

SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS

COUNTY ADMINISTRATION BUILDING

REGULAR MEETING
(Public Hearing)
April 9, 2002 - 4:00 p.m.

Amended Agenda

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance
- IV. Invocation

approved
- V. Approval of Agenda, *aa*
A. Amendments
B. Tabled or Withdrawn Items

approved
VI. Approval of Minutes ~ *March 12, 2002*

VII. Matters of Public Concern – NON-ACTION ITEMS

VIII. Matters from the Commission:

IX. Consent Calendar:

A. Request Adoption of Findings of Fact and Conclusions of Law for the Following Land Use Cases:

- Tabled*
Need conditions
- 1. CDRC CASE # APP 01-5351 – Garcia Subdivision Appeal (Approved)
 - 2. CDRC CASE #V 01-5580 – Henry Romero Variance (Approved)
 - 3. CDRC CASE #V 01-5510 – Benny Zamora Variance (Approved)
 - 4. CDRC CASE #Z 01-5470 – Marianna Hatten Bed & Breakfast (Approved)
 - 5. CDRC CASE #Z 01-5550 – Eldorado Animal Clinic (Approved)
 - 6. EZ CASE #S 01-4680 – Tano Bonito Subdivision (Approved)

Approved

B. Request Authorization to Publish Title and General Summary of an Ordinance Amending Ordinance 2000-7 of the Santa Fe Land Development Code (Ordinance 1996-10) to Adjust the La Cienega and La Cieneguilla Traditional Historic Community Boundary to Make it Coincidental with the Adopted La Cienega and La Cieneguilla Community Planning Area. Paul Olafson

X. Staff and Elected Officials Items:

A. Land Use Department:

- 1. CDRC CASE #A/V 01-5590 – Sharon Martinez Variance. Sharon Martinez, Applicant, is Appealing the Land Use Administrator’s Decision to Deny a 2 Lot Family Transfer Land Division of a 1.045 Acre Tract, which would Result in a Variance of Article III, Section 10 (Lot Size Requirements). The Property is located in Township 19 North, Range 9 East (Commission District 1). Audrey Romero TABLED

B. Utilities:

- Passed* - 1. Resolution No. 2002-40 - A Resolution Adopting Water Service Policies and Procedures for Customers of the Santa Fe County Water Utility
- Appended* - 2. A Request to Implement Stage 2 Water Use Restriction Including the Imposition of Surcharges Effective with Bills Rendered in June for May Consumption

C. Matters from the County Attorney, Steven Kopelman:

1. Executive Session

Tabbed file Executive Session on Friday

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

D. Matters from the County Manager, Estevan Lopez:

XI. Public Hearings:

A. Land Use:

- Passed* - 1. Ordinance No. 2002-6 - An Ordinance Amending Ordinance 1996-10 Santa Fe County Land Development Code, Article III, Section 4.4.4c (Maximum Height for Commercial & Industrial Non-Residential Districts) and Article III, Section 6.3.4 (Maximum Height for Large Scale Residential Uses) for the Purpose of Clarification of Height Definitions (Second Public Hearing). Charlie Gonzales
- 2. CDRC CASE #V 01-5540 - Patrick Portillo Variance. Patrick Portillo, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow the Placement of Three Homes on 10 Acres. The Property is Located at #63 Cedar Road, Within Section 31, Township 15 North, Range 9 East (Commission District 5). Wayne Dalton
- 3. CDRC CASE #V 02-5020 - Tony Sisneros Variance. Tony Sisneros, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow the Placement of Three Homes on 3 Acres. The Property is Located at 09A Calle Corrado Within the Valle Lindo Subdivision, Within Section 25, Township 16 North, Range 8 East (Commission District 5). Wayne Dalton
- 4. CDRC CASE #MIS 00-5812 - Vallecitos De Gracia. Jim Brown, Applicant, Jim Siebert, Agent, Request an Amendment to a Condition on a Preliminary Plat for Vallecitos De Gracia, a 16 Lot Residential Subdivision on 42 Acres, Which Requires Two All Weather Crossings Capable of Accommodating a 100 Year Storm. The Amendment Would Result in a Variance of Article V, Section 8.3.4 of the Land Development Code (Waterway Crossings). ~~The Property is Located Along County Road 54, Northwest of the Downs at the Santa Fe Racetrack, Within the Traditional Historic Community of La Cienega, Within Sections 22, 27, and 28, Township 16 North, Range 8 East (Commission District 3).~~ Wayne Dalton
- 5. CDRC CASE #V 01-5610 - Bryan and Karen George Variance. Bryan and Karen George, Applicants, Request a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a

- Family Transfer Land Division of 12.12 Acres into 3 Lots; One Consisting of 7.12 Acres, and Two Lots Consisting of 2.5 Acres. The Property is Located at 22A San Marcos Road East, Within Section 11, Township 14 North, Range 8 East (Commission District 3). Wayne Dalton **TABLED**
6. **CDRC CASE #A/V 01-5600** – Eleanor Gonzales, Ernest Romero, Lucille Duran, and Carlos Romero. Eleanor Gonzales, Ernest Romero, Lucille Duran, and Carlos Romero, Applicants, are Appealing the Land Use Administrator's Decision to Deny the Division of a 33.22 Acre Tract into 4 Lots by Means of a Family Transfer Which Would Result in a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code. The Property is Located off County Road 63 in Glorieta, Within Section 2, Township 15 North, Range 11 East (Commission District 4). Audrey Romero **TABLED**
 7. **CDRC CASE #A/V 02-5000** – Eluid and Suzanne Martinez Appeal/Variance. Eluid and Suzanne Martinez, Applicants, are Appealing the Land Use Administrator's Decision to Deny the Division of a 23.1 Acre Tract into 4 Lots by Means of a Family Transfer and are Requesting a Variance to Article VII Section 6.4 of the Land Development Code Which Requires an On-Site Well and Full Geohydrology Report to Demonstrate Adequate Long Term Water Availability. The Property is Located West of County Road 51, Within Section 21, Township 14 North, Range 11 East (Commission District 3). Audrey Romero
 8. **EZ CASE #MP 01-4261** – Tesuque Creek Subdivision. Ralph Brutsche, Applicant, Design Enginuity, Agent, Request Master Plat and Development Plan Approval for a 15-Lot Residential Subdivision and Lot Line Adjustment on 65.29 Acres. This Request also Includes a Variance to Allow a Cul-De-Sac Length Greater than 500 Feet, a Variance to Allow Disturbance of 30% Slopes or Greater for the Purpose of Road Construction; a Variance to Allow more than 50% of Three Structures to be Located on Slopes Greater Than 20%; a Variance to Replace Standard Concrete Curb and Gutter with Stone; and a Variance to Allow a Road Grade in Excess of 11% for 400 Linear Feet. The Property is Located off of State Road 475 (Hyde Park Road), Within Sections 4, 5, 8 & 9, Township 17 North, Range 10 East (2 Mile EZ District, Commission District 1). Vicki Lucero **TABLED**
 9. **CCDRC CASE #01-5570** – Thornburg Master Plan. Thornburg Enterprises Ltd., Applicant, Santa Fe Planning Group, Agent, Request Master Plan Approval for a Mixed Use Development to Consist of an Employment Center, Village Zone, and a New Community Center on 224 Acres. The Development Includes Between 1,148,050 sq. ft. and 4,015,000 sq. ft. of Commercial Uses; Between 294 and 742 Residential Units; Open Space; and Parks. The Property is Located West and East of State Road 14, North of Vista Del Monte, within the Community College District Sections 24 and 25, Township 16 North, Range 8 East (Commission District 5). Penny Ellis-Green
 10. **EZ CASE #DP 01-4091** – Mission Viejo. Ron Sebesta, Applicant, Linda Tigges, Agent, Request Final Plat/Development Plan Approval for a Private School and a 20-Lot Residential Subdivision as a Mixed Use Development on 25 Acres, in Accordance with the Approved Master Plan.

The Property is Located Along Richards Avenue South of Governor Miles Intersection within Section 9, Township 16 North, Range 9 East (2 Mile EZ District, Commission District 5). Joe Catanach

11. CCDRC CASE #MP 02-5050 – Sonterra Master Plan. Richard Montoya, Applicant, Santa Fe Planning Group, Agent, Request Master Plan Approval for a Mixed Use Development in a Village Zone Consisting of 520 Residential Units and 29,117 sq. ft. of Commercial Uses on 245 Acres. The Property is Located off of Vista Del Monte Road East of the Valle Lindo Subdivision Within the Community College District, Section 30, Township 16 North, Range 9 East (Commission District 5). Joe Catanach

XII. ADJOURNMENT

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

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SANTA FE
BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING

April 9, 2002

Paul Duran, Chairman
Jack Sullivan, Vice Chairman
Paul Campos
Javier Gonzales [excused]
Marcos Trujillo

2128496

SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

April 9, 2002

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 4:15 p.m. by Chairman Paul Duran, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

Members Present:

Commissioner Paul Duran, Chairman
Commissioner Marcos Trujillo
Commissioner Paul Campos
Commissioner Jack Sullivan

Members Absent:

Commissioner Javier Gonzales

IV. INVOCATION

An invocation was given by Pastor Bob from the Victory Outreach Church.

V. APPROVAL OF THE AGENDA

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

ESTEVAN LOPEZ (County Manager): Mr. Chairman, members of the Commission, there are a number of items that we're requesting be tabled in addition to the ones that are marked. All of those, both the ones that we're requesting right now and the ones that are already marked for tabling. The first is under the Consent Calendar, IX. A. 1, the Garcia Subdivision appeal, we asked that that be tabled. We found some errors in the findings of fact and we need to rework that before action is taken by the Commission.

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SFC CLERK RECORDING 08/18/2004

Next, noted on the agenda as being tabled is X. A. 1, the Sharon Martinez Variance. Next, given the length of the public hearing or the number of items on the public hearings, we're asking that the executive session be tabled and that we take that issue up at the special meeting on Friday when we discuss budget issues.

Next, under XI. A. 5, the Bryan and Karen George Variance, and that's noted as tabled. XI. A. 6, Eleanor Gonzales, Ernest Romero, Lucille Duran and Carlos Romero, that's noted as tabled. And finally, XI. A. 8, the Tesuque Creek Subdivision is also noted as tabled.

Mr. Chairman, those are the only amendments that I would recommend.

CHAIRMAN DURAN: Okay, any amendments from the Commission? If not, what's the pleasure of the Board?

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman, as amended.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: There's a motion and a second. Any further discussion? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries.

VI. APPROVAL OF THE MINUTES: March 12, 2002

CHAIRMAN DURAN: Any changes to those minutes?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I have a few housekeeping changes that I'd like to give to the recorder.

CHAIRMAN DURAN: Okay, we'll enter those into the record. Anything else? The Chair will entertain a motion to approve the minutes.

COMMISSIONER TRUJILLO: So moved, Mr. Chairman.

CHAIRMAN DURAN: There's a motion.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: Seconded. Any further discussion? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries.

VII. MATTERS OF PUBLIC CONCERN - NON-ACTION ITEMS

CHAIRMAN DURAN: Is there anyone out there in the audience that would like to address the Commission concerning any matter? Please step forward. State your name for the record.

MARK GONZALES: Commissioner, my name's Mark Gonzales. I'm a board member of the Agua Fria Development Review Committee.

WILLIAM MEE: And I'm William Mee, also with the Agua Fria Development

2128498

SFC CLERK RECORDING 08/18/2004

Review Committee and from Agua Fria Village.

MR. GONZALES: Commissioner Duran, Commissioners, we were asked by the chairman, in fact in a motion, they had a motion on the table to send us over here to bring up an issue that we feel is of great concern. We understand that these are non-action items but you need to be aware of it and we'd like to come forth to see if we could work with you on this issue. For several years now as you know, the County went to the rural addressing system that became I guess ordinance when several years back and we've had easements that have been named and issues after that ordinance that we've been trying to address but we haven't had very much success doing.

A situation that's happening now is that because of a couple of these items they're starting to affect some of our cases and decision making in our cases that come before us for recommendation to you all as members of the County Commission. And one of the issues, in fact a couple of the issues that we have here is is that there's still some confusion on the part of rural addressing, the post office and it's an issue that we've discussed with land use staff and they've told us that we have to take it up with the Board, the fact that whether we're calling these streets because they're named now or whether they're still being recognized as private family easements.

For example, this was our case that we had last month. We had an issue where we had to table it due to issues. One of the issues concerned was that one of the party was recognizing a private easement as a public access way because it was named. We still don't have clarification on this. I know that several years back I asked, and I met with you, Commissioner Trujillo, that we needed to clarify this with the landowners due to the fact that it's creating problems as far as, i.e., fire issues, i.e., public easement issues. Issues with the post office that we still haven't gotten a meeting with to discuss this, moving a mailbox onto private easements.

We've asked, what we've been asked to do is see if possibly we could get either Commissioner Duran or a couple of the Commissioners, I know we don't want to get into a point where we need a whole quorum on both sides but if a couple of Commissioners could meet with us on this issue to get some direction and bring the issues to light, get some direction on it. We need to get this resolved because we need to clarify whether or not we're addressing a lot of these so-called roads as easements or driveways even though they haven't been dedicated, but rural addressing still addresses them because they're on a map as roads. That's where we're having the glitch.

Unless they're dedicated, we'd like them recognized strictly as private family easements. Landowners themselves have gone to the extent of buying signs to put on their easements to put "Private Easement" "Private Driveway" even though they do have a street name. So we're not sure how to approach this issue. We're asking for guidance on this. We need to meet on this with a couple of Commissioners who would be willing to sit with us and resolve these issues and at this point, I let my counterpart, Mr. Mee address some other issues that were brought up, since he represents also not only the AFDRC but the Agua Fria Village Association on these issues.

CHAIRMAN DURAN: Mark, I have a question. Whether the private

2128499

easement—what we're doing is we were placing signs or we're naming these private easements, right?

MR. GONZALES: Right.

CHAIRMAN DURAN: We haven't accepted them as a County Road, so they're still a private easement. The question, your concern is that we're calling them roads?

MR. GONZALES: There's a disconnect in communication we think between the post office and rural addressing, because rural addressing several times have told some of our villages, i.e., the example I use with the locking of gates when we discussed them last week. You and I had, you had informed me that the issue had been cleared up. In discussing this with staff members here, apparently the issue still hasn't been resolved and rural addressing, of what I'm told is still classifying these as roads because they sit on a County map.

CHAIRMAN DURAN: They're private easements.

MR. GONZALES: Right. We don't know if the ordinance that created the rural addressing needs to be amended just to reflect that the County is still recognizing these as—if they're not dedicated, that they're still being recognized as private easements. Again, we're asking for guidance because we don't know how to proceed in this. We want to sit down and meet with the rest of the board felt that it was important enough to bring before you to see if we can finally get some closure to this issue once and for all.

Same issue arose, Commissioner Duran and we thank you for the help on that one, was the issue with the Fire Department now that Rufina went in and again, the circumstances were with the city street, gates that we agreed upon only, he put a lot of effort into helping us with that issue and then two days down the road, we got told by staff members that the issue still hadn't been resolved. So we just want to make sure that we get closure to this sir and we do appreciate the help you gave us, Commissioners, but we need to at least try and bring this to closure that everybody within this communities and I know in your community, Commissioner, it's been a problem too, not only with that but with receiving mail and everything else. It's created a lot of tension and we'd like to try and see if there's a way we can maybe resolve this.

COMMISSIONER TRUJILLO: Maybe we can, directing staff and getting the guidance from legal, maybe we can address it right now. What can we do, Steve, to change the language so that these roads are not interpreted as being public access roads or County roads when they're not? Is there anything that we can do to the language of the ordinance to make sure that that doesn't happen?

MR. LOPEZ: Mr. Chairman, Commissioner Trujillo, I'm not sure that this answers your question directly right now. However, I was just informed a few minutes ago by Roman that there is a staff team that plans to meet with the AFDRC on Thursday, I believe, to discuss this very issue. And we would have staff available there from legal, land use, rural addressing, fire—all of the staff departments that might affect this and perhaps we can resolve most if not all of the issues there and then bring you recommendations to the extent that anything's needed in that regard.

MR. MEE: Mr. Chairman, Commissioners, I just basically wanted to add that the program, the rural addressing program I think has been very successful and it's been very

2128500

SFC CLERK RECORDING 08/18/2004

well liked by area residents because if you go down Agua Fria, like I'm at 2073 Camino Samuel Montoya, and that's named after my wife's grandfather and if you notice, all the streets are pretty much named after family members or ancestors and so it makes a really nice feel for the village and people really liked the program on the basis of that.

I think what's happened is now that Rufina Street has opened, a lot of these same roads now have two more entrances that are on a public highway. And what's happened is a lot of the residents have put a locked gate on those entrances only because they don't want people trying to take a short cut and especially since we've had so much construction in that area. People are always looking for a way to get around the roads and going through. The rural addressing staff did say well, you can't have locked gates. We've had a lot of work with the Fire Department. the Fire Department says We have a universal key for that situation. We're going to use our bolt cutters on the truck. Also, they also have where there's an automatic gate, they'll have a bypass code that they'll be able to use to get in there.

The Sheriffs have said that they just won't patrol in those areas that are indeed locked. So there is a little agreement on that. The City when they put in Rufina Street didn't budget any funds to put up any signs on these particular roads so I guess it's the fallen, the responsibility to the County. The Fire Department, the Agua Fria Search and Rescue, says that they would like to have the signs on the Rufina Street, on the two sides, so that they can sort of get a bearing on where they're at when they're responding to emergency. Some times it's shorter to head on out through the Lopez Lane and onto Rufina and out to a property and go on Rufina but the thing is you can't line up the properties to where they are the same that they look like the entrances out on Agua Fria Street.

We've all sort of noticed that it seems like when you're on Rufina you come upon the San Isidro Church a lot quicker than you do on Agua Fria Street because you're sort of winding though there. And so I think there's a need maybe to sign those on that side but then people are leery about doing that given this other issue of whether or not that makes a public road. But for public safety it makes sense I think to definitely sign them. And I think the locked gate issue, I think the Fire Department is good with that and the residents really want to lock it because there's been a lot of break-ins, now that Rufina Street has come in. People are staking out the properties and trying to get in and see if they can rip off during the day or that kind of thing. So people when they've locked their gates, they've been able to sort of eliminate that crime factor.

Both the City and the County aren't actively patrolling that street. What we've done by putting in Rufina is we've put in a lot of traffic and we've opened up a whole new set of problems for the community because of the traffic and things that haven't been planned for I guess. And we'll need to resolve it at a future date. But I think just the Commission's attention to this matter and some dialogue on it can get things resolved.

CHAIRMAN DURAN: Okay. I guess we're going to meet—what time is that on Thursday?

MR. LOPEZ: Three o'clock.

CHAIRMAN DURAN: Okay. Well, I'll try and make it. The idea is you're going to meet with staff to try and work out the issues, or actually find out what the concerns

2128501

SFC CLERK RECORDING 08/18/2004

are so that we can deal with it at this level.

MR. GONZALES: Yes, sir. And again, Commissioner, we talked to land use staff on that and they've been very supportive of this. Where we're not sure it's too clear is in rural addressing because we really don't have contact with them and that's where a lot of the issues we've run into some—not tensions, but we're not in agreement with issues on that. So hopefully, we'll be able to have somebody there from rural addressing that we can talk to. I think that's where the disconnect is at and post office, I can't say anything there but it does involve them too because eventually we've been told that we're probably going to have to move our mail boxes into those private easements and again, there's a little leerness about giving a government entity, especially the post office prescriptive rights.

Because once you move those mail boxes, if you have the mail service coming in over time it's probably going to have prescriptive rights to come in and out of those easements. And that's why we're a little leery about moving post office boxes down those dirt roads, those private easements.

CHAIRMAN DURAN: Okay. Thank you, Mark.

MR. GONZALES: Yes, sir. Thank you.

CHAIRMAN DURAN: Is there anyone else out there in the audience that would like to address the Commission concerning any matter?

VIII. MATTERS FROM THE COMMISSION

CHAIRMAN DURAN: Do any of the Commissioners have anything?

COMMISSIONER TRUJILLO: I got a call last night on an issue on San Isidro Crossing. I understand that there's trash spread all over the crossing there in the arroyo and the question is, I wanted to ask staff about the availability of the inmates to help clean up the area if that's possible, or the next option then would be for the community to organize and ask for the help of the Solid Waste Department with trash bags and pick-up and things like that. Is there any guidance from staff on that?

MR. LOPEZ: Mr. Chairman, Commissioner Trujillo, we are trying to get an inmate labor force organized and set up to deal with some of these issues. Under the new jail management there is a different set of criteria that's being used this year by the new contractor versus the old, and we're basically trying to work through those issues. If, for whatever reason we're not able to resolve those issues and make an inmate labor pool available quickly, I'll work with James to see if we can perhaps work on the second alternative that you raise.

COMMISSIONER TRUJILLO: Okay. Thank you.

CHAIRMAN DURAN: Anyone else? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Two things, Mr. Chairman. Number one I wanted to remind anyone that's watching this meeting instead of out voting right now that there's an election today for the gross receipts tax increase to provide sustainable water supply and safe roads and open space protection measures. And that that voting continues until 7:00

2128502

SFC CLERK RECORDING 08/18/2004

today. If you don't happen to know where you vote or what your precinct is, you can call 986-6280 and people will help you.

I also wanted to express my appreciation to the Commission and to the staff, Estevan and Steve Kopelman and Katherine Miller and to the Clerk's Office in getting this election put together in such a short period of time. And particularly with regard to the cooperation that our staff pursued with the City of Santa Fe. I think that will be a key factor in determining the outcome of this election. In particular, I'd like to acknowledge Commissioner Campos, who spent a great deal of his personal time on this election issues and on particularly setting up meetings with the City of Santa Fe and shepherding us together and trying to develop some consensus which is never easy in determining how we allocate the revenues if in fact the issue is passed. So I think it's very important. I think today is a historic day and I just want to mention that if those who are here in the audience or listening or watching have not voted it is very important that they go out between now and 7:00 this evening and vote on this matter.

So I'm very appreciative of how well the two political entities have worked together on this matter. So thank you, and thank you Commissioner Campos, for your efforts. Extraordinary. He runs a business, too. We don't do this for a full-time living. People call me up sometimes and say, "You know, I couldn't get through to your secretary." And I say, "You know, I couldn't either. I don't have one." It takes a great deal of time to pursue these issues.

The other issue we'll be talking on several projects later on in the agenda concerning the Community College District. I had a question and I can probably ask anybody in the Planning Department, but we heard a presentation not too long ago on the Los Solaris development. That's a development off of Richards Avenue which is north of the I-25 interstate. It's my understanding that we're still spending time pursuing, planning a secondary, another crossing underneath I-25 in addition to Richards Avenue. My question, I guess, Estevan, is why we're doing that. And the reason that I ask if we say in the Community College District plan that we aren't doing short-cut streets. And the only reason for that would be a short-cut to get out to the Villa Linda Mall area or the Los Solaris area.

And I've asked about that in some local community meetings and the only response I can get is that we're trying to relieve congestion on Richards Avenue. And I guess my feeling on that is that when Richards Avenue reaches its limit, its trafficability limit, then we stop developing on Richards Avenue until something else happens. Until any developer pays for four-laning. I don't feel that we should be planning roads through existing subdivisions, Valle Lindo being one of them, that displace or cause disruption to existing residents for the purpose of providing traffic relief on Richards Avenue.

I think when we get to the level of Richards Avenue, what it can sustain and there's some debate on that, we stop. Perhaps, Ms. McGowan you can give us an update on that, and what I was asking about is the planning for another crossing or tunnel beneath the interstate from the Los Solaris Subdivision into the Community College District, into the existing residential areas of the Community College District in order, supposedly, to relieve congestion on Richards Avenue. Could you give us what the staff has come up with about that?

JUDY MCGOWAN (Senior Planner): Chairman Duran, Commissioner

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SFC CLERK RECORDING 08/18/2004

Sullivan, that is an option that's being modeled on the T-model as an alternative, but there's certainly no decision made or recommendation made on whether or not that should happen. It was just that the Richards Avenue neighborhood has made quite strong statements they would like multiple alternatives to Richards Avenue. So we put multiple alternatives in the model to test. And that's what's going on. There's been no recommendation beyond that.

COMMISSIONER SULLIVAN: I guess my concern is the Community College Ordinance says that if the Land Use Administrator determines that a fair and substantial showing is made that a proposed development will increase the burden on existing, inadequate public roadways, or generate traffic which will exceed the capacity of an existing or proposed public roadway, the developer shall make such improvements or contribute a fair share of improvements required to increase the capacity of the public roadway to the acceptable level of service. I don't see a mandate there that we put roads through residential areas in order to relieve the capacity of an arterial.

I think when we reach the capacity of an arterial, we stop doing development on it until some more capacity is generated in that arterial, either through four-laning or through other traffic measures. That's my concern.

CHAIRMAN DURAN: I'd just like to say one thing. That's a pretty poor process for planning this community's major growth area. If you don't plan for roads now, and you wait until the last minute to plan it after development or growth has occurred, I think that's a pretty poor planning approach.

COMMISSIONER SULLIVAN: Mr. Chairman, I think it's—I'm just reading from the ordinance which was adopted by this Commission prior to my being on the Commission, and number two—

CHAIRMAN DURAN: I don't know what you're saying.

COMMISSIONER SULLIVAN: What I'm saying is that you don't plan to relieve the capacity of an arterial by putting a road and connections through residential areas. You say, we've reached the capacity. When we've reached that capacity we don't allow more development and burden existing residential landowners, we say that road has reached capacity, at least for now. What we seem to be doing is saying our ultimate goal, our holy grail is to continually and forever increase the capacity of Richards Avenue. I don't think that's good planning.

CHAIRMAN DURAN: Well, let me ask you a question. What other area in Santa Fe County do you think is going to provide the housing opportunities that we need to accommodate growth, the economic opportunities that this community needs, and the growth of this community is definitely something we need to consider and we need to find a place that we can manage this growth. Where else except the Community College District do you think that we can do that?

COMMISSIONER SULLIVAN: I think there's many areas. I think in the Santa Fe County General Plan, you'll see many areas that are planned for that.

CHAIRMAN DURAN: Tell me where.

COMMISSIONER SULLIVAN: Certainly the southwest sector is planned for

2128504

SFC CLERK RECORDING 08/18/2004

that.

CHAIRMAN DURAN: Well, the southwest sector is the area that all the growth has occurred in the last ten years and they're tired of that place being the only place that growth occurs.

COMMISSIONER SULLIVAN: I think what the Community College is already tired of is—

CHAIRMAN DURAN: Maybe you're the one that's tired of it.

COMMISSIONER SULLIVAN: No, and I would just add, Mr. Chairman, that I don't think we gain anything here by your demonizing me—

CHAIRMAN DURAN: Well, you are a demon for that area. There's no question about it.

COMMISSIONER SULLIVAN: Well, or when someone gets to that point, I've found that typically they've run out of good, viable arguments. The point that I'm making here is that we're dealing with commercial development on Richards Avenue. It seems to be the direction that we're moving in our planning that we are finding alternate routes at any cost, that cost being putting alternate routes through existing residential neighborhoods, or in close proximity to existing residential neighborhoods, for the purpose of increasing the capacity of Richards Avenue beyond its current capacity for additional commercial development.

Now, I say that's not what you do. You increase the capacity of Richards Avenue. You don't provide alternates through other residential areas. That's what this particular road segment would do. I'm not debating whether the Community College District is going to take the majority or what percentage of the future development they're going to take, I'm debating on how we plan for it. I don't think you would like someone putting a road through your house in order to increase the capacity of Agua Fria or of Cerrillos Road or any other road. I don't think that's a viable planning alternative.

And I think we're spinning our wheels, because if you remember the presentation that was made on Los Solaris, there was no connection shown in that master plan which, I believe has been approved. So I think, I'm bringing this matter up under Matters from the Commission because I feel that it is a Community College District area and it's a concern of residents in that area. Those who wish to develop that area would like to find all the alternatives they can to Richards Avenue so that Richards Avenue will have less capacity and more development can occur on Richards Avenue. I don't think that's good planning.

CHAIRMAN DURAN: Thank you, Commissioner.

MS. MCGOWAN: May I make one comment, Mr. Chairman?

CHAIRMAN DURAN: Sure.

MS. MCGOWAN: Commissioner Sullivan, I want to point out that that road is part of a planning process to look at that crossing and the planning process necessarily has to be broad and look at all the alternatives. And there was a specific request from that neighborhood to provide more alternatives. It may be for a variety of other criteria, including going through or adjacent to an existing neighborhood, that that's not a feasible alternative and would be removed from the plan. So I would request that we allow the process to go forward and also

2128505

point out that the road plan will come to the Board of County Commissioners as well as the EZA for approval when it is ready.

COMMISSIONER SULLIVAN: I can just say that in dealing with meetings with groups that are developing and proposing to develop with community meetings in that area, they are assuming that that road is a done deal. And I hope that you have notified all of the residents in Valle Lindo that it's a done deal because they're going to be severely impacted. And it impacts them far more than other residents in that area. And I'm sorry, Mr. Chairman, if this disturbs you or if this bothers you but it is an extremely important issue in the Community College District.

CHAIRMAN DURAN: Thank you, Commissioner. Judy, there is no done deal.

MS. MCGOWAN: Not that I'm aware of.

CHAIRMAN DURAN: My question to you is are we not following the T-model of the Arterial Road Task Force? Aren't all the roads proposed for that area based on what the Arterial Road Task Force came forward with as recommendations?

MS. MCGOWAN: The model that's being used is the same T-model, yes. So this area is being fitted into that overall model and it's been updated with 2000 projections and 2020 projections.

CHAIRMAN DURAN: So nothing is sneaking up on us. What we're working on now is something that we've been working on for five, eight years.

MS. MCGOWAN: This is the last piece of that, and that crossing was considered as part of the ARTF at one point also and removed. It may end up being removed from this also.

CHAIRMAN DURAN: So there is a public process that this road is going to have to go through before it gets approved.

COMMISSIONER SULLIVAN: But let's just be clear, Ms. McGowan, is this road on the Arterial Road Plan?

MS. MCGOWAN: No, it is not on the Arterial Road Plan now. It was looked at as part of that process and it's being looked at just as an alternative as are a number of other alternatives and some of these will be dropped from the road plan, I'm quite sure.

CHAIRMAN DURAN: Would we reconvene the Arterial Road Task Force? What's the process to include roads that are not addressed in the existing Arterial Road Task Force recommendations?

MS. MCGOWAN: The process—Reed and I met last week and the process that we're proposing is that when we have a draft road plan with whatever recommendations, that that come forward to the EZC and the CCDRC for review and recommendation, from there to the EZA and to the Board of County Commissioners for approval, and from there it would go as a recommendation to the Transportation Planning Board, which is now the RPA, so that any projects that are on that might affect state funding could be added to the MPL plan.

CHAIRMAN DURAN: So the public and the community will have an opportunity to have input into any decision made relative to this road that Commissioner Sullivan is talking about?

2128506

MS. MCGOWAN: Yes. And the criteria that we're using for looking at these roads are the same that we use for the Arterial Roads Task Force, which means looking at terrain and costs and the impact on neighborhoods and whether a road would carry enough traffic to even make it worthwhile worrying about.

CHAIRMAN DURAN: Okay. Thank you. Anything else?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: I'd like to make a couple of comments about the Community College District, just to alert you. I kind of think, well, first of all what we're seeing is four major projects coming down the road either today or next month and it seems to me they're untimely for a couple of reasons. One, we haven't finished our fiscal impact, which I think is important before we really get the development going out there. Two, I think the Community College was designed to break up the sprawl pattern.

But one thing we haven't done is pass legislation for the rest of the county to deal with sprawl and that's really going to be a very difficult thing. And I think that should come first before we really get into major approvals at the College, especially in light of the water crisis. We have to deal with affordable housing because affordable housing drives sprawl and I think 15 percent may be inadequate. I think I would certainly argue that we should go higher, that we get a full traffic evaluation, because it seems pretty clear, this is going to be a very huge development and water is not available right now. Everybody knows that. These projects cannot move forward without the water and they don't have it, so basically, they want to get something on paper and that's about it.

It will stay on paper for a few years until there is water. So I would say, let's deal with the big sprawl issue. Let's get some legislation in our Land Development Code. Let's deal with fiscal impact and affordable housing. That's my suggestion later on today when these cases come up, just to alert you, Mr. Chairman.

CHAIRMAN DURAN: I appreciate that and I agree with your entirely. I don't know if you're aware though that the Community College District was based on those concerns, that sprawl was a major concern to the Commission, to the community, and to the people that were involved in developing that community plan. The premise that this district was built on was cluster development, preserving our utility, compact infrastructure. It was all based on preventing sprawl.

COMMISSIONER CAMPOS: I agree.

CHAIRMAN DURAN: So that we didn't deplete the aquifer, so that growth occurred in a compact manner in an area that was appropriate in this community. So I'm in total agreement with you, but I hope you haven't lost sight of how this thing even came about.

COMMISSIONER CAMPOS: No, I understand how it came about and I don't have a problem with the Community College District. I just think that we do need to have some good legislation countywide, especially around the metropolitan area that deals with sprawl. We will have growth areas with real infrastructure and real clustering in communities and roads that work. I'm suggesting that we accelerate that process. And I know Mr. Abeyta is starting to

2128507

SFC CLERK RECORDING 08/18/2004

work on a major revision to the Land Development Code. I think it would be very important to have these two together, because that's the way they were supposed to work, together and if we just do the Community College without the other we really don't get sprawl under control. That's just my idea and I'd like to debate it a little further.

CHAIRMAN DURAN: That's a conflict though. You're saying one thing, the Community College District already does that. So what you're basically saying is that what you want to do is adopt some new regulations that deal with sprawl that we didn't incorporate in the Community College District?

COMMISSIONER CAMPOS: Outside the Community College District.

COMMISSIONER TRUJILLO: But we already have those regulations. They're in the General Plan.

CHAIRMAN DURAN: We already have them in place.

COMMISSIONER TRUJILLO: The General Plan is in place. It addresses those issues.

COMMISSIONER CAMPOS: Maybe we do have a General Plan but we don't have an ordinance in place.

COMMISSIONER TRUJILLO: But the blueprint is there. Now we need to give impetus to the ordinance.

COMMISSIONER CAMPOS: Exactly. If we get one and not the other it's not going to work because we're still getting all this sprawl. That's all I'm going to suggest.

CHAIRMAN DURAN: Judy, we never adopted the ordinance to support the General Plan?

MS. MCGOWAN: Mr. Chairman, Commissioners, some of them have been adopted but the basic ordinance that would deal with the rural district has not been done but it is part of the program for the Code rewrite that we're anticipating in the coming budget year.

CHAIRMAN DURAN: Okay, good. I think we're all in agreement. Except for with Jack. It definitely needs to be tweaked.

I have a request and I don't know how Commissioner Sullivan is going to deal with this but I'd like to ask staff to come forward with a resolution for this body to consider that would create a northwest connector road through the Community College District to join up with St. Francis Drive. And when we talked about, when we were adopting the Community College District, we realized that Richards Avenue was not going to be able to accommodate the growth that was going to occur out there and that we needed to consider other, we needed to consider developing a road network to alleviate the traffic that would go onto Richards Avenue. So I'd like for staff to come forward with some kind of resolution or work on developing that program so that Richards Avenue, so that we can plan Richards Avenue, so that that whole area is planned with a road network in place. It's a high growth area and we need to ensure that traffic isn't going to be a problem out there. You can get with me and we can talk about it.

Okay, is there any thing else from the Commission?

2128508

IX. CONSENT CALENDAR

- A. Request adoption of findings of fact and conclusions of law for the following land use cases:**
- 2. CDRC Case # V 01-5580 - Henry Romero Variance (approved)**
 - 3. CDRC Case #V 01-5510 - Benny Zamora Variance (approved)**
 - 4. CDRC Case #Z 01-5470 - Marianna Hatten Bed & Breakfast (approved)**
 - 5. CDRC Case #Z 01-5550 - Eldorado Animal Clinic (approved)**
 - 6. EZ Case #S 01-4680 - Tano Bonito Subdivision (approved)**

CHAIRMAN DURAN: Are there any of these cases that any of the Commissioners would like to isolate for discussion?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I have a comment that pertains to all of them, so maybe if I could bring that forward first, if that would be useful.

CHAIRMAN DURAN: Sure.

COMMISSIONER SULLIVAN: And Estevan and Mr. Kopelman, it seems to me that in all of these cases we need to add the conditions. One of the most important parts of these deliberations that we do are the conditions that are attached. And I noticed in one of them the conditions are included and in the others, they're not. And the conditions become confusing because very often we have CDRC conditions or we have EZC conditions then we have EZA conditions and then we have BCC conditions and staff recommendations and we try to make the appropriate motions to be sure the conditions are in there, but these findings of facts and conclusions are extremely useful and they are, by the way, much better and cleaner than they've been in the past.

So this becomes really the base document that I think anybody that wants to go back and view the legalities of the issue works off of. And we can check, when we go back and read them, that everything was in there that we thought was talked about and if it wasn't talked about while it's still fresh in our minds we need to go back and revisit the issue and be sure that that's clarified so it doesn't put the onus on the land use staff later on, months later, to have to make a determination. Is there any reason legally, that we don't do that?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, there's no reason and I think it's a good suggestion to include them from now on and I think we can do that. That's not a problem at all.

COMMISSIONER SULLIVAN: I'd like to see them in these, in the ones that are before us today, in the adoption of the facts and conclusions. We go through the reasons, the general reasons the decisions were made, but the conditions of the approval aren't included in there, and this makes a good one-stop place, I think for people to go to and be sure that they have the official definition of the conditions.

CHAIRMAN DURAN: How critical is it for us to approve these tonight?

2128509

MR. LOPEZ: Mr. Chairman and Commissioner Sullivan, I just asked Roman if any of these are time-sensitive and he indicated that they are not, so with the consent of the Board, I would ask that these be tabled so that we can go back, rework these and bring them forward at the next meeting.

COMMISSIONER TRUJILLO: Even though, Mr. Chairman, the conditions are part of the record? What you're saying, Commissioner Sullivan, is that you want to include them here?

COMMISSIONER SULLIVAN: I do, and they are a part of the record, but sometimes you have to go back and I've seen discrepancies where what we have approved has been different than what the staff has recommended or what the CDRC recommended and I think they're just omissions, just things that we forgot to put in there. Maybe they won't cause any problem or maybe they will. I just think that this is a good place to have it all.

COMMISSIONER TRUJILLO: So you're considering this a check and balance?

COMMISSIONER SULLIVAN: Correct. For example, in the Eldorado case having to do with the veterinary clinic, there was a great deal of discussion about fencing and the staff recommendation was that the addition be fully fenced. What the Commission ultimately came up with was the fencing was only required between the adjacent, between the addition and the adjacent residence. That wasn't reflected in the findings of fact. So things like that I think are useful to have. That was a condition.

CHAIRMAN DURAN: Steve, I have a question. If we have the minutes or the—if we have the information in front of us here, we're not here to re—to go over the application again, are we?

MR. KOPELMAN: Mr. Chairman, the written order is a requirement under state law now. It can be done in different ways. We certainly can include conditions as either an attachment—

CHAIRMAN DURAN: Is the applicant asked to be here tonight?

MR. KOPELMAN: Mr. Chairman, there's no reason because this is really more or less, this is just a pro forma matte that needs to be done. It's almost like housecleaning.

CHAIRMAN DURAN: So then we really can't debate the issue without the applicant here, right?

MR. KOPELMAN: You've already reached your decision. The decision has been made. The order really just reflects what you did. It's kind of taken from the minutes and it gives the legal basis for the decision. So you don't have to go through the whole case again by any means. And I guess what Commissioner Sullivan is suggesting, and it's not a problem at all, is just to incorporate in the order from now on the conditions that the Commission approved. It would be taken straight from the minutes. So it shouldn't have to be redebated because it would be identical.

CHAIRMAN DURAN: So, Commissioner Sullivan, your intent is not to have the information available to you so we can debate the issue again, is it?

COMMISSIONER SULLIVAN: No, the only thing it would be is while going

2128510

back and reviewing these, if something were missing on these, then we could go back and say one of the conditions was thus and so. We could verify that through looking at the minutes but obviously we can't debate it unless it's noticed and properly heard.

CHAIRMAN DURAN: You want to make a motion to table?

COMMISSIONER SULLIVAN: I'd like to make a motion to table with the direction to staff—and this would be items 2, 3, 4, 5 and 6—number one's already tabled, that the conditions be included in the findings of fact and conclusions.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: Those in favor signify by saying "aye."

[Unanimous] Opposed? Motion carries.

IX. B. Request authorization to publish title and general summary of an ordinance amending Ordinance 2000-7 of the Santa Fe Land Development Code (Ordinance 1996-10) to adjust the La Cienega and La Cieneguilla traditional historic community boundary to make it coincidental with the adopted La Cienega and La Cieneguilla community planning area

PAUL OLAFSON (Planner): Mr. Chairman and Commissioner, good afternoon. We're just asking for a title and general summary to move forward with adjusting the boundary of the traditional historic community for La Cienega and La Cieneguilla to match the boundary that was adopted under the community plan. And this map is just a quick picture of it and the dotted line would be the proposed new line and that was the line that was adopted under the community plan. So we're just trying to make them, the concept here is to try and make them coincidental for planning purposes and jurisdiction purposes.

COMMISSIONER TRUJILLO: This is not all of the planning area, right? This is only the traditional historic area?

MR. OLAFSON: Well, the dotted line is the community planning area boundary and the solid line is the traditional historic and that's the designation that allows a community to be annexed or to vote on annexation into a municipality. It's not the zoning or the traditional zoning.

COMMISSIONER TRUJILLO: So you want to make both consistent with each other?

MR. OLAFSON: Mr. Chairman, Commissioner Trujillo, that's correct. And we're just asking for a title and general summary to go forward and bring this forward with the ordinance for the community plan as well.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Olafson, how many acres additional? How many people are affected?

MR. OLAFSON: Mr. Chairman, Commissioner, I'm trying to think off the top of my head. I don't have it off the top of my head. It's mostly Forest Service and BLM land.

2128511

SFC CLERK RECORDING 08/18/2004

We're taking out, I think approximately about a half acre from one property that had asked to be excluded originally in the planning process, and then we're adding approximately 20 acres down in the southern portion and I've contacted that landowner as well. So there's only two private properties that are affected.

COMMISSIONER CAMPOS: This includes the property up towards La Bajada grant. Is that right?

MR. OLAFSON: Yes.

COMMISSIONER CAMPOS: There's a triangle there. How many acres in that triangle of additional land? If I'm reading it right.

MR. OLAFSON: Yes. I'm looking at it. I can estimate approximately 600 in there. And again, that's all Forest Service and BLM. Except for below the Santa Fe River there, there's a little triangle there.

COMMISSIONER CAMPOS: Why do you want to include BLM and federal or state land?

MR. OLAFSON: Mr. Chairman, Commissioner, again, it was during the planning process, the community identified they traditionally considered part of the community and again the plan has, I guess, no jurisdictional weight on these areas but is also intended to include these areas as part of the community and then the plan helps working with the federal agencies in directing land policies in these areas.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: The other thought was oftentimes the BLM exchanges their property, so if it went into the hands of someone in the private sector it would be included in the planning area, correct?

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

COMMISSIONER TRUJILLO: Is that land designated for disposal by BLM?

MR. OLAFSON: Mr. Chairman, Commissioner Trujillo, most of that area is considered by the BLM to be an area of critical environmental concern. It would unlikely, in fact it would probably be the opposite that they would trade other areas to add to that area for any inholdings or other issues that might arise like that.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Paul, a couple of meetings ago, we did a boundary adjustment based on a survey by Red Mountain Engineers. We did some minor adjustments. Is this the same thing, or what's the difference between what we did then and what you're proposing here?

MR. OLAFSON: Mr. Chairman, Commissioner Sullivan, that was the traditional community zoning district. And it's kind of covered up by the words traditional historic community there, but that's the ¾-acre zoning designation. That's toward the center of the community. And that was an official plat survey that we brought forth with the plan. But these are completely, not completely but they're not related. It's not the same thing.

COMMISSIONER SULLIVAN: So this is the traditional historic community

2128512

SFC CLERK RECORDING 08/18/2004

boundary and within the traditional historic community we have the traditional zoning district?

MR. OLAFSON: Mr. Chairman, Commissioner Sullivan, that's correct.

COMMISSIONER SULLIVAN: It's located all within the boundary?

MR. OLAFSON: Correct.

COMMISSIONER SULLIVAN: Okay. Thank you. Are there any other questions of Mr. Olafson?

COMMISSIONER TRUJILLO: If not, Mr. Chairman, move for approval.

COMMISSIONER SULLIVAN: Motion.

COMMISSIONER CAMPOS: Second.

COMMISSIONER SULLIVAN: And a second. Those in favor say "aye."

[Unanimous] Opposed? Motion carries. [Chairman Duran was not present for this action.]

MR. OLAFSON: Thank you.

X. STAFF AND ELECTED OFFICIALS' ITEMS

B. 1. Resolution No. 2002-40. A resolution adopting water service policies and procedures for customers of the Santa Fe County Water Utility

GARY ROYBAL (Utilities Department Director): Good evening, Mr. Chairman, Commissioners, my name is Gary Roybal. I'm the Utilities Department director. I'm here today to present to you a set of policies and procedures for the Water Utility Division of the Utilities Department. These policies and procedures are basically the rules and regulations that the Water Utility will follow in providing utility service to its water customers. What I just handed you [Exhibit 1] is a corrected version of the Water Utility policies and procedures. The corrections, and I'll go briefly through them really quickly, are grammatical in nature and there's no substantive changes to the rules so if you'll bear with me for just a few minutes I'll go through these changes relatively quickly.

The first change is on page 3 and I've put this in legislative format for your ease of reference so that you can identify the changes relatively quickly. On page 3 we added the word "and." Page 7—and just for ease, I'm just going to identify these just relatively quickly. These are just grammatical changes.

COMMISSIONER SULLIVAN: Just point out the pages to us, rather than going through each individual one.

MR. ROYBAL: Just do the pages?

COMMISSIONER SULLIVAN: Just give us the pages.

MR. ROYBAL: Okay, page 7 has changes. Page 8, page 9, page 10, page 11, page 14, page 15, page 16 and on page 16, I would just like to reference that. This change on paragraph H.3, we had originally put "a complaint to be filed with the BCC" but to follow our complaint procedures, which is I believe in Rule 22, the complaint was changed to go to the Utilities Department director. The same on page 17, paragraph J. H. There's changes to page

2128513

SFC CLERK RECORDING 08/18/2004

18, page 20, page 21, and page 24, Rule 13 was inadvertently from your packet so I put it back in your packet here. Page 29, page 32, page 34, and page 35.

COMMISSIONER SULLIVAN: Looks like the attorneys got a hold of your regs here. Are these primarily legal—

MR. ROYBAL: That's correct, Mr. Chairman. We went through this over several times and the attorney to read it last got the last say and I don't believe I want to make any more changes to this. There was many hours in the work and I think with the changes that are presented to you today, those will be the final changes.

And again, I'd like to just emphasize that these rules, these policies and procedures are to formalize the operations that the Water Utility will follow in providing service to its customers.

COMMISSIONER SULLIVAN: Questions for Mr. Roybal?

COMMISSIONER TRUJILLO: Yes, Gary. Ostensibly, this document was reviewed by legal initially, right?

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

COMMISSIONER TRUJILLO: So now legal is reviewing it again and proposing these changes?

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

COMMISSIONER TRUJILLO: What does it do, Gary, to the content of the body of the regulations or the policies and procedures? You're saying that they're just grammatical changes? Or what are we doing with these changes? Make it more defensible, if you will? Better understood? What is the essence of making these changes?

MR. ROYBAL: Mr. Chairman, Commissioner Trujillo, they're mostly grammatical in nature. I believe I identified one of them where we changed the complaint process whereby a person would complain to the BCC first. A complaint procedure that's included in this rule requires that the complaint come to the Utilities Department director. So I would view that as a substantive change above what the other changes are in here. But aside from that, there are no other substantive changes. They're just grammatical and so that it reads appropriately. There were no legal changes or any type of substantive changes.

I would also state that these rules are pretty general in the water industry. The City of Santa Fe has almost parallel rules and other utilities that I'm aware of have the same rules. These rules were also tailored after what the Public Regulation Commission requires of the public utilities providing service throughout the state. So again, I would say they are pretty much in line with how other water utilities operate in the state.

COMMISSIONER TRUJILLO: And who identified these grammatical anomalies? Somebody picked up the document and decided to go over it?

MR. ROYBAL: Mr. Chairman, Commissioner Trujillo, I had two lawyers do it, Gerald Gonzalez did the first round and Steve Kopelman did the second round.

COMMISSIONER TRUJILLO: Is this part of a regular process? Somebody decided just to review it and do it and make the changes?

MR. ROYBAL: Mr. Chairman, Commissioner Trujillo, it is a normal process

2128514

SFC CLERK RECORDING 08/18/2004

to run this through legal to make sure that it is legally correct and grammatically correct. Sometimes the most obvious isn't—you read it so many times you miss the obvious.

CHAIRMAN DURAN: You know how those attorneys are. They're never happy.

MR. ROYBAL: Having a fresh view of it gives it a different view and as I mentioned, some of the changes were just to make it read a little bit better and others were just grammatical in nature.

COMMISSIONER SULLIVAN: Further questions from the Commission?

COMMISSIONER CAMPOS: Mr. Chairman.

COMMISSIONER SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Roybal, could you address these regulations generally as to what happens when there's a drought and there's a shortage of water, and two, as to conservation? How does this encourage conservation?

MR. ROYBAL: Mr. Chairman, Commissioner Campos, there is a rule in here that allows the utility to curtail usage in cases of emergency. It doesn't address conservation specifically. That's our next process or phase that we will be undertaking. In fact, we're looking at a conservation rule right now that will be added into this set of rules right here. I believe the next item on the agenda is how do we deal with water use restrictions. And there's already an ordinance that was passed by the Board in 2000 to address any type of drought conditions.

COMMISSIONER CAMPOS: I'm talking about these regs. Do you have any conservation measures as far as your rates, your rate structure, anything.

MR. ROYBAL: Mr. Chairman, Commissioner Campos, no we don't. These rules do not address tariffs, rates, rate structures or conservation measures at this time. I do plan on bringing in to you our tariffs for ratification by the Board and we're also going to draft a conservation rule to encourage and implement conservation measures on our water system. I believe it is really important to get these rules in place so that our customers, and the utility also, understand what the service obligations and responsibilities are of both parties.

For instance, how to apply for service with the utility. What happens if you don't pay your bill?

COMMISSIONER CAMPOS: I understand that. I'm looking at it from a different point of view. Now, if you have to curtail services to a customer, what liability, if any, does the County have?

MR. ROYBAL: Mr. Chairman, Commissioner, there is a curtailment—are you talking about curtailment of usage in an emergency drought situation?

COMMISSIONER CAMPOS: Yes.

MR. ROYBAL: Well, I don't believe under our rules that we would have any liability.

COMMISSIONER CAMPOS: Is that pretty well set out here in these rules and regs?

MR. ROYBAL: Mr. Chairman, Commissioner Campos, yes. The rules say, in

2128515

SFC CLERK RECORDING 08/18/2004

fact, if I could—

CHAIRMAN DURAN: Could I ask Steve a question while you're looking? Steve, what happens if we enter into this agreement with the customer and a month or soon after that we have an amendment to it? Is there an automatic acceptance by the customer of any changes or amendments?

MR. KOPELMAN: Mr. Chairman, I think the utility retains the right to make reasonable changes from time to time. So I don't think this binds us in any way. I don't think this constitutes a binding contract. I think we have the right to make changes as time passes if circumstances change. So it's not carved in stone.

CHAIRMAN DURAN: And these are for people that are on the County water system, right? Customers?

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

CHAIRMAN DURAN: And those individuals are subject to the water restrictions like Phase 2, Phase 3, as well as City residents, because we've agreed to adopt the City's emergency water policies when they go into effect, right?

MR. KOPELMAN: Mr. Chairman, funny that you ask but the next item is going to be getting your confirmation on stage two because the ordinance that the County adopted several years ago gives us the authority to follow suit and it just would require a formal vote by the Commission. So that's what Gary is bringing up as the next item.

CHAIRMAN DURAN: Well, you know stage three is coming tomorrow night, don't you?

MR. ROYBAL: Mr. Chairman, in response to Commissioner Campos—

COMMISSIONER CAMPOS: Could I ask Mr. Kopelman one follow-up question to the Chairman? Can we expressly state in these regs that in fact the County does have the authority to amend them and that they would be applicable to all customers?

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, that's certainly not a problem to add that. I think it's implied but it always makes sense to have something expressed.

MR. ROYBAL: Mr. Chairman, Commissioner Campos, Rule 19 in this packet, page 31 states: *In the event of a shortage of water supply or an interruption of water supply due to operational constraints, the utility shall curtail usage or customers.* So that gives the utility the ability in case of a water shortage to curtail customers.

COMMISSIONER CAMPOS: So you can curtail both usage and hook-ups for new customers? Is that what this says?

MR. ROYBAL: Well, you could curtail customers. For instance, you have a commercial customer and there's only enough water for domestic use. This would give the ability to be able to identify which customers, for the health, safety and welfare of the customer are not in danger, to be able to curtail them. For instance, some industrial use or some other type of use that isn't domestic in nature. I believe this rule does give us that ability to curtail those customers. Or we could do some pro rata reduction in water usage. For instance, limiting the use to 2000 or 3000 gallons.

2128516

SFC CLERK RECORDING 08/18/2004

COMMISSIONER CAMPOS: And just an aside comment, Mr. Roybal, you're going to have a utility company, you're going to have meters and lids, right, on top of the meters?

MR. ROYBAL: Mr. Chairman, Commissioner Campos, that is required.

COMMISSIONER CAMPOS: You know, I've done some litigation against the City as an attorney for plaintiffs and there are a number of people that have been injured by stepping on the lids and they flip and their leg goes in. I would suggest, if we're starting a new utility company that we use some lids with hinges that will be safer. You step on them, if they're unlocked, they're not going to flip and people aren't going to drop into the hole. So it may be a little more money but it's a big safety factor. I think if we're going to do it right, we have to start out right. Because once you get going, it's hard to change in the middle of the stream.

MR. ROYBAL: Mr. Chairman, Commissioner Campos, I'll certainly take that back and look and see what kind of lids we're putting in. I know that some of them, like in Valle Vista, we have some problems with say, customers being able to open the lids. So maybe putting padlocks on them might be the way but then, as you say, that may cost more money. But that's certainly something we will look at to assure that safety is met. In addition, if we do find customers under these rules, tampering with those facilities, we can shut their water service off.

COMMISSIONER CAMPOS: My main concern is meter readers who don't lock these things down so that they're a danger to anybody stepping on them. They certainly are here in town. Oftentimes it's a problem, that's what I'm getting at.

MR. ROYBAL: Mr. Chairman, Commissioner Campos, I will certainly take that back and we will look and see what kind of facilities are available to essentially secure those lids so that it doesn't happen. In fact, what you described happened to me when I was about ten years old, so I'm very aware of the potential problem.

COMMISSIONER CAMPOS: Thank you.

COMMISSIONER TRUJILLO: Mr. Chairman.

COMMISSIONER SULLIVAN: Commissioner Trujillo.

COMMISSIONER TRUJILLO: Is this the place where we address how the allocation of water rights are prioritized?

MR. ROYBAL: Mr. Chairman, Commissioner Trujillo, no. We already have an ordinance for allocation of water rights and we also have an ordinance for the line extension. Normally the line extension policy would be included in these rules but since we already have specific ordinances addressing those operations of the utility, I didn't believe it was necessary to duplicate that in this set of rules.

COMMISSIONER TRUJILLO: Thank you.

COMMISSIONER SULLIVAN: Gary, one quick point to Commissioner Campos. One way to eliminate hazards in the meter reading of course is to go to remote reading. You can pick up visual readings without having to take the lid off. So that's something hopefully we'll get to as soon as possible.

2128517

SFC CLERK RECORDING 08/18/2004

MR. ROYBAL: Mr. Chairman, Commissioner Sullivan, we're doing that. We're in a program right now to replace all our meters with radio-read meters and all new installations are going to radio-read. So we are undertaking that operation right now.

COMMISSIONER SULLIVAN: And that saves the problem of people trying to have to lock down their lids and so forth. I did have one item on page 14, on policy number 8, in item D. It was unclear to me, you define point of service and say the utility service laterals will terminate at the point of service and it shall be the owner's responsibility to make necessary connections from the point of service to the point of use. Then later on, you go on to talking about meters being placed in the most practicable place.

Usually, the owner—the meter is the point of demarcation between the utility company's responsibility and the owner's responsibility. It seems here and correct me if I'm wrong, that we're saying that point of service may be somewhere else, and if so, how does the owner know that? It seems like the easiest way, most people commonly know that this side of the meter is my responsibility and on that side of the meter is the County's responsibility. But we seem to have a different definition, point of service, would not necessarily be where the meter is, according to these rules.

MR. ROYBAL: Mr. Chairman, Commissioner Sullivan, the point of service is the meter point, and the meters will be installed at the customer's property line. That is the way we will install our meters so from the property line and the meter point, the customer is responsible for everything downstream of the meter to the house or the residence, which is the point of use or the commercial property.

COMMISSIONER SULLIVAN: That's the way it's normally done, but in one of the other policies it says the meter will be installed at a point that's most practicable and that seems to indicate it may not be at the property line. It could be elsewhere.

MR. ROYBAL: Mr. Chairman, Commissioner Sullivan, I believe that is to mean that, let's say for instance there's a fire hydrant or there's some obstruction at the property line that we can't place the meter where the customer would want it for ease of putting in the yard line. We would put it at the most practical place to be able to meet that requirement that the meter would be placed at the property line. I don't view that as saying that we would go beyond the property line to install the meter. It would be where on the property line is the most practical place to install the meter.

COMMISSIONER SULLIVAN: The next paragraph is the one you're talking about where you say you'll install meters as close as reasonably practicable to the property line, provided there is public access to the meter location. So I guess maybe the only thing we need, you're saying that the point of service is the meter, are you saying that the point of service is the meter wherever it is installed?

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

COMMISSIONER SULLIVAN: Okay. So in some cases, as in the case in the City of Santa Fe by the way, the owner—in the sewer department—the owner is responsible for the sewer laterals all the way out into the street that connect to the main. So in some cases your meter may be slightly off the property line, because of some obstruction, a tree or fire hydrant

2128518

SFC CLERK RECORDING 08/18/2004

or something, and that means then that the owner would be responsible for the line past their property line to the meter. Is that correct?

MR. ROYBAL: Mr. Chairman, Commissioner Sullivan, the utility is—I guess the best way to answer it is the utility is responsible for the facilities, including the meter and the meter can. So wherever that meter can is installed, that would be the utility's responsibility. The customer's responsibility is everything downstream of the meter.

COMMISSIONER SULLIVAN: Right. And I understand that's the way it normally is. But I don't see that clearly here. You just say it's terminated at the point of service. I think you need to say that the responsibility, the County's responsibility terminates at the meter location, which is in fact the point of service. See what I'm saying? It's not clear to me that where I, as a homeowner am responsible. And what you're saying makes sense, which is it's up to the meter. The utility is responsible for the meter and for everything upstream of the meter. Is that correct?

MR. ROYBAL: Mr. Chairman, Commissioner Sullivan, that's correct. So if we're looking at paragraph D, would it be then your recommendation, shall terminate at the meter, and it shall be the owner's responsibility from the meter to the point of use.

COMMISSIONER SULLIVAN: That would be my recommendation. I'm not quite sure why you have the term point of service in here and I was looking at the definition of it and it may occur somewhere else. The definition is the point of service shall be the point where the facilities of the utility connect to the customer's yard line. Well, we still don't address it. It's really where the facilities connect to the customer's meter, because downstream of the meter is the customer's responsibility. So wherever you put that meter, the customer needs to know that anything downstream of that meter is their responsibility of there's a break or any other problem. Is that correct?

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

COMMISSIONER SULLIVAN: So I don't want to go through it and tinker with, wordsmith this whole thing, but I think if we can establish that principle here and any minor modifications to do that then I think that's all we need.

MR. LOPEZ: Mr. Chairman, Commissioner Sullivan, the definition, definition S of yard line may address that issue, on page 5.

COMMISSIONER SULLIVAN: Yes, I'm not sure why we go around about like that. I think the way Mr. Roybal has presented it is eminently clear. One side of the meter is you, the other side of the meter is us. So can we get a motion on this item if there's no further discussion?

COMMISSIONER TRUJILLO: Mr. Chairman, move for approval.

CHAIRMAN DURAN: Second.

COMMISSIONER SULLIVAN: As amended?

COMMISSIONER TRUJILLO: As amended, yes.

COMMISSIONER SULLIVAN: There's a motion for approval as amended and I assume with the clarifications regarding the meter. Any further discussion? Those in favor say "aye." [Unanimous] Opposed? Motion carries.

2128519

SFC CLERK RECORDING 08/18/2004

X. B. 2. A request to implement Stage 2 water use restrictions including the imposition of surcharges effective with bills rendered in June for water consumption in May

MR. ROYBAL: Mr. Chairman, Commissioners, before you is the Utility Department's request to implement Stage 2 water restrictions immediately. On March 13, 2002 the City of Santa Fe adopted and implemented Stage 2 water restrictions. Pursuant to Santa Fe County emergency ordinance number 2000-09, the Board adopted an ordinance that authorized the Board to implement the same water use restrictions that the Santa Fe implements at their discretion. And it wasn't quite clear from the ordinance whether this was an immediate approval or not so I, through advice of the legal department we are bringing this forward to you to get your affirmative approval to implement these State 2 water restrictions, along with the surcharges that come with these.

We would make the water use restrictions effective immediately and the surcharges would not become effective until June based on May consumption, which would give customers of the utility the month of April to transition and begin to adjust to the water use restrictions. In addition to that we also did send out a notice with the March billings and I believe that's on the last part of your packet there that indicated what the water use restrictions and surcharges are associated with Stage 2 water use restrictions.

COMMISSIONER TRUJILLO: Mr. Chairman, and this is only within the service area of the utility company, right?

MR. ROYBAL: Mr. Chairman, Commissioner Trujillo, that's correct. This would only apply to the customers of the water utility.

COMMISSIONER TRUJILLO: What are we doing, Gary? We've got copious individual wells across the county. What are we doing to educate the community about being sensitive to water consumption in this time of drought? We've got wells out there that the State Engineer gives three acre-feet of water pre-1981 that are used for both domestic and agricultural purposes. How are we addressing that issue?

MR. ROYBAL: Mr. Chairman, Commissioner Trujillo, the Water Utility Department hasn't actively addressed that issue. I'm aware that at the State Engineer's Office, when you walk in they have several publications on water conservation and how to conserve water, but as far as the utility department is concerned, we have not taken the initiative to go out and educate well users on conservation. But I do feel that that is an appropriate educational program to undertake. And I believe that would be part of the conservation rules that we want to implement as to begin an education program with everybody in the county to be able to at least educate people on what's out there to conserve water and how to conserve it and the resources that are available to us.

COMMISSIONER TRUJILLO: And I agree with that, especially in light of the fact that potentially, most wells will be metered and we need to start the educational process with the public to help them understand that water is a scarce commodity and that we need to work together to protect it.

2128520

MR. ROYBAL: Mr. Chairman, Commissioner Trujillo, I fully agree with you and I think we're taking this one step at a time as part of our conservation measures with our utility. We'll certainly undertake that too. And we are looking at a countywide conservation program as part of our—not only for our utility department but also on a countywide basis. That's a little bit more difficult to address because we do have jurisdiction, so to speak on the customers of our utility. It would be a little bit more difficult to exercise that jurisdiction over domestic wells but I'm sure there's some measure that can be done and that's something we're certainly studying and will undertake as part of this conservation initiative.

COMMISSIONER TRUJILLO: Do you foresee, Gary, that in the future, especially with a diversion point or a sustainable source of water, that we will not have to deal with these issues, the mining of the aquifer, the mining of the water table and things like that, if we find a sustainable source of water to serve Santa Fe County, then the aquifer will recharge, return flow will take place, will clean up and all of those things, especially in light of the GRT that's out for referendum today? Do you foresee that?

MR. ROYBAL: Mr. Chairman, Commissioner Trujillo, yes I do. I believe that the diversion project will certainly alleviate the mining of the aquifer, at least in the Buckman field. And I believe that the studies that I've seen indicate that after ten years, the aquifer would recharge up to almost its original level in the 1940s. I also believe that as we use that surface water or that diversion water to meet the County needs, that will relieve any pumping that's taking place in some of the areas in the county, for instance, the Valle Vista and maybe the pen wells, possibly, and that will allow the aquifer to recharge.

Now there will be times that these wells, I imagine will have to be pumped for service, not only for operational purposes but in case of other droughts. Say for instance there's just not that much water in the river to divert at any one time, we would use these as back-up sources. So I believe the long-term goal of not only the County but I think also the City is to alleviate that pressure that's being put on the aquifer and give it an opportunity to recharge and then work from there.

Certainly, there's two projects taking place for surface water, which is the Buckman project, the diversion project, and then the San I project that's currently being tested. And I certainly believe that that is two giant steps in the right direction.

CHAIRMAN DURAN: Any questions of staff? What's the pleasure of the Board?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Question for Mr. Roybal. Does the City ordinance authorize the Manager to declare a different stage, Stage 2, Stage 3?

MR. ROYBAL: Mr. Chairman, Commissioner Campos, I'm glad you brought that up because that brings me up to the next. I was advised by the Water Utility Department staff that they're going to be proposing Stage 3 to the Council tonight. So I believe it's the Council that implements and adopts the stages of water emergency use.

COMMISSIONER CAMPOS: The standards that you set out in this exhibit,

2128521

SFC CLERK RECORDING 08/18/2004

which is Santa Fe County Stage 2, are these exactly the same standards that the City has?

MR. ROYBAL: These are a summary. There's a little more detail included in the City's ordinance. We sent this out just kind of a notice, as a bill-stuffer. But the ordinance gets into further detail, for instance, there's a requirement that in Stage 2 all commercial entities shall install within two weeks shower heads with flow rates not to exceed 2.5 gallons per minute. Lavatory and kitchen faucets are to be equipped with aerators so that they will not exceed a water flow rate of 2.5 gallons per minute. So there's other details within this that area contained in the Stage 2 water use restrictions.

COMMISSIONER CAMPOS: For the City?

MR. ROYBAL: For the City.

COMMISSIONER CAMPOS: And why aren't they contained here?

MR. ROYBAL: I think we would have had to send out basically a two or three-page notice on this. We can certainly do this in our next bill-stuffer. We just wanted to give people notice that this was coming and give them some idea as to what the restrictions are, and we can certainly provide a more detailed notice of the water use restrictions in the next bill that comes in, for the next billing cycle.

COMMISSIONER CAMPOS: Under drought emergency surcharge, you have \$15 per thousand gallons for usage over and above 12,000 gallons a month. Do you feel that the 12,000 gallons per month is a reasonable number for residential use?

MR. ROYBAL: I believe that it is. I believe if you're using—we don't have a lot of customers using over 12,000 gallons on the average over a month. I think I looked at the Valle Vista bills for this last month and I believe there were maybe 10 customers that were over 12,000 and I've been advised that, for instance in the Rancho Viejo development that consumption is below that average.

COMMISSIONER CAMPOS: What is the average out there?

MR. ROYBAL: I think somewhere between five and six thousand gallons per household. I think 12,000 gallons is enough to sustain domestic use in a household.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: Any other questions of staff? I have a request. Since it's pretty evident that we're going to—the City's going to go into Stage 3 tomorrow night, if they do go into Stage 3, would you be coming before us again asking to adopt Stage 3 restrictions?

MR. ROYBAL: Mr. Chairman, yes. At your next regularly scheduled meeting.

CHAIRMAN DURAN: So Mr. Kopelman, would it be possible for this Board to give instructions to staff that we would approve the implementation of Stage 2 and if Stage 3 is adopted by the City tomorrow night that you would immediately adopt that, or implement Stage 3 in the county?

MR. KOPELMAN: Mr. Chairman, members of the Commission, the agenda item actually talks only about implementing Stage 2 and our emergency ordinance, the ordinance that we passed in the year 2000 just says that whenever the City imposes any stage of water restriction, the County will have the authority to impose the same stage water restrictions.

2128522

SFC CLERK RECORDING 08/18/2004

I don't see a problem. I think we'd probably want to bring it back just for you to ratify that action. But I think you can certainly take the position it's an emergency situation. You can direct staff to do that and then we can just bring it back for ratification only.

CHAIRMAN DURAN: Is that okay?

COMMISSIONER SULLIVAN: That's fine, Mr. Chairman. I'd like some further discussion at some point in the future about, I think the 12,000 gallons is more than adequate if you're under restrictions in order to get people to stop washing cars and doing excessive watering and so forth. That we ought to be closer down around the 6,000 to 8,000 gallons. I don't want to change this at this point but I just want to say that that's something that we may want to consider.

MR. ROYBAL: Mr. Chairman, Commissioner Sullivan, one of the things that I'm looking at right now, and I think it was brought up earlier about our tariffs and rates is to develop a rate structure so that it would reflect some type of increased cost. As you hit a certain level, certainly below the 12,000 gallons. But I would also say that the Stage 3 surcharges are the same as the Stage 2, so if people are watering, even under a Stage 2 and they go over the 12,000, or the Stage 3, the surcharges are the same.

COMMISSIONER SULLIVAN: All the more reason that the gallon level should be less.

COMMISSIONER CAMPOS: Mr. Chairman, I would agree with that comment. An average residence probably uses about 6,000 to 7,000 gallons per month and if we're giving them 12,000, unless there's a good reason for that. It's something to consider as an adjustment. I agree with Commissioner Sullivan on that.

MR. ROYBAL: Mr. Chairman, Commissioner Campos, are you talking about the Stage 2 water restrictions?

COMMISSIONER CAMPOS: The 12,000 gallon figure, for residential use, seems real high to me, especially if we're in a drought situation.

CHAIRMAN DURAN: Okay. So the direction is is the City goes to Stage 3 tomorrow night that you would adopt a Stage 3 program for the County and then bring it back at the next BCC meeting for ratification.

MR. ROYBAL: Mr. Chairman, I'll do so.

CHAIRMAN DURAN: I'd also just like to ask you that if they go to Stage 3, I think we need to find a way of asking those residents that live out in the county that are on wells to be mindful of the aquifer and how sensitive it is right now and that it is subject to depletion. So somehow we need to find a way of getting that information out to country residents.

MR. ROYBAL: Mr. Chairman, I will explore that to see how we can disseminate that information out to well users.

CHAIRMAN DURAN: Do you want to make a motion?

COMMISSIONER CAMPOS: Motion to implement Stage 2 water shortage emergency with restrictions and imposition of surcharges.

COMMISSIONER SULLIVAN: Second.

2128523

CHAIRMAN DURAN: Any further discussion?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Just two questions. One, that we shortly consider reducing the 12,000 per residence if staff believes that is appropriate. And two, I'd like some consultation from legal as to what authority we have to regulate domestic wells.

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, unfortunately, at this stage, I don't believe that there is statutory authority. There is one provision in the general statutes that does deal with municipalities and wells. I don't believe the intention of the legislature or any interpretation gives us that authority. I know that there is a move afoot to try and see about whether the statute could be changed to give local governments more authority. The State Engineer does put a provision on permits issued that the permits are subject to local regulation, but I think that the problem is that the statute really doesn't give us the authority to be able to say, Hey, you need to limit your water use to x-number of gallons a day. Plus there's an enforcement issue obviously also.

We have meters and we require meters on wells for subdivisions and property divisions, property that has been divided over the years, but that's probably a relatively small percentage of all the wells out there. And I think the issue you bring up is important statewide. It's an issue that maybe the Association of Counties and the Municipal League should be involved with if they're not already.

COMMISSIONER CAMPOS: Mr. Kopelman, do we have authority that's different from municipal government, or do we have the same authority as a municipal government?

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, generally, we do have the same authority.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: So, Steve, you're saying that the only person that has jurisdiction over the usage of wells out in the county is the State Engineer?

MR. KOPELMAN: Mr. Chairman, not exactly, members of the Commission. I think that when a property owner comes in to divide land, they are then subject to the County restrictions and that's usually when we impose often quarter acre-foot restrictions and require them to use a meter. The problem is that is a property owner who already owns a lot comes in, they'll go to the State Engineer's Office and they'll get a permit for the well and they don't come before the Commission.

CHAIRMAN DURAN: So those individuals that have three acre-feet of water, the right to draw three acre-feet of water, the State Engineer is the only one that could restrict the usage of that well?

MR. KOPELMAN: Mr. Chairman, members of the Commission, that's certainly, I think the prevailing interpretation of state law.

CHAIRMAN DURAN: I guess what I'm leading up to is maybe it wouldn't be a bad idea to ask the State Engineer, to request that he consider helping us find a way to impose some restrictions on the usage of those wells, and the direction would come from him and not

2128524

SFC CLERK RECORDING 08/18/2004

from the County, but it would be based on local policy.

COMMISSIONER TRUJILLO: Mr. Chairman, I would get away from doing that, making that decision in a vacuum. Like I said earlier, I think the community needs to be educated about conservation. In my district, my constituents, would not want to be metered and that would be an enforcement issue. But if we educate them about the scarcity of water and try to assimilate or acclimate the reciprocity, then it would be a lot easier. But to force, for the State Engineer to force metering of those wells would alienate the community and would be quite volatile. But we do need to educate them.

CHAIRMAN DURAN: Did you have something to say about that?

KATHERINE YUHAS (County Hydrologist): Mr. Chairman, Commissioners, we do have a voluntary water conservation plan that is throughout the whole county and is made available to people when they get their building permit. And what I have been looking at, and I haven't talked to Mr. Kopelman so he may cut me off and tell me that I can't do that, is looking at a water conservation program that would be mandatory that looks at water waste and trying to eliminate that, rather than identifying how much water someone could use from their domestic well, regulating that they can't let it run off their property when they're irrigating. Those types of issues.

Again, I haven't run this through legal but that's the sort of thing that I'm trying to figure out how we could make it work in the county.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Two comments. One, I would encourage Mr. Lopez to talk to the Association of Counties about domestic well regulations and see what we can do, if there's a consensus. Also, about onsite collection. There's always been a legal discussion about onsite collection of water, rooftop collection, whatever you want to call it. Some people have argued that there's maybe a legal barrier to doing so but I think those are the next steps that we have to take. We've got to deal with wells and see if we can collect some water onsite to preserve the aquifers. And if we need more legislation, let's talk about it with the cities and counties and see what we can do to improve this area of the law.

CHAIRMAN DURAN: Okay. There's a motion and a second. Any further discussion? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries.

Thank you, Gary.

2128525

SFC CLERK RECORDING 08/18/2004

XI. PUBLIC HEARINGS

A. Land Use

1. **Ordinance No. 2002-6. An ordinance amending Ordinance 1996-10, Santa Fe County Land Development Code, Article III, Section 4.4.4c (Maximum height for commercial and industrial Uses) and Article III, Section 6.3.4 (Maximum height for large scale residential use) for the purpose of clarification of height definitions (second public hearing)**

CHARLIE GONZALES (Code Enforcement): Good evening, Commissioners. The Land Use Department is requesting to amend Article III, Section 4.4.4c and Article III, Section 6.3.4 of the Land Development Code for the purpose of deleting conflicting language, clarification of existing language, addition or adoption of new additional diagrams, sketches and clarification of the height definitions.

The existing sections of the ordinance as written are too general. Staff has had many interpretation disagreements with the public concerning height measurement procedures. These proposed modifications will simplify and clarify how these measurements are taken. The proposed language is shown in Exhibit C and the proposed new sketches and diagrams are shown in Exhibit D. The changes will not change the allowable heights under the ordinance.

At the first public hearing, a concern was raised regarding the effect this ordinance may have on future cell towers. This proposed modification will only address the heights of the commercial, industrial non-residential districts and large-scale residential, and not affect cell towers.

The required action: the BCC should review the attached material and consider the recommendation of the CDRC, take action to approve, deny, approve with conditions or to table for further analysis of the request.

Recommendation: On February 28, 2002, the CDRC recommended approval of the proposed ordinance. As you know, the first public hearing was March 12, 2002. Staff requests that the BCC approve these modifications or changes as proposed. This is the last public hearing unless directed otherwise. Thank you, Commissioners.

CHAIRMAN DURAN: Any questions of Charlie? Okay, this is a public hearing. Is there anyone out there that would like to speak in favor of or against this proposed ordinance? If not, what's the pleasure of the Board?

COMMISSIONER CAMPOS: I move to approve the proposed ordinance.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN DURAN: There's a motion and a second. Any further discussion?

The ordinance was approved by unanimous roll call vote, with Commissioners Campos, Sullivan and Trujillo and Chairman Duran all voting in the affirmative.

2128526

- XI. A. 2. CDRC CASE #A/V 01-5540. Patrick Portillo Appeal/Variance. Patrick Portillo, applicant, requests a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow the placement of three homes on 10 acres. The property is located at 63 Cedar Road, within Section 31, Township 15 North, Range 9 East [Letter of opposition attached as Exhibit 2]**

WAYNE DALTON (Review Specialist): Thank you, Mr. Chairman, Commissioners. There are currently three homes and two septic systems on the property. The property is served by an onsite well, which serves two of the three existing homes. The applicant states that he purchased the property in 1977. At that time the applicant claims that covenants allowed subdividing the property into four 2.5-acre tracts. Knowing that, the applicant purchased the property for himself and his three children. The applicant was hopeful that he would be able to pass on a family legacy.

The applicant's sincere intention was to create his family homestead, and this piece of land could accommodate his small family. In 1978, the applicant allowed his brother, who was having financial difficulties, to move on the property. The applicant claims since this time he has moved two mobile homes on the property, one home for his daughter, and one home for himself. The applicant states that he is very upset and shaken that a dream he has worked so hard for may be in jeopardy, a dream of living with his family and caring for his modest homestead.

Recommendation: Staff recommends that the request for a variance be denied. The intent of the code is to set minimum lot size in this area at 50 acres per dwelling unit. On February 28th, the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of a variance to allow the placement of two homes on ten acres, subject to the following conditions:

1. Water use shall be restricted to .25 acre-feet per dwelling. The applicant shall install water meters for all homes. Annual water meter readings shall be submitted to the County Hydrologist By December 31st of each year.
2. No additional dwellings shall be allowed on the property.
3. The existing driveway will serve all homes.
4. The applicant must follow all building permit regulations including construction of a retention/detention pond.
5. Failure to comply with any of these conditions shall result in an administrative revocation of the variance.
6. The applicant must remove one home from the property
7. The applicant shall clean up junk by corrals on the property.

CHAIRMAN DURAN: Any questions of Wayne?
COMMISSIONER TRUJILLO: Mr. Chairman.
CHAIRMAN DURAN: Commissioner.

2128527

SFC CLERK RECORDING 08/18/2004

COMMISSIONER TRUJILLO: So Wayne, the CDRC approved two houses on the lot, right?

MR. DALTON: Mr. Chairman, Commissioner Trujillo, that's correct. The CDRC approved it with two homes and recommended one home be removed.

COMMISSIONER TRUJILLO: One home be removed. And the request of the applicant is to situate three homes on the lot.

MR. DALTON: That's correct.

CHAIRMAN DURAN: Wayne, when does the geo-hydro come into effect?

MR. DALTON: Mr. Chairman, the applicant has met with the County Hydrologist, and the County Hydrologist did recommend he do a geo-hydro, and the applicant at this time cannot afford a geo-hydro.

CHAIRMAN DURAN: So are they coming forward with a reconnaissance report as a replacement for the—so there's no information at all relative to availability of water in that area.

MR. DALTON: That's correct. No information on this application.

CHAIRMAN DURAN: Okay. Would he be advised to go out there and try and find some data?

MR. DALTON: Mr. Chairman, like I said, he did talk to the County Hydrologist and she did recommend that he do a geo-hydro. I don't know if Katherine wants to add something on that.

MS. YUHAS: Mr. Chairman, as Wayne indicated, I did meet with the applicant. I explained to him what our requirements are and that any further information would be very helpful. He did actually bring in a well log, which I looked at, which is not very favorable and he may have contacted some geo-hydrologists in the area for prices on completing a geo-hydro report and that it is an expensive test to do. It's true.

But in this area, which you may recall, I think two months ago we heard that case for John Paul Garcia and the State Engineer was here to say that in this area we know that there are water problems. This is within a mile of that same property. It's in the same area that we already have reports that there are water problems. So without some very positive information, I'm very concerned about granting extra houses in this area.

CHAIRMAN DURAN: Thank you. Any other questions of staff?
Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Dalton, there are three homes on this property right now?

MR. DALTON: Mr. Chairman, Commissioner Campos, that is correct.

COMMISSIONER CAMPOS: Have any of these been approved by the County?

MR. DALTON: Mr. Chairman, Commissioner Campos, one home is legal non-conforming, was there, I believe, in 1978. The two mobile homes were moved on the property illegally.

COMMISSIONER CAMPOS: Illegally, right?

2128528

SFC CLERK RECORDING 08/18/2004

MR. DALTON: That's correct.

COMMISSIONER CAMPOS: Okay.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Dalton, one thing that we see coming up in several instances has been a case where the Land Use Department has granted a permit to construct a new home on the basis that the applicant will remove the home after they construct that home, obviously so that they have a place to live while they're building a home, which may take a while if they're doing it themselves. But it seems like in almost every case that that happens the applicant then is extremely reluctant to move that home that they've brought on and they come in and ask for a variance that they have another home on the property because it obviously costs them money to move the home off the property and they say that investment as being a loss.

I'd just like to ask, without debating it tonight that the land use staff look into that policy because that seems to cause more than just a few of these variance requests, saying that you have to move a trailer off, a home or a mobile home or a manufactured home after you build a house. I think that they either need to move it off first or they need to find, or we need to have some better enforcement mechanisms that they don't be issued an occupancy permit until it is moved off. And that doesn't seem to be the case. It seems to be these homes get occupied and then a request comes in for a variance.

Again, if you have any comments on this, fine. I don't want to spend a lot of time because we have other issues here this evening but hopefully that's something that we could work on.

CHAIRMAN DURAN: Any other questions of staff? Is the applicant here? Please come forward and state your name for the record and let the recorder swear you in, and if you'd like to add anything to the record please do so.

[Duly sworn, Pat Portillo testified as follows:]

PAT PORTILLO: Patrick Portillo and my address is 475 Camino Don Miguel. And I'm here before you as you've heard and I'm also here for a different reason also and it pertains to my daughter. The reason for it is she has filed for assistance for the City which is the Section 8 for housing, because she cannot live or move to her own house on the property and my question to all is we can afford to help people in need, but if we have a way to help our own kids, and that's what it was for. That was the intent. It was not for gain as my neighbors have done it. They have sold their 2.5 acres. I bought it solely for my family.

That is what my appeal is, is to reverse and let me do as I requested for those matters because if we don't help our kids then the—which makes it harder not only them and also the community. The other thing is that on the property, it has been used since 1978, the well, and we are aware of water, the water problems down the road, the water problems as close as—it might even be closer. We've never had to haul water, as some of my neighbors have as has been stated, and also, I plan also to, with your approval is to help our whole situation by taking measures to save our water because it is precious to all of us. And I agree with everything

2128529

SFC CLERK RECORDING 08/18/2004

pretty much that has been said as far as it's hard and we need to know this and we need to be educated.

But if we are not even given the chance, and that's what I'm asking for, a chance to show that we can, and I think we do have enough water to do this. And now granted, I did not obtain a company to do the hydrologist test because at this time it's pretty hard for anybody, really. And I heard of another source of, that you just mentioned. I forget what it was in as besides the, it was a conservation test? Was that what you said? I wasn't sure.

COMMISSIONER TRUJILLO: Reconnaissance.

MR. PORTILLO: Reconnaissance. Well, I've never heard of that. I've never been told that or been directed by the County or its help. But I'd be more than glad to look into this and something I can afford to be able to help myself and my family. Basically, I'm here to ask for a variance because of what was stated and that's all I have to say.

CHAIRMAN DURAN: Any questions of the applicant?

COMMISSIONER TRUJILLO: I have a question. You have one well on the property?

MR. PORTILLO: Yes.

COMMISSIONER TRUJILLO: Do you propose that that well will serve all three residences in the property?

MR. PORTILLO: I think it does. I think it will, simply because I monitor it. I keep close watch on it. We also have all our updated commodes to be low-flush. The house that I have for my daughter, I put in new appliances to do this also. We don't have dishwashers. We try, we know that water is a precious commodity. We realize this. But we also need a chance to continue this.

COMMISSIONER TRUJILLO: What I'm getting at is the allocation for each house now is .25.

MR. PORTILLO: That is correct.

COMMISSIONER TRUJILLO: That's the allocation for each house.

MR. PORTILLO: And I think that we have enough.

COMMISSIONER TRUJILLO: So the intensity, if you will, will not be increased. It's status quo. It will remain the same with less than the three acre-feet of water for each house that is given by the State Engineer, which is .25 for each residence.

MR. PORTILLO: For each dwelling.

COMMISSIONER TRUJILLO: For the purpose of a family transfer, for the purpose of having your offspring, affording them a place to live.

MR. PORTILLO: That's correct.

COMMISSIONER TRUJILLO: And this piece of land will not be exploited, will not be sold for profit. If it gets approved here, you'll put it on the market. It's solely for family transfer purposes.

MR. PORTILLO: That is correct, Commissioner Trujillo. That's my sole intent. It was my sole intent from the beginning. I could have split it then, just like my neighbors. I came to the County then and they told me, Well, you don't need to do that. You

2128530

SFC CLERK RECORDING 08/18/2004

can have a family transfer then when they grow up. They're grown up and they need a place to stay. They need a place to live and that's the whole intent of the property to begin with.

CHAIRMAN DURAN: I have a question for staff. When was the subdivision regs adopted? When did we create the hydrological zones, basin fringe, fringe?

MS. YUHAS: Mr. Chairman, those zones were created in 1980.

CHAIRMAN DURAN: In 1980. Okay. Well, I think it's important to say that we've had experience with these kinds of requests quite a bit the last few years. You're actually asking—the minimum size lot out there is 50 acres, and you're asking for us to allow four lots of 2.5 acres.

MR. DALTON: Three, Mr. Chairman. For clarification this is not a land division. It's a variance to allow three homes on the property.

CHAIRMAN DURAN: Oh, it's not a land division. There's already three homes now.

MR. DALTON: That's correct.

CHAIRMAN DURAN: Well, what's the family transfer? Where does that—

COMMISSIONER SULLIVAN: It's not a family transfer.

CHAIRMAN DURAN: Oh, I'm sorry. I must be on the wrong case.

COMMISSIONER SULLIVAN: No, it's the right case but it's not a family transfer.

COMMISSIONER TRUJILLO: It's not a family transfer in the pure sense of the word but it's a family transfer in that the family will live on the piece of property. It's not a lot split but there will be three dwellings where members of the family will occupy those three dwellings.

CHAIRMAN DURAN: Okay, then I don't have any questions. Thank you. I thought you were going for a subdivision. Any questions of the applicant? It's a public hearing, is there anyone out there that would like to speak for or against this issue? What's the pleasure of the Board?

COMMISSIONER TRUJILLO: I have a question for legal. Our concern with the John Paul Garcia case, and we got copious information from the State Engineer and from our County Hydrologist about the water situation. That case was a lot split for sale, right? That was a subdivision for sale. In this case it's affording a family a place to reside with no potential of sale. What are our liabilities from a consistency standpoint?

MR. KOPELMAN: Mr. Chairman, Commissioner Trujillo, I think the issue that you raise is that if the County is challenged by denying John Paul Garcia when he did a geo-hydro test, is that going to weaken the case if we give an approval of a similar situation in close proximity? Because I think from the court's standpoint, the fact that John Paul Garcia came forward with a subdivision, the court is not going to view it differently. It's a question of the land use and the intensity of the use. So it is possible that granting this approval here could influence that case if in fact we get challenged on that. It's not clear that we will get challenged but if we do, a situation like this would be brought up to the court in all likelihood.

COMMISSIONER TRUJILLO: Even though, with the John Paul Garcia case it

2128531

SFC CLERK RECORDING 08/18/2004

was obvious that the intensity would increase. In this case, the intensity remains the same. It does not augment at all. It's one well for three residences and that's the way that it's been used for the last, whatever, ten years. In the John Paul Garcia case, it's going to be divided and that intensity was going to increase on a depleted aquifer or limited aquifer.

MR. KOPELMAN: Mr. Chairman, Commissioner Trujillo, it certainly possible the court will look at this and say that the three dwelling units were there already. I think the problem that we run into is the fact that they weren't placed there legally. I think that's the issue we have. They weren't approved by the Commission and they're not grandfathered in because the mobile homes were placed subsequent to 1981. So I think that's the problem we run into.

CHAIRMAN DURAN: I have a question for staff. So currently, the water allocation on this lot is three acre-feet? The lot was created prior to 1980?

TOM DOMINGUEZ (Subdivision Engineer): Mr. Chairman, it's my understanding that they are operating under a 72-12-1 well, which allows up to three acre-feet.

CHAIRMAN DURAN: So if we grant this variance and restrict him to a quarter acre-foot per dwelling, we have a net savings. Is that correct? On the water—I don't know about the water usage but the water allocation.

MR. DOMINGUEZ: Mr. Chairman, that's the intent of the quarter acre-foot restriction, that we would be able to limit or restrict the use.

CHAIRMAN DURAN: Is the well metered?

MR. PORTILLO: No, it is not.

MR. DOMINGUEZ: It's not metered right now but it should be one of the conditions. I was flipping through to see. It would be one of the conditions we have that all three would be metered. It's condition number one.

CHAIRMAN DURAN: Okay, any questions of the applicant? Thank you, sir. This is a public hearing. Is there anyone out there that would like to speak for or against this issue? Please step forward. Let the recorder swear you in.

[Duly sworn, Virgil Vigil testified as follows:]

VIGIL J. VIGIL: My name is Virgil J. Vigil. Mr. Chairman, Commissioners, thank you very much. I'm here to speak on behalf of Mr. Portillo. Mr. Portillo purchased this land back in 1977. That's a long time ago if you think about it because these laws that we're now under were instituted way after that time. His vision at the time was to purchase this land, subdivide it, or not subdivide it but just give it to his children where his children could live by him. That's what his vision is, that's what his dream is, and that's what he's really only trying to do.

I've heard a couple of things that kind of were interesting over here. One is that the attorney says that, well, you know we go back to the other case. Sir, don't be afraid to be challenged if you go to court on that other case. Those things will be determined later on. One of the things that is upsetting some times and we say, Well, what if? What if? Well, don't let's not worry about What if? Let's worry about what's going to happen, and if it happens it happens and we worry about it then. But I think you have a strong case and I think you would be able to win myself.

2128532

We've been through this twice before. I think we went through it with the CDRC twice and they approved it. They approved, and I know the hydrologist was there also and we heard her speak. She brought something interesting a while ago. She said that in that area there were problems and within a mile or so, that the State Engineer, I believe she said that within a mile or something like that there was no water. I've heard about hydrologists' reports. Well, what's wrong, if we're talking about miles, what's wrong with using hydrology reports that have already been completed within a mile. It's already happened.

Anyways, basically, what I'm here for is I'm here just to support Mr. Portillo. I think he has a vision, like I said earlier. He wants to put his family there. If there's any concern about subdividing then put restrictions. If that's what concern is, he's not going to sell that land. He wants to just pass that land onto his children. He wants his children to live by them. But if there's those restrictions, or those questions in you, then just put in restrictions. Hey, if you ever decide to sell that land, then—I don't know what restriction you would put. Say, this becomes null and void. That's all I need to say. Thank you very much.

CHAIRMAN DURAN: Thank you, sir. Is there anyone else out there that would like to address the Commission? Please step forward. State your name for the record.

[Duly sworn, Ted Peperas testified as follows:]

TED PEPERAS: Good evening. My name is Ted Peperas. I'm here to speak on behalf of Mr. Portillo also. I believe that there was a vision way back in 1977 and when he purchased the land his intent was to pass that on to his kids. I think that we all in here are encountering a dilemma. What is the correct thing to do? The only prudent thing to do is to look at what was the intent of the original purchase of that property and is that property being used for what it was intended to?

I'm sure that if the County had educated or sent out notices and let the public know that the County was changing the ordinance and that it was going to change from 2.5 acres to 50 acres or whatever the ordinance is requiring now that this chambers would have been inundated with people, which really, I look at the eighth amendment right which guarantees—well, it's actually the fifth amendment right. That we will not forfeit life, limb or property without due process. A due process hearing, we're having a due process hearing now, but I really question, are people being informed in the community what changes are taking place?

It's kind of like regulating wells right now without letting the people know, well, this is what we're intending to do, and just adopting something. So in lieu of what has occurred, I think that the only prudent thing to do would be to approve Mr. Portillo's request. Thank you, gentlemen.

CHAIRMAN DURAN: Thank you, sir. Is there anyone else out there that would like to address the Commission? What's the pleasure of the Board?

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Trujillo.

COMMISSIONER TRUJILLO: I think that the intent initially was for the purpose of a family transfer to situate family residences and if this case is not approved now, it would cause a major hardship on the family and I don't see any augmentation in intensity. I

2128533

don't see any—even though the permits or the appropriate protocol was not followed to situate those residences, they're there. And people, family people are living in them. And I would make a motion to approve the variance.

CHAIRMAN DURAN: There's a motion to approve. Is there a second?

CHAIRMAN DURAN: I'll second it for discussion. I think that—well, I have a question for the applicant. Mr. Portillo, you're not renting any of these units out, right now are you? It's family members? Would you consider an additional condition that would have a deed restriction on it that would basically say that you would not subdivide the property any further?

MR. PORTILLO: Yes, Commissioner, I would. Because the sole intent is for my family.

CHAIRMAN DURAN: Well, I don't know if I'm going to ask you do to that, actually. Because who knows what's going to happen out there, and if you put a deed restriction then you're just stuck. Okay, well, I don't have anything else to say. Thank you.

MR. PORTILLO: Thank you.

COMMISSIONER SULLIVAN: Mr. Chairman, was that motion with the staff conditions?

COMMISSIONER TRUJILLO: With staff conditions, yes.

CHAIRMAN DURAN: Any other questions? Those in favor signify by saying "aye." [Commissioner Trujillo and Chairman Duran voted with the motion.] Opposed? [Commissioners Campos and Sullivan voted against.] Motion carries.

Mr. Portillo, you will have the right to come before this Commission at the next public hearing and we will review the application one more time when we have a full body, when Commissioner Gonzales is in town. So you haven't been denied and you have not been approved. So you just need to get a hold of staff and they'll advise you of what you need to do. Thank you.

[The Commission recessed from 6:35 to 6:48.]

- XI. A. 3. CDRC CASE #A/V 02-5020: Tony Sisneros Appeal/Variance. Tony Sisneros, applicant requests a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow the placement of three homes on 3 acres. The property is located at 09A Calle Corrado within the Valle Linda Subdivision, within Section 25, Township 16 North, Range 8 East**

MR. DALTON: Thank you, Mr. Chairman, Commissioners. There are currently three homes and two septic systems on the property. The applicant states that when he purchased the property in 1982 there was an existing home on the property. In 1984, the applicant was issued a permit for a mobile home and in March 2000, the applicant submitted an application for a building permit for a third residence on the property. At that time, the permit was issued the applicant signed an affidavit stating that

2128534

SFC CLERK RECORDING 08/18/2004

he would remove the mobile home when construction of the home was complete. The applicant states that he would like temporary placement of the mobile home for his son who is attending college and cannot afford to pay rent and go to school full time.

Recommendation: Staff recommends that the request for a variance be denied. The intent of the Code is to set minimum lot size in this area at ten acres per dwelling unit. Staff also recommends that one of the three homes be removed. Staff recognizes only two homes as legal non-conforming.

On February 28, 2002, the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of a variance to allow three homes on three acres, subject to the following conditions:

1. A temporary permit will be issued for a period of four years to be approved for consecutive four year periods by staff. The applicant at that time must prove the hardship still exists.
2. Water use shall be restricted to .25 acre-feet per dwelling. A water meter shall be installed for all homes. Annual water meter readings shall be submitted to the County Hydrologist by February 28 of each year. Water restrictions shall be recorded in the County Clerk's office.
3. The existing driveway will serve the proposed residence.
4. Failure to comply with any condition shall result in an administrative revocation of the variance.
5. If the applicant's son finishes school within three years the mobile home shall not be used as a rental.

CHAIRMAN DURAN: Any questions of staff? So Wayne, there are three homes right now?

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

CHAIRMAN DURAN: One is a home that was built?

MR. DALTON: One is a home that's been there since the applicant bought the property back in 1982. In 1984 he submitted an application for a mobile home on the property. That permit was issued by County. In 2000, he came in for another permit and at that time he signed an affidavit he would remove the mobile home.

CHAIRMAN DURAN: He would tear it down. Okay. Who's living on the property now? In all three residences?

MR. DALTON: I believe it's the applicant and his two sons occupy the residences.

CHAIRMAN DURAN: Okay.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Trujillo.

COMMISSIONER TRUJILLO: They occupy the mobile home?

MR. DALTON: Mr. Chairman, Commissioner Trujillo, the applicant lives in the residence that has been there since 1982. One son lives in the mobile home and one son

2128535

SFC CLERK RECORDING 08/18/2004

lives in the newly constructed home.

COMMISSIONER TRUJILLO: And the applicant is saying that the reason that he wants to keep the mobile home situated on that piece of land is because his son is going to school, to college?

MR. DALTON: Correct.

COMMISSIONER TRUJILLO: Where at?

MR. DALTON: I believe the Santa Fe Community College.

COMMISSIONER TRUJILLO: Santa Fe Community College. Why cannot his son live with him? If he signed a contract or a condition that that trailer would be removed after the house was constructed, that's a contract that is binding and so I guess my question would be for the applicant and I'll ask him whenever.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Dalton, there's three homes. The first one was there in '82?

MR. DALTON: That's correct.

COMMISSIONER CAMPOS: And the second one?

MR. DALTON: The second one was permitted in 1984.

COMMISSIONER CAMPOS: And that was pursuant to a County application.

MR. DALTON: That's correct.

COMMISSIONER CAMPOS: Was that a variance?

MR. DALTON: No. Mr. Chairman, Commissioner Campos, it was not.

COMMISSIONER CAMPOS: How was it granted or approved?

MR. DALTON: Mr. Chairman, Commissioner Campos, I believe it might have been an oversight on the County's part. I did some research on that permit and on the site plan it didn't show that he had an existing home on the property and back in 1984, we did not conduct site inspections, so that permit was just probably issued.

COMMISSIONER CAMPOS: On the incorrect assumption there was only, that there was nothing out there.

MR. DALTON: That's correct.

COMMISSIONER CAMPOS: Okay.

CHAIRMAN DURAN: Is there anything in the record, is there any affidavit from the applicant at all? When he applied for the permit, did they require any affidavit signed by him that—

MR. DALTON: In 1984?

CHAIRMAN DURAN: Right.

MR. DALTON: Mr. Chairman, the only thing that's on the permit application is an application and a site plan and a septic permit. That's pretty much all that's in that application.

CHAIRMAN DURAN: Okay. Thank you. Any other questions of staff? Is the applicant here. Please come forward and state your name for the record. State your address and let the recorder swear you in please.

2128536

SFC CLERK RECORDING 08/18/2004

[Duly sworn, Tony Sisneros testified as follows:]

TONY SISNEROS: My name is Tony Sisneros. I live at 1115 Calle Corrado in Santa Fe, and I'm asking, Mr. Chairman and Commissioners, I'm asking for your approval. My son is 27 years old. He finally decided to go to school and he approached me to live in the mobile home so he can attend school. He can't afford to live in town and attend school at that same time. And it's true, I did sign an agreement when I built the other house for my older son. The agreement was to remove the mobile home when the house was built. But he approached me before school started and asked me if he could stay there so we went from there.

That's the only way he's going to afford this. I live in my home with my wife. There's two people in that home and I'm asking for approval on this mobile home, that's my youngest son Mario, and the other son lives in the other one. So there's four people on that property with one well.

COMMISSIONER TRUJILLO: Mr. Sisneros, what do you expect, when your son gets out of school, are you going to sign another condition, another agreement?

MR. SISNEROS: I expect that he'll graduate from school and find another place to live so I can get rid of the mobile home. I have two beautiful homes there on the lot and I have the mobile home right in between there.

COMMISSIONER TRUJILLO: Okay. So, you don't conjecture or speculate that when he gets out of school, he's going to get married and he's going to need a place to live, so then he'll have to live in the mobile home in perpetuity.

MR. SISNEROS: I hope not. We'll see what happens then. If it's one of those situations where he's starving to death, maybe I'll come back and ask for approval again.

CHAIRMAN DURAN: You never know what's going to happen. But you're asking for temporary approval?

MR. SISNEROS: Yes, I'm asking for a four-year approval. He just started school. He has about 20 some hours in. And I'm hoping he gets his degree in four years so I can remove the mobile home.

CHAIRMAN DURAN: Any questions of Mr. Sisneros? Okay, this is a public hearing, is there anyone out there that would like to speak for or against this matter? If not, what's the pleasure of the Board?

COMMISSIONER TRUJILLO: Mr. Chairman, I move for approval of the variance for four years. Again, it's status quo. There's no increase in intensity. It's the same usage. The applicant commits that after four years that mobile home will be removed and will stipulate on the contract that that's going to happen, that no more extensions. After four years it is removed. So I make a motion to approve.

CHAIRMAN DURAN: I second that. Any further discussion?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Sisneros, you originally in the CDRC were requesting a two-year placement of the home. Is that correct?

MR. SISNEROS: That's correct.

2128537

COMMISSIONER SULLIVAN: And the other question I have is for staff. One of the conditions that I see here, a temporary permit will be issued for a period of four years to be approved for consecutive four-year periods by staff. I think that obviously we don't have the enforcement mechanism here to track these, but I have a problem with that language. I think that if we can look at this at a two-year at a time basis and that that would then be re-reviewed through the normal process, which would be CDRC, BCC and see where we are at that time. Four years is a long time. I think if your son is still going to Community College and the circumstances still exist then I think the Commission would want to help that.

A lot of times we see that circumstances change, then the dwelling becomes rented. We lose track.

MS. SISNEROS: Commissioner, the reason I'm asking for the four-year approval is number one, you can't get a degree in two years. Number two, I have to go through the whole process all over again. If I go through CDRC, it costs about \$400 or \$500 to go through this. The advertising and the fees and everything.

COMMISSIONER SULLIVAN: What was the reason you originally had asked for a two-year?

MR. SISNEROS: Well, no, it's the County approves two-year intervals. And I asked the CDRC for four and the approved four years for the same reason that I'm requesting at this time.

COMMISSIONER SULLIVAN: I'm a little confused. The CDRC minutes say that you are requesting a temporary two-year placement of a mobile home so your youngest son can go to college.

MR. DALTON: Mr. Chairman, Commissioner Sullivan, the standard condition reads "a temporary permit for a period of two years." That's the original condition. CDRC recommended a four-year period. So that condition came from the CDRC, asking for or recommending a four-year temporary permit.

COMMISSIONER SULLIVAN: Well, then is there a need for it to go back to the CDRC, or could it simply come back to the BCC?

MR. DALTON: Mr. Chairman, it would not need come back to committee. It would actually—if at the end of the four-year period, the applicant would submit a letter to staff or come into the office and prove that the hardship still exists, staff could administratively extend the permit for a two or four-year period.

CHAIRMAN DURAN: What do you think about this, Commissioner? What if we, if you look at condition number one, what if we just said, "A temporary permit will be issued for a period of four years." Period. And if at the end of that four years, he needs additional time to allow his son to finish his education, he'd have to come forward to this Commission and ask for an extension. I agree with you that to be approved for consecutive four-year periods by staff, that could go on forever.

COMMISSIONER SULLIVAN: Right. And I think we're dealing with a specific condition here that we're trying to address and that is that the son going to college. And I think that condition should be in the conditions.

2128538

SFC CLERK RECORDING 08/18/2004

CHAIRMAN DURAN: How do you enforce that?

COMMISSIONER SULLIVAN: You don't enforce it unless the County has time to do that but you take the applicant's word that that's the condition going on and that if you receive a complaint from a neighbor that the property is being rented out then you respond to that complaint as it's a violation of one of the conditions. Enforcement is always a problem. We have to rely, as we've said many times, on the honesty of the applicants to live within those conditions. But I think that's the problem that we're trying to address here and so that should be part of the conditions.

CHAIRMAN DURAN: Are you asking for that to be a friendly amendment?

COMMISSIONER SULLIVAN: Yes. I would suggest a friendly amendment, which would add your concept in too, that a "temporary permit shall be issued for four years for occupancy of the third structure by applicant's son while he's attending college."

CHAIRMAN DURAN: Okay. Do you accept that?

COMMISSIONER TRUJILLO: Yes.

CHAIRMAN DURAN: The second will accept that. Any further discussion? Those in favor signify by saying "aye." [Commissioners Trujillo, Duran and Sullivan voted aye.] Opposed? [Commissioner Campos voted nay.] Motion carries.

- XI. A. 4. LCDR CASE # MIS 01-5812. Vallecitos de Gracia Amendment of a Condition. Jim Brown, applicant, Jim Siebert, agent, request an amendment to a condition on a preliminary plat for Vallecitos de Gracia, a 16-lot residential subdivision on 42 acres, which requires two all-weather crossings capable of accommodating a 100-year storm. The amendment would result in a variance of Article V, Section 8.3.4 of the Land Development Code. The property is located along County Road 54, northwest of the Downs Racetrack, within the traditional historic community of La Cienega, within Sections 22, 27, and 28, Township 16 North, Range 8 East**

MR. DALTON: Thank you, Mr. Chairman. This case was heard by the Board of County Commissioners on February 20, 2002. The decision of the Board was to table this case in order for staff to write a cost-estimate on two low-water crossings north and south of the intersection of Paseo de Angel and County Road 54. Staff has found to accommodate a 100-year flood at each site, this would require a 60' single span bridge with a 12' underclearance. These bridges would cost approximately \$200,000 each.

An alternative solution would be to require culverts to accommodate a 25-year flood frequency. This would probably require three 96" CMPs, which would cost approximately

2128539

SFC CLERK RECORDING 08/18/2004

\$100,000 at each site. A detailed study would need to be prepared to determine actual size of the culverts needed. Thank you.

CHAIRMAN DURAN: Any questions of Wayne? Is the applicant here? Please state your name for the record and let the recorder swear you in.

[Duly sworn, Jim Siebert testified as follows:]

JIM SIEBERT: Mr. Chairman, Commissioners, my name is Jim Siebert. My address is 915 Mercer, Santa Fe. As I recall, when this was tabled last time, the reason for that was to allow Public Works to provide you information on the actual costs of the drainage structures. Other than that issue, I'd be happy to talk to you about any aspect of the development.

CHAIRMAN DURAN: Do you concur with staff's findings?

MR. SIEBERT: Well, to be frank with you I think the costs are a little light? But we'll have to defer to the Public Works Department on that issue.

CHAIRMAN DURAN: Any questions of the applicant?

COMMISSIONER TRUJILLO: Mr. Chairman, beyond the costs, there are some liability issues that the County would have to face. Is that correct, Steve?

MR. KOPELMAN: Mr. Chairman, Commissioner Trujillo, I have concern that if the County actually assumes responsibility for the low-water crossing that the County then is assuming a potentially large liability, and I would caution the Commission about taking that action. I also think there may be implications of the anti-donation clause is we do that, because at this point, these are private roads. It's private property, and the County has no maintenance responsibilities at this stage.

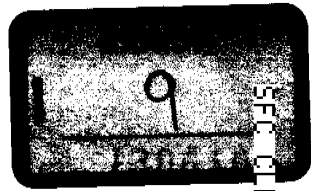
MR. SIEBERT: Mr. Chairman, as I recall, the way we left this last time, there was discussion that with the applicant willing to dedicate the roadways and the roadway crossings to the County, and the answer to that is yes. And would he be willing to not develop the lots that require the crossing of the arroyos until such time as the drainage structure has been constructed and the answer to that is yes as well.

CHAIRMAN DURAN: I also recall that we didn't agree to adopt those sections of the road and assume maintenance of those. I thought that we asked the applicant, as a condition of the approval of the lots that were on this side of the crossing that we asked the applicant to improve those roads but we didn't commit to adopt them and maintain them.

MR. SIEBERT: That's correct. And I think the issue of the road where the arroyo crossing is is that the County felt like the only way that they could do work on that section of the roadway, which provides access to several other lots on either side of the arroyo, the only way they could do that legally was to have at least that section of the roadway dedicated to the County.

CHAIRMAN DURAN: Steve, if that's the case, do you think we'd still have liability issues?

MR. KOPELMAN: Mr. Chairman, Commissioners, I'm not quite, I'm not entirely sure what Mr. Siebert is saying.



REC'D CLERK RECORDING 08/18/2004

SECTION 3 - HISTORIC AND CULTURAL SITES, LANDMARKS AND ARCHAEOLOGICAL DISTRICTS

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3.1 Purpose and Intent

- 3.1.1 In order to preserve and enhance the unique heritage of the County of Santa Fe, special review requirements are established for historic and cultural sites, landmarks and archaeological districts. Such sites, landmarks and districts include, but are not limited to, structures which either are designated by the official register of cultural properties maintained by the New Mexico Cultural Properties Review Committee or are properties which may contain historic or pre-historic structures, ruins, sites or objects, desecration or destruction of which would result in an irreplaceable loss to the public of their scientific, educational, informational, or economic interest or value.
- 3.1.2 Preservation of historic and cultural sites, landmarks and archaeological sites shall be achieved by establishing a procedure for discovering, evaluating, reporting and treating such resources at the planning stage of development proposals.
- 3.1.3 This ordinance is adopted pursuant to the Zoning Act, Section 3-21-1, et. seq., N.M.S.A., 1978, the Historic Districts and Landmarks Act, Section 3-22-1, et. seq., N.M.S.A., 1978, and the Cultural Properties Act, Section 18-6-1, et. seq., N.M.S.A., 1978 as amended.

3.2 Definitions

- 3.2.1 Archaeological districts - districts as described on Code Map 34 which have high, medium or low potential for cultural remains.
- 3.2.2 Archaeological features - nonportable cultural remains including but not limited to hearths, storage pits, firepits, architecture, or undisturbed layers of deposited materials.
- 3.2.3 Archaeological site - a concentration of cultural remains inferred to be the location of specific human activities.
- 3.2.4 Archival research - research in primary documents likely to yield information concerning the human occupation of the site in question, including but not limited to deed, census, cartographic, judicial records, historic maps, and Archaeological Records Management Systems (ARMS) site files maintained by the State of New Mexico and other existing data.
- 3.2.5 Artifact - portable cultural remains that exhibit evidence of human use or alteration.
- 3.2.6 Culturally altered landscape - a landscape modified by human activity, including but not limited to roadways, agricultural fields, farming terraces, and irrigation ditches or other water control devices.
- 3.2.7 Cultural Site - a location or structure with historic, scientific, architectural, or other importance to the residents of Santa Fe County.
- 3.2.8 Cultural remains - the remains of prior human occupation or activity more than seventy-five years old whether portable or non-portable, including but not limited to, historic and prehistoric artifacts, archaeological features, human skeletal remains, animal skeletal

remains found in an archaeological context, rock carvings, and culturally altered landscapes.

3.2.9 Historical Site - a location, building or neighborhood more than 75 years old.

3.2.10 Landmark - a structure or site of historic interest.

3.2.11 Non-disturbance easement - an easement or covenant to avoid and protect significant sites as an alternative to treatment. No construction or alteration of the landscape may occur within a non-disturbance easement without prior approval of the Code Administrator.

3.2.12 Reconnaissance survey - a visual examination of land surfaces that are to be disturbed.

3.2.13 Significant Sites - those archaeological sites that have yielded, or may be likely to yield, information important in the study of prehistory or history. Significant sites shall be those:

- (1) with cultural remains that are more than seventy-five years old;
- (2) with cultural remains that are directly associated with events or developments that have made an important contribution to local history or prehistory;
- (3) with cultural remains that are directly associated with the lives of persons significant in local history;
- (4) areas where a substantial number of prehistoric cultural remains are present; or
- (5) areas having cultural remains known to rarely occur in the Santa Fe County area.

3.2.14 Treatment Plan - a plan for the recovery or protection of discovered cultural remains at those historical, cultural or archaeological sites or landmarks that are considered significant. A plan shall include proposed excavation or preservation methods, proposed analysis techniques, and plans for the final disposition of artifacts recovered.

3.3 Location of Historic or Cultural Sites, Landmarks and Archaeological Districts

3.3.1 Location of Historic or Cultural Sites and Landmarks

The following Historic or Cultural Sites and Landmarks are established, as amended from time to time, at the following locations:

- a. Apache Canyon Railroad Bridge, Canoncito; Mesita Huerfana (Tunyo), near San Ildefonso; Bouquet Ranch, Pojoaque; Cerrillos Opera House (Clear Light); Cieneguilla Pueblo; Colina Verde Ruin, Galisteo Basin; Cundiyo; Davey (Randall) House, Upper Canyon Road; El Santuario de Chimayo and Collections; Galisteo Historic District; Glorieta Pass Battlefield; La Bajada Ruin, U.S. Forest, near Village of La Bajada; La Iglesia y La Plaza de Santa Cruz de la Canada; Las Golondrinas Ranch Site, La Cienega; Madrid Boarding House; Madrid Historic District; Mount Chalchihuitl Turquoise Mine, north of Los Cerrillos; Nambe Archaeological District; Nuestra Senora de Luz Church and Cemetery in Canoncito; Old Cienega Village Museum; Oratorio de San Buenaventura, Chimayo Plaza; Otowi Bridge Historic District on the Rio Grande; Pigeon's Ranch, near Glorieta; Plaza del Cerro, Chimayo; Galisteo Pueblo, Lamy; Pueblo Blanco, Galisteo Basin; Pueblo Colorado (north), Galisteo Basin; Pueblo of San Ildefonso; Pueblo of San Lazaro (National Historic Landmark), Galisteo Basin; Pueblo of San Marcos; Pueblo of She, Galisteo Basin; Pueblo of Tesuque; Roybal (Ignacio) House, Jacona; Santa Cruz Dam; Santa Fe River Sits, south of Agua Fria; Santa Fe Waterworks Reservoir; Sol y Sombra (Los Llanos), Old Santa Fe Trail; Spanish Log Cabin, Upper Canyon Road; West Otto Site; Waldo

Coke Ovens; La Bajada Mesa Agricultural Site; Pueblo Largo; San Cristobal Pueblo; Los Cerrillos Mining District; Nambe Pueblo; Pfluger General Merchandise and Annex Saloon; Our Lady of Christ Church; and Narawi.

- b. Any parcel located in the County on which a structure is located which has been, or is after the effective date of the Code, placed on the official register of cultural properties maintained by the New Mexico Cultural Properties Review Committee or the National Register of Historic Places.
- c. Other areas of exceptional historical, archaeological scientific, architectural or cultural interest or value hereafter designated by the Board as Historic or Cultural Sites or Landmarks.

3.3.2 Location of Archaeological Districts

All areas shown on Code Map 34, as amended, having known or probable archaeological sites are hereby designated as Archaeological Districts. Code Map 34 has been prepared under the direction of the New Mexico State Historic Preservation Division and is based upon a data base maintained by that Division. Code Map 34 shall be updated periodically in consultation with the New Mexico State Historic Preservation Division .

3.4 Review and Report Procedures For Development in Areas Designated as Historic or Cultural Sites, Landmarks, or Archaeological Districts

3.4.1 General Requirements for Historic or Cultural Sites, Landmarks or Archaeological Districts

Pursuant to the requirements of Sections 3.4.2 and 3.4.3 below, applicants shall submit two copies of reports, drawings, and surveys, describing all proposed changes to structures, or development within a Historic or Cultural Site, Landmark or Archeological District. Unless a report is specifically required by the Code Administrator, individual permits for construction of single dwelling units, accessory structures, agricultural facilities, roads, utility installations and family transfers which do not alter any known Historic or Cultural Site or Landmark and lands which have been previously surveyed by a professional archaeologist and accepted by the Code Administrator are exempt from these reporting requirements.

3.4.2 Historic or Cultural Sites and Landmarks

A report and drawings describing all proposed changes to structures or development within a Historic or Cultural Site or Landmark listed in Section 3.3.1 of this Article shall be prepared by a professional qualified to evaluate, design and report on such changes. Two copies of this report shall be submitted to the Code Administrator prior to preliminary plat approval. The report shall include a treatment plan which provides methods by which the site or landmark affected by the development will be protected, preserved or salvaged. The treatment plan shall be reviewed by the County Development Review Committee, who shall decide on further course of action regarding treatment.

3.4.3 Archaeological Districts

a. Reconnaissance Survey and Report Required

Applicants proposing developments within an Archaeological District shall complete an archaeological reconnaissance survey and report prior to the County Development Review Committee approval of any preliminary development plans or plats unless the project area has been previously surveyed and a report has been prepared that is acceptable to the Code Administrator. Two copies of the report shall be submitted to

the Code Administrator. Code Map 34, as amended, describes Archaeological Districts in the County of Santa Fe which have high, medium or low potential for archaeological sites. The following development shall be required to conduct a reconnaissance survey and prepare a report subject to these regulations:

- i. Developments of 5.0 acres or more within areas designated as having high archaeological potential as shown on Code Map 34, as amended.
- ii. Developments of 2.0 acres or more within areas identified in a traditional community, as defined in Article VI, Section 4, as having high archaeological potential as shown on Code Map 34, as amended.
- iii. Developments of 10.0 acres or more within areas designated as having moderate archaeological potential as shown on Code Map 34, as amended.
- iv. Developments of 40 acres or more within areas designated as having low archaeological potential as shown on Code Map 34, as amended. A 50% sample survey is required for low potential areas.
- v. The Code Administrator may waive the survey and reporting requirements, or may reduce the area to be surveyed and the sampling methods to be employed for developments that are located in areas with extensive surface disturbance, such as gravel quarries.

b. Professional Qualifications: Archaeologist

All archaeological reconnaissance surveys, reports and treatment plans required shall be conducted by a professional archaeologist who is permitted by the State Cultural Properties Review Committee to conduct surveys on State lands and who is also approved by the Code Administrator.

c. Standards and Criteria for Reconnaissance Surveys and Reports

- i. The reconnaissance survey shall consist of:
 - 1) research and analysis of the Archeological Records Management Systems (ARMS) site files; the State Register of Cultural Properties maintained by of the State of New Mexico, Historic Preservation Division; the Bureau of Land management historic plat records maintained in the BLM State Office public room; and
 - 2) a visual examination of the property for evidence of archaeological features, artifacts or culturally altered landscape at least seventy-five years old following the archaeological survey procedural manual prepared by the Museum of New Mexico, Office of Archaeological Studies, Notes no 24A (1994), as amended. Linear transects shall be used. A sample of surface artifacts shall be analyzed during the field survey.
- ii. If cultural remains are found, two copies of a report shall be submitted to the Code Administrator containing the following:
 - 1) the name of the person who prepared the report and survey and the name of the property owner;
 - 2) a description of the project site and proposed land altering development;
 - 3) a vicinity map at a scale of at least one inch equals 2,000 feet (USGS 7.5 Quad);
 - 4) a brief description and justification of the research design, methods and techniques used;
 - 5) quantitative and qualitative summaries of cultural remains tested and analyzed during the field investigations including a description and the significance of the remains. If the remains are significant the requirements in Section 3.4.3d of this Article shall also apply;

- 6) a brief description of human occupation and land use, as evidenced through documentary and archaeological research; additional research of archival sources, land titles and historic maps, is required when historic period cultural remains are found;
 - 7) a complete listing of sources, including individuals with personal knowledge of a site, records and literature, which were consulted during the reconnaissance;
 - 8) documentation of the project site including a site map at a minimum scale of one inch equals 400 feet showing the location of field work; visible cultural sites or structures; photographs of sites or structures completed; State of New Mexico site inventory and activity forms which can be obtained from the New Mexico Historic Preservation Division; and an overview of previous work and findings in the vicinity;
 - 9) an assessment of the impact of the proposed development on the cultural remains of the site; and
 - 10) one of the following recommendations to the Code Administrator:
 - (a) the proposed development will not affect a significant site or the integrity of the district and no further treatment is required;
 - (b) the proposed development will adversely impact a significant site or structure or the integrity of the district, but the effects can be mitigated by a non-disturbance easement, through avoidance of the site by project redesign, or through a specified treatment plan as outlined in Section 3.4.3d of this Article; or
 - (c) the proposed development will adversely impact a significant site or structure or the integrity of the district, and the affected structures or sites are of such size or significance that an adequate treatment is not feasible. Therefore, a protective non-disturbance easement, avoidance of the site by project redesign, or other protective measure approved by the Board is required.
- iii. If cultural remains are not found, two copies of a report shall be submitted to the Code Administrator containing the following:
- 1) the name of the person who prepared the report and survey and the name of the property owner;
 - 2) a description of the project site and proposed land altering development;
 - 3) a vicinity map at a scale of at least one inch equals 2,000 feet (USGS 7.5 Quad);
 - 4) a brief description and justification of field methods and research techniques used;
 - 5) a brief summary of the findings of the ARMS, State Register and BLM historic plat reviews.
- d. Procedure for Treatment Plan for a Significant Archaeological Site
If an archaeological site is determined to be significant and a treatment plan is recommended the treatment plan shall be completed as follows:
- i. A sample of surface artifacts shall be collected and documented;
 - ii. If there is reason to believe that subsurface remains exist, excavations shall take place following current professional standards up to the maximum funding limit allowed pursuant to Section 3.7 of this Article. Excavations shall proceed to a depth where no archaeological features or artifacts are encountered.

2128632

- iii. Further archival research shall be conducted concerning human occupation and the land use of the site. A final report of the results of treatment is required and shall be submitted to the Code Administrator.
- iv. If test excavations are required to recover additional information about a site for the purposes of guiding subsequent treatment, then a preliminary excavation report for the results of the test excavations shall be submitted to the Code Administrator.
- v. If excavations do not exhaust retrievable information from a significant site, then a non-disturbance easement shall be created to protect the remaining portions of the site, at the discretion of the County Development Review Committee.
- vi. The cost of implementing the treatment plan and associated report shall not exceed the maximum funding limit pursuant to Section 3.7 of this Section.

3.4.4 Review Procedures: Historic or Cultural Sites, Landmarks or Archaeological Districts

- a. a survey and report are required for the proposed development, two copies shall be submitted to the Code Administrator during the preliminary stage of the development review process. The Code Administrator shall submit comments summarizing the report's findings to the County Development Review Committee and to the Board when the development is presented for review.
- b. If the applicant does not agree with the findings of the report and proposed treatment plan, the applicant may engage a consultant, who meets the qualifications of Section 3.4.4 or 3.4.2 of this Article, to review the findings and the proposed treatment plan and render a second opinion.
- c. If, after the second opinion, the applicant still does not agree with the findings, the applicant may request an opinion regarding the findings from the New Mexico State Historic Preservation Division. If necessary, the opinions and recommendations of the New Mexico State Historic Preservation Division or the consultant will be presented to the County Development Committee, who will decide the required action to be taken.
- d. A mapped and written record shall be kept by the County of all surveyed areas.
- e. The Code Administrator shall submit one copy of reports and surveys to the Archaeological Records Management System at the Historic Preservation Division for filing

3.5 Archaeological Review Districts - Unexpected Discoveries; Human Remains; Penalties.

- 3.5.1 A report of any unexpected discoveries of cultural remains during construction activities shall be made to the Code Administrator. Construction activities within the area of the discovery that in any way endangers the cultural remains shall cease. The applicant shall be responsible for having a qualified archaeologist visit the site within forty eight (48) hours, excluding weekends or holidays, and determine the archaeological significance and the data potential of the site. If the site is determined to be significant and to have data potential, then:
 - a. the archaeologist will determine a buffer area in which construction activities shall temporarily cease; and
 - b. the property owner shall present a treatment plan to the Code Administrator for approval. The treatment plan shall meet the requirements of Sections 3.4.3d. Alternatively, a non-disturbance easement may be platted to protect the significant site.
- 3.5.2 Human remains are considered part of an archaeological record, and shall be afforded special treatment pursuant to the provisions of New Mexico Cultural Properties Act

Section 18-6-11.2 NMSA 1978, which shall be followed whenever unmarked human remains are discovered. If the remains represent permanent interment in any church, church yard or cemetery, they may not be disturbed without a district court order, in accordance with Section 30-12-12 N.M.S.A. 1978, as amended.

3.5.3 Failure to report such finds shall result in the imposition of penalties provided in Article I, Section 11 of this Code in addition to those provided for under state law.

3.6 Public Use

If the owner of an archaeological, historic, or cultural site or landmark intends to make the premises open to the public or charge user fees to the public for visiting the site, the owner shall be subject to the provisions of this Code relating to non-residential or other development.

3.7 Maximum Funding Limit

In no case shall the applicant be required to spend more than two percent (2%) of the value of the proposed development shown on the development permit in preparing for and completing treatment

History. Section 3 amended by Ordinance 1988-8, providing for surveys and a review procedure relating to the archaeological resources of the County. Ordinance 1996-8 amended Section 3 to update and clarify language and to change the review procedure.

SECTION 4 - TRADITIONAL COMMUNITY DISTRICTS

4.1 Boundaries of Traditional Community Districts

La Puebla, Chimayo, Rio Chiquito, Cundiyo, the Pojoaque Valley (including Pojoaque, Nambe, Jacona, Jaconita, El Rancho and San Ildefonso), Chupadero, Rio en Medio, Tesuque, Cuyamungue, La Cienega, Canada de Los Alamos, Glorieta, Lamy, Galisteo, Los Cerrillos, Golden, Madrid, Stanley and Edgewood are established as Traditional Community Districts, in the locations shown on Code Maps 40 through 57. (The boundaries for Rio en Medio and Tesuque are to be amended according to the Las Tres Villas Plan.)

4.2 Alteration of Traditional Community Boundaries

The Board may alter the boundaries of a Traditional Community. If an interested party or parties applies for a development permit involving a change in the boundary of a Traditional Community District, in addition to the other requirements of law for amending the Code, the Board shall consider any existing approved Local Land Use and Utility Plan and shall seek the advice of the Community Development Review Committee, if any.

4.3 Local Land Use and Utility Plan

4.3.1 Residents of a Traditional Community District may cause a Local Land Use and Utility Plan to be prepared for a Traditional Community. In order to be considered by the Board for approval, a Local Land Use and Utility Plan for a Traditional Community shall:

- a. establish policies and provisions for land use and the provisions of water and liquid waste disposal services;
- b. establish policies and provisions for water consumption, community layout, improvement and maintenance of utilities, critical community population size based on a refined analysis of the County General Plan Community critical size,

- environmental impact, if any, of development, housing, roads, open space and recreation, and historic, cultural and archaeological preservation;
- c. not include development proposals that might use or deplete a greater amount of local water resources than is provided for under the water policies of the Code and the County General Plan, unless the Plan demonstrates that water in an amount sufficient to adequately serve the additional population is available; and
 - d. be consistent with any applicable State statutes or any County ordinances.

4.3.2 The Board may, after public hearing, approve a Local Land Use and Utility Plan for a traditional community. After approval by the Board, a Local Land Use and Utility Plan shall constitute an amendment to the County General Plan as it applies to the traditional community. To the extent that a Local Land Use and Utility Plan amends the Code, the procedures for adopting ordinances shall be followed in connection with adoption of a Local Land Use and Utility Plan.

4.4 Critical Community Population Sizes

When a Traditional Community has reached its critical population size, as established in the County General Plan, the County shall grant no development permits under this Section unless:

- (1) water is imported;
- (2) a hydrology report establishes that ground water sources in addition to those water sources described in the County General Plan are available;
- (3) water conservation practices provided for in the Code to reduce the use of local ground water are made legally enforceable in the Traditional Community District; or
- (4) a policy is established to utilize existing irrigation water rights and supplies for the purposes of supporting urbanization.

4.5 Neighborhood Center Uses in Traditional Communities

Uses allowed in neighborhood center districts are allowed anywhere within the boundaries of a Traditional Community, provided that any requirements of the Code, other than requirements concerning location of neighborhood center districts are met.

2128540

SFC CLERK RECORDING 08/18/2004

CHAIRMAN DURAN: Well, along the County road, on either side of the County road there is this subdivision, correct?

MR. SIEBERT: Yes. This roadway is not a County dedicated roadway that access across the roadway is not a County-dedicated roadway at this point. It does access a County roadway.

CHAIRMAN DURAN: But the roads that we're talking about and that we've asked you to bring up to County standards are from the existing County road to the low-water crossing

MR. SIEBERT: Correct.

CHAIRMAN DURAN: So those are the sections of the road that you're considering granting to the County. And my question is, if he grants it, does that require us—if he dedicates it to us, that doesn't necessarily require us to maintain it.

MR. KOPELMAN: Mr. Chairman, under state law it would. If it's dedicated and the County formally accepts the dedication, then we assume all maintenance responsibilities and all liability on that road.

CHAIRMAN DURAN: Well, could we, on the plat, accept the dedication subject to some kind of resolution relative to the low-water crossing?

MR. KOPELMAN: Mr. Chairman, you can certainly condition a dedication and an acceptance of a dedication. You have that authority.

CHAIRMAN DURAN: And what kind of liability would we have if we did it that way?

MR. KOPELMAN: Until the Commission actually accepts a dedication, it's still a private road and at that point, I don't believe that the County incurs liability. Once you accept the dedication, I think then the County incurs potentially substantial liability. And that's one reason why the general policy the Commission has been, at a minimum to require the entire road to be brought up to County standards so at least there's not the necessity for Public Works to go in and have to do a lot of work to even get it to that point. But once we accept a road, we do assume liability for that road.

CHAIRMAN DURAN: Any questions of the applicant?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Siebert, last time we had a discussion and I asked for Mr. Brown to communicate with the adjoining subdividers to see if they would contribute some money to these low-water crossings. Did you have a discussion or did Mr. Brown have a discussion?

MR. SIEBERT: No, there was no such discussion. What I recall is there was direction for me to talk to Robert Romero who's representing the La Cienega area. And I've had several calls to him and we've had discussions. We were waiting for the cost estimate or the description of the recommendations from the Public Works on the arroyo crossings and there was not sufficient time to schedule a meeting to go over those recommendations.

2128541

SFC CLERK RECORDING 08/18/2004

COMMISSIONER CAMPOS: I specifically asked Mr. Brown and he agreed to do so, so I assumed he didn't do so, right?

MR. SIEBERT: He did not. No.

COMMISSIONER CAMPOS: Now, what you're proposing is to move forward with the subdivision but not include the lots that would have to access through the arroyos, the 100-year flood plain?

MR. SIEBERT: That's correct.

COMMISSIONER CAMPOS: What would you do with that land that is not being subdivided?

MR. SIEBERT: Well, the way that would have to work is on the plat, there would have to be a note that that would remain undeveloped land until such time—it would be one tract on either side of the arroyo, and that that would have to remain undeveloped land until such time as there is an arroyo crossing approved by the County.

COMMISSIONER CAMPOS: Mr. Chairman, I still think that we need to have discussion with adjoining subdividers about contributing to solving this problem and it hasn't been. So I would think that until Mr. Brown talks to these folks like he agreed to do at the last meeting we should table it. It's just a suggestion not a motion.

CHAIRMAN DURAN: Well, why don't you want to make it a motion?

COMMISSIONER CAMPOS: There's still some discussion.

COMMISSIONER SULLIVAN: Mr. Siebert, are you saying at this point now, the application is only for the lots that can be served without crossing the arroyo?

MR. SIEBERT: Yes.

COMMISSIONER SULLIVAN: Could you show me, how many—

MR. SIEBERT: There's a total of 15 lots in the subdivision. The two arroyos are noted in blue. The County road is here, County Road 54, Los Pinos Road. There's a crossing here of Paseo de Angel, and then there's another crossing which you don't see that actually is through another existing subdivision. But there would be two lots that would be reserved as non-build lots or non-build tracts to the south of County Road 54, and three lots that would be reserved as a non-build tract to the north of the Arroyo de los Chamisos.

COMMISSIONER SULLIVAN: Is that shown on this?

MR. SIEBERT: Let me—we have another hand-out here. We had a hand-out last time. I guess that wasn't incorporated again. [Exhibit 3]

CHAIRMAN DURAN: So how many lots would not be approved?

COMMISSIONER SULLIVAN: Looks like five lots would not, and then how many would be?

MR. SIEBERT: Eleven would be approved and five potential would be reserved.

CHAIRMAN DURAN: I don't see that.

MR. SIEBERT: Well, the plan that I handed out includes subdivisions that are pre-existing subdivisions that are already served by the two arroyo crossings.

2128542

CHAIRMAN DURAN: Oh, so lot 13, 14, 5, 2, 1 and 6 are in this subdivision, right?

COMMISSIONER SULLIVAN: Are you north or south of the County Road?

CHAIRMAN DURAN: South of it.

MR. SIEBERT: On this plat—

CHAIRMAN DURAN: Which is the subdivision that you're coming forward with?

MR. SIEBERT: It's this entire subdivision here, but what we've done is we've shown you on that plan, a subdivision, existing subdivision that's here, an existing subdivision that's north of Vallecitos de Gracia.

CHAIRMAN DURAN: So that's the subdivision there?

MR. SIEBERT: Correct.

CHAIRMAN DURAN: And what's in red are the lots that will not be approved.

MR. SIEBERT: Correct.

CHAIRMAN DURAN: And that's five?

MR. SIEBERT: That's five of 16, leaving 11 that would be developed.

COMMISSIONER SULLIVAN: This shows a cul-de-sac, Mr. Siebert, coming into the homes right at the bottom.

MR. SIEBERT: Right. There's a cul-de-sac here that's really an extension of existing roadway that's Paseo de Angel.

COMMISSIONER SULLIVAN: And that's showing as two lots or three there?

MR. SIEBERT: Two.

COMMISSIONER SULLIVAN: And neither of those is developed yet.

MR. SIEBERT: No.

COMMISSIONER SULLIVAN: Now, the lots immediately to the north of that are on both sides of the arroyo.

MR. SIEBERT: Well, they're on both sides but the actual building area, the buildable area is on the north side that would be accessed from a short cul-de-sac from County Road 54.

COMMISSIONER SULLIVAN: I would think that that portion on the other side would have to be restricted also. It's amazing where people can build things and even that little strip there could end up being a building site.

MR. SIEBERT: Sure. We would agree to platting that as, all this area as a no-build area from the 25-foot setback from the floodplain.

COMMISSIONER SULLIVAN: Now, I've taken a look at these crossings and the one to the south is an extremely dangerous crossing. It's extremely steep and it's—I think we'd be going down the wrong path to add more homes and more potential emergency vehicles having to come in to that southern crossing. And that kind of a canyon

2128543

SFC CLERK RECORDING 08/18/2004

effect is what can creep up on people and cause—you can't judge the depth as the water's coming through and you can get swept away and you can't judge the speed of the water either.

So I understand what you're proposing here doesn't add any more to that southern area. I am concerned of course also about the northern area. That one is less steep but then, of course the road goes up quite steeply north from there. So you have a great deal of flow and drainage coming down into that area as well as the fact that that's the Arroyo Chamiso, and the Arroyo Chamiso carries a great deal more flow than the Arroyo Hondo, which is the one on the other side. It's just that the Arroyo Hondo in this particular case is a mean looking thing there. It's nasty.

So the question still in my mind is how do we improve the health, safety and welfare of the residents who are there now and who already have a problem and what, other than the things you've mentioned, does the developer propose to possibly contribute to that culvert in the future, or that crossing or both of them?

MR. SIEBERT: Well, as I recall, there was a discussion about cost-sharing that would include a greater percentage of people than just this particular subdivision and the developer is willing to participate on a pro rata share in those crossings.

COMMISSIONER SULLIVAN: It's pretty hard to assess people that are already here, and my understanding is these other subdivisions were done under different regulations. Is that correct?

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: And that was before it came under the traditional community designation?

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: So what regulations was it under initially?

MR. SIEBERT: Initially, it was under Extraterritorial regulations. And then when it became part of the village of La Cienega under the local development review committee jurisdiction, then it fell under the equivalent of the County Code regulations.

COMMISSIONER SULLIVAN: The County Code required an all-weather crossing, which means it has to pass a 100-year flow, whereas the Extraterritorial Zoning did not. Is that the case?

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: So that the lots that were put in previously were put in under the Extraterritorial regulations which allow this dip section. So it would be hard to go back and say contribute to this because it was a legal development at that time. Would that be your interpretation?

MR. SIEBERT: That's correct. Those subdivisions were constructed under the regulations at the time which allowed for low-water crossings.

COMMISSIONER SULLIVAN: So now, the question still remains, you've got 11 lots here and potentially five others in the future. What kind of suggestions do you have, if the County were to sponsor legislation or request the legislature to provide some

2128546

SFC CLERK RECORDING 08/18/2004

would not be issued on those until such time as the applicant has brought something forward to this Commission to consider as a solution to the problem. Then we don't have the liability anymore for those roads.

Mr. Brown could even consider using these properties as conservation, create some conservation easements to go against the profit that he's going to make from selling the lots. Maybe not all of them, maybe three of them. I don't know. But it opens up the door for a lot of different options for you to consider. And maybe even an assessment district. Maybe after Mr. Brown gets tired of owning these lots and not having any money coming in on them, maybe he would spend some energy, put some energy towards getting the neighbors to agree to an assessment district, where everyone would benefit from this and at the same time, we could try to get money from the state. That's a possibility.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

CHAIRMAN DURAN: Just a quick question for Mr. Kopelman. If these five lots are approved but their development is limited, what happens if Mr. Brown sells lots and then they come in and say, Hey, I can't use this. It has no value. I have property and I can't sell it. You've got to give me a variance.

CHAIRMAN DURAN: Well, the condition would be that he can't convey it.

COMMISSIONER CAMPOS: What would you do to effect the Chairman's position?

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, I think that can be done through a restriction on the plat. You could even do a deed restriction that provides that until the low-water crossing is formally approved by the County that this lot can't be further sold. There's ways of doing that for sure.

COMMISSIONER CAMPOS: You feel comfortable with that?

MR. KOPELMAN: I think we can accomplish that through legal documentation. Yes.

COMMISSIONER CAMPOS: Okay.

CHAIRMAN DURAN: Have you thought about conservation easements at all?

MR. SIEBERT: Mr. Chairman, Commissioners, no. Actually we've not. It's an option. I think Mr. Brown, he's an outstanding member of the community. He would like to do what he can to solve the problem and just creating 11 lots is not going to solve the problem. Or creating no lots is not going to solve the problem. And he would like to be able to work with the County any way he can to see if there is a solution and maybe that is that he would conditionally dedicate at least that portion of the road that crosses the arroyo crossings until such time as—

CHAIRMAN DURAN: We don't want it though. We don't want you to dedicate it to us until you've solved the problem.

COMMISSIONER TRUJILLO: It would be easier if the road would be

2128547

SFC CLERK RECORDING 08/18/2004

dedicated to us and then we could go to the state legislature and get monies to improve the low-water crossings. Then it would be a public road, County dedicated, that would qualify for legislative monies.

CHAIRMAN DURAN: Couldn't we get legislative monies with the condition that once we get them that the dedication would take place? I don't know. It just seems to me that Chavez County is being sued for a low-water crossing where a family died, and I think that if we approve, if we adopt these roads and those roads lead to a dangerous situation that we expose Santa Fe County to major liability.

COMMISSIONER TRUJILLO: If it's County dedicated, we'll make sure that it's not dangerous.

CHAIRMAN DURAN: How? The only way you can do that is by building the low-water crossings.

COMMISSIONER TRUJILLO: Well, it needs to be appropriately designed.

CHAIRMAN DURAN: Okay, anything else to add, Mr. Siebert?

MR. DOMINGUEZ: One point of clarification. The process that this subdivision went through was also under the EZ. I just wanted that for the record to be clear. All three subdivisions went through the EZ process. The only thing that went through the LCDRC would be this variance to the condition.

CHAIRMAN DURAN: Well, why did this one get hung up and the other two didn't?

MR. DOMINGUEZ: Mr. Chairman, all three subdivisions were approved. The other two built out within the five-year time frame. This master plan lapsed and had to come back subsequent to that approval and that's where the further condition got attached to it.

CHAIRMAN DURAN: So the sunset provision of the Code required them to conform to new guidelines?

MR. DOMINGUEZ: Same guidelines, it just got adhered to when it came back.

MR. SIEBERT: To clarify that issue, it came back under, actually under CDRC and County Code review. It did not come back under Extraterritorial review.

CHAIRMAN DURAN: Okay, it's a public hearing. Is there anyone out there that would like to speak for or against this matter? Okay. What's the pleasure of the Board?

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: Move for approval of the 11 lots as proposed by the applicant and the five remaining lots will be held in limbo until the health and safety issues, the water crossing issue is addressed or improved or enhanced or whatever needs to take place to the satisfaction of the County.

CHAIRMAN DURAN: I'll second that if you agree to require the applicant to improve those road in the subdivision. Or is that already a condition of the approval?

- XI. A. 7. CDRC CASE # A/V 02-5000: Eluid & Suzanne Martinez Appeal/Variance. Eluid and Suzanne Martinez, applicants, are appealing the Land Use Administrator's decision to deny the division of a 23.1-acre tract into 4 lots by means of a family transfer and are requesting a variance to Article VII Section 6.4 of the Land Development Code which requires an onsite well and full geo-hydrology report to demonstrate adequate long term water availability. The property is located west of County Road 51, within Section 21, Township 14 North, Range 11 East**

AUDREY ROMERO (Review Specialist): Thank you, Mr. Chairman, Commissioners. On February 28, 2002 the County Development Review Committee voted to approve this request. The applicant made an application for a family transfer to allow 23.1 acres to be divided into four tracts. The applicants intend to give a parcel to each of their three children and retain ownership of one of the lots.

The property is located in the Homestead Hydrologic Zone minimum lot size in this area is 160 acres per dwelling unit. Lot size may be reduced to 20 acres for small lot family transfer purposes. Lot size may be reduced to 2.5 acres with proof of adequate long-term water per Article VII, Section 6.4 of the Code.

The applicants have provided copies of well records for wells on neighboring properties along with a water availability assessment provided in Exhibit F in hopes of providing evidence that there is enough water in the area to support this division. The County Hydrologist states that Mr. Martinez has provided some information on wells in the area that indicate the possibility of being able to successfully drill a well on the property, but nothing has been provided to indicate similar geohydrologic conditions similar to surrounding wells.

There is currently one antiquated structure on the property. The applicant states that his intention is to take down the walls and leave only eight feet of wall in place for safety reasons.

Staff recommends denial of this variance request based on Article VII Section 6.4 of the Land Development Code which requires submittal of a full geo-hydrological report to demonstrate adequate water availability on an onsite well in order to reduce lot size to below 40 acres. Thank you, Mr. Chairman.

CHAIRMAN DURAN: Any questions of staff? Thank you, Audrey. Audrey, did the applicant provide you with any reconnaissance study at all?

MS. YUHAS: Mr. Chairman, a reconnaissance geo-hydrological report require that a well be drilled onsite. There is no well onsite, so he does not meet the requirements for even a reconnaissance geo-hydrological report.

CHAIRMAN DURAN: I thought a reconnaissance allowed the applicant to come forward with information on wells within 100 feet or some distance.

MS. YUHAS: Mr. Chairman, a reconnaissance report allows the pumping

test to have been done on a well that is within a mile of the property. But it also requires that an onsite well exist so that an assessment can be made as to whether or not the geo-hydrological conditions onsite are similar to the ones on which the pumping test was conducted.

CHAIRMAN DURAN: Oh, okay. And there is no well on this property?

MS. YUHAS: That is correct.

CHAIRMAN DURAN: Okay, any questions of staff? Is the applicant here? Could you please state your name and address for the record and let the recorder swear you in.

ELUID MARTINEZ: Yes, Mr. Chairman. My name is Eluid Martinez. I live at 1795 Paseo de Vista.

[Duly sworn, Eluid Martinez testified as follows:]

MR. MARTINEZ: I give you folks some credit for stamina. I'll try to be brief. I know a lot of people are trying to get home tonight. Mr. Chairman, members of the Commission, thank you for the opportunity to appear before you today. First I would like to thank the County staff who have worked with me on this matter. They have been very professional in carrying out their responsibilities.

The case before you today is not a request for a variance from the County archeological ordinance, nor is it a request for a variance of minimum lot size, nor is it a request for a variance from the showing of a 100-year water supply availability to a land division being requested. The issue before you today is whether the water availability report, which I have prepared and submitted to the County, and I have submitted an analysis of available information, supports granting of a variance from having to drill a well on the property in the preparation of a geo-hydrology study and report on that particular well.

I am of the opinion that the water availability data already submitted supports favorable consideration of a variance. I respectfully request that this Commission adopt the County Development Review Committee's recommendation of approval. The hand-outs I have given you basically cover the following information. Map 1, which is the larger map is a copy of a portion of the County of Santa Fe's Assessor's map of ownership in the area, and it reflects a pattern of land ownership surrounding our property. [Exhibit 4]

I draw your attention to the fact that the majority of existing lots are smaller than 160 acres in size as called for in the County ordinance for the Homestead area. I particularly draw your attention to the location and existence of lots less than ten acres in size and the existence of lots less than one acre in size within an eighth of a mile of the lot in question. The map also shows the relative distances from our property to other properties in the area. The larger circle reflects a one-mile radius from our property.

The map also shows the general direction of groundwater flow in the area. Groundwater flow in the area is from north to south. Existing wells in the area have more of an impact on any proposed well that we would drill than our well would have on wells situated upgradient. To my knowledge, all domestic wells in the immediate area of our

2128551

property are producing water except for those wells drilled for exploratory purposes which were capped after testing. Existing domestic wells immediately adjacent to our property have yields from five gallons to over 200 gallons per minute.

The second map is a copy of a survey plat of our property showing the lot lines of our proposed family transfer division. It also shows abutting land ownership. [Exhibit 5] To my knowledge, all abutting landowners support our variance request except for Mr. Vania who has voice opposition. [Exhibit 6]

Mr. Chairman, if I may, I'd like to address an issue that is not germane to this family transfer report, but one which has raised concern on the part of some residents of the Ojo de la Vaca area and which has received some press attention. Our four-lot request on 23.1 acres of land has been referred to as a challenge of preservation versus expansion. I believe that the tradition of northern New Mexico and Santa Fe County is composed of more than rock and mortar or adobe and brick. Our traditions in this part of the country have been and are made up of families and family values. The vary reason the old community of San Miguelito, which is the name of the Ojo de la Vaca area, existed, was because our family was one of its founding families.

The old cemetery is a testament to the members of our family who are buried there. The old church, what remains of it, was sited on land owned by our family and I'm advised that the church was constructed by my father's father. The very tradition reportedly now being sought to be preserved is and continues to be our family tradition. We are cognizant of that tradition and we will preserve that tradition. I would hope that our family has the opportunity to continue another 100 years of tradition at that location.

I am hopeful that the Santa Fe County family transfer traditions, together with appropriate variances, will continue to address and preserve families and family values. The existence of a cemetery and the remains of an old church have raised concerns as to how they might be impacted by our homes on this property. The cemetery is noted on the plat. It is a separate tract of land under ownership of the archdiocese of Santa Fe. Any traffic impact to this cemetery from four lots being requested, in my opinion is miniscule compared to the County Road 51, which is immediately adjacent to it and which is heavily traveled.

It is our intent to fence off the cemetery and keep development away from it. And I would welcome any assistance from my neighbors this coming fall as we work to try to clean up the site. As to the old church walls, the church was abandoned by the Catholic archdiocese in the 1940s. They removed everything except the walls. Since then those walls, parts of them have fallen down. Some have become unstable and I believe it poses a liability problem. And as owner of the property I am concerned that if somebody gets hurt I will have liability for these issues. And I believe it is prudent to remove the upper part of those walls so nobody gets hurt. At the hearing before the commission, I volunteered that if the County or somebody else wanted to assume liability for that structure, I was willing to work with the neighbors.

Let me return now to the issue at hand. Mr. Chairman, the 23.1 acres of land have

2128552

SFC CLERK RECORDING 08/18/2004

been in the family for over 100 years. The land was patented by the president of the United States to my stepfather's father in 1893. I assume the family settled there much earlier. Our property has been deemed a legal lot of record, developable pursuant to Santa Fe County Code. I have obtained a domestic well permit from the State Engineer's Office and that permit allows a right to divert up to three acre-feet per annum. I note that the family transfer request before you limits the total amount of water from a well on that property to a maximum of one acre-foot, or one quarter acre-foot per lot.

I believe that the issue before you today is not whether our property can be developed, the issue is at what density. Our property is located at what was known as the old community of San Miguelito. It is not located at Ojo de la Vaca. Ojo de la Vaca refers to the naturally occurring springs located south and downgradient from our property. Today the term Ojo de la Vaca is loosely applied to the larger geographic area extending several miles from what was the traditional community of San Miguelito. The village was abandoned shortly after World War II. At its peak, the village supported a church and a schoolhouse and numerous small lots with residents existed on the land immediately adjacent and on our property. The remains of some of those sites are still visible.

To my knowledge, my family is the only family of the original founding families in the area that still own land in the immediate village area. The early residents of the village obtained water from hand-dug wells. One of those wells is still in existence and owned by the family and is still producing water. The old community existed at this location for one primary reason; there was and continues to be water over a period of more than 200 years. What better evidence of groundwater availability can there be than the actual existence of a supply?

Today, Mr. Chairman, there continues to be adequate groundwater, notwithstanding the fact that over the past 20 years, a number of upgradient wells, and that's referred to on map 1 looking north from the village, have been drilled as this area has transitioned from ranching homesteads to rural subdivisions. I have reviewed the records of the State Engineer's Office as well as records of exploratory wells drilled in the area from a full-blown geo-hydrological report submitted in Santa Fe County in the 1970s in support of an application for a request for Cow Springs Subdivision at this location.

Based on that information contained in those well records, and in that full-blown hydrologic report which reports the data for a well 700 feet west of our property. Using the County Code requirements for minimum lot size, I have determined that based on that geo-hydrological data which I have used, that the lot sizes that I am requesting are larger than the lot calculations using that data.

Now, Mr. Chairman, in my opinion, appropriate groundwater aquifer characteristics or the data that reflect those characteristics for the aquifer under our property exists. Using that data again, and using County Code procedures, the calculations support a 100-year supply availability under the lots in question. So, where are we? I guess the Commission could ask me, Mr. Martinez, move over 700 feet and drill a well and come back, in my opinion with the same information that is available in the public record.

2128553

SFC CLERK RECORDING 08/18/2004

And if that's the wishes of the Commission, I will do that.

But it appears to me that the intent of the Code is that if reliable information is readily available, I think the Commission has the discretion to grant the variance. Keep in mind, Mr. Chairman and members of the Commission, the question before you is not a question as to whether I can or I cannot develop my property. And it's not a question of what I can or cannot do with the cemetery and the church. I've told you what my intent is and my intent is to preserve them as best I can. The request before you is, does the data that I have submitted support, based on the County calculation methodology, these minimum lot sizes.

Now, I was asked a question, Mr. Martinez, why don't you go drill a well and do a test? And the answer I had was well, if I had an extra \$15,000 I guess I could do that, because ultimately I guess where we're at, as the gentleman addresses in the issue before you two or three hours ago, these things are expensive. If you look at those maps that I've provided you, there's a well across the street that's 50 feet deep that's 50 feet from our property. It was drilled in 1977. Mr. Vania can address what the water supply is in that well.

There's a hand-dug well about 350 feet from the property. On the east there's an exploratory. On the north, 15 gallons per minute. Exploratory well on the west, 7 gallons per minute, and one well within probably 1500 feet from our property or even closer that's producing 200 gallons per minute.

Mr. Chairman, I think I've taken enough of your time. I appreciate it would be glad to answer any question you might have.

CHAIRMAN DURAN: Mr. Martinez, I have a question. Would you say that gallons per minute has any indication of the productivity of the aquifer or the quantity of water available in the aquifer?

MR. MARTINEZ: Oh yes.

CHAIRMAN DURAN: Gallons per minute would have some indication.

MR. MARTINEZ: Yes. The standard basically is if you have a well that runs between four and five gallons per minute is sufficient to maintain an adequate household and probably up to three acre-feet per year. The conditions that have been imposed by the committee and staff is that if this approved there would be one well serving four lots. I feel comfortable on the data I've reviewed that I would intercept a well at that site that would generate in the neighborhood of 5 gpm and if I was lucky enough, 15 or 40 or even up to 200, depending on how deep I went.

CHAIRMAN DURAN: You just said that a well producing 5 gallons a minute would be adequate for one residence.

MR. MARTINEZ: At the rate of three acre-feet per annum.

CHAIRMAN DURAN: And you're asking for four lots and looking at the information you've provided us with, adjoining your property there's a well that produces 2 gallons a minute, another one real close at 7 gallons a minute, and another one at 5 gallons a minute. So I would say that based on the information that you've provided us that

2128554

the aquifer that is available at this site isn't adequate for four lots.

MR. MARTINEZ: If you drill a well on each lot, you will draw the water, in my opinion, around 5 gpm. The two gpm on the well that you're referring to is a hand-dug well. It's only 30 foot deep. It's sitting up high in the aquifer. That well is sort of an anomaly. It's those wells that are deeper that reflect the higher rates.

CHAIRMAN DURAN: And those are the ones at 7 gallons a minute and 5 gallons a minute?

MR. MARTINEZ: Fifteen gallons to the north and 217 gallons to the west.

CHAIRMAN DURAN: So you're suggesting that, what you're saying is you would drill four separate wells?

MR. MARTINEZ: No, what I'm suggesting is I will drill one well. The conditions imposed by staff was, and which I agreed to, was to have one well to serve four lots.

CHAIRMAN DURAN: Well, one well producing five gallons a minute for four houses doesn't meet the requirements that you just told me—

MR. MARTINEZ: It will produce sufficient supply. The thing is you have to have a bigger storage tank to hold your water. My preference would be one well on each lot. That was not what the staff recommended. One well for four lots. Mr. Chairman, members of the Commission, these lots are going to go to my family, my kids. I'm not going to want to put them in a position where there's no water or a well that's not capable of producing that. I feel that based on the data I have reviewed a well can be drilled on that property that will provide sufficient supply for four lots.

Now, the alternative is to leave the property as it is, build one house on it. Pump at 5 gpm and produce still produce one acre-foot a year or more.

CHAIRMAN DURAN: The other alternative is just to go abide by the County regs and do a geo-hydro and prove to this Commission and to your community that there is water there.

MR. MARTINEZ: That's correct.

CHAIRMAN DURAN: What we do by granting a variance to this request, basically opens up the door for everyone else to go out there and ask for a variance for a family transfer. I would probably say that you have adequate water there, but by not going through the procedure then we can't—there's no way we can prove that there's water there. The everyone else would be asking for the same thing.

MR. MARTINEZ: And I understand that and I will abide by your wishes on this.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Two questions, Mr. Martinez. One, we had a case just one or two meetings ago where there was testimony by two members by the State Engineer's Office that their published recommendations are that each dwelling be planned for five gallons a minute and that was the State Engineer's recommendation. So I

think perhaps, because of potential declines, they're ultimately bound to happen as the area develops and I think perhaps what the Chairman is getting at too, is that recommendation again comes from the State Engineer's Office was that each residence have the well capacity of 5 gallons a minute and looking at the three around your lot, they've got 5 and 7 and 2. That wouldn't even justify two lots, based on the State Engineer's recommendation.

MR. MARTINEZ: What I'm saying is, I think what I was trying to explain that if I was to place on well on each of those four lots, you would generate a well that produced five gpm per lot. Staff recommended one well to serve four lots.

COMMISSIONER SULLIVAN: And that's standard. We don't know that that would happen because they look pretty sparse right around your lot. They look more productive as you get further away. The second question I had is, you're going to need a well there ultimately, and you're obviously very convinced that there's adequate water there. So this would seem like a pretty good gamble, to go out and drill the well, you can use the well that you drill for your hydrological report as a production well and if it produces to the extent that you've calculated here is pretty well a slam-dunk.

MR. MARTINEZ: Mr. Chairman, Commissioner, there's no question in my mind if I drill a well, I'll hit water. I see where you're coming from basically, but I guess what I'm telling you is you ought to have, the Commission in my opinion, take it for what it's worth, should have some discretion to determine whether the requirement of an onsite well makes sense or not. That's for discussion purposes. In the context of available information, if the Commission believes that available information is not adequate, then deny my request. But here's the point I'm trying to make.

Let's say Joe Blow drills a well 15 feet from his property line and does a full-blown geo-hydro report and it's submitted to the County and the County accepts that. And his neighbor then comes in and says, Well, I want a family transfer. Then he gets the data from a well 15 feet away and brings it. A literal reading of the Code says Move over 16 feet and drill a well. What I'm asking you is consider the fact that there is a full-blown geo study from 700 foot well from the property. There are wells adjacent to the property. If the Commission's own opinion is that that information is not adequate, then it should make that decision. But the point I'm trying to make is that for a literal reading that everybody has to have a well in that area drilled on their site and get a full-blown study appears to me there has to be some discretion.

Mr. Chairman, it's getting late and I'm inclined at this point in time, even though my family is going to want to kill me for this, is just to not put you through the agony of two more hours of hearing on this issue, I would suggest that if the Commission is so inclined, because I don't want to go through this issue all over again, is that it consider approval subject to me drilling a well on the property within a reasonable period of time, and I would say two years, and showing adequate availability. And if that does not occur, then it doesn't occur. And I don't have a family transfer. Because I'd hate to go through this cumbersome process all over again.

CHAIRMAN DURAN: We can't make that decision right now. We have to

2128556

SFC CLERK RECORDING 08/18/2004

have the public hearing. Even to consider your option, we still have to hear from the community what—

COMMISSIONER TRUJILLO: After the public hearing.

CHAIRMAN DURAN: Right. But we have to go through—

MR. MARTINEZ: Right. I'll be glad to answer any other questions.

CHAIRMAN DURAN: Any other questions of the applicant? Thank you, Mr. Martinez. It's a public hearing. Is there anyone for or against this matter? How many people are planning on coming up to speak? Okay, I'm going to put a time limit on this and I'm going to adhere to it. So I would like for all of you that are going to speak to please stand and raise your right hand and let the recorder swear you in, and when you come to the podium, please state that you have been sworn in.

We have quite a bit of an agenda left. I'm going to ask you to keep it to three minutes and please don't make me ask you to sit down. Thank you.

[Duly sworn, Richard R. Freeman testified as follows:]

RICHARD R. FREEMAN: Yes, my name is Richard R. Freeman and I have been sworn in. About eight years ago, my wife and I at that time purchased property about, I guess maybe a mile and half from the applicant's property and the first thing we did prior to any development on the site was to hire a hydrologist to come and help us analyze the water potential of the site and determine whether it would be feasible to develop a well. This was just common sense. This was voluntary. Ours was a buildable lot. We had no mandatory requirement to do so.

And what we learned at that time from the hydrologist was very interesting and very much in contradiction to the interpretation of the data that Mr. Martinez has offered. That area, according to this hydrologist at least, has a few good water bearing seams, if you will, mostly in drainages in the area. Mr. Martinez' property is not in or near one of those drainages nor was ours. And for wells that are outside those areas, it is very common to either not hit water. There are a lot of dry holes up there, to hit water that is not potable—there are problems with metals and even petroleum in some of the wells, and to have wells decline drastically in production over the years.

Taking those facts into consideration as the County did when it developed its plan, that's the very reason for the 160-acre lot limit, or lot size recommendation, is that is the kind of density or lack of density that is needed in order to assure sufficient water for all the people who do decide to settle up there. Before you is a proposal to consider up to lot sizes of approximately six acres in an area where 160 acres, according to your own County research is required. My understanding is that the County staff hydrologist has recommended against this application for the same reason.

So I think it's incumbent upon Mr. Martinez to provide a genuine geo-hydrological survey in order to document his claims. The information he's provided does not show all the wells within the boundaries of his map. I would be interested to know what's going on with some of the wells he omitted. He does not address the question of water quality either.

Finally, I wanted to bring up the issue of, just quickly here that this is a very dangerous precedent. Adjacent to Mr. Martinez' property are several very large properties, some in the tens of thousands of acres. I think in the next month and years, this County Commission is going to see other applicants coming forward with subdivision proposals and at that time you want to be armed with your full complement of analytical tools to determine whether or not high density levels of occupancy can be supported up there on Glorieta Mesa and to essentially approve this, essentially lay aside those analytical tools at this point is a very dangerous precedent in my view. Thank you.

COMMISSIONER TRUJILLO: I have a question for you. How long have you—you said you moved into the area how long ago?

MR. FREEMAN: About eight years ago.

COMMISSIONER TRUJILLO: Eight years ago. Do you feel that the property being in the Martinez family for essentially hundreds of years, at least over a hundred years, that they have been stewards of the land? That they have taken—they could have built that land to its, before the ordinances, before the regulations, to its maximum. But they took care of the land. They were stewards of the land and that is the reason that it's in the pristine nature that it is now. And now what they want to do is they want to convey it as a family transfer so that their legacy, if you will, will continue.

This is a family that could have exploited that land many years ago, many times over. I see them as stewards of the land.

MR. FREEMAN: Is that a question?

CHAIRMAN DURAN: No. Thank you very much. Next speaker please.

[Previously sworn, Bry Timkin testified as follows:]

BRY TIMKIN: Hello. My name is Bry Timkin. I live up on the Mesa as well. And to follow up on what Randy was saying about having tools to continue to work with, in this variance, it says that in no event shall a variance or a modification or waiver be recommended by a development review committee or granted by the Board if in doing so, the purpose of the Code will be nullified. And I think that's what will happen because, as Commissioner Trujillo says, water is a scarce commodity and it's very important and it's something that in a community people need to work together in order to support that. And I think Mr. Martinez as a former water engineer should know that.

You need to follow so many rules when it has to do with community and it has to do with water. And I think the records that he has brought forward are mostly from the 70s and the 80s. There are a few from 95 but I don't see how those can necessarily be pertinent enough now. That's a long period of time. The springs that are on the land that I live on are dry. They've been dry all year. And the man I bought the land from said they do that sometimes but usually they're full. So obviously, I think should be some consideration for the fact that we are in a drought and to be considering negating looking at the availability of water, it's just not appropriate for this time.

CHAIRMAN DURAN: Next speaker please.

[Previously sworn, William Shufflick testified as follows:]

2128558

SFC CLERK RECORDING 08/18/2004

WILLIAM SHUFLICK: My name is William Shuflick and I live at 52 Ojo de la Vaca Trail up there and I just wanted to follow up on a couple of points regarding wells. One of the wells that was referred to here is a hand-dug well. Looking at the well records that Mr. Martinez has presented I guess previously to the development committee, was a hand-dug well. If I'm reading this correctly that hand-dug well was redrilled in 1976 down to 100 feet from 50 feet. And secondly one of the wells in the area, his neighbor across the street, Bill Vania is at a level of 230 feet right now. So I don't think there's water any way near as high up as what he's stating in his presentation. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker please.

[Previously sworn, Charlotte Winter testified as follows:]

CHARLOTTE WINTER: Gentlemen, my name is Charlotte Winter. I live on the mesa. I have several pieces of information I'd like to share with you and I have copies for each of you in most cases. I have some petitions signed by—in 24 hours we were able to obtain 51 signatures on each petition circulated. One reads to preserve the historic Hispanic community of Ojo de la Vaca in Santa Fe County, and that is asking the Land Use Department and Santa Fe County Commission to aid in the effort to preserve the ruins of the San Miguelita [sic] Church and cemetery by enforcing measures outlines in the Santa Fe County Code special review district. [Exhibit 7] So that is one petition I will handing to you for your perusal.

And the other petition is a petition from local individuals which is a petition to conserve aquifer resources. And this is asking the Santa Fe County Board of Commissioners to adhere to and enforce measures as outlined in Santa Fe County Code and the general land use plan which are intended to conserve aquifer resources for already established water right holders and future generations. And that wording comes from the land use plan. So I will turn this information over to you and say a few words. I will be very brief. [Exhibit 8]

CHAIRMAN DURAN: I have a question for staff. The variance is for the onsite well and full geo-hydrological report, correct? Nothing about walls on a structure that's on there?

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

CHAIRMAN DURAN: So, ma'am, please keep your comments to the issue which is the geo-hydro. We don't need any information on the heights of walls and stuff like that. Thank you. We're not dealing with that issue tonight. We're dealing with the geo-hydrological report.

MS. WINTER: When will you deal with it?

CHAIRMAN DURAN: I don't know when we're going to deal with it but we're not going to deal with it tonight. This is not the forum for that. And remember you have three minutes.

MS. WINTER: As you can see from this newspaper article dated 1983, *Santa Fe New Mexican*, when the wells went dry, so did the town's dream. I think for Mr. Martinez to say that there's abundant water there is incorrect. You have the map in front of you

2128559

with the red markings that indicate reports from individuals who live in the neighborhood. We have someone with water in the lines. We have someone who, when they purchased their property was told that they were getting 20 gallons a minute. They are at this time getting one-twentieth of a gallon per minute and they are at the same elevation, approximately, as Eluid Martinez' lot.

Directly across the street from Eluid Martinez, despite the fact that Eluid says he's going to find water at 50 feet, Mr. Bill Vania has a water-bearing formation at 230 feet. Behind Mr. Martinez' lot on state grazing land there is a well that is completely unpotable. The pipes rot practically as they are put into the ground.

And I beg to differ about the cultural sites being discussed here.

CHAIRMAN DURAN: Ma'am, we're not going to be talking about the sites please. Don't make me call you out of order. Please stay—my job is to run this meeting and I'm doing so. This is not the forum. If you want to get a hold of staff later on and talk about the historic sites, that's fine. You're here to address the issue and that issue is Mr. Martinez' request for a variance to the geo-hydrological issue. Please.

MS. WINTER: I would like to hand you these papers. These are copies of the Code. [Exhibit 9] That is all I have.

CHAIRMAN DURAN: Thank you very much. Next speaker please. Ma'am, you might want to keep these originals so you have them when you decide to bring that issue forward.

[Previously sworn, Will Garcia testified as follows:]

WILL GARCIA: I'm Will Garcia, Eluid's father. And it looks like the issue is water. I lived there until I went into the service. We had a well about 100 feet from his property. And it's had plenty of water ever since we got it, from before I was born. And that well, it's about 35 feet deep. And there were other wells. I never saw them go dry except that people moved out and they were backfilled. I don't see what [inaudible] about water. The Vanias, next neighbor there, drilled a well. It's got water.

Montoyas, another neighbor that's a little farther away, they've got plenty of water. He intends to build some houses there for his family that want to live there. Eluid wanted to live there, to build there a house there since he was a kid. He used to go with me to the ranch. So I hope you approve this.

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

[Previously sworn, Bill Vania testified as follows:]

BILL VANIA: Mr. Chairman, Board, thank you. I'm the Bill Vania that's been mentioned beforehand as far as being the property across the road. And I have to say, over the years, which is roughly 18 years I think since we drilled that well, the well itself has gone down seven feet. Now, I do my own work so I do keep track of it. I have to say that just recently I went down to the original site of the Ojo de la Vaca spring and it's a mud puddle. It used to be difficult to cross the road down there but it really has dried up to just a mud puddle.

I also have to say that the Garcia family and the Montes family used my well

2128560

SFC CLERK RECORDING 08/18/2004

several times. There may have been just mechanical problems, but over the years, because I didn't have my property fenced, that they did use my well. In fact Willy, the man who was just up here, worked on it. So I have to say there are a lot of things that have been going on. There's a number of wells in the area that have had significant drops in their ability to pump in periods of time. So they shorten their periods of time as far as pumping.

There's a significant change that's happened over the years in Ojo de la Vaca. I would like to question the Chairman as to, if this is an open hearing, why we can't address the issue of the historic significance of Ojo de la Vaca.

CHAIRMAN DURAN: The issue before us is not about the historic significance of—

MR. VANIA: Well, the primary hearing, sir, was both and all of the issues. And we were made to believe that we would be able to address this at the next hearing, of which we did come.

CHAIRMAN DURAN: We are not deliberating this evening relative to—the only thing we are deliberating this evening is the variance request for an onsite well and full geo-hydrology report.

MR. VANIA: But in the original application for Mr. Martinez, he did cite what he planned to do with the building.

CHAIRMAN DURAN: Well, what he cited has nothing to do with what he's asking for this evening.

MR. VANIA: Well, we were made to believe, sir, that the original hearing was going to be a format for the second hearing.

CHAIRMAN DURAN: If we were to grant the variance tonight, we would not be granting his approval to go do anything to the structures that are on that property.

MR. VANIA: All right. So it's based on that then. So at perhaps the following hearing or another hearing we can address that issue, which is very important to us and the cemetery.

CHAIRMAN DURAN: I don't know what rights Mr. Martinez has relative to the demolition of those buildings.

MR. VANIA: The Code spells it out very clearly. I have a copy here.

CHAIRMAN DURAN: I would think that he would probably have to get a building permit for that and if that's the case, then you could appeal the issuance of—

MR. VANIA: But we prefer to address it before it comes to that point if it was possible because it is County Code and it is spelled out in the Code and if we don't have the Code there's absolutely not much reason of writing them. And it does spell it out very, very strongly. We have proof of the age of the area and there's no doubt about its historic significance.

CHAIRMAN DURAN: Again, sir, we're not here to deliberate whether or not Mr. Martinez has the right to do anything to those buildings. We're here to talk about the geo-hydro. I don't know how else to explain that.

MR. VANIA: Could that be a control issue then? It can't happen then

2128561

SFC CLERK RECORDING 08/18/2004

until—

CHAIRMAN DURAN: Let me ask legal department to address that. Steve, can you help me deal with that issue?

MR. KOPELMAN: Mr. Chairman, members of the Commission, it's my understanding that under the Code, an archeological study isn't required here, but what would have to happen is, let's assume you approved it tonight. Then he has the right to come in for building permits and at that point, he would have to come in with a plan as to what he would be doing with those ruins. Staff would be working with him. Staff could notify any interested neighbors or community members about what's going on and they would have a right before a building permit is granted to come in and protest if they were not satisfied with the action taken.

CHAIRMAN DURAN: Does Mr. Martinez have the right to go out there tomorrow and knock off four feet of those walls on those existing—

MR. KOPELMAN: Mr. Chairman, I agree with you. I think he'd need a building permit to do that.

MR. VANIA: I have a copy of the Code here if you'd like to see it, sir.

CHAIRMAN DURAN: No, that's fine. Do you have anything else, sir, to say about the geo-hydro request, the variance for the geo-hydro?

MR. VANIA: No, I don't. I just wanted to get clarity on the historic aspect of it and if you could do that, as I say, I do have a copy of Code and that's all we're asking for. Being a public hearing—

CHAIRMAN DURAN: I understand your concern. All I'm trying to tell you is it's not before us this evening to make a decision whether or not he can—

MR. VANIA: Well, I'm just posing it as a question sir as to whether it would be protected—

CHAIRMAN DURAN: Steve.

MR. KOPELMAN: Mr. Chairman, just one other point is there are certain state statutes that we believe probably apply here. So he will not be able to take that down without going through a process. And there is protection for these types of structures.

MR. VANIA : But there is our County Code, which I have in my hand, sir—

MR. KOPELMAN: Well, the point being, sir, is that he doesn't have a legal right to take those structures down. That's the point.

MR. VANIA: But who's going to sign the bottom line and say that's accurate? I mean, so far we've avoided the issue, and you're saying the state has—but I have in my hand the Code, sir.

MR. KOPELMAN: It's in our Code. It's in our Code. He's not able to take that down without going through a long process. Getting state approval. Getting County approval. So we're aware of—

MR. VANIA: That is on record, sir.

CHAIRMAN DURAN: I think that Mr. Martinez is probably aware of the

community's concern relative to that structure. And I'm sure that he heard that there was state law that prevents him from tearing those buildings down.

MR. VANIA: No, sir. In the original hearing they basically—

CHAIRMAN DURAN: Isn't that what you just told me, Steve?

MR. KOPELMAN: Yes, Mr. Chairman.

CHAIRMAN DURAN: Sir, we're not going to debate the issue anymore.

MR. VANIA: Can I just make one more statement? In the original preliminary hearing he had the, in his writ was that he could take the buildings down eight feet for a safety reason, which he talked about tonight a little bit. And that was based on safety. But being a historic area, I have in my hand, I now it dates back to 1827. It's probably before that. It was a town at that time when the San Cristobal grant was given.

CHAIRMAN DURAN: Okay, sir. Thank you very much. So if you have some concerns, get a hold of Mr. Kopelman and he will explain the process. Perhaps you can give Mr. Martinez constructive notice of your concern.

MR. VANIA: I think he's aware of it, sir. I appreciate your hearing me and thank you.

CHAIRMAN DURAN: Thank you. Is there anyone else that wants to speak for or against this matter?

[Previously sworn, Jan Kindell testified as follows:]

JAN KINDELL: My name is Jan Kindell. I live at 3250 Caminito San Lucas and I'm representing the Santa Fe chapter of the Sierra Club. The Sierra Club, I think as you know represents about 2000 members in this region. And we recently supported, today as a matter of fact, the gross receipts tax to address some of the water issues in the county. We believe that water and growth are very strongly linked. And we believe that the County must make its decisions on the best possible and most accurate information. So we're urging the County at this point to require the geo-hydrological study in order to provide the most recent accurate information so that the County can decide the land use issue in a way that takes into account the impact on the aquifer and the neighbors. Thank you

CHAIRMAN DURAN: Thank you, ma'am. Next speaker please. I would just like to remind you that you have three minutes.

[Previously sworn, Carolyn Sigstedt testified as follows:]

CAROLYN SIGSTEDT: My name is Carolyn Sigstedt. I lived for 20 years in lower Ojo de la Vaca. Ojo de la Vaca is a very large area but the entire area has a very, very delicate water system. I can tell you that most of the people that live up on the mesa live on 40 acres. Many of those people haul their water or collect it with cisterns. They don't rely on wells because they're not reliable. I wouldn't trust any water studies that were 30 years old because the water tables have dropped everywhere. It's sort of a bathtub effect.

Aside from the 40-acre lots there are perhaps six 20-acre lots, maybe one ten-acre lot up there, so to actually divide a property down to five acres is quite exceptional, and what I'm concerned about, when tying that type of development to water, it seems like a

212856

putting in roads, drilling test wells, running gravel trucks and so forth.

So it's a very complex issue and I want to call to your attention and suggest perhaps that for the Commission to make an intelligent and informed decision on this, that they need more information. And I would like to just give you a very quick list of the four things that I thought you might need to be better, to make a better decision, a more informed decision, besides this issue of historic preservation, which you might request of your staff to report back to you. I don't know.

I know that the County Development Review Committee approved a variance against the recommendation of the staff, but I did not see in any documents the reasons why and I would assume that you would want to know why that variance was recommended, even though the County Hydrologist recommended against it as did other County staff. The second reason is I didn't see anything in the letter from Mr. Martinez that stated why he didn't feel he needed to drill this test well and get the hydrology report. I heard a lot of anecdotal evidence but it wasn't scientific. So I would think that you would want a specific scientific reason as to why he feels he does not need to do this.

And I would suggest or even offer to Mr. Martinez that if the language he used about cultural preservation is important to him, I would offer my assistance, and I know others who would as well, to him and the Martinez family to find ways that they can extract from this property what it is they need. Whether it's money—there are alternatives available to them, and if it's not money, if it's preservation that they're interested in then perhaps there are other avenues that historic preservation people or the Trust for Public Land or so forth can address.

But the issue of water has not been studied as deeply, I suspect, as you gentlemen might like it to be studied to make a very informed decision. And I would really encourage you to look into this adjacent property issue that was addressed before about multi-thousand-acre pieces of property that are being aggressively explored for development that are immediately adjacent to this piece of property that is owned by Mr. Martinez.

CHAIRMAN DURAN: Thank you, sir.

MR. ROSENKRANTZ: Thank you.

COMMISSIONER TRUJILLO: Mr. Chairman, just to set the record straight and get away from patronizing the Martinez family, by no stretch of the imagination did I hear that the issue was about money. In fact I heard Mr. Martinez' father say that Mr. Martinez has been looking forward to living in this land since he was a small child. So by no stretch of the imagination did I hear that this was an issue of money or exploitation or anything thereof. Just to set the record straight.

MAX LUCERO: Good evening. My name is Max Lucero. I was not sworn in.

[Duly sworn, Max Lucero testified as follows:]

MR. LUCERO: I live at 610 Juniper Lane on the north side of town. This evening I come before you. I've known Eluid all my life and his dad. My grandpa, Manuel Martinez homesteaded in Ojo de la Vaca and my mother and family lived there. They

212856

SFC CLERK RECORDING 08/18/2004

moved to Santa Fe I think in the 1920s and the 1930s and I worked for Sangre de Cristo, retired with 25 years. And when Eluid talks about drilling a well and he says the less gallons you get, the larger storage capacity you'll need, this applies to any municipality in the country. I don't care if you're the smallest municipality or the largest municipality. But those are the rules. And all it is is common sense.

In our case it's very difficult. They're talking about preserving the land. We preserved that land. That's why it's still there. But what I've been complaining about—I hate to say this after we voted for taxes today, but living in the north side of town and being retired it's very difficult to pay for your taxes so you say, if you complain about your taxes, hey, well, why don't you move to a smaller place. Okay. Let's say that I want to move to Ojo de la Vaca. And what am I going to face? The same people that are right here, the Sierra Club—we've been here 200 or 300 years. Grandpa got that land about, I think about 150 years ago. So what about us?

This happened, gentlemen, I'm always watching, I'm a news fanatic, I'm always watching the thing. This same thing happened in La Cienega. The people over there stood by their land and then when the kids and grandkids came, then they wanted to give a piece of the property to their grandkids. The same thing happened. You guys, you can't do that because you're going to preserve the land. This, that and the other. But why didn't they think about preserving the land when they moved in? They knew that a lot of the people that are there have been there for hundreds of years. Why didn't they think about that then? And I'm not criticizing you guys for living there or anything. It's a beautiful place and it is. But let us go in, back in there with our families once we can't afford to live in Santa Fe and he can go in there and drill a well.

So what happens to the water? After they use water in the house, what's going to happen to that water? It goes back into the aquifer. So you can say that they're not going to be using, whatever. If they need—when the well driller, I've been present when the well drillers are there and they'll tell me I can get you 500 gallons per minute right here. Or I can go down further if you want 700, 800, 900 gallons. How many hundreds of gallons do you want? And they dig onsite. They dig deeper, and Eluid can do the same thing. He can be onsite and those guys can tell him I'll get 5, or 6 or 10 or 20 level per minute at a different level.

Gentlemen, please, don't shut us down on our own land. You didn't shut them down when they went in there, so please don't do it to us. Thank you.

CHAIRMAN DURAN: Sir, I think if anyone has the right to claim anything it's the American Indian.

[Previously sworn, Lonnie Moore testified as follows:]

LONNIE MOORE: My name is Lonnie Moore, and I've been sworn in. I live at 794 County Road 51. That's approximately a mile and half from the proposed lot split. And I'm opposed to creating this variance for all the reasons stated by my neighbor who oppose it. In response to Mr. Trujillo's question, I'm willing to give the family the benefit of the doubt and assure their good stewardship of the land. However, this issue is

2128566

SFC CLERK RECORDING 08/18/2004

the future stewardship of the hydrology of the entire area which is in the Commission's hands. Thank you.

CHAIRMAN DURAN: Thank you. Is there anyone else out there that would like to speak for or against the issue? Mr. Martinez, I'll let you have the last word.

MR. MARTINEZ: Mr. Chairman, members of the Commission, I've been involved in the business of water for 37 years. As your State Engineer and as a commissioner in the United States Bureau of Reclamation where I oversaw water issues for the entire United States west of the Mississippi. I have reviewed the data. The data supports water availability. The history reflects water availability. I still believe the issue before you is a simple issue. Do you believe you have discretion to vary the requirements of an onsite well if adjacent data support water availability?

I have reviewed the data. Some might question my credentials or my credibility or my ability to interpret this data but as an engineer, I believe that I will drill a well and I will find water. If the Commission believes that they need additional information, then do not put me through this process all over again, but consider granting approval subject to me drilling a well within a reasonable time and providing adequate data, which I'm prepared to do. But I have been through this process now for about two or three months. It's not an easy process and I thank you for the time.

CHAIRMAN DURAN: Thank you, Mr. Martinez. What's the pleasure of the Board?

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: I move for approval of this family transfer under the condition that as Mr. Martinez proposed, that a well be dug on that piece of land that shows sufficient availability of water to serve four lots, and only then will the family transfer become final and viable. Only until that well shows that there's ample availability of water.

MR. ABEYTA: Mr. Chairman, Commissioner Trujillo, does that requirement include a pump test? Because I'd like the record to be clear as to what Mr. Martinez needs to do to prove adequate water. Because if not, we'll be back here in front of you asking that question I'm sure.

COMMISSIONER TRUJILLO: The requirement would be that any demographics that will show availability of water, however that is done, whether with a pump test or whatever, but we need to make sure that there is enough water there to serve the four lots.

MR. ABEYTA: Thank you, Mr. Chairman, Commissioner Trujillo.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Are you seconding it? Is there a second? The motion dies for lack of a second. I would just like to say one thing. It is because who you are, Mr. Martinez that I think, because you have been in the past a public servant, that you

need to be held to at least the minimum standards. And I think that that community is very much concerned about the water and I think that you owe it to them to prove that what you claim is correct. And I think that if you can prove there's water, you get the family transfer and everything is just fine. But to allow a variance to take place here opens up the door for everyone in that area to come before us and ask for a variance, and no one drills a well.

So we end up with a bunch of lots out there with no water. I honestly thing, I just think you need to prove it to your community and to this Commission that there's water there. And then you get what you want. So I would make a motion to deny the request.

COMMISSIONER CAMPOS: I'll second that.

CHAIRMAN DURAN: Any further discussion? Those in favor signify by saying "aye." [Commissioners Duran, Campos and Sullivan voted aye.] Opposed? [Commissioner Trujillo voted nay.] Motion carries.

It's pretty late and I had a request by Commissioner Campos to table the rest of the agenda.

COMMISSIONER CAMPOS: They're big cases.

COMMISSIONER SULLIVAN: Long cases.

COMMISSIONER CAMPOS: I'll make that motion to table the rest of the agenda.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN DURAN: Okay, there's a motion to table the rest of the agenda. Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries.

MR. DOMINGUEZ: Mr. Chairman, do you have a date certain?

CHAIRMAN DURAN: I don't know what date? Do we have to set the date now? I'm willing to do it any time in an evening. The only time I can't do it is the 18th, 19th and 20th.

COMMISSIONER SULLIVAN: How about the next land use meeting? The next regular land use meeting.

CHAIRMAN DURAN: Okay, the next land use meeting. We'll put them first on the agenda.

COMMISSIONER SULLIVAN: Move them to the first before the water company rules.

MR. KOPELMAN: Mr. Chairman, for the record that would be May 14th.

CHAIRMAN DURAN: Okay. I'm sorry, folks but it's late and each one of these items is major.

MR. LOPEZ: Mr. Chairman, if I may, I'd like to announce the results of the election.

CHAIRMAN DURAN: Oh, let me.

MR. LOPEZ: Go ahead.

CHAIRMAN DURAN: No, you go ahead. You did all the work.

MR. LOPEZ: Mr. Chairman, the GRT election, the voters approved the

2128568

SFC CLERK RECORDING 08/18/2004

quarter cent GRT by a vote of 3,710 for, to 1,119 against. A margin of 3.3 to 1.

CHAIRMAN DURAN: Good. Thank you, Santa Fe.

COMMISSIONER CAMPOS: And thank you Estevan Lopez, Steve Kopelman for a great job, bringing the community together on the biggest issue that we have right now. Thank you. Great job.

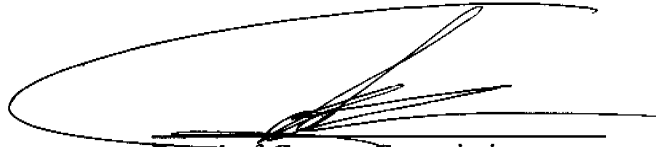
CHAIRMAN DURAN: Good work, everybody.

MR. LOPEZ: And thank you, Commissioners, for all your efforts.

ADJOURNMENT

Chairman Duran declared this meeting adjourned at approximately 8:50 p.m.

Approved by:



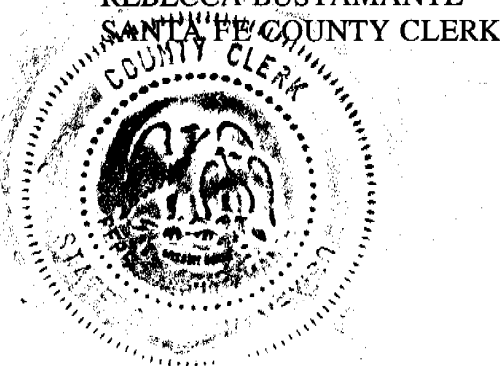
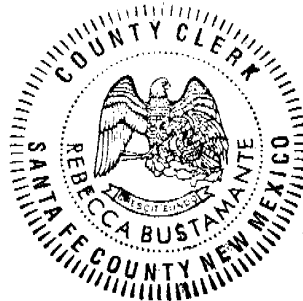
Board of County Commissioners
Paul Duran, Chairman

Respectfully submitted:

Karen Farrell
Karen Farrell, Commission Reporter

ATTEST TO:

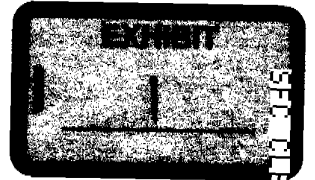
Rebecca Bustamante
REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK



1206 336
COUNTY OF SANTA FE } ss
STATE OF NEW MEXICO
I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED
FOR RECORD ON THE 15 DAY OF May A.D.
20 02 AT 10:56 O'CLOCK P.M.
AND WAS DULY RECORDED IN BOOK 2128
PAGE 491-624 OF THE RECORDS OF
SANTA FE COUNTY

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

SANTA FE COUNTY WATER UTILITY



SFC CLERK RECORDING 08/18/2004

2128569

CUSTOMER SERVICE POLICIES & PROCEDURES

**SANTA FE COUNTY POLICIES & PROCEDURES
FOR
WATER SERVICE**

TABLE OF CONTENTS

2128570

SFC CLERK RECORDING 08/18/2004

<u>Policy Number</u>	<u>Title</u>
1	Preamble
2	Definitions and Explanations
3	Character of Service
4	Application for Service
5	Rendering and Payment of Bills
6	Security Deposits, Guarantees of Payment
7	Disputed Bills
8	Service Connection
9	Discontinuance and Denying Restoration of Service
10	Responsibility for Water Service Equipment
11	Interruption of Service
12	Rates and Optional Rates
13	Acceptable Standards
14	Utility's Right to Ingress to and Egress from Customer's Property
15	Unauthorized Connections
16	Stoppage or Obstructions in Service
17	Temporary and Special Service
18	Metering
19	Limitations and Restrictions of Use of Water
20	Settlement Agreements
21	Estimated Bills
22	Complaint Procedures

SFCWU POLICY NO. 1

2128571

PREAMBLE

Customer Service Policies & Procedures. The Customer Service Polices & Procedures set forth and establish the responsibilities and rights of the Santa Fe County Water Utility, herein after referred to as the "Utility", and its residential and non-residential customers in their water service relationship. Nothing herein shall prevent the Utility from adopting Customer Service Policies & Procedures, which are additional to those set forth herein to cover special circumstances.

These Policies & Procedures are intended to provide general standards for uniform and reasonable practices by the Utility.

Conformed copies of these Polices & Procedures are available for inspection at the Utility's main offices at 605 Letrado, Santa Fe, New Mexico, 87505.

SFCWU POLICY NO. 2

DEFINITIONS AND EXPLANATIONS

212857

- A. **BCC** – Santa Fe Board of County Commissioners.
- B. **CHRONICALLY DELINQUENT** – the status of a customer who during the prior twelve (12) months has been disconnected by the Utility for nonpayment or who during the prior twelve (12) months has not paid a bill by the date that a subsequent bill is rendered on three (3) or more occasions.
- C. **COMMERCIAL SERVICE OR USE** – the provision of or use of water for all types of establishments not otherwise classified as residential.
- D. **COUNTY** – Santa Fe County.
- E. **CUSTOMER** – any person, firm, association, corporation, or any agency of the federal, state, or local government being supplied with and/or responsible for payment for water services by Utility.
- F. **DELINQUENT** – the status of a bill rendered to a customer for Utility service which remains unpaid after the date the bill is payable under SFCWU Policy No. 5.
- G. **DISCONTINUANCE OF SERVICE** – an intentional cessation of service by the Utility, which was not requested by a customer.
- H. **ESTIMATED BILL** – a bill for utility service, which is not based on an actual reading of the customer’s meter, or other measuring device for the period billed.
- I. **POINT OF SERVICE** – the point of service shall be the point where the facilities of the Utility connect to the customer’s yard line.
- J. **PRESSURE** – the range of thirty-five (35) psi to one hundred twenty-five (125) psi which can ordinarily be made available in the area contiguous to existing lines.
- K. **NON-RESIDENTIAL SERVICE OR USE** - the provision of or use of water to all types of establishments not otherwise classified herein as residential, including but not limited to, industrial, commercial, municipal and government.
- L. **RATE SCHEDULE** – a description of the charges, conditions of services and other similar information associated with the provision of water service to a given class or type of customer.
- M. **RENDITION OF A BILL** – the date of mailing or personal delivery of a bill by the Utility.

- N. **RESIDENTIAL SERVICE OR USE** – the provision of or use of water for household or domestic purposes, not including apartments, unless individually metered.
- O. **SERVICE LINE** – the pipe connection from a distribution water main to the water meter.
- P. **UTILITY** – Santa Fe County Water Utility (“SFCWU”).
- Q. **UTILITY CHARGES** – the billing or charges for the provision of water service and other charges authorized by the Commission pursuant to approved tariffs.
- R. **WATER SERVICE** – the general term for furnishing the customer with water.
- S. **YARD LINE OR CUSTOMER’S WATER LINE** – the piping owned and installed by the customer on the customer’s side of the meter.

2128573

SFCWU POLICY NO. 3

CHARACTER OF SERVICE

Water service will be furnished under conditions as stated in these Policies & Procedures. Service to a customer will be provided at the rates set forth in the rate schedule, which is applicable to the customer.

2128574

A. RESIDENTIAL WATER SERVICE

- 1. Residential water service will be furnished under the residential rate schedule to a single family dwelling or to a multiple dwelling unit or condominium if separate piping is installed for each separate dwelling unit so that water service to each unit can be metered separately and billed separately.
- 2. Where a premise is used for both residential and commercial purposes, the water service will be billed under the applicable commercial rate schedule. When separate piping is installed to separately meter the water service to each class of service, billing will be rendered in accordance with the applicable rate schedule.
- 3. Each separate service or meter will be metered and billed separately.

B. NON-RESIDENTIAL WATER SERVICE

- 1. Non-residential water service shall include water service to all types of establishments not otherwise classified herein as residential.
- 2. More than one premises or business will not be served through one (1) meter, except a group of buildings under one (1) management and control, provided that each building or service requirement is an integral part of and necessary to the operation of the institution.
- 3. Any establishment acknowledged or advertised as carrying on a business, professional or commercial enterprise will be classified as non-residential.
- 4. Each separate service or meter will be metered and billed separately.

SFCWU POLICY NO. 5

RENDERING AND PAYMENT OF BILLS

2128577

- A. The Utility shall render a bill to every customer for each billing period in accordance with applicable rate schedules.
- B. When billing for concurrent service at a residential premises, the usage and charge attributable to each such service shall be clearly set forth on the bill. Water service to multiple locations billed to a single customer shall be separately stated for each location.
- C. All bills for water service to residential customers are due when rendered, and are payable within twenty (20) calendar days from the date of bill for payment in full before the bill is deemed delinquent.
- D. All bills for water service to non-residential customers are due when rendered, and are payable within ten (10) calendar days from the date of bill for payment in full before the bill is deemed delinquent.
- E. A customer has fifteen (15) calendar days from the date the bill is deemed delinquent before the Utility may disconnect Utility service, pursuant to the provisions of SFCWU Policy No. 9.
- F. If the last day for payment of a bill falls on a Sunday, legal holiday, or any other day when the offices of the Utility are not open to the general public, the final payment date shall be extended through the next business day.
- G. In the event of the stoppage of, or the failure by any meter to register the full amount of water delivered, or of the inaccessibility of the meter, the customer will be billed for such period on an estimated consumption based upon use of water in a similar period ~~of~~ of like use; provided, however, that such period shall not exceed six (6) months.

SFCWU POLICY NO. 6

2128578

SECURITY DEPOSITS – GUARANTEES OF PAYMENTS

A. Residential Security Deposits or Guarantees. The Utility may not require a security deposit or other guarantee of payment as a condition of new or continued service to a residential customer except in the case of service:

- 1. to a residential customer who has not previously had utility service with the Utility and who has not established an acceptable credit rating;
- 2. to a chronically delinquent residential customer of the Utility;
- 3. as a condition for reconnection of service following an involuntary discontinuance of service by the Utility; and
- 4. to a residential customer who in an unauthorized manner has interfered with or diverted the service of the Utility situated on or about or delivered to the residential customer's premises.

B. Methods to Establish Acceptable Credit Rating for Residential Customers

- 1. A residential customer or guarantor may establish an acceptable credit rating in any reasonable manner, including but not limited to the following:
 - a. owning or purchasing a home;
 - b. being presently or recently regularly employed on a full time basis for at least one (1) year;
 - c. demonstrating an adequate regular source of income; or;
 - d. providing adequate credit references from a commercial credit source or a utility where the residential customer had prior utility service.
- 2. If a residential customer or prospective residential customer cannot establish an acceptable credit rating but can demonstrate to the Utility that the residential customer has inadequate financial resources to pay the security deposit because the residential customer has a low income and is elderly, disabled, or subject to other special considerations, the Utility ~~shall~~ may give special consideration to the residential customer in determining whether and in what amount a security deposit will be charged.
- 3. If a prospective residential customer cannot establish an acceptable credit rating but previously received utility service under the name of a spouse, the Utility may consider prior utility service to that spouse in determining whether and in what amount a security deposit will be charged.

C. Refund of Deposits, Termination of Guarantees for Residential Customers

2128579

1. Any residential customer who has not been chronically delinquent for the twelve-month period from the date of providing a security deposit or guarantee shall promptly receive a credit or refund in the amount of the deposit together with accrued interest due or shall be permitted to terminate any guarantee. If the amount of the deposit exceeds the amount of the current bill, the residential customer may request a refund in the amount of the excess if such excess exceeds ten dollars (\$10). If the residential customer fails to qualify for a refund of the deposit on the first anniversary date of the deposit, the account shall be reviewed on each succeeding anniversary date of the deposit and the amount of the deposit chronically delinquent during the preceding twelve-month period. A residential customer may request a refund at any time after twelve months, which refund shall be paid, within thirty days, if the residential customer has not been chronically delinquent during the prior twelve-month period, or the Utility may pay such refund in the absence of a request within a reasonable period of time.
2. Unclaimed deposits shall be handled as provided by law.

D. Security Deposits or Guarantees for Non-residential Customers. If the Utility requires a deposit from a non-residential customer, it shall set forth the terms and conditions under which that deposit will be collected and refunded at the time the customer files an application for service. The terms and conditions will be a condition of service and will be maintained with the customer's records.

E. Amounts of and Accounting for Security Deposits. The Utility's security deposit policy is as follows:

1. A security deposit shall be equivalent to one and one half (1 ½) times that customer's estimated maximum monthly bill.
2. Simple interest on security deposits at the rate of 5% shall accrue annually to the customer's credit for the time it is held by the Utility. The deposit shall cease to draw interest on the date it is returned, on the date service is terminated, or on the date the refund is sent to the customer's last known address.
3. Each customer posting a security deposit shall receive in writing at the time of tendering the deposit or with the first bill a receipt as evidence of the deposit. The receipt shall contain the following minimum information:
 - a. the name of the customer;
 - b. the date of the security deposit;
 - c. the amount of the security deposit and;
 - d. a statement of the terms and conditions governing the security deposit, retention, interest, and return of deposits.

4. The Utility shall adopt reasonable measures to ensure that a customer entitled to a return of a security deposit is not deprived of the deposit refund even though the customer may be unable to produce the original receipt for the deposit, provided the customer can produce adequate identification to insure that the customer is entitled to a refund of the deposit.

F. Records of Deposits. The Utility shall keep records of deposits and issue receipts of deposits.

SFCWU POLICY NO. 7

DISPUTED BILLS

212858

- A. The Utility agrees to promptly investigate any question as to the accuracy of metering (if applicable) or of bills for service rendered, and if the bill is in error, the Utility shall submit a corrected bill to the customer as promptly as circumstances permit or give credit on the next bill rendered to the customer.
- B. In the event the customer disputes the amount of a bill for services rendered, the Utility shall promptly investigate the matter. If the bill is determined to be correct, the Utility shall use its best efforts to explain the disputed amount to the customer.

SFC CLERK RECORDING 08/18/2004

SFCWU POLICY NO. 8

SERVICE CONNECTION

2128582

- A. The Utility shall determine the point of service to any premises. The Utility shall be contacted for exact information regarding the service access points before any installation of piping in the interior of a building to be served is commenced. If the service access information is not obtained and the service access requirements are not complied with, the Utility shall not be held liable in any way for any necessary installation or operational changes required to be made and will not assume any responsibility.
- B. Not more than one (1) service line shall be installed on the premises for any one (1) customer unless agreed to by the Utility where special circumstances exist.
- C. No more than one (1) single-family residential unit shall be served through any single residential water service connection. In the case of multiple dwelling units or condominiums, service can be rendered by a single commercial connection or by individual meters for each dwelling unit at the option of and at the cost of the owner.
- D. The Utility's service laterals shall terminate at the point of service and it shall be the owners' responsibility to make the necessary connection from the point of service to point of use.
- E. The Utility will endeavor to install meters as close as reasonably possible ~~possible~~ practicable to the property line provided there is public access to the meter location.

SFCWU POLICY NO. 9**DISCONTINUANCE AND DENYING RESTORATION OF SERVICE**

- A. Customers who intend to move from the premises or discontinue the use of water service or in any way terminate their ~~liability hereunder~~ service shall give the Utility reasonable notice of these intentions, and the customer will be liable for all water that may be used upon the premises until the ~~notice is received by the Utility and~~ the Utility has made the final meter reading and termination of service is formalized by the Utility. Upon receipt of such a notice, the Utility will read the meter within a reasonable period of time.
- B. Any customer requesting disconnection of service shall provide this request in writing to the Utility at its office. The Utility may act upon telephone or verbal requests to discontinue service, but in the event of a dispute, only a written request to discontinue service will be considered proof of notice.
- C. The Utility may discontinue water service to any customer without prior notice:
1. in the event of a condition determined by the Utility to be hazardous;
 2. in the event of a customer using its equipment in such manner as to adversely affect the Utility's equipment or the Utility's service to others;
 3. in the event of customers tampering with, damaging, or deliberately destroying the equipment furnished and owned by the Utility;
 4. in the event of use or abuse of the Utility's curb or meter shutoff valve by customers or customers' agent or;
 5. in the event of unauthorized use of service provided by the Utility.
- E. In the event of a shortage of supply and the Utility finds evidence of excessive or unreasonable use of water by a customer, or if it becomes necessary to ration water, the Utility will advise the customer of such condition. If within twenty-four (24) hours of receiving notice from the Utility, the customer has failed to correct the condition causing excessive or unreasonable use, failed to comply with rationing orders, or failed to demonstrate to the Utility's satisfaction why he/she cannot comply within this time period, the Utility may discontinue service without notice.
- F. The Utility may discontinue water service to any customer with three days prior written notice for:

1. refusal to grant access at reasonable times to equipment installed upon the premises of the residential customer for the purpose of inspection, meter reading, maintenance, or replacement;
 2. failure to furnish any service, equipment, permits, certificates, and/or rights-of-way that have been required by the Utility as a condition to obtaining service or the withdrawal, termination or failure of any such requirement;
 3. violation of and/or noncompliance with any of the Utility's Policies & Procedures;
 4. failure of the customer to fulfill contractual obligations for water service and/or facilities other than settlement agreements.
- G. The Utility may discontinue service to a ~~Non-residential~~ residential Customer customer with three days written notice for:
1. nonpayment of a delinquent water account;
 2. nonpayment of a delinquent sewer account, if the Utility is providing both water and sewer service;
 3. failure to comply with the terms and conditions of a settlement agreement;
- H. The three-day notice required by Sections F and G of this Policy, shall be written in English and Spanish and shall include the following:
1. a statement of the reason(s) why the Utility has issued notice to discontinue water service;
 2. the title(s), address, telephone number(s), and working hours of the personnel at the Utility responsible for carrying out the rights herein prescribed;
 3. a statement that the customer can obtain a review by Utility personnel of the reasons for the proposed discontinuance of service, which shall stay the discontinuance during the review, and a statement that a complaint may be filed with the BCC-Utilities Department Director if the customer disagrees with the ~~Utility's~~ determination of the facts upon which the proposed discontinuance is based.
- I. The Utility may discontinue service to a Residential Customer after fifteen (15) days written notice and in accordance with Sections J, K, L, M, N, and O for:
1. nonpayment of a delinquent water account;

2. nonpayment of a delinquent sewer account, if the Utility is providing both water and sewer service;
3. failure to comply with the terms and conditions of a settlement agreement;

J. At least fifteen (15) days before the Utility proposes to discontinue service to a residential customer, the Utility shall provide that residential customer with notice of each of the rights that residential customers ~~may~~ have relating to discontinuance of service and settlement agreements. This notice shall be written in both English and Spanish in simple language. The notice shall be delivered to the affected residential customer either in person or by depositing a copy of the notice in the U.S. Mail, postage prepaid, addressed to the residential customer at the address for the affected residential customer known to the Utility. The notice shall contain the following information:

1. the title(s), address, telephone number(s), and working hours of the Utility personnel responsible for effectuating the discontinuance;
2. the amount owed and the date by which the residential customer must either pay the amount due or make other arrangements with the Utility concerning payment of the charges, including arrangements for a settlement agreement and also including the consumption period over which said amount was incurred and the date and amount of the last payment;
3. a statement that if the residential customer pays that portion of the bill which is not in a bona fide dispute, the residential customer can obtain a review by Utility personnel of the portion of the bill which the residential customer does dispute without incurring a discontinuance of service;
4. a statement that a residential customer may file a complaint with the BCC Utilities Department Director if the residential customer disagrees with the Utility's determination concerning discontinuance of service;
5. a statement that the Utility will not discontinue service to any residence where a person resides who is seriously ill or whose life may be endangered by discontinuance of service if at least two (2) days prior to the proposed service discontinuance date indicated in the notice: (a) the designated Utility personnel receives a certificate or copy thereof from a practitioner of the healing arts on forms provided by the Utility or other suitable forms stating that discontinuance of service might endanger the person's life; or (b) the residential customer demonstrates to the designated Utility personnel in writing on forms provided by the Utility or other suitable forms that the residential customer has inadequate financial resources to pay the utility charges when due, whether or not the accuracy of such charges is the subject of a bona fide dispute; and (c) that if service has been discontinued because this information was received after ~~two (2)~~

days prior to the proposed the service discontinuance, the Utility shall reestablish service within twelve (12) hours of receipt of said certificate; 212858

6. a blank medical certificate for use by a practitioner of the healing arts to indicate the expected duration of the residential customer's serious illness or life endangering situation and a form for notifying the Utility that a residential customer has inadequate financial resources to pay utility charges when due. Such forms properly executed shall be adequate to delay discontinuance for at least thirty (30) days, and at the Utility's option the Utility may delay discontinuance for up to one hundred twenty (120) days or for a longer period of time. The Utility shall promptly notify the residential customer in writing as to how long it deems the certificate to be valid; provided, however, that should the circumstances upon which the certificate is based appear to have changed, the Utility may require additional certification;
 7. a statement of the cost of reconnecting service;
 8. a statement to the effect, "If you are a recipient of public assistance, contact your caseworker immediately."
- K. The Utility shall make reasonable efforts to communicate with a residential customer by telephone or personal contact at least two (2) days prior to the actual date of discontinuance of service in order to obtain payment of delinquent accounts or make other appropriate arrangements for payment. The Utility employee who personally contacts a residential customer at least two (2) days prior to discontinuance or the Utility employee sent to disconnect utility service shall note any information which is made known to the employee by the residential customer regarding any resident's serious illness or life endangering health condition, such as whether a resident is physically disabled, frail, or elderly. Such information shall immediately be reported in writing to the Utility Director or to his/her designee, who is authorized to prevent discontinuance of service. The Utility Director or his/her designee shall either delay the discontinuance of service order if it is apparent that the forms provided for in Section J, Paragraph No. 5, will be received or shall state in writing why such delay is not affected. The Utility and Utility employee's noting of the information made known by the residential customer, shall not incur any liability for acting upon such information, or failing to act upon such information in good faith shall cause the Utility and Utility employee to be held harmless for any error made. The Utility employee sent to disconnect service shall be empowered to receive payment of delinquent bills, and upon receipt of payment, said employee shall be empowered to cancel the discontinuance of service order.
- L. The Utility shall offer its residential customers a third party notification program and develop adequate procedures for notification to its residential customers of the availability of the program. The third party notification program shall be extended only to residential customers who notify the Utility in writing of their desire to participate in the program and designate a specific person, organization, or governmental agency that is

ready, willing, and able to assist the residential customer in the payment of utility bills. Upon receipt of such notice from a residential customer the Utility shall not discontinue service to the residential customer for nonpayment of past due charges without (1) contacting the designated person, organization, or governmental agency by phone or in writing at least fifteen (15) days prior to the proposed discontinuance of service; and (2) determining that the designated person, organization, or governmental agency has not made a commitment to assist payment of the past due charges of that residential customer within a reasonable period of time.

- M. When a residential customer has indicated to the Utility an inability to pay utility charges and has not been chronically delinquent, the Utility shall attempt to arrange an installment payment plan for the payment of past due utility charges. While an installment payment plan is being negotiated the Utility shall not discontinue service to the customer's residence for which the charges are delinquent. In the event that either negotiation of the installment plan is discontinued or progress of the negotiation is stalled, the Utility may proceed with discontinuance of service.
- N. The Utility shall provide a procedure for reviewing residential customer allegations that a proposed installment payment plan is unreasonable, that a utility charge is not due and owing, or that it has not violated an existing installment payment plan. This procedure shall provide for due notice to residential customers and the reviewing employee shall have authority to order appropriate corrective action. A discontinuance of utility service shall be stayed until the review is completed.
- O. Utility service to a residential customer may be discontinued only during the hours from 8:00 a.m. to 3:00 p.m. on Monday through Thursday and may not be discontinued less than twenty-four (24) hours prior to a holiday or weekend unless the Utility's business office is open for receipt of payment of past due charges and Utility personnel are available to restore such service upon payment during said holiday or weekend.
- P. Any customer whose service is involuntarily disconnected will be required to pay all fees and charges associated with the restoration of service.
- Q. The Utility shall not discontinue service for:
1. the failure of a residential customer to pay for special services;
 2. the failure of a residential customer to pay for service received at a separate metering point, residence, or location; however, in the event of discontinuance or termination of service at a separate residential metering point, residence, or location, the Utility may transfer any unpaid balance due to any other residential service account of the residential customer and proceed in accordance with Paragraph E;
 3. the failure of the residential customer to pay for a different class of service received at the same or different location; however, the placing of more than one

meter at the same location for the purposes of billing the usage of specific devices under optional rate tariffs or provisions is not construed as a different class of service;

212858

4. nonpayment of the disputed amount of a bill;
 5. delinquency in payment for service to a previous occupant of the same premises unless a court has found the new customer legally liable for the debt of the previous occupant, or the previous occupant continues to reside at the premises;
 6. failure of a residential customer to pay the bill of another customer as guarantor thereof and;
 7. failure of a residential customer to pay an estimated bill rendered in violation of Policy No. 2320.
- R. Failure to disconnect utility service within any time periods set forth within this Policy No. 9 shall not constitute a waiver by the Utility of its right to disconnect service.

SFCWU POLICY NO. 10

212889
SFC CLERK RECORDING 08/18/2004

RESPONSIBILITY FOR WATER SERVICE EQUIPMENT

- A. Utility's Responsibility. The Utility is responsible for the operation and maintenance of the utility plant up to the point of service.
- B. Customer's Responsibility. The customer is responsible for the yard line or customer's line. The customer shall use due diligence to protect the property of the Utility installed on the premises of the customer or on premises under his/her control, and the representative of the Utility shall have the right of access to the premises at all reasonable hours for the purpose of inspecting, testing, repairing, installing, or removing the property of the Utility.

SFCWU POLICY NO. 11

INTERRUPTION OF SERVICE

21285

SFC CLERKS RECORDING 08/18/2004

- A. The Utility agrees to use reasonable diligence in rendering continuous service and in furnishing a regular and uninterrupted supply of water, but the Utility does not guarantee uninterrupted service and supply and shall not be liable for damages in case such supply should be interrupted or fail by reason of an act of God, the public enemy, accidents, strikes, legal processes, state, county or municipal interferences, breakdowns or damage to the machinery or supply, processing and distribution or any cause beyond the control of the Utility.

- B. The Utility reserves the right to discontinue water distribution service for the purpose of making connections or extensions, repairs, raising or lowering of its pipe, or for any alterations, improvements, repairs, emergencies, or in connection with its business, and will not be liable for damages occasioned by interruption of or reduction in service when such interruptions or reductions are necessary to make repairs or changes in the Utility's transmission or distribution facilities. The Utility will endeavor to give reasonable notice in advance of any planned shutoff.

SFCWU POLICY NO. 12

2128591

RATES AND MISCELLANEOUS CHARGES

- A. The rates and miscellaneous charges of the Utility shall be only those rates and miscellaneous charges authorized by the BCC. Complete schedules of all rates and miscellaneous charges legally in effect will be kept at all times at the Utility's office at 605 Letrado, Santa Fe, New Mexico, 87505.

SFCWU POLICY NO. 13
ACCEPTABLE STANDARDS

2128592

- A. The Utility shall use acceptable engineering and industry standards in the design, construction and operation of the water system.

SFCWU POLICY NO. 14

**UTILITY'S RIGHT TO INGRESS TO AND ENGRES FROM
CUSTOMER'S PROPERTY**

2128593

SFC CLERK RECORDING 08/18/2004

- A. Duly authorized agents or employees of the Utility carrying proper credentials and identification shall have unrestrained access at all reasonable hours to all parts of the premises of the customer for the purpose of inspection and testing or for reading, changing, or removing the Utility's water meters. If such duly authorized agents or employees, after showing proper credentials and identification, are refused admittance or hindered or prevented from making such inspections, the service may be discontinued until free access is given in accordance with SFCWU Policy No. 9.

SFCWU POLICY NO. 15

212859

UNAUTHORIZED CONNECTIONS

- A. Domestic water service furnished by the Utility to any customer shall be used only in connection with such customer's residence or business. No additional facilities or supplies shall be connected to the existing service nor shall service be piped from one residence, dwelling, or building to another residence, dwelling, or building without first obtaining written permit, authorization, and/or statement of requirements from the Utility.

212859

SFCWU POLICY NO. 16

STOPPAGE OR OBSTRUCTIONS OF SERVICE

- A. The Utility shall not be responsible for the stoppage or obstruction or breaks in a customer's yard line or water line.

2128596

SFC CLERK RECORDING 08/18/2004

SFCWU POLICY NO. 17

TEMPORARY AND SPECIAL SERVICES

- A. Temporary water service may be furnished upon request and if provided shall be billed at the Utility's highest authorized commodity rate. In addition, the customer shall pay the cost of installing and removing the necessary facilities required to provide such service.
- B. Temporary water service connections are primarily available to supply water for construction and other purposes that will not have an adverse impact on existing customers.

SFCWU POLICY NO. 18

2128597

METERING

- A. Ownership of Meters. All meters used in connection with metered service shall be installed, maintained, and owned by the Utility.
- B. Meter Testing. Each meter, whether new or repaired or removed from service for any cause, shall be tested and in good order before being installed. All tests to determine the accuracy of registration shall be made with standard meter testing equipment.
- C. Upon request by a customer, the Utility shall perform a test of the meter serving the customer and advise the customer that he/she may be present. If the meter has been tested within the last twelve (12) months, the Utility may charge the customer a meter test charge.
- D. If the customer wishes to be present, he/she should so notify the Utility at the time of the request for the meter test. The Utility shall give the customer reasonable advance notification as to the day, time, and place of said meter test.
- E. A report of the results of the test shall be provided to the customer within a reasonable time after the completion of test, and a record of the report together with a complete record of each test shall be kept on file at the office of the Utility, for no more than two years.
- F. Fast Meters. If upon testing the meter it is determined to be more than ~~When a meter is found to be in fact in excess of two percent (2%) fast in error against the customer, in tests made at any time,~~ the Utility shall refund or credit to the customer an amount equal to the excess charged for the water incorrectly metered. The period over which the correction is to be made shall be the time of apparent failure; provided, however, the period shall not exceed six (6) months. No part of the minimum service charge shall be refunded as part of this correction.
- G. Slow Meters. If upon testing the meter it is determined to be more than two percent (2%) slow, the amount of the under-charge resulting from the error will be billed to the customer, but the period employed in calculating the under-charge shall not exceed six (6) months. The customer will not be billed for the period between his/her advice to the Utility that he/she doubts the meter's accuracy and the test of the meter by the Utility if the interval exceeds a time reasonable under the circumstances.
- H. Failure to Register. In the event of stoppage or failure of the meter to register the full amount of water consumed, the customer will be billed for consumption based upon the time elapsed since the last previous test or the time of apparent failure using an estimated consumption based upon such customer's use of water in a similar period of like use; provided, however, the period shall not exceed six (6) months. In the event that a

customer does not have sufficient consumption history to determine the estimated consumption for a similar period, the Utility shall use the customer's monthly average consumption.

2128598

- I. The Utility reserves the right to test any meter at any time during business hours and to enter the premises of a customer if necessary for that purpose.

SFC CLERK RECORDING 08/18/2004

SFCWU POLICY NO. 19

CURTAILMENT OF SERVICE

2128599

SFC CLERK RECORDING 08/18/2004

- A. In the event of a shortage of water supply or an interruption of water supply due to operational constraints, the Utility shall curtail usage or customers.

2128600

SFCWU POLICY NO. 20

SETTLEMENT AGREEMENTS

A. Settlement Agreements shall be in writing. When a Utility and a customer settle a dispute or when a customer does not dispute liability for an outstanding bill or bills but demonstrates an inability to pay the outstanding bill or bills then due, the Utility and the customer shall enter into a settlement agreement to pay the amount of the bill. The terms of a settlement agreement reached by telephone, which extends beyond forty-five (45) days shall be confirmed by the Utility in writing and mailed or delivered to the residential customer. The Utility is not required to enter into a settlement agreement with a chronically delinquent residential customer. However, if a chronically delinquent residential customer can demonstrate to the Utility that the residential customer has inadequate financial resources to pay the outstanding bill without participation in the settlement agreement or if the residential customer has a low income and is elderly, disabled, or subject to other special considerations, the Utility ~~shall~~ may give special consideration to such residential customer in determining whether to extend a settlement agreement to that residential customer.

B. Installment Payments.

1. Every settlement agreement involving an inability to pay an outstanding bill in full when due shall provide that service will not be discontinued if the customer pays a reasonable portion of the outstanding bill upon signing the settlement agreement and agrees to pay the remaining outstanding balance in reasonable installments until the bill is paid. For purposes of determining reasonableness the parties shall consider the following:

- a. the size of the outstanding balance,
- b. the customer's ability to pay,
- c. the customer's payment history,
- d. the time that the balance has been outstanding,
- e. the reasons why the balance has been outstanding, and
- f. any other factors relevant to the customer's service.

A settlement agreement to pay an outstanding past due balance on a bill does not relieve a customer from the obligation to pay future bills on a current basis.

2. If the customer has entered into an installment plan pursuant to a settlement agreement the customer shall receive a statement of:
 - a. the actual service charges incurred for the current billing period,
 - b. the amount of the installment payment due,
 - c. the total amount due [i.e., the sum of (a) and (b)], and
 - d. an acknowledgment of previous installment payments.

2128601

C. Failure to Comply with Settlement Agreements.

1. If a customer fails to comply with a settlement agreement, the Utility may discontinue service after notifying the customer by personal delivery of written notice or by first class mail that the customer is in default of the settlement agreement; stating the nature of the default; and stating that unless a payment which brings the settlement agreement current is made within seven (7) days from the date of notice, the Utility will discontinue service on a certain date.
2. Nothing in this section shall preclude the Utility and a customer from renegotiating the terms of a settlement agreement.

SFCWU POLICY NO. 21

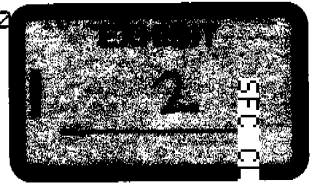
ESTIMATED BILLS

2128602

- A. The Utility may not render a bill based on estimated usage to a customer, other than a seasonally billed customer unless:
 - 1. the Utility is unable to obtain access to the customer's premises through no fault of its own for the purpose of reading the meter or in situations where the customer makes reading the meter unnecessarily difficult,
 - 2. a meter is defective or has been evidently tampered with or bypassed, or
 - 3. weather conditions prohibit meter readings or where other force majeure conditions exist.

If the Utility is unable to obtain an actual meter reading for these reasons, it shall attempt to contact the customer and attempt to obtain access to the premises, or it shall undertake reasonably practical alternatives to obtain a meter reading. The Utility ~~must~~ shall for no less than twelve (12) months maintain accurate records of the reasons for each estimate and of the efforts made to secure an actual reading.

- B. The Utility may not render a bill based on the estimated usage for more than two (2) consecutive billing periods nor for an initial reading or a final bill for service unless otherwise agreed to by the customer and the Utility or the Utility is unable to obtain access to the customer's premises for the purpose of reading the meter or weather conditions prohibit meter readings or where other force majeure conditions exist.
- C. If the Utility underestimates a customer's usage and subsequently seeks to correct the bill, the customer shall be given an opportunity to participate in an installment payment plan with regard to the underestimated amount.
- D. Meter Reading. Meters will be read as nearly as possible at regular monthly intervals; provided, however, that if one month's meter reading is missed the Utility may bill the customer on an estimated consumption and the difference adjusted when the meter is read again. The basis for this estimate shall be the normal consumption for corresponding periods in the preceding year and/or normal consumption of preceding months. At the first reading subsequent to the nonreading the rate structure shall be taken into account when adjusting the bill.



SEC. CLERK RECORDING 08/18/2004

2128604

Tuesday March 26, 2002

County Development Review Committee

REGARDING; Permit # A/V 01-5540 Patrick Portillo/63 Cedar/Santa Fe

I would like to restate my objection to allowing three homes on this property. Please reference my memo of 12/19/01.

I have major concerns regarding water availability in this part of the county, and understand that no hydrology study has been conducted. If this property is permitted to drill another well, I would take action to prevent same.

An additional concern is WHY Mr. Portillo has been allowed to have three residences on this property PRIOR to county approval?

As stated previously, the general condition of the property violates subdivision covenants. The middle trailer appears to be a fire hazard, at minimum. There are numerous RVs and other vehicles at all times. Several sheds have been constructed.

I am an area resident trying to participate in maintaining property values and supporting existing County ordinances.

For safety reasons I am submitting this memo instead of a personal appearance at the April hearing. However, I would be happy to speak with any Committee members at any time.

I would like to request a copy of the proceedings of the December hearing that recommended that Mr. Portillo remove the middle trailer.

Thank you for your attention to this situation.

Ruth L. Burton
C/O New Vistas Early Childhood Program
1121 Alto Street
Santa Fe N.M. 87501
Phone : 988-3803 ext 16
FAX: 989-8740

cc: Charlie Gonzalez/Code Enforcement Supervisor

RECORDER'S OFFICE
CLERK RECORDING 08/18/2004
2128605

Drayage

MONTAYA
706 PAGE 361

N/F LEMASTER
BOOK 450 PAGE 034

N/F SEDLAC
BOOK 730 PAGE 586

DRAINAGE LOCATIONS
4.1" BK. 303, PG. 287

N/F SEDLAC
BK. 212, PG. 033

N/F SANDOZ
BK. 700, PG. 046

N/F LEMASTER
BK. 231, PG. 018

N/F GURULE
BK. 727, PG. 053

N/F KHALSA
BK. 217, PG. 035

SANTA FE CO.
1.50 ACRES
(DEDICATED FOR COUNTY
USE AS PER AGREEMENT)

TO LETTERED
PLAN, DRAINAGE
N 31°29'11" E
D 3179031' E
D 1422181' E
D 1720231' E
D 1422181' E
D 1720231' E
D 1720231' E
D 1720231' E

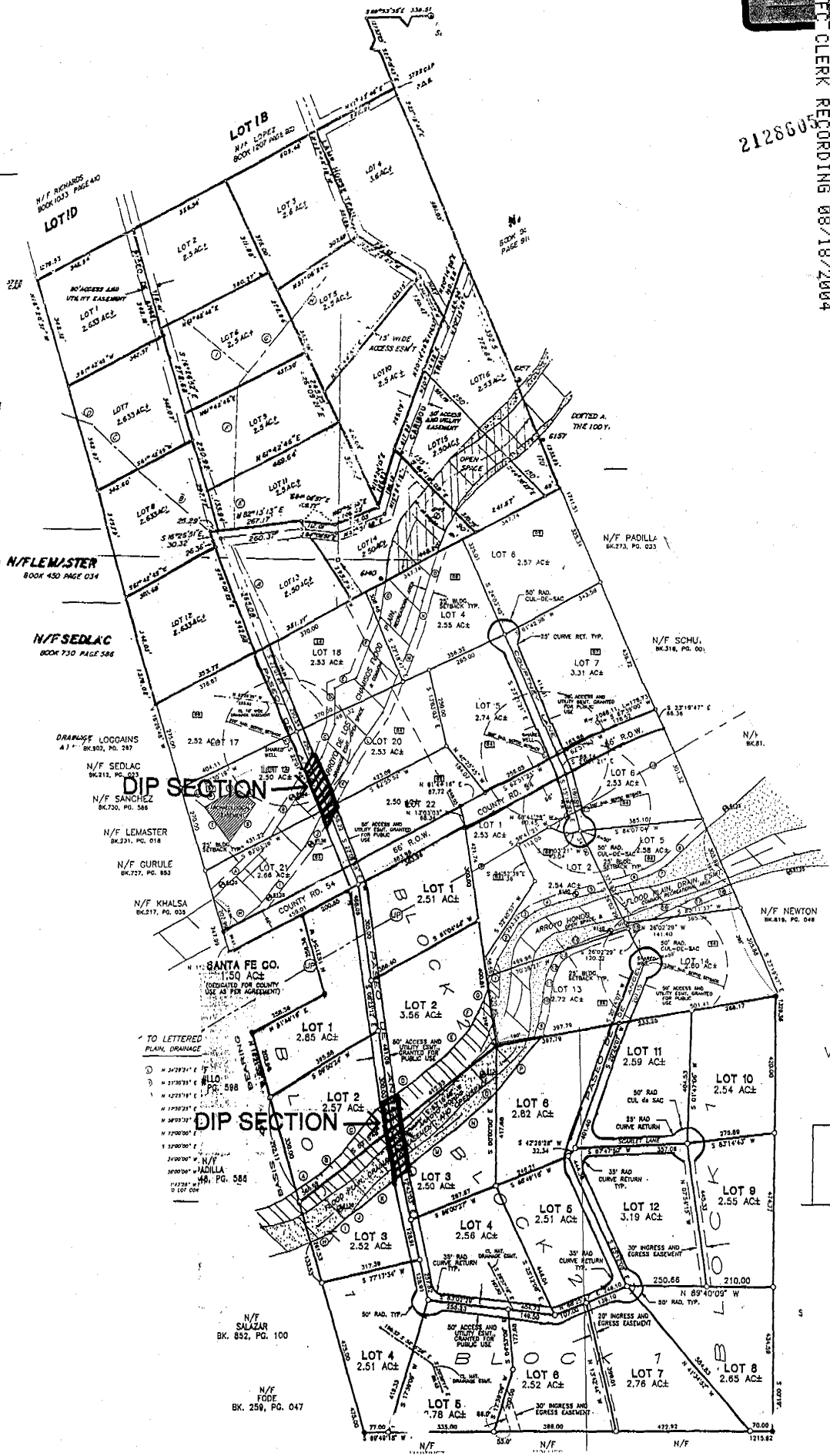
N/F PADILLA
BK. 273, PG. 033

N/F SCHU
BK. 316, PG. 001

N/F NEWTON
BK. 248, PG. 048

N/F SALAZAR
BK. 852, PG. 100

N/F FOOTE
BK. 250, PG. 047

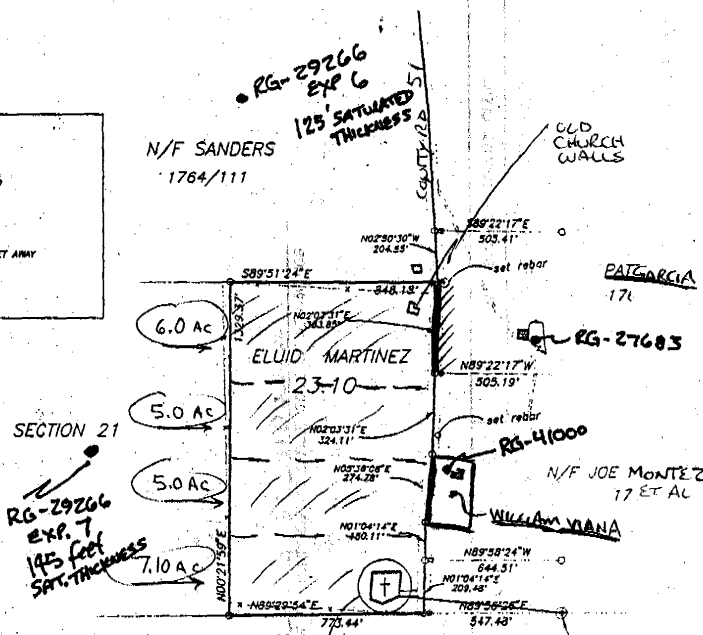
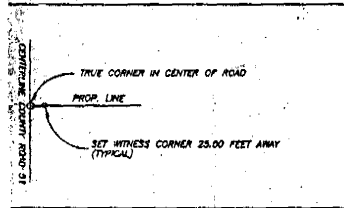


MAP #2 SHOWING 23.1 ACRES PARCEL WITH PROPOSED LOT DIVISION AND ADJACENT LAND OWNERS

ALSO NEARBY DOMESTIC WELLS AND/OR EXPLORATORY WELLS

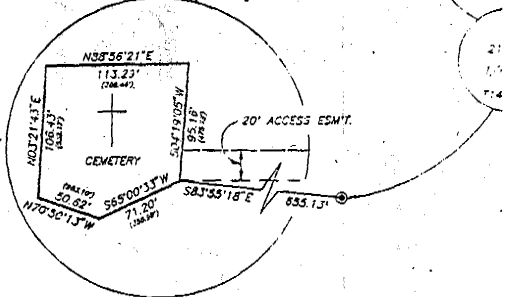
2128608

- MARKERS SET THIS SURVEY 1/2" REBAR WITH CAP #300
- MARKERS FOUND USED AND NOTED THIS SURVEY
- U.S.G.L.O. BRASS CAP
- SANITARY SEWER MANHOLE
- △ GAS METER
- TELEPHONE PEDESTAL
- ◇ POWER POLE
- WELL
- ELECTRIC BOX
- X- FENCE
- CONCRETE AREA



NOTES:

- MERIDIAN IS BASED ON PLAT OF SURVEY BY ME FILED AND RECORDED ON MAY 3, 2000 IN PLAT BOOK 442, PAGE 49.
- ADDITIONAL INFORMATION TAKEN FROM DEEDS IN AN ABSTRACT OF TITLE PREPARED FOR WILLIE GARCIA BY SANTA FE ABSTRACT COMPANY DATED FROM DATES JUNE 1980, ABSTRACT NO. 8845.
- CEMETERY TRACT WAS AMENDED TO SHOW CORRECT DISTANCES NOT SHOWN ON PLAT RECORDED IN PLAT BOOK 442, PAGE 49. (OLD PLAT)



CERTIFICATE

I, MORRIS APODACA, A NEW MEXICO REGISTERED PROFESSIONAL SURVEYOR CERTIFY THAT I CONDUCTED AND AM RESPONSIBLE FOR THIS SURVEY, THAT THIS SURVEY IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT THIS SURVEY AND PLAT MEET THE MINIMUM STANDARDS FOR SURVEYING IN THE STATE OF NEW MEXICO.

I FURTHER CERTIFY THAT THIS SURVEY IS NOT A LAND DIVISION OR SUBDIVISION AS DEFINED IN THE NEW MEXICO SUBDIVISION ACT AND THAT THIS IS A BOUNDARY SURVEY PLAT OF AN EXISTING TRACT OR TRACTS.



Morris Apodaca
MORRIS APODACA P.L.S. 2003
5-20-08
DATE



SFC CLERK RECORDING 08/18/2004

2128610

ATTACHMENT NO 5

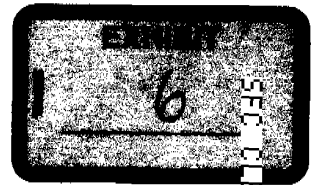
GENERAL INFORMATION

COPIES OF NEW MEXICO STATE ENGINEER OFFICE WELL LOGS FOR NEARBY WELLS.

EXISTING WELL	ESTIMATED WELL YIELD FROM LOG	APPROXIMATE DISTANCE TO THE 23.1 ACRES
RG-41000	7 GALLONS PER MINUTE	50 FEET
RG-27683(30FT. DEEP)	2 GALLONS PER MINUTE	350 FEET
RG-29266 EXP7	5 GALLONS PER MINUTE	750 FEET
RG-29266 EXP6	15 GALLONS PER MINUTE	1000 FEET
RG-56379	217 GALLONS PER MINUTE	2000 FEET
RG-40413	40 GALLONS PER MINUTE	1 MILE
RG-40162	15 GALLONS PER MINUTE	6500 FEET

Length (feet)	Yield (gpm)
222	

SANDERS LAND AND CATTLE
Incorporated



March 28, 2002

County Land Use Administrator
PO Box 276
Santa Fe, NM 87504-0276

2128611

RE: CDRC CASE # V 02-5000

Dear Sirs:

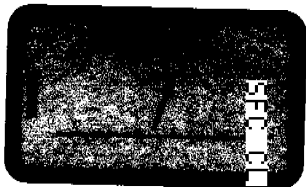
While out of the country, Mr. Sanders, a neighbor of Eluid L. Martinez and Suzanne Martinez, asked that we forward a letter in support of the Martinez's desire for a variance to allow a family transfer land division of 23.1 acres into 4 lots. Mr. Sanders, as well as those of us that work for Sanders Land & Cattle, have found the Martinez family to be good and thoughtful neighbors. We know that in any undertaking, nobody is more familiar with the law and respectful of regulations than Mr. Martinez. We are confident that he will execute this in a very positive way.

I will also add that after our friendly neighborly dealings with Mr. Martinez, we have no concerns whatsoever about the impact on long-term water from his desired family land transfer and have absolutely no objections to the variance he is requesting.

In short, we fully support the Martinez's efforts to obtain a variance and to transfer the land into 4 lots.

Sincerely,

David S. Galvin
Vice President



RECORDER RECORDING 02/18/2004

PETITION TO PRESERVE
The
Historic Hispanic Community
of Ojo de la Vaca in Santa Fe County
Including
The San Miguelita Church and Cemetery

21286

We the undersigned, residents of Santa Fe County,
 petition the Santa Fe County Land Use Department
 and the Santa Fe County Commission to aid in the effort
 to preserve ruins of the
 San Miguelita Church and Cemetery
 at Ojo de la Vaca
 by enforcing measures outlined in the
 Santa Fe County Code - Special Review Districts
 which apply to protecting Cultural Sites.

Name

Address

Robert Williams 540 Juanita St Santa Fe

IAN ROSENKRANZ PO Box 1433 (RR #51) SANTA FE

Suzanne Anne 39 Wildflower Wdy SF

Susan York 1215 Lujan St SF

Joseph Bennett Po 219 SF 87504

[Signature] 3741 State Rd 14 SFNM

Lisa Comer 19 General Sage Dr. SF NM 87505

Karyn [Signature] 3741 State Rd 14 SF 87505

[Signature] 317 TESUQUE DR SF 87505

2128613

PETITION TO PRESERVE
The
Historic Hispanic Community
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Including
The San Miguelita Church and Cemetery

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Name

Address

Shirley Evelyn Shppard	5 FRASCO place	Santa Fe	87508
Nathan Gilman	P.O. Box 32193	SF	87594
Rm Young	P.O. Box 5966	SF	87508
Adelle Goering	P.O. Box 28816	SF	87592
William J. Jones	64 Sunset Rd	SF	87505

PETITION TO PRESERVE
The
Historic Hispanic Community
of Ojo de la Vaca in Santa Fe County
Including
The San Miguelita Church and Cemetery

2128614

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Santa Fe County Code - Special Review Districts
which apply to protecting Cultural Sites.

Name

Address

Mark Duran SB-B Arroyo Salado

Will [Signature] 52 OJO DE LA VACA TR. SANTA FE, NM 87508

PETITION TO PRESERVE
The
Historic Hispanic Community
of Ojo de la Vaca in Santa Fe County
Including
The San Miguelita Church and Cemetery

2128615

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Santa Fe County Code - Special Review Districts
which apply to protecting Cultural Sites.

Name

Address

TIM VAIDEE IS PASILLO CHICO SF
JANICE C. MOHR-NEILON 6 Vereda Mesita SF 87508 J Mohr-Neilon

PETITION TO PRESERVE
The
Historic Hispanic Community
of Ojo de la Vaca in Santa Fe County
Including
The San Miguelita Church and Cemetery

2128616

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Santa Fe County Code - Special Review Districts
which apply to protecting Cultural Sites.

Name

Address

Charlotta J Winkler 52 Ojo de la Vaca Trail SF 87508

Aandy Anderson 296 Ojo de la Vaca SF NM 87508

PETITION TO PRESERVE
The
Historic Hispanic Community
of Ojo de la Vaca in Santa Fe County
Including
The San Miguelita Church and Cemetery

2128617

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 Santa Fe County Code - Special Review Districts
 which apply to protecting Cultural Sites.

Name

Address

Snolley Buonaiuto 131 SAM ST. SF NM 87501
Wyn Lewis 214 SENAO RD SF NM 87501
Peggy Medina Gitaw 216 Alta Vista, SF, NM 87505
Shelly Ch 1437 Sewell Rd SF NM 87505
Albert Edward 1463 Canyon Road Santa Fe ~~Colorado~~
 New Mexico
Helen M Corneli 2528 Ave de Isidro Santa Fe NM 87505
Ralph A. Luce 1723 Av. Crofford Colm, Santa Fe, N.M. 87501
Elliott Skinner 903 Don Miguel Pl. SF NM 87505
Linda Hibbs 903 Don Miguel Pl. SF, NM 87505

PETITION TO PRESERVE
The
Historic Hispanic Community
of Ojo de la Vaca in Santa Fe County
Including
The San Miguelita Church and Cemetery

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 by enforcing measures outlined in the
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 which apply to protecting Cultural Sites.

2128619

Name Address

Richard Lewis 2930 Calle Ana Juan #C-
Alexis D. Lopez 429 Apodaca Hill S.F.
Cherry Ann 407A Juanita St NM SF 87501
Gina Rodriguez 2800 Cerrillos Rd #23
Mary Lyon 2116 Calle de Sebastian ^{S.F.} 87505
Michelle Messinger 2800 Cerrillos Rd #23 87507
Andrew Hoffman C4 San Marcos LP 87508
Margaret Howard P.O. Box 23413, SF 87502
Matthew Herrera 1611 Espinacitas Santa Fe, N.M. 87505
Danny Baugh 1079 Village Way Santa Fe N.M. 87505
Kenneth F. Montoya 1079 Village Way Santa Fe N.M. 87505
Carol Lepton Camino De Jacobo #60 Santa Fe 87507

NER

PETITION TO CONSERVE AQUIFER RESOURCES
for already established water right holders
and future generations

by adhering to regulations regarding

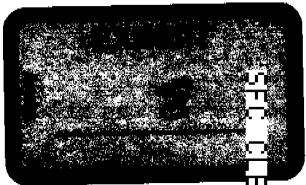
Minimum lot sizes for the Homestead Hydrologic Zone,
Requiring Geo Hydrology Studies and Proof of Hardship
before lot split variances are granted

We the undersigned, residents of Santa Fe County,
petition the Santa Fe County Board of Commissioners
to adhere to and enforce measures as outlined in the Santa Fe County Code
and General Land Use Plan, which are intended to conserve aquifer resources
for already established water right holders and future generations

Name Address

Paul Jones 2730 Calle Luna San FC
Diane Lopez 429 Apodaca Hill S.F.
Cheryl Jones 407 A Juanita St. SF, NM 87501
Guinea Rodriguez 2800 Cervillas Rd. #23 SF 87507
Mary Lyon 2116 Calle de Sebastian, S. F. 87505
Michelle Messera 2800 Cervillas Rd. SF 87507
Andrew Hoffman Cot San Marcos Lp. 87508
Margaret Herrera P.O. Box 23413, SF 87502
Matthew Herrera 1611 Espinacitas Santa Fe N.M. 87505
Danny Gough 1079 Village Way Santa Fe N.M. 87505
Kenneth S. Montez 1079 Village Way Santa Fe N.M. 87505
Paul Lopez Camino De Jacobo #60 Santa Fe N.M. 87507

OVER



SFC CLERK RECORDING 08/18/2004

2128620

2128622

**PETITION TO CONSERVE AQUIFER RESOURCES
for already established water right holders
and future generations**

by adhering to regulations regarding

**Minimum lot sizes for the Homestead Hydrologic Zone,
Requiring Geo Hydrology Studies and Proof of Hardship
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for already established water right holders and future generations

Name

Address

G Stuart Peterson 33 Crest Rd Santa Fe NM 87508

[Signature] — 23 chaco Rd. 87508

Richard E. Hall 4 Camino Tenorio 87508

O. A. Borge 53 Old Carretera Rd 87508

Trishy E. W. Huskey AC 75 CR 42 87540

Angela Gould 106 Old Carretera Rd 87505

Mary Miles Thurston 303 Ojo de la Laja SF-87508

**PETITION TO CONSERVE AQUIFER RESOURCES
for already established water right holders
and future generations**

2128623

by adhering to regulations regarding

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Requiring Geo Hydrology Studies and Proof of Hardship
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Name Address

Stelley Buonaiuto 131 Som St. SF NM 87501

Mina Sammons 54 Don Jose Loop SF NM 87508

Wynn Lewis 214 Sereno Dr SF NM 87501

Peggy Marie Altier 216 Alta Vista, SF, NM 87505

Helen M. Corneli 2528 Av de Isidro SF " 87505

Ralph A. Juice 1723 Av. Cristobal Colm SF 87501

Linda Hibbs 903 Don Miguel Pl. SF 87505

Jim Corneli 2528 Av de Isidro SF 87505

Elliot Skinner 903 Don Miguel Pl SF NM 87501

**PETITION TO CONSERVE AQUIFER RESOURCES
for already established water right holders
and future generations**

2128624

by adhering to regulations regarding

**Minimum lot sizes for the Homestead Hydrologic Zone,
Requiring Geo Hydrology Studies and Proof of Hardship
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to adhere to and enforce measures as outlined in the Santa Fe County Code
and General Land Use Plan, which are intended to conserve aquifer resources
for already established water right holders and future generations

Name Address

<i>BERNARD EWELL</i>	<i>99 AB SIBLEY RD. S.F. 87508</i>
<i>Janice Moke-Nelson</i>	<i>6 Vereda Mesa SF 87508 Janice Nelson</i>
<i>Valerie Bodei</i>	<i>83B Sibley RD SF NM 87508 Valerie Bodei</i>
<i>Charlotte Wenter</i>	<i>52 Cjo de la Jaca SF NM 87508 Charlotte Wenter</i>
<i>Walt J. ...</i>	<i>52 OTO N-LO VACA TR SANTA FE, NM 87508</i>

**PETITION TO CONSERVE AQUIFER RESOURCES
for already established water right holders
and future generations**

2128625

by adhering to regulations regarding

**Minimum lot sizes for the Homestead Hydrologic Zone,
Requiring Geo Hydrology Studies and Proof of Hardship
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Name Address

Robert Welby 540 JUANITA ST Santa Fe

IAN ROSENKRANZ POB 1433 (RR#51) SANTA FE

Juanne Stone 39 Wildflower Way SF

Richard Barnett 2057 Cellerosa #23 Santa Fe 87505

Susan York 1215 Lujan St SF

Joseph Bryant P.O. Box 219 SF 87504

3741 St. Rd. 14 SFNM

Lisa Comer 19 General Sage Dr. SFNM 87505

Karyna Lopez 3741 St. Rd. 14 SF

**PETITION TO CONSERVE AQUIFER RESOURCES
for already established water right holders
and future generations**

by adhering to regulations regarding

2128626

**Minimum lot sizes for the Homestead Hydrologic Zone,
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Name	Address
<u>Shirley Sue Shappard</u>	<u>5 FRASCO place . SANTA FE . 87508</u>
<u>Nathan Gilman</u>	<u>PO Box 32193 Santa Fe 87594</u>
<u>Will De Juan</u>	<u>64 Sunset Rd SF 87505</u>
<u>Jean Howell</u>	<u>8 Laura Place, SF, NM 87508</u>
<u>Randy Freeman</u>	<u>313 Ojo de la Vaca, SF NM 87505</u>
<u>Lani M Moore</u>	<u>313 Ojo de la Vaca, SF NM 87505</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>