

Potential Hazard for fire, panic or other danger	My question/concern is:	Staff Response
	Adequate electric panel for electrification of houses!	<i>Not sure on the question being asked. According to AES the power generated by this facility will stay in New Mexico and be sold by PNM.</i>
Hazard Mitigation Assessment	Has a fire ever escaped the containment systems of a BESS that has burned anyone's property or property outside the facility?	<i>This question will be addressed at the November 6, 2024 community meeting.</i>
	We were told the sound levels at the BESS is the is 85 decibels, but what would the sound level (in decibels) be at the nearest home from the BESS be?	<i>According to the Noise Impact Analysis submitted by AES shows that the increase in the dBA will be minimal. The operating level of the AES project indicated in the study show the estimated dBA will be 48.3 dBA during day time and 43.5 dBA during night time. This is below the SLDC requirements. There will be increased noise during construction with the time of construction regulated to ensure it is during normal business hours.</i>
Hazard Mitigation Assessment	how will possible objections by existing residents near proposed sites be publicized and addressed?	<i>Objections sent to the county are presently posted on the County website https://www.santafecountynm.gov/growth-management/building-development/large-scale-renewable-energy-projects-2024/uaes. These comments will also be provided to the hearing officer and planning commission. Residents have the right to voice their concerns during the hearing officer and planning commission public hearings.</i>
	I am concerned about the noise pollution. What is the projected noise level at the boundary of the facility? What enforcement mechanism would be in place if AES exceeds allowable noise levels? What would stop them from simply paying fines, just factoring that into the cost of doing business, and continuing to generate noise pollution?	<i>The projected noise level under normal operation is estimated to be 48.3 dBA during the day and 43.5 dBA during the night which is under the allowable under the SLDC. If the facility is above the allowable limits under the SLDC, the claim is investigated by Code Enforcement. If they are found in violation they will not have the ability to just pay a fine. They will be required to solve the problem or face legal action in the court system. This can include a cease and desist order shutting down the site.</i>
	This form, in and of itself, does not meet the intent of having citizen participation. Why are county staff interfering with give and take between citizens and Commissioners, who are our elected representatives?	<i>Under New Mexico law if elected officials communicate about a possible public hearing with residents they are guilty of ex-parte communications. This means they are not allowed to vote or participate in the public hearing if the case comes before them.</i>

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	<p>Thank you for this opportunity to ask a question for the October 22, 2024, Santa Fe County meeting regarding the Santa Fe County's Conditional Use Permit (CUP) process for commercial renewable energy projects. My question is this: Please articulate, for the public record, how Santa Fe County justified the decision NOT to develop a category of Developments of Countywide Impact (DCI) for utility-scale solar projects like the proposed AES Rancho Viejo Solar, which is warranted for such large projects with greater safety risk and environmental impacts. Residents of San Marcos and Eldorado have requested this DCI time and time again, with either no answer or an inadequate answer. At a March 2023 Board of County Commissioners meeting, county officials merely said that designating these facilities as DCIs would be "too much work," "take a long time," and that "the DCI is probably more complicated than we would want for renewable energy." Enough time has now passed that county could have completed this important task to allow a more rigorous review of the AES proposal, and which would have been a wise investment regardless given that the county will surely receive more utility-scale renewable energy proposals in the future.</p>	<p><i>When the SLDC was adopted by the BCC in 2016, via Ordinance 2016-009, the definition for commercial solar was also approved. Because the SLDC does not distinguish between commercial and utility solar projects, this project is defined as a commercial solar project. The existing provisions of the SLDC allow commercial solar projects to be approved as a conditional use in the Rural Fringe zoning district if the Planning Commission determines that the proposed use meets the criteria of the CUP. Furthermore, the transition away from fossil fuels to renewable energy sources is a high priority in the County's Sustainable Growth Management Plan, adopted by the BCC as County policy. This information was confirmed by the County Manager in a July 24, 2023 letter to the San Marcos Association.</i></p>
	<p>I am concerned that utility scale solar or wind projects are not explicitly addressed in the SLDC. The SLDC notes that "commercial solar" is a conditional use in Rural Residential zoning. However, Community Solar has an explicit chapter in the SLDC and projects are limited to about 1 megawatt. It seems incongruous to explicitly provide for community solar, but then not be equally specific about the difference between utility scale renewable projects and smaller scale commercial projects. I suggest that about 10 MW nameplate capacity is a reasonable cutoff. Now that the Linea project near Stanley has been announced, it may be appropriate to rethink the denial of the San Marcos Association's suggestion that utility scale renewable projects be considered as Developments of Countywide Impact (DCIs). My question is then why has the county not designated utility scale renewable projects as a separate chapter in the SLDC and consider these massive projects as DCIs?</p>	<p><i>When the SLDC was adopted by the BCC in 2016, via Ordinance 2016-009, the definition for commercial solar was also approved. Because the SLDC does not distinguish between commercial and utility solar projects, this project is defined as a commercial solar project. The existing provisions of the SLDC allow commercial solar projects to be approved as a conditional use in the Rural Fringe zoning district if the Planning Commission determines that the proposed use meets the criteria of the CUP. Furthermore, the transition away from fossil fuels to renewable energy sources is a high priority in the County's Sustainable Growth Management Plan, adopted by the BCC as County policy. This information was confirmed by the County Manager in a July 24, 2023 letter to the San Marcos Association.</i></p>
	<p>Since the hearing before the County Hearing Officer is now estimated to occur in February 2025, will the County explain what reviews and prehearings will take place prior to that hearing. A collateral question: does the County or AES pay for these consultants and reviews?</p>	<p><i>The hearing officer is scheduled for December 4, 2024 and the planning commission is scheduled for February 3, 2025. Both of which are public hearings to allow the public to give comment on the project. In addition staff is holding two additional public meetings one on October 22, 2024 and November 6, 2024. These meetings are to help answer any questions regarding the CUP process and the safety concerns regarding BESS installations. All third party reviews are paid for by the applicant as laid out in the SLDC.</i></p>
	<p>After the Hearing Officer makes a recommendation to the Planning Commission, will the Planning Commission then hold a hearing on the matter where they take new evidence (i.e., a de novo hearing), or merely a public meeting where they discuss and vote on the Hearing Officer's Recommendation? If the Planning Commission's decision is appealed to the Board of County Commissioners, would the Commissioners hold a hearing where they take new evidence, or would they make a decision based upon the evidence presented before the Hearing Officer?</p>	<p><i>The hearing officer establishes the facts of the case, hears testimony, asks questions and makes a recommendation to the Planning Commission. At the Planning Commission, new evidence can be presented and new concerns can be brought up during public comments. Planning Commission considers the hearing officer recommendation but is not bound by the recommendation. If the case is appealed, the Board of County Commissioners will hold a separate public hearing where new evidence can be presented. BCC will take the hearing officer recommendation and the planning commission decision into account but are not bound by it.</i></p>

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	Please provide an organizational chart that shows the respective roles of the individual staff members in the Growth Management Department, the Fire Department and the Hearing Officer regarding the Rancho Viejo Solar Project Conditional Use Permit Application.	<i>The CUP process that AES is following is the same CUP process stated in the SLDC. The CUP process rules can be found at https://ecode360.com/39282574. Rules regarding hearing officer can be found in the SLDC at the following link: https://ecode360.com/39282561</i>
	What is the role of County Staff in the hearing before the Hearing Officer? Are County Staff members who present recommendations to the Hearing Officer considered witnesses? And are the recommendations of County Staff members considered evidence?	<i>County staff will present the case to the hearing officer based on the documents provided in the submittal. Staff will notify the hearing officer if the application is complete and suggest conditions of approval if the hearing officer recommends approval. The conditions of approval are entered into the official record of the meeting. Staff members can be questioned by the hearing officer, in most cases the questions are directed at the applicant.</i>
	Who decides the procedure for the hearings? Will it be the County Staff, the Hearing Officer, the Planning Commission, the Board of County Commissioners or a combination?	<i>The procedures for the public hearings are outlined by the SLDC. This is why the hearing are quasi-judicial as the procedures are already established. Procedures can be found in Chapter 4 of the SLDC.</i>
	Who determines whether a member of the public is considered a “party with standing” under Section 4.7.2.1 of the SLDC versus a member of the public who merely has the right to make a public comment?	<i>Under the SLDC a member of standing in regards to a CUP application would be a registered community organization within the 500' radius from the property. Parties with standing not identified as part of the SLDC will be determined by the Hearing Officer and/or Planning Commission.</i>
	Please discuss the difference between “parties with standing” and members of the general public with respect to their participation in the hearings.	<i>The SLDC identifies a “community organization” (CO), located within 500 feet radius of the property to have automatic standing. The code does not infer the same rights to a “registered organization” (RO). However, given the extent of the public’s interest with this project, the hearing officer will likely consider petitions for parties to have standing. Approval as a party of standing will require acceptance of rules of engagement regarding time limits and procedures for questions, as determined by the hearing officer.</i>

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	Does County Staff present their recommendations to the Hearing Officer in advance of the hearing? Do the parties and the public get access to County Staff's recommendations when the recommendations are made to the Hearing Officer?	<i>The staff report will be available as part of the agenda packet material posted no later than 72 hours before the start of the meeting. This information will be available to the public to view prior to the public hearing.</i>
	Please identify the members of the County's Technical Advisory Committee.	<i>The Technical Advisory Committee is made up of representatives from Building & Development Services, Fire Department, Utilities, Public Works, Sustainability, Affordable Housing, County Managers Office and Legal. The participates from the different departments change based on staff availability.</i>
	Why did the Applicants not conduct a pre-application meeting with the Technical Advisory Committee? Did the County tell the Applicants such a meeting was not necessary? If so, who excused the Applicants and why?	<i>A pre-application meeting was held with AES before going to TAC. The majority of all projects have this meeting to obtain the TAC checklist and answer any questions before they go to the TAC committee. The staff members who held this pre-application meeting are no longer with Santa Fe County so we are unable to provide the exact date of the meeting.</i>
	Please identify the consultants the County has used and is using to evaluate the AES Application and indicate how much each has been and will be paid, and whether the County is seeking reimbursement for their costs from AES pursuant to the Board of County Commissioners' Resolution 2023-093.	<i>During the initial application the County hired Terracon to review the environmental impact report. This was in 2023 at a cost of \$18,916. In the resubmittal the County hired Atar Fire to assist in the HMA and ERP review for the fire department. The current contract with them is to not exceed \$24,500. Per the SLDC all cost for third party consultants will be reimbursed to the county by the applicant. Once the process is through the public hearings payment will be a condition of approval.</i>
	Will the County be contracting with Terracon to evaluate the August 2024 AES application as they did for the January 2023 application? If so, is there not a conflict of interest given that Terracon has prepared an appendix to AES's Environmental Impact Report? Did AES ask the County for permission to use Terracon to prepare the appendix? And did the County consent?	<i>At this time the County has not contracted with Terracon to review the EIR. Staff is looking at the submittal to verify all concerns raised in the original submittal were addressed. At the time Terracon was hired Santa Fe County did not have staff trained or able to provide review of the EIR. Santa Fe County now has staff that is trained and has experience to review the work of third party experts related to the EIR. None of the staff members who worked with Terracon are still with the County. We can not clarify permissions for prior work. However, another consultant is going under contract to review Terracon's work.</i>

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	<p>The Applicants have redacted significant information in the Hazard Mitigation Analysis required by the SLDC about the results of testing that their consultant has performed on their proposed installations. Is the County Staff going to seek access to the redacted information on behalf of itself and the public?</p>	<p><i>The redacted information is due to proprietary information. A full HMA will be required before they are given permission to construct. At this point they are not seeking permission to construct they are seeking permission for the use. If this permission is granted they will still have to submit a full HMA, ERP and complete construction drawings for a development permit. These documents will go under a full review again before the development permit is issued.</i></p>
	<p>Across NM and the entire country, local governments have been studying BESS siting requirements and developing local ordinances and regulations for the approvals of land use for BESS. The results vary across the nation, ranging from moratoriums and outright bans of BESS except in industrial areas to specific land use permitting requirements such as the requirement for a 100% design (Bernalillo County, NM), storage size tiering with specific requirements for each tier (NY, WA, MA), and permitted zones identified specifically for BESS (CA and VA). In every case, the driver for the studies was to ensure that permitting BESS would be consistent with the health and safety of the surrounding communities and would preserve the nature and value of adjoining properties.</p> <p>Please discuss the process and research that Santa Fe County went through that resulted in NO specific changes to the SLDC to reflect requirements for any size of BESS. How was the decision made that a 30% design and incomplete NFPA 855 requirements would be satisfactory to make a CUP decision?</p> <p>Surely the County is aware that the surrounding communities only have the CUP process to review and assess an applicant's plan for land use. Once a CUP is approved against an incomplete design, the applicant can make any changes it desires, and the surrounding communities have no input or opportunity to review and comment as the applicant completes the design and files for actual building permits.</p>	<p><i>The CUP process is not permission to construct the facility but rather to establish the conditions under which the use is allowed in the project's zoning district. If approved, the CUP gives the applicant permission to move forward with the project and at this stage, 30% complete construction drawings are acceptable. If the final site plan deviates in size or character by more than 5%, the new plan goes back to the Planning Commission for consideration. If the CUP is approved the applicant will have to come back to the county for a development permit for the actual construction of the project. At this time, 100% drawings are required and will be reviewed once again by all reviewing agencies including Fire. If the project meets all the requirements under the SLDC and Fire Code, the plans will be sent to NM Construction Industries Division (CID) where another review will be performed. This final review includes the state fire marshal. The building permit will be issued by CID which will perform all construction inspections. The Santa Fe County Fire Marshall will conduct a final inspection before the facility is put into service. All total, there are a minimum of three reviews of the project, two by Santa Fe County and one by the State of New Mexico, plus the additional inspections during construction.</i></p>

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	<p>AES paid for the development of and submitted as part of its Sept 2024 Application submittal two reports meant to show that the project would have no impact on the property values of the residences in the adjacent communities. These reports are not a requirement of the SLDC or the CUP checklist and seem to have been included as part of the early AES marketing plan on their website to misinform and misdirect community concerns about property value impacts. CEC has established that the adjacent communities are very concerned about the consequences of the project on the major investments the homeowners have and therefore their GENERAL WELFARE. These reports have substantial technical flaws that are ignored in the final conclusions of the reports that no impacts are anticipated. A quick summary of those flaws is:</p> <ul style="list-style-type: none"> •The reports separate the conclusions with respect to Solar Farms and BESS. Whereas the study should have considered the fact that they are one facility, •The solar farm portion established the criteria in descending order of priority: traffic, odor, noise, environmental and appearance, and then immediately discounted traffic, odor, noise and environmental. The order of priority, the odor criteria and discounting environmental all defy common sense, •The report identifies 9 solar farms in New Mexico, none of which have BESS or are of the scale of the AES proposal. The report does not include the Buena Vista Solar and Storage located in Otero County, which has 50 MW of storage. The pictures of a couple homes in obviously very rural surroundings with no neighbors cannot possibly be compared to the neighborhoods of Eldorado, San Marcos or Rancho Viejo, •The BESS analysis contains no method, no studies, no research and no articles. The analysis uses 16 comparables of which 14 were admittedly discounted as unusable and the other two really were not valid comparables. And yet the conclusion was that there would be no impact on adjacent property values and this conclusion was reinforced by the second study. <p>Will the County do the right thing and discard those reports from the AES application and establish that AES has no evidentiary data to say that the BESS will not have a detrimental impact on the GENERAL WELFARE of the surrounding communities due to loss of property values?</p>	<p><i>These reports were not a requirement as part of the CUP submittal or process. But because they were submitted, they are part of the public record. Staff will not reference these reports during the public hearings since they are not a requirement and the County has no means to validate their validity. The hearing officer and planning commission have the power to review the reports and question AES if they so choose. Due to IPRA laws the County is unable to remove them from the submittal.</i></p>
	<p>It seems that a decision has been made not to require a Financial Impact Analysis (FIA) as part of the CUP application. This analysis is required by the SLDC as defined in section 6.1.2.5. Table 6-1 identifies that for a CUP the FIA is “as needed” to be determined at the TAC meeting. The TAC letter dated 3/20/2022 makes no mention of the FIA. By definition, an FIA “describes the effects and impacts of the project upon County revenue and costs necessitated by additional public facilities and services generated by the development project and the feasibility for financing such facility and service costs.” In section 6.7, an FIA is a “...determination of the adequacy and financial provision for public facilities and services including but not limited to public works and operational costs for additional public works, park, law enforcement, fire and emergency response service full time employees and technicians.....”</p> <p>Based on the established nature of Li-ion BESS to place a burden on local Fire Department resources, the cost of training and special equipment, re-certification of the training and the general life-cycle costs generated over the 35 year life of the AES proposal, the changes to the Emergency Management Planning in the County, the potential for hazardous material handling and clean-up and other life-cycle events that AES could have been asked to identify, hindsight suggests that not requiring an FIA may have been a mistake.</p> <p>Will the County do the right thing and identify the application as “Incomplete” and require that AES produce an FIA before any consideration of the application takes place?</p>	<p><i>A Financial Impact Analyst (FIA) was not required for the original submittal therefore was not a requirement on the new submittal. FIA’s are only required when projects have the possibility of putting strain on county services. For example, additional lane miles of road to maintain, additional parks to maintain or increase in police/fire needed due to population increases just to name a few. Since the AES project will not be maintained by the county the need for a FIA is minimal. There will be additional fire training required and this will be covered by the final HMA and ERP. These documents will dictate the training required and the responsibility of AES in regards to the training for staff. AES will also be required to pay fire impact fees at the time they obtain their development permit if the CUP and project are approved.</i></p>

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	<p>An acoustical engineer confirmed the Noise Technical Report AES submitted did not include any actual ambient sound readings for the area and used the wrong decibel levels that do not match the code. The County's SLDC bases the maximum sound limits on ambient sound readings. There is no way to say, as AES does in this report, that the project will not exceed the maximum limits without actual ambient metering for day and nighttime. We now call on the County to follow their own resolution and hire an independent, third-party acoustical engineer to do a corrected sound study with actual meter readings for the 3 neighborhoods and to properly calculate the overall decibel levels for the facility. The costs of this should be charged back to AES. Will the County do this as required by the SLDC as no development is allowed to exceed the sound limits?</p>	<p><i>The test performed by SWCA Environmental Consultants for AES followed the industry standard for ambient noise base levels. The report utilized chapter 7, section 21, paragraph 4 and table 7-21 of the SLDC to determine the noise pollution possibility. The report states on page 8, that they used 48 dBA for daytime and 42 dBA for nighttime which is in line with ANSI tables. On page 15 of the report, it does state that construction noise will be higher due to the activities which will be limited to normal business hours and occur with all construction projects. On page 18 the estimated noise levels at the property line will be 48.3 dBA for the day and 43.5 dBA for evening operations. This would account for an increase of 0.3 for the day and 1.5 for the evening. These numbers are well below the allowable 5 dBA increase under the SLDC. After the project is completed and if it is discovered that the noise is believed to be higher than the allowable limit under the SLDC. An investigation will be conducted by Code Enforcement and if found to be true a code violation will be issued and compliance will be sought either voluntarily or through the courts.</i></p>
Hazard Mitigation Assessment	<p>Page 3-42 of the Environmental Impact Report is a map that is supposed to show NM Gas Company Gas lines. It only shows one gas line further North of the project and does not include the gas line that is much closer to the project and borders Eldorado with an above ground regulating station 150 feet from neighbor's homes that could explode if fire were to reach it. This seems to be a serious omission of one of the major risks of this facility and severely multiplies the fire and explosion risk for this facility. Has the County informed AES of this gas line? Why does the County not require an applicant to fully consult with the Gas Company when building an 800 acre project near neighborhoods? I informed AES on August 11th last year of the existence of this gas line and copied the County and when given the chance to resubmit a new application with corrected information, they still omit the existence of this hazard. What is the County doing about incorrect information being presented by AES and has the County investigated this hazard?</p>	<p><i>Due to the security of infrastructure across the US, gas line locations are not shared unless an easement is located on the property site. The County does not have access to maps dictating the location of gas lines, so we are unable to share the information. The gas line in question does not run through the CUP site therefore does not show up on the survey. If the gas company easement is within the 500' of the CUP they will be sent a letter as part of the neighborhood meeting requirements to give input on this. As part of the process, the safety implications of gas lines falls under the Fire Department review, rather than the SLDC.</i></p>
Hazard Mitigation Assessment	<p>AES will need to control weeds over 800 acres and will have to use chemicals to control weeds as manual pulling is not realistic for this amount of acreage. These chemicals are not named on the Noxious Weed Report although it does say these chemicals can drift in the wind for further pollution but nothing about soil and water contamination. The County already has a serious PFA contamination of many citizen's wells that tragically has not been dealt with. How is the County going to ensure we do not have a further environmental disaster and the contamination of our air and aquifer as these chemicals are applied for 35 years?</p>	<p><i>At this time Santa Fe County does not regulate which chemicals are used to treat for weeds. All chemicals used will have to be EPA approved and administered in intervals regulated by the manufacturer. If chemicals not available to the general public are to be used, a private applicator license will be required of AES from the New Mexico Department of Agriculture. This license requires them to report the chemical used, the amount and date and time of application. Without this license they will not be able to use anything not available at the local hardware store.</i></p>

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Hazard Mitigation Assessment	<p>In the meeting AES held with the public on 8/22/24, a community member voiced opposition to the above ground transmission line when most communities are now taking a safer approach and burying the lines to avoid wildfires like those in Lahaina and Paradise, CA. AES responded, "We can evaluate burying lines. It is an option if it comes from the County. If it is a safety concern, it is something we will evaluate." This is definitely a safety concern for all of us given how often wildfires have been started by downed power lines. Now that AES has said this is an option if it comes from the County, does the County intend to require AES to do the safe thing and bury the transmission line? If not, why not?</p>	<p><i>Currently the SLDC only requires some areas to bury electrical service lines. The SLDC has no wording in the code in regards to high voltage power lines being buried. PNM in the past has made statements that the burying of high voltage power lines is a bigger safety risk and is not cost effective, usually because of terrain issues. AES submitted a visual impact report. In this report the overhead lines are identified and renditions in the report depict the visual impact, comparing two types of poles. AES has provided an engineer statement saying the tall poles are required for safety of the citizens due to the level of voltage carried through the line.</i></p>
	<p>Last year the County hired an independent consultant Terracon to review the Environmental Impact Report. They found a number of serious deficiencies in the report and after more than a year, AES has finally submitted responses to the Terracon review. We were told by the County last year that the answers would be reviewed by Terracon. Now it appears that the County may not use Terracon to do the final review. If the County recognized they needed an expert to review the original EIR then it stands to reason, they also need to have the expert review the final answers which we don't believe clear up the deficiencies of the original report as well as the new EIR that has a number of changes. This obviously requires an expert to determine if deficiencies were corrected to finish that review process and advise if any new deficiencies were introduced. Why is the County not following their own Resolution to hire experts when needed and charge it back to AES? Will the County hire Terracon to do this final review like they said they would last year? If not, why not?</p>	<p><i>The staff that was part of the original submittal is no longer with Santa Fe County. Therefore, we are unable to comment on actions and comments made by them during their time with the county. Currently staff is reviewing the Environmental Impact Report along with the comments made by Terracon and the response by AES. AES did not originally respond the Terracon's comments due to their application being deemed incomplete. They responded as part of their new submittal. Santa Fe County now has staff that is qualified to review the reports. Currently, an environmental consulting firm (not Terracon) will review the EIR and determine if deficiencies remain.</i></p>

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	<p>Please explain how any credibility is to be given to (1) the Revised Geotechnical Engineering Report (dated April 16, 2024) prepared by Terracon and submitted as Appendix D to the Environmental Impact Report submitted in AES's August 30, 2024 Application and (2) Terracon's July 10, 2023 Technical Review of Environmental Impact Report for Rancho Viejo Solar Project contracted by the County which is referenced throughout the August 30 Application. Terracon's contract with the County required Terracon to perform "an independent, third-party, technical review of the EIR [Environmental Impact Report]" prepared by AES to "increase confidence" in the impacts reported in the EIR.</p> <p>"Task 1 – Technical Review & Memo Objectives, Criteria and Scope Terracon proposes to perform an independent, third-party, technical review of the EIR prepared by SWCA Environmental Consultants and dated January 2023. Terracon will review for completeness of the EIR, includes all the required information, and can be presented for approval to the County Planners. It is assumed that the objective of the technical review is to confirm the impacts of the proposed project and increase confidence in the reported impacts. Terracon will:</p> <ul style="list-style-type: none"> -- Examine the County's regulations that the analysis must meet -- Review the document to see if it is technically sound and sufficient to be used in an EIR analysis -- Provide comment if there are any discrepancies -- Demonstrate results to Santa Fe County who ultimately approve or disapprove the project based on the conclusions of the EIR --Provide possible options to minimize significant adverse effects or impacts" <p>In June 2023, however, while Terracon was purportedly performing its work for the County (resulting in the July 10 technical review letter for the County), Terracon also submitted a June 23, 2023 proposal to AES which formed the basis for the April 16 Geotechnical Engineering Report Terracon prepared for AES.</p> <p>Was the County aware that AES was contracting with Terracon while, at the same time, performing what Terracon stated was an independent, third party review of AES's application? Can Terracon's work be relied on as credible? And doesn't AES's contracting undermine the credibility of the information in its application?</p>	<p><i>We are unable to answer for staff at the time Terracon was hired, since none of the original staff is currently with Santa Fe County. The EIR was written by SWCA out of Albuquerque and Terracon only wrote Appendix D- Geotechnical report as a subcontractor for SWCA. Terracon was hired by the County to review the entire report for compliance with the SLDC. According to the EIR no employees from Terracon that worked on Appendix D are listed as writing the final report. The County does not view this as a conflict issue. However, in direct response to this concern another independent reviewer is under contract to perform the final review.</i></p>
	<p>CEC has established that along with concerns about the impact on property values, the communities adjacent to the AES proposed project are afraid that insurance companies will consider the proximity to the facility as being too much of a risk and either raise rates to an unaffordable level or withdraw coverage all together. Having the facility be the cause of excessive insurance cost or lack of coverage is inconsistent with the GENERAL WELFARE of the adjacent communities. Insurance exists so that communities can protect themselves from the risks associated with the environment where they live. CEC has already demonstrated that the benefits to the adjacent communities are miniscule while the same adjacent communities are required to suffer the consequences of all the risks. Particularly when there are other choices available to realize the same benefits claimed in the AES proposal. CEC has queried insurance providers in the area as to whether the facility would be considered an unacceptable risk. The insurance companies have declined to make any statement because the facility has not been approved. However, as part of the response, insurance providers stated that should an incident occur, they would then reevaluate their exposure to the risk. At that point, there is no going back, the adjacent communities are at the mercy of that reevaluation.</p> <p>How are the adjacent communities going to be made whole again once an incident at the AES facility occurs? What responsibility does AES or the County have to ensure that the adjacent communities have available affordable homeowners insurance, protected property values or can recover from any results of an incident at the AES facility?</p>	<p><i>There has been no evidence of insurance companies dropping customers due to their proximity to a solar facility with BESS. There have been no reports of this in Taos County where a large solar facility with BESS has been active for years. Other locations across the state and country are seeing similar scenarios. Insurance companies are insuring homes that are within 150' of active oil wells with no increase in premiums. The State of New Mexico regulates insurance companies and would not allow this practice. The AES facility is designed to contain incidents if they were to occur within the permitter fence to keep it away from the community.</i></p>

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Hazard Mitigation Assessment	<p>On page 8 of the PRELIMINARY Hazard Mitigation Analysis (HMA), AES states in Fire Scenario #3 that the volume of water available would be able to ASSIST the FD in providing cooling to nearby enclosures at best 50% of the time. In the case of an enclosure fire then, this would require that water for cooling be brought in from external sources. Additionally, the scenario identifies that the water would be used for controlling toxic smoke. In paragraph 3.2.9.1 of the PRELIMINARY HMA and as shown in Figure 5, the enclosures are arranged in pairs. This arrangement places every 2 enclosures in very close proximity with what appears to be not enough space between the pairs to safely allow access for the FD to cool the adjacent enclosure to the one on fire. This paragraph states "...If a fire evolves to the point it spreads beyond an enclosure, then it is highly likely the pair will become involved." This is a situation that would certainly increase the FD activity, requirements for cooling water and creation of additional toxic smoke. Added to the scenario is the fact that in controlling the smoke, water spray is mixed with the toxic smoke and carrying that toxic mix to the ground where it will pollute the surrounding ground and potentially leach into the local water aquifer.</p> <p>Does the County consider this combination of events, all initiated as Fire Scenario # 3, to be an acceptable set of consequences? Based on the AES defined circumstances and the redacted fire test data that establishes the fire spread calculations and the exact toxicity of the smoke, how does the County expect the adjacent Communities to understand the risk that they face? Who are we to trust to advocate for the adjacent Communities when the data is hidden that helps to fully define the risks they face?</p>	<p><i>Please see materials from the November 6, 2024 community meeting.</i></p>
	<p>Several required products for NFPA 855 have not been submitted as part of the AES CUP application. Two of these products are the Site Commissioning Plan as required in Chapter 6, and an Operations & Maintenance Manual as required by Chapter 7. The De-Commissioning Plan delivered as part of the AES application states "...The anticipated lifespan of a utility-scale solar facility, if properly maintained, typically ranges from 25 to 35 years. However, with strategic equipment replacement and repowering, the project lifespan can be extended to 50 years or more. Flexibility exists for retrofitting the solar arrays with updated components, such as panels, frames, and tracking systems, to prolong the project's viability." This statement implies that there would be multiple events over the life of the site that could change its configuration, change the performance characteristics of the site such as increasing power storage and delivery or even changing its safety and security posture. This would include the BESS as well as the solar field. Chapter 6 of the NFPA defines alterations, additions, repositioning or renovations to be re-commissioning events. Periodic re-commissioning events would certainly be accompanied by de-commissioning events for the prior configuration and performance profile of the facility. Without a Commissioning Plan and an Operations & Maintenance Manual, the expected process to be executed for these changes and the role of the County as well as the oversight requirements are not identified. These events should be understood as part of the initial CUP process for the County to understand its life-cycle responsibilities and the technical and safety impacts of the changes communicated to the adjacent communities. Concepts developed in these two missing plans would also inform the missing Financial Impact Analysis (FIA).</p> <p>Does the County understand that these missing NFPA 855 requirements have significant impacts on a disciplined evaluation of the CUP application? Will the County do the right thing and identify the AES application as "Incomplete" and require that AES provide a Commissioning Plan, Operations & Maintenance Manual and pause evaluation of the application until these documents are included as part of the application?</p>	<p><i>The missing documents will be a requirement for the development permit for construction. The CUP process is just asking for permission to for the use and is not permission to build. If the CUP is approved, AES will be required to submit all NFPA 855 documents will be required and reviewed by the Fire Department and the third-party reviewer. If approved the same documents will be reviewed by NMCID in order to obtain a building permit. Any modifications made to increase the output from the site or the amount of battery storage boxes between the CUP approval and when the construction drawings are finalized, will require the operator to go back to Planning Commission to amend the conditions of approval. The SLDC only allows a one-time modification of a CUP up to a 5% increase or decrease. AES will not be allowed to increase their power output without County approval.</i></p>

Potential Hazard for fire, panic or other danger	My question/concern is:	Staff Response
Hazard Mitigation Assessment	<p>Page 3-4 of the Environmental Impact Report states that AES can use water or chemicals to control dust. Their estimates of water use during construction which they classify as "minimal" are 32 to 49 million gallons of water. This is not minimal. What chemicals do they intend to use for dust mitigation and is the County going to stop them from using chemicals that will leach into the ground and contaminate our wells?</p>	<p><i>Santa Fe County does not have a mechanism to regulate chemicals used for dust control. These are regulated from the EPA and NMED, with any large area of application of chemicals. The methods used for dust control and storm water pollution prevention will be required before a development permit is issued as part of their Notice Of Intent (NOI) filed with the EPA. There will be no on-site water source for the development. They will have a 30,000-gallon water tank with a draft hydrant and a 5,000-gallon tank for potable water for the office space located on-site. During the construction phase for dust control, they will be encouraged to use reclaimed water that is available in the area. All water for this project will come from the county bulk water station and will be monitored by the Santa Fe County Utilities Department. As part of the development permit process staff will request a water budget with all sources before construction can be allowed. During the CUP process water for the operation is considered, but not the construction.</i></p>

Potential Hazard for fire, panic or other danger	My question/concern is:	Staff Response
	<p>On page 3-75 of the Environmental Impact Report, AES states "There is a potential for other generation companies to develop renewable energy facilities and transmission line corridors within the vicinity of the analysis area. These potential facilities will incrementally change the landscape area into a more industrialized area compared with its current open rangeland"</p> <p>Why is the County, through its CUP process and possible approval, allowing out-of-state multi-billion dollar companies to change, as AES admits, residential areas into industrial zones? Where does it say this is allowed in the SLDC? If the County approves this project and the same landowner has 7,000 more acres of undeveloped land in the same area, how is the County going to say no to the flood of applications that are going to result?</p>	<p><i>In the SLDC, allowable uses are dictated by the base zoning and community overlay zoning applicable to the site. Under Appendix B- Use Matrix, page B-16 Commercial Solar and Energy production facilities are allowed in the Rural Fringe zone with a conditional use permit. It is staff's understanding that the land owner has no intention of offering the land surrounding the AES site to any other solar facilities. In fact, the owner is working with the county to sever development rights from the surrounding property which will ensure the land stays undeveloped for the long term, for continued use as rangeland.</i></p>
	<p>Prior to the County entering into the contract with Terracon in May 2023 for an independent, third-party review of AES's January 2023 application for a conditional use permit, did Terracon inform the County that Terracon had previously prepared a preliminary geotechnical engineering report for AES for the Rancho Viejo Solar Project, dated December 21, 2022? If yes, provide the details about who informed whom at the County and when.</p>	<p><i>Staff members who were here and retained Terracon as a third party reviewer are no longer with Santa Fe County. There is no documentation in the file to say one way or another if Terracon notified the County of a possible conflict of interest.</i></p>

Potential Hazard for fire, panic or other danger	My question/concern is:	Staff Response
	<p>Please explain the public benefits of projects like this one that may be considered in reviewing this CUP application. I know that an estimate of tax revenues has been discussed, but what about other considerations? For example, Santa Fe County's pre-existing goals for carbon neutrality, social equity, clean economic development and so on? What benefits do planning officials include when they consider "costs and benefits"?</p>	<p><i>Per Resolution #2017-68 and out of concern for public health and resiliency in the face of Climate Change, Santa Fe County is pledged to meet the Paris Agreement 2015 goals of net zero greenhouse gas emissions (GHG) by 2050. In consideration of this commitment, the County follows the directive guide of the Board of County Commissioner Approved Comprehensive Climate Action Plan (CAP); Phase I, unanimously approved by the BCC in 2023. The CAP includes the focused strategy of reducing greenhouse gas emissions for sectors such as the built environment and transportation (and more). The built environment and transportation are the largest contributors of GHG in the County's jurisdiction and yet air (and water) quality knows no jurisdiction boundary. The New Mexico Energy Transition Act (ETA) addresses this concern through the requirement of all electric utility companies to transition to 100% renewable energy by 2050 as well. Requirements in the County's CAP for meeting these goals include the Better Climate Pledge with the DOE and support for increased renewable energy such as PV and Wind, and geothermal in order to meet the 100% requirement goal by 2050. Because of the science backed public health, environmental, and resiliency benefits to the community found in the addition of utility scale renewable energy to the existing grid, where there is an opportunity and in accordance with the limits provided by the SLDC regarding wildlife and wetland, water way protections, and appropriate fire codes, the BCC approved County's Climate Action Plan strongly supports the increase of renewable energy at every scale. Such projects reduce pollution and increase air quality, as well as provide resiliency to the grid during extreme weather events through energy storage (BESS) and lower costs for renewable energy access to all income level households. Another benefit economically, is the increase in jobs, trade skills, and the ability for utility companies to import and export energy in the market so as to increase renewable energy use and grid resiliency throughout the Southwest for real time energy needs and optimal returns on their investments. More information on the CAP as well as sector emissions and goals can be found on the County's Sustainability Division Website page: https://www.santafecountynm.gov/community-development/sustainability/leading</i></p>

Potential Hazard for fire, panic or other danger	My question/concern is:	Staff Response
	<p>Under "Utility Use" the SLDC differentiate between "Gas or electric power generation facility" and "Commercial solar energy production facility". A "Gas or electric power generation facility" is prohibited, "X", in the Rural Fringe zone the RVSP is planned. The RVSP is, per their own account, "a utility-scale solar energy system". PNM is a utility company. The county is trying to pass off a electric power generation project as a commercial solar energy facility, which is significantly smaller and does not hook up to the grid as the RVSP is planning to do. If approved the County would violate the letter of the Codes, creates a hazardous precedent and sets the stage for an appeal and legal action</p>	<p><i>The information below is from a letter sent by County Manager Greg Shaffer on July 24, 2023 explaining the reason this project is a CUP not a DCI. "First, there is no basis in existing County planning documents to treat commercial solar energy production facilities as a DCI. Neither the SLDC nor the Sustainable Growth Management Plan (SGMP) identifies this use as a potential DCI. The SGMP has an entire element (Chapter 7) concerning renewable energy and energy efficiency premised on the following: Energy sources which are not renewable, such as fossil fuels, are not only in limited supply but they contribute detrimentally to the environment, and adversely affect the sustainability of the economy. Greenhouse gas (GHG) emissions contribute greatly to climate change and its negative impact. The implementation of renewable energy and energy efficiency initiatives are vital to sustainability for the County. The SGMP sets forth policies to establish Santa Fe County as a model in the efficient production and use of renewable energy and energy self-reliance through the development of a local green workforce and renewable energy infrastructure. Second, notwithstanding the above, the SLDC already goes into a significant detail regarding permissible, prohibited, and conditional use locations of commercial solar energy production facilities and contains safeguards to ensure that specific concerns with these facilities can be addressed in almost all instances. In those zoning districts where commercial solar energy production facilities are potentially allowed, they are, with limited exceptions, a conditional use. The approval criteria for conditional uses also ensure that general health, safety, and welfare concerns, as well as specific fire and other hazards, can be addressed. In addition, the SLDC empowers the Planning Commission (and Board of County Commissioners on appeal) to "[i]mpose such reasonable standards, conditions, or mitigation requirements, in addition to any general standard specified in the SLDC or the SGMP, as the Planning Commission may deem necessary."</i></p>
	<p>The Rural Fringe zoning serves, per the SLCD, to protect agricultural and environmental areas that are inappropriate for more intense development due to their sensitivity. To accommodate primarily large lot residential retreats, ecotourism, equestrian uses and renewable resource-based activities, seeking a balance between conservation, environmental protection and reasonable opportunity for development. The SGMP dictates that potential land uses compatibility and environmental conflicts are taken into consideration in the location of utility uses, such as landfills, solid waste transfer stations, wastewater treatment plants, power lines and substations, and solar-or wind-power generation sites. The location of an electric power generation facility in a Rural Fringe zone is inconsistent with the purpose of this zoning under the SLDC.</p>	<p><i>According to Appendix B- Use Matrix, page B-16, of the SLDC which controls the uses allowed for all zoning districts, Rural Fringe allows commercial solar energy production facilities as a conditional use permit. Large scale wind production and geo-thermal facilities are also conditional uses. Along with the above mentioned uses, rural fringe incorporates specific and limited commercial uses and is not strictly rural in nature.</i></p>
	<p>How did it get this far, this company isn't part of our community?</p>	<p><i>The geographical location of companies wishing to do a development in Santa Fe County can not be taken in account. The SLDC does not restrict the geographical location of business. The only requirements is that they are legally able to do business in the United States. In order to obtain a business licenses they will be required to submit the Combined Reporting System (CRS) number from New Mexico Tax and Revenue.</i></p>

Potential Hazard for fire, panic or other danger	My question/concern is:	Staff Response
	What do we benefit from this? If nothing why?	<i>The BCC-approved Santa Fe County Climate Action Plan strongly supports the increase of renewable energy at every scale. Such projects reduce pollution and increase air quality, as well as provide resiliency to the grid during extreme weather events. Energy storage (BESS) potentially lowers costs for renewable energy access to all income level households. Another benefit economically is the increase in jobs, trade skills, and the ability for utility companies to import and export energy in the market. This increases renewable energy sources and grid resiliency throughout the Southwest for real time energy needs. The power generated by the proposed facility will provide energy to the local electricity grid, primarily serving consumers located in the Santa Fe region.</i>
	Who in the County will be reviewing the new EIR?	<i>Staff hired a third party local company and will be working closely with the consultant to review the report and AES's compliance with the findings of the report. The EIR will not be reviewed by Terracon this time.</i>
	Why is the County considering this a commercial project and not a utility sized solar facility?	<i>When the SLDC was adopted by the BCC in 2016, the definition for commercial solar was also approved. Because the SLDC does not distinguish between commercial and utility solar projects, this project is defined as a commercial solar project. The existing provisions of the SLDC allow commercial solar projects to be approved as a conditional use in the Rural Fringe zoning district if the Planning Commission determines that it meets the criteria of the CUP. This information was confirmed by the County Manager in a July 24, 2023 letter to the San Marcos Association.</i>
	Why was this not a DCI?	<i>Staff is required to follow the SLDC that was adopted by the BCC via Ordinance 2016-009. Under this (current) version of the code, a commercial solar facility can be approved as a conditional use if the criteria for a CUP is met. Staff has not been directed by the BCC to amend this particular usage to a DCI.</i>
	What is the process for community to appeal the policy decision to not be a DCI?	<i>Policy changes come directly from the Board of County Commissioners. Currently there has been no direction from the BCC to staff to rewrite the section of the SLDC and consider these projects as a DCI.</i>
	Why is the public only being able to speak on the 30% design and not the 100% design level?	<i>The CUP process does not require 100% construction drawings for approval since a CUP allows the proposed use but does not convey permission to build. At this stage, the site plan is considered complete with 30% drawings. Once the site plan is approved the project is unable to increase or decrease by more than 5% without going back to public hearings. Before the project is allowed to be constructed, 100% construction drawings will be submitted and reviewed by the same County departments that reviewed the CUP. If all SLDC conditions are met, as allowed by the CUP, County staff will issue the development permit and the project will then go to NM CID for review. If approved, a construction permit will be issued and the appropriate constructions inspections performed.</i>

Potential Hazard for fire, panic or other danger	My question/concern is:	Staff Response
	Why did AES not have to go back to TAC for the second submittal?	<i>At the time AES went to TAC there was no policy with expiration dates on the TAC letters. This policy was changed in July 2024 to make TAC letters expire after eight (8) months from the original TAC meeting. AES was told if they did not submit by September 1, 2024 they would be required to go back to TAC. They met the deadline and submitted on August 30, 2024.</i>
	The hazard mitigation analysis had redacted information, does the County have access to the redacted information?	<i>The County does not have access to the redacted information. The information was made available to the third party consultants who reviewed the information and provided feedback to the Fire Marshall. The information will need to be made available to county staff as part of their submittal for the development permit for construction. The information redacted is proprietary information from their supplier.</i>
	Was the County aware that Terracon was also doing work for AES currently and prior as well as the county? Does this go towards the creditability?	<i>We are unable to answer for staff at the time Terracon was hired, since none of the original staff is currently with Santa Fe County. The EIR was written by SWCA out of Albuquerque and Terracon only wrote Appendix D- Geotechnical report as a subcontractor for SWCA. Terracon was hired by the County to review the entire report for compliance with the SLDC. According to the EIR no employees from Terracon that worked on Appendix D are listed as writing the final report. The County does not view this as a creditability issue, however, a third party reviewer (not Terracon) is under contract to ensure an unbiased review whether the project is compliant with the EIR.</i>
	Are you going to hire a third party consultant to review EIR?	<i>A third party reviewer (not Terracon) is under contract to ensure an unbiased review whether the project is compliant with the EIR.</i>
	What is the recommendation to the Hearing Officer?	<i>Staff's job is to review whether the requirements of the SLDC have been demonstrated in the materials submitted by the applicant. As part of this review, staff evaluates if the project meets the CUP requirements and is complete. Staff's report documents their findings to the Hearing Officer and/or Planning Commission. If the reviewing bodies vote to approve the projects, staff will recommend conditions of approval. Only if the project meets the conditions, will a development permit which allows the applicant to receive a building permit from the State of NM CID, be approved.</i>
	Who is doing sound metering test and when? Has this been done before and are they doing a minute by minute metering over 24 hour period? If ambient numbers don't match will AES be required to correct their numbers?	<i>Code Enforcement staff will be doing the ambient sound level verification. Staff is trained in the use of the equipment as part of their job to enforce the sound ordinance. Staff will take several readings over a five minute time frame to get an average ambient sound level. If the observed ambient level is different from the levels used in the sound study, AES will be required to update their report.</i>

Potential Hazard for fire, panic or other danger	My question/concern is:	Staff Response
	Is there water on the site?	<p><i>There are no plans shared by AES to have a water source on the site. There is no well currently on the site for AES to use. AES will have a 30,000 gallon fire tank and a 5,000 gallon potable water tank on site for the office. Santa Fe County has provided a ready willing and able letter if AES choose to run a water line to the property and secure water rights from the County. There is no current plans for this to occur.</i></p>
	Why do you use the industrial standards for the noise levels but bot with regards to the definitions of industrial solar versus community solar?	<p><i>Staff is not using the industrial standards for the allowable noise levels. Currently the SLDC has two categories one is industrial and the other is all other zoning districts. Staff used the allowable numbers under the other zoning districts section of table 7-21 of the SLDC. The SLDC has no definition for industrial solar.</i></p>
	How does this benefit Santa Fe?	<p><i>The energy supplied by the solar facility is intended to replace part of the PNM fossil-based assets and would help fulfill New Mexico's renewable portfolio standard (RPS) of 50 percent renewable energy by 2030 and 100 percent carbon-free energy by 2045 for investor-owned utilities. This project will assist Santa Fe County in achievement of the goals set by the Paris Accord which was adopted by the BCC in 2023.</i></p>
	How did staff evaluate the CUP criteria for this project?	<p><i>Staff evaluates the CUP criteria listed in the SLDC. The applicant answers the CUP criteria questions which are then incorporated into the report for the Hearing Officer and Planning Commission. Staff reviews the applicant's responses and provides feedback on their responses and references information from other review agencies.</i></p>