the future. So, let's see. Another question I had is about the interim

plan. Has anybody actually approached the City yet about the 500 acre-feet per year backup and whether they would be willing to extend that for a couple of years?

MS. TORRES: We currently have a contract with them under the wheeling agreement for 500 acre-feet of water, which we can take almost anywhere in the City from one of their master meters. It's considered, at least in the context of this analysis more of a short-term solution because if there is something catastrophic we are paying the City wholesale costs for that water, plus our O&M costs on the BDD, which could be a little expensive. And I think that source of water, we want to reserve it for use in the future if necessary. But I do believe at this point that the City has sufficient capacity to provide us that backup.

COMMISSIONER HOLIAN: Okay. Then as far as the longer term I noted that what you've identified are five well sites which means that new wells will have to be drilled and so on. So I suppose even if we used existing well sites there would probably have to be money spent to turn those into real production wells. But in any event, is there grant funding available – would there be grant money for drilling those wells or at least partially for the cost of that?

MS. TORRES: Yes, we can apply for grant money to do this. It would be in the context of a regional system. I think those types of grants are a little more readily available. Also because this is for really an emergency event I think that would also make it very ripe for different grants to apply for. In the state of New Mexico we have the Water Trust Board which coordinates on water projects. I know for the latest project the Albuquerque-Bernalillo Water Authority is entertaining they are requesting Water Trust Board money for that, so we can also have that same strategy.

COMMISSIONER HOLIAN: Okay. And then I have just one final question. In all the community meetings that you had would you say that the consensus of the community was positive towards this strategy?

MS. TORRES: Well, I would say as positive as a topic like this can be. There is, again, as I said earlier, it's very contentious. Nobody really wants wells near where they are located at. But once they saw that we were doing our best to minimize any sort of impacts I think that folks got a better sense of it. For instance, due to the placement of where these wells are we had dramatically decreased depletions on La Cienega. Due to the pumping strategy, dramatically decreased predicted impacts to nearby wells. And so once they saw all these projections in place they were a little bit more at ease. I am hesitant to say any group is 100 percent in favor of anything water-related but my opinion is it was as positive as I've seen.

COMMISSIONER HOLIAN: Great. Thank you very much, Karen, and thank you again to the Water Focus Group.

COMMISSIONER STEFANICS: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Madam Chair. Thank you, Ms. Torres. You mentioned La Cienega, La Cieneguilla. The mutual domestic and the ditch association as you know have been very concerned as am I as the representative in assuring that they have the levels of water than they need. At a previous Commission meeting I brought up Valle Vista, that there be some discussion with staff and then with La Cienega and the community in regard to that process of retiring that particular well and getting to the

core of the issues that are contained in this plan; have we done that? And what ongoing are we having with the mutual domestic in particular, the ditch association, the community association and then other leaders in La Cieneguilla as well.

MS. TORRES: Certainly. The Villa Vista wells, we no longer use those wells as well. The folks in Villa Vista are entirely on the County water system which we wholesale from the City and now we get it from the Buckman Direct Diversion. We have no intentions of actually using those wells or that location for backup wells at least in the analysis that was done by this group. The location was not favorable for several reasons and one of the main reasons was the proximity to La Cienega Springs and the estimated impact. Some of those wells are really out of commission. We can definitely look at trying to cap those wells and it if is in fact our intention to never use them again and I can make sure that that's the case and then those wells can be capped.

COMMISSIONER ANAYA: And, Madam Chair, Ms. Torres, I think constant communication with those entities is helpful to them as you know. So I would ask that that continue and the more clear and concise we can be with what we're going to use and not use and send the appropriate message and commitment to the County to do what we said that we're going to do. I appreciate the feedback, thank you.

MS. TORRES: Absolutely.

COMMISSIONER STEFANICS: Thank you, Commissioner. What's the pleasure of the Commission?

COMMISSIONER HOLIAN: Madam Chair, I move for approval of Resolution 2011-88.

COMMISSIONER ANAYA: Second.

COMMISSIONER STEFANICS: Thank you. Any further discussion?

The motion passed by unanimous [3-0] voice vote. [Commissioner Vigil was not present for this action]

XII. B. 2. Authorization to Publish Title and General Summary Amending Ordinance 2010-5 to Add the new fee of \$40.00 for 12 waste disposal visits per ticket, at any of the County's Sold Waste Transfer Stations. All other provisions of Ordinance 2010-5 shall remain unchanged.

COMMISSIONER ANAYA: Madam Chair, if I could.

COMMISSIONER STEFANICS: Yes, Commissioner.

COMMISSIONER ANAYA: Madam Chair, Mr. Ross just a quick question. We had a lot of discussion on this item a the last meeting and I thought we actually took this action to publish and based on the discussions with you after the meeting it was my understanding that we couldn't meet the publishing date today so we're going to publish at the end of June and then in the first meeting of July. So I guess I'm confused based on going back and listening to the meeting and the minutes on this being an item for action. I thought that this was an item we addressed in the question and the actual motion we made at the last

meeting.

MR. ROSS: Madam Chair, Commissioner Anaya, no the authorization has to be on the agenda. You guys authorized us to go forward to put it on the agenda today so it can be properly voted on and that's what we're doing now and then we have to wait two weeks before we can enact an ordinance but because today's Tuesday and our next meeting is only two weeks from now we can't get it in the paper in time to have a full two weeks of publication before the next meeting so we have to do that in the first meeting in July.

So what we'll do is authorize it today. We'll publish it probably right away for final action in the first meeting in July.

COMMISSIONER ANAYA: Madam Chair, I'm going to just listen for now.

COMMISSIONER STEFANICS: Okay. So do you have a presentation?

MR. GUERRERORTIZ: Madam Chair, I don't have a presentation except we were following your directive and we have made the changes that are necessary to accommodate that directive and this is what you have right now a request for you to authorize us to publish the ordinance amending the existing ordinance.

COMMISSIONER STEFANICS: Commissioner Anaya, since this was at your prerogative and I supported it is there anything that you would like to comment on or clarify?

COMMISSIONER ANAYA: Madam Chair, based on the discussion from the last meeting and by the way I received a lot of favorable comments on from people throughout the county and in every district was that they were going to have that opportunity to come to a public process and provide input in the public hearing process. I move for approval and I am hopeful that that process is allowed to occur.

COMMISSIONER STEFANICS: I'm going to second.

MR. GUERRERORTIZ: Madam Chair, if I may add one more thing to what I just said.

CHAIR VIGIL: Please. I'm taking over the chairship. Please.

MR. GUERRERORTIZ: Thank you, Madam Chair. There is one thing that is important for every body to know is that we have to make very significant accommodations to be able to provide the services that you want us to provide to the public. Services don't come for free and they have to accommodate to the existing budget. So reducing the cost or increasing the ability for the public to get services for a lower cost also means that our revenues are reduced and as we accommodate our services to comply with your request we also feel the need to change the way we operate today. I had suggested that one of the things that we can do without augmenting or increasing the budget significantly would be to have fewer days of services for some of the transfer stations so that we can use the personnel we have to provide two things. One is, two operators per transfer station and the other one is the services that you want to have in all of the transfer stations without having to increase the number of staff. Let's what I would like you to hear today in addition to the fact that we have complied with the request of this Commission wanted or had said at the last meeting to reduce the cost of services to the public.

CHAIR VIGIL: Thank you. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. Well, I have to say that I'm going to vote against this and the reason that I'm going to is that this is a band aid.

Well, I'm not even sure this is a band aid solving that is solving anything. I would rather see an overall comprehensive plan as to what we can do with our solid waste department that number one, lowers cost because it is very high cost service to the community. And, secondly, that encourages a maximum amount of recycling. Thank you, Madam Chair.

CHAIR VIGIL: Thank you. I want to comment to. I really appreciate staff's comment. This is my concern as a policy decision maker. Often times when we make policy just based on statements that we think probably will create a remedy that doesn't necessarily mean that that remedy is created. While this is at first blush a lower cost to the residents, does it really do that? We need fiscal impact with regard to this. We've also given staff direction to try to remedy the issues that have come to us through a community based initiative that studied this. I'm not comfortable making policy decisions that are adverse to a process that we've already put in place and that is bringing forth perhaps that solid waste committee who really studied this and did some homework and we learned that lesson when we actually were trying to affect policy wise these costs. So you know, I'm not comfortable with this because I don't know what the impact will be and I think we're sort of bypassing a process that we've already had in place and that's not allowing that community-based organization who made recommendations to us and I think that should be an integral part of this so if there are any other comments. Commissioner Anaya.

COMMISSIONER ANAYA: I withdraw my motion.

CHAIR VIGIL: Okay, I have a withdrawal for the motion. I need to find out if the seconder is willing to withdraw her second. I would assume she would.

COMMISSIONER STEFANICS: Yes.

CHAIR VIGIL: Protocol question; is that for legal?

COMMISSIONER ANAYA: Madam Chair, Mr. Ross, obviously I'm frustrated as all get up to put it bluntly. With that said, at the last meeting and I'll go back and verify through the discussion and comments that you made as our counsel, it was my understanding that a Commissioner could bring forward an item. And we had a long discussion back and forth and you and I in particular as to this particular item and it being published not only at the meeting but after the meeting and now what I'm dealing with before me is different. So, clarify for me. Any Commissioner can ask that an item be published for title and general summary without a majority of Commissioners and that item would be put the Commission agenda to be voted on by the Commissioner. That's what you said last time.

MR. ROSS: Madam Chair, Commissioner Anaya, I think you may be condensing two items. If an individual Commission wants to propose an ordinance for adoption probably one of the easiest ways is to approach myself or one of the my staff members and we'll draft it up and assist you to place it on the agenda for title and general summary. That's how you get the formal ordinance process started.

Last time we were in the context of a general discussion and we didn't have this specific agenda item on. So we put it on so that we can get the formal process which is required by statute going. Which is the first step of course is an authorization to publish title and general summary and that's what we've got here. That's the first step that is necessary to get the ordinance going.

And then, like I said a minute ago, you have to two weeks of publication and then you can put the ordinance on for adoption. So it's really two or three steps depending on whether

the first step is formal or informal.

COMMISSIONER ANAYA: Madam Chair, I very much appreciated the second from Commissioner Stefanics and I would like for this to be on the next agenda with the full Commission to address it. Thank you.

CHAIR VIGIL: Thank you. The motion has been withdrawn so at the request that has been made that it be brought forth at the next agenda as an item. Okay. Unless there's another motion, we are now under matters from the County Manager.

XII. C. Matters from the County Manager

1. Resolution No. 2011-89 Appointing Commissioner Daniel Mayfield to serve as the voting delegate of Jemez Mountains Electric Cooperative, Inc. [Exhibit 3]

MS. MILLER: Madam Chair, Commissioners, this is kind of a formality. We need an appointee to be able to vote on the Jemez Mountain Electric Co-op and in the past it has been the Commissioner from that district. Commissioner Montoya did that before and we requested that Commissioner Mayfield would like to be that designee and he said that he would. So this is for the formal action required to adopt.

COMMISSIONER ANAYA: Move for approval, Madam Chair.

CHAIR VIGIL: I have a motion. Is there a second?

COMMISSIONER STEFANICS: Second.

The motion passed by unanimous by unanimous [3-0] voice vote. [Commissioner Holian was not present for this action.]

XII. C. 2. Legislative Update
[Exhibit 4: Legislative update summary]

MS. MILLER: Madam Chair, Commissioners, at one of the previous meetings I believe it was Commissioner Stefanics as well as a couple of you asked for kind of a summary of the bills that passed that affected the County specifically. So Rudy and Hvtce have been working with all the departments to review the bills that passed and whether they actually affect us and if they do in what way. This is quick summary of those bills, all of the ones that were passed and signed into law, when they become effective and which departments and we've provided a brief statement of what it entails. This was kind of a follow-up for you and Hvtce and Rudy put this together and Hvtce is here for questions.

HVTCE MILLER (Intergovernmental liaison): Madam Chair, Commissioners, like Ms. Miller was saying, after the April meeting it was requested by the Commission to provide a more specific report on those items that pertain to Santa Fe County including bills and memorials as well. This report contains concise summaries that relate to the County government aspects of each legislative item. And there are more concise and specific to how they may affect elected officials or county departments.

In this addition to presenting this report to you, this report will be shared with the

department directors and elected officials here at the County.

CHAIR VIGIL: Questions.

COMMISSIONER STEFANICS: Madam Chair.

CHAIR VIGIL: Commissioner Stefanics.

COMMISSIONER STEFANICS: Madam Chair, this question is for our County Manager or Teresa who is not in the room, I am first of all interested in fiscal impact for anything that might hit us for FY12. Is there any revenue sharing or any new unfunded mandates that have come through?

MS. MILLER: Madam Chair, Commissioner Stefanics, I don't know of any large ones that we had. We were looking at – I do believe that Teresa has reviewed some of these as well along with the respective departments that it might affect. But I don't think that there were any major ones that affect us. I will say that there probably will be next year. There is a little bit of one where the fee and it's in House Bill 2 where the fee for distribution of Gross Receipts Tax, tax and collection and distribution, we will get hit with a little higher percentage on that but not on the hold harmless part. That did affect municipalities, and counties I think were accidentally left out of that but I understand that they will pick us up next year. That is that there is a fee that Tax and Rev charges on the collection and distribution of gross receipts tax. They raised the fee I think by .25 on all of them but then they also – it had never been imposed on the hold harmless portion of gross receipt taxes so municipalities they were hit a full 3.25 percent, I think, versus just the increase of a .25 percent. So there is that provision and it's actually in the budget bill or the tax bill. It's not a separate bill on its own.

So that one I am aware of. Aside from that I'm not sure that any of these have any direct unfunded mandate cost to us. I don't if Teresa came back and if she knows of any.

COMMISSIONER STEFANICS: Well, Madam Chair, today – thank you for that explanation so far. Today, at the Santa Fe Mountain Center I had the opportunity to talk with Representative Egolf and we started talking about foreclosures and he brought up a bill that passed and I'm wondering if we are coordinating it with our affordable housing with Darlene and assisting with foreclosure. It's the New Mexico Homestead Act that protects people with houses, primary homes, of \$165,000 or less from foreclosure and we have initiated a foreclosure program and I'm just wondering now if we are in fact coordinating with. He went on to talk about how all the people, not just people up to \$165,000, but all people who might be going through foreclosure can now ask for a foreclosure mediation program in State District Court. So we – that's another bill that might not have specifically said county but since we are working on affordable housing and trying to stop foreclosures we might need to pursue looking at that piece of legislation as well.

Thank you, Madam Chair.

MS. MILLER: Madam Chair and Commissioner Stefanics, we'll look into that. Also, there is one other, they did that HB 626 Fire Protection Grant Fund increases in the distribution. It doesn't take any money away but I do believe it delays the increase distribution that were authorized a couple of years ago.

CHAIR VIGIL: Any other questions? Seeing none, thank you, Hvtce, for bringing those to our attention. And, I guess if we do have follow up questions we can contact you.

MR. MILLER: Correct.

CHAIR VIGIL: Thank you very much. Are there any other items that you'd like to update us with?

MS. MILLER: No, I think that was it on issues that you had talked to us about. I do have in reference to Commissioner Anaya's request on the five-year history. I think that we have that ready and we'll be able to get that to you tomorrow, Commissioner. And, hopefully it will – we tried to separate it out because of the different organizational changes and I will make that caveat and I'll provide it to all the Commissioners but it did not include 12. I shouldn't say it didn't include 12 it doesn't include any reorganization for 12 and showing how those changes might go into 12. You could look at the individual increases based on 11 to 12 under its current organization. So it does not reflect any organizational structure changes for 12 in itself.

CHAIR VIGIL: Okay, thank you very much, Ms. Miller.

XII. D. Matters from the County Attorney

1. Executive session

a. Discussion of pending or threatened litigation

MR. ROSS: Madam Chair, we need a closed executive session to discuss pending or threatened litigation.

CHAIR VIGIL: Okay, is that the only item we need to go into executive session about or is there any other item from members of the Commission that they'd like to discuss? If not, may I have a motion in that order.

Commissioner Holian moved to go into executive session pursuant to NMSA Section 10-15-1-H (7) to discuss the matter delineated above. Commissioner Stefanics seconded the motion which passed upon unanimous roll call vote with Commissioners Vigil, Anaya, Holian, and Stefanics all voting in the affirmative.

[The Commission met in executive session from 4:30 to 5:40.]

Commissioner Stefanics moved to come out of executive session where only those items noted in the agenda were discussed. She identified those that participated in the session that included the Commissioners, the County Manager, the Deputy Counsel, County Attorney and Assistant County Manager. Her motion was seconded by Commissioner Holian and passed by unanimous [4-0] voice vote.

XIII. PUBLIC HEARINGS

A. Growth Management

- 1. BCC Case # MIS 11-5160 CJ'S Café Restaurant License CJ'S Café, Applicant, requests approval of a Restaurant Liquor License to serve beer and wine with meals. The subject property is located at 3810 Highway 14, within Section 35, Township 15 North, Range 8 East (Commission District 5)**

JOSE LARRAÑAGA (Review Specialist): Thank you, Madam Chair. The Applicant requests approval of a Restaurant Liquor License. CJ'S Café will not have a bar, however, they intend to serve beer and wine with meals. The issuance of a Restaurant Liquor License will not increase the intensity of the restaurant, as there is not any proposed expansion of the existing site.

The property is acknowledged by the Land Development Code as a legal non-conforming commercial property for restaurant and/or food service use. On September 14, 2004, the Board of County Commissioners granted approval, of a zoning statement, to allow beer and wine to be served on this site as a permitted use.

CJ's Café is current with the Santa Fe County business license requirements. The restaurant consists of a total of 2,100 square feet with approximately 832 square feet of dining area and a patio area of 400 square feet to be utilized to serve beer and wine with meals.

The State Alcohol and Gaming Division granted preliminary approval of this request in accordance with Section 60-6B-4 NMSA of the Liquor Control Act. Legal notice of this request has been published in the newspaper. The Board of County Commissioners are required to conduct a public hearing on the request to grant a Restaurant Liquor License at this location.

Recommendation: Staff has reviewed this application and has found the facts presented support this application: the property is acknowledged by the Land Development Code as a legal non-conforming commercial property for restaurant and/or food service use; the Board of County Commissioners granted approval, of a zoning statement, to allow beer and wine to be served on this site as a permitted use; the Applicant's request complies with the Santa Fe County Land Development Code; the Applicant has met the State of New Mexico requirements for noticing, distance from schools and churches; therefore, Staff recommends approval of the Applicants request.

CHAIR VIGIL: Okay, is the applicant here?

MR. LARRAÑAGA: Yes, Madam Chair.

CHAIR VIGIL: Okay, before I give the applicant the floor, are there any questions for staff?

COMMISSIONER ANAYA: Madam Chair, just a quick one. What type of interaction has the applicant had with the community association along Turquoise Trail?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, I don't if she's had any kind of community meeting over the liquor license or restaurant license. But she has been open as a restaurant for five or six months.

COMMISSIONER ANAYA: Maybe she can comment on that when she

comes up.

CHAIR VIGIL: Okay. Is the applicant here? Would you please state your name and be sworn.

[Duly sworn, Carol Hayes testified as follows]

CAROL HAYES: My name is Carol Hayes and I live at 25 Arroyo Coyote Road in Santa Fe.

CHAIR VIGIL: And, Commissioner Anaya, could can pose your question.

COMMISSIONER ANAYA: Yes, I just want to know what interaction that you've had with the community in the area. I know they frequent your establishment. What type of interaction have you had with the community? Any feedback either negative or positive on your proposal?

MS. HAYES: We've been open since March and a lot of our customers are locals. We have a computer club that meets there every Saturday morning and everyone has been interested in my obtaining a beer and wine license.

COMMISSIONER ANAYA: Thank you, Madam Chair.

CHAIR VIGIL: Any other questions? Is there any testimony that you would like to include?

MS. HAYES: No.

CHAIR VIGIL: Is there anyone here who is here to testify on this item? Please raise your hands. Seeing none, this public hearing is closed.

COMMISSIONER STEFANICS: Madam Chair, I would approval of BCC Case MIS 11-5160 CJ's Café Restaurant license.

COMMISSIONER HOLIAN: Second.

The motion passed by unanimous [4-0] voice vote.

2. **CDRC Case # MP/PDP 09-5300: UDV Temple. Centro Espirita Beneficente União do Vegetal (UDV Temple), Applicant, James Siebert, Agent, request Master Plan and Preliminary Development Plan approval for a Community Service Facility (religious institution) as defined in Article III, Section 7 of the Land Development Code (the Code), as amended. The two-phase proposal consists of a 4,660 square foot enclosed structure to be used as a temple with a 540 square foot covered portal and a 1,900 square foot roof and slab to be enclosed for inclusion to the temple as part of a subsequent phase, a 706 square foot yurt, a 225 square foot utility room, and a 225 square foot storage building on 2.52 acres. The property is located at the southwest corner of the intersection of Arroyo Hondo Road (CR58) and Brass Horse Road (CR 58C) at 5 Brass Horse Road, within Section 13, Township 16 North, Range 9 East (Commission District 4) [Case packet on file with County Land Use Department]**

COMMISSIONER HOLIAN: Madam Chair, there are two disclosures I would

like to make in regard to this case. One, is that I have relation – well, not a relationship, but a working relationship with Richard Jennings. He is I believe designing the wastewater system for this development and he is also designing a water catchment and wastewater system for a cabin that my husband and I are building on Glorieta Mesa.

Number two, I live in Sunlit Hills which is about a mile as the crow flies from the site.

CHAIR VIGIL: Thank you for that disclosure, Commissioner Holian.

Many of you are new to the County Commission and for some of you this may be your first time in these chambers. This is an old historic building and we conduct our meetings very formally and allow everyone to speak to the extent that that would like to speak. And we're going to start this formal process in the same way we always have with these kinds of applications and that is to allow the applicant to speak to the Board of County Commission. And how we proceed is that once they have spoken then the opponents or proponents get to speak and I'll get a gauge of that once the applicant has had a chance to speak. After the applicant speaks, the Board of County Commission does have the opportunity to ask any questions of the applicant; further clarifications in any of their testimony or further testimony. So once that is done, then anyone who is here to testify, for or against this, will have their opportunity.

So with that I'm going to turn it over to the UDV applicants whoever would like to start. And if you have actually an agenda in terms of how you're going to move we'd love to hear it.

Oh, Shelley you need to – we do need a recommendation.

SHELLEY COBAU (Building and Development Services Manager): Thank you, Madam Chair. The applicant, as Commissioner Vigil said is requesting Master Plan and Preliminary Development Plan approval for a new religious institution, which is referred to in our Code as a Community Service Facility, at 5 Brass Horse Road. The Applicant further requests that the Final Development Plan for the project be reviewed and approved by staff, administratively.

The case was heard by the County Development Review Committee on November 18, 2010. The decision of the CDRC was to recommend approval of this request. The minutes from the CDRC meeting are included in the Commission packet as Exhibit O.

Subsequent to the CDRC hearing, the Development Request and Phasing Schedule were revised to address computational issues with regard to square footage and to address questions posed regarding the number of phases and timing of these phases along with the number of kitchens. The revised information is included in your packet as Exhibit P.

Also subsequent to the CDRC meeting, numerous letters from residents in the area have been received. In fact, we just got one today which was handed out to you just now as part of the record. In an effort to make the presentation review of this staff report more comprehensive, the most recent letters have been included as Exhibit Q. I tried to stack them chronologically but the newer ones are at the end of Exhibit Q because we had the packet that was already prepared for the February hearing here at the BCC where the case was tabled. Additional information has also been prepared by the Applicant regarding water supply and liquid waste disposal subsequent to the February packet and that information has been included as Exhibit R. I will summarize the Water and Liquid Waste sections of staff report.

SFC CLERK RECORDED 07/14/2011

The UDV Temple Master Plan and Preliminary Plan Report was prepared by James Siebert and Associates and most recently dated July 10, 2009. Architectural renderings prepared by Paula Baker LaPorte and are included in Exhibit B. The Master Plan and Preliminary Development Plans, which is in Exhibit C, along with the Water Resources Report which has subsequently been updated, the original water resources report is in Exhibit D. The Traffic Impact Analysis was prepared by a professional engineer named Craig Watts and that's in Exhibit E. All of these items have been reviewed for technical accuracy and compliance with our Code. Supplemental information includes an analysis of building sites in Arroyo Hondo which is in Exhibit F; and I've put a map on the wall which County staff has prepared regarding community services facilities within two miles of the project and that's also included in your packet as Exhibit J. We have declarations by physicians that have been retained by the Applicant and those are included Exhibit H.

The UDV is a nonprofit corporation organized under the laws of New Mexico; the UDV is a tax-exempt religious organization. They have provided documentation to that effect, which is in your packet. Ordinance 2010-13 provides that: Community Service Facilities are allowed anywhere in the County provided that all requirements of the Code are met if it is determined that: per 7.1.1, The proposed facilities are necessary in order that community services may be provided for in the County; 7.1.2, The use is compatible with existing development in the area and is compatible with development permitted under the Code; and 7.1.3, A master plan and preliminary and final development plan for the proposed development is approved. This Ordinance goes on to specify that submittal and review requirements are those provided for in Article III, Section 4.4, and Article V, Sections 5.2 and Section 7 of the Land Development Code.

The proposed temple will contain space for religious services, a nursery, a common room, a dining room, two kitchens which is outlined in a schematic diagram in Exhibit R, and I have that. If you want to see it, I have a page number and your reports are paginated because the staff report is over 1200 pages in length. The proposed table will contain space, as I said, for religious services, the yurt will be re-erected and will be used for religious and storage purposes and there will be a couple of other storage structure. Overall lot coverage, including parking, is approximately 7.5 percent. There is no requirement in the Code for maximum lot coverage for these types of facilities.

The Applicant indicates in the submitted materials that the congregation at full build out is estimated to be approximately 100 parishioners; currently there are 64 parishioners. Services are to be held two Saturdays per month from 8 p.m. to 12 p.m., with two additional services each month on weekend afternoons or evenings. No private school or daycare activities are proposed. Although a nursery is included in the temple floor plan, it will operate only during the services at the times stated. They have in your materials – I'll tell you the page, that's page 24 which outlines hours of operation and the number of services if you need see that.

The issue of the number of kitchens has been addressed by the applicant and they have stated that in the first phase the kitchen will be used and include a stove, an oven, a sink, a refrigerator and a dishwasher. It will be used for two purposes in the first phase and only a single purpose in the second phase. In the first phase, the kitchen will be used for food

preparation and for activities coincident to the distribution of hoasca tea, such as pouring hoasca into a dispenser and washing empty containers and glasses. In the second phase the kitchen will be used exclusively for activities coincident to the distribution of tea. The second kitchen, built in phase two, will be used exclusively for food preparation. When the second kitchen is built, the function of washing glasses will stay in the first kitchen and the function of food preparation and dish washing will move to the second kitchen. During religious services, sacramental consumption of hoasca tea, is an integral part of the religious ritual. Hoasca is mildly hallucinogenic, and the Applicant has submitted affidavits from physicians regarding its short-term hallucinogenic effects on parishioners. The affidavits indicate that and I quote from their submitted material, "the effects of hoasca lasts for approximately four hours during which time the individuals who take the sacrament remain oriented and aware of their surroundings" and the affidavits describe in detail anticipated reactions of individual participants, and that is outlined in Exhibit H. The UDV has stated that careful measures are taken during and after services to ensure that no one exits the property until the effects associated with the consumption of the hoasca tea have subsided. The information regarding the use and influence of hoasca was provided in an effort to quell the concerns of neighbors and to address staff concerns regarding public health, safety and welfare that exists if persons drives while consuming or impaired by hallucinogens.

As stated, they're going to build the project in two phases: Phase one, they will construct their utility and access infrastructure, 450 square feet of storage area in the two separate structures, re-erect the yurt, build a two-foot high, 4,660 square foot temple, and a 1,900 square foot timber frame roof structure with no walls, and a 540 square foot portal. This initial phase is slated for completion within 18 months of permit issuance. For Phase Two, they're going to enclosure the 1,900 square foot portal and they'll do that within six months after obtaining building permit.

We've gotten numerous letters, both in support and in opposition to this project and those are included in your packet. Opposition letters cite concerns regarding water, traffic, parking, building size, security, hours of operation, parishioners leaving the facility while impaired, effects on real estate values, neighborhood compatibility, and groundwater contamination are among the most listed concerns. Exhibit L contains copies of all letters of support received prior to the CDRC hearing in November.

Support letters include statements that the UDV members and the facility will be designed to be compatible with the neighborhood; parishioners will not leave the parcel when impaired, will be good neighbors, will not contaminate nor utilize excessive amounts of groundwater and will not impact adjacent parcels in a negative manner. Exhibit M contains copies of all letters of support received prior to the CDRC hearing in November. And as I stated, correspondence received subsequent to the CDRC hearing is included herein in Exhibit Q.

We have a certain review criteria we follow for all project. We review existing conditions. We look at adjacent properties. We look at compatibility and compatibility has been raised as a large concern so I'd like to read into the record what we reviewed regarding compatibility, Madam Chair.

CHAIR VIGIL: Yes.

MS. COBAU: We looked at it carefully and we took into consideration the

concerns of the neighbors, our Code requirement, and we look at the allegations that the building massing is out of proportion with other development in the area and that the use is incompatible. And, Jason, if you would put up the first picture that I have on the T-drive at this point. We'll get that up. We have concluded that the building massing that's been presented and other development in the area which range from the Arroyo Hondo fire station, to schools, restaurants and other churches, that the proposed development of a 4,660 square foot community service facility will be compatible and will not be a dominant feature in this area. The issue of compatibility has been raised and re-raised and it's included in Exhibits F, G, J, R and S, and all of these various exhibits include information regarding compatibility or they include the assertion of the lack of compatibility. The picture that is up on the screen is a picture of the Academy for the Love of Learning which was formerly the Seton Castle or Boy Scout facility that was originally constructed I believe in 1949. That facility subsequently burned down and this is the facility that was constructed subsequent to that accident that occurred during some construction. This is actually twice as big as what they're proposing for the UDV Temple and this in quite close proximity to this project. If you drive down Arroyo Hondo Road it's about a mile or less farther to the south where the UDV facility is proposed.

Research indicates that over fifty churches have been permitted under the Community Service Facility section of the Code since 1981, and the location of the facilities includes placement in neighborhoods that are predominately residential. Note that Exhibit J, which was just up, depicts a wide range of other uses including businesses and community service facilities, and there are some 20 similar uses within less than two miles of the proposed church.

To further reiterate on compatibility, Article III, Section 7, Community Service Facilities of the Land Development Code, as amended by Ordinance 2010-13, states: "Community service facilities are facilities which provide a service to a local community organization. This may include governmental services such as police and fire stations, elementary and secondary day care centers, schools and community centers, and churches." Section 7.1 of Article III states: "Community service facilities are allowed anywhere in the County, provided all requirements of the Code are met." And it goes through the three requirements that I already cited.

During the CDRC meeting there was testimony that this wouldn't serve the community and I just wanted to point that we've had many other facilities, community service facilities that don't serve the immediate community. We've recently approved a Boys & Girls Ranch which serves children from around the state, not just children who live in the immediate area of the Boys & Girls Ranch. And I can cite many similar examples to that, Madam Chair, if needed to further clarify the staff position on this case.

We reviewed for architectural standards, access, security and the Code does not contain requirements for securing Community Service Facilities, nor are there specific Code criteria regarding securing controlled substances. But there is documentation within the staff report regarding what the DEA requires and those requirements are substantial and those are outlined in the packet. The hoasca tea will in fact be stored in a vault inside the temple and the site will be gated and fenced.

There is a single small sign proposed which meets Code requirements and we looked

at, in detail, water and liquid waste. Following all of the testimony that we heard at the CDRC meeting and all of the submittal materials that we have received, the applicant offered to drill a well and prepare a geohydro report although it is not required by Code. They weren't required but they did prepare the geohydro report. This report which is included in your packet, calculates a water budget of 0.17 acre-feet per year. They have provided well logs and water availability computations in that report. This was included by their consultant and is included in the packet as Exhibit R. In opposition – this new information was given to the opposition and their response to that is included in your packet as Exhibit S.

The County subsequently retained Geoscience to evaluate this information, to evaluate the water supply and the wastewater disposal reports. They also reviewed the reports and comments submitted that are in opposition to the proposed temple. They have their conclusions and recommendations and I'd like to read those conclusions into the record, Madam Chair.

CHAIR VIGIL: Yes, please.

MS. COBAU: Their water budget is .17 acre-feet per year. The water use is less than .25 acre-feet per year, the SFCLDC does not require submittal of a geohydrology report. The onsite well is completed into fractured Precambrian granite and metamorphic rock and is more than capable of producing all water required for the Temple. The applicant's geohydrology report meets the requirements of Article VII Section 6.4 of the Santa Fe County Land Development Code. Water availability as calculated by Glorieta Geoscience is 0.35 acre-feet per year. Water quality from the Applicant's well complies with standards set forth in Article VII Section 6.5 of the Code. No hoasca tea will be brewed onsite. The Applicant has an approved NMED liquid waste permit and is in compliance with Article VII Section 2 of the Land Development Code. All effluent water will be collected and discharged to an onsite septic system with advanced treatment. No graywater reuse is currently permitted by NMED. A single ground water quality sample from a domestic well .3 mile down gradient of the subject property, completed in the Espinazo Formation, showed a concentration of 12.1 mg. per part of nitrate, in excess of New Mexico Water Quality Control Commission standards. The nitrate concentration in the Applicant's well completed into the Precambrian aquifer is below laboratory detection limits. The Sludgehammer advanced treatment system is approved by NMED and is most efficient reducing nitrogen with addition of Bacillus bacteria. Hoasca byproducts are further broken down by bacteria in the septic tank and under aerobic conditions in the leach field and vadose zone. Hoasca byproducts discharging into the septic system are less than .02 percent of the original hoasca consumed. Considering the bacterial breakdown of hoasca byproducts and the presence of clay layers correlated between the Applicant's well and the two nearest down-gradient wells, and the UV treatment system addition described in the recommendations below, it is highly unlikely that hoasca degradation products will leak into the aquifer.

We have additional information on the liquid and solid waste system. There was some contention regarding the NMED permit and it was issued, appealed and subsequently reissued by the New Mexico Environment Department.

We looked at fire protection. We looked at terrain storm water management. We looked at landscaping. We looked at archaeology.

Based on all of this review, Madam Chair, staff concurs with the action of the CDRC

and recommends approval of the application. The Staff concurs with the action of the CDRC and recommends approval of the Application. The Application has been reviewed for compliance with the Code and staff has found that the following facts presented support the request: (1) community service facilities are allowed anywhere in the County; (2i) the Code and Ordinance No. 2010-13 recognize a church as a community service facility; (3) the use is compatible with existing development; (4) the application is comprehensive in establishing the scope of the project; (5) the application satisfies the submittal requirements set forth in Article V, Section 5.2.2 of the Code and Ordinance No. 2010-13; (6) the preliminary development plan substantially conforms to the master plan; (7) the application satisfies the submittal requirements set forth in Article V, Section 7 for the Development Plan Requirements of the Code and Ordinance No. 2010-13; and (8) the proposed structure is necessary to provide the UDV with a permanent place of worship in a place that is highly valued by the church members. Because the recommendation is for approval, it is unnecessary to address the factors under RLUIPA which are on the record and which I did not read into the record.

The review comments from State Agencies and Building and Development Review Services has established that the Application is in compliance with Article V, Section 5, Master Plan Procedures, Article 5, Section 7 Development Plan Requirements of the Land Development Code, and Ordinance No. 2010-13.

Staff recommends Master Plan Zoning and Preliminary Development Plan approval, with Final Development Plan to be processed administratively, for the Centro Espirita Beneficente União do Vegetal. UDV Temple, to allow a 4,660 square foot structure to be used as a temple with a 1,900 square foot covered portal type structure to be enclosed for inclusion to the temple as part of a subsequent phase for a total 6,560 square feet, a 540 square foot portal, a 706 square foot yurt, a 225 square foot utility room, and a 225 square foot storage building on 2.52 acres, subject to the following conditions. And, Madam Chair, I'd like to just enter those conditions into the record.

[The conditions are as follows:]

1. All Staff redlines shall be addressed, original redlines will be returned with final plans for Master Plan.
2. The Applicant shall comply with all requirements of the New Mexico Environment Department, the State Historic Preservation Division, County Fire Marshal, Public Works and County Utilities Department, which includes the following:
 - a. Permits for Advanced Liquid Water Systems must be reviewed and approved by the NMED
 - b. Kitchen facilities must be approved by the NMED and appropriate food service permits must be obtained.
 - c. Automatic fire suppression is required
 - d. Site address shall be clearly posted
 - e. 28' radius curb returns must be provided
 - f. Site triangles (30') must be maintained at both entrances
 - g. A Road Construction/Road cut permit must be obtained from the Department of Public Works.

- h. The secondary access from Arroyo Hondo road must be paved with 3” of plant mix bituminous pavement
 - i. No parking signs shall be placed on Arroyo Hondo Road as required by Public Works
3. Master Plan and Preliminary Development Plan, with appropriate signatures, shall be recorded with the County Clerk.
4. It shall be noted on the Master Plan and on the Final Development plan that the nursery will only be utilized during services.
5. The Landscape, Lighting and Signing Plan indicates placement of flagpoles near the temple entrance. Flagpoles may not exceed 24’ in height, and the banners placed on these flagpoles may be considered signage and must comply to the square footage restrictions for signage and placement of signage outlined in Article VIII of the Code. A separate sign permit will be required for all signage on this parcel.
6. The proposed trash enclosure must be fully screened with a 6’ opaque enclosure and gated. The location as proposed does not provide adequate access for trash removal vehicles and the enclosure must be relocated on the Final Development Plan.
7. Pursuant to the review by GGI:
 - a. The Sludgehammer advanced treatment system shall be designed and installed with Bacillus bacteria (or equivalent method of augmentation) added to the system to reduce nitrogen concentrations in the effluent.
 - b. The Applicant shall be required to follow all operating and maintenance (O&M) requirements for the septic system.
 - c. No graywater reuse is currently permitted and all wastewater should be discharged to the septic system.
 - d. An ultraviolet (UV) light treatment module shall be installed in the discharge line prior to the septic tank as the Applicant’s submittals state that DMT is broken down by light. The revised treatment system should be designed and stamped by a New Mexico registered professional engineer and UV light maintenance should be included in the O&M manual.
 - e. If the number of events that serve at least 25 people at least 60 days per year is exceeded, the Applicant shall apply for permits for the appropriate type of public water supply system.
 - f. The Applicant is required to read the well meter monthly and post the meter data to its website monthly, an annual compilation of these readings shall be submitted to the Santa Fe County Utility Director.
 - g. The Applicant’s water use should be restricted to 0.25 acre-feet per year.
8. Additional comments made by staff or other agencies, if any, must be addressed at the time of Final Development Plan submittal.

CHAIR VIGIL: Very well, they will be entered.

MS. COBAU: Thank you and I’ll stand for questions.

CHAIR VIGIL: At this point in time let me just proceed unless there is a really burning question for staff. Maybe some of our questions can be answered through the testimony. If it’s all right with the Commission – oh, you do you have a question?

COMMISSIONER HOLIAN: Madam Chair, I just have one thing that I'd like to clarify. Shelley, is this a zoning change?

MS. COBAU: Madam Chair, Commissioner Holian, following your action, if the case is approved, the site will be zoned as a community service facility.

COMMISSIONER HOLIAN: Thank you.

CHAIR VIGIL: Thank you very much. Mr. Graeser. Let me proceed in this way – you have several people who would like to testify, perhaps we should get them all sworn in at once and that way we don't have to break at testimony. Or will you be the only one testifying?

CHRISTOPHER GRAESER: Madam Chair, we will have several people testifying, so let's have them all sworn in at once.

[Those testifying for the Applicant were duly sworn]

MR. GRAESER: Madam Chair, my name is Christopher Graeser, 227 E. Palace and I am an attorney speaking under oath.

CHAIR VIGIL: Please proceed.

MR. GRAESER: I'd like to start with staff recommended conditions. We agree with all of those. I have a couple of clarifications that I would like but we agree with all of them. The first is number four, regarding the nursery being used during the services and by the way I have discussed these clarifications with staff. The point there is that the nursery can be used when UDV members are there whether it be for a work day or actual religious services. The second is number 7.d. regarding the ultra violet treatment module, we agree with that condition. We don't necessarily agree that there's always DMT in the septic stream or that it's any type of danger. But we have no problem with the condition. The issue is that I believe the UV sterilizing light is supposed to be after as opposed to prior to the septic tank in there and staff has confirmed that. The next one is 7.f. regarding the reading of the well meter. We're fine doing that but we request that there be a limit on that and we're suggesting two years that we have to read the meter every month and post it on the website. After that, of course, the quarterly or annual meter readings will be submitted to the County and the state engineer and the state engineer does post them too. And, finally, it's our understanding with regard to 7.g. imposing a limit of .25 acre-feet per year that if the UDV does decide to add a residence, a parsonage, at some point that they could ask for an amendment to that based on hydrology.

Madam Chair, I don't know if you wanted to confirm those issues of I should just continue.

CHAIR VIGIL: Please continue with your testimony and we'll address these as we proceed.

MR. GRAESER: Thank you. All the folks that were sworn in who I have with me are Jeffrey Bronfman and Tai Bixby who are clergy in UDV. Mr. Bronfman is also an immediate neighbor. Jim Siebert who you are all familiar with. Steven Finch who is our hydrologist with John Shomaker and Associates. Not sworn in but here with us are John Boyd and Nancy Hollander of the Freedman Boyd Firm in Albuquerque and they're religious land use and religious rights attorneys. Dr. Charles Grob who is a psychiatrist and pediatrician from UCLA and he's an expert in hoasca. Dr. Steven Barker who is a chemist from LSU. He's also an expert in hoasca. We also have Ralph Dotson and Richard Jennings

who I believe you are familiar with, who will design and will install the liquid waste system. These folks may have a little bit to say but primarily they are here to answer your questions. That's why we have them here. So please ask them at any time and interrupt any of us to ask any of them questions.

UDV is a Christian organization. It's a nature-based religion. They do have a sacrament that is a natural plant based tea. And I want to address it right at the beginning because this seems to be a big issue and it seems to be a big issue because there is a lack of understanding and knowledge and several of the witnesses will talk in more depth about hoasca but it's entirely legal for the UDV to use. It is used in the context of a tight community and it's administered by trained knowledgeable clergy. You have that evidence in the record and we'll hear about more about how hoasca is used in the UDV rituals and how it is not harmful and, in fact, there is strong evidence that it is beneficial. There will also be evidence regarding how it doesn't present concerns of public safety either through ground water contamination or effects on users or individuals who come in contact with them.

The hours for sessions do tend to be late. There are not a lot of them, a couple a month. But because of church doctrine they do run late and it's for religious reasons and members will tell you why that is and also the steps they take to address the impact of those hours.

The application is for a temple, a permanent temple, the UDV has been meeting in temporary locations, temporary structures over close to 20 years that it has been here in Santa Fe and it's now time to build a permanent home for it. I think it is notable that they met in a canvas-walled yurt on this site for almost 15 years with no complaints. No complaints either to the UDV or to the County of any concerns with noise, impact on the neighborhood – anything like that. The application fully conforms to all the Code requirements; all the staff requests and comments have been addressed. And that was rough. It was two years ago. We filed the application – in a couple of weeks it will have been two years for a 6,500 square foot building and it got contentious at times and staff put us through the ringer and we worked hard and we worked through it. I really appreciate Shelley, Steve, Rachel, for not making it personal and doing your job and I know you all worked hard too.

We have addressed all those concerns. We have addressed a lot concerns that don't appear in the Code and aren't matter of County jurisdiction simply because we've tried to address everything. You will hear a lot of our application and presentation tonight has to do with things that don't fall within County jurisdiction, things like groundwater pollution, things that we did, things that we took on ourselves that we didn't have to do. I asked Mr. Siebert in all the cases that he's been involved in, has he ever submitted a geo-hydro study on a project that has less than .25 acre-foot water demand and he said no. But we have.

We're not asking for any variances. We're not asking for any contingencies on our approval. We are in pure Code conformance. I'm going to sit down now and Mr. Siebert is going to present the application to you and Mr. Bronfman and Mr. Bixby are going to talk a little bit. Steve Finch will talk about water demand and water availability and the allegations of pollution. Dr. Grob will talk a little bit about the potential – or the concern which is really unfounded about traffic safety issues. And then I'll sum it up and we do ask for some time for rebuttal at the end with maybe a couple of witnesses which will allow us rather than putting it all on now we'll just do what we have to do at that time and maybe save a little

time for the Commission.

CHAIR VIGIL: Very well. Thank you.

MR. GRAESER: And again if you have any questions, I'm happy to answer or any of the witnesses at any time.

CHAIR VIGIL: Mr. Siebert.

[Previously sworn, Jim Siebert testified as follows]

JIM SIEBERT: Madam Chair, Commissioners, my name is Jim Siebert. My address is 915 Mercer, Santa Fe. What I'd like to do tonight is kind of strip away some of the hyperbole that is associated with this project and speak to the planning issues and make you aware of how the UDV is really compliant with all the Land Use regulations, the County Code regulations and the criteria of the Community Service Facility.

Let me pull up the first slide here and the board in front of you, by the way, is the site plan that we submitted to the County for the temple.

CHAIR VIGIL: How many exhibits do you have, Mr. Siebert?

MR. SIEBERT: Pardon me.

CHAIR VIGIL: How many exhibits to you have?

MR. SIEBERT: In terms of slides we probably have – for my presentation we have around 40 or something like that.

CHAIR VIGIL: Okay, would those be – would you make those available for the record please?

MR. SIEBERT: Certainly. What we do – actually, we provided the memory stick and the County is welcome to keep that memory stick.

The first thing is where is the site located? It's along the Arroyo Hondo Valley. The main road access is from the I-25 frontage road, US 84/285 via the Arroyo Hondo Road and then it is located at the southern corner of the Arroyo Hondo Road and Brass Horse Road.

Next slide – thank you. Some of the aspects of the – the main temple is the area in the darker yellow here and what the staff pointed out is that they will build the roof structure which is adjacent to it but it will not have a wall to it and it will be the second phase of the project. There's two out buildings which will serve for storage and mechanical and then the yurt which pre-existed on the property will be re-erected once again. The parking which you can see here is located – the approved parking is located in this area. There is an overflow should that happen that has been reserved in this area. There is a secondary access that we have discussed with the Fire Marshal's Office and that's this access here. It would be gated with a Knox lock which is the typical standard here. This currently is not improved but it would be improved as an asphalt surface.

The other thing that has happened already is that an additional 10 feet has been dedicated by plat for Brass Horse Road and that's along this part of the property. The fence would be located on the easement line which would be right here. There would be an improvement to Brass Horse Road and part of that improvement would be to widen it to 20 feet minimum and then improve it as an asphalt surface to the end of the property located right here. There would be no parking signs also located on the road. We've provided an excess of parking to make absolutely sure that there would be no parking on the street.

The areas that you see in blue are water capture areas that are passive systems. There is an active water harvesting system that collects water from the roofs and will be used for

irrigation and plants. And then on this side of the roof there will be solar panels to provide hot water and probably in the future photovoltaic for electricity.

The landscaping that will take place is that the existing pinon vegetation which is shown in the dark green here those will be – there will be some transplanting out of the existing sites or out of the sites where the buildings will be located and other facilities such as parking, and they will be transplanted on site and then there will be additional landscaping and conformance exceeding the Code. The entry which is here will have this kind of a gate system to it and then there will be a small sign that would be immediately adjacent to that, simply notification of the church.

In terms of the lighting a great deal of thought went into this. The idea is that it would be very low level. We understand the concern from the neighbors and it would be directed only at path lights. And if you take a look at the next slide this is kind of an example of what the lighting would be like. If you're familiar with Ten Thousand Waves it would be very similar to Ten Thousand Waves where they light the paths.

This is the principal access to the site. Once again it's from the I-25 frontage road, Las Vegas Highway, down the Arroyo Hondo Road into the site here. The land on either side of it is actually County open space land in this area to the north. On the south you have some rather steep slopes, some very steep slopes, it probably would be very difficult to develop that side of the roadway. The principal residence that is affected by the church is really the traffic to the church is actually a member of the UDV, Jeffrey Bronfman. And then just an enlargement of this. Once again there is one driveway with a house set conservatively back I can show some more of that. And then the UDV member here that is probably the closet, which is the closest to the church and would be the most impacted by traffic to the church.

The architect was directed to create a building that was really complainant with the provisions – with some of the architectural styles in the Arroyo Hondo area. What you have is a peak metal-clad roof and stucco sides with portals. As you'll see later, it is very similar to a lot of the structures in the Arroyo Hondo area. The total width of the building from the east elevation is 98 feet, total height at this elevation is 22 feet.

In terms of what is the distance from some of the adjoining residents, the closest one is Jeffrey Bronfman, member of the UDV Church, is 150 feet. Then the other closest residences measure anywhere from 425 feet to 600 feet. I think the real issue that we like to focus on is one of the standards in the Code for community service facilities is, is it compatible with the development permitted under the Code? What we're going to do is show you a few slides that indicate that. If a residential building was to be structured on this 2.5-acre lot, you'd have a 25-foot setback, you'd have a 30 percent coverage, and you'd have a 24 foot height. What that would represent a 2.5-acre lot is approximately 32,000 square feet. Under this as a residential structure there really are no architectural standards. What the – is proposing is a setback for 51 feet and lot coverage of 7 percent, a height of 24 feet at the peak. We have earthtone colors and stuccoed sides and a metal roof and the architectural style would be similar modern New Mexico. And this would be what it would look like if you maxed the property out with a residential structure and there has been some discussion about that. Obviously this wouldn't happen but you could get some very large residential structures on this particular lot.

This is a cross-section of the road indicating that it will be widened to the total of 20

feet and then once again the features that are meant to capture water both of the parking lot and the building itself. And, then physical compatibility, UDV hired a company, Biohydro, to take a look based on aerial photographs and GS mapping of just what structures were in the area within a reasonable distance of this particular request. What they found is that there were 33 structures larger than 6,000 square feet; 20 homes were larger than 9,000 square feet. So there's actually homes existing in this neighborhood that are larger than what is proposed for the Temple.

These are some of the photos indicating the compatibility; the type of architectural styles that you see out there. You do have flat roof pueblo and you also have right next to it a pitched roof structure or peaked roof structure. This is kind of a curved metal roof structure for the Academy for Love of Learning. These are more architectural styles that are in there and we feel that the temple is very compatible and really on a scale it is not too much different from what you find in the neighborhood.

These are more structures – this structure here we find interesting because there is a great deal of similarities to some degree although we have a little more articulation to the façade to the temple. This being a rendering of the temple and what the structure would look like from the north elevation. This is the east elevation looking from Arroyo Hondo Road and this would be the structure as you would be driving down Arroyo Hondo Road from the east. The type of construction that is proposed for the temple is clay-straw that is made on site and is actually filled in with walls. It's 12 inches thick and serves as an extraordinary sound attenuation measure associated with the temple.

What kind of activity takes places and how is it managed? They have spent 15 years in a canvas yurt on the property with no complaints. The building that is proposed is going to have a 12-inch thick clay-straw walls. The services are quiet. They are unamplified and there is no individual speaker. It is unamplified a cappella singing. Recorded music is played occasionally and there is one issue that a rumor was started is that there is ritual drumming. There is no ritual drumming.

In summation in terms of compatibility what we're looking at is that there is minimal traffic impact substantiated by staff and by the New Mexico Highway Department. The temple has been complaint free and accident free for 19 years in Santa Fe County. It's a quiet activity in a quiet building. It matches the existing architecture as I've described to you. There is no light pollution. The light will be kept to an absolute minimum on the exterior of the building. It is water efficient as we have described by the systems that are included in it. And the construction and some of the elements of the architecture are sustainable. Thank you very much.

CHAIR VIGIL: Any questions for Mr. Siebert at this time? Seeing none, Mr. Siebert, who will be the next speaker? Mr. Bixby?

[Previously sworn, Jeffery Bronfman testified as follows]

JEFFREY BRONFMAN: Good evening, Madam Chair and respected fellow Commissioners, my name is Jeffery Bronfman. I'm a resident of Arroyo Hondo and live at 2 Brass Horse Road. Good evening.

CHAIR VIGIL: Good evening.

MR. BRONFMAN: My name is Jeffrey Bronfman. I'm a resident of Santa Fe County where I have owned property, paid taxes and made my home for more than 20

years. It is my continuing wish to serve the Santa Fe community by providing a place for the realization of the ceremonies and services of the religion I follow that brings me before you today. The land that the UDV is wishing a temple to serve our community through is on land that I currently own and wish to donate for this positive and beneficent purpose. I'm 56 years old and I first encountered the UDV religion on a trip I made to the Brazilian Amazon in July of 1990. It was in association with my work as an environmentalist and the director of a private foundation that is committed to the conservation and restoration of the natural world.

I am one of the people responsible for subsequently bringing the UDV to the United States. I did this because of the profound benefit that I personally received from it and my wish to make the same benefit available to others in this community.

Over the more than 20 years I have been associated with the UDV I have visited many of the more than 150 temples that have been constructed in large cities and small villages and communities all over Brazil. I have directly witnessed the benefit and goodness that these community structures have provided to the surrounding areas, including in some locations free health clinics to the poor, environmental conservation and renewal, teaching those who were illiterate how to read and write, securing the surrounding neighborhood and the establishment of a certain dignified grace that has been expressed through the contact of the membership.

I erected a yurt, a temporary structure as a place to house the UDV's religious services on the same tract of land back in 1992. We realized our regular religious there for more than 14 years before we outgrew that facility and recognized the necessity to construct a permanent home for our church. Since that time we have been renting a space in another part of Santa Fe County which is no longer adequate to meet our community's needs.

I closely accompanied the process of seeking the necessary permits and approvals for the construction of our church. I am aware of the vehement opposition that has been organized against us. Sadly, much of what has been written or said to fan the flames of fear and intolerance against our presence in Arroyo Hondo has either been misleading or altogether false. I would like to use my remaining time before you speak of several specific falsehoods that have been presented to you about me or about assertions that I at one time or another had allegedly made. I do so within my right to have my position and expressed word properly recorded before this distinguished body and not mischaracterized or publicly misrepresented by somebody else. It has been asserted that the temporary yurt that housed the UDV from 1992 through the end of 2006 was not properly permitted suggesting by some that what we were doing there through our religious assembly was illegal. In truth, I was advised by the contractor that assisted us in erecting the yurt that permits were not required for that kind of structure and that the occasional, non-residential, non-commercial purpose that it was used under the provisions of the County Land Use Code at that time. This fact has subsequently been confirmed by legal counsel familiar with the still evolving County Land Use Code. It has also been stated by some those opposed that they believe that the yurt was erected as a refuge for my wife who had developed environmental sensitivities. That may well be what those who asserted this believed but that was never anything that I stated. My wife never resided within the yurt and the structure was only ever used for the UDV's religious services from the time that it was put up in 1992 until the day in 2009 at the request of the County's Land Use in consideration of the application that is currently before you that

we take it down. The idea that I would have moved my wife into a tent structure across the street from the home where we live together with our then 18 year-old son is meritless. It also would have been impermissible under the Land Use Code at that time for the yurt even to have been used as a residence.

In the 24 pages of legal arguments that you received from the opponents' counsel the night before our previously scheduled hearing a statement was attributed to me suggesting that I believed that the religious use of hoasca within the UDV was somehow unsafe. This suggestion is again completely untrue. The quotation that was relied upon was taken out of context with from a letter I had written more than 16 years ago that was among the 40,000 documents that were seized from my office by agents of the federal government of the United States when the UDV's practices were being investigated by the United States Department Justice and the Drug Enforcement Administration. That letter was written to an author of a book who had identified dozens of plants containing similar alkaloids to those that research has determined exist within the religious sacrament that is used by the UDV. His suggestion was that people could make their own concoctions and use them outside of the religious structure provided by the UDV that medical researchers have defined as optimal. This was what I was suggesting was potentially harmful; that these other plants could be used by anybody in their own religious rituals. Not the use of hoasca within the highly structured context of our religion where its use is unquestionably beneficial and proven over 50 years of use and thousands of people's lives as harmless to our health.

Lastly, it has been falsely asserted that I had no participation in the local and County effort to conserve the open space area of land in Arroyo Hondo that enjoins the property that I own on the other side of the canyon where I reside. In fact, early on in the fund raising process I pledged a \$25,000 matching grant to attract additional support from the community. Among the many documents presented to you in advance of this hearing is a letter of acknowledgement from the representatives of the Santa Fe Conservation Trust who received and administered this donation stating quote, "We would not have made it but for your gift which prompted so many others 40 individuals and families to give."

It's my understanding of the current County Land Use Code that as the owner of this property if I wished to put up a building exactly like the one that we're proposing for a temple that would be used as a personal residence that the County would have no discretionary authority to deny me a building permit or really have any reason to do so. I think this fact more than anything else illustrates that the issue that people have a problem with is what we plan to do inside the building that we are constructing. That being, the exercise of our constitutionally guaranteed right to peaceable accessible and exercise our chosen religious practice. Gratefully, under the United States Constitution as well as this County's own Land Use Code such discrimination is not permitted.

In closing, I sincerely and respectfully ask that you make your decision tonight not in response to the deliberately cultivated fears and prejudice of those in opposition but rather in giving due credit to the very careful considered and reasoned recommendations of your professional Land Use staff the County Development Review Committee, the testimony of the experts in their respected fields that we have assembled to respond to every false assertion that has been made to those in opposition and your own objective consideration of all the facts that have been and will be presented to you this evening. Thank you.

CHAIR VIGIL: Thank you, Mr. Bronfman. Next.

[Previously sworn, Tai Bixby testified as follows]

TAI BIXBY: My name's Tai Bixby. I live at 2300 West Alameda Street. Good evening Madam Chair and members of the Commission. I've lived in Santa Fe for 26 years including a year I lived in Arroyo Hondo on Caja del Oro in 1983. I've been married for 13 years. My wife and I have three kids. I work as a realtor and real estate developer by profession. I'm the president of the local congregation of the UDV and the vice president of the UDV's national organization which administers six units all together in the United States. I'm also a mestre of the UDV, the equivalent of a minister or a teacher within this religious tradition. I arrived at this position after 13 years of training and instruction in the effective and safe use of hoasca tea and the religious context of the UDV. I have participated in more than 500 religious ceremonies of the UDV, of which approximately 45 of which I was responsible for distribution the tea and conducting the religious work that followed.

Most of the ceremonies that happened in Santa Fe County took place in the yurt and on the land in Arroyo Hondo that is the subject of this application. I've been a member of the UDV for 16 years. I was baptized and I was married within the UDV and I have direct personal knowledge of the subject matter that I'm going to speak about. My purpose in this part of the presentation is to give you a little more background about what the UDV is, what we do and who we are.

The UDV is a Christian religion that preaches to love God above all things and to love the others as we love ourselves. The UDV is a sincere, respectful, caring and family-oriented religion from Brazil that was founded almost 50 years ago on July 22, 1961. Our membership in Santa Fe encompasses the full spectrum of economic, racial, education and class backgrounds. We preach against the use of tobacco, drugs and alcohol. And in many cases people have come to the UDV as drug addicts or alcoholics and they have their spiritual resources and the community support necessary to free themselves from those vices. The UDV teaches that nature is a manifestation of the divine holy spirit and for this reason the UDV seeks to build its temples in quiet locations and natural settings such as that of Arroyo Hondo. It's not just in Santa Fe the other temples of the UDV in United States are similarly situated or seeking to be.

The UDV is not a cult and we're not fanatics. We don't proselytize but rather we are a discreet religion that grows at the request of the people who are interested in joining us and participating in what we do. Ordinarily we would avoid the kind of attention that this land use case has drawn. However, we are firmly committed to pursuing our right to develop a temple on our land in Arroyo Hondo. So we respectfully come before you asking for a development permit this evening.

Central to our religious practice is our communion with a sacramental tea called hoasca, that we drink for the effect of mental concentration. The word hoasca, which is different from the word ayahuasca, can refer to many different plant concoctions and what people read about on the internet as ayahuasca is usually unrelated to our use of hoasca within the religious sect and setting of the UDV. The word hoasca refers to a specific recipe and preparation. It is made from only two plants; *Banisteriopsis caapi* and *Psychotria viridis*. It is only prepared by trained mestres of UDV who boil these plants in water in a way that maximizes the capacity of hoasca to induce a clear state of consciousness conducive to

enhanced mental concentration and deep introspection. The word hallucination connotes deviation or seeing things that are not there. I am [inaudible] in my conviction that the particular form of perception that is caused by the religious use of hoasca tea must not be defined unreflectively as hallucination. Further, I want to be clear that the UDV does not agree that hoasca tea is mildly hallucinogenic or that it is too weak to have an effect. Hoasca tea is not hallucinogenic and the effect of hoasca tea is powerful and positive. Only the best words that I can find to explain to you in this public forum to really know the effects of hoasca tea a person has to experience it for themselves.

A UDV session typically lasts four hours. The regularly scheduled sessions begin at 8 p.m. and end at midnight on the first and third Saturdays of each month. This time of day follows what has been established by the founder of our religion and is part of the law of UDV. This time has both the religious and symbolic meaning to members of the UDV. In reviewing the records of Santa Fe County entitlement for Catholic Churches you will find that neighborhood capability of their celebration of Christmas Mass at midnight or Easter Mass at sunrise on a Sunday has not been questioned by this Commission or any other. At the beginning of a UDV service we say a prayer, everybody drinks the tea together, and then we sit in quiet meditation. During the first 30 minutes we hear a reading of the tenets of the religion and as people begin to feel the effect of the tea there is individual sing and a cappella prayer. During the service we have a period of teaching and question and answer discussion following the custom established by the founder of our religion, Jose Gabriel da Costa, for us mestre Gabriel. During the session participants are coherent and lucid. Sometimes a few people experience nausea that results in vomiting or the need to go to the bathroom but this is an occasional occurrence. We don't drink the tea because we like nausea; we drink the tea because of the profound spiritual benefit that it provides to use as a community and as individuals.

For the safety of the participants our policy is that people may not leave the property during sessions and the parking area gate is closed to keep unauthorized people off the property. Participants do not become out of control, or dangerous, or unreasonable during sessions. In the unlikely case that someone were to try to leave the property during a session there's always a person on duty who is designated during sessions to ensure that people don't leave or enter the property. In 16 years I've never seen anybody want to leave or try to leave the property during a session, including in Arroyo Hondo. Much to the contrary, a session of the UDV consists of a room full of people who want to be there and who are actively participating in the service. After four hours the effect of the tea is diminished and the session concludes. After the session participants typically stay for a few more hours eating and talking and socializing before going home.

Members of the UDV have been driving home after sessions with hoasca tea since 1992 in Santa Fe County and we have never had an automobile accident resulting from impairment by hoasca tea. The opponents of this project have produced no evidence to the contrary. This is a factual statement that I make under the oath that I just took based on my direct knowledge as the local president of the UDV and supported by the State Police records in your file that confirm that there's never been an automobile accident in Santa Fe County involving a person driving under the influence of hoasca tea.

Our religious use of hoasca tea was the subject of an 11-year litigation in the federal

courts in which the legitimacy of our religion, the safety of hoasca tea, and the unlikelihood of its diversion was affirmed by the District Court for the District of New Mexico, the Tenth Circuit Court of New Mexico, that court sitting [inaudible] and unanimously by the Supreme Court of the United States. To my knowledge no other religion has ever been scrutinized so closely by the federal government nor affirmed at so high a level in the federal courts.

During our litigation we were supported by friends of the court briefs from 30 different religious organizations including the North American Conference of Catholic Bishops, the National Association of Evangelicals, the Baptist Joint Committee, and the American Jewish Committee to name a few.

In question in the case was a controlled substance called dimethyltryptamine, or DMT, that exists in small quantities in some batches of hoasca tea. DMT is a Schedule I controlled substance that occurs naturally in many plants as well as in all human brains. We don't drink hoasca tea because we have any interest in DMT but DMT may be present in small quantities in hoasca. The opinions of top medical experts in the field submitted during our case, is that hoasca is used during UDV ritual is not harmful, and in fact there is strong evidence that it is beneficial. The Federal Court in New Mexico, the 10th Circuit Court of appeals and the United States Supreme Court all agree with the presented evidence.

The result of our litigation was a detailed settlement agreement with the United State government including the Drug Enforcement Administration and the Department of Homeland that addresses almost every aspect of the safe importation, handling, storage, distribution and disposal of hoasca tea. For example each location that imports and distributes hoasca tea is registered and inspected by DEA and diversion agents. The DEA and the United States Custom Service are advised of and license all importation of hoasca tea. Hoasca is transported in certified containers bearing tamper-resistant, tamper-evident serial numbered seals. We keep detailed records of importation, receipt, distribution and disposal with milliliter accuracy. We keep records of each ceremony included who dispensed the tea and how many people were there and how much was dispensed. Only two registered individuals are allowed to have keys to the storage area for the hoasca tea, and the hoasca tea we currently have on hand is stored in locked refrigerators in a concrete room closed with solid core locked doors following the requirements of the agreement. The current storage location is also equipped with additional security measures. In all the years the UDV has stored and distributed hoasca tea in Santa Fe County there has never been an attempt to steal or divert the tea in any way. The UDV has always handled and stored hoasca tea with great care and respect and it is only distributed by individuals who have received specific training regarding the religious use of our sacrament.

The agreement with the government our storage, accounting, distribution and handling practices up to the highest standards for safety and security for this type of sacrament.

There have been some false arguments presented by the opponents of this project and also a few legitimate concerns. Over the course of this process we've responded to staff's every request for additional information and we've responded to every reasonable concern of those who oppose this project. At this point, the majority of the information that we have presented is well outside the scope of the requirements of the Land Use Code or County precedent. But we've answered staff's questions and we've provided so many different

studies and reports because we have nothing to hide. Far from being surreptitious or sneaking as the opponents allege, the UDV is here subjecting itself to more scrutiny than any other church or community service facility that I know of. A sneaking church would have built a temple first and then come back to ask for a variance after the fact, as has happened several times here in Santa Fe County. Here we are asking permission and respecting the law with total transparency. While we've already responding in writing to most of the concerns of the opponents, I want to respond to a few items at this time to record into the record.

One, regarding the regulation of UDV's use of hoasca tea. Far from being an unregulated institution as alleged by some opponents of this project the use of UDV's use of tea is extensively regulated both by the government and the UDV as I previously explained. The question has been raised about how do we know whether we are safe to drive and who makes that determination. These questions touch on some private areas of our religion that government has no business treading on however, I will partially respond to these questions in good faith and also to demonstrate the UDV as an institution, is in fact, concerned with our safety and the safety of the public.

I want to remind you first that we have been drinking hoasca tea and driving home after the effect wears off for 19 years in Santa Fe and we've never had an accident or citation.

We're not hiding anything or committing crimes in secret as some opponents allege. The UDV community in Santa Fe has experience of tens of thousands of cups of hoasca tea being distributed over 19 years and driving home after services without incident or accident. There simply is no issue regarding driver safety after UDV services and no evidence has been presented to the contrary. New people are only allowed to drink hoasca tea after several interviews with senior UDV clergy and typically after they have had the chance to meet the members of our group in a relaxed and informal setting. During the meetings with the community we had the chance to get to know one another. By the time a person drinks hoasca tea for the first time we know one another and we've established a certain level of mutual trust. This is already much different than a person serving alcohol at a bar or a restaurant where many unknown members of the public are served in a short period of time for the purpose of making a profit. In the UDV none of the clergy is paid and our only motivation is to provide beneficial religious service to those who ask to participate in our sessions.

The majority of the people who drink the tea with us have been doing so for more than two years and they have substantial experience working with the effect of the tea including driving home after the effect of the tea has subsided. Newer people are accompanied closely after sessions to insure that they're feeling well and alert. This is a much different situation than a restaurant or a bar where those who are serving alcohol don't know those that they are serving and the only contact with those they serve is limited to taking orders, delivering drinks and collecting money.

We also have a custom in the UDV of providing a light meal after sessions because people are usually hungry and we like to eat and sit around and talk about what we experienced during the session. During this period of time the members of the clergy circulate among the group and have the chance to check in with the members and other people who are there before they go home. By UDV law those of us who distribute this tea have an affirmative responsibility to carefully accompany the process of each person we give

the tea to and it's a responsibility that we take quite seriously. We're only doing this work because we found something of extraordinary benefit for us and we want to find a way to share it with those who want the same benefit.

This is a different situation than a bar or restaurant where the servers have no interest in the growth or development of the people they serve. Those who are authorized by the UDV and DEA to distribute hoasca tea have extensive experience with safe use of hoasca both personally through hundreds of sessions that we have participated in and also because we distribute thousands of cups of hoasca tea each year to our congregation and we are well aware of its effect.

Two, regarding noise and traffic. We held service on the land in Arroyo Hondo at night for 14 years without every hearing any complaint from any neighbor. We have a similar complaint-free record in La Cienega as is attested by the email from La Cienega Community organizer, Carl Dickens, where he says there have been no complaints – here is a copy of the letter. He says, and this is a letter that he writes to Jack Kolkmeier, "I think this is case of me making a mountain out of a mole hill. UDV has confirmed that twice a month they hold church services. I was trying to support the folks in Arroyo Hondo but we shouldn't have bothered you. There have been no complaints from residents." And for those of you who know Mr. Dickens, that's a pretty substantial thing for him to say because he is quite outspoken.

Our presence is so peaceful and respectful of the surroundings that Arroyo Hondo residents by their own admission did not even know that we were there. I have met with Mike and Lydia Ossorgin who just bought the house to the east of our site with full knowledge of the fact that the UDV is seeking a development permit to build a temple next door. I've discussed the issue of noise and lighting with the Ossorgins and we have a neighborly relationship and open dialogue with him. If there's a noise problem I hope that we can work it out. We've also met with Chad and Julie Berk who just bought the house to the south of our site with whom we also have a good relationship and open dialogue.

When you hear that there are 200 signatures on the petition or maybe there is more than 200 signatures by now, it's important to remember that there are only seven homes within a quarter mile of the proposed temple site. The other 159 homes are more than a quarter mile away unable to hear or see the site and the owners of those homes will only see a building that looks like a house as they drive by it at 25 miles per hour. The home to the north of our site belongs to UDV member Jeffrey Bronfman and the homes to the east and south of our site are homes purchased by people who bought them knowing that the UDV plans to build a temple. The lot to the west is vacant and owned by a family that doesn't live in Santa Fe. They do own a house across the street on that lot but it is not immediately adjoining. Of our four immediate neighbors only the neighbor to the north will have traffic driving by the front of his house and that person is a UDV member. The rest of the land along the route of arrival at the UDV site is County open space or is undevelopable private property with greater than 16 percent slope.

For those who live in the immediate vicinity of the project site we already have noise reducing practices in place and we're willing to consider additional noise reducing measures such as a quiet driving surface. As a general policy, the UDV in Santa Fe regularly asks its membership to observe the following practices regarding noise and traffic reduction: We ask

people to carpool whenever possible. We ask people to not speak loudly outside after session. To not use car clickers or alarms that beep. We ask people to not slam their car doors or not honk their horns at night. During our service we are either sitting in silent meditation listening to a few pieces of recorded music or speaking without the use of amplification. The proposed temple features thick clay- straw walls that are sure to attenuate sound much better than the canvas yurt that was also not a noise problem.

Regarding showers and laundry, number three. Some opponents of this project have asserted that people can't control their bodies at UDV sessions and will be using copious amounts of water to wash themselves. This is simply not true. We included showers in our bathrooms because UDV members do all the maintenance and landscaping at UDV facilities. We don't hire groundskeepers: we do it all ourselves. We typically do that work during the day before an evening session. The showers are there so that people can bathe after working and arrive clean for religious services. People typically do not shower during or after services because there is no need to do so. We included laundry washing machines because we occasionally wash blankets, tablecloths and cloth napkins. We wanted to be conservative in our water budget which is why we show a number of shower and laundry uses. They are certainly greater than what our actual use will be.

Number four regarding daycare and children. We do not plan to operate a daycare center at this facility and the building is inadequate for that purpose in a number of ways. The building includes rooms for sleeping children during services or for supervised children's activities during services.

Number five, regarding other locations and the question of why we would not want to go and build somewhere else. First, the land in Arroyo Hondo is sacred to us. It has been consecrated by senior members of our religion and many of us and our children were baptized there. A few of us were even married there. Second, among all the many dramatic and alarmist arguments made by those who oppose this project, we don't see any concerns that have not been addressed by application or that are otherwise unresolvable. Our architecture is residential. Our parking area will be screened by plantings. The project is compatible with the neighborhood in the general development pattern in that part of the County. Our temple is smaller than many homes in Arroyo Hondo. We're safe drivers. We don't cause neighborhood disturbances. Our traffic levels are acceptable. There is plenty of water. There is no risk of DMT contamination and hoasca tea is harmless to the health in any event. For us, our lot in Arroyo Hondo is a good place for the first UDV temple in Santa Fe. We have a lot of history there and our intention is to be good neighbors. We've identified other locations in Santa Fe County that might be suitable for a temple, unfortunately the least expensive parcel we've identified cost \$700,000 and is beyond the financial means of the UDV at this time, an organization that does not have an endowment or a trust fund and that supports itself solely on volunteer work and the dues of its members. We were given a 40-acre parcel of land on Glorieta Mesa with no water in 2005. Since there was no water the site could not be developed. After drilling several dry wells we put the land back on the market for sale. The site in Arroyo Hondo is offered as a needed donation to the UDV.

Six, UDV has not acted surreptitiously as the attorney for the opposition asserts on page 18 in his letter dated February 3, 2011. The UDV has always been a discreet religion that grows slowly in an organic way. At the beginning there were just a few members and

from there the congregation grew slowly and naturally person-to-person in a yurt. Nobody thought we should ask our neighbors or the government of Santa Fe County for permission because governments and neighbors can neither prohibit our religious practice nor can they give us permission. Freedom of religion and the right to peaceable assembly is guaranteed in this country.

Seven, the community service branch of the UDV is active here in Santa Fe not just in Brazil. Some have claimed that the UDV is foreign and does nothing for the Santa Fe community. In fact, the community service work is a central aspect of the religious work of the UDV. We have conducted and continue to conduct food and clothing drives for needy children at local public schools, including an ongoing relationship with Ramirez Thomas Elementary School. We volunteer to work to stabilize erosion and remove debris long the Santa Fe River with Santa Fe Watershed Association. We assist several local nonprofit organizations including the Santa Fe Clubhouse and EarthCare International with event coordination and production. We do volunteer work at the Community Farm – to name just a few of our projects.

Several of our member are executive directors and board members of important non-profits in Santa Fe County working on issues of education, sustainability, food security and energy efficiency. Other of our members are school teachers and attorneys doing pro bono work and working in the areas of mediation and conflict resolution.

The UDV has indirectly provided community services in many other areas of the United States as a result of the 2006 Supreme Court decision in our favor. Since that decision, the landscape and religious freedom law in the United States has been fundamentally changed and religious freedoms are stronger as a result. Since 2006 the Supreme Court's decision in the UDV case has been cited in over 1,055 judicial determinations in favor of religious freedom.

In conclusion, the UDV has been conducting itself quietly, unobtrusively and peacefully for 19 years in temporary structures in Santa Fe County without a permanent home. We're here with a simple request to build a temple for our peaceful, safe and sincere religious practice. It's worth pointed out that our religious practice is not on trial here and has already been affirmed by 11 Federal Judges and eight Supreme Court Justices. I've offered this background information on our religious practice in an attempt to correct misunderstanding and to demonstrate our good faith in assisting you, the Board of County Commissioners, to understand who we are and what we do. This is a land use issue in which we have submitted an extraordinarily detailed and fully compliant request for preliminary and master plan approval and we respectfully ask you to approve it.

CHAIR VIGIL: Thank you, Mr. Bixby. Next. We've heard a lot of testimony and – yes, Commissioner Stefanics.

COMMISSIONER STEFANICS: Madam Chair, I'd like to ask the staff a question.

CHAIR VIGIL: Please.

COMMISSIONER STEFANICS: Based upon some of the things that I've been hearing I'd like to once again understand that everything is in order in terms of code requirements for this request; is that correct?

MS. COBAU: Madam Chair, Commissioner Stefanics, that's correct.

COMMISSIONER STEFANICS: In terms of any conditions, Madam Chair, that might be put on this, do you see any serious issues or any serious variances that would set a precedents for other projects?

MS. COBAU: Madam Chair, Commissioner Stefanics, the conditions that have been placed on this report are pretty much normal conditions. They are not anything unusual that haven't been placed on other cases and I don't see this as setting a precedent.

COMMISSIONER STEFANICS: Thank you, Madam Chair.

MR. ROSS: Madam Chair.

CHAIR VIGIL: Yes, Mr. Ross.

MR. ROSS: Mr. Tinkler has asked to ask Mr. Bixby a few questions.

CHAIR VIGIL: Please.

STEVEN TINKLER: I'm Steven Tinkler and I represent some of the opponents.

Mr. Bixby, I just had a few questions. You indicated over and over that you had operated on this property 16 years, is that right?

MR. BIXBY: Yes.

MR. TINKLER: And during those 16 years wasn't it true that you and the other member of the congregation were ultra discreet because you knew you were engaged in perhaps illegal activity?

MR. BIXBY: I believe what I said was we were ultra discreet because the legality of what we were doing was questionable.

MR. TINKLER: In other words, you were quiet. You were making sure you weren't discovered; correct?

MR. BIXBY: Discovered by whom?

MR. TINKLER: By the legal authorities.

MR. BIXBY: No.

MR. TINKLER: No?

MR. BIXBY: No.

MR. TINKLER: Why were you ultra discreet?

MR. BIXBY: Because we didn't want to attract attention.

MR. TINKLER: Okay. So you didn't want to attract attention to what you were doing there.

MR. BIXBY: Correct.

MR. TINKLER: So you didn't tell any of the neighbors what you were doing there; is that right?

MR. BIXBY: Correct.

MR. TINKLER: And you were very careful to not let the neighbors know what was going on there; is that right?

MR. BIXBY: I neither avoided them nor sought them out.

COMMISSIONER STEFANICS: Excuse me. Madam Chair, I have a question for our legal counsel.

CHAIR VIGIL: Yes.

COMMISSIONER STEFANICS: Mr. Ross, this is a land use case and I think that some of the questions are trying to identify legal and illegal activity. Could you – I'm

uncomfortable that we as a body that makes a decision on a land use case would hear comments that might go into the record that could be used later in court regarding what one party regards as legal or illegal activities.

MR. ROSS: Madam Chair, Commissioner Stefanics, of course the applicant has quite a few lawyers here and they can advise their client, Mr. Bixby, about fifth amendment if they so desire. I share your concerns. We are in an administrative adjudicatory proceeding where cross-examination is permissible. But if there's fifth amendment stuff that comes up I urge the applicant's attorney to raise it with us.

COMMISSIONER STEFANICS: Thank you, Madam Chair.

CHAIR VIGIL: On that point, Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, on that point, I would just say that that equity is fairly afforded to both sides to raise those same types of questions.

MR. TINKLER: Okay, and, the only reason I asked you about that was that you would agree that your use today is different than it was during those 16 years because you no longer are – there is no issue about your illegality at this point; correct?

MR. BIXBY: There's no issue about our legality at this point, that's correct.

MR. TINKLER: So the need to be ultra discreet is no longer present.

MR. BIXBY: We continue to be discreet because that's the nature of our religion.

MR. TINKLER: But you did say you were discreet before because you were concerned about legality.

MR. BIXBY: Before we still held the position that what we were doing was legal. We are aware of the fact that there were other people who didn't understand that what we were doing was legal but we have always held the position that what we were doing is legal, correct, proper, good, right, beneficial and healthy.

MR. TINKLER: And I'm not really questioning whether it's legal or not. I'm just really wanting to know that your behavior back for 16 years was different toward the neighbors than it would be today because you're no longer even questioning the legality; is that right?

MR. BIXBY: It looks like our behavior is different since we've come forth with this land use application in public.

MR. TINKLER: The other thing, in your DEA settlement agreement that you referred to, isn't there a provision in there that calls for the disposal of the UDV waste requiring it to meet local regulations?

MR. BIXBY: There is a provision that requires certain regulations be met.

MR. TINKLER: And have you disposed of any of the hoasca tea on the Arroyo Hondo property?

MR. BIXBY: No.

MR. TINKLER: Anywhere?

MR. BIXBY: Yes.

MR. TINKLER: And how did you comply with local regulations in that regard?

MR. BIXBY: There are no local regulations.

MR. TINKLER: So you didn't – did you notify the DEA you were doing it?

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MR. BIXBY: We are in complete compliance with our agreement with the DEA.

MR. TINKLER: No, I was just asking if you notified the DEA that you were disposing of the product.

MR. BIXBY: On those events that we have disposed of hoasca tea?

MR. TINKLER: Yes.

MR. BIXBY: During the period within which we have been subject to the agreement we have complied with all the provisions of the agreement including the one that you're referring to.

MR. TINKLER: Okay. And, just so that we know, how did you dispose of the waste?

MR. BIXBY: Can I talk to my lawyer for a second before I answer that question. I don't know how it was disposed of because I wasn't there.

[Audience noise]

CHAIR VIGIL: Please this is a public hearing. Everyone is entitled to their statement.

MR. TINKLER: Do you know who does know?

MR. BIXBY: Yes.

MR. TINKLER: Who is that?

MR. BIXBY: Jeffrey Bronfman.

MR. TINKLER: Okay. Is Jeffrey – under this DEA agreement, Jeffrey Bronfman is designated as the [inaudible] sets the church – initial primary point of contact; is he still the primary point of contact?

MR. BIXBY: Yes.

MR. TINKLER: And is the central UDV church referred to in the DEA agreement, is it this chapter of the church?

MR. BIXBY: It's the national organization and all of its subsidiaries.

MR. TINKLER: And where is that located?

MR. BIXBY: Where is what located?

MR. TINKLER: The national organization?

MR. BIXBY: In Santa Fe.

MR. TINKLER: So it's this location, the national UDV church.

MR. BIXBY: Yeah, the national church doesn't have an office. We run it out of our homes.

MR. TINKLER: Are there actually any UDV temples anywhere else in the United States?

MR. BIXBY: Yes.

MR. TINKLER: Do you distribute the hoasca tea to those temples?

MR. BIXBY: Occasionally we do.

MR. TINKLER: You do?

MR. BIXBY: Yes.

MR. TINKLER: So is this church here in Santa Fe the central distribution center for all hoasca tea in the United States?

MR. BIXBY: No, sir.

MR. TINKLER: Where else is it distributed?

MR. BIXBY: It's distributed from all of the authorized points of importation which include all six of our chapters in the United States.

MR. TINKLER: Okay, then I'm not sure why you said you were distributing it to the other centers.

MR. BIXBY: Because we distribute it to them and they distribute it to us.

MR. TINKLER: So you distribute it back and forth?

MR. BIXBY: Yeah, we share.

MR. TINKLER: When you do that distribution is that just of the cylinders or do you actually have to brew the tea and distribute it? How do you do that?

MR. BIXBY: We ship it to each other in containers.

MR. TINKLER: In containers, okay. I think that's all I have for now.

CHAIR VIGIL: Thank you. Mr. Bixby, thank you.

Please state your name and address for the record and I would just state that we have heard a lot testimony. If you could not repeat any of the issues that have already been presented in testimony that would be appreciated. Thank you.

[Previously sworn, Steve Finch testified as follows]

STEVE FINCH: My name is Steve Finch. I am vice president and senior hydrogeologist with John Shomaker and Associates out of Albuquerque, New Mexico. Madam Chair and Commissioners, I am going to do a brief presentation of the hydrogeology. The three issues are water availability, the potential for groundwater contamination and the proposed water use. I'm going to cover those three topics very briefly and please I would entertain and answer any questions you would have along the way.

CHAIR VIGIL: Please proceed, Mr. Finch.

MR. FINCH: Thank you. Excuse me while I get accustom to this tool here. Do you remember how this works – oh, move in closer, okay, thank you.

Up on the screen there I have a map. It's a regional map and it's from the perspective of a hydrologist. There's a black outline which is the Arroyo Hondo watershed and that watershed drains – the southern Sangre de Cristo mountains and it comes out into the basin here right at Arroyo Hondo property is and UDV proposed temple is located. The green line represents the boundary between the basin fringe zone and the mountain zone. So that property is right on the boundary between basin fringe and mountain zone. The hills that you see right between the UDV and the Interstate are made of granite and so are most of the watershed. I want to talk about the geology briefly, about the granite. As you get right up to the UDV property site and to the west the geology changes it's granite with sediments overlying it. So what I'd like to show here though is that this watershed drains out into this area of where the UDV property is and we've done quite a few studies in the past for the State Engineer and Eldorado Water and Sanitation District calculating the recharge from that watershed. The average recharge is around 1,700 acre-feet a year that comes out from that watershed into the basin passing by the UDV property.

CHAIR VIGIL: Mr. Finch, how many exhibits do you have?

MR. FINCH: I have six simple slides.

CHAIR VIGIL: Why don't we identify each one of them? The first one will be Exhibit 1-Finch.

MR. FINCH: Exhibit 1 would be the map I just discussed.

CHAIR VIGIL: Right and this would be Exhibit 2.

MR. FINCH: Exhibit 2, and I call this a hydrogeologic cross-section. It is also referred to as Figure 3 in our hydrogeo report. This particular exhibit is a diagram showing a slice of the geology from east to west through the UDV property site. And I'm just going to orient things here. The top of this is the land surface and then these vertical black lines are wells where we have data and then this well off to the right hand side is the well that was drilled by UDV and then these various colors represent different layers. The gray color is the fractured granite; it's the primary aquifer. The red is more or less a clay, a clay zone. And then the yellow are sand, gravel fill, unconsolidated sediments and then at the very top we have a soil horizon which I'll discuss a little bit more. I also have the same figure right in front of you so you don't have to look up and whatever, strain your neck.

The main think that I would like to point out here is that the geology is perfect for protecting the regional aquifer which is the fractured granite. This red is basically a clay layer that keeps infiltration of things out there from contaminating the aquifer. So as long as the wells are sealed then the aquifer is protected. The fractured granite where we drilled actually from about 110 feet all the way to 320 feet resembled a very high water yielding capacity. And I want to discuss that briefly by talking about the well that was drilled and the testing that was done on that well.

This is my Exhibit 3 which is also a version of Figure 5 in my hydrogeo report. I have two diagrams on this Exhibit 3. One represents how the well is constructed and the other is the geology. Also here, Commissioners, I have a chipboard that represents the cuttings that were collected during the drilling process so that we're able to analyze in great detail from the service all the way to the bottom exactly what the characteristics of the geology are. And surprisingly enough, it resembles very closely to what the New Mexico Bureau of Geology had already mapped out both on surface and on subsurface and so it's not – it wasn't a big surprise or a new find. It was just more evidence of what we already knew.

I'd like to point out on Exhibit 3 at the very top of this column representing the geology is a brown layer of soil. That soil is a sandy loom that has some clay in it at various horizons but it's mostly a sandy loom that is I would call it adequate for septic systems. We know that by grain size distribution and things like that. The aquifer was tested with this well and we did several tests. The first test that we did was what we call a step test where we can see at what rate we want to do the longer constant rate test at. So we tested at 15, 20, and 22 gallons a minute and then we went back and did a longer 48-hour test at 15 gallon a minute and then did five days of recovery. We collected it all with automated instruments and we also managed the test and documented all of the details of the data collected.

And just to summarize the pumping test results and this would be my Exhibit 4 and these are things that I have just taken out of the hydrogeo report. The maximum rate pumped was 22 gallons a minutes, although the well will make quite a bit more. We were limited by the size of the pump that was put in the well. We tested at 15 gallons a minute and after 24 hours the water level stabilized and that stabilizing of the water level to me from the analysis of the pumping test data shows that we hit a recharge boundary. Not only is there groundwater storage but there's also recharge to that aquifer tapped by that well. The water level fully recovered which is what you'd want in a nice viable aquifer and also the water

quality is excellent and meets drinking water standards for the parameters required in the County Code.

From what we determined from testing the well and performing the additional analysis on draw-down by other uses in the area, the well is more than adequate for sustaining the 100-year water supply.

I have another exhibit here on water availability calculations. What I did here is I summarized all of the assortment of calculations that have been performed for this parcel of land by the applicant and the protestants as well as third party. There are two types of calculations shown on this table: the storage calculations which are the standard formula for calculating water availability defined in the hydrology appendix of the County Code and there's also the recharge method which is an optional method you can use if you're in the mountain zone. The recharge method was calculated by using Darcy's Law which is a fundamental formula for groundwater flow. It shows a much higher available supply of over 12 acre-feet per year for 100 years. The other storage calculations vary between .08 to .47 and I think the .08 is not representative of the condition that we see in this well or out there at that site for that aquifer. It was based on data before this well was drilled.

If you average the storage calculation values interestingly enough it's about .26 so if you just want to sum up everybody's estimate and calculations and have an average of .26 acre-feet per year. I believe the third party viewed by GGI is a solid calculation of .35 acre-feet per year so there's a good amount of water available for the size parcel of land there, 2.52 acres.

This is my Exhibit 6 and it's also a table summarizing, it's actually a comparison of water budgets for the proposed UDV temple and I just broke it out into three things in this table. I have the subtotal indoor use and then the landscape irrigation and then even though it says subtotal, that's the total use in acre-feet per year for various estimates. The second column starting from the left is titled UDV water budget, I have .18. I rounded it up and I've heard .17, that's a good solid number based on a detailed analysis with standard water conservation measures that the County would expect for a new development such as this. And then I have .21 is what I estimated when considering some of the issue that the protestants have brought up. That does not include rainwater harvesting so if you were to throw in rainwater harvesting that would actually be less. We have the last two columns to the right are estimates made by the protestants and I think for various reasons identified by the third party reviewer, Glorieta Geoscience, I think that they are overstated and not valid for what is proposed for this applicant. And that sums up what I was here to discuss. If you have any questions I would be more than glad to answer them, Madam Chair.

CHAIR VIGIL: Okay, are there any questions? Seeing none who is your next expert? Karl, I'm going to ask that all the cross-examining be limited to the land use case and land use issues. This is a land use hearing. So I'm going to allow you to cross-exam but it'll have to be limited to land use. And to this particular person you have to ask questions based on his testimony on water.

KARL SOMMER: I understand that completely. Thank you very much and I'll be very brief.

Mr. Finch, could you come here and grab that microphone and explain something to me real quick on your chart, Exhibit 2. That's in your report; correct? You can pull that

microphone off. I just want to ask a couple of questions about your chart here.

MR. FINCH: Okay.

MR. SOMMER: This is the cross-section of the geology you said; correct?

MR. FINCH: That is correct.

MR. SOMMER: And the clays that you talked about are here in red along here?

MR. FINCH: Within that red, yes, that's a package of clays and other rocks.

MR. SOMMER: Is that – what do you call that formation?

MR. FINCH: Espinaso.

MR. SOMMER: And how much of it is clay and other rocks?

MR. FINCH: At the UDV well location it's 25 feet of clay and then at other locations out to the west there's as much as between one to 300 feet.

MR. SOMMER: Okay, so it's increasing as you go west.

MR. FINCH: It does.

MR. SOMMER: And the same thing is true on the UDV property itself. This UDV property if you had cross-section would encompass that well and it would come down like that correct? Somewhere in like that?

MR. FINCH: I'm sorry I'm not following –

MR. SOMMER: The property lines on the east of the UDV property on the west would cross section like this.

MR. FINCH: That's right. This is the UDV property here.

MR. SOMMER: Okay, so it's right here. So on the UDV property underneath in the area of the UDV property would you agree that about 40 percent of that is the formation that you just described? Forty percent of the area below the Ancha formation down to the where the bottom of the well is, about 40 percent of the area below there is about that the other, the Espinaso Formation.

MR. FINCH: I would go in vertical feet rather than percent because I am more familiar with those terms.

MR. SOMMER: Okay, but it changes across the property is what I'm indicating.

MR. FINCH: It's increasing to the west.

MR. SOMMER: Right. And in your calculations about water storage don't take into consideration the existence of that clay as far as the saturated thickness of the water bearing strata below the property; correct?

MR. FINCH: No, because the water bearing formation is the fractured drain –

MR. SOMMER: And you indicated in your report that the water level across the property goes into that clay; doesn't it? Your report says that.

MR. FINCH: It does, yes. So does this graph.

MR. SOMMER: And you don't take any reduction or [inaudible] that the portion of the property that is covered by clay below the water level, your formula doesn't take out any reduction for the water availability in storage there; correct?

MR. FINCH: No, we do not use the clay for calculating water –

MR. SOMMER: -- the formula doesn't make a reduction for it; does it?

MR. FINCH: The formula doesn't include it.

MR. SOMMER: Right, right.

MR. FINCH: So it doesn't have to make a reduction for it.

MR. SOMMER: It assumes that there is water bearing strata bearing uniform across the water –

MR. FINCH: No.

MR. SOMMER: It doesn't?

MR. FINCH: It assumes, we're talking about thickness of this aquifer which goes like this it doesn't necessarily include this.

MR. SOMMER: On the property does your report assume that the water bearing strata is all the way down below, uniformly below the water table?

MR. FINCH: No, the report assumes it's the thickness of the granite not the clay.

MR. SOMMER: Okay, that's what I wanted to confirm. And your report shows that?

MR. FINCH: It does.

MR. SOMMER: Okay, thanks. I have no further questions.

CHAIR VIGIL: Thank you. Thank you very much, Mr. Finch. Next speaker.

MR. GRAESER: Madam Chair that completes our presentation. Based on the cross-examination, some questions of Mr. Tinkler, Mr. Bronfman would be happy to get up and explain the disposal of hoasca and how that is done if you have questions about it.

CHAIR VIGIL: Are you wanting to do that at this point in time or do you want to –

MR. GRAESER: Sure, he could get up and answer that question for you.

CHAIR VIGIL: That is fine with me. We're staying on topic then.

MR. BRONFMAN: So I remember Mr. Tinkler's question and I could just respond directly that since the time of the settlement agreement with the government of the United States there hasn't been an occasion where we've disposed of hoasca in Santa Fe County or anywhere in the country. Mr. Bixby was mistaken about that there hasn't been an occasion where we've disposed of the tea.

CHAIR VIGIL: Thank you very much. Commissioner Holian has a question.

COMMISSIONER HOLIAN: Thank you, Madam Chair. I have several questions and you can decide how they will be answered because they are on a variety of topics. One set of questions has to do with the times of the service and what I would like to ask a question about and it wasn't totally clear to me was what time on average will people actually leave the site?

MR. GRAESER: We'll have Mr. Bixby answer those questions.

CHAIR VIGIL: Chris, please stand up there and be close by so you can direct the appropriate respondent to these questions.

MR. BIXBY: Madam Chair, Commissioner Holian, our participants in these sessions can't leave before 12:15. I'm speaking for the scheduled sessions which start at 8 o'clock and end at 12:15 at the latest. They wouldn't leave before 12:15 and sometimes people stay around for three or four hours. Sometimes people leave at 2 a.m. or 3 a.m., 4 a.m. Usually people are gone by 4 a.m.

COMMISSIONER HOLIAN: Do people tend to leave at a variety of times or

do they all stay until one time and then leave in mass?

MR. BIXBY: Madame Commissioner, Commissioner Holian, people tend to trickle out over a period of time.

COMMISSIONER HOLIAN: Okay, and how many cars do you think would be at a typical service?

MR. BIXBY: Right now from what we've measured people are usually are two or three people to a car. So calculating that if we had 100 people at a service that would be possibly 25 cars to 50 cars at the most. And as I said in my testimony we encourage people to carpool both because it's environmentally correct and because we do care about minimizing our impact on the neighborhood.

COMMISSIONER HOLIAN: Okay, and about the outdoor lighting, we were shown a picture of rather unobtrusive outdoor lighting will there be any more visible lighting for when people are leaving the site?

MR. BIXBY: No, unless staff or the Commission wants that as a condition of approval. But our preference is to not have any sodium vapor lamps on poles, we don't want that.

COMMISSIONER HOLIAN: Okay, and then, how long does it take for the effects of the hoasca tea to subside in the average person? I'm sure it varies from person to person but on average how long does it take after the tea has been digested?

MR. BIXBY: Sometimes it can be in as little of two and a half hours. Sometimes three hours. By the time we get to the conclusion of the session people are well, with their eyes open and able to speak, stand, walk around, function normally.

COMMISSIONER HOLIAN: Okay, thank you. Now I have a few questions about the waste water system and maybe Mr. Finch or perhaps Mr. Jennings would be the person.

MR. GRAESER: We'll have Mr. Dotson and Mr. Jennings both and whoever

CHAIR VIGIL: Gentlemen, have you been sworn in yet? [The gentlemen acknowledge they are under oath] You have, yes, both of you. Thank you very much.

COMMISSIONER HOLIAN: My first question is that off and on as I went through this packet there was a graywater system, a possible gray water system, that was mentioned. Yet it didn't appear to be part of the initial master plan so I just wonder if you have plans for a gray water system or have you put that aside.

RALPH DOTSON: No, we have no plans for a graywater system. Graywater is permitted for residential and it would have to be done with a variance.

COMMISSIONER HOLIAN: And the model of the sludgehammer that is being used for this development, what model is that and how many gallons of wastewater can it handle per day?

MR. DOTSON: The models are Model 86 and they can treat up to 1,000 gallons per day per treatment unit.

COMMISSIONER HOLIAN: And then I was wondering, this is sort of an unusual situation for a sludgehammer for a wastewater treatment system in that there will be a short period of fairly heavy use and then you'll have a longer period where you may not be using at all. Can the sludgehammer that kind of a situation?

RICHARD JENNINGS: Yes, it can. We have actually an equalization tank in front of the two treatment tanks so that it will be distributed evenly to both units and they are perfectly capable of dealing with those types of flows.

COMMISSIONER HOLIAN: And, then, finally, I guess I have another question for Mr. Bixby and that is with regard to unused tea. Will there ever be any unused tea that is disposed of on the site? Oh, he's not here I see. Well, perhaps somebody else could answer that.

MR. BRONFMAN: The circumstance where there would be an occasion where we would have to dispose of tea would only be if it was degraded to the point that it wouldn't be usable. And over the period of time that I've been involved in the UDV, of the hundreds of temples that I visit I've only seen that happen on one occasion. So we're talking about a likely to be very rare occurrence.

We will continue to look in terms of the possibilities of what is required if there is any local or state ordinances with respect to the disposal of it and of course we're going to be working with the DEA with regard to whatever requirements that they have. But with to the extent that we've researched it at this point, it is not considered a contaminate, it is not considered a hazardous substance, it's not considered a toxic substance so there are no regulations that currently exist regarding its disposal.

COMMISSIONER HOLIAN: So you would dispose of it onsite then?

MR. BRONFMAN: If there was ever an occasion under the current agreement we have with the DEA that would be our preferred way of disposing of it. But if there was a concern about that we could dispose of it somewhere else.

COMMISSIONER HOLIAN: Thank you, Mr. Bronfman.

MR. BRONFMAN: Thank you.

CHAIR VIGIL: Any other questions of the Commission?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Just to clarify. I'm holding all of my questions based on your original statement. Is that okay if I hold all of my questions through the testimonies and then ask at the end?

CHAIR VIGIL: Yes, as long as you don't have 200 of them? [laughter]

COMMISSIONER ANAYA: One hundred and eighty-five so far.

CHAIR VIGIL: That's okay. Chris, I believe you have completed your testimony and you have reserved and requested rebuttal time and we will allow that. I'm going to call a five-minute break.

[The Commission recessed from 7:40 – 7:55.]

CHAIR VIGIL: If we could get started. We'll now be hearing from the public. Let me just have a show of hands. Are there any members of the public who are proponents of this project; would you please raise your hand. No, not opponent but proponent, meaning you are in favor of this project. Okay, let me do it this way: those in favor of this project please stand up. You may sit down. Those who are opposed please stand up. Okay, and thank you all very much for being here. In all fairness to all of the public is there anyone in the public beside the presenters who would like to address the Commission who are in favor of this project. Please indicate by raising your hand and I'm going to count

now and there's one, two, three, four, five of you. Would you all please – oh, six – all of you stand and raise your right hand.

[The oath was administered to those individuals wishing to speak]

Please line up by the podium, stated your name and address for the record and tell me how much time you'll need. I'm going to have to allocate time equally for everyone tonight.

[Previously sworn, James Jackson testified as follows]

JAMES JACKSON: Good evening, Madam Chair and Commissioners. My name is James Jackson. My address is 2822 Don Quixote and I'll be taking about two minutes.

CHAIR VIGIL: Thank you. Go ahead Mr. Jackson. We'll take names and addresses as you testify and we'll start with Mr. Jackson. Please, state your testimony.

MR. JACKSON: Thank you. Good evening, Madam Chair and Commissioners. I am a UDV member. My name is James Jackson. I am called by my nickname "Pete." I became a resident of Santa Fe in 1997 and a member of the UDV in 1999. In the UDV I occupy the position of Councilor and I'm currently serving as vice president of the local church. I was married in this church and my wife and I are raising a daughter together. Our daughter was baptized in the UDV. I'm an artist and a martial arts instructor, teaching martial arts at a studio owned by my son in-law and oldest daughter who are UDV members.

In my life story there are chapters that would allow you to appreciate that I know what intolerance and bigotry looks, feels and sounds like. This is not the first time I've been either singled out or within a group presented the "not welcome" sign in certain neighborhoods. In my life I have encountered people frightened of me because of my complexion and because of what they mistakenly believed what I stood for. I have also been literally handcuffed only because of my race.

I arrived in Santa Fe in 1990. I left after a year and a half but returned in 1997 because it was one of the rare places within this country where I didn't feel the burden of race to the same degree of other places that I had lived, worked or visited. In the small town atmosphere I felt that acceptance was more the general rule than the acceptance.

I drink hoasca with this church time in Marin County in 1998. Admittedly I arrived at the session with prejudice. I was skeptical and approached the session looking for a reason not to return. In the session I experienced my thoughts, examining who I aspired to be with the clarity to know how to choose right above wrong. In doing so, some of the words I thought and experienced were this that meaning the tea and its path can heal white middle society. Within less than a second I heard myself say, no, that this could heal everyone. This can heal me. This can bring us all together as brothers and sisters. I continued by realizing and experiencing I am at home.

Was what I saw hallucination? In this moment I can say that what I thought and experienced as being confirmed in my life having visited UDV communities in America and Brazil the simplicity, humility, acceptance and level of intelligence and respect by which the people conduct their lives is not common in any place I have known. These experiences are not hallucinations. They are tangible reasons why I walk this path and why I'm speaking in support of this cause. If anyone here takes the time to examine our church closely you will see that it promotes good family values, good human relations and care for the environment.

These are qualities needed in any neighborhood or community.

In the UDV there are no words that promote fear, separation or hatred. There are no practices that support contaminating the environment. We do not arm ourselves or others with weapons. We examine how to overcome difficulty with peace in our heart. We are not secretive. We do not proselytize. Discretion is used because the church primarily grows between family and friends.

For 14 years, 15 years excuse me; the land in Arroyo Hondo is where the session have been most regularly conducted in Santa Fe without incident or concern. The land is a place of worship. Some of those places around the globe where indigenous people gathered, studied and then applied the teaching in their daily lives.

I want to speak about children for a moment because this is a passionate subject for me. My firstborn at eight days old was killed on Father's Day. My child's death allows me to understand concern for the safety of children. It places me on the side of any parent who wants the best for their child. To further illustrate my point, I was connected to three of the four youth who were killed in the tragic accident on Old Las Vegas Highway. I taught one of them, knew the parents and some of their community of friends. I saw and understood the impact. If I thought this work was harmful to any child my daughter would not have been baptized in this church. I would not be a member and I would not be here speaking as an advocate to build this temple. On the issue of driving while impaired after sessions, I would not participate in an activity that would impair me to the point where my actions might risk a family to lose a child.

In closing, everyone is a child to a higher power and as humans we have a responsibility to work towards acceptance of others. In every community the focus has to be on countering bigotry and tolerance. No person or group should be literally or figuratively handcuffed for what they look like. I am convinced that in order for humans to transform prejudice to acceptance we must have an opportunity to see our prejudice and it is likely that it will present itself as something different than what we are accustomed to. What we do with the opportunities can define us and determine our legacy. I believe that some of you view the UDV as having an unfamiliar complexion while I thank god I have this path to help me remove my prejudices. For those who are opposed to us building our temple in Arroyo Hondo have doubts and ask questions but starting listen to who we are and you will find that the members of the UDV are not strangers. We are people who have been in this community doing good work for many years. Thank you.

CHAIR VIGIL: Thank you, Mr. Jackson. Next.

[Previously sworn, Kathryn Habenstreit testified as follows]

KATHRYN HABENSTREIT: Commissioners, my name is Kathryn Habenstreit. I live at 841 Don Diego in Santa Fe. I'm a third generation New Mexican. My grandfather AR Habenstreit came to Albuquerque with my grandmother in 1918 as the first city manager when Albuquerque had the population of 15,000 people. As a civil engineer he was responsible for building most of the downtown streets in Albuquerque. He started the CBS affiliate radio station and television station in the '30s and my family ran the television station until 1990 when we sold it. He started and ran KBS radio in Santa Fe until it was sold.

I became a member of the UDV 15 years ago. I joined the church because of the

members of the church. They impressed me because of their positive and healthy attitudes. Because of the focus that they put on the family and raising healthy, well-loved children and because of the obvious maturity and dignity that they demonstrated.

I have participated in virtually every session that we have had in the last 15 years and have benefited greatly. As I get older, I'm 66 now, I find that the practice of the church, attending services, participating in the social activities with the community and doing a service both within the UDV community and in the community at large is having a very positive effect on me. I am active and involved in my life in a way that keeps me vital and energetic. I have purpose and value.

As an example of the service work I have done in Santa Fe Community, some of you may remember me here in the Commission because I came before you five years ago when I was raising money to bring a program into Santa Fe that helps people with severe mental illness to normalize their lives and to become productive individuals. With the help of my work team and the community of Santa Fe I was successful in raising $\frac{3}{4}$ of a million dollars in two and a half years through the New Mexico legislature, the McCune Foundation and the Cornell Health Foundation. About half of that money was in the form of capital outlay, which went to the County for the purchase of the building for the clubhouse model-type program. A building was recently purchased by Santa Fe County which will be used by the Santa Fe Clubhouse under the auspice of the LifeLink.

I can say without reservation that I would not have been able to accomplish this work if I had not been associated with the UDV Church. Because of the UDV Church, through the support, advice, and expertise I found there and through the health and balance I've been able to attain in my life because of the spiritual practice there. I've been able to do a service to my community in a way I never before imagined. This church is vital to my continued health and service to my community. We are now ready to build a permanent structure for our service on the land where we have practiced our religion for over 15 years. I hope you can see from some of the value that the UDV Church brings to the community within Santa Fe County and that you will vote in favor of our right to build our place of worship. Thank you.

CHAIR VIGIL: Thank you, Kathryn. Next.

[Previously sworn, Renata Cassis Law testified as follows]

RENATA CASSIS LAW: Good evening, Madam Chair and Commissioners. I am a foreigner. I speak Portuguese and that's why my English is not so perfect.

CHAIR VIGIL: It sounds very well.

MS. CASSIS LAW: Thank you. My name is Renata Cassis Law. I was born in São Paulo, Brazil by the way my address is 7 New Village Avenue, Santa Fe, New Mexico. So I was born in San Paulo, Brazil and I've lived in Santa Fe, New Mexico for 13 years. I went to school here and graduated from the Anderson School of Management at UNM with a business administration degree summa cu laude and that was in 2008. I say this because I was raised in the UDV. My parents came to the UDV when I was six months old. And I was raised in the community in Brazil. Now I'm 30 years old. That's not very long but for me it's my whole life and it means something to me.

My parents when they came to the UDV they were on the verge of a divorce and when they arrived in the UDV because of the support that they received from their community and from the other families that participate in this religion they were able to stay together and I

owe this to this religion that I was able to be raised from parents that got along and had stability. I feel how much of that had made me the person I am and with the values I have. I can assure you that my values are anchored in this village. When I speak about value I'm talking about my participation in this community as an honest person. As a person who tries to do good for those who are around me. I care for people. I really do. I feel I carry that in my heart and this is anchored in the goodness that I am receiving from this practice.

In this 30 years of life with the UDV my family has never been part of a car accident. They would drink hoasca tea and driving home and São Paulo is one of the biggest South American unorganized cities in this planet, it's disorganized. The traffic there is quite terrible and does even compare to the good traffic that we have here in Santa Fe and how people obey the laws here. So in all those years never, my family nor any of the families and there were more than 60 that I was raised around have ever been part of a car accident based on the fact that they were drinking hoasca.

I want to say that I was able to grow up in a safe and healthy environment and I have a child and I want that for her too. As one more humble taxpayer and member of this Santa Fe community here I respectfully ask you to consider approving this project so that we can gather and practice our religion and peacefully assemble.

I think you for your time tonight.

CHAIR VIGIL: Thank you, Renata. Next.

[Previously sworn, Taylor Selby testified as follows]

TAYLOR SELBY: My name is Taylor Selby. I'm a little bit taller than Renata there. My address is 5018 Agua Fria Park Road here in Santa Fe.

I've been an active community member here of Santa Fe for over nine years. I'm currently an account manager and employee-owner of Positive Energy a solar company that employs 45 people in New Mexico. I currently serve on two nonprofit boards of directors. I've been a UDV member for six years. Prior to being a part of the UDV I was a computer programmer and never gave back to my community in any significant way. Since the UDV has come into my life I've been able to give more to Santa Fe than I ever imagined possible. Through my leadership role and as a co-founder of Earth Care that my wife and I started, we've educated and supported over 6,000 teenagers in this community. We have worked with hundreds of teachers, dozens of school in the Santa Fe County. We've published the Single in Santa Fe Guide. Established school guidance, brought over half-a-million dollars into the Santa Fe economy from outside of New Mexico.

Since I joined the UDV I've served as a Board member and as a vice chair of the Permaculture Credit Unit. I've served as an advisor to the public schools here in our community and I've served as a mayor-appointed commissioner on the Sustainable Santa Fe Commission.

UDV filled my cup so that I can continue to give to others into this community. It is without question the single most important thing in my life in regards to helping me become a better person, for finding my imperfections, to being more positive, to becoming a better husband, and perhaps most important to becoming a better father. The tea that we drink, hoasca, has never impaired my abilities or impacted me in any negative way. It has only had positive effects on me, my family and the community that I continue to serve of Santa Fe.

The UDV is something that is good. It is something that is positive and I ask you to

please approve this project so that we may build a code compliant and humble structure and to continue to practice our religion.

CHAIR VIGIL: Thank you, Mr. Selby. Is there anyone else? Please come forward.

[Previously sworn, Donald Kenney testified as follows]

DONALD KENNEY: Madam Chair, members of the Commission, hello, my name is Donald Kenney. My wife and I have been participating in the UDV in Santa Fe for three years. I live in Taos and work as a CPA and an instructor in accounting and business ethics at Northern New Mexico College. My wife is a public school teacher. We have been married for 17 years and have two sons, nine and eleven years old.

In this brief comment I want to focus on the benefits that I see for my sons through our families participation in the UDV. As a second generation American I inherited negative behavioral patterns that I associate with my grandparents' life in Northern Ireland. I did not experience the oppression and intimidation that my grandparents experienced but I inherited some of their anger and resentment. As an adult I have worked to overcome these traits. Participation in the UDV has been the most productive means that I have found for evolving myself and I am able to parent my sons with greater love, peace and mental clarity as a result.

In the past I had concerns about how I would handle my sons teenage years. Young people today have such high exposure to negative influences. Both of my sons tested as gifted students and have tremendous potential. I am working to ensure that this potential is not misdirected. The people of the UDV of Santa Fe have embraced my sons with care and respect. The enthusiasm that my sons show for participating in UDV social gatherings and workdays even with our three-hour roundtrip it is inspiring. They genuinely love to be within this community. I've also observed the young people of the UDV including teenage and young adult visitors who have grown up within the UDV in Brazil. I am uniformly impressed with their healthy lifestyles, educational interests, patience with children and their positive fun-loving attitudes. These observations have shown me the potential of the UDV for my sons and I've come to a place of looking forward to their teenage years.

Anyone who takes the time to get to know the families of the UDV will be able to see as I have seen that it is a good practice, a sincere faith and has nothing but benefits for families. Thank you.

CHAIR VIGIL: Thank you, Mr. Kenney. Next.

[Previously sworn, John Baxter testified as follows]

JOHN BAXTER: Madam Chair, Commissioners, my name is John Baxter. I live in Saguache, Colorado. My wife Kathy and I have been members of the União do Vegetal for over 19 years. We have attended hundreds of session in Arroyo Hondo. We live four hours from Santa Fe and rarely miss a session. We far over 1,000 acres of irrigated land. We raise organic alfalfa, wheat, and potatoes. I also run several hundred head of beef cattle. My main business though is lumber. We do our own logging, milling, processing and we sell it to contractors and retail lumberyards. Our byproducts are either baled for horse bedding or composted for a farm. We're one of the largest employers in our county. We're just 200 miles north in Colorado.

With these responsibilities we still take the time and effort to drive the eight-hour roundtrip to attend to our church. Many times driving home after a session, many times on a

solid sheet of ice. I'm stating these facts to show the importance of this religion to me. I recognize the good that has come to me and that is still coming and that I have received all of this through this church. I'm a better person for this and I would not belong to an organization that was not honest and was not practicing the truth and it was not with dignity. I feel gratitude for the positive influence that this religion has brought to me.

Thank you.

CHAIR VIGIL: Thank you, Mr. Baxter. Is there other testimony? Thank you very much. We are now going to hear from the opponents. Who will speak to that first? Do you have an agenda to let us know how you're going to proceed?

MR. TINKLER: My name is Steven Tinkler and Joseph Karnes and Karl Sommer and I are representing the opponents. Do you want to know who the witnesses are?

CHAIR VIGIL: I want to know who is going to be speaking and in what order and certainly members of the public you will be given the same opportunity.

MR. TINKLER: We're going to present the position through several witnesses. Mustafa Chudnoff will be the hydrologist who will be testifying. Oralynn Guerrerortiz will be testifying on the wastewater system and then Joseph Karnes and Karl Sommer will also be speaking on some issues as will I. And we're going to have members of the neighbors give a little presentation rather than – to streamline it so we don't have the whole group standing up. That's kind of our plan.

CHAIR VIGIL: Thank you, Mr. Sinclair [sic].

MR. TINKLER: That's the agenda and we're going to address, I want to speak now about the issues we're going to address.

I want to speak about who we are. You've already asked the question about who's opposed and everyone that is stood up and that's part of who we are. Also, this board here shows who we are. The red dots on the board represent all of the opposition to the UDV Church application.

CHAIR VIGIL: Can we identify that as Opponent's Exhibit A?

MR. TINKLER: Sure, that would be fine. The green dots what those represent are just people that we have not be able to contact one way or the other, we don't know how they stand. The same is true with some of the blank spaces. But you can see from this Exhibit A that almost all of the members of the Arroyo Hondo community are opposed to this project and that's who we are. And that's these people out here. They're the people that have lived here, some of them all of their lives and most of them for 20 or 30 years. And, you've heard from some of the UDV members that they have suffered from intolerance, and they think they've been mistreated and I'm not real sure where that came from because none of the people that we represent have ever said an unkind word about anybody in the UDV Church. We have nothing against the UDV Church.

I want to tell you what this case is about. It's not about the church. It's not about – as you may have seen in the paper, Mr. Graeser wrote a My View column on Sunday about how they were going to be a good neighbor. That's not what the case is about. It's not about good neighbors, bad neighbors; it's not about drugs. It's about the Code. That's what we're going to address. And I know when I cross-examined a few minutes ago it seemed that some of you might have thought I was going outside the area of concern. But, in fact, the questions I was asking were really about land use because they were about compatibility and we'll get into it

in more detail. But I do want the Commissioners to know that that was really the direction that we're going.

It's our view that the UDV application does not satisfy the Code in any respect – let's say in three respects that are relevant and that's what our presentation is about. We will be first addressing the water issue and we will present evidence that the water issue fails on all counts to sum it up. Their water budget does not represent the full use and we will have detailed testimony about that. The water availability that they have submitted many documents about we will also show is flawed and we will show that in fact the water availability for this particular 2.5-acre lot will never satisfy the Code requirements. And we will show that the Code requirements do require a geo-hydro study because the use of the UDV clearly exceeds .25. Secondly, we will address the wastewater issue and wastewater issue we will have Ms. Oralynn Guerrerortiz testify about the wastewater system and she will tell you in simple terms that the wastewater system is undersized for this project and that contaminants will enter the groundwater. Before her testimony, I did forget one witness and that was Robert Eaton, Dr. Robert Eaton. He will be testifying prior to Ms. Guerrerortiz and he's going to be telling the Commissioners about the risk of the compounds that are part of the UDV tea that will be through the normal processes of living or having their services on the site getting into the groundwater. He will be talking about how there has been no presentation by UDV to address the alkaloids that will enter the groundwater and are known as neurotoxins and can affect, even at low levels, humans. That's why he will go before Ms. Guerrerortiz and she will tell you why this system doesn't protect the environment.

And, then the last area that we believe they have failed to satisfy the Code is the compatibility portion. That is the portion that Mr. Sommer will speak to you about, compatibility, and the five residents who live in the neighborhood will also speak to you about compatibility.

We agree that this is a law use case and we agree that that is what we're trying to show you is that they have not complied with the Code and we feel confident that after you hear the testimony of the people that we have presenting tonight that you too will see that they have not complied with the Code. The only other issue that I am going to raise that will be, I think, something that shadows the whole proceeding is that – in any proceeding when you're looking at an application, you look at the applicant, you look at the opponents and you address their credibility. You decide who is being credible here. We think once you hear our presentation you'll see that the application is not credible and that, in fact, it's consistent with the lack of credibility that the UDV Church had with the neighbors for the 16 years that they operated there in secrecy. Now that's not part of the Code but that's part of the credibility and you have to consider that when you look at it. Tai Bixby when he made his presentation to the community in 2009, he told the community, and it's on this board down here, that after 2005, after they had been here secretly for 15 years they decided they had to quote "get straight with the County." Admitting they weren't straight with the County. He said they weren't straight with the County because they were worried about the government watching them. Now they're here before the County and they're submitting an application and all we're suggesting is that to get straight with the County they have to be straight with the County and we would like to show you through our presentation that they have not. And that the Code has been violated.

The other issues that they did not mention tonight but they have mentioned throughout their submissions, they're eight submissions, is the RLUIPA issue. We will address that. I will address that at the end of the presentation. And just the short form for right now, RLUIPA is not going to be an issue in this case. Because if you deny this application because they don't satisfy the Code there's no RLUIPA argument. That's all we're asking is that you apply the Code to them like you would to any other developer.

With that, Karl Sommer will now address the –

CHAIR VIGIL: Mr. Sinclair [sic] and Mr. Sommer, because you're under sworn testimony as attorneys the only other thing we need to do at this point in time is to have everybody else who hasn't been sworn in to please stand and get sworn in. So I understand everyone who was mentioned here and those members of the public who will be giving testimony please raise your right hand.

[The oath was administered to those standing.]

MR. SOMMER: Members of the Commission, my name is Karl Sommer. My mailing address is PO Box 2476, Santa Fe, New Mexico. What we've handed out to you are a packet that is going to follow the boards in front of you so you have in front of you what Mr. Chudnoff is going to talk to you about. We'd like to get right to the heart of the matter of this case and it is the lack of water availability to this project as it is proposed.

I'd like to discuss briefly the water history issue in this case and introduce Mr. Chudnoff so he can go through with you specifically all of his conclusions.

First of all, why are here and why are we dealing with the geohydrology that you've just had the presentation by Mr. Finch about? I'll tell you why, because when we started this project they produced a water budget that was criticized for being inadequately low. They produced a water budget that said .17. Now it's .20. All along Mr. Chudnoff who has been in this industry, in this business as a professional for almost 30 years determined based on their own described uses that they had omitted uses, water uses in their budget. He came up with a .41 water budget. Now that's not an extraordinary amount of water but .41 pushes the applicant into the need to do a geohydro. When we started – when they started this application they didn't do a geohydro. They didn't have a geohydro. It is within the last two months that they did a geohydro. I submit to you that that is a passive admission that their water budget as proposed actually requires them to do a geohydro. You will see that after they have done the geohydro and you apply the Code and the data that they have produced and all of the relevant information, the conclusions are inescapable. One, when you apply the Code properly there is an inadequate water supply. They have .14 acre-feet annually available on 100-year supply. Mr. Chudnoff will prove that to you. Second, the methodology, the assumptions and the applications of the formulas and models that had been used by the applicant are inadequate, they are wrong, incorrect and ultimately they are unreliable and they should not be relied upon. And, finally, you will see how specifically their water budget is understated.

Now I told you that Mr. Chudnoff has been doing this for 30 years. He hasn't just been doing hydrology for 30 years. He worked for 10 years with Mr. Lazarus. He worked for nine years in the State Engineer's Office and he had another many years as a hydrologist outside of the state. I'd like to introduce him to walk you through how he reached those three conclusions: .14 acre-feet and the flaws in their methodology and the fact that their water

budget is wholly understated. Thank you. I turn it over to him.

MUSTAFA CHUDNOFF: My name is Mustafa Chudnoff. I'm a consulting hydrologist with office here in Santa Fe. I'm a resident of Abiquiu, New Mexico. [Exhibit 5]

You had a very brief introduction into the Santa Fe County Land Development Code this evening and Karl touched briefly on the requirements relating to water availability and project water requirements. But before I begin my presentation I want to introduce to you another principle that underlines the County's water supply method and that is that the Code discourages and penalizes speculation. Reasonable speculation and uncertainty are an acceptable and inherent element of all hydrologic analyses. However, we must understand that these create an element of risk to the public health, welfare and safety and it has the potential of adversely impacting our limited and fragile water resources. This risk, however, can be managed by giving the benefit of the doubt in instances to the more conservative interpretation of hydrologic conditions. Therefore, the developer always carries the burden of supporting any deviation from the County's standards, practices and methods that have evolved over time to address the critical question of project water availability. In the presentation that follows I will show how step-by-step critical element-by-critical element the UDV's water studies have failed to meet the standard. I will also point out to you how time and again your consulting hydrologist failed to identify and bring to your attention the serious technical inaccuracies in the UDV's water supply submittals.

I'm going to change the order of the slides in my presentation. You received a packet and I'm going to start with the slides exhibit labeled H-16 and H-17 and I'll refer to those numbers on your sheet as exhibit numbers.

In the submittals both from the part of the UDV's consulting hydrologist and also the County's consulting hydrologist references were made how the best method for estimating water use for a new project is the use of comparables. Specifically GGI has suggested that the five months of water use data that was submitted by the UDV represents an acceptable comparable. I would like to challenge that assertion. In a previous submittal the UDV's consultants on a number of occasions submitted a table showing water use between 1998 and – excuse me, 1998, 2007, 2008 on the part of a number of churches and Jewish and Muslim places of worship throughout Santa Fe. And I've highlighted to you that even within these well-established institutions you see significant fluctuations in water use from year to year. So how can we rely on five months of data? The answer is simple. We cannot. We need more than that.

Let me tell you something about myself. I've been consulting in the public sector and through private clients for more than 20 years here in New Mexico. I've calculated water use and wastewater requirements for municipalities such as the Town of Taos, the City of Española, the City of Las Vegas, the Village of Angel Fire and I've also worked on unique and special commercial type developments that have no precedence in our area. The new Santa Fe Animal Shelter, Ojo Caliente Mineral Springs and Resort, Sunrise Spring and Resort – by way of example of the various water budgets I've worked on. And what I want to point out to you is that the water budget submitted by the UDV and reviewed by your consulting hydrologist is simply inadequate. Just listening to the testimony today provided by Mr. Bixby drives home the point that the water budgets that they have prepared do not include some critical water uses. For example, the water budgets that they have developed,

that their consultants have submitted to you and that were reviewed and approved by your consulting hydrologist state that their hours of worship and operation are four hours every other week. Four hours. Today, this evening we heard testimony from Mr. Bixby quite emphatically stating that from beginning to end their services may last six to eight hours, perhaps even longer. You don't need a master's in hydrology. You don't need a college degree. You don't need anything to understand that the likelihood of somebody using water, going to the bathroom over an eight-hour period is much higher than over a four hour period. That is a critical omission in all of the budget submitted to you on behalf of the applicant.

The table that I have provided you labeled Exhibit H-17 provides the basis for my more detailed analysis and I'd like to briefly go through some of the critical points. We heard that there is an agreement between the UDV and the Department of Justice, the DEA, and in that agreement it states that the UDV will be repackaging, decanting, combining, boiling and disposing of batches of tea. That will require water for cleanup. That will require water for processing. That is not included in any of the budget prepared by the applicants. I have proposed a number.

I've already indicated that the ceremonies will last longer than four hours. In statements provided under oath by the UDV's own experts, we don't need to necessarily rely only on Mr. Bixby's testimony, but in their sworn testimony in proceedings before the United States Supreme Court and in this proceeding today before Santa Fe County in their submittals, their experts are on record as stating hoasca often induces gastrointestinal distress.

Another quote, it is not uncommon for participants in the UDV ceremony to get up from their seats and walk to the restrooms, where they vomit and/or have diarrhea. We don't need to go into details but I think you all understand the water uses involved with hoasca. Those are statements by both the UDV's consultants and the County's consultant that the water use at the UDV facility could be equated to water use in a normal average Santa Fe residence. I beg to disagree with that.

We heard about a nursery on site. We understand it will only operate during the time when services are held. Nevertheless if you're taking care of children over a six, eight-hour period their needs have to be met. There are standard numbers produced by the County, by the New Mexico Environment Department, the US EPA to help us estimate that number.

Finally, another omission is the need to have a contingency factor which was not included in any of the water budgets previously presented to you. Ms. Shelley Cobau, Santa Fe County staff reports that UDV activities will also include baptisms and weddings in addition to their regularly scheduled services. We also heard from Mr. Bixby this evening that there are other informal gatherings for perspective members. Well, we would expect that there would be water uses associated with that.

It's my conclusion that when you include all of these uses that the water budget is not .17, it's not .21 acre-feet per year, but rather it's .41 acre-feet a year. Even if you take out the outdoor water use of .03 acre-feet it still leaves us with an estimated water use of 0.34 acre-feet per year and then you add the contingency factor and we're at a higher number and it's over the threshold of .25 acre-feet.

I'd like to move now to Exhibit H-1 and get into the hydrologic part of my presentation. I'm just going to go through that very quickly –

MR. GRAESER: And I'd like to step in. Madam Chair.

CHAIR VIGIL: Yes.

MR. GRAESER: I'd like to address this exhibit specifically before we get into the testimony if that's okay.

CHAIR VIGIL: Yes.

MR. GRAESER: We had an agreement with the opponents that all substantive exhibits and materials would be submitted May 20th. This was not submitted to us. We haven't seen this and our hydrologists have had no opportunity to respond to this or the argument I assume is going to be made on this.

I'm not trying to argue a point of evidentiary law. I'm trying to argue the point of credibility and fundamental fairness in this proceeding. I have no problem with exhibits that summarize prior testimony or excerpts of things that are already in the materials. This is entirely new and we've had no opportunity to respond to it. It was not submitted and in accordance with our agreement for submittals of May 20th so I do object to it.

CHAIR VIGIL: Thank you. Your objection is so noted. Please continue.

COMMISSIONER ANAYA: Madam Chair, on that point.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, on that point. Was there an agreement? And, if so, why didn't you adhere to it?

MR. SOMMER: Madam Chair, Commissioner Anaya, there was an agreement and we did adhere to it. This exhibit is not a substantive agreement it summarizes what his testimony is. Mr. Graeser says, oh, I don't have any problem with the exhibits which we produce which were not in the packet and were not given to me on the 20th but they summarized Code sections, they summarized conclusions and I didn't see them. I hadn't had a chance to look at them. This is a very similar exhibit. It summarizes this witness's testimony on a general subject and has nothing to do necessarily on this project.

COMMISSIONER ANAYA: Madam Chair, if I could. You guys weren't explicit in your agreement as to what would be submitted or what would not be submitted and you're putting forth that you have things that you believe that they presented that weren't provided to you?

MR. SOMMER: Well, no, here tonight were slides up on that thing, just like this exhibit, that I had never seen before. I didn't get up and object and say, I didn't see that.

That's not – they summarize the testimony of I think Mr. Siebert and other experts. They mischaracterized the Code in a couple of occasions but was that outside the agreement? Probably not. Is this outside the agreement? Probably not. There is nothing substantive about this.

I think the agreement is an attempt to disrupt our presentation and not get to the substance of the matter and I took what the Chair said, I know your objection and let's get on with your presentation. That's our response, Commissioner.

CHAIR VIGIL: Okay, would we continue with the presentation please. And with regard to objection, I would like them stated. This is not a court of law, again, rules of evidence do not apply. Everything that you do say will be noted for the record but in fairness to all the parties who have emotional and substantial interest in the outcome tonight I'd like everyone to have an opportunity to speak their piece. Please continue, Mr. Chudnoff.

MR. CHUDNOFF: Madam Chair, members of the Commission, by way of

fairness and completing the record on this issue I know we don't want to take up much time with this but the water budget that I just summarized in the report and that was delivered to all the parties. We also heard testimony from Mr. Finch directly quoting from this table and the numbers presented herein. All of the exhibits and there are just under 20 of them and I'm going through are all either exact reproductions or slight modification of exhibits that were previously submitted or prepared in response to last minute data and reports produced by the applicant.

To continue, the slide that is H1 that is before I just want to go through it real quickly but it touches on the key elements of the water availability calculation that is a key component of the County Land Development Code and the methodology that is used for determining sufficiency of water for a given project. The key elements that are involved is that you have the area of the subject property that is being developed. You have underlying aquifer. And the key components of the aquifer that we're interested in is saturated thickness which is the thickness of the water bearing sediments. So as you can see in the drawing, the upper section of the geologic strata does not contain any water and we're not interested in that, it's there. Once we get into the water table and to the depth of the well that has been drilled onsite that is your potential, allowable, saturated thickness. And I want to bring your attention to the point that the Code does not allow you to speculate about what may or may not be present in the rock strata beneath the test well that you have drilled. Another component of the equation that we're interested in is specific yield which is the measure of the volume of water that is in storage – that is held in the rock beneath the property and that's usually designated with letters SY. Another key component in the equation is a reliability factor and the County Code allows you if you have drilled and tested a well onsite its assigned a value of 1 or 100 percent and a recovery factor typically any percent because even though you have a volume of water beneath your property not all of it is practically recoverable.

What I want to focus on in the rest of my presentation are the two factors of saturated thickness, ST and specific yield, SY. There is no argument about the size of the tract and what the reliability and the recovery factor should be.

First of all before we get into the specifics of equation and what it is we're going to apply, this is the Board Exhibit H2, is we need to understand what type of an aquifer we're dealing with. You've heard from Mr. Finch that the aquifer underlying the UDV tract is a fractured rock aquifer, specifically a granitoid rock and there is no disagreement there. However, where we do differ is on the nature of this fractured rock. The question is why is it important to carefully characterize fractured rock aquifer? The answer is that the well bore may intersect many fractures, but not all fractures conduct water. To properly calculate saturated thickness water-producing fractures must be distinguished from non-producing fractures. How do we do that? Well there are a number of techniques that are recognized in the profession and I provided some references here with the US Geological Survey and the US Corps of Engineers and their groundwater development program. One is to test drill using an air rotary method. Well drillers often use either mud or air as the fluid, as the drilling fluid. If you drill with air, which is the recommended method for characterizing fractured rock, you're able to determine where you first encountered water. You're able also to estimate the yield of water from the various fracture zones. Another technique that is used

and recommended is down hole geophysics, specifically caliper logging, again, as a method for identifying the fracture zones or the more highly fractured zones within the formations. And, finally, aquifer tests and we heard about the tests that were conducted on behalf of the UDV though it is always better that you can conduct it on an open hole rather than a case well it provides you with more opportunities to determine the permeability and the change and the characteristics of the fracture with depth. So the question is which of these techniques were adopted by the UDV and its consultants? And the answer was that they did not avail themselves of any of the appropriate techniques for characterizing fractured rock and their water bearing characteristics.

What do we mean when we talk about fractured rock. Well, plate H3, board H3, is a photograph that I took of a rock outcropping on the north bank of the Arroyo Hondo in close proximity to the site of the UDV. What I've done with this photograph on the left is that I've superimposed a schematic of a well, that's the black cylinder. And it's very common in our line of work to examine rock outcroppings as a possible analogue for what the aquifer geology would like that and in fact Mr. Finch in his work discusses his investigation of rock outcroppings in the vicinity of the UDV. What I want you to focus on is if you partially examine the upper part of the rock formation you'll see that the fracture plane is vertical. This type of fracturing generally does not yield water because they're not cross connected to other fractures that may be carrying water from the east of the west. And contrast that if you will to the bottom section of the well where you see the fracturing is in more than one direction that there is a possibility for pathways of water to move through the aquifer and into the well. So what we need to do is to distinguish in the UDV well the non-water bearing fractures from those that bear water. I also point out to the lower right of that figure that again just because the rock is fractured there could be conditions that would prevent the movement of water through the fractures for example the deposition of clays or minerals that could seal the fracture and prevent the movement of water.

In his report, Mr. Finch discusses that they were concerned with the extensive fracturing that they would be drilling through and that they took the precaution to drill with mud so that the well would not collapse and trap the driller's equipment. I just want to point to you on my board, Exhibit H4 that more than 30 percent, at least 30 percent, if not more of the wells drilled in the immediate vicinity of the UDV tract were in fact successfully drilled with air. And I'm trying not to take up too much here and bore you but all of this is going to come back to how do we calculate saturated thickness/SY and I just need to lay some groundwork here.

Another technique that can be used to characterize the nature of fracturing is to track the rate of penetration of drilling and that data was provided by Mr. Finch in his field notes that were received after the deadline for exchange of exhibits but that was made available to us at the request of the County's consultant who received that data and passed that along. And, the County's consultant did take a look at drilling rates. However, he relied on the findings of the UDV's expert where he stated that the drilling rate was fast and that was good enough for the County's consultant. Well, what does "fast" mean. Well, in general the faster you can drill through a rock like granite it is an indicator of a higher degree of fracturing. GGI in their work they identified three zones and they're summarize on this table H5 and in the middle of the table there, there is a table that they identified as 120 to 178 feet that was

slow drilling and then from 180 feet to 278 feet that was 98 feet of very fast drilling and then a bottom zone again of very slow drilling.

Well, let's take a look at that. I actually took the data, the drill start time, the end time and the thickness of penetration and calculated what the drilling rate was. I also added one more zone and that's the zone, the unsaturated zone of rock that overlies the aquifer where it is sand, gravel and clay and there you can see that they drilled 120 feet over 1.7 hours for a drilling rate or penetration rate of 70+ feet per hour. The next zone they drilled – they started drilling through granite and it took them 2.5 hours to penetrate 58 feet for a rate of penetration of 23 feet. Then they got into the fast zone identified by the UDV's consultant and accepted as such by the County's consultant. They penetrated through 98 feet of rock over a four hour period for a drill rate of 24 feet per hour. Was 24 feet per hour really faster than 23 feet per hour? I don't think so. I disagree with the consultant's findings that there is a large section, a thick section based on that. They accepted that the aquifer includes 98 feet of highly fractured rock and I would beg to disagree with that and the only available data that we do have, again, they did not drill with air, they did not conduct geophysics, the only thing that they have to hang their hat on is this rate of penetration. And this rate of penetration is not indicative of a highly fractured granite.

There's another line of evidence that we can use to examine this claim that the underlying aquifer includes 200 feet of fractured granite as concluded by Mr. Finch or 98 feet as concluded by the County's consultant and that's the Exhibit 4H6. What I've done here is I've taken data from nearby wells, some of them located in the immediate vicinity of the UDV well site and relying on the well drill logs I've reported the fractured thickness that the drillers reported, and, again some of these wells were drilled with air so that information is reasonably reliable. We also have the well driller's reported well yield. We also can then calculate from that by dividing the fractured thickness by the yield to come up with a yield per foot of fracture. The first entry there is the UDV well and you can see when you work out the arithmetic that their yield per foot of fracture is .097 gallons per foot. Well, how does that compare to all the other wells in the area that report more modest thicknesses of fracture? Most of the other wells in the area report 10, 20, 30 perhaps up to 100 feet of water bearing fractures where in every instant those wells are more productive than the UDV well which is claimed to have been completed through 200 feet of water bearing fractures. Well, how can that be? If you've got 200 feet of water bearing fractures that should be the best well in the neighborhood. Instead, it's the least productive well in the area.

Next board Exhibit H7 moves now into answering the question, we're beginning to circle around the answer of what is appropriate saturated thickness that should be used in the County equation for calculating water availability. What I've done here is basically taken Figure 3 that was presented earlier by Mr. Finch. It's an exhibit that he prepared. For the sake of fitting into this format I've stretched it and I've also traced over and simplified a little bit the geographic description but this is essentially a presentation of his interpretation of the underlying geology. On top you see the two red lines that identify the east and west boundaries of the UDV property. We also have the location of the UDV well completed to the proper depth of 320 feet as reported by Mr. Finch. But I've added a future to this as required by the Code. What I've added here is a trace of the allowable bottom of the aquifer. The lower limit of the aquifer as defined by the Santa Fe Code is limited by the total depth of

the well. So when you extend that, when you project that lower limit of the aquifer from east to west what do we see? We see that the UDV's conclusion or their consultant's conclusion that the UDV property is underlying by 200 feet of saturated granite is absolutely wrong. As you move from east to west the clay thickens to such an extent that more than 40 percent – excuse me, more than 60 percent of your saturated thickness, allowable saturated thickness is lost or displaced by the clay. What does it mean? It means that the estimated water availability provided to you by the UDV's consultant is wrong.

Before you start or initiate an exploratory and well testing program it is important to understand what type of an aquifer you're going to be drilling. We don't always have all of the answers but at least you have an idea so you can properly design your exploratory and test program. And one of the important characteristics of an aquifer that need to understand early on because it has a direct impact on how you calculate saturated thickness and how you calculate water availability, we need to know whether the aquifer is confined or unconfined. Is it a water table type aquifer or an artesian aquifer? Well, we'll get into the importance of why we need to know that in a minute and the implications to the arithmetic in a minute, but let's first deal with how do we know, how do we go about finding out whether the aquifer that we're in is confined not. And what are the implications of that? If I could have board H9 and we'll come back to this board again but I just want to highlight why it is important for us to understand whether the aquifer is confined or unconfined.

First of all, it is my conclusion that the aquifer underlying the UDV and the surrounding area is a confined aquifer where the water is under pressure. In other words, you drill into aquifer, you penetrate the water bearing zone and you let the well sit there for a little bit and the water level will rise in the well to a point above the top of the water bearing strata. In this board H9 it's a bit complicated but I just want to point out to you a couple of things here and they relate to the County calculation. So if you look at the second well from the right this is the UDV well. This is a cross-section that I developed in cooperation with geologists at the firm of Daniel B. Stevens and this firm recently completed a successful well in fractured granite for the community of Eldorado. Now what we see in this well, the UDV well, is that the water level designated by the blue line with the triangle, the inverted triangle, is that the water level is above the top of the red line, the red-dashed line, which is where I placed the top of the aquifer. Mr. Finch placed the top of the aquifer at the based of the Espinaso Formation. It is my opinion that this wrong and I'll come back to that and support my opinion.

Let's get back to how do we know if the aquifer is confined or unconfined. Reason number one or method number one, and that's to determine whether the water level in nearby wells rises to a point above the top of the water bearing strata. Board H10 is a blowup of a well log, a driller's report submitted to the Office of the State Engineer for a well located 600 feet southeast of the UDV well. So what I'd like to bring your attention to and I've highlighted this in blue, so if you look on the left side you'll see under the section titled principal water bearing strata and the first number that you see there is their first water bearing strata was encountered at a depth of 202 feet. Now go to the upper right, what does the well driller report as depth to water upon completion of the well? Well, it's at 102 feet or 100 feet higher than the top of the water bearing strata. This is just one indicator. It is not conclusive but we're going to look for a cumulative effect of evidence to support my

conclusion that the aquifer is confined not unconfined as asserted by others.

Another indicator of confined conditions is the presence of a confining layer such as clay or shale or other low permeability rock. Again, I draw your attention up to the left side of Board Exhibit H10 and this is the reverse sheet of the well log where the driller reports the strata that he has encountered. And, again, this well was drilled with air so there is a good likelihood that this driller knew what he was drilling through and he could reliably report the depths and bottoms of these various units and whether the fractures were producing water or not and how much. So we see on that reverse, that right sheet, that from a depth of 70 feet to 143 feet he drilled through 70-some feet of shale which is a low permeability rock often acts as a confining layer and it's often a way that drillers report clay. Clay, shale are often interchangeable in the terminology used by drillers. But the effect is the same; it's a confining layer. So we have a water level that rises above the top of the water-bearing zone. We have a confining layer present but what else? Well, another indicator is that water levels will rise and fall in response to very small changes in atmospheric pressure or that water levels will also respond to earth tides, that is moon rise and moon set.

The UDV's consultant did a very thorough job. He collected a lot of data while he was out there doing his pumping test. And, in fact, during the period of recovery and I'll explain what that means in a minutes, he did, in fact, collect barometric pressure data and he also indicated when the moon rose and when the moon set. So we're looking at now board H11 and what we see, the green and the brownish lines on top are barometric pressure measured at two weather stations – one at Eldorado and one closer in town to Santa Fe – and then the swarm of bees fluctuating up and down those are water levels measured by the UDV's consultant after they stopped pumping the well so there was a period of five days after they turned the well off when they recovered, when they were measuring depth to water. And you can see that this line is fluctuating up and down and how are they fluctuating? They are fluctuating exactly in the way we would expect them to fluctuate if this was a confined or artesian aquifer. And, in fact, Glorieta Geoscience in their report to their client the County identified these changes as representative or as coincident with a response typical of a confined aquifer and, in fact, they provide a very handy citation in their report to a book written by Driscoll where he addresses these types of observed fluctuations.

Well, what else can we use to analyze an aquifer that gets to the heart of the water availability calculation? Again, this is where we're trying to head with all of this. And now I'm referring to board H12 and one of the methods that we typically use is you've gone out and you've conducted a pumping test. You've got your draw-down data. You've got your recovery data but what does it tell us? The pumping test data is very useful. It's required by Code but it doesn't tell you everything. It can provide you with an estimate of what's called transmissivity which if you will is a measure of the efficiency of the aquifer in moving water from point a to point B. But it doesn't tell you what specific yield is. It doesn't necessarily tell you whether the aquifer is confined or unconfined. But there are indirect ways that we can use to estimate what an appropriate specific yield value is and it's also useful in telling us whether the aquifer is confined or unconfined. So the technique that we use is called the Theis analytical model. The State Engineer and other establishments have developed computer codes that we all use. The UDV's consultant used a model called Modflow developed by the US Geologic Survey which is also an industry standard. What we do with

this model is we take the observed data, the data collected in the field, and we plug it into the model and we also incorporate our best estimate of what we think specific yield/SY should be. And then we run the model and see if we can match the results. Maybe we get the lucky the first time. Maybe we have to run the model 20 times to see what we come up with.

Well, the chart at the top of Exhibit H12 shows three lines. The line in blue is just a direct plot of the observed data collected by the UDV during the course of their seven days of pumping the well and then allowing it to recovery. Now the UDV's consultant asserts that the appropriate SY value for this aquifer, it's an unconfined aquifer, the appropriate value is 0.15 which happens to be the County's default value for either an unconfined basin filled aquifer. In some instances if you've met the burden of proof the County will allow you to use that in a highly fractured rock environment. The other alternative – and that's the dashed line. So when I took their values and plugged them into the Theis equation you can see that their line underestimates, that their calculation and estimate of SY underestimates the draw-down. It fails to match the observed data.

Now, when we keep everything the same. The pumping rate the same. The transmissivity factor that was used by the UDV's consultant and also the County's consultant but we use a lower, a confined aquifer or SY value if you will we get a much better match and that's the solid red line which represents my calculated results.

As I indicated earlier there are other methods that we can model the data. There's the Modflow methodology that was used by the UDV's consultant but he states in his report that, and this is their May 31st submittal, that they calibrated their model to match the water levels observed in the aquifer test by the placement of a recharge boundary near the pumping well. Well, what does that mean? They've got a pumping well. Here are the results that they want to get and to do that they stuck a faucet, they took a bucket of water, a truckload of water and dumped it on top of their pumping well to get the results that they wanted. They calibrated the model by the placement of a recharge boundary near the pumping well. Well, that's fine. A recharge boundary do exist in aquifers and, in fact, all of us point to that in the data and in our reports. The Arroyo Hondo which includes a perennial spring is located 6 to 800 to 1,000 feet north of the UDV well. It's quite possible that their pumping effects reached out to that recharge boundary and they saw that effect during the during the course of their test. Also, when you look at the draw-down data there are different ways of interpreting the data but they do point to the fact that during the later part of their pumping test, in fact, for one of the two days that they were pumping that well – they were pumping the well continuously non-stop, 14 to 15 gallons a minute for a 48 hour period – for the last 24 hours of this test there was basically no change in water level. That could be an indicator of a recharge boundary. Well, let's investigate that. We know from the UDV's consultant that in one instant they place that recharge boundary, that bucket of water, that faucet, on top of their pumping well. Well, it is that reality? When I ran the Theis calculation I determined that the aquifer is a confined aquifer and we can use the Theis calculation or you can use the Modflow model to calculate what's called a distant draw-down relationship. In other words, you plug in the pumping rate, your aquifer choice of SY and transmissivity and that distance is moving away from your well you can calculate what the draw-down would be during the course of a two-day pumping test. And on plate H13 I draw out my results of distance draw-down analysis. What I'm showing here are a couple of things. One is there is a dark blue line that meanders

from in a northwesterly direction and that's the perennial reach of Arroyo Hondo. It includes that red dot which is the spring. So that's a potential recharge source of water. In other words the well is pumping, first it takes water out of storage if it's an unconfined aquifer you're dewatering rock, but if there is a recharge boundary there as your pumping effects reach out and extend to that recharge boundary the amount of water that you take out of storage decreases and now you're taking water out of that spring, out of that ocean, out of that lake, out of that arroyo. But the rate at which your pumping area of influence expands is directly proportional to or inversely proportionally to your choice of SY.

If your aquifer is unconfined, your pumping effects at the end of two days would only have extended out appropriately 200 to 300 feet as indicated by that solid red circle. The UDV's expert says they reached and encountered a recharge boundary within that two-day period. The County's consultant agrees that they may have reached a recharge boundary and that recharge boundary would logically be the Arroyo Hondo. But, in fact, if you have an unconfined aquifer your area of influence would not have extended beyond 2 to 300 feet. Well, within 2 or 300 feet the only source of recharge are your neighbors septic tanks.

Now, let's assume that it is a confined aquifer. What would be the extent of the area of influence? Well, you take their transmissivity, their pumping rate, plug in my recommended value of 0.0007 and, in fact, after two days your area of influence would reach out and tap into that source of recharge identified by your consultant in which I would agree.

So for these reasons it is my opinion and it is my conclusion that we're dealing with a confined aquifer. And if we go back and calculate its saturated thickness, we can't do what the UDV's consultant has done because that is wrong.

So let's go back to that start that I had earlier on board H9. So what is the appropriate way of calculating saturated thickness? We have a confined aquifer. Do we calculate saturated thickness by taking the total distance between where you measure depth to water in the bottom of the well? The answer is no. You have to determined where in that water bearing rock are actually located the fractures that are producing the water that you're pumping out of the well. We already stated that we don't know. The UDV well was drilled with mud. If you look at the log, the well report, they submitted to the State, that they submitted the County, they claim that the entire 205 feet of granite they drilled through is all fractured and all producing water. Well maybe they're right and I'm wrong. So let's take a look at what we know about the neighborhood. On this board H9 I've provided you data from a well located to the east RG34616, it's basically located across the road into the southeast of the UDV well. We also have two wells located within a relatively short distance to the west and they're shown on this cross section as well. These three wells, the one to the east the two to the west, they were drilled with air and the driller of those three wells reported foot by foot where they encountered water. And what did they report; 150 feet of saturated thickness? No, they reported 10 feet, 20 feet, 30 feet of saturated thickness. The UDV well we have absolutely no knowledge. There is no way that after you have drilled the well with mud and cased it with PVC pipes that now you can go back and say here are the fractured and here is how much water they produced. They lost their opportunity. When they finished that well, when they made their decision to drill with mud they closed the door on our ability, your ability, the consultant's ability to provide you with information that you need to know before you can approve a project that is located in very difficult geologic and hydrologic

terrain.

But what can we rely on? Well, we know that a well to the east and two wells to the west were drilled properly, documented properly – who are you going to believe? What are you going to believe? What are you limited to in choosing? It is my conclusion that at best we can concede that the UDV well is producing water from 20 maybe 30 feet of fractured aquifer.

So what does that mean? Let's pull it all together let's go back to the County's calculation of water availability. We heard from the UDV's consultant that water availability is in excess of .4 acre-feet per year and it's based on what? It's based on the wrong finding that the aquifer is 205 feet of saturated thickness. We've disproven that. Scratch that number off. What's the second number that they use? CY of .15; is that appropriate? Well, for the 30 feet we're prepared to give them, it's appropriate. For the other 200 some feet it is not appropriate – they get a zero. They might as well be drilling through clay. And, in fact, I showed you previously that cross section which they had produced that shows when you move across that little 2.5 acre lot, you move across that 200 feet the aquifer – not the aquifer, the granite goes from 200 feet to what 40 feet? 60 feet? So even if we were to give them the benefit of the doubt that that entire granite that they drilled through is fractured in produced water, the Code does not allow you to give them that over the entire 2.5 acres. You would have to cut that in half. You can either cut their acreage in half or cut their saturated thickness in half and that would be the appropriate way to calculate it. But we're not going to concede that. They get 30 feet. Put all of that together, divide by 100 because the calculation gives you the volume of water available in total and divide that by 100 gives you the annual water availability and I'm going to correct counsel here. He said that I calculated .14, well, actually I calculated .09. That's what they get. They get an annual water use of .09. It's .09 more or less than their calculated water use of .17 or .25 or .41 or .35, there's no comparison. They do not meet Code. They are out of compliance. Project denied.

Now we're not done because they are also required to calculate 100-year schedule of effects. That is you've got your well and we want to know what are the impact to their own wells over a period of time due to all the other pumping that is going on and also the neighbors and the County would like to know what is happening in the area after 100 year with all these projects going in what is the water level decline. And, in fact, they did do a 100-year schedule of effects calculation and again I'm bringing out Exhibit H14 and that is the UDV consultant's prepared representation of the model and I've made some small modifications to that which I will highlight. What does this calculation require? The consultant can pick them out and do Theis calculation or the US Geological Survey Modflow you have to collect information on all the wells in the area. How many well, where are the located, how much water are they entitled to pump? You put those locations and quantities of water into your model, if they are recharged boundaries under certain circumstances you can represent those in the model, but I don't understand what's going on here because before they said that they put a recharge boundary on top of their pumping well to represent and match the results that they wanted and now that sink, that faucet, that Pacific Ocean has migrated off to the east 4,000 feet. Well, which is it? Does your recharge boundary, the Arroyo Hondo, 4,000 feet to the northeast as Board H14 shows or is it as they claim in their report where they tried to match their observed data and support their use of an SY .5, is that recharge

boundary located on top of the well? It's one or the other or many neither but it cannot be both. And if it is both you had better have a geologic explanation for it that which hasn't been provided. Well, let's leave that alone.

They were supposed to identify all the other wells, pumping centers in the immediate area. I don't live out here but I do know that there's a whole bunch of wells located along Old Agua Fria Highway. That's that upper tier of squares, these are their model squares. They don't include all those wells. So I've put in orange boxes to show they missed all those wells. They also missed some wells further to the west – I don't care about those. Let's bring you in closer to home. I'm not a member of El Gancho. I know Mr. Lazarus is a member of El Gancho and they've got swimming pool, spa, restaurant – you name it. How come they're not here? They use a whole bunch of water and they're located not too far away from their well and they're not included in their analysis. How about Harry's Roadhouse – look at me. Hamburgers, cooking, washing, that uses water. How come that's not in this model? Let's bring it even closer. There are two wells located immediately west of the UDV. I talked about those wells. Those are the two wells in the cross section. Those two wells were identified in their model as domestic wells and they're only allowed to use .25 acre-feet of water. But in fact those two wells are irrigation wells. They have permitted adjudicated water rights recognized by the State Engineer. One of those wells can pump up to 5 acre-feet a year. Five is way bigger than .25. So imagine it, if you plug in the number 5 instead of .25 in the model are you going to get the same results? You're not. So they have underestimated, they have incorrectly calculated the draw-downs that would take place in this area within the hundred years as required by Code and with that, I'm done. Thank you.

CHAIR VIGIL: Thank you very much. Next.

MR. SOMMER: Madam Chair, next up is Dr. Robert Eaton and he will testify about the components of the tea that is used and the alkaloids that are going to be introduced into this aquifer.

CHAIR VIGIL: Karl, I would just tell you that the applicants testified for two hours. The current testimony we have on record is an hour and maybe you can manage your witnesses with their time. So please, Dr. Eaton.

[Previously sworn, Robert Eaton testified as follows]

ROBERT EATON: I am Professor Robert Eaton. I am currently a resident of Boulder, Colorado and the former Chairman of the Environmental Biology Department at the University of Colorado at Boulder. My training was at the University of California, San Diego, School of Medicine, among other places. My professional specialty is neuroscience in which I my research started in 1969. I also have professional expertise in developing institutional policy for hazardous waste disposal. Thus my work spans from environmental biology, to the brain.

I am here to address the neurotoxic hazard of releasing the Ayahuasca alkaloids into the environment from the UDV septic system. I am not talking about the hallucinogenic properties of these chemicals. Rather, I focus on the fact that the alkaloids in the UDV tea kill nerve cells and cause movement disorder. My background relative to this is my career in the neurocontrol of movement and my work at the National Institutes of Health with a team that evaluated nearly 600 research proposals over a period of years on how the brain controls body movements.

Today I'll cite findings only from published research and I have given that reference list to you and I believe you have it.

Ayahuasca contains nasty alkaloids. One of the alkaloids, harmaline, is a well known neurotoxin. This means that it disrupts and/or kills nerve cells. When you give it to a lab animal harmaline causes movement dysfunction. This was first described in 1894, that's right, I said 1894. The National Library of Medicine lists at least 156 studies on this topic. Because harmaline is a neurotoxin some jurisdictions, such as Boulder, Colorado, Boulder County, would automatically class it as a hazardous waste substance regardless of the concentration to be released. There are several alkaloids in the tea that are chemically similar and can be expected to have related effects, but these have not been extensively studied. For my presentation I will describe them together as harmaline but keep in mind that there are several different ones.

Harmaline causes a syndrome called "harmaline tremor." This tremor is very similar to the human movement disorder known as "essential tremor." For this reason harmaline has been used as a tool to study movement disorders, which is why there is so much work on it. Harmaline tremor occurs in all species: mice, rats, cats and monkeys. Interestingly, the tremor isn't always seen despite other measurable effects on the motor system and here I cite the work of Wang and Fowler. In addition, harmaline has a wide variety of other physiological effects such as crossing the placental barrier. References to all these effects are given on the website of the National Institute of Health called as toxnet and any of you can look that it up on the Internet.

At higher concentrations, harmaline kills large nerve cells of the part of the brain that controls movement and these effects are irreversible. The fact that harmaline is toxic should not be surprising. Alkaloids are diverse compounds and common examples that you already know of are caffeine, nicotine, cocaine, ephedrine, curare, morphine, psilocybin and strychnine. These compounds are made by plants to deter herbivores who consume the plants. The alkaloids either kill the plants, kill the organism, or disrupt its behavior, regardless of whether it is an insect, cow, or a human. This is the likely reason why harmaline makes people sick.

What happens when these alkaloids are released into the environment? No one knows. UDV has cited no measurements of soil chemistry in areas where harmaline producing plants grow. Further, there are no measurements of what happens when these chemicals are put through a septic system, which is a concentrated point of release very much unlike anything in nature.

We do know, however, that powerful bacteria do not break down harmaline. In 2005 scientists studied whether harmaline can be destroyed by the bacteria of cattle and sheep stomach. Even though cattle and sheep have robust mechanisms for digesting plant materials, harmaline was not broken down by the bacteria, this is work by Aguiar and Wink, 2005.

Septic systems are not designed to break down chemicals such as alkaloids; instead they kill harmful bacteria, remove sludge, and some decrease the release of nitrogen. The first study on drugs in septic effluent was just published in 2010 by a group at the Colorado School of Mines and the US Geological Survey. This group looked at septic tank outflow from 20 homes with residential septic systems in Florida, Colorado and Minnesota. The effluent from these systems had all the usual pharmaceuticals that are taken by and excreted

by people: Ibuprofen, Naproxen, et cetera. Interestingly, they also found caffeine, lots of it. Caffeine is important because it is another alkaloid, like harmaline. It went right through the people and then it went right through the septic systems. It came out in concentrations ranging up to 850 micrograms per liter. We will get to the concentration issue later. But, suffice to say some of these people in those homes were drinking lots of coffee.

Similarly, septic systems would be unable to remove harmaline. There is no scientific basis for the unsubstantiated claim by GGI or by UDV that harmaline would be broken down. It won't be and they have no evidence that it would be. Once harmaline has passed through the septic system, what is its environmental half-life? That is, how long will it remain? Days, years or decades? Again, no one knows.

Science is decided by the data. We will not know the half-life of harmaline in the environment until somebody actually does some measurements. All else is speculation. Thus, there is no scientific basis for the claim that harmaline would not reach the aquifer. No one has any idea how long it will persist in the environment. UDV's experts have said that the concentrations are too low to have an effect. Environmental biologists laugh at such claims. Extremely low-level environmental contaminants are well known to living things, including humans. This is widely covered even by the news media. Consider estrogenic compounds in natural waters. An example is the recent work by the University of Colorado in 2008 and 2011. Fish found in a stream below a wastewater treatment plant had half the proportion of males than the fish above the wastewater treatment plant. This is due to excreted synthetic estrogens that passed through the waste water system and disrupted gender development in fish. One source of the contaminants is human birth control pills. The estimated estrogenic concentration downstream was 31 nano grams per liter. That is, imagine the number 31, put seven zeros in front of it and then put the decimal point. That's a vanishingly low amount of chemical substance to have for biological effect. Moreover, this concentration is one thousand times less than the concentration of the caffeine in the septic effluent in the study that I just mentioned.

Notably, these concentrations were still found 5 miles downstream. So, the chemicals were very stable, despite microbial action in the water, sunlight or whatever. Furthermore, antidepressants, such as Prozac, were also present at the same concentrations and were shown to affect fish escape behavior and thus would influence their survival.

So my point is that experiments/studies such as these tell us that very low-level contamination causes biological effects that are measurable.

Harmaline studies on animals use higher concentrations than people usually consume. High concentration ensures that the effect can be seen in a small number of animals in the laboratory. The question, thus, is whether long term, low level exposure to harmaline will eventually cause a similar effect. No one knows for sure but the fact is that animal studies typically predict similar human effects, sometimes decades before the onset of the effects in human. For harmaline, no such tests have been done, but it is plausible that it could have such consequences.

So, I ask that you don't risk public health by dumping these compounds into the ground.

Harmaline alkaloids are natural compounds made by plants. How could a natural compound cause you harm? Consider the natural neurotoxin known as BMAA, beta-

methylamino-L-alanine, for those of you who know like chemistry. This is a naturally occurring amino acid produced by algae in natural waters. These algae are very common, and are technically known as cyanobacteria. BMAA is believed to be the causative factor in some cases of ALS or Lou Gehrig's disease. ALS is fatal disease of the brain that leads to death after two or three years. At first investigators thought that it was necessary to ingest large quantities of this toxin for the disease to occur. But recent epidemiological studies by Strommel in 2009 show a high incidence of ALS in people in the continental United States who live around lakes with high concentrations of these algae. The incidence is 10 to 25 times higher than expected. BMAA is also a leading candidate for the high incidence of ALS among soldiers in the Gulf War due to exposure to the algae in dried flaked beds when the soldiers' vehicles drove across them. Another example is mad cow disease that spreads through ingestion of mutant protein particles, eventually causing death.

These examples prove that very low-level contaminants influence biological systems, and are strongly suspected of causing human disease, such as in the case of BMAA. There is no such thing as "too low to have an effect." Moreover, such contaminants can be naturally occurring in the environment and they are well described.

What are the possible effects of harmaline on humans? UDV has no cases of neurodegeneration in people who ingest their tea and that's certainly a good thing. But this has not been very carefully examined. Many degenerative diseases take years or decades to develop. Some forms of mad cow disease take 20 years or more following initial exposure. As I mentioned research shows that the tremor due to harmaline is not necessarily observed even though other brain damage has already occurred. These effects would have to be studied in a well equipped laboratory. Yet, no such studies have been done as far as I can tell. Moreover, UDV should have cited studies on what voluntary users have actually died from and they should have cited any neuropathological analyses of the brains of deceased users. In the absence of this is clearly a risk to release haramlines into the groundwater.

Clearly the UDV and I disagree on the nature of these findings. Consider for a moment that the fact that the UDV's main scientific papers were self-funded. That is, the costs of the research were met by the UDV and its affiliate organizations. Why would anyone pay for their own research rather than having the federal government provide the support? Inadequacies abound in such self-funded studies. For instance McIlhenny's paper on the metabolic byproducts and excretion of the tea had only three test subjects. This is a major piece of evidence in their submission to you. But three subjects is an inadequate number for any statistical summary. If it had been federally funded it would have had enough money to do this right. This is very weak research on which to argue points relative to public safety even though the science itself may be find for as far as it went.

What is a safe disposal method for harmaline? The National Institutes of Health publishes disposal methods for toxins. These are given for generators of hazardous materials on the toxnet website that I just mentioned. However, the criteria for land disposal or burial are still under development and not yet published. Thus the NIH or the Public Health Service doesn't yet know what the disposal standards for haramline. So I ask, if the Public Health Service doesn't know how to get rid of the stuff, how can a Board of County Commissioners be expected to decide that it is safe?

I'd like to make a brief summary at the end here. It is well known that harmaline

alkaloids are neurotoxins. There are over 150 papers on this topic and how anyone could say it's not toxic is astonishing to me. These toxins resist microbial breakdown shown by published research and they would certainly survive passage through a septic system based on everything we know. Furthermore, it is well known that biological systems are extremely sensitive to low-level environmental contaminants, such as pharmaceuticals. Low-level natural neurotoxins are also thought to cause human disease. Yet the people who consume the harmful alkaloids over a long level of time have not been carefully studied by independent investigators who study motor disease. The Public Health Service has no authoritative recommendations for disposal of the harmful alkaloids so I think it's pretty clear that you're taking a risk by allowing the septic disposal of the compound.

I would like to say in conclusion that I would thank my friends, my colleagues in Boulder and contacts in the EPA for their assistance in this investigation. Thank you very much.

CHAIR VIGIL: Thank you, Dr. Eaton. I've had a request for a five-minute break and we're going to go ahead and take one.

[The Commission recessed from 9:50 – 10:00]

CHAIR VIGIL: Ms. Orallynn Guerrerortiz, please proceed.

[Previously sworn, Orallynn Guerrerortiz testified as follows]

ORALYNN GUERRERORTIZ: Thank you, Commissioners. Good evening Commissioners. I am Orallynn Guerrerortiz. I own a little firm in town called Designequity. I am a professional civil engineer. I have a degree from UCLA and a degree for ASU, bachelors and masters. I am licensed as an engineer and also as a geologist. I have been working with the County Code also as a County employee running the Development Review Division for years and as a consultant engineer designing projects in our community.

I've been asked to review the wastewater plan submitted by UDV and I have two main conclusions. One, the UDV wastewater system is greatly underdesigned, and two as proposed even with the County's recommended conditions the UDV wastewater system will contaminate the environment. So let's start with the proposed system. I only learned tonight that they're not going to do a greywater system so I will say that their permit with the NMED was revoked after I raised the question of their water budget. And when they met with NMED they told them that they were going to put the greywater from the showers and washing machine into a separate greywater system. They have left it with them at NMED that they were going to come in a second greywater system and that is why NMED reinstated their permit. I think they've gone on the record tonight saying they're not going to have a greywater system which I actually agree with. But, what that should tell you is that they're existing permit from NMED is gone. Because NMED wrote in their letter to the applicant that if they modified it, if they modified their plan that they had to come back in and reapply and if they didn't their permit would be revoked.

On John Shomaker's and Associates report dated May 2, 2011, they stated estimated water use for the proposed temple would result in a 16 gallon per member event. They have events with 100 people, 16 gallons per member times 100 members is 1,600 gallons. Their existing permit is for a 700 gallon system. You put 1,600 gallons in a 700 gallon wastewater treatment system you've got problems and that's why I'm telling you that their system is greatly underdesigned.

I don't agree with Mr. Shomaker's – I'm sorry Shomaker's and Associates assumption with how they determined their water budget. When one designs a wastewater system you don't design it for average flow, you design it for your peak day and you have to consider the hours of operation. Shomaker and Associates assumed a four-hour event when they came up with their water budget. If you assume a six to eight hour event you'll produce more water. The longer people stay there the more wastewater they're going to generate. So what happens when wastewater systems are grossly undersized. First, untreated waste is pushed out of the system into the environment. Secondly, fields are plugged due to solids loading and things get a little stinky. UDV proposed a 720 square-foot leach field. That's the size of a typically three-bedroom home in our community. Many of you probably have 700 square foot leach fields at your homes. What would you believe would happen if you invited 100 people over and according to the UDV application, every fifth person took a shower, and everyone of those people went to the bathroom twice. Would your septic tank and leach field fail? Would you be concerned about the impacts to your well? I think you should be.

UDV also plans to send their treated wastewater to irrigate their landscaping via a drip irrigation system and that will help the leach field. Some of the water will go off to the drip and not all of it will go to the leach field but only during the periods of time when you can operate a drip system. During those periods of time when we all turn off our drip system all of that flow is going to go to a leach field. Those leach fields are going to fail, they are going to be overwhelmed.

What about the proposed drip irrigation system? This is taken from some of the submittals that UDV provided. What is shown in red is areas where they propose to use drip irrigation. This is their well. Federal, state and county rules say you cannot discharge wastewater effluent within 100 feet of your well and yet they are planning to discharge their treated effluent around their well. That's just poor policy. That's not how you protect the public health.

UDV's consultant Shomaker and Associates says that the geology is such that the wastewater system will not contaminate the groundwater because there's a layer of clay that's protecting the groundwater. It's acting as a barrier. And, this is from their submittals. Here's the UDV property where there is about 25 feet of clay under the property. Here is a well owned by a family called Siegel. According to UDV's consultant work they have more 100 feet of clay at this location. The Siegel's water quality shows nitrate levels at 12 in excess of federal drinking water standards. What does that mean? That means at this location at the Siegel's home there is a connection between the surface and the groundwater. No other neighboring wells have nitrate contaminations just at this location. Is the source clogged irrigated fields or wastewater system? I don't know but there is a link, at least in this location and it's very close to the UDV site, between the surface and the groundwater.

Dr. Eaton has explained that there is proven scientific evidence that some alkaloids are not broken down in wastewater treatment. The UDV tea has neurotoxins, alkaloids, that have not been specifically studied but likely behave in a similar manner. Your consultant recommended in staff conditions that an ultraviolet light system be added to the front of the UDV wastewater system to provide additional treatment. UV treatment systems requires clear water as particles present in a water causes a shadowing effect that prevents treatment.

So that condition will do nothing to protect the public health, thus given that the UDV wastewater system will pass through some of the contaminants all of the time and at least during the 30 days a year when they have their Saturday gatherings all of the contaminants will be flushed through the system because the system is greatly undersized. And there is evidence in the immediate vicinity that there is a link between surface and groundwater. One must recognize the potential for a groundwater contamination at the UDV site. Will it be nitrates or will be a neurotoxin alkaloid that is present in the UDV tea? In Mustafa Chudnoff's report he presents a USG model which indicates that if these neurotoxins get into the environment they will make it to the nearest neighboring wells within 10 years. The UDV consultant, Dr. Barker, in his report that some of the chemicals associated with the tea will make it to neighboring wells but he states in his report that it will be at very dilute amounts by the time it reaches the neighbors. Dr. Eaton has made it clear that even minute amounts of neurotoxins are dangerous.

Commissioners, do not accept dilution as a solution to pollution. That is a very antiquate concept and should not be acceptable in our community.

They failed to follow the County Code in at least three provisions. One, they do not at this point have a valid ED permit because their ED permit was granted on the basis that they would have a greywater system and they have said tonight that they are not going to have one. So they do not have a valid permit and that is in your Exhibit K provided by staff, that NMED letter. They also fail to meet setback requirements set by the State and this County. And further, they failed to provide a soil investigation report which is required in our Code.

UDV's wastewater plan is incomplete. It fails to meet County Code and as proposed is grossly undersized. As a result their proposed system will release untreated wastewater into the environment. Thank you very much.

CHAIR VIGIL: Thank you, Ms. Guerrerortiz. Next.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, just on the last comment made by Ms. Guerrerortiz. Does staff want to respond to that last comment relative to the permitting that is either in place or not in place? Do you want to comment on just that last point?

MS. COBAU: Madam Chair, Commissioner Anaya, the last communication that we have from the New Mexico Environment Department dated November 5, 2010 states that a separate permit will be required in a future time for a greywater system that would manage the flow for the facility showers and washing machine. They reinstated the permit and I believe they have everything in order and certainly before their final development plan would be issue would allow them to start construction we would be contacting the NMED and making sure they had everything they needed and requiring that they submit any additional information, any design changes to the ED before we would issue a final development permit.

COMMISSIONER ANAYA: Madam Chair, would the same apply to the comment about the soil and the setback?

MS. COBAU: I believe the section of Code that was cited is not pertinent in this case. It is applicable to subdivisions and large-scale development.

COMMISSIONER ANAYA: Thank you, Madam Chair.

CHAIR VIGIL: Okay, and next speaker.

MR. SOMMER: Madam Chair, I'll be brief. The applicant addressed compatibility and put up a quotation or purported quotation of the Code and what Mr. Siebert's slide said was and it cited Section 7.1.2, he said that the use is compatible with permitted development in the Code. That's what his quotation on the board said and then he said these are the permitted uses. That's not what the Code says. I've handed out to you what the Code [*Exhibit 6*]. The Code says in terms of compatibility, the use must be compatible with existing development in the area and is compatible with development permitted under the Code. There are two requirements there. One is existing development. Mr. Siebert left that out and that's what is crucial in this case. Your Code says it must be compatible with existing development in the Code and what was cited to you predominantly was the Seton Village castle that's a school. That's a legal non-conforming use. It does not typify existing development in the area. And, I submit to you that that is not compatible with existing development in the area because it is legally non-conforming and it clearly does not typify the uses. The term development in that definition is important because your code defines development in the page I handed out to you on the next page, development is the change in the use of a structure or the use of the land. And that is what is incompatible here. Central to this issue in your code is the hours of operation. Mr. Bixby got up here and said, our application says our services are from 8 to 12. Their consultant relied on that for their water budget. He got up here tonight and said, well, our services are from 8 to 12 but people leave from 12, 12:15 all the way to 4 in the morning. I think he said they trickle out. Their use is from 8 in the evening or just before till possibly until 4 in the morning and there is no regulation that is proposed by your condition of approval. What will happen here is that these people have the ability to be there from 8 to 4 in the morning that is the use that is proposed that is entirely incompatible with anything in this district? Anything at all. That is what has got people really upset, really nervous. What is that? You must look at the context of this. This is a rural residential area. It is typified by the County's investment and this community's investment and apparently by Mr. Bronfman's investment in a very vast open area just adjacent to this and the tracts of land in this area are typified by much larger lots than 2.5 acres. Mr. Siebert, every one of Mr. Siebert's slides left off one crucial element about compatibility, it was the lot size. Did he tell you how big the lots were on the houses that were 6,000 square-feet or 9,000 square feet? No. They're on very, very large lots. This use on this small lot is not typical and is not compatible with the uses in this area.

What this community is asking you to do is to give meaning to this provision of the Code. It is a requirement that the applicant meet this provision of the Code. That they demonstrate that it is compatible and the evidence is that there is not use, no use, in the entire district even if you take staff's interpretation that the district goes over to I-25, that it goes into – there is no use that goes from 8 to 4 in the morning. In this area what will happen? You'll have people shutting their car doors, turning their cars on, turning their lights on into their cars and leaving for a period by testimony of over a four hour period. What happens when lights go on? Dogs bark. If you've all been next to some places that have a party until 4 in the morning and people are going home, maybe they're not going to do that here, but they are going to go home at all hours of the night and they're going to wake people up and

they're going to disturb what's going on in the neighborhood in those hours, people are sleeping. People are not having light meals from 3 to 4 in the morning. They're not getting in their cars and leaving as a typical or compatible use in the area. That alone is reason enough to deny this application on that standard alone.

It has nothing to do with religion. Has nothing to do with the use of hoasca. Has nothing to do with whether these are really fine people or really bad people or whether the neighbors are really good or bad people. It has to do with whether the use proposed is compatible with the existing development and I submit to you that it is totally incompatible.

What you're going to hear from now are members of the community. We've chosen five to help talk about some different perspective instead of having everybody stand up and talk. So I'm going to turn it over to those five individuals at this point to speak.

CHAIR VIGIL: Thank you. Would those individuals please step up to the podium and state your name and address for the record.

[Previously sworn, Evelyn Bemis testified as follows]

EVELYN BEMIS: My name is Evelyn Bemis. We were all sworn in mass. My name is Evelyn Bemis. I live at 21 Leaping Powder Road. I've been a resident of Arroyo Hondo for 30 years. I'm current president of the Arroyo Hondo Land Trust which was established in 1991 to protect open space and trails and the rural residential character of the neighborhood. We have a map, Joseph, of the – Google map, I especially wanted you to see – it's much better to define our area than the one the county staff produced very recently because it shows the natural boundaries. We've got I-25, the canyon, the Arroyo Hondo Canyon out to the train tracks the other side of which is Rancho Viejo largely open.

CHAIR VIGIL: Ms. Bemis, this is a new exhibit; correct.

MS. BEMIS: Yes.

CHAIR VIGIL: Okay, so we'll just call it Bemis Exhibit A.

MS. BEMIS: All righty. Down to Seton Village and back up across the hills. I think you could ask most anybody where is Arroyo Hondo and they could have a pretty good idea because it's been out there a long time.

Our membership of Arroyo Hondo Land Trust are all the residents within that area and our membership voted to oppose the rezoning once the full scope and impact of UDV's plans had been made known to us. We have two maps that really tell our story. And Joseph is putting up some boards but we also had the handout – did you give everybody the, great, super. So the first one is this map that shows all of the parcels and more than 95 percent of residents that are publicly opposed have asked to have – to be represented on this. They are opposed strictly on the basis of the impacts of the proposal.

UDV submitted a survey early on produced by one of their members to justify the size and use of their operation. And as I understand it, it was done on an aerial basis, maybe like Google Earth, and they counted portals, courtyards, arenas, barns, garages to justify those numbers that you saw in the slides of all these places that are so large. And there are some large homes out there, don't mistake me. But as Karl said they are generally on very large pieces as well. So we did a survey of Arroyo Hondo and found the average lot size was 9 acres with a house of about 3,600 square feet. Lots smaller than five acres are very much the exception to the norm and most of them predated the 1981 Code. That's that second map in your little handout. Even though we say we're just Arroyo Hondo which is really the area

affected, we did include Sunlit Hills so you could even stretching out farther there's not very many of those smaller lots

County staff produced a third map dated June 2, 2011 seemingly to justify their support of the proposal by trying to show there were established similar uses. We heard earlier, you know, how come things are getting introduced at the last minute and this was a pretty big shock to me because I had a meeting with staff in early February to try to understand how they were justifying all of these buildings of commercial uses and here we get a week ago this map. One of the things I find very interesting are their use of colors here because you've got this – within our area of Arroyo Hondo not all the way down to St. Francis intersection or out by Bobcat Bite but right here in our neighborhood you've got this big red dot that says Rothman Real Estate and Ann Rothman is here tonight if you needed her to confirm this. She has a real estate license that she hangs at her home. She doesn't do much – she never has traffic there, and this is very similar that the claim UDV made that there were 57 businesses in Arroyo Hondo all of these are either home occupations, business registrations using a home address, or no longer exist. They show the Arroyo Hondo Land Trust as a business use. And that's registered at my home address but all I have are two cardboard boxes in the closet that represents the Land Trust files. I think Karl has already addressed the Academy for Love of Learning. They operate during the day in the building that is, yes, twice as large as the proposed UDV building but on a site 34 times as large. The facility was grandfathered in due to the education uses of the Seton Castle and they are open to the public. Fire and police stations have been another thing that the County staff put on here and these are necessary uses. They don't involve 50+ vehicles possibly leaving the site at 3 or 4 a.m. They do not involve activities taking place at the facility during all the hours and they actually provide a vital service to the community.

We did furthermore a telephone survey of some 28 churches in Santa Fe County and none of them regularly have late night hours of operation and several of them stated that they took special care to not disturb their neighbors.

If you want to talk about commercial operations let's look at Harry's Roadhouse, very popular institution in the area. The front parking lot at Harry's is about the same size as what's planned at UDV. They seat roughly the same number of diners as UDV will be able to serve but Harry's which is open to the entire community stops service at 9:30 p.m., is located on 5 acres and predates most everything out here and their patrons exit directly onto Old Las Vegas Highway. You would never approve Harry's within a rural residential area so why would you allow the UDV to do this?

Finally, County planning manager Robert Griego concluded that the scale of the development plan relative to surrounding land uses appears disproportionate to the lot size and the location of the proposed development at the corner of Arroyo Hondo Road and Brass Horse Road would create a large massing of buildings not compatible with the rural nature of the surrounding properties. We are talking about a total of nearly 8,000 square feet of structures if you add it up, the whole proposal, more than double the average residence size of 3,600 square-foot on a lot much smaller than the norm and this was before we heard tonight that they're probably going to come back and ask to add the caretakers or parsonage. Mr. Griego was not even talking about any of these activities taking place at those hours.

A finding that this proposed use incompatible with the existing rural residential nature

of the surroundings is the only conclusion that makes sense here. Thank you very much.

CHAIR VIGIL: Thank you, Ms. Bemis. Next.

[Previously sworn, Kendel Fesenmyer testified as follows]

KENDEL FESEMYER: Hello, thank you in advance for your attention. My name is Kendel Fesenmyer. I live at 106 Arroyo Hondo Trail with my husband and two young children who are third generation residents of Arroyo Hondo. We live next door to their grandparents and across the road from their aunt and uncle and cousins. I am also the vice president of the Arroyo Hondo Land Trust.

I'd like to take a moment to speak about the community of Arroyo Hondo which has been characterized in pejorative terms by those representing the UDV. Arroyo Hondo has a long history of working together to preserve the environment in the rural residential lifestyle that drew us here. In fact, and rather ironically now, Mr. Bronfman stated in a community meeting in 2009 that he was drawn to this area because of its rural residential nature and that when he moved here he had no plans to build a church, the idea grew organically over the years. In contrast to the UDV's entirely incompatible uses with the surrounding area, the community of Arroyo Hondo has acted intentionally time and again to preserve the collective sense of place we all hold dear. Let me give you a few examples. First, the Arroyo Hondo community has organized trash pickup days. While it may not be the most fun event along the winding road that is the gateway to Arroyo Hondo, it's even a rather dangerous undertaking, but we do it just the same because we care deeply about the land on which we live. Second, the Arroyo Hondo community has established a monthly breakfast club. A neighbor offers to host this potluck gathering and other neighbors show up to chat and connect with one another. Third, the Arroyo Hondo Land Trust in collaboration with the community Arroyo Hondo worked hard to create a trail use agreement and accompanying trail map in an effort to promote the use and maintenance of trails in Arroyo Hondo. Fourth, and perhaps the most significant achievement, was the creation of the 86-acre Arroyo Hondo Open Space. The community of Arroyo Hondo successfully partnered with the County nearly 10 years ago and I thank Mr. Bronfman for his donation of \$25,000 through his private foundation. Arroyo Hondo is not a community with deep pockets and it took a lot of hard work by a lot of people to make this happen. Just a few weekends ago there was a ribbon cutting ceremony to mark the official opening of the Arroyo Hondo Open Space, a network of trails free and open to the public.

And, lastly, as is well illustrated on the map with the red dots, more than 95 percent of the residents of Arroyo Hondo oppose the UDV development. These are your constituents. And here we are now. The UDV presses on and wants to establish a total incompatible use that takes place long after any other church, commercial use, bar or restaurant in Santa Fe County is closed. They propose to do it in close proximity to the Arroyo Hondo Open Space and they propose to do it in this rural residential community with a clear and long history of environment stewardship.

I ask respectfully that you would please deny the proposed application. Thank you again.

CHAIR VIGIL: Thank you, Ms. Fesenmyer. Next.

[Previously sworn, Marian Turner testified as follows]

MARIAN TURNER: My name is Marian Turner and I live two properties

from the proposed temple. My husband and I built on this property 26 years ago. My daughter bought her property which is one property away from the proposed temple 31 years ago. All of this time the property has been residential. During the nighttime it is very quiet and dark in the Arroyo Hondo. Most of us keep our outside lights unused so we can enjoy the nighttime skies. Now many of our Saturday nights may be full of parking lot lights, and as I understand, the UDV on 2.5 acres has proposed a 50 car parking lot with lights. We have been told that the services every week, every other week will be from 8 to midnight, however, this representative has said that the use of the property will go on long after midnight and that people may leave as late as 4 in the morning. We are not concerned about what they are doing on the property. We are concerned about the prospect of 100 people and 50 vehicles leaving in the middle of the night. The commotion, the lights, noise, dust happens when people leave causing all of our dogs in the whole neighborhood to be barking.

Imagine the activity at 3 or 4 o'clock in the morning next to your house on a regular basis. I cannot imagine anyone making a decision with such a use taking place in the middle of the night is compatible with a rural residential neighborhood and I ask you to deny this application. Thank you.

CHAIR VIGIL: Thank you, Ms. Turner. Next.

[Previously sworn, Pam Roy testified as follows]

PAM ROY: Madam Chair, Commissioners, thank you for the privilege to be with you tonight. My name is Pam Roy and I live at 41 Arroyo Hondo Trail. My brother and I are lifetime residents of Santa Fe and we grew up right across the road from this proposed development site.

My brother and my husband Mark and I plan to continue to live in Arroyo Hondo. We have a wonderful garden. We have great neighbors. We have grandchildren that we look forward to spending lots of years ahead of. And one of the things that I'd to add to what my neighbors also talked about was that over the years we've helped to share to raise our kids. We've been there for our weddings and our funerals and also in the middle of the night emergencies we've helped to take each other to the hospital and care for each other. I look forward to more of that with our neighbors in the future.

We've heard UDV repeatedly attempt to justify the compatibility of their proposed use by taking credit for 16 years of an unpermitted facility and site use. At a community meeting Mr. Bixby told us that they realized the need to get straight, quote and quote, with the community and the County and submit an application. As to their years of unpermitted use Mr. Bixby had also told us that they had been quiet because of their quote question of legality end quote, and that during the struggles they felt the need to be quiet and ultra discreet. They were discreet because they had erected a yurt and some outbuildings that were not permitted. And it was not until we questioned those buildings some months ago that those buildings were immediately taken down. We did not understand that they had been there at the facility without some sort of designation by the County. When they used the yurt we would actually see approximately 15 to 20 cars every other week, once a month, that type of thing and from time to time some cars were left there overnight. This is different from the idea that we would see then an additional of 50+ cars and 100+ people in again a residential area and has been stated by my neighbors and colleagues and by the UDV presentation that it is something that goes into the late night hours and as much as everybody has stated into 4

o'clock in the morning. I'm asking you really seriously to think about how you would actually even consider a use that is that late at night and that you could find it compatible with the surrounding residential rural residential neighborhood. We are also not guaranteed that that use will not be there more often than the current stated use.

I ask you respectfully as County Commissioners and as citizens as well in our community, please do not set a precedence and sanction UDV's years of unpermitted activities by allowing the use to occur in the middle of the night and is not meet County water and land use Codes for this size lot and County water limitations. Thank you.

CHAIR VIGIL: Thank you, Ms. Roy. Next.

[Previously sworn, David Blagg testified as follows]

DAVID BLAGG: I'm the last one, I think. Good evening. My name is David Blagg. I moved to Arroyo Hondo in 1970. Played Demon football for Santa Fe High and I'm a native New Mexican. I'm here to speak about the public safety concerns as they relate to the UDV proposal.

County staff has been assured by UDV that they will monitor members and that no one will leave the UDV property while they are still impaired. I believe that impaired drivers either due to fatigue or the lingering effects of the tea will be leaving the UDV site and having to deal with the following issues. Night driving on a dark narrow and windy road with limited sight distances. This can be a challenging road in the day light for an unimpaired drive. The north side road which is often icy and slick during the winter especially at night when emergency road crews will not necessarily be clearing or salting the road and making the hill up to the intersection with Old Las Vegas Highway a very dangerous proposition. Fatigue, some of the UDV members will have driven in from away the same day presumably awake all day, attending the services until the middle of the night awaiting for the effects of the tea to wear off. Then members, some undoubtedly very tired, will go up the nursery and carry your children downstairs, go out into the dark night, sometimes having to scrap ice and snow from their vehicles, buckle the kids into the car seat and then drive back to their homes. Some as far away as Colorado having to stay awake for several more hours and into the new day. This is a very worrisome scenario and it is my understanding that the UDV project is not being considered for overnight accommodation.

I was told by a good friend who is a captain with the Arroyo Hondo fire department and an emergency responder that they have seen an increase to emergency calls to various things including the rehabilitation facility near the fire station. He says that they're struggling to meet the higher call demand and that staffing and funding are serious challenges. Having limited ability to determine whether a UDV driver is under the influence or just has a fatigued induced impairment will create new challenges to responders when emergency aid is required.

I am asking that the Commissioners seriously consider these risks not just to Arroyo Hondo or to Santa Fe County residents but to the UDV members and their families. The County staff and County counsel have expressed concern about the potential impact to public safety and we share those concerns and do not believe this is an appropriate location for such a use. Thank you.

CHAIR VIGIL: Thank you, Mr. Blagg.

JOSEPH KARNES: Good evening Commissioners. My name is Joseph

Karnes. I'm going to say a few more works about public safety and then Mr. Tinkler is going to wrap up the presentation.

You just heard Mr. Blagg address the community's concerns about public safety relating to UDV members driving in the middle of the night after consuming hallucinogens. There is a serious disconnect between the written statements that have been submitted by the applicant, by your counsel and by staff in their staff reports. Here are a couple of quotes for you. Quote, the County has a compelling government interest concerning the health and safety of church members and the public at large. The public safety aspects of the UDV's application present serious challenges for the County which the County needs to address thoroughly." Those statements were not made by residents of Arroyo Hondo or us but rather by your Deputy County Counsel Ms. Brown in her July 30, 2010 letter to UDV's representatives. She also stated, quote, the UDV has responded to previously expressed concerns about impaired driving by objecting to the inquiry itself." She made previous efforts to get information from the applicant and they objected to the inquiry itself. She's included and this is critical the application will not be considered complete until a reasonable plan addressing public safety is submitted.

Now that's not what the staff report to the CDRC or to you tonight state. Those two staff reports say exactly the same thing and I'll read the provision. The quote says, the UDV has stated that careful measures are taken during and after services to insure that no one exits the property until the effects associated with the consumption of hoasca tea have subsided. Careful measures are taken. Well, we did hear Mr. Bixby speak earlier tonight and UDV has not offered anything in writing on this subject and what we heard tonight basically is that they equate to the conclusion of, look we know what we're doing here, trust us. That's what we heard tonight. Now in your staff report there are no conditions. There's nothing in writing from the applicant to you about this issue and your staff report doesn't contain any recommended conditions addressing this important subject.

For the past five months we have submitted several written requests asking what measures? What careful measures? Where are they stated? Who is in charge of applying them and what training do these people have? And we've been completely ignored. We haven't been able to get any response at all on this important issue that Ms. Brown raised. Ms. Brown's requirement has apparently been forgotten leaving you to deal with the compelling government interest as she described it. Now UDV's counsel Ms. Hollander didn't ignore Ms. Brown's request. In her letter dated August 27, 2010 she stated the following, "we object to your attempts to create unique requirements regarding how or when the members of the UDV may operate motor vehicles or provide religious services to their members and the children of their members." And previously Mr. Graeser stated he found the idea of a mechanism to protect UDV's neighbors from UDV members who leave in their automobiles to be particularly offensive. Those are the words that he used, particularly offensive. And UDV's counsel took objection to the inquiry that Ms. Brown raised.

Now I ask you, common sense, driving on a public road is not part of their religious ceremony. County staff and you all impose conditions addressing a whole variety of issues including public safety all the time. UDV has submitted a substantial traffic report and based upon it there are several conditions recommended in your staff report regarding the location of the driveway, the width of road, sight distances, there are 22 conditions recommended in

your staff report, many of them addressing public safety. This is something when somebody goes out driving on a public road that's exactly the appropriate time to assess as Ms. Brown found. She wasn't saying that the County wanted to get involved in checking the sobriety or the conditions of people that drive after they've gone to the ceremony. She wanted to know what the applicant proposes to do. It's their use and any aspect of their use they are properly the ones that conduct that use in a reasonable fashion. We just want to know and Ms. Brown wanted to know how they intend to do so. A reasonable plan for public safety is what Ms. Brown required as a condition of application completeness.

UDV's position is certainly contrary to the information in the staff report. Careful measures; the UDV has stated that they will take careful measures. Well, Mr. Bixby clearly told you all tonight that it's a private matter, stay out of it. Their counsel has objected to the inquiry and has taken particular offense. There is no public safety plan. There is no written public safety plan that has been submitted to you. All we can do at this point is to appeal to you to take this issue seriously. This issue of public safety seriously that your counsel raised. You're the ones who are being asked to allow this use and to allow for drivers to take the roads absent any standards or precautions to protect the health and safety of the public at large, which Ms. Brown found to be a compelling government interest and a requirement for the application to be deemed complete.

Now the applicant has made seven submittals consisting of hundreds of pages and in all of that paper they have refused to commit to any measures to protect public safety. There is nothing in your staff report. There is nothing that they have been willing to commit to. Instead they took offense that County counsel even broached the subject and your staff report tells us that the unidentified careful measures were provided and I quote, "in an effort quell the concern of neighbors and to address staff concerns regarding public health, safety and welfare that exists if persons drive after consuming hallucinogens." Quell the concern? There is no quelling. We've been ignored. I hope you can appreciate the basis of all these people's justified concerns about public safety which UDV's counsel in his letter dated May 20th of this year belittled as hysteria and fear borne out of ignorance and prejudice. Now, ignorance that description might apply. We're left completely in the dark on this critical issue. All we know is that Ms. Brown stated that the applicant is required to submit a reasonable plan addressing public safety for the application to be deemed complete. The applicant as objected and taken offense. The staff report says UDV has stated careful measures are taken and they are completely unspecified and we've been unable to get any answers on this topic. On this serious issue of public safety. There is something seriously wrong here and these people as well as you deserve some answers.

CHAIR VIGIL: Mr. Karnes, I didn't catch it; in what capacity are you here?

MR. KARNES: On behalf of the Land Trust and the opponents.

CHAIR VIGIL: Okay, thank you.

MR. TINKLER: I'm Steve Tinkler and I just want to do the summary and I'll try and speed it up. I appreciate all of you listening. It's a long night but it's a serious matter. We represent the people here who live that Arroyo Hondo. Only two people that live in Arroyo Hondo are in favor of this project and that's the Bronfmans. This is the Bronfman project.

CHAIR VIGIL: You'll need to speak closer to the mike.

MR. TINKLER: Oh, I'm sorry.

The only people in Arroyo Hondo that are in favor of this project and that's the Bronfmans. And the only aspect of this project, the only residents of Arroyo Hondo with which this project is compatible are the Bronfmans. Now, compatibility has been raised from the gitgo and the only response that UDV has given us on compatibility is number one, we live here secretly for 15 years and you didn't complain so we must be compatible. That's their main argument. Their other argument is, well the fire and sheriff's departments operate at night. That's not applicable here. Those are public safety areas and both of those departments are located outside Arroyo Hondo as is proper. Arroyo Hondo is a residential community period. And to put a commercial development in there is not appropriate, particularly one that operates these odd hours.

We respect the church's right to operate those hours. That's when they have to do their service. We understand that. But what that means is they can't do it at this location without disrupting the entire neighborhood without being incompatible. We're not saying they can't put their church in the County. We're simply saying that it doesn't fit on this 2.5-acre lot. The lot is not compatible with the rest of the property. The average acreage on all the lots in Arroyo Hondo is 9 acres; that's the average. The Academy of Learning that they site as a compatible use is on 86 acres. That's not the same thing. The County staff uses the big map and puts the mileage to all of these facilities but every facility that is a community service facility is located on the other side of the highway or on the other side of the Old Las Vegas Highway or it's outside of the natural boundaries called the hills and the mountains around there. None of those facilities are in Arroyo Hondo and this one is asking to be placed at the entrance immediately behind the open space that the County and the residents including Mr. Bronfman agreed with would preserve the rural character of the area. It's a little bit ironic that right where the open space is, Mr. Bronfman who supported it now wants to put a church, his church. The one he started. It's not compatible with anything going on in that neighborhood.

The one that really, if you need to hang your hat on one, the hours of operation are unbelievable. There's no facility anywhere in the County that has this hour of operation. Also, Mr. Bixby testified – not testified but spoke to the neighbors when he was trying to sell the project two years ago and he told the neighbors that in addition to it going on three to four hours after, it actually starts at 6. Six at night, that's when people start coming between 6 and 8. So really we're talking about 6 p.m. to 4 in the morning. That affects every aspect of the application. It affects the compatibility. It affects the water budget. It affects the wastewater. All of those issues that we have raised and we have presented you with expert testimony. In summary, compatibility, you can deny this application on that alone. It's not compatible. I mean what all the neighbors told us when they came to us was I can't believe they would even want to put it here. It doesn't fit. It just doesn't fit.

Then, let's get to the actual Code compliance. It was a long presentation by Mr. Chudnoff and it had to be because what Mr. Chudnoff did was he actually went into the numbers and he looked at all of the data and what he discovered was that the numbers had been manipulated. That's what happened. Their hydrologist, and I'm not saying intentionally, but don't we all know that you don't put your faucet on top of your well. That's what they did to come up with a .15 yield. They put their faucet on top of the well in

the model. That doesn't happen. That's not reality. The reality is the recharge boundary, which means another source of water, was somewhere other than on top of the well. And anywhere you move it, it's going to be a .02 yield not a .15 yield; that's the bottom line. Now the consultant for – GGI the consultant for the County tried to split the baby. He tried to be fair. He said, well, I kind of agree that there's not 22 feet of saturated thickness here so I think I'll pick the middle zone and I'll make that one .15 and I'll make the other two .02 and I'll hang my hat on this note and Mr. Finch's notes. He has a little note that says, fast drilling in middle section. That's it. That is what GGI hung their hat on and when they did that they forgot to check the data because there is actually data that will show you whether there was really fast drilling or not. And, in fact, Mr. Chudnoff checked the data and what he found was that there was not any fast drilling in the mid-zone. There wasn't any fast drilling anywhere except in the soil above the lots, which makes sense. So what you have is you have a formula that the County requires to be satisfied in order to prove water availability for 100 years and if you plug in .02 rather than .15 the formula says no water here and you can't satisfy the formula. Mr. Chudnoff's numbers proved that they can only prove .09 of water availability. That doesn't even meet what I consider the false water budgets that they submitted. That doesn't even meet the minimum budget. I think that it is clear that the water budget has to be over .25. They had to do the geo-hydro and they did that after our February 2nd submission when we showed them the flaws in their water budget. So they jacked the water budget up to .21, that's what Shomaker and Associates did. But Shomaker and Associates did not consider that this place operated 22 times a year for six more hours than they were told by UDV. UDV told their own expert that we only operate from 8 to 12 and so the expert relied on that and figured the water budget. Well, I'm sorry but they operate from 6 to 4. Their own expert was bamboozled. He thought he was being fair with the water budget. He probably thought he was. He really believed that. But he wasn't told the truth by his own client. When you plug those numbers in alone, those alone, you get over .25. But when you plug in all the other uses at this facility that they did not include in their water budget you get up to Mr. Chudnoff's number, .41. And when you only can produce .09 water there's your technical violation right there. They cannot comply with the Code and they have not established that.

With respect to the wastewater, they've wholly failed. They go to the NMED and they tell the NMED when they reject their permit, well, you shouldn't have included the outdoor because we're going to use greywater. So the NMED said okay, we'll issue the permit then. Then they come here today, eight months later and say, oh, we're not going to use greywater. Well, they don't have a permit. Their permit will be revoked as anyone will tell you at NMED. And I know the County has to rely on the NMED for this issue.

The numbers on the wastewater system are simple. Ms. Guerrerortiz spelled it out very simply. They have a permit for 700 gallons. At least 22 times a year they're going to produce 1,600 gallons, at least. That's based on their water budget. If you use our water budget it's much more than that. The point is that their waste water system is undersized. What happens, that was explained very well, when it's undersized you contaminate. Now, they have many submissions. I would bet they have 100 pages at least just on how DMT doesn't hurt you. That's fine. We're not here to talk about whether DMT hurts you. What we're here to talk about is whether the residents get to be the guinea pigs for harmaline.

That's what they're asking. None of their studies are on harmaline; none of them. Why? Because they wouldn't be helpful. Why do you think Dr. Barker studied DMT? Why do you think that study happened to occur in 2010? There had never been a study before on DMT on how it passes through your system and ends at the septic tank. Never before. Do you think it was a coincidence that that study was funded and paid for in 2010 while this application was pending? And why did they study DMT because they thought that's what everyone was objecting to. And the point is that the neighbors don't object to what they do. They can do anything they want in their church. The people that live in Arroyo Hondo are an open-minded group. Yet, because they've objected, because they've been objective, what does UDV do, they call them names. If you don't agree with them, they call them names.

Now I'm going to talk about RLUIPA and that's the end.

CHAIR VIGIL: You're going to have to create a limitation to this. Everything that you've summarized we've already got on the record.

MR. TINKLER: Okay, and the only thing I want to mention is RLUIPA. We've submitted it in our materials and we've cited the Grace Case which is a Colorado case, a district court judge who found that in a situation exactly like this one where a church wanted to put its temple on a specific lot that RLUIPA was not violated. And the reason it's not violated is because RLUIPA doesn't say that the county has to put it on the lot they choose. It simply says that they can't deny them the religious exercise, they can't impose a substantial burden. Well, they're already practicing their religion right now in the County. This County Commission has not put any burden on them and if you deny this application on the fact that they didn't comply with the Code in three with respects there is no RLUIPA argument. Thank you.

CHAIR VIGIL: Thank you, Mr. Tinkler. Rebuttal.

MR. GRAESER: Thank you, Madam Chair. I know you wanted to be out of here by now. As I said we do have several out-of-town witnesses and I'm going to limit them to a couple of minutes apiece. I'll do a couple of minute and then we'll be all done if you would indulge us.

Mr. Finch I'll put you on the spot first and let's see if you can do it in four minutes or less.

MR. FINCH: Madam Chair, Commissioners, I want to go over the three issues once again and clarify a couple of things. On the water use we did our own independent calculation and a lot of it was based on what the protestants had provided before, Mustafa Chudnoff, and we incorporated that and we had many factors pointed out in our report on how conservative that analysis is. I'm not going to go into that but one thing that has been overlooked is the rainwater harvesting. Nobody had even given us any credit.

[Audience disturbance]

CHAIR VIGIL: This is a public hearing and everyone is entitled to their statements.

MR. FINCH: And that is another component of supply. On that respect on water availability, I do not believe rain harvest water will be needed but it is there to conserve our resources we have in the ground.

On the water availability, Mr. Chudnoff has mix-matched information from drillers' records has taken our information out of context and given you something to create a whole

different picture that is unrealistic and so I'm not going to go into detail but I would like to say that we have made I think very solid calculations of storage and recharge. They are both available at that site and for that region and enough water is there to supply the project regardless of what water use you come up with.

And last is the groundwater contamination. The one well that they talk about that has the high nitrate, that's one localized case in that area. It's most likely the result of poor well construction where there's a source leaking near the well down the [inaudible] of the well. This is typical of New Mexico where there are old wells that do that.

And, also, I'd like to point out that Mr. Chudnoff originally claimed that the entire area is fractured from the ground surface to the bottom omitting the entire upper part of the geology just to show his case that everything was going to be contaminated and create fear. And, I believe that we have proven that that is not the case. There is a nice layer of geology and clay to mitigate any potential effects of infiltrated septic water.

CHAIR VIGIL: Thank you very much. Next.

MR. GRAESER: Dr. Barker, if we could have a couple of short minutes from you.

CHAIR VIGIL: Dr. Barker, I believe you've been sworn in but you don't look familiar; have you?

DR. STEVE A. BARKER: I have. I stood up and raised my hand with everybody else.

CHAIR VIGIL: Thank you very much.

DR. BARKER: I salute your stamina. My name is Dr. Steven A. Barker. I'm a full professor in the department of Comparative Biomedical Sciences at Louisiana State University.

First of all, I would like to address Mr. Tinkler's comments. Your desperation is offensive, Mr. Tinkler. You've come up with a conspiracy where the UDV paid to do studies

CHAIR VIGIL: You can address the Commission, please.

DR. BARKER: I wanted to just address that to him because I do find it offensive. I started doing work on ayahuasca over three years ago with [inaudible] in I believe it's Oregon or Washington. I was not contacted about the UDV case until just several months ago long after we had completed these studies. I have received not a penny of support for the research that we do on the ayahuasca from the UDV. I was not even aware of Mr. Bronfman until and I had never met him or talked to him until I came here.

So this whole idea that my being here is somehow linked to the UDV – as we say down south, I don't have a dog in this fight. I'm here to represent the science that we have done and represent it honestly not like Dr. Eaton has. Dr. Eaton has misled you. Dr. Eaton has given you false information. Dr. Eaton has given you incomplete information.

First of all harmaline when it is metabolized in the body is excreted in the urine as harmalol. It is almost completely metabolized in the human and is excreted in the urine as hamalol and is what's called a glucuronide conjugate. That glucuronide conjugate has no pharmacology and is a substrate for bacteria in the septic system because of the glucuronide. So his information that it is completely stable to metabolism is completely wrong. Now, we published a study that only had three individuals in it and let me tell you real quick about that

study. The reason there was only three in it is because it is a collaboration of a much larger study funded by the Government of Spain with Dr. Jordi Riba at the University of St. Paul in Barcelona where we developed the methodology to do the analysis so we could publish this paper. There were already three other studies in the literature that looked at the same thing. The total number of people that have been looked at in our study is 21. The other three studies that have been published the total number is almost 80 so there have been plenty of studies that show basically the same thing: harmaline is metabolized by the human, goes into the urine as harmalol as a glucuronide and is further metabolized by bacteria in the septic system.

Dr. Eaton also seems to be unaware of or chooses to ignore the huge body of literature out there on bioremediation. The fact that bacteria in septic systems is most of the natural bacteria that occurs in soils degrades toxins that occur naturally in the environment. You have a plant that is very common in New Mexico called Reed Canary Grass. It can change fairly high concentrations of dimethyltryptamine and beta carboline alkaloids that are also MAO inhibitors and cousins to the harmaline alkaloids. That is being released by those plants and deposited in the environment of New Mexico for thousands of years and you have not had a single test that has ever shown dimethyltryptamine or any of these alkaloids in your water system. Why is that? Because bacteria adapt to the environment. They adapt very quickly to what they encounter to use it as energy or to use it as part of their own metabolism. So this whole process of bioremediation assures that this material will not get into the water system.

Ms. Guerrerortiz who does not have a background to actually opine at all on this area basically goes to Dr. Eaton's comments and again Dr. Eaton's comments are incomplete. She took out of context one of my comments where I used as the worst case scenario that even if this does make it through that it would be so dilute it would not have any effect.

My scientific opinion is to a scientific certainty based on the chemistry of these compounds I have experience with . I have worked on DMT for 30 years. I worked on ayahuasca for the last three years and I've now published extensively on this, none of which Dr. Eaton has done and certainly not Ms. Ortiz [sic] that these compounds will not make it into the water table and these people have absolutely nothing to fear from the use of ayahuasca at this site. Absolutely nothing. There is no public hazard here.

I believe Dr. Grob is going to discuss harmaline and it's characteristics as a potential neurotoxic so I'm not going to get into that. But I have provided two reams of scientific publications and responses to the original comments by Ms. Ortiz [sic] and Mr. Chudnoff and Dr. Eaton which I believe you have available to you and can read.

CHAIR VIGIL: Thank you very much Dr. Eaton. Next.

DR. BARKER: No, I'm Dr. Barker.

CHAIR VIGIL: I'm sorry, Dr. Barker.

DR. BARKER: It is kind of later.

MR. GRAESER: You'll hear from Dr. Grob next quickly.

DR. CHARLES GROB: Madam Chair and Commissioners, I will try and be succinct. My name is Charles Grob. I am a medical doctor. I am the director of the division of child and adolescence psychiatry at Harbor-UCLA Medical Center and I am a professor of psychiatry and pediatrics at the UCLA School Medicine. For more than 20 years I have been

involved in the investigation of ayahuasca and related compounds. I have published a number of studies in the literature and I believe you have a copy of my curriculum vita.

Regarding some comments of Dr. Eaton's he insinuated that our studies were funded by the UDV; this is not true. Our studies were not funded by the UDV. They were funded by other sources independent of the UDV. I should also say that extensive research on ayahuasca conducted in Spain by research scientific Jordi Riba was funded by the Spanish Ministry of Health. There is also a growing body of medical, psychological and anthropological data being collected in Brazil none of which to my knowledge has been funded by the UDV. The notion that the UDV is the source for funding of these is simply not true. Dr. Eaton references to the neurotoxicity phenomena are and harmaline alkaloids are entirely in regards to pre-clinical or laboratory animal studies. Studies done in laboratory rats and mouse models which were injected extremely high levels of various compounds including harmalin. The humans obviously do not inject these compounds, they are consumed orally at much, much lower levels.

Let me also mention that among the studies we did in Brazil, a series of studies we did in the early '90s and again in the early 2000s, we conducted a pharmacokinetic studies of measuring various levels of alkaloids in ayahuasca in human subjects who had been administered ayahuasca in a laboratory setting that we created. We tracked over time, we drew blood every 30 minutes. We tracked over times the levels of these different alkaloids in the blood stream. Regarding harmaline there were negligible levels of harmaline in the blood of the human subjects. Whereas, there were more appreciable levels of haramine and tetrahydroharmine. All of Dr. Eaton's discussion with harmaline is largely irrelevant as there were negligible levels of harmaline in the blood stream.

Let me mention that historically haramine which is in more appreciably of quantities in ayahuasca, haramine was utilized therapeutically early in the 20th Century as a treatment for Parkinson's disorder and more recently a neurologist at the University of South Florida School of Medicine, Dr. Juan Sanchez Ramos has reviewed this phenomena and connected his own study using banisteriopsis extract to treat Parkinson patients. Banisteriopsis is one of the primary plants in ayahuasca and the plant that contains the harmalo alkaloids. There is also evidence in the literature that that the harmalo-alkaloids may have neuro-protective effects and in fact it may be neuro protective against the known neurotoxin NPTP which is known to be extremely toxic to the dopamine system. So far from being a neurotoxin this compound may be a neuro-protectant.

Let me also mention that there is absolutely no evidence of neurodegenerative disorder in the many thousands of individuals who have consumed hoasca. One of the context of the UDV people have consumed hoasca for the last 50 years. There are other traditions in the Amazon Basin in South America that go back to the 20s with the Santo Daimé religion and many, many centuries in regard to Mestizos healing using ayahuasca and the indigenous use, perhaps going back the millennia and there are no documented cases of neurodegenerative disorder which are very dramatic in their presentation. There is no evidence that ayahuasca causes cognitive disturbance. No evidence that it causes motor impairment. And, in fact, even examining the people who testified here today as you can see they were very functional looking individuals including the young woman who reports growing up in a family belonging to the UDV, having participated in hoasca sessions since

very early in life – no apparent evidence of cognitive disturbance, motor disturbance, problems in coordination. None of these individuals manifested that. None of the individuals that we studied in Brazil or the many, many people that I met have evidenced any signs of neurodegenerative disorders so I think that is clearly an errant hypothesis and regarding our studies and the studies of other investigators, there is no evidence that ayahuasca is a cause of neurodegenerative disturbance.

Finally, one other topic I will mention is that individual's capacity to drive in a functional manner. I discussed at length this issue when I worked on our research study in Brazil with leaders and members of the UDV. They report that there are no cases of individuals involved in motor vehicle accidents after sessions where hoasca was consumed and I will also say that if you look at individuals driving a car four to six hours after consuming hoasca compared to individuals who had an alcoholic beverage four to six hours before or individuals who had taken other psychoactive drugs whether licit or illicit I would conjecture that individuals who had taken hoasca are far more functional and far more capable of driving in an effective and safe manner than individuals who had consumed alcohol or other psychoactive drugs in that period of time previous.

That's the extent of my comments. Thank you very much for allowing me to speak.

CHAIR VIGIL: Thank you very much. Is that it, Mr. Graeser?

MR. GRAESER: Madam Chair, I just wanted you to hear briefly, it will be very brief, from Mr. Dotson and then I'll have a couple of closing comments and we'll be done.

MR. DOTSON: Madam Chair, I want to point out a couple of things. It has been said a couple of times that the septic permit will be cancelled or is cancelled. It is not cancelled and it will not be cancelled. It meets all the requirements of 20.7.3 of the liquid waste regs. The system is not under-designed. There is over 8,000 square-feet of absorption area built into this system mainly through drip irrigation. The drip irrigation is a product called geoflow which is made for wastewater. It operates it up to 40 degrees below zero. There are plenty of studies and it's on the web. The backup leach field of the 720 square-feet which she points to is actually just a redundant emergency if a pump were to go out so there would be no surfacing sewage and it would not be a public health. That is all in the plans and very clearly spelled out which was completely ignored.

The treatment units and the tanks are well oversized and can handle up to about 2,000 gallons per day of treatment and we have a retention tank so we can actually [inaudible] into this system. Most treatment units actually function – they need a consistent food source so we'll be able to dose it over the week and keep everything it fed. This thing will function properly.

And about the soil report, NMED does not require a soil report and so none were submitted for that and they will not ask for that, it is not in the regulations. And we've never had to submit one for Santa Fe County. We've never been asked for a soil report.

And the last piece is that this is the claim that there is irrigation near the well within the 100-foot setback, NMED would not approve that. That's a fresh water system if Oralynn will look at the plans a little more closely she'll see all of this. It all meets the requirements. That's clearly noted as freshwater irrigation anything beyond the 100 feet is wastewater and it meets, it exceeds all the minimum requirements of NMED.

I'm sorry, one last point I wanted to make. Design flows, the Uniform Plumbing Code which is the nationally recognized code for designing and the New Mexico Environment Department regulation 20.7.3 both use the sizing for churches with kitchens which this was designed out of. Neither of these takes into account that the faucets or the toilets are now low-flow. They're all based on 5-gallon flush, 5-gallon per minute faucets. We've based the designs on these calculations which are nationally recognized.

MR. GRAESER: Thank you, Madam Chair and Commissioners. Thank you for your patients and your attention. I had half a dozen slides and I'm not going to subject you to those. The first one was going to show you that there are half a dozen other UDV locations in the country. None in Santa Fe County and none in New Mexico. This temple is necessary in Santa Fe County to serve Santa Fe County residents who live in all five Commission districts. They outgrew their prior and temporary locations and there is no other suitable location.

The compatibility issue, it's an issue of physical compatibility. The Code is very clear the use is allowed. Churches are allowed anywhere. The compatibility category is one of physical compatibility and I believe Mr. Ross will confirm that. And, in fact, this was designed by a residential designer. It is designed to look like any other building in the neighborhood. It's half the size of the largest and there's plenty of building larger. It uses less water and much less than even the standard residence. It is primarily a residential neighborhood but it is not solely a residential neighborhood. There are many, many businesses and we've submitted lists of them. The issue with fire calls, sheriff, dispatch those are all community service facilities and they are subject to the same rules and they run 24 hours.

There are other religious uses both existent in the neighborhood in the area and approved by the County, such as, the Redwings Counsel, the Mountain Zen Center. And there is historic precedent. Arroyo Hondo Pueblo had around 13 ceremonial kivas over the course of hundreds of years. There is long-term historic religious use precedent in this neighborhood.

Traffic issues have all been addressed. There is no significant traffic impact. It is compatible with development permitted under the Code. It meets all of the lot coverage, heights, setbacks, similar limitations – it is on a legal lot of record. It's 2.5 acres and that's what is legal. I think it is relevant that a UDV member, Mr. Bronfman lives across the street with one house and 25, 22-acres.

As far as water use. I didn't even both to cross-examine Mr. Chudnoff. I think we adequately and fully addressed those issues and you have Mr. Lazarus as a resource and I fully encourage you to talk to him. I think with regard to the contamination issue, the most important point that Dr. Eaton made was that there are no tests on this but it is plausible that it could contaminate. But as Mr. Ross will tell you, plausible is not the standard. Land Use decisions by the Commission are reviewed under a substantial evidence basis. You need substantial evidence to make a decision not some plausibility. And, in fact, as other experts made clear it is not even plausible.

To the extent that there are concerns about noise and lights, they are addressed in other means. These are all issues, all of these concerns would exist no matter where this temple is going to go in Santa Fe County. So they're not specific land use issues having to do

with this review. If there's a concern about impaired driving and by the way DWI is the problem we have. None of these folks objected to the liquor license transfer you approved earlier tonight. None of them objected to even the liquor license to Real Food Nation right around the corner. DWI is the problem. Hoasca is not the problem.

What they are trying to do is to lead you into exceeding your jurisdiction. They're trying to get you impose medical limitations in – all of Ms. Guerrerortiz' testimony had to do with New Mexico Environment Department jurisdiction. It had nothing to do with Santa Fe County jurisdiction. And, the fact is, the reason UDV pulled a septic permit to start with was County staff had some concerns about the system because it's an advanced treatment system, which is required but is the right thing to do. They wanted to reuse water for irrigation. So they went ahead and pulled a permit just to assure County staff that it was permissible system. The requirement for permit comes at development plan it does not come at preliminary development plan and master plan which is what this stage is. We will absolutely have the required permit.

So I just ask you not to take the bait and try to exceed your jurisdiction. The opponents have made it very clear that they'd be okay with a house being built there. Mr. Bronfman made it clear that he could build a house that looks just like this. So it's clearly what's happening inside there that is their problem. We tried to meet with the opponents. We scheduled three meetings, two of them public facilitated meetings to try and negotiate and what we get back is an email from some of the folks you heard tonight and the email says, no negotiations for any non-residential use. So there's no way to negotiate and we tried, there's no way to negotiate it. The bottom line is we've presented science, we presented facts, but we can't change people's minds if they're not open to that change.

It's a conforming application and we've met all the requirements. We worked hard. Staff has worked incredibly hard on this. The application meets the requirements. It deserves your approval and we respectfully request that approval. I would also like to state that you have submittals from Dr. Nichols who is a pharmacologist. He wasn't able to be here tonight. We can get him here if you had questions for that. I think Mr. Bixby has a quote in which to conclude and we very much appreciate your time.

MR. BIXBY: Madam Chair, Commissioners, thank you for your service, your patience and your attention. In closing I want to leave you with this quotation. This is the joint statement of senators Robert Kennedy and Orrin Hatch to Congress after the series of eight congressional hearing in the late 90s regarding religious freedom and land use which led to the passage of RLUIPA and I quote, "The right to assemble to worship is at the very core of the free exercise of religion. Churches and synagogues cannot function without physical space adequate to their needs and consistent with their theological requirements. The right to build, buy or rent such a space is an indispensable adjunct of the core of the First Amendment right to assemble for religious purposes. The hearing record compiled massive evidence that this right is frequently violated. Churches in general and new, small or unfamiliar churches in particular are frequently discriminated against in the fact of zoning codes and also in highly individualized and discretionary proposes of land use regulations."

Thank you, good evening.

CHAIR VIGIL: Thank you. I'm going to close the section of the public hearing. All testimony has been received on this.

COMMISSIONER STEFANICS: Madam Chair.

CHAIR VIGIL: Commissioner Stefanics.

COMMISSIONER STEFANICS: Madam Chair, I'd like to take this opportunity to thank everyone who attended this evening, the proponents and the opponents. I think this is a very interesting decision that we're going to be addressing. But I also know that the County Commissioners have many questions that they'd like to ask our staff and our independent geologist and so because of that I move to temporarily table this case until our next land use meeting which will be July 12.

CHAIR VIGIL: Is that an accurate date for the next land use meeting? I think that's an administrative meeting, and can we do that – that would be the first meeting.

MS. COBAU: Madam Chair, July 12th sounds right. That would be the second Tuesday in July, so that sounds right.

COMMISSIONER STEFANICS: I looked at it.

COMMISSIONER ANAYA: I have a question on the motion, Madam Chair.

CHAIR VIGIL: Is there a second to it?

COMMISSIONER HOLIAN: I'll second it.

CHAIR VIGIL: Okay, and then we'll have discussion.

COMMISSIONER ANAYA: Madam Chair, Mr. Ross, I don't have 183, Madam Chair, but I have 35 things I wrote down. I'm not going to ask all 35 but I have a question relative to the adjudicatory process with us as Commissioners. If we're going to wait I don't necessarily outside of a public process want to ask these questions individually of both parties. And, so can you give me some guidance as to if we vote to table how are supposed to address that because we already have staff's recommendation and we've got pro and con perspective that was provided. So provide me some insight and tie it directly to our responsibility and what we can and should not say outside of the discussion of this process that's going on right now.

MR. ROSS: Madam Chair, Commissioner Anaya, so if we table the case tonight we'd have to take it up again at a public meeting probably the July land use meeting makes sense because it's a public hearing and then address any questions you and the other Commissioners might have at the parties at that time so the parties would have to come back. Staff would be here. We'd bring out expert team back and you could have that section of the meeting where we ask questions and have that kind of a dialogue. It's a pending case so the rules that apply to administrative adjudicatory hearings still apply. We would want to limit *ex parte* communications until we conclude that part of the process and start deliberations.

COMMISSIONER ANAYA: Madam Chair, that would include any and all discussions with any of the parties that have spoken tonight, staff or both parties; correct?

MR. ROSS: Correct.

COMMISSIONER ANAYA: Okay, thank you, Madam Chair.

CHAIR VIGIL: Okay, I have a motion and a second. All those in favor signify by saying "aye." Any opposed?

COMMISSIONER ANAYA: I'll vote in favor of the motion.

The motion to table passed by unanimous [4-0] voice vote.

CHAIR VIGIL: We have a motion to table and consider this at the July 12th meeting.

COMMISSIONER STEFANICS: Madam Chair, I have a question.

CHAIR VIGIL: Question.

COMMISSIONER STEFANICS: Shelley or Jack, how many cases do you think we'll have on July 12th besides this?

MS. COBAU: Madam Chair, Commissioner Stefanics, we did have four other cases on the agenda that were tabled this evening to allow the time for this and probably two more that will be heard. So I guess I'd like some direction on how you'd like the agenda stacked. Would you like to hear this case first before the other cases?

CHAIR VIGIL: I think that's important.

MS. COBAU: And, Madam Chair, if I may. I'd like to not have to ask staff to reproduce this gigantic document again. So if we can – unless there is additional information submitted between now and then I doubt that we'll have anything additional to add in the packet for you.

CHAIR VIGIL: Be forewarned hold onto your packets.

MR. GRAESER: Madam Chair, I am sorry to interrupt but just with the regard to the Commissioner's question I'd just like to remind the Commission that both sides have out of town and out of state expert witnesses here and I'd like to be sure that none of those questions are for those expert witnesses so we don't have to fly them back here. And I know the other side an out of state witness too.

COMMISSIONER ANAYA: Madam Chair, you know my comments do impact both side and both have questions for the parties. So I just want to tell you that candidly.

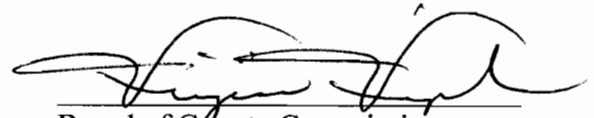
MR. GRAESER: Madam Chair, we obviously want to be cooperative and work with you as much as possible. I will mention to the Commission that we already flew these witnesses in February 8th and they didn't get to testify and we flew them in today. And here again, it's thousands and thousands of dollars.

CHAIR VIGIL: I'm aware of that and how I'd like to proceed is have Commissioner Anaya do representation of what is questions are and he may not even have any for the experts and if there are specific questions perhaps we can make them available telephonically which would be fine if the Commission were allowed for that under our rules. I think we can move forward in a fair and equitable way and make sure that those questions get answered. Okay.

XIV. ADJOURNMENT

Having completed the agenda and with no further business to come before this body, Chairwoman Vigil declared this meeting adjourned at 11:45 p.m.

Approved by:



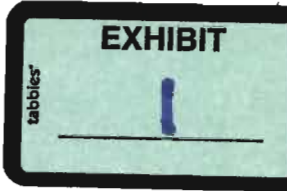
Board of County Commissioners
Virginia Vigil, Chairwoman



Valerie Espinoza
VALERIE ESPINOZA
SANTA FE COUNTY CLERK

Respectfully submitted:

Karen Farrell
Karen Farrell, Wordswork
227 E. Palace Avenue
Santa Fe, NM 87501



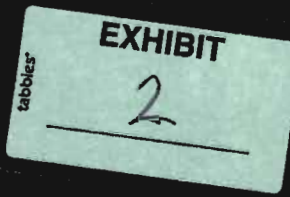
Polk Rodeo Road

Conditions of approval

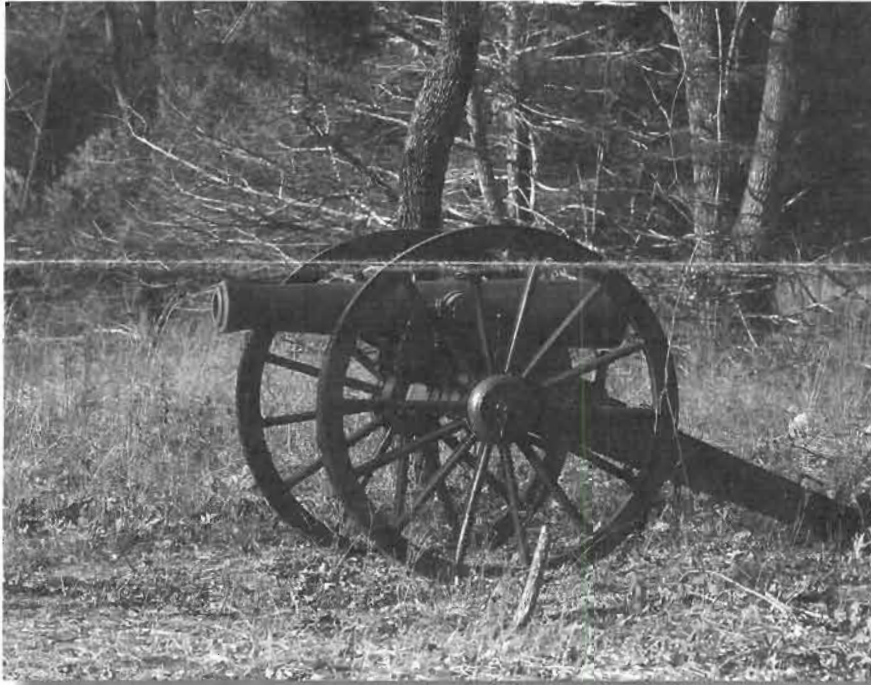
The following actions shall be included in the development review application to the City:

- Lot line adjustment plat separating .63 acres of land from 1.45 acres of land from a 1.45 acre lot described as Lot 1, Block 1 in the Town & County Subdivision. .61 acre tract will be incorporated into the 1.35 acre commercial tract on Rodeo Road.
- C-2, General commercial zoning shall be limited to the .63 acre tract of land located between the existing 1.35 acre tract zoned C-2, general commercial the right-of-way for Richards Ave.
- Only the .63 acres of land severed from Lot 1, Block 1 of the Town & Country Subdivision shall be annexed into the City Limits. The remainder of Lot 1 Block 1 shall remain Rural Residential.

SFC CLERK RECORDED 07/14/2011



The Battle of Glorieta Pass March 26-28, 1862



In July 1861, Confederate President Jefferson Davis approved Brigadier General Henry Hopkins Sibley's plan to raise a force of Texans to take control of all New Mexico. His immediate objective was to capture military supplies from Union forts in New Mexico and to recruit New Mexicans, Utah Mormons, and Colorado miners to the Confederate cause. The mineral wealth of Colorado and California would fund the Confederacy and the ports of California might have provided blockade-free international trade.

INTRODUCTION

Col. Edward R. S. Canby, Union commander of the Department of New Mexico, soon learned of the invasion plans. With only 2,500 Federal troops in New Mexico, Canby appealed to the territories of New Mexico and Colorado to organize companies of volunteers. By early 1862, Canby had 4,000 troops at the ready.

Meanwhile, Sibley had begun his move up the Rio Grande with 2,500 Fourth, Fifth, and Seventh Texas Mounted Riflemen. The first major battle in the territory took place at Valverde, near Fort Craig, 100 miles south of Albuquerque, on February 21, 1862. Drawing the Union troops out of the fort, the Confederate Texans won the hard-fought battle. Canby and his troops withdrew into the fort. Sibley decided to press on to Albuquerque, reluctant to attack the fort without sufficient men, artillery, and supplies to lay siege to the secure Union defenders. Sibley had no fear of pursuit by the cautious Canby; the Confederates considered the Union forces too demoralized and disorganized to continue the fight.

In Colorado, the First Regiment of Colorado Volunteers had formed under the command of Col. John P. Slough and began their march to New

Mexico. The 950 Pikes Peakers covered the 400 miles to Fort Union in 13 days, arriving on March 10 to reinforce the fort's 800 troops. Taking command of Fort Union and violating his orders to remain there, Slough and the Colorado volunteers, augmented by regular army troops and New Mexico volunteers, headed toward Santa Fe on the Santa Fe Trail. By March 25, the Union vanguard of 420 under the command of Maj. John M. Chivington set up Camp Lewis at Kozlowski's Stage Stop near the Pecos Pueblo ruins.

After the battle at Valverde, Sibley sent Maj. Charles Pyron and his Fifth Texas Regiment ahead of the main Confederate force to capture the unprotected capital of Santa Fe. The Confederate flag flew over the Palace of the Governors on March 13. Pyron's Texans then made their way up the Santa Fe Trail toward Fort Union and camped at Johnson's Ranch in Apache Canyon, unaware of the Union camp nine miles east. The rest of the Union troops were 16 miles back at Bernal Springs. The rest of the Confederates were camped at Galisteo south of Santa Fe.

MARCH 26 AND 27

On the morning of March 26, Chivington and a group of Colorado Volunteers left Camp Lewis on a reconnaissance mission to find the location and size of the Texas force. They surprised and captured a Confederate scouting party at Glorieta Pass. A short distance away, they ran into the main body of

As night fell, both sides called a truce to care for their casualties. Pyron and his Confederates returned to Johnson's Ranch, set up defenses and waited for reinforcements under Col. William Scurry to arrive from Galisteo, 15 miles away. Union troops withdrew to Pigeon's Ranch for the night

MARCH 28

As the day began, both sides moved toward each other. To speed his advance, Scurry left the Confederate supply train at Johnson's Ranch. With about 900 men, Scurry moved east on the Santa Fe Trail, hoping to engage the Union troops on level ground near the ruins of Pecos Pueblo.

Slough's Union forces proceeded west along the Trail. They had broken ranks at Pigeon's Ranch to fill their canteens when scouts rushed back to inform them that the Confederates were at hand. Before the Union troops could organize, they were under fire. Battle lines were drawn up west of Pigeon's Ranch along Windmill Hill and across the valley floor. After an hour of fighting, the Union troops retreated to a better defensive position centered at Pigeon's Ranch.

Union artillery was anchored on the Santa Fe Trail at Pigeon's Ranch and on the left flank up Artillery Hill. After three hours of almost constant fighting, the Texans finally outflanked the Union right driving the 30 sharpshooters off the ridge and the Union left dislodging an artillery battery on a high hill. From these vantage points the Confederates fired down on the Union troops at Pigeon's Ranch. Slough then ordered a second Union retreat and set up a defensive line one-half mile east of Pigeon's Ranch.

The Texans made one more charge against the Union line. As darkness fell, Slough ordered his troops back to Camp Lewis. Both sides were near exhaustion after six hours of battle. The Texans were left in possession of the field and claimed victory, but the celebration was a short one.

Scurry received word that the Confederate supply wagons had been destroyed at Johnson's Ranch. Chivington's route to the enemy rear had taken him to the west edge of Glorieta Mesa where his forces discovered the wagons below, an easy target since many soldiers had left guard duty to join the fighting at Pigeon's Ranch. The Union troops scrambled down the mesa, drove off the guards, spiked a cannon, burned the wagons, and set the horses and mules free. Scurry immediately realized that without supplies he could not continue on to Fort Union or engage in further combat.

The Confederates on the night of March 29th withdrew to Santa Fe. Two weeks later, Sibley ordered a retreat to Texas. It was a slow and difficult march. Sickness, the harsh environment, and attacks by Union troops and bands of Apaches dogged every mile. The once strong Texas force reached Fort Bliss in El Paso with only half its original fighting men.

TO VISIT THE BATTLEFIELD: The areas around Pigeon's Ranch and Johnson's Ranch are currently closed to public use. Information on guided tours is available from Pecos NHP, PO Box 418, Pecos NM 87552, 505-757-7241.

The areas around Pigeon's Ranch and Johnson's Ranch are currently closed to public use. Information on guided tours is available from Pecos NHP, PO Box 418, Pecos NM 87552, 505-757-7241. By July 1862, all Confederate troops had left New Mexico Territory. The grand Confederate plan to dominate the West ended at Glorieta. The West remained under Union control.

Many of the great issues of the Civil War had little relevance for residents of the Territory. Far from Washington and Richmond, not yet a state, the arguments over the right to secede may have been of little interest. The zealous pre-war regionalists often viewed the West as a prize rather than a place, concerned that new land acquired in the Mexican War would upset the balance of power between slave and free states. Problems of race and freedom were different in New Mexico: few blacks and large

Indian and Hispanic populations meant that the local issues were the peonage system and the Indian slaves justified as prisoners of war.

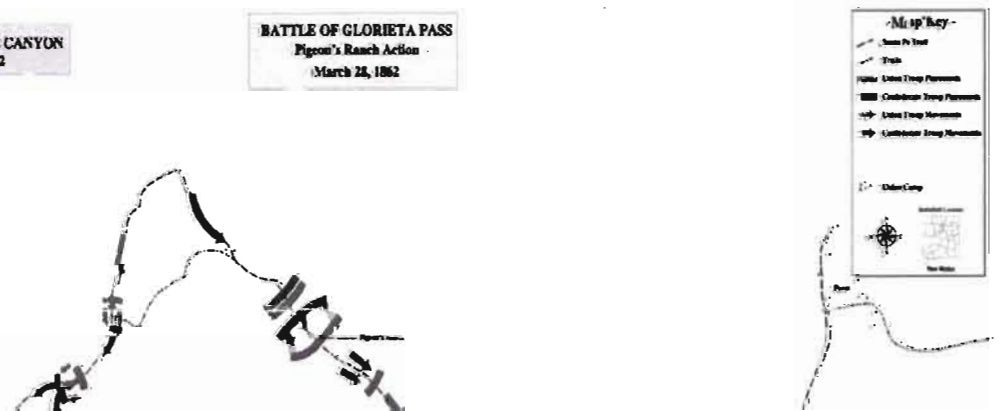
Migration and traffic on the Santa Fe Trail were generally unaffected by the Civil War, but the Army's presence was strengthened in response to the Confederate threat and an increase in Indian raids. Some Indian bands in New Mexico Territory saw the white man's war as an opportunity to reclaim lost land; others were desperate since the war had disrupted government treaty payments. Conflicts escalated: most of the Western troops were local volunteers frustrated by being left out of the "real war" who saw rebellious Indians as giving aid and comfort to the enemy. The effects of the Confederate invasion resonated long after the guns fell silent.

The Battle of Glorieta Pass

BATTLE OF APACHE CANYON
March 26, 1862

BATTLE OF GLORIETA PASS
Pigeon's Ranch Action
March 28, 1862

BATTLE OF GLORIETA PASS
CANONCITO ACTION
March 28, 1862 1:00 to 5:00 pm





THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY

RESOLUTION NO. 2011-

A RESOLUTION APPOINTING COMMISSIONER DANIEL MAYFIELD
TO SERVE AS THE VOTING DELEGATE OF JEMEZ
MOUNTAINS ELECTRIC COOPERATIVE, INC.

WHEREAS, pursuant to Article I, Section 1 of the Bylaws of the Jemez Mountains Electric Cooperative (hereinafter referred to as "the Cooperative"), Santa Fe County serves as a member of the Cooperative;

WHEREAS, former Commissioner Montoya is currently designated as the voting delegate for Santa Fe County;

WHEREAS, the Cooperative is holding a District meeting and election in June 2011 and the County is entitled to cast a vote during the District meeting and election;

WHEREAS, Article II, Section 7(b) of the Cooperative Bylaws requires that a representative be designated by resolution; and

WHEREAS, the Board of County Commissioners of Santa Fe County designates County Commissioner Daniel Mayfield to be a voting delegate with authority to vote for the County pursuant to Article III, Section 97)(b) of the Cooperative Bylaws;

NOW, THEREFORE, BE IT RESOLVED as follows:

1. Former Commissioner Montoya is hereby thanked for his service to the County.
2. Former Commissioner Montoya is no longer designated as the voting delegate of the County.
3. The Board of County Commissioners of Santa Fe County designates Commissioner Daniel Mayfield as the voting delegate with authority to vote for the County pursuant to Article III, Section 7(b) of the Bylaws of Jemez Mountains Electric Cooperative, Inc.

PASSED, APPROVED and ADOPTED THIS 14th DAY OF JUNE, 2011 BY THE BOARD OF COUNTY COMMISSIONERS.

**THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY**

By: _____
Virginia Vigil, Chair

ATTEST:

Valerie Espinoza, County Clerk

APPROVED AS TO FORM:



Stephen C. Ross, County Attorney

SFC CLERK RECORDED 07/14/2011

Legislative Report

Santa Fe County Applicable Legislation

2011

Regular session



Santa Fe County
County Manager's Office

June 14, 2011 Board of County Commissioners Meeting

SB432 EXPANDED COVERAGE OF GOVERNMENTAL CONDUCT ACT extends provisions of the governmental conduct act to include public officers and employees of political subdivisions of the state EFFECTIVE JULY 1, 2011

SB505 FIRE PROTECTION FUND USE FOR EMERGENCY MEDICAL SERVICES expands fire protection fund use to include emergency medical services EFFECTIVE JULY 1, 2011

SB523 COUNTY NOTICE PROCEDURE FOR ISSUING INDUSTRIAL REVENUE BONDS same as HB558 EFFECTIVE JULY 1, 2011

SB626 FIRE PROTECTION GRANT FUND postponing increases in distribution from the Fire Protection Fund to the Fire Protection Grant Fund EFFECTIVE JULY 1, 2011

SM6 CAPITAL OUTLAY PROJECT MONITORING PROCESS requests various state agencies to collaborate on a process to prioritize review and monitor capital outlay projects, findings to be shared with NMAC and other multigovernmental entities

SM40 SOLITARY CONFINEMENT STUDY requests the appropriate interim committee to convene a working group to gather information regarding the use of solitary confinement in New Mexico public and private correctional facilities, working group to have representatives from corrections departments, initial report due October 2012 final report October 2013

SJM15 INTERIM FILM INVESTMENT COMMITTEE requests Legislative Finance Committee to appoint an interim film investment committee to review the state's film investments and report findings by December 1, 2011

SJM16 NEW MEXICO FILM INCENTIVE PROGRAM EVALUATION requests the State Investment Council to evaluate the New Mexico film incentive program and report findings to state by December 2011

SB275 PARTICIPATING GOVERNMENT INVESTMENT FUND Increases the proportion of investment permitted by the state on behalf of the General Fund and bond proceeds investment pools in the Participating Government Investment Fund from 5 percent to 35%. Current law limits deposits on behalf of the General fund to five percent of the total amount in the Participating Government Investment Fund EFFECTIVE JULY 1, 2011

SB337 CONSOLIDATION OF PRECINCTS County Commission can consolidate precincts provided certain requirements are met EFFECTIVE JULY, 1 2011

SB365 REQUIRING DNA SAMPLES FOR ALL FELONY ARRESTEES requires DNA samples to be taken for felony arrestees, sample to be taken at jail or detention center upon booking EFFECTIVE JULY 1, 2011

SB367 LOCAL GOVERNMENT PERMANENT FUND INVESTMENTS increases amount of local government funds that can be invested by local government investment regulations was \$10 million increased to \$40 million EFFECTIVE JULY 1, 2011

SB369 MODERNIZING COUNTY CLERK RECORD KEEPING PRACTICES adds a new definition for "protected personal identifier information" to the Inspection of Public Records Act; meaning a taxpayer identification number, financial account number, driver's license number, all but the last four digits of a social security number, and anything related to the date of birth other than the year of birth. Provides that "protected personal identifier information" contained in public records is exempt from public inspection, and only records with the information redacted shall be made available or posted on a public body website. Also allows for establishment of "filing fund" for each county EFFECTIVE JULY 1, 2011

SB373 CAPITAL OUTLAY: 123 REAUTHORIZATION PROJECTS projects within Santa Fe County include: Cerrillos Multipurpose Center and Pojoaque Valley Senior and Community Center (name change to Nambe Senior and Community Center) EFFECTIVE APRIL 8, 2011

SB403 ELECTION CODE CLEANUP AND CLARIFICATION relates to county clerk duties, precinct boards, voting procedures, voting observers and challengers, registration, minor parties, filing dates, nominating petitions and voting machine procedures. EFFECTIVE JULY 1, 2011

SB 429 ELININATING THE POSITION OF COUNTY SURVEYOR once current term of the county surveyor is completed the commission shall appoint licensed professional surveyor EFFECTIVE DATES JULY 1, 2011 AND DECEMBER 31, 2012

SENATE GENERATED LEGISLATION

SB44 FILM PRODUCTION TAX CREDIT ACCOUNTABILITY providing tracking requirements for the film production tax credits, to be reported annually to Revenue Stabilization and Tax Policy committee and the Legislative Finance committee EFFECTIVE JULY 1, 2011

SB52 ELECTRONIC COPIES OF PUBLIC RECORDS public custodian shall provide electronic version of requested record if electronic version exists, type of electronic format not specified EFFECTIVE JULY 1, 2011

SB102 PALM PRINTS FOR FELONY ARESTS palm prints to be made by arresting peace officer or detention facility based upon the level of arrestable offense EFFECTIVE JULY 1, 2011

SB132 GOVERNMENT FEE FOR CREDIT CARD PROCESSING government body may charge a uniform convenience fee to cover the approximate costs directly related to processing a credit card or electronic transfer transaction EFFECTIVE JULY 1, 2011

SB134 CRIMINALIZING SYNTHETIC MARIJUANA making it a crime to possess and distribute synthetic cannabanoids and certain other synthetic drugs EFFECTIVE MARCH 31, 2011

SB155 ENVIRONMENT; SOLID WASTE ACT PERMIT TERMS permit for the operation of a new or repermited privately owned landfill, transfer station, recycling or compost facility will remain in effect throughout the active life of the facility or for twenty years, whichever is less, ultimately capping permits at 20 year lifespan EFFECTIVE JULY 1, 2011

SB209 WATER UTILITIES RATE ADJUSTMENTS allows water utilities to adjust rates due to the cost of acquisition of water rights without notice or hearing EFFECTIVE JULY 1, 2011

SB262 MUNICIPAL BUILDING INSPECTOR'S AUTHORITY changes Construction Industries Commission authority over municipal inspectors, ~~no change currently, remains the same unless commission chooses to release authority~~ EFFECTIVE JULY 1, 2011

HB417 LOCAL GOVERNMENT CORRECTIONS FUND fund to apply to counties ONLY, formerly municipalities entitled to payment from fund EFFECTIVE JULY 1, 2011

HB426 CITY AND COUNTY JAIL INSPECTIONS requires that each governing body of a county or municipality shall conduct an annual inspection visit to a jail or detention center under its jurisdiction and report to the local governing body, following a site visit report should be presented at regularly scheduled meeting EFFECTIVE JULY 1, 2011

HB440 EXPANDING AND EXTENDING THE ADVANCED ENERGY TAX DEDUCTION meant to further encourage the development of qualified generating facilities in New Mexico, leased property now allowed for deduction EFFECTIVE JULY 1, 2011

HB558 INDUSTRIAL REVENUE BOND NOTICE requires notice be provided to all taxing entities in a county prior to an ordinance issuing industrial revenue bonds includes county assessor and other applicable taxing entities EFFECTIVE JULY 1, 2011

HB607 MUCH-ANTICIPATED FILM PRODUCTION TAX CREDIT BILL limits total amount of film production tax credits in a calendar year, \$50 million, distributes refundable tax credits over multiple years and limits types and amounts of expenditures that qualify EFFECTIVE JULY 1, 2011

HB628 STATE EMPLOYEE RETIREMENT SHIFT 1.75% contribution to PERA to be shifted from employer to employee EFFECTIVE FROM JULY 1, 2011 TO JUNE 30, 2012

HJM20 IMPORTANCE OF LOCAL FOOD SYSTEMS urges counties to support local and regional food systems development and counties are encouraged to take an active role in collaborating with and providing assistance to local and regional food systems development efforts

HJM4 REDUCE BURDEN ON COUNTY DETENTION FACILITIES study to be conducted by Administrative Office of the Courts to identify ways to reduce burden on county detention facilities housing those held on felony charges or parole violations, task force to include representatives from NMAC, county detention center administrators and New Mexico Sheriffs Association, study to be completed by November 2011

HOUSE OF REPRESENTATIVES GENERATED LEGISLATION

HB53 NMFA STATEWIDE PUBLIC WORKS PROJECTS recipients of project funds within Santa Fe County include: Agua Fria community water system association; El Dorado water and sanitation district; Pojoaque Valley public school district; Santa Fe County; Santa Fe Public school district and Santa Fe Solid waste management authority EFFECTIVE APRIL 1, 2011

HB59 UNEMPLOYMENT COMPENSATION TEMPORARY EMPLOYER RATE INCREASE increases rates of employer contributions to the Unemployment Compensation Fund switching from schedule 1 to schedule 2 of state statute EFFECTIVE JULY 1, 2011

HB81 NO LAND GRANTS AS STATE LAND prohibits the common lands of a land grant-merced from being considered to be designated or treated as state land also provides authority to boards of trustees to enter into agreements with other governmental entities EFFECTIVE APRIL 6, 2011

HB93 MANDATORY POLICE TRAINING required new training for law enforcement officers to facilitate interaction with persons with mental impairments EFFECTIVE JULY 1, 2011

HB160 PUBLIC RECORDS ACCESIBILITY public bodies to designate a custodian of public records to receive request, respond to requests (including emails), and provide in electronic format (only if data exists in electronic form), also a public body to display procedures for requesting public records on a website EFFECTIVE JULY 1, 2011

HB167 FIRE PREVENTION ORDINANCES AND CODE CHANGES exempt from code adoption by the Construction Industries Commission codes requiring residential fire protection sprinklers EFFECTIVE JULY 1, 2011

HB307 'EL SEMANARIO DE NUEVO MEXICO' AUTHORIZED TO PUBLISH LEGAL NOTICES includes "El Semanario de Nuevo Mexico" in the list of Spanish language publications in which legal notices shall be published EFFECTIVE JULY 1, 2011

HB411 GOVERNMENT AGENCIES' AUDIT AND FINANCIAL REPORT COMPLIANCE penalties assigned to government entities if financial reports are not filed with state in time EFFECTIVE JULY 1, 2011

Report Purpose

A report defining the specific pieces of legislation passed in the 2011 regular session that apply to Santa Fe County was requested by the Board of County Commissioners to determine in what way new legislation would affect the various aspects of the local government. This report includes the specific bills, memorials or joint memorials that relate to Santa Fe County.

Information included with each legislative item is a description of what the passed legislation does that is applicable to Santa Fe County and the date of when the legislation takes effect.

Implementation of new legislation may require further action by the correct corresponding authority.

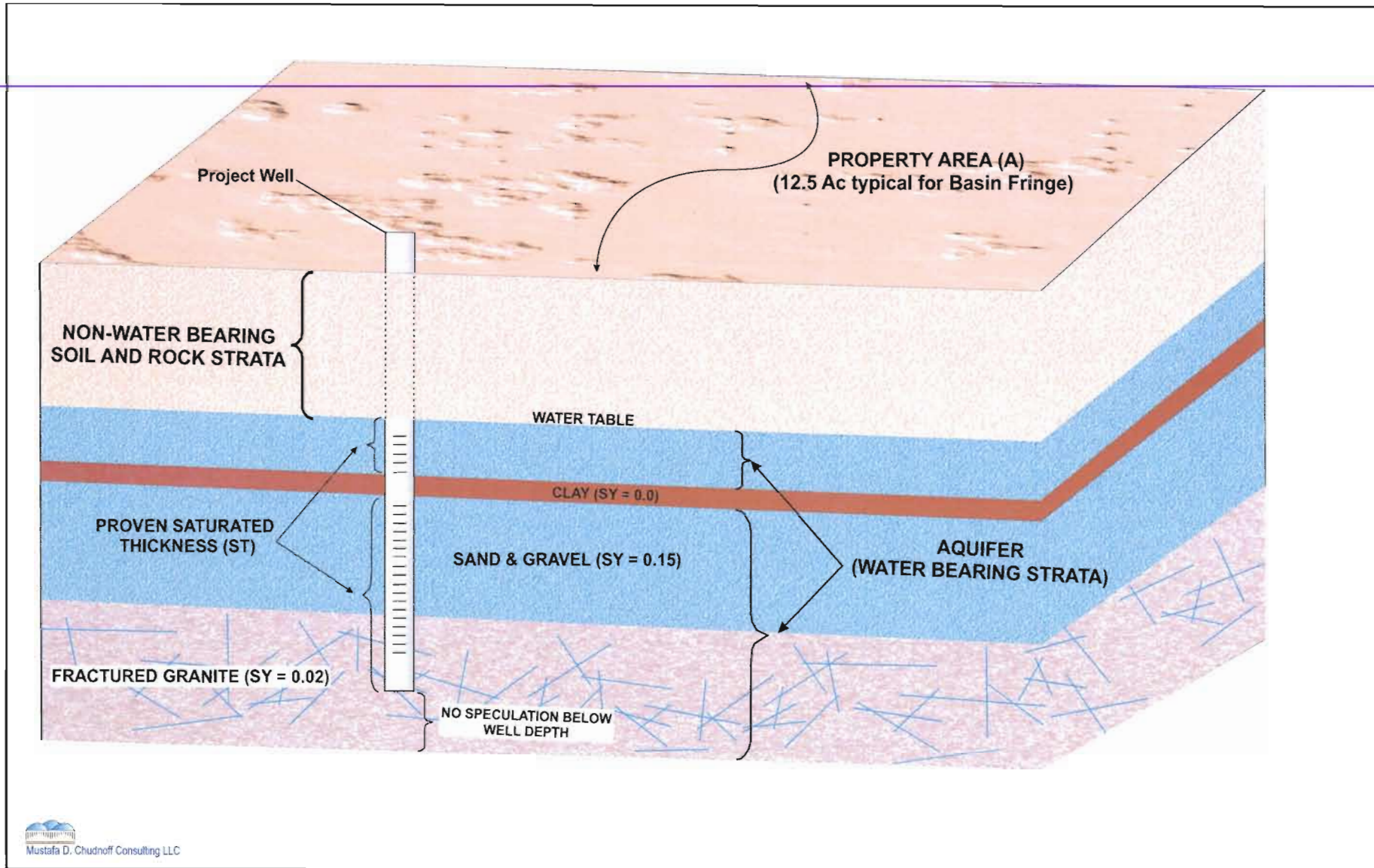


Updated 6-2-11

Location & Features Map - Uniao Do Vegetal Project, Santa Fe County, NM

SFC CLERK RECORDED 07-14-2011

SANTA FE COUNTY METHOD FOR CALCULATING ANNUAL PROJECT WATER AVAILABILITY



QUESTION: Why is it important to carefully characterize fractured rock aquifers?

ANSWER: Well boreholes may intersect many fractures, but not all fractures conduct water.

To properly calculate ST water producing fractures must be distinguished from non-producing fractures!

QUESTION: What are some reliable techniques for characterizing fractured rock aquifers?

ANSWER: Senior staff of the USGS and the National Groundwater Association recommend the following:

TEST DRILLING - Air-rotary is the most common drilling method. Lithology and fracture zones can be determined from cuttings and drilling rates. Yield of water-bearing zones can be estimated by airlifting.

DOWNHOLE GEOPHYSICS - Caliper logging is the most useful commonly run log; information on fracture zones is provided.

AQUIFER TESTS - Pumping tests in open holes for aquifer transmissivity and permeability changes with depth.

WHAT ELSE IS IMPORTANT TO KNOW: The U.S. Army Corps of Engineers methods for Water Resources Development states that it is "GOOD PRACTICE" to have an understanding of the aquifer type (confined or unconfined) under investigation before conducting the aquifer test.

QUESTION: Which of these techniques were adopted by the UDV and its consultants?

ANSWER: NONE!!!

WHAT DOES A FRACTURED GRANITE AQUIFER LOOK LIKE?

(ROCK OUTCROPS IN THE VICINITY OF THE UDV SITE ARE ANALOGUES)



POORLY INTERCONNECTED
VERTICAL FRACTURE PLANE
(MINIMAL WATER PRODUCTION)

INTERCONNECTED FRACTURES
POTENTIAL WATER
PRODUCTION ZONE



HOWEVER, SOME OF
THE FRACTURES MAY
BE FILLED WITH CLAY-
AND THEY WILL NOT PRODUCE
WATER!



Source: JSAI Attachment 4 (5-31-11)

ATTACHMENT 4
ARROYO HONDO AREA WELL LOG DATABASE

NMOSE File Nbr	Use	Diversion	Owner	County	Grant	q64	q15	q4	Sec	Tws	Rng	X (UTM meters)	Y (UTM meters)	land surface elevation (ft amsl)	drilling method	total well depth (ft bgl)	reported depth to water (ft bgl)	water level elevation (ft amsl)	screen top and bottom (ft bgl)	reported yield (gpm)	reported depth to clay (ft bgl)	reported thickness of clay (ft)	reported thickness of fractured granite (ft)	
RG 51755	DOM	3	DOUGLAS S LANHAM	SF	SEBASTIAN DE VARGAS							415511	3941981	7.071	mud rotary	450	120	6951	340 to 440	20+	30	130	80	
RG 34616	DOM	3	MARTHA H. ROY	SF	SEBASTIAN DE VARGAS				18	16N	10E	415840	3941890	7.098	rotary air hammer	267	102	6998	170 to 265	42	70	73	124	
RG 92582	SAN	1	JEFFREY BRONFMAN REVOCABLE LIVING TR	SF	SEBASTIAN DE VARGAS	1	3	1	18	16N	10E	415856	3942083	7.115	mud rotary	320	115	7000	110 to 310	20	80	25	215	
RG 76275	DOM	3	LESLIE T. GUM	SF	SEBASTIAN DE VARGAS							415657	3942146	7.096	air rotary	360	70	7020	280 to 360	30	170	160	10	
RG 51130	DOM	3	PATRICIA MCFEELEY	SF	SEBASTIAN DE VARGAS							415787	3942153	7.077	rotary	420	225	6862	380 to 420	30+	not reported	unknown	not reported	
RG 78066	DOM	3	LINDA SPIER	SF	SEBASTIAN DE VARGAS LAND							415805	3942070	7.058	air rotary hammer	360	86	7002	300 to 360	40+	100	180	20	
RG 59366	DOM	3	SHEILA SEIGEL	SF	SEBASTIAN DE VARGAS							415370	3942655	7.057	rotary	415	152		257 to 405	20	not reported	unknown	210	
RG 35679	DOM	3	ESTHER S. MULFORD	XX	SEBASTIAN DE VARGAS							415330	3941650	7.056	?	336	130	6926	?	?	?	?	?	
RG 65365	DOM	3	SANTA FE COUNTY	SF	SEBASTIAN DE VARGAS				18	16N	10E	418215	3942334	7.220	?	465	171	7049	?	?	?	?	?	
RG 84181	MUL	3	BETH JEFFE	SF	SEBASTIAN DE VARGAS						6N	09E	415613	3941302	7.061	rotary	460	56			40+	not reported	0	285
RG 69324	DOM	3	STEPHANIE COPPOLA	SF	SEBASTIAN DE VARGAS							415402	3942587	7.061	rotary	540	178	6883	340 to 520	15	105	115	not reported	
RG 78105	MUL	3	JAHED BARLIANT	SF	SEBASTIAN DE VARGAS							416541	3941629	7.061	rotary	340	51		260 to 320	70-90	not reported	0	150	
RG 91043	DOM	1	JOSEPH HAYES	SF	SEBASTIAN DE VARGAS							415369	3941387	7.061	rotary	400	185		340 to 380	15-20	3	77	not reported	
RG 28253	DOM	6	SUSAN L TATUM	SF	SEBASTIAN DE VARGAS						6N	09E	415237	3942205	7.068	rotary	390	60	7008	230 to 300	12	80	80	not reported
RG 29817	MUL	3	GREGORY BEEMAN	SF	SEBASTIAN DE VARGAS							415068	3942164	7.068	rotary	500	200		400 to 500	30	80	320	100	
RG 74845	DOM	3	DIANNE DELAYO	SF	SEBASTIAN DE VARGAS							415479	3942537	7.091	rotary	500	175	6916	460 to 480	1	not reported	unknown	not reported	
RG 51128	MUL	3	WILLIAM HARRIS	SF	SEBASTIAN DE VARGAS							416609	3942177	7.091	rotary	360	40		?	5	not reported	0	10	
RG 53260	DOM	3	CHRISTINA O. OSSORGIN	SF	SEBASTIAN DE VARGAS			4	3	18	16N	10E	415909	3941769	7.121	?	221	130	6991	180 to 220	15	?	?	?
RG 70214	DOM	3	ROBERT H. & PAMELA M. ROY	SF	SEBASTIAN DE VARGAS							415023	3942075	7.121	rotary air hammer	500	152		460 to 480	40+	160	60	not reported	
RG 20458	DOM	3	DAVID BATTLE	SF	SEBASTIAN DE VARGAS							416553	3942543	7.240	air rotary	360	144	7098	open hole		not reported	0	37	
RG 76097	DOM	3	STEPHEN W. BERSHAD	SF	SEBASTIAN DE VARGAS LAND							414955	3941497	7.240	air rotary	960	85		680 to 740	15+	220	550	30	
RG 78724	DOM	3	ROBERT AND PAMELA ROY	SF	SEBASTIAN DE VARGAS LAND							414967	3942442	7.240	rotary air hammer	480	345		?	30+	120	80	not reported	
RG 63133	DOM	3	ANEDA BOYLAN	SF	SEBASTIAN DE VARGAS	1	2	4	18	16N	10E	417032	3941805	7.240	rotary air hammer	520	143		320 to 520	50	not reported	0	350	
RG 34616	DOM	3	CHRISTINA O. OSSORGIN	SF	SEBASTIAN DE VARGAS	4	3	1	18	16N	10E	419861	3942032	7.240	rotary air hammer	267	102		170 TO 265	42	70	73	124	
RG 30319	COM	9.95	BUSAN-VOCALC INC.	SF	SEBASTIAN DE VARGAS							416918	3942478	7.240	rotary air hammer	497	85		?	30	not reported	0	477	
RG 25781	DOM	3	PAUL L DOW	SF	SEBASTIAN DE VARGAS			2	4	18	16N	10E	417208	3941619	7.240	air rotary	259	?		open hole	12	not reported	0	158
RG 21144	DOM	3	GENE PETCHESKY	SF	SEBASTIAN DE VARGAS	4	4	1	13	16N	09E	414758	3941967	7.240	?	310	169		210 to 226	?	31	11	?	
RG 25938	DOM	3	RICHARD SCULLUM	SF	SEBASTIAN DE VARGAS	4	2	2	13	16N	09E	415603	3942372	7.240	rotary	220	80		150 to 220	25	80	80	60	
RG 40505	DOM	0	STEPHEN & KAREN BERSHAD	SF	SEBASTIAN DE VARGAS	1	3	4	13	16N	09E	414960	3941345	7.240	?	760	80		500 TO 760	20	?	?	?	
RG 54413	MUL	3	PAMELA ROY	SF	SEBASTIAN DE VARGAS	3	3	2	13	16N	09E	414985	3941967	7.240	?	462	122		420 TO 460	60+	115	135	15	
RG 59923	DOM	3	DAVID SARAFAN REVOCABLE TRUST	SF	SEBASTIAN DE VARGAS	1	1	1	13	16N	09E	414147	3942602	7.240	mud rotary	480	100		360 to 480	80+	0	20	460	

AT LEAST 30% OF THE WELLS IN THE AREA OF THE UDV SITE WERE DRILLED USING AN "AIR" METHOD.

MOST OF THESE WELLS ARE DEEPER THAN THE UDV WELL AND THEY PRODUCE MORE WATER.

*UTM location was derived from PLS5 - see Help
 **ftic UTM locations based on M/DCC 2011

QUESTION: WHY WASN'T THE UDV WELL DRILLED USING AN "AIR" METHOD?

Question: What can we learn from the “rate of penetration” during the drilling of the UDV well?

THE METHOD: The rate of penetration (expressed as feet per hour) during drilling can be an indicator of the degree of fracturing. The faster the drilling rate the more fractured the rock and potentially a higher assigned SY value.

THE RESULT: The County’s consulting hydrologist, relied on drilling rate claims made by JSAI to identify a 98-foot zone of highly fractured rock that is assigned an SY value of 0.15. Slower drilling zones were assigned an SY value of 0.02

WHAT DOES THE DATA REALLY SHOW: Drilling start and finish times and start and finish drill depths were reported by JSAI. These data can be used to calculate and compare drilling rates for four zones.

Day	Interval (ft bgs)			Drilling Time (hours)			Average Drilling Rate (ft/hr)
	Top	Bottom	Thickness	Start	Finish	Duration	
1	0	120	120	1120	1300	1.7	70.6
1	120	178	58	1300	1530	2.5	23.2
2	180	278	98	1000	1400	4	24.5
2	278	320	42	1400	1600	2	21

Drilling in unconsolidated rock (sand, gravel + clay) →

Drilling in granite {

This is fast drilling (Typical for SY=0.15) ←

This is slow drilling (Typical for SY=0.02) }

Conclusion #1: There is no significant difference in drilling rates in the granite - there is no 98-ft thick zone of highly fractured rock.

Conclusion #2: There is NO BASIS for assigning the aquifer underlying the UDV an SY value of 0.15 - The SFCLDC default value of 0.02 is appropriate.

Question: Can it be substantiated that the UDV well is completed into more than 20 ft of high production fractures?

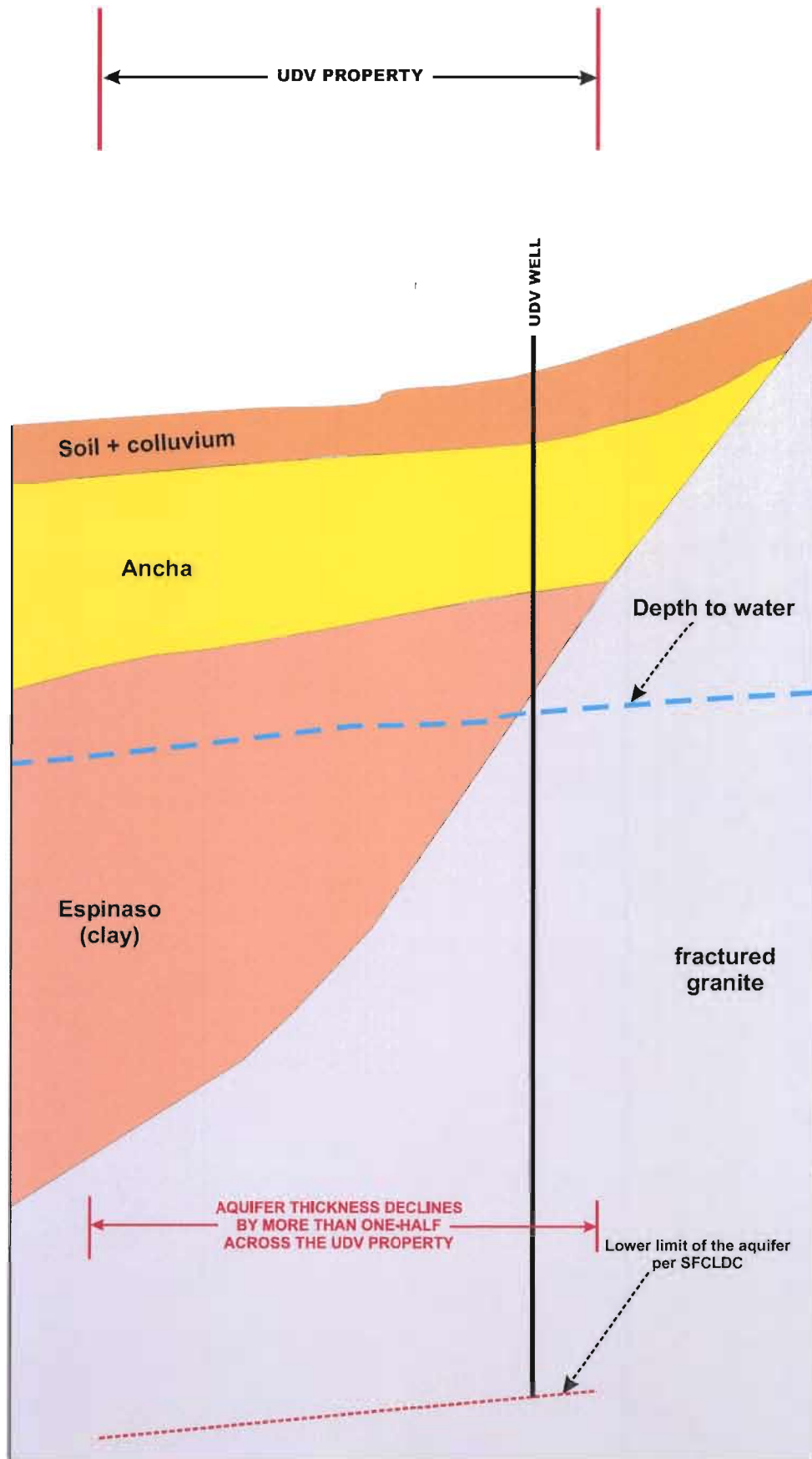
NMOSE File Number	Reported Fracture Thickness (ft)	Reported Well Yield (gpm)	Yield per Ft. of Fracture (gpm)	Photo Map Number
RG-92582 (UDV)	205	20	0.097	16
RG-34616 (Roy) ¹⁸	10	42	4.2	17
RG-76066 (Spier)	20	40+	2.0+	1
RG-76275 (Gum)	10	30	3.0	2
RG-51130	100	30+	0.3+	3
RG-51765	80	20+	0.25+	
RG-26253	20	12	0.6	
RG-59366	28	20	0.71	
RG-69324	60	15	0.25	
RG-74845	1	1	1.0	
RG-35679	203	20	0.099	
RG-53260 (Roy)	30	15	0.5	15



ANSWER: NO!! The UDV well is the least productive well in the area.

THICKNESS OF THE GRANITE AQUIFER IS NOT CONSTANT

Source: JSAI 5/2/2011 report



Question: How do we know that the underlying aquifer is confined?

Answer: One or more of these indicators should be observed

1. Depth to water upon completion of the well is higher than the top of the upper-most water-bearing strata.

Present in all wells located in the immediate vicinity of the UDV well.

2. Presence of a “confining” clay or shale layer above the water producing rock.

Present in all wells located to the west and south of the UDV well.

3. Water level in the UDV well rises or falls in response to very small changes in atmospheric pressure.

Documented by JSAI in the UDV well.

4. Water level in the UDV well rises and falls in response to earth tides (moonrise and moonset).

Observed and documented by JSAI in the UDV well.

5. Variation in aquifer storage coefficient (S) due to aquifer elasticity.

Observed in UDV well aquifer test data as documented by GGI in their 6-6-11 report (page 2) on the UDV project.

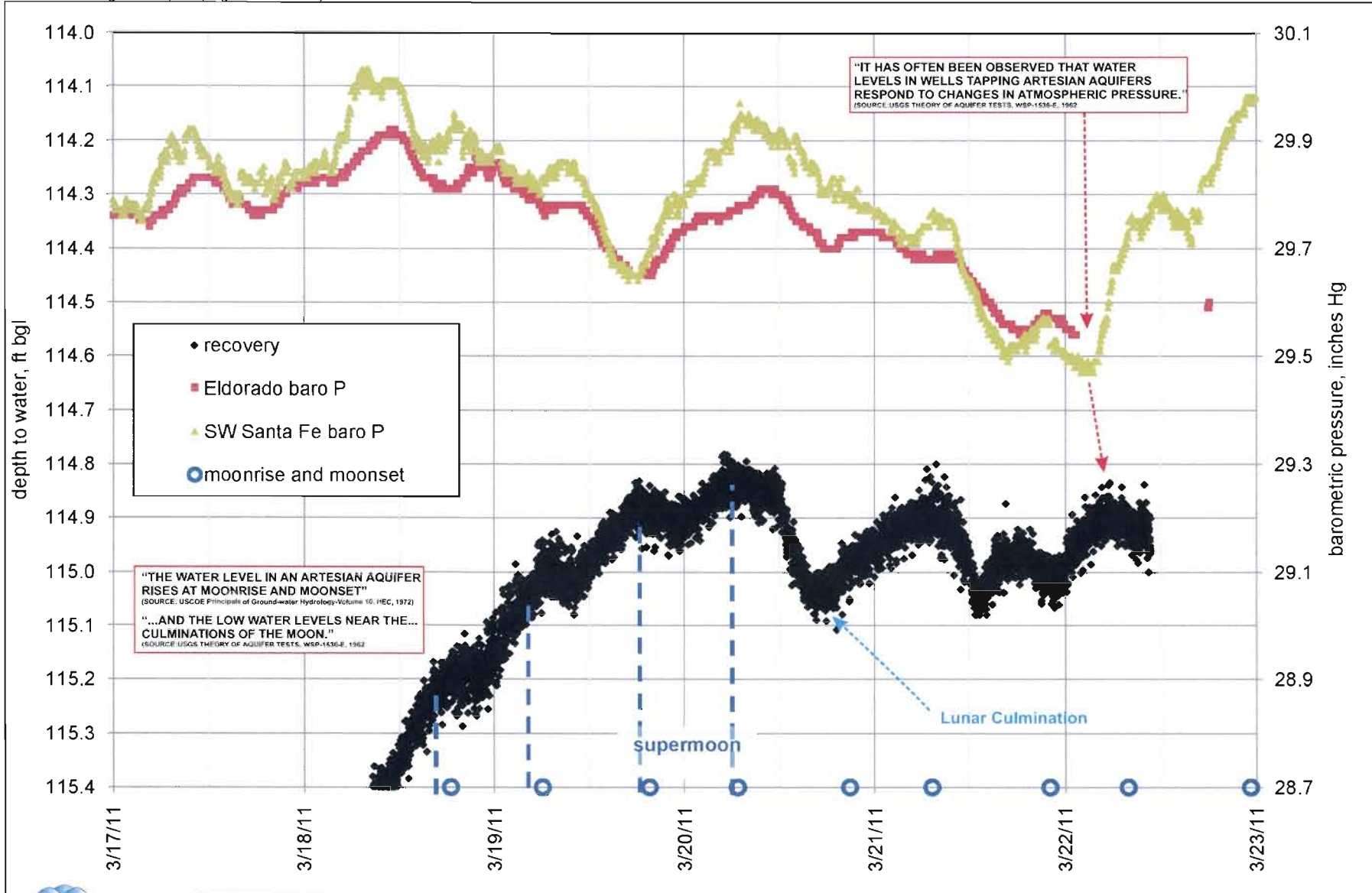
6. Aquifer storage coefficient is less than 0.01.

Value of 0.0007 extrapolated from UDV well aquifer test and data provided by JSAI.

7. Distance vs. Drawdown analysis - pumping area of influence analysis.

This model analysis with $S = 0.0007$ shows that UDV well's area of influence extends out to Arroyo Hondo spring.

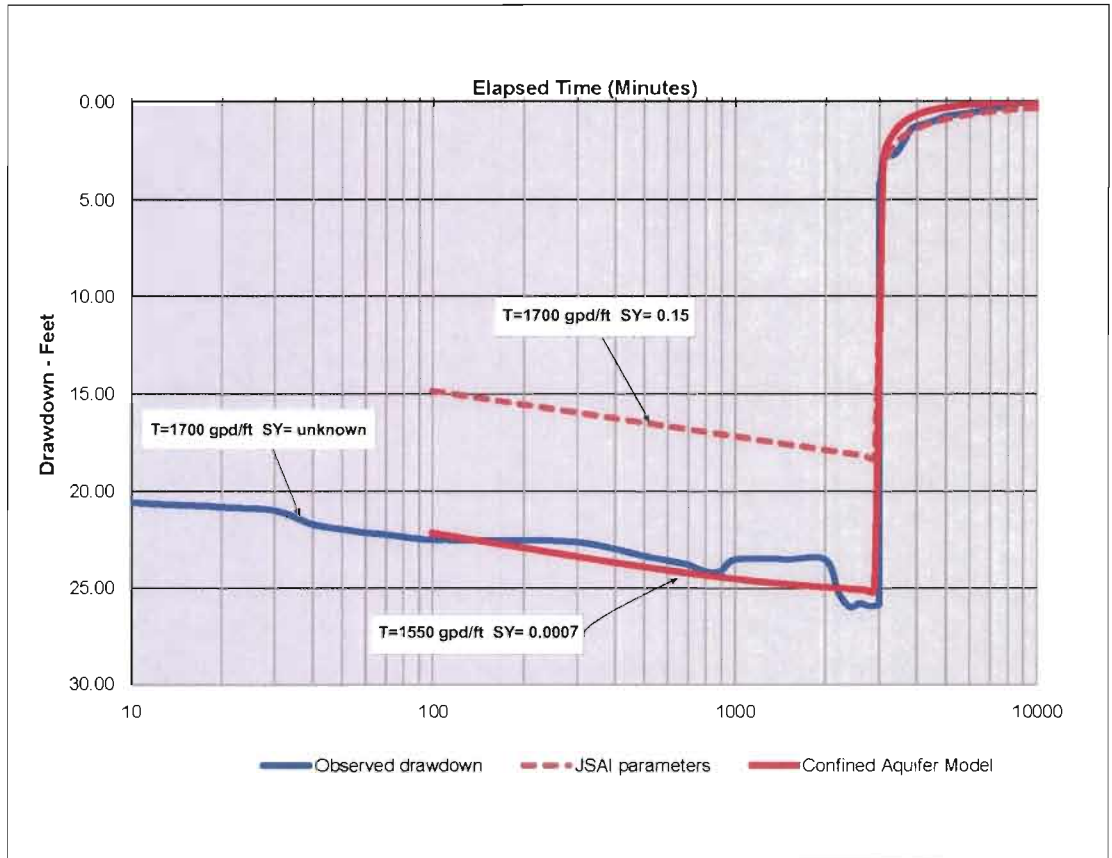
Source: JSAI Figure C3 (Pumping Test Data File)



Question: How do we know that the aquifer underlying the UDV site is confined (artesian)?

BOARD H11

Comparison of This model results to observed UDV well drawdown



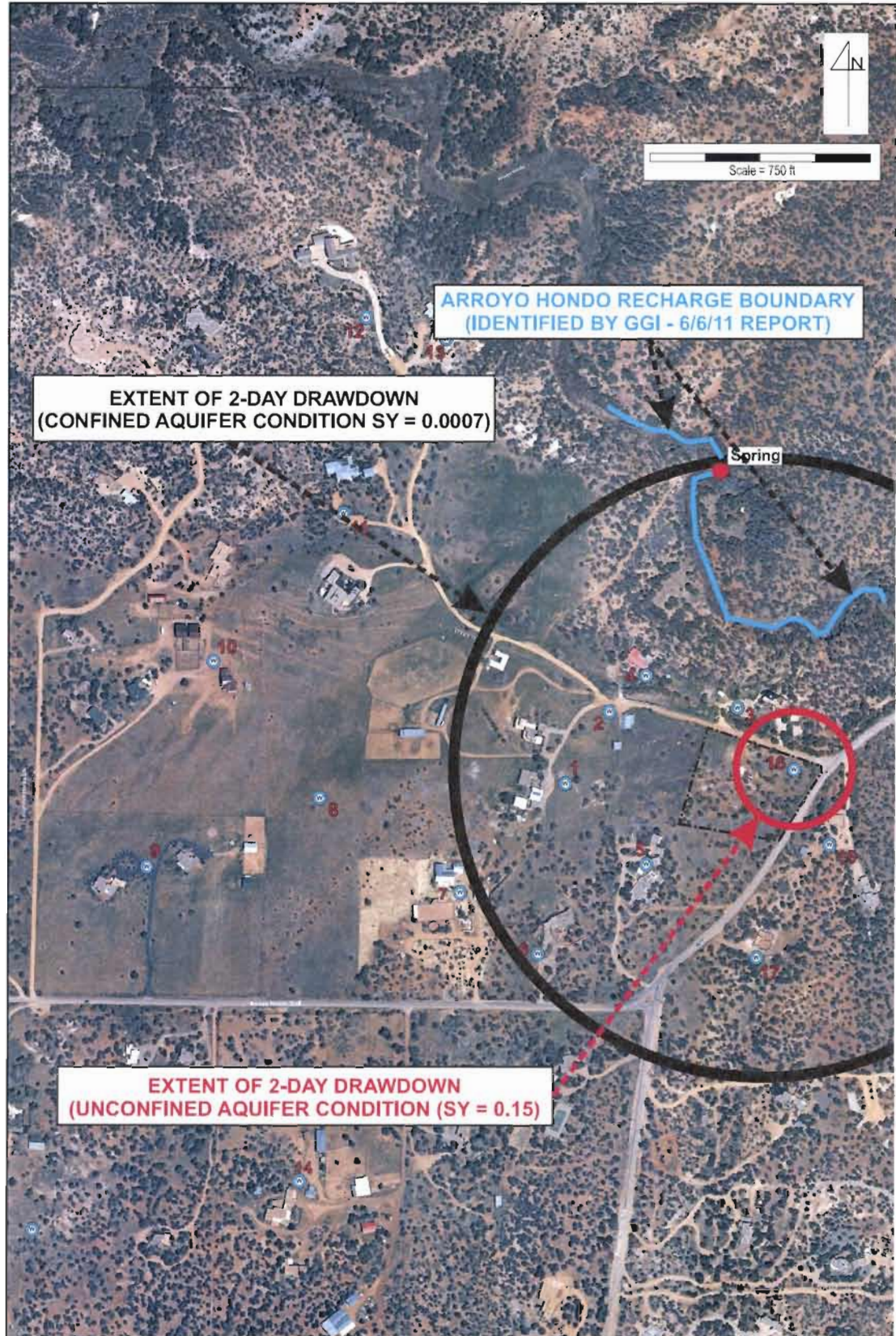
Fact: The This analytical model is a simple technique used by hydrologists to calculate aquifer drawdown. It was used by JSAI, the UDV's consultant to support their claim that an aquifer SY value of 0.15 is appropriate for their calculation of Water Availability rather than the SFCOLDC value of 0.02.

Critique No. 1: This model analysis of the JSAI claim of an SY value of 0.15 cannot replicate the water level decline observed in the UDV aquifer test.

Critique No. 2: In their May 31st submittal JSAI states that they "calibrated" their model to match the water levels observed in the aquifer test by "placement of a recharge boundary near the pumping well".

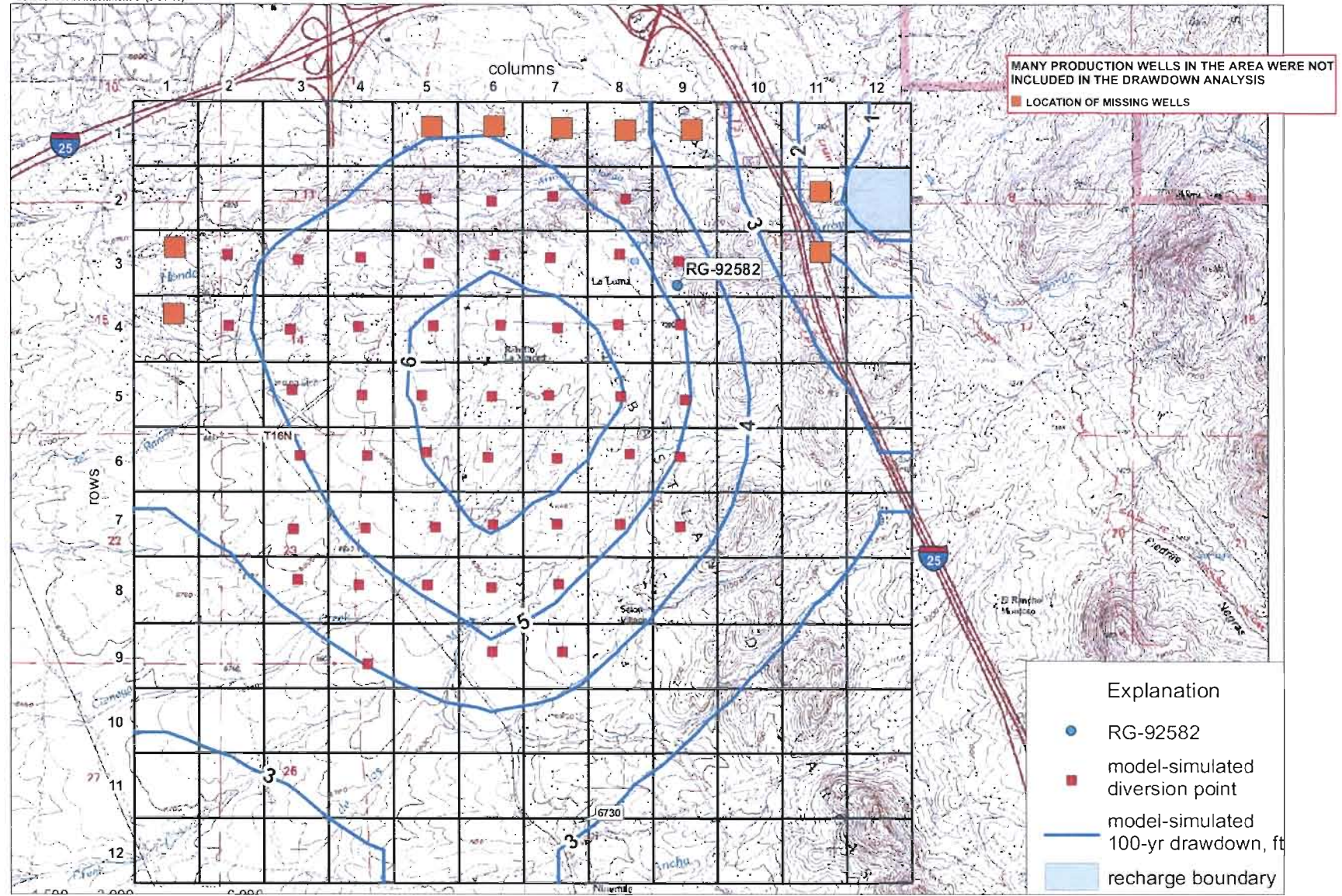
Question: When you develop a groundwater model do you: (1) change your hypothesis (e.g. the aquifer is unconfined and SY = 0.15) that was invalidated by your model to match the observed data, or (2) do you keep moving the recharge boundary around until you match the results you want to get?

UDV WELL 2-DAY PUMPING AREA OF INFLUENCE



UDV Well Pumping Area of Influence

Source: JSAI Attachment 6 (5-31-11)



Question: Why is the JSAI calculation of 100-year drawdown technically inaccurate?

BOARD H14

PULLING IT ALL TOGETHER

$$\text{WATER AVAILABILITY (WA)} = [\text{AC} \times \text{SY} \times \text{ST} \times \text{RL} \times \text{RC}]/100$$

AC = Tract area (2.52 acres)

SY = Specific yield (0.15) fractured granite

ST = Maximum PROVEN saturated thickness of fractured granite (30 ft)

RL = Reliability factor (1.0 per SFCLDC)

RC = Recovery potential (0.8 per SFCLDC)

THE RESULT:

$$\text{WA} = [2.52 \times 0.15 \times 30 \times 1.0 \times 0.8]/100$$

= 0.09 ac-ft/year maximum allowed water use.

Conclusion: The UDV water requirement of 0.41 ac-ft exceeds the annual availability of 0.09 ac-ft. THEREFORE - The UDV project DOES NOT meet code AND the application should be denied.

Source: UDV Master Plan/Preliminary Development Plan Report (Siebert)

Places of Worship	1998 Water Use (ac.ft)	2007 Water Use (ac.ft)	2008 Water Use (ac.ft)
Rodeo Rd. Baptist Church	0.15	0.14	0.13
St Bede's Episcopal Church	0.23	0.21	0.16
Unitarian Church of Santa Fe	1.00	0.25	0.14
Chabad Jewish Center	n/a	0.14	0.22
Tikva Beit	n/a	0.02	0.18
Ibn Asheer Institute	n/a	0.12	0.10
Average	0.46	0.14	0.16
2007/2008 Average			0.15

Water use increased by a factor of X 1.5

Water use increased by a factor of X 9

Critique: Both the UDV and GGI assert that 5-months of water usage data collected by the UDV at their La Cienega location can be used to verify their proposed water budget. Data on the annual water usage at other "comparable" places of worship submitted by the UDV shows that there are large fluctuations in water use from year to year.

Question: So how can you rely on just 5-months of data? **Answer:** You can't and you shouldn't!!

Source: MDCC WATER BUDGET SUBMITTED TO SFCO 5/20/11

Water Use Category	Average Annual Water Use		Water Use per Person per Event
	Gallons	Acre-feet	(Gallons)
Maintenance of <i>hoasca</i>	10,000	0.031	NA
Personal hygiene + cleanup	77,800	0.239	20.3
Meal preparation + cleaning	11,500	0.035	3.7
Childcare	7,700	0.024	10
Workdays	2,800	0.009	11.2
SUBTOTAL - INDOOR	109,800	0.34	
Landscape irrigation		0.03	
SUBTOTAL - ALL USES		0.37	
10% CONTINGENCY		0.04	
TOTAL ANNUAL WATER USE		0.41 Ac-Ft	

THE UDV IN ARROYO HONDO WILL BE DISTRIBUTING HOASCA THROUGHOUT THE U.S.

THE UDV WILL BE "REPACKAGING, DECANTING, COMBINING, BOILING AND DISPOSING" OF BATCHES OF TEA (UDV agreement w/DOJ)

Bi-weekly UDV ceremonies will last 8 hours NOT 4 hours as incorrectly assumed by UDV's consultants and SFCO staff.

Statements provided under oath to the U.S. Supreme Court and to Santa Fe County by the UDV's own medical and science experts:

"Hoasca often induces gastrointestinal distress"

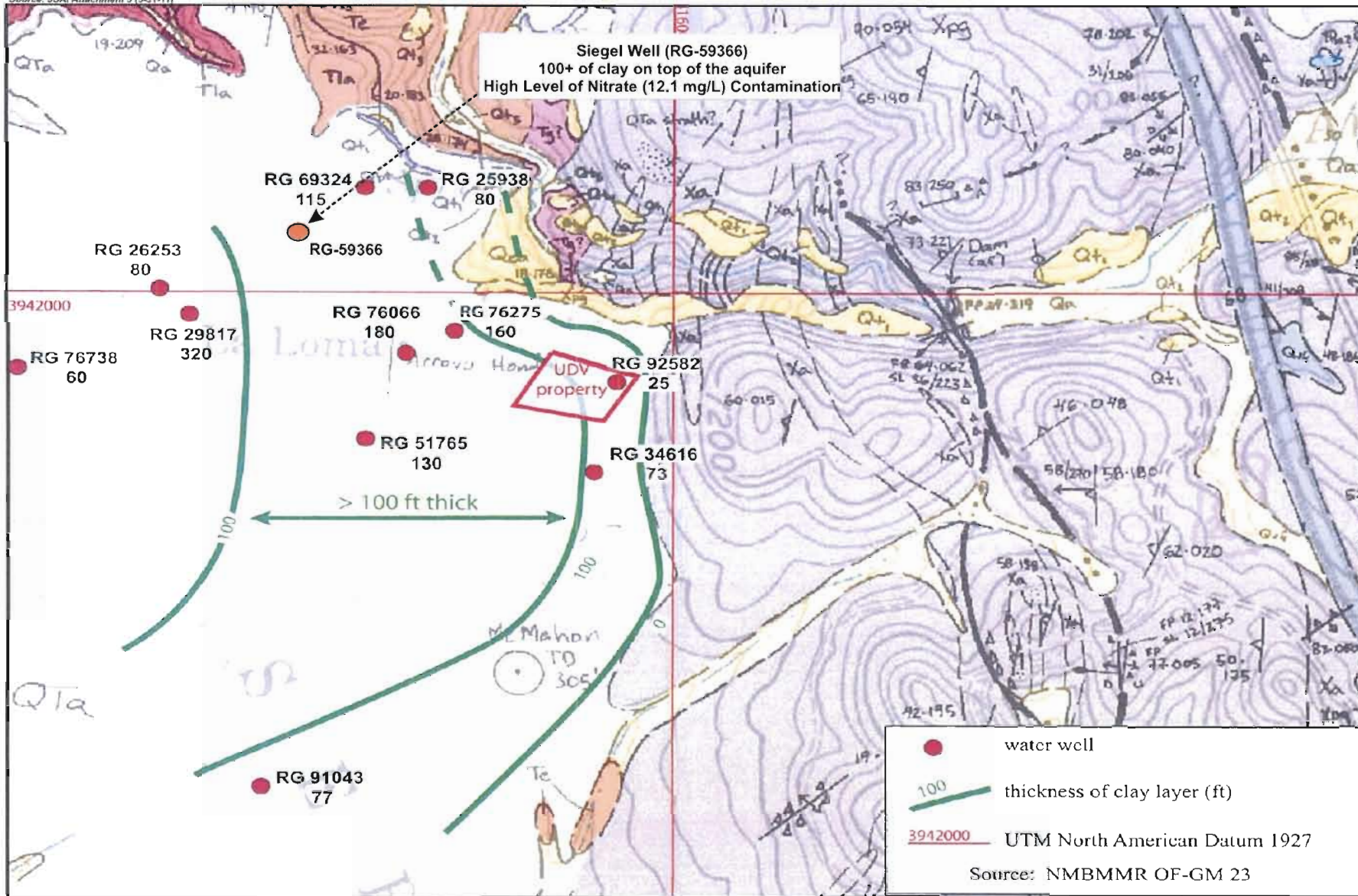
"It is not uncommon for participants in the UDV ceremony to get up from their seats and walk to the restrooms, where they vomit and/or have diarrhea."

Ms. Shelly Cobau in SFCO staff report: UDV will operate a nursery during all services.

Ms. Shelly Cobau in SFCO staff report: UDV activities have included baptisms and weddings.

QUESTION: Why does the UDV water budget approved by SFCO and GGI neglect 5 key areas of water use?

Source: JSA Attachment 9 (5-31-11)



Clay is not always an effective barrier to groundwater contamination?

History. 1980 Comp. 1980-6. Section 6.4.1 Submittals, was amended by County Ordinance 1987-1 providing for a master plan submittal for large scale residential uses to be developed in phases.

6.4.2 Density Review

The Code Administrator shall review an application for development permit for development provided for in this Section 6 in compliance with the density requirements of the Code. No application shall be approved unless it is determined that the density requirements of the Code will be met.

6.4.3 Special District Review

The Code Administrator shall check the location of the proposed large scale residential use and shall inform the applicant if any additional submittals or reviews required because of location of the proposed use within a special review district and make the applicable review.

6.4.4 Environmental Review

The Code Administrator shall review the proposed development and shall inform the applicant of the additional submittals or reviews required under Article VII - Environmental Regulations - of the Code and make the applicable review.

6.4.5 Conformance to Building, Mechanical and Electrical Codes.

The Code Administrator shall cause the submitted plans and specifications to be reviewed for compliance with the building, mechanical and electrical provisions of the Code for engineering design. If all of the requirements of the Code are met and a development permit is issued, construction must begin within one year of the date of issuance, or the permit becomes void and a new application must be made.

SECTION 7 - COMMUNITY SERVICE FACILITIES

Community service facilities are facilities which provide service to a local community organization. These may include governmental services such as police and fire stations, elementary and secondary day care centers, schools and community centers, and churches.

7.1 Standards

Community service facilities are allowed anywhere in the County, provided all requirements of the Code are met, if it is determined that:

- 7.1.1 The proposed facilities are necessary in order that community services may be provided for in the County, and
- 7.1.2 The use is compatible with existing development in the area and is compatible with development permitted under the Code.

7.2 Submittals and Review

The submittals and reviews for community service facilities shall be those provided for in Article III, Section 4.5.

Compilers Note. Section 4.5 was amended by County Ordinance 1988-9, and consists of review procedures and submittals for any non-residential use requesting a zoning approval.

SFC CLERK RECORDED 07/14/2011

- 1.26 Compatible Use - as used in Article VI means a use which is presumed to be compatible for the Ldn Zone in which it is proposed and may be permitted pursuant to the Code. A compatible use shall not be regarded as a use by right.
- 1.27 County - Santa Fe County, New Mexico.
- 1.28 County Assessor - the County Assessor of Santa Fe County, State of New Mexico.
- 1.29 County Clerk - the County Clerk of Santa Fe County, State of New Mexico.
- 1.30 County Engineer - the County Engineer for Santa Fe County, State of New Mexico, or his duly authorized representative.
- 1.31 County Manager - the County Manager of Santa Fe County, State of New Mexico.
- 1.32 County Surveyor - the County Surveyor of Santa Fe County, State of New Mexico.
- 1.33 County General Plan - the comprehensive master plan for the land in the County which has been adopted pursuant to New Mexico law and shall include without limitation any Local Land Use and Utility Plan which has been incorporated as part of the County General Plan.
- 1.34 Crest - the highest point on a hill or the highest line along a ridge.
- 1.35 Critical root zone - a circular region measured outward from a tree trunk representing the essential area of the roots that must be maintained or protected for the tree's survival. Critical root zone is one (1) foot of radial distance for every inch of tree diameter measured at 4.5 feet above the ground, or for trees that split into multiple trunks below 4.5 feet, the trunk is measured at its most narrow point beneath the split.
- 1.36 Cul-de-sac - a dead end road ending in a turn around.
- 1.37 Dead end road - a road with only one exit. Looped roads or branched roads with only one exit are dead end roads.
- 1.38 Design storm - a storm of one hundred (100) year recurrence interval and twenty-four (24) hour duration. Precipitation values for the design storm shall be derived from the current NOAA weather atlas or on-site data from U.S. Weather Service gauged stations.
- 1.39 Designated landscape areas - those areas on a lot or parcel in which plants shall be preserved or installed to meet the landscape, buffering, or revegetation requirements of the Code, including but not limited to, roadway or parking lot buffers, revegetation and buffering of cuts, fills, retaining walls and structures on steep terrain and ridgetops. Areas dedicated to recreational playfields or to the production of food crops such as vegetable gardens or orchards are not included.
- 1.40 Development - the making of any material change in the use or appearance of any structure or land or the performance of any building or terrain modification, including, without limitation:
- a. construction, reconstruction, alteration, repair, addition to or location of a structure;
 - b. use of land or a structure for commercial, industrial, agricultural, or residential purposes;
 - c. division of the surface area of land;
 - d. installation of water, sewer or other sanitation utility facilities; except wells for which a permit is obtained under Section 75-11-1 NMSA (1953 Comp) as it may be amended and individual on-site liquid waste systems.
 - e. construction of roads, streets, or driveways;