

**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

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**AGENDA**

**Commission Chambers, Wednesday, November 19, 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) October 21, 2014 Regular Commission Meeting
  - b) November 7, 2014 Special Commission Meeting
7. Approval of Consent Agenda
  - a. Payroll/Accounts Payable/Budget/ Expenditures
  - b. Treasurer’s Financial Report for the Month ending October 31, 2014
8. Smokey Bear District Ranger Update
9. Lincoln County Detention Center Update
10. El Capitan Mine Update
11. **9:00 A.M.:** Consideration / Action on Lodger’s Tax Application:
  - a. Application 1722: Funding Request: \$5,000  
Purpose: Ruidoso Visitor Guide  
Date(s) of Event: 2014 Guide

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

Presenter: Lajuana Martinez, Adventure Marketing, Ltd. Co.

12. **9:30 A.M.:** PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS (Items are for discussion only – no action will be taken)
13. FEMA Funding Agreement for Declaration 4197 and 4199 – Alternate Procedures Pilot Program
14. Approval of Required 2015 Operational Resolutions:
  - a. Resolution 2014-23 – Establishing 2015 Regular Commission Meetings
  - b. Resolution 2014-25 - Establishing 2015 County Official Holiday Calendar
  - c. Resolution 2014-26 - Open Meetings Act
  - d. Other 2015 Committee Meetings – Planning Commission, Lincoln Historic Preservation Board and Lodger’s Tax Committee
15. Resolution 2014-27 Requesting Congress to Provide FY 2015 PILT Funding
16. Lincoln County Medical Center Matters
  - a. 3<sup>rd</sup> Amended Lease Agreement
  - b. NM Human Services Department Request for County Match for January – June, 2014 Payment to LCMC
17. Professional Services Agreement Melendres & Melendres
18. Inventory Assets Annual Certification
19. Consideration of Approval or Disapproval of Indigent Health Care Claims
20. Manager’s Report
21. Water issues/Forest/Wildlife Health Programs/Land and Natural Resources Advisory Committee (LANRAC)
22. **1:00 P.M.:** Public Hearing to consider the following Ordinance:  
Lincoln County Ordinance No. 2014-07 – An ordinance Providing for the Efficient and Sanitary Collection of Solid Waste in Lincoln County; Providing for Mandatory Disposal and Assessment of Fees; Providing a Penalty for Violation of the Ordinance; and Repealing Ordinance 2008-07
23. Job Title Change – Sheriff’s Department
24. Job Type Change – Office of Emergency Services
25. Job Level/Grade Changes – Recommendations of the Compensation Advisory Board for Sheriff’s Dept., Treasurer’s Dept., Assessor’s Dept., Clerk’s Dept., and Manager’s Offices

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26. Issuance of Quit Claim Deed to Steve Morgan for Road Vacated by the County But Never Deeded
27. Request by Private Citizen to Lease Portion of County Owned Property (former Lincoln County Abstract & Title Co. building) for one year period of time.
28. Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinance
29. Consideration of Appointments and Removals from Boards/Commissioners/Committees:
  - a. **Tabled**-Senior Citizens Olympic Committee
30. 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).
31. Signing of Official Documents
32. Next meetings:
  - a. December 16, 2014 Regular Commission Meeting
33. Adjourn

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## **Agenda Item No. 6**

### **SUBJECT**

Approval of Minutes:

- a) October 21, 2014 Regular Commission Meeting
- b) November 7, 2014 Special Commission Meeting

1 **COUNTY OF LINCOLN**

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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, October 21, 2014**

11  
12 Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on October  
13 21, 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 8:35:20 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  
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 Draper, **Seconded by** Commissioner Minter.

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

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

45 **Absent:** Commissioner Doth.

46  
47 **6. Approval of Minutes**

48  
49 a. September 16, 2014 Regular Commission Meeting  
50

51 **Motion:** Approve the minutes of the September 16, 2014 Regular Commission Meeting;

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

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

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

55 **Absent:** Commissioner Doth.  
56

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

59 a. Payroll/Accounts Payable/Budget/Expenditures

60 b. Treasurer's Financial Report for the Month ending September 30, 2014  
61

62 **Motion:** Approval of Consent items as presented, **Action:** Approve, **Moved by** Commissioner  
63 Stone, **Seconded by** Commissioner Minter.  
64

65 **Commissioner Doth** joined the meeting at 8:36:09 AM.  
66

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

68 **Yes:** Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Draper,  
69 Commissioner Doth.  
70

71 **SEE EXHIBIT A:** Copies of Consent Items are attached hereto in reference thereto made a part  
72 hereof.  
73

74 **8. Smokey Bear District Ranger Update**  
75

76 David Warnack, Ranger reported the burning of slash piles on nearly 300 acres south of  
77 Grindstone Lake was nearing completion. Ranger Warnack stated Fire Personnel would  
78 continue to patrol the area until all fuels were completely out. Ranger Warnack stated Fire  
79 Personnel burned some large brush piles in the Ski Apache area yesterday and would also  
80 continue to monitor those piles.  
81

82 Commissioner Powell commented on the recent demonstration of an "air curtain burner".  
83 Ranger Warnack expressed interest in the technology and anticipated County personnel and  
84 the Rural Forester would present additional information to the County.  
85

86 Ranger Warnack discussed patrolling associated with the big game hunting seasons and  
87 informed the Smokey Bear District permitted twenty four different Outfitters and Guides who  
88 provide hunting and guiding services in the area along with other Outfitters and Guides  
89 permitted in other districts. Ranger Warnack stated the Ranger District worked closely with New  
90 Mexico Department of Game and Fish to monitor the area. Ranger Warnack commented on  
91 the proliferation of new roads established by hunters and reminded the US Forest Service has  
92 specific authorized routes for access and maps were available at the District Office in Ruidoso.  
93

94 Ranger Warnack stated currently there were two areas available to cut green standing wood  
95 and three areas to cut dead standing wood with permits available at the District Office. Ranger  
96 Warnack also stated the District Office would also issue Christmas tree permits beginning  
97 November 3, 2014.  
98

99 **9. Lincoln County Detention Center Update**

100  
101 Warden Arthur Anderson provided the monthly statistics on bookings and releases at the  
102 Lincoln County Detention Center. Warden Anderson reported the Detention Center had an  
103 average total daily population of 132 with a current population of prisoners of 129 which  
104 included 13 BIA prisoners and no US Marshal prisoners. Warden Anderson stated the current  
105 population was composed of 27 female and 102 male prisoners.

106  
107 **10. Lincoln County Fair Board Update and Presentation**

108  
109 Shad Cox, Vice President of the Lincoln County Fair Association reminded in the early 1980's  
110 LCFA ownership of the fairgrounds was transferred to the County of Lincoln to ease liability  
111 burdens and to open new funding avenues for future growth and expansion.

112  
113 Mr. Cox discussed various activities conducted at the facility including the Lincoln County Fair  
114 and the Smokey Bear Stampede. Mr. Cox stated volunteers staffed the events and provided for  
115 management and maintenance of the fairgrounds. Mr. Cox stated the Smokey Bear Stampede,  
116 with average daily event entries of 233, could claim to be the largest open rodeo in the United  
117 States.

118  
119 Mr. Cox stated expenses associated with the various activities totaled \$87,720 in 2014. Mr.  
120 Cox commented on the County contribution of \$24,000 as providing a return ratio of \$3.66 for  
121 each \$1.00 spent with all additional expenses being offset by proceeds from events.

122  
123 Mr. Cox stated the fairgrounds also served as a site for immediate housing for livestock during  
124 natural disasters as well as a base camp and housing for inter-agency crews during disaster  
125 response when needed in the County.

126  
127 Mr. Cox presented data which suggested the financial impact of the Smokey Bear Stampede  
128 had peaked due to limitations of the fairground facility and in particular limited seating space.  
129 Mr. Cox stated during the July 4, 2014 Rodeo performance maximum seating capacity was  
130 exceeded with standing room only available. Mr. Cox provided charts illustrating the growth in  
131 attendance and requested funding for additional seating for 800. Mr. Cox also presented  
132 requests for new washing and staging facilities for show animals; modernized livestock pens;  
133 and a foyer for the Fletcher Hall Building.

134  
135 Commissioner Minter questioned if the Fair Association request was to add seating to the  
136 existing arena rather than to develop a new arena as suggested by the Fairgrounds Master  
137 Plan. Mr. Cox confirmed the request was for additional seating at the existing arena.

138  
139 Commissioner Doth questioned the expenditure of funding allocated in previous years. Mr. Cox  
140 explained that funding was used to purchase movable pens and fencing to adjust for water flow.  
141 Commissioner Doth questioned the current parking situation. Mr. Cox stated the use of the  
142 property across the "draw" alleviated a large part of the parking problem. Mr. Cox stated the  
143 Fair Association continued to work with the Village of Capitan to deal with ongoing parking  
144 issues. Mr. Cox stated the Association had an agreement with a neighboring landowner  
145 providing an emergency route to exit if the low water crossing flooded.

146  
147 Commissioner Doth questioned the Fair Associations' priority of funding requests. Mr. Cox  
148 stated additional seating was the main priority due to the concern associated with declining  
149 attendance if people were turned away due to crowding.

150  
151 Kathleen Phillips-Hellman, resident of Capitan questioned the total revenue from the Smokey  
152 Bear Stampede and also if the fair building roof still leaked. Mr. Cox stated the gross income  
153 from the Smokey Bear Stampede was \$68,000 over four days. Mr. Cox stated while some  
154 patching of the roof was successful they had not identified the source of other leaks.  
155

156 **12. Discussion/Potential Direction Re: Highway Runoff through Angus Cemetery**  
157

158 Ms. Taylor stated in May of 2013, she and the Road Superintendent were contacted by  
159 members of the Angus Cemetery Association regarding runoff from Highway 48 causing  
160 flooding at the cemetery. Ms. Taylor stated the County identified and fixed some problems  
161 associated with County roads and rights of way in the area including the replacement and  
162 cleaning of culverts and ditches. Ms. Taylor stated after meeting with members of the NM  
163 Department of Transportation (DOT) and the Angus Cemetery Association, the DOT requested  
164 a study by their Drainage Design Bureau. Ms. Taylor informed the study, completed in August  
165 of 2013, concluded the drainage structures within the DOT right of way were performing per  
166 DOT standards but recommended the 24" culverts located outside the NM DOT right of way be  
167 replaced with 48" culverts.  
168

169 Ms. Taylor stated the Angus Cemetery Association recently contacted the County with  
170 continued concerns regarding this matter. Ms. Taylor provided a copy of the Associations'  
171 recent letter to Senator Bill Burt, Representative Nora Espinoza, and Tom Church the DOT  
172 Cabinet Secretary. Ms. Taylor also provided copies of photos of damage to the cemetery as  
173 provided by George Harkey.  
174

175 George Harkey, Chair of the Angus Cemetery explained the State DOT refused to acknowledge  
176 drainage and erosion problems were a consequence of the redesign of Highway 48. Mr. Harkey  
177 suggested it was the State's responsibility to deal with damage resulting from the increased flow  
178 of water to Angus Cemetery property and other private property in the area.  
179

180 Alan Morel, County Attorney stated he would consult with Carl Palmer, Road Superintendent  
181 and contact the State Department of Transportation to identify solutions.  
182

183 There was general consensus for the Manager, Attorney, and Road Superintendent to work with  
184 the State Highway Department to seek a solution to the problem.  
185

186 **14. 9:30 AM: Public Comment and Other Business from County Officials**  
187

188 Commissioner Draper reported as the County member of the Southeastern New Mexico  
189 Economic Development District (SNMEDD), two resolutions of support were passed at the most  
190 recent meeting. Commissioner Draper stated one resolution was in support of air flight  
191 transportation from Roswell to Phoenix and the second addressed support for Law Enforcement  
192 during the next legislative session. Commissioner Draper explained members were concerned  
193 about the economic burden of a proposed requirement for all law enforcement officers to wear  
194 cameras.  
195

196 Commissioner Doth commented on his experience as a County Commissioner and the frequent  
197 "push back" received from the public regarding needless and excessive governmental  
198 regulations. Commissioner Doth discussed, as an example, the burdensome regulations  
199 related to emissions related to the use of an "air burn curtain". Commissioner Doth stated these

200 highly regulated emissions were inconsequential when compared with the byproducts of a forest  
201 fire.

202  
203 Rhonda Burrows, County Clerk provided times and locations for Early Voting for the 2014  
204 General Election and urged all citizens to exercise their right to vote.

205  
206 Chair Powell acknowledged the service of local volunteer fire fighters on behalf of the County  
207 and requested a proclamation honoring the volunteers.

208  
209 Sheriff Robert Sheppard stated his deputies were now wearing cameras and recording  
210 interactions with the public. Sheriff Sheppard expressed belief the cameras were beneficial to  
211 the department.

212  
213 Beverly Calaway, Chief Deputy Treasurer reported the Treasurer's office mailed out 30,481 tax  
214 bills for a total billing of \$28,309,537.53. Ms. Calaway stated this year's tax bills were itemized  
215 to reflect the distribution of billed amounts to each taxing entity.

216  
217 Glenn Stahl, Nogal resident commented on the new rate increase imposed by Greentree Solid  
218 Waste (GSWA). Mr. Stall expressed concern about GSWA's rate increases being implemented  
219 without oversight or approval. Mr. Stahl stated current customers were being penalized by the  
220 withdrawal of Alto residents and the loss of homes in the Little Bear Fire. Mr. Stahl questioned  
221 who was responsible for oversight of GSWA actions.

222  
223 Jim Kalvelage, Alto resident stated both GSWA and the Board of County Commissioners were  
224 committing a disservice to residents by not resolving the issue of rate increases. Mr. Kalvelage  
225 expressed belief the recent rate increases imposed by GSWA were illegal under Lincoln County  
226 Ordinance 2008-09. Mr. Kalvelage also expressed concern about the decline in services by  
227 GSWA. Mr. Kalvelage suggested the County considered private haulers as an option.

228  
229 Al Santos, Administrator of Lincoln County Medical Center provided an update on LCMC's  
230 preparedness response to recent Ebola Virus concerns. Mr. Santos stated LCMC was working  
231 with the State of New Mexico Health Department and the Center for Disease Control to develop  
232 plans for response to various scenarios.

233  
234 Gary Jackson, D.O., LCMC Medical Director commented on the nature of the Ebola virus based  
235 on information provided by the CDC. Dr. Jackson reminded of past preparations triggered by  
236 other potential pandemic viruses or diseases. Dr. Jackson recommended all individuals receive  
237 a flu shot and focus on good health habits such as hand washing.

238  
239 Jim Stover, LCMC Director of Emergency Medical Services and Emergency Preparedness  
240 commented on the actions and training associated with preparedness for various scenarios  
241 including pandemic out breaks, bombings, and other emergencies. Mr. Stover stated over time  
242 approximately 100 staff members had received training for response to these various scenarios.

243  
244 **11. GSWA Update**

245  
246 Ms. Taylor reported GSWA held their monthly meeting on October 16, 2014. Ms. Taylor  
247 provided copies of the Agenda and Draft Minutes from the September 18, 2014 GSWA meeting.  
248 Ms. Taylor noted GSWA requested formal notification of the appointment of Chair Powell to the  
249 GSWA Board and provided copy of that notification letter from the County to GSWA dated  
250 October 15, 2014.

251  
252 Ms. Taylor provided copy of the second quarterly bill sent to GSWA residential customers  
253 informing of a rate increase to \$75.57 as of July 1, 2014. Ms. Taylor stated the increase  
254 reflected a 19.6% increase over the previous rate of \$63.17. Ms. Taylor stated belief the rate  
255 was imposed without the legally required public notice and informed the Attorney General's  
256 Office concurred by their opinion that legal notice was not properly given. Ms. Taylor reminded  
257 none of the recent rate increases imposed by GSWA were approved by the Board of County  
258 Commissioners.

259  
260 Chair Powell recessed the Regular Meeting at 10:13:55 AM and reconvened 10:23:28 AM.

261  
262 **26. Executive Session Pursuant to the Open Meetings Act: Discussion of all**  
263 **Threatened and/or Pending Litigation Section 10-15-1, Sub-Paragraph H.(7); and**  
264 **Discussion of the purchase, acquisition or disposal of real property or water**  
265 **rights by the public body, Section 10-15-1, Sub-Paragraph H.(8).**  
266

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

271 **New or Updated Matters since last report \***  
272

- 273 1. *Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County,*  
274 *et al.* D-1329-CV-200701364. Suit filed: October 15, 2007. Verified Complaint for Declaratory  
275 Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 18,  
276 2013, and Conclusion of Law/Order was filed May 15, 2014 entered in favor of Ms. Cooper. Ms.  
277 Cooper filed an appeal June 10, 2014.
- 278 2. *Michael Wheaton v Paul F. Baca, Lincoln County Assessor, et. al.* D-1226-CV-2011-  
279 00341. Suit filed October 18, 2011. Stipulated Notice of Dismissal with Prejudice was filed  
280 with the court Sept. 15, 2014.
- 281 3. *Goble Constructors, LLC et al v Carl Kelley Construction Ltd. Co, et al.* D-1226-CV-  
282 2012-00003. Suit filed January 15, 2012. Complaint to Foreclose Mechanic s Lien. Motion for  
283 Summary Judgment filed Jan. 29, 2014. Motion for Grant of Summary Judgment filed July 18,  
284 2014. Hearing scheduled for Jan. 5, 2015.
- 285 \*4. *Greentree Solid Waste Authority v. Lincoln County* D-1226-CV-2014-00095. Suit filed  
286 May 1, 2014. Verified Petition for Declaratory and Supplemental Relief: Injunction, Motion to  
287 Waive Time to Reassign District Judge (Judge Karen Parsons was disqualified). County was  
288 served May 14, 2014. Mr. Paul Melendres has been retained by the County and filed Answer,  
289 Motion to Disqualify Mr. Beauvais and Change of Venue. Motion to Join the New Mexico  
290 Finance Authority as an Indispensable Party filed July 22, 2014. GSWA filed its Motion for  
291 Summary Judgment on Sept. 26, 2014. County filed its Response to GSWA's Motion for  
292 Summary Judgment on Oct. 13, 2014. Scheduling Conference and Hearing on All Pending  
293 Motions is scheduled Nov. 20 both with Judge Ritter. Preliminary Injunction Hearing is  
294 scheduled Dec. 17, 2014 with Judge Ritter.
- 295 5. *Greentree Solid Waste Authority v. Lincoln County, et. al.* D-0101-CV-2013-00104. Suit  
296 filed January 9, 2013. Petition for Declaratory Judgment; Preliminary and Permanent Injunction.  
297 Mr. Beauvais filed an appeal Feb. 27, 2014. Ruling on Reconsidering Stay denied by Judge  
298 Singleton June 11, 2014. Telephonic Mediation Conference scheduled for Sept. 19, 2014 and  
299 GSWA's Brief in Chief filed Sept. 9, 2014. Record Proper was filed Sept. 25, 2014.

300 6. *Rio Grande-Alameda, Ltd. v Paul Baca, Lincoln County Assessor D-1226-CV-2013-*  
301 *00005.* Suit filed January 9, 2013. Complaint for Refund of Taxes Paid. Defendant s first motion  
302 to dismiss or Summary Judgment filed August 29, 2013. Hearing was Jan. 6, 2014, and  
303 produced an Order of Dismissal, with a Motion to Reconsider filed Jan. 8, 2014. Hearing on the  
304 Merits occurred May 12, 2014 in Carrizozo with Judge Parsons and produced an Order  
305 Granting Motion to Dismiss. Appeal was filed Aug. 4, 2014.

306 \*7. *Barbara Diane Latham, et al v. Neal Cox, Ben Hazen, Lincoln County Sheriff s*  
307 *Department and the County of Lincoln. D-1226-CV-2013-00191 to Federal No: 2:13-CV-00822-*  
308 *RB-SMV.* Suit filed July 19, 2013. Complaint for Violation of Civil Rights, Wrongful Death and  
309 Damages by Attorney Gary Mitchell. Tort Claim Notice was filed on October 27, 2011. LCSO  
310 and LC Manager were served on August 5, 2013. Advised NMAC assigned the case to  
311 Brennan and Sullivan Law Firm Sept. 5, 2013. Case was moved to Federal Court August 30,  
312 2013. Plaintiffs and Defendants Agreed Motion to Modify Scheduling Order filed Aug. 5, 2014.  
313 Motion for Qualified Immunity still pending as of Oct. 4 2014 Ms. Latham filed a new action in  
314 federal court against Village of Capitan and Police Officer Kevin Kennedy filed July 25, 2014.  
315 The court Sua Sponte consolidated both cases via Order from Judge Brack filed Sept. 29, 2014.

316 \*8. *State of NM/Lincoln County v. Avalon-Construction, Ruidoso, NM D-1226-CV 2014-*  
317 *00006* Filed Jan. 6, 2014 Open complaint for Refund of Taxes paid. Case assigned to Basham  
318 & Basham/Dwyer. Motion to Dismiss filed July 17, 2014. Settlement Agreement was signed by  
319 Avalon Sept. 3, 2014 and by Lincoln County Sept. 8, 2014.

320 9. *Bank of America, N.A. v. Howard D. Schafer, et. al. (County of Lincoln through LCSWA)*  
321 *D-1226-CV2014-00162* County was served Sept. 2, 2014. Complaint for Foreclosure filed Aug.  
322 19, 2014 Lincoln County filed an Alarm Ordinance Lien and a LCSWA Lien. Mr. Morel entered  
323 his appearance on behalf of the County Sept. 23, 2014. Disclaimer of Interest has been  
324 prepared.

325 \*10. *Water Rights Protests: New Mexico State Engineer Hearing Numbers: 14-039 and 14-*  
326 *041.* Protests of Applications 01300-1, 01300-2, 01300-3, 0826-2 into 0275 *et. al.* and H-272 *et*  
327 *al (T)* and H-50-1 into H-272 *et. al (T)* filed July 15, 2013 pertaining to movement / transfer of  
328 water rights from the Hondo Valley to the Village of Ruidoso and the City of Ruidoso Downs.  
329 Docketing Order filed Sept. 18, 2014. Kelly Cassels/Sanders, Bruin, Coll & Worley, P.A. has  
330 been retained by the County and entered his appearance Sept. 22, 2014.

## 331 Tort Claims Notices Received or Threatened

### 332 2014

333  
334 **Ramos, Aaron** – Tort Claim Notice received from Mr. Ramos March 18, 2014 alleging  
335 his rights were violated during incarceration at Lincoln County Detention Center. Mr. Ramos  
336 alleges damages by not being granted detainee to detainee correspondence.

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

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

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

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

346 **Class Action** – Tort Claim Notice received June 23, 2014 alleging false imprisonment,  
347 false arrest, deprivation of rights at LCDC that arise with Immigration and Customs Enforcement  
348 charges.  
349

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

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

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

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

360 **Lambert, David and Bonnie** - Tort Claim Notice received Sept. 8, 2014 by attorney W.  
361 Chris Nedbalek alleging damage to Lambert property due to Mr. Rodney Bunsen using his own  
362 equipment to alter a platted County right of way without the authorization or knowledge of the  
363 County.

364  
365 **2013**

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

368 **Borrego, Albert** - Tort Claim Notice received from attorney Gary Mitchell on June 14,  
369 2013 alleging continued harassment to Albert G. Borrego by police while responding to a noise  
370 complaint at Mr. Borrego's residence on February 28, 2013, and a separate incident resulting in  
371 Mr. Borrego's arrest on March 5, 2013, due to an outstanding warrant, during which Mr. Borrego  
372 allegedly sustained injuries while in custody due to an existing broken back injury. Claim has  
373 been denied by NMAC.

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

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

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

383 **Ramos, Aaron** - Tort Claim Notice received by attorney Robert J. Beauvais on April 18,  
384 2013, (correspondence dated September 13, 2011) alleging concerns about Mr. Ramos' safety  
385 and welfare and violation of his U.S. Constitutional rights.

386 **Silva, Elmo** Tort Claim Notice received from attorney Richard Marquez November 6,  
387 2013. Alleges false imprisonment for Mr. Silva, who was sentenced in the 12<sup>th</sup> Judicial District  
388 Court to 38 years filed on July 3, 1990.

389  
390 **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Draper.

391 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 4).

392  
393 Chair Powell recessed the Regular Meeting and convened the Closed Session at 10:23:36 AM.

394  
395 Chair Powell adjourned the Closed Session and reconvened the Regular Meeting at 11:38:30  
396 AM.

397  
398 Commissioner Doth attested that matters discussed in the closed meeting were limited to those  
399 specified in the motion for closure or in the notice of separate closed meeting.

400

401 **27. Consideration and Action on County Assuming Billing and Collection for Solid**  
402 **Waste Collective Services to County Residents**  
403

404 **Motion:** Terminate the 1992 Joint Powers Agreement for Billing for Solid Waste Collection with  
405 the Greentree Solid Waste Authority; approve assumption of billing by the County for services to  
406 County residents, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by**  
407 Commissioner Draper.

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

409 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,  
410 Commissioner Stone.

411  
412 Chair Powell gave public notice the County of Lincoln would begin billing for solid waste  
413 services provided to Lincoln County residents located outside of all municipalities effective  
414 January 1, 2015. Chair Powell stated the necessity to terminate billing services provided by  
415 GSWA due to the implementation by GSWA of two unlawful rate increases and having received  
416 notice of a third increase set for January 1, 2015. Chair Powell stated the current lawfully  
417 approved rate for residential solid waste services outside of the municipalities was \$53.85 per  
418 quarter plus Gross Receipts Tax of \$3.06 for a total of \$56.91 pursuant to Lincoln County  
419 Resolution 2008-42. A verbatim copy of the public notice is attached as Exhibit B.

420  
421 **SEE EXHIBIT B:** Copies of the Public Notice is attached hereto in reference thereto made a  
422 part hereof.

423  
424 **15. County Housing Requirements/Requests: District Attorney; County Extension**  
425 **Service; Public Defender**  
426

427 Ms. Taylor discussed the current housing accommodations for the offices of the District  
428 Attorney. Ms. Taylor stated after the relocation of the County GIS Department to the sub office  
429 in Ruidoso, the District Attorney's office requested use of the vacated space in the Annex  
430 building. Ms. Taylor stated her department began a process to obtain cost estimates to  
431 remediate current problems with leaks in the ceiling.

432  
433 Ms. Taylor discussed the various options for potential housing for the District Attorney including  
434 the Annex Building, the potential renovation of the former Title Company building on Central at  
435 an estimated cost of \$236,000, or the District Attorney's preferred option to lease office space in  
436 Ruidoso at an estimated cost of \$1500 to \$4500 per month.

437  
438 Ms. Taylor stated she also received a request from the County Extension office to relocate to  
439 the County owned Cillessen house behind the fairgrounds in Capitan. Ms. Taylor suggested the  
440 site was not well situated for office space due to potential flooding of the low water crossing.  
441 Ms. Taylor suggested two alternative solutions with one being for the Extension Office to remain  
442 in the Annex building or to renovate and relocate to offices in the main fairgrounds building. Ms.  
443 Taylor and Extension Office personnel toured both the Cillessen house and the fairgrounds  
444 building.

445  
446 Ms. Taylor informed the Chief Public Defender also presented a request to rent space from the  
447 County and requested the space now occupied by the Extension Service. Ms. Taylor  
448 anticipated the cost to remediate problems in the Annex building as less than costs to remodel  
449 the main fairgrounds building.  
450

451 Pete Gnatowski, retired Extension Agent for Lincoln County opined the Extension Offices should  
452 remain in the Courthouse and to best serve the general public. Mr. Gnatowski opposed the  
453 potential move to the fairgrounds due to security concerns for equipment and information  
454 retained by the Extension Office. Mr. Gnatowski suggested as an alternate the Commission  
455 consider leasing space from the Natural Resource and Conservation Service (NRCS) office in  
456 Carrizozo.

457  
458 Marsha Palmer, County Director Cooperative Extension Services provided a list of preferential  
459 actions related to the location of the Extension Service. Ms. Palmer stated a preference to  
460 move to the Cillessen House in Capitan and cited the benefits of that location.  
461

462 Ms. Taylor clarified it was not her recommendation to move the Extension Office but she had  
463 reviewed the options based on the Extension Service's request to move to the Cillessen House.  
464

465 Commissioner Stone opined the Extension Service should remain at the County seat.  
466

467 Billy Bob Shafer, President of the Fair Board discussed the use of the Cillessen building by the  
468 Fair Board including various times when lodging was provided to volunteer members. Mr.  
469 Shafer commented the main fair building was more secure due to location than the Cillessen  
470 house.  
471

472 Commissioner Minter questioned the purpose of the bank building purchased on Central  
473 Avenue in Carrizozo and suggested both the Courthouse Annex building and bank building be  
474 remodeled to provide additional space for County offices.  
475

476 Chair Powell expressed appreciation for the comments and information presented. Chair  
477 Powell expressed belief any decision would require more data and cost estimates.  
478

479 Chair Powell recessed the Regular Meeting at 12:05:46 PM and reconvened at 1:02:01 PM.  
480

## 481 **20. Manager's Report**

482  
483 **1. Lincoln County Juvenile Justice Board.** The Manager noted the County had worked  
484 with the LCJJB for many years as a program to "provide cost-effective, "best practice",  
485 non-detention treatment for juvenile offenders. The Manager stated Darrell Gasaway  
486 acting as Program Coordinator served a key role in ensuring the success of the program  
487 and informed Mr. Gasaway was retiring effective the end of October, 2014. The  
488 Manager thanked Mr. Gasaway on behalf of the County and acknowledge his  
489 contribution and service to the Lincoln County Juvenile Justice Board.  
490

491 Mr. Gasaway commented on the support and funding provided by the County for the Juvenile  
492 Justice Board throughout his more than ten years and encouraged the County to continue to  
493 support the LCJJB.  
494

495 Chair Powell recessed the Regular Meeting and convened the Public Hearing at 1:04:59 PM.  
496

497 **21. 1:00 P.M.: Public Hearing to consider the Issuance of a Restaurant Liquor**  
498 **License: Liquor License Application No. 000/921155 from THC Café,**  
499 **Inc. d/b/a Treehouse Café at 118 Lake Shore Drive, Alto, New Mexico**  
500 **88312**  
501

502 Attorney Morel provided information related to the application and stated there appeared to be  
503 no conflict with requirements for distance from schools, churches, or military installations.  
504

505 Commissioner Doth questioned the applicants about the purpose of the application since a  
506 Public Hearing was held last year to approve a license at this location. Applicants Carol and  
507 James Brophy explained the application was required due to a name change from the  
508 Treehouse Café to THC Café, Inc. for business purposes.  
509

510 Chair Powell requested public comment and receiving none, adjourned the Public Hearing and  
511 reconvened the Regular Meeting at 1:07:35 PM.  
512

513 **Motion:** Approve Application No. 000/921155, **Action:** Approve, **Moved by** Commissioner  
514 Doth, **Seconded by** Commissioner Minter.

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

516 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,  
517 Commissioner Stone.  
518

## 519 20. Manager's Report (continued)

520  
521 2. **County Request for Investigation for Actions of Cibola National Forest:** The  
522 Manager reminded after submitting a formal Request for Investigation into actions by  
523 Karen Lessard of the Cibola National Forest, Mountainair Ranger District to ban or modify  
524 grazing privileges of long-term permittees; the Commission received a less than  
525 satisfactory response from Cal Joyner, SW Regional Office of the USDA Forest Service.  
526 The Manager provided a copy of Attorney Morel's letter notifying Mr. Joyner of the  
527 Commission's dissatisfaction with the lack of responsiveness and again requesting all the  
528 information that the Cibola District utilized in making its decisions. Attorney Morel  
529 informed as of this date he had received no reply to his letter.  
530

531 3. **El Capitan Mine Update:** The Manager informed Blair Dunne, Attorney for El Capitan  
532 Mine and Chris Eustice, NM Senior Environmental Engineer would attend the November  
533 18, 2014 Regular Commission meeting to provide an update. The Manager provided  
534 copy of an email from Chris Eustice to Attorney Morel which included the June proposed  
535 permit modification application for Capitan Iron Mine. The Manager stated further  
536 information relating to the matter was posted on the State's Energy, Minerals and Natural  
537 Resource Department website.  
538

539 4. **Carrizozo Senior Center:** The Notice of Invitation for Proposal would appear in the  
540 Ruidoso News on October 24, 2014 and in the Albuquerque Journal on October 26,  
541 2014. The Manager stated a Pre-proposal Conference was set for November 10, 2014  
542 with bids due on November 19, 2014.  
543

544 5. **Mandatory Benefit Change:** The State General Services Department notified all Local  
545 Public Bodies of some administrative process changes and of one benefit change. As of  
546 October 27, 2014, the employer is responsible for 100% of Basic Life premiums with no  
547 cost sharing by employees. The Manager stated currently the County paid 80% of this  
548 benefit and anticipated a minimal impact to the County budget.  
549

550 6. **New Mexico Association of Counties:** NMAC scheduled the "Better Informed Public  
551 Officials" (BIPO) Conference for December 9 -11 in Santa Fe. The conference for newly

552 elected Commissioners and Public Officials was scheduled to coincide with NM EDGE  
553 classes.

554  
555 **7. Abandoned Well Ordinance.** NMAC requested all counties consider adopting an  
556 "Abandoned Well Ordinance." The initiative from the State Engineer's office was based  
557 on the need for proper closure of abandoned wells and was prompted by a fatal accident  
558 involving a child who fell into a well that was not properly capped. The Manager provided  
559 a copy of House Memorial 33 which tasks the Office of the State Engineer, the New  
560 Mexico Municipal League and NMAC to work together on the issue.

561  
562 There was a general consensus to refer consideration of an Abandoned Well Ordinance to the  
563 Planning Commission.

564  
565 Chair Powell reported on a discussion at the recent NMAC Board of Directors meeting about a  
566 potential audit requirement to report PERA deficits by County. Chair Powell questioned if this  
567 requirement might affect the County's bonding capacity. The Manager stated she would  
568 research the matter.

569  
570 **8. Departmental Updates:**

571  
572 a) Punkin Schlarb, Finance Director reported the Finance Department completed the FY  
573 2013-2014 audit process excepting a final review by the auditor of the Assets and  
574 Inventory balance.

575 b) Carl Palmer, Road Superintendent informed on recent meetings with FEMA staff. Mr.  
576 Palmer stated Lincoln County was approved for FEMA funding for flood damage  
577 sustained in July and September of this 2014.

578  
579 Commissioner Draper questioned Mr. Palmer about water runoff damage to the Angus  
580 Cemetery. Mr. Palmer expressed belief the erosion was related to the reconstruction of  
581 Highway 48. Mr. Palmer suggested the problem would require a design engineer to resolve the  
582 redirection of flow.

583  
584 c) Curt Temple, Planning Director provided an update on the final meeting of the Joint  
585 Land Use Study Committee. Mr. Temple suggested Commissioners review the final  
586 plan for information regarding the economic impact of military bases in the area.  
587 Mr. Temple stated plans to present a Resolution for the Implementation of the JLUS  
588 proposals at the next Regular Meeting. Mr. Temple stated the Implementation  
589 phase would require an additional County match. Mr. Temple stated the plan was  
590 currently in circulation for approval by various agencies.

591  
592 Mr. Temple reported Rural Addressing had removed all County road signs with  
593 alphanumeric names such as E022. Mr. Temple also reported on several complaints  
594 received by his department regarding the Greentree Solid Waste Authority billing.

595  
596 d) Joe Kenmore, Director of the Office of Emergency Services discussed the  
597 cooperative effort with the Road Superintendent to identify damage from rain  
598 incidents eligible for FEMA funding.

599  
600 Mr. Kenmore commented on the potential for a positive improvement in ISO ratings  
601 after recent inspections by the State Fire Marshall at Fort Stanton and Lincoln. Mr.  
602 Kenmore discussed recent trainings held at the Copper Ridge Station and in Hondo

603 including annual requirements for pump and hose testing. Mr. Kenmore commented  
604 on the professionalism and dedication of the volunteer fire fighters in Lincoln County.  
605

- 606 e) Billie Jo Guevara, Administrative Assistant and Human Resource Director reminded  
607 of the "Open Switch Enrollment" period for employee health insurance.  
608

609 **13. Consideration/Action on Early Payoff of Retiree Health Care Insurance in Arrears**  
610

611 Ms. Taylor expressed appreciation for Rachel Monrreal's suggestion to review the payoff of the  
612 note for Retiree Health Care. Ms. Taylor stated in 2006 Lincoln County opted to enroll in the  
613 New Mexico Retiree Health Care Authority to provide health coverage for County retirees. Ms.  
614 Taylor stated as the program commenced in 1990, the County was obligated to provide funds to  
615 bring Lincoln County current with the contributions of those entities enrolled at that time. Ms.  
616 Taylor reported the cost of those contributions with interest was \$250,529.09 with a payoff date  
617 of January 1, 2018.  
618

619 Ms. Taylor stated the interest rate for this transaction was 7.5% and to date the County had paid  
620 \$113,456 in interest amounting to approximately 50% of the original loan value. Ms. Taylor  
621 recommended the County pay the current loan balance of approximately \$92,000 to save an  
622 additional \$12,831.54 in interest.  
623

624 **Motion:** Approve the early payoff of Retiree Health Care note, **Action:** Approve, **Moved by**  
625 **Commissioner Minter, Seconded by Commissioner Doth.**

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

627 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,  
628 Commissioner Stone.  
629

630 **16. Consideration of Approval/Disapproval Recommendation of Indigent Health Care**  
631 **Claims**  
632

633 Scott Annala, IHC Administrator presented the Sole Community Provider/Safety Net Care  
634 Provider Pool claims for approval. Mr. Annala processed 26 claims with 24 recommended for  
635 approval and 2 recommended for disapproval for a monthly authorization of \$28,968. Mr.  
636 Annala stated the total approval for SCP/SNCP claims for Fiscal Year 2014-2015 to date was  
637 \$102,188 with a monthly average of \$25,547.

638 Mr. Annala presented the Indigent Health Care Payments request for the month and stated he  
639 processed 17 claims with 12 claims recommended for approval and 5 for disapproval for a total  
640 payment this month of \$2,875.07. Mr. Annala stated, pending approval, the total for IHC claims  
641 for Fiscal Year 2014-2015 to date was \$24,023.09 for an average monthly indigent claims  
642 payment of \$6,009.

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

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

647 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,  
648 Commissioner Stone.  
649

650 Mr. Annala reported on a recent conference call meeting of the Health Policy Committee. Mr.  
651 Annala stated there was a consensus to revive the Health Care Affiliate Resolution to reinstate  
652 the sunset clause of Senate Bill 268 with an extension of one year to coincide with the State's

653 Medicaid waiver expiration as a NMAC priority. Mr. Annala informed he would testify before the  
654 Legislative Finance Committee regarding a reported \$30 million "surplus" held by the counties in  
655 Indigent Funds.

656  
657 **SEE EXHIBIT C:** Copies of the Sole Community Provider and Indigent Health Care Payments  
658 are attached hereto in reference thereto made a part hereof.

659 **17. Water Issues/Forest/Wildlife Health Programs/Land and Natural Resources**  
660 **Advisory Committee (LANRAC)**

661  
662 **Water Rights Notice:** Application by the Town of Carrizozo for permit for a Supplemental  
663 Well within the Tularosa Underground Water Basin in Lincoln County to use previously  
664 drilled well T-4619 for the continued diversion of up to 706 acre feet per annum of shallow  
665 underground water in partial, continued exercise of existing water rights owned by applicant  
666 and supplemental to existing Town of Carrizozo wells T-247 et al for municipal, commercial  
667 and recreational purposes within the Town of Carrizozo service area.

668  
669 **Water Rights Transfer Protests:** Ms. Taylor informed the Village of Ruidoso filed a Motion  
670 to Dismiss all protests based on the belief the Village did not receive proper notice of the  
671 protests. Ms. Taylor stated Attorney George Chandler filed an Entry of Appearance on  
672 behalf of twenty three Lincoln County residents filing protests. Ms. Taylor reminded Kelly  
673 Cassels, Attorney with the Roswell law firm of Sanders, Bruin, Coll and Worley was engaged  
674 to represent the County of Lincoln in the matter of protests filed opposing water rights  
675 transfers by the Village of Ruidoso.

676  
677 **Lincoln County and Its Long Term Commitment to Forest/Watershed Restoration:**  
678 Ms. Taylor reminded during a prior presentation Dr. Brent Racher made a commitment to set  
679 up workshops to develop a specific proposal for presentation to stakeholders to achieve  
680 forested watershed restoration at an accelerated pace. Ms. Taylor stated Dr. Racher had  
681 tentatively set up an initial workshop date in mid-November with a broad range of potential  
682 stakeholders.

683  
684 a. Resolution 2014-24 Opposition to Proposed "Waters of the US" Rule

685  
686 Ms. Taylor provided a copy of the comments submitted by Lincoln County in 2013. Ms.  
687 Taylor stated on April 21, 2014 the US Environmental Protection Agency and the US Army  
688 Corps of Engineers released a new proposed rule to expand the range of waters falling  
689 under federal jurisdiction. Ms. Taylor presented the Resolution to voice the Commission's  
690 opposition to the definition change.

691  
692 **Motion:** Adopt Resolution 2014-24, **Action:** Approve, **Moved by** Commissioner Doth,  
693 **Seconded by** Commissioner Minter.

694  
695 Commissioner Minter suggested resending the letter dated September 2013 along with the  
696 Resolution. Commissioner Doth suggested contacting legislators to recommend "defunding"  
697 the EPA.

698  
699 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).

700 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,  
701 Commissioner Stone.

702

703 **SEE EXHIBIT D:** Copy of Resolution 2014-24 is attached hereto in reference thereto made a  
704 part hereof.

705  
706 **18. Consideration/Approval of Amending Resolution 2013-07 NMDOT Cooperative**  
707 **Road Programs by Resolution 2014-22**  
708

709 Ms. Taylor informed the original CAP/COOP road projects identified for funding were completed  
710 at a cost less than anticipated and presented additional projects which met the requirements for  
711 State funding contributions. Ms. Taylor clarified the identification of additional projects would  
712 result in no impact to the budget as the County contribution was unchanged.

713  
714 **Motion:** Adopt Resolution 2014-22, **Action:** Approve, **Moved by** Commissioner Stone,  
715 **Seconded by** Commissioner Doth.

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

717 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,  
718 Commissioner Stone.

719  
720 **SEE EXHIBIT E:** Copy of Resolution 2014-22 is attached hereto in reference thereto made a  
721 part hereof.

722  
723 **19. Consideration and Approval to Dispose of County Property by Auction --**  
724 **Resolution 2014-21**  
725

726 Ms. Taylor presented the Resolution for approval to auction County owned assets as listed in  
727 the Resolution.

728  
729 **Motion:** Adopt Resolution 2014-21, **Action:** Approve, **Moved by** Commissioner Doth,  
730 **Seconded by** Commissioner Minter.

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

732 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,  
733 Commissioner Stone.

734  
735 Commissioner Draper, Commissioner Doth, and Paul Baca, Assessor volunteered to review the  
736 items prior to sale.

737  
738 **SEE EXHIBIT F:** Copy of Resolution 2014-21 is attached hereto in reference thereto made a  
739 part hereof.

740  
741 **22. Authorization to Schedule Public Hearing to Consider Other Outdated or New**  
742 **Lincoln County Ordinances**  
743

744 A. Lincoln County Ordinance No. 2008-07 – An Ordinance Providing for the Efficient  
745 and Sanitary Collection of Solid Waste in Lincoln County, Providing for the  
746 Mandatory Disposal and Assessment of Fees; Providing a Penalty for Violation of  
747 the Ordinance; and Repealing Ordinance 2008-06.

748  
749 **Motion:** Schedule a Public Hearing to revise Lincoln County Ordinance 2008-07, **Action:**  
750 Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Doth.

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

752 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,  
753 Commissioner Stone.

754  
755 **23. Consideration/Action on Bid 14-15-003 Janitorial Services Lincoln County**  
756 **Complex**

757  
758 Ms. Taylor detailed the five bids received for Janitorial Services as listed below:

759

760	1.	R and B Cleaning	\$3,042/month
761	2.	Linda Zamora	\$4,333/month
762	3.	Martha Guevara	\$4,500/month
763	4.	F P Services	\$5,500/month
764	5.	Patty's Cleaning Service	\$7,000/month

765

766 **Motion:** Award Bid 14-15-003 for Janitorial Services to R and B Cleaning and authorize the  
767 Manager to enter into contract negotiations, **Action:** Approve, **Moved by** Commissioner Minter,  
768 **Seconded by** Commissioner Doth.

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

770 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,  
771 Commissioner Stone.

772  
773 **24. Consideration of Appointments and Removals from Boards/Commissions/**  
774 **Committees:**

775  
776 a. Land and Natural Resources Advisory Committee

777  
778 **Motion:** Reappoint Mary Ann Siegel-Russ to LANRAC, **Action:** Approve, **Moved by**  
779 Commissioner Doth, **Seconded by** Commissioner Minter.

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

781 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,  
782 Commissioner Stone.

783  
784 b. Road Review Advisory Committee

785  
786 **Motion:** Reappoint Robert Barber to the Road Review Advisory Committee, **Action:** Approve,  
787 **Moved by** Commissioner Doth, **Seconded by** Commissioner Minter.

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

789 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,  
790 Commissioner Stone.

791  
792 c. **Tabled**-Senior Citizens Olympic Committee

793  
794 **25. Consideration/Action on Renewal of Manager's Contract: Terminates November 7,**  
795 **2014**

796  
797 Attorney Morel presented the contract and reminded Ms. Taylor was hired in 2011 at a salary at  
798 \$80,000 with a subsequent increase to \$85,000 after six months. Attorney Morel reminded Ms.  
799 Taylor's contract was renewed in 2012 with an increase in salary to \$90,000.

800

801 Attorney Morel stated the County Manager made no specific request for increase in salary.  
802 Attorney Morel recommended an increase to \$100,000 annually based on the Manager's  
803 exemplary performance.  
804

805 Chair Powell along with the other County Commissioners commended Ms. Taylor for her  
806 performance and service to the County of Lincoln. Chair Powell suggested an increase of  
807 \$7,500.  
808

809 **Motion:** Approve the renewal of the Manager's contract with an annual salary of \$97,500,

810 **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Stone.

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

812 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,  
813 Commissioner Stone.  
814

815 **28. Signing of Official Documents**

816  
817 **29. Next meetings:**

818  
819 November 7, 2014 – Special Commission Meeting Canvass General Election Votes

820 November 18, 2014 - Regular Commission Meeting  
821

822 Ms. Taylor requested a change of the Regular Commission Meeting to coincide with a bid  
823 opening. There was a general consensus to change the Regular Meeting to November 19,  
824 2014.  
825

826 **30. Adjourn**

827  
828 There being no further business to come before the Board of County Commissioners, Chair  
829 Powell adjourned the meeting at 2:26:49 PM.  
830

831 Respectfully submitted by,

832 Rhonda B. Burrows

833 Lincoln County Clerk

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 **Friday, November 7, 2014**

11  
12 Minutes of the Special Meeting of the Lincoln County Commission held at 8:30 AM on  
13 November 7, 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 8:47:30 AM.

20  
21 **2. Roll Call**

22  
23 **Roll Call.**

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

25 **Absent/Excused:** Commissioner Stone, 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 Chair Powell.

33  
34 **4. Pledge of Allegiance**

35  
36 A. Pledge – U.S.A. Flag

37 B. Salute – N.M. Flag

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 = 3).

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

44 **Absent:** Commissioner Doth, Commissioner Stone.

45  
46 **6. Canvass November 4, 2014 General Election Votes**

47 Rhonda Burrows, County Clerk expressed appreciation for assistance in the conduct of the  
48 2014 General Election specifically for the services of Vote Technicians Paul Baca, LeeRoy  
49 Zamora Jr., and Rodney Zamora. Ms. Burrows also acknowledged the work of the Early Vote,  
50 Absentee, and Election Day Presiding Judges including: Edith Dobbins, Shannan Hemphill,  
51 Debbie Rogge, Faith Hignight, Beth Keenan, Shannon Miller, and Diana Billingsley. Ms.  
52 Burrows commented on the value of the Student Election worker program which provides high  
53 school students the opportunity to work elections. Ms. Burrows noted students from all four  
54 school districts in the County worked at the polls on Election Day.  
55

56 Ms. Burrows introduced the staff of the Clerk's office and informed Tammie Maddox, Chief  
57 Deputy Clerk was retiring November 14, 2014. Ms. Burrows reminded Ms. Maddox served two  
58 terms as the Lincoln County Clerk and an additional four years as the Chief Deputy Clerk Ms.  
59 Burrows commented on the great value of having Ms. Maddox serve as her Chief Deputy and  
60 on Ms. Maddox's contribution over the years to the successful conduct of elections in Lincoln  
61 County. Ms. Burrows presented Ms. Maddox with a Waterford Vase embossed with her years  
62 of service from 2002-2014.  
63

64 Ms. Burrows presented the Unofficial Results for Lincoln County for the 2014 General Election.  
65 Ms. Burrows provided printouts of vote totals by precinct and summary by contest. Ms.  
66 Burrows stated when voter registration closed on October 7, 2014 there were 14,494 registered  
67 voters eligible to cast a ballot in the November 4, 2014 General Elections. Ms. Burrows stated  
68 6,279 ballots were cast in the election for a total turnout of 43.31%. Ms. Burrows stated of the  
69 total ballots cast 658 were Absentee Ballots, 2485 were Early Voters, and 3136 were Election  
70 Day Voters. Ms. Burrows noted of the 658 Absentee Ballots only 5 were rejected for either lack  
71 of signature or lack of ID as required for first time voter who registered by mail. Ms. Burrows  
72 stated 4 Provisional Ballots and 3 In Lieu of Absentee Ballots were cast all of which were  
73 qualified and tallied into the final vote totals. Ms. Burrows provided supporting documentation  
74 including rosters, printed tabulator tapes, applications, and permits for review.  
75

76 Ms. Burrows commented on a likely recount of votes for the statewide contest of Public Lands  
77 Commissioner. Ms. Burrows stated if the margin of victory in any statewide contests was less  
78 than .5% of totals votes cast State Statute required a mandatory recount. Ms. Burrows reported  
79 the State would complete their canvass on November 25, 2014 and any recount would  
80 commence shortly thereafter.  
81

82 **Motion:** Certify the results of the 2014 General Election for Lincoln County, **Action:** Approve,  
83 **Moved by** Commissioner Minter, **Seconded by** Commissioner Draper.

84 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 3).

85 **Yes:** Chair Powell, Commissioner Draper, Commissioner Minter.

86 **Absent:** Commissioner Doth, Commissioner Stone.  
87

88 **SEE EXHIBIT A:** Copy of the Certificate of Canvass for the 2014 General Election is attached  
89 hereto in reference thereto made a part hereof.  
90

## 91 **7. Budget Adjustment – Approval of New Position: Solid Waste Collection Clerk**

92

93 Nita Taylor, County Manager, reminded the Board of County Commissioners took action to  
94 terminate the Joint Powers Agreement between Lincoln County and the Greentree Solid Waste  
95 Authority for the billing of solid waste collection services for those residents of the  
96 unincorporated areas of the County effective December 31, 2014.

97  
98 Ms. Taylor stated as a result of this action she and staff began working with the County's  
99 software provider to develop a process to bill and collect for solid waste collection services.  
100 Ms. Taylor stated the added duties would require additional staff and recommended creation of  
101 a new Grade 22 position. Ms. Taylor recommended the Grade 22 position starting at \$14.98  
102 per hour with an annual estimated cost of \$34,305 in accordance with Compensation Board  
103 recommendations. Ms. Taylor also requested the authority to develop an appropriate title for  
104 the position.  
105

106 **Motion:** Approve an additional Grade 22 position in the Manager's Office and authorize the  
107 Manager to develop a title for the position, **Action:** Approve, **Moved by** Commissioner Draper,  
108 **Seconded by** Chair Powell.  
109

110 Commissioner Minter suggested the County meet with GSWA to facilitate the billing transition.  
111 Attorney Morel suggested a request to place an item on the GSWA agenda to discuss both the  
112 transition of the billing and the necessity of continuing the fuel surcharge.  
113

114 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 3).  
115 **Yes:** Chair Powell, Commissioner Draper, Commissioner Minter.  
116 **Absent:** Commissioner Doth, Commissioner Stone.  
117

118 **8. Next Regular Meeting**

119  
120 Wednesday, November 19, 2014  
121

122 **9. Signing of Official Documents**

123  
124 **10. Adjournment**  
125

126 There being no further business to come before the Board of County Commissioners, Chair  
127 Powell adjourned the meeting at 9:18:22 AM.  
128

129 Respectfully submitted by,  
130

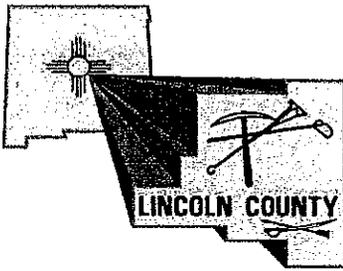
131 Rhonda B. Burrows  
132 Lincoln County Clerk

**Agenda Item No. 7**

**SUBJECT**

Approval of Consent Agenda:

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



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# County of Lincoln

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## 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 October 1 through October 31, 2014 in the amount of \$1,971,041.42.

**NOW, THEREFORE**, the above bills are hereby approved.

**ADOPTED, PASSED AND SIGNED** the 19th day of November, 2014.

### BOARD OF COMMISSIONERS LINCOLN COUNTY, NEW MEXICO

\_\_\_\_\_  
Jackie M Powell, Chairwoman

\_\_\_\_\_  
Preston Stone , Vice-Chair

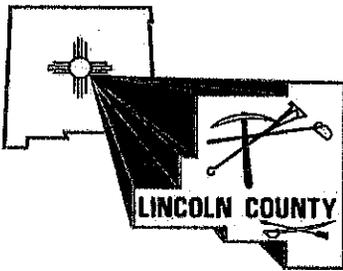
\_\_\_\_\_  
Kathryn Minter, Member

\_\_\_\_\_  
Dallas Draper, Member

\_\_\_\_\_  
Mark Doth, Member

ATTEST:

\_\_\_\_\_  
Rhonda B Burrows, County Clerk



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# County of Lincoln

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## Agenda Item No. 8

November 12, 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.

**Recommendation:** None – information only at this time.

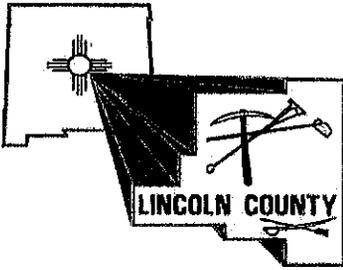
**Smokey Bear RD, Lincoln National Forest, Briefing Paper for  
Lincoln County Commissioners Meeting  
November, 2014**

Critical Updates

- North Fork Eagle Creek
  - On November 14, 2014, a Notice of Availability was published in the Federal Register for the Supplemental Draft Environmental Impact Statement (SDEIS) for the North Fork Eagle Creek Wells Special Use Authorization Project on the Smokey Bear Ranger District.
  - This SDEIS is similar to the May 2012 Draft Environmental Impact Statement (DEIS), but documents changed resource conditions and environmental effects due to the Little Bear Wildfire. It was prepared using public comments received on the DEIS prior to the end of the comment period, multiple interdisciplinary team discussions, coordination with project stakeholders (Village of Ruidoso, Eagle Creek Conservation Association, and the U.S. Geological Survey), and literature review.
  - The Notice of Availability begins a 45-day comment period during which stakeholders are encouraged to review this document. It is important that reviewers provide timely, specific written comments within the scope of the proposed action that have a direct relationship to the proposed action, and must include supporting reasons for the responsible official to consider in preparing the final EIS. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.
  - The SDEIS is available electronically at <http://www.fs.fed.us/nepa/fs-usda-pop.php?project=9603>
- El Capitan Precious Metals Inc. (ECPMI) - access to private land
  - The Ranger District is currently analyzing a proposal to issue a special use permit to ECPMI for access to a private-land inholding at the El Capitan mine site.
  - The proposal includes use of Forest Road 489A from Hwy 246 to private land owned by ECPMI, in support of operations conducted on the private land.
  - A decision on this proposal is expected by the end of this week.
- Workshop - Long-term Forest & Watershed Management in Lincoln County
  - The Lincoln National Forest looks forward to attending a workshop on 11/21 hosted by Brent Racher to discuss long-term options for land management in Lincoln County. The meeting will be held at the County Emergency Operations Center from 1 to 4pm.
- There will be a presentation by the Smokey Bear Interagency Hotshot Crew on December 2, 2014 at ENMU-Ruidoso that describes "A day in the life of a Hotshot." This presentation is part of a monthly Speaker's Series coordinated by the Little Bear Forest Reform Coalition, ENMU-R, and local fire departments and land management agencies and partners.

End of Report

ENCL 2



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# County of Lincoln

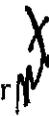
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## Agenda Item No. 9

November 12, 2014

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, Lincoln County Manager 

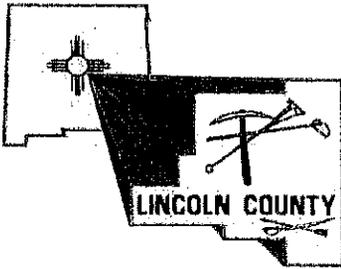
**SUBJECT:** Lincoln County Detention Center Update – Warden Anderson

**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 No. 10

November 13, 2014

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, Lincoln County Manager *NT*

**SUBJECT:** El Capitan Precious Metals, Inc.

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

### Discussion:

During its September 16, 2014 Regular Meeting, the Commission discussed the recent mail notification to Lincoln County residents from El Capitan Precious Metals, Inc. ("El Capitan Mine") announcing its intent to apply to the New Mexico Environmental Department for an air quality permit for the construction of its iron ore crushing and sizing facility. See Enclosure 1. The NM Energy, Minerals and Natural Resources Department (NMEMNRD) verified receipt of the permit application package on June 9, 2014 in a correspondence to El Capitan Mine. See Enclosure 2.

Lincoln County resident Lee Arnone provided the Commission with additional information, and requested the Commission to require El Capitan Mine to adhere to the Ordinance 2009-01. See Enclosure 3 for the relevant excerpt from minutes of the September 16<sup>th</sup> Commission meeting, and Enclosure 4 for a copy of the Ordinance.

The County has invited Mr. Blair Dunn, Attorney for El Capitan Precious Metals, Inc., and Mr. Chris Eustice from the NMEMNRD to provide the Commission with an update.

**Recommendation:** Consider the information provided by Mr. Dunn and Mr. Eustice, and provide direction to Manager and/or Attorney if deemed necessary.

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 <sub>10</sub>	20 pph	22 tpy
PM <sub>2.5</sub>	4.3 pph	6.8 tpy
Sulfur Dioxide (SO <sub>2</sub> )	0.36 pph	0.78 tpy
Nitrogen Oxides (NO <sub>x</sub> )	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.

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

401 discussion of a potential Regional Water Plan. Chair Powell stated the meeting was a  
402 preliminary positive step to engage in mediation versus litigation.  
403

404 **3. Risk Mapping, Assessment and Planning ("MAP") Program:** Ms. Taylor stated  
405 FEMA and the New Mexico Department of Homeland Security and Emergency  
406 Management (NMHSEM) had selected the Rio Hondo Watershed for the initial  
407 "Discovery" step in the Risk MAP Program. Ms. Taylor stated initial steps were being  
408 taken to identify potential hazards in the Watershed as described by Mr. Temple in his  
409 Departmental update.  
410

411 **4. Update from South Central Mountain RC and D Forester Rick Merrick:** Mr. Merrick  
412 provided an overview of ongoing activities in the Ruidoso WUI including prescribed  
413 burning and thinning projects. Mr. Merrick stated the Community Fire Risk Protection  
414 Program (CFRP) grant administered by SCMRCD also provided funding for additional  
415 services such as obtaining a location for the upcoming watershed meeting, the potential  
416 purchase of an open burn fire pit and other projects to promote a more fire ready  
417 community.  
418

419 **17. Discussion/Direction of El Capitan Precious Metals, Inc.'s Application for an Air**  
420 **Quality Permit for Construction of Iron Ore Crushing and Sizing Facility**  
421

422 Ms. Taylor provided copy of a letter sent to certain residents in Lincoln County notifying of El  
423 Capitan Precious Metals, Inc., also titled El Capitan Mine, of intent to apply to the New Mexico  
424 Environmental Department for an air quality permit for the construction of an iron ore crushing  
425 and sizing facility. Included in the correspondence was a reference to a prior solicitation of  
426 comments by NMED about the construction or operation of this facility as part of the review  
427 process. Ms. Taylor stated it was important to note the County received no formal notification  
428 of this comment period.  
429

430 Ms. Taylor reminded County Ordinance 2009-01 was adopted to provide a framework for the  
431 balance between protection of natural resources and supporting the mining industry within the  
432 County. Ms. Taylor stated once informed of the letter sent to Lincoln County residents, Attorney  
433 Morel initiated correspondence with several State and Federal Agencies on behalf of the  
434 County.  
435

436 Alan Morel, County Attorney commented on reference in the correspondence which indicated  
437 notice was sent to County and Municipal officials. Attorney Morel stated to his knowledge the  
438 County received no notice of this Application. Attorney Morel stated El Capitan Mine currently  
439 had a minimum impact mining permit which they were endeavoring to expand to an impact area  
440 of approximately 40 acres. Attorney Morel stated in 2008 the County requested to be  
441 considered as a Cooperating Agency in this process with the NM Mining and Minerals  
442 Department and therefore should have received notice of the request to expand the permit.  
443

444 Attorney Morel discussed comments received from multiple agencies during the initial comment  
445 period including the US Forest Service and the USDA Office of General Counsel. Attorney  
446 Morel stated there was a potential conflict between El Capitan and the US Forest Service  
447 regarding expansion of the proposed use of the associated road to the site.  
448

449 Attorney Morel suggested contacting the attorney for El Capitan Mine to inform the company of  
450 the lack of proper notice to the County, to determine the current status of the application, and to  
451 request notification of any and all future actions pursuant to Lincoln County Ordinance 2009-01.

452 Attorney Morel opined the potential conflict related to increased traffic on the US Forest Service  
453 road might prompt El Capitan Mine to seek assistance from the County in classifying the road  
454 as an RS247 road.

455  
456 Commissioner Stone requested permission for the public to speak on the issue.

457  
458 Lee Arnone commented on the expenditure of funds by both the County and Friends of the  
459 Capitan to develop the relevant County Ordinance. Mr. Arnone stated a visit to the site led him  
460 to understand the company would use 25 ton trucks on the road. Mr. Arnone stated from the  
461 current position of the crushing equipment there were several homes within one to two miles  
462 which would be impacted by the operations. Mr. Arnone stated there was also a significant  
463 historical artifact site nearby which was slated to be added to the historic site register. Mr.  
464 Arnone requested the County require El Capitan Mine adhere to the requirements of Ordinance  
465 2009-01.

466  
467 Attorney Morel stated he would provide a copy of the Ordinance to El Capitan Mine and request  
468 copies of any permits and relevant correspondence. Attorney Morel stated he would also  
469 research the related US Forest Service applications and report back on his findings.

470  
471 There was a general consensus for the Attorney to proceed as recommended.

472  
473 Chair Powell recessed the Regular Meeting at 11:30:29 AM for Inspection of the Detention  
474 Center.

475  
476 **27. 11:30 A.M.: Inspection of the Lincoln County Detention Center/Lunch**

477  
478 Chair Powell, Commissioner Minter, Commissioner Stone and Commissioner Doth attended the  
479 Inspection of the Detention Center. Also in attendance were Nita Taylor, County Manager and  
480 members of the staff and public.

481  
482 Chair Powell reconvened the Regular Meeting at 1:01:53 PM.

483  
484 Chair Powell recessed the Regular Meeting at 1:01:59 PM and convened the Public Hearing at  
485 1:02:07 PM.

486  
487 **29. 1:00 P.M.: Public Hearings to consider amending the following Ordinances:**

488  
489 a. Ordinance 2014-5 amending Ordinance 2011-05 Flood Damage Prevention

490  
491 "An ordinance of Lincoln County created for the purpose of adopting the flood  
492 insurance rate maps and the flood boundary and floodway maps; regulating flood  
493 hazard area land use and prescribing central measures, defining certain terms,  
494 providing for measures, defining certain terms, providing for administrative duties  
495 and appeal procedures, repealing all ordinances or parts of ordinances in conflict  
496 herewith, providing for severability, and fixing the effective date of this ordinance."

497  
498 Attorney Morel reviewed the proposed language changes which were described as primarily "clean  
499 up" of particular minor typographical errors, reference dates and signatories.

500  
501 Chair Powell requested comment from the public regarding proposed Ordinance 2014-5. There  
502 being none Chair Powell requested a review of changes to next proposed Ordinance 2014-6.

## 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.

ENCL 4

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 1/8<sup>th</sup> 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;

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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.**

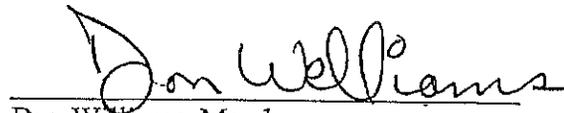
This Ordinance shall take effect thirty days after being recorded in the Public Records of Lincoln County, New Mexico.

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

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

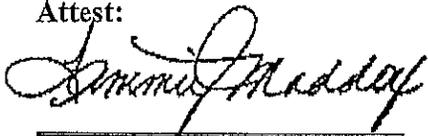
  
\_\_\_\_\_  
Tom Battin, Chair

Bileen Sedillo, Vice Chair

  
\_\_\_\_\_  
Dave Parks, Member  
\_\_\_\_\_  
Don Williams, Member

\_\_\_\_\_  
Jackie Powell, Member

Attest:



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Tammie J. Maddox  
Lincoln County Clerk



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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

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: sbutzier@modrall.com*

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

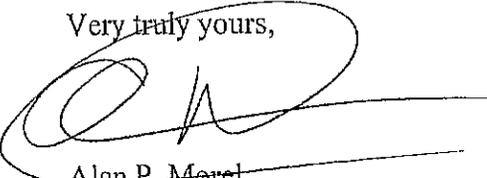
Dear Mr. Buztier:

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

## **Agenda Item No. 11**

### **SUBJECT**

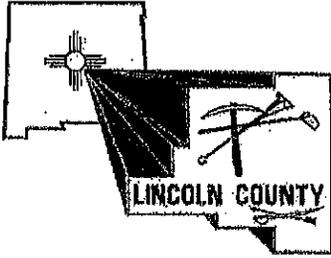
**9:00 A.M.:** Lodgers Tax Activities with backup material:

Consideration / Action on Lodger's Tax Application:

Application 1722: Funding Request: \$5,000

Purpose: Ruidoso Visitor Guide

Date(s) of Event: 2014 Guide



# County of Lincoln

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

www.lincolncountynm.net

NAME OF EVENT: Official Ruidoso Visitor Guide / VisitRuidoso.com DATE(S) OF EVENT: 2014

NAME OF ORGANIZATION(S) APPLYING FOR FUNDING: Ad Venture Marketing, Ltd Co.

AMOUNT REQUESTED: \$ 5000.00

DESCRIBE EVENT BACKGROUND & RATIONALE: Visitor Guide / website to drive tourism in Lincoln County and Ruidoso.

HOW WILL YOU ADVERTISE AND MARKET THE EVENT? Distributed in New Mexico, Texas, Arizona. Mailed nationally and internationally by Ruidoso Chamber of Commerce & Tourism Dept.

HOW WILL ATTENDANCE AND ORIGIN BE MEASURED? 100,000 guides printed

HAVE YOU DISCUSSED SPECIAL ROOM PACKAGES DURING YOUR EVENT WITH A LINCOLN COUNTY LODGER?  YES  NO HOW WILL OCCUPANCY RATES BE REPORTED/TRACKED? NA

WHAT PERCENTAGE OF YOUR MEDIA BUDGET WILL BE USED OUTSIDE OF LINCOLN COUNTY? N/A%  
WILL YOU HAVE A WEBSITE FOR YOUR EVENT?  YES  NO

FUNDS WILL BE USED FOR:

NEWSPAPER ADVERTISING:	\$ _____
RADIO:	\$ _____
MAGAZINE:	\$ _____
INTERNET:	\$ _____
PRINTING:	\$ <u>32,176.45</u>
OTHER: <u>distribution</u>	\$ <u>7,460.00</u>
TOTAL:	\$ _____

OTHER FUNDING SOURCE & AMOUNT Advertising

Please feel free to add additional pages, samples of ads or brochure artwork, etc.

### RULES AND REGULATIONS

I understand that these are public funds and they are to be administered according to State Law and County Ordinances, and I agree to submit a follow up report with a financial statement within (90) days following the event or I could forfeit the funds. Funding recommended for approval by the Lincoln County Lodger's Tax Committee must be approved by the Lincoln County Commission (Governing Body). I also understand that approved funding amounts may differ from the amount requested on the application.

NAME (PRINT) OF APPLICANT MAKING REQUEST:	<u>Lajuana Martinez</u>
SIGNATURE OF APPLICANT:	<u>Lajuana Martinez</u>
ADDRESS/CITY/ZIP:	<u>112 S. 5th Street, Brownfield, TX 77931</u>
PHONE:	<u>806-637-0030</u>
EMAIL ADDRESS:	<u>lajuana@ad-venturemarketing.com</u>
DATE SUBMITTED:	<u>9/29/14</u>
PRESENTED AT MEETING ON:	

Attach any previous year's budget and proposed budget for event. Mail or deliver to Billie-Jo Guevara, Lincoln County, PO Box 711, Carrizozo, NM 88301 or Fax to (575)648-4182.

BUDGET/2014-15

Official Ruidoso Visitor Guide/VisitRuidoso.com

Printing -	\$ 32,176.45
Distribution	
Fun and Games -	\$ 2,660.00
SW Advertising -	\$ 4,800.00
Storage -	\$ 1,200.00
Racks -	\$ 1,000.00
Sales -	\$ 15,000.00
Layout/Design -	\$ 6,000.00
Website Maintenance -	\$ 4,500.00
Promotions -	\$ 800.00

Date: 11/11/14

No 1722

LINCOLN COUNTY LODGER'S TAX APPLICATION FOR FUNDING

Section 1

Name of Organization

Ad Venture Marketing, LLC

Organization is:  Profit  Non Profit  Government Related

Address 112 S. 5th Street Brownfield LA 79316  
City State Zip

Contact Person(s)

Lajuana Martine z

Telephone # (s)

Amount Requested: \$ 5000.00 Money is to be used for: Ruidoso Visitor Guides  
Visit Ruidoso.com

BY SIGNING BELOW, I ATTEST THAT I WILL PROVIDE LINCOLN COUNTY WITH THE APPLICABLE DOCUMENTATION NECESSARY TO VALIDATE THAT THE FUNDS RECEIVED WILL BE SPENT IN ACCORDANCE WITH THE LINCOLN COUNTY LODGERS TAX ORDINANCE.

Signature Lajuana Martine z

Date 11/11/14

NOTE: Credit/Tag Line must appear or be given as follows: Paid For By LINCOLN COUNTY LODGERS TAX.

Section 2

LODGER'S TAX COMMITTEE

Meeting Date: 11-11-14

Amount Approved: \$ 5000.00 Request Denied: \_\_\_\_\_

Comments: \_\_\_\_\_

David A. Sizje  
Authorized Signature

Section 3

LINCOLN COUNTY COMMISSION

Meeting Date: \_\_\_\_\_

Approval: \_\_\_\_\_ Denial: \_\_\_\_\_

Comments: \_\_\_\_\_

County Manager Signature

FUNDS WILL NOT BE RELEASED BY LINCOLN COUNTY UNTIL THE AWARDED FUNDS REIMBURSEMENT FORM IS SIGNED AND TURNED IN TO LINCOLN COUNTY.

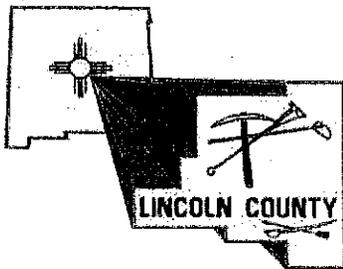
DISTRIBUTION:

- 1) COUNTY MANAGER 2) COUNTY FINANCE 3) LODGER'S TAX COMM 4) REQUESTING ORGZN.

## **Agenda Item No. 12**

### **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

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

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## AGENDA NO. 13

November 12, 2014

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, Lincoln County Manager *NT*

**SUBJECT:** FEMA Emergency Declarations 4197 and 4199: Alternate Procedures Pilot Program

**Purpose:** To Obtain Approval from the Commission to Enter into an Agreement with FEMA to Receive Funding from FEMA and NMDHSEM through the Alternative Procedures Pilot Program for Permanent Work

**Discussion:** FEMA recently declared two separate federal declarations for flooding events that occurred this summer between July and September. These declarations make Public Assistance funding available to eligible state agencies, tribal governments, community ditch associations and other local governmental entities in a number of NM Counties, including Lincoln County.

FEMA met with County representatives on November 7<sup>th</sup> and 8<sup>th</sup> to determine the degree of damage, which was substantial. They have already issued its "Cat C Estimator Sheets for Roads and Culverts". See **Enclosure 1** for Declaration 4197 estimating County road damage on roads north of State Hwy 246 (Bogle Rd., Transwestern, Vail Loop and Jose Vega Loop) to be a total amount of \$2,325,388.27; and **Enclosure 2** for Declaration 4199 estimating culvert damage to be \$4,149.00 and road damage to be \$1,679,351 in the area closer to Carrizozo and White Oaks (Potos Rd., CR-044, White Oaks, Basin St., Obaro St., etc.). The grand total is \$4,008,888. As with our past experience, FEMA will cover 75% of the total cost and the state will cover 12.5% of the cost. The County match (12.5%) totals approximately \$500,000. This match can be offset with in-kind contributions.

FEMA is now implementing its Alternative Procedures Pilot Program to improve efficiencies in how the PA program is implemented; provide communities flexibility in meeting their post-disaster recovery needs; and support rapid recovery from the impact of major disasters and emergencies. Following is a description of both the "Conventional Program" and the Alternate Procedure Pilot Program:

**Conventional Program:** Prior to May, 2013, the steps for receiving FEMA funding included FEMA and local personnel driving and looking at the damages. An estimate was then developed and a project worksheet was written for individual damaged areas, no matter the size. These project worksheets were then sent through the process for approval and were awarded as a sub-grant through the State of New Mexico. The State of New Mexico NMDHSEM would then fund the community 50% of the Federal Share and 50% of the State Share of the Project worksheet. If the project were over a certain dollar amount, "large project", then the work was completed and all receipts, contracts, etc. were compiled and sent to the State of NM for processing and eventual reimbursement.

If the project value were less than the estimate then the actual project cost was funded by the State and the remainder was de-obligated. Consequently if the project value was over the estimate, then the actual project cost was funded by the State and the project worksheet was “versioned” to be increased to the new actual amount spent. An amended sub-grant agreement was developed and sent to the community for signature then the new amount was obligated. This process can take several months.

**New Alternate Procedure Pilot Program:** For disasters declared after May 20, 2013, large projects can now be consolidated into one project worksheet instead of several. This helps with the tracking of the projects from an administration stand point. Projects are estimated in the field by project managers and County Personnel to determine a good solid price on the amount of damage. A sub-grant agreement is then developed and sent to the governmental entity for signature. The project is then funded at 75% of the federal share from the State to the Community. The State holds their 12.5% until the projects are complete. If the project value is over what was estimated then the program does not allow for an amended sub-grant agreement and an amended version of the project, therefore the local governmental must pay the overages. However if the project runs under estimates then the remainder can be used for other approved projects. For example: eligible projects include the purchase of equipment, training, equipment for the Emergency Operations Center, culverts to improve facilities, chip seal of roads, paving of roads etc. See Enclosure 1 for summary of the public Assistance Alternative Procedures Pilot Program.

**Recommendation:** The Commission does not have to make a determination now on whether to accept FEMA /State funding and/or whether to utilize the Conventional Procedures or the Alternative Procedures; it has nine months from the date of the declaration to make those determinations. However, the roads and culverts identified are the very roads and culverts that the County Road Department is trying to repair to our county landowners’ and residents’ expectations and satisfaction now. We cannot wait for nine months to complete these projects. Between the funds the Road Department will be required to spend on these roads and the funds the Commission has already set aside for the FEMA projects that will not be ready to start for at least a year, the County can find the matching funds. I recommend the Commission direct the Manager to move forward with entering into an agreement with FEMA and NMDHSEM for Public Funds – through the Alternate Procedure Pilot Program.





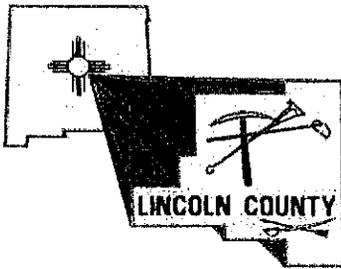


## ***Alternative Procedures Pilot Program for Permanent Work***

- • The Public Assistance alternative procedures pilot program for permanent work includes the following provisions:
  - ✓ **Grants Based on Fixed Estimates**
  - ✓ **Consolidation of Multiple Fixed Estimate Subgrants into a Single Subgrant**
  - ✓ **Use of Excess Funds for Allowable Activities**
  - ✓ **Elimination of the Alternate Project Penalty (for in-lieu contributions)**
  - ✓ **Acceptance of Subgrantee Cost Estimates**
  - ✓ **Referral of Cost Estimates to an Expert Panel (subgrants over \$5M federal share)**
- • The *Public Assistance Alternative Procedures Pilot Program Guide for Permanent Work* provides additional guidance on the pilot program.
- • The pilot program for permanent work is available in major disasters declared on or after May 20, 2013. It may also be applied to projects in major disasters declared prior to May 20, 2013, where construction on that project has not yet begun.
- • The pilot program for permanent work is voluntary.
- • The pilot procedures are available for large projects only, and a subgrantee may choose to include some or all of their large projects in the pilot.
- • For a permanent work project to be eligible for the pilot, the Subgrantee must agree to a subgrant based on a fixed estimate.
- • A Subgrantee has nine months from the date of declaration to agree to the fixed estimate amount and twelve months to consolidate any of its fixed estimate subgrants.

### ***Special Considerations and Grants Management***

- • FEMA must ensure compliance with environmental and historic preservation requirements.
- • Insurance reductions will be included in the fixed estimate and will only be adjusted further if a subgrantee receives more funds than originally anticipated.
- • Section 406 hazard mitigation may be included in the fixed estimate subgrants for permanent work (see *Pilot Guide* for more information).
- • Work must be completed within regulatory timeframes and progress reports submitted.
- • Contracts must be procured in accordance with federal standards (44 CFR Part 13).
- • Funding is subject to audit and financial accountability.



# County of Lincoln

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## AGENDA NO. 14

November 12, 2014

### MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: Operational Resolutions and Schedules of Meetings

**Purpose:** To obtain approval of three operational resolutions and three additional board/committee/commission meeting dates.

**Discussion:** Each year, commissioners are required to approve three enclosed operational resolutions as follows:

**Regular Commission Meeting Dates – Resolution 2014-23** (Encl 1)

**The Holiday Schedule – Resolution 2014-25** (Encl 2)

**The Open Meetings Act – Resolution 2014-26**(Encl 3)

In addition, the county publishes the following commission/committee meeting schedules in the papers of local circulation:

- LANRAC will be scheduled when needed by the Commission.
- Lincoln County Planning Commission – 1:00 PM – First Wednesday of each month
- The Lincoln Historic Preservation Board – 7:00 PM – Third Thursday of each month
- The Lodger's Tax Committee – 10:00 AM – Las Tuesday of each month (**Except in December when there will be no meeting**)

**Recommendation:** Approve Resolution 2014-23, 2014-25, 2014-26 and the schedules for the other board/committees/commission.

**RESOLUTION NO. 2014-23**

**WHEREAS**, the Governing Body in and for the County of Lincoln, State of New Mexico, meeting in a regular session on the 19<sup>th</sup> day of November 2014, has set the meeting dates for the Lincoln County Board of Commissioners; and

**WHEREAS**, the Lincoln County Board of Commissioners shall meet at 8:30 A.M. in the Commission Chambers at the Lincoln County Courthouse, in Carrizozo, New Mexico, unless otherwise specified.

**NOW, THEREFORE, BE IT RESOLVED** that the Lincoln County Board of Commissioners hereby adopts the following regular meeting dates unless otherwise specified:

Tuesday, January 13, 2015	Tuesday, August 18, 2015
Tuesday, February 17, 2015	Tuesday, September 8, 2015
Tuesday, March 17, 2015	(Special Impose Property Tax Rates)
Tuesday, April 21, 2015	Tuesday, September 15, 2015
Tuesday, May 19, 2015	Tuesday, October 20, 2015
Tuesday, June 16, 2015	Tuesday, November 17, 2015
Tuesday, July 21, 2015	Tuesday, December 15, 2015

**RESOLVED IN BOARD ACTION** this 19<sup>th</sup> day of November 2014.

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

\_\_\_\_\_  
Jackie Powell, Chairwoman

\_\_\_\_\_  
Preston Stone, Vice Chair

\_\_\_\_\_  
Dallas Draper, Member

\_\_\_\_\_  
Mark Doth, Member

\_\_\_\_\_  
Kathryn Minter, Member

**ATTEST:**

\_\_\_\_\_  
Rhonda Burrows, County Clerk

**RESOLUTION NO. 2014-25**

**WHEREAS**, the Governing Body in and for the County of Lincoln, State of New Mexico, meeting in a regular session on the 19<sup>th</sup> day of November 2014, has approved and adopted the Official Holiday Calendar for Lincoln County.

**NOW, THEREFORE, BE IT RESOLVED** that the Lincoln County Board of Commissioners hereby adopts the following as the Official Holiday Calendar for Lincoln County.

New Year's Day	will be observed on Thursday, January 1, 2015
Martin Luther King, Jr. Birthday	will be observed on Monday, January 19, 2015
Presidents' Day	will be observed on Monday, February 16, 2015
Good Friday	will be observed on Friday, April 3, 2015
Memorial Day	will be observed on Monday, May 25, 2015
Independence Day	will be observed on Friday, July 3, 2015
Labor Day	will be observed on Monday, September 7, 2015
Columbus Day	will be observed on Monday, October 12, 2015
Veterans Day	will be observed on Wednesday, November 11, 2015
Thanksgiving Day	will be observed on Thursday, November 26, 2015 and Friday, November 27, 2015
Christmas Day	will be observed on Thursday, December 24, 2015 and Friday, December 25, 2015

**RESOLVED IN BOARD ACTION** this 19<sup>th</sup> day of November 2014.

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

\_\_\_\_\_  
Jackie Powell, Chairwoman

\_\_\_\_\_  
Preston Stone, Vice Chair

\_\_\_\_\_  
Mark Doth, Member

\_\_\_\_\_  
Kathryn Minter, Member

\_\_\_\_\_  
Dallas Draper, Member

**ATTEST:**

\_\_\_\_\_  
Rhonda Burrows, County Clerk

RESOLUTION NO. 2014-26

OPEN MEETINGS ACT

**WHEREAS**, the Lincoln County Board of Commissioners met in regular session at Carrizozo, New Mexico, on the 19<sup>th</sup> day of November, 2014, at 8:30 a.m. as required by law, and

**WHEREAS**, Section 10-15-1(B) of the Open Meetings Act (NMSA 1978, Sections 10-15-1 to 10-15-4) states that, except as may be otherwise provided in the Constitution or the provisions of the Open Meetings Act, all meetings of a quorum of members of any board, council, commission, administrative adjudicatory body or other policymaking body of any state or local public agency held for the purpose of formulating public policy, discussing public business or for the purpose of taking any action within the authority of or the delegated authority of such body, are declared to be public meetings open to the public at all times; and

**WHEREAS**, any meeting subject to the Open Meetings Act at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs shall be held only after reasonable notice to the public; and

**WHEREAS**, Section 10-15-1(D) of the Open Meetings Act requires the Lincoln County Board of Commissioners to determine annually what constitutes reasonable notice of its public meetings.

**NOW, THEREFORE, BE IT RESOLVED** by the Lincoln County Board of Commissioners that:

1. Regular meetings of the Lincoln County Board of Commissioners shall ordinarily be held each month at a time and place designated in the notice. The agenda will be available at least seventy-two (72) hours prior to the meeting from the Lincoln County Manager's Office located in the Lincoln County Courthouse, Carrizozo, New Mexico
2. Special meetings of the Lincoln County Board of Commissioners may be called by the Chairman or a majority of the members upon two (2) days notice. The notice shall include an agenda for the meeting or information on how members of the public may obtain a copy of the agenda. The agenda shall be available to the public at least seventy-two (72) hours before any special meeting.
3. Emergency meetings of the Lincoln County Board of Commissioners will be called only under unforeseen circumstances that demand immediate action to protect the health, safety and property of citizens or to protect the public body from substantial financial loss. The Lincoln County Board of Commissioners will avoid emergency meetings whenever possible. Emergency meetings may be called by the Chairman or a majority of the members upon three (3) hours notice, unless threat of personal injury or property damage requires less notice. The

notice for all emergency meetings shall include an agenda for the meeting or information on how the public may obtain a copy of the agenda.

4. For the purposes of regular meetings described in paragraph 1 of this resolution, notice requirements will be complied with by the Lincoln County Clerk's permanently posting on the bulletin board at the Lincoln County Courthouse a copy of this resolution, as well as a notice setting forth the days and times of the regular meetings which have been set by resolution. Changes effecting the date of a regular scheduled meeting will be mailed to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made a written request for notice of public meetings.
5. For the purposes of special meetings and emergency meetings described in paragraphs 2 and 3 of this resolution, notice requirements shall be met by posting notices in the offices of the Lincoln County Clerk and the Lincoln County Manager. The Lincoln County Manager's Office shall provide telephonic notice to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made a written request for notice of public meetings.

Every effort shall be made to follow the latest version of Robert's Rules of Order. The Robert's Rules of Order shall be specifically modified to allow the Chairman to vote in all instances.

7. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the County Manager's Office at 575/648-2385 at least one week prior to the meeting or as soon as possible. Please contact the County Manager's Office at 575/648-2385 if a summary or other type of accessible format is needed.
8. The Lincoln County Board of Commissioners may close a meeting to the public only if the subject matter of such discussion or action is excepted from the open meeting requirement under Section 10-15-1(H) of the Open Meetings Act.
  - (1) If any meeting is closed during an open meeting, such closure shall be approved by a majority vote of a quorum of the Lincoln County Board of Commissioners taken during the open meeting. The authority for the closed meeting and the subjects to be discussed shall be stated with reasonable specificity in the motion to close and the vote of each individual member on the motion to close shall be recorded in the minutes. Only those subjects specified in the motion may be discussed in the closed meeting.

- (2) If a closed meeting is conducted when the Lincoln County Board of Commissioners is not in an open meeting, the closed meeting shall not be held until public notice, appropriate under the circumstances, stating the specific provision of law authorizing the closed meeting and the subjects to be discussed with reasonable specificity, is given to the members and the general public.
  - (3) Following completion of any closed meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting if the closed meeting was separately scheduled, shall state whether the matters discussed in the closed meeting were limited only to those specified in the motion or notice for closure.
  - (4) Except as provided in Section 10-15-1(H) of the Open Meetings Act, any action taken as a result of discussions in a closed meeting shall be made by vote of the Lincoln County Board of Commissioners in an open public meeting.
9. Pursuant to 10-15-1 NMSA 1978, paragraph C, a member or members of the Lincoln County Board of Commissioners may participate in a meeting of the Board by means of a conference telephone or other similar communications equipment when it is otherwise difficult or impossible for the member or members to attend the meeting in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time and members of the public attending the meeting are able to hear any member of the public body who speaks during the meeting.

**PASSED, ADOPTED AND APPROVED** this 19<sup>th</sup> day of November 2014.

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

\_\_\_\_\_  
Jackie Powell, Chairwoman

\_\_\_\_\_  
Preston Stone, Vice Chair

\_\_\_\_\_  
Dallas Draper, Member

\_\_\_\_\_  
Mark Doth, Member

\_\_\_\_\_  
Kathryn Minter, Member

**ATTEST:**

\_\_\_\_\_  
Rhonda Burrows, County Clerk

# County of Lincoln

300 Central Avenue  
P. O. Box 711  
Carrizozo, New Mexico 88301

PHONE (575)648-2385  
FAX (575) 648-4182

December 19, 2014

## NOTICE OF PUBLIC MEETING

**NOTICE** is hereby given that the **Lincoln County Lodger's Tax Committee** will hold its regularly scheduled meetings at the Council Chambers, Village of Capitan, New Mexico, at 10:00 a.m., to the following dates:

**Tuesday, January 27, 2015**  
**Tuesday, February 24, 2015**  
**Tuesday, March 31, 2015**  
**Tuesday, April 28, 2015**  
**Tuesday, May 26, 2015**  
**Tuesday, June 30, 2015**

**Tuesday, July 28, 2015**  
**Tuesday, August 25, 2015**  
**Tuesday, September 29, 2015**  
**Tuesday, October 27, 2015**  
**Tuesday, November 24, 2015**  
**December 29, 2015 No Meeting**

A proposed Agenda will be available at least twenty-four (24) hours before the meeting from the County Manager's Office, Lincoln County Administration Building, Carrizozo, New Mexico.

Changes affecting the date and/or location of a regular scheduled meeting will be mailed to newspapers of general circulation in Lincoln County and notices will be posted on the official bulletin board in the Lincoln County Administration Building, 300 Central Avenue, Carrizozo.

Special meetings of the Lincoln County Lodgers= Tax Committee may be called by the Chairman or a majority of the members upon three (3) days notice. For the purpose of special meetings, notice requirements will be met by posting notices on the official bulletin board in the Lincoln County Administration Building and notifying the news media.

If you are an individual with a disability who is in need of an auxiliary aid or service, please contact 575/648-2385 at least 48 hours in advance of the meeting.

BILLIE-JO GUEVARA  
ADMINISTRATIVE ASSISTANT/  
HUMAN RESOURCES DIRECTOR

PUBLISH: Lincoln County News on December 23, 2014

# County of Lincoln

300 Central Avenue  
P. O. Box 711  
Carrizozo, New Mexico 88301

(575) 648-2385  
FAX (575) 648-4182

December 19, 2014

## NOTICE OF PUBLIC MEETINGS

**NOTICE** is hereby given that the **Lincoln County Planning Commission** will hold its regularly scheduled meetings at the Lincoln County Courthouse (Commission Chambers) in Carrizozo, New Mexico, at 1:00 p.m., on the following dates:

Wednesday, January 7, 2015  
Wednesday, February 4, 2015  
Wednesday, March 4, 2015  
Wednesday, April 1, 2015  
Wednesday, May 6, 2015  
Wednesday, June 3, 2015

Wednesday, July 1, 2015  
Wednesday, August 5, 2015  
Wednesday, September 2, 2015  
Wednesday, October 7, 2015  
Wednesday, November 4, 2015  
Wednesday, December 2, 2015

A proposed Agenda will be available at least twenty-four (24) hours before the meeting from the Lincoln County Planning Office, 115 Kansas City Road, Ruidoso, New Mexico or from the County Manager's Office, Lincoln County Administration Building, Carrizozo, New Mexico.

Changes affecting the date and/or location of a regular scheduled meeting will be mailed to newspapers of general circulation in Lincoln County and notices will be posted on the official bulletin board in the Lincoln County Administration Building, 300 Central Avenue, Carrizozo.

Special meetings of the Lincoln County Planning Commission may be called by the Chairman or a majority of the members upon three (3) days notice. For the purpose of special meetings, notice requirements will be met by posting notices on the official bulletin board in the Lincoln County Administration Building and notifying the news media.

If you are an individual with a disability who is in need of an auxiliary aid or service, please contact 575/648-2385 at least 48 hours in advance of the meeting.

BILLIE-JO GUEVARA  
ADMINISTRATIVE ASSISTANT/  
HUMAN RESOURCES DIRECTOR

PUBLISH: Lincoln County News on December 23, 2014

**COUNTY OF LINCOLN**

**300 Central Avenue  
Post Office Box 711  
Carrizozo, New Mexico 88301**

**Phone: 575/648-2385  
Fax: 575/648-4182**

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December 19, 2014

**NOTICE OF PUBLIC MEETINGS**

**NOTICE** is hereby given that the **Lincoln Historic Preservation Board** will hold its regularly scheduled meetings at the Community Church in Lincoln, New Mexico, at 7:00 p.m. on the following dates:

<b>Thursday, January 15, 2015</b>	<b>Thursday, July 16, 2015</b>
<b>Thursday, February 19, 2015</b>	<b>Thursday, August 20, 2015</b>
<b>Thursday, March 19, 2015</b>	<b>Thursday, September 17, 2015</b>
<b>Thursday, April 16, 2015</b>	<b>Thursday, October 15, 2015</b>
<b>Thursday, May 21, 2015</b>	<b>Thursday, November 19, 2015</b>
<b>Thursday, June 18, 2015</b>	<b>Thursday, December 17, 2015</b>

A proposed Agenda will be available at least twenty-four (24) hours before the meeting from the Lincoln County Planning Office, 115 Kansas City Road, Ruidoso, New Mexico or from the County Manager's Office, Lincoln County Administration Building, Carrizozo, New Mexico.

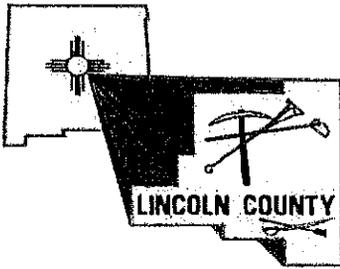
Changes affecting the date and/or location of a regular scheduled meeting will be mailed to newspapers of general circulation in Lincoln County and notices will be posted on the official bulletin board in the Lincoln County Administration Building, 300 Central Avenue, Carrizozo.

Special meetings of the Lincoln Historic Preservation Board may be called by the Chairman or a majority of the members upon three (3) days notice. For the purpose of special meetings, notice requirements will be met by posting notices on the official bulletin board in the Lincoln County Administration Building and notifying the news media.

If you are an individual with a disability who is in need of an auxiliary aid or service, please contact 575/648-2385 at least 48 hours in advance of the meeting.

BILLIE-JO GUEVARA  
ADMINISTRATIVE ASSISTANT/  
HUMAN RESOURCES DIRECTOR

PUBLISH: Lincoln County News on December 23, 2014



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# County of Lincoln

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## AGENDA ITEM NO. 15

November 14, 2014

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, Lincoln County Manager 

**SUBJECT:** Payment in Lieu of Taxes (PILT)

**Purpose:** Consider / Take Action on Resolution No. 2014-27 Supporting the Full Funding of Payment in Lieu of Taxes from the Federal Government

### **Discussion:**

Lincoln County has been reliant of PILT funding for years, with the FY14 payment totaling \$1,691,372. As of this date, Congress has not yet acted to provide FY2015 funding for this program. Without this funding, all impacted counties will be forced to implement budget contingency plans, perhaps cutting critical local government services.

- See Enclosure 1 for the NACo News Release that counties were requested to support;
- See Enclosure 2 for Lincoln County Resolution 2014-27, requesting swift passage of legislation to extend mandatory PILT funding for FY2014 to the previously authorized levels and beyond.

**Recommendation:** Approve Resolution 2014-27 supporting the passage of federal legislation extending PILT payments for FY 2015. Provide direction regarding the County customized News Release requested to be provided to NACo.

**RESOLUTION NO. 2014-27**

**REQUESTING CONGRESS TO PROVIDE FY 2015 PILT FUNDING**

**WHEREAS**, the Payment in Lieu of Taxes (PILT) program was created in 1976 to offset costs incurred by counties for services provided to public lands; and

**WHEREAS**, Lincoln County provides services to the public lands in the way of road maintenance, law enforcement, fire protection, and other important community services; and

**WHEREAS**, PILT payments make up a significant portion of the revenues upon which Lincoln County's operating budget is based; and

**WHEREAS**, Federal Public Lands make-up 36% of the land in Lincoln County; and

**WHEREAS**, PILT was extended through the farm bill (P.L. 113-79) as a fully funded, mandatory program at \$425 million for FY 2014; and

**WHEREAS**, without Congressional action to extend additional mandatory funding, PILT will revert to a discretionary program subject to the annual appropriations process;

**NOW, THEREFORE, BE IT RESOLVED** that the Lincoln County Board of Commissioners respectfully requests that Congress provide full funding for PILT in FY 2015 and that Congress should develop a sustainable long-term approach to funding these essential local services in America's public lands counties.

Passed and approve on this 19<sup>th</sup> day of November 2014.

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

\_\_\_\_\_  
Jackie Powell, Chairwoman

\_\_\_\_\_  
Preston Stone, Vice Chair

\_\_\_\_\_  
Mark Doth, Member

\_\_\_\_\_  
Kathryn Minter, Member

\_\_\_\_\_  
Dallas Draper, Member

**ATTEST:**

\_\_\_\_\_  
Rhonda Burrows, County Clerk



## NEWS RELEASE

**FOR IMMEDIATE RELEASE:** November 19, 2014  
**CONTACT:** Brian Namey, [bnamey@naco.org](mailto:bnamey@naco.org), 202.942.4220  
Nita Taylor, [ntaylor@lincolncountynm.gov](mailto:ntaylor@lincolncountynm.gov), 575.648.2385

# LINCOLN COUNTY, NEW MEXICO Board of County Commissioners Urge Immediate Congressional Action on Payment in Lieu of Taxes funding

**WASHINGTON, D.C.** – Lincoln County, New Mexico joined the National Association of Counties (NACo) in urging members of Congress to approve Fiscal Year 2015 funding for the Payment in Lieu of Taxes program, or PILT, which enables counties to provide vital services to residents and visitors to America’s public lands. Lincoln County Commission is calling on its New Mexico Congressional Delegation: **Representative Steve Pearce, Representative Michelle Lujan Grisham, Representative Ben Ray Lujan, Senator Tom Udall** and **Senator Martin Heinrich** to secure immediate funding for the PILT program before the year’s end.

“Congress must fund PILT before the end of the year,” said Commission Chair Jackie Powell. “The county delivers a large number of services to support the public lands within our boundaries. Key services include road maintenance, watershed restoration and fire protection; county services allow us to enjoy public lands safely. The PILT program helps to make those and other services possible.”

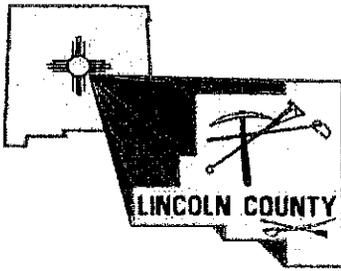
Nearly 36 percent of Lincoln County is comprised of federal lands. This year, the county received PILT payments of \$1.7 million, which represents 6.9 percent of the county general fund budget.

Without PILT funding, counties and local property owners would be burdened with funding vital public services related to federal public lands beyond the means of the local tax base.

“Without swift congressional action, our county and communities across the country could face devastating budget shortfalls or tax increases to support mandated county services,” said Commissioner Powell. “Our county provides ongoing services for federal public lands, and members of Congress must support these services.”

The PILT program provides \$437 million to approximately 1,900 counties and other local governments to offset forgone tax revenues due to the presence of substantial acreage of federal land in their jurisdictions. Despite not being able to collect property taxes on federal lands, county governments still provide important services for their residents and visitors to public lands, including solid waste disposal, law enforcement, road and bridge upkeep and emergency medical services.





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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. 16a

November 19, 2014

### MEMORANDUM

**To:** County Commissioners

**From:** Nita Taylor, Lincoln County Manager

**Subject:** Lincoln County Medical Center (LCMC) Lease and Second Amendment inspection

**Purpose:** Determine Potential Amendment language

**Discussion:** There are items regarding the LCMC lease which are in need of inspection. The LCMC lease currently in effect utilizes language which has been replaced due to recent changes from Sole Community Provider funds to Safety Net Care Pool funds. Additionally, due to Lincoln County voters recently renewing a Mill Levy of 3.0, the LCMC lease language will need to reflect new dates and updated language pursuant to recent changes in the New Mexico Statute Hospital Funding Act, Article 48B. Further, pursuant to paragraph 2.1 in the Second Amendment to the LCMC Lease the County and Presbyterian/LCMC are to meet and discuss whether to modify the amount of the Lease payment. It states:

“Ninety days prior to the end of each year, beginning for the first time, however, on October 1, 2014, the parties shall meet to determine whether any adjustment (either up or down) to the base rent is warranted. Any adjustment to which the parties agree shall be effective as of January 1 following the date of such agreement. If the parties fail to agree on any adjustment, PHS shall pay for the following year the base rent then in effect plus Fifty Thousand Dollars (\$50,000.00).

County Attorney drafted a Third Amendment to the LCMC Lease, incorporating new language reflective of recent changes in Sole Community Provider funds to Safety Net Care Pool and any other verbiage changes needed to comply with the Affordable Health Act, and to refine any additional language in the existing lease to bring the lease into compliance with New Mexico Statutes regarding the Hospital Funding Act. See **Enclosure 1** for Second Amendment and **Enclosure 2** for Third Amendment.

County Manager and County Attorney met with representatives of LCMC/PHS to review lease. General preliminary consensus was reached that the lease amount need not be modified at this time. PHS Attorney will take County proposed language changes to PHS Administration for review.

**Recommendation:** No formal action required at this time. Review proposed Third Lease Amendment and provide direction to County Manager and County Attorney of additional proposed changes.

**SECOND AMENDMENT  
TO  
LEASE AGREEMENT**

This Second Amendment to Lease Agreement is made as of the 1st day of January 2014, by and between the COUNTY OF LINCOLN, a political subdivision of the State of New Mexico (the "County") and PRESBYTERIAN HEALTHCARE SERVICES, a New Mexico nonprofit corporation ("PHS").

**RECITALS**

- A. County and PHS are parties to a Lease Agreement dated April 12, 2006 (the "Lease").
- B. County has constructed certain improvements on real property currently leased to PHS ("Improvements"). PHS and County wish to formally memorialize the terms and conditions under which these new improvements will be leased to PHS.
- C. In accordance with Section 2.1 of the Lease, and in light of the construction of the Improvements, PHS and the County desire to agree on an adjustment to the base rent.
- D. County and PHS desire to amend the Lease as set forth in this Second Amendment to Lease Agreement ("Second Amendment").

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing premises, the County and PHS agree to amend the Lease, effective as of January 1, 2014, as follows:

- A. Exhibit A to the existing Lease is hereby deleted in its entirety and replaced with the Exhibit A attached to this Second Amendment. Exhibit A is being added to more clearly provide that the fixed assets shall include the LCMC Hospital Assets, EMS Assets and Rural Clinic Assets ("Additional Fixed Assets").
- B. Section 1.1 of the Lease is hereby amended to include the Physician's Office Building located at 121 El Paso Road, Ruidoso, New Mexico ("POB") and the Physical Therapy Building located at 213 Sudderth, Ruidoso, New Mexico ("PT Building") to the Lease. The parties agree that under the Lease the POB and PT Building will be considered "Leased Premises" or "Premises."

C. Sections 12.1 and 12.6 of the Lease are hereby amended to provide that although the County shall pay to PHS the full amount of any mill levy collected, or use such mill levies solely for the benefit of the Lincoln County Medical Center, and rural clinics and EMS services within Lincoln County, the County shall have sole discretion to determine how much of any authorized mill levy shall be imposed on an annual basis. The parties also agree that Lincoln County Medical Center may have input as to the portion of mill levies that will be used to obtain Sole Community Provider funding, as the program has been historically known, or for such similar programs as the SCP program evolves or as other programs are developed in the future.

D. Section 2.1 of the Lease is hereby amended to read as follows:

2.1. Base Rent: PHS shall pay the County as rental for the use of the Leased Premises the sum of One Million One-Hundred Thousand Dollars (\$1,100,000) per year for one year, payable in 12 equal monthly installments commencing on January 1, 2014 and continuing thereafter on or before the first business day of each month during the Initial Term and any Renewal Term. The Parties may agree that any portion or all of the amount due as rent may be offset by the assumption by PHS of obligations otherwise imposed on the County under this Lease upon prior approval of the County. Ninety days prior to the end of each year, beginning for the first time, however, on October 1, 2014, the parties shall meet to determine whether any adjustment (either up or down) to the base rent is warranted. Any adjustment to which the parties agree shall be effective as of the January 1<sup>st</sup> following the date of such agreement. If the parties fail to agree on any adjustment, PHS shall pay for the following year the base rent then in effect plus Fifty Thousand Dollars (\$50,000.00).

E. The parties agree that they shall enter into a medical director agreement pursuant to a separate written agreement to address the medical director services required in connection with the County's volunteer fire department and for dispatch of EMS through the Sherriff's Office.

F. Except as specifically amended above, the provisions of the Lease remain in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto affixed their hands and seal the day and year first above written.

**PRESBYTERIAN HEALTHCARE SERVICES**

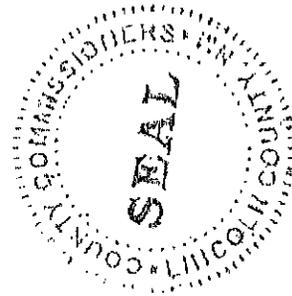
By: \_\_\_\_\_  
James H. Hinton, President  
& Chief Executive Officer

**BOARD OF COUNTY COMMISSIONERS  
OF LINCOLN**

by: Jackie Powell  
Jackie Powell, Chair

**ATTEST:**

Rhonda Burrows  
Rhonda Burrows  
Lincoln County Clerk



Approved as to form and correctness:

Alan P. Morel  
Alan P. Morel, Attorney for Lincoln County

Approved as to form and correctness:

\_\_\_\_\_  
Gabriel Parra, Attorney for Presbyterian  
Healthcare Services

**THIRD AMENDMENT  
TO  
LEASE AGREEMENT**

This **Third** Amendment to Lease Agreement is made as of the \_\_\_ day of \_\_\_\_\_ 201\_, by and between the COUNTY OF LINCOLN, a political subdivision of the State of New Mexico (the "County") and PRESBYTERIAN HEALTHCARE SERVICES, a New Mexico nonprofit corporation ("PHS").

**RECITALS**

A. County and PHS are parties to a Lease Agreement dated April 12, 2006 (the "Lease").

B. County has constructed certain improvement on real property currently leased to PHS ("Improvements"). PHS and County wish to formally memorialize the terms and conditions under which these new improvements will be leased to PHS.

C. In accordance with Section 2.1 of the Lease, and in light of the construction of the Improvements, PHS and the County desire to agree on an adjustment to the base rent.

D. **In light of recent changes in language reflecting new terminology in indigent care, changes are indicated to bring the existing Lease into compliance with the State of New Mexico Hospital Funding Act.**

E. County and PHS desire to amend the Lease as set forth in this **Third** Amendment to Lease Agreement ("**Third** Amendment") **which supersedes and replaces the Second Amendment to the Lease Agreement in its entirety.**

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing premises, the County and PHS agree to amend the Lease, effective as of \_\_\_\_\_, as follows:

A. Exhibit A to the existing Lease is hereby deleted in its entirety and replaced with the Exhibit A attached to this **Third** Amendment. Exhibit A is being added to more clearly provide that the

fixed assets shall include the LCMC Hospital Assets, EMS Assets and Rural Clinic Assets (“Additional Fixed Assets”).

B. Section 1.1 of the Lease is hereby amended to include the Physician’s Office Building located at 121 El Paso Road, Ruidoso, New Mexico (“POB”) and the Physical Therapy Building located at 213 Sudderth, Ruidoso, New Mexico (“PT Building”) to the Lease. The parties agree that under the Lease the POB and PT Building will be considered “Leased Premises” or “Premises.”

C. **Sections 12.1 and 12.6 of the Lease are hereby amended to provide that subject to adjustments authorized by this section and Section 4-48B NMSA 1978, the County shall impose, collect and distribute the proceeds of the mill levy solely for the benefit of Lincoln County Medical Center, rural clinics and EMS services within Lincoln County, for non-sectarian purposes in making available the hospital facilities and services listed in Section 3.4 of the Lease for the care of the sick of the County. The County shall have sole discretion to determine how much of any authorized mill levy shall be imposed on an annual basis. The County has the right and duty under the Hospital Funding Act annually to determine the amount of the mill levy to be assessed based upon the needs of the hospital and the clinics supported with mill levy proceeds. Amounts so approved and authorized shall likewise be determined and deemed necessary to pay the amounts required in the performance of PHS and County’s obligations hereunder. The parties also agree the Lincoln County Medical Center may have input as to the portion of mill levy funds that will be used to obtain Safety Net Care Pool funding.**

D. Section 2.1 of the Lease is hereby amended to read as follows:

2.1. Base Rent: PHS shall pay the County as rental for the use of the Leased Premises the sum of One Million One-Hundred Thousand Dollars (\$1,100,000) per year for one year, payable in 12 equal monthly installments commencing on January 1, 2014 and continuing thereafter on or before the first business day of each month during the Initial Term and any Renewal Term. The Parties may agree that any portion or all of the amount due as rent may be offset by the assumption by PHS of obligations

otherwise imposed on the County under this Lease upon prior approval of the County. Ninety days prior to the end of each year, beginning for the first time, however, on October 1, 2015, the parties shall meet to determine whether any adjustment (either up or down) to the base rent is warranted. Any adjustment to which the parties agree shall be effective as of the January 1<sup>st</sup> following the date of such agreement. If the parties fail to agree on any adjustment, PHS shall pay for the following year the base rent then in effect plus Fifty Thousand Dollars (\$50,000.00).

E. The parties agree that they shall enter into a medical director agreement pursuant to a separate written agreement to address the medical director services required in connection with the County's volunteer fire department and for dispatch of EMS through the Sherriff's Office.

F. Except as specifically amended above, the provisions of the Lease remain in full force and effect.

**IN WITNESS WHEREOF**, the parties have hereunto affixed their hands and seal the day and year first above written.

**PRESBYTERIAN HEALTHCARE SERVICES**

**BOARD OF COUNTY COMMISSIONERS  
OF LINCOLN**

By: \_\_\_\_\_  
James H. Hinton, President  
& Chief Executive Officer

by: \_\_\_\_\_  
Authorized Representative

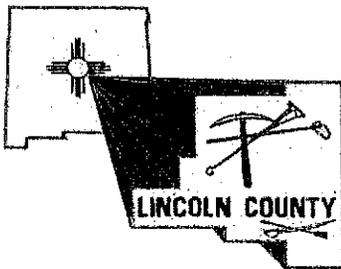
**ATTEST:**

\_\_\_\_\_  
Lincoln County Clerk

Approved as to form and correctness:

\_\_\_\_\_  
Alan P. Morel





# County of Lincoln

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

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Agenda Item No. 16b

November 13, 2014

## MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, Lincoln County Manager *NT*

**SUBJECT:** NM Human Services Department Request for County Match for January Through June, 2014 HSD Payment to LCMC

**Purpose:** Discuss / Take Action on NM Human Services Department on County Match for HSD Payment to LCMC

**Discussion:** On November 4<sup>th</sup>, Manager received correspondence from Brent Earnest, Deputy Secretary of NM Human Services Department, outlining the new process in place to provide funding for 1) payments to safety net hospitals and 2) higher Medicaid reimbursement rates for inpatient services. **See Enclosure 1.**

The actual purpose of the letter was to request those Counties that did not make a SCP/SNCP payment to the HSD for the timeframe of January – June, 2014, to make payment now:

“If you have not submitted the contribution for that payment, please do so, or HSD may be forced to recoup the related portion of the hospital payment. The enclosed table provides details about the payments that your contributions support, and **the amount we could have to recoup without your contribution.**”

Page 3 of Enclosure 1 illustrates the amount requested from the County is \$193,503; and the amount subject to recoupment from LCMC is \$628,256.49, should the County opt not to make this payment. HSD tied no deadline for the submission of this payment.

As you’ll recall, the timeframe of January 1 – June 30, 2014 was that window during which neither SCP nor SNCP was an active program. (SCP ended on 12/31/13 and SNCP was to commence on 7/1/14). LCMC made the Commission aware of this funding uncertainty and requested \$1.1 million to cover the loss of SCP payments and the uncertainty of the industry at that time. The County Commission approved that funding level and subsequently paid LCMC \$550,000 on April 10, 2014 and \$550,000 on June 13, 2014; both payments out of the hospital mil levy fund.

As it turned out, LCMC received a total of \$1,728,256 from both sources. Had they known of the \$628,256 coming from the State, LCMC's request to the County surely would have been less. On November 13, 2014, Manager submitted an e-mail proposal to Al Santos, LCMC's Administrator, that LCMC reimburse the County \$193,503 of the \$550,000 mil levy funding that the County paid to it on June 13, 2014, in order for the County to submit that amount to HSD. That submission would prevent the potential consequence of HSD recouping \$628,256.49 from LCMC. Attorney Morel and Manager again discussed that option with LCMC Administration on Friday, November 15<sup>th</sup>.

The Commission has three options to consider:

1. Submit payment to NM Human Services Department in the amount of \$193,256.49 from mil levy hospital account;
2. Submit payment to NM Human Services Department in the amount of \$193,256.49 *after receipt of reimbursement from LCMC* of same amount;
3. In the circumstance that LCMC opts not to reimburse the County; submit notification to NM Human Services Department that the County opts to make no payment to the State due to payments made during that timeframe directly to LCMC.

**Recommendation:** Adopt options 2 and 3.

October 31, 2014

Nita Taylor, Lincoln County Manager  
PO Box 711  
Carrizozo, NM 88301

RECEIVED

NOV 04 2014

ADMINISTRATION  
LINCOLN COUNTY NM

Dear Ms. Taylor:

Having completed the first quarter of state fiscal year 2015, we wanted to provide additional information about the implementation of the Safety Net Care Pool and payments to your local hospital.

As you know, on January 1, 2014, the Sole Community Provider program was replaced with the Safety Net Care Pool (SNCP) program to comply with the state's federal agreement for operation of the Medicaid program. In the 2014 legislative session, following more than a year of discussion and negotiation among counties, hospitals and the Human Services Department, the Legislature passed and the Governor signed Senate Bill 268 et al, which provides funding and reporting requirements for payments to our safety net hospitals. Even more directly than the Sole Community Provider Program before it, this program pays for hospital care and reduces, or eliminates, the hospital indigent claims payments from your county indigent fund.

The SNCP program includes new payments for uncompensated care and hospital quality improvements, and there is a related increase to inpatient Medicaid reimbursement rates. The majority of the higher Medicaid rates are now in place, and we are also pleased to report that payments for uncompensated care were made to your hospital in July and August. Hospitals received these payments after submitting an application identifying their uncompensated care (UC), and HSD has authority from the federal government to pay a total of \$68.9 million in UC payments. In most cases, these payments entirely funded the Medicaid uncompensated care gap identified in the hospital's application. Enclosed is a table with the amount of uncompensated care identified by your local hospital and the amount paid by HSD.<sup>1</sup> We have also enclosed the application from your hospital. Never before has this level of detail been made available to counties, and we hope you find this information useful.

The second component of payments that support these hospitals are higher Medicaid reimbursement rates for inpatient services. These rates are in place for most hospital payments<sup>2</sup>, and we have estimated the amount that your hospital will receive. This information is also included on the enclosed table.

<sup>1</sup> With payment authority from the federal government totaling \$68.8 million, three of the four largest hospitals in the program received a prorated payment and UNMH did not receive a UC payment.

<sup>2</sup> The state is still working with the federal Centers for Medicare and Medicaid Services to adjust the fee-for-service rates. Rates through the state's managed care system (Centennial Care) are in place.

Counties continue to play a critical role in supporting these safety net hospitals, and Senate Bill 268 from the 2014 session reflects that commitment. While the enactment of SB 268 changed the county contribution format beginning July 1, 2014, the legislation did not alter the county budget contributions for FY14, and HSD still needed county support to make hospital payments for the second half of the fiscal year (January - June 2014). We requested funding for payments associated with this period in June.<sup>3</sup> We have received contributions from many counties for that period, and we thank you for the continued support of your hospital. If you have not submitted the contribution for that payment, please do so or HSD may be forced to recoup the related portion of the hospital payment. The enclosed table provides detail about the payments that your contributions support, and the amount we could have to recoup without your contribution.

Finally, your first quarter payment to the Safety Net Care Pool was due on September 30, and for those of you submitting the payment, thank you for your prompt attention. If you have not submitted that payment, please accept this as a reminder that quarterly payments, according to the new law, are due by the last day of "March, June, September and December." These quarterly payments should be accompanied by the certification letter attesting that the funds are public. Please refer to our correspondence of September 18th for more information. In addition, the Taxation and Revenue Department recently published a calculation of the 1/12<sup>m</sup> amount for each county. That report can be accessed here: <http://www.tax.newmexico.gov/gross-receipts-taxes.aspx>.

We believe these safety net hospitals provide crucial access to health care services for many New Mexicans, and we are committed to accountability for the additional payments to these hospitals that our tax dollars support. We believe we've struck the right balance in the Safety Net Care Pool program and the state law that codifies it.

Thank you for your continued support of your local hospital. If you have any questions, please don't hesitate to contact Matt Onstott, Deputy Director of the Medical Assistance Division, at [matt.onstott@state.nm.us](mailto:matt.onstott@state.nm.us) or me at [brent.earnest@state.nm.us](mailto:brent.earnest@state.nm.us).

Sincerely,



Brent Earnest  
Deputy Secretary

Enclosures

CC: Steven Kopelman, Executive Director, Association of Counties  
Jeff Dye, NM Hospital Association  
Sidonie Squier, Secretary, HSD  
Julie Weinberg, Director, Medical Assistance Division

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<sup>3</sup> Counties that did not participate in and commit funding for the Sole Community Provider program did not receive this letter.

Human Services Department  
 Safety Net Care Pool  
 Calendar Year 2014

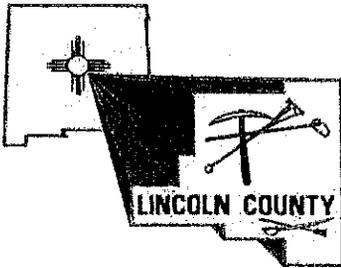
Table 1. Payments to Safety Net Care Pool Hospitals

County	Hospital	Number of Beds	Uncompensated Care Application	Uncompensated Care Payment	Estimated Rate		Total Estimated Payments
					Increase	Payments	
Lincoln	Lincoln County Medical Center	25	\$ 1,709,209.00	\$ 1,709,209.00	\$ 1,481,068.00	\$ 3,190,277.00	

Table 2. Payments (January - June, 2014)

County	Hospital	Number of Beds	Total Estimated Payments (Jan. - June 2014)	Amount requested from County <sup>1</sup>	Amount Paid by County <sup>2</sup>	Payments Subject to Recoupment without County Contribution

1. See correspondence of June 2014
2. As of October 7, 2014



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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. 17

November 15, 2014

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, Lincoln County Manager *NT*

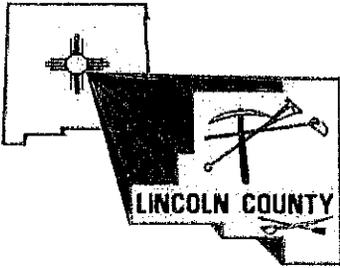
**SUBJECT:** Professional Services Agreement with Melendres & Melendres P.C. to Represent Lincoln County in its Potential Withdrawal from Greentree Solid Waste Authority

**Purpose:** To continue to retain Melendres & Melendres P.C.

### **Discussion:**

At its January, 2014 meeting, Commission approved hiring Melendres & Melendres P.C., to represent the County in its litigation with Greentree Solid Waste Authority ("GSWA"). The Professional Services Agreement entered into with Melendres & Melendres has reached its statutory monetary limit of \$60,000. As litigation with GSWA continues, it is necessary to enter into another Professional Services Agreement with Melendres & Melendres.

**Recommendation:** Approve the continuance of the services of Melendres & Melendres through a Professional Services Agreement for the maximum amount of \$60,000 plus gross receipts tax.



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# County of Lincoln

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## AGENDA ITEM NO. 18a

November 13, 2014

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, County Manager *NT*

**SUBJECT:** Inventory Assets Annual Certification

**Purpose:** Certify Annual Inventory

**Discussion:** New Mexico Statute 12-6-10 requires each agency (including counties) to conduct a physical inventory of movable chattels and equipment costing more than five thousand dollars (\$5,000) and under control of the governing authority. See Enclosure 1. The County Commission has directed the County Manager to supervise the annual inventory of chattels and equipment valued at over \$5,000. At Enclosure 2 is the required Annual Fixed Asset inventory Certification meeting this statutory requirement.

**Recommendation:** Certify the Annual Fixed Asset Inventory

██████████. Annual inventory.

A. The governing authority of each agency shall, at the end of each fiscal year, conduct a physical inventory of movable chattels and equipment costing more than five thousand dollars (\$5,000) and under the control of the governing authority. This inventory shall include all movable chattels and equipment procured through the capital program fund under Section 15-3B-16 NMSA 1978, which are assigned to the agency designated by the director of the facilities management division of the general services department as the user agency. The inventory shall list the chattels and equipment and the date and cost of acquisition. No agency shall be required to list any item costing five thousand dollars (\$5,000) or less. Upon completion, the inventory shall be certified by the governing authority as to correctness. Each agency shall maintain one copy in its files. At the time of the annual audit, the state auditor shall ascertain the correctness of the inventory by generally accepted auditing procedures.

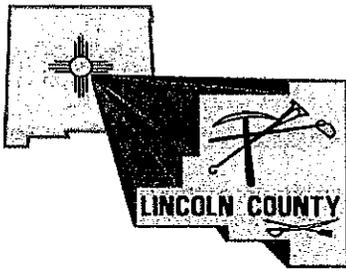
B. The official or governing authority of each agency is chargeable on the official's or authority's official bond for the chattels and equipment shown in the inventory.

C. The general services department shall establish standards, including a uniform classification system of inventory items, and promulgate rules concerning the system of inventory accounting for chattels and equipment required to be inventoried, and the governing authority of each agency shall install the system. A museum collection list or catalogue record and a library accession record or shelf list shall constitute the inventories of museum collections and library collections maintained by state agencies and local public bodies.

D. No surety upon the official bond of any officer or employee of any agency shall be released from liability until a complete accounting has been had. All official bonds shall provide coverage of, or be written in a manner to include, inventories.

**History:** 1953 Comp., § 4-31-10, enacted by Laws 1969, ch. 68, § 10; 1979, ch. 195, § 1; 1983, ch. 303, § 1; 1984, ch. 53, § 1; 1985, ch. 115, § 1; 1987, ch. 35, § 1; 1999, ch. 230, § 1; 2005, ch. 237, § 1; 2013, ch. 115, § 9.

ENCL 1



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# County of Lincoln

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

November 5, 2014

## MEMORANDUM

TO: County Commissioners  
FROM: Jackie Powell, Chairwoman, Board of County Commissioners  
SUBJECT: Annual Fixed Asset Inventory Certification

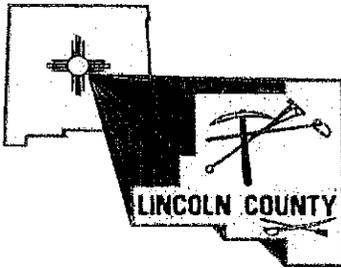
As directed by the Lincoln County Board of Commissioners, the County Manager has supervised this year's annual inventory of chattels and equipment valued at over \$5,000.00. In accordance with generally accepted auditing procedures, and in order to meet the annual requirements for certification as specified in State Statute 12-6-10, we hereby certify the listing for property over \$5000.00 for Lincoln County.

---

Jackie Powell, Chairwoman  
Lincoln County Board of Commissioners

---

Nita Taylor  
County Manager



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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. 18b

November 13, 2014

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, County Manager

**SUBJECT:** Auction County Assets on Public Surplus

**Purpose:** To obtain approval to Auction County Assets on Public Surplus website

**Discussion:** Approval is sought to auction the following County Assets on Public Surplus website

DESCRIPTION	AGENCY	SERIAL NUMBER	PLATE	INVENTORY#
2009 CHEVY	EMS	1GBJK84639E136543	G77738	8704709
1994 FORD/W PLOW	OES	1FTEF14N9RLB49664	G82045	8702831
HP OFFICEJET	TREASURER	CB815A		8705392
CAR VAULT	SHERIFF	NONE		NONE
TYPEWRITER	SHERIFF	4CM51A32208		8201316
OFFICE CHAIR	SHERIFF	NONE		8301404
OFFICE CHAIR	SHERIFF	NONE		8705882
LIGHTBAR	SHERIFF	NONE		NONE
CODE3 LIGHTBAR	SHERIFF	NONE		NONE
ARROWSTICK	SHERIFF	NONE		NONE
ARROWSTICK	SHERIFF	NONE		NONE
SECURITY SCREEN	SHERIFF	NONE		NONE
REFRIGERATOR	SHERIFF	0004287940		8601721
DESK	SHERIFF	32271R		7600260
HP PRINTER	SHERIFF	Q7290A		8702410
HP SCANNER	SHERIFF	SG966B1334J		8702416
HP PRINTER	SHERIFF	EN4CAC7133		8703014
OKIDATA PRINTER	SHERIFF	304D4099603		8703619
OFFICE CHAIR	SHERIFF	NONE		8703814
OAK CAPPED CHAIR	SHERIFF	NONE		8201282
OFFICE CHAIR	SHERIFF	NONE		8301404
NORTEL PHONE SYS	SHERIFF	NONE		NONE
ZENITH TV-VCR	SHERIFF	6D002178		NONE
JVC DUPLICATOR	SHERIFF	XE7LA37954		8702040
2 DRAWER FILE CAB	SHERIFF	NONE		8201108

County Manager's Fax  
(575) 648-4182

Finance/Purchasing Fax  
(575) 648-2381

Rural Addressing Fax  
(575) 648-2816

4 DRAWER FILE CAB	SHERIFF	NONE	7500096
2 DRAWER FILE CAB	SHERIFF	NONE	NONE
4 DRAWER FILE CAB	SHERIFF	NONE	8000750
3 DRAWER FILE CAB	SHERIFF	NONE	NONE

**Recommendation:** Approve the listed property for reporting to the State Auditor and DFA and request at least three elected officials to review the actual property to be auctioned on Public Surplus website.

## RESOLUTION NO. 2014-28

### APPROVAL OF DISPOSTION OF SURPLUS INVENTORY VIA ONLINE AUCTION

**WHEREAS**, the Lincoln County Board of Commissioners meeting in regular session on November 19, 2014 did review the listed surplus inventory that is recommended for disposal via online auction, and

**WHEREAS**, the items listed were valued over \$5,000 at time of purchase, and

**WHEREAS**, none of the items listed are expected to sell for over \$5,000, and

**WHEREAS**, the computer hard drives will be removed and destroyed prior to sale, and

**WHEREAS**, county logos will be removed from all vehicles prior to sale

DESCRIPTION	AGENCY	SERIAL NUMBER	PLATE	INVENTORY#
2009 CHEVY	EMS	1GBJK84639E136543	G77738	8704709
1994 FORD/W PLOW	OES	1FTEF14N9RLB49664	G82045	8702831
HP OFFICEJET	TREASURER	CB815A		8705392
CAR VAULT	SHERIFF	NONE		NONE
TYPEWRITTER	SHERIFF	4CM51A32208		8201316
OFFICE CHAIR	SHERIFF	NONE		8301404
OFFICE CHAIR	SHERIFF	NONE		8705882
LIGHTBAR	SHERIFF	NONE		NONE
CODE3 LIGHTBAR	SHERIFF	NONE		NONE
ARROWSTICK	SHERIFF	NONE		NONE
ARROWSTICK	SHERIFF	NONE		NONE
SECURITY SCREEN	SHERIFF	NONE		NONE
REFRIGERATOR	SHERIFF	0004287940		8601721
DESK	SHERIFF	32271R		7600260
HP PRINTER	SHERIFF	Q7290A		8702410
HP SCANNER	SHERIFF	SG966B1334J		8702416
HP PRINTER	SHERIFF	?		8703014
OKIDATA PRINTER	SHERIFF	304D4099603		8703619
OFFICE CHAIR	SHERIFF	NONE		8703814
OAK CAPPED CHAIR	SHERIFF	NONE		8201282
OFFICE CHAIR	SHERIFF	NONE		8301404
NORTEL PHONE SYS	SHERIFF	NONE		NONE
ZENITH TV-VCR	SHERIFF	6D002178		NONE
JVC DUPLICATOR	SHERIFF	XE7LA37954		8702040
2 DRAWER FILE CAB	SHERIFF	NONE		8201108
4 DRAWER FILE CAB	SHERIFF	NONE		7500096
2 DRAWER FILE CAB	SHERIFF	NONE		NONE
4 DRAWER FILE CAB	SHERIFF	NONE		8000750
3 DRAWER FILE CAB	SHERIFF	NONE		NONE

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of Lincoln County, approves the listed obsolete inventory be disposed of via online auction.

**PASSED, APPROVED AND ADOPTED** this 19<sup>th</sup> day of November, 2014.

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

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Jackie Powell, Chairwoman

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Preston Stone, Vice Chair

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Kathryn Minter, Member

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Mark Doth, Member

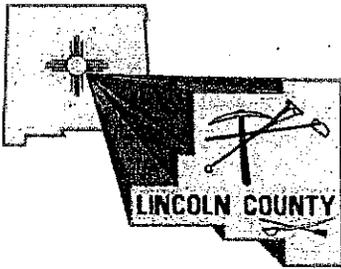
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Dallas Draper, Member

ATTEST:

---

Rhonda Burrows, County Clerk



# County of Lincoln

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

www.lincolncountynm.net

November 12, 2014

AGENDA NO. 19

## 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/SNCP Payments, and the Indigent Health Care (IHC) Payments.

### Discussion:

**Sole Community Provider/SNCP Payments:** This month our coordinator processed twenty-six (26) claims. All Twenty-six (26) claims are recommended for approval. If approved, the total recommended payment this month is **\$22,808.30**. See Enclosure. 1.

**Indigent Health Care Claims:** This month our coordinator processed fifteen (15) claims. Eleven (11) are recommended for approval, and four (4) for disapproval for the reason indicated at Enclosure 2. If approved, total recommended for payment this month is **\$4,735.63**. 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 \$28,758.72 or an average of \$5751.74 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 \$124,995.90 or an average of \$24,999.18 a month.

**Recommendation:** Approve 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

INDIGENT FUND MEETING

NOVEMBER 19, 2014

TOTAL APPLICATIONS	41	27,543.93
TOTAL APPROVED	37	
TOTAL DENIED	4	
ALBUQUERQUE		
ANESTHESIA ASSOCIATES OF NM		412.65
APPROVED-	2	
DENIED-		
RUIDOSO		
LC AMBULANCE-PRES HEALTH SVCS		252.17
APPROVED-	1	
DENIED-		
RUIDOSO		
LINCO MEDICAL & SUPPLY, INC		385.17
APPROVED-	5	
DENIED-		
RUIDOSO		
LINCOLN COUNTY FAMILY MEDICAL		
APPROVED-		
DENIED-	1	
RUIDOSO		
LINCOLN COUNTY MEDICAL CENTER		22,808.30
APPROVED-	26	
DENIED-		
RUIDOSO		
MICHAEL P CLEMENTS, M.D.		
APPROVED-		
DENIED-	1	
ALBUQUERQUE		
NEW MEXICO ONCOLOGY HEMATOLOY		70.92
APPROVED-	1	
DENIED-	2	
ALBUQUERQUE		
PRESBYTERIAN HOSPITAL		3,614.72
APPROVED-	2	
DENIED-		

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

PREVIOUS AMOUNT APPROVED THIS FISCAL YEAR \$102,187.60

ADJUSTMENTS

TOTAL ADJUSTMENTS: \$0.00 \$0.00

NOVEMBER # CLAIMS FOR APPROVAL 26

# CLAIMS FOR DENIAL 0

NOVEMBER # TOTAL CLAIMS 26

NOVEMBER TOTAL \$ AMOUNT APPROVED \$22,808.30

TOTAL # CLAIMS THIS FY APPROVED 121

TOTAL # CLAIMS THIS FY DENIED 5

TOTAL # CLAIMS FY 2014 - 2015 126

TOTAL APPROVED THIS FISCAL YEAR \$124,995.90

FACILITY: LINCOLN COUNTY MEDICAL CENTER 11/19/2014 THROUGH 11/19/2014

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID	
20809	10/09/2014	730.00	562.10	077%
20775	09/29/2014	589.00	453.53	077%
20810	08/28/2014	455.00	350.35	077%
20811	10/09/2014	383.00	294.91	077%
20784	09/21/2014	283.60	218.37	077%
20786	10/10/2014	1216.00	936.32	077%
20787	07/01/2014	50.00	38.50	077%
20788	07/02/2014	50.00	38.50	077%
20789	08/05/2014	7341.00	5652.57	077%
20790	09/19/2014	629.00	484.33	077%
20792	05/07/2014	1245.04	958.68	077%
20793	05/16/2014	53.40	41.12	077%
20794	06/04/2014	158.40	121.97	077%
20795	07/30/2014	1320.00	1016.40	077%
20796	07/02/2014	56.40	43.43	077%
20797	07/18/2014	456.60	351.58	077%
20798	08/06/2014	264.00	203.28	077%
20812	08/28/2014	305.00	234.85	077%
20800	07/30/2014	4767.00	3670.59	077%
20813	10/09/2014	727.00	559.79	077%
20801	09/16/2014	506.38	389.91	077%
20814	10/07/2014	4840.00	3726.80	077%
20815	10/09/2014	163.00	125.51	077%
20804	09/13/2014	488.40	376.07	077%
20805	09/30/2014	438.20	337.41	077%
20806	10/07/2014	2105.75	1621.43	077%

22808.30

APPROVED- 26 REJECTED-

# INDIGENT HEALTH CARE CLAIMS FISCAL YEAR 2014 - 2015

PREVIOUS AMOUNT APPROVED THIS FISCAL YEAR \$24,023.09

## ADJUSTMENTS

CLAIM# 14988 From Date of service 8/9/2010 \$75.38  
Roswell Clinic Corp

**TOTAL ADJUSTMENTS:** \$75.38

NOVEMBER # CLAIMS FOR APPROVAL 11  
# CLAIMS FOR DENIAL 4  
NOVEMBER # TOTAL CLAIMS 15

NOVEMBER TOTAL \$ AMOUNT APPROVED \$4,735.63

TOTAL # CLAIMS THIS FY APPROVED 44  
TOTAL # CLAIMS THIS FY DENIED 14  
TOTAL # CLAIMS FY 2014 - 2015 58

CURRENT TOTAL APPROVED THIS FISCAL YEAR \$28,758.72  
\*Assuming the above is approved

FACILITY: ANESTHESIA ASSOCIATES OF NM 11/19/2014 THROUGH 11/19/2014

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
20776	02/12/2014	1736.00	275.10 016%
20807	10/07/2014	868.00	137.55 016%
			412.65

APPROVED- 2 REJECTED-

FACILITY: LC AMBULANCE-PRES HEALTH SVCS 11/19/2014 THROUGH 11/19/2014

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
20791	05/28/2014	252.17	252.17 100%
			252.17

APPROVED- 1 REJECTED-

FACILITY: LINCO MEDICAL & SUPPLY, INC 11/19/2014 THROUGH 11/19/2014

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
20777	08/06/2014	83.28	83.28 100%
20778	03/24/2014	72.87	72.87 100%
20779	07/24/2014	72.87	72.87 100%
20780	08/24/2014	72.87	72.87 100%
20808	09/13/2014	83.28	83.28 100%
			385.17

APPROVED- 5 REJECTED-

FACILITY: LINCOLN COUNTY FAMILY MEDICAL 11/19/2014 THROUGH 11/19/2014

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
20802	10/25/2013	309.86	000%

PAST FILING DEADLINE

APPROVED- REJECTED- 1

FACILITY: MICHAEL P CLEMENTS, M.D. 11/19/2014 THROUGH 11/19/2014

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
20803	08/13/2014	14.07	000%
PATIENT'S BILL IS BELOW \$50			

APPROVED- REJECTED- 1

FACILITY: NEW MEXICO ONCOLOGY HEMATOLOY 11/19/2014 THROUGH 11/19/2014

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
20781	07/22/2014	4.57	000%
PATIENT'S BILL IS BELOW \$50			
20782	07/23/2014	20.79	000%
PATIENT'S BILL IS BELOW \$50			
20783	07/30/2014	92.10	70.92 077%
			70.92

APPROVED- 1 REJECTED- 2

FACILITY: PRESBYTERIAN HOSPITAL 11/19/2014 THROUGH 11/19/2014

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
20785	09/25/2014	2192.68	1688.36 077%
20799	08/22/2014	2501.76	1926.36 077%
			3614.72

APPROVED- 2 REJECTED-

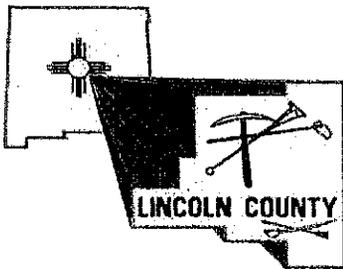
YTD

INDIGENT FUND MEETING

NOVEMBER 19, 2014

TOTAL APPLICATIONS	198	153,754.62
TOTAL APPROVED	175	
TOTAL DENIED	23	
ALBUQUERQUE		
ANESTHESIA ASSOCIATES OF NM		962.85
APPROVED-	4	
DENIED-		
ROSWELL		
EASTERN NM MEXICO MEDICAL CNTR		3,239.13
APPROVED-	2	
DENIED-		
ALAMOGORDO		
GERALD CHAMPION REGIONAL MED CTR		6,915.34
APPROVED-	5	
DENIED-		
RUIDOSO		
LC AMBULANCE-PRES HEALTH SVCS		1,952.17
APPROVED-	5	
DENIED-	2	
RUIDOSO		
LINCO MEDICAL & SUPPLY, INC		1,244.34
APPROVED-	15	
DENIED-		
RUIDOSO		
LINCOLN COUNTY FAMILY MEDICAL		
APPROVED-		
DENIED-	7	
RUIDOSO		
LINCOLN COUNTY MEDICAL CENTER		124,995.90
APPROVED-	121	
DENIED-	5	
ALTO		
LINCOLN COUNTY RADIOLOGY		499.90
APPROVED-	7	
DENIED-		
RUIDOSO		
MICHAEL P CLEMENTS, M.D.		48.02
APPROVED-	1	
DENIED-	5	
ALBUQUERQUE		
NEW MEXICO ONCOLOGY HEMATOLOY		2,881.87
APPROVED-	8	
DENIED-	4	

ROSWELL PATHOLOGY CONSULTANTS OF NM APPROVED- DENIED-	1	679.33
ALBUQUERQUE PRESBYTERIAN HOSPITAL APPROVED- DENIED-	4	9,550.25
ALBUQUERQUE UNM HEALTH SCIENCES CTR APPROVED- DENIED-	2	785.52



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# County of Lincoln

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## AGENDA Item No. 21

November 14, 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;

**Water Rights Notice.** There are no new postings on the State Engineer's website for new Applications for water transfers. However, noticed in the Lincoln County News on October 23, October 30 and November 6 were two Applications filed with the Office of the State Engineer on April 21, 2014. Both Applications requested transfers from George and Margaret Tune, located below Ruidoso Downs, to the Village of Ruidoso, and both carried a request for Emergency Authorization under NMSA 72.5.25.

As you may recall, Commission Chair Powell and Manager Taylor met with the State Engineer, Scott Verhines in his office in Santa Fe in December, 2013 regarding similar issues, and in particular the granting of "Emergency Authorization". During that meeting the State Engineer made the commitment to deny all requests for "Emergency Authorization". In response to the two new Applications mentioned above, Commissioner Powell sent correspondence to State Engineer Verhines reminding him of that commitment. See **Enclosure 1**.

### **Lincoln County and Its Long-Term Commitment to Forest/Watershed Restoration**

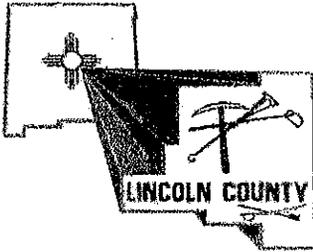
During the July Commission Meeting, Dr. Brent Racher, New Mexico Forest Industry Association, made a presentation seeking a long-term financial commitment by the Commission to achieve forested watershed restoration at an accelerated pace. Dr. Racher discussed the need for wide industry buy-in and committed to set up work-shops that would result in the development of a specific proposal that would be brought back to the Commission at some future point. **The first workshop is scheduled for Friday, November 21<sup>st</sup> at 1:00 at the County's Emergency Operation Center.**

**Hazard Mitigation Grant Program.** The County continues to work on the Lincoln County Education and Outreach Program that was funded by FEMA Grant-4079-DR-NM, through a Sub-grant Agreement with NMDHSEM (\$157,333). The first educational meeting on September 23<sup>rd</sup>, held at Alto Lakes Country Club, was well attended; key to the success of that educational process is the use of the illustrative SimTable. We also had an opportunity to educate the public on November 4, during the Little Bear Fire Reform Coalition's "Speaker Series" meeting. The Kiwanis Club has requested a presentation at its November 25<sup>th</sup> meeting. The committee is fine-tuning a schedule for future educational session, targeting the audiences and selecting venues. This effort is a precursor to the much larger project tied to the \$3.5 million FEMA HMGP's \$3.5 million grant for the actual thinning of trees. This effort shares the huge support from a number of our long-term County partners, such as State Forestry, USFS, South Central Mountain RC&D, and Upper Hondo S&WCD. King Industries plays a key project management role.

County Manager's Fax  
(575) 648-4182

Finance/Purchasing Fax  
(575) 648-2381

Rural Addressing Fax  
(575) 648-2816



# County of Lincoln

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www.lincolncountynm.net  
November 6, 2014

Mr. Scott A. Verhines, P.E.  
New Mexico State Engineer  
130 South Capitol Street,  
Concha Ortiz y Pino Building  
P.O. Box 25102  
Santa Fe, NM 87504-5102



STATE ENGINEER OFFICE  
ROSEBELL, NEW MEXICO  
2014 NOV 10 PM 10:23

Re: Application No. SD-0825-1 into SD-0275-1 and H-272 et al, AND  
Application No. SD-0811-3 into SD-0275-1 and H-272 et al

Dear Mr. Verhines:

I am writing to state the County of Lincoln's concern regarding the two applications filed in your office on April 21, 2014 by the Village of Ruidoso and George P. and Margaret M. Tune. See Attachments A and B. These Applications are not posted on the State Engineer's website.

My concern stems from the fact that Emergency Authorization is requested under NMSA 72-5-25. As I'm sure you'll recall, I, along with County Manager Nita Taylor, met with you in your office in Santa Fe nearly a year ago, on December 16, 2013, to relay our concern about Application No. 01407-1 & H-207 into 0275-1 et al and H-272 et al (T) AND Application No. H-50-1 into 0275-1 and H-272 et al (T), both of which carried a request for "Emergency Authorization". The matter of an Application containing a request for "Emergency Authorization" and the subsequent potential approval of that Application by the State Engineer was one of the key reasons for our visit with you. At the conclusion of that valuable conversation, we left your office with a commitment from you that all requests for "Emergency Authorization" would be denied by your office.

I am asking you to honor your commitment to not grant "Emergency Authorization" to any Applications and for confirmation that these two Applications will be considered under your normal review process and that the request for "Emergency Authorization" will be denied.

Sincerely,

Jackie Powell  
Lincoln County Commission Chair

County Manager's Fax  
(575) 648-4182

Finance/Purchasing Fax  
(575) 648-2381

Rural Addressing Fax  
(575) 648-2816

ENCL 1

# LEGALS - LEGALS - LEGALS

## LEGAL NOTICE

NOTICE is hereby given that on April 21, 2014, Village of Ruidoso, 313 Cree Meadows Drive, Ruidoso, New Mexico 88345 and George P. Tune and Margaret M. Tune, P.O. Box 937, Las Cruces, New Mexico 88004, filed Application No. SD-0825-1 into SD-0275-1 and H-272 et al with the STATE ENGINEER for permit to change point of diversion, place and purpose of use 10.88 acre-feet per annum of surface waters, and change point of diversion from surface to surface water and groundwater, by ceasing the diversion of said surface waters from the Hewett Ditch, which diverts on the north bank of the Rio Ruidoso in the NE1/4NE1/4SE1/4, Section 15, Township 11 South, Range 14 East, and severing said waters from the irrigation of 3.40 acres of land, described as being part of the E1/4SW1/4NW1/4 of Section 12, Township 11 South, Range 14 East, N.M.P.M.

The applicant proposes to commence the diversion of 4.896 acre feet per annum consumptive use of the surface waters of the Rio Ruidoso, and supplemental shallow groundwater from the following described points of diversion:

RIO RUIDOSO SURFACE WATER	SUBDIVISION	SECTION	TOWNSHIP	RANGE
0275-A POD1	NW1/4SW1/4SW1/4	19	11 S.	13 E.
0275-A POD2	SW1/4NE1/4SW1/4	19	11 S.	13 E.
0275-A POD3	SE1/4NW1/4SW1/4	26	11 S.	13 E.

WELL NO.	SUBDIVISION	SECTION	TOWNSHIP	RANGE
H-272	NW1/4NE1/4SW1/4	36	11 S.	13 E.
H-272-S	SE1/4SW1/4NE1/4	25	11 S.	13 E.
H-272-S-2	SW1/4SW1/4NE1/4	02	11 S.	13 E.
H-272-S-3	NE1/4SW1/4SE1/4	02	11 S.	13 E.
H-272-S-4	SE1/4NW1/4NE1/4	11	11 S.	13 E.
H-272-S-5	NE1/4NW1/4SW1/4	14	11 S.	13 E.
H-272-S-6	SW1/4NE1/4NE1/4	15	11 S.	13 E.
H-272-S-7	SW1/4NE1/4SE1/4	10	11 S.	13 E.
H-272-S-8	SE1/4NW1/4SW1/4	14	11 S.	13 E.
H-272-S-9	NW1/4NE1/4NE1/4	23	11 S.	13 E.
H-272-S-11	NW1/4NE1/4SE1/4	25	11 S.	13 E.

for municipal purposes located within the Village of Ruidoso.

Request is made for 50% return flow credit to allow a diversion of 9.792 acre feet per annum with a return flow of 4.896 of acre feet per annum.

Emergency Authorization is requested under NMSA 72-5-25.

The move-from points of diversion and places of use are located slightly downstream on the Rio Ruidoso below Ruidoso Downs, Lincoln County, New Mexico. The proposed move-to points of diversion and place of use are located within the Village of Ruidoso, 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.



Published in the Lincoln County News on October 23, 30; and November 6, 2014.

STATE ENGINEER OFFICE  
ROSWELL, NEW MEXICO

*Attachment A*

**LEGAL NOTICE**

NOTICE is hereby given that on April 21, 2014, Village of Ruidoso, 313 Cree Meadows Drive, Ruidoso, New Mexico 88345 and George P. Tune and Margaret M. Tune, P.O. Box 937, Las Cruces, New Mexico 88004; filed Application No. SD-0811-3 into SD-0275-1 and H-272 et al with the STATE ENGINEER for permit to change point of diversion, place and purpose of use 38.08 acre-feet per annum of surface, and change point of diversion from surface to surface water and groundwater, by ceasing the diversion of said surface waters from the Maxwell Ditch, which diverts on the north bank of the Rio Ruidoso in the NW1/4NE1/4SE1/4, Section 15, Township 11 South, Range 14 East, and severing said waters from the irrigation of 11.9 acres of land, described as being part of the W1/2SW1/4 of Section 12, Township 11 South, Range 14 East, N.M.P.M.

The applicant proposes to commence the diversion of 17.136 acre feet per annum consumptive use of the surface waters of the Rio Ruidoso, and supplemental shallow groundwater from the following described points of diversion:

RIO RUIDOSO	SUBDIVISION	SECTION	TOWNSHIP	RANGE
SURFACE WATER				
0275-A POD1	NW1/4SW1/4SW1/4	19	11 S.	13 E.
0275-A POD2	SW1/4NE1/4SW1/4	19	11 S.	13 E.
0275-A POD3	SE1/4NW1/4SW1/4	26	11 S.	13 E.
WELL NO.	SUBDIVISION	SECTION	TOWNSHIP	RANGE
H-272	NW1/4NE1/4SW1/4	36	11 S.	13 E.
H-272-S	SE1/4SW1/4NE1/4	25	11 S.	13 E.
H-272-S-2	SW1/4SW1/4NE1/4	02	11 S.	13 E.
H-272-S-3	NE1/4SW1/4SE1/4	02	11 S.	13 E.
H-272-S-4	SE1/4NW1/4NE1/4	11	11 S.	13 E.
H-272-S-5	NE1/4NW1/4SW1/4	14	11 S.	13 E.
H-272-S-6	SW1/4NE1/4NE1/4	15	11 S.	13 E.
H-272-S-7	SW1/4NE1/4SE1/4	10	11 S.	13 E.
H-272-S-8	SE1/4NW1/4SW1/4	14	11 S.	13 E.
H-272-S-9	NW1/4NE1/4NE1/4	23	11 S.	13 E.

for municipal purposes located within the Village of Ruidoso.

Request is made for 50% return flow credit to allow a diversion of 34.272 acre feet per annum with a return flow of 17.136 acre feet per annum.

Emergency Authorization is requested under NMSA 72-5-25.

The move-from points of diversion and places of use are located slightly downstream on the Rio Ruidoso below Ruidoso Downs, NM, Lincoln County, New Mexico. The proposed move-to points of diversion and place of use are located within the Village of Ruidoso, 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.

Published in the Lincoln County News on Oct. 23, 30; and Nov. 6, 2014.



2014 NOV 10 AM 10:23

STATE ENGINEER OFFICE  
ROSWELL, NEW MEXICO

Attachment B

**Agenda Item No. 22**

**SUBJECT**

**1:00 P.M.:** Public Hearing to consider the following Ordinance:  
Lincoln County Ordinance No. 2014-07 – An ordinance Providing for the Efficient and Sanitary Collection of Solid Waste in Lincoln County; Providing for Mandatory Disposal and Assessment of Fees; Providing a Penalty for Violation of the Ordinance; and Repealing Ordinance 2008-07

## **LINCOLN COUNTY ORDINANCE NO. 2008 14-07**

### **AN ORDINANCE PROVIDING FOR THE EFFICIENT AND SANITARY COLLECTION OF SOLID WASTE IN LINCOLN COUNTY; PROVIDING FOR MANDATORY DISPOSAL AND ASSESSMENT OF FEES; PROVIDING A PENALTY FOR VIOLATION OF THE ORDINANCE; AND REPEALING ORDINANCE 2008-~~06~~ 07.**

**WHEREAS**, the Board of County Commissioners of Lincoln County finds the following Ordinance necessary to provide the efficient and sanitary collection, transportation and disposal of solid waste in Lincoln County; and

**WHEREAS**, the Board of County Commissioners of Lincoln County finds it necessary to provide a fair and equitable procedure to allocate the cost of solid waste collection among the residents and businesses outside the municipalities who use such services; and

**WHEREAS**, the Board of County Commissioners of Lincoln County is delegated the authority pursuant to NMSA 1978, §4-56-1, *et seq.*, to "... establish and maintain, manage and supervise a system of storage, collection and disposal of all refuse"; and

**WHEREAS**, the Board of County Commissioners of Lincoln County has participated in establishing the ~~Lincoln County Solid Waste Authority~~ Greentree Solid Waste Authority for the purpose of providing a coordinated County-wide program for the collection of solid waste in cooperation with the incorporated municipalities of Capitan, Carrizozo, Corona, and Ruidoso Downs and the unincorporated areas of Lincoln County; and

**WHEREAS**, a mandatory system of solid waste collection is necessary in order to protect the environs of Lincoln County from illegal dumping by lack of a County-wide system of refuse collection containers; and

**WHEREAS**, it is necessary that a mandatory solid waste collection program continue, in order to protect the health, welfare and safety of the citizens of Lincoln County.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LINCOLN COUNTY AS FOLLOWS:**

**Section 1.     Short Title.**

This Ordinance shall be referred to as the Solid Waste Collection and Disposal Ordinance of the County of Lincoln, New Mexico.

**Section 2. Definitions.**

As used in this Ordinance:

- A. "Garbage" is defined as all waste foods, swill, carrion, slops and all waste from the preparation, cooking and consumption of food and from the handling, storage and sale of food products and carcasses of animals.
- B. "Refuse" is defined as all junked parts or bodies of automobiles, tires, waste paper, paper cartons, cardboard, trees, tree branches, yard trimmings or clippings, leaves, pine needles, wood, glass, plastic, discarded furniture or appliances, tin cans, bottles, dirt, ashes, liquid petroleum waste, such as motor oil and such similar items, and all other unwholesome material of every kind, not including garbage or debris.
- C. "Debris" is defined as all waste building material, bricks, concrete blocks, shingles, roofing material, lumber, metal or plastic piping, commercial construction wastes and any other matter that is commonly known as debris.
- D. "Responsible party" is defined as the owner or tenant of any premise, whether vacant, improved or unimproved, used primarily for either a private or business purpose, who is responsible for payment of the mandatory fee for collection.
- E. "Owner" is defined as the owner, whether residing in said premises or not, of any property located outside the corporate boundaries of the municipalities of Capitan, Carrizozo, Corona, **Ruidoso** and Ruidoso Downs, within the County of Lincoln.
- F. "Solid Waste" is defined as garbage, refuse and/or debris of any kind generated by an individual, household or commercial establishment.

G. "Premises" is defined as an improved or unimproved structure, whether designed for private or commercial use, located on any property outside the corporate limits of the municipalities of Capitan, Carrizozo, Corona, Ruidoso and Ruidoso Downs in the County of Lincoln, and is the unit upon which mandatory fees are assessed and collected.

**Section 3. Mandatory Collection and Disposal of Garbage, Refuse, Rubbish and Debris.**

- A. The accumulation or disposal of garbage, refuse, rubbish and/or debris, except as provided by this Ordinance is a violation of the Lincoln County Ordinance regarding refuse, solid waste, and litter and this Ordinance.
- B. All garbage, refuse, rubbish, and debris generated by an owner or tenant on the premises of the responsible party shall only be deposited in a solid waste container authorized by the County or the ~~Lincoln County Solid Waste Authority~~, Greentree Solid Waste Authority except as provided in Section 7 herein.

**Section 4. Powers of the County.**

In connection with the operation of a mandatory solid waste collection system, the Lincoln County Board of Commissioners may:

- A. Execute contracts on behalf of the County, with any municipality, county or other local unit of government, including the ~~Lincoln County Solid Waste Authority~~ Greentree Solid Waste Authority, or any private entity for the collection, transportation and disposal of solid waste generated in the unincorporated areas of Lincoln County;
- B. Regulate the collection, transportation, and disposal of refuse by any entity performing collection services on behalf of Lincoln County in the unincorporated areas of Lincoln County;

- C. Establish, assess, and collect fees directly, or through its authorized agent, from responsible parties using the solid waste collection system in amounts sufficient to pay the necessary costs of the collection, transportation and disposal system;
- D. Coordinate the collection, transportation, and disposal of solid waste, in consultation with the New Mexico Environment Department. ~~of Environment.~~

**Section 5.     Mandatory Fee.**

- A. Participation in the solid waste collection system is mandatory on each responsible party in the unincorporated areas of Lincoln County, except as provided in Section 7 herein.
- B. The Lincoln County Board of Commissioners shall set fees for solid waste collection based on the actual cost to collect, transport and dispose of such solid waste; however, ~~Lincoln County Solid Waste Authority~~ Greentree Solid Waste Authority. Shall have the power to set fees for Commercial rates and rates for special services, including but not limited to grapple and roll off-services.
- C. The Board of County Commissioners of Lincoln County shall establish a system of fees, pursuant to resolution of the Board, which is duly introduced before the Board of County Commissioners of Lincoln County after the Board of County Commissioners has provided notice of the meeting at which final action on the resolution to establish a system of fees is to be taken.
- D. Such notice of public hearing shall be published once in a newspaper of general circulation within the boundaries of Lincoln County at least twenty (20) days prior to said public hearing.
- E. In the event that any responsible party, pursuant to this Section, fails to make payment of

the fees within thirty (30) days of the due dates set forth pursuant to the billing, said party shall be subject to a late fee as established by the Lincoln County Board of Commissioners ~~from time to time~~. In the event the responsible party fails to pay the fees set forth herein for more than one (1) billing cycle, the penalty shall be assessed for each billing cycle for which payment remains outstanding.

**Section 6.    Liens.**

- A. All fees arising under this Ordinance shall be payable by the responsible party of the tract or parcel of land being served at the time the rate or charge accrues and becomes due, and the County of Lincoln shall be entitled to a lien upon the tract or parcel of land being served pursuant to the authority granted under §§3-36-1 NMSA 1978, *et seq.*, and §4-37-1 NMSA 1978, *et seq.*, which lien shall be a first and prior lien on the property, coequal with municipal liens pursuant to §3-26-2, NMSA 1978, but subject only to the lien of general state and county taxes.
- B. The lien provided for in this Section shall be enforced in the matter prescribed in §§3-36-1 through 3-36-7 NMSA 1978. For purposes of this Section, such action shall be taken by the Lincoln County Clerk. In any proceedings where pleadings are required, it shall be sufficient to declare generally for the service supplied for the collection, transportation and disposal of solid waste. Notice of the lien shall be filed in the manner provided in § 3-36-1 NMSA 1978, and the effect of such filing shall be governed by §3-36-2 NMSA 1978.
- C. The charges and fees imposed herein are the responsibility of the responsible party of the premises, regardless of whether occupied by an owner, tenants or others, and the County

may file a lien against the property for such charges, penalties and attorney's fees incurred in the cost of filing the lien, except as provided in paragraph D, below.

D. Paragraph C of this section shall not apply if an owner notifies the County of Lincoln or its designee that charges that may be incurred by a tenant shall not be the responsibility of the owner. Such notification shall be given in writing prior to the initiation of the debt and shall include the location of the rental property.

**Section 7. Exception Procedures.**

A. An owner may request a waiver of the solid waste collection fee if the landowner has at least three-hundred (300) contiguous acres of land with adequate disposal sites per household, obtains a permit from the State Environment Department, agrees to comply with all other provisions of the State regulations as to disposal, and if the solid waste that is generated on that property does not harm the environment or endanger the public health, welfare or safety.

B. The owner or tenant shall only dispose of waste in accordance with any regulations of the Environmental Improvement Board or the New Mexico Water Quality Control Commission, as determined by the New Mexico Environment Department. The owner or tenant must also comply with the Lincoln County Ordinance regulating refuse, solid waste, and litter, as amended and supplemented, regarding the unauthorized accumulation and disposal of solid waste.

**Section 8. Not Applicable to Certain Areas.**

This Ordinance does not apply to property inside the boundaries of incorporated municipalities or water and sanitation districts which operate in house or by contract collection, transportation and disposal of solid waste.

**Section 9. Penalties.**

- A. Persons violating this Ordinance shall, upon conviction, be subject to a fine not to exceed Three Hundred and No/100 Dollars (\$300.00) and/or Ninety (90) days in jail for each separate offense, except as set forth in Paragraphs B and C below.
- B. Persons violating this Ordinance by discarding or disposing of refuse, litter or garbage on public or private property in any manner other than disposing it in an authorized landfill, shall, upon conviction, be subject to a fine not to exceed One Thousand and No/100 Dollars (\$1,000.00) pursuant to §4-37-3 (A)(1) NMSA 1978.
- C. Persons violating this Ordinance by the improper or illegal disposal of hazardous materials or waste in any manner other than as provided for in the Hazardous Waste Act, shall, upon conviction, be subject to a fine not to exceed Five Thousand and No/100 Dollars (\$5,000.00) pursuant to §4-37-3(A)(2) NMSA 1978.
- D. Each violation shall constitute a separate offense. Each day an offense continues shall also constitute a separate offense.

**Section 10. 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 11. Conflict Clause.**

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

**Section 12. Effective Date.**

This Ordinance shall take effect thirty (30) days after recording in the Public Records of Lincoln County.

**Section 13. Repeal.**

Lincoln County Ordinance 2008-06-~~07~~ is repealed upon the effective date of this Ordinance.

**PASSED, APPROVED, and ADOPTED** this \_\_\_ day of \_\_\_\_\_, 2014.

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

~~Tom Battin~~ Jackie Powell, Chair

~~Eileen Sedille~~ Preston Stone, Vice Chair

~~Dave Parks~~ Mark Doth, Member

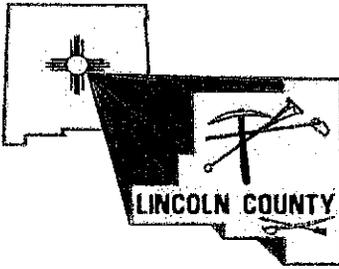
~~Don Williams~~ Dallas Draper, Member

~~Jackie Powell~~ Kathryn Minter, Member

**Attest:**

~~Tammie Maddox~~ Rhonda Burrows

Lincoln County Clerk



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# County of Lincoln

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## AGENDA Item No. 23

November 14, 2014

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, Lincoln County Manager

**SUBJECT:** Job Title Change – Sheriff’s Office

**PURPOSE:** To gain approval for a Job Title Change in Sheriff’s Office

**Discussion:** Sheriff Shepperd has requested a job title change for an unfilled part-time position already funded in the budget. The current title is “Grant Administrator” that pays \$15.00 per hour. The probationary pay for the “Secretary” position is \$12.92. See **Enclosure 1** for Job Description. This position did work, and the new position will continue to work for the Sheriff/Narcotics Enforcement Unit. While the position will not be administering the HIDTA grant, it will be responsible for secretarial duties required by the Narcotics Enforcement Unit in place in the Sheriff’s Department.

**Recommendation:** Approve the job title change from “Grant Administrator” to “Secretary”.

**COUNTY OF LINCOLN  
Job Description Form**

**Division/Department:** Sheriff/Narcotics Enforcement Unit

**Job Title:** Secretary    **Reports to:** Sheriff

**Level/Grade:** 17

**Minimum Salary:** \$12.92/hr.

**Type of position:**

- Full-time  
 **Part-time**  
 Grant/Contract

**Hours** 32 **Week**

- Classified  
 **Unclassified**

**General Description:** The employee is responsible for maintenance of grant-related financial records, and the preparation and dissemination of fiscal reports. The employee must have a thorough knowledge of computerized bookkeeping methods, large budgets and all pertinent operations within the department. Know all Departmental, County and grant-related policies pertinent to this position. Responsible for filing all required reports; maintenance of policies and procedures; maintenance of an internal telephone directory and serves as board meeting secretary. The employee must deal with confidential and sensitive matters and enter case information as needed for the database. Also answer Multi-Line phones, takes and relays messages or directs callers to appropriate personnel; perform a variety of secretarial duties including filing, and serves as matron as needed. The employee may be required to work irregular hours, attend job-related meetings and training, and perform other duties as assigned. Must perform all duties with minimal supervision. Location of work will be primarily in Carrizozo.

**Education/Work Experience/Certification/Training Requirements/Abilities/Skills:**

- High school diploma or GED certification, plus three years' experience in general office administration.
- Valid New Mexico State Driver's License. Must have a good driving record to be insurable for liability purposes.
- General knowledge of clerical routines, accuracy in data entry for record maintenance, accounting (manual and computerized), quarterly and annual reports, bank reconciliation, and budgeting.
- Computer skills in Microsoft Windows, Microsoft Office (Word, Excel, and Access) as well as Quicken financial and reporting system.
- Able to read and write proficiently; understand written and oral instructions; interact with general public, staff and elected officials in a pleasant manner.
- Must have working knowledge of personal computer system, word processing and printers; typing skills of at least 50 wpm, ability to operate a 10-key calculator, photocopier, facsimile machine, transcriber, multi-line phone system, and other related office equipment.
- General bookkeeping knowledge. Ability to remain composed during stressful and/or emergency situations; must obtain and relay messages/information accurately.

**Work Conditions/Description of Tools, Equipment, Work Aids Used and Materials and/or Products Handled:**

- Office environment. Normally works 8-5 Monday-Thursday or other four-day week to be determined. May be required to attend out of town training and seminars.
- May be required to operate Multi-Line telephones, 10-key calculator, personal computer terminal/keyboard and printer, photocopy machine, telefax machine, typewriter, transcriber, radio, television, VCR, two-way radio, and other related office equipment.

**Comments on Physical Requirements:** Maintain physical condition appropriate to the performance of assigned duties and responsibilities which may include the following: sitting and standing for prolonged periods of time; light to moderate lifting (up to 50 pounds); reaching, stooping, crawling, pulling, pushing, and manual dexterity; and operating assigned office equipment.

**Approved by:** Nita Taylor, County Manager

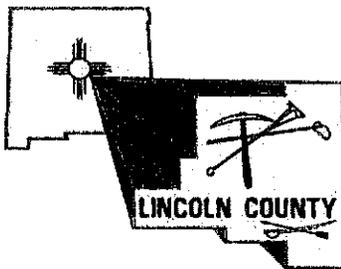
**Date Posted:** \_\_\_\_\_

**Date Hired:** \_\_\_\_\_

**Employee Declaration:** I have read the above job description. I understand the demands and expectations of the position described and to the best of my knowledge, believe I can perform these duties.

**Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_



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# County of Lincoln

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## AGENDA Item No. 24

November 14, 2014

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, Lincoln County Manager

**SUBJECT:** Job Type Change – Office of Emergency Services *NT*

**PURPOSE:** To gain approval for a Job Type Change – Office of Emergency Services

**Discussion:** During its Budget Commission Meeting in July, the Office of Emergency Services (OES) requested approval of a *Seasonal* Firefighter position for the Office of Emergency Services. See job description at **Enclosure 1**. Per the Lincoln County Personnel Policies and Procedures Manual, following is the definition of a “Seasonal” employee:

“Seasonal” Employee may be hired either in a full-time or part-time basis to a position for a period not to exceed six (6) months in a twelve (12) month period, beginning with the employee’s first day of employment.

After Commission and OES discussion, it was determined that a “contract” position might better fit the situation, and the Contract Firefighter position was approved.

After further review of County Policy, a “contract” employee may not be allocated any County equipment, tools, fire gear, etc., and cannot drive a County vehicle. Because all of these items are required for this Firefighter position, it is critical that it be classified as a “Seasonal” position rather than a “Contract” position. This “type” change will not alter the budgeted expense level to the County, which was approved at \$22,073.

The OES has recommended a change in the definition of “Seasonal” employee to allow “... a period not to exceed six (6) months in a *fiscal year*...” This definition change will allow the flexibility sometimes needed during fire season to employ the individual during the months most needed. For example, the firefighter may be needed from March through June of one fiscal year (4 months) and July through September (3 months) of the next. That scenario would violate the “6- months in a 12-month period” rule, but not violate the “6-month in a fiscal year rule”. Manager will request a hearing be scheduled at the December meeting to consider this requested Personnel Policy change.

**Recommendation:** Approve the job “type” change from “Contract” to “Seasonal”.

**COUNTY OF LINCOLN  
Job Description Form**

Division/Department: Officer of Emergency Services

Job Title: Firefighter

Reports to: Emergency Coordinator

Level/Grade: 101P \$10,5057

Type of position:

Hours 40/Week

- Full-time
- Part-time
- Temporary/Seasonal
- Emergency Hire
- Grant/Contract

- Classified
- Unclassified

**General Description:**

A responsible and skilled firefighter will work in combating, extinguishing, and preventing fires. Work involves training for and participating in the protection of life and property by fire fighting, fire prevention, fire education, and rescue activities. Work includes fire fighting, rescue, emergency medical care, efficient operation of equipment, and maintenance of facilities and equipment. Although work is performed under general supervision and established guidelines, it requires initiative, and an individual understanding of fire fighting, fire prevention, rescue methods, and emergency medical techniques. The Office of Emergency Services will review work through inspections, observations, and results obtained.

**Education/Work Experience/Certification/Training Requirements/Abilities/Skills:**

- High school diploma or GED certification.
- Valid New Mexico State Driver's License Class B or CDL.
- Must have a working knowledge of computers with knowledge of Microsoft Word and Excel Spreadsheets.
- Must be certified Firefighter I or higher.
- Must be certified basic Wildland Firefighter II or higher.
- Must have a minimum of two years firefighting experience.
- Thorough knowledge of modern firefighting equipment and its efficient use.
- Thorough knowledge of geography, streets, and maps within Lincoln County.
- Knowledge of the principals of hydraulics as applied to firefighting activities.
- Knowledge of emergency medical techniques and current in CPR.
- Knowledge of firefighting and rescue methods.
- Ability to understand and follow oral/ written instructions, to accept authority, and to work effectively with other employees.
- Must interact with the public and staff in a pleasant manner.

**Work Conditions/Description of Tools, Equipment, Work Aids Used and Materials and/or Products Handled:**

- Normally works 8:00 a.m. - 5:00 p.m. Monday-Friday. Seasonal employees will work from April-September. Hours and days are subject to change.
- Indoor/ outdoor work. Outdoor work may be in extreme weather and hazardous conditions.
- May be required to work irregular hours, attend job related meetings, and out of town training and seminars.
- Performs fire inspections, pre-incident planning, hydrant tests, hose tests, pump tests, and fire education.
- Performs on scene tasks which may include; hose lays, pump operations, interior/ exterior fire attack/ rescue, ladders, high angle rope rescues, extrication of victims, and the use of hand tools, saws and incident command.
- Performs wildland firefighting tasks which may include; hose lays, pump operations, construction of hand lines, chainsaw operations, firing operations, and incident command.
- Performs maintenance and cleanliness of the fire stations, apparatus, tools, and equipment.
- Performs related work as required.

**Comments on Physical Requirements:**

- Maintain physical condition appropriate to the performance of assigned duties and responsibilities which may include the following: sitting and standing for prolonged periods of time; light to heavy lifting; reaching, stooping, crawling, pulling, pushing, and manual dexterity; and operating assigned office equipment.
- Must pass the Work Capacity Test (Pack Test) at the arduous level.
- Must pass a conditional post-offer of employment Physical Examination and Drug Analysis Test.
- Subject to random drug and alcohol testing.

Approved by: Joe Kenmore 01/23/14

Date Posted: 01/23/14

Date Hired:

**Employee Declaration:**

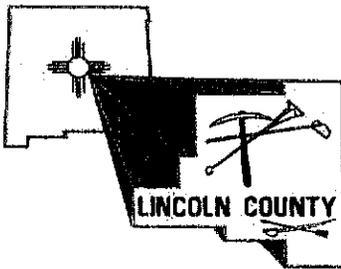
I have read the above job description. I understand the demands and expectations of the position described and to the best of my knowledge, believe I can perform these duties.

Name:

Date:

Date Revised: 01/23/14

ENCL 1



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# County of Lincoln

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## AGENDA Item No. 25

November 15, 2014

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, Lincoln County Manager *NT*

**SUBJECT:** Title Grade Changes – Recommendations of the Compensation Advisory Board

**PURPOSE:** To gain approval for recommended Title Pay Grade Changes

**Discussion:** During its May 2, 2014 Preliminary Budget, the Commission heard the recommendations of the Compensation Advisory Board to adjust the pay grades for fifteen (15) job descriptions held by twenty-one (21) employees. These recommendations were based on supervisory input and a general knowledge of County operations. At the time, there were 40+ positions filled by approximately 114 employees; the current numbers are similar. The Commission recognized the extensive effort the Compensation Advisory Board expended on this project, and directed it to expand the review to all titles and determine if others required adjustment at the same time.

The Compensation Board met several times to analyze the totality of the County's positions, and has completed its extensive review; it is consequently recommending pay grade adjustments for the following positions:

- |                          |     |                          |     |
|--------------------------|-----|--------------------------|-----|
| 1. Addressing Technician | (1) | 11. Image Technician     | (1) |
| 2. Appraiser             | (7) | 12. Mechanic             | (1) |
| 3. Cartographer/GIS      | (1) | 13. Operator I           | (1) |
| 4. Chief Dispatcher      | (1) | 14. Operator II          | (6) |
| 5. Custodian             | (1) | 15. Operator III         | (9) |
| 6. Director, Finance     | (1) | 16. Operator IV          | (0) |
| 7. Director, OES         | (1) | 17. Probate Deputy Clerk | (1) |
| 8. Director, Planning    | (1) | 18. Secretary            | (1) |
| 9. Director, Sr. Center  | (1) | 19. Transport Officer    | (4) |
| 10. Foreman              | (1) |                          |     |

See **Enclosure 1** for a summary of proposed pay grade changes by title. Included in this recommendation is a title change for the Road Department Secretary, to Administrative Assistant. This overall recommendation results in: 1) average hourly wage increase of \$1.73; 2) average annual wage increase (without benefits) of \$3,377; and 3) average annual wage increase (with benefits) of \$3,724. The estimated total annual cost to the County is \$148,800. This estimation is likely overstated; because it includes cost analysis for every position budgeted. As transition occurs, and needs of the county change, there are often open, unfilled positions. At this time, six of the forty positions included in this recommendation are unfilled; with the County incurring no expense.

Included in this request is a new title for the Road Department: Operator IV. Currently the Operator III position consists of six employees who are each assigned one of our six (6) Road Districts, for which they are responsible for the upkeep to the satisfaction of the County, the landowners and residents. There are two distinguishing factors between the Operator III and the Operator IV positions: 1) the permanent assignment of a Road District, and 2) the skill level of the Operator, determined by the results a mandatory skill test.

The Compensation Board sees this recommended job grade true-up as the first step in the development of a plan that compensates employees based on their level of responsibility, and groups individuals with similar levels of responsibility into the same pay grade. We see as the next step, for Commission mid-year budget consideration, a request for a COLA for all employees. Finally, efforts will be initiated early next year to bring to the Commission for FY15-16 budget consideration a structure change in the Compensation Plan that will result in each position having a "low – medium – high" band, which will enable supervisors to compensate for experience and job quality.

The Public Officials will be present to provide input to the Commission regarding this overall proposal in job grade true-ups, and to respond to questions regarding their own offices.

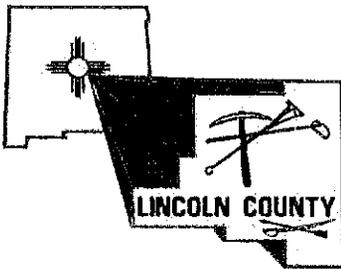
In addition to these recommendations, approved unanimously by the Compensation Advisory Board, Manager recommends a change to the Road Superintendent position from an hourly wage position (Grade 30) to an annual salary; and would continue to carry a classified status. This position, prior to the most recent former Road Superintendent, was salaried rather than having an assigned job grade. It carries a high level of accountability to County landowners and residents, and is extremely visible to the public. It is, by demand, on call 24 hours per day. I recommend a transition salary of \$55,000.

**Recommendation:** Approve the pay grade changes for eighteen (18) titles to the levels recommended by the Compensation Advisory board, effective with the December 6<sup>th</sup> pay period. Approve the change in Title for Road Department Secretary to Road Department Administrative Assistant. Approve the change in classification for Road Superintendent position from hourly wage to salaried at the transition level of \$55,000.

## SUMMARY OF GRADE PROPOSED CHANGES BY TITLE

CURRENT GRADE	TITLE	PROPOSED GRADE
8	Custodian Transport Officer	12
12	Operator I	15
14	Addressing Technician	15
14	Appraiser (Part Time)	24
14	Operator II	16
15	Image Technician	17
15	Operator III	18
15	Probate Deputy Clerk	17
17	Appraiser	24
17	Cartographer/GIS	26
17	Mechanic	20
18	Secretary / Administrative Asst.	20
20	Foreman	22
26	OES Director	28
26	Planning Director	28
26	Sr. Center Director	28
28	Finance Director	30

*Enclosure 1*



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# County of Lincoln

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## AGENDA Item No. 26

November 15, 2014

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, Lincoln County Manager *NT*

**SUBJECT:** Issuance of Quit Claim Deed to Steve Morgan for Road Vacated by the County But Never Deeded

**PURPOSE:** To gain Commission approval on the issuance of a deed, for a portion of public right of way this was vacated in 1996, by County Commission action.

**Discussion:** In October, 2014 Planning Director was contacted by Ruidoso Land Surveying regarding the process for combining a piece of public right of way (Delana Drive) that was vacated by the County Commission in April of 1996, with private property. Delana Drive was vacated, but never deeded to private ownership from the County to Mr. Steve Morgan. Mr. Morgan was the original applicant for the vacation. He now wants to obtain a deed from the County for a portion of the vacated Delana Drive. Mr. Morgan is required to incorporate this deeded portion of the vacated Delana Drive, with his existing lots for mortgage loan purposes.

Due to the anti-donation clause with the State of New Mexico, all public property that is deeded must be paid for by the recipient for current actual market value, even though it was vacated years ago. Mr. Morgan will pay to the County the appraised value for the 1,324 sq. ft. of land. (Value provided by our Assessor department appraiser). After payment, a deed will be issued to Mr. Morgan for filing. The transfer of this property will require the approval of the Commission and the Signature of Commission Chair Powell. The deed, along with a plat from a land surveyor showing the location of the vacated road will be filed with the County Clerk. See **Enclosure 1**.

**Recommendation:** Approve the transfer of this property once payment has been made to County.

**QUITCLAIM DEED**

**THE COUNTY OF LINCOLN** quitclaims to CLYDE STEVE MORGAN, a single man, whose address is P.O. Box 2477, Ruidoso, New Mexico 88355 any and all interest the County has in and to the following described real property located in Lincoln County, New Mexico:

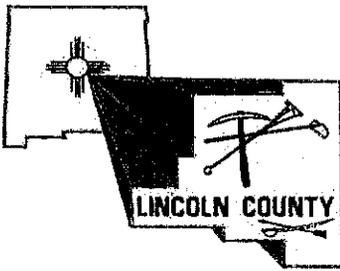
A PORTION OF VACATED DELANA DRIVE ADJOINING LOTS 33, 34, AND 35, BLOCK 16, PARADISE CANYON SUBDIVISION, LINCOLN COUNTY, NEW MEXICO, MORE PARTICULARLY DESCRIBED AS FOLLOWS, AND AS SHOWN ON THAT BOUNDARY SURVEY PLAT, PREPARED BY WYATT A. SPARKS, NM-PS 8487, IN OCTOBER 2014, SAID PLAT HEREIN MADE A PART OF THIS DESCRIPTION, ATTACHED HERETO AS EXHIBIT A:

BEGINNING AT THE MOST EASTERLY CORNER OF SAID LOT 35:  
THENCE S.61°37'40"W., 198.62 FEET TO THE SOUTHWEST CORNER OF SAID LOT 33;  
THENCE N.45°22'29"E., 41.92 FEET TO THE SOUTHEAST CORNER OF SAID LOT 33;  
THENCE N.63°04'29"E., 41.04 FEET TO THE SOUTHEAST CORNER OF SAID LOT 34;  
THENCE N.66°50'07"E., 117.84 FEET COINCIDENT WITH THE SOUTH BOUNDARY OF SAID LOT 35, TO THE PLACE OF BEGINNING AND CONTAINING 1324 SQUARE FEET OF AREA.

**COUNTY OF LINCOLN**

By: \_\_\_\_\_  
JACKIE POWELL, Chair,  
Board of County Commissioners





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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. 27

November 15, 2014

### MEMORANDUM

**TO:** County Commissioners

**FROM:** Nita Taylor, Lincoln County Manager *NT*

**SUBJECT:** Lease Portion of County Owned Property to Private Individual for One Year

**PURPOSE:** Commission consideration on the request to lease portion of former Lincoln County Abstract & Title Co. building for one year

**Discussion:** Ms. Cecilia Grimes requested consideration that the County lease to her for a period of one year a portion of the former Lincoln County Abstract and Title Co. building at 409 Central Avenue. This building is currently vacant, with no solid or approved plans to begin renovation. However, the County is in the process of identifying the use of that building. Any use, other than for storage will require renovation.

**Recommendation:** Consider and potentially take action on request for one-year lease of Building.

**Agenda Items No. 28**

**SUBJECT**

Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinances.

**Agenda Item No. 29**

**SUBJECT**

Consideration of Appointments and Removals from Boards/  
Commissions/Committees:

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

		575-808-9776			
<b>PREDATORY ANIMAL CONTROL BOARD, LINCOLN COUNTY - 5 YEAR TERM</b>					
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

<b>PROPERTY TAX PROTEST BOARD - 2 YEAR TERM</b>					
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

<b>REGIONAL WASTE WATER JOINT USE BOARD - 2 YEAR TERM</b>					
DISTRICT NO.	MEMBER	ADDRESS	RESIDES IN DISTRICT NO.	DATE APPOINTED	TERM EXPIRATION

<b>ROAD REVIEW ADVISORY COMMITTEE, LINCOLN COUNTY - 2 YEAR TERM (ORDINANCE NO. 2003-5)</b>					
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	10/21/14	10/16
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@BAJABB.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

<b>SENIOR CITIZENS OLYMPIC COMMITTEE, LINCOLN COUNTY - 2 YEAR TERM (ORDINANCE NO. 1994-5)</b>					
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



**Agenda Item No. 30**

**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.

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Attorney at Law

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

November 19, 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. . Stipulated Notice of Dismissal with Prejudice was filed with the court Sept. 15, 2014.

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. Motion for Summary Judgment filed Jan. 29, 2014. Motion for Grant of Summary Judgment filed July 18, 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. Paul Melendres has been retained by the County and 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. GSWA filed its Motion for Summary Judgment on Sept. 26, 2014. County filed its Response to GSWA's Motion for Summary Judgment on Oct. 13, 2014. Scheduling Conference and Hearing on All Pending Motions is scheduled Nov. 20 both with Judge Ritter. Preliminary Injunction Hearing is scheduled Dec. 17, 2014 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. GSWA's Brief in Chief filed Sept. 9, 2014. Record Proper was filed Sept. 25, 2014. Alto Lakes Water and Sanitation District's and Lincoln County's Joint Response Brief was filed with the Court of Appeals Oct. 24, 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. Settlement has been negotiated.

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 to Federal No: 2:13-CV-00822-RB-SMV.* 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. Motion for Qualified Immunity still pending as of Oct. 4, 2014. Ms. Latham filed a new action in federal court against Village of Capitan and Police Officer Kevin Kennedy filed July 25, 2014. The court Sua Sponte consolidated both cases via Order from Judge Brack filed Sept. 29, 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. Settlement Agreement was signed by Avalon Sept. 3, 2014 and by Lincoln County Sept. 8, 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. Mr. Morel entered his appearance on behalf of the County Sept. 23, 2014. Disclaimer of Interest has been filed.

\*10. *Water Rights Protests: New Mexico State Engineer Hearing Numbers: 14-039 and 14-041.* 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. Docketing Order filed Sept. 18, 2014. Kelly Cassels/Sanders, Bruin, Coll & Worley, P.A. has been retained by the County, entered his appearance Sept. 22, 2014 and has responded in behalf of the County.

**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.

**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 Capitan 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.

**\*Rider, Edward Allen and Moorhead, Brennon** – Tort Claim Notice received Oct. 20, 2014 by attorney W. Chris Nedbalek alleging Lincoln County Narcotics Enforcement Unit officers destroyed items in a home.

**\*Caughron, Brittany and Anderson, Amie** – Tort Claim Notice received Oct. 24, 2014 by attorney W. Chris Nedbalek alleging overcrowding of Lincoln County Detention Center as a violation of 8<sup>th</sup> Amendment Rights.

**\*Ryen, Allen-** Tort Claim Notice received Oct. 27, 2014 by attorney W. Chris Nedbalek alleging Mr. Ryen was exposed to unsanitary conditions at Lincoln County Detention Center.

**\*Inmate Group** – Tort Claim Notice received Oct. 27, 2014 by attorney W. Chris Nedbalek alleging overcrowding and unsanitary conditions at Lincoln County Detention Center.

**\*McMurray, Cody** – Tort Claim Notice received Nov. 6, 2014 by attorney W. Chris Nedbalek alleging lack of adequate medical care at Lincoln County Detention Center

## **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 12<sup>th</sup> Judicial District Court to 38 years filed on July 3, 1990.