

COUNTY OF LINCOLN
New Mexico
Regular Meeting
Board of County Commissioners

Jackie Powell, Chairwoman
Mark Doth, Member
Dallas Draper, Member
Glenna N. Robbins, Treasurer
Rhonda B. Burrows, Clerk

Preston Stone, Vice Chair
Kathryn L. Minter, Member
Robert Shepperd, Sheriff
Paul Baca, Assessor
Stirling Spencer, Probate Judge

Nita Taylor, County Manager

AGENDA

Commission Chambers, Tuesday, September 16, 2014 @8:30 A.M.

1. Call to Order
2. Roll Call
3. Invocation
4. Pledge of Allegiance
 - a. Pledge – U.S. A. Flag
 - b. Salute – N.M. Flag (“I salute the flag of the State of New Mexico, the Zia Symbol of perfect friendship among united cultures”)
5. Approval of Agenda
6. Approval of Minutes-
 - a) August 19, 2014 Regular Commission Meeting
 - b) September 8, 2014 Special Commission Meeting
7. Approval of Consent Agenda
 - a. Payroll/Accounts Payable/Budget/ Expenditures
 - b. Treasurer’s Financial Report for the Month ending August 31, 2014
8. Smokey Bear District Ranger Update
9. Lincoln County Detention Center Update
10. Sun Zia Transmission Pipeline Project - Update/Presentation
 - a. Martin Bailey, Real Property Manager - SunZia Southwest Transmission Project
 - b. Dan Hicks, White Sands Missile Range, Deputy Executive Director
 - c. Jesse Juen, BLM, State Director
 - d. Corona Land Owners Association

PLEASE NOTE: ALL SUBJECTS LISTED ON THIS AGENDA ARE TO BE CONSIDERED ACTION ITEMS BY THE BOARD OF COUNTY COMMISSIONERS UNLESS OTHERWISE INDICATED.

11. **9:30 A.M.:** PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS (Items are for discussion only – no action will be taken)
12. Consideration of Approval or Disapproval of Indigent Health Care Claims
13. Discussion and Reconsideration of the proposed Land Development Ordinance
14. Consideration/Action on Agreements with South Central Mountain RC & D to Manage Forest Health Projects (Cedar Creek 2 NFL and 2014 WUI)
15. Manager's Report
16. Water issues/Forest/Wildlife Health Programs/Land and Natural Resources Advisory Committee (LANRAC)
17. Discussion/Direction of El Capitan Precious Metals, Inc.'s Application for an Air Quality Permit for Construction of Iron Ore Crushing and Sizing Facility
18. Consideration/Action on 2014 Lincoln County Community Wildfire Protection Plan (CWPP) Update
19. Acknowledge DFA Approval of Final Budget for FY 2014
20. Lincoln County Tobacco Policy Resolution 2014-15 Amending Resolution 1993-32 Clean Indoor Air Policy for Lincoln County
21. Consideration/Action on Resolution 2014-16 Budget Adjustment 2014/2015 for Bulldozer
22. Support of NMAC 2015 Legislative Priorities by Resolution 2014-17
23. Resolution 2014-18 Authorization to Sign & Enter into Contract(s) with the Non-Metro Area Agency on Aging
24. Resolution 2014-19 Cell Phone Policy amending Resolution 2006-10
25. Resolution 2014-20 Amending Resolution 2008-46 Affirming A County Office of Emergency Services and Appointment of Key Members
26. Consideration/Action Betty Ann Bell Proclamation
27. **11:30 A.M.:** Inspection of the Lincoln County Detention Center/Lunch
28. Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinance

PLEASE NOTE: ALL SUBJECTS LISTED ON THIS AGENDA ARE TO BE CONSIDERED ACTION ITEMS BY THE BOARD OF COUNTY COMMISSIONERS UNLESS OTHERWISE INDICATED.

29. **1:00 P.M.:** Public Hearings to consider amending the following Ordinances:
 - a. Ordinance 2011-05 Flood Damage Prevention with Ordinance 2014-5
 - b. Ordinance 2008-3 Lincoln County Indigent Hospital/Health Care Ordinance with Ordinance 2014-6.
30. Consideration of Approval of Bid Award 14-15-002 Resurfacing Cedar Creek Road II
31. Consideration of Appointments and Removals from Boards/Commissioners/Committees:
 - a. **Tabled**-Senior Citizens Olympic Committee
 - b. Appointment of County Commissioner(s) as Board Member and Alternate Board Member to GSWA Board of Directors
32. Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation Section 10-15-1, Sub-Paragraph H.(7); and Discussion of the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8).
33. Signing of Official Documents
34. Next meetings:
 - a. October 15, 2014 Regular Commission Meeting
35. Adjourn

PLEASE NOTE: ALL SUBJECTS LISTED ON THIS AGENDA ARE TO BE CONSIDERED ACTION ITEMS BY THE BOARD OF COUNTY COMMISSIONERS UNLESS OTHERWISE INDICATED.

Agenda Item No. 6

SUBJECT

Approval of Minutes:

1. August 19, 2014 Regular Commission Meeting
2. September 8, 2014 Special Commission Meeting

1 **COUNTY OF LINCOLN**

2 **New Mexico**
3 **Regular Meeting**
4 **Board of County Commissioners**

5
6 **Jackie Powell, Chair**
7 **Preston Stone, Vice Chair**

Kathryn Minter, Member
Mark Doth, Member
Dallas Draper, Member

8
9 **Minutes**
10 **Tuesday, August 19, 2014**

11
12 Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on August 19,
13 2014 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New
14 Mexico.

15
16 **1. Call to Order**

17
18 Chair Powell called the Regular Meeting of the Board of County Commissioners to order at
19 8:30:37 AM.

20
21 **2. Roll Call**

22
23 **Roll Call**

24 **Present:** Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Doth,
25 Commissioner Draper.

26
27 Others present included Curt Temple, Acting County Manager; Alan Morel, County Attorney; and
28 Rhonda Burrows, County Clerk.

29
30 **3. Invocation**

31
32 The invocation was presented by Pastor Hayden Smith.

33
34 **4. Pledge of Allegiance**

- 35
36 a. Pledge – US Flag
37 b. Salute – NM Flag

38
39 **5. Approval of Agenda**

40
41 **Motion:** Acceptance of the Agenda and authorized the Chair to move items as necessary,

42 **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Draper.

43 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).

44 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,
45 Commissioner Stone.

46
47 **6. Approval of Minutes**

- 48
49 a. July 15, 2014 Regular Commission Meeting
50 b. July 24, 2014 Special Commission Meeting
51

52 **Motion:** Approve the minutes of the July 15, 2014 Regular Commission Meeting and the July 24,
53 2014 Special Commission Meeting; **Action:** Approve, **Moved by** Commissioner Doth, **Seconded**
54 **by** Commissioner Minter.

55 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).

56 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,
57 Commissioner Stone.

58
59 **7. Approval of Consent Agenda**

- 60
61 a. Payroll/Accounts Payable/Budget/ Expenditures
62 b. Treasurer's Financial Report for the Month ending July 31, 2014
63

64 **Motion:** Approval of Consent items as presented **Action:** Approve, **Moved by** Commissioner
65 Doth, **Seconded by** Commissioner Minter.

66 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).

67 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,
68 Commissioner Stone.

69
70 **SEE EXHIBIT A:** Copies of Consent Items are attached hereto in reference thereto made a part
71 hereof.

72
73 **8. Smokey Bear District Ranger Update**

74
75 Curt Temple, Acting Manager provided the report prepared by Ranger David Warnack. Acting
76 Manager Temple informed the Smokey Bear Ranger District, in partnership with South Central
77 Mountain RC& D and the Upper Hondo Soil and Water Conservation District, submitted a grant
78 proposal for stream channel work at the South Fork of Bonito Creek Bridge. Mr. Temple stated
79 the grant program was administered by the NM Environmental Department and Ranger Warnack
80 anticipated a decision by the end of August. Acting Manager Temple also stated the District
81 completed approximately 1,200 acres of prescribed burning in July.
82

83 Acting Manager Temple noted the report contained information about the Lincoln National Forest
84 Plan revision scheduled to begin in October. Acting Manager Temple stated the current Forest
85 Plan was published in 1987 and noted Ranger Warnack would provide additional information as
86 to how the County might participate in the coming months.
87

88 There was a general consensus to forward information regarding review of the Forest Plan to all
89 members of the LANRAC committee and request their participation in the process.
90

91 **9. Indigent Healthcare**

- 92
93 a. Consideration of Approval or Disapproval of Indigent Health Care Claims
94

95 Scott Annala, IHC Administrator presented the Sole Community Provider/Safety Net Care
96 Provider Pool claims for approval. Mr. Annala processed 15 claims with 15 recommended for
97 approval and none recommended for disapproval for a monthly authorization of \$11,400. Mr.

98 Annala stated the total approval for SCP/SNCP claims for the first two months of Fiscal Year
99 2014-2015 was \$63,343 with a monthly average of \$31,671. Mr. Annala projected an estimated
100 authorization for the fiscal year of \$380,058.
101

102 Mr. Annala presented the Indigent Health Care Payments request for the month and stated he
103 processed 12 claims with 10 claims recommended for approval and 2 for disapproval for a total
104 payment this month of \$15,294. Mr. Annala stated, pending approval, the total for IHC claims for
105 the first two months of FY 2014-2015 was \$19,384.09 for an average monthly indigent claims
106 payment of \$9,692. Mr. Annala projected an estimated authorization for the fiscal year of
107 \$116,305.
108

109 **Motion:** Approval and denial of the claims as indicated for SCP/SNCP and Indigent Health Care
110 as recommended, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by**
111 Commissioner Draper.

112 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).

113 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,
114 Commissioner Stone.
115

116 b. Healthcare Policy Committee Resolution on SB 268/Hospital Funding Update
117

118 Mr. Annala stated as a result of action taken by the NMAC Board of Directors (BOD) the Health
119 Care Affiliate name has changed to the Health Services Affiliate to encompass Senior Services.

120 Mr. Annala commented on action by the NMAC BOD tabling a Resolution proposed by the Health
121 Services Affiliate in conjunction with Commissioners seeking legislation to restore the Sunset
122 Clause of Senate Bill 268. Mr. Annala reminded the sunset clause was line item vetoed by the
123 Governor during the last session.

124 Mr. Annala stated the Health Policy Committee of NMAC, with the support of the Health Services
125 Affiliate, presented an alternate Resolution seeking legislation transferring all funding
126 requirements of the Safety Net Care Pool and Medicaid Base Rate expansion to the State based
127 on the understanding this was no longer a program whereby individual hospital costs for
128 uncompensated care were offset by funding from their particular County but rather a program
129 administered solely at the State level. Mr. Annala noted broad support for the concept and stated
130 options were being developed to facilitate the change including a potential offer from Counties
131 relinquishing particular GRT authorities to the State.

132 **SEE EXHIBIT B:** Copies of the Sole Community Provider and Indigent Health Care Payments
133 are attached hereto in reference thereto made a part hereof.

134 **8. Smokey Bear District Ranger Update (continued)** 135

136 George Douds, Rangeland Management Specialist appeared on behalf of Ranger Warnack to
137 answer any questions regarding the report presented earlier by Acting Manager Temple.
138

139 Chair Powell questioned if the level of debris affecting the bridge at the South Fork Campground
140 had increased. Mr. Douds stated the debris at the bridge had remained stable but acknowledged
141 the need for the grant referenced earlier to prevent loss of the bridge due to future debris run off
142 from the Little Bear Fire.
143

144 Mr. Douds discussed the upcoming Forest Plan revision and encouraged the County participation
145 in that process. Commissioner Stone questioned if a participation agreement was needed
146 between the USFS and agencies such as the Upper Hondo Soil and Water Conservation District
147 to participate in the revision. Mr. Douds expressed belief a formal agreement was not required
148 but offered to research the question. Commissioner Stone expressed concern about the National
149 Forest Service office incorporating local input lacking such formal agreements.
150

151 **12. 9:00 A.M.:** Consideration and Action on Lodger's Tax Applications with Backup Material:
152

153 a. Funding Request: \$ 5,000.00; Lincoln County Cowboy Symposium;
154 October 10-12, 2014; Application 1721; Presenter: Sunny Hirschfeld/ The Race
155 Horse Hall of Fame/Hubbard Museum
156

157 **Motion:** Approve Application 1721 for \$5,000, **Action:** Approve, **Moved by** Commissioner
158 Draper, **Seconded by** Commissioner Doth.

159 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).

160 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,
161 Commissioner Stone.
162

163 b. (**REQUEST TO RECONSIDER**) Funding Request: \$10,000.00; True Enchantment
164 Tourism Board; 3/1/14-2/28/15; Application 1719; Presenter: Jim Boswell, Carrizozo
165 Chamber of Commerce
166

167 Attorney Morel reminded at the July Regular Meeting there was a Motion to remove the item from
168 the table which died for lack of second. Attorney Morel stated any action would require a Motion
169 from the prevailing vote.
170

171 No action was taken.
172

173 **10. Presentations**
174

175 a. Lincoln County Community Health Council – Scott Annala and Shannon
176 Dictson
177

178 Shannon Dictson, Chair of the LC Community Health Council provided a presentation illustrating
179 recent events organized and conducted by the group including a "Maze of Live" program for eighth
180 graders about life's choices and the "Light My Fire" program addressing substance abuse. Ms.
181 Dictson informed over time the Health Council evolved from a State funded program to an all-
182 volunteer program with a varied membership of individuals associated with wellness and health
183 care in the County. Ms. Dictson also discussed the Council's support for the Mobile Food Pantry,
184 their annual Health Fair, and the production of a Health and Wellness Guide.
185

186 Maury St. John, former County Commissioner and registered nurse commented on the multiple
187 projects as beneficial to all ages from youth to seniors. Ms. St. John invited the Commissioners
188 and public to attend the LCCHC Regular Meeting on the first Tuesday of each month at the
189 Methodist Church.
190

191 **11. Lincoln County Detention Center Update**
192

193 Acting Manager Temple provided statistics on monthly bookings and releases at the Lincoln
194 County Detention Center on behalf of Warden Anderson. The Detention Center reported a current

195 total average daily population of 145 and a current population of 145 prisoners including 7 BIA
196 prisoners and 0 US Marshal prisoners. The current population was composed of 26 female and
197 119 male prisoners.
198

199 **14. Consideration/Action on Deputy Sheriff's Bargaining Unit Agreement Renewal**
200

201 Acting Manager Temple provided copy of a letter received from the President of the Sheriff's
202 bargaining unit accepting the terms of the previous year's contract which ended on June 30, 2014
203 and expressing agreement to a one year extension with no changes other than dates of approval
204 and termination.
205

206 **Motion:** Approve the Deputy Sheriff's Bargaining Unit Agreement, **Action:** Approve, **Moved by**
207 **Commissioner Stone, Seconded by Commissioner Minter**

208 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 5)

209 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,
210 Commissioner Stone.
211

212 **15. Acknowledge Random Audit of Lodgers**
213

214 Acting Manager Temple reminded during the Regular Meeting of May 20, 2014 and in accordance
215 with LC Ordinance 2004-04 four lodgers were randomly selected for audit to verify the amount of
216 gross receipts subject to the occupancy tax.
217

218 Acting Manager Temple stated Dan Austin, CPA completed all four audits and provided a
219 summary of results prepared. Acting Manager Temple noted three of the lodgers were found to
220 have records in good order with no exceptions and directed attention to the report for the findings
221 related to the fourth audit. Acting Manager Temple stated all reports were forwarded to the NM
222 Department of Finance and Administration.
223

224 There was a general consensus to acknowledge receipt of the annual Lodger's Tax Audit.
225

226 **16. Resolution 2014-14 to Transfer/Donate from Bonito Fire Department a 1991**
227 **Chevrolet Tanker 1800 Gallon Water Tank to Ojo Sarco Fire District in Rio Arriba**
228 **County**
229

230 Joe Kenmore, Director reminded of the request discussed previously from the State Fire
231 Marshall's office for the older Water Tender to be transferred to Rio Arriba County. Mr. Kenmore
232 stated although the Commission previously approved the transfer, adoption of a Resolution was
233 required.
234

235 **Motion:** Adopt Resolution 2014-14, **Action:** Approve, **Moved by** Commissioner Minter,
236 **Seconded by** Commissioner Doth.

237 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).

238 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,
239 Commissioner Stone.
240

241 **SEE EXHIBIT C:** Copy of Resolution 2014-14 is attached hereto in reference thereto made a
242 part hereof.
243

244 **13. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY**
245 **OFFICIALS**

246
247 Commissioner Doth stated in response to questions from County residents he contacted the NM
248 Department of Transportation (DOT) regarding the lack of striping on Highway 37 after recent
249 resurfacing. Commissioner Doth informed the DOT planned to stripe the highway within the next
250 week.

251
252 Commissioner Draper reminded the public school had resumed and requested drivers slow down
253 in school zones and be aware of students and buses.

254
255 Rhonda Burrows, Clerk discussed the receipt of new Dominion voting equipment to be used in
256 the 2014 General Election. Ms. Burrows planned a demonstration of the new equipment for the
257 next Regular Meeting, an open house to view the new equipment in Ruidoso, and other outreach
258 measures to acquaint the public with the new equipment prior to the General Election.

259
260 Glenna Robbins, Treasurer reminded a Property Tax Sale to be conducted by the State Property
261 Tax Division was set for August 21, 2014. Ms. Robbins stated the Treasurer's office originally
262 provided a list of approximately 200 properties for potential sale to the State but the State listed
263 only 18 for sale with the number now reduced to 12. Ms. Robbins expressed disappointment the
264 State was unable to research and list more properties but reminded the NMAC Treasurer's
265 Affiliate was working to improve the tax sale system as it relates to State involvement.

266
267 Jim Boswell, Executive Director of the True Enchantment Tourism Board requested
268 reconsideration and support for the group's Lodger's Tax request for \$10,000. Mr. Boswell
269 provided a detailed breakdown of the proposed scope of work and financial participation of various
270 members of the True Enchantment Tourism Board. Mr. Boswell discussed the receipt of a \$7500
271 grant from the NM Tourism Department which required a \$7500 match. Mr. Boswell discussed
272 the potential to leverage a Lodger's Tax award of \$10,000 for additional funding and services.
273 Mr. Boswell urged the Commissioners to reconsider funding of any amount and offered to work
274 to resolve any concerns or issues.

275
276 **10. Presentations**

277
278 **b. U.S. Geological Survey (USGS) – Lauren Sherson and Steve Rice**

279
280 Lauren Sherson and Steve Rice of the USGS New Mexico Water Service Center provided a
281 presentation on the Hydrologic Characterization of the Upper Rio Hondo Basin in Lincoln County.

282
283 Ms. Sherson discussed the history of the project which began in 2001 with an objective of
284 providing updated public information addressing concerns about ongoing water supply, demand
285 and quality. Ms. Sherson discussed the various phases of the project beginning with the
286 collection and publication of existing data; collection of additional information to characterize
287 precipitation, streamflow groundwater, and water quality; and also the modifications to data
288 collection reflecting changes after the Little Bear Fire

289
290 Ms. Sherson stated two reports were generated from study data the first being the "Hydrogeology,
291 Water Resources, and Water Budget of the Upper Rio Hondo Basin" which had completed peer
292 review within the USGS and was currently in the publication layout process. Ms. Sherson stated
293 the final report titled "Water Quality and Water Resources during Drought and Post-Fire
294 Conditions in the Upper Rio Hondo Basin" was currently under review with a planned publication
295 date of late 2014. Ms. Shearson requested the Board of Commissioners participate in the review
296 process for this final report prior to publication and provide comments relevant to the publication.

297 Chair Powell agreed this was a beneficial step to ensure the County received information relevant
298 to decision making processes.
299

300 Ms. Shearson provided project results related to drought, wildfire, water quality, streamflow and
301 water levels. Ms. Shearson discussed basin wide water level declines occurring from 2010-
302 2013 which she characterized as decadal-scale changes which were observed in the past.
303

304 Mr. Rice discussed various measurements to determine recharge and water age within the basin.
305 Mr. Rice stated a major finding of the study was identifying the winter recharge from snowpack
306 as the dominant factor in overall basin recharge. Mr. Rice noted monsoonal events were
307 important but sporadic in occurrence and location. Mr. Rice discussed effects of increased
308 temperature changes and the decline in winter precipitation leading to a decrease in surface water
309 and a larger reliance on groundwater reserves. Mr. Rice commented increasing groundwater
310 withdrawal would likely reduce baseflow contribution, perpetuating a cycle detrimental to water
311 resources as a whole.
312

313 Ms. Sherson discussed the discontinuance of data collection as of September 30, 2014. Ms.
314 Sherson suggested various scenarios for the disposition of existing gauges and the potential for
315 ongoing monitoring. Ms. Sherson requested approval and signature of an agreement extending
316 the partnership with USGS until the final report was completed later this year. Ms. Sherson stated
317 there was no additional monetary contribution requested.
318

319 Chair Powell provided a number of suggests for terminology and questions to be addressed by
320 the final report. Commissioner Doth requested the preliminary final report be provided as soon
321 as possible so outgoing Commissioners would have an opportunity to comment.
322

323 Chair Powell recessed the Regular Meeting at 10:11:50 AM and reconvened at 10:27:30 AM.
324

325 **17. Authorization to Schedule Public Hearing to Consider Other Outdated or New**
326 **Lincoln County Ordinance**

- 327
- 328 a. Flood Plain Ordinance 2011-5
 - 329
 - 330 b. Indigent Healthcare Ordinance 2008-03
 - 331
 - 332 c. Smoking Policy requested by Manager Taylor regarding smoking on all County
333 property.
334

335 **Motion:** Schedule Public Hearings for consideration of the Flood Plain Ordinance 2011-5 and the
336 Indigent Healthcare Ordinance 2008-03 at the next Regular Meeting, **Action:** Approve, **Moved**
337 **by** Commissioner Doth, **Seconded by** Chair Powell.

338 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).

339 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,
340 Commissioner Stone.
341

342 Commissioner Doth suggested consideration of a Smoking Policy be placed on the next agenda
343 for consideration. Attorney Morel stated a Public Hearing was required to revise the Personnel
344 Policy Ordinance but was not required should the Manager wish to create a "stand alone" smoking
345 policy.
346

347 **18. Consideration/Award of Bid:**

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a. Bid 14-15-001 Emergency on Call Contractors

Acting Manager Temple explained contractors submitted an hourly "turnkey" price for the life of the contract for work performed for the County during an emergency. Acting Manager Temple stated contractor selection for any such work would depend on verification of the necessary equipment and of the lowest price available.

Motion: Award Bid 14-15-001 to Shawn Wilson Excavating, Bonnell Sand and Gravel, B and B Ready Mix, Robert Minnix, Mesa Verde, Renegade Construction, and Sedona Contracting, Inc. for hourly rates indicated plus gross receipts tax, **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Commissioner Minter.

Commissioner Draper questioned the presented price variations for specific equipment. Commissioner Minter discussed the bid sheet as necessary to control costs during response to emergency situations. Acting Manager Temple also noted the beneficial requirement for each contractor to provide all necessary procurement information including vendor identification, licensure, bonding and other financial information.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).
Yes: Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter, Commissioner Stone.

19. **Consideration of Appointments and Removals from Boards/ Commissioners/ Committees:**

a. **Tabled** Lodger's Tax Committee

Motion: Remove item from the table, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Chair Powell

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).
Yes: Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter, Commissioner Stone.

Motion: Reappoint Victor Garrison to the Lodger's Tax Committee, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Draper.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).
Yes: Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter, Commissioner Stone.

b. **Tabled**-Senior Citizens Olympic Committee

No action was taken.

20. **Tabled- Consideration and Approval of a Road Review Request to Abandonment and vacate of an unnamed, unbuilt 25 foot wide road in the Angus Townsite by Frances P. McKinney**

Motion: Remove the item from the table, **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Commissioner Minter.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

399 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,
400 Commissioner Stone.

401
402 Attorney Morel provided a map of the area of the proposed abandonment and vacation of a
403 previously platted road easement. Attorney Morel also provided copy of an official protest to the
404 vacation received from the adjacent property owner.

405
406 Attorney Morel reminded the easement was created for a road which was never built and pointed
407 out an alternate road was built for access to the adjacent properties. Attorney Morel stated the
408 primary point of contention was a length of the 25 foot easement platted between the two separate
409 property owners. Attorney Morel stated typically if the County were to approve the vacation, each
410 adjacent property owner was entitled to one half or 12.5 feet of the easement. Attorney Morel
411 also reminded the Road Review Committee met, reviewed the request and recommended
412 approval of the vacation.

413
414 Lori Gibson Willard, Attorney for Frances McKinney presented Ms. McKinney's request for
415 abandonment and vacation of the easement. Ms. Willard discussed her client's request as being
416 limited to the easement relevant only to her particular property and the additional 12.5 feet of the
417 easement shared with the adjacent property owner.

418
419 David Robinson, adjacent property owner stated he and his family considered the two sources of
420 access as historically available for use and stated the easement in question added property value.
421 Mr. Robinson objected to the vacation as detrimental to his property value and requested any
422 decision be postponed.

423
424 Mr. Robinson commented on the loss of land from the original parcel, which he now owns, when
425 the alternate road route was constructed. Ms. Gibson informed Mr. Robinson had obtained a
426 property survey and had knowledge of the access issues prior to his purchase.

427
428 Attorney Morel noted both the current Old Bridge Road and the Angus town site easement in
429 question were both legally described when both properties were purchased.

430
431 Commissioner Doth questioned Carl Palmer, Road Superintendent as to the purpose of the
432 easement. Mr. Palmer stated no knowledge of any proposed use of the easement and noted one
433 portion of the easement had previously been abandoned. Mr. Palmer also stated a 25 foot
434 easement was not sufficient to meet new County standards for acceptance of a road for
435 maintenance.

436
437 **Motion:** Approve the abandonment and vacation of the roadway having found no use for the
438 County and pending payment of assessed value and related fees for the property, **Action:**
439 Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Stone.

440 **Vote:** Motion passed (**summary:** Yes = 4, No = 1, Abstain = 0).

441 **Yes:** Commissioner Doth, Commissioner Draper, Commissioner Minter, Commissioner Stone.

442 **No:** Chair Powell.

443
444 **21. Resolution 2014-13 Adopting Revisions to Resolution 2013-14 of the Indigent**
445 **Claims Policy Limits Payable from the Lincoln County Indigent Healthcare Fund**

446
447 Scott Annala, Indigent Health Care Administrator discussed the decline in claims for payment
448 through the IHC program as a result of the expansion of the Medicaid program. Mr. Annala
449 discussed IHC assistance available to Medicare recipients for deductibles and copays on claims

450 greater than \$50 but anticipated no additional fiscal impact for this category of claim should the
451 limits be revised.

452
453 Mr. Annala presented an analysis of potential costs associated with increased limits based on the
454 historical numbers of claims which exceed current limits. Mr. Annala recommended the changes
455 as conservative and manageable within the current budget.

456
457 Commissioner Minter suggested the cap for the air ambulance be increased to \$2500.

458
459 **Motion:** Adopt Resolution 2014-13 as presented, **Action:** Approve, **Moved by** Commissioner
460 Stone, **Seconded by** Commissioner Draper.

461 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 5)
462 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,
463 Commissioner Stone.

464
465 **SEE EXHIBIT D:** Copy of Resolution 2014-13 is attached hereto in reference thereto made a
466 part hereof.

467
468 **22. Consideration/Action on MOU of Village of Ruidoso Permitting in the County**

469
470 Acting Manager Temple presented the Memorandum of Understanding (MOU); reminded the
471 initial approval was for six months, and recommended the MOU be reapproved for one year.

472
473 Commissioner Doth questioned the origin of the related revenue and expense information.
474 Acting Manager Temple verified the information was provided by the Village of Ruidoso. Attorney
475 Morel noted a significant variation in reported expenses from month to month. Commissioner
476 Minter suggested the fluctuation was linked to the number of permits requested for any particular
477 month.

478
479 Commissioner Minter questioned if the joint permitting process was working to serve the public.
480 Acting Manager Temple stated the process was working to facilitate the correct permitting process
481 for each project and there were only some minor complaints from applicants and contractors as
482 the process requiring an "extra step". Mr. Temple stated the Village of Ruidoso expressed
483 appreciation for the process as it relieved some of their responsibility to coordinate the necessary
484 County permits. Mr. Temple stated to his knowledge Village inspectors were providing timely
485 inspections for County residents.

486
487 **Motion:** Approve the Memorandum of Understanding with the Village of Ruidoso for one year,
488 **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Stone.

489 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).
490 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,
491 Commissioner Stone.

492
493 Commissioner Doth requested additional information be provided regarding the reported
494 expenses related to the permit process defined by the MOU.

495
496 **23. Resolution 2014-12 Adopting FY 2016-2020 ICIP**

497
498 Acting Manager Temple, requested approval of the Resolution adopting the FY 2016-2020
499 Infrastructure Capital Improvement Plan. Acting Manager Temple informed the Department of
500 Finance and Administration required submission of the Resolution by September 30, 2012.

501
502 **Motion:** Adopt Resolution 2014-12, **Action:** Approve, **Moved by** Commissioner Doth,
503 **Seconded by** Commissioner Minter.

504 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).

505 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,
506 Commissioner Stone.

507
508 **SEE EXHIBIT E:** Copy of Resolution 2014-12 is attached hereto in reference thereto made a part
509 hereof.

510
511 **26. Recognition of a State Senior Citizen Award – Betty Ann Bell**
512

513 Acting Manager Temple informed Lincoln County resident Betty Ann Bell, was chosen as the
514 recipient of this year's State Senior Citizen Award. Acting Manager Temple provided a copy of
515 the award letter from the NM Long Term Aging and Services Department listing Ms. Bell's many
516 accomplishments and contributions to her community of Corona and to Lincoln County.

517
518 There was a general consensus to develop a proclamation commemorating this important award
519 to Mrs. Bell.

520
521 **24. Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened**
522 **and/or Pending Litigation Section 10-15-1, Sub-Paragraph H.(7); and Discussion of**
523 **the purchase, acquisition or disposal of real property or water rights by the public**
524 **body, Section 10-15-1, Sub-Paragraph H.(8).**
525

526 **Motion:** To close the meeting for the purposes of an Executive Session to discuss Threatened
527 and/or Pending Litigation pursuant to the Open Meetings Act, Section 10-15-1, Sub Paragraph
528 H.(7) and the purchase, acquisition or disposal of real property or water rights by the public body,
529 Section 10-15-1, Sub-Paragraph H.(8) and as follows:

530 New or Updated Matters since last report = *

- 531
532 1. *Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County,*
533 *et al.* D-1329-CV-200701364. Suit filed: October 15, 2007. Verified Complaint for Declaratory
534 Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 18,
535 2013, and Conclusion of Law/Order was filed May 15, 2014 entered in favor of Ms. Cooper. Ms.
536 Cooper filed an appeal June 10, 2014.
- 537 2. *Michael Wheaton v Paul F. Baca, Lincoln County Assessor, et. al.* D-1226-CV-2011-
538 00341. Suit filed October 18, 2011. Notice of Appeal of Final Order of the Lincoln County
539 Valuation Protests Board. Attorney has agreed to stay the case pending the decision from the
540 Court of Appeals.
- 541 *3. *Coble Constructors, LLC, et al v Carl Kelley Construction Ltd. Co, et al.* D-1226-CV-2012-
542 00003. Suit filed January 15, 2012. Complaint to Foreclose Mechanic's Lien. Order granting
543 motion for resetting 4/17/13. Motion for Summary Judgment filed Jan. 29, 2014. Hearing
544 scheduled for Jan. 5, 2015 with Judge Parsons presiding.
- 545 *4. *Greentree Solid Waste Authority v. Lincoln County* D-1226-CV-2014-00095. Suit filed
546 May 1, 2014 Verified Petition for Declaratory and Supplemental Relief: Injunction, Motion to
547 Waive Time to Reassign District Judge (Judge Karen Parsons was disqualified). County was
548 served May 14, 2014. Mr. Melendres has filed Answer, Motion to Disqualify Mr. Beauvais and
549 Change of Venue. Hearing on Rule 16 Scheduling Conference is scheduled for Sept. 18, 2014
550 and Hearing on all Pending Motions is scheduled Nov. 20 with Judge Ritter.

551 *5. *Greentree Solid Waste Authority v. Lincoln County, et. al. D-0101-CV-2013-00104*. Suit
552 filed January 9, 2013. Petition for Declaratory Judgment; Preliminary and Permanent Injunction.
553 Mr. Beauvais filed an appeal Feb. 27, 2014. Ruling on Reconsidering Stay denied by Judge
554 Singleton June 11, 2014. GSWA filed its Motion for Extension of Time to File Brief in Chief August
555 5, 2014. Telephonic Mediation Conference scheduled for Sept. 14, 2014 and GSWA's Brief in
556 Chief due Sept. 14, 2014.

557 *6. *Rio Grande-Alameda, Ltd. v Paul Baca, Lincoln County Assessor D-1226-CV-2013-*
558 *00005*. Suit filed January 9, 2013. Complaint for Refund of Taxes Paid. Defendant's first motion
559 to dismiss or Summary Judgment filed August 29, 2013. Hearing was Jan. 6, 2014, and produced
560 an Order of Dismissal, with a Motion to Reconsider filed Jan. 8, 2014. Hearing on the Merits
561 occurred May 12, 2014 in Carrizozo with Judge Parsons and produced an Order Granting Motion
562 to Dismiss. Appeal was filed Aug. 4, 2014.

563 *7. *Barbara Diane Latham, et al v. Neal Cox, Ben Hazen, Lincoln County Sheriff's Department*
564 *and the County of Lincoln. D-1226-CV-2013-00191*. Suit filed July 19, 2013. Complaint for
565 Violation of Civil Rights, Wrongful Death and Damages by Attorney Gary Mitchell. Tort Claim
566 Notice was filed on October 27, 2011. LCSO and LC Manager were served on August 5, 2013.
567 Advised NMAC has assigned the case to Brennan and Sullivan Law Firm 9/5/13. Case was moved
568 to Federal Court August 30, 2013. Settlement Conference scheduled for July 22, 2014 was
569 vacated through an Order Vacating Settlement Conference and Order to Show Cause filed July
570 16, 2014.

571 *8. *State of NM/Lincoln County v. Avalon-Construction, Ruidoso, NM D-1226-CV 2014-*
572 *00006* Filed Jan. 6, 2014 Open complaint for Refund of Taxes paid. Case assigned to Basham
573 and Basham/Dwyer. Motion to Dismiss filed July 17, 2014 and telephonic negotiation conference
574 was July 3, 2014.

575 *9. *State of NM v. Irene Howcroft – M-30-MR-2013-00190* Alleged animal nuisance and
576 violation of Lincoln County Ordinance No. 2008-08. Pre-Trial Hearing determined need for Bench
577 Trial which will be scheduled.

578 10. Potential Litigation: Protests of Applications 01300-1, 01300-2, 01300-3, 0826-2 into 0275
579 *et. al.* and H-272 *et al.* (T) and H-50-1 into H-272 *et. al.* (T) filed July 15, 2013 pertaining to
580 movement / transfer of water rights from the Hondo Valley to the Village of Ruidoso and the City
581 of Ruidoso Downs.

582

583 **Tort Claims Notices Received or Threatened**

584

585 **2014**

586

587 **Ramos, Aaron** – Tort Claim Notice received from Mr. Ramos March 18, 2014 alleging his
588 rights were violated during incarceration at Lincoln County Detention Center. Mr. Ramos alleges
589 damages by not being granted detainee to detainee correspondence.

590 **Millerden, Kenneth and Anita** – Tort Claim Notice received May 9, 2014 alleging
591 negligence from staff at Lincoln County Medical Center during prepartum care for their infant son.

592 **Ogden, John D** – Tort Claim Notice received May 26, 2014 alleging mistreatment while
593 incarcerated at LCDC on March 11, 2014.

594 **Rounds, Christopher** – Tort Claim Notice received June 4, 2014 alleging being held in
595 LCDC without being advised of his charges.

596 **Herbert, Crystal** – Tort Claim Notice received June 23, 2014 alleging false imprisonment,
597 due process violations, unlawful detention of a minor, emotional distress.

598 **Class Action** – Tort Claim Notice received June 23, 2014 alleging false imprisonment,
599 false arrest, deprivation of rights at LCDC that arise with Immigration and Customs Enforcement
600 charges.

601 **Atwell, Stacey** – Tort Claim Notice received June 25, 2014 alleging unlawful seizure of
602 her two minor children during a request for a deputy to assist in keeping the peace.

603 ***Allen, Elaine** – Tort Claim Notice received July 28, 2014 claiming defamatory and false
604 personal statements targeting her published on Lincoln County's website.

605 ***McGarry, Sean** – Tort Claim Notice received July 25, 2014 alleging wrongful arrest, false
606 imprisonment, malicious prosecution, intentional or negligent infliction of emotional distress,
607 abuse of process, wrongful termination and retaliatory discharge regarding discharge from the
608 Capitan Police Department.

609 ***Ramos, Aaron** – Tort Claim Notice received August 7, 2014 alleging lack of Due Process
610 for inmates at LCDC.

611
612 **2013**

613
614 **Allen, Katherine Elizabeth**- Notice of Tort Claim against Lincoln County Detention Center
615 for alleged injuries sustained during transport.

616 **Borrego, Albert** - Tort Claim Notice received from attorney Gary Mitchell on June 14,
617 2013, alleging continued harassment to Albert G. Borrego by police while responding to a noise
618 complaint at Mr. Borrego's residence on February 28, 2013, and a separate incident resulting in
619 Mr. Borrego's arrest on March 5, 2013, due to an outstanding warrant, during which Mr. Borrego
620 allegedly sustained injuries while in custody due to an existing broken back injury. Claim has been
621 denied by NMAC.

622 **Espinoza, Robert** - Tort Claim Notice received from Robert Espinoza on June 4, 2013,
623 alleging property damage from vehicle accident while Linda Mullins, driving the LC Senior Center
624 meal delivery van ran off road hitting chain link fence, poles and railroad ties.

625 **Harrisburg Documents**- Attempts to recover Lincoln County documents illegally taken
626 from the county. County Clerk Rhonda Burrows has been in contact with Harrisburg, PA in
627 recovery efforts.

628 **Montoya, Emilia L.** - Tort Claim Notice received by attorney Freda Howard McSwane on
629 April 23, 2013, alleging injuries sustained by Ms. Montoya when a physical altercation took place
630 at the LCDC.

631 **Ramos, Aaron** - Tort Claim Notice received by attorney Robert J. Beauvais on April 18,
632 2013, (correspondence dated September 13, 2011) alleging concerns about Mr. Ramos' safety
633 and welfare and violation of his U.S. Constitutional rights.

634 **Silva, Elmo** - Tort Claim Notice received from attorney Richard Marquez November 6,
635 2013. Alleges false imprisonment for Mr. Silva, who was sentenced in the 12th Judicial District
636 Court to 38 years filed on July 3, 1990.

637
638 **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Draper.

639 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).

640 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,
641 Commissioner Stone.

642
643 Chair Powell recessed the Regular Meeting and convened the Closed Session at 11:32:19 PM.

644
645 Chair Powell adjourned the Closed Session and reconvened the Regular Meeting at 12:40:20
646 PM.

647
648 Commissioner Stone attested that no action was taken during the closed session and items
649 discussed were limited to those as stated in the motion for closure.

650
651 **25. Potential Property Purchase**

652
653 **Motion:** Approve the purchase of property at 125 El Paso Rd for the lessor of \$80,000 or
654 appraised value pending prior acquisition by Presbyterian, **Action:** Approve, **Moved by**
655 Commissioner Doth, **Seconded by** Commissioner Stone.
656 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).
657 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,
658 Commissioner Stone.

659
660 **27. Signing of Official Documents**

661
662 **28. Next meetings**

- 663
664 a. September 8, 2014 Special Commission Meeting (Impose Property Tax Rates)
665 b. September 16, 2014 Regular Commission Meeting

666
667 **29. Adjourn**

668
669 There being no further business to come before the Board of County Commissioners, Chair
670 Powell adjourned the meeting at 12:41:28 PM.

671
672 Respectfully submitted by,
673 Rhonda B. Burrows
674 Lincoln County Clerk
675

DRAFT

1 **COUNTY OF LINCOLN**

2 **New Mexico**
3 **Special Meeting**
4 **Board of County Commissioners**

5
6 **Jackie Powell, Chair**
7 **Preston Stone, Vice-Chair**

Kathryn L. Minter, Member
Mark Doth, Member
Dallas Draper, Member

8
9 **Minutes**
10 **Monday, September 8, 2014**

11
12 Minutes of the Special Meeting of the Lincoln County Commission held at 8:30 AM on
13 September 8, 2014 in the County Commission Chambers, Lincoln County Courthouse, in
14 Carrizozo, New Mexico.

15
16 **1. Call to order**

17
18 Chair Powell called the Special Meeting of the Board of County Commissioners to order at
19 8:30:20 AM.

20
21 **2. Roll Call**

22
23 **Roll Call.**

24 **Present:** Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Draper.

25 **Absent/Excused:** Commissioner Doth.

26
27 Others present included Nita Taylor, County Manager; Alan Morel, County Attorney; and
28 Rhonda Burrows, County Clerk.

29
30 **3. Invocation**

31
32 The invocation was presented by Commissioner Stone.

33
34 **4. Pledge of Allegiance**

35 A. Pledge – U.S.A. Flag

36 B. Salute – N.M. Flag

37
38
39 **5. Approval of Agenda**

40 **Motion:** Acceptance of the Agenda and authorized the Chair to move items as necessary,

41 **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Minter.

42 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 4).

43 **Yes:** Chair Powell, Commissioner Draper, Commissioner Minter, Commissioner Stone.

44 **Absent:** Commissioner Doth.

45
46 **6. Approval of Consent Agenda**

48 a. Sun Valley Water & Sanitation District Mill Levy Request

49
50 **Motion:** Approval of Consent items as presented, **Action:** Approve, **Moved by** Commissioner
51 **Minter, Seconded by** Commissioner Powell.

52 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 4).

53 **Yes:** Chair Powell, Commissioner Draper, Commissioner Minter, Commissioner Stone.

54 **Absent:** Commissioner Doth.

55
56 **SEE EXHIBIT A:** Copies of Consent Items are attached hereto in reference thereto made a part
57 hereof.

58
59 **7. Approval/Imposition of 2014-2015 Property Tax Rates**

60
61 Ms. Taylor provided copy of the Order Setting Property Tax Rates – 2014 Property Tax Year
62 received from the State of New Mexico Secretary of Finance and Administration. Ms. Taylor
63 reminded of the statutory requirement for the Board of County Commissioners to issue and
64 deliver to the County Assessor an order imposing the rates within five dates of receipt of the
65 State rate setting order.

66
67 Glenna Robbins, Treasurer presented an Average Tax Rate History chart incorporating the new
68 2014 Tax Rates as defined by DFA in comparison with previous years. Ms. Robbins stated
69 after review by the Treasurer's office and the various tax related entities, the rates as initially
70 presented were amended once to correct tax rates for the Town of Carrizozo and once more to
71 correct an error related to the new municipal tax enacted by the Village of Ruidoso. Ms.
72 Robbins stated the Treasurer's office contacted each entity affected and received confirmation
73 the rates as imposed were correct and would provide adequate budget revenues for operations.

74
75 Paul Baca, Assessor stated valuation increased in most districts and provided a chart which
76 detailed the valuation and associated tax rates for the various districts. Mr. Baca informed
77 there was a small increase in livestock numbers in the County and a 6.7% increase in livestock
78 values which would generate an increase in tax revenue for the predatory control. Mr. Baca
79 pointed out total valuation increased from \$1,131,149,006 in 2013 to \$1,163,765,087 in 2014 for
80 an increase of \$32,616,081 or 2.88% over last year. Mr. Baca discussed the declining
81 percentage of change in valuation over recent years due to the "tax lightening" effect of
82 reevaluation of properties at the time of sale and the number of increasing overall number of
83 properties approaching full assessment value.

84
85 **Motion:** Approve the Certificate of Property Tax Rates and issue a written order to the Assessor
86 to impose the rates, **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by**

87 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 4).

88 **Yes:** Chair Powell, Commissioner Draper, Commissioner Minter, Commissioner Stone.

89 **Absent:** Commissioner Doth.

90
91 **SEE EXHIBIT B:** Copy of the Certificate of Property Tax Rates is attached hereto in reference
92 thereto made a part hereof.

93
94 **8. Executive Session Pursuant to the Open Meetings Act: Discussion of all**
95 **Threatened and/or Pending Litigation Section 10-15-1, Sub-Paragraph H.(7); and**
96 **Discussion of the purchase, acquisition or disposal of real property or water**
97 **rights by the public body, Section 10-15-1, Sub-Paragraph H.(8).**

98

99 **Motion:** To close the meeting for the purposes of an Executive Session to discuss Threatened
100 and/or Pending Litigation pursuant to the Open Meetings Act, Section 10-15-1, Sub Paragraph
101 H.(7) and the purchase, acquisition or disposal of real property or water rights by the public
102 body, Section 10-15-1, Sub-Paragraph H.(8) and as follows:

103 **New or Updated Matters since last report ***

104

105 1. Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County,
106 et al. D-1329-CV-200701364. Suit filed: October 15, 2007. Verified Complaint for Declaratory
107 Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 18,
108 2013, and Conclusion of Law/Order was filed May 15, 2014 entered in favor of Ms. Cooper. Ms.
109 Cooper filed an appeal June 10, 2014.

110 2. Michael Wheaton v Paul F. Baca, Lincoln County Assessor, et. al. D-1226-CV-2011-
111 00341. Suit filed October 18, 2011. Notice of Appeal of Final Order of the Lincoln County
112 Valuation Protests Board. Attorney has agreed to stay the case pending the decision from the
113 Court of Appeals.

114 3. Coble Constructors, LLC, et al v Carl Kelley Construction Ltd. Co, et al. D-1226-CV-
115 2012-00003. Suit filed January 15, 2012. Complaint to Foreclose Mechanic's Lien. Order
116 granting motion for resetting 4/17/13. Motion for Summary Judgment filed Jan. 29, 2014.
117 Hearing scheduled for Jan. 5, 2015 with Judge Parsons presiding.

118 4. Greentree Solid Waste Authority v. Lincoln County D-1226-CV-2014-00095. Suit filed
119 May 1, 2014 Verified Petition for Declaratory and Supplemental Relief: Injunction, Motion to
120 Waive Time to Reassign District Judge (Judge Karen Parsons was disqualified). County was
121 served May 14, 2014. Mr. Melendres has filed Answer, Motion to Disqualify Mr. Beauvais and
122 Change of Venue. Hearing on Rule 16 Scheduling Conference is scheduled for Sept. 18, 2014
123 and Hearing on all Pending Motions is scheduled Nov. 20 with Judge Ritter.

124 5. Greentree Solid Waste Authority v. Lincoln County, et. al. D-0101-CV-2013-00104. Suit
125 filed January 9, 2013. Petition for Declaratory Judgment; Preliminary and Permanent Injunction.
126 Mr. Beauvais filed an appeal Feb. 27, 2014. Ruling on Reconsidering Stay denied by Judge
127 Singleton June 11, 2014. Telephonic Mediation Conference scheduled for Sept. 14, 2014 and
128 GSWA's Brief in Chief due Sept. 14, 2014.

129 6. Rio Grande-Alameda, Ltd. v Paul Baca, Lincoln County Assessor D-1226-CV-2013-
130 00005. Suit filed January 9, 2013. Complaint for Refund of Taxes Paid. Defendant's first motion
131 to dismiss or Summary Judgment filed August 29, 2013. Hearing was Jan. 6, 2014, and
132 produced an Order of Dismissal, with a Motion to Reconsider filed Jan. 8, 2014. Hearing on the
133 Merits occurred May 12, 2014 in Carrizozo with Judge Parsons and produced an Order
134 Granting Motion to Dismiss. Appeal was filed Aug. 4, 2014.

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136 Department and the County of Lincoln. D-1226-CV-2013-00191. Suit filed July 19, 2013.
137 Complaint for Violation of Civil Rights, Wrongful Death and Damages by Attorney Gary Mitchell.
138 Tort Claim Notice was filed on October 27, 2011. LCSO and LC Manager were served on
139 August 5, 2013. Advised NMAC assigned the case to Brennan and Sullivan Law Firm Sept. 5,
140 2013. Case was moved to Federal Court August 30, 2013. Settlement Conference scheduled
141 for July 22, 2014 was vacated through an Order Vacating Settlement Conference and Order to
142 Show Cause filed July 16, 2014. Plaintiffs and Defendants Agreed Motion to Modify Scheduling
143 Order filed Aug. 5, 2014.

144 8. State of NM/Lincoln County v. Avalon-Construction, Ruidoso, NM D-1226-CV 2014-
145 00006 Filed Jan. 6, 2014 Open complaint for Refund of Taxes paid. Case assigned to Basham
146 & Basham/Dwyer. Motion to Dismiss filed July 17, 2014 and telephonic negotiation conference
147 was July 3, 2014.

148 *9. State of NM v. Irene Howcroft – M-30-MR-2013-00190 Alleged animal nuisance and
149 violation of Lincoln County Ordinance No. 2008-08. The District Attorney's office has entered
150 their appearance and Mr. Morel filed his Notice of Withdrawal as Counsel Aug. 20, 2014.

151 10. Potential Litigation: Protests of Applications 01300-1, 01300-2, 01300-3, 0826-2 into
152 0275 et. al. and H-272 et al (T) and H-50-1 into H-272 et. al. (T) filed July 15, 2013 pertaining to
153 movement / transfer of water rights from the Hondo Valley to the Village of Ruidoso and the City
154 of Ruidoso Downs.

155

156 **Tort Claims Notices Received or Threatened**

157

158 **2014**

159 **Ramos, Aaron** – Tort Claim Notice received from Mr. Ramos March 18, 2014 alleging
160 his rights were violated during incarceration at Lincoln County Detention Center. Mr. Ramos
161 alleges damages by not being granted detainee to detainee correspondence.

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163 negligence from staff at Lincoln County Medical Center during prepartum care for their infant
164 son.

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166 incarcerated at LCDC on March 11, 2014.

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170 imprisonment, due process violations, unlawful detention of a minor, emotional distress.

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172 false arrest, deprivation of rights at LCDC that arise with Immigration and Customs Enforcement
173 charges.

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175 her two minor children during a request for a deputy to assist in keeping the peace.

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180 distress, abuse of process, wrongful termination and retaliatory discharge regarding discharge
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183 Process for inmates at LCDC.

184

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186

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191 complaint at Mr. Borrego's residence on February 28, 2013, and a separate incident resulting in
192 Mr. Borrego's arrest on March 5, 2013, due to an outstanding warrant, during which Mr. Borrego
193 allegedly sustained injuries while in custody due to an existing broken back injury. Claim has
194 been denied by NMAC.

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196 alleging property damage from vehicle accident while Linda Mullins, driving the LC Senior
197 Center meal delivery van ran off road hitting chain link fence, poles and railroad ties.

198 **Harrisburg Documents-** Attempts to recover Lincoln County documents illegally taken
199 from the county. County Clerk Rhonda Burrows has been in contact with Harrisburg, PA in
200 recovery efforts.

201 **Montoya, Emilia L.** - Tort Claim Notice received by attorney Freda Howard McSwane
202 on April 23, 2013, alleging injuries sustained by Ms. Montoya when a physical altercation took
203 place at the LCDC.

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205 2013, (correspondence dated September 13, 2011) alleging concerns about Mr. Ramos safety
206 and welfare and violation of his U.S. Constitutional rights.

207 **Silva, Elmo** Tort Claim Notice received from attorney Richard Marquez November 6,
208 2013. Alleges false imprisonment for Mr. Silva, who was sentenced in the 12th Judicial District
209 Court to 38 years filed on July 3, 1990.

210 **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Minter.
211 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 4).
212 **Yes:** Chair Powell, Commissioner Draper, Commissioner Minter, Commissioner Stone.
213 **Absent:** Commissioner Doth.

214
215
216 Chair Powell recessed the Regular Meeting and convened the Closed Session at 8:55:41 AM.

217
218 Chair Powell adjourned the Closed Session and reconvened the Regular Meeting at 10:08:51
219 AM.

220
221 Commissioner Draper attested that matters discussed in the closed meeting were limited to
222 those specified in the motion for closure or in the notice of separate closed meeting.

223
224 **9. Signing of Official Documents**

225
226 **10. Next Regular Meeting**

227
228 Tuesday, September 16, 2014

229
230 **11. Adjourn**

231
232 There being no further business to come before the Board of County Commissioners, Chair
233 Powell adjourned the meeting at 10:09:29 AM.

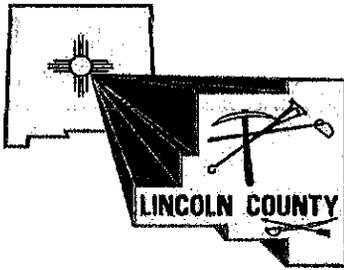
234
235 Respectfully submitted by,
236 Rhonda B. Burrows
237 Lincoln County Clerk
238

Agenda Item No. 7

SUBJECT

Approval of Consent Agenda:

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending August 31, 2014



www.lincolncountynm.net

County of Lincoln

P.O Box 711 • 300 Central Ave. • Carrizozo, New Mexico 88301-0711 • (575) 648-2385

ACCOUNTS PAYABLE and PAYROLL

The following claims or bills on file with the office of the Lincoln County Manager were examined and approved as paid with checks hereof drawn upon the various County funds according to the check register covering the period from August 1 through August 31, 2014 in the amount of \$1,708,631.09.

NOW, THEREFORE, the above bills are hereby approved.

ADOPTED, PASSED AND SIGNED the 16th day of September, 2014.

BOARD OF COMMISSIONERS LINCOLN COUNTY, NEW MEXICO

Jackie M Powell, Chairwoman

Preston Stone, Vice-Chair

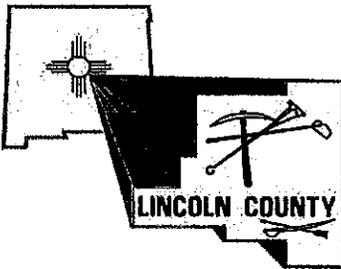
Kathryn Minter, Member

Dallas Draper, Member

Mark Doth, Member

ATTEST:

Rhonda B Burrows, County Clerk



www.lincolncountynm.net

County of Lincoln

P.O Box 711 • 300 Central Ave. • Carrizozo, New Mexico 88301-0711 • (575) 648-2385

Agenda Item No. 8

September 4, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

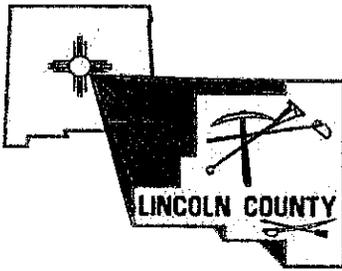
SUBJECT: Monthly Smokey Bear District Ranger Report

Purpose: To provide an opportunity for the Smokey Bear District Ranger, David Warnack, to present a monthly report.

Discussion:

David Warnack may be present to update Commissioners and the public on activities in the District. His briefing may be at Enclosure 1 for your review.

Recommendation: None – information only at this time.



www.lincolncountynm.net

County of Lincoln

P.O Box 711 • 300 Central Ave. • Carrizozo, New Mexico 88301-0711 • (575) 648-2385

Agenda Item No. 9

September 4, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

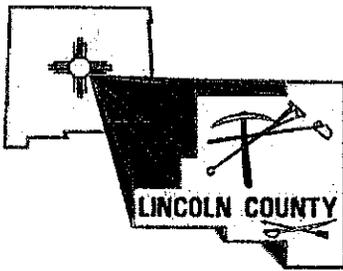
SUBJECT: Lincoln County Detention Center Update – Warden Anderson

Purpose: To provide an opportunity for the Warden Anderson, Lincoln County Detention Center, to provide an update.

Discussion:

Warden Anderson may appear to provide an update to the Commissioners and the public on the Lincoln County Detention Center.

Recommendation: None – information only at this time.



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County of Lincoln

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AGENDA ITEM 10

September 12, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: SunZia Transmission Pipeline Project – Update/Presentation

Purpose: To obtain an update on the status of the SunZia Transmission Pipeline Project

Discussion:

The Commission last heard comments on the status of the SunZia Transmission Pipeline Project at its June and July, 2013 Regular Meetings. At the June meeting comments were provided by the City of Alamogordo, White Sands Missile Range and SunZia, mainly addressing the routing of the line, and requesting the Commission to support/reject specific routes being considered. At its July meeting, the Commission passed Resolution 2013-5, which reaffirmed its endorsement of the construction and operation of the SunZia Southwest Transmission Project, but did not adopt any routing advocacy proposed by the various parties. See Enclosure 1.

Much has taken place since July, 2013, and representatives from SunZia, White Sands Missile Range and the Bureau of Land Management are present to provide an update to the Commission. Members of the Corona Landowners Association will also be in attendance and may request an opportunity to comment. See Enclosure 2 for a copy of the SunZia Presentation. Others may be made available at the Commission meeting.

Action: None requested; for information purposes at this time.

RESOLUTION 2013-5
RESOLUTION RE-AFFIRMING SUPPORT OF
THE SUNZIA SOUTHWEST TRANSMISSION PROJECT

WHEREAS, New Mexico is rich in renewable energy resources, and state and local communities stand to benefit greatly from the creation of new jobs, economic development, and resulting revenues from taxes and the necessary provision of local governmental services; and

WHEREAS, the SunZia Southwest Transmission Project (SunZia) proposes to construct up to two high voltage 500 kV electrical transmission lines and related interconnecting substations within an area lying between central Arizona and central New Mexico, which will provide new delivery capacity for existing and developing renewable energy resources, primarily wind, solar and geothermal projects in New Mexico; and

WHEREAS, New Mexico's renewable energy development resources are located primarily in the central and southern part of the state where available transmission capacity is extremely limited, and SunZia will provide up to 4,500 megawatts of needed transmission capacity; and

WHEREAS, the existence of SunZia creates an opportunity for the development and construction of future wind and solar generation projects and related jobs that would otherwise not occur without transmission lines; and

WHEREAS, renewable energy projects are good for the environment and help to minimize our dependence upon foreign oil, reduce air pollution and diversify energy generation sources; and

WHEREAS, SunZia submitted a right-of-way application to the Bureau of Land Management (BLM) in September of 2008, BLM issued a Final Environmental Impact Statement (FEIS) on June 14, 2013, and BLM anticipates issuing a Record of Decision (ROD) on the right-of-way application in mid-September, 2013; and

WHEREAS, the FEIS provides a detailed analysis of potential environmental impacts of the project and a range of mitigation measures to such impacts; and

WHEREAS, the BLM has conducted nine public scoping meetings in New Mexico and fourteen total scoping meetings throughout SunZia's study area, has expanded the project study area on three occasions and extended the length of the initial scoping period to address initial public and military comments, has held other community meetings to request public input and identify possible issues of concern that may result from the project; and

WHEREAS, the BLM sought comments on specific issues and concerns related to alternative routes for the project's transmission facilities, affected environmental resources, and related matters; and

WHEREAS, statements from local governing bodies such as this County Commission are very important to development of a complete record for the FEIS and the ROD; and

WHEREAS, on December 20, 2011 this County Commission previously passed, approved and adopted Resolution 2011-18 declaring support of the SunZia project.

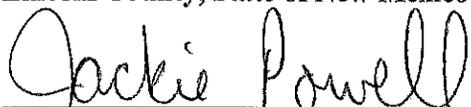
NOW THEREFORE, BE IT RESOLVED that this County Commission encourages the development of renewable energy generation and transmission projects in the state of New Mexico, and when possible specifically within Lincoln County; and

BE IT FURTHER RESOLVED that this County Commission supports the construction and operation of additional transmission infrastructure to provide capacity for New Mexico's renewable energy projects; and

BE IT FURTHER RESOLVED that the Lincoln County Board of Commissioners re-affirms their endorsement of the construction and operation of the SunZia Southwest Transmission Project, and urges the BLM to judiciously expedite issuance of the ROD for SunZia's right-of-way application in order to expand regional economic development opportunities in New Mexico, by creating the necessary transmission capacity to deliver New Mexico's renewable energy resources to western customers and markets.

PASSED, APPROVED, AND ADOPTED this 16th day of July 2013.

Board of Commissioners
Lincoln County, State of New Mexico

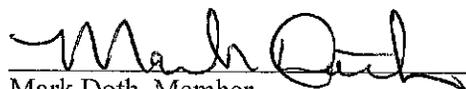


Jackie Powell, Chair

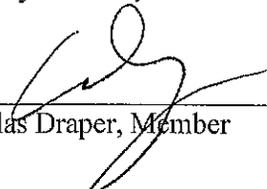


Preston Stone, Vice Chair

Kathryn Minter, Member



Mark Doth, Member



Dallas Draper, Member

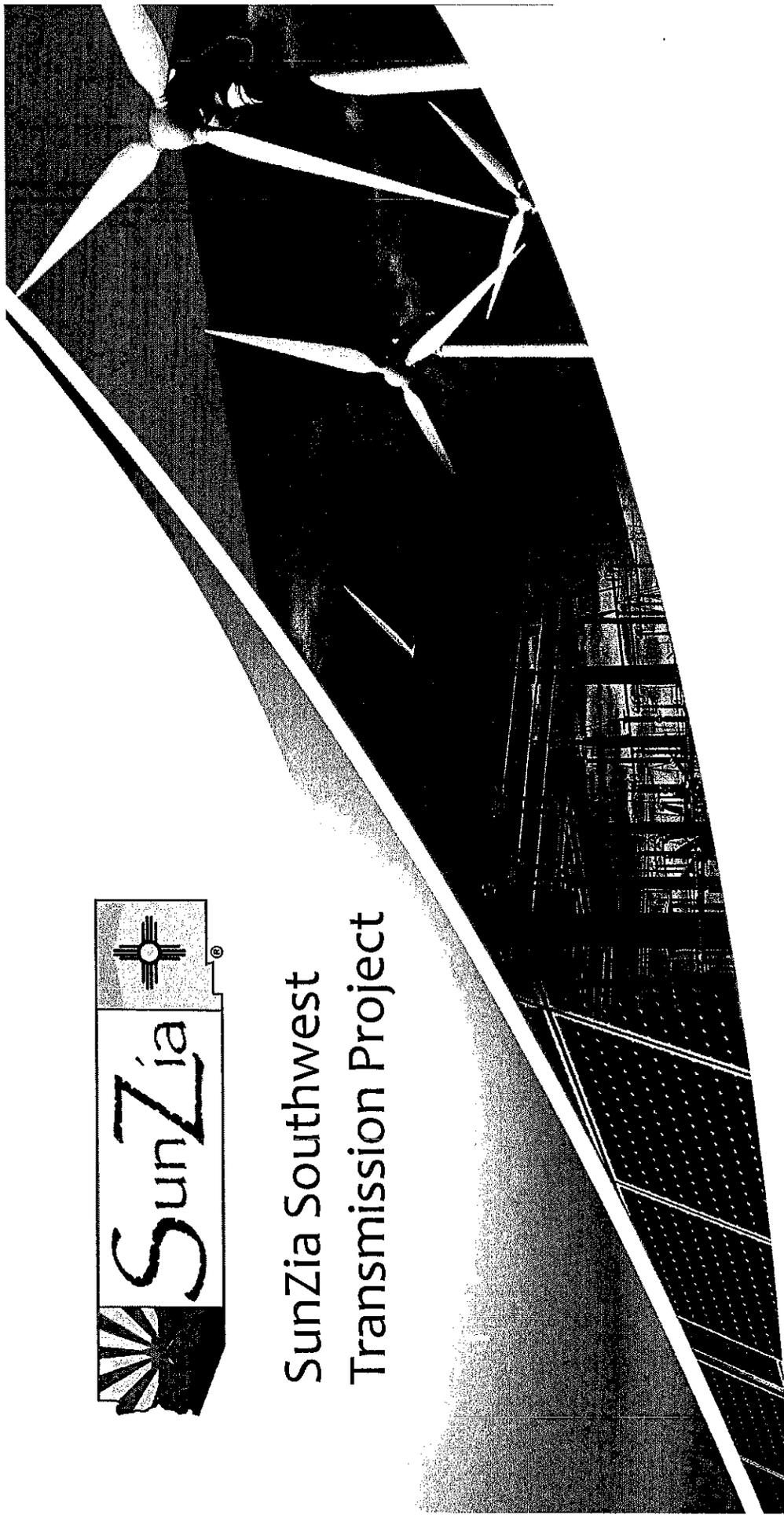
ATTEST:


Rhonda Burrows, County Clerk



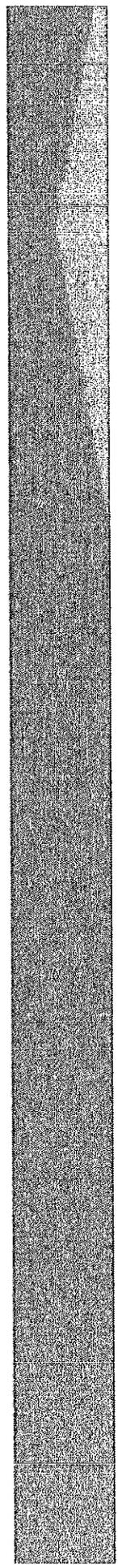


SunZia Southwest Transmission Project



September 16, 2014

Project Update for the
Board of Lincoln County Commissioners



Project Sponsors

SOUTH WESTERN
Power Group
A MMR Group Company

**SouthWestern Power/
MMR Group**

Shell WindEnergy



Shell Wind Energy



Salt River Project



TRI-STATE
Generation and Transmission
Association, Inc.

A Touchstone Energy Cooperative

Tri-State G&T



A UniSource Energy Company

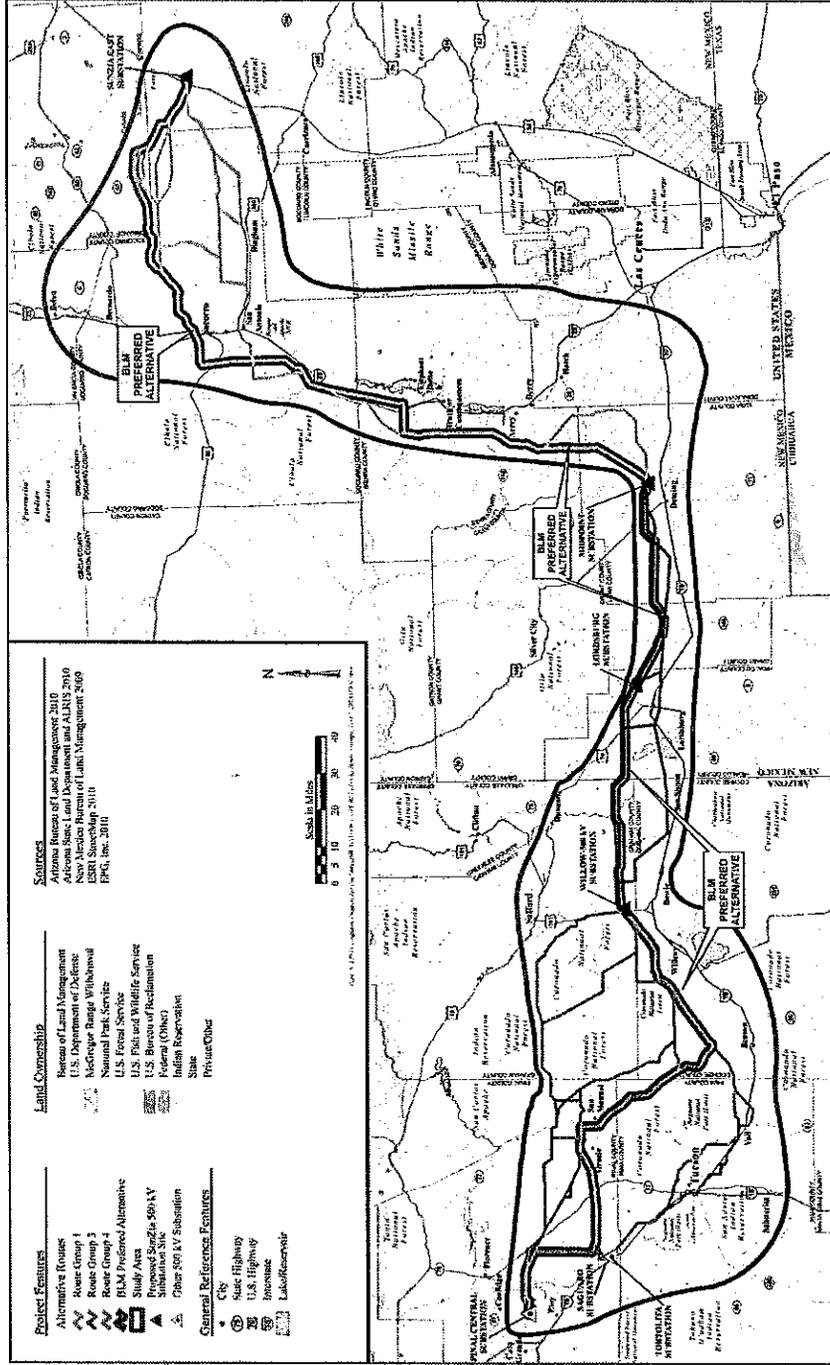
Tucson Electric Power

Project Summary

- ✦ 515-mile transmission project in New Mexico and Arizona
- ✦ A private investment that does not rely on any federal or state government subsidies
- ✦ Brings high-quality renewable energy to NM, AZ and CA markets
- ✦ WECC granted Phase 3 status in Mar 2011, which affirmed a rating of 3,000 MW for two 500 kV AC lines
- ✦ Obtained Declaratory Order from FERC in May 2011
- ✦ One of 7 pilot projects supported by the Federal Rapid Response Team for Transmission (RRTT), announced Oct 2011
- ✦ Letter of Intent with First Wind for up to 1,500 MW of transmission capacity
- ✦ Total capital cost estimated at \$2 billion
- ✦ Commercial operation expected in 2018

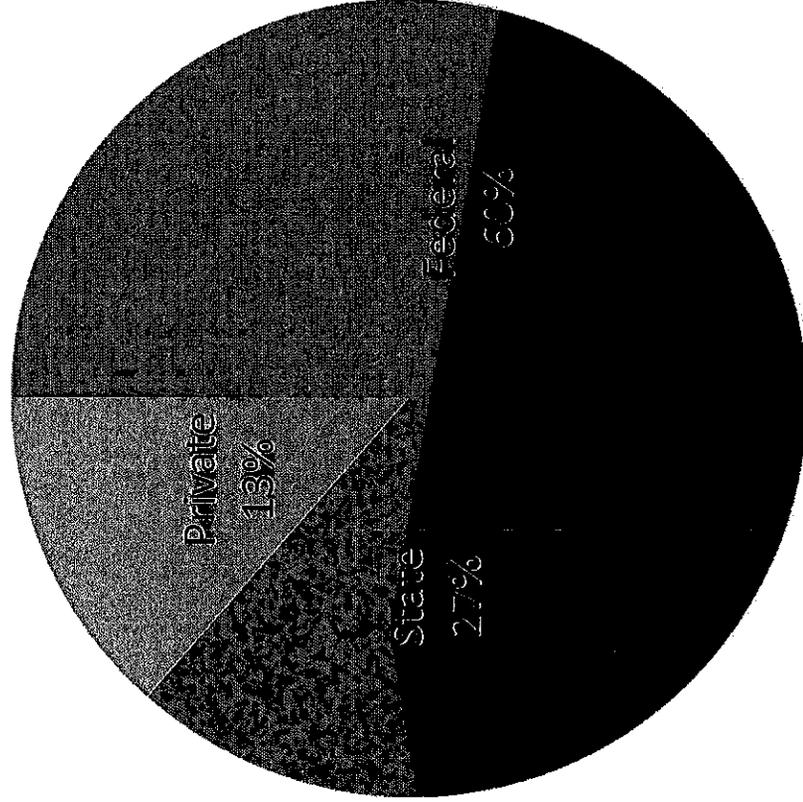
BLM Preferred Alternative

(June 2013)



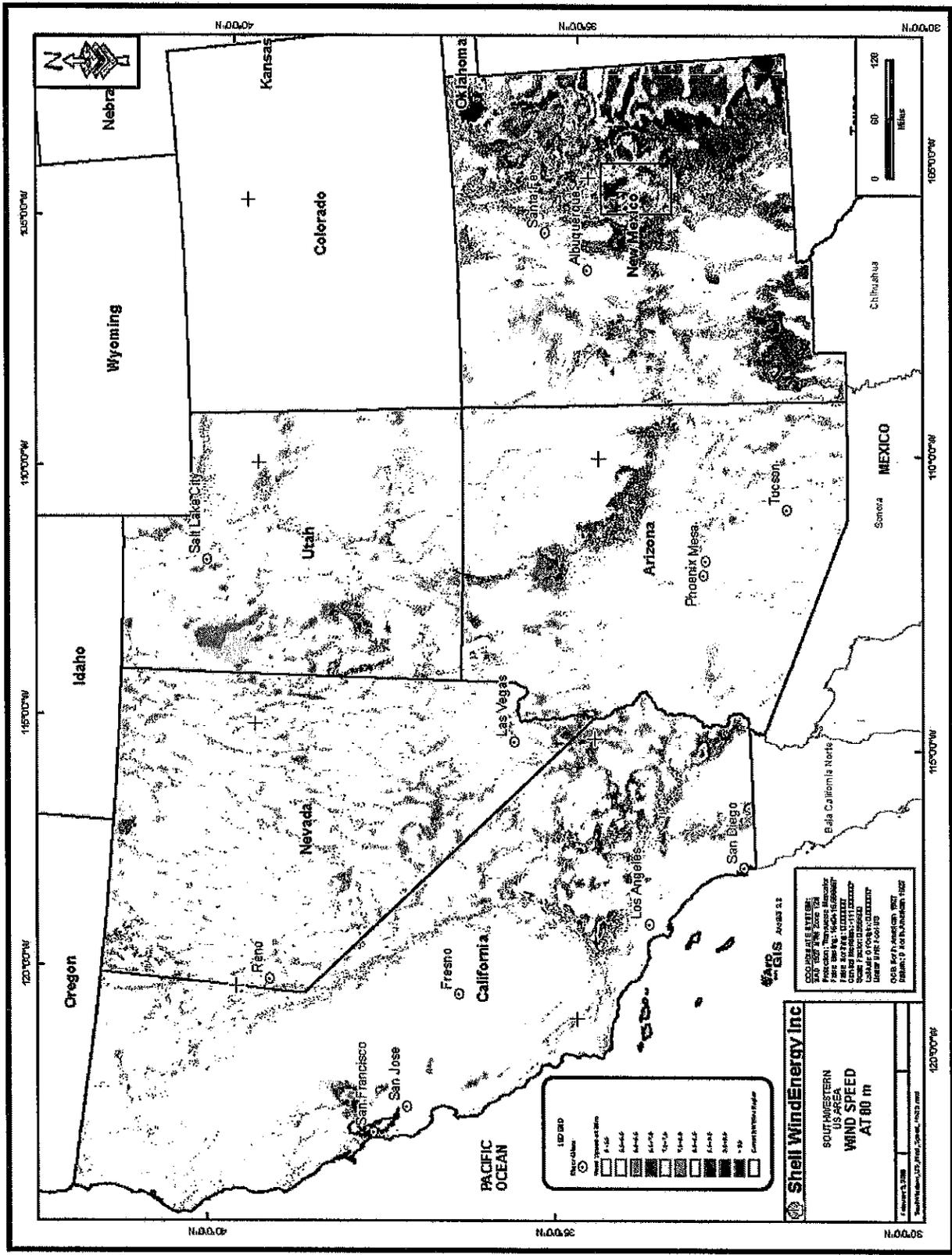
Land Use in New Mexico

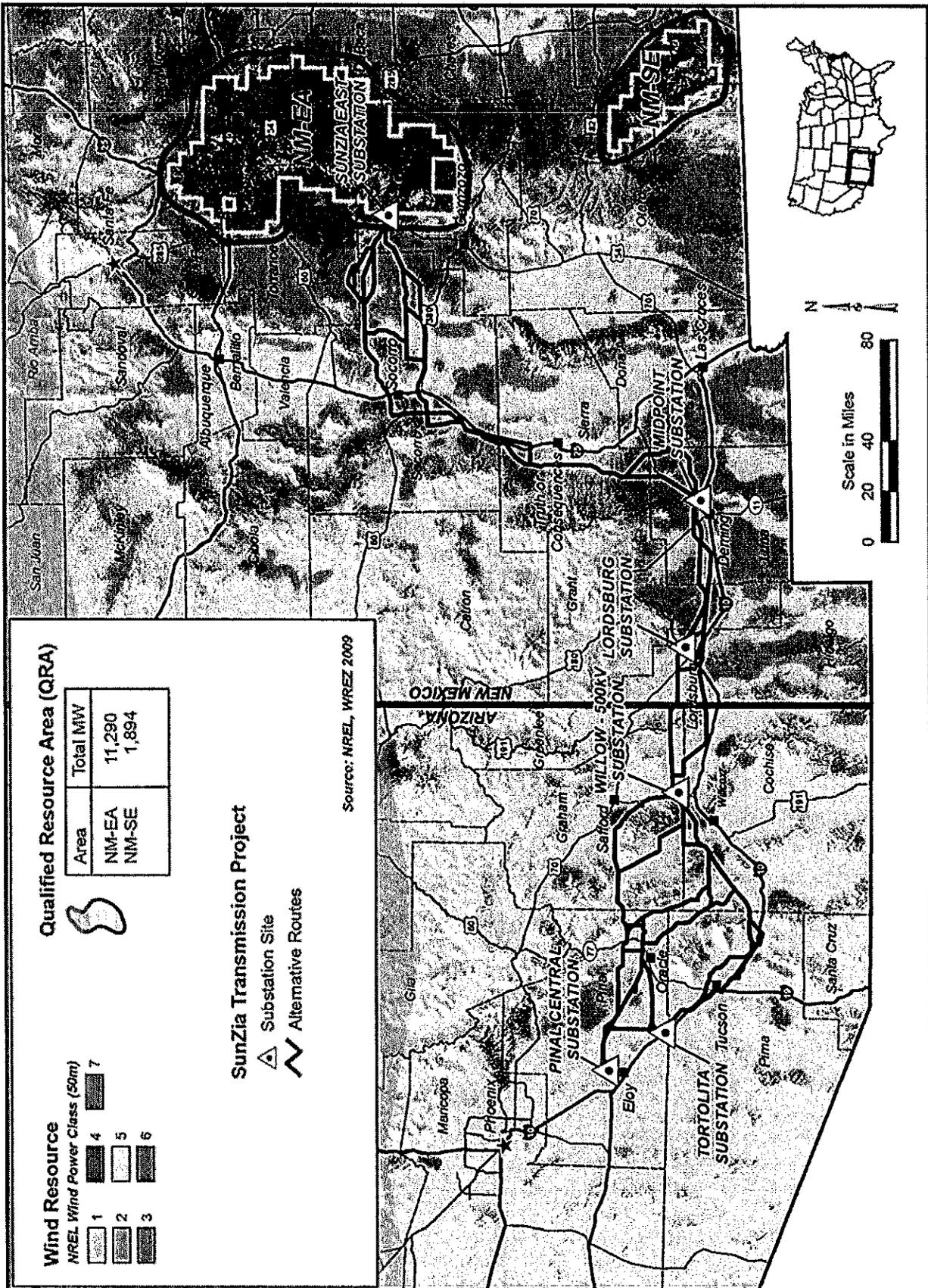
Land Ownership (NM Only)



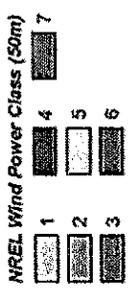
✓ Total Project Length is
515 Miles (AZ & NM)

✓ 317 Miles in NM
~ Federal 135 miles
~ State 89 miles
~ Private 93 miles





Wind Resource



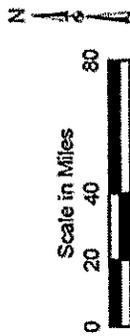
Qualified Resource Area (QRA)

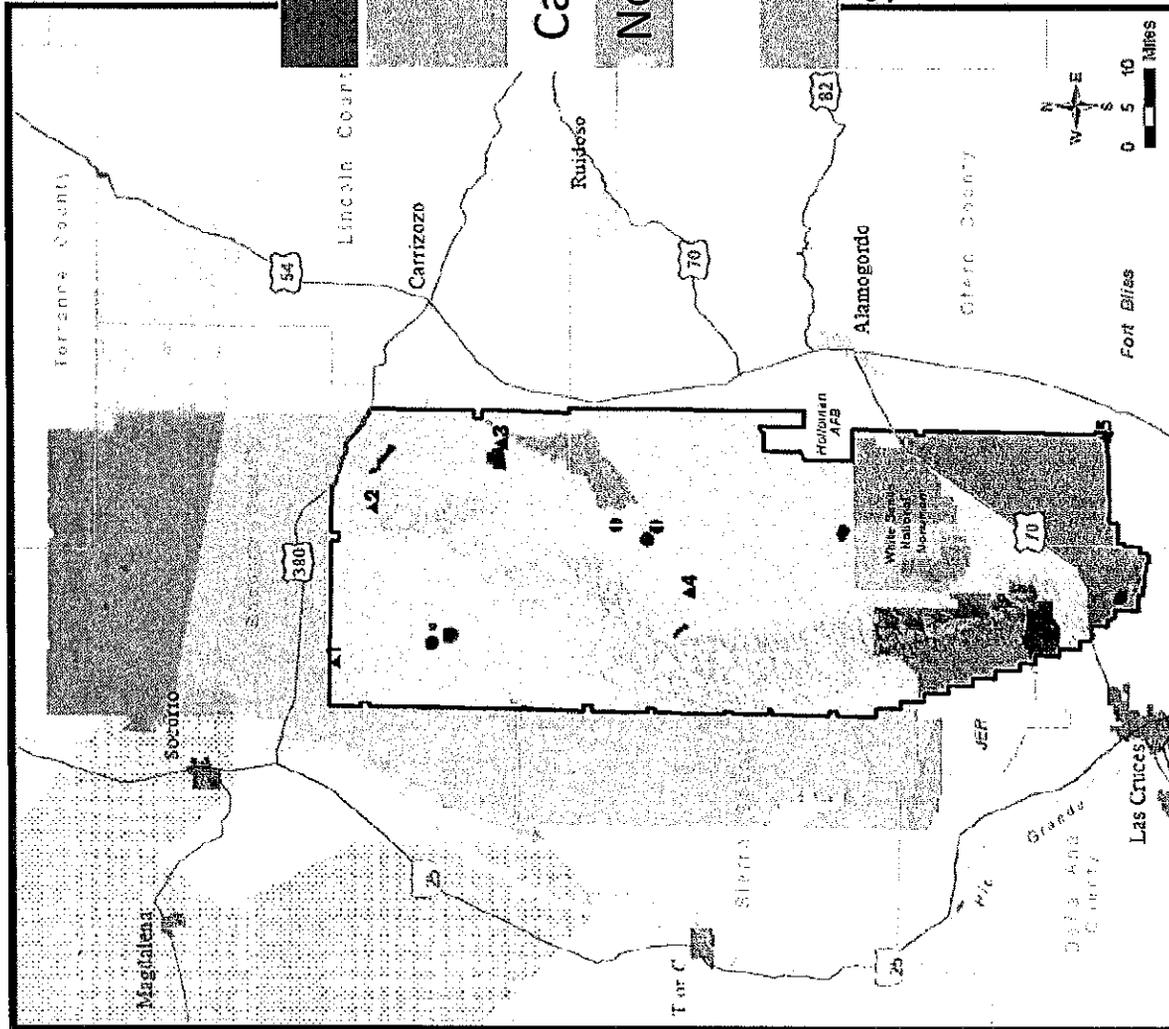
Area	Total MW
NM-EA	11,290
NM-SE	1,894

SunZia Transmission Project

- Substation Site
- Alternative Routes

Source: NREL, WREZ 2009





Jurisdiction	Acres
White Sands Missile Range	2.2 Million
Call Up Evacuation Areas	3.3 Million
Northern Extension Area	1.5 Million
Fort Bliss	1.1 Million
Holloman AFB	59,700

Source: WSMR EIS (ROD issued March 2010)

Legend

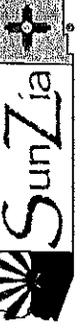
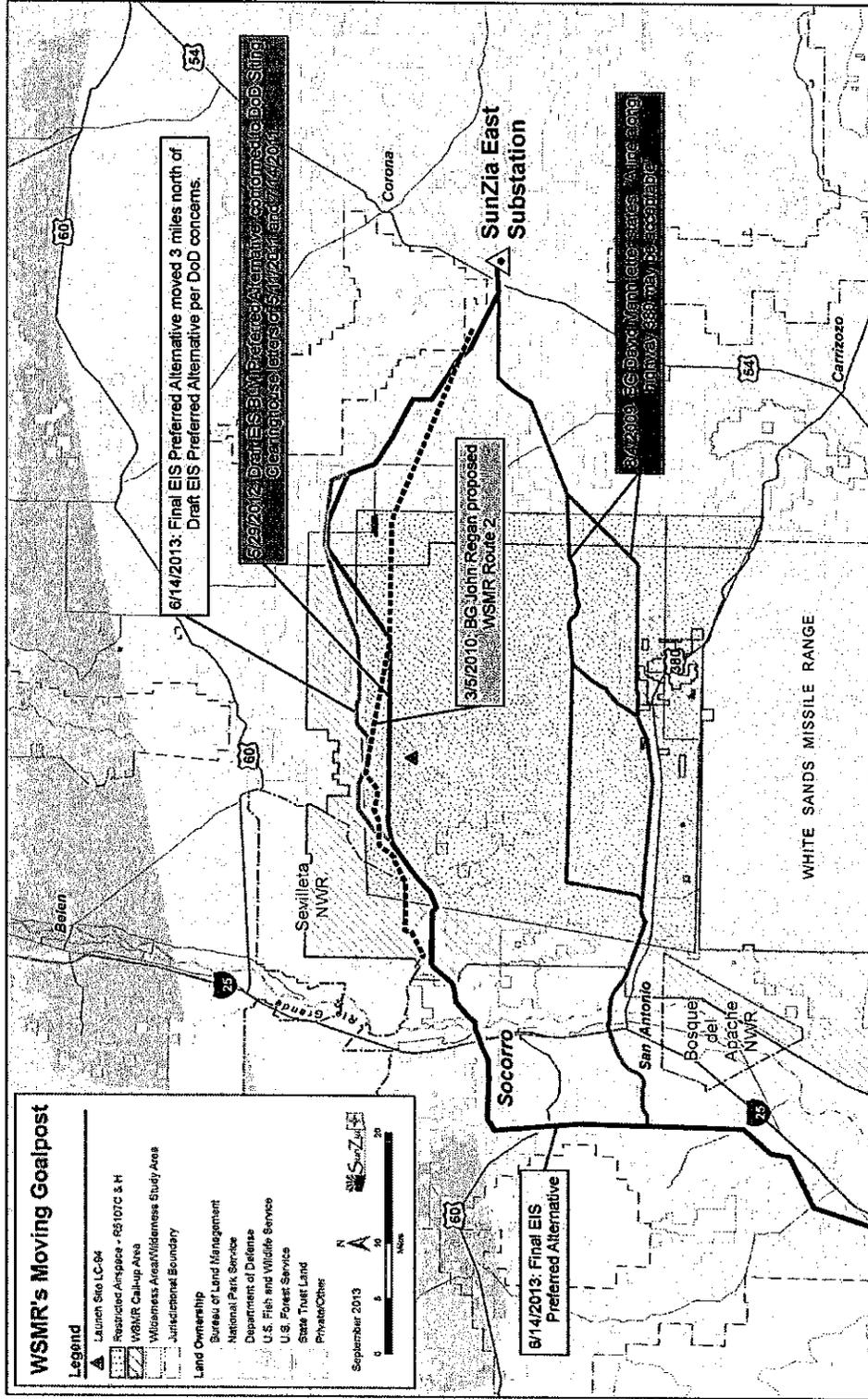
- WSMR
- Range Center
- 1. Stallion
- 2. North Oscura
- 3. Oscura
- 4. Rhedias
- 5. Organido Base Camp (Ft. Bliss)

Land Use Category and Description

- A-Primary Test Zone
- B-Range Camps & Built Up Areas
- C-Augmented Test Zone
- D-Impact Areas/No Entry
- E-Lava Flows
- F-Jernicia Experimental Range
- G-White Sands National Monument Co-Use Area
- H-Conservation/Protected Area
- I-Dedicated Use Area
- J-Special Call-Up Area
- K-General Call-Up Area
- L-Ground Only Call-Up Area
- M-Restricted Area Airspace Only (Overlying DoD Land Outside WSMR)
- N-Restricted Area Airspace Only (Overlying non-DoD Land)
- O-High Altitude Restricted Area Airspace
- P-Unrestricted Airspace (With Approval)



Routing Changes to Accommodate WSMR Concerns since 2009



A Path Forward

- ✦ 5/27/2014 letter from Secretary Hagel to Secretary Jewell approves the BLM's PAR if SunZia accommodates the following mitigation commitments:
 1. Hold Harmless mutual covenants;
 2. Close coordination and non-interference with WSMR testing activities;
 3. Micro-siting of tower locations; and
 4. Undergrounding up to three segments accumulating to a total of five miles
- ✦ Agreement to these terms will allow DoD to rescind its prior objection to the BLM's PAR
- ✦ BLM is conducting an EA to assess the environmental impacts of 500 kV underground line construction along the BLM PAR
- ✦ Undergrounding SunZia is specific mitigation to national security impacts raised by DoD after the Final EIS was issued
- ✦ This is a unique circumstance and this mitigation is not a standard form of construction for long distance EHV transmission projects



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

MAY 27 2014

The Honorable Sally Jewell
Secretary of the Interior
Washington, DC 20240

Dear Madam Secretary:

As you know, the Department of Defense (DoD) identified, and the Massachusetts Institute of Technology Lincoln Laboratory confirmed, that the proposed SunZia Southwest Transmission Project as originally proposed would adversely impact test missions at the White Sands Missile Range (WSMR). DoD formally objected to the Preferred Alternative Route described in the Final Environmental Impact Statement unless four specific mitigations were incorporated into the Record of Decision.

The applicant has for some time indicated acceptance of three of these mitigations (incorporation of appropriate hold harmless agreements, non-interference with WSMR operations during power line construction and maintenance, and micro-siting of the power line to avoid interference with test operations), and I understand that they are now prepared to consider a version of the fourth mitigation (burial of a portion of the line).

To mitigate mission impacts, in consultation with the Deputy Secretary of Defense, the Department of the Army, and the Chairman of the Joint Chiefs of Staff, I have determined that a total of five miles of the power line needs to be buried, in up to three separate segments, so that some low-altitude flight operations can occur. I will have my staff provide you with a mitigation proposal identifying the location of those segments by June 2, 2014.

I am hopeful that this mitigation proposal, which addresses our previous national security concerns, will be acceptable both to the Department of the Interior and to the applicant. If so, DoD formally rescinds its objection to the Preferred Alternative Route as described in the Final Environmental Impact Statement, with the expectation that the Bureau of Land Management will move promptly towards issuing a Record of Decision once it completes any other necessary steps.

Thank you.



Project Conception to Operation

12 Years +

MILESTONE	DATE	DURATION
* Concept emerges in regional planning	Starting 2006	Pre-Permitting
* Sponsors sign MOA	April 2008	2 years
* Submit BLM SF-299 ROW Application	Sept 2008	
* Initiate Scoping	May 2009	
* Draft EIS	May 2012	Federal Permitting
* Final EIS	June 2013	5.5 years (estimate)
* Environmental Assessment	Q4 2014	
* Record of Decision	Q1 2015	
* State permits	Q4 2015	State Permitting
* Financial Close	2015-2016	1 year (estimate)
* Final Design, ROW Acquisition, Procurement, Construction	2015-2016	
* COD	2018	

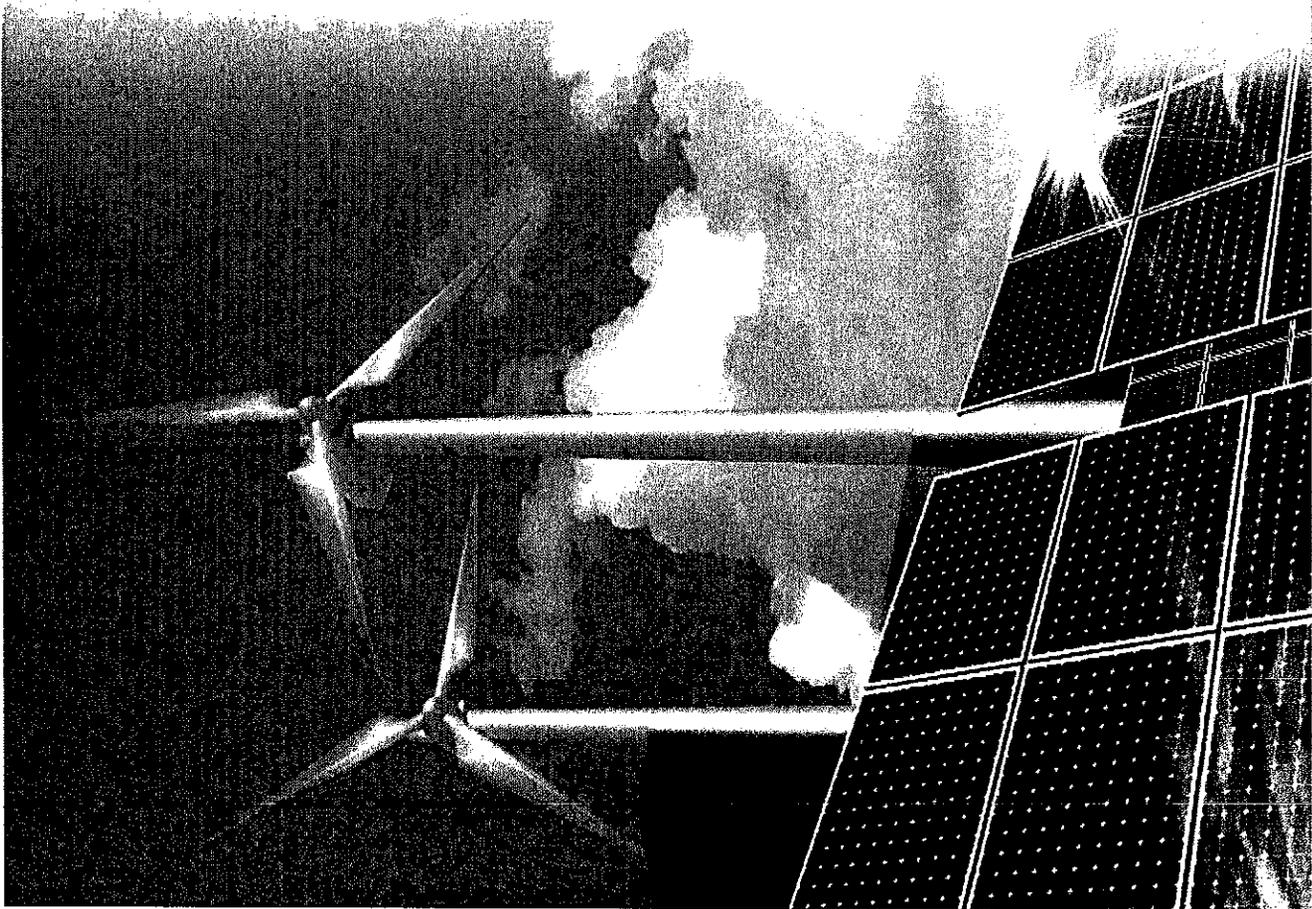


New Mexico State Land ROW Application

- ✦ The BLM's Preferred Alternative in New Mexico crosses about 89 miles of New Mexico state trust land.
- ✦ SunZia intends to apply for ROW from the State Land Office later this year.

Customer Arrangements

- ✦ Obtained Declaratory Order from FERC in May 2011
(Docket No. EL11-24-000)
- ✦ FERC Order allows the merchant owners to commit 50% of capacity to anchor tenant and 50% must be sold in an open season
- ✦ Commenced anchor tenant process in November 2011
 - ~ Negotiations with anchor tenants is ongoing
- ✦ Letter of Intent with First Wind for up to 1,500 MW of transmission capacity was signed during August 2013
- ✦ SunZia negotiations with potential customers is on-going



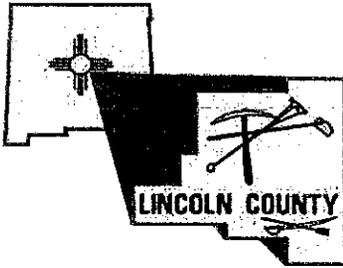
www.sunzia.net



Agenda Item No. 11

SUBJECT

9:30 A.M. Public Comment and Other Business from County Officials
(Items are for discussion only – no action will be taken)



County of Lincoln

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AGENDA ITEM 12

September 9, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: Sole Community Provider/ Safety Net Care Pool & Indigent Health Care Claims

Purpose: To obtain the approval from the IHC Board of Sole Community Provider Payments, and the Indigent Health Care (IHC) Payments.

Discussion:

Sole Community Provider/SNCP Payments: This month our coordinator processed seventeen (17) claims. Fifteen (15) claims are recommended for approval and two (2) are recommended for disapproval. If approved, the total recommended payment this month is **\$9876.63**. See Enclosure 1.

Indigent Health Care Claims: This month our coordinator processed twelve (12) claims. Ten (10) are recommended for approval, and two (2) for disapproval for the reason indicated at Enclosure 2. If approved, total recommended for payment this month is **\$1,763.93**. At Enclosure 2 is a summary of total applications approved and denied. At Enclosure 3 is the summary of the Indigent Fund Meeting for August and the Year-To-Date that each lists the applications by provider.

Manager's Analysis – For the last two years, the average Indigent Health Care monthly payments were **\$24,262** and **\$16,919** respectively. The FY 13-14 year-end total was **\$203,029.23**. Our budget for FY14 – 15 is \$393,278. To date, the total expenditure is \$21,148.02 or an average of \$7,049.34 monthly.

Similarly, for the last two fiscal years, the total Commission-approved Sole Community Provider Claims were **\$1,371,890** and **\$1,034,535** respectively. The FY 13 - 14 monthly average was **\$86,211**. To date, the total authorization is \$73,219.37 or an average of \$24,406.46 a month.

Recommendation: Approve and disapprove the claims as indicated for the Sole Community Provider/SNCP report at Enclosure 1 and approve and disapprove the Indigent Health Care Program report as indicated at Enclosure 2.

Approved: _____
Jackie Powell

SCP / SAFETY NET CARE POOL CLAIMS FISCAL YEAR 2014 - 2015

PREVIOUS AMOUNT APPROVED THIS FISCAL YEAR \$63,342.74

ADJUSTMENTS

TOTAL ADJUSTMENTS: \$0.00 \$0.00

SEPTEMBER # CLAIMS FOR APPROVAL 15
CLAIMS FOR DENIAL 2
SEPTEMBER # TOTAL CLAIMS 17

SEPTEMBER TOTAL \$ AMOUNT APPROVED \$9,876.63

TOTAL # CLAIMS THIS FY APPROVED 71
TOTAL # CLAIMS THIS FY DENIED 3
TOTAL # CLAIMS FY 2014 - 2015 74

TOTAL APPROVED THIS FISCAL YEAR \$73,219.37

ENCL 1

FACILITY: LINCOLN COUNTY MEDICAL CENTER .09/16/2014 THROUGH 09/16/2014

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID	
20703	07/07/2014	363.00	279.51	077%
20704	11/15/2013	675.00	519.75	077%
20726	08/28/2014	72.00	55.44	077%
20708	07/31/2014	1777.20	1368.44	077%
20728	09/18/2014	3656.00		000%
DATE OF SERVICE NOT ELIGIBLE FOR PAYMENT				
20710	06/23/2014	50.00	38.50	077%
20711	06/23/2014	12133.00	2662.11	022%
20713	03/25/2014	50.00	38.50	077%
20714	05/28/2014	132.23	101.82	077%
20715	05/29/2014	263.00	202.51	077%
20729	08/14/2014	412.00	317.24	077%
20732	01/14/2014	1444.08	1111.94	077%
20717	02/04/2014	2283.00	1757.91	077%
20722	04/28/2014	48.20		000%
PATIENT'S BILL IS BELOW \$50				
20723	03/28/2014	840.00	646.80	077%
20724	04/25/2014	840.00	646.80	077%
20725	05/01/2014	168.00	129.36	077%
			9876.63	

APPROVED- 15 REJECTED- 2

INDIGENT HEALTH CARE CLAIMS FISCAL YEAR 2014 - 2015

PREVIOUS AMOUNT APPROVED THIS FISCAL YEAR \$19,384.09

ADJUSTMENTS

TOTAL ADJUSTMENTS:

SEPTEMBER # CLAIMS FOR APPROVAL	10
# CLAIMS FOR DENIAL	2
SEPTEMBER # TOTAL CLAIMS	12

SEPTEMBER TOTAL \$ AMOUNT APPROVED \$1,763.93

TOTAL # CLAIMS THIS FY APPROVED	21
TOTAL # CLAIMS THIS FY DENIED	5
TOTAL # CLAIMS FY 2014 - 2015	26

CURRENT TOTAL APPROVED THIS FISCAL YEAR \$21,148.02

*Assuming the above is approved

FACILITY: GERALD CHAMPION REGIONAL MED CTR 09/16/2014 THROUGH 09/16/2014

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
20718	04/29/2014	133.45	102.76 077%
			102.76

APPROVED- 1 REJECTED-

FACILITY: LINCO MEDICAL & SUPPLY, INC 09/16/2014 THROUGH 09/16/2014

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
20716	06/30/2014	62.38	62.38 100%
20720	06/26/2014	71.30	71.30 100%
			133.68

APPROVED- 2 REJECTED-

FACILITY: LINCOLN COUNTY FAMILY MEDICAL 09/16/2014 THROUGH 09/16/2014

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
20719	06/05/2014	20.79	000%

PATIENT'S BILL IS BELOW \$50

APPROVED- REJECTED- 1

FACILITY: LINCOLN COUNTY RADIOLOGY 09/16/2014 THROUGH 09/16/2014

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
20705	07/03/2014	132.00	31.25 024%
20712	06/22/2014	319.00	76.68 024%
			107.93

APPROVED- 2 REJECTED-

FACILITY: MICHAEL P CLEMENTS, M.D. 09/16/2014 THROUGH 09/16/2014

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
20721	07/24/2014	62.37	48.02 077%
			48.02

APPROVED- 1 REJECTED-

FACILITY: NEW MEXICO ONCOLOGY HEMATOLOY 09/16/2014 THROUGH 09/16/2014

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
20707	07/23/2014	146.19	86.02 059%
20709	08/06/2014	27.90	000%

PATIENT'S BILL IS BELOW \$50

86.02

APPROVED- 1 REJECTED- 1

FACILITY: UNM HEALTH SCIENCES CTR 09/16/2014 THROUGH 09/16/2014

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
20730	03/23/2014	942.15	725.46 077%
20731	03/27/2014	78.00	60.06 077%

785.52

APPROVED- 2 REJECTED-

FACILITY: LC AMBULANCE-PRES HEALTH SVCS 09/16/2014 THROUGH 09/16/2014

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
20727	10/16/2013	895.40	500.00 056%

500.00

APPROVED- 1 REJECTED-

YTD

INDIGENT FUND MEETING

SEPTEMBER 16, 2014

TOTAL APPLICATIONS	114	94,367.39
TOTAL APPROVED	102	
TOTAL DENIED	12	
ALBUQUERQUE		
ANESTHESIA ASSOCIATES OF NM		314.40
APPROVED-	1	
DENIED-		
ROSWELL		
EASTERN NM MEXICO MEDICAL CNTR		3,239.13
APPROVED-	2	
DENIED-		
ALAMOGORDO		
GERALD CHAMPION REGIONAL MED CTR		5,979.02
APPROVED-	4	
DENIED-		
RUIDOSO		
LC AMBULANCE-PRES HEALTH SVCS		1,200.00
APPROVED-	3	
DENIED-	2	
RUIDOSO		
LINCO MEDICAL & SUPPLY, INC		716.57
APPROVED-	8	
DENIED-		
RUIDOSO		
LINCOLN COUNTY FAMILY MEDICAL		
APPROVED-		
DENIED-	2	
RUIDOSO		
LINCOLN COUNTY MEDICAL CENTER		73,219.37
APPROVED-	71	
DENIED-	3	
ALTO		
LINCOLN COUNTY RADIOLOGY		478.68
APPROVED-	6	
DENIED-		
RUIDOSO		
MICHAEL P CLEMENTS, M.D.		48.02
APPROVED-	1	
DENIED-	4	
ALBUQUERQUE		
NEW MEXICO ONCOLOGY HEMATOLOY		2,451.15
APPROVED-	2	
DENIED-	1	

INDIGENT FUND MEETING

SEPTEMBER 16, 2014

TOTAL APPLICATIONS	29	11,640.56
TOTAL APPROVED	25	
TOTAL DENIED	4	

ALAMOGORDO		
GERALD CHAMPION REGIONAL MED CTR		102.76
APPROVED-	1	
DENIED-		

RUIDOSO		
LC AMBULANCE-PRES HEALTH SVCS		500.00
APPROVED-	1	
DENIED-		

RUIDOSO		
LINCO MEDICAL & SUPPLY, INC		133.68
APPROVED-	2	
DENIED-		

RUIDOSO		
LINCOLN COUNTY FAMILY MEDICAL		
APPROVED-		
DENIED-	1	

RUIDOSO		
LINCOLN COUNTY MEDICAL CENTER		9,876.63
APPROVED-	15	
DENIED-	2	

ALTO		
LINCOLN COUNTY RADIOLOGY		107.93
APPROVED-	2	
DENIED-		

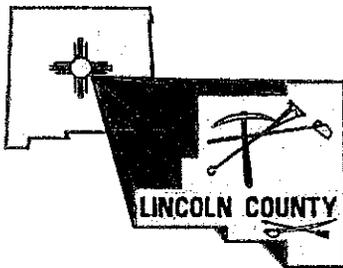
RUIDOSO		
MICHAEL P CLEMENTS, M.D.		48.02
APPROVED-	1	
DENIED-		

ALBUQUERQUE		
NEW MEXICO ONCOLOGY HEMATOLOY		86.02
APPROVED-	1	
DENIED-	1	

ALBUQUERQUE		
UNM HEALTH SCIENCES CTR		785.52
APPROVED-	2	
DENIED-		

ALBUQUERQUE PRESBYTERIAN HOSPITAL		5,935.53
APPROVED-	2	
DENIED-		

ALBUQUERQUE UNM HEALTH SCIENCES CTR		785.52
APPROVED-	2	
DENIED-		



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County of Lincoln

P.O Box 711 • 300 Central Ave. • Carrizozo, New Mexico 88301-0711 • (575) 648-2385

Agenda Item No. 13

September 12, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *nt*

SUBJECT: Land Development Ordinance

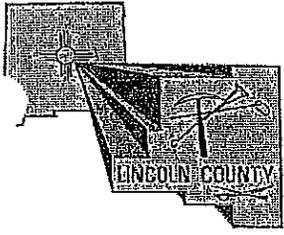
Purpose: To Consider Planning Commission Recommendations for a Land Development Ordinance.

Discussion:

At its July 15, 2014 Commission meeting, members of the Lincoln County Planning Commission ("LCPC") provided an interim report to the Commission to provide the status of their work. The LCPC determined that an ordinance governing the development of vacant tracts of land and lots (approximately 10,000) within the County is necessary to protect the health, safety and welfare of the residents of the County. Without such oversight, the LCPC feels that serious damage will occur to the water and environment of the County. It proposed a list of 9 items to be addressed by the Ordinance. See Enclosure 1.

The Commission directed the matter to be brought back to them at its September, 2014 meeting, for further discussion and consideration.

Recommendation: After discussion and consideration, provide direction to the Lincoln County Planning Commission.



COUNTY OF LINCOLN

Planning Department

115 Kansas City Road, Ruidoso, New Mexico 88345 (575) 258-5934

To: Board of County Commissioners

Re: Land Development Ordinance

As per the directions from the Board of County Commissioners, The Lincoln County Planning Commission (LCPC) has been meeting to study the writing and implementation of a Land Development Ordinance. The following is an interim report to you to inform you of the status of our work.

The LCPC determined that an ordinance governing the development of vacant tracts of land and lots within the County is necessary in order to protect the health, safety and welfare of the residents of the County. There are approximately 10,000 existing lots/tracts that can be developed. Without oversight serious damage will occur to the water and environment of the County. The LCPC feels that an ordinance should cover the following items:

1. A permit shall be required for the development of any tract/lot that will disturb more than 1,000 square feet of soil and/or requires a building permit. The permit shall require the submittal of a site plan with supporting documents showing the water source, storm water control, erosion control, access, wildfire mitigation and compliance with County road standards.
2. Land not subject to the Subdivision Ordinance under the Exemption clause will be subject to this ordinance.
3. Building permits for structures shall conform to the requirements of the State of New Mexico or the Village of Ruidoso, whichever is applicable, and be submitted as part of the permit under this ordinance.
4. Water use from individual wells shall not exceed 0.25 acre feet per annum for use within structures on the tract/lot. All other water requirements shall be met with the use of gray water and water harvesting. Metering shall be required on all new wells.
5. A plan for erosion control/re-vegetation of disturbed soil shall be a part of the permit submittal.
6. A plan for the control of storm water runoff and erosion shall be a part of the permit submittal. All silt, debris and trash shall be retained on site. Storm water runoff exiting the tract/lot shall not increase in quantity or rate of flow due to development, nor shall the storm water quality be less than that of the undeveloped state.
7. Vegetation on the tract/lot shall conform to the current National Firewise guidelines.
8. All tracts/lots shall have access to a public roadway. Access to a public roadway via an easement shall require the construction of a road in the easement conforming to the requirements of the Subdivision Ordinance.
9. The ordinance shall contain provisions for enforcement, including penalties.

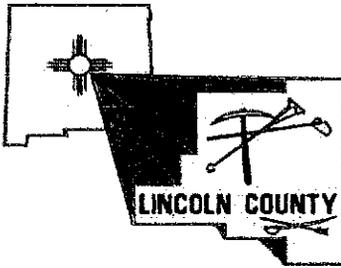
The permitting and enforcement will require additional staff and expense for the County. These costs can be mitigated with a permit fee.

The LCPC feels very strongly that if permitting and enforcement are not strict requirements, then the ordinance will be of little value.

The LCPC would be happy to meet with you at any time to discuss how we determined our view point. Thank you for considering this matter.

Respectfully submitted by the Lincoln County Planning Commission.

Encl 2



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County of Lincoln

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AGENDA Item No. 14

September 13, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: Professional Services Agreement with South Central Mountain RC&D

PURPOSE: Commission Consideration and Approval of Professional Services Agreement with South Central Mountain RC&D to Manage Two Forest Health Projects

Discussion: The County is finalizing agreements with New Mexico Energy, Minerals, Natural Resources Department – Forestry Division for two forest health project: 1) Project Workplan 15-05-1216: Cedar Creek 2 Non-Federal Land Hazardous Fuel Reduction, and 2) Project Workplan 15-15-1225: 2014 Wildland Urban Interface (“WUI”) – Lincoln County.

The County of Lincoln has recognized that South Central Mountain RC&D Council, Inc. (“SCMRCD”) has in the past provided unique and necessary services for the citizens residing within the County by coordinating and implementing natural resources related projects and project accounting, meeting all New Mexico Energy, Mineral, Natural Resources Department – Forestry Division, grant requirements.

Our confidence in SCMRCD is based on our first-hand knowledge that it:

1. Is a local non-profit organization with a long history of successful implementation of natural resources projects in Lincoln County;
2. Has successfully administered millions of dollars in grant funds;
3. Has managed multiple hazardous fuel reduction projects resulting reduced wildfire risk and improvement of forest health, and
4. Has in place the skills, processes and local contacts to manage these forest health projects.

Recommendation: Approve the Professional Services Agreement between the County and SCMRCD for the Cedar Creek 2 Non-Federal Land Hazardous Fuel Reduction and the 2014 Wildland Urban Interface Project for Lincoln County.

**PROFESSIONAL SERVICES CONTRACT BETWEEN
THE COUNTY OF LINCOLN AND
SOUTH CENTRAL MOUNTAIN RC&D COUNCIL, INC.**

THIS PROFESSIONAL SERVICES CONTRACT is entered into by and between the County of Lincoln, New Mexico, hereinafter sometimes referred to as the "COUNTY," and the South Central Mountain RC&D Council, Inc., a 501 c 3.

WITNESSETH:

WHEREAS, the Board of County Commissioners of the COUNTY has determined that SOUTH CENTRAL MOUNTAIN RC&D COUNCIL, INC., provides unique and necessary services for the citizens residing within the COUNTY by coordinating and implementing natural resources related projects and project accounting, meeting all New Mexico Energy, Minerals, Natural Resources Department – Forestry Division, referred to as "ENMRD", grant requirements as stated in Project Workplan 15-05-1216 (Cedar Creek 2 Non-Federal-Land Hazardous Fuel Reduction) and Project Workplan 15-05-1225 (2014 Wildland Urban Interface – Lincoln County), under the ongoing JPA 10-521-2301-0235 between COUNTY and ENMRD.

WHEREAS, SOUTH CENTRAL MOUNTAIN RC&D COUNCIL, INC., has agreed to provide all necessary services including, but not limited to: property owner project orientation; tree marking and inspections; property owner and contractor liaison; property owner and/or contractor reimbursement payments; all communications, record keeping and reporting requirements; and preparation and delivery of Certificates for Payment, approved by the COUNTY, for ENMRD reimbursement; and

NOW, THEREFORE, IN CONSIDERATION of the mutual promises contained herein, the parties agree as follows:

1. **Purpose.** The purpose of this Agreement is to enter into a Professional Services Contract with the SOUTH CENTRAL MOUNTAIN RC&D COUNCIL, INC., for complete management and implementation of Project Workplan 15-05-1216, known as the Cedar Creek 2 NFL, under on-going JPA 10-521-2301-0235 and Project Workplan 15-05-1225, known as the 2014 WUI-Lincoln County, also under on-going JPA 10-521-2301-0235.

2. **Consideration.** In consideration for the services to be provided hereunder, COUNTY agrees to provide "invoiced this billing" amount and 80% of 10% of "10% administrative fees", as stated on each Certificate of Payment submitted to ENMRD to the South Central Mountain RC&D Council, INC. as fair compensation.

3. **Stipulations.** SOUTH CENTRAL MOUNTAIN RC&D COUNCIL, INC. agrees that it will be responsible for all facets of these services, including any additional auditing expenses, and shall be responsible for providing a monthly report of services to the COUNTY.

4. **Release.** SOUTH CENTRAL MOUNTAIN RC&D COUNCIL, INC. hereby releases, waives and discharges the County of Lincoln from all liability, for any and all losses of damages, and any claims of damages resulting therefrom, on account of personal injury or property damages resulting while providing services and expressly agrees that this release, waiver, and indemnity agreement is intended to be as broad and inclusive as permitted by the laws of the State of New Mexico, and that if any portion thereof is held invalid, it is agreed that the balance shall, notwithstanding, continue in full legal force and effect.

5. **Term.** The term of this Professional Services Contract shall be in effect until the completion of these Project Workplans, or June 30, 2016, whichever is earliest.

6. **Modification of Agreement.** Any changes to this Contract for Services shall be in writing and agreed to and signed by both parties.

DONE this 16th day of September, 2014.

COUNTY OF LINCOLN

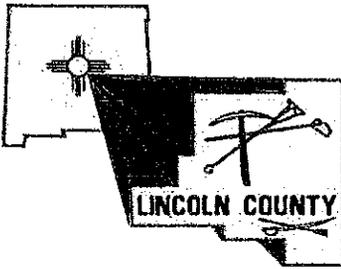
**SOUTH CENTRAL MOUNTAIN
RC&D COUNCIL, INC.**

By: _____
Nita Taylor
County Manager

By: _____
Jerry Burchett, Chair
Board of Directors

Attest:

Lincoln County Clerk



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County of Lincoln

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AGENDA Item No. 16

September 13, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: Water Issues/Forest Health/Wildlife Programs

PURPOSE: To provide information on water issues and forest health

- 1. Water Rights Notice.** On June 16, 2014, the State of New Mexico, General Services Department (Facilities Management Division), filed Application No. H-2028 with the State Engineer for permit to use an existing well (H-2028) to supplement the diversion of 112.21 acre-feet per annum of Surface Water in the Hondo Basin and change the purpose of use. The application proposes to change purpose of use from irrigation to domestic purposes at the Fort Stanton Hospital and Training Center. The applicant has requested Emergency authorization under Section 72-12-24 NMSA, 1978. See Enclosure 1.
- 2. Water Rights Transfer Protests.** Commissioner Jackie Powell and Planning Director, Curt Temple, attended a meeting with the State Engineer, representatives from the Village of Ruidoso, and other participants to discuss the pending litigation of water transfers from the Hondo Valley to the Village of Ruidoso. Of key interest was the discussion of the potential for development of a Regional Water Plan. Commissioner Powell will provide an update of the meeting.
- 3. Risk Mapping, Assessment and Planning ("MAP") Program.** FEMA, in partnership with New Mexico Department of Homeland Security and Emergency Management ("NMHSEM") has selected the Rio Hondo Watershed for the initial step in the Risk MAP process called "Discovery". Mr. Michael Camponovo of Earth Data Analysis Center, UNM, as well as representatives from FEMA and NMDHSEM were in the County on Tuesday, September 9th to start working with the local team. Curt Temple will provide a summary of that meeting.
- 4. Update from South Central Mountain RC&D Forester, Rick Merrick.** Forester Rick Merrick may be in attendance to provide an update on South Central Mountain RC&D activities.

County: Lincoln County
Name: State of New Mexico- General Services Department (Facilities Management Division), c/o George D. Morgan
File #: H-2028

NOTICE is hereby given that on June 16, 2014, State of New Mexico- General Services Department (Facilities Management Division), c/o George D. Morgan, P.O. Box 6850, Santa Fe, New Mexico 87502; filed Application No. H-2028 with the STATE ENGINEER for permit to use an existing well H-2028 located at a point in the NE1/4SW1/4SW1/4SE1/4NE1/4 in Section 25, Township 9 South, Range 14 East, N.M.P.M. to supplement the diversion of 112.21 acre-feet per annum of Surface Water in the Hondo Basin and change the purpose of use.

The applicant proposes to supplement the following surface point of diversion:

WELL NO.	SUBDIVISION	SECTION	TOWNSHIP	RANGE
SD-1358	SE1/4	09	10 S.	13 E.

The application proposes to change purpose of use from irrigation to domestic purposes at the Fort Stanton Hospital and Training Center

SUBDIVISION	SECTION	TOWNSHIP	RANGE
Part of SW1/4	25	09 S.	14 E.

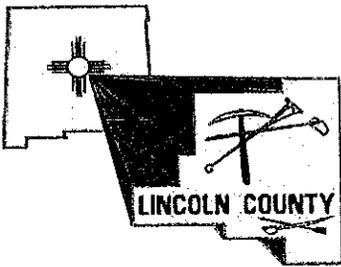
The applicant has requested Emergency authorization under Section 72-12-24 NMSA, 1978.

The above described points of diversion and places of use are located in Fort Stanton Hospital and Training Center, Lincoln County, New Mexico.

Any person, firm or corporation or other entity having standing to file objections or protests shall do so in writing (legible, signed, and include the writer's complete name and mailing address). The objection to the approval of the application must be based on: (1) Impairment; if impairment you must specifically identify your water rights; and/or (2) Public welfare/conservation of water; if public welfare or conservation of water within the state of New Mexico, you must show you will be substantially affected. The written protest must be filed, in triplicate, with Scott A. Verhines, P.E., State Engineer, 1900 West Second Street, Roswell, New Mexico 88201, within ten (10) days after the date of last publication of this Notice. Facsimiles (fax) will be accepted as a valid protest as long as the hard copy is sent within 24-hours of the facsimile. Mailing postmark will be used to validate the 24-hour period. Protest can be faxed to Office of the State Engineer, (575) 623-8559. If no valid protest or objection is filed, the State Engineer will evaluate the application in accordance with Sections 72-2-16, 72-5-6, and 72-12-3.

CC-2285

ENCL. 1



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Agenda Item No. 17

September 13, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: El Capitan Precious Metals, Inc.

Purpose: Discuss/Provide Direction Re: El Capitan Precious Metal's, Inc.'s Application for an Air Quality Permit for Construction of Iron Ore Crushing and Sizing Facility

Discussion: On July 18, 2014, certain residents of Lincoln County received correspondence from El Capitan Precious Metals, Inc., ("El Capitan Mine") notifying them of its intent to apply to the New Mexico Environment Department ("NMED") for an air quality permit for the construction of its iron ore crushing and sizing facility. See Enclosure 1. (**Copy of subsequent correspondence issued by NMEMNRD to El Capitan Mine verified the Department actually received the permit application on June 9, 2014). The correspondence described the plant as consisting of four individual plants: 1) primary crushing plant, 2) screening plant, 3) cone crushing plant, and 4) magnetic separator. The requested operating times would be daylight hours, seven days per week, 52 weeks per year. Included in the letter was notification that the NMED solicited comments about the construction or operation of this facility, to be made as part of the permit review process. (** County was not informed of this comment period.) Per this correspondence, once the Department has performed a preliminary review of the application and its air quality impacts, the Department's notice will be published in the legal section of a newspaper circulated near the facility location.

By way of history, the County adopted Ordinance 2009-01, "Providing a Regulatory Framework for the Balance Between Protection of the Unique Resources of Lincoln County with the Furtherance of Commercial Mining in the County; Providing for Penalties for Violation of This Ordinance; Providing for the Severability of Parts Hereof; Repealing Ordinances in Conflict Herewith; and Providing an Effective Date (July 23, 2009). See Enclosure 2.

Mr. Morel became aware of this mining activity and initiated correspondence to various individuals, including El Capitan Mine's attorney, Stuart Buztier and the State's Mining and Minerals Division Director, Fernando Martinez. See Enclosures 3 and 4. He recommended this be placed on the Commission Agenda as soon as possible, preferably the August meeting. See Enclosure 5; and as a result of his inquiries, received copies of correspondence from a number of State and Federal Agencies. See Enclosure 6.

Recommendation: Direct Manager and Attorney to determine status of Application and ability of County to submit comments; gain an understanding of position of all parties and potential timeline of events.

County Manager's Fax
(575) 648-4182

Finance/Purchasing Fax
(575) 648-2381

Rural Addressing Fax
(575) 648-2816

July 18, 2014

[REDACTED]
[REDACTED]

P. O. Box [REDACTED]
Capitan, NM 88316-1542

CERTIFIED MAIL 7012 3050 0001 1055 0068
RETURN RECEIPT REQUESTED

Dear **Neighbor/Environmental Director/county or municipal official**

According to New Mexico air quality regulations, El Capitan Precious Metals, Inc. must announce its intent to apply to the New Mexico Environment Department for an air quality permit for the construction of its iron ore crushing and sizing facility. The expected date of application submittal to the Air Quality Bureau is June 27, 2014.

The exact location for the proposed facility known as, El Capitan Iron Mine, will be at latitude 33°, 37', 13.3" N and longitude 105°, 33', 11.0" W. The approximate location of this facility from Capitan, NM is 5.3 miles north-northeast in Township 8S, Range 14E, Sections 10, 11 and 14 in Lincoln county.

The proposed construction permit will consists of a 400 TPH aggregate processing plant to crush and size iron ore raw material that will then be loaded into trucks and transported to other locations for further processing. The plant will consist of four (4) individual plants; primary crushing plant, screening plant, cone crushing plant, and magnetic separator. The primary crushing plant will be powered with a 274 horsepower (HP) engine, screening plant will be powered with a 168 HP engine, cone crushing plant will be powered with a 450 HP engine, and magnetic separator will be powered with a 125 HP engine.

The estimated maximum quantities of any regulated air contaminant will be:

(These emission estimates could change slightly during the course of the Department's review of the application.)

Pollutant:	Pounds per hour	Tons per year
Total Suspended Particulates (TSP)	64 pph	66 tpy
PM ₁₀	20 pph	22 tpy
PM _{2.5}	4.3 pph	6.8 tpy
Sulfur Dioxide (SO ₂)	0.36 pph	0.78 tpy
Nitrogen Oxides (NO _x)	32 pph	69 tpy
Carbon Monoxide (CO)	6.8 pph	15 tpy
Volatile Organic Compounds (VOC)	2.5 pph	5.5 tpy

Requested operating times with this permit will be daylight hours, seven days per week, and 52 weeks per year. Annual limits for the facility will be 4380 hours per year.

The owner and/or operator of the Plant is:

ENCL 1

8390 Via de Ventura, Suite F-110
Scottsdale, AZ 85258

If you have any comments about the construction or operation of the above facility, and you want your comments to be made as part of the permit review process, you must submit your comments in writing to the address below:

Permit Programs Manager
New Mexico Environment Department
Air Quality Bureau
525 Camino de los Marquez, Suite 1
Santa Fe, New Mexico 87505-1816
(505) 476-4300

Other comments and questions may be submitted verbally.

Please refer to the company name and facility name, as used in this notice or send a copy of this notice along with your comments, since the Department may not have received the permit application at the time of this notice. Please include a legible mailing address with your comments. Once the Department has performed a preliminary review of the application and its air quality impacts, the Department's notice will be published in the legal section of a newspaper circulated near the facility location.

Sincerely,

Paul Wade
Project Manager
Class One Technical Services, Inc.
for
El Capitan Precious Metals, Inc.

ORDINANCE NO. 2009-01

AN ORDINANCE PROVIDING A REGULATORY FRAMEWORK FOR THE BALANCE BETWEEN PROTECTION OF THE UNIQUE RESOURCES OF LINCOLN COUNTY WITH THE FURTHERANCE OF COMMERCIAL MINING IN THE COUNTY; PROVIDING FOR PENALTIES FOR VIOLATION OF THIS ORDINANCE; PROVIDING FOR THE SEVERABILITY OF PARTS HEREOF; REPEALING ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF LINCOLN, NEW MEXICO:

Section 1: Statement of Purpose.

The Commissioners of Lincoln County, New Mexico have found and declare:

1. The citizens of Lincoln County are its most important asset. Consequently, the protection of the health, safety and welfare of the citizens of Lincoln County is the highest and most important duty of the elected officials and public officers of Lincoln County.
2. Lincoln County has aesthetic, cultural, historical, and environmental assets that are unique to Lincoln County, and these assets are worthy of protection for the benefit of the health, safety, welfare, education and enjoyment of the citizens of Lincoln County.
3. Lincoln County has a history which includes periodic mining of the County's minerals which have been, and will be in the future, a valuable asset to the County and its citizens.
4. A regulatory framework, applicable uniformly to all of Lincoln County is necessary to balance the protection of the unique resources of the County and the furtherance of commercial mining in Lincoln County. This framework will ensure compatibility between commercial mining operations on private and public land and surrounding land uses, and will ensure that any adverse environmental impacts caused by commercial mining will be minimized to the greatest practical extent.
5. This Ordinance is not intended to conflict with, or be duplicative of, federal or state law or applicable regulation.
 - a. There are several areas impacted by commercial mining which are not adequately regulated by either state or federal laws or regulations which call for concurrent jurisdiction and regulation by Lincoln County.

b. Lincoln County, in enacting this Ordinance, does not seek to deprive any party of rights afforded under federal or state law.

c. Lincoln County, in enacting this Ordinance, does not seek to prohibit commercial mining within the County, but to reasonably regulate it to protect the health, safety and welfare of its citizens.

d. To the extent that any part of this Ordinance is found to be in conflict with, or duplicative of, any federal or state law or applicable regulation, then that portion of this Ordinance found to be in conflict with, or duplicative of, said law or regulation shall not be enforced, and said state or federal law or regulation shall control. The remaining portions of the Ordinance not found to be in conflict with, or duplicative of, state or federal law, shall continue to remain in full force and effect.

Section 2: Definitions.

The listed terms shall have the following meanings where used in this Ordinance:

A. "affected area" means the area outside of the permit area where the land surface, surface water, ground water or air resources are impacted by mining operations within the permit area;

B. "Commission" means the Lincoln County Commission;

C. "Director" shall mean the Director of the Mining and Minerals Division of the Energy, Minerals and Natural Resources Department of the State of New Mexico;

D. "existing mining operation" means a mining operation that produced and marketed minerals for a total of at least two continuous years between January 1, 2000 and the effective date of this Ordinance, and that operated in compliance with all federal and state laws and regulations during that period of time;

D. "exploration" means the act of searching for or investigating a mineral deposit, including sinking shafts, tunneling, drilling core and bore holes, digging pits, making cuts and other works for the purpose of extracting samples prior to commencement of development or extraction operations and the building of roads, access ways and other facilities related to such work; however, activities that cause no, or very little, surface disturbance, such as airborne surveys and photographs, use of instruments or devices that are hand carried or otherwise transported over the surface to perform magnetic, radioactive or other tests and measurements, boundary or claim surveying, location work or other work that causes no greater disturbance than is caused by ordinary lawful use of the area by persons not engaged in exploration are excluded from the meaning of "exploration";

E. "mineral" means any non-living material that is extracted from the earth for use or conversion into a saleable or usable product, but does not include clays, adobe, flagstone, sand, gravel, caliche, borrow dirt, quarry rock used as aggregate for construction, surface water or ground water, geothermal resources, oil and natural gas together with other chemicals recovered with them, commodities, byproduct materials and wastes that are regulated by the Nuclear Regulatory Commission or waste regulated under Subtitle C of the federal Resource Conservation and Recovery Act;

F. "mining" means the process of obtaining minerals from the earth's crust or from previously disposed or abandoned mining wastes, including exploration, open-cut mining and surface operations, the disposal of refuse from underground and in situ mining, mineral transportation, concentrating, milling, evaporation, leaching and other processing;

G. "new mining operation" means any mining operation that engages in mining that is not an existing mining operation, and any extension of the affected area of an existing mining operation;

H. "permit area" means the geographical area defined in the permit for a new mining operation on which mining operations are conducted or cause disturbance; and

I. "reclamation" means the employment during and after a mining operation of measures designed to mitigate the disturbance of affected areas and permit areas and to the extent practicable, provide for the stabilization of a permit area following closure that will minimize future impact to the environment from the mining operation and protect air and water resources.

Section 3: Excluded Operations.

The following activities are expressly excluded from the definition of "mining" and therefore are exempted from the operation of this Ordinance:

A. The exploration and extraction of sand, gravel, caliche, borrow dirt and quarry rock used as aggregate in construction, the exploration and extraction of natural petroleum in a liquid or gaseous state by means of wells or pipes, the extraction of geothermal resources, smelting, refining, cleaning, preparation, transportation or other off-site operations not conducted on permit areas or the extraction, processing or disposal of commodities, byproduct materials or wastes or other activities regulated by the federal Nuclear Regulatory Commission;

B. Existing mining operations;

C. Prospectors, gold-panners and rock collectors causing no measurable surface disturbance with their activities;

D. Mining by one individual and that individual's immediate family, causing excavation(s) totaling less than twelve (12) cubic yards per year;

Section 4: Permitting Process.

4.1 Mining Operations Permit Required. No person or entity may engage in mining operations within the territorial boundaries of Lincoln County without obtaining, prior to initiating such mining operations, a Mining Operations Permit (*MOP*) issued by Lincoln County.

4.2 Mining Operations Permit Application Procedure.

A. The Commission possesses the sole authority to issue a MOP in accordance with this Ordinance.

B. Seven copies of an Application for a MOP shall be submitted to the Commission via the County Manager at:

Lincoln County Manager
P.O. Box 711
Carrizozo, NM 88301

The Application shall contain the following:

1. If the Applicant seeks solely to conduct exploration mining operations, then Applicant shall submit the *Application for Permit for Exploration Operations* required to be filed with the Director pursuant to the regulations adopted by the New Mexico Mining Commission at NMAC 19.10.4.402(D), specifically including the Reclamation Plan meeting all the standards and requirements identified in NMAC 19.10.4.403, and as hereafter amended. In the event that an *Application for Permit for Exploration Operations* is not required by the New Mexico Mining Act or the regulations promulgated thereunder for the proposed exploration operations, but a MOP is required under this Ordinance, then the Applicant shall prepare an *Application for Permit for Exploration Operations* containing all the information identified by NMAC 19.10.4.402(D), specifically including the Reclamation Plan meeting all the standards and requirements identified in NMAC 19.10.4.403, as hereafter amended, for said mining operation and file the same with the Application for the MOP. The fees required to be tendered under NMAC 19.10.4.402(D) need not be tendered to the County;

2. If the Applicant seeks to conduct a new mining operation, or if the Applicant proposes to expand its operations beyond solely exploration mining operations, then Applicant shall submit the *Application for Permit for New Mining Operations* required to be filed with the Director pursuant to the regulations adopted by the New Mexico Mining Commission at NMAC 19.10.6.602(D), specifically including the Reclamation Plan meeting all the standards and requirements identified in NMAC 19.10.6.603, and as hereafter amended. In the event that an *Application for Permit for*

Mining Operations is not required by the New Mexico Mining Act or the regulations promulgated thereunder for the proposed new mining operations, but a MOP is required under this Ordinance, then the Applicant shall prepare an *Application for Permit for Mining Operations* containing the information identified by NMAC 19.10.6.602(D), specifically including the Reclamation Plan meeting all the standards and requirements identified in NMAC 19.10.6.603, as hereafter amended, for said mining operation and file the same with the Application for the MOP. The fees required to be tendered under NMAC 19.10.6.602(D) need not be tendered to the County;

3. A description of the estimated facilities, personnel, equipment, and vehicles that will be brought into or constructed within the county to be used directly or indirectly in the proposed mining operations;

4. A statement of the days of the week and times of the day when the proposed mining operations will foreseeably occur;

5. A description of the manner or method by which personnel, equipment, mined substances or any materials associated with the proposed mining operations will be moved, transported or otherwise conveyed to, from, at, or around the proposed permit area;

6. A description of the nature and source(s) of power, electrical or otherwise, that will be used at the proposed permit area for the proposed mining operations and any infrastructure which will have to be constructed to deliver said power to the proposed permit area;

7. A description of any foreseeable extensions, continuations or modifications of the proposed mining operation, which description should be based upon the Applicant's knowledge that undisclosed foreseeable extensions will not be granted a subsequent MOP permit by Lincoln County;

8. A study performed by an engineer licensed by the State of New Mexico regarding the ability of the proposed permit area to collect and hold all runoff caused by a 25, 40 and 100 year flood event as identified by the Federal Emergency Management Agency for the proposed permit area;

9. A study performed by an engineer licensed by the State of New Mexico regarding the nature, quantity and characteristics of any nighttime lighting proposed to be used on the mining operation, which study must identify any and all mitigation steps to be taken to minimize this nuisance;

10. A study performed by an engineer licensed by the State of New Mexico regarding the nature, quantity and characteristics of any ground vibration caused by the mining operation, specifically including whether such vibration would be felt by, or be damaging to the five private properties nearest the proposed permit area, which study must identify any and all mitigation steps to be taken to minimize this nuisance;

11. A study performed by an engineer licensed by the State of New Mexico regarding the nature, decibel level and other pertinent characteristics of any noise or sound likely to be generated by the proposed mining operation, which study must identify any and all mitigation steps to be taken to minimize this nuisance;

12. A study performed by a real estate appraiser licensed by the State of New Mexico regarding the impact of the proposed mining operation on neighboring private property values. If the proposed mining operations are proposed to be located on public lands, then the study should focus on at least the ten private properties nearest the proposed permit area;

13. A study performed by an engineer licensed by the State of New Mexico to determine the impacts of all proposed mining operation transport and vehicle movements on the public roads of Lincoln County and the increased maintenance requirements on said roads likely to be caused thereby;

14. A description of the water that will be used in connection with the activities described in the MOP Application. In all MOP Applications, whether under Section 4.2(B)(1) or Section 4.2(B)(2) of this Ordinance, the Applicant shall be required to project the total amount of water that would be required in the event that the subject mining operation – and all foreseeable extensions, continuations, and/or modifications of the subject mining operation – is approved by the Commission and implemented by the Applicant. The MOP Application should also identify the actual source of water that will be used in each successive stage of mining activities, and demonstrate that the Applicant has acquired a legal right to the use of such water at the designated mine site.

15. A projection of tax revenues generated to Lincoln County by the proposed mining operations;

16. A projection of the economic impact of the proposed mining operations on the economy of Lincoln County; and

17. A projection of the jobs which would be created by the proposed mining operation, including a description of job types and pay scales for each such job type.

C. The MOP Application shall be accompanied by an Application fee of \$8500.00. This fee is to assist the County in defraying its direct and indirect costs of administering this Ordinance, including any funds periodically required to fund its associated costs of staff time and/or consultants necessary to implement and comply with this Ordinance. Any funds remaining after these costs have all been met will be refunded to the Applicant in a timely manner.

4.3 Mining Operations Permit Application Evaluation.

A. Commission Review. Upon receipt of a properly completed and filed MOP Application, the Commission and any consultant(s) retained by the Commission to assist and advise them shall analyze and assess the potential adverse impacts, and the potential benefits, of the proposed mining operations on the health, safety and welfare of the citizens of Lincoln County in accordance with this Ordinance. If the Commission decides that the protection of the health, safety, and welfare of the County's citizens requires the engagement of an expert consultant to review the MOP Application, the Applicant shall have the obligation to pay the reasonable experts fees and costs incurred by the County in such review. This payment shall be in addition to the application fee set out in Section 4.2(c) of this Ordinance. The Commission shall have the right to have the Application reviewed by any and all state or federal agencies having expertise in areas impacted by the proposed mining operations. If the Commission, in conjunction with its consultants, finds that the requirements of the Ordinance have been properly fulfilled by the Application, it shall provide for public review of the MOP Application as set forth below. If the Commission requires any further information from the Applicant in order to properly analyze and assess the Application, it will so inform the Applicant in writing within ninety (90) days of its receipt of the Application.

B. Public Review.

1. No action on any MOP Application will be taken by the Commission until the Applicant has complied with the requirements of notice and opportunity for public hearing contained in this subsection.

2. Applicant shall prepare and tender to the Commission a proposed *Notice of Application for Mining Operations Permit*. The notice shall contain, at a minimum, the following information:

- a. The name and address of the Applicant;
- b. A description of the location and boundaries of the proposed permit area by (1) statement of the general area wherein it is located; (2) the number of miles and general direction it is from the nearest community; (3) its physical mailing address, if applicable; (4) its township, range, section and quarter section, if applicable; (5) whether it is on private or public lands; and (6) the total number of acres contained within the proposed permit area.
- c. A general statement of the purpose of the Application and a general description of the proposed mining operation; and
- d. The Commission's address to whom written comments regarding the Application may be submitted and where a copy of the Application is available for public inspection, and a notice that to be considered by the Commission written comments must be received by the Commission prior to the beginning of the Hearing on the Application.

If the Commission finds the proposed Notice is sufficient, it shall place thereon a public hearing date and time at which the Application will be considered by the Commission and the Applicant will be directed to publish the Notice as set forth below. If the Commission requires any modification of the Notice by the Applicant, it will so inform the Applicant in writing within ten (10) days of its receipt of the Notice, in which event the Applicant will so modify the Notice and resubmit the same to the Commission for approval.

3. Ten days prior to the public hearing date identified by the Commission for consideration of the Application Applicant shall provide the Commission with proof that Notice of the Application has been:

a. Provided by certified mail at least thirty (30) days prior to the Commission Meeting to consider the Application to the owners of record, as shown by the most recent property tax schedule, of (1) all properties within 2 miles of the proposed permit area if the proposed permit area is on private lands; or (2) the ten private properties nearest to the proposed permit area if the proposed permit area is on public lands;

b. Provided by certified mail to all municipalities, any judicially or legislatively created districts, and tribal organizations within a 10 mile radius of the proposed permit area at least thirty (30) days prior to the Commission Meeting to consider the Application;

c. Published conspicuously, in at least a 1/8th page sized spot, three times in a newspaper of general circulation in Lincoln County in either the classified or legal advertisements section of the newspaper, and shall be printed in both English and Spanish, the last such publication being at least twenty (20) days prior to the Commission Meeting to consider the Application;

d. Posted in at least four publicly accessible and conspicuous locations within the County for at least thirty (30) days prior to the Commission Meeting to consider the Application;

e. Mailed to all persons who have made a written request to the Commission for notice of MOP Applications at least thirty (30) days prior to the Commission Meeting to consider the Application.

4. Ten days prior to the public hearing date identified by the Commission for consideration of the Application Applicant shall provide the Commission with seven (7) true, correct and complete copies of any correspondence of any kind or character to or from Applicant with any state or federal agency regarding the proposed mining operations which are the subject of the Application.

5. If the Applicant makes any substantial change in the Application after its filing and publication as set forth above, the amended Application must be re-published

as set forth above identifying the change in the Application in detail, after such time as the amended Application is reviewed and evaluated by the Commission pursuant to Section 4.3(A) of this Ordinance.

6. All interested persons may submit written comments regarding the Application to the Commission. To be considered written comments must be received by the Director prior to the beginning of the Hearing on the Application. Applicant shall be given copies of all written comments prior to the beginning of the Hearing on the Application.

7. At the Commission Meeting where Applicant's Application is to be considered by the Commission, Applicant shall be allowed time, not to exceed sixty (60) minutes to make its presentation to the Commission. Thereafter the Commission will hear public comment, limited to five minutes for each member of the public desirous of speaking. The Commission will then direct its questions to the Applicant. These time frames may be expanded at the sole discretion of the Commission.

C. Evaluation.

1. After considering the Application, the findings of its consultants, the written findings and correspondence of any public agency having jurisdiction over any of the proposed mining operations, the presentation of the Applicant at the public hearing, and the comments of the public, the Commission shall grant a MOP if the Commission makes all of the following findings based on the evidence before it:

a. The Application is complete and adequate and the Permit Application fee has been paid;

b. The public participation requirements of this Ordinance have been met;

c. The proposed mining operations are consistent and compliant with any applicable state or federal laws, orders of state or federal agencies having jurisdiction, and applicable court orders; Applicant has provided evidence that all other applicable state and federal permits required under the law to be obtained have been issued; and if the proposed permit area is on federal or state lands, the appropriate federal or state agency has approved the proposed mining operations;

d. The proposed mining operations will not cause any significant adverse impacts on the health, safety and welfare of the citizens of Lincoln County, including, but not limited to, significant adverse environmental impacts;

e. The Secretary of the New Mexico Environment Department has provided a written determination stating that the Applicant has demonstrated that the activities to be permitted or authorized will be expected to achieve compliance with all applicable air, water quality and other environmental standards if carried out as described

in the Application. This determination shall address applicable standards for air, surface water and ground water protection enforced by the Environment Department, or for which the Environment Department is otherwise responsible; and

f. The Applicant, any person or entity controlled by Applicant, or any person or entity in control of Applicant, is not in violation of any substantial environmental law or substantive environmental regulation at a mining operation in the United States, which violation is unabated and is not the subject of appeal; and has not forfeited or had forfeited financial assurance required for any mining, reclamation or exploration permit in the United States. A substantial environmental law or substantive environmental regulation is one which is intended to protect natural resources from degradation and does not include violations of recordkeeping or reporting requirements.

2. The Commission may approve of an Application, and place conditions of approval on the MOP in order to protect the health safety and welfare of surrounding property owners or users. Such conditions could include, but not be limited to, the following:

a. Require mining operations to use the best available technology and practices in order to protect the environment;

b. Impose specific contamination standards for water, air and other environmental components that the mining operations may not exceed;

c. Require water quality monitoring to ensure that acidic drainage and other water quality problems do not develop over time;

d. Require inspections of mining operations, especially water-related facilities, by county staff or consultants at frequent intervals;

e. Require mitigation steps and limitations on the nature, quantity and characteristics of any air quality impairment caused by dust, gas or other airborne substances likely to be generated or dispersed by the proposed mining operation;

f. Require mitigation steps and limitations on the nature, quantity and characteristics of any nighttime lighting used in the proposed mining operation;

g. Require mitigation steps and limitations on the nature, decibel level and other pertinent characteristics of any noise or sound to be generated by the proposed mining operation;

h. Require mitigation steps and limitations on the nature, frequency, severity and other pertinent characteristics of any ground vibration to be generated by the proposed mining operation;

LINCOLN COUNTY-NM

TAMMIE J MADDOX, CLERK

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BY LOREEE

i. Require mitigation steps and limitations on the negative impact of the proposed mining operations on property values in its vicinity;

j. Require mitigation steps and limitations on the impacts of the proposed mining operations transport and vehicle movements on the public roads of Lincoln County; and

k. Require any other appropriate mitigation measures and associated monitoring programs so that significant adverse environmental impacts associated with mining operations shall be mitigated to a level of non-significance to the extent feasible without violating or conflicting with applicable federal or state laws.

3. The Commission may also approve an Application in part, and/or approve of an MOP Application in part subject to conditions as specified in Section 4.3(C)(2) of this Ordinance. The Commission will exercise its discretion to approve an MOP Application in part in those instances when the Commission concludes, based on its review of all the evidence, that the phasing of the proposed exploration and/or mining activities is necessary to protect the public health, safety, and welfare of the County's citizens.

4. The Commission retains the discretion to deny an MOP Application if it concludes that granting the Application will harm the public health, safety, and welfare of the County's citizens. In making this determination, the Commission shall take into account the MOP Application, the findings of its consultants, the written findings and correspondence of any public agency having jurisdiction over any of the proposed mining operations, the presentation of the Applicant at the public hearing, and the comments of the public. The Commission shall also take into account the compliance history at other mine sites of the Applicant, all parties with an ownership or controlling interest in the proposed exploration or mining operations, and all parties with responsibility for operating the proposed mining activities.

D. Decision Publication and Appeal. Upon issuing its final decision on the MOP Application, the Commission shall, within fifteen (15) days:

1. Prepare a written decision and a statement of the factual and legal basis for the decision;

2. File the written decision with the Lincoln County Clerk; and

3. Serve a document that includes a copy of the written decision and the requirements for filing an appeal of the final decision on:

a. The Applicant; and

b. Every person or agency who has filed a written request for notice of the final decision in that particular proceeding.

4. A person aggrieved by the final decision may appeal the decision to the District Court of Lincoln County by filing a Notice of Appeal with the Commission and with the Clerk of the District Court of Lincoln County within thirty days of the date of filing of the final decision.

Section 5: Term of Permit and Renewals.

5.1. **Initial Term.** The initial term of a MOP shall be for five (5) years.

5.2. **Renewal Terms.** The term of any renewals of a MOP shall be five (5) years.

5.3. **Renewal Applications.**

A. 120 days prior to the expiration of any term of a MOP, if the Applicant intends to continue its mining operations in Lincoln County, Applicant shall prepare and tender to the Commission an *Application to Renew Mining Operations Permit*. The Application shall state:

1. Whether Applicant has received any notice that it was not in compliance with federal or state law or regulation at any time during the current term of the MOP, and if such notice has been received, copies of all correspondence between the Applicant and the federal and state agencies involved in adjudicating such violation;

2. Whether Applicant anticipates any substantive change in its mining operations in the next five year term and if so, the basis of such anticipated change and a description of the anticipated change;

3. The current annual gross payroll of the Applicant paid to residents of Lincoln County; and

4. The amount of tax paid to Lincoln County for the prior year.

B. The Renewal Application shall be accompanied by a non-refundable Renewal Application fee of \$5000.00. This fee is to assist the County in defraying its direct and indirect costs of administering this Ordinance, including any funds periodically required to fund its associated costs of staff time and/or consultants necessary to implement and comply with this Ordinance. Any funds remaining after these costs have all been met will be refunded to the Applicant in a timely manner.

C. Within 30 days of filing its Renewal Application, Applicant shall prepare and tender a proposed *Notice of Application for Renewal of Mining Operations Permit*. The notice shall be reviewed and approved by the Commission, and shall contain the same information as required by the *Notice of Application for Mining Operations Permit* as set forth in Section 4.3 above.

D. The Renewal Notice shall be published to the public and to neighboring land owners, and proof of such publication shall be made, in the same fashion as is required for the *Notice of Application for Mining Operations Permit* as set forth in Section 4.3 above.

E. A public hearing shall be held on the Renewal Application in the same fashion as is required for the *Application for Mining Operations Permit* as set forth in Section 4.3 above.

F. After considering the Renewal Application, the written findings of any public agency having jurisdiction over any of the Applicant's mining operations, the findings of its consultants, the presentation of the Applicant at the public hearing, and the comments of the public, the Commission shall grant a renewal of the MOP if the Commission makes all of the following findings based on the evidence before it:

1. The Renewal Application is complete and adequate;
2. The public participation requirements have been met;
3. The Applicant's mining operations are consistent and compliant with any applicable state or federal laws, orders of state or federal agencies having jurisdiction, and applicable court orders; and
4. The Applicant's mining operations, have not caused, and will not foreseeably cause, any significant adverse impacts on the health, safety and welfare of the citizens of Lincoln County, and will not foreseeably create such impacts in the renewal term.

G. The Commission may approve of the Renewal Application, and place conditions of approval on the Renewal of the MOP in order to protect the health, safety and welfare of surrounding property owners or users in the same manner as is set forth in Section 4.3 above for the initial MOP.

H. The Commission's final decision on the Application for Renewal shall be published, and may be appealed, in the same manner as set forth in Section 4.3 above for the initial MOP.

Section 6: Enforcement.

6.1 Complaints. Whenever a violation of this Ordinance or any MOP issued hereunder occurs or is alleged to have occurred, any person may file a written and signed complaint with the Commission. Such complaint shall state fully the causes and basis thereof. The Commission shall investigate promptly and take action thereon as is warranted.

6.2 Inspection. Upon receiving a valid complaint the Commission shall cause an inspection of the subject mining operations if there is reasonable grounds to believe that the provisions of this Ordinance or any MOP issued hereunder have been or are being violated.

6.3 Noncompliance. Noncompliance with this Ordinance or with any term or condition of a MOP issued hereunder, shall constitute a misdemeanor and a public nuisance, and shall be grounds for suspension or revocation of the MOP by the Commission. Where an inspection reveals a reasonable likelihood that the provisions of this Ordinance, or the terms of any MOP issued hereunder, are being violated, notification in writing of the same shall be submitted to the Permittee.

6.4 Public Hearing. Before the Commission shall consider revocation or suspension of a MOP, the Commission shall hold a public hearing thereon after giving written notice thereof to the Permittee at least ten days in advance of such hearing.

6.5 Violation Found. If the Commission finds that a violation of the Ordinance or any MOP has occurred, or is occurring:

A. The Commission shall issue written findings to that effect. The findings shall be mailed to the Permittee. The findings shall order the Permittee to take the action necessary to correct the deficiencies found.

B. In addition to any penalty or other remedy provided by law, any person, corporation, entity or organization, found to have committed a violation of any of the provisions of the Ordinance or of any MOP issued hereunder, shall be punished by a fine of up to \$300.00 per day or imprisonment up to ninety (90) days, or both a fine and imprisonment. Each day on which this Ordinance or any MOP issued hereunder is violated shall constitute a separate violation of this Ordinance for the purpose of calculating the fine which may be assessed hereunder.

C. If the Permittee fails to take the corrective action or to pay any fine levied hereunder within thirty (30) days of the issuance of the Commission's written findings, the Commission shall revoke or suspend the MOP until such corrective actions are taken and any assessed fines are paid and the Commission may apply to the District Court for injunctive relief to compel compliance by any person with the provisions of this Ordinance or any MOP issued hereunder and to collect the fines levied hereunder.

Section 7. Severability Clause.

It is hereby declared to be the intention of the Board of County Commissioners that the sections, paragraphs, sentences, clauses and phrases of this Ordinance shall be deemed severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance is declared unconstitutional or otherwise invalid by the valid judgment of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections hereof.

Section 8. Conflict.

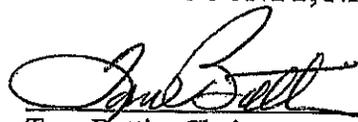
Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

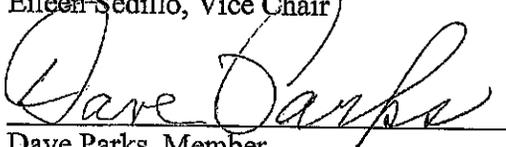
Section 9. Effective Date and Repeal.

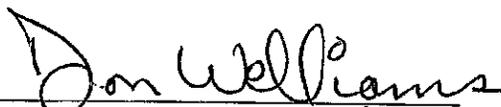
This Ordinance shall take effect thirty days after being recorded in the Public Records of Lincoln County, New Mexico.

PASSED, APPROVED, and ADOPTED this 16th day of June, 2009.

**BOARD OF COMMISSIONERS OF
LINCOLN COUNTY, NEW MEXICO**

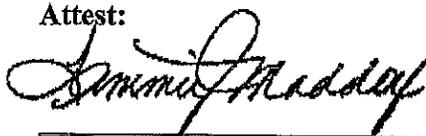

Tom Battin, Chair

Eileen Sedillo, Vice Chair

Dave Parks, Member


Don Williams, Member

Jackie Powell, Member

Attest:



Tammie J. Maddox
Lincoln County Clerk



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August 5, 2014

Stuart R. Buztier, Esq.
Modrall Sperling Law Firm
123 E. Marcy, Suite 201
P.O. Box 9318
Santa Fe, NM 87501

via email: sbuztier@modrall.com

***Re: El Capitan Mining: PAP Capitan Iron Mine
Permit LI005 ME***

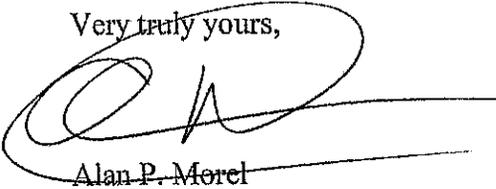
Dear Mr. Buztier:

This letter will serve as a follow-up to our communications in February involving the El Capitan Mining operation. It has been brought to the attention of the Board of County Commissioners of Lincoln County that El Capitan Mining, LTD may be expanding its operations immediately north of Capitan, NM. (See New York Times article attached hereto as Exhibit A.)

I was wondering if it would be possible for you to provide me, and possibly the Lincoln County Commission, with an update regarding your client's plans involving the El Capitan Mine. I know we briefly discussed earlier the application of Lincoln County Ordinance 2009-01, a copy of which I have attached hereto as Exhibit B to your client's operation. A brief update would assist in determining whether or not there are any compliance issues to be addressed.

I would like to thank you in advance for your assistance regarding this matter and look forward to your earliest response.

Very truly yours,



Alan P. Morel
APM/sh

Mining Operations to Commence at El Capitan Site in New Mexico

Published: July 28, 2014

Today's Headlines



Anticipated Sales of Tailings and Iron Ore Herald the Company's Transition from Exploration to Mining Operations

SCOTTSDALE, Ariz.--(BUSINESS WIRE)--Jul. 29, 2014-- El Capitan Precious Metals, Inc. (OTCBB: ECPN) announced today that it has successfully completed the assembly and testing of the AuraSource Heavy Metals Separation System at the New Mexico mine site. When mining operations commence, the sale of the tailings will mark the Company's transition from an exploration company to an operating mining company.

The Company also reported that it is in active negotiations with a buyer for the tailings—the precious-metals-rich concentrates—that are created when ore is processed via the Heavy Metals Separation System. Once a new contract is in place for the sale of the precious-metals concentrates, and coupled with the existing contract for the sale of iron ore, El Capitan will have established itself as a sustainable and profitable mining company.

ECPN Board Chairman John F. Stapleton stated, "These are exciting times for the Company and its shareholders as we complete significant steps in our strategic plan."

Stapleton confirmed that the Company is in the final stages of obtaining its amended and expanded mining operations permits from the state of New Mexico.

Chuck Mottley, El Capitan President and CEO, added, "These new and positive activities at the El Capitan site make a huge statement in terms of the asset value of the El Capitan property and it is gratifying to see a very bright light, at long last, at the end of a tunnel that represents decades of exploration, testing, and development of initial mining operations on behalf of our shareholders."

As announced earlier this month, the Annual Meeting of the El Capitan Shareholders will be held on September 25, 2014 in Scottsdale, Arizona.

About El Capitan Precious Metals, Inc.: El Capitan Precious Metals, Inc. is an exploration stage precious minerals company based in Scottsdale, Arizona that is principally engaged in the exploration of precious metals and other minerals. The Company's primary asset is its wholly owned subsidiary El Capitan, Ltd., an Arizona corporation, which holds the 100% equity interest in the El Capitan property located near Capitan, New Mexico.

www.elcapitanpmi.com

Forward-Looking Safe Harbor Statement:

The statements included in this press release concerning predictions of economic performance and management's plans and objectives constitute forward-looking statements made pursuant to the safe harbor provisions of Section 21E of the Securities Exchange Act of 1934, as amended, and Section 27A of the Securities Act of 1933, as amended. Forward-looking statements are statements that are not historical facts. Words such as "expect(s)," "feel(s)," "believe(s)," "will," "may," "anticipate(s)" and similar expressions are intended to identify forward-looking statements. These statements include, but are not limited to, statements regarding the expected completion, timing and results of metallurgical testing, interpretation of drill results, the geology, grade and



continuity of mineral deposits, results of initial feasibility, pre-feasibility and feasibility studies and expectations with respect to the engaging in strategic transactions. All of such statements are subject to risks and uncertainties, many of which are difficult to predict and generally beyond the control of the Company, that could cause actual results to differ materially from those expressed in, or implied or projected by, the forward-looking information and statements. Specifically, there can be no assurance regarding the timing and terms of any transaction involving the Company or its El Capitan property, or that such a transaction will be completed at all. In addition, there can be no assurance that periodic updates to the Company's geological technical reports will support the Company's prior claims regarding the metallurgical value and make-up of the ore on the New Mexico property. Additional risks and uncertainties affecting the Company include, but are not limited to, the possibility that future exploration, development, testing or mining results will not be consistent with past results and/or the Company's expectations; discrepancies between different types of testing methods, some or all of which may not be industry standard; the ability to mine precious and other minerals on a cost effective basis; the Company's ability to successfully complete contracts for the sale of its products; fluctuations in world market prices for the Company's products; the Company's ability to obtain and maintain regulatory approvals; the Company's ability to obtain financing for continued operations and/or the commencement of mining activities on satisfactory terms; the Company's ability to enter into and meet all the conditions to consummate contracts to sell its mining properties that it chooses to list for sale; and other risks and uncertainties described in the Company's filings from time to time with the Securities and Exchange Commission. Readers are cautioned not to place undue reliance on these forward-looking statements that speak only as of the date hereof, and we do not undertake any obligation to revise and disseminate forward-looking statements to reflect events or circumstances after the date hereof, or to reflect the occurrence of or non-occurrence of any events.

Source: El Capitan Precious Metals, Inc.

El Capitan Precious Metals, Inc.
John Stapleton, 480-440-1449

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Alan P. Morel, P.A.
Attorney at Law

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Ruidoso, New Mexico 88355-1030

Jira Plaza
Telephone (575) 257-3556
Facsimile (575) 257-3558

August 5, 2014

Fernando Martinez, Division Director
State of New Mexico Mining and Minerals Division
Wendel Chino Building
1220 S. St. Francis Drive
Santa Fe, NM 87505

via email: fernando.martinez@state.nm.us

***Re: El Capitan Mining: PAP Capitan Iron Mine
Permit LI005 ME***

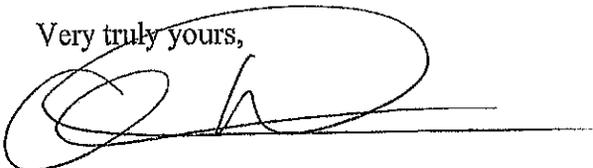
Dear Mr. Martinez:

Please be advised I am the attorney for the County of Lincoln. It has been brought to the attention of the Board of County Commissioners that El Capitan mine may be expanding its mining operations just north of Capitan, NM. (See New York Times' article attached hereto as Exhibit A.)

The Board of County Commissioners of Lincoln County wish to reiterate their desire to keep abreast of any and all activity involving the El Capitan mining operation. I have attached a copy of Lincoln County Resolution 2007-38 as Exhibit B and Lincoln County Ordinance 2009-01 as Exhibit C for your information.

Any efforts by your division to assist in keeping the Board of County Commissioners as well as the citizens of Lincoln County apprised of this matter would be greatly appreciated. I would like to thank you in advance for your assistance regarding this matter and should you have any questions please do not hesitate to contact me.

Very truly yours,



Alan P. Morel

RESOLUTION NUMBER 2007-38

REQUEST FOR EIS AND COOPERATING AGENCY STATUS FOR "EL CAPITAN LTD." MINING IN LINCOLN COUNTY

WHEREAS, New Mexico county commissions, under the authority of NMSA 1978 4-37-1, have a responsibility to protect and promote the safety, preserve the health, promote the prosperity and improve the convenience of its inhabitants, and

WHEREAS, the Board of County Commissioners of Lincoln County is extremely concerned over the impact on the environment; on its infrastructure; and on the health and welfare of the citizens of the county of a proposed mining operation in the Capitan Mountains by El Capitan LTD., and

WHEREAS, the county believes that before any new large scale mining or operations are attempted that the company concerned should be required to remediate any and all damage done by their unauthorized explorations and the county would like to inquire as to the actions taken against this company for their unauthorized explorative activities.

NOW, THEREFORE, BE IT RESOLVED, that the Board of County Commissioners requests early involvement in the NEPA scoping process coordination and that a full EIS be accomplished before the exploration and subsequent extraction phases of any proposed operations and that, because of its local expertise under the National Environmental Policy Act, that the county be designated "cooperating agency" status on any interdisciplinary team (IDT) established; and

BE IT FURTHER RESOLVED, the county requests that New Mexico State Departments concerned with the protection of the environment, and its water resources, bring the full weight of their authority on the regulation of any proposed mining operation and appropriate bonding of future activities.

PASSED, APPROVED AND ADOPTED this 20th day of May 2008.

Board of Commissioners
Lincoln County, State of New Mexico

Tom Battin
Tom Battin, Chairman

Eileen Lovelace
Eileen Lovelace, Vice Chair

Dave Parks
Dave Parks, Member

Don Williams
Don Williams, Member

Jackie Powell
Jackie Powell, Member



ATTEST:
Tammie Maddox
Tammie Maddox, County Clerk



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Attorney at Law

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Jira Plaza
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Facsimile (575) 257-3558

August 7, 2014

Nita Taylor, Manager
County of Lincoln
P.O. Box 711
Carrizozo, NM 88301

via email: ntaylor@lincolncountynm.gov

Re: El Capitan Mine

Dear Nita:

Tuesday, August 5, 2014, I wrote to Fernando Martinez who is the Director of the State of New Mexico Energy, Minerals and Natural Resources Department, as well as to Mr. Stewart Buztier, who is legal counsel for El Capitan mine regarding current operations of the El Capitan mine just north of Capitan, NM.

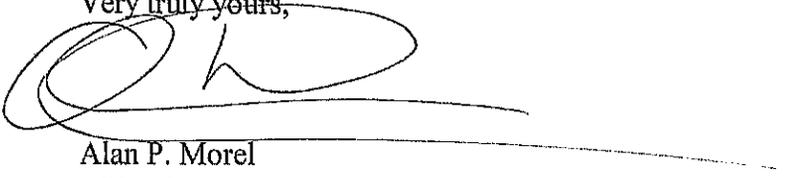
I have attached a copy of the correspondence I received from Director Martinez on Wednesday, August 6, 2014 regarding a June 9, 2014 Permit Application Package submitted by El Capitan mine requesting a permit modification to their existing Minimal Impact Mining Permit. I have attached a copy of Director Martinez' correspondence for your information.

First, I am not certain why the County of Lincoln was not provided a copy of the Permit Application Package submitted by El Capitan to the State on June 9, 2014. Second, I do not understand why the County of Lincoln was not provided an opportunity to comment on the proposed permit modifications since the County of Lincoln clearly requested to be included in any correspondence or applications involving the El Capitan mine. I have not received any comments from Mr. Buztier at this time.

The August 1, 2014 correspondence from Director Martinez indicates there were government agency comments submitted to MMD which were not provided with the correspondence. I requested Director Martinez forward those comments to my office and have received them. I have read and will attach a copy of them with this correspondence.

Once you have had an opportunity to review this correspondence and attachments, please contact me to discuss. I would additionally request that this matter be placed on the Commission Agenda for August 19, 2014.

Very truly yours,

A handwritten signature in black ink, appearing to be 'APM', with a long horizontal flourish extending to the right.

Alan P. Morel
APM/sh

Attachments

C: Curt Temple

State of New Mexico
Energy, Minerals and Natural Resources Department

Susana Martinez
Governor

F. David Martin
Cabinet Secretary

Brett F. Woods, Ph.D.
Deputy Cabinet Secretary

Fernando Martinez, Director
Mining and Minerals Division



August 1, 2014

Mr. Chuck Motley, Chief Executive
El Capitan Precious Metals, Inc.
8390 Via de Ventura, Suite F-110
Scottsdale, AZ 85258

RE: Technical Comments on Proposed Modification 14-1 to Permit No. LI005ME, Capitan Iron Mine, Lincoln County, New Mexico

Dear Mr. Motley,

The Mining and Minerals Division (MMD) has received, on June 9, 2014, a permit application package (PAP) from El Capitan LTD (El Capitan) requesting a permit modification to your existing minimal impact mining permit (No. LI005ME). The PAP proposes to update the mining plan, reclamation plan, and the associated financial assurance for the Capitan Iron Mine located in Lincoln County, approximately 6 miles north of Capitan, New Mexico. Additionally, MMD submitted the PAP to various government agencies for their review and comments in accordance with 19.10.3.304.H NMAC.

MMD has reviewed the proposal and conducted a site visit on July 1, 2014 in conjunction with the submittal. In order for MMD to complete the permit modification process, and pursuant to 19.10.3.304 NMAC, El Capitan must address the following comments and request for additional information. Furthermore, El Capitan must also address the attached agency government agency comments MMD solicited and received in regards to this proposal.

1. Page 8 of the PAP has an unnamed figure depicting the patented claim boundaries, the 3 proposed areas of phased mining, and the general layout of the phased mining operation. Please provide a more detailed map, with scale, for each phase (1-3) of mining to be referred to as the "disturbed area limit(s)".
2. Note, in the PAP it is stated that the "Permit Total Boundary pursuant to the Licensed Survey completed" is based on a survey provide to MMD in an email dated May 7, 2014. That survey boundary will be referred to as the "permit boundary". No response required.
3. Describe what, if any, improvements will be made to Forest Service Road 489A, the apparent primary access to the site.
4. The PAP indicates that access to the west permit boundary and permit disturbance limit(s) will involve using access roads administered by the United States Forest Service – Lincoln National Forest (USFS). Furthermore, it appears some of the proposed disturbance will occur on USFS lands. Per 19.10.3.303.H, please provide evidence that the USFS has approved or acknowledged the proposed access and/or operation.
5. Figure 2 illustrates what "could be the MPPA layout for the MPPA layout for MPPA 2". Please provide the anticipated dimensions for all these pits to be excavated in phases 1, 2, and 3.
6. Please describe how the proposed pits and roads will be reclaimed.
7. Describe how topsoil will be salvaged and utilized for reclamation.

8. Describe all waste or overburden material, and/or waste or overburden piles, expected to be generated, and where and how the waste or overburden and/or waste or overburden piles will be stored, and how the waste or overburden and/or waste or overburden piles will be reclaimed at the conclusion of mining
9. Provide the dimensions (length and width) for all new roads to be developed in the permit area, and the dimensions of the extension, and/or widening, of existing roads within the proposed permit area.
10. Provide a description of how the mining and reclamation will be designed and operated to safeguard the public from unauthorized entry and to protect human health and safety, the environment, and wildlife in areas at a distance from the entrance.
11. Please provide a seed mix that includes two additional forbs and two additional shrubs. Additionally, please provide the rates (lbs/acre) of seed for each species.
12. Will the seed mix be broadcast or drill seeded? Please provide.
13. Please review and respond to the agency comments attached. MMD received comments from New Mexico State Forestry, New Mexico Department of Cultural Affairs, New Mexico Environment Department, and the USFS.

If you have any questions, please contact me at 505-476-3438.

Sincerely,



Chris Eustice, Permit Lead, MARP/MMD
Mining Act Reclamation Program (MARP)

Cc: Fernando Martinez, Acting Director, MMD
Holland Shepherd, Program Manager MARP
Kurt Vollbrecht, NMED
Dr. Wunder, NMDGF
Doug Rappuhn, OSE
Michelle Ensey, DCA
David Warnack, District Ranger, USFS-Lincoln NF
Mine File (OT006MN)

L:\MARP\LI005EM---Capitan Iron



United States Department of Agriculture
Office of the General Counsel

Albuquerque Field Office
P.O. Box 586
Albuquerque, NM 87103-0586

Telephone: 505-248-6010
Facsimile: 505-248-6013

March 12, 2014

A. Blair Dunn, Esq.
6605 Uptown Blvd. NE, Ste. 280
Albuquerque, NM 87110-4212

By e-mail to abdunn@ablairdunn-esq.com

RE: ECPMI Assertion of RS 2477 Claim

Dear Mr. Dunn,

This letter responds to your March 7, 2014 letter which states that El Capitan Precious Metals, Inc. (ECPMI) intends to make immediate use of what you allege is an R.S. 2477 right of way across lands managed by the United States Forest Service (USFS), Lincoln National Forest. I write to advise you that the actions you state your client intends to take may violate civil and criminal law for which ECPMI and/or its agents may be liable, if those actions require prior authorization by the Lincoln National Forest.

As an initial matter, you have not specified what road you are referring to nor have you described the intended use of that road, however I assume you are referencing Forest Road 489A (FR 489A) which is part of pending ECPMI proposals and which we discussed with former ECPMI counsel Stuart Butzier on Wednesday March 5th. As I discussed with Mr. Butzier, the Road Use Permit issued to El Capitan LTD on September 13, 2013 allows limited use of FR 489A. Uses authorized under the Road Use Permit may continue as authorized by the Road Use Permit. However, the proposed uses in current proposals submitted by ECPMI and the proposed uses discussed with Mr. Butzier last week go well beyond the limited use currently authorized and will require prior approval by the Lincoln National Forest.

As we discussed with Mr. Butzier, we proposed that an actual detailed draft proposal be submitted to the Forest Service to allow us to review and discuss the necessary authorization and required level of NEPA. We had hoped to facilitate a productive dialogue and hoped we could craft a reasonable solution that met the needs of ECPMI. Instead, your letter suggests unilateral action will be taken by ECPMI in a manner which may violate applicable law.

ECPMI cannot hold an R.S. 2477 right of way and cannot state a claim to an R.S. 2477 right of way. Such a claim may only be made by a government entity. This has been addressed by numerous courts. For some comparable assertions in this Circuit see Kinsherff v U.S. 586 F. 2d 159 (10th Cir. 1978); Fairhurst Family Assoc. v USFS, 172 F. Supp. 2d 1328 (D. Co. 2001).

To my knowledge, Lincoln County (the relevant local government entity) has never claimed an R.S. 2477 right of way to FR 489A. However, even if Lincoln County made such a claim, this would not allow ECPMI to unilaterally use FR 489A as proposed.

The USFS has authority under the Property Clause of the U.S. Constitution and the agency's Organic Act (16 U.S.C. 551) to reasonably regulate uses of roads and trails on USFS managed lands, whether or not the roads and trails are located within an R.S. 2477 right-of-way, to reasonably regulate exercise of such pre-existing rights to protect Federal lands and resources. See SUWA v BLM, 425 F.3d 735, 748 (10th Cir. 2006), United States v. Jenks, 129 F. 3d 1348 (10th Cir. 1997); United States v. Garfield County, 122 F. Supp. 2d 1201 (D. Utah 2000). Prior authorization through a special use permit is required for proposed uses of system roads by 36 CFR 251 subpart B. It is through this mechanism that the current road use permit was issued. The scope and nature of the uses currently proposed by ECPMI and discussed with Mr. Butzier last week require prior authorization even if they were in a R.S. 2477 right of way.

I caution ECPMI that use of Forest Service lands without a required special use authorization is a punishable offense under 36 CFR 261.10 and 16 USC 551. Violation of these regulations is currently a Class B misdemeanor under 18 U.S.C. §3559(a)(1)(G), punishable by not more than six months imprisonment, fine of not more than \$5,000 under 18 U.S.C. 3571(b)(6), or both. You may not be aware that ECPMI previously conducted activities on the Lincoln National Forest without the required authorizations and the proposed unilateral action would constitute a repeat violation. Furthermore, such action may constitute trespass for which the ECPMI could be liable.

For approximately 6 years the Lincoln National Forest has worked with ECPMI on several proposals that ECPMI has failed to pursue. The USFS has spent a considerable amount of taxpayer funds and resources reviewing and responding to ECPMI's proposals. We met with ECPMI counsel last week on yet another proposal and developed a clear path forward for ECPMI. However your letter does not indicate we will see the necessary effort from ECPMI to obtain the required authorizations. Please inform me whether ECPMI will in fact invest the necessary effort to pursue any of their proposals in a timely manner at this time, or if I should simply instruct the Lincoln National Forest to close these files at the current time.

If you have any questions, please do not hesitate to give me a call at (505) 248-6020.


Steve Hattenbach,
Acting Assistant Regional Attorney



United States
Department of
Agriculture

Forest
Service

Smokey Bear Ranger District

901 Mechem Drive
Ruidoso, NM 88345
(575) 257-4095

File Code: 2800

Date: April 11, 2014

Charles C. Mottley
President
El Capitan Precious Metals Inc.
7811 E. Vaquero Dr.
Scottsdale, AZ 85258

**CERTIFIED MAIL – RETURN
RECEIPT REQUESTED
NUMBER: 7012 2210 0000 3429 0630**

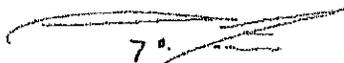
Dear Mr. Mottley,

On Wednesday the 9th of April a member of my staff, Eric Turbeville, spoke with your local representative Randy Bouldin. They discussed the proposed work El Capitan Precious Metals Inc. (ECPMI) would like to do on the patented land in the immediate future. My understanding is that ECPMI's plan is to continue to collect samples from the site using two six-wheeled heavy trucks, and will be using a pick-up truck to haul the samples contained in a 55 gallon drum off site for further analysis. My understanding is that ECPMI proposes to make no modifications to Forest Road 489A for this operation.

Based on this representation from ECPMI and my understanding expressed above, I feel this fits into the previously authorized use of Forest Road 489A under the existing Road Use Permit. No further authorization is needed from the Lincoln National Forest at this time for this level of activity. The current authorization will expire on the 30th of September 2014. If more sampling activity will occur after that date, ECPMI may request another road use permit.

If ECPMI has plans to conduct any activity above and beyond what Randy and Eric discussed, particularly if it would require any maintenance or improvement of the existing road, you will need to notify us in writing with a detailed description of your plans as discussed in my letter sent to you on March 24th, 2014.

Sincerely,


/s/Larry Cordova (for):
DAVID M. WARNACK
District Ranger

cc: A. Blair Dunn





SUSANA MARTINEZ
Governor

JOHN A. SANCHEZ
Lieutenant Governor

New Mexico
ENVIRONMENT DEPARTMENT

Air Quality Bureau

525 Camino de los Marquez, Suite 1

Santa Fe, NM 87505

Phone (505) 476-4300

Fax (505) 476-4375

www.nmenv.state.nm.us



Ryan Flynn
Cabinet Secretary

Butch Tongate
Deputy Secretary

MEMORANDUM

DATE: June 19, 2014

TO: Keith Ehlert, **KE**
Acting Mining Act Team Leader
Ground Water Quality Bureau

FROM: Neal Butt
Environmental Scientist / Specialist, Air Quality Bureau

RE: Request for Comments, Permit Modification Application, Capitan Iron Mine,
Existing Minimal Impact Mine, Permit No. L1005ME, Lincoln County

The New Mexico Air Quality Bureau (AQB) has completed its review of the above mentioned mining project. Pursuant to the New Mexico Mining Act Rules, the AQB has the following comments:

Air Quality Permitting History

The AQB has no previous record of this operation.

Air Quality Requirements

The New Mexico Mining Act of 1993 states that "Nothing in the New Mexico Mining Act shall supersede current or future requirements and standards of any other applicable federal or state law." Thus, the applicant is expected to comply with all requirements of federal and state laws pertaining to air quality. Current requirements which may be applicable in this mining project include, but are not limited to the following:

Subsection A of 20.2.72.200 NMAC states that: "Permits must be obtained from the Department by:

- (1) "any person constructing a stationary source which has a potential emission rate greater than 10 pounds per hour or 25 tons per year of any regulated air contaminant for which there is a National or New Mexico Ambient Air Quality Standard. If the specified threshold in this

subsection is exceeded for any one regulated air contaminant, all regulated air contaminants with National or New Mexico Ambient Air Quality Standards emitted are subject to permit review. . ."; and

(3) "Any person constructing or modifying any source or installing any equipment which is subject to 20.2.77 NMAC, *New Source Performance Standards*, 20.2.78 NMAC, *Emission Standards for Hazardous Air Pollutants*, or any other New Mexico Air Quality Control Regulation which contains emission limitations for any regulated air contaminant;"

Also, Subsection A of 20.2.73.200 NMAC states that:

(1) "Any owner or operator intending to construct a new stationary source which has a potential emission rate greater than 10 tons per year of any regulated air contaminant or 1 ton per year of lead shall file a notice of intent with the department."

In addition, Subsection A of 19.10.3.302 NMAC stipulates that to qualify for a "Minimal Impact Exploration Operation":

A. "A minimal impact exploration operation will not exceed 1000 cubic yards of excavation per permit. Disturbances for constructed roads, drill pads and mud pits shall be no more than 5 acres total and will not be counted in the excavated materials. The type of road construction, the number and type of drill pads, and other disturbances when considered with site specific conditions will be major factors in determining eligibility for minimal impact status which is in the discretion of the director."

The above is not intended to be an exhaustive list of all requirements that could apply. The applicant should be aware that this determination does not supersede the requirements of any current federal or state air quality requirement.

Details

According to the application, applicant proposes to engage in the detection, extraction, and preliminary on-site processing of iron ore at the proposed Mining Permit Phased Areas (MPPA), north of Capitan, New Mexico, in Lincoln County, New Mexico. The Permit Total Boundary shall be 40 acres. The initial disturbed area will be on 5 acres, totaling 15 acres. Applicant proposes to proceed with mining in three separate 5-acre phases. Mining operation has been proposed to take place on three separate MPPAS, each requiring three phases to satisfactorily exploit the site and return the land back to dormancy. Only one MPPA will be operated on at any given time. Mining operation will be subdividing each 5-acre MPPA into three independent zones: 1 acre for equipment and processing; 1 acre for stockpiling raw material for export; and 3 acres for mining. The applicant will employ drilling and blasting as the primary method of material dissolution. Excavators, dozers, and other secondary pieces of equipment will extract the pulverized earth and transport it to the crusher, where it shall subsequently be conveyed through a magnetic separator for stockpiling. The contents of these stockpiles shall be transported off-site. This cycle will continue until the MPPA's economically retrievable reserves of iron ore and other desirable elements are exhausted. The haul roads will be established on existing trails and roads.

Fugitive Dust

Fugitive dust is a common problem at mining sites. The Air Quality Bureau does not regulate fugitive dust; however, we do recommend controls to minimize emissions of particulate matter from fugitive dust sources. The following control strategies can be included in a comprehensive facility dust control plan (from EPA's *Compilation of Air Pollutant Emission Factors, AP-42*):

Unpaved haul roads and traffic areas: paving of permanent and semi-permanent roads, application of surfactant, watering, and traffic controls, such as speed limits and traffic volume restrictions.

Paved roads: covering of loads in trucks to eliminate truck spillage, paving of access areas to sites, vacuum sweeping, water flushing, and broom sweeping and flushing.

Material handling: wind speed reduction and wet suppression, including watering and application of surfactants (wet suppression should not confound track out problems).

Bulldozing: wet suppression of materials to "optimum moisture" for compaction.

Scraping: wet suppression of scraper travel routes.

Storage piles: enclosure or covering of piles, application of surfactants.

Miscellaneous fugitive dust sources: watering, application of surfactants or reduction of surface wind speed with windbreaks or source enclosures.

The Air Quality Bureau or the US Environmental Protection Agency may implement requirements, regulations and standards for the control of fugitive dust sources in the future. This written determination does not supercede the applicability of any forthcoming state or federal regulations.

If you have any questions, please contact me at (505) 476-4317.



STATE OF NEW MEXICO
DEPARTMENT OF CULTURAL AFFAIRS
HISTORIC PRESERVATION DIVISION

Susana Martinez
Governor

BATAAN MEMORIAL BUILDING
407 GALISTEO STREET, SUITE 236
SANTA FE, NEW MEXICO 87501
PHONE (505) 827-6320 FAX (505) 827-6338

RECEIVED

JUN 25 2014

MINING & MINERALS DIVISION

June 24, 2014

Chris Eustice
Permit Lead
Mining Act Reclamation Program
Mining and Minerals Division
1220 South St. Francis Drive
Santa Fe, NM 87505

Re: Request for Review and Comment, Permit Modification Proposal for Capitan Iron Mine,
Existing Minimal Impact Mine, Permit No. LI005ME, Lincoln County

Dear Mr. Eustice:

I am writing in response to the request for review and comment on the above referenced permit, received at the Historic Preservation Division (HPD) on June 13, 2014. A review of our records show that there are no historic properties listed on the State Register of Cultural Properties or the National Register of Historic Places within the permit area. However, archaeological sites have been near the permit area and there is a potential for additional, unidentified, archaeological sites to exist that may be disturbed by mining activities and reclamation.

It appears that the surface owner of the project area is the U.S. Forest Service (USFS), Lincoln National Forest. Because the project area is located on lands owned and managed by the U.S. Forest Service, the USFS must comply with Section 106 of the National Historic Preservation Act. The Lincoln National Forest will determine if additional archaeological survey is necessary and determine whether any significant archaeological sites will be affected.

If you have any questions concerning these comments, please do not hesitate to contact me. I can be reached by telephone at 827-4064 or by email at michelle.ensey@state.nm.us.

Sincerely,



Michelle M. Ensey
Archaeologist

Log: 99394



United States
Department of
Agriculture

Forest
Service

Lincoln National Forest

3463 Las Palomas Rd.
Alamogordo, NM 88310
(575) 434-7200

File Code: 2800
Date: June 30, 2014

RECEIVED

JUL 03 2014

MINING & MINERALS DIVISION

Chris Eustice
Permit Lead, Sr. Environmental Engineer
Mining Act Reclamation Program
1220 South St. Francis Drive
Santa Fe, NM 87505

**CERTIFIED MAIL – RETURN
RECEIPT REQUESTED
NUMBER: 7011 2970 0001 7960 7702**

Dear Mr. Eustice:

We received your request for review and comment on the permit modification for the Capitan Iron Mine from El Capitan Precious Metals Inc. (El Capitan) in Lincoln County. My staff has read through the proposal and identified a few issues relevant to the approval of this application and moving forward with this operation. For your information and use, I have enclosed our most recent correspondence with Charles Mottley of El Capitan. In this letter we explained our understanding of their most recent plans, as of April 9th, 2014. We determined that the activities they were proposing at that time fit within the scope of their current Road Use Permit for Forest Road 489A. To date, we have not received a reply to this letter.

The proposal you provided appears to be a larger operation than what was discussed on April 9th. I have enclosed a copy of the map from their application with our comments inserted. Currently, El Capitan is only authorized to use Forest Road 489A for hauling heavy equipment in, such as a backhoe; and hauling out small amounts of mineral material, the amount that could be loaded in a pickup truck and hauled across the National Forest without any modifications made to the road. Our concerns are: It is unclear from this application as to the type and size of the processing and drilling equipment they plan to utilize is; there is no reference to the anticipated volume of material to be extracted and hauled across the National Forest; it is not clear as to what type of equipment will be used to haul the material off site across the National Forest; there is no reference to frequency of use of the road or anticipated duration of the project, nor if any modifications will be needed to Forest Road 489A, or other identified roads, to make them suitable for their intended use.

The proposal also shows several other unauthorized routes south and west of the patented land that cross the National Forest. These routes are not part of our Travel Management System and are unauthorized user created roads. They are not covered under El Capitan's Road Use Permit. Approval and use of these routes may be accomplished through an environmental analysis. To date, we have not received a proposal to use these routes.

I have also enclosed a letter from our Office of General Counsel to El Capitan's Attorney, Blair Dunn, regarding access and assertion of an RS 2477 Claim. Reference is made to a meeting held with El Capitan's former legal counsel in March. It states that the breadth of their proposal seemed to exceed the limited use authorized by their Road Use Permit. We discussed with them the need for a detailed proposal for the Forest to review. To date, no such proposal has been submitted for us to review. This proposal is needed for us to determine the type of authorization necessary for use and occupancy of National Forest System lands, and to determine the



appropriate level of environmental analysis required. In this letter they are also cautioned against the use of Forest Service Lands without proper authorization, the penalties associated with doing such and the history associated with unauthorized use by El Capitan at the site.

Thank you for the opportunity to review this proposal and work with your agency to properly authorize mining activity on National Forest System Lands. Please continue to keep us apprised of the administrative process as you move forward with this application. If you have any questions or concerns on the content of this letter or need any additional information please contact Eric Turbeville of the Smokey Bear Ranger District at (575) 630-3051 or eturbeville@fs.fed.us.

Sincerely,



(Acting for) Travis Moseley

/s/ Loretta Benavidez (for)

Travis G. Moseley

TRAVIS G. MOSELEY

Forest Supervisor

Enclosure (3)

cc: David Warnack

Steve Hattenbach

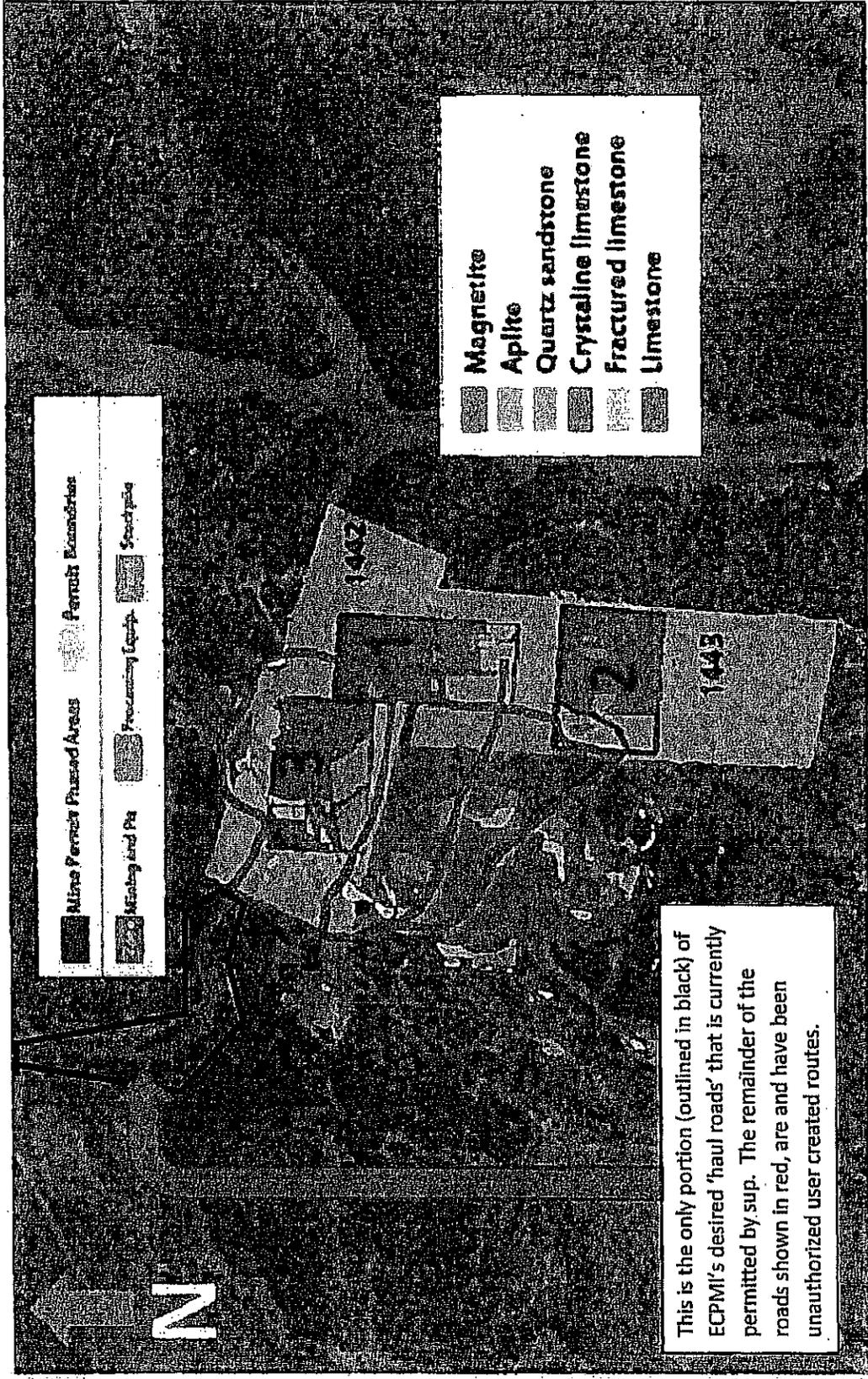


Figure 1: Work Areas are subdivided into operationally segregated zones, with a haul roads in red (see attached Permit Area Boundary) A full sized version is attached.



NEW MEXICO
ENVIRONMENT DEPARTMENT



Ground Water Quality Bureau

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Governor

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RYAN FLYNN
Secretary

BUTCH TONGATE
Deputy Secretary

MEMORANDUM

Date: July 10, 2014

To: Holland Sheppard, Program Manager, Mining Act Reclamation Program (MARP)

Through: Keith Ehlert, GWQB-MECS Mining Act Team Leader (Acting) *KE*

From: Larry Shore, GWQB-MECS
Neal Butt, Air Quality Bureau

Re: **New Mexico Environment Department Comments on Permit Modification Application for Capitan Iron Mine, Existing Minimal Impact Mine, Permit No. LI005ME, Lincoln County, New Mexico**

The New Mexico Environment Department (NMED) received a request for comments from the Mining Act Reclamation Program (MARP) on the El Capitan Precious Metals, Inc. (ECPM) permit modification application (Application) on June 12, 2014. ECPM is proposing to reactivate mining at the Capitan Iron Mine and to update the reclamation plan and the associated financial assurance.

MARP requested that NMED review the updated reclamation plan and provide comments on ECPM's proposed financial assurance cost estimate and submit comments within 20 days of receipt. NMED is submitting comments to MARP on July 10, 2014, pursuant to a seven day extension of time granted by MMD on July 3, 2014.

The Application has been reviewed by the Air Quality Bureau, the Surface Water Quality Bureau, and the Ground Water Quality Bureau pursuant to 19.10.5.505.B (3) NMAC of the New Mexico Mining Act (NMMA) Rules. Comments in this memorandum are being submitted jointly by the NMED Surface Water Quality Bureau and Ground Water Quality Bureau. Comments from the Air Quality Bureau are attached under a separate memorandum.

NMED Site History

The original Minimal Impact - Existing Mining permit application on the Pittsburg Lode and Pittsburg Load No. 1 was submitted by Seven Western Mining Company in 1997. NMED provided comments regarding the permit application to MARP on April 9, 1998. Our comments at that time found that the proposed mining operation would likely have a minimal environmental impact if operated and reclaimed in accordance with MMD's approved permit and a Determination Letter signed by the Secretary pursuant to 19.10.3.303 K. (5) NMAC was issued on the same date.

Site Location and Description

The Capitan Iron Mine is located approximately six miles north of Capitan, New Mexico in T8S, R14E, Sections 11 and 14 on the southern flank of the Capitan Mountains. On July 1, 2014, a site inspection of the Capitan Iron Mine-Phase I was conducted by Larry Shore, NMED geologist, and Chris Eustice representing MMD, and were accompanied by David Davidson, President/Chairman of Gulf Coast Environmental, Inc., representing ECPM.

The proposed Phase I project consists of an approximately 5 acre area which is fenced and at the time of site inspection was in the process of being cleared and grubbed. No sulfide minerals were observed in exposed mineralized zones.

A map included with the Application indicates that two stockpiles would be constructed; one containing iron ore and one containing precious metals ore. Based on discussions with Mr. Davidson at the time of the site inspection, it is understood that the precious metals stockpile would consist primarily of non-magnetic iron ore containing hematite and minor amounts of gold and silver.

Permit Application Requirements and Minimal Impact Status – Ground and Surface Water

The applicant intends to conduct relatively continuous mining and reclamation maintaining a minimal impact mining footprint. In general, the following measures should be implemented to provide for protection of surface and ground water quality.

- Subpart 303.E.2 of the New Mexico Mining Act Rules (Rules) requires that the permit applicant provide a topographic map that includes the location of the proposed permit area with the existing and proposed areas of disturbance. The contour interval on the topographic map included with the Application is 20 feet, which is inadequate to determine overburden quantities, cut and fill quantities, available soil that can be salvaged for cover, and size of overburden stockpiles, from which estimates of the financial assurance closure costs are based. Additional details are needed to accurately estimate the financial assurance requirements under 19.10.3.303.F. NMAC. A map with contour intervals adequate to clearly define these values should be provided. If the amount of salvaged soil is inadequate to cover the disturbed areas, ECPM should include in the financial assurance cost estimate how much additional cover material will need to be imported from offsite

sources and show where those sources are located. If importing suitable cover material is required, these costs must be included in the cost estimate. The cover volume estimates should have sufficient enough detail for a third party contractor to bid on a contract to reclaim the disturbed area should ECPM be unwilling or unable to perform this function as required.

- All mining activities need to implement Best Management Practices in a manner that prevents direct impacts to surface water and ephemeral watercourses. For surface disturbances during exploration and reclamation activities, the operator must commit to implementing erosion control measures that are designed, constructed and maintained using professionally recognized standards (e.g. Natural Resource Conservation Service Standards or the Bureau of Land Management *Gold Book*).
- The use of overland travel and site selection, design and construction of well pads, reserve pits, and roads must comply with the guidelines described in the Bureau of Land Management *Gold Book*, Chapter 4:
http://www.blm.gov/wo/st/en/prog/energy/oil_and_gas/best_management_practices/gold_book.html
- Travel should be suspended during wet, muddy conditions. Construction or maintenance activities should not be performed during periods when the soil is too wet to adequately support heavy equipment. If such equipment creates ruts in excess of six inches deep, the soil is considered too wet to adequately support equipment.
- All heavy equipment used in the project area should be inspected daily for leaks. A written log of inspections and maintenance should be maintained.
- Appropriate spill clean-up materials such as absorbent pads must be available on-site at all times during road construction, site preparations, and drilling activities to address potential spills.
- Report all spills immediately to the NMED as required by the New Mexico Water Quality Control Commission Regulations (20.6.2.1203 NMAC). For non-emergencies during normal business hours, call (505) 476-6000. For non-emergencies after hours, call (866) 428-6535 or (505) 428-6535 (voice mail, twenty-four hours a day). For emergencies only, call (505) 827-9329 twenty-four hours a day (NM Department of Public Safety).
- The applicant is advised that activities that disturb one (1) acre or more may require a permit from EPA under Section 402 (NPDES) of the Clean Water Act. The applicant should submit the appropriate application to EPA 14 days prior to initiating construction. In the case of emergency operations, you must apply no later than 30 days after the start of construction and are considered provisionally covered under the terms and conditions of the EPA-issued general permit immediately, and fully covered 14 calendar days after EPA has acknowledged receipt of your application (Notice of Intent, or NOI), unless EPA notifies

you that your authorization has been delayed or denied. For additional information, contact:

EPA Region 6
1445 Ross Avenue
Suite 1200
Dallas, Texas 75202
Ph:800-887-6063 or 214-665-2760 if calling from outside Region 6

- The applicant should consult with the U.S. Army Corps of Engineers to verify whether the proposed activity will require Clean Water Act §404 permitting, such as for stream crossings or fill in adjacent wetlands. Failure to receive and implement proper permit coverage would be a violation of the Clean Water Act. If you have questions about this coverage, please contact Marcy Leavitt, US Army Corps of Engineers, at (505) 342-3678.
- Any boreholes must be abandoned in accordance with the New Mexico Office of the State Engineer requirements and New Mexico Mining Act Rules, including complete plugging from the bottom of the hole to the land surface with cement or high density bentonite clay. If the approved plugging material is not cement, then the top ten feet of the column must be a cement plug.
- If exploration holes are drilled, the applicant must contain any water produced from the exploration holes at the drill site. Discharge of this water or any drilling fluids to any watercourse may be a violation of the Clean Water Act. All drilling cores should be collected and disposed of properly.
- If groundwater is encountered during the mining process, the agencies should be notified immediately. If groundwater is encountered, a discharge permit may be required.

NMED finds the proposed mining activities are likely to have a minimal environmental impact if operated and reclaimed in accordance with an approved permit application and requirements listed above. If you have any questions, please contact

cc: Jerry Schoeppner, Chief, GWQB
James Hogan, Chief, SWQB
Richard Goodyear, Chief, AQB
Fernando Martinez, Director, EMNRD-MMD
Chris Eustice, MARP
Kurt Vollbrecht, Program Manager, GWQB-MECS

Alan P. Morel

From: Roth, Daniela, EMNRD <Daniela.Roth@state.nm.us>
Sent: Friday, July 11, 2014 11:52 AM
To: Eustice, Chris, EMNRD
Subject: RE: REQUESTS REVIEW & COMMENT - Permit Modification Proposal, Existing Minimal Impact Permit No LI005ME

Dear Chris Eustice:

Thank you for giving me the opportunity to review and comment on the permit modification proposal for the existing minimal impact permit No LI005ME, in Lincoln County, NM.

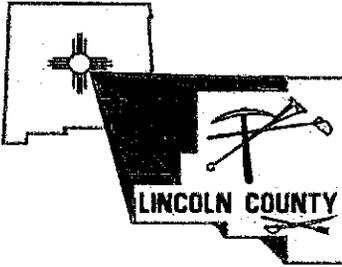
The project area is in close proximity of a known site of the federally and state listed Kuenzler's hedgehog cactus (*Echinocereus fendleri* var. *kuenzleri*). For further information on this species please refer to <http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=Q1VW> and http://nmrareplants.unm.edu/rarelist_single.php?SpeciesID=70. I recommend clearance surveys of the project area during the appropriate survey period for the species and the development of avoidance and mitigation measures, if the species is found. Furthermore, the USFS and the USFWS need to be consulted on potential impacts resulting from the project to this species and its habitat, if plants are found in the project area.

Please let me know if I can be of further assistance,

Sincerely,

Daniela Roth

BOTANY PROGRAM COORDINATOR
EMNRD-Forestry Division
1220 S. St. Francis Dr.
Santa Fe, NM 87505
(505)476-3347 (Phone)
(505)476-3330 (Fax)
<http://www.emnrd.state.nm.us/SFD/>



www.lincolncountynm.net

County of Lincoln

P.O Box 711 • 300 Central Ave. • Carrizozo, New Mexico 88301-0711 • (575) 648-2385

Agenda Item No. 18

September 12, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager 

SUBJECT: Lincoln County Community Wildfire Protection Plan (CWPP) Update

Purpose: To Obtain Commission Approval of the 2014 Update of the Community Wildfire Protection Plan

Discussion:

Attached for review, consideration and Commission action is the 2014 Update of the CWPP. This document serves as a combination and update of the CWPP developed for the Greater Ruidoso Area in 2004, and separately developed for the County of Lincoln in 2008. Both CWPPs, although written several years ago, are important landmark documents and nothing in this document is designed to replace or contradict either plan. As explained in the Introduction, this plan provides a framework to address wildfire risk in Lincoln County; the goal is to encourage and provide communities within the county with the ability to develop specific plans to address localized fire risk.

Recommendation: Approve the 2014 Update of the Lincoln County Community Wildfire Protection Plan.

Lincoln County New Mexico Community Wildfire Protection Plan

2014 Update

**Prepared For:
Lincoln County
PO Box 711
Carrizozo, NM 88301**

Prepared by
The South Central Mountain
Resource Conservation & Development Council, Inc.
August 30, 2014

In Cooperation With:
Lincoln County
The Greater Ruidoso Wildland Urban Interface Working Group
EMNRD – Forestry Division
Lincoln National Forest
The Village of Ruidoso
Village of Capitan
Little Bear Forest Reform Coalition
New Mexico State Land Office
Bureau of Land Management
Bureau of Indian Affairs

Lincoln County, New Mexico
Community Wildfire Protection Plan

- 1. Signatures**
- 2. Introduction**
- 3. Goals and Objectives**
- 4. Core Team Directory**
- 5. Area Description**
- 6. Fire History & Regime**
- 7. Current Conditions**
- 8. Desired Conditions**
- 9. Community Wildfire Hazard Risk Assessment**
- 10. Community Accomplishments/ Wildfire Mitigation Efforts**
 - A. Local Fire Suppression Resources**
 - B. Completed projects**
 - C. Interagency Fuels Treatment Basemap**
 - D. Greater Ruidoso Area WUI Working Group**
 - E. Grants**
 - F. SBWFTA**
 - G. Slash**
 - H. Sustainable funding**
 - I. Education and Outreach**
- 11. Community Priorities**
- 12. Structural Ignitability**

13. Recommendations/ Where do we go from Here

14. Appendices

- i. Glossary of terms**
- ii. Ruidoso Fuels ordinance**
- iii. WUI definitions**
- iv. Documentation of meetings**
- v. GRT Restoration Manual**
- vi. Community Survey**

**LINCOLN COUNTY
COMMUNITY WILDFIRE PROTECTION PLAN**

We the undersigned approve and support the Lincoln County Community Wildfire Protection Plan

Jackie Powell, Chairman, Lincoln County Commission

Date:

Preston Stone, Vice-Chair, Lincoln County Commission

Date:

Mark Doth, County Commissioner

Date:

Dallas Draper, County Commissioner

Date:

Kathryn Minter, County Commissioner

Date:

**LINCOLN COUNTY
COMMUNITY WILDFIRE PROTECTION PLAN**

We the undersigned approve and support the Lincoln County Community Wildfire Protection Plan.

Village of Ruidoso

Tom Battin, Mayor, Village of Ruidoso

Date:

Lynn Crawford, Councilor

Date:

Rafael Salas, Councilor

Date:

Joseph Eby, Councilor

Date:

Tim Coughlin, Councilor

Date:

John Cornelius, Councilor

Date:

**LINCOLN COUNTY
COMMUNITY WILDFIRE PROTECTION PLAN**

We the undersigned approve and support the Lincoln County Community Wildfire Protection Plan.

Village of Capitan

Dennis Haskell, Mayor, Village of Capitan

Date:

Water Supervisor/Fire Chief

Date:

Village Clerk

Date:

**LINCOLN COUNTY
COMMUNITY WILDFIRE PROTECTION PLAN**

We the undersigned approve and support the Lincoln County Community Wildfire Protection Plan.

Cooperating Agencies

David Warnack, District Ranger, Smokey Bear Ranger District Date: _____

Lynn Lovelace, EMNRD Forestry Division, Capitan District
Capitan District Forester Date: _____

Joe Kenmore, Director
Lincoln County Emergency Services Date: _____

Spencer Baldwin, Coordinator
Lincoln County Emergency Services Date: _____

Dick Cooke, Chairman
Greater Ruidoso Area WUI Working Group Date: _____

Harlan Vincent, Fire Chief
Village of Ruidoso Date: _____

Bureau of Indian Affairs Date: _____

1. Introduction

This document serves to provide an update for both the Lincoln County and Greater Ruidoso Area (GRA) Community Wildfire Protection Plans (CWPP). Its goal is to be a useful, living document that can help the communities guide wildfire mitigation efforts and be updated as needed. This protection plan provides a framework to address wildfire risk in Lincoln County. While this CWPP is a stand-alone document, our goal is to encourage and provide communities within the county with the ability develop more specific plans to address localized fire risk.

CWPP's are not legal documents, and this update should be viewed in conjunction with the previous two CWPP documents. Both CWPPs, although written several years ago are important landmark documents and nothing in this document is designed to replace or contradict either plan.

Since the GRA CWPP was written in 2004 and the Lincoln County CWPP was written in 2008, much has changed in the area. Fuel mitigation projects have treated over 32,000 acres on both public and private land within our Wildland Urban interface (WUI), and there have been several large fires that have burned homes and drastically changed fuel conditions and community priorities. This document will update certain components of the two CWPPs to reflect changing conditions, additional knowledge, recent community mitigation efforts, and updated priorities. Applicable portions of previous CWPP's have been incorporated into this document as they provide a strong foundation.

The Greater Ruidoso Area CWPP was created in 2004 and was one of first CWPPs developed in New Mexico. The document is evidence of a community beginning to work together to address wildfire risk and mitigation. Compared to later CWPP's (including the Lincoln County CWPP) the document provides basic information about a community addressing the common wildfire hazard. While the document does not explicitly address particular areas or communities, the "Ruidoso WUI project boundary" is represented in the map which outlines an area of increased wildfire risk. This area is still at high risk for wildfire and is the primary WUI within the county. The document includes the following;

- Map of completed fuels treatments,
- Silvicultural treatment objectives,
- Statement on structural ignitability, recommending the use of structural hazard rating forms as noted in the international WUI fire code,
- Signatures from the various agencies and government officials,
- List of community stakeholders and contact information of GRAWUI working group members,
- Copies of village thinning ordinances and fuel standards (multiple),
- Example structure fire hazard rating form, Firewise checklist,
- Glossary of terms.

The Lincoln County CWPP was created in 2008. The work was contracted to Walsh Engineering of Boulder, Colorado. The document includes analysis of multiple WUI communities within Lincoln County but exempts both Ruidoso and Ruidoso Downs because of their inclusion in the previous CWPP. This document is more comprehensive than the GRA CWPP and includes copious amounts of generalized wildfire/WUI research, and background information. It also uses coarse scale GIS data to document fuel conditions. The document provides general recommendations to mitigate fire risk but does not include a detailed plan. The document is outlined as follows:

- Introduction
- Wildland Fire Management Primer
- CWPP Assessment Area Profile
- Wildfire Risk and Hazard Assessment
- Wildfire Mitigation Plan
- Emergency Operations
- CWPP Monitoring and Evaluation
- Bibliography

2. Goals and Objectives

The Goals of the 2014 Lincoln County Community Wildfire protection plan are to reduce the risk of wildfires to the residents, firefighters, property, and natural resources of Lincoln County. The document represents a collaborative effort of multiple agencies groups, and stakeholders who have a shared responsibility to reduce the wildfire hazard in our community. This update will take previous assessments and build on those to develop a document that will guide future community protection and mitigation efforts. The document provides a framework for the community to show how we have addressed wildfire risk and what still needs to be accomplished. Communities and subdivisions are invited to provide more detailed input on specific initiatives and projects at a local level. The objectives of the Lincoln County Community Wildfire Protection Plan are;

- To educate residents regarding wildfire risk and shared responsibility.
- To reduce fuel loading around our homes, infrastructure, communities, and forests.
- To decrease structural ignitibility of our homes, business and buildings.
- To manage forested areas to promote forest health and foster resilience.
- To identify areas where landowners and land management agencies can work collaboratively.

3. Core Team Directory

The Greater Ruidoso Area Working group is the most active interagency group in Lincoln County concerned with fuels reduction and wildfire risk. The CWPP update was discussed at

multiple GRAWUI working group meetings, which are open to the public, and members of the group were asked to participate in the process to update the CWPP. The core group was self-selected from the working group and represents a cross-section of our community, with individuals from various backgrounds and interests. Below is an alphabetized list of the members.

Core Team Directory			
	<u>Name</u>	<u>Agency</u>	<u>Title</u>
1	Roger Allen Spencer	LBFRFC/ Bio Grind	
2	Baldwin	LC Fire and emergency services	Coordinator
3	Mike Caggiano	SCMRCD	Community Forester
4	Dick Cooke	Village of Ruidoso Forestry	Village Forester
5	Bela Harrington	BIA	Fuels Planner
6	Lynn Lovelace	NM State Forestry	District Forester
7	Daniel Ray	USFS – Smokey Bear District	Fuels Specialist
8	Mary Ann Russ Anthony	LBFRFC	Director
9	Sanchez	USFS – Smokey Bear District	Fire Management Officer
10	James Savage	BLM	
11	Frank Silva	NM State Forestry	Timber Management Officer
12	Harlan Vincent	Village of Ruidoso Fire	Fire Chief
13	Mary Weaver	LBFRFC	Director

4. Area Description

Lincoln County is located in south-central New Mexico. The county has an area of 4,831 square miles with a population of 20,497 (2010 census). Much of Lincoln County is a high desert, with the White and Sacramento mountains encompassing the southern portion of the county. This CWPP includes the entire county with an emphasis on areas prone to high wildfire risk and WUI communities including the mountainous areas which contain a mix of private, public and wilderness areas. Important economic values in Lincoln County are year-round recreational resort facilities, tourism, historical communities and buildings, site seeing, and retirement communities. Ecological values include such things as watersheds, wildlife and aquatic habitats, rangeland grazing, forest products, and view sheds. The Bonito and other watersheds are water sources for communities inside and outside of the county. Important infrastructure includes such things as U.S. Highways (54, 70, 285, and 380), county roads, a railroad, communication towers, communities, watersheds, ski area, and historical communities. Vegetation and fuels in Lincoln County vary widely and are largely dependent on elevation. Grasslands and desert scrub exist at lower elevations, pinon juniper woodlands and pine forests exist at mid elevations and mixed conifer forests exist at high elevation. Lincoln County was first settled by Europeans in the late 1800's with residents engaging in ranching and agriculture. The mountainous areas around

Ruidoso area became a tourist destination in the early 1900's and Ruidoso continues to be one of the most visited areas in the state of New Mexico.

The present population of 20,497 represents a growth rate of 5.6% from the 2000 census. The county's three largest municipalities Ruidoso, Ruidoso Downs, and Capitan, have a full time population of 8,005, 2,739, and 1,470 respectively. The majority of the population lives in the high elevation portions of the county, in and around Ruidoso. The Greater Ruidoso area is a popular tourist destination and during summer weekends the population can swell to 40,000 people. The population as a whole is growing slowly, with an influx of retirees and transplants from out of the area, and while development slowed after the 2008 real estate crash, development continues. The majority of the building occurs around Ruidoso and Alto.

There are multiple definitions of the Wildland Urban Interface (WUI). Per the National Fire Protection Agency, the WUI is "a set of conditions that can exist in any community, determined by the combustibility of structures and their proximity to vegetation and other structures, the type and distribution of vegetation, climate and weather patterns, fire history, topography and other landscape features, access, and more."

The Ready, Set Go Program defines it as: "areas where homes are built near or among lands prone to wildland fire."

The University of Wisconsin SILVIS lab further defines the WUI: "WUI is composed of both interface and intermix communities. In both interface and intermix communities, housing must meet or exceed a minimum density of one structure per 40 acres (16 ha). Intermix communities are places where housing and vegetation intermingle. In intermix, wildland vegetation is continuous, more than 50 percent vegetation, in areas with more than 1 house per 16 ha. Interface communities are areas with housing in the vicinity of contiguous vegetation. Interface areas have more than 1 house per 40 acres, have less than 50 percent vegetation, and are within 1.5 mi of an area (made up of one or more contiguous Census blocks) over 1,325 acres (500 ha) that is more than 75 percent vegetated. The minimum size limit ensures that areas surrounding small urban parks are not classified as interface WUI."

Federal Register/Vo l. 66, No. 3/Thursday, January 4, 2001/Notices; and "Fire in the West, The Wildland/Urban Interface Fire Problem", in the "A Report for the Western States Fire Managers", September 18, 2000: "The Urban Wildland Interface community exists where humans and their development meet or intermix with wildland fuel."

10-Year Comprehensive Strategy Implementation Plan: "the line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuel."

The Southwest Forest Alliance defines it as: "areas where urban fuels directly meet forest fuels. This is primarily within 20-60 meters of houses, where fire most directly threatens the house, and where a defensible zone can be developed."

All of the definitions target the areas where people intermingle with the forest. It is ultimately up to the communities where WUI areas exist to decide what the final definition is. Lincoln County has a large amount of WUI within its borders but how to define it is up to debate. The County has explored several WUI definitions and has had extensive discussions about how to define our Wildland Urban Interface. The Lincoln National Forest surrounds several communities, and numerous private holdings, and recently defined the entire ranger district as WUI with the exception of the White Mountain and Capitan Wilderness Areas. In addition to recreation, and hunting, much of the forest is leased to grazing permit holders, and management of these lands directly affects the livelihood of county residents.

The CWPP core team decided that the WUI is composed of both interface and intermix communities, and is defined as a group of areas where human habitation and development meet or intermix with wildland fuels. Interface areas include housing developments that meet or are within 1.5 miles of continuous vegetation. Intermix areas are those where structures are scattered throughout a wildland area. Depending on the surrounding fuel conditions, topography, and present structures, wildland areas of up to 1.5 miles from structures may be included in the WUI. Also included, but not limited to, are important community water sources and other infrastructures such as electronic sites, mountain top repeaters, towers, pipelines, cultural resources, reservoirs, dams, treatment plants, bridges, roads, lift stations, hospitals, and other critical infrastructures.

WUI areas will be expanded in areas of greater risk and will be based on community and Core Team input. The WUI creates an environment in which fire can move readily between structural and vegetative fuels, increasing the potential for wildfire ignitions and the corresponding potential loss of life, livelihood, and property.

6. Fire History & Regime

The fire regimes in Lincoln County are largely dependent on forest type. Before human settlement, Pinon Juniper woodlands and mixed conifer forests experienced infrequent high intensity stand replacing fires, while Ponderosa Pine forests experienced more frequent lower intensity fires. Fires have been suppressed for about 100 years, since communities in this area have had the capacity to do so. Human efforts combined with climactic conditions have altered fire regimes and fuel conditions. The county has recently experienced several large wildfires costing millions of dollars in property damage and suppression costs.

In June of 2012, the Little Bear Fire burned approximately 35,300 acres of National Forest System (NFS) Lands on the Smokey Bear Ranger District of the Lincoln National Forest, with a total burn area of 44,330 acres. The fire started in the White Mountain Wilderness and ran north east across six watersheds, including the Rio Bonito, in the mountains directly adjacent to Ruidoso, Alto, and Angus, New Mexico. The burn severity was high to moderate throughout 53% of the fire. There was extensive loss of property with over 240 structures lost.

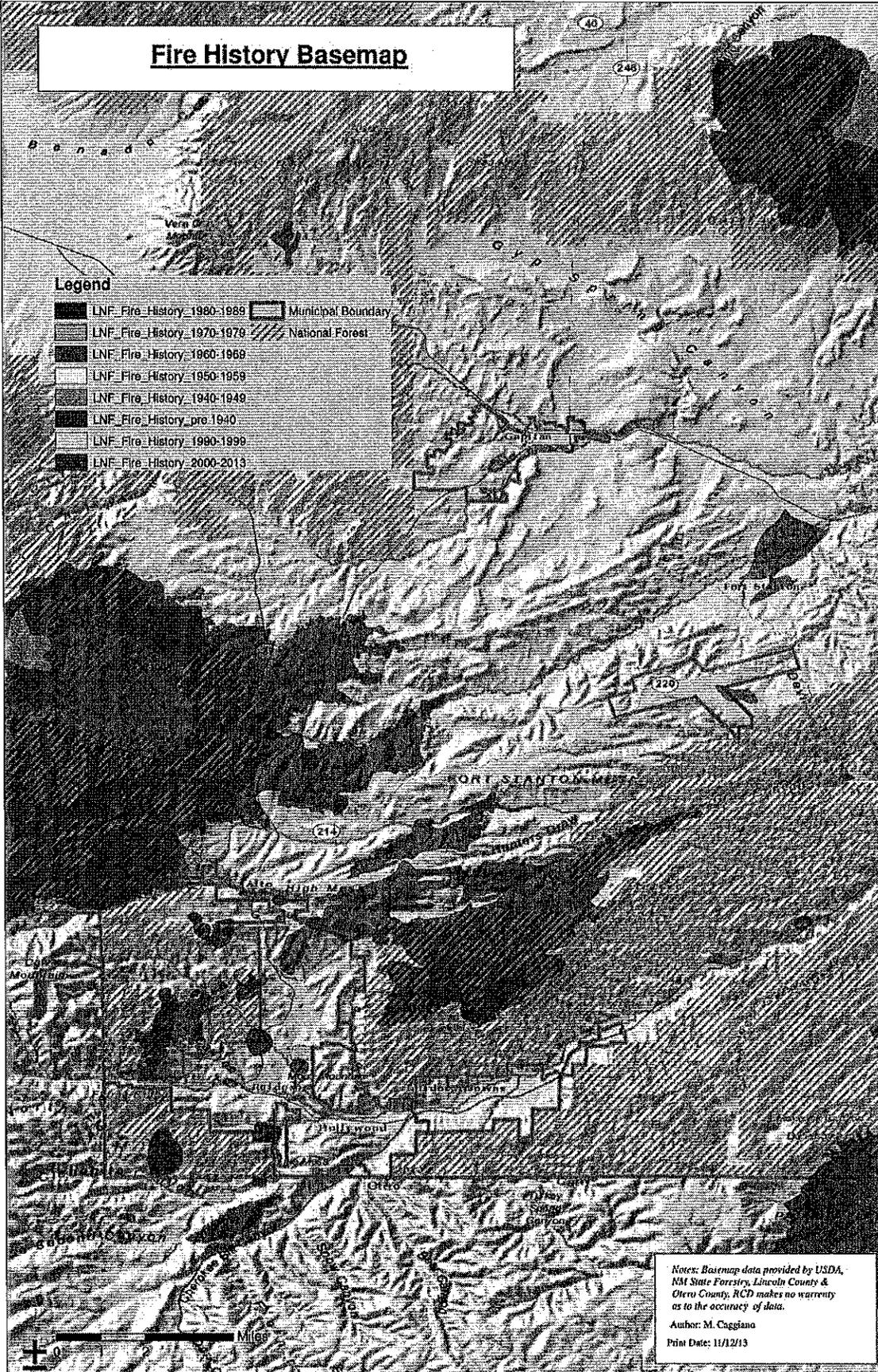
Fire intensity and size have been increasing due to the increase of fuels, tree density, large areas of continuous fuels and a dry weather cycle. Wildfires have occurred in almost every vegetation type within the county, including grasslands, pinon juniper forests, ponderosa pine forests, and mixed conifer forests. Fires have been started by both human and natural causes close to homes and roads, as well as isolated undeveloped areas. Most wildfires have been suppressed while still small, but several have grown into large fires. The table below lists the large wildfires (>1,000 acres) that Lincoln County has experienced since the year 2000. The attached map shows these fires and additional fires the county has experienced in the last 50 years.

Lincoln County Large Fire History – Since 2000			
<u>Name</u>	<u>Date</u>	<u>Size (acres)</u>	<u>Structures lost</u>
Cree	May, 2000	6,500	3
Kokopelli	March, 2002	1,000	29
Peppin	June 2004	64,000	unknown
Donaldson	June, 2011	101,563	1
White	April, 2011	10,000	5
Little Bear	June, 2012	44,330	250

Fire History Basemap

Legend

-  LNF_Fire_History_1980-1989
-  LNF_Fire_History_1970-1979
-  LNF_Fire_History_1960-1969
-  LNF_Fire_History_1950-1959
-  LNF_Fire_History_1940-1949
-  LNF_Fire_History_pre 1940
-  LNF_Fire_History_1980-1999
-  LNF_Fire_History_2000-2013
-  Municipal Boundary
-  National Forest



6. Current Conditions

The majority of Lincoln County is dominated by a high desert, with grasslands, pinon juniper forests, ponderosa pine forests, and dry mixed conifer forests occurring at progressively higher elevations. Currently, forests are too dense with most stands in the County being overstocked, contribution to a high degree of departure from its historic range of variability (land fire dataset).

Lincoln County's wildland urban interface and areas of high fire risk are a mix of pinon juniper, ponderosa pine, and mixed conifer forest types. Limited amounts of riparian forests exist along waterways. Stand densities in untreated forest are higher than historical norms. As of 2014, beetle and insect damage are at epidemic proportions. This combination of insects, disease, drought, and fire caused stress are responsible for significant mortality in some stands/hillsides, and is expected to continue. This mortality increases fire risk while dead trees hold needles, and will contribute to increased fuel loading as dead trees fall to the forest floor. Treated areas (public and private land) have generally fared better than untreated land but are not immune to insects, disease, or drought. Current conditions around communities have improved largely due to thinning efforts, but much work remains to be completed. Vegetation on treated properties quickly grows back underscoring the need for continued maintenance.

7. Desired Conditions

Much of the county has been treated to reduce hazardous fuel. Strategically located public land has been treated by government agencies, and private land has been treated by landowners often with the assistance of government grant programs. See the appendix for a list of completed treatments in the area. The desired conditions around structures include defensible space with a minimum cleared area extending 30 feet from the structure. Additional clearance is desirable if appropriate. A variety of fuel treatment strategies are needed to reach the desired conditions. Treatment types include mechanical removal, mastication, bulldozer pushes, piling, hand work and prescribed burns. All efforts are coordinated with members of the GRA WUI Working Group.

In open areas away from structures, the silvicultural prescriptions that guide fuel treatments are generally designed to improve forest health, reduce fire risk, and improve forest resiliency. Specific objectives vary based on the location of the treatment and jurisdiction, but generally will reduce basal area and increase crown spacing with removal desirable. The Village of Ruidoso has adopted a fuels ordinance which requires defensible space, the removal of ladder fuels, and raking pine needles to reduce the risk of catastrophic wildfire. A copy of the 2013 ordinance is included in the appendix. Treating unincorporated property outside the village is voluntary, and most treatments on private land outside of the village of Ruidoso are implemented with financial and or technical assistance from NM State Forestry. Treatments are focused on implementing defensible space around structures, and improving forest health and reduction of fire risk in and around communities.

USFS treatments take a holistic approach and focus on resiliency. Silvicultural prescriptions incorporate grazing, wildlife management, and utilization objectives. The USFS prescriptions will often incorporate burning during second or third entries and commit staff time and resources for burning operations to further reduce fuel loading. One of the more recent guidelines the USFS uses to guide restoration efforts is “ Restoring composition and structure in Southwestern Frequent Fire Forests guideline”. These guidelines can be applied to the forested areas found in Lincoln County.

Prescriptions for fuel treatments are variable and largely based on forest type and specific treatment objectives. Further, prescriptions are site specific, based on access, site index, slope, aspect, and hydrology, proximity to structures, communities, and jurisdiction. For this reason this CWPP update will not provide specific prescriptions for individual treatments.

8. Community Wildfire Hazard Risk Assessment

This CWPP update chose to update the community wildfire hazard risk assessment provided in the Lincoln County 2008 CWPP. Though mitigation efforts have been implemented the group agreed that the overall risk, and contributing factors have not changed significantly enough to warrant a change in overall community risk. The following information was pulled from the previous document with information about Ruidoso, Ruidoso Downs and multiple additional subdivisions added to the assessment list.

<u>Community</u>		<u>Wildfire Risk of Occurrence</u>	<u>NFPA 1144 Hazard Rating</u>	<u>Contributing Factors to NFPA 1144 Ratings</u>	<u>Firefighting Capacity</u>
Alpine Village					
	Homes	High	High	Paved Roads	Bonito VFD
	Watershed Quality			Above ground utilities	
	Aesthetics			Heavy fuel loads	
	Air quality			No turn around	
	Soil Quality			No ingress/egress	
	Wildlife Habitat			Combustible porch/decks	
				No fire resistant house construction	
				Defensible space less than 30 ft. around homes	
				No fire hydrants	
				Topography conducive to wildfire	
				Homes are close together	
Alto					

	Homes	High	High	Non-surfaced, steep roads	Bonito VFD
	Businesses			Heavy vegetation-fuel loads	Ruidoso and Monjeau fire lookout towers
	Recreation			Lack of defensible space around structures	Hydrants
	Tourism			Terrain conducive to unfavorable fire behavior	
	Communication towers			Lack of structure sprinkler system	
	Church camp			Utilities above ground	
	Watershed quality				
	Wildlife habitat				
	Aquatic habitat				
	Aesthetics				
	Air quality				
	Soil stability				
Ancho					
	Homes	High	High	Moderate fuel loads	Corona VFD with extended response time
	Wildlife habitat			Defensible space less than 30 feet around structures	Water is an issue
	Rangeland			Terrain conducive to unfavorable fire behavior	
	Aesthetics			Lack of structure sprinkler system	
	Air quality			Utilities above ground	
	Soil stability				
Arabela					
	Homes	Moderate	High	Limited ingress/egress	Arabela VFD
	Wildlife Habitat			Heavy vegetation-fuel loads	
	Aesthetics			Lack of defensible space around structures	
	Air quality			Terrain conducive to unfavorable fire behavior	
	Soil stability			Lack of structure sprinkler system	
				Utilities above ground	
Capitan					
	Businesses	High	Low	Light fuel loads	Capitan VFD
	Tourism			Electrical utilities above ground	Hydrants
	Agriculture land			Lack of structure sprinkler system	

	Watershed quality				
	Wildlife habitat				
	Aquatic habitat				
	Rangeland				
	Aesthetics				
	Air quality				
	Soil stability				
Carrizozo					
	Homes	High	Low	Light fuel loads	Carrizozo VFD
	Businesses			Electrical utilities above ground	Hydrants
	Tourism			Lack of structure sprinkler system	
	Agriculture land				
	Railroad				
	Watershed quality				
	Wildlife habitat				
	Rangeland				
	Aesthetics				
	Air quality				
	Soil stability				
Copper Ridge					
	Homes	High	High	Gated Community	Bonito VFD
	Watershed quality			Limited ingress/egress	
	Wildlife Habitat			Paved Roads	
	Aesthetics			Heavy Fuels	
	Air quality			Underground Utilities	
	Soil stability			Have turn around	
				Good fire resistant building materials	
				No fire hydrants	
				No water storage	
				Topography conducive to active wildfire	
Copper Ridge II					
	Homes	High	High	Paved Roads	Bonito VFD
	Watershed quality			Below ground utilities	
	Aesthetics			One way in/one way out	

	Air quality			No hydrants	
	Soil Quality			Flashy fuel loads	
	Wildlife Habitat			Topography conducive to active wildfire	
				Gated ingress/egress	
				Good turn around for trucks	
Corona					
	Homes	High	Moderate	Medium fuel loads	Corona VFD
	Businesses			Defensible space 30 to 70 feet around structures	Hydrants
	Railroad			Terrain conducive to unfavorable fire behavior	
	Watershed quality			Combustible decks and porches	
	Wildlife habitat			Electrical utilities above ground	
	Rangeland			Lack of structure sprinkler system	
	Aesthetics				
	Air quality				
	Soil stability				
Enchanted Forest					
	Homes	High	High	Gravel/paved Roads	Bonito VFD
	Watershed quality			No turn around	
	Wildlife Habitat			Severe Fire Potential	
	Aesthetics			No hydrants	
	Air Quality			No sprinklers	
	Soil Stability			Heavy fuel loads	
				Less than 30 feet defensible space around structures	
				Street signs	
Eagle Creek					
	Homes	High	High	Heavy fuel loads behind homes	Bonito VFD
	Watershed quality			Topography conducive to active wildfire	
	Wildlife habitat			No turnarounds	
	Aesthetics			Road signs	
	Air quality			No sprinklers	
	Soil Stability				
Eagle Creek II					
	Homes	High	High	Limited ingress/egress	Bonito VFD
	Watershed			No hydrants	

	quality				
	Wildlife habitat			Paved roads	
	Aesthetics			Heavy fuel loads	
	Air quality			Topography conducive to active wildfire	
	Soil stability			30-70 feet defensible space around homes	
				Above ground utilities	
Fawn Ridge					
	Homes	High	High	Above ground utilities	Bonito VFD
	Watershed quality			Paved Roads/Gravel Roads	
	Aesthetics			Houses close together	
	Air quality			Defensible space less than 30 ft. next to homes	
	Soil Quality			Moderate ingress/egress	
	Wildlife Habitat			Combustible decks and porches	
				No turn around for trucks	
				Topography conducive to active wildfire	
Fort Stanton					
	Historic buildings	High	Low	Medium vegetation-fuel loads	Fort Stanton VFD
	Hospital			Defensible space 30-70 feet from structures	Hydrants
	Correctional institution			Structures with combustible sidings, porches, and decks	
	Tourism				
	Wildlife habitat				
	Aquatic habitat				
	Aesthetics				
	Air quality				
	Soil stability				
Gavilan Hills					
	Homes	High	High	Gravel roads	Bonito VFD
	Watershed quality			No turn around	
	Aesthetics			Bad ingress/egress	
	Air quality			No fire hydrants	
	Soil Quality			Topography conducive to active wildfire	
	Wildlife habitat			Less than 30 feet defensible space around structures	
				Heavy fuel loads	

				Combustible decks and porches	
				Combustible house construction	
Glencoe					
	Homes	High	High	Non-surface road	Glencoe VFD
	Historic buildings			Medium fuel loads	Hydrants
	Businesses			Defensible space less than 25 feet around structures	
	Tourism			Terrain conducive to unfavorable fire behavior	
	Recreation			Combustible decks and porches	
	Major highway			Lack of fixed sprinkler system in structures	
	Watershed quality			Utilities above ground	
	Wildlife habitat				
	Aquatic habitat				
	Rangeland				
	Aesthetics				
	Air quality				
	Soil stability				
Homestead					
	Homes	High	High	Heavy fuel loads	
	Watershed quality			Below ground utilities	
	Aesthetics			Paved roads	
	Wildlife habitat			Loop Road	
	Air quality			Defensible space less than 30 ft. next to homes	
	Soil Quality			No fire resistant house materials	
				Topography conducive to active wildfire	
				Combustible decks and porches	
Hondo-Tinnie					
	Homes	High	Moderate	Light fuel loads	Hondo VFD
	Businesses			Defensible space less than 70 feet around structures	Hydrants
	Major highway			Terrain conducive to unfavorable fire behavior	
	Agriculture land			Combustible porches and decks	
	Watershed quality			Lack of fixed sprinkler system in structures	

	Wildlife habitat			Utilities above ground	
	Aquatic habitat				
	Aesthetics				
	Air quality				
	Soil stability				
Lincoln					
	Homes	High	High	Medium fuel loads	Lincoln VFD
	Historic buildings			Defensible space less than 70 feet around structures	Hydrants
	Businesses			Terrain conducive to unfavorable fire behavior	
	Tourism			Closeness of structures can contribute to fire spread	
	Recreation			Lack of structure sprinkler system	
	Agriculture land			Electrical utilities above ground	
	Major highway				
	Watershed quality				
	Wildlife habitat				
	Aquatic habitat				
	Aesthetics				
	Air quality				
	Soil stability				
Nogal					
	Homes	High	High	Nogal Canyon limited ingress/egress with narrow road	Nogal VFD
	Businesses			Limited fire service access	Hydrants
	Tourism			Moderate to heavy fuel loads	
	Recreation			Lack of defensible space around structures	
	Watershed quality			Combustible structure siding, porches, and decks	
	Wildlife habitat			Terrain conducive to unfavorable fire behavior	
	Aquatic habitat			Utilities above ground	
	Aesthetics				
	Air quality				
	Soil stability				
Outlaw					
	Homes	High	High	Moderate ingress/egress	Bonito VFD

	Golf Course			Power under ground	
	Watershed quality			Fire Hydrant	
	Aesthetics			Topography conducive to wildfire	
	Air quality			Moderate/heavy fuel loads	
	Soil quality			Defensible space 30/70 feet around homes	
	Wildlife habitat			Homes are generally constructed from fire resistant materials	
				No sprinkler systems	
Rainmakers					
	Homes	High	Moderate	Paved Roads	Bonito VFD
	Golf Course			Fire Hydrants	
	Watershed quality			Turn arounds	
	Aesthetics			Underground utilities	
	Air quality			Good ingress/egress	
	Soil Quality			Moderate/heavy fuel loads	
	Wildlife habitat			Fire resistant home construction	
Ranches of Ruidoso					
	Homes	High	Moderate	Light Fuel Loads	Bonito VFD
	Watershed Quality			Limited ingress/egress	Hydrants
	Wildlife Habitat			Road sign reflective	
	Aesthetics			30/70 defensible space around structures	
	Air Quality			Utilities below ground	
	Soil Stability			No sprinklers	
Ranches of Sonterra					
	Homes	High	High	Paved Roads	
	Watershed Quality			Turn arounds farther than 300 feet	
	Aesthetic			No Fire Hydrants	
	Air Quality			One way in/one way out	
	Soil Quality			Topography conducive for wildfire	
	Wildlife Habitat			Heavy Fuel Loads	
				Utilities Above Ground	
Ruidoso					
	Homes	High	High	Heavy Vegetation fuel loads	Ruidoso Fire Department

	Businesses			Defensible space less than 30 feet around structures	Hydrants
	Tourism			Terrain conducive to unfavorable fire behavior	
	Historic buildings			Lack of structure sprinkler system	
	Recreation			Utilities above ground	
	Watershed quality			Limited ingress/egress	
	Aquatic habitat				
	Aesthetics				
	Air quality				
	Soil stability				
Ruidoso Downs					
	Homes	High	High	Heavy Vegetation fuel loads	Ruidoso Downs Fire Department
	Businesses			Defensible space less than 30 feet around structures	Hydrants
	Tourism			Terrain conducive to unfavorable fire behavior	
	Historic buildings			Lack of structure sprinkler system	
	Recreation			Utilities above ground	
	Watershed quality				
	Aquatic Habitat				
	Aesthetics				
	Air quality				
	Soil stability				
White Oaks					
	Homes	High	High	Medium fuel loads	Hydrants
	Historic buildings			Defensible space less than 25 feet around structures	
	Businesses			Terrain conducive to unfavorable fire behavior	
	Tourism			Closeness of structures can contribute to fire spread	
	Recreation			Combustible sidings, porches, and decks	
	Railroad			Structures lack fixed sprinkler system	
	Watershed quality			Utilities above ground	
	Wildlife habitat				
	Rangeland				
	Aesthetics				
	Air quality				

	Soil stability				
--	----------------	--	--	--	--

9. Community Accomplishments & Wildfire Mitigation Efforts

The stakeholders in Lincoln County have been working with one another for over 10 years. Over this time, great strides have been made in reducing the wildfire risk around the community. Ruidoso became a Firewise community in 2001 and surrounding subdivisions and communities are currently implementing similar strategies. The Sierra Blanca Wildfire Training Academy has been training local and regional firefighters and provides a variety of NWCG classes for municipal, volunteer, state and federal agency firefighters. The Greater Ruidoso Area working group provides a forum for agency representatives to plan and develop new projects. Local fire departments are implementing interagency cooperative burns.

Various entities in Lincoln County have conducted hazardous fuel reduction projects and have treated over 32,000 since 2008. Treatments have occurred on National forest System lands, BLM lands, State trust lands, Municipal lands, and private property.

Local Fire Suppression Resources

Lincoln County has multiple land management agencies and fire departments that respond to emergency incidents. Incidents are managed by different agencies depending on the jurisdiction. If additional resources are needed for a wildfire resources from multiple agencies are called in for assistance. Under certain circumstances joint command or incident management teams are used to manage wildfire incidents. Large incidents will require more resources, but the local resources listed below can respond quickly to wildfires in Lincoln County.

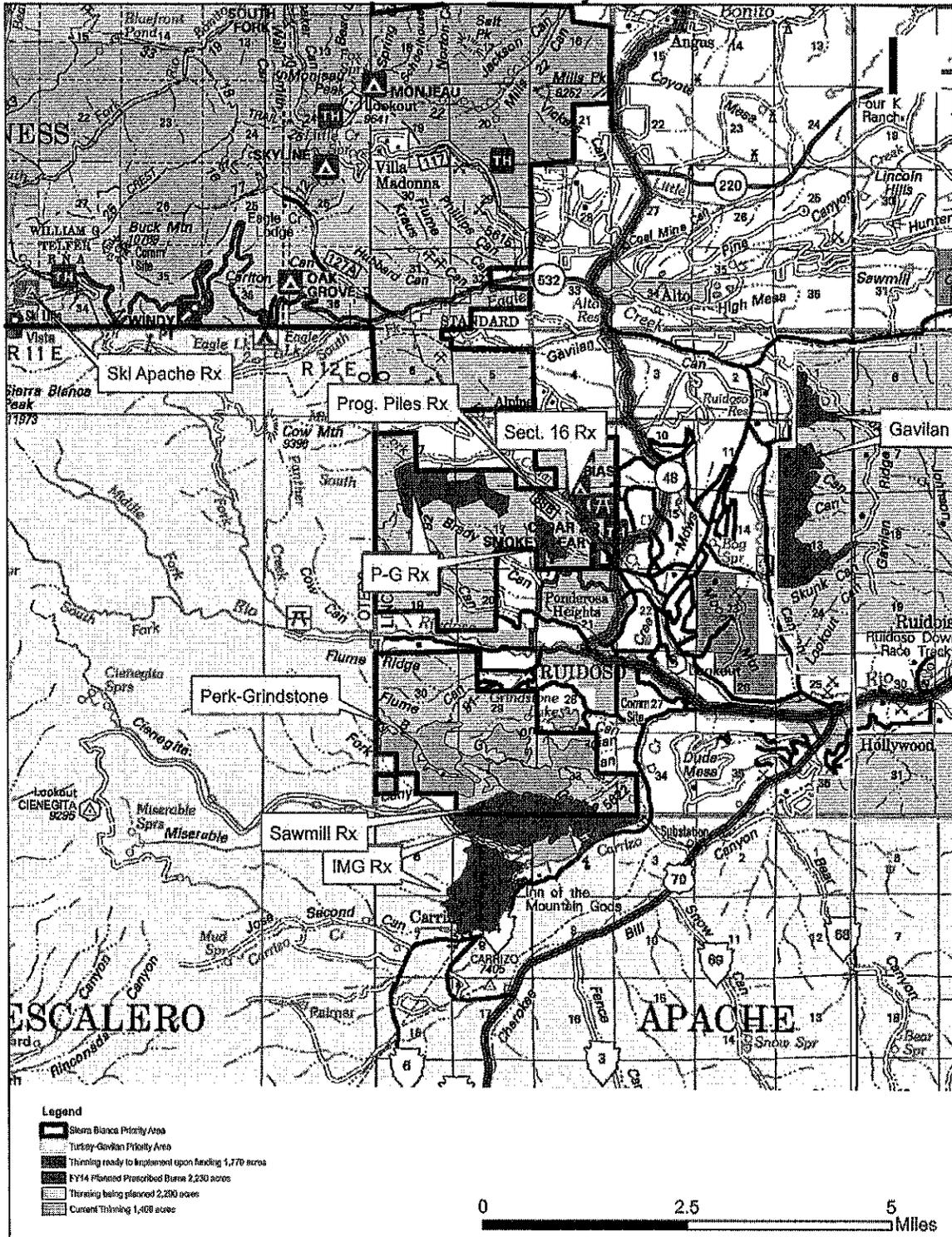
<u>Local Fire Resources</u>						
<u>Fire District</u>	<u>firefighters</u>		<u>Vehicle type</u>			
		<i>6x6</i>	<i>brush truck</i>	<i>water tender</i>	<i>engine</i>	<i>total</i>
Arabela	21	1	1	1	1	4
Bonito	31	1				5
Glencoe	23					10
Lincoln	18					7
Nogal	16					5
White Oaks	18					9
Hondo	17					9
Copper ridge	3					4
Capitan	20		3	1	3	8
Carrizozo						
Lincoln National Forest	15				3	3

BIA		
Ruidoso Downs	10	7
Ruidoso	18	9

A. Interagency Fuels Treatment Basemap

The agencies participating in the Greater Ruidoso Area Working group have been using the group as a forum to plan and design projects. Working on adjacent land across jurisdictional boundaries has greater impacts on reducing landscape scale fire risk than smaller disjointed projects. The agencies (USFS, VOR, State Forestry, BLM, Mescalero BIA, have shared their fuel treatment data with one another and have submitted GIS files to be aggregated into an interagency fuels treatment GIS database on a yearly basis. The Community fuels treatment basemap shows land jurisdictions and where fuel treatments and fires have occurred. This map is updated and is used as a planning tool to help track accomplishments, identify areas of concern, and help plan future projects. These maps are used internally, during interagency coordination efforts, and during public meetings so agencies and the public can see where work has been done and where additional work needs to occur.

Lincoln National Forest Smokey Bear Ranger District FY 2014 Fuels Projects



B. GRA WUI Working Group

The Greater Ruidoso area WUI Working Group was formed in 2001 and brings together local state, and federal agencies in Lincoln County. The group meets bi-monthly and meetings are open to the public. Current efforts and initiatives are discussed and the group represents the collaborative effort for fuels planning in the County. Agency representatives use the group to report on current projects and plan future projects. By making others aware of agency efforts, initiatives, and opportunities the group increases the scale of local mitigation. The working group has an assessment and outreach subcommittee that reviews completed projects and helps coordinate public outreach events respectively.

C. Grants

Mitigating wildfire risk in the community is a large and often expensive undertaking. The area uses state and federal grants to acquire financial and technical assistance in order to implement a variety of projects. Funding comes from a variety of sources and often has different requirements depending on the specific opportunity and funding agency. In addition to agency funding, members of the GRA WUI working group continue to seek out sources for additional funding and work collaboratively on applications. The table below identifies some of the grants the community has utilized to mitigate wildfire risk across the landscape.

<u>Grant Name</u>	<u>Funding Agency</u>	<u>Applicant</u>	<u>Frequency</u>	<u>Approx Funding</u>
WUI Cost share	Western Governors Association	County/ SWCD/ VOR	Yearly	\$250,000
Non Federal land	USFS Regional/ State Forestry	County/ SWCD/ VOR	Yearly	\$250,000
RAC	USFS	SCM RC&D	One Time	\$72,000
Collaborative Forest Restoration Program	USFS Regional/ State Forestry	SCM RC&D	3 Year	\$350,000
CWPP update	NMAC	SCM RC&D	1 Year	\$15,000
Wildfire Outreach	NMAC	SCM RC&D	1 Year	\$14,000

D. Sierra Blanca Wildland Fire Training Academy

The Sierra Blanca Wildland Fire Training academy is a collaborative effort between local fire managers and has been training regional firefighters since 2001. The academy was set up to provide a low cost option to train firefighters. Structure firefighters can cross train in wildland fire, and volunteer departments can receive NWCG training opportunities without having to travel far. The academy is organized locally by members of the USFS, municipal, and county fire departments and helps to make sure firefighters receive the proper training. This interagency collaboration during training also improves coordination during wildfire incidents.

E. Slash disposal issue

Slash disposal is often the most expensive part of reducing the fuel load on a piece of ground. The community has been developing small scale utilization and some of the removed material has found its way to local sawmills, bear carvers, fuel wooders, and composters, however the current market for biomass cannot support the supply creating a bottle neck and expense for county and village residents. This disconnect means slash disposal is often expensive, which has resulted in higher costs for mitigation efforts, less material being removed from treatment areas, and in some cases, illegal dumping. Village of Ruidoso residents have a grapple truck service for curbside pickup which has increased the ease of mitigating fire risk. Residents in the county do not have that option and must dispose of the material themselves or hire a contractor which has its own set of difficulties. Members of the working group are working on producing pile burning guidelines for the public to safely burn slash as an additional option for disposal. Various entities are also looking at the option of purchasing an Air Curtain Incinerator for use throughout the county.

F. Sustainable forestry funding

The wildfire problem the area faces is only going to get worse as our communities grow and the fuel loads in our forests increase. Mitigation efforts are targeted and can protect communities and infrastructure but as a whole the problem continues to get worse. Most mitigation funding comes from the federal government and as a result funding levels are uncertain from year to year and based on national economic conditions. Several communities across the western United States with similar wildfire hazard issues have recently looked to more local, consistent, and sustainable funding options to secure the money required to address the wildfire problem. Santa Fe has implemented a fee on resident's water bills which goes to reduce fuel load in the watershed. Flagstaff passed a long term bond to secure millions of dollars in funding. Assessing a fee locally, while unpopular, may work for Lincoln County and would provide increased and more certain funding for mitigation efforts. This certainty of future funding would encourage private investment, and utilization and should reduce the cost of these efforts. A sales tax charge may be the best sources for funding in Lincoln County because the burden is largely carried by tourists who spend money during visits.

G. Education & Outreach

Lincoln County, land management agencies, community groups, and the local university cooperate with one another on education and outreach through the Greater Ruidoso Working group and its outreach committee. This is a coordinated approach to educate residents and visitors about forest health and wildfire risk. The outreach plan involves several methods to

reach the widest audience possible and includes, living in the WUI speaker series, student art contests, defensible space volunteer days, radio spots, news articles and opinion pieces, community workshops, and displays and presentations at community events such as the home and garden, motorcycle, and gun shows. The components of the outreach plan are flexible as members of the working group take advantage of outreach opportunities as they arise. Successful events are repeated, and new opportunities are explored. The outreach and community education efforts pull from national resources, including Firewise, Ready Set Go, and other local resource specialists. Outreach promotes a variety of wildfire risk related topics, including defensible space concepts, what to do in an emergency, forest health, insect epidemics, drought and watersheds, prescribed fire use, and utilization and disposal of cut material. The efforts and contributions from multiple agencies and stakeholders form a coordinated and well-rounded approach and will continue outreach activities with oversight from the GRA working group.

H. Incident Management Team

Following the Little Bear Fire in June of 2012, Lincoln County saw the need to develop and put in place their own Incident Management Team structure. Most communities are not familiar with the Incident Command system, and when a disaster strikes, they are unprepared for what must happen immediately. After the Little Bear Fire, the county decided to be proactive and developed their own Incident Management Team to address any future disasters. They assigned team members and scheduled trainings to better prepare for any future incidents.

10. Community Priorities

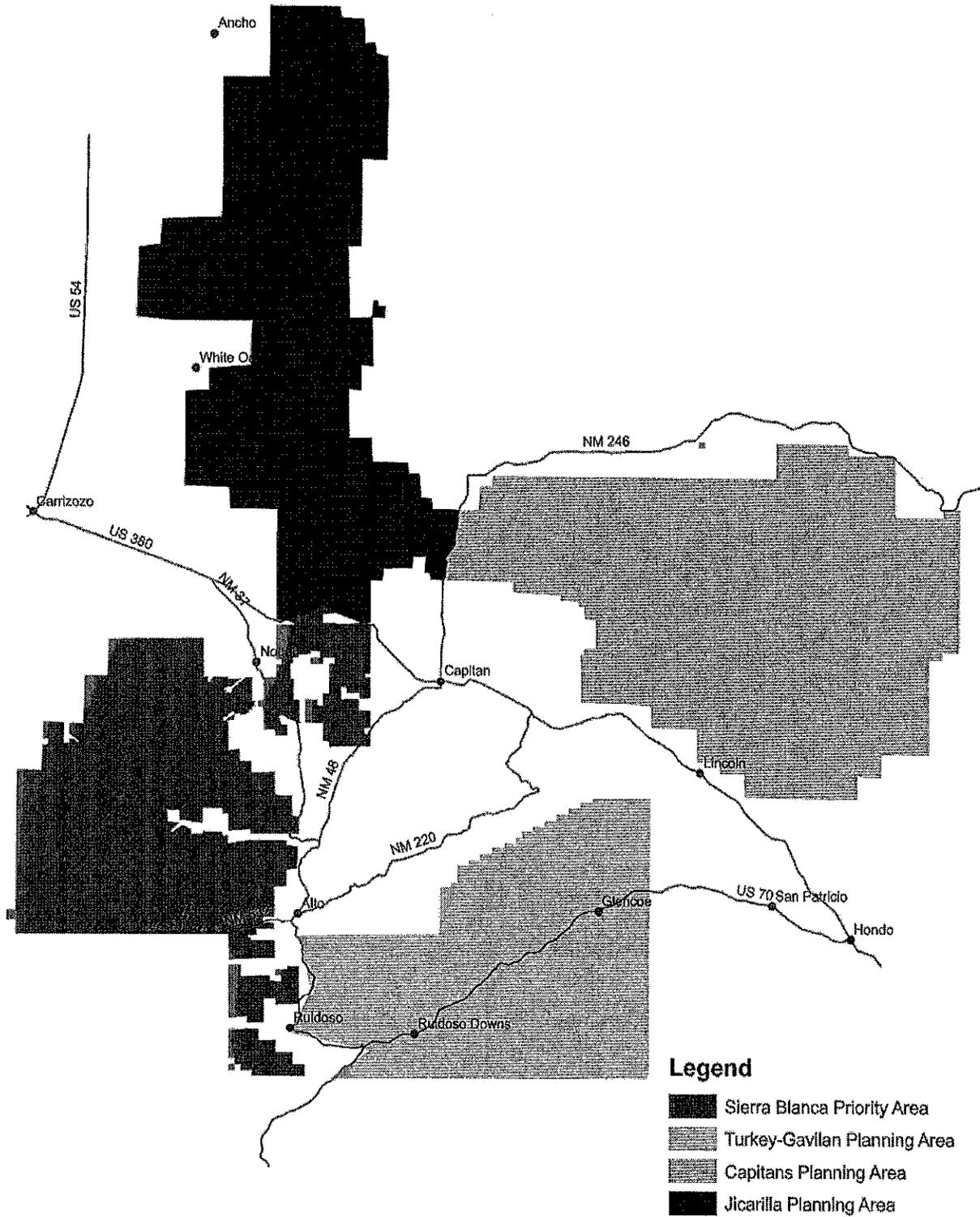
The Village of Ruidoso, Lincoln County, NM State forestry, the USFS, the BLM, and private individuals have been implementing fuel reduction projects for over a decade but the risk is inherent. Despite these treatments the county continues to experience large wildfires. Areas close to homes and communities, and areas within critical watersheds are especially important to protect. While the dominant fire spread direction comes from the southwest there is much variation, and several of the large fires have had fire heads which have moved south and or west. Members of the GRAWUI working group and representatives from land management agencies met in November of 2013 to discuss the local fuel treatment priorities. While every piece of ground is important and could potentially burn, priority areas have been selected by the core team and include;

A. Set of conditions used to establish priorities

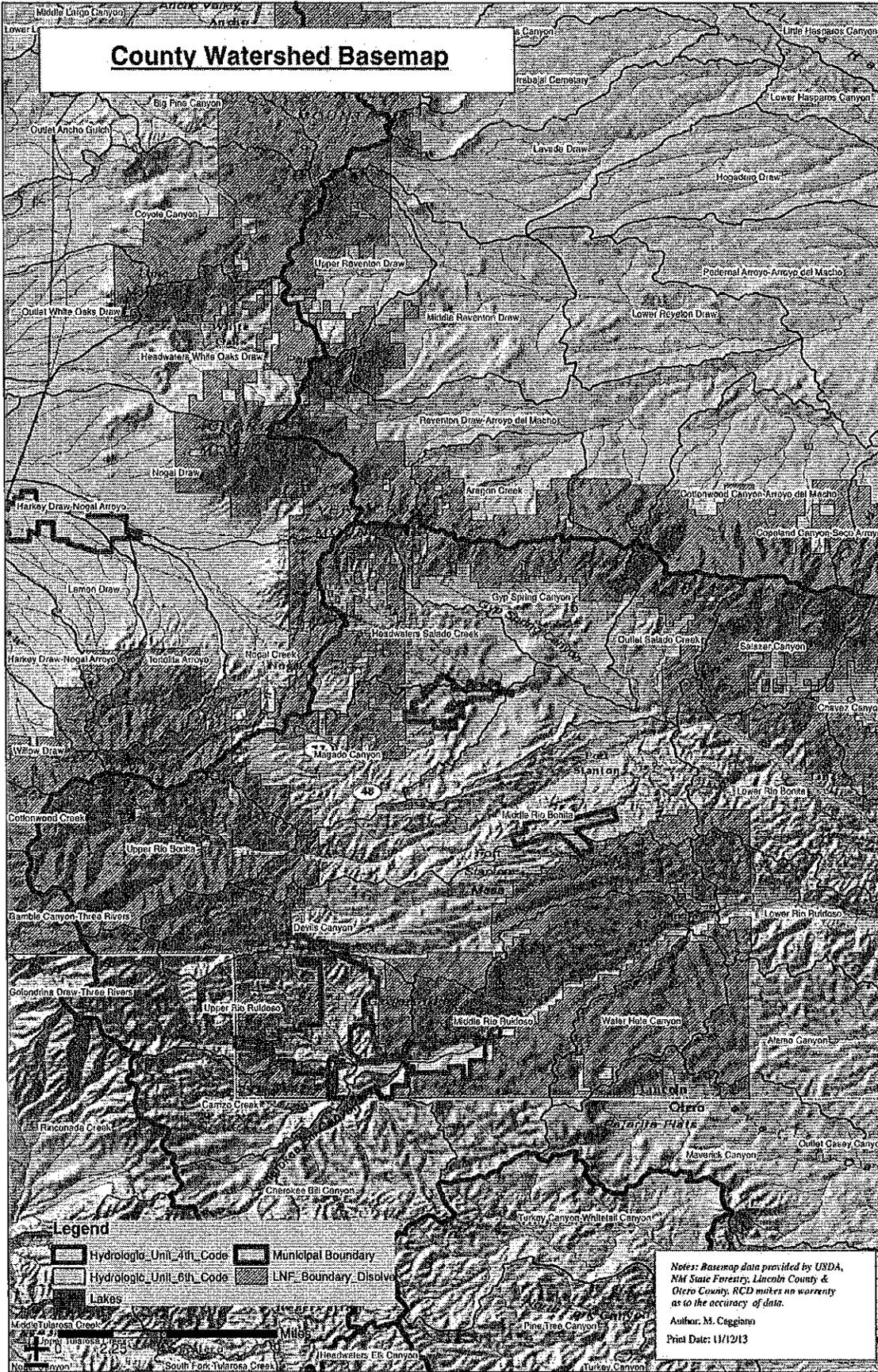
- Incorporated and unincorporated communities in the county. Some communities have been identified by New Mexico State Forestry as Communities at Risk, although additional communities and subdivisions exist. Treatments should focus on the south and west sides of communities, although treatments on the north and east side are also priorities.

- Areas identified in the USFS 5 year plan including Perk, Grindstone, Eagle Creek, Turkey, and Gavilan which are WUI NEPA cleared planning areas .
- Tribal land South and West of Ruidoso.
- Large private properties (greater than 10 acres).
- Remaining implementation zones within the Village of Ruidoso (untreated property on the east side).
- Current or planned USFS and State Forestry projects near Ruidoso, Capitan, White Oaks, Alto, and Highway 70 corridor.
- Areas identified by Lincoln County Hazard Mitigation Grant.
- Areas of untreated land adjacent to previous treatments.
- Areas within and adjacent to highways, roads, evacuation routes, and utility right of ways.
- Untreated State Trust land with environmental clearance.
- Areas deemed as strategic locations to protect infrastructure and values at risk including; utilities, wells, schools, radio towers, wildlife habitat, and areas of commercial value.
- Maintenance of areas that have previously been treated to reduce hazardous fuels.
- Impaired and or critical watersheds.
- Highly populated areas.

Smokey Bear District Landscape Scale Planning Areas



County Watershed Basemap



Legend

	Hydrologic_Unit_4th_Code		Municipal Boundary
	Hydrologic_Unit_6th_Code		LNF_Boundary_Dissolve
	Lakes		

Notes: Basemap data provided by USDA, NM State Forestry, Lincoln County & Otero County. RCID makes no warranty as to the accuracy of data.
 Author: M. Cegghian
 Print Date: 11/12/13

Lincoln County Structure Density



Notes: Basemap data provided by USDA, NM State Forestry, Lincoln County & Otero County. RCD makes no warranty as to the accuracy of data.
 Author: M. Caggiano
 Print Date: 12/12/13

Legend

	Community at Risk		0 - 5 (structures/square mile)
	Lakes		6 - 10
	Municipal Boundary		11 - 25
	National Forest		26 - 100
			101 - 200
			201 - 500
			501 - 1,905



11. Community Involvement

Each of the communities in Lincoln County will be encouraged to develop their own specific mitigation plans. As development continues, local planning and zoning committees will encourage developers to provide subdivision specific CWPPs as part of their planning process.

As part of the CWPP process, we developed a survey to assess the needs of Lincoln County residents – both real and perceived. We reached out to people at events like the Lincoln County Home & Garden Show. Respondents could fill out the survey there, or go to SurveyMonkey.com and answer the questions on line. A copy of survey is included in the appendix.

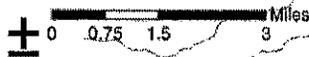
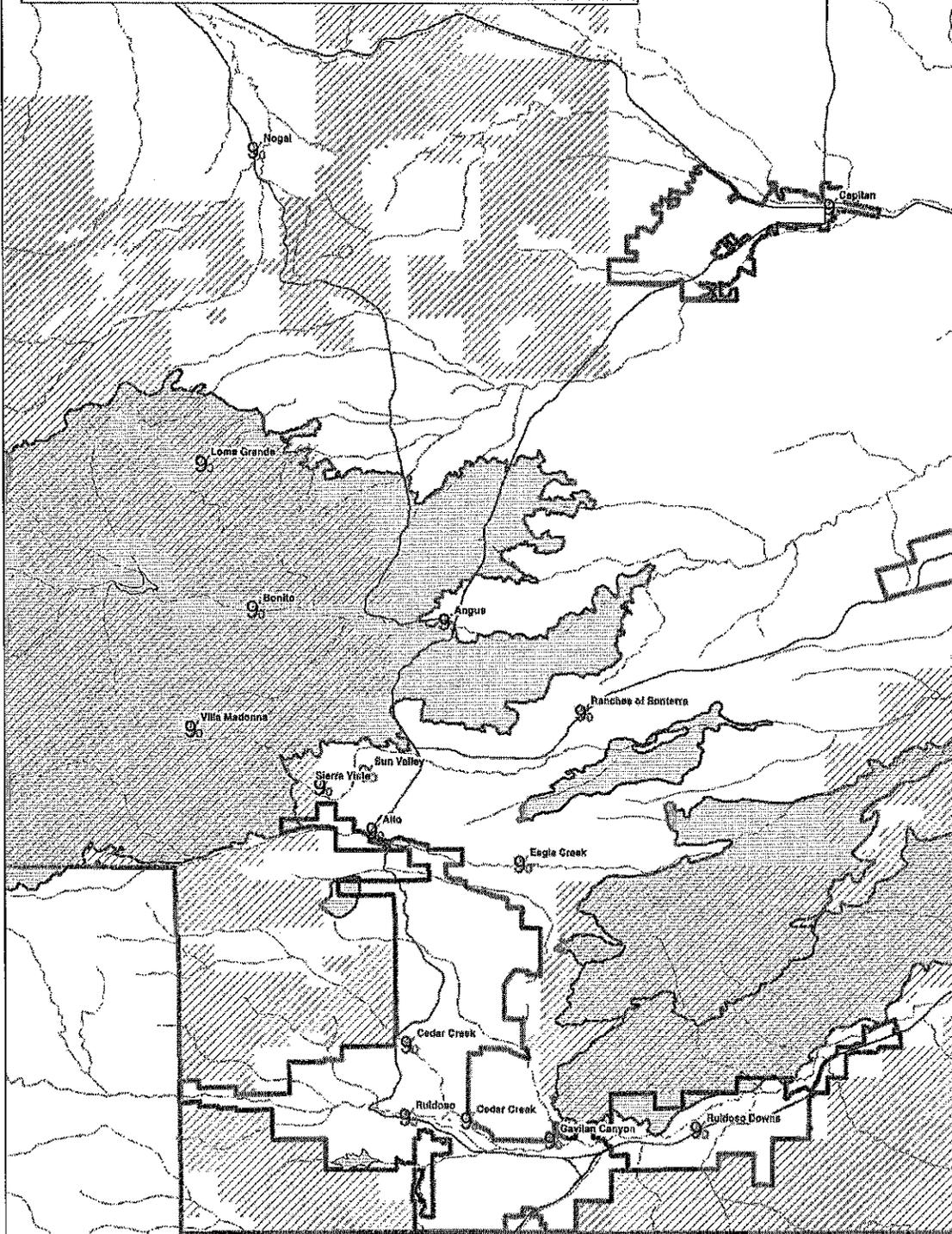
The survey results showed that area residents feel that their properties are prepared for a wildfire, but they are very concerned about the surrounding properties. With 75% of the residents in the area being out-of-town, there is a serious problem with absentee owners not taking responsibility for the overgrown condition of their properties. This presents a real problem for year ‘round residents.

Engaging interested parties is critical in the CWPP process because substantive input from the public will ensure that the final document reflects the highest priorities of the local community. A key element in the CWPP process is the meaningful discussion it generates among community members regarding their priorities for local fire protection and forest management.(SAF2004)

The public involvement process involved two public meeting held at the Ruidoso convention center where a booth was set up to engage the public in discussion of the CWPP. These meeting were followed by a 45 day survey taken by the South Central Mountain RC&D. Meetings were held at different community Fire Stations. Public comments addressed included:

- A need for increase water supply and water storage
- Clean up by individual property owners
- Improvement of ingress and egress in sub-divisions
- Better firefighting equipment
- All wildfires extinguished immediately
- More funding for tree thinning
- Funding for Firewise programs
- Fuel treatment on public lands
- More active participation and coordination with Federal agencies, especially USFS
- Utilization of bio-mass
- Home fire hazard assessment
- Education on forest health and what can be done
- Yard waste disposal

Lincoln County Communities at Risk Basemap



Legend

- Community at Risk
- Municipal Boundary
- National Forest
- Large Recent Fires
- Lakes

Notes: Basemap data provided by USDA, NM State Forestry, Lincoln County & Otero County. RCD makes no warranty as to the accuracy of data.

Author: M. Coggiano
 Print Date: 12/28/13

12. Structural Ignitability

Structural ignition during wildfire incidents leads to the loss of structures including residential homes, and commercial buildings. The concept of the home ignition zone, which includes the home itself and the area immediately surrounding it (approximately 100 feet) are largely responsible for whether or not the home is ignited. Homes are often ignited by the ember wash and not the flame front of the fire itself. Embers and burning debris find their way to pile of dried grass under a deck, or into the attic through a hole in the homes eaves, smolder for up to 24 hours, and then ignite the home. Much research has been conducted to understand the science behind home ignitions, and much can be done to reduce the probability of home ignitions. The national Firewise program, recommends a variety of building materials, techniques and landscaping that can reduce the probability of structural ignition. Additionally, the International Wildland-Urban Interface Code (IWUIC) provides a set of building codes that may reduce structural ignitions from wildfire risk. Neither, Lincoln County or the village of Ruidoso has adopted the IWUIC but do promote voluntary programs like Firewise to reduce the risk of structural ignition. Adapting components of the IWUC would further reduce the likelihood of structural ignitions during wildfire incidents. The CWPP core team recommends the continued promotion of Firewise principals and would support the adoption of IWUIC building codes by the county and its municipalities.

13. Recommendations

The following actions are proposed to reduce wildfire risks and hazards. Project recommendations are based on interviews with county fire chiefs, municipal fire chiefs, federal and state fire management officers, field observations, questionnaire responses, and three public meetings held at community fire stations.

- Encourage the development of defensible space around structures, utilities stations, communication towers and other structures at risk to wildfire.
- Grass and weed abatement needs to occur throughout the county. A common fuel hazard is herbaceous weedy vegetation. Native and non-native weedy grasses and forbs become flashy fuels as they dry in the late summer and fall. Also as the drought persist these conditions also present high fire danger in early spring. These fine fuels ignite easily and burn rapidly. Herbaceous fuels are common and widespread in the WUIs. Herbaceous fuels occur among structures, along roads and driveways, and in fallowed fields and abandoned lots.
- Mowing along highways and roads will create fuel breaks. Highway and roads are linear features that provide a break to fuel continuity. Mowing to a minimum distance of 6 feet along each side of highways and roads will enhance their usefulness as fuel breaks, and reduce the chance of fire ignitions from vehicles or discarded smoking material. All

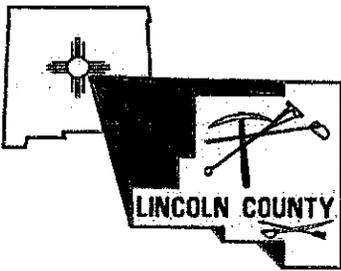
communities have expressed a high concern of this situation. They would also recommend that a public outreach program addressing this issue be implemented.

- Fuel breaks are recommended along roads for the Alto and Glencoe communities, as appropriate, and along Nogal Canyon Road, and White Oaks Highway. Strategically located fuel breaks are recommended around the communities of Arabela, Corona, Nogal and White Oaks. Strategically positioned fuel breaks also are recommended along public and private land boundaries, which occur in all WUIs. Priority should be given to Arabela, Lincoln, Fort Stanton, Glencoe, Alto, Nogal, White Oaks, Corona and all subdivision identified as high fire danger.
- Community education and public outreach is an effective means to initiate local action to reduce wildfire risks and hazards. Community outreach could occur through each WUI to achieve improved awareness of wildfire issues such as creation of defensible space around structures.
- Training of the County Fire Districts (CFDs) and Municipal Fire Districts (MFDs) is an ongoing need. National Wildfire Coordination Group (NWCG) annual training need to occur. Nearly all fire districts have wildfire fighters trained at the Firefighter 2 level but there is a need for training at the Firefighter 1 and Engine Boss level. Because volunteers firefighters work during the week, training should occur on weekends. The county is fortunate to have the Sierra Blanca Fire Academy to provide needed training.
- High priority for all fire departments is to develop additional water storage for fighting wild fires, fire hydrants, maps, and maintain strategically located water sources throughout each WUI. Dry hydrants, permanent surface water, stock ponds, or irrigation systems may be suitable water sources. Agreements with private landowners need to be negotiated annually for property and water access. Protection of all water sheds was also identified as a priority.
- A recommendation is to improve the communication repeaters throughout the county.
- The fire protection authorities include eight CFDs, three MFDs, the USFS, the NMSFD, and the BLM. All agencies need to collaborate to maintain, and in some cases improve, wildfire fighting equipment, buildings, engines, and firefighting training.

We will continue to target WUI properties in the Urban Interface of Lincoln County as well as larger tracts of land that improve forest and watershed health and better protect communities and homes from the effects of wildfire.

Priorities would include:

- Acres that tie into previously treated acres (whether private, state or federal)
- Acres on the southwest side of communities or homes
- Acres that are downslope of communities or homes
- Acres that protect watersheds and improve forest health



www.lincolncountynm.net

County of Lincoln

P.O Box 711 • 300 Central Ave. • Carrizozo, New Mexico 88301-0711 • (575) 648-2385

AGENDA ITEM NO. 19

September 2, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: Approval of Final Budget by DFA

Purpose: To acknowledge approval of our FY 2014 final budget.

Discussion:

Attached is a letter from DFA approving our final budget for fiscal year 2014 (Encl 1).

According to state requirements and paragraph 3 of the approval letter, the Board of County Commissioners must acknowledge approval of budget approvals in the minutes of a commission meeting.

Recommendation: Acknowledge receipt of DFA approval of our 2014 final budget.

SUSANA MARTINEZ
GOVERNOR

THOMAS E. CLIFFORD, PH.D.
CABINET SECRETARY



WAYNE SOWELL
DIRECTOR

JESSICA LUCERO
ASSISTANT DIRECTOR

RECEIVED

AUG 27 2014

ADMINISTRATION
LINCOLN COUNTY NM

STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
LOCAL GOVERNMENT DIVISION
Bataan Memorial Building ♦ Suite 201 ♦ Santa Fe, NM 87501
PHONE (505) 827-8061 ♦ FAX (505) 827-4948

August 25, 2014

The Honorable Jackie Powell
Chairperson
County of Lincoln
PO Box 711
Carrizozo, NM 88301-0711

Dear Chairperson Powell

The final budget of your local government entity for Fiscal Year 2014-15, as approved by your governing body, has been examined and reviewed. We find it has been developed in accordance with applicable statutes and budgeting guidelines. Sufficient resources appear to be available to cover budgeted expenditures.

In accordance with Section 6-6-2-(E) NMSA 1978, the Local Government Division (Division) certifies your final FY 2014-15 budget. *The Budget Certification Rule*, 2.2.3 NMAC, requires that your most recent audit that should have been submitted to the Office of the State Auditor as of this time for FY 2012-13. Our information indicates that you are in compliance with this requirement.

Budgets approved by the Division are required to be made a part of the minutes of your governing body according to Section 6-6-5 NMSA 1978. In addition, Section 6-6-6 NMSA 1978 provides that the approved budget will be binding on local officials and governing authorities. Any official or governing authority approving claims or paying warrants in excess of the approved budget or available funds will be liable for such claims and warrants allowed.

Furthermore, state statute requires all revenue sources be expended only for public purposes, and if applicable, in accordance with the Procurement Code, Chapter 13, Article 1, NMSA 1978. Use of public revenue is further governed by Article 9, Section 14 of the Constitution of the State of New Mexico, commonly referred to as the Anti-donation clause.

Finally, please be advised that approval by the Division is required by Section 6-6-2 (G) (H) NMSA 1978, of all transfers between funds and all budget increases.

If you have any questions, please call me at (505) 827-8060.

Sincerely,

A handwritten signature in cursive script that reads "Elise M. Mignardot".

Elise M. Mignardot
Budget and Finance Analyst

COUNTY: LINCOLN
DATE: 08/25/2014
BY: *Gloria M. Muggin*
New Mexico Department of Finance and Administration
Local Government Division
Budget Request Recapitulation
ROUNDED TO NEAREST DOLLAR

Fiscal Year 2014-2015

FUND TITLE	FUND NUMBER	UNAUDITED BEGINNING CASH BALANCE @ JULY 1	INVESTMENTS	BUDGETED REVENUES	BUDGETED TRANSFERS	BUDGETED EXPENDITURES	ESTIMATED ENDING CASH BALANCE	LOCAL RESERVE REQUIREMENTS UNAVAILABLE FOR BUDGETING	ADJUSTED ENDING CASH BALANCE
GENERAL FUND - Operating (GF)	101	\$9,343,533	\$0	11,914,492	(11,121,241)	7,660,098	\$2,476,686	1,915,025	\$561,661
CORRECTION	201	\$0	\$0	0	0	0	\$0	\$0	\$0
ENVIRONMENTAL GRT	202	\$0	\$0	145,000	0	145,000	\$0	\$0	\$0
COUNTY PROPERTY VALUATION	203	\$337,931	\$0	250,000	0	578,299	\$9,633	\$0	\$9,633
COUNTY ROAD	204	\$326,622	\$0	950,792	2,362,764	3,355,308	\$284,870	279,609	\$5,261
EMS	206	\$201	\$0	50,119	0	50,320	\$0	\$0	\$0
ENHANCED 911	207	\$2,014	\$0	13,625	0	13,625	\$2,014	\$0	\$2,014
FARM & RANGE IMPROVEMENT	208	\$73,135	\$0	43,779	52,492	169,406	\$0	\$0	\$0
FIRE PROTECTION FUND	209	\$792,843	\$0	748,187	(33,000)	1,508,029	\$1	\$0	\$1
LEFP	211	\$7,216	\$0	32,000	0	39,216	\$0	\$0	\$0
LODGERS' TAX	214	\$60,083	\$0	50,120	0	92,803	\$17,400	\$0	\$17,400
RECREATION	217	\$1	\$0	0	0	1	\$0	\$0	\$0
INTERGOVERNMENTAL GRANTS	218	\$184,513	\$0	1,796,667	387,310	2,185,556	\$182,934	\$0	\$182,934
SENIOR CITIZEN	219	\$84,146	\$0	669,596	103,824	857,566	\$0	\$0	\$0
COUNTY INDIGENT FUND	220	\$550,227	\$0	630,000	22,201	739,667	\$462,760	\$0	\$462,760
COUNTY HOSPITAL FUND	221	\$2,560,727	\$0	3,911,670	0	2,789,374	\$3,683,023	\$0	\$3,683,023
COUNTY FIRE PROTECTION	222	\$0	\$0	0	0	0	\$0	\$0	\$0
DWI PROGRAM	223	\$0	\$0	0	0	0	\$0	\$0	\$0
CLERK RECORDING AND FILING	225	\$227,701	\$0	61,575	0	284,388	\$4,887	\$0	\$4,887
JAIL - DETENTION FUND	226	\$251,491	\$0	370,900	2,673,464	3,295,655	\$0	\$0	\$0
OTHER	299	\$173,834	\$0	790,649	148,000	1,033,715	\$78,768	\$0	\$78,768
CAPITAL PROJECT FUNDS	300	\$536,814	\$0	1,250,472	203,170	1,990,456	\$0	\$0	\$0
G. O. BONDS	401	\$0	\$0	0	0	0	\$0	\$0	\$0
REVENUE BONDS	402	\$0	\$0	630,000	(359,100)	270,900	\$0	\$0	\$0
DEBT SERVICE OTHER	403	\$1,024,040	\$0	170,800	0	131,890	\$1,062,950	\$0	\$1,062,950
ENTERPRISE FUNDS	500								
Water Fund		\$0	\$0	0	0	0	\$0	\$0	\$0
Solid Waste		\$0	\$0	0	0	0	\$0	\$0	\$0
Waste Water		\$0	\$0	0	0	0	\$0	\$0	\$0
Airport		\$0	\$0	0	0	0	\$0	\$0	\$0
Ambulance		\$0	\$0	0	0	0	\$0	\$0	\$0
Cemetery		\$0	\$0	0	0	0	\$0	\$0	\$0
Housing		\$0	\$0	0	0	0	\$0	\$0	\$0
Parking		\$0	\$0	0	0	0	\$0	\$0	\$0
Other Enterprise (enter fund name)		\$0	\$0	0	0	0	\$0	\$0	\$0
Other Enterprise (enter fund name)		\$0	\$0	0	0	0	\$0	\$0	\$0
Other Enterprise (enter fund name)		\$0	\$0	0	0	0	\$0	\$0	\$0
Other Enterprise (enter fund name)		\$0	\$0	0	0	0	\$0	\$0	\$0
INTERNAL SERVICE FUNDS	600	\$140,713	\$0	179,200	5,560,114	5,878,977	\$1,050	\$0	\$1,050
TRUST AND AGENCY FUNDS	700	\$331,375	\$0	0	0	331,375	\$0	\$0	\$0
GRAND TOTAL - ALL FUNDS		\$17,009,159	\$0	\$24,659,643	\$0	\$33,401,826	\$8,266,976	\$2,194,634	\$6,072,342

8/25/14

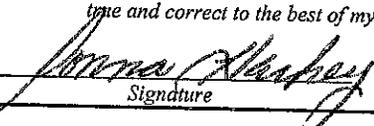
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DFA-Local Govt. Div

2014 JUL 28 PM 1:01

BATAAN BLDG., ROOM 201
SANTA FE, NM 87501

Department of Finance & Administration / Local Government Division
Law Enforcement Protection Fund Carryover Request Form
****(this form must accompany the final budget submission)****

Entity Name: Lincoln County Sheriff's Dept.
Contact Name: Donna Harkey
Contact Title: Administrative Assistant
Contact Phone Number: 575-648-2341
Contact E-mail Address: dharkey@lincolncountynm.gov

I hereby certify that the information presented on this form is true and correct to the best of my knowledge:

Signature _____ Date 7/22/2014

We hereby request approval from the Department of Finance & Administration / Local Government Division (DFA/LGD) to carryover the following balance from the Law Enforcement Protection Fund (LEPF) distribution:

Current Fiscal Year: FY2013/2014
Total Distribution for Current FY: \$31,400.00
Balance on June 30th:* \$7,216.00

If the carryover is approved, we will be expending the balance in the succeeding fiscal year for the following allowable uses:

Succeeding Fiscal Year: FY2014/2015
(This is the fiscal year that balance will be carried over to)

Allowable Uses (pursuant to LEPF Rule, 2.110.3 NMAC):

LIAW ENFORCEMENT TRAINING AND EQUIPMENT

*The June 30th balance should only be from the LEPF distribution and not include any other revenue sources. If the June 30th balance is greater than the total distribution amount for the current fiscal year, then the entity has a balance left over from a prior fiscal year's carryover. Balances can only be carried over for one subsequent year. Therefore, the balance calculated below that is from a prior fiscal year's carryover must be reverted to the State of New Mexico:

Calculated Reversion Amount

Balance on June 30th: \$7,216.00
LESS Total Distribution for Current FY: \$31,400.00
Reversion Due to State: None

Reversion Instructions

A check made payable to the "State of New Mexico, Department of Finance & Administration" for the Reversion Due to State amount above should be mailed to the following address:

Brenda L. Suazo-Giles, Budget & Finance Analyst
DFA / Local Government Division
Bataan Memorial Building, Suite 201
Santa Fe, NM 87501

If you have questions on this form, please call (505) 827-4127.

Pursuant to the LEPF Rule, 2.110.3.10C, New Mexico Administrative Code, "The distributions from the fund are to be used, not accumulated. Fund balances may be carried over to a succeeding fiscal year only with prior written approval from the local government division."

FOR DFA/LGD USE ONLY:
APPROVED

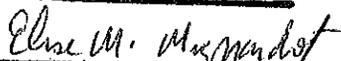
Approved: Yes No

Approved Carryover Amount: \$ 7216.00

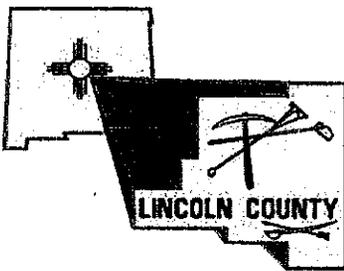
LOCAL GOVERNMENT DIVISION

DATE 08/21/2014

BY



DEPARTMENT OF FINANCE AND ADMINISTRATION



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County of Lincoln

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Agenda Item No. 20

September 12, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: Lincoln County Tobacco Policy Resolution 2014-15

Purpose: To Obtain Commission Approval of Resolution 2014-15, Lincoln County Tobacco Policy

Discussion: The Lincoln County current Smoking Policy (Clean Indoor Air Policy) adopted by Resolution 1993-32, addressed non-smoking designation in all buildings owned and operated by the County. See Enclosure 1. It also allowed each elected official, or individuals renting space from the County, to designate in writing to the Board that his or her own workspace could be designated as a smoking area, so long as the office was an enclosed space.

In 2011, the State of New Mexico enacted into law the "Dee Johnson Clean Indoor Air Act", 2011 NMSA 1978 24-16-2, which prohibited smoking in all indoor workspace. Resolution 2015-15 meets the requirements of the Clean Indoor Air Policy. In addition, the proposed "County of Lincoln Employee Tobacco Policy" prohibits smoking in county vehicles, as well as the use of E-cigarettes and smokeless tobacco products. See Encl. 2.

Specifically, as stated in Section 1:

All county buildings, indoor working spaces, county-owned vehicles, building entrances or public places shall be designated as smoke, e-cigarette and tobacco free, except for those areas described in Section 3 below (which calls for designated space smoking, e-cigarette and tobacco use).

Recommendation: Adopt Resolution 2014-15, County of Lincoln Employee Tobacco Policy.

RESOLUTION 1993-32
CLEAN INDOOR AIR POLICY
FOR LINCOLN COUNTY

WHEREAS the Clean Indoor Air Act (24-16-1 to 24-16-11 NMSA, 1978) requires that employers shall "...adopt, implement and maintain a written smoking policy..."; and

WHEREAS the Lincoln County Board of Commissioners ("Board") has determined that it is in the interests of the health, safety, and comfort of the public and employees while within the buildings of Lincoln County government to be free from the effects of residual smoke; and

WHEREAS the Board has also determined that in addition to being harmful to the health of humans, residual smoke has negative effects on the property and equipment provided by the taxpayers of Lincoln County;

NOW THEREFORE BE IT RESOLVED that the Lincoln County Board of Commissioners adopts the following as policy:

Section 1

All indoor areas of all buildings owned and operated by the government of Lincoln County, including office space, public meeting areas, restrooms, hallways, detention facilities, and any work space are designated non-smoking areas, except for those areas as described in Section 2 below.

Section 2

Each elected official may designate, in writing to the Board, his or her own office as a designated smoking area, provided that the office so designated is an enclosed space.

Those entities renting facilities from the County which are located with the building referred to herein may likewise designate an enclosed office within their area as a designated smoking area.

The District Judge may designate other enclosed offices under his/her control as smoking designated areas.

Elected Officials and Department Heads will make every effort to insure that employees restricted from smoking in their work place are afforded one break in any four hour work period.

Section 4

It is the intent of Lincoln County to plan for and provide indoor designated smoking lounges/break areas to accommodate those employees who smoke. Until such time as those areas can be created, employees will have to smoke outdoors.

Section 5

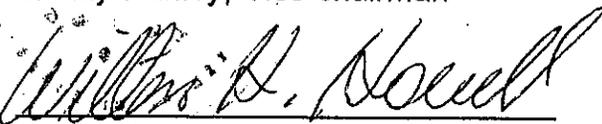
Violation of this policy by any individual may subject that person to a fine of not less than ten dollars (\$10.00) or more than twenty-five dollars (\$25.00) as provided for in 24-16-11 NMSA, 1978. Effective date of this Resolution No. 1993-32 is April 1, 1994.

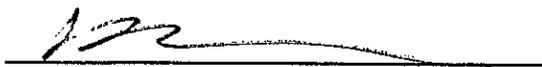
Violation of this policy by any County employee will be grounds for a personnel action. No variance or grant of privilege by ones supervisor or department head/elected official shall constitute an excuse of any provision of this policy.

RESOLVED IN REGULAR SESSION THIS 1ST DAY OF MARCH, 1994.


Monroy Montes, Chairman

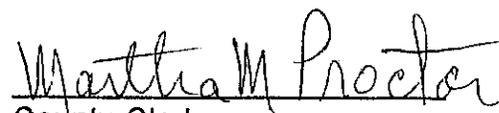

L. Ray Nunley, Vice-chairman


Wilton H. Howell, Member


Stirling T. Spencer, Member


William H. Schwettmann, Member

ATTEST:


County Clerk

RESOLUTION 2014 -15

A RESOLUTION REPEALING RESOLUTION 1993-32, ENTITLED CLEAN INDOOR AIR POLICY FOR THE COUNTY OF LINCOLN, AND ADOPTING THE COUNTY OF LINCOLN EMPLOYEE TOBACCO POLICY

WHEREAS, 2011 NMSA 1978 24-16-2 called the “Dee Johnson Clean Indoor Air Act” states the New Mexico Legislature finds and declares that the smoking of tobacco, or any other weed or plant, is a positive danger to health and a health hazard to those who are present in enclosed places and that smoking in such areas should be confined to designated smoking areas; and,

WHEREAS, 2011 NMSA 1978 24-16-2 states that the New Mexico Legislature declares its intention to protect the public health from such hazards in public places and places of employment without imposing exorbitant costs on persons in management and control of the places subject to the Clean Indoor Air Act; and,

WHEREAS, 2011 NMSA 1978 24-16-3 defines indoor workspace as, “any enclosed space where one or more persons engage in work, including lobbies, reception areas, offices, conference and meeting rooms, employee cafeterias and lunchrooms, break rooms and employee lounges, classrooms, auditoriums, hallways, stairways, waiting areas, elevators and restrooms and includes all indoor workplaces and enclosed parts regardless of whether work occurs at any given time;” and,

WHEREAS, NMSA 24-16-14 declares that employers shall provide that their places of employment meet the requirements of the Dee Johnson Clean Indoor Air Act; and,

WHEREAS, the Board of County Commissioners of the County of Lincoln desires to provide a place free from health hazard to all Lincoln County employees and visitors to County facilities; and,

WHEREAS, the Board of County Commissioners of the County of Lincoln desires to promote a professional appearance and encourage defensive driving for County employees while on the job, free from unnecessary distraction; and,

WHEREAS, the Board of County Commissioners of the County of Lincoln wishes to avoid second hand smoke exposure and preserve the interior of County buildings, furniture and vehicles from residual odors and potential burns due to smoke or tobacco use exposure.

NOW, THEREFORE, BE IT RESOLVED, the Board of County Commissioners of the County of Lincoln, New Mexico do hereby adopt the following as policy:

Section 1

All county buildings, indoor working spaces, county-owned vehicles, building entrances or public places shall be designated as smoke, e-cigarette and tobacco free, except for those areas described in Section 3 below.

Section 2

NO-SMOKING, E CIGARETTES OR TOBACCO USE signs shall be placed conspicuously where signs are clear and easily legible throughout all county buildings, indoor working spaces, county-owned vehicles, building entrances and public places.

Section 3

All designated tobacco use places shall be marked with clear, conspicuous and easily legible SMOKING, E CIGARETTES, and TOBACCO PERMITTED signs.

Section 4

Elected Officials and Department Heads shall make every effort to insure that employees restricted from smoking, e-cigarettes or tobacco use in designated NO SMOKING areas are afforded one break in any four hour work period.

Section 5

2011 NMSA 1978 24-16-16 provides that the "...Sheriff's Department...shall enforce that act by issuance of a citation."

Section 6

2011 NMSA 1978 24-16-18 provides that a person eighteen years of age or older who violates the provisions of the "Dee Johnson Clean Indoor Air Act" is subject to:

- a. A fine not to exceed one hundred dollars (\$100.00) for the first violation of that act;
- b. A fine not to exceed two hundred dollars (\$200.00) for the second violation of that act within any consecutive twelve-month period of the first violation; and
- c. A fine not to exceed five hundred dollars (\$500.00) for the third and each subsequent violation of that act within any consecutive twelve-month period of a previous violation.

Section 7

A copy of this policy shall be posted in a conspicuous place in County facilities.

PASSED, APPROVED AND ADOPTED this 16th day of September, 2014.

Board of Commissioners, County of Lincoln, State of New Mexico.

Jackie Powell, Chair

Preston Stone, Vice-Chair

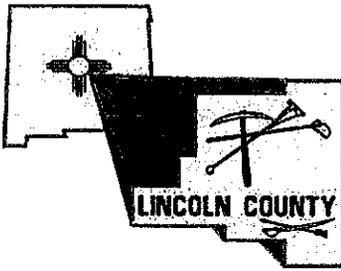
Mark Doth, Member

Dallas Draper, Member

Kathryn Minter, Member

ATTEST:

Rhonda Burrows



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County of Lincoln

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Agenda Item No. 21

September 12, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: Resolution 2014-16

Purpose: To Consider/Approve Budget Adjustment for FY 14-15

Discussion:

1. During the FY14-15 Budget Cycle, the Commission approved the request of the Road Department to lease a new Caterpillar Motor Grader. While the total cost of the grader is \$262,965, the County intended to lease that equipment over a four or five year period of time. Because one company is selling the equipment (Wagner Equipment Co.), and another is financing the County's lease (Caterpillar Financial Services), the transaction must be categorized in the budget as both an expense (check to Wagner Equipment Co. for \$262,965 - See Line 9 on Enclosure 1), and a Revenue (wire transfer from Caterpillar Financial Services for \$262,965 - See Line 1).
2. Cell Tower Revenues/Expenses. In the circumstance that a company applies with the County to build or modify a cell tower, it must follow the County Ordinance, which requires the applicant to deposit funds with the County sufficient to reimburse the County for all reasonable costs of consultant fees, etc. We did not account for this process in the budget; \$47,500 in Revenues are anticipated from Applicants (See line 2) and \$47,000 is anticipated as offsetting expense (See Line 14).
3. Unanticipated Additional Expenses in the amount of \$11,839.47 have been included in this Adjustment: Line 6 - three Bronze Plaques for newly constructed buildings (\$1,780); Line 7 - Cost to repair hail-damaged vehicle (\$8,043.47); Line 8 - Map software for SIMS Table (\$2,016). These are General Fund expenses.
4. Unanticipated/Omitted Expenses in "Special Programs" and "Agreements" in the amount of \$23,769: Line 10 - Incorrect amount budgeted for NACO/NMAC/NM-AZ Coalition (\$3,550); Line 16 - Incorrect amount budgeted for USGS Water Study (\$3,059); Line 15 - Optional cost to keep USGS streamflow gage on Rio Hondo (\$17,160) of which USGS would contribute \$5,500 in cooperative funding. These expenses would be covered by General Fund Transfers.
5. Unbudgeted Capital Expense for telecommunications/data system for Sheriff's Addition (Line 13 - \$25,000); Modified Capital Expense for purchase of Maintenance Vehicle (Line 12 - \$7,724). These increases will be covered by total capital expenses already budgeted.
6. Unanticipated expense to install generator - \$2,795.47 (Line 17 and 18). Line item transfer.

Recommendation: Adopt Budget Adjustment Resolution 2014-16, Budget Adjustment for FY14-15.

**RESOLUTION 2014 - 16
A RESOLUTION ADJUSTING THE 2014 B 2015
BUDGET FOR LINCOLN COUNTY**

WHEREAS, the Lincoln County Board of Commissioners, meeting in regular session on September 16, 2014 did review a request for adjustment to the 2014 B 2015 Budget; and

WHEREAS, it was determined that the proposed adjustments would be beneficial to the citizens of Lincoln County;

NOW, THEREFORE, BE IT RESOLVED that the County of Lincoln, Board of Commissioners is respectfully requested to approve this resolution with the following adjustments:

	<u>DEPT</u>	<u>DESCRIPTION</u>	<u>INCREASE</u>	<u>DECREASE</u>	<u>TOTAL</u>
	<u>REVENUES</u>				
1	402001342	Caterpillar Lease Proceeds	262,965.00		262,965.00
2	418001551	Cell Tower Expenses	47,500.00		47,500.00
		TOTAL REVENUE			310,465.00
	<u>TRANSFERS</u>				
3	405001950	In from Gen Fund	3,500.00		
4	418001950	In from Gen Fund	17,160.00		
5	418001950	In from Gen Fund	3,009.00		
		TOTAL TRANSFER			23,769.00
	<u>EXPENDITURES</u>				
6	401022218	County Promotion/Function	1,780.00		
7	401032130	Maintenance Vehicle	8,043.47		
8	401082103	Supplies Office	2,016.00		
		Total General Fund			11,839.47
9	402402900	Principal Payment/Lease	262,965.00		
		Total Road Fund			262,965.00
10	405442500	NACO/NM-AZ COALITION/NMAC	3,550.00		
		Total Special Programs			3,550.00
11	414912603	Cap out - Construction		2,000,000.00	
12	414912912	Cap out - Vehicle	1,000.00		
13	414912975	Communications Improvements	2,000,000.00		

		Total Capital Improvements			0.00
	DEPT	DESCRIPTION	INCREASE	DECREASE	TOTAL
14	418232080	Cell Tower Expenses	47,500.00		
15	418232590	USGS Study Agreement	12,000.00		
16	418232590	USGS Water Study (billing)	5,000.00		
		Total Agreements			67,719.00
17	419522148	Building Maintenance	2,000.00		
18	419522148	Fire Equipment & Supplies		2,000.00	
		Total Arabela Fire			0.00
		TOTAL EXPENDITURES			346,073.47

ATTACHMENT: Budget Adjustment Resolution 2014-2015.

PASSED, APPROVED AND ADOPTED this 16th day of September 2014.

Board of Commissioners
County of Lincoln, State of New Mexico

Jackie Powell, Chairman

Preston Stone, Vice Chairman

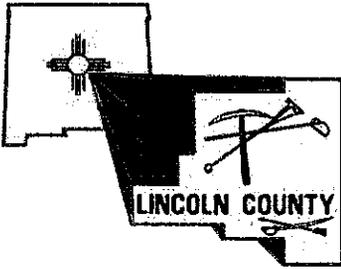
Kathryn Minter, Member

Dallas Draper, Member

Mark Doth, Member

ATTEST:

Rhonda Burrows, County Clerk



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County of Lincoln

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AGENDA ITEM NO. 22

September 8, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: Support for NMAC 2015 Legislative Priorities

Purpose: To obtain approval of the attached resolution.

Discussion:

Annually, The New Mexico Association of Counties (NMAC) adopts legislative priorities to focus efforts at changing state statutes and other pieces of legislation.

At enclosure 1 is a proposed county resolution 2014-17 in support of the legislative priorities.

Recommendation: Discuss and approve resolution 2014-17 for forwarding to NMAC and our state legislators.

Lincoln County Resolution No. 2014-17

A Resolution Supporting the 2015 Legislative Priorities of the New Mexico Association of Counties

WHEREAS, in August 2014, the Board of Directors of the New Mexico Association of Counties approved eight legislative priorities for consideration by the New Mexico Legislature at its 2015 regular legislative session; *and*

WHEREAS, NMAC has requested that the Board of County Commissioners in each of the state's 33 counties adopt a resolution supporting NMAC's legislative priorities; *and*

WHEREAS, this is an important step in assuring maximum understanding of, and support for, NMAC's legislative priorities at the county level; *and*

WHEREAS, the adoption of such resolutions will enable NMAC to demonstrate to the state legislature local and statewide support for NMAC's legislative priorities; *and*

WHEREAS, the legislative priorities include support for legislation on the following eight issues:

- **Safety Net Care Pool**

Remove counties' responsibility to fund Medicaid, and the Safety Net Care Pool, and consider the consolidation of some existing county local option gross receipts tax increments. (Health Care Policy Committee)

- **Keep Southwest Chief /Amtrak Service**

Support continuation of Amtrak's SW Chief and create reasonable funding alternatives. (Commissioners)

- **Tax Roll Corrections**

Authorizes the County Treasurer in conjunction with the County Assessor to make changes to the tax schedule and clarifies the authority and reasons necessary for tax schedule changes to correct obvious errors. (Assessors)

- **Delinquent Property Tax Payments**

Authorize County Treasurers to receive all payments of property taxes, including those turned over to the Property Tax Division of the Taxation & Revenue Department for collection and placed on installment agreements. (Treasurers)

- **Increase Detention Facilities Funding**

Restore County Detention Facilities Reimbursement Act funding. (Detention Administrators)

- **Job Creation and IRB Act Improvement**

Allow counties to increase economic growth and job creation by expanding the list of projects eligible for an IRB, and removing the complaint process for certain IRB projects. (Managers and Executive Committee)

- **Public Lands Task Force (Memorial)**

Create a task force to evaluate state and county dependence on federal revenue, conduct an inventory of federal land ownership within the state, and study the legal, economic and practical impact of a potential transfer of certain public lands from the federal government to the state. (Public Lands & Natural Resources Policy Committee)

- **Inmate Options (Memorial)**

Study housing options and service delivery for detention inmates with special medical and mental health needs. (Commissioners)

NOW, THEREFORE, BE IT RESOLVED that the Lincoln County Board of County Commissioners does hereby support the legislative priorities of the New Mexico Association of Counties as set forth above, and urges that legislation incorporating these priorities be enacted by the state legislature during its 2015 regular legislative session.

ADOPTED this 16th day of September, 2014.

BOARD OF COUNTY COMMISSIONERS OF LINCOLN
COUNTY, NEW MEXICO

Jackie Powell, Chair

Preston Stone, Vice Chair

Kathryn Minter, Commissioner

Mark Doth, Commissioner

Dallas Draper, Commissioner

ATTEST:

Rhonda Burrows
Lincoln County Clerk

New Mexico Association of Counties



2015 NMAC Legislative Priorities

**As approved by the
NMAC Board of Directors
August 7, 2014**

**THE NEW MEXICO ASSOCIATION OF COUNTIES
EXECUTIVE COMMITTEE 2014-2015**

Officers	District Representatives
Paula Garcia, President Mora County Commissioner	Liz Stefanics, District I Santa Fe County Commissioner
Sharon Stover, President Elect Los Alamos County Clerk	Van H. Robertson, District II Union County Commissioner
Clyde Ward, Vice President San Juan County Assessor	Danny Monette, District III Socorro County Commissioner
Wendell Bostwick, Past President Curry County Commissioner	Jake Lopez, District IV Roosevelt County Commissioner
Alvin Maestas, Treasurer Guadalupe County Commissioner	Brett A. Kasten, District V Grant County Commissioner
Steve Kopelman NMAC Executive Director	James Duffey, District VI Chaves County Commissioner

THE NMAC BOARD OF DIRECTORS 2014-2015

Maggie Toulouse Oliver, Bernalillo County	Carol Bowman-Muskett, McKinley County
Susan Griffin, Catron County	Paula Garcia, Mora County
James Duffey, Chaves County	Cathe Prather, Otero County
Edward J. Michael, Cibola County	Janie Hoffman, Quay County
Bill Sauble, Colfax County	Alfredo Montoya, Rio Arriba County
Matt Murray, Curry County	Jake Lopez, Roosevelt County
Rosalie Joiner, De Baca County	Clyde Ward, San Juan County
David Gutierrez, Doña Ana County	Elaine Estrada, San Miguel County
Glenn Collier, Eddy County	Orlando Lucero, Sandoval County
Brett A. Kasten, Grant County	Liz Stefanics, Santa Fe County
Alvin Maestas, Guadalupe County	Walter Armijo, Sierra County
Pete Callahan, Harding County	Danny Monette, Socorro County
Ed Kerr, Hidalgo County	Gabe Romero, Taos County
Pat Snipes Chappelle, Lea County	Linda Jaramillo, Torrance County
Rhonda Burrows, Lincoln County	Van Robertson, Union County
Sharon Stover, Los Alamos County	Mary Andersen, Valencia County
Dora Madrid, Luna County	
Ex-Officio members:	
Christine Tenski, Probate Judge Affiliate	Danny Monette, WIR Board Member
Edward J. Michael, NACo Board Member (Urban)	Ron Lethgo, Multi-Line Representative
Janie Hoffman, NACo Board Member (Rural)	Robert Anaya, Workers' Compensation Representative
Liz Stefanics, NACo Board Member At-Large	Steve Kopelman, Executive Director
Walter Armijo, WIR Board member	



2015 NMAC LEGISLATIVE PRIORITIES

The following were selected as priorities by the NMAC Board of Directors for the 2015 session. They are listed with their originating entity: Affiliate, Policy or Executive Committee, and are not in numerical order.

- Page 4
- **Safety Net Care Pool**
Remove counties' responsibility to fund Medicaid, and the Safety Net Care Pool, and consider the consolidation of some existing county local option gross receipts tax increments. (Health Care Policy Committee)
- Page 6
- **Keep Southwest Chief /Amtrak Service**
Support continuation of Amtrak's SW Chief and create reasonable funding alternatives. (Commissioners)
- Page 7
- **Tax Roll Corrections**
Authorizes the County Treasurer in conjunction with the County Assessor to make changes to the tax schedule and clarifies the authority and reasons necessary for tax schedule changes to correct obvious errors. (Assessors)
- Page 10
- **Delinquent Property Tax Payments**
Authorize County Treasurers to receive all payments of property taxes, including those turned over to the Property Tax Division of the Taxation & Revenue Department for collection and placed on installment agreements. (Treasurers)
- Page 12
- **Increase Detention Facilities Funding**
Restore County Detention Facilities Reimbursement Act funding. (Detention Administrators)
- Page 15
- **Job Creation and IRB Act Improvement**
Allow counties to increase economic growth and job creation by expanding the list of projects eligible for an IRB, and removing the complaint process for certain IRB projects. (Managers and Executive Committee)
- Page 19
- **Public Lands Task Force (Memorial)**
Create a task force to evaluate state and county dependence on federal revenue, conduct an inventory of federal land ownership within the state, and study the legal, economic and practical impact of a potential transfer of certain public lands from the federal government to the state. (Public Lands & Natural Resources Policy Committee)
- Page 21
- **Inmate Options (Memorial)**
Study housing options and service delivery for detention inmates with special medical and mental health needs. (Commissioners)

Healthcare Policy Committee

Resolution on SB 268/Hospital Funding

WHEREAS, New Mexico counties care greatly about health care for their local citizens and value their local hospitals, particularly in rural areas; and

WHEREAS, counties have long played an integral role in providing health care services for their indigent residents; and

WHEREAS, for nearly 20 years counties have worked collaboratively with their local community hospitals in helping fund the Sole Community Provider program and in coordinating health care for their local citizens; and

WHEREAS, the Sole Community Provider program has now been replaced by the Safety Net Care Pool (SNCP), which provides funding for community hospitals for Medicaid base rate increases and uncompensated care for Medicaid patients; and

WHEREAS, the counties' role under the SNCP has been significantly diminished and their financial contribution to the SNCP no longer has any relationship to the funds disseminated by the Human Services Department (HSD) to the counties' respective community hospitals; and

WHEREAS, information provided by HSD regarding the SNCP has been confusing and often contradictory, and the distribution formula to community hospitals has been inequitable and difficult to ascertain; and

WHEREAS, finding a solution to funding the SNCP requires communication and cooperation among the various stakeholders—counties, hospitals, and the state, in both the legislative and executive branches; and

WHEREAS, the SNCP is part of the federal Medicaid program, and is therefore a state responsibility that should be fully funded by the state; and

WHEREAS, SB268, as passed by the legislature in 2014, required most counties to contribute the equivalent of a 1/12th % gross receipts tax (grt) increment to the SNCP, and was intended to be a three-year interim solution for funding that program; and

WHEREAS, the Governor's line item veto of the three-year limitation on county funding of SNCP will result in unlimited long term county financial responsibility for the program that will ultimately cost the counties hundreds of millions of dollars; and

WHEREAS, that long term county financial responsibility was neither authorized nor intended by the legislature in SB 268.

NOW THEREFORE BE IT RESOLVED THAT the New Mexico Association of Counties supports legislation that would accomplish one or more of the following:

- 1) increase the state budget to fully fund the new SNCP and amend SB268 to remove counties' responsibility to fund the SNCP;
- 2) transfer the new county 1/12th grt to the state to fund the SNCP;
- 3) consolidate particular existing county local option grt increments that are in many cases unused and unusable, and de-earmark others;
- 4) authorize a state hospital bed tax, the proceeds of which could be used to fund the SNCP, to be matched with federal funds;
- 5) to develop solutions that would remove the financing of Medicaid from counties and place that responsibility with the state.

BE IT FURTHER RESOLVED THAT the New Mexico Association of Counties' Board of Directors authorizes the NMAC Healthcare Policy Committee to work collaboratively and in consultation with the NMAC Executive Committee to flesh out priority solutions with the Governor's office and Legislative leadership.

Wj Stefania

Health Care Policy Committee Chair

7/25/2014

Date

NEW MEXICO ASSOCIATION OF COUNTIES

Commissioners AFFILIATE, RESOLUTION # 7

1. Short Title or Subject	Maintain Southwest Chief Amtrak Service
2. Affected Affiliates	Commissioners, managers
3. Impact on County Revenues/Finance	Loss of \$29.3 million in direct economic benefits
4. Legislation Resolution or Policy Statement Or Resolution for Congressional Delegation	Legislation Resolution and resolution for congressional support
5. Requested as NMAC Legislative Priority	yes

WHEREAS, Amtrak's Southwest Chief serves northern New Mexico on its route between Chicago and Los Angeles on the host railroad line of Burlington Northern Santa Fe Railway (BNSF); and

WHEREAS, Fiscal Year 2012 revealed a total of 34,444 Amtrak boarding's and alighting's among the Raton, Las Vegas, and Lamy stations; and

WHEREAS, a Report of the Annual Economic Impact of Amtrak's Southwest Chief in New Mexico, dated November 11, 2013 and filed with the NM Interim Transportation Infrastructure Sub-Committee on November 12, 2013 assesses the annual visitor spending impact in the Lamy-Raton corridor at \$29.3 million in economic output, \$8.9 million in worker earnings and 368 jobs; and

WHEREAS, Amtrak's agreement with BNSF for use of the track expires in January of 2016; and

WHEREAS, Amtrak indicates it does not have sufficient funds to pay BNSF to maintain the line to 79 mph passenger rail standards; and

WHEREAS, Amtrak needs funding in place to remain on the current route or it shall begin relocation or discontinuance of the train by January 2016; and

WHEREAS, long distance passenger rail is a vital and necessary part of our national transportation system and economy; and

WHEREAS, the federal government has declined to provide the needed fiscal support to allow Amtrak to pay for the necessary capital investment and annual maintenance in New Mexico, Colorado, and Kansas; and

WHEREAS, New Mexico, Kansas, and Colorado support the Southwest Chief and seek State and Congressional support for additional funding;

NOW THEREFORE BE IT RESOLVED that the New Mexico Association of Counties support legislation that would:

1. Allow the continuation of Amtrak's Southwest Chief along its current and historic route; and
2. Create a Southwest Chief Rail Service Fund or other reasonable funding alternatives; and support
3. Efforts by the New Mexico Congressional Delegation in supporting and maintaining the Southwest Chief on its current route.

Signed 
Affiliate Chair

Signed 
Affiliate Chair

Date June 19, 2014

NEW MEXICO ASSOCIATION OF COUNTIES
ASSESSOR'S AFFILIATE RESOLUTION NUMBER, 3

Brief Title or Subject: Tax Roll Corrections Authority and Responsibility

Affected NMAC Affiliates and/or County Offices: Assessors and Treasurers

Type of Governmental Entity (Federal or State) & Whether Legislative or Regulatory:
State Entity, NM Taxation & Revenue Laws and Regulations (7-38-77 & 7-38-78)

Impact on Government Revenues & Finances: Financial Impact will be minimal.

Submitted as NMAC Priority or Affiliate Initiative (please circle one)

WHEREAS, According to NMSA 1978, the County Treasurer has sole authority to make changes to the "Tax Schedule" after the County Assessor has delivered the tax schedule to the Treasurer, and;

WHEREAS, tax schedule changes most often arise due to valuation related errors identified and initiated by the Assessor's Office; and

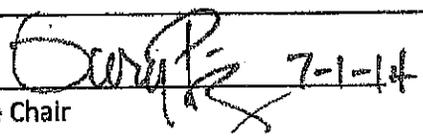
WHEREAS, the majority of tax schedule changes must be processed first through the Assessor's database thus requiring the Assessor to share in the responsibility of tax schedule changes; and

WHEREAS, the Assessor is not named in NMSA 7-38-77 as having authority in correcting the tax schedule; and

WHEREAS, tax schedule corrections are a remedy for correcting errors made by the Assessor's and/or the Treasurer's office and ultimately benefit the property owner; and

WHEREAS, clarification is needed to define which errors are allowed to be corrected in the tax schedule under mutual agreement by the Assessor and Treasurer; and

NOW THEREFORE BE IT RESOLVED THAT the New Mexico Association of Counties support legislation that will change NMSA 7-38-77 and NMSA 7-38-78 to clarify the authority and reasons necessary for tax schedule changes.

Signed  Date: _____
Affiliate Chair

7-38-77. Authority to make changes in property tax schedule after its delivery to the county treasurer.

After delivery of the property tax schedule to the county treasurer, the amounts shown on the schedule as taxes due and other information on the schedule shall not be changed except:

A. by the county treasurer to correct obvious clerical errors in:

- (1) the name or address of the property owner or other persons shown on the schedule;
- (2) the description of the property subject to property taxation; or
- (3) the mathematical computation of taxes;

B. by the county treasurer to cancel multiple valuations for property taxation purposes of the same property in a single tax year, but only if:

- (1) a taxpayer presents tax receipts showing the payment of taxes by him for any year in which multiple valuations for property taxation purposes are claimed to have been made;
- (2) a taxpayer presents evidence of his ownership of the property, satisfactory to the treasurer, as of January 1 of the year in which multiple valuations for property taxation purposes are claimed to have been made; and
- (3) there is no dispute concerning ownership of the property called to the attention of the treasurer, and he has no actual knowledge of any dispute concerning ownership of the property;

C. by the county treasurer, to correct the tax schedule so that it no longer contains personal property that is deemed to be unlocatable, unidentifiable or uncollectable, after thorough research with verification by the county assessor or appraiser, with notification to the department and the county clerk;

D. as a result of a protest, including a claim for refund, in accordance with the Property Tax Code [Articles 35 to 38 of Chapter 7 NMSA 1978], of values, classification, allocations of values determined for property taxation purposes or a denial of a claim for an exemption;

E. by the department or the order of a court as a result of any proceeding by the department to collect delinquent property taxes under the Property Tax Code;

F. by a court order entered in an action commenced by a property owner under Section 7-38-78 NMSA 1978;

G. by the department as authorized under Section 7-38-79 NMSA 1978;

H. by the department of finance and administration as authorized under Section 7-38-77.1 NMSA 1978; or

I. as specifically otherwise authorized in the Property Tax Code.

History: 1953 Comp., § 72-31-77, enacted by Laws 1973, ch. 258, § 117; 1974, ch. 92, § 27; 1981, ch. 37, § 79; 1995, ch. 65, § 1; 2000, ch. 32, § 1.

7-38-78. Action by property owner in district court to change property tax schedule.

A. After the delivery of the property tax schedule to the county treasurer for a particular tax year, a property owner may bring an action in the district court requesting a change in the property tax schedule in connection with any property listed on the schedule for property taxation in which the owner claims an interest. The action shall be brought in the district court for the county for which the property tax schedule in question was prepared.

B. Actions brought under this section may not directly challenge the value, classification, allocations of value determined for property taxation purposes or denial of any exemption claimed and must be founded on one or more of the following grounds:

- (1) errors in the name or address of the property owner or other person shown on the schedule;
- (2) errors in the description of the property for property taxation purposes;
- (3) errors in the computation of taxes;
- (4) errors in the property tax schedule relating to the payment or nonpayment of taxes;
- (5) multiple valuations for property taxation purposes for a single tax year of the same property on the property tax schedule; or
- (6) errors in the rate of tax set for any governmental unit in which the owner's property is located.

C. Actions brought under this section shall name the county treasurer as defendant, and if the action is brought under Paragraph (6) of Subsection B of this section shall also name the secretary of finance and administration as a defendant.

History: 1953 Comp., § 72-31-78, enacted by Laws 1973, ch. 258, § 118; 1974, ch. 92, § 28; 1981, ch. 37, § 80.

NEW MEXICO ASSOCIATION OF COUNTIES

TREASURERS' AFFILIATE, RESOLUTION #1

1. Short Title or Subject	County Treasurers as Agents of PTD for receiving payments on Installment Agreements
2. Affected Affiliates	Assessors, Managers Commissioners, Treasurers
3. Impact on County Revenues/Finance	Earlier & more Accurate receipt of payments made on Installment Agreements
4. Legislation Resolution or Policy Statement Or Resolution for Congressional Delegation	Legislation Resolution
5. Requested as NMAC Legislative Priority	Yes

WHEREAS, NMSA 7-38-62 instills the responsibility and exclusive authority on the Tax and Revenue Department to collect delinquent taxes showing on the tax delinquency list; AND;

WHEREAS, PTD enters into Installment Agreements with delinquent tax payers as a means to collect those taxes; AND

WHEREAS, NM County Treasurers acknowledge the tracking of payments, the filing of injunctions or liens related to missed payments, and the enforcement of installment agreements, is a function that should remain under the authority, control, and within the jurisdiction of the Property Tax Division and the Legal Service Bureau of the Tax and Revenue Department; AND

WHEREAS, payments by delinquent taxpayers to the PTD creates an unnecessary, confusing and inefficient third tier of government to which taxpayers are required to make payments; AND

WHEREAS, the public's right to have updated and accurate information at the local level is compromised by the payment by delinquent tax payers to the state level where it is retained and not distributed for up to three years; AND

WHEREAS, county treasurers are equipped with resources, policies, and procedures already in place by which they are able to distribute payments received on behalf of Property Tax Division to them on a monthly basis, enabling the department to perform the necessary enforcement, negotiation, and tracking of all installment agreements;

NOW THEREFORE BE IT RESOLVED that the New Mexico Association of Counties supports legislation that would amend State Statute 7-38-62 to authorize County Treasurers to receive all payments of property taxes, including for those properties that have been turned over to the Property Tax Division for collection and been placed on installment agreements..

Signed

Patrick Varela, Affiliate Chair

Date

June 19, 2014

7-38-62. Authority of department to collect delinquent property taxes after receipt of tax delinquency list; use of penalties, interest and costs.

After the receipt of the tax delinquency list, the department has the responsibility and exclusive authority to take all action necessary to collect delinquent taxes shown on the list. This authority includes bringing collection actions in the district courts based upon the personal liability of the property owner for taxes as well as the actions authorized in the Property Tax Code [Articles 35 to 38 of Chapter 7 NMSA 1978] for proceeding against the property subject to the tax for collection of delinquent taxes. Payment of delinquent taxes listed and any penalty, interest or costs due in connection with those taxes shall be made to the department if occurring after the receipt by the department of the tax delinquency list; however, the department may authorize county treasurers to act as its agents in accepting payments of taxes, penalties, interest or costs due. Penalties, interest and costs due received by the department under this section shall be retained by the department for use, subject to appropriation by the legislature, in the administration of the Property Tax Code.

History: 1953 Comp., § 72-31-62, enacted by Laws 1973, ch. 258, § 102; 1990, ch. 22, § 5.

**NEW MEXICO ASSOCIATION OF COUNTIES
DETENTION ADMINISTRATORS AFFILIATE, RESOLUTION # 1**

1. Short Title or Subject	Detention Center Funding
2. Affected Affiliates	Commissioners, Managers, Finance, Attorneys
3. Impact on County Revenues/Finance	Revenue generating
4. Legislation Resolution or Policy Statement Or Resolution for Congressional Delegation	Legislative
5. Requested as NMAC Legislative Priority	Legislative Priority

WHEREAS, the County Detention Facility Reimbursement Act was passed unanimously by the Legislature in 2007, as a Legislative Finance Committee bill, was signed by the Governor, and funded at \$5 million; and

WHEREAS THE Act specifies reimbursement by the state to counties for three specific categories of offenders in county jails: 1) parole violators, 2) inmates sentenced to prison and awaiting transport, and 3) offenders under supervision for both probation and parole violations; and

WHEREAS, the cost to counties for housing the three categories of offenders covered by the Act is currently \$4,718, 448, according to the New Mexico Sentencing Commission; and

WHEREAS, funding for the Act has been reduced to \$3.3 million and remained at that level for several years; and

WHEREAS, the cost to county government for detention centers is, on the average, at least one third of county budgets;

NOW THEREFORE BE IT RESOLVED THAT the New Mexico Association of Counties support an increase in the 2015 General Appropriations Act that would fund the County Detention Facilities Reimbursement Act at a level sufficient to reimburse counties for the actual cost of holding the three categories of prisoners specified under the Act.

Signed 

Date 6-30-14

Affiliate Chair

ARTICLE 3B
County Detention Facility Reimbursement Act

33-3B-1. Short title.

This act [33-3B-1 to 33-3B-4 NMSA 1978] may be cited as the "County Detention Facility Reimbursement Act".

History: Laws 2007, ch. 333, § 1.

33-3B-2. Definitions.

As used in the County Detention Facility Reimbursement Act:

- A. "county detention facility" means a facility that is owned, operated or under contract of operation by a board of county commissioners and that is used for the incarceration of prisoners charged with or convicted of a violation of local, state, tribal, federal or international law;
- B. "division" means the local government division of the department of finance and administration;
- C. "dual supervision offender" means an individual who is serving a probation term and a parole term;
- D. "eligible county" means a county that provides information to the New Mexico sentencing commission regarding costs incurred by the county for the incarceration of felony offenders;
- E. "felony offender" means an individual who is convicted of a felony and sentenced to confinement in a correctional facility designated by the corrections department and who:
 - (1) has been released from confinement and is a dual supervision offender and:
 - (a) has violated parole or is charged with a parole violation;
 - (b) has violated probation or is charged with a probation violation; or
 - (c) while on probation or parole, is charged with a violation of local, state, tribal, federal or international law;
 - (2) has been released from confinement and is serving a parole term and:
 - (a) has violated parole or is charged with a parole violation; or
 - (b) while on parole, is charged with a violation of local, state, tribal, federal or international law; or
 - (3) is awaiting transportation and commitment to the corrections department following the revocation of parole or a sentencing hearing for a felony conviction; and
- F. "fund" means the county detention facility reimbursement fund.

33-3B-3. Incarceration of felony offenders in county detention facilities; rate of reimbursement.

- A. The distribution amount for each eligible county each fiscal year shall be derived by multiplying the total amount of money available in the fund for distribution pursuant to this section by the felony offender incarceration percentage for that county. The felony offender incarceration percentage shall be equal to a fraction:
 - (1) the numerator of which is the rolling average of the number of felony offenders incarcerated in an eligible county on June 30 of each of the three fiscal years immediately preceding the fiscal year in which the distribution is to be made pursuant to Section 4 [33-3B-4 NMSA 1978] of the County Detention Facility Reimbursement Act; and
 - (2) the denominator of which is the rolling average of the number of felony offenders incarcerated in all eligible counties on June 30 of each of the three fiscal years immediately

preceding the fiscal year in which the distribution is to be made pursuant to Section 4 of the County Detention Facility Reimbursement Act.

B. Annually, on or before December 1, the New Mexico sentencing commission shall:

- (1) determine the felony offender incarceration percentage for each eligible county;
- (2) calculate the distribution amount for each eligible county by applying the formula in Subsection A of this section; and
- (3) certify to the division the felony incarceration percentage and the distribution amount for each eligible county.

33-3B-4. County detention facility reimbursement fund created; distribution.

A. The "county detention facility reimbursement fund" is created in the state treasury. The fund consists of appropriations, gifts, grants, donations and bequests made to the fund. Money in the fund shall not revert or be transferred to any other fund at the end of a fiscal year, and income from investment of the fund shall be credited to the fund. The division shall administer the fund, and money in the fund is appropriated to the division to make distributions to counties in accordance with Subsection B of this section. Disbursements from the fund shall be by warrant of the secretary of finance and administration pursuant to vouchers signed by the director of the division. No money in the fund shall be expended by the division for the purpose of administering the fund.

B. Annually, on or before January 30 and to the extent money in the fund is available for such purposes, money in the fund shall be distributed by the state treasurer as follows:

- (1) an amount equal to seventy percent of the fund less thirty thousand dollars (\$30,000) to eligible counties in the amounts certified to the division in accordance with Section 3 [33-3B-3 NMSA 1978] of the County Detention Facility Reimbursement Act;
- (2) thirty thousand dollars (\$30,000) to the New Mexico sentencing commission to fund the annual calculation of the felony offender incarceration percentage and the distribution amount for each eligible county; and
- (3) the remainder of the fund to counties other than class A counties that are designated by the division as needing additional resources due to inadequate base revenues.

NEW MEXICO ASSOCIATION OF COUNTIES

MANAGERS AFFILIATE AND EXECUTIVE COMMITTEE RESOLUTION

County Industrial Revenue Bond Improvements

WHEREAS, counties understand the economic needs of their communities and play a critical role in local economic development; and

WHEREAS, New Mexico counties recognize the economic development incentives that are available to promote business and economic growth at the local level; and

WHEREAS, counties across the county compete both to retain existing jobs and businesses and to secure new jobs and businesses; and

WHEREAS, counties in New Mexico wish to maintain a competitive advantage over counties across the country in business retention, developing housing options, and recruiting new business and industry; and

WHEREAS, one of the foremost economic development tools available to counties in New Mexico is industrial revenue bonding; and

WHEREAS, under the New Mexico County Industrial Revenue Bond Act, Sections 4-59-1 to 16 NMSA 1978, there are a variety of projects that qualify for county-issued industrial revenue bonds (IRBs); and

WHEREAS, many projects that could contribute to economic and job growth, including the extractive phase of mining and skilled workforce housing, do not now qualify for county-issued IRBs; and

WHEREAS, currently Section 4-59-15, NMSA 1978, provides that an existing business within a county or within five miles of a proposed county IRB project may file a complaint with the State Board of Finance alleging direct or substantial competition with the proposed project; and

WHEREAS the IRB complaint provision creates uncertainty and significantly delays economic development efforts of counties throughout the state, and

WHEREAS, the inclusion of the IRB complaint process in the County IRB Act, but not in the Municipal IRB Act provides an unnecessary economic disadvantage for counties.

NOW THEREFORE BE IT RESOLVED that the New Mexico Association of Counties supports legislation that expands the list of eligible projects for IRBs to include housing development and

the extractive phase of mining and energy development, and that broadens the definition of “ingredients of construction” to include construction material and labor and associated professional services and contracting;

BE IT FURTHER RESOLVED THAT the New Mexico Association of Counties supports legislation that removes the authority of the State Board of Finance to consider a complaint of direct or substantial competition with existing businesses near or within a proposed county IRB project, by repealing Section 4-59-15, NMSA 1978.

3.2.212.22 TANGIBLE PERSONAL PROPERTY IN PROJECTS FINANCED BY INDUSTRIAL REVENUE OR SIMILAR BONDS:

A. For the purposes of this section, a “bond project” is an arrangement entered into under the authority of the **Industrial Revenue Bond Act**, the **County Industrial Revenue Bond Act** or similar act in which a private person agrees (i) to arrange for the constructing and equipping of a facility for a state or local government by acting as agent for the government in procuring construction services, other services, tangible personal property which becomes an ingredient or component part of a construction project and other tangible personal property necessary for constructing and equipping the facility, (ii) to lease the completed facility from the government and (iii) to buy the facility upon repayment of the bonds. The government agrees to own the facility, to finance the project in whole or in part through the issuance of bonds, to designate the private person as its agent in procuring the necessary property and services, to lease the facility to the private person and to sell the facility to the private person upon repayment of the bonds.

B. Receipts from the sale of tangible personal property to the private person who is acting as agent for the government with respect to the bond project are deductible under Section 7-9-54 NMSA 1978 if the tangible personal property is not an ingredient or component part of a construction project. To be deductible, the bond project tangible personal property must meet all of the following criteria:

(1) the cost of the tangible personal property does not increase the basis, as determined under the provisions of Section 1011 of the Internal Revenue Code in effect on the date the bond project commences, of the structure or other facility included in the definition of construction; and

(2) the tangible personal property is:

(a) not included in, or similar to, the list of structures and facilities specifically itemized in the definition of construction at Section 7-9-3 NMSA 1978; and

(b) classified for depreciation purposes as 3-year property, 5-year property, 7-year property, 10-year property or 15-year property by Section 168 of the Internal Revenue Code in effect on the date the bond project commences or, if the Internal Revenue Code is amended to rename or replace these depreciation classes, would have been classified for depreciation purposes as 3-year property, 5-year property, 7-year property, 10-year property or 15-year property but for the amendment.

C. A bond project commences when the governing body of the state or local government takes official action to enter into the arrangement, but no earlier than the adoption of an inducement resolution.

D. Receipts from the sale of tangible personal property which becomes an ingredient or component part of a construction project, whether the sale is to the private person acting as agent for the government or to the government itself, are not deductible under Section 7-9-54 NMSA 1978.

[2/22/95, 11/15/96; 3.2.212.22 NMAC - Rn & A, 3 NMAC 2.54.22, 5/31/01]

4-59-15. Board of finance.

If any representative of an existing business or enterprise located within the boundaries of the county or within five miles of the proposed project alleges, in a written complaint filed with the county governing body at a meeting at which an ordinance or resolution authorizing the issuance of bonds hereunder [sic], that the proposed project would directly and substantially compete with such an existing business or enterprise located within the boundaries of the county or within five miles of the proposed project, the bonds in connection with such project shall not be issued until the state board of finance has determined that the proposed project will not directly or substantially compete with an existing business or enterprise located within the boundaries of the county or within five miles of the proposed project.

History: 1953 Comp., § 15-60-15, enacted by Laws 1975, ch. 286, § 15.

**NEW MEXICO ASSOCIATION OF COUNTIES
PUBLIC LANDS & NATURAL RESOURCES COMMITTEE, RESOLUTION # 2**

1. Short Title or Subject	Public Land Task Force
2. Affected Affiliates	Managers, Commissioners
3. Impact on County Revenues/Finance	Neutral
4. Legislation Resolution or Policy Statement Or Resolution for Congressional Delegation	Legislative
5. Requested as NMAC Legislative Priority	Yes

WHEREAS, the State of New Mexico encompasses approximately 77.6 million acres of land; and

WHEREAS, approximately 35% of New Mexico's land is federal lands administered by agencies such as the Bureau of Land Management, U.S. Forest Service, Bureau of Reclamation, National Park Service, U.S. Army Corps of Engineers, National Wildlife Reserve Areas, federal water resource development projects and military installations; and

WHEREAS, the State of New Mexico and its counties depend on federal revenues to support vital state, county and local budgets, programs, services and operations; and

WHEREAS, New Mexico counties received \$37,677,905 in Payments in Lieu of Taxes (PILT) in 2014 to provide general fund revenue; and

WHEREAS, New Mexico counties received \$5,054,742 in Federal Forest Reserve payments in 2014 from the Secure Rural Schools & Community Self Determination Act (SRS); and

WHEREAS, counties rely on federal funding through PILT and SRS to provide essential support for schools, road infrastructure, search and rescue operations, wildfire preparedness, county operations and other community services that protect the health, safety, and welfare of New Mexico citizens; and

WHEREAS, federal funds are also distributed to county governments as a pass-through from state agencies for county infrastructure, economic development, wildfire prevention and response, energy and natural resource investments, emergency management, E911, health care, and social programs; and

WHEREAS, there is increasing uncertainty regarding the federal commitment to funding these vital county and state programs, which makes it difficult to budget for necessary services; and

WHEREAS, there have been proposals for the State and counties to take a more active role in federal land management, including the potential for transfer of certain federal lands to the state; and

WHEREAS, the State of New Mexico and its counties have a vested interest in decisions on federal land management, natural resource exploration and development; and

WHEREAS, the State of New Mexico and its counties need an evaluation of the legal, economic and practical implications of any potential transfer of federal lands.

NOW THEREFORE BE IT RESOLVED, that the New Mexico Association of Counties supports legislation requesting the State of New Mexico to create a task force to: 1) study the legal, economic and practical framework surrounding the potential transfer of certain public lands from the federal government; 2) conduct an inventory of federal land ownership within the state; and 3) evaluate state and county dependence on federal revenue streams, and report and make recommendations to the appropriate legislative committee no later than November 1, 2015.

Signed _____

Affiliate Chair

Date _____

7/29/14

Potential Public Lands Stakeholders (Incomplete list)

Native American Pueblos, Nations and Tribes

New Mexico Land Grants

New Mexico Acequia Association

New Mexico Farm Bureau

New Mexico Cattle Growers Association

New Mexico Conservancy Districts

New Mexico Soil and Water Conservation Districts

New Mexico Energy Minerals and Natural Resources Department & other appropriate state agencies and education institutions

United States Department of the Interior, Bureau of Indian Affairs

**NEW MEXICO ASSOCIATION OF COUNTIES
COMMISSIONERS AFFILIATE, RESOLUTION # 3**

1. Short Title or Subject	Special Management Inmates
2. Affected Affiliates	Commissioner/Managers/Detention
3. Impact on County Revenues/Finance	Liability Reduction
4. Legislation Resolution or Policy Statement Or Resolution for Congressional Delegation	
5. Requested as NMAC Legislative Priority	Yes

WHEREAS, counties have been and continue to be subjected to significant liabilities (three cases totaling nearly \$20 million to date) related to allegations of cruel and unusual punishment in county detention facilities; and

WHEREAS, there is a complete lack of appropriate options to house special management inmates, and a lack of programing to meet legitimate medical/mental health needs in those facilities; and

WHEREAS, counties have found a similar lack of options for these inmates at the state level as well;

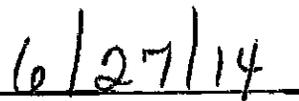
NOW THEREFORE BE IT RESOLVED that the New Mexico Association of Counties support legislation that would bring together the appropriate entities and agencies, to study possibilities for the establishment of housing options and service delivery for these inmates, and make recommendations to the appropriate legislative committee by November 1, 2014.

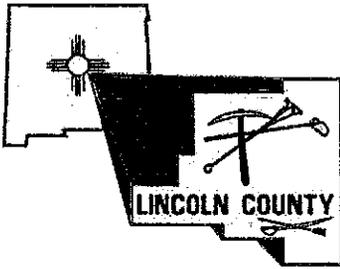
Signed



Affiliate Chair

Date





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County of Lincoln

P.O Box 711 • 300 Central Ave. • Carrizozo, New Mexico 88301-0711 • (575) 648-2385

Agenda Item No. 23

September 4, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager 

SUBJECT: Resolution 2014-18

Purpose: To approve Resolution 2014-18 Authorization to Sign and Enter into Contract(s) with the Non-Metro Area Agency on Aging.

Discussion:

The Non-Metro Area Agency on Aging has an annual requirement for the Counties to approve a resolution determining that there is a need to provide services for senior citizens.

At enclosure 1 is a resolution that supports the need to provide services for the senior citizens of Lincoln County.

Recommendation: Approve Resolution 2014-18.

**RESOLUTION NO. 2014-18
A RESOLUTION AUTHORIZATION**

WHEREAS, the Board of County Commissioners of Lincoln County, New Mexico, has determined that there is a need to provide services for senior citizens; and

WHEREAS, the Lincoln County Senior Citizens were afforded an opportunity to submit suggestions and recommendations at advertised public hearings; and

NOW, THEREFORE, BE IT RESOLVED, that the Board of County Commissioners of Lincoln County, New Mexico, that Nita Taylor, County Manager, and Renee Montes, Zia Senior Citizens Program Director are authorized to sign and enter into a contract(s) with the Non-Metro Area Agency on Aging.

PASSED, APPROVED AND ADOPTED this 16th day of September 2014..

**BOARD OF COUNTY COMMISSIONERS
OF LINCOLN COUNTY, NEW MEXICO**

JACKIE POWELL, CHAIRWOMAN

PRESTON STONE, VICE CHAIRMAN

KATHRYN MINTER, MEMBER

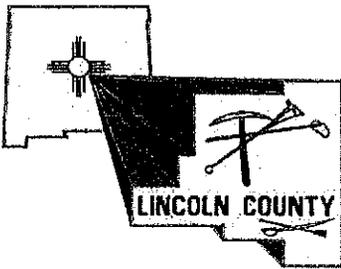
ATTEST:

DALLAS DRAPER, MEMBER

RHONDA BURROWS, CLERK

MARK DOTH, MEMBER

ENCL 2



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County of Lincoln

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Agenda Item No. 24

September 13, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: Lincoln County Cell Phone Policy and Procedure

Purpose: To Obtain Commission Approval of Resolution 2014-19, Lincoln County Cell Phone Policy and Procedure

Discussion: The Lincoln County current Cell Phone Policy adopted by Resolution 2006-10 addressed the uniform procedures for use and payment of cell phones to those employees and elected officials who are required to be accessible by cell phone.

This modification is required for two reasons:

1. To remove unnecessary and burdensome restrictions from existing policy;
2. To update the titles of county positions required to have cell phone use to complete County business when away from the office, and to grant authority to County Manager to approve/disapprove additional titles for cell phone usage as petitioned in writing by elected officials and departments heads;
3. To be in compliance with County Resolution 2010-23 - Consolidated Internal Revenue Service Fringe Benefit and Independent Contractor/Employee Policy.

Recommendation: Approve Resolution 2014-19

RESOLUTION 2014-19
A RESOLUTION AMENDING RESOLUTION 2006-10, ENTITLED
COUNTY OF LINCOLN CELL PHONE POLICY AND PROCEDURE

PURPOSE

To establish uniform policy and procedures for assignment, use and payment of cellphones to those employees and elected officials who are required to be accessible by cell phone.

POLICY

Cell phones are provided to those employees and elected officials who are required to be accessible by phone to conduct official County business. Cell phones are the property of the County of Lincoln and are to be used for official purposes only. However, because individuals cannot control the calls they receive, incidental personal use of a cell phone shall not exceed 25% of the overall use of the time on the cell phone plan and the use shall not incur any additional cost to the County of Lincoln. Any additional cost to the County of Lincoln, above the normal plan, shall be reimbursed by the employee promptly. Official cell phone records shall be auditable to ensure official use. Each department will budget accordingly for expenses associated with cell phone use.

The County has determined that essentially two classes of employees receive County issued cell phones. The first category, "essential phones" include law enforcement, fire departments (one per department), emergency services personnel, County Manager, Road Superintendent, and Road Foreman. Law enforcement personnel eligible for County issued cell phones will be determined by the Sheriff, who will provide official list of eligible titles to County Manager.

The second category, non-essential (not on call 24/7) but still required to have communication when away from the office, include elected officials and some departments where individuals are away from the office for extended periods while doing their respective jobs. Cell phones under this category are necessary for the efficient performance of their respective offices. The cell phones in this category include the Treasurer, Assessor, Clerk, Planning Director, Senior Citizen Director, Finance Director and Human Resources Director. Upon application letter to the County Manager, the County will offer a stipend of \$20.00 per month for a personal cell phone to be used for County business; the stipend will be reflected in payroll.

County Manager is granted the authority to approve/disapprove additional titles for cell phone assignment and usage as petitioned in writing by elected officials and department heads.

NOW, THEREFORE, BE IT RESOLVED, that the Board of County Commissioners adopts this Cell Phone Policy, that is consistent with the County's IRS Fringe Benefit Policy.

PASSED, APPROVED AND ADOPTED this 16th day of September 2014.

Board of Commissioners, Lincoln County, State of New Mexico

Jackie Powell, Chairwoman

Preston Stone, Vice Chair

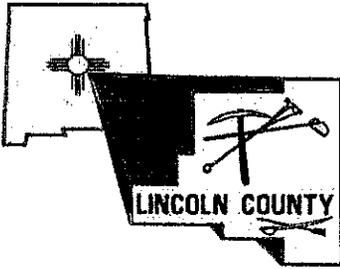
Mark Doth, Member

Kathryn Minter, Member

ATTEST:

Dallas Draper, Member

Rhonda Burrows, County Clerk



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AGENDA ITEM NO. 25

September 8, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: Amend Resolution 2008-46 Establishing an Office of Emergency Services

Purpose: To approve Resolution 2014-20.

Discussion:

According to NMSA 12-10-5 each local body may establish a "local office of civil preparedness" by ordinance or resolution. During the regular commission meeting of June 16, 2009, the commission approved Resolution 2008-46 Establishing an Office of Emergency Services.

Since that date, the county has had a change in office personnel and would like to amend Resolution 2008-46 to reflect those changes to Joe Kenmore as the current Director of Emergency Services and Spencer Baldwin as the Emergency Services Coordinator. No other changes need to be made for this resolution.

Recommendation: Approve Resolution 2014-20.

RESOLUTION 2014-20

AMENDING 2008-46 AFFIRMING A COUNTY OFFICE OF EMERGENCY SERVICES AND APPOINTMENT OF KEY MEMBERS

WHEREAS, under the executive branch of the County of Lincoln, in accordance with Article 10, The State Civil Emergency Preparedness Act, and in specific Sections 12-10-1 through 12-10-10 NMSA 1978, as amended, there is established a county emergency management program, and since 1994 the County of Lincoln has had a Office of Emergency Services with a coordinator and now a Director and Coordinator; and

WHEREAS, it shall be the responsibility of the County Manager, under the supervision of the Board of County Commissioners, and through the designated Director of Emergency Services, to administer the county's emergency management program, and to manage the county's mobilization and response to a major emergency or disaster. The County Manager shall have the authority and responsibility, through the Director of Emergency Services to direct, command, and coordinate all other county offices, departments, and agencies; and the resources of mutual aid and allied organizations in carrying out the necessary emergency operations; and

WHEREAS, in order to ensure the functions of the Office of Emergency Services, Joe Kenmore is designated the current Director of Emergency Services and Spencer Baldwin is designated the Emergency Services Coordinator; and

WHEREAS, the Office of Emergency Services coordinates all aspects of the county's emergency management program and is tasked with the following specific program activities:

- a. Identification and assessment of hazards and analysis of associated risks to public health, and general community well being.
- b. Development of effective pre-disaster hazard mitigation strategies to lessen potential impacts.
- c. Development and dissemination of public emergency preparedness information.
- d. Development, maintenance, distribution, and evaluation of county all-hazard emergency management plans and supporting documents.
- e. Procurement, maintenance, and support of emergency response resources.
- f. Development, presentation, and coordination of county employee emergency management training.
- g. Serve as the designated county liaison to the Federal government, the State of New Mexico, all municipalities located within Lincoln County, and allied organizations on all issues pertaining to emergency management.

- h. Development and presentation of periodic drills and exercises designed to test the efficacy of emergency plans and response systems.
- i. Preparation, distribution, and maintenance of all records pertaining to the county's emergency management program, including incident reports and supporting documents.
- j. Development, operation, and maintenance of the designated county emergency operations center, specific supporting facilities and systems, and assigned mobile response vehicles.

NOW, THEREFORE BE IT RESOLVED, that the Lincoln County Board of Commissioners affirms the Emergency Preparedness Program for the County of Lincoln and requests necessary support and recognition from the New Mexico State Office of Emergency Management (OEM).

GIVEN UNDER OUR HAND, THIS SEPTEMBER 16th, 2014, AT THE LINCOLN COUNTY COURTHOUSE, IN CARRIZOZO, NEW MEXICO.

Jackie Powell, Chairwoman

Preston Stone, Vice Chair

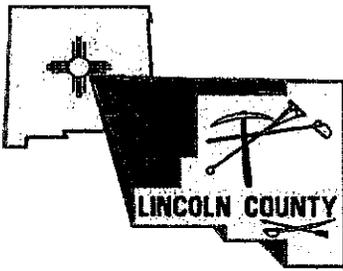
Dallas Draper, Member

Kathryn Minter, Member

Mark Doth, Member

ATTEST:

Rhonda Burrows, County Clerk



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Agenda Item No. 26

September 12, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: Proclamation Recognizing Betty Ann Bell in Her Achievement of Receiving the K. Rose Wood Outstanding Older Adult Award

Purpose: To Recognize Betty Ann Bell for Her Contributions to the Health, Well-being and Stability to Her Community, the Village of Corona and to the County of Lincoln

Discussion: Betty Ann Bell was nominated for the K. Rose Wood Outstanding Older Adult Award by the Creative Aging Advisory Committee to Eastern New Mexico University, Ruidoso Branch. The Award is granted annually by the New Mexico Aging and Long Term Services Department to an individual in recognition of a contribution that benefits a local community in New Mexico. There are many local communities in our great state of New Mexico, with many individuals working to make their communities a better place to live. Lincoln County's own Betty Ann Bell, with years of contributing to the well-being of her life-long community of Corona (population 165), as well as to the County of Lincoln, rose to the top of the list and was presented this prestigious award at the 2014 New Mexico Conference on Aging on August 20, 2014.

Recommendation: Proudly adopt the Proclamation recognizing Betty Ann Bell for her contributions to the health, well-being and stability to her community, the Village of Corona and to the County of Lincoln.

PROCLAMATION

**RECOGNIZING BETTY ANN BELL IN HER ACHIEVEMENT OF RECEIVING THE
K. ROSE WOOD OUTSTANDING OLDER ADULT AWARD**

WHEREAS, The Board of County Commissioners of the County of Lincoln, New Mexico wishes to recognize Mrs. Betty Ann Bell on her achievement of receiving the K. Rose Wood Outstanding Older Adult Award from the Aging and Long Term Services Department of the State of New Mexico; and,

WHEREAS, Mrs. Bell has greatly strengthened various entities within the Village of Corona, New Mexico, including Corona Schools, the Corona Public Library, Corona Landowners' Association, and the Corona Health Clinic by her involvement and long-lasting support; and,

WHEREAS, Mrs. Bell, a retired school teacher, has supported the ongoing efforts of education by her involvement with Eastern New Mexico University – Ruidoso, New Mexico with participation in the Advisory Board and as a liaison to ENMU-R's Community Education Department for curriculum development; and,

WHEREAS, Mrs. Bell is considered "the glue" in Corona, New Mexico as she provides senior mentorship, vision for long term community rural development and exhibits a dependable, hard-working, cheerful attitude to improve the quality of life for all citizens of her community.

NOW, THEREFORE, BE IT RESOLVED, the Board of County Commissioners of the County of Lincoln, New Mexico do hereby recognize Mrs. Betty Ann Bell for her achievement of contributing to the health, well-being and stability of her community and wish to honor Mrs. Bell for her positive contributions to the Village of Corona and the County of Lincoln, New Mexico.

PASSED, APPROVED AND ADOPTED this 16th day of September, 2014.

Board of Commissioners, County of Lincoln, State of New Mexico

Jackie Powell, Chair

Preston Stone, Vice-Chair

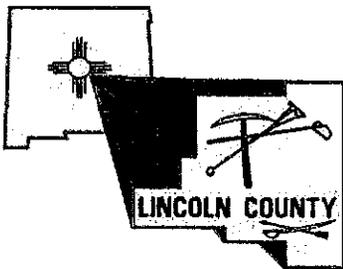
Mark Doth, Member

Dallas Draper, Member

Kathryn Minter, Member

ATTEST:

Rhonda Burrows



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AGENDA ITEM NO. 27

September 5, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: Quarterly Inspection of the Lincoln County Detention Center

Purpose: 11:30 a.m. Inspect the Lincoln County Detention Center

Discussion:

State Statute 33-3-4. States that "each governing body of a county or municipality shall conduct an annual site visit to the jail or detention center under its jurisdiction to inspect the overall conditions at the facility. Following a site visit, an inspection report shall be presented at a regular meeting of the governing body.

There was general consensus to visit the Detention Center quarterly at the February 21, 2012 Regular Commission meeting.

THE STAFF OF THE DETENTION CENTER WOULD LIKE TO INVITE THE COMMISSIONERS TO HAVE LUNCH. Please advise of the commissioner's desire for a meal at the beginning of the commission meeting.

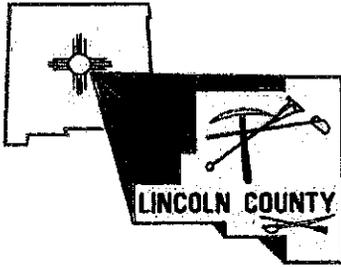
Mr. Arthur Anderson, our Emerald warden will guide the inspection.

Recommendation: Inspect the facility as required.

Agenda Items No. 28

SUBJECT

Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinances.



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Agenda Item No. 29

SUBJECT

1. **1:00 P.M.:** Public Hearings to consider amending the following Ordinances:

- A. Ordinance 2011-05 Flood Damage Prevention with Ordinance 2014-5
- B. Ordinance 2008-3 Lincoln County Indigent Hospital/Health Care Ordinance with Ordinance 2014-6.

LINCOLN COUNTY, NEW MEXICO
FLOOD DAMAGE PREVENTION ORDINANCE NO. ~~2011-05~~ 2014-
05

AN ORDINANCE OF LINCOLN COUNTY CREATED FOR THE PURPOSE OF ADOPTING THE FLOOD ZONES DESIGNATED BY THE FLOOD INSURANCE RATE MAPS AND THE FLOOD BOUNDARY AND FLOODWAY MAPS; REGULATING FLOOD HAZARD AREA LAND USE AND PRESCRIBING CENTRAL MEASURES, DEFINING CERTAIN TERMS, PROVIDING FOR ADMINISTRATIVE DUTIES AND APPEAL PROCEDURES, REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH, PROVIDING FOR SEVERABILITY, AND FIXING THE EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the flood hazard areas of Lincoln County, New Mexico are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety, and general welfare; and

WHEREAS, these flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood-proofed, or otherwise protected from flood damage.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF LINCOLN COUNTY COMMISSIONERS, LINCOLN COUNTY, NEW MEXICO AS FOLLOWS:

ARTICLE I

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the State of New Mexico has in Statutes Amended (NMSA) 1978 Section 3-18-7 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, Lincoln County, New Mexico does ordain as follows:

SECTION B. FINDINGS OF FACT

(1) The flood hazard areas of Lincoln County, New Mexico are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

SECTION C. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- (7) Insure that potential buyers are notified that property is in a flood area.

SECTION D. METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance uses the following methods:

(1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

(4) Control filling, grading, dredging and other development which may increase flood damage;

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

ARTICLE 2

DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

ALLUVIAL FAN FLOODING - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

APEX - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

APPURTENANT STRUCTURE - means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

AREA OF FUTURE CONDITIONS FLOOD HAZARD - means the land area that would be inundated by the 1-percent-annual chance (100 year) flood based on future conditions hydrology.

AREA OF SHALLOW FLOODING - means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD - is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

BASE FLOOD - means the flood having a 1 percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE) - The elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) -for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year - also called the Base Flood.

BASEMENT - means any area of the building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL - means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

CRITICAL FEATURE - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DEVELOPMENT - means any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining,

dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING – means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

EXISTING CONSTRUCTION - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD OR FLOODING - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) ~~the~~The overflow of inland or tidal waters.
- (2) ~~the~~The unusual and rapid accumulation or runoff of surface waters from——any source.

FLOOD ELEVATION STUDY – means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

FLOOD INSURANCE RATE MAP (FIRM) - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) – see *Flood Elevation Study*

FLOODPLAIN OR FLOOD-PRONE AREA - means any land area susceptible to being inundated by water from any source (see definition of flooding).

FLOODPLAIN MANAGEMENT - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD PROTECTION SYSTEM - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOOD PROOFING - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY – see *Regulatory Floodway*

FUNCTIONALLY DEPENDENT USE - means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE - means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior or;

(b) Directly by the Secretary of the Interior in states without approved programs.

LEVEE - means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM - means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; **provided** that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

MANUFACTURED HOME - means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL - means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

RECREATIONAL VEHICLE - means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

RIVERINE – means relating to, formed by, or resembling a river (including tributaries), stream, dry wash, brook, etc.

SPECIAL FLOOD HAZARD AREA – see *Area of Special Flood Hazard*

START OF CONSTRUCTION - for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE – means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE - means damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) Any alteration of a "historic structure", provided that the

alteration will not preclude the structure's continued designation as a "historic structure."

VARIANCE – means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

VIOLATION - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION - means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of riverine areas.

ARTICLE 3

GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES

The ordinance shall apply to all areas of special flood hazard with the jurisdiction of Lincoln County, New Mexico.

SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for Lincoln County, New Mexico, and Incorporated areas. FIS numbers 35027CV001A35027CV001B and 35027CV002B," dated ~~November 16, 2011~~ November 05, 2014 with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) effective dated 11-16-2011 11-05-2014.

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this ordinance.

SECTION D. COMPLIANCE

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be; (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION G. WARNING AND DISCLAIMER OR LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the County of Lincoln, any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

ARTICLE 4

ADMINISTRATION

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The County ~~locally appointed Floodplain Manager~~ Lincoln County Certified Floodplain Manager (CFM) is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

SECTION B. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

(1) Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.

(2) Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.

(3) Review, approve or deny all applications for development permits required by adoption of this ordinance.

(4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

(5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

(6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the New Mexico Department of Homeland Security and Emergency Management (DHSEM), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

(8) When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Article 5.

(9) When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(10) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than 1 foot, provided that the community **first** completes all of the provisions required by Section 65.12.

SECTION C. PERMIT PROCEDURES

(1) Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

(a) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

(b) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

(c) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, Section B (2);

(d) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;

(e) Maintain a record of all such information in accordance with Article 4, Section (B)(1);

(2) Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

- (a) The danger to life and property due to flooding or erosion damage;
- (b) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (c) The danger that materials may be swept onto other lands to the injury of others;
- (d) The compatibility of the proposed use with existing and anticipated development;
- (e) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (f) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- (g) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
- (h) The necessity to the facility of a waterfront location, where applicable;
- (i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

SECTION D. VARIANCE PROCEDURES

(1) The Lincoln County Commissioners shall hear and render judgment on requests for variances from the requirements of this ordinance.

(2) The Lincoln County Commissioners shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

(3) Any person or persons aggrieved by the decision of the Lincoln County Commissioners may appeal such decision in the courts of competent jurisdiction.

(4) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(5) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.

(6) Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C (2) of this Article have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

(7) Upon consideration of the factors noted above and the intent of this ordinance, the Lincoln County Commissioners may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Article 1, Section C).

(8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(9) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

[10] Prerequisites for granting variances:

(a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(b) Variances shall only be issued upon: (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(11) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in Article 4, Section D (1)-(9) are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

ARTICLE 5

PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

(1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

(4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,

(7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

SECTION B. SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Article 3, Section B, (ii) Article 4, Section B (8), or (iii) Article 5, Section C (3), the following provisions are required:

(1) **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Article 4, Section C (1) a., is satisfied.

(2) **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect

shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

(3) **Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

(a) A minimum of two openings on separate walls having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.

(b) The bottom of all openings shall be no higher than 1 foot above grade.

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(4) **Manufactured Homes** -

(a) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(b) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing

manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(c) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:

(i) ~~the~~The lowest floor of the manufactured home is at or above the base flood elevation, or

(ii) ~~the~~The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(5) **Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either (i) be on the site for fewer than 180 consecutive days, or (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of Article 4, Section C (1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS

(1) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Article 1, Sections B, C, and D of this ordinance.

(2) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of Article 3, Section C; Article 4, Section C; and the provisions of Article 5 of this ordinance.

(3) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article 3, Section B or Article 4, Section B (8) of this ordinance.

(4) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(5) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

SECTION D. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES)

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(1) All new construction and substantial improvements of **residential** structures have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified).

(2) All new construction and substantial improvements of **non-residential** structures;

(a) have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified), or

(b) together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO Zone, or below the Base Flood Elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural

components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

(3) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article 4, Section C are satisfied.

(4) Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

SECTION E. FLOODWAYS

Floodways - located within areas of special flood hazard established in Article 3, Section B, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

(1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(2) If Article 5, Section E (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.

(3) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community **first** completes all of the provisions required by Section 65.12.

SECTION F. SEVERABILITY

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION G. PENALTIES FOR NON COMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this court order and other applicable regulations. Violation of the provisions of this court order by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this court order or fails to comply with any of its requirements shall upon conviction thereof be fined not more than Three Hundred Dollars (\$300.00) or imprisonment in the County Detention Center for not more than Ninety (90) days, or both, in accordance with Section 4-37-3, NMSA 1978 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent Lincoln County from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION H. EFFECTIVE DATE AND REPEAL OF ORDINANCE NO. 2004-022011-05.

This Ordinance shall take effect thirty days after recording in the Public Records of Lincoln County, at which time Lincoln County Ordinance No. 2004-02-2011-05 shall be repealed.

PASSED, APPROVED, and ADOPTED this _____ day of _____ ~~2011~~2014.

**BOARD OF COMMISSIONERS OF
THE COUNTY OF LINCOLN,
NEW MEXICO**

~~Eileen Sedillo~~Jackie Powell, Chairwoman

~~Jackie Powell~~Preston Stone, Vice Chair



Federal Emergency Management Agency

Washington, D.C. 20472

May 5, 2014

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

IN REPLY REFER TO:
115-I

The Honorable Jackie Powell
Chairman, Lincoln County Board of
Commissioners
P.O. Box 711
Carrizozo, New Mexico 88301

Community Name: Lincoln County,
New Mexico
(Unincorporated Areas)
Community No.: 350122
Map Panels Affected: See enclosed Listing of
Communities Table

Dear Chairman Powell:

On January 25, 2013, you were provided copies of the Preliminary Flood Insurance Study (FIS) report for Lincoln County, New Mexico and Incorporated Areas and Flood Insurance Rate Map (FIRM) panels that identify existing flood hazard determinations in your community. The flood hazard determinations for your community may include addition or modification to Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Areas (SFHAs), zone designations, and regulatory floodways. SFHAs are the areas subject to inundation by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood). The 90-day appeal period that was initiated on July 17, 2013, when the Department of Homeland Security's Federal Emergency Management Agency (FEMA) published a notice the proposed flood hazard determinations for your community in the *Ruidoso News*, has elapsed.

FEMA did not receive any appeals of the proposed flood hazard determinations. In addition, any comments received have been resolved. Therefore, the determination (copy enclosed) of the Agency as to the flood hazard information for your community is considered final. FEMA will publish a notice of final flood hazards determinations in the *Federal Register* as soon as possible. The FIRM for your community will become effective on November 5, 2014, and will revise the FIS report and FIRM which were in effect prior to that date. For insurance rating purposes, the community number and new suffix code for the panels being revised are indicated on the maps and must be used for all new policies and renewals.

No significant changes have been made to the flood hazard data since it was presented on the Preliminary and/or Revised Preliminary FIRM for your community; therefore, we encourage you to use these materials in the floodplain management regulations adoption process described below. Final printed copies of the FIS report and FIRM will be mailed to you in the near future.

Effective with the date of this letter, your community should use the BFE and floodway data presented on the Preliminary FIS report and FIRM for regulating floodplain development in accordance with the guidance provided in the Floodplain Management Bulletin titled *Use of Flood Insurance Study (FIS) Data As Available Data*. Use of the BFEs on the Preliminary FIS report and FIRM as "best available data" is required where the area is an approximate A zone on the current effective map. While this requirement does not apply to areas that currently have a BFE, for permitting purposes, we recommend that you either use it or inform potential developers of changes when the BFEs are higher than on the current map.

To assist your community in maintaining the FIRM, we have enclosed a Summary of Map Actions (SOMA) to document previous Letters of Map Change (LOMCs) (i.e., Letters of Map Amendment [LOMAs], Letters of Map Revision [LOMRs]) that will be superseded when the revised FIRM panels become effective. Information on LOMCs is presented in four categories: (1) LOMCs that have been included on the revised FIRM panels; (2) LOMCs that have not been shown on the revised FIRM panels because of scale limitations or because the LOMC that was issued had determined that the lots or

structures involved were outside the SFHA shown on the FIRM; (3) LOMCs that have not been included on the revised FIRM panels because they are being superseded by new detailed flood hazard data; and (4) LOMCs that will be re-determined. The LOMCs in Category 2 of this form are revalidated through a single letter that reaffirms the validity of a previously issued LOMC. LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures have changed (Category 4) cannot be revalidated through this administrative process. However, we will review the data which were previously submitted as part of the original LOMA or LOMR request and issue a new determination for the subject properties after the FIRM effective date.

By the effective date of the FIRM, your community is required, as a condition of continued eligibility in the National Flood Insurance Program (NFIP), to adopt or show evidence of adoption of floodplain management regulations that meet the standards of Section 60.3(d) of the NFIP regulations. These standards are the minimum requirements and do not supersede any State or local requirements of a more stringent nature.

It must be emphasized that all of the standards specified in Section 60.3(d) of the NFIP regulations must be enacted in a legally enforceable document. This includes the adoption of the effective FIS report and FIRM to which the regulations apply and the modifications made by this map revision. Some of the standards should already have been enacted by your community. Any additional requirements can be met by taking one of the following actions:

1. Amend existing regulations to incorporate any additional requirements of Section 60.3(d);
2. Adopt all of the standards of Section 60.3(d) into one new, comprehensive set of regulations; or,
3. Show evidence that regulations have previously been adopted that meet or exceed the minimum requirements of Section 60.3(d).

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the Flood Disaster Protection Act of 1973 as amended.

Our Regional Office staff would be happy to assist you with any difficulties you may encounter enacting the floodplain management ordinances. If you have questions regarding your application or any other questions, please feel free to contact one of the Regional contacts listed below for additional assistance:

For questions concerning:	Name	Telephone Number	Email
Engineering/Mapping	Mr. James Orwat	(940) 898-5302	James.Orwat@fema.dhs.gov
Community Outreach	Ms. Cynthia Wirz	(940) 898-5164	Cynthia.Wirz@fema.dhs.gov
Insurance	Mr. Jack Graham	(940) 898-5463	Jack.Graham@fema.dhs.gov
Compliance	Ms. Mayra Diaz	(940) 898-5541	Mayra.Diaz@fema.dhs.gov

If there are further questions regarding the proposed flood hazard determinations or the FIS report and FIRM for the community, please contact the Floodplain Management Program at the New Mexico Department of Homeland Security and Emergency Management. Bill Borthwick, CFM, the NFIP State Coordinator, is accessible by telephone at (505) 476-9617, in writing at 13 Bataan Boulevard, P.O. Box 27111, Santa Fe, New Mexico 87508, or by email at william.borthwick@state.nm.us.

Additional information and resources your community may find helpful regarding the NFIP and floodplain management, such as *Use of Flood Insurance Study (FIS) Data as Available Data*, *The National Flood Insurance Program Code of Federal Regulations*, *Answers to Questions About the National Flood Insurance Program*, *Frequently Asked Questions Regarding the Effect that Revised Flood Hazards have on Existing Structures*, and *National Flood Insurance Program Elevation Certificate and Instructions*, can be found on our website at <http://www.floodmaps.fema.gov/lfd>. Paper copies of these documents may also be obtained by calling our FEMA Map Information eXchange toll free at (877) 336-2627 (877-FEMA.MAP).

Sincerely,



Luis Rodriguez, P.E., Chief
Engineering Management Branch
Federal Insurance and Mitigation Administration

Enclosures:

Listing of Communities Table
Final Flood Hazard Determinations
Final SOMA

cc: Mr. Curt Temple, Planning Director, Lincoln County
Mr. Bill Borthwick, CFM, NFIP State Coordinator, New Mexico Department of Homeland Security and Emergency Management
Mr. Rigel Rucker, RSC 6 Coordinator

bcc: Ms. Lisa Jennings, Senior Natural Hazards Program Specialist, FEMA Region VI
FEDD File

On the LFD date, forward LFD Docket Approval email from FEMA HQ along with a PDF version of the LFD letters, Final SOMAs, Final Flood Hazard Determinations table, and Listing of Communities Table to the following:

Distribution List:

RSC 6 (charla.marchuk@urs.com)
RSC 6 (phil.drazek@urs.com)
RAMPP Study Manager/Leads

Appropriate FEMA Project Monitor for the project
Appropriate FEMA Compliance Specialist for the project
Lisa Jennings (Lisa.Jennings@fema.dhs.gov) for all projects
Ron Wanhanen (Ronald.Wanhanen@fema.dhs.gov)
Diane Howe (Diane.Howe@fema.dhs.gov) for all projects
Cynthia Wirz (Cynthia.Wirz@fema.dhs.gov) for all projects
Nitja McGrane (Nitja.McGrane@fema.dhs.gov) for all projects
Ronnie Simpson (Ronald.Simpson@fema.dhs.gov) for all *Louisiana* projects

The table that follows is provided for your community's use in determining the FIRM panels affecting your community. Note, when referencing the FIRM panels in your floodplain management ordinances, the complete FIRM panel number should be referenced. For example, the first FIRM panel for Lincoln County (Unincorporated Areas) will read 35027C0025D and the first panel entry for the City of Ruidoso Downs will read 35027C2059E.

LISTING OF COMMUNITIES							
COMMUNITY NAME	COMMUNITY NUMBER	LOCATED ON PANEL(S)	INITIAL ID DATE	INITIAL NFIP MAP DATE	INITIAL FIRM DATE	MOST RECENT FIRM PANEL DATE	
LINCOLN COUNTY (UNINCORPORATED AREAS)	350122	0025D ¹ , 0050D ¹ , 0075D ¹ , 0090D, 0100D, 0125D ¹ , 0150D ¹ , 0175D ¹ , 0200D ¹ , 0225D ¹ , 0250D ¹ , 0275D ¹ , 0300D ¹ , 0305D ¹ , 0325D ¹ , 0350D ¹ , 0375D ¹ , 0400D ¹ , 0425D ¹ , 0450D, 0475D ¹ , 0500D ¹ , 0525D ¹ , 0550D ¹ , 0575D ¹ , 0600D, 0625D, 0650D, 0675D, 0700D ¹ , 0725D, 0750D, 0775D, 0800D, 0825D, 0850D, 0875D, 0900D, 0925D, 0950D, 0975D, 1000D, 1025D, 1050D, 1075D, 1100D, 1125D, 1150D, 1175D ¹ , 1200D ¹ , 1225D ¹ , 1250D, 1275D, 1300D ¹ , 1325D ¹ , 1350D, 1375D, 1400D, 1425D, 1450D, 1475D ¹ , 1500D ¹ , 1525D, 1550D, 1575D, 1600D, 1615D, 1625D, 1650D, 1675D, 1700D, 1725D, 1750D, 1775D, 1800D, 1825D, 1850D, 1875D, 1880D, 1885D, 1890D, 1895D, 1910D, 1920E, 1925D, 1940E, 1945E, 1950D, 1965E, 1970E, 1975D, 2000D, 2025D, 2050D, 2052D, 2055D, 2056D, 2057D, 2058D, 2059E, 2065D ¹ , 2066D, 2067D, 2080E, 2085E, 2100D ¹ , 2125D ¹ , 2150D, 2175D, 2200D, 2225D, 2250D, 2275D, 2300D, 2325D	MARCH 28, 1978	MARCH 28, 1978		OCTOBER 1, 2009	NOVEMBER 5, 2014
RUIDOSO DOWNS, CITY OF	350034	2059E, 2080E, 2085E	MAY 31, 1974	MAY 31, 1974	JULY 5, 1982	NOVEMBER 5, 2014	
RUIDOSO, VILLAGE OF	350033	1890D, 1895D, 1910D, 1950D, 2052D, 2055D, 2056D, 2057D, 2058D, 2059E, 2066D, 2067D, 2080E, 2100D ¹	JUNE 7, 1974	JUNE 7, 1974	MARCH 2, 1983	NOVEMBER 5, 2014	

¹ PANEL NOT PRINTED

Ordinance No. ~~2008-3~~ 2014-06

Lincoln County Indigent Hospital/Health Care Ordinance

ADOPTING PUBLIC ASSISTANCE PROVISIONS RELATING TO HEALTH CARE FOR INDIGENTS, IN ACCORDANCE WITH THE INDIGENT HOSPITAL AND COUNTY HEALTH CARE ACT; PROVIDING FOR THE ANNUAL ADJUSTMENT TO IHC INCOME AND CLAIMS POLICY LIMIT SCHEDULES; PROVIDING FOR THE SEVERABILITY OF PARTS HEREOF; REPEALING ORDINANCES IN CONFLICT HEREWITH; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the Board of Commissioners of Lincoln County, New Mexico, desires to adopt the following provisions known as the Lincoln County Indigent Hospital/Health Care Ordinance (IHC Ordinance) as a result of legislation passed by the New Mexico State Legislature during the regular 2004 session; and

WHEREAS, the Board of Commissioners of Lincoln County, New Mexico, adopted Ordinance No. 1999-04 imposing a second one-eighth percent (1/8%) increment; and

WHEREAS, the Board of County Commissioners of Lincoln County, New Mexico, thereafter adopted the Indigent Hospital/Health Care Ordinance under Ordinance Numbers 2000-01, 2000-04, 2001-06, 2002-04, 2003-08, 2003-11, 2004-03, 2005-1, 2008-3; and

WHEREAS, the Board of County Commissioners of Lincoln County, New Mexico, hereby makes provision for the adoption of adjustments to the IHC Income and Claims Policy Limit Schedules by Resolution of the County Commission; and

WHEREAS, the IHC Ordinance is in compliance with Section 27-5-1, NMSA 1978, (Indigent Hospital and County Health Care Act); and

WHEREAS, the Board of Commissioners finds that this Ordinance is necessary to provide for the safety, preserve the health and welfare, promote the prosperity, order, comfort, and convenience of Lincoln County or its inhabitants.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LINCOLN COUNTY AS FOLLOWS:

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SECTION I. GENERAL PROVISIONS.

- 1.1 **Title.** This Ordinance shall be known and may be cited as “Lincoln County Indigent Hospital/Health Care (IHC) Ordinance” and may be referred to herein as the IHC Ordinance.
- 1.2 **Authority.** The Ordinance is created pursuant to the Indigent Hospital Claims and County Health Care Act, Section 27-5, NMSA 1978.
- 1.3 **Purpose.** The purpose of this Ordinance is to assist the indigent residents of Lincoln County to obtain health care. To further this goal, the County has adopted this Ordinance which recognized the County’s responsibility to assist indigents in paying for health care.
- 1.4 **Interpretation.** The County Manager shall interpret the meaning of the provisions of this Ordinance. Whenever any provision of this Ordinance conflicts with other laws, rules, regulations, or ordinances, the more restrictive shall govern.
- 1.5 **Approval of Claims by IHC Board.** All IHC claims paid to eligible recipients shall be approved by the IHC Board whose members shall consist of the Lincoln County Board of Commissioners, and the Chairman of the County Commission shall serve as Chairman of the IHC Board. Each claim is reviewed independently and all decisions are based upon the information submitted. Lincoln County reserves the right to deny any claim.
- 1.6 **Decision in Writing.** The IHC Board shall state in writing the reasons for their decision to approve or disapprove any claim. Notification of denied claims shall be mailed to claimant at his last known address.
- 1.7 **Administrative Expenses.** In accordance with Section 27-5-1, NMSA 1978, a percentage of funds received by the County shall be reserved and budgeted for administrative expenses. The funds budgeted as administrative expenses shall not be available for payment of IHC claims.
- 1.8 **Claims Subrogation.** The IHC Board is permitted to recover costs and payments in accordance with Sections 27-5-14 and 27-5-15, NMSA 1978.

- 1.9 **Open Meetings.** The IHC Board shall conduct their meetings in accordance with the Open Meetings Act, Section 10-15-1, NMSA 1978.
- 1.10 **Appendices.** The schedules attached to this Ordinance as Appendices may be revised, modified or amended by resolution of the Board of County Commissioners.
- 1.11 **Amendments.** Amendments to this Ordinance shall be approved by the IHC Board at a public hearing after providing notice of the public hearing in accordance with New Mexico State Statutes.

SECTION II. DEFINITIONS.

The following terms are defined to be used for the purpose of this Ordinance, regardless of common usage of such terms, or usage for other purposes:

~~*“Alcohol Rehabilitation Center” — an agency of local government, a state agency, a private nonprofit entity or combination thereof that operates alcohol abuse rehabilitation programs that meet the standards set by the Department of Health. (Delete entirely)*~~

“Ambulance Provider or Ambulance Service” - a specialized carrier based within the state authorized under provisions and subject to limitations as provided in individual carrier certificates issued by the public regulation commission to transport persons alive, dead or dying en route, by means of ambulance service. The rates and charges established by the public regulation commission tariff shall govern as to allowable cost. Also included are air ambulance services approved by the ~~board~~ **county**. The air ambulance service charges shall be filed and approved pursuant to Subsection D of Section 27-5-6, NMSA 1978, and Section 27-5-11, NMSA 1978.

“Behavioral Health” - mental health and substance abuse.

~~*“Board” — a county indigent hospital and county health care board. (Delete entirely)*~~

“Claim” - billing statements for an episode of illness, injury or other medical treatment as deemed necessary to an indigent patient.

“Claimant” - a person who makes a claim for IHC assistance for medical services he or she

received.

“Claimant’s Agent” - the individual authorized to provide consent for treatment of the claimant as specified in the New Mexico Hospital Association Legal Handbook.

“Claimant’s Representative” - the provider or individual that is authorized by the claimant or the claimant’s agent to submit a Formal Application on behalf of the claimant.

~~**“Commission”** - the New Mexico Health Policy Commission. (delete entirely)~~

“Cost” - all allowable costs of providing health care services, to the extent determined by resolution of a ~~board~~ **county**, for an indigent patient. Allowable costs shall be based on Medicaid fee-for-service ~~or Medicare DR-G (diagnostic-related group)~~ reimbursement rates for hospitals, licensed medical doctors and osteopathic physicians.

“County” - a county except a class A county with a county hospital operated and maintained pursuant to a lease **(add) or operating agreement** with a state educational institution named in Article 12, Section 11 of the Constitution of New Mexico.

“Department” - the Human Services Department.

~~**“Drug Rehabilitation Center”** - an agency of local government, a state agency, a private nonprofit entity or combination thereof that operates drug abuse rehabilitation programs that meet the standards and requirements set by the Department of Health. (delete entirely)~~

“Elective Surgery or Treatment” - non-emergency hospital surgery or treatment, as recommended by physician(s). This treatment is not medically necessary to the patient’s health or well-being, but can be requested by the patient.

“Employed” or “Contracted” - a physician who is employed by or contracts with a medical provider to provide services which are billed by the medical provider for the provider on routine, normal or regular basis.

“Fund” - a county indigent hospital claims fund.

~~“Health Care Provider”~~

- ~~(1) a nursing home;~~
- ~~(2) an in state home health agency;~~
- ~~(3) an in state licensed hospice;~~
- ~~(4) a community based health program operated by a political subdivision of the state or other nonprofit health organization that provides prenatal care delivered by New Mexico licensed, certified or registered health care practitioners;~~
- ~~(5) a community based health program operated by a political subdivision of the State or other nonprofit health care organization that provides primary care delivered by New Mexico licensed, certified or registered health care practitioners;~~
- ~~(6) a drug rehabilitation center;~~
- ~~(7) an alcohol rehabilitation center;~~
- ~~(8) a mental health center; or~~
- ~~(9) a licensed medical doctor, osteopathic physician, dentist, optometrist or expanded practice nurse when providing emergency services, as determined by the board, in a hospital to an indigent patient; or~~
- ~~(10) a licensed medical doctor or osteopathic physician, dentist, optometrist or expanded practice nurse when providing services in an outpatient setting, as determined by the board, to an indigent patient with life threatening illness or disability. (delete entirely)~~

“Health Care Services” - treatment and services designed to promote improved health in the county indigent population, including primary care, prenatal care, dental care, **(add) behavioral health care, alcohol or drug detoxification and rehabilitation, hospital care,** provision of prescription drugs, preventive care or health outreach services, to the extent determined by resolution of the **board-county**.

“Home Health Agency”- a profit or non-profit organization which provides skilled nursing care, physical therapy, speech or occupational therapy, home health aide, medical supplies and prescribed medication to an indigent patient. This organization is required to be certified and licensed by Medicare and the State of New Mexico.

“Hospice Services” - an organization which provides care for the terminally ill patient which is licensed and certified by Medicare and the State of New Mexico. These services include physicians’ services, skilled nursing care, physical and speech therapy, **pastoral clergy** care, medically necessary prescribed medication related to terminal care, equipment, intravenous and other supplies.

~~**“Hospital”**— a general or limited hospital licensed by the Department of Health, whether nonprofit or owned by a political subdivision, and may include by resolution of a board the following health facilities if licensed or, in the case of out-of-state hospitals, approved, by the Department of Health:~~

- ~~_____ (1) for profit hospitals;~~
- ~~_____ (2) state owned hospitals; or~~
- ~~_____ (3) licensed out of state hospitals where treatment provided is necessary for the proper care of an indigent patient when that care is not available in an in-state hospital. (delete entirely)~~

“Indigent” - “Indigent” is based on the definition of “indigent patient” pursuant to NMSA, Section 27-5-4, Paragraph C, that defines indigent patient as persons to whom an ambulance service, a hospital or a medical care provider determined to be eligible under the provisions of the Ordinance has provided medical care or ambulance transportation and who can normally support himself and his dependents on present income and liquid assets available to him but, taking into consideration this income and those assets and his requirement for other necessities of life for himself and his dependents, is unable to pay the cost of such medical services. The policy of the IHC Board, established by the rules and

regulations of this Ordinance pursuant to NMSA 1978, Section 27-5-6, Paragraph C, specifies the provisions and criteria for determining which person are qualified indigent persons and therefore eligible to receive IHC assistance, consistent with the above-referenced statutory provision. The IHC Board has permitted the use of the Lincoln County IHC Income Schedule as a tool to be used to determine the income for an individual or family.

“Indigent Patient” - a person to whom an ambulance service, a hospital or a health care provider has provided medical care, ambulance transportation or health care services, and who can normally support ~~himself~~ the person’s self and ~~his~~ the person’s dependents on present income and liquid assets available to ~~him~~ the person but, taking into consideration ~~this~~ the person’s income, assets and requirements for other necessities of life for ~~himself~~ the person and the person’s dependents, is unable to pay the cost of the ambulance transportation or medical care administered or both; provided ~~by resolution of a board~~ that if a definition of “indigent patient” is adopted by a county in a resolution, the definition shall not include any person whose annual income together with ~~his~~ that person’s spouse’s annual income totals an amount that is fifty percent greater than the per capita personal income for New Mexico as shown for the most recent year available in the survey of current business published by the United States Department of Commerce. ~~Every board that has a balance remaining in the fund at the end of a given fiscal year shall consider and may adopt at the first meeting of the succeeding fiscal year a resolution increasing the standard for indigency.~~ The term “indigent patient” includes a minor who has received ambulance transportation or medical care or both and whose parent or the person having custody of that minor would qualify as an indigent patient if transported by ambulance or admitted to a hospital for care or treated by a health care provider or all three.

“Lincoln County IHC Income Schedule” - an income schedule that was developed to make assistance more accessible to individuals who have a larger household size. The HUD Section 8 Income, U.S. Bureau of Census schedule was the beginning base used in determining the IHC Income Schedule.

Each year a review will be made by the IHC Coordinator to determine if the Income Schedule will need to be changed for the ensuing fiscal year.

“Liquid Assets” - assets that can quickly or easily be converted to cash (including but not limited to bank accounts, CD’s, and marketable securities)

“Medicaid Eligible” - a person who is eligible for medical assistance from the Department.

“Medically Indigent” - an individual who needs medical care or treatment, but due to their individual circumstances are financially unable to pay the cost of such treatment.

~~**“Mental Health Center”** - a not for profit center that provides outpatient mental health services that meet the standards set by the Department of Health. (delete entirely)~~

“Non-emergency Transportation” - the transporting of indigent patients by a non-emergency vehicle. This type of transport does not require any medical treatment to be rendered to the patient, unless as otherwise specified in the provider agreement with the Department of Transportation.

“Non-sole Provider” - medical providers which provide services to county residents in the surrounding service area. These providers consist of ambulance, hospice care, home health care, other providers as permitted by the Indigent Hospital and County Health Care Act, and some hospitals which are not considered as ~~**Sole-Community Qualified**~~ Providers. These providers are eligible to receive direct payments from the County.

“Outpatient Hospital Services” - hospital sponsored ambulatory care service for medical or surgical treatment of one or more organizational units, or components thereof, of the hospital, that are under the responsibility of the hospital and through which non-emergency health services are provided to patients who do not need to remain in the hospital overnight as defined in the JCAHO Manual. Outpatient services are provided by Home Health Agencies, Hospice, Health Care Providers, and Community Health Centers.

“Planning” - the development of a county-wide or multi-county health plan to improve and fund

health services in the county based on the county's needs assessment and inventory of existing services and resources and that demonstrates coordination between the county and state and local health planning efforts.

“Primary Health Care” - means the first level of basic or general health care for an individual's health needs, including medical and dental diagnostic and treatment services, prescribed medication, referrals and supportive services. All dental services must be provided in coordination with primary medical services. Primary medical services are those provided as part of either general family practice, obstetrics, gynecology, pediatrics, or general internal medicine.

“Pro-rata Formula” - approval or payment if IHC claims when different hospital or ambulance providers are involved in the treatment of a patient will be based on a percentage of the charges pro-rated to the amount of total claims submitted within a ninety (90) day period from the beginning date of the treatment. The pro-rated percentage of all claims will be calculated from each provider and will be paid their percentage of the determined yearly maximum limit per claim.

(add) “Qualifying Hospital” - an acute care general hospital licensed by the Department of Health that is qualified to receive payments from the Safety Net Care Pool pursuant to an agreement with the federal centers for medicare and medicaid services.

~~*“Sole Community Provider” — the term given to a hospital under the provisions of the Medicare guidelines established in 42 C.F.R. 412.92 pursuant to Title 18 of the Social Security Act. This provider is reimbursed from the State of New Mexico through the Sole Provider Fund on a quarterly basis. (delete entirely)*~~

“Sole Community Provider Hospital”

~~*(1) a hospital that is a sole community provider hospital under the provisions of the federal Medicare guidelines; or*~~

~~*(2) an acute care general hospital licensed by the Department of Health that is qualified,*~~

~~pursuant to the rules adopted by the State agency primarily responsible for the Medicaid program, to receive distributions from the sole community provider fund. (delete entirely)~~

SECTION III. IHC ELIGIBILITY PROVISION.

3.1 Individuals Eligible for IHC Assistance. Individuals are eligible for IHC assistance if (1) they qualify as medically indigent; and (2) they have been residents of Lincoln County for at least ninety (90) days, or are detainees in the Lincoln County jail.

3.2 Individuals Not Eligible for IHC Assistance. Individuals are not eligible for assistance if (1) they are eligible for medical assistance from the New Mexico Human Services Department as specified in Section 27-5-3, NMSA 1978; (2) do not qualify as medically indigent; and (3) do not meet the residency and eligibility requirements.

3.3 Residency and Eligibility Requirements. All eligible individuals must be residents of Lincoln County for at least ninety (90) days prior to receiving medical services.

A. Proof of Residency: A Claimant must provide proof of residency such as: (1) A notarized Proof of Residency form completed by a non-related landlord or individual verifying that the patient has resided in Lincoln County for at least ninety (90) days; (2) voter registration card; and (3) payment receipt of a utility bill, rent receipts, etc. College students attending college outside of the County shall be considered residents of the County.

B. Proof of Identity: A Claimant must provide proof of identity such as: (1) A valid New Mexico Driver's License; (2) A valid picture Identification card issued by the United States Government or the State of New Mexico; (3) A valid United States birth certificate, original or certified copy; (4) A valid United States passport; (5) A valid United States Immigration and Naturalization Service Certificate of Naturalization; (6) A valid United States Immigration and Naturalization Service Certificate of U. S. Citizenship; (7) A Valid Native American Tribal Membership document; (8) Other valid government Identification Card containing picture,

name, and date of birth.

3.4 Medically Indigent Persons Eligibility. In addition to residency and identity requirements, a claimant is qualified as medically indigent and eligible to receive IHC assistance if the person or the person's spouse or dependent is determined under the provisions of this Ordinance to be unable to pay for eligible medical treatment or care that has been received after the individual has attempted to make payment and has exhausted all other financial resources for such payment to the extent possible, taking into consideration the person's income and family's size based on the following provisions and criteria:

- A. Basic Eligible Annual Income Criteria.** In order to be qualified as medically indigent and eligible for IHC assistance, a claimant's annual household income as determined in Paragraph 3.4D of this Section, shall not be greater than the Lincoln County IHC Income Schedule as may be established annually hereafter by Resolution.
- B. Payment by Claimant.** Once claimant is deemed as eligible, the claimant, claimant's spouse and/or dependents must agree to exhaust every financial resource of the family, to the extent possible, to make payment(s) of their medical bills. This includes all insurance or other programs or funding assistance available to the claimant. Claimants are eligible to receive IHC assistance for insurance deductibles exceeding One Thousand Dollars (\$1,000) or the Medicare co-insurance which exceeds \$50.00.
- C. Determination of Annual Income.** The income indicated on claimant's most recent Federal income tax return will be accepted as the claimant's annual income, unless the claimant's income has changed due to a loss of a job or a substantial increase to income. In these circumstances, the current monthly income may be taken into consideration in order to calculate the most recent annual income. Pay stubs or some other form of documentation must be provided to verify this change to income. The claimant is

required to provide a complete federal income tax return (with all attached schedules and forms) and pay stubs as part of the IHC application. If the claimant did not file a federal return, the claimant is required to complete a notarized tax waiver form and provide proof of income.

- D. Assets.** A household that has liquid assets in the amount of \$20,000 or less and an individual who has liquid assets in the amount of \$10,000 or less will be eligible for indigent health care claims assistance. Any real estate owned by a claimant, other than their primary residence, will be subject to a \$20,000 limit in order to be eligible for indigent health care claims assistance.

3.5 Medical Providers Eligible for IHC Approval or Reimbursement.

- A. A general or limited hospital licensed by the Department of Health, whether owned by a political subdivision or not-for-profit or for-profit corporation.
- B. An in-county home health agency licensed and certified by Medicare and the State of New Mexico.
- C. An in-county hospice which is licensed and certified by Medicare and the State of New Mexico.
- D. An in-state ambulance provider.
- E. An in-county oxygen provider.
- F. Behavioral health providers that provide eligible medical care and treatment services as specified by this Ordinance.
- G. Physicians, Certified Registered Nurse Anesthetists (CRNAs), and Certified Nurse Practitioners (CNPs).

Only the above-listed medical providers are eligible for IHC reimbursements.

3.6 Medical Treatment Eligibility and Payment. Eligible persons may receive IHC assistance for

medical care and treatment received from an eligible medical provider as listed in Section 3.5. Patient must incur a bill of at least \$50 in order to be eligible for assistance. However, there shall be no minimum payment required as applies to detainees in the Lincoln County **jail Detention Center** and all inmates may be eligible to receive IHC assistance for medical care and treatment. The local hospital will be considered as the only “Sole Provider” and will receive reimbursement from the State through the **Sole-Provider Safety Net Care Pool** Fund. Claims for the **Sole qualified** Provider will only be approved by the IHC Board. **Non-sole Non-qualified** providers will receive reimbursement as approved by the IHC Board. Eligible claims for charges applied to private insurance deductibles which exceed One Thousand Dollars (\$1000) shall be reimbursed at the Medicaid fee-for-service or Medicare DR-G reimbursement rates. Applicants who receive Medicare may receive assistance with all remaining balances over Fifty Dollars (\$50) after Medicare payments have been made. In circumstances where there are multiple providers and the medical expenses will reach the maximum limitation amount, the Pro-Rata formula will be used to calculate the amount of reimbursement to each medical provider. IHC claims will be based on the order that expenses for treatment are incurred up to the maximum. Payment will be made in the order claims are approved by the IHC Board.

C. **Claim Eligibility and Limitations for IHC Approvals or Payment.** The Indigent Hospital and County Health Care Act, Section 27-5-1, NMSA 1978, limits approvals or payments to Medicaid fee-for-service or Medicare DR-G reimbursement rates for hospitals, licensed medical doctors, CRNAs, CNPs, and osteopathic physicians. All other providers will be reimbursed at actual costs, which shall not exceed the determined established annual limits per patient and providers as set forth by the IHC Board.

(1) **Ambulance Transportation.** These services are allowed based upon the

expense incurred to include the care and transport of a patient to the “nearest” general or limited hospital. Claims that reach the maximum allowed policy limit may be subject to the Pro-Rata payment formula whenever there are multiple providers.

- (2) **Home Health Services.** These services are allowed based on the actual need of the patient. Services include supplies, skilled nursing services, home healthcare durable equipment, prescribed medication, physical therapy, occupational and speech therapy. These services should be provided as deemed necessary for the patient’s care and reimbursed to the provider at the rates specified on the provider agreement. The total sum of IHC payments shall be considered as a separate expense above any other medical claim limit and shall be limited to the established annual limit per patient. Services must be provided by a contracted home health provider licensed and certified by Medicare and the State of New Mexico. The total payments to a contracted home health service provider shall not exceed the established annual limit as determined by the IHC Board.
- (3) **Hospice Care Services.** These services are allowed based on the actual need of the patient. The total sum of IHC payments for these services shall be considered as a separate expense from the other medical claim limits. The total sum of IHC payments for these services shall be considered as a separate expense from the other medical claim limits. The total sum of payments shall not exceed the established annual limit per patient. The total payment to a contracted Hospice provider shall not exceed the established annual limit as determined by the IHC Board.
- (4) **Mental Health Services.** Claims will be permitted for psychiatric treatment

services rendered by a contracted behavioral health care provider. Treatments for attempted suicide will also be permitted within the same fiscal year. The combination of both of these treatments will not exceed the determined policy limit for approval or payment as set forth by the IHC Board.

- (5) **Primary Care Services.** Primary care services are provided to individuals for the basic or general health care needs of the patient and shall be made available by the ~~sole community~~ **qualified** provider through County-owned clinics and/or providers employed by said ~~sole community~~ **qualified** provider.
- (6) **Substance Abuse.** IHC approval or payment is available for only one inpatient substance abuse claim when deemed medically necessary, as well as unlimited outpatient substance abuse claims. However, the sum of both inpatient and outpatient treatment cannot exceed the policy limit. Also, the total sum of all IHC payments to any approved behavioral health care provider shall not exceed the established annual limit per provider.
- (7) **Physicians.** A licensed medical doctor, certified registered nurse anesthetist, certified nurse practitioner, osteopathic physician, dentist, optometrist or expanded practice nurse when providing emergency services, as determined by the board, in a hospital to an indigent patient; or a licensed medical doctor or osteopathic physician, dentist, optometrist or expanded practice nurse when providing services in an outpatient setting, as determined by the board, to an indigent patient with life threatening illness or disability.
- (8) **Other Services.** The IHC Board may allow other services which will benefit all indigent patients as deemed necessary.

B. **Claims Not Eligible for Payment.** The following claims are not eligible for

payment: (1) hospital elective surgery or treatment; (2) nursing home care; (3) medical social worker; (4) nutrition counseling (5) insurance co-pays (6) prescription medications, except those administered directly by the provider; and (7) extended home health aides.

3.7 **Detainees.** Individuals detained at the Lincoln County Detention Center will be considered medically indigent for the purposes of this Ordinance if they do not qualify for other insurance.

3.8 **Expenses for Burial or Cremation of Indigent Persons.** To the extent that a deceased person ~~is~~ **was** indigent, the burial or cremation expenses shall be paid by the County's Indigent Hospital Claims Fund in an amount up to six hundred dollars (\$600) for the burial or cremation of any adult or minor as provided in Section 24-13-3, NMSA 1978.

3.9 **Expenses for Cost of Opening and Closing Grave.** To the extent that a deceased person ~~is~~ **was** indigent, the cost for opening and closing of a grave shall be paid by the County's Indigent Fund in a sum not to exceed six hundred dollars (\$600), which sum shall be in addition to the sum enumerated in Section 3.8, above, and as provided for in Section 24-13-3, NMSA 1978.

SECTION IV. APPLICATION FOR IHC ASSISTANCE.

4.1 **IHC Application Provisions.** The provisions of this Section are required in order for an application to be accepted and considered by the County for IHC assistance.

4.2 **Applicant Cooperation.** Failure of applicants to cooperate in providing the County authorization to obtain information is grounds for rejecting the application.

4.3 **Individuals Who May Submit Applications.** An application may be submitted after treatment is complete or after the billing for the treatment is received.

4.4 **Acceptance of IHC Applications.** The County, at its discretion, may refuse to accept any application that does not include all required information or documents requested by the County.

4.5 **Application Verification.** Formal applications shall include but not be limited to the following:

- B. Name, address and other personal identification of the patient/claimant as deemed appropriate by the County.
- C. Name of patient/claimant, agency, medical provider, or other representative submitting the application. If other than the patient, the application shall include specific authorization in writing, signed by the claimant, or the patient's agent if the patient is unable to sign, that the representative is authorized to submit the application on their behalf.
- D. Proof of residency as deemed necessary by the County to verify residency requirements.
- E. Proof of annual income to include Federal tax returns (with all attached schedules and forms), pay stubs, and/or other information as deemed necessary by the County to verify annual income and availability of assets. If the claimant does not file a current return, a notarized tax waiver form must be completed.
- F. A written denial from Medicaid of ineligibility must be submitted with the IHC Application.
- G. Evidence to verify that all other sources of payment such as insurance, Medicare, Medicaid, etc. will make payment or that a pay source is not available due to patient's ineligibility. In the event of a claim resulting from an automobile accident where there is insurance coverage, patient must submit an Affidavit of Repayment.
- H. Itemized bills shall include the treating diagnosis of all charges submitted for IHC approval or payment that have been billed by an eligible medical provider. These billings will be based on provisions of Section 4 of this Ordinance. Claims with multiple providers may be held open for sixty (60) days in order for all providers to submit their bills. Payments will be based on the pro-rata formula. Diagnosis codes will be audited to determine if charges meet the definitions of eligible claims.

4.6 **Application Deadline.** A formal application with all required documentation shall be submitted to the County IHC office no later than ninety (90) days from the first date medical treatment or services were received. After the County IHC office receives the application from the medical provider, the IHC administrator will have 30 days to complete the review process. The IHC administrator may request additional documentation and/or interview the claimant. Claims received after the ninety (90) day deadline will not be considered for payment, unless the County Manager determines that an exception can be made due to extraordinary circumstance.

- A. The applicant will have ninety (90) days in which to file with the medical provider that rendered service. The claimant must provide the necessary documentation to this provider unless the medical provider is located outside the County. In this circumstance, the applicant must return the completed application to County IHC office. If the additional requested information is not received within the allotted time, the claim will be closed. Once the claim is complete, the claim will be reviewed at the next schedule monthly IHC Board meeting.
- B. All approved applications will be considered complete and current for the remainder of the fiscal year. For any claims received after an application is approved, the provider will be expected to complete a supplemental claim form. The notarized supplement form must be signed by the adult patient to authorize the medical provider to release necessary information to process the claim. After the time limit has expired for the current application, a new application will be requested with all required documentation attached.
- C. When a patient is covered by insurance, Medicare or another pay source, the ninety (90) day claim limit will begin with the date that the pay source made the first payment on the claim. In circumstances in which a denial has been received by the provider, the ninety (90) day limit will revert to the original date of the denial.

4.7 **Application Confidentiality.** All information regarding the claimant shall be kept strictly confidential. The IHC board shall, in carrying out the provisions of the Indigent Hospital and County Health Care Act, comply with the standards of the federal Health Insurance Portability and Accountability Act of 1996.

SECTION V. **PROVISION FOR IHC APPROVAL OR REIMBURSEMENT TO MEDICAL PROVIDERS.**

5.1 **Reimbursement to Medical Providers.** Approvals or reimbursement of IHC funds by the County shall be made to eligible medical providers based on actual billed charges for eligible treatment not to exceed the established claim limit. Allowable costs shall be based on Medicaid fee-for-service or Medicare DR-G reimbursement rates for hospital, licensed medical doctors and osteopathic physicians. All other providers shall be reimbursed at actual costs, which shall not exceed the determined established annual limits per patient and providers as set forth by the IHC Board. Charges shall be submitted on itemized bills with the treating diagnosis from the medical provider(s). The charges for such services shall not exceed the normal charges to other patients. Eligible treating diagnoses may be subject to review by the IHC administrator to verify claims meet the criteria of “emergency, life threatening or permanently disabling.” Approval or reimbursements will be made to medical providers after obtaining authorization from the IHC Board.

5.2 **Overcharges.** Any medical provider found to be overcharging or billing greater than the normal charges to other patients for itemized services reimbursed by IHC payment is in violation of the provisions of this Ordinance. The IHC Board may, at its discretion, reduce the IHC payment of billed charges to a percentage between 20% and 65% of billed charges. The reduced percentage of payment may be assessed for any length of period up to twelve (12) months. The provider shall be given the opportunity to provide its justification and documentation to the County prior to such action being implemented. The County may, at its discretion, hire an independent auditor

paid for by the medical provider to determine overcharges. Medical providers shall provide to the County or its representative all information requested to verify charges.

- 5.3 **Reimbursement Limited to Available Funds.** Outstanding IHC claims that have been approved by the IHC Board will be paid by the County to each eligible medical provider with available Indigent Fund revenues that have been received by the County. Payment will be made based on the order of approved claims by the IHC Board. If revenues are all exhausted or encumbered, the outstanding claims will be paid based upon: (1) the order of approval by the IHC Board; (2) current complete claims; and (3) aging claims which have been completed.
- 5.4 **Withholding of IHC Payments.** IHC payments shall be withheld pending the disposition of medical payments from other possible sources, such as insurance, workers' compensation, or State and Federal funding that may cover the expenses. Upon evidence that the other possible sources will not make payment, IHC funds may be approved for payment consistent with the provisions of this Ordinance. Claims of in-state hospitals providing acute medical care shall have priority for payment over all claims regardless of the dates the other claims were submitted.
- 5.5 **Screening and Collections By Providers.** The medical provider is required to screen all potential IHC claimants and determine if the claimant will have a remaining balance after the IHC payment. If the claimant will have a remaining balance, a reasonable payment schedule will be made.
- 5.6 **Claims, Preparation, and Verification by Providers.** The ~~sole-community~~ **qualified** provider shall be responsible for screening all potential hospital-related claimants for eligibility, assisting claimants with completing the IHC application and with providing all required documentation. Completed applications with documentation will be reviewed by the IHC administrator. Those verified as complete will be submitted to the IHC Board. Applications deemed incomplete will be returned with a letter of explanation to the provider. IHC applicants requesting services not

related to ~~sole-community~~ qualified claims will be assisted by the provider and completed by the IHC administrator.

5.7 **Disclosure by Medical Providers.** Medical providers shall provide to the County reports, financial statements, and random samples of paid bills or other information deemed necessary by the IHC Board or its representatives.

5.8 **Agreement between County and Provider.** All medical providers that are eligible for approval or reimbursement of IHC funds shall enter into an agreement with the county agreeing to abide by all provisions of this Ordinance prior to receiving an IHC funds. The medical provider shall submit copies of their state license and annual certification as part of this ongoing agreement. The IHC office should receive a copy of the renewed certification annually.

SECTION VI. DUTIES OF THE COUNTY -- ~~SOLE-COMMUNITY PROVIDER~~ QUALIFIED HOSPITAL PAYMENTS.

The County shall:

- (1) determine eligibility for benefits and determine an amount payable on each claim for services to indigent patients from ~~sole-community-provider~~ qualified hospitals;
- (2) notify the ~~sole-community-provider~~ qualified hospital of its decision on each request for payment while not actually reimbursing the hospital for the services that are reimbursed with federal funds under the state Medicaid program;
- (3) confirm the amount of the ~~sole-community-provider~~ qualified hospital payments authorized for each hospital for the past fiscal year by September 30 of the current fiscal year based on a report prepared by the hospital using a format jointly prescribed by the County and hospital(s) that provides aggregate data, including the number of indigent patients served and the total cost of uncompensated care provided by the hospital;
- (4) negotiate agreements with each ~~sole-community-provider~~ qualified hospital providing services for County residents on the anticipated amount of the payments for the following

fiscal year; provided that the agreements shall be in compliance with federal regulations regarding intergovernmental transfers and provider contributions and shall not include provisions for reimbursements to counties of matching and ~~sole community provider~~ **Safety Net Care Pool** fund allocations; and

- (5) provide the department by January 15 of each year with the budgeted amount of ~~sole community provider~~ **Safety Net Care Pool** hospital payments, by hospital, for the following fiscal year.

SECTION VII. APPEALS.

7.1 **County Manager or IHC Coordinator.** Any person or medical provider who is adversely affected by a decision of the County Manager or IHC Coordinator may appeal that decision to the IHC Board within ten (10) days after the date of the action of the County Manager or IHC Coordinator. The IHC Board shall hear the appeal and render a decision in writing within sixty (60) days after receiving the Notice of Appeal.

7.2 **IHC Board.** Any person or medical provider who is adversely affected by a decision of the IHC Board may appeal that decision to the District Court within thirty (30) days of the action of the Board.

SECTION VIII. PENALTIES.

8.1 **Criminal Penalties.** Any person or medical provider who intentionally violates the provisions of this Ordinance shall be punished by a fine not to exceed Three Hundred Dollars (\$300.00) or imprisonment in the County Detention Center for not more than ninety (90) days, or both, in accordance with Section 4-37-3, NMSA 1978.

SECTION IX. SEVERABILITY.

In the event any section, part or sub-part of this Ordinance shall be determined to be in violation of the Constitution or Statutes of the State of New Mexico by a Court of competent jurisdiction, that

Section shall be stricken and be thereafter unenforceable. Such determination shall not invalidate the application or enforcement of the remaining Sections.

SECTION X. EFFECTIVE DATE AND REPEAL OF ORDINANCE.

This Ordinance shall be recorded upon adoption and become effective _____, 2014 at which time Ordinance No. 2008-3 shall be repealed.

PASSED, APPROVED and ADOPTED this ___ day of _____, 2014.

**BOARD OF COUNTY COMMISSIONERS
OF LINCOLN COUNTY, NEW MEXICO**

Jackie Powell, Chair

Preston Stone, Vice Chair

Mark Doth, Member

Dallas Draper, Member

Kathryn Minter, Member

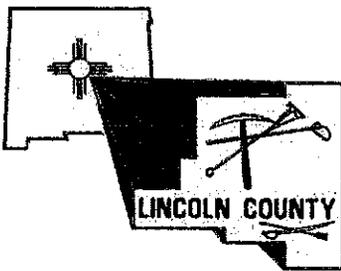
Attest:

Rhonda Burrows
Lincoln County Clerk

APPENDIX 1

INDIGENT HEALTH CARE CLAIM POLICY

08/19/99	Adoption date of Ordinance No. 1999-04 Adopting a County Gross Receipts Tax.
7/01/00	Effective date of Lincoln County Ordinance No. 2000-1 Lincoln County Indigent Hospital/Health Care Ordinance (IHC Ordinance).
05/16/01	Effective date of Lincoln County Ordinance No. 2001-06 Lincoln County Indigent Hospital/Health Care Ordinance (IHC Ordinance).
04/26/02	Effective date of Lincoln County Indigent Hospital/Health Care Ordinance No. 2002-04 (IHC Ordinance) adopted on March 20, 2002.
06/22/03	Effective date of Lincoln County Indigent Hospital/Health Care Ordinance No. 2003-08 (IHC Ordinance) adopted on May 20, 2003.
08/10/03	Effective date of Lincoln County Indigent Hospital/Health Care Ordinance No. 2003-11 adopted on July 11, 2003.
07/01/04	Effective date of Lincoln County Indigent Hospital/Health Care Ordinance No. 2004-03 adopted on April 20, 2004.
03/17/05	Effective date of Lincoln County Indigent Hospital/Health Care Ordinance No. 2005-1, adopted February 16, 2005.
<u>07/17/08</u>	<u>Effective date of Lincoln County Indigent Hospital/Health Care Ordinance No. 2008-03 adopted on July 17, 2008.</u>



www.lincolncountynm.net

County of Lincoln

P.O Box 711 • 300 Central Ave. • Carrizozo, New Mexico 88301-0711 • (575) 648-2385

AGENDA ITEM NO. 30

September 12, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager 

SUBJECT: Bid Award of Resurfacing Cedar Creek II

Purpose: To award bid 14-15-002

Discussion:

Submitted sealed bids were opened on September 11, 2014 to resurface Cedar Creek Road II. The following is a breakdown of how the bids were submitted:

Two bids were received for the Resurfacing of Cedar Creek Road II:

1. Mesa Verde Enterprises, Inc. \$176,000.00
2. Renegade Construction, LLC. \$193,604.88

Recommendation: I recommend you award Mesa Verde Enterprises, Inc. for the Resurfacing of Cedar Creek Road II.

Agenda Item No. 31

SUBJECT

Consideration of Appointments and Removals from Boards/
Commissions/Committees:

- A. **Tabled**-Senior Citizens Olympic Committee
- B. Appointment of County Commissioner(s) as Board Member and Alternate Board Member to GSWA Board of Directors

PREDATORY ANIMAL CONTROL BOARD, LINCOLN COUNTY - 5 YEAR TERM

DISTRICT NO.	MEMBER	ADDRESS	RESIDES IN DISTRICT NO.	DATE APPOINTED	TERM EXPIRATION
	MARK HENDRICKS	BOX 307, CARRIZOZO 88301	1	07/20/10	07/15
	JIM COOPER	HC73 BOX 25, TINNIE 88351	5	07/20/10	07/15
	RON MERRITT	HC66 BOX 30, YESO 88136	1	07/20/10	07/15
	MIKE SKEEN	BOX 67, PICACHO 88343	5	07/20/10	07/15
	LEE SULTEMEIER	Box 147, CORONA 88318		07/20/10	07/15
	BILLY BOB SHAFER	BOX 82, CARRIZOZO 88301	1	07/20/10	07/15

ACB HOLDS ELECTION - PUBLICATION IS REQUIRED

PROPERTY TAX PROTEST BOARD - 2 YEAR TERM

DISTRICT NO.	MEMBER	ADDRESS	RESIDES IN DISTRICT NO.	DATE APPOINTED	TERM EXPIRATION
	LORI WETZEL	BOX 698, CARRIZOZO, 88301		05/20/14	05/16
	DONDA RICHARDSON	BOX 9, CAPITAN, NM 88316		05/20/14	05/16
	ALTERNATE - DEREK MOORHEAD	1201 MECHEM DR, RUIDOSO 88345		05/20/14	05/16

REGIONAL WASTE WATER JOINT USE BOARD - 2 YEAR TERM

DISTRICT NO.	MEMBER	ADDRESS	RESIDES IN DISTRICT NO.	DATE APPOINTED	TERM EXPIRATION

ROAD REVIEW ADVISORY COMMITTEE, LINCOLN COUNTY - 2 YEAR TERM (ORDINANCE NO. 2003-5)

DISTRICT NO.	MEMBER	ADDRESS	RESIDES IN DISTRICT NO.	DATE APPOINTED	TERM EXPIRATION
DIST 1	LANCE HALE 575-430-9060	BOX 745 RUIDOSO DOWNS, 88346	1	08/20/13	08/15
DIST 2	ROBERT BARBER	BOX 126, CAPITAN, NM	1	10/16/12	10/14
DIST 3	JAMES RUSS	PO BOX 2362 RUIDOSO NM	3	08/20/13	08/15
DIST 4	J.BRYAN WHITE (336-2619 OR 208-610-5464; COCHCH@BALABB.COM	PO BOX 237, ALTO, NM 88312		01/22/13	01/15
DIST 5	BILLY SEELBACH (258-1704)	406 GAVILAN CANYON, DOSO 88345	2	07/15/14	07/16

PUBLICATION IS REQUIRED

SENIOR CITIZENS OLYMPIC COMMITTEE, LINCOLN COUNTY - 2 YEAR TERM (ORDINANCE NO. 1994-5)

DISTRICT NO.	MEMBER	ADDRESS	RESIDES IN DISTRICT NO.	DATE APPOINTED	TERM EXPIRATION
	BART YOUNG (257-3193)	BOX 2930, RUIDOSO 88355		03/18/14	03/16
	LUCY SERVIES	107 JACK LITTLE DR. B3, RUIDOSO		01/22/13	01/15
	JIM CLEMENTS	101 POW WOW TR, RUIDOSO 88345		12/17/13	12/15
	GENE NITZ	218 JACK LITTLE DR, RUIDOSO		12/17/13	12/15

PUBLICATION IS REQUIRED.

SOUTHEASTERN NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT (SNMEDD) 2 YEAR TERM

DISTRICT NO.	MEMBER	ADDRESS	RESIDES IN DISTRICT NO.	DATE APPOINTED	TERM EXPIRATION
/	DALLAS DRAPER	113 ALPINE VILLAGE, RUIDOSO	3	01/22/13	01/15
	ALTERNATE - JACKIE POWELL	BOX 91, GLENCOE 653-4072	5	03/18/14	03/16
	PRIVATE SECTOR - REBECCA BROOKS	720 SUDDERTH DR, RUIDOSO (575)257-7395		08/21/12	

SOLID WASTE AUTHORITY, LINCOLN COUNTY - 2 YEAR TERM (AGREEMENT NO. 343)

DISTRICT NO.	MEMBER	ADDRESS	RESIDES IN DISTRICT NO.	DATE APPOINTED	TERM EXPIRATION
	BOB MILLER, MAYOR	BOX 348, RUIDOSO DOWNS 88346	5		
	BILL HIGNIGHT, MAYOR	BOX 37, CORONA 88318	1		
	VAN SHAMBLIN	BOX 247, CARRIZO 88301	1		
	SAM HAMMONS, MAYOR	BOX 246, CAPITAN 88316	1		
	MARK DOTH, COMMISSIONER	210 OAK GROVE PLACE, RUIDOSO	2	01/22/13	01/15
	DEBRA INGLE, MANAGER	BOX 2405, RUIDOSO DOWNS 88346	1		
	ALTERNATE - JACKIE POWELL	BOX 91, GLENCOE, NM	5	03/19/13	03/15

*

*

Agenda Item No. 32

SUBJECT

Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation Section 10-15-1, Sub-Paragraph H.(7); and Discussion of the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8).

See attached list.

Alan P. Morel, P.A.

Attorney at Law

700 Mechem Drive, Suite 12
Post Office Box 1030
Ruidoso, New Mexico 88355-1030

Jira Plaza
Telephone (575) 257-3556
Facsimile (575) 257-3558

September 16, 2014

LINCOLN COUNTY EXECUTIVE SESSION PURSUANT TO THE OPEN MEETINGS ACT: DISCUSSION OF ALL THREATENED AND/OR PENDING LITIGATION SECTION 10-15-1, SUBPARAGRAPH H.(7); AND DISCUSSION OF THE PURCHASE, ACQUISITION OR DISPOSAL OF REAL PROPERTY OR WATER RIGHTS BY THE PUBLIC BODY, SECTION 10-15-1, SUBPARAGRAPH H.(8)

New or Updated Matters since last report = *

1. *Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County, et al.* D-1329-CV-200701364. Suit filed: October 15, 2007. Verified Complaint for Declaratory Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 18, 2013, and Conclusion of Law/Order was filed May 15, 2014 entered in favor of Ms. Cooper. Ms. Cooper filed an appeal June 10, 2014.
2. *Michael Wheaton v Paul F. Baca, Lincoln County Assessor, et. al.* D-1226-CV-2011-00341. Suit filed October 18, 2011. Notice of Appeal of Final Order of the Lincoln County Valuation Protests Board. NM Supreme Court of Appeals decision has been rendered.
3. *Coble Constructors, LLC, et al v Carl Kelley Construction Ltd. Co, et al.* D-1226-CV-2012-00003. Suit filed January 15, 2012. Complaint to Foreclose Mechanic=s Lien. Order granting motion for resetting 4/17/13. Motion for Summary Judgment filed Jan. 29, 2014. Hearing scheduled for Jan. 5, 2015.
- *4. *Greentree Solid Waste Authority v. Lincoln County* D-1226-CV-2014-00095. Suit filed May 1, 2014 Verified Petition for Declaratory and Supplemental Relief: Injunction, Motion to Waive Time to Reassign District Judge (Judge Karen Parsons was disqualified). County was served May 14, 2014. Mr. Melendres has filed Answer, Motion to Disqualify Mr. Beauvais and Change of Venue. Motion to Join the New Mexico Finance Authority as an Indispensable Party filed July 22, 2014. Hearing on Rule 16 Scheduling Conference is scheduled for Sept. 18, 2014 and Hearing on All Pending Motions is scheduled Nov. 20 both with Judge Ritter.
5. *Greentree Solid Waste Authority v. Lincoln County, et. al.* D-0101-CV-2013-00104. Suit filed January 9, 2013. Petition for Declaratory Judgment; Preliminary and Permanent Injunction. Mr.

Beauvais filed an appeal Feb. 27, 2014. Ruling on Reconsidering Stay denied by Judge Singleton June 11, 2014. Telephonic Mediation Conference scheduled for Sept. 19, 2014 and GSWA's Brief in Chief due Sept. 19, 2014.

6. *Rio Grande-Alameda, Ltd. v Paul Baca, Lincoln County Assessor D-1226-CV-2013-00005.* Suit filed January 9, 2013. Complaint for Refund of Taxes Paid. Defendant's first motion to dismiss or Summary Judgment filed August 29, 2013. Hearing was Jan. 6, 2014, and produced an Order of Dismissal, with a Motion to Reconsider filed Jan. 8, 2014. Hearing on the Merits occurred May 12, 2014 in Carrizozo with Judge Parsons and produced an Order Granting Motion to Dismiss. Appeal was filed Aug. 4, 2014.

*7. *Barbara Diane Latham, et al v. Neal Cox, Ben Hazen, Lincoln County Sheriff's Department and the County of Lincoln. D-1226-CV-2013-00191.* Suit filed July 19, 2013. Complaint for Violation of Civil Rights, Wrongful Death and Damages by Attorney Gary Mitchell. Tort Claim Notice was filed on October 27, 2011. LCSO and LC Manager were served on August 5, 2013. Advised NMAC assigned the case to Brennan and Sullivan Law Firm Sept. 5, 2013. Case was moved to Federal Court August 30, 2013. Plaintiffs and Defendants Agreed Motion to Modify Scheduling Order filed Aug. 5, 2014. Ms. Latham filed a new action in federal court against Village of Capitan and Police Officer Kevin Kennedy filed July 25, 2014.

8. *State of NM/Lincoln County v. Avalon-Construction, Ruidoso, NM D-1226-CV 2014-00006* Filed Jan. 6, 2014 Open complaint for Refund of Taxes paid. Case assigned to Basham & Basham/Dwyer. Motion to Dismiss filed July 17, 2014.

*9. *Bank of America, N.A. v. Howard D. Schafer, et. al. (County of Lincoln through LCSWA) D-1226-CV2014-00162* County was served Sept. 2, 2014. Complaint for Foreclosure filed Aug. 19, 2014 Lincoln County filed an Alarm Ordinance Lien and a LCSWA Lien.

10. Potential Litigation: Protests of Applications 01300-1, 01300-2, 01300-3, 0826-2 into 0275 *et. al.* and H-272 *et al* (T) and H-50-1 into H-272 *et. al.* (T) filed July 15, 2013 pertaining to movement / transfer of water rights from the Hondo Valley to the Village of Ruidoso and the City of Ruidoso Downs.

Tort Claims Notices Received or Threatened

2014

Ramos, Aaron – Tort Claim Notice received from Mr. Ramos March 18, 2014 alleging his rights were violated during incarceration at Lincoln County Detention Center. Mr. Ramos alleges damages by not being granted detainee to detainee correspondence.

Millerden, Kenneth and Anita – Tort Claim Notice received May 9, 2014 alleging negligence from staff at Lincoln County Medical Center during prepartum care for their infant son.

Ogden, John D – Tort Claim Notice received May 26, 2014 alleging mistreatment while incarcerated at LCDC on March 11, 2014.

Rounds, Christopher – Tort Claim Notice received June 4, 2014 alleging being held in LCDC without being advised of his charges.

Herbert, Crystal – Tort Claim Notice received June 23, 2014 alleging false imprisonment, due process violations, unlawful detention of a minor, emotional distress.

Class Action – Tort Claim Notice received June 23, 2014 alleging false imprisonment, false arrest, deprivation of rights at LCDC that arise with Immigration and Customs Enforcement charges.

Atwell, Stacey – Tort Claim Notice received June 25, 2014 alleging unlawful seizure of her two minor children during a request for a deputy to assist in keeping the peace.

Allen, Elaine – Tort Claim Notice received July 28, 2014 claiming defamatory and false personal statements targeting her were published on Lincoln County's website.

McGarry, Sean – Tort Claim Notice received July 25, 2014 alleging wrongful arrest, false imprisonment, malicious prosecution, intentional or negligent infliction of emotional distress, abuse of process, wrongful termination and retaliatory discharge regarding discharge from the Capitlan Police Department.

Ramos, Aaron – Tort Claim Notice received August 7, 2014 alleging lack of Due Process for inmates at LCDC.

***Lambert, David and Bonnie** - Tort Claim Notice received Sept. 8, 2014 by attorney W. Chris Nedbalek alleging damage to Lambert property due to Mr. Rodney Bunsen using his own equipment to alter a platted County right of way without the authorization or knowledge of the County.

2013

Allen, Katherine Elizabeth- Notice of Tort Claim against Lincoln County Detention Center for alleged injuries sustained during transport.

Borrego, Albert - Tort Claim Notice received from attorney Gary Mitchell on June 14, 2013, alleging continued harassment to Albert G. Borrego by police while responding to a noise complaint at Mr. Borrego's residence on February 28, 2013, and a separate incident resulting in Mr. Borrego's arrest on March 5, 2013, due to an outstanding warrant, during which Mr. Borrego allegedly sustained injuries while in custody due to an existing broken back injury. Claim has been denied by NMAC.

Espinoza, Robert B Tort Claim Notice received from Robert Espinoza on June 4, 2013, alleging property damage from vehicle accident while Linda Mullins, driving the LC Senior Center meal delivery van ran off road hitting chain link fence, poles and railroad ties.

Harrisburg Documents- Attempts to recover Lincoln County documents illegally taken from the county. County Clerk Rhonda Burrows has been in contact with Harrisburg, PA in recovery efforts.

Montoya, Emilia L. - Tort Claim Notice received by attorney Freda Howard McSwane on April 23, 2013, alleging injuries sustained by Ms. Montoya when a physical altercation took place at the LCDC.

Ramos, Aaron - Tort Claim Notice received by attorney Robert J. Beauvais on April 18, 2013, (correspondence dated September 13, 2011) alleging concerns about Mr. Ramos= safety and welfare and violation of his U.S. Constitutional rights.

Silva, Elmo B Tort Claim Notice received from attorney Richard Marquez November 6, 2013. Alleges false imprisonment for Mr. Silva, who was sentenced in the 12th Judicial District Court to 38 years filed on July 3, 1990.