

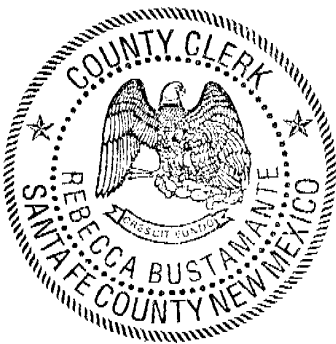
2525672

**SANTA FE**  
**BOARD OF COUNTY COMMISSIONERS**

**REGULAR MEETING**

**March 11, 2003**

Jack Sullivan, Chairman  
Paul Campos, Vice Chairman  
Paul Duran  
Michael Anaya  
Harry Montoya



1265 832  
COUNTY OF SANTA FE  
STATE OF NEW MEXICO  
I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED  
FOR RECORD ON THE 16 DAY OF May A.D.  
2003 AT 8:02 O'CLOCK a.m.  
AND WAS DULY RECORDED IN BOOK 2525  
PAGE 672-796 OF THE RECORDS OF  
SANTA FE COUNTY

WITNESS MY HAND AND SEAL OF OFFICE  
REBECCA BUSTAMANTE  
COUNTY CLERK, SANTA FE COUNTY, N.M.

*Marcella Pulgar*  
DEPUTY

SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS

COUNTY ADMINISTRATION BUILDING

REGULAR MEETING  
(Public Hearing)  
March 11, 2003 - 4:00 p.m

2525673

*Amended Agenda*

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance
- IV. Invocation
- V. Approval of Agenda
  - A. Amendments
  - B. Tabled or Withdrawn Items
- VI. Approval of Minutes - Feb 11, 2002
- VII. Matters of Public Concern -NON-ACTION ITEMS
- VIII. Matters from the Commission
- IX. Administrative Items
  - A. Committee Appointments
    - 1. Appointment of Two New Members to the Senior Service Advisory Board
- X. Consent Calendar
  - A. Request Adoption of Findings of Fact and Conclusions of Law for the Following Land Use Cases:
    - 1. LCDRC CASE #V 02-5301 - Buff and Jane Douthitt Variance (Approved)
    - 150126 2. CDRC CASE #S - 02-5291 - Tesuque Ridge Subdivision (Approved)
    - 3. EZ CASE #DL 02-4370 - Aragon Family Transfer (Approved)
  - B. Resolution No. 2003 ~~27~~ A Resolution to Develop and Adopt a Regional Affordable Housing Strategy (Community, Health and Economic Development Department)
  - 150126 C. Request Authorization To Enter Into Professional Service Agreement # 23-0142-CM with United Way of Santa Fe for The Implementation of a Community School Program in Santa Fe County (County Manager's Office)
  - D. Resolution No. 2003 ~~28~~ A Resolution Requesting an Increase to The General Fund (101)/Intergovernmental Summit Program to Budget Fiscal Year 2002 Cash Balance for Expenditure in Fiscal Year 2003 (County Manager's Office)
  - E. Resolution No. 2003 ~~29~~ A Resolution Amending the Santa Fe County Road Map and Certifying a Report of the Public Roads in Santa Fe County (Public Works Department)

*Feb 20, 2002 approved*

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

**A. County Manager's Office**

1. Request Approval Of Expenses For County Commissioners Harry Montoya And Michael Anaya To Travel To Washington, DC To Meet With Congressional Delegation Regarding Water Funding
2. Legislative Update

**B. Finance Department**

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1. Report on the Determination To Reject All Proposals and Re-Solicit for Additional Proposals on RFP #23-20, Santa Fe County Economic Business Park

**C. Utilities Department**

*Approved  
Chair votes "no"*

1. Request Ratification Of The Scope Of Work Included In RFP # 23-33, Or In The Alternative Provide Direction On A Scope Of Work To Determine The Sustainable Production Of Certain Existing And Potential Ground Water Sources (Wells) And The Determination Of Impacts On The Aquifer, Wells, And The La Cienega And La Cieneguilla Springs And Other Areas Adjacent To The South Sector Service Area

**D. Matters from the County Attorney**

**1. Executive Session**

- a. Discussion of Bargaining Strategy Preliminary to Collective Bargaining Negotiations
- b. Discussion of Pending or Threatened Litigation
- c. Discussion of Possible Purchase, Acquisition or Disposal of Real Property or Water Rights

**XII. Public Hearings**

**A. Land Use Department**

*Approved w/ conditions*

1. **CDRC CASE #V 01-5381** – Montano Height Variance. Victor and Viola Montano, Applicants, Jim Siebert, Agent, Request a Variance of Article III, Section 4.4.4c of the Land Development Code to Allow a 39 Foot 7 Inch Concrete Batch Plant Which Would Exceed the Allowable Height of 36 Feet. The Property is Located at the Southwest Corner of the Intersection of 599 and CR 56, Within Section 10, Township 16 North, Range 8 East (Commission District 3). Wayne Dalton

*Approved w/ conditions*

2. **TDR CASE #V 02-5211** – Katherine Roe Variance. Katherine Roe, Applicant, John Calvin, Agent, Request a Variance of Article V, Section 8.2.7 (Grade Percentages) to Allow the Approach of an Intersection to Exceed 3% Grade for 100 Linear Feet, A Variance of Article VII, Section 3.4.1c (No Build Areas) to Allow the Construction of Retaining Walls, a Portion of a Home, and a Driveway on 30% Slopes, and a Variance of Article III, Section 2.3.10c (Buffering and Re-Vegetation for Ridge Tops and Development Sites With a Natural Slope of Fifteen Percent or Greater) to Allow the Required Façade Landscape Screening To Be As Close As 10 Feet To The Building on 3.2 Acres. The Property is Located Off St. Frances Court In The Bishops Lodge Subdivision, Within Section 6, Township 17 North, Range 10 East (Commission District 1). Wayne Dalton

*Tabled*

3. **CDRC CASE #V 02-5470** – Bruce Oakley Variance. Bruce Oakeley is Requesting a Variance to Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Land Division of 7.53 Acres to

**Create One 2.5 Acre Tract And One 5.03 Acre Tract. The Property is Located Off Of East Pine Within Section 6, Township 14 North, Range 9 East (Commission District 5). Vicki Lucero**

- 4. BCC CASE #M 03-5060 – Santa Fe Vineyards. Santa Fe Vineyards, Inc. (Donna Rosingana), Applicant Is Requesting A Change Of Ownership For An Existing Liquor License. The Property is Located Along Highway 84-285 In The Vicinity of Arroyo Seco Within Section 30, Township 20 North, Range 9 East (Commission District 1). Joe Catanach**

### **XIII. Adjournment**

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

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

2525676

March 11, 2003

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 4:00 p.m. by Chairman Jack Sullivan, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

**Members Present:**

Commissioner Jack Sullivan, Chairman  
Commissioner Paul Campos  
Commissioner Paul Duran [late arrival]  
Commissioner Mike Anaya  
Commissioner Harry Montoya

**Members Absent:**

[None]

**IV. Invocation**

An invocation was given by Jean Eva Tumm from Unity Church.

**V. Approval of the Agenda**

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

CHAIRMAN SULLIVAN: Gerald, would you like to go over the amendments and tablings or withdrawals?

GERALD GONZALEZ (County Manager): Mr. Chairman, we have under the County Manager's Office, item XI. Staff and Elected Official Items under the County Manager's Office, we've got a legislative update on some legislative items that are currently making their way through the legislature. And under Finance Department, item B. 1, is a new addition. That's a report on determination to reject proposals and resolicit for the economic

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business park. And then we did have a request, I believe a copy of that is in front of the Commissioners, to table item XII. A. 3 under public hearings. That's CDRC Case #V 54070.

COMMISSIONER MONTOYA: Mr. Chairman, move for approval as amended.

COMMISSIONER CAMPOS: Second.

CHAIRMAN SULLIVAN: There's a motion and a second. Are there any additions or corrections by the Commission?

**The motion to approve the agenda as amended passed by unanimous [4-0] voice vote. [Commissioner Duran was not present for this motion.]**

CHAIRMAN SULLIVAN: Let me ask a question under the agenda issue. We have some people that I believe want to speak on a variety of issues when we reach Matters of Public Concern. Some of them have issues that are not on the agenda and some will be speaking I think to issues that we will get to on the agenda, the legislative update or the utilities issue, although those aren't necessarily public hearings. Would the Commission like to hear these people now under Matters of Public Concern, or would they rather hear them under the particular agenda item? Any thoughts on that?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Are you suggesting that we should hear some of these as Matters of Public Concern as opposed to the traditional manner of just listening to them as they come when their case comes up?

CHAIRMAN SULLIVAN: I'm just throwing it out as an option. Some of them have to do with issues regarding the 599 connection and others may have to do with issues regarding well testing or regarding the EZA legislation. Councilor Coss is in the audience and I believe Councilor Pfeffer is here and also Mayor Delgado is here.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner.

COMMISSIONER ANAYA: I'd like to hear those under Matters of Public Concern.

CHAIRMAN SULLIVAN: Hear them all now?

COMMISSIONER ANAYA: Yes. We can hear them all now.

CHAIRMAN SULLIVAN: All right. We don't want people to have to stay around but perhaps if there are other issues when we reach those matters and they want to stay and participate they can.

## **VI. Approval of Minutes: February 11, 2003**

CHAIRMAN SULLIVAN: We have two sets of minutes to dispose of. The

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first is the BCC meeting of February 11, 2003. Do any of the Commissioners have any corrections or amendments to those minutes? I have a few typographical corrections that I'd like to give to the recorder. Hearing none then, we're open for a motion.

COMMISSIONER ANAYA: Move for approval.

CHAIRMAN SULLIVAN: I'll second, as amended. Would that be as amended?

COMMISSIONER ANAYA: As amended.

CHAIRMAN SULLIVAN: As amended. Is there any discussion?

COMMISSIONER CAMPOS: Both sets, Mr. Chairman?

CHAIRMAN SULLIVAN: Let's just do one. Let's just do the first one, which is February 11<sup>th</sup>.

**The motion to approve the February 11, 2003 minutes as amended passed by unanimous [4-0] voice vote. [Commissioner Duran was not present for this meeting.]**

**Special Meeting: February 20, 2003**

CHAIRMAN SULLIVAN: Are there any additions or changes to that?

COMMISSIONER CAMPOS: Move for approval.

COMMISSIONER MONTOYA: Second.

CHAIRMAN SULLIVAN: Motion and a second.

**The motion to approve the February 20<sup>th</sup> meeting minutes as presented passed by unanimous [4-0] voice vote. [Commissioner Duran was not present for this action.]**

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

CHAIRMAN SULLIVAN: I think we'd first like to recognize the Mayor and the City Councilors who are with us today and offer them the opportunity to come forward and convey to us what's on their mind. As if we didn't know.

COMMISSIONER MONTOYA: What is on their mind?

MAYOR LARRY DELGADO: Mr. Chairman, Commissioners, thank you for the opportunity to address you. This won't take long. I know you have a busy agenda. But I'm here in regard to Senate Bill 241 that I believe Senator Maes is carrying through the legislature.

I just want to first start out with my remarks that I am respectfully not agreeing with this bill. The Senator has been a real advocate for us in working with us in getting monies and funding for water. And I wanted to put that out there at the very beginning. But as Mayor of the City of Santa Fe in reading through this legislation, it just kind of

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makes me start to wonder, is this something that is going to, after the years of trying to bring the County and the City together, and to work closely together, is this a bill that may drive us a little further apart in what we need to do in the City? Is this a bill that may create additional sprawl within the City or within the County or the boundaries? I don't know if this is going to happen.

Right now we're chasing what I call the "water monster" and trying to catch it. It's a bill that concerns me that it's going to make it more difficult to meet the needs of the people in the City of Santa Fe in regard to water and also in regard to the people in the County of what we're going to need out there.

Would this impact the growth and management of the EZ? I've brought a document with me, and I would want to share it with you. I'm just kind of summarizing it because I know you have a busy agenda, and we have other people that would like to speak to this. Are we running into conflicting land use policies between the City and the County?

These are concerns that I have. I've had discussions with Senator Maes on this item, and I did inform him that this was something I couldn't support, as Mayor of the City of Santa Fe. With that, I have a couple of Councilors here, Councilor Coss and Councilor Pfeffer here to speak to you also in this area. I was hoping - I will continue this discussion with Senator Maes, and I would like very much to have this discussion with you, Mr. Chairman, at a later time, and also with members of the Commission. I just have some concerns and some questions in this area. So, if I could, I would like to pass out a - it's actually a summary, and actually the impacts that we see of this proposed legislation on the City of Santa Fe. Thank you for your time.

CHAIRMAN SULLIVAN: Thank you, Mayor, for your time. Just by way of information, I believe the staff, when we get to legislative update, is going to have a presentation. Is that correct, Gerald?

MR. GONZALEZ: That's correct, Mr. Chairman.

CHAIRMAN SULLIVAN: We have requested that the Staff give us a pros and cons update on that. So that'll come in shortly. Councilor Coss, welcome.

COUNCILOR COSS: Thank you, Mr. Chairman and members of the Commission. Thanks for giving us a little time. I'm just following my Mayor in asking for support. We're not going to be able to support Senate Bill 241 and the amendments offered by Senator Maes. When I first found out about this this weekend and started making some phone calls to those of you that I serve with on the Regional Planning Authority, I did have an opportunity to talk to Commissioner Sullivan and Commissioner Duran. Commissioner Duran said something that I thought was really important, that regardless of what happens, we need to meet the commitments that we've made to each other. And I really agree with that.

[Commissioner Duran joins the proceedings.]

What we've been working on with the Regional Planning Authority, our



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commitments to pursue affordable housing and to pursue resource-based land use plans and address our water issues jointly – and as difficult and as painful and as frustrating as it's been, I think we're making some movement in that direction, and I'm afraid that this legislation will give us a whole new gameboard to play with, and it'll set back the efforts that we've been painfully undertaking for the last year now on the Regional Planning Authority.

I'm particularly affected by this as a representative, and Commissioner Duran is my Commissioner. But as a representative from the Southwest Sector of our community, and you know that when you look at the map of what's inside the city limits and what's not in that part of town, it's very jagged edges as what's in and what's out of the city. And just looking at that, I feel like jagged edges hurt people, and it's up to us in the City and the County to work together in that part of the community to smooth out those jagged edges and make sure everybody is treated fairly and gets the resources they need. I think this legislation sets back our efforts to do that, and so I'm hopeful that the County Commission can support the City of Santa Fe when we try to stop this legislation. And I do appreciate the time. Thank you.

CHAIRMAN SULLIVAN: Thank you, Councilor. Councilor Pfeffer, welcome.

COUNCILOR PFEFFER: Thank you, Mr. Chairman and members of the Commission. I'm going to add my dittoes to what the Mayor and Councilor Coss have had to say, and call a spade a spade and acknowledge that in my year on the Council and in my year as a member with some of the on the Extraterritorial Zoning Authority hasn't been all smooth. City Councilors and County Commissioners do not always see eye to eye on issues, and sometimes the haggle back and forth is not of the friendliest nature. What I don't see coming out of this is anything positive. If this bill passes and if the Extraterritorial Zone – if the City no longer has some say in terms of growth and management of growth in the Extraterritorial Zone, and it no longer has annexation powers, it will tend to build a wall between us, higher than the one that we've already got. I don't see an up side to this.

I do see that our federal congressional delegation wants to see City, County and other parties on the same page when we go to them for the millions of dollars we're going to need for the San Juan/Chama diversion or any other projects that we have in relation to water, and the State wants to see the same thing. This puts us on different pages.

Specifically, what the City staff is telling us, the legislation as written will create, will be that the regional planning efforts between the City of Santa Fe and County of Santa Fe will be seriously impacted. The joint powers agreement for the RPA, we'll have to start over on that. The urban sprawl could be encouraged outside the city boundaries without City input. The County having veto power over annexation proposals puts us in an adversarial position from the get-go in terms of annexation issues. And we recognize that those issues take a long time to resolve: what's in it for us, what's in it for you.

Again, I don't see us coming closer to resolution on those issues by having the

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Extraterritorial Zoning Authority lack authority. The resources and the growth management efforts within the EZ will fall entirely on the County's shoulders. It puts our water wheeling agreement, which we're struggling to get attention to and negotiate with you, into a position where we're adversarial, even further than we already are. Some of us who would not normally think this way are thinking "What's in it for us?" You end up with the zoning, we end up with the water, where do we go with that?

The County would be solely responsible for providing the necessary services in areas within the County that the City is currently providing. There'd be conflicting or incompatible land use policies between City and County that have future fiscal impacts. And we don't know where this will go. That's on the front page of the memo that the Mayor gave you, and there are three other pages with more concerns.

Basically, it hasn't been a pretty picture, and it hasn't been easy getting where we are. But the Extraterritorial Zoning Authority and the RPA at least are two joint bodies in which we've been able to cooperate at least to some degree and have our spats and have it out and do those things. This legislation will throw those into jeopardy. It will take away the authority for the Extraterritorial Zone from the City, which is now a minority, with you in the majority, and it will undercut the RPA.

I don't see the up side, and I urge you not to support this amendment to the Senate bill. Whatever Bernalillo County and Albuquerque want to do is their business, and that's where this came from. And hopefully we'll be able to move forward rather than backward in our cooperative efforts. Thank you for hearing us out.

CHAIRMAN SULLIVAN: Thank you, Councilor. Since we're on that topic, I guess we're under Item VII, Matters of Public Concern. Are there others who would like to speak with regard to that Senate bill? Okay, Commissioner Duran.

COMMISSIONER DURAN: I was just wondering - I think that if your efforts to stop this bill are not successful and it passes, that the fact of the matter is that this Commission has made a commitment to the City several years ago, before you and Mr. Coss came onboard. There was considerable concern and debate about the effectiveness of the EZA, and how the City really never had any real input into the decisions that were made.

The fact of the matter is that at the EZA, at the will of the Commission, because there were three Commissioners and two counselors - if the will of the Commission is to approve or disapprove something, they got it approved or disapproved. And that was why we created the RPA, because of that problem, and of the desire of the Commission to work closely with the City to develop a land use plan and zoning policies that would allow the community to grow as one, rather than separate from one another.

So if this Bill passes or not, we've made that commitment to the City. We've actually made the commitment to the community, not to the City. We've made that commitment to the community. And one of the things that Senator Maes said was that he felt that it was the first step in an a uni-government type of government for our community, which I think we definitely need to work towards. But win, lose, or draw, the

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commitment is here to work with the City on community-based issues, and I don't think that whether we have an EZA or not, that we would withdraw that commitment.

CHAIRMAN SULLIVAN: Okay, thank you, Commissioner. All right, we're still on matters of public concern, are there others who would like to step forward and address the Commission? We're not like the City, we don't make you stand in line, you can sit and come on up and sit in the front.

BOB TAUNTON: Mr. Chairman, members of the Commission, my name is Bob Taunton. I'm the general manager for Rancho Viejo. Mr. Chairman, at the last meeting there was some information that was presented that dealt with the Rancho Viejo geo-hydrology study, and with the Rancho Viejo well that the company had constructed last year. And I - rather than getting into what was in the newspaper and what was in the minutes, we can all read that, I just wanted to correct the record. I'm not here to criticize anyone, I'm here to just simply provide the information that really, I think will be useful as you move on to the next - move on to one of your items later in the agenda.

First of all, there's a formation up there called the Ancha formation, and then below it it's the Tesuque formation. Apparently, the State Engineer last meeting indicated that they were surprised that our geo-hydrology study showed that there really wasn't much of a saturated zone in the Ancha formation. And our geo-hydrology study identified that. We knew going into the well drilling that that was the case, and it's really not an issue, because the formation that's below it, which goes down about a thousand feet or even deeper, is really the saturated zone. It may be an issue for those that have shallow wells in the Ancha zone, but for what we were doing, it really didn't have any impact.

The geo-hydrology report was given to the County about 18 months ago, and the County staff have had it, of course, for that time. We did two wells. Commissioner Sullivan was correct in one sense, in that we did do an exploratory well. But we also did a production well. The exploratory well was our attempt to confirm the geo-hydrology study. And it was a bore hole that went down 1500 feet, it was a smaller casing, and it's long-term use is a monitoring well.

We learned a great deal from that exploratory well, and it really gave us the design criteria for what was to become the production well. And that was constructed 100 feet to the west. There is an exhibit that's attached to your handout which shows the cross-section of the production well for a much bigger casing. [Exhibit 1] It truly is a production well. When we did do the production well as a result of the exploratory information and investigation, we drilled it 50 percent deeper than anticipated originally. We thought we would go down 900 feet, but the results of the exploratory well suggested that we could go down an additional depth. We also that that we would screen the well for 400 feet, and actually we screened it for 675 feet.

So it turned out to be a much better well than we anticipated, and the pump tests and the monitoring that occurred after that indicated that it would pump at about 300 gallons per minute. Now that's not 1,000 gallons per minute, but it's still, out in that area, is a very strong well. So I just wanted to clear up the facts, that it is a production well. It's

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of course not in service. It would need to have the necessary pump and other infrastructure attached to it, but there really isn't anything to do to the actual well.

The last point was a comment about the State Engineer, and I kind of missed that conversation or what might have been said. But we have never made an application to the State Engineer's Office for the use of this well, nor has the County. Last year, we had a discussion with the State Engineer staff, Commissioner Sullivan and I sat together with Gary Roybal at a meeting, and talked about the emergency use of the Rancho Viejo well. And it was quite clear to us that the State Engineer policy is they're not going to evaluate a well or its impacts unless you submit an application. We've not done that, the County's not done that, so there really has not been any kind of a formal review.

And with that, that's what I wanted to say to just clear up the record. And I hope that it helps the Commission in your next item. I'd be glad to answer any questions, if there are any. Thank you.

CHAIRMAN SULLIVAN: Thank you, Mr. Taunton. Next speaker, please.

WALTER WAIT: Mr. Chairman, members of the Commission, my name is Walter Wait. I'm president of the San Marcos Association. I'm here tonight concerning your Utilities Department's requesting ratification for the scope of work in RFP 22-33, which is an RFP to determine the sustainable production of certain existing and potential groundwater sources.

We understand that in this RFP the County intends to re-open the idea of connecting the Rancho Viejo well to the County water system. It was less than 8 months ago, August 13, to be exact, when we the County Commission was reviewing the Community College District applications for subdivisions, that we expressed concern that this well might be brought online to provide water for new growth. We were assured at that time that the new growth would only use water from the County Water system, and there would be no impacts on the surrounding area's aquifers, whether it be Ancha or any other. I seem to recall that at that meeting the State Engineer's office sent three people to state that based on the initial testing of the test well that there was not enough water to support a 100-year supply at that location for the number of dwellings that was proposed.

If in fact you are planning to utilize water from this area to augment the County's water system supply, we believe you're reneging on a promise to the citizens of the Highway 14 corridor not to impact their fragile water supply. In 2002, at least six of our area's wells went dry. Needless to say, we're very concerned over the impacts of an upstream pumping station with a potential capacity of drawing up to 600 acre-feet of water from the very aquifer that serves the community's domestic wells. I might add that of those six wells that went dry, at least two of them had to go 1,000 feet to see if they could find water. And the water that they found at that level was not very good.

It seems very obvious to us that the new Community College District preliminary development plan calls for approximately 1200 new homes, and we do know now that there's no water available for this growth at this time. Bringing the Rancho Viejo well into the County system does provide enough water to service this new growth, and allows these

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development plans to go forward. And we'd have to assume, of course, that the County could acquire and transfer enough water rights to this Viejo well. Unfortunately, the plan would be paid for by the domestic well users of the Highway 14 corridor, or at least that's what we believe. It is their limited water supply that this well will draw from.

Also, we do find it worrisome that the County could potentially spend a considerable amount of County money on a privately held well. Does it mean that there's already a deal in place for the Rancho Viejo partnership to cede its rights of the well to the County in return for permission to move forward with their development plans? I hope that no such deal has been made.

The San Marcos Association membership is opposed to any use of water that would adversely affect an aquifer that they depend upon for domestic wells. Though we understand the impending crisis in water availability to the County system, we feel that any commercial draw-down of the water table in this area would be detrimental to the citizens of our area. We'd like to ask you to abandon any plans to extract water from our area for use in the County water system. Thank you.

CHAIRMAN SULLIVAN: Thank you, Mr. Wait. Next speaker, please.

DINA MARIE CHAVEZ: How are you doing, my name is Dina Marie Chavez. I live on the Highway 14 corridor as well, my family and myself. I also happen to be on the board of San Marcos Association.

I have some real grave concerns about the testing of the Rancho Viejo well for two reasons, mostly. One, testing will inevitably lead to use. We can't afford to have that. Any and all developments that occur in that area should be proved 100-year water supply, they should be sustainable, and they should be imported. They should not be taken from the groundwater. Whether it's at 1,000 feet or it's at 1200 feet or whether it's at 500 feet, whatever's taken from that area is going to adversely and gravely affect shallow wells and deep wells. We've hopped down this bunny trail before last year. We did get a promise that this would not occur, and here we are again. Our life's work seems to be battling all of the time with these wells.

We moved out to the County because we like water that's not chlorinated. I like having a well. I like that it's clean and fresh and pure. I don't want to get hooked up to the County water system. Me and 35 of my other neighbors probably don't either. I think that it would be gravely, a horrible decision to test the well, because inevitably it will be used.

Also, Balleau Groundwater had done tests on this well before. All of the data that you need is already available. There's no reason to spend our taxpayer money to get it again. The water needs to be imported, and that's pretty much the bottom line. There's not a sustainable source of water down there. I would really respectfully request that Rancho Viejo - they can refer back to their Balleau Groundwater data that they have collected. Please don't pump the Rancho Viejo well or test it. Thank you.

CHAIRMAN SULLIVAN: Thank you. Next speaker.

HUGH NAZOR: As you can see, I came prepared. Hugh Nazor, director and treasurer of the San Marcos Association, resident of the San Marcos area. This is not

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my little talk for tonight, this is the 1994 County of Santa Fe hydrology report, on that gets very little reference these days. But it is the most complete for the area, involved, and it's the most recent one done.

The area involved is the one about which the State Engineer's office told you in a letter last term that there was not enough data to designate or think of designating that area as a critical management area, which you had requested that he look into. This calls into question, to me, how you can now request a study of the effects of drawing down two wells on the area to the south and west of those wells. The data doesn't exist unless you do a much larger study, according to the State Engineer's office last year on your request.

The data that does exist says, and I quote now from the report, "In the Santa Fe aquifer," this is the northern part of the area under consideration, "overall it appears that groundwater is being mined in the vicinity of Santa Fe." It goes on to say, of the north Galisteo basin, that's the southern part of the district under consideration, "overall it appears the north Galisteo basin could be approaching a state of substantial water mining, because residential development has increased dramatically in recent years," this is 1994, don't forget, 10 years ago, "and pumping has also increased. The lifetime of the aquifer with the present stresses," 10 years ago, "is projected to be at least 40 years." It's now 30. That was with the present stresses.

"The area at the fringe of this Santa Fe aquifer, particularly to the south portion," I'm still quoting, "is vulnerable to aquifer mining. The actual aquifer thickness in the fringe is unknown, and is as little as 80 feet in the Eldorado area. Projections of impacts by proposed development near the aquifer border should consider the effects of existing pumping as well as future pumping on water levels declining of the ultimate lifetime of the resource." The point here being that there are a lot of things to consider other than a simple report resulting from the pumping of a couple of deep wells. If you're going to get an honest report of the effect of those wells in the area, you're talking about spending tens of thousands of dollars.

I will try and be very short now, there are just four more quotes and a quick summation. Quoting your report again, Section 3, page 15, "The County policy in the Code suggests that the population centers should eventually be supplied with imported water while the remainder of the County has its own long-term supply." Now, this would divert from that policy implied in all the Code that exists for the County and start using water from an area known already to be in trouble to supply a commercial County water service. One key problem occurs, page 3-32, "When there is a mix of well uses, e.g., shallow individual wells for farms and domestic wells and deep wells for community and large capacity irrigation. The deep wells draw-down of larger water uses increases the draw-down in wells of small users with shallow wells. The deep cone of depression created by a single large capacity well will locally dewater the aquifer faster than the same volume pumped from multiple, widely spaced wells."

This is exactly what you're proposing to do in an area already known to be in trouble. Again, I'm quoting. I can't tell you where the Code says this, but on page 3-35 of

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your report, it says and I quote, " The Code specifically mentions that a developer should give considerations to protecting water resources for existing County residents who rely upon domestic wells." I think the County should give at least equal consideration to that that it requires of its developers. It seems to me that a pursuit of your last term's request of the State Engineer's Office for an appropriate study and consideration of this area as a critical water management area is much more appropriate than going forward to see whether you can mine this area more greatly to meet admittedly very real County needs. Thank you.

CHAIRMAN SULLIVAN: Thank you, Mr. Nazor. Next speaker.

MAURICE BONAL: Mr. Chairman, my name is Maurice Bonal, 685 Callecita Pecos in Santa Fe. I'm also chairman of what they call the MRC, which is the recreation complex off of Caja del Rio. And I'm here to discuss action taken by the RPA at the last meeting, actually taking an intersection of Caja del Rio and 599 off their priority. A little over two years ago, the MRC Committee did a study and got petitions and actually went around the area and polled the users of the facility as to what was the most significant defect in the complex. Guess what. It was the access. So what we did, we held many, many meetings on this one particular issue of the access. And the theme that rang loud and clear was that the current configuration to the complex, to the landfill, and to the state offices out there is not safe.

Again, the current configuration in not safe. There are 14,000 card-carrying members of the users of the facility out there. Now, how does that break out? It breaks out into golfers, it breaks out into softballers, soccers, rugby players, hard ball players. How does that break out in City-County relationships? A little more than half of the users out there are from the City of Santa Fe. The rest are County residents. In other words it's about a 60-40 split. Forty percent of the County are using that facility for the recreation. That's what it's for. That's what this complex was built for.

But the thing we're here to do, and I have Dennis Garcia from the Land Office and I talked to Pat Lyons just earlier before I came here. He was at that session. He said, "Maurice, find Dennis Garcia. He's there. The State Land Office has concerns about that intersection." And I talked to Jim Romero before I came here, the City Manager. The City has concerns about that intersection. I talked to the Mayor earlier. He was not aware that this was taken off, that it was actually taken off the RPA priority. He's aware now. Everyone's aware now.

I guess what I'm here to tell you is that a lot of work and a lot of study and a lot of effort into bringing forth, just the fact that it's not safe out there. And if you've been out there and you see the trucks, the landfill trucks coming from the transfer station and continuing on to the landfill, you'll see what they have to do to cross 599 just to get out of the way and that's what they're doing, getting out of the way of the traffic.

Not only do we have 14,000 people going back and forth, members, most of those are kids. They're children being hauled off by their moms and it's a beautiful complex. If you've never been out there, you've got to see this thing. And I'm glad that we have two

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of our City Councilors here because what's happening out there is that this is probably one of the most used facilities in the county. And what are we doing? We're ignoring the passage. We're ignoring the safety of the passage to and from this complex.

Now, I would love to see an intersection with lights and cameras and everything going to and from this complex. We're told that's \$14 to \$15 million to do this. The Highway Department right now has \$1.3 million that they're ready to build this intersection. They would begin construction within a month. The funding is in place but they told me after the action by the RPA, they said, "Maurice, we'll give you 30 days to get your act together to go back to the County, go back to the City and see if in fact this is still a priority. If not, we're taking this money to Alamogordo."

We've got it here. Let's do something that's safe. Some of the residents out there would love to see 62 connected to 599. That's wonderful. That's great. But guess what. There's a lot of problems. There's legal. There's litigation on 62 and between landowners there and current landowners and easements and property rights – not property rights. Right-of-ways and issue of that like. But I guess what I'm here for and I'll let the others speak. I believe Robert Romero was supposed to come from the City to speak on behalf of the City but what I'm here to do is to reconsider, and let's look at this project.

This MRC complex is probably the jewel that the City and the County have for our kids to play. It's going to be forever green. It's water with sewer water and it's just a gorgeous complex and invite – I'm going to come and get you all and we're going to go out there and see who uses this facility. You get out there in mid-June and all you see are rug-rats about that big and they look like ants going up and down the soccer fields. It's just wonderful and that's what it's built for. But let's think about their safety. And that's what I'm here for. I would love to see an interchange built but I haven't seen anybody raise their hand saying we've got \$15 million to build this intersection. The Highway Department has \$1.3 to do an at-grade intersection right now. Thank you.

CHAIRMAN SULLIVAN: Thank you, Mr. Bonal.

COMMISSIONER DURAN: Mr. Chairman, could I just ask a question?

CHAIRMAN SULLIVAN: Yes. Commissioner Duran.

COMMISSIONER DURAN: Maurice, the RPA denied or turned down the request for that at-grade intersection and the reason for it was because of the safety issues that it posed. I recall that it didn't have lights, any traffic signals or anything. Is that your understanding also?

MR. BONAL: Mr. Chairman, Commissioner Duran, no. It is signalized. It's a signalized intersection, at grade intersection.

COMMISSIONER DURAN: Okay. I don't remember that part.

MR. BONAL: That's exactly what the Highway Department has. And you have your County Engineer here who is more familiar with that aspect of it than I do. I thought it was the aspect that the County would like to see this thing go on 62 rather than 599. It was the read that I was getting.

COMMISSIONER DURAN: I think they didn't want two at-grade



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intersections so close to one another.

MR. BONAL: And I guess what I'm here to say is that we need to do something that's safe and if we forego this as a City and a County, who knows when you're going to get the money back? I don't know. I was the one that actually got in capital outlays the money for the study. We wined and dined the Highway Commission when they were here at their meeting and I believe members of the County and the City were here to actually keep this as a priority for the Highway Department. And I spoke with the incoming Highway Commissioner, David Chutes and he assures me that this would be something that he's very interested in.

COMMISSIONER DURAN: Thank you, Mr. Chairman.

CHAIRMAN SULLIVAN: Thank you, Mr. Bonal. Let me interrupt if I can just a minute. Senator Maes is here and I understand that he has a busy schedule and there's something going on across the street. If you'd like to come forward and address the Commission it would be an honor to have you do so, Senator.

SENATOR ROMAN MAES: Thank you very much for allowing me to speak. Members of the Commission, it's a pleasure to be here. I'm sure you've read in the newspapers and I'm sure you heard from the Mayor and some members of the City Council regarding my activities with the New Mexico Legislature. Now if I may, if somebody can assist me I'd like to share with you the actual bill and the amendment that was prepared. [Exhibit 2] And basically, what it does is that it provides an opportunity for Class A counties - originally it was Bernalillo County, and now with the County of Santa Fe and Dona Ana, to be able to deal with issues directly instead of going through a community of invisible lines in controlling issues related to the County.

In October and November of this year I went ahead and submitted a questionnaire to my constituency and it was well over 1005 questionnaires that I sent out. Basically, they were individuals in my district that covered all areas. Mr. Sullivan, your area in Eldorado, various parts of the city and for sure the east side, north side that I represent. The number one pressing issues before them was affordable housing and I found that very interesting, Numero uno issue was affordable housing. And then I started to do some major work and discussion with regard to the affordability of a house and it came out that since last year, 2001 to 2002, the cost of housing in the City of Santa Fe went up \$30,000. Now the average cost of a house is \$276,000. Only about 22 percent of the people can afford a house to buy.

And I think it's a travesty. I think it's a wrong situation. In my opinion, the actions of the City Council have clearly shown that they are putting every form of blockade to any form of growth and opportunity for our citizens in our community. The dilemma that we have is that people are seeking shelter, so to speak, in the county areas. They're looking for homes in the county to be able to afford. And what do they find? They find themselves a mobile home and possibly a two-acre parcel. It's to me a real shame that the City has absolutely ignored it. I think they've provided every form of obstacle with regard to allowing affordable housing.

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Yes, they'll tell you've they've got the best affordable program in the world and they got accolades nationally and so forth. But the dilemma is that there isn't affordable housing. There's no such thing in the city anymore. It's very difficult to find a home below \$200,000. And when I say affordable, I'm not talking \$200,000 to \$300,000. I'm talking about dollar amounts from \$140,000 to \$190,000. That's affordable, at least in my thinking. Hopefully even lower.

But I've reached a point in time, I've lost total confidence in the City of Santa Fe. And I think the general public has also. They want affordable housing. They want their families to grow here. They want their families to thrive and they want their children's children to be able to stay in Santa Fe. You're seeing the very roots culture, root structure of Santa Fe leaving Santa Fe because they can't afford a house. And I think that's very sad. Very, very sad.

I'm saying the County should create it's own destiny, move forward. Show your dynamics. And that's what I want the City of Santa Fe to be, a dynamic city that allows its own people to be able to live here and buy their home. At the present time they can't do that. They cannot do that. It's rather interesting. If you compare, if you ask the City Council how many of them can afford a \$279,000 home, I can assure you, less than half or more than half could afford a home in this city. But yet, they're the proponents controlling any form of growth in this city. And again, it's very sad.

Basically, when I had the opportunity the other night, I was listening very carefully to the arguments raised by the Senators from Bernalillo, regarding Bernalillo County and the City of Albuquerque. Basically those same issues were those affecting the City of Santa Fe. But more so in the City of Santa Fe. The average price of a home is \$276,000. Less than 20 percent of our population can afford it. But yet the City has provided every single wrench they possibly can to stop the mechanism of affordability. And it's a shame. I'm ashamed of them. I think that's terrible what we're doing.

As I understand, several people appeared before I do, and that's fine. I'm sorry I missed them. I wasn't able to find a parking space. But the dilemma I has was the fact that I've made every effort to communicate with the City. Let me tell you about a meeting we had regarding the water problems in the city. The Mayor called it. It was supposed to be composed of the delegation, legislative delegation from Santa Fe and Santa Fe County and the City Council and the Mayor. Guess who showed up. The Mayor. To talk about such an important issue as water for our community.

At this point in time I haven't seen any City Councilmen step up to the plate and say, " We need your help. We need to get some water systems." Their demand by the Mayor is basically going to suck every nickel and dime away from the County. I hope you realize that. And we're trying to help them there but I think the Mayor is in a box. Basically, he sees the situation and we've had great conversations related to the future of our City. But don't give up on our people. Give them that opportunity to be able to buy something here. To thrive and to have their children here. Create your own destiny. Move forward. I'll help you. A lot of people believe in you.

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Right now the people are seeking shelter in the County. They want the County to run its own destiny. To have opportunities for livable homes and create jobs and opportunity. Let's bring back dynamics. Basically at the present time the City has a great deal of control, review of your roads. That's representation without taxation. Excuse me, the idea is taxation without representation, just the opposite. If there's a situation that involves the City and County, you can always enter into a joint powers agreement. You know that; I know that. So there's no such thing as a direct obstacle. You get rid of the EZ Zone and all of a sudden the world will end.

Members, Chairman, I was chairing the Santa Fe Planning Commission for almost nine years before I became a State Senator. That's when there was four members from the County and four members from the City. And I can assure you during that seven-year period there was more affordable housing created by the City and County of Santa Fe than ever before. When that was destroyed and all of a sudden we created this EZ zoning, the opportunities came to a very, very quick halt. And I'm asking you today is don't give up on the people of our community. Give them that opportunity to find a home and have happiness.

Compare ourselves to Albuquerque and Rio Rancho and those communities. Those people can afford a house. Average sale price in Rio Rancho is \$132,000. And I'm saying, Has it destroyed Rio Rancho? No. Are we going to destroy our city by having affordable housing? No. Are we going to destroy the county by allowing the County to follow its own destiny with regard to affordable housing? I say no. Give yourselves that opportunity. I'm not saying Endorse my plan. If you do, welcome. If not, I'll understand. But for God's sake, start believing in the people of our community. Give them a place to live and live happily without them being in such high debt as to afford anything.

Look at yourselves. Can you afford a \$276,000 home? I don't know. Mr. Chairman, thank you very much for allowing me to speak and if you want me to answer some questions it would be a pleasure.

CHAIRMAN SULLIVAN: Thank you, Senator.

SENATOR MAES: That's my position. I feel comfortable with it.

CHAIRMAN SULLIVAN: Are there questions or comments from the Commission from Senator Maes with regard to his bill.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Senator Maes, thank you very much for coming over here. I know you're on a busy schedule and I appreciate the fact that you came and explained your stance. Thank you.

SENATOR MAES: Thank you very much. And again, I respect your position. You work hard. I think the people in this city have more confidence in the County Commission than they do with the City Council. Thank you.

CHAIRMAN SULLIVAN: Your bill is in the House now, is that correct?

SENATOR MAES: That's correct.

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CHAIRMAN SULLIVAN: And what is the schedule for it being heard?

SENATOR MAES: I don't think it's been scheduled time-wise yet but if you like, I'll inform the County Commission and also the City Council so we can all appear and discuss the issues accordingly. But it would be a pleasure to have you there and listen to the arguments.

CHAIRMAN SULLIVAN: I think Commissioner Duran has a question or a comment.

COMMISSIONER DURAN: Thank you for coming here today, Senator Maes. I have a couple questions for you. Is part of your bill based on the fact that the densities allowed in the EZ are pretty minimal? We don't have an R-5 zone. We don't have densities that actually allow for affordable housing because the minimum size lot is half an acre if you have City water and City sewer, an acre if you have one or either, and if you don't have any of them it's 2.5 acres. So my thought in following what you are proposing is that the County then could consider changing densities in the EZ to allow for more affordable -

SENATOR MAES: You don't have an EZ anymore if that bill passes.

COMMISSIONER DURAN: So it would allow us to adopt ordinances or zoning outside the boundaries of the city that would provide for higher densities, thus allowing for more affordability. Is that kind of what you were -

SENATOR MAES: Exactly. That's totally correct. Basically, we worked very well before the EZ zoning was created by the legislature. It worked beautifully. And basically it's a produce of Bernalillo County. I remember distinctly that the City of Santa Fe and the County were furious over it. They didn't support EZ zoning. And as a result, my vote went accordingly. But it was not a produce of Santa Fe. It was a product of Bernalillo County and the City of Albuquerque. So as a result we got stuck in the middle.

It's really ironic, I think there's some real opportunities here. I'm pretty sure it's a long way from solving everything but at least it opens the door for you to do something for the people in this community. And as I said, I think a lot of people have confidence in all of you. You've shown in the past that you're very responsible with regard to growth and planning and that you're willing to allow some opportunities for people that need housing.

COMMISSIONER DURAN: What's your perception of how it's going to move through the house? Is it being perceived favorably?

SENATOR MAES: There's a very heavy lobbying effort by the Municipal League and also by the City of Santa Fe. Also by the City of Albuquerque and also by the City of Las Cruces. They're scared to death that something is going to happen. And there's a good change that it could pass. There's a good chance that it won't. I don't know if the Governor will sign it. But you know, I thought it was a real opportunity to wonder where we're at for the future of our community. And don't ever think that I would create anything that would harm the County or the City. It's just an endeavor that I thought would be possible dream for a lot of people that want to stay in Santa Fe.

COMMISSIONER DURAN: Just one last comment. Because you know,

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win, lose or draw, we've made a commitment to the City to cooperate with one another on a land use map from outside the city boundaries out to the Five-mile. So I'm not sure exactly how effective this bill is going to be locally only because of the commitments we've made to the community to work on regional planning together.

SENATOR MAES: Mr. Chairman, Commissioner Duran, the bill was never intended for you to get cross-wise with the City. The bill was created to allow you to create your destiny for the future of the City and County. And it was never there to harm anybody. I'm even saying if you want to create your own water system, so be it. I think a lot of people would be very strong supportive of it.

COMMISSIONER DURAN: Sometimes I move to the thought that maybe this bill, should it pass, would put is more on a more even playing field with the City.

SENATOR MAES: If you have some ideas, we still have another week and a half.

COMMISSIONER DURAN: I still might stay neutral on it too. I'm not sure where I'm going on this.

CHAIRMAN SULLIVAN: Senator, I had one question. Is that all, Commissioner Duran? I believe you've also sponsored a joint memorial with regard to regional, or investigating the probability and possibility of a regional water authority. Could you give us some quick background on that and where that is?

SENATOR MAES: Yes, that's moving very, very effectively. It gives us an opportunity to study that. The one that assisted me is former engineer-attorney who is in charge at the State Engineer Office, and basically, he felt very strongly that it would be the perfect situation for both the City and County. It's in the House now. I think it's on the floor of the New Mexico House of Representatives. It's one that requires study. I think it could affect the requirements of the Rio Grande Compact plus it could affect the constitution of New Mexico.

You realize you can't store water anymore in Santa Fe. That compact controls it. And I'm just trying to investigate the opportunities that we have as citizens of the city and county to preserve as much water as we possibly can. So that's where it's at.

CHAIRMAN SULLIVAN: Okay. Both the County Commission and the City Council passed resolutions, somewhat different, but in general in support of that or in support of the philosophy that you're talking about here. The only thing in my comments with the City Councilors that came up is that the bill indicated that there would be the Legislative Council Committee would look into the matter. And I wondered if you could comment if you thought it might be appropriate that the State Engineer be the entity that would shepherd that and that the State Engineers Office do that in conjunction with the Regional Planning Authority. Would that make sense?

SENATOR MAES: Yes. And basically, it is. The bill basically has a cooperation between the State Engineers Office and the Council Service. What I was trying to do, Commissioner Sullivan, is trying to same the County some money and also the City. They have monies already available. They have constitutional attorneys available. They

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have water attorneys available and that would eliminate any cost to you. Obviously, any product that would come out I would share with the County and City and see what direction you want to take. But at least it's an exploration and it gives us that opportunity to take a look at it.

CHAIRMAN SULLIVAN: I guess what I was getting at is I think it would be useful to have it somewhere in the memorial that the contact point for this study would be the Regional Planning Authority. That seems to be the best mechanism we have to get together with the City and County and to hash these issues out. So I just was asking if you felt that worked in with your bill.

SENATOR MAES: If you could, Chairman Sullivan, Virginia Vigil has been helping me with it. She's really good. This lady's really on top of stuff. Have her take a look at it. We can always amend it even on the floor of the House to make sure that the proper wording is there. I have no problems doing that.

CHAIRMAN SULLIVAN: Good. I appreciate that.

SENATOR MAES: I promise to communicate this part of it with you. I know I caught you by surprise with my other amendment but I think it's a time to move on and start doing something for our community. Thank you very much.

CHAIRMAN SULLIVAN: I think Commissioner Duran has another question.

COMMISSIONER DURAN: Senator Maes, you're a busy guy. Are you also the one that's behind the regional transportation authority bill?

SENATOR MAES: No. That's coming from - there's about four bills out there. There's Bernalillo County. There's one in Las Cruces, in Dona Ana County and one in the eastern part of the state.

COMMISSIONER DURAN: Okay. We're getting ready to try to negotiate the purchase of the rail right-of-way that would be great.

SENATOR MAES: Sure. It's exciting stuff. Mr. Chairman, Commissioner, that's part of the dynamics I would like to look at in the future of our state. We need dynamics. Let's move forward. We've got a wonderful city, wonderful county, and I'm just merely saying that we need dynamics and we just have to move forward with opportunities for our people. Thank you very much.

CHAIRMAN SULLIVAN: Thank you, Senator. Appreciate it. Okay, we'll go back to where we were in our line up. Would you like to identify yourself?

MATTHEW BACA: Yes. Thank you, Commissioners. I had following after Senator Maes. He's such a good speaker and so entertaining sometimes to listen to. My name is Matthew Baca and just as an introduction to myself, I'm going to tell you three different things that I do right now. First and foremost I'm here today representing the Baca Ranch, which is to the west of town here, west of the City of Santa Fe located entirely within the County of Santa Fe on the city limits. It's approximately a 17,000-acre ranch composed of private land, BLM land, state land and private lease land. Of that amount, about 4,000 is privately owned land by our family.

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I'm also the research programs manager at the UNM School of Engineering's Transportation Research Institute and I bring that in because this does involve a lot of different transportation aspects. And lastly, right now I'm on leave of absence from the Research Institute and I sit as the chief analyst for the Senate Rules Committee for the last two years and the prior seven years for the Senate Public Affairs Committee. This will also come into part of my comments because a little bit of the history occurs in the legislature. It occurred at the ranch and it occurred when some of the transportation things that were taking place over the last couple years.

I attended the RPA meeting the other night and as Commissioner Duran alluded to, there's a little confusion on some of the issues. There was a lot of confusion and maybe the County Attorney can correct me if I'm wrong because of the nature of what the RPA was trying to do at that time, which was to amend the 20-year long-range transportation plan as part of the State Transportation Improvement Project by the RPA which as I understand it serves as the metropolitan planning organization for this metropolitan area. Again, there was a lot of confusion and a lot of questions going back and forth as to what exactly actions were being taken and what was happening. And that actually overshadowed for much of the meeting or at least a good first portion of the meeting, the issue itself.

To start with, the design of 599 goes back into the early 80s. At that point, that's when it was determined to place the County Road 62 crossing at 599 for reasons that I'm unclear about, unclear of today actually. The 599 was built, in our area, what we're talking about now, across state land and across land that's owned by the Baca family, the Baca Ranch. At the time, the State Highway Department came in and condemned the property -- not condemned, purchased the property. When it purchased the property it allowed our family to have three parcels of property, two of which have access onto the frontage road that's there and another parcel that has access directly on to 599. That's important. A lot of people don't realize that some parcels, as far as I know we may be the only one, that have direct access onto 599. This is because they had split our summer pasture and the easements that we had with the State Land Office, perpetual easements, and split our property. So the Highway Department allowed us full access onto that property.

What occurred next was growth did not take place at the intersection of 62 and 599 the way it did over at the municipal complex. The municipal complex now is the Game and Fish Department, the golf courses, soccer fields, rugby fields, baseball fields and soon to be build animal shelter. With this growth came the realization that the activity and the need for an interchange was no longer at 62 but at Caja del Rio and 599. In I think it was about 1997, 1998, at that time I was serving as the Chief Analyst for the Senate Public Affairs Committee under Senator Shannon Robinson, I attended half of the meeting -- this goes back to history pre-you guys, with Commissioner Javier Gonzales, then County Manager Sammy Montoya and Senator Robinson in which this whole issue was discussed and the fact that the growth had now occurred in this area and that all the access was coming through Caja del Rio Road onto 599 and because of the fact that so many vehicles were coming in there, it was now time to put in an intersection and move it from 62 over to Caja del Rio.

Based on this and the fact that Senator Robinson has used a lot of his capital monies for the rugby fields, he saw that it was an important place where he was willing to put some of his capital, as did Speaker Lujan and the money was put in and given to the Highway Department to do the design, approximately, as I say, it's \$200,000-plus. That design has now been completed. That was I think about four years ago, because it was two years ago I left the Public Affairs Committee for the Rules Committee and I think it was the year before that.

So 599 now had the money, the state monies, and I had assumed, again, because it was the County Manager and at least one Commissioner that the County was endorsing the project and was behind the project. During this time two different other things happened. One was the County of Santa Fe condemned 300 acres of our ranch to put the County landfill on there. The City/County landfill. It's important to say City/County in there. We took the matter to court. Again, this is all before any of you were here, and we were successful. The court essentially cut the baby in half and awarded us - we had asked for probably about three or four times, ten times what the County had given us and they gave us about five times what the County had offered us.

We appealed this. The County, all of a sudden faced with some real fiscal issues here because of the amount of monies that were involved, went ahead and appealed it also. We felt that we had a good case, but we went into a settlement agreement with the County. Steve Kopelman was the County Attorney at the time and is well aware of the agreement. Jack Kolkmeier is also well aware of the agreement and the issues with it because of recent things that have happened in the past years. As part of this settlement agreement, the County agreed to several things, including allowing us to place a recreational vehicle park, an RV park for summer tourism on that piece of property that opens directly onto 599. This is an agreement that was signed off on by the County and approved by the then County Commissioners in state district court. I think under the terms of it we have 20 years to do it and actually we probably will move forward on it fairly soon.

This is the piece that opens directly onto 599 at Caja del Rio. This is where the signalization would be. This signalization will be used by recreational vehicles, the fifth wheels, the large trailers, the RV homes that will be using that park, approximately 400 to 500 Rvers. These individuals, if they want to return to I-25 after they've stayed their visit will have to go onto 599, go up to the County Road 62, if and when they ever get a signal, make a U-turn there and then go back to I-25.

That's not really our concern. It's a concern of mine as a safety concern but it doesn't affect our plans because we have the agreement in place to go ahead and go forth with our plans, but as Commissioners, you will have all these, and as a county, you will have these vehicles having to make those moves onto 599. What the Highway Department has proposed instead is the signalization right there at Caja del Rio and 599 so these fifth wheels, these RVs will come directly off of our development and be able to cross at the light, crossing to head south back to I-25.

CHAIRMAN SULLIVAN: Mr. Baca, can you sum up?

MR. BACA: Yes, I'm on the last point right now. The last point is that the



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Airport Development District, which was created by the Commission and is staffed by Jack Kolkmeier, has passed a resolution last year almost unanimously. There was one person who opposed it, asking that the intersection be built not at County Road 62 but at Caja del Rio. This is an Airport Development District plan initiated by this Commission on approximately 3500 to 4000 acres. It involves 120 landowners out there. Thank you.

CHAIRMAN SULLIVAN: Okay. Thank you very much. Before we move to the next speaker, I see a former County Commissioner has come in and is sitting in the back and I'd like to acknowledge and invite former Commissioner Javier Gonzales if he would like to say anything or are you just here to observe? Just to observe. Are you sure? Always the diplomat. Excuse me. Go ahead, sir.

DENNIS GARCIA: Mr. Chairman, Commissioners, I'm here on behalf of Commissioner Lyons. Commissioner Lyons realizes the importance of the exchange at 599. We've been working with the Highway Department to get this project off the ground. We're willing to exchange that land in that area. That is state land where the exchange would be located. He realizes the safety issues because of the youth recreation up at Caja del Rio, the residential areas, the Game and Fish facility up there and the golf course. So we're committed to working with the Highway Department and we're in support of working with whatever entities need to be involved in putting that exchange on 599.

CHAIRMAN SULLIVAN: Thank you, sir. I see Ms. McIntyre back there too.

MR. GARCIA: We have Linda McIntyre and Don Bray. If you have any questions we'd be glad.

TOM AUGUSAN: Commissioners, my name is Tom Augusan. I live on Route 14. I've come to address you about the question of the Rancho Viejo well and just would like to raise five points with you for consideration. The first would be, why test a well for which there is already information available. Two, why test a deep well that is surely to eventually, if used, to deplete the aquifer upon which we draw water now in our own wells. Three, really why test a well that probably will not be used because of the commitment to bring water in from outside for the developments that are under consideration. And fourthly, why test a well that could in fact create that cone effect, which was raised earlier, again, leading to the depletion of the aquifer. And lastly, is there not a consideration here for the anti-donation law in terms of using County funds to test a private well. Thank you.

CHAIRMAN SULLIVAN: Thank you, sir. Are there others that would like to address the Commission under Matters of Public Concern?

CAROLYN SIGSTEDT: Good evening. My name is Carolyn Sigstedt. I live in downtown Santa Fe. I was actually at home and watching this on Channel 8 and I wasn't planning to speak tonight because I actually did want to hear more about the amendment. But after hearing Senator Roman Maes speak I felt that it might be necessary to just say a few words in addition to have you consider these words as a balance.

First, I want to state that years ago, I supported Roman Maes' effort to stop a 22,000-acre dump in the southern part of our state that would have shipped garbage from the east coast and so I worked with Senator Roman Maes and respect his work. I also think his resolution to

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study a Regional Planning Authority is work that's very important and incidentally, I was just at the Judicial meeting in the House and it passed. In the Senate, excuse me, and it passed yesterday. Roman Maes wasn't there but Estevan Lopez came in and passed it, or helped to pass it with any legal questions that they might have had on that.

In regard to the amendment, I don't have a position yet and I don't think any of us can have a position yet because none of us have studied this nor have most of us expected this to happen. I actually expected something like this in two years or once the Regional Planning Authority had some teeth to it. My hope was always that our local City/County Regional Planning Authority would have teeth and would have decision making power and if it had decision making power, then perhaps the EZA and the problems with the EZA would be outdated. But until we have that mechanism in place, i.e., a Regional Planning Authority with teeth, I have concerns about eliminating the EZA.

So one thought might be to discuss the possibility of having the EZA be recognized until the time that our local Regional Planning Authority could have some decision making power to complement a larger statewide Regional Planning Authority as well. Thank you.

CHAIRMAN SULLIVAN: Thank you, Ms. Sigstedt. Anyone else who would like to address the Commission? Seeing none, thank you all for your insightful comments and for the information that you've provided us to help us with these decisions on these matters.

#### VIII. Matters from the Commission

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, I'd like to bring forward that the Edgewood Soil and Water Conservation District, I met with them about a month ago and they wanted to enter into a memorandum of understanding. I think it's on your desk there. [Exhibit 3] We felt that we'd like, well, personally I'd like to work with the Edgewood Soil and Water Conservation District so I just want to thank them for coming forward and asking us to sign this memorandum of understanding, which is before you.

CHAIRMAN SULLIVAN: Okay, is this something you would like the staff to put on the agenda for the next meeting?

MR. GONZALEZ: Mr. Chairman, it was reviewed by legal. There were no problems with it. It has no fiscal impact so it's already been executed.

CHAIRMAN SULLIVAN: It's already been executed?

MR. GONZALEZ: That's correct.

CHAIRMAN SULLIVAN: So it's not an action item.

MR. GONZALEZ: This was an informational item.

CHAIRMAN SULLIVAN: Well, I guess we should read what's been executed.

COMMISSIONER ANAYA: Mr. Chairman.

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CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: On another note, Representative Mimi Stewart has the item on the legislative agenda that was approved today and was signed by the Governor and that was on the Graywater Act. I think I'd like to direct, or the Commission to direct staff into looking into water harvesting ideas. The Governor has placed water conservation and planning on his top priority list. I'd like to see that the County follow as well, right behind the Governor. The Graywater Act re-uses graywater for plants and trees. I'd also like the County to look into re-using rainwater and catchment systems so that we can continue to conserve our water and maybe the possibility of double-plumbing new residential and commercial buildings in Santa Fe County. And I'd like to maybe see if the Commission would agree to guide staff in that direction and looking more into it, maybe Roman Abeyta, to take this item and get us back some more information.

CHAIRMAN SULLIVAN: Anything further? I believe there is a Water Re-use Committee, is there not? That we participated on. Is that not correct, Gerald? Or maybe Roman or Katherine.

MR. ABEYTA: Mr. Chairman, members of the Commission, I know that we're participating in a building more efficient homes initiative that the state is taking on. So we're actively participating in that right now.

CHAIRMAN SULLIVAN: So would what Commissioner Anaya is talking about, would that work into the Code, the codification work that we're doing?

MR. ABEYTA: That could work into the Code rewrite. And plus there have been other ordinances that have talked about water harvesting. As a matter of fact, the most recent master plan in water requirement ordinance we passed mentions water harvesting so it probably is about time that staff starts looking at re-use of graywater, water harvesting and we just recently passed the water conservation ordinance. So if the BCC directs us we will start working on regulations for you to consider.

CHAIRMAN SULLIVAN: That's where we're headed.

COMMISSIONER CAMPOS: Mr. Chairman, I think we're already headed in that direction. We talked about it. The Code rewrite will be coming up and this is something that will be part of that rewrite. Staff is working on conservation and water harvesting. That was one of the priorities.

COMMISSIONER ANAYA: And how about rainwater catchment, rainwater re-use.

COMMISSIONER CAMPOS: Water harvesting, yes, is catchment.

CHAIRMAN SULLIVAN: I think the guidance is there.

MR. ABEYTA: We'll move forward then.

CHAIRMAN SULLIVAN: Move forward with that as a part of the Code rewrite and see what we can develop. Okay. Commissioner Duran.

COMMISSIONER DURAN: I've just got a couple things. As I'm sure you're all aware of, we, as members of this Commission have the I guess it's a right to bring anything that we feel is appropriate in front of this body to discuss and so whenever

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we want to place something on the agenda we just call the County Manager up and ask him to help us come up with some kind of heading for that topic. The Chairman really has no authority to deny that request and I was wondering if – and the reason I bring this up is that I wanted to place something on the agenda at the RPA and I was told that they would have to run it by the Chairperson. So I just would like for all of you to agree with me that at any of these meetings, any of these committees that we are members of that we have the right as representatives of our constituents to bring anything up as an agenda item for discussion. And I would like to ask the County Manager to write a letter to the Chairperson of the RPA and all the other chairpersons of the committees that we belong to so that that is not an item that comes up again. Is there concurrence on that?

COMMISSIONER MONTOYA: I agree.

CHAIRMAN SULLIVAN: I think we've been doing that as a matter or routine, and you have my concurrence on it. I think what that brings up also is that we don't have good rules of procedure and this is a legal problem. About a year and half ago, Chris Graeser started work on a set of rules of procedure and it never came to the Commission for adoption and discussion as I recall. If you go to Robert's Rules of Order for some issues, what the RPA did was probably correct. We just I think as a matter of mutual courtesy have done that. And I think we need to look at our own rules of order a little and dust off the work that Chris did.

I remember seeing a draft of it and then it never came forward. It would include things such as that and other issues such as amended motions and things of that nature. I think that would be helpful. But as far as I'm concerned, any Commissioner can put an item on our agenda and the staff doesn't call me up to ask what's on the agenda.

COMMISSIONER DURAN: I know it doesn't happen here.

CHAIRMAN SULLIVAN: Let me just clarify. I don't think Commissioner Duran is talking about me.

COMMISSIONER DURAN: No, no. Not at all.

CHAIRMAN SULLIVAN: I'm not the chairman of the RPA anymore. I was the previous chair.

COMMISSIONER DURAN: I think there was a misunderstanding that needs to be clarified. That's all. I think that we should be able to request for any item to be brought forward for discussion whether it passes or if it doesn't pass isn't the issue. It's the discussion that I think we're entitled to.

And the other thing was I was wondering if you could give us an update, Gerald, on two items, and maybe it's a little premature at tonight's meeting, but I'd like an update on the jail and what's happening with the US Marshal and their prisoners and the fiscal impact that's going to have on us if they leave and what are the plans, what are our plans going to be to try to fill that void. Because my understanding is it's a considerable amount of money a month that we would be losing if they are relocated.

And then the other thing is if we can get an update on the CARE Connection at the next County Commission meeting. The session will be over and the decision as to whether

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or not they're going to allow us to spend that money on existing structures rather than design-build is something I'd like to know about. And that's it.

CHAIRMAN SULLIVAN: All right. Thank you, Commissioner.  
Commissioner Montoya.

COMMISSIONER MONTOYA: Thank you, Mr. Chairman. I would - the County Manager and Commissioner Anaya and I were sitting talking the other day and actually had the discussion also with Tony Flores and Corky Ojinaga and I think it would be good for us at this point to take a look at what priorities we would have and come up with kind of a strategic plan as far as the gross receipts tax is concerned. I know there's people that are talking about this golden egg and it's not a very big egg really when you stop to think about all the needs that we have, particularly just for the water and then of course issues and concerns that I have with roads. That it would be good to prioritize and kind of take a look at how are we going to be expending the funds that are going to be coming in in a very short period of time.

I'd like to maybe have some presentation from staff in terms of what they would see or what they would like to see and maybe Commissioners also give some input into that particular plan. So if I could just request that as well.

MR. GONZALEZ: Mr. Chairman, Commissioner Montoya, we'd be happy to do this. I note that RPA has requested input from the County with respect to priorities but my thought is that we first need to get our own house in order before we're prepared to go ahead and feed those priorities so that we don't do them one on one but that we do it as a coordinated effort, understanding what our priorities are and have looked at calling a staff meeting some time in the next week or so so that we can do that and we would be happy to keep the Commission informed as we go through the process. But I think that's absolutely essential. Thank you, Mr. Chairman.

COMMISSIONER MONTOYA: Thank you, Mr. Chairman. That's all I have.

COMMISSIONER DURAN: Could I also ask that you advise us as to what we've committed to? We've made some commitments to that money in addition to what we're planning. What was - your request was to ask for -

COMMISSIONER MONTOYA: It would include that.

COMMISSIONER DURAN: The commitments that we've made. Yes. I guess just an accounting of where we are in that whole gross receipts tax.

MR. GONZALEZ: I think that's also essential and we know that we have some water commitments that we'll need to carry out and probably will come out during our Washington trip and we need to prepare for that as well.

COMMISSIONER DURAN: Mr. Chairman, just one last thing. Could you also develop a plan in case we don't get federal funding? How could we use this quarter percent increase to bond for the money that we need for our water projects, and give us an analysis of that too.

MR. GONZALEZ: Be glad to do that. That portion may take a little bit

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longer but it should be part of the process of addressing the priorities.

COMMISSIONER DURAN: You can give us a broad brush approach to it.

CHAIRMAN SULLIVAN: Anything else, Commissioner Montoya?

Commissioner Campos.

COMMISSIONER CAMPOS: Nothing, Mr. Chairman.

CHAIRMAN SULLIVAN: Okay. The only thing to add to your to-do list,

Gerald, I think it would be useful to receive an updated affordable housing report, particularly with emphasis on the affordable housing in Rancho Viejo. I think our two new Commissioners weren't here when we had a great deal of discussion on the progress on affordable housing and some of the issues that have cropped up with regard to that in the Community College District and regulations and revised regulations. So I think it would be useful to see, particularly in the initial phase of Rancho Viejo, the progress that we've made in the zero to sixty percent median income and physically, specifically where we are in terms of affordable homes being constructed and occupied. I think that would be useful for all of us, myself included.

That's all I had.

**IX. Administrative Items**

**A. Committee Appointments**

**1. Appointment of two new members to the Senior Services Advisory Board**

STEVE SHEPHERD (Health Division Director): Mr. Chairman, Commissioners, tonight we bring four names to fill two slots on the Senior Services Advisory Board: Martha Kallejian, Fay Robbins, Gilbert Alarid, and Bill Starkovich. Staff's recommendation is to review and appoint two of those members.

CHAIRMAN SULLIVAN: Questions of Mr. Shepherd.

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: I would like to nominate Gilbert Alarid for one of those positions.

COMMISSIONER DURAN: Second.

CHAIRMAN SULLIVAN: Okay, we have a nomination and a second for Mr. Alarid for one of the positions on the Senior Services Advisory Board. Any discussion?

**The motion to appoint Gilbert Alarid to the Senior Services Advisory Board passed by unanimous [5-0] voice vote.**

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: I would like to nominate Bill Starkovich for the Senior Center Advisory Board.

COMMISSIONER DURAN: Second.

CHAIRMAN SULLIVAN: Okay. There's a nomination and a second. Is there discussion?

**The motion to appoint Bill Starkovich to the Senior Services Advisory Board passed by unanimous [5-0] voice vote.**

CHAIRMAN SULLIVAN: Thank you, Mr. Shepherd.

**2525702**

**X. Consent Calendar**

- A. Request Adoption of Findings of Fact and Conclusions of Law for the Following Land Use Cases:
  - 1. LCDRC CASE #V 02-5301 – Buff and Jane Douthitt Variance (Approved)
  - 2. CDRC CASE #S – 02-5291 – Tesuque Ridge Subdivision (Approved)
  - 3. EZ CASE #DL 02-4370 – Aragon Family Transfer (Approved)**
- B. Resolution No. 2003-37. A Resolution to Develop and Adopt a Regional Affordable Housing Strategy (Community, Health and Economic Development Department)**
- C. Request Authorization To Enter Into Professional Service Agreement # 23-0142-CM with United Way of Santa Fe for The Implementation of a Community School Program in Santa Fe County (County Manager's Office)**
- D. Resolution No. 2003- 38. A Resolution Requesting an Increase to The General Fund (101)/Intergovernmental Summit Program to Budget Fiscal Year 2002 Cash Balance for Expenditure in Fiscal Year 2003 (County Manager's Office)**
- E. Resolution No. 2003-39. A Resolution Amending the Santa Fe County Road Map and Certifying a Report of the Public Roads in Santa Fe County (Public Works Department)**

CHAIRMAN SULLIVAN: Are there Commissioners who would like to isolate any items on the Consent Calendar for discussion?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: I move for approval.

COMMISSIONER DURAN: Second.

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CHAIRMAN SULLIVAN: Motion and a second.

I'd like to during discussion isolate just two items for quick questions. Those would be X. A. 2 and C. Any other items?

COMMISSIONER DURAN: I have a question. I think the motion was to approve it as – just approve it. So are you amending the motion?

CHAIRMAN SULLIVAN: Well, I think –

COMMISSIONER DURAN: That would be an amendment to the motion.

CHAIRMAN SULLIVAN: Well, we could do that, but I think any Commissioner, just like putting items on the agenda has the option of removing some items from the Consent Calendar. That's been our policy.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: I feel that, Mr. Chairman, if you had concerns about this you could have contacted staff instead of us pulling them off the Consent Calendar. That way we could proceed with our meeting a little faster. I know that these are probably simple questions that you could have probably cleared up. So that's why I think in the future maybe you could contact staff so that we don't have to spend 15 minutes to an hour going over items that are very clear.

CHAIRMAN SULLIVAN: Commissioner Anaya, I appreciate your thoughts on that. I think if you'll look at the record you'll find that the time that we spend on these withdrawn items is really quite minimal and certainly never more than about ten minutes. And I do discuss them with staff but there are times when this is the only place where we have the various staff that may be needed to respond to that and in some cases to bring an issue forward that I think is important and may need some discussion. I don't do that lightly.

I think that it is a prerogative that each Commissioner has and again, if we want to address that in our rules of procedure we certainly can do that. Our practice has been that anyone can remove something and we certainly want to do it not capriciously.

COMMISSIONER ANAYA: Mr. Chairman, I'd like to change that practice so that we could move forward. Thank you.

COMMISSIONER DURAN: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: I agree with Commissioner Anaya. I think that the Consent Calendar is a matter of formality. I think that if we have all done our homework we are up to speed on these issues and I think we spend a lot of time agonizing over issues that we don't need to agonize over. I think that if you would like to find out more about these that we should all do so before the meeting so that we can take care of business. So my understanding is the motion is to approve it, the Consent Calendar as presented and that was my second.

CHAIRMAN SULLIVAN: We'll continue on with discussion. Commissioner Campos.

COMMISSIONER CAMPOS: Well, just discussion of the procedural issue. I agree with Commissioner Sullivan. We've always had the practice of any Commissioner pulling



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out issues for discussion. I think we have a number of times, in a number of cases we've drawn out issues that needed to be discussed and clarified and I think it made the result better. I understand it does take more time, but we do have a practice and I think it works well. I don't think anybody is abusing it. And I would like to stay with the practice of allowing any Commissioner to pull for discussion. Sometimes we have to discuss it not only with staff but with each other and this is the only place to do it.

CHAIRMAN SULLIVAN: Also, I would add that in the land use cases, we have these findings of facts and conclusions that are really quite important. Over the last two years, the staff has done a very good job of making them very concise and as concise as possible and eliminating a lot of the gray areas that occasionally come out of Commission meetings. Sometimes motions and conditions that are applied to these cases are not clear and it takes some reading of the verbatim minutes. So I think it's very important that these land use cases, when we come back for the findings of facts and conclusions would be a travesty to say no Commissioner can comment on those. I think that that would not be a good idea at all. I think it's extremely important that we be able to ask for a clarification on anything that was brought forward as a land use issue. That's my opinion. Commissioner Duran.

COMMISSIONER DURAN: I don't think that the motion or the comment has anything to do with taking away any rights that you might have, or any Commissioner has. The fact of the matter is that most of the Consent Calendar items have been scrutinized by staff. They are presentations, when you have a question the department head is brought forward and questioned and grilled to make sure that he has done things in an orderly manner, and as it always turns out, they have followed the Code, they have done everything to the T and I think that approving the Consent Calendar, as it's submitted to us, is an act of good faith in our employees. The items are scrutinized by the Land Use Department. They're scrutinized by our attorneys and our Finance Director. So I think that if you really have an issue with anything on the Consent Calendar, you get the agenda on Thursday, ask for an amendment to the agenda so that you can discuss it further. But let's take care of business and show these department heads that we believe in the work that they've done and believe in the system.

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Procedurally, my understanding is that Consent Agenda items are there for action with no discussion, and I think that's what I'm hearing in terms of what has been brought up. I think procedurally, again, I think Commissioner Duran hit it right on the head. If we are to have any of these items removed from Consent Calendar we need to do it prior to the approval of the agenda. I think also in advance, in terms of Thursday, Friday, whenever the case may be, we can request that those items be removed from the Consent Calendar. But again, just procedurally, my understanding and legal can correct me if I'm wrong, procedurally, Consent Agenda items are action with no discussion. Thank you, Mr. Chairman.

CHAIRMAN SULLIVAN: I think the procedure we have followed is the one where any Commissioner can isolate any item for discussion. If the Commission wants to

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change that I think it certainly has the right to do that, but I would suggest that the Commission agree upon that ahead of time and then they do that and we follow that procedure again. We're working under the situation of a lack of a written procedure here.

Again, getting back to the land use cases, the findings of facts and conclusions, the staff writes those up as best they can and no one is trying in any way cast aspersions on the staff's effort. As I just said, they've really improved this particular item over the last two years. Prior to that in some cases they didn't even exist. But I think we have a responsibility of oversight as Commissioners. And we can certainly do that ahead of time. I have no problem doing that and adding the agenda amended if that's what the Commission would like to do.

COMMISSIONER DURAN: Call for the question, Mr. Chairman.

CHAIRMAN SULLIVAN: Further discussion?

**The motion to give blanket approval to the Consent Calendar passed by majority [3-2] voice vote with Commissioner Sullivan and Commissioner Campos voting against.**

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

**A. County Manager's Office**

- 1. Request approval of expenses from County Commissioners Harry Montoya and Michael Anaya to travel to Washington, DC to meet with congressional delegation regarding water funding**

COMMISSIONER DURAN: Move for approval, Mr. Chairman.

COMMISSIONER CAMPOS: I think there's a question. I have a couple of questions. How much money is this going to cost? That's what we're supposed to discuss. There's nothing really in this memo that addresses that issue.

COMMISSIONER DURAN: Plane fare and per diem and hotel rooms.

CHAIRMAN SULLIVAN: Mr. Gonzalez, you have -

MR. GONZALEZ: Mr. Chairman, Commissioner Campos, the costs haven't been finalized because the trip plans themselves were not finalized until today when the meeting occurred with the consultants who have arranged the meetings with the congressional delegation members and the committee staff members who would be dealing with the requested appropriations at the federal level for the regional water system. But that's correct, they would consist of airfare, the per diem and the mileage of course going to and from the airport.

COMMISSIONER DURAN: And lodging, right?

MR. GONZALEZ: And lodging, yes. That's part of the per diem.

CHAIRMAN SULLIVAN: I think there's an estimate. I signed a purchase request a couple of days ago and I believe it was in the \$600 range but my recollection was that it did not include airfare.

MR. GONZALEZ: We have some of those costs, I believe, that we could

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provide now. Airfare costs, I believe, are still being confirmed.

CHAIRMAN SULLIVAN: What I recall signing didn't indicate any airfare. It was lodging and I remember \$170 a night at the hotel. I remember that part.

MR. GONZALEZ: That's Washington rates, Mr. Chairman.

CHAIRMAN SULLIVAN: Okay.

COMMISSIONER DURAN: Move for approval, Mr. Chairman.

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

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Didn't want to second his own trip. There's a motion and a second. Is there further discussion of the item.

**The motion to approve expenses for a Washington trip for Commissioners Anaya and Montoya passed by unanimous [5-0] voice vote.**

**XI. A. 2. Legislative update**

MR. GONZALEZ: Mr. Chairman, while we're doing that, I'll be happy to circulate the travel vouchers if any of the Commissioners want to take a look at it.

CHAIRMAN SULLIVAN: While Roman is passing that out I will mention that I asked the staff when we learned of the Senate Bill 241 that we've had some discussion on earlier in the meeting, if they could put together a brief bullet-type of analysis if the pros and cons and what the effect on the County might be if that bill were to be passed. I think that's what you're going to discuss, isn't it Roman? [Exhibit 4]

MR. ABEYTA: Yes, Mr. Chairman. Thank you. If Senate Bill 241 is passed as law it will become effective July 1, 2003. The County Land Development Code will replace the Extraterritorial Zoning Ordinance and the Extraterritorial Subdivision Regulations. The County Development Review Committee, which is the CDRC and the Board of County Commissioners will replace the EZC and the EZA. Also, currently, the City of Santa Fe does not need authorization or input from the County for annexations. The bill will make it necessary for the City of Santa Fe to get prior approval to annex.

While this bill eliminates the Extraterritorial Zone with the City of Santa Fe it still allows for an Extraterritorial Zone with smaller cities such as Edgewood and Española. And again, this bill would become effective July 1, 2003.

Staff did have a brief meeting this afternoon to discuss the proposed bill and to discuss current pros and cons with having an EZA. Currently, with an EZA there is a lot of coordination between the two staffs on projects, the City staff and the County staff, especially when it comes to projects that are utilizing City water and sewer and projects which may also affect City roads. So right now there is coordination between the City with the EZA set up.

Also, there are cost sharing agreements in place between the City and County regarding staffing in the EZ. Currently, related to that, we currently alternate legal issues that come up as

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part of the EZA. For example, if there is an appeal to district court on one of the EZA decisions, either the County will take that appeal on or if it's the City's turn, the City will take on the appeal and the costs of that appeal.

But again, with Senate Bill 241, it does have a statement in there that would give, would require BCC approval of annexations. So that, therefore gives the County say in any proposed annexation that the City may be proposing. A concern would be, or a reason why the County may want to have say is because of impacts to revenues such as gross receipts. Gross receipts for a business would now go to the City if it gets annexed into the city limits and taken away from the County. If Senate Bill 241 is passed, County staff would strongly recommend that we amend the County Code to include some existing EZO provisions, such as the Mountain Special Review District Ordinance, the Highway Corridor Ordinance, and then also the County should really consider adopting the Southwest Area Plan as an ordinance if this bill is passed.

And again, and I think it was said earlier by Commissioner Duran, if it is passed, the County should stay committed to the RPA and the role that the RPA is playing. That concludes staff's presentation, Mr. Chairman.

CHAIRMAN SULLIVAN: Questions of Roman?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Were we going to get updated on any other bills that were going before the legislature?

MR. GONZALEZ: Mr. Chairman, Virginia Vigil is ill this evening. However, Tony Flores will give us an update on the capital outlay side so at least we have that portion of it.

COMMISSIONER ANAYA: Thank you.

CHAIRMAN SULLIVAN: Any other questions of Roman or legal on the Senate Bill 241?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: I just thought that perhaps we could have a discussion here about that. If we have any ideas or feedback for staff on SB 241. I'm just curious what the other Commissioners think.

CHAIRMAN SULLIVAN: Commissioner Montoya, you had a comment?

COMMISSIONER MONTOYA: My question is kind of in line with that. Is there any particular position you feel we should take at this point regarding SB 241. And what fiscal impact, a fair question, what fiscal impact will it have on existing staff in terms of what's been going on with activity with the EZA and kind of where we're at right now in terms of future fiscal impact on County staff?

MR. ABEYTA: Mr. Chairman, Commissioner Montoya, staff has not developed a recommendation yet for the Commission to consider. We were caught off-guard by this amendment so the only thing we've had time to do is look at the bill, analyze it, come up

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with some pros and cons but we really haven't had an in depth discussion to determine whether or not we should make a recommendation and if we do, what that recommendation should be. As far as the fiscal impact, as I stated, we do have cost-sharing agreements with the City for staffing the EZA and then also we have an agreement regarding the RPA but perhaps Katherine Miller can give us some details on what those costs usually are.

MS. MILLER: Mr. Chairman, Commissioners, the EZA costs the County about a half million to \$600,000 a year. The City also staffs it around \$200,000 to \$300,000 on their side. At least those are the costs that we have worked off of. Obviously a lot of the work that is done for the EZA would be required by the County. We receive, and have received for the last probably three years about \$135,000 a year from the City to offset our costs and we also receive permit revenues to offset our costs in that area. And I would anticipate those would just move to County permits and that the staff would then be working as County staff.

We also have the RPA which encompasses the five-mile area and that has run us for the last three years about \$100,000 apiece, City and County, to staff that and it would affect that. So net impact to the County financially would depend on whether we kept the RPA and didn't have the EZA there'd be a negative to the County in that respect, but if both went away it would probably be a net effect of nothing to the County financially.

COMMISSIONER MONTOYA: So, Mr. Chairman, Roman, would you need additional staff in your department?

MR. ABEYTA: Mr. Chairman, Commissioner Montoya, I would say no we would not need additional staff if the EZ went away.

COMMISSIONER MONTOYA: Thank you, Mr. Chairman.

CHAIRMAN SULLIVAN: Other thoughts on Senate Bill 241. Commissioner Anaya, are you for or against? You were in a hurry so let's get a yes or no here.

COMMISSIONER ANAYA: Mr. Chairman, I think I have to weigh the pros and cons and listen to more discussion before I could make a decision right now. That's where I stand right now. Was that fast enough?

CHAIRMAN SULLIVAN: That was fast enough. Commissioner Duran, any comments?

COMMISSIONER DURAN: I just find it rather amusing, actually, and I really do believe - Councilor Pfeffer said something that kind of rang true and that is that the City right now has control of the water, or at least they believe they have control of the water. Maybe they do. I guess we'll find out soon enough. But the other thing is, they have control of the water. We have control of the zoning and I don't know what that does. I'm really amused by the whole thing and it's going to be interesting to see how it pans out. But I still believe that the commitment we've made to the community is a driving force here, with or without an EZA.

The biggest thing for me is the annexation policies, because in the past there's been a movement, in order to gain control of zoning and land use policies in the EZ, there was a big push to annex and that was that Big Box annexation that Fritz Kueffer came up with and the whole premise behind that was to control land use policies. That didn't get very far. So again, I

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think this all falls back on the commitments that we've made to one another and maybe if this passes there would be a little bit more, maybe the City would be a little bit more agreeable to work with us on some of the issues because then it's a more level playing field.

But that's just my initial response to it. I agree with Commissioner Anaya; there's still a lot of discussion that needs to take place before we make a final decision on it.

CHAIRMAN SULLIVAN: Commissioner Campos, yes or no.

COMMISSIONER CAMPOS: Mr. Chairman, yes. I think we need to look at this seriously, provide some opportunities to make government more efficient. The EZ is basically a case-approving mechanism. It's very difficult and cumbersome to work with another body right outside the two. I think the County has come of age. I don't think we're a junior partner any more. I think the City tries to treat us as a junior partner, but I think the County is now in a position to really manage the zoning issues. It is truly the only regional government. City is not a regional government. The City only serve the people within certain boundaries. County Commissioners are elected by all the people of this county. We are the regional government and we have to take that responsibility on. And I think by clearing up that bureaucratic mess, which it is, and the EZ has become in many ways a no-man's land. A place where the City doesn't take responsibility, where the County doesn't take responsibility, and we have problems out there. We have a lot of planning, good planning that's been done by the County.

The Southwest Sector Plan probably should be accepted. So there's very little that has to be done really. I don't think the City's losing anything. I think there's a perception that they are. They're afraid of something. This is basically case review. That's it. That's all we're doing. The RPA is doing planning and that's what we're committed to do, planning for this community. And that's where the coordination takes place; not the case review. So I would say let's look at it very seriously.

COMMISSIONER DURAN: Yay, Commissioner Campos. I agree with you.

CHAIRMAN SULLIVAN: Commissioner Montoya? Anything further?

COMMISSIONER MONTOYA: Mr. Chairman, I think there are probably mechanisms that Commissioner Duran has alluded to and Commissioner Campos as well and just for the record I believe that regardless, as Commissioner Duran has said, regardless of what happens with this legislation, I'm committed to working with the City to make sure that we do work on projects that are going to benefit people regardless of whether they live in the city or the county. So that's kind of where - very well said, Commissioner Campos.

CHAIRMAN SULLIVAN: I think, to add my comments that what we're perhaps hearing here are some frustrations in dealing with some of the issues that affect us jointly. We do have the RPA as a good mechanism to work on those sometimes frustrating issues. I think that regardless of what might happen to the land use planning or case review in the five-mile and the two-mile zone, we've got to think still how do we provide the utilities and the services, the roads, the fire protection, the police protection, the EMT, the sewer, the water, for that area, regardless of who does the case review. Because if there is no sewer or there is no water then we can't have the denser development.

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So those issues are there regardless of who has the authority. And I think probably if anything the EZA has been quite easy to work with from a development standpoint within the guidelines that if you don't have sewer and water you're limited to the amount of development that you can do on a piece of land from health purposes. So the question finally would then come down to, in my opinion, what would be the best way to solve those water, sewer, road, services issues that have to be solved in order to have better development in the EZ? Would it be better to do it without the City's input or would it be better to do it with the City's input?

My initial reaction is that it would be better with the City's input, but there may be other mechanisms for the City's input to do that. The RPA is already one. We could have the RPA have greater authority by jointly agreeing to it than it already has. So there are some other mechanisms I think. I don't have a position right at this time on the bill as it's written but I think we need to be sure that land use planning is also resource planning and since the City has the bulk of the water resources under its control and under its responsibility now, we need to say what's the best way to work through those issues and is this best way? And if we can answer that question then we've moved forward which is I think what we need to do.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: No matter how this Senate Bill 241 comes out, I am dedicated and willing to work with the City, no matter which way it comes out. So that's where I stand.

CHAIRMAN SULLIVAN: Thank you. Then we had comments on the capital improvements bill from Mr. Flores.

TONY FLORES (Projects Director): Thank you, Mr. Chairman, members of the Board. I'll be brief in the discussion. Mr. Anaya is passing out a brief summary of the capital outlay requests and other County substantive bills that have been introduced on behalf of the Santa Fe County delegation. As far as the capital requests, this past Friday we finished six weeks of testimony on our capital outlay requests before the House Capital Outlay Committee of the House Taxation and Revenue Committee. With the assistance of the Public Works Department, Mr. James Lujan, staff from Projects Facilities Management Department and Projects in Community Health, we assured that we had representation and testimony and packet material of each of our capital outlay requests.

The memorandum that's being passed out gives you a very broad listing of all the capital requests that were submitted on part of the delegation. I won't go into detail on each of them. There are a few in there that are what I would deem City-County requests, those dealing specifically with the Buckman water diversion project and some of the wastewater, water treatment plant projects. There are a couple of bills that we have found that aren't included on this brief list. I shouldn't say brief - this extensive list. One of them is Senate Bill 840 which has been introduced by Senator Manny Aragon that deals with defining of adequacy for our judicial and probation offices for Santa Fe County. The amendment to the existing statutes are asking the Judiciary Committee and Supreme Courts to define what adequacy means in terms of our responsibility for housing the judicial courts. They want to use an existing standard. Santa

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Fe County has raised the issue that with the definement of adequacy using court standards, what would be the potential fiscal impact on the County, for instance if the courtrooms were undersized, if the infrastructure or telecommunication requirements were undersized for security issues. So that's a bill that we are following very closely, and actually we attended the Judiciary Committee hearing today that started at noon. Unfortunately, Senator Aragon didn't get to the committee hearing on time before they went to the floor.

So this is a broad overview of our capital outlay request and some of the substantive issues that Santa Fe County is proposing at the legislature. And I stand for any questions.

CHAIRMAN SULLIVAN: Questions for Tony?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: I personally want to thank Virginia Vigil and Corky Ojinaga's shop, Tony Flores, Rudy Garcia, Stan Holden, Hank Blackwell, Robert Anaya, James Lujan, Robert Martinez and the rest of your staff for working very hard at the state legislature. I attended quite a bit of those meetings and I know how hectic it is and I appreciate you guys staying on top of things and trying to get money for each of these districts. Thank you.

CHAIRMAN SULLIVAN: I think we all echo that to the staff. This is a hectic time during these two months where we've got to run the ranch here and also follow the legislative progress.

MR. FLORES: I've lost 40 pounds myself.

CHAIRMAN SULLIVAN: Oh, sure. Any other questions? Commissioner Campos.

MR. GONZALEZ: Mr. Chairman, I just wanted to point out that in addition to their dedication for being there, we've also been having internal meetings to make sure that we stay on top of coordination and keeping track of the legislation and they've been a wonderful staff to work with.

Commissioner Campos: Mr. Flores, when you approached the legislature, you had a plan, the kind of priorities that we had set out for what we wanted as a County. How are those priorities being treated by the legislature?

MR. FLORES: Mr. Chairman, Mr. Gonzalez, you are correct. We had the ICIP plan in hand when we set our delegation request even before the session started. I am happy to report that all our top priorities, all the way down to our Public Works trash compacting equipment made the final cut, made the final cut to at least get to the point now where the legislature is, both the House and Senate side are taking those priorities, determining what pots of money they have, and then coming back and discussing with us how our priorities to them are now going to be funded and in what manner. That is an ongoing process that we have undertaken since completing the hearings as of Friday. So our priorities that you set and directed staff to take forward are being addressed.

Now I can't answer, Mr. Chairman, Commissioner Campos, on what the final dollar amount of what final projects will make it to the list. We will have a better idea of that by



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Friday or Monday of this coming week.

COMMISSIONER CAMPOS: Okay. Thank you. If you could keep us updated, perhaps fax something to us as to how things are going. I know I don't want to take up a lot of your time but just briefly, how key matters have been moving along in the legislature.

CHAIRMAN SULLIVAN: Okay. Commissioner Duran.

COMMISSIONER DURAN: Good work, Tony.

MR. FLORES: Thank you.

COMMISSIONER DURAN: Are you the one that wrote the book, how I lost five pounds in three years?

MR. FLORES: Actually, it was 40 pounds in six weeks. And two pairs of dress shoes.

**XI. B. Finance Department**

**1. Report on the determination to reject all proposals and resolicit for additional proposals on RFP #23-20, Santa Fe County Economic Business Park**

COMMISSIONER DURAN: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: Could I just make a small request. Could you ask staff to make this presentation quick.

CHAIRMAN SULLIVAN: We have a request that you make this presentation quick.

MS. MILLER: Mr. Chairman, Commissioners, it will be really quick. We just wanted to report back to the Commission the status of the RFP. We as a committee and also conferring with legal and the County Manager's office on the evaluation of the one proposal received under RFP #23-20 for the business park. The committee determined that there's not sufficient information to make a recommendation for award on that particular RFP to award a contract.

So we've sent a notice to the one proponent yesterday that we will be closing that solicitation and in the future resoliciting based upon information that we've gathered and adjusting our solicitation accordingly.

CHAIRMAN SULLIVAN: Questions of Ms. Miller.

COMMISSIONER DURAN: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: Katherine, in the next request for proposals, what period of time are you giving perspective applicants, what's the time that you're giving them to come up with a proposal? One of the complaints I heard about the last RFP was that it was so detailed and involved that the period of time that they had from when you published it to when they had to submit wasn't adequate time for them to put together a decent proposal and address

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all the issues.

MS. MILLER: Mr. Chairman, Commissioner Duran, one of the issues, because we did ask the proponents why they did not propose on it and it was that it was over the holidays, is that we gave them 45 days. We're working with the State Land Office for an extension on the amended master plan so that we can allow more time when we resolicit for proposals. And all of that will be determined when we get the extension from the State Land Office and go back to reconstruct the RFP.

COMMISSIONER DURAN: And the number of days you're going to request is how many?

MS. MILLER: We've done an extension currently, a 90-day extension from March 24<sup>th</sup>. We're asking for another 90 days at this time and we would like to leave the solicitation out for 60 days when we reconstruct this.

COMMISSIONER DURAN: So they'd have 60 days from the day that they're notified. Okay.

CHAIRMAN SULLIVAN: Gerald, also I wanted just to remind you that we had a brief discussion at the last meeting about looking at the option of hiring an economic development expert who could, if such an individual were available who could take on this effort. And that perhaps could be done in conjunction with the RFP or could be done in lieu of the RFP. Has anything been thought about in that regard?

MR. GONZALEZ: Mr. Chairman, we have had some internal discussions among staff about that. I think the conclusion we've come to is that that's a long-term plan or goal that we want to work toward but right now we're trying to respond to the deadlines that have been set by the Land Office. But we will continue those discussions and probably bring something back to the Commission in the future. I tend to agree as the County Manager that this is sort of a gap in term of our coverage of the issues that are facing the County and we'll come back to the Commission with a proposal down the road.

CHAIRMAN SULLIVAN: Any other questions of Katherine or Gerald?  
Commissioner Duran.

COMMISSIONER DURAN: Katherine, has this Commission even given, made a policy statement? Do we have a vision statement that we have developed? Do we have actually goals that we're trying to achieve?

MS. MILLER: Mr. Chairman, Commissioner Duran, we do have the Economic Development Ordinance but one of the issues that we do want to discuss as staff is getting some clearer issues to assist in proponents making a proposal to us on policies that the Commission would like as far as the economic development at that park and the county as a whole.

COMMISSIONER DURAN: Because I'm not sure we've actually even sat down as a Commission and decided what we want to do out there. So we have an RFP going out asking for requests for proposals to manage it. I'm not sure if we've really reached agreement on what we want to do out there.

MS. MILLER: Mr. Chairman, Commissioner Duran, one of the things that we did in this process want to do is get more clarification before we resolicit on those type of issues

from the Commission. And we've been detailing some of the areas where we think some clarification and direction would be helpful before we resolicit.

COMMISSIONER DURAN: Maybe you could develop a questionnaire that you could distribute to the Commission that we might be able to offer some input into that, rather than have it be a staff vision.

CHAIRMAN SULLIVAN: And another possibility is to circulate the draft RFP to the Commissioners and have them comment. Gerald, is that legit?

MR. GONZALEZ: I think that we could probably circulate a draft that we got input on the Commission on. The polestar at this point for where we're proceeding is of course the ordinance that is in place and that's basically the guidance that we have as staff. So that's what we've been following. Obviously, it needs to be fleshed out and the same thing is true, that's part of the reason for looking at hiring a person to deal with this long-term is that we probably need much more specific objectives and goals than presently exist in the ordinance.

CHAIRMAN SULLIVAN: Would there be any problem, once we've redefined this RFP and provided draft copies to the Commission - they'd have to be confidential because ultimately it would go out as an RFP and we wouldn't want to distribute it to the public before it was actually in its final form. Would that be a problem?

MR. GONZALEZ: We could circulate the scope of work, Mr. Chairman, which is really the meat of the RFP and get comments from the Commission.

CHAIRMAN SULLIVAN: Let's do that.

COMMISSIONER DURAN: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: The ordinance is over six years old and it was developed by a different Commission at a different time under different circumstances.

MR. GONZALEZ: I appreciate that concern. We'll continue the dialogue.

CHAIRMAN SULLIVAN: Then there was more water for one thing.

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Was there any discussion or has there been any discussion with Santa Fe Economic Development, North Central Economic Development, Regional Development Corporation, some of their vision also or tying in some of what they perceive as economic development needs that we could maybe address in this business park?

MS. MILLER: Mr. Chairman, Commissioner Montoya, one of the evaluators is actually from the North Central Economic Development. That was another issue that came up in the evaluation process was getting some more input from economic development organizations to assist in refining some of the areas of the RFP.

COMMISSIONER MONTOYA: Okay. Would they be able to do that in terms of providing input into possibly the scope of work?

MR. GONZALEZ: Mr. Chairman, Commissioner Montoya, we've taken input not only from them but also from the economic development folks over at the State Land Office and the Economic Development Department of the state. That's part of the reason why we're

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going back out to RFP is because based on all of that input it was very clear to us that what we had initially put out was not suitable for what we were looking for.

COMMISSIONER MONTOYA: May I suggest maybe contacting Lillian Montoya Rael from the Regional Development Corporation. No relation.

MS. MILLER: From the RDC?

COMMISSIONER MONTOYA: Yes, from the RDC.

MS. MILLER: Okay.

COMMISSIONER MONTOYA: Thank you, Mr. Chairman.

CHAIRMAN SULLIVAN: I did, Commissioner Montoya, meet with a representative from SCORE, which of course is the Service Corps of Retired Executives, who offered, and I directed them to the staff to assist and be part of the process. They provide training for young firms, those who've graduated from the incubators and assistance with business plans and all types of seminars for getting firms going and keeping them going and financially, fiscally sound. So they're willing to help on this as well. Other questions of Katherine?

**XI. C. Utilities Department**

- 1. Request ratification of the scope of work included in RFP #23-33, or in the alternative, provide direction on a scope of work to determine the sustainable production of certain existing and potential groundwater sources (wells) and the determination of impacts on the aquifer, wells the La Cienega and La Cieneguilla springs and other areas adjacent to the south sector service area**

GARY ROYBAL (Utilities Director): Good evening, Mr. Chairman, members of the Commission. Before you is a request by the Santa Fe County Utilities Department. It's a request to ratify the scope of work included in the request for proposals #23-33 or in the alternative, provide direction on a scope of work to determine the sustainable production of certain existing and potential groundwater sources and the determination of impacts on the aquifer, wells and the La Cienega and La Cieneguilla springs and other adjacent areas to the south sector service area.

This request comes before you because of the interest that was generated at the last BCC meeting when I brought this up in my presentation of the County's water supply to the year 2010. The RFP, the purpose of the RFP is to determine the physical condition of certain wells that the County owns, is looking to acquire or just an existing source of supply out there. And that would be the Rancho Viejo well. The other purpose is to determine the sustainable capabilities of these wells and the third purpose of this is to determine the effects on the aquifer, specifically in and around the Community College District, the La Cienega springs, the La Cieneguilla springs, surrounding domestic wells and the Eldorado Utility wells.

Attached to your packet material I included certain details on the wells that we will be

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requesting to test. Also included in there is the authorization by Rancho Viejo for the County Hydrologist. I've passed around the wheeling agreement with the City. [Exhibit 5] Included in that wheeling agreement is an amendment to that wheeling agreement [Exhibit 6] and the City and County Negotiating Committee Report and Recommendations for Extension of Water Service and Water Delivery. [Exhibit 7]. This document is incorporated into the wheeling agreement by reference and this is what governs the wheeling agreement that we have with the City to deliver 500 acre-feet of water to the County.

As described in my memorandum to the Commission, there are basically two water sources for the County of Santa Fe water utility. The main one and the primary one is the City of Santa Fe. That water source is governed by this wheeling agreement that is scheduled to terminate in mid-2005. It is important to reference the committee report that was attached and distributed to you recently because this wheeling agreement references this and there are certain contractual conditions that are contained in this report that are referenced in this wheeling agreement that the County must abide by.

This committee report was adopted by the County on December 14, 1993 and by the City on February 23, 1994. The Valle Vista wells, as I mention in my memo here, there are ten wells, all of them relatively shallow, anywhere from 150 to 250 feet. There is one well that we just recently acquired and we reference that as the Elmer Garcia well. It's actually well #10, that is drilled to 900 feet and that's a low producing well. It produces about 15 to 20 gallons a minute.

COMMISSIONER DURAN: Fifty gallons a minute is a low producing well? What is a high producing well?

MR. ROYBAL: Fifteen. Fifteen to twenty gallons per minute.

COMMISSIONER DURAN: Oh, I thought you said 50.

MR. ROYBAL: I wish. Also distributed to the Commission is the legal opinion from the Legal Department regarding the anti-donation of testing the Rancho Viejo well. [Exhibit 8] Just in summary, that opinion is that there's no violation of the anti-donation clause.

CHAIRMAN SULLIVAN: Where is that? Oh, that was just now distributed? Excuse me. Go ahead.

MR. ROYBAL: With that, Mr. Chairman, I stand for questions.

CHAIRMAN SULLIVAN: Questions for Mr. Roybal?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: How much is this going to cost?

MR. ROYBAL: Mr. Chairman, Commissioner Campos, we don't know at this time, that's what the RFP is for so that we can get a -

COMMISSIONER CAMPOS: Any ballpark ideas?

MR. ROYBAL: I would venture to say somewhere in the \$100,000 area.

COMMISSIONER CAMPOS: And if the project is approved, how much time will it take to finish the study?

MR. ROYBAL: Mr. Chairman, Commissioner Campos, we broke this project

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into phases. The first two phases would be to test the Hagerman well and the Rancho Viejo well, phase 1, task A, phase 1, task b. We would ask that phase 1, A, which is the testing of the Hagerman well be completed with a report submitted on June 30<sup>th</sup>.

COMMISSIONER CAMPOS: Of this year?

MR. ROYBAL: Of this year. Phase 1-b, which would be the Rancho Viejo well, that it be completed and a report submitted by June 31<sup>st</sup> [sic] of this year. Phase 2-a, which is the testing of the Valle Vista well, that that be completed with a report submitted by December 31, 2003. Phase 2-b, which is the testing of the penitentiary well, that that report and the testing be completed by December 31, 2003, and that a report of the cumulative effects with all these wells be submitted by April 30, 2004.

COMMISSIONER CAMPOS: Mr. Nazor when he came up and commented he said that he thought that this study was too narrow in scope. In order to understand how this is going to affect other wells in the area that it would need to be broader in scope. Can you comment on that?

MR. ROYBAL: Mr. Chairman, Commissioner Campos, I'd like to have our County Hydrologist who helped develop the scope of work respond to that.

KATHERINE YUHAS (County Hydrologist): Mr. Chairman, Commissioner Campos, I apologize, I was looking at another question and I need you to repeat what you asked.

COMMISSIONER CAMPOS: Mr. Nazor, in his comments during the public portion of this meeting said that he felt that this study needed to be broader than this because that would be the only way to understand the impact on other wells, maybe shallower wells in the area. Do you want to comment on that?

MS. YUHAS: Mr. Chairman, Commissioner Campos, this study and the analysis will take into account the other wells in the area, and not just the other wells but the springs that are in the area and in general, the aquifer itself, what the draw-down impact will be. And I think it's actually proposed and scoped out as a fairly far-reaching study of what the impacts would be in that region.

COMMISSIONER CAMPOS: You feel it's broad enough?

MS. YUHAS: I feel it's actually quite broad and that we're putting a good deal of money into studying this area by doing this project.

COMMISSIONER CAMPOS: What about the South 14 wells? We've had a number of wells that have gone dry of that people have tried to drill wells and they've come up dry. Is it going to address that kind of an issue or is the aquifer just too complex to address all of those issues.

MS. YUHAS: No, the South 14 area will be included in the impact. My expectation is that the South 14 area is pretty far removed from the impact area but that will be included in the modeling and we'll see what the impacts will be.

COMMISSIONER CAMPOS: Another question that came up in the public portion was why do we need another test of wells. If I understand your position, Mr. Roybal is that you feel that it's important that the public do its own test so that it's independent and stands

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alone and is verifiable and is something that we can rely on because it will be our own testing.

MR. ROYBAL: Mr. Chairman, Commissioner Campos, that's correct.

CHAIRMAN SULLIVAN: A couple of questions, Mr. Roybal, that I had. The RFP also calls for monitoring wells to be constructed as needed and if there are monitoring wells that are constructed in conjunction with the Rancho Viejo well, once the project is completed then who will own those monitoring wells?

MR. ROYBAL: Mr. Chairman, the County would.

CHAIRMAN SULLIVAN: The County would on Rancho Viejo land?

MR. ROYBAL: Mr. Chairman, we don't know where the monitoring wells would be located at this time. But it's also my understanding that there are already monitoring wells in the area also so there may not be a requirement to put in any monitoring wells in that area. The RFP calls for the hydrologist to determine if more monitoring wells are required so that we can get the best data available to determine the effects of these tests.

CHAIRMAN SULLIVAN: I understand. And I believe Mr. Taunton earlier mentioned that Rancho Viejo had drilled one monitoring well in addition to the so-called production well. But if it's determined that monitoring wells are needed, and I think that the Rancho Viejo well at 1350 feet and 12" casing is a sizable impact, potential impact, and it would seem to me that you may need some monitoring wells. So my question is – and I understand that that will be determined later by the hydrologist – but my question still is, if those monitoring wells are drilled and constructed nearby the Rancho Viejo well, whose do they become? You say they become the County's but if they're on Rancho Viejo land do they become the County's well?

MR. ROYBAL: Mr. Chairman, I would say that we would have to work with Rancho Viejo to solve that issue. I don't see – I believe we would own the well but it would be on Rancho Viejo's land, yes.

CHAIRMAN SULLIVAN: That's one of the questions I had with regard to the anti-donation clause. We obviously need monitoring wells. We need to determine a sequence of monitoring wells and I just wonder, after we drill these monitoring wells, who owns them?

COMMISSIONER DURAN: Let's just throw rocks in them and that way no one can use them.

MR. ROYBAL: Mr. Chairman, I was just advised by Ms. Yuhas, our County Hydrologist that the monitoring wells are shallow wells and probably are not of any significant value. So this could be just a cost of doing the test also. It's not like the exploratory well that was drilled to 1300 or 1500 feet that is right next to the production well. These would be a different type of monitoring well.

CHAIRMAN SULLIVAN: Could the monitoring wells be used subsequently by Rancho Viejo in an application to the State Engineer for testing that it might do on its well? In other words, once the monitoring well is constructed, would Rancho Viejo, or any other private well owner, be allowed to use those wells for additional testing that they might need?

MR. ROYBAL: Mr. Chairman, I believe that they would be able to use those wells and I think that the data that would come out of these wells would be a benefit to the

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entire community so that we would monitor what was going on. I would envision that once we put these monitoring wells in that we would want to continue to gather data to see what the level of the aquifer is and not just abandon them. I would envision these having a value to the community and to the County in monitoring the aquifer, just to see the behavior of this aquifer, even without the well in service.

CHAIRMAN SULLIVAN: Okay. So the monitoring wells might be on Rancho Viejo land and we would presume that they would continue to let us use them wherever they might be. And they could use them as well. Now, with regard to that particular well, which was a concern of some of the people who spoke earlier, does Rancho Viejo have the capability to go to the State Engineer and request a permit for that well?

MR. ROYBAL: Mr. Chairman, I believe they would have that option, yes.

CHAIRMAN SULLIVAN: And have they done that yet?

MR. ROYBAL: Mr. Chairman, not to my knowledge. They did apply for an exploratory permit to drill the well.

CHAIRMAN SULLIVAN: And given the fact that they're at the end of their water allocation, the water that they purchased from the County, the 168 acre-feet that they purchased from the County with the last Windmill Ridge phase, why haven't they gone forward to the State Engineer to begin the process of permitting that well?

MR. ROYBAL: Mr. Chairman, I can't answer that but Bob Taunton who is with Rancho Viejo is available and I believe he could answer that for you.

CHAIRMAN SULLIVAN: Well, we'll move forward then. In the schedule, you have phase 1-a and 1-b completing in June and you indicated that that was the Hagerman well and the Rancho Viejo well. And then we don't get the other testing completed until December. Why is there a big - phase 1 is Hagerman, phase 1-b is Rancho Viejo, isn't it? Yes. Phase 1-a is Hagerman and phase 1-b is Rancho Viejo. So you have those two and then we wait six months for the other two. What is the reason for the time delay there?

MR. ROYBAL: Mr. Chairman, on the Hagerman well as you're aware, we're trying to work with the City and the horse park to try and put that well into service for this summer. So part of it would be to get these tests done as quickly as possible so we could try and hit the peak season, which is the summer. On the Rancho Viejo well, again, Rancho Viejo has offered to let us use this well during this drought situation on emergency basis. We think that it would be appropriate to get this done as quickly as possible to see what the effects are and if the Commission does decide to move forward on that well at least we would have the data available so that the Commission could make an informed decision on how to proceed on whether to use that well for an emergency basis or not.

CHAIRMAN SULLIVAN: Well, wouldn't we have the same situation we had last year when this offer was made that it was necessary to move water rights and the water rights couldn't be moved to an exploratory well. So where would the water rights be moved?

MR. ROYBAL: Mr. Chairman, I've had some informal discussions with the City. We're also looking at putting in the - or looking at a long-term lease with the State Penitentiary that has excess water rights. We could use this well as a supplemental well to put



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that into the system. It's strategically located on our system that it would be able to feed in and feed the eastern part of our system. The City may be amenable to using this as a supplemental well to supplement their supply also. There are different options available at this point.

CHAIRMAN SULLIVAN: Okay, but correct me if I'm wrong but as I recall last year, the issue was that water rights had to be transferred and the City was the first option and they declined. The penitentiary wells was the second option and the state declined. Is that correct?

MR. ROYBAL: Mr. Chairman, that's correct.

CHAIRMAN SULLIVAN: So you feel that something may change this year that they may agree to it.

MR. ROYBAL: Mr. Chairman, yes.

CHAIRMAN SULLIVAN: I hope so. We've pumped these wells, but the report, as I understand it, of that pumping, other than the quantity of the pumping, which we've already been told, for example the Rancho Viejo is 250 to 300 gallons a minute is not done until April 30, 2004. That's the impact for all of them as I read the scope of work. Is that correct?

MR. ROYBAL: Mr. Chairman, that would be a cumulative impact report where we would be pumping all four sources at one time. The impact on the aquifer. The reports that are due in June would be the individual reports for the individual wells and their effect on the aquifer and on the surrounding areas and wells.

CHAIRMAN SULLIVAN: So by June 30 or 31 we will have modeled the whole area that would indicate what the effect of those two wells is? Including Eldorado, Route 14, the northern areas?

MR. ROYBAL: Mr. Chairman, that's correct.

CHAIRMAN SULLIVAN: Okay. So you'll have all of that modeled. That modeling, about \$200,000 was spent in Eldorado of state funds in the Eldorado area on the Shomaker report. And I don't know what particular equation that he used in that but you've specified a particular methodology in here. Does that - how does that work with the modeling that was already done by Shomaker?

MR. ROYBAL: Mr. Chairman, if you look on page 7 of the RFP, task #8, it says evaluate these pumping test results with respect to the hydrology and groundwater flow model report by John Shomaker and Associates, March, 2001. So there will be an analysis done consistent with that report.

CHAIRMAN SULLIVAN: But is the methodology he used the same as what we're using here?

MS. YUHAS: Mr. Chairman, the Tyce equation that it calls for in the analysis, that's sort of like the most basic level beginning analysis that you would do on a pumping test. What is further called for in this is meeting with the State Engineer and discussing with them what's going to be the most appropriate method for the analysis. That will include possibly using the Shomaker model and the way that he did his analysis, yes. In fact some of the people who worked on that model are considering bidding on this project. So yes, all of that will be

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taken into account. And if that's determined to be the best method for analysis of this area then it will be used. Does that answer your question?

CHAIRMAN SULLIVAN: If I can paraphrase, it sounds like what we're calling for here is kind of a basic evaluation, a quick and dirty, and then if that - well, I don't know what will happen then but somehow that result will be compared with the results that Shomaker came up with. Because Shomaker's already modeled this area, is that correct?

MS. YUHAS: Mr. Chairman, I believe you misunderstand me.

CHAIRMAN SULLIVAN: Okay. Try me again.

MS. YUHAS: The Tyce equation is just your basic evaluation that's done first, and from that you get more information about what would be the most appropriate model to use. There are many tools available that we could use and one of them is the model that was done by John Shomaker which covers some of the area in which we're interested, but not all of it. One of the possibilities would be extending that model in order to cover this whole area, yes. That is an option.

CHAIRMAN SULLIVAN: Okay.

MS. YUHAS: And if it's deemed correct by the State Engineer to proceed that way, then that is what we would ask the contractor to do. But we'd like to have the State Engineer's approval before we spell out whatever modeling method is going to be used.

CHAIRMAN SULLIVAN: Then my last question is if we're focusing on four wells within a couple of miles of each other, all of them in the southern part of the EZ and around the Community College District and Route 14, and I understand we're focusing on that because they're there, or we've got some access to them or we own them or we have a lease on them. But if we're looking at where we're going to get sustainable water, and I don't see a definition of sustainable water here, I would hope our definition of sustainable is that it doesn't impact the aquifer, it doesn't draw-down the aquifer. And again, some of the speakers earlier brought this up, why are we focusing, why do you feel it's necessary to focus just on this area of the county, which has already had problems with wells, when there's the north area of the county, there's the Airport Road area, there's other areas that have wells as well, and many of them are documented in the Balleau report that we could look at as well. Why are we just homing in on this particular area?

MR. ROYBAL: Mr. Chairman, I just want to respond first to just supplement what Ms. Yuhas said. This is not a quick and dirty analysis or project.

CHAIRMAN SULLIVAN: But we're going to connect in my June 30 is what you're moving toward. Is that correct?

MR. ROYBAL: That's correct.

CHAIRMAN SULLIVAN: That decision has already been made to connect in to the Rancho Viejo or the Hagerman well or perhaps both.

MR. ROYBAL: Mr. Chairman, the analysis that will be done on this study won't be quick and dirty. If it's quick and dirty, we won't accept it. It has to be a professional job, done by professionals with acceptable methods and procedures in place. I just want to clarify that that this is not going to be a quick and dirty project. Yes, it's on an expedited basis

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but we expect it to be done in a very professional manner, using acceptable methods and procedures. The reason why we're focusing on these four wells is because they are located close to our system, they can be hooked up to our system. In fact the pen wells and the Valle Vista wells are already hooked up to our system. The Rancho Viejo wells is within 500 feet of our system, and the Hagerman well, the City has had informal discussions with us that they will tie that into their system and put that water into their system.

These are four sources that are readily available to the County to provide water service. If you look at the wheeling agreement, we have to have a plan in place, to have an independent source of supply by the end of this wheeling agreement. That's in the year 2005. Our primary water service area is in the Community College District and in the south sector. We don't have any development in the Airport district and we have minimal – or I shouldn't say minimal, but we have some housing and residential customers in our northwest sector which are fed off of the Buckman line. We want to get those people on an independent system and we've agreed to do this within a ten-year period. This is a work plan to get there. And the best sources of these right now are really close to our system and they would give the County the ability to provide service to customers.

CHAIRMAN SULLIVAN: Excuse me. I recall last year that the costs of the so-called offer from Rancho Viejo to use the water which belongs to the public, but to use their well to get it, I guess, also included that the County would pay the costs of hooking that well up and that that would then become the property of Rancho Viejo. Is that still the arrangement?

MR. ROYBAL: Excuse me. I didn't catch that question.

COMMISSIONER DURAN: That's not part of the discussion here.

CHAIRMAN SULLIVAN: Well, it is a part of the discussion because there's –

COMMISSIONER DURAN: We're talking about the RFP, not about –

CHAIRMAN SULLIVAN: June 30<sup>th</sup>, the question is whether or not on June 30<sup>th</sup> we're going to hook into the Rancho Viejo well and whether it is part of the anti-donation issue, and I'm asking, I recall a dollar amount. It seems to me it was \$50,000 to \$100,000 to hook into that well and the arrangement was that those lines and that capital improvement would become the property of Rancho Viejo. Is that still the plan?

MR. ROYBAL: Mr. Chairman, I don't believe that was the plan and I don't believe that was the agreement that we had with Rancho Viejo.

CHAIRMAN SULLIVAN: Okay. So you don't recall that. Commissioner Duran.

COMMISSIONER DURAN: There's nothing quick and dirty about this RFP at all. We've been trying to get to this point and make this decision for the last six months. When Commissioner Varela was on board there was some concern about the pumping of the – the acquisition of the Hagerman well and what kind of impact that was going to have on the downstream users in the La Cienega area. And it was in that discussion, and you were there, that we agreed that we were going to put together an RFP that would allow us to address that concern and the discussion went further so that we tested the other wells that we have. We did make a commitment to the Community College District and the people around State 14 to make

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sure that development in that sector did not have a negative impact on their community. And I don't think we have enough data right now to be able to make that determination

There are other water conserving measures and other new technology that would allow us to, if the testing of all these wells prove that they are sufficient to alleviate some of our water problems, there are ways of injecting the aquifer to make sure that there is not a draw-down that would affect the existing communities. But we don't have enough data right now. I think we've been talking about getting to this point for the last six months, seven months and I would like to make a motion that we approve this request of ratification of the scope of work included in RFP #23-33 as submitted.

COMMISSIONER MONTOYA: Second.

CHAIRMAN SULLIVAN: There's a motion and a second. Is there further discussion?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: I'm definitely not an expert in water. I'd be the first one to tell you. I don't know what is down there. And in order for me to make a good decision, and that's why I was elected to be up here as County Commissioner, I need some information. And in order to make a good decision, I feel that we need to do these tests so that we find out what's under there. I would be the first one to say that if we affect any other wells, I would not be for this at all. If we start affecting people in the North 14, in the La Cienega area, I would be the first one to say we can't do it. But how do we - we do not know what's under there and that's why I am for finding out what is underneath there.

Can I ask a question, Mr. Chairman?

CHAIRMAN SULLIVAN: Certainly.

COMMISSIONER ANAYA: Now, who's the one that did the pump test for Rancho Viejo?

MR. ROYBAL: Mr. Chairman, Commissioner Anaya, it was Balleau.

COMMISSIONER ANAYA: Okay, so Balleau could possibly bid on this, correct?

MR. ROYBAL: Mr. Chairman, Commissioner Anaya, that's correct.

COMMISSIONER ANAYA: So he could possibly come in substantially lower because he's already done that test, or are you giving them a certain time that they have to do this test? Do you understand what I'm saying?

MR. ROYBAL: Mr. Chairman, Commissioner Anaya, yes. They have until June 30<sup>th</sup> to complete the test and submit the report to us.

COMMISSIONER ANAYA: But could they use their previous data on this well?

MR. ROYBAL: Mr. Chairman, Commissioner Anaya, we've made the data available to all contractors who have requested the RFP. It's my understanding that Balleau Groundwater -

MS. YUHAS: I was just asked to inform you that Balleau Groundwater actually

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won't be bidding on this job because they work for Rancho Viejo. So maybe this conversation

COMMISSIONER ANAYA: Okay. That answers my question. Anyway, Mr. Chairman, thank you.

CHAIRMAN SULLIVAN: Additional comments?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: I think it's very important we do this testing.

We're in the middle of a major water crisis. We need all the information we can get. Our surface water supply is threatened. The County is simply not producing and there's a question of whether we can hold water based on the compacts. So I think we have to do the testing but we have to keep in mind that our goal here is to eventually recharge our aquifer and that is part of the plan and part of the thinking. So I think with those thoughts I would have to vote yes on this.

CHAIRMAN SULLIVAN: Okay. Any other questions? Commissioner Montoya?

COMMISSIONER MONTOYA: Again, I think in all the discussions that we've been having about water, I see this as a piece of the puzzle in terms of everything that we need, that I need also in terms of hopefully planning way into the future, not just looking at our immediate needs but also part of the needs for the future. Can these wells provide for that and if so, for how long. So I just feel that I need this information as well. Thank you, Mr. Chairman.

CHAIRMAN SULLIVAN: Okay. Other comments? Just summarizing my concern, it's not that we don't need the information. I think three wells could provide plenty of information in the area and we would like to have that information. I think that this particular project has followed a course of dealing that everyone knows what the answer will be in the end and that is that we're going to connect into the Rancho Viejo well and we've been working, the Utility Department has been working toward that end for over a year. And I feel that we need to maintain with not just Rancho Viejo but any developer, an arm's length relationship where we are the approval bodies and when we end up going in jointly as an applicant for water rights with a developer, we lose that objectivity. We lose that arm's length dealing that we as a public body should have. That's my concern. Not getting information about water. I think the more information we can get about water certainly the better. And particularly the issues in for example, Eldorado. I would guesstimate that these studies will show not too much affect in Eldorado. Why? Because the wells in Eldorado are fairly shallow compared to the Rancho Viejo well. What Eldorado is going to have to do and what the Shomaker report said it was going to have to do once they unravel their utility company purchases, is drill deeper wells and go into that formation. But this test is not going to tell them that. So I think that we've gone over the line in dealing with a developer at an arm's length basis. That's my concern with this; not getting new water.

COMMISSIONER DURAN: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner Duran.

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COMMISSIONER DURAN: I strongly protest your characterization of this process.

CHAIRMAN SULLIVAN: So noted.

COMMISSIONER DURAN: Your continued attacks on the Rancho Viejo development do not go unnoticed. It is common knowledge that you oppose, you have opposed this development from day number one and I think that bringing your fears and your paranoia about that development to this process is unfair. Our County Hydrologist has given us an opinion that the process is fair and it is proper. Our Utility Department head has worked hard on this and to throw this kind of cloud over the process I think is unfair, and as the Chairman, I don't think you should be doing that. You're supposed to be impartial in this whole thing. And as the Chairman, you should be doing that and you are not. And perhaps you shouldn't be the Chair.

CHAIRMAN SULLIVAN: I think, Commissioner Duran, that the Chair, as you know, has a right to an opinion and has a right to a vote and that was in fact a change in the rules of procedure that you yourself instituted and brought forward two years ago. So I don't feel that my expressing my opinion compromises being the Chair. I think that my opinion and yours differ. I do not oppose the Rancho Viejo development. I have voted in favor of the Windmill Ridge additions with proper conditions. So I think that I've made it clear what my concerns are. We have a motion. We have a second. We have other business to get to.

**The motion to approve the scope of work in FRP #23-33 passed by majority [4-1] voice vote with Commissioner Sullivan voting no.**

COMMISSIONER DURAN: Good work, Gary.

**X. Matters from the County Attorney**

**1. Executive session**

- a. Discussion of bargaining strategy preliminary to collective bargaining negotiations**
- b. Discussion of pending or threatened litigation**
- c. Discussion of possible purchase, acquisition or disposal of real property or water rights**

**Commissioner Duran moved to go into executive session pursuant to NMSA Section 10-15-1 (5, 7 and 8) to discuss the matters delineated above. Commissioner Anaya seconded the motion which passed upon unanimous roll call vote with Commissioners Anaya, Campos, Duran, Montoya and Sullivan all voting in the affirmative.**

CHAIRMAN SULLIVAN: Do you have an estimate, Gerald of about how

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long we'll take for the people who want to come back for the public hearing?

MR. GONZALEZ: Mr. Chairman, I believe it should take no longer more than an hour.

CHAIRMAN SULLIVAN: About an hour. So we'll be looking to come back shortly after 8:00.

[The Commission met in executive session from 7:05 to 8:40.]

Commissioner Campos moved to come out of executive session having discussed only the matters outlined in the agenda, and Commissioner Duran seconded. The motion passed by unanimous [4-0] voice vote. [Commissioner Montoya was not present for this action.]

CHAIRMAN SULLIVAN: Thank you for your patience.

## **XII. Public Hearings**

### **A. Land Use Department**

1. **CDRC CASE #V 01-5381 – Montano Height Variance. Victor and Viola Montano, Applicants, Jim Siebert, Agent, Request a Variance of Article III, Section 4.4.4c of the Land Development Code to Allow a 39 Foot 7 Inch Concrete Batch Plant Which Would Exceed the Allowable Height of 36 Feet. The Property is Located at the Southwest Corner of the Intersection of 599 and CR 56, Within Section 10, Township 16 North, Range 8 East (Commission District 3)**

WAYNE DALTON (Review Specialist): Thank you, Mr. Chairman. Victor and Viola Montano, applicants, Jim Siebert, agent, request a variance of Article III, Section 4.4.4.c of the Land Development Code to allow a 39-foot high concrete batch plant which would exceed the allowable height of 36 feet. The property is located at the southwest corner of the intersection of 599 and CR 56, within Section 10, Township 16 North, Range 8 East.

On January 8, 2002, the Board of County Commissioners approved master plan zoning approval for a four-lot commercial subdivision on 5.6 acres. Uses included a cement plant, light industrial, retail commercial and office uses. The property is located within a major center commercial district at the intersection of Airport Road and State Road 599. The property is also located within the redevelopment district designated in the Highway Corridor Plan and within the Airport Development District. The maximum allowable height in this area is 36 feet. The applicant states that a variance is needed in order for dust collectors to be mounted on the top of the silo for maximum efficiency. The

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applicant also states that the dust collector would be approximately the same size as a chimney on a residential dwelling which is excluded from the height limit.

Recommendation: It is staff's position that this said the application is not in accordance with Article III, Section 4.4.4.c, maximum height of the Land Development Code which allows a maximum height in this major center commercial district of 36 feet. However, the BCC may consider 3'7" for a dust collector and railing on three silos a minimal easing of the Code and also consider a letter the applicant has received from the FAA stating the structure does not exceed obstruction standards and would not be a hazard to air navigation. On January 30, 2003 the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of a variance of Article III, Section 4.4.4.c of the Land Development Code subject to the following condition. Mr. Chairman, may I enter that condition into the record?

[The condition is as follows:]

1. The applicant shall comply with all FAA requirements and conditions.

CHAIRMAN SULLIVAN: Questions of Mr. Dalton? If not, Mr. Siebert.

[Duly sworn, Jim Siebert testified as follows:]

JIM SIEBERT: My name is Jim Siebert. My address is 915 Mercer, Santa Fe. To give you a little background, when we had gone through the initial master plan process we'd asked the manufacturer of the plant to send us drawings and specifications which he did. One thing he omitted was the dust collectors and the safety rail that goes around the top of this three silos. The reason we're here for the variance is that in order to accommodate that height we had originally told the manufacturer that he had to keep the height below 36 which he did and then he came back with a final design and said, "Oh, yeah. I forgot to tell you that the dust collectors have to go on top of that. So that's the reason we're before you tonight requesting this variance.

CHAIRMAN SULLIVAN: Questions of Mr. Siebert?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Siebert, so that why you had dug down so that it wouldn't stick up that high?

MR. SIEBERT: Well, the interesting thing about it, one of the solutions we looked at was well, what if we varied the plant? But under the County's determination of height it doesn't matter. The height is measured from wherever that structure sits on the ground to the top of the structure.

COMMISSIONER ANAYA: But I saw it the other day and it seemed that it is dug down a little bit, right?

MR. SIEBERT: It is, but no matter how deep you would dig it down, you could dig it down until literally it's below grade, you still have to come in for a height variance.

[Commissioner Montoya rejoins the proceedings.]



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COMMISSIONER ANAYA: No, I understand that, but how low is it?  
Where grade is now, how much lower is it?

MR. SIEBERT: Well, it's -

COMMISSIONER ANAYA: Ten feet? Five feet?

MR. SIEBERT: Well, no. It's probably under five.

COMMISSIONER ANAYA: Under five feet. Okay. Thank you.

CHAIRMAN SULLIVAN: Other questions? I had a question, Mr. Siebert.  
Is this installed now?

MR. SIEBERT: It has been stood up on the site. It has been ordered.

CHAIRMAN SULLIVAN: Stood up on site, meaning?

MR. SIEBERT: That's in place. It's standing up, physically standing up on  
the site.

CHAIRMAN SULLIVAN: Okay. Because I looked at it also and it looked  
to me like the railing and dust collector are already there.

MR. SIEBERT: Yes, I haven't been out there. There is a temporary permit  
to install it. I don't know frankly if Mr. Montano has installed the dust collector yet or not.

CHAIRMAN SULLIVAN: It also looked like a piece of equipment next to  
it is almost the same height. On your sketch it looks to be quite a bit lower. I can't read it.  
The sketch is faded out but it looks like it says 32 feet.

MR. SIEBERT: Well, these are the silos. The only thing, and what we've  
done is colored in the areas in which the railing and the three dust collectors that exceed 36  
feet.

CHAIRMAN SULLIVAN: But then there's a conveyor belt and there's  
another piece of equipment next to it. Correct?

MR. SIEBERT: We have been informed by the manufacturer that it's 36  
feet.

CHAIRMAN SULLIVAN: So the other piece looks almost the same height,  
just from an eyeball. But you're confident that that piece is lower than 36 feet. It's this  
piece? So I guess the only question that I would have is what our role is in dealing with  
something here that's already been installed.

MR. SIEBERT: I did not know the dust collectors had been installed.

CHAIRMAN SULLIVAN: The little yellow things on the top are there. The  
railing is there. I don't know if it's operational, but - so this is an after the fact variance,  
I guess. Is that what we're dealing with?

MR. SIEBERT: I don't know when he installed the silos if the dust  
collectors are actually part of that apparatus, if you stand it up if it all comes up to the  
same height.

CHAIRMAN SULLIVAN: I don't know. Commissioner Anaya, did you see  
the little things that looked like chimneys up there?

COMMISSIONER ANAYA: I didn't see it that closely.

CHAIRMAN SULLIVAN: I just wondered. Mr. Dalton, are they, is the

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equipment in place?

MR. DALTON: Mr. Chairman, I know the batch plant is there. I'm not sure if the silos or the railing is in place.

CHAIRMAN SULLIVAN: That was the main question I had is – I can understand where we have situations where Code enforcement goes out and determines a problem. Then the applicant comes back and asks for a variance, because perhaps they didn't know about the issue and we deal with that. What are your thoughts on this?

MR. ABEYTA: Mr. Chairman, there was a temporary permit that was issued and I don't know if it was discovered at the time that the structure was going to exceed the 36 feet when the temporary permit was issued. The temporary permit was issued because this property has been zoned for this use and it was also issued in part to a response to a problem we were having in the Agua Fria Village with the existing, with this individual and his existing business on Agua Fria. So it was kind of a settlement, an agreement between the neighbors, myself and the County Attorney. We had granted, since we knew this property had already been zoned for this use we had granted him a temporary permit to locate. And I think it was after that point that it was discovered that a height variance would be needed because not all of the structure was going to be under 36 feet. I don't think we looked at the railing and the silo on top of it. We were looking at the structure itself and we were under the understanding that it would be within 36 feet, but as it turns out, the railing and the silo kicks it past 36 feet.

CHAIRMAN SULLIVAN: Okay. Other questions for Mr. Siebert? If not, what's the wishes of the Commission?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Did you want to ask if anybody was for –

CHAIRMAN SULLIVAN: Oh, do we want to have a public hearing? Is that what you meant? That's a good idea. Thank you for reminding me. It's getting late at night. Are there any individuals in the audience who would like to speak in favor of or in opposition to this requested variance?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN SULLIVAN: Hearing none, Commissioner Anaya.

COMMISSIONER ANAYA: Move for approval.

CHAIRMAN SULLIVAN: There's a motion for approval from Commissioner Anaya.

COMMISSIONER DURAN: Second.

CHAIRMAN SULLIVAN: Second, Commissioner Duran. Discussion?

The motion to approve CDRC Case #V 01-5381 passed by unanimous [5-0] voice vote.

COMMISSIONER DURAN: That's probably the easiest one you've had for a while.

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- XII. A. 2. TDRC CASE #V 02-5211 - Katherine Roe Variance. Katherine Roe, Applicant, John Calvin, Agent, Request a Variance of Article V, Section 8.2.7 (Grade Percentages) to Allow the Approach of an Intersection to Exceed 3% Grade for 100 Linear Feet, A Variance of Article VII, Section 3.4.1c (No Build Areas) to Allow the Construction of Retaining Walls, a Portion of a Home, and a Driveway on 30% Slopes, and a Variance of Article III, Section 2.3.10c (Buffering and Re-Vegetation for Ridge Tops and Development Sites With a Natural Slope of Fifteen Percent or Greater) to Allow the Required Façade Landscape Screening To Be As Close As 10 Feet To The Building on 3.2 Acres. The Property is Located Off St. Frances Court In The Bishops Lodge Subdivision, Within Section 6, Township 17 North, Range 10 East (Commission District 1 [Letters attached as Exhibit 9]**

MR. DALTON: Thank you, Mr. Chairman. The applicant is requesting three variances of the Land Development Code in order to construct a 4,524 square foot residence on 3.2 acres in the Bishop's Lodge Subdivision. The applicant is requesting a variance of Article V, Section 8.2.7d (grade percentages). Article V, Section 8.2.7d states that grades that approach to intersections shall not exceed 3 percent for 100 linear feet, excluding vertical curve distance.

The applicant states that the proposed driveway is less than 100 feet in its entirety, with a average finished grade of 9-½ percent and has been proposed to disturb the least amount of land possible on the site given the site conditions. It should be clear that a 3 percent grade is not possible to achieve without building the garage in a different location, thereby disturbing even more terrain with a 30 percent or greater slope.

Staff feels it can support this variance provided an approval letter is received from the County Fire Marshal. Mr. Chairman, you have an approval letter from the Fire Marshal. [Exhibit 10]

The applicant is requesting a variance of Article VII, Section 3.4.1c (no build areas) to allow the disturbance of 1,750 square feet of 30 percent slopes for the construction of a driveway and retaining walls, and the disturbance of 300 square feet of 30 percent slopes for a portion of a home. The applicant states that due to the extremely small buildable area and after three different design attempts, the applicant is proposing to disturb one area over 30 percent slopes for the residence. The applicant states that there is approximately 300 square feet of non-heated area within the interior space of the garage that is now greater than 30 percent.

Staff feels that it can support this variance for the reason that the applicant has to disturb this area for the construction of the driveway and driveway pad.

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The applicant states that the proposed driveway follows the shortest possible route from the paved St. Francis Court to the garage of the home. While there are disturbed areas of 30 percent or more grade, it should be clear that any other route would disturb far more area.

Staff feels it can support this variance due to the fact that this is the easiest access available with the least amount of 30 percent slope disturbance to the building site.

The applicant is requesting a variance of Article III, Section 2.3.10c (buffering and re-vegetation for ridge-tops and development sites with a natural slope of 15 percent or greater) to allow the required façade landscape screening to be as close as 10 feet to the building. Article III, Section 2.3.10c states that any cut or fill slope greater than four feet in height or with a grade of two and one half to one (2.5:1) or steeper, retaining walls and erosion control structures, and the façade of any building on a slope of 15 percent or greater or on a ridge-top visible from a public way shall be screened.

The applicant states that due to the small build-able area, it is necessary for the landscape screening to be less than 25' feet from the façade to be screened. The applicant is asking to allow the required façade landscape screening to be planted as close as 10' feet from the building.

Staff feels it can support this variance for the reason that the residence is not visible from a public way however the applicant may need additional landscaping if the residence is visible from a public way.

Recommendation: The proposed structure is 4,524 square feet. The applicant has reduced the structure by 1,874 square feet. It is staff's position that the variances requested are unavoidable due to the rugged terrain and small buildable area on the property. Staff recommends approval of the variances

On January 30, 2003, the TDRC met and acted on this case. The decision of the TDRC was to recommend approval of Article V, Section 8.2.7, Article VII, Section 3.4.1.c, and Article III, Section 2.3.10.c to allow the construction of a residence on 3.2 acres subject to the following conditions. Mr. Chairman, may I enter those into the record?

[The conditions are as follows:]

1. The applicant shall comply with requirements of High Wildland – Urban Hazard Area within the Urban – Wildland Interface Zone.
2. The applicant shall submit a landscaping and fire protection plan to be approved by Land Use Staff, Fire Marshal and coordinated with neighbors (Mr. Sobel) if determined that any part of the proposed building is visible from a public way to be
3. The applicant shall submit a liquid waste permit from the Environmental Department showing exact location, on 15 percent slopes or less.
4. The applicant shall submit a drainage and grading plan to be approved by Staff prior to building permit issuance.
5. The applicant shall stake out the driveway, building site and 30 percent slopes to be disturbed.
6. The applicant shall erect a construction fence around the building site to limit 30

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percent slope disturbance.

7. The applicant shall direct all storm water to an onsite retention pond.
8. All staff redlines must be addressed prior to issuance of a development permit.
9. The applicant shall submit an approval letter from the Architectural Control Committee stating the plans conform with the subdivision covenants prior to building permit issuance.

CHAIRMAN SULLIVAN: Questions of Mr. Dalton. Hearing none, Mr. Calvin. Are you Mr. Calvin?

CHARLES MCGUIRE: I'm the representative.

[Duly sworn, Charles McGuire testified as follows:]

MR. MCGUIRE: My name is Chuck McGuire. 1925 Apache Court, NE, Albuquerque, New Mexico.

CHAIRMAN SULLIVAN: Anything you'd like to say?

MR. MCGUIRE: Mr. Dalton's covered it quite well. Again, we're trying to build a nice house that will add to the neighborhood on a very difficult site. We have tried to work with everyone to get this accomplished.

CHAIRMAN SULLIVAN: Questions for Mr. McGuire?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: When was the lot created?

MR. DALTON: Mr. Chairman, Commissioner Campos, the subdivision was approved in 1988.

COMMISSIONER CAMPOS: So this lot has been in existence since 1988.

MR. DALTON: Mr. Chairman, Commissioner Campos, that's correct.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN SULLIVAN: Other questions? I had two. One was that - maybe this is for Mr. Dalton. The thing that was missing was the letter from the Fire Marshal and the Fire Marshal's comments, and we have that now in front of us. Are those going to be additional conditions to the staff recommendations?

MR. DALTON: Mr. Chairman, he will have to comply with the Fire Marshal's conditions, yes.

CHAIRMAN SULLIVAN: Is that already in the conditions? I don't see it. Well, we can add that. The other question was, one of the issues I recall was that there was only 25 feet of space, and maybe this could be for Mr. McGuire. There was only 25 feet of space but the County Fire Marshall requires 30 feet for the urban wildland code. And so I don't see him addressing that here. Can you elaborate on that, either one of you?

MR. DALTON: Mr. Chairman, I did talk to Buster today and he said there was really nothing they can do for residential use. He said there was really nothing in the Code for a single family dwelling that he could require for landscaping. He said there's nothing he can do. I wanted a letter from him stating that he does approve the landscaping

2525733

or he wants the 30-foot defensible space. He said there's really nothing he can do and would not write me a letter. That was from Buster.

CHAIRMAN SULLIVAN: Okay. What I was getting at is one of the conditions was that the applicant shall comply with the requirements of the high wildland urban hazard area within the urban wildland interface zone. And my understanding from reading Buster's testimony at the TDRC meeting was that that requires, it says, "Mr. Patty said the Wildland Interface Code is more stringent than the land use codes and requires a defensible space as a minimum of 30 feet from the house." My understanding is there's only 25 feet here. But he doesn't address that so how can the applicant comply with the wildland interface zone if he only has 25 feet.

MR. DALTON: Mr. Chairman, I think that could be done a number of ways. The applicant could have landscaping up against the façade. It doesn't have to be trees. It could be maybe shrubs, bushes. I know Buster was saying as long as it's not evergreen trees, any flammable trees, he said would be fine.

CHAIRMAN SULLIVAN: So the plantings don't have to be 30 feet away from the house?

MR. DALTON: That's correct.

CHAIRMAN SULLIVAN: Okay. As long as they're not combustible plantings.

MR. DALTON: That's correct.

COMMISSIONER DURAN: Plastic.

CHAIRMAN SULLIVAN: Okay. So he didn't address that but that doesn't preclude the applicant from complying with condition one then?

MR. DALTON: That's correct.

CHAIRMAN SULLIVAN: Okay. Then the last question I had was on the map, the little sketch map showing the different zones of the different slopes. This one is not too readable in the packet. There's a whole bunch of stars. Are you familiar with this map? You've got it there? There's a whole bunch of stars which on the legend indicates slopes of 30 percent and greater. Is that where the driveway's coming in.

MR. MCGUIRE: Right. Yes.

CHAIRMAN SULLIVAN: So the driveway's going through a greater than 30 percent slope area. Okay. But the slope of the driveway itself is less than 11 percent. But we are disturbing areas of greater than 30 percent.

MR. MCGUIRE: Yes.

CHAIRMAN SULLIVAN: But not areas that are more than is allowed to be disturbed.

MR. MCGUIRE: Right. In the end there has to be a driveway there that is accessible to the Fire Department and the whole purpose of where the driveway was is that it disturbs the least amount of land possible.

CHAIRMAN SULLIVAN: But Roman, isn't there a certain amount of 30 percent slope you can disturb, like two locations?

MR. ABEYTA: Mr. Chairman, that's correct. I think it's three isolated occurrences. But I think that's one of the variances he is requesting.

CHAIRMAN SULLIVAN: That's what I want to get. So it's not just a variance for the three percent slope at the last 100 feet. It's also a variance of the 30 percent, isn't it?

MR. ABEYTA: Yes, because it's a variance to Article VII. Section 3.4.1 to allow the construction of retaining walls, a portion of the home and a driveway on 30 percent slopes.

CHAIRMAN SULLIVAN: Okay. We're dealing with two variances.

MR. ABEYTA: Right.

CHAIRMAN SULLIVAN: That clarifies it. Other questions for either the applicant or Mr. Dalton from the Commission? If not then this is a public hearing. Are there those in the audience who would like to speak in favor of or in opposition to the requested variances? Seeing none, what's the pleasure of the Commission?

COMMISSIONER DURAN: Mr. Chairman, move for approval.

COMMISSIONER MONTOYA: Second.

CHAIRMAN SULLIVAN: There's a motion from Commissioner Duran. There's a second from Commissioner Montoya. Would this include the addition of the conditions outlined in the Fire Marshal - would this include the addition of the condition that the applicant must comply with the conditions outlined by the Fire Marshal in his March 11, 2003 letter?

COMMISSIONER DURAN: It would, and those are the ones that you understand you need to comply with, correct?

MR. MCGUIRE: Yes.

COMMISSIONER DURAN: Yes.

CHAIRMAN SULLIVAN: So we have that additional condition to the staff conditions. Is there other discussion?

**The motion to approve TDRC Case #V 02-5211 passed by unanimous [4-0] voice vote. [Commissioner Campos was not present for this action.]**

CHAIRMAN SULLIVAN: The third item, the Bruce Oakley Variance is tabled.

**XII. A. 4. BCC CASE #M 03-5060 - Santa Fe Vineyards. Santa Fe Vineyards, Inc. (Donna Rosingana), Applicant Is Requesting A**

2525735

**Change Of Ownership For An Existing Liquor License. The Property is Located Along Highway 84-285 In The Vicinity of Arroyo Seco Within Section 30, Township 20 North, Range 9 East (Commission District 1)**

MR. ABEYTA: Thank you, Mr. Chairman. The State Alcohol and Gaming Division has granted preliminary approval of this request in accordance with Section 60-6B-4 of the Liquor Control Act. Legal notice of this request has been published in the newspaper and the Board of County Commissioners are required to conduct a public hearing on whether or not the proposed transfer or ownership for an existing wine wholesaler and wine-grower liquor license should be granted. The former ownership was for Santa Fe Vineyards (sole proprietor) and the transfer is to Santa Fe Vineyards, Inc.

The request is for a transfer of ownership for an existing liquor license. The winery was approved by the BCC in 1987, and has continuously produced and sold wine at this property. Staff recommends approval, Mr. Chairman.

CHAIRMAN SULLIVAN: Is the applicant present.

[Duly sworn, Donna Rosingana testified as follows:]

DONNA ROSINGANA: Basically, what he said is what I'm applying for. A change of ownership of two existing liquor licenses, a wine wholesaler's and a wine-grower's license.

CHAIRMAN SULLIVAN: To be located at that same place?

MS. ROSINGANA: Everything is going to remain exactly the same except for the incorporation to be added onto the name.

CHAIRMAN SULLIVAN: Okay. Are there questions of the applicant? Are you, Ms. Rosingana? Are there questions for Ms. Rosingana from the Commission? Commissioner Duran.

COMMISSIONER DURAN: Are you still growing grapes in Galisteo?

MS. ROSINGANA: No. That was too difficult. Too cold. Too many cows and bugs.

COMMISSIONER DURAN: I met Neil when he was growing grapes.

MS. ROSINGANA: You mean Len?

COMMISSIONER DURAN: Len. Right. Len. When him and John were growing grapes out there.

MS. ROSINGANA: Right. Absolutely. No, unfortunately, it was a beautiful location but it was not conducive to grape growing. We tried but it failed.

CHAIRMAN SULLIVAN: Are there other important questions of the applicant at 9:00 at night. Seeing none, this is a public hearing. Are there any in the audience that would wish to speak for or against this proposed change of ownership of an existing liquor license. Seeing none, what is the pleasure of the Commission?

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN SULLIVAN: Commissioner Montoya.



2525736

COMMISSIONER MONTROYA: Move for approval.

COMMISSIONER CAMPOS: Second.

CHAIRMAN SULLIVAN: Motion and a second by Commissioner Campos.


Any further discussion?

The motion to approve BCC Case #M 03-5060 passed by unanimous [5-0] voice vote.

ADJOURNMENT

Chairman Sullivan declared this meeting adjourned at approximately 9:05 p.m.


Approved by:

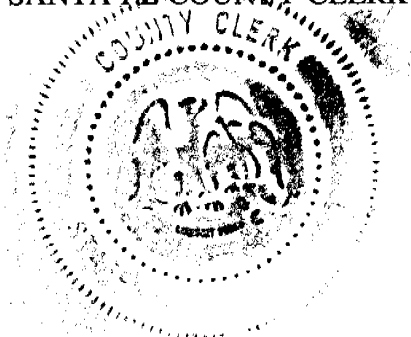
  
Board of County Commissioners  
Jack Sullivan, Chairman

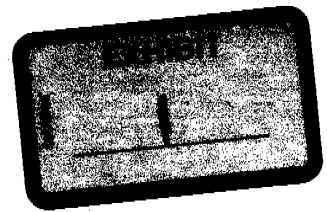
Respectfully submitted:

  
Karen Farrell, Commission Reporter

ATTEST TO:

  
REBECCA BUSTAMANTE  
SANTA FE COUNTY CLERK





March 11, 2003

Board of County Commissioners  
County of Santa Fe  
Santa Fe, New Mexico

2525737

Re: Correcting the Record – February 25, 2003  
County Commission Meeting

Dear Commissioners:

The Wednesday, February 26, 2003 edition of The New Mexican included a report of the February 25, 2003 County Commission meeting with the headline, "County Might Tap Private Well For Future Water Needs". The article included the following paragraph:

"Sullivan also said engineers from the State Engineers' office said after testing the Rancho Viejo well that it would not produce a lot of water."

I was rather shocked by this comment as it is contrary to the facts. Accordingly, we obtained a draft transcript of the minutes of the meeting to determine if Commissioner Sullivan's actual comments were similar. In fact, they were quite similar. Commissioner Sullivan stated:

"Now, Rancho Viejo's well, which is an exploratory hole, and not a well, is a private well", and later, "We just heard from the experts from the State engineer's office this morning that when they tested the well there was no evidence of the Ancha formation, which surprised them but which indicated it wasn't a good producing well. So we're throwing good money after bad."

Commissioner Sullivan is mistaken regarding the geohydrology of the area, the production capability of the well, the construction of the well and the State Engineer's review process.

1. Geohydrology Report

The geohydrology report prepared by Balleau Groundwater and Hawley Geomatters for Rancho Viejo correctly predicted that the upper Ancha formation possessed limited potential for a production well, but that the underlying Tesuque formation, below approximately 200 feet, held significant potential.

Rancho Viejo provided County staff with the full geohydrology report some 18 months ago.



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2. Exploratory Well

After obtaining necessary permits, Balleau Groundwater supervised the drilling of an exploratory well in December 2001 to a depth of 1,500 feet. This well, with a 6 inch casing, confirmed the above findings and provided the design criteria for a production well to be drilled approximately 100 feet to the west. In the future the exploratory well will function as a monitoring well.

3. Production Well

This well was drilled in early 2002 to a depth of 1,350 feet with a 12 inch casing. Six hundred seventy feet of screen were installed beginning at a depth of approximately 740 feet. The amount of screen was approximately 70% greater than forecasted prior to the exploratory well. In addition, the well depth was 50% greater. A four-day (96 hour) pump test was conducted, including monitoring surrounding wells, and a full report was prepared and delivered to the County and State Engineer.

The well is ready to be equipped for production and can produce 300 gpm which makes it an excellent well in the area. Please note that the March 5, 2003 report from Mr. Roybal states that the well can produce 250 gpm for 20 years or more. This information refers to the recommended pump's capability and expected useful life, and not the actual well or aquifer.

4. State Engineer Review

Neither Rancho Viejo nor the County has submitted an application to the State Engineer for use of the well. Therefore, the State Engineer has not tested the well and has not evaluated its use or possible impacts. The State Engineer requires an application to start any review process, even in an emergency use context as was stated to Commissioner Sullivan and County Staff in 2002.

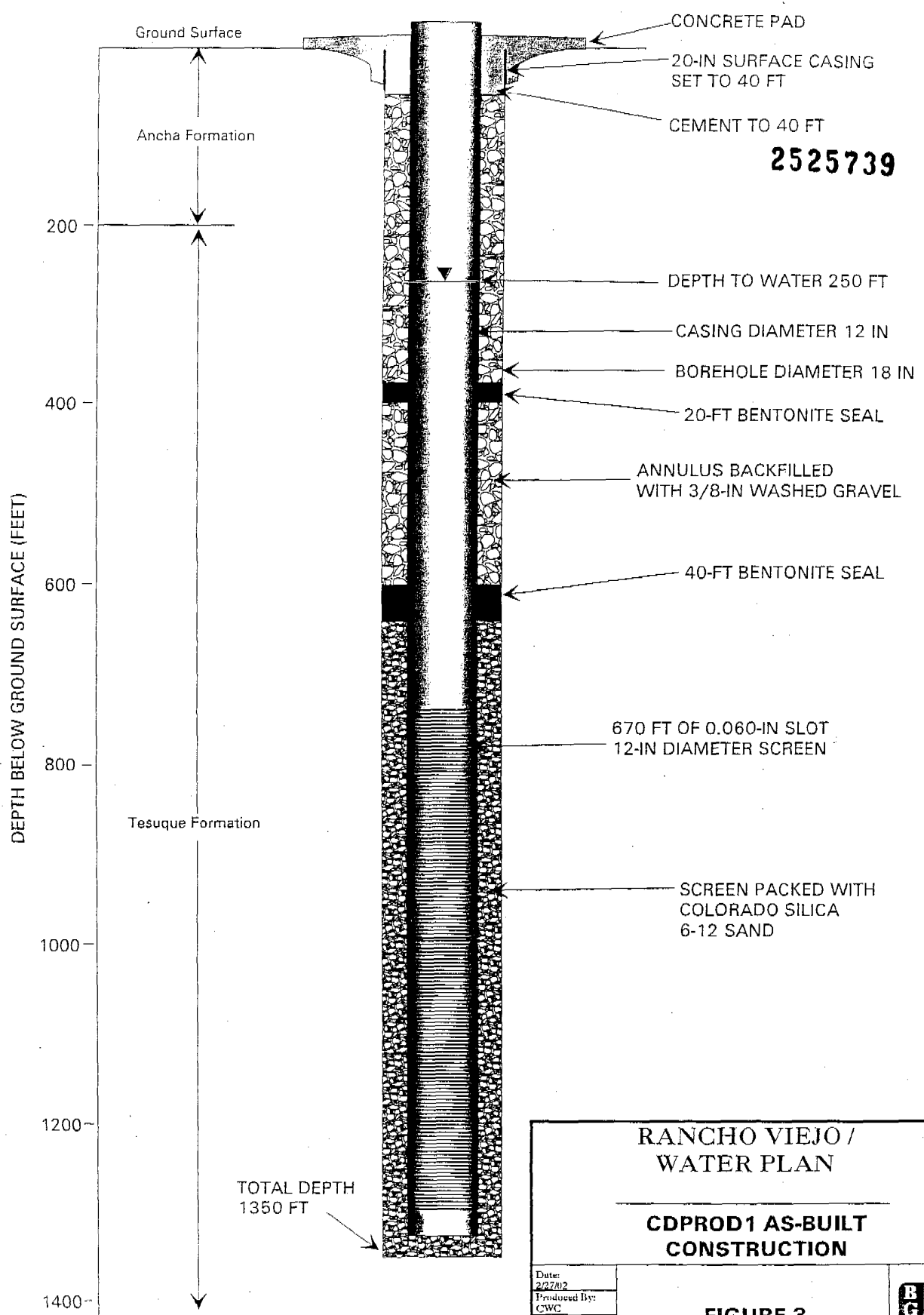
Rancho Viejo has always been very forthcoming with the County regarding our research and well testing program, as well as the desire for this well to be part of the County Utility.

Sincerely,

RANCHO VIEJO DE SANTA FE, INC.

Robert G. Taunton  
Vice President and General Manager

RGT:jr



**2525739**

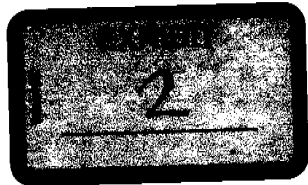
**RANCHO VIEJO /  
WATER PLAN**

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**CDPROD1 AS-BUILT  
CONSTRUCTION**

Date: 2/27/02 Produced By: CWC Checked By: WPP Filename: CDPROD1.ASBUILT.DWG	<b>FIGURE 3</b>
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FORTY-SIXTH LEGISLATURE  
FIRST SESSION

March 6, 2003

SENATE FLOOR AMENDMENT number   1   to SENATE CONSERVATION  
COMMITTEE SUBSTITUTE FOR  
SENATE BILL 241

2525740

Amendment sponsored by Senator Roman M. Maes, III

1. On page 1, line 11, strike "A" and insert in lieu thereof "CERTAIN".

2. On page 1, line 12, strike "COUNTY WITH MORE THAN THREE HUNDRED THOUSAND PERSONS" and insert in lieu thereof "COUNTIES".

3. On page 1, line 20, strike "three hundred thousand" and insert in lieu thereof "one hundred twenty-five thousand".

4. On page 2, line 4, strike "three hundred thousand" and insert in lieu thereof "one hundred twenty-five thousand".

5. On page 4, line 21, strike "three hundred thousand" and insert in lieu thereof "one hundred twenty-five thousand".

6. On page 6, line 1, strike "three hundred thousand" and insert in lieu thereof "one hundred twenty-five thousand".

7. On page 8, line 14, strike "three hundred thousand" and insert in lieu thereof "sixty thousand".

8. On page 9, line 11, strike "three hundred thousand" and insert in lieu thereof "sixty thousand".

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Roman M. Maes, III

SENATE CONSERVATION COMMITTEE SUBSTITUTE FOR  
SENATE BILL 241

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46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

2525741

AN ACT

RELATING TO THE EXTRATERRITORIAL POWERS OF MUNICIPALITIES IN A  
CLASS A COUNTY WITH MORE THAN THREE HUNDRED THOUSAND PERSONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 3-7-3 NMSA 1978 (being Laws 1965,  
Chapter 300, Section 14-7-3) is amended to read:

"3-7-3. LIMITATION ON ANNEXATION.--No municipality may  
annex territory within the boundary of another municipality or  
territory within a class A county with a population of more  
than three hundred thousand persons unless approved by the  
board of county commissioners for that county."

Section 2. Section 3-7-17.1 NMSA 1978 (being Laws 1998,  
Chapter 42, Section 2) is amended to read:

"3-7-17.1. ANNEXATION--CERTAIN MUNICIPALITIES IN CLASS A  
COUNTIES--PROCEDURES--LIMITATIONS.--

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underscored material = new  
[bracketed material] = delete

1           A. A petition seeking the annexation of territory  
2 contiguous to a municipality [~~with a population over two~~  
3 ~~hundred thousand persons and~~] located in a class A county with  
4 a population of less than three hundred thousand persons shall  
5 be presented to the city council and be accompanied by a map  
6 that shows the external boundary of the territory proposed to  
7 be annexed and the relationship of the territory proposed to be  
8 annexed to the existing boundary of the municipality.

9           B. If the petition is signed by the owners of a  
10 majority of the number of acres in the contiguous territory:

11                 (1) the city council shall submit the petition  
12 to the board of county commissioners of the county in which the  
13 municipality is located for its review and comment. Any  
14 comments shall be submitted by the board of county  
15 commissioners to the city council within thirty days of  
16 receipt; and

17                 (2) not less than thirty days nor more than  
18 sixty days after receiving the petition, the city council shall  
19 by ordinance approve or disapprove the annexation after  
20 considering any comments submitted by the board of county  
21 commissioners.

22           C. Except as provided in Subsection D of this  
23 section, if the petition is not signed by the owners of a  
24 majority of the number of acres in the contiguous territory,  
25 the extraterritorial land use commission shall consider the

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1 matter and make a recommendation to the extraterritorial land  
2 use authority. The extraterritorial land use authority shall  
3 approve or disapprove the petition. If approved by the  
4 extraterritorial land use authority, the city council may by  
5 ordinance approve the annexation.

6 D. When the nonconsenting property owners'  
7 properties are entirely surrounded by consenting property  
8 owners, the city council may approve the annexation without  
9 approval or disapproval of the extraterritorial land use  
10 authority.

11 E. In considering an annexation pursuant to this  
12 section, the city council shall consider the impact of the  
13 annexation on existing county contracts and provisions of  
14 services, including fire protection, solid waste collection or  
15 water and sewer service, and may make agreements with the  
16 county to continue such services if it is in the interest of  
17 the county, the residents of the proposed annexed area or the  
18 municipality.

19 F. A municipality with a population over two  
20 hundred thousand persons and located in a class A county shall  
21 not force a resident or business located in the unincorporated  
22 area of the county to agree to annexation as a condition of  
23 extending sewer and water service to that person or business,  
24 if that sewer or water service extension is paid for all or in  
25 part by federal, state or county money. The municipality may

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underscored material = new  
[bracketed material] = delete



1 make agreement to annexation a condition of extending sewer and  
2 water service if the extension of the service is paid for  
3 entirely with municipal money."

4 Section 3. Section 3-19-5 NMSA 1978 (being Laws 1965,  
5 Chapter 300, Section 14-18-5, as amended) is amended to read:

6 "3-19-5. PLANNING AND PLATTING JURISDICTION.--

7 A. Each municipality shall have planning and  
8 platting jurisdiction within its municipal boundary. Except as  
9 provided in Subsection B of this section, the planning and  
10 platting jurisdiction of a municipality:

11 (1) having a population of twenty-five  
12 thousand or more persons includes all territory within five  
13 miles of its boundary and not within the boundary of another  
14 municipality; or

15 (2) having a population of [~~less~~] fewer than  
16 twenty-five thousand persons includes all territory within  
17 three miles of its boundary and not within the boundary of  
18 another municipality.

19 B. A municipality [~~having a population over two~~  
20 ~~hundred thousand persons~~] located in a class A county with a  
21 population of more than three hundred thousand persons shall  
22 not have planning and platting jurisdiction [~~within five miles~~  
23 ~~of the boundary of the municipality shared with the county and~~  
24 ~~not within the boundary of another municipality through the~~  
25 ~~extraterritorial land use commission that shall make~~

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1 ~~recommendations to the extraterritorial land use authority] in~~  
 2 the unincorporated area of the county.

3 C. If territory not lying within the boundary of a  
 4 municipality is within the planning and platting jurisdiction  
 5 of more than one municipality, the planning and platting  
 6 jurisdiction of each municipality shall terminate equidistant  
 7 from the boundary of each municipality unless one municipality  
 8 has a population of [~~less~~] fewer than two thousand five hundred  
 9 persons and another municipality has a population of more than  
 10 two thousand five hundred persons according to the most recent  
 11 census. Then the planning and platting jurisdiction of the  
 12 municipality having the greatest population extends to such  
 13 territory."

14 Section 4. Section 3-21-2 NMSA 1978 (being Laws 1965,  
 15 Chapter 300, Section 14-20-2, as amended) is amended to read:

16 "3-21-2. JURISDICTION OF A COUNTY OR MUNICIPAL ZONING  
 17 AUTHORITY.--To carry out the purposes of Sections 3-21-1  
 18 through 3-21-14 NMSA 1978:

19 A. a county zoning authority may adopt a zoning  
 20 ordinance applicable to all or any portion of the territory  
 21 within the county that is not within the zoning jurisdiction of  
 22 a municipality;

23 B. a municipal zoning authority may adopt a zoning  
 24 ordinance applicable to the territory within the municipal  
 25 boundaries and, if not within a class A county with a

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1 population of more than three hundred thousand persons  
2 according to the last federal decennial census, shall have  
3 concurrent authority with the county to zone all or any portion  
4 of the territory within its extraterritorial zoning  
5 jurisdiction [~~which~~] that is within:

6 [~~(1) three miles of the boundary of any~~  
7 ~~municipality having a population of two hundred thousand or~~  
8 ~~more persons, provided such territory is not within the~~  
9 ~~boundary of another municipality;~~

10 ~~(2)] (1) two miles of the boundary of any~~  
11 ~~municipality having a population of twenty thousand or more~~  
12 ~~[but less than two hundred thousand] persons, provided such~~  
13 ~~territory is not within the boundary of another municipality;~~

14 ~~(3)] (2) one mile of the boundary of any~~  
15 ~~municipality having a population of one thousand five hundred~~  
16 ~~or more but less than twenty thousand persons, provided such~~  
17 ~~territory is not within the boundaries of another municipality;~~

18 ~~(4)] (3) the limits of the boundaries of a~~  
19 ~~municipality having a population of one thousand five hundred~~  
20 ~~persons or less; or~~

21 ~~(5) (4) territory not lying within the~~  
22 ~~boundary of a municipality [~~is~~] but within the extraterritorial~~  
23 ~~jurisdiction of more than one municipality; provided that the~~  
24 ~~extraterritorial zoning jurisdiction of each municipality shall~~  
25 ~~terminate equidistant from the boundary of each municipality~~

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underscored material = new  
[bracketed material] = delete

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1 unless one municipality has a population according to the most  
 2 recent federal decennial census of less than two thousand five  
 3 hundred and another municipality has a population according to  
 4 the most recent federal decennial census of more than two  
 5 thousand five hundred, [~~Then~~] in which case the  
 6 extraterritorial zoning jurisdiction of the municipality having  
 7 the greatest population extends to such territory; and

8 [~~(6) such areas~~] (5) territory in addition to  
 9 the extraterritorial zoning jurisdiction provided by Paragraphs  
 10 (1), (2), (3) and (4) [~~and (5)~~] of this subsection that the  
 11 governing bodies of a county and a municipality agree to place  
 12 within the extraterritorial zoning jurisdiction of the  
 13 municipality by agreement entered into pursuant to the  
 14 provisions of the Joint Powers Agreements Act, provided such  
 15 additional territory is not within the boundary of another  
 16 municipality and is contiguous to the exterior boundaries of  
 17 the territory within the extraterritorial zoning jurisdiction  
 18 of the municipality;

19 C. concurrent authority shall be exercised pursuant  
 20 to an extraterritorial zoning authority or joint powers  
 21 agreement; provided, however, this authority may be exercised  
 22 regardless of whether a county has enacted a comprehensive  
 23 zoning ordinance; and

24 D. in the absence of a county zoning ordinance, a  
 25 qualified elector may file a petition, signed by the qualified

.146352.1

1 electors of the county equal in number to not less than twenty-  
 2 five percent of the votes cast for the office of governor at  
 3 the last preceding general election, seeking the adoption of a  
 4 zoning ordinance by the county zoning authority. Within one  
 5 year of the filing of the petition seeking the adoption of a  
 6 county zoning ordinance, the board of county commissioners  
 7 shall adopt a county zoning ordinance."

8 Section 5. Section 3-21-3.2 NMSA 1978 (being Laws 1998,  
 9 Chapter 42, Section 5, as amended) is amended to read:

10 "3-21-3.2. EXTRATERRITORIAL ZONING IN CLASS A  
 11 COUNTIES--PROCEDURES.--

12 A. In a class A county in which a municipality is  
 13 located that has a population of:

14 (1) more than three hundred thousand persons  
 15 ~~[concurrent extraterritorial zoning jurisdiction between that~~  
 16 ~~municipality and the county shall be determined by an~~  
 17 ~~"extraterritorial land use authority". The extraterritorial~~  
 18 ~~land use authority shall have the jurisdiction and powers of an~~  
 19 ~~extraterritorial zoning authority and shall carry out its~~  
 20 ~~duties related to planning and platting jurisdiction,~~  
 21 ~~extraterritorial zoning, subdivision approval and annexation~~  
 22 ~~approval or disapproval as provided in the Municipal Code. The~~  
 23 ~~extraterritorial land use authority shall consist of four~~  
 24 ~~county commissioners appointed by the board of county~~  
 25 ~~commissioners and three city councilors or two city councilors~~

.146352.1

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1 commissioners and three city councilors or two city councilors  
2 and the mayor appointed by the municipality. Alternates to the  
3 extraterritorial land use authority shall be appointed by the  
4 board of county commissioners from among the remaining county  
5 commissioners and by the municipality from among the remaining  
6 city councilors. The alternates shall be notified prior to a  
7 meeting of the extraterritorial land use authority if an  
8 appointed member cannot attend. When replacing a member, an  
9 alternate shall have the same duties, privileges and powers as  
10 other appointed members.

11 B. The extraterritorial zoning commission in a  
12 class A county shall be known as the "extraterritorial land use  
13 commission" if it is formed by

14 [~~(1)~~] ~~a class A county and a municipality that~~  
15 ~~has a population of more than three hundred thousand people and~~  
16 ~~that is located within that class A county; or~~

17 ~~(2)]~~ a municipality and a class A county that  
18 have adopted ordinances pursuant to Paragraph (2) of Subsection  
19 A of this section stating that the county and municipality will  
20 create an extraterritorial land use authority.

21 C. The extraterritorial zoning commission shall be  
22 composed of five members of the county planning commission  
23 appointed by the board of county commissioners and five members  
24 of the environmental planning commission of the municipality  
25 appointed by the city council. Alternates to the

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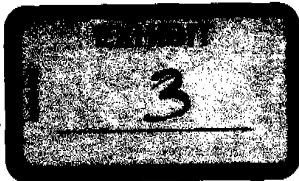
1 extraterritorial land use commission shall be appointed by the  
 2 board of county commissioners from the remaining members of the  
 3 county planning commission and by the municipality from the  
 4 remaining members of the environmental planning commission, who  
 5 shall be notified prior to a meeting of the extraterritorial  
 6 land use commission if an appointed member cannot attend. When  
 7 replacing a member, the alternate shall have the same duties,  
 8 privileges and powers as other appointed members.

9 D. The composition of the extraterritorial land use  
 10 commission shall not affect the composition of any other  
 11 extraterritorial zoning commission that may be established in  
 12 that county with any other municipality.

13 E. The extraterritorial land use commission shall  
 14 have the authority to carry out duties related to planning  
 15 and platting jurisdiction, subdivision and extraterritorial  
 16 zoning."

17 Section 6. EFFECTIVE DATE.--The effective date of the  
 18 provisions of this act is July 1, 2003.

underscored material = new  
 [bracketed material] = delete



**MEMORANDUM OF UNDERSTANDING**

between the

**Edgewood Soil and Water Conservation District**

and the

**Santa Fe County, New Mexico**

2525751

*Whereas*, the County of Santa Fe (hereafter referred to as the "County"), a corporation of the State of New Mexico (hereafter referred to as the "State"), values, and is committed to the protection of, local quality-of-life resources including: open space; water resources; air quality; soil quality; wildlife habitat and diversity; economic resources; recreational opportunities; agricultural or pastoral endeavors; and the general health, safety, and welfare of Santa Fe County residents; *and*

*Whereas*, the Edgewood Soil and Water Conservation District (hereafter referred to as the "ESWCD") is authorized by State statute (the "New Mexico Soil and Water Conservation District Act", amended 1997, and hereafter referred to as the "SWCDA") to: 1) control and prevent soil erosion; 2) prevent floodwater and sediment damage; 3) further the conservation, development, and beneficial application and proper disposal of water; 4) promote the use of impounded water for recreation, propagation of fish and wildlife, irrigation, and for urban and industrial needs; and 5) by application of these measures, to: conserve and develop the natural resources of the State, provide for flood control, preserve wildlife, protect the tax base, and promote the health, safety, and general welfare of the people of New Mexico; *and*

*Whereas*, the County and the ESWCD might benefit from working cooperatively to fulfill their respective goals and achieve their respective purposes:

*Therefore*, the County and the ESWCD do hereby mutually acknowledge, and consent to, this Memorandum of Understanding for working cooperatively to fulfill said goals and purposes. More specifically, the County and the ESWCD understand that:

1. The ESWCD shall provide, free of charge and upon request, technical assistance by qualified ESWCD employees to the County regarding natural resource issues, including: subdivision reviews; road construction repair plans; water conservation techniques; soil erosion prevention; flood prevention; and water run-off/drainage; *and*



- 2525752
2. The ESWCD shall provide, free of charge and upon request, technical assistance for natural resource issues to other partners, cooperators, and political subdivisions of the County, including local schools; *and*
  3. The ESWCD shall provide, free of charge and upon request, technical advice and representation during meetings of the County's governing body or advisory boards; *and*
  4. The ESWCD shall provide help to the County, free of charge and upon request, to develop specific conservation plans for specific County subdivisions and developments; *and*
  5. The ESWCD shall assist the County, free of charge and upon request, with any specific State or Federal natural resource conservation programs within the District; *and*
  6. The ESWCD shall assist the County, free of charge and upon request, with the identification, development, maintenance, and construction of local natural resource conservation projects. *Prior to implementation of said projects, the ESWCD and the County will identify costs, equipment needs and other monetary considerations. If necessary and appropriate, a cost share or matching funds agreement will be developed; and*
  7. The ESWCD shall disseminate, free of charge, any available and current research information to the County related to, and to facilitate, natural resource conservation activities, education, and planning; *and*
  8. The County and the ESWCD may, from time to time, amend this Memorandum of Understanding by mutual consent as authorized by their respective governing bodies; *and*
  9. The County or the ESWCD may terminate this Memorandum of Understanding upon six month's prior written notice of either party's desire to so terminate.

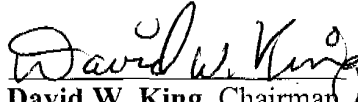
***WITNESS AND APPROVAL***

In witness that the County and the ESWCD have entered into this Memorandum of Understanding by mutual and free consent, and in accordance with the

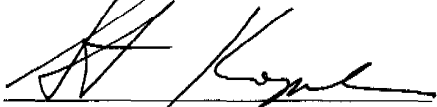
governing laws of the State of New Mexico, the following authorized signatures  
And dates are hereby attached:



**Gerald Gonzalez,**  
Santa Fe County Manager

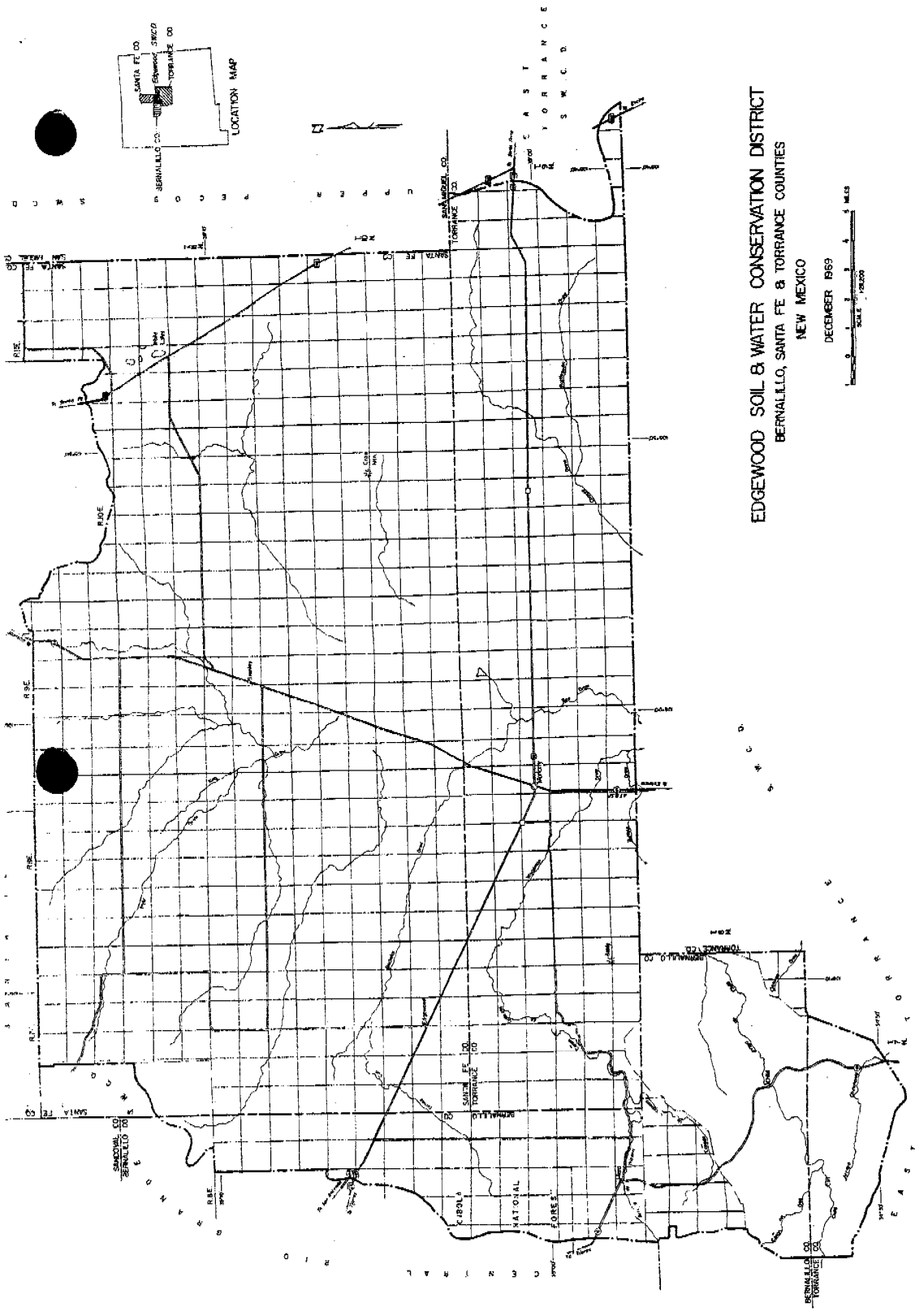


**David W. King, Chairman**  
ESWCD



**Steve Kopelman, Santa Fe County Attorney**  
(Approved as to Form)

2525753

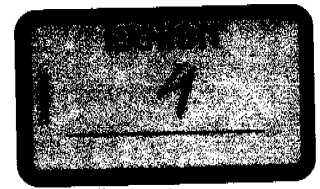


EDGEWOOD SOIL & WATER CONSERVATION DISTRICT  
 BERNALILLO, SANTA FE & TORRANCE COUNTIES  
 NEW MEXICO

DECEMBER 1989  
 SCALE 1:62,500

EDGEWOOD SWCD(1720) N. MEX. MT-S-2406FN

2525754



## SENATE BILL 241 RAMIFICATIONS

2525755

If Senate Bill 241 is passed as law, it will become effective July 1, 2003. The County Land Development Code will replace the EZO and ESR. The County Development Review Committee (CDRC) and Board of County Commissioners (BCC) will replace the EZC and EZA.

### EZA

- Has final approval authority on Master Plan and Development Plan applications within the 2-mile EZ district.
- Adopts amendments to the Extraterritorial Zoning Ordinance and Extraterritorial Comprehensive Plan.
- Five member zoning authority made up of two City Councilors and three County Commissioners.

### EZC

- Makes recommendations to the EZA for master plan and development plan applications within the 2-mile EZ district, but also makes recommendations to the Board of County Commissioners (BCC) for subdivision applications within the five mile EZ area.
- Seven-member commission made up of three members appointed by the Mayor and three members appointed by the BCC; the seventh member is appointed by the six EZC members.

### EZO

- Extraterritorial Zoning Ordinance (EZO) – existing Land Use code for the 2-mile EZ District.

### ESR

- Extraterritorial Subdivision Regulation (ESR) – Regulations that govern subdivision requests within 5 miles of the City limits. (5-mile EZ area)

# SENATE BILL 241

## STAFF SUMMARY

2525756

PAGE 1  
LINE 20

- Means City of Santa Fe would need to get BCC approval prior to any annexations.
- Currently, City can annex without County input or BCC approval.

PAGE 4  
LINE 21

- This eliminates the EZ both 2 and 5 mile.
- City of Santa Fe shall not have planning and platting jurisdiction.

PAGE 8  
LINE 14

- Eliminates EZ with City of Santa Fe.

PAGE 9  
LINE 11

- Allows EZ with smaller cities, Espanola and Edgewood but not City of SF.
- BUT the City's (Espanola/Edgewood) codes would apply in EZ area.

- Original Bill only applied to Counties with 300,000 persons
- Effective Date July 1, 2003

Currently the City of Santa Fe does not need authorization or input from the County for annexations. This bill will make it necessary for the City of Santa Fe to get prior approval to annex. This bill eliminates EZ with the City of Santa Fe, but still allows for an EZ with smaller cities such as Espanola & Edgewood. This bill would be effective July 1, 2003.

FORTY-SIXTH LEGISLATURE  
FIRST SESSION

2525757

March 6, 2003

SENATE FLOOR AMENDMENT number \_\_\_1\_\_\_ to SENATE CONSERVATION  
COMMITTEE SUBSTITUTE FOR  
SENATE BILL 241

Amendment sponsored by Senator Roman M. Maes, III

1. On page 1, line 11, strike "A" and insert in lieu thereof "CERTAIN".
2. On page 1, line 12, strike "COUNTY WITH MORE THAN THREE HUNDRED THOUSAND PERSONS" and insert in lieu thereof "COUNTIES".
3. On page 1, line 20, strike "three hundred thousand" and insert in lieu thereof "one hundred twenty-five thousand".
4. On page 2, line 4, strike "three hundred thousand" and insert in lieu thereof "one hundred twenty-five thousand".
5. On page 4, line 21, strike "three hundred thousand" and insert in lieu thereof "one hundred twenty-five thousand".
6. On page 6, line 1, strike "three hundred thousand" and insert in lieu thereof "one hundred twenty-five thousand".
7. On page 8, line 14, strike "three hundred thousand" and insert in lieu thereof "sixty thousand".
8. On page 9, line 11, strike "three hundred thousand" and insert in lieu thereof "sixty thousand".

---

Roman M. Maes, III

SENATE CONSERVATION COMMITTEE SUBSTITUTE FOR  
SENATE BILL 241

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

2525758

AN ACT

RELATING TO THE EXTRATERRITORIAL POWERS OF MUNICIPALITIES IN <sup>Certain</sup> ~~A~~  
CLASS A COUNTY WITH MORE THAN THREE HUNDRED THOUSAND PERSONS.  
*Counties*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 3-7-3 NMSA 1978 (being Laws 1965,  
Chapter 300, Section 14-7-3) is amended to read:

"3-7-3. LIMITATION ON ANNEXATION.--No municipality may  
annex territory within the boundary of another municipality or  
territory within a class A county with a population of more  
than <sup>one hundred twenty-five</sup> ~~three hundred thousand~~ persons unless approved by the  
board of county commissioners for that county."

Section 2. Section 3-7-17.1 NMSA 1978 (being Laws 1998,  
Chapter 42, Section 2) is amended to read:

"3-7-17.1. ANNEXATION--CERTAIN MUNICIPALITIES IN CLASS A  
COUNTIES--PROCEDURES--LIMITATIONS.--

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2525759

1           A. A petition seeking the annexation of territory  
 2 contiguous to a municipality [~~with a population over two~~  
 3 ~~hundred thousand persons and~~] located in a class A county with  
 4 a population of less than <sup>one hundred twenty five thousand</sup> three hundred thousand persons shall  
 5 be presented to the city council and be accompanied by a map  
 6 that shows the external boundary of the territory proposed to  
 7 be annexed and the relationship of the territory proposed to be  
 8 annexed to the existing boundary of the municipality.

9           B. If the petition is signed by the owners of a  
 10 majority of the number of acres in the contiguous territory:

11                   (1) the city council shall submit the petition  
 12 to the board of county commissioners of the county in which the  
 13 municipality is located for its review and comment. Any  
 14 comments shall be submitted by the board of county  
 15 commissioners to the city council within thirty days of  
 16 receipt; and

17                   (2) not less than thirty days nor more than  
 18 sixty days after receiving the petition, the city council shall  
 19 by ordinance approve or disapprove the annexation after  
 20 considering any comments submitted by the board of county  
 21 commissioners.

22           C. Except as provided in Subsection D of this  
 23 section, if the petition is not signed by the owners of a  
 24 majority of the number of acres in the contiguous territory,  
 25 the extraterritorial land use commission shall consider the

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2525760

1 matter and make a recommendation to the extraterritorial land  
2 use authority. The extraterritorial land use authority shall  
3 approve or disapprove the petition. If approved by the  
4 extraterritorial land use authority, the city council may by  
5 ordinance approve the annexation.

6 D. When the nonconsenting property owners'  
7 properties are entirely surrounded by consenting property  
8 owners, the city council may approve the annexation without  
9 approval or disapproval of the extraterritorial land use  
10 authority.

11 E. In considering an annexation pursuant to this  
12 section, the city council shall consider the impact of the  
13 annexation on existing county contracts and provisions of  
14 services, including fire protection, solid waste collection or  
15 water and sewer service, and may make agreements with the  
16 county to continue such services if it is in the interest of  
17 the county, the residents of the proposed annexed area or the  
18 municipality.

19 F. A municipality with a population over two  
20 hundred thousand persons and located in a class A county shall  
21 not force a resident or business located in the unincorporated  
22 area of the county to agree to annexation as a condition of  
23 extending sewer and water service to that person or business,  
24 if that sewer or water service extension is paid for all or in  
25 part by federal, state or county money. The municipality may

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2525761

1 make agreement to annexation a condition of extending sewer and  
2 water service if the extension of the service is paid for  
3 entirely with municipal money."

4 Section 3. Section 3-19-5 NMSA 1978 (being Laws 1965,  
5 Chapter 300, Section 14-18-5, as amended) is amended to read:

6 "3-19-5. PLANNING AND PLATTING JURISDICTION.--

7 A. Each municipality shall have planning and  
8 platting jurisdiction within its municipal boundary. Except as  
9 provided in Subsection B of this section, the planning and  
10 platting jurisdiction of a municipality:

11 (1) having a population of twenty-five  
12 thousand or more persons includes all territory within five  
13 miles of its boundary and not within the boundary of another  
14 municipality; or

15 (2) having a population of [~~less~~] fewer than  
16 twenty-five thousand persons includes all territory within  
17 three miles of its boundary and not within the boundary of  
18 another municipality.

19 B. A municipality [~~having a population over two~~  
20 ~~hundred thousand persons~~] located in a class A county with a  
21 population of more than *one hundred twenty five thousand*  
22 three hundred thousand persons shall  
23 not have planning and platting jurisdiction [~~within five miles~~  
24 ~~of the boundary of the municipality shared with the county and~~  
25 ~~not within the boundary of another municipality through the~~  
~~extraterritorial land use commission that shall make~~

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1 ~~recommendations to the extraterritorial land use authority]~~ in  
 2 the unincorporated area of the county.

3 C. If territory not lying within the boundary of a  
 4 municipality is within the planning and platting jurisdiction  
 5 of more than one municipality, the planning and platting  
 6 jurisdiction of each municipality shall terminate equidistant  
 7 from the boundary of each municipality unless one municipality  
 8 has a population of [~~less~~] fewer than two thousand five hundred  
 9 persons and another municipality has a population of more than  
 10 two thousand five hundred persons according to the most recent  
 11 census. Then the planning and platting jurisdiction of the  
 12 municipality having the greatest population extends to such  
 13 territory."

14 Section 4. Section 3-21-2 NMSA 1978 (being Laws 1965,  
 15 Chapter 300, Section 14-20-2, as amended) is amended to read:

16 "3-21-2. JURISDICTION OF A COUNTY OR MUNICIPAL ZONING  
 17 AUTHORITY.--To carry out the purposes of Sections 3-21-1  
 18 through 3-21-14 NMSA 1978:

19 A. a county zoning authority may adopt a zoning  
 20 ordinance applicable to all or any portion of the territory  
 21 within the county that is not within the zoning jurisdiction of  
 22 a municipality:

23 B. a municipal zoning authority may adopt a zoning  
 24 ordinance applicable to the territory within the municipal  
 25 boundaries and, if not within a class A county with a

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2525763

*one-hundred twenty-five thousand*

1 population of more than ~~three hundred thousand~~ persons  
 2 according to the last federal decennial census, shall have  
 3 concurrent authority with the county to zone all or any portion  
 4 of the territory within its extraterritorial zoning  
 5 jurisdiction [~~which~~] that is within:

6 [~~(1)~~] ~~three miles of the boundary of any~~  
 7 ~~municipality having a population of two hundred thousand or~~  
 8 ~~more persons, provided such territory is not within the~~  
 9 ~~boundary of another municipality;~~

10 ~~(2)~~] (1) two miles of the boundary of any  
 11 municipality having a population of twenty thousand or more  
 12 [~~but less than two hundred thousand~~] persons, provided such  
 13 territory is not within the boundary of another municipality;

14 [~~(3)~~] (2) one mile of the boundary of any  
 15 municipality having a population of one thousand five hundred  
 16 or more but less than twenty thousand persons, provided such  
 17 territory is not within the boundaries of another municipality;

18 [~~(4)~~] (3) the limits of the boundaries of a  
 19 municipality having a population of one thousand five hundred  
 20 persons or less; or

21 [~~(5) if~~] (4) territory not lying within the  
 22 boundary of a municipality [~~is~~] but within the extraterritorial  
 23 jurisdiction of more than one municipality; provided that the  
 24 extraterritorial zoning jurisdiction of each municipality shall  
 25 terminate equidistant from the boundary of each municipality

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1 unless one municipality has a population according to the most  
 2 recent federal decennial census of less than two thousand five  
 3 hundred and another municipality has a population according to  
 4 the most recent federal decennial census of more than two  
 5 thousand five hundred, [~~Then~~] in which case the  
 6 extraterritorial zoning jurisdiction of the municipality having  
 7 the greatest population extends to such territory; and  
 8 [~~(6) such areas~~] (5) territory in addition to  
 9 the extraterritorial zoning jurisdiction provided by Paragraphs  
 10 (1), (2), (3) and (4) [~~and (5)~~] of this subsection that the  
 11 governing bodies of a county and a municipality agree to place  
 12 within the extraterritorial zoning jurisdiction of the  
 13 municipality by agreement entered into pursuant to the  
 14 provisions of the Joint Powers Agreements Act, provided such  
 15 additional territory is not within the boundary of another  
 16 municipality and is contiguous to the exterior boundaries of  
 17 the territory within the extraterritorial zoning jurisdiction  
 18 of the municipality;

19 C. concurrent authority shall be exercised pursuant  
 20 to an extraterritorial zoning authority or joint powers  
 21 agreement; provided, however, this authority may be exercised  
 22 regardless of whether a county has enacted a comprehensive  
 23 zoning ordinance; and

24 D. in the absence of a county zoning ordinance, a  
 25 qualified elector may file a petition, signed by the qualified

underscored material = new  
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1 electors of the county equal in number to not less than twenty-  
 2 five percent of the votes cast for the office of governor at  
 3 the last preceding general election, seeking the adoption of a  
 4 zoning ordinance by the county zoning authority. Within one  
 5 year of the filing of the petition seeking the adoption of a  
 6 county zoning ordinance, the board of county commissioners  
 7 shall adopt a county zoning ordinance."

8 Section 5. Section 3-21-3.2 NMSA 1978 (being Laws 1998,  
 9 Chapter 42, Section 5, as amended) is amended to read:

10 "3-21-3.2. EXTRATERRITORIAL ZONING IN CLASS A  
 11 COUNTIES--PROCEDURES.--

12 A. In a class A county in which a municipality is  
 13 located that has a population of:

14 (1) more than <sup>Sixty thousand</sup> ~~three hundred thousand~~ persons

15 [~~concurrent extraterritorial zoning jurisdiction between that~~  
 16 ~~municipality and the county shall be determined by an~~  
 17 ~~"extraterritorial land use authority". The extraterritorial~~  
 18 ~~land use authority shall have the jurisdiction and powers of an~~  
 19 ~~extraterritorial zoning authority and shall carry out its~~  
 20 ~~duties related to planning and platting jurisdiction.~~  
 21 ~~extraterritorial zoning, subdivision approval and annexation~~  
 22 ~~approval or disapproval as provided in the Municipal Code. The~~  
 23 ~~extraterritorial land use authority shall consist of four~~  
 24 ~~county commissioners appointed by the board of county~~  
 25 ~~commissioners and three city councilors or two city councilors~~

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1 ~~and the mayor appointed by the municipality. Alternates to the~~  
 2 ~~extraterritorial land use authority shall be appointed by the~~  
 3 ~~board of county commissioners from among the remaining county~~  
 4 ~~commissioners and by the municipality from among the remaining~~  
 5 ~~city councilors. The alternates shall be notified prior to a~~  
 6 ~~meeting of the extraterritorial land use authority if an~~  
 7 ~~appointed member cannot attend. When replacing a member, an~~  
 8 ~~alternate shall have the same duties, privileges and powers as~~  
 9 ~~other appointed members] according to the last federal~~  
 10 ~~decennial census, there shall be no extraterritorial zoning; or~~  
 11 (2) <sup>Six thousand</sup> ~~three hundred thousand~~ or fewer people,  
 12 concurrent extraterritorial zoning jurisdiction between that  
 13 municipality and the county may be determined by an  
 14 "extraterritorial land use authority" pursuant to ordinances  
 15 adopted by the municipal and county governing bodies stating  
 16 that the county or municipality will create an extraterritorial  
 17 land use authority [~~with the composition, jurisdiction and~~  
 18 ~~powers set forth in Paragraph (1) of this subsection]. The~~  
 19 ~~extraterritorial land use authority shall have the jurisdiction~~  
 20 ~~and powers of an extraterritorial zoning authority and shall~~  
 21 ~~carry out its duties related to planning and platting~~  
 22 ~~jurisdiction, extraterritorial zoning, subdivision approval and~~  
 23 ~~annexation approval or disapproval as provided in the Municipal~~  
 24 ~~Code. The extraterritorial land use authority shall consist of~~  
 25 ~~four county commissioners appointed by the board of county~~

.146352.1

1 commissioners and three city councilors or two city councilors  
 2 and the mayor appointed by the municipality. Alternates to the  
 3 extraterritorial land use authority shall be appointed by the  
 4 board of county commissioners from among the remaining county  
 5 commissioners and by the municipality from among the remaining  
 6 city councilors. The alternates shall be notified prior to a  
 7 meeting of the extraterritorial land use authority if an  
 8 appointed member cannot attend. When replacing a member, an  
 9 alternate shall have the same duties, privileges and powers as  
 10 other appointed members.

11 B. The extraterritorial zoning commission in a  
 12 class A county shall be known as the "extraterritorial land use  
 13 commission" if it is formed by

14 [~~(1) a class A county and a municipality that~~  
 15 ~~has a population of more than three hundred thousand people and~~  
 16 ~~that is located within that class A county; or~~

17 ~~(2)] a municipality and a class A county that~~  
 18 have adopted ordinances pursuant to Paragraph (2) of Subsection  
 19 A of this section stating that the county and municipality will  
 20 create an extraterritorial land use authority.

21 C. The extraterritorial zoning commission shall be  
 22 composed of five members of the county planning commission  
 23 appointed by the board of county commissioners and five members  
 24 of the environmental planning commission of the municipality  
 25 appointed by the city council. Alternates to the

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NOTE: As provided in LFC policy, this report is intended only for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used for other purposes.

The most recent FIR version (in HTML & Adobe PDF formats) is available on the Legislative Website. The Adobe PDF version includes all attachments, whereas the HTML version does not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

2525768

SPONSOR: SCONC DATE TYPED: 03/06/03 HB \_\_\_\_\_

SHORT TITLE: Class A County Extraterritorial Zoning SB 241/SCONCS

ANALYST: Kehoe

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

**SOURCES OF INFORMATION**

Attorney General's Office (AGO)  
New Mexico State Land Office (SLO)

**SUMMARY**

Synopsis of Committee Substitute

Senate Conservation Committee Substitute for Senate Bill 241 relates to the extraterritorial powers of municipalities in a Class A county with more than 300,000 persons.

Significant Issues

Senate Conservation Committee Substitute for Senate Bill 241 would prohibit a municipality from annexing territory within the boundary of another municipality or territory within a Class A county with a population of more than 300,000 persons unless approved by the Board of County Commissioners for that county. This bill primarily affects Bernalillo County and the City of Albuquerque, the only Class A county in the state with a population over three hundred thousand persons. The bill also eliminates the City of Albuquerque's planning and platting jurisdiction in the unincorporated area of Bernalillo County.

The bill requires that a petition seeking the annexation of territory contiguous to a municipality located in a Class A county with a population of less than three hundred thousand persons be presented to the city council and be accompanied by a map that shows the external boundary of the territory proposed to be annexed and the relationship of the territory proposed to be annexed

to the existing boundary of the municipality. Current law requires this procedure for municipalities with populations of over two hundred thousand persons.

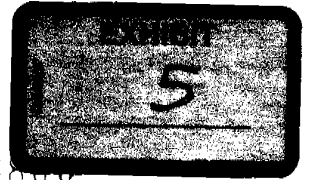
This bill changes the composition of the extraterritorial land use authority to consist of four county commissioners appointed by the board of county commissioners and three city councilors or two city councilors and the mayor of the municipality. Alternates to the extraterritorial land use authority are to be appointed by the board of county commissioners from among the remaining county commissioners and by the municipality from the remaining city councilors. If an appointed member is unable to attend a meeting, the bill requires that an alternate be notified prior to the meeting and that the alternate attending a meeting on behalf of the member have the same duties, privileges and powers as appointed members.

LMK/prr

2525769

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1108800



AGREEMENT TO DELIVER WATER

This ~~Agreement~~ is entered into by and between the City of Santa Fe, New Mexico, acting ~~by~~ and through its City Council ("the City"), the County of Santa Fe, New Mexico, acting by and through its Board of County Commissioners ("the County"), and the Santa Fe County Water Company, a New Mexico non-profit corporation (~~the~~ "the Company"), this 10 day of August, 1994.

WHEREAS, the City is in the process of acquiring the assets and business of Sangre de Cristo Water Company ("SDCW"), constituting the water utility that serves the City of ~~Santa~~ Fe and certain adjacent areas; and

WHEREAS, the Company is a private, non-profit corporation organized by the County exclusively for the public benefit, and is not a governmental entity or political subdivision of the State of New Mexico; and

WHEREAS, the County has established the Company as a water utility to serve an area located south of the City, and possibly other areas; and

WHEREAS, at the outset of its operations, the Company will not have an independent source of supply for the water to be delivered to its customers, but the County and the Company will exercise diligent efforts to establish an independent source of supply within ten years; and

WHEREAS, the City and the County, by a document entitled "City and County Negotiating Committee Report and Recommendations for Extension of Water Service and Water Delivery," dated December 15, 1993 ("Report and Recommendations"), which Report and Recommendations were approved and adopted by the County on December 14, 1993, and by the City on February 23, 1994, have agreed that the City

will deliver water to a County water utility through the SDCW water system when such system is owned by the City at two delivery points, subject to certain Contractual Conditions for Delivery of Water set forth in the Report and Recommendations at pp. 7-8 ("the Contractual Conditions"); and

WHEREAS, the City has accepted that the Company is the County water utility referred to in the Report and Recommendations;

NOW THEREFORE, the parties hereto hereby agree as follows:

1. The City and the County agree that the Company shall share fully all of the rights and obligations of the County under the Report and Recommendations, including the Contractual Conditions thereof, and that any action by or directed to the Company shall constitute such action by or directed to the County for purposes of such Agreement, provided, that in the event the Company defaults in any respect, the City shall have the option to exercise any remedies it may have against either the County or the Company or both, at the City's option.

2. The parties agree that the Company shall pay a delivery charge in accordance with the terms of the rate provided for in SDCW's 3rd Revised Rate No. 6 denominated "Large Commercial Service" ("Large Commercial Rate") and that the Large Commercial Rate constitutes a fair and reasonable charge for delivery of water by the City to the Company at the delivery points set forth in the Report and Recommendations, and the Company agrees to pay the amounts required under the Large Commercial Rate, for all water delivered as shown by master meters installed at the delivery points, monthly, on receipt of invoices from the City. The City

reserves the right to review the delivery charge specified in this Agreement at any time after the first five (5) years of this Agreement.

2525772

3. In addition to the Large Commercial Rate delivery charge set forth in Paragraph 2 of this agreement, the Company also agrees to pay to the City a monthly rental charge for the Company's pro rata use of the water storage and transmission facilities that constitute additions to the present SDCW water utility system to the extent those additional facilities are necessary to deliver the water to the Company at the two points provided for in the Report and Recommendations once these additional facilities have been constructed and are in place, and the parties agree that this Agreement shall be amended to reflect the agreed upon rental charge once such facilities have been constructed and are in place and available for use by the Company.

4. The Company shall be fully responsible for construction of facilities to take delivery of water from the City at two delivery points described on page 5 of the Report and Recommendations, and for installation of master meters to measure the water delivered at such points, and such facilities shall be constructed in accordance with standards compatible with those of the City water utility.

5. The City shall furnish water at a reasonably constant pressure at the two designated delivery points. If a different pressure than that normally available at the point of delivery is required by the Company, the cost of providing such different pressure shall be borne by the Company. Emergency failures of pressure or supply due to main supply breaks, power failure, flood fire, and use of water to fight fire,

earthquake or other catastrophe shall excuse the City from this provision for such reasonable period of time as may be necessary to restore service. **2525773**

6. Upon installation of master meters and related equipment by the Company in a manner acceptable by the City, the City shall maintain the meters and related equipment for properly measuring the quantity of water delivered to the Company and shall calibrate such measuring equipment whenever requested by the Company but not more frequently than once every twelve (12) months. A meter registering not more than two percent (2%) above or below the test result shall be deemed to be accurate. The previous readings of any meter disclosed by test to be inaccurate shall be corrected for the appropriate months previous to such test in accordance with the percentage of inaccuracy found by such tests. If any meter fails to register for any period, the amount of water furnished during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless the City and the Company shall agree upon a different amount. The metering equipment shall be read on a monthly basis. An appropriate official of the Company at all reasonable times shall have access to the meters for the purpose of verifying its readings.

7. The City shall, at all times, operate and maintain its system in an efficient manner and shall take such action as may be necessary to furnish the Company with quantities of water required by the Company. Temporary or partial failures to deliver water shall be remedied with all possible dispatch. In the event of an extended shortage of water, or the supply of water available to the City is otherwise diminished

over an extended period of time, the supply of water to the Company shall be reduced or diminished in the same ratio or proportion as the supply to the City's other consumers is reduced or diminished.

8. The Company shall notify the City in writing, no less than 90 days prior<sup>2525774</sup> to the date on which the Company desires delivery of water to commence under the provisions of this Agreement, and shall specify the quantity of water expected to be required on a daily, weekly and monthly basis for the first six months of contemplated deliveries. Thereafter, the Company shall notify the City at least 30 days in advance of any anticipated change in required monthly deliveries amounting to ten (10) percent or more of the highest monthly delivery levels occurring prior to the date upon which notification is received by the City.

9. In the event the City's acquisition of the SDCW water utility system has not been concluded by April 1, 1995, and the City has not abandoned its efforts to acquire SDCW's water utility system, the City shall utilize its best efforts to obtain from SDCW agreement to provide delivery of water under the terms set forth herein.

10. In all other respects, the Contractual Conditions contained in the Report and Recommendations are reaffirmed and hereby incorporated herein by this reference, and the Company agrees that any and all obligations of the County thereunder are equally obligations of the Company.

11. The City, County and Company agree that the provisions of paragraphs 2 through 8 shall apply only after the City has obtained the necessary approvals from the New Mexico Public Utility Commission and completed its acquisition of SDCW's

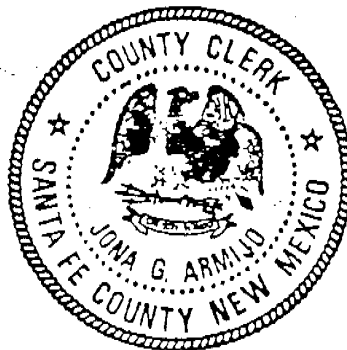
water utility assets.

12. The term of this agreement shall be for ten (10) years from the date that the City has obtained necessary approvals from the New Mexico Public Utility Commission and has closed the acquisition of SDCW's water utility assets.

2525775

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COUNTY OF SANTA FE <sup>883-031</sup>  
 STATE OF NEW MEXICO  
 I hereby certify that this instrument was filed for record on the 27 day of April A.D. 1994 at 11:31 o'clock A.m. and was duly recorded in book 1108 page 800 of the records of Santa Fe County.  
 806 Witness my Hand and Seal of Office  
 Jona G. Armijo  
 County Clerk, Santa Fe County, N.M.  
*J. Armijo*  
 Deputy





1108806

CITY OF SANTA FE

By: *Roberto Aguilar*  
Mayor

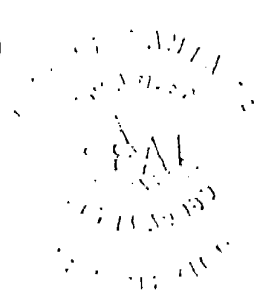
APPROVED AS TO FORM:

*Gerald Gonzalez*  
GERALD GONZALEZ  
City Attorney

2525776

ATTEST:

*Frances Romero Griffin*  
FRANCES ROMERO GRIFFIN  
City Clerk



COUNTY OF SANTA FE

By: *Linda Brul*  
CHAIRPERSON, BOARD OF COUNTY  
COMMISSIONERS

SANTA FE COUNTY WATER COMPANY

By: *Raymond H. Plouffe*  
CHAIRMAN, BOARD OF DIRECTORS

GTEGK-CT-CITY.WT8



Attest

*Jana P. Combs* 9-15-44  
County Clerk

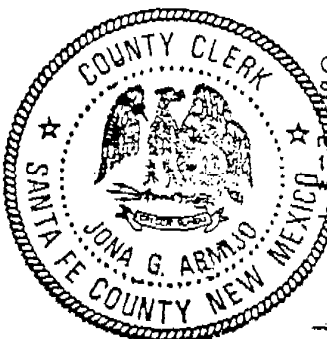
1113296

**SANTA FE COUNTY  
WATER COMPANY**  
P.O. Box 276  
Santa Fe, New Mexico  
87504-0276

October 13, 1994

2525777

Board of County Commissioners  
County of Santa Fe  
Post Office Box 276  
Santa Fe, New Mexico 87504-0276



884,640  
COUNTY OF SANTA FE )S:9  
STATE OF NEW MEXICO )  
I hereby certify that this instrument was filed for  
record on the 14 day of Nov A.D.  
1994 at 11:20 o'clock a.m. and  
was duly recorded in book 1113 page  
296 of the records of Santa Fe County.  
Witness my Hand and Seal of Office  
Jona G. Armijo  
County Clerk, Santa Fe County, NM  
Theronea Clayton  
Deputy


Re: Letter of Acceptance

Dear County Commissioners:

On behalf of the Santa Fe County Water Company, and in accordance with Section 24 of the Santa Fe County Water Company Franchise Ordinance, Ordinance No. 1994-5, adopted by the Board of County Commissioners on September 13, 1994, I am writing to inform you that the Board of Directors of the Santa Fe County Water Company accepts the Franchise Ordinance as adopted by the Board of County Commissioners, as a contract by and between the Board and the Company.

Sincerely yours,

Raymond Chavez  
Raymond Chavez, Chairman  
Board of Directors  
Santa Fe County Water Company

  
OFFICIAL SEAL  
VIRGINIA G. VALDEZ  
NOTARY PUBLIC - STATE OF NEW MEXICO  
My Commission Expires 3-18-95

3737/JRWH0260

The foregoing Instrument was acknowledged before me this 14th day of Nov. 1994  
By Raymond Chavez Board of Directors.

AMENDMENT #1 TO  
AGREEMENT TO DELIVER WATER

2525778

6

THIS AMENDMENT #1 (the "Amendment") to the AGREEMENT TO DELIVER WATER, dated August 10, 1994 (the "Agreement"), is between the City of Santa Fe, New Mexico, acting by and through its Governing Body (the "City"), the County of Santa Fe, New Mexico, acting by and through its Board of County Commissioners ("the County"), and the Santa Fe County Water Company, a New Mexico non-profit corporation ("the Company"). Capitalized terms used, but not defined by this Amendment, have the meanings given to them in the Agreement.

For good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City, the County and the Company agree as follows:

1. Paragraph 3 of the Agreement is amended to increase the points of delivery of the water to the Company, from two points to three points, so that Paragraph 3 reads in its entirety as follows:

3. In addition to the Large Commercial Rate delivery charge set forth in Paragraph 2 of this Agreement, the Company also agrees to pay to the City a monthly rental charge for the Company's pro rata use of the water storage and transmission facilities that constitute additions to the present SDCW water utility system to the extent those additional facilities are necessary to deliver the water to the Company at the two points provided for in the Report and Recommendations, and the third point set forth on the attached Exhibit "A", once these additional facilities have been constructed and are in place, and the parties agree that this Agreement shall be amended to reflect the agreed upon rental charge once such facilities have been constructed and are in place and available for use by the Company.

2. Paragraph 4 of the Agreement is amended to increase the points of delivery described on page 5 of the Report and Recommendations, from two points to three points, so that Paragraph 4 reads in its entirety as follows:

4. The Company shall be fully responsible for construction of facilities to take delivery of water from the City at two delivery points described on page 5 of the Report and Recommendations, and the third point as set forth on the attached Exhibit "A", and for installation of master meters to measure the water delivered at such points, and such facilities shall be constructed in accordance with standards compatible with those of the City water utility.

2525779

3. Paragraph 5 of the Agreement is amended to increase the designated delivery points wherein the City shall furnish water, from two designated delivery points to three designated delivery points, so that Paragraph 5 reads in its entirety as follows:

5. The City shall furnish water at a reasonably constant pressure at the three designated delivery points. If a different pressure than that normally available at the point of delivery is required by the Company, the cost of providing such different pressure shall be borne by the Company. Emergency failures of pressure or supply due to main supply breaks, power failure, flood fire, and use of water to fight fire, earthquake or other catastrophe shall excuse the City from this provision for such reasonable period of time as may be necessary to restore service.

4. Paragraph 10 of the Agreement is amended to incorporate the Report and Recommendations as Exhibit "B" to the Agreement, instead of by reference, such Exhibit "B" is also attached to this Amendment. Accordingly, Paragraph 10 is amended to read in its entirety as follows:

10. In all other respects, the Contractual Conditions contained in the Report and Recommendations are reaffirmed and hereby incorporated herein and referred to as Exhibit "B", and the Company agrees that any and all obligations of the County thereunder are equally obligations of the Company.

5. AGREEMENT IN FULL FORCE. Except as specifically provided in this Amendment, the Agreement remains and shall remain in full force and effect, in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this Amendment #1 to the  
AGREEMENT TO DELIVER WATER effective this 12<sup>th</sup> day of July, 1995.

CITY OF SANTA FE:

Debbie Jaramillo  
DEBBIE JARAMILLO, MAYOR

ATTEST:

Yolanda Y. Vigil  
YOLANDA Y. VIGIL, CITY CLERK

2525780

APPROVED AS TO FORM:

Marylz Geepert  
MARYLZ GEEPERT, DEPUTY CITY ATTORNEY

COUNTY OF SANTA FE

Richard D. Arroyo  
CHAIRPERSON, BOARD OF COUNTY COMMISSIONERS 9/12/95

ATTEST:

Jona S. Armiijo  
JONA S. ARMIJO, COUNTY CLERK

SANTA FE COUNTY WATER CO.

J.P. Freeman  
CHAIRMAN, BOARD OF DIRECTORS

ATTEST:

Jona S. Armiijo  
JONA S. ARMIJO, COUNTY CLERK

APPROVED AS TO FORM:

Stephen Kopelman  
STEPHEN KOPELMAN, COUNTY ATTORNEY

D:\46183\AMMEND\WAT DEL



December 15, 1993

CITY AND COUNTY NEGOTIATING COMMITTEE REPORT  
AND RECOMMENDATIONS FOR  
EXTENSION OF WATER SERVICE AND WATER DELIVERY

PREAMBLE

2525781

It is the City's position that the water system presently serving the Santa Fe area is one which has physical limits and which is dealing with a finite natural resource. These physical limitations may be overcome in time.

Nevertheless, it is the intent of the City to manage the water system so that long-term commitments to provide water service within a given geographical area are consistent with the physical limitations of the system.

Therefore, expansion of the geographic service area (regardless of how distribution occurs) must be accompanied with evidence that the source of supply, transmission, treatment and distribution elements of the water system are adequate or will be made adequate to meet the additional long-term requirements brought on by expansion.

It is the City's intent to create a management system that incorporates, at a minimum, representation from the City and County.

## WATER EXTENSIONS

### POLICY OBJECTIVE FOR WATER EXTENSIONS

This policy affects how the City shall deal with requests for extensions of the municipal water system beyond the system's present limits. The City would extend service in a form that is substantially equal or similar to that provided within the present service limits.

2525782

### PRESENT LIMITS OF THE WATER SYSTEM

The present limits of the water system are recognized to be a composite of the following:

1. The entire area within the corporate limits as they exist today or may be changed in the future.
2. The area described as Southwest Sector Stage One in the Southwest Sector Plan. This area is generally bounded on the north by the Santa Fe River, the west by San Felipe Road, the east by Richards Avenue and the south by the City's Urban Area Boundary (also known as the gravity sewer service area boundary). The area specifically excludes an area identified as Agua Fria Village.
3. The 19 water service area boundary extensions which have been approved to-date by the City and the County.

### AREA FOR EXTENSION OF CITY SERVICE

The City's current General Plan envisions the potential for urban type densities and services (including utility services) within an area described as the Urban Area. This Urban Area is defined by the gravity sewer boundary of the Airport Treatment Plant. Generally, the approved water service extensions exist within that Urban Area.

The City recognizes that it is reasonable to provide service within the Urban Area boundary to those areas not already within the Service Area described above. It is within this larger area that the City would consider extensions of water service.

### CONDITIONS FOR EXTENSIONS OF CITY WATER SERVICE

The City would favorably consider the extension of water service under the following conditions:

2525783

1. The applicant provides permanent consumptive water rights dedicated to the City for the purpose of meeting the projected demand at full development.
2. The extension of service is economically feasible and can pay its own way in accordance with adopted City regulations. At a minimum, the applicant would be required to pay the following:
  - A. All costs of extension beyond the point of connection to the City system; and
  - B. Any initial capital cost for retrofitting of the core system that may be necessary to deliver additional quantities of water at a point on the periphery of the City system.
3. In developments where water service is extended, real estate covenants are adopted which shall prohibit the use of private wells drilled after water service has been provided by the City. (It is also recommended that the City examine adopting ordinances requiring similar covenants within the City boundaries.)
4. The area requesting service shall be contiguous to the existing service area.
5. For bona fide affordable housing projects with income standards at or below the City's income standards, the City may not only choose to grant priority but may also provide water rights held or obtained by the City.
6. Priority for water service extensions will be given to developments which demonstrate substantial addition to the community's economic base, including but not limited to, the following areas:
  - A. Manufacturing
  - B. Science and technology
  - C. Traditional and artistic crafts
  - D. Accredited educational institutions
7. Water service may be extended where the development uses water conservation principles and demonstrates environmental sensitivity including but not limited to preservation of ridgetops and drainageways.
8. Water service may be extended to areas contiguous to the present service areas where there are demonstrable environ-



mental hazards to water.

2525784

9. The extension of service under these criteria is embodied in a development agreement adopted by the City's Governing Body.

#### APPROVAL PROCESS

The approval process shall be similar to that used for water service area boundary extensions (WSABEs) as follows:

1. The applicant shall consult with the City's water utility concerning the availability of service in the area desired.
2. The applicant shall then request concept approval by the City's Governing Body for the extension based on the preliminary analysis of the City's water utility.
3. The applicant shall then obtain the requisite land use approvals from the Extraterritorial Zoning Commission and, if necessary, the Extraterritorial Zoning Authority and/or the Board of County Commissioners, as appropriate.
4. The applicant shall then return to the City's water utility with the land use approvals and request adoption of a development agreement with the City that incorporates all applicable terms and conditions concerning the provision of City services including the extension of water.

## WATER DELIVERY

2525785

### POLICY OBJECTIVE FOR DELIVERED WATER

This policy affects how the City shall deal with requests for delivery of water through a temporary contract arrangement in anticipation of Santa Fe County's plan to develop an independent water utility. Service by the City would be in a form that is substantially different from that provided within the present service limits.

### CITY CONSIDERATIONS

There are practical limitations to the expansion of the present City water system. The City supports the creation of a County water utility system so long as the County water system development is not at the cost of City tax or ratepayers.

The City is concerned that a temporary arrangement for water service can easily become a permanent one by default. This risk is especially exacerbated when the nature of the total demand or the time period involved is unknown or undefined.

The City supports the County of Santa Fe in its efforts to immediately begin to create a water utility. With this understanding the City would entertain requests received solely from a County utility operated by the County (directly or through a contractual relationship with a private non-profit corporation) to enter special contractual arrangements with the City for supply and delivery of water at certain points and for a specified period of time.

The City is concerned with ultimate liability for delivery of water and it desires to avoid leapfrog development of the City's water utility outside the existing service area until a County utility is formed that can meet and sustain development demands for water service outside the present City water service area.

### COUNTY CONSIDERATIONS

The County desires its water be delivered at two points. The two locations are generally in the vicinity of the IAIA and NM-14 at I-25 and within the area depicted in the Molzen Corbin design concept graphic depiction denominated "Attachment 2: Initial Phase Water System" and annexed to this document. The amount of water requested, including the balance of the County's San Juan-Chama water, is not to exceed 500 acre feet for a period of 5 years with

a County right of renewal for an additional 5 years.

2525786

The County intends to begin development of the system in the areas of the east-west line depicted by "Attachment 2: Initial Phase Water System" and annexed to this document.

The County believes it will become the owner of the north-south line along NM-14 that has been funded by the State to serve the Department of Corrections and the National Guard facility.

The County maintains there is no statutory limit as to where its San Juan-Chama water can be used and requests that the City respect County sovereignty on this issue. The County, however, will agree to the use of San Juan-Chama water in the northern portion of the South Sector service area but not limited to the EZ boundary.

The County will be able to serve customers in the vicinity of east-west or north-south alignments that have met all of the County's criteria of its approval process and can reasonably be served.

#### AREA FOR DELIVERED WATER SERVICE

Upon approval of this report and recommendations by both the City and the County and acquisition of the Sangre de Cristo Water Company's water system by the City, the City shall provide delivered water service as follows:

1. The City shall deliver water to a County utility operated by the County (directly or through a contractual relationship with a private non-profit corporation) at two points for use within that portion of the County system depicted in "Attachment 2: Initial Phase Water System". The following conditions shall apply until there is in place a looped delivery system between those points that is operated by the County utility and until the County has developed substantial plans for creating a separate source of supply and delivery:

A. County water rights equal to the contracted supply shall be held in escrow for the City's use and benefit in supplying water to the two points of use; and

B. The County shall provide water service through the two points only for the area north of the east-west line depicted in "Attachment 2: Initial Phase Water System".

2. If, at or before the end of ten years, the County has created a looped delivery system within the area depicted in "Attachment 2: Initial Phase Water System", then:

A. The City shall also relinquish to the County water rights (including San Juan-Chama and other encumbered water rights) in an amount equal to the annualized water

rights being used to serve IAIA, the National Guard and the Department of Corrections at the time of the City's relinquishment; and

B. The City shall relinquish to the County, at no additional cost to either the City or County, the facilities for serving water extensions required to be made by the City in response to the lawful orders of state regulatory bodies to areas outside the Extraterritorial Zone but within the area depicted in "Attachment 2: Initial Phase Water System" (such as extensions to IAIA, the National Guard and the Department of Corrections).

3. When the County has created a source of supply to serve its customers within the area depicted in "Attachment 2: Initial Phase Water System", then:

A. The water rights necessary to serve those customers shall be released from escrow to the County;

B. The City's obligation to provide delivered water service to serve those customers served by the County utility system shall cease; and

C. And in no case shall the City's obligations to provide delivered water service extend beyond ten years.

CONTRACTUAL CONDITIONS FOR DELIVERY OF WATER

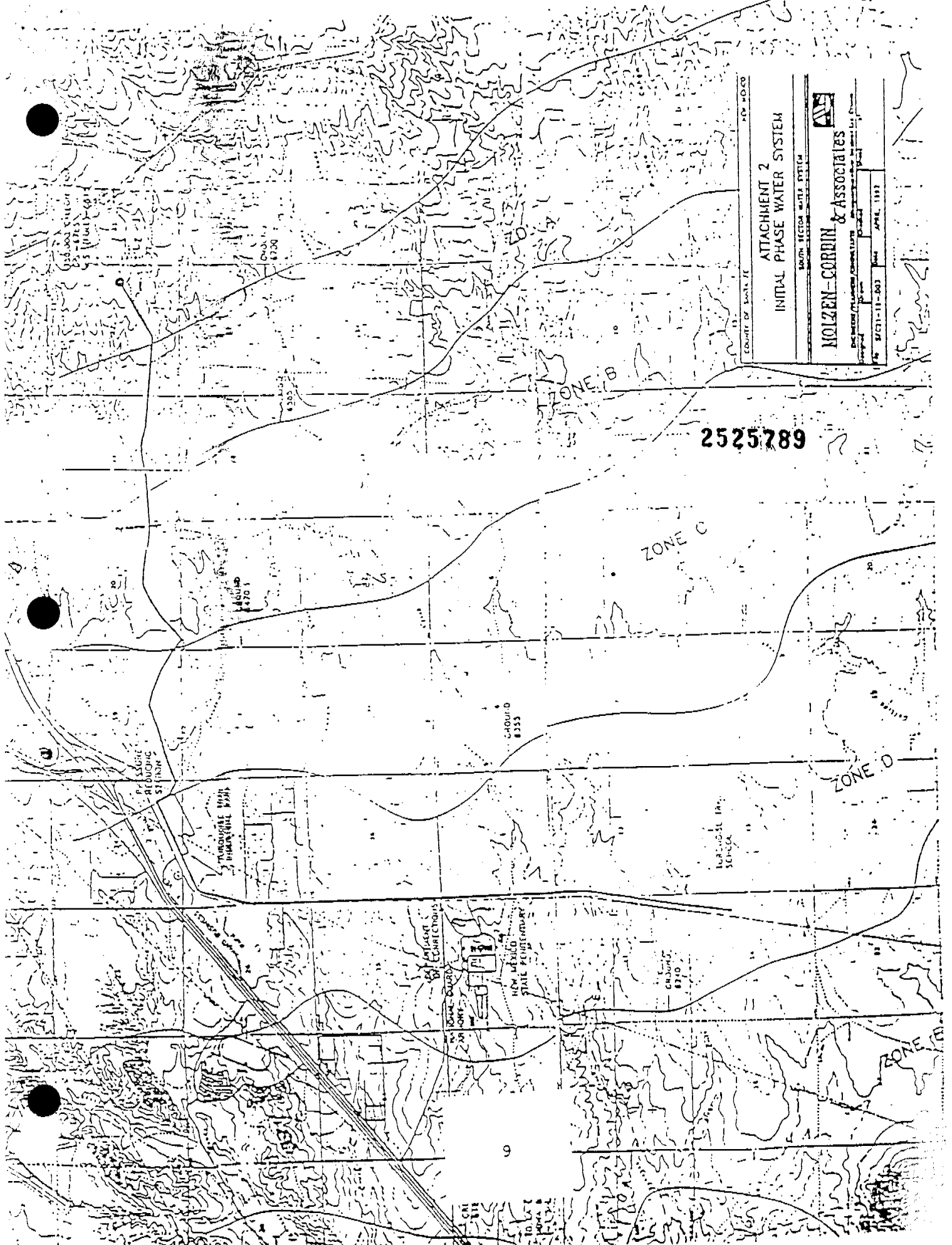
The contractual arrangements would be for a specific term and would require the following:

1. The County have a work program and schedule for completing its own separate supply and delivery system and make good faith efforts to accomplish the schedule.

2. Water rights equal to total contracted water diversion be transferred by the County to the City from the inception of the contract for the term of the contract or until the County creates its own separate supply and delivery system and ceases connection to the City system; provided, however, that if, at the end of ten years, the County has not created a looped delivery system within the area depicted in "Attachment 2: Initial Phase Water System", the water rights necessary to serve the current hookups to which the County utility had been providing service, as well as any approved developments, shall be released to the City.

3. The County pay for all costs of extensions at and beyond the point of connection to the City system.

4. The County pay on an annual basis for any initial capital cost for any retrofitting of the core system that may be reasonably necessary to deliver the additional quantities of water to the County's two points of use.
5. The County shall pay for delivery of water pursuant to an appropriate tariff incorporating all incremental costs for delivering the water to the County; provided, however, that the tariff shall be designed by a qualified independent rate design consultant, the cost of which consultant shall be borne equally by the City and the County.
6. Any flow charge associated with the contractual arrangement shall include the amount attributed to the differential charge calculations including differential costs of supply and treatment.
7. Provision shall be made for equitable reduction of flow in the event of a water shortage.
8. The City shall be explicitly released from any liability for providing water beyond the term of the contract.
9. The interim nature of this water arrangement be explicitly recognized in any land use approvals that may follow.
10. The delivery system using water supplied by the City shall be constructed to standards compatible with that of the City water utility.



2525789

ATTACHMENT 2  
INITIAL PHASE WATER SYSTEM

100% DESIGN WATER SYSTEM

**MOLZEN-CORBIN & ASSOCIATES**

INCORPORATED

100% DESIGN WATER SYSTEM

APRIL 1983

Harry B. Montoya  
Commissioner, District 1

Paul Duran  
Commissioner, District 2

Michael D. Anaya  
Commissioner, District 3



Estevan R. Lopez  
County Manager

**MEMORANDUM**  
Subject to Lawyer-Client Privilege

To: Gerald T.E. González, County Manager

From: Steven Kopelman, County Attorney *SK*

2525790

Re: Rancho Viejo Well

Date: March 6, 2003

---

This memorandum is in response to Commissioner Sullivan's request for an opinion from the County Attorney's Office concerning whether the expenditure of funds by Santa Fe County (the "County") for testing and analyzing the production and sustainability of a well (the "Well") owned by Rancho Viejo de Santa Fe, Inc. ("Rancho Viejo") violates the antidonation clause of the New Mexico Constitution. For the reasons discussed below, it is this office's opinion that such expenditure does not violate the antidonation clause.

The antidonation clause contained in Article IX, Section 14 of the Constitution prohibits a county from making any donation to or in aid of any person, association or public or private corporation. Expenditure of public funds for private purposes is the essence of a donation. In contrast, the expenditure of public funds to perform a governmental function for the benefit of the public will not constitute an unlawful donation. Village of Deming v. Hosdreg Co., 62 N.M. 18, 303 P.2d 920 (1956). Generally, New Mexico courts have found violations of the antidonation clause whenever the state or local governments have made outright gifts of money or property to, or have effectively aided, private persons or organizations and relieved them of monetary obligations they would otherwise have to meet. See, e.g., Chronis v. State ex rel. Rodriguez, 100 N.M. 342, 670 P.2d 953 (1983) (tax credit to liquor licensees against taxes owed was an unconstitutional subsidy of the liquor industry); State ex rel. Mechem v. Hannah, 62 N.M. 110, 314 P.2d 714 (1957) (appropriation by state to pay share of emergency feed certificates issued to livestock owners for the purchase of hay was an unconstitutional subsidy of livestock industry).

The situation presented here involves the County's proposal to do some testing and analysis of the production and sustainability of the Well, which well is privately owned. Rancho Viejo has offered the County access and use of the Well during 2003 to help alleviate the potential drought situation, at no charge. See letter dated March 3, 2003, from Robert G. Taunton, Vice President and General Manager of Rancho Viejo, to Gary Roybal, the County's Utility Director, attached to this memo. Accordingly, it appears

reasonable for the County to take steps to evaluate the capacity and sustainability of the Well prior to considering whether to accept Rancho Viejo's offer. As such, the County's work will not violate the antidonation clause since there **clearly is a public benefit in doing this preliminary work**. Any benefit to Rancho Viejo is incidental, and would not cause the County's work to run afoul of the State Constitution.

Please give me a call if you have any questions or comments on this matter.

2525791





**RANCHO VIEJO**

A MUNCOR COMMUNITY

March 3, 2003

Mr. Gary Roybal  
Utility Director  
Santa Fe County  
P.O. Box 276  
Santa Fe, NM 87504

2525792

RE: Emergency Use of the Rancho Viejo Well


Dear Gary:

At your request, I am writing once again to offer the County access and use of the Rancho Viejo well during 2003 to help alleviate the potential drought conditions. The well is located at the southeast corner of Richards Avenue and Avenida del Sur. Rancho Viejo would not charge a fee for County use of the well for the emergency use.

If the County is desirous of accepting this offer, would the next step be for the County and Rancho Viejo to sign a memorandum of understanding as was done in May of 2002? Please advise me as to the process.

Rancho Viejo is pleased to assist the County with finding solutions to the possible drought conditions which lie ahead.

Sincerely,



Robert G. Taunton  
Vice President & General Manager

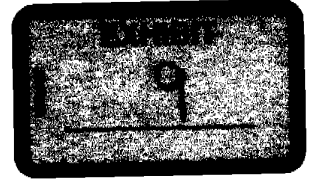
cc: Chuck Dumars  
Steve Kopelman, County Attorney

RANCHO VIEJO DE SANTA FE, INC. PO BOX 4458 SANTA FE, NM 87502

GENERAL OFFICE: 1590-B PACHECO STREET SANTA FE, NM 87505 505.983.6921 FAX 505.983-5237

HOME BUILDING CENTER: 29 CANADA DEL RANCHO SANTA FE, NM 87508 FAX 505.473.7757

SALES CENTER: 128 EAST CHILI LINE ROAD SANTA FE, NM 87508 505.473.7700 TOLL FREE 888.707.5454 FAX 505.473.7711



Bishop's Lodge Estates Homeowners' Association—Architectural Control Committee

March 5, 2003

2525793

Mr. John Calvin  
733 Chavez Road, NW  
Albuquerque, NM 87107  
Fax: 505-343-1823

Dear Mr. Calvin:

The Committee has approved your plans submitted February 27, 2003 and driveway plans from Bohannon-Huston dated 3/5/02, subject to the following conditions:

1. The requirements of the TDRC must be resolved and/or implemented before construction may proceed.
2. In addition, the Committee requires that you and the applicants agree to erect a construction fence separating the construction site from the 25' setback space along the northern border of the property.
3. Furthermore, the Committee requires you to provide a written statement by a licensed surveyor, certifying that all footings for the house are located in compliance with the approved plans.

Enclosed with this letter is a copy of the Bishop's Lodge Estates construction guidelines.

Lastly, to insure compliance with plans, the Committee reserves the right to have the construction project inspected periodically.

Sincerely,

Paul Golding  
Acting Chairman  
33 Lamy Drive  
Santa Fe, NM 87506  
988-9582  
Fax: 988-7360  
Cc. Katherine and David Roe, PO Box 4042, Santa Fe, NM 87502-4042



March 5, 2003

2525794

Architectural Control Committee  
Bishop's Lodge Estates  
Mr. Paul Golding  
33 Lamy Drive  
Santa Fe, NM 87506

Re: TDRC Case # V 02-5211  
Lot 19 Bishop's Lodge Estates

Dear Mr. Golding:

Thank you for your letter of approval for the above referenced project. We do agree to:

1. Erect a construction fence separating the construction site from the 25' setback space along the northern border of the property.
2. Provide the Committee with a written statement by a licensed surveyor certifying that all footings for the house are located in compliance with the approved plans.

In regard to my conversation with you this morning explaining in detail the parapet elevations that you questioned, we both understood from the conversation that the architect from your Architectural Control Committee did not understand how to read the plans and resulted in your letter of yesterday disapproving them.

It is my sincere hope that if you have questions like this in the future, you will feel free to call me so these sorts of questions may be answered in advance of your decision-making.

Respectfully yours,

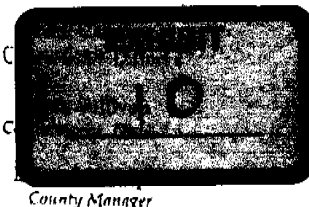
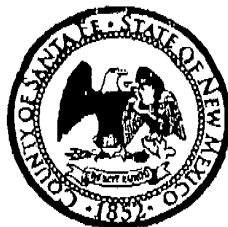
John R. Calvin

JRC/nmb

Marcos P. Trujillo  
Commissioner, District 1

Paul Duran  
Commissioner, District 2

Javier M. Gonzales  
Commissioner, District 3



County Manager

# Santa Fe County Fire Department

## Fire Prevention Division

Planning/Development Review Unit

March 11, 2003

Wayne Dalton, Case Manager  
Santa Fe County Land Use Department  
PO Box 276  
Santa Fe, New Mexico 87504-0276

2525795

John Calvin  
Lot #19 Bishops Lodge Estates  
Santa Fe, NM 87501

Dear Wayne;

**The Fire Prevention Division/Code Enforcement Bureau of the Santa Fe County Fire Department has reviewed the above submittal and requires compliance with applicable Santa Fe County fire and life safety codes, ordinances and resolutions as indicated:**

- **Roadways/Driveways**

Shall comply with Article 9, Section 902 - Fire Department Access of the 1997 Uniform Fire Code inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal. Driveways shall a minimum of 14 feet wide.

- **Slope/Road Grade**

Section 902.2.2.6 Grade (1997 UFC) *The gradient for a fire apparatus access road shall not exceed the maximum approved.*

Slope shall not exceed 11%.

Roads shall meet the minimum County standards for fire apparatus access roads within this type of proposed development. Final acceptance based upon the Fire Marshal's approval.

03/11/03

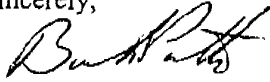
• #14 Fire Place • Santa Fe, New Mexico 87508 • 505-992-3070 • FAX: 505-992-3073

**Final Status**

Recommendation for this driveway submittal shall be approved by the Santa Fe County Fire Department with the above conditions applied.

Should you have any further questions, please do not hesitate to contact this office at 992-3075.

Sincerely,



Buster Patty, Captain

2525796

Through: Hank Blackwell, Fire Marshal/Asst Chief  
Cc: District Chief  
Regional Crews

File: Buster/Landuse/John Calvin/3-11-03

03/11/03

P. 03

FAX NO. 5059923073

MAR-11-2003 TUE 10:34 AM SF COUNTY FIRE DEPT