MINUTES OF THE

SANTA FE COUNTY

PLANNING COMMISSION

Santa Fe, New Mexico

February 3, 2025

1. This special meeting of the Santa Fe County Planning Commission was convened by Chair Erik Aaboe on the above-cited date at approximately 1:35 p.m. in the Santa Fe Community Convention Center, 201 West Marcy Street, Santa Fe, NM. This hearing was conducted with both in-person and virtual participation.

Roll was called following the pledge of allegiance and a quorum was present as follows:

Members Present:
Erik Aaboe, Chair
J.J. Gonzales
Jeremy Mier
Dan Pava
Wendy Pierard
Steve Brugger
Carl Trujillo

Member(s) Excused:
None

Staff Present:
Alexandra Ladd, Growth Management Director
Jordan Yutzy, Land Use Administrator
Dominic Sisneros, Building & Development Services Supervisor
John Lovato, Development Review Specialist
Rachel Brown, Deputy County Attorney
Roger Prucino, Assistant County Attorney
Jaome Blay, Fire Marshal

D. Introduction of New Planning Commissioner Member: Chair Aaboe welcomed Steve Brugger to the Planning Commission, new member from District 5.

E. Approval of the Agenda

CHAIR AABOE: I wonder if we have a motion to approve this agenda. And staff, are there any changes to the agenda that we have?

DOMINIC SISNEROS (Case Manager): There are no changes to the agenda.

CHAIR AABOE: Thank you. May I have a motion to approve the agenda?

COMMISSIONER TRUJILLO: Mr. Chair, I motion to approve the agenda.

COMMISSIONER PIERARD: I'll second.

CHAIR AABOE: Thank you.

The motion passed by unanimous [7-0] voice vote.

2. NEW BUSINESS

Case #24-5200 Rancho Viejo Solar, LLC; AES Clean Energy Development, LLC, Applicants, request approval of a CUP to allow a 96-Megawatt solar facility on an 828-acre tract. The site is zoned Rural Fringe (RUR-F). Appendix B, Use Matrix illustrates that a commercial solar energy production facility is a conditional use within RUR-F zoning. The site is addressed at 11 Twilight Way which will be accessed via Hwy. 14, SDA-2

CHAIR AABOE: We're here to discuss Case #24-5200, Rancho Viejo Solar, LLC, AES Clean Energy Development, LLC, applicants. They're requesting approval of a conditional use permit to allow a 96-megawatt solar facility on an 828-acre tract. The site is zoned Rural Fringe. Appendix B, Use Matrix, illustrates that a commercial solar energy production facility is a conditional use within Rural Fringe zoning. The site is addressed at 11 Twilight Way which will be accessed via Highway 14. It's in Sustainable Development Area-2 in Commission District 5, and Dominic Sisneros is the case manager.

A. Staff Presentation

CHAIR AABOE: The first item, staff will give a presentation. Alex, will you start with the staff presentation. Thank you.

ALEXANDRA LADD (Growth Management Director): Thank you, Chair Aaboe. Thank you to the members of the Planning Commission for this commitment you've made to this meeting today, and thank you to the members of the public for being here. I also wanted to quickly call out the City staff for helping us arrange this space. We were committed to making sure that as many people as possible could attend in person. And I want to point out to anyone walking in the room, there are lots of chairs up front. No one wants to be in the front row. But please come on up if you need a chair.

With that I will – let me start here with County staff. We've got some County staff in the room. I am the director for the County's Growth Management Department. My name is Alexandra Ladd. With me today is our Land Use Administrator, Jordan Yutzy. We also have Roger Prucino who is representing the County Attorney's Office. We've got Dominic Sisneros who is the Case Planner for this job and also this case and also one of our Building & Development Supervisors, and we have many County staff in the room. Could all the County staff in the room raise your hand? So if you see anyone

who's got a hand raised and you have a question about anything, they're all very happy and willing to help, so please reach out to them. We also have Jaome Blay who is our Fire Marshal in the room, over on the edge there.

So I just really, really quickly wanted to go through the process because I think there's been a little confusion about who is making decisions here and what kind of work we're all doing. County staff's main role is to determine whether an application is complete and then whether it's compliant with the Sustainable Land Development Code requirements. The Hearing Officer will review the staff report and determine other facts that might apply to the case, will conduct a quasi-judicial proceeding, preside over a public hearing, and make a recommendation of approval or denial to the Planning Commission.

The Planning Commission, all of you, again, you're reviewing staff's reports, determining whether there are additional facts pertinent to the case as needed. You're also conducting a quasi-judicial proceeding and presiding over a public hearing. Your decision is informed by the Hearing Officer's recommendation but is not bound by the Hearing Officer's conclusion. In the case of a conditional use permit, the Planning Commission will make the final decision. And then the Board of County Commission hears any appeal of a Planning Commission decision.

Quickly, I wanted to just talk a little bit about some of the rules and ordinances and policies that apply to any solar project in Santa Fe County. In 2021 the State of New Mexico passed the New Mexico Community Solar Act, and a solar rule was adopted by the Public Regulation Commission on March 30, 2022. What this meant for the County was that we needed to make our Sustainable Land Development Code compliant with the state rule, so we added a community solar definition which we didn't have before and made it a permitted right in all zoning districts.

Commercial solar was in our code but we amended the definition to add storage so that it was consistent with the community solar definition. The County of Santa Fe also passed a resolution in 2022 and resolution, I want to be very clear, express a policy intent. They are not law, but they state what the Board of County Commissioners would like to see. And in this case, the Board of County Commissioners was interested in supporting the installation of community solar on publicly owned land, so this resolution really looks at all of the criteria because the feeling was that if it's publicly owned, especially if it's County-owned land the standards should be higher and the criteria should be very clear.

So the resolution also has two attachments that include a letter of support, a template for a letter of support and then the criteria itself. In 2023 we adopted – the Santa Fe Fire Code was amended to adopt the NFPA 855 standards for stationary energy solar storage systems. So that's an ordinance. That's a rule. Resolution 2022 is a policy intent. And then 2022-05 is also a rule. So an ordinance becomes law.

This application was originally submitted in January of 2023. County staff deemed it incomplete. Additional studies were done. The application was withdrawn and then resubmitted as a new application in August of 2024, which coincides with when I started this job. So I do want to mention that. We've got a great staff team but none of us were involved in some of the earlier work in this area so we are treating this application as it is a complete application we've determined, and all of the third-party studies are

complete. And all of the information has been available on a dedicated County webpage and this was also according to a directive from the Board of County Commissioners.

The public participation – we've had two community meetings hosted by County staff that were held virtually. The applicant hosted a community meeting in August and then the Hearing Officer, there was a public hearing in front of the Hearing Officer. So the public has had – we really try to make sure that the public feels like the information's been accessible and they've had a lot of opportunity to comment. Today, here again, I won't reread your role, but if this project is approved by the Planning Commission it must comply with all of staff's conditions, all fire code requirements, and submit 100 percent construction drawings in order to get a development permit to be built.

So today's decision is about whether the conditions have been met but it is not permission to build. And with that I will turn it over to Dominic and he will go through his staff report.

MR. SISNEROS: Thank you, Alexandra. Thank you, Mr. Chair, Planning Commission members, Dominic J. Sisneros, Building & Development Supervisor with the Growth Management Division.

The location of the property is a privately owned site zoned Rural Fringe. It's 828 total acres of which 684 acres will be developed. The access point is on State Road 14, addressed as 211 Twilight Way in SDA-2, Commission District 5.

These next two maps were created by Santa Fe County GIS Department within our Growth Management Division to provide clarity on the distance from the subject property to surrounding residential and commercial properties. As you can see from this map here, the nearest residence is a half-mile from the subject parcel.

This second map represents the distance from the actual BESS to the nearest surrounding residential and commercial properties. The location from the BESS, you can see the distance here to the nearest residence is over two miles.

Rancho Viejo Limited Partnership, Rancho Viejo Solar, LLC, and AES Clean Energy Development, LLC, request approval of a conditional use permit for a 96-megawatt solar facility. The application includes a 12-month extension of approval if granted. Appendix B, the Use Matrix of the Sustainable Land Development Code allow commercial solar energy facilities is a conditional use within the Rural Fringe zone. A CUP application may be subject to other special reports and assessments and the conditions of approval requiring an individual view of the proposed location, design and configuration of the proposed project.

Application material was required to be submitted in several additional SRAs that are not usually required for a CUP application.

The initial Hazard Mitigation Analysis and emergency response plan are also available for public review at the CUP stage, although they will be further refined at the time of development permit. All materials related to this project are available in the public review on the County's website.

Resolution 2023-093 was adopted directing staff to engage with expert consulting regarding commercial renewable energy projects in Santa Fe County and post information concerning CUP applications for such projects on the County website.

Here are a list of the special reports and assessments that were provided by AES, the applicant. Some of these studies, reports and assessments that were provided were

included as part of the environmental impact report.

Staff has reviewed these standards: access road and design was reviewed. A TIA was not required as part of this as determined by the New Mexico Department of Transportation. The water supply is noted here and as a condition of approval a detailed water budget will be required by the applicant prior to the recordation of the CUP, and will include percentages of reclaimed and potable water. That water budget will be required to prior to the recordation of the CUP.

Staff has also reviewed landscape and buffering requirements, fences and walls, lighting and signage, parking and loading, open space, and the protection of historic resources. The property owner has applied for a transfer of development rights on parcels surrounding the project to preserve the current ag uses. The applicant will be required to fence and protect these areas throughout the life of the project.

Staff also reviewed terrain management, flood control, as well as solid waste. Additional standards reviewed were air quality and noise.

Santa Fe County Fire Prevention did review the fire prevention as well as our third-party reviewer. Now I'd like to hand it over to our third-party reviewer, Atar Fire.

[Nicholas Bartlett and Todd LaBerge were placed under oath.]

NICHOLAS BARTLETT: Nicholas Bartlett, 342 South Car Street, Lakewood, Colorado, 80226.

TODD LABERGE: Todd LaBerge, 1162 Salerno Drive, Campbell, California, 95008.

MR. BARTLETT: Thank you, everybody. My name is Nick Bartlett. I'm with Atar Fire. I am the owner and principal engineer of Atar Fire. We are a fire protecting engineer and consulting company, and my colleague here, Todd LaBerge as well. We were both involved in the third-party review of the battery energy storage system.

Okay, so just a little bit of brief background on my personal experience in the field. So I do have 20 years in fire protection. I have a bachelor's degree in mechanical engineer, a master's degree in fire safety engineering from the University of Edinburgh in Scotland. Again, University of Belgium, and Lund University of Sweden. I'm a licensed protection engineer in four states.

And so pertinent to this particular review – actually, let me back up a little bit. So just regarding kind of my career I've spent time working at UL as a fire safety testing and certification engineer, testing and certifying products in accordance with UL safety standards. I've worked with a large company called Jensen Hughes as a fire protection engineer doing CFD modeling, advanced fire hazard analysis and the like, and I've also spent about ten years as an AHJ. So I've been everything from a fire inspector to a senior fire protection engineer to a fire marshal.

So with respect to today's conversation, my experience is – I'm quite involved in the codes and standards pertaining to the topic at hand, so I have been a technical member of NFPA 855 which is the primary standard that this project was reviewed to, as well as a technical member of several UL standards, so 9540, which is the safety certification standard for energy storage systems, and 9540-A, which is essentially a fire test, not a product certification. UL 1973, which is the safety standard for battery modules, and then a number of other standards which are currently in development –

NPFA 800, a new battery code that will be coming out in the next few years, UL 1487, these are for battery containment systems, and then CSA C-801 is a new standard that's being developed for detection and mitigation. So I'm heavily involved and invested in the development of safety codes and standards related to this topic. I'll turn it over to Todd for an introduction.

MR. LABERGE: Hello, everyone. It's great to be back here in the lovely city of Santa Fe. For those of you who weren't here last time, my name is Todd LaBerge. I have 30 years of experience in fire protection engineering. I started with FM Global which is an insurance company. I ran the fire protection for Intel Corporation for almost a decade. I worked for the Department of Defense, and then I was the fire marshal and managing fire protection engineer at the Berkeley National Laboratory where we started a lot of battery research back in the early 2000s. And then now I've retired as a fire code official and a fire marshal and now I do fire protection engineering consulting throughout the United States.

MR. BARTLETT: So okay. We are going to provide a very high level overview of our review. Okay. So I'm sure everyone is familiar with these are the two primary standards to which this project was evaluated to for safety. So NFPA 855, particularly the 2023 edition and the 2021 International Fire Code, both which were adopted by Santa Fe County. The only thing I want to point out here is that in my experience, actually in fact the majority of the country is not using NFPA 855 2023 even though it is the latest consensus standard for energy storage system safety. Some states are using nothing. Other states are using older editions and some are just using IFC.

So I just wanted to point that out, and this is the second edition, right? So the first edition of the standard was 2020, and so we're currently working on the next edition of the standard.

Okay, so what did we look at? Well, we looked at the documents that were submitted, okay? So the Hazard Mitigation Analysis, which is a requirement of NFPA 855 and this document essentially is a qualitative analysis of potential failure modes that could occur and the mitigating measures. So we reviewed that document. We reviewed the UL 9540-A testing, and again, this is a series of tests so there is what's called a cell level test, then there's a module level test, then there's unit level test and an installation level test. These are essentially character A station tests. These are essentially character A station tests, so that one can obtain more information about the performance of the batteries in a failure mode. So these are not certification standards. You will not find these reports on a UL database. They are to be used by engineers to assist with safe design of energy storage systems.

We also reviewed a draft report of the UL 9540 listing from SGS laboratory. We provided a third-party review of the calculations for their explosion venting system to the national standard for that, NFPA 68. We also reviewed a dispersion and deflagration model and report, which is a third-party report that was done by an engineering company to essentially demonstrate through modeling what would happen in the event of an explosion and that actually fed into a full-scale test that was done. This deflagration test report from CSA, which another large laboratory. And then of course we reviewed the site development drawings, the emergency response plans and the pre-incident plan.

So I just have a few high-level slides on some of the safety features that we

reviewed to provide a little bit of context here. So again – so many people here might be familiar with the incident in Arizona were a couple firefighters were – well, one of them was tossed 73 feet and so that was in 2019, right? And so what happened there is there was a buildup of flammable gases inside an enclosure and this was installed five, six years ago. Very different codes and standards. They did not have any mechanism as what's referred to as explosion control. They had no means of either removing those flammable gases from the box in a safe manner.

And so codes and standards have developed a lot since then and so this particular design – in fact, let me back up. The 2023 edition of NFPA 855 requires one means of explosion control. So you can either provide what's referred to as NFPA 68 system, which is deflagration venting. That is if it explodes it explodes safely and it directs energy so that first responders won't be injured. There is also what's referred to as NFPA 69 systems which are intended to prevent explosions from happening at all. Okay?

And so what I wanted to highlight here is that in this project they're providing both of these systems. Two systems. Two redundant systems. One of them is required by code and so that is what I wanted to highlight with that. Okay.

Now I wanted to get into what is called a thermal runaway propagation protection system. So this is not a traditional extinguishing system so what was done is that the applicant is providing an FK 512 extinguishing system that they're using it at a modular level. So they've done I believe three independent tests demonstrating, large-scale test demonstrating that the propagation of a single cell in thermal runaway will not propagate to an additional cell. It's different than stopping thermal runaway. It's stopping propagation. So what I wanted to point out here is this system that is being provided is also not required by the current codes and standards. So it is provided specifically in order to prevent propagation from cell to cell, and they've demonstrated that through large-scale testing.

Okay we also reviewed size and separation, the orientation of containers relative to one another to ensure that fire, should one occur, would not spread. So what's being provided on this project is pairs of containers which are 3' 6" apart and each pair of containers is 21' 8" apart, and the take-away here is that in fact these distances do exceed what is required by NFPA 855, which is what we reviewed this to.

And then we also reviewed a wide variety of other safety features. So we looked at the 9540 listing, which is the certification for the system as a whole. The battery modules which are certified to UL 1973, the inverters, a fire alarm system is required for each container. We reviewed the details of the battery management system which is intended to prevent faults, gas detection, and so on. So I'm going to turn it over to Todd.

TODD LABERGE: Thank you. There was a really good question asked last time we were here about why would we cite a review with numerous comments that we found needed to be addressed by the applicant? Why would we say it was okay to continue forward with a conditional use permit? So I thought it valuable just share it with the community what the differences are between a CUP and actual fire code and building code compliance, and the totality of the 4,000 pages of the building codes and fire codes there are no mentions of a conditional use permit. It doesn't matter from a fire code and safety standpoint.

What the Planning Commission here is deciding subjectively with the community is, is this space appropriate for this use? The fire codes don't care. It doesn't matter. That's for a subjective decision. Can we do this thing in this place? What our focus is if the community decides this thing can be done in this place, that's great, even if the Planning Commission and the community was completely 100 percent behind it we are a second gate for fire and life safety. If the applicant doesn't meet the requirements of the adopted codes and standards we will not recommend approval, and Fire Marshal Blay is duty-bound legally to reject the application.

I've been on the other end of it when I was fire code official and everyone wanted something done. And I said no. It's a threat to my career if you don't meet the minimum requirements for life safety my answer has to legally be no. And so this is what Atar Fire and what we're doing is reviewing for fire code and building code compliance. It's completely detached from the CUP. That way we are an independent second gate of: is this safely done in this place? That is our role.

You can read all the bullet points. I won't read them for you. And so the codes are objective; it's either pass or fail. There is no subjectivity. What does it say that has to be completed? If it's not completed our recommendations are no. Fire Marshal Blay and the County Fire Marshal's Office are legally required to reject it. If they meet all of the requirements in the adopted codes and standards they're obligated to say yes. That's where the CUP and the Planning Commission, that's their decision process is will this thing be allowed here at all, not is it acceptable from a code standard? There's a big key difference there.

So we have a very high level summary of – we'll provide a code compliance evaluation. Does the applicant's documentation meet the requirements? And this is what we had so many questions at the preliminary CUP approval, because the documents haven't been fully developed yet. It's typically a design concept in scope. We would like to do this thing. Here are our ideas. And then we felt it a benefit to the community to go very, very, very granularly detailed and provide a list of expectations for the applicant. Normally that happens just at the construction plan review. We can't legally – we cannot recommend approval or disapproval and Fire Marshal Blay cannot approve or deny until it's actually a construction permit applied for with construction documents.

So regardless of what happens here today, if it is voted to continue and be approved for use, we still have a second gate of fire and life safety that must be met legally.

And so in summary, overall, not only – the County leaned forward and adopted additional requirements with NFPA 855 which are not currently in the state fire code, and there are additional safety features that the applicant's equipment has embedded in it, that we've reviewed, and all of the documentation and all of the codes and standards must be complied with. End of sentence. That's a legal requirement separate from what happens here today.

MR. SISNEROS: Mr. Chair, Planning Commission members, I do want to go back to a slide indicating the maps here. I did want to clarify. So the nearest resident is within between one and two miles of the BESS. I just wanted to clarify that for the record.

CHAIR AABOE: Thank you. So a few questions have been submitted by parties with standing, and I wonder if the folks from Atar can come back up to address those.

MR. SISNEROS: Mr. Chair, Planning Commission members, there are a few more things that staff wants to get through.

CHAIR AABOE: That's fine. Great.

MR. SISNEROS: The applicant has addressed the variance criteria and staff has responded to the applicant's comments. What you see here are all seven criteria that the applicant must meet in their application submittal. Staff has reviewed the project application. The proposed project will not be detrimental to health, safety and general welfare of the area.

Road congestion. There's no long-term impacts on road congestion. Potential hazard for fire, panic or other danger, as enforced by our Santa Fe County Fire Department including the HMA and the ERP to be completed and approved prior to construction. As far as overcrowding, the application has been submitted to the Santa Fe County for transfer of development rights by the property owner for all surrounding properties. The proposed solar facility will not interfere with adequate provisions for schools, parks, water, sewage, transportation or other public requirements.

Staff has found that the proposed solar facility would not interfere with adequate light and air. Staff recommends that the monopole structure that is being proposed is used for the transmission line. Consistency with the purpose of the zoning classification or in any other way inconsistent with the spirit and intent of the SLDC or SGMP. What you see here is a map taken straight out of the SGMP that indicates the approximate location of the solar facility as the most potential.

The proposed solar facility is consistent with the spirit and intent of the SLDC and the SGMP. Staff has reviewed the application for completeness with SLDC standards and found that it meets all of the applicable requirements of the code. Staff reviewed the proposed use and determined that it meets the criteria to be approved for a conditional use permit.

Staff recommends that if approved by the Planning Commission the project is subject to the following conditions. If the Planning Commission finds that the application has met this variance criteria and recommends approval of the CUP. Staff recommends that the following conditions be imposed. May I enter these conditions into the record?

CHAIR AABOE: Yes.

MR. SISNEROS:

1. Compliance with all Reviewing Agencies' requirements, including the 93 conditions imposed by Santa Fe County Fire Prevention.
2. The drilling or use of individual or shared wells for this use on this property is prohibited.
3. The Applicant shall provide proper buffering and screening by installing a paneled fence to a portion of the proposed 8' tall fence that will be located on the southwest portion of the property.
4. Permanent fencing will be required around all designated archeological sites to delineate and preserve the integrity of these areas.
5. Prior to the recordation of the CUP site development plan, all access roads shall

be permitted through Santa Fe County, built out and inspected, with financial guarantees in place.

6. The CUP site development plan showing the site layout and any other conditions that may be imposed through the approval process shall be recorded at the expense of the Applicant in the office of the County Clerk in accordance with Chapter 4, Section 4.9.6.8.
7. Utilization of the 70-foot-tall steel monopoles will be required, as they have less of a visual impact. The poles will be required to blend into the natural landscape and shall be non-reflective.
8. A decommissioning bond will be required prior to recordation of the CUP site development plan, and must be in place for the life of the project.
9. Applicant will be required to apply for all applicable Development Permits after the CUP recordation.
10. Prior to the recordation of the CUP site development plan the Applicant will be required to renew its access permit from NMDOT.
11. Applicant shall obtain an approved liquid waste permit from NMED prior to the submittal for a Development Permit.
12. The Applicant is required to work in consultation with the appropriate flood zone authorities to address the requirements specified in Chapter 7, Section 7.18.9.1 of the SLDC for any steel monopole located within a Zone A flood hazard area and submit the findings to staff for the record.
13. Construction activity to be limited to a Monday-through Saturday 7 am to 7 pm work schedule. Any deviation from these construction hours will require 48 hours' notice to Santa Fe County and neighboring property owners.
14. Prior to operations, the Applicant shall request and pass all required inspections and obtain a Santa Fe County Business License.
15. A detailed water budget is to be submitted and reviewed by Glorieta Geoscience and approved by Santa Fe County Utilities Division.
16. The Applicant will be required to provide a smoke and plume model that will be reviewed by Santa Fe County Fire Prevention prior to the recordation of the CUP.
17. Santa Fe County shall be reimbursed by the Applicant for the third-party reviews conducted by Atar Fire and Glorieta Geoscience pertaining to this submittal prior to the recordation of the CUP.
18. Per Santa Fe County Fire Prevention requirements, a ten-foot non-combustible defensible space will be required as part of an overall 30-foot defensible space around the perimeter of the proposed development and to be illustrated on the recorded CUP site development plan.
19. Construction debris must be disposed of in a solid waste container and hauled off to an authorized landfill as needed for compliance with NMED regulation.

With that, I stand for any questions.

CHAIR AABOE: Commissioners, do you have any questions for staff or for the Atar consultants?

COMMISSIONER TRUJILLO: Mr. Chair and Mr. Sisneros, are there any other solar projects of this magnitude in Santa Fe County currently?

MR. SISNEROS: Mr. Chair, Planning Commission members, right now there are no current applications for another solar facility. We have reviewed a few during our pre-application Technical Advisory Committee meeting, but nothing of this nature has been applied for as of right now.

COMMISSIONER TRUJILLO: So Mr. Chair and Mr. Sisneros, and there's not any in operation currently either then. Is that correct?

MR. SISNEROS: Not in Santa Fe County. That is correct.

COMMISSIONER TRUJILLO: And staff mentioned early the Community Solar Act in the presentation, but this does not fall under the Community Solar Act, right? This is more of a utility. What is the level of community solar versus utility-grade solar project?

MR. SISNEROS: So this has been identified as a commercial-scale solar project. It doesn't meet the requirements of a community scale or of a utility scale.

COMMISSIONER TRUJILLO: Mr. Chair and Mr. Sisneros, if this project was to go through and it was built, how would the property tax be handled? Would this now be considered a business use or what would take place?

MR. SISNEROS: It would be identified as a commercial use.

COMMISSIONER TRUJILLO: And Mr. Chair and Mr. Sisneros, number 8 on the conditions of approval, it mentioned that a decommissioning bond would be required. So that bond, and I think I heard you say it will be to the entirety of the project, meaning, if I understand that, the applicant would have to put up a bond and it was stay in the possession of Santa Fe County to terminate till that facility is no longer used? Is that what I'm understanding it to be?

MR. SISNEROS: That is correct. That is for the life of the project.

COMMISSIONER TRUJILLO: And what is that amount?

MR. SISNEROS: That would be a better question probably for the applicant.

COMMISSIONER TRUJILLO: And Mr. Chair and Mr. Sisneros, on #17 of the conditions of approval, obviously county residents have paid for these third-party – Atar Fire and Glorieta Geoscience. If the application was not to be approved, would the County still be reimbursed for those costs?

MR. SISNEROS: Mr. Chair, Planning Commission members, yes, that is correct.

COMMISSIONER TRUJILLO: Thank you, Mr. Chair.

CHAIR AABOE: Any other questions from Commissioners?

COMMISSIONER PIERARD: I have a question.

CHAIR AABOE: Wendy.

COMMISSIONER PIERARD: This might be for Atar. You talked about testing, and I think it was for the UL 9540 test. Was that test done specifically for this facility, or is that a general test for some sort of certification?

MR. BARTLETT: Yes. So the testing that was done – there's two parts. So UL 9540-A, which is specific to the battery cell, the battery module, and the battery unit on this exact project. And then UL 9540, which is a certification standard, is also

done to this specific product, if you will.

COMMISSIONER PIERARD: Okay. Thank you. And you talked about the facility in Arizona. Did that go through that certification?

MR. BARTLETT: I'm not aware of whether that was or not certified to UL 9540.

COMMISSIONER PIERARD: Okay. Thank you.

CHAIR AABOE: Steve.

COMMISSIONER BRUGGER: Thank you, Mr. Chair. I have a few questions. First for Mr. Sisneros. So I take it from your interpretation of code that this use, commercial solar energy production facility, there's no threshold beyond which you would no longer meet that classification, and be classified as something else. Is that correct?

MR. SISNEROS: Yes. That is correct. According to Appendix B of the Sustainable Land Development Code it does fall under commercial use solar.

COMMISSIONER BRUGGER: Okay. Next question then have to be Section 8.6.31, code, it outlines the purpose of the Rural Fringe district, so there's no threshold then the question is it has to be deemed compatible with the district. How did you conclude that this use at this scale is not inconsistent with the purposes of this zoning district?

MR. SISNEROS: So that ordinance, 2016-9 was adopted by the Board of County Commissioners which laid out what the uses for specific zonings were allowed to do. Again, that's listed in Appendix B of the Sustainable Land Development Code, which again is Ordinance 2016-9.

[Interruption from public]

CHAIR AABOE: Come prepared. I just want to remind folks – please. Sir, if you could get your phone; look it up. This is not an opportunity for us to stop and bring up questions that come up ad hoc, and oh, let's look for that document for you. So please, please, if you would – staff, I'm wondering if it's possible to ask this gentleman to read the requirements of this meeting on the back wall, and if he's not able to meet those requirements, kindly leave. Sorry. So let's hold off. Let's hold off for a little bit. So it is not – if you do not know the details that someone is discussing, this is not really an education session. This is an opportunity to hear your questions, and if you are not prepared to ask those questions, I'm sorry. And note, really, this is not about back-talk. Please remain quiet. There's an opportunity for public comment after the presentations, so please, don't snipe from the back. Thank you. Steve, continue.

COMMISSIONER BRUGGER: Thank you. Thank you, Mr. Chair. At least as far as my questions I'll try to provide enough context and information that it's easy to follow. So my next questions are for Mr. Bartlett. So I understand this project is at a 30 percent design phase at this point.

MR. BARTLETT: I would defer to the project management for construction phase and all that.

COMMISSIONER BRUGGER: With what you've reviewed.

MR. LABERGE: So just to answer that question, site design is 100 percent. Construction drawing is about 30 percent.

COMMISSIONER BRUGGER: Okay. So let me try again. Maybe this is

Mr. LaBerge as well. From his presentation and I if I heard it correctly, part of the presentation is is this place appropriate for this use? And that this doesn't have to be acceptable at this point from a code standpoint in order to get the conditional use permit. Did I get that correctly?

MR. LABERGE: Yes, sir. Absolutely. So from a code compliance standpoint, the codes are very prescriptive on reviewing a full and complete construction package. We conducted our review with the limited development of the proposal package, we'll call it, to provide a very detailed list of here are the things we will be expecting the applicant to provide. Normally that level of detail would have already been answered in a fully complete construction set. If the applicant was, let's say – in some projects, some proposed projects, the architects and engineers just throw whatever they can at the plan reviewer and they do this design by plan review thing. We won't do that. I don't stand for that.

This is a – we took a review of say, concepts. On the high level, this is what we plan on doing. We have to continue the development of our documents for a full construction permit review. So we did not have a full, complete package. That's not expected at the CUP standpoint.

COMMISSIONER BRUGGER: Thank you. The reason that I ask is that our charge up here is to evaluate this proposal, such as it is not. We have to make a finding later that it's not detrimental to the health, safety, general welfare of the area, and that it doesn't create a potential hazard for fire, panic or other dangers. So some of the questions that I guess I'll ask of the applicant later have to do with getting more information sufficient that we can make such a finding. Thank you.

MR. LABERGE: Yes, sir. If the committee chooses to allow this use in this location, we can ensure that the applicant's documents will be consistent with the legally adopted codes and standards with local nuances, we'll say. There's provisions in the code for that. If they don't, our recommendation to Fire Marshal Blay is no. It is ultimately Fire Marshal Blay's call as he is the legally designated fire code official.

COMMISSIONER BRUGGER: Mr. Chair, if you permit me just one last comment. You will not be making that determination in front of 200 people.

MR. LABERGE: No, sir. We'll be making it after dozens of hours of plan review, and I would expect a few rounds of plan review. Anyone who has ever tried to get a permit for anything, has it ever gone through on the first try?

COMMISSIONER BRUGGER: Thank you.

CHAIR AABOE: Thank you, Steve. Any other questions? Dan.

COMMISSIONER PAVA: Mr. Chair, I was trying to go from major to minor in my four or five questions. These are addresses to staff and some maybe to Atar Fire. The first question I would have is did staff distribute the letter from former Planning Director Robert Griego regarding consistency with the Growth Management Plan and the Land Development Code to the Planning Commission? Are you aware of that letter?

MR. SISNEROS: Mr. Chair, Planning Commission members, I did see a letter come through by Mr. Robert Griego. Again, as you notice on the exhibits, it's a link, because it's such a fluid document with multiple submittals of support and opposition a day. And so there was a cut-off time for what you're seeing on BoardDocs. That was Friday afternoon, but that document, the letters of support, the letters of

opposition will continue to be updated daily on a regular basis for the website.

COMMISSIONER PAVA: Thank you, Mr. Sisneros. I think the letter points out some pertinent and important perspectives from the person who was in charge of the department when both of those documents were developed, about ten years ago, and I would encourage my fellow Planning Commissioners to review those when they have the opportunity.

My second question, did staff take a look at the large solar arrays that are in existence now and the battery energy storage systems out there in Valencia County and in Bernalillo County? And if so, were you able to glean any pointers that might have helped develop conditions for approval?

MR. SISNEROS: Direct County staff had not, but I believe Atar Fire is familiar with the solar facility in Bernalillo County.

COMMISSIONER PAVA: Okay. Thank you. The third question in regards to the environmental impact statement, all 600-some-odd pages, done by SWCA in July of 2024. On page 2-1 and 2-3, it refers to lithium-ion batteries. Can staff or somebody from staff elaborate. Are these specifically lithium-ion, or are the lithium-iron-phosphate batteries, or what kind of batteries? Or does it even matter?

MR. SISNEROS: Todd LaBerge will answer that question for you.

MR. LABERGE: For the Commissioner, lithium-ion battery chemistry have a family of six chemistry types. Lithium-iron-phosphate is one of the six of the family. It is similar in many respects [inaudible] it's the calm, cool, Aunt Mabel who never gets excited. Other battery types are the wild Uncle Frank who is always excited. So there's a range of potential to go into thermal runaway and the effects thereof, depending on which type of battery chemistry is in use.

COMMISSIONER PAVA: Let me ask you a follow-up question. Would the same safety features be used for any current battery technology that you were presenting to us a just a little while ago? You talked about redundant safety. So there's the six different kinds of batteries in the lithium-ion family, so would the same safety features be used for all of these? Or is this specific to the technology you're using. And could you state for the record what kind of battery technology you are using?

MR. LABERGE: Is that a question for AES? It is their product.

COMMISSIONER PAVA: We could wait for the applicant.

MR. LABERGE: I can answer the code piece. The codes are agnostic on chemistry. You shall comply, period. They're agnostic on chemistry.

COMMISSIONER PAVA: Question for staff then, maybe Mr. Sisneros. My final question is why did staff choose not to mention the battery type specifically in the 19 conditions in the updated staff report?

MR. SISNEROS: Planning Commission Chair, Planning Commission members, we did not identify those batteries. Again, if that's a condition of approval that the Planning Commission wishes to impose, then that could be done.

COMMISSIONER PAVA: Thank you, Ms. Sisneros. That may be something that is an outcome after these proceedings. I appreciate that.

MS. LADD: And Mr. Chair, members of the Commission, if I could also add, it's not in the staff's conditions of approval because we're looking at the compliance with the Sustainable Land Development Code, and one of our conditions is that the

project will be compliant with all the applicable fire codes. So the SLDC does not talk about battery types in any way, so that's not what we're recommending conditions. We're recommending that it be compliant with the fire code.

COMMISSIONER PAVA: Well, I appreciate that, Ms. Ladd, but I think that the bottom line is in fact that battery types are going to be a very important part of this conversation this evening.

CHAIR AABOE: Any other questions from Commissioners? Or Nicholas, did you want to give some clarification to the previous question?

MR. BARTLETT: Yes. Sorry. I just wanted to expand on that last question because I'm a nerdy engineer that's been living this for like three or four years. So battery chemistry is very important and as Todd said, the code doesn't care what battery chemistry you are. What I will say is that there's a lot of information out there and I've been in this field, doing this for quite a long time. There's a lot of information out there, people saying lithium-iron-phosphate batteries are safer. Because I'm an engineer and I like to get in the weeds, it's important that there is a lot of nuance to that discussion and there are always two sides to a coin.

So while lithium-iron-phosphate batteries may go into thermal runaway at a slightly higher temperature, so if you overheat it, it will go into thermal runaway at a slightly higher temperature. On the whole, lithium-iron-phosphate batteries also produce more hydrogen. Hydrogen has a higher minimum ignition energy. Hydrogen has a wire flammability limit. There is no one answer to this question, and that's what I want people to understand. It also depends on the application of the battery. So if you're saying lithium-iron-phosphate batteries are safer, are you talking about an e-bike? Are you talking about a residential ESS? Are you talking about a large energy storage system? Are you talking about an electric vehicle? Because the safety mechanisms are very different based on the end use application.

And so there's a lot of nuance to this and I don't want it to be understood that there's just a blanket statement that, well, this type of battery chemistry is just safer than all the others. Because it's not always true. So there's a lot of nuance to that and that's really just what I wanted to point out. Thank you.

CHAIR AABOE: Thank you, sir.

COMMISSIONER PAVA: Mr. Chair, a follow-up question.

CHAIR AABOE: Dan.

COMMISSIONER PAVA: A follow-up question, perhaps a statement after Mr. Bartlett's statement about nuance. What is the difference in the pricing of the different battery types? Specifically, what are you choosing for this design, versus say, the other battery design? Is there any difference?

CHAIR AABOE: Dan, let's hold these questions for the applicant. I think that's more appropriate than for the fire –

COMMISSIONER PAVA: I defer to the Chair.

CHAIR AABOE: Thanks. Any other questions from Commissioners? I have a few that have been presented from some of our parties with standing. I wonder if the fire folks can come up. So one of the questions I received was for Nicholas – or actually the Atar folks. The Atar guys. One of the questions that I received I think, Nicholas, you're the right one to answer this is how is NFPA 69 implemented in this

design, and wouldn't this result in the release of toxins into the environment? Wouldn't NFPA 69 require a new UL 9540-A installation test, this time in a more appropriate configuration. I'm not sure if that makes sense to you, but if you could respond to that, either Nicholas or Todd.

MR. BARTLETT: Yes, so just a little high level explanation so everybody understands what we're talking about. NFPA 69 is the NFPA standard for deflagration prevention, and on this project the applicant has committed to provide an NFPA 69 system, and we don't have details on that system yet. As Todd has mentioned, they are required to comply with that standard and so what it typically done is in a container like this they'll use a gas sensor, whether it's hydrogen, LFL, and when that sensor senses sufficient amount of gas it will trigger an exhaust fan to remove the flammable gases from the container so there isn't an explosion.

So the engineering data that goes into that is the 9540-A test data which they have done and would be used as the basis for that design.

CHAIR AABOE: And if I could just ask a clarifying question. And what is that flammable gas?

MR. BARTLETT: Well, again, it's different for every chemistry and every single battery cell, even within the chemistry. Every single battery cell. So the flammability limit is usually between the lower flammability limit, no matter the chemistry. It's usually between five and nine percent.

CHAIR AABOE: Okay. Thank you. I have another question that was presented by one of the parties with standing, and let me track it down. And again, I think it's for Todd. And I think you've answered this. I just want to make sure that it is fully answered. To comply with NFPA 855 you need to have fulfilled the UL 9540 requirements. AES has not done that. You want to postpone that to prior to construction. And I believe you've answered this but if you can just one more time.

MR. LABERGE: Yes, sir. Absolutely. We cannot recommend approval until all of the conditions are met. UL 9540 certification and listing is prescriptively required by both the International Fire Code as adopted, and NFPA 855 as adopted. Without the UL 9540 the project stops.

CHAIR AABOE: Got it. So although it is an important element of approval for the project it's a little premature at this time to do that because all of the conditions have not yet been met. You described that process, I think.

MR. LABERGE: Yes, sir. Typically, in many projects, the 9540 is a long process. And so you can move forward and then if things need to be changed to get your certification, engineering changes will be made along the process, but this – typically a project like this usually takes anywhere between 18 and 48 months to roll out. So typically the manufacturers have time and they move along to get their certification. It is but one of several stop checkpoints in a project like this.

CHAIR AABOE: Thank you so much. I have one more question of staff. Thank you, gentlemen. I'm wondering, in the presentation you mentioned that the property owner has indicated that they are interested in a transfer of development rights. And so I wonder if you can go into that a little bit, the details of that a little bit. I've seen some of the things in the written materials but I wonder if you could tell us what that process is and what that would mean.

MR. SISNEROS: So Planning Commission Chair, Planning Commission members, when the report was written it was suggested that the property owner was interested in this process. Since that time the owner/applicant has actually applied for those transfer of development rights. Basically what those transfer of development right is, it protects a certain amount of area around the surrounding property and reserves it for agricultural uses such as grazing or other type of uses. So there's going to be – I'm not sure of the exact number of acreage but there's going t be a number of acres that is going to be protected where no development will be able to happen on these surrounding properties.

CHAIR AABOE: Is it safe to assume that that application for transfer of development rights out of those properties is potentially – would potentially happen if this were approved, but may not if it were not approved? I'm just kind of looking at the alternate futures.

MR. SISNEROS: I don't believe the approval or denial of this project has any standing on the approval of those TDRs.

CHAIR AABOE: But the submittal of a application for transfer of development rights is not necessarily a path with no exits, is it?

MR. SISNEROS: That's correct.

CHAIR AABOE: Thank you. Any other questions of Commissioners? Steve.

COMMISSIONER BRUGGER: Thank you for another opportunity. This is a question for Mr. Sisneros. So this project is at a 30 percent design stage. So there's a ways to go to get to the final design. There is a section in code. I don't have it in front of me, 4.9.6.9, that discusses amendments, that if what is approved before this body at this point, if there's a change in size, shape, intensity or configuration that's more than the magic number is five percent, that if it's five percent or more it goes back to the Planning Commission. If it less than that it would be approve administratively. So my question is is staff going to be plugged into this process enough so that if there are any changes that would trigger this part of the code, will that be – will you know and be able to take the appropriate action?

MR. SISNEROS: Planning Commission Chair, Planning Commission members. So, yes. So any deviation from the approved CUP that is less than five percent, five percent or less, is considered a minor amendment. Anything over that five percent is a major and does have to go through the CUP process all over again, not just starting with Planning Commission but back to the Hearing Officer. That is why it was accepted by staff from the applicant was 30 percent construction drawings but 100 percent site design and site layout. That's what we're looking at at this phase.

And again, to answer your question, this document that's called a CUP site development plan is going to have all the final requirements, conditions, that's being required here from the Planning Commission, that document gets recorded. If the applicant comes back with a site plan that differs from that site development plan we'll identify it there at the time of submittal of the development permit application, and at that point we'll be able to determine whether it meets the five percent deviation requirement for a minor amendment or for a major amendment.

COMMISSIONER BRUGGER: Thank you.

CHAIR AABOE: Wendy.

COMMISSIONER PIERARD: Were other locations considered for this? It looked like, the information that I read – I'm used to NEPA; NEPA does not apply here. But it looks like all the alternatives were within that 800 acres, so they didn't look at other locations outside of this specific area?

MR. SISNEROS: This has always been the determined location that was brought to staff. I wouldn't be able to tell you if other locations were being looked at by the applicant or by the property owner or not; that would be a question for the applicant.

COMMISSIONER PIERARD: Okay. Right. Thank you.

CHAIR AABOE: Thank you. Any other questions, Commissioners? Steve, you have that look.

COMMISSIONER BRUGGER: Yes, Mr. Chair. Thank you. Is it appropriate to ask a question of the Fire Marshal even though he did not present?

CHAIR AABOE: The Fire Marshal will not be presenting I think now, since he's part of the staff I think it's completely appropriate. Thanks.

COMMISSIONER BRUGGER: Thank you, sir. My question to you has to do with response time to a fire. It's, as you know, it's a function of not only how soon you can travel to the site, your response time, but how soon you'd be notified after an incident occurs. My question is from the information that's been presented to you in this application with all of the reports and studies, can you tell us how and when you would be notified in the event of a project fire? And how soon you would gain access to the site?

JAOME BLAY (Fire Marshal): Mr. Chair, Commissioners, that would be part of the emergency response plan, which is still ongoing. My understanding is that this installation requires a fire alarm system that is monitored 24/7 from a remote location as well as, I believe, in the location itself. So the first thing that would happen is that this part would get communicated of this incident and that they would dispatch the Fire Department immediately. The Fire Department, we have Station 60 which could be there within 10, 15 minutes. We have our volunteer station, Turquoise Trail could potentially be there between 10, 15 minutes also.

In the emergency services response plan incident response strategy we need to determine whether we would be going in immediately or we would wait for AES response team to get there and advise us as to maybe let it assess the situation as opposed to us go there and start putting water where it may not be not be needed. I'm not sure if I'm responding to your question.

COMMISSIONER BRUGGER: Thank you. I think you're responding as best you can without the emergency response plan having been completed. Thank you.

CHAIR AABOE: Any additional questions from the Planning Commission?

B. Applicant Presentation

CHAIR AABOE: Next on the agenda is the applicant, so gentlemen – I believe it's gentlemen, if you'd all stand and be sworn.

[Joshua Mayer and Mike Simpson were placed under oath.]

JOSHUA MAYER: My name is Joshua Mayer, Senior Development Manager at AES Clean Energy. Address is 282 Century Place, Suite 2000, in Louisville, Colorado, 80027, and I do swear to tell the truth.

MIKE SIMPSON: Mike Simpson, engineer with AES, 282 Century Place, Suite 2000, Louisville, Colorado, 80027.

MR. MAYER: Good afternoon, ladies and gentlemen. As I stated, my name is Joshua Mayer, Senior Development Manager at AES Clean Energy. Esteemed Planning Commissioners, Santa Fe County staff, and interested public, it's my absolute pleasure to be speaking to you today. I'm very excited for what we have to present. I'm aware that perhaps many folks here have actually attended similar presentations regarding this project, whether at community meetings or most recently the Hearing Officer meeting. We have some additional information that we're really excited to be able to present to you today, and as I've stated in prior presentations, no matter which side of this project you're on I encourage you to have an open mind, listen to the facts and figures that we present. The foundation of democracy is based in civic participation, so I really do extend my gratitude to all of you who take such a significant sense of pride in your community and a vested interest in hearing about important developments like this. My hope is that through this presentation – I know there's folks from the Clean Energy Coalition of Santa Fe County. I hope that at the end of this presentation you will coalesce around a clean energy solution for this county. I know there's also folks from New Mexico for Responsible Renewable Energy. I'm confident that by the end of this presentation you'll see that in fact this is a very responsible renewable energy development.

So, I actually was Living on the Edge Radio on Saturday and when I was introducing myself I made mention that when people ask me what I do tell them I have a passion, I don't have a job, and that's very true for the ten years that I've been working at AES Clean Energy trying to accelerate the clean energy transition that's underway, and that predates my time at AES when I was a sustainable development volunteer in the Peace Corps volunteer as well as sustainability consultant in Nicaragua. So it's with that that I'm excited to continue with this presentation of the Rancho Viejo Solar and Storage project which will represent 115 megawatts DC, 96 megawatts AC and a 48 megawatt, four hour, 192 megawatt-hour energy storage system.

So I know that we have a long conversation to have today. I'll help by outlining what I'll be presenting regarding this project from the AES perspective. So I'll begin by discussing effectively why are we here today? There's a reason for that. I'll then provide an overview of who the AES Corporation is and more specifically the AES Clean Energy business unit. We'll discuss the project location in depth. We'll also give an overview of the technological components, both from the phases of development and design of this project, as well as the specifics of the solar photovoltaic modules, as well as a deep dive into the battery storage design and safety mechanisms. It's my pleasure to be accompanied by my colleague, Mike Simpson, who is one of the pre-eminent experts in this field and whom AES is pleased to have on its staff.

Most significantly we are exceptionally excited to present to you all our UL 9540-A fire safety test documentation. So I know folks say there's a half a million battery cells in this project; certainly one of them's going to fail. We're going to show to you today

exactly what happens when that occurs in our specified energy storage system at this project.

We will continue to summarize the extensive amount of project diligence that we performed over the last several years to evaluate the suitability of this location for the project. We will then discuss the project timeline to when this could come to fruition and be operating and producing clean energy for this community. And I will conclude with a summary of the economic and environmental benefits, as well as revisiting the approval criteria for a CUP, which we feel this project adequately meets, as well as a respectful response to the Hearing Officer recommendation that was provided just last month.

So why are we here today? This chart on the left is perhaps one that you've seen before. I believe it was first made prevalent in the *Inconvenient Truth* by Al Gore, already a couple decades ago. But if you're unfamiliar with it, there's two lines here. The blue one which is stating the concentration of CO_2 in the atmosphere, which pre-industrial times is about 280 parts per million. The gray line, which is minimal at the start but then exponentially grows over time, represents the annual CO_2 emissions into the atmosphere. What you can see is an exceptional increase, specifically since the time of about the post-war industrial era, so beginning in the 1940s 1950s. For those folks in this room that perhaps were born in and around the year 1950, there is currently nine times the amount of CO_2 being admitted annually into the atmosphere than there were at the time of your birth.

What AES Clean Energy is committed to and what governments and organizations and companies the world throughout are now trying to commit themselves to is inverting the trend of this graph and to bring it back towards a modest 350 parts per million, which is what is determined through the Paris Agreement to be the level of concentration that could avoid the worst impacts of climate change.

So I mentioned the Paris Agreement, that was a groundbreaking agreement in which I believe 194 countries came together. They agreed to it in 2015. It was signed in 2016, committing all these countries to take pro-active measures to reduce carbon dioxide emissions and reduce the effects of climate change. We have seen that cascade itself to governments around the world, including right here in New Mexico with the implementation of the Energy Transition Act of 2019, which sets ambitious targets to achieve 50 percent renewables by2030, and 100 percent carbon-free by 2045. New Mexico is actually blessed to be among the states that has the easiest pathway forward to achieving its objectives given its abundance in wind resource as well as solar.

Even more locally, the City of Santa Fe has identified its sustainability objectives in its 25-year plan, and the County itself has passed several resolutions. First, 2017-68 in which it itself agreed to commit itself to the targets and the climate reduction goals in the Paris Agreement, as well as Resolution 2023-74, adopting a countywide climate action plan that supports renewable energy deployment.

Even more granular on why we're here today is that PNM, the investor-owned utility that serves many customers here in Santa Fe and Santa Fe County, is specifically seeking clean energy resources to enter into operation, at least by guaranteed dates between 2029 and 2032. They actually have an even more accelerated target to be 100 percent carbon-free by 2040. That is 15 years away. That is prior to a newborn child today graduating high school that we can achieve a clean energy future and make air

pollution largely a thing of the past from energy generation.

So a part of their transition and requesting these proposals is to phase away from coal generation, the Four Corners region, and eventually natural gas generation in and around Albuquerque and southern New Mexico. And they are doing this largely by requesting solar energy plants. Now, the big difference between solar and wind energy and a coal power plant is that it's a variable resource. So how can we transition to 100 percent renewables if we have variable resources? Well, fortunately, technology has evolved that we can utilize lithium-ion batteries to firm the output of that energy, or to be able to shift it entirely, for example to the nighttime when the sun is no longer out.

So we're seeing this already take place nationwide. We're seeing it in Texas, where the exceptional amount of battery energy storage that's being deployed has saved customers nearly a billion dollars and avoided brownouts. The speed in which you can deploy solar and battery energy storage plants is much faster than any other traditional forms of energy, so it's the most well suited to address increasing amounts of power demand.

We're seeing it in California, again, to avoid blackouts and to assist solar and now exceeding nuclear generation in the area. We're seeing it in Illinois to help accelerate the closure of coal power plants. We're seeing in globally in places like Australia, places like Germany. And in fact we're seeing it here in New Mexico. Less than a mile away from here, in 2023, the state passed a bill seeking two gigawatts of battery energy storage by 2034. There's currently approximately 440 megawatts of battery energy storage, lithium-ion-based, operating as we speak in this state. This project will increase the amount by ten percent and assist the state in reaching its objectives in the next decade.

AES is a company with a long track record of delivering affordable and reliable energy to more than 22 million customers throughout the world and we are very well positioned to be able to assist New Mexico and Santa Fe County specifically in making its climate change goals a reality.

We are operating nearly 35 gigawatts of energy generation, move than half of that is renewables-focused. And we are regularly recognized for our reputation and our ability to execute in this industry, as well as for our ethics, for being a partner in the communities that we operate in.

The US based renewables division, including AES Clean Energy, when I first began working at AES ten years ago, had a staff of about 30 folks. We have now exceeded 1,500 in the course of that decade, which is a significant acknowledgement of the degree to which AES is transforming itself to be the bridge to a clean energy future. We are now operating 8.6 gigawatts of clean energy. If you do a very rough translation on what does that mean, that is nearly two million homes being powered by clean energy projects that AES Clean Energy operates. And we are among the most trusted partners of large corporates like Amazon, Microsoft, Google, to help them achieve their clean energy goals. We've actually sold the most power to companies like that than any other clean energy provider.

And we've been operating energy storage for 15 years at this point so we're considered among the leaders in the field with the most experience to deliver these clean energy solutions.

So enough about AES. Let's talk about the project and why everyone is here

today. So as stated before, this project is about three miles south of the city limits. It's a full two miles east of Highway 14. It's about a mile and a half west of the Eldorado neighborhood, a third of a mile from the nearest residence in San Marcos. Very important to note is that the battery energy storage system, which has been the focus of a lot of concern about this project is a full mile and a half from the nearest resident in either neighborhood.

The project is approximately 680 fenced acres and it sits within an 8,000+ acre tract, and we'll speak about this some more in the coming slides.

So there's been some confusion I've seen, either in the media or in other websites about where is this project? Where isn't it? Is it hundreds of feet or is it thousands of feet or even miles? So hopefully this helps dispel a little of that. So the blue boundary is the tax parcel boundary, effectively. The red boundary is the study area that we completed all of our diligence on. And then the thin, kind of pinkish, purple line within that that's largely the red area is in fact the project area. So the far eastern tip of that is not where our furthest solar panel or battery facility would be. That's a part of the underlying land parcel. And part of that area also helps contribute to an increased open space within this greater parcel.

As mentioned previously, we have an exceptionally cooperative landowner who is driven to see this project move forward and in part hearing concerns about folks seeing currently existing open spaces being developed. He has submitted an application to transfer of development rights off of 5,706 acres. So that is effectively nine times the amount of this proposed project's footprint would be set into perpetual conservation for ranching and agricultural uses. I have worked on projects before where I've been absolutely thrilled that we've achieved a one-to-one offset for conservation. Most specifically I worked in Colorado doing that with the Colorado Parks and Wildlife. This is absolutely unprecedented to be able to develop a solar energy project and tie that along with a nine times greater conservation creation around its buffer land.

To give further perspective on the proximity of this project to adjacency, since there's often been a narrative that this project exists in the middle of dense development. This picture is taken from the southwest corner, exactly where the very first solar panel would be sited, and it is looking towards the nearest home. It's very difficult to see, but it is there on the horizon, a full third of a mile away.

Again, there's been a common narrative that this project is being sited in a densely developed urban area so we feel that it's worth taking a look at what other energy storage projects have recently been approved and are moving forward with construction in the State of New Mexico. Well, we don't have to travel all that far. We can go to southwest Albuquerque and look at the Sun Lasso project which is three times the size, 150 megawatts, 600 megawatt-hours. This project was selected by PNM in the prior RFP and has been approved through Bernalillo County. I can't simply count the number of thousands of homes and businesses and interstates that are in that mile and a half reference, but I think it's fair to put in perspective that when we look at Rancho Viejo, there's simply nothing there.

Energy storage projects present the most value to a utility that's trying to operate its grid when they can be sited in dense urban developments. That's where they have the most impact on being able to stabilize the grid and being able to respond to any

fluctuations and operating characteristics of the grid.

Now, what we'll show with our video later is that our currently designed system, fire is not an expected reality. These projects have evolved. But if we look at the news, which I'm sure many folks have, of other battery storage projects that have had failures, there's been talk of communities in the area being subject to evacuations or shelters in place. So let's also put that into perspective when we talk about a mile and a half setback. If we look at the Escondido incident fairly recently. Air monitors never picked up any dangerous levels of harmful pollutants to adjacent public population areas. In fact no elevated toxicity was detected more than 15 feet away from the burn. We're talking about a mile and a half here.

Evacuations have been issued at a distance of several hundred feet. We're talking about a mile and a half in our setback. Shelter in places, three to four block radiuses. That's approximately a thousand-plus feet, maybe a quarter of a mile. We're talking about a mile and a half of setbacks. Most recent of course, the Moss Landing incident has been in the news. That project is completely dissimilar to what we're proposing today and the vast majority of energy storage that's existing on the grid today. We have some additional slides detailing the level of deployment that energy storage has reached, but with solar now accounting for more than new energy generation, battery storage is now the second most significant deployed power capacity on the grid. And with the evolved safety standards and codes these incidents will become more of a thing of the past.

There's been concerns about wildfire risk, so that's actually a concern not just perhaps from folks living nearby but to AES itself. We also want to make sure that our facility is not subject to any wildfire. So it's worth noting that in county wildland-urban interface areas this project is located in the lowest available category for wildfire risk, which is deemed moderate. Some folks have seen this image and noted that it's dated from 2014, so we've looked at other sources such as wildfirerisk.org, which similarly shows our project being located in the low to low/moderate category for wildfire in the region.

If you look at this photo on the right which is approximately where the energy storage facility would be located, again, not only is it difficult to actually see nearby residences that are a mile and a half away, but importantly also see that there's very little vegetative fuel in that area.

And speaking about that, this is a different project in California, much larger in size, but what I want to illustrate here is the BESS yard, so the energy storage yard and the important role that defensible space plays. So our battery containers stood on concrete pads that are then surrounded by gravel, and also through the discussions with the Santa Fe County Fire Department we are implementing a 20-foot wide perimeter road, also graveled around the perimeter of the facility.

So if you look at this image a completely unexpected, unforeseen instance of any one of these containers actually succumbing to a fire, there's simply is not the medium or the means for which a battery fire could then have a conduit through exposed vegetation to lead to any wildfire.

And most importantly, actually, since we do not deem it likely at all to have a fire at our facility as you'll see through our video, this actually also serves as said, primarily defense for our own facility to protect itself from any potential wildfire in the region. And

in fact, I've seen this take place at one of my projects in western Colorado where we had a wildfire initiate just a few valleys over from one of our energy storage and solar projects and the perimeter road served its purpose and prevented that fire from entering into our perimeter. So I've actually seen this work in practice.

One of my last slides on project location is where does this power go? Well, most simply put it's going to the Zia Substation in the heart of Santa Fe on Richards Avenue. PNM in their request for proposals is specifically requesting clean energy to be delivered to this substation, and there's been other narratives, misinformation, about this project that instead it will be sending power out of state. We'll be engaging in energy arbitrage, taking power when it's low during the daytime, selling it when it's higher in the evening, none of that is even possible in the PNM territory of New Mexico. There's no wholesale market. We – and this is PNM actually quoted in a media article from about a year ago dispelling this misinformation about the project that they are the fully contracted counterpart to the output of this facility and they will use it as they see most fit for their operation of the grid. And that's largely going to be capturing solar energy when demand is low on the grid, storing it and then dispatching it at times of higher demand, often in the evening.

And they will have full rights to be able to operate the plant the way that their grid requires it to.

I'm also going to speak with this slide about the site location and why here. So I think it's worth noting that the County has not previously received project applications for projects of this scale previously. And a good reason for that is it's tough to find 700 acres of land that's going to tie into transmission that's going to serve Santa Fe. We will be tying into the already existing 115 Zia-Valencia line, that as soon as it passes this project and the community of Eldorado, heads into the mountains for the next 50 miles to Las Vegas. There's no other location along this transmission route to site a project like this. There's two other transmission corridors in and out of Santa Fe going to the north and as well to the southwest. If you look at the terrain and topography along those lines, again, you'll be very hard pressed to find flat land in close proximity to a transmission line that can serve the needs of this community.

When we started to look again, kind of more at the specifics of what this project is I've already stated the size. I think it's important to put that into relation. What do 96 megawatts mean, or 192 megawatt-hours of battery storage? So that's effectively 27 gigawatt-hours of clean energy that we can produce every year, and most notably that is the amount of energy that's largely directly equivalent to the entire residential population of the City of Santa Fe, and a significant portion of the county. One project.

At times we will very likely be able to power the entire city at maximum solar output and at periods of low demand within the city. There's folks that have talked about, well, I really like community solar. Why aren't we doing community solar instead? Well, whether you call it community solar or a larger project like this, the residential demand and the power needs of Santa Fe are not changed by how many solar panels you need to meet that demand. So if you look at this layout here on the left-hand side you see some kind of labels that are in white and you see some boxes in purple. Each one of those is about five megawatts. So if you add all that up, that's about 25 community solar projects in one location focusing any impact to one spot, and it's able to feed into the transmission

system which keeps distribution lines free for folks that perhaps want to put solar on their own roof, right? Community solar has to tie into lower voltages on the distribution system and would in many ways compete with folks that are trying to install solar at their home, and the availability on those lower capacity distribution lines.

Also very notable is projects of this scale can produce energy for about half the cost of what a community solar project would do. And most importantly there's a limited amount of subscription opportunity to participate in a community solar project. This is the most equitable way to drive down the cost of clean energy for all PNM customers and to keep that price low for the next two-plus decades, which is something very much welcome as we're still coming out of a period of persistent inflation.

We expect this project to operate about 35 years at the end of which, has already been noted, we commit ourselves to decommissioning the plant or repowering it if that's an option at the time, and we'll be posting a security throughout the lifetime of the project. We anticipate about a year-long construction process for our facility, and while it can be remotely monitored 24/7 from our operations center in Salt Lake we have also committed to having up to four full-time, well paid O&M staff on site.

And in comparison to most forms of development, solar is exceptionally low impact. Very little amounts of poured concrete. No massive, sprawling parking lots. Absolutely minimal noise, water and lighting uses. So it's a very passive yet highly productive form of development that has an exceptional net positive effect on the community that it can power.

Worth actually noting, if I go back a couple slides, a few slides maybe. If you look at this our footprint is about half the size of the Rancho San Marcos neighborhood. So this Rural Fringe zoning could alternatively allow for the development of about 40 homes. So we can compare the development of 40 homes and the public services that that would require and the traffic and wastewater, etc., versus the same footprint of land that can power the entire city.

So this has been a very iterative project and process. We first submitted our application nearly two years ago to the day in 2023 at the end of January 2023. And so through this project of public engagement of community meetings, discussions with the County, discussions with the Santa Fe County Fire Department, we have taken feedback and incorporated where we can. So when this project was initially proposed at the ten percent design level, we actually took advantage of a lot of the flat land further to the west and closer to the highway. Understanding concerns about viewshed from the San Marcos community we went back to the drawing board, looked at our studies to try to determine if we could condense the layout further to the east, so that we remove that viewshed impact to folks in San Marcos and we were able to achieve that.

So today, no home or residence in San Marcos looking due north out of its backyard would be able to see this project. We've moved it fully to the east.

We also originally specified what's called a two-by portrait architecture where we have two panels facing up as a part of the design, and that leads to a higher overall profile above the ground, up to 12 feet. Well we also, again, being considerate of any possible viewshed impacts took a look at doing what's called a single portrait architecture layout. That limits the overall height to only eight feet off the ground.

We've incorporated a full perimeter road for first responders and for operations

use that circulates the entire project and also serves as a fire break. We've agree to implement a 30,000 gallon water storage tank that to be clear, is not to be sprayed on any affected container in an unforeseen scenario. Rather to support again a defense of the area by wetting down any adjacent vegetation or other adjacent containers and equipment. We've agreed to assign staff to this project. That's not an actual requirement to be able operate the facility but we feel that that is an appropriate addition to this project is to have a roughly 1,400 square foot O&M building that can house four full-time staff.

And we've presented two different options for the generation tie-in line that will run 2.3 miles from the project site to that existing transmission line I talked about and we have some visualizations of that later in the presentation, of either a monopole versus an H-frame.

Again, many of the additions that I spoke to before are a little bit more visible on this zoomed in northeast corner of the project. We've added signage of the request of the Fire Department next to and around the 30,000-gallon water tank. You can see the BESS located in that northeast corner as well as the location of the O&M building and proximity to the BESS as well. The O&M building as well would have a 5,000-gallon water tank for the operational use of that building.

At this point I feel solar panels are so ubiquitous it's maybe not even worth talking about but solar panels already exist on plenty of folks' rooftops, but for this specific project, I already mentioned they are about eight feet tall. They are trackers, so unlike a rooftop system that's kind of fixed with probably a southern orientation to maximize energy production, we're able to get an approximate 20 percent boost in our output by using actually New Mexico manufactured racking technology that will track the sun from east to west throughout the course of the day.

And I mentioned being kind of a low impact development. As you can see, there's no poured cement or other exceptional improvements to the land. We are driving steel piles about every 14 feet to 22 feet between rows and along those rows to support the solar panels that are suspended above the ground. And with that I would actually like to introduce my colleague Mike Simpson who I always find fascinating to listen to and we'll give a deep dive into battery safety overall as well as what we're currently specifying for this project.

MR. SIMPSON: Thanks, Joshua, and thank you, Mr. Chair and Board of Commissioners for the opportunity to discuss our solutions with you and we hope we can add clarity to the decisions being made.

So again, my name is Mike Simpson. I've been working with lithium-ion batteries for about 20 years and I've been working with commercial stationary energy storage systems for about nine years now. And I feel very fortunate to be working with these specific systems so I'd like to talk to you again, as Joshua said about general lithium-ion battery safety, as well as what we do at AES.

So the system that's currently proposed for the Rancho Viejo solar site is a system that actually AES self-integrates. So we procure batteries. We in a highly detailed fashion specify custom-developed enclosures. They look like ISO shipping containers. They certainly comply with ISO shipping standards, but that basically affords us the ability to transport them most cost-effectively and also have the same environmental protections that you would get shipping sensitive goods across the ocean. But inside it's very purpose

built, and so we'll talk through that. But these systems, again, the ones spec'd for this plant currently house up to eight megawatt-hours, 8.068 megawatt-hours. They operate at a maximum voltage of 1,494 volts and inside we store many items but the biggest item in there are the batteries.

So we've been talking about some different levels of the way batteries are designated. As you can see on the bottom of the chart, it all starts with the cell. That's where the metal plates and the different chemicals that exchange ions and basically store that energy in ionic form, that's all housed within a cell. That's kind of the smallest unit. Those are built into modules. The modules string those cells together into larger amounts and then those modules are loaded into racks. They're strung together so you get higher voltages, can operate the system more efficiently at higher voltages, but those strings are stored in those racks that also house the battery control unit, which has some protections associated with it as well as monitoring and the ability to basically disengage the system if it detects anything outside of normal threshold – a temperature, a voltage, a current level.

The other important thing about the rack is that it houses cooling infrastructure so these modules are liquid-cooled, which allows for the system to leverage technology that's been around for decades, common in most automobiles and also provides more even distribution of cooling and overall better, more efficient thermal management.

I want to differentiate a bit between what we're doing and what some older systems have in them. So some of the earlier technology were built in different ways with different cells. They were housed in large amounts together and they had very different provisions. Part of that was due to the fact that understanding of these systems has evolved, codes have evolved. However, I will say that AES has been integrating its own systems in a very different manner from the beginning.

So I think the important things to point out here are that even though the battery management system, the BMS, is present and has been present for years, those systems have evolved and for now, our system spec'd for this site have just batteries inside. They don't also have power electronics or inverters like some of the older systems did. These systems, like I mentioned, are liquid-cooled which does provide a benefit. They have gas detection and explosion prevention systems as Atar Fire noted. They also have a very different fire suppression system than pretty much – not every single system out there, but most systems out there deal with their fire hazard very differently. It's not necessarily better or worse but I want to show that to you today so you understand how we deal with that which is a very different approach.

And then ultimately the systems of today are NFPA 855 compliant and UL 9540 certified. The certification of this system is due out any minute now. The draft report has been available and it's going through finalization. But I want to highlight here that of the AES specified battery energy storage systems we have not had a single battery fire in over six years of operations. Not just of design but actual operations.

The way in which these systems are laid out I think was actually addressed by Atar. I many breeze through a few things here in the interests of everyone's time but this is the layout, same as what was reviewed. The pairs of enclosures are effectively 22 feet apart, but those pairs are close together to each other and there's quite a bit of defensible space around the perimeter.

So let's maybe back up a little bit and talk about some of the hazards that would be present at an energy storage site, because when we go to design these sites and when we design and integrate the products that we deploy at these sites we consider all of these hazards. And I think one thing that I've learned from being involved in commercial operating designs, being involved in safety analyses, job hazard analyses, in functional failure mode and effects analyses that characterize these kinds of things. There's a culture of safety that really demands devil's advocacy. It demands looking at these sites from every angle and understanding what could possibly go wrong, how could it go wrong and how can we prevent that, most importantly. But also how do we mitigate it if we can't prevent it.

So within an energy storage site there's all kinds of hazards. Just like any construction site, just like most households, for instance, but if we think about it as a construction site when it's being developed you have things like mechanical hazards. You've go construction equipment moving around. You've got trips, slips and fall, those kinds of hazards. Those are things we deal with on every construction site. Inside our industry, outside our industry, they're not trivial but we can handle them and we've accepted those risks as well as developed and implemented acceptable mitigations for those risks.

When the system's operating there's quite a few more hazards present. You have some mechanical systems, there's HVAC systems that might have moving parts. As those systems are being serviced it's important that we get trained professionals to service those systems, that they have the proper personal protection equipment, PPE in place. We also have voltage considerations. There's higher voltage at these sites than you might see inside your home. Again, there's equipment specified for t hose types of operations, voltage rated gloves, test equipment so you can verify. There's zero energy or basically the system has been de-energized or deactivated before you perform service.

And then there's also some unique hazards here. So I'll spend time focusing today on those unique hazards because not that those other hazards, like I said, they're not trivial, but I think they're maybe more common, more familiar to this group and I think I would be happy to take questions on it but my expectation is that we all kind of understand generally how those hazards are addressed.

So again, I'll touch in a minute on some of the specific thermal hazards but the bigger picture of where these incidents are occurring is that they're occurring much, much less frequently. This is not our data; this is data from a database provided by the Electric Power Research Institute. They are a non-profit group heavily funded by utilities, actually. I don't believe they've got any members who are developers or commercial operators of these systems outside of utilities. And in fact I started this database. Most of the data was collected after I started it but I'm speaking from a place of familiarity with the approach here. So over the course of the last several yeas there's been an incredible growth of deployment of energy storage, but as we see that growth increase we're seeing the rate of failure incidents decrease.

It's not luck and it's not just due to the scale of growth. We're seeing that the systems are being installed based on the lessons learned from earlier failures. So fortunately the industry is learning. Roughly 90 percent of the global battery energy storage capacity that's out there today is lithium-ion. Globally, it's about 50 gigawatts

and then within the US it's about 30, half of which was installed just in the last year. Also in New Mexico there's 400 megawatts operating and there's that goal that Joshua mentioned of two gigawatts by 2034. And then I think Josh also touched on this but we feel proud in our experience with battery energy storage systems, being some of the first to deploy batteries connected to the grid in a typical stationary energy storage fashion, and then as I mentioned operating the systems specified by us over the last six years without a single fire. We feel very fortunate to be able to do that more today.

So as I mentioned, there are some unique hazards with lithium-ion. I guess there was one that I meant to mention on the last page which is related to this but I don't highlight here so I'll mention it. It's something called stranded energy, and it's basically the idea that with lithium-ion batteries, they don't work very well if you discharge them completely. That's part of the reason why if you drop your phone in a bucket of water it won't work very well because it will be shorted. That voltage will go to zero. Lithium-ion batteries don't do very well at being recharged from that state.

So at every point there is energy in those batteries. When they're transported – there are regulations on all of that of course. And then personal protective equipment that is meant to deal with that. But it's one of those hazards that's commonly understood by the technicians of that industry.

I think the one that might be of more interest to this group is something called thermal runaway. That's where – when we talk about a battery fire happening it tends to or I guess the more publicized events have been related to lithium-ion thermal runaway. And it's something of a unique hazard which is why I wanted to call it out. If you light a piece of wood on fire it burns. It burns with a relatively predictable amount of energy. It's very hot, but it's something that we know we understand. If you take a lithium-ion and you light it on fire, at least most lithium-ion batteries. As Atar mentioned, there are several different flavors, but generally speaking, igniting or heating up a lithium-ion battery to a certain point engages a reaction that is not just a combustion reaction.

The heat can actually induce a decomposition or a breakdown of the electrolyte. There's a very small amount of fluid in most lithium-ion batteries that helps the ions move from one side to the other, helps store that energy. That electrolyte can decompose into different constituents. That decomposition is again, caused by the heat but is often exothermic. That means it generates heat. So the heat generates heat in sort of a vicious cycle, right? That's why they call it runaway is because – and forgive me if you already know this but I think it's important for the basis of how we've designed our systems. That runaway means that the temperatures can rapidly increase and some of the materials in the battery can burn very, very hot. So you can see hundreds of degrees Celsius, many hundreds of degrees Celsius, up to a thousand degrees Celsius in some batteries. And that is a bit more of a concerning type of fire than just a piece of wood on fire.

And there are very specific ways of dealing with it. It's a lot of energy, so water is not always – water can be the most effective but it may not be the best. Other fire suppressants may or may not help, depending on how big the fire is. So we've been studying this intently for many, many years and have implemented our systems specifically to address these kinds of hazards along with all the others.

So I think the best way to describe what we've put in place for the system design right now for this project is a layered set of hazard mitigations that all work together but

they are layered on top of each other to add several points of redundancy. So I want to walk through some of the high level items here and I'd be happy to dive deeper into any of them.

The first thing of course is a hazard mitigation analysis and that's where we study all the hazards of the site. We look at all of the – the illustration on the right shows – not even an example but basically the architecture of how some hazard mitigation analysis are done. It's called the bow tie diagram, and effectively it takes – it looks at a specific event that's concerning. That would be the top event in the middle, and it looks at all the types of conditions that can lead to that event. Those would be threats. So you can have – let's say that your top event was a cell going into thermal runaway. Well, what are all the ways in that could get started? It doesn't just spontaneously happen; there are conditions for it and we know what those conditions are after again, many, many years of research.

So we identify those conditions and we say, what are all the ways in which those threats can be mitigated? So we even prevent the top event from ever occurring. And those are called threat barriers. And then on the right side you have, okay, what if for some reason all of those different threat barriers are defeated and this top event happens? What are the possible consequences? We define those and then we define all the proper barriers that can prevent the top event from becoming a consequence.

I've developed several of these in my past. Actually a lot of the hazard mitigation analysis right now are being built off of one that was basically a template that was created for battery energy storage systems by the Electric Power Research Institute. I led that report. I'm a co-author on that report. So I've deployed – I've developed some of this. I've deployed it, but we feel it's very important to have these analyses done by third-party engineers who are qualified fire protection engineers. So every one of our battery energy storage system projects contracts that out to a third-party engineer that provides an unbiased prospective for us, and that is of course the preliminary report that we delivered to the County for this conditional use permit.

So I think that's really important to spend some time on because that's where we really frame out all the possible scenarios that could go wrong and how we deal with them and inspect that again from every possible angle.

But from there we have many systems built into this product that can help prevent issues from becoming real concerns. So battery management systems, I mentioned, they're basically fixed logic controllers that sit inside these battery strings that monitor three primary variables – temperature, voltage and current. And they look for defined thresholds that are known to be well below the acceptable thresholds for operating those systems from the manufacturer. They also have very limited control ability but they can issue alarms, They can release the fire suppression system when needed, in the case of this system design here, and they can also disconnect, like physically open a circuit to disconnect a battery if they detect conditions even getting close to any kind of hazard.

We have other emergency shutdown conditions that can happen outside the battery from the inverter as well as emergency power on buttons, physical mushroom buttons that someone can hit, kind of a panic button. We have flammable gas detection so if there's any problem with a cell and it releases some sort of gas we do have multiple detectors throughout this unit that can initiate alarms and take action to evacuate those gases. We also have fire detection alarms for smoke and heat sensing.

I mentioned the direct injection fire suppressant. We'll talk more about that later. We have exhaust ventilation. That helps remove the flammable gases. Deflagration venting is a bit of a misnomer because it's not so much venting in the traditional sense as it is releasing pressure. It's a pressure-relief valve that we have tested and reported on to the County. But that is again if the exhaust ventilation fails. So it's redundant with the exhaust ventilation.

And then of course we engage in first responder training in all of our sites and we coordinate closely with those first responders to ensure that we've got sound emergency response plans.

The exact system that is currently part of the Rancho Viejo Solar battery energy storage system design looks a bit like this. The system's been updated slightly since come of these renderings were created but all the major elements of hazard prevention are there. So just moving around I guess from top left sort of counterclockwise. You've got these deflagration panels or what I refer to as deflagration venting earlier. Those are located along the top of the enclosure. If for some reason some over-pressure event did occur that would be released upward rather than outward at another battery enclosure or of course not at another personnel working at the site.

We have programmable logic controllers, PLC and active communications at all times on these sites. There is a standard fire panel just like you would see inside a building. This is not a custom unit. This is specifically built for monitoring fires in an enclosure and for dispensing fire suppression systems. So that is connected to – I don't point it out but there's a red cylinder just behind that fire panel if you can see that in the shadows there. That contains the fire suppressant.

Like I said, these modules are liquid cooled so we deliver the liquid cooling in the blue pipe and then the red pipe returns that to an external chiller. That's an off-the-shelf chiller that is purpose built for this application. But commercially available system.

We have a fire break in between two major complements of the system to slow that fire down, reduce the intensity, and then outside the enclosure, as we mentioned earlier, horn and strobe. Those are audible alarms and visible alarms for any personnel working on the site. Those will go off before an event is ever detectable otherwise. And then there's the emergency power off button, that EPO, the panic switch.

In addition to supplement heating, ventilation and cooling that is present in the enclosure to maintain the internal ambient conditions. Again, lithium-ion batteries – well, maybe I didn't say this. They're kind of like us. They like room temperature. They don't like it too hot. They don't like it too humid. But we're able to manage that with several factors of safety, included by having these redundant systems. We also dehumidify the air to make sure that it's safe. There were some early systems earlier than I was even talking about here that demonstrate the intrusion of dust and humidity caused problems and so we always integrate dehumidification to make sure that we're far away from those kinds of troublesome atmospheres.

And then there's a DC or a direct current disconnect so that when maintenance workers are working on these systems – we have annual maintenance that goes on, some planned and of course some unplanned maintenance may occur, and so we physically disconnect that entire enclosure, or actually we can disconnect it in two different segments from any of the other systems so they can be safety worked on as well as

operated.

I won't spend a ton of time on this. I had this in here but I think Atar Fire did a great job at describing this so maybe I'll just touch very briefly on the UL 9540-A testing that's been done. So maybe repeating a few things. 9540-A is not a certification standard. It is not a code. It is a test standard and maybe better called a test protocol. It defines how things are supposed to be tested. It does not have a success criteria. If you look at some reports they list things like pass and fail. It's passing or failing certain metrics, but it's not passing or failing a safety or measuring a safety. What it does is it measures and records the performance of these systems under these hazard conditions.

So when you induce heat to a cell, to a module, to a unit, to an installation, what happens? And then taking that data, an educated fire protection engineer can make conclusions about A, is it going to pose other problems? And if so, B, what can be done to address those problems? Just like anything, you don't know how to deal with it until you measure it. So the 9540-A does a great job of measuring it. It's not something unique to AES but AES does ensure that all of our systems are tested exactly as UL 9540-A prescribes and in fact we've gone above and beyond and tested the installation two different ways, both installed by the manufacturer of the batteries as well as installed directly into the exact design that was chosen for this project. And we'll share those results in a little bit.

So now I'm going to talk through all of those safety features just a little bit more. We've broken them up into passive safety and active safety, and then a few that deal with the site. So the first thing I want to identify is what I would consider mostly passive safety mechanism and this is the BMS, it's monitoring. Like I said, it has some very light capabilities of control by being able to isolate, disconnect a certain battery string, but most of what it's doing is monitoring. It can help us determine preconditions of hazards, let alone actual hazard conditions. It communicates that status in real time and in fact we're not only at the luxury of being able to see this data we are obligated to record this data.

We own and operate these sites. A battery energy storage system was designed for a 25-year lifetime. We intend to operate it for that long. In fact by operating it that long it actually reduces the net cost of each kilowatt-hour we deliver and allows us to operate more cost-effectively. But operating it for that long we work very closely with our suppliers to make sure we've got good warranties. We get flexible performance guarantees that allows to operate across a wide range of conditions, depending on how PNM wants to dispatch us. So we're not at risk of voiding that guarantee. But that can last for 20 years, 25 years, and we're obligated as a part of that to monitor these systems every second of every day of operations. And we have to not only monitor them but keep record of it.

So we're tracking literally millions of data points over the course of those 25 years to ensure that we can continue operating because if this site stops operating after a few years we don't make money on it. We're not building these and selling them. We are fronting the cost and then earning that revenue over the course of those 25 years.

So let me dive a bit into more commonly cited passive safety mechanisms. There are other standards we haven't really talked much about today, UL 1642 and UL 1973. These are again common standards of the energy storage industry that determine the

quality and the protection mechanisms of the cells themselves and the strings. So these relate to everything from how the system is manufactured to how it's strung together at higher voltages, to how it's physically integrated into a rack. We conduct our own quality assurance or quality control and we work with third parties for much of that process, and then we field verify passive systems like just ensuring that we have proper isolation. If you bring – you might have seen in the drawing there's these giant copper bus bars that run throughout the enclosure to carry the high voltage and high current. If those systems are too close you get shorting. So we verify those for adequate isolation to make sure we're not at risk of those kinds of events and in fact we test well above the voltages that we operate at as part of the standard there.

At the enclosure level we have insulation. So again, I mention electrical insulation but also we have pretty deep and fire resistant thermal insulation. We use mineral wool in these units and that gives us again good protection from the climate outside. If it gets hot or cold we can still easily maintain the temperature inside for those batteries. There's all kinds of other quality assurance and quality control programs that we run at site during construction as well as during operations throughout those 25 years. And then the environmental protection that Joshua mentioned – setbacks, defensible distance, fencing, monitoring, as well as all the advance work to understand the different flora and fauna that are present at the site and how they may interact with our system.

I mentioned the – well, it was mentioned a few times today, the NFPA 68 compliance system, the explosion mitigation system or the deflagration venting. These are – what I show in the picture here is a screen shot of the video that we recorded during the test of the exact enclosure that was designed for this system. So that enclosure was installed at a third-party test lab and monitored by a nationally recognized testing laboratory, NRTL. Those are the folks who basically apply the UL standard. It's not as if – AES can't certify its own its own system to a UL standard. That requires a nationally recognized testing laboratory. CSA is one of those. They are approved by OSHA, and CSA was administering this test and recorded this test, reported on it of their own volition, and demonstrated that when igniting the amount of gas that we expect could possibly be released in a very abnormal condition, that we found that it effectively smaller concentrations didn't do anything. Larger concentrations blew open these little hatches. They remained connected to the enclosure so there was no flying debris. But they relieved the pressure and made sure that it wasn't a more hazardous event in which other debris was thrown. So that report is available, and we've designed these enclosures with those systems as tested.

I mention the act of safety through thermal management. Again, we have a combination of a chiller that is basically an industrial water-ethylene-glycol based chiller system cooler system that cools the water to precisely the temperature the batteries want, maintains that temperature throughout both charging and discharging as well as idle conditions. And then that's supplemented by cooling the internal ambient air within the enclosure with two HVAC. These are wall-mounted heating, ventilation and cooling systems. We also have dehumidifiers inside as I mentioned to maintain that internal climate where the batteries like it.

Additional act of safety, we have controls built in that are – they are fed through all kinds of detection. So I think I mentioned smoke detection, we have temperature

detection or heat detection within the battery strings, as well as in the ambient conditions within the enclosure around the batteries. And then we have flammable gas detection as well. Those operate as signal inputs to our controls that can disengage the system, alarm our users, or even alert the Fire Department. We have additional actuation of the suppressant from those controls, from the fire panel itself, and then we can notify our own staff as well as other stakeholders about those different alarm conditions through the continuous monitoring of our system through the supervisory control and data acquisition, or SCADA system on site.

There's a DC switch as I mentioned and we monitor the status of that, as well as being able to disengage those DC contactors in every string. We have numerous alarms that are present to all of our users and then a battery backup system that allows us to continue operating for many hours, specified the HMA, I believe in this case it's assigned for 24 but if new conditions were present we could look at other possible scenarios as well, to continue operating, not just the data of those systems and the fire alarms, the horn and strobe, the fire suppressant, as well as potential for actuation – or I should say as well as actuation of the flammable gas evacuation system or the gas concentration reduction system.

So for that gas concentration reduction system, again, we have the off-gas detection in these flammable gas detectors. I'm repeating myself a little bit but I want to make sure it's very clear what we have here. That active exhaust is a fully designed system. I believe when the design was originally submitted that design had been completed but had not yet been reviewed by the nationally recognized testing laboratory. It has now been reviewed and approved, so those systems consist of a fan and louvers. The louvers will remain closed during normal operations and then can be opened under the power available by the UPS and then the UPS can also continue driving that fan until those gases are evacuated.

The evacuation route goes through one of those deflagration vents. One of those deflagration vents, it has the ability to peal open in the event of an over-pressure but it can also be actuated so that pealing like the top of a can of canned vegetables or something. Imagine that that whole top was also mounted on a separate frame and that frame could pivot up, and that's what I show on the right side there in that red frame unit. So one of those is equipped – they call it a dual vent because it does both purposes But that is effectively where the gases go. It's straight up, not out at somebody or another enclosure but straight up.

And then the communications and I've talked through all of these so I'll save us some time there.

The fire suppression system I think is best described in the video but what I don't show in the video is how that's delivered. So the system uses, as was mentioned earlier, it's not Novec 1230 but it's similar. It's a compound called FK 5-1-12. It's a common fire suppressant. It's deployed in data centers and has been for many years. It's not something new or specific to energy storage systems, and there have been cases in the past where this kind of fire suppressant has been applied for battery energy storage systems in an ineffective way. And so what I want to clarify is we're not just deploying the fire suppressant. We're deploying it in a very purpose intent way that has been validated numerous times. Through full system scale tests and we'll show it to you in a moment

here. But it is a chemical that is designed to evaporate and remove large amounts of heat, so as opposed to other fire suppressants that might smother a fire and remove the oxygen or maybe pose some chemical reaction.

The primary operation of FK 5-1-12 is to remove heat. And so it's not great at removing lots of heat. In fact water is much better at removing heat on a per-unit basis. But this system is very helpful as opposed to water because water also has the tendency to be conductive. It almost always is conductive, meaning that if you spray water on a bunch of batteries you may get an even reaction, which is shorting of those batteries and more fires. And we have seen that in real world events. This is inert. In fact you can see demonstrations on line where someone turns on a cell phone, plays a movie on YouTube and drops it in a bucket of this stuff and it keeps playing.

That's one reason why it's being used in data centers is because it can help cool a system without shorting it. Again, it's not as good as water so the way in which we apply it really matters here, and that's why I refer to it as a direct injection system.

If you look at the red dotted line in the picture on the top right, you'll see – it's a little bit hard to make out but to the left of that red dotted line are installed battery modules. That's pretty much what ours look like. To the right of that line are open slots where battery modules are about to go in. In between, basically – well, you see some black tubes. Those deliver the coolant, and then just beneath the black tube there's a little gold circle. It's hard to make out but that gold circle is the end of a stainless steel pipe. It's got a brass fitting on it; that's why it's not silver. But brass fitting, stainless steel pipe goes all the way back along the entire length of that module throughout the entire width of that energy storage enclosure.

And every few inches there's an orifice in that pipe. And that orifice is surrounded by a plastic ring that basically seals it so that under normal conditions, no air, no fluid is going in and out of those pipes. The corresponding places of those orifices is right above every single cell in that module. So when a cell, if a cell ever goes into thermal runaway, generates an enormous amount of heat, that plastic ring melts and exposes that orifice. At the same time, a combination of either smoke detectors or heat detectors in the battery modules can initiate that fire suppressant. And the fire suppressant floods the entire network of piping. It's been designed to have more than enough fluid to fill up that piping and have much more left over. But only the orifice that was directly above the offending battery cell is the one exposed. So almost all of that suppressant can be flooded directly into that cell.

And when it's applied in that manner, this type of fire suppressant can be wildly effective. As someone studying these hazards for many years, when I first heard about this system I didn't believe it. It was only through review of many, many tests and all the data associated with those tests is that we felt comfortable deploying it in our projects. And so we'll demonstrate that in a few minutes here.

Of course we've got typical maintenance provisions – lockout tagout procedures as well as lockout tagout points, fuses and other over-current circuit protection, proper labeling and physical prevention dead-fronts, etc. to ensure that no one's inadvertently touching a hazardous part or component.

And then even beyond these enclosures our sites are all founded upon, again, the safety culture that we really pride ourselves on, and so even down to the level of ensuring

that there's proper navigation and wayfinding on the site, proper signage, so that any personnel who's familiar or not with the site can navigate their way out. This is a protected fenced site so it's not as if anyone can just wander in or it's not as if animals will have access, but even trained technicians, when there's an emergency, it can be a little bit disorienting. And so we make sure that we've got clear signage, clear and available maps and that we coordinate those with the first responders and other community stakeholders to ensure that everybody knows where to go, when to go, and how to get there.

And then as I mentioned, that's all documented in these emergency response plans. So we've got – what we submitted was a preliminary one for this site because there's still some details that are in movement throughout the final design stages, but this is not a new thing. We do this for all of our energy storage sites, and we've got our own templates as well as we work with leading experts in the industry to help us keep current with the standards and keep current with the leading practices. Those have everything in there from emergency response management as well as the actual response recommendations. We deal with fire incidents as well as other incidents, even to the level of if someone gets a scrape. What do we do? So down to cybersecurity which is not pretty prevalent in all of our sites as energy storage and renewable energy plants get bigger and bigger they become more important to the power grid.

When it was a few megawatts a local utility wouldn't really notice much if one went off-line for some alarm condition. When we're talking about a 48 megawatt energy storage system site PNM may notice a significant shift in their operations if we all of a sudden went off-line. And so as a part of that we are now being – a lot of these sites are being regulated by the North American Electric Reliability Council, NAERC, who has for decades overseen the reliability including cybersecurity of large thermal generation plants, coal, natural gas and the like, to ensure that not only are they able to operate reliably but that they're not susceptible to cybersecurity attacks. And so we apply those same standards here.

And then as I mentioned, I think what matters most is that we coordinate directly with the stakeholders. We feel confident that we know what the leading practices are in the industry. I think what matter most is not only that we apply those leading practices but that we apply them in the way that best suits this community. And so that's why we've been coordinating with the local – with the County, with County Fire Department here for years to ensure that we deliver what's needed for this specific location.

So with that, hopefully this video works.

[A video was shown.]

I want to show you some of the actual testing. This is footage that was recorded not by us but by that nationally recognized testing laboratory, CSA, and we've decided to make it available to the public to better communicate how some of these systems work and how they are different. So this is – you've seen a lot of this detail already but this is kind of pointing out again where a lot of those hazard mitigation mechanisms are located.

And then what we did is we took that system. It's shown as a rendering here for ease of communication but the footage you're about to see is from the actual test of that system we built to the specifications of that rendering. So first you see – we basically surrounded a couple cells with heaters. Those cells warmed up to the point of thermal

runaway, and then the fire is effectively when the BESS went into thermal runaway. Pretty quickly you already see after a few seconds the flame is no longer jetting out of the front of module and it's more of a modest flame at this point

After 37 seconds, according to CSA the fire was completely extinguished. So that flash right there was actually just the camera switching back from visible light mode to infrared mode because there's no longer any light being generated. You see some smoke circulating throughout the enclosure, that's remnants. If we need to play it again we can but you don't really see anything happening in the below frame, the frame on the bottom. That's because very early on there was one puff of smoke but the fire was quenched after that. And then they monitor the system for six hours. Nothing happened. Nothing re-ignited. That's all pretty much because of that direct injection of fire suppression system.

So I think what I want to call out here is that we don't ignore these hazards. I think there are different ways to address them. This isn't the only right way to deal with it, but from AES perspective this redundant layer of mitigation we feel is very important and helps prevent a fire from ever occurring in the first place. So while there can be hazards from a large-scale fire we feel we've effectively eliminated those hazards, which I think is a much better way to deal with a hazard rather than trying to mitigate it after it's occurred.

So with that I want to just add a few points in conclusion, maybe addressing some of the issues from before, and then of course I'll look forward to questions as we go after Joshua finishes the presentation.

But I do want to reiterate that the facility certification to UL 9540, which is an important step of any of these sites, that is planned to be completed. We are on track for that. As I mentioned, we've completed the certification of the specific energy storage product, and the way it integrates on the site and some of the testing that was done there. That always happens after construction and so we'll be doing that. I also want to say that we have built this system. We have operated it. We have tested it and it includes all of the provisions that I mentioned to you today. So I'll pass it back to Joshua to finish some of the items for the presentation.

MR. MAYER: Thank you so much, Mike. There was a lot there but I think it's important that we demonstrate that these simply aren't Macgyvered systems. There's an exceptional level of detail and testing that goes into evaluating a technology, so not just AES but also our financing parties can have the confidence that we'll be able to operate them for their multi-decade lifetime and provide energy to the purchasing utility and the customers.

So I'll try and be brief on the rest of the presentation. Again, I want to now summarize that in evaluating the appropriateness of this site we did a whole portfolio of a localized diligence survey so of course that begins with just real estate and topographical surveys. That is what informs a 30 percent design, so a 10 percent design is really a concept drawing based on desktop assessment. A 30 percent design integrates actual land-based surveys so that the design reflects the conditions on the ground.

For the gen-tie we performed an aquatic resource inventory report for the entire property. We conducted a biological survey report. Importantly no federal or state threatened or endangered species were identified, and where prairie dog colonies exist that could potential be inhabited by burrowing owls we've just simply avoided those

from our layout. We've conducted Phase 1 environmental site assessments and there's no recognized environmental conditions on the site. We've looked at the flood hazards. There's several arroyos that criss-cross the site. We've looked at what historical flooding models would demonstrate as being a possible outcome on our site and we've avoided those where it made sense.

We conducted an extensive cultural resource and pedestrian survey and have avoided any identified areas of sensitivity. From a traffic perspective, we studied what the construction level of traffic would be and determined that further impact studies were not warranted. As mentioned, during operation there'd be four vehicles a day arriving at the site to assist with ongoing operations, so quite minimal. And I'll demonstrate here shortly some of our visual impact assessments from accessible public rights-of-way.

And also voluntarily we performed – or I should say we commissioned two appraisal impact studies, one from a nationally recognized appraiser who looked at more than 900 solar farms throughout the country as well as battery energy storage sites and employed matched pair analysis where possible, but otherwise conducted his assessment to the uniform standards of appraisal practice, approved by the Appraisal Institute. We then also have a Santa Fe-based appraiser review that study and they concurred that in general, proximity of solar farms or battery storage facilities, especially at the distance at which this particular project is from residences does not have a directly correlated impact on values.

We went above and beyond and performed a lot of studies that frankly, in most jurisdictions we do not perform at this stage but given the interest in this project we were more than pleased to commit to these studies in advance. The first few actually are fairly common. So environmental impact report, which did not determine any other significant resource issues being impacted by this project. We often do not do a noise technical report but there were concerns at one point that this project would generate a significant amount of noise. I'll address that in a slide here shortly, but the conclusion was that there would be a near imperceptible increase in noise from the nearest receptors.

We performed extensive geotechnical studies looking at the composition of the underlying soils and how that informs our concrete pad designs and our piles to support the solar panels. We committed to doing a decommissioning plan up front as well as identifying what the value of that decommissioning bond would be, so that the County has that mechanism should in the unlikely scenario of AES ceasing to exist, the County would have the means to be able to remove the system. We conducted the preliminary hazard mitigation analysis well in advance. This is typically something that we provide to permitting authorities upon seeking a building permit, so having 100 percent fully designed plan set.

We leaned forward and commissioned as much in advance with the status of the design we have now, and we also provided informed but also importantly draft first responder mitigation guidelines and pre-incident plans. Unfortunately, and I'll finish with this towards the end, the Hearing Officer actually reviewed these in draft form prior to them being subsequently updated and took information from that in partially arriving at her conclusion, but these were largely provided at this time as examples of deliverables that will be complete upon seeking a development permit to actually build the facility.

Just really quickly, the visual simulations, this is from Highway 14 near the

proposed entrance. Understandably, at two miles away it's very difficult to perceive something that would be eight feet off the ground. In fact at mid-day it will only be roughly 5 ½ feet off the ground when the panels are flat, but it could be possible to see some think blue line on the horizon but largely with a two-mile setback that scenic byway is unaffected from this project.

Going over towards the Eldorado neighborhood, again, trying to find the best vantage point for a public view, the project is largely entirely out of sight but we do want to demonstrate what the 2.3-mile gen-tie line would look like. And so we're actually simulating the two different proposals, so an H-frame structure, which is not quite as tall. It's about 50 feet, but which we estimate may require up to 33 poles along that distance. You can faintly see it on the horizon there. You'll see that this number of poles actually diminish if instead we were to go with the 70-foot monopole structure. We estimate that we'd need about 23 of those monopoles to span that distance.

I mentioned the noise technical study that we did. So this is a great visual representation of what sound impacts would be. It largely corresponds to the locations of inverters and medium voltage transformers as well as the battery storage facility. So this was done by a third-party consultant utilizing a sound plan, and ultimately the conclusions were that the change in noise at the nearest receptors did not exceed the noise ordinances applicable to this location and I think it's notable that the highest studied, 40.6 dBA, is effectively the equivalent to a quiet library.

This is actually a really important slide because one thing that I found a little bit concerning in the discussion of this project is an apparent attempt to link what we are proposing as our clean agent fire suppressant to PFAS contamination in other communities in New Mexico that importantly have nothing to do with the clean agent suppressant FK 5-1-12 that we specify in this project. Rather, those are aqueous film forming foams, largely utilized to be applied to aviation fires and such, and most importantly, PFAS is a very broad term applied to thousands of chemicals, many of which are actually in our homes, but very important to note is the aqueous film-forming foams associated with PFA contamination in other areas is a PBT, a persistent bio-accumulative and toxic PFA. FK 5-1-12 utilizes our clean agent suppressant is a non-PBT. So it's not persistent, it's not bio-accumulative, and it's not toxic. There is no EPA limitation on its use. It's regularly used in data centers, as Mike mentioned. It's also featured in hospitals and even banks.

So this is a perfectly safe and well directed use of this clean agent. It's housed in a canister. The battery enclosures themselves are fully sealed so there's exceptionally little amount of liquid in any of this project. It's largely a solid state facility, but in any case these enclosures are fully sealed and as Mike explained, this clean agent is directly applied to an affected cell, so it's not a flooded application as may have been featured in other prior generations of energy storage facilities.

And as water is not the recommended solution to apply to a container that is experiencing an event, there is simply no medium for any degree of groundwater contamination. Again, as being a non-PBT, FK 5-1-12 does not present any threat to being a groundwater contaminant.

Water use has also been a question and a concern about this project. I think it's worth noting that there would be no wells used to employ water for this project. Rather it

will be fully sourced from available sources, commercial sources in the county. We estimate that more than 50 percent of the water that we would utilize, and to be clear, this water is being utilized in the construction process so the end goal is to actually suppress dust and fugitive dust emissions from soil disturbance. So that is the entire purpose for it. We estimate that more than 50 percent of that water can come from a reclaimed source and just for a little bit of frame of reference, 100 to 150 acre-feet is a conservative estimate of ours. That roughly equates to about 480 homes annual water consumption. There's approximately 40,000 households in Santa Fe so you can put that into perspective. It's also equivalent to about the low end use of a golf course annual use.

When we talk about the operational period, as you can see the amount of water specified declines substantially to only two to three acre-feet. That's actually still a very conservative estimate. Looking at move operational New Mexico solar power plants, washing panels isn't even deemed all that necessary due to the monsoonal nature of rains. But we at least want to be forthright and budget conservatively should we choose to actually wash the panels. Again, we still think it could be primarily sourced from reclaimed water. We do acknowledge that for the O&M building we'll continue to allocate about 3,000 gallons per month for that use.

Regarding weed management, we'll certainly take measures to avoid and minimize the level of soil disturbance and to prevent any weed seeds coming onto site. We have a revegetation plan to reseed with native grasses in the area and should there be any occurrence of undesired weeds during operation of the facility we'll have a preference for manual and mechanical treatment, but should we need to use herbicides they will be judiciously applied by a state certified applicator.

So as I reach towards the conclusion I want to of course talk about well, when could this project happen? So as you can see, we've been at this for many years and we are very pleased and excited to be at the point of seeking a conditional use permit from the Planning Commission here tonight, while we also prepare our bids for PNM, which we would look to submit in mid-May. If we are successful in not only being in receipt of your approval tonight, but also in being selected by PNM for the output of this facility, we would then advance our designs toward 60 percent, later 90 percent, and 100 percent issued for a construction set in 2026. We'd contract for the construction of that with very likely a New Mexico based engineering procurement and construction company. And we would look to initiate construction in 2027 and conclude in 2028 so that we can have a guaranteed in-service date of 2029, which the RFP is seeking.

We expect the plant to be able to operate for 35 years. That is the solar component. The battery we estimate can operate for 25 years, at which point we would look to either repower, determine what the off-take arrangement can be at that time, and should we not repower the project we will then decommission it at the end of that timeframe and restore the land to its prior condition, removing all the improvements that this project added to the land.

So we've talked a lot about safety and about design and the benefits of having a clean energy source that can provide power for Santa Fe. It's also very worthwhile to actually note the economic impact that his project brings to this community, because it's actually quite remarkable. So for one, this is a project that would be bid in a hyper-competitive environment and we'll be bidding a fixed cost for multiple decades to PNM.

So a minimum of 20 years at a fixed rate. If I could lock in the cost of my energy for 20 years I would take that deal every single day of the week. And that's effectively what we're offering to PNM, which should then translate to stable and/or lower energy prices for all PNM's customers in its territory.

During the construction phase we estimate 200 direct construction jobs. In addition to that, all the contributions to local services that those workers will bring, whether that's accommodation, restaurants, additional professional services in support of the project. This is effectively a $200 million capital investment in this community. Some folks will try and say, well, this is an out of state energy giant coming in to make profit here in New Mexico. Well, it's important to actually demonstrate that we are a leading energy company that can organize nearly a quarter of a billion dollars to invest in this community so that you have a local source of clean, renewable energy for decades to come. Not many companies can effectively or easily organize that significant degree of capital.

This project can also generate, per our estimates, $28 million in labor and wages. We believe $5 million can be readily attributed to wages and/or procurement of material here in Santa Fe County. As I mentioned, the current tracker manufacturer that we've specified for this is based right in New Mexico, leading to up to $18 million in manufacturing output here in the state. And while it's still premature, because we need approval for a conditional use permit prior to engaging an industrial revenue bond process, this project would seek an industrial revenue bond which is very common. There's been well over 100 of those issued since the 1980s. It's very typical for any significant capital investment in this state. But utilizing our local counsel and looking at prevailing methodologies for computing what reasonable property tax would be through an industrial revenue bond, we're quite confident that this would yield in excess of $10 million in property tax revenue to the County. Approximately $7 million of that could go to the County. Another $3 million or more would go to the schools. And up front, in gross receipts taxes, we forecast $4 million of gross receipts taxes through material procurement, of which $3 million would go to the County.

I want to also specify that there's also been misinformation that the industrial revenue bond is somehow a way for this project to skirt paying taxes. One of the most primary benefits that engaging an industrial revenue bond does is actually to just establish certainty for a 20-year project, plus what its property tax payment schedule would be, so that we're not surprised from year to year of how it will be assessed. Rather it allows us to budget appropriately.

And of course there's the environmental benefits. So again, if you compare solar development to even a residential development it's a very low impact development that will also diversify and strengthen the grid resiliency in Santa Fe County.

I mentioned three different transmission corridors coming into Santa Fe. Should there be high winds, wildfire, affecting any of those other transmission corridors, having a source of power generation close to this city can further increase the resilience of the grid to avoid potential brownouts or blackouts. And this project represents, we estimate about one percent of satisfying all of New Mexico's energy needs. So this is a very significant project that can help move the needle in this state and also in this county to reach its sustainability goals. And I already mentioned before that that's effectively

equivalent to the entire residential demand of the City of Santa Fe.

Now, I believe it's again appropriate that revisit very briefly the CUP approval criteria. So this project should be evaluated in light of these seven criteria. As we've established through our video evidence of the UL 9540-A testing demonstrating the effectiveness of our fire suppressive technology as well as the other stated redundancy, we believe that this project does not poses any fire risk to the communities adjacent to it, and as I mentioned, the attributes of increasing grid resiliency and stabilizing long term pricing for customers in this area is all benefiting the general welfare.

Traffic is minimal so no anticipated congestion on roads. The project will be built to all prevailing fire and safety codes and we will provide full, complete hazard mitigation analysis, first responder guidelines and pre-incident plans prior to seeking the development permit to actually initiate construction of the project. Being able to exhibit the substantial amount of buffer land and conservation land around this project, again, does not lead to any overcrowding of land, yet preserves open space for many decades to come, and being that this project is in little need of public services, in fact hardly any, since we'll truck water onto site, there's no burden upon public services to facilitate the construction of this project.

There's minimal lighting, mostly just based on motion sensing and operational use as needed, so very little light additions from this project, and of course being an emissions-free source of clean energy generation there's no negative contribution to the air quality in the area. And we believe that this does meet the spirit and the intent of the SLDC and the SGMP, specifically that renewable resources is deemed an effective use for Rural Fringe zoning, and that the SGMP's Chapter 7 is fully dedicated to the County pursuing and promoting the use of renewable energy locally.

And of course I feel that we should address the recommendations from the Hearing Officer. Again, we very much respect her opinion but we feel that it is merited to address her specific rationale. So I'll be brief, and I'm going in order from that recommendation, but the first was that the project is too big and too close. So again, I would actually argue that if anything, this project may be undersized. This project can generate the equivalent of the entire residential annual demand from the City of Santa Fe, but significantly, if we wanted to power all the industrial and tourism and etc. load on the system, this project could actually be even bigger, if we wanted to offset 100 percent of that.

Furthermore, the BESS is 1 ½ miles away from the nearest resident and the solar is a third of a mile from the nearest resident. In fact there's only 20 homes within one mile of this project facility, and the vast majority are 1 ½, two miles, or even greater. So we would respectfully contest that it's that close to adjacent communities.

I believe we've addressed the concerns with energy storage safety and prior incidents that have made the news and perhaps rightfully raised concerns and questions from residents. It's very important to note that at least to my knowledge almost all of the incidents that made the news are all projects that entered construction even before the first issuance of NFPA 855 in 2020, and now we're a second iteration already into that with NFPA 855 2023. Through all the detail that we've presented today, lessons have been learned from prior incidences, just like there was a time when cars didn't have seatbelts or airbags. We didn't cease driving vehicles. We determined there was a value

to them and we engineered how to make them safer. No different with battery technology evolving as subsequent generations have been deployed in the grid.

There was mention of the County not having a proper hazmat team. We would like to cite that the review of the County Fire Department as well as the independent consultant concluded that there's been sufficient information provided to validate the issuance of this conditional use permit. Of course subject to fulfillment of the conditions that they identified prior to seeking development permit.

And this one actually was the most confusing. I think it was taken from a non-expert testimony at the hearing but that somehow this proposed system is an older, less safe technology. I think we've clearly demonstrated that this is the latest and greatest generation that's fully integrated all the most recent updates to safety standards and codes, and we have effectively zeroed out what we think is a likelihood of a fire from a system of such.

And I spoke to the PFA issue before. Again, this one was quite confounding. There is no evidence that the fire suppressant we would use in this facility could be tied in any way to having effects on groundwater. Again, that was conflation of a completely different substance and chemical that is not at all the same used for this type of system.

We discussed the precautions for actually protecting our own facility from wildfire in addition to a circumstance in which one could originate within it through the use of defensible space, through fire-rated enclosures, concrete pads, gravel perimeter,, all this significantly diminishes any likelihood of thermal event.

And we've produced two different appraisal reports, independently performed, that determined that there is no direct correlation between proximity of a solar power plant or a battery energy storage facility to decline in property values, especially at the distance away that this facility is sited. And there was even citation that this project could lead to the closure of the market of home insurance. I have yet to see a single report that has correlated, again, the existence of one of these projects with the homeowner being denied insurance. If anything that is largely occurring through the trends of climate change and heightened wildfire affecting communities that are built in susceptible areas. So if anything this is a project that is working to be a solution to reduce the ongoing threats from climate change and reduce that likelihood affecting communities in such areas.

And lastly, and perhaps most unfortunately we noted that despite all the expert testimony provided in the Hearing Officer meeting, there was a bit of information chosen from our again, draft example document of a first responder mitigation guideline that was originally provided in August and included information that did not address the direct injection fire suppressant system and suggested that the thermal runaway may not be fully addressed. We actually supplied to the County on October 10th the revised version of that document. Again, it's still a draft document that should be referred to as an example of a final deliverable but which we did update to reflect as much of the current information as possible. And in the latest version of that which was provided on October 10th but did not appear to make it to the Hearing Officer ahead of her recommendation, the direct injection fire suppressant was cited and the conclusion in those guidelines was that it is an effective means for preventing thermal runaway.

So we believe these are all respectful answers to those concerns cited in that

recommendation.

And I would like to again kind of bring this full circle. If you're like me you like to stay informed and you like to read what's going on in the world, and with that, there's a common phrase called doom scrolling. It's difficult to be informed but also not lose hope sometimes, and that's again why I am passionate about what I do and for working at AES is that we are accelerating the clean energy future. This is our generation's moon shot. We can do it. When I first gradated college this industry largely did not exist. It was not competitive with conventional forms of energy. Here I am ten years into my career, 15+ years since graduating college, and solar is now the leading form of new energy generation being deployed on the grid, followed in tandem with battery energy storage, and behind that, wind. And we can realize this full transition, an absolute transformation of our energy system, again, here in New Mexico within the next 15 to 20 years. So anybody having a newborn child today can gift that child a future by the time that they graduate high school or enter into college of an emissions-free economy. And that is what this project represents is an opportunity for Santa Fe to participate in the Energy Transition Act, to be a leader in hosting a local source of clean energy, and of course, when we look at the message from Antonio Guterres, the Secretary General of the UN released just before New Year's Eve, the recognition that there are undeniable trends that we are having to face as a society and how to combat those.

So we've had ten of the hottest years on record in a row in the last decade. Today in Santa Fe it is more than 20 degrees above average, we very well may break a record, if not today or tomorrow for a high temperature here in early February. So this is real, and being able to make a vote in favor of this project and putting Santa Fe on the path to be fully supplied by 100 percent clean energy is a significant action that we can take in light of the current administration withdrawing the US from the Paris Accord, we can still live up to the commitments that this County has made to honor that agreement and to be a part of the solution.

So with that I thank you for your time. I know this has been a long presentation but again, I think that dissemination of the detail is important for folks to properly evaluate the suitability of this project and the exceptional benefit that it could provide to the community. So as the sun sets on the horizon know that this project once coming to fruition can continue to provide power to Santa Fe with clean solar energy even into the nighttime. So with that I welcome questions. Thank you.

CHAIR AABOE: Thank you very much. I want to go off-script a little bit and take a break before we open for questions. So let's take a break and reconvene at 5:00 on the dot. Thank you.

C. 15 Minute Break The Planning Commission recessed from 4:45 to 5:03.

CHAIR AABOE: So now we'd like to ask questions of the applicant. Commissioners, do you have any questions of the applicant? Steve, please go ahead.

COMMISSIONER BRUGGER: Thank you, Chair. First off, thank you for the detailed presentation. Detail is good. So I have a few questions. Just to clarify, who's the AHJ, the authority having jurisdiction on this project? Who is responsible for reviewing the final plans and inspecting the facility, making sure permits are in place?

MR. SIMPSON: Well, thank you for the kind words. So there's multiple AHJs. I think a lot of what I've been talking about today is reflective of the permit as it relates to fire prevention mitigation so that would be the Santa Fe County Fire Department is the AHJ, but the County is really the AHJ responding to everything here.

MR. MAYER: Yes, I would concur with that, as far as my understanding is again, we are seeking a conditional use permit based on the documents we've submitted today. Should this project successfully contract with PNM and we proceed to advance our design set and later seek a development permit, otherwise known as a building permit in other jurisdictions. That's when we provide the 100 percent issue for construction design and submit that to the County so that a development permit can be issued and we can break ground.

COMMISSIONER BRUGGER: Thank you. So the New Mexico Construction Industries Division doesn't touch this project?

MR. SISNEROS: Planning Commission Chair, Planning Commission members, so everything in Santa Fe County is a two-permit process. Santa Fe County issues a development permit, issues a zoning approval. After our approval it does go on to the Construction Industries Division with the State of New Mexico for an actual building permit.

COMMISSIONER BRUGGER: Thank you, Mr. Sisneros. So between the point that we are now and the final design, how likely is it that there would be changes in the plans or the elements that you had presented today from now till design is complete and would be certified.

MR. MAYER: Great question actually, I meant to address that a bit during the presentation. I know that I've heard concerns about permitting a project with a 30 percent design. That somehow means that 70 percent of the design is not complete. We could have a completely different project at the end of the day. Well, that's not really how it works. So a 30 percent design is a level of design that identifies your power capacity. It identifies the location of your equipment. It identifies the kind of macro-level of all your equipment, so approximate number of solar panels, approximate number of trackers, inverters, transformers, etc., and it's defining your footprint and your boundary.

When we go to 60 percent and 90 percent and ultimately 100 percent designs, you are then going into the micro-level. So you are going into the sub-array design then of what the cabling looks like, about different power flow studies within the array, and just much more granular detail. But none of that affects the general project characteristics as far as this being a 96-megawatt facility as it fitting within this box of 680 acres. So it would be untrue to arrive at a conclusion that we're going to get a permit approval based on a 30 percent design for a 96-megawatt project and then come back down the road with a 100 percent design that's a 200-megawatt project. That is not how the design criteria works. It's more increasing the granularity. That just simply doesn't serve a purpose at this stage when you're seeking approval of a concept plan, and a 30 percent design is already a sufficient level of detail for us to go get bids from construction companies that we can then contract a binding bid with, or submit a binding price to PNM.

We would be more reluctant to do that on a ten percent design, but at a 30 percent level we already know enough about what the project will look like that we can contract on that level of detail. But it costs hundreds of thousands of dollars to design beyond 30

percent and if we haven't contracted the output of the facility, that could all be for naught. If we don't contract in this round of PNM but we find the means to contract two years later, all of that money and all of that design could be completely outdated and we'd have to do that all over again. That's why the 30 percent is kind of the sweet spot for seeking a conditional – in fact, in many jurisdictions we get by with a ten percent. So 30 percent is already kind of above and beyond what's typical at this level of discretionary permit. Does that help answer your question?

COMMISSIONER BRUGGER: Yes, thank you.

CHAIR AABOE: I'm asking some questions that have been submitted by some of our parties with standing. I want to make sure we get those. If this project is rejected by the County, is AES going to sue the County?

MR. MAYER: No.

CHAIR AABOE: Okay. Thank you. The site development plan filed with County with this application shows an approximately 13-acre area identified as an environmental sensitive area inside the project's perimeter. It's located 100 feet from the 2.3 acres of the BESS. I wonder if you could talk about what that area is and how impacts on it will be mitigated.

MR. MAYER: I'll first say that we're not going to impact that area, so that's the easy answer. We're avoiding it and we're setting back from it by 100 feet. My colleague here, Matt Gordon is our permitting manager, can speak further but I believe he may need to be sworn in.

[Duly sworn, Matt Gordon testified as follows:]

MATT GORDON: Matt Gordon, 282 Century Place, Louisville, Colorado, 80027. Just to add, that really sensitive area that was identified on the site plan, that was the result of our cultural resources field surveys for the project and through our coordination with the State Historic Preservation Officer, we did receive concurrence and the requirement to avoid that site with a 100-foot buffer.

CHAIR AABOE: So correct me if I'm wrong, but one of the conditions is to have a permanent fence surrounding that area?

MR. GORDON: That's correct. Yes. Within the staff report there's a condition for a permanent fence which we will include as part of our mitigation compliance.

CHAIR AABOE: One more question, again submitted by an interested party. What are the dollar amounts of insurance and surety bonds that Rancho Viejo Solar, LLC, will be required to provide for the Rancho Viejo project?

MR. MAYER: Sure. So we pro-actively performed and submitted a decommissioning plan and so in that decommissioning plan it was estimated in current dollars to cost effectively or roughly about $9.6 million to fully remove all the system implements. When factoring in the salvage value from either recycling or resale of any componentry, the value for the bond would be estimated to be about $7.6 million.

CHAIR AABOE: So there are not insurance or surety bonds. The decommissioning bond is the only bonding required. Is that right?

MR. MAYER: Yes. I was speaking to the decommissioning bond. I might have to ask for further clarity on the question. The project does also secure insurance. That's of course required by our financing parties.

CHAIR AABOE: Okay. Thanks very much. Any other questions by Commissioners? Wendy.

COMMISSIONER PIERARD: You were speaking about the battery facility and that it had a cement floor. Does that serve as a containment system?

MR. MAYER: I'll answer first and if Mike wants to add on he certainly can. Well, the floor is actually within the container. So the floor within the container is not cement.

COMMISSIONER PIERARD: So each container, there's not one big cement that has all the containers are sitting on?

MR. MAYER: No. There's several cement pads. Each cement pad would house, under our design two containers. So those are fully enclosed containers that then sit on a poured cement pad.

COMMISSIONER PIERARD: Okay. I guess what I'm – the use of the word containers – if there was a fire and you used suppressant and water, would that road around it serve as a berm to sort of contain any water or fire suppressant material?

MR. MAYER: So again, we are not advising the use of water and through the demonstration in the video the fire suppressant is hyper-focused on the affected cell, and upon application, that's actually vaporized. It's an environmentally friendly clean agent and it has an atmospheric life time of less than seven days. But there's otherwise no means for an egress of that chemical.

COMMISSIONER PIERARD: Does the fire retardant have an MSD sheet?

MR. MAYER: Mike, I'll let you further respond.

MR. SIMPSON: Yes, it does. I believe you can find it searching on line but also we can provide that upon request. I want to add something though. Again, while we believe there's no need for water and there may not be a lot of water available, we designed the system to basically handle those hazards without the water. If for some reason the Fire Department did decide to apply water, because there's no rupture of the enclosure envelope, the water acts as rain. The site is designed for rain. As I mentioned these enclosures are built to ISO container standards so they're meant for not just rain but driving rain and ocean spray and high salinity environments. So they're very robust for this kind of application. So water application would be just like rain. Rain and watershed management is all handled in the site plan.

COMMISSIONER PIERARD: So if you had a fire and it was put out there would not be any ponding water or anything else surrounding the facility.

MR. SIMPSON: That's correct.

COMMISSIONER PIERARD: All right. Thank you.

CHAIR AABOE: Dan, you had some questions?

COMMISSIONER PAVA: Thank you, Mr. Chair. First question is rather broad. Just repeating for the record, I think I understand that I heard that should the installation come to fruition, this power is sold to PNM for the benefit and use here in Santa Fe and the region. Is that correct? Is that the intent?

MR. MAYER: That is correct.

COMMISSIONER PAVA: Thank you. I just wanted to make sure I heard that and got it in the record. The second thing I'll say is that with 30 years of

environmental compliance at Los Alamos I'd have to say that I was very impressed with the submittal. I know there's a lot of detail to review here. I appreciate you going through it. It was laborious but I think you answered a lot of my questions about the battery technologies that I had earlier, my questions about the redundant safety systems and I appreciate that greatly.

The third is more of a comment but maybe as engineers working in this field, don't substations in residential areas these days even use BESSes? I think there's one in my neighborhood does. Is it getting to be more and more common? Not on the scale that we're proposing here, but they're common aren't they?

MR. SIMPSON: Every substation is going to have a lead acid backup system, or most of them at least. And it is becoming more common to see even larger lithium-ion BESSes with substations, primarily because it's a great point of interconnection, but also it can provide a lot of services to the utility, storing energy when transmission might otherwise be congested, and then letting it go maybe in the middle of the night when there's more room on those lines. So getting it right, as close as you can to the transmission is pretty ideal.

COMMISSIONER PAVA: Thank you for that clarification and information. One other thing. I think it was on slide – I kind of lost track of all the slides; there were 69 of them I think. But on 26 it showed that New Mexico's goal is two gigawatts of, I think, renewable? Is that correct? By 2034?

MR. MAYER: Actually it is cited here but I'll take it back to the news headlines that we referenced early on. Yes. So in 2023 the Senate of New Mexico passed a bill requiring investor-owned utilities, so that's PNM, SPS and EPE, to have two gigawatts or seven gigawatt-hours. That's the time duration of the storage capacity on line by 2034. And there's currently about approximately 440 megawatts currently operating as we speak in the state. So they're about a fourth of the way to the goal.

COMMISSIONER PAVA: So the proposed project, this facility would add considerable capacity.

MR. MAYER: It would add 48 megawatts of four hour duration, so 192 megawatt-hours to that seven gigawatt total. So it's – it will be significant for the contribution of Santa Fe. Obviously as a whole state we need a lot of these projects.

COMMISSIONER PAVA: I'm not an engineer; I'm a planner, so forgive me with the math but I did work on relicensing nuclear power plants back in the day. I think two gigawatts is a huge amount of electrical capacity. I'm thinking that your typical nuclear reactor is a 1000 megawatts which is a gigawatt, so this is a lot of energy, isn't it?

MR. MAYER: It is, and I explained the rationale for that, right? Is solar and wind generally have lower what we call capacity factors than a coal plant or a natural gas plant or certainly a nuclear power plant that can essentially operate near 24/7 at the same level of output. A solar capacity factor is a function of how many hours of sunshine there are in a day so your capacity factor in the winter is less than it is in the summer. And as PNM works to meet the 100 percent carbon-free requirement by 2040 for their own target, you need the energy storage to play the bridge role for harnessing the solar and the wind when it may be in excess, or perhaps inopportune at nighttime in the case of wind or solar in the middle of the day when maybe a lot of folks aren't home. You need the battery to be able to absorb that excess and then spread it out evenly so that the lights

turn on when we want them to. And that's how we get to 100 percent clean energy.

COMMISSIONER PAVA: Thank you. No further questions.

CHAIR AABOE: Vice Chairman.

COMMISSIONER TRUJILLO: Thank you, Mr. Chair. So it sounds like your timing issue here as far as approval of this permit and entering into a purchase agreement with PNM. Is that correct?

MR. MAYER: Yes and no. So the current timeline for this process, Planning Commission will vote on it today, presumably. If it's appealed, my understanding is the County Board would come in late April, early May, so this would all support a narrative of the project maturity when submitting a proposal to PNM. They are certainly going to view the maturity of the project positively if it has a permit in hand. There's folks that have tried to point to past denial of this project's bids to PNM as some kind of precursor that will be denied again, and I would argue that the difference is that the project has matured substantially more since prior bids, and so that is a part of their calculus in evaluating projects is do you have interconnection agreement? Do you have a discretionary permit? Are you willing to submit a binding bid that you will not change the pricing on later?

And so all that's supported by checking the milestones of a project. So if there was a scenario in which we do not yet have the permit in hand for any delay, PNM can still evaluate the project. They can still short-list us. Ultimately, the timeline to sign the PPA would be January of 2026, so we think that would be a substantial runway for this local process to run its course and ultimately then the PRC would approve PNM's selection of bids, probably in Q3 of 2026. So we feel there's a substantial amount of time here for this local process to conclude for us to have the confidence to sign a contract with PNM.

COMMISSIONER TRUJILLO: Okay. In the benefit of the community, these purchase power agreements for solar, what type of typical rate is this power being sold to PNM per kilowatt-hour?

MR. MAYER: So clearly that's a competitive discussion. So I can't speak to the specific bid rate that we would submit. What I can tell you is these rates are regularly far cheaper than any conventional form of power generation and they are competitive solicitations. So if we bid a price that is higher than other projects, PNM will evaluate that price difference in relation to the location on the grid, any perceived additional value they may see by having a resource, for example, close to load, in this circumstance, close to Santa Fe versus perhaps a project that's 300 miles away from where they may actually need that power and may be subject to congestion and everything else. So even if that other project perhaps priced much cheaper there may be other complexity that makes ours more favorable.

But at the end of the day PNM is the one that runs their grid and their task with supplying power reliably to their customers, and they will make that assessment and determine if this project benefits their system at the price that's bid for it.

COMMISSIONER TRUJILLO: Okay. And if an array like this is placed somewhere very remotely and there's a lot of transmission distance, what kind of transmission losses take place? Is there a calculation that takes place? Especially the battery storage. I'm still trying to understand this four-hour battery limitation. Obviously

batteries are evolving and I get it. We're going to continue moving forward. But as far as transmission, if this was placed somewhere very remotely, how would this affect the rate, based on transmission losses?

MR. MAYER: I'll speak first and if Mike wants to add some color he most certainly can. So I guess the way I would frame it is again, the closer that you can – so one of the most significant hurdles facing the clean energy transition in general throughout the country is congestion and constraints on the transmission grid. These grids were built out decades ago largely to have far located coal power plants that generate a lot of pollution, far away from population centers and those transmission lines travel hundreds of miles to then deliver that power.

As the kind of easy to pick fruit has already been developed with a lot of projects and we're now increasing this overall penetration of renewables on the grid, the existing network has largely been kind of filled out. And so there's an increasing value on siting projects closer and closer to where that energy is consumed so that you forego expensive, impactful, large build out of new transmission systems. That may still be required in a dynamic system but the value is there.

In part, as you reference voltage losses but in general just the reduced expenditure on the grid as a whole by siting your generation closest to where it's consumed. Is there anything you want to add, Mike?

COMMISSIONER TRUJILLO: Okay. Thank you. I just have a couple more questions. So with these four-hour battery storage, is this energy used for peaking power as well?

MR. MAYER: Yes, it's very much a use to satisfy peaks on the system. So a lot of times – there's the famous duck curve that was popularized in California many years ago that's now becoming less of a duck and a lot more of a straight line. And so what that represented was you have all this output of solar during the day but that doesn't conveniently coincide with peak energy consumption. And so there was just like too much solar on the grid. And prior to batteries, that was a serious issue for utilities to be able to effectively manage, like what to do with that and how to manage the grid.

So batteries are this enabling technology to harness that energy when it's being produced the most and then shift it to evening hours predominantly, but foreseeably even early morning peaks so that you kind of have a smooth supply of energy, even if that energy was generated hours ago. So yes, four hours is the current sweet spot in the lithium-ion battery storage segment, because that is generally sufficient to cover a system peak. And to be frank, I've developed projects that are two-hour duration and there's talk of wanting longer duration batteries.

But the duration – again, energy storage actually isn't any source of generation. It's a firming component. So the more capacity, the more duration you add the more expensive that capacity becomes. And so utilities are quite deliberate in that they procure this capacity as their system requires it, and so right now, my understanding is New Mexico is about 40 percent renewables. A significant chunk of that is wind. But as they push the envelope closer to 60, 80 percent, they're going to now be more willing in that time frame to pay more for longer duration storage. That's why you're not yet seeing some other technologies which can say, okay, we'll provide 12-hour duration, because it's not yet economical. But when they're trying to cover that last mile to get 80 to 100

percent, that's when it's going to count.

COMMISSIONER TRUJILLO: Final question. It was mentioned earlier that there's a Sun Lasso storage in Albuquerque. Is that – and you may or may not know the answer to this, but number one, is it currently operational? And number two, is the size equivalent to what you're proposing or is it larger? And then I guess number three, what was the process they had to go through to get permitted in Bernalillo County?

MR. MAYER: So it's not an AES project so I can only speak about what I've publicly read about the project. And so my understanding is this project was selected in the PNM RFP from 2023 for 26 to 28 resources. It's been approved by Bernalillo County and an industrial revenue bond has been also granted for it, and it is slated for construction starting this year with operation I believe in 2026 or 2027. And it is three times the size of what's being proposed at Rancho Viejo. So Rancho Viejo is a 48 megawatt, four hour, 192 megawatt-hour system. The Sun Lasso project is 150-megawatt, four hour, 600-megawatt-hour project.

COMMISSIONER TRUJILLO: Thank you very much.

CHAIR AABOE: Steve, did you have a question?

COMMISSIONER BRUGGER: Thank you, Chairman. Thank you for your presentation before, Mr. Simpson on the battery management system where it monitors the changes in temperature, voltage, current, flammable gas, fire detection. My question is so a problem is identified. Who identifies the problem when staff's on site or when staff is not on site? Then after a problem is identified, then what's your drill? What's the protocol? What follows after that?

MR. SIMPSON: Great question. Okay, so I think maybe we can break it down in some pieces because depending on the nature of the problem, many problems won't need any person to really detect them. That's I think the benefit of some of these passive safety mechanisms. Of course then responders can come in later as they're reviewing data once the system has kind of put itself into a safe state. You might have a fuse that blows, right? Or an event that's entirely encapsulated within the cell.

But for events that do proceed, this worst case scenario that we've talked about where a cell undergoes thermal runaway and poses this potential to propagate but is snuffed out if you will by the direct injection system, that type of event, like I said, it's immediately alarmed and then handled autonomously, so that doesn't require human intervention to activate the suppressant. But that notification is sent through our supervisory control and data acquisition systems. So that gets broadcast both to a local O&M building like inside our site boundaries we have an operations and maintenance building, as Joshua said, is intended for staffing right now. And then at the same instant, it's also transmitted to our remote operations and control center.

That location is – we have three across the country for redundancy, so one of those three will get the notification. That is staffed by human personnel, 24 by 7, but those alarms are automated and sent. And then as we work to get those final details as Joshua was saying, those very fine details of sizes of cables and exact numbers of strings and things like that, we'll also work with the Fire Department to understand exactly how they want to be notified. We've done it multiple ways for different fire departments in the past. But we've got solutions in place and ready to deploy for either someone at our remote operation center picks up a phone and calls the fire department, as kind of the

most rudimentary, to more sophisticated with auto-dialers that will automatically notify.

So we've got all those kinds of systems in place and we'll figure out what works best for this county and deploy that none here.

COMMISSIONER BRUGGER: Thanks.

CHAIR AABOE: J.J. please.

COMMISSIONER GONZALES: The question is for Mr. Mayer. In your presentation you answered a lot of the questions I had but what I see here is that you have a partner. You have a co-applicant for this project, Rancho Viejo Solar, LLC, and AES, LLC. How did you – who's your other partner? Who's Rancho Viejo Solar?

MR. MAYER: Okay. I'll explain that a little bit. So renewable energy projects have reached a degree of maturity and predictability that we are able to raise a lot of debt on the project. So instead of AES having to – well, we do front the cost during construction, but we do not need to pay the whole $200 million ourselves up front. Our cost of capital is often much higher than utilizing a bank that's willing to lend on the project. And so the reliability and the predictability of what the output of the facility will be and what the revenue will be over a two-decade period means that you can raise a significant amount of financing from banks and/or also tax equity investors.

And so this is what you call project finance in which you set up project companies who wholly own the project and you can just finance the project based on the merits of the power contract it has in place and the other agreements that that project has signed, and that is what Rancho Viejo Solar, LLC is. So it's owned by AES but is a project company so that the financing can be raised specifically on it on the merits of the project. AES Clean Energy and AES Clean Energy Development is otherwise kind of like a holding – a general development or holding company above that one. So there's kind of a chain or ownership. But the advantage or creating these project companies is again to facilitate financing.

COMMISSIONER GONZALES: The other question I had is who is the owner of this project? AES, LLC, or AES, the corporation?

MR. MAYER: So the direct owner would be the Rancho Viejo Solar, LLC, which is wholly owned by AES. So that again is a very distinguishing factor about AES Clean Energy is that we are not just developers. There's nothing wrong with developers but if there's often a business case of folks that specialize in that. The develop the project. They get the permits, they bid on them, they get a contract, and then they sell that project asset. The project company, to a company like AES who's going to own and operate it for the lifetime. But we do all the above.

So when we develop these projects, when we pick our designs, we are thinking two, three, four decades down the road, because we would be the long-term owner and operator. So I think that's also a positive attribute when seeking permission from bodies like yourselves is AES will continue to be the face of the project throughout its operational lifetime.

COMMISSIONER GONZALES: The other question I had is if something catastrophic happens in that area, which a lot of residents are concerned, who is going to be liable for any damages?

MR. MAYER: I wouldn't like to speak on conjecture, speculation, without like a specific instance, but AES is ultimately the owner, the operator and the responsible

party for this project.

COMMISSIONER GONZALES: Thank you.

CHAIR AABOE: Jeremy.

COMMISSIONER MIER: Yes. Earlier you mentioned that there's going to be four staff members on the grounds.

MR. MAYER: Correct.

COMMISSIONER MIER: Can you explain what they're going to be doing?

MR. MAYER: Yes. So as you can imagine this is a large facility and so there's a whole host of general day to day. So you have just the overall maintenance of all the solar panels, the servicing of the inverters, which again, there's 25 central inverters, serving he solar, and then I believe there's about 19 for the BESS containers. So all this equipment has annual maintenance requirements and inspections that needs to be done. They would also handle any vegetation management, so if there is substantial vegetative growth on the site they are mowing the lawn, so to say, making sure that defensible space is maintained and from a monsoonal rain, any part of the graveled road is kind of washed out they're repairing that and generally servicing the batteries and all the equipment. So there's plenty for them to do.

COMMISSIONER MIER: And then lastly, what about security? Is that mostly remote with cameras or is there going to be a separate security apparatus as far as monitoring the site, day in and day out?

MR. MAYER: Yes. So the site has a full perimeter fence, specified to be eight feet tall. We install security cameras where deemed appropriate and we have the staff onsite as well who will be able to observe the facility and make sure that's secure.

CHAIR AABOE: Thanks very much. Steve, do have any further questions? One more?

COMMISSIONER BRUGGER: I promise. Thank you. This will be a follow-up to that question. So once the design has been approved and constructed, passed muster, once the system is up and running who would be maintaining and then testing the system to make sure that it keeps on operating at the standards that are required? Who would do it and how frequently would that be done.

MR. MAYER: Continuously. So those 24/7 remote operating centers – it's actually really cool because I have some projects that are finishing construction right now and they're going through the commissioning and we see in real time any particular component that's not meeting a performance muster and we investigate that. So we earn revenue based on every kilowatt-hour, megawatt-hour delivered to the grid, so we notice at the inverter level, and at the battery cell level how this project is operating and if anything is not achieving its kind of maximum expected performance, we're going to actively investigate it because we want to ensure that we are producing the most energy possible.

So largely that role and responsibility is going to rest with AES. Where there's any further investigation required we may contract a third party that's specialized in that. But when we actually commission the facility and turn it online there's a lot of coordination with PNM to make sure that the system is safe and ready to integrate into their system.

COMMISSIONER BRUGGER: Thank you.

COMMISSIONER TRUJILLO: Mr. Chair.

CHAIR AABOE: Yes, Carl.

COMMISSIONER TRUJILLO: One quick question. Do these utility-scale solar arrays, do they qualify for tax, federal tax incentives or rebates or New Mexico state tax rebates?

MR. MAYER: So through the industrial revenue bond process we are able to leverage a New Mexico state statute for exemption of renewable energy components for the gross receipts tax, so in addition to just securing the predictability of the property tax schedule with the County and other collecting agencies, the other primary benefit of that structure is to be able to incorporate the benefits of the renewable energy component gross receipts tax deduction. All of these benefits transfer to a lower cost of power that we bid to PNM. And so it ultimately leads to lower prices for consumers.

At the project finance level these projects do qualify for the federal investment tax credit. That is a very central role to clean energy financing. Depending on if you're an energy community, if you're employing a substantial amount of domestic content components, that credit amount can go from 30 percent of the capital cost to 40 percent, or if you're also located in what's called an energy community, maybe a place that had substantial amount of coal generation before or other oil and gas activity, you may see that increase another ten percent, up to 50 percent.

So all of this is not a direct payment to AES. Rather it's a federal incentive for what we call a tax equity investor or other organizations that may have a federal tax liability to instead of having that count towards their tax assessment with IRS they can invest in renewable energy projects to help lower the costs of those projects and offset some of their own tax liability. So it's an indirect financing mechanism that leads to lower power prices for clean energy.

COMMISSIONER TRUJILLO: Thank you.

CHAIR AABOE: Thanks very much. I have a few questions. However, I just want to do a time check. My understanding is that we have to start clearing out of here at 9:30 pm and there are eight parties with standing. And so I just want to let folks know that there's a possibility that we might recess and reconvene tomorrow. But I just want to let people know this is running long and so I just want to let people know that there is a hard stop here at about 9:30. So what we could do is recess wherever we are. If the public hearing is still open then it would allow for that part of the public input that was not concluded tonight. If the public input is closed then we would not have to do that.

But, yes, I just want to give people a heads-up that although it's only 5:45, 9:30 will come pretty soon and so Wendy, you had one more question.'

COMMISSIONER PIERARD: Yes. I just had a quick question on the cooling liquid that you talked about for the batteries. Is that ethylene glycol or something different?

MR. SIMPSON: I'm sorry. You were asking about the liquid cooling?

COMMISSIONER PIERARD: Yes. Is it ethylene glycol or is it something different?

MR. SIMPSON: The system is currently specified as a 50-50 water-ethylene glycol mix.

COMMISSIONER PIERARD: Okay. Thank you.

CHAIR AABOE: Thanks. Any other questions of the applicant? And staff, Roger, I want to be sure, if I have subsequent questions for the applicant I could ask those later after –

ROGER PRUCINO (Asst. County Attorney): That's correct, Mr. Chair. At any point during the proceeding members of the Planning Commission can ask questions of the applicant or of witnesses.

CHAIR AABOE: Great. At this time, understanding the potential time limitations I'd like to go to the parties with standing. We're on the agenda and so do we want to swear them in one by one?

D. 350 Santa Fe, Inc., Party of Standing. Speakers: Robert Cordingley, Lucy Foma, Elise Foma, Don Baker

CHAIR AABOE: So first on the list is 350 Santa Fe. Would you please stand, be sworn and give your name and address, whoever's going to be speaking give your name and addresses to the scribe. Thank you.

[Robert Cordingley, Lucy Foma, Elise Foma and Don Baker were placed under oath.]

ROBERT CORDINGLEY: I am Robert Cordingley, 18 Centaurus Ranch Road, Santa Fe, New Mexico, 87507. I'm going first. Chairman and Commissioners, I very much appreciate the opportunity to present our case and our perspective on why we support this project. I'm a retired chemical engineering fellow following 33 years in the chemical industry. I am now president of 350 Santa Fe, a chapter of the international 350 organization. Our multi-disciplinary team includes citizens who volunteer for the organization and we are charged by 350 to represent all the citizens of Santa Fe County and the City of Santa Fe for 350.

350 of course is our name, refers to the parts per million of carbon dioxide in the atmosphere that was set as a target by NASA scientist James Hansen in 1980, below which we should be fine. Today we are about 420 parts per million.

These are the topics we are going to cover today. I will speak on the criticality of action. Lucy Foma will speak on the County plans and codes, with her daughter Elise speaking from a youth perspective. And Dan Baker will speak on solar and storage. Lastly, I will share some closing remarks.

With the expected dismantling of federal climate protections, we see the locus of climate action to move to the states, counties, and the private sector. We are fortunate with blue New Mexico that there are plenty of opportunities to make a difference, especially as we, along with other mountain states, have some of the best sunshine and wind resources.

It's a challenging road ahead as you can see from our mission statement. It's important. Perhaps it goes without saying that we all live in houses and work in buildings that every day require electricity. It has to come from somewhere. For the past 50 years

it's come from local coal-fired power plants hundreds of miles away. Coal has been one of the largest fossil fuel contributors to climate change. Fortunately, our state and our country have committed to transitioning away from fossil fuels to building solar and wind energy projects.

Our state and our citizens know this because of the passing of the ETA, the 2019 New Mexico Energy Transition Act requires utilities to make the transition from electricity produced from fossil fuels to renewable energy sources, and as we've seen, with a target of 100 percent renewables by 2045.

So we see this project as an opportunity to take a significant step towards these goals. Let us look into more detail as to why it's so important that we all support this project. First, some climate science to refresh our memories. All living things breathe out carbon dioxide. Vegetation stores the carbon from carbon dioxide. Oceans store carbon from the carbon dioxide. Natural wildfires release carbon dioxide and natural decomposition releases carbon dioxide. The carbon cycle has stayed balanced over long periods of time, until industry started burning fuels like coal, oil, and gas products, as we can see from the next slide.

This data from the Scripps Institute of Oceanography shows what's happened since 1960 till now. The vertical scale is parts per million of carbon dioxide. The horizontal scale covers 1960 to date and shows current levels continuing to rise about 2 ppm per year. Now, here, the horizontal scale starts 800,000 years ago when we homo sapiens first showed up and shows current levels now going straight up. A little worrying trend, I think.

For millennial, levels never rose above the 1950s level of 300 ppm, the dashed line. And you can see the top goes to 202 and 2023.

So as a backyard greenhouse traps the sun's energy inside and keeps the plants warm, high levels of carbon dioxide in the atmosphere do the same for the plant, making temperatures rise, because less sunlight energy can escape to space. Carbon dioxide is opaque to infrared, what we sometimes call heat. Global temperatures have marched in step with CO_2 levels, and in 2024 the annual world temperatures exceeded the Paris Climate Accord limit of 1.5 degrees centigrade rise.

Higher global temperatures over the past 110 years or so are out of control and made droughts, wildfires, hurricanes, rains and floods to be more and more devastating. Some of the worst effects of this are lethal heat waves, wild forest fires, mega-storms, coral bleaching events, coastal erosion, ocean warming and acidification, melting permafrost and its natural methane emissions. But it gets worse. Arctic ice is melting and reveals darker waters that don't reflect the warming sun.

Then there's the Atlantic Meridional Overturning Circulation. Or AMOC, which circulates water from north to south and back in a long cycle in the Atlantic Ocean. There's now signs that it could be slowing or declining. Well, what does that have to do with us?

Well, if you like seafood from the Atlantic it's going to get more expensive as the circulation disrupts fisheries and dare I say, the seafood channel, climate refugees around the world will become an even more urgent problem, leading to even more stress upon our societies. And we have now passed a million extinctions of species.

And of course nearer to home, we've seen the devastation from the Calf

Canyon/Hermit's Peak fires and the South Fork and Salt fires near Ruidoso, and perhaps more frightening, the devastating Los Angeles urban fires. Remember those images of street after street in ashes?

In *USA Today*, January 29th, attribution scientists at Imperial College London can now say such fires are 35 percent more likely due to climate warming. So really, what's to be done? Here are some of the biggest opportunities. Of these, renewable energy is relatively low-hanging fruit. Battery storage like lithium-ion used in this project smoothes out the variability of sunshine and winds to meet peak demands during our supper times as we've seen. Lithium-ion batteries represent some of the best safety and price performance going, and Dan will speak more on this later.

Simply put, how does this work? Well, switching to renewables as soon as possible stops burning fossil fuels, stops putting carbon dioxide in the atmosphere, slows and stops temperature rise, lowers risk of wildfires, and lowers risk of a litany of extreme weather events. Given this dire perspective on the climate crisis you can see why local action is urgent and large-scale projects are needed to make a difference and this project should be approved.

Next, we will hear from Lucy Foma on how the project fits into the Sustainable Growth Management Plan and the Sustainable Land Development Code. With some youth perspective from her daughter. This will be followed by Dan Baker on how solar and storage go together, with me returning with some final words.

LUCY FOMA: Hello. Lucy Foma, 714 Rosita Street, Santa Fe, New Mexico. Good afternoon. Thank you for having me. I'm Lucy Foma and I was born and raised in Santa Fe, New Mexico, and I've been a professional land us planner since 2013. I'm here today to talk to you about the County's own policy and regulatory framework which clearly outlines why we should support solar.

More than ten years ago Santa Fe County did an extensive outreach effort to engage as many citizens as possible to understand what is the future that we want in Santa Fe County. This has been codified into the Sustainable Growth Management Plan, which the County adopted to say what are the visions, the goals, the strategies, the actions, that we must take to get to the future that we all want. From that, the County developed the Sustainable Land Development Code which are the regulations for how each piece of property in the county will be developed.

Within the Sustainable Growth Management Plan all of Chapter 7 talks about renewable energy. There are benefits economically, socially, environmentally. It is a thing that we said that we want to do. Within that, Goal 23 itself says support energy efficiency and renewable energy to reduce greenhouse gas emissions. We also have strategies about pursuing regional development of renewable energy with public and private partners, which is what we're seeing today. This is this application.

The Sustainable Growth Management Plan even told us where to put solar. Within Chapter 7 there's this map, Map 7-1 that cites the ideal location for optimal solar development based on multiple criteria, including where existing transmission lines are. Red is optimal location. If you'll notice, the project site lands squarely, right in the middle of where we said as a County we want to see solar development. Again, that's the policy. That's the vision of where we want to go in the future as a County.

The regulations of Santa Fe County in the Sustainable Land Development Code,

Chapter 1, is what we shall do with this code. "Shall" in legal terms is must. It says we must utilize development of solar to maximize economic return and to preserve such resources. This means that the code itself sees solar development as a preservation method because solar is less intensive of a land use than housing. We don't want to see housing filling every single gap of the county. Solar is one way to preserve the resources that we have.

Santa Fe County has one of the most notoriously difficult permitting processes. The code lays this out: What are the criteria they need to comply with – a developer, private entity, what have you – and this is especially onerous for a conditional use permit. AES has provided all and more of the criteria that we've asked for from the code. And staff have recommended it for approval. So this is a huge hurdle that AES has already met that most other developments don't ever meet.

If we look at where this project is sited it looks like a bit open swath of land with communities built around it. There's the Community College District, Arroyo Hondo, Eldorado, San Marcos. These are all residential developments. This leads to the inevitable conclusion that this property will be developed; it's a question of how. The proposed project takes up a small portion of this land. It is privately owned land so they have the right to develop, and a solar project in this square, and this is my finger drawing on a mouse pad. Sorry about the inaccurate depiction but this is not very much of this land taken up by a solar development. And yet with the power generated from this 96 megawatts of solar with up to 40 megawatt-hours of storage could power 40,000 homes in Santa Fe. That's a huge step in what we said we've committed to and what we want.

Alternately, we can look at what the zoning for this property is: Rural Fringe, which actually in the description of Rural Fringe says that renewable resource based activity is an appropriate use. We can see what it would be like as housing instead. This Rural Fringe zoning allows one dwelling unit per 20 acres, which also includes an accessory dwelling and a guesthouse for every one of those 20-acre parcels, and each of those could be built up to a maximum of 36 feet. Mind you, the solar development is up to eight feet.

So again, with my finger I tried to draw, if we divided this land into parcels of 20-acre lots this is what it might look like, with my rough road outline in black. A road circulation pattern. Forgive me, I don't have graphic design skills. But this could be 400 homes and 400 guesthouses on this property. It will be developed; it's a question of how. AES with their tools and proportionality and huge spatial skills were able to do a mock-up of the visual impact of this property. So this is an existing condition from the San Marcos development looking northeast into what looks like open space, and this is what it would look like with the solar in the distance.

Again, I don't have the same skill set but I used an AI image generated to try and mock up what it would look like if there were 400 houses in this space instead and I input the same image, so hopefully this is some kind of idea of if it were all housing behind you this is what it would look like.

So this is a story of choices, and pardon the formatting on this it got messed up with the inputting for the County. This is a story of choices. We're deciding today and possibly tomorrow night, what to do with this land in the future. Are we going to develop this with low-density sprawl and fill this in with houses, one dwelling unit, one accessory

dwelling unit every 20 acres? Or are we going to use this land as a solar development and the owner of the property has said that they would preserve all development rights after that. There would be no development through the transfer of development rights, so that it would not be built around it. That is what transfer of development rights is, it's to sever, cut off development rights around it

This is a story of water. If this were 400 houses and 400 accessory dwelling units that could be more than 58 million gallons of water every year for residences throughout this area. Or, if we built this solar project it could be up to 48 million to build the project, and then just 30,000 gallons of water onsite.

And most importantly in my mind, this is a story about being responsible citizens for ourselves and our future. Are we going to continue down the path of relying on coal and other fossil-based fuels for the energy that we power our homes that we currently live in? Which is going to lead us to a hotter and drier future in Santa Fe? Or are we going to do our best to take action now, build the solar that we said we were going to build and try to keep our winters, our snowpack, what makes this place habitable?

For me it's a story of my choice. My choice is my family. I have my children, my nieces and nephews who are all here in Santa Fe, and I hope that they have a habitable future in Santa Fe, or at least the choice to stay here. So I urge to think also, Commissioners, please think about the children who are not in this room. You're making a choice for the future, for the people who are ten years old, 12 years old, five years old, who are going to have 30, 40 years here in the future. They're going to ask you what did you do? Please think about that. And now, my daughter.

ELISE FOMA: Elise Foma, 714 Rosita Street. Hello. My name is Elise. I'm ten years old and I'm a fifth grader in Santa Fe. I'm here to talk about why we need clean solar energy. We need solar energy because the climate is being affected by carbon dioxide. The carbon dioxide is coming from all kinds of things. For example, power plants and cars. The extra carbon dioxide is getting trapped in the atmosphere and heating the earth. This is a problem because first of all, all the animals like polar bears, insects and many creatures might become extinct because of the drastic temperatures and rain changes, and the climate is changing.

For example, the big snow we had in November and then the warmth of December. There will be more swings in the weather and seasons because of climate change. Because of these changes the plants and animals will not be prepared for the different weather conditions. In Santa Fe our water comes from snow and if we don't have snow we will not have water. We should support solar because we can keep making solar power every day without harming the environment. I am ten years old. I want my future to be filled with plants and animals and to have a safe environment for me and my family and that won't be possible without making some changes to how we make our energy.

Please support this solar project so that me and many other young people can have choices in the future. Thank you.

DAN BAKER: Dan Baker, 32 Camino Mariquita, Santa Fe. I'm here today at the request of 350.org to present some of the technical aspects having to do with solar and batteries, how they go together, and support their general mission in CO_2 reduction. So I've been working with solar, batteries, and electric cars since 2007 as an

advocate and salesperson, designer, engineer, and installer. And I have several hundred clients in Eldorado, San Marcos, Rancho Viejo itself and the surrounding area.

To date, most of the residential and small commercial installs do not include batteries because it was not financially advisable because of the way PNM's rate structures are. In the very near future we are going to be entering a state where our energy is sold to us on a time of us basis, acknowledging the difference in cost between daytime and nighttime and things are actually going to flip completely around because our daytime energy is going to be cheap because the sun's out, and our nighttime energy is going to be more expensive because, guess what, we have to buy batteries.

So if we have intermittent energy production it makes sense; we need batteries. This goes to some of the questions we hear about four-hour batteries and why we need that. Well, the simple answer is we have three to six hours to produce 24 hours of energy. And we can't send it far away and ask for it to come back. We have to store it locally and meter it out over the 24 hours

There's been many drawings of grids and micro-grids. They're all basically the same and what it points to is the closer in proximity you can have your generation, your storage, and your distribution system, the more efficient it is, the lower cost it is to consumers. And you have also reliability issues. So the closer you can have your generation and production we can create a micro-grid. If there's a problem further away with generation, we're somewhat isolated from that and we might have power in, let's say Albuquerque is having a brownout. This is the typical pattern which we all know. The sun comes up and goes down and peak usage are basically breakfast time and then nighttime after we get home, and increasingly when do we charge our cars? We all are going to have electric cars probably. We charge them at night.

Sun's not out. We need some big batteries. So I got involved in the whole solar world in 2007 as an early adopter of solar. I was lucky enough to be able to solar on my house. Didn't have to worry about batteries then but I did put solar on and as a matter of fact the 2007 Solar Rights Act was what enabled the beginning of residential solar in the state. Basically state laws made it so that utilities had to accept co-generated power from our rooftops and parking lots and solar farms and add it to the grid. But it got a very slow start. It was kind of expensive, and over time we developed economy of scale, which is where we're at now with large installations.

But the 2007 Solar Rights Act has some very important things in it which hold true today, and that is in line with our overall goals attaining 100 percent renewable energy some day, this law, the Solar Rights Act went on the books to encourage us to put on solar and also clarified that it could not be prohibited as long as you went by the rules. And that includes the rules like, oh, you have to get a conditional use permit and then you do your design and then you negotiate your contract and then, guess what, you get a permit and they inspect it. All these rules.

So the basic state law is as long as you go by the rules it cannot be prohibited. And so then the question becomes is there anything new or significantly adverse from solar and batteries because that's the system? We need solar and batteries as a renewable energy system. Is there any evidence that this is a high risk or a low risk or any risk at all to citizens' health or welfare?

So I live here. I work here. I'm online all the time. I've seen a lot of concerns

from a lot of people and unfortunately there's been some misleading concerns online. One thing I want to start with because it really is the most important thing is a high risk of fire. People talk about it. That's like the most important thing. I'm afraid of fire. If you go look at publicly available data there's this amazingly good database of energy storage fires worldwide. And then if you do a little bit of research and you pare it down to well, let's just worry about the US because our laws here are better than a lot of places. Let's pare that down. How many incidents have there actually been of fires occurring in the US? And anywhere similar to the modern containerized systems, which as we saw is basically a hardened steel container.

So it turns out, if you go through this database. It's very small print; I'm not sure everyone can see it, but there's an EPRI database and if you sort through that you will find there's been seven incidents of fires that occurred in the last five years throughout the entire country. So just the incidence of fire is amazingly low when you consider the number of – what was it 40 gigawatts of battery storage out there and they've had seven fires in all.

The next biggest question or comment that I've seen online is what about this toxic gas? These plumes of smoke and the pictures we see online with flames and smoke and everything. Well, there was a really good report put out by EPA on the 20th of January and you read your way through it and the EPA says we didn't detect any hazardous levels of any toxic chemicals. So that's it.

And then the other thing in support of the new containerized designs is that some of the older designs were basically a gigantic building. Bigger than this room, full of batteries. And when they had a problem it was a big problem. The containerized system, you'd have one container full of batteries, and actually there's a firewall in between, there's a half a container that could possibly be involved at any one time Worst case.

And the recent fire that is in a lot of the pictures circulating all around that we've all seen, was a fire in Escondido last year and it's important to note that they had 24 containers onsite instead of 38 and 24. They did have a problem in one container. The fire did not spread offsite. It didn't even spread to any of the other containers. So one container out of 24 was involved. Fire was out within 48 hours, and the facility was back in operation.

The PFAS contamination. That was circulating in the paper. I read the paper. I'm sure you all do. A lot of concerns about groundwater contamination and all this sort of thing. We heard some excellent information from AES. I hope everyone is clear on the difference between the old, bad firefighting foam, and the modern EPA approved clean agents like Novec 1230, although I guess the one that's used by AES in this project is not Novec 1230 but it's an EPA approved clean agent.

The other thing that's really important which probably some people picked out of the excellent presentation, particularly by the fire people, is that the combination of an EPA approved agent with a change in the way we respond to a fire means that there's no way that any chemicals from the container can even get to the ground. So the NFPA 855 basically says we don't open containers anymore. We don't flood them with water anymore. We just cool down the area and it will all be over soon. No spread offsite.

Sound pollution was something that came up in the paper. We talked about that; it's unlikely. Light pollution, it's all Night Sky Ordinance. Not worried about that. Staff's

not worried about that. So I just wanted to give my local view on some of the technical concerns of the reasons that the concerns that have been mentioned are – don't present a hazard to health or welfare for the citizens and I'll step up and give the Commissioners the benefit of my 15 years experience with the material. Thank you.

MR. CORDINGLEY: Thank you, Dan. So I wanted to share a few words on the broader implications we see for New Mexico and the southwest. There's the number of renewable energy projects grows we're aware of a Columbia Law School report on the efforts to attempt to slow or to prevent renewables as a solution. This is part of a long-term strategy going back to the 1970s to deny climate science and to delay action in claiming solutions that don't work.

This isn't a secret but it's definitely not in the interest of member of the public. With this project we can set an example showing we can't be bowed by those false sentiments.

So in closing remarks, in summary, we see that because of the scale of the climate problem we all need to pursue any progress we can to mitigate the worst effects of global warming. It's becoming a moral imperative to do so. Our own experience in New Mexico with drought, wild forest fires, burn scars, mudslides and continuing urban fires in California, really bring that home.

Locally too, we've seen that this project is consistent with the County's established plans and codes. Projects do better when located near to consumers to reduce transmission line costs and losses and allow us all to benefit from the cost savings. Obviously, we're all scared of fire, but there's no need to panic over this project. We and others have shown the BESS fire risks have fallen dramatically in recent years. The tech has vastly improved and in our assessment comparable or less than the many acceptable daily risks we experience, like driving a car.

We've seen how this project will contribute to the local Santa Fe economy with jobs and tax incomes and less expensive energy. And then I think it's worth repeating, we can no longer expect federal help to fight the climate crisis for the next four years. We can set an example for the states, counties, many other projects t hat we're going to need to meet the state's renewable energy goals.

A warming climate affects everyone. It has no boundaries. It spares no communities. We all need this project to be approved. Reports of scaremongers around the country show they should be sent packing. There's no time to lose. Temperatures continue to rise, and at least for our youth and generations to come, let's get this done. Thank you for your time and consideration.

CHAIR AABOE: Thank you very much, Robert, Lucy, Elise and Dan. Thank you. Do any of the Commissioners have questions of this group? Dan.

COMMISSIONER PAVA: Thank you, Mr. Chair. This is a point of information that goes to some of the discussion about risk that was presented in the previous slides. This maybe for somebody on staff; it may be Fire. It may be somebody more familiar with utilities. I'm familiar that there is a high pressure gas line that runs from Bernalillo, all along I-25 into Santa Fe. And I think in some of the hundreds of pages of documentation that I've reviewed preparing for this I was that there's a high pressure gas line somewhere in the vicinity of Eldorado, not on this project but nearby. Can anybody elaborate or anybody know about that?

CHAIR AABOE: I think – let's hold off. Let's hold that question if we could and maybe we can ask staff for that information.

E. The Clean Energy Coalition for Santa Fe County, Party of Standing. Speakers Kaye Cooper-Mead, Randy Coleman, Catherine Babbitt

CHAIR AABOE: The next group to present is Clean Energy Coalition for Santa Fe County. Thank you all very much, 350.

[Kaye Cooper-Mead, Randy Coleman, and Catherine Babbitt were placed under oath.]

KAYE COOPER-MEAD: Kaye Cooper-Meade, 2 Mariposa Road, Santa Fe, New Mexico, 87508. Honorable Chair and Planning Commission. Hello. My name is Kaye Cooper-Mead and I speak today on behalf of the Clean Energy Coalition for Santa Fe County. We want to discuss the Rancho Viejo solar project in accordance with the Sustainable Growth Management Plan, which reflects the spirit and will of the people, as community members participate for more than a year in the plan's update. The SGMP is described as the policy framework, while the SLDC, the Sustainable Land Development Code, is a tool to implement the SGMP. The SLDC requires that it be consistent with the SGMP.

New Mexico law requires the County to have a comprehensive plan and requires the County zoning to be in accordance with its comprehensive plan. The plan focuses on creating sustainable communities. In Chapter 1 it states, as our communities continue to change and grow, community planning plays an important role in ensuring that future growth is in harmony with the existing setting. So what is the existing setting? Sited 550 feet to 4,000 feet from the project, as stated by the County in today's memorandum are more than 10,000 homes and 25,000 to 30,000 people and the Turquoise Trail Charter School. The setting is a drought-prone area with ever increasing high winds that predominantly blow west to east towards Eldorado with highly flammable tall grasses and piñon-juniper vegetation. It is extremely quiet with natural sounds such as birds and winds dominating and it's vital to note that many homes rely solely on well water from a shallow aquifer.

Let's think about this setting in terms of the Rancho Viejo solar project. Is this utility-scale facility with the risks of fire from the battery energy storage system, of which AES has had three fires in the last five years, the latest just five months ago, in harmony with the existing setting? Is the utility-scale facility with the potential for groundwater contamination from toxic fire water runoff, in harmony with the existing setting? Is this utility-scale facility with the destruction of wildlife habitats, over 828 acres, in harmony with the existing setting?

In Chapter 1 of the plan it states, community planning must carefully balance the needs and desires of residents against the challenges presented by growth and change, not just in the physical realm but also economically and socially. Are these wildfires risks in an extremely windy, bone-dry environment much more than just a challenge presented by growth? Is the irreversible damage to our wells by toxic contaminants that will end up in the groundwater during the firefighting process much more than just a challenge

presented by growth? Is the release of toxic smoke filled with heavy metals during a thermal runaway now left to burn itself out for hours or days much more than just a challenge presented by growth? As the plan requires, is the County carefully balancing our need and desire for safety, security and quality of life with AES's economic need and desire to site this facility in this exact location?

These two needs and desires are obviously very different, polar opposites in fact, and we don't think they can be balanced at all. I think for most of us it is hard to comprehend how big 828 acres is. Well, it is the equivalent of 627 football fields.

Chapter 2 of the plan covers land use element, what the County is to decide on. It states, the land use element provides direction for future growth and sustainable development to include protection of groundwater resources, reduction of land consumption while maintaining quality of life, economic opportunities, and environmental protection.

How is the facility protecting Santa Fe's water resources when AES estimates it will consume 32 to 49 million gallons of water during the construction? And up to one million gallons each year after? How is the facility reducing land consumption while covering 828 acres just three miles from Santa Fe? How is the facility maintaining our quality of life while emitting noise from its equipment 24/7? How is the facility impacting our quality of life if there is a fire in the facility? Will it make our homeowners insurance more expensive, or will we be unable to obtain insurance? How is the facility providing economic opportunities for us when the only jobs created are during the year of construction and only four 9 to 5 jobs for the remainder of the facility's life of 35 years? Or is the facility only providing economic opportunities for AES, an out of state company with $45 billion in assets who confirm they will ask the County for an industrial revenue bond to use our tax dollars to help finance a project, a large segment of this community clearly recognize as a very serious danger?

Chapter 2 of the plan states one of the main challenges of zoning is ensuring the potential land use compatibility and environmental conflicts are taken into consideration in the location of utility uses, such as solar or wind-powered generation. The plan's Chapter 7 stresses the need for renewable energy. Ten years ago the updaters had the forethought to define utility-scale solar as greater than 300 kilowatts, or a third of a mega-watt. The Department of Energy defines utility scale as ranging from five to 100 megawatts feeding generated electricity into the grid, the defining feature of utility-scale solar, just as this facility will do at 96 megawatts. And the DOE defines commercial solar in the range of just 100 kilowatts to two megawatts.

AES confirmed this facility is a utility-scale solar project in an email to the County and in a district court hearing. The SLDC has no mention whatsoever of utility-scale solar. It defines a commercial solar energy production facility simply as renewable energy production facility that uses sunlight to generate and may store energy for sale or profit. This facility at 96 megawatts places it clearly by the plan and the current industry standards in the utility-scale category, a definition which conflicts with the County's commercial solar definition.

Remember, the plan and the SLDC are to be consistent. Under Chapter 7 the plan states, establish wind and solar energy standards to encourage renewable energy production, compatible with greater ecological and environmental issues such as

prevention of nuisance from noise and vibration, hazards to air navigation, birds and other wildlife, degradation to scenic viewsheds, and other potential nuisances and hazards.

Another inconsistency between the SLDC and the plan is in the zoning categories. Per the plan's detailed zoning definitions, it is clear that a utility-scale facility or a commercial facility does not qualify for inclusion in the Rural Fringe zone. The project's location is classified as Rural Fringe defined as including residential development at low intensities while protecting agricultural and environmental areas that are inappropriate for more intense development due to their sensitivity. Review factors are to be based on balance between conservation, environmental protection and reasonable opportunity for development. Commercial does not exist in the Rural Fringe zone but appears in the Mixed Use zone defined as a combination of residential and commercial areas and higher density development. And in a non-residential zone, defined as primarily commercial, public, institutional and industrial areas.

Even the Industrial Light zone under this non-residential category only allows uses for non-hazardous materials. We know AES will use 38 40-foot containers filled with 570,000 lithium-ion battery cells. And we know the US Department of Transportation and the EPA classify lithium-ion batteries as hazardous materials. So the facility wouldn't even qualify for the plan's Industrial Light zone. The plan includes a note of special thanks and appreciation to all the community members who participated in its development. The SGMP would not be possible without the community perspective, wisdom, expertise, dedication and support.

We now ask the County to listen to that very same community perspective in making this very serious land use decision, a decision that will last at least 35 years and will impact us for generations. Per criterion 7 of the Sustainable Land Development Code, the conditional use permit application may only be approved if it is determined that the uses for which the permit is requested will not be inconsistent of the purposes of the property's zoning classification or in any other way inconsistent with the spirit and intent of the SLDC or the SGMP.

On behalf of the Clean Energy Coalition for Santa Fe County and our more than 1,300 members of this community, we respectfully submit that the Rancho Viejo solar facility is clearly inconsistent with both the property's zoning as Rural Fringe, as well as inconsistent with the spirit and intent of the County's own Sustainable Growth Management Plan, that the County is legally bound to follow. Thank you.

RANDY COLEMAN: Good evening, Planning Commission Chair and Commissioners. My name is Randy Coleman and I live in Eldorado. I'm vice president of Clean Energy Coalition and I'm an electrical engineer. We get the answers to the questions we ask. The claims that technology has evolved such that the possibilities of lithium-ion battery fires are negligible are just not credible. AES has selected the most dangerous lithium-ion type NCA battery, the least safe, most likely to result in thermal runaway and burn the hottest and fastest.

In the case of NCA type lithium-ion batteries the danger in the cell gases is their flammability. High levels of hydrogen can mix with the air in a closed environment, a heat source can ignite the mixture and the flame will move through the closed atmosphere very fast. The hazards of these batteries which AES tried to keep from you and us, calling

them trade secrets, are demonstrated in the EIR Appendix F of the UL 9540-A fire test of the AES, or I should say the Samsung design to find where is the protection boundaries. The cell level tests failed. The module level tests failed. And the unit level tests failed. And it wasn't until the installation level that the design passed.

These testing results show that it is only the container and the single-use thermal runaway suppression system that protects the exterior environment from a thermal runaway event that statistically will occur even many times. The UL 9540-A installation level test was performed and presented with a bias towards passing. The test was a two-dimensional array of cells and thermal runaway induced in a single cell. The results of the test lacked analysis of the results into a final installation three-dimensional configuration. Even the Atar Fire independent review questioned whether the testing was of a fire suppression system or a thermal runaway suppression system.

The testing requirements for a fire suppression system would have been different. What you can see in the installation test but you were not told about is that there have been failures of the sensors and suppression control systems and other control systems across the industry, and that when they fail, the result, in spite of the appearance of redundancy is that you have an inability to inject the FK 5-1-12 into the cell to prevent propagation of a thermal runaway event or over-pressurization of the container, resulting in the release of burning particulate matter and toxic gases.

The direct injection system is a single point of failure. We have to ask better questions. When the single thermal runaway suppression system is activated it injects all of the FK 5-1-12 clean agent into the cell in one shot. The term "clean agent" can be confusing. It leads you to believe that it means it's safe under any conditions, when all it means is that it does not impact the ozone layer and that it doesn't leave any residue on sensitive equipment.

While the clean agent isn't flammable it does decompose into halogen acids, the most prevalent being hydrofluoric acid or HF. This means that the systems in the container do contain PFAS, and while AES says that the PFAS evaporates rapidly, when they are mixed with the flammable gases and are heated, they do release forever PFAS.

Samsung modified the installation test clause 10.3.13 that requires that gases be measured in the installation test. Samsung's justification was that the gases were measured during the cell level testing. This means that the contribution from the burning agent was never measured.

AES is proposing to place 38 40-foot battery enclosures in pairs with 3 ½ feet between them. This arrangement can prevent access around a burning enclosure by emergency responders. I took the NFPA 855 training course from Mr. Bartlett of Atar Fire. Mr. Bartlett identified that the industry is moving towards 20-foot battery containers for logistical reasons and to reduce the number of batteries exposed to any one single fire event. The AES design of 40-foot containers is twice that of that industry safety consideration. Pairing the containers means that each pair in proximity with each other represents an exposure of 80 feet of batteries or four times the industry safety consideration.

The AES Hazard Mitigation Analysis, Section 3291 states, if a fire evolves to the point it spreads beyond an enclosure it's highly likely the pair will become involved. CEC has established numerous consequences that can occur because of the fire within or

having escaped the container. A 20- to 30-foot perimeter around the BESS does not exclude the risk that neglected dry grass could start a fire in as few as five to eight minutes due to a radiant heat of a container fire.

Utilizing the National Wildfire Coordinating Group methodology, a wildfire can be expected to cover one mile in 13 minutes. Spotting is where burning material carried by the smoke and winds lands on dry material and starts spot fires. At time of the year dry tumbleweed travel over large distances by wind carrying fire or adding fuel to fires. According to Wildfirerisk.org, Eldorado in Santa Fe, New Mexico has a high risk of wildfire, currently higher than 80 percent of communities in the US. The New Mexico Forestry Division 2023 communities at risk assessment plan lists Eldorado, San Marcos, and the Turquoise Trail as high risk communities.

Trends of rising temperatures make the likelihood of wildfire only increase with each passing year. Attending firefighters will be using water to cool the surrounding containers to prevent fire spread and to knock down toxic fumes and smoke, in spite of the claims by AES, that contaminated water will then puddle and seep into the surrounding ground, placing permanent PFAS forever toxins into the environment. PFAS contamination in our well water is already a persistent tragedy in the Santa Fe region.

Facilities like these are not built without the approvals of local municipal officials and surrounding fire and emergency services. During the approval stages of the three previous AES sites that had fires between 2019 and 2024, AES would have made assurances of manufacturing and design safety, and the installations would have been built in accordance with national and local fire and building codes. You heard AES make a promise that they have essentially eliminate the risk of fire. Nobody can make that promise.

The fire on January 16th at Moss Landing, California got national attention because of its size and ferocity. The evacuation area extended as far as eight miles with shelter in place orders beyond that. Concern over the toxicity of the smoke plume were confused and often misleading. The fire burned itself out and continued to smolder for a week or more. It took an independent assessment of the ground surrounding the fire to establish that sufficient contamination in the form of toxic heavy metals had accumulated to levels requiring cleanup.

Monterey County Supervisor Glenn Church said, “We’ve been given guarantees from companies that these BESS are safe and that they would be able to have things under control. We have to go back to the drawing board on what we are doing with this.”

The due diligence on the part of AES to design and build and test in the hope for a safe BESS is absolutely required, and the efforts of the County staff and the County fire and emergency personnel to assess that design may be commendable. However, lithium-ion battery technology is unpredictable. The analyses are not comprehensive enough, and all the consequences are not realistically considered. As the country has experienced, the statements by AES that the adjacent communities and the larger Santa Fe should trust them don’t protect public health and safety.

The consequences of a utility-scale solar and battery facility will always be threats of wildfire and toxicity. Allowing these threats within Rural Fringe location clearly violates the spirit and intent of the SGMP and SLDC in a Rural Fringe zoning, particularly when at least two even larger and potentially at more acceptable location

applications are scheduled to enter the application process as soon as April.

The SGMP and SLDC intend that large-scale utility-scale battery facilities belong in locations where threats of wildfire and toxicity don't intersect with the livelihood, families, homes and communities. Thank you.

CATHERINE BABBITT: Honorable Chair and Planning Commission members, my name is Catherine Babbitt. I'm on the executive steering committee for CEC. At the December hearing I was able to ask questions of the County and of AES, and I would like to present some of that evidence and some of that sworn testimony for your consideration. Everyone in this room supports solar and supports energy storage. The objection is to the proposed location, and not because, as some would say, that we're NIMBYs, or because it is in our backyard, but because 570,000 lithium-ion batteries do not belong in anyone's backyard.

In 2021 AES and the County were in discussions about this particular project. The County was aware that this project included BESS. However, at that time, the SLDC prohibited commercial solar facilities with BESS in the Rural Fringe zone. They were not allowed. The intent of the SLDC was crystal clear: no BESS in Rural Fringe.

In July of 2022 the County in a resolution changed the definition of commercial solar energy production facility and they added the language "and may store" which effectively made the AES project eligible. By July of 2022 AES has had two BESS fires at their facilities in Arizona. There were not any regulations or siting preferences that accompanied this change in definition, and the County has siting standards for much smaller community solar facilities, those that are five megawatts or less. What we don't understand is why there aren't any for the large utility-scale facilities.

When the County letters of support to the PRC for projects that are small, five megawatts or less, they prefer projects be sited on brownfields, built environments, degraded lands and that are not located on land with healthy, intact ecosystems. This 96-megawatt facility conflicts with all of those land preferences and is inconsistent with the spirit and the intent of the SLDC. AES has paid over $40 million in fines for environmental violations, safety violations and employee violations.

At the last hearing we asked AES how they make the decision to either fix a problem or to just pay a fine. They didn't really answer the question, so we asked it again, and we had to ask it a third time. I asked, and I'm quoting – I don't know if you have the transcript in front of you but if you do I'm on page 17. I asked, not to belabor the point, but clearly there have been violations that AES decided to remedy with money. And I'm trying to figure out what those are or why you would do that rather than remedy the problem. Can you speak to that or is that a question for someone else.

Mr. Mayer: I don't believe that is pertinent to the operation of the facility that we are proposing here today. Well, we believe that the company's environmental violations and safety violations might indeed be important in your determination of whether this project would be detrimental to the health, safety and general welfare of the area, that it might be relevant to your decision concerning whether or not this project will create a potential hazard for fire, panic, or other danger.

The Hearing Officer asked AES about the Kirkland impact study regarding property values of surrounding properties. And she seemed to suggest that the study didn't really compare apples to apples. Her question, on page 15, was well, in the

analysis more specifically on the sites that had the BESS systems, it listed 14 sites and only three of those were of 100 megawatts or more. Most were in the 11 to 20 megawatt area, and of those three that were comparable in size to this one, one was neighboring and asphalt facility, one was in an industrial area, which left only one in a residential area. The site that AES is proposing here has large residential areas both to the east and to the south. So I don't know if you have anything comparable that you can offer for your property analysis because it doesn't seem that any that were in those studies really meet the mark here. And Mr. Mayer answered in part, we could certainly take another look at them.

Your home is often your largest asset and it is important to know if property values will be impacted, if they are impacted, to what extent, does that affect your insurability of your largest asset? And the AES noise study, in our opinion, also deserves another look as it may indeed exceed the noise limits in the SLDC.

AES did not go to the site and conduct actual sound metering. They used industry estimates instead for daytime and nighttime levels. And the daytime estimate that AES used was not accurate. It was in fact dead wrong. In response to community concerns that AES levels that they were using were wrong, the County went to the location and with some hand-held equipment took two daytime readings. The actual ambient noise levels was 38.4, contrasted with AES's estimate of 48. So it is much, much quieter than what they estimated it was. So since AES's estimated level was way off, we asked the County if they did an actual nighttime reading, and the y said they did not.

The concern is that AES's nighttime estimate is six-tenths of a point from being prohibited by the code sound limits. So I asked, on page 35, did anyone discuss maybe a third-party sound expert that would go out and do an actual 24-hour sound study to reveal actual ambient levels? Was that discussed? Mr. Yutzy: That was not discussed. Me: Nighttime levels of decibels that AES is saying or relying upon is what? Six-tenths of a point from the limit? In other words, if they were seven-tenths of a point higher, it would be prohibited. Is that right? Do I understand that? Mr. Sisneros: We'd have to look into that to verify that, but I believe that is correct.

I guess if you're that close to being completely prohibited by virtual of noise, why wouldn't we want an expert to really delve into this? Mr. Yutzy: That was not a requirement of the SLDC. A CUP process assessment does not require a noise study. That was a request of the County based on the community. But the community was right.

DANIEL FRESQUEZ (Media Specialist): Mr. Chair, that sound signals that we are at the 30-minute mark on this presentation.

MS. BABBTT: My I continue? I only have just a little bit – Thank you very much, honorable Chair. So the community was right. The estimates were wrong, and the County has the authority, we've seen, to hire independent experts in areas they feel necessary and charge the applicant. So it doesn't cost the County a dime. And if this project exceeds the noise limits in the SLDC it is a reason, in and of itself, for denial of this application. So it seems that we should delve into that and make sure that those noise estimates are indeed correct.

We also learned that the battery storage system in this project, the entire integrated system has not been deployed before. Individual components have been used by the system as a whole, they testified, has not been used before.

In the event of a fire we learned that the closest manned station is a seven- to eight-minute drive. I think today they said about 15 minutes. There are only four firefighters at that station. Fire in the previous hearing testified there are a total of nine or ten firefighters in the Highway 14 area, and the County, we learned, does not have a hazmat team, or a hazardous material team.

So rather than locate this in the middle of three residential communities, schools, the New Mexico State Land Office has identified about nine million acres for lease to renewable energy companies. So this proposed location is not the only location that AES can go. And this particular project is not the only solar option for Santa Fe County. This project is enormous, and Santa Fe County does not have any specific standards and regulations in place for these large facilities with battery storage. Over the last two years there have been requests by different organizations to ask the County to place a moratorium so we can allow some time to really study the safety measures, the restrictions, specific regulation for utility scale projects. We asked it to be a development of community-wide impact. All of those requests were denied. Thank you for your indulgence.

CHAIR AABOE: Thank you very much, Kaye, Randy and Catherine.

F. Sierra Club, Rio Grande Chapter, Party of Standing. Speakers: John Buchser, Ken Hughes, Susan Martin, Craig Hammond, Jill Cliburn, Michelle Lute, Chris Calvert, Dan Baker [*Exhibits 1 and 2*]

CHAIR AABOE: The next presenter is the Sierra Club, Rio Grande Chapter.

[John Buchser, Ken Hughes, Susan Martin, Craig Hammond, Jill Cliburn, Michelle Lute, and Chris Calvert were administered the oath.]

JOHN BUCHSER: Hello. My name is John Buchser. I'm chair of the northern group. I live at 606 Alto Street in Santa Fe. The Sierra Club is a California non-profit organization that has existed over a century. The Club's motto is to explore, enjoy, and protect the planet. We are at an energy intersection. Climate change is no longer a theory; it's our reality. With the climate change denier in office in Washington we must pursue solutions at a local level. The technology to solve our energy production problem is now the most cost-effective solution. To me that is wonderful, and I hope you concur.

We are fortunate that all the fire construction codes that apply to battery energy storage systems have been updated and now apply to all new projects. We have a willing landowner who has a sufficiently large property far enough away from homes to provide a large safety margin in the event of a BESS fire. No fires have escaped the transport style containers now required. All systems of this size much include BESS to facilitate management of the electric grid.

We need to take responsibility for powering our future with clean energy. To accomplish this we need to store power during times when the sun does not shine and the wind does not blow. The AES proposal will allow excess power to be stored, whether it be from the many homeowners and businesses who have solar, or when the wind blows

in eastern New Mexico, or from the solar panels that AES will construct. Nuclear power is very expensive, takes a hugely long time to build, and our country has no means to dispose of the radioactive waste, so that's not a good solution. Burning natural gas, as has been pointed out, isn't the solution either. We just further pollute our atmosphere.

I would like to introduce the speakers that will follow. First will be Kent Hughes on climate impacts. Next will be Susan Martin on land use planning. Next is Craig Hammond on battery safety and BESS as required by PNM. Next is Dan Baker on technology fire risk and safety, and last we have City Councilor Chris Calvert. Jill Cliburn is available to answer questions if we have insufficient background. And I have one request of the Chair, which is that the Global Warming Express, one five-minute testify from Magnificent Farrell. He's here from Albuquerque. He's a student and also works full time. We'll keep our time short if you would grant his time at the end of the testimony that would be appreciated.

CHAIR AABOE: Yes. If you can keep within the 30 minutes. Thank you.

KEN HUGHES: Chair Aaboe, Commissioners, I' Ken Hughes, 2300 West Alameda in Santa Fe. Last year the Sierra Club board of directors updated its policy on siting of renewable energy, transmission, storage and related infrastructure, saying that it "recognizes that a transformative expansion of renewable energy is necessary to meet Sierra Club's strategic priorities for climate action and ending our reliance on fossil fuel, including achieving 80 percent carbon pollution reduction by 2030, and net zero economy wide by 2050."

Sierra Club's changing priorities are based on the understanding that the climate, extinction, and equity crises are existential threats to the survival and wellbeing of all life on earth and are deeply interconnected. Furthermore, on the Sierra Club's webpage on renewable energy it quotes, "Building a clean carbon-free electricity grid is the key to decarbonizing the US economy, including transportation, buildings, and industry in time to avert a climate crisis."

We are committed to decarbonizing the grid 80 percent by 2030, five years from now. That includes retiring all coal and fossil fuel power plants and replacing it with 700 gigawatts of new clean energy by 2030. Thank you very much.

SUSAN MARTIN: Good evening. My name is Susan Martin. I'm here as a former member of the Planning Commission, a former planner-director at the New Mexico Environmental Improvement Division, which is the predecessor to the New Mexico Environment Department, and a former chair of the Rio Grande Chapter of the Sierra Club, which includes all of New Mexico and El Paso. John said that I would be covering planning, but Lucy Foma actually covered that very well in terms of the applicability of the Sustainable Land Development Code and its goals for prevention of adverse climate change and promotion of renewable energy.

So I would just like to remind you that our nation and New Mexico are suffering the impacts of an increasingly warmer planet. Human-caused climate change is warming New Mexico faster than any other state in the lower 48. Putting utility-scale renewable projects adjacent to population centers ensures that power is generated where it is needed.

CHAIR AABOE: Ms. Martin, I apologize for the interruption. Could you state your name and address and verify that you have been sworn. Thank you. I apologize.

MS. MARTIN: Susan Martin, 31 Thistle Lane.

Putting these utility renewable projects adjacent to population center ensures that the power is generated where it is needed and avoids using someone else's backyard to keep our lights on. The proposed project is something Santa Fe County residents can be proud of and as has been said before, the proposed area probably will be developed regardless of the County's decision in this case. According to Wildlife Agency the area contains no critical habitat for endangered species and no wildlife corridors. The habitat south of Santa Fe is part of a larger landscape fragmented by miles of development and roads. Using this area ensures that alternative areas in remote, intact critical wildlife habitat are saved from destruction to fuel Santa Fe's energy needs. It's time to build in our own backyard, not someone else's. Thank you.

CRAIG HAMMOND: I'm Craig Hammond. I live at 3 Sabroso Road, Santa Fe, New Mexico, 87508. I thank the committee for the opportunity to speak. As a resident of Eldorado I've become interested in the battery energy safety technology that may be deployed in the nearby Rancho Viejo facility. Battery energy storage safety engineering is a very rapidly evolving area of technology. Today's systems for monitoring batteries, suppressing thermal runaway, and containing batteries are very different than systems deployed even four or five years ago.

Safety standards that regulate these systems have also evolved as we've heard and have undergone major revisions, mostly in 2023. So the impact of these changes is underscored by data from the Electric Power Research Institute that has shown that between 2018 and 2023 there's been a greater than 90 percent decline in battery incidents per cumulative storage capacity deployed. These systems have become much safer as we've seen.

The final commissioning of the Rancho Viejo site is contingent on certification to the highest current safety standards, UL 9540. This standard now has requirements for direct injection, fire suppression systems, such as those that will be used in Rancho Viejo. We've also seen a requirement for testing of these systems to show their effectiveness, as also was stated earlier. So it's worth noting that these safety standards were not in place in older installations that have been involved in some of the recent fires you've seen reported.

It appears that the certification for Rancho Viejo is close but not yet there. Nevertheless, the Santa Fe County Fire Marshal and the two professional engineers that we've heard about from a third party have concluded that enough documentation has been provided to warrant issuing a CUP.

Finally, PNM is not accepting proposals for these types of installation without energy storage. Solar alone is not an option. Battery storage systems are essential to stabilize power grids once they reach a certain level of input from renewable sources and PNM has reached that level.

So battery storage safety and standards have dramatically improved recently Rancho Viejo must meet the newest standards, and solar alone installations are no longer an option. Thank you very much.

MR. BAKER: Mr. Chair, Commissioners, this is Dan Baker again, 32 Camino Mariquita, and I brought show-and-tell just to spice it up a little. In 2007 and 2008 when I started working with lithium batteries we started with just the battery. There

was no management system. There was no fire suppression. There wasn't anything. We just had batteries and I used 38 of these to build an electric car and it actually ran and it did not burn up, despite having almost no protection.

But the reason I wanted to start with that is that this technology, having been around for more than ten years, in the electronic world that is considered a mature technology. You start talking about computers and electronics and things like that that actually manage the battery – we've been working on this since 2007, 2008. So it doesn't matter whether you put a lithium-ion or a lithium-iron-phosphate battery into an enclosure like that small white box over there. That's five kilowatt-hours of battery. But it has a built in battery management system, and it actually has a very small fire suppressant system built into it.

And that's kind of where we're at today. But then a large installation like AES is talking about, so you have this gigantic steel container wrapped around the whole thing with yet another level of certification, standards, code, that we've been working on for 15 years. And so this is by no means a new technology. It's very well understood. We've got EPA approved fire suppressants going on, and in contrast to the previous people that you heard from, this location is about as close to perfect as we can get. It's in the middle of serving the loads around it. It's a large open piece of land with no fuel for a forest fire, and all the escape routes away from the possible source of ignition are clear. There's no blocking evacuation from anywhere.

So I just wanted to close with this location is actually amazingly good and I would urge the Commission to think about that.

CHAIR AABOE: Thank you.

CHRIS CALVERT: My name is Chris Calvert. I live at 230 Cibola Drive, 87501. Good evening, Commission. I was going to say good afternoon, but we're way past that point. So I'm a former City Councilor from Santa Fe and during my two terms I worked extensively on sustainability, especially in regards to energy and water. Come on, Santa Fe, we can do this. We can locally site a solar panel array with a battery energy storage system and keep neighborhoods safe. This does not have to be one or the other. We can do both.

Proponents of this project must take safety seriously and demand the latest and best monitoring and suppression systems for the BESS. Opponents of the project need to focus on the specific technology and project being proposed for Santa Fe. Comparing apples to oranges is not helpful. Comparing this project to old technology and wildly different design configurations is not valid nor useful.

We in Santa Fe like to think of ourselves as progressive. Now is a great time to test that label. We profess that climate change is an existential crisis that requires immediate change to the way we produce energy. We are now presented with an opportunity to take responsibility for our energy demand and lifestyle. We can no long afford the luxury of that responsibility being someone or somewhere else's burden. There will always be something better or a silver bullet right around the corner. We can't wait for that perfect solution that will never come. We have a perfectly good solution right in front of us now and now is when action is needed.

By most accounts we are already falling behind in addressing climate change and energy demand is only increasing at an increasing rate. You see and hear about it every

day with new data centers popping up everywhere, AI's hunger for energy and crypto-mining voracious energy appetite. Some companies are proposing to recommission shuttered nuclear plants and the current administration in DC is talking about going back to coal.

We can't control any of that but we can control what we do here. If we turn down this opportunity to do our part we are basically telling the southeast and northwest portions of our state that we don't care about the environmental and health damage that they have and will continue to endure to provide us with energy. Santa Fe, are we the lead by example model for our state? Or are we the do as we say, not as we do capital of New Mexico? Are we the progressive community that we claim to be, or are we the privileged community that many others think we are?

Come on, Santa Fe, we can do better than this. We can implement this project and we can do it safely with the best technology currently available. And just a P.S., just a quick reminder about the nexus between energy production and water. Energy production from coal, water, oil and gas require vastly more water than solar and wind. Thus, as we transition away from carbon and nuclear energy generation we are also conserving this precious resource that we all depend on for a bright future. The sooner we transition the more water we save. Thank you.

L. The Global Warming Express, Party of Standing. Speaker: Magnificent Farrell

CHAIR AABOE: Please raise your right hand to be sworn in.

[Duly sworn, Magnificent Farrell testified as follows:]

MAGNIFICENT FARRELL: Magnificent Farrell, 1000 Cordova Place, 87505. Good evening. I'm from Santa Fe, New Mexico, where it is currently 60 degrees in February. It's 67 in Albuquerque but it doesn't have to be. You are never too old and you are never too young to make a change. I got my start when I was nine. I was nine years old. A friend of my mom's, she had come to her with a program she had found, a summer camp, educating the youth about the climate crisis and she figured that we – we being me and my siblings – should sign up. But they all had other extracurriculars and jobs at the time, so me being nine years old with nothing to do for almost an entire summer I got signed up.

I'm always going to be amazed at how quickly it all became such a big part of my life and how it became so important, seeing that I've never really taken to anything with such an interest before. But it's incredibly important to educate everybody but especially young people about the climate crisis. It's going to affect us, young people more than it might affect a lot of other people. It could affect my kids more than it affects me and their kids more than it affects them.

But it doesn't have to. What I want to – I really want to get the point across that it is so important to educate and teach and have these discussions and what the Global Warming Express was able to do for me was all of those things and to not evoke fear but a sense of justice and change and hope. It's like being young, being able to grasp on a concept that serious. I was hooked, and how can I not be? That's the only reason I'm standing here right now talking to you all, and I hate public speaking, if that's not

evident. But I felt called to be here.

And so I stuck with it and I ran with it and now I'm in college. I'm in my third year. I'm an environmental science major, because that's what I want my life to be. I want to take my degree and go somewhere into the field of climate research not only to fight the climate crisis on an activist level but on a scientific one as well. It is that important to me and it honestly should be that important to everybody else. And one of the things I stuck with more than anything, because it's all equally important, but more than anything one of the things I think about since I was a kid, even now, one of the things I researched in my own time extensively is renewable energy. It's something about – if you can imagine the concept of so many sources we have at our hands that are almost, if not already infinite and we can use that to create a better and cleaner environment, how can you not be for that? I know I am, especially solar. Especially solar.

And being a young kid who came from a family who always had to rent. We never owned a house, it's easy to grasp the concept that young of solar panels not really being the most successful reality to me. Like you can't just get solar panels when you rent a house, unfortunately. That's not how that works. But a project like this, it's not exactly community solar. What it is is a step in the right direction. It's a step towards getting to community solar, and that's what nine-year-old me needed, to see that solar for renters is absolutely going to be a possibility in the future.

I keep saying nine-year-old me but I'm not trying to relive my old days. It's not just me. You're seeing activists just as young as I was getting their start, and even when I was nine, even when I started, there were always kids younger than me who knew about the very same thing, because it affects all of us and is just as important for all us to be onboard. So it's not just me or you, it's everybody. And it's all about making sure we continue taking those steps and that we don't stop that movement and that we don't stop that spark of spirit and hope.

And I've already decided that if I have to spend the rest of my life fighting for a clean environment so that there is a generation somewhere in the future, I don't care how far, if there is a generation in the future that does not have to worry about that, that's what makes it worth it for me. And that's all.

CHAIR AABOE: Thank you, all, John, Ken, Susan, Craig, Chris, Dan and Magnificent. We're going to take a break right now before we get to our next person with standing.

[The Planning Commission recessed from 7:24 to 7:45.]

CHAIR AABOE: Thank you all. Before our next party of standing makes their presentation, two things. I wanted to note to folks that because of the – the County has to be out of this room, start their breakdown at 9:30. I think I mentioned earlier. We've decided that we want to make sure that public comment is available to folks. However, after the parties of standard have used their allotted 30 minute each we'll kind of be at the close time. So if you are here primarily waiting to be able to make a comment it's likely that we will resume this session for that comment tomorrow at 1:30-ish in the County building at the corner of Palace and Grant, in those chambers. Or you can attend on line. So I just want to let folks know if they are waiting for their chance to speak it

may be not tonight. And so I hope that's helpful to folks.

Before our next party of standing presents there've been some questions that were raised from a few of the other parties with standing. And so I'd like to ask the Commissioners if you have those questions – I've been handed a few to be able to ask. 102 Grant, County Chambers at the corner of Grant and Palace. It's the John Gaw Meem building at that corner. In the chambers. So does anyone have any questions? Steve? Dan? Go ahead, please.

COMMISSIONER BRUGGER: Thank you, Chair. Just had a question and I'd like a response from Atar. If I understood it correctly it was a part of Mr. Coleman's presentation with the Clean Energy Coalition where he raised issues with the fire suppression system and if I remember correctly he made some reference to an Atar report and I don't know if again, the sections correctly but the ones that I have up on my screen are comments, your comments 39 and 40 where you – where Atar had made comments on the fire suppression system. And number 41 where you had comments on the thermal runaway propagation prevention system. Mr. Coleman, hopefully I do you justice by this.

CHAIR AABOE: So Mr. Coleman it's not necessary for you to repeat the question. I believe, Nicholas, if you could respond. Thank you.

MR. BARTLETT: I know exactly what you're talking about. So, yes, thank you for those questions. So there was a number of comments in the review that were similar in nature and they were pertaining to the topic of suppression versus thermal runaway propagation prevention. Those are two similar terms and my comments in the review were generally seeking for primarily editorial clarification to clean up the report to make sure it's clear what the design strategy was, and my understanding is – and it was presented today at length that it's a thermal runaway propagation prevention system. But the HMA, there was some language in there that made it a little bit confusing. And so those comments were to ensure that the final report cleans that language up, makes it exactly clear what the design strategy is because that's what we will be going on to ensure it fully complies with all the codes and standards.

COMMISSIONER BRUGGER: Thank you.

CHAIR AABOE: I've been handed some questions. These are questions to CEC from some of the parties with standing. And the question is what evidence to you have to support claims of high risk if fire resulting in damage to property or health from battery energy storage system facilities. So what evidence do you have to support claims of high risk of fire resulting in damage to property or health from the BESS facilities? Sir.

MR. COLEMAN: We showed the pictures. There's been a history of lithium-ion catching fire. We showed pictures of having them inside these facilities. Some of them were container systems, but you can extend that evidence into bringing down aircraft. You may remember a good number of years ago the lithium-ion battery fire that occurred over the Everglades that literally drove an airplane into the Everglades where they couldn't find the airplane.

There's just – the EPRI database that was presented, the scaling down that they did is they limited in the presentation to those fires that occurred in containers trying to narrow the scope, and yet there's hundreds of battery fires all over.

CHAIR AABOE: Thank you. So just – so have any of these fires resulted in damage to property outside of the facility, or health impacts?

MR. COLEMAN: So right now they're collecting the data on the health impact from the Moss Landing, from the initial findings that "there was no toxicity" but then they found the heavy metals, and now they have a series of the residences that live in the area coming and identifying what their health issues that they have had since that Moss Landing fire. And what's interesting about that fire is you can tell what kind of lithium-ion batteries they had because the heavy metals that they found were nickel, cobalt and manganese, so that directs you to exactly being able to say it was those lithium-ion batteries that produced those products.

CHAIR AABOE: Another question we have is what did EPA air monitoring say about Moss Landing air emission?

MR. COLEMAN: So I can't quote them.

CHAIR AABOE: Verbatim not necessary.

MR. COLEMAN: Kaye can answer that.

MS. COOPER-MEAD: I want to say one thing about the EPA monitoring. It did not begin until 14 hours after the fire began. So you're not going to find hydrogen fluoride 14 hours after the toxic plume came – started out of the facility.

CHAIR AABOE: Thank you very much. Another question that we have is the two projects mentioned, the other large projects mentioned in Santa Fe County, are those two projects proposed to be connected to the Santa Fe grid?

MR. COLEMAN: Yes. So those two projects – I'm really glad you asked that question. That's the Penstemon and the Globe Mallow projects. Those projects are planned for right off of 41 where the 345 kV line that comes from the Lincoln and Torrance counties that carries the wind energy that passes across Santa Fe County, they're going to put – they actually have made arrangements for land where there is no zoning questions about it. And I've been there myself and I've taken pictures of the site. But that 345 kV line runs directly through the properties that they're going to put that facility So they won't even have to run the 2 ½ mile.

CHAIR AABOE: So they'll build a substation and connect to the 345?

MR. COLEMAN: They'll build a substation right there.

CHAIR AABOE: And that's Cline's Corners, and then from Cline's Corners it goes to –

MR. COLEMAN: The BB and BB-2 lines.

CHAIR AABOE: BB line. Do those connect into Santa Fe?

MR. COLEMAN: Those lines run into what they call the power corridor that runs between Santa Fe and Albuquerque, along I-25.

CHAIR AABOE: Okay. Thank you. Another question for CEC. Is property value one of the criteria for approval of a CUP?

MR. COLEMAN: Property value is certainly a consideration for welfare of the citizens, so I would say absolutely.

CHAIR AABOE: Okay. That's the questions I have. Thank you very much. And Selma, if you want to come forward. Appreciate it. Thank you.

G. New Mexico for Responsible Renewable Energy, Party of Standing. Speaker: Selma Eikelenboom-Schieveld

[Duly sworn, Selma Eikelenboom-Schieveld testified as follows:]

SELMA EIKELENBOOM-SCHIEVELD: Selma Schieveld, 227 San Marcos Loop, Santa Fe, 87508. Thank you for giving me the opportunity to speak on behalf of the New Mexicans for Responsible Energy. I'm Selma Eikelenboom-Schieveld. I'm an MD/PhD and I want to go straight to what my biggest concerns are. These are the subjects – I want to talk a bit more about the UL 9540-A testing, what's the significance in this project, other causes of failures, fires and threats. Is thermal runaway a question of old age? Property values and better alternatives.

A lot of – some of the things that I want to talk about have already been mentioned so I'll try to skip through them, but I do want to go a bit further in what happened at the testing that was part of the Hazard Mitigation Analysis that was done objectively by an engineering bureau. Now, AES came up with a nice video film about testing and how great it was, but that was not part of the Hazard Mitigation Analysis; that was part of this CUP procedure, so I want to show you what happened in that testing.

This was the results of the cell testing, and as you can see, the requirements were that thermal runaway cannot be induced and that the cell vent or the gases that come off it do not present a flammable hazard. And both of the requirements were not met and both of them got an F from failure. This is how it looks now. You've seen those pictures. And then if you don't pass the cell test you have to go to the module level. It was also pointed out that if you do meet the requirements for the detaining of the thermal runaway or not getting thermal runaway then you don't have to do the other tests. So because they failed they had to do the module test and don't have more or less the same requirements and again, a single cell infected the majority of the cells and the cell vents found to be flammable.

Now, Nick Bartlett said that from the testing it was clear that it could be that thermal runaway was limited to one cell, well, that's not correct, because here it clearly said this is straight from the Hazard Mitigation Analysis and the testing. It affected the majority of the cells. So that's a failure. And again, the cell vents or the gases were flammable – failure.

And other observations during the module test were flying debris, explosive discharge of gas, sparks and electric arcs. These are things you'd rather not have. Okay, this is how it looks like. You see here one cell starts initiating, then you get a flame, and they show in the film only this nice little flame, but in the testing part of this CUP hearing this is what happened. So that's much larger. And then this one dies out and then the second one – so another cell got infected and then it propagated to another cell, and from there, even after this one died down, another cell was propagated. You can see almost 50 minutes after the second one died out. So these cells have the tendency to keep on going once they've started.

And this was the unit test and you could see that there was flaming outside the BESS and that was not supposed to happen, so that's a failure. The surface temperature was almost 170 degrees Celsius and it should not exceed 97 and the heat flux was way

too high. Other observations during the test: flaming outside of the unit, explosive discharge, and the gas analysis showed hydrocarbons and carbon monoxide. So don't go and tell us that these gases are not toxic because they are.

Then we have post-observation, post-test observations. Thermal runaway behavior during disposal. So even after they tried to get rid of the cells they were still brewing to get ignited again. Now, you can see that because they failed the cell, the module and the unit testing, they were obliged to do an installation testing. But you can also see that here, if you as a company, if you succeed then you don't have to do the installation testing. And AES failed in these tests, and other companies do not fail.

This is how that looks, and you can see that with the unit testing they only had one rack in the container and this is what the container looks like from the outside, what they're planning to build here, and this is what you get for ignition. So that's I think an impressive flaming.

Now, the installation test they did on a facility in Spain, mind you, so not here in the United States, and not on an installation that's going to be set up here; they did it in Spain. I have nothing against Spaniards or Spain but we're here in the United States.

And then in the UL, so the laboratory that does the testing mentioned in the report the container, the setup you just saw, becomes the test room. To understand the hazards associated with container BESS design. And this is important. Without resulting in the testing hazards associated with trying to run a test on the completely populated container BESS, and that's the situation we are in. We have completely populated BESS, not a big container with one rack in it.

If you do the installation indoors, but if you do it outdoors you have to make sure that the wind speeds are less than 12 miles per hour, and you all know that here in the vicinity we have very, very, very – much of the time we have winds that are higher than 12. And they do that because it's dangerous to do testing like that in those circumstances, but those are the circumstances we have these materials in. And it has to be control of vegetation and combustibles in the test areas. That's nice to do it in the test areas, but what about outside the test areas? Here, outside the facility there is vegetation and it is combustible.

Well, the results of the installation test, I want to be honest, is no spreading of thermal runaway, no flaming or flying debris outside the enclosure, but the maximum enclosure wall surface temperature was 670 degrees. And what is that important? Well, there is a requirement in this test that if the unit – in BESS units with combustible material, wall surfaces need to be less than 97 degrees, plus the ambient temperature, say 120 degrees. So they don't want the walls on the outside be higher than 120 degrees.

And that's because you have dangers of inducing the thermal runaway if it gets 100 degrees then these cells get a tendency to start a thermal runaway, and you don't want people outside the container to get burns.

Now what happened? AES said in the report the containers are rated non-combustible, and we heard that before. And the container door material was metal, therefore it's non-combustible. And that means that this requirement is not applicable. But it also says in the requirements: Surface temperatures are not applicable if all assemblies, cables, wiring and other combustible materials are not present. If they are not present the report shall note that the installation shall combustible materials. That was,

however, not mentioned by AES. They didn't say, well, we have no other combustible wiring or whatever in there. And based on this fact that it was 670 degrees it means that this testing is useless because they didn't abide by the requirements. This is a crucial point. If it's 670 – and this was redacted in the report because AES knows that this is a problem.

And they circumvented the non-compliancy by making it non-applicable. But basically they were not clear whether or not they had combustible materials. And according to the rules they had to mention that there were no combustible materials, which they didn't. So that makes me wonder, is there combustible material in there. And if there is, and we have this outside wall temperature, we are at risk.

So that means, because they failed at the cell, the module and the unit level but were succeeded in the installation level and that was because they had this fire suppression and explosion protection, it means that's the only barrier between us and disaster if it goes wrong.

And well, there's a lot of things from the Hazard Mitigation Analysis. I will only mention a few. The fact that the direct injection system – Nick already answered that, but there was error in recording located inside of the container, the hydrogen measurement system malfunctioned. This is important. Testing to determine fire characteristics was done at battery system level rather than on a complete BESS. And UL did not select the samples, and that's important because one of you Commissioners asked, is it going to be the same installation that we have here? No, it's not.

What they do with this testing is they take a lot of the components. The plan to put them together, heat them up and see what happens. That is not the installation we're going to get here. So we totally have to depend, and that's what they say. The test results that's from the report, the test results relate only to the samples tested. So we are in the dark about what's going to happen with the materials they have here, they want to build here.

And these are some remarks from the Atar Fire review, and well, you can read them so I will just skip them because they have been pointed at before. Oh, yes. This is also interesting. Here they still mentioned the Novec 1230 and they now come up with another system. That is not part of the accreditation or the certification. So if they come up with something else they should accredit it according to these norms, to these requirements. We just have to believe that it's better? Well, we don't have the testing for nothing, so please give us a report where that is tested.

This is important – well, the other ones are important as well but you can read them in your own times. They made a remark in the Atar Fire review that there was no clearance, it was not clear how AES could confirm the capabilities they should confirm. AES capabilities for air monitoring during a large-scale incident to inform a need for public protective measures. So they don't even has any measures in place if something goes wrong. That's a remark from Atar in the Hazard Mitigation Analysis.

And despite these results, the installation demonstrated compliance with the standards. So they passed, even though they say there's not a pass. Well, they say it was compliant with the standard and that was because fire, flaming, combustion, flying debris, explosive discharge of gases, sparks and electric arcs will not prevent occupants from evacuating to a safe location. Well, that is very nice for the people on the premises,

but how about us? We are outside the premises and we have to find a safe location if it comes to that?

And then the ventilation system will release explosive gases so that structural and mechanical damage is minimized. And that's – we talked about the ventilation system. They have panels on top of the containers. If gas builds up then the panels open up and the gases with the flames come out. And that's a safety measure. But if there are explosive gases it means there is fire, it means there's embers, and with the wind that we have here, it's a danger to us.

And also, one of the little girls mentioned that we had a lot of snow in November, and the locals probably know that it was quite heavy. In the Hazard Mitigation Analysis there are no measurements for cleaning up the panels if there is snow on them. So if, according to the law of Murphy, anything goes wrong can go wrong, then gases build up inside container, the vents don't open because there is a foot of snow on it, and then the whole container can explode.

Besides the testing, the Hazard Mitigation Analysis mentioned major analysis assumption and limitation. So these are other things that can go wrong. And one of the things is that major BESS failures not yet known by industry may exist. And that's interesting because this is from EPRI. Somebody mentioned that already, the Electric Power Research Institute, and you can see that the majority of BESS failure is unknown cause. They don't know what caused them. And if you don't know what caused them you cannot take measures to anticipate what to do if they are there.

Failures in more than one enclosure are not considered, and we have 38 enclosures here, and they do the testing only in one container. Hazards during construction, shipping and storage area not evaluated. I will skip the figure. And protection systems inside the BESS should be installed per regulatory requirements, and that has not been verified.

Other causes of fires and failures, cell failure method performed on the testing they did by externally heating one cell, but thermal runaway can also occur when there's [inaudible] penetration or overcharge of external short circuits, and those circumstances were not tested, so we don't know how a cell or a system will react to that. There could be problems with the wiring, and there's a whole lot of other issues that can go wrong, but the main message I want to relay to you is that a recent publication from February 2024 says that more than a quarter of energy storage systems have fire detection and suppression effects. And we depend, because they failed on all the other levels, we depend on the fire suppression system. And if a quarter of those systems have failures then I wouldn't be so sure that nothing can go wrong.

Another problem is the hazardous voltage conditions and ground isolation faults. AES has to build a 2.3-mile transmission line. That line in itself is a fire hazard. Here you can see the 20 most destructive California wildfires. The bold ones are caused by electrical or power line causes. And the ninth one, the Eden fire that's just recently after three weeks been controlled is probably also started with sparks from the transmission line.

So batteries are often the victims of BESS failures, but there are many more incidents or causes that can lead to failures. One of the final remarks in the test methods, in the test report by the testing company, the testing lab says as a test method, UL 9540-A

testing does not provide a certificate or possible fail. The best way for manufacturers to share that their energy battery storage system, battery storage, battery projects have been tested for thermal runaway is to list them the UL 9540-A test database, which Nick Bartlett said does not exist. It does exist, and maybe companies put their testing reports in there. AES doesn't want to do that. They withheld all kind of safety reports from the public and the ones they did hand over were heavily redacted and we only got the information after we took them to court. That's how you build trust with the communities.

The McMicken report was made after the big fire in Surprise in an AES facility and one of the statements in there was today's standards are reluctant to prescribe that a battery module shall not cascade from cell to cell. Standards are intentionally technology agnostic and should not impose restrictions on the industry that could increase costs. This means we have the technology to do it safe but we think that's too expensive for us. So you know what? Let's just write these standards that nobody understands and then we can get away with it. We can make it as cheap as possible.

And the issue that the fires that were happening were all in older facilities, well, this is from the EPRI, Electric Power Research Institute database, and you can see most of the fires are within zero to three years. What I did is I looked at the database and I made a table of the fires between 2020 and 2025 for the stationary BESS. Those are the equipments they have here. It ranged from four in 2020, 11, 12, 15, and then 6 in 2024, that's quite good, but we started the year off with a bang in the Moss Landing. But if you look at other lithium-ion storage failure incidents, like during manufacturing, during transport, during – I can't find the word – when you reuse them. You have the old ones and you start the new ones. I'm learning Portuguese so it really messes up with my English, with my Dutch.

Well, you can see that those incidents when from five to seven to five to 15 last year. So the technology is not safe. Do not be misguided by that. If they are new, then it means that we are guinea pigs and if they are old, they're probably more safer than the new things they put up. I also took a look at the location regarding age from the Chandler fire. As you can see, these were all in the United States from the Chandler fire, that was in 2022, so it's remarkable says that we haven't had any fires in the last six years because they had several. But anyway, if you look at them, ten were younger than three years, and five were older than three years. So the older they are, the safer they are.

So the idea that we're going to put up a brand new one and we'll be the guinea pigs to see if that's going to work, but the older ones are actually much safer.

And then another issue that hasn't been touched yet, there are 200,000 solar panels there, and they promised us that they would be taken into account in the fire risk. Nobody mentioned, Atar didn't mention it, but those are a fire danger as well. The cables, the connectors, they can cause fire. Electric sparks can cause fires, and these fires are very difficult to extinguish and spread beyond the area, and as long as the installation is on line they keep on producing electricity, which is very dangerous for the firefighting people. And they can cause pollution.

And this is how – this was a fire in solar panels in California and it destroyed 1200 acres. This is how it looked afterwards. You can imagine that any poisonous metal materials in there, they will leak into the environment and the United States doesn't

centrally check solar panel fires. They only put it in the database under Other, so we have no idea how many of these fires there actually are.

Then, my favorite subject, the property values. The Hearing Officer did a very good job in rebutting that. And AES came up with the Kirkland study and in 2023 Kirkland said that the solar plant is comparable, price-wise with noise, odor and traffic. But he didn't mention that we don't have that. We have very quiet with no smell except the incidental cow, but that's not a problem. We can deal with that. There's no traffic. So you cannot tell me that this is not going to be a problem. And the facilities were all much smaller and they had no BESSes or they had no panels. So the comparison was really not scientific.

This study is much better. It was done by – you have it in your package so you can look it up yourself. The Lawrence Berkeley National Laboratory looked at the residential home prices of 50 percent of all the capacity of large-scale solar that were built in the United States. It is the biggest study so far. Kirkland did not include this study in his study, in his advice. And they concluded that it has an enormous impact and especially in rural and agricultural areas, especially where solar farms are replacing agriculture land uses. And what's funny to remark is the projects also tended to be medium sized, fewer than 35 acres, because they said large solar installations tend not to be built near areas where there are nearby homes to be sold.

So if you don't look for areas where there are large sites with homes then you cannot find them. Then you cannot make a comparison. But they did find some homes and they said that homes within 0.5 miles to two miles, they have a reduction in home sale prices depending on the state that can go up to 5.8 percent.

And then I'm glad it has already been mentioned, this is the competition of AES. It's Linea. It's a company that has no history with fossil fuels. They have found an area in Santa Fe County near Stanley where they're going to build an installation, two installations, three times as large. Their gen-tie line is only 0.1 mile and they don't need to update to connect to the grid, and it's allowed in zoning. Well, AES has to build a 2.3-mile transmission line and they have to upgrade the transmission station. And if you look at zoning, you can see the zoning here where we are is agriculture/ranch, and where they are – so this is the Rural Fringe where we are, they are in the agriculture/ranch. And this means there is only one dwelling per 160 acres, and here there's one dwelling per 20 acres. So you can see this is much far more suited.

Here they don't have to do anything about zoning. Here, they practically have to violate zoning to get it in there.

So I want to point out that AES, they want to be competitive but if they have to pay millions of dollars for the transmission line and for the upgrade of the transmission station, it's very hard to compete with a company that builds three times larger and far less expensive. What I don't understand environmentally that we're here tonight, when Linea had the pre-application neighborhood meeting because they are in the process of getting a CUP permit, and they're also going to join in the PNM request for proposals, they are in a far better position, and environmentalists can rest assured that this facility will be much better in a position to achieve what they want and meet the goals from Santa Fe and New Mexico than this AES project will.

So my conclusions, the promises of safety through testing and standards are

empty. The system components performed badly. The backup systems are not certified. Documentation is incomplete and showed malfunction. Other threats are not addressed, the 200 panels are not considered, and I want to make one remark about that. What I don't understand is Santa Fe County has clear measures, statements about height, but probably not about width. This is 680 acres. If you have to walk around it will take you one hour and 30 minutes. That's how big it's going to be. And you can't tell me that if you come on the 14 from Madrid or from I-25, you will see it as a huge black hole. Gateway to hell is what I call it.

The property values will decline and there is a better alternative. Well, here are some quotes that you can see that in your own package, and I want to end with this cartoon.

CHAIR AABOE: Thank you, Selma. I've got a question or two, Selma. So you indicate that AES must upgrade a transmission station, I think you called it. What are you talking about there?

DR. EIKELENBOOM-SCHIEVELD: Well, what I understood is – well, maybe it's not the right terminology. I'm just a doctor. I could take out your appendix but sometimes the other stuff is so difficult. Well, they have to build the line, but the line, what they mentioned already is already very congested. And to be able to hook into the substation, the substation has to be upgraded.

CHAIR AABOE: I believe it's a 115 kV line. They're basically putting a substation in to connect, but there's no change in voltage or anything like that. They just have to build a substation to connect. The Stanley process, they've got to build a substation to step that voltage up to 345. So I think you're just a little upside down on that one.

DR. EIKELENBOOM-SCHIEVELD: Okay. I apologize.

CHAIR AABOE: Another question is – I've got a question and wonder if it's possible for the folks at AES to talk about the 9540-A information that was brought up by the doctor. I'll say Selma, but I won't say your last name.

DR. EIKELENBOOM-SCHIEVELD: No. Don't even try.

CHAIR AABOE: So AES, I wonder if you would respond to the points the doctor raised Thank you.

MR. SIMPSON: Yes, thank you. So I don't know if I'll catch everything, but I think there's probably a few things to clarify. You did mention that there were failures in the tests, and I think it might be helpful to clarify that there are criteria in the tests that might be designated as pass or fail but a failure of the test itself is not possible. Those tests demonstrate that the system reacts in certain ways. We characterize those hazards from those tests and then we design our systems exclusively to mitigate those hazards. So I think we've demonstrating in our testing.

You also made some claims about the installation level test. You were quoting the installation level test provided by UL to Samsung. That test, all of those tests were provided from Samsung to us but authored by UL. They're not our tests. What we demonstrated today was the test that we did commission. That was from CSA which is another nationally recognized testing laboratory that OSHA has approved to be able to conduct the same kinds of testing, UL 9540-A. So there are two different sets of tests there. I just want to make that clarification. Would you mind going back to the picture of

the cell level test, quickly? I just want to take a look at that. Can you go back to the picture, please? Thank you. Okay.

And then can you also go back to the picture of the unit level test? Thank you. Can you explain what happened after – maybe I'm not allowed to ask questions, but maybe I should clarify that what happened after that moment, 42 minutes and 30 seconds, is that that one cell that was flaming during that moment was suppressed. I'm not sure what test you were referring to in Spain, but there were no UL 9540-A tests in Spain of this system that I'm aware of.

DR. EIKELENBOOM-SCHIEVELD: That was the installation test.

MR. SIMPSON: The installation level test was not conducted in Spain.

DR. EIKELENBOOM-SCHIEVELD: My English may not be good but I can read.

MR. SIMPSON: Okay. We'll check that one again. And then the 670 degrees that was measured in the UL test that was commissioned by Samsung, that result in context was on the interior of the door, and what the installation level test is concerned with, which is on the same page as that 670 degree number is actually the consideration of propagation from enclosure to enclosure. So the temperature on the outside of the door would have been more important. And because that 670 degrees was only there for a relatively short amount of time it did not conduct through the door, because the door had insulation. And so there was no threat of propagation.

DR. EIKELENBOOM-SCHIEVELD: So why was it redacted then in the report? Why weren't we allowed to see that?

MR. SIMPSON: Well, we provided all the reports to you. The initial redaction was because we were asked by our supplier to contain the data and release it only to the fire protection engineers who needed to assess it. That was the request by that vendor. I cannot speak for them as to why they wanted to redact that.

CHAIR AABOE: Thanks very much. Commissioners, do you have any other questions for the doctor? Thank you.

DR. EIKELENBOOM-SCHIEVELD: You're welcome.

I. San Marcos Association, Party of Standing. Speaker: Dennis Kurtz

[Duly sworn, Dennis Kurtz testified as follows:]

DENNIS KURTZ: Good evening. My name is Dennis Kurtz. I live at 42 San Marcos Road West in Santa Fe, right in the middle of the San Marcos area of advocacy. I'm president of the San Marcos Association. We are a community advocacy group that's been around since the 1980s, and are a registered organization in Santa Fe County pursuant to the SLDC. We're not a group that is particularly focused on any one issue. We work on things in our area like traffic safety, preservation of cultural resources, abandoned mine restoration, but also on responsible development.

Our mission, you can read it but basically we listen to our community members and we try our best to educate them about the issues that they're concerned about, looking into them, explaining to them the way things work at the County and so forth. Just to be clear, this is the area we represent. It's a pretty big area. So the proposed

project is right about here. This right here is Rancho San Marcos. I live down about here. This is Eldorado, and so on. And so this area goes down south of Madrid, east almost to Galisteo. It's a big area that we watch over and we do our best to work with all the members of the community.

The San Marcos Association is 100 percent in favor of renewable energy. We have a board. Some members of our board are 100 percent in favor of this project. Other members of our board are zero percent in favor of this project, and that's the way boards are. But we work together in order to make sure that things get done correctly. The previous speaker, I can't remember which one, said that these things needed to be done and they do. And they need to be done right, and that's where we have concern because the big what, the solar renewable energy – that needs to be done. It's the how that we need to think about.

Most of what I'm going to say this evening has to do with what I've taken this evening to call number seven. The conditional use permit has these criteria that have to be satisfied. A whole bunch of number seven, and I'm paraphrasing is that you have to show that it's consistent with the zoning regulations and with the spirit of the SGMP and the SLDC. So that's what I'm going to focus on. Other groups have dealt with health hazards and so forth; that's not what the San Marcos Association is working on. We're concerned about how it's done, connected to the written law as we understand it because we're worried not about this particular project as much as we're worried about precedent setting for future projects.

This project is a gas or electric power generating facility. That's a line in the use matrix. Is that in plain English and is that according to the LBCS, land-based classification system structure code, 6400. That's one way of defining a use in the use matrix, to give it a code like that. And that code has subcodes. For example, the subcode for power generation plants, 6430, 6400, 6430. These structures are of special concern for emergency management. We've heard about that sort of thing all night long, but there's no doubt this is a gas or electric power generating facility. It's prohibited in Rural Fringe.

This is a screen shot right out of the SLDC. Here's Rural Fringe. There's the X for prohibited. It's hard to read but this is the gas or electric power generating facility. Clearly prohibited in the Rural Fringe which of course is what the area is zoned that we're thinking about.

It includes solar panel farms. The 6400 code, the subcode 6460 includes solar and other forms of energy facility. That's the title of it. So there's no exception for a solar facility. Even if it's a solar facility, it's a gas or electric power generating facility that is prohibited. Scale is not mentioned that much in the SLDC but the SGMP clearly states in the section that I reference is that anything over 300,000 watts – this is 96 million watts. Anything over 300,000 watts is utility scale. Cups are not an option in this case. There's just no provision for a conditional use permit.

The Hearing Officer December 4th agreed with our contention that because it's a gas or electric power generating facility it's prohibited in this area and that was one of her reasons for rejecting – for saying not to approve this CUP.

Now, the Hearing Officer also rejected the notion as put forth by staff and the applicant that it is a commercial solar energy production facility. Commercial – this one does not have a number. There is no LBCS code for this. It's just a definition that says

commercial means for sale or profit, which I was a teacher and many other things, but a sixth grader could write that definition. It really makes you wonder why is this in the SLDC use matrix for sale or profit. If you dig down to the SGMP in the renewable energy infrastructure section, the SGMP states clearly that we need to develop the infrastructure that will allow residential and commercial property owners to make improvements.

This implicitly defined commercial energy production facility has improvements to existing commercial property, not to build brand new things that didn't exist in order to make money.

Another thing that we've had over time is that these are neighborhood scale. This is a worksheet from a completely different enterprise involving the county. This County provided the worksheet to the people working on this project and it says commercial solar energy production facility, which is conditional in the Rural Fringe, is of neighborhood scale. This was in 2018 and 2019 that we got this worksheet. And I can't find anything – maybe staff can or you can – before that that says anything, basically anything different. It wasn't until 2022 and 2023 that the adjectives large-scale, commercial facility, utility-scale commercial facility started appearing. There's no basis that the San Marcos Association can find anywhere in the SGMP that commercial solar energy production facilities are of utility scale or of large scale. The neighborhood-scale things because it's commercial versus residential. The sentence that we had before had residential and commercial in it. It was easy to write residential regulations. Houses are pretty much all the same. Might be different sizes but they've got bedrooms and bathrooms. Commercial is so diverse you need to be able to have a process. That process is the cup process, but it's for commercial property owners to improve what they already have, not to build something where there was nothing there and make it commercial for sale.

One other thing I want to speak about is that in the Hearing Officer's order she made a comment about this being apparently a carve-out. Now, I'm not an attorney. I don't know if carve-out is a legal term but it was just an opinion in what should be a fact-based document, and so we did some research on carve-outs. Carve-outs work like this: thou shall not, except for. It's very clear what you're carving out. There's no doubt that, here's the big law, except here's the part that's carved out. There doesn't seem to be anything like that connected to commercial solar energy. There's no evidence in the definition. There's nothing written there in the use matrix that makes it a carve-out. But the question is are there any carve-outs in the use matrix? Well, it turns out there right there, geothermal production facility, the one right below it, this isn't the whole use matrix; this is a worksheet.

But if you look at the use matrix it has in the structure code 6450. Geothermal production facilities are a subset of the 6400 gas and electric production facilities which are prohibited except, when they wrote the SLDC they pulled this one out and they noted the number, 6450, that it was excepted from the prohibition, because you can see it is conditional in different places. It's not just prohibited everywhere. There's nothing like that for commercial solar. It's not a carve-out. It's something totally different.

The San Marcos Association feels that the SLDC use matrix, the document was written so that these uses are mutually exclusive. The uses were not intended to be, well, it's this and it's this, and maybe it's this other, and you've got to pick through it and find

the one that suited you best. This project is a gas and electric production facility, prohibited. Distinct from commercial versus residential, solar energy production facility.

We're not against the solar. That's not the point. What we're concerned about is the selective interpretation of the SLDC to promote this project, and that's something that we're just raising concerns about.

The last thing I wanted to speak about concerning how this project may or may not be consistent with the SGMP and so on is before this project ever existed, before there was a conditional use permit for this project application, San Marcos Association wrote a letter and suggested utility-scale renewable energy projects should all be DCIs, developments of countywide impact, because we wanted to have something this big, something as big as what we're talking about here, we wanted to have the whole county to be involved in discussing it, it's pros and its cons, and to be able to educate each other and learn from each other. We wanted to have the protections that are built into the DCI regulations, things like annual reports, special development area designated, fiscal impact reports. I have heard numbers from the applicant but there's been no fiscal impact report that I've heard of connected to this at all. That's something that we wanted, connected to the DCIs.

You, I know, I understand, respectfully, this group cannot just make something a DCI. That's not how it works, but you can request fiscal impact reports. That's something that we'd like to have you think about because is this project going to affect the tax base? Is this project going to affect bond ratings? Is this project going to affect property values? All kinds of things have been said, but a third-party review, or I don't even know if there's a department in the County that does this sort of thing, some kind of report that will help you make the decision you need to make. We think it's very, very important here and all those things play into the same piece.

We feel that this project should not be approved because it doesn't fit with the zoning. It doesn't fit with the spirit of the SGMP in the sense that the SGMP we think clearly defines commercial solar energy production facilities as commercial versus residential, small-scale operation, not 96 million watts. And we think also that the SGMP was very, very eloquently stated definitely directing the County towards renewable energy, but it's not the what, it's the how. And we think there should be countywide discussions. If all the people who have ever put a pin in the map of the county where they lived, it wouldn't be a countywide discussion. It would all be pretty much centered around certain areas.

We need countywide discussions about something that's going to affect basically everyone in the county. So reiterating, we're asking that this not be approved for those reasons. It doesn't meet the criteria established in number 7.

Now, people say this and that. People stand up here in front of you and we thought, we're just a little San Marcos Association, we did a survey, and I'm not going to dwell on this a lot because you've got it there, but the survey had two questions. Where do you live? Are you for or against the project? Or are you undecided? And so we divided it up. We were curious to know what did the people in Rancho San Marcos think? What did the people in our area on that map think? What did people nearby think? What do people just in the county think? We hoped to get some information that would be useful to share with you.

When we heard this meeting was going to happen back last – whenever it was, November or October, we put this survey together on your behalf and are you in favor of it in general? It was about a 2-1, no [inaudible] Out of the 280 respondents and it was no surprise. It's about like what this room is. We broke it down for your reference. You can see it by area in Rancho San Marcos, a big number of people. Also have it by percentage for the people that like percentages but you can see, in general, the orange bars are the ones that are not in favor of it. The green bars are.

There's lots of questions you can ask from a survey like this, but we did it and our reach was just not very far from where I live. You guys can ask for a survey if you think you want more information like this. It's something that you have the capacity to do, but no real surprises. What we did though was if you answered that you were opposed, what are the reasons why? And we provided some reasons to make it fast. One of the things we built for the survey was you could do it in less than two minutes. Where do you live? You for or against? Some reasons why. Bam, bam, bam.

They could also write in their own without taking more than two minutes. Some big ideas, the percentages mean if it says 80 percent of the people say too big of a fire risk, that's 80 percent of the 169. Too close to residential areas. It will be too visible, 35 percent. One thing that's important about this for all you've seen, you will be able to see this from Aspen Vista. If you ever go to Aspen Vista and look out you'll be able to see this solar field. You'll be able to see if from high ground any place that you can see the Turquoise Charter School of the penitentiary looking out that direction. Some people have their feelings about it from that perspective.

At the same time, those who approved, this is the kind of renewable energy that we need. The County will make certain that it's safe. What is that? 60 some percent feel like the County is going to make certain that this is going to be a safer operation, etc., etc. This is information that we gathered specifically to present to you. There's a few graphs here if anyone wants like the gory details of the data charts we can get that to you.

We still feel that this project should not be approved because it doesn't align with the SGMP, the zoning criteria, for all those reasons. But you guys have to make the decision. And so if you make the decision – I know you're not going to do it tonight – but these are some thoughts. Now, we wrote these down thinking about the CUP but I think it was Dominic earlier did a really good job of explaining the difference between conditional use permits and the thing that happens when you actually build the project and so forth. So it's not necessarily as clean as the way the County would have written it.

But we feel that this facility should be staffed 24/7, staffed with people that are trained and have the authority to do whatever it needs at that site. We're not comfortable with the notion that someone hundreds of miles away watching a computer screen and can do whatever needs to be done. We feel like there should be some kind of a bond, we named it insurance bond, but some kind of bond that's set up with the County that's going to deal with any potential property damage or less, detrimental health impact, etc. And you have a document where these things are fleshed out, where these are one-liners. They're not written in any legal way, just out there for you to think about.

I live where I live, right near the corner of Bonanza Creek and Highway 14 and Shenandoah, there's a siren there. It goes off Wednesdays at noon every now and then and so forth. The reason it's there – you can hear it for miles and miles – the reason it's

there is if there's a prison break. If there's a prison break that thing goes off, in the middle of the night or whatever, you don't have to be looking at your phone or on your computer. Okay, that's what it is. Some kind of audible warning system to notify residents if something dangerous were to happen in this facility. Everything is connected to this facility. Emergency plans. Formal reports.

And lastly, if this CUP gets approved, in our experience, SMA, it kind of goes into a black hole. You don't ever hear about it much again. We feel like for this particular one, there needs to be regular public meetings as this thing marches through the development process. It got a CUP, got other things that have to happen before there's a building permit. Those things should all be out there in public. We need to inform the public regarding financial implications and a fiscal impact study that I mentioned before. That should be done and people should know about it. And the periodic reporting procedure. There are things that are in the DCI regulations, but you can't just make this a DCI but you can impose some of these criteria.

So I tried to zip through it so I didn't take my whole half hour but I stand for questions or if not I'll say good night.

CHAIR AABOE: Thank you, Dennis is it? I've got a question. How does a property owner become a member of the San Marcos Association?

MR. KURTZ: Everyone in that area – we don't use the word member. We don't charge dues. We don't do anything like that.

CHAIR AABOE: So if you own property –

MR. KURTZ: If you own property or if you live there you're somebody that has every single right to come to us and say, we have an issue, we have a problem. We're not code enforcement. We're not law enforcement. We don't go in and do those things But we can help them, and if it's a big problem, like an entire neighborhood, that's the first question we ask. Are you the only person that cares about this or is there a group in your neighborhood? And then that's how the Nuisance Abatement Ordinance, which some of you are familiar with. That's how that started.

CHAIR AABOE: Okay. Thank you. I'd like to ask the County Attorney about a point he raised, and I wonder, does the County use this LBCS structure in the code?

MR. PRUCINO: Mr. Chair, yes. The County does recognize that system and some with many of the uses identified in the use matrix it will provide appropriate codes for those uses.

CHAIR AABOE: And if a facility like this is specifically called out, its use is specifically called out, is that what it is or is there some kind of code definition that supersedes the specific definition, if that makes sense?

MR. PRUCINO: I'm not sure if I fully understand that but generally, the more specific description or definition of a particular use will apply if there happens to be a broader use that also could encompass the use in question.

CHAIR AABOE: Okay. Thank you very much. Any other questions from Commissioners? Dan.

COMMISSIONER PAVA: Thank you, Mr. Chair. My question about your survey is a little bit more about the process of the survey. What was your response rate and how did you go about soliciting the survey? How did people know about the survey?

What kind of methodology was that?

MR. KURTZ: Doug's here – Doug actually – if I could, I didn't do the survey but one of my board members is here who did it. He can answer better than I can. Are you willing to be sworn in, Doug? If you don't mind we could swear him in and he can answer.

COMMISSIONER PAVA: Yes. Thank you very much.

[Duly sworn, Doug Speer testified as follows:]

DOUG SPEER. My name is Doug Speer, I live at 100 West Pine in Santa Fe, inside the San Marcos Association area of concern. So your question about the survey, I didn't quite hear everything, so if you could repeat that.

COMMISSIONER PAVA: Yes, I'm simply asking, you had a certain number of responses, what was the response rate and how was the survey designed to be disseminated? How did people find out about the survey? We often talk about scientific surveying.

MR. SPEER: Yes, I understand.

COMMISSIONER PAVA: So that's what I'm getting at.

MR. SPEER: So we sent a link to the survey to our San Marcos Association mailing list. We also put that same information on Next Door in the area that we live in, all of the areas that are inside of area of concern, and we also distributed it through Facebook. So it had social media and our email list. It was then a link on our website so people visiting our website could also take the survey from there.

In terms of the amount of response, so we have about 250 names on our email list and I don't have that chart in front of me but we had about 40+ percent of the 280 were in the San Marcos area of advocacy. So that would probably have been primarily promoted through the email list, but I think also our social media presence also resulted in some. But it's very hard to track all of that, so to know exactly how many people saw it and how many people responded is a difficult thing.

COMMISSIONER PAVA: Thank you for that elaboration. I was just trying to get how the survey – how people had been made aware of it and you've answered that and I guess I would call it kind of a targeted survey with the best of intentions but I wouldn't call it a random scientific sampling. But on the other hand you are the San Marcos Association. You're trying to solicit opinions. Do you know if there was a link to that survey on other websites outside of your realm? Possible opposition groups here?

MR. SPEER: Our San Marcos Association address could be on other websites of different groups in the area. I do not know specifically that that was linked, but I would assume that some of those have our sanmarcosassociation.org address on their website. But I don't know that they had the specific link to the survey.

COMMISSIONER PAVA: Thank you very much. Thank you very much, Mr. Chair. I'm done with my questions. Thank you.

CHAIR AABOE: Any other questions for the San Marcos Association? Thank you. We have two more parties of standing and 30 minutes. According to my calculations I'm wondering, are either of the parties of standing intending to show up tomorrow at 1:30? And could we defer your presentation until then? I want to be – so Mr. Schannauer, Mr. Schiffbauer – Glenn and Ashley, I'm wondering if either or both of you

be able to attend tomorrow? Okay. Thank you. Glenn, you're up.

J. Santa Fe Green Chamber of Commerce, Party of Standing. Speakers: Glenn Schiffbauer, Jill Cliburn, Connor Lawrence, and Warren Thompson

CHAIR AABOE: So right now it's the presentation by the Santa Fe Green Chamber of Commerce, and I wonder if you could state your names and be sworn.

[Glenn Schiffbauer, Jill Cliburn, Connor Lawrence, and Warren Thompson were placed under oath.]

GLENN SHIFFBAUER: Like Councilor Calvert, I start out with good afternoon as well. Good evening, Mr. Chair, Commissioners. I'm Glenn Schiffbauer. I'm the executive director of the Santa Fe Green Chamber of Commerce. Our mission is to build a resilient, local economy that thrives by fostering renewable energy adoption, water conservation, sustainability and community development. Supporting renewable energy projects is central to this mission, helping New Mexico lead in climate change mitigation and sustainable development.

The Santa Fe Green Chamber of Commerce is a business network committing to advancing sustainable economic development, environmental responsibility and social equity. We represent a coalition of businesses, organization and individuals dedicated to integrating environmental stewardship with business practices. We have been involved with, advocated and lobbied for clean energy since our inception in 2013. We have worked on community solar, solar for all, sustainable building tax credits, solar tax credits and this session's local solar access fund, community benefit fund and the energy storage system income tax credit.

We have worked on, stood and spoken in support of nearly all of the clean energy, electrification and tax credit incentive bills for the last 12 years. It's what we do, it's what we've done, and it's what we will keep doing.

We also hear often while we're lobbying and advocating, more often than we'd like, that Santa Fe is always legislating and dictating all of these initiatives for other parts of the state. Well, this is an opportunity for the Santa Fe County to walk the walk. Not only do we have the chance to do our part to achieve objectives set forth by the County, but also contribute to the goals laid out by the State Energy Transition Act of 2019.

The Santa Fe Green Chamber represents of 180 local businesses and community organizations, their employers and families from small, local enterprises to larger institutions, all united by a shared commitment to sustainability and innovation. Most of these businesses are located in Santa Fe and Santa Fe County. Most of their owners, families and employees also live here. As not all of these businesses and residences have solar or even access to rooftop solar they want to be using clean energy as often as they can.

We feel that this is an opportunity to do that. It's been stated this project will provide solar power to the equivalent of 30,000 residences. That number is to give context to the amount of renewable energy that would be available to Santa Fe's PNM

customer territory. I can guarantee that businesses in downtown Santa Fe, like a La Fonda or a sustainably minded restaurant leasing in a shopping center like Joe's Dining where they have no ownership and can't solarize will welcome the opportunity to be powered by clean energy.

It's been stated that New Mexico's ETA targets 50 percent renewable energy by 2030 and 100 percent by 2050. This project aligns directly with the goals of the New Mexico Energy Transition Act, which we were involved with along with a coalition of about 15 other organizations, some of whom have spoken today. From its introduction as a bill in 2019, large-scale solar projects like Rancho Viejo are critical to achieving these ambitious benchmarks. Again, this is a real opportunity for Santa Fe County to lead by example.

We can show other communities that we will act quickly and prudently to do what we can to fight against climate disruption. The economic benefits AES pointed out, with the jobs, with the amount of tax revenue that will be incoming. I don't need to go over it again. But one thing I will say is that business always counts on certainty. Other things they can adjust to. Certainty is a bit of comfort. Affordable renewable energy is important to these people because it is certainty.

The job creation was touched upon. This is going to create approximately 200 jobs during construction, supporting local businesses and hospitality. There will be some permanent jobs. We are a business organization and a clean job is viewed as a benefit to our community at any level or any rate.

The Rancho Viejo solar project embodies the intersection of economic growth and environmental sustainability. It fits with our commitment to a renewable energy future. It represents an essential step in reducing greenhouse gas emissions, creating economic opportunities and strengthening New Mexico's leadership in renewable energy. We hope decision makers will ensure that the voice of business and citizens throughout the county advocating for a prosperous green future in New Mexico are represented.

And now I would like to turn it over to my next speaker who is Connor Lawrence from Somos Solar. After that we'll have Jill Cliburn and the landowner, Mr. Warren Thompson.

CONNOR LAWRENCE: Good evening. My name is Connor Lawrence. I was born and raised here in Santa Fe. Environmentalism and nature conservation efforts have always been incredibly important to me and it's mainly why I started my company, Somos Solar, which is headquartered here in Santa Fe. I'm also a proud member of the Santa Fe Green Chamber of Commerce.

My company designs, builds, and occasionally finances energy projects. We're currently working on projects that include solar, wind, green hydrogen electrolysis and battery energy storage systems. I want to note that my company does not have any contractor agreement in place with the AES or Rancho Viejo project. However, I am here because I strongly believe that this type of project is an integral part of the clean energy transition in fighting climate change. I want to do the right thing and support this project.

Climate change is the most significant challenge of our time. We've already surpassed certain carbon saturation thresholds that have caused irreversible environmental damage, such as the bleaching of the coral reefs. We must take action now. Transitioning from fossil fuel-based energy to renewable energy sources is not a

choice, but it's a necessity.

One of the challenges renewable energy faces is intermittent power generation. Solar power is only available during the day. Battery energy storage systems are essential to store this intermittent energy and deploy it when needed. For efficiency in design, batteries need to be located close to the power source, like a solar array. But they also should be located close to the load that they power. If batteries are too far away there's energy loss and a rise in infrastructure costs. These translate to higher expenses for both the developer but also the consumer and can simply just make the projects economically unviable.

Large-scale solar projects like Rancho Viejo are especially crucial for combating climate change and projects like this one will have a tremendous impact on reducing carbon emissions as a whole. From what I have seen the Rancho Viejo project is strategic located making energy more accessible and cost-effective while also moving us away from fossil fuel dependence. Right now, New Mexico has the opportunity and the potential to be a national leader in renewable energy. As the second sunniest state in the nation we have abundant solar resources, yet we're ranked number 13 in the US for renewable energy production.

In my professional experience two reasons cause this lag: policy hurdles and community opposition. I have seen many solar developers leave the New Mexico market due to these challenges, choosing instead to invest in other states with more welcoming environments for renewable energy. If we continue down this path New Mexico risks missing out on significant economic investment, job creation and workforce training opportunities. But ultimately fighting climate change this project will provide substantial economic benefits, both short-term and long-term job creation, and position New Mexico as a leader in the clean energy transition.

The renewable energy industry requires a skilled workforce. The University of New Mexico, Central New Mexico Community College and New Mexico Tech have all expressed interest in developing workforce training and educational programs, but we need projects to implement and lay the groundwork for these types of programs. I personally believe that this project can serve as a key drive in expanding workforce development and ensuring New Mexico's workforce is prepared to support and sustain a renewable energy industry.

From an economic growth perspective, investing in renewable energy sends a clear message that New Mexico is open to business and innovation, attracting further development and strengthening our local and state economies. From an energy independence perspective, Santa Fe and New Mexico as a whole can benefit from generating and storing our own clean energy, reducing our reliance on fossil fuel-based energy generation and out of state energy sources while also stabilizing energy reliability and costs for consumers.

I do understand the concerns surrounding the fire risks associated with battery energy storage. My experience in the energy construction and operation industry is that safety is always a top priority, and I've personally witnessed battery technology constantly evolving over the years to incorporate more advanced fire protection, prevention, detection and suppression systems.

AES has demonstrated that they will be using industry-leading safety standards including thermal management systems, fire resistant enclosures, suppression systems and real-time monitoring to detect many other safety mechanisms to mitigate any risks before they become hazards. I also want to make note of compliance with fire codes. Any energy industry or facility built today will be required to meet or exceed all National Fire Protection Association and local fire safety codes, meaning all battery systems will be designed and operated with the highest level of safety in accordance with the regulations that we as a society have established.

AES has also expressed interest in collaborating with the local Fire Department and emergency response teams to ensure that they are trained and equipped to handle the potential incidents related to the project. There are currently over 17 gigawatts of battery energy storage operational in the US today. One gigawatt is equal to one thousand megawatts. This project is designed to be 48 megawatts of battery energy storage. In my experience, battery energy storage systems are in fact a safe and effective solution for integrating renewable energy into our electrical grids.

Lastly, I again want to emphasize that the time to act is now. New Mexico has a phenomenal opportunity to lead the nation in renewable energy. With the natural resources available, the workforce potential and the technology readily available, we must seize this moment to invest in the clean energy that benefits not only our economy but will benefit our environment in future generations to come. This project is not just about building infrastructure. It's about securing a sustainable future for Santa Fe, New Mexico, and humanity as a whole. We as a society need to take this crucial step forward before climate change reaches further irreparable harm. Thank you.

CHAIR AABOE: Thank you.

JILL CLIBURN: Good evening. My name is Jill Cliburn and I live at 45 Crazy Rabbit Drive, Santa Fe, New Mexico, 87508. I'm the president of Cliburn and Associates based in Santa Fe County. I'm a 30-year resident of the San Marcos community, including volunteering at the San Marcos Association, Turquoise Trail Volunteer Fire Department, Turquoise Trail Charter School, and natural history and archaeological sites throughout the area. As a consultant I've worked for more than 30 helping utilities and communities nationwide to optimize the benefits of renewable energy, load flexibility and battery storage. I've worked for national labs, public power co-ops, non-profits, and an in the early 2010s I was the solar consultant on Santa Fe County's first megawatt-scale solar project at the Buckman Direct Diversion.

In fact that experience sparked a memory and a thought in response to a question that one of the Commissioners raised just now to AES about the ownership structure of the project. It is standard procedure to form a project LLC entity when you are entering into a power purchase agreement or similar commercial solar contract. We formed an LLC for the first Buckman solar project. That's why I reject the San Marcos Association's assertion that the word commercial in the SLDC refers strictly to scale. The word commercial, according to my experience in the solar field and as documented in Investipedia, may apply to contractual solar projects.

So I'd also like to note that the PRC considers an electric generation station as 300 megawatts or larger. I think County staff can shed more light on such definitions.

What I really came here to talk about were three questions. Hopefully I'll get

through these quickly. First, what are the economic benefits to Santa Fe County? Santa Fe County of course has a lot of various benefits that AES already went through but I hope to give a little more context. This is a $200 million capital investment, plus about $28 million committed to direct labor and wages which will be partly taxed and partly re-spent and cycled through the local economy. This is already an opportunity for workers, not just in Santa Fe but throughout Santa Fe County. AES has already donated money to support scholarships for job training and our local YouthWorks and through Solar Energy International in partnership with UNM continuing education.

As AES feels an urgent need for some 200 workers this project can jump start growth throughout New Mexico's solar industry. These jobs will not be a one-off. Large-scale solar is happening in New Mexico and it requires nearly the same skill sets as community solar and rooftop solar. Solar apprenticeships are also a pathway to becoming a journeyman electrician. The State Department of Workforce Solutions says New Mexico needs 5,000 new electricians by 2030.

AES estimates that $5 million in wages and materials will be spend in Santa Fe County and $18 million will be spent on panel racking from one of two top racking manufacturers that happen to be in Albuquerque. AES is not just an outside company that shows up here. It is part of a solar industry that is increasingly US-based and potentially New Mexico-based.

One other key point. Everyone in our community deserves equitable access to solar energy today, even if they cannot afford rooftop solar and even if they don't own a roof. And I may say even if they didn't get the link to the San Marcos survey. The National Community Solar Partnership is actually one of my clients, but I know that community solar is still just getting started in New Mexico. Right now Santa Fe County has only one five megawatt community solar project approved. AES will bring as much solar generation as 20 community solar projects, and no one will have to sign up for it.

Moving forward, yes, we will still need more community solar, more rooftop solar and batteries. Maybe even micro-grids as we back off our need for – I was thinking that gas pipeline that one of our Commissioners asked about. Large-scale solar is currently the least cost electricity in the US and even worldwide where IRA subsidies, tax subsidies that are maybe shaky five years from now or whatever are not in effect. And that's according to sources like the International Energy Forum.

AES can't set retail electric rates but it can supply PNM with safe, reliable, and competitively priced solar and storage resources.

As I worked for utilities, including with battery storage and solar, since the earliest days of battery ten years ago – we think of it that way – I concur with presentations about progress in battery technology and safety, but I want to note that our abundance of caution can create an inadvertent sense of risk. The technologists and fire safety officials have no choice but their multiple redundant protective strategies can send you the wrong message.

It reminds me of my own behavior when I first sent my daughter out on rollerblades with a helmet and kneepads and the wrist guards. Anybody who saw her would think that she was an accident ready to happen. But it was really my abundance of caution.

My second question was what are the likely impacts of this solar and storage

project on property value? The Hearing Officer's report on December 3rd said she was impressed by the opposition's "fear that the project would negatively impact their home values and ability to obtain reasonable insurance, if such insurance were to be available at any cost." However, the Hearing Officer did not respond to the actual report that AES submitted. I will deal with the insurance question in a moment but let me say I reviewed that real estate impact report from Hippauf Dry and Connolly, certifying a nationally experienced appraiser's report on comparable home sales near at least four similar sized solar projects and near battery storage in the 20 to 200 megawatt range. To confirm the author's findings of no significant impacts I reviewed similar relevant resources from Columbia University Law School, Loyola University of Chicago, Berkeley National Laboratory, which the previous speaker just misinterpreted, and the real property analytic study which drew on Texas A&M as well as other sources. I'll submit links to that in my testimony for the record.

The Texas study was entirely focused on project from 100 to 350 megawatts. The Texas landscape is similar to most of our Rural Fringe with homes comparable to those in San Marcos and Eldorado in the $500,000 to million dollar range. With slight variations, these studies, all these studies concluded that the impacts on home value and days on market in proximity to large-scale solar, and when relevant, battery storage, range from slightly negative to slightly positive, resulting in what I would call a wash.

The Berkeley study found a possible average impact for homes throughout the US within less than a half mile to be around a negative 1.5 percent impact. But they also note that state policies that normalize solar development can make the difference. For example, studies from western states like California, Arizona and Texas reported no discernible impacts on property values. I believe a slight impact on property values may be fed by news coverage of residents in strong opposition to a project.

Conversely, home values may improve when homebuyers learn that the adjacent vacant land is dedicated to a solar or storage project. As Glenn said, homebuyers and businesses like certainty and solar is a quiet, predictable neighbor.

Finally and very briefly, I just want to talk about the insurance risk. We heard this again today but in the hearing in December the CEC talked about wildfire risk as being some of the highest in the country in Eldorado, higher than 80 percent of the United States. I think this was just a misstatement but it's an important misstatement. This is a map, the map that he referred to – I looked it up. It's a USDA and Forest Service Map, and it shows that indeed Santa Fe County as a whole has very high fire risk. But the area where the project is going to be is characterized as low to moderate fire risk.

So in terms of the insurance industry I can only say that we do have an insurance problem in Santa Fe and throughout the country, partly driven by climate risks, and all the wildfire and weather events. But the insurance industry runs on data and the fact is no battery fire in the US has escaped its facility. No private property has been damaged. No insurance crisis can be correlated with battery storage fires.

So with that, I would like to suggest that the area where the project may be located is perhaps low fire risk but I'm not cavalier. We need to be aware that there are many causes of wildfires, many causes of all kinds of incidents, and that our County fire prevention team also needs to stay on top of battery safety protocols. But let's help our truly high risk neighbors by supporting this project in order to take meaningful action on

climate change. Thank you.

And now it's my pleasure to introduce Warren Thompson who owns a lot of the property that we're looking at.

WARREN THOMPSON: Warren Thompson, 55 Cañada del Rancho, Santa Fe, New Mexico, 87508. I want to thank the Green Chamber for asking me to talk about the transfer of development rights that we're working on with Santa Fe County. We put in an application to cover 5,707 acres of land. This map here, the yellow area represents the area when the development rights would be removed from, and that represents a total of 280 housing units that would be removed and if you take into account the possibility of ADUs, it would be 560 units that would be removed permanently from development.

In addition, this land will be continued to use as an active cattle ranch, so grazing will be taking place and would keep the grass in a healthy condition. That's all I have to say.

CHAIR AABOE: Thank you very much, Mr. Thompson. So my understanding is the County has established a TDR receiving bank. Is that the plan? So there's not an identified location for these rights to go? Is that how –

MR. THOMPSON: That's correct. We did some TDRs up in front of the San Marcos Subdivision and gave them that property where it borders State Road 14 and I've got some certificates. So they're documented with a certificate. There are designated receiving areas where those TDRs can be used.

CHAIR AABOE: Thank you.

COMMISSIONER GONZALES: Mr. Chair, I have a question for Warren. Warren, I have some cows on my property and they clean up everything. So in your area, if you have cattle on that property, that really eliminates a lot of the fire hazards that's going to go from installation over to Eldorado. So the cows have a very good beneficial effect on grasslands.

MR. THOMPSON: There's no question about that.

COMMISSIONER GONZALES: You mentioned that.

MR. THOMPSON: We have to keep moving them around to keep them fed.

CHAIR AABOE: Thank you very much. Any questions from the Commission for the group? I've got a question. I think this is you, Glenn. This question is from another party of standing. Santa Fe Green Chamber of Commerce, on your website AES is listed as a sponsorship leader. How much does your organization receive from AES in monetary contributions or in in-kind contributions?

MR. SCHIFFBAUER: Thank you. We have several sponsorship leaders including Santa Fe County and other solar companies. Pattern Energy has been in the past. That level of sponsorship is $2,500 a year. No other. Compensation other than that comes from our membership, whether it's Somos Solar, Positive Energy Solar, they pay an annual membership fee.

CHAIR AABOE: Thank you very much. Any other questions for the group? Well, you guys are troopers. As I understand – go ahead, J.J.

COMMISSIONER GONZALES: Mr. Chair, I move to adjourn this evening's session to be continued tomorrow at 1:30 at the County Chambers at 102 Grant

Street for the purpose of continuing our discussion of today's proceedings. Could I have a second?

COMMISSIONER TRUJILLO: Second the motion.

The motion passed by unanimous [7-0] voice vote.

CHAIR AABOE: So now a roll call motion to determine whether we agree with this motion.

The motion carried by unanimous [7-0] roll call vote as follows:

Commissioner Brugger	Aye
Commissioner Gonzales	Aye
Commissioner Mier	Aye
Commissioner Pava	Nay
Commissioner Pierard	Aye
Commissioner Trujillo	Aye
Chair Aaboe	Aye

[The Planning Commission recessed at 9:32 and reconvened the following day.]

February 4, 2025

This special meeting of the Santa Fe County Planning Commission was reconvened by Chair Erik Aaboe on the above-cited date at approximately1:30 p.m. in the Santa Fe County Commission Chambers, 102 Grant Avenue, Santa Fe, New Mexico.

A quorum was present as follows:

Members Present:	**Member(s) Excused:**
Erik Aaboe, Chair	None
J.J. Gonzales	
Jeremy Mier	
Dan Pava	
Wendy Pierard	
Steve Brugger	
Carl Trujillo	

A motion to come back into session was made by Commissioner Pierard and seconded by Commissioner Gonzales. The motion carried by unanimous roll call vote.

2. NEW BUSINESS

Case #24-5200 Rancho Viejo Solar, LLC; AES Clean Energy Development, LLC, Applicants, request approval of a CUP to allow a 96-Megawatt solar facility on an 828-acre tract. The site is zoned Rural Fringe (RUR-F). Appendix B, Use Matrix illustrates that a commercial solar energy production facility is a conditional use within RUR-F zoning. The site is addressed at 11 Twilight Way which will be accessed via Hwy. 14, SDA-2

CHAIR AABOE: Where we left last night on the agenda was there was one more party of standing and that's Ashley Schannauer, and Mr. Schannauer if you come up and be resworn and begin your presentation. Thank you.

[Mr. Schannauer was placed under oath.]

K. Ashley C. Shannauer – Party of Standing

ASHLEY SCHANNAUER: My name's Ashley Schannauer. The address is 12 Mariano Road, Santa Fe, 87508. Good afternoon. My name's Ashley Schannauer. Thank you for the opportunity to speak to you on this issue. I live in Eldorado with my wife. I'm participating in this hearing separately because my background is unique and I think would provide some helpful input for your decision. I'm a lawyer, retired from the practice of law during 2022, but that was after most recently 17 years of work with the

New Mexico Public Regulation Commission and in that job I worked for five years, started as a staff attorney and then moved on to become a hearings examiner in 2010, and the last three years I was the chief hearings examiner.

In that period of time I did a lot of work in terms of utility cases, procurements of resources and related to that, the siting of utility resources. So I have a background and a feel for what utilities are looking for in terms of where they want to locate their resources.

The first slide here, because I'm a lawyer, I try to focus on the law and the duties of you folks, as you can see on that slide, is to hold public hearings, take final action and issue orders regarding conditional use permits. And the way you do that is by having a hearing and reviewing the application for compliance with the SLDC and other applicable law. So you're actually looking at what the SLDC requires.

Here is the main thing that the SLDC requires in terms of conditional use permits. This sets forth the criteria. I highlighted the three criteria that I believe are impacted by this application. You've heard them. I think other parties have discussed those already.

What I'd like to do today is talk about five things. First, AES related fires, explosion and toxic gases. That relates to the first two of those criteria for a conditional use permit. The second one is its inconsistency with the County's Sustainable Land Development Code, that is number 7 on the list. Next is violations of permitting requirements. That's really violations of SLDC permitting requirements. The SLDC establishes what is supposed to be included in an application for a conditional use permit.

The fourth one is that this project is not needed to transition to carbon-free generation resources, and then the final section will be the Hearing Officer's recommended order.

So we go to this first section. One thing to keep in mind as we go through these next slides is three things. Is that all the accidents are related and connected to AES or one of their subsidiaries. The second thing is that they all involve harm which relates to that first criterion, first and second criteria for the issuance of a conditional use permit. And the third thing is that the frequency of these accidents is actually increasing, not decreasing as you've been told earlier in this proceeding.

This is the 2019 fire, explosion and fire, in Surprise, Arizona. You can see that there were some pretty serious injuries in the volunteer firefighters who responded to that. The explosion knocked those people 75 feet back from the storage container. Traumatic brain injury, broken bonds, burns, thermal burns, chemical burns. A lot of harm there. Three years later there was a fire in Chandler, Arizona and this one was not an explosion. This one did not cause injuries, but the nearest freeway was closed and the City of Chandler notified nearby businesses to evacuate. And again, there's AES and its subsidiary involved in that one.

Then we go to Escondido, California, 2024, two years later. Evacuations were ordered for 500 businesses. Schools were closed and shelter in place recommendations were issued for residents, again, an AES and Fluence project. Then four months later we come to the Moss Landing fire from just a few weeks ago. That one involved 1500 evacuations and it closed US Highway 1 and resulted in a smoke plume in which residents who were not evacuated were advised to stay indoors, keep their windows and doors closed, turn off ventilation systems and limit outdoor exposure.

And here's what some of the people involved in that accident had to say about it.

What's notable, the first one's obviously significant. The second one deals with the county spokesperson saying all the resources in the county and our neighboring jurisdictions were employed to assist with this incident. Think about Santa Fe County. Then the next one is a resident who was four miles east of the plant said she had a metallic taste in her mouth, burning eyes, burning throat and yellow residue over all her things.

Here we go to a report. As you know I'm sure, publicly traded corporations have to file reports with the Securities and Exchange Commission each year, and the reports are for the benefit of their investors to let them know what's happening with the company and what risks are out there for the company. And what's interesting is the first time this warning was included in their annual reports was after that second fire, after that 2022 fire in Chandler, Arizona. The first time they started notifying their investors about these problems.

They conclude that the storage projects may involve events that are inherent risks of our battery storage operations. And then they go on to say that the hazards can cause significant personal injury or loss of life, severe damage to and destruction of property, plant and equipment, contamination of or damage to the environment and suspension of operations. And then they go to what's really concerning them which is the occurrence of any one of these events may result in our being named as a defendant in lawsuits, asserting claims for substantial damages, environmental cleanup costs, personal injury and fines and/or penalties.

I tried to get from AES in this case information about the claims that were made against AES as a result of all these accidents, the four accidents that I mentioned, and I could not, because discovery's not allowed in these procedures. I submitted a question in my list of cross-examination questions to be asked to AES about that issue, and that question was not asked for AES. So we still don't know.

But one thing I do know is that last night I checked to see what kinds of insurance coverage PNM requires for its battery storage projects. Hazard and harm in the end turn into money. It's money. There's damages and people are going to have to be compensated for those damages. And so I looked to see what kind of insurance is required by PNM and it's a $1 million policy for general liability with a $20 million excess liability coverage. Think about that. If you're looking for some kind of harm people are talking about oh, no one has ever been killed in one of these accidents. Oh, the fire's never escaped the perimeter of one of these sites. But what you do see is a lot of harm and you see a lot of concern for investors and you see a lot of concern by the utility companies that deal with these kinds of projects.

And what I also noticed is that PNM requires more coverage for a battery energy storage project than it does for a gas project, for a natural gas product. PNM has a contract with a company for service for a natural gas plan and they require $15 million for the gas operation, but for the battery storage that's #20.

The next section deals with the Sustainable Growth Management Plan. This is Santa Fe County's Growth Management Plan. There's been a lot of talk about Chapter 7 of the plan which encourages and tries to promote the development of renewable energy in Santa Fe County, but there's also a Chapter 9. Chapter 9 deals with public safety. And Chapter 9 is just as important as Chapter 7. Chapter 9 says that the current emergency response system is not sufficient to service our population today. In the case of a large

scale emergency where large numbers of county residents would have to be evacuated or hospitalized the County and provider infrastructure and resources would be insufficient.

Also the County lacks an all-hazardous emergency response plan that's requires by state law. It also lacks an emergency response plan for releases of hazardous chemicals as required by the federal Emergency Planning and Community Right to Know Act, and it also lacks a hazardous materials response team.

In the course of this project there was a fire in San Diego County in May of last year, a battery storage project, not involving AES. But that fire prompted the government officials in San Diego County to move to adopt best siting standards. And this County's consultant in HR informed the County Fire Marshal here about that, which prompted an email from him to all those people listed up there saying I strong believe we need to adopt more stringent requirements. And nothing happened.

Think about it though, what we have in Santa Fe County, we have siting requirements for landfills, junkyards, oil and gas drilling, mineral resource extraction, large-scale sand and gravel extraction, and concentrated animal operations. We also have a resolution that says that dealing with community solar projects, which are smaller, five megawatts, and we're talking about 48 megawatts, where the County's preference is that they not be located on land with healthy, intact ecosystems, and other environmentally sensitive areas, and that they instead be sited on brownfields, built environment, degraded land or rooftop areas.

We don't have the siting standards for this and as you've heard I think before, there had been requests that those siting standards be adopted and they haven't been.

Next one, we're talking about violations of the SLDC in terms of the permit application. The first one, SLDC Section 6.3.1 requires the environmental reports to identify and discuss significant environmental impacts that may result from the project. There's nothing, nothing in that environmental impact report about AES's history of fires. Or fires and the releases of any other battery energy storage systems. It's completed missing. It's also completely missing in the review that the County's battery consultant conducted. There is nothing there.

Section 4.4.2, this one deals with a requirement for a pre-application review by the County's Technical Advisory Committee for a CUP application. The purpose of that is to establish the kinds of studies and assessments that an applicant is supposed to include in its permit application and AES did not do that for its August 30 application, the one in front of us. It had, as I think you've heard, it prepared and submitted an earlier application and finally in January of 2023, and that was based upon a TAC review that was done in November 2021. But in the meantime, between the time of that TAC review and the filing of this application here, the County increased the scope of the permitting considerations that are required for projects like that in a December 2023 ordinance.

So by not doing the pre-application review for this new application, AES was able to avoid the requirements that come with that new ordinance that was passed in December 2023. And what's the impact of that? Under – what the company's hazard mitigation analysis addresses is only the risks to facility workers and equipment at the site. It doesn't discuss the project and site-specific impacts to adjacent residential lands that would be required if they would have been required to comply with the new requirements under that ordinance.

And let's look at those. AES's history of accidents, the qualifications and limited

presence of onsite personnel, monitoring, dry and windy weather conditions, potential for fast spread of fires, exposure to toxic gases, groundwater contamination, hazardous chemicals stored and used on site, risk to the natural gas transmission line on the western edge of Eldorado, and the capabilities and response times of emergency responders. All of that – none of that was considered, because they didn't do the pre-application review that they were supposed to have done for this new application.

Section 6.3.10.2 requires mitigation measures to be identified in the environmental impact report and says under no circumstances should they be deferred until the ministerial development process. They are being deferred here, but what AES has done is they preliminary – actually it's a draft preliminary hazard mitigation analysis for this project and they say that a final one will be performed as part of the detailed engineering process. And they'll include site and product-specific fire risk assessment and a first responder plan at that time. That's after the CUP permit is issued. That violates Section 6.3.10.2.

Section 6.3.11.1 deals with alternatives. The environmental impact report is supposed to be identifying and evaluating alternatives that could lessen the impact of the project on the area adjacent lands. AES's environmental impact report addresses none – battery alternatives.

There are battery alternatives out there and there are – there's long-duration battery storage that maybe is a little bit early to be deployed. That should have been discussed. But there's also different types of short-duration batteries. There's different types – which are really the four-hour batteries. There's different types of those. And in particular there's the lithium-iron phosphate battery that PNM has actually been using. Yesterday, Commissioner Pava you were asking about the use of batteries in distribution facilities, and PNM has started to do that, and they did that in a recent case and they did for two different distribution areas. And begun in service this past summer. And when they did that – that had to be before the PRC to get approval for that, the witness for PNM testified to that statement up there is that the chemistry they're proposing is lithium-iron-phosphate. It's more stable chemistry and less prone to fires.

That option, that alternative was not addressed in the environmental impact report. And I think you heard yesterday that the County's consultant confirmed that that is a safer alternative, but it wasn't addressed.

Most of what you heard yesterday was about the climate change and the need to transition to carbon-free generation resources. But this project is not needed for that purpose. Right now, this is what is required by New Mexico law, in terms of – to meet renewable energy requirements. 20 percent by 2020, 40 percent by 2025, 50 percent by 2030, and 80 percent by 2040. And then finally zero carbon by 2045. But already PNM is satisfying the mark for 2030. And I guess I forgot to mention this earlier. Yesterday there was unfortunately a discussion that AES started regarding what it claimed was a New Mexico requirement for utilities to have two gigawatts of energy storage by 2034. It pointed to a news article that indicated that the New Mexico Senate had passed a bill that required that. What was not said was that that bill never got approved by the House. That bill was never in effect. That requirement was never in effect and it's not in effect now. That's what that requirement that is in place right now is the renewable energy requirements.

Also, I think we need to think realistically about what is involved in transitioning

away from carbon emissions. Decarbonization happens when you retire fossil fuel plants. It doesn't happen on its own when you build a renewable project. A renewable project just adds more energy to the system. You've got to retire the fossil fuel plants, and that's what PNM is in the process of doing right now. And when it – and then when you do retire those plants you replace them, and you think about where that replacement is going to go in a thoughtful way, a way that makes sense for PNM's physical network. And listed there are some of the considerations that PNM looks at.

The Energy Transition Act has some preferences for location. PNM's physical network in terms of transmission availability, and also where PNM's demand is growing. So the Energy Transition Act says that when a coal plant is retired there's a preference to replace it with a resource in the area where that plant is retired. And PNM's coal plants were in San Juan County. And that one, the San Juan generating station that has been retired, there's another one coming up in 2031, the only other one coming up in 2031, also in San Juan County. So there's pressure to put the next resource up there.

Also, PNM's transmission system is maxed out. Its existing transmission system is pretty much maxed out and so what you see there is that PNM sites its new facilities in areas where there has been a retirement, where there's a freeing up of a transmission line to have that capacity be available for the replacement resource.

The last one there is also customer demand. I think we're all aware of the Facebook data center in Los Lunas, and PNM's been adding a lot of capacity to address that demand, and that's likely to continue.

So this slide deals with what is out there in terms of fossil fuel resources for PNM in northern and central New Mexico. The bolded items are the two plants that are going to be retired fairly soon. The Reeves natural gas plant in Albuquerque, that's scheduled to close in 2030, and then the Four Corners plant is going to close in 2031. Guess where those replacement resources are going to go? PNM's going to try and replace those resources with resources in those areas. In the Four Corners area, because of the Energy Transition Act, and the Albuquerque area because that's where the demand is. The customer demand is in Albuquerque. And because with those retirements there's freed up capacity in their transmission lines.

The other three are natural gas plants. Those are scheduled to be out of service in 2039. The La Luz plant is the newest of those and the smallest of them and that one is capable of – PNM at least says it's capable of being switched to hydrogen.

So the result of all this is that PNM – PNM acquires resources through competitive bids. I've been able to determine that the Rancho Viejo project has been submitted at least twice to PNM for approval as a resource, and it's been rejected every time. The most recent one on November 22 of last year.

And finally, some consideration really needs to be given to the recommended order that the County's Hearing Officer issued. We seem to sort of not pay attention to any of that, but she made some important findings in her order. One, the first one that's I'm pointing out is that this project is considered to be the most hazardous commercial or industrial facility in Santa Fe County.

The next one, the consequences of a fire from the project could be catastrophic because of its proximity to the surrounding communities of Eldorado, Rancho San Marcos, and Rancho Viejo, an area with an estimated 10,000 homes and approximately 25,000 residents.

The next one. The scale of the project, over 200,000 panels and 570,000 lithium-ion batteries, together with the proximity to residential communities with homes as close as 500 feet from the site boundary creates an unreasonable risk to the safety and welfare of the communities. This risk is compounded by the distance of these areas from County fire stations, none of which has a hazardous materials team.

And then finally, she says the evidence indicates the project would be detrimental to the health, safety, and general welfare of the area and would create a potential hazard for fire, panic, or other danger. And the project is inconsistent with the purposes of the property's zoning classification and inconsistent with the spirit and intent of the SLDC and SGMP. The evidence support denial of the application.

That was her conclusion of sitting through the testimony that was presented to her on December 4th and I think the Commissioners should really provide some deference to what she recommended. She's a trained attorney and also has had a lot of experience in her prior work with public utility regulation. So I think that deserves some weight.

So anyway, that concludes my presentation. I'd be happy to answer any questions.

CHAIR AABOE: Thank you, Mr. Schannauer. Commissioners, do you have any questions? Steve.

COMMISSIONER BRUGGER: Thank you, Chair. Just a comment and then I'd appreciate relating to your testimony, Mr. Schannauer, some feedback from staff and possibly AES. So one of the questions for staff is Mr. Schannauer has raised SLDC Section 6.3.10.2 has not been met because a preliminary hazard mitigation analysis has been prepared and that a final analysis should be prepared. It was stated, if I remember Ms. Eikelenboom's testimony from yesterday where she talked about tests that were done at the unit level module level, cell level, and that if I understood it correctly, the test at the installation level, for lack of a better word saved the day. But there was a question about the temperature level of the walls. In your written report that went along with this presentation, Mr. Schannauer, I noticed that you mentioned that thermal isolation, the enclosure insulation, will be analyzed in the final HMA report.

So if I understand directly I could go with your point that the final report is very important, especially given what Ms. Eikelenboom had mentioned as well. So a question for staff, first is do you believe that they have met Section 6.3.10.2? And is the preliminary hazard mitigation analysis sufficient? Or do we need a final one? And with that, anything AES can add, do we need to worry? I gave it my best shot.

MR. SISNEROS: Mr. Chair, Planning Commission members, we found that the EIR was sufficient for the CUP approval as a final will have to be reviewed before going vertical for the actual development permit.

COMMISSIONER BRUGGER: Thank you. May I ask AES then, did I understand Ms. Eikelenboom's testimony correctly that there had been test results that failed, the cell module, unit level? And that the installation level test succeeded, and that she mentioned the temperature in the walls was a concern and I think Mr. Simpson that she had cited the interior temperature when the exterior temperature was more important. It speaks to the insulation between those two, which is identified in the final HMA? Or do we know that now?

MR. SIMPSON: Good question. So yes. We've completed successfully all four levels of the testing, and then the results that we showed you via video yesterday were actually from a redundant installation level test. So there was a previous installation

level test that showed the demonstration of the fire suppression system, and then the final – like I said the redundant test which the same thing but in the exact enclosure per the standard. And in both the installation level tests it's demonstrated that there was no propagation outside the enclosure. We have additional supplemental testing of just the door in a dedicated test under other standards that demonstrates the mineral wool, which is a non-combustible material. We have 50 millimeters in every door and that maintains the temperatures at an acceptable threshold.

COMMISSIONER BRUGGER: Thank you.

CHAIR AABOE: Carl.

COMMISSIONER TRUJILLO: Mr. Chair, thank you. Mr. Schannauer, I know that you had mentioned that the replacement power – you showed the graph of PNM with the Four Corners area, the two plants that are going to be retiring, and I know you made the comment that more than likely some of those systems, to meet the Energy Transition Act would go in that area. And part of that I think is – I know I've read a lot about this and as they negotiated the ETA Act, because they were going to be closing the Four Corners area there was a lot of tax base that was going to be left from that area and there was a lot of moaning and groaning and rightfully so.

So I know there's been a lot of promises to put a lot of that energy back or something else in that area to meet their tax base, especially for their school system there. So I do have a good feeling that a lot of that replacement energy, renewable or whatever form it's going to be is going to be placed in that area. So I just wanted to state that to the committee.

The other question I have is actually, this gentleman did just bring up a slide that said PNM has rejected Rancho Viejo solar project at least twice, including November 22, 2024. If I could just get a response from AES on this?

MR. MAYER: Yes. Thank you for giving me the opportunity. Mr. Schannauer, would you please be able to cite or reference that purported fact or claim.

MR.SCHANNAUER: Well, the most recent one was from you. You told me –

MR. MAYER: November of 2024, three months ago?

MR.SCHANNAUER: We were talking about the current solicitation that was out there.

MR. MAYER: The current solicitation is due in May 14th of 2025.

MR.SCHANNAUER: The one immediately prior to that. The one –

MR. MAYER: So 2023, the prior RFP was issued in 2023 seeking resources for 26 to 28. We were not selected on that one. That does not have an impact on the maturity of our project. We now have an interconnection agreement. We've advanced our designs. They're now much further along in this permitting process. With the timeframe through which this process would conclude we could have a permit in hand by the time that our bid is submitted, so it's a much more complete package that I think is irrelevant considering the prior RFP. So I was confused and a bit baffled by the statement that the project was rejected in November of 2024.

MR.SCHANNAUER: That was the most recent filing that PNM made for resources. And your project was not –

MR. MAYER: The project had been rejected already in 2023, so what they recently released in November I believe was in reference to 2028 resources or a part

of that initial RFP in 2023.

MR.SCHANNAUER: That's not exactly correct.

MR. MAYER: AES was informed in 2023 the project was not select.

MR.SCHANNAUER: You're still – it's the same RFP was covering.

CHAIR AABOE: I think we're down a rabbit hole. I think both sides have stated their opinions on this. Any other questions from Commissioners for Mr. Schannauer?

CHAIR AABOE: Wendy.

COMMISSIONER PIERARD: Mostly for staff. He was talking about the prelim meeting and my experience with federal permitting meetings for prelim, it's really up to the applicant to determine if they want to come in and talk at a prelim. Is that how it is with the County? And having them not show up to a prelim didn't have any impact on the rest of their application.

MR. SISNEROS: So staff found that since the applicant had already applied for the pre-application meeting and met the Technical Advisory meeting, and since the use hadn't changed and the site layout hadn't really changed, we felt it not necessary for them to come back to a pre-application Technical Advisory meeting. And since then we have actually implemented an eight-month expiration date currently, but that was done after the fact that AES had reapplied for the application.

CHAIR AABOE: I have a few questions. Mr. Schannauer, in your previous time before this Commission in mid-January there was a question, you were asking to be granted standing and we went through your qualifications. And one of the questions I asked was have you ever in your capacity as a hearing officer reviewed and either recommended or not recommended solar and storage projects. And you indicated that yes, you were the hearing officer or the senior hearing officer for the San Juan replacement project. Those are Rockmont, Arroyo and Jicarilla. Is that correct?

MR.SCHANNAUER: No, no. Rockmont was approved but it never went forward. San Juan. There was another one. San Juan. So it was Arroyo, San Juan and Jicarilla.

CHAIR AABOE: Arroyo, San Juan and Jicarilla. And how far were those battery storage systems from the closest residence or school?

MR.SCHANNAUER: The record was really not developed on that point. The issue in that case was replacement resources under the Energy Transition Act. And so what we were trying to do, what everyone was trying to do, was trying to find resources that were going to be in the central consolidated school district.

CHAIR AABOE: Understood.

MR.SCHANNAUER: I guess what I'm trying to say, the details of what you're asking about were not developed. But I can tell you –

CHAIR AABOE: So siting was not a consideration in that PRC consideration?

MR.SCHANNAUER: That is siting. It's siting in terms of where PNM has transmission capacity.

CHAIR AABOE: It's siting in terms of the transmission network but not necessarily the people in and around that area. Is that what you're saying?

MR.SCHANNAUER: That wasn't an issue. But those three areas were extremely sparsely populated areas.

CHAIR AABOE: Were they populated at all within a few miles of the sites. Were they populated at all?

MR.SCHANNAUER: A few people.

CHAIR AABOE: Okay. Thank you. Got it. I have a few more questions. Dan, please.

COMMISSIONER PAVA: Thank you, Mr. Chair. So during Mr. Schannauer's presentation and having reviewed these power point slides previously, I had a couple questions that I had thought of. The first goes to County staff. Does the County now have an all hazard emergency response plan per New Mexico state law? Is that a proper question even?

[Jaome Blay and Jeff Carroll were placed under oath.]

JAOME BLAY (Fire Marshal): Jaome Blay, 1003 Calle Feliz Santa Fe, New Mexico, 87507.

JEFF CARROLL (Fire Department): Jeff Carroll, Santa Fe County Fire. I live at 53 Back Road, Madrid, New Mexico. So currently the County is working on renewing their all hazards mitigation plan with our new Office of Emergency Management.

COMMISSIONER PAVA: Thank you. Second question and this may also be for the Fire Department. Second question I have is does the County have a Community Right to Know Act compliant emergency response plan for hazardous chemicals, or is that just something that will come out of what you just informed us about is currently being worked on?

MR. BLAY: Mr. Chair, Commissioner Pava, I believe that the all hazards emergency response plan will include the EBCRA.

COMMISSIONER PAVA: Thank you. My next question goes to the Environmental Impact Report. I'll preface this by saying that I worked at Los Alamos for my last 20 years before my retirement five years ago in the environmental compliance section, and I did NEPA reviews and prepared EAs and EISs. So when I looked at the EIS, all 620-some odd pages, I was too surprised to see that there really wasn't a vigorous discussion of alternatives considered and dismissed. Specifically, with regard to battery technology since the purpose and need of the EIS was to cover the BESS facility, so I was naturally looking to see a robust discussion of battery technologies. It doesn't happen in this EIS. So would anybody care to elaborate as to why that was written that way?

CHAIR AABOE: Excuse me, Commissioner. Can I just – so a federal environmental impact statement is different from the environmental impact report that is required at the County level. I think that's correct but maybe staff can add some color to that. Thank you.

COMMISSIONER PAVA: That's well taken. I'll accede to your clarification on that. I still think in a project of this import perhaps at least some discussion of battery technologies, more in-depth than what I read would have been appropriate. But thank you for your clarification.

For staff, you kind of answered this, I think. Was the AES required to have another Technical Advisory Committee review for the August 24th CUP application? And if not, why? Why would that have not been a requirement?

MR. SISNEROS: So since the application, they were applying for the same use and the same project size, everything was pretty much the same. The only thing

that changed was the incompleteness of the first application. They were not required to have a second Technical Advisory Committee meeting.

COMMISSIONER PAVA: Okay. Thank you. I just wanted to get staff's perspective on how that process is actually executed. The next is kind of a general comment, and perhaps Mr. Schannauer would like to address this. Perhaps AES reps would like to address this. As an energy regulator, to Mr. Schannauer, why do you think AES has been invested in this Rancho Viejo project given your testimony about PNM needs for decarbonization and renewables and its transmission line network capacities? I will pause – could this power that could be generated at Rancho Viejo be used by LANL, Los Alamos National Laboratory? Feeding into the proposed new power line across Caja del Rio?

MR.SCHANNAUER: As far as I know LANL does not buy electricity from PNM. LANL has contracts with – maybe you know who they do have contracts with. But they don't buy electricity from PNM. It's not a PNM customer. I don't think that's the reason. I don't know the reason. I've been puzzled by this issue. The only thing, frankly, the only thing that I can compare it to is the PNM-Avangrid merger. In that case those parties had an agreement to continue to try and develop that project until a certain date. And everyone was bound to develop that project up until a certain date. Then they could walk away from it. They extended that project, that agreement, for a number of times but they eventually walked away from it.

So I don't know. One of the questions I've been trying to get information about is what is Rancho Viejo Solar, LLC; who is it?

CHAIR AABOE: Mr. Schannauer, I wonder if I could ask a question. I want to follow up on the transmission question. You indicated in your slides that I think PNM's transmission system is maxed out, and your inference was that you put generation next to where retiring generation has been. Is the currently open PNM RFP requesting interconnection or transmission to the Zia Station on Richards Avenue?

MR.SCHANNAUER: The RFP is an on-source RFP. All options is what's they're considering.

CHAIR AABOE: And they specifically call out seven substations into which they want power.

MR.SCHANNAUER: Into which – those are the seven substations in the entire PNM system. That's where PNM can accept transmission of power. They didn't single out Zia. They didn't single out Zia.

CHAIR AABOE: But they called out Zia, didn't they?

MR.SCHANNAUER: Because it's one of the seven.

CHAIR AABOE: So there are only seven substations within the PNM system?

MR.SCHANNAUER: For this type of transfer, the transmission power that they're looking for. Yes.

CHAIR AABOE: So they are requesting power to be delivered to seven substations within their system, and I'm not sure how many substations are within their system. They're requesting power in this RFP to seven substations. Is Zia one of those substations?

MR.SCHANNAUER: Zia is one of the substations that accepts power from transmission, from generating resources, potential generating resources. It's not one

that PNM has singled out for special –

CHAIR AABOE: They've put it in a group of seven of all their substations, haven't they?

MR.SCHANNAUER: And they're maxed out at the other ones too. So yes, they're all maxed out, but they're trying – the way –

CHAIR AABOE: I'm just – I'm confused because you say the new generation must go in other counties. It must not come to Santa Fe. Then why did PNM put this substation in their list of interconnection points for the requested all-source generation?

MR.SCHANNAUER: Historically PNM has been criticized for going into a procurement with a predetermined idea of what it wants and for a predetermined idea of what it doesn't want. In terms of – in the past, PNM's been criticized for not – for putting their RFPs in a way that discourages renewables or something else. What they're doing and what they have been doing with these RFPs is trying to be completely agnostic. We'll consider any kind of resource that you want to propose anywhere in our system where you think you can – where it can fit. That's what they do in their RFPs now.

CHAIR AABOE: Thank you. I understand your point and I think it's important to recognize that PNM is requesting interconnection of all source. But it must transition, it must make that magical switch from methane to hydrogen by 20-something, or solar plus storage, or long-duration storage. They're not really requesting new fossil generation other than methane that can be transitioned. Is that correct? In this RFP that I'm sure you're familiar with.

MR.SCHANNAUER: They're leaving open natural gas. They're considering natural gas.

CHAIR AABOE: With transition – with combustion turbines that will be retrofitted to burn some sort of hydrogen in the future, right?

MR.SCHANNAUER: That will probably be one of the considerations, but they're not ruling out natural gas without the opportunity to transition to hydrogen. It's an all-source RFP.

CHAIR AABOE: Thanks very much. Any other questions from Commissioners? Please do, Dan.

COMMISSIONER PAVA: Thank you, Mr. Chair. This goes to the batteries. Yesterday we talked a little bit during the opening parts of this public hearing. A question directed toward AES. Again, about the battery types, lithium battery varieties. I'm noticing here in Mr. Schannauer's presentation that I believe the comparable sized or similar BESS installations and solar farms in New Mexico, three of them are employing the lithium-iron-phosphate batteries. That's what I took from your presentation. Maybe you can correct me if that's incorrect. But I'm wondering if it is correct, why are you all going with the lithium-ion? I think the public wants to understand this better and not necessarily in technical terms but maybe as a decision based on financing for the project, the capabilities of the batteries, all things being equal, the cost of safety systems. I'm not looking for a three-minute answer here, because we don't have a lot of time, and I'll stop my question at that point.

MR. SIMPSON: Okay. Thank you. I'll try to be brief. So it's a great question. The unfortunate thing is that lithium-iron-phosphate as well as other lithium-ion varieties do have the tendency to both catch on fire and create explosive atmospheres.

The great thing about that is that we know how to characterize those hazards and then we know how to deal with them. Same way we can characterize traffic hazards or airplane hazards or anything else. And so we've done a great deal to characterize those hazards and now that we know them. By the way, AES deploys multiple flavors of lithium-ion for multiple places from multiple suppliers. So we're not glued to this variety, but the variety we presented is the most cost-effective that we have for this project, and that includes all of the different safety provisions and the operations provisions to make sure that it is as safe as possible.

One of the major benefits of this chemistry is that it degrades a bit less. Actually quite a bit less. And so as you may know, your cell phone loses duration of air time over the years, right? You don't have as much talk time as you do when it's brand new. That's true with all lithium-ion, and this variety loses a lot less than the others, and so we have to deploy less to maintain the same level of service throughout the 25 years of operations. That's one of the major areas of cost reduction, and it's so much that a little bit of extra steel piping to address this direct injection system is kind of a drop in the bucket compared to the cost reduction we can have.

One last thing is just that we look at this as a total cost of ownership comparison. So it's not just capital costs. Other developers may be approaching it form that angle and we see people trying to sell us projects at cheaper value with different batteries and we say, yes, that's great that the cost is so nice but over the course of that 25 years it's going to cost us more. So we look at total cost build up, all of the capital costs, all of the operating costs, amortized over those 25 years and then we make that comparison and this is the one that we found most cost-effective for New Mexico.

COMMISSIONER PAVA: Thank you for the succinct response. It clarifies many things. I'm finished with my question. Thank you.

CHAIR AABOE: Thanks very much, Commissioner. Carl, go ahead.

COMMISSIONER TRUJILLO: Mr. Chair, a last question of AES. It's related to a comment from last night.

CHAIR AABOE: Let's hold that and finish with Mr. Schannauer. Mr. Schannauer, I have a few questions that were given to me by parties with standing. So annual reports are required by the SEC to disclose all potential business risks but they aren't necessarily a statement of the probability of risk or likelihood of risk of any one project, are they?

MR.SCHANNAUER: I guess they don't pertain to a specific project. They talk about their battery storage operations. Yes.

CHAIR AABOE: Thank you. Another question is you cite to a July 31, 2024 email from the Fire Marshal to describe the need for more stringent requirements. Did the County adopt more stringent requirements after this email?

MR.SCHANNAUER: No.

CHAIR AABOE: So they haven't adopted – you contend that they haven't adopted any more stringent requirements since July 1, 2024? Is that right? Staff, is that correct, or Fire Marshall?

MR. BLAY: Mr. Chair, the 2021 IFC was adopted in October 2023. The NFPA 855, 2023 edition was updated December 2023. After the letter that Mr. Schannauer refers to I believe that AES has been asked to implement NFPA 68 and 69, 69 is not required, but they will. They will be also submitting a smoking gas plume

modeling, which is not required, and the thermal runaway propagation prevention suppression system is also not required and they are going to be implementing that.

CHAIR AABOE: Thank you very much. And one more question, sir. A key issue, in Chapter 9 of the SGMP you indicate the current – and I think is both in the 2015 and the 2020 SGMP – the current emergency response system is not sufficient to service our population today. In the case of a large emergency where large number of county residents would have to be evacuated or hospitalized, the County provider infrastructure and resources would be insufficient. I think that's your cite. Does that mean that the County shouldn't approve any development projects until that deficiency is addressed, including this project?

MR.SCHANNAUER: It means that the County should not be approving a project with the hazard, the risk that this project has. It can certainly approve other project but this project has –

CHAIR AABOE: So the County needs to make a determination of what it can, what it should and should not approve. Is that right?

MR.SCHANNAUER: Of course. Yes.

CHAIR AABOE: Okay. Thank you very much. That's all the questions I have. Any other questions? Thank you very much, Mr. Schannauer. Appreciate it. And thank you for carrying over till today.

MR.SCHANNAUER: Thank you.

N. Public Comment [*Exhibit 3: Public Sign-in Sheets; Exhibit 4: Home Value Information*]

CHAIR AABOE: Next on the agenda is public comment, and so staff, will you help me out here? Is public comment next? Okay. Public comment is next. So folks have signed up previously and Daniel is going to be running that. Please go ahead.

DANIEL FRESQUEZ (Media Specialist): Okay. Before we begin, I'd like to go over a few housekeeping items to ensure this portion of the meeting runs as smoothly and efficiently as possible. With the current number of speakers signed up, including those with donated time, public comment is expected to last just over two hours. Each speaker is allowed one opportunity to speak for a maximum of two minutes. Those with donated time will be limited to a maximum of 10 minutes each.

These time limits will be strictly enforced, and a timer will be displayed on the screen. We will begin with speakers who have received donated time, calling them by name. Next, attendees who signed up to speak on their own behalf and are currently in chambers will be invited to line up at the podium.

For virtual attendees, please use the "Raise Hand" feature at the bottom of your Webex screen. If you're a call-in user it's star 3 on your telephone. Virtual speakers will be called in the order their requests are received. All speakers, whether in-person or virtual, must be sworn in by the stenographer before speaking. To maximize this time, we ask speakers to avoid repeating questions or comments that have already been addressed.

Our first speaker will be Camilla Brom, with a maximum of ten minutes.

Thank you for your understanding and cooperation as we work to ensure a fair and efficient public comment process.

[Those in chambers wishing to speak were administered the oath.]

CAMILLA BROM: My name is Camilla Brom. I live at 181 San Marcos Loop, Santa Fe, New Mexico, and I understand that I am speaking under oath. I've lived in Santa Fe County about nine years now and I have been involved in this facility for almost three years when we first heard about it. I'm part of New Mexico for Responsible Renewable Energy. I oversee a website group, Facebook group, and have an email list of about 450 nearby residents.

This is going to be short because I just found out I have less time than I thought I did. But in the ten minutes I'm going to speak to you all it's going to be on the developer, AES, and who they are. Because this has not been addressed for the most part, and to me, I feel like it's a really critical thing. If you're going to start doing business with an individual or an entity you should look into their background to see who they are and if they're acceptable and the right fit.

So as we know, AES is a global corporation but they don't just do renewable energy. That's all new. They also have coal plants, gas plants and other types of energy storage. On their corporation website it says AES is deeply rooted in local culture and customs and reinvests in communities in a way that makes the best sense for people. Yesterday I heard works like we're an ethical corporation and safety is our number one issue. So when you look in the – I wish I would have had time to research this company more but I realize you'll make your decision today, but there's a group called the Political Economy Research Group based out of the University of Massachusetts, and they have been since 2002 looking at the top 500 US corporations and the pollution they emit.

So in the most recent list from 2024 AES has climbed to number 28 out of the top 500 on the greenhouse 100 polluters index. That has moved up from number 32 on a prior list. And then also last year's list or the most recent list they rose up to number 69 in the spot of the top 100 toxic water polluters, moving up from number 75. As mentioned yesterday they have over $40 million in violations including environmental violations, but this does not take into account all the legal actions and settlements that they have been involved in.

In AES's most recent Q-10 form, which you can find on their own corporate website, you can see the current legal proceedings they're involved in currently with sought out damages towards AES totaling over $1 billion.

So I want to highlight just a few of their facilities to try to get an idea of who this corporation is. AES owns still the AES Alameda facility in California and they also had owned the AES Redondo Beach facility from 2002, I believe is when they acquired it. Both of these facilities use what's called a once-through cooling system which draw in the ocean water to cool their systems and these pipes, they drew the water into were approximately 10-foot in diameter. And the problem with this process is it led to the death of countless marine life because they were also sucked into this large cooling system and then the water when it was dispersed back into the ocean was overheated and it damaged the marine ecosystem.

So the actual comment from the EPA states the problems with these cooling plants is they withdraw billions of gallons of water every day to cool steam for generating electricity and in the process kill millions of fish, larva, eggs, seals, sea lions, turtles and other creatures, because they either get trapped or exposed to high pressure and heat.

So AES was aware of this from the beginning because they had a lot of public protect and it just grew and grew and grew. And they didn't do anything till almost 20

years later when the EPA pretty much forced them to with their strict regulations.

A violation just in June of last year at the same facility, AES reached a settlement with them and the EPA because of a violation in which the California regulators discovered that AES had exceeded the maximum annually allowed one percent emission of sulfur hexafluoride. They exceeded it by 17.5 percent over a period of 130 days

According to the Intergovernmental Panel on Climate Change, sulfur hexafluoride is the most potent greenhouse gas. It's global warming potential is 23,000 times greater than CO_2. They compared it over a hundred-year time frame and it's extremely long-loved with an estimated atmospheric lifetime between 800 to 3200 years.

The folks who spoke yesterday about our environment, we're all concerned about our environment, but this is very disturbing to me. They also have plants in Indiana where if you look into it there are so many violations where they pay the violations for air pollution, coal ash, water pollution and they don't fix the problems until years later, same story, tight regulations and high fines or lawsuits.

In 2021 AES Indiana paid out $1.5 million for environmental violations of roughly 120 times in three years. Then you go to the AES Puerto Rico plant. PBS actually did an exposé on this facility, which is still in operation. If you go look back in 2018 you're find this exposé where they operate this coal facility that they mishandled the coal storage and disposal, and it's resulted in an almost 50 percent increase in not only respiratory and cardiac issues but also cancer rates.

Last year – there's plenty of settlements with all of these facilities but last year there was a $3.1 million settlement between EPA and their Puerto Rico from improper monitoring, [inaudible] hydrochloric acid – I don't have time to go through all this unfortunately, but if you took the time, because we all need to be taking the time to see is this the right company we want in Santa Fe? Is this the right company we want to have our residents nearby? Is this the neighbor we want to deal with?

When you look at their track record, what AES has done, caused, and continues to do, this should be a huge red flag, and it shouldn't be ignored. Again, you had a handful of groups yesterday come up and do their best to try to take your focus off of the issue that we are dealing with at hand today and they did it by presenting the seriousness of the climate change in order to sway you towards approving this facility that is a clear danger in so many ways. My career in the past 20 years is I'm a medical provider. I'm a PA. And my job role, the number one thing is to first do no harm, and that means doing what is the best interest of the person I'm taking care of. Their safety, their health and their wellbeing.

I've looked up your roles and respectfully I know your roles are similar to mine. When you're making decisions about developments you must take into consideration how it's going to impact the health, the safety and wellbeing of the public. So the decision you make today is not about whether we need to transition to renewable energy because of our climate crisis; it's about deciding if this specific facility is in the best interest of the safety, health and wellbeing of thousands of people who will be impacted by it as well as the environment.

It's been made clear that this facility is not in the best interest of any of us here and it's not even allowed based on when you look at the SGMP and SLDC. It's prohibited in this zone, and everyone please, take into consideration who AES is. This is stuff I researched from – you can just do Google searches and find tons of information. It

really has to be taken into consideration, please. So I ask that you consider all this and please reject the AES Rancho Viejo Solar conditional use permit application. Thank you.

CHAIR AABOE: Thank you. Next.

MR. FRESQUEZ: Mr. Chair, our next speaker is Lee Zlotoff with a maximum of ten minutes.

LEE ZLOTOFF: My name is Lee Zlotoff. I live at 53 Camerada Road in Eldorado and have for ten years. I realize I am under oath. Good afternoon. As I just said, my name is Lee Zlotoff. I am the president of CEC and I have lived in Eldorado for ten years. And as demonstrated in yesterday's session, there is an enormous amount of information for you to try and process. I do not envy you.

I've been working on this issue pretty much full time for at least the last 18 months as a volunteer and I still can't claim to understand it all. But there are some things I do know. I know that this County, including yourselves, have never been asked to consider a project of this size and complexity before. I know that residents have asked for a moratorium to establish regulations and guidelines to be in place before deciding on this project, and that it be considered as a DCI rather than a CUP. Both those requests were denied.

And we know PNM has passed over this project in their RFP project no less than six times. What you may not know is that we reached out to AES to seek a compromise. As you may be aware, recognizing the need for renewable energy, we even developed an alternative plan for a micro-grid system such as the one currently being built by Kit Carson Electric. We said, look, we don't want to fight with you, AES, or with the County for that matter. Why don't we sit down and use your expertise as a $45 billion energy company to come up with a plan that works for everyone and addresses our safety concerns. Or perhaps this is just relocating what you want in a location that is not so close to communities.

Needless to say those conversations went nowhere. Instead, AES has offered sops to try and blunt or deflect our concerns. One example: In their initial application they said there would be no personnel at all on the facility during its operation and would be monitored remotely. We raised that as a serious concern. So then they said, oh, yes. There will be people onsite now, five days a week from nine to five. And they'll do maintenance. They've been building these BESS projects for years and never seemed to require people onsite for maintenance before.

As Mr. Schannauer pointed out they tell us one store and their investors a very different story, namely, that these projects do come with considerable risks, which has become clear to all the communities that have now experienced BESS fires, whether in AES facilities or others, all of whom are angrily freezing the development of any such projects going forward, a situation that is now becoming widespread across the country after the massive conflagration at the Moss Landing facility.

These fires can burn for days or weeks and with over 500,000 lithium-ion batteries over a 35-year period, no matter what AES promises, one or more fires at this facility is a statistical certainly. And even if the fires don't escape the facilities, which could happen out here with sufficient wind and a single tumbleweed, the toxic plumes from the fire will go wherever the wind takes them and could easily devastate the real estate and tourism economy on which the city and county depends.

So while it seem we are in opposition to the County's apparent support for this

project, the truth is we are here for the same reason you have all generously agreed to be on the Planning Commission, namely to serve our community. And we hope you would agree that the highest priority for anyone in your position or who works for the County is that safety, health and welfare of the residents – nothing is more important than that. Not trying to achieve renewable energy goals, or lessening the effects of climate change, laudable as those things might be. But the cure can't be worse than the disease or it is no cure at all. Our safety is in some real sense at the moment, in your hands.

And whatever metric you choose, the community has made it clear they are deeply concerned about this project, be it by a margin of ten to one, four to one or even two to one against. We are not Luddites. We are not fools. We are not simpletons. We are educated citizens who believe we are being sold a wolf in sheep's clothing. This is why I implore you to put the safety of residents foremost in your consideration and just as Hearing Officer Hebert did, deny the application for this project. Thank you very much.

CHAIR AABOE: Thank you, sir. Daniel, who do we have next?

MR. FRESQUEZ: Mr. Chair, we have Christine Cassano for a total time of ten minutes.

CHRISTINE CASSANO: Good afternoon. I am here today as a deeply concerned citizens and resident of Eldorado. Christine Cassano, 11 Serrato Loop, Santa Fe, New Mexico, 87508. And I'm under oath. I am here as a deeply concerned citizen and resident of Eldorado. I have always been and will continue to be a major advocate for renewable energies, notably solar and wind. I moved to Santa Fe three years ago. I come here with a background of working for the environmental building industry. For years I have worked for and with great leaders in this industry, professionals, non-profits, all committed to advancing environmental and sustainable initiatives.

I know firsthand that effective environmental policies must be guided by experience, unbiased statistic and ethical principles to ensure the safety, health and welfare of their community. I have a firm understanding of both the benefits and risks associated with solar BESS. I also know that right now, the legislation and regulation in New Mexico is in its infancy. At the exact same time our rural neighborhoods, our communities, they're being besieged by energy companies who are aggressively securing as much land as possible so that they can build their large utility-scale and industrial solar BESS sites.

As all of this rapidly advances local planning and zoning staff such as yourselves will be increasingly tasked with the incredible responsibility to determine where and how these sites are built. It is my professional opinion these large-scare solar BESS sites should never be placed within three to four miles of any residential community. I was stunned when our small town of Santa Fe chose this project as its first go-to. AES proposes a 700-acre behemoth of 200,000 solar panels, 38 metal shipping containers filled with 570,000 lithium-ion batteries, surrounded by a chain-link fence.

They chose a drought-prone area, a tinderbox, dry grasslands, with year-round high winds prone to wildfires and extreme temperatures. They then cram it in between 25,000 residents, some perimeters as close to just a few thousand feet from a residential home. Why? Because this location simply saves them money. What has been proposed is an abomination of irresponsible haste and greed.

As a concerned citizen I'm still trying to understand how the SLDC code was quietly amended in 2022 to allow for industrial battery storage on Rural Fringe land. This

is unreasonable. Multiple presentations in this hearing have clearly shown that this site poses an unprecedented risk to the health, welfare of our community. And who is AES? They're a huge energy company focused in coal and renewables. AES has $10 million in regulatory fines and violations in the US alone. Did Santa Fe even vet companies before accepting proposals? Does it concern you that in 2024 AES was fined $3.5 million in the US alone for water pollution, air pollution and hazardous waste violations? Do their three existing BESS fires between 2019 and 2024 concern you?

If you're not aware, perhaps write these next ones down. Does AES's 2024 legal settlement to Dayton Ohio Public Utilities or the 2023 of Indiana's Utility Commission raise any concerns? What about the $6 million fines in 2023 imposed by the Federal Energy Regulatory Commission?

Outside of the US AES has stunning violations, corporate delay tactics, litigation and environmental injustices, including the eight million ton debacle of the toxic coal ash scandal in Puerto Rico, along with the $3 billion hydroelectric crisis in Chile, South America. All in public record. Do these concern you? Because this partnership concerns all of us in this community.

So back to New Mexico. 95 percent of the people in this room yesterday and today are pro-solar but we are anti-location. This is not NIMBYism. This is NBYism, nobody's backyard. What alarms me is that you, the County, are making decisions about this project with minimal experience, loosely developed legislation, and without consideration for many of the unforeseen risks unique to our northern New Mexico climate. And then there are endless questions the concerned residents still have. Given AES's track record, will the County have its own independent consultant company monitoring this project's development? Do residents have a seat at that table? Does the County have any experience with large-scale hazard preparedness or large-scale evacuation planning? Would the County be capable of managing and monitoring AES's massive water use? If AES contaminates groundwater, would the County pay for the cost of the 500+ residents on private wells to get them tied into community water? The quote I got from Eldorado was between $200,000 and $300,000 per household.

Would the County pay for the increase in homeowners insurance policies due to the increased risk? Or would the County offer state insurance policies who can no longer get fire coverage? There are many more questions and considerations, but I simply urge all of you to pause and consider the massive BESS fire that just happened 19 days ago in Moss Landing. Monterey County has declared a state of emergency and the fallout is still happening.

Please consider what County Supervisor Glenn Church publicly stated on January 17, 2025, and I quote. "I was personally given the guarantee that a fire like this one that occurred here in 2022 would never happen again. In 2025 we know that is not true. This disaster is worse and I will be requesting a thorough review of the county's permitting process and all safety and health regulations relating to battery storage systems."

Santa Fe County staff has previous acknowledged that there has never been a commercial industry facility in this county that has proposed a comparable degree of hazard that this site does. Residents have no assurance that this County is even prepared or equipped to handle oversight of the project, yet today you are deciding whether or not this project advances. It is my educated opinion that Santa Fe's inexperience with renewable energy combined with its intense climate, it's elected partnership, the ever-

changing battery technologies and the grossly underdeveloped legislation in New Mexico's renewable energy make this project on this land a 35-year long hazards and a detrimental risk to our community. This entire approach is simply negligent.

So please consider your oath today which clearly states that the Santa Fe County government and its officials must be independent, impartial, responsible to the people, and that the decisions of developing policy be made fairly, legally, and as a result of fair and open process. Thank you very much.

CHAIR AABOE: Thank you, ma'am. Daniel next.

MR. FRESQUEZ: Mr. Chair, the next speaker has one donation for a total comment time of four minute, Dayna Matlin.

DAYNA MATLIN: My name is Dayna Matlin. I live at 53 Camerada Road in Eldorado. And I understand I'm under oath. I am the community liaison for CED representing over 1,300 volunteer subscribers, 932 who have signed our petition as of this morning. I have lived in Eldorado for over a decade and have three points I believe are pertinent.

First, I'd like to speak to the containment issue. No one expects a fire to get out of control and leave toxic chemical in its wake. No matter what ignites it, whether it's due to downed wires or battery thermal runaway. We didn't expect what happened at Calf Canyon/Hermit's Peak in 2022 which burned over 341,000 acres in New Mexico. Maui, Hawaii, in 2023 which killed 102 people. Los Angeles this January, 11,200 properties destroyed and 29 people dead. More recently, at the Moss Landing in Monterey, California where heavy metals from lithium-ion batteries contaminated the environment and reports of health issues are still coming in.

With our prevailing westerly winds which are nearly constant and can reach almost 50 miles per hour, and the number of tumbleweeds that fly through Eldorado no one can predict what will happen.

My second point: We do want solar energy that is safe so we asked AES, I asked Josh. I was at the table when we asked Josh Mayer to find a different location, farther from communities. AES will not. To use safer, albeit more expensive batteries, AES will not. To buy the transmission lines they plan to put it. AES will not. We even asked them to work with us to create a distributed, federated micro-grid system where they would be the providers of the utility-scale portion. AES will not.

AES has made it clear that they do not want to work with us to find safer solutions.

For my last point, in August 2023 we informed AES of a major natural gas line that runs along the western border of Eldorado. I know this because the regulatory station where the gas line emerges above the ground is adjacent to my home. And yet it has never and does not appear in their application for a conditional use permit, even though all nearby utilities are required to be noted. We can only conclude that AES's omission is intentional.

Over 2,000 homes in Eldorado receive natural gas from this line and in the event the gas line ruptures all those homes would be subject to explosion and fire. Some will say just eliminate the gas line but we all know that won't happen today or in the near future. The SLDC specifically prohibits any project that could cause public panic. The fact is there are only two roads that provide exit from the entire western half of Eldorado. Should there be either a wildfire or a toxic plume, residents would be left to their own

devices to attempt an evacuation. If this is not a recipe for public panic I struggle to imagine what one might be.

We're asking you today to not put a known fire risk with toxic chemicals near over 10,000 homes and an above-ground natural gas line regulator. Thank you.

MR. FRESQUEZ: Mr. Chair, our next speaker also has one donation for a total comment time of four minutes. This person is joining via Webex. Carol Biedleman, will you please unmute your mike?

[Duly sworn, Carol Beidleman testified as follows:]

CAROL BEIDLEMAN: Thank you. My name is Carol Beidleman, 35 Tetilla Road, Santa Fe, 87508, which is in Eldorado. Thank you for the opportunity to provide comments on this AES project. I signed up yesterday for this time, stayed through adjournment that it was unfortunate that AES took two hours of the community's time rather than the one hour allotted on January 16th which threw everything else off schedule.

On December 4th which is in contrast to this hearing, did allow cross-examination. Hearing Officer Hebert was a very good listener and took the time to review, give considerable thought, do careful analysis in making an appropriate decision against this AES project. I firmly agree with her decision. Simply stated, she said that this square AES proposal did not fit into this round CUP hole.

Most of us attending this Commission meeting have been researching this project and going to meetings about it for years, so we already knew this was a massive and concerning industrial facility that required a more sophisticated process for evaluation than a simple CUP. That's why we pushed over and over again for a development of countywide impact or DCI to be developed for this and any future utility-scale renewable project. But the County could not be bothered to do that.

In a March meeting the County officials said that designating these facilities a DCI would be too much and take a long time, that it could not have been finished by now. Because that DCI was never developed the immense responsibility of looking the neighbors of this project directly in the eye, putting aside corporate reassurances and landowner enticements, demonstrating that you have done due diligence in reading all the information and considering [inaudible] decision.

In terms of the speakers, those with standing you allowed, on January 16th you pressed the speakers against this project to say whether they lived in proximity, because that was important to you for granting standing, and they did. But you did not ask all those who were speaking in favor who do not live in the vicinity, so I wonder who was influencing this decision with such negative impact on whose benefit. You gave standing at that hearing to the Santa Fe Green Chamber of Commerce which has a conflict of interest, Glenn, the ED, told me yesterday that it was a group of "local businesses." But AES, a Virginia based corporation has stated it's been a proud member since 2024, which is when they submitted this application.

Regarding the Sierra Club's stand in favor of this proposal, I've been a professional land and wildland conservation for almost 50 years working for the federal government and non-profits and I've reviewed renewable energy proposals. But the scientists I've worked with, just because something says renewable energy is not cause for automatic endorsement. These projects need to be examined carefully with the most important consideration being siting. That's exactly the problem with this AES project

and Commissioner Wendy pointed right to it in her question yesterday, why was this project sited here? The answer very simply, because that landowner wanted this project on his land, a business proposition. He recently told a reporter he's been working on this project with AES for 11 years and we were told by the former development leader that AES has been leasing this land for this purpose for a long time.

To say this AES project is hair-on-fire urgent is naïve. Everyone understands the need to transition to renewable energy, but we must be smart from the start in both the design and siting, strategic not opportunistic, pro-active not reactive. Let's get it right. If you get it wrong and something goes wrong it will set this transition back even further. Thank you.

CHAIR AABOE: Thank you, Ms. Beidleman.

MR. FRESQUEZ: Mr. Chair, that's going to do it for all the people with donated time. At this time I invite anybody in chambers to line up at the podium. And just a reminder, moving forward, every timer is going to be at two minutes and try not to repeat your comments.

JIM MACKENZIE: My name is Jim Mackenzie and I live in Albuquerque, New Mexico, and I'm the co-coordinator of 350 New Mexico with 6,000 members in central New Mexico. I'm here today because the decision we make today has implications for the whole state and for our members. We are also dealing with a large facility in eastern Sandoval County that's twice as big and this and so we're very interested in the process here.

Before I go forward, Mr. Chair and board, I want to thank you for the amazing patience you've had for this process we've been in. I was around yesterday for this many hours and staff and everybody, it's setting quite a high bar for all of us. I also want to thank the opponents because they have been very generous with me because they have offered to support one of these projects in my backyard. So I really appreciate that because I would also support that project in my backyard.

My background is in industrial and commercial electrical work. I've led a couple of companies. I was a union electrician for 35 years and I know something about what we're talking about. So I've been listening for the last ten hours about what is it that the public doesn't understand? My thing is it's about how codes work, and the layers and layers of protections that the fire code and the electrical code, the building codes, bring to this process. How do those codes get to where they are? Why are they good? How do they protect us? And why they continue to get better.

So why does a fire that happened three years ago actually help us today have a better, safer, future? Thank you.

CINDY FUQUA: I'm Cindy Fuqua, 77 Encantado Loop. I understand I'm under oath. Thank you. So we've heard a great deal regarding the climate emergency, economies of scale, potential profits, LLCs, etc. This project is not about the climate emergency, profits or the cost of energy. With respect, the question before the Commission is does this meet the standards with regard to Rural Fringe/Agricultural zoning? The people of the surrounding community including Santa Fe will be asked to absorb the risk of fire destruction, noise pollution and property devaluation.

As we have seen with recent BESS fires there is a huge expense associated with road closures, evacuations, businesses having to shutter, and people sheltering in place associated with the toxic fumes. We've heard about industrial revenue bonds, tax credits

and housing development credits. Where is the money for the homeowners in the event of …

Thank you, Commissioner Gonzales. You inquired of AES yesterday, who is responsible if a catastrophic event happens? What was the response? We can't speculate but we do [inaudible] the facility. Just released this morning, the Orange County Board of Supervisors has passed an urgency ordinance moratorium on permitting of large-scale battery energy storage system facilities in unincorporated Orange County. The County currently has no regulations for BESS facilities. These facilities are necessary to achieve our clean energy goals, say vice chair Katrina Foley.

I've lived in Eldorado three years. I'm very concerned about the overhead transmission lines that parallel Encantado Loop. You did not use this when you simulated sight – the tie-in to the gen line. So these people, all of us that live on Encantado Loop and your high power lines that would parallel us would absolutely devalue our property.

MR. FRESQUEZ: Mr. Chair, the time has expired.

MS. FUQUA: And I invite you to our house if you'd like to come see: 77 Encantado Loop. My name is Cindy Fuqua.

CHAIR AABOE: Thank you, ma'am.

CAROL CULVER: My name's Carol Culver. I live at 12 Mariano Road in Eldorado and I understand that I'm under oath. Members of the Planning Commission, my name's Carol Culver and I live in Eldorado. In their lengthy presentation yesterday, AES showed us multiple slides with complex diagrams of battery fire suppression systems in an attempt to persuade us that this project will be safe. The impression that I was left with was that the lithium-ion battery systems are extremely hazardous, requiring intricate, redundant safety systems.

Just recently, as we've heard on January 16th a huge fire broke out in a lithium-ion battery storage built by an AES subsidiary at Moss Landing, California in Monterey County. The massive fire burned on and off for days, and since then scientists at San Jose State University have found in the soils within a two mile range a dramatic increase in surface residues of heavy metals that are used in lithium-ion batteries.

Monterey County Commissioner Glenn Church said that day, this is the fourth fire at that site since 2019. We've been given guarantees from companies involved in this that they were going to have things under control. Well, obviously that failed, he said. He said, "Promises were made and promises were broken."

What we're hearing today from AES is more promises. They're promising us the facility will be built with new technology and that a fire will not occur if it does, the fire suppression system will take care of it. But if this facility is built two years later this technology is going to be old technology, and promises made today may once again be broken.

As we've heard it's untrue that there are not safer battery alternatives. The job of this Commission is to make sure that CUP applications comply with the SLDC to make sure that they're not detrimental to the health and safety and welfare of the area. Please don't put yourselves in the position of saying in front of television cameras, promises were made and promises were broken. Thank you.

CHAIR AABOE: Thank you.

MARLENE BARNES: My name is Marlene Barnes. I live at 45 Camino Costadino in Dos Griegos, 87508. Yes, I'm under oath. Today I wanted to really talk

about fire. That's my main topic. We do live in a very fire-prone area. Every one of is in Eldorado, Dos Griegos and all the surrounding communities are completely encircled by desert and the desert is not at all what it looked like in the AES slide yesterday. The slide that they showed was obviously taken in the winter. The winter always has sparse vegetation.

My property, which is 3 ½ acres, hardly has anything on it right now. As soon as we have wind and rain for a couple of weeks we've got a jungle, and I think everybody can attest to that. So we cannot say that if a fire escapes from this containment, even with the fire suppression, they cannot really say embers won't blow, flames won't go beyond the height of the actual container. If you looked at any of the coverage on the interne showing the Moss Landing fire. That fire, the flames themselves were taller than the building and there was obviously no wind that day because the smoke went straight up.

So the environment really makes a big difference and this kind of facility does not belong smack dab in the middle of 10,000 homes, and nothing will ever convince me that it's a smart idea. Thank you. Please deny the CUP.

CHAIR AABOE: Thank you, ma'am.

JIM WHEELER: Good afternoon. I'm Jim Wheeler, 95 Encantado Loop, 87508 and I understand I'm under oath. My wife Nancy and I have owned our house for 14 years and our house is 100 percent solar powered. We are located two miles from the proposed site and we back up to the ranch where we'll have an unobstructed view of the connecting power lines. One could say we're literally in the line of fire.

Last night a question was asked whether there was anything that shows the potential negative impact on property values resulting from solar arrays. I have here the January 2022 study conducted for the Kansans for Responsible Solar, which, using data from case studies of industrial-scale solar facilities shows that residential properties and land sales decreased in value by 6 ½ to 30 percent for neighboring properties, and 1.7 to 7 percent for properties located further away.

Of particular interest the study also found that many solar developers offer confidential good neighbor payments to adjacent property owners, some representing up to 10 percent of the property value, while at the same time saying their project has no impact on property values. There's an important caveat to this study. The case studies only examined projects with solar panels and no battery storage and thus did not consider the impact of fire or loss of property insurance. Does a home that is uninsurable have any market value?

We've heard how important and laudable this project is and how we're all in this together and we need to accept industrial solar in Santa Fe's backyards, and we've been assured that nothing bad will happen. But I have a question. Since this is in my backyard, if the worst case does happen, will AES, will the County, will any of the supporters come and backstop our property values and guarantee that we have affordable insurance going forward? If not, this application should be denied. Thank you.

CHAIR AABOE: Thank you, sir.

NATHAN LEBLANC: My name is Nathan LeBlanc. I live at 2711 Lincoln Court. I understand that I'm under oath. As likely one of the few people my age that is able to get time off work to be here today I feel that it is important for me to say as a millennial who has been saving for six years since moving here to acquire a house so that I can put solar on that house I am very much in favor of this proposal, and

supposedly there are others. I think we should put every proposed solar system in Santa Fe County for the residents who are unable to afford their houses and must rent so that they can also use green energy, and if there are multiple systems, we would benefit for additional economies of scale by having competing pricing between AES and whatever other competing proposal that was discussed yesterday would do.

This would reduce power prices. This would increase supply. This would allow further growth of various industries. I work in a software industry that is a solar-powered building since 2008. So I am very much in favor of this and I am quite concerned that there are a lot of people here today and yesterday to say that I don't want batteries in my backyard. I would if I could. Thank you.

CHAIR AABOE: Thank you, sir.

PAUL LAUR: Hello. I'm Paul Laur. I live at 55 Encantado Loop, 87508, and I understand I'm under oath. Good afternoon, Mr. Chair, Planning Commission members. I live in Eldorado and border Rancho Viejo directly downwind of this project. When we bought out home 24 years ago we understood that utility-scare power plants could never be built on adjacent property, and now you're considering changing that?

The threat of fire alone is enough to cause my home insurance provider to cancel my policy or raise the premium and exclude fire coverage, and that is exactly what is happening all over the country when the risk levels increase. My lender could then call my mortgage, forcing a fire sale of my home forcing me into bankruptcy. AES states that they can insure their $200 million project but they are a $40 billion per year corporation and can self-insure; I can't.

AES proposed to run 2.3 miles of 70-foot power lines towering across my western skyline. You can't tell me that won't devalue my property value. These lines also increase the fire risk. Bury the power lines and use battery technology such iron-air batteries that cannot spontaneously combust, or move it to an unpopulated location.

The argument that we drove cars without seatbelts and air bags when we didn't know better is a platitude. AES knows better and I'm sure you do too. The technology exists and it's ready to be deployed. AES is under no obligation to lower prices to consumers but they do have a fiduciary responsibility to their stakeholders to maximize profits. County Planning Commissions are supposed to follow the rules and protect their neighbors, not bend the rules for a greenwash company that complains about the cost of doing business here. Reject it or move it to an unpopulated area. Thank you.

CHAIR AABOE: Thank you, sir.

CATHY SHINKOSKEY: Cathy Shinkoskey, 100 Verano Loop. Yes. I'm under oath. I've lived here over 20 years and the thing I want to address, my perspective on the particulate matter which is in the air, which I've seen increase and constantly bother me with my particular health problems. We've inhaled over time the tiny particulars causing scarring and inflammation. And then valley fever which results in our soil and arsenic. Valley fever puts out spores and it's common in the southwest soils.

Activities that disturb the soil like windstorms and construction, i.e., massive opening up of that 600+ acres and disturbing it, here we go, valley fever. Particulate matter in air from other states comes in. It bothers allergy people. Pollen, juniper, grasses, and so we would be the dust bowl 1930, 1940, clearing all that land. They pulled up the grassland and vegetation, put entries of eggs, severe drought and [inaudible] Most susceptible to health effects of our particulate matter are elderly and children. It affects

asthma aggravated, decreased lung function, premature death to people with heart and lung disease, increased respiratory symptoms, breathing, etc.

Eldorado, two schools with less a mile from the proposed site. 1,148 and then 4,787 students in eight schools. 155,956 census of the metro area, five zip codes, 56,144 elderly people reside That's over the age of 60, and children, 28,000. That's a total, 84216, more than half the population. Particulate matter, most susceptible to health problems before this even begins. And then when they clear it, watch out. Thank you.

CHAIR AABOE: Thank you, ma'am.

MARY LOU JACKSON: My name is Mary Lou Jackson. I live at 36 Alcalde Road in Santa Fe, and I agree to tell the truth and I understand that I am under oath. After listening to what AES and fire experts have said, and I have read a lot, I've listened a lot. I do not believe that the proposed project is safe enough to put in the proposed location so close to residents and schools. The proposal is for combining components in a system that has not been built before, because lithium-ion fires will undoubtedly occur. And if it is not suppressed as proposed, and if there is a failure and toxic gases are put in the air, toxic smoke is put into the air, we the children, women and men living near this project will pay the price for hurrying to meet a County goal.

Joshua Mayer said they've zeroed out the possibility of fire. If he is telling the truth why will they build a 30,000-gallon water storage to wet down the area around the BESS in case fire should accept the containment. That means it is possible. And if it does, our properties, homes, health, our very lives are at risk. If a fire does not spread to our homes and schools, smoke undoubtedly will. People will be evacuated or ordered to shelter in place.

Who is this room is willing to put your families, your neighbors, at risk. Do you want to stay in your home with your windows closed and your ventilation turned off? Do you want to have to immediately leave your home not knowing when you may return? If this occurs I invite you to come shelter in place at my house in Eldorado, all of you who do not live within that area.

We were told yesterday there's no concerns for our water because of the fire suppressant. AES proposed to use FK 512 because it's harmless. What they didn't say, and what I read in the safety data sheet –

MR. FRESQUEZ: Mr. Chair, the timer has expired.

MS. JACKSON: Is that it's not benign; it is toxic. Thank you Please deny this.

CHAIR AABOE: Thank you, ma'am.

LUCY FOMA: Hello. Lucy Foma, 714 Rosita Street and I understand I'm under oath. I'm born and raised in Santa Fe and as young person I'm bringing 11 other comment cards from young people who waited yesterday to comment but today they're at their jobs so I want to give these to staff.

There's a story about ants that are busy collecting food for winter when suddenly torrential rains begin. As the floodwaters rise the ants start fighting over whose responsibility it is to carry the crumbs instead of uniting to protect themselves from the flood. This story is powerful for what's happening today as the climate crisis is already affecting us. Let's stop infighting.

The solar project that AES is proposing aligns with the County's goals in the Sustainable Growth Management plan, the Sustainable Land Development Code, and it

even exceeds federal standards and national standards for safety.

I'd like to share my personal experience throughout this process. In the many hours that I've spent at these hearings, in these meetings, taking off time from my day job to speak and support this effort, I've been hissed at, booed, followed and verbally attacked even. As a proud Santa Fean I believe treating my neighbors with respect even when we don't agree is important, and for all of my neighbors who just moved here a couple years ago, welcome, and I'll share with you that's it's not going to get you anywhere by disparaging and belittling our County leadership and staff.

So yesterday when AES was doing their presentation, trying to thoroughly assuage the many concerns that some of these people have brought up, some of these people who have hissed and booed at me left the room. Very demonstrably left the room to talk loudly in the hallway. The County has a clear, codified procedure for land development approvals and it's the responsibility of the Planning Commission to follow and implement that procedure. It would be a shame if this well thought out, logical process were derailed by a vocal group of misinformed and hate-fueled people, especially when factual and scientific evidence is available.

Please approve this project. Let's not quarrel over crumbs when we can fight together.

CHAIR AABOE: Thank you, ma'am.

JOE PRINGLE: Hello. My name is Joe Pringle. I live at 41 Camerada Loop, 87508, and I understand that I'm under oath. Thank you. I've learned two axioms that are pretty much always true. One is past behavior is the best predictor of future behavior. And believe what people do, not what they say they're going to do. And in this situation I think AES has given us remarkable evidence that they cannot be trusted to tell us the truth here.

A couple of previous speakers, the lady that went right before man and the gentleman from 350 talked about how codified the codes are here to protect us. But it's my belief that AES identified Santa Fe County as a soft target. They recognized that we don't have the codes in place for this kind of facility. Yesterday, Commissioner Brugger asked what's the definition of a commercial versus a utility scale solar project. Typically a commercial project is 20 megabytes [sic] and a utility-scale is larger than that.

So in a sign table discussion with some of the folks from AES yesterday during one of the breaks, I mentioned that, and they said, yes, but that's not in the code. So we don't have codes to address the placement or siting for utility-scale projects here in Santa Fe County. And what I'm asking is that rather than reacting to an outside corporation coming in and trying to plant their flag here and get in to essentially an unregulated environment, that we pro-actively decide how, when, where, these types of facilities should be located and then come up with a plan as to where they should be.

Right now we're reacting. We're on our heels. They do this every day and the County admits that this is the first time they've encountered this kind of situation. So I think we need to be pro-active. Thank you.

CHAIR AABOE: Thank you, sir.

PATSY WELCH: My name's Patsy Welch. I live at 14 Vista Grande Circle in Santa Fe, 87508. I understand that I'm under oath. I am a retired residential designer with a master's degree in architecture specializing in sustainable design. I know there's been a lot of talk about this project being a great sustainable way to generate

renewable energy and a way to fight global warning.

The definition I found for sustainability is the from Oxford's Learner's Dictionary is sustainable design is involving the use of natural products and energy in a way that does not harm the environment. This AES project is not a sustainable design. The solar panels are, of course, because they take the sun's radiation and turn it into energy. But these batteries are highly flammable. Lithium-ion batteries are not, and the likelihood of this project bringing harm to the environment is real with the ever present danger of fire, explosion, toxic smoke, pollution of the water, pollution of the air.

This might not help global warming if there is a fire and it rages to make it worse. Just a few weeks ago at the battery fire in Moss Landing with the initial explosion flames rose over 70 feet in the air. It's hard to even imagine that happening around Eldorado where I live. These burning embers that can come in these flames can travel miles on strong winds which we know we have in Eldorado, and these kind of embers is how the fires in Los Angles were spread. A lot of it was spread through these flying embers. And those landing on our flat roofs that have these huge wooden beams supporting the roofs could really be disastrous here, not to mention tumbleweeds that could turn into rolling fireballs, rolling through the greenbelts.

We have greenbelts that go through these open areas that go through Eldorado but my husband and I joke that they're mostly just beige belts because it's just dead vegetation. I guess I'm finished. Please do not pass this project. Thank you.

CHAIR AABOE: Thank you, ma'am.

ROB WELCH: Hello. I'm Rob Welch, 62 Camerada Loop, in Santa Fe, and yes, I understand I'm under oath. There's a lot to say. A lot of it's been said. I only have two minutes so I'm going to limit it to three things. One is, have you seen the Sky Ranch down in Los Lunas? It's a beautiful thing, bigger than this proposed solar farm. It's got the battery – the whole thing, and it's totally by itself. You look at it you can't see a single house, a single school, a single church. It's the perfect location. You get all the benefits and none of the risk. That's the way this thing out to go.

Okay, here's a little pop quiz for you. I'm a retired teacher, so. You've got an object one mile away. It's moving at 20 miles an hour. How long does it take to get there? Oh, come on. My nine-year-old grandson got this. Three minutes. Twenty goes into sixty three times, right? That's how far I live from this facility. Proposed facility. Three minutes. Now, that the worst case scenario.

You've got to have a fire, which they admit they're going to have. It's got to get out of containment which they say is possible. Unlikely but possible. And then if you think a chain-link fence and 20 feet of gravel is going to hold it in you're dreaming. Wake up. Not in this tinderbox and these winds. So just remember when you're making this decision, my neighbors and I live three minutes from oblivion, because they give themselves 30 minutes to call the fire department. And the fire chief says it's 30 minutes to muster their forces. So I'm burned. The whole neighborhood is burned.

And lastly but not least, they're relying a lot on these new batteries. Do you know what's driving the batteries? The news. Not safety, at least according to professional journals I read. It's performance. It's the capacity and the endurance and profit. And safety tends to lag behind. So please, you have plenty of reasons. Say no to this thing. Don't take the risk. Thank you.

CHAIR AABOE: Thank you, sir.

JEFF FORSMAN: My name's Jeff Foreman. I live at 3 Jacinto Court in Eldorado, and I know I'm under oath. So you've heard a lot about objections to this particular location and I think Wendy, you asked the question yesterday. Did they look any place else? I'm not sure I heard the answer. But I really want to talk about the benefits of locating this someplace else.

One of the key things is if you locate it someplace else you can get more land. And you can make it bigger. And you can provide enough energy to supply the whole county, not just the city. So I was looking at PNM's portfolio of projects that they've got for implementation in the next three years. Every single one of them is bigger than this. The average one is 175 megawatts.

Now, here we're living in the County of Santa Fe. There's 68,000 homes in Santa Fe, 37,000 in the city. Guess what. 175 megawatts would be enough to satisfy the energy needs of the whole county. So that's really an important thing. Right? So the question is, what do you do? Where do you find this place? Well, last May the CED wrote a report and they identified one out of many, many locations that are possible, mostly in the more southern part of the state. Down in the Stanley, Cline's Corner area, but they identified a site that was 1200 acres. Guess what. That's almost perfectly sized for 175 megawatt installation that has all the other characteristics that they're talking about. Solar plus battery, etc.

So I ask you as representative to try to support the wellbeing of the whole community of the whole county. Let's not go for a CUP. Let's go for a full glass that satisfies the needs of everybody. Thank you.

CHAIR AABOE: Thank you, sir.

KATIE SINGER: Katie Singer, 310 Lomita Street, and I understand I'm under oath. Most discussions here look at solar and batteries at the point of operation. The vast majority of energy is consumed and the vast majority of toxins are emitted during manufacture. So if you look, if you include the extractions, smelting, intercontinental shipping, water use, refining – I could go on. If you look at those processes you cannot call this clean energy.

And then at the end of their life solar panels are hazardous waste. I'll just say clean energy is a marketing terms. I sent the Commission several years ago an ordinance from Spotsylvania, Virginia, which requires monitoring of leached chemicals from a solar array deployed there. Solar panels crack. When they do they leach chemicals into groundwater. This ordinance shows a way to monitor those chemicals and to require the corporation to mitigate them. I would urge the Commission to require that of any facility here.

And I will close with another quote from Glenn Church, the Monterey County Commissioner when Moss Landings battery fire facilities caught fire. He said, on January 17th, we followed all protocols to a T and still we've had these fires. Thank you.

CHAIR AABOE: Thank you, ma'am.

PHYLLIS TURNER: My name is Phyllis Turner. I live in Rancho San Marcos, 214 San Marcos Loop and my house is about two miles from the proposed battery energy system. I must acknowledge I am under oath. I share the concerns that this facility of this magnitude with potential risks be placed in close proximity to about 10,000 homes and 25,000 residents. My concerns have increased since reading about the fire at Moss Landing. I'm following a Facebook page of folks that are reporting their

symptoms. And despite claims that the fire did not leave the facility and that the EPA did not detect toxins in the air, which witnesses report was a delayed assessment and also perfunctory, enormous number of people are reporting several days of respiratory symptoms, aggravated asthma, headaches, bloody nose, metallic taste in the mouth and skin irritations.

These symptoms have been prolonged. They disappear when people leave the area and they come back when they come back to the area. I understand the planet is in trouble from our dependence on fossil fuels, and that it's critical to have alternative energy sources. However, to me, the placement of this facility in this location is like jumping from the Hindenburg onto the Titanic. One potential disaster for another. Thank you.

CHAIR AABOE: Thank you, ma'am.

CYNTHIA BROSHI: Cynthia Broshi, 26 Red Raven Road, Santa Fe. And I am under oath. I live in the San Marcos community. In the worst possible case scenario that people are imaging by house could be hit by a toxic flume. I am happy to take on this risk, which is exponentially smaller than the risk of wildfires from increasing climate warming. I would proud to have this solar facility in my neighborhood.

I sought an unbiased second opinion from someone with no association to the applicant, Nick Lenssen attended Pojoaque High School, will someday inherit a house in town from his 93-year-old mother. He has over 30 years experience in renewable energy field including working with EPRI, E-source, World Watch as a consultant for municipalities, the Navy, etc. I have his nine-page résumé if staff would like to see that.

He's reviewed the project proposal and the arguments against it. He finds the project is sound. The science and the technology is excellent and he recommends approval. He also has fact-checked what I present here.

Let's compare California's Moss Landing facility with Rancho Viejo. It's like comparing a stumbling brontosaurus with a humming bird. Yes, one is descended from the other. There's a whole lot of evolution in between. The AES presentation really presented very clearly how these are superior batteries. These are modern facility For instance the Moss Landing facility is in a 1950s era building where one huge building houses tens of thousands of batteries which are old batteries, essentially adapted electric vehicle batteries.

I've run out of time. I appreciate your thoughtful consideration, and I do not appreciate the threats, the implied threats towards our Commissioners that I've heard here.

CHAIR AABOE: Thank you, ma'am.

NANCY PETERSON: Hi. My name's Nancy Peterson. I live at 21 Bonita Road in Eldorado, and I understand I am under oath. I just would like to address a couple of things that were said yesterday. Mr. Mayer said that their new product they inject into the batteries when there's a problem contains no PFAS forever chemicals. But solar panels do. And there's a hail storm or one cracks for whatever reason, they're going to emit PFAS all around them, plus rare earth minerals that are also in there that poison the environment.

And two, I don't remember who it was that was speaking yesterday but the lady said that Eldorado is not considered a high risk. Well, we're currently doing a CWPP that will change that but that report won't be due until sometime in the summer. And the

opinions of people that say this will not affect your insurance, this will not affect your property values. The only way we will know that is if this is passed, and wait and see what happens. And that is not fair to any of the residents in the area.

I can't afford to have my property value tank. I would want to leave if this is passed. I would leave Eldorado, but I won't be able to sell my house if I can't get insurance on it. So I would appreciate your consideration of the financial farm this will do to residents. Thank you.

CHAIR AABOE: Thank you, ma'am.

ANDREW RODNEY: My name is Andrew Rodney. I live at 4 Gavilan Place, Santa Fe, New Mexico, 87508. April will mark by 31st year of living in Eldorado where I own two properties. For 13 years I've generated more clean energy from my solar panels than I consume, sending the rest back to my neighbors. I support this project. I urge the Commissioners to base their final decisions on this project on facts and data and not unfounded fears.

Opponents state that they consider this project a serious fire risk from lithium-ion batteries but they lack evidence. The EPRI database, which we talked about or heard about yesterday, is something that I've examined and it has shown that storage failure rates have fallen 97 percent between 2018 and 2023. I examined this database and found nine solar plus BESS fire in the US since 2012. The one critical factor about all of these fires that needs to be understood is that none of the fires escaped containment of the facilities. There were no injuries. There were no fatalities. There was no property damage.

Last night a Commissioner asked the CEC provide an example of a BESS fire that caused property damage and the CEC could not do that because it has never happened. It's curious that the CEC expresses no concerns about gas stations. One sits outside the entrance of Eldorado that was approved for that location. Maybe by this body, I don't know. The National Fire Protection Association reports an average of 4,000 fires a year from gas stations. They also report that a car catches fire every five minutes.

So the risk of fire in Eldorado is significantly higher from activities like smoking or a car fire than from a modern BESS. As we move forward, I don't have much time. The pursuit of perfection can prevent us from making progress. This solar BESS facility is a critical clean energy project which I support. As Mr. Spock wisely said, the needs of the many outweigh the needs of the few. The needs of Santa Fe County should take precedence over the unfound fears of a small group who oppose this facility. I urge the Commissioners to focus on the benefits of this project and carefully examine all the data. Thank you very much.

CHAIR AABOE: Thank you, sir.

LOUISE HUMMINGBIRD: Louise Hummingbird, 714 Galisteo. I understand I'm under oath. This is not an environmentally friendly project in my view. We already live under constant threat of fire in New Mexico. We've been in drought over ten years. These lithium-ion battery have a history of igniting, not only in this type of situation but we've seen the same lithium-ion batteries igniting in Tesla vehicles, and also electric scooters, resulting in homes being burned down and businesses also.

In this type of facility when one of the batteries catches fire water needs to be used to cool down the other batteries so they don't ignite. We can't afford to waste our water that way. Our water situation is always critical here in the desert and it would be a

real waste of our water to have to cool down all these batteries so that they don't ignite. Thank you.

CHAIR AABOE: Thank you, ma'am.

ROBERT GRIEGO: Good afternoon, Planning Commissioners. Robert Griego, 3 Torch Flower Court, Santa Fe, New Mexico, 87508, and I am under oath. Planning Commissioners, thank you. Thank you for your role in serving on this committee and making these important decisions for the community and listening to all aspects of this to make that determination. It is a heavy load that you have.

The purpose of this presentation is for me to support the renewable energy project in accordance with the Sustainable Land Development Code to establish a sustainable future through local renewable energy tied to the grid. I want to focus on two issues that were identified in the SLDC Hearing Officer recommended order. One is that the project is inconsistent with the spirit and intent of the SGMP and SLDC and also that the zoning is inconsistent with the purposes of the property's zoning classification. The SGMP as you know is the County general plan which includes the County's vision and also the policy frame. In regard to the vision, the County did establish a vision in the SGMP which included a definition of what sustainability was and sustainable development in Santa Fe County.

Sustainability for Santa Fe County means meeting the needs of the present while preserving our land, history, future, and culture and other resources in our communities for future generations. Sustainable development maintains or enhances economic opportunity and community wellbeing while protecting and restoring the natural environment on which people's natural systems and economies depend.

So what is the policy framework? And I'm going to run out of time here. But there is policy framework throughout the document, not just in the land use element. All land use and development should comply with principles for sustainable development. All County decision making must consider sustainability, conservation of resources, energy and green development policies. There's an economic development element which supports creation of critical economic infrastructure, and then supporting energy efficiency and renewable energy.

In regard to the property itself, I would like to make the Planning Commission to consider how the project meets the requirements of the SLDC and meets the staff requirements.

MR. FRESQUEZ: Mr. Chair, the timer has expired.

MR. GRIEGO: And whether the project is in compliance with all existing codes and standards for this district. Thank you.

GARY RUNER: Hi. Gary Runer. I live at 34 Red Racer Lane, South Fork, County Road 44. And I am under oath. I'm not hearing anything about the antelope or the tarantula that we have migratory in that area. How does that affect them? I'm kind of riding the fence here. I'm an electrical contractor. I understand the need. I think the location is an issue, so what is the lifespan of the batteries and the panels? Will they pay for themselves before they're retired, as in wind generators? They don't. That's all.

CHAIR AABOE: Thank you, sir.

BARNEY MAGRATH: Thank you for taking public comment. My name is Barney Magrath. I understand I am under oath. My address is 19 Encantado Loop. So perhaps you recognize my name. I always write to the paper. And I wrote a letter to the

editor that number one says I agree with Marilyn Hebert, very strongly, and number two, that we've learned from the tragic wildfires in Los Angeles that embers can be flung three to five miles. So there are a lot of houses within that territory. My house is one of them.

I'm an animal lover, so I live on Encantado Loop, near the project boundary. I have two dogs that I love to walk and we have roamed over this landscape many times, hundreds of times I have walked around that area. I've lived out there for 15 years. I'm on my third set of dogs. That's why we call it Eldogerado.

It's a desert, which means the wildlife is somewhat nocturnal and sparse, but there is a small herd of antelope that use this land and coyote, rabbits, cougars, bobcat, badger, deer, grazing cattle. I've seen all the tracks. Bears have even walked across Encantado Loop in front of my house. Where he was going – another mountain range. I don't know. And now they want to fence it. Edward Abbey and Jack Loeffler would be aghast. M

My second issue is with streetlights. Have you ever seen a new industrial facility that had a beneficial effect on the night sky? Development comes, light pollution follows. Have you seen the light pollution from the prison? The Rail Runner station, the National Guard? It's obscene. It points out that new legislation is needed to come up with LED lighting advancements. This bill is being championed in the legislature right now.

MR. FRESQUEZ: Mr. Chair, the timer has expired.

MR. MAGRATH: All right. In Eldorado we don't have fences or streetlights and neither should this project. Thank you.

CHAIR AABOE: Thank you, sir.

VICTORIA CLARK: Victoria Clark, 3 Waldo Road, 87508. I understand I'm under oath. Thank you, Planning Commissioners for the opportunity to speak to you today. I've been a resident of Santa Fe County for 45 years and I retired from St. Vincent Hospital after 40 years there. I'm here to voice my opposition to the Rancho Viejo AES application for a CUP. Many people make the biggest investment in their lives when they buy a home and they buy their homes based on living in a residential area, not in an industrial area.

If you can approve a dangerous, industrial-sized project in the middle of our neighborhoods your zoning codes are rendered useless and we can no longer trust that they will protect us. The most important reason is protecting us. That's what these codes are created for in the first place. The approval of a project against current zoning regulations that seriously impacts the safety and lives of thousands of community members should be subject to voter approval.

An industrial project should only be sited in an industrial zone and away from homes, schools, and hospitals. One more thought is that what businesses say they will do is less important than what they have done.

CHAIR AABOE: Thank you, ma'am.

MICHAEL CLARK: Hello, my name is Michael Clark and I'm at 3 Waldo Road in Eldorado, and I understand I am under oath. I am a 33-resident of Eldorado, 45 years in Santa Fe. My degree is in agriculture, specifically range management. I have been working in the landscape and property management industry in New Mexico for the whole time I've been here, 45 years. I know plants. Specifically, I know weeds. This project is going to create 700 acres of weeds.

When rain hits solar panels it drips off the sides and concentrates water. Plants

grow. You have seen weeds six feet tall on Cerrillos Road. The rain hits the road, falls off to the side and the weeds grow. That blocks out light for solar panels. They will put a gravel driveway over 700 acres. What's going to go underneath that gravel? Weed barrier? I don't think so.

The proposition from AES says they're going to have manual elimination of the weeds and herbicides. We know what manual elimination of weeds cost and where are those weeds growing. You put gravel on the ground, that ground is going to hold water and it's going to shade the grounds for the weed seeds to germinate.

I am totally against this project. I live two miles from it and I really want you to take under consideration the use of herbicides going in to prevent these weeds from growing, not just into the ground and our water table, but the drift that I going to blow with the predominant west wind towards my community that I love dearly after 33 years of living there. I strongly suggest that you reject this proposal. Thank you for your time.

CHAIR AABOE: Thank you, sir.

BUTCH MARTIN: [*Exhibit 6*] Thank you. My name is Butch Martin. I live at 85 Alteza, 87508. I acknowledge that I'm under oath. Remember the saying that if I knew then what I know now, I'm sure that the much quoted Glenn Church involved in the Moss Landing fire would love to have the luxury of foresight that you now have. Much has been made of other locations, but you probably don't know where they are. Now, I have a GIS map that I obtained from Craig Johnson of the Office or Renewable Energy that shows the nine million acres available for such a project. Now I have, if you'll pause my time, I have a copy of this for each of you.

CHAIR AABOE: Please continue and we'll review it subsequently. Thank you.

MR. MARTIN: At any rate, the blue splotches are the available area. The red area, the pink area, is the best area for solar collection. Santa Fe is up here. I'm convinced that insurance underwriters are not going to care what kind of lithium-ion battery when they realize that three previous fires by AES when they're considering this project. They're going to simply think: this is another risk.

I don't know how to do this calculation. Two hundred temporary jobs versus 25, 30 years of property value loss. I spoke with an assessor this morning who agreed that in general insurance calculations and the devaluation of property would eventually lower the County's tax revenue. And I'm pretty sure that some groups that support this wouldn't mind a different location.

People don't come to Santa Fe to live next to a giant, buzzing, industrial solar scale battery utility. They come for the culture, outdoor activities, clean air and aesthetic beauty. As realtors say, location, location, location. Thank you very much.

CHAIR AABOE: Thank you, sir.

PATTY SCIAROTTA: Mr. Chair, Commissioners, Patty Sciarrotta, 137 Principe de Paz, 87508 and I am under oath. My husband and I are 20-year residents in the ridges neighborhood, just on the other side of 285 from Eldorado. I am very concerned about fire. When wildfires erupt, they tend to do the most damage in the urban-wildland interface areas which is what all of these surrounding neighborhoods are.

Climate change, drought, high spring and fall winds, are creating already extreme high risk for fire in this area. I just believe this is the wrong location for this kind and size of project. I think this kind of large-scale project needs to be carefully sited.

The amount of flammable vegetation really depends on the season's snow and rain amounts of temperature, as everyone here knows, and it can vary. I believe there can be much more flammable vegetation than shown in the photos that AES provided for the area surrounding the project. AES mentioned that there is no known evidence of proximity to a battery storage project affecting homeowner insurance. With the fires in Southern California the insurance landscape is sure to change significantly.

What will AES do to mitigate if there is a disaster? They refused to answer this question yesterday. In my neighborhood and the one north and south of me they have one way in and one way out and it is a very fire risk situation. We can manage the fire risks around our homes and neighborhoods but for an installation like this we have to trust you to do that and to make the best decision.

Can PNM really guarantee Santa Fe and New Mexico will get all the power from this project, because if it's sold elsewhere we're taking the risk and not getting the benefit? I think the County and state need to develop – out of time. I think safety should be your number one consideration. Thank you.

CHAIR AABOE: Thank you, ma'am.

JOAN MITCHELL: Good evening. My name is Joan Mitchell. I live at 32 Camerada Road. It's in Eldorado, 87508, and I know that I am under oath. I'd like to share with you an article from *The Economist* magazine from November 2024. It's a very brief summary of the article. Energy storage for the electrical grid is about to hit big time. Grid-scale storage is now the fastest growing of all energy technologies. Innovative energy storage alternatives that go beyond conventional lithium-based batteries are rapidly evolving.

Sodium-ion batteries are a promising alternative being cheaper and less flammable – notice less flammable. This is particularly attractive for operators of data centers who can get cheaper insurance by avoiding lithium. This seems to be in contrast with some of what we heard yesterday. Makers of sodium batteries led by a company in China will begin large-scale manufacturing for grid storage in 2025, which happens to be now. Form Energy, an American startup has raised $1.2 billion to develop a low cost battery based on iron-air chemistry. It will start operations in 2025 in California and Minnesota.

In sum, an energy storage revolution is underway. Lithium batteries will rule for the time being – for the time being – but many alternatives are following behind, promising cleaner and more reliable energy in the future. If you approve this project it will be a dinosaur the day that it is built. We will be stuck for 20+ years with an outdated technology that creates more risk and also which the materials are sources from countries and other places.

So, say no, please. Thank you.

CHAIR AABOE: Thank you, ma'am.

LARRY FIORETTA: Thank you, Commissioners, members of the committee. My name is Larry Fioretta. I live at 12 Encantado Road in Eldorado. I affirm that I am under oath. The Hearing Officer, if I may quote, the project would be detrimental to the health, safety and general welfare of the area. And then the County has written, the proposed project will not be a detriment to health, safety and the general welfare of the area. However, the County has found 19 conditions to approve the project. Nineteen.

We have voiced many more concerns, way beyond 19. The applicant cited the UN Secretary General to seemingly endorse this proposed project. I used to work with Mr. Guterres. I cannot speak for him, but if he were aware of the many adverse impacts of this project I am not sure he would endorse it given the risks and because he recognizes the importance of the health and wellbeing of local communities and their right to make decisions that affect their future.

Here's the thing. Not every proposed solar project may be appropriate for a local community for a variety of reasons. We support solar, but we want it done right. As stewards of the land we are obliged to speak out on the dangers and risks posed by this project. For the many compelling reasons we have presented this project does not belong in our community. The safety, health and welfare of the community should come first, not special interests. Thank you.

CHAIR AABOE: Thank you, sir.

JOHN LEE: My name is John Lee. I live at 12 Camerada Road. I understand I'm under oath. I'm also speaking on behalf of my wife, Sue Forker who is online at the meeting. When we bought our house we were lucky enough to enjoy the well we have, which is shallow, with our neighbor. We're on the gas line so we would be one of the exploding houses in a worst case scenario. We've accepted that if our house caught on fire a volunteer fire department would try to put it out. It's a long drive from the end of Eldorado where we are to get to 285 on the only two roads that we know of that we can leave by.

We felt mixed about it because we're solar supporters. We have a solar array. I drove an electric car to the meeting the last two days. But when we sit outside and remembered how dry it was, how windy it is, how the arroyos are packed with tumbleweed we were real nervous. So we went to the December 4th meeting. We decided no. Ten thousand houses around this project doesn't make sense. No hazardous material plan in the fire department? You've got to be kidding. So we decided, no.

We also felt the San Marcos representative made a great presentation, and there's Eldorado, 6,000 residents, 3,200 homes, median age 63. What if they were all trying to leave at the same time? Wow. Thank you. We say no.

CHAIR AABOE: Thank you, sir.

PHIL UNDERCUFFLER: [*Exhibit 5*] Phil Undercuffler, 52 Old Windmill Road, Cerrillos, New Mexico, and I acknowledge I'm under oath. By the way, Commissioner Brugger, welcome to the Commission. I don't know if everybody gets a start like this. This is my first time too. I am a 30+ year resident of Santa Fe County like yourself. I've worked 27 years in solar, 15 years focused on energy storage. My company has installed 1.9 gigawatts of operational energy storage. We're not associated with this project in any way. Some would consider us and AES a competitor, although personally, I don't see anyone who's advancing renewable energy as a competitor.

I've also been a firefighter for 20 years and serve today as the district chief for the district where this project is planned. I will be in the first response for any incidents at this facility. I mention these things simply to give a framework to my comments.

Today I speak as a private citizen and speaking up because much of the misperception and misinformation I've heard shared over these past days saddens me. We are better than this. For years we have all benefited by pushing our pollution onto the shoulders of those living in the Four Corners area. Now we have an opportunity for clean,

renewable, resilient power, but some cry out, not in my backyard. And that's what it is.

You have fears. I understand. That's understandable. I have fears as well. As a firefighter, what scares me: your living room couch, your memory foam mattress. When they burn, and burn and burn they do, they emit the same toxic alphabet soup as these batteries, but in a constrained, IDLH environment. Immediately dangerous to life and health. Unlike your home, however, with its open floor plans that enhance fire spread, these BESS units are designed, tested, and certified to contain and limit spread and they're installed to minimize exposures.

We've lived so long with our couches and mattresses we've forgotten to be afraid, whereas BESS is new and scary.

MR. FRESQUEZ: Mr. Chair, the timer has expired.

MR. UNDERCUFFLER: With your permission-

CHAIR AABOE: If you could please leave that with staff, that would be great.

MR. UNDERCUFFLER: I can also answer some of the questions left unanswered by Mr. Schannauer.

CHAIR AABOE: Sorry. There's no opportunity for that. Thank you.

JENNA RODE: Hi. My name is Jenna -- and I understand I'm under oath today. 600 Calle de Marcos, Santa Fe. I just wanted to thank everyone for the opportunity to participate in democracy today. It feels really good, after what's been going on the past few weeks on a national level. I'm here as a resident and as a mom of two young daughters. I won't bury the lede. I am in full support of this project. I recognize the risks and attendant fears posed by this project that have been eloquently stated by those in this chamber today, but I understand those risks and fears and admittedly I do not live near the project where this is going to take place, so I'm sure a lot of people here today are saying why the hell is she up here talking?

I was driven to testify today, February 4, 2025, upon a 60 degree day, 13 degrees above the average temperature for Santa Fe, for one reason. My daughters and our children. And the children in our community and our world. It's easy to give in to despair about the future world that my daughters will inherit. We know what is causing climate change. We cannot continue to pump carbon into the air. Doing so is actively causing harm today. While I understand the fears of fire and fears of potential negative effects that can come from this project, we have the opportunity today to do something, to change harm that is actually happening today. So I fully support this project and I want to end with a poem, if you would indulge me, by Jane Hirshfield.

Let them not say: we did not see it. We saw. Let them not say: we did not hear it. We heard. Let them not say: they did not taste it. We ate, we trembled. Let them not say: it was not spoken, not written. We spoke, we witnessed with voices and hands. Let them not say: they did nothing. We did not-enough. Let them say, as they must say something: A kerosene beauty. It burned. Let them say we warmed ourselves by it, read by its light, praised, and it burned.

MR. FRESQUEZ: Mr. Chair, the timer has expired.

MS. RODE: Let our children not say that we did nothing. Thank you.

CHAIR AABOE: Thank you.

BILL BRANCARD: Thank you. My name is Bill Brancard. I recognize that I am under oath. My address is 91 East Chili Line Road in Santa Fe. I'm actually a

resident of the other community that's right within the zone near this project and that is Rancho Viejo. I live on the northern edge of Rancho Viejo. Across the open space from us is the Santa Fe Community College and right there is the Santa Fe Community College solar farm.

I have been a resident of Rancho Viejo for 22 years. I'm a retired state employee, former general counsel and hearing officer at the Energy, Minerals and Natural Resources Department. I am fully aware of these kinds of energy projects as well as all other energy projects, having regulated mining, and oil and gas for most of my career.

This project is in my backyard, and I fully support it. We need solar power. The risks, in my estimation, are minimal. Every year 40,000 Americans are killed in car crashes, and yet every day we get in a car. No one has died in a fire on a solar battery farm.

I urge you, I realize this is a difficult decision, coming under a unique project under the County land use code. I appreciate the efforts, really, of the County staff in working with the applicant. Having regulated the private sector for years I know there's a lot of pushing and urging of the applicant to get them to make changes and do the right thing. I appreciate the conditions that are imposed on the project. I think they will make it a much better project and one that can last and protect all of us. Thank you for your time.

CHAIR AABOE: Thank you, sir.

PETER BOND: My name is Peter Bond. I live at 13 Bosque Loop in Eldorado, Santa Fe, and I work as an architect. Served on the Boston Planning Board, was elected in the 1980s. And I acknowledge I'm under oath. I had a power point. We've got two minutes. I left a hard copy. You're welcome to look at it. There was a good article done by the Commonwealth of Massachusetts Continuing Ed on what a lithium fire is and how to deal with it and what the chemistry is and the approach.

I know someone spoke about a lithium fire being smoke. There's something called hydrogen fluoride that comes out of moisture in the aftermath of lithium fire. I don't have the expertise to comment, but it's something that you could share also with the Fire Department, Sheriff's Department.

My concern is somewhat unique and I didn't hear a whole lot about is we have a 1,000-bed high security prison several miles away and I'm not sure what has been done for planning and how we would evacuate that prison and how we would protect those prisons. We also have a Santa Fe prison across the way from it, 700 prisoners and police and as Sheriff's Office. And so all those are going to require special equipment and special training and should be taken into consideration in terms of if you did have to do an evacuation like Moss Landing.

We also have I believe it's 6,500 students at the Community College, which is also within several miles and in Eldorado where I live the average age in New Mexico and the average age in Eldorado is 62. So you're going to have to be prepared to move people that are not at full capacity or maybe not like yourself, out of harm's way if we have an incident of that sort.

I'm at the end of the list here. I don't have any other thing to produce. But I do oppose this special use permit. I don't think it's appropriate and I think it is poorly sited. There are much better places to put this, especially with the batteries.

CHAIR AABOE: Thank you, sir.

JOHN SIMS: Hello. My name is John Sims. I live at 109 Mejor Lado in Santa Fe, 87508. And I realize that I am under oath. The question that I have is directed both the Planning Commission and to the CUP applicant. The question is based on my experience at Lawrence Livermore National Laboratory. In managing for years its environmental monitoring program. Environment hazards and hazardous materials are central issues to the County and for the citizens living near the proposed activity, and analysis of these issues is required by federal and state statutes. The National Environmental Policy Act.

Resolution of these issues is not found in the AES draft preliminary HMA. This report focuses, as it should, on the fire issues through the lens of fire protection and corporate risk management. In fact the report defers discussion of hazardous materials and their impact on the environment completely. We have all seen the pictures of the smoke emanating from the wall of flames. We have heard about the wishes for more monitoring equipment, and four metals that are used in lithium-ion battery chemistries in environmentally sensitive areas.

Without a thorough analysis of these issues through the lens of the environment how is the Planning Commission to conclude that the project is not detrimental to the health, safety and general welfare of the area, and therefore approve the CUP applicant? Thank you.

CHAIR AABOE: Thank you, sir.

ELIZABETH FOREE: Thank you all. My name is Elizabeth Foree. I'm at 140 Principe de Paz, 87508. My husband and I live across from Eldorado, the 285 Corridor. We consider ourselves downwinders. So that's why I'm here. That's why I also support the nuclear waste that goes down 285. This is a sight. I was here yesterday and I had such an education. I really appreciate it.

What stuck with me, because we did come from San Francisco about seven years ago was what our Fire Marshal said. He said the emergency response plan is presently incomplete. So I was about a year and a half ago at the meet and greet with the emergency director, Emergency Management Department that – his name is Brad Call. I have yet to hear anything else about that department about what is the emergency response plan if there was a fire, just an ordinary fire.

I went through the 1989 San Francisco earthquake. It was a 50 square mile area. It was a million people. We thought we were prepared for anything after the 1906 earthquake. This was a 7. I had just finished work getting ready to go home. Oh, my gosh. We're over. Anyway, let me just say this one thing. Are we prepared for an emergency? We need to get prepared. Regardless of this installation, we need a Fire Department. We need volunteers. Thank you.

CHAIR AABOE: Thank you, ma'am.

ELIZABETH WEST: Good afternoon. My name's Elizabeth West and I understand I'm under oath. Thank you. I would be remiss today. I'd go home to my pretty complicated but marvelous life for which I'm very thankful, feeling pretty awful if I didn't stand up here and say that I am of at least two minds about this.

However, I also believe in when the time is presented to us to make a statement one way or another, even though I wish I could have both. Yesterday, I actually – I couldn't stay for the whole thing because I was going home to make supper for my ex-brother-in-law and ex-husband and we had a great time. We played music afterwards, but

I didn't get to hear everything. So I came again today, and the same thing; I have to be some place. But I thought, okay. I will say this. I actually hope you find a way to legitimately move this forward, not because I think it's going to be perfect but because he amount of fear and pressure around all of this has made me decide I think we need to learn more and we're not going to learn more if we say no.

If we say yes there are going to be a lot of stop-gaps along the way. Yesterday I did not hear any of you gentleman here sitting on my right from AES say we know for sure this is going to be safe. I appreciate that. And the Fire Department, I believe is going to be involved with you all if this were to go forward, and learn a lot. That can't do anything but help us.

I just recently got an electric car. An old one, it's a second hand one. And somebody slapped it and said, you know it's going to burn up? You could die. I'm taking that risk. I hope you will move it forward in some legitimate way. Oh, I'm sorry, my address: 318 Sena Street, although I'm out with my family a lot, south of town. Thank you.

CHAIR AABOE: Thank you, ma'am.

JEFF WEBB: My name is Jeff Webb. I'm at 21 Ladera Road, Santa Fe, 87508. I'm making an observation under oath. It's my first time I've ever appeared before any of you, don't know any of you. I have tried to listen to everything and understand as much as I could. I want to thank the chair – last night I asked if it could get posted. I wanted to see the parts that I missed yesterday and it was posted 11:00 this morning. Thank you. Because I really wanted to hear everything.

I'm a former Washington director of Friends of the Earth, former Assistant State Land Commissioner here as well as Assistant Secretary for the Environment, and I've also worked for both the Forest Service and BLM at opposite ends of my career.

I think that this is a mistake and I do not question anyone's good faith. It's been a torrent for me to understand but I heard things to agree with with everyone's presentations yesterday. I watched the hearing. I've done what I could. I think the whole thing is being done backwards, and I say this as [inaudible] made his comment in support, but this is backwards. We've got 13 million acres of land of BLM surface. We've got 13 million acres of state trust lands. We can do a lot better by including people at the beginning and not putting everything off until the end. Thank you.

CHAIR AABOE: Thank you, sir. Are there any other folks online who are interested in speaking?

MR. FRESQUEZ: Mr. Chair, we currently have one user online raising their hand, Julie Rehmeyer. If you could please unmute.

[Duly sworn, Julie Rehmeyer testified as follows:]

JULIE REHMEYER (via Webex): My name is Julie Rehmeyer, and I live at 87 Rio en Medio Road in Santa Fe. I am thrilled about the Rancho Viejo project and I strongly hope that you'll support it. The LA fires felt all too close to home for me, having lived through the Medio fire in 2022, which was just a mile from my house. Like the LA fires it was worsened by climate change. The Rancho Viejo project will let us do our part to reduce those risks while also bringing major local benefits. For one thing, it's cheap. It will provide power at a fixed price for decades to come while electricity prices as a whole are expected to rise substantially. It will increase our tax base by millions, providing money for schools and firefighters and roads.

It will help protect us from blackouts especially during major problems with the grid, which are expected to rise. It will provide renewable power for families who can't install rooftop solar. It will be a point of pride, making Santa Fe a leader in the clean energy transition.

I did have a moment of fear when I heard about the fire at Moss Landing, but then I learned more about it and for all the reasons that have been stated many times in this meeting I was reassured. So while it's easy to concoct frightening scenarios, the reality is that the risk is low, far lower than the risks that I for example face by living next to a forest dried out by climate change.

Furthermore, if Santa Fe rejects this project it won't just deprive us of green energy, it will stoke misinformation, fuel resistance to renewable energy projects everywhere. Fear spreads just like wildfire does. Right wing propagandists have championed the false idea that clean energy is dangerous, and if Santa Fe buys into it, we'll spread that false narrative further. Is Santa Fe really going to be a community the Trump administration can thank for slowing down the clean energy transition? Let's turn towards the clean energy future we want and need. Please say yes to the Rancho Viejo project.

CHAIR AABOE: Thank you, ma'am. If there are no further commenters we'd like to take a break. So just like yesterday, let's come back at 5:00 pm. Thank you.

[The Planning Commission recessed from 4:444 to 5:00.]

CHAIR AABOE: Thank you. We'll now come back into session. Thank you for the opportunity to take a break. At this the applicant has an opportunity to make a closing statement, so if you would, Mr. Mayer.

Applicant's Closing Statement

MR. MAYER: Okay, well, where to start? First and foremost I want to sincerely appreciate and extend my gratitude to everyone that's attended, not just the hearing today and yesterday, the one in December, the multiple community meetings that we've had over the past couple years. For all the engagement, the time, and frankly your concerns about this project. If I could applaud I would your sincere effort and to invest your time in evaluating this proposed project.

I would like to I guess cover quite a few topics in this closing statement here. First and foremost, at the heart of all of this has been a concern for safety. At AES safety is our number one value. That is not just a slogan. That is sincere. We are not in the business of making headlines or experiencing failures. That's just simply not good business. But from the – and being at the leading edge of technological evolution and learn from when incidences happen So I want to spend a little bit of time to actually revisit a couple of the projects that have been mentioned and have been cited as a source of the fear that you all have and put those in some relation.

So at least as far as AES projects, those that have had incidences were prior to NFPA 855 entering into law, or entering into code and standards. In fact, those projects were utilized in tandem with AES and the industry and fire professionals to explore the sources of those incidents and to make a higher and better standard, which has now led to extensive testing and a reduction, a significant reduction in overall industry failures.

When the Surprise project was built in 2017 that was three years before NFPA 855 ever came out. There was 311 megawatts operating of battery energy storage in this country. Today there are 30,000 megawatts of battery energy storage operating in this country. That is 100 times more battery capacity that is operating as we speak in this country.

That is a risk AES takes at being at the forefront of technological innovation and accelerating the clean energy transition which is our company's mission and statement. And is why as I said yesterday, I don't have a job, I have a passion.

There was mention of the credibility of AES, and is this a good partner to work with in this community? And I would like to say a few things to that. Two of our executive leadership members at AES Clean Energy grew up and graduated high school here in Santa Fe. Their families still live in this community. Many of them live just as close as you do to this facility. I would think if they had the concerns of what this project instills in fear of you all they would not have us pursue this. So that provides some context.

My brother was born in New Mexico. As soon as this adjourns I'm going to drive to Las Cruces to attend his wedding tomorrow. My mother lived in New Mexico for most of the 1980s. We are a company based in Virginia. We have connections, probably stronger connections that most any other energy company that I know in this space to Santa Fe. So this project is near and dear to our heart at our company and we look forward to being able to supply this community with a local source of clean energy.

There was of course citation that how can you trust AES when they've been subjected to I think $40 million of fines, was referenced. We have not validated the website that cites all of those citations but in taking an initial look I think it's worth noting not a single one of them is attributed to AES Clean Energy, our renewables business, and 75 percent of them are more than 20 years ago.

I noted that when I first started working at AES the clean energy business was 30 people. We're now 1,500. I have seen from the inside a company that, yes, having operated for 40 years, largely with thermal space, because our mission is to provide reliable, affordable power to at this point in time 22 million people, an absolute commitment to being the change that is required in industry to go from a fossil fuel based source of generation to a clean energy future where we can eliminate air emissions and air pollution from thermal energy resources.

So we've reached the point where of our 35 gigawatts of operating capacity more than 50 percent of that is renewables based. That is a massive transformation for a large company that is effectuating the change that we all need to see.

Furthermore, many of those fines related to coal operating plants or perhaps even natural gas. Again, fossil fuels are inherently dirty. It is hard to operate facilities in that manner without there being the side effects. But at the same time, everyone expects the lights to turn on. [inaudible remark from audience] I'm not going to speak – again, I work for AES Clean Energy. I'm not going to speak to coal and thermal pollution which – the point I was about to make is that AES is committed to exiting all of its coal energy generation this year. We will no longer be owning and operating coal energy this year in 2025. That was again, a sign in a statement of a company that is taking the ethical and responsible road to transitioning not just itself but being a primary conduit to helping communities not just in the US but throughout the world transition to clean energy society.

CHAIR AABOE: Excuse me, ma'am.

MR. MAYER: So I thought that was worth addressing, because I honestly, being a former Peace Corps volunteer I put a high degree of thought into who I work for and with AES I can clearly say I work for one of those most ethical and driven mission-companies that I could possibly consider.

I would also like to again, acknowledge the fear that many folks in this room have. If you look at pictures of some of these prior battery fires, again, it's a rational conclusion to arrive that this is something you would never want to see, and that is why, again, at AES, safety being our number one priority, we have cooperated with industry. We have worked to elevate the standards and the codes and that's why we now have NFPA 855, so you have UL 9540 and 40-A testing protocols, because every single county or city in this country cannot expect to become an expert. That's why they defer to fire professionals and national code and electrical standards so that all projects, wherever they are are meeting the absolute highest standards and codes that is required. And that's what this project will do as well.

In fact as Jaome mentioned before, we are going above and beyond the NPFA 68 or 69 requirements. You need to pick one of them. We're committing to both. Okay?

And of course I understand that making snazzy presentations and trying to speak eloquently, the bullet points and the words I say are not going to land, but that's why we are proud to be able to share with you all video directly from our UL 9540-A testing, in which we demonstrated the exact worst case scenario of a battery single cell failure. And we demonstrated that there is no fire. There is inside the container but it's out in 37 seconds. That is a significant step forward that we would not have gotten to without some of those prior instances from 2019 or 2022 for projects that were built prior to NFPA 855. So we did learn through those and now, again, having 30,000 megawatts of battery energy storage operating in this country today, that's why you have seen a decrease of 97 percent of failure incidents from battery energy storage from 2018 to 2023.

So we feel extremely confident that fire is not a risk. We plan for exceptional levels of redundancy, so even the fire suppressant that was exhibited in our video, that's not even the first line of defense. It shouldn't even get there with our monitors and sensors that would cut off the current to a failing cell before that happens. But should those fail we have a successfully demonstrated direct injection of fire suppressant at the module level. And we all saw that. We all saw that yesterday of what that is capable of doing.

And so my hope is that if my words don't land, our video of what actually happens with battery cell failures does. I can't point to anything more than video evidence.

I think I'll also just comment again that many of the concern expressed here about this project being the source of initiating a significant fire that's going to spread beyond our facility and engulf local neighborhoods, this has never happened before. There's not a single incident in this country of a battery energy storage fire spreading beyond its containment and property boundary.

So is something possible? Of course it is. But let's make sure that we're making decisions based on probability, and to date, what most people are concerned about has just never, ever happened, anywhere.

I want to again point out how responsible of a project this is, not just going above and beyond in the requirements of fire code and really, some people have tried to allude that we picked Santa Fe County because this is easy, low-hanging fruit to take advantage of their permitting process. This has been the longest, most extensive permitting process I've ever experienced for a project, and that's not at all a slight at the County.

In many ways that is a tip of the hat, given the concern of the community. The onus is on us to address those concerns adequately that upon even mention of concerns about noise – all right. We'll do a noise study. That's fair. We'll do a noise study. You want a hazard mitigation analysis before we have a full design set? Okay. We usually don't do that until we go to building permit, but we'll do that. So we have gone through extensive lengths of providing documentation, of engaging with the public. CEC directly, me and Randy Coleman. We spent an hour and a half together in June of last year talking about the distributed federated micro-grid system. I consider – that's just simply not what AES works in but I could never understand if that was the County starting to create its own utility or if you were to engage with PNM, but great idea. But this is a solution that we can implement today and in the coming years with approval tonight.

And I also offered to address all of CEC's membership at their meeting in June of last year. In fact I think you all invited me on the radio show that I listened to, and so I promptly reached out and said I would love to talk to your membership. I'll answer any single question you have. I was denied by CEC to address your board and to address your membership.

So AES is going the extra mile to engage in dialogue and to have conversations and to do everything we can to try and build the trust and the faith that this project is designed at that absolute highest standards, that all risks are categorized and considered, and that we can build a safe and effective facility that will be a source of clean energy for this community for decades to come, in addition to exceptionally increasing the property tax revenue that can benefit this community.

The 700 acres that this project currently sits on, over a 20-year time period will pay $36,000 in property tax, based on the most recent tax statement I saw. We're talking about being able to generate in excess of $10 million that can go to the County, for schools, or for roads, other public improvements. The $3 million that's going to go to school districts in addition to the gross receipts taxes up front.

So this project is giving back to the community in so many different ways in addition to being a source of resilient, local clean energy and in providing an avenue and a means for which Santa Fe, the seat of the state government, that's setting goals and objectives for this state to become 100 percent renewable energy driven, to participate that and to be a leader.

So we're proud to be able to – at the end of the day, the Commissioners here are going to make a decision. So AES, we're always going to respect the decision of the locality in which we are presenting a project. But we are honored and proud to be able to bring a solution to the table, because what we're in the middle of is an absolute transformation of how our energy grid works, and where we get our energy, and the enormous benefit of being able to give our children and our next generation a world free from air pollution from energy generation. And this is 15 years away with PNM's goal by 2040. That is so close, and we can do it.

But we need – every single community needs to play a part. Every single community has an opportunity to host its local solar, paired with storage, to be able to keep the lights on at night. And so we will respect the conclusion of this evening. We are proud to be able to at least be here tonight to have gone through this process of engagement and to bring a solution to the table.

I think I'll summarize again, just the primary economic benefits that this project represents. 200 construction jobs, additional contribution of local services, a $200 million capital investment in this community, $20 million in labor and wages, $5 million in wages and material procurement directly here in Santa Fe County, $18 million in New Mexico-based manufacturing output. I already referenced that it's greater than $10 million estimated property tax revenues with approximately $4 million in gross receipts taxes. The clean energy equivalent of more than 37,000 homes annual electricity use. Two decades of fixed-price low cost clean energy that will help combat inflation.

I know that the folks that are mostly showing up are the ones that feel like they have the most skin in the game. There's a lot of folks though I know in this community that are hoping that this project will happen, but perhaps they're working during the day. Perhaps they just assume that it's going to happen.

Completely unscientific survey, but we got 14 inches at Ski Santa Fe last Thursday. I thought that was a great opportunity to head up there. I spoke to every single person I rode on a chair lift. I asked them if they'd heard about the project, after a little bit of small chat, asked them if they'd heard of the project. I was actually surprised that the vast majority had, and I was curious to see where the conversation would go from there. Every single person I spoke to thought this project was an exceptional opportunity and they fully support it. The only person that did not, attended tonight in opposition and lived in Eldorado.

Now I know you can't take the weight of that into your consideration but at least from my own personal validation, being the developer behind this, I was interested in what the folks of the greater area thought. And I found that to be very encouraging. What better way than riding chairlifts with random strangers to ask what they think of a project that's going to have a significant impact on their community. And I was pleased to hear how many people thought it was such an exceptional opportunity, and they couldn't even comprehend the source of opposition.

I think I'll close again just kind of addressing the concerns about safety of the batteries. So again, I want to commend and applaud all the folks who are just concerned citizens that have spent hours, days, months, years, learning about something that they had no idea what it was before. And there's been a lot of information presented. And again, folks have learned a tremendous amount of information about battery storage and lithium-ion batteries and it's really impressive.

At the end of the day, AES is exceptionally grateful that there's been a third party fire professional firm hired by the County to evaluate our proposal and to provide a non-biased review. Because we understand that our words aren't going to necessarily land. And so with all the information presented, again, we would ask the decision makers to put stock in what the fire professionals have concluded in the strength and the heightened standards of national fire protection codes, like NFPA 855, and the UL 9540-A certifications that all projects need to go through. And to know, at the end of the day, we need to meet all the criteria that was identified that was considered not yet fulfilled at 30

percent design level. And we will not get a building permit to make this project happen, or development permit as they call it here, if we do not meet all of that criteria.

So I ask again, that for the folks that are concerned, to place your faith in the local fire professionals that will be reviewing final documentation and adherence to the national codes and standards for the installation of electric energy battery storage systems, as well as the national electric codes that this project has to meet, because those are the professionals. They are the ones best situated to be able to evaluate a very complex and nuanced technology.

With that I would just like to thank the Commissioners again for your time over two days listening to an absolute outpouring of community interest and concern. And I don't envy a very significant decision that you have to make. But I do feel like our times require courage and do require very thoughtful deliberation and consideration of what fire professionals and third-party assessments and evaluate this project in light of, and however your vote tonight I'm exceptionally grateful for your consideration of the opportunity that we're bringing to this community.

Commissioner Questions and Comments

CHAIR AABOE: Thank you, Mr. Mayer. Commissioners, at this point please ask any questions you have of the applicant, of any of the parties of standing, of staff, and so I'll just go around the dais. Commissioner Pava, would you like to ask some questions? Thanks.

COMMISSIONER PAVA: Yes, Thank you, Mr. Chair. I have just a couple questions. I think much has been summed up in closing arguments. A question I would ask of staff, I think. The topic of soil disturbance during construction was brought up. In the 19 conditions that are proposed for approval, do you think that soil disturbance is covered within the conditions? I don't see it specifically called out but development plans are called out and what not. Or do we need another condition of we were to want to emphasize soil disturbance during construction?

MR. YUTZY: I think it would not hurt to go ahead and add another one about mass grading and NOI and SWPP plans. There's not as much mass grading on this. There will be the road construction but besides I believe the BESS area, there's no concrete really being poured, so no soil work. They're going to use piers. So mass grading on this project isn't as large as it would be on a subdivision project. So if it makes you feel comfortable that's a condition that could easily be added, yes.

COMMISSIONER PAVA: Yes. So my second point was the subject of weeds being created. This was actually kind of fascinating because when you think about it system water falls on the panels. I've got panels. I don't even know how I'd go up on the roof to clean them. It was brought up that water can fall, dust can collect, is the weed issue. And I think it's a valid concern with the acreage under solar panels. Do you think that the conditions as stated would include a vegetation/weed management plan? Is it implicit or should it be explicit?

MR. YUTZY: There is a weed management plan. It's one of the appendices of the EIR.

COMMISSIONER PAVA: Thank you. That's all my questions.

CHAIR AABOE: Wendy.

COMMISSIONER PIERARD: I was just wondering about the soil disturbance. Is that covered in the SWPP? Would it be covered in the stormwater pollution prevention?

MR. YUTZY: So when you're disturbing more than one acre they're required to do the NOI with the EPA and the NOI and the SWPP plan before they can start construction. That's actually one of the submittal documents required for the vertical permit, essentially.

CHAIR AABOE: Any other questions, Commissioners? Jeremy.

COMMISSIONER MIER: I was wondering if you guys could talk to us about the herbicide that you're going to be using for weed control. What type of herbicide is it and how harmful is it to any, I guess water and water table in that area?

MR. MAYER: I'll start by answering the question and perhaps Matt Gordon, my permitting manager can elaborate or correct me if I misspeak. So we did provide a revegetation management plan as part of our application. We will commit ourselves to reseeding with a native grass mix. That's detailed in that plan. Should there be any occurrence of deemed noxious weeds we have a prioritization to utilize mechanical removal of those weeds as a first order of business, and we do have four full-time O&M staff that are going to be at this facility for five days a week.

If that is not sufficient or the spread of weeds or noxious weeds is substantial enough requiring additional methods, then we have identified the opportunity to utilize state-certified herbicides applied by a state-certified applicator. Matt, do we have a specific identified on?

MATT GORDON: No. Not specifically but it would follow –

MR. MAYER: Okay, so again, if it arose to this we would utilize a herbicide application by a state-certified herbicide applicator per the New Mexico Pesticide and Control Act, Chapter 76, Article 4, NMSA.

COMMISSIONER MIER: Thank you.

CHAIR AABOE: Thank you. Commissioners, any other questions? Commissioner Gonzales.

COMMISSIONER GONZALES: You know the questions I have is how many projects of this size have you done around the country?

MR. MAYER: Great question, so I can't actually say – well, most of the numbers here. I can tell you that we're operating 8.6 gigawatts of renewable energy, so that is a combination of solar, storage and wind power. If you give me one minute I can probably tell you the exact number. I want to say about 500 projects total. We actually are currently building if not the largest one of the largest rural energy projects in the country. It's actually in two phases. We already build the first one. It's a gigawatt in size. It's called Bellfield. It's in California and we're now building the second phase there that's another gigawatt. So it's a solar and battery project that's two gigawatts in size. That's 2,000 megawatts, which I guess would be like 40 times the size of this project.

COMMISSIONER GONZALES: The other question I have is how much do those projects cost compared to what you're proposing to spend here in Santa Fe for this project? Do you have any idea of the difference in prices? Because Santa Fe is kind of expensive. Land is expensive.

MR. MAYER: Depends on the vintage, right? There's cost curves of what projects cost from year to year, whether solar panel prices are declining or whether

lithium-ion prices are declining, and of course the large the project you have the more economies of scale, but for this project for this size, it's pricing about what we would expect, which is in excess of $200 million for 100 megawatt solar project plus roughly 50 megawatt battery at four hours. So I'm not sure if that answers your question but yes, at the end of the day we are sourcing – so we don't necessarily build the projects directly ourselves. We contract with a local engineering procurement construction company. We may source many of the primary components like modules or batteries and containers and such but in a contract with a local firm who obviously hires a lot of local labor to then build those projects. And yes, there's some markets, labor does cost more, but when you look at the overall cap-x, or capital expenditure of a project, a lot of your bulk equipment, that's actually making the project happen and generating the electricity is your most significant portion of that capital expenditure.

So there's some variation between localities but generally across the board it's fairly comparable.

COMMISSIONER GONZALES: That was the next question I was going to have. Who builds these for you? And you mentioned that already. You contract with local people or do you bring people that you've contracted before?

MR. MAYER: So at the end of the day we need to build a top of the line facility. And so where local resources and local companies offer the expertise that we expect and the standards to build that project, we're going to always prefer local firms. They know the market, they know the labor pools. They maybe have a relationship with the labor pools. Only exceptional circumstances where there just simply isn't the local pool of labor or a qualified firm would we source a company from further outside. But in New Mexico we have at least three firms we would consider for this project.

COMMISSIONER GONZALES: The other question I had is on your return on investment, what if that is less than the cost to build it? What happens there? That's always a possibility.

MR. MAYER: Well, that's certainly one of the major risks that AES takes in any of its projects. Again, $200 million is not chump change. So we need to organize that. We put all of our development spend before we even know if a project will happen, out the door to invest in creating the opportunity and the solution to be considered. And we bid a price that we are contractually binded by that we believe we can deliver upon. And we think we're pretty good at what we do so we generally do achieve the returns on investment that our investors and our executive board expects, but occasionally projects do became more expensive than you estimated and that's just the risk of doing business.

In the competitive nature of this industry, especially in open solicitations like with PNM, there is no fat, so to say, for AES to pocket. We are picking what our hurdle rate is or our investors and our executive board expects and every single opportunity for a cost savings in that project gets passed directly into a lower priced bid, because we know if we do not price accordingly we will simply not be selected and will not have a project. So our return target stays the same and whatever may lead a project to be more costly or less costly or less costly is simply just going to be reflected in the price that we bid at the end of the day.

COMMISSIONER GONZALES: The other question I have is your purchase power agreement has been rejected by PNM twice, as I read in the materials.

When are you going to try and get PNM to agree to that agreement? At what point is that going to happen?

MR. MAYER: Yes. Great question. So I believe I addressed this in passing yesterday, but there's currently a request for proposals, an RFP, for 2029 to 2032 guaranteed in-service years. We are targeting to hopefully bring this project online in 2028, so that will be guaranteed for 2029. And that project again, it will have to compete on price and on evaluation of PNM, looking at their system and determining if the price makes sense for the location.

All of the concern about this isn't where PNM wants it, or PNM has rejected us before. If folks are that confident that PNM doesn't want this project I'm surprised why they've invested so much time in coming to these hearings, because you all can grant us an approval tonight, but if PNM doesn't pick the project because they believe that the power's not desired here, we don't get a power contract. So that's a decision for PNM to make and any other discussion of that is actually completely irrelevant to considering whether it's an appropriate use here.

But to answer your question, we will be submitting a bid May 14, 2025 is the deadline to submit your bid for a project. And this will not be the only project we submit. We do develop throughout New Mexico. We have reached out to the State Land Board and we've had some conversations. We've actually, briefly, after our conversation, I asked them very directly about the piece of property, the 1200 acres that you all identified and it was determined that there's not sufficient transmission capacity along that area and frankly, the Land Board just never responded to our interest in evaluating it for a lease. So we do look throughout the state and we do have other projects that will have bid into this process.

The short list notification for this RFP – these dates can always change but they're initially targeted to be in July with a final preferred portfolio selection in September, at which point you then are directly negotiating a PPA. So you have to have your bid selected before you actually negotiate a PPA and all the details and the terms. But the goal is to have that PPA signed by January of next year. So about a year from now, at which point it then goes to the PRC for a final approval.

We need all that to happen before we'll advance our design to 60 percent, 90 percent IFC, because then we have a project that we know we're moving forward with, and we can do the final design.

COMMISSIONER GONZALES: My last question is what if something catastrophic happens to that installation? And I don't mean a fire or anything in the containers. Like a tornado or something. Who suffers the loss if that project is destroyed?

MR. MAYER: Well, just as homeowners get insurance, we also get insurance on our facilities for that kind of scenario. But solar panels are designed to be hail-resistant. Insurance firms are very much engaged in our battery design and review and they attend our testing, because all of that also influences what kind of premium we'd have to pay, because they're not going to insure our facility if they think that the likelihood of an incident is high enough. Everybody wants to make a return at the end of the day. Nobody wants to back or invest in something that has too high of a risk.

COMMISSIONER GONZALES: Thank you very much.

MR. MAYER: Thank you.

CHAIR AABOE: I've got a few questions. On the same topic, so if this project is approved and PNM selects you and the PRC approves it, and it is in operation, essentially, the way a PPA would work is that you are paid a certain amount by PNM for all the energy you produce. So if there is a big old hailstorm, a number of the folks have expressed concern that if solar panels break they will leach chemicals into the environment. I'm just wondering a couple things. In an instance where this is a hailstorm, for example, does your monitoring indicate that? Imaging that it's in the middle of the night and your onsite staff are not there, when do you become aware of that kind of damage, and what mitigation happens at that point?

MR. MAYER: There's a couple questions there. So as mentioned, we have sensors throughout this entire project, not just in the batteries. So at the inverter level and at the string level throughout the facility, so we get real-time information instantaneously. We're constantly recording data. And I think I mentioned yesterday I have a solar and battery storage project under construction. Nearest home is actually about 250 feet away. And we are commissioning that project with the local utility.

It's really cool. I'm the developer but I'm still a part of the overall implementation at the end of the project and I get to see the screen shots that they're sharing in that chat. It's such a micro-level of hey, this string, or this inverter or this battery module, or something isn't responding as we expect. And so then they're working through all that so that the utility won't let us start to push power until we fully pass all the commissioning tests.

So it's really exceptional technology that we have such insight throughout the facility. So if there were an inverter going down or panels that were damaged we would be able to detect that.

CHAIR AABOE: And if you did mitigate that, you would make less money, right?

MR. MAYER: Oh, yes. Sure. We're fully incentivized.

CHAIR AABOE: If a string is out from a failed inverter –

MR. MAYER: Yes, we have less production. Less revenue.

CHAIR AABOE: So then you add motivation to of course not let them sit around and leach chemicals into the environment. You have motivation to basically replace damaged panels. Is that correct?

MR. MAYER: That's true. And so I'll also add that we have this technology where if we sense that there's unfavorable weather approaching we can actually – with trackers we can put them in what's called stow mode. So it puts the – depending on where the wind's coming from or what may be expected, the panels can be orientated in a way to hopefully reduce any potential damage. But these panels are rated to be able to withstand and at least – I'm not an environmental scientist of but in my ten years of being in the industry I have not become aware of damaged panels being a source of any kind of groundwater contamination. I know groundwater contamination has been again, referenced as a common concern and even with the battery and our with our clean agent suppressant, we have no basis of belief or understanding that this project can be a source of groundwater contamination. It's largely a solid state facility.

CHAIR AABOE: Thank you. Any other questions? Okay.

COMMISSIONER TRUJILLO: Thank you, Mr. Chair, and just the first question I have is for Mr. Sisneros, for staff. I know that yesterday somebody in

opposition brought up about the noise, and I know the Sustainable Land Development Code for industrial-commercial does have the code there, and I know that noise study, from what I – everything was going – there was a great presentation but a lot of new information. I just want to know, the noise study that you received, or did you receive a noise study on this project and did it suffice? Or how did you determine whether it was below the noise levels in 7.21-4.1?

MR. SISNEROS: So we did receive the noise study. It was reviewed by staff. Concerns were brought up by the public as well on those studies. And so staff went out and did our own monitoring. And we did find those levels to be acceptable.

COMMISSIONER TRUJILLO: So Mr. Chair, you did the monitoring but how would you do the monitoring if the system's not there currently? What exactly do you mean by doing the monitoring?

MR. SISNEROS: So we tool levels of what the surrounding area already were and we counted that – took that into account with the study that was provided to us by the applicant as well. We made a determination that the noise study, what the allowed noise that was out there, and for what was debated by the applicant and provided by the applicant and we took the two measures and determined that it was acceptable.

COMMISSIONER TRUJILLO: And is that noises study available? Is it in the document package here?

MR. SISNEROS: It is part of the exhibits. That is correct.

COMMISSIONER TRUJILLO: Okay. The other question I have is, well, I've sat here for a couple days now and I've listed to – to me, this all comes down to energy storage. The debate here is mainly the safety, the health and safety. And I also look at health and safety as far as people's survival. I know yesterday I asked a question about – I know it's not in our real purview here about approval of this, but it's still in the same health of individuals within the county. And so I know that we're transitioning now to battery storage, and this is all about energy storage. The holy grail is energy storage. The sun gives us energy and we can capture but now can we store it effectively safely and efficiently to deliver power to our customers? And I looked at the curve that you showed here with the – it caught my eye right away. Your third slide here, the global atmospheric carbon dioxide compared to annual emissions. It basically tracks world population.

As we grow as a population we went to exponential growth at the turn of the 1900s due to science and technology and immunizations and clean water and industrialization. And so now we've been in exponential growth for the last hundred years and the need for power is only going to continue to grow. That's evident. People want power and at some point we need to transition.

And the fear that I have – I know that we have to always push the envelope, but I even asked you about pricing yesterday, and it wasn't that – I understood you didn't have to disclose what the pricing is but I was trying to ask a general question. What do these things actually price the value out? And the reason why I asked this is that states that have been very aggressive in putting renewables on their grid had very high utility bills, like California, which is at 54 percent now, has a rate of about 33 center, average per kilowatt-hour. Hawaii, who has about 40 percent renewables on the grid is at 40 cents a kilowatt-hour. Pretty much here in Santa Fe County we enjoy about 12 cents a kilowatt hour.

So I worry about those that are less fortunate. Older people that are on Social Security checks, things along these matters. So I actually look at it as public welfare as well, that we get so far ahead that all of a sudden people can't actually live or afford their bills or have to make hard decisions. Not everybody is as fortunately economically as many people here maybe. I'm not sure.

But I hear this idea about carbon-free, carbon-neutral, clean energy. And there was one of the speakers that spoke tonight and she did a very eloquent job and I thought, nothing is – it's not carbon-free. It's basically just speech, because you've got to get the lithium. It takes – you generate – I looked it up. It takes about 15 tons of CO_2 gas is created for every ton of lithium that's mined. You've got to process it. There's iron and there's aluminum. You go down the list, the solar panels, the mounts. So nothing is carbon-free. Nothing is carbon-neutral. There is a cost on our environment, no matter what.

So I want to make sure that we – we keep putting these things very aggressively and maybe it's the right way to do this, but I also do worry about the public welfare of the cost and how it's going to affect other people. And I don't know if you have any comments or if you'd want to share what these things are actually going to drive up. They're going to drive up costs for electricity for our folks here in the county.

MR. MAYER: Yes. It's a very astute and philosophic question, Commissioner Trujillo. I really welcome it. So a few things. So – and I'll try and address all of them. Please remind me if I leave something unaddressed. So we're going to bid a price that is in year one as it is in year 20. So we're going to put a price and I'll tell it's roughly a third of the amount that you referenced for your current cost of energy. It's roughly a third. So that price stays flat for 20 years. So it's an all-source RFP, as Mr. Schannauer referenced. So other sources can be bid. And the PRC of course then also overlooks and has to approve any power purchase agreement that PNM selects to make sure at the end of the day it is providing ratepayers a good deal. PNM can't just go pick a hundred dollar megawatt-hour project and say go build it. They're going to say why are you picking a project that's two-plus times more expensive than other opportunities. So I would say that in many locations solar continues to be one of the cheapest costs of electricity, and then when you factor in storage – actually storage alone, there's an incident where there was actually I think it was a natural gas plant or a natural gas storage facility in southern California that had a large explosion I believe, and energy storage – and I forget the precise year. I want to say like roughly 2019 or so, energy storage beat out any other technology to be able to replace – I think it was about 500 megawatts of capacity. And they could bring that project on and I think it was like roughly one or two years after this incident to be able to replace that.

So that beat out – that was the first time that energy storage beat out a natural gas peaker plant in an open solicitation. So that was a huge mile marker.

I can actually also reference, AES for the island of Kauai in Hawaii, my number might be slightly off but the general point to still get across, I believe that our projects there supply, it's like 60 to 80 percent of the energy for the entire island. One of those projects is actually on the US Navy Pacific Missile Range. So we have a solar project with energy storage on the US Pacific Missile Launch Facility. And that's also a micro-grid, because it has the technology that if the utility on Kauai went down our project could continue to power that naval facility for I think it's three to four days.

The point I actually want to make on that is our cost for many of these initial solar and storage projects on the island of Kauai are about a fourth of the cost of what their energy electricity price has been. They were paying, I want to say it was close to like 35 cents a kilowatt-hour, 40 cents a kilowatt-hour, and large dependent on diesel energy generation. And so these facilities have actually in many locations been able to significantly reduce the cost of energy to end consumers.

Another point I don't want to forget. So, yes, it's very true. In our modern society, everything we use and consume has an impact. I'm not going to stand here and say that there's not some impact from manufacturing of solar panels or lithium-ion batteries. What I have looked at is – and actually I wrote my master's thesis in college about lifecycle assessment in looking at a product and determining not just its use but its construction and what the actual full-lifecycle impact was. And again, my number might not be specific or precise, but roughly, my recollection of looking into the lifecycle cost of a solar panel is about two years. So we expect a solar panel to be able to produce energy for 35 years. The first two years is netting away the energy that was utilized to produce it in the first place.

So at least on the solar panel front we're talking about 33 years of a net positive benefit of removing emissions. And furthermore I think the big take-away of course, when you talk about clean energy is you can site this close to population centers. There's a reason that coal plants are usually very, very far away from population centers. They also want to site close to a mountain that they can take the top off of and have a close fuel source but they produce a significant amount of air pollution that is detrimental to the populations nearby.

This facility can operate for its 35 years with the only emissions being from the four personnel that drive to and from the site every day, and hopefully, actually, they have EVs. And for all the folks that drive EVs here, they may have solar panels on their house, but if they don't have energy storage and if they're charging their EV at night when they're here at home, at least here in New Mexico that could very well likely be come – it may come from wind. It may come from the existing 440 megawatts of battery storage, which is ten times the amount that we're talking about with this project that's already in New Mexico, but it could also very well be coming from the Four Corners, from the coal plant, or it could be coming from a nuclear facility in Arizona, or natural gas in Albuquerque or elsewhere in the state.

So if we really want to transition to full EVs – and this is something that actually I got excited about in thinking one time when I was sitting in my community garden in Colorado was just how loud traffic is. The nearest road was like a quarter mile away and sometime it was like, man, I'm in my peaceful garden and I'm hearing these trucks and all these vehicles that are so far away. And I started to think about like, man, it's going to be so cool when we can responsibly transition to a full EV fleet where we're all driving EVs and how quiet our cities are going to become.

But we shouldn't be doing that if we can't transition to full renewables power grid, because then we're just going to be driving EVs powered by coal or powered by natural gas. So it might have been a long-winded answer, and I can't speak directly – I haven't looked at the lifecycle assessment of lithium-ion batteries but the large and whole of it is that these facilities are a vast improvement on our traditional forms of energy

generation and they reduce the emissions to the air that people breathe in and out every single day.

COMMISSIONER BRUGGER: So I have a question for Fire Marshal Blay and Mr. LaBerge from Atar. I just want to set a little context first. So we have to make a recommendation whether the project complies with the seven criteria and we have to do it based on the information that we have at this point. That's everything that's been presented, everything in the public record. I have to say, I for one really appreciate all of the detailed reports, the detailed presentations, the presentations from the folks that had standing, public testimony. It helps provide the facts.

So we have to make the decision based on what we know now are informed in part by the staff report and as part of the staff report that I wanted to ask a question on has to do with the staff report that came from you, Fire Marshal Blay, based on the material that Atar has provided, and it is in the report that you provided, the October 9th report, that the review as is state, this review concluded that a sufficient level of information has been provided to validate the issuance of a conditional use permit.

The question is is this – was this statement a determination of completeness of the application, or were you actually providing your assessment that based on the information you reviewed to date that you would recommend in your assessment that we would meet criteria having to do with health, safety and general welfare, potential fire hazard?

TODD LABERGE: So there are two questions inherent that are sort of – I'm an engineering nerd. I deal in facts. I drive my teenagers crazy. I'm sorry. I will try and keep this concise. For the persons who truly read our report that we provided in review of the 30 percent design and the hazard mitigation analysis, the HMA. The HMA wasn't necessarily a reflection – the documents certainly weren't at 100 percent issue for construction. So we don't have enough information to make a determination of code compliance, either good or bad, because that's not typically what you have at this point.

This is, as I said yesterday, we want to do this thing in this place. What we did with our report, we went very granular and admittedly, very nit-picky. But the HMA was prepared by their consultant, Coffman Engineers. Our report is a report is a reflection, in my opinion, of the lack of sufficient data provided by Kauffman Engineers, not of the project itself, because we didn't have enough information to evaluate and still some of the explosion reduction potential, NFPA 69 system is still in design, the fluid dynamics models are still being done. The 9540 listing is still being done. So we understand those components have to be completed proscriptively or we can't recommend approval.

Our report is more of a reflection, in my opinion of the report that was provided by the engineering company who wrote it. If you look at the nit-pickiness of our comments, these are the things that we expect the HMA to reflect and as a third-party engineering company they will have to get the data from the applicant to provide a fully complete HMA.

So we reviewed an HMA that was not incomplete, and if you read it, if the public reads it, you'll note how we got there. So based on the technology and where the applicant is taking their engineering on the safety protocols, they have to get to where it's safe. The applicant doesn't have a choice for code compliance. It's really that simple. I'm product agnostic, chemistry agnostic. I represent multiple jurisdictions, both on the fire side and for transparency. I also represent developers. I am agnostic on who – my goal,

my focus – I wore a badge for a decade. My badge was a signification not of power but one of this is my visible commitment to my community of fire and life safety. You will go home every day safe.

So I have to hold them, the applicant, accountable, to meeting the proscriptive adopted fire codes and the additional requirements of Fire Marshal Blay and the County Fire Marshal's Office has put on the project. We are beholden to review to that. So that's a lot of words for we don't have enough information to say it's compliant with the code. We will require that it be done to our satisfaction before we recommend approval or denial to Fire Marshal Blay and his team.

But even if we are satisfied and say the applicant has met all the applicable codes and standards and safety measures, we sit on the committees that write these codes and standards. We know where the codes are going, and so we know the iterative process and the most recent losses we study every day. Even if we recommend approval Fire Marshal Blay can still say no, I'm not satisfied. And so it will be, I fully expect an iterative process. We'll probably have two or three if not four rounds of plan review and comments back and forth to get to where we can make a decision based upon the adopted codes and standards: yes, you're compliant. We do not have enough information to do that now, but my safety background and our safety check and our backstop is do you meet the codes, yes or no. That's a binary decision. Right? And right now the answer's no, because we're not at that place.

That's a long-winded answer. I apologize if I didn't get to where you needed me to go.

COMMISSIONER BRUGGER: Thank you. Not the easiest question. One last question. So how long – you must have thought about it, planned it, Atar. How long do you feel that you will be involved in this project? How long will it take to get to the point where all questions are answered and are you under contract for that length of time?

MR. LABERGE: I forgot how long the term – I think the term of our contract is only to do the review. We can resolve that piece later. We'd be more than happy to continue to represent the Fire Marshal's Office as we do in other jurisdictions around the United States to stay involved through the project, as long as they're willing to have us. And you can easily terminate our contract at any point in time. We intend on staying all the way through. We are as interested, invested in the community here. My wife wants to be buried here. She's blowing up my phone about it. So we'll be here as long as you'll have us to make sure not only we're safe now but as we discussed, the technology and the safety measures will continue to change.

We learned about Moss Landings. We learn every single time one of these incidents happen – what went right and what went wrong. So there is language in the fire code under sections 102.8, 102.9, Matters not provided for. So even though it might not be prescriptively written, if we have something new that we learn between today and even when we were in final commissioning, we still have legal – Fire Marshal Blay still has legal authority to say, you shall. Right?

So as we learn things they may be required – excuse me, the applicant may be required – to actually implement additional safety measures if other losses occur and something new is learned. And that is for the duration of the fire code. That's the key point. The fire code is a maintenance code. You shall maintain it this way to this level of safety measures for the duration. The building code is hey, once you build it, you're

done. So that's the key trick point of a fire code compliance, and that's what we do and that's what I've been doing for 30 years is every day we have to go out and make sure it still is the same. We know that these smoke detectors over our head will work and let us know something bad is happening because it's required to be operational at all times.

COMMISSIONER BRUGGER: Thank you. That answers my question.

MR. LABERGE: Thank you, sir.

CHAIR AABOE: Any other Commissioners have questions? I have a question for one of the parties of standing, and I wonder if Mr. Thompson could come up. I believe you presented yesterday. Thank you very much. Since you were sworn yesterday, will you agree to tell the truth?

WARREN THOMPSON: Yes, sir. I will.

CHAIR AABOE: Thank you very much. The question I have is to add a little bit of color to the transfer of development rights process and your current thoughts. And let me make sure I understand it correctly. You have submitted an application to transfer the development rights for significant acreage that really dwarfs this facility. It's kind of a large acreage between Rancho Viejo, San Marcos, and Eldorado. And I wonder if you could talk a little bit about the process and your thoughts.

One of the submitters yesterday, she drew some cartoons with her mouse saying this is what a development could look like. And I know you would not hire Ms. Foma to do your design work, but I'm wondering if you could just talk about the null alternative, if this project were not to go in, and there were to be development, full development in that area. What is the concept and what are you looking to do with the TDRs? Sorry. Long question, but I just want to open it up.

MR. THOMPSON: That's all right. There's a zoning line that runs between the northwest corner of Eldorado and the state land leases, those three sections that come in there, and to the north of that line is the Community College District. So that will have continued development in that area and that's compact development with 50 percent open space. To the south of that line is zoned one unit per 20 acres. That's the Rural Fringe zone. Down in the very southwest corner of that tract, where San Marcos joins it there, there's a couple hundred acres, 250 acres that's one unit per 40 acres.

So in addition, so that's where the majority of those TDRs will come, is in that area. Along State Road 14, between the jail site and the San Marcos Subdivision, the Turquoise Trail Charter School, there are two sections there that are zoned mixed use. So those will be excluded from the TDRs. And also we want to have the ability or someone in the future to come in and build a house and have a ranch out there so we're going to reserve parcels within there for a family compound or ranch, so that it has some functional use other than just cattle. And right now, until there's a little bit of flexibility in what happens there.

So if we don't do the TDRs, one per unit per 20 acres, it's about 400 units. With the auxiliary dwelling units. We will be about 800 units. So if we do the TDRs we're going to reserve four parcels out there and the rest of it's going to become open space. And so that came out to 5,707 acres. Does that answer your question?

CHAIR AABOE: Yes, it does. So the way the transfer of development process works, and I could ask you or I could ask staff, by my understanding is that if you were to go through with this transfer of development rights, and it would not be – even though it's Rural Fringe and you can build a home and an ADU on a 20-acre parcel, you

would transfer those rights possibly to a place – to a bank, and then the County could transfer them to another development in an area that can be more densely – I'm just trying to sort that out.

MR. THOMPSON: That's correct. We will sever those from the land. So the development rights will be gone and in the document that does that we will restrict the uses. For instance, we're going to allow for the ongoing cattle grazing. There's a desire to put a trail through there along the old New Mexico Central, so we're going to allow for that. There may be a road connection or two that needs to be made so we're going to allow for that to go forward in the future. But other than those items that are in that document, that's it forever. And those who can't put the TDRs back on the land, they have to go to a receiving area and –

CHAIR AABOE: And I just wanted to bring it up. Thank you very much. I just want to bring it up because a number of the folks who were in opposition were concerned about water use, were concerned about basically development, and so in this process – I know this TDR process is not necessarily tied to this, but that is a potential future use, a future state where if this project were approved and the rights would be transferred to another area then a large portion of the area would stay the same and there would be not the water use, not the development, that would otherwise occur.

MR. THOMPSON: That's correct. I think if you fully developed that property you'd probably use 400 acre-feet or 200 acre-feet a year of groundwater, and this way you're going to use virtually none. And to my way of thinking, the reason I pursued this was I thought it was a perfect mix, the solar and the open space that the communities of Eldorado and San Marcos would know that this space was open forever. It's always been a concern of theirs and it would solve that problem and if I can get it while I'm still involved then it's good. I doubt anybody else, my partners, would pursue this line of thinking.

CHAIR AABOE: Thank you so much. I appreciate your long-term perspective. Thanks.

MR. THOMPSON: Thank you.

3. Matters from the Attorney

A. Executive Session. Board Deliberations in Administrative Adjudicatory Proceedings, Including Those on the Agenda Tonight for Public Hearing, as Allowed by Section 10-15-1(H)(3) NMSA 1978

CHAIR AABOE: Next on the agenda we have Matters from the Attorney.

ROGER PRUCINO (Asst. County Attorney): Actually, Mr. Chair, before I provide any comments, just to keep matters clean I ask that you go ahead and close the public portion of tonight's hearing.

CHAIR AABOE: Okay, so we're now at the end of the public hearing portion of this proceeding. Does that need a motion?

MR. PRUCINO: No. You can make that determination.

CHAIR AABOE: That's now close. Matters from the Attorney.

MR. PRUCINO: Mr. Chair and Commissioners, you are authorized to go into executive session for the purpose of entering into deliberations on today's administrative adjudicatory proceeding. That authority is provided both in the SLDC and

also in the Open Meeting Act, specifically Section 10-15-1, subsection H(3). If you choose to go into deliberations, a motion to that effect should be made. I would ask that whoever moves does specify NMSA Section 10-15-1(H)(3) so that it's clear.

COMMISSIONER TRUJILLO: Mr. Chair.

MR. PRUCINO: And I would also suggest or ask that assuming that there is a second or if there is a seconder to the motion, that it be put to a roll call vote.

COMMISSIONER TRUJILLO: Mr. Chair, I move that in accordance to NMSA Section 10-15-1(H)(3), I move that our deliberation in this administrative adjudicatory proceeding be conducted in a closed session. The motion is that we go to executive session for the sole purpose of deliberating on the case and that we return to and reopen the public hearing for the purpose of taking any final action on the application.

COMMISSIONER PAVA: Second.

CHAIR AABOE: So we have a motion and a second. We now would have a roll call vote.

The motion carried by majority [6-1] roll call vote as follows:

Commissioner Brugger	Aye
Commissioner Gonzales	Aye
Commissioner Mier	Aye
Commissioner Pava	Nay
Commissioner Pierard	Aye
Commissioner Trujillo	Aye
Chair Aaboe	Aye

COMMISSIONER PAVA: No. I object to conducting business that's not transparent on this case. Thank you.

[The Planning Commission met in closed session from 6:16 to 7:02.]

CHAIR AABOE: Thank you very much. I wonder, may I have a motion to come out of executive session.

COMMISSIONER TRUJILLO: Mr. Chair, I move that we come out of executive session and reopen the public meeting. I note that while in executive session we deliberated on the Case #24-5200 and did not discuss any other matters.

CHAIR AABOE: Can I get a second?

COMMISSIONER PIERARD: Second.

CHAIR AABOE: We have a motion and a second to come out of executive session.

The motion passed by unanimous [7-0] roll call vote.

CHAIR AABOE: We are now back in the public hearing. Commissioners, do we have a motion?

COMMISSIONER GONZALES: Mr. Chair, I would like to make a motion on Case #24-5200. We think this case is properly before us as a CUP application because this is a commercial solar energy production facility. The other things I want to say about this is Atar Fire Consultants gave an extensive review of the Fire Department plan and listed over 90 concerns that have to be addressed before they can get a final approval. The applicant gave a compelling presentation of the solar installation and fire suppression equipment to mitigate any fire hazards. The landowner is considering leaving 5,000 acres around the solar project undeveloped.

The concerns of the many groups and individuals were taken into consideration before making this decision. Therefore, I will make a motion to approve Case #24-5200 with staff conditions.

CHAIR AABOE: Thank you, Commissioner Gonzales. Do we have a second for that motion?

COMMISSIONER PAVA: I'll second it.

CHAIR AABOE: Thank you, Commissioner Pava.

MR. SISNEROS: Mr. Chair, Commission members, we also want to remind you of the request of the 12-month extension of the expiration of the CUP.

CHAIR AABOE: I believe that is a staff condition, isn't it?

MR. SISNEROS: It's not a condition. It was just an additional request with the approval.

CHAIR AABOE: Commissioner Gonzales, would you be willing to add that?

COMMISSIONER GONZALES: Yes. I would be willing to add that a 12-month extension be included also.

CHAIR AABOE: And are you good, the seconder?

COMMISSIONER PAVA: Yes. I concur.

CHAIR AABOE: Thank you. So with that amended motion and second, let's call a roll call vote.

The motion carried by majority [6-1] roll call vote as follows:

Commissioner Brugger	Nay
Commissioner Gonzales	Aye
Commissioner Mier	Aye
Commissioner Pava	Aye
Commissioner Pierard	Aye
Commissioner Trujillo	Aye
Chair Aaboe	Aye

CHAIR AABOE: Thank you all for your participation. I also want to thank staff or their excellent support both yesterday and today in managing this process.

4. Next Planning Commission Meeting: February 20, 2025

5. Concluding Business

A. Adjournment

Upon motion by Commissioner Trujillo and second by Member Pierard, and with no further business to come before this Planning Commission, Chair Aaboe declared this meeting adjourned at approximately 7:07 p.m.

Approved by:

_____
Erik Aaboe, Chair
Planning Commission

ATTEST TO:

KATHARINE CLARK
SANTA FE COUNTY CLERK

Respectfully submitted by:

Karen Farrell, Wordswork