TAOS COUNTY BOARD OF COUNTY COMMISSIONERS

Commission Regular Meeting
Tuesday December 01, 2026
9:00 AM
Commission Chambers at the Taos County Administrative Complex - 105 Albright Street - Taos, New Mexico 87571.

NOTICE TO THE PUBLIC

F.R. Bob Romero Commissioner District 1	**Miguel Romero Jr.** Commissioner District II	**Darlene J. Vigil** Commissioner District III
AnJanette Brush Commissioner District IV		**Ronald J. Mascarenas** Commissioner District V

Notice is hereby given that the governing body of Taos County, the Board of County Commissioners, will hold a Regular Meeting on Tuesday, December 1, 2026 at 9:00 AM. The meeting will take place at the Administrative Judicial Complex, Taos County Commission Chambers, First Floor, Room #106 located at 105 Albright Street, Taos, New Mexico. To view the Agenda & Packet visit our website at www.taoscountynm.gov. Government/Meetings, Agenda and Minutes tab.

AGENDA

I. ***Call to Order***

II. ***Roll Call***

III. ***Inspirational Devotion***

IV. ***Pledge of Allegiance***

V. ***Salute to the Flag of New Mexico***

VI. ***Approval of Agenda***

VII. ***Awards and Recognitions***

A. New Hires for the month of November 2026
Nov new hires.pdf

B. Years of Service Certificate for the Month of November 2026 presented to:
Patty Garcia - 20 Years

Brent Jaramillo - 15 Years
Brissa Calhoun - 10 Years

VIII. ***Public Comments***

A. Members of the public wishing to speak shall limit their comments to 3 minutes. No action may be taken.

IX. ***Minutes***

A. Approval of the October 20, 2026 Regular Meeting minutes
10-20-26 minutes.pdf

B. Approval of the November 10, 2026 Regular Meeting minutes
11-10-26 minutes.pdf

X. ***Presentations***

A. A Presentation from the Taos County Health Council of the NM Department of Health FY27 Funding for Rural Tribal Health Councils - Jennifer Ammann, Economic Mobility & Opportunity Officer
presentation .pdf

XI. ***Old Business***

A. Discussion, consideration and decision regarding the remand of SUP-24-0013 – A Special Use Permit to place a cell tower at 159 Old Hwy 3 in Arroyo Hondo. The Eighth Judicial District Court ruled on September 21, 2026 that the Taos County Board of County Commissioners must hold an evidentiary hearing to determine if the SUP complies with Section 4.6.1(B)- Visual Impact – of the Taos County Land Use Regulations, and whether the National Trail Office anticipates an adverse impact on the Old Spanish Trail - Rachel Romero, Planning Director & Patrick Trujillo, Contract Attorney
1 Cover Page of Packet.pdf
2 TABLE OF CONTENTS .pdf
3 Opening Statement.pdf
4 District Court Remand Order.pdf
5 Record of Decision 1.pdf
6 BTS photo of proposed tower.pdf
7 Letters submitted to County (1).pdf
7 Petition Against.pdf
7 Public Comments from Planning Meeting.pdf
8 Cell Tower in Scale.png
8 Decision of Planning Commission 2014.pdf
8 Map of homes.pdf
8 Photo Rendering in Scale.jpg
9 .pdf
9 Letter Disputing Existence of Prior Tower.pdf
9 NPS Letter 092923.pdf
9 Trail Map.pdf
10 Opening Brief in Opposition 030426 .pdf
11 District Court Hearing transcripts.pdf
13.0 NEPA - Taos County Planning Department.pdf
14.0 NEPA - Taos Newspaper Notice.pdf

15.0 July 10, 2025 Staff Report To Taos County Planning Commission.pdf
16.0 July 10, 2025 Taos County Planning Commission Order.pdf
17.0 September 16, 2025 Staff Report to Taos County Board of County Commissioners.pdf
18.0 October 16, 2025 Taos County Board of County Commissioners Record of Decision.pdf
19.0 The National Environmental Policy Act (NEPA) Summary Report.pdf
20.0 September 12, 2025 Valbridge Property Advisors New Mexico- Tower Influence Market Study.pdf
0.0 Table of Contents.pdf
1.0 National Parks Service October 1, 2026 Updated Letter.pdf
2.0 Land Use Regulations Section 4.6.1.B.pdf
3.0 Sept. 16, 2025 Taos County Board of County Commissioners Mtg - Table of Contents of Applicantâ€™s Submittals.pdf
4.0 Monopine Tower Elevation.pdf
5.0 Valmont Larson Monopine Letter.pdf
6.0 Monopole Photo Sims.pdf
7.0 Monopine Photo Sims.pdf
8.0 Existing Infrastructure.pdf
9.0 National Environmental Policy Act (NEPA) Checklist.pdf
10.0 NEPA - Areas of Potential Effects.pdf
11.0 NEPA - State Historic Preservation Office.pdf
12.0 NEPA - Taos County Historical Society.pdf

XII. ***Resolutions & Ordinances***

A. Discussion, consideration and decision regarding the approval of Resolution No. 2026-46, A Resolution repealing and repalcing appendix I of Taos County Solid Waste Ordinance No. 2020-6 - Melecia Ortega, Collection Coordinator
2926-46 R.pdf

XIII. ***Department Matters***

A. Approval of the purchase of a 2027 Mustang GT Coupe using State Price Agreement #40-00000-24-00068 for the Taos County Sheriff's Office- Gabriel Ortiz, Taos County Under Sheriff
Sheriff's Mustang.pdf

XIV. ***Consent Agenda***

A. Approval of BAR #27- A Budget Adjustment for HCAP HCA GSA 226-630-7903-0016. To align funds to current projected expenditures - Emily Rowlinson - Elliott, Finance Director
BAR 27.pdf

B. Approval of BAR #28- A Budget Adjustment for Fire Excise Tax Taos. To appropriate budget for remainder of purchase for the Blazestack Software - Emily Rowlinson - Elliott, Finance Director
BAR 28.pdf

C. Approval of BAR #29- A Budget Adjustment for Fire Protection Fund Cerro. To have sufficient funds through FY 26/27 end - Emily Rowlinson - Elliott, Finance Director
BAR 29.pdf

D. Approval of BAR #30- A Budget Adjustment for Capital Enhancement. To move money to reroof the Peñasco Community Center - Emily Rowlinson - Elliott, Finance Director
BAR 30.pdf

E. Approval of BAR #31- A Budget Adjustment for GRT Infrastructure. To move money to the appropriate line item to fence off the property around the warehouse - Emily Rowlinson - Elliott, Finance Director
BAR 31.pdf

F. Approval of DFA Resolution No. 19, A Resolution to adjust the Final Budget as follows. The Community Energy Efficiency Development (CEED) Program (25-251-0300-0154), approved by the Taos County Commission has been amended, adding an additional $ 500,000.00 to the program budget. An increase to the revenue and expenses is needed - Emily Rowlinson-Elliot, Finance Director
DFA 19.pdf

G. Approval of DFA Resolution No. 20, A Resolution to adjust the Final Budget as follows. Taos County has been awarded a grant from the Energy, Minerals and Natural Resolurces Department (26-02-3889) for the purpose of hazardous fuel reduction, and community protection from wildfire risk in areas of Pueblo Ridge/Valle Escondido within Taos County. An adjustment to the FY 26/27 Final Budget is required to account for the revenue and expenses associated with the grant - Emily Rowlinson-Elliot, Finance Director
DFA 20.pdf

H. Approval of DFA Resolution No. 21, A Resolution to adjust the Final Budget as follows. Taos County has been awarded a Grant from the State of New Mexico Department of Health (27 HC 2008 00081) to support HCAP in operations, administration, community ehgaement, community health improvement and outreach, and social determinant initiatives. An adjustment to the FY 26/27 Final Budget is required to account for the revenue and expanses associated with this grant - Emily Rowlinson-Elliot, Finance Director
DFA 21.pdf

XV. ***County Manager's Report & Matters***

A. Update to County Commission on various items affecting Taos County – Brent Jaramillo, County Manager

XVI. ***Commissioner's Report & Matters***

A. New Business to be considered at a future Commission Meeting

B. Commissioner's Announcements

XVII. ***Adjournment***

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 meeting, contact the Taos County Administration Office located at 105 Albright Street, Suite G, Taos, New Mexico as soon as possible or call (575) 737-6300.

AGENDA ITEM NO.
Taos County-5340-2019

Taos County

BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REPORT

DATE: **December 1, 2026**

SUBJECT: **New Hires for the month of November 2026**

Nov new hires.pdf

November 2026 New Hires

Welcome to Taos County

Victoria Williams

Payroll Specialist
Finance

Freddie Cordova

Code Enforcement Officer
Planning

Rafael Garcia

Deputy Sheriff
Sheriff's Office

AGENDA ITEM NO.
Taos County-5335-2019

Taos County

BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REPORT

DATE:	**December 1, 2026**
SUBJECT:	**Years of Service Certificate for the Month of November 2026 presented to :** **Patty Garcia - 20 Years** **Brent Jaramillo - 15 Years** **Brissa Calhoun - 10 Years**

AGENDA ITEM NO.
Taos County-5332-2019

Taos County

BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REPORT

DATE:	**December 1, 2026**
SUBJECT:	**Members of the public wishing to speak shall limit their comments to 3 minutes. No action may be taken.**

AGENDA ITEM NO.
Taos County-5341-2019

Taos County

BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REPORT

DATE: **December 1, 2026**

SUBJECT: **Approval of the October 20, 2026 Regular Meeting minutes**

10-20-26 minutes.pdf

TAOS COUNTY BOARD OF COMMISSIONERS
Regular Meeting Minutes
Tuesday, October 20, 2026
9:00 AM
Taos County Commission Chambers at the Taos County Administrative Complex – 105 Albright Street – Taos, New Mexico 87571.

F.R. Bob Romero Commissioner District I	**Miguel Romero Jr.** Commissioner District II	**Darlene J. Vigil** Commissioner District III
AnJanette Brush Commissioner District IV		**Ronald J. Mascarenas** Commissioner District V

I. Call to Order

Called to order by Chairman Miguel Romero at 9:01 a.m.

II. Roll Call

Roll call taken by County Clerk, Valerie Montoya.

Present were:
Commissioner F.R. Bob Romero, District I
Chairman, Miguel Romero Jr., District II
Vice-Chair, Darlene J. Vigil, District III
Commissioner, AnJanette Brush, District IV
Commissioner, Ronald J. Mascarenas, District V

Also Present:
Chirs Madrid, Deputy County Manager
Emily Rowlinson-Elliott, Finance Director
Patrick Trujillo, Contract County Attorney
Valerie Montoya, County Clerk

III. Inspirational Devotional

IV. Pledge of Allegiance

V. Salute to the Flag of New Mexico

A. "I Salute the Flag of the State of New Mexico, the Zia symbol of perfect friendship among united cultures."

VI. ***Approval of Agenda***

Commissioner Ronald Mascarenas made a motion to approve the October 20, 2026, Regular Meeting Agenda as presented. Commissioner AnJanette Brush seconded. A roll call vote was taken indicating the following:

Commissioner AnJanette Brush	**Yes**
Commissioner F.R. Bob Romero	**Yes**
Commissioner Ronald Mascarenas	**Yes**
Vice-Chair Darlene Vigil	**Yes**
Chairman Miguel Romero	**Yes**

Motion carried.

VII. ***Awards and Recognitions***

A. Recognizing the promotional achievement of Jose Mondargon and Renee Maestas to the position of Lead Communications Specialist and into the leadership ranks of Taos Central Dispatch – Roberto Zaragoza, E911 Director

B. Recognition of newly appointed Public Works Director – Jason Silva, Deputy County Manager

Jason Silva, Deputy County Manager recognized and appointed Debra Chave as the new Public Works Director.

VIII. ***Public Comments***

A. Members of the public wishing to speak shall limit their comments to 3 minutes. No action may be taken.

Dylan Cox informed the public that on Tuesday, October 27th at 9 a.m. the lodger's tax board would be reviewing 22 grant proposals to be considered for the next grant cycle, and the public is invited to attend.

Armando Valerio inquired as to what happened to the 22.5 million funding that was lost for the hospital and also if there was accountability for those who did not follow through with the process.

Emily Rowlinson-Elliott invited the commission and public to attend the DWI council meeting on Wednesday, October 21st at 11 a.m. in the commission chambers.

Natalie ? with Youth Heartline invited the public and the commission to event on October 27th at the Anglada building from 2p.m.-5p.m. to hear the reports and various resources that are available to our youth and their families.

IX. ***Minutes***

A. Approval of the October 6, 2026. Regular Commission Meeting minutes..

Vice-Chair Darlene Vigil made a motion to approve the October 6, 2026, Regular Meeting minutes as presented. Commissioner AnJanette Brush seconded. A roll call vote was taken indicating the following:

Commissioner AnJanette Brush	**Yes**
Commissioner F.R. Bob Romero	**Yes**

Commissioner Ronald Mascarenas	**Yes**
Vice-Chair Darlene Vigil	**Yes**
Chairman Miguel Romero	**Yes**

Motion carried.

X. ***Resolution & Ordinances***

A. Discussion, consideration and decision regarding the approval of Resolution No. 2026-44, A Resolution supporting the New Mexico Counties 2027 Legislative Priorities.

Chris Madrid, Deputy County Manager recommended approval of the resolution supporting the NM Counties 2027, Legislative priorities. Mr. Madrid stated that the counties would like the state to fully reimburse the counties for jailing state inmates, replace property tax revenue lost to veterans' exemptions. The counties would also like to amend the Inspection of Public Records Act to limit abusive requests, protect crime victims and juveniles and secure critical infrastructure

Commissioner Ronald Mascarenas made a motion to approve Resolution No. 2026- 44. Vice Chair Darlene Vigil seconded. A roll call vote was taken indicating the following:

Commissioner AnJanette Brush	**Yes**
Commissioner F.R. Bob Romero	**Yes**
Commissioner Ronald Mascarenas	**Yes**
Vice-Chair Darlene Vigil	**Yes**
Chairman Miguel Romero	**Yes**

Motion carried.

XI. **Contracts, Agreements, MOU's & Bids**

A. Discussion, consideration and decision regarding approval of purchase of 2027 Chevrolet Tahoe LT 4WD Lakeshore Blue for the County Treasurer's office in the amount of $67,416.00. Procurement is authorized under State Price Agreement – Elsa Vigil, Chief Procurement Officer

Elsa Vigil, Chief Procurement Officer recommended approval of the requested purchase of vehicle for the Treasurer's office.

Chairman Miguel Romero made a motion to approve the purchase of a 2027 Chevrolet Tahoe LT 4WD for the County Treasurer's Office. Commissioner Ronald Mascarenas seconded. A roll call vote was taken indicating the following:

Commissioner AnJanette Brush	**Yes**
Commissioner F.R. Bob Romero	**Yes**
Commissioner Ronald Mascarenas	**Yes**
Vice-Chair Darlene Vigil	**Yes**
Chairman Miguel Romero	**Yes**

Motion carried.

XII. ***Department Matters***

A. An inspection and evaluation of Courtroom Murals. Report for suggested preservation actions- Richard Sanchez, Project Manager

Richard Sanchez, Project Manager informed the commission that it is recommended to hire an art conservator to evaluate the murals in the historic county courthouse in order to determine the best way to preserve them. The total amount for the change order would be $62,202 and if approved a report would be presented to the commission with recommendations from the art conservator.

Commissioner F.R. Bob Romero made a motion to approve the request for inspection and evaluation of Courtroom Murals. Vice Chair Darlene Vigil seconded. A roll call vote was taken indicating the following:

Commissioner AnJanette Brush	**Yes**
Commissioner F.R. Bob Romero	**Yes**
Commissioner Ronald Mascarenas	**Yes**
Vice-Chair Darlene Vigil	**Yes**
Chairman Miguel Romero	**Yes**

Motion carried.

B. Detox Change Order for parking lot curb repairs, milling and regarding of existing parking lot with new asphalt surface – Richard Sanchez, Project Manager

Richard Sanchez, Project Manager recommended approval of the change order, which would include removal and disposal of concrete curb sections and, 3" asphalt. New sub-grade prep and new 3" asphalt pavement. As well as to remove and dispose the existing 4" base course and provide new 4" base course, new valley gutter, new stand up curb and replacement of sidewalk.

Vice-Chair Darlene Vigil made a motion to approve a change order for the detox center. Commissioner Ronald Mascarenas seconded. A roll call vote was taken indicating the following:

Commissioner AnJanette Brush	**No**
Commissioner F.R. Bob Romero	**Yes**
Commissioner Ronald Mascarenas	**Yes**
Vice-Chair Darlene Vigil	**Yes**
Chairman Miguel Romero	**Yes**

Motion carried.

XIII. ***Consent Agenda***

A. Approval of DFA Resolution No. 10. A Resolution to adjust the final budget as follows: Taos County has been awarded a grant from the State of New Mexico Capital Appropriation fund (26-K3082) to purchase and equip rescue vehicles for the Sheriff's Office in Taos County. An adjustment to the FY 26-27 final budget of $100,000.00 is required to account for the revenue and expenses associated with this grant. A temporary loan from the grant match fund will be needed and repaid at close of the grant. – Emily Rowlinson-Elliott, Finance Director

B. Approval of DFA Resolution No. 11. A Resolution to adjust the final budget as follows: Taos County has been awarded a grant from the State of New Mexico Capital Appropriation fund (26-KD026) to purchase and equip an ambulance for Taos County for transportation. An adjustment to the FY 26-27 final budget of $300,00.00 is required to account for the revenue

and expenses associated with this grant. A temporary loan from the grant match fund will be needed and repaid at close of the grant. – Emily Rowlinson-Elliott, Finance Director

C. Approval of DFA Resolution No. 12. A Resolution to adjust the final budget as follows: Taos County has been awarded a grant from the State of New Mexico Capital Appropriation fund (26-K3089) to purchase and equip patrol vehicles in Taos County. An adjustment to the FY 26-27 final budget of $275,000.00 is required to account for the revenue and expenses associated with this grant. A temporary loan from the grant match fund will be needed and repaid at the close of the grant. – Emily Rowlinson-Elliott, Finance Director

D. Approval of DFA Resolution No. 13. A Resolution to adjust the final budget as follows: Taos County has been awarded a grant from the State of New Mexico Capital Appropriation fund (26-KD027) to purchase and quip a snowplow dump truck for Taos County. An adjustment to the FY 26-237 final budget of $150,000.00 is required to account for the revenue and expenses associated with this grant. A temporary loan from the grant match fund will be needed and repaid at the close of the grant – Emily Rowlinson-Elliott, Finance Director

E. Approval of DFA Resolution No. 14. A Resolution to adjust the final budget as follows: Taos County is requesting to temporarily transfer $300,000.00 from the Grant Match Fund to Capital appropriations Grant fund (25-J3174) to purchase and equip an ambulance for Taos County. The temporary loan from the grant match fund will be needed and repaid at close of grant – Emily Rowlinson-Elliott, Finance Director

F. Approval of DFA Resolution No. 15. A Resolution to adjust the final budget as follows: Taos County has been awarded a grant from Energy, Minerals and Natural Resources Department (WP26-02-3900) totaling $227,671.25 for the purpose of hazardous fuel reduction, and community protection from wildfire risk in Carson National Forest adjacent to the communities of Ojito and Llano NM. An adjustment to the FY 26-27 final budget of $227,671.25 is required to account for the revenue and expenses associated with this grant. – Emily Rowlinson-Elliott, Finance Director

G. Approval of DFA Resolution No. 16. A Resolution to adjust the final budget as follows: Taos County is needing to increase the revenue and expenses in the Emergency Services Fund for insurance proceeds to cover the cost of repairs to EMS vehicles – Emily Rowlinson-Elliott, Finance Director

H. Approval of DFA Resolution No. 17. A Resolution to adjust the final budget as follows: Taos County has been awarded a grant from the State of New Mexico Capital Appropriation fund (26-K3081) to demolish and remove a vacant building at the Amalia Community Center in Taos Count. An adjustment to the FY 26-27 final budget of $175,000.00 is required to account for the revenue and expenses associated with this grant. A temporary loan from the grant match fund will be needed and repaid at the close of the grant – Emily Rowlinson-Elliott, Finance Director

I. Approval of BAR #19, A Budget Adjustment for Fire Protection Transportation/Insurance. To allocate sufficient funds for transportation expenses through FY. To move 2-line items for VFIS Insurance due out of the negative to a zero balance. – Emily Rowlinson-Elliott, Finance Director

J. Approval of BAR#20, A Budget Adjustment for DWI Noble Subscription. To cover the cost of the NOBEL Subscriptions for FY27— Emily Rowlinson-Elliott, Finance Director

K. Approval of BAR #22, A Budget Adjustment for Planning. To appropriate budget for the Maintenance Contract Line item for JMAr & Associates – Emily Rowlinson-Elliott, Finance Director

L. Approval of BAR #22, A Budget Adjustment for Facilities. To transfer additional money to replace a gate damaged by vendor - – Emily Rowlinson-Elliott, Finance Director

M. Approval of BAR# 23, A Budget Adjustment for Complex Storage Facility. To allocate funds to buildings/structures for construction of storage facility – Emily Rowlinson-Elliott, Finance Director

N. Approval of BAR #24, A Budget Adjustment for Solid Waste Supplies. To allocate funding for supplies throughout FY end. – Emily Rowlinson-Elliott, Finance Director

O. Approval of BAR #25, A Budget Adjustment for Assessor GIS Non-Capital. To allocate funds to non-capital for office accommodation request – Emily Rowlinson-Elliott, Finance Director

P. Request for approval for out of state travel on actual reimbursement for Elected Officials and Management Team who wish to attend the 2027 NALEO Annual Conference in El Paso, June 21-23, 2027 (including travel time).

Vice Chair Darlene Vigil made a motion to approve Consent Agenda Items A-P. Commissioner F.R. Bob Romero seconded. A roll call vote was taken indicating the following:

Commissioner AnJanette Brush	**Yes**
Commissioner F.R. Bob Romero	**Yes**
Commissioner Ronald Mascarenas	**Yes**
Vice-Chair Darlene Vigil	**Yes**
Chairman Miguel Romero	**Yes**

Motion carried.

XIV. Commissioner's Report & Matters

A. New Business to be considered at a future Commission Meeting

Commissioner F.R. Bob Romero requested that the County Manager's Evaluation be scheduled at the November 17th meeting.

B. Commissioners' Announcements

Commissioner F.R. Bob Romero mentioned that he along with Vice Chair Vigil attended a meeting with Santa Fe with the Land Grant Committee and recommendations are to be gathered and brought back to the committee to discuss.

Commissioner AnJanette Brush mentioned that the annual Rio Fernando cleanup is scheduled for Saturday, October 24 at 9 a.m.

Commissioner AnJanette Brush also mentioned that she along with Chairman Romero and County Manager attended the Mountain Summit last week to hear about taking care of our water, land and sustainability. The conference was very solutions oriented and things that need to be kept in mind as our county builds out in the future

Chairman Migel Romero also felt that the conference was very informational and was glad to see that there was also representation from the Town of Taos and Taos Ski Valley.

Commissioner Ronald Mascarenas stated that he felt that the Cultural Treasurers was very beneficial in informing the community and it was expressed that it the event should occur annually.

XV. Adjournment

Commissioner AnJanette Brush made a motion to adjourn at 9:40 a.m. Vice-Chair Darlene Vigil seconded. All in favor, motion carried.

AGENDA ITEM NO.
Taos County-5342-2019

Taos County

BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REPORT

DATE: **December 1, 2026**

SUBJECT: **Approval of the November 10, 2026 Regular Meeting minutes**

11-10-26 minutes.pdf

TAOS COUNTY BOARD OF COMMISSIONERS
Regular Meeting Minutes
Tuesday, November 10, 2026
9:00 AM
Taos County Commission Chambers at the Taos County Administrative Complex – 105 Albright Street – Taos, New Mexico 87571.

F.R. Bob Romero Commissioner District I	**Miguel Romero Jr.** Commissioner District II	**Darlene J. Vigil** Commissioner District III
AnJanette Brush Commissioner District IV		**Ronald J. Mascarenas** Commissioner District V

I. Call to Order

Called to order by Vice-Chair Darlene Vigil at 9:02 a.m.

II. Roll Call

Roll call taken by County Clerk, Valerie Montoya.

Present were:
Commissioner F.R. Bob Romero, District I
Chairman, Miguel Romero Jr., District II - Absent
Vice-Chair, Darlene J. Vigil, District III
Commissioner, AnJanette Brush, District IV
Commissioner, Ronald J. Mascarenas, District V

Also Present:
Brent Jaramillo, County Manager
Emily Rowlinson-Elliott, Finance Director
Patrick Trujillo, Contract County Attorney
Valerie Montoya, County Clerk

III. Inspirational Devotional

IV. Pledge of Allegiance

V. Salute to the Flag of New Mexico

A. "I Salute the Flag of the State of New Mexico, the Zia symbol of perfect friendship among united cultures."

VI. Approval of Agenda

Vice-Chair Darlene Vigil requested to amend the agenda to move item 16-c to 10-c.

Commissioner AnJanette Brush made a motion to approve the November 10, 2026, Regular Meeting Agenda as amended. Commissioner Ronald Mascarenas seconded. A roll call vote was taken indicating the following:

Commissioner AnJanette Brush	**Yes**
Commissioner F.R. Bob Romero	**Yes**
Commissioner Ronald Mascarenas	**Yes**
Vice-Chair Darlene Vigil	**Yes**
Chairman Miguel Romero	**Absent**

Motion carried.

VII. Awards and Recognitions

A. A Certificate of Retirement presented to Larry C. Espinoza, Code Compliance Officer

B. Years of Service Certificate for the Month of October 2026 presented to:
- Valerie Montoya – 20 Years
- Antonia Santistevan – 15 Years
- Manuelito Ira – 5 Years

C. New Hires for the month of October 2026
- Mattie Rivera – Communications Specialist
- Arianna Gutierrez – Appraiser Tech (Temp)
- Robert Coltson – Appraiser Tech (Temp)
- Katarina Buker – Communications Specialist
- Juan Bourke-Mares – Communications Specialist
- Cheyenne Valencia – H.R. Generalist

VIII. Public Comments

A. Members of the public wishing to speak shall limit their comments to 3 minutes. No action may be taken.

Robin Collier and Pricilla Reyes addressed the commission regarding their concerns regarding ownership of land and the information that has been provided by Enrique Romero with the Attorney General's office because it is not correct and asked the commission to gather their own information and do some research before taking the word of someone else.

IX. Canvassing of Election

A. Approval of the November 3, 2026, General Election Results

Valerie Montoya, County Clerk presented and requested approval of the 2026, General Election results. Ms. Montoya also mentioned that the current room where voting takes place at the county building has not been adequate for the amount of voters for the location and asked the commission to re-consider moving early voting and election day voting back to the commission chambers for the next election which will be held November 2027.

Vice- Chair Darlene Vigil mentioned that she was also informed by voters that the size of the room for voting was not adequate and it was a safety concern for the amount of traffic for that space.

Commissioner AnJanette Brush made a motion to approve the 2026-General Election Canvass. Commissioner F.R. Bob Romero seconded. A roll call vote was taken indicating the following:

Commissioner AnJanette Brush	**Yes**
Commissioner F.R. Bob Romero	**Yes**
Commissioner Ronald Mascarenas	**Yes**
Vice-Chair Darlene Vigil	**Yes**
Chairman Miguel Romero	**Absent**

Motion carried.

X. ***Presentations***

A. A presentation of the Economic Mobility & Opportunity Co-Design and Study proposal for County Commission approval of funding allocation- Jeanette Brahl of United for ALICE presenting Taos County data on affordability proposed study in Taos County

A presentation was provided to the commission for an affordability study in Taos County to spend $81,500 of the Gates Foundation grant by the University of New Mexico's Bureau of Business and Economic Research. The study would have seven focus groups and a countywide survey, when the is complete3d a final report and plan would be provided. Jeanette Brahl also provided information for the ALICE (asset, limited, income, constrained employed). The program pr tracks working households that can't afford basic costs, to provide figures for Taos County. The information shared with the commission stated that in 2024, 19% of households lived in poverty and 28 % were considered limited income households meaning that those households earned too much for public assistance and can cover the bare minimum budget.

Commissioner AnJanette Brush made a motion to approve funding allocation for an affordable housing study. Commissioner Ronald Mascarenas seconded. A roll call vote was taken indicating the following:

Commissioner AnJanette Brush	**Yes**
Commissioner F.R. Bob Romero	**Yes**
Commissioner Ronald Mascarenas	**Yes**
Vice-Chair Darlene Vigil	**Yes**
Chairman Miguel Romero	**Absent**

Motion carried.

Vice-Chair Darlene Vigil made a motion to take a break at 10:13 a.m. Commissioner AnJanette Brush made a motion to return to regular session at 10:20 a.m. Commissioner Ronald Mascarenas seconded.

Commissioner AnJanette Brush	**Yes**
Commissioner F.R. Bob Romero	**Yes**
Commissioner Ronald Mascarenas	**Yes**
Vice-Chair Darlene Vigil	**Yes**
Chairman Miguel Romero	**Absent**

Motion carried.

B. A Presentation and Reflection on the Cultural Treasurers Project – Contessa Trujillo, Economic Recovery Corps Fellow

Contessa Trujillo informed the commission that over the past three years she has been part of the Economic Recovery Corps and provided a brief presentation reelecting on the Cultural Treasures Project. The conversations and community input were impactful and beneficial in this project, and the meetings were well attended. The outcomes and continuation of work from the project were digital maps, story maps, case studies, policies and recommendations as well comprehensive plans.

The commission thanked everyone involved in this project because it showed how important it is to keep our traditions and cultures alive and ongoing to each generation, so they don't get lost. This project helped bring to highlight so many cultural treasurers throughout our community of Taos that are often overlooked and taken for granted.

C. Discussion and selection appointing a County Commissioner to serve as an ex-officio member of the Taos MainStreet Board of Directors – Contessa Trujllo, Board Co-Chair Taos Main Street

The appointed board member would sit on the board from today until the end of the year and a new appointment can be made in January for this board.

Vice-Chair Darlene Vigil made a motion to appoint Commissioner Ronald Mascarenas as ex-officio member to the Taos MainStreet Board of Directors until the end of the year. Commissioner AnJanette Brush seconded. A roll call vote was taken indicating the following:

Commissioner AnJanette Brush	**Yes**
Commissioner F.R. Bob Romero	**Yes**
Commissioner Ronald Mascarenas	**Yes**
Vice-Chair Darlene Vigil	**Yes**
Chairman Miguel Romero	**Absent**

Motion carried.

XI. ***<u>Resolutions & Ordinances</u>***

A. Discussion, consideration, and decision regarding approval of Resolution 2026-45, a Resolution for fixed assets annual inventory – Elsa Vigil, Chief Procurement

Elsa Vigil, Chief Procurement Officer presented and recommended approval of the resolution for fixed assets annual inventory.

Commissioner Ronald Mascarenas made a motion to approve Resolution No. 2026-45. Commissioner seconded. A roll call vote was taken indicating the following:

Commissioner AnJanette Brush	**Yes**
Commissioner F.R. Bob Romero	**Yes**
Commissioner Ronald Mascarenas	**Yes**
Vice-Chair Darlene Vigil	**Yes**
Chairman Miguel Romero	**Absent**

Motion carried.

XII. **Contracts, Agreements, MOU's & Bids**

A. Discussion, consideration and decision regarding approval of TCC 2026-13, A2 Facility Build. The contractor shall provide all labor, materials, equipment, permits, etc. for installation of a complete fire alarm system in the existing facilities of the Costilla Senior Center. The scope of work is modified through this change order removing the electric vehicle charging stations and associated equipment. The contract value has been adjusted accordingly -Gilberto Jaramillo, Facilities Director

Gilberto Jaramillo, Facilities Director requested approval of the contract for the installation of a fire alarm system in the amount of $173,250.04 inclusive of GRT's.

Commissioner AnJanette Brush made a motion to approve contract TCC 2026-13. Commissioner Ronald Mascarenas seconded. A roll call vote was taken indicating the following:

Commissioner AnJanette Brush	**Yes**
Commissioner F.R. Bob Romero	**Yes**
Commissioner Ronald Mascarenas	**Yes**
Vice-Chair Darlene Vigil	**Yes**
Chairman Miguel Romero	**Absent**

Motion carried.

B. Discussion, consideration and decision regarding approval of purchase of 27/28 Osage Type 1 Ford 4x4 Ambulance for the Fire/Rescue Department in the amount of $459,341.32. Procurement is authorized under Buy Board Cooperative – Elsa Vigil, Chief Procurement Officer & David Varela, Deputy Chief

Elsa Vigi, Chief Procurement Officer presented and recommended approval of the purchase of new ambulance for the Fire/Rescue Department, which would replace a 2019 ambulance that currently has 101,000 miles.

Commissioner F.R. Bob Romero made a motion to approve the purchase of a 27/28 Osage Type I Ford 4x4 Ambulance. Commissioner AnJanette Brush seconded. A roll call vote was taken indicating the following:

Commissioner AnJanette Brush	**Yes**
Commissioner F.R. Bob Romero	**Yes**
Commissioner Ronald Mascarenas	**Yes**
Vice-Chair Darlene Vigil	**Yes**
Chairman Miguel Romero	**Absent**

Motion carried.

XIII. ***Department Matters***

A. An introductory presentation to Ordinance 2026-1, amending Ordinance 2022-4, an ordinance establishing an Affordable Housing Program pursuant to the Taos County Afforddable Housing Plan; defining terms; establishing application requirements and review criteria; and establishing procedures to administer and Affordable Housing Program; and an introduction to Ordinance 2026-2, An Ordinance establishing a

Community Housing Fund pursuant to the Taos County Affordable Housing Ordinance; defining terms; and establishing procedures to administer a Community Housing Fund – Daniel Werwath & Josie Butler, Representing Taos Housing Partnership, Taos County's current affordable housing.

Daniel Werwath presented drafts of the affordable housing ordinance which would be formally presented to the commission in a December commission meeting. The first ordinance would create a Community Housing fund. It would award housing loans and grants through the RFP process. The draft would also dedicate all short term rental license fees and proceeds from the county land sales to the fund. The plan is to have the system in place once funding comes in. The second ordinance would raise the income ceiling for county housing which would help 80%-150% of the median income and also shorten the minimum time housing built or repaired with county help and also stay affordable.

The commission supports the idea however feels that this could burden the Planning Department with even more work an make it truly successful. There are many factors that still need to be considered and community boards that have a fair say in who is recommended for awards/grants.

B. Discussion, consideration and decision on the Lodger's Tax Advisory Board's Funding Recommendations for the Fall Lodger's Tax Grant Cycle – Dylan Cox, Lodger's Tax Coordinator

Dylan Cox, Lodger's Tax Coordinator requested approval of the Fall Lodger's Tax grant recommendations. Mr. Cox stated that there were 21 organizations that the Lodger's Tax Board recommended for funding totaling $292,423.

Commissioner AnJanette Brush made a motion to approve Fall lodger's tax grant recommendations. Commissioner F.R. Bob Romero seconded. A roll call vote was taken indicating the following:

Commissioner AnJanette Brush	**Yes**
Commissioner F.R. Bob Romero	**Yes**
Commissioner Ronald Mascarenas	**Yes**
Vice-Chair Darlene Vigil	**Yes**
Chairman Miguel Romero	**Absent**

Motion carried.

C. Discussion, consideration and decision regarding a request for Lodger's Tax Sponsorship for Danielle Valdez, Miss New Mexico Princess 2026 to represent Taos County and the state of New Mexico at the NAM National Pageant in Orlando, FL, November 19-28, 2026 -Dylan Cox, Lodger's Tax coordinator

Dylan Cox, Lodger's Tax Coordinator recommended approval of Lodger's Tax Sponsorship for Danielle Valdez, in the amount of $2,800. Miss Valdez will be traveling ad participating in pageant events out of state and would have Taos County's logo visible showing Taos County's sponsorship.

Commissioner Ronald Mascarenas made a motion to approve the Lodger's Tax Sponsorship for Danielle Valdez. Vice-Chair Darlene Vigil seconded. A roll call vote was taken indicating the following:

Commissioner AnJanette Brush	**Yes**
Commissioner F.R. Bob Romero	**Yes**
Commissioner Ronald Mascarenas	**Yes**
Vice-Chair Darlene Vigil	**Yes**
Chairman Miguel Romero	**Absent**

Motion carried.

D. Discussion regarding the draft "Data Center Moratorium" Ordinance, which proposes an eighteen (18) month moratorium to allow for County staff to develop regulations, which will amend the Taos County Land Use Regulations and/or any other Ordinances or regulations for proposed development of data centers- Rachel Romero, Planning Director & Patrick Trujillo, Contract County Attorney

Rachel Romero, Planning Director presented the commission with a draft ordinance pertaining to Data Center Moratoriums, that would halt data center development as a precautionary measure in the county for 18 months while staff researches, reviews and create rules. The plan is to bring the ordinance to the commission for adoption during the December 15th meeting.

Commissioner AnJanette Brush thanked staff for putting this together since currently we don't have any protective measures in place that could potentially cause huge impacts to the county. Vice-Chair Darlene Vigil also agreed that the draft ordinance is a good direction to take but also requested that staff not let this take the lead when working on updating the land use regulations.

E. A Presentation and discussion of the First Quarter Financial Reports for Fiscal Year 2026-2027-Emily Rowlinson-Elliott, Finance Director

Emily Rowlinson-Elliott, Finance Director presented the first quarter financial report and reported that the gross receipts tax revenues were lower in the first quarter, which she feels is not a big concern at this point.

XIV. ***Consent Agenda***

A. Approval of DFA Resolution No. 18, A Resolution to adjust the Final budget. Taos County is requesting a budget adjustment for NMDOT Road Grant (HW2LP50085) for the replacement of the Lower Hondo Bridge. Therefore, we are proposing to increase the FY 26-27 budget to appropriately account for the revenue and expenses associated with this grant. A Permanent Transfer will be made from the General Fund as the County's required match funding -Emily Rowlinson-Elliott, Finance Director

B. Approval of BAR #26 – A Budget Adjustment for Administration. To cover expenses related to CEED grant printing and publishing – Emily Rowlinson-Elliott, Finance Director

C. Memorandum of Understanding (MOU) between Taos County Fire/Rescue and Taos Ski Valley for EMS Services – Mike Cordova, Fire/Rescue Chief

Commissioner Ronald Mascarenas made a motion to approve the Consent Agenda A-C . Commissioner F.R. Bob Romero seconded. A roll call vote was taken indicating the following:

Commissioner AnJanette Brush	**Yes**
Commissioner F.R. Bob Romero	**Yes**
Commissioner Ronald Mascarenas	**Yes**

Vice-Chair Darlene Vigil	**Yes**
Chairman Miguel Romero	**Absent**

Motion carried.

XV. ***County Manager's Report & Matters***

A. Update to County Commission on various items affecting Taos County – Brent Jaramillo, County Manager

The following updates were provided by Brent Jaramillo, County Manager:

- Facilities and the Road Department are preparing for winter weather.
- Auditors will be continuing their audit and gathering information next week.
- Taos County vacancy rate is currently at 58 positions (28%)
- E-911 Dispatch recently had a software update and training that took place last week.
- Veteran's Day Ceremony will take place on November 11th at 11 a.m. at the Taos Plaza.
- The Better Informed Public Official conference is scheduled for December 8-10, 2026.

XVI. ***Commissioner's Report & Matters***

A. New Business to be considered at a future Commission Meeting

Commissioner F.R. Bob Romero asked when the item regarding the County Manager's evaluation would be scheduled.

B. Commissioner's Announcements

Vice-Chair Darlene Vigil mentioned that there is proposed legislation regarding PILT payments and also mentioned that she would like to propose a work study to discuss and review the Land Use Regulations as a whole.

Commissioner Ronald Mascarenas mentioned that the NCRTD electric bus ribbon cutting would take place on Thursday, November 12, 2026, from 2 p.m.- 4 p.m.

Commissioner AnJanette Brush also mentioned that the Rio Fernando cleanup took place the weekend of November 7th and it was successful and thanked all those who volunteered.

XVII. ***The Taos County Board of commissioners may convene in Closed Session***

A. Discussion and consideration of pending/threatened litigation related to the AIRE vs. Taos County matter. These matters may be discussed in executive session under Open Meetings Act exemption 10-15-1 (H)(7), which allows for discussion of pending or threatened litigation.

B. Discussion and consideration of pending/threatened litigation related to the Kaldor vs. Taos County matter. These matters may be discussed in executive session under Open Meetings Act exemption 10-15-1 (H)(7), which allows for discussion of pending or threatened litigation.

C. Discussion regarding the potential purchase of property. This matter may be discussed in executive session under Open Meetings Act exemption 10-15-1 (H)(8), which allows for discussion of the purchase, acquisition or disposal of Real Property or Water Rights by the Public Body.

Commissioner AnJanette Brush made a motion to go into Executive Session at 1:10 p.m. Commissioner Ronald Mascarenas seconded. A roll call vote was taken indicating the following:

Commissioner AnJanette Brush	**Yes**
Commissioner F.R. Bob Romero	**Yes**

Commissioner Ronald Mascarenas	**Yes**
Vice-Chair Darlene Vigil	**Yes**
Chairman Miguel Romero	**Absent**

Motion carried.

Commissioner Ronald Mascarenas made a motion to return to regular session at 1:53 p.m. Commissioner F.R. Bob Romero seconded. A roll call vote was taken indicating the following:

Commissioner AnJanette Brush	**Yes**
Commissioner F.R. Bob Romero	**Yes**
Commissioner Ronald Mascarenas	**Yes**
Vice-Chair Darlene Vigil	**Yes**
Chairman Miguel Romero	**Absent**

Motion carried.

Executive Session Report:

Patrick Trujillo, Contract County Attorney informed the public that the commission went into executive session and only discussed the item noticed.

Commissioner Ronald Mascarenas made a motion to approve the report of Executive Session. Commissioner F.R. Bob Romero seconded. A roll call vote was taken indicating the following:

Commissioner AnJanette Brush	**Yes**
Commissioner F.R. Bob Romero	**Yes**
Commissioner Ronald Mascarenas	**Yes**
Vice-Chair Darlene Vigil	**Yes**
Chairman Miguel Romero	**Absent**

Motion carried.

XVIII. Adjournment

Commissioner F.R. Bob Romero made a motion to adjourn at 1:55 p.m. Commissioner Ronald Mascarenas seconded. All in favor, motion carried.

AGENDA ITEM NO.
Taos County-5345-2019

Taos County

BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REPORT

DATE:	**December 1, 2026**
SUBJECT:	**A Presentation from the Taos County Health Council of the NM Department of Health FY27 Funding for Rural Tribal Health Councils - Jennifer Ammann, Economic Mobility & Opportunity Officer**

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presentation .pdf

TAOS COUNTY
AGENDA REQUEST FORM

Presenters Name ***(If there is more than one presenter list them all)***	Jennifer Ammann	**Presenters Title**	Economic Mobility & Opportunity Officer, Health Council Coordinator, Taos County
Meeting date requesting to be on	December 1, 2026	**Are there any documents For this item? *(all documents must be single sided)***	☐ Yes ☒ No
Will action be needed on this item?	☐ Yes ☒ No	**Are there signatures required on the documents?**	☐ Yes ☒ No
Has Legal Department approved this Item (if applicable)? ***All Contracts, Resolutions, Ordinances and Agreements must be approved by Legal***	☐ Yes ☐ No ☒ N/A	**Legal Department Signature** ***If item does need Legal approval it must be submitted their first.***	

AGENDA ITEM DESCRIPTION

- Presentation by the Taos County Health Council of the NM Department of Health FY27 Funding for Rural and Tribal Health Councils.
- Slide presentation attached.

Signature/Date of person picking up final documents:

TAOS COUNTY HEALTH COUNCIL

Department of Health FY27 Funding for Health Councils

Scope of Work and Budget

Scope of Work Sections

1. Section 1: Health Council Operations and Administration
2. Section 2: Health Council Engagement & Community Health Improvement Plans (CHIP)
3. Section 3: Health Council Work on Initiatives to address Social Determinants of Health
4. Section 4: Health Council Project to address Priority in Community Health Plan (CHIP)

Section 1: Health Council Operations and Administration

- Organizational chart
- FY27 Staffing Plan
- Health Council Member Roster
- Health Council Fact Sheet
- Monthly Meeting Agendas & Minutes
- Schedule of regular monthly TA meetings with DOH HPT

Section 2: Health Council Engagement & Community Health Improvement Plan (CHIP)

01

Update and revise CHIP Plan

1. Updated version of Health Council's CHIP
2. NM DOH Monthly Reports

02

Engage local govt and community in Health Council work

1. County Resolution within last 5 years acknowledging recognition of Health Council
2. Copy of Agenda and/or presentation given
3. Copy of invitation list, minutes.

03

Annual Health Council Impact Survey

NMDOH Health Council Impact Survey completed by Health Council Coordinator

Section 3: Health Council Work on Initiatives to address Social Determinants of Health

01

Initiative #1: Suicide Prevention Trainings

1. Partner with ABC Suicide Prevention Training to offer Train-the-Trainer opportunities to Youth, CHWs, other orgs
2. Partner with NAVI to provide resources to Youth in Taos County

02

Initiative #2: Gunlock safety awareness campaign

1. Gunlock distribution at resource fairs
2. Partner with law enforcement to offer hunter safety training
3. Survey to collect data on gun safety use and resources people need

03

Monthly NMDOH Reports

NMDOH Monthly Reports completed by Health Council Coordinator

Section 4: Health Council Project to address priority in Community Health Improvement Plan

- Update, print and distribute hard copy **Resource Directories** in English and Spanish
- Partnerships and community outreach:
  - 100% Taos County Initiative
  - School districts, Holy Cross Hospital, Taos Pueblo, Taos Clinic for Children and Youth, NMRTD Blue Bus, CYFD, CAV, Taos NEST, churches and other community-based organizations

Questions? Thank you!

Contact
Jennifer Ammann
Economic Mobility & Opportunity Officer
Taos County Health Council Coordinator
jennifera@taoscountynm.gov

AGENDA ITEM NO.
Taos County-5351-2019

Taos County

BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REPORT

DATE:	**December 1, 2026**
SUBJECT:	**Discussion, consideration and decision regarding the remand of SUP-24-0013 – A Special Use Permit to place a cell tower at 159 Old Hwy 3 in Arroyo Hondo. The Eighth Judicial District Court ruled on September 21, 2026 that the Taos County Board of County Commissioners must hold an evidentiary hearing to determine if the SUP complies with Section 4.6.1(B)- Visual Impact – of the Taos County Land Use Regulations, and whether the National Trail Office anticipates an adverse impact on the Old Spanish Trail - Rachel Romero, Planning Director & Patrick Trujillo, Contract Attorney**

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8 Cell Tower in Scale.png

8 Decision of Planning Commission 2014.pdf

8 Map of homes.pdf

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15.0 July 10, 2025 Staff Report To Taos County Planning Commission.pdf

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17.0 September 16, 2025 Staff Report to Taos County Board of County Commissioners.pdf

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19.0 The National Environmental Policy Act (NEPA) Summary Report.pdf

20.0 September 12, 2025 Valbridge Property Advisors New Mexico- Tower Influence Market Study.pdf

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2.0 Land Use Regulations Section 4.6.1.B.pdf

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BEFORE THE TAOS COUNTY

BOARD OF COUNTY COMMISSIONERS

SPECIAL USE PERMIT 24-0013

CELL TOWER REMAND HEARING

December 1, 2026

SUBMITTED IN SUPPORT OF RECONSIDERATION OF THE PROPOSED TELECOMMUNICATIONS TOWER IN ARROYO HONDO

DISTRICT COURT REMAND ORDER
September 21, 2026
The Honorable Jeffrey Shannon
Eighth Judicial District Court, Taos County, New Mexico

MATTERS BEFORE THE COMMISSIONERS

1. Visual Compatibility
Whether the proposed 95-foot telecommunications tower complies with Section 4.6.1(B) (Visual Impact) of the Taos County Land Use Regulations, including its requirements that it be "*sensitive to and consistent with the architectural design, scale, density bulk, building height, historical character, and orientation of the existing properties in the neighborhood*"

2. Old Spanish National Historic Trail
Whether the National Trails Office, National Park Service, anticipates an adverse impact on the Old Spanish National Historic Trail, based on accurate information about existing site conditions.

APPELANTS

Ben Thomas
Alma Quillian
Kimberly J. Grant and her successors, Trustee of the Kimberly Grant Revocable Living Trust

APPELANT'S COUNSEL AND REPRESENTATIVES

Susan Baker, Attorney
Noah Berke AICP, CFM

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TAB 5: Public Letters, Comments, Petition

TAB 6: Community Photo Renderings
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TAB 8: Opening Brief in Opposition
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TAB 9: District Court Hearing Transcript

BEFORE THE TAOS COUNTY BOARD OF COUNTY COMMISSIONERS

December 1, 2026 | Special Use Permit 24-0013

The September 21, 2026 Remand Order from District Court Judge Jeffrey Shannon (Tab 2 “Court Order”) gives the County an opportunity to reconsider two important issues with its previous approval of the construction of this cell tower.

The 8th District Court specifically found that the County's previous visual-compatibility determination was arbitrary because it relied on the testimony of one person, Chief Planner Rudy Perea (Tab 3 “Decision Notice”), rather than substantial evidence.

Judge Shannon stated:

"The testimony of one person does not amount to substantial evidence to support the Decision."

The Commissioners now have an opportunity to consider the full record and make a decision supported by the evidence.

1. VISUAL IMPACT: DOES THIS TOWER BELONG IN THIS COMMUNITY?

Taos County Land Use Regulation 4.6.1(B) requires “*the development shall be sensitive to and consistent with the architectural design, scale, density bulk, building height, historical character, and orientation of the existing properties in the neighborhood, or the applicant shall be able to demonstrate that the alternative being proposed is suitable to the land and the neighborhood character.”*

The proposed tower is approximately **95 feet tall and 24 feet in diameter**. It would stand more than 60 feet above anything else in its immediate surroundings and be at least three times taller than the surrounding piñon and juniper vegetation (Tab 4 “BTS Photo Rendering”).

The applicant calls it a "monopine," but disguising an industrial tower as a tree does not make it visually compatible with a landscape that is devoid of any comparable trees. Camouflage does not change its extraordinary height, scale, or visual dominance.

The question is not whether a disguised tower looks better than an undisguised tower. It is whether a structure of this size is appropriate for this particular location.

The community's voice matters.

The previous decision relied on one planner's opinion of visual compatibility. Yet the public record documents substantial opposition from people who live in and know this community (Tab 5 “Public Comments and letters”):

- 18 comments opposing the tower at the Planning Commission.
- 9 comments opposing the tower at the BCC.
- 16 letters expressing concerns about visual impact.
- A petition with 95 signatures.

These residents may not all be professional landscape architects or planners, but they are firsthand witnesses to the landscape, views, and neighborhood character that the County's regulation requires it to consider.

Why should the opinion of one planner outweigh the documented observations and concerns of the people who live here?

The record also includes site photographs, nearby residences and distances, and historical documentation of previously denied applications for a tower in the same location (Tab 6).

Arroyo Hondo is a historic rural community shaped by generations of settlement, agriculture, and cultural traditions. Its rural cemetery, traditional landscape, and longstanding efforts to preserve views are important parts of its identity. The County's Comprehensive Plan likewise recognizes the importance of protecting scenic landscapes, cultural heritage, and neighborhood character (Chapter 6, p. 81) and also identifies preservation of viewsheds and the maintenance of existing development patterns and neighborhood character as important planning considerations in its discussion of development standards (Chapter 4, p. 44).

We ask the Commissioners to evaluate the actual scale, height, and visual impact of this tower—not simply whether its camouflage makes it less noticeable.

OUR REQUEST: Find that the applicant has not demonstrated compliance with Section 4.6.1(B) and deny the Special Use Permit based on visual incompatibility.

2. OLD SPANISH NATIONAL HISTORIC TRAIL: THE PREVIOUS DETERMINATION RELIED ON AN INCORRECT FACT

The 8th District Court also remanded the County's finding regarding potential adverse impacts on the Old Spanish National Historic Trail.

The County previously relied on a September 2023 National Park Service letter indicating that the tower would have no adverse effect. However, that determination relied in part on the apparent existence of a previous sited 100-foot tower at this location (Tab 8)

No such tower was ever constructed or registered.

The Court specifically found that the NPS letter relied in part on a mistaken belief of fact and that it was arbitrary for the County to rely on that determination without addressing the error.

The proposed tower must be evaluated against the landscape that actually exists—not an assumed structure that was never built.

Jointly authored by the National Park Service and Bureau of Land Management, the 2017 *Old Spanish National Historic Trail Comprehensive Administrative Strategy* establishes the safeguarding of public appreciation and enjoyment regarding the historic resources of the Trail as a core management priority. This strategy explicitly highlights scenic integrity alongside freedom from visual intrusion as essential attributes defining the Trail's cultural context (p. 15). Furthermore, it notes that conducting viewshed analysis serves as a suitable method for ongoing assessment of the Trail and its related environmental assets (p. 18).

We ask the Commissioners to ensure the National Trails Office has accurate information about the site's existing conditions, the proposed tower's dimensions, and its potential visual impact before relying on its previous determination.

Additionally, "The Old Spanish National Historic Trail will be shared on the Cultural Treasures Project interactive map, along with nearly 250 additional treasures that highlight the uniqueness of Taos County, with recommendations on how to preserve and protect these treasures, " Jessica Stern, Economic Development Director, Taos County

Finally, the Old Spanish Trail Association has also expressed concerns about the proposed tower, urging the Board of County Commissioners to ‘protect the Trail’s historic landscape’ and deny the application.

OUR REQUEST

We are not opposed to improved telecommunications or expanded broadband access. We support responsible development that respects the character and history of our community.

The Court has identified shortcomings in the evidence supporting the County's previous decision. This hearing is an opportunity to address them.

We respectfully ask the Commissioners to:

1. **Deny the Special Use Permit** because the applicant has not demonstrated visual compatibility under Section 4.6.1(B).
2. **Deny the Special Use Permit** because the determination made by the National Park Service in September of 2023 was based on erroneous information about the existing site conditions.

This decision is about more than a cell tower. It is about honoring our land use regulations, listening to the people who call this community home, and protecting the historic rural landscapes that make Taos County special.

FILED
8TH JUDICIAL DISTRICT COURT
TAOS COUNTY NM
9/21/2026 10:16 AM
CLERK OF THE COURT

CM

STATE OF NEW MEXICO
COUNTY OF TAOS
EIGHTH JUDICIAL DISTRICT

BENJAMIN C. THOMAS,
ALMA QUILLIAN,
KIMBERLY J. GRANT AND HER SUCCESSORS,
Trustee of the Kimberly Grant Revocable Living Trust,

Appellants,

v. No. D-820-CV-2025-00451

TAOS COUNTY BOARD OF
COUNTY COMMISSIONERS and
BTS TOWERS LLC,

Appellees.

ORDER GRANTING LIMITED REMAND OF SPECIAL USE PERMIT 24-0013 TO APPELLEE TAOS COUNTY BOARD OF COUNTY COMMISSIONERS

THIS MATTER having come before the Court on the Opening Brief in Opposition to SUP 24-0013 ("Opening Brief") of Appellants Benjamin C. Thomas, Alma Quillian, and Kimberly J. Grant and her Successors, Trustee of the Kimberly Grant Revocable Living Trust ("Appellants"), the parties having appeared by and through their counsel of record, the Court having reviewed the case file, heard oral argument in this matter, and otherwise being fully advised in the premises,

FINDS:

1. Appellants raised nine challenges in the Opening Brief to the decision of Appellee Taos County Board of County Commissioners affirming the Taos County Planning Commission's decision granting Special Use Permit 24-0013 ("Decision") under Rule 1-074(R) NMRA;

2. The Decision's finding regarding Taos Land Use Regulation 4.6.1(B) (Visual

Impact) is arbitrary because Appellee Taos County Board of County Commissioners relied on the testimony of one person, Chief Planner Rudy Perea, to certify satisfaction with Taos Land Use Regulation 4.6.1(B), the testimony of one person does not amount to substantial evidence to support the Decision, so that the Decision requires remand to Appellee Board of Taos County Board of County Commissioners for further review and findings regarding compliance with Section 4.6.1(B);

3. For the Decision's finding regarding impact on the Old Spanish Trail, Appellee Taos County Board of County Commissioners relied only on the letter from the National Trails Office, National Parks Service ("Letter"), which found the proposed tower would have no adverse effect on the Old Spanish Trail, but the Letter relied in part on a mistaken belief of fact that a one-hundred foot (100') tower was previously built on the property Special Use Permit 24-0013 proposed for the tower site. It was capricious for Appellee Taos County Board of County Commissioners to rely on the Letter which presumed a fact that does not exist, and the Decision requires remand to Appellee Taos County Board of County Commissioners for further review and findings; and,

4. Appellants' remaining challenges raised in the Opening Brief are denied.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Decision is remanded to Appellee Taos County Board of County Commissioners to hold an evidentiary hearing on whether Special Use Permit 24-0013 complies with Taos Land Use Regulation 4.6.1(B) (Visual Impact) and whether the National Trails Office, National Parks Service anticipates an adverse impact on the Old Spanish Trail. Appellants' remaining challenges raised in the Opening Brief should be, and hereby are, denied.

THE HONORABLE JEFFREY SHANNON
District Court Judge

SUBMITTED BY:

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By */s/ Eric Burris*
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Attorneys for BTS Towers LLC

/s/ Approved on September 17, 2026
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Attorney for Taos County Board of County Commissioners

APPROVED AS TO FORM ONLY BY:

/s/ Approved on September 17, 2026
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Attorney for Appellants

53005288.1

BEFORE THE TAOS COUNTY
BOARD OF COMMISSIONERS
TAOS COUNTY, NEW MEXICO

TAOS COUNTY
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BY MELANIEM

IN THE MATTER OF THE APPEAL APPLICATION (APPEAL-25-000001) SUBMITTED BY BEN THOMAS ("APPELLANT") FOR A DECISION MADE BY THE TAOS COUNTY PLANNING COMMISSION TO APPROVE SPECIAL USE PERMIT SUP-24-000013. THE "APPELLEES" ARE ROMANO AND ASSOCIATES, LLC "AGENT" REPRESENTING BTS TOWERS, LLC "APPLICANT" AND GRACE COMMUNITY CHURCH "PROPERTY OWNER"

DECISION OF BOARD OF COUNTY COMMISSIONERS

MEETING OF SEPTEMBER 16th, 2025

On September 16th, 2025 the aforementioned matter came before the Taos County Board of Commissioners as an appeal submitted by Ben Thomas "Appellant" from a decision made by the Taos County Planning Commission on July 10th, 2025 to approve Special Use Permit (SUP-24-000013) to erect and operate a ninety-five foot (95') tall cellular tower on a 2.571+- acre property located at 159 Old Highway 3 in Arroyo Hondo, Taos County, New Mexico. The "Appellees" are Romano and Associates, LLC "Agent" representing BTS Towers, LLC "Applicant" and Grace Community Church "Property Owner".

FINDINGS

1. The Taos County Board of County Commissioners heard testimony from the Appellants, Appellees, members of the public, and Taos County Planning Department Staff.

2. The Taos County Board of County Commissioners made the decision to uphold the decision made by the Taos County Planning Commission to approve Special Use Permit (SUP-24-000013) along with the associated findings of fact and conditions of approval as they are stated in their Record of Decision

BEFORE THE TAOS COUNTY
BOARD OF COMMISSIONERS
TAOS COUNTY, NEW MEXICO

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IT IS THEREFORE ORDERED, that the Taos County Board of Commissioners hereby on this 16th day of September 2025 after hearing testimony from the Appellants, the Appellees, members of the public, and Taos County Planning Department Staff has made the determination to **uphold** the decision made by the Taos County Planning Commission to approve Special Use Permit (SUP-24-000013) and therefore **deny** Appeal (Appeal-25-000001). The Taos County Planning Commission's Record of Decision is included as an attachment to this document and is designated as Exhibit 1.

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BY NATASHAV

BEFORE THE TAOS COUNTY
BOARD OF COMMISSIONERS
TAOS COUNTY, NEW MEXICO

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TAOS COUNTY BOARD OF COMMISSIONERS:

Ronald Mascarenas, Chairperson

Miguel Romero, Vice Chairman

F.R. Bob Romero, Commissioner

Darlene Vigil, Commissioner

Antanette Brush, Commissioner

ATTEST:

Valerie Montoya, County Clerk

TAOS COUNTY CLERK OFFICIAL SEAL RECORDER SEAL TAOS, NEW MEXICO

APPROVED AS TO FORM:

Patrick Trujillo, County Attorney

VOTE RECORD:

B. Romero	yes	no	abstain	absent
M. Romero	yes	no	abstain	absent
D. Vigil	yes	no	abstain	absent
A. Brush	yes	no	abstain	absent
R. Mascarenas	yes	no	abstain	absent

BEFORE THE TAOS COUNTY
BOARD OF COMMISSIONERS
TAOS COUNTY, NEW MEXICO

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TAOS COUNTY CLERK OFFICIAL SEAL RECORDER SEAL TAOS, NEW MEXICO

TAOS COUNTY
PLANNING COMMISSION

RICK EDELMAN	CHAIRMAN
JUDY TORRES	VICE CHAIRPERSON
LUIS GALLEGOS	COMMISSIONER
BILLY ROMERO	COMMISSIONER
TED TERRY	COMMISSIONER

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BY NATASHAV

DECISION OF PLANNING COMMISSION MEETING OF JULY 10th, 2025

CASE SPUSE-25-000013

REQUEST

Romano and Associates, LLC "Agent" representing BTS Towers, LLC "Applicant" and Grace Community Church "Property Owner" is requesting a special use permit (SUP-24-000013) to construct and operate a ninety five foot (95') tall concealed cellular tower. The concealed cellular tower is proposed to be placed on a 2.571+- acre property located at 159 Old Highway 3 in Arroyo Hondo, Taos County, New Mexico.

FINDINGS

1. The requested special use is to erect an ninety five foot (95') tall communications tower on a property located off of 159 Old State Highway 3 in Arroyo Hondo, Taos County, New Mexico.

2. The Applicant meets the criteria of section 4.6.1 (A)[Use] of the Taos County Land Use Regulations based on Staff's analysis of the documentation submitted by the Applicant which determined that the proposed special use will provide a substantial public health, safety, and welfare benefit to the Arroyo Hondo Community by providing cellular services for members of this community and for E911 Emergency Services in the event that there are medical or law enforcement emergencies.

3. Staff has made the determination that the Applicant meets the criteria of section 4.6.1 (B)[Visual Compatibility] of Taos County Land Use Regulations due to the Applicant's proposed camouflage of the cell tower to look like a pine tree blends in more with the neighborhood character than an undisguised version would.

4. Staff has determined that the Applicant complies with the criteria of section 4.7.1 subsection (A) [Roads] of Taos County's Land Use Regulations the submission of a review letter from the Taos County Public Works Department. This department determined that the driveway from the subject property onto County Road B-003 (i.e. Old State Road 3) is an existing access and therefore did not need to obtain an access permit.

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5. Staff has made the determination that the Applicant has complied with the criteria of section 4.7.1 subsection (B) [Utilities] of Taos County's Land Use Regulations based on a will serve letter from Kit Carson Electric Cooperative that was submitted as part of the special use permit application.

6. Staff has made the determination that the Applicant does not need to comply with the criteria of section 4.7.1 (C) [Water Supply and Quality] of Taos County's Land Use Regulations due to the fact that no water will be utilized as part of the operation of the proposed commercial communications tower.

7. Staff has made the determination that that the Applicant does not need to comply with the criteria of section 4.7.1 (D) [Liquid Waste Disposal] of Taos County Land Use Regulations due to the fact that no liquid waste will be generated as part of the operation of the proposed commercial communications tower.

8. Staff has made the determination that the Applicant complies with this criteria of section 4.7.1 subsection (E) [Legal Access] with the the submission of a review letter from the Taos County Public Works Department. This department determined that the driveway from the subject property onto County Road B-003 (i.e. Old State Road 3) is an existing access and therefore did not need to obtain an access permit.

9. The Applicant has met the criteria of section 4.7.1 (F) [Storm Water Control] of Taos County's Land Use Regulations based on the drainage plans that were submitted as part of the application packet that have been prepared by an engineer licensed by the State of New Mexico.

10. Staff has determined that the Applicant complies with the criteria of Section 4.7.1 (G) [Fire Prevention Plan] of Taos County's Land Use Regulations based on the following items:

    a). As part of the special use permit application from the Taos County Fire Marshal has reviewed and approved the Applicant's fire prevention documentation.

    b). The proposed Fire Prevention Plan for the requested special use permit was prepared by a design professional and has been reviewed and approved by the Taos County Fire Marshal.

11. Staff has determined that the Applicant complies with the criteria of Section 4.7.1 (H) [Environmental Impact Study] of Taos County's Land Use Regulations with the submission of an environmental impact study which was prepared as part of meeting the requirements of the NEPA (National Environmental Policy Act) as mandated by the FCC (Federal Communications Commission).

12. Staff has determined that the Applicant has complied with the criteria of section 4.7.1 (I) [Geologically Unstable Areas] of Taos County's Land Use Regulations based on a staff analysis of the Applicant's documentation that was prepared by a State of New Mexico licensed civil engineer which certifies that the subject property is geologically stable.

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13. Staff has determined that the Applicant has met the criteria of section 4.7.1 (J) [Wildlife Areas] of Taos County's Land Use Regulations based on the Applicant's submitted NEPA report which received an approval from the United States Fish and Wildlife Service.

14. Staff has made the determination that the criteria of section 4.7.1 (K) [Agricultural Areas] of Taos County's Land Use Regulations does not apply to the Applicant due to the fact that the subject property has been used historically for religious purposes.

15. Staff has determined that the Applicant has complied with the requirements of Section 4.7.1 (L) [Site Improvements] of Taos County's Land Use Regulations by submitting a site plan for the proposed commercial communications tower site on the subject property.

16. Staff has determined that he Applicant/Property Owner meets the criteria of section 4.7.1 (M) [Exterior Lighting] of Taos County's Land Use Regulations due to the fact that the proposed commercial communications tower will not exceed two hundred feet (200') in height. Due to this fact the Federal Aviation Administration (FAA) will not require that exterior lighting be placed on this tower. However as a condition of approval of the requested special use permit should the applicant propose any other type of lighting for either security or maintenance purposes they will need to submit technical documentation to the Taos County Planning Department for a review to make sure it complies with all applicable regulations outlined in the Taos County Darks Skies Ordinance.

17. Staff has determined that the Applicant does not need to comply with the criteria of section 4.7.1 (N) [Maximum Height] of Taos County's Land Use Regulations because this criteria is superseded by the criteria of section 4.11 subsection (A)(8) of the Taos County Land Use Regulations which no longer restricts the height of cell towers.

18. Staff has determined that the Applicant has complied with the criteria of section 4.7.1 (O) [Grade] of Taos County's Land Use Regulations based on the documentation submitted by the Applicant. The road that will be used to access the proposed commercial communications tower on the subject property will be at less than a 12% grade as mandated by this criteria.

19. A Staff analysis of the technical documentation submitted by the Applicant has determined that there are no acequias on the subject property that will host the proposed commercial communications tower. Therefore Staff has made the determination that the criteria of section 4.7.1 (P) [Acequias] of Taos County's Land Use Regulations does not apply to the Applicant.

20. The Applicant has complied with this criteria of section 4.7.1 (Q) [Wetlands] of Taos County's Land Use Regulations by submitting documentation from the Geographic Information Systems (GIS) section of the Taos County Planning Department and their submitted NEPA study determined that the portion of the subject property where the proposed commercial communications tower will be located is not in a wet lands.

21. Section 4.7.1 (R) [Americans With Disabilities Act (ADA)]: Staff has determined that the Applicant does not need to meet the criteria of section 4.7.1 (R) [Americans With

Disabilities Act (ADA)] of Taos County's Land Use Regulations based on the fact that there will be no members of the general public going to the proposed communication tower site. The only access will be for personnel who will be maintaining the proposed commercial communications tower.

22. Staff has made the determination that this criteria of Section 4.7.1 (S) [Landscaping] of Taos County's Land Use Regulations does not apply to the Applicant due to the fact that the Applicant's proposed communications tower design is going to be disguised as a pine tree and the supporting equipment compound area will not be visible to the general public.

23. The Applicant complies with the criteria of section 4.7.1 (T) [Street and Parking Design] of Taos County's Land Use Regulations by addressing the following items:

    a). The existing road way that will access the proposed commercial communications tower was reviewed and approved by the Taos County Fire Marshal.

    b). A parking area for personnel who will be maintaining the proposed communications tower has been designated at the proposed tower site.

24. The Applicant will not be required to provide solid waste containers on the subject property should the special use permit request be approved due to the fact that the only activities that will be taking place related to this permit will be for maintenance. However, in order to comply with the criteria of section 4.7.1 (U) [Solid Waste Disposal] of Taos County's Land Use Regulations the Applicant will be required to submit a debris management plan for the proposed commercial communications tower site. These plans need to address how construction debris will be disposed of during the course of building the proposed commercial communications tower and will need to be included as part of the building permit applications that will be submitted to the Taos County Building Department.

25. The Applicant complies with the criteria of section 4.7.1 (V) [Flood Plain and Elevation Certificate] of Taos County's Land Use Regulations by submitting documentation from the Geographic Information Systems (GIS) division of the Taos County Planning Department which has classified the portion of the subject property that will host the proposed communications tower as not being located in a high risk area for flooding as this is referenced in Taos County's Official Flood Insurance Rate Map (FIRM).

26. The Applicant complies with the criteria of Section 4.7.1 (W) Wildland Urban Interface (WUI) Impact Areas of Taos County's Land Use Regulations due to the fact that the Taos County's official Community Wildfire Protection Plan (CWPP) list has designated the subject property as being in a medium risk area for fire. Therefore no review of the subject property is required by the Taos County's Wildland Urban Interface (WUI) Coordinator.

27. Staff has determined that the Applicant does not need to comply with the criteria of section 4.7.1 (X) [Loading] of Taos County's Land Use Regulations due to the nature of the special use permit request which will not involve the loading or unloading of merchandise.

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28. The Applicant complies with the criteria of section 4.7.1 (Y) [Slope] due to the fact that the proposed commercial communications tower will be built on a portion of the subject property that does not exceed 20% in slope.

29. The Applicant has complied with the criteria of section 4.7.1 (Z) [Archaeological Sites] of Taos County's Land Use Regulations by following the requirements of Section 106 of the National Historic Preservation Act. As part of complying with these requirements the State of New Mexico Historic Preservation Office (SHPO) was contacted. This state agency made the determination that the proposed commercial communications tower will not negatively impact any historic properties. As a condition of approval of the requested special use permit should any cultural or archaeological artifacts be unearthed during the construction of the proposed communications tower construction shall be stopped and the State of New Mexico Historic Preservation Office shall be contacted.

30. A Staff analysis of the site plan prepared for the proposed commercial communications tower that was submitted by the Applicant has determined that the criteria of section 4.11.1 subsection (A)(1)[Setbacks] of Taos County's Land Use Regulations has been met.

31. Staff has determined that the criteria of section 4.11.1 subsection (A)(2) [Setback Exemption for New Substation Facilities] of Taos County's Land Use Regulations does not apply to the Applicant due to the fact that the proposed commercial communications tower is not going to be located within a new substation facility.

32. A staff analysis of the documentation submitted by the Applicant has determined that the requirements of 4.11.1subsection (A)(3)[Lighting and Signage] of Taos County's Land Use Regulations does not apply due to the following reasons:

    a) The Applicant is not required by the Federal Aviation Administration to place lighting on the proposed commercial communications tower due to the fact that it is under two hundred feet (200') in height.

    b) The Applicant is proposing to only have information signage within the compound for maintenance personnel which complies with Taos County's current sign code ordinance.

    c) Should the Applicant request additional signage at a later date, Staff will ensure that Taos County's Sign Code Ordinance will be complied with.

    d) Should the Applicant propose exterior lighting at a later date, Staff will ensure that Taos County's Dark Skies Ordinance will be complied with.

33. A staff analysis of the Applicant's technical documentation for the proposed commercial communications tower has determined that the Applicant meets the criteria of section 4.11.1 subsection (A)(4)[Telecommunications Equipment Building or Cabinet] of Taos County's Land Use Regulations.

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34. As a condition of approval of the requested special use permit and in order for the Applicant to meet the criteria of section 4.11.1 subsection (A)(5)[Abandonment] of Taos County's Land Use Regulations at the time the Applicant/Property Owner discontinues the use of any or all of the proposed commercial communications towers the following sections of Taos County's Land Use Regulations shall be implemented:

    a) 4.11.1 subsection (A)(5a) which states "All wireless communications facilities that are not in use for six (6) consecutive month's period commencing after the date of enactment of this ordinance shall be removed by the wireless telecommunications facility owner. This removal shall be completed within three (3) months after the end of such six (6) month period. Upon removal, the site shall be re-vegetated to blend with the existing surrounding vegetation".

    b) 4.11.1 subsection (A)(5b) which states "The owner of the property shall provide a bond or an irrevocable letter of credit in an amount necessary to secure the cost of removing an antenna, antenna array, or tower that has been abandoned, as determined by the Planning Department, Planning Commission, and/or Board of County Commissioners. Any bond or letter of credit in favor of Taos County shall survive, by its terms, unless replaced by a subsequent owner any transfer of ownership of the property".

35. The Applicant has complied with the criteria of section 4.11.1 subsection (A)(6)[Interference] of Taos County's Land Use Regulations with the submission of a report that has been prepared by a State of New Mexico licensed engineer which certifies that the proposed commercial communications tower will not interfere with commercially operated cell towers that are within a five (5) mile radius of the subject property.

36. The Applicant has complied with the criteria of section 4.11.1 subsection (A)(7)[Health Issues] of Taos County's Land Use Regulations with the submission of a Radio Frequency – Electromagnetic Energy Report that was stamped by a State of New Mexico licensed engineer. This report certifies that the proposed commercial communications tower will be in compliance with all applicable Federal Communications Commission (FCC) standards for cell tower emissions.

37. The Applicant has chosen to comply with the criteria of section 4.11.1 subsection (B)(2)[Tower Locations][Areas Of Existing Commercial Development] based on the proposed location of the proposed commercial communications tower, which is to erect a new commercial cell tower within a residentially developed community.

38. The Applicant meets the criteria of 4.11.1 subsection (C)[Criteria for Concealed Wireless Telecommunications Facilities] subsection (1) due to the fact that the proposed communications tower will be disguised as a pine tree.

39. Staff has made the determination to waive the criteria of section 4.11.1 subsection (D)[Landscaping and Screening] of Taos County's Land Use Regulations due to the proposal to disguise the cell tower as a pine tree.

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40. Staff has made the determination that the criteria of section 4.11.1 subsection (E)[Horizontal Separation of Free-Standing Telecommunications Facilities] of Taos County's Land Use Regulations has been met based on Staff's analysis of the documentation submitted by the Applicant.

41. Staff has made the determination that the criteria of section 4.11.1 subsection (F)[Color and Camouflage] of Taos County's Land Use Regulations has been met by the Applicant due to the fact that the proposed commercial communications tower will be disguised as a pine tree.

42. The Applicant meets the criteria of section 4.11.1 subsection (G) [Access Roads] of Taos County's Land Use Regulations based on the review that was conducted by the Taos County Fire Marshal on the proposed access road to the communications tower site. The Fire Marshal's review determined that the access road meets fire code standards for emergency access.

43. The Applicant has submitted technical documentation that demonstrates compliance with the criteria of section 4.11.1 subsection (H) [Emergency Backup Power] of Taos County's Land Use Regulations.

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DECISION

Based on documentation and testimony given at the public hearing by the Applicant's Agent, members of the public, and Planning Staff **IT IS THEREFORE ORDERED** that the Taos County Planning Commission hereby on this 10th day of July 2025 **approves** SPUSE-25-000013 subject to the following conditions:

1. The Applicant is being considered for the application submitted. Any changes to the proposed special use permit after it has been approved will have to come into the Taos County Planning Department for review.

2. A debris management plan which addresses how construction debris will be disposed of during the course of building the proposed commercial communications tower shall be included as part of the building permit application that is submitted to the Taos County Building Department.

3. Should any cultural or archaeological artifacts be unearthed during the construction of the proposed commercial communications tower construction shall be stopped and the State of New Mexico Historic Preservation Office shall be contacted.

4. At the time the proposed commercial communications tower is decommissioned the criteria of section 4.11.1 subsection (A)(5a) of Taos County's Land Use Regulations which states "All wireless communications facilities that are not in use for six (6) consecutive month's period commencing after the date of enactment of this ordinance shall be removed by the wireless telecommunications facility owner. This removal shall be completed within three (3) months after the end of such six (6) month period. Upon removal, the site shall be re-vegetated to blend with the existing surrounding vegetation" shall be followed by the Applicant.

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5. If law enforcement and/or emergency service agencies that operate in Taos County request the placement of E911 communications equipment on the proposed commercial communications tower Staff is requesting that the Applicant work with them to accommodate their request.

6. Should the Applicant request additional signage at a later date, they shall be required to submit technical details of their signs to the Taos County Planning Department for a review to ensure compliance with all applicable regulations that are outlined in Taos County's Sign Code Ordinance.

7. Should the applicant propose any other type of lighting for either security or maintenance purposes they will need to submit technical documentation to the Taos County Planning Department for a review to make sure it complies with all applicable regulations outlined in Taos County's Darks Skies Ordinance.

TAOS COUNTY
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VOTE RECORD:

Rick Edelman, Chairman	**yes**	**no**	**abstain**	**absent**
Judy Torres, Vice Chairperson	**yes**	**no**	**abstain**	**absent**
Luis Gallegos, Commissioner	**yes**	**no**	**abstain**	**absent**
Billy Romero, Commissioner	**yes**	**no**	**abstain**	**absent**
Ted Terry, Commissioner	**yes**	**no**	**abstain**	**absent**

TAOS COUNTY CLERK OFFICIAL SEAL RECORDER SEAL TAOS, NEW MEXICO

Judy Torres, Vice Chairperson

7/14/2025
Date

ATTESTED BY:

Rudy D. Perea, Chief Planner

7-14-25
Date

TAOS COUNTY CLERK OFFICIAL SEAL RECORDER SEAL TAOS, NEW MEXICO

PROPOSED
PROPOSED 95' MONOPINE
vertical bridge
US-NM-7008 PHOTO SIMULATION
PROPOSED 95' MONOPINE
LOOKING EAST FROM TRES LOMAS ROAD
MAY 17, 2025

ROA 00780

From:
Kimberly Grant (Romero)
1335 Paseo del Pueblo Sur, #273
Taos, NM, 87571
kym@kymgrant.com
575 758-4148

September 3, 2025

To:
Taos County Commissioners
c/o Rudy Perea, Senior Planner
Taos County Planning Department
105 Albright St., Suite H
Taos, New Mexico, 87571

RE: Opposition to Special Use Permit Application by BTS Towers, LLC

Site address: 159 Old State Highway 3, Arroyo Hondo, NM
Parcel Number: 1069158128242

Dear Members of the Taos County Commission:

As owner of the closest properties to the proposed cell tower at 159 Old State Highway 3 in Arroyo Hondo, N.M., I am writing to express my opposition to the Special Use Permit application submitted by BTS Towers, LLC. Such a tower in this location violates multiple requirements of the Taos County Land Use Regulations.

First, I would like to state that in 2004, my late husband, Eliu Romero, deeded the property to the Grace Community Church as a gift, with an agreement that the land would be used for building a church – a low-impact structure for the benefit of the community. This vision for the property did not include passive income from a commercial tower, one that would be unsightly for the surrounding neighborhood. In fact, when there was a similar application for a cell tower at the same location in 2014, my husband was an outspoken opponent, and the application was denied because of widespread public disapproval and legal violations of the code.

Not only does such a tower have a negative impact on property values - for aesthetic reasons - there has been no substantiation as to their safety. Also, I question whether a 10% devaluation in property values is accurate, as there are many who would never consider buying property or building a home close to a cell tower – thus a 100% devaluation. Those residents or landowners in Arroyo Hondo who are not visibly impacted might not object, but would any of

you who have been authorized to make this decision - or anyone at all - approve of a cell tower directly across from their home?

Another such tower near the intersection of the Old Blinking Light in El Prado has been abandoned and yet is still standing - and another was built nearby.

There are already multiple other carriers who operate in the area. If T-Mobile desires reception in that vicinity, what other - more appropriate - locations have been explored? A 95' cell tower is not at all consistent with the existing neighborhood and absolutely has a substantial negative impact.

It is assumed that the church is considering this action for financial reasons, for the passive income a tower could generate, but I question whether any members of the congregation live in the affected neighborhood, and whether the number of people that might benefit from this warrants the impact on the even-greater number of close residents, households, and property owners - now and into the future.

There are multiple websites online that describe ways churches can generate revenue. These more-suitable avenues need to be explored by the leadership and members of the church, rather than accepting an easy-way-out that greatly disturbs the surrounding neighborhood and is certainly not suitable or integrated into the landscape, or consistent with the architectural structures of the area.

The County Commissioners must consider the legacy, the intended purpose at the time this property was gifted and acquired, and whether this use is good stewardship or what was envisioned for this resource of land.

It is for these reasons, in addition to zoning and other violations detailed by nearby property owners, that I strongly oppose the approval of this Special Use Permit, and request that the Members of the Planning Commission deny permission for this location.

Thank you for your consideration.

Sincerely,

Kimberly Grant

Kimberly Grant-Romero

Penny Privette
4 Tres Lomas Rd
Arroyo Hondo, NM 87513

9.4.2025

Taos County Planning Commission
105 Albright Street, Suite H
Taos, NM 87571

Re: Opposition to Special Use Permit – Proposed 95' Cell Tower Near [Grace Community Cemetery

Dear Members of the Taos County Commission,

I am writing to express my strong opposition to the proposed 95-foot telecommunications tower near Grace Community Cemetery in Arroyo Hondo. My grandfather, Richard D. Garduno and Grandmother, Senida Garduno, is buried in this cemetery, and I am deeply concerned about the impact this project would have on the dignity and sanctity of the site.

Cemeteries are sacred spaces intended for remembrance, reflection, and peace. Placing an industrial structure of this scale immediately adjacent to the resting place of our loved ones is both inappropriate and disrespectful. The visual intrusion of such a tower would permanently alter the character of the landscape, diminish the solemnity of the cemetery, and undermine its cultural and historical significance to our community.

Furthermore, this proposal conflicts with community values and responsible land-use planning. Cemeteries are recognized as sensitive areas, and developments of this nature are incompatible with their intended purpose. Approving this tower would set a troubling precedent for allowing intrusive infrastructure near other culturally and historically important sites within Taos County.

I respectfully urge the Taos County Commissioner to deny the Special Use Permit and protect the dignity of this cemetery and the families connected to it.

Thank you for your time and consideration.

Sincerely,

Penny Privette

Penny Privette

Colin Coolidge
12 B Tres Lomas Road
Arroyo Hondo, NM 87513
colincoolidge@yahoo.com
214-926-5167

Date: 6-24-25

To:
Taos County Planning Commission
c/o Rudy D. Perea, Senior Planner
Taos County Planning Department
105 Albright Street, Suite H
Taos, New Mexico 87571

RE: Opposition to Special Use Permit Application by BTS Towers, LLC

Site Address: 159 Old State Highway 3, Arroyo Hondo, NM
Parcel Number: 1069158128242

Dear Members of the Taos County Planning Commission:

As a property owner and resident of the Arroyo Hondo community, I write to oppose the Special Use Permit application submitted by BTS Towers, LLC to construct a 95-foot telecommunications tower at 159 Old State Highway 3. This proposal threatens the character, safety, and well-being of our neighborhood and fails to meet several requirements of the Taos County Land Use Regulations.

Key Reasons for My Opposition:

1. Visual Impact
The tower's height and industrial appearance will dominate the surrounding landscape and violate the requirement for visual compatibility with nearby structures under 4.6.1(B) of the Taos County Land Use Regulations, which mandates that developments be visually consistent with their surrounding environment.

2. Incompatible Land Use
The area is zoned for low-density residential and agricultural use. A commercial cell tower is incompatible with this setting and does not benefit the neighborhood, in violation of Section 4.6.1(A) of the Taos County Land Use Regulations.

3. Inadequate Fall Zone
The proposed fall zone of 50 feet does not comply with County regulations, which require a minimum setback of 99 feet (110% of the tower's height). This poses a safety hazard to

residents and nearby structures and violates section 4.11.1(A)(1) of the Taos County Land Use Regulations.

4. Disrespectful Proximity to Cemetery
Placing a cell tower within 50 feet of a cemetery is insensitive to cultural and spiritual values and undermines the sanctity of this community site.

5. Harm to Property Values
Home values near cell towers have been shown to decrease significantly. This tower may cause an estimated loss of 7.5% in property value to 39 nearby homes—an economic impact of over $730,000.

6. No Guaranteed Benefit
The tower is designed to allow additional carriers, but no other providers have agreed to use it. Community benefit is speculative at best, outside of current T-Mobile customer.

7. Existing Coverage Is Adequate
There are towers to the north and south of Arroyo Hondo, and many residents already receive strong service (e.g., Verizon). There is no strong justification for building a new tower in this location.

8. FCC Compliance ≠ Local Suitability
Although the applicant complies with FCC standards for radiofrequency emissions, this does not address local concerns about health, land use compatibility, aesthetics, or neighborhood impact.

9. Leaseholder Is Isolated from Consequences
The proposed tower would be built on property owned by a rarely occupied church. The landowner collects lease payments while neighboring residents bear the noise, visibility, and safety risks.

10. Reasonable Alternative Sites

The applicant has not sufficiently considered alternative locations that would better serve the public interest while minimizing community impact.

For these reasons, I respectfully request that the Planning Commission **deny the Special Use Permit application** and protect the integrity of our rural community.

Thank you for your service and for considering the concerns of residents.

Sincerely,

Colin Coolidge

12 B Tres Lomas Road, Arroyo Hondo, NM 87513

[Your Full Name] David Hammond
[Your Street Address] 555 Tune Drive
[City, State, Zip Code] Arroyo Hondo, NM 87513
[Email Address] (optional)
[Phone Number] (optional)

Date: 6/11/25

To:
Taos County Planning Commission
c/o Rudy D. Perea, Senior Planner
Taos County Planning Department
105 Albright Street, Suite H
Taos, New Mexico 87571

RE: Opposition to Special Use Permit Application by BTS Towers, LLC

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Parcel Number: 1069158128242

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Key Reasons for My Opposition:

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residents and nearby structures and violates section 4.11.1(A)(1) of the Taos County Land Use Regulations.

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The proposed tower would be built on property owned by a rarely occupied church. The landowner collects lease payments while neighboring residents bear the noise, visibility, and safety risks.

10. Reasonable Alternative Sites

The applicant has not sufficiently considered alternative locations that would better serve the public interest while minimizing community impact. Specifically, a far more appropriate site exists approximately three miles north or two miles to the east either the Taos County Transfer Station or Kit Carson Electric Transfer Station.

For these reasons, I respectfully request that the Planning Commission **deny the Special Use Permit application** and protect the integrity of our rural community.

Thank you for your service and for considering the concerns of residents.

Sincerely,
Signature: Jeanie A Putnam
Printed Name: Jeanie A. Putnam
Address: 555 Tune Drive
Arroyo Hondo, NM 87513

Outlook

CELL TOWER ON OLD HIGHWAY 3 ARROYO HONDO SPECIAL PERMIT OPPOSITION

From Jim Kristofic <kristoficjr@gmail.com>
Date Tue 6/10/2025 10:22 AM
To Rudy D. Perea <rudy.perea@taoscountynm.gov>

You don't often get email from kristoficjr@gmail.com. Learn why this is important

James Kristofic
15 Tres Lomas Rd
Arroyo Hondo, NM 87513
kristoficjr@gmail.com
(717) 870 - 4321
6/9/25

To:
Taos County Planning Commission
c/o Rudy D. Perea, Senior Planner
Taos County Planning Department
105 Albright Street, Suite H
Taos, New Mexico 87571

RE: Opposition to Special Use Permit Application by BTS Towers, LLC
Site Address: 159 Old State Highway 3, Arroyo Hondo, NM
Parcel Number: 1069158128242

Dear Members of the Taos County Planning Commission:
I used my property to build a traditional outbuilding to honor the life of my child, who passed away in October of 2021. I taught at Taos High School for ten years and have been honored and humbled to be adopted by Taos and Arroyo Hondo during that time. As a property owner and resident of the Arroyo Hondo community, I write to oppose the Special Use Permit application submitted by BTS Towers, LLC to construct a 95-foot telecommunications tower at 159 Old State Highway 3. This proposal threatens the character, safety, and well-being of our neighborhood and fails to meet several requirements of the Taos County Land Use Regulations.

Key Reasons for My Opposition:

1. Visual Impact
The tower's height and industrial appearance will dominate the surrounding landscape and violate the requirement for visual compatibility with nearby structures under 4.6.1(B) of the Taos County Land Use Regulations, which mandates that developments be visually consistent with their surrounding environment.

2. Incompatible Land Use
The area is zoned for low-density residential and agricultural use. A commercial cell tower is incompatible with this setting and does not benefit the neighborhood, in violation of Section 4.6.1(A) of the Taos County Land Use Regulations.

3. Inadequate Fall Zone
The proposed fall zone of 50 feet does not comply with County regulations, which require a minimum setback of 99 feet (110% of the tower's height). This poses a safety hazard to residents and nearby structures and violates section 4.11.1(A)(1) of the Taos County Land Use Regulations.

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Placing a cell tower within 50 feet of a cemetery is insensitive to cultural and spiritual values and undermines the sanctity of this community site.

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7. Existing Coverage Is Adequate
There are towers to the north and south of Arroyo Hondo, and many residents already receive strong service (e.g., Verizon). There is no strong justification for building a new tower in this location.

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The proposed tower would be built on property owned by a rarely occupied church. The landowner collects lease payments while neighboring residents bear the noise, visibility, and safety risks.

10. Reasonable Alternative Sites
The applicant has not sufficiently considered alternative locations that would better serve the public interest while minimizing community impact. Specifically, a far more appropriate site exists approximately three miles north or two miles to the east either the Taos County Transfer Station or Kit Carson Electric Transfer Station.

For these reasons, I respectfully request that the Planning Commission deny the Special Use Permit application and protect the integrity of our rural community.

Thank you for your service and for considering the concerns of Taos County citizens.
I will be unable to attend the meeting on June 12, as I will be travelling out of the country.

If you have any questions about this or my reasoning, feel free to contact me at kristoficjr@gmail.com or at (717) 870 – 4321.

Sincerely,
James Kristofic

Monica Acerra
143 Old State Hwy 3
Arroyo Hondo, NM 87513

Moacerra@gmail.com
303-269-1819

Date: June 3, 2025

To:
Taos County Planning Commission
c/o Rudy D. Perea, Senior Planner
Taos County Planning Department
105 Albright Street, Suite H
Taos, New Mexico 87571
rudy.perea@taoscountynm.gov

RE: Opposition to Special Use Permit Application by BTS Towers, LLC

Site Address: 159 Old State Highway 3, Arroyo Hondo, NM
Parcel Number: 1069158128242

Dear Members of the Taos County Planning Commission:

As a property owner and resident of the Arroyo Hondo community, I write to oppose the Special Use Permit application submitted by BTS Towers, LLC to construct a 95-foot telecommunications tower at 159 Old State Highway 3. This proposal threatens the character, safety, and well-being of our neighborhood and fails to meet several requirements of the Taos County Land Use Regulations.

Key Reasons for My Opposition:

1. Visual Impact
The tower's height and industrial appearance will dominate the surrounding landscape and violate the requirement for visual compatibility with nearby structures under 4.6.1(B) of the Taos County Land Use Regulations, which mandates that developments be visually consistent with their surrounding environment.

2. Incompatible Land Use
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3. Inadequate Fall Zone

The proposed fall zone of 50 feet does not comply with County regulations, which require a minimum setback of 99 feet (110% of the tower's height). This poses a safety hazard to residents and nearby structures and violates section 4.11.1(A)(1) of the Taos County Land Use Regulations.

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The proposed tower would be built on property owned by a rarely occupied church. The landowner collects lease payments while neighboring residents bear the noise, visibility, and safety risks.

10. Reasonable Alternative Sites

The applicant has not sufficiently considered alternative locations that would better serve the public interest while minimizing community impact. Specifically, a far more appropriate site exists approximately three miles north or two miles to the east either the Taos County Transfer Station or Kit Carson Electric Transfer Station.

For these reasons, I respectfully request that the Planning Commission **deny the Special Use Permit application** and protect the integrity of our rural community.

Thank you for your service and for considering the concerns of residents.

Sincerely,
Signature: Monica Acerra
Printed Name: Monica Acerra
Address: 143 Old State Hwy 3
Arroyo Hondo, NM 87513

Outlook

Fw: Special Use Permit Application in Arroyo Hondo

From Rudy D. Perea <rudy.perea@taoscountynm.gov>
Date Mon 6/30/2025 2:40 PM
To Rosa Flores <rosa.flores@taoscountynm.gov>

1 attachment (297 KB)
Hondo cel tower .pages;

From: Margaret Madrone <malamadrone@gmail.com>
Sent: Thursday, June 5, 2025 1:03 PM
To: Rudy D. Perea <rudy.perea@taoscountynm.gov>
Subject: Special Use Permit Application in Arroyo Hondo

You don't often get email from malamadrone@gmail.com. Learn why this is important

Dear Mr. Perea,
Please find my letter attached and pasted below with my opposition to the cel tower special use permit in Arroyo Hondo.

Thank you,
Margaret Madrone

Margaret Lathan Madrone
67 Tres Lomas Road
Arroyo Hondo, NM 87513

June 5th, 2025

To: Taos County Planning Commission c/o Rudy D. Perea, Senior Planner Taos County Planning Department 105 Albright Street, Suite H Taos, New Mexico 87571
RE: Opposition to Special Use Permit Application by BTS Towers, LLC
Site Address: 159 Old State Highway 3, Arroyo Hondo, NM Parcel Number: 1069158128242

Dear Members of the Taos County Planning Commission:
As a property owner and resident of the Arroyo Hondo community for the last 5 years, I write to oppose the Special Use Permit application submitted by BTS Towers, LLC to construct a 95-foot telecommunications tower at 159 Old State Highway 3. This proposal threatens the character, safety, and well-being of our neighborhood and fails to meet several requirements of the Taos County Land Use Regulations.

Although the applicant complies with FCC standards for radiofrequency emissions, this does not address local concerns about health, land use compatibility, aesthetics, or neighborhood impact. It is undoubtedly an eyesore to see a giant cel tower in a neighborhood — and this low-density rural neighborhood of Hondo Valley feels very incompatible with this structure. The tower's height and appearance will dominate the surrounding landscape and violate the requirement for visual compatibility with nearby structures under 4.6.1(B) of the Taos County Land Use Regulations, which mandates that developments be visually consistent with their surrounding environment.

A large part of why we live here, along with our other full-time resident neighbors, is the peace, beauty, landscape and as much as possible perseveration of nature. This tower goes completely against all of that. I am also opposed because the property owner is rarely here and those of us who do live here full time bear the risks and the property value decrease.
The applicant has not sufficiently considered alternative locations that would better serve the public interest while minimizing community impact. Specifically, a far more appropriate site exists approximately three miles north at the Taos County Transfer Station.

For these reasons, I respectfully request that the Planning Commission deny the Special Use Permit application and protect the integrity of our Arroyo Hondo rural community.
Thank you for your service and for considering the concerns of residents.
Sincerely,

Margaret Lathan Madrone
67 Tres Lomas Road
Arroyo Hondo, NM 87513

Robb and Rhonda Porter
76 Sangre de Cristo Mountain Dr.
Arroyo Hondo, NM 87513
Rp.texasgtor@yahoo.com
214.673.7370

Date: June 7, 2025

To:
Taos County Planning Commission
c/o Rudy D. Perea, Senior Planner
Taos County Planning Department
105 Albright Street, Suite H
Taos, New Mexico 87571

RE: Opposition to Special Use Permit Application by BTS Towers, LLC

Site Address: 159 Old State Highway 3, Arroyo Hondo, NM
Parcel Number: 1069158128242

Dear Members of the Taos County Planning Commission:

As a property owner and resident of the Arroyo Hondo community, I write to oppose the Special Use Permit application submitted by BTS Towers, LLC to construct a 95-foot telecommunications tower at 159 Old State Highway 3. This proposal threatens the character, safety, and well-being of our neighborhood and fails to meet several requirements of the Taos County Land Use Regulations.

Key Reasons for My Opposition:

1. Visual Impact
The tower's height and industrial appearance will dominate the surrounding landscape and violate the requirement for visual compatibility with nearby structures under 4.6.1(B) of the Taos County Land Use Regulations, which mandates that developments be visually consistent with their surrounding environment.

2. Incompatible Land Use
The area is zoned for low-density residential and agricultural use. A commercial cell tower is incompatible with this setting and does not benefit the neighborhood, in violation of Section 4.6.1(A), of the Taos County Land Use Regulations.

3. Inadequate Fall Zone
The proposed fall zone of 50 feet does not comply with County regulations, which require a minimum setback of 99 feet (110% of the tower's height). This poses a safety hazard to

residents and nearby structures and violates section 4.11.1(A)(1) of the Taos County Land Use Regulations.

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Placing a cell tower within 50 feet of a cemetery is insensitive to cultural and spiritual values and undermines the sanctity of this community site.

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10. Reasonable Alternative Sites
The applicant has not sufficiently considered alternative locations that would better serve the public interest while minimizing community impact. Specifically, a far more appropriate site exists approximately three miles north or two miles to the east either the Taos County Transfer Station or Kit Carson Electric Transfer Station.

For these reasons, I respectfully request that the Planning Commission **deny the Special Use Permit application** and protect the integrity of our rural community.

Thank you for your service and for considering the concerns of residents.

Sincerely,
Signature: Robert Richard Porter
Printed Name: Robert Richard Porter
Address: 76 Sangre De Cristo Mountain Dr, Arroyo Hondo, NM 87513

Outlook

Fw: BTS TOWERS

From Rudy D. Perea <rudy.perea@taoscountynm.gov>
Date Mon 6/30/2025 2:42 PM
To Rosa Flores <rosa.flores@taoscountynm.gov>

From: Jessie Ballard <jessiejamesballard@gmail.com>
Sent: Friday, June 6, 2025 9:44 AM
To: Rudy D. Perea <rudy.perea@taoscountynm.gov>
Subject: BTS TOWERS

You don't often get email from jessiejamesballard@gmail.com. Learn why this is important

jessica james ballard

18 medina rd

san cristobal, nm 87564

Date: June 6, 2025

To:
Taos County Planning Commission
c/o Rudy D. Perea, Senior Planner
Taos County Planning Department
105 Albright Street, Suite H
Taos, New Mexico 87571

RE: Opposition to Special Use Permit Application by BTS Towers, LLC

Site Address: 159 Old State Highway 3, Arroyo Hondo, NM
Parcel Number: 1069158128242

Dear Members of the Taos County Planning Commission:

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at 159 Old State Highway 3. This proposal threatens the character, safety, and well-being of our neighborhood and fails to meet several requirements of the Taos County Land Use Regulations.

Key Reasons for My Opposition:

1. Visual Impact
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For these reasons, I respectfully request that the Planning Commission **deny the Special Use Permit application** and protect the integrity of our rural community.

Thank you for your service and for considering the concerns of residents.

Sincerely,
Signature: _____
Printed Name: _____
Address: _____

Outlook

Fw: Cell tower

From Rudy D. Perea <rudy.perea@taoscountynm.gov>
Date Mon 6/30/2025 2:44 PM
To Rosa Flores <rosa.flores@taoscountynm.gov>

From: Franz Wood <wood.franz@yahoo.com>
Sent: Saturday, June 7, 2025 10:47 AM
To: Rudy D. Perea <rudy.perea@taoscountynm.gov>
Subject: Cell tower

You don't often get email from wood.franz@yahoo.com. Learn why this is important

Dear Members of the Taos County Planning Commission:

As a property owner and resident of the Arroyo Hondo community, I write to oppose the Special Use Permit application submitted by BTS Towers, LLC to construct a 95-foot telecommunications tower at 159 Old State Highway 3. This proposal threatens the character, safety, and well-being of our neighborhood and fails to meet several requirements of the Taos County Land Use Regulations.

Thank You,
F Jon Wood
70 Tres Lomas Rd
Arroyo Hondo, NM
87513

Outlook

Fw: Opposition to Special Use Permit Application by BTS Towers

From Rudy D. Perea <rudy.perea@taoscountynm.gov>
Date Mon 6/30/2025 2:43 PM
To Rosa Flores <rosa.flores@taoscountynm.gov>

1 attachment (2 KB)
Cell Tower Opposition.txt;

From: Alma Quillian <mizalma2@gmail.com>
Sent: Friday, June 6, 2025 2:24 PM
To: Rudy D. Perea <rudy.perea@taoscountynm.gov>
Subject: Opposition to Special Use Permit Application by BTS Towers

You don't often get email from mizalma2@gmail.com. Learn why this is important

Alma Jeannette Quillian
PO BOX 531
13 Tres Lomas Road
Arroyo Hondo ,NM 87513
mizalma2@gmail.com
505 944 5964

To:Taos County Planning Commission
c/o Rudy D. Perea,Senior Planner
Taos County Planning Department
105 Albright Street,Suite H
taos,NM 87571

Re: Opposition to special use permit application by BTS Towers,LLC
Site Address: 159 Ols State Highway 3
Arroyo Hondo,NM 87513
Parcel # 1069158128242

Dear Members of the Taos county Planning Commission,

I am writing in strong opposition to the Special Use Permit submitted by BTS Towers for several reasons.
Such an eyesore the 95 foot tower would inflict upon our beautiful neighborhood

would be a deplorable sight . Due to its proposed location across the street from my house,
it would dominate my view. Due to it's height and the strong winds here, it would also be an unsafe structure.It also has the strong probability of lowering our property values.
Furthermore,it is just not needed here.We have adequate coverage now.
There are several other sites that would be more suitable. Why choose this one?It isof no benefit to our residents. The church would make money,while we bear all the disadvantages.
I think the transfer station would be a much better site and would disturb no one.
11 years ago our neighborhood worked hard to make it clear that we do not want this.I was under the impression that we had put this nightmare of a request to rest.You decided in our favor
I was so proud of the planning commission for putting the needs of our community first.

Please consider again the needs of our residents,and deny this Special Use Application.

Respectfully,

Alma Quillian

Kim Pierce
101 Coyote Loop, Arroyo Hondo, NM 87513
415-305-8127
kim.berly.pierce@gmail.com

To:
Taos County Planning Commission
c/o Rudy D. Perea, Senior Planner
Taos County Planning Department
105 Albright Street, Suite H
Taos, New Mexico 87571

RE: Opposition to Special Use Permit Application by BTS Towers, LLC

Site Address: 159 Old State Highway 3, Arroyo Hondo, NM
Parcel Number: 1069158128242

Dear Members of the Taos County Planning Commission:

Like so many of us, I came here for the peace and the unparalleled beauty of this land - wanting to get away from fast paced city life with its internet moving at the highest speed possible and constant access to the world wide web from my smart phone. I wanted less noise and chaos. As a resident of Arroyo Hondo, I deeply value the quiet unobstructed views of the mesa from my home and an inability to use my phone while hiking the trails that start in my back yard. This cell tower would be heart breaking to myself and so many members of this community.

I write to oppose the Special Use Permit application submitted by BTS Towers, LLC to construct a 95-foot telecommunications tower at 159 Old State Highway 3. This proposal threatens the character, safety, and well-being of our neighborhood and fails to meet several requirements of the Taos County Land Use Regulations. The tower would be an eyesore, dangerously tall, and more appropriate if located in an industrial area on higher ground like the County Transfer Station. Thank you for your time and consideration.

Sincerely,
Kim Pierce

Dr. Toni S. Wright
803 Highway 522
Arroyo Hondo, NM 87513
onlyt33@gmail.com
575-613-3309

Date: 5/5/25

To:
Taos County Planning Commission
c/o Rudy D. Perea, Senior Planner
Taos County Planning Department
105 Albright Street, Suite H
Taos, New Mexico 87571

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Placing a cell tower within 50 feet of a cemetery is insensitive to cultural and spiritual values and undermines the sanctity of this community site.

5. Harm to Property Values
Home values near cell towers have been shown to decrease significantly. This tower may cause an estimated loss of 7.5% in property value to 39 nearby homes—an economic impact of over $730,000.

6. No Guaranteed Benefit
The tower is designed to allow additional carriers, but no other providers have agreed to use it. Community benefit is speculative at best, outside of current T-Mobile customer.

7. Existing Coverage Is Adequate
There are towers to the north and south of Arroyo Hondo, and many residents already receive strong service (e.g., Verizon). There is no strong justification for building a new tower in this location.

8. FCC Compliance ≠ Local Suitability
Although the applicant complies with FCC standards for radiofrequency emissions, this does not address local concerns about health, land use compatibility, aesthetics, or neighborhood impact.

9. Leaseholder Is Isolated from Consequences
The proposed tower would be built on property owned by a rarely occupied church. The landowner collects lease payments while neighboring residents bear the noise, visibility, and safety risks.

10. Reasonable Alternative Sites
The applicant has not sufficiently considered alternative locations that would better serve the public interest while minimizing community impact. Specifically, a far more appropriate site exists approximately three miles north or two miles to the east either the Taos County Transfer Station or Kit Carson Electric Transfer Station.

For these reasons, I respectfully request that the Planning Commission **deny the Special Use Permit application** and protect the integrity of our rural community.

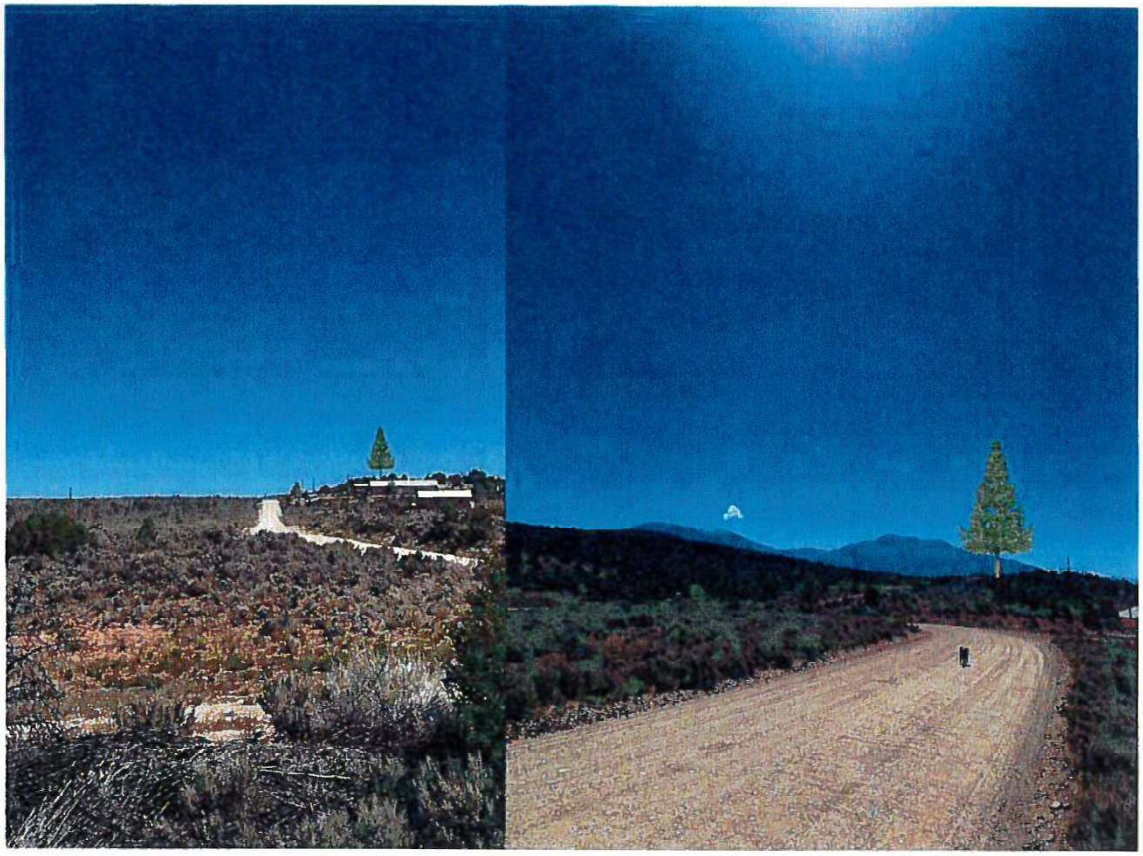
Thank you for your service and for considering the concerns of residents.

Sincerely,

Toni S. Wright

Dr. Toni S. Wright

Attachment: Example photos of what the tower may look like:



Terry Lowe
2839 Ashby Ave
Berkeley, CA 94705
terrylowe663@gmail.com

Date: June 6, 2025

To: Taos County Planning Commission
c/o Rudy D. Perea, Senior Planner
Taos County Planning Department
105 Albright Street, Suite H
Taos, New Mexico 87571

RE: Opposition to Special Use Permit Application by BTS Towers, LLC

Site Address: 159 Old State Highway 3, Arroyo Hondo, NM
Parcel Number: 1069158128242

Dear Members of the Taos County Planning Commission:

As a frequent visitor to Arroyo Hondo, I write to oppose the Special Use Permit application submitted by BTS Towers, LLC to construct a 95-foot telecommunications tower at 159 Old State Highway 3. This proposal threatens the character, safety, and well-being of this neighborhood that I have come to love. I believe that it fails to meet several requirements of the Taos County Land Use Regulations.

Key Reasons for My Opposition:

1. Visual Impact
The tower's height and industrial appearance will dominate the surrounding landscape and violate the requirement for visual compatibility with nearby structures under 4.6.1(B) of the Taos County Land Use Regulations, which mandates that developments be visually consistent with their surrounding environment.

2. Incompatible Land Use
The area is zoned for low-density residential and agricultural use. A commercial cell tower is incompatible with this setting and does not benefit the neighborhood, in violation of Section 4.6.1(A) of the Taos County Land Use Regulations.

3. Inadequate Fall Zone
The proposed fall zone of 50 feet does not comply with County regulations, which require a minimum setback of 99 feet (110% of the tower's height). This poses a safety hazard to residents and nearby structures and violates section 4.11.1(A)(1) of the Taos County Land Use Regulations.

4. Disrespectful Proximity to Cemetery
Placing a cell tower within 50 feet of a cemetery is insensitive to cultural and spiritual values and undermines the sanctity of this community site.

5. Harm to Property Values
Home values near cell towers have been shown to decrease significantly. This tower may cause an estimated loss of 7.5% in property value to 39 nearby homes—an economic impact of over $730,000.

6. No Guaranteed Benefit
The tower is designed to allow additional carriers, but no other providers have agreed to use it. Community benefit is speculative at best, outside of current T-Mobile customer.

7. Existing Coverage Is Adequate
There are towers to the north and south of Arroyo Hondo, and many residents already receive strong service (e.g., Verizon). There is no strong justification for building a new tower in this location.

8. FCC Compliance ≠ Local Suitability
Although the applicant complies with FCC standards for radiofrequency emissions, this does not address local concerns about health, land use compatibility, aesthetics, or neighborhood impact.

9. Leaseholder Is Isolated from Consequences
The proposed tower would be built on property owned by a rarely occupied church. The landowner collects lease payments while neighboring residents bear the noise, visibility, and safety risks.

10. Reasonable Alternative Sites
The applicant has not sufficiently considered alternative locations that would better serve the public interest while minimizing community impact.

For these reasons, I respectfully request that the Planning Commission **deny the Special Use Permit application** and protect the integrity of this rural community.

Thank you for your service and for considering the concerns of both residents and visitors.

Sincerely,

Terry Lowe
2839 Ashby Ave
Berkeley CA 94705
Terrylowe663@gmail.com

Paul Cross
108 Lobo Ranch Rd
PO Box 600
Arroyo Hondo NM 87513

June 6, 2025

Taos County Planning Commission
c/o Rudy D. Perea, Senior Planner
Taos County Planning Department
105 Albright Street, Suite H
Taos, New Mexico 87571

RE: Opposition to Special Use Permit Application by BTS Towers

Site Address: 159 Old State Highway 3, Arroyo Hondo, NM
Parcel Number: 1069158128242

Mr. Perea and Members of the Taos County Planning Commission:

As a property owner and long-term resident of Arroyo Hondo, I write to oppose the Special Use Permit application submitted by BTS Towers to erect a 95-foot telecommunications tower at 159 Old State Highway 3. This proposal threatens the character, safety, and well-being of our area and fails to meet several requirements of the Taos County Land Use Regulations.

Excessive Height Creates Unacceptable Visual Impact

There are few 2-story homes nearby, and no other towers or tall structures in the area. The excessive height of the proposed tower is not in keeping with the area. The tower's height and industrial appearance will dominate the surrounding landscape and violate the requirement for visual compatibility with nearby structures under 4.6.1(B) of the Taos County Land Use Regulations, which mandates that developments be visually consistent with their surrounding environment. A lower height would have less impact. The nearby land of the proposed site is sage scrub pinon juniper, a church, a cemetery, and many residential homes. There are no 90-foot trees in the area that would disguise this proposed tower.

Incompatible Land Use

The area is zoned for low-density residential and agricultural use. A commercial cell tower is incompatible with this setting and does not benefit the neighborhood, in violation of Section 4.6.1(A) of the Taos County Land Use Regulations.

Inadequate Fall Zone
The proposed fall zone of 50 feet does not comply with County regulations, which require a minimum setback of 99 feet (110% of the tower's height). This poses a safety hazard to residents and nearby structures and violates section 4.11.1(A)(1) of the Taos County Land Use Regulations.

Inappropriate Proximity to Cemetery
The proposed location is too close to a cemetery, hence it is insensitive to cultural and spiritual values and undermines the sanctity of this community site.

Harm to Property Values
Home values near cell towers have been shown to decrease significantly. This tower may cause an estimated loss of 7.5% in property value to 39 nearby homes—an economic impact of over $730,000.

Alternative Sites Are Superior
The applicant has not sufficiently considered alternative locations that would better serve the public interest while minimizing community impact. Some options include the Taos County Transfer Station or Kit Carson Electric Substation.

For these reasons, I respectfully request that the Planning Commission **deny the Special Use Permit application** and protect the integrity of our rural community.

Thank you for your service and for considering the concerns of Arroyo Hondo residents.

Sincerely,

Paul Cross

From:
Kimberly Grant-Romero
1335 Paseo del Pueblo Sur, #273
Taos, NM, 87571
kym@kymgrant.com
575 758-4148

June 18, 2025

To:
Taos County Planning Commission
c/o Rudy Perea, Senior Planner
Taos County Planning Department
105 Albright St., Suite H
Taos, New Mexico, 87571

RE: Opposition to Special Use Permit Application by BTS Towers, LLC

Site address: 159 Old State Highway 3, Arroyo Hondo, NM
Parcel Number: 1069158128242

Dear Members of the Taos County Planning Commission:

As owner of the closest properties to the proposed cell tower at 159 Old State Highway 3 in Arroyo Hondo, N.M., I am writing to express my opposition to the Special Use Permit application submitted by BTS Towers, LLC.

First, I would like to state that in 2004, my late husband, Eliu Romero, deeded the property to the Grace Community Church as a gift, with the understanding that it would be used for a church. While the deed did not specifically stipulate, that was the agreed-upon intention – a church for the benefit of the community. I am very certain that the vision for the property did not include passive income from a commercial tower, one that would be unsightly for the surrounding neighborhood. In fact, when there was a similar application for a cell tower at the location in 2014, my husband was an outspoken opponent, and the application was denied because of widespread public disapproval.

Not only does such a tower have a negative impact on property values - for aesthetic reasons - there has also been no substantiation as to their safety.

Another such tower near the intersection of the Old Blinking Light in El Prado has been abandoned, yet is still standing, and another was built nearby.

If T-Mobil desires reception in that vicinity, there are other, more appropriate, locations for a tower. In addition, there are already multiple options with other carriers who operate in the area.

It is assumed that the church is considering this action for financial reasons, for the passive income a tower could generate, but I question whether members of the congregation live in the affected neighborhood, and whether the number of people that might benefit from this warrants the impact on the even-greater number of close residents, households, and property owners - now and into the future.

There are multiple websites online that describe ways churches can generate revenue. These more-suitable avenues need to be explored by the leadership and members of the church.

The Grace Community Church and the County Commissioners need to consider the legacy, the intended purpose at the time this property was gifted and acquired, and whether this use is good stewardship, and what was envisioned for this resource of land.

It is for these reasons, in addition to zoning and others stated by nearby property owners, that I strongly oppose the approval of this Special Use Permit, and request that the Members of the Planning Commission deny permission for this location.

Thank you for your consideration.

Sincerely,

Kimberly Grant

Kimberly Grant-Romero

Oppose the Building of a 95'Cell Tower in Arroyo Hondo!

What's Happening?

BTS Towers, LLC of Boca Raton, FL has applied for a Special Use Permit (SPUSE-25-00013) to build a 95-foot cell tower next to Grace Community Church, overlooking the Arroyo Hondo valley. This permit has been approved by the Planning Commission but a group of concerned neighbors are filing an appeal to the County Commissioners. WE NEED YOUR HELP to prove wide community opposition.

Why We Oppose This Tower:

- Not compatible with Taos County Land Use Codes:
  - Section 4.6.1, Subsection A – Use Compatibility,
  - Section 4.6.1, Subsection B – Visual Impact, and
  - Section 4.11.1, Subsection C– Concealed Wireless Telecommunication Facilities.
- Destroys Scenic Views: A 95-foot tower will permanently scar the rural landscape and stand as a dominant industrial structure in our community visible to not only our community but to the thousands passing by on 522.
- Diminishes our property values by upwards of 10%.
- Insensitive to the Grace Brethren Cemetery and those laid to rest at the proposed tower's base.
- Safety concerns with regards to harmful electromagnetic field emissions and interference as well as insufficient fall zone.

We, the undersigned residents and property owners, urge the Taos County Commission to DENY the Special Use Permit for this cell tower.

Name (Print)	Physical Address	Signature	Date
Charles Galer	#29 Spanish Peaks Rd		8/15/25
2 Olive Galer	#29 Spanish Peaks	Olive Z Galer	8/15/25

Oppose the Building of a 95'Cell Tower in Arroyo Hondo!

What's Happening?

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- Safety concerns with regards to harmful electromagnetic field emissions and interference as well as insufficient fall zone.

We, the undersigned residents, property owners, and supporters, urge the Taos County Commission to DENY the Special Use Permit for this tower.

Name (Print)	Physical Address	Signature	Date
BRAD Gould MD	5344 VALLEY VISTA DRIVE SPARKS NV 89431		7/30/25
2 G. Frank Oatman	70 Tres Lomas Rd. Arroyo Hondo, NM 87513		8/13/25

Oppose the Building of a 95'Cell Tower in Arroyo Hondo!

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We, the undersigned residents and property owners, urge the Taos County Commission to DENY the Special Use Permit for this cell tower.

Name (Print)	Physical Address	Signature	Date
C. JAMESON WELLS	29 Atalaya Rd.	C Jameson Wells	8-1-25
RICHARD McCRACKEN	29 ATALAYA RD	Richard McCracken	8/3/25
Roy Starr	25 Atalaya	Roy Starr	8/19/25
SUSANNA STARR	23 ATALAYA	Susanna Starr	8/19/25

Oppose the Building of a 95'Cell Tower in Arroyo Hondo!

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We, the undersigned residents and property owners, urge the Taos County Commission to DENY the Special Use Permit for this cell tower.

Name (Print)	Physical Address	Signature	Date
Marian Gutierrez	133 Old State Rd #3 Arroyo Hondo, NM	Marian Gutierrez	8/18/25
Tracy Lee Gutierrez	133 Old State Rd #3 Arroyo Hondo, NM	Tracy Lee Gutierrez	8/18/25
Arianna Gutierrez	133 Old State Rd #3 Arroyo Hondo, NM	Arianna Gutierrez	8/18/25
A Thomas Gutierrez	133 Old State Rd #3 Arroyo Hondo N.M.	Thomas Gutierrez	8/18/2025

Oppose the Building of a 95'Cell Tower in Arroyo Hondo!

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Petition

Name (Print)	Physical Address	Signature	Date
Gail Russell	1 Atalaya Rd	Gail Russell	8/2/25
Nancy Burt	29 Spanish Peaks Arroyo Hondo		8/2/25
Scott Tennant	22 Varos Rd Arroyo Hondo		8/2/25
Karen Howell	36 Varos Rd. Arroyo Hondo property	Karen Howell	8/2/25
Michelle Lucero	65 old State Rd 3 owners	Michelle Lucero	8/2/25
FRANCOIS ROSSARD	107 OLD STATE RD 3N		8/2/25
Ari Myers	86 Calle Conejo		08/02
Alina Bath	8 Calleuta Arroyo Hondo		8/2/25
Grayson Thomas	12 Tres Lomas		8/2/25
[illegible]	110 Hondo Seco Rd		8.2.25
[illegible]	25 Peaks		8/2/25
12 [illegible]	110 Tres Lomas		8.7-25

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Name (Print)	Physical Address	Signature	Date
Kimberly J. Grant	1 Calle al Jardin Ranchos de Taos NM 87557	Kimberly J. Grant	8-3-25
Alma Quillian	13 TRES LOMAS RD ARROYO HONDO, NM 87513	Alma Quillian	8.3.25
Jodi Smith	1540 Old St Rd 3 San Cristobal NM		8.14.25
Laura Ann Gore	133 Old State Hwy 3		8-18-25
5 Steve Piszkin	92 Sangre De Cristo Mtn Dr.		8-20-25

Oppose the Building of a 95'Cell Tower in Arroyo Hondo!

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We, the undersigned residents and property owners, urge the Taos County Commission to DENY the Special Use Permit for this cell tower.

Name (Print)	Physical Address	Signature	Date
Benton Padilla	09 Rael Rd	Benton Padilla	8-9-25
Michael Gonzales	#517 Lower Hondo Rd.		8/9/25
Sandra Sanchez	Manny Gonzales	Sandra Sanchez	8/9/25
David Sanchez	Unico #3 Hondo	David Sanchez	8/9/25
GLENN J. GARDUÑO	65 OLD STATE RD #3	Glenn J. Garduño	8/12/25
Rosie Garduño	65 old State Rd #3	Rosie Garduño	8/12/25
Carl Garduño	112A Old Highway 3		8/12/25
8 LM Dolores Garduño	112 A OLD Highway 3	LM Dolores Garduño	8-12-25

Oppose the Building of a 95'Cell Tower in Arroyo Hondo!

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We, the undersigned residents, property owners, and supporters, urge the Taos County Commission to DENY the Special Use Permit for this tower.

* Indicates required question

1. Email *

2. First and Last Name *

3. Physical Address (Street address, city, zip code) *

Mock up of proposed "concealed" cell tower.

This content is neither created nor endorsed by Google.

Google Forms

#	Timestamp	Email Address	First and Last Name	Physical Address (Street address, city, zip code)
1	7/28/2025 21:30:37	bthomasum@gmail.com	Ben Thomas	12 Tres Lomas, Arroyo Hondo, 87513
2	7/29/2025 9:09:29	moacerra@yahoo.com	Monica Acerra	143 Old State Hwy 3, Arroyo Hondo NM
3	7/29/2025 11:49:33	jvlafaille@gmail.com	Janet LaFaille	227 Los Rios Rd, Arroyo Hondo, NM 87513
4	7/29/2025 16:00:06	lseto023@gmail.com	Linda Seto	12 Nieman Rd, Arroyo Hondo, NM87513
5	7/29/2025 22:10:44	amberland28@yahoo.cc	Amber Vasquez	12 Tres Lomas, Arroyo Hondo
6	7/29/2025 23:11:38	colincoolidge@yahoo.cc	Colin Coolidge	12B Tres Lomas
7	7/30/2025 8:43:22	skalpine@yahoo.com	Solomon Kaplan	29B Atalaya Road, Arroyo Hondo, NM 87513
8	7/31/2025 7:10:05	wood.franz@yahoo.com	Franz J Wood	70 Tres Lomas Rd. Arroyo Hondo, NM 87513
9	7/31/2025 8:21:21	petrohul436@gmail.com	Petro Hul	30 Estambre Rd, Santa Fe, NM 87508
10	7/31/2025 8:31:27	bowenhul@hotmail.com	Betsy Bowen	30 Estambre Rd., Santa Fe, NM 87508
11	7/31/2025 11:46:52	artstone@aol.com	Miller	31 Callecita, Arroyo Hondo, 87513
12	7/31/2025 20:17:39	103bcw@gmail.com	Billy Wilson	21 Spanish Peaks Arroyo Hondo NM 87513
13	7/31/2025 20:35:54	juditaos@gmail.com	Judit Furesz	22 Acequia Madre del Llano Arroyo Hondo, NM 87513
14	8/1/2025 9:49:37	apwilson13@gmail.com	Ann Wilson	21 Spanish Peaks Rd. Arroyo Hondo, NM
15	8/1/2025 12:06:27	wtrhouse@mac.com	Ruth Waterhouse	233 Los Rios Road, Arroyo Hondo, NM 87571
16	8/1/2025 12:16:06	kellypasholk@gmail.com	Kelly Pasholk	PO Box 515, Arroyo Hondo NM 87513
17	8/1/2025 12:24:07	jeff.jaeckle@pcc.edu	Jeff Jaeckle	133 Mesa Sea Rd, Arroyo Hondo, 87513
18	8/1/2025 13:05:08	goldensagestudios29@(	Teresa Ebie	32 Calle Conejo Road, ARROYO HONDO, NM 87513
19	8/1/2025 13:06:09	conejofarm@gmail.com	William Ebie	32 Calle Conejo Road, ARROYO HONDO, NM 87513
20	8/1/2025 13:53:47	layton.betty@gmail.com	Betty Layton	134 Coyote Loop, Arroyo Hondo, 87513
21	8/1/2025 14:00:38	lmbroadfoot@gmail.com	Laurie Broadfoot	150 Los Rios Road

#	Timestamp	Email Address	First and Last Name	Physical Address (Street address, city, zip code)
22	8/1/2025 15:05:31	deonne@deonnekahler.(	Deonne Kahler	97 Mesa Sea Rd., Arroyo Hondo 87513
23	8/1/2025 15:57:12	con@newmex.com	Constance leary	152 Los Rios Road Arroyo Hondo 87513
24	8/1/2025 16:38:46	grams@taosnet.com	Susan Breazeale	36 Nieman Road Arroyo Hondo NM 87513
25	8/1/2025 17:59:56	walkstx@gmail.com	Scott Walker	141 Mesa Sea Road, Arroyo Hondo, 87513
26	8/1/2025 18:50:46	jrjonestx123@gmail.con	Jeannette Jones	141 Mesa Sea Rd, Arroyo Hondo, 87513
27	8/2/2025 0:34:22	nursebetsycorp@gmail.(	Elisabeth Coniglio	34 Hondo Seco Road, Arroyo Hondo, NM 87513
28	8/2/2025 0:36:35	twolff33@gmail.com	Ted Wolff	34 Hondo Seco Road, Arroyo Hondo, NM 87513
29	8/2/2025 9:51:22	nanzin@taosnet.com	Nancy Zinno	97 Calle Conejo, Arroyo Hondo, NM 87513
30	8/4/2025 6:36:24	christavaldez84@gmail.	Christa Valdez	57 Old state rd 3 Arroyo Hondo, NM 87513
31	8/4/2025 6:46:36	delaney793@gmail.com	Max delaney	416 Geronimo ln, Taos, 87571
32	8/4/2025 6:57:24	sergioddd14@gmail.cor	Sergio Lopez	540 Don Nicolas rd Taos NM 87571
33	8/4/2025 7:33:48	evryneeshallbow@yaho(	Jennifer Wiseman	1414 Sangre de Cristo Road Taos, NM 87571
34	8/4/2025 7:39:07	mintermaggie73@gmail	Maggie Minter	47 Spanish Peaks, Arroyo Hondo 87513
35	8/4/2025 7:54:11	justinemlittle90@gmail.(	Justine Little	48 Otter Run Arroyo Hondo NM 87529
36	8/4/2025 8:11:48	bloomingdesertma@yah	Julie Cortopassi	146 Rim Road Arroyo Seco, NM 87514
37	8/4/2025 9:08:27	ShandraSv@aol.com	Shandra vom dorp	1530 old state rd
38	8/4/2025 10:53:20	spirithealingnow@gmail	Jada Lew	24 Carlitos road San Cristobal, NM 87564
39	8/4/2025 12:46:26	malamadrone@gmail.cc	Margaret Madrone	67 Tres Lomas Rd, Arroyo Hondo, 87513
40	8/4/2025 16:40:25	ksmadrone@gmail.com	Kelly Madrone	67 Tres Lomas Road, Arroyo Hondo, 87513
41	8/5/2025 7:42:02	ccolonius@gmail.com	Carl Colonius	175 Acequia Madre del Llano
42	8/5/2025 9:58:23	dghoki@gmail.com	Derek	441 Tune Dr, El Prado, 87529

#	Timestamp	Email Address	First and Last Name	Physical Address (Street address, city, zip code)
43	8/5/2025 16:26:32	sojourn108@gmail.com	victoria sojourn prince	240 los rios rd. arroyo honeo, nm 87513
44	8/6/2025 15:12:47	mikyowangmo@gmail.c	Mikyö Black-Wangmo	348 Taos Mtn Ln, Taos NM 87571
45	8/6/2025 16:53:08	dianatru1150@gmail.co	Trujillo	Arroyo hondo nm.
46	8/7/2025 12:33:51	jamesashley074@gmail	Ashley James	37Tres Lomas Rd ,Arroyo Hondo NM 87513
47	8/12/2025 13:41:40	garryblackchild@gmail.c	Garry Blackchild	38 Old State Highway 3 Arroyo Hondo NM 87571
48	8/14/2025 15:21:31	alfordjohnson@taosnet.	Alford Johnson	94 Sangre de Cristo Mountain Dr. Arroyo Hondo, NM 87513
49	8/14/2025 17:34:55	rp.texasgator@yahoo.cc	Robb Porter	76 Sangre de Cristo Mountain Drive, Arroyo Hondo, NM 87513
50	8/14/2025 18:07:15	raylapalme@gmail.com	Raymond Lapalme	T3 sangre de christo mountain drive Arroyo Hondo nm 87513
51	8/15/2025 9:58:38	texas_oil_boy@yahoo.cc	Tommy	603 W Forest Dr / Houston, TX 77079
52	8/16/2025 8:06:02	romy@newmex.com	Rosamond Colonius	175 Acequia Madre Del Llano, Arroyo Hondo, NM 87513
53	8/16/2025 10:01:08	david.fairris@ucr.edu	David Fairris	157 Acequia Madre del Llano, Arroyo Hondo, Nm
54	8/21/2025 13:33:07	d2@d2studios.net	Doug Davis	96 Acequia Madre del Llano Rd
55	8/23/2025 21:43:36	elsbethatencio@gmail.c	Elsbeth Atencio	34 Calle Conejo, Arroyo Hondo, NM 87513
56	8/24/2025 7:22:50	atencio@newmex.com	Ernie Atencio	34 Calle Conejo, Arroyo Hondo, NM 87513
57	9/1/2025 17:40:10	bfreshie@aol.com	Brian Freshman	51 Spanish peaks
58	9/2/2025 10:01:14	coryetch@hotmail.com	Cory Etchemendy	87513

on worst case scenario decrease of 10%, not guaranteed. Not much of decrease if that's what people are worried about. This gives a choice of either wi-fi calling or cell phone service.

SueAnn Vigil: 60 Hondo Seco Rd.
Ms. Vigil feels that the cell phone tower is needed to increase services in the community, more for emergency purposes. Having grown up in Arroyo Hondo she mentions the service being spotty and with her grandparents there, the service sometimes does not go through. The roads are getting busier; more traffic with more potential for accidents and emergencies. This will benefit everyone near and far.

Dawn Singer: 250 Paseo Del Canon E. Taos. NM
In support of cell tower. Drives from Taos to San Cristobal on a regular basis to pick up her son and in the winter the conditions it presents a safety risk with no cell phone service. Also mentions the drive to the Ski Valley canyon also does not have any cell phone service. If someone is stranded or from out of town staying at the Ski Valley there is no contact if they are lost on the Arroyo Hondo Road. Google maps give tourists those directions but if they had better cell service they could call for directions. Ms. Singer also mentions that when she lived in Arroyo Hondo, she was not able to get a landline and was forced to pay for expensive internet, because the cell phone service was very spotty, which is one of the reasons why she no longer lives there.

Speakers in Opposition-

Frank Oatman: Tres Lomas Road.
Mr. Oatman states the cell tower is in a highly inappropriate location. He speaks as a nearby property owner and a co-owner for 25 years of a nearby landscape design firm. In his capacity as a landscape designer, they had large commercial projects that called for similar towers, and they made themselves aware of the history of e regulations and decisions across the US and Canada. Towns, cities and counties affirmed such highly conspicuous structures should never be built near churches, cemeteries or residential neighborhoods. He states the Planning Commission made the correct decision in 2014 to reject the special use application in the same location and asks them to consider that again. He refers to the Planning Commission to a statement from Benjamin Thomas and states he and his partner agree with all the points made in objection. As landscape designers, they were called all over the US and Canada to say why entities have refused to allow tall cell towers in or near residential neighborhoods but instead locate in dedicated commercial areas, largely because unsightly towers lower the property values of land and homes near them. Mr. Oatman speaks on how the value of his home and land would be hugely affected negatively. Mentions the proposed disguise as a tree is worthless in the area because there are only Piñon Pines and two species of Juniper, never taller than 25-35ft. He also mentions the view to the East will be negatively affected by the proposed structure. States there are no good reasons the Planning Commission should allow them exemptions for which the builders and church property are asking.

Jules Espstein: 53 Tres Lomas Rd. Arroyo Hondo.
A resident of Arroyo Hondo for 16 years. Commissioner on the Atalaya Ditch for the past 7 years. 8yr board member of the Taos Arts Council and Board Chair and Operations Manager for the Taos

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Ceramic Center. When he first visited Arroyo Hondo in 2009 to look at the home he ultimately purchased, he exclaimed how wonderful and beautiful, magnificent place to live. It offered qualities of life that were important to him and his family. Unobstructed views, beautiful hills, bold mountains and lush agricultural fields. Clean air, peace & quiet and a wonderful down-to-earth community. Cannot think of a more ungodly thing to introduce a 95-foot cell tower anywhere in Arroyo Hondo. That's equivalent to a nine or ten story building, whether disguised as a tree or not, it's contrary to all the natural beauty and all the homes and traditions that have been built in Arroyo Hondo for the past 175 years. Speaks on health risks and how no one would benefit from the approval of the proposed project except for the part time church and the tower company and why it was turned down in 2014. Mentions a commemorating historical marker feet away from the proposed site. Respectfully asks the commission to turn down the request and rule it out for the next 175 years.

Georgia Epstein: 53 Tres Lomas.
She stands there in extreme opposition just as she stood in 2014, of the 95ft cell tower on the property donated to the Grace Community Church by Eliu Romero. He also opposed this proposal back in 2014 and states he would today oppose if he were still living. Says the cell tower is an assault on their peaceful, bucolic rural community and would only benefit the church, which appears is comprised mostly of non-Hondo residents. Most people she had spoken to have perfectly fine cell service and oppose the proposal. She mentions the church desires the financial gain of the rent that will occupy the same place as the historical marker commemorating a Hispanic cultural preservation. She implores the Commission to reject the proposal today, just as they did in 2014 and reject it once and for all. Also stated is that the applicant is using enhanced community service as a functional rationale to install the tower but says it is for profit and believes it is not a valid position not initiated by the community but initiated by the church and BTS Towers. Speaks on how her daughter, her husband and herself worked form home and business was conducted by internet and cell phone just fine and wouldn't be able to if they didn't have adequate service. States the tower is unnecessary and the argument for enhanced community service is invalid. The applicant is using fear of more towers as rationale to build. She believes the Hondo community neither needs nor wants the cell tower.

Ben Thomas: 12 Tres Lomas Arroyo Hondo, NM.
Lives adjacent to the property owner of the proposed cell tower. He strongly opposes the application. Mr. Thomas states the project violates the principles of the Taos County Land Use Regulation and Comprehensive Plan. It threatens the beauty, culture, safety and values of the community. He addresses visual impact, the tower being disguised as a pine tree, a 95ft industrial structure looming over the valley. The area is cherished for its low-profile open views and natural beauty. Dropping a fake tree the size of nine story building into the middle is not camouflaged. Mr. Thomas speaks on Section 4.61B of the land use regulation saying developments must blend into their surroundings. Also speaks on a second violation, the lack of required fall zone. Land use regulation requires 104.5ft setback for the 95ft tower, instead BTS proposes a 50ft setback, half of what is required. Says their own letter admits part of the structure could fall beyond the 50ft setback into the highway, church, & cemetery.

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Addresses economic impact, 39 homes received letters indicating the tower is being proposed. Independent research shows cell towers can reduce property value by upwards of 7 ½%. His home is set to lose $30,000 in value.
He states he has service and does not have T-Mobile.
The exact proposal was denied in 2014, and the core issues have not changed, they've worsened.
Says there are alternative places, that is not the location. He is concerned of the visual impact and the noise from the generators, the HVAC equipment and the night light. Asks the Commission to not let one company, landowner and one bad decision degrade what they have worked so hard to protect.

Jim Kristofic: 15 Tres Lomas Rd. Arroyo Hondo
High School teacher in Taos for 10yrs. River guide for Far-Flung Adventures. Also, an author, written seven books published by the University of New Mexico.
Says he is a Christian, he knows Jesus Christ, He speaks and walks with him in the garden of his prayers and commands to love and honor our neighbors.
Says we have the constitution to express rights and keep them commemorated into the future.
He states it is the Commissions job to safeguard those constitutional rights of the people in the community. He mentions the rights enshrined in the 4th Amendment, dealing with the protection of their property, persons, effects and cannot be taken without due process. Mentions the cell tower is illegal as the regulations do not allow something like this to be built. The special permit is a way of making something illegal, legal.
Says he disagrees with the applicant's presentation. Goes woodcutting up on Garapata, his truck battery died and called for A1 towing. Goes hiking and doesn't have a problem He does not agree with the need. All the data is provided by the company that stands to benefit from the construction. Says the radius is a fabrication. Says this is not a benefit to the people who have 4th Amendment rights that trust to protect them and look out for those rights interpreted by the law and can use those rights to defend themselves if they are not willing to defend them.

Phaedra Greenwood: 35 Lobo Ranch Rd, Upper Arroyo Hondo.
Has been a resident for 50 years and deeply appreciates the community. The rural aspect, the quiet, the green fields, the irrigation, especially the acequias. Says the acequias will be devalued by the erection of the monstrous cell tower in the valley. Does not approve of it
Ms. Greenwood submits a letter from Gail Russell.
She is concerned of the visual impact, incompatible land use and incompatible fall zone. The proposed fall zone does not comply with count regulations, which require a minimum setback of 99ft, 110% of the tower's height. Height proposes a safety hazard to residents nearby and the structure violates Section 4.1.11. & 1 A1 of the Taos County Land Use Regulations. Proposes alternative sites such as the Taos County Transfer Station or the Kit Carson Electric Transfer Station. Works from home since COVID and does not have any problems with service or connection. She says that visual impact and incompatible use may not weigh up when there's an emergency but mentions the Arroyo Hondo Fire Dept are on top of that when it comes to emergencies. She wants good communication and thinks they have that through Verizon.

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Pamela Harris: 109 Hondo Seco Rd
Has lived there for 25 years and has a farm in lower Hondo. Concerned about what is happening in a Broadview of Arroyo Hondo. Speaks on the lovely farming community with a history of Hispanic in the valley There is friction but there is also closeness. Also mentions consideration of being rezoned for short term rentals and asks, "What's happening to our community?" They are not far from Taos or the Ski Valley, but they are also a historical community. It is a warm and comforting community. She has three generations that live in Hondo and loves her neighbors and community. Need a farming community in the area. She has a 50-acre farm with cows and sheep and a huge garden, a greenhouse and big farm and their farm is important to them. This is a health issue and a visual issue. Says they need to keep the history and farming together.

Jane Farmer: 94 Sangre De Cristo Mountain Dr., Arroyo Hondo.
Has lived there for 14 years and one thing that drew her to live in Northern New Mexico is the tricultural history that the local area represents and preserves and would like to see it preserved. She reiterates that she supports the positions of previous speakers. She is concerned about the fact that the highway that passes through Hondo is part of the scenic byways. It has that designation and this will not help it to remain a scenic byway having this front, perched at the top of the hill. Also concerned with the lack of setbacks. She also mentions that what is the point of having laws and having setbacks to protect people from harm of buildings and by structures and then passing a regulation that allows them to forget that. They went through this in 2014 and none of the circumstances have changed. It is still part of the scenic byways and still doesn't meet the setback rules. Urges the Commission to consider the same way as before and make the permanent designation and hopes they will reject the proposal.

Alford Johnson: 94 Sangre De Cristo Mountain Dr., Arroyo Hondo.
Thanks, the Planning Commission for the opportunity to be there and states it is a good example of democracy in action. He has nothing to add to those who have spoken before him but would like, for the record, to add his name and support of those remarks.

Alexander Levy: 35 Lobo Ranch Rd.
Starts with a statement from the Postmaster that was not able to attend in opposition. Mentions there is a cell tower that is being proposed in San Cristobal that will provide additional coverage to people like Ms. Pacheco. Notes that a cell tower could be built at the Kit Carson substation, one mile away, which would provide additional coverage to the river area. He stood at the church to do a sale drop test and had 2 bars and then from the blue bus station, he could call 911 from there. Mentions he does all his calls through Wi-Fi. Says all of the infrastructure goals BTS is trying to accomplish is done by Wi-Fi and broadband. He gets 50 gigabytes. Grew up by the acequia, part of the recreation. States the photo shown was inaccurate and the tower would have a visual impact on the acequias, culture and heritage. Everyone is there for the sky and even the Facebook photo of the church has the sky and those are the values that the community is strong to.

Thomas Gutierrez: 133 Old Sate Rd #3
He is there representing Eliu Romero and himself. Eliu Romero donated the land in question to the church. They were in opposition at that time, and he is again today. He thinks he would be really

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upset that they are there again. States it is appalling when someone is given something, and they use that land to devalue their neighbors. People work hard for what they have so when something is given, they should respect that. Feels the proposal is lazy as it is in the same spot. Mr. Gutierrez thinks that in 11 years they could have come up with different location. He tasks the applicant to find a spot that could work for all involved. Says it is not up to code and not in the highest spot in the area. It can either go West 3-4 miles or East 2-3 miles. Mentions BLM land, Forest Service would be better to conceal where there are Ponderosa Pines. Says the coverage map is not accurate. He makes calls from six acres from the church, inside and outside. He takes pictures of the sunset and sends them to his family. He understands that some people in the valley need additional coverage but asks them to go back to the drawing board and find something better that works for all.

Charles Galer: 29 Spanish Peaks, Arroyo Hondo.
Is a 26-year resident at that location. Property tax paying resident. Wants to voice his opposition to the tower. He supports all the people in opposition and hopes the Commission votes against it.

Kimberly Grant: 1 Calle Del Jardin, Ranchos.
Is the owner of the property closest to the church. Is there to express her opposition to the special use permit. In 2004, her late husband, Eliu Romero, deeded the property to the Grace Community Church as a gift. With the understanding that it would be used for a church. While the deed did not stipulate specifically, it was agreed upon. Is very certain that the vision for the property did not include passive income from a commercial tower, one that would be unsightly for the surrounding neighborhood. States the tower has a negative impact on property values for aesthetic reasons. If T-Mobile desires reception in the vicinity, there are more appropriate locations for the tower. Questions about whether the members of the congregation live in the affected area. Says there are websites the church can visit on ways to generate revenue. States the Garce Community Church and the Commissioners need to consider the intended purpose at the time the property was gifted and acquired and strongly opposes the approval of the special use permit at that location.

Alma Quillian: 13 Tres Lomas.
One of the reasons she is opposed to it is because she is directly across. She became involved in the protest of the tower in 2014 and was pleased the Commission did not allow it. Laughed when she saw the agenda with the word concealed 95ft tower. Worried about the safety, being that close in proximity. Asks if anyone has experienced the winds of Arroyo Hondo and states they are mighty. One thing that attracted her to being out there is the incredible night sky. She is also worried about property value. Says there has been a change since 2014, better cell service and there are fiber optics available. She also mentions that it may be expensive for some people and mentions working with people that can't afford it, doesn't know if a bake sale would do it. She also indicates that there are more places to put it.

Gail Russell: Letter presented into the record. Given to Chief Planner Rudy Perea.

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Jameson Wells: 29 Atalaya Rd.
Has been in the Taos area since 1979 and in Arroyo Hondo since 2003. She asks that if this was disapproved in 2014, why is it now justified? It goes against the land use regulations and is still aesthetically impairing people's living spaces and property values. States there are better sites possible. As a member of the Taos Search and Rescue, she is able to get her page outs and calls. She would like to register that she is opposed to the current proposal of the tower where they are proposing and possibly investigating other sites.

Richard McCracken: 29 Atalaya Rd.
Mr. McCracken built his house in 1974 and mentions the tower will be in direct line with the summit of Lobo Peak and he can't think of anything worse than at night looking towards Lobo Peak and seeing a flashing red light. Verizon is his cell service and works fine where he is, he has a couple of bars down in the valley and in front of Herb's Lounge. A few years ago, he retired from Search and Rescue after 22 years and the radios work fine anywhere you are in Taos County. He says he can attest to that as he ran mission for a number of years. All the frequencies work. State, county fire, search and rescue because they are surrounded by repeaters. There is one on the San Antonio Mountain, Flag Mountain and Picuris Peak. Testifies that radios work fine and they don't need the tower for emergency services and hopes they vote against it.

Nancy Burt: 29 Spanish Peaks, Arroyo Hondo.
Ms. Burt says she has lived there for 25 years and has dramatically noticed the increase in cell service. She has Verizon and it works. She walks to the Gorge, up and down the arroyos and used to get dropped calls but since COVID, walks up and down and does not lose calls. Asks about the carriers on the tower and mentions that people may not have service due to their carrier. She also states that it may not solve the issue as it depends on the carriers on the tower. Says she is in support of what everyone else said and that it is not necessary in their community. She is worried about the safety of her family. The radiation and the setbacks for the people who live nearby. She is worried it is a pine tree and there aren't any pine trees nearby. Speaks of Starlink as an alternative. She states things are moving very quickly in the world of technology, and they may not need it and hopes the tower will be rejected.

Nick Romano responds to the statements made by the members of the public.
States they are aware of many of the concerns raised. There are a few technical things he would like to clarify.
The facility will not have any flashing lights. There will not be any HVAC equipment. There is a proposed emergency generator but it is a modern, quiet generator that will only go on in the event of an emergency.
Mr. Romano also mentions the setbacks and the fall zone and that the tower will be very firmly anchored into the ground at base level. Also in the engineered spec, it states there are notches in the case of extreme winds. Also mentions that there is an event where the facility may overturn, there is a point where that weak point would snap prior to failing at the base, this is common. It is a very common practice in areas where you need to be extra safe. He points out that the setbacks are what code calls for.

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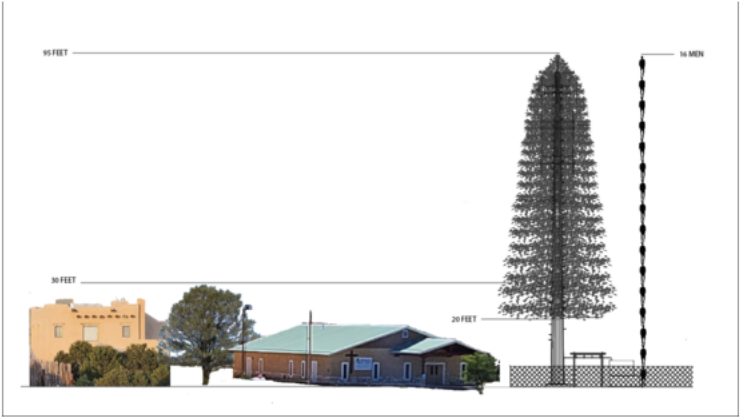
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TAOS COUNTY
PLANNING COMMISSION

EUGENE SANCHEZ	CHAIRMAN
MARY MASCAREÑAS	VICE CHAIRPERSON
CEILIDH CREECH	COMMISSIONER
BILL THOMAS	COMMISSIONER
JOHN DURHAM	COMMISSIONER

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BY TAMMYS

DECISION OF PLANNING COMMISSION
Meeting of October 08, 2014

CASE SUP-09-2014

Scott Quinn, "Agent" representing T-Mobile West/Pinnacle Consulting "Applicant" is requesting a Special Use Permit – Commercial Use (SUP-09-2014) . The property which is the subject of this request is located at 157 Old State Road 3 in Arroyo Hondo, Taos County, New Mexico.

REQUEST

This matter came before the Taos County Planning Commission for public hearing in October 8th, 2014 where the Applicant's Agent submitted a Special Use Permit request in order to construct a new stealth cell tower . The proposed height of the cell tower will be 80 feet in size. In conjunction with the cell tower the applicant is proposing to construct a 208 square foot maintenance structure which contains the equipment necessary to operate it. Additionally, the maintenance structure is part of a proposed lease of a 2500 square foot piece of the subject property that will be enclosed by a chain link fence.

DECISION

The Taos County Planning Commission has denied the application and made the following findings of fact:

1. SUP-09-2014 failed to comply with section 4.7.1 subsection (B) [Visual Impact] of the Taos County Land Use Regulations which states "The development shall be sensitive to and consistent with the architectural design, scale, density, bulk, building height, historical character, and orientation of the existing properties in the neighborhood, or the applicant shall be able to demonstrate that the alternative being proposed is suitable to the land and the neighborhood character".

2. The applicant failed to comply with section 4.10.1 subsection (B)(4)(e) of the Taos County Land Use Regulations which states "The applicant shall submit evidence to the county demonstrating that genuine effort has been made to solicit additional users for the proposed new tower. Evidence of this shall include, at a minimum, copies of

notices sent by registered mail, return receipt required, to all other providers of wireless communication services within Taos County and adjacent counties advising of the intent to construct a new tower, identifying the location, inviting the joint use an sharing of costs, and requiring a written response within fifteen (15) working days".

IT IS THEREFORE ORDERED, that the Taos County Planning Commission hereby denies the request for SUP-09-2014.

Eugene A. Sanchez
Eugene Sanchez, Chairman

10-23-14
Date

ATTESTED BY:

Rudy D. Perea
Rudy D. Perea, Planner II

10-23-14
Date

VOTE RECORD:

Eugene Sanchez, Chairman	yes	no	abstain	absent
Mary Mascareñas, Vice Chairperson	yes	no	abstain	absent
Ceilidh Creech	yes	no	abstain	absent
Bill Thomas	yes	no	abstain	absent
John Durham	yes	no	abstain	absent

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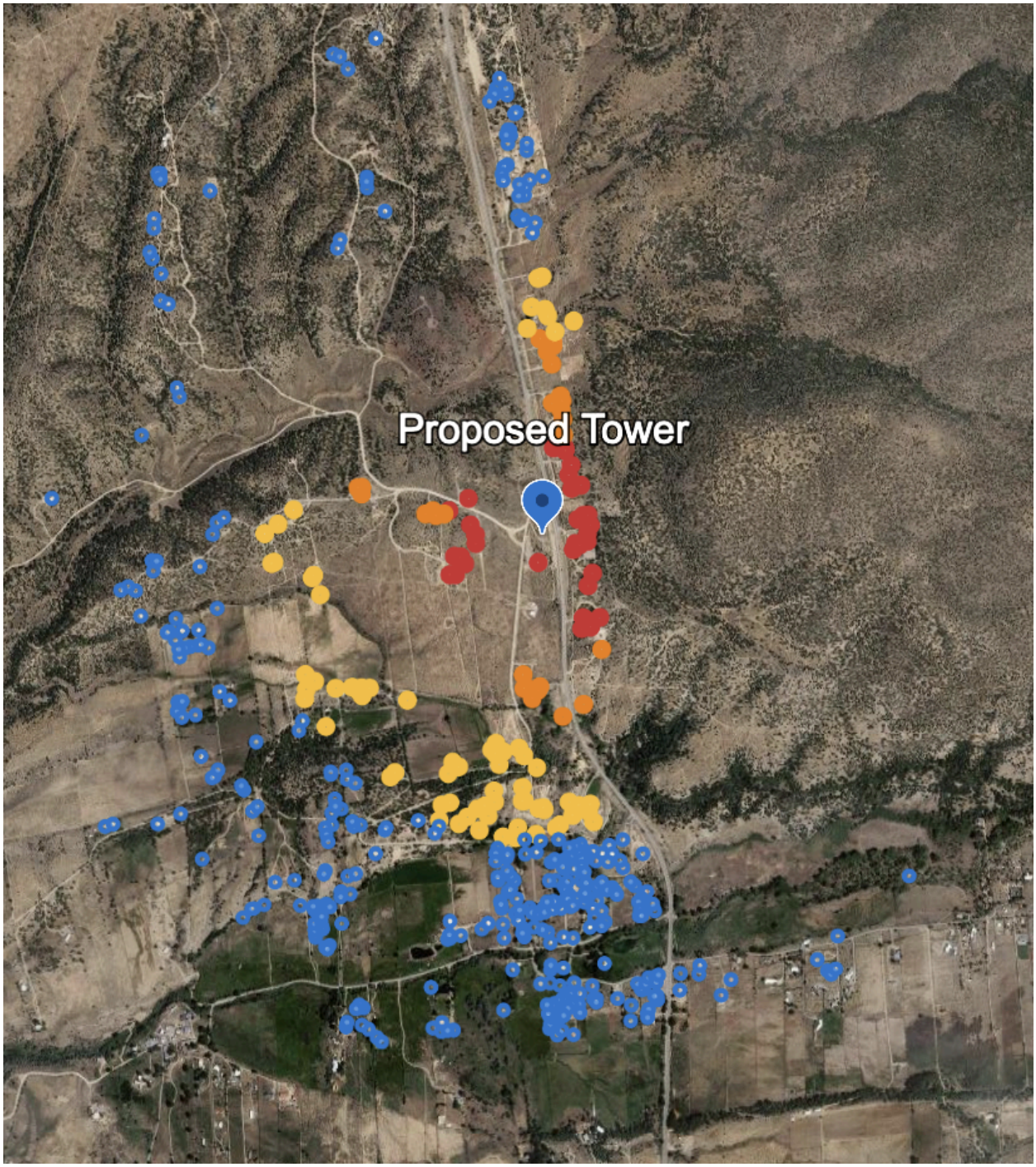
BY TAMMYS

COUNTY CLERK AND RECORDER
RECORDER SEAL
COUNTY OF TAOS

Map showing distance of 500 homes to Proposed Tower



Within 1,000 ft	**Red**	37	7.4%
1,001 – 2,000 ft	**Orange**	27	5.4%
2,001 – 3,000 ft	**Green**	72	14.4%
3,001 ft – 1 Mile	**Blue**	364	72.8%
Total	—	**500**	**100.0%**

Old Spanish Trail Association (OSTA)
Re: Proposed Cell Tower Near the Old Spanish National Historic Trail

11/18/2026

To: Taos County Board of County Commissioners

Dear Commissioners Romero, Romero, Vigil, Brush, and Mascarenas:

The Old Spanish Trail Association (OSTA) is a 501(c)(3) nonprofit organization whose mission is to study, preserve and protect, interpret and educate, and promote respectful use of the Old Spanish National Historic Trail. OSTA is co-managed by the National Park Service and the Bureau of Land Management.

We are writing to express our concern regarding the proposed construction of a 95-foot cell tower, designed to resemble a pine tree, on Grace Community Church property at the top of the Highway 522 hill near Arroyo Hondo. According to the National Park Service (NPS) trail map provided to us, the historic route passes within feet of the proposed tower site.

The Old Spanish Trail holds an important place in the history of Taos and the American Southwest. Taos was a significant point along the historic trade routes connecting New Mexico with California. The Trail's significance extends beyond the physical route; its surrounding landscapes, open vistas, and natural setting are essential to preserving its historical character and our understanding of the people who traveled it. Much of the historic Trail and its remaining traces cross privately owned property, making landowner stewardship essential to its preservation. Protecting the Trail's viewshed is equally important. Tall structures and visually intrusive development can permanently alter the historic landscape that gives the Trail its meaning, authenticity, and educational value.

Although designed to resemble a tree, a 95-foot tower, approximately 24 feet in diameter at its base, would introduce a substantial modern structure into this rural historic setting. We also understand that the tower would be located on privately owned church property, with the church receiving an annual payment for hosting it. While we recognize the church's right to consider uses of its property, the private financial benefit should be weighed against the broader public interest in protecting this nationally significant historic resource and its surrounding landscape.

OSTA recognizes the importance of modern communications infrastructure. However, we encourage the County to carefully consider alternative locations or less visually intrusive solutions that would meet communications needs without compromising the historic setting of the Old Spanish National Historic Trail.

As we approach the 200th anniversary of the Old Spanish Trail in 2029–2030, commemorating the pioneering pack-mule caravans that connected northern New Mexico with California, protecting the Trail's historic landscapes takes on even greater significance. This milestone offers an important opportunity to preserve and recognize the cultural heritage of Taos and the Trail for future generations.

We respectfully ask the Taos County Board of County Commissioners to consider these historic preservation concerns when evaluating this proposal and to give appropriate weight to protecting the Trail and its surrounding landscape for future generations.

Thank you for your consideration and for your stewardship of Taos County's historic and cultural resources.

Sincerely,
Lynn Brittner, Executive Director - OSTA

Lynn Brittner, Executive Director Old Spanish Trail Association
OSTAMGR@GMAIL.COM

November 16, 2026

To Whom It May Concern;

I bought property at 29 Atalaya Road in Arroyo Hondo, New Mexico in July 1974 and moved there that same year. From my house site I have a clear view of all property to the east including the hill upon which the Grace Community Church is located. Fortunately, there never has been a cell tower or any other such structure situated on or anywhere near that location or any other location in my wide view to the east between me and Lobo Peak.

Sincerely,

Richard McCracken

Richard McCracken
P.O. Box 586
Arroyo Hondo, NM 87513

This instrument was acknowledged before me on November 16, 2026

by Richard McCracken.

Barbara Trujillo

NOTARY PUBLIC

State of New Mexico
Notary Public
Barbara Trujillo
Commission Number 1079686
Expiration Date 01-05-2028

My Commission Expires: 01-05-2028

DeAnna Anglin

From: Jarrett, Jordan E <jordan_jarrett@nps.gov>
Sent: Friday, September 29, 2023 3:48 PM
To: DeAnna Anglin
Subject: Re: [EXTERNAL] NSHT Opportunity to comment on proposed telecommunication project VBBTS_264 - Arco Torcido US-NM-7008

Hi DeAnna,

Thank you for providing the opportunity comment on Arco Torcido. It appears that a 100' tower was present at this location in the past, although it was unregistered and may not remain present currently. For that reason and other existing conditions in this context of the proposed tower, the National Trails Office does not anticipate adverse effect of this undertaking to the Old Spanish National Historic Trail or to its associated resources.

Have a good weekend,
Jordan

Jordan Jarrett (she/her)
Archeologist
National Park Service
National Trails Office
1100 Old Santa Fe Trail
Santa Fe, NM 87505
(505) 470-0426

Working with you to protect, develop, and promote National Historic Trails.
http://www.nps.gov/ntir/

From: DeAnna Anglin <Anglin@thelotisgroup.com>
Sent: Wednesday, September 27, 2023 10:38 AM
To: Jarrett, Jordan E <jordan_jarrett@nps.gov>
Cc: NEPA NHPA <NEPA.NHPA@thelotisgroup.com>
Subject: [EXTERNAL] NSHT Opportunity to comment on proposed telecommunication project VBBTS_264 - Arco Torcido US-NM-7008

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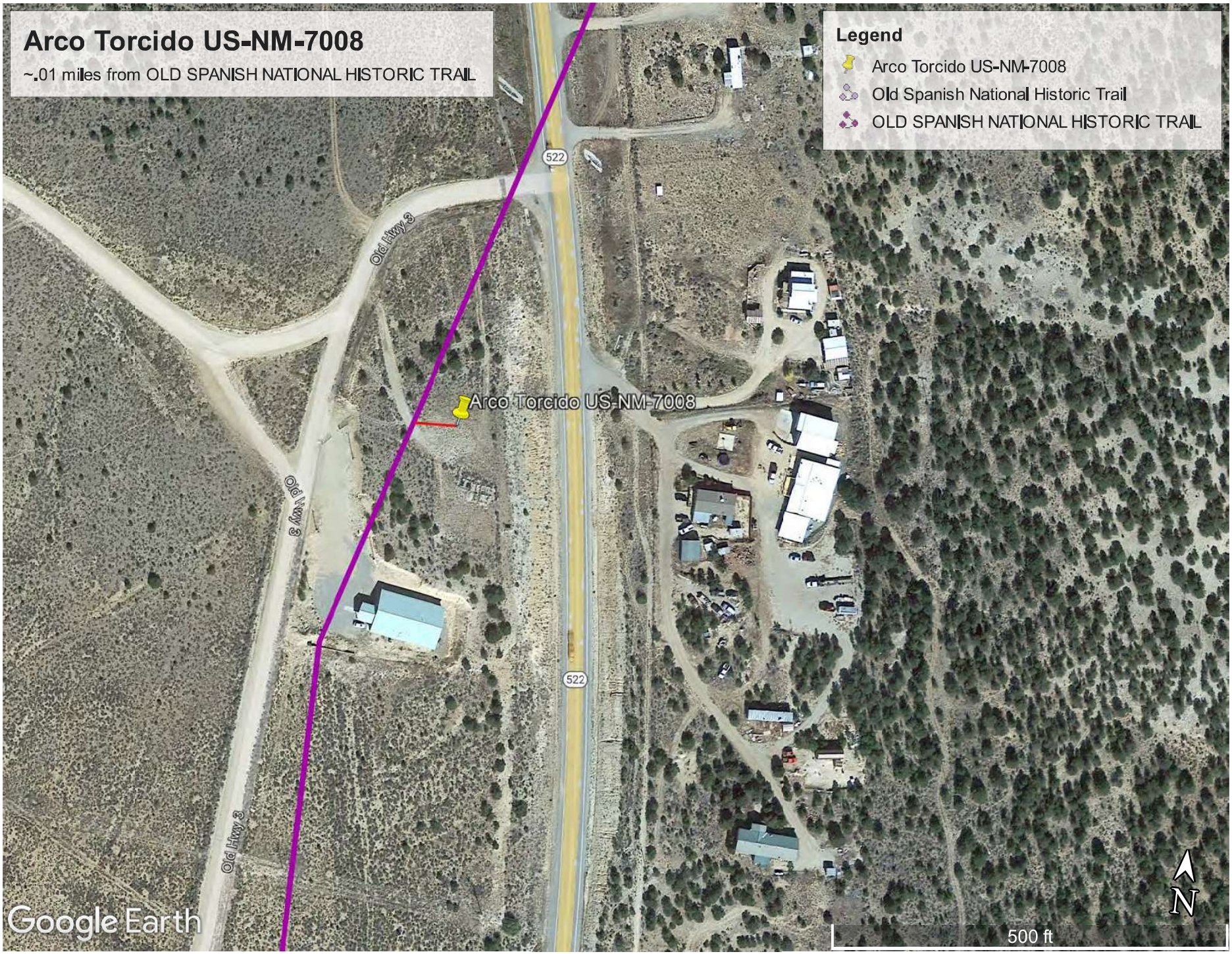
To Whom It May Concern:


Arco Torcido US-NM-7008
~.01 miles from OLD SPANISH NATIONAL HISTORIC TRAIL
Legend
Arco Torcido US-NM-7008
Old Spanish National Historic Trail
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STATE OF NEW MEXICO
EIGHTH JUDICIAL DISTRICT
COUNTY OF TAOS

No. D-820-CV-2025-00451

BENJAMIN C. THOMAS,

ALMA QUILLIAN,

KIMBERLY J. GRANT AND HER SUCCESSORS, TRUSTEE OF THE KIMBERLY GRANT REVOCABLE LIVING TRUST,

Plaintiffs/Appellants,

v.

TAOS COUNTY BOARD OF COUNTY COMMISSIONERS,

Defendant/Appellee.

OPENING BRIEF IN OPPOSITION TO TAOS COUNTY'S SUP-24-0013

I. STATEMENT OF THE PROCEEDINGS

A. The BTS Cell Tower Application:

Plaintiffs bring this New Mexico 1-074, NMRA appeal challenging Taos County's approval of Special Use Permit (SUP-24-0013, which allows for development of a 95-foot cellular tower on approximately 2.571 acres, located at 159 Old Highway 3 in Arroyo Hondo, Taos County, New Mexico. [ROA 15, Vol 1, p. 17; See Site Map, ROA 158, Vol 2, p. 62] The subject property is a large hill, adjacent to the Enchanted Circle Scenic Byway (NM 522, between mile markers 7 and 8), and the Old Spanish National Historic Trail and is surrounded by high desert sage, small pinon and juniper trees, with a

backdrop facing the Sangre de Cristo peaks. [ROA 159-163, Vol 2, p. 63-68] The proposed cell phone tower will be located next to a church and an old cemetery not owned by the church. [ROA 165, Vol 2, p. 69] The adjacent neighborhood is a mix of quiet agricultural lands and low-density residential homes. There is no commercial development in the area. [See Site Map, ROA 158, Vol 2, p. 62]

The applicants for SUP-24-0013 are Romano and Associates, LLC, as agent for BTS Towers, LLC (BTS), the formal applicant, and Grace Community Church, the underlying property owner. [ROA 585, Vol 7, p. 41] The subject property was deeded to Grace Community Church by Eliu Romero on December 23, 2004, as a gift and with the intent that the site would be used only for the church. [ROA, Vol 1, p. 18; Vol 2, p. 90; ROA 594, Vol 7, p. 50]

The design of the proposed cell phone tower is described in engineered drawings as an approximately 90-foot monopole disguised as a pine tree, with an additional 5-foot lightning rod. [ROA 159-163, Vol 2, p. 63-68] Access to the tower is off Highway 3 via an old easement to the cemetery. The nearest acequia is .3 miles to the south. The tower will be surrounded by a chain link fence with brown privacy slats. Despite residential homes in close proximity, there is no landscaping plan or buffer zone for the site. [ROA 159-163, Vol 2, p. 63-68]

The Taos County planning department determined the BTS application was complete and scheduled a hearing before the Planning Commission on July 10, 2025.

B. Taos County Planning Commission Public Hearing Regarding SUP-24-0013 on July 10, 2025:

The Taos County Planning Commission reviewed the BTS cell tower application during a public hearing on July 10, 2025. [ROA 549, Vol 7, p. 5] In its public notice, the County stated that as of July 3, 2025, its planning department staff received public comments regarding the application, including "verbal, written, and electronic correspondence from property owners within the 1000-foot public hearing notification area...." [ROA 554, Vol 7, p 10] This notice is relevant to this appeal because some of these comments were never included in the Planning Commission's Packet. (See accompanying Affidavits of Lawrence Baker and Ben Thomas, filed separately)

During the public hearing, several neighbors opposed the development. Frank Oatman, a landscape architect, stated such large towers should never be built near churches, cemeteries, or residential neighborhoods, as they are more appropriately located in commercial districts. He expressed concern his nearby home would suffer a large decrease in value, along with other residential and agricultural properties in the area and disguising the tower as a large pine tree would be useless since it would dramatically tower above the nearby 25–30-foot-tall pinon and juniper trees. [ROA 590, Vol 7, p.46]

Jules Epstein, a 16-year resident of Arroyo Hondo, stated the proposed tower is the equivalent of a 9 or 10-story building, which is contrary to the natural beauty in the area. It would interfere with the homes and traditions that have been part of Arroyo Hondo for over 175 years. Mr. Epstein pointed out a similar proposal had been turned down by the County in 2014. [ROA 591, Vol 7, p. 47]

Phaedra Greenwood, a 50-year resident, expressed concerns about the visual impact, incompatible land use, and dangers with the fall zone, which exceed limitations

established by the Taos County LUR. [ROA 591, Vol 7, p. 47] Pamela Harris, a -25-year resident and owner of 50-acre sheep and cattle farm, expressed concerns about visual impact and safety. [ROA 592, Vol 7, p. 48] Jane Famer, a 14-year resident, spoke about the effect on the adjacent Scenic Byway along NM 522, especially given the tower will be perched in plain sight on the top of a large hill. [ROA 591, Vol 7, p. 47] Alexander Levy emphasized existing cell phone coverage in the area is adequate, and that any proposed new tower should be adjacent to nearby Kit Carson electrical facilities. [ROA 593, Vol 7, p. 49]

Ben Thomas, the closest neighbor, commented the proposal violates the Taos County Comprehensive Plan and LUR. "It threatens the beauty, culture, safety, and values of the community." It has significant visual impact because the area is cherished for its low-profile open views and natural beauty. This project will create a 95-foot industrial structure looming over the valley. [ROA 591, Vol 7, p. 47] He also emphasized a similar tower was denied in 2014. In addition to the visual impact, he expressed concern about the noise from the generators and HVAC equipment, as well as intrusive lighting at night that will interfere with the area's dark skies. [ROA 591, Vol 7, p. 47]

Kimberly Grant stated she owns the property closest to the Grace Community Church and her late husband, Eliu Romero, donated the property to the Church. In making this gift, Mr. Romero understood the property would only be used for church purposes, and not for something like the tower, which would reduce property values and harm the neighborhood. [ROA 594, Vol 7, p. 50] Alma Quillian commented she is directly across from the subject property and is worried about the proposed tower's

safety, especially during high winds. She also stated it will affect the incredible night sky and adjacent property values. [ROA 594, Vol 7 p. 50]

Thomas Guiterrez voiced his frustration that the land was donated originally for a good purpose (the Church) and was now being used to devalue adjacent properties. [ROA 594, Vol 7, p. 50] Jameson Wells stated she has been in Taos since 1979 and works for Taos Search and Rescue, where she gets adequate emergency coverage in the area with current infrastructure. She believes since the project was already denied in 2014, it should not now be approved under similar standards. She emphasized there are other, better sites for the tower in the area. [ROA 595, Vol 7, p. 51] Richard McCracken testified the tower will block his view of Lobo Peak. He also worked for Taos Search and Rescue and stated phone and emergency services coverage was fine without this new tower. [ROA 595, Vol 7 p. 51] Nancy Burt discussed the negative health effects and safety issues to nearby residents. She also stated existing coverage is adequate in the area and the new infrastructure is not necessary. [ROA 595, Vol 7, p. 51]

Based upon an erroneous finding of overall compliance with the Taos County Land Use Regulations (LUR), the Planning Department recommended approval of the BTS application. [ROA 561-569, 597, Vol 7, p. 17-24, 53]. The Planning Commission approved SUP-2024-0013 unanimously, with one Board member absent. [ROA 598, Vol 7 p. 54] The Planning Commission's Record of Decision (ROD) was filed on July 14, 2025. [ROA 601-608, Vol 7, p. 57] As set forth below, the ROD incorrectly found the development complies with Taos County LUR Section 4.6.1 regarding Use and Visual Compatibility. It also found compliance with Section 4.7.1 regarding infrastructure,

hazards mitigation, and adjacent areas of concern. Concerning archaeological and historic areas of significance, the ROD concludes such areas do not need to be addressed because the State of New Mexico Historic Preservation Office determined the cell tower will not negatively affect any historic properties. However, there were no specific discussions or conclusions about such properties included in the decision. [ROA 605, Vol 7, p 61] Finally, the ROD determined the applicant met the requirements of LUR Section 4.11.1 and "no height limitations" could be imposed on this tower, contrary to the actual language in the regulation.

Based upon the Planning Commission's abuse of discretion and misinterpretation of the LUR, neighbors appealed SUP-24-0013 to the Board of County Commissioners (BCC). [ROA 0996-1000, Vol. 12, p. 41-45]

C. The Board of County Commissioners Public Hearing for Appeal of SUP-24-0013 on September 16, 2025:

Taos County citizens appealed the Planning Commission's decision approving SUP-24-0013 in Taos County Appeal No. 25-000001. [ROA 0996-1000, Vol. 12, p. 41-45; ROA 787, Vol 9, p. 47] In response to the appeal, the Taos County Planning Department submitted a report to the Board of County Commissioners (BCC) stating reasons for upholding approval of the SUP, which the Appellants oppose. [ROA 627-628, Vol 7, p. 85-86). A hearing addressing the citizen appeal took place on September 16, 2025. [ROA 786, Vol. 9, p, 46]. Concerned citizens led by Plaintiff Ben Thomas presented a Power Point stressing violation of the LUR and incompatibility of the project with the adjacent neighborhood. In their photos, the appellants showed the proposed tower was like placing

a 9-story commercial skyscraper next to the existing one-story church, cemetery, and open rural landscape. [ROA 719 Vol. 8, p. 78; ROA 727-748, Vol 8, p. 65-86]

During the meeting, many Taos County citizens voiced their opposition to the application. Soloman Kaplan, Mayordomo for Atalaya Acequia, said the tower contradicts the historical character of the community, the nearby acequia, and the adjacent cemetery. Phaedra Greenwood, Atalaya Acequia Commissioner, expressed concern-the tower would be placed within .3 miles of the acequia. Alexander Levy, a Hondo resident, proposed the tower should be placed at the Kit Carson transfer station rather than in the current location, which takes away from the area's natural beauty. Alma Quillian expressed concern about her proximity to the tower, safety, and the reduction in her property value. Georgia Epstein stated the tower is "an assault on the peaceful and bucolic rural community," and it would not benefit the community. Others told the BCC there is no benefit, and current telecommunications coverage is adequate. [ROA 789, Vol 9, p. 49] Numerous other members of the community gave their opposition to SUP-24-0013. [ROA 789-790, Vol 9, p. 49-50]

The BCC also heard public comment from concerned citizens in the form of emails and letters. Some of these comments were improperly omitted from the public records of the Planning Commission and BCC packets. (See accompanying Affidavits, filed separately) Kimberly Grant, who owns the property closest to the tower, again opposed the application in a letter to the BCC stating the development would diminish property values. Ms. Grant's late husband, Eliu Romero, gifted the subject property to the church but not with the intent it would be used for these commercial purposes. [ROA 649-650,

Vol 8, p. 7] Penny Privette wrote the BCC that both of her grandparents are buried in the cemetery. She called the project a violation of the dignity and sanctity of the site. "Cemeteries are sacred spaces intended for remembrance, reflection, and peace. Placing an industrial structure of this scale immediately adjacent to the resting place of our loved ones is both inappropriate and disrespectful." [ROA 651, Vol 8, p. 9]

Colin Coolidge, James Kristofic, Jeannie Putnam, and Moncia Acerra wrote the project is incompatible with the low density residential and agricultural uses in the area. It violates Section 4.6.1 of the Taos County LUR. They also stated the tower violates the required setback of 110% of the tower's height, which poses a danger to nearby structures and Hwy 522 automobiles. The facility's location 25 feet from the cemetery is insensitive to cultural and spiritual values. There is already adequate cellular coverage, and there are better alternative sites for the tower. [ROA 652-659, Vol 8, p. 10-17] Margaret Lathan Madrone wrote the tower would go against the existing peace, beauty, landscape and preservation of nature. [ROA 660-661, Vol 8, p 18-19] Numerous other residents wrote letters in opposition to the project. [ROA 662-690, Vol 8, p 20-48] One resident included a photo of a similar "disguised" cell tower to show how completely out of place it is in the surrounding high desert sage and pinon/juniper. [ROA 673, Vol 8, p. 31]

Following the hearing, the BCC affirmed the Planning Commission's approval of SUP-24-0013 by a vote of 3 to 2. [ROA 800, Vol 9, p. 60] Commissioners Vigil and Brush opposed approval of the SUP and expressed concern that alternative sites, such as the Kit Carson Transfer Station or Firehouse, had not been considered. [ROA 799, Vol 9, p. 59]

This appeal challenges SPUSE 24-0013 on the basis that Taos County failed to abide by its LUR and made findings that were arbitrary and capricious, given the overwhelming evidence the BTS tower provides no benefit to the community and insults existing rural zoning, historic areas, pristine view corridors, and longstanding community values. Furthermore, the County failed to fully consider alternative sites that are already developed with more intensive commercial or industrial uses.

II. ARGUMENT

A. APPROVAL OF SUP-24-0013 VIOLATES TAOS COUNTY'S LUR, SECTION 4.6.1 BECAUSE THE CELL PHONE TOWER DOES NOT MEET DEVELOPMENT COMPATIBILITY STANDARDS FOR ARROYO HONDO

LUR Section 4.6.1 discusses development compatibility standards. Section 4.6.1 (A) titled "Use" states a proposed development "shall be sensitive to and consistent with the existing traditional and historic uses in the neighborhood, or the applicant shall be able to demonstrate that the development would provide a substantial benefit to, or support to, or would not have a substantial impact on the immediate neighborhood." [ROA 9, Vol 1, p. 11] LUR Section 4.6.1 (B) titled "Visual Impact" states "[t]he development shall be sensitive to and consistent with the architectural design, scale, density, bulk, building height, historical character, and orientation of existing properties in the neighborhood, or the applicant shall be able to demonstrate that the alternative being proposed is suitable to the land and neighborhood character." [ROA 9, Vol 1, p. 11]

Arroyo Hondo is a small community. It has historically been agricultural and low density residential. Residents come here for peace, unobstructed views of the Sangre de Cristos, night skies, and the surrounding high desert landscape. The 95-foot cell tower

would invite unwanted development and disturbance. This tower would dominate and destroy the view corridor, including the adjacent Scenic Byway on NM 522. Disguising the tower as a huge pine tree would further insult the surrounding natural environment. This fake tree would not blend in with the high desert sage brush and smaller pinon and juniper trees. Adjacent residents would be forced to look at it every day, and for many, the tower would obstruct their views of the Sangre de Cristo peaks to the East.

This development violates the "Use" compatibility standards in Section 4.6.1 (A). The tower is not "sensitive to and consistent with the existing traditional and historic uses in the neighborhood." This 95-foot-tall fake tree will also "have a substantial impact on the immediate neighborhood" by basically destroying it. Given the negative impact, any argument the tower "would provide a substantial benefit to, or support" to the community is outweighed by the harm. As shown by the testimony during the hearing, including from Search and Rescue personnel, the area already has adequate emergency service, as well as phone and internet coverage. There is no justification for this use.

Furthermore, the Taos County Chief Planner has stated that his determination that the application satisfied Section 4.6.1(A) (Use Compatibility) was based on "letters received" (ROA 728). However, he has admitted he failed to include timely submitted letters in the Planning Commission meeting packet (ROA 748), and several other letters in opposition were likewise not presented. There are at least four omitted letters from the closest neighbors in opposition, who will experience the most impact. [See Ben Thomas Affidavit] By excluding relevant opposition correspondence while relying on "letters received" as a basis for his "compatibility" finding, the County approved the

application on an incomplete and selectively presented record. As a result, the Planning Commission was not provided a full and accurate representation of community concerns, as requested by Commissioner Billy Romero (Planning Commission Audio: 2:02:25), and assumed by the Board of County Commissioners in denying the appeal. This omission renders the Section 4.6.1 determination unsupported by substantial evidence and procedurally unfair.

The tower also violates Section 4.6.1. (B), the "Visual Impact" compatibility standards because it is in no way "sensitive to and consistent with the architectural design, scale, density, bulk, building height, historical character, and orientation of existing properties in the neighborhood." Covering the tower with an artificial pine tree does not "demonstrate that the alternative being proposed is suitable to the land and neighborhood character." *See Burroughs v. Board of Cnty. Comm'rs*, 1975-NMSC-051, 88 N.M. 303, 540 P.2d 233 (issuance of a special use permit overturned where it went well beyond authorized zoning for a neighborhood).

The County falsely claims the Use and Visual Compatibility requirements can be waived, given the "substantial benefit" the cell tower provides to the community. This finding is contradicted by overwhelming factual evidence to the contrary, including not having done a dropped call study. For example, T-Mobile is actively promoting its transition toward satellite-supported coverage, which reduces — and in some cases eliminates — the need for traditional towers altogether. [BCC Meeting Audio: 2:03:42 and 2:06:31] The push to install towers in rural areas like Arroyo Hondo appears to be a short-term stopgap to compensate for current coverage gaps, not a long-term solution.

Approving the BTS tower is premature, irresponsible, and unjustified. Community members in Arroyo Hondo currently enjoy the existing coverage they have, as provided by both AT&T and Verizon. (BCC Meeting Audio, 2:21:52)

In addition to the visual degradation of the surrounding landscape, locating a cell tower facility within 25 feet of an existing cemetery is insensitive to cultural and spiritual values. Such places are sacred and should never have commercial-purposed towers looming over them. Placing this enormous cell tower over the cemetery is an insult to those laid to rest, and upon those gathered to pray and honor their loved ones. [BCC Meeting Audio, 14:30]

There will also be a significant financial impact to the 39 homes and properties directly adjacent to the proposed tower site. [ROA 747] According to *Redfin.com*, the median sale price of homes in Arroyo Hondo in August of 2025 was $469,000, equating to an estimated $1,829,100 in collective lost property value for neighboring residents based upon an estimated 10% reduction in value. [ROA 729, 981]. This loss is uncompensated, dismissed as invalid by the applicant, and is completely unacceptable. An additional impact on the neighborhood includes the potential health and safety impacts. This tower could easily fall outside of the 50-foot fall zone, posing an immediate threat to adjacent neighbors.

The vast majority of Arroyo Hondo's citizens closest to the tower have overwhelmingly written, publicly testified, and signed petitions stating their opposition to the cell tower. [ROA 734-746] Any finding of a purported benefit is blatantly false. The BTS tower provides no benefit to the community and violates Taos County's LUR,

Section 4.6.1, *et. seq.* The County's approval of this project is both arbitrary and capricious and is not based upon the factual evidence. SUP-24-0013 must be overturned. *See* NMSA Section 39-3-1, *et. seq; Filippi v. Board of County Commissioners of Torrance County*, 2018-NMCA-050, 424 P.3d 658 (courts will overturn special use permits if a county misapplies its own zoning regulations. Such decisions must not be arbitrary and must align with the ordinance's intent).

B. SUP-24-0013 SHOULD BE DENIED BECAUSE THE 95-FOOT BTS TOWER'S HEIGHT VIOLATES THE REQUIREMENTS OF LUR, SECTION 4.11.1

In its Record of Decision (ROD), paragraph 17, the Planning Commission found that BTS does not need to comply with the criteria of LUR, Section 4.7.1 (N), limiting the maximum height of cell towers. Instead, the County determined that Section 4.7.1 is superseded by Section 4.11(A)(8), which the County falsely claims "no longer restricts the height of cell towers." [ROA 603, Vol 7, p. 59, #17]

The ROD is in error because the County's finding ignores the complete language of Section 4.11(A)(8). This Section requires that "[h]eight shall be determined by technical requirement and the applicable compatibility and performance standards." The applicable compatibility and performance standards which apply to this neighborhood are outlined in Sections 4.6.1 (A) and (B). To comply with Section 4.11(A)(8), the tower height must be "sensitive and consistent with the architectural design, scale, density, bulk, building height, historical character, and orientation of the existing properties in the neighborhood." LUR, Section 4.6.1(A). It must also be "sensitive to and consistent with the existing traditional and historic uses in the neighborhood." LUR, Section 4.6.1(B). BTS's proposed 95-foot fake pine tree is incompatible with the surrounding

neighborhood and rural landscape as a matter of law. Therefore, its 95-foot height does not meet the limitation requirements described in Section 4.11(A)(8). The proposed tower sits on a hill and obstructs neighborhood views of the Sangre de Cristos. It also towers over the adjacent Scenic Byway along NM 522 and disturbs the serene and historic Arroyo Hondo community. It is located in a quiet rural area where there are no current commercial uses and is entirely incompatible with adjacent residential homes. There is nothing remotely like this tower in the surrounding area.

In addition, Taos County LUR Section 4.11.1 requires a cellular tower to have an 85-foot setback from all surrounding property lines, or a distance equal to at least 110% of the potential fall radius, whichever is greater. [ROA 559, 618; Vol 7, p. 15, 74] Thus, Section 4.11.1 requires a 104.5-foot setback for the BTS 95-foot tower. BTS proposes only a 50-foot setback, which is a violation of the LUR's mandated requirements and poses a risk to public health, safety and welfare. [ROA 559, Vol 7, p. 15] If the tower fell beyond 50 feet, it would spill into the adjacent church, cemetery and/or Highway 522, thereby posing a danger to residents and motorists alike. [ROA 591, Vol 7, p. 47]

In *Catanach v. City of Santa Fe*, Case No. A-1-CA-42000 (Dec 22, 2025), the New Mexico Court of Appeals upheld the City of Santa Fe's denial of a cell phone tower where the estimated fall radius posed a danger to adjacent properties. The Court recognized that federal law imposes some limitations on a local government's ability to regulate cell phone towers under 47 U.S.C. Section 332. However, the Court found the City's summary denial of an 80-foot cell phone tower application was appropriate where the proposed development did not provide enough distance between the tower and

adjacent properties. *Id.*, par. 4, 7; *See Santa Fe New Mexican, New Mexico Court of Appeals Sides with Santa Fe in Cell Phone Tower Dispute,* Dec. 24, 2025.

The Planning Commission's ROD, paragraph 17, misinterprets Section 4.11 and wrongly assumes there are no limitations on cell phone tower height. The County ignores the important compatibility analysis also required by this Section of the LUR in relation to a tower's height. For this reason, the ROD is in error and the SUP-24-0013 approval should be reversed.

C. TAOS COUNTY ERRED IN ITS FINDINGS THAT THE APPLICANT MEETS THE CRITERIA OF LUR SECTION 4.11.1 REGARDING MINIMAL VISUAL IMPACT AND APPROPRIATE LANDSCAPING, CAMOUFLAGE, AND SCREENING

Taos County abused its discretion and violated its own land use regulations by finding BTS complied with the requirements of LUR, Section 4.11.1(C), (D) and (F). These subsections require cell towers be adequately concealed, landscaped, screened, and camouflaged. In this case, no landscaping or screening is proposed. Instead, the County is allowing the tower simply because it is "disguised" as a 95-foot pine tree, towering high above the surrounding desert sage and much smaller juniper and pinon trees. [ROA 561, Vol 7, p. 17]

A 95-foot cell tower cannot be adequately concealed as a fake, metallic pine tree. This obtrusive structure will not blend into the surrounding neighborhood nor meet the Section 4.11.1 standards for landscaping, color and camouflage. The proposal also conflicts with LUR Sections 4.11.2 and 4.11.4, which require minimization of visual impacts, and adherence to height and setback standards that preserve the intent of the County rural area zoning. The tower is a commercial venture and is incompatible with

Arroyo Hondo's low density residential and agricultural character. It fails to meet visual impact standards. In addition, the record shows residents in the area already have adequate telecommunications service, so a tower of this size is not needed. For these reasons, a similar cell phone tower application was denied by Taos County in 2014. [ROA 749-755, Vol 9, p. 9-15] Therefore, SUP-24-0013 should be denied.

D. THE APPLICANTS HAVE FAILED TO COMPLY WITH THE CRITERIA OF LUR SECTIONS 4.11.1 (B)(3) AND C FOR A WIRELESS COMMUNICATIONS FACILITY

As shown in LUR Section 4.11.1(B)(3), "Concealed Wireless Telecommunications Facilities" should not be located within 1000 feet of traditional communities, historic districts listed in the State Register of Cultural Properties or the National Register of Historic Places, or any historic routes listed in the State or National Registers. This Section has been violated. An exhibit within the application packet for SUP-24-0013 clearly shows the proposed Facility is located 0.01 mile (approx. 60 feet) from the Old Spanish National Historic Trail. [ROA 217]

In addition, as shown in Section 4.11.1.C, titled "Criteria for Concealed Wireless Telecommunications Facilities", Concealed Wireless Telecommunications Facilities must be: 1) Architecturally integrated with existing buildings, structures, and landscaping, including height, color, style, clustering, placement, design, and shape; 2) Located to avoid a dominant silhouette of a wireless telecommunications facility on escarpments and mesas, and to preserve view corridors; 3) Located on existing vertical infrastructure, and such as utility poles or public utility structures, to provide the greatest

amount of screening; 4) Located in areas where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening.

During the BCC meeting, the appellant asked about Section 4.11.1(C):

[0:24:25 – 0:25:27] Appellant; how have you satisfied this code?

[0:25:56 - 0:27:56] Applicant; I'm going to have to maybe pass onto Rudy (Rudy Perea – planner) but I don't believe actual concealment is a requirement for the tower…this site does not require a concealed tower…

[0:27:58 – 0:28:25] Appellant; …the criteria for the concealed wireless telecommunications facility has not been met, and that's simple.

This interchange between the appellants and the applicant demonstrates that the criteria outlined in LUR Section 4.11.1(C) are being ignored, thus blatantly violating the LUR. The subject property for SUP-24-0013 was deeded to Grace Community Church in 2004 as a 2.571 acre parcel of land [ROA 16], and is within the COUNTY RURAL AREA ZONE, which allows for the following Uses: Single family residences on slopes of less than 20%, agricultural uses, and cottage industries. Special Use Permit SUP-003-2007 allowed Grace Community Church only to use the parcel for a church. [ROA 025-026] The BTS application is a drastic change in use and is not authorized by the original special use permit designation or existing LUR regulations in 4.11.1.

E. APPROVAL OF SUP-24-0013 CONSTITUTES ILLEGAL "SPOT ZONING" AND MUST BE REVERSED

SUP-24-0013 is so incompatible with the surrounding neighborhood that it constitutes illegal "spot zoning." Spot zoning is an attempt to wrench a single lot from its environment and give it a new rating that disturbs the tenor of the neighborhood and which negatively affects adjoining properties. *See City of Albuquerque v. Paradise Hills*

Special Zoning District Commission, 99 N.M. 630, 632, 661 P.2d 1329, 1313 (1983) (quoting 101A C.J.S. Zoning § 44). It is not related to the general plan for the community but is primarily for the private interest of the owner of the property so rezoned. *Id.;see also Watson v. Town Council of Bernalillo,* 111 N.M. 374, 805 P.2d 641, 645 (1991) ("spot zoning" refers to the rezoning of a small parcel of land to permit a use that fails to comply with a comprehensive plan or is inconsistent with the surrounding area, granting a discriminatory benefit to the parcel owner, at the expense of overall community welfare). Spot zoning is illegal, and the County's approval of SPUSE 24-0013 must therefore be overturned as a violation of law. *Id.*

F. APPROVAL OF SUP-24-0013 IS INVERSE CONDEMNATION AND CONSTITUTES A FIFTH AMENDMENT "TAKINGS" BECAUSE IT WILL SUBSTANTIALLY DECREASE THE VALUE OF ADJACENT PROPERTIES

The Fifth Amendment to the U.S. Constitution prohibits governmental takings of property without compensation. *Penn Central v. City of New York*, 438 U.S. 104 98 S. Ct. 2646, 57 L.Ed.2d 631 (outlining the basic concept of Fifth Amendment takings law). In applying a takings analysis, the Court must consider the economic impact of the government action on a landowner and the degree to which the government regulation interferes with the owner's reasonable investment backed expectations. *Id.* An inverse condemnation claim is available to a property owner when private property has been taken or damaged by a public entity for a public use and the public entity has not paid just compensation or brought a formal condemnation proceeding. *See* Section 42A-1-29(B) NMSA*; City of Albuquerque v. SMP Properties,* 2019-NMCA-004, *cert granted,* 2021-NMSC-37343. Plaintiffs recognize BTS is a private endeavor, but its partnering with the

County, based upon an argument of public benefit, implicates Fifth Amendment takings law.

SUP-24-0013 approves the construction of a 95-foot cell tower on property belonging to a church. The applicant, and owner of the property, had no reasonable investment back expectations to develop this intrusive commercial use. In fact, Grace Community Church is subject to its own special use permit that limits use of the subject property to church activities. This designation never contemplated a commercial telecommunications facility of this magnitude, and therefore, the previous special use permit prohibits changing the underlying use.

In contrast, adjacent neighbors will suffer a substantial decrease in the value of their properties if SUP-24-0013 is allowed to move forward. Karen Todd, a licensed real estate broker with Berkshire Hathaway, wrote to the BCC stating the visibility of cell phone towers can negatively impact property values at least by 10%. "Locally, this would significantly affect marketability and investment for Arroyo Hondo homeowners whose views are compromised." ROA 747, Vol. 9, p. 7] According to Redfin.com the median sale price of homes in Arroyo Hondo in August of 2025 was $469,000, equating to an estimated $1,829,100 in collective lost property value…" (ROA 0729-0730, Vol. 9, p. 7) "This concern is not speculative; peer -reviewed studies and real estate industry data consistently show that proximity and visibility of cell towers reduce buyer interest and drive down home sale prices." [ROA 747, Vol. 9, p. 7]

The detrimental financial loss to surrounding neighbors warrants the denial of SUP-24-0013 and further demonstrates the lack of "substantial community benefit" mandated by LUR, Section 4.6.1. The County's approval of SUP-24-0013 should be reversed.

G. TAOS COUNTY VIOLATED OPEN MEETINGS LAW AND DUE PROCESS RIGHTS BY FAILING TO DISCLOSE WRITTEN PUBLIC COMMENTS DURING ITS PUBLIC MEETINGS INVOLVING SUP-24-0013

New Mexico's Open Meetings Act (OMA), NMSA 1978, Chapter 10, Article 15, mandates public policy decisions be noticed in the Agenda and made openly, ensuring the public hears the deliberations of public bodies. OMA requires reasonable notice and prohibition of secret meetings. In addition, public comment periods should be handled in a viewpoint-neutral manner that openly discloses all public opinions regarding a pending development. *Id.*

In its Notice of Public Hearing regarding this application, the County gave notice that written comments may be submitted to the Taos County Planning Department. [ROA 552, Vol. 7, p. 8] To comply with the OMA, as well as fundamental due process, the County must allow for public comment regarding a pending special use permit's quasi-judicial hearing. Quasi-judicial hearings require proper notice and a meaningful opportunity for interested parties to be heard. In conducting quasi-judicial hearings, a local government body must adhere to fundamental principles of justice and procedural due process. *See State ex rel. Battershell v. City of Albuquerque*, 108 N.M. 658, 777 P.2d 386 (1989).

As set forth in Plaintiff's accompanying Affidavits, public comment opposing this development was withheld from the Planning Commission and BCC proceedings by

County staff. By excluding relevant commentary in opposition to the tower, the respective governing boards could not make an accurate compatibility finding related to the Arroyo Hondo community as a whole. Instead, staff presented an incomplete and selectively presented record. A particular result of the withheld residents' comments is that the reviewing bodies were not provided a full and accurate representation of community concerns, as reflected by Planning Commissioner Billy Romero's remark during the public meeting asking if all public comments were before them. (Planning Commission Audio: 2:02:25). As described in the attached Affidavits, public comments were withheld but were later included in this ROA for appellate review. This practice was disingenuous at best and tainted a fair public process. In addition, the BCC went into executive session to deliberate but did not cite an exception to the OMA for not conducting their deliberations on this application in an open forum, as required by law. [ROA Vol 9, p. 59-61] *See* NMSA Section 10-15-1(H)).

The public's right to be heard in this matter requires remanding this application back to the County for further deliberations. Without disclosure of all public comment regarding the development, due process was denied, and the reviewing boards could not render an accurate determination of "substantial community benefit" as required by LUR Section 4.6.1(A) and (B)(see arguments above).

H. THIS MATTER SHOULD ALSO BE REMANDED BACK TO TAOS COUNTY FOR FAILING TO MAKE ACCURATE FINDINGS REGARDING THE EFFECT OF THE BTS TOWER ON NEARBY HISTORIC LANDMARKS

This matter is governed by LUR, Section 4.4.2. According to Section 4.4.2 (F), the applicant was required to demonstrate notice to affected entities such as state, federal and

government agencies and pueblos. Section 4.4.2 (N) further states the County must contact the State Historic Preservation Office to determine whether property entered into the State Register of Cultural Properties is within the boundary of a proposed development. LUR, Section 4.7 defines performance standards for special use permits and addresses issues such as roads, utilities, water, fire prevention plans and other key issues. LUR, Section 4.7 (Z) states "the applicant shall not encroach upon registered or known archaeological sites." (LUR, 4.7.Z.p. 60)

The applicant has described this telecommunications facility as not affecting historic or cultural sites in the immediate area of the tower. [ROA 205-207, Vol. 3, p. 11-13] According to Taos County, the State of New Mexico Historic Preservation Office made the determination the development will not negatively impact any historic properties. [ROA 559, 565, Vol 7 p. 15, 21] However, the County's record of proceedings does not provide a sufficient factual basis for this finding.

The Old Spanish National Historic Trail runs across the subject property. [ROA 217, Vol 3, p. 23] Congress added the Old Spanish National Historic Trail (the Trail) to the National Trails System on Dec. 4, 2002, assigning its management to the BLM and National Park Service under the Department of the Interior. The Section 106 review process, established by the National Historic Preservation Act (NHPA), requires federal agencies to evaluate how their 'undertakings' affect historic properties. *Id.*

In its application package, BTS provides a location map for The Old Spanish National Historic Trail. A dark, thick line depicts the Trail as it runs through the Grace Community Church property where the Arroyo Hondo cell tower is proposed to be sited. [ROA 217,

Vol 3, p 23] For this reason, BTS notified the National Park Service on Sept. 27, 2023 regarding the development. They included relevant documents to identify the property and asked for comment on the location of the cell tower. [ROA 430, Vol 3, p. 35-36] The Park Service replied on Sept. 29, 2023, saying the National Trails Office does not anticipate adverse effect of this undertaking to the Old Spanish National Historic Trail or to its associated resources. Unfortunately, however, this opinion was based upon a false assumption that a 100-foot tower was present at this location. [ROA 432, Vol 3, p. 37-38] This assumption was mistaken because no tower has ever existed on the subject property, although an application was previously denied by the County in 2014.

Given the misunderstanding, this matter needs to be revisited by the County on a remand, so that agency approval for the BTS tower has been given in accordance with LUR, Section 4.4.2 (F). *See VanderVossen v. City of Espanola*, 2001-NMCA-016, 130 N.M. 287, 24 P.3d 319, *cert. quashed*, 131 N.M. 221, 34 P.3d 610 (where a governing body is required by statute to provide a written factual and legal basis for its decision, and a decision turns on factual questions the governing body failed to resolve, the district court must remand for further proceedings).

In addition, due to its the proximity to the Old Spanish Trial, the BTS tower violates LUR, Section 4.11.1(B)(3). This section states only "concealed wireless" telecommunications facilities are allowed within 1,000 feet of any historic routes. As set forth in arguments above, the proposed tower does not meet the "concealed wireless" criteria given the surrounding terrain.

I. THE EFFECT OF THE PROPOSED DEVELOPMENT ON THE SCENIC BYWAY SHOULD HAVE BEEN CONSIDERED IN THE REVIEW PROCESS

The proposed BTS cell tower is located adjacent to NM 522, a designated Scenic Byway. [ROA 724, Vol 8, p. 82] Scenic Byways are established by federal, state, or local agencies to recognize roads with outstanding scenic, historic, cultural, natural, recreational, or archaeological qualities. The National Scenic Byways Program, established by Congress in 1991 and managed by the Federal Highway Administration, formally designates these routes to promote tourism and preservation. Thus, LUR, Section 4.4.2 (F) required the applicant or Taos County to demonstrate that state and federal authorities were contacted regarding the tower's impact on the Scenic Byway.

There is no indication in the record of these proceedings that Taos County obtained feedback from state or federal authorities regarding NM Highway 522.

Scenic Byways are specifically created to protect view corridors, and some consideration should have been given to this designation. Instead, this matter was completely ignored. For this reason, at a minimum, consideration of SUP-24-0013 must be remanded to the County to make specific inquiry and appropriate findings regarding the status of the Scenic Byway in relation to SPUSE 24-0013. *See VanderVossen v. City of Espanola, supra.*

III. CONCLUSION

For the reasons set forth herein, Taos County's approval of SUP-24-0013 should be reversed as arbitrary and capricious, unsubstantiated by existing facts, and a violation of Taos County's Land Use Regulations.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that this Brief was served to the following via the NM Courts E-File system on this March 4, 2026.

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20260709 Hearing Transcript

The Court: Oh. _____, are we ready to go on the record?

Speaker 2: Ready, Judge.

The Court: Thank you, senor. We're on the record. This is cause number D-820-CV-2025-451. This is styled Benjamin C Thomas versus Taos County Board of County Commissioners and BTS Towers, LLC. Appearing today on behalf of plaintiff/appellants is Susan Baker. Appearing today on behalf of the Taos County Board of County Commissioners is Patrick Trujillo. Appearing today on BTS Towers, LLC is Eric Burris, Sophia Bunch and William, bear with me. I wrote my, can't read my own writing, William Bebb Francis, III. So let's look at the screen. Ms. Baker, who is here also for the hearing?

Ms. Baker: My clients are here, and I think some members of the public who have interest in this application and the BCC's decision.

The Court: Okay. Mr. Trujillo, anybody here on behalf of the County besides yourself?

Mr. Trujillo: Just me, Your Honor.

The Court: Okay. Now, Mr. Burris, you said there are some people here. Who all is here?

Mr. Burris: Your Honor, we have Nefi Garcia, N-E-F-I, Garcia. He's a project manager with BTS Towers.

The Court: Okay. With that being said, we're here today on an administrative appeal, let me get the file up over here, over a tower. Proposed to be placed in the Arroyo Hondo area, right off of State Road 522, and some objections have been raised. I believe I proceed with Ms. Baker making her case. Counsel, and would that be correct?

Ms. Baker: Your Honor, that's correct. We have the burden of proof on an appeal so I think we would go first.

The Court: Okay, then, Ms. Baker.

Ms. Baker: I'm… oh, I'm sorry, Your Honor. How much time are we reserving for this?

The Court: Well, my next hearing is at 1:30 PM.

Ms. Baker: Okay.

The Court: Um, I don't know how long we had this thing scheduled for, but I have nothing until 1:30, and that's a juvenile conditions of release. Then I've got recovery court at 2:45. And then I got to come back from recovery court at 3:30, and then go back to recovery court when that's over. So you're, you're the, you're the, you guys are

with my attention today. Everything's going to be on this case. At least for the morning. I've got nothing else that should get in the way.

Ms. Baker: And Your Honor, before we start, I want to ask that no extrinsic evidence is presented in these appeals. We're dealing just with the record of the proceedings. I'm going to have my clients speak a little bit. They were part of the proceedings. In fact, Ben Thomas brought the appeal to the BCC from the Planning Commission. But was Nefi Garcia part of these proceedings?

Mr. Burris: Mr. Garcia is not speaking today. Mr. Garcia is here to observe, which I think is appropriate.

Ms. Baker: All right. Thanks for that clarification. That's all I needed to know.

Mr. Burris: And also, I'll say, Your Honor, I'm not sure that it's appropriate for individual parties to be speaking today. It's not an evidentiary hearing. This is supposed to be an argument of what's on the record and whether it supports the decision or not. I, I don't think that it's appropriate at this point to be hearing from Mr. Thomas or anybody else, as that would be outside the record proper. Certainly we understand people wanting to observe and see what's going on, but as this is an appeal, it's based on the record and argument of Counsel.

The Court: _____ Burris-

Ms. Baker: I would say that my clients were clearly part of these proceedings before the County. They're just going to speak briefly, help me present the oral argument, which I think a client is allowed to do. It's not exclusively an attorney. I think my client can, can speak briefly.

Mr. Trujillo: Your Honor, this is Patrick Trujillo. I've been doing this for a long time. I've never in 35 years of practice had anyone, a client, talk at one of these proceedings. I think it's wholly inappropriate. Ms. Baker certainly is capable of presenting whatever view they want to her to present, I'm sure she's gone through a lot of preparation to do that. And to the extent that they might say something inadvertently that wasn't part of the record, and I think that taints the proceeding, and I would wholly object to, to that happening.

The Court: Oh, I'm going to reserve judgment on that until the time comes up. But I do note that this is what is the record, not what is, what is being created anew. So I will reserve judgment now, and see what Ms., what, where we're at with Ms. Baker's presentation, and, before I determine whether I should grant or deny the objection. So, Ms. Baker, let's make your case, and then I'll hear from the County and from BTS Towers. But from what I heard at the beginning, I might not be hearing from BTS Towers and Baker for some time, so we'll wait and see. This is, there's a lot here to that they can, but you may proceed.

Ms. Baker: Your Honor, thanks. And we do have a slideshow presentation that one of my clients will be running.

The Court: Okay. Is this the slideshow that was presented to the commission?

Ms. Baker: It, it is directly from the record. It's portions of that slideshow. We were concerned about a time limitations, so we didn't include all of it. But it's been-

The Court: I will review anything which has been presented to the commission, but if it's anything in addition to what the commission had before it, it won't be considered by the Court.

Ms. Baker: And it's for illustrative purposes. It's not new evidence. It was all in the record.

The Court: Okay, go ahead.

Mr. Trujillo: But, Your Honor, this is Mr. Trujillo again. I, I, there is no reference in this slideshow to where it was in the record, so I haven't been able to confirm that it was part of the record. So some things look familiar, but some things look new to me.

The Court: I haven't looked at the slideshow. I've been waiting for it to be presented in the scope of other attorneys being present before I viewed anything other than the _____ itself for the pleading so, um…

Ms. Baker: I'll just say if it's helpful to the Court and the parties, it's at ROA 708 to 727. And we didn't include the full slideshow. Again, we changed some slides, but it's basically, well, it is the same substance, we just had to shorten it for the purposes of this presentation.

The Court: Okay, Ms. Baker, go ahead and show me what you got. You may present.

Ms. Baker: All right. Thank you. Good morning, Your Honor. My clients are here today to challenge the approval of SUP 24-13, which approves a 95-foot cell tower right in their backyards. This underlying area is zoned as Residential AG. And the surrounding properties are agricultural, small Adobe-style homes, usually not exceeding 2 stories, and the predominant landscape is pinion and sage, open space, with views of the Sangre de Cristo Mountains to the east. The views are pristine, thus the designation of Scenic Byway on 522, and adjacent through this tower, a matter of feet away. The tower is to sit on the predominant mesa. It's within hundreds of feet of my clients' property. It will change their lives forever. Ben Thomas's property, as you can see from this map that shows an aerial view of the proposed property for the cell phone tower located and its buildings in the middle, and you can see how close the poles are to this property. Not only is the tower 95 feet tall, it's going to be disguised as a large metal pine tree. If anybody has ever driven by Tres Piedras and seen the short pine tree there at the intersection of the highways, one knows that these towers don't look like regular trees. They're very large, very predominant in the landscape, and this tower, at 95 feet, is well above the surrounding sage and short pinion and juniper trees.

In this appeal, it is our view that in approving this application, the BCC violated several provisions of its land use regs. SUPs are discretionary. They're not uses by right. Again, we have an AG Residential zone, an SUP for a tower to come in, it is discretionary. Yes, there's deference given to a governing body in terms of its fact finding. But here it's so blatantly arbitrary and capricious. And it's such a violation of the regulations for the SUP that it violates all standards and must be overturned. First, we look at 4.6.1(A). This is required for SUPs. It's a compatibility standard, and it requires that a tower is compatible with the surrounding neighborhood. The provision specifically reads that the proposed development would not have a substantial impact on the immediate neighborhood.

The Court: Give me one, give me one second here.

Ms. Baker: And I'll just read it into the record if I may. It involves Use Compatibility. "The development shall be sensitive to and consistent with the existing traditional and historic uses in the neighborhood, or the applicant shall be able to demonstrate the development would provide a substantial benefit to, or support to, or would not have a substantial impact on the immediate neighborhood." Each of those clauses is separated by an "or". Where the county hung its hat was on the substantial benefit to the community. But again, where is the benefit? This will change the land forever, will block views of Sangre de Cristo Mountains, and because it sits high on a mesa, it dominates the landscape. This is not acceptable. It also sits very close to my clients' homes. It's right in their view corridor.

The other section we're looking at that needs to be read with 4.6.1(A) is 4.6.1(B). This has to do with Visual Impact. "The development shall be sensitive to and consistent with the architectural design, scale, density, bulk, building height, historical character, and orientation of the existing properties in the neighborhood, or the applicant shall be able to demonstrate that the alternative being proposed is suitable to the land and the neighborhood character. Clearly this tower does not meet any of this criteria. In fact, it blatantly violates it. In their ROD, the BCC adopts the findings made by the Planning Commission and their record of decision. And over and over again, the only finding they make is that these compatibility standards, both Use and Visual Impact, are met by the tire, by the tower being disguised as a large pine tree. This simply doesn't work. There are no other findings of fact made. Findings of fact are required to be specific. The board was required to apply each of these criteria and then apply the facts for them. As shown in, in our opening brief, there's substantial evidence of how this tower violates the character of this residential neighborhood. There's no way that the board could have found that these requirements have been met, thus a blatant violation of the law.

Next, we look at 4.11.1. There are several subsections that apply in this case. The first has to do with setback, and I'd like Ben Thomas to speak to this. He's one of the closest neighbors. He will look right at this tower, and it will block his view of the of Sangre de Cristo Mountains that he's enjoyed for almost 20 years.

The Court: Now, did he speak at the commission?

Ms. Baker: He did. He brought the appeal. He was the appellant before the BCC.

The Court: Do I need to hear from him or can I rely on the record from the county commission and the… bear with me, guys. Can I hear from my, can I just hear from the record what was presented to the county commission?

MS. Baker: Your Honor, it is our position that at a minimum, this application needs to be remanded back for violating the setback. Section 4.11.1, subsection (A)(1), requires an 85-foot setback. And in this situation-

The Court: Now I'm going to, I'm going to cut you off briefly. The tower is going to be 90 some feet long?

Ms. Baker: 95 feet tall.

The Court: 90, 95-foot tower. And there's supposed to be a setback at the height plus 10%, is that right?

Ms. Baker: Or 85 feet. The applicant had testimony that the fall line was actually 50 feet because the tower would split in half when it fell. I mean, that's, they did have an engineer come and speak to that. Our concern is one expert opinion, an expert hired by the applicant, may not be accurate.

The Court: Okay.

Ms. Baker: Your Honor, _____ exceed, so there's that issue. But if you look at the actual standard, it has to meet the 85-foot setback for wireless telecommunication facilities. The tower is set 85 feet back from the property line, but the rest of the facility is not. You've got outbuildings supporting the tower, and they are within the 85-foot setback. Thus there's a blatant violation again of the land use reg. And it-

The Court: Which is to be inferred from the word facility in your slide here?

Ms. Baker: Yes, the facility…Your Honor-

The Court: I'm going to read this again and I want you to correct me on this.

Ms. Baker: Okay.

The Court: A freestanding wireless telecommunications facility shall be setback a minimum of 85 feet from any property boundary or a distance equal to at least 100% of the potential fall radius, hereafter radius. What is the potential fall radius of a 95-foot tower?

Ms. Baker: Your Honor, our position is that it's 95 feet. And then, we have the other-

The Court: Well, give me one, give me one moment. I'm going to cut you off.

Ms. Baker: Okay.

The Court: I'm going to, I'm going to turn to Mr. Burris briefly. Mr. Burris, what is the potential fall radius of a 95-foot tower?

Mr. Burris: Your Honor, we presented evidence that's in the record proper from a gentleman named Kyle Fortin who confirmed that the tower was designed to have a fall radius of 50 feet, and that's in the record proper volume 6 at page 528. The 50-foot fall radius times 110% = 55 feet, which is less than a 85-feet minimum. And so, the, and that's, that's the only evidence, Your Honor. There is no, there was no evidence at the hearing that the fall radius should be for the entire height of, of the tower. This is just supposition. It is not supported by substantial evidence. The only evidence was that the fall radius is 50 feet.

The Court: Okay. Now, I'm not asking what the fall radius is, I'm asking what the potential fall radius is, because that's what it says here. So what is the potential, if the, if the, if the tower doesn't break in half as it's as it's designed to, what is the fall radius?

Mr. Burris: The fall radius, Your Honor, as designed, is 50 feet, and that's, that's what the engineer testified to. That's what the, how the tower has been designed, such that-

The Court: Again, again, the statutes, the rule says "potential."

Mr. Burris: I understand that, Your Honor, and that's… I'm sorry.

The Court: I just want to, I just want to clarify, the word "potential" is in there. And so, what does the word "potential," how is that defined in this context? Because I'm looking at a 95-foot tower, the tower is designed to fall. But "potential" implies more than just design, there are design defects. Designs don't always work. Engineering doesn't always work. So the issue here is a potential fall radius. If it's designed to fall, then the, the, the hoped for fall radius is 50 feet. But what is the potential fall radius? Was that, was that addressed in front of the commission?

Mr. Burris: There is no definition in the land use regulation with regard to what constitutes potential fall radius, and the testimony elicited by the parties, and relied on by Chief Planner Perea and the board, was with regard to the 50 feet. Keep in mind-

The Court: And that, that was assuming everything worked as it was designed to work.

Mr. Burris: And, and that's the only evidence that there is, Your Honor, in the record, that the fall-

Ms. Baker Your Honor, I'm going to …and it is my argument right now.

The Court: Ms. Baker, Ms. Baker, one moment. I'm going to let Mr. Burris... I just want to get to this point because this is a point that I had a concern with when I was reviewing the case, and it is the issue of what is potential versus what is design. And so, was potential fall radius addressed before the commission? And by potential, I have a

brother who's an engineer, and as he says, you hope for the best, and sometimes, and you plan for the worst.

Mr. Burris: I agree.

The Court: And so, you can, you tend to overengineer in certain aspects. My question here is with the potential being the qualifying word for me. What is the worst case scenario for this tower falling?

Mr. Burris: As demonstrated by the testimony of Mr. Fortin, we believe that that is 50 feet.

The Court: Okay.

Mr. Trujillo: Your Honor, may I address this issue briefly?

The Court: Mr. Trujillo, please. What is, what does the word "potential" mean?

Mr. Trujillo: That's, that's an excellent question, Your Honor, and I can honestly say I'm not exactly sure. But I will say this, and I'm no engineer, did terrible at math at school, but, and anyway, but, but the point of this is these are words potential fall radius, if, if what the, if what the drafters wanted to say was the height of the tower, they could have just said that. They could have said the height of the tower is the, is the radius. Instead they defined it as "potential fall radius," and I think that actually is more in line with what Mr. Burris is saying. That means it's an interpretation of what that potential is through an engineer. And that's, and, and so, I think that the interpretation that the board came up with is consistent with the language. If the board wanted to say just take the height of the tower and say it has to be that far, they could have easily said that. Instead they said "potential fall radius."

The Court: Well, they didn't say "designed fall radius", they said "potential fall radius" which is-

Mr. Trujillo: Then, then, Your Honor, we get to, to an interpretation of its own ordinance. And again, there is deference afforded the, the administrative body in interpreting that ordinance. If there is grey there, I think it's, it's consistent with the, the only testimony with regard to that radius, that fall radius, I think the decision is worthy of deference.

Ms. Davis: And Your Honor, our position is, and it was presented by the appellants during the hearing, the potential, the capacity, of this tower to fall, and what that possibility might be, could be the 95 feet. If there's a high wind, we get high winds in the Taos area, it could fall 95 feet. And if any of you are watching the news, one of the Colorado fires burning out of control right now is due to a powerline-

The Court: Ms. Baker, Ms. Baker, _____ Ms. Baker, I can't hear new evidence. I'm not going to hear what's going on in Colorado. I'm going to focus on the record before the commission that's been presented to the Court. But what I'm looking at here is the specific regulation that references potential, and as I look at the definition-

Ms. Davis: But Your Honor-

The Court: And as I look at the definition of "potential"… what do I got here? I just pulled this one up on, on the Internet, "an unrealized ability, capacity, or possibility."

Ms. Davis: And Your Honor, I agree with you.

The Court: It's obviously a possibility.

Ms. Davis: I looked it up also, and yeah. And our position is that the tower is 95 feet tall, it could fall 95 feet.

The Court: Okay. Go ahead, Ms. Baker, we'll _____ continue.

Ms. Baker: Yes, thank you. Under the definition section and all this 2.1.2, a wireless communication facility is defined as a facility used or intended for the transmission of an antenna array, connection cables, attachment devices, equipment facility, and either a support structure or existing vertical infrastructure to achieve the desired elevation. So, not only are we looking at the tower in terms of setback, and we've addressed the fall radius, and clearly the potential is 95 feet, so that's in violation, but in addition to that, given that definition under 2.1.2, if we're looking at 4.11.1, the subsection A1, the outbuildings, the support buildings, are located within the 85-foot setback. And that's a hard and fast rule. It's a simple one. It doesn't require speculative engineering to dispute. Clearly those buildings sit within the 85-foot setback, and…

The Court: Ms. Baker? Ms. Baker, I just want to know, what is the purpose of the setback?

Ms. Baker: There's stuff that goes, well, can be for many reasons. It can be to protect…

The Court: But in the, in the context of a 95-foot cell tower, what is the context of a setback?

Ms. Baker: I would argue that it has to do with safety and welfare.

The Court: Okay. Because I just want to note that the outbuildings aren't going to be prone to falling. So when I look at the setback, a, a commonsense reading of this would mean that the freestanding wireless telecommunications facility. My interpretation of this, as I look at it, and you guys can always change my mind, is that the setback is a safety issue. And it's a safety issue, it relates to the tower, and that a one-story, concrete or metal building falling over doesn't create the same safety issue that the tower itself would fall. So I have to say that even though the work facility is highlighted here, that the focus should be on the height of the tower and the concern of the tower falling. Now, I'll hear what you have to say about the cemetery, but if the setback of the tower is sufficient from the cemetery, the fact that a building or structure may be near the cemetery, I think, as a reasonable interpretation of this, the use of the word facility, just references the tower and supporting structures, but the setback is related to the tower. But I'll let you continue. I just wanted you to see

what my concerns are now in this argument, and see if you can't change my mind that the, that the facility as a whole is required for the setback and not just the tower.

Ms. Baker: Again, in the Definitions section of the Land Use Reg 2.1.2, regarding a wireless communication facility, it includes equipment facility, support structure, and infrastructure. So, our position is this includes the outbuildings. It's one thing.

The Court: Okay, and _____ what's that again? Let me write that down.

Ms. Baker: Yes, it's 2.1.2. And it's the definition.

The Court: 2.1.2.

Ms. Baker: Yeah.

The Court: 4.11.2…

Ms. Baker: And…

The Court: Four eleven. Bear with me, I'm, I'm…

Ms. Baker: No, I'm sorry. I'm going too fast…

The Court: Four dash. No, that's okay. It's four dash eleven. It's 4.11.2. What is it again?

Ms. Baker: Oh, the definition section has to be read, and that's 2.1.2 of the LUR. That has to be read with the height provision and 4.11.1(A).

The Court: All right, go ahead.

Ms. Baker: And setbacks in Sony are set in stone unless an applicant is able to get a variance. There was no variance procedure here. This facility deviates from the 85-foot setback minimum requirement, and setbacks are from property line to structure. These buildings sit within the 85 feet. And this was brought up by my clients during the BCC meeting. Frankly, the board didn't address it, nor did the Planning Commission, and we just have a blatant violation of setback. Not only as the Court pointed out, the potential fall radius is a violation, if we look at the word potential. And Your Honor, thanks for flagging that. And then also, we're dealing with this, the buildings themselves, that are part of the structure. It's a safety issue, and again, setbacks are set in stone unless the variance is acquired. There was no variance here. And for this reason, at a minimum, this, this needs to be overturned and remanded for factual findings on why this is permissible without a variance.

The Court: Please continue, Ms. Baker.

Ms. Baker: Um, there are other sections in 4.11.1. And this whole, this whole section of the LUR deals specifically with cellphone towers. It addresses the traditional community that we're dealing with, and says that these towers are to be over 1,000

feet of any traditional community. That's 4.11.1 subsection (B)(3) of the LUR. And in this situation, we have the Spanish trail, located right adjacent to this tower. The chief planner obtained a letter from the regulating agency, and claimed that the agency was fine with the tower being so close to the Spanish trail. However, and looking at the letter, and this is all addressed in our opening brief with citations, that individual who wrote the letter assumed that there was already a tower at this location. And there was an application for our tower back in 2014. This is all presented in the record. Um, but it was denied. So the tower was never located there. For some reason, this person assumed there was already a tower there, and for that reason it was okay to have this tower there.

That doesn't meet the requirements. The requirement says that locating close to traditional communities' historic sites requires notifying whether it's Taos Pueblo, state, or federal agencies who regulate these things. They have to be notified and they can make comment. This comment was made on a false presumption. And for that reason, there's a violation of this section of the LUR. Section 4.11.1(C) addresses concealment. And I'll read this into the record. Concealed wireless telecommunication facilities must be architecturally integrated with existing building structures and landscaping, including height, color, style, clustering, placement, design, and shape; located to avoid a dominant silhouette of a wireless telecommunication facility on escarpments and maces, and to preserve view corridors; located on existing vertical infrastructure such as utility poles, or public utility structures, to provide the greater amount of screening; located in areas where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening.

The Court: You're on paragraph C?

Ms. Baker: Yeah.

The Court: Go ahead.

Ms. Baker: And it's our position that this tower violates every single one of these. First of all, it's not architecturally integrated. The BCC in adopting the Planning Commission's findings of fact, in the ROD, says that it meets all the criteria of the Land Use regs because it's disguised as a 95-foot pine tree.

The Court: And bear with me, I need to make a record on the land use regulations. Mr. Trujillo, this is for you, okay? I'm on the website right there for the county, looking at the land use regs that I'm seeing two paragraph (C).

Mr. Trujillo: Yes.

The Court: Those reading off paragraph (C) just now. I don't know if you guys were aware of that, I was reading the top (C) _____ Location instead of (C) Criteria for Concealed Wireless and Telecommunications Facilities, just now. So I got lost, Ms. Baker, during your presentation, because I was trying to find you in the wrong paragraph (C). So, but I'm on the right paragraph (C) right now, but…

Mr. Triti: Yeah. Thank, thank you, Ronnie, for pointing that out. That was noted in the briefing as well…

The Court: Okay.

Mr. Triti: And we are in the process of amending our loan, our zone use, our land use regs, and that's been a flag to something that needs to be changed.

The Court: All right, thanks Mr. Triti, apologies to you both. I missed that, but I, I have it now. So, I'm looking at criteria for concealed wireless telecommunication facilities, architecturally integrated, located to avoid dominant silhouette, located on existing vertical infrastructure, etc. Okay. Ms. Baker, please continue.

Ms. Baker: Your Honor, again, the surrounding area is sage, pinyon, and juniper, low-lying trees and vegetation, high desert landscape. Not only does the tower violate this landscape because it's so much taller, we don't even have any pine trees in the area. There are no conifers or ponderosa in this area. It's desert. In addition, the tower sits on a high hill, mesa. So not only does it violate the landscape itself, it's the predominant feature of the landscape because of the location, on the, as it says here, escarpment mesa. And it's supposed to preserve view corridors. This blocks the view of the Sangre de Cristo Mountains to the east. All those homes that sit to the West of the tower have this huge 95-foot pine tree blocking their view. And again, it doesn't meet, meet the topography, vegetation, or other structures in the area, which are ag properties or residences on large lots, small residences that are usually one to two stories. I think the largest, and this is in the record, adjacent residence is, is three stories high. We also asked the Court to look at 4.11.1(A)(8), regarding _____. And I'll say for background, at one time the county limited towers to 27 feet. That's in section 4.7.1(N). For some reason, that provision was never taken out of the land use reg, it's still there. It says towers can't exceed 27 feet. It's right there.

The Court: 411 point…

Ms. Baker: But then we've…

The Court: 411 point one?

Ms. Baker: Oh sorry, it's 4 point. It's 4.7.1(N).

The Court: I'm on the wrong, let me scroll up. 4.7.1(N). Oh, we got a ways to go up to get to 4.7. I'm on 4.7(N), maximum height. See that old, old, uh? Go ahead.

Ms. Baker: And it's this 27 feet. It's right there in the land use reg. That's the maximum height. Now, if we go to 4.11.1(A)(8), it says there is no specific height. These two sections are incompatible with one another. As the Court knows well, when we have land use regs, any kind of law with incompatibility like this, inconsistency, we look at the stricter provision.

The Court: Give me the other one you referenced. You said 4.7.1(N), max height 27 feet. The other reg is?

Ms. Baker: 4.11.1(A)(8).

The Court: 4.7.1(A)(8).

Ms. Baker: No, I'm sorry, 4.11.1…

The Court: Oh, thank you.

Ms. Baker: (A)(8). Yeah.

The Court: It's all right.

Ms. Baker: And Your Honor, I'll read that. There is no height limitation, but it's blatantly inconsistent with the 27 foot maximum height in the other section. Nevertheless, it says, then it says "the general county height limit of 27 feet shall not apply." Well, then why isn't this other provision revoked? It's not. It's still there in the land use rig. You got this inconsistency in the land use code on its face. And even if we could say the 27 foot limitation doesn't apply anymore, this section 4.11.1(A)(8) goes on to say "heights shall be determined by technical requirement and the applicable compatibility and performance standards, those compatibility and performance standards." Go back to 4.6.1(A) and 4.6.1(B) that have to do with use compatibility with the surrounding neighborhood and visual compatibility with the surrounding neighborhood. So even if we could legally apply for 11.1(A)(8). This tower does not meet those underlying compatibility standards, and it's a violation of that section.

The Court: So compatibility standards are a reference to visual impact, things like that?

Ms. Baker: Yes, the first provisions I read to the Court, and that has to do with sensitivity, consistency with the existing traditional and historic uses of the neighborhood that has to do with consistency with architectural design, scale, density, bulk building height, historical character and orientation of the existing properties in the neighborhood.

The Court: Okay, go ahead.

Ms. Baker: Your Honor, this tower is an insult to the surrounding neighborhood. It goes far beyond lack of compatibility. It changes the whole landscape. It obstructs the views of the Sangre de Cristo Mountains. It insults the surrounding agriculture and open space land. It doesn't belong here. And Jeanette Bresch, who turned this application down, make statements in the record. Those are cited in our briefs. First, she asked the applicant how this could be compatible and then she made the statement that it can't be. It just doesn't fit the surrounding area. And I think the biggest concern, I mean clearly I've pointed out violations of the LUR, but the biggest concern is in the ROD repeatedly, the only findings of fact made by the Planning Commission

and again, those findings were adopted by the BCC and its ROD. They just adopted them, they didn't come up with their own. They repeatedly say met because the tower is disguised as the large pine tree. Well, that doesn't tell me how it fits in with this historical neighborhood. That doesn't tell me how it's architecturally appropriate. That doesn't tell me why we're deviating from normal height restrictions. That doesn't tell me how it fits with the traditional community within 1000 feet. That doesn't tell me how it's properly concealed with landscaping or put on an existing structure like a power pole. It just doesn't fit.

Not only do we have blatant violation of the land use regs and those provisions I've cited for the Court, we also have a failure to make factual findings. When an SUP is heard, the board hears the facts on both sides. The board makes a decision. It's required to make factual findings as to why this SUP meets these criteria. They have to lay it out. The BCC did not deliberate in the public meeting, they went into executive session. So not only do we have a lack of factual findings that support each of these criteria in the ROD, we have nothing in the record. This falls on its face. Its arbitrary and capricious. The board can't just say, "oh, it's designed as a pine tree. Therefore it meets all of these numerous criteria in that LUR." This is…

The Court: Ms. Baker, quick question. The image I'm looking at now and for the record I'm looking at a slide mark conclusion and I'm seeing a photograph of a cell tower with a pine tree cloak and then I got the old red circle with a slash to it. The original image, where did this image come from? Was it presented at the commission?

Ms. Baker: Yes, I believe Ben Thomas presented it in his slideshow.

The Court: And who generated the original immature?

Ms. Baker: I'll have to have Ben answer that question.

The Court: I mean with this presented by BTS or anybody else or?

Ms. Baker: It was presented by the public, yeah, the appellants.

The Court: Okay. Go ahead, Ms. Baker.

Ms. Baker: This is the view that Ben Thomas will have from his front porch. This is the view that several adjacent neighbors will have. Granted, the scenic highway is just on the other side of this hip, just below it, but this insults the 522 Scenic Byway. There's a reason that Scenic Byway was designated. Northern New Mexico is very special. It has beautiful high desert landscapes and pristine mountain views, blue sky. This thing insults all of that. It insults our traditions, it insults the neighbors, it insults the whole Arroyo Hondo community. It even affects the tourists driving on 522. And it also insults the historic Spanish trail, which sits right next to it, along with the cemetery. Some of those grave sites are very old. It hasn't been designated as an historic cemetery, but as we know, the cemeteries in Taos are very old and they have a historic character. Again, a traditional community within 1000 feet. How is this compatible? It's not, and we have no factual findings as to each of these

criteria. They're just not there, not in the ROD, not in the deliberations, which were done in executive session. So Honor, we ask…

The Court: Were those were those deliberations recorded in executive session?

Ms. Baker: Your Honor, not to my knowledge. I'm, _____ could probably answer that.

The Court: Mr. Tahir, with the executive session discussion recorded?

Mr. Tahir: No, Your Honor, we're only required to do minutes, which when we came back from the executive session, minutes were read into the record.

The Court: Okay.

Mr. Tahir: Basically, yeah, that they deliberated.

The Court: Thank you, Mr. Tahir, Ms. Baker.

Ms. Baker: And you're under those minutes don't show the deliberation that was done. They just show they went into executive session. They deliberated, they came out and made their decision. I mean, that process alone is very concerning. I know New Mexico sometimes allows for this. But it's a fine line and the public in this situation…

The Court: Direct me to the requirement for factual findings is derived from where?

Ms. Baker: It's derived from the LUR and it's actually derived from case law when a governing body, here's an SUP, it's a quasi-judicial hearing. And that means that the governing body acts as a judge and jury. They consider the law, in this case their LUR. They listen to the facts on both sides. The applicants presentation, their staffs report, and then they hear from the public. There's substantial public comment during a quasi-judicial hearing. It all has to be weighed and considered in applying the law. So we've got the facts that are presented. We've got the applicable law. And then, when the board makes a decision to approve an SUP which again is a special right. It's not a use by right guaranteed by zoning. That's why it requires this very rigorous process with specific public notice. When they finish that they have to support their decision with sufficient facts. And those facts need to be detailed. And here, as we've pointed out and there are additional things in our brief, but these are the main pointers we've raised today.

They had to look at each of these sections of the Lanus Rig and apply their facts based on what they heard, like you do, Your Honor, when you hear from both sides and you, you render an order. You don't just say "oh, the cell phone tower is fine because it's disguised as a big pine tree," that's not a sufficient finding of fact. It requires reversal of this application or at a minimum, or remand back to properly apply these land use regulations to properly deliberate in front of the public so the public knows how this decision was made and to properly present a written ROD for the record, record of decision that justifies why they approve the tower. Give us

the facts. There's nothing here. It's arbitrary and capricious. At best, it's a lack of public process. And my clients maintain that this application does not meet the requirements of the land use regs as outlined today and outlined in both our opening brief and reply brief. Thank you for your time, Your Honor, we appreciate your consideration.

The Court: Thank you, Mr. Trujillo.

Mr. Trujillo: Thank you, Your Honor. Let me start with Ms. Baker finished. Well, first of all, we, Mr. Burris and I have split this argument up and it seems as if Ms. Baker is concentrating almost, well entirely on the section that Mr. Burris is handling. But. I want to chime in here at the beginning. Then, if with Court's indulgence, I'll hand it over to Mr. Burris.

The Court: That was my plan. I figured the county was number one in the BTS was number two, so Mr. Trujillo.

Mr. Trujillo: Yeah, so first of all, I'm, this is a new argument from Ms. Baker that the findings just generally are insufficient. So I, as you've been talking with Ms. Baker, I've been trying to go through the record myself. As you know, it's rather voluminous. I know that there are, she's making it sound like this was a one line decision. There are dozens of findings in the decision of the board that specifically address all of the sections that Ms. Baker is referring to, and I apologize for not being more specific, but frankly this is just being thrust at us right now. She never made this argument before that, just generally the findings were insufficient. Where she did say they were insufficient, we addressed this specifically in the briefing, so take that for what it's worth, Your Honor, I don't believe that it's worth much. Again with regard to these issues related to the LUR, the specific sections that were referred to in the slideshow. Mr. Burris is going to deal with those directly and to the extent the Court wants to hear about, which seems to be abandoned right now, the due process, open meetings takings, that sort of thing. I'm prepared to deal with those apparently Ms. Baker is not focusing on those today. In any case, I did want to read…

The Court: Mr. Trujillo, I will notice follows because they weren't argued, doesn't mean they're not before the Court because they were raised in the briefings.

Mr. Trujillo: Right.

The Court: So, Ms. Baker doesn't have to argue orally for it to still be before the Court. So if you want to address those briefly, you may just need your records because there was a record made by Ms. Baker and her pleadings.

Mr. Trujillo: I know that, I will then, certainly Your Honor. But with regard to the issues that were brought up today and specifically with regard to violations of the LUR, I just wanted to point the Court's attention to page two of Appellee's response to Appellants statement of Appellate issues.

The Court: Give me one moment. Page two of, who's the, who's response?

Mr. Trujillo: Mine, the county's response, Appellee's.

The Court: One moment I got BTS is in front of me, let me grab the counties.

Mr. Trujillo: Yes, Your Honor.

The Court: Here we go, Appellant's response. Go ahead, page two?

Mr. Trujillo: Yes, Your Honor. Specifically, roman numeral three on page two. These are summary proceedings and Rule 74 basically says that we're not supposed to add supplemental facts unless we find that the ones submitted by the Appellants are deficient. So, I did add several, I wanted to point the Court's attention to and these are also referred to in the record, of course. One is that first responders testified that there has been little to no cell service between mile marker three all the way to Questa, and that lives could have been saved with better cell service. That specifically addresses one of the issues that was brought up that there was no benefit referred to in the record. That's not true.

The Court: _____ close out of _____ was one of the witnesses in that.

Mr. Trujillo: Yeah, and then the Fire Chief, you look at number two, the Fire Chief might, court testified that there is a need for improved cell service in the area and that one of the emergency radio repeater went down the department would have to rely on cell phones.

The Court: So this is a contingent, this tower in case radio repeaters go down, the cell phone tower would be the backup?

Mr. Trujillo: Yes, Your Honor. I just wanted to point those two out and the Court, of course can look at the other additional ones.

The Court: The beginning of recording number one, were there any specifics? The lives could have been saved. How many lives which lives on which dates?

Mr. Trujillo: Your Honor, my recollection is that there were no specifics.

The Court: So there was just a general assertion that lives could have been saved because I'm wrecking my memory to think about lives that might have been saved along the stretch of 522. I can't think of anything off hand, but it's so it's just a general assertion without any specific reference to on such and such date, there was an accident and we were unable to get service. It was just a blanket, go ahead.

Mr. Trujillo: I think that's true and I don't remember any specifics.

The Court: I don't recall any either so.

Mr. Trujillo: I wanted to point those two things out because one of the key issues here with regard to 4.6.1 is whether or not there's a substantial benefit to the community. This was some of the testimony that was heard before the commission, along with the testimony from the experts, presented by the applicant saying that that there was a significant gap in coverage. The provision of this tower at this location would be a substantial benefit. We submit that and that's what the commission decided.

The Court: And as far as substantial benefit? _____ to the land use right, which addresses the substantial benefit exception?

Mr. Trujillo: It's 4.6.1. It's actually in two places, Your Honor. 4.6.1 specific.

The Court: You're there first.

Mr. Trujillo: I'm sorry. Let me know when you're there.

The Court: That's Okay. I'm just doing a lot of scrolling.

Mr. Trujillo: Yes Sir.

The Court: 4.6, 4.6.1. Development credibility standards, go ahead.

Mr. Trujillo: Yeah, it says "the development shall be sensitive to and consistent with the existing traditional historic areas in the neighborhood."

The Court: Or.

Mr. Trujillo: And I think that or is really important, "or the applicant shall be able to demonstrate that the development would provide a substantial benefit to or support to or would not have a substantial impact on the immediate neighborhood."

The Court: So break all these "ors" down for me because the last "or." It appears to be a trump. I mean, I'm looking at that "or would not have a substantial impact on the immediate neighborhood." Ms. Baker is arguing substantial impact, so substantial benefit can be trumped by substantial impact. So I'm dealing with two substantial's, one is benefit versus one is impact reading paragraph (a). "The development shall be sensitive to and consistent with the existing traditional and the sort uses in the neighborhood or the applicant shall be able to demonstrate that the development would provide a substantial benefit to, or support to, or would not have, a substantial impact on the immediate neighborhood." So the substantial benefit is still subject to the substantial impact on the immediate neighborhood.

Mr. Trujillo: Right, Your Honor, I would submit that I would just, I would respectfully disagree with the Court's interpretation. I think what it is, "or the Applicant shall demonstrate that the development would provide substantial benefit to," his is all together, "or support to or would not have a substantial impact on the immediate neighborhood." I think that if you prove that there's a _____...

The Court: The reason that…

Mr. Trujillo: …then that's the end of, that's the end of the inquiry. You could even do less than that. I would submit that that last "or not have a substantial impact on the immediate neighborhood" is something even less than that. So if we didn't even show that there was a substantial benefit, but we would just be able to show that there was not a substantial impact on the immediate neighborhood, we could also get it. So I would respectfully disagree with your interpretation. I think that if we demonstrate. If they were to demonstrate the development would provide a substantial benefit to which they did that that is sufficient to satisfy this provision.

The Court: Give me one moment here.

Mr. Trujillo: Yes, Sir.

The Court: For the paragraph (b) visual impact.

Mr. Trujillo: Yes.

The Court: Go ahead read that to me. Let's talk about it, the development, I'll read it. "The development shall be sensitive to and consistent with the architectural design, scale, density, bulk, building height, historical character and orientation of the existing properties in the neighborhood or the applicant shall be able to demonstrate that the alternative being proposed is suitable to the land and the neighborhood character." So in terms of visual impact, substantial benefit does not rise here. So I'm looking at this is a shall.

Mr. Trujillo: I'm sorry, Your Honor, where are you?

The Court: I'm on 4.6.1(b).

Mr. Trujillo: Okay.

The Court: Give me one second here. Yeah, 4.6.1(b). In this case, it's "the development shall be sensitive to and consistent with the architectural design, scale, density, bulk building height, historical character and orientation of the existing properties in the neighborhood or the applicant shall be able to demonstrate that the alternative being proposed is suitable to the land and the neighborhood character." That's the pine tree I'm talking about in that second-half there. Is that correct?

Mr. Trujillo: Yes, Your Honor.

The Court: Okay, now briefly, it's a 95-foot tower was the was the tower in trustee's address raised at all. I don't recall.

Mr. Trujillo: I don't recall.

The Court: Ms. Baker, do you recall? It's on mute, Ms. Baker, so happens to me all the time to worry about it.

Ms. Baker: I'm sorry about that. I'm just trying to keep…

The Court; I don't recall seeing anything about the TP tower of the record, though. Ms. Baker did make reference to it today. Was that referenced at all in the record…

Ms. Baker: Your Honor, I wasn't at the proceedings before the governing bodies. I've just handled the appeal as my clients could answer that question, especially Ben Thomas.

The Court: Mr. Thomas, was the press Beatrice Tower raised before the commission.

Mr. Thomas: Your Honor, not to my knowledge.

The Court: Okay, that's the only experience I have with these towers in the immediate area is the one in TP. But if it's not on the record, we'll be considered. Mr. Trujillo, please. So looking at the visual impact, the development shall be sensitive to and consistent with the architectural design scale, then the very end, that the alternative being proposed is suitable to the land and neighborhood character. How is it suitable to the land and neighborhood character? Ms. Baker says it's there's no trees that high. There are no pine trees in the neighborhood. There's some Piniella, and I guess, and some sage. So how is a 95-foot tall pine tree suitable to the land and neighborhood characters raised by Ms. Baker.

Mr. Trujillo: Well Your Honor, I think that the commission addressed that Mr. Burris can deal with this more specific.

The Court: Okay.

Mr. Trujillo: I believe that was addressed in the in the briefing. I apologize again, we split this argument.

The Court; Okay, if this is Mr. Burris's side, we'll just postpone that till it's his turn. What else, Mr. Trujillo?

Mr. Trujillo: The only thing I wanted to point out with regard to those was really the supplemental facts that have already pointed out. One other issue that Ms. Baker brought up today was the, that the height limitation that's set out in the telecommunications section is inconsistent with the height limitation that's set out in the general special use permit requirements, one being 27 feet, the other one having no height limit. They're not inconsistent. You're under, if you read…

The Court: Mr. Trujillo, I'm satisfied. I'm satisfied that the issue of the height of the tower, that the regulation which says that the tower can be above 27 feet, let me find here 4.11.1(a)(8).

Mr. Trujillo: Yes, Sir.

The Court: I'm satisfied that trumps 4.7.1(n).

Mr. Trujillo: Okay.

The Court: That permissive language, I think, trumps the 27 foot, and it appears that that is a later addition, and that the 27 foot was not removed or changed when the height limitation was added. If I recall my review of the ordinances and the amendments your website has all these amendments on their stuff.

Mr. Trujillo: Yes, Sir.

The Court: But I got a bit confused trying to find the actual land use rates the first time I went to your website, but I think the no height limitation trumps the maximum height limitation of 27 feet.

Mr. Trujillo: Then then I'll move on, Your Honor. First of all, so I'll handle the sections that I intended to take. I think one is spot zoning that was brought up in the briefing. When you look at spot zoning, it is just what it sounds like. If there is a zone change that takes place and it's out of the blue, it's surrounded by zones that are not that zone, that's a spot sound. But if you were to look at the case that was cited in the in my brief on page 17, which is the Embudo Canyon Neighborhood Association. It makes it clear that a special use permit doesn't change the zone. Therefore it is not a spot zone, and that argument falls under the weight of its own mischaracterization. So, this is special use permit not a spot zone, not a zone change, so it can't be a spot zone. Moving on, this is when she also talks about a taking in the briefing. There is no taking here. Taking generally is when the government basically.

The Court: That's the inverse condemnation argument.

Mr. Trujillo: Okay, that might even be.

The Court: That's the taking argument, is there inverse condemnation argument?

Mr. Trujillo: Yeah.

The Court: Yeah, go ahead.

Mr. Trujillo: And the problem is there is no, as articulated here "in order for there to be a taking, the government has to be the entity that that is doing the taking," and then the cases cited by _____ counsel, they cite cases where the city actually took over something and didn't pay the appropriate amount in an inverse condemnation action. None of those cases are consistent. With this case, where of course all we did, all the all the government did, was approve a special use permit and we would submit that if the government, every time they approved a special use permit or maybe a conditional use or God knows what else or just a zoning certification that

we're subject to some sort of a takings claim, I think it's inappropriate and it shouldn't be allowed.

Moving on to the Open Meetings Act, as was pointed out earlier, she says this is an Open Meetings Act violation, but doesn't point to any provision of the Open Meetings Act that's been violated. And we submit that the reasons that that hasn't been done is because there is no provision of the Open Meetings Act that's been violated. You to look at the purpose of the Open Meetings Act, which is at 10.15-1. Its purpose is to ensure that all persons desiring shall be permitted to attend and listen to the deliberations and proceedings. In this instance, "there is no requirements that people be allowed to speak at these meetings. There is no requirement that that under the Open Meetings Act that the Board consider written testimony," which is the basis of her Open Meetings Act claim. She also says that there was no basis for going into closed session in articulated when the commission went into closed session. We submit that that's incorrect. We cite on page 21 of my response to the statement of appellate issues. The section of the audio that shows the basis for going in was articulated and that the Open Meetings Act was followed. Your Honor, we also submit that just the whole due process issue. Again, remember we're here.

Based on the commission's decision, they're appealing the decision. The commission didn't rule on due process and these legal matters, and in fact it would. It would be inappropriate to go outside the auspices of their own ordinance and be ruling on all these issues. And this is an appeal of a decision. They didn't make decisions on some of the issues that Ms. Baker's brought up at the end of her briefing. We submit them, it's inappropriate to proceed on them as a basis for overturning the decision at this point. The commission never opined on these things.

The Court: The question is whether the commission opined, the question is whether the issues were raised before the commission and whether the commission rate opined on them or not is not relevant. If a person went before the commission and made an assertion and made a point such as the inverse combination, this is going to reduce my property values. If a person has made that argument before the commission, that this is going to affect my property values, then it is properly before the commission and whether the commission has ruled on that concern or not they've preserved their record before the commission by making their, raising their concerns. So, I'm satisfied as I said in my order that the issues of spot zoning, inverse combination, open meetings, etc. were sufficiently raised by unrepresented the citizens and interested parties before the commission, whether the commission ruled on them or not, does not rise to the level of whether it's an appealable issue or not, but I did note, however, Mr. Trujillo, that those these points have not been argued by Ms. Baker in her presentation to the Court this morning, but I did find that they were all preserved on appeal. If the commissioner has addressed them or not, not my concern right now in terms of that point, but Mr. Trujillo, sorry for the interruption. Please go on.

Mr. Trujillo: And I apologize, Your Honor.

The Court: No, please go on.

Mr. Trujillo: If I didn't recognize you did rule that and I recognize that. Your Honor, I think that's all I have at this point. I'd like to turn it over to Mr. Burris with the Court's indulgence.

The Court: Mr. Burris, please.

Mr. Burris: Thank you, Your Honor. A couple of things, sort of preliminarily, I mean, we're here because BTS towers application showed a two mile zone of Arroyo Hondo suffering from a gap in cellular coverage that poses both an inconvenience and serious public safety risk to the community. It's a little difficult to understand how Ms. Baker believes that there were no findings. If I may share my screen, you're on.

The Court: Please, absolutely.

Mr. Burris: Okay, well, it's not letting me do that. So this, Your Honor, is that working?

The Court: You're breaking up Mr. Burris. I can barely hear you.

Mr. Burris: Pages 1001, can you hear me better, Your Honor?

The Court: Much better now. Yes, Sir.

Mr. Burris: Okay, this is taken from volume 13 of the record proper at pages 1001 and 1002, which is the Board of County Commissioners decision adopting the Planning Commission's findings. And as you can see, what it says is the Board of County Commissioners made the decision to uphold the decision to approve special use permit along with the associated findings of fact and conditions of approval as they are stated in their record of decision. And then, Your Honor, the Planning Commission's findings are actually attached to that document in the record. The idea here that somehow this wasn't, that there were not findings is just an inaccurate statement. But beyond that, Your Honor, basically, what Appellant _____ not look at the decision and see if it was upheld by substantial evidence. I never heard that phrase even once. They're asking you to reweigh the evidence. They're asking you to look at the evidence again and decide whether you would have made the same decision or not. And we think that that's inappropriate. Under the requirements here, the dissension can be…

The Court: Bear with you, Mr. Burris, I just want to know if I find that the decision was arbitrary or capricious. That's going to require me to at least look at the at the decision of the commission and their weighing of the evidence for me to make an arbitrary or capricious standard. Now, I'm not supposed to add new evidence, and I'm supposed to bring considerable deference to the commission, but I do believe

that I have to review the evidence and, to make an arbitrary or capricious this determination, please go ahead.

Mr. Burris: And in that regard, Your Honor, under New Mexico law, arbitrary and capricious means that the whole record suggests there's been an unreasoned action without proper consideration or disregarded the facts and circumstances. And this, I think, New Mexico law is very clear that. What you are not to do is to reweigh the evidence or substitute your judgment for the factfinder, we believe each of these was actually supported by substantial evidence and looking at that evidence will show that they were not arbitrary and capricious. There is a 1997 New Mexico Court of a clear that the Court is not to reweigh that evidence. And once we have that in mind, Your Honor, I believe that we're in a better position to understand exactly what these various challenges are for. Now, Ms. Baker kind of moved around a little bit up. I'm going to, I might not be going in exactly the same order that she did because we have this argument set up a little differently. But I'll do my best here, so with regard to LUR section 46.6.1 dealing with compatibility or visual impact, you know as has been discussed at some length, all of those are disjunctive, not conjunctive. With regard to your, or your observation with regard to Section B, as to whether that last provision provides a Trump, we would agree with Mr. Trujillo on that and point out that if that was really what was intended here, that that last part of it. The over the overriding concision decision or consideration in drafting that they could have used the word "unless", but they didn't, and they made each of these co-equal. They made each of these such that there are opportunities to show one or the other, but that not any particular one of them predominates over the others, and we believe, Your Honor.

The Court: Let me ask you some specific questions, Mr. Burris, because this lawsuit I'm looking at 4.6.1.B visual impact. Okay and we're barely hearing you, Mr. Burris. You're almost like Telegram's teacher sometimes. So well, but I'm looking at visual impact. The development shall be sensitive to and consistent with the architectural design scale is an important word density bolt. In what way is this 95-foot tower? What evidence did it show before the commission that it was consistent with the architectural design?

Mr. Burris: Your Honor, I don't know that we're arguing. We met each one of those with regard to section B. I think what we're pointing out is that the applicant was able to demonstrate it was suitable to the land and neighborhood character and specifically.

The Court: So I'll go to the second-half and ask you my next question.

Mr. Burris: Okay.

The Court: How was a 95-foot pine tree suitable to the land? If there's no pine trees in the area?

Mr. Burris: Yes, Your Honor. And that goes to the visual impact and Chief Planner Praya actually found that this design and there are other issues with regard to camouflage and things of that nature that go into this, that, that we can talk about. Let me let

me point out you had asked the question where that illustration came from, Mr. Thomas. Mr. Thomas created that illustrate that was not one that was prepared by BTS in support of its application. And it's certainly misleading with regard to the coloration he has it shown as a as a bare metal structure.

The Court: That was my, that was my first thinking. Because when I saw the shining metal at the bottom of the tower, I my, referring to the tower and trustee address, I noted that the metal appears to be a rust or brown color or something like that, and so when I saw the silver on the tower that was a question, what color would the commission hear the tower would be?

Mr. Burris: It was a flat brown. Let me scroll down to the concealment standards, Your Honor, and look at that. Let me get there. Yeah, it was, it was a flat brown and then the branches were painted to try to mimic as much as possible the branches and it was. And that was that was in compliance with the camouflage requirement that are discussed. And there was quite a bit of information available with regard to that.

The Court: Okay.

Mr. Burris: And so then, Your Honor, based on that and not based on the illustration created by Mr. Thomas, Chief Planner Perea actually made the finding that the proposed tar design blended in more with the neighborhood character because of that. And so there were, there was again an actual finding with regard to how this works but also taking into account as you have to under section A, what the substantial benefit here is and that being the issue with regard to the major loss of cellular coverage and we actually have another document from the record. That said, we do have that.

The Court: I'm going to dispute you briefly on the rule and then I'm going to have to correct me, Mr. Burris, if you if you think you must, paragraph A makes an exception. The development shall be sensitive to blah, blah, blah, provide a substantial benefit too, which is the argument from the Appellees, however, visual impact does not provide that exception paragraph B the development shall be sensitive to and consistent with architectural design, and I'm going to focus on this next word here scale. And I think scale is a design scale density bolt building height. When I look at scale and I'm hearing the arguments from Ms. Baker, it is the scale that, I think has is troubling the appellants the most. A 95-foot tree, as she said, there's no tree full than 30 feet in the area. This would be three times the height of the local trees. If Ms. Baker's argument is correct. So in terms of scale, this is the development shall be sensitive to the scale of the existing properties. So how is this 95-foot tower consistent with the scale of the 95-foot towers as Ms. Baker raised her concerns?

Mr. Burris: And I understand that, Your Honor, but there, if you go down to the after the word existing properties in the neighborhood, there's the word or.

The Court: Or the applicant shall be that the alternative proposal is suitable to the neighborhood character, there are no 95-foot trees in the neighborhood. So how's the 95-foot tree,

how did the how was that demonstrated at the commission that a 95-foot tree was suitable to the land in the neighborhood character?

Mr. Burris: Because that was the specific finding by Judge Perea with, I'm sorry, Chief Planner Perea, with regard to what was being undertaken to camouflage that tree that it did indeed blend in with the neighborhood character. And I think that.

The Court: Okay, now, I'm taking that now the commission heard evidence of the neighborhood character. They heard it from the neighborhood residents. Was Mr. Perea, a resident of the neighborhood or is he just making an assertion as the planner?

Mr. Burris: He is certainly, I don't know where he lives specifically on and I don't think that that was part of the record proper, but he in his position as chief planner is understanding of and familiar with the area and again back to the point that Mr. Trujillo made earlier in interpretation of these LURs the decision of the chief planner and the board are given deference, and he made a decision here that specifically said that it was in character or more, it blends in with the neighborhood character, and we believe that based on all of the evidence showing what the company plans on doing in terms of that. It may not be hidden. It may be something that somebody can look at and say I know what that is. But that doesn't mean it doesn't blend in with the neighborhood character, and that's what's required under section B of that LUR and in that it is in the disjunctive. You don't have to satisfy both the first half and the second-half of section B. We think that there was not only adequate or substantial evidence to support that, but then based on the decision by Chief Planner Perea, he was able to deal with that. Also, keep in mind, Your Honor, it's section, oh, let me let me find the reference here. Where section 4.11.1.F.3.

The Court: One section, 4.11…

Mr. Burris: Yeah, 4, 11, 1, F3.

The Court: One second here. 4, 11, 1, F3 coloring camouflage.

Mr. Burris: Yeah, and this allows the planner to approve an alternative and creative design which deviates from the, the otherwise applicable concealment standards in his discretion in writing. And those two together, I mean this, this kind of goes to the visual impact, it goes to the camouflage requirements, demonstrates the sort of deference that is to be given the planner here and the board, with regard to what they think is appropriate under the circumstances. And we think that reading those together in conformance _____ demonstrate that the finding, by Judge, by Chief Planner Perea, was fully within the auspices of, of his office, subject to deference, and supported in the record, and not arbitrary or capricious. We understand, again…

The Court: But the only…

Mr. Burris: That people can disagree about that, but…

The Court: The only, the only evidence…

Mr. Burris: But we don't think that reweighing the evidence…

The Court: But the only evidence presented to the commission was from the planner regarding the color and camouflage, and let me pull back up to 46.1 B. In terms of visual impact, the only evidence the commission heard was from the planner?

Mr. Burris: No, it was part of the application as well.

The Court: But I mean, in terms of evidence as to visual impact, it was the planner, Mr. Perea, who presented the, uh, evidence to the commission that it would be—let me find that here. "Suitable for the land and the neighborhood character." It was only Mr. Perea who said that, correct?

Mr. Burris: That was his finding based on the application made by BTS.

The Court: Okay.

Mr. Burris: And, and what they had demonstrated with regard to its suitability for the, for the neighborhood.

The Court: And Mr. Perea's qualifications to testify as to the neighborhood character, was that addressed in the front of the commission?

Mr. Burris: I, Your Honor, he wasn't testifying. Those were his findings.

The Court: Oh, these are his findings.

Mr. Burris: He was, he was, yeah.

The Court: Understood.

Mr. Burris: So…

The Court: Now, did anybody speak in opposition regarding the neighborhood character? Was evidence presented as well?

Mr. Burris: I'm sure there was. I mean, for instance, the misleading characterization of, of what the tower would look like. But again, Your Honor, the point here is that under the applicable standards, the Court is not to reweigh that evidence, just to determine whether this was arbitrary or capricious under the entire set of circumstances.

The Court: Gotcha.

Mr. Burris: And we think that there was substantial evidence which supported this particular decision. We think when you look that, at including the evidence with regard to the camouflage and other efforts taken, that there's not a basis for saying that that was

arbitrary or capricious, even if somebody disagreed with the finding by Chief Planner Perea.

The Court: Gotcha, go ahead.

Mr. Burris: Your Honor, I don't know that we need to talk about the community benefit a lot. There was, there were a couple of different people who testified with regard to that. As to the supposed misalignment with historic uses, and I, I think Ms. Baker kind of lumped into that the issue with the scenic byway. What was not brought up was that BTS Towers had actually had a company, Lotus Environmental, prepare a NEPA report, which was prepared after speaking with the New Mexico State Historic Preservation Office, who proposed the tower. The Taos County Planning Department, who deferred to the State Historic Preservation Office, talked to the Taos County Historical Society, who didn't respond to the inquiry and published notice in the Taos News soliciting public comments specifically on this issue, and no one responded to that.

And after doing all of that and doing their own investigation, the evidence submitted as part of the NEPA report, and I'm referring to volume three of the record proper, page 205, paragraph 4, specifically, they had investigated whether the tower, and I'm quoting, "may affect districts, sites, buildings, structures, or objects significant in American history; architecture, archaeology, engineering, or culture that are listed or eligible for listing in the National Register of Historic Places." They looked at all of that and found that the tower had no potential impact on that. So again, Your Honor, we, we think that that's appropriate. I will note that Ms. Baker did include something in her presentation with regard to evidence outside the record, regarding other applications. We do think that that's inappropriate and shouldn't be consider. And we also think that that's just wrong, regardless. But then with regard to the setback issue, Your Honor, I believe, Mr. Francis, did you have something to address on this?

Mr. Francis: Yes. Thank you, Mr. Burris, Judge. I'm Bebb Francis. Going back to the question regarding the language of the setback requirement, section 11.1, 4.11.1(A)(1). And then, if you would, if you would refer to record on appeal 528.

The Court: Give me one moment here.

Mr. Francis: Sure, absolutely.

The Court: I got all those, got all those open, but there's like, I don't know, a dozen volumes here. Which one am I looking at, number five?

Mr. Francis: You're looking at volume six, Your Honor, volume six...

The Court: Oh, I'm sorry.

Mr. Francis: Page 5, 20…

The Court: Okay, I'm on volume six now. Which page?

Mr. Francis: 528.

The Court: Um, uh, let's see here, what page are we at on here? Where's the stamp? I'm looking for a Bates stamp on here. Oh, there we go, _____ 5493. Let me scroll down to. Where am I at, I'm on, I'm on 528, go ahead.

Mr. Francis: Yes, and I'm going to ask you, bear with me, to open one more, if you would.

The Court: Sure. I can, I can only open one at a time.

Mr. Francis: Absolutely.

The Court: Okay.

Mr. Francis: Volume one, page 28.

The Court: Volume one, page 28.

Mr. Francis: Yes, Sir.

The Court: Okay, I have page, was 26, 27. I have 28 in front of me, go ahead. Perfect.

Mr. Francis: Perfect. If we go and look, actually, at the language of section 4.11.1(A)(1) on setbacks, let me, bear with me, as I read through it real quickly, the first sentence.

The Court: Well, let me get, let me get that up here real quick. 4.11.1?

Mr. Francis: Yes, Sir.

The Court: Let me jump down to 4.11.1.

Mr. Francis: (A)(1).

The Court: One second.

Mr. Francis: Uh-huh.

The Court: Four, oh, we passed it, 4.11.1(A)(1). I'm on (A)(1), setbacks.

Mr. Francis: Right…

The Court: Go ahead.

Mr. Francis: Setbacks. So, let's walk through it very quickly. And we've, I think we'll be able to clear up why all this pulls together, and actually is the national standard that's regularly used. A freestanding, wireless telecommunication facility shall be set back a minimum of 85 feet from any boundary or, or a distance equal to 110% of

the potential fall radius, here and after radius—and this is critical—which is greater, as certified by a New Mexico licensed engineer. So, if you'll go to volume, what was it, Eric, six, I believe? Page 528, the Pinnacle letter…

Mr. Burris: Yes.

The Court: I'm sorry, which one am I on again?

Mr. Francis: The volume six, page 528. It's that one that you brought up, opened on your screen.

The Court: One moment here, I got, uh, let me go back down to volume six.

Mr. Francis: Yes, Sir.

The Court: Volume six, and I'm on the page, yes, 28. Go ahead.

Mr. Francis: Great. If you look, and bear with me, at the last paragraph of this, this sealed engineer's letter, page, next page, 529, shows Mr. Fortin's professional engineer stamp. And what he says is, at your request, the proposed tower will be designed for a fall zone radius of 50 feet. Our approach to this request will be to ensure that the point of maximum stress in the tower occurs in the upper 50 feet of the structure. In this case, we intend to include a slip spice, splice at 50 feet below the top of the structure, which will have a demand-to-capacity ratio that controls, in capacity, over the remaining structure and foundation. In the improbable event of a failure, it is likely to occur within the top 50 feet of the structure, thereby satisfying request of a 50-foot zone radius. Also a…

The Court: Now, I'm going to take you back, then.

Mr. Francis: Yes.

The Court: "It is likely to occur." What does…

Mr. Francis: Yes.

The Court: "Likely to occur" mean?

Mr. Francis: Yes, that's…

The Court: That doesn't mean guaranteed to occur, it just means likely to occur.

Mr. Francis: Well, absolutely. And a professional engineer has sealed this, and I think your familiarity with your brother's practice…

The Court: Well he's a natural gas engineer now, so…

Mr. Francis: Oh, okay. Our practice…

The Court: If _____ things that go boom, now, but he did do some work previously.

Mr. Francis: Well our practices licensed attorneys. We have to give and go through credentials to give our best. And the next slide, I think, is going to clarify this for you, that this wasn't just a maybe. If you would, if you'll go to…

The Court: Give me, give me one moment to write this down again.

Mr. Francis: I'm sorry.

The Court: No, give me, just give me one moment.

Mr. Francis: Oh yeah, absolutely. That said, take volume off.

The Court: ROA 00528.

Mr. Francis: That's what we're reading from. Yes, Sir.

The Court: Yeah, I'm just making a quick note here.

Mr. Francis: Uh-huh.

The Court: And then I got to go to…

Mr. Francis: Volume one.

The Court: Volume one. I'm on volume one now. And we are on page, just for me to write it down here again. 28.

Mr. Francis: Yes. Now, these are the tower engineering documents to substantiate exactly what he said. If you'll go, the first is just the basic language when speaking. If you go to Appendix, which is five, excuse me, 30.

The Court: Page 30?

Mr. Francis: Yes.

The Court: The Appendix A. Go ahead.

Mr. Francis: Then you'll start seeing a, a sealed, or I should say, the tower of drawings, the design drawings, showing that slip joint. See it at 49 point something feet?

The Court: See that right there? Yeah.

Mr. Francis: Yes, Sir. And then, if you'll go to the next page, you'll see the actual distances, the calculations, with three antennas on it creating a weight load. Then if you'll go to the next page, five, uh, page 33, you'll see input data, you'll see options, tapered poll selections, geometry, and so forth. You go through all of those, Judge: 35 user-defined loads, seismic, the ground shifting, feedline pressures. So, the point is, this wasn't just a "maybe," "should be." Those are language like when attorneys give opinions, and we give opinions on massive loan agreements. We have to have

certain qualifications that could be way outside of, of, you know, the likelihood. And so the likelihood has been reduced by exactly what you're scrolling through, looking at on the low combinations, maximum reactions, and so forth. So, Judge, my point is this is not based on a, a wish. This is not based on "I think." This is based on Pinnacle Consulting engineering team, one of the national engineering groups that do innumerable number of towers. It is based on the available facts that are out in the industry for this tower, with the weight load on it with the antennas, with the ground, the seismic shift. Additionally, Judge…

The Court: Francis…

Mr. Francis: Yes, sir.

The Court: I think that, and I'm a big math fan, my whole family's math whizzes, so, and I appreciate that if I want to understand how the world works, you do the math.

Mr. Francis: Yes.

The Court: Appreciate that. What I'm looking at, though, of the legal language here…

Mr. Francis: Okay.

The Court: Of LUR 4.11.1(A)(1). But was 4.11.1(A)(1)…

Mr. Francis: Yes.

The Court: "Potential fall radius" is the operative language.

Mr. Francis: Yes, Sir.

The Court: And then I, then I go to what we have on your ROA 528, "likely to occur"…

Mr. Francis: Yes.

The Court: As opposed to "guaranteed." So, "potential" and "likely" are the two words that I'm struggling with right now, in terms of looking at, because it doesn't say "guaranteed to occur"…

Mr. Francis: No.

The Court: It says "likely to occur." Now, I admit in life that there are few guarantees, and even in engineering there are few guarantees. But I'm nonetheless looking at the word "potential," which means it could possibly happen. Not "likely to happen," not "will happen," not "more likely than not." "Potential" means "could possibly happen." And then I have the word "likely," which leaves open the possibility that it could happen, as I read it. So, I need you to take the word "potential" fall radius, in the word "likely to occur," and, and, and bring those into some sort of alignment.

Because as I look at them, "potential" means "any possibility," "likely" means "more likely than not, but there's still a possibility."

Mr. Francis: Okay.

The Court: So…

Mr. Francis: All right.

The Court: For me, as I read this language, and if, excuse me, Mr. Francis, are you Counsel, or are you the engineer? Are you an engineer?

Mr. Francis: I'm a lawyer that has 30 years of representing tower companies…

The Court: Oh okay, good.

Mr. Francis: _____ radiuses. So…

The Court: Good. So, you're, you're an attorney…

Mr. Francis: Yes.

The Court: And you said 30 years working with engineers on this, so you probably know the engineering better than some new engineers would know. My question for you, then, is that "likely to occur" versus "potential," and bring those into some sort of conjunction form or some sort of, mesh them together, so that they can be read together. Because, and I'll say it one more time, "potential" means "it could possibly happen." And then when I read "likely to occur," it means "more likely than not it won't happen, but the possibility's still there." So, "likely to occur" means the potential's still there, and "potential" is the word that I have, the operative word I'm, I'm dealt with. What are we looking at here?

Mr. Francis: What we're looking at, if, Judge, following that kind of thought process, what happens if you say, well, the potential fall radius is unknown. We don't know, zero. It could be 10-foot, five-foot, 50-foot, 95-foot. Then, let's just take that out, because it's an unknown. We're 85 feet from the property lines, Judge.

The Court: But it's a 95-foot tower that, which means if it fell and it didn't snap in half, as anticipated, that extra 10 feet would fall because this is "likely to occur," not "guaranteed to occur."

Mr. Francis: But looking at the code like you're doing, Judge…

The Court: Yeah.

Mr. Francis: Looking at the language, if you're saying that you cannot determine a distance equal to 110% of potential fall radius, then it's undeterminable. So, it's the greater

of an undeterminable, which is just, Judge, if you can look in the camera a second, I mean it's…

The Court: I see it.

Mr. Francis: These towers at that pinpoint are designed so, like, when you go to Dairy Queen and get a drink, the straws bend, and that's the inflection point.

The Court: Oh, Mr., Mr. Francis, the science I understand. The…

Mr. Francis: But if we, if we take the…

The Court: The problem is, the problem is the report, and it says "likely to occur"…

Mr. Francis: Okay.

The Court: So there's no guarantee that it will fall within the 50 feet, if it's only "likely to occur" as opposed to "guaranteed to occur." Again, I'm looking at "likely to occur" versus "potential fall radius." It appears that if it didn't snap in half, the potential fall radius would be 95 feet.

Mr. Francis: Maybe…

The Court: Maybe?

Mr. Francis: Maybe it's input, under your premise. But Judge, let me ask you something again.

The Court: Please.

Mr. Francis: If you're, you are taking a position, it seems, like the fall radius is immeasurable.

The Court: No I'm not, I'm not taking that position. I'm taking the position that the code says as follows: it shall be a specific setback, or it will show me the setback, plus it will show me the height of the tower plus 10%. And now you're going with the lower, the 85-foot setback, but the 85 cent book, 85-foot setback is premised on the tower snapping in half should it fall, which is "likely" to snap in half, but it doesn't say "guaranteed." So again, my concern isn't the amount of fall radius, so to speak. It is the "likely to occur" calculation done by the power company versus the "potential fall radius" of the tower. And the "potential fall radius" has been calculated at the height plus 10%, or 85 feet. And so the argument here was made to the Counsel, well, since it's likely to snap in half, 85 feet should be enough, as it'd be, it'd be 50 feet.

Mr. Francis: My, may I have a quick?

The Court: No, no, absolutely.

Mr. Francis: Number one is the global point that I, I made in passing. This is the standard that is used throughout the country. And so please bear that in mind. This isn't something that you need to…

Ms. Baker: _____.

Mr. Francis: Excuse me, excuse me.

The Court: One moment, Ms. Baker. One moment, Ms. Baker. Mr. Francis, I'm, I'm, I'm familiar that, that this is, this is a national standard. My concern right now, though, is I'm dealing with a local land use regulation that has the word "potential" in there. And so I'm taking "potential" and I'm applying this "potential" to a national standard. And so, I don't have any measure of what other legislation…

Mr. Francis: I accept that. I apologize.

The Court: No, that's okay. _____.

Mr. Francis: _____. I accept that.

The Court: Yeah.

Mr. Francis: The other point is, Judge, and I think my position that I'm saying is, is logical. The, if you cannot, by this ordinance, determine what the fall radius is, then we're at 85 feet. Otherwise, we could sit there and say, well, the potential for the tower to be seen by the neighbors, or it may, the potential that it may cause disruption of, of views _____. Life is around potentials. And as attorneys, how would this be drafted, otherwise? No sealed engine, no engineer is going to sign an absolute. No, no more than you would sign an absolute opinion letter on a $40 billion loan not knowing all the variables; you have set out all the qualifications for the loan, you go through with applicable standards, applicable law. So, Judge that's my point, is there is no absolute in life. And they have signed up, provided you tower specs, they've provided you a sealed engineer where he's betting his license, and that's, thank you for listening. I think that's the only way that it can be construed.

The Court: Well Mr. Francis, as, as I look at the "likely to occur," does that mean there's the "potential" that the tower could fall without snapping in half?

Mr. Francis: What we're looking at, the way he said that, "at your request, it will be designed for fall radius." Let me find what you're talking about. "Request to ensure that the point of maximum stress occurs above 50 feet. And in this case, we intend a slip splice at 50 feet below the top." "Control and incapacity of remaining structure in the improbable event of failure, it's likely to occur within the top 50, thereby." What he's saying is it's at the weakest point…

The Court: Right.

Mr. Francis: Slip joint. And, and what I believe you're asking, and the engineering society say, it will occur. And I don't know if that's a standard that they practice under. I would be real reticent of us as attorneys signing opinions saying that loan is not usurious, period. That loan has no qualifications, period.

The Court: Mr. Francis, my, my, my question, though, is simply when it says "likely to occur," it does mean that there's the potential that it could fall and exceed the fall radius?

Mr. Francis: Yes, Sir.

The Court: Okay.

Mr. Trujillo: Your Honor, may I address the, the, the issue that you brought up?

Mr. Francis: I'm sorry, Patrick. I cut you off.

The Court: Mr. Trujillo, I'm trying to clarify what a "potential fall radius" is, and whether the decision was arbitrary or capricious based upon the evidence received. And the evidence received was "likely to occur," not a guarantee that it would break that way. But as evidence, that was before the commission. The other issue is "potential fall radius." And so it appears from the testimony of, or this decision, the statement, you're not testifying, Mr. Francis, you're a lawyer, I'm sorry about that. If the statement of Mr. Francis that "likely to occur" does leave open the potential, and so the language before the commission was "likely to occur," the land use regulations is "potential fall radius." That is the question that I have…

Mr. Trujillo: I understand.

The Court: _____.

Mr. Francis: One second, if you would. I missed, I think I, we were talking over each other when you're saying "likely to occur" is "potential." I misunderstood you; it is not. "Likely to occur" is the result of the design that I've provided you with…

The Court: I understand.

Mr. Francis: Drawings, that's likely to…

The Court: Mr. Francis.

Mr. Francis: Yes?

The Court: Is there a possibility that the tower would fall, or a "potential" that the tower would fall, and not break at the design break point?

Mr. Francis: I have no idea, Judge, no more than anybody on this panel can answer that. Is there a potential? I don't know. We don't, we haven't seen the tower drawings finalized; we haven't seen the foundation drawings, where they come in and provide Taos

County pages and volumes of foundation drawings. All of this plies into the safety and structure of the tower to meet these requirements. I'm sorry, Patrick, I cut you off.

Mr. Trujillo: Yeah, Your Honor, if I may just address this specific issue that you're bringing up, and that's…

The Court: Yeah.

Mr. Trujillo: That's what does this language mean? Forget about the math and the…

The Court: Well yeah, I'm not worried about the math, I'm looking at…

Mr. Trujillo: Right.

The Court: Two phrases: "potential" and "likely to occur," that is anticipated that, more likely than not, the tower is going to break in half and fall down within the 85-foot radius. But the, the language's "potential," and "potential" would mean, is there the possibility that the tower could fall outside that radius?

Mr. Trujillo: I understand.

The Court: That's only, that's all _____ "potential fall radius." So please, go ahead.

Mr. Trujillo: Yeah, let me, let me try and address that. I mean, let me, let me start by saying that the ordinance doesn't define "potential." That I've, just in the, in the interim looked up "potential" in _____ Dictionary, and the Oxford English Dictionary, and…

The Court: Our common understanding of the word…

Mr. Trujillo: Yeah.

The Court: If it's not defined in the statute.

Mr. Trujillo: And, and, and all of that, I think, is at issue, but I think it all has to be read together. And when you read that section that Mr. Francis read, with regard to how do you determine it, it says "potential fall risk as determined by a licensed engineer." So…

The Court: Let me get back to…

Mr. Trujillo: I'm submitting this. If, if, if it was just a matter of taking the height and saying, well, that's the potential risk, why would you have to have a professional engineer say that? Because that wasn't what's, that's what, not what the language was about. It was to have a professional engineer determine what that radius is using all that math. So this is an interpretation issue, Judge, of that language. The commission in its findings and its decision interpreted it to mean that, that, gave weight to all the language in the ordinance, and said, well, why, and listen to the professional engineer with regard to that potential risk, and made its determination. And we

submit, Your Honor, that that determination by the commission has the whole ordinance makes sense and is entitled to deference.

The Court: And I, and I, and I note that. Thank you, Mr. Trujillo.

Mr. Burris: And Your Honor…

The Court: Mr. Burris, Mr. Trujillo has answered the question for the Court, but if you want to add something, you're more than welcome to.

Mr. Burris: Sure. I mean the only thing we're missing here is, as the Court is well aware, in circumstances like this, when you ask an engineer for something, it's like asking a doctor for something. Doctor, did the ambulance hitting your, the plaintiff cause his death? Within a reasonable degree of medical probability, yes. Here, it's within a reasonable degree of engineering probability that that's where the fall is going to occur. The only evidence with regard to a New Mexico licensed engineer is that the fall radius will be 50 feet within that reasonable degree of medical certainty. So that, that was all.

The Court: Go ahead.

Mr. Burris: Um…

The Court: So Mr. Burris, continue with your question.

Mr. Burris: Sure. Then, Your Honor, we have the additional discussion regarding the height limitation. It sounds like you're satisfied that 4.11.1(A)(8) overrides the 27-foot height limit, in the general height limit…

The Court: That one, the only thing I'm certain on, that the 27-foot height limit has been superseded by these subsequent provisions in 4.11.1(A)(1).

Mr. Burris: Okay, excellent. So, I'll move on. We, we had talked about it a bit with regard to the concealment standards. We, we do believe that the concealment standards apply here because the proposed tower is within it. Oh, one thing I did want to say, I apologize, Your Honor.

The Court: Oh, please, go ahead.

Mr. Burris: With regard to compatibility. With regard to compatibility, there was, and I don't know if it was one of the ancillary issues that they abandoned, but it was in the briefing: that you couldn't use this tower here because the property was limited to church purposes. Your Honor, that's just not anywhere in the record.

Ms. Baker: Your Honor, we…

Mr. Burris: There is a reference to the site plan…

Ms. Baker: We did not…

The Court: Ms. Baker, you'll have your response, to your reply.

Mr. Burris: Thank you.

The Court: Go ahead, Mr. Burris.

Mr. Burris: Your Honor, it, it did, it was mentioned in the brief. If, if Ms. Baker intends on abandoning that formally, that's fine, but I will just say that that's not anywhere in the record. So if, if she wants to argue it, or if she wants to withdraw it, that's fine, but we don't think that that's supported anywhere, to the extent that they do want to argue it. And then Your Honor, with regard to the concealment standards, again, yes, this is within 1,000 feet of the Old Spanish Trail. But if you look at, and Ms. Baker had actually listed, these standards on one of the presentation screens, none of them are, or three of them are just not absolute. One is located to avoid a dominant silhouette. One is located on existing vertical infrastructure, if possible. And one is located in areas where the screening is the greatest amount possible. Your Honor, these are not defined terms. And again, the Taos County Comprehensive Plan states a goal to expand affordable access to broadband and quality Internet to residents. And given the landscape and site available to fill the service gap, the proposed tower's as architecturally integrated with the landscape as possible. And, and, you know, there was this one misleading representation with regard to what that looks like, but the evidence showed that, indeed…

The Court: Mr. Burris.

Mr. Burris: There is flexibility.

The Court: The hard part of the misleading nature of the image was the, the color of the tower, but not the size or scale of the tower.

Mr. Burris: Correct.

The Court: Okay, go ahead.

Mr. Burris: No, You Honor, but this, this has to do with the concealment standards.

The Court: Right.

Mr. Burris: And, again, Section 3 empowers the planner to approve an alternative and creative design. But, Your Honor, the design as a pine tree was found to comply with Section 4.11(B) and (C). Disguising the tower is the best alternative to achieve the technical requirements necessary, which is part of the height issue, as well. And the, if height were an absolute issue, then that 27 feet would apply. But the, the drafters of the LURs have made it clear that cell towers don't have to comply with the height of the trees in the vicinity. They don't have to comply with the height of the, of the houses in the vicinity. The height is governed by what is technically

required to achieve the purpose of the tower, and that's where the 95 feet comes into play.

But here, with regard to the attempts to conceal it, Chief Planner Perea's exercise of discretion, with regard to this, was approved by the Planning Commission, and also falls within the deference awarded when someone is interpreting those LURs. But here, the point is that there were efforts made to conceal. There were efforts made to not make it look just like a tower. If the, if the issue is the height, we think that that is dealt with specifically by the lack of a height restriction. And then trying to pull that back into the discussion regarding scale, would you just read that lack of height restriction out of existence? And we don't think that that's appropriate for the, for the Court to be doing here, with regard to, there was some discussion regarding whether existing infrastructure could be used. And this is what Your Honor has been referred to as a co-location argument. And section of the LUR 4.11.1(C) states that the applicant must prove that a bona fide need…

The Court: One moment. 4.11.

Mr. Burris: Sure.

The Court: Let me get back down on 4.6. Let me get back down to 4.11.

Mr. Burris: 4.11.1(C), as in cat.

The Court: Yeah, I went too far. 4.11, criteria for concealed wireless communication facilities. Go ahead.

Mr. Burris: And under (C), it says the applicant must prove, and, and understand, this is where you had already pointed out there were two Cs.

The Court: Right, yeah.

Mr. Burris: And this one with no reasonable combination of existing locations, techniques, or technologies that will obviate the need. So here, very specific evidence, specific reference in the record to looking at possible alternative locations, none of which were suitable. Nick Romano, a Site Acquisition Specialist, testified that he determined there is a definite need for improved coverage in the proposed area, lack of reliable signal. Stephen Kennedy, a Radio Frequency Analyst Engineer, testified to identifying the significant gap, but also said that he had evaluated each of the other proposed locations suggested by the opposition, and determined that the further north a tower is placed, the less coverage there would be to those users in the South; and vice versa, the farther south, the same for users in the north. They looked at the other possible locations and determined that this one was the one that could work. There are no co-location ability here. There are no other services or other facilities that this could be appended to, to make it work. And as a result, Your Honor, the co-location requirements we believe have been met.

With regard to the landscaping and camouflage, we've talked about that a little bit. There was some reference in the briefing as to whether this met with the requirements of LUR 4.11.1(D), as in dog, that it'd be surrounded by a six-foot fence. The plans make it very clear, Your Honor, that this entire area is to be surrounded by a six-foot fence. There are no other requirements. Despite the implication by Ms. Baker that there are houses nearby, there are no houses bounding on this property, and as a result, there's no requirement other than that six-foot high fence. And so consequently, this meets that requirement. There is section, and this is what we, I was trying to get to before, Your Honor, LUR 4.11.1(F), as in Frank, (1). Stating…

The Court: _____ camouflage. Go ahead.

Mr. Burris: Yeah, stating that, "Facility shall be painted upon installation and thereafter repainted as necessary with the flat paint, and designed to minimize the visibility and blend with the surrounding environment." Again, keep in mind, Chief Planner Perea had the discretion to approve alternative designs, and that he approved this. But there's also, if you look at volume one of the record proper, page 23, which are the site plans, it shows that the…

The Court: Let me, let me get to volume one. I'm on volume one. Page what?

Mr. Burris: 23, Your Honor.

The Court: I'm almost there. I'm on 23.

Mr. Burris: It shows that the tower will be painted a flat brown with the antenna portions to be designed, designed as branches to blend into the design of the proposed tower and its environment. So, you know, there, there can be a lot of discussion, a lot of things kind of thrown at the wall, in terms of what efforts were made, in terms of visual impact, concealment, camouflage, that sort of thing. Going through these, they all make sense. They all demonstrate that this is not the tower that Mr. Thomas wants you to believe it is. This is a tower that complies with the requirements; there is no height restriction, which seems to be the major issue; and otherwise, it has been designed so as to be as architecturally and neighborhood-appropriate as is possible. And again, there have been specific findings with regard to that, supported by substantial evidence that are not arbitrary and capricious.

The final two issues, Your Honor, deal with the Old Spanish Trail and the Scenic Byway. They're sort of similar, not exactly the same. The Scenic Byway has to do with the NEPA report that we talked about earlier. And we, we demonstrated this specific government entities that were spoken to, with regard to the development of the NEPA report. The appellants challenge the effect on the Scenic Byway by way of a single public comment and a slideshow presentation indicating that the tower is near the byway, and we don't disagree with that. But they don't cite any evidence that there's any effect on the Scenic Byway, and the NEPA report shows, Your Honor, that indeed there is not, after consideration of the various aspects of

what was necessary. So, we don't think that that's an issue. But finally, with regard to Old Spanish Trail, it's slightly different. LUR 4.4.2(N) deals with this, in terms of the discussion to the…

The Court: I'm on 4.4.2, give me one moment here. Let me get back on that.

Mr. Burris: Yeah, (N) as in Nancy.

The Court: Yeah, let me get back up to. Hope I clicked, went too far. Hold on. Went too far the other way. 4.4.2(N), here we go. Go ahead. Cultural properties.

Mr. Burris: And it, it talks about communication with the applicable state or federal agencies to determine whether proposed development would have an adverse effect on historical landmarks. And as part of the application, BTS submitted correspondence with the National Trail Office confirming that the tower would have no effect on the Spanish Trail. Now, Ms. Baker wants you to believe that the National Trail Office believes that there's a tower there. But, Your Honor, if you look at what was said, and this is in volume five of the record proper, at page 432.

The Court: Let me get volume five open here. Volume five. 432. What page am I on right now? It's not working. Oh, I got to…

Mr. Burris: Technology's crazy when it works, and…

The Court: Volume five?

Mr. Burris: Yes, Your Honor.

The Court: 432?

Mr. Burris: Yes, Your Honor.

The Court: One second here, we got a problem. I'm on the wrong five. They give me a volume five reduced, for some reason. Bear with me. Okay, now I'm on the right volume five. We got two volume fives.

Mr. Burris: So. Sure, Your Honor. Are you, are you at the right page?

The Court: I'm getting there. Let's see here. I'm on…

Mr. Burris: Okay.

The Court: One second, 427. 432. You got it right here, it's a Jared Jordan e-mail.

Mr. Burris: Yeah. And what Ms. Baker said was that the reason the National Trail Office approved this is because they thought that the tower was there. But that's not what this says. You know, I'll read from it. "It appears that a 100-foot tower was present at this location in the past, although it was unregistered and may not remain present currently. For that reason and other existing conditions, in this context of the

proposed tower, the National Trails Office does not anticipate adverse effect of this undertaking to the Old Spanish National Historic Trail or to its associated resources." It's simply not what it was represented to you to be. There has been discussion with the National Trail Office. They understand the circumstances, and there is a specific finding…

The Court: Mr. Burris.

Mr. Burris: Specific evidence. Yes?

The Court: Is, was there any other evidence from The National Park Service, or the National Trails Office, other than this e-mail?

Mr. Burris: There was not, Your Honor.

The Court: Okay.

Mr. Burris: But that, I mean, that's what the requirement is, it's to show the communications with the applicable federal agencies to determine whether the proposed development would have an adverse effect. And that's exactly what is, what we have here, in terms of the National Trail Office making a determination that there would be no effect. And so, Your Honor, we believe, again, substantial evidence supports the claim, we don't think that there's any reason to believe that this was arbitrary and capricious, looking at the entirety of their circumstances. And that just kind of brings us, generally, to what's being asked here. Your, the Court's sole inquiry with regard to all of these issues is whether the decision to affirm the special use permit could be reached based on the evidence before the Board of Commissioners. The record on appeal contains substantial evidence supporting that evidence shows that these decisions were not arbitrary and capricious, but rather it shows that Mr. Thomas and the other appellants simply disagree with the decision. But there are absolute reasons for each of these not to be arbitrary and capricious, and indeed to be supported by substantial evidence. Your Honor, we don't believe that there's any basis for the Board of Commissioners' decision to be disturbed. And we respectfully request that the Court affirm the decision upholding special use permit 2413.

The Court: Thank you, Mr. Burris. Mr. Trujillo, anything further from you, Sir? On behalf of the county?

Mr. Trujillo: No, Your Honor.

The Court: Thank you. Ms. Baker, you may do a reply.

Ms. Baker: Okay. Thank you, Your Honor. I'd like to start out with where we left off, which has to do with LUR section 4.4.2(F).

The Court: One second, let me go back over there. 4.4.2(F)?

Ms. Baker: An (N), which require the county to notify various agencies who have jurisdiction over the site. Here, we're dealing with the Spanish Trail. The letter that the Court was reading is based on a false presumption, which raises some big concerns. There was also reference to NEPA. NEPA is the National Environmental Protection Act. It has nothing to do directly with the Spanish Trail. It looks more at endangered species, different kinds of resources related to EPA, certainly doesn't deal with surrounding neighborhoods, some of the more specific LUR provisions. There were statements made that NEPA okayed this, and therefore it's fine. NEPA is a small, narrow thing that has to do with an EIS or an EIA, environmental impacts to study, that directly deals with the federal laws around where EPA's governing resources, looking at environmental impact related to endangered species. It doesn't have anything to do with this argument. So, again, we have to look at the specific LUR sections. There had to be notice to the Park Service. We have a letter. The only evidence that says maybe this is okay next to the Spanish Trail, based on a false presumption that there was a prior use there. That's a blatant error and at a minimum it should be remanded back on that basis so that the proper evidence is presented to the board.

Next, I'd like to address some of Patrick Trujillo's statements about our lack of arguing the ROD or substantial evidence. He almost implied we waived it. I'll just direct the Court to our opening brief, page five. We cite the ROD. We say there's not substantial evidence. We've done our job. And then we go into all the sections in the LUR, and statewide, the substantial evidence standard isn't met, and why the decisions become arbitrary and capricious. Because again, there's no rational basis for them. They're not based on the strict language of the LUR as it's written. Going to the height limitation, I'll concede 4.11.1.(A) is the governing section, but it doesn't just say, say there's no height requirement. The second class of that provision says that this tower has to comply with the use and compatibility standards in 4.6.1(A) and (B). That loops us back into visual compatibility and use compatibility. Looking at visual compatibility, and I think the Court asked questions very well, it just doesn't match. There's no way that this meets the design, scale, density, bulk, building height, historical character, and, not or, as the applicant argued, and orientation of the existing properties in the neighborhood. And if…

The Court: Bear with me, Ms. Baker. We're on 4.6.1(B)? (A) and (B)?

Ms. Baker: Yeah, I'm looking at (A) and (B). Thank you.

The Court: 4.6.1. Give me, I've only got one. I should have opened more than one land use reg on my computer, instead of just having the one open. Let me scroll down. 4.6.1. Bounce around. Because I don't have them memorized.

Ms. Baker: And the, that's visual impact. And again, I'm looping this back into 4.11.1(A)(8), regarding height. The applicant just made statements that there are no height limitations. Well, it says that there is no height limitation but the general county limit of 27 feet shall not apply, but then the next sentence says, "height shall be

determined by technical requirement and applicable compatibility and performance standards." Those compatibility and performance standards are those standards defined in 4.6.1(A) and 4.6.1(B) that apply to all SUPs. So, any special use permit has to meet these standards, and we can't read that height limitation in isolation and say there's no height limitation. That's not what it says. It says you're going to look at this more subjectively based upon a compatibility standards, like we do all SUPs, and if the height is appropriate for the neighborhood, if it's architecturally designed to meet the values of the neighborhood, if it honors its historical character, if it's oriented to the existing landscape, yeah, then we'll allow it. But in this situation, there's been a blatant violation. This tower is too close. It's a, it's in a high-desert landscape. It stands out above everything else. The applicant claims that our last slide was an exaggeration. That last slide was part of their application. My clients just texted me that was part of their application. That's where they pulled it from. And I can get the Court the record side of that. Moment. Or maybe Ben, you know what the record side of that is.

Mr. Thomas: Yeah, I'm sorry about that. We actually had it on the screen just moments ago.

The Court:: I think it's on the slide.

Mr. Thomas: Well, no. I'm, I'm sorry, Your Honor. I'm referencing the, the ROA and the applicants, the actual application. We photoshopped their photo and incorporated it into our presentation. And they actually just referenced that same photo moments ago. And I'll get the ROA for you.

The Court: Give me…

Ms. Baker: And is doing…

The Court: Give me one second.

Ms. Baker: Okay.

The Court: Apologies to you all. I'm having an operator error. I'm going where, to the record? Which one?

Mr. Thomas: It's our, excuse me, volume one, ROA 23, two three.

The Court: We have the one. Well, I'm on ROA, which are we on here? Oh, I turned everything sideways to watch the, to look at it and see here. Yeah, I got the picture in front of me here. It's got a diagram of a tree. It's got a fence below it. It's got a…

Mr. Thomas: Yes.

The Court: Yeah, I got that. What I mean right here. From Com-Ex Consultants, BTS Towers LLC?

Mr. Thomas: Correct. That is the photo that we used in our presentation earlier today.

The Court: And this is on page 23, you said? So to make sure I'm on, so I'm looking at a photograph. I'm looking at a diagram, but looks like the diagram was photo, photo-sized, or whatever you want to call it, and placed on your pictures. Is that right?

Mr. Thomas: Yeah, we took a snapshot of that, of that diagram and incorporated it into an actual photo.

The Court: Okay. Ms., Ms. Baker, go ahead.

Ms. Baker: Your Honor, as for community benefit, and that's what the applicant is hanging its hat on, under 4.6.1(A) and (B), I mean, our argument is it's much broader than community benefit. We need cell phone service. But there was significant testimony during the BCC hearing, and I'll reference page five of our opening briefs.

The Court: You can get the page five? I'm on page five, go ahead. Where, where at on page five?

Ms. Baker: The first full paragraph. Jamison…

The Court: _____.

Ms. Baker: Jamison, yes. Jamison Wells, who has lived in Taos since 1979 and has worked for Taos Search and Rescue, stated that she gets adequate emergency coverage in the area with current infrastructure. It looks like it's not needed. Again, we have Richard McCracken, who also works for Taos Search and Rescue, state that the phone and emergency service this coverage in the area is just fine, without the new tower. And I've given cites to those. So, again, to say that all of the Search and Rescue folks supported this tower would be inaccurate. And in fact, Chief, Chief Cordova stated some of what the applicant portrayed. But he also stated, and this is at ROA, well, I'll, I'll give the Court the audio. I apologize, I don't think I have the actual ROA cite, but it's in part one at 2:44:38 to 2:46. That's two hours and 44 minutes into the hearing.

The Court: What was said? Because I'm not going to freaking listen to it right now.

Ms. Baker: No, that's all right. But what he said is that the testimony reflects a neutral position and a call for compromise on location and design. So he didn't just support this tower: he expressed concern in his statements at that site about where the tower should be located. And acknowledging that maybe this location and design is inappropriate for the neighborhood.

The Court: Okay. Anything else, Ms. Baker?

Ms. Baker: Yes, on the fall line. I direct the Court to page two of the Pinnacle Letter. Believe that…

The Court: Awesome. Where am I at, on?

Ms. Baker: Oh, that's ROA 529.

The Court: Which volume?

Ms. Baker: Volume one.

The Court: Volume one. Page what?

Ms. Baker: 529. It's the second letter and hearing letter…

The Court: I don't have, I don't have a page 529 on volume one.

Ms. Baker: I guess, yeah, it would be that record page 529. It's the letter that the Court was just looking at. The applicant was discussing, discussing their engineer's opinion.

The Court: Okay, go ahead.

Ms. Baker: Opinion, and I'll read from page two: "Please note our approach to the fall zone request is not codified in the reference above, nor is the phrase 'fall zone' itself a codified term. While we believe that our approach is a rational attempt to address this request, building codes do not address failure mechanics, and it is difficult to predict the behavior of falling structures." This sums it all up. That tower is 95 feet tall. If it falls on the 85-foot setback, it's an adjacent property. There's all kinds of harm that could occur. My client's home is 693 feet away. My client, Ben Thomas. My client _____'s home is 800 feet away.

The Court: It's how far away?

Ms. Baker: Several residents within 1,000 feet, the closest one is 327 feet away.

The Court: Okay.

Ms. Baker: The risk and danger of that tower falling beyond that 85 feet; the potential for fire in this dry kind of season; our normally dry climate; the type of brush, that's really dried out in these times. It's just too dangerous. There's no community benefit. How is that even possible with this kind of risk? And I asked the Court to look at page 12 of our brief, regarding the loss in property values. I acknowledge that a takings argument needs to be brought in a separate section 1983 case, but I, we also asked the Court to look at the property value loss. And because Taos County is working so closely with this applicant, it appears to be an inverse condemnation. Inverse condemnation occurs by government action. And there's such a close relationship, as we've even seen in this oral argument, between the two parties that I think anything created by BTS can be imputed to the government, House, County, _____. The property value loss is 1.8 million, and that testimony was given by a real estate broker who submitted a letter. And again, that's referenced on page 12 of the brief.

The Court: Thank you, Ms. Baker. Anything else?

Ms. Baker: Your Honor, that's it. We thank you for your time.

The Court: Oh, okay.

Ms. Baker: Our session again. Oh, and, I'm sorry, Your Honor, I'd like to address one more issue. We didn't go into church purposes at all in our brief. It's sort of a, a irrelevant statement, but the only thing we said is the man who gave, donated the property to the church, Eli Romero, stated he wanted it, it to be for church purposes. That was in the testimony, but we didn't get into the specifics of that argument. Our focus is on the violation of the LUR as we've described it, and the lack of substantial evidence supporting that any of those LUR provisions have been met, even reasonably met.

The Court: Okay.

Ms. Baker: And we ask that this application be overturned or at a minimum, remanded back, which…

The Court: All right. Question for Counsel, just want to clarify. You raised some concerns, Ms. Baker, regarding the Old Spanish Trail and you had the e-mail from Jordan Jarrett. What is the requirement, the legal requirement regarding the Old Spanish Trail? What is the legal authority supporting the argument that the, that has to be approved by the Park Service?

Ms. Baker: It doesn't have to be approved, it has to be, it has to be considered. And in considering the letter from the Park Service, the Park Service was operating on a false presumption…

The Court: Thank you.

Ms. Baker: That there already had been a 100-foot tower there. It's right there, in their e-mail.

The Court: Okay, here's my decision everybody, bear with me. I got a bunch of notes here. I find the setback is sufficient. Well, I don't see spot zoning. I see a different relief for inverse condemnation. I don't see a problem with the Opening Meetings Act. I do have one problem, and I'm going to remand. Let me pull this up here. I'm looking at the land use regulation 4.6.1(B), visual impact. For the applicant shall be able to demonstrate that the alternative being proposed is suitable to the land and neighborhood and is in the character, I find that decision to be arbitrary. I have a planner saying they're putting some stuff on it, uh, making it look like a pine tree. A 95-foot pine tree is sufficient, but that's just the, the planner. Otherwise, there's considerable evidence to the contrary. But as suitable to the land in the neighborhood character, I find that the decision to be arbitrary and capricious based just upon the evidence of the, the planner, the development shall be sensitive to, and this is a "shall," be sensitive to and consistent with the architectural design, scale—scale being a major factor here; building height—not a building height, but the building heights in the neighborhood are considerably smaller than that; or the applicant shall be able to demonstrate that the alternative being proposed is suitable.

Could the land in the neighborhood character, and I don't think they're of the opinion of one planner, is sufficient, it's, it's arbitrary, it's just one person's opinion, seeking to see a tower or agreeing that a tower should be built. I'll grant you the relief, Ms. Baker, for remand as to the visual impact. I'm also going to grant relief regarding the National Park Service letter, as it does operate under a false premise. And the letter, let me grab that here in front of me, and it, it is arbitrary in that fact that it doesn't give the other existing conditions, doesn't explain what those conditions were. But if they're operating under the premise that there used to be a tower there and there wasn't, then the approval by the National Park Service along the Old Historic Trail was based upon a false premise, and that would rise to being capricious. So, with those two issues, prepare me an order, Ms. Baker, and the commission can take another look at this.

Ms. Baker: Thank you, Your Honor. We appreciate your time.

The Court: Now, Mr. Trujillo, if there's other evidence presented that the tower, bear with me, I've got so many papers in front of me here now, one moment, is suitable for the land and neighborhood character, but we have a planner, I have no indication the planner lives in the neighborhood, is familiar with the neighborhood, knows the people in the neighborhood and knows the character of the people in the, in the community, in the neighborhood. Just that a planner came out and said, yeah, a 95-foot tree is suitable. I find that to be somewhat arbitrary. So, I have sufficient, so Ms. Baker prepare an order and then let the Commission look at this again, and we may come back. By the way, Mr. Trujillo or Mr. Burris, I do find that National Park Service letter to be highly problematic if he's working under a false premise that there used to be a tower there and if the letter doesn't contain the other factors that were considered. And so to, to, to agree with that letter without knowing what the factors were, and under the misrep-, under the misunderstanding there used to be a tower there of 100 feet in height, that is, in my mind, capricious. With that being said, Mr. Baker, Mr. Trujillo, you want to say something. Go ahead, make a record.

Mr. Trujillo: Oh, just, Your Honor, just a clarification for Ms. Baker. My role is representing the Commission, to defend the decision, whatever that decision is, there's-

The Court: Understand.

Mr. Trujillo: There's, there's no, there's no dog in the fight. The second thing is-

Ms. Baker: Your Honor, I understand. _____ government lawyers, I understand well. Thank you.

Mr. Trujillo: Yeah, the, the second thing is that if this goes back, and it goes the other way and it's denied and it's appealed, Ms. Baker and I will be on the same side and then she'll get the same courtesy.

The Court: Okay. We'll wait and see, but again the letter for me is problematic with the false premise, and it doesn't outline what the other factors were. And yet that letter was relied upon as sufficient grounds without giving the Commission anything. It

doesn't say anything except the misunderstanding of the facts and then an assertion that certain factors were considered without identifying what those factors were. So to rely on that letter is capricious, and the decision of the one planner regarding the design, scale, density, building height is suitable to the land in the neighborhood character, you're going to need, you're going to need something else, because I think that is very arbitrary. So, and I'm not supposed to reweigh the evidence, but I was supposed to weigh the evidence and see if it was sufficient. It's, it's, it's a strange position to put me in to determine if the evidence or the decision was arbitrary, capricious. To do so, I had to look at the evidence and decide was that decision arbitrary, capricious, based upon the evidence received? So, that's the finding of the Court. And Ms. Baker did an order, Mr. Trujillo, I'll let you and the Commission to deal with this. Mr. Burris, Mr. Francis, you guys can go meet with the commissioners in a meeting and address those two points about the neighborhood and that's about all I have to say on the record. Anything else from anybody?

Mr. Trujillo: Nothing, Your Honor.

Ms. Baker: No, Your Honor, thank you.

Mr. Burris: Nothing, Your Honor, thank you.

The Court: All right, now that we're off the record, quick question. Was the alternative of two towers ever considered? Two shorter towers spread out? Just out of curiosity.

Mr. Francis: There were multiple alternatives analyzed as the record shows, Judge, but to accomplish the coverage that Verizon required and the ability to bring in additional _____ so there wouldn't be a proliferation of towers _____ sat with the 95 foot.

The Court: Right.

Mr. Francis: Whenever you get a chance, it's a great PowerPoint presentation that Steve Kennedy prepared. It lays all of that out in detail.

The Court: Okay. Well, I'll let you all go back to the commission. Ms. Baker, I'll let you prepare the order, okay?

Ms. Baker: Yes. Thank you. Okay.

The Court: Thank you all. Have a lovely day. Enjoy your summer, and because they don't last long enough, in my opinion, you're all free to go. Take care.

Ms. Baker: Okay, bye.

Taos County Planning Department Submission

Note:

In the interest of efficiency and economy, attachments included in the original submission under this section are not duplicated throughout this NEPA Summary. The following attachment(s), found at the conclusion of this report, were included in the original submission:

- **Proposed Project Summary**
- **Attachment 1 - Maps**
- **Attachment 2 - Photographs**

September 27, 2023

Taos County Planning Department
Attn: Andy Jones -Senior Planner
105 Albright Street Suite H
Taos, New Mexico 87571
Submitted via email: andy.jones@taoscountynm.gov

RE: Proposed Telecommunications Tower Undertaking "Arco Torcido" in Taos County, New Mexico; VB BTS II, LLC

To Whom It May Concern:

VB BTS II, LLC (VB BTS II), is proposing to construct a tower installation near 157 Old Highway 3, Arroyo Hondo, Taos County, New Mexico 87513. Lotis Environmental, LLC (Lotis), is preparing an environmental and cultural resource review on behalf of VB BTS II as part of its permit process and regulatory review by the Federal Communications Commission (FCC). Please consider this correspondence as an invitation to the Taos County Planning Department to comment on the possible effects the proposed undertaking may have on sites or structures of historic significance within the general vicinity.

Attached, please find information pertaining to the proposed undertaking. This information includes a project summary, an aerial photograph, a topographic map, and photographs of the proposed undertaking's site and adjacent properties. As part of our research, Lotis is consulting with the New Mexico Historic Preservation Division, and will forward any concerns of the Taos County Planning Department regarding historic properties to the New Mexico Historic Preservation Division.

Lotis respectfully requests that you provide comment within 30 days regarding the possible effects of this undertaking on historic properties. If a response is not received within 30 days, Lotis will assume you have no interest/concern with the proposed undertaking. Should you require additional information, please do not hesitate to contact me at (716) 580-7000. Thank you for your time and consideration in this regard.

Sincerely,

Lotis Environmental, LLC

DeAnna Anglin

DeAnna Anglin
Nationwide NEPA/NHPA Manager
Legals@TheLotisGroup.com

Enclosures

Proof of Taos County Planning Department Submission

Jennifer Andres

From: NEPA NHPA
Sent: Thursday, September 28, 2023 8:58 PM
To: 'andy.jones@taoscountynm.gov'
Subject: MUNI Opportunity to comment on proposed telecommunication project LOTIS# VBBTS_264– "Arco Torcido" US-NM-7008
Attachments: Arco Torcido US-NM-7008.kmz; MUNI SUBs Arco Torcido.pdf

Importance: High

To Whom It May Concern,

Lotis is completing Section 106 NEPA compliance due diligence regarding the above proposed telecommunication project known as "**Arco Torcido**". Part of this due diligence includes giving the local government/jurisdiction the opportunity to comment on whether or not the proposed telecommunications project will have an effect on historic properties. I have attached the project summary, site maps, KMZ file (for Google Earth aerial view) and site photos of the proposed Subject Property in question. The Section 106 consultation process allows you 30 days to respond.

Should you not respond within 30 days we will assume you have no concern or comment regarding the proposed undertaking. However, should you not want to comment we ask that you state so in a response to aid us in our timeline for this project. Should you have an additional request for information, please feel free to contact me phone or by responding all to this email. We will do our best to supplement you with any additional documentation or information regarding the proposed undertaking.

Warmly,

DeAnna Anglin
Senior Biologist/NEPA Specialist

8899 Main Street – Suite 107
Williamsville, NY 14221
www.thelotisgroup.com

Phone: 716.580.7000
Mobile: 417.840.5008
Anglin@thelotisgroup.com

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Taos County Planning Department's Response

DeAnna Anglin

From: Andy Jones <andy.jones@taoscountynm.gov>
Sent: Tuesday, October 3, 2023 12:32 PM
To: NEPA NHPA
Cc: Rudy D. Perea; Polina Fateeva
Subject: Re: MUNI Opportunity to comment on proposed telecommunication project LOTIS# VBBTS_264– "Arco Torcido" US-NM-7008

Hello, thank you for providing this opportunity for the Taos County Planning Department to review the proposed telecommunications site and comment in regard to the potential effect on historic properties. The Taos County Planning Department will defer such matters to the New Mexico State Historic Preservation Office.
In regard to the overall scope of the project, let it be known that the proposed use will require a Special Use Zoning Clearance Application in order to be approved within Taos County, pursuant to the Taos County Land Use Regulations.
The first step would be for your client to schedule a pre-application conference to review the proposed project and discuss the application and approval process.
Thank you,
Andy Jones

Andy G. Jones
Senior Planner
Taos County Planning Department
575-737-6443

From: NEPA NHPA <NEPA.NHPA@thelotisgroup.com>
Sent: Thursday, September 28, 2023 6:57 PM
To: Andy Jones <andy.jones@taoscountynm.gov>
Subject: MUNI Opportunity to comment on proposed telecommunication project LOTIS# VBBTS_264– "Arco Torcido" US-NM-7008

To Whom It May Concern,

Lotis is completing Section 106 NEPA compliance due diligence regarding the above proposed telecommunication project known as "**Arco Torcido**". Part of this due diligence includes giving the local government/jurisdiction the opportunity to comment on whether or not the proposed telecommunications project will have an effect on historic properties. I have attached the project summary, site maps, KMZ file (for Google Earth aerial view) and site photos of the proposed Subject Property in question. The Section 106 consultation process allows you 30 days to respond.

Should you not respond within 30 days we will assume you have no concern or comment regarding the proposed undertaking. However, should you not want to comment we ask that you state so in a response to aid us in our timeline for this project. Should you have an additional request for information, please feel free to contact me phone or by responding all to this email. We will do our best to supplement you with any additional documentation or information regarding the proposed undertaking.

Warmly,

DeAnna Anglin
Senior Biologist/NEPA Specialist

8899 Main Street – Suite 107
Williamsville, NY 14221
www.thelotisgroup.com

Phone: 716.580.7000
Mobile: 417.840.5008
Anglin@thelotisgroup.com

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AFFP
LEGAL 18602_ACRO TORCIDO INSTA

Affidavit of Publication

STATE OF NM }
COUNTY OF TAOS } SS

Sean Linton, being duly sworn, says:

That he is Legal Advertising Representative of the The Taos News, a weekly newspaper of general circulation, printed and published in Colfax County, Rio Arriba County, Taos County, NM; that the publication, a copy of which is attached hereto, was published in the said newspaper on the following dates:

September 21, 2023

STATE OF NEW MEXICO
NOTARY PUBLIC
MARY CHAVEZ
Commission # 1072021
My Comm. Exp. Apr. 3, 2025

That said newspaper was regularly issued and circulated on those dates.
SIGNED:

Subscribed to and sworn to me this 21st day of September 2023.

Mary Chavez, Notary Public, Taos County, NM

My commission expires: April 03, 2025

00011974 00057437

STEPHANIE SPERRAZZA
LOTIS ENVIRONMENTAL
8899 Main Street – Suite 107
WILLIAMSVILLE, NY 14221

LEGAL NO. 18,602.
PUBLIC NOTICE
VB BTS II, LLC would like to place on notice the proposed construction of an installation consisting of a 105' (110' including all appurtenances) monopole tower known as Arco Torcido located at 36°32'45.199" north latitude and 105°40'16.361" west longitude near 157 Old Highway 3, Arroyo Hondo, Taos County, New Mexico 87513. If you have any concerns regarding historic properties that may be affected by this proposed undertaking, please contact: DeAnna Anglin, Lotis Environmental, LLC, at
Legals@TheLotis
Group.com or (314) 913-0505. In your response, please include the proposed undertaking's location and a list of the historic resources that you believe to be affected along with their respective addresses or approximate locations.
(LEGAL NO. 18,602; PUB. SEPT. 21, 2023)

Rudy D. Perea, Chief Planner
105 Albright St. Suite H
Taos, New Mexico 87571
Ph: (575) 737-6453
Fax: (575) 737-6449

Taos County Planning Department

MEMORANDUM

Date: July 10th, 2025

To: Taos County Planning Commission

CC: Brent Jaramillo, County Manager

Patrick Trujillo County Attorney

From: Rudy D. Perea, Chief Planner

Re: Review of Special Use Permit SPUSE-24-000013

Romano and Associates, LLC "Agent" representing BTS Towers, LLC "Applicant" and Grace Community Church "Property Owner" is requesting a special use permit (SUP-24-000013) to construct and operate a ninety five foot (95') tall concealed cellular tower. The concealed cellular tower is proposed to be placed on a 2.571+- acre property located at 159 Old Highway 3 in Arroyo Hondo, Taos County, New Mexico. As outlined in this report, the Applicant has provided the required materials necessary for the application to be deemed complete, including proper notice (**note:** please refer to Tab #4 in the packet submitted by Staff). As of July 3rd, 2025 staff has received verbal, written, and electronic correspondence from property owners within the one thousand foot (1000') public hearing notification area which either are in opposition to or in support of the proposed Special Use Permit (**note:** please refer to Tab #5 in the packet submitted by Staff). What follows is staff's analysis of the Applicant and Property Owner's request:

Special Use Permit Request

Section 4.6.1 Development Compatibility Standards

Section 4.6.1 subsection (A)[Use]*: "The development shall be sensitive to and consistent with the existing traditional and historic uses in the neighborhood, or the applicant shall be able to demonstrate that the development would provided a substantial benefit to, or support to, or would not have a substantial impact on the immediate neighborhood"*

Staff's analysis of the documentation submitted by the Applicant and the Property Owner has determined that the proposed special use permit meets the criteria of this section due to the fact that it will provide a substantial public health, safety, and welfare benefit to Arroyo Hondo by providing cellular services for members of this community and for E911 Emergency Services in the event that there are medical or law enforcement emergencies.

Section 4.6.1 subsection (B)[Visual Impact]: *"The development shall be sensitive to and consistent with the architectural design, scale, density, bulk, building height, historical character, and orientation of the existing properties in the neighborhood, or the applicant shall be able to demonstrate that the alternative being proposed is suitable to the land and the neighborhood character"*

Staff has determined that the Applicant meets the criteria of this section by proposing to disguise the cell tower. The Applicant's proposed camouflage of the cell tower to look like a pine tree blends in more with the neighborhood character than an undisguised version would (**note:** please refer to Tab #3 Sheet C-4 in the packet submitted by the Applicant).

Section 4.7.1 Administrative, Special Use and Major Development Performance Standards

Section 4.7.1 subsection (A) [Roads]: The Applicant complies with this criteria with the submission of a review letter from the Taos County Public Works Department. This department determined that the driveway from the subject property onto County Road B-003 (i.e. Old State Road 3) is an existing access and therefore did not need to obtain an access permit (**note:** please refer to Tab #9 on the packet submitted by the Applicant).

Section 4.7.1 (B) [Utilities]: The Applicant has addressed this criteria based on a will serve letter from Kit Carson Electric Cooperative that was submitted as part of the special use permit application (**note:** please refer to Tab #9 on the packet submitted by the Applicant).

Section 4.7.1 (C) [Water Supply and Quality]: The criteria of this section does not apply to the Applicant's requested special use due to the fact that no water will be utilized as part of the operation of the proposed commercial communications tower.

Section 4.7.1 (D) [Liquid Waste Disposal]: The criteria of this section does not apply to the Applicant's requested special use permit due to the fact that no liquid waste will be generated as part of the operation of the proposed commercial communications tower.

Section 4.7.1 (E) [Legal Access]: The Applicant complies with this criteria with the submission of a review letter from the Taos County Public Works Department. This department determined that the driveway from the subject property onto County Road B-003 (i.e. Old State Road 3) is an existing access and therefore did not need to obtain an access permit (**note:** please refer to Tab #9 on the packet submitted by the Applicant).

Section 4.7.1 (F) [Storm Water Control]: A staff analysis of the drainage plans that were submitted as part of the application packet has determined that this criteria has been met due to the fact that proposed Storm Water Control Plan had been prepared by an engineer licensed by the State of New Mexico (**note:** please refer to Tab #4 in the packet submitted by the Applicant).

Section 4.7.1 (G) [Fire Prevention Plan]: The Applicant complies with the criteria of this section based on the following items (**note:** please refer to Tab #9 in the packet submitted by the Applicant):

1) As part of the special use permit application from the Taos County Fire Marshal has reviewed and approved the Applicant's fire prevention documentation.

2) The proposed Fire Prevention Plan for the requested special use permit was prepared by a design professional and has been reviewed and approved by the Taos County Fire Marshal.

Section 4.7.1 (H) [Environmental Impact Study]: The Applicant complies with the criteria of this section with the submission of an environmental impact study which was prepared as part of meeting the requirements of the NEPA (National Environmental Policy Act) as mandated by the FCC (Federal Communications Commission) (**note:** please refer to Tab #11 in the packet submitted by the Applicant).

Section 4.7.1 (I) [Geologically Unstable Areas]: A staff analysis of the Applicant's documentation that was prepared by a State of New Mexico licensed civil engineer which certifies that the subject property is geologically stable has determined that this criteria has been met (**note:** please refer to Tab #5 in the packet submitted by the Applicant).

Section 4.7.1 (J) [Wildlife Areas]: The Applicant as part of the required NEPA report has received approval from the United States Fish and Wildlife Service which has determined that the subject property is not located in a Wildlife Area and the proposed commercial communications tower will not have a detrimental impact on existing wildlife (**note:** please refer to Tab #11 in the packet submitted by the Applicant).

Section 4.7.1 (K) [Agricultural Areas]: Staff has made the determination that this requirement does not apply to the Applicant due to the fact that the subject property has been used historically for religious purposes.

Section 4.7.1 (L) [Site Improvements]: The Applicant has complied with the requirements of this criteria by submitting a site plan for the proposed commercial communications tower site on the subject property (note: please refer to Tab #3 sheet C-1 in the packet submitted by the Applicant.

Section 4.7.1 (M)[Exterior Lighting]: Staff has determined that the Applicant meets this criteria due to the fact that the proposed commercial communications tower will not exceed two hundred feet (200') in height. Due to this fact the Federal Aviation Administration (FAA) will not require that exterior lighting be placed on this tower. However as a condition of approval of the requested special use permit should the applicant propose any other type of lighting for either security or maintenance purposes they will need to submit technical documentation to the Taos County Planning Department for a review to make sure it complies with all applicable regulations outlined in the Taos County Darks Skies Ordinance.

Section 4.7.1 (N)[Maximum Height]: The criteria of this section restricts towers to a maximum height of 27 feet. This criteria is superseded by the criteria of section 4.11 subsection (A)(8) of the Taos County Land Use Regulations which no longer restricts the height of cell towers.

Section 4.7.1 (O) [Grade]: Based on the documentation submitted by the Applicant the road that will be used to access the proposed commercial communications tower on the subject property will be at less than a 12% grade as mandated by this criteria.

Section 4.7.1 (P) [Acequias]: A Staff analysis of the technical documentation submitted by the Applicant's Agent has determined that there are no acequias on the subject property that will host the proposed commercial communications tower. Therefore Staff has made the determination that this criteria does not apply to the Applicant.

Section 4.7.1 (Q) [Wetlands]: The Applicant complies with the criteria of this section by submitting documentation from the Geographic Information Systems (GIS) section of the Taos County Planning Department and their submitted NEPA study which determined that the portion of the subject property where the proposed commercial communications tower will be located is not in a wet lands. (**note:** please refer to Tabs #9 and #11 in the packet submitted by the Applicant).

Section 4.7.1 (R) [Americans With Disabilities Act (ADA)]: Staff has determined that the Applicant does not need to meet this criteria based on the fact that there will be no members of the general public going to the proposed communication tower site. The only access will be for maintenance personnel to maintain the communications tower.

Section 4.7.1 (S) [Landscaping]: Due to the fact that the Applicant's proposed communications tower design is going to be disguised as a pine tree and the supporting equipment compound area will not be visible to the general public Staff has made the determination that this criteria does not apply to the applicant.

Section 4.7.1 (T) Street and Parking Design : The Applicant complies with the portion of this criteria by addressing the following items:

1) The existing road way that will access the proposed commercia communications tower was reviewed and approved by the Taos County Fire Marshal.

2) A parking area for personnel who will be maintaining the proposed communications tower has been designated at the proposed tower site.

Section 4.7.1 (U) Solid Waste Disposal: The Applicant will not be required to provide solid waste containers on the subject property should the special use permit request be approved due to the fact that the only activities that will be taking place related to this permit will be for maintenance. However, as a condition of approval of the Applicant's request, Staff will require that a debris management plan which addresses how construction debris will be disposed of during the course of building the proposed commercial communications tower be included as part of building permit application that is submitted to the Taos County Building Department.

Section 4.7.1 (V) Flood Plain and Elevation Certificate: The Applicant complies with the criteria of this section by submitting documentation from the Geographic Information Systems (GIS) division of the Taos County Planning Department which has classified the portion of the subject property that will host the proposed communications tower as not being located in a high risk area for flooding as this is referenced in Taos County's Official Flood Insurance Rate Map (FIRM) (**note:** please refer to Tab #9 in the packet submitted by the Applicant).

Section 4.7.1 (W) Wildland Urban Interface (WUI) Impact Areas: Taos County's official Community Wildfire Protection Plan (CWPP) list has designated the subject property as being in a medium risk area for fire. Therefore no review of the subject property is required by the Taos County's Wildland Urban Interface (WUI) Coordinator.

Section 4.7.1 (X) Loading: The criteria of this section does not apply to the Applicant due to the nature of the special use permit request which will not involve the loading or unloading of merchandise.

Section 4.7.1 (Y) [Slope]: The Applicant complies with the criteria of this section due to the fact that the proposed commercial communications tower will be built on a portion of the subject property that does not exceed 20% in slope.

Section 4.7.1 (Z) Archaeological Sites: The Applicant has complied with the criteria of this section by following the requirements of Section 106 of the National Historic Preservation Act. As part of complying with these requirements the State of New Mexico Historic Preservation Office (SHPO) was contacted. This state agency made the determination that the communications facility will not negatively impact any historic properties. As a condition of approval of the requested special use permit, should any cultural or archaeological artifacts be unearthed during the construction of the proposed communications facility, construction shall cease and the State of New Mexico Historic Preservation Office shall be contacted.

Section 4.11 Wireless Communications Facility Application and Performance Standards

Section 4.11.1 subsection (A)(1)[Setbacks]: This criteria requires a minimum of an 85 foot setback from all property lines or a distance equal to at least 110% of the potential fall radius, which ever is greater, as certified by a New Mexico licensed engineer (**note:** please refer to Tab #12 in the packet submitted by the applicant). A Staff analysis of the site plan prepared for the proposed commercial communications tower has determined that they meet the criteria of this section with a proposed fall back radius of fifty feet (50') (**note:** please refer to Tab #3 sheet C-1 in the packet submitted by the Applicant).

Section 4.11.1 subsection (A)(2) [Setback Exemption for New Substation Facilities]: Staff has determined that this criteria does not apply to the Applicant due to the fact that the proposed commercial communications tower is not going to be located within a new substation facility.

4.11.1subsection (A)(3)[Lighting and Signage]: A staff analysis of the documentation submitted by the Applicant has determined that this requirement does not apply due to the following:

1) The Applicant is not required by the Federal Aviation Administration to place lighting on the proposed commercial communications tower due to the fact that it is under two hundred feet (200') in height.

2) Should the Applicant request additional signage at a later date, Staff will ensure that Taos County's Sign Code Ordinance will be complied with.

As a condition of approval of the requested special use permit should the applicant propose any other type of lighting for either security or maintenance purposes they will need to submit technical documentation to the Taos County Planning Department for a review to make sure it complies with all applicable regulations outlined in the Taos County Darks Skies Ordinance.

4.11.1 subsection (A)(4)[Telecommunications Equipment Building or Cabinet]: A staff analysis of the Applicant's technical documentation for the proposed commercial communications tower has determined that the Applicant meets this criteria (**note:** please refer to Tab #3 Sheet C-2 in the packet submitted by the Applicant).

4.11.1 subsection (A)(5)[Abandonment]: As a condition of approval of the requested special use permit and in order for the Applicant to meet this criteria at the time the Applicant discontinues the use of its proposed commercial communications tower the following section of Taos County's Land Use Regulations shall be implemented: 4.11.1 subsection (A)(5a) "All wireless communications facilities that are not in use for six (6) consecutive month's period commencing after the date of enactment of this ordinance shall be removed by the wireless telecommunications facility owner. This removal shall be completed within three (3) months after the end of such six (6) month period. Upon removal, the site shall be re-vegetated to blend with the existing surrounding vegetation".

4.11.1 subsection (A)(6)[Interference]: The Applicant has complied with the criteria of this section with the submission of a report that has been prepared by a State of New Mexico licensed engineer which certifies that the proposed commercial communications tower will not interfere with commercially operated cell towers that are within a five (5) mile radius of the subject property (**note:** please refer to Tab #5 in the packet submitted by the Applicant).

4.11.1 subsection (A)(7)[Health Issues]: The Applicant has complied with the criteria of this section with the submission of a Radio Frequency – Electromagnetic Energy Report that was stamped by a State of New Mexico licensed Electrical Engineer. This report certifies that the proposed commercial communications tower will be in compliance with all applicable Federal Communications Commission (FCC) standards for cell tower emissions (**note:** please refer to Tab #5 in the packet submitted by the Applicant).

4.11.1 subsection (B)(2)[Tower Locations][Areas Of Existing Commercial Development]: The Applicant has chosen to comply with this criteria based on the proposed location of the proposed commercial communications tower, which is to erect a new commercial cell tower within a residentially developed community.

4.11.1 subsection (C)[Criteria for Concealed Wireless Telecommunications Facilities] subsection (1): The Applicant meets this criteria due to the fact that the proposed communications tower will be disguised as a pine tree.

4.11.1 subsection (D)[Landscaping and Screening]: Staff has made the determination that this criteria has been met by the Applicant due to the proposal to disguise the cell tower as a pine tree.

4.11.1 subsection (E)[Horizontal Separation of Free-Standing Telecommunications Facilities]: Based on Staff's analysis of the documentation submitted by the Applicant this criteria has been met (**note:** please refer to Tab #7 in the packet submitted by the Applicant).

4.11.1 subsection (F)[Color and Camouflage]: Staff has made the determination that this criteria has been met by the Applicant due to the fact that the proposed commercial communications tower will be disguised as a pine tree (**note:** please refer to Tab #3 Sheet C-4 in the packet submitted by the Applicant).

4.11.1 subsection (G) [Access Roads]: The Applicant meets the criteria of this section based on the review that was conducted by the Taos County Fire Marshal on the proposed access road to the communications tower site. The Fire Marshal's review determined that the access road meets fire code standards for emergency access. (**note:** please refer to Tab #9 in the packet submitted by the Applicant):

4.11.1 subsection (H) [Emergency Backup Power]: The Applicant has submitted technical documentation that demonstrates compliance with this criteria (**note:** please refer to Tab #3 sheet C-5 in the packet submitted by the Applicant).

Proposed Findings of Fact

1. The requested special use is to erect an ninety five foot (95') tall communications tower on a property located off of 159 Old State Highway 3 in Arroyo Hondo, Taos County, New Mexico.

2. The Applicant meets the criteria of section 4.6.1 (A)[Use] of the Taos County Land Use Regulations based on Staff's analysis of the documentation submitted by the Applicant which determined that the proposed special use will provide a substantial public health, safety, and welfare benefit to the Arroyo Hondo Community by providing cellular services for members of this community and for E911 Emergency Services in the event that there are medical or law enforcement emergencies.

3. Staff has made the determination that the Applicant meets the criteria of section 4.6.1 (B)[Visual Compatibility] of Taos County Land Use Regulations due to the Applicant's

proposed camouflage of the cell tower to look like a pine tree blends in more with the neighborhood character than an undisguised version would.

4. Staff has determined that the Applicant complies with the criteria of section 4.7.1 subsection (A) [Roads] of Taos County's Land Use Regulations the submission of a review letter from the Taos County Public Works Department. This department determined that the driveway from the subject property onto County Road B-003 (i.e. Old State Road 3) is an existing access and therefore did not need to obtain an access permit.

5. Staff has made the determination that the Applicant has complied with the criteria of section 4.7.1 subsection (B) [Utilities] of Taos County's Land Use Regulations based on a will serve letter from Kit Carson Electric Cooperative that was submitted as part of the special use permit application.

6. Staff has made the determination that the Applicant does not need to comply with the criteria of section 4.7.1 (C) [Water Supply and Quality] of Taos County's Land Use Regulations due to the fact that no water will be utilized as part of the operation of the proposed commercial communications tower.

7. Staff has made the determination that that the Applicant does not need to comply with the criteria of section 4.7.1 (D) [Liquid Waste Disposal] of Taos County Land Use Regulations due to the fact that no liquid waste will be generated as part of the operation of the proposed commercial communications tower.

8. Staff has made the determination that the Applicant complies with this criteria of section 4.7.1 subsection (E) [Legal Access] with the the submission of a review letter from the Taos County Public Works Department. This department determined that the driveway from the subject property onto County Road B-003 (i.e. Old State Road 3) is an existing access and therefore did not need to obtain an access permit.

9. The Applicant has met the criteria of section 4.7.1 (F) [Storm Water Control] of Taos County's Land Use Regulations based on the drainage plans that were submitted as part of the application packet that have been prepared by an engineer licensed by the State of New Mexico.

10. Staff has determined that the Applicant complies with the criteria of Section 4.7.1 (G) [Fire Prevention Plan] of Taos County's Land Use Regulations based on the following items:

    a) As part of the special use permit application from the Taos County Fire Marshal has reviewed and approved the Applicant's fire prevention documentation.

    b) The proposed Fire Prevention Plan for the requested special use permit was prepared by a design professional and has been reviewed and approved by the Taos County Fire Marshal.

11. Staff has determined that the Applicant complies with the criteria of Section 4.7.1 (H) [Environmental Impact Study] of Taos County's Land Use Regulations with the submission of an environmental impact study which was prepared as part of meeting the requirements of the NEPA (National Environmental Policy Act) as mandated by the FCC (Federal Communications Commission).

12. Staff has determined that the Applicant has complied with the criteria of section 4.7.1 (I) [Geologically Unstable Areas] of Taos County's Land Use Regulations based on a staff analysis of the Applicant's documentation that was prepared by a State of New Mexico licensed civil engineer which certifies that the subject property is geologically stable.

13. Staff has determined that the Applicant has met the criteria of section 4.7.1 (J) [Wildlife Areas] of Taos County's Land Use Regulations based on the Applicant's submitted NEPA report which received an approval from the United States Fish and Wildlife Service.

14. Staff has made the determination that the criteria of section 4.7.1 (K) [Agricultural Areas] of Taos County's Land Use Regulations does not apply to the Applicant due to the fact that the subject property has been used historically for religious purposes.

15. Staff has determined that the Applicant has complied with the requirements of Section 4.7.1 (L) [Site Improvements] of Taos County's Land Use Regulations by submitting a site plan for the proposed commercial communications tower site on the subject property.

16. Staff has determined that he Applicant/Property Owner meets the criteria of section 4.7.1 (M) [Exterior Lighting] of Taos County's Land Use Regulations due to the fact that the proposed commercial communications tower will not exceed two hundred feet (200') in height. Due to this fact the Federal Aviation Administration (FAA) will not require that exterior lighting be placed on this tower. However as a condition of approval of the requested special use permit should the applicant propose any other type of lighting for either security or maintenance purposes they will need to submit technical documentation to the Taos County Planning Department for a review to make sure it complies with all applicable regulations outlined in the Taos County Darks Skies Ordinance.

17. Staff has determined that the Applicant does not need to comply with the criteria of section 4.7.1 (N) [Maximum Height] of Taos County's Land Use Regulations because this criteria is superseded by the criteria of section 4.11 subsection (A)(8) of the Taos County Land Use Regulations which no longer restricts the height of cell towers.

18. Staff has determined that the Applicant has complied with the criteria of section 4.7.1 (O) [Grade] of Taos County's Land Use Regulations based on the documentation submitted by the Applicant. The road that will be used to access the proposed commercial communications tower on the subject property will be at less than a 12% grade as mandated by this criteria.

19. A Staff analysis of the technical documentation submitted by the Applicant has determined that there are no acequias on the subject property that will host the proposed commercial communications tower. Therefore Staff has made the determination that the criteria of section 4.7.1 (P) [Acequias] of Taos County's Land Use Regulations does not apply to the Applicant.

20. The Applicant has complied with this criteria of section 4.7.1 (Q) [Wetlands] of Taos County's Land Use Regulations by submitting documentation from the Geographic Information Systems (GIS) section of the Taos County Planning Department and their submitted NEPA study determined that the portion of the subject property where the proposed commercial communications tower will be located is not in a wet lands.

21. Section 4.7.1 (R) [Americans With Disabilities Act (ADA)]: Staff has determined that the Applicant does not need to meet the criteria of section 4.7.1 (R) [Americans With Disabilities Act (ADA)] of Taos County's Land Use Regulations based on the fact that there will be no members of the general public going to the proposed communication tower site. The only access will be for personnel who will be maintaining the proposed commercial communications tower.

22. Staff has made the determination that this criteria of Section 4.7.1 (S) [Landscaping] of Taos County's Land Use Regulations does not apply to the Applicant due to the fact that the Applicant's proposed communications tower design is going to be disguised as a pine tree and the supporting equipment compound area will not be visible to the general public.

23. The Applicant complies with the criteria of section 4.7.1 (T) [Street and Parking Design] of Taos County's Land Use Regulations by addressing the following items:

    a) The existing road way that will access the proposed commercial communications tower was reviewed and approved by the Taos County Fire Marshal.

    b) A parking area for personnel who will be maintaining the proposed communications tower has been designated at the proposed tower site.

24. The Applicant will not be required to provide solid waste containers on the subject property should the special use permit request be approved due to the fact that the only activities that will be taking place related to this permit will be for maintenance. However, in order to comply with the criteria of section 4.7.1 (U) [Solid Waste Disposal] of Taos County's Land Use Regulations the Applicant will be required to submit a debris management plan for the proposed commercial communications tower site. These plans need to address how construction debris will be disposed of during the course of building the proposed commercial communications tower and will need to be included as part of the building permit applications that will be submitted to the Taos County Building Department.

25. The Applicant complies with the criteria of section 4.7.1 (V) [Flood Plain and Elevation Certificate] of Taos County's Land Use Regulations by submitting documentation from the Geographic Information Systems (GIS) division of the Taos County Planning Department which has classified the portion of the subject property that will host the proposed communications tower as not being located in a high risk area for flooding as this is referenced in Taos County's Official Flood Insurance Rate Map (FIRM).

26. The Applicant complies with the criteria of Section 4.7.1 (W) Wildland Urban Interface (WUI) Impact Areas of Taos County's Land Use Regulations due to the fact that the Taos County's official Community Wildfire Protection Plan (CWPP) list has designated the subject property as being in a medium risk area for fire. Therefore no review of the subject property is required by the Taos County's Wildland Urban Interface (WUI) Coordinator.

27. Staff has determined that the Applicant does not need to comply with the criteria of section 4.7.1 (X) [Loading] of Taos County's Land Use Regulations due to the nature of the special use permit request which will not involve the loading or unloading of merchandise.

28. The Applicant complies with the criteria of section 4.7.1 (Y) [Slope] due to the fact that the proposed commercial communications tower will be built on a portion of the subject property that does not exceed 20% in slope.

29. The Applicant has complied with the criteria of section 4.7.1 (Z) [Archaeological Sites] of Taos County's Land Use Regulations by following the requirements of Section 106 of the National Historic Preservation Act. As part of complying with these requirements the State of New Mexico Historic Preservation Office (SHPO) was contacted. This state agency made the determination that the proposed commercial communications tower will not negatively impact any historic properties. As a condition of approval of the requested special use permit should any cultural or archaeological artifacts be unearthed during the construction of the proposed communications tower construction shall be stopped and the State of New Mexico Historic Preservation Office shall be contacted.

30. A Staff analysis of the site plan prepared for the proposed commercial communications tower that was submitted by the Applicant has determined that the criteria of section 4.11.1 subsection (A)(1)[Setbacks] of Taos County's Land Use Regulations has been met.

31. Staff has determined that the criteria of section 4.11.1 subsection (A)(2) [Setback Exemption for New Substation Facilities] of Taos County's Land Use Regulations does not apply to the Applicant due to the fact that the proposed commercial communications tower is not going to be located within a new substation facility.

32. A staff analysis of the documentation submitted by the Applicant has determined that the requirements of 4.11.1subsection (A)(3)[Lighting and Signage] of Taos County's Land Use Regulations does not apply due to the following reasons:

    a) The Applicant is not required by the Federal Aviation Administration to place lighting on the proposed commercial communications tower due to the fact that it is under two hundred feet (200') in height.

    b) The Applicant is proposing to only have information signage within the compound for maintenance personnel which complies with Taos County's current sign code ordinance.

    c) Should the Applicant request additional signage at a later date, Staff will ensure that Taos County's Sign Code Ordinance will be complied with.

    d) Should the Applicant propose exterior lighting at a later date, Staff will ensure that Taos County's Dark Skies Ordinance will be complied with.

33. A staff analysis of the Applicant's technical documentation for the proposed commercial communications tower has determined that the Applicant meets the criteria of section 4.11.1 subsection (A)(4)[Telecommunications Equipment Building or Cabinet] of Taos County's Land Use Regulations.

34. As a condition of approval of the requested special use permit and in order for the Applicant to meet the criteria of section 4.11.1 subsection (A)(5)[Abandonment] of Taos County's Land Use Regulations at the time the Applicant/Property Owner discontinues the use of any or all of the proposed commercial communications towers the following sections of Taos County's Land Use Regulations shall be implemented:

    a) 4.11.1 subsection (A)(5a) which states "All wireless communications facilities that are not in use for six (6) consecutive month's period commencing after the date of enactment of this ordinance shall be removed by the wireless telecommunications facility owner. This removal shall be completed within three (3) months after the end of such six (6) month period. Upon removal, the site shall be re-vegetated to blend with the existing surrounding vegetation".

b) 4.11.1 subsection (A)(5b) which states “The owner of the property shall provide a bond or an irrevocable letter of credit in an amount necessary to secure the cost of removing an antenna, antenna array, or tower that has been abandoned, as determined by the Planning Department, Planning Commission, and/or Board of County Commissioners. Any bond or letter of credit in favor of Taos County shall survive, by its terms, unless replaced by a subsequent owner any transfer of ownership of the property”.

35. The Applicant has complied with the criteria of section 4.11.1 subsection (A)(6)[Interference] of Taos County’s Land Use Regulations with the submission of a report that has been prepared by a State of New Mexico licensed engineer which certifies that the proposed commercial communications tower will not interfere with commercially operated cell towers that are within a five (5) mile radius of the subject property.

36. The Applicant has complied with the criteria of section 4.11.1 subsection (A)(7)[Health Issues] of Taos County’s Land Use Regulations with the submission of a Radio Frequency – Electromagnetic Energy Report that was stamped by a State of New Mexico licensed engineer. This report certifies that the proposed commercial communications tower will be in compliance with all applicable Federal Communications Commission (FCC) standards for cell tower emissions.

37. The Applicant has chosen to comply with the criteria of section 4.11.1 subsection (B)(2)[Tower Locations][Areas Of Existing Commercial Development] based on the proposed location of the proposed commercial communications tower, which is to erect a new commercial cell tower within a residentially developed community.

38. The Applicant meets the criteria of 4.11.1 subsection (C)[Criteria for Concealed Wireless Telecommunications Facilities] subsection (1) due to the fact that the proposed communications tower will be disguised as a pine tree.

39. Staff has made the determination to waive the criteria of section 4.11.1 subsection (D)[Landscaping and Screening] of Taos County’s Land Use Regulations due to the proposal to disguise the cell tower as a pine tree.

40. Staff has made the determination that the criteria of section 4.11.1 subsection (E)[Horizontal Separation of Free-Standing Telecommunications Facilities] of Taos County’s Land Use Regulations has been met based on Staff’s analysis of the documentation submitted by the Applicant.

41. Staff has made the determination that the criteria of section 4.11.1 subsection (F)[Color and Camouflage] of Taos County’s Land Use Regulations has been met by the Applicant due to the fact that the proposed commercial communications tower will be disguised as a pine tree.

42. The Applicant meets the criteria of section 4.11.1 subsection (G) [Access Roads] of Taos County's Land Use Regulations based on the review that was conducted by the Taos County Fire Marshal on the proposed access road to the communications tower site. The Fire Marshal's review determined that the access road meets fire code standards for emergency access.

43. The Applicant has submitted technical documentation that demonstrates compliance with the criteria of section 4.11.1 subsection (H) [Emergency Backup Power] of Taos County's Land Use Regulations.

Recommendations:

Should the Taos County Planning Commission, after reviewing the documentation related to this request and after receiving input from the Applicant and Property Owner's Agent, the Public, and Staff make the determination to approve Special Use Permit SUP-24-0000013, Staff recommends that the following conditions be placed on the Applicant:

1. The Applicant is being considered for the application submitted. Any changes to the proposed special use permit after it has been approved will have to come into the Taos County Planning Department for review.

2. A debris management plan which addresses how construction debris will be disposed of during the course of building the proposed commercial communications tower shall be included as part of the building permit application that is submitted to the Taos County Building Department.

3. Should any cultural or archaeological artifacts be unearthed during the construction of the proposed commercial communications tower construction shall be stopped and the State of New Mexico Historic Preservation Office shall be contacted.

4. At the time the proposed commercial communications tower is decommissioned the criteria of section 4.11.1 subsection (A)(5a) of Taos County's Land Use Regulations which states "All wireless communications facilities that are not in use for six (6) consecutive month's period commencing after the date of enactment of this ordinance shall be removed by the wireless telecommunications facility owner. This removal shall be completed within three (3) months after the end of such six (6) month period. Upon removal, the site shall be re-vegetated to blend with the existing surrounding vegetation" shall be followed by the Applicant.

5. If law enforcement and/or emergency service agencies that operate in Taos County request the placement of E911 communications equipment on the proposed commercial communications tower Staff is requesting that the Applicant work with them to accommodate their request.

6. Should the Applicant request additional signage at a later date, they shall be required to submit technical details of their signs to the Taos County Planning Department for a review to ensure compliance with all applicable regulations that are outlined in Taos County's Sign Code Ordinance.

7. Should the applicant propose any other type of lighting for either security or maintenance purposes they will need to submit technical documentation to the Taos County Planning Department for a review to make sure it complies with all applicable regulations outlined in Taos County's Darks Skies Ordinance.

TAOS COUNTY
PLANNING COMMISSION

RICK EDELMAN	CHAIRMAN
JUDY TORRES	VICE CHAIRPERSON
LUIS GALLEGOS	COMMISSIONER
BILLY ROMERO	COMMISSIONER
TED TERRY	COMMISSIONER

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DECISION OF PLANNING COMMISSION
MEETING OF JULY 10th , 2025

CASE SPUSE-25-000013

REQUEST

Romano and Associates, LLC "Agent" representing BTS Towers, LLC "Applicant" and Grace Community Church "Property Owner" is requesting a special use permit (SUP-24-000013) to construct and operate a ninety five foot (95') tall concealed cellular tower. The concealed cellular tower is proposed to be placed on a 2.571+- acre property located at 159 Old Highway 3 in Arroyo Hondo, Taos County, New Mexico.

FINDINGS

1. The requested special use is to erect an ninety five foot (95') tall communications tower on a property located off of 159 Old State Highway 3 in Arroyo Hondo, Taos County, New Mexico.

2. The Applicant meets the criteria of section 4.6.1 (A)[Use] of the Taos County Land Use Regulations based on Staff's analysis of the documentation submitted by the Applicant which determined that the proposed special use will provide a substantial public health, safety, and welfare benefit to the Arroyo Hondo Community by providing cellular services for members of this community and for E911 Emergency Services in the event that there are medical or law enforcement emergencies.

3. Staff has made the determination that the Applicant meets the criteria of section 4.6.1 (B)[Visual Compatibility] of Taos County Land Use Regulations due to the Applicant's proposed camouflage of the cell tower to look like a pine tree blends in more with the neighborhood character than an undisguised version would.

4. Staff has determined that the Applicant complies with the criteria of section 4.7.1 subsection (A) [Roads] of Taos County's Land Use Regulations the submission of a review letter from the Taos County Public Works Department. This department determined that the driveway from the subject property onto County Road B-003 (i.e. Old State Road 3) is an existing access and therefore did not need to obtain an access permit.

5. Staff has made the determination that the Applicant has complied with the criteria of section 4.7.1 subsection (B) [Utilities] of Taos County's Land Use Regulations based on a will serve letter from Kit Carson Electric Cooperative that was submitted as part of the special use permit application.

6. Staff has made the determination that the Applicant does not need to comply with the criteria of section 4.7.1 (C) [Water Supply and Quality] of Taos County's Land Use Regulations due to the fact that no water will be utilized as part of the operation of the proposed commercial communications tower.

7. Staff has made the determination that that the Applicant does not need to comply with the criteria of section 4.7.1 (D) [Liquid Waste Disposal] of Taos County Land Use Regulations due to the fact that no liquid waste will be generated as part of the operation of the proposed commercial communications tower.

8. Staff has made the determination that the Applicant complies with this criteria of section 4.7.1 subsection (E) [Legal Access] with the the submission of a review letter from the Taos County Public Works Department. This department determined that the driveway from the subject property onto County Road B-003 (i.e. Old State Road 3) is an existing access and therefore did not need to obtain an access permit.

9. The Applicant has met the criteria of section 4.7.1 (F) [Storm Water Control] of Taos County's Land Use Regulations based on the drainage plans that were submitted as part of the application packet that have been prepared by an engineer licensed by the State of New Mexico.

10. Staff has determined that the Applicant complies with the criteria of Section 4.7.1 (G) [Fire Prevention Plan] of Taos County's Land Use Regulations based on the following items:

    a). As part of the special use permit application from the Taos County Fire Marshal has reviewed and approved the Applicant's fire prevention documentation.

    b). The proposed Fire Prevention Plan for the requested special use permit was prepared by a design professional and has been reviewed and approved by the Taos County Fire Marshal.

11. Staff has determined that the Applicant complies with the criteria of Section 4.7.1 (H) [Environmental Impact Study] of Taos County's Land Use Regulations with the submission of an environmental impact study which was prepared as part of meeting the requirements of the NEPA (National Environmental Policy Act) as mandated by the FCC (Federal Communications Commission).

12. Staff has determined that the Applicant has complied with the criteria of section 4.7.1 (I) [Geologically Unstable Areas] of Taos County's Land Use Regulations based on a staff analysis of the Applicant's documentation that was prepared by a State of New Mexico licensed civil engineer which certifies that the subject property is geologically stable.

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13. Staff has determined that the Applicant has met the criteria of section 4.7.1 (J) [Wildlife Areas] of Taos County's Land Use Regulations based on the Applicant's submitted NEPA report which received an approval from the United States Fish and Wildlife Service.

14. Staff has made the determination that the criteria of section 4.7.1 (K) [Agricultural Areas] of Taos County's Land Use Regulations does not apply to the Applicant due to the fact that the subject property has been used historically for religious purposes.

15. Staff has determined that the Applicant has complied with the requirements of Section 4.7.1 (L) [Site Improvements] of Taos County's Land Use Regulations by submitting a site plan for the proposed commercial communications tower site on the subject property.

16. Staff has determined that he Applicant/Property Owner meets the criteria of section 4.7.1 (M) [Exterior Lighting] of Taos County's Land Use Regulations due to the fact that the proposed commercial communications tower will not exceed two hundred feet (200') in height. Due to this fact the Federal Aviation Administration (FAA) will not require that exterior lighting be placed on this tower. However as a condition of approval of the requested special use permit should the applicant propose any other type of lighting for either security or maintenance purposes they will need to submit technical documentation to the Taos County Planning Department for a review to make sure it complies with all applicable regulations outlined in the Taos County Darks Skies Ordinance.

17. Staff has determined that the Applicant does not need to comply with the criteria of section 4.7.1 (N) [Maximum Height] of Taos County's Land Use Regulations because this criteria is superseded by the criteria of section 4.11 subsection (A)(8) of the Taos County Land Use Regulations which no longer restricts the height of cell towers.

18. Staff has determined that the Applicant has complied with the criteria of section 4.7.1 (O) [Grade] of Taos County's Land Use Regulations based on the documentation submitted by the Applicant. The road that will be used to access the proposed commercial communications tower on the subject property will be at less than a 12% grade as mandated by this criteria.

19. A Staff analysis of the technical documentation submitted by the Applicant has determined that there are no acequias on the subject property that will host the proposed commercial communications tower. Therefore Staff has made the determination that the criteria of section 4.7.1 (P) [Acequias] of Taos County's Land Use Regulations does not apply to the Applicant.

20. The Applicant has complied with this criteria of section 4.7.1 (Q) [Wetlands] of Taos County's Land Use Regulations by submitting documentation from the Geographic Information Systems (GIS) section of the Taos County Planning Department and their submitted NEPA study determined that the portion of the subject property where the proposed commercial communications tower will be located is not in a wet lands.

21. Section 4.7.1 (R) [Americans With Disabilities Act (ADA)]: Staff has determined that the Applicant does not need to meet the criteria of section 4.7.1 (R) [Americans With

Disabilities Act (ADA)] of Taos County's Land Use Regulations based on the fact that there will be no members of the general public going to the proposed communication tower site. The only access will be for personnel who will be maintaining the proposed commercial communications tower.

22. Staff has made the determination that this criteria of Section 4.7.1 (S) [Landscaping] of Taos County's Land Use Regulations does not apply to the Applicant due to the fact that the Applicant's proposed communications tower design is going to be disguised as a pine tree and the supporting equipment compound area will not be visible to the general public.

23. The Applicant complies with the criteria of section 4.7.1 (T) [Street and Parking Design] of Taos County's Land Use Regulations by addressing the following items:

    a). The existing road way that will access the proposed commercial communications tower was reviewed and approved by the Taos County Fire Marshal.

    b). A parking area for personnel who will be maintaining the proposed communications tower has been designated at the proposed tower site.

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24. The Applicant will not be required to provide solid waste containers on the subject property should the special use permit request be approved due to the fact that the only activities that will be taking place related to this permit will be for maintenance. However, in order to comply with the criteria of section 4.7.1 (U) [Solid Waste Disposal] of Taos County's Land Use Regulations the Applicant will be required to submit a debris management plan for the proposed commercial communications tower site. These plans need to address how construction debris will be disposed of during the course of building the proposed commercial communications tower and will need to be included as part of the building permit applications that will be submitted to the Taos County Building Department.

25. The Applicant complies with the criteria of section 4.7.1 (V) [Flood Plain and Elevation Certificate] of Taos County's Land Use Regulations by submitting documentation from the Geographic Information Systems (GIS) division of the Taos County Planning Department which has classified the portion of the subject property that will host the proposed communications tower as not being located in a high risk area for flooding as this is referenced in Taos County's Official Flood Insurance Rate Map (FIRM).

26. The Applicant complies with the criteria of Section 4.7.1 (W) Wildland Urban Interface (WUI) Impact Areas of Taos County's Land Use Regulations due to the fact that the Taos County's official Community Wildfire Protection Plan (CWPP) list has designated the subject property as being in a medium risk area for fire. Therefore no review of the subject property is required by the Taos County's Wildland Urban Interface (WUI) Coordinator.

27. Staff has determined that the Applicant does not need to comply with the criteria of section 4.7.1 (X) [Loading] of Taos County's Land Use Regulations due to the nature of the special use permit request which will not involve the loading or unloading of merchandise.

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28. The Applicant complies with the criteria of section 4.7.1 (Y) [Slope] due to the fact that the proposed commercial communications tower will be built on a portion of the subject property that does not exceed 20% in slope.

29. The Applicant has complied with the criteria of section 4.7.1 (Z) [Archaeological Sites] of Taos County's Land Use Regulations by following the requirements of Section 106 of the National Historic Preservation Act. As part of complying with these requirements the State of New Mexico Historic Preservation Office (SHPO) was contacted. This state agency made the determination that the proposed commercial communications tower will not negatively impact any historic properties. As a condition of approval of the requested special use permit should any cultural or archaeological artifacts be unearthed during the construction of the proposed communications tower construction shall be stopped and the State of New Mexico Historic Preservation Office shall be contacted.

30. A Staff analysis of the site plan prepared for the proposed commercial communications tower that was submitted by the Applicant has determined that the criteria of section 4.11.1 subsection (A)(1)[Setbacks] of Taos County's Land Use Regulations has been met.

31. Staff has determined that the criteria of section 4.11.1 subsection (A)(2) [Setback Exemption for New Substation Facilities] of Taos County's Land Use Regulations does not apply to the Applicant due to the fact that the proposed commercial communications tower is not going to be located within a new substation facility.

32. A staff analysis of the documentation submitted by the Applicant has determined that the requirements of 4.11.1subsection (A)(3)[Lighting and Signage] of Taos County's Land Use Regulations does not apply due to the following reasons:

    a) The Applicant is not required by the Federal Aviation Administration to place lighting on the proposed commercial communications tower due to the fact that it is under two hundred feet (200') in height.

    b) The Applicant is proposing to only have information signage within the compound for maintenance personnel which complies with Taos County's current sign code ordinance.

    c) Should the Applicant request additional signage at a later date, Staff will ensure that Taos County's Sign Code Ordinance will be complied with.

    d) Should the Applicant propose exterior lighting at a later date, Staff will ensure that Taos County's Dark Skies Ordinance will be complied with.

33. A staff analysis of the Applicant's technical documentation for the proposed commercial communications tower has determined that the Applicant meets the criteria of section 4.11.1 subsection (A)(4)[Telecommunications Equipment Building or Cabinet] of Taos County's Land Use Regulations.

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34. As a condition of approval of the requested special use permit and in order for the Applicant to meet the criteria of section 4.11.1 subsection (A)(5)[Abandonment] of Taos County's Land Use Regulations at the time the Applicant/Property Owner discontinues the use of any or all of the proposed commercial communications towers the following sections of Taos County's Land Use Regulations shall be implemented:

    a) 4.11.1 subsection (A)(5a) which states "All wireless communications facilities that are not in use for six (6) consecutive month's period commencing after the date of enactment of this ordinance shall be removed by the wireless telecommunications facility owner. This removal shall be completed within three (3) months after the end of such six (6) month period. Upon removal, the site shall be re-vegetated to blend with the existing surrounding vegetation".

    b) 4.11.1 subsection (A)(5b) which states "The owner of the property shall provide a bond or an irrevocable letter of credit in an amount necessary to secure the cost of removing an antenna, antenna array, or tower that has been abandoned, as determined by the Planning Department, Planning Commission, and/or Board of County Commissioners. Any bond or letter of credit in favor of Taos County shall survive, by its terms, unless replaced by a subsequent owner any transfer of ownership of the property".

35. The Applicant has complied with the criteria of section 4.11.1 subsection (A)(6)[Interference] of Taos County's Land Use Regulations with the submission of a report that has been prepared by a State of New Mexico licensed engineer which certifies that the proposed commercial communications tower will not interfere with commercially operated cell towers that are within a five (5) mile radius of the subject property.

36. The Applicant has complied with the criteria of section 4.11.1 subsection (A)(7)[Health Issues] of Taos County's Land Use Regulations with the submission of a Radio Frequency – Electromagnetic Energy Report that was stamped by a State of New Mexico licensed engineer. This report certifies that the proposed commercial communications tower will be in compliance with all applicable Federal Communications Commission (FCC) standards for cell tower emissions.

37. The Applicant has chosen to comply with the criteria of section 4.11.1 subsection (B)(2)[Tower Locations][Areas Of Existing Commercial Development] based on the proposed location of the proposed commercial communications tower, which is to erect a new commercial cell tower within a residentially developed community.

38. The Applicant meets the criteria of 4.11.1 subsection (C)[Criteria for Concealed Wireless Telecommunications Facilities] subsection (1) due to the fact that the proposed communications tower will be disguised as a pine tree.

39. Staff has made the determination to waive the criteria of section 4.11.1 subsection (D)[Landscaping and Screening] of Taos County's Land Use Regulations due to the proposal to disguise the cell tower as a pine tree.

40. Staff has made the determination that the criteria of section 4.11.1 subsection (E)[Horizontal Separation of Free-Standing Telecommunications Facilities] of Taos County's Land Use Regulations has been met based on Staff's analysis of the documentation submitted by the Applicant.

41. Staff has made the determination that the criteria of section 4.11.1 subsection (F)[Color and Camouflage] of Taos County's Land Use Regulations has been met by the Applicant due to the fact that the proposed commercial communications tower will be disguised as a pine tree.

42. The Applicant meets the criteria of section 4.11.1 subsection (G) [Access Roads] of Taos County's Land Use Regulations based on the review that was conducted by the Taos County Fire Marshal on the proposed access road to the communications tower site. The Fire Marshal's review determined that the access road meets fire code standards for emergency access.

43. The Applicant has submitted technical documentation that demonstrates compliance with the criteria of section 4.11.1 subsection (H) [Emergency Backup Power] of Taos County's Land Use Regulations.

TAOS COUNTY
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BY NATASHAV

DECISION

Based on documentation and testimony given at the public hearing by the Applicant's Agent, members of the public, and Planning Staff **IT IS THEREFORE ORDERED** that the **T**aos County Planning Commission hereby on this 10th day of July 2025 **approves** SPUSE-25-000013 subject to the following conditions:

1. The Applicant is being considered for the application submitted. Any changes to the proposed special use permit after it has been approved will have to come into the Taos County Planning Department for review.

2. A debris management plan which addresses how construction debris will be disposed of during the course of building the proposed commercial communications tower shall be included as part of the building permit application that is submitted to the Taos County Building Department.

3. Should any cultural or archaeological artifacts be unearthed during the construction of the proposed commercial communications tower construction shall be stopped and the State of New Mexico Historic Preservation Office shall be contacted.

4. At the time the proposed commercial communications tower is decommissioned the criteria of section 4.11.1 subsection (A)(5a) of **T**aos County's Land Use Regulations which states "All wireless communications facilities that are not in use for six (6) consecutive month's period commencing after the date of enactment of this ordinance shall be removed by the wireless telecommunications facility owner. This removal shall be completed within three (3) months after the end of such six (6) month period. Upon removal, the site shall be re-vegetated to blend with the existing surrounding vegetation" shall be followed by the Applicant.

5. If law enforcement and/or emergency service agencies that operate in Taos County request the placement of E911 communications equipment on the proposed commercial communications tower Staff is requesting that the Applicant work with them to accommodate their request.

6. Should the Applicant request additional signage at a later date, they shall be required to submit technical details of their signs to the Taos County Planning Department for a review to ensure compliance with all applicable regulations that are outlined in Taos County's Sign Code Ordinance.

7. Should the applicant propose any other type of lighting for either security or maintenance purposes they will need to submit technical documentation to the Taos County Planning Department for a review to make sure it complies with all applicable regulations outlined in Taos County's Darks Skies Ordinance.

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VOTE RECORD:

Rick Edelman, Chairman	**yes**	**no**	**abstain**	**absent**
Judy Torres, Vice Chairperson	**yes**	**no**	**abstain**	**absent**
Luis Gallegos, Commissioner	**yes**	**no**	**abstain**	**absent**
Billy Romero, Commissioner	**yes**	**no**	**abstain**	**absent**
Ted Terry, Commissioner	**yes**	**no**	**abstain**	**absent**

TAOS COUNTY CLERK OFFICIAL SEAL RECORDER SEAL TAOS, NEW MEXICO

Judy Torres, Vice Chairperson

7/14/2025
Date

ATTESTED BY:

Rudy D. Perea, Chief Planner

7-14-25
Date

Rudy D. Perea, Chief Planner
105 Albright St. Suite H
Taos, New Mexico 87571
Ph: (575) 737-6453
Fax: (575) 737-6449

Taos County Planning Department

MEMORANDUM

Date: September 16th, 2025

To: Taos County Board of County Commissioners

CC: Brent Jaramillo, County Manager

Patrick Trujillo County Attorney

From: Rudy D. Perea, Chief Planner

Re: Appeal (25-000001) Report For Special Use Permit SPUSE-24-000013

This Staff Report is in reference to an appeal (Appeal 25-000001) filed by Mr. Ben Thomas ("Appellant") at the Taos County Planning Department on August 11th, 2025 for a decision made by the Taos County Planning Commission at their scheduled July 10th, 2025 meeting. The Taos County Planning Commission decision approved the following special use permit:

Romano and Associates, LLC "Agent" representing BTS Towers, LLC "Applicant" and Grace Community Church "Property Owner" is requesting a special use permit (SUP-24-000013) to construct and operate a ninety five foot (95') tall concealed cellular tower. The concealed cellular tower is proposed to be placed on a 2.571+- acre property located at 159 Old Highway 3 in Arroyo Hondo, Taos County, New Mexico.

As outlined in this report, the Appellant has provided the required materials necessary to demonstrate that the public hearing notification requirements, including proper notice have been followed in order to be scheduled for this appeal hearing (**note:** please refer to Tab #3 in the binder submitted by Staff). As of September 9th, 2025 staff has received verbal, written, and electronic correspondence from property owners within the one thousand foot (1000') public hearing notification area which either are in opposition to or in support of the proposed Special Use Permit (**note:** please refer to Tab #4 in the binder submitted by Staff). What follows is staff's analysis of the Applicant and Property Owner's request as it was presented to the Taos County Planning Commission on July 10th, 2025:

Special Use Permit Request

Section 4.6.1 Development Compatibility Standards

Section 4.6.1 subsection (A)[Use]: *"The development shall be sensitive to and consistent with the existing traditional and historic uses in the neighborhood, or the applicant shall be able to demonstrate that the development would provided a substantial benefit to, or support to, or would not have a substantial impact on the immediate neighborhood"*

Staff's analysis of the documentation submitted by the Applicant and the Property Owner has determined that the proposed special use permit meets the criteria of this section due to the fact that it will provide a substantial public health, safety, and welfare benefit to Arroyo Hondo by providing cellular services for members of this community and for E911 Emergency Services in the event that there are medical or law enforcement emergencies.

Section 4.6.1 subsection (B)[Visual Impact]: *"The development shall be sensitive to and consistent with the architectural design, scale, density, bulk, building height, historical character, and orientation of the existing properties in the neighborhood, or the applicant shall be able to demonstrate that the alternative being proposed is suitable to the land and the neighborhood character"*

Staff has determined that the Applicant meets the criteria of this section by proposing to disguise the cell tower. The Applicant's proposed camouflage of the cell tower to look like a pine tree blends in more with the neighborhood character than an undisguised version would (**note:** please refer to Tab #3 Sheet C-4 in the binder submitted by the Applicant).

Section 4.7.1 Administrative, Special Use and Major Development Performance Standards

Section 4.7.1 subsection (A) [Roads]: The Applicant complies with this criteria with the submission of a review letter from the Taos County Public Works Department. This department determined that the driveway from the subject property onto County Road B-003 (i.e. Old State Road 3) is an existing access and therefore did not need to obtain an access permit (**note:** please refer to Tab #9 on the binder submitted by the Applicant).

Section 4.7.1 (B) [Utilities]: The Applicant has addressed this criteria based on a will serve letter from Kit Carson Electric Cooperative that was submitted as part of the special use permit application (**note:** please refer to Tab #9 on the binder submitted by the Applicant).

Section 4.7.1 (C) [Water Supply and Quality]: The criteria of this section does not apply to the Applicant's requested special use due to the fact that no water will be utilized as part of the operation of the proposed commercial communications tower.

Section 4.7.1 (D) [Liquid Waste Disposal]: The criteria of this section does not apply to the Applicant's requested special use permit due to the fact that no liquid waste will be generated as part of the operation of the proposed commercial communications tower.

Section 4.7.1 (E) [Legal Access]: The Applicant complies with this criteria with the submission of a review letter from the Taos County Public Works Department. This department determined that the driveway from the subject property onto County Road B-003 (i.e. Old State Road 3) is an existing access and therefore did not need to obtain an access permit (**note:** please refer to Tab #9 on the binder submitted by the Applicant).

Section 4.7.1 (F) [Storm Water Control]: A staff analysis of the drainage plans that were submitted as part of the application binder has determined that this criteria has been met due to the fact that proposed Storm Water Control Plan had been prepared by an engineer licensed by the State of New Mexico (**note:** please refer to Tab #4 in the binder submitted by the Applicant).

Section 4.7.1 (G) [Fire Prevention Plan]: The Applicant complies with the criteria of this section based on the following items (**note:** please refer to Tab #9 in the binder submitted by the Applicant):

1) As part of the special use permit application from the Taos County Fire Marshal has reviewed and approved the Applicant's fire prevention documentation.

2) The proposed Fire Prevention Plan for the requested special use permit was prepared by a design professional and has been reviewed and approved by the Taos County Fire Marshal.

Section 4.7.1 (H) [Environmental Impact Study]: The Applicant complies with the criteria of this section with the submission of an environmental impact study which was prepared as part of meeting the requirements of the NEPA (National Environmental Policy Act) as mandated by the FCC (Federal Communications Commission) (**note:** please refer to Tab #11 in the binder submitted by the Applicant).

Section 4.7.1 (I) [Geologically Unstable Areas]: A staff analysis of the Applicant's documentation that was prepared by a State of New Mexico licensed civil engineer which certifies that the subject property is geologically stable has determined that this criteria has been met (**note:** please refer to Tab #5 in the binder submitted by the Applicant).

Section 4.7.1 (J) [Wildlife Areas]: The Applicant as part of the required NEPA report has received approval from the United States Fish and Wildlife Service which has determined that the subject property is not located in a Wildlife Area and the proposed commercial communications tower will not have a detrimental impact on existing wildlife (**note:** please refer to Tab #11 in the binder submitted by the Applicant).

Section 4.7.1 (K) [Agricultural Areas]: Staff has made the determination that this requirement does not apply to the Applicant due to the fact that the subject property has been used historically for religious purposes.

Section 4.7.1 (L) [Site Improvements]: The Applicant has complied with the requirements of this criteria by submitting a site plan for the proposed commercial communications tower site on the subject property (note: please refer to Tab #3 sheet C-1 in the binder submitted by the Applicant.

Section 4.7.1 (M)[Exterior Lighting]: Staff has determined that the Applicant meets this criteria due to the fact that the proposed commercial communications tower will not exceed two hundred feet (200') in height. Due to this fact the Federal Aviation Administration (FAA) will not require that exterior lighting be placed on this tower. However as a condition of approval of the requested special use permit should the applicant propose any other type of lighting for either security or maintenance purposes they will need to submit technical documentation to the Taos County Planning Department for a review to make sure it complies with all applicable regulations outlined in the Taos County Darks Skies Ordinance.

Section 4.7.1 (N)[Maximum Height]: The criteria of this section restricts towers to a maximum height of 27 feet. This criteria is superseded by the criteria of section 4.11 subsection (A)(8) of the Taos County Land Use Regulations which no longer restricts the height of cell towers.

Section 4.7.1 (O) [Grade]: Based on the documentation submitted by the Applicant the road that will be used to access the proposed commercial communications tower on the subject property will be at less than a 12% grade as mandated by this criteria.

Section 4.7.1 (P) [Acequias]: A Staff analysis of the technical documentation submitted by the Applicant's Agent has determined that there are no acequias on the subject property that will host the proposed commercial communications tower. Therefore Staff has made the determination that this criteria does not apply to the Applicant.

Section 4.7.1 (Q) [Wetlands]: The Applicant complies with the criteria of this section by submitting documentation from the Geographic Information Systems (GIS) section of the Taos County Planning Department and their submitted NEPA study which determined that the portion of the subject property where the proposed commercial communications tower will be located is not in a wet lands. (**note:** please refer to Tabs #9 and #11 in the binder submitted by the Applicant).

Section 4.7.1 (R) [Americans With Disabilities Act (ADA)]: Staff has determined that the Applicant does not need to meet this criteria based on the fact that there will be no members of the general public going to the proposed communication tower site. The only access will be for maintenance personnel to maintain the communications tower.

Section 4.7.1 (S) [Landscaping]: Due to the fact that the Applicant's proposed communications tower design is going to be disguised as a pine tree and the supporting equipment compound area will not be visible to the general public Staff has made the determination that this criteria does not apply to the applicant.

Section 4.7.1 (T) Street and Parking Design : The Applicant complies with the portion of this criteria by addressing the following items:

1) The existing road way that will access the proposed commercia communications tower was reviewed and approved by the Taos County Fire Marshal.

2) A parking area for personnel who will be maintaining the proposed communications tower has been designated at the proposed tower site.

Section 4.7.1 (U) Solid Waste Disposal: The Applicant will not be required to provide solid waste containers on the subject property should the special use permit request be approved due to the fact that the only activities that will be taking place related to this permit will be for maintenance. However, as a condition of approval of the Applicant's request, Staff will require that a debris management plan which addresses how construction debris will be disposed of during the course of building the proposed commercial communications tower be included as part of building permit application that is submitted to the Taos County Building Department.

Section 4.7.1 (V) Flood Plain and Elevation Certificate: The Applicant complies with the criteria of this section by submitting documentation from the Geographic Information Systems (GIS) division of the Taos County Planning Department which has classified the portion of the subject property that will host the proposed communications tower as not being located in a high risk area for flooding as this is referenced in Taos County's Official Flood Insurance Rate Map (FIRM) (**note:** please refer to Tab #9 in the binder submitted by the Applicant).

Section 4.7.1 (W) Wildland Urban Interface (WUI) Impact Areas: Taos County's official Community Wildfire Protection Plan (CWPP) list has designated the subject property as being in a medium risk area for fire. Therefore no review of the subject property is required by the Taos County's Wildland Urban Interface (WUI) Coordinator.

Section 4.7.1 (X) Loading: The criteria of this section does not apply to the Applicant due to the nature of the special use permit request which will not involve the loading or unloading of merchandise.

Section 4.7.1 (Y) [Slope]: The Applicant complies with the criteria of this section due to the fact that the proposed commercial communications tower will be built on a portion of the subject property that does not exceed 20% in slope.

Section 4.7.1 (Z) Archaeological Sites: The Applicant has complied with the criteria of this section by following the requirements of Section 106 of the National Historic Preservation Act. As part of complying with these requirements the State of New Mexico Historic Preservation Office (SHPO) was contacted. This state agency made the determination that the communications facility will not negatively impact any historic properties. As a condition of approval of the requested special use permit, should any cultural or archaeological artifacts be unearthed during the construction of the proposed communications facility, construction shall cease and the State of New Mexico Historic Preservation Office shall be contacted.

Section 4.11 Wireless Communications Facility Application and Performance Standards

Section 4.11.1 subsection (A)(1)[Setbacks]: This criteria requires a minimum of an 85 foot setback from all property lines or a distance equal to at least 110% of the potential fall radius, which ever is greater, as certified by a New Mexico licensed engineer (**note:** please refer to Tab #12 in the binder submitted by the applicant). A Staff analysis of the site plan prepared for the proposed commercial communications tower has determined that they meet the criteria of this section with a proposed fall back radius of fifty feet (50') (**note:** please refer to Tab #3 sheet C-1 in the binder submitted by the Applicant).

Section 4.11.1 subsection (A)(2) [Setback Exemption for New Substation Facilities]: Staff has determined that this criteria does not apply to the Applicant due to the fact that the proposed commercial communications tower is not going to be located within a new substation facility.

4.11.1subsection (A)(3)[Lighting and Signage]: A staff analysis of the documentation submitted by the Applicant has determined that this requirement does not apply due to the following:

1) The Applicant is not required by the Federal Aviation Administration to place lighting on the proposed commercial communications tower due to the fact that it is under two hundred feet (200') in height.

2) Should the Applicant request additional signage at a later date, Staff will ensure that Taos County's Sign Code Ordinance will be complied with.

As a condition of approval of the requested special use permit should the applicant propose any other type of lighting for either security or maintenance purposes they will need to submit technical documentation to the Taos County Planning Department for a review to make sure it complies with all applicable regulations outlined in the Taos County Darks Skies Ordinance.

4.11.1 subsection (A)(4)[Telecommunications Equipment Building or Cabinet]: A staff analysis of the Applicant's technical documentation for the proposed commercial communications tower has determined that the Applicant meets this criteria (**note:** please refer to Tab #3 Sheet C-2 in the binder submitted by the Applicant).

4.11.1 subsection (A)(5)[Abandonment]: As a condition of approval of the requested special use permit and in order for the Applicant to meet this criteria at the time the Applicant discontinues the use of its proposed commercial communications tower the following section of Taos County's Land Use Regulations shall be implemented: 4.11.1 subsection (A)(5a) "All wireless communications facilities that are not in use for six (6) consecutive month's period commencing after the date of enactment of this ordinance shall be removed by the wireless telecommunications facility owner. This removal shall be completed within three (3) months after the end of such six (6) month period. Upon removal, the site shall be re-vegetated to blend with the existing surrounding vegetation".

4.11.1 subsection (A)(6)[Interference]: The Applicant has complied with the criteria of this section with the submission of a report that has been prepared by a State of New Mexico licensed engineer which certifies that the proposed commercial communications tower will not interfere with commercially operated cell towers that are within a five (5) mile radius of the subject property (**note:** please refer to Tab #5 in the binder submitted by the Applicant).

4.11.1 subsection (A)(7)[Health Issues]: The Applicant has complied with the criteria of this section with the submission of a Radio Frequency – Electromagnetic Energy Report that was stamped by a State of New Mexico licensed Electrical Engineer. This report certifies that the proposed commercial communications tower will be in compliance with all applicable Federal Communications Commission (FCC) standards for cell tower emissions (**note:** please refer to Tab #5 in the binder submitted by the Applicant).

4.11.1 subsection (B)(2)[Tower Locations][Areas Of Existing Commercial Development]: The Applicant has chosen to comply with this criteria based on the proposed location of the proposed commercial communications tower, which is to erect a new commercial cell tower within a residentially developed community.

4.11.1 subsection (C)[Criteria for Concealed Wireless Telecommunications Facilities] subsection (1): The Applicant meets this criteria due to the fact that the proposed communications tower will be disguised as a pine tree.

4.11.1 subsection (D)[Landscaping and Screening]: Staff has made the determination that this criteria has been met by the Applicant due to the proposal to disguise the cell tower as a pine tree.

4.11.1 subsection (E)[Horizontal Separation of Free-Standing Telecommunications Facilities]: Based on Staff's analysis of the documentation submitted by the Applicant this criteria has been met (**note:** please refer to Tab #7 in the binder submitted by the Applicant).

4.11.1 subsection (F)[Color and Camouflage]: Staff has made the determination that this criteria has been met by the Applicant due to the fact that the proposed commercial communications tower will be disguised as a pine tree (**note:** please refer to Tab #3 Sheet C-4 in the binder submitted by the Applicant).

4.11.1 subsection (G) [Access Roads]: The Applicant meets the criteria of this section based on the review that was conducted by the Taos County Fire Marshal on the proposed access road to the communications tower site. The Fire Marshal's review determined that the access road meets fire code standards for emergency access. (**note:** please refer to Tab #9 in the binder submitted by the Applicant):

4.11.1 subsection (H) [Emergency Backup Power]: The Applicant has submitted technical documentation that demonstrates compliance with this criteria (**note:** please refer to Tab #3 sheet C-5 in the binder submitted by the Applicant).

Findings of Fact (As presented the Taos County Planning Commission)

1. The requested special use is to erect an ninety five foot (95') tall communications tower on a property located off of 159 Old State Highway 3 in Arroyo Hondo, Taos County, New Mexico.

2. The Applicant meets the criteria of section 4.6.1 (A)[Use] of the Taos County Land Use Regulations based on Staff's analysis of the documentation submitted by the Applicant which determined that the proposed special use will provide a substantial public health, safety, and welfare benefit to the Arroyo Hondo Community by providing cellular services for members of this community and for E911 Emergency Services in the event that there are medical or law enforcement emergencies.

3. Staff has made the determination that the Applicant meets the criteria of section 4.6.1 (B)[Visual Compatibility] of Taos County Land Use Regulations due to the Applicant's proposed camouflage of the cell tower to look like a pine tree blends in more with the neighborhood character than an undisguised version would.

4. Staff has determined that the Applicant complies with the criteria of section 4.7.1 subsection (A) [Roads] of Taos County's Land Use Regulations the submission of a review letter from the Taos County Public Works Department. This department determined that the driveway from the subject property onto County Road B-003 (i.e. Old State Road 3) is an existing access and therefore did not need to obtain an access permit.

5. Staff has made the determination that the Applicant has complied with the criteria of section 4.7.1 subsection (B) [Utilities] of Taos County's Land Use Regulations based on a will serve letter from Kit Carson Electric Cooperative that was submitted as part of the special use permit application.

6. Staff has made the determination that the Applicant does not need to comply with the criteria of section 4.7.1 (C) [Water Supply and Quality] of Taos County's Land Use Regulations due to the fact that no water will be utilized as part of the operation of the proposed commercial communications tower.

7. Staff has made the determination that that the Applicant does not need to comply with the criteria of section 4.7.1 (D) [Liquid Waste Disposal] of Taos County Land Use Regulations due to the fact that no liquid waste will be generated as part of the operation of the proposed commercial communications tower.

8. Staff has made the determination that the Applicant complies with this criteria of section 4.7.1 subsection (E) [Legal Access] with the the submission of a review letter from the Taos County Public Works Department. This department determined that the driveway from the subject property onto County Road B-003 (i.e. Old State

Road 3) is an existing access and therefore did not need to obtain an access permit.

9. The Applicant has met the criteria of section 4.7.1 (F) [Storm Water Control] of Taos County's Land Use Regulations based on the drainage plans that were submitted as part of the application binder that have been prepared by an engineer licensed by the State of New Mexico.

10. Staff has determined that the Applicant complies with the criteria of Section 4.7.1 (G) [Fire Prevention Plan] of Taos County's Land Use Regulations based on the following items:

    a). As part of the special use permit application from the Taos County Fire Marshal has reviewed and approved the Applicant's fire prevention documentation.

    b). The proposed Fire Prevention Plan for the requested special use permit was prepared by a design professional and has been reviewed and approved by the Taos County Fire Marshal.

11. Staff has determined that the Applicant complies with the criteria of Section 4.7.1 (H) [Environmental Impact Study] of Taos County's Land Use Regulations with the submission of an environmental impact study which was prepared as part of meeting the requirements of the NEPA (National Environmental Policy Act) as mandated by the FCC (Federal Communications Commission).

12. Staff has determined that the Applicant has complied with the criteria of section 4.7.1 (I) [Geologically Unstable Areas] of Taos County's Land Use Regulations based on a staff analysis of the Applicant's documentation that was prepared by a State of New Mexico licensed civil engineer which certifies that the subject property is geologically stable.

13. Staff has determined that the Applicant has met the criteria of section 4.7.1 (J) [Wildlife Areas] of Taos County's Land Use Regulations based on the Applicant's submitted NEPA report which received an approval from the United States Fish and Wildlife Service.

14. Staff has made the determination that the criteria of section 4.7.1 (K) [Agricultural Areas] of Taos County's Land Use Regulations does not apply to the Applicant due to the fact that the subject property has been used historically for religious purposes.

15. Staff has determined that the Applicant has complied with the requirements of Section 4.7.1 (L) [Site Improvements] of Taos County's Land Use Regulations by submitting a site plan for the proposed commercial communications tower site on the subject property.

16. Staff has determined that he Applicant/Property Owner meets the criteria of section 4.7.1 (M) [Exterior Lighting] of Taos County's Land Use Regulations due to the fact that the proposed commercial communications tower will not exceed two hundred feet (200') in height. Due to this fact the Federal Aviation Administration (FAA) will not require that exterior lighting be placed on this tower. However as a condition of approval of the requested special use permit should the applicant propose any other type of lighting for either security or maintenance purposes they will need to submit technical documentation to the Taos County Planning Department for a review to make sure it complies with all applicable regulations outlined in the Taos County Darks Skies Ordinance.

17. Staff has determined that the Applicant does not need to comply with the criteria of section 4.7.1 (N) [Maximum Height] of Taos County's Land Use Regulations because this criteria is superseded by the criteria of section 4.11 subsection (A)(8) of the Taos County Land Use Regulations which no longer restricts the height of cell towers.

18. Staff has determined that the Applicant has complied with the criteria of section 4.7.1 (O) [Grade] of Taos County's Land Use Regulations based on the documentation submitted by the Applicant. The road that will be used to access the proposed commercial communications tower on the subject property will be at less than a 12% grade as mandated by this criteria.

19. A Staff analysis of the technical documentation submitted by the Applicant has determined that there are no acequias on the subject property that will host the proposed commercial communications tower. Therefore Staff has made the determination that the criteria of section 4.7.1 (P) [Acequias] of Taos County's Land Use Regulations does not apply to the Applicant.

20. The Applicant has complied with this criteria of section 4.7.1 (Q) [Wetlands] of Taos County's Land Use Regulations by submitting documentation from the Geographic Information Systems (GIS) section of the Taos County Planning Department and their submitted NEPA study determined that the portion of the subject property where the proposed commercial communications tower will be located is not in a wet lands.

21. Section 4.7.1 (R) [Americans With Disabilities Act (ADA)]: Staff has determined that the Applicant does not need to meet the criteria of section 4.7.1 (R) [Americans With Disabilities Act (ADA)] of Taos County's Land Use Regulations based on the fact that there will be no members of the general public going to the proposed communication tower site. The only access will be for personnel who will be maintaining the proposed commercial communications tower.

22. Staff has made the determination that this criteria of Section 4.7.1 (S) [Landscaping] of Taos County's Land Use Regulations does not apply to the Applicant due to the fact that the Applicant's proposed communications tower design is going to be

disguised as a pine tree and the supporting equipment compound area will not be visible to the general public.

23. The Applicant complies with the criteria of section 4.7.1 (T) [Street and Parking Design] of Taos County's Land Use Regulations by addressing the following items:

    a) The existing road way that will access the proposed commercial communications tower was reviewed and approved by the Taos County Fire Marshal.

    b) A parking area for personnel who will be maintaining the proposed communications tower has been designated at the proposed tower site.

24. The Applicant will not be required to provide solid waste containers on the subject property should the special use permit request be approved due to the fact that the only activities that will be taking place related to this permit will be for maintenance. However, in order to comply with the criteria of section 4.7.1 (U) [Solid Waste Disposal] of Taos County's Land Use Regulations the Applicant will be required to submit a debris management plan for the proposed commercial communications tower site. These plans need to address how construction debris will be disposed of during the course of building the proposed commercial communications tower and will need to be included as part of the building permit applications that will be submitted to the Taos County Building Department.

25. The Applicant complies with the criteria of section 4.7.1 (V) [Flood Plain and Elevation Certificate] of Taos County's Land Use Regulations by submitting documentation from the Geographic Information Systems (GIS) division of the Taos County Planning Department which has classified the portion of the subject property that will host the proposed communications tower as not being located in a high risk area for flooding as this is referenced in Taos County's Official Flood Insurance Rate Map (FIRM).

26. The Applicant complies with the criteria of Section 4.7.1 (W) Wildland Urban Interface (WUI) Impact Areas of Taos County's Land Use Regulations due to the fact that the Taos County's official Community Wildfire Protection Plan (CWPP) list has designated the subject property as being in a medium risk area for fire. Therefore no review of the subject property is required by the Taos County's Wildland Urban Interface (WUI) Coordinator.

27. Staff has determined that the Applicant does not need to comply with the criteria of section 4.7.1 (X) [Loading] of Taos County's Land Use Regulations due to the nature of the special use permit request which will not involve the loading or unloading of merchandise.

28. The Applicant complies with the criteria of section 4.7.1 (Y) [Slope] due to the fact that the proposed commercial communications tower will be built on a portion of the subject property that does not exceed 20% in slope.

29. The Applicant has complied with the criteria of section 4.7.1 (Z) [Archaeological Sites] of Taos County's Land Use Regulations by following the requirements of Section 106 of the National Historic Preservation Act. As part of complying with these requirements the State of New Mexico Historic Preservation Office (SHPO) was contacted. This state agency made the determination that the proposed commercial communications tower will not negatively impact any historic properties. As a condition of approval of the requested special use permit should any cultural or archaeological artifacts be unearthed during the construction of the proposed communications tower construction shall be stopped and the State of New Mexico Historic Preservation Office shall be contacted.

30. A Staff analysis of the site plan prepared for the proposed commercial communications tower that was submitted by the Applicant has determined that the criteria of section 4.11.1 subsection (A)(1)[Setbacks] of Taos County's Land Use Regulations has been met.

31. Staff has determined that the criteria of section 4.11.1 subsection (A)(2) [Setback Exemption for New Substation Facilities] of Taos County's Land Use Regulations does not apply to the Applicant due to the fact that the proposed commercial communications tower is not going to be located within a new substation facility.

32. A staff analysis of the documentation submitted by the Applicant has determined that the requirements of 4.11.1subsection (A)(3)[Lighting and Signage] of Taos County's Land Use Regulations does not apply due to the following reasons:

    a) The Applicant is not required by the Federal Aviation Administration to place lighting on the proposed commercial communications tower due to the fact that it is under two hundred feet (200') in height.

    b) The Applicant is proposing to only have information signage within the compound for maintenance personnel which complies with Taos County's current sign code ordinance.

    c) Should the Applicant request additional signage at a later date, Staff will ensure that Taos County's Sign Code Ordinance will be complied with.

    d) Should the Applicant propose exterior lighting at a later date, Staff will ensure that Taos County's Dark Skies Ordinance will be complied with.

33. A staff analysis of the Applicant's technical documentation for the proposed commercial communications tower has determined that the Applicant meets the criteria of section 4.11.1 subsection (A)(4)[Telecommunications Equipment Building or Cabinet] of Taos County's Land Use Regulations.

34. As a condition of approval of the requested special use permit and in order for the Applicant to meet the criteria of section 4.11.1 subsection (A)(5)[Abandonment] of Taos

County's Land Use Regulations at the time the Applicant/Property Owner discontinues the use of any or all of the proposed commercial communications towers the following sections of Taos County's Land Use Regulations shall be implemented:

a) 4.11.1 subsection (A)(5a) which states "All wireless communications facilities that are not in use for six (6) consecutive month's period commencing after the date of enactment of this ordinance shall be removed by the wireless telecommunications facility owner. This removal shall be completed within three (3) months after the end of such six (6) month period. Upon removal, the site shall be re-vegetated to blend with the existing surrounding vegetation".

b) 4.11.1 subsection (A)(5b) which states "The owner of the property shall provide a bond or an irrevocable letter of credit in an amount necessary to secure the cost of removing an antenna, antenna array, or tower that has been abandoned, as determined by the Planning Department, Planning Commission, and/or Board of County Commissioners. Any bond or letter of credit in favor of Taos County shall survive, by its terms, unless replaced by a subsequent owner any transfer of ownership of the property".

35. The Applicant has complied with the criteria of section 4.11.1 subsection (A)(6)[Interference] of Taos County's Land Use Regulations with the submission of a report that has been prepared by a State of New Mexico licensed engineer which certifies that the proposed commercial communications tower will not interfere with commercially operated cell towers that are within a five (5) mile radius of the subject property.

36. The Applicant has complied with the criteria of section 4.11.1 subsection (A)(7)[Health Issues] of Taos County's Land Use Regulations with the submission of a Radio Frequency – Electromagnetic Energy Report that was stamped by a State of New Mexico licensed engineer. This report certifies that the proposed commercial communications tower will be in compliance with all applicable Federal Communications Commission (FCC) standards for cell tower emissions.

37. The Applicant has chosen to comply with the criteria of section 4.11.1 subsection (B)(2)[Tower Locations][Areas Of Existing Commercial Development] based on the proposed location of the proposed commercial communications tower, which is to erect a new commercial cell tower within a residentially developed community.

38. The Applicant meets the criteria of 4.11.1 subsection (C)[Criteria for Concealed Wireless Telecommunications Facilities] subsection (1) due to the fact that the proposed communications tower will be disguised as a pine tree.

39. Staff has made the determination to waive the criteria of section 4.11.1 subsection (D)[Landscaping and Screening] of Taos County's Land Use Regulations due to the proposal to disguise the cell tower as a pine tree.

40. Staff has made the determination that the criteria of section 4.11.1 subsection (E)[Horizontal Separation of Free-Standing Telecommunications Facilities] of Taos County's Land Use Regulations has been met based on Staff's analysis of the documentation submitted by the Applicant.

41. Staff has made the determination that the criteria of section 4.11.1 subsection (F)[Color and Camouflage] of Taos County's Land Use Regulations has been met by the Applicant due to the fact that the proposed commercial communications tower will be disguised as a pine tree.

42. The Applicant meets the criteria of section 4.11.1 subsection (G) [Access Roads] of Taos County's Land Use Regulations based on the review that was conducted by the Taos County Fire Marshal on the proposed access road to the communications tower site. The Fire Marshal's review determined that the access road meets fire code standards for emergency access.

43. The Applicant has submitted technical documentation that demonstrates compliance with the criteria of section 4.11.1 subsection (H) [Emergency Backup Power] of Taos County's Land Use Regulations.

Recommendation To The Taos County Planning Commission:

Staff made the recommendation to the Taos County Planning Commission to approve Special Use Permit SUP-24-0000013 based on the following determinations:

1) The proposed cell tower will provide a substantial public health, safety, and welfare benefit to Arroyo Hondo by providing cellular services for members of this community and for E911 Emergency Services in the event that there are medical or law enforcement emergencies.

2) The Applicant has complied with all applicable Taos County Land Use Regulations.

3) The special use permit supports the goals of Taos County's Comprehensive Plan to provide affordable access to broadband and to quality Internet services to residents, businesses, and schools in Taos County (**note:** please refer to chapter 8 [Water Resource & Infrastructure] Goal 5 in the comprehensive plan).

Recommendation To The Taos County Board Of County Commissioners

Staff recommends that the Taos County Board of County Commissioners **uphold** the decision of the Taos County Planning Commission to approve Special Use Permit

SUP-24-000013 based on the determinations Staff presented to the Taos County Planning Commission. In addition Staff recommends that the following conditions of approval be placed on the Applicants:

1. The Applicant is being considered for the application submitted. Any changes to the proposed special use permit after it has been approved will have to come into the Taos County Planning Department for review.

2. A debris management plan which addresses how construction debris will be disposed of during the course of building the proposed commercial communications tower shall be included as part of the building permit application that is submitted to the Taos County Building Department.

3. Should any cultural or archaeological artifacts be unearthed during the construction of the proposed commercial communications tower construction shall be stopped and the State of New Mexico Historic Preservation Office shall be contacted.

4. At the time the proposed commercial communications tower is decommissioned the criteria of section 4.11.1 subsection (A)(5a) of Taos County's Land Use Regulations which states "All wireless communications facilities that are not in use for six (6) consecutive month's period commencing after the date of enactment of this ordinance shall be removed by the wireless telecommunications facility owner. This removal shall be completed within three (3) months after the end of such six (6) month period. Upon removal, the site shall be re-vegetated to blend with the existing surrounding vegetation" shall be followed by the Applicant.

5. If law enforcement and/or emergency service agencies that operate in Taos County request the placement of E911 communications equipment on the proposed commercial communications tower Staff is requesting that the Applicant work with them to accommodate their request.

6. Should the Applicant request additional signage at a later date, they shall be required to submit technical details of their signs to the Taos County Planning Department for a review to ensure compliance with all applicable regulations that are outlined in Taos County's Sign Code Ordinance.

7. Should the applicant propose any other type of lighting for either security or maintenance purposes they will need to submit technical documentation to the Taos County Planning Department for a review to make sure it complies with all applicable regulations outlined in Taos County's Darks Skies Ordinance.

BEFORE THE TAOS COUNTY
BOARD OF COMMISSIONERS
TAOS COUNTY, NEW MEXICO

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BY MELANIEM

IN THE MATTER OF THE APPEAL APPLICATION (APPEAL-25-000001) SUBMITTED BY BEN THOMAS ("APPELLANT") FOR A DECISION MADE BY THE TAOS COUNTY PLANNING COMMISSION TO APPROVE SPECIAL USE PERMIT SUP-24-000013. THE "APPELLEES" ARE ROMANO AND ASSOCIATES, LLC "AGENT" REPRESENTING BTS TOWERS, LLC "APPLICANT" AND GRACE COMMUNITY CHURCH "PROPERTY OWNER"

DECISION OF BOARD OF COUNTY COMMISSIONERS

MEETING OF SEPTEMBER 16th, 2025

On September 16th, 2025 the aforementioned matter came before the Taos County Board of Commissioners as an appeal submitted by Ben Thomas "Appellant" from a decision made by the Taos County Planning Commission on July 10th, 2025 to approve Special Use Permit (SUP-24-000013) to erect and operate a ninety-five foot (95') tall cellular tower on a 2.571+- acre property located at 159 Old Highway 3 in Arroyo Hondo, Taos County, New Mexico. The "Appellees" are Romano and Associates, LLC "Agent" representing BTS Towers, LLC "Applicant" and Grace Community Church "Property Owner".

FINDINGS

1. The Taos County Board of County Commissioners heard testimony from the Appellants, Appellees, members of the public, and Taos County Planning Department Staff.

2. The Taos County Board of County Commissioners made the decision to uphold the decision made by the Taos County Planning Commission to approve Special Use Permit (SUP-24-000013) along with the associated findings of fact and conditions of approval as they are stated in their Record of Decision

BEFORE THE TAOS COUNTY
BOARD OF COMMISSIONERS
TAOS COUNTY, NEW MEXICO

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IT IS THEREFORE ORDERED, that the Taos County Board of Commissioners hereby on this 16th day of September 2025 after hearing testimony from the Appellants, the Appellees, members of the public, and Taos County Planning Department Staff has made the determination to **uphold** the decision made by the Taos County Planning Commission to approve Special Use Permit (SUP-24-000013) and therefore **deny** Appeal (Appeal-25-000001). The Taos County Planning Commission's Record of Decision is included as an attachment to this document and is designated as Exhibit 1.

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TAOS COUNTY BOARD OF COMMISSIONERS:

Ronald Mascarenas, Chairperson

Miguel Romero, Vice Chairman

F.R. Bob Romero, Commissioner

Darlene Vigil, Commissioner

Antanette Brush, Commissioner

ATTEST:

Valerie Montoya, County Clerk

TAOS COUNTY CLERK OFFICIAL SEAL RECORDER SEAL TAOS, NEW MEXICO

APPROVED AS TO FORM:

Patrick Trujillo, County Attorney

VOTE RECORD:

B. Romero	yes	no	abstain	absent
M. Romero	yes	no	abstain	absent
D. Vigil	yes	no	abstain	absent
A. Brush	yes	no	abstain	absent
R. Mascarenas	yes	no	abstain	absent

BEFORE THE TAOS COUNTY
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TAOS COUNTY, NEW MEXICO

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TAOS COUNTY
PLANNING COMMISSION

RICK EDELMAN	CHAIRMAN
JUDY TORRES	VICE CHAIRPERSON
LUIS GALLEGOS	COMMISSIONER
BILLY ROMERO	COMMISSIONER
TED TERRY	COMMISSIONER

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DECISION OF PLANNING COMMISSION MEETING OF JULY 10th , 2025

CASE SPUSE-25-000013

REQUEST

Romano and Associates, LLC "Agent" representing BTS Towers, LLC "Applicant" and Grace Community Church "Property Owner" is requesting a special use permit (SUP-24-000013) to construct and operate a ninety five foot (95') tall concealed cellular tower. The concealed cellular tower is proposed to be placed on a 2.571+- acrs property located at 159 Old Highway 3 in Arroyo Hondo, Taos County, New Mexico.

FINDINGS

1. The requested special use is to erect an ninety five foot (95') tall communications tower on a property located off of 159 Old State Highway 3 in Arroyo Hondo, Taos County, New Mexico.

2. The Applicant meets the criteria of section 4.6.1 (A)[Use] of the Taos County Land Use Regulations based on Staff's analysis of the documentation submitted by the Applicant which determined that the proposed special use will provide a substantial public health, safety, and welfare benefit to the Arroyo Hondo Community by providing cellular services for members of this community and for E911 Emergency Services in the event that there are medical or law enforcement emergencies.

3. Staff has made the determination that the Applicant meets the criteria of section 4.6.1 (B)[Visual Compatibility] of Taos County Land Use Regulations due to the Applicant's proposed camouflage of the cell tower to look like a pine tree blends in more with the neighborhood character than an undisguised version would.

4. Staff has determined that the Applicant complies with the criteria of section 4.7.1 subsection (A) [Roads] of Taos County's Land Use Regulations the submission of a review letter from the Taos County Public Works Department. This department determined that the driveway from the subject property onto County Road B-003 (i.e. Old State Road 3) is an existing access and therefore did not need to obtain an access permit.

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13. Staff has determined that the Applicant has met the criteria of section 4.7.1 (J) [Wildlife Areas] of Taos County's Land Use Regulations based on the Applicant's submitted NEPA report which received an approval from the United States Fish and Wildlife Service.

14. Staff has made the determination that the criteria of section 4.7.1 (K) [Agricultural Areas] of Taos County's Land Use Regulations does not apply to the Applicant due to the fact that the subject property has been used historically for religious purposes.

15. Staff has determined that the Applicant has complied with the requirements of Section 4.7.1 (L) [Site Improvemants] of Taos County's Land Use Regulations by submitting a site plan for the proposed commercial communications tower site on the subject property.

16. Staff has determined that he Applicant/Property Owner meets the criteria of section 4.7.1 (M) [Exterior Lighting] of Taos County's Land Use Regulations due to the fact that the proposed commercial communications tower will not exceed two hundred feet (200') in height. Due to this fact the Federal Aviation Administration (FAA) will not require that exterior lighting be placed on this tower. However as a condition of approval of the requested special use permit should the applicant propose any other type of lighting for either security or maintenance purposes they will need to submit technical documentation to the Taos County Planning Department for a review to make sure it complies with all applicable regulations outlined in the Taos County Darks Skies Ordinance.

17. Staff has determined that the Applicant does not need to comply with the criteria of section 4.7.1 (N) [Maximum Height] of Taos County's Land Use Regulations because this criteria is superseded by the criteria of section 4.11 subsection (A)(8) of the Taos County Land Use Regulations which no longer restricts the height of cell towers.

18. Staff has determined that the Applicant hes complied with the criteria of section 4.7.1 (O) [Grade] of Taos County's Land Use Regulations based on the documentation submitted by the Applicant. The road that will be used to access the proposed commercial communications tower on the subject property will be at less than a 12% grade as mandated by this criteria.

19. A Staff analysis of the technical documentation submitted by the Applicant has determined that there are no acequias on the subject property that will host the proposed commercial communications tower. Therefore Staff has made the determination that the criteria of section 4.7.1 (P) [Acequias] of Taos County's Land Use Regulations does not apply to the Applicant.

20. The Applicant has complied with this criteria of section 4.7.1 (Q) [Wetlands] of Taos County's Land Use Regulations by submitting documentation from the Geographic Information Systems (GIS) section of the Taos County Planning Department and their submitted NEPA study determined that the portion of the subject property where the proposed commercial communications tower will be located is not in a wet lands.

21. Section 4.7.1 (R) [Americans With Disabilities Act (ADA)]: Staff has determined that the Applicant does not need to meet the criteria of section 4.7.1 (R) [Americans With

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28. The Applicant complies with the criteria of section 4.7.1 (Y) [Slope] due to the fact that the proposed commercial communications tower will be built on a portion of the subject property that does not exceed 20% in slope.

29. The Applicant has complied with the criteria of section 4.7.1 (Z) [Archaeological Sites] of Taos County's Land Use Regulations by following the requirements of Section 106 of the National Historic Preservation Act. As part of complying with these requirements the State of New Mexico Historic Preservation Office (SHPO) was contacted. This state agency made the determination that the proposed commercial communications tower will not negatively impact any historic properties. As a condition of approval of the requested special use permit should any cultural or archaeological artifacts be unearthed during the construction of the proposed communications tower construction shall be stopped and the State of New Mexico Historic Preservation Office shall be contacted.

30. A Staff analysis of the site plan prepared for the proposed commercial communications tower that was submitted by the Applicant has determined that the criteria of section 4.11.1 subsection (A)(1)[Setbacks] of Taos County's Land Use Regulations has been met.

31. Staff has determined that the criteria of section 4.11.1 subsection (A)(2) [Setback Exemption for New Substation Facilities] of Taos County's Land Use Regulations does not apply to the Applicant due to the fact that the proposed commercial communications tower is not going to be located within a new substation facility.

32. A staff analysis of the documentation submitted by the Applicant has determined that the requirements of 4.11.1subsection (A)(3)[Lighting and Signage] of Taos County's Land Use Regulations does not apply due to the following reasons:

    a) The Applicant is not required by the Federal Aviation Administration to place lighting on the proposed commercial communications tower due to the fact that it is under two hundred feet (200') in height.

    b) The Applicant is proposing to only have information signage within the compound for maintenance personnel which complies with Taos County's current sign code ordinance.

    c) Should the Applicant request additional signage at a later date, Staff will ensure that Taos County's Sign Code Ordinance will be complied with.

    d) Should the Applicant propose exterior lighting at a later date, Staff will ensure that Taos County's Dark Skies Ordinance will be complied with.

33. A staff analysis of the Applicant's technical documentation for the proposed commercial communications tower has determined that the Applicant meets the criteria of section 4.11.1 subsection (A)(4)[Telecommunications Equipment Building or Cabinet] of Taos County's Land Use Regulations.

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40. Staff has made the determination that the criteria of section 4.11.1 subsection (E)[Horizontal Separation of Free-Standing Telecommunications Facilities] of Taos County's Land Use Regulations has been met based on Staff's analysis of the documentation submitted by the Applicant.

41. Staff has made the determination that the criteria of section 4.11.1 subsection (F)[Color and Camouflage] of Taos County's Land Use Regulations has been met by the Applicant due to the fact that the proposed commercial communications tower will be disguised as a pine tree.

42. The Applicant meets the criteria of section 4.11.1 subsection (G) [Access Roads] of Taos County's Land Use Regulations based on the review that was conducted by the Taos County Fire Marshal on the proposed access road to the communications tower site. The Fire Marshal's review determined that the access road meets fire code standards for emergency access.

43. The Applicant has submitted technical documentation that demonstrates compliance with the criteria of section 4.11.1 subsection (H) [Emergency Backup Power] of Taos County's Land Use Regulations.

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DECISION

Based on documentation and testimony given at the public hearing by the Applicant's Agent, members of the public, and Planning Staff **IT IS THEREFORE ORDERED** that the Taos County Planning Commission hereby on this 10th day of July 2025 **approves** SPUSE-25-000013 subject to the following conditions:

1. The Applicant is being considered for the application submitted. Any changes to the proposed special use permit after it has been approved will have to come into the Taos County Planning Department for review.

2. A debris management plan which addresses how construction debris will be disposed of during the course of building the proposed commercial communications tower shall be included as part of the building permit application that is submitted to the Taos County Building Department.

3. Should any cultural or archaeological artifacts be unearthed during the construction of the proposed commercial communications tower construction shall be stopped and the State of New Mexico Historic Preservation Office shall be contacted.

4. At the time the proposed commercial communications tower is decommissioned the criteria of section 4.11.1 subsection (A)(5a) of Taos County's Land Use Regulations which states "All wireless communications facilities that are not in use for six (6) consecutive month's period commencing after the date of enactment of this ordinance shall be removed by the wireless telecommunications facility owner. This removal shall be completed within three (3) months after the end of such six (6) month period. Upon removal, the site shall be re-vegetated to blend with the existing surrounding vegetation" shall be followed by the Applicant.

NEPA SUMMARY REPORT

US-NM-7008 - Arco Torcido

near 157 Old Highway 3
Arroyo Hondo, New Mexico 87513

Prepared for:

VB BTS II, LLC
750 Park of Commerce Drive, Suite 200
Boca Raton, Florida 33487

Prepared by:

Lotis Environmental, LLC
Williamsville, New York

November 24, 2023

Reviewed By: David N. Robinson, P.E.
President/CEO

Prepared By: Miles Walz-Salvador
Nationwide NEPA/NHPA Manager

November 24, 2023

Mr. Morris Mickelson
VB BTS II, LLC
750 Park of Commerce Drive, Suite 200
Boca Raton, Florida 33487

RE: FCC NEPA Summary Report for:
Arco Torcido Site (US-NM-7008)
near 157 Old Highway 3
Arroyo Hondo, Taos County, New Mexico 87513

Dear Mr. Mickelson,

Lotis Environmental, LLC (Lotis), has completed a Federal Communications Commission (FCC) NEPA investigation relative to the referenced proposed undertaking and issues the following Summary Report. Based on the information presented in this report, no further action is required under 47 CFR Subpart 1, Chapter 1, Sections 1.1301-1.1319 of the National Environmental Policy Act.

The accuracy of the species list, provided by the Information, Planning, and Conservation (IPaC) website, should be verified every 90 days. This verification can be completed formally or informally as desired. The United States Fish and Wildlife Services (USFWS) recommends that verification be completed by visiting the IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the IPaC system by completing the same process used to receive the initial list. If the list is determined to have been modified to include additional species of concern, an evaluation of those species should be conducted and consultation with the USFWS may have to be re-initiated, depending on the determination of effect or previous response(s) from the USFWS.

The applicant/tower builder must immediately notify all interested consulting parties if archaeological properties or human remains are discovered during construction, consistent with Section IX of the Nationwide Programmatic Agreement and applicable law.

Should you have any questions or comments, please do not hesitate to contact our office at (716) 580.7000.

Sincerely,

Lotis Environmental, LLC

David N. Robinson, P.E.
President/CEO
Robinson@TheLotisGroup.com
Attachments

FCC NEPA CHECKLIST

Applicant Name: VB BTS II, LLC

Site Number: US-NM-7008

Site Name: Arco Torcido

LAND USE SCREENING		**Potential Effect** Yes	No
1.	Facility will be located in an officially designated wilderness area.		**X**
2.	Facility will be located in an officially designated wildlife preserve.		**X**
3.	Facility may affect listed threatened or endangered species or designated critical habitats; or is likely to jeopardize the continued existence of any proposed endangered or threatened species or likely to result in the destruction or adverse modification of proposed critical habitats.		**X**
4.	Facility may affect districts, sites, buildings, structures or objects significant in American history, architecture, archeology, engineering or culture, that are listed, or are eligible for listing, in the National Register of Historic Places.		**X**
5.	Facility may affect Native American religious site(s).		**X**
6.	Facility will be located in a floodplain if the facility will not be placed at least one foot above the base flood elevation of the floodplain. *EA not required under FCC Wireless Telecommunications Docket No. 17-79 effective July 2, 2018, as long as the applicant can show that the facility and/or associated equipment will be installed 1 foot above the determined BFE.		**X**
7.	Facility construction will involve significant change in surface features (e.g., wetland fill, deforestation, significant tree removal, or water diversion).		**X**
8.	Facility (antenna tower and/or supporting structures) will be equipped with high intensity white lights which are to be located in residential neighborhoods, as defined by the applicable zoning law.		**X**
9.	Facility would cause human exposure to levels of radiofrequency radiation in excess of Commission-adopted guidelines		**X**
10.	Facility will be over 450 feet above ground level (AGL)		**X**

Miles Walz-Salvador

Prepared By: Miles Walz-Salvador
Nationwide NEPA/NHPA Manager

DOCUMENTATION FOR FCC NEPA CHECKLIST RESPONSES 1-9:

1. Is the proposed undertaking located in an officially designated wilderness area?

Based on maps published by the Bureau of Land Management (BLM), United States Fish and Wildlife Service (USFWS), United States Forest Service (USFS), and National Park Service (NPS), as compiled in the on-line **nationalatlas.gov** and **wilderness.net** websites, no designated wilderness areas are located at or near the proposed undertaking. A copy of the Wilderness Map is included in Appendix A.

2. Is the proposed undertaking located in an officially designated wildlife preserve?

Based on maps published by the USFWS, no wildlife refuges or wildlife preserves are located at or near the proposed undertaking. A copy of the USFWS Wildlife Refuge Map is included in Appendix A.

3. Will the proposed undertaking likely affect threatened or endangered species or designated critical habitats; or is likely to jeopardize the continued existence of any proposed endangered or threatened species; or is likely to result in the destruction or adverse modification of proposed critical habitats (as determined by the Endangered Species Act of 1973)?

A Lotis staff biologist conducted an informal biological assessment (IBA) at the site of the proposed undertaking. Based on information reviewed, site reconnaissance, and the proposed scope of work, Lotis has determined that the proposed undertaking would have "*no effect*" on designated critical habitats or listed federal species of concern. A copy of the USFWS Critical Habitat Map is included in Appendix A.

The accuracy of the species list, provided by the Information, Planning, and Conservation (IPaC) website, should be verified every 90 days. This verification can be completed formally or informally as desired. The USFWS recommends that verification be completed by visiting the IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the IPaC system by completing the same process used to receive the initial list. If the list is determined to have been modified to include additional species of concern, an evaluation of said species should be conducted and consultation under USFWS guidelines may have to be re-initiated, depending on the determination of effect or previous response from the USFWS.

Additionally, Lotis reviewed the New Mexico Game and Fish's (NMDGF) list of species of concern and their corresponding habitats and determined that the proposed undertaking would have "*no effect*" on state species of concern. The state species list was obtained by using the NMDGF's project report. Copies of the Lotis IBA, the state species list and the IPaC email are included in Appendix B.

Lotis submitted the proposed undertaking summary package to the USFWS, New Mexico Ecological Services Field Office on September 27, 2023, for informal Section 7 consultation under the Endangered Species Act (50 CFR Part 402.01). In the submission, Lotis requested the USFWS to determine if the proposed undertaking would have an effect on any wildlife refuges or if the proposed undertaking would have an adverse impact on: 1) any listed and/or proposed threatened or endangered species; or 2) any designated and/or proposed critical habitats. On November 6, 2023, Lotis received a response, via email, indicating, "*You made a determination of "May Affect, Not Likely to Adversely Affect" for both the silverspot butterfly (Speyeria nokomis nokomis) and the New Mexico meadow jumping mouse (Zapus hudsonius luteus) because the project is near a wetland site. Looking at your project specifications, I believe the project is actually a "No Effect" for the butterfly because the project footprint is unlikely to impact wetland habitat, and the species is not currently known to occur at the wetland site. I conferred with our NMMJM lead (copied), who believes the same is true for the mouse. Would you like to change your determination to a "No Effect" for both species? If you want to proceed with your MANLAA determination instead, I can still provide an informal consultation letter*." Copies of the USFWS submission cover letter and USFWS response are included in Appendix B.

Additionally, the USFWS has established interim guidelines for recommendations on communication tower siting, construction, operation, and decommissioning as new and existing towers have been determined to significantly impact species which are protected under the Migratory Bird Treaty Act (MBTA), **http://www.fws.gov/laws/**

lawsdigest/migtrea.html, (16 U.S.C. 703-712). The MBTA prohibits the taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests, except when specifically authorized by the Department of the Interior. While the Act has no provision for allowing unauthorized take, it must be recognized that some birds may be killed at structures such as communications towers even if all reasonable measures to avoid it are implemented. While it is not possible under the Act to absolve individuals or companies from liability if they follow these recommended guidelines, the Division of Law Enforcement and Department of Justice have used enforcement and prosecutorial discretion in the past regarding individuals or companies who have made good faith efforts to avoid the take of migratory birds. A copy of the 2013 U.S. Fish and Wildlife Service (USFWS) Revised Voluntary Guidelines for Communication Tower Design, Siting, Construction, Operation, Retrofitting, and Decommissioning is included in Appendix B.

VB BTS II has taken these recommended interim guidelines into consideration and has mitigated the potential effect on migratory birds by siting the proposed undertaking away from sensitive locations such as critical habitats, wilderness areas, wildlife refuges, and wetlands, where species of concern are more likely to be present. Additionally, VB BTS II proposes a tower height of no more than 199 feet with a tower design to be that of a self-supporting monopine tower. If lighting is required, VB BTS II will complete request the use of dual medium white or red strobe lights with the minimum number, minimum intensity, and minimum number of flashes per minute allowable by the FAA.

The USFWS also regulates and enforces the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668c). "*This Act provides criminal penalties for persons who "take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or any manner, any bald eagle ... [or any golden eagle], alive or dead, or any part, nest, or egg thereof." The Act defines "take" as "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb." "Disturb" means "to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior." In addition to immediate impacts, this definition also covers impacts that result from human-induced alterations initiated around a previously used nest site during a time when eagles are not present, if, upon the eagle's return, such alterations agitate or bother an eagle to a degree that interferes with or interrupts normal breeding, feeding, or sheltering habits, and causes injury, death or nest abandonment. A violation of the Act can result in a fine of $100,000 ($200,000 for organizations), imprisonment for one year, or both, for a first offense. Penalties increase substantially for additional offenses, and a second violation of this Act is a felony.*" USFWS: The Bald and Golden Eagle Protection Act, **https://www.fws.gov/northeast/ecologicalservices/pdf/NationalBaldEagleManagementGuidelines.pdf** (accessed January 2023). A copy of the Bald and Golden Eagle Protection Act is included in Appendix B.

In addition, Lotis contacted the NMDGF on September 13, 2023, via the online portal requesting a review report of the potential adverse effect on state protected habitats and state listed species of concern. Upon receiving the report on September 13, 2023, NMDGF indicated, "*No further consultation with the Department is required based on the project's location and, with implementation of mitigation measures described in the Project Recommendations section below, no adverse effects to wildlife or important habitats are anticipated*." A copy of NMDGF's response are included in Appendix B.

Both the USFWS and the NMDGF have recommended additional mitigation as indicated above. These are recommendations and should be treated as such unless issued as a requirement to mitigate/prevent adverse effects on habitat and species of concern. Should failure to abide by these recommendations occur, the applicant is assuming responsibility for their failure in compliance with the above-mentioned Endangered Species Act, Migratory Bird Treaty Act, and The Bald and Golden Eagle Protection Act. It is ultimately, the responsibility of the applicant to prevent the "take" of a species of concern regardless of whether or not it has completed Section 7 consultation. The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or to attempt to engage in any such conduct. The taking of a listed species of concern (threatened/Endangered), without a federal/state permit, is a severe crime punishable by large fine(s) and confinement.

4. Will the proposed undertaking affect districts, sites, buildings, structures or objects, significant in American history, architecture, archeology, engineering or culture, that are listed (or eligible for listing) in the National Register of Historic Places?

The New Mexico Historic Preservation Division (HPD) is the lead State Historic Preservation Office (SHPO) for the State of New Mexico. Lotis contracted SubTerranean Consultants to determine the potential effect of the proposed undertaking on historic properties (archaeological sites and eligible/listed historic properties) within the Direct and ½-mile Visual Area of Potential Effect (APE) designated by the Federal Communications Commission (FCC). SubTerranean Consultants completed a Intensive Cultural Resources Survey and conducted research to identify historic properties using resources specified by the HPD. Additionally, SubTerranean Consultants researched the National Register of Historic Places (NRHP) at **http://www.nps.gov/nr/** and identified one (1) historic property within the ½-mile radius APE of the proposed undertaking. A copy of the Intensive Cultural Resources Survey is included in Attachment 3.

Lotis prepared and submitted a new tower submission packet (FCC Form 620) through the FCC's E-106 electronic filing protocol. Section 106 review was initially submitted via E-106 to the New Mexico SHPO on September 27, 2023. On November 2, 2023, Lotis received an email response from the HPD indicating "*SHPO has concurred*." Copies of the HPD submission cover letter, FCC Form 620, and the HPD response are included in Appendix C.

In furtherance of Section 106 consultation efforts, Lotis attempted to identify the jurisdiction's Certified Local Government (CLG), by using the National Parks Service's (NPS) website, **http://grantsdev.cr.nps.gov/CLG_Review/search.cfm.** Unfortunately, the NPS's website did not identify a CLG within the local jurisdiction, therefore, Lotis contacted the local jurisdiction for comment. On September 27, 2023, Lotis invited Mr. Andy Jones, Senior Planner of Taos County Planning Department, to comment on whether the proposed undertaking would have an effect on historic properties within the general vicinity. On October 3, 2023, Lotis received an email from Andy Jones, Senior Planner of Taos County indicating "*The Taos County Planning Department will defer such matters to the New Mexico State Historic Preservation Office*." Copies of the submission cover letter, email submission and the response email are included in Attachment 7.

In addition, Lotis submitted an information package to the Taos County Historical Society on September 26, 2023. To date, Lotis has not received a response from the Taos County Historical Society relative to the proposed undertaking. Copies of the submission cover letter and email submission are included in Attachment 8

Finally, Lotis contacted the Taos News and published a legal public notice in the classified section on September 21, 2023. The proposed undertaking was detailed in the ad and calls for public concerns regarding potential adverse effect on historic properties in the area were solicited. To date, Lotis has not received any public response from the public notice publication concerning the proposed undertaking's potential effect on historic properties. Copies of the legal public notice text, tear sheet, and Affidavit of Publication, and any responses are included in Attachment 8.

5. Will the undertaking affect Indian religious site(s)?

Lotis utilized the FCC's Tower Construction Notification System (TCNS) to identify tribal entities with interest in the proposed undertaking. The initial TCNS filing was submitted on September 19, 2023. The FCC responded via e-mail on September 22, 2023, indicating that nineteen (19) nationally recognized tribes were forwarded information regarding the location of the proposed undertaking via electronic or regular mail. All tribes listed on the September 22, 2023 FCC email required additional information delivered to them. The requested documentation was forwarded to the tribes via registered mail or email on September 27, 2023. As of the date of this report, Lotis received clearance from all interested tribes. Copies of the cover letter submissions, proof of submissions, and responses are included in Appendix C.

FCC Wireless Telecommunications Docket No. 17-79 effective July 2, 2018, replaces procedures outlined in the 2005 Declaratory Ruling and establishes a 45-day process for proceeding with construction in cases in which Tribal Nations or NHOs do not respond. Referral can be completed and submitted to the FCC if a correspondence is not received within 30 calendar days (for emailed tribes) and 35 calendar days (for mailed tribes). Upon notice the FCC will communicate by letter or email with the respective tribe(s) giving them 15 days to respond. The FCC's final 15-day letter was sent November 2 and 6, 2023, to the non-responding party(s). According to the FCC Wireless Telecommunications Docket No. 17-79, when no response is received from the tribe(s) within 15 days from the FCC's contact it is deemed to have no interest in pre-construction review a consultation is considered complete. Documentation of all original submission cover letters, referral(s) to the FCC, and tribal clearances are included in Appendix D of this report. Copies of the Federal Lands Map and Indian Reservations Map are included in Appendix A.

6. Is the proposed undertaking located within a flood plain (100-year)?

According to the Flood Insurance Rate Map (FIRM) for the Taos County, New Mexico (Map Number 35055C0625E) published by the Federal Emergency Management Agency (FEMA) effective on October 6, 2010 and exported on September 13, 2023, the proposed undertaking is not located within a 100-year floodplain. A copy of the FIRMette (flood plain map) is included in Appendix E

7. Will construction of the proposed undertaking involve significant change in surface features (e.g., wetland fill, deforestation or water diversion)?

According to the online United States Fish and Wildlife Service National Wetlands Inventory Map (NWIM), **http://www.fws.gov/wetlands/Data/Mapper.html**, no mapped wetlands are located at or within close proximity to the proposed undertaking. A copy of the National Wetlands Inventory Map is included in Appendix F.

8. Is the proposed undertaking located in a residential neighborhood and is it required to be equipped with high intensity white lights (as defined by local zoning law)?

The proposed undertaking is assumed not to be equipped with high intensity white lights nor located within a zoned residential neighborhood. Should the applicant decide to place high intensity lighting on the proposed undertaking, additional consultation will be recommended.

9. a.) Will the antenna structure equal or exceed total power (of all channels) of 2000 Watts ERP (3280 Watts EIRP) and have antenna located less than 10 meters above ground level?

An evaluation to determine whether RF emission standards are met was not included as part of this report. Lotis assumes that client representatives will evaluate the project to ensure compliance with applicable RF standards. If the antenna structure equals or exceeds total power (of all channels) of 2000 Watts ERP (3280 Watts EIRP) and has antenna located less than 10 meters above ground level, further consultation is required for NEPA due diligence.

b.) Will the antenna structure equal or exceed total power (of all channels) of 2000 Watts ERP (3280 Watts EIRP) and have antenna located less than 10 meters above floor level?

An evaluation to determine whether RF emission standards are met was not included as part of this report. Lotis assumes that client representatives will evaluate the project to ensure compliance with applicable RF standards. If the antenna structure equals or exceeds total power (of all channels) of 2000 Watts ERP (3280 Watts EIRP) and has antenna located less than 10 meters above floor level, further consultation is required for NEPA due diligence.

10. Facility will be over 450 feet above ground level (AGL)?

The proposed undertaking is not above 450 feet AGL.

National Historic and Scenic Trail Review

Per the 1999 “Siting of Wireless Telecommunications facilities Near National Scenic Trails Resolution” voluntary early notification of “*Wireless telecommunications carriers and site management companies ("Applicants") are strongly encouraged to contact the appropriate Managing and Supporting Trail Organization ("MSTO") as early as possible in the siting process. If an Applicant or other entities propose to site a wireless telecommunications facility within one mile of a National Scenic Trail, then the Applicant will voluntarily notify the MSTO of the applicable National Scenic Trail no later than five business days after filing a siting application with the applicable local, municipal, or state authorities*.”

Due to the proposed undertaking’s siting, consultation with the designated Managing and Supporting Trail Organizations (MSTO) of the National Park Service for potential visual impact was completed submitted on September 27, 2023. On October 3, 2023, Lotis received a response from Jordan Jarrett of the National Park Service indicating “*National Trails Office does not anticipate adverse effect of this undertaking to the Old Spanish National Historic Trail or to its associated resources*”. The correspondence(s) are included in Appendix G of the report. A copy of the National Scenic Trail Map is included in Appendix A.

National Scenic Riverway Review

Congress enacted the Wild and Scenic Rivers Act (WSRA) in 1968, declaring it the "policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations." 16 U.S.C. § 1271. As originally enacted, the WSRA named specific rivers or segments of rivers for inclusion in the Wild and Scenic River System ("WSRS"). Id. § 1274(a)(1)-(a)(8).

The proposed undertaking is located more than one mile from the closest national scenic riverway. Therefore, no additional consultation is required. A copy of the National Scenic Riverway Map is included in Appendix A.

National Scenic Byway Review

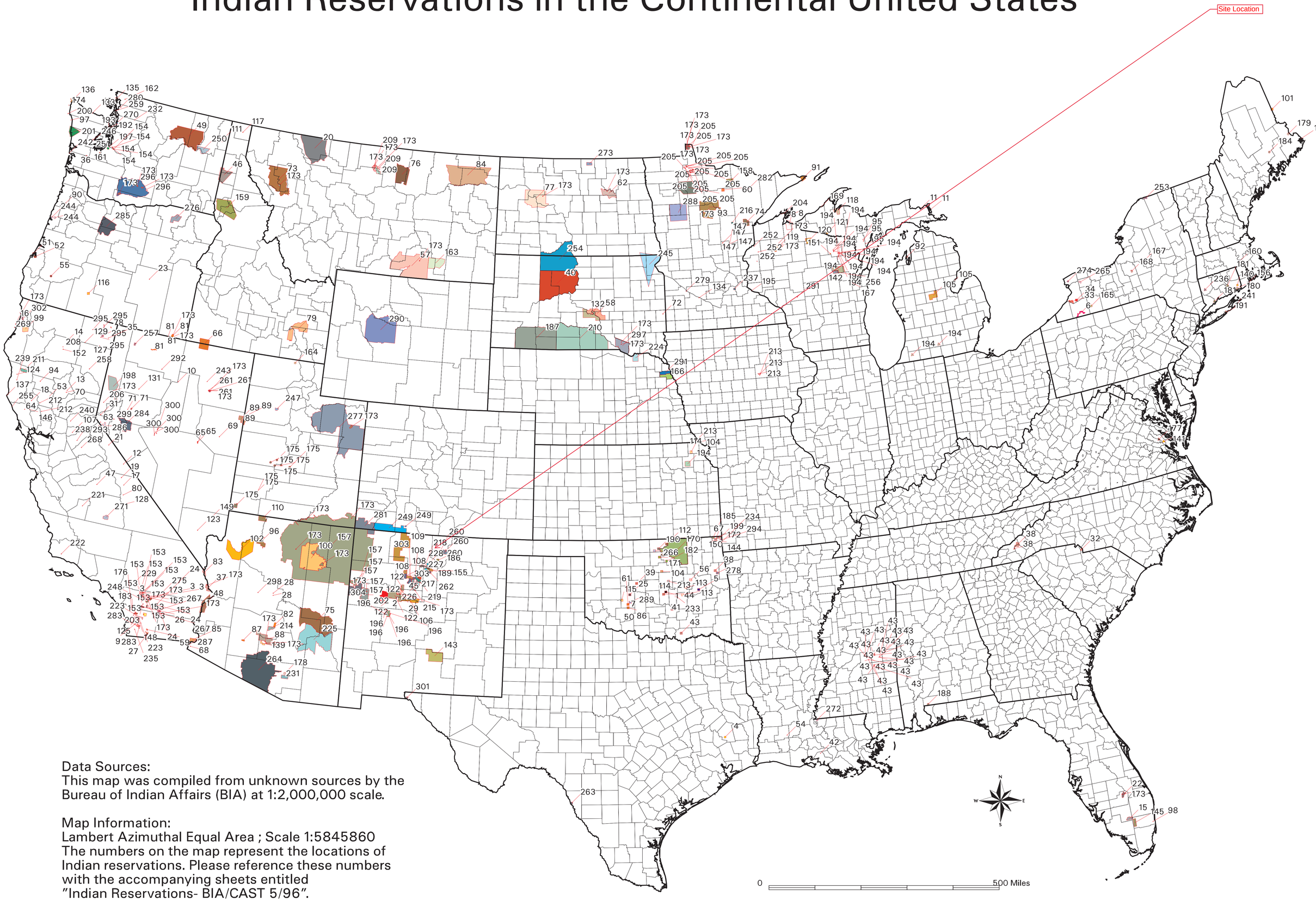
The National Scenic Byways Program was established under the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 and is part of the Department of Transportation's (DOT) Federal Highway Administration (FHWA). The program is a grass-roots collaborative effort established to help recognize, preserve, and enhance selected roads throughout the United States. Pursuant to the program, the Secretary of Transportation recognizes certain roads as All-American Roads or National Scenic Byways based on one or more archeological, cultural, historic, natural, recreational, and scenic qualities.

The proposed undertaking is located more than one mile from the closest national byway. Therefore, no additional consultation is required. A copy of the National Scenic Byway Map is included in Appendix A.

Appendix A

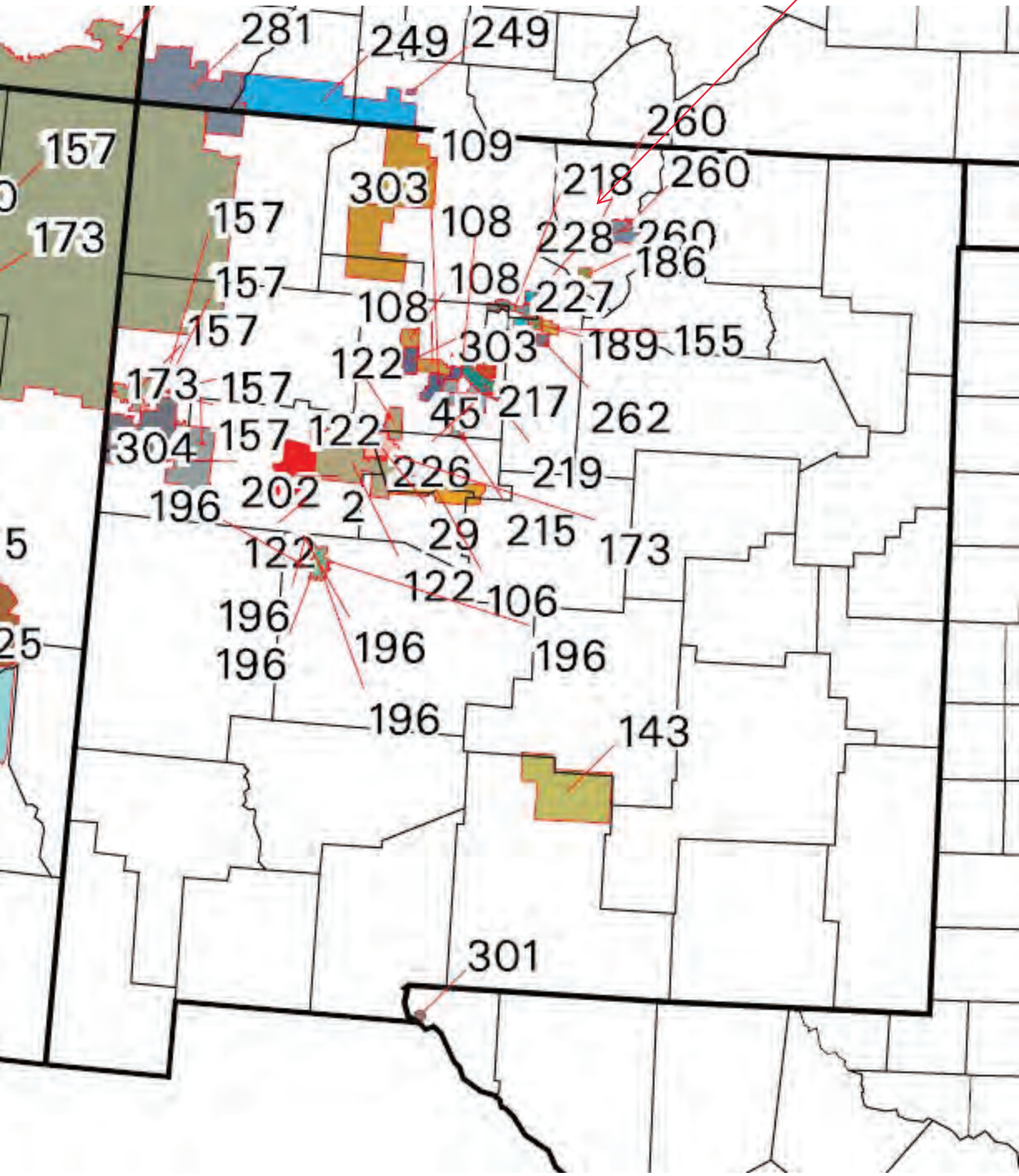
Maps

Indian Reservations in the Continental United States



Data Sources:
This map was compiled from unknown sources by the Bureau of Indian Affairs (BIA) at 1:2,000,000 scale.

Map Information:
Lambert Azimuthal Equal Area ; Scale 1:5845860
The numbers on the map represent the locations of Indian reservations. Please reference these numbers with the accompanying sheets entitled "Indian Reservations- BIA/CAST 5/96".


Site Location
281
249
249
260
109
157
303
218
260
157
108
228
260
173
186
157
108
108
227
157
108
303
189
155
122
173
157
217
45
262
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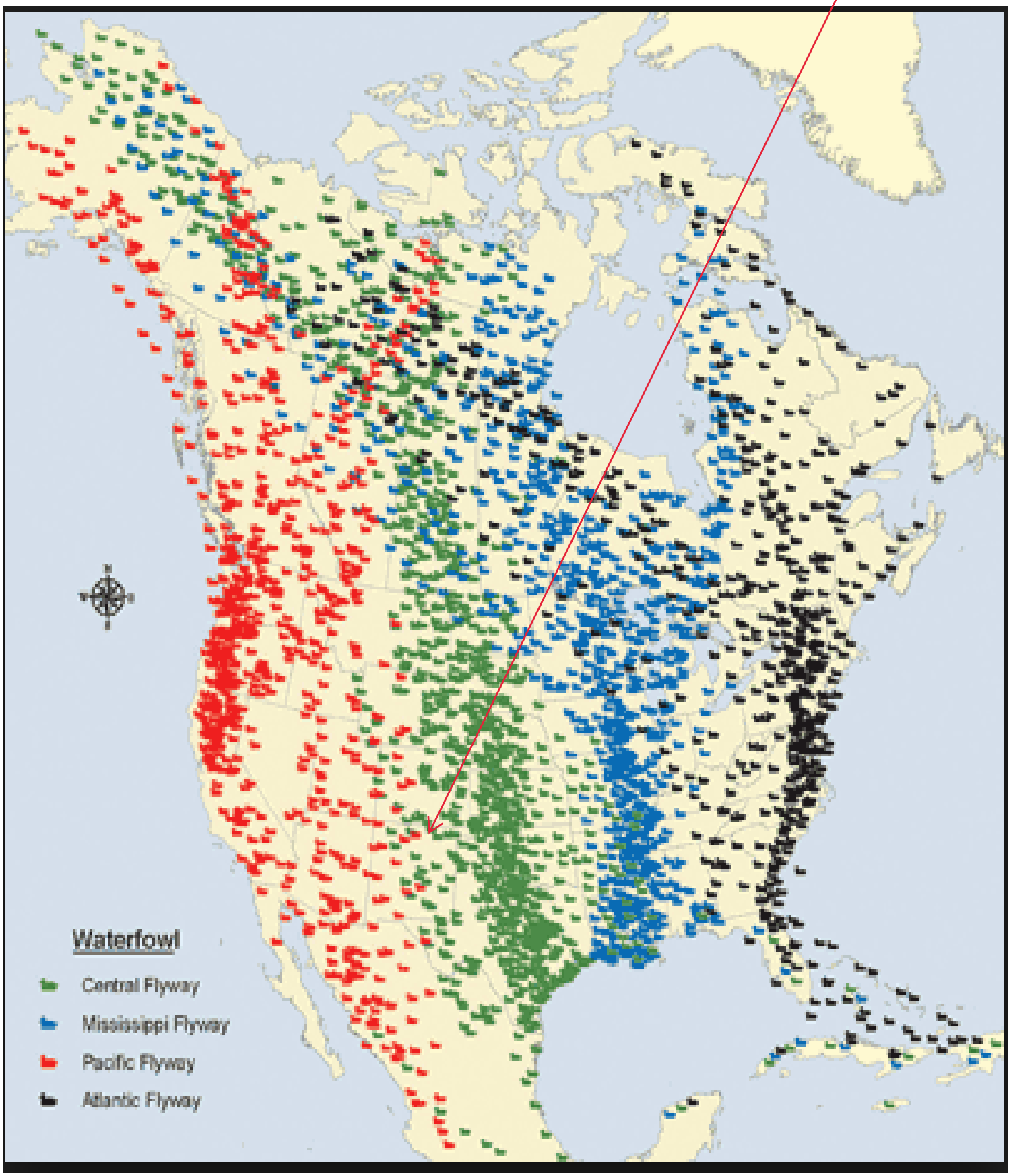
196
196
196
143
301


Site Location
Waterfowl
Central Flyway
Mississippi Flyway
Pacific Flyway
Atlantic Flyway

Note: Abbreviations at right are for federal lands shown on this map. In many places, exact trail locations have not yet been determined. Portions of the trails indicated on this map may not be accessible for public use. Please check with individual trail clubs and managing offices for the latest available trail locations.

National Park System

MEM	Memorial	**NP**	National Park
NB	National Battlefield	**N PRES**	National Preserve
NBP	National Battlefield Park	**NRA**	National Recreation Area
NHP	National Historical Park	**NRR**	National Recreational River
NHS	National Historic Site	**N RES**	National Reserve
NL	National Lakeshore	**NS**	National Seashore
NM	National Monument	**NSR**	National Scenic Riverway
N MEM	National Memorial	**PKWY**	Parkway
NMP	National Military Park		

National Forest System

NF *National Forest*
NG *National Grassland*

Only national park, forest areas, and wildlife refuges that relate to the National Trails System are shown.

Fish and Wildlife Service

NWR *National Wildlife Refuge*

Bureau of Land Management

Site Location

PACIFIC NORTHWEST NATIONAL SCENIC TRAIL
OREGON NATIONAL HISTORIC TRAIL
PACIFIC CREST NATIONAL SCENIC TRAIL
CALIFORNIA NATIONAL HISTORIC TRAIL
PONY EXPRESS NATIONAL HISTORIC TRAIL
NEZ PERCE (NEE-ME-POO) NATIONAL HISTORIC TRAIL
LEWIS AND CLARK NATIONAL HISTORIC TRAIL
MORMON PIONEER NATIONAL HISTORIC TRAIL
The four trails shown here as separate lines actually follow the same route in much of Nebraska and Wyoming.
OLD SPANISH NATIONAL HISTORIC TRAIL
SANTA FE NATIONAL HISTORIC TRAIL
ARIZONA NATIONAL SCENIC TRAIL
CONTINENTAL DIVIDE NATIONAL SCENIC TRAIL
EL CAMINO REAL DE TIERRA ADENTRO NATIONAL HISTORIC TRAIL
EL CAMINO REAL DE LOS TEJAS NATIONAL HISTORIC TRAIL
JUAN BAUTISTA DE ANZA NATIONAL HISTORIC TRAIL
IDITAROD NATIONAL HISTORIC TRAIL
ALA KAHAKAI NATIONAL HISTORIC TRAIL
NORTH COUNTRY NATIONAL SCENIC TRAIL
ICE AGE NATIONAL SCENIC TRAIL
TRAIL OF TEARS NATIONAL HISTORIC TRAIL
NATCHEZ TRACE NATIONAL SCENIC TRAIL (Follows Natchez Trace PKWY)
FLORIDA NATIONAL SCENIC TRAIL
APPALACHIAN NATIONAL SCENIC TRAIL
NEW ENGLAND NATIONAL SCENIC TRAIL
WASHINGTON-ROCHAMBEAU REVOLUTIONARY ROUTE NATIONAL HISTORIC TRAIL
STAR-SPANGLED BANNER NATIONAL HISTORIC TRAIL
POTOMAC HERITAGE NATIONAL SCENIC TRAIL
OVERMOUNTAIN VICTORY NATIONAL HISTORIC TRAIL
SELMA TO MONTGOMERY NATIONAL HISTORIC TRAIL
CAPTAIN JOHN SMITH CHESAPEAKE NATIONAL HISTORIC TRAIL

CANADA
UNITED STATES
MEXICO
PACIFIC OCEAN
ATLANTIC OCEAN
ARCTIC OCEAN
BEAUFORT SEA
BERING SEA
GULF OF ALASKA
GULF OF MEXICO
WASHINGTON
OREGON
CALIFORNIA
IDAHO
NEVADA
MONTANA
WYOMING
UTAH
ARIZONA
COLORADO
NEW MEXICO
NORTH DAKOTA
SOUTH DAKOTA
NEBRASKA
KANSAS
OKLAHOMA
TEXAS
MINNESOTA
IOWA
MISSOURI
ARKANSAS
LOUISIANA
WISCONSIN
ILLINOIS
MICHIGAN
INDIANA
OHIO
KENTUCKY
TENNESSEE
MISSISSIPPI
ALABAMA
GEORGIA
SOUTH CAROLINA
NORTH CAROLINA
VIRGINIA
WEST VIRGINIA
PENNSYLVANIA
NEW YORK
MAINE
VT.
N.H.
MASS.
CONN.
R.I.
N.J.
MD.
DEL.
FLORIDA
ALASKA
Alaska
Hawaii
PACIFIC OCEAN
HAWAII
Maui
Moloka'i
O'ahu
Kaua'i
Ni'ihau

Chesapeake Bay area National Wildlife Refuges

1 Blackwater
2 Eastern Neck
3 Eastern Shore Of Virginia
4 Featherstone
5 Fisherman Island
6 James River
7 Martin
8 Mason Neck
9 Nansemond
10 Occoquan Bay
11 Plum Tree Island
12 Presquile
13 Rappahannock River Valley
14 Susquehanna

National Park sites

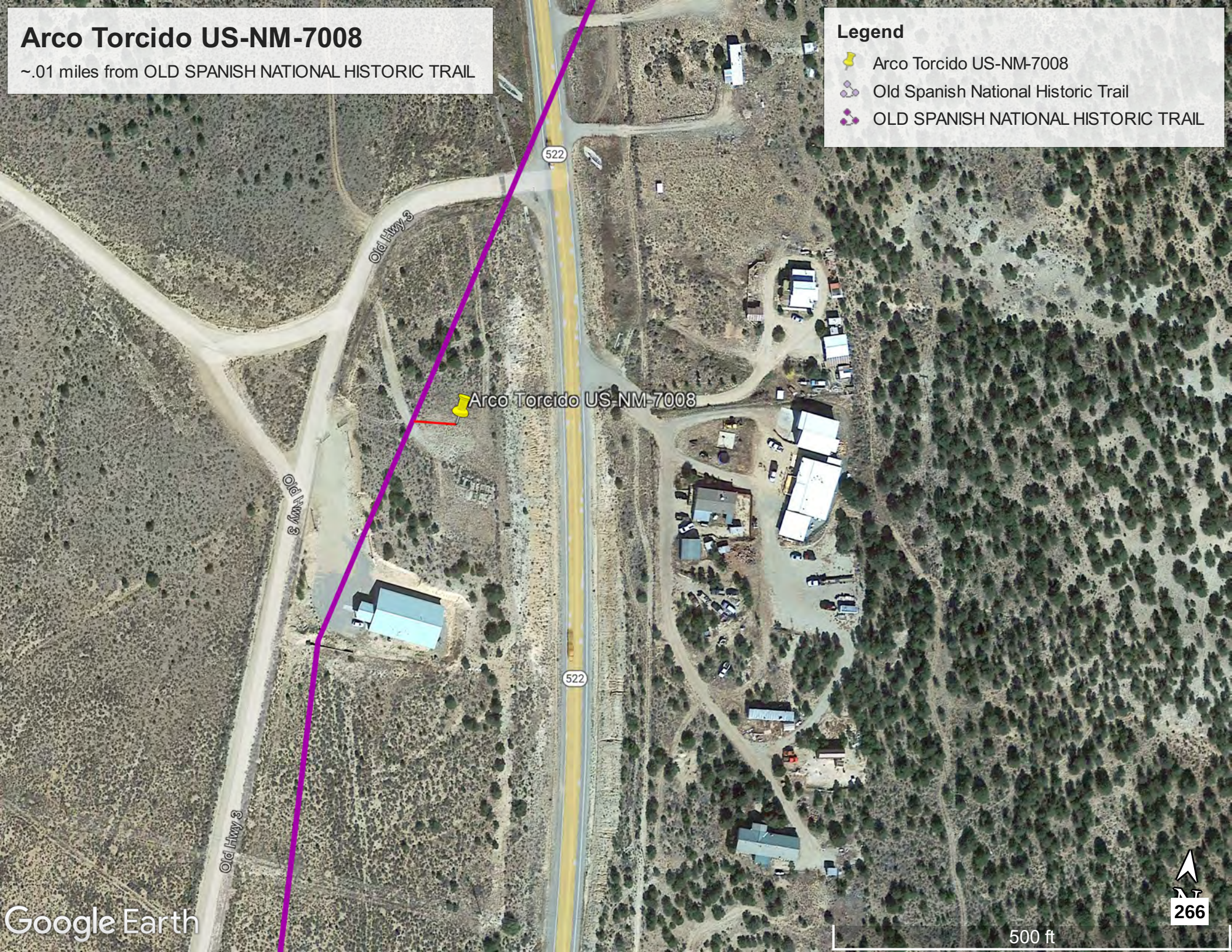
15 Colonial NHP
16 Fort McHenry NM
17 George Washington Birthplace NM
18 Piscataway Park
19 Prince William Forest Park
20 Richmond NBP

North

Scale for all areas except Alaska
0 100 200 Kilometers
0 100 200 Miles

Map revised April 2010.

Site Location
NG
Carson NF
Maxwell NWR
Fort Union NM
Kiowa NG
Santa Fe NF
Santa Fe NF
SANTA FE
Pecos NHP
CONTINENTAL DIVIDE NATIONAL SCENIC TRAIL
Cibola NF
40
El Malpais NM
ALBUQUERQUE
Sevilleta NWR
Cibola NF
Apache NF
NEW MEXICO
Bosque Del Apache NWR
EL CAMINO REAL DE TIERRA ADENTRO NATIONAL HISTORIC TRAIL
Gila NF
25
Pecos
10
LAS CRUCES
Chamizal N MEM
EL PASO
To Mexico City


Arco Torcido US-NM-7008
~.01 miles from OLD SPANISH NATIONAL HISTORIC TRAIL
Legend
Arco Torcido US-NM-7008
Old Spanish National Historic Trail
OLD SPANISH NATIONAL HISTORIC TRAIL
522
Old Hwy 3
Arco Torcido US-NM-7008
Old Hwy 3
522
Old Hwy 3
Google Earth
266
500 ft

Site Location

U.S. Fish & Wildlife Service

National Wildlife Refuge System

Site Location
Baca
Monte Vista
Alamosa
Sangre de Cristo CA
San Juan
River
Navajo Reservoir
Grande
Maxwell
Rio Mora NWR and CA
Santa Fe
Las Vegas
Albuquerque
Rio
Albuquerque
Valle de Oro
NEW MEXICO
Sevilleta
Bosque del Apache
Elephant Butte Reservoir
Roswell
Bitter Lake
Grulla
San Andres
Pecos
El Paso
River

NATIONAL WILD AND SCENIC RIVERS SYSTEM

Designations as of November 2016

Site Location

The National Wild and Scenic Rivers System

Established by Congress under the Wild and Scenic Rivers Act of 1968, the National Wild and Scenic Rivers System was created to preserve the free-flow, water quality, and outstanding natural, cultural, and recreational values of select rivers for the enjoyment of present and future generations. The Act is notable for safeguarding the special character of these rivers, while also recognizing the potential for their appropriate use and development. It encourages river management that crosses political boundaries and promotes public participation in developing goals for river protection.

More information about the National Wild and Scenic Rivers System or specific designated rivers can be found at the Interagency Wild & Scenic Rivers Coordinating Council's website, www.rivers.gov, or by contacting one of the federal river administering agencies:

U.S. Forest Service
www.fs.fed.us

National Park Service
www.nps.gov/wsr

Bureau of Land Management
www.blm.gov

U.S. Fish and Wildlife Service
www.fws.gov

Names of Numbered Wild and Scenic Rivers

1 Sandy
2 Zig Zag
3 Middle Fork Hood
4 East Fork Hood
5 Fifteenmile Creek
6 White
7 Salmon
8 Clackamas
9 Collawash
10 Fish Creek
11 South Fork Clackamas
12 Roaring and South Fork Roaring
13 Eagle Creek
14 Metolius
15 Deschutes
16 North Fork Crooked
17 Whychus Creek
18 North Fork Smith
19 River Styx
20 Big Marsh
21 Crescent Creek
22 Little Deschutes
23 Crooked
24 North Fork Crooked
25 South Fork John Day
26 North Fork John Day
27 North Powder
28 Joseph Creek
29 Lostine
30 Donner und Blitzen
31 Wildhorse Creek and Kiger Creek
32 North Fork Owyhee
33 Red Canyon
34 South Fork Owyhee
35 Battle Creek
36 Deep Creek
37 Dickshooter Creek
38 Little Jacks Creek
39 Big Jacks Creek
40 Duncan Creek and Wickahoney Creek
41 Cottonwood Creek
42 Sheep Creek

Scale 1:5,800,000
Albers Equal Area Conic
0 50 100 200 300 400 Miles
0 80 160 320 480 640 Kilometers

Scale: 1:8,000,000
Albers Equal Areas Conic
0 35 70 140 210 280 Miles
0 60 120 240 360 480 Kilometers

Scale: 1:2,000,000
Albers Equal Area Conic
0 10 20 40 60 80 Miles
0 15 30 60 90 120 Kilometers

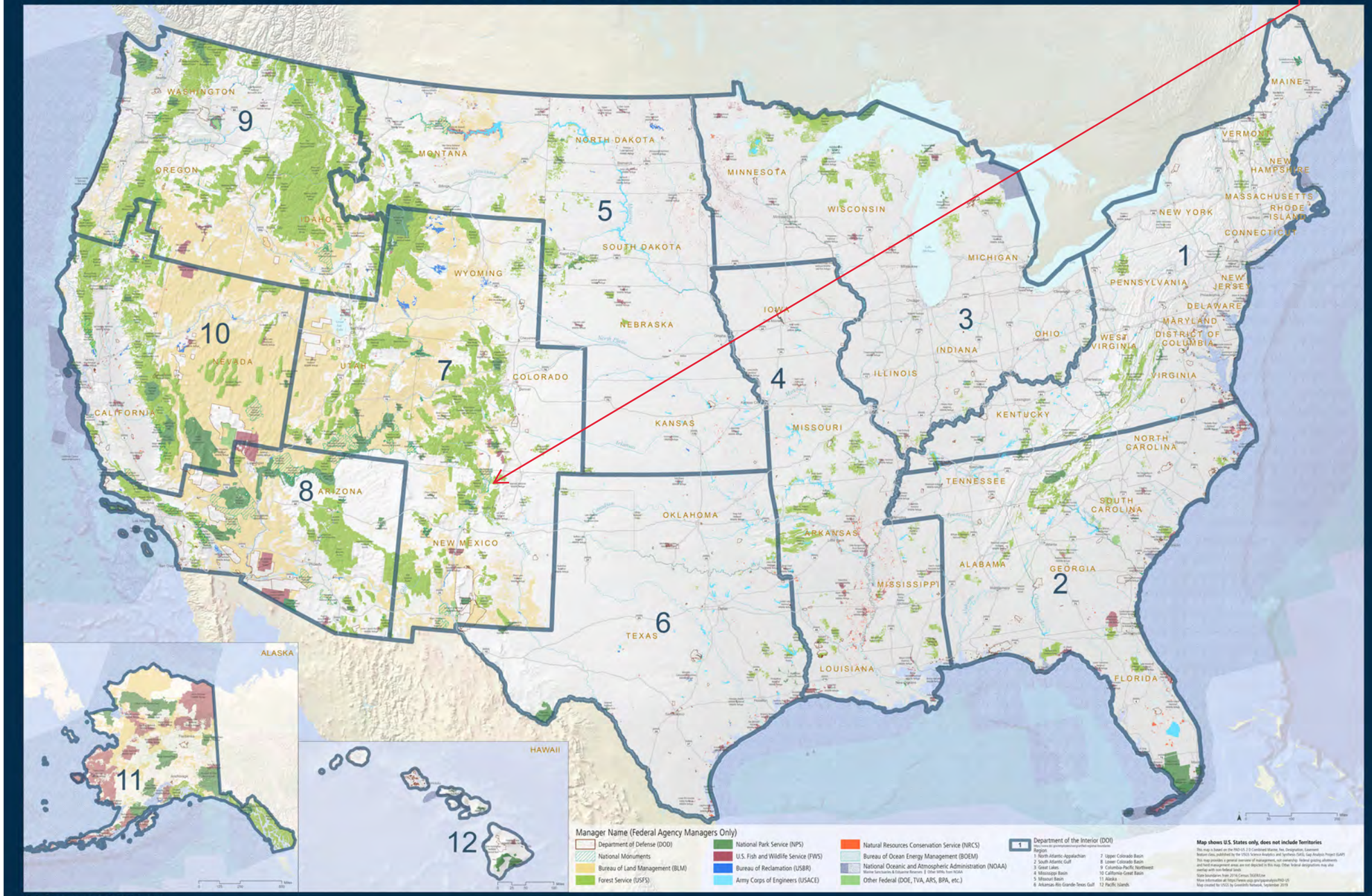
Prepared by the USDA Forest Service
Geospatial Service and Technology Center Salt Lake City, UT 2016

The USDA Forest Service uses the most current and complete data available. GIS data and product accuracy may vary. Using GIS products for purposes other than those for which they were intended may yield inaccurate or misleading results.

Scenic Rivers
~1.82 miles to the northwest of the project location
Legend
Arco Torcido US-NM-7008
Rio Grande
522
Arco Torcido US-NM-7008
Arroyo Hondo
B143
522
B-007
B-006
B-007
Rio Grande
Google Earth
270
© 2023 Google
N
2 mi

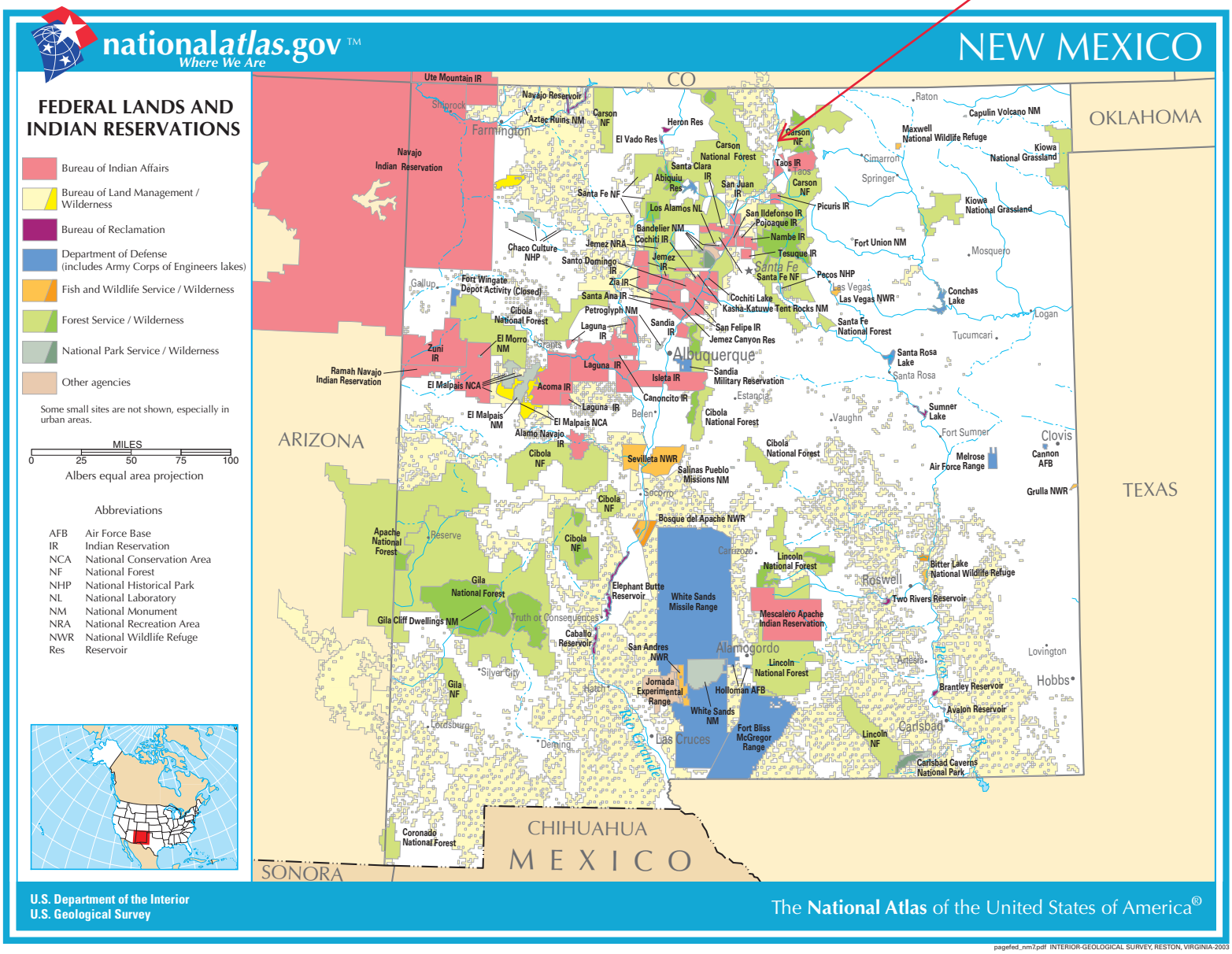
USGS
science for a changing world

Protected Areas Database of the U.S. (PAD-US) - Federal Managers

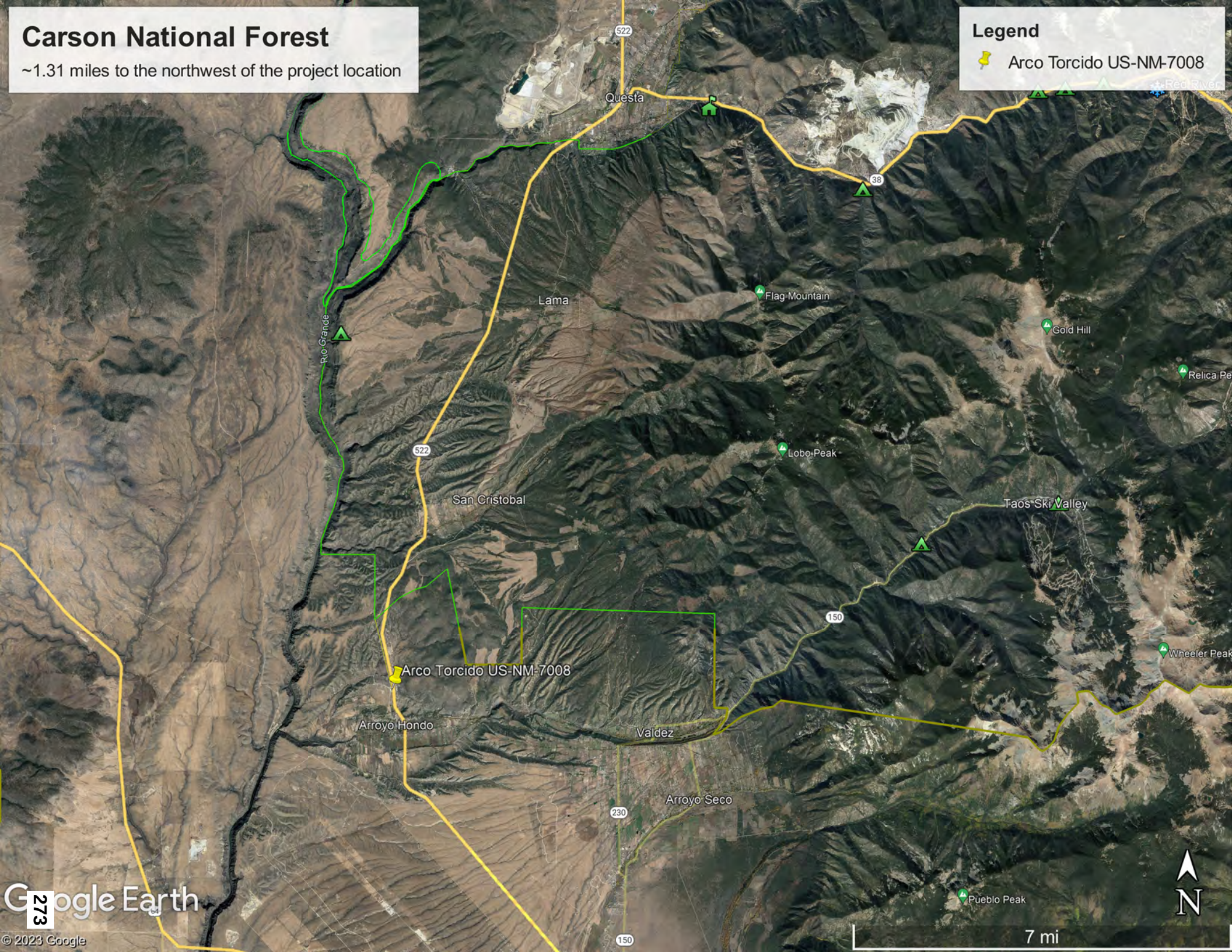


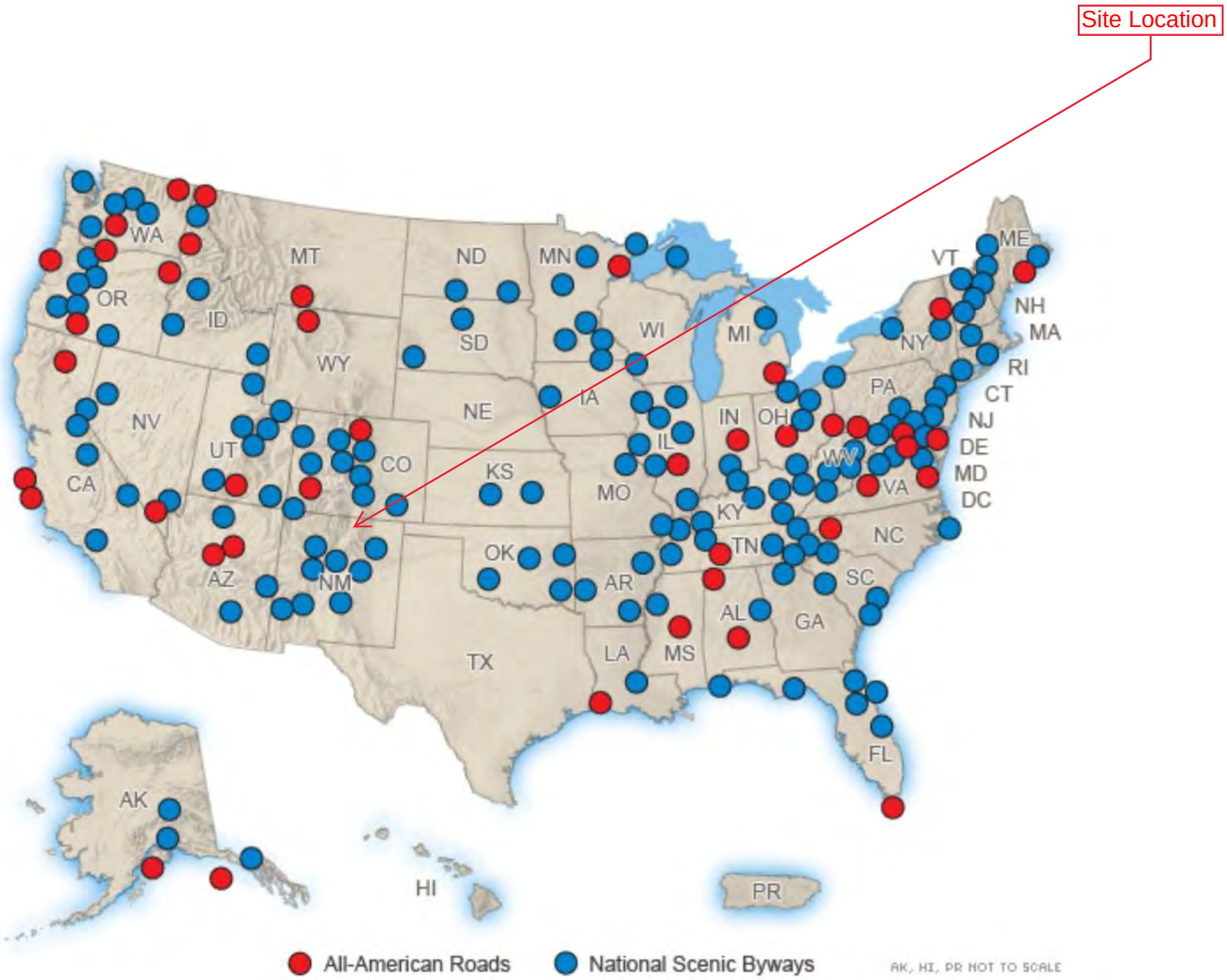
U.S. Department of the Interior
U.S. Geological Survey

Site Location



pagefed_nm7.pdf INTERIOR-GEOLOGICAL SURVEY, RESTON, VIRGINIA-2003


Carson National Forest
~1.31 miles to the northwest of the project location
Legend
Arco Torcido US-NM-7008
Questa
Lama
Flag Mountain
Gold Hill
Relica Pe
Lobo Peak
San Cristobal
Taos Ski Valley
Rio Grande
Arco Torcido US-NM-7008
Arroyo Hondo
Valdez
Arroyo Seco
Wheeler Peak
Pueblo Peak
522
38
150
230
N
7 mi
Google Earth
© 2023 Google


Site Location
WA
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WV
GA
FL
SC
NC
VA
PA
NY
VT
ME
NH
MA
RI
CT
NJ
DE
MD
DC
AK
HI
PR
All-American Roads
National Scenic Byways
AK, HI, PR NOT TO SCALE

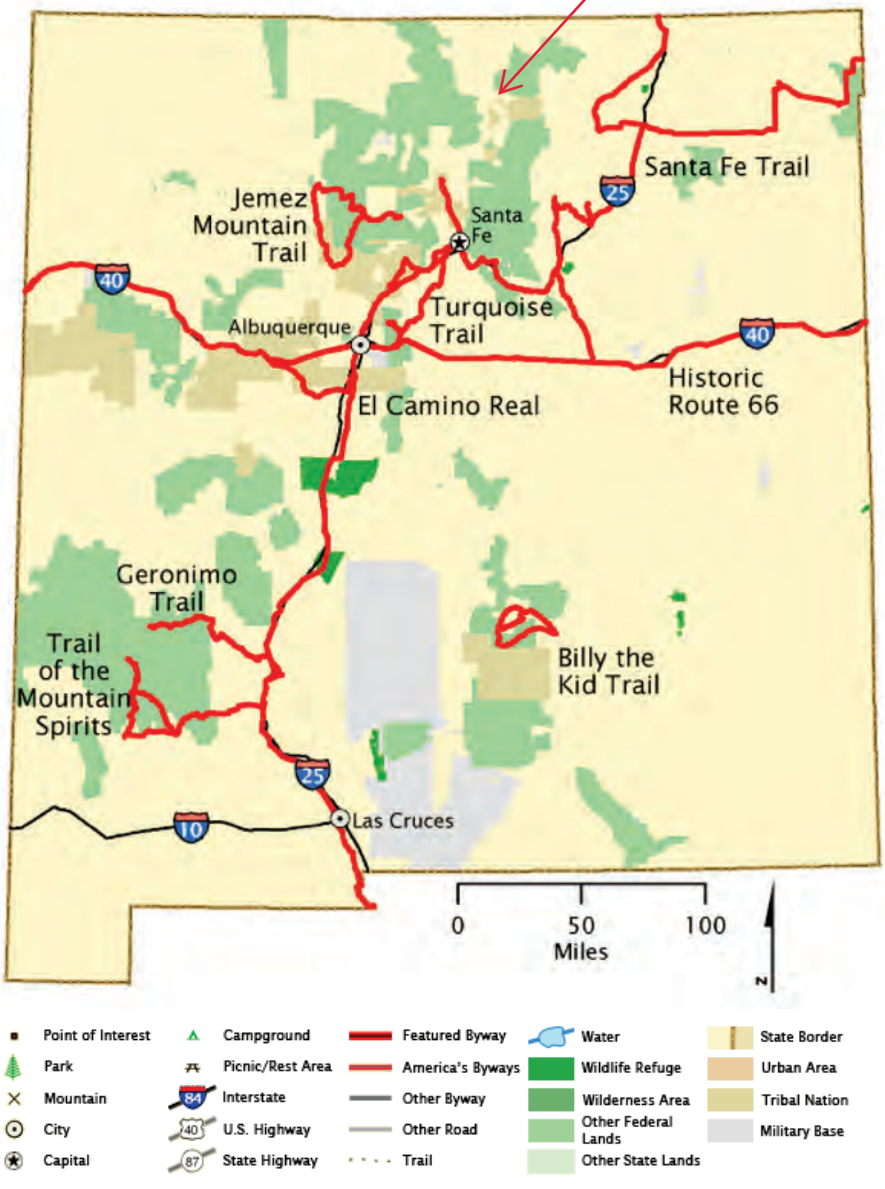
Site Location

HOME | AMERICA'S BYWAYS | ABOUT US

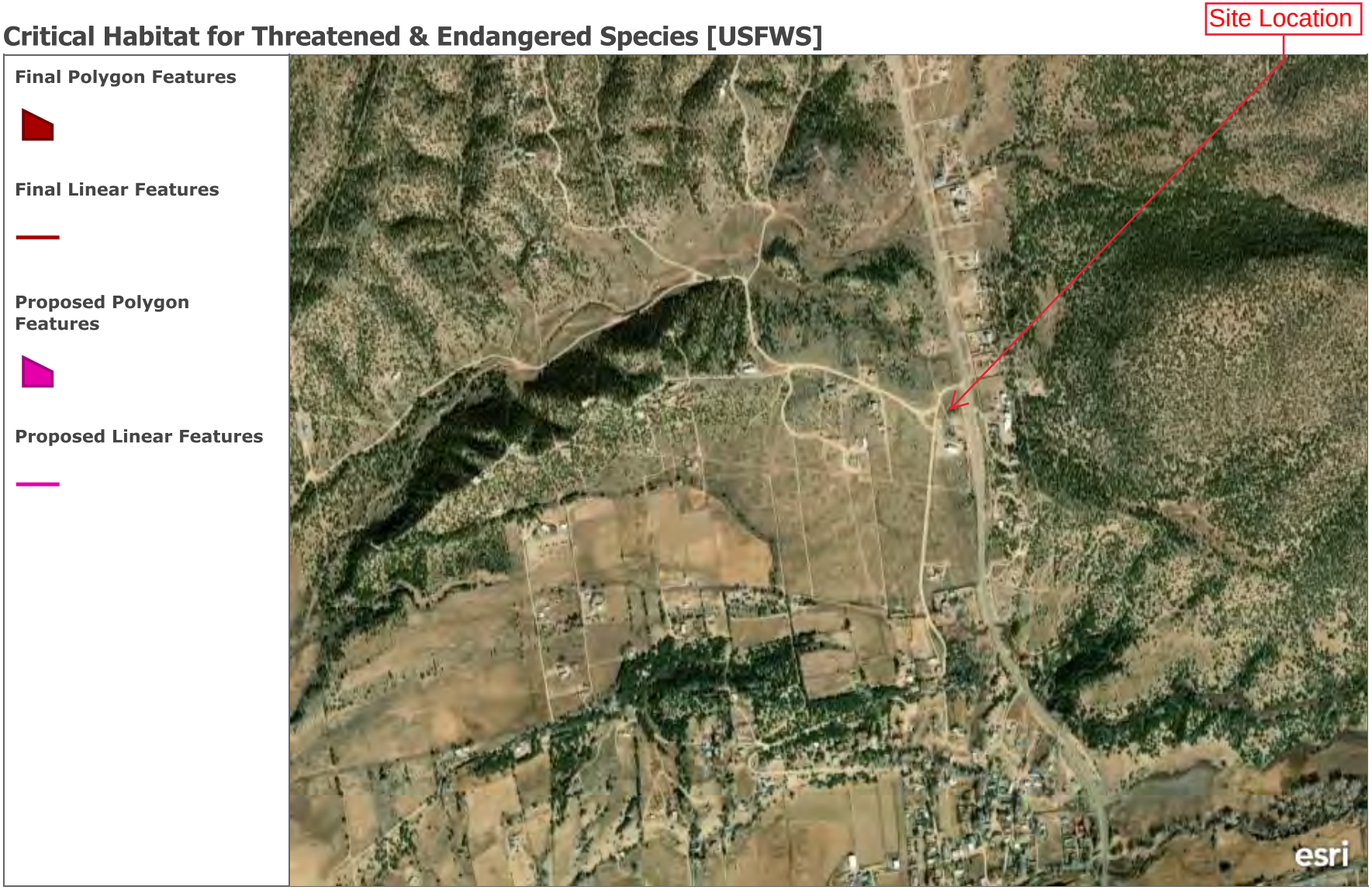
come CLOSER.

Byways
Maps
All Byways

New Mexico (NM)



Critical Habitat for Threatened & Endangered Species [USFWS]



A specific geographic area(s) that contains features essential for the conservation of a threatened or endangered species and that may require special management and protection.

Maxar

Wilderness Map

9/13/2023, 8:46:32 AM

1:18,056

0 0.13 0.25 0.5 mi

0 0.2 0.4 0.8 km

Esri, HERE, Garmin, iPC, Maxar

Web AppBuilder for ArcGIS

Maxar | Esri, HERE, Garmin, iPC |

Site Location

Soil Map—Taos County and Parts of Rio Arriba and Mora Counties, New Mexico

Map Scale: 1:487 if printed on A portrait (8.5" x 11") sheet.

N

Meters: 0 5 10 20 30

Feet: 0 20 40 80 120

Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 13N WGS84

MAP LEGEND

Area of Interest (AOI)

- Area of Interest (AOI)

Soils

- Soil Map Unit Polygons
- Soil Map Unit Lines
- Soil Map Unit Points

Special Point Features

- Blowout
- Borrow Pit
- Clay Spot
- Closed Depression
- Gravel Pit
- Gravelly Spot
- Landfill
- Lava Flow
- Marsh or swamp
- Mine or Quarry
- Miscellaneous Water
- Perennial Water
- Rock Outcrop
- Saline Spot
- Sandy Spot
- Severely Eroded Spot
- Sinkhole
- Slide or Slip
- Sodic Spot
- Spoil Area
- Stony Spot
- Very Stony Spot
- Wet Spot
- Other
- Special Line Features

Water Features

- Streams and Canals

Transportation

- Rails
- Interstate Highways
- US Routes
- Major Roads
- Local Roads

Background

- Aerial Photography

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:24,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Taos County and Parts of Rio Arriba and Mora Counties, New Mexico
Survey Area Data: Version 17, Sep 8, 2022

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: May 17, 2020—May 20, 2020

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
SED	Sedillo-Silva association, 0 to 25 percent slopes	0.3	100.0%
Totals for Area of Interest		**0.3**	**100.0%**

Taos County and Parts of Rio Arriba and Mora Counties, New Mexico

SED—Sedillo-Silva association, 0 to 25 percent slopes

Map Unit Setting

National map unit symbol: k1hd
Elevation: 6,500 to 7,500 feet
Mean annual precipitation: 11 to 13 inches
Mean annual air temperature: 45 to 49 degrees F
Frost-free period: 125 to 135 days
Farmland classification: Not prime farmland

Map Unit Composition

Sedillo and similar soils: 55 percent
Silva and similar soils: 25 percent
Minor components: 20 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Sedillo

Setting

Landform: Ridges
Landform position (three-dimensional): Side slope
Down-slope shape: Linear
Across-slope shape: Linear
Parent material: Slope alluvium derived from igneous and metamorphic rock

Typical profile

A - 0 to 3 inches: very gravelly loam
Bt - 3 to 11 inches: very gravelly clay loam
Bk - 11 to 60 inches: very gravelly sandy loam

Properties and qualities

Slope: 10 to 25 percent
Depth to restrictive feature: More than 80 inches
Drainage class: Well drained
Runoff class: High
Capacity of the most limiting layer to transmit water (Ksat): Moderately high (0.21 to 0.71 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: None
Frequency of ponding: None
Calcium carbonate, maximum content: 30 percent
Maximum salinity: Nonsaline (0.0 to 0.5 mmhos/cm)
Sodium adsorption ratio, maximum: 8.0
Available water supply, 0 to 60 inches: Low (about 4.6 inches)

Interpretive groups

Land capability classification (irrigated): None specified

Land capability classification (nonirrigated): 6s
Hydrologic Soil Group: C
Ecological site: R036XA004NM - Gravelly Slopes
Hydric soil rating: No

Description of Silva

Setting

Landform: Ridges
Landform position (three-dimensional): Crest
Down-slope shape: Linear
Across-slope shape: Linear
Parent material: Eolian deposits derived from sandstone and shale and/or slope alluvium derived from igneous and metamorphic rock

Typical profile

A - 0 to 3 inches: loam
Bt - 3 to 29 inches: clay loam
Bk - 29 to 60 inches: clay loam

Properties and qualities

Slope: 0 to 8 percent
Depth to restrictive feature: More than 80 inches
Drainage class: Well drained
Runoff class: High
Capacity of the most limiting layer to transmit water (Ksat): Moderately high (0.21 to 0.71 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: None
Frequency of ponding: None
Calcium carbonate, maximum content: 20 percent
Maximum salinity: Nonsaline (0.0 to 0.5 mmhos/cm)
Sodium adsorption ratio, maximum: 5.0
Available water supply, 0 to 60 inches: High (about 10.2 inches)

Interpretive groups

Land capability classification (irrigated): 4e
Land capability classification (nonirrigated): 6e
Hydrologic Soil Group: C
Ecological site: R036XB006NM - Loamy
Hydric soil rating: No

Minor Components

Hernandez

Percent of map unit: 5 percent

Orthents

Percent of map unit: 5 percent

Manzano

Percent of map unit: 5 percent

Fernando

Percent of map unit: 5 percent

Data Source Information

Soil Survey Area: Taos County and Parts of Rio Arriba and Mora Counties, New Mexico
Survey Area Data: Version 17, Sep 8, 2022

Appendix B

United States Fish and Wildlife Service (USFWS): New Mexico Ecological Services Field Office and New Mexico Game and Fish (NMDGF) Consultation

Lotis' Informal Biological Assessment (IBA)

Informal Biological Assessment

Applicant: VB BTS II, LLC
Site Name: "Arco Torcido"; Site Number: "US-NM-7008"; Lotis Task ID: "VBBTS_264"
Latitude : 36° 32' 45.199" N ; Longitude : -105° 40' 16.361" W

Lotis was contracted by the applicant to complete an informal biological assessment (IBA) for the proposed undertaking (which includes the tower, associated equipment, lease area, and access/utility/guy wire easements; or a combination of the mentioned). The purpose of this IBA is to assess and document whether the proposed undertaking will potentially affect species of concern, designated critical habitats, wetlands, and migratory birds identified by the United States Fish and Wildlife Services (USFWS) Information for Planning and Conservation (IPaC) tool and the New Mexico Game and Fish (NMDGF). The proposed undertaking's scope of work (SOW), site photographs, site location maps, the official IPaC species list/Section 7 guidance, and the relevant species listed by the state of New Mexico are included in this report.

The Proposed Undertaking's Scope of Work:
The proposed undertaking is located near 157 Old Highway 3, Arroyo Hondo, Taos County, New Mexico 87513 and consists of a 95-foot-tall monopine telecommunication tower and associated equipment contained within a 67-foot by 84-foot lease area at the above property. The undertaking includes a 25-foot wide by 246.9-foot-long access/utility easement that extends northwest connecting with Old Highway 3. Also included is a 10-foot wide by 275.2-foot-long access/utility easement that extends south connecting with existing utility. In total the proposed undertaking is approximately 14,552.50 square feet. The proposed tower site is approximately 7,052 feet above mean sea level (AMSL).

Site and Surrounding Habitat:
The proposed undertaking is currently located in open desert scrub. Per the scope of work, no trees within the proposed undertaking are identified to be removed/impacted. The surrounding habitats within a 0.5-mile radius of the proposed undertaking consist of open desert scrub and residential properties with associated roadways. To the north, the habitat consists of desert scrub followed by Highway 522, residential properties with associated roadways. To the east, the habitat consists of desert scrub followed by Highway 522, residential property, and open desert scrub. To the south, habitat consists of desert scrub followed by commercial property, open desert scrub, residential property, and desert scrub. To the west, the habitat consists of desert scrub followed by Old Highway 3, open desert scrub, a private drive and open desert scrub.

Per USFWS Critical Habitat Mapper **(http://fws.maps.arcgis.com/home/webmap/viewer.html?webmap=9d8de5e265ad4fe09893cf75b8ddbf77)** the current habitat is not mapped as critical habitat, nor does it qualify as preferred habitat for Federal or State listed species.

Wetlands:
Lotis has reviewed the United States Geological Survey's (USGS) topographic map as well as the USFWS National Wetlands Inventory Map (NWIM) to determine if the lease area and easements would have an impact on any wetlands. Lotis recommends best management practices be incorporated to protect adjacent habitats and wetlands from runoff caused by impervious surfaces. The closest USFWS identified wetland is approximately 0.04 miles northeast of the tower locations scope of work. A wetlands map is included in this report to show all wetlands in the surrounding area.

Threatened or Endangered Species:
Lotis has researched threatened or endangered species and designated critical habitat for the action area. This is exclusive to any such species that have been reported to exist within the area where the proposed undertaking is located. The following list of federally threatened or endangered species was acquired through the USFWS IPaC website.

FEDERAL SPECIES				
Species Name	**Status**	**Preferred Habitat**	**Habitat Presence**	**Recommendation of Effect**
Mexican Spotted Owl (*Strix occidentalis lucida*)	Threatened	Variety of forest conditions, canyon bottoms, cliff faces, tops of canyon rims, and riparian areas	Habitat assessment indicated no preferred habitat present	No effect
Monarch Butterfly (*Danaus plexippus*)	Candidate	A field, roadside area, open area, wet area, or urban garden	Habitat assessment indicated preferred habitat may be present.	No effect
New Mexico Meadow Jumping Mouse (*Zapus hudsonius luteus*)	Endangered	Nests in dry soils, but uses moist, streamside, dense riparian/wetland vegetation	Habitat assessment indicated preferred habitat may be present.	No effect
Rio Grande Cutthroat Trout (*Oncorhynchus clarkii virginalis*)	Candidate	Endemic to Rio Grande watershed	Habitat assessment indicated no preferred habitat present	No effect
Silverspot (*Speyeria nokomis nokomis*)	Proposed Threatened	Moist, open meadows with vegetation for shelter	Habitat assessment indicated preferred habitat may be present.	No effect
Southwestern Willow Flycatcher (*Empidonax traillii extimus*)	Endangered	Areas with willows or other shrubs near standing or running water	Habitat assessment indicated no preferred habitat present	No effect
Yellow-billed Cuckoo (*Coccyzus americanus*)	Threatened	Wooded habitat with dense cover and water nearby, including woodlands with low, scrubby, vegetation, overgrown orchards, abandoned farmland and dense thickets	Habitat assessment indicated no preferred habitat present	No effect

FEDERAL SPECIES				
Species Name	**Status**	**Preferred Habitat**	**Habitat Presence**	**Recommendation of Effect**
		along streams and marshes		

A list of state species of concern was acquired through the New Mexico Game and Fish's website (https://nmert.org/). However, the results stated, "*no further consultation required*", therefore the list of species will not be provided in a table.

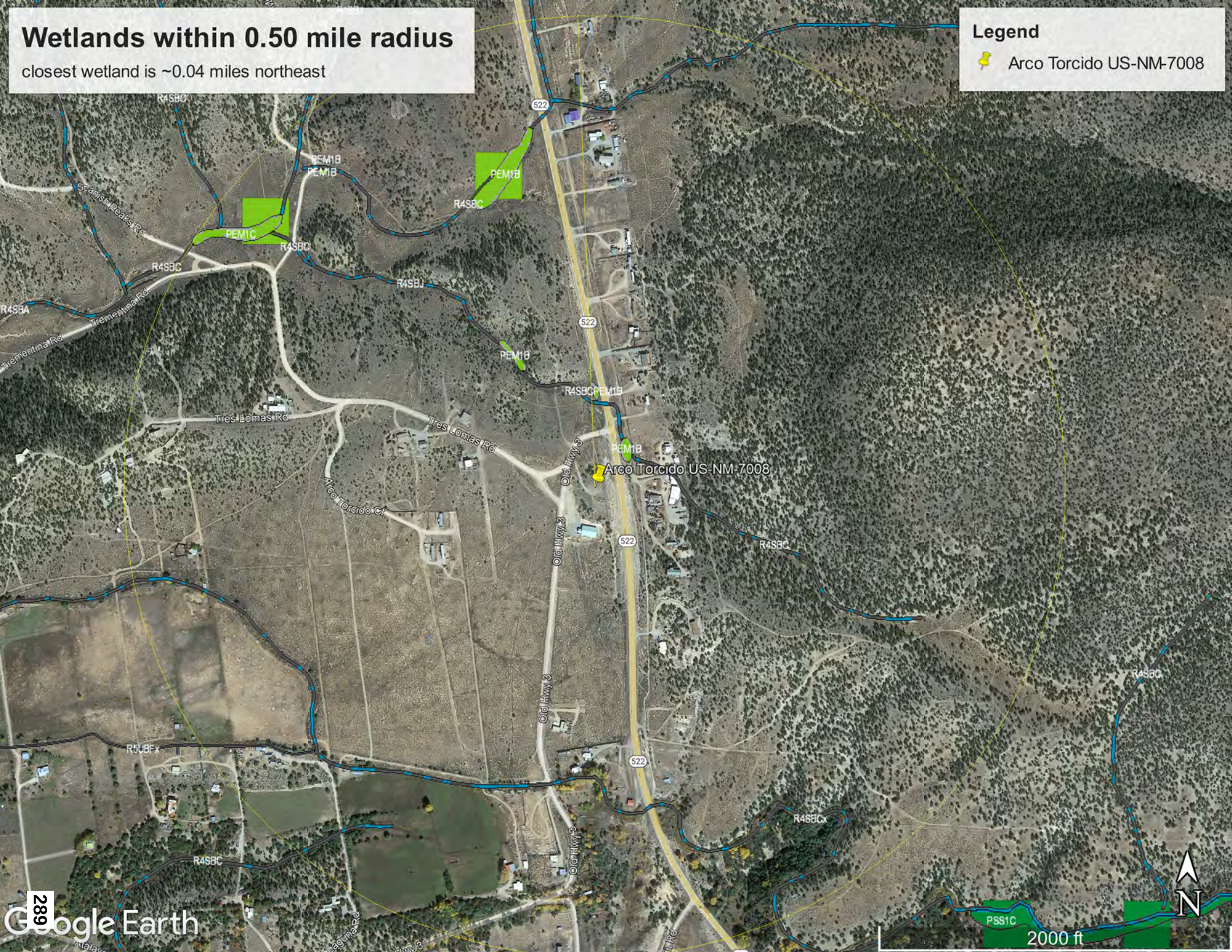
Migratory Birds:
The USFWS has indicated its concern of the impact of towers on migrating bird populations. The proposed undertaking and design process for this undertaking could not conform to all the USFWS recommendations to decrease potential effects on migratory birds. Lotis has assessed the potential habitat for migratory birds and has determined that potential habitat is present at and around the proposed undertaking. This habitat includes a few wetlands and desert scrub in the surrounding area. The siting of this proposed undertaking has placed it within disturbed habitat. It should also be noted that the proposed undertaking is located within 6.02 miles of an existing 50-foot monopole telecommunication tower to the southwest.

Based upon the efforts during this IBA as well as the current data made available, surrounding habitat has the potential to support migratory birds; however, potential negative effects of a nearby tower are unknown and the addition of another tower may or may not negatively affect migratory birds.

Conclusions:
In conclusion, no species preferred habitats, identified by the USFWS have been observed at the proposed undertaking's location. Therefore, based on the documents reviewed, and the SOW outlined above, no threatened/endangered species will be affected. Lotis' recommends following all preventative recommendations presented by the USFWS.

It should be noted that this informal biological assessment was conducted in accordance with the Scope of Work and does not constitute a Section 7 Biological Assessment under the Endangered Species Act (50 CFR Part 402.01).

DeAnna Anglin
Senior Biologist / NEPA Specialist
Lotis Environmental, LLC


Wetlands within 0.50 mile radius
closest wetland is ~0.04 miles northeast
Legend
Arco Torcido US-NM-7008
Arco Torcido US-NM-7008
Spanish Peaks Rd
Trementina Rd
Tres Lomas Rd
Old Hwy 3
Arco Torcido Ct
522
PEM1B
PEM1C
R4SBC
R4SBJ
R4SBA
R5UBFx
R4SBCx
PSS1C
N
2000 ft
Google Earth
289

United States Fish and Wildlife Service (USFWS): New Mexico Ecological Services Field Office Submission

Note:

In the interest of efficiency and economy, attachments included in the original submission under this section are not duplicated throughout this NEPA Summary. The following attachment(s), found at the conclusion of this report, were included in the original submission:

- ***Proposed Project Summary***
- ***Informal Biological Assessment***
- ***USFWS IPaC Document***
- ***Attachment 1 - Maps***
- ***Attachment 2 - Photographs***

September 27, 2023

United States Fish & Wildlife Service: New Mexico Ecological Services Field Office
2105 Osuna Road NE
Albuquerque, New Mexico 87113
Submitted via email: nmesfo@fws.gov

RE: Proposed Telecommunications Tower Undertaking "Arco Torcido" in Taos County, New Mexico; VB BTS II, LLC

To Whom It May Concern:

VB BTS II, LLC (VB BTS II), is proposing to construct a tower installation near 157 Old Highway 3, Arroyo Hondo, Taos County, New Mexico 87513. Lotis Environmental, LLC (Lotis), is preparing an environmental review on behalf of VB BTS II as part of its permit process and regulatory review by the Federal Communications Commission (FCC). Lotis' review is focused on compliance with Section 7 of the Endangered Species Act and environmental concerns specified by the FCC in 47 CFR 1.1307. In addition, Lotis will be considering the possible impact on wetlands, critical habitat, wildlife refuges, wilderness areas, state listed species of concern, as well as species protected by the Migratory Bird Treaty Act and the Bald and Golden Eagle Act. Consultation with the state will also be initiated to mitigate potential impact to species of concern.

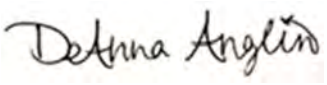
Attached, please find information pertaining to the proposed undertaking known as Arco Torcido. The information package includes the proposed project summary, site maps, results from our search of threatened or endangered species within the action area (provided by the IPaC website) and the state species list and site photographs of the proposed undertaking and adjacent habitat. Lotis has completed an informal biological assessment of the proposed undertaking's action area using available maps, documentation, and site reconnaissance. We have determined that the proposed undertaking "*may affect but is not likely to adversely*" federal listed species, their designated habitat, or designated critical habitat.

We would appreciate your assistance in determining if, in your opinion, the proposed undertaking is found to affect a wildlife refuge or will have an adverse impact on any listed and/or proposed species of concern or any designated and/or proposed critical habitats. We request your concurrence with our determination of "*may affect but not likely to adversely affect"* on federally listed species.

On behalf of VB BTS II, I would solicit your comments on this proposed undertaking. Kindly forward to the undersigned via email (Legals@TheLotisGroup.com) or by regular mail to 8899 Main Street - Suite 107, Williamsville, NY 14221.

Thank you for your consideration and cooperation in this matter.

Sincerely,
Lotis Environmental, LLC



DeAnna Anglin
Senior Biologist/NEPA Specialist
Legals@TheLotisGroup.com

Enclosures

Federal Communications Commission (FCC) Designation Letter for FCC licensees, applicants, tower companies and their representatives when they request informal consultations and/or request species lists pursuant to Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. Â§Â§ 1531-1543) (ESA)

Federal Communications Commission
Washington, D.C. 20554

July 9, 2003

Mr. Steve Williams, Director
U.S. Fish and Wildlife Service
U.S. Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

BY FIRST CLASS MAIL AND FACSIMILE (202) 208-6965

Dear Mr. Williams:

We have received requests from various U.S. Fish and Wildlife Service (FWS) field offices for a designation letter from the Federal Communications Commission (FCC) for FCC licensees, applicants, tower companies and their representatives when they request informal consultations and/or request species lists pursuant to Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. §§ 1531-1543) (ESA). Pursuant to 50 C.F.R. § 402.08 and in accordance with FCC rules, this letter formally designates all FCC licensees, applicants, tower companies and their representatives as non-federal representatives for purposes of Section 7 consultation. We recognize that the Commission retains ultimate responsibility for Section 7 obligations. *See* 47 C.F.R. §§ 1.1308(b), 1.1312(b).

In accordance with the interagency cooperation regulations at 50 C.F.R. § 402.08, non-Federal representatives may be involved in an informal consultation process and may request and receive species lists, prepare the biological assessment, and provide information for a formal consultation. Because the FCC has deregulated the construction of communications facilities, the Commission is not involved in most of its regulatees' planning and construction activities unless they affect certain categories of environmental concerns. (The FCC still does issue construction permits for broadcast facilities.) Thus, the FCC does not individually authorize and does not require notice of most communications towers. The FCC's rules require its licensees, applicants, and tower companies to determine, in the first instance, the environmental effects of their proposed towers. *See* 47 C.F.R. § 1.1312(a).

In accordance with this policy, the FCC's environmental rules require that all licensees and applicants prepare and file with the FCC an Environmental Assessment (EA) if, among other things, their proposed facilities "may affect" or "are likely to jeopardize" listed or proposed threatened or endangered species or designated critical habitats.[1] In order to

[1] 47 C.F.R. § 1.1307(a)(3) requires the preparation of an EA for facilities that: "(i) May affect listed threatened or endangered species or designated critical habitats; or (ii) are likely to jeopardize the continued

determine whether an EA is required, an applicant may need to request information from and informally consult with FWS. Moreover, the Note to Section 1.1307(a)(3) of the FCC's environmental rules[2] specifically authorizes FCC licensees and applicants and their representatives to contact FWS to determine whether their proposed facilities will affect threatened or endangered species or designated critical habitats. We understand that the FWS rules require parties that are engaged in informal consultation to include the information described in 50 C.F.R. § 402.12, which may be different from information required under the National Environmental Policy Act. Once it is established that threatened or endangered species or their critical habitats may be affected, licensees and applicants are required to base their analysis on the "best scientific and commercial data available." *See* 47 C.F.R. § 1.1311(a)(6).

Accordingly, under the FCC's environmental rules, all FCC licensees, applicants, tower companies and their representatives have a blanket designation and are authorized to contact and work with the FWS to ensure that any effects on threatened and endangered species and their critical habitats are evaluated in siting proposed communications facilities. The FCC intends to post this letter on the FCC website, http://wireless.fcc.gov/siting.

Sincerely,

Susan H. Steiman
Associate General Counsel

Cc: Richard Sayers, Endangered Species Division

existence of any proposed endangered or threatened species or likely to result in the destruction or adverse modification of proposed critical habitats, as determined by the Secretary of the Interior pursuant to the Endangered Species Act of 1973."

[2] 47 C.F.R. § 1.1307(a)(3) Note.

Proof of United States Fish and Wildlife Service (USFWS): New Mexico Ecological Services Field Office Submission

DeAnna Anglin

From: DeAnna Anglin
Sent: Wednesday, September 27, 2023 11:38 AM
To: nmesfo@fws.gov
Cc: NEPA NHPA
Subject: USFWS Section 7 informal consultation regarding a proposed telecommunication build VBBTS_264 - Arco Torcido US-NM-7008
Attachments: Arco Torcido US-NM-7008.kmz; usfws sub 9.27.23.pdf

Importance: High

To Whom It May Concern,

Please see the attached request for informal Section 7 review for the potential effect on Federally listed threatened and endangered species. We have determined a “May Affect, but Not Likely to Adversely Affect (MANLAA)” on one or more listed species of concern or their corresponding habitat(s).

You will find the official letter of request, site maps, site photos, and an informal biological assessment which has been completed by Lotis to aid you in your review. Lastly, I have attached a KMZ file which will give you the pinpoint location of the proposed undertaking on Google Earth. Should you need additional information please feel free to contact me by phone or by responding to this email.

Thank you for your time and consideration.

Warmly,

DeAnna Anglin
Senior Biologist/NEPA Specialist

8899 Main Street – Suite 107
Williamsville, NY 14221
www.thelotisgroup.com

Phone: 716.580.7000
Mobile: 417.840.5008
Anglin@thelotisgroup.com

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United States Fish and Wildlife Service (USFWS): New Mexico Ecological Services Field Office's Information for Planning and Conservation (IPaC) Letter(s)

United States Department of the Interior

FISH AND WILDLIFE SERVICE
New Mexico Ecological Services Field Office
2105 Osuna Road Ne
Albuquerque, NM 87113-1001
Phone: (505) 346-2525 Fax: (505) 346-2542

In Reply Refer To:
Project Code: 2023-0128675
Project Name: Arco Torcido US-NM-7008

September 13, 2023

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

Thank you for your recent request for information on federally listed species and important wildlife habitats that may occur in your project area. The U.S. Fish and Wildlife Service (Service) has responsibility for certain species of New Mexico wildlife under the Endangered Species Act (ESA) of 1973 as amended (16 USC 1531 et seq.), the Migratory Bird Treaty Act as amended (16 USC 701-715), and the Bald and Golden Eagle Protection Act as amended (16 USC 668-668(c)). We are providing the following guidance to assist you in determining which federally imperiled species may or may not occur within your project area, and to recommend some conservation measures that can be included in your project design.

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the ESA of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the ESA, the accuracy of this species list should be verified after 90 days. The Service recommends that verification be completed by visiting the IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the IPaC system by completing the same process used to receive the enclosed list.

The purpose of the ESA is to provide a means whereby threatened and endangered species and

the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the ESA and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (NEPA; 42 USC 4332(2) (c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.pdf.

Candidate Species and Other Sensitive Species

A list of candidate and other sensitive species in your area is also attached. Candidate species and other sensitive species are species that have no legal protection under the ESA, although we recommend that candidate and other sensitive species be included in your surveys and considered for planning purposes. The Service monitors the status of these species. If significant declines occur, these species could potentially be listed. Therefore, actions that may contribute to their decline should be avoided.

Lists of sensitive species including State-listed endangered and threatened species are compiled by New Mexico State agencies. These lists, along with species information, can be found at the following websites.

Biota Information System of New Mexico (BISON-M): www.bison-m.org

New Mexico State Forestry. The New Mexico Endangered Plant Program: https://www.emnrd.nm.gov/sfd/rare-plants/

New Mexico Rare Plant Technical Council, New Mexico Rare Plants: nmrareplants.unm.edu

Natural Heritage New Mexico, online species database: nhnm.unm.edu

WETLANDS AND FLOODPLAINS

Under Executive Orders 11988 and 11990, Federal agencies are required to minimize the destruction, loss, or degradation of wetlands and floodplains, and preserve and enhance their natural and beneficial values. These habitats should be conserved through avoidance, or mitigated to ensure that there would be no net loss of wetlands function and value.

We encourage you to use the National Wetland Inventory (NWI) maps in conjunction with ground-truthing to identify wetlands occurring in your project area. The Service's NWI program website, www.fws.gov/wetlands/Data/Mapper.html, integrates digital map data with other resource information. We also recommend you contact the U.S. Army Corps of Engineers for permitting requirements under section 404 of the Clean Water Act if your proposed action could impact floodplains or wetlands.

MIGRATORY BIRDS

In addition to responsibilities to protect threatened and endangered species under the ESA, there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the Service (50 CFR 10.12 and 16 USC 668(a)). For more information regarding these Acts, see https://www.fws.gov/program/migratory-bird-permit/what-we-do.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a Federal nexus) or a Bird/Eagle Conservation Plan (when there is no Federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures, see https://www.fws.gov/library/collections/threats-birds. We also recommend review of the Birds of Conservation Concern list (https://www.fws.gov/media/birds-conservation-concern-2021) to fully evaluate the effects to the birds at your site. This list identifies migratory and non-migratory bird species (beyond those already designated as federally threatened or endangered) that represent top conservation priorities for the Service, and are potentially threatened by disturbance, habitat impacts, or other project development activities.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 thereby provides additional protection for both migratory birds and migratory bird habitat. Please visit https://www.fws.gov/partner/council-conservation-migratory-birds for information regarding the implementation of Executive Order 13186.

We suggest you contact the New Mexico Department of Game and Fish, and the New Mexico Energy, Minerals, and Natural Resources Department, Forestry Division for information regarding State protected and at-risk species fish, wildlife, and plants.

For further consultation with the Service we recommend submitting inquiries or assessments electronically to our incoming email box at nmesfo@fws.gov, where it will be more promptly routed to the appropriate biologist for review.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List

OFFICIAL SPECIES LIST

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

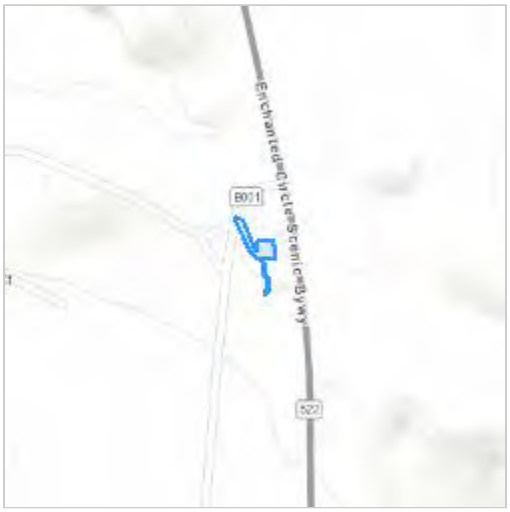
New Mexico Ecological Services Field Office
2105 Osuna Road Ne
Albuquerque, NM 87113-1001
(505) 346-2525

PROJECT SUMMARY

Project Code: 2023-0128675
Project Name: Arco Torcido US-NM-7008
Project Type: Communication Tower New Construction
Project Description: The proposed undertaking is located near 157 Old Highway 3, Arroyo Hondo, Taos County, New Mexico 87513 and consists of a 95-foot-tall monopole telecommunication tower and associated equipment contained within a 67-foot by 84-foot lease area at the above property. The undertaking includes a 25-foot wide by 246.9-foot-long access/utility easement that extends northwest connecting with Old Highway 3. Also included is a 10-foot wide by 275.2-foot-long access/utility easement that extends south connecting with existing utility. In total the proposed undertaking is approximately 14,552.50 square feet. The proposed tower site is approximately 7,052 feet above mean sea level (AMSL).

Project Location:

The approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/@36.5458243,-105.67123196172423,14z



Counties: Taos County, New Mexico

ENDANGERED SPECIES ACT SPECIES

There is a total of 7 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries[1], as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

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1. NOAA Fisheries, also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

MAMMALS

NAME	STATUS
New Mexico Meadow Jumping Mouse *Zapus hudsonius luteus* There is **final** critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/7965	Endangered

BIRDS

NAME	STATUS
Mexican Spotted Owl *Strix occidentalis lucida* There is **final** critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/8196	Threatened
Southwestern Willow Flycatcher *Empidonax traillii extimus* There is **final** critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6749	Endangered
Yellow-billed Cuckoo *Coccyzus americanus* Population: Western U.S. DPS There is **final** critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/3911	Threatened

FISHES

NAME	STATUS
Rio Grande Cutthroat Trout *Oncorhynchus clarkii virginalis*	Candidate
No critical habitat has been designated for this species.	
Species profile: https://ecos.fws.gov/ecp/species/920	

INSECTS

NAME	STATUS
Monarch Butterfly *Danaus plexippus*	Candidate
No critical habitat has been designated for this species.	
Species profile: https://ecos.fws.gov/ecp/species/9743	
Silverspot *Speyeria nokomis nokomis*	Proposed Threatened
No critical habitat has been designated for this species.	
Species profile: https://ecos.fws.gov/ecp/species/2813	

CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

IPAC USER CONTACT INFORMATION

Agency:	Lotis Environmental
Name:	Miles Walz-Salvador
Address:	8899 Main St
Address Line 2:	107
City:	Williamsville
State:	NY
Zip:	14221
Email	nepa.nhpa@thelotisgroup.com
Phone:	3149130505

United States Department of the Interior

FISH AND WILDLIFE SERVICE
New Mexico Ecological Services Field Office
2105 Osuna Road Ne
Albuquerque, NM 87113-1001
Phone: (505) 346-2525 Fax: (505) 346-2542

In Reply Refer To:
Project Code: 2023-0128675
Project Name: Arco Torcido US-NM-7008

November 15, 2023

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

Thank you for your recent request for information on federally listed species and important wildlife habitats that may occur in your project area. The U.S. Fish and Wildlife Service (Service) has responsibility for certain species of New Mexico wildlife under the Endangered Species Act (ESA) of 1973 as amended (16 USC 1531 et seq.), the Migratory Bird Treaty Act as amended (16 USC 701-715), and the Bald and Golden Eagle Protection Act as amended (16 USC 668-668(c)). We are providing the following guidance to assist you in determining which federally imperiled species may or may not occur within your project area, and to recommend some conservation measures that can be included in your project design.

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the ESA of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the ESA, the accuracy of this species list should be verified after 90 days. The Service recommends that verification be completed by visiting the IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the IPaC system by completing the same process used to receive the enclosed list.

The purpose of the ESA is to provide a means whereby threatened and endangered species and

the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the ESA and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (NEPA; 42 USC 4332(2) (c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.pdf.

Candidate Species and Other Sensitive Species

A list of candidate and other sensitive species in your area is also attached. Candidate species and other sensitive species are species that have no legal protection under the ESA, although we recommend that candidate and other sensitive species be included in your surveys and considered for planning purposes. The Service monitors the status of these species. If significant declines occur, these species could potentially be listed. Therefore, actions that may contribute to their decline should be avoided.

Lists of sensitive species including State-listed endangered and threatened species are compiled by New Mexico State agencies. These lists, along with species information, can be found at the following websites.

Biota Information System of New Mexico (BISON-M): www.bison-m.org

New Mexico State Forestry. The New Mexico Endangered Plant Program: https://www.emnrd.nm.gov/sfd/rare-plants/

New Mexico Rare Plant Technical Council, New Mexico Rare Plants: nmrareplants.unm.edu

Natural Heritage New Mexico, online species database: nhnm.unm.edu

WETLANDS AND FLOODPLAINS

Under Executive Orders 11988 and 11990, Federal agencies are required to minimize the destruction, loss, or degradation of wetlands and floodplains, and preserve and enhance their natural and beneficial values. These habitats should be conserved through avoidance, or mitigated to ensure that there would be no net loss of wetlands function and value.

We encourage you to use the National Wetland Inventory (NWI) maps in conjunction with ground-truthing to identify wetlands occurring in your project area. The Service's NWI program website, www.fws.gov/wetlands/Data/Mapper.html, integrates digital map data with other resource information. We also recommend you contact the U.S. Army Corps of Engineers for permitting requirements under section 404 of the Clean Water Act if your proposed action could impact floodplains or wetlands.

MIGRATORY BIRDS

In addition to responsibilities to protect threatened and endangered species under the ESA, there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the Service (50 CFR 10.12 and 16 USC 668(a)). For more information regarding these Acts, see https://www.fws.gov/program/migratory-bird-permit/what-we-do.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a Federal nexus) or a Bird/Eagle Conservation Plan (when there is no Federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures, see https://www.fws.gov/library/collections/threats-birds. We also recommend review of the Birds of Conservation Concern list (https://www.fws.gov/media/birds-conservation-concern-2021) to fully evaluate the effects to the birds at your site. This list identifies migratory and non-migratory bird species (beyond those already designated as federally threatened or endangered) that represent top conservation priorities for the Service, and are potentially threatened by disturbance, habitat impacts, or other project development activities.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 thereby provides additional protection for both migratory birds and migratory bird habitat. Please visit https://www.fws.gov/partner/council-conservation-migratory-birds for information regarding the implementation of Executive Order 13186.

We suggest you contact the New Mexico Department of Game and Fish, and the New Mexico Energy, Minerals, and Natural Resources Department, Forestry Division for information regarding State protected and at-risk species fish, wildlife, and plants.

For further consultation with the Service we recommend submitting inquiries or assessments electronically to our incoming email box at nmesfo@fws.gov, where it will be more promptly routed to the appropriate biologist for review.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List

OFFICIAL SPECIES LIST

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

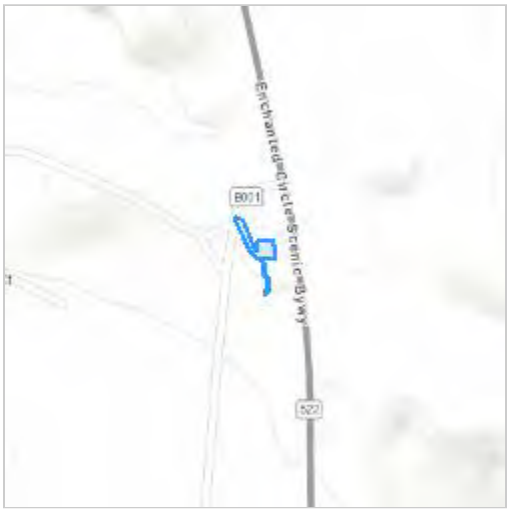
New Mexico Ecological Services Field Office
2105 Osuna Road Ne
Albuquerque, NM 87113-1001
(505) 346-2525

PROJECT SUMMARY

Project Code: 2023-0128675
Project Name: Arco Torcido US-NM-7008
Project Type: Communication Tower New Construction
Project Description: The proposed undertaking is located near 157 Old Highway 3, Arroyo Hondo, Taos County, New Mexico 87513 and consists of a 95-foot-tall monopole telecommunication tower and associated equipment contained within a 67-foot by 84-foot lease area at the above property. The undertaking includes a 25-foot wide by 246.9-foot-long access/utility easement that extends northwest connecting with Old Highway 3. Also included is a 10-foot wide by 275.2-foot-long access/utility easement that extends south connecting with existing utility. In total the proposed undertaking is approximately 14,552.50 square feet. The proposed tower site is approximately 7,052 feet above mean sea level (AMSL).

Project Location:

The approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/@36.545806,-105.67122145286777,14z



Counties: Taos County, New Mexico

ENDANGERED SPECIES ACT SPECIES

There is a total of 6 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries[1], as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

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1. NOAA Fisheries, also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

MAMMALS

NAME	STATUS
New Mexico Meadow Jumping Mouse *Zapus hudsonius luteus* There is **final** critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/7965	Endangered

BIRDS

NAME	STATUS
Mexican Spotted Owl *Strix occidentalis lucida* There is **final** critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/8196	Threatened
Yellow-billed Cuckoo *Coccyzus americanus* Population: Western U.S. DPS There is **final** critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/3911	Threatened

FISHES

NAME	STATUS
Rio Grande Cutthroat Trout *Oncorhynchus clarkii virginalis* No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/920	Candidate

INSECTS

NAME	STATUS
Monarch Butterfly *Danaus plexippus* No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate
Silverspot *Speyeria nokomis nokomis* No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2813	Proposed Threatened

CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

IPAC USER CONTACT INFORMATION

Agency: Lotis Environmental
Name: Miles Walz-Salvador
Address: 8899 Main St
Address Line 2: 107
City: Williamsville
State: NY
Zip: 14221
Email nepa.nhpa@thelotisgroup.com
Phone: 3149130505

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Federal Communications Commission

United States Fish and Wildlife Service (USFWS): New Mexico Ecological Services Field Office's Clearance

DeAnna Anglin

From: Bainbridge, Elizabeth (Betsy) <elizabeth_bainbridge@fws.gov>
Sent: Monday, November 6, 2023 10:47 AM
To: DeAnna Anglin
Cc: Brennan, Mark
Subject: Arco Torcido project in Taos County, NM

Hello DeAnna Anglin,

Thank you for contacting the USFWS with your request for an informal consultation on the Arco Torcido project in Taos County, NM. I am the species lead for the Silverspot butterfly and was assigned to respond to your request.

You made a determination of "May Affect, Not Likely to Adversely Affect" for both the silverspot butterfly (*Speyeria nokomis nokomis*) and the New Mexico meadow jumping mouse (*Zapus hudsonius luteus*) because the project is near a wetland site. Looking at your project specifications, I believe the project is actually a "No Effect" for the butterfly because the project footprint is unlikely to impact wetland habitat, and the species is not currently known to occur at the wetland site. I conferred with our NMMJM lead (copied), who believes the same is true for the mouse. Would you like to change your determination to a "No Effect" for both species?

If you want to proceed with your MANLAA determination instead, I can still provide an informal consultation letter.

Best regards,

Elizabeth "Betsy" Bainbridge (she/her/hers)
Fish and Wildlife Biologist, Rio Grande Basin Recovery Program
U.S. Fish and Wildlife Service
New Mexico Ecological Services Field Office
2105 Osuna Rd NE,
Albuquerque NM 87113
c. (505) 226-5279
~~o. (505) 761-4736~~
elizabeth_bainbridge@fws.gov

"One individual cannot possibly make a difference, alone. It is individual efforts, collectively, that makes a noticeable difference—all the difference in the world!"

— Dr. Jane Goodall

New Mexico Game and Fish (NMDGF) Threatened and Endangered Species List and Clearance Statement

PROJECT INFORMATION

Project Title:	Arco Torcido
Project Type:	COMMUNICATIONS, TOWERS (CELLULAR AND OTHER), CELL TOWERS LESS THAN 200 FT, NO GUY WIRES, AND WITHIN DEVELOPED AREA
Latitude/Longitude (DMS):	36.545878 / -105.671278
County(s):	TAOS
Project Description:	The proposed undertaking is located near 157 Old Highway 3, Arroyo Hondo, Taos County, New Mexico 87513 and consists of a 95-foot-tall monopole telecommunication tower and associated equipment contained within a 67-foot by 84-foot lease area at the above property. The undertaking includes a 25-foot wide by 246.9-foot-long access/utility easement that extends northwest connecting with Old Highway 3. Also included is a 10-foot wide by 275.2-foot-long access/utility easement that extends south connecting with existing utility. In total the proposed undertaking is approximately 14,552.50 square feet. The proposed tower site is approximately 7,052 feet above mean sea level (AMSL).

REQUESTOR INFORMATION

Project Organization:	
Contact Name:	Miles Walz-Salvador
Email Address:	NEPA.NHPA@TheLotisGroup.com
Organization:	Lotis Environmental, LLC
Address:	8899 Main St, Williamsville NY 14221
Phone:	3149130505

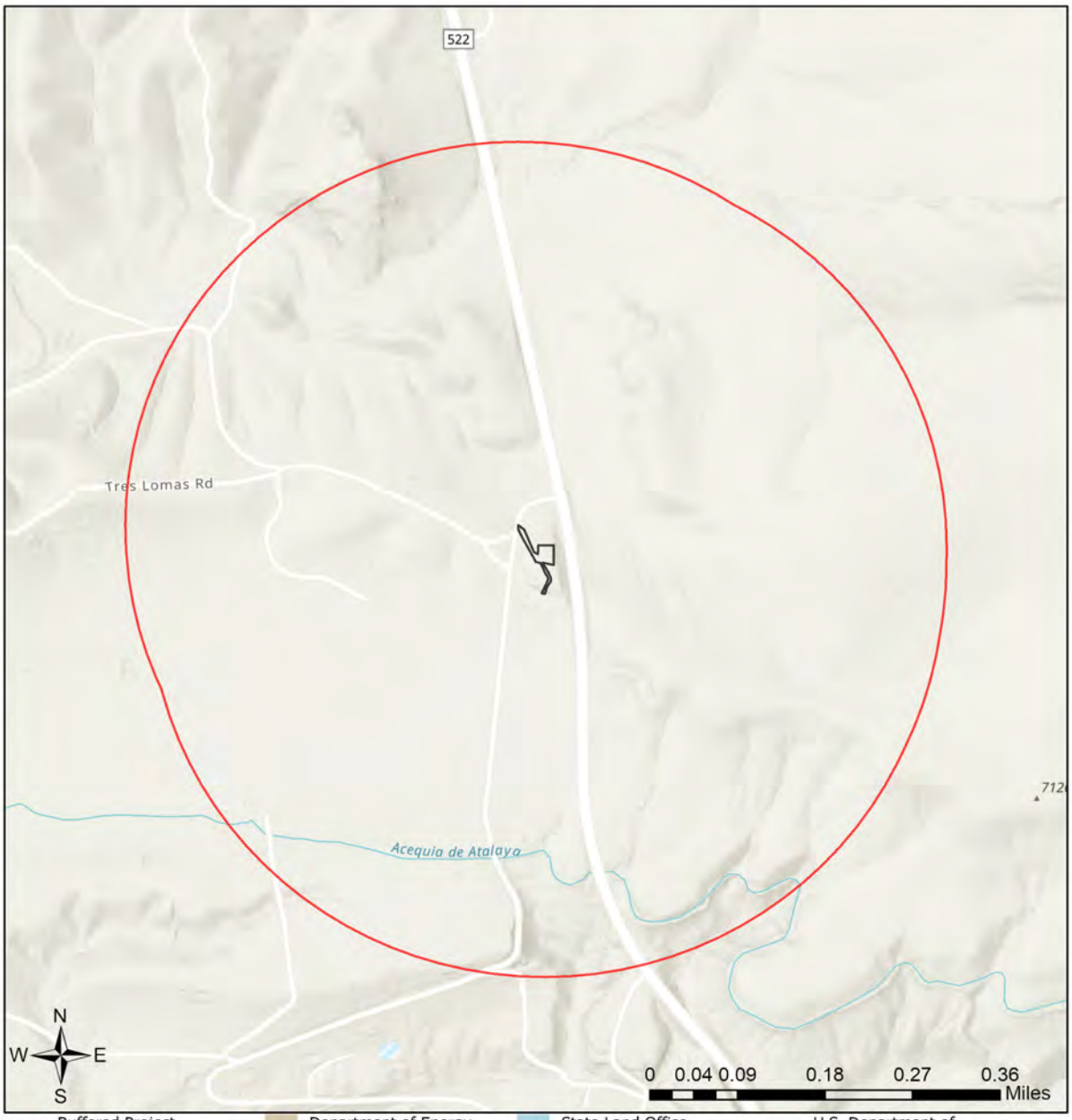
OVERALL STATUS

The information contained within this report comprises the recommendations of the New Mexico Department of Game and Fish (Department) for management and mitigation of proposed project impacts to wildlife and habitat resources; see the Project Recommendations section below for further details. No further consultation with the Department is required based on the project's location and, with implementation of mitigation measures described in the Project Recommendations section below, no adverse effects to wildlife or important habitats are anticipated. However, a Department biologist may be in touch within 30 days if they determine that further review is required.

About this report:

- This environmental review is based on the project description and location that was entered. The report must be updated if the project type, area, or operational components are modified.
- This is a preliminary environmental screening assessment and report. It is not a substitute for the potential wildlife knowledge gained by having a biologist conduct a field survey of the project area. Federal status and plant data are provided as a courtesy to users. The review is also not intended to replace consultation required under the federal Endangered Species Act (ESA), including impact analyses for federal resources from the U.S. Fish and Wildlife Service (USFWS) using their Information for Planning and Consultation tool.
- The New Mexico Environmental Review Tool (ERT) utilizes species observation locations and species habitat suitability models, both of which are subject to ongoing change and refinement. Inclusion or omission of a species within a report cannot guarantee species presence or absence within your project area. To determine occurrence of any species listed in this report, or other wildlife that may be present within your project area, onsite surveys conducted by a qualified biologist during appropriate, species-specific survey timelines may be necessary.
- The Department encourages use of the ERT to modify proposed projects for avoidance, minimization, or mitigation of wildlife impacts. However, the ERT is not intended to be used in a repeatedly iterative fashion to adjust project attributes until a previously determined recommendation is generated. The ERT serves to assess impacts once project details are developed. The New Mexico Crucial Habitat Assessment Tool is the appropriate system for advising early-stage project planning and design to avoid areas of anticipated wildlife concerns and associated regulatory requirements.

Arco Torcido



USGS, New Mexico Department of Game and Fish (NMDGF), Natural Heritage New Mexico (NHNM), and USDA Forest Service,

Compiled by Richard Norwood of NHNM over the period 2020 to 2021.
Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community

Special Status Animal Species Potentially within 650 Meters of Project Area

Common Name	Scientific Name	USFWS (ESA)	NMDGF (WCA)	NMDGF SGCN/SERI
Peregrine Falcon	Falco peregrinus		T	SGCN
Mountain Plover	Charadrius montanus			SGCN
Flammulated Owl	Otus flammeolus			SGCN
Western Burrowing Owl	Athene cunicularia hypugaea			SGCN
Mexican Spotted Owl	Strix occidentalis lucida	LT		SGCN
Common Nighthawk	Chordeiles minor			SGCN
Black Swift	Cypseloides niger			SGCN
Lewis's Woodpecker	Melanerpes lewis			SGCN
Red-Headed Woodpecker	Melanerpes erythrocephalus			SGCN
Williamson's Sapsucker	Sphyrapicus thyroideus			SGCN
Olive-Sided Flycatcher	Contopus cooperi			SGCN
Bank Swallow	Riparia riparia			SGCN
Pinyon Jay	Gymnorhinus cyanocephalus			SGCN
Clark's Nutcracker	Nucifraga columbiana			SGCN
Juniper Titmouse	Baeolophus ridgwayi			SGCN
Pygmy Nuthatch	Sitta pygmaea			SGCN
Western Bluebird	Sialia mexicana			SGCN
Mountain Bluebird	Sialia currucoides			SGCN
Loggerhead Shrike	Lanius ludovicianus			SGCN
Gray Vireo	Vireo vicinior		T	SGCN
Virginia's Warbler	Leiothlypis virginiae			SGCN
Black-Throated Gray Warbler	Setophaga nigrescens			SGCN
Grace's Warbler	Setophaga graciae			SGCN
Vesper Sparrow	Pooecetes gramineus			SGCN
Chestnut-Collared Longspur	Calcarius ornatus			SGCN
Cassin's Finch	Haemorhous cassinii			SGCN
Evening Grosbeak	Coccothraustes vespertinus			SGCN
Spotted Bat	Euderma maculatum		T	SGCN
Pale Townsend's Big-Eared Bat	Corynorhinus townsendii pallescens			SGCN
American Pika	Ochotona princeps			SGCN
Gunnison's Prairie Dog	Cynomys gunnisoni			SGCN
New Mexican Meadow Jumping Mouse	Zapus hudsonius luteus	LE	E	SGCN
Black Bear	Ursus americanus			SERI
Mountain Lion	Puma concolor			SERI
Elk	Cervus canadensis			SERI
Mule Deer	Odocoileus hemionus			SERI
Bighorn Sheep	Ovis canadensis			SERI

ESA = Endangered Species Act, WCA = Wildlife Conservation Act, SGCN = Species of Greatest Conservation Need, SERI = Species of Economic and Recreational Importance, C = Candidate, E = Endangered, LE = Listed Endangered, LT = Listed Threatened, T =

Threatened, XN = Non-essential Experimental Population, for other ESA codes see this website: https://nhnm.unm.edu/node/1378928.

Project Recommendations

With implementation of the applicable mitigation or avoidance measures included in the project description, and incorporation of the guidance listed below, the Department does not anticipate significant impacts to wildlife or sensitive wildlife habitats from the proposed project activities. See the "OVERALL STATUS" section above to determine the likelihood that your project will be reviewed further based on its location. If a Department biologist determines that additional conservation measures are needed, then you should expect to receive notification and/or any additional project recommendations within 30 days of your project submission.

Burrowing owl (*Athene cunicularia*) may occur within your project area. Before any ground disturbing activities occur, the Department recommends that a preliminary burrowing owl survey be conducted by a qualified biologist using the Department's burrowing owl survey protocol. Should burrowing owls be documented in the project area, please contact the Department or USFWS for further recommendations regarding relocation or avoidance of impacts.

Your project area intersects an Important Plant Area (IPA) that contains one or more species of plants listed as threatened or endangered by the New Mexico Energy, Minerals and Natural Resources Department (EMNRD) under New Mexico Statutes Annotated (NMSA) 75-6-1 or by the U.S. Fish and Wildlife Service (USFWS) under the federal Endangered Species Act. Although IPAs have no legal designation, they have been identified as areas that support either a high diversity of sensitive plant species or contain the last remaining locations of New Mexico's most endangered plants. The Department recommends that you consult with EMNRD's Endangered Plant Program Coordinator regarding any state-listed plants and the U.S. Fish and Wildlife Service's Information for Planning and Consultation (IPAC) system for any federally-listed plants and reaching out to the appropriate federal species lead(s) with the New Mexico Ecological Services Office of U.S. Fish and Wildlife Service. The Department does not have any authority to designate or advise on state- or federally-listed plants.

Prairie dog colonies may occur within the vicinity of your project area. Both black-tailed prairie dogs (*Cynomys ludovicianus*) and Gunnison's prairie dogs (*Cynomys gunnisoni*) are designated as New Mexico Species of Greatest Conservation Need, and their colonies provide important habitat for other grassland wildlife. Wherever possible, occupied prairie dog colonies should be left undisturbed, and all project activities should be directed off the colony. Any burrows that are located on the project site should be surveyed by a qualified biologist to determine whether burrows are active or inactive and whether burrowing owls may be utilizing the site. Colonies within the range of the black-tailed prairie dog can be surveyed by a qualified biologist diurnally, year-round using binoculars. Colonies within the range of the Gunnison's prairie dog can be surveyed by a qualified biologist diurnally, using binoculars during the warmer months from April through October and by searching for fairly fresh scat and lack of cobwebs or debris at the mouths of burrows during the cold months (November through March). If ground-disturbing activities cannot be relocated off the prairie dog colony, or if project activities involve control of prairie dogs, the Department recommends live-trapping and relocation of prairie dogs. The Department can provide recommendations regarding suitability of potential translocation areas and procedures.

The proposed project occurs within or near a riparian area. Because riparian areas are important wildlife habitats, the project footprint should avoid removing any riparian vegetation or creating ground disturbance either directly within or affecting the riparian area, unless the project is intended to restore riparian habitat through non-native plant removal and replanting with native species. If your project involves removal of non-native riparian trees or planting of native riparian vegetation, please refer to the Department's habitat handbook guideline for Restoration and Management of Native and Non-native Trees in Southwestern Riparian Ecosystems.

Your project is on or near a section of road that has experienced comparatively high incidence of wildlife-vehicle collisions. Coordinate with the New Mexico Department of Transportation to consider implementing mitigation actions that are appropriate to your project area and planned action to reduce wildlife-vehicle collisions. These may include but are not limited to: installation of wildlife-proof fencing; installation of wildlife passages such as arch culverts or overpasses; and installation of animal detection systems.

Your project could affect important components of wildlife habitat, including fawning/calving or wintering areas for species such as deer and elk, or general high wildlife movement and activity areas for large mammals. Mitigation measures should focus on high use sites and movement areas based on collar data and expert knowledge of Department of Game and Fish and land management agency personnel. Management recommendations within these areas may include the following.

- Restrictions on noise-generating activities during wintering and calving/fawning seasons, specific timing of which may vary throughout the state. These activities would include oil and gas well pad development and operations that expose wildlife to loud noises from drilling, compressors, and pumping stations within 400 feet of the source.
- Modifying fences along high use areas to make them wildlife friendly and facilitate large animal movement.

Disclaimers regarding recommendations:

- The Department provides technical guidance to support the persistence of all protected species of native fish and wildlife, including game and nongame wildlife species. Species listed within this report include those that have been documented to occur within the project area, and others that may not have been documented but are projected to occur within the project vicinity.
- Recommendations are provided by the Department under the authority of § 17-1-5.1 New Mexico Statutes Annotated 1978, to provide "communication and consultation with federal and other state agencies, local governments and communities, private organizations and affected interests responsible for habitat, wilderness, recreation, water quality and environmental protection to ensure comprehensive conservation services for hunters, anglers and nonconsumptive wildlife users".
- The Department has no authority for management of plants or Important Plant Areas. The New Mexico Endangered Plant Program, under the Energy, Minerals, and Natural Resources Department's Forestry Division, identifies and develops conservation measures necessary to ensure the survival of plant species within New Mexico. Plant status information is provided within this report as a courtesy to users. Recommendations provided within the ERT may not be sufficient to preclude impacts to rare or sensitive plants, unless conservation measures are identified in coordination with the Endangered Plant Program.
- Additional coordination and/or consultation may also be necessary under the federal ESA or National Environmental Policy Act (NEPA). Further site-specific mitigation recommendations may be proposed during ESA consultation and/or NEPA analyses or through coordination with affected federal agencies.

2013 U.S. Fish and Wildlife Service (USFWS) Revised Voluntary Guidelines for Communication Tower Design, Siting, Construction, Operation, Retrofitting, and Decommissioning

2013 U.S. Fish and Wildlife Service (USFWS) Revised Voluntary Guidelines for Communication Tower Design, Siting, Construction, Operation, Retrofitting, and Decommissioning –

Suggestions Based on Previous USFWS Recommendations to FCC Regarding WT Docket No. 03-187, FCC 06-164, Notice of Proposed Rulemaking, "Effects of Communication Towers on Migratory Birds" (2007), Docket No. 08-61, FCC's Antenna Structure Registration Program (2011), Service 2012 Wind Energy Guidelines, and Service 2013 Eagle Conservation Plan Guidance

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[Comm Tower 2013 Revised Guidance-to FCC-AMM.docx]

1. Collocation of the communications equipment on an existing communication tower or other structure (e.g., billboard, water and transmission tower, distribution pole, or building mount) is strongly recommended. Depending on tower load factors and communication needs, from 6 to 10 providers should collocate on an existing tower or structure provided that frequencies do not overlap/"bleed" or where frequency length or broadcast distance requires higher towers. New towers should be designed structurally and electronically to accommodate the applicant's antenna, and antennas of at least 2 additional users – ideally 6 to 10 additional users, if possible – unless the design would require the addition of lights and/or guy wires to an otherwise unlit and/or unguyed tower. This recommendation is intended to reduce the number of towers needed in the future.

2. If collocation is not feasible and a new tower or towers are to be constructed, it is strongly recommended that the new tower(s) should be not more than 199 feet above ground level (AGL), and that construction techniques should not require guy wires. Such towers should be unlighted if Federal Aviation Administration (FAA) regulations and lighting standards (FAA 2007, Patterson 2012, FAA 2013 lighting circular anticipated update) permit. Additionally, the Federal Communications Commission (FCC) through recent rulemaking now requires that new towers $\geq$ 450 ft AGL contain no red-steady lights. FCC also recommends that new towers 350-450 ft AGL also contain no red-steady lights, and they will eventually recommend that new towers < 350 ft AGL convert non-flashing lights to flash with existing flashing lights. LED lights are being suggested as replacements for all new construction and for retrofits, with the intent of future synchronizing the flashes. Given these dynamics, the Service recommends using lattice tower or monopole structures for all towers < 200 ft AGL and for taller towers where feasible. The Service considers the less than 200 ft AGL option the "gold standard" and suggests that this

is the environmentally preferred industry standard for tower placement, construction and operation – i.e., towers that are unlit, unguyed, monopole or lattice, and less than 200 ft AGL.

3. If constructing multiple towers, the cumulative impacts of all the towers to migratory birds – especially to Birds of Conservation Concern (FWS 2008) and threatened and endangered species, as well as the impacts of each individual tower, should be considered during the development of a project.

4. The topography of the proposed tower site and surrounding habitat should be clearly noted, especially in regard to surrounding hills, mountains, mountain passes, ridge lines, rivers, lakes, wetlands, and other habitat types used by raptors, Birds of Conservation Concern, and state and federally listed species, and other birds of concern. Active raptor nests, especially those of Bald and Golden Eagles, should be noted, including known or suspected distances from proposed tower sites to nest locations. Nest site locations for Golden Eagles may vary between years, and unoccupied, inactive nests and nest sites may be re-occupied over multiple years. The Service's 2013 Eagle Conservation Plan Guidance, Module 1, Land-based Wind Energy, Version 2, available on our website, is a useful document (USFWS 2013).

5. If at all possible, new towers should be sited within existing "antenna farms" (i.e., clusters of towers), in degraded areas (e.g., strip mines or other heavily industrialized areas), in commercial agricultural lands, in Superfund sites, or other areas where bird habitat is poor or marginal. Towers should not be sited in or near wetlands, other known bird concentration areas (e.g., state of federal refuges, staging areas, rookeries, and Important Bird Areas), in known migratory, daily movement flyways, areas of breeding concentration, in habitat of threatened or endangered species, or key habitats for Birds of Conservation Concern (FWS 2008). Disturbance can result in effects to bird populations which may cumulatively affect their survival. The Service has recommended some disturbance-free buffers, e.g., 0.5 mi around raptor nests during the nesting season, and 1-mi disturbance free buffers for Ferruginous Hawks and Bald Eagles during nesting season in Wyoming (FWS WY Ecological Services Field Office, referenced in Manville 2007:23). The effects of towers on "prairie grouse," "sage grouse," and grassland and shrub-steppe bird species should also be considered since tall structures have been shown to result in abandonment of nest site areas and leks, especially for "prairie grouse" (Manville 2004). The issue of buffers is currently under review, especially for Bald and Golden Eagles. Additionally, towers should not be sited in areas with a high incidence of fog, mist, and low cloud ceilings.

6. If taller (> 199 ft AGL) towers requiring lights for aviation safety must be constructed, the minimum amount of pilot warning and obstruction avoidance lighting required by the FAA should be used. Unless otherwise required by the FAA, only white strobe or red strobe lights (red preferable since it is generally less displeasing to the human eye at night), or red flashing incandescent lights should be used at night, and these should be the minimum number, minimum intensity (< 2,000 candela), and minimum number of flashes per minute (i.e., longest duration between flashes/"dark phase") allowable by the FAA. The use of solid (non-flashing) warning lights at night should be avoided (Patterson 2012, Gehring et al. 2009) – see recommendation #2 above. Current research indicates that solid red lights attract night-migrating birds at a much higher rate than flashing lights (Gehring et al. 2009, Manville 2007, 2009). Recent research

indicates that use of white strobe, red strobe, or red flashing lights alone provides significant reductions in bird fatalities (Patterson 2012, Gehring et al. 2009).

7. Tower designs using guy wires for support, which are proposed to be located in known raptor or waterbird concentrations areas, daily movement routes, major diurnal migratory bird movement routes, staging areas, or stopover sites, should have daytime visual markers or bird deterrent devices installed on the wires to prevent collisions by these diurnally moving species. The efficacy of bird deterrents on guy wires to alert night migrating species has yet to be scientifically validated. For guidance on markers, see Avian Power Line Interaction Committee (APLIC). 2006. *Suggested Practices for Avian Protection on Power Lines -- State of the Art in 2006.* Edison Electric Institute, APLIC, and the California Energy Commission. Washington, DC, and Sacramento, CA. 207 pp, and APLIC. 2012. *Reducing Avian Collisions with Power Lines -- the State of the Art in 2012.* Edison Electric Institute and APLIC. Washington, DC. 159 pp. Also see www.aplic.org, www.energy.ca.gov, or call 202-508-5000.

8. Towers and appendant facilities should be designed, sited, and constructed so as to avoid or minimize habitat loss within and adjacent to the tower "footprint." However, a larger tower footprint is preferable to the use of guy wires in construction. Several shorter, un-guyed towers are preferable to one, tall guyed, lighted tower. Road access and fencing should be minimized to reduce or prevent habitat fragmentation, disturbance, and the creation of barriers, and to reduce above ground obstacles to birds in flight.

9. If, prior to tower design, siting and construction, if it has been determined that a significant number of breeding, feeding and roosting birds, especially of Birds of Conservation Concern (FWS 2008), state or federally-listed bird species, and eagles are known to habitually use the proposed tower construction area, relocation to an alternate site is highly recommended. If this is not an option, seasonal restrictions on construction are advised in order to avoid disturbance, site and nest abandonment, especially during breeding, rearing and other periods of high bird activity.

10. Security lighting for on-ground facilities, equipment and infrastructure should be motion- or heat-sensitive, down-shielded, and of a minimum intensity to reduce nighttime bird attraction and eliminate constant nighttime illumination, but still allow safe nighttime access to the site (USFWS 2012, Manville 2011).

11. Representatives from the USFWS or researchers from the Research Subcommittee of the Communication Tower Working Group should be allowed access to the site to evaluate bird use; conduct dead-bird searches; place above ground net catchments below the towers (Manville 2002); and to perform studies using radar, Global Position System, infrared, thermal imagery, and acoustical monitoring, as necessary. This will allow for assessment and verification of bird movements, site use, avoidance, and mortality. The goal is to acquire information on the impacts of various tower types, sizes, configurations and lighting protocols.

12. Towers no longer in use, not re-licensed by the FCC for use, or determined to be obsolete should be removed from the site within 12 months of cessation of use, preferably sooner.

13. In order to obtain information on the usefulness of these guidelines in preventing bird strikes and better understanding impacts from habitat fragmentation, please advise USFWS personnel of the final location and specifications of the proposed tower, and which measures recommended in these guidelines were implemented. If any of these recommended measures cannot be implemented, please explain why they are not feasible. This will further advise USFWS in identifying any recurring problems with the implementation of the guidelines, which may necessitate future modifications.

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Migratory Bird Treaty Act of 1918

Digest of Federal Resource Laws of Interest to the U.S. Fish and Wildlife Service

Migratory Bird Treaty Act of 1918

Migratory Bird Treaty Act of 1918 (16 U.S.C. 703-712; Ch. 128; July 13, 1918; 40 Stat. 755) as amended by: Chapter 634; June 20, 1936; 49 Stat. 1556; P.L. 86-732; September 8, 1960; 74 Stat. 866; P.L. 90-578; October 17, 1968; 82 Stat. 1118; P.L. 91-135; December 5, 1969; 83 Stat. 282; P.L. 93-300; June 1, 1974; 88 Stat. 190; P.L. 95-616; November 8, 1978; 92 Stat. 3111; P.L. 99-645; November 10, 1986; 100 Stat. 3590 and P.L. 105-312; October 30, 1998; 112 Stat. 2956

The original 1918 statute implemented the 1916 Convention between the U.S. and Great Britain (for Canada) for the protection of migratory birds. Later amendments implemented treaties between the U.S. and Mexico, the U.S. and Japan, and the U.S. and the Soviet Union (now Russia).

Specific provisions in the statute include:

- Establishment of a Federal prohibition, unless permitted by regulations, to "pursue, hunt, take, capture, kill, attempt to take, capture or kill, possess, offer for sale, sell, offer to purchase, purchase, deliver for shipment, ship, cause to be shipped, deliver for transportation, transport, cause to be transported, carry, or cause to be carried by any means whatever, receive for shipment, transportation or carriage, or export, at any time, or in any manner, any migratory bird, included in the terms of this Convention . . . for the protection of migratory birds . . . or any part, nest, or egg of any such bird." (16 U.S.C. 703)

This prohibition applies to birds included in the respective international conventions between the U.S. and Great Britain, the U.S. and Mexico, the U.S. and Japan, and the U.S. and the Russia.

- Authority for the Secretary of the Interior to determine, periodically, when, consistent with the Conventions, "hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, or export of any . . .bird, or any part, nest or egg" could be undertaken and to adopt regulations for this purpose. These determinations are to be made based on "due regard to the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times of migratory flight." (16 U.S.C. 704)

- A decree that domestic interstate and international transportation of migratory birds which are taken in violation of this law is unlawful, as well as importation of any migratory birds which are taken in violation of Canadian laws. (16 U.S.C. 705)

- Authority for Interior officials to enforce the provisions of this law, including seizure of birds illegally taken which can be forfeited to the U.S. and disposed of as directed by the courts. (16 U.S.C. 706)

- Establishment of fines for violation of this law, including misdemeanor charges. (16 U.S.C. 707)

- Authority for States to enact and implement laws or regulations to allow for greater protection of migratory birds, provided that such laws are consistent with the respective Conventions and that open seasons do not extend beyond those established at the national level. (16 U.S.C. 708)

- A repeal of all laws inconsistent with the provisions of this Act. (16 U.S.C. 710)
- Authority for the continued breeding and sale of migratory game birds on farms and preserves for the purpose of increasing the food supply. (16 U.S.C. 711)

The 1936 statute implemented the Convention between the U.S. and Mexico for the Protection of Migratory Birds and Game Mammals. Migratory bird import and export restrictions between Mexico and the U.S. were also authorized, and in issuing any regulations to implement this section, the Secretary of Agriculture was required to consider U.S. laws forbidding importation of certain mammals injurious to agricultural and horticultural interests. Monies for the Secretary of Agriculture to implement these provisions were also authorized.

The 1960 statute (P.L. 86-732) amended the MBTA by altering earlier penalty provisions. The new provisions stipulated that violations of this Act would constitute a misdemeanor and conviction would result in a fine of not more than $500 or imprisonment of not more than six months. Activities aimed at selling migratory birds in violation of this law would be subject to fine of not more than $2000 and imprisonment could not exceed two years. Guilty offenses would constitute a felony. Equipment used for sale purchases was authorized to be seized and held, by the Secretary of the Interior, pending prosecution, and, upon conviction, be treated as a penalty.

Section 10 of the 1969 amendments to the Lacey Act (P.L. 91-135) repealed the provisions of the MBTA prohibiting the shipment of wild game mammals or parts to and from the U.S. or Mexico unless permitted by the Secretary of the Interior. The definition of "wildlife" under these amendments does not include migratory birds, however, which are protected under the MBTA.

The 1974 statute (P.L. 93-300) amended the MBTA to include the provisions of the 1972 Convention between the U.S. and Japan for the Protection of Migratory Birds and Birds in Danger of Extinction. This law also amended the title of the MBTA to read: "An Act to give effect to the conventions between the U.S. and other nations for the protection of migratory birds, birds in danger of extinction, game mammals, and their environment."

Section 3(h) of the Fish and Wildlife Improvement Act of 1978 (P.L. 95-616) amended the MBTA to authorize forfeiture to the U.S. of birds and their parts illegally taken, for disposal by the Secretary of the Interior as he deems appropriate. These amendments also authorized the Secretary to issue regulations to permit Alaskan natives to take migratory birds for their subsistence needs during established seasons. The Secretary was required to consider the related migratory bird conventions with Great Britain, Mexico, Japan, and the Soviet Union in establishing these regulations and to establish seasons to provide for the preservation and maintenance of migratory bird stocks.

Public Law 95-616 also ratified a treaty with the Soviet Union specifying that both nations will take measures to protect identified ecosystems of special importance to migratory birds against pollution, detrimental alterations, and other environmental degradations. (See entry for the Convention Between the United States of America and the Union of Soviet Socialist Republics Concerning the Conservation of Migratory Birds and Their Environment; T.I.A.S. 9073; signed on November 19, 1976, and approved by the Senate on July 12, 1978; 92 Stat. 3110.)

Public Law 99-645, the 1986 Emergency Wetlands Resources Act, amended the Act to require that felony violations under the MBTA must be "knowingly" committed.

P.L. 105-312, Migratory Bird Treaty Reform Act of 1998, amended the law to make it unlawful to take migratory game birds by the aid of bait if the person knows or reasonably should know that the area is

baited. This provision eliminates the "strict liability" standard that was used to enforce Federal baiting regulations and replaces it with a "know or should have known" standard. These amendments also make it unlawful to place or direct the placement of bait on or adjacent to an area for the purpose of taking or attempting to take migratory game birds, and makes these violations punishable under title 18 United States Code, (with fines up to $100,000 for individuals and $200,000 for organizations), imprisonment for not more than 1 year, or both. The new amendments require the Secretary of Interior to submit to the Senate Committee on Environment and Public Works and the House Committee on Resources a report analyzing the effect of these amendments and the practice of baiting on migratory bird conservation and law enforcement. The report to Congress is due no later than five years after enactment of the new law.

P.L. 105-312 also amends the law to allow the fine for misdemeanor convictions under the Migratory Bird Treaty Act to be up to $15,000 rather than $5000.

Return to Resource Laws

2007 U.S. Fish and Wildlife Service (USFWS) National Bald Eagle Guidelines

NATIONAL BALD EAGLE MANAGEMENT GUIDELINES

U.S. Fish and Wildlife Service

May 2007

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INTRODUCTION

The bald eagle (*Haliaeetus leucocephalus*) is protected by the Bald and Golden Eagle Protection Act (Eagle Act) and the Migratory Bird Treaty Act (MBTA). The MBTA and the Eagle Act protect bald eagles from a variety of harmful actions and impacts. The U.S. Fish and Wildlife Service (Service) developed these National Bald Eagle Management Guidelines to advise landowners, land managers, and others who share public and private lands with bald eagles when and under what circumstances the protective provisions of the Eagle Act may apply to their activities. A variety of human activities can potentially interfere with bald eagles, affecting their ability to forage, nest, roost, breed, or raise young. The Guidelines are intended to help people minimize such impacts to bald eagles, particularly where they may constitute "disturbance," which is prohibited by the Eagle Act.

The Guidelines are intended to:

(1) Publicize the provisions of the Eagle Act that continue to protect bald eagles, in order to reduce the possibility that people will violate the law,

(2) Advise landowners, land managers and the general public of the potential for various human activities to disturb bald eagles, and

(3) Encourage additional nonbinding land management practices that benefit bald eagles (see Additional Recommendations section).

While the Guidelines include general recommendations for land management practices that will benefit bald eagles, the document is intended primarily as a tool for landowners and planners who seek information and recommendations regarding how to avoid disturbing bald eagles. Many States and some tribal entities have developed state-specific management plans, regulations, and/or guidance for landowners and land managers to protect and enhance bald eagle habitat, and we encourage the continued development and use of these planning tools to benefit bald eagles.

Adherence to the Guidelines herein will benefit individuals, agencies, organizations, and companies by helping them avoid violations of the law. However, the Guidelines themselves are not law. Rather, they are recommendations based on several decades of behavioral observations, science, and conservation measures to avoid or minimize adverse impacts to bald eagles.

The U.S. Fish and Wildlife Service strongly encourages adherence to these guidelines to ensure that bald and golden eagle populations will continue to be sustained. The Service realizes there may be impacts to some birds even if all reasonable measures are taken to avoid such impacts. Although it is not possible to absolve individuals and entities from liability under the Eagle Act or the MBTA, the Service exercises enforcement discretion to focus on those individuals, companies, or agencies that take migratory birds without regard for the consequences of their actions and the law, especially when conservation measures, such as these Guidelines, are available, but have not been implemented. The Service will prioritize its enforcement efforts to focus on those individuals or entities who take bald eagles or their parts, eggs, or nests without implementing appropriate measures recommended by the Guidelines.

The Service intends to pursue the development of regulations that would authorize, under limited circumstances, the use of permits if “take” of an eagle is anticipated but unavoidable. Additionally, if the bald eagle is delisted, the Service intends to provide a regulatory mechanism to honor existing (take) authorizations under the Endangered Species Act (ESA).

During the interim period until the Service completes a rulemaking for permits under the Eagle Act, the Service does not intend to refer for prosecution the incidental “*take*” of any bald eagle under the MBTA or Eagle Act, if such take is in full compliance with the terms and conditions of an incidental take statement issued to the action agency or applicant under the authority of section 7(b)(4) of the ESA or a permit issued under the authority of section 10(a)(1)(B) of the ESA.

The Guidelines are applicable throughout the United States, including Alaska. The primary purpose of these Guidelines is to provide information that will minimize or prevent violations only of *Federal* laws governing bald eagles. In addition to Federal laws, many states and some smaller jurisdictions and tribes have additional laws and regulations protecting bald eagles. In some cases those laws and regulations may be more protective (restrictive) than these Federal guidelines. If you are planning activities that may affect bald eagles, we therefore recommend that you contact both your nearest U.S. Fish and Wildlife Service Field Office (see the contact information on p.16) and your state wildlife agency for assistance.

LEGAL PROTECTIONS FOR THE BALD EAGLE

The Bald and Golden Eagle Protection Act

The Eagle Act (16 U.S.C. 668-668c), enacted in 1940, and amended several times since then, prohibits anyone, without a permit issued by the Secretary of the Interior, from “taking” bald eagles, including their parts, nests, or eggs. The Act provides criminal and civil penalties for persons who “take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or any manner, any bald eagle ... [or any golden eagle], alive or dead, or any part, nest, or egg thereof.” The Act defines “take” as “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb.” “Disturb’’ means:

> "Disturb means to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior."

In addition to immediate impacts, this definition also covers impacts that result from human-induced alterations initiated around a previously used nest site during a time when eagles are not present, if, upon the eagle=s return, such alterations agitate or bother an eagle to a degree that injures an eagle or substantially interferes with normal breeding, feeding, or sheltering habits and causes, or is likely to cause, a loss of productivity or nest abandonment.

A violation of the Act can result in a criminal fine of $100,000 ($200,000 for organizations), imprisonment for one year, or both, for a first offense. Penalties increase substantially for additional offenses, and a second violation of this Act is a felony.

The Migratory Bird Treaty Act
The MBTA (16 U.S.C. 703-712), prohibits the taking of any migratory bird or any part, nest, or egg, except as permitted by regulation. The MBTA was enacted in 1918; a 1972 agreement supplementing one of the bilateral treaties underlying the MBTA had the effect of expanding the scope of the Act to cover bald eagles and other raptors. Implementing regulations define "take" under the MBTA as "pursue, hunt, shoot, wound, kill, trap, capture, possess, or collect."

Copies of the Eagle Act and the MBTA are available at: http://permits.fws.gov/ltr/ltr.shtml.

State laws and regulations
Most states have their own regulations and/or guidelines for bald eagle management. Some states may continue to list the bald eagle as endangered, threatened, or of special concern. If you plan activities that may affect bald eagles, we urge you to familiarize yourself with the regulations and/or guidelines that apply to bald eagles in your state. Your adherence to the Guidelines herein does not ensure that you are in compliance with state laws and regulations because state regulations can be more specific and/or restrictive than these Guidelines.

NATURAL HISTORY OF THE BALD EAGLE

Bald eagles are a North American species that historically occurred throughout the contiguous United States and Alaska. After severely declining in the lower 48 States between the 1870s and the 1970s, bald eagles have rebounded and re-established breeding territories in each of the lower 48 states. The largest North American breeding populations are in Alaska and Canada, but there are also significant bald eagle populations in Florida, the Pacific Northwest, the Greater Yellowstone area, the Great Lakes states, and the Chesapeake Bay region. Bald eagle distribution varies seasonally. Bald eagles that nest in southern latitudes frequently move northward in late spring and early summer, often summering as far north as Canada. Most eagles that breed at northern latitudes migrate southward during winter, or to coastal areas where waters remain unfrozen. Migrants frequently concentrate in large numbers at sites where food is abundant and they often roost together communally. In some cases, concentration areas are used year-round: in summer by southern eagles and in winter by northern eagles.

Juvenile bald eagles have mottled brown and white plumage, gradually acquiring their dark brown body and distinctive white head and tail as they mature. Bald eagles generally attain adult plumage by 5 years of age. Most are capable of breeding at 4 or 5 years of age, but in healthy populations they may not start breeding until much older. Bald eagles may live 15 to 25 years in the wild. Adults weigh 8 to 14 pounds (occasionally reaching 16 pounds in Alaska) and have wingspans of 5 to 8 feet. Those in the northern range are larger than those in the south, and females are larger than males.

Where do bald eagles nest?

Breeding bald eagles occupy "territories," areas they will typically defend against intrusion by other eagles. In addition to the active nest, a territory may include one or more alternate nests (nests built or maintained by the eagles but not used for nesting in a given year). The Eagle Act prohibits removal or destruction of both active and alternate bald eagle nests. Bald eagles exhibit high nest site fidelity and nesting territories are often used year after year. Some territories are known to have been used continually for over half a century.

Bald eagles generally nest near coastlines, rivers, large lakes or streams that support an adequate food supply. They often nest in mature or old-growth trees; snags (dead trees); cliffs; rock promontories; rarely on the ground; and with increasing frequency on human-made structures such as power poles and communication towers. In forested areas, bald eagles often select the tallest trees with limbs strong enough to support a nest that can weigh more than 1,000 pounds. Nest sites typically include at least one perch with a clear view of the water where the eagles usually forage. Shoreline trees or snags located in reservoirs provide the visibility and accessibility needed to locate aquatic prey. Eagle nests are constructed with large sticks, and may be lined with moss, grass, plant stalks, lichens, seaweed, or sod. Nests are usually about 4-6 feet in diameter and 3 feet deep, although larger nests exist.

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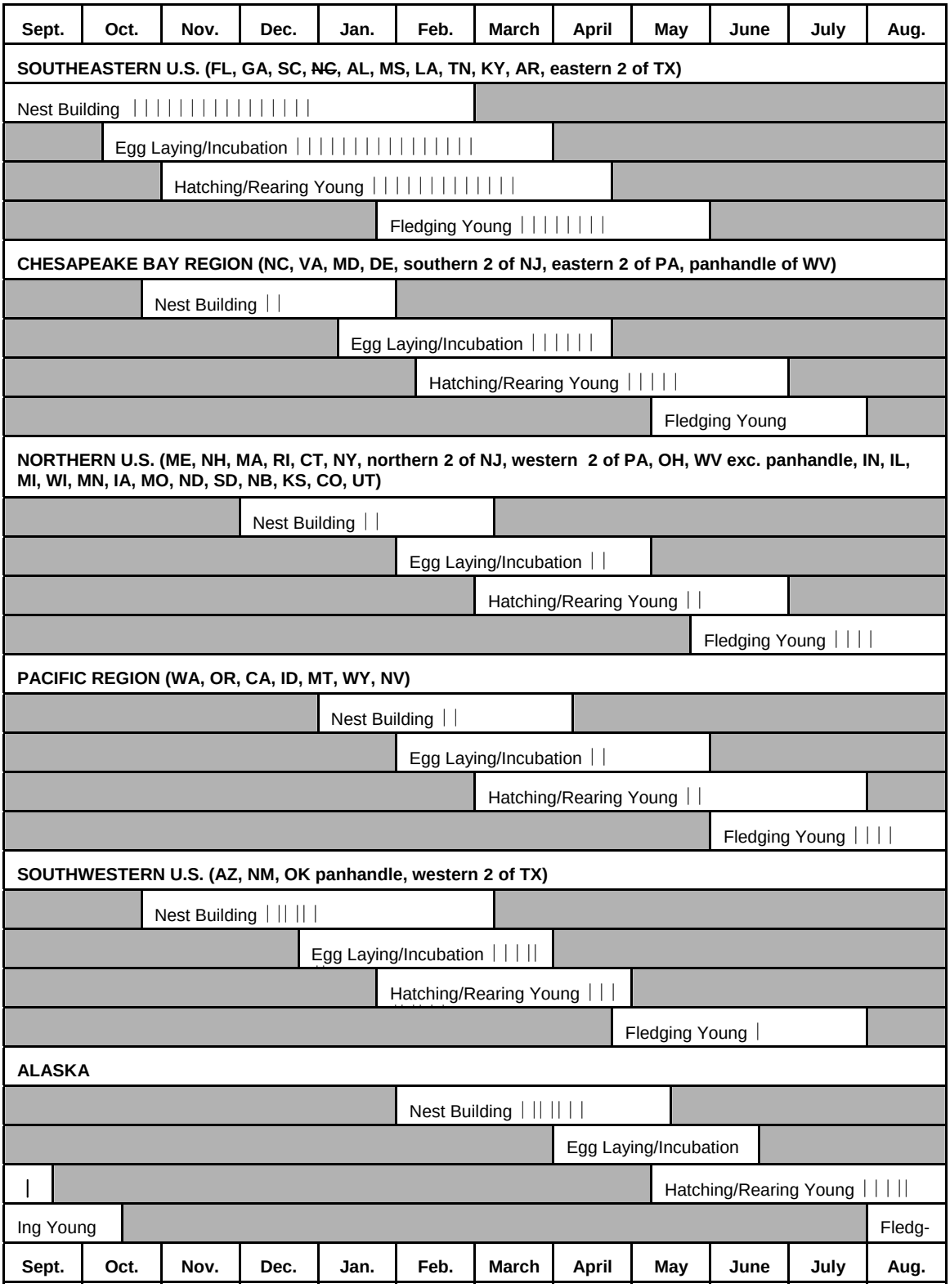
The range of breeding bald eagles in 2000 (shaded areas). This map shows only the larger concentrations of nests; eagles have continued to expand into additional nesting territories in many states. The dotted line represents the bald eagle's wintering range.

When do bald eagles nest?

Nesting activity begins several months before egg-laying. Egg-laying dates vary throughout the U.S., ranging from October in Florida, to late April or even early May in the northern United States. Incubation typically lasts 33-35 days, but can be as long as 40 days. Eaglets make their first unsteady flights about 10 to 12 weeks after hatching, and fledge (leave their nests) within a few days after that first flight. However, young birds usually remain in the vicinity of the nest for several weeks after fledging because they are almost completely dependent on their parents for food until they disperse from the nesting territory approximately 6 weeks later.

The bald eagle breeding season tends to be longer in the southern U.S., and re-nesting following an unsuccessful first nesting attempt is more common there as well. The following table shows the timing of bald eagle breeding seasons in different regions of the country. The table represents the range of time within which the majority of nesting activities occur in each region and does not apply to any specific nesting pair. Because the timing of nesting activities may vary within a given region, you should contact the nearest U.S. Fish and Wildlife Service Field Office (see page 16) and/or your state wildlife conservation agency for more specific information on nesting chronology in your area.

Chronology of typical reproductive activities of bald eagles in the United States.



How many chicks do bald eagles raise?
The number of eagle eggs laid will vary from 1-3, with 1-2 eggs being the most common. Only one eagle egg is laid per day, although not always on successive days. Hatching of young occurs on different days with the result that chicks in the same nest are sometimes of unequal size. The overall national fledging rate is approximately one chick per nest, annually, which results in a healthy expanding population.

What do bald eagles eat?
Bald eagles are opportunistic feeders. Fish comprise much of their diet, but they also eat waterfowl, shorebirds/colonial waterbirds, small mammals, turtles, and carrion. Because they are visual hunters, eagles typically locate their prey from a conspicuous perch, or soaring flight, then swoop down and strike. Wintering bald eagles often congregate in large numbers along streams to feed on spawning salmon or other fish species, and often gather in large numbers in areas below reservoirs, especially hydropower dams, where fish are abundant. Wintering eagles also take birds from rafts of ducks at reservoirs and rivers, and congregate on melting ice shelves to scavenge dead fish from the current or the soft melting ice. Bald eagles will also feed on carcasses along roads, in landfills, and at feedlots.

During the breeding season, adults carry prey to the nest to feed the young. Adults feed their chicks by tearing off pieces of food and holding them to the beaks of the eaglets. After fledging, immature eagles are slow to develop hunting skills, and must learn to locate reliable food sources and master feeding techniques. Young eagles will congregate together, often feeding upon easily acquired food such as carrion and fish found in abundance at the mouths of streams and shallow bays and at landfills.

The impact of human activity on nesting bald eagles
During the breeding season, bald eagles are sensitive to a variety of human activities. However, not all bald eagle pairs react to human activities in the same way. Some pairs nest successfully just dozens of yards from human activity, while others abandon nest sites in response to activities much farther away. This variability may be related to a number of factors, including visibility, duration, noise levels, extent of the area affected by the activity, prior experiences with humans, and tolerance of the individual nesting pair. The relative sensitivity of bald eagles during various stages of the breeding season is outlined in the following table.

Nesting Bald Eagle Sensitivity to Human Activities

Phase	Activity	Sensitivity to Human Activity	Comments
I	Courtship and Nest Building	Most sensitive period; likely to respond negatively	Most critical time period. Disturbance is manifested in nest abandonment. Bald eagles in newly established territories are more prone to abandon nest sites.
II	Egg laying	Very sensitive period	Human activity of even limited duration may cause nest desertion and abandonment of territory for the breeding season.
III	Incubation and early nestling period (up to 4 weeks)	Very sensitive period	Adults are less likely to abandon the nest near and after hatching. However, flushed adults leave eggs and young unattended; eggs are susceptible to cooling, loss of moisture, overheating, and predation; young are vulnerable to elements.
IV	Nestling period, 4 to 8 weeks	Moderately sensitive period	Likelihood of nest abandonment and vulnerability of the nestlings to elements somewhat decreases. However, nestlings may miss feedings, affecting their survival.
V	Nestlings 8 weeks through fledging	Very sensitive period	Gaining flight capability, nestlings 8 weeks and older may flush from the nest prematurely due to disruption and die.

If agitated by human activities, eagles may inadequately construct or repair their nest, may expend energy defending the nest rather than tending to their young, or may abandon the nest altogether. Activities that cause prolonged absences of adults from their nests can jeopardize eggs or young. Depending on weather conditions, eggs may overheat or cool too much and fail to hatch. Unattended eggs and nestlings are subject to predation. Young nestlings are particularly vulnerable because they rely on their parents to provide warmth or shade, without which they may die as a result of hypothermia or heat stress. If food delivery schedules are interrupted, the young may not develop healthy plumage, which can affect their survival. In addition, adults startled while incubating or brooding young may damage eggs or injure their young as they abruptly leave the nest. Older nestlings no longer require constant attention from the adults, but they may be startled by loud or intrusive human activities and prematurely jump from the nest before they are able to fly or care for themselves. Once fledged, juveniles range up to ¼ mile from the nest site, often to a site with minimal human activity. During this period, until about six weeks after departure from the nest, the juveniles still depend on the adults to feed them.

The impact of human activity on foraging and roosting bald eagles

Disruption, destruction, or obstruction of roosting and foraging areas can also negatively affect bald eagles. Disruptive activities in or near eagle foraging areas can interfere with feeding, reducing chances of survival. Interference with feeding can also result in reduced productivity (number of young successfully fledged). Migrating and wintering bald eagles often congregate at specific sites for purposes of feeding and sheltering. Bald eagles rely on established roost sites because of their proximity to sufficient food sources. Roost sites are usually in mature trees where the eagles are somewhat sheltered from the wind and weather. Human activities near or within communal roost sites may prevent eagles

from feeding or taking shelter, especially if there are not other undisturbed and productive feeding and roosting sites available. Activities that permanently alter communal roost sites and important foraging areas can altogether eliminate the elements that are essential for feeding and sheltering eagles.

Where a human activity agitates or bothers roosting or foraging bald eagles to the degree that causes injury or substantially interferes with breeding, feeding, or sheltering behavior and causes, or is likely to cause, a loss of productivity or nest abandonment, the conduct of the activity constitutes a violation of the Eagle Act's prohibition against disturbing eagles. The circumstances that might result in such an outcome are difficult to predict without detailed site-specific information. If your activities may disturb roosting or foraging bald eagles, you should contact your local Fish and Wildlife Service Field Office (see page 16) for advice and recommendations for how to avoid such disturbance.

RECOMMENDATIONS FOR AVOIDING DISTURBANCE AT NEST SITES

In developing these Guidelines, we relied on existing state and regional bald eagle guidelines, scientific literature on bald eagle disturbance, and recommendations of state and Federal biologists who monitor the impacts of human activity on eagles. Despite these resources, uncertainties remain regarding the effects of many activities on eagles and how eagles in different situations may or may not respond to certain human activities. The Service recognizes this uncertainty and views the collection of better biological data on the response of eagles to disturbance as a high priority. To the extent that resources allow, the Service will continue to collect data on responses of bald eagles to human activities conducted according to the recommendations within these Guidelines to ensure that adequate protection from disturbance is being afforded, and to identify circumstances where the Guidelines might be modified. These data will be used to make future adjustments to the Guidelines.

To avoid disturbing nesting bald eagles, we recommend (1) keeping a distance between the activity and the nest (distance buffers), (2) maintaining preferably forested (or natural) areas between the activity and around nest trees (landscape buffers), and (3) avoiding certain activities during the breeding season. The buffer areas serve to minimize visual and auditory impacts associated with human activities near nest sites. Ideally, buffers would be large enough to protect existing nest trees and provide for alternative or replacement nest trees.

The size and shape of effective buffers vary depending on the topography and other ecological characteristics surrounding the nest site. In open areas where there are little or no forested or topographical buffers, such as in many western states, distance alone must serve as the buffer. Consequently, in open areas, the distance between the activity and the nest may need to be larger than the distances recommended under Categories A and B of these guidelines (pg. 12) if no landscape buffers are present. The height of the nest above the ground may also ameliorate effects of human activities; eagles at higher nests may be less prone to disturbance.

In addition to the physical features of the landscape and nest site, the appropriate size for the distance buffer may vary according to the historical tolerances of eagles to human activities in particular localities, and may also depend on the location of the nest in relation

to feeding and roosting areas used by the eagles. Increased competition for nest sites may lead bald eagles to nest closer to human activity (and other eagles).

Seasonal restrictions can prevent the potential impacts of many shorter-term, obtrusive activities that do not entail landscape alterations (e.g. fireworks, outdoor concerts). In proximity to the nest, these kinds of activities should be conducted only outside the breeding season. For activities that entail both short-term, obtrusive characteristics and more permanent impacts (e.g., building construction), we recommend a combination of both approaches: retaining a landscape buffer *and* observing seasonal restrictions.

For assistance in determining the appropriate size and configuration of buffers or the timing of activities in the vicinity of a bald eagle nest, we encourage you to contact the nearest U.S. Fish and Wildlife Service Field Office (see page 16).

Existing Uses

Eagles are unlikely to be disturbed by routine use of roads, homes, and other facilities where such use pre-dates the eagles' successful nesting activity in a given area. Therefore, in most cases *ongoing* existing uses may proceed with the same intensity with little risk of disturbing bald eagles. However, some *intermittent, occasional, or irregular* uses that pre-date eagle nesting in an area may disturb bald eagles. For example: a pair of eagles may begin nesting in an area and subsequently be disturbed by activities associated with an annual outdoor flea market, even though the flea market has been held annually at the same location. In such situations, human activity should be adjusted or relocated to minimize potential impacts on the nesting pair.

ACTIVITY-SPECIFIC GUIDELINES

The following section provides the Service=s management recommendations for avoiding bald eagle disturbance as a result of new or intermittent activities proposed in the vicinity of bald eagle nests. Activities are separated into 8 categories (A – H) based on the nature and magnitude of impacts to bald eagles that usually result from the type of activity. Activities with similar or comparable impacts are grouped together.

In most cases, impacts will vary based on the visibility of the activity from the eagle nest and the degree to which similar activities are already occurring in proximity to the nest site. Visibility is a factor because, in general, eagles are more prone to disturbance when an activity occurs in full view. For this reason, we recommend that people locate activities farther from the nest structure in areas with open vistas, in contrast to areas where the view is shielded by rolling topography, trees, or other screening factors. The recommendations also take into account the existence of similar activities in the area because the continued presence of nesting bald eagles in the vicinity of the existing activities indicates that the eagles in that area can tolerate a greater degree of human activity than we can generally expect from eagles in areas that experience fewer human impacts. To illustrate how these factors affect the likelihood of disturbing eagles, we have incorporated the recommendations for some activities into a table (categories A and B).

First, determine which category your activity falls into (between categories A – H). If the activity you plan to undertake is not specifically addressed in these guidelines, follow the recommendations for the most similar activity represented.

If your activity is under A or B, our recommendations are in table form. The vertical axis shows the degree of visibility of the activity from the nest. The horizontal axis (header row) represents the degree to which similar activities are ongoing in the vicinity of the nest. Locate the row that best describes how visible your activity will be from the eagle nest. Then, choose the column that best describes the degree to which similar activities are ongoing in the vicinity of the eagle nest. The box where the column and row come together contains our management recommendations for how far you should locate your activity from the nest to avoid disturbing the eagles. The numerical distances shown in the tables are the closest the activity should be conducted relative to the nest. In some cases we have included additional recommendations (other than recommended *distance* from the nest) you should follow to help ensure that your activity will not disturb the eagles.

Alternate nests

For activities that entail permanent landscape alterations that may result in bald eagle disturbance, these recommendations apply to both active and alternate bald eagle nests. Disturbance becomes an issue with regard to alternate nests if eagles return for breeding purposes and react to land use changes that occurred while the nest was inactive. The likelihood that an alternate nest will again become active decreases the longer it goes unused. If you plan activities in the vicinity of an alternate bald eagle nest and have information to show that the nest has not been active during the preceding 5 breeding seasons, the recommendations provided in these guidelines for avoiding disturbance around the nest site may no longer be warranted. The nest itself remains protected by other provisions of the Eagle Act, however, and may not be destroyed.

If special circumstances exist that make it unlikely an inactive nest will be reused before 5 years of disuse have passed, and you believe that the probability of reuse is low enough to warrant disregarding the recommendations for avoiding disturbance, you should be prepared to provide all the reasons for your conclusion, including information regarding past use of the nest site. Without sufficient documentation, you should continue to follow these guidelines when conducting activities around the nest site. If we are able to determine that it is unlikely the nest will be reused, we may advise you that the recommendations provided in these guidelines for avoiding disturbance are no longer necessary around that nest site.

This guidance is intended to minimize disturbance, as defined by Federal regulation. In addition to Federal laws, most states and some tribes and smaller jurisdictions have additional laws and regulations protecting bald eagles. In some cases those laws and regulations may be more protective (restrictive) than these Federal guidelines.

Temporary Impacts

For activities that have temporary impacts, such as the use of loud machinery, fireworks displays, or summer boating activities, we recommend seasonal restrictions. These types of activities can generally be carried out outside of the breeding season without causing disturbance. The recommended restrictions for these types of activities can be lifted for alternate nests within a particular territory, including nests that were attended during the current breeding season but not used to raise young, after eggs laid in another nest within the territory have hatched (depending on the distance between the alternate nest and the active nest).

In general, activities should be kept as far away from nest trees as possible; loud and disruptive activities should be conducted when eagles are not nesting; and activity between the nest and the nearest foraging area should be minimized. If the activity you plan to undertake is not specifically addressed in these guidelines, follow the recommendations for the most similar activity addressed, or contact your local U.S. Fish and Wildlife Service Field Office for additional guidance.

If you believe that special circumstances apply to your situation that increase or diminish the likelihood of bald eagle disturbance, or if it is not possible to adhere to the guidelines, you should contact your local Service Field Office for further guidance.

Category A:
Building construction, 1 or 2 story, with project footprint of ½ acre or less.
Construction of roads, trails, canals, power lines, and other linear utilities.
Agriculture and aquaculture – new or expanded operations.
Alteration of shorelines or wetlands.
Installation of docks or moorings.
Water impoundment.

Category B:
Building construction, 3 or more stories.
Building construction, 1 or 2 story, with project footprint of more than ½ acre.
Installation or expansion of marinas with a capacity of 6 or more boats.
Mining and associated activities.
Oil and natural gas drilling and refining and associated activities.

	If there is no similar activity within 1 mile of the nest	***If there is similar activity closer than 1 mile from the nest***
If the activity will be visible from the nest	660 feet. Landscape buffers are recommended.	660 feet, or as close as existing tolerated activity of similar scope. Landscape buffers are recommended.
If the activity will not be visible from the nest	Category A: 330 feet. Clearing, external construction, and landscaping between 330 feet and 660 feet should be done outside breeding season. Category B: 660 feet.	330 feet, or as close as existing tolerated activity of similar scope. Clearing, external construction and landscaping within 660 feet should be done outside breeding season.

The numerical distances shown in the table are the closest the activity should be conducted relative to the nest.

Category C. Timber Operations and Forestry Practices

- Avoid clear cutting or removal of overstory trees within 330 feet of the nest at any time.

- Avoid timber harvesting operations, including road construction and chain saw and yarding operations, during the breeding season within 660 feet of the nest. The distance may be decreased to 330 feet around alternate nests within a particular territory, including nests that were attended during the current breeding season but not used to raise young, after eggs laid in another nest within the territory have hatched.

- Selective thinning and other silviculture management practices designed to conserve or enhance habitat, including prescribed burning close to the nest tree, should be undertaken outside the breeding season. Precautions such as raking leaves and woody debris from around the nest tree should be taken to prevent crown fire or fire climbing the nest tree. If it is determined that a burn during the breeding season would be beneficial, then, to ensure that no take or disturbance will occur, these activities should be conducted only when neither adult eagles nor young are present at the nest tree (i.e., at the beginning of, or end of, the breeding season, either before the particular nest is active or after the young have fledged from that nest). Appropriate Federal and state biologists should be consulted before any prescribed burning is conducted during the breeding season.

- Avoid construction of log transfer facilities and in-water log storage areas within 330 feet of the nest.

Category D. Off-road vehicle use (including snowmobiles). No buffer is necessary around nest sites outside the breeding season. During the breeding season, do not operate off-road vehicles within 330 feet of the nest. In open areas, where there is increased visibility and exposure to noise, this distance should be extended to 660 feet.

Category E. Motorized Watercraft use (including jet skis/personal watercraft). No buffer is necessary around nest sites outside the breeding season. During the breeding season, within 330 feet of the nest, (1) do not operate jet skis (personal watercraft), and (2) avoid concentrations of noisy vessels (e.g., commercial fishing boats and tour boats), except where eagles have demonstrated tolerance for such activity. Other motorized boat traffic passing within 330 feet of the nest should attempt to minimize trips and avoid stopping in the area where feasible, particularly where eagles are unaccustomed to boat traffic. Buffers for airboats should be larger than 330 feet due to the increased noise they generate, combined with their speed, maneuverability, and visibility.

Category F. Non-motorized recreation and human entry (e.g., hiking, camping, fishing, hunting, birdwatching, kayaking, canoeing). No buffer is necessary around nest sites outside the breeding season. If the activity will be visible or highly audible from the nest, maintain a 330-foot buffer during the breeding season, particularly where eagles are unaccustomed to such activity.

Category G. Helicopters and fixed-wing aircraft.
Except for authorized biologists trained in survey techniques, avoid operating aircraft within 1,000 feet of the nest during the breeding season, except where eagles have demonstrated tolerance for such activity.

Category H. Blasting and other loud, intermittent noises.
Avoid blasting and other activities that produce extremely loud noises within 1/2 mile of active nests, unless greater tolerance to the activity (or similar activity) has been demonstrated by the eagles in the nesting area. This recommendation applies to the use of fireworks classified by the Federal Department of Transportation as Class B explosives, which includes the larger fireworks that are intended for licensed public display.

RECOMMENDATIONS FOR AVOIDING DISTURBANCE AT FORAGING AREAS AND COMMUNAL ROOST SITES

1. Minimize potentially disruptive activities and development in the eagles' direct flight path between their nest and roost sites and important foraging areas.

2. Locate long-term and permanent water-dependent facilities, such as boat ramps and marinas, away from important eagle foraging areas.

3. Avoid recreational and commercial boating and fishing near critical eagle foraging areas during peak feeding times (usually early to mid-morning and late afternoon), except where eagles have demonstrated tolerance to such activity.

4. Do not use explosives within ½ mile (or within 1 mile in open areas) of communal roosts when eagles are congregating, without prior coordination with the U.S. Fish and Wildlife Service and your state wildlife agency.

5. Locate aircraft corridors no closer than 1,000 feet vertical or horizontal distance from communal roost sites.

ADDITIONAL RECOMMENDATIONS TO BENEFIT BALD EAGLES

The following are additional management practices that landowners and planners can exercise for added benefit to bald eagles.

1. Protect and preserve potential roost and nest sites by retaining mature trees and old growth stands, particularly within ½ mile from water.

2. Where nests are blown from trees during storms or are otherwise destroyed by the elements, continue to protect the site in the absence of the nest for up to three (3) complete breeding seasons. Many eagles will rebuild the nest and reoccupy the site.

3. To avoid collisions, site wind turbines, communication towers, and high voltage transmission power lines away from nests, foraging areas, and communal roost sites.

4. Employ industry-accepted best management practices to prevent birds from colliding with or being electrocuted by utility lines, towers, and poles. If possible, bury utility lines in important eagle areas.

5. Where bald eagles are likely to nest in human-made structures (e.g., cell phone towers) and such use could impede operation or maintenance of the structures or jeopardize the safety of the eagles, equip the structures with either (1) devices engineered to discourage bald eagles from building nests, or (2) nesting platforms that will safely accommodate bald eagle nests without interfering with structure performance.

6. Immediately cover carcasses of euthanized animals at landfills to protect eagles from being poisoned.

7. Do not intentionally feed bald eagles. Artificially feeding bald eagles can disrupt their essential behavioral patterns and put them at increased risk from power lines, collision with windows and cars, and other mortality factors.

8. Use pesticides, herbicides, fertilizers, and other chemicals only in accordance with Federal and state laws.

9. Monitor and minimize dispersal of contaminants associated with hazardous waste sites (legal or illegal), permitted releases, and runoff from agricultural areas, especially within watersheds where eagles have shown poor reproduction or where bioaccumulating contaminants have been documented. These factors present a risk of contamination to eagles and their food sources.

CONTACTS

The following U.S. Fish and Wildlife Service Field Offices provide technical assistance on bald eagle management:

Alabama	Daphne	(251) 441-5181
Alaska	Anchorage	(907) 271-2888
	Fairbanks	(907) 456-0203
	Juneau	(907) 780-1160
Arizona	Phoenix	(602) 242-0210
Arkansas	Conway	(501) 513-4470
California	Arcata	(707) 822-7201
	Barstow	(760) 255-8852
	Carlsbad	(760) 431-9440
	Red Bluff	(530) 527-3043
	Sacramento	(916) 414-6000
	Stockton	(209) 946-6400
	Ventura	(805) 644-1766
	Yreka	(530) 842-5763
Colorado	Lakewood	(303) 275-2370
	Grand Junction	(970) 243-2778
Connecticut	(See New Hampshire)	
Delaware	(See Maryland)	
Florida	Panama City	(850) 769-0552
	Vero Beach	(772) 562-3909
	Jacksonville	(904) 232-2580
Georgia	Athens	(706) 613-9493
	Brunswick	(912) 265-9336
	Columbus	(706) 544-6428
Idaho	Boise	(208) 378-5243
	Chubbuck	(208) 237-6975
Illinois/Iowa	Rock Island	(309) 757-5800
Indiana	Bloomington	(812) 334-4261
Kansas	Manhattan	(785) 539-3474
Kentucky	Frankfort	(502) 695-0468
Louisiana	Lafayette	(337) 291-3100
Maine	Old Town	(207) 827-5938
Maryland	Annapolis	(410) 573-4573
Massachusetts	(See New Hampshire)	
Michigan	East Lansing	(517) 351-2555
Minnesota	Bloomington	(612) 725-3548
Mississippi	Jackson	(601) 965-4900
Missouri	Columbia	(573) 234-2132
Montana	Helena	(405) 449-5225
Nebraska	Grand Island	(308) 382-6468
Nevada	Las Vegas	(702) 515-5230
	Reno	(775) 861-6300
New Hampshire	Concord	(603) 223-2541
New Jersey	Pleasantville	(609) 646-9310
New Mexico	Albuquerque	(505) 346-2525
New York	Cortland	(607) 753-9334
	Long Island	(631) 776-1401
North Carolina	Raleigh	(919) 856-4520
	Asheville	(828) 258-3939
North Dakota	Bismarck	(701) 250-4481
Ohio	Reynoldsburg	(614) 469-6923
Oklahoma	Tulsa	(918) 581-7458
Oregon	Bend	(541) 383-7146
	Klamath Falls	(541) 885-8481
	La Grande	(541) 962-8584
	Newport	(541) 867-4558
	Portland	(503) 231-6179
	Roseburg	(541) 957-3474
Pennsylvania	State College	(814) 234-4090
Rhode Island	(See New Hampshire)	
South Carolina	Charleston	(843) 727-4707
South Dakota	Pierre	(605) 224-8693
Tennessee	Cookeville	(931) 528-6481
Texas	Clear Lake	(281) 286-8282
Utah	West Valley City	(801) 975-3330
Vermont	(See New Hampshire)	
Virginia	Gloucester	(804) 693-6694
Washington	Lacey	(306) 753-9440
	Spokane	(509) 891-6839
	Wenatchee	(509) 665-3508
West Virginia	Elkins	(304) 636-6586
Wisconsin	New Franken	(920) 866-1725
Wyoming	Cheyenne	(307) 772-2374
	Cody	(307) 578-5939

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Arlington, VA 22203-1610
(703) 358-1714
http://www.fws.gov/migratorybirds

State Agencies

To contact a state wildlife agency, visit the Association of Fish & Wildlife Agencies' website at http://www.fishwildlife.org/where_us.html

GLOSSARY

The definitions below apply to these National Bald Eagle Management Guidelines:

Communal roost sites – Areas where bald eagles gather and perch overnight – and sometimes during the day in the event of inclement weather. Communal roost sites are usually in large trees (live or dead) that are relatively sheltered from wind and are generally in close proximity to foraging areas. These roosts may also serve a social purpose for pair bond formation and communication among eagles. Many roost sites are used year after year.

Disturb – To agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.

In addition to immediate impacts, this definition also covers impacts that result from human-caused alterations initiated around a previously used nest site during a time when eagles are not present, if, upon the eagle=s return, such alterations agitate or bother an eagle to a degree that injures an eagle or substantially interferes with normal breeding, feeding, or sheltering habits and causes, or is likely to cause, a loss of productivity or nest abandonment.

Fledge – To leave the nest and begin flying. For bald eagles, this normally occurs at 10-12 weeks of age.

Fledgling – A juvenile bald eagle that has taken the first flight from the nest but is not yet independent.

Foraging area – An area where eagles feed, typically near open water such as rivers, lakes, reservoirs, and bays where fish and waterfowl are abundant, or in areas with little or no water (i.e., rangelands, barren land, tundra, suburban areas, etc.) where other prey species (e.g., rabbit, rodents) or carrion (such as at landfills) are abundant.

Landscape buffer – A natural or human-made landscape feature that screens eagles from human activity (e.g., strip of trees, hill, cliff, berm, sound wall).

Nest – A structure built, maintained, or used by bald eagles for the purpose of reproduction. An **active** nest is a nest that is attended (built, maintained or used) by a pair of bald eagles during a given breeding season, whether or not eggs are laid. An **alternate** nest is a nest that is not used for breeding by eagles during a given breeding season.

Nest abandonment – Nest abandonment occurs when adult eagles desert or stop attending a nest and do not subsequently return and successfully raise young in that nest for the duration of a breeding season. Nest abandonment can be caused by altering habitat near a nest, even if the alteration occurs prior to the breeding season. Whether the eagles migrate during the non-breeding season, or remain in the area throughout the non-breeding season, nest abandonment can occur at any point between the time the eagles return to the nesting site for the breeding season and the time when all progeny from the breeding season have

dispersed.

Project footprint – The area of land (and water) that will be permanently altered for a development project, including access roads.

Similar scope – In the vicinity of a bald eagle nest, an existing activity is of similar scope to a new activity where the types of impacts to bald eagles are similar in nature, and the impacts of the existing activity are of the same or greater magnitude than the impacts of the potential new activity. Examples: (1) An existing single-story home 200 feet from a nest is similar in scope to an additional single-story home 200 feet from the nest; (2) An existing multi-story, multi-family dwelling 150 feet from a nest has impacts of a greater magnitude than a potential new single-family home 200 feet from the nest; (3) One existing single-family home 200 feet from the nest has impacts of a lesser magnitude than three single-family homes 200 feet from the nest; (4) an existing single-family home 200 feet from a communal roost has impacts of a lesser magnitude than a single-family home 300 feet from the roost but 40 feet from the eagles' foraging area. The existing activities in examples (1) and (2) are of similar scope, while the existing activities in example (3) and (4) are not.

Vegetative buffer – An area surrounding a bald eagle nest that is wholly or largely covered by forest, vegetation, or other natural ecological characteristics, and separates the nest from human activities.

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Appendix C

New Mexico Historic Preservation Division (HPD) Consultation

New Mexico Historic Preservation Division (HPD) Submission

Note:

In the interest of efficiency and economy, attachments included in the original submission under this section are not duplicated throughout this NEPA Summary. The following attachment(s), found at the conclusion of this report, were included in the original submission:

- ***Proposed Project Summary***
- ***Form 620/621***
- ***Attachment 1 - Maps***
- ***Attachment 2 - Photographs***
- ***Attachment 3 - Areas of Potential Effects (Cultural Resource Report)***
- ***Attachment 4 - Historic Properties Identified in the APE for Direct Effects***
- ***Attachment 5 - Historic Properties Identified in the APE for Visual Effects***
- ***Attachment 6 - Tribal/NHO Involvement***
- ***Attachment 7 - Local Government Involvement***
- ***Attachment 8 - Public Involvement***
- ***Attachment 9 - Curricula Vitae***
- ***Attachment 10 - SHPO Specific Documentation (If required)***

September 27, 2023

New Mexico Historic Preservation Division
407 Galisteo Street, Suite 236
Santa Fe, NM 87501
Submitted via email: NM.SHPO@DCA.NM.GOV

RE: **Proposed Telecommunications Tower Undertaking "Arco Torcido" in Taos County, New Mexico, VB BTS II, LLC; TCNS #: 271853**

To Whom It May Concern:

VB BTS II, LLC (VB BTS II), is proposing to construct a tower installation and associated equipment near 157 Old Highway 3, Arroyo Hondo, Taos County, New Mexico 87513. Lotis Environmental, LLC (Lotis), is preparing a cultural resource and environmental review on behalf of VB BTS II as part of its permit process and regulatory review by the Federal Communications Commission (FCC). Please consider this correspondence an invitation to the HPD to comment on the possible direct or visual effects the proposed undertaking may have on eligible/listed sites or structures of historic significance within the Area of Potential Effect (APE).

By providing your signature or stamp of approval, you concur with Lotis' recommendation finding of *No effect* on eligible/listed sites or structures of historic significance within the APE.

Attached, please find the Federal Communications Commission's (FCC) completed Form 620 and corresponding attachments for the proposed undertaking.

Should you require further information, please do not hesitate to contact me at (716) 580-7000 or Legals@TheLotisGroup.com. Thank you for your time and consideration in these regards.

Sincerely,

Lotis Environmental, LLC

DeAnna Anglin

DeAnna Anglin
Senior Biologist/NEPA Specialist
Legals@TheLotisGroup.com

Enclosures

Advisory Council on Historic Preservation (ACHP) Delegation of Authority for the Section 106 Review of Telecommunication Projects

Advisory Council On Historic Preservation

The Old Post Office Building
1100 Pennsylvania Avenue, NW, #809
Washington, DC 20004

September 21, 2000

MEMORANDUM

TO: Federal Communications Commission
State Historic Preservation Officers (SHPOs)
Tribal Historic Preservation Officers (THPOs)

From: Executive Director

Subject: Delegation of Authority for the Section 106 Review of Telecommunications Projects

As a result of ongoing discussions with the Federal Communications Commission (FCC) and other stakeholders involved in the coordination and implementation of telecommunications projects, the Council has determined that it is consistent with 36 CFR Section 800.2(c)(5) of our regulations, "Protection of Historic Properties" (36 CFR Part 800), for licensees, applicants, and their authorized representatives[1] to act on behalf of FCC when complying with certain provisions of our regulations. Accordingly, effective immediately, applicants, licensees, tower construction companies, and their authorized representatives may consult with the State Historic Preservation Officers (SHPOs) and Tribal Historic Preservation Officers (THPOs) to initiate the Section 106 review process; identify and evaluate historic properties; and assess effects. FCC, however, will remain responsible for participating in the consultation process when:

- it is determined that the *Criteria of Adverse Effect* apply to an undertaking;
- there is a disagreement between the licensee, applicant, tower construction company, or their authorized representatives and the SHPO/THPO regarding identification and evaluation, and/or assessment of effects;
- there is an objection from consulting parties or the public regarding findings and determinations, the implementation of agreed upon provisions, or their

[1] When consulting with SHPOs/THPOs, authorized representatives of applicants, licensees and tower construction companies should identify the organization they are representing, including an appropriate contact person within the organization, and the undertaking for which they have been hired to coordinate the Section 106 review.

involvement in a Section 106 review; or,
- there is the potential for a foreclosure situation or anticipatory demolition as specified in Section 110(k) of the National Historic Preservation Act.

In accordance with 36 CFR Section 800.2(c)(3), FCC shall ensure that all consultations with Indian Tribes are conducted in a sensitive manner respectful of tribal sovereignty and the government to government relationship between the Federal government and Indian Tribes. This Memorandum, therefore, is not intended to modify or limit such requirements nor mandate that Indian Tribes consult with licensees and applicants or provide information if the Indian Tribes conclude that consultation should be directly with FCC.

It, therefore, is important that Section 106 reviews be conducted within the time frames set forth within 36 CFR Part 800, and that the exchange of documentation and consultations between the consulting parties be carried out in a consistent and predictable manner. To this end, FCC should coordinate with the telecommunications industry to carry out the process set forth in this Memorandum.

John M. Fowler

Federal Communications Commission (FCC) Form 620

FCC Form 620

Notification Date: **7AM EST 09/28/2023**
File Number: **0010710549**

FCC Wireless Telecommunications Bureau
New Tower ("NT") Submission Packet

Approved by OMB
3060 – 1039
See instructions for
public burden estimates

General Information

1) (Select only one) **(NE)** **NE** – New **UA** – Update of Application **WD** – Withdrawal of Application	
2) If this application is for an Update or Withdrawal, enter the file number of the pending application currently on file.	File Number:

Applicant Information

3) FCC Registration Number (FRN): **0030443170**
4) Name: **VB BTS II, LLC**

Contact Name

5) First Name: **Morris**	6) MI:	7) Last Name: **Mickelson**	8) Suffix:
9) Title:			

Contact Information

10) P.O. Box:	**And /Or**	11) Street Address: **750 Park of Commerce Drive, Suite 200**		
12) City: **Boca Raton**			13) State: **FL**	14) Zip Code: **33487**
15) Telephone Number: **(716)580-7000**		16) Fax Number:		
17) E-mail Address: **nepa.nhpa@thelotisgroup.com**				

Consultant Information

18) FCC Registration Number (FRN): **0031051642**
19) Name: **Lotis Environmental**

Principal Investigator

20) First Name: **Billy**	21) MI: **J**	22) Last Name: **McCarley**	23) Suffix:
24) Title: **Principal Investigator**			

Principal Investigator Contact Information

25) P.O. Box: **14221**	**And /Or**	26) Street Address: **8899 Main Street Suite 107**		
27) City: **Williamsville**			28) State: **NY**	29) Zip Code: **14221**
30) Telephone Number: **(716)580-7000**		31) Fax Number:		
32) E-mail Address: **nepa.nhpa@thelotisgroup.com**				

Professional Qualification

33) Does the Principal Investigator satisfy the Secretary of the Interior's Professional Qualification Standards?	(X) Yes ( ) No

34) Areas of Professional Qualification:

(X) Archaeologist

( ) Architectural Historian

( ) Historian

( ) Architect

( ) Other (Specify) _____

Additional Staff

35) Are there other staff involved who meet the Professional Qualification Standards of the Secretary of the Interior?	( ) Yes (X) No

If "YES," complete the following:

36) First Name:	37) MI:	38) Last Name:	39) Suffix:
40) Title:			

41) Areas of Professional Qualification:

( ) Archaeologist

( ) Architectural Historian

( ) Historian

( ) Architect

( ) Other (Specify) _____

Site Information

Tower Construction Notification System

1) TCNS Notification Number: **271853**

Site Information

2) Positive Train Control Filing Subject to Expedited Treatment Under Program Comment: ( ) Yes (X) No

3) Site Name: **Arco Torcido**

4) Site Address: **near 157 Old Highway 3**

5) Detailed Description of Project:

A proposed telecommunication tower known as ARCO TORCIDO and associated equipment within a leased area that includes an access, utility, and guy wire (if applicable) easements.

6) City: **Arroyo Hondo**	7) State: **NM**	8) Zip Code: **87513**

9) County/Borough/Parish: **TAOS**

10) Nearest Crossroads: **Tres Lomas Rd**

11) **NAD 83** Latitude (DD-MM-SS.S): **36-32-45.2** (X) N or ( ) S

12) **NAD 83** Longitude (DD-MM-SS.S): **105-40-16.4** ( ) E or (X) W

Tower Information

13) Tower height above ground level (include top-mounted attachments such as lightning rods): **33.5** ( ) Feet (X) Meters

14) Tower Type (Select One):

( ) Guyed lattice tower

( ) Self-supporting lattice

(X) Monopole

( ) Other (Describe):

Project Status

15) Current Project Status (Select One):

(X) Construction has not yet commenced

( ) Construction has commenced, but is not completed Construction commenced on: _____

( ) Construction has been completed Construction commenced on: _____

Construction completed on: _____

Determination of Effect

14) Direct Effects (Select One):

(X) No Historic Properties in Area of Potential Effects (APE)

( ) No Effect on Historic Properties in APE

( ) No Adverse Effect on Historic Properties in APE

( ) Adverse Effect on one or more Historic Properties in APE

15) Visual Effects (Select One):

( ) No Historic Properties in Area of Potential Effects (APE)

(X) No Effect on Historic Properties in APE

( ) No Adverse Effect on Historic Properties in APE

( ) Adverse Effect on one or more Historic Properties in APE

Tribal/NHO Involvement

1) Have Indian Tribes or Native Hawaiian Organizations (NHOs) been identified that may attach religious and cultural significance to historic properties which may be affected by the undertaking within the APEs for direct and visual effects?	(X) Yes ( ) No

2a) Tribes/NHOs contacted through TCNS Notification Number: 271853 Number of Tribes/NHOs: 19

2b) Tribes/NHOs contacted through an alternate system: Number of Tribes/NHOs: 0

Tribe/NHO Contacted Through TCNS

3) Tribe/NHO FRN:

4) Tribe/NHO Name: **Apache Tribe of Oklahoma**

Contact Name

5) First Name: **Darrin**	6) MI:	7) Last Name: **Cisco**	8) Suffix:
9) Title:			

Dates & Response

10) Date Contacted 09/20/2023 11) Date Replied _____

(X) No Reply

( ) Replied/No Interest

( ) Replied/Have Interest

( ) Replied/Other

Tribe/NHO Contacted Through TCNS

3) Tribe/NHO FRN:

4) Tribe/NHO Name: **Comanche Nation**

Contact Name

5) First Name: **Kelly**	6) MI:	7) Last Name: **Banderas**	8) Suffix:
9) Title: **THPO Assistant**			

Dates & Response

10) Date Contacted 09/21/2023 11) Date Replied _____

(X) No Reply

( ) Replied/No Interest

( ) Replied/Have Interest

( ) Replied/Other

Tribal/NHO Involvement

1) Have Indian Tribes or Native Hawaiian Organizations (NHOs) been identified that may attach religious and cultural significance to historic properties which may be affected by the undertaking within the APEs for direct and visual effects?	(X) Yes ( ) No

2a) Tribes/NHOs contacted through TCNS Notification Number: 271853 Number of Tribes/NHOs: 19

2b) Tribes/NHOs contacted through an alternate system: Number of Tribes/NHOs: 0

Tribe/NHO Contacted Through TCNS

3) Tribe/NHO FRN:

4) Tribe/NHO Name: **Eastern Shoshone Tribe**

Contact Name

5) First Name: **Josh**	6) MI:	7) Last Name: **Mann**	8) Suffix:
9) Title: **THPO**			

Dates & Response

10) Date Contacted 09/20/2023 11) Date Replied

(X) No Reply

( ) Replied/No Interest

( ) Replied/Have Interest

( ) Replied/Other

Tribe/NHO Contacted Through TCNS

3) Tribe/NHO FRN:

4) Tribe/NHO Name: **Jicarilla Apache Nation**

Contact Name

5) First Name: **Joanna**	6) MI:	7) Last Name: **Vigil**	8) Suffix:
9) Title: **THPO Technician**			

Dates & Response

10) Date Contacted 09/20/2023 11) Date Replied

(X) No Reply

( ) Replied/No Interest

( ) Replied/Have Interest

( ) Replied/Other

Tribal/NHO Involvement

1) Have Indian Tribes or Native Hawaiian Organizations (NHOs) been identified that may attach religious and cultural significance to historic properties which may be affected by the undertaking within the APEs for direct and visual effects?	(X) Yes ( ) No

2a) Tribes/NHOs contacted through TCNS Notification Number: **271853** Number of Tribes/NHOs: **19**

2b) Tribes/NHOs contacted through an alternate system: Number of Tribes/NHOs: **0**

Tribe/NHO Contacted Through TCNS

3) Tribe/NHO FRN:

4) Tribe/NHO Name: **Kiowa Indian Tribe THPO**

Contact Name

5) First Name: **Amanda**	6) MI:	7) Last Name: **Hill**	8) Suffix:
9) Title: **THPO**			

Dates & Response

10) Date Contacted **09/20/2023** 11) Date Replied _____

(X) No Reply

( ) Replied/No Interest

( ) Replied/Have Interest

( ) Replied/Other

Tribe/NHO Contacted Through TCNS

3) Tribe/NHO FRN:

4) Tribe/NHO Name: **Mescalero Apache Tribe**

Contact Name

5) First Name: **Holly**	6) MI: **B**	7) Last Name: **Houghten**	8) Suffix:
9) Title: **Tribal Historic Preservation Officer**			

Dates & Response

10) Date Contacted **09/20/2023** 11) Date Replied _____

(X) No Reply

( ) Replied/No Interest

( ) Replied/Have Interest

( ) Replied/Other

Tribal/NHO Involvement

1) Have Indian Tribes or Native Hawaiian Organizations (NHOs) been identified that may attach religious and cultural significance to historic properties which may be affected by the undertaking within the APEs for direct and visual effects?	(X) Yes ( ) No

2a) Tribes/NHOs contacted through TCNS Notification Number: 271853 Number of Tribes/NHOs: 19

2b) Tribes/NHOs contacted through an alternate system: Number of Tribes/NHOs: 0

Tribe/NHO Contacted Through TCNS

3) Tribe/NHO FRN:

4) Tribe/NHO Name: **Northern Arapaho**

Contact Name

5) First Name: **Benjamin**	6) MI:	7) Last Name: **Ridgley**	8) Suffix:
9) Title: **THPO**			

Dates & Response

10) Date Contacted 09/20/2023 11) Date Replied 09/20/2023

( ) No Reply

( ) Replied/No Interest

( ) Replied/Have Interest

(X) Replied/Other

Tribe/NHO Contacted Through TCNS

3) Tribe/NHO FRN:

4) Tribe/NHO Name: **Northern Cheyenne Tribe**

Contact Name

5) First Name: **Gary**	6) MI:	7) Last Name: **LaFranier**	8) Suffix:
9) Title: **FCC Specialist**			

Dates & Response

10) Date Contacted 09/20/2023 11) Date Replied 09/21/2023

( ) No Reply

( ) Replied/No Interest

(X) Replied/Have Interest

( ) Replied/Other

Tribal/NHO Involvement

1) Have Indian Tribes or Native Hawaiian Organizations (NHOs) been identified that may attach religious and cultural significance to historic properties which may be affected by the undertaking within the APEs for direct and visual effects?	(X) Yes ( ) No

2a) Tribes/NHOs contacted through TCNS Notification Number: 271853 Number of Tribes/NHOs: 19

2b) Tribes/NHOs contacted through an alternate system: Number of Tribes/NHOs: 0

Tribe/NHO Contacted Through TCNS

3) Tribe/NHO FRN:

4) Tribe/NHO Name: **Ohkay Owingeh (formerly known as San Juan Pueblo)**

Contact Name

5) First Name: **Eric**	6) MI:	7) Last Name: **Phillips**	8) Suffix:
9) Title: **Tribal Systems Administrator**			

Dates & Response

10) Date Contacted 09/21/2023 11) Date Replied

(X) No Reply

( ) Replied/No Interest

( ) Replied/Have Interest

( ) Replied/Other

Tribe/NHO Contacted Through TCNS

3) Tribe/NHO FRN:

4) Tribe/NHO Name: **Pueblo of Isleta**

Contact Name

5) First Name: **Daniel**	6) MI:	7) Last Name: **Waseta**	8) Suffix:
9) Title: **Director Cultural & Historic Preservatio**			

Dates & Response

10) Date Contacted 09/21/2023 11) Date Replied

(X) No Reply

( ) Replied/No Interest

( ) Replied/Have Interest

( ) Replied/Other

Tribal/NHO Involvement

1) Have Indian Tribes or Native Hawaiian Organizations (NHOs) been identified that may attach religious and cultural significance to historic properties which may be affected by the undertaking within the APEs for direct and visual effects?	(X) Yes ( ) No

2a) Tribes/NHOs contacted through TCNS Notification Number: 271853 Number of Tribes/NHOs: 19

2b) Tribes/NHOs contacted through an alternate system: Number of Tribes/NHOs: 0

Tribe/NHO Contacted Through TCNS

3) Tribe/NHO FRN:

4) Tribe/NHO Name: **Pueblo of Laguna**

Contact Name

5) First Name: **Richard**	6) MI:	7) Last Name: **Smith**	8) Suffix: **Sr**
9) Title: **THPO Manager**			

Dates & Response

10) Date Contacted 09/21/2023 11) Date Replied _____

(X) No Reply

( ) Replied/No Interest

( ) Replied/Have Interest

( ) Replied/Other

Tribe/NHO Contacted Through TCNS

3) Tribe/NHO FRN:

4) Tribe/NHO Name: **Pueblo of Picuris**

Contact Name

5) First Name: **Jeff**	6) MI:	7) Last Name: **Atencio**	8) Suffix:
9) Title: **Tribal Administrator**			

Dates & Response

10) Date Contacted 09/21/2023 11) Date Replied _____

(X) No Reply

( ) Replied/No Interest

( ) Replied/Have Interest

( ) Replied/Other

Tribal/NHO Involvement

1) Have Indian Tribes or Native Hawaiian Organizations (NHOs) been identified that may attach religious and cultural significance to historic properties which may be affected by the undertaking within the APEs for direct and visual effects?	(X) Yes ( ) No

2a) Tribes/NHOs contacted through TCNS Notification Number: 271853 Number of Tribes/NHOs: 19

2b) Tribes/NHOs contacted through an alternate system: Number of Tribes/NHOs: 0

Tribe/NHO Contacted Through TCNS

3) Tribe/NHO FRN:

4) Tribe/NHO Name: **Pueblo of Santa Clara**

Contact Name

5) First Name: **Ben**	6) MI:	7) Last Name: **Chavarria**	8) Suffix:
9) Title: **Dir. of Land Claims & Rights Protection**			

Dates & Response

10) Date Contacted 09/20/2023 11) Date Replied _____

(X) No Reply

( ) Replied/No Interest

( ) Replied/Have Interest

( ) Replied/Other

Tribe/NHO Contacted Through TCNS

3) Tribe/NHO FRN:

4) Tribe/NHO Name: **Pueblo of Tesuque**

Contact Name

5) First Name: **Larry**	6) MI:	7) Last Name: **Samuel**	8) Suffix:
9) Title: **THPO**			

Dates & Response

10) Date Contacted 09/20/2023 11) Date Replied _____

(X) No Reply

( ) Replied/No Interest

( ) Replied/Have Interest

( ) Replied/Other

Tribal/NHO Involvement

1) Have Indian Tribes or Native Hawaiian Organizations (NHOs) been identified that may attach religious and cultural significance to historic properties which may be affected by the undertaking within the APEs for direct and visual effects?	(X) Yes ( ) No

2a) Tribes/NHOs contacted through TCNS Notification Number: **271853** Number of Tribes/NHOs: **19**

2b) Tribes/NHOs contacted through an alternate system: Number of Tribes/NHOs: **0**

Tribe/NHO Contacted Through TCNS

3) Tribe/NHO FRN:

4) Tribe/NHO Name: **Pueblo of Zuni**

Contact Name

5) First Name: **Cindy**	6) MI: **K**	7) Last Name: **Dongoske**	8) Suffix:

9) Title: **Projects Manager**

Dates & Response

10) Date Contacted **09/21/2023** 11) Date Replied _____

(X) No Reply

( ) Replied/No Interest

( ) Replied/Have Interest

( ) Replied/Other

Tribe/NHO Contacted Through TCNS

3) Tribe/NHO FRN:

4) Tribe/NHO Name: **Skull Valley Band Goshute**

Contact Name

5) First Name: **Candace**	6) MI:	7) Last Name: **Bear**	8) Suffix:

9) Title: **Chairman**

Dates & Response

10) Date Contacted **09/21/2023** 11) Date Replied _____

(X) No Reply

( ) Replied/No Interest

( ) Replied/Have Interest

( ) Replied/Other

Tribal/NHO Involvement

1) Have Indian Tribes or Native Hawaiian Organizations (NHOs) been identified that may attach religious and cultural significance to historic properties which may be affected by the undertaking within the APEs for direct and visual effects?	(**X**) Yes ( ) No

2a) Tribes/NHOs contacted through TCNS Notification Number: **271853** Number of Tribes/NHOs: **19**

2b) Tribes/NHOs contacted through an alternate system: Number of Tribes/NHOs: **0**

Tribe/NHO Contacted Through TCNS

3) Tribe/NHO FRN:

4) Tribe/NHO Name: **Southern Ute Tribe**

Contact Name

5) First Name: **SUIT**	6) MI:	7) Last Name: **NAGPRA**	8) Suffix:
9) Title:			

Dates & Response

10) Date Contacted **09/21/2023** 11) Date Replied _____

(**X**) No Reply

( ) Replied/No Interest

( ) Replied/Have Interest

( ) Replied/Other

Tribe/NHO Contacted Through TCNS

3) Tribe/NHO FRN:

4) Tribe/NHO Name: **Taos Pueblo**

Contact Name

5) First Name: **Clyde**	6) MI: **M**	7) Last Name: **Romero**	8) Suffix: **Sr**
9) Title: **Governor**			

Dates & Response

10) Date Contacted **09/21/2023** 11) Date Replied _____

(**X**) No Reply

( ) Replied/No Interest

( ) Replied/Have Interest

( ) Replied/Other

Tribal/NHO Involvement

1) Have Indian Tribes or Native Hawaiian Organizations (NHOs) been identified that may attach religious and cultural significance to historic properties which may be affected by the undertaking within the APEs for direct and visual effects?	(**X**) Yes ( ) No

2a) Tribes/NHOs contacted through TCNS Notification Number: **271853** Number of Tribes/NHOs: **19**

2b) Tribes/NHOs contacted through an alternate system: Number of Tribes/NHOs: **0**

Tribe/NHO Contacted Through TCNS

3) Tribe/NHO FRN:

4) Tribe/NHO Name: **White Mountain Apache Tribe**

Contact Name

5) First Name: **Mark**	6) MI:	7) Last Name: **Altaha**	8) Suffix:
9) Title: **THPO**			

Dates & Response

10) Date Contacted **09/21/2023** 11) Date Replied **09/20/2023**

( ) No Reply

(**X**) Replied/No Interest

( ) Replied/Have Interest

( ) Replied/Other

Other Tribes/NHOs Contacted

Tribe/NHO Information

1) FCC Registration Number (FRN):
2) Name:

Contact Name

3) First Name:	4) MI:	5) Last Name:	6) Suffix:
7) Title:			

Contact Information

8) P.O. Box:	**And /Or**	9) Street Address:		
10) City:			11) State:	12) Zip Code:
13) Telephone Number:		14) Fax Number:		
15) E-mail Address:				
16) Preferred means of communication: ( ) E-mail ( ) Letter ( ) Both				

Dates & Response

17) Date Contacted _____ 18) Date Replied _____

( ) No Reply

( ) Replied/No Interest

( ) Replied/Have Interest

( ) Replied/Other

Historic Properties

Properties Identified

1) Have any historic properties been identified within the APEs for direct and visual effect?	(X) Yes ( ) No
2) Has the identification process located archaeological materials that would be directly affected, or sites that are of cultural or religious significance to Tribes/NHOs?	( ) Yes (X) No
3) Are there more than 10 historic properties within the APEs for direct and visual effect? If "Yes", you are required to attach a Cultural Resources Report in lieu of adding the Historic Property below.	( ) Yes (X) No

Historic Property

4) Property Name: **Acequia de Atalaya, Atalaya Ditch**
5) SHPO Site Number: **115548**

Property Address

6) Street Address: **0.33 mi S**		
7) City: **Arroyo Hondo**	8) State: **NM**	9) Zip Code: **87513**
10) County/Borough/Parish: **TAOS**		

Status & Eligibility

11) Is this property listed on the National Register? Source: _____	( ) Yes (X) No
12) Is this property eligible for listing on the National Register? Source: **SHPO**	(X) Yes ( ) No
13) Is this property a National Historic Landmark?	( ) Yes (X) No

14) Direct Effects (Select One):

(X) No Effect on this Historic Property in APE

( ) No Adverse Effect on this Historic Property in APE

( ) Adverse Effect on this Historic Property in APE

15) Visual Effects (Select One):

(X) No Effect on this Historic Property in APE

( ) No Adverse Effect on this Historic Property in APE

( ) Adverse Effect on this Historic Property in APE

Local Government Involvement

Local Government Agency

1) FCC Registration Number (FRN):
2) Name: **Taos County Planning Department**

Contact Name

3) First Name: **Andy**	4) MI:	5) Last Name: **Jones**	6) Suffix:
7) Title: **Senior Planner**			

Contact Information

8) P.O. Box:	**And /Or**	9) Street Address: **105 Albright Street Suite H**		
10) City: **Taos**			11) State: **NM**	12) Zip Code: **87571**
13) Telephone Number: **(555)555-5555**		14) Fax Number:		
15) E-mail Address: **andy.jones@taoscountynm.gov**				
16) Preferred means of communication: (**X**) E-mail ( ) Letter ( ) Both				

Dates & Response

17) Date Contacted **09/27/2023** 18) Date Replied _____

(**X**) No Reply

( ) Replied/No Interest

( ) Replied/Have Interest

( ) Replied/Other

Additional Information

19) Information on local government's role or interest (optional):

Other Consulting Parties

Other Consulting Parties Contacted

1) Has any other agency been contacted and invited to become a consulting party?	(**X**) Yes ( ) No

Consulting Party

2) FCC Registration Number (FRN):
3) Name: **Taos County Historical Society**

Contact Name

4) First Name: **Ernestina**	5) MI:	6) Last Name: **Cordova**	7) Suffix:
8) Title: **President**			

Contact Information

9) P.O. Box: **PO Box 2447**	**And /Or**	10) Street Address:		
11) City: **Taos**			12) State: **NM**	13) Zip Code: **87571**
14) Telephone Number: **(555)555-5555**		15) Fax Number:		
16) E-mail Address: **cordova@newmex.com**				
17) Preferred means of communication: (**X**) E-mail ( ) Letter ( ) Both				

Dates & Response

18) Date Contacted **09/27/2023** 19) Date Replied _____

(**X**) No Reply

( ) Replied/No Interest

( ) Replied/Have Interest

( ) Replied/Other

Additional Information

20) Information on other consulting parties' role or interest (optional):

Designation of SHPO/THPO

1) Designate the Lead State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) based on the location of the tower.

SHPO/THPO

Name: **State Historic Preservation Office of New Mexico**

2) You may also designate up to three additional SHPOs/THPOs if the APEs include multiple states. If the APEs include other countries, enter the name of the National Historic Preservation Agency and any state and provincial Historic Preservation Agency.

SHPO/THPO Name: _____

SHPO/THPO Name: _____

SHPO/THPO Name: _____

Certification

I certify that all representations on this FCC Form 620 Submission Packet and the accompanying attachments are true, correct, and complete.

Party Authorized to Sign

First Name: **Miles**	MI: **C**	Last Name: **Walz-Salvador**	Suffix:

Signature: **Miles C Walz-Salvador** Date: **09/27/2023**

FAILURE TO SIGN THIS APPLICATION MAY RESULT IN DISMISSAL OF THE APPLICATION AND FORFEITURE OF ANY FEES PAID.

WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, Section 1001) AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, Section 503).

Attachments :

Type	Description	Date Entered
Map Documents	Map Documents	09/27/2023
Photographs	Photographs	09/27/2023
Area of Potential Effects	Area of Potential Effects	09/27/2023
Historic Properties for Direct Effects	Historic Properties for Direct Effects	09/27/2023
Historic Properties for Visual Effects	Historic Properties for Visual Effects	09/27/2023
Tribal/NHO Involvement	Tribal/NHO Involvement	09/27/2023
Local Government Involvement	Local Government Involvement	09/27/2023
Public Involvement	Public Involvement	09/27/2023
Resumes/Vitae	Resumes/Vitae	09/27/2023

Electronic Section 106 (E-106) Submission Confirmation Email

NEPA NHPA

From: towernotifyinfo@fcc.gov
Sent: Wednesday, September 27, 2023 11:16 AM
To: NEPA NHPA
Subject: Section 106 New Filing Submitted- Email ID #8877964

The following new Section 106 filing has been submitted:

File Number: 0010710549
TCNS Number: 271853
Purpose: New Tower Submission Packet

Notification Date: 7AM EST 09/28/2023

Applicant: VB BTS II, LLC
Consultant: Lotis Environmental
Positive Train Control Filing Subject to Expedited Treatment Under Program Comment: No
Site Name: Arco Torcido
Site Address: near 157 Old Highway 3
Detailed Description of Project: A proposed telecommunication tower known as ARCO TORCIDO and associated equipment within a leased area that includes an access, utility, and guy wire (if applicable) easements.
Site Coordinates: 36-32-45.2 N, 105-40-16.4 W
City: Arroyo Hondo
County: TAOS
State:NM
Lead SHPO/THPO: State Historic Preservation Office of New Mexico

Consultant Contact Information:
Name: Lotis Environmental
Title: Principal Investigator
PO Box: 14221
Address: 8899 Main Street
Suite 107
City: Williamsville
State: NY
Zip: 14221
Phone: 716-580-7000
Fax:
Email: nepa.nhpa@thelotisgroup.com

NOTICE OF FRAUDULENT USE OF SYSTEM, ABUSE OF PASSWORD AND RELATED MISUSE
Use of the Section 106 system is intended to facilitate consultation under Section 106 of the National Historic Preservation Act and may contain information that is confidential, privileged or otherwise protected from disclosure under applicable laws. Any person having access to Section 106 information shall use it only for its intended purpose. Appropriate action will be taken with respect to any misuse of the system.

New Mexico Historic Preservation Division's (HPD) Response

NEPA NHPA

From: towernotifyinfo@fcc.gov
Sent: Thursday, November 2, 2023 4:17 PM
To: NEPA NHPA
Subject: Section 106 Notification of SHPO/THPO Concurrence- Email ID #9005390

This is to notify you that the Lead SHPO/THPO has concurred with the following filing:
Date of Action: 11/02/2023
Direct Effect: No Historic Properties in Area of Potential Effects (APE)
Visual Effect: No Effect on Historic Properties in APE
Comment Text: Thank you for submitting additional information. NM SPO concurs with the findings.
Log # 120713 and 120885

File Number: 0010710549
TCNS Number: 271853
Purpose: New Tower Submission Packet

Notification Date: 7AM EST 09/28/2023

Applicant: VB BTS II, LLC
Consultant: Lotis Environmental
Positive Train Control Filing Subject to Expedited Treatment Under Program Comment: No
Site Name: Arco Torcido
Site Address: near 157 Old Highway 3
Detailed Description of Project: A proposed telecommunication tower known as ARCO TORCIDO and associated equipment within a leased area that includes an access, utility, and guy wire (if applicable) easements.
Site Coordinates: 36-32-45.2 N, 105-40-16.4 W
City: Arroyo Hondo
County: TAOS
State:NM
Lead SHPO/THPO: State Historic Preservation Office of New Mexico

NOTICE OF FRAUDULENT USE OF SYSTEM, ABUSE OF PASSWORD AND RELATED MISUSE
Use of the Section 106 system is intended to facilitate consultation under Section 106 of the National Historic Preservation Act and may contain information that is confidential, privileged or otherwise protected from disclosure under applicable laws. Any person having access to Section 106 information shall use it only for its intended purpose. Appropriate action will be taken with respect to any misuse of the system.

Appendix D

Tribal/NHO Consultation(s)

Federal Recognized Tribal/NHO Correspondence Summary

	Tribe/NHO	First Tribal Contact	Second Tribal Contact	Referred to FCC	Tribal Clearance Date	Response Outcome
1	Jicarilla Apache Nation	9/22/2023	9/28/2023	11/2/2023	11/17/2023	Per FCC referral; consultation complete
2	Pueblo of Isleta	9/22/2023	9/28/2023	11/2/2023	11/17/2023	Per FCC referral; consultation complete
3	Pueblo of Laguna	9/22/2023	9/28/2023	N/A	10/18/2023	No objection
4	Pueblo of Picuris	9/22/2023	9/28/2023	11/2/2023	11/17/2023	Per FCC referral; consultation complete
5	Ohkay Owingeh	9/22/2023	9/28/2023	11/2/2023	11/17/2023	Per FCC referral; consultation complete
6	Pueblo of Santa Clara	9/22/2023	9/28/2023	N/A	10/30/2023	No interest
7	Taos Pueblo	9/22/2023	9/28/2023	11/2/2023	11/17/2023	Per FCC referral; consultation complete
8	Pueblo of Tesuque	9/22/2023	9/28/2023	11/2/2023	11/17/2023	Per FCC referral; consultation complete
9	Pueblo of Zuni	9/22/2023	9/29/2023	11/9/2023	11/24/2023	Per FCC referral; consultation complete
10	Southern Ute Tribe	9/22/2023	9/28/2023	11/2/2023	11/17/2023	Per FCC referral; consultation complete
11	Comanche Nation	9/22/2023	9/29/2023	11/9/2023	11/24/2023	Per FCC referral; consultation complete
12	Kiowa Indian Tribe	9/22/2023	9/28/2023	11/2/2023	11/17/2023	Per FCC referral; consultation complete
13	Apache Tribe of Oklahoma	9/22/2023	9/28/2023	11/2/2023	11/17/2023	Per FCC referral; consultation complete
14	Eastern Shoshone Tribe	9/22/2023	9/29/2023	11/2/2023	11/17/2023	Per FCC referral; consultation complete
15	Northern Arapaho	9/22/2023	9/28/2023	N/A	9/20/2023	No Historic Properties in the Direct or Visual APE
16	Skull Valley Band Goshute	9/22/2023	9/28/2023	N/A	10/22/2023	If the applicant/tower builder receives no response from the Tribe within 30 days after notification through TCNS, the Tribe has no interest in participating in pre-construction review for the proposed site.
17	Mescalero Apache Tribe	9/22/2023	9/28/2023	11/2/2023	11/17/2023	Per FCC referral; consultation complete
18	Northern Cheyenne Tribe	9/22/2023	9/28/2023	N/A	10/27/2023	No effect
19	White Mountain Apache Tribe	9/22/2023	9/28/2023	N/A	9/20/2023	No interest

The Applicant/tower builder, however, must immediately notify all tribal consulting parties in the event archaeological properties or human remains are discovered during construction, consistent with Section IX of the Nationwide Programmatic Agreement and applicable law.

* Denotes tribe had indicated through TCNS that if no response had been received within 30 days that the tribe had no interest in the project. No response was received by Lotis within the required 30 days; therefore Section 106 review is complete for this tribe.

Notes:
1. First Tribal contact was made through the FCC's TCNS system.

Tribal/NHO Submission(s)

Note:

In the interest of efficiency and economy, attachments included in the original submission under this section are not duplicated throughout this NEPA Summary. The following attachment(s), found at the conclusion of this report, were included in the original submission:

- ***Proposed Project Summary***
- ***Attachment 1 - Maps***
- ***Attachment 2 - Photographs***
- ***Attachment 3 - Cultural Resource Report***
- ***Form 620/621(if requested)***
- ***SHPO Response (if requested)***

September 28, 2023

Jicarilla Apache Nation
Attn: THPO Technician Joanna Vigil
PO Box: 1367
Dulce, NM 87528
Submitted via: dykehousej@yahoo.com

RE: Proposed Telecommunications Tower Undertaking "Arco Torcido" in Taos County, New Mexico; VB BTS II, LLC; TCNS #: 271853

To Whom It May Concern:

VB BTS II, LLC (VB BTS II), is proposing to construct a tower installation within the general vicinity of near 157 Old Highway 3, Arroyo Hondo, Taos County, New Mexico 87513. Lotis Environmental, LLC (Lotis) has prepared an environmental and cultural resource review on behalf of VB BTS II as part of its permit process and regulatory review by the Federal Communications Commission (FCC). Please consider this correspondence a response to the request for additional information about the proposed undertaking (through the Federal Communication Commission's Tower Construction Notification System – TCNS # 271853). Lotis is providing you the opportunity to review and comment on the possible effects the proposed undertaking may have on sites or structures of current or historical significance affiliated with your tribe. Should you identify an area/property which will be adversely impacted, please submit this information to us at the time of your response so that we may determine our client's options on how to proceed. To aid you in your review please see the proposed undertaking's information is as follows:

Attached (or Enclosed), please find the requested materials which include site photographs taken in all four directions (north, south, east, and west) from the center of the proposed undertaking, a project summary, an aerial photograph, a topographic map, and form 620 (if requested).

Lotis contracted SubTerranean Consultants to perform an archeological assessment of the proposed undertaking to determine whether or not it would have an effect on historic properties within the direct or visual area of potential effect (APE). SubTerranean Consultants conducted site reconnaissance, per SHPO and tribal protocols, and found one (1) archaeological site or historic property within the APE. SubTerranean Consultants have recommended that the proposed undertaking will have No effect on the identified historic archaeological site or historic property and recommends that the project be allowed to proceed as planned without further surveying. A copy of the cultural resource report and other requested documentation is included for your review.

As part of our research, Lotis has or will shortly be consulting with the New Mexico Historic Preservation Division (through FCC's E-106 filing protocols), as well as other Native American tribes. If you have requested the SHPO's response to be sent with the review materials, Lotis will forward the letter once it has been received.

Per the FCC Second Report and Order, released on March 30, 2018, and implemented on July 2, 2018, "… we clarify that applicants have no legal obligation to pay up-front fees when providing Tribal Nations and NHOs with an opportunity to comment on proposed facilities deployments". Please note, this letter is not a request for review but an invitation giving the tribe the opportunity to review impact to affiliated areas/properties within the APE. Therefore, per the applicant's request, Lotis will not be submitting any requested upfront review fees in exchange for review or comment of the proposed undertaking and will be following the FCC protocols for Section 106 consultation with Tribal Nations and NHOs. Lotis apologizes for any inconvenience this may cause.

Should you require further information, please do not hesitate to contact me by calling (716) 580-7000 or by email at Legals@TheLotisGroup.com. Thank you for your time and consideration in this regard.

Sincerely,

Lotis Environmental, LLC

Miles Walz-Salvador

Miles Walz-Salvador
Nationwide NEPA/NHPA Manager
Legals@TheLotisGroup.com

Enclosures

September 28, 2023

Pueblo of Isleta
Attn: Director Cultural & Historic Preservation Dept. Daniel Waseta
PO Box: 1270
Isleta, NM 87022
Submitted via: henryj@toast.net; poi60001@isletapueblo.com and mailed hardcopy

RE: Proposed Telecommunications Tower Undertaking "Arco Torcido" in Taos County, New Mexico; VB BTS II, LLC; TCNS #: 271853

To Whom It May Concern:

VB BTS II, LLC (VB BTS II), is proposing to construct a tower installation within the general vicinity of near 157 Old Highway 3, Arroyo Hondo, Taos County, New Mexico 87513. Lotis Environmental, LLC (Lotis) has prepared an environmental and cultural resource review on behalf of VB BTS II as part of its permit process and regulatory review by the Federal Communications Commission (FCC). Please consider this correspondence a response to the request for additional information about the proposed undertaking (through the Federal Communication Commission's Tower Construction Notification System – TCNS # 271853). Lotis is providing you the opportunity to review and comment on the possible effects the proposed undertaking may have on sites or structures of current or historical significance affiliated with your tribe. Should you identify an area/property which will be adversely impacted, please submit this information to us at the time of your response so that we may determine our client's options on how to proceed. To aid you in your review please see the proposed undertaking's information is as follows:

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Sincerely,

Lotis Environmental, LLC

Miles Walz-Salvador

Miles Walz-Salvador
Nationwide NEPA/NHPA Manager
Legals@TheLotisGroup.com

Enclosures

September 28, 2023

Pueblo of Laguna
Attn: THPO Manager Richard Smith Sr
PO Box: 194
Laguna, NM 87038
Submitted via: rsmith@pol-nsn.gov; ytrujillo@pol-nsn.gov and mailed hardcopy

RE: Proposed Telecommunications Tower Undertaking "Arco Torcido" in Taos County, New Mexico; VB BTS II, LLC; TCNS #: 271853

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Nationwide NEPA/NHPA Manager
Legals@TheLotisGroup.com

Enclosures

September 28, 2023

Pueblo of Picuris
Attn: Tribal Administrator Jeff Atencio
PO Box 127
Penasco NM 87553
Submitted via: administrator@picurispueblo.org

RE: Proposed Telecommunications Tower Undertaking "Arco Torcido" in Taos County, New Mexico; VB BTS II, LLC; TCNS #: 271853

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Nationwide NEPA/NHPA Manager
Legals@TheLotisGroup.com

Enclosures

September 28, 2023

Ohkay Owingeh
Attn: Tribal Systems Administrator Eric Phillips
PO Box 1099
Ohkay Owingeh, NM 87566
Submitted via: ohkayowingeh@hotmail.com and mailed hardcopy

RE: Proposed Telecommunications Tower Undertaking "Arco Torcido" in Taos County, New Mexico; VB BTS II, LLC; TCNS #: 271853

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Enclosures

September 28, 2023

Pueblo of Santa Clara
Attn: Dir. of Land Claims & Rights Protection Ben Chavarria
PO Box: 580
Espanola, NM 87052
Submitted via: bchavarria@santaclarapueblo.org; ddnaranjo@santaclarapueblo.org

RE: Proposed Telecommunications Tower Undertaking "Arco Torcido" in Taos County, New Mexico; VB BTS II, LLC; TCNS #: 271853

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Enclosures

September 28, 2023

Taos Pueblo
Attn: Governor Clyde M Romero Sr
PO Box: 1846
Taos, NM 87571
Submitted via: governor@taospueblo.com; reva@taospueblo.com and mailed hardcopy

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Miles Walz-Salvador

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Nationwide NEPA/NHPA Manager
Legals@TheLotisGroup.com

Enclosures

September 28, 2023

Pueblo of Tesuque
Attn: THPO Larry Samuel
Route 42, Box 360-T
Santa Fe, NM 87506
Submitted via: LSamuel@pueblooftesuque.org

RE: Proposed Telecommunications Tower Undertaking "Arco Torcido" in Taos County, New Mexico; VB BTS II, LLC; TCNS #: 271853

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Enclosures

September 28, 2023

Pueblo of Zuni
Attn: Projects Manager Cindy K Dongoske
PO Box: 1149
Zuni, NM 87327

RE: Proposed Telecommunications Tower Undertaking "Arco Torcido" in Taos County, New Mexico; VB BTS II, LLC; TCNS #: 271853

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Legals@TheLotisGroup.com

Enclosures

September 28, 2023

Southern Ute Tribe
Attn: SUIT NAGPRA
PO Box: 737
Ignacio, CO 81137
Submitted via: sunagpra@southernute-nsn.gov; sthompson@southernute-nsn.gov and mailed hardcopy

RE: Proposed Telecommunications Tower Undertaking "Arco Torcido" in Taos County, New Mexico; VB BTS II, LLC; TCNS #: 271853

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Legals@TheLotisGroup.com

Enclosures

September 28, 2023

Comanche Nation
Attn: THPO Assistant Kelly Banderas
#6 SW D Avenue, Suite 'C'
Lawton, OK 73501

RE: Proposed Telecommunications Tower Undertaking "Arco Torcido" in Taos County, New Mexico; VB BTS II, LLC; TCNS #: 271853

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Sincerely,

Lotis Environmental, LLC

Miles Walz-Salvador

Miles Walz-Salvador
Nationwide NEPA/NHPA Manager
Legals@TheLotisGroup.com

Enclosures

September 28, 2023

Kiowa Indian Tribe
Attn: THPO Amanda Hill
PO Box: 369
Carnegie, OK 73015
Submitted via: thpo@kiowatribe.org; ahill@kiowatribe.org

RE: Proposed Telecommunications Tower Undertaking "Arco Torcido" in Taos County, New Mexico; VB BTS II, LLC; TCNS #: 271853

To Whom It May Concern:

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Miles Walz-Salvador

Miles Walz-Salvador
Nationwide NEPA/NHPA Manager
Legals@TheLotisGroup.com

Enclosures

September 28, 2023

Apache Tribe of Oklahoma
Attn: Darrin Cisco
510 East Colorado Drive
Anadarko, OK 73005
Submitted via: Apacheculture510@yahoo.com

RE: Proposed Telecommunications Tower Undertaking "Arco Torcido" in Taos County, New Mexico; VB BTS II, LLC; TCNS #: 271853

To Whom It May Concern:

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Miles Walz-Salvador

Miles Walz-Salvador
Nationwide NEPA/NHPA Manager
Legals@TheLotisGroup.com

Enclosures

September 28, 2023

Eastern Shoshone Tribe
Attn: THPO Josh Mann
PO Box 538
Fort Washakie, WY 82514
Submitted via: http://www.esthpo.com

RE: Proposed Telecommunications Tower Undertaking "Arco Torcido" in Taos County, New Mexico; VB BTS II, LLC; TCNS #: 271853

To Whom It May Concern:

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Miles Walz-Salvador

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Legals@TheLotisGroup.com

Enclosures

September 28, 2023

Northern Arapaho
Attn: THPO Benjamin Ridgley
PO Box: 67
St. Stephens, WY 82524
Submitted via: archtech.nathpo@gmail.com; pejuta.villa@northernarapaho.com

RE: Proposed Telecommunications Tower Undertaking "Arco Torcido" in Taos County, New Mexico; VB BTS II, LLC; TCNS #: 271853

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Legals@TheLotisGroup.com

Enclosures

September 28, 2023

Skull Valley Band Goshute
Attn: Chairman Candace Bear
407 Skull Valley Rd
Skull Valley, UT 84029
Submitted via: candaceb@svgoshutes.com and mailed hardcopy

RE: Proposed Telecommunications Tower Undertaking "Arco Torcido" in Taos County, New Mexico; VB BTS II, LLC; TCNS #: 271853

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Miles Walz-Salvador

Miles Walz-Salvador
Nationwide NEPA/NHPA Manager
Legals@TheLotisGroup.com

Enclosures

September 28, 2023

Mescalero Apache Tribe
Attn: Tribal Historic Preservation Officer Holly Houghten
PO Box: 227
Mescalero, NM 88340
Submitted via: holly@mathpo.org

RE: Proposed Telecommunications Tower Undertaking "Arco Torcido" in Taos County, New Mexico; VB BTS II, LLC; TCNS #: 271853

To Whom It May Concern:

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Miles Walz-Salvador

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Legals@TheLotisGroup.com

Enclosures

September 28, 2023

Northern Cheyenne Tribe
Attn: FCC Specialist Gary LaFranier
PO Box 128
Lame Deer, Montana 59043
Submitted via: http://cms.cheyennenation.com

RE: Proposed Telecommunications Tower Undertaking "Arco Torcido" in Taos County, New Mexico; VB BTS II, LLC; TCNS #: 271853

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Nationwide NEPA/NHPA Manager
Legals@TheLotisGroup.com

Enclosures

September 28, 2023

White Mountain Apache Tribe
Attn: THPO Mark Altaha
PO Box 1032
Fort Apache, Arizona 85926
Submitted via: markaltaha@wmat.us and mailed hardcopy

RE: Proposed Telecommunications Tower Undertaking "Arco Torcido" in Taos County, New Mexico; VB BTS II, LLC; TCNS #: 271853

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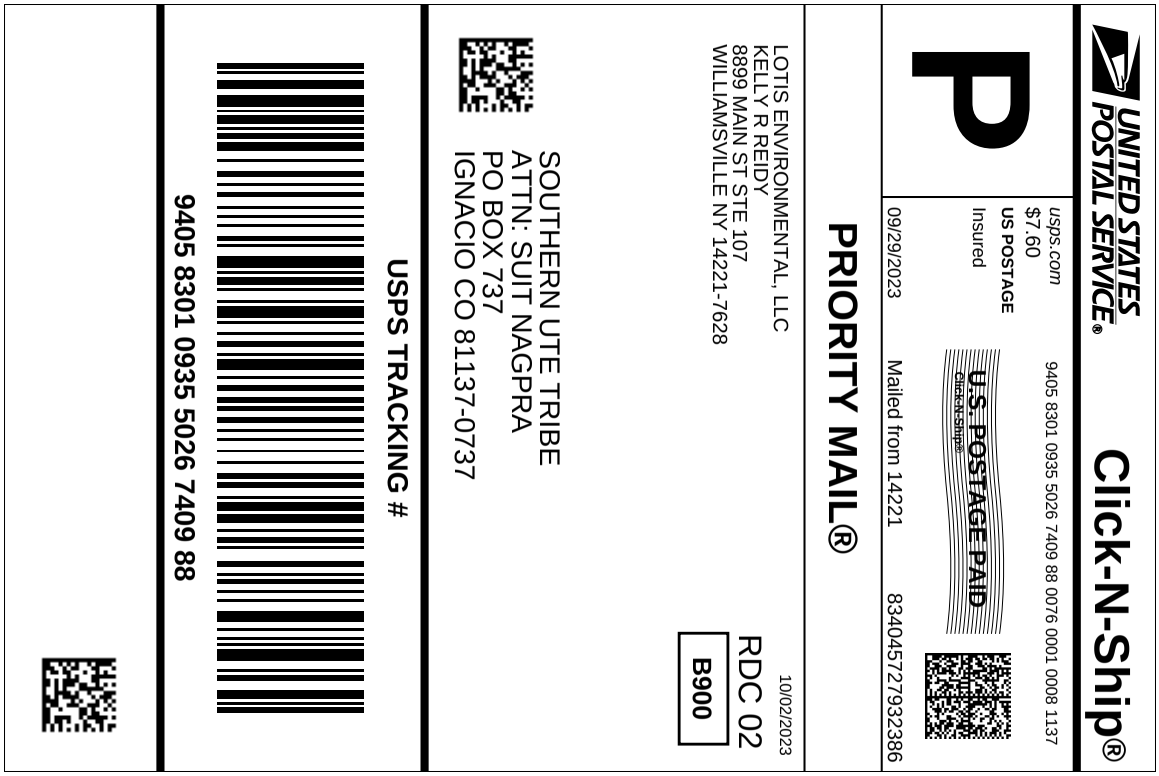
Enclosures

Proof of Tribal/NHO Submission(s)



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3. **Place label so that it does not wrap around the edge of the package.**
4. **Each shipping label number is unique and can be used only once - DO NOT PHOTOCOPY.**
5. **Please use this shipping label on the "ship date" selected when you requested the label.**
6. **If a mailing receipt is required, present the article and Online e-Label Record at a Post Office for postmark.**

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From: LOTIS ENVIRONMENTAL, LLC
KELLY R REIDY
8899 MAIN ST STE 107
WILLIAMSVILLE NY 14221-7628

To:
SOUTHERN UTE TRIBE
ATTN: SUIT NAGPRA
PO BOX 737
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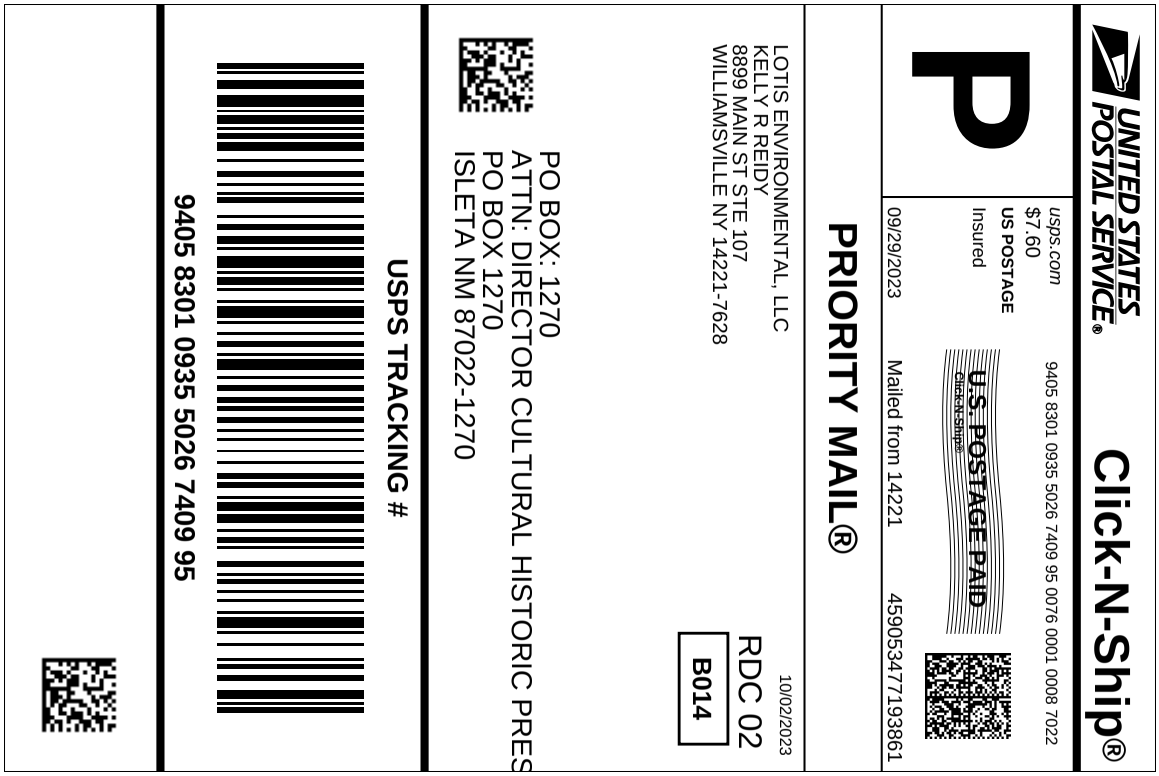

Cut on dotted line.

Instructions

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Print Date: 2023-09-29	**PRIORITY MAIL®**	**$7.60**
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	Fees:	**$0.00**
	Total:	**$7.60**

From: LOTIS ENVIRONMENTAL, LLC
KELLY R REIDY
8899 MAIN ST STE 107
WILLIAMSVILLE NY 14221-7628

To:
PO BOX: 1270
ATTN: DIRECTOR CULTURAL HISTORIC PRESERV
PO BOX 1270
ISLETA NM 87022-1270

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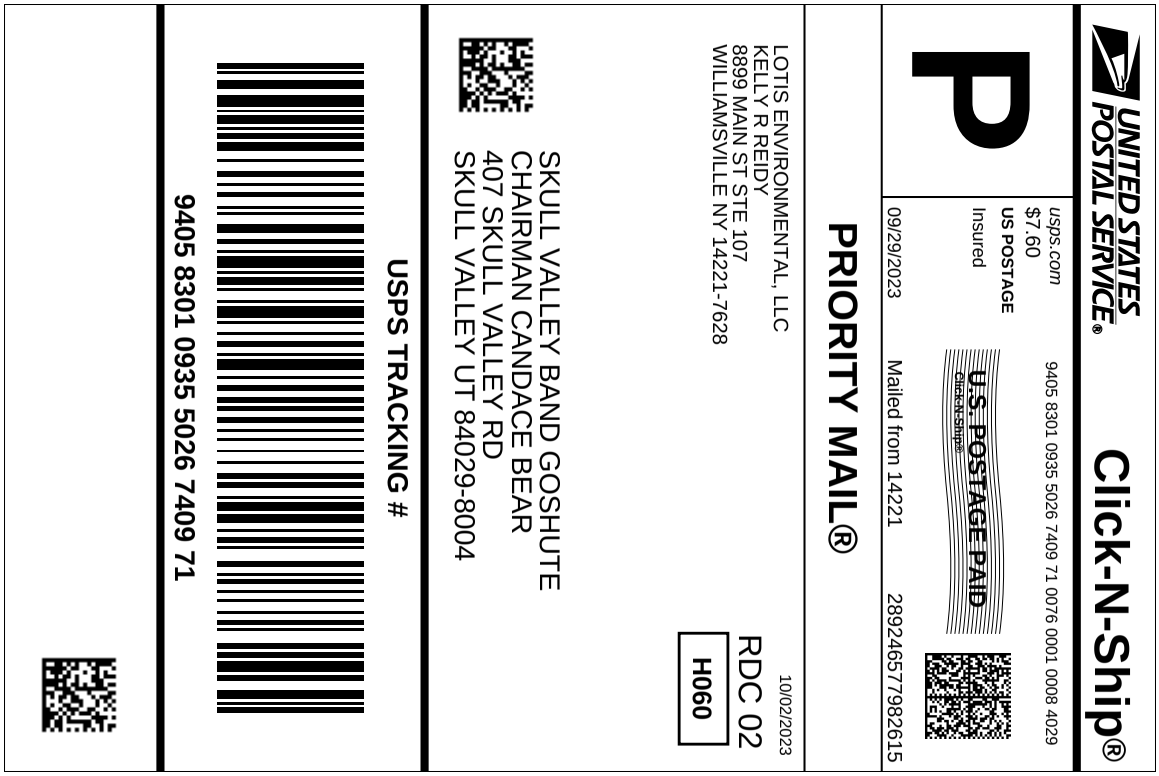

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9405 8301 0935 5026 7409 71

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Ship Date: 2023-09-29	**Extra Services:**	**$0.00**
	Fees:	**$0.00**
	Total:	**$7.60**

From: **LOTIS ENVIRONMENTAL, LLC**
KELLY R REIDY
8899 MAIN ST STE 107
WILLIAMSVILLE NY 14221-7628

To:
SKULL VALLEY BAND GOSHUTE
CHAIRMAN CANDACE BEAR
407 SKULL VALLEY RD
SKULL VALLEY UT 84029-8004

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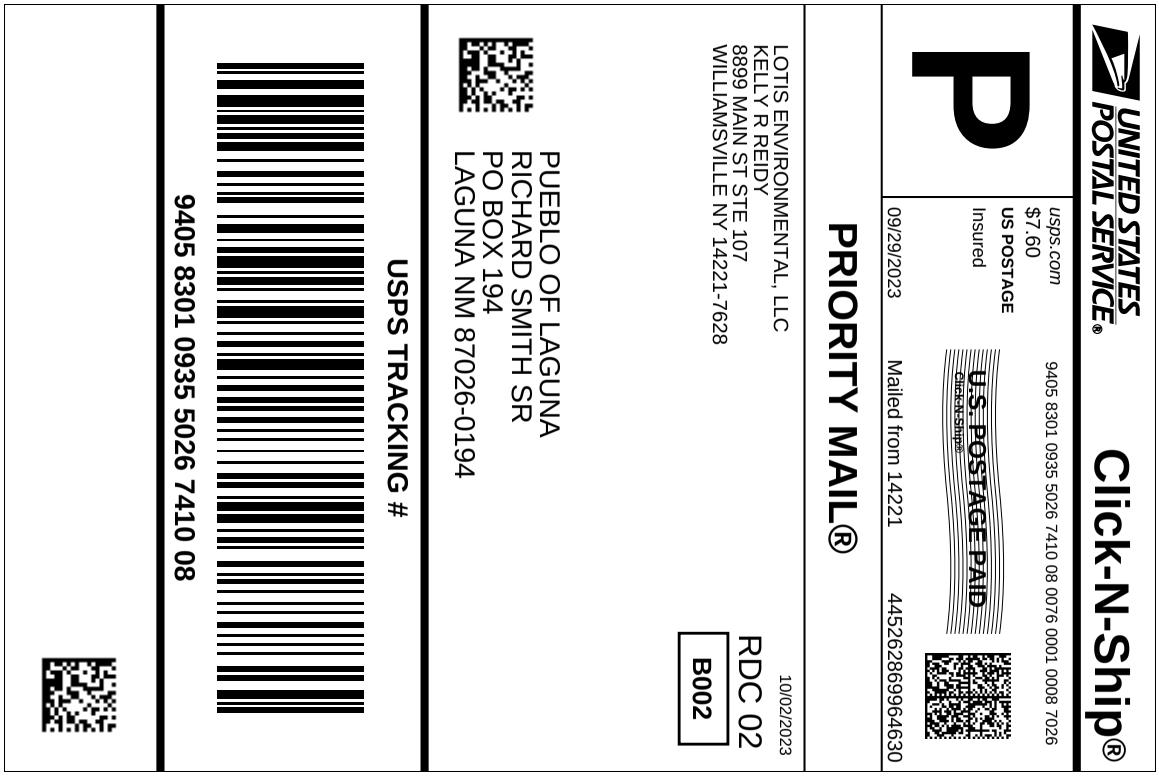

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9405 8301 0935 5026 7410 08

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	Fees:	**$0.00**
	Total:	**$7.60**

From: LOTIS ENVIRONMENTAL, LLC
KELLY R REIDY
8899 MAIN ST STE 107
WILLIAMSVILLE NY 14221-7628

To:
PUEBLO OF LAGUNA
RICHARD SMITH SR
PO BOX 194
LAGUNA NM 87026-0194

*** Commercial Pricing PRIORITY MAIL® rates apply. There is no fee for USPS Tracking® service on PRIORITY MAIL® service with use of this electronic rate shipping label. Refunds for unused postage paid labels can be requested online 30 days from the print date.**

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9405 8301 0935 5026 7409 64

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Ship Date: 2023-09-29	**Extra Services:**	**$0.00**
	Fees:	**$0.00**
	Total:	**$7.60**

From: **LOTIS ENVIRONMENTAL, LLC**
KELLY R REIDY
8899 MAIN ST STE 107
WILLIAMSVILLE NY 14221-7628

To:
OHKAY OWINGEH
ATTN: TRIBAL SYSTEMS ADMIN ERIC PHILLIPS
PO BOX 1099
OHKAY OWINGEH NM 87566-1099

*** Commercial Pricing PRIORITY MAIL® rates apply. There is no fee for USPS Tracking® service on PRIORITY MAIL® service with use of this electronic rate shipping label. Refunds for unused postage paid labels can be requested online 30 days from the print date.**

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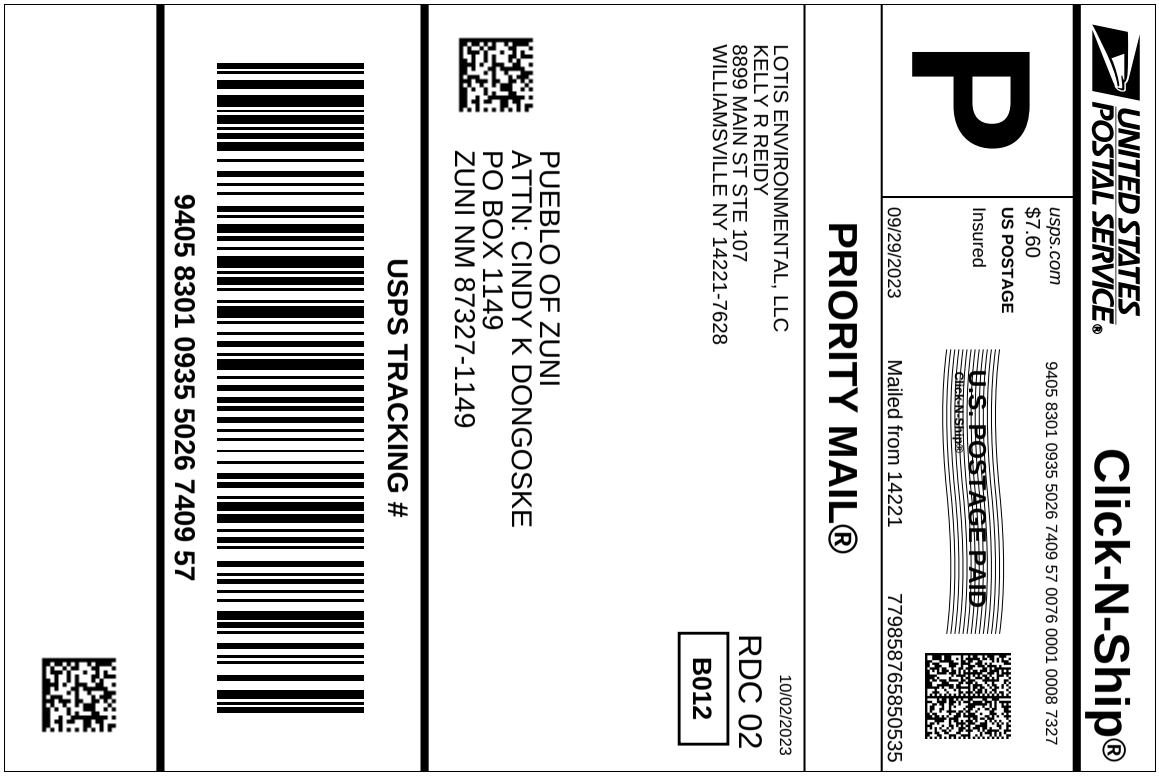

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9405 8301 0935 5026 7409 57

Print Date:	**2023-09-29**	**PRIORITY MAIL®** **$7.60**
Ship Date:	**2023-09-29**	**Extra Services:** **$0.00**
		Fees: **$0.00**
		Total: **$7.60**

From: **LOTIS ENVIRONMENTAL, LLC**
KELLY R REIDY
8899 MAIN ST STE 107
WILLIAMSVILLE NY 14221-7628

To:
PUEBLO OF ZUNI
ATTN: CINDY K DONGOSKE
PO BOX 1149
ZUNI NM 87327-1149

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Print Date: 2023-09-29	**PRIORITY MAIL®**	**$7.60**
Ship Date: 2023-09-29	**Extra Services:**	**$0.00**
	Fees:	**$0.00**
	Total:	**$7.60**

From: LOTIS ENVIRONMENTAL, LLC
KELLY R REIDY
8899 MAIN ST STE 107
WILLIAMSVILLE NY 14221-7628

To:
PUEBLO OF PICURIS
ATTN: TRIBAL ADMINISTRATOR JEFF ATENCIO
PO BOX 127
PENASCO NM 87553-0127

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Print Date: 2023-09-29	**PRIORITY MAIL®**	**$7.60**
Ship Date: 2023-09-29	**Extra Services:**	**$0.00**
	Fees:	**$0.00**
	Total:	**$7.60**

From: LOTIS ENVIRONMENTAL, LLC
KELLY R REIDY
8899 MAIN ST STE 107
WILLIAMSVILLE NY 14221-7628

To:
TAOS PUEBLO
ATTN: GOVERNOR CLYDE M ROMERO SR
PO BOX 1846
TAOS NM 87571-1846

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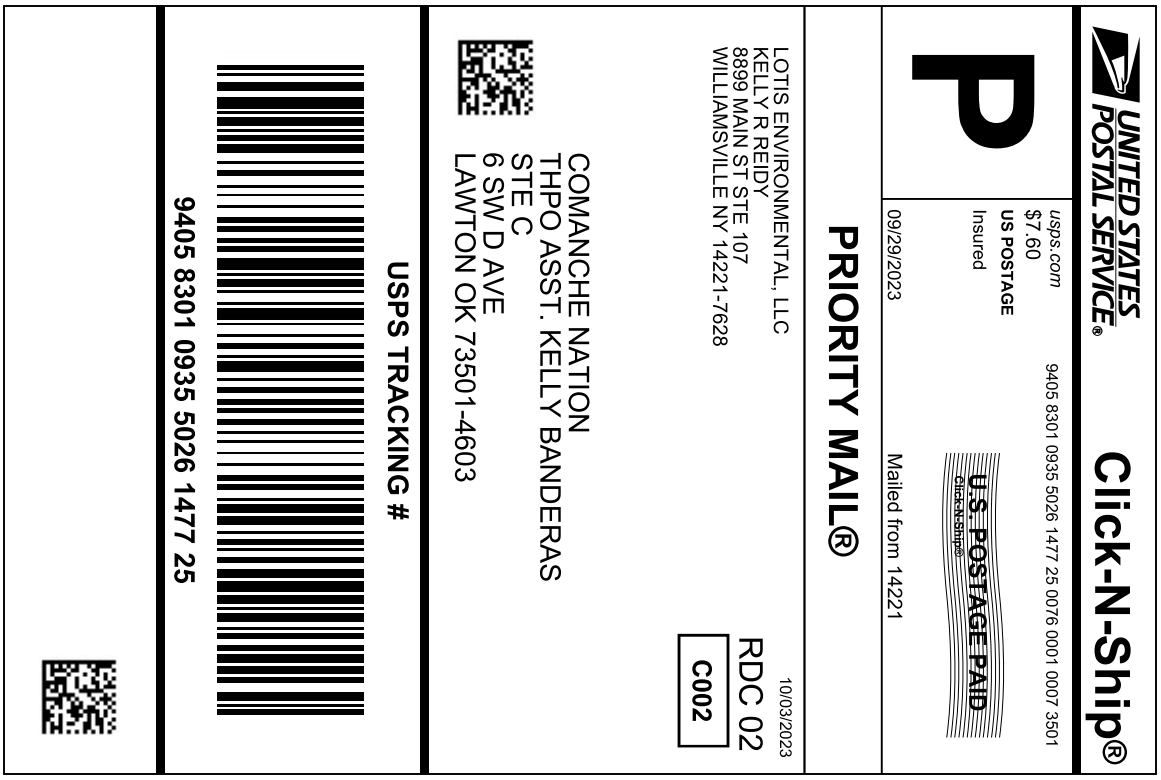

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9405 8301 0935 5026 1477 25

Print Date:	**2023-09-27**	**PRIORITY MAIL®** **$7.60**
Ship Date:	**2023-09-29**	**Extra Services:** **$0.00**
		Fees: **$0.00**
		Total: **$7.60**

From: LOTIS ENVIRONMENTAL, LLC
KELLY R REIDY
8899 MAIN ST STE 107
WILLIAMSVILLE NY 14221-7628

To: COMANCHE NATION
THPO ASST. KELLY BANDERAS
STE C
6 SW D AVE
LAWTON OK 73501-4603

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Thank you for shipping with the United States Postal Service!
Check the status of your shipment on the USPS Tracking® page at usps.com

Jennifer Andres

From: NEPA NHPA
Sent: Thursday, September 28, 2023 9:02 PM
To: 'holly@mathpo.org'
Subject: THPO Section 106 for TCNS# 271853 proposed telecommunication project LOTIS# VBBTS_264– "Arco Torcido" US-NM-7008
Attachments: Arco Torcido US-NM-7008.kmz

Importance: High

To Whom It May Concern,

Please see the Dropbox link for the submission of the above addressed TCNS project known as “Arco Torcido” located in Taos County, New Mexico for the proposed undertaking. Once you have selected the link, a tab will open in your browser and load our PDF submission. This PDF submission will include a cover letter, project summary, site photos, site maps, and a cultural resource survey report which will detail the investigation conducted on identifying cultural resources/properties located in both the Direct and Visual APE of the proposed undertaking. Additionally, it will have a recommendation of effect which we are providing to you as an opportunity to review and comment. Lastly, I have also attached a .kmz file. Once selected, this file will upload to Google Earth (in the temporary folder) and bring you directly to the “pinpoint” coordinates of the proposed tower location. I have included this file so you can review the surrounding habitat/area in its current state (or near current state) without the confined limitations of the aerial photos provided in Attachment 2. In order to keep consultation to a timely manner, if requested, we will be submitting the SHPO response to you once it has been received.

Submittal Link: https://www.dropbox.com/scl/fi/ubmmo68q4i0c6xeg2q8tr/Mescalero-Apache-Tribe.pdf?rlkey=7mnnluej3yxeu8gj38f2dcpon&dl=0

Should you have an additional request for information, please feel free to contact my supervisor via phone at (314)-913-0505 or by responding all to this email. We will do our best to supplement you with any additional documentation or information regarding the proposed undertaking.

Warmly,

DeAnna Anglin

Senior Biologist/NEPA Specialist

LOTIS ENVIRONMENTAL

LOTIS

8899 Main Street – Suite 107 Phone: 716.580.7000

Jennifer Andres

From: NEPA NHPA
Sent: Thursday, September 28, 2023 9:02 PM
To: 'candaceb@svgoshutes.com'
Subject: THPO Section 106 for TCNS# 271853 proposed telecommunication project LOTIS# VBBTS_264– "Arco Torcido" US-NM-7008
Attachments: Arco Torcido US-NM-7008.kmz

Importance: High

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Submittal Link: https://www.dropbox.com/scl/fi/bqy2y8lq588h7lg5zd7oa/Skull-Valley-Band-Goshute.pdf?rlkey=qyy8yz6yx6ymk6l1cnafq87v3&dl=0

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Senior Biologist/NEPA Specialist

LOTIS ENVIRONMENTAL

8899 Main Street – Suite 107 Phone: 716.580.7000

Jennifer Andres

From: NEPA NHPA
Sent: Thursday, September 28, 2023 9:02 PM
To: 'Apacheculture510@yahoo.com'
Subject: THPO Section 106 for TCNS# 271853 proposed telecommunication project LOTIS# VBBTS_264– "Arco Torcido" US-NM-7008
Attachments: Arco Torcido US-NM-7008.kmz

Importance: High

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Submittal Link: https://www.dropbox.com/scl/fi/5oo636dyyzvwrkp2pj3kk/Apache-Tribe-of-Oklahoma.pdf?rlkey=tbimpawqgiqe7wjru5skmpe2a&dl=0

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DeAnna Anglin

Senior Biologist/NEPA Specialist

LOTIS ENVIRONMENTAL

8899 Main Street – Suite 107 Phone: 716.580.7000

Jennifer Andres

From: NEPA NHPA
Sent: Thursday, September 28, 2023 9:02 PM
To: 'thpo@kiowatribe.org'; 'ahill@kiowatribe.org'
Subject: THPO Section 106 for TCNS# 271853 proposed telecommunication project LOTIS# VBBTS_264– "Arco Torcido" US-NM-7008
Attachments: Arco Torcido US-NM-7008.kmz

Importance: High

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Submittal Link: https://www.dropbox.com/scl/fi/d6v3x4d309k6g10oz2sun/Kiowa-Indian-Tribe.pdf?rlkey=7nwmd64c54080e0bh5rb4t1f3&dl=0

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DeAnna Anglin

Senior Biologist/NEPA Specialist

LOTIS ENVIRONMENTAL

8899 Main Street – Suite 107 Phone: 716.580.7000

Jennifer Andres

From: NEPA NHPA
Sent: Thursday, September 28, 2023 9:02 PM
To: 'sunagpra@southernute-nsn.gov'; 'sthompson@southernute-nsn.gov'
Subject: THPO Section 106 for TCNS# 271853 proposed telecommunication project LOTIS# VBBTS_264– "Arco Torcido" US-NM-7008
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Submittal Link: https://www.dropbox.com/scl/fi/6xtzcg3c1izf9mzv10o1e/Southern-Ute-Tribe.pdf?rlkey=qq5psqcjbl30orkbb6fbdp9ok&dl=0

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Warmly,

DeAnna Anglin

Senior Biologist/NEPA Specialist

LOTIS ENVIRONMENTAL

8899 Main Street – Suite 107 Phone: 716.580.7000

Jennifer Andres

From: NEPA NHPA
Sent: Thursday, September 28, 2023 9:02 PM
To: 'LSamuel@pueblooftesuque.org'
Subject: THPO Section 106 for TCNS# 271853 proposed telecommunication project LOTIS# VBBTS_264– "Arco Torcido" US-NM-7008
Attachments: Arco Torcido US-NM-7008.kmz

Importance: High

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Submittal Link: https://www.dropbox.com/scl/fi/baju6z510kyrxy1u9tw4u/Pueblo-of-Tesuque.pdf?rlkey=wpet40jyfu2wh49kkcuwyh7ti&dl=0

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DeAnna Anglin

Senior Biologist/NEPA Specialist

LOTIS ENVIRONMENTAL

8899 Main Street – Suite 107 Phone: 716.580.7000

Jennifer Andres

From: NEPA NHPA
Sent: Thursday, September 28, 2023 9:02 PM
To: 'governor@taospueblo.com'; 'reva@taospueblo.com'
Subject: THPO Section 106 for TCNS# 271853 proposed telecommunication project LOTIS# VBBTS_264– "Arco Torcido" US-NM-7008
Attachments: Arco Torcido US-NM-7008.kmz

Importance: High

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Submittal Link: https://www.dropbox.com/scl/fi/we2vmabjkn9dz1m41fwnh/Taos-Pueblo.pdf?rlkey=oavr8ahj13xpzfk6mpm4xt5un&dl=0

Should you have an additional request for information, please feel free to contact my supervisor via phone at (314)-913-0505 or by responding all to this email. We will do our best to supplement you with any additional documentation or information regarding the proposed undertaking.

Warmly,

DeAnna Anglin

Senior Biologist/NEPA Specialist

LOTIS ENVIRONMENTAL

8899 Main Street – Suite 107 Phone: 716.580.7000

Jennifer Andres

From: NEPA NHPA
Sent: Thursday, September 28, 2023 9:02 PM
To: bchavarria@santaclarapueblo.org; ddnaranjo@santaclarapueblo.org
Subject: THPO Section 106 for TCNS# 271853 proposed telecommunication project LOTIS# VBBTS_264– "Arco Torcido" US-NM-7008
Attachments: Arco Torcido US-NM-7008.kmz

Importance: High

To Whom It May Concern,

Please see the Dropbox link for the submission of the above addressed TCNS project known as “Arco Torcido” located in Taos County, New Mexico for the proposed undertaking. Once you have selected the link, a tab will open in your browser and load our PDF submission. This PDF submission will include a cover letter, project summary, site photos, site maps, and a cultural resource survey report which will detail the investigation conducted on identifying cultural resources/properties located in both the Direct and Visual APE of the proposed undertaking. Additionally, it will have a recommendation of effect which we are providing to you as an opportunity to review and comment. Lastly, I have also attached a .kmz file. Once selected, this file will upload to Google Earth (in the temporary folder) and bring you directly to the “pinpoint” coordinates of the proposed tower location. I have included this file so you can review the surrounding habitat/area in its current state (or near current state) without the confined limitations of the aerial photos provided in Attachment 2. In order to keep consultation to a timely manner, if requested, we will be submitting the SHPO response to you once it has been received.

Submittal Link: https://www.dropbox.com/scl/fi/2r0tt36n0in5ovhquedmd/Pueblo-of-Santa-Clara.pdf?rlkey=8hdpps65zdgnam8a6sv0pl47f&dl=0

Should you have an additional request for information, please feel free to contact my supervisor via phone at (314)-913-0505 or by responding all to this email. We will do our best to supplement you with any additional documentation or information regarding the proposed undertaking.

Warmly,

DeAnna Anglin

Senior Biologist/NEPA Specialist

LOTIS ENVIRONMENTAL

8899 Main Street – Suite 107 Phone: 716.580.7000

Jennifer Andres

From: NEPA NHPA
Sent: Thursday, September 28, 2023 9:01 PM
To: ohkayowingeh@hotmail.com
Subject: THPO Section 106 for TCNS# 271853 proposed telecommunication project LOTIS# VBBTS_264– "Arco Torcido" US-NM-7008
Attachments: Arco Torcido US-NM-7008.kmz

Importance: High

To Whom It May Concern,

Please see the Dropbox link for the submission of the above addressed TCNS project known as “Arco Torcido” located in Taos County, New Mexico for the proposed undertaking. Once you have selected the link, a tab will open in your browser and load our PDF submission. This PDF submission will include a cover letter, project summary, site photos, site maps, and a cultural resource survey report which will detail the investigation conducted on identifying cultural resources/properties located in both the Direct and Visual APE of the proposed undertaking. Additionally, it will have a recommendation of effect which we are providing to you as an opportunity to review and comment. Lastly, I have also attached a .kmz file. Once selected, this file will upload to Google Earth (in the temporary folder) and bring you directly to the “pinpoint” coordinates of the proposed tower location. I have included this file so you can review the surrounding habitat/area in its current state (or near current state) without the confined limitations of the aerial photos provided in Attachment 2. In order to keep consultation to a timely manner, if requested, we will be submitting the SHPO response to you once it has been received.

Submittal Link: https://www.dropbox.com/scl/fi/2xmhw8wo940dk0uy3mozo/Ohkay-Owingeh.pdf?rlkey=frm6fk4l9jspsei7shilm195d&dl=0

Should you have an additional request for information, please feel free to contact my supervisor via phone at (314)-913-0505 or by responding all to this email. We will do our best to supplement you with any additional documentation or information regarding the proposed undertaking.

Warmly,

DeAnna Anglin

Senior Biologist/NEPA Specialist

LOTIS ENVIRONMENTAL

8899 Main Street – Suite 107 Phone: 716.580.7000

Jennifer Andres

From: NEPA NHPA
Sent: Thursday, September 28, 2023 9:01 PM
To: administrator@picurispueblo.org
Subject: THPO Section 106 for TCNS# 271853 proposed telecommunication project LOTIS# VBBTS_264– "Arco Torcido" US-NM-7008
Attachments: Arco Torcido US-NM-7008.kmz

Importance: High

To Whom It May Concern,

Please see the Dropbox link for the submission of the above addressed TCNS project known as “Arco Torcido” located in Taos County, New Mexico for the proposed undertaking. Once you have selected the link, a tab will open in your browser and load our PDF submission. This PDF submission will include a cover letter, project summary, site photos, site maps, and a cultural resource survey report which will detail the investigation conducted on identifying cultural resources/properties located in both the Direct and Visual APE of the proposed undertaking. Additionally, it will have a recommendation of effect which we are providing to you as an opportunity to review and comment. Lastly, I have also attached a .kmz file. Once selected, this file will upload to Google Earth (in the temporary folder) and bring you directly to the “pinpoint” coordinates of the proposed tower location. I have included this file so you can review the surrounding habitat/area in its current state (or near current state) without the confined limitations of the aerial photos provided in Attachment 2. In order to keep consultation to a timely manner, if requested, we will be submitting the SHPO response to you once it has been received.

Submittal Link: https://www.dropbox.com/scl/fi/7cuoza8e50tql4wbxlktd/Pueblo-of-Picuris.pdf?rlkey=yacald6i1ue5ka72l4f4airxc&dl=0

Should you have an additional request for information, please feel free to contact my supervisor via phone at (314)-913-0505 or by responding all to this email. We will do our best to supplement you with any additional documentation or information regarding the proposed undertaking.

Warmly,

DeAnna Anglin

Senior Biologist/NEPA Specialist

LOTIS ENVIRONMENTAL

8899 Main Street – Suite 107 Phone: 716.580.7000

Jennifer Andres

From: NEPA NHPA
Sent: Thursday, September 28, 2023 9:01 PM
To: rsmith@pol-nsn.gov; ytrujillo@pol-nsn.gov
Subject: THPO Section 106 for TCNS# 271853 proposed telecommunication project LOTIS# VBBTS_264– "Arco Torcido" US-NM-7008
Attachments: Arco Torcido US-NM-7008.kmz

Importance: High

To Whom It May Concern,

Please see the Dropbox link for the submission of the above addressed TCNS project known as “Arco Torcido” located in Taos County, New Mexico for the proposed undertaking. Once you have selected the link, a tab will open in your browser and load our PDF submission. This PDF submission will include a cover letter, project summary, site photos, site maps, and a cultural resource survey report which will detail the investigation conducted on identifying cultural resources/properties located in both the Direct and Visual APE of the proposed undertaking. Additionally, it will have a recommendation of effect which we are providing to you as an opportunity to review and comment. Lastly, I have also attached a .kmz file. Once selected, this file will upload to Google Earth (in the temporary folder) and bring you directly to the “pinpoint” coordinates of the proposed tower location. I have included this file so you can review the surrounding habitat/area in its current state (or near current state) without the confined limitations of the aerial photos provided in Attachment 2. In order to keep consultation to a timely manner, if requested, we will be submitting the SHPO response to you once it has been received.

Submittal Link: https://www.dropbox.com/scl/fi/idhgcszokj66g2seg41pn/Pueblo-of-Laguna.pdf?rlkey=ejklzhbnhcylrr83azdhmaeev&dl=0

Should you have an additional request for information, please feel free to contact my supervisor via phone at (314)-913-0505 or by responding all to this email. We will do our best to supplement you with any additional documentation or information regarding the proposed undertaking.

Warmly,

DeAnna Anglin

Senior Biologist/NEPA Specialist

LOTIS ENVIRONMENTAL

8899 Main Street – Suite 107 Phone: 716.580.7000

Jennifer Andres

From: NEPA NHPA
Sent: Thursday, September 28, 2023 9:01 PM
To: henryj@toast.net; poi60001@isletapueblo.com
Subject: THPO Section 106 for TCNS# 271853 proposed telecommunication project LOTIS# VBBTS_264– "Arco Torcido" US-NM-7008
Attachments: Arco Torcido US-NM-7008.kmz

Importance: High

To Whom It May Concern,

Please see the Dropbox link for the submission of the above addressed TCNS project known as “Arco Torcido” located in Taos County, New Mexico for the proposed undertaking. Once you have selected the link, a tab will open in your browser and load our PDF submission. This PDF submission will include a cover letter, project summary, site photos, site maps, and a cultural resource survey report which will detail the investigation conducted on identifying cultural resources/properties located in both the Direct and Visual APE of the proposed undertaking. Additionally, it will have a recommendation of effect which we are providing to you as an opportunity to review and comment. Lastly, I have also attached a .kmz file. Once selected, this file will upload to Google Earth (in the temporary folder) and bring you directly to the “pinpoint” coordinates of the proposed tower location. I have included this file so you can review the surrounding habitat/area in its current state (or near current state) without the confined limitations of the aerial photos provided in Attachment 2. In order to keep consultation to a timely manner, if requested, we will be submitting the SHPO response to you once it has been received.

Submittal Link: https://www.dropbox.com/scl/fi/63gzemyof0v5xoo89h8px/Pueblo-of-Isleta.pdf?rlkey=15cr7n8l0bztdjo0rs9pct1xj&dl=0

Should you have an additional request for information, please feel free to contact my supervisor via phone at (314)-913-0505 or by responding all to this email. We will do our best to supplement you with any additional documentation or information regarding the proposed undertaking.

Warmly,

DeAnna Anglin

Senior Biologist/NEPA Specialist

LOTIS ENVIRONMENTAL

8899 Main Street – Suite 107 Phone: 716.580.7000

Jennifer Andres

From: NEPA NHPA
Sent: Thursday, September 28, 2023 9:01 PM
To: dykehousej@yahoo.com
Subject: THPO Section 106 for TCNS# 271853 proposed telecommunication project LOTIS# VBBTS_264– "Arco Torcido" US-NM-7008
Attachments: Arco Torcido US-NM-7008.kmz

Importance: High

To Whom It May Concern,

Please see the Dropbox link for the submission of the above addressed TCNS project known as “Arco Torcido” located in Taos County, New Mexico for the proposed undertaking. Once you have selected the link, a tab will open in your browser and load our PDF submission. This PDF submission will include a cover letter, project summary, site photos, site maps, and a cultural resource survey report which will detail the investigation conducted on identifying cultural resources/properties located in both the Direct and Visual APE of the proposed undertaking. Additionally, it will have a recommendation of effect which we are providing to you as an opportunity to review and comment. Lastly, I have also attached a .kmz file. Once selected, this file will upload to Google Earth (in the temporary folder) and bring you directly to the “pinpoint” coordinates of the proposed tower location. I have included this file so you can review the surrounding habitat/area in its current state (or near current state) without the confined limitations of the aerial photos provided in Attachment 2. In order to keep consultation to a timely manner, if requested, we will be submitting the SHPO response to you once it has been received.

Submittal Link: https://www.dropbox.com/scl/fi/ap66e0x6r6sz2oqh6g7gt/Jicarilla-Apache-Nation.pdf?rlkey=js1uqa9fyhw8bb8pl5957c2y3&dl=0

Should you have an additional request for information, please feel free to contact my supervisor via phone at (314)-913-0505 or by responding all to this email. We will do our best to supplement you with any additional documentation or information regarding the proposed undertaking.

Warmly,

DeAnna Anglin

Senior Biologist/NEPA Specialist

LOTIS ENVIRONMENTAL

8899 Main Street – Suite 107 Phone: 716.580.7000

NEPA NHPA

From: XTIRI <notify@xtiri.com>
Sent: Saturday, September 30, 2023 11:02 AM
To: NEPA NHPA
Subject: Project Application Confirmation

Your Project Application has been received for Arco Torcido, US-NM-7008, 271853 - Thank You!

powered by **xtiri**

This email was sent to NEPA.NHPA@thelotisgroup.com unsubscribe from this list

Jennifer Andres

From: Apache <apache@heritageconsultation.com>
Sent: Thursday, September 28, 2023 9:20 PM
To: NEPA NHPA
Subject: New form submission to The Northern Cheyenne

Hello DeAnna, thank you for your recent form submission to the Northern Cheyenne Tribal Historic Preservation Department. We will be looking over this shortly and will get back to you as soon as we can.

The unique ID for your project, Arco Torcido, is:
thpo6516263795791

Please include this with any questions you may have via email

Submission summary:

Your Name: DeAnna Anglin
Your Phone: 716-580-7000
Your Email: nepa.nhpa@thelotisgroup.com
Your Project: Arco Torcido
Project Description: Proposed Construction of a 90’ (95’ including all appurtenances)’ monopine telecommunication tower within a 67’ by 84’ lease area. A proposed 25’ by ~246.9’ access/utility easement will extend northwest connecting with Old Highway 3. Additionally, a proposed 10’ by ~275.2’ utility easement will extend south connecting with existing utility.

Files Attached: Arco Torcido US-NM-7008.kmz, 620 ARCO.pdf, Northern Cheyenne Tribe.pdf Submission Date: 2023/09/28 19:19:51 Your TCNS Number: 271853 Number of Exempt PTC Towers: 0 Number of NON Exempt PTC Towers: 1

Please contact our portal administrator if any of the project details are incorrect in the summary above or are empty and should contain values!
Portal Administrator: cms@heritageconsultation.com nepa.nhpa@thelotisgroup.com

Tribal/NHO Response(s)

Tower Construction Notification

Tower Construction Notification
Notification Reply

The replies for Notification ID 271853 are shown.

Reply Information

Reply Date: **10/18/2023**

Name of Replier: **Richard Smith, Pueblo of Laguna**

Message

Good afternoon, Due to the highly pre-disturbed nature of the proposed site, the Pueblo of Laguna does not feel the need for additional consultation. However, in the event an Laguna or Ancestral Puebloan artifact or human remains are uncovered, workmust cease immediately and notification must be provided to the POL THPO office at (505) 552-5033 or rsmith@pol-nsn.gov to make a determination on the treatment of the discovery. Thank you for your consideration. Sincerely, Robert Romero, M.A. Cultural Resource Specialist Pueblo of Laguna, THPO

Federal Communications Commission
45 L Street NE
Washington, DC 20554
More FCC Contact Information...

Phone: 1-877-480-3201
TTY: 1-717-338-2824
Fax: 1-866-418-0232
Submit Help Request

Tower Construction Notification
Notification Reply

Notifications Home | Notification Replies

The replies for Notification ID 271853 are shown.

Reply Information

Reply Date: **10/30/2023**

Name of Replier: **Ben Chavarria, Pueblo of Santa Clara**

Message

We have no interest in this site. However, if the Applicant discovers archaeological remains or resources during construction, the Applicant should immediately stop construction and notify the appropriate Federal Agency and the Tribe.

After receiving the additional information requested we would recommend that a cultural monitor be present during any ground disturbing work for this project to insure that any subsurface resources are protected, as no shovel tests were done for the tower APE according to the report only the easement and southern boundary of the APE were tested. if any inadvertent discoveries are made during ground disturbing activities we would like to be contacted within 24hours of the discovery to continue consultation work for this project. any additional information or additional consultation can be sent to ddnaranjo@santaclarapueblo.org.

NEPA NHPA

From: towernotifyinfo@fcc.gov
Sent: Wednesday, September 20, 2023 10:59 AM
To: NEPA NHPA
Cc: tcns.fccarchive@fcc.gov; archtech.nathpo@gmail.com; pejuta.villa@northernarapaho.com
Subject: Reply to Proposed Tower Structure (Notification ID: 271853) - Email ID #8672579

Dear Morris Mickelson,

Thank you for using the Federal Communications Commission's (FCC) Tower Construction Notification System (TCNS). The purpose of this email is to inform you that an authorized user of the TCNS has replied to a proposed tower construction notification that you had submitted through the TCNS.

The following message has been sent to you from THPO Benjamin Ridgley of the Northern Arapaho in reference to Notification ID #271853:

The Northern Arapaho THPO has reviewed your Consultation Request under the National Environmental Protection Act & National Historic Preservation Act, Section 106 process, regarding the proposed project & offers the following response:

No Historic Properties in the Direct or Visual APE

Our office has come to this determination by drawing conclusions from the report, ethnography, previous survey search from SHPO and maps depicting province of sites in regards to Direct and Visual APE. There are no cultural resources and no eligible historic properties within the APE. Currently, there are no properties of religious and cultural significance to the Northern Arapaho within the area of potential effect. However, if traditional cultural properties, rock features, or human remains are found during excavation with any new ground disturbance, we request to be contacted and a report provided.

For your convenience, the information you submitted for this notification is detailed below.

Notification Received: 09/19/2023
Notification ID: 271853
Tower Owner Individual or Entity Name: VB BTS II, LLC
Consultant Name: Miles C Walz Salvador
Street Address: 8899 Main Street, Suite 107
City: Williamsville
State: NEW YORK
Zip Code: 14221
Phone: 716-580-7000
Email: NEPA.NHPA@TheLotisGroup.com

Structure Type: MTOWER - Monopole
Latitude: 36 deg 32 min 45.2 sec N
Longitude: 105 deg 40 min 16.4 sec W
Location Description: near 157 Old Highway 3
City: Arroyo Hondo
State: NEW MEXICO
County: TAOS

Detailed Description of Project: A proposed telecommunication tower known as ARCO TORCIDO and associated equipment within a leased area that includes an access, utility, and guy wire (if applicable) easements.
Ground Elevation: 2149.4 meters
Support Structure: 32.0 meters above ground level
Overall Structure: 33.5 meters above ground level
Overall Height AMSL: 2182.9 meters above mean sea level

NEPA NHPA

From: towernotifyinfo@fcc.gov
Sent: Wednesday, September 27, 2023 11:46 AM
To: NEPA NHPA
Subject: Section 106 Notification of Consulting Party's Determination of Effect- Email ID #8878164

This is to notify you that a consulting party has specified a determination of effect for the following filing:
Source: Northern Arapaho
Date of Action: 09/27/2023
Direct Effect: No Effect on Historic Properties in APE
Visual Effect: No Effect on Historic Properties in APE
Comment Text: The Northern Arapaho THPO has reviewed your Consultation Request under the National Environmental Protection Act & National Historic Preservation Act, Section 106 process, regarding the proposed project & offers the following response:

No Historic Properties in the Direct or Visual APE

Our office has come to this determination by drawing conclusions from the report, ethnography, previous survey search from SHPO and maps depicting province of sites in regards to Direct and Visual APE. There are no cultural resources and no eligible historic properties within the APE. Currently, there are no properties of religious and cultural significance to the Northern Arapaho within the area of potential effect. However, if traditional cultural properties, rockfeatures, or human remains are found during excavation with any new ground disturbance, we request to be contacted and a report provided.

File Number: 0010710549
TCNS Number: 271853
Purpose: New Tower Submission Packet

Notification Date: 7AM EST 09/28/2023

Applicant: VB BTS II, LLC
Consultant: Lotis Environmental
Positive Train Control Filing Subject to Expedited Treatment Under Program Comment: No
Site Name: Arco Torcido
Site Address: near 157 Old Highway 3
Detailed Description of Project: A proposed telecommunication tower known as ARCO TORCIDO and associated equipment within a leased area that includes an access, utility, and guy wire (if applicable) easements.
Site Coordinates: 36-32-45.2 N, 105-40-16.4 W
City: Arroyo Hondo
County: TAOS
State:NM
Lead SHPO/THPO: State Historic Preservation Office of New Mexico

NOTICE OF FRAUDULENT USE OF SYSTEM, ABUSE OF PASSWORD AND RELATED MISUSE
Use of the Section 106 system is intended to facilitate consultation under Section 106 of the National Historic Preservation Act and may contain information that is confidential, privileged or otherwise protected from disclosure under applicable laws. Any person having access to Section 106 information shall use it only for its intended purpose. Appropriate action will be taken with respect to any misuse of the system.

NEPA NHPA

From: gary.lafranier@cheyennenation.com
Sent: Friday, October 27, 2023 6:04 PM
To: NEPA NHPA
Subject: 3 Projects

Importance: High

Good Afternoon,

270936 will have a determination of No Effect with ground disturbance. Project may proceed as planned.

270926 will have a determination of No Effect with ground disturbance. Project may proceed as planned.

271853 will have a determination of No Effect. Project may proceed as planned.

Thank You,

Gary LaFranier
FCC/ Section 106 Coordinator
(406) 477-8114
Lame Deer, MT. 59043

NEPA NHPA

From: towernotifyinfo@fcc.gov
Sent: Wednesday, September 20, 2023 5:23 PM
To: NEPA NHPA
Cc: tcns.fccarchive@fcc.gov; markaltaha@wmat.us
Subject: Reply to Proposed Tower Structure (Notification ID: 271853) - Email ID #8672744

Dear Morris Mickelson,

Thank you for using the Federal Communications Commission's (FCC) Tower Construction Notification System (TCNS). The purpose of this email is to inform you that an authorized user of the TCNS has replied to a proposed tower construction notification that you had submitted through the TCNS.

The following message has been sent to you from THPO Mark Altaha of the White Mountain Apache Tribe in reference to Notification ID #271853:

We have no interest in this site. However, if the Applicant discovers archaeological remains or resources during construction, the Applicant should immediately stop construction and notify the appropriate Federal Agency and the Tribe.

For your convenience, the information you submitted for this notification is detailed below.

Notification Received: 09/19/2023
Notification ID: 271853
Tower Owner Individual or Entity Name: VB BTS II, LLC
Consultant Name: Miles C Walz Salvador
Street Address: 8899 Main Street, Suite 107
City: Williamsville
State: NEW YORK
Zip Code: 14221
Phone: 716-580-7000
Email: NEPA.NHPA@TheLotisGroup.com

Structure Type: MTOWER - Monopole
Latitude: 36 deg 32 min 45.2 sec N
Longitude: 105 deg 40 min 16.4 sec W
Location Description: near 157 Old Highway 3
City: Arroyo Hondo
State: NEW MEXICO
County: TAOS

Detailed Description of Project: A proposed telecommunication tower known as ARCO TORCIDO and associated equipment within a leased area that includes an access, utility, and guy wire (if applicable) easements.

Ground Elevation: 2149.4 meters

Support Structure: 32.0 meters above ground level

Overall Structure: 33.5 meters above ground level

Overall Height AMSL: 2182.9 meters above mean sea level

NEPA NHPA

From: towernotifyinfo@fcc.gov
Sent: Thursday, November 2, 2023 9:01 AM
To: NEPA NHPA
Cc: tcnsweekly@fcc.gov
Subject: Proposed Construction of Communications Facilities Notification of Final Contacts - Email ID #35007

VB BTS II, LLC
Miles C Walz Salvador
8899 Main Street, Suite 107
Williamsville, NY 14221

Dear Applicant:

This letter addresses the proposed communications facilities listed below that you have referred to the Federal Communications Commission (Commission) for purposes of contacting federally recognized Indian Tribes, including Alaska Native Villages (collectively Indian Tribes), and Native Hawaiian Organizations (NHOs), as specified by Section IV.G of the Nationwide Programmatic Agreement (NPA). Consistent with the procedures outlined in the Commission's Wireless Infrastructure Second Report and Order (1), we have contacted the Indian Tribes or NHOs identified in the attached Table for the projects listed in the attached Table. You referred these projects to us between 10/26/2023 and 11/02/2023. Our contact with these Tribal Nations or NHOs was sent on 11/02/2023.

Thus, as described in the Wireless Infrastructure Second Report and Order (2), if you or Commission staff do not receive a statement of interest regarding a particular project from any Tribe or NHO within 15 calendar days of 11/02/2023, your obligations under Section IV of the NPA with respect to these Tribal Nations or NHOs are complete. If a Tribal Nation or NHO responds that it has concerns about a historic property of traditional religious and cultural significance that may be affected by the proposed construction within the 15 calendar day period, the Applicant must involve it in the review as set forth in the NPA, and may not begin construction until the process set forth in the NPA is completed.

You are reminded that Section IX of the NPA imposes independent obligations on an Applicant when a previously unidentified site that may be a historic property, including an archeological property, is discovered during construction or after the completion of review. In such instances, the Applicant must cease construction and promptly notify, among others, any potentially affected Tribal Nation or NHO. A Tribal Nation's or NHO's failure to express interest in participating in pre-construction review of an undertaking does not necessarily mean it is not interested in archeological properties or human remains that may inadvertently be discovered during construction. Hence, an Applicant is still required to notify any potentially affected Tribal Nation or NHO of any such finds pursuant to Section IX or other applicable law.

Sincerely,
Jill Springer
Federal Preservation Officer
Federal Communications Commission
jill.springer@fcc.gov

_____

1) See Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Deployment, Second Report and Order, FCC 18-30 (Mar. 30, 2018) (Wireless Infrastructure Second Report and Order).
2) See id. at paras. 111-112.

LIST OF PROPOSED COMMUNICATIONS TOWERS

TCNS# 271171 Referred Date: 10/30/2023 Location: near 8625 Pioneer Drive, Bakersfield, CA
Detailed Description of Project: A proposed telecommunication tower known as Mariscos and associated equipment within a leased area that includes an access, utility, and guy wire (if applicable) easements.

Tribe Name: Eastern Shoshone Tribe
Tribe Name: Northwestern Band of Shoshone Nation
Tribe Name: Santa Rosa Rancheria Tachi Yokut Tribe
Tribe Name: Santa Ynez Band of Chumash Indians
Tribe Name: Tejon Indian Tribe
Tribe Name: Tule River Reservation

TCNS# 271500 Referred Date: 10/30/2023 Location: near 5695 John Day Highway, Brogan, OR
Detailed Description of Project: A proposed telecommunication tower known as BROGAN and associated equipment within a leased area that includes an access, utility, and guy wire (if applicable) easements.

Tribe Name: Burns Paiute Tribe
Tribe Name: Confederated Tribes of the Umatilla Indian Reservation
Tribe Name: Eastern Shoshone Tribe

TCNS# 271554 Referred Date: 10/30/2023 Location: near State Route 66, Fort Loramie, OH
Detailed Description of Project: A proposed telecommunication tower known as FORT LORAMIE and associated equipment within a leased area that includes an access, utility, and guy wire (if applicable) easements.

Tribe Name: Seneca-Cayuga Nation

TCNS# 270926 Referred Date: 10/30/2023 Location: near Gove County Rd. 50, Gove, KS
Detailed Description of Project: One to six communication structures within a compound known as MPR501 and associated equipment within a leased area that includes an access, utility, and guy wire (if applicable) easements.

Tribe Name: Apache Tribe of Oklahoma
Tribe Name: Cheyenne-Arapaho Tribes of Oklahoma
Tribe Name: Crow Tribe
Tribe Name: Eastern Shoshone Tribe
Tribe Name: Ho-Chunk Nation
Tribe Name: Iowa Tribe of Oklahoma
Tribe Name: Kaw Nation
Tribe Name: Kiowa Indian Tribe THPO
Tribe Name: Omaha Tribe of Nebraska
Tribe Name: Osage Nation
Tribe Name: Otoe-Missouria Tribe of Indians
Tribe Name: Ponca Tribe of Indians of Oklahoma
Tribe Name: Rosebud Sioux Tribe
Tribe Name: Wichita and Affiliated Tribes
Tribe Name: Wyandotte Nation
Tribe Name: Yankton Sioux Tribe

TCNS# 270936 Referred Date: 10/30/2023 Location: near Winkler School Rd., Cut Bank, MT
Detailed Description of Project: One to six communication structures within a compound known as GPI501 and associated equipment within a leased area that includes an access, utility, and guy wire (if applicable) easements.

Tribe Name: Sisseton-Wahpeton Oyate of the Lake Traverse Reservation
Tribe Name: Turtle Mountain Band of Chippewa
Tribe Name: Blackfeet Nation
Tribe Name: Chippewa Cree Tribe of the Rocky Boy's Reservation
Tribe Name: Crow Tribe

Tribe Name: Eastern Shoshone Tribe
Tribe Name: Fort Peck Tribes
Tribe Name: Kiowa Indian Tribe THPO
Tribe Name: Lower Brule Sioux Tribe
Tribe Name: Northwestern Band of Shoshone Nation
Tribe Name: Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin
Tribe Name: Rosebud Sioux Tribe

TCNS# 271853 Referred Date: 10/30/2023 Location: near 157 Old Highway 3, Arroyo Hondo, NM
Detailed Description of Project: A proposed telecommunication tower known as ARCO TORCIDO and associated equipment within a leased area that includes an access, utility, and guy wire (if applicable) easements.
Tribe Name: Southern Ute Tribe
Tribe Name: Taos Pueblo
Tribe Name: Apache Tribe of Oklahoma
Tribe Name: Eastern Shoshone Tribe
Tribe Name: Jicarilla Apache Nation
Tribe Name: Kiowa Indian Tribe THPO
Tribe Name: Mescalero Apache Tribe
Tribe Name: Ohkay Owingeh (formerly known as San Juan Pueblo)
Tribe Name: Pueblo of Isleta
Tribe Name: Pueblo of Picuris
Tribe Name: Pueblo of Tesuque

TCNS# 271157 Referred Date: 10/30/2023 Location: near 1012 S. Kelly Rd, Magdalena, NM
Detailed Description of Project: A proposed telecommunication tower known as Tumbleweed and associated equipment within a leased area that includes an access, utility, and guy wire (if applicable) easements.
Tribe Name: Comanche Nation
Tribe Name: Pueblo of Zuni

TCNS# 269997 Referred Date: 10/30/2023 Location: near 2398 Fairview Franklin Rd., Franklin, ID
Detailed Description of Project: A proposed telecommunication tower known as Lundahl Ironworks and associated equipment within a leased area that includes an access, utility, and guy wire (if applicable) easements.
Tribe Name: Eastern Shoshone Tribe
Tribe Name: Northwestern Band of Shoshone Nation

LEGEND:
* - Notification numbers are assigned by the Commission staff for sites where initial contact was not made through TCNS.

NEPA NHPA

From: towernotifyinfo@fcc.gov
Sent: Thursday, November 9, 2023 9:01 AM
To: NEPA NHPA
Cc: tcnsweekly@fcc.gov
Subject: Proposed Construction of Communications Facilities Notification of Final Contacts - Email ID #35037

VB BTS II, LLC
Miles C Walz Salvador
8899 Main Street, Suite 107
Williamsville, NY 14221

Dear Applicant:

This letter addresses the proposed communications facilities listed below that you have referred to the Federal Communications Commission (Commission) for purposes of contacting federally recognized Indian Tribes, including Alaska Native Villages (collectively Indian Tribes), and Native Hawaiian Organizations (NHOs), as specified by Section IV.G of the Nationwide Programmatic Agreement (NPA). Consistent with the procedures outlined in the Commission's Wireless Infrastructure Second Report and Order (1), we have contacted the Indian Tribes or NHOs identified in the attached Table for the projects listed in the attached Table. You referred these projects to us between 11/02/2023 and 11/09/2023. Our contact with these Tribal Nations or NHOs was sent on 11/09/2023.

Thus, as described in the Wireless Infrastructure Second Report and Order (2), if you or Commission staff do not receive a statement of interest regarding a particular project from any Tribe or NHO within 15 calendar days of 11/09/2023, your obligations under Section IV of the NPA with respect to these Tribal Nations or NHOs are complete. If a Tribal Nation or NHO responds that it has concerns about a historic property of traditional religious and cultural significance that may be affected by the proposed construction within the 15 calendar day period, the Applicant must involve it in the review as set forth in the NPA, and may not begin construction until the process set forth in the NPA is completed.

You are reminded that Section IX of the NPA imposes independent obligations on an Applicant when a previously unidentified site that may be a historic property, including an archeological property, is discovered during construction or after the completion of review. In such instances, the Applicant must cease construction and promptly notify, among others, any potentially affected Tribal Nation or NHO. A Tribal Nation's or NHO's failure to express interest in participating in pre-construction review of an undertaking does not necessarily mean it is not interested in archeological properties or human remains that may inadvertently be discovered during construction. Hence, an Applicant is still required to notify any potentially affected Tribal Nation or NHO of any such finds pursuant to Section IX or other applicable law.

Sincerely,
Jill Springer
Federal Preservation Officer
Federal Communications Commission
jill.springer@fcc.gov

_____

1) See Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Deployment, Second Report and Order, FCC 18-30 (Mar. 30, 2018) (Wireless Infrastructure Second Report and Order).
2) See id. at paras. 111-112.

LIST OF PROPOSED COMMUNICATIONS TOWERS

TCNS# 271341 Referred Date: 11/06/2023 Location: near 400 Center Street, Grace, ID
Detailed Description of Project: A proposed telecommunication tower known as River Road and associated equipment within a leased area that includes an access, utility, and guy wire (if applicable) easements.
Tribe Name: Eastern Shoshone Tribe
Tribe Name: Northwestern Band of Shoshone Nation

TCNS# 271853 Referred Date: 11/06/2023 Location: near 157 Old Highway 3, Arroyo Hondo, NM
Detailed Description of Project: A proposed telecommunication tower known as ARCO TORCIDO and associated equipment within a leased area that includes an access, utility, and guy wire (if applicable) easements.
Tribe Name: Comanche Nation
Tribe Name: Pueblo of Zuni

TCNS# 271276 Referred Date: 11/02/2023 Location: near 17120 Tumbleweed Lane, Murphy, ID
Detailed Description of Project: A proposed telecommunication tower known as Tilford Street and associated equipment within a leased area that includes an access, utility, and guy wire (if applicable) easements.
Tribe Name: Burns Paiute Tribe
Tribe Name: Eastern Shoshone Tribe
Tribe Name: Northwestern Band of Shoshone Nation

TCNS# 270926 Referred Date: 11/06/2023 Location: near Gove County Rd. 50, Gove, KS
Detailed Description of Project: One to six communication structures within a compound known as MPR501 and associated equipment within a leased area that includes an access, utility, and guy wire (if applicable) easements.
Tribe Name: Comanche Nation

TCNS# 271804 Referred Date: 11/06/2023 Location: near 7869 Bluff Rd, Millington, TN
Detailed Description of Project: A proposed telecommunication tower known as MEEMAN SHELBY and associated equipment within a leased area that includes an access, utility, and guy wire (if applicable) easements.
Tribe Name: Alabama Quassarte Tribal Town
Tribe Name: Coushatta Indian Tribe
Tribe Name: Kialegee Tribal Town
Tribe Name: Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin
Tribe Name: Shawnee Tribe
Tribe Name: Thlopthlocco Tribal Town
Tribe Name: United Keetoowah Band of Cherokee Indians in Oklahoma

TCNS# 270922 Referred Date: 11/06/2023 Location: near 5105 W Sawmill Rd., Little Rock, AR
Detailed Description of Project: A proposed telecommunication tower known as East End and associated equipment within a leased area that includes an access, utility, and guy wire (if applicable) easements.
Tribe Name: Absentee-Shawnee Tribe of Indians of Oklahoma
Tribe Name: Coushatta Indian Tribe
Tribe Name: Omaha Tribe of Nebraska
Tribe Name: Osage Nation
Tribe Name: Ponca Tribe of Indians of Oklahoma
Tribe Name: Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin
Tribe Name: United Keetoowah Band of Cherokee Indians in Oklahoma

LEGEND:
* - Notification numbers are assigned by the Commission staff for sites where initial contact was not made through TCNS.

Appendix E

Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRMette)

National Flood Hazard Layer FIRMette

FEMA

105°40'35"W 36°33'N

105°39'58"W 36°32'31"N

0 250 500 1,000 1,500 2,000 Feet

1:6,000

Basemap Imagery Source: USGS National Map 2023

Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS
- Without Base Flood Elevation (BFE) *Zone A, V, A99*
- With BFE or Depth *Zone AE, AO, AH, VE, AR*
- Regulatory Floodway

OTHER AREAS OF FLOOD HAZARD
- 0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile *Zone X*
- Future Conditions 1% Annual Chance Flood Hazard *Zone X*
- Area with Reduced Flood Risk due to Levee. See Notes. *Zone X*
- Area with Flood Risk due to Levee *Zone D*

OTHER AREAS
- NO SCREEN Area of Minimal Flood Hazard *Zone X*
- Effective LOMRs
- Area of Undetermined Flood Hazard *Zone D*

GENERAL STRUCTURES
- Channel, Culvert, or Storm Sewer
- Levee, Dike, or Floodwall

OTHER FEATURES
- 20.2 / 17.5 Cross Sections with 1% Annual Chance / Water Surface Elevation
- Coastal Transect
- Base Flood Elevation Line (BFE)
- Limit of Study
- Jurisdiction Boundary
- Coastal Transect Baseline
- Profile Baseline
- Hydrographic Feature

MAP PANELS
- Digital Data Available
- No Digital Data Available
- Unmapped

N

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 9/13/2023 at 8:51 AM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

Appendix F

United States Fish and Wildlife Service (USFWS) National Wetland Inventory Map (NWIM)

U.S. Fish and Wildlife Service
National Wetlands Inventory

Wetlands

September 13, 2023

Wetlands

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Other
- Riverine

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

National Wetlands Inventory (NWI)
This page was produced by the NWI mapper

Appendix G

National Park Service (NPS) National Scenic Trail Review

The National Park Service (NPS)Submission

Note:

In the interest of efficiency and economy, attachments included in the original submission under this section are not duplicated throughout this NEPA Summary. The following attachment(s), found at the conclusion of this report, were included in the original submission:

- ***Proposed Project Summary***
- ***Attachment 1 - Maps***
- ***Attachment 2 - Photographs***

September 27, 2023

National Park Service
Attn: Jordan Jarrett
1100 Old Santa Fe Trail
Santa Fe, NM 87505
Submitted via email: jordan_jarrett@nps.gov

RE: Proposed Telecommunications Tower Undertaking "Arco Torcido" in Taos County, New Mexico; VB BTS II, LLC

To Whom It May Concern,

VB BTS II, LLC (VB BTS II), is proposing to construct a tower installation near 157 Old Highway 3; Arroyo Hondo, Taos, New Mexico, 87513. Lotis Environmental, LLC (Lotis), is preparing an environmental and cultural resource review on behalf of VB BTS II as part of its permit process and regulatory review by the Federal Communications Commission (FCC). Please consider this correspondence an invitation to the National Park Service to comment on the possible effects the proposed undertaking may have on the Old Spanish Historical Trail.

Attached, please find information pertaining to the proposed undertaking. This information includes a project summary, an aerial photograph, a topographic map, and photographs of the proposed undertaking's site and adjacent properties.

Lotis respectfully requests that you provide comment within 30 days regarding the possible effects of this undertaking on historic properties. If a response is not received within 30 days, Lotis will assume you have no interest/concern with the proposed undertaking. Should you require additional information, please do not hesitate to contact me at (716) 580-7000. Thank you for your time and consideration in this regard.

Sincerely,

Lotis Environmental, LLC

DeAnna Anglin

DeAnna Anglin
Senior Biologist/NEPA Specialist
Legals@TheLotisGroup.com

Enclosures

Proof of National Park Service (NPS) Submission

DeAnna Anglin

From: DeAnna Anglin
Sent: Wednesday, September 27, 2023 11:38 AM
To: Jarrett, Jordan E
Cc: NEPA NHPA
Subject: NSHT Opportunity to comment on proposed telecommunication project VBBTS_264 - Arco Torcido US-NM-7008
Attachments: NPS sub 9.27.23.pdf; Arco Torcido US-NM-7008.kmz

Importance: High

To Whom It May Concern:

Lotis is completing due diligence for the above proposed telecommunication project known as "**Arco Torcido**". Part of this due diligence providing the National Scenic Historic Trail manager the opportunity to comment on whether or not the proposed telecommunications project will have an effect on the trail. I have attached the project summary, site maps, KMZ file (for Google Earth aerial view) and site photos of the proposed undertakings general scope of work location.

Should you not respond within 30 days we will assume you have no concern or comment regarding the proposed undertaking. However, should you not want to comment we ask that you state so in a response to aid us in our timeline for this project. Should you have an additional request for information, please feel free to contact me via phone or by responding all to this email. We will do our best to supplement you with any additional documentation or information regarding the proposed undertaking.

Warmly,

DeAnna Anglin
Senior Biologist/NEPA Specialist

8899 Main Street – Suite 107
Williamsville, NY 14221
www.thelotisgroup.com

Phone: 716.580.7000
Mobile: 417.840.5008
Anglin@thelotisgroup.com

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"If you wish to know the divine, feel the wind on your face and the warm sun on your hand." — Buddha

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The National Park Service (NPS) Response

DeAnna Anglin

From: Jarrett, Jordan E <jordan_jarrett@nps.gov>
Sent: Friday, September 29, 2023 3:48 PM
To: DeAnna Anglin
Subject: Re: [EXTERNAL] NSHT Opportunity to comment on proposed telecommunication project VBBTS_264 - Arco Torcido US-NM-7008

Hi DeAnna,

Thank you for providing the opportunity comment on Arco Torcido. It appears that a 100' tower was present at this location in the past, although it was unregistered and may not remain present currently. For that reason and other existing conditions in this context of the proposed tower, the National Trails Office does not anticipate adverse effect of this undertaking to the Old Spanish National Historic Trail or to its associated resources.

Have a good weekend,
Jordan

Jordan Jarrett (she/her)
Archeologist
National Park Service
National Trails Office
1100 Old Santa Fe Trail
Santa Fe, NM 87505
(505) 470-0426

Working with you to protect, develop, and promote National Historic Trails.
http://www.nps.gov/ntir/

From: DeAnna Anglin <Anglin@thelotisgroup.com>
Sent: Wednesday, September 27, 2023 10:38 AM
To: Jarrett, Jordan E <jordan_jarrett@nps.gov>
Cc: NEPA NHPA <NEPA.NHPA@thelotisgroup.com>
Subject: [EXTERNAL] NSHT Opportunity to comment on proposed telecommunication project VBBTS_264 - Arco Torcido US-NM-7008

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

To Whom It May Concern:

Lotis is completing due diligence for the above proposed telecommunication project known as "**Arco Torcido**". Part of this due diligence providing the National Scenic Historic Trail manager the opportunity to comment on whether or not the proposed telecommunications project will have an effect on the trail. I have attached the project summary, site maps, KMZ file (for Google Earth aerial view) and site photos of the proposed undertakings general scope of work location.

Should you not respond within 30 days we will assume you have no concern or comment regarding the proposed undertaking. However, should you not want to comment we ask that you state so in a response to aid us in our timeline for this project. Should you have an additional request for information, please feel free to contact me via phone or by responding all to this email. We will do our best to supplement you with any additional documentation or information regarding the proposed undertaking.

Warmly,

DeAnna Anglin
Senior Biologist/NEPA Specialist

8899 Main Street – Suite 107
Williamsville, NY 14221
www.thelotisgroup.com

Phone: 716.580.7000
Mobile: 417.840.5008
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PROPOSED PROJECT SUMMARY

Site Name:	**Arco Torcido**
Site Address:	**near 157 Old Highway 3** **Arroyo Hondo, New Mexico 87513**
Latitude/Longitude:	**36° 32’ 45.199” ±N / -105° 40’ 16.361” ±W**
County:	**Taos County**
UTM:	**Zone: 13S East: 439925 North: 4044708**
Consultant Information:	**Company:** **Lotis Environmental, LLC (Lotis)** **Consultant:** **Miles Walz-Salvador** **Email:** **Legals@TheLotisGroup.com** **Address:** **8899 Main Street - Suite 107,** **Williamsville, NY 14221** **Phone:** **(716) 580-7000**
Project Description:	**Proposed Construction of a 90’ (95’ including all appurtenances)’ monopine telecommunication tower within a 67’ by 84’ lease area. A proposed 25’ by ~246.9’ access/utility easement will extend northwest connecting with Old Highway 3. Additionally, a proposed 10’ by ~275.2’ utility easement will extend south connecting with existing utility.**
Project Impacts:	**Excavation and grade work to install tower foundation, utilities and access easements.**
Project Area:	**Square Footage: ~14,552.50 / Acres: ~0.334**
Present Land Use:	**Desert scrub**
Past Land Use:	**Desert scrub**

Attachment 1

Maps and Survey

Lease Area (Far)

Lease Area (Close)

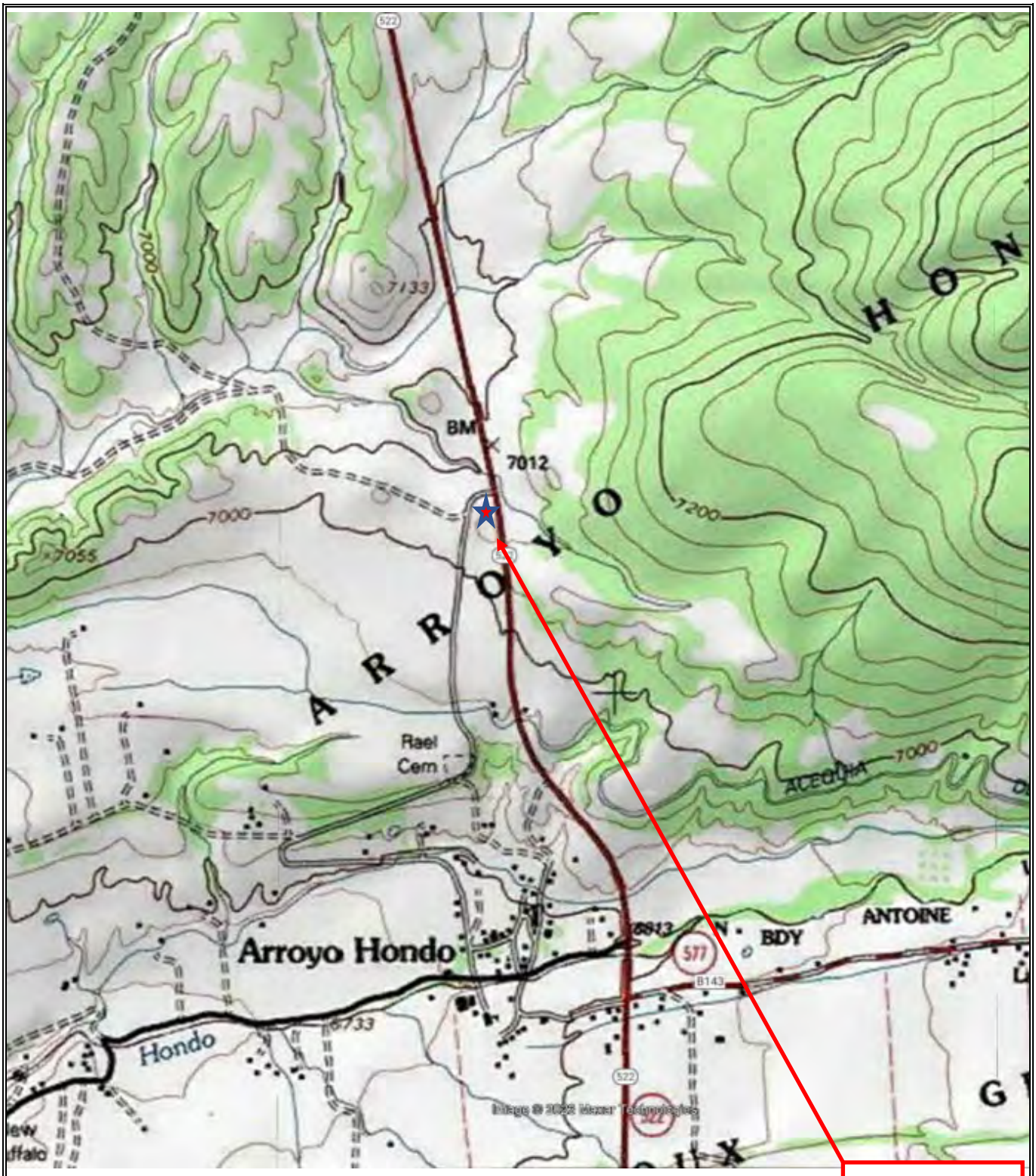
Aerial Images – Vicinity Maps

VB BTS II, LLC
Arco Torcido
near 157 Old Highway 3
Arroyo Hondo, Taos County, New Mexico 87513

Photographed
2021

Google Earth

Lotis ENVIRONMENTAL



USGS 7.5 Minute Topographic Map
VB BTS II, LLC
Arco Torcido
near 157 Old Highway 3
Arroyo Hondo, Taos County, New Mexico 87513

2021

USGS science for a changing world

Lotis ENVIRONMENTAL

CLAUSEN LAND SURVEYING LLC

Registered Professional Land Surveyor
#5328 Country Oaks Dr., El Paso, TX 79932
Mobile: (915) 355-9482 / surveyorclausen@gmail.com

1-A CERTIFICATION

VERTICAL BRIDGE

Site Name: **ARCO TORCIDO**

Site No.: **US-NM-7008**

Site Address: **157 Old Highway 3, Arroyo Hondo, NM 87513**

NAD83 COORDINATE REPORT - CENTER OF PROPOSED 95' TOWER

LAT:	**36° 32' 45.199" N** / *36.545889°(N)*
LONG:	**105° 40' 16.361" W** / *-105.671211°(W)*
GROUND ELEVATION*:	**7,052' (NAVD88)**
TOP PROPOSED MONOPOLE:	**7,147' / 95' AGL**

This is to certify that the above information meets or exceeds the following accuracy requirements:

+/- Fifteen (15) feet in the Horizontal
+/- Three (3) feet in the Vertical

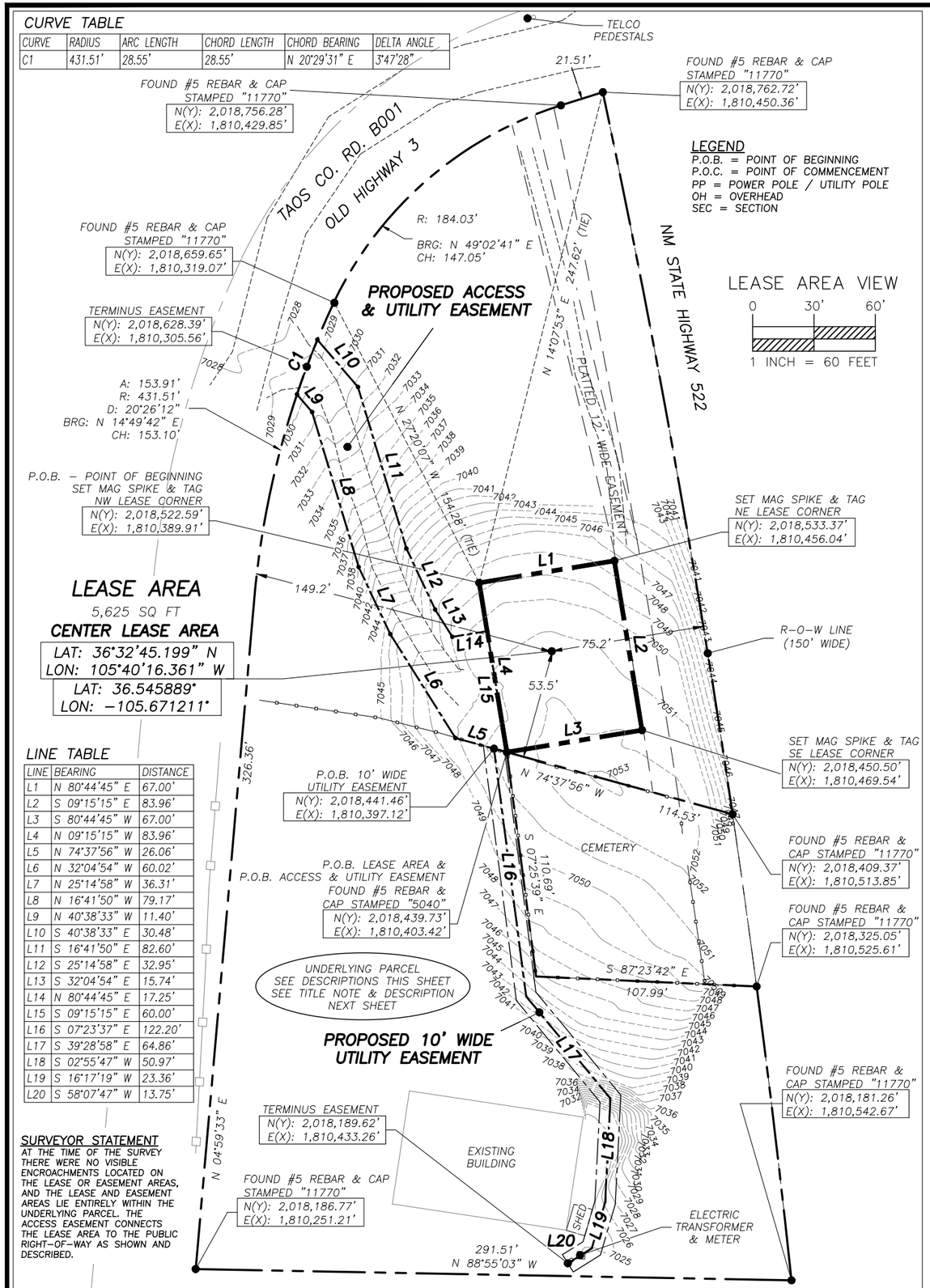
Registered Professional Land Surveyor

Christian A. Clausen, RPLS (TX#5511 - NM#16467 - AZ#36621)
Date: 6/23/2023

CHRISTIAN A CLAUSEN
NEW MEXICO
16467
LICENSED PROFESSIONAL SURVEYOR

CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	431.51'	28.55'	28.55'	N 20°29'31" E	3°47'28"



LEGEND

P.O.B. = POINT OF BEGINNING
P.O.C. = POINT OF COMMENCEMENT
PP = POWER POLE / UTILITY POLE
OH = OVERHEAD
SEC = SECTION

LEASE AREA VIEW

0 30' 60'

1 INCH = 60 FEET

LINE TABLE

LINE	BEARING	DISTANCE
L1	N 80°44'45" E	67.00'
L2	S 09°15'15" E	83.96'
L3	S 80°44'45" W	67.00'
L4	N 09°15'15" W	83.96'
L5	N 74°37'56" W	26.06'
L6	N 32°04'54" W	60.02'
L7	N 25°14'58" W	36.31'
L8	N 16°41'50" W	79.17'
L9	N 40°38'33" W	11.40'
L10	S 40°38'33" E	30.48'
L11	S 16°41'50" E	82.60'
L12	S 25°14'58" E	32.95'
L13	S 32°04'54" E	15.74'
L14	N 80°44'45" E	17.25'
L15	S 09°15'15" E	60.00'
L16	S 07°23'37" E	122.20'
L17	S 39°28'58" E	64.86'
L18	S 02°55'47" W	50.97'
L19	S 16°17'19" W	23.36'
L20	S 58°07'47" W	13.75'

SURVEYOR STATEMENT

AT THE TIME OF THE SURVEY THERE WERE NO VISIBLE ENCROACHMENTS LOCATED ON THE LEASE OR EASEMENT AREAS, AND THE LEASE AND EASEMENT AREAS LIE ENTIRELY WITHIN THE UNDERLYING PARCEL. THE ACCESS EASEMENT CONNECTS THE LEASE AREA TO THE PUBLIC RIGHT−OF−WAY AS SHOWN AND DESCRIBED.

LEASE AREA

THE FOLLOWING IS THE DESCRIPTION OF A TELECOMMUNICATIONS TOWER AND EQUIPMENT LEASE AREA ("LEASE AREA") LYING WITHIN THAT UNDERLYING PARCEL KNOWN AS LOT 13 AND LOT 14, OF THE GABRIEL AND DOMITILA ROMERO MEMORIAL SUBDIVISION (A PRELIMINARY SUBDIVISION) ACCORDING TO THE WARRANTY DEED RECORDED IN BOOK 472, PAGE 118 OF THE DEED RECORDS OF TAOS COUNTY; WITHIN PROJECTED SECTION 28, TOWNSHIP 27 NORTH, RANGE 12 EAST, NEW MEXICO PRINCIPAL MERIDIAN, TAOS COUNTY, STATE OF NEW MEXICO; SAID LEASE AREA BEING MORE PARTICULARLY DESCRIBED WITH REFERENCE TO THE NEW MEXICO STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE 3002 (NAD83[2010]) AS FOLLOWS:

THE POINT OF BEGINNING ("P.O.B.") BEING A SET MAG SPIKE & TAG AT THE NORTHWEST CORNER OF THE LEASE AREA HAVING COORDINATES OF N(Y): 2,018,522.59', E(X): 1,810,389.91'; FROM WHICH P.O.B. THE FOLLOWING TIES WERE MADE:

- NORTH 14° 07' 53" EAST 247.62 FEET TO A FOUND #5 REBAR & CAP STAMPED "11770" FOUND FOR THE NORTH CORNER OF THE UNDERLYING PARCEL AT THE INTERSECTION OF THE SOUTHERLY RIGHT−OF−WAY LINE OF OLD HIGHWAY #3 AND NM STATE HIGHWAY 522 HAVING COORDINATES OF N(Y): 2,018,762.72', E(X): 1,810,450.36'
- NORTH 27° 20' 07" WEST 154.28 FEET TO A FOUND #5 REBAR & CAP STAMPED "11770" FOUND FOR A NORTHWESTERLY CORNER OF THE UNDERLYING PARCEL HAVING COORDINATES OF N(Y): 2,018,659.65', E(X): 1,810,319.07';

THENCE FROM SAID P.O.B., THE FOLLOWING FOUR (4) COURSES:

NORTH 80° 44' 45" EAST 67.00 FEET TO A MAG SPIKE AND TAG SET FOR THE NORTHEAST CORNER OF THE PROPOSED LEASE AREA HAVING COORDINATES OF N(Y): 2,018,533.37', E(X): 1,810,456.04';

SOUTH 09° 15' 15" EAST 83.96 FEET TO A MAG SPIKE AND TAG SET FOR THE SOUTHEAST CORNER OF THE PROPOSED LEASE AREA HAVING COORDINATES OF N(Y): 2,018,450.50', E(X): 1,810,469.54';

SOUTH 80° 44' 45" WEST 67.00 FEET TO A MAG SPIKE AND TAG SET FOR THE SOUTHWEST CORNER OF THE PROPOSED LEASE AREA HAVING COORDINATES OF N(Y): 2,018,439.73', E(X): 1,810,403.42'; THE SAME BEING A #5 REBAR AND CAP STAMPED "LS 5040" FOUND FOR A CORNER OF THE SAID UNDERLYING PARCEL;

NORTH 09° 15' 15" WEST 83.96 FEET TO THE P.O.B. AN CONTAINING, IN ALL, 5,625 SQUARE FEET OF AREA; TOGETHER WITH TWO EASEMENTS FOR ACCESS AND UTILITIES DESCRIBED BY CENTERLINE AS FOLLOWS:

25' WIDE ACCESS & UTILITY EASEMENT

PERIMETER DESCRIPTION

THE POINT OF BEGINNING ("P.O.B. 25' ACCESS & UTILITY EASEMENT") BEING A A #5 REBAR AND CAP STAMPED "LS 5040" FOUND FOR A CORNER OF THE SAID UNDERLYING PARCEL, BEING ALSO THE SOUTHWEST CORNER OF THE LEASE AREA HAVING COORDINATES OF N(Y): 2,018,439.73', E(X): 1,810,403.42';

THENCE, THE FOLLOWING TWELVE (12) COURSES:

1. NORTH 74° 37' 56" WEST 26.06 FEET;
2. NORTH 32° 04' 54" WEST 60.02 FEET;
3. NORTH 25° 14' 58" WEST 38.31 FEET;
4. NORTH 16° 41' 50" WEST 79.17 FEET;
5. NORTH 40° 38' 33" WEST 11.40 FEET TO A POINT IN THE NORTHWESTERLY BOUNDARY LINE OF THE UNDERLYING PARCEL; THE SAME BEING A POINT IN THE SOUTHEASTERLY RIGHT−OF−WAY LINE OF OLD COUNTY ROAD 3, AKA TAOS COUNTY ROAD B−001;
6. ALONG SAID RIGHT−OF−WAY AND BOUNDARY LINE AND WITH THE ARC OF A CURVE (NON−TANGENTIAL TO THE PREVIOUS COURSE) 28.55 FEET THROUGH A DELTA ANGLE OF 3° 47' 28"; SAID CURVE HAVING A RADIUS OF 431.51 FEET AND A CHORD WHICH BEARS NORTH 20° 29' 31" EAST 28.55 FEET;
7. SOUTH 40° 38' 33" EAST 30.48 FEET;
8. SOUTH 16° 41' 50" EAST 82.60 FEET;
9. SOUTH 25° 14' 58" EAST 32.95 FEET;
10. SOUTH 32° 04' 54" EAST 15.74 FEET;
11. NORTH 80° 44' 45" WEST TO A POINT IN THE WESTERLY LEASE LINE OF THE LEASE AREA SERVED BY THIS EASEMENT;
12. WITH SAID WESTERLY LEASE LINE, SOUTH 09° 15' 15" EAST 60.00 FEET TO THE P.O.B.

10' WIDE UTILITY EASEMENT

CENTERLINE DESCRIPTION

THE POINT OF BEGINNING ("P.O.B. 10' UTILITY EASEMENT") HAVING COORDINATES OF N(Y): 2,018,441.46', E(X): 1,810,397.12';

THENCE, THE FOLLOWING FIVE (5) COURSES:

1. SOUTH 07° 23' 37" EAST 122.20 FEET;
2. SOUTH 39° 28' 58" EAST 64.86 FEET;
3. SOUTH 02° 55' 47" WEST 50.97 FEET;
4. SOUTH 16° 17' 19" WEST 23.36 FEET;
5. SOUTH 58° 07' 47" WEST 13.75 FEET TO THE TERMINUS AT A POINT BEYOND AN EXISTING ELECTRIC TRANSFORMER CABINET, HAVING COORDINATES OF N(Y): 2,018,189.62', E(X): 1,810,433.26'.

SURVEY NOTES

1. REFERENCE WAS MADE TO A TITLE COMMITMENT BY TOWER TITLE & CLOSING (18 IMPERIAL PLACE, COURTYARD, PROVIDENCE, RI 02903 (844)944−2876), VERTICAL BRIDGE FILE #: US−NM−7008, TOWER TITLE FILE #: VTB−149483−C, AND TIJERAS TITLE, LLC COMMITMENT NUMBER 21264. SEE TITLE NOTE NEXT SHEET.

2. CONTRACTOR BEARS FULL RESPONSIBILITY TO PROPERLY LOCATE UNDERGROUND UTILITIES PRIOR TO ANY EXCAVATION.

3. BASIS OF BEARINGS IS GRID NORTH, NEW MEXICO STATE PLANE COORDINATE SYSTEM (NAD83), CENTRAL ZONE (3002). DISTANCES ARE GRID. ELEVATION DATUM IS NAVD88, AND ALONG WITH THE REPORTED COORDINATES ARE DERIVED BY CONNECTIONS TO THE NATIONAL CORS USING THE NGS OPUS UTILITY − DATUM NAD_83(2011)(EPOCH:2010.0000). CONTOUR INTERVAL = 1'.

4. ACCORDING TO FEMA FIRM PANEL #35055C0625E, EFFECTIVE DATE 10/06/2010, THE SUBJECT PARCEL APPEARS TO LIE IN ZONE X.

CERTIFICATION

I HEREBY CERTIFY TO: VB BTS II, LLC, A DELAWARE LIMITED LIABILITY COMPANY, ITS SUBSIDIARIES, AND THEIR RESPECTIVE SUCCESSORS AND/OR ASSIGNS; TORONTO DOMINION (TEXAS) LLC, AS ADMINISTRATIVE AGENT, FOR ITSELF AND ON BEHALF OF THE LENDERS PARTIES FROM TIME TO TIME TO THAT CERTAIN SECOND AMENDED AND RESTATED LOAN AGREEMENT DATED JUNE 17, 2016 WITH VERTICAL BRIDGE HOLDCO, LLC, AS BORROWER, AND VERTICAL BRIDGE HOLDCO PARENT, LLC, AS PARENT, AS MAY BE AMENDED, RESTATED, MODIFIED OR RENEWED, THEIR SUCCESSORS AND ASSIGNS AS THEIR INTERESTS MAY APPEAR; AND GUARANTY TITLE COMPANY THAT THIS TOPOGRAPHIC SURVEY EXHIBIT DEPICTING A PROPOSED TELECOMMUNICATIONS SITE WAS PREPARED BY ME AND THAT THE INFORMATION PRESENTED HEREON IS TRUE AND CORRECT TO BEST OF MY KNOWLEDGE AND BELIEF. THIS IS NOT A BOUNDARY SURVEY OF THE UNDERLYING PARCEL. THIS IS NOT A LAND SUBDIVISION ACCORDING TO THE NEW MEXICO LAND SUBDIVISION ACT. (FIELD 06−02−2023)
08−25−2023

CHRISTIAN A. CLAUSEN, NEW M.P.L.S. (TX 5511~NM 16467~AZ 36621)
CLAUSEN LAND SURVEYING LLC
5328 COUNTRY OAKS DRIVE, EL PASO, TX 79932
PH: 915−355−9482 / EMAIL: surveyorclausen@gmail.com
FOR AND ON BEHALF OF: Romano & Associates, LLC
8100 Wyoming Blvd NE #M4−167, Albuquerque, NM 87113
PH: 505−750−0735 / EMAIL: nromano@romanoassociateslic.com

The information contained in this set of documents is proprietary by nature. Any use or disclosure other than that which relates to the client name is strictly prohibited.

ARROYO HONDO, NM

VICINITY MAP
NOT TO SCALE

CHRISTIAN A CLAUSEN
NEW MEXICO
16467
LICENSED PROFESSIONAL SURVEYOR

ISSUED FOR:	DATE
REVIEW	06−23−2023
FINALIZE W/ TITLE REVIEW	08−25−2023

VERTICAL BRIDGE SITE NAME:
US−NM−7008

VERTICAL BRIDGE SITE ID:
ARCO TORCIDO

SITE ADDRESS:
157 OLD STATE ROAD #3
ARROYO HONDO, NM 87513

SHEET TITLE
SURVEY SHEET

SHEET NUMBER
SUR−1 (1 of 2)

UNDERLYING PARCEL DESCRIPTION (PER TITLE)

EXHIBIT A

The land referred to in this Commitment is described as follows:

A tract of land near Arroyo Hondo, Taos County, New Mexico; within the Arroyo Hondo Grant: shown on the Taos County Property ID Maps within Projected Section 28, Township 27 North, Range 12 East, NMPM; also described as part of Tract 151, Map 27, Survey 4 of the 1941 Taos County Reassessment Survey; and more particularly described as follows:

BEGINNING at the southeasterly corner of this tract, a 1/2" rebar with cap stamped NMPS 11770 set on the westerly right-of-way of State Highway 522 from whence "Atalaya", a 1973 State Engineers Office brass cap monument found bears S 36° 42' 10" E, 2581.80 ft. distant, thence leaving said right-of-way:

N 88° 40' 01" W, 291.77 ft. to the southwesterly corner of this tract, a 1/2" rebar set, thence:
N 05° 04' 05" E, 325.84 ft. to a 1/2" rebar set, thence:
an arc distance of 153.97 ft. along a curve concave to the southeast, having a radius of 431.68 ft. through a central angle of 20° 26' 12", the chord of which bears N 15° 17' 11" E, 153.16 ft. to a 1/2" rebar set, thence:
an arc distance of 151.34 ft. along a curve concave to the southeast, having a radius of 184.10 ft. through a central angle of 47° 05' 55", the chord of which bears N 49° 03' 10" E, 147.11 ft. to a 1/2" rebar set, thence:
N 72° 36' 04" E, 21.47 ft. to the northerly corner of this tract, a 1/2" rebar set on the westerly right-of-way of State Highway 522, thence along said right-of-way:
an arc distance of 359.24 ft. along a curve concave to the west, having a radius of 5655.00 ft. through a central angle of 03° 38' 23", the chord of which bears S 10° 02' 46" E, 359.18 ft. to a 1/2" rebar set, thence leaving said right-of-way:
N 74° 27' 37" W, 114.58 ft. to a 1/2" rebar found with a cap stamped LS 5040, thence:
S 07° 16' 21" E, 110.72 ft. to a 1/2" rebar found with a cap stamped LS 5040, thence:
S 87° 14' 49" E, 108.04 ft. to a 1/2" rebar set on the westerly right-of-way of State Highway 522, thence along said right-of-way:
an arc distance of 144.90 ft. along a curve concave to the west, having a radius of 5655.00 ft. through a central angle of 01° 28' 05", the chord of which bears S 06° 37' 47" E, 144.90 ft. to the POINT OF BEGINNING.

TITLE NOTE

REGARDING THAT TITLE COMMITMENT BY TOWER TITLE & CLOSING (18 IMPERIAL PLACE, COURTYARD, PROVIDENCE, RI 02903 (844)944-2876), VERTICAL BRIDGE FILE #: US-NM-7008, TOWER TITLE FILE #: VTB-149483-C, AND TIJERAS TITLE, LLC COMMITMENT NUMBER 21264, THE FOLLOWING ITEMS FROM SCHEDULE B WERE REVIEWED AND FOUND TO HAVE NO PLOTTABLE IMPACT ON THE LEASE AREA:

9. RESERCATIONS AS CONTAINED IN THE PATENT FROM THE UNITED STATES OF AMERICA TO THE ARROYO HONDO GRANT DATED APRIL 9, 1908, AND ALL RIGHTS INCIDENT THERETO, INCLUDING BUT NOT LIMITED TO WATER RIGHTS, CLAIMS OF TITLE TO WATER AND ANY EASEMENTS FOR DITCHES APPURTENANT THERETO, AN ALL INTEREST IN OIL, GAS, AND OTHER MINERALS, IF ANY, FILED FOR RECORD IN BOOK A-20, PAGES 372-383, RECORDS OF TAOS COUNTY, NEW MEXICO. (NOT PLOTTABLE)
10. EASEMENT AGREEMENT DATED AUGUST 11, 1997 FROM ELIU E. ROMERO TO US WEST COMMUNICATIONS, FILED IN BOOK M-198, PAGES 745-747, RECORDS OF TAOS COUNTY, NEW MEXICO. (PLOTTED, DOES NOT AFFECT LEASE AREA OR EASEMENTS APPURTENANT THERETO)
11.MEMORANDUM OF OPTION TO LEASE AGREEMENT BY AND BETWEEN GRACE COMMUNITY CHIRCH AND VB BTS II, LLC, DATES 05/04/2023, RECORDED IN BOOK 1169, PAGES 976-980. (THE LOCATION OF THE LEASE AREA AND APPURTENANT EASEMENTS ARE THE PURPOSE OF THIS SURVEY)
12. ANY EASEMENTS OR CLAIMS OF EASEMENT FROM FENCE LINES NOT ALWAYS COINCIDING WITH PROPERTY BOUNDARIES, 12' (FOOT) EASEMENT OVER EXISTING DIRT ROAD, AND DIRT ROADS ONTO PROPERTY AS SHOWN ON SURVEY PLAT NO. 1208, ENTITLED "GRACE COMMUNITY CHURCH", DATED 03/04/2006, PREPARED BY ROBERT A. WATT, NMPS NO. 11770, OF RED TAILS SURVEYING, INC. FILED FOR RECORD IN CABINET E, PAGE 107-B, RECORDS OF TAOS COUNTY, NEW MEXICO. (12' EASEMENT PLOTTED)

The information contained in this set of documents is proprietary by nature. Any use or disclosure other than that which relates to the client name is strictly prohibited.

ARROYO HONDO, NM

VICINITY MAP
NOT TO SCALE

ISSUED FOR:	DATE
REVIEW	06-23-2023
FINALIZE W/ TITLE REVIEW	08-25-2023

VERTICAL BRIDGE SITE NAME:
US-NM-7008

VERTICAL BRIDGE SITE ID:
ARCO TORCIDO

SITE ADDRESS:
157 OLD STATE ROAD #3
ARROYO HONDO, NM 87513

SHEET TITLE
SURVEY SHEET

SHEET NUMBER
SUR-1 (2 of 2)

Attachment 2

Site Photographs

Site Photograph 1 – Looking north toward the proposed undertaking

Site Photograph 2 – Looking north away from the proposed undertaking

Site Photographs **VB BTS II, LLC – Arco Torcido** near 157 Old Highway 3 Arroyo Hondo, Taos County, New Mexico 87513	Photographed: September 15, 2023	Lotis ENVIRONMENTAL

Site Photograph 3 – Looking east toward the proposed undertaking

Site Photograph 4 – Looking east away from the proposed undertaking

Site Photographs **VB BTS II, LLC – Arco Torcido** near 157 Old Highway 3 Arroyo Hondo, Taos County, New Mexico 87513	Photographed: September 15, 2023	Lotis ENVIRONMENTAL

Site Photograph 5 – Looking south toward the proposed undertaking

Site Photograph 6 – Looking south away from the proposed undertaking

Site Photographs **VB BTS II, LLC – Arco Torcido** near 157 Old Highway 3 Arroyo Hondo, Taos County, New Mexico 87513	Photographed: September 15, 2023	Lotis Environmental

Site Photograph 7 – Looking west toward the proposed undertaking

Site Photograph 8 – Looking west away from the proposed undertaking

Site Photographs **VB BTS II, LLC – Arco Torcido** near 157 Old Highway 3 Arroyo Hondo, Taos County, New Mexico 87513	Photographed: September 15, 2023	Lotis Environmental

Site Photograph 9 – Looking southeast along the proposed access/utility easement

Site Photograph 10 – Looking northwest along the proposed access/utility easement

Site Photographs **VB BTS II, LLC – Arco Torcido** near 157 Old Highway 3 Arroyo Hondo, Taos County, New Mexico 87513	Photographed: September 15, 2023	Lotis ENVIRONMENTAL

Site Photograph 11 – General view of the proposed undertaking

Site Photographs **VB BTS II, LLC – Arco Torcido** near 157 Old Highway 3 Arroyo Hondo, Taos County, New Mexico 87513	Photographed: September 15, 2023	Lotis Environmental

Attachment 3

Areas of Potential Effect (APE)

Areas of Potential Effects

The term Area of Potential Effects (APE) is defined in Section II.A.3 of the *Nationwide Programmatic Agreement (NPA) for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission*. For purposes of this project, the APE for direct effects and visual effects are further defined below.

Selection of APE for DIRECT EFFECTS

The DIRECT area of potential effect is defined as being "limited to the area of potential ground disturbance and any property, or any portion thereof that will be physically altered or destroyed by the Undertaking".

Proposed Lease Area(s) – A 67' x 84' lease area around the 90' (95' including all appurtenances)' monopine tower and associated equipment.

Proposed Access Easement(s) – A 25-foot-wide by ~246.9-foot-long easement extending generally northwest from the proposed lease area connecting with Old Highway 3 through a desert scrub.

Proposed Utility Easement(s) – A 10-foot-wide by ~275.2-foot-long easement extending generally south from the proposed lease area connecting with existing utility through a desert scrub.

Selection of APE for VISUAL EFFECTS

The VISUAL area of potential effects is defined as "the geographic area in which the undertaking has the potential to introduce visual elements that diminish or alter the setting, including the landscape, where the setting is a character-defining feature of a Historic Property that makes it eligible for listing on the National Register."

APE for this site based on NPA - Within ½ -mile radius from the tower site if the proposed tower is less than 200' in overall height.

Intensive Cultural Resources Survey of the Proposed US-NM-7008 Arco Torcido Telecommunications Facility in Arroyo Hondo, Taos County, New Mexico

September 2023

NMCRIS No. 153922

SubTerranean Consultants

Intensive Cultural Resources Survey of the Proposed US-NM-7008 Arco Torcido Telecommunications Facility in Arroyo Hondo, Taos County, New Mexico

September 25, 2023

NMCRIS No. 153922

Prepared by:

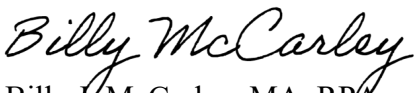
Billy McCarley
Subterranean Consultants
Atlanta, Georgia

Prepared for:

The Lotis Group
8899 Main Street, Suite 107
Williamsville, NY 14221

Lead Agency:

Federal Communications Commission (FCC)



Billy J. McCarley, MA, RPA
Principal Investigator

MANAGEMENT SUMMARY

Subterranean Consultants (STC) conducted an intensive cultural resources survey of the US-NM-7008 Arco Torcido telecommunication facility lease area, access, and utility easement on September 21, 2023. Survey was conducted for Lotis Environmental on behalf of VB BTS II, LLC, to locate and identify cultural resources and to evaluate resource significance based on National Register of Historic Places (NRHP) criteria (36CFR Part 60.4 [a-d]). This survey was conducted to comply with the provisions of the Federal Communications Commission (FCC) permitting under the Nationwide Programmatic Agreement (47 CFR Part 1). In accordance with the permitting process, the survey was conducted in compliance with Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended.

The intensive cultural resources survey included a literature review for previously recorded above-ground architectural resources and below-ground archaeological resources, which may also be presented as above-ground ruins. The New Mexico Archaeological Records Management Section (ARMS) New Mexico Cultural Resource Information System (NMCRIS), and National Register of Historic Places (NRHP) files were utilized for previously recorded architectural and archaeological resources. A 1 mi cultural context was considered for previously recorded archaeological sites, and a .05 mi visual APE was considered to be 0.5 mi since the proposed monopine tower is 105 ft.

Literature Review: Review of the NMCRIS database revealed that there are seven archaeological sites and eight surveys within 1 mile of the current direct APE. There is one eligible resource (115548) 0.33 mi south of the proposed project area.

Field Survey: There were no archaeological materials within the direct APE.

Recommendations: STC recommends no historic properties affect within the direct APE and no effect to historic properties within the 0.5 mi visual APE.

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I. Project Details

Project Name:	US-NM-7008 Arco Torcido
Project Type:	Monopine Tower, Compound, Utility,
Lead Agency:	Access Federal Communications
NMCRIS Number:	Commission (FCC) 153922
Land Ownership:	Private
State:	New Mexico
City:	Arroyo Hondo
County:	Taos
USGS Topographic Map:	Los Cordovas, NM
Geographic Coordinates:	NAD 83; N 36° 32’ 45.19”, W 105° 40’ 16.36”
UTM:	NAD 83; Zone 13, E 439925, N 4044708
Township/Range/Section:	Arroyo Hondo Grant
Total Area of Direct APE:	11,150 Sq. Ft. (0.25 ac)
Total Area Surveyed:	5,625 Sq. Ft. (0.25 ac)
Tower Height:	105 ft.
Visual APE:	0.5 mi
Survey Type:	Intensive Cultural Resources Survey
Results:	Negative

II. Introduction

Subterranean Consultants (STC) conducted a cultural resources survey of the proposed US-NM-7008 Arco Torcido telecommunications facility on September 21, 2023, in compliance with Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended. The archaeological survey area was equal to the area of ground disturbing activity (APE for direct effects), which would consist of a proposed 80-ft. by 60-ft. (24-m by 18-m) lease area, a 185-ft. by 20-ft. (56-m by 6-m) access, and a 265-ft. by 10-ft. (81-m by 3-m) utility easement, all totaling 0.25 ac (11,150 sq. ft.). The proposed project area is in central Taos County 1.1 km (.6 mi) north of Arroyo Hondo, New Mexico, and 75 m (249 ft.) northeast of the intersection of Old Highway 3 and Tres Lomas Road (Figures 1-3). To comply with Section 106 of the NHPA and the Federal Communications Commission (FCC) Nationwide Programmatic Agreement (NPA) (47 CFR Part 1), STC followed 36 CFR Part 800 of the Code of Federal Regulations (CFR) during this identification effort, and if significant archaeological resources are identified, STC would evaluate resource significance based on National Register of Historic Places (NRHP) criteria (36CFR Part 60.4 [a-d]). This report includes a topographic map of the survey vicinity, environmental context, including photographs of the project area surveyed, cultural context, research, field, and evaluation methodologies, results, analysis, and conclusion. Billy McCarley, MA, RPA, conducted the fieldwork and served as principal investigator for this archaeological survey (Appendix B).

Figure 1: Project area vicinity depicted on an ESRI streets map.

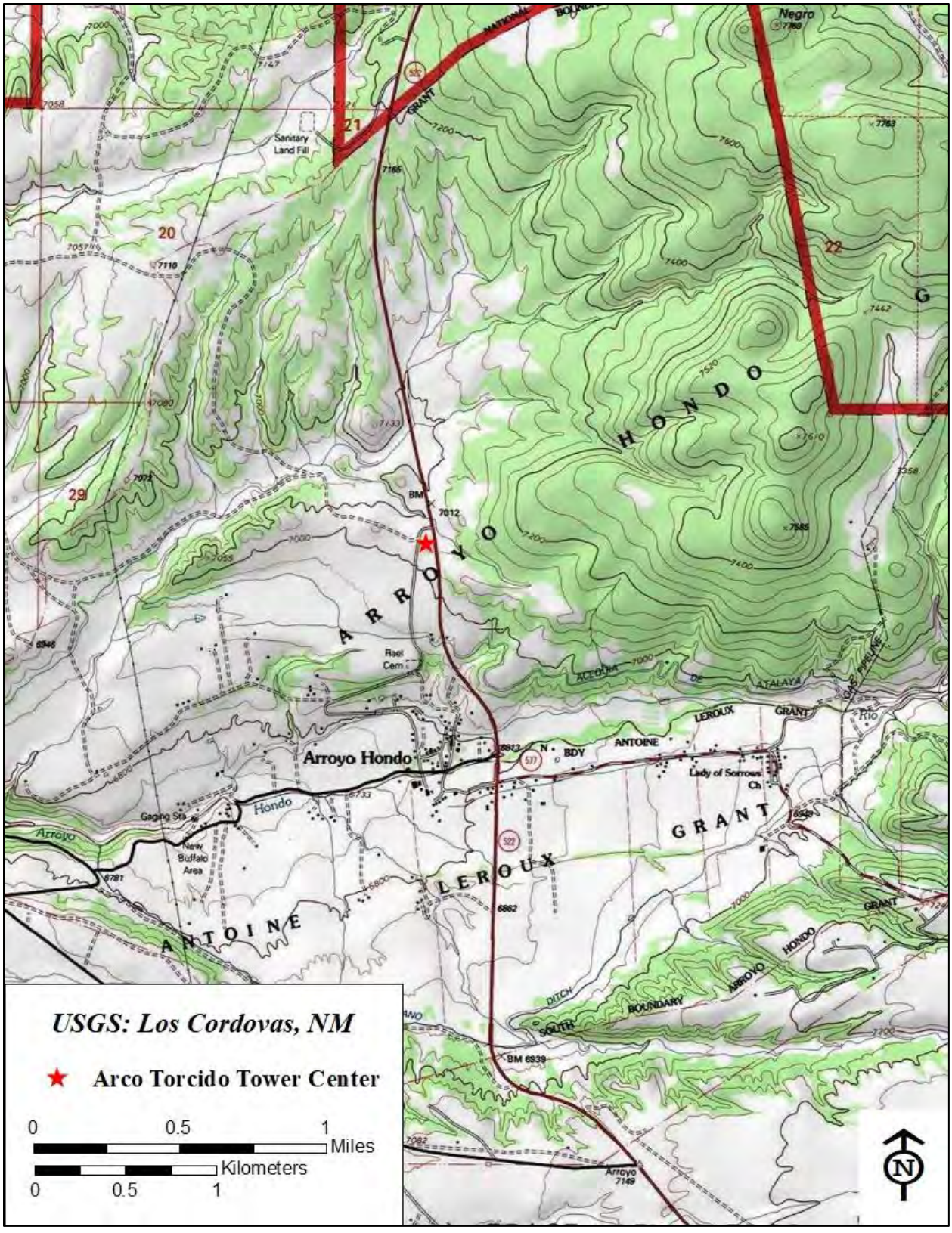


Figure 2: Project vicinity depicted on a USGS 7.5 Minute Series topographic map.

Figure 3: Direct APE depicted on an ESRI aerial photograph.

III. Environmental Context

Survey Conditions

The project area is located along a ridge covered in short grass and sagebrush. Generally, the surrounding area consists of residential settlements. There was 80 to 100 percent GSV throughout the direct APE (Figures 4-6).

Figure 4: Photograph facing south toward proposed lease area.

Figure 5: Photograph facing southeast along proposed access.

Figure 6: Photograph facing along proposed utility easement.

Ecoregion

The project area lies along the Taos Plateau of the Arizona/New Mexico Plateau. The Arizona/New Mexico Plateau represents a large transitional region between the drier shrublands and wooded higher relief tablelands of the Colorado Plateaus in the north, the lower, hotter, less vegetated Mojave Basin and Range in the west, and forested mountain ecoregions that border the region on the northeast and south. Local relief in the region varies from a few feet on plains and mesa tops to well over 1000 feet along tableland side slopes. The Continental Divide splits the region, but is not a prominent topographic feature. The Taos Plateau is a region of mostly Pliocene basaltic lavas with distinct cones of Pliocene composite volcanoes. This region has higher elevation volcanic cones than the San Luis Hills of 22a in Colorado; several cones are over 9000 feet and Ute Mountain is higher than 10,000 feet. The plateau surface has more sagebrush than Ecoregion 22a in Colorado. The plateau surface has only minor dissection, but the Rio Grande is confined to a deep canyon or gorge, 800 to 1000 feet deep in places. The ecoregion extends south to include the basalt-capped Black Mesa (Griffith et al.2001). The Rio Hondo is 1.2 km (.7 mi) south of the project area (see Figure 1).

IV. Methodology

Records Review

Background research was conducted on September 21, 2023, utilizing the NMCRIS and NRHP databases to determine the presence of previously recorded archaeological sites within 1 mi or architectural resources within 0.5 mi of the proposed project area.

Fieldwork

This Archaeological investigation was completed in compliance with Section 106 of the National Historic Preservation Act, as amended, and field methods generally followed the New Mexico Register (Vol. 16, No. 15, 2005). The Field investigations included 100% visual surface inspection of the entire project area at 5 m walking transects. All surfaces, including animal burrows and fallen tree root clusters, within the survey area were inspected for the presence of rock shelters, caves, mines, quarries, chimney falls, historic wells, petroglyphs, or other standing structures. Shovel tests were placed in low visibility areas near an existing cemetery that abuts the lease area and the utility easement at 15 m intervals along the access and utility easements. STs were approximately 45 cm around and conducted to impenetrable substrate. Soils were screened through .25in (6mm) wire cloth in natural strata composition. Field notes and photographs were documented and stored at STC laboratory. Report is filed with NMCRIS.

Laboratory

If artifacts are located during fieldwork, the cultural materials would then be prepared for permanent curation following the standards and guidelines set forth by the New Mexico Register.

V. Results and Analysis

Research

There are seven sites and eight surveys within 1 mi of the direct APE (Tables 1-2; Figure 7). There is one eligible ditch 0.33 mi south of the direct APE (Table 2; Figure 7). The current direct APE has not been previously surveyed.

Table 1: Previously Recorded Archaeological Sites within 1 mi of the Direct APE.

LA No.	Period	Affinity	Description	Distance	Eligibility
115548	Historic	Hispanic	Acequia de Atalaya, Atalaya Ditch	0.33 mi S	Eligible
61185	Historic/Prehistoric	Archaic/Hispanic	Lithic scatter	0.6 mi SE	Unknown
61186	Prehistoric	Archaic/Anasazi	Lithic scatter	0.14 mi SE	Unknown
174199	Historic	Anglo	Scatter	0.28 mi S	Unknown
182105	Historic/Prehistoric	Archaic/Anasazi/ Hispanic	Petroglyphs, water control, lithic scatter	0.62 mi S	Unknown
544	Prehistoric	Anasazi	Unknown	0.7 mi S	Unknown
8874	Historic	Hispanic/Anglo	Arroyo Hundo Village	0.72 mi SW	Unknown

Table 2: Previously Recorded Archaeological Surveys within 1 mi. of the Direct APE.

Activity #	Author	Date	Title
54208	Levine, Daisy F.	1997	A Cultural Resource Survey of 13.9 Kilometers (8.7 Miles) Along NM 522 Between Taos and Questa
52162	Michalik, Laura	1995	An Archaeological Clearance Survey of a Proposed Underground Telephone Cable Right-of-Way Along Highway 522 North of Arroyo Hondo, Taos County, New Mexico
125432	Doak, David and Chance Copperstone	2012	Cultural Resource Inventory for the Kit Carson Electric Cooperative Fiber to the Home Project in New Mexico Department of Transportation Rights of Way in Colfax, Rio Arriba, and Taos Counties, New Mexico
19799	McCrary, Oliver C.	1987	A Cultural Resource Inventory of the Arroyo Hondo-Des Montes Electrical Transmission Line
117689	Goetz, Martin	2010	A Cultural Resources Survey of 10.51 Acres in Arroyo Hondo, Taos County, New Mexico
149059	Wilson & Co., Engineers & Architects	2021	Cultural Resources Survey for Transit Stop Improvements Project Phase VII & VIII, Rio Arriba, Santa Fe, and Taos County, New Mexico
121183	Raymond, Gerry	2011	Cultural Resource Survey, Arroyo Hondo Bridge Replacement (Structure 7755) on County Road B-002, Taos County, New Mexico
128803	Wright, Kate	2013	A Cultural Resources Survey of .20 Acres for the Upper Arroyo Hondo Mutual Domestic Water Consumers Association (UAHMDWCA) Improvements in Arroyo Hondo, Taos County, New Mexico

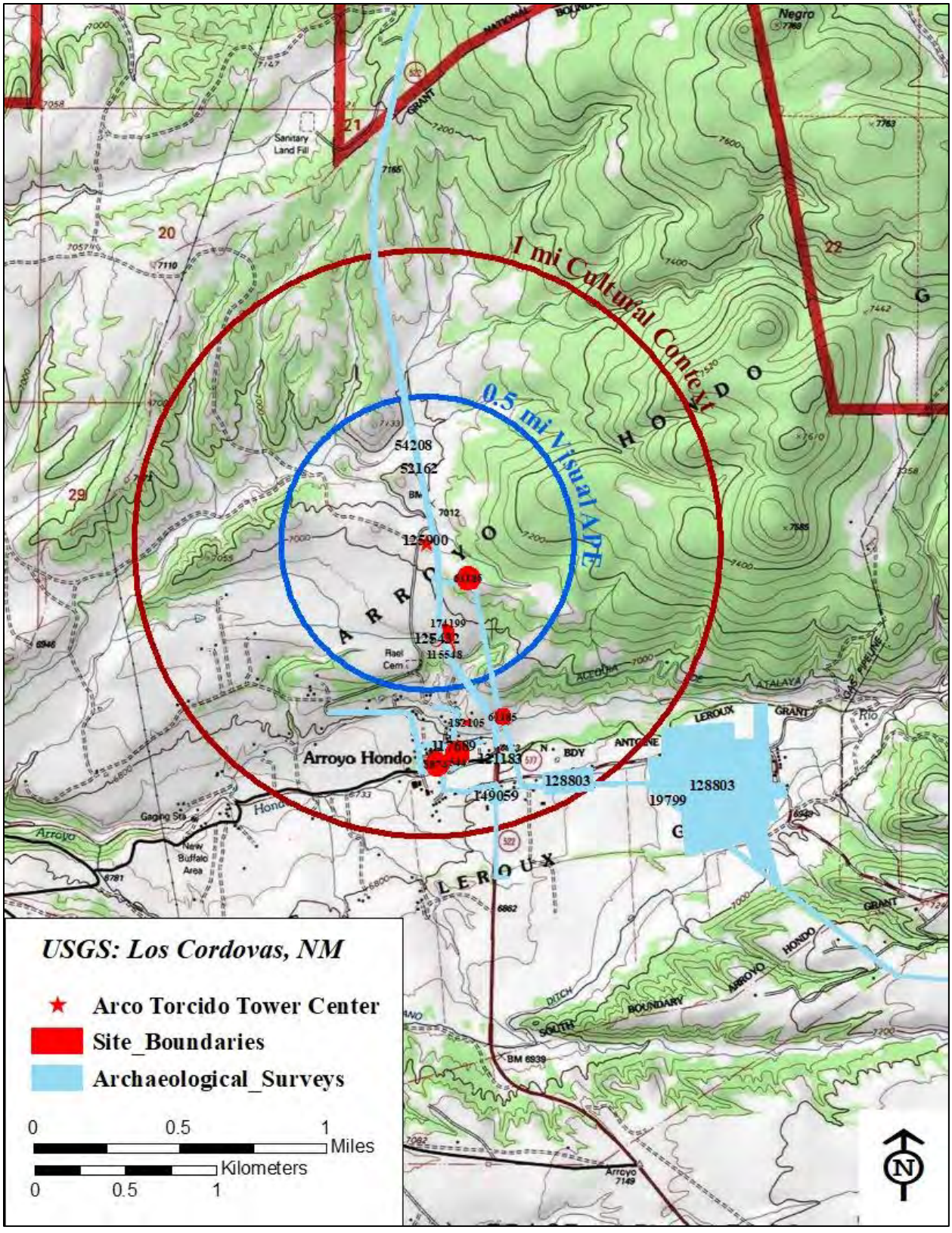


Figure 7: Previously recorded resources within 1 mi visual APE.

Field

Direct APE

The lease area, access, and utility were pedestrian surveyed in 5 m walking transects (Figures 8-9; Table 3). STC identified a modern cemetery immediately south of the least area and east of the utility easement The ground surface was intermittantly covered in short grass and sage brush (see Figure 4-6). Soils were yellowish red very gravelly loam/clay loam over impenetratable parent material. No cultural materials were observed on the surface or in shovel tests. There were no archaeological materials (i.e., culturally modified artifacts, deposits, features, or human remains) identified within the direct effects APE.

Figure 8: Representative shovel test profile along lease and access.

Table 3: Soil Data from Shovel Tests.

ST	Results	Width	Stratum	Soil
1	Negative	45 cm	0-20 cmbs	5YR 4/6 Yellowish red very gravelly loam/clay
2	Negative	45 cm	0-18 cmbs	5YR 4/6 Yellowish red very gravelly loam/clay
3	Negative	45 cm	0-20 cmbs	5YR 4/6 Yellowish red very gravelly loam/clay
4	Negative	45 cm	0-22 cmbs	5YR 4/6 Yellowish red very gravelly loam/clay

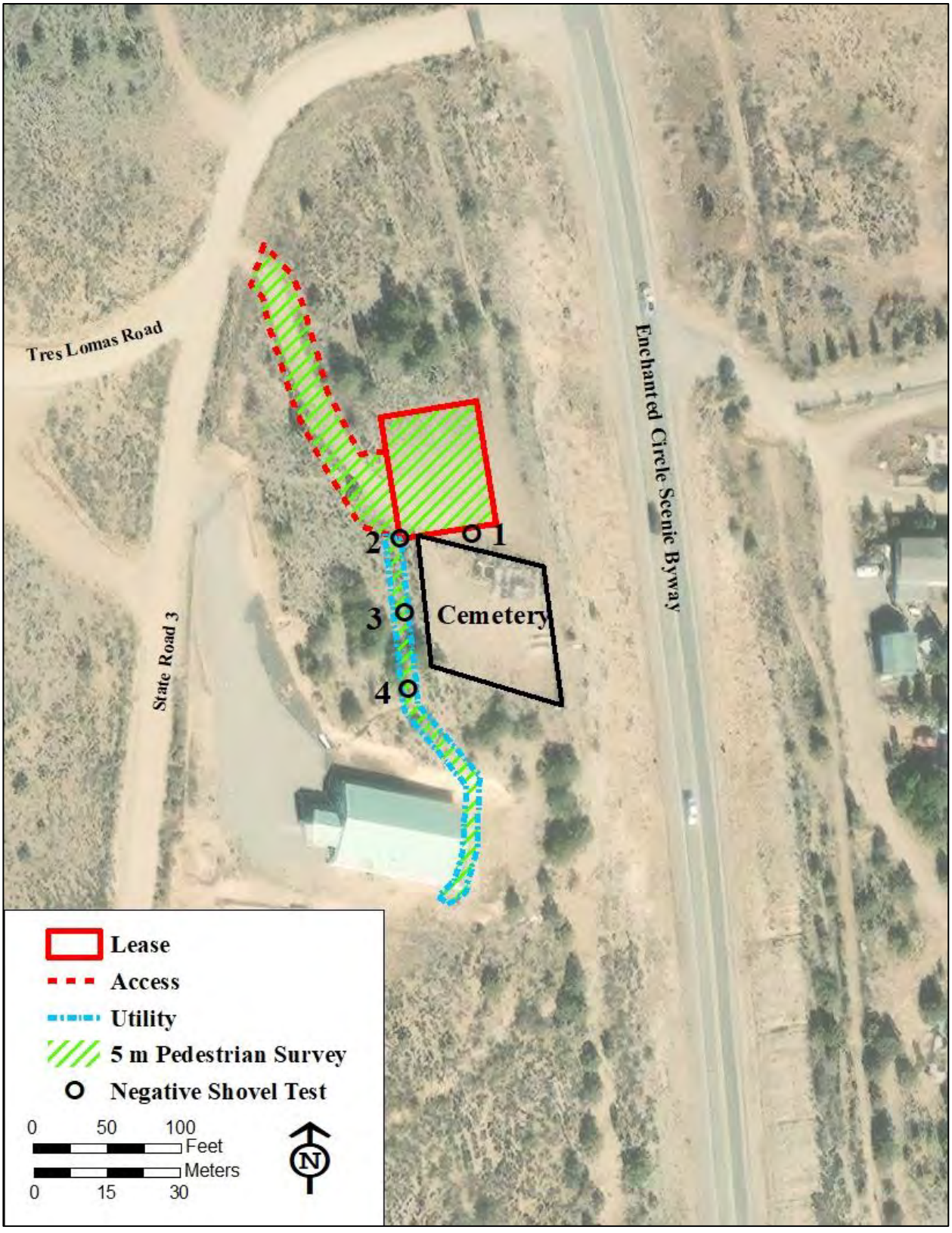


Figure 9: Direct APE and survey strategy depicted on an ESRI aerial photograph.

Visual APE

The Atalaya Ditch, located 0.33 mi south of the 105 ft. telecommunications pole, is eligible for the NRHP. A viewback photograph revealed that it is unlikely that the pole would be visible from the ditch due to terrain and vegetation (Figures 10-11).

Figure 10: Photograph facing north/northwest from Acequia de Atalaya, Atalaya Ditch (115548) toward proposed project area.

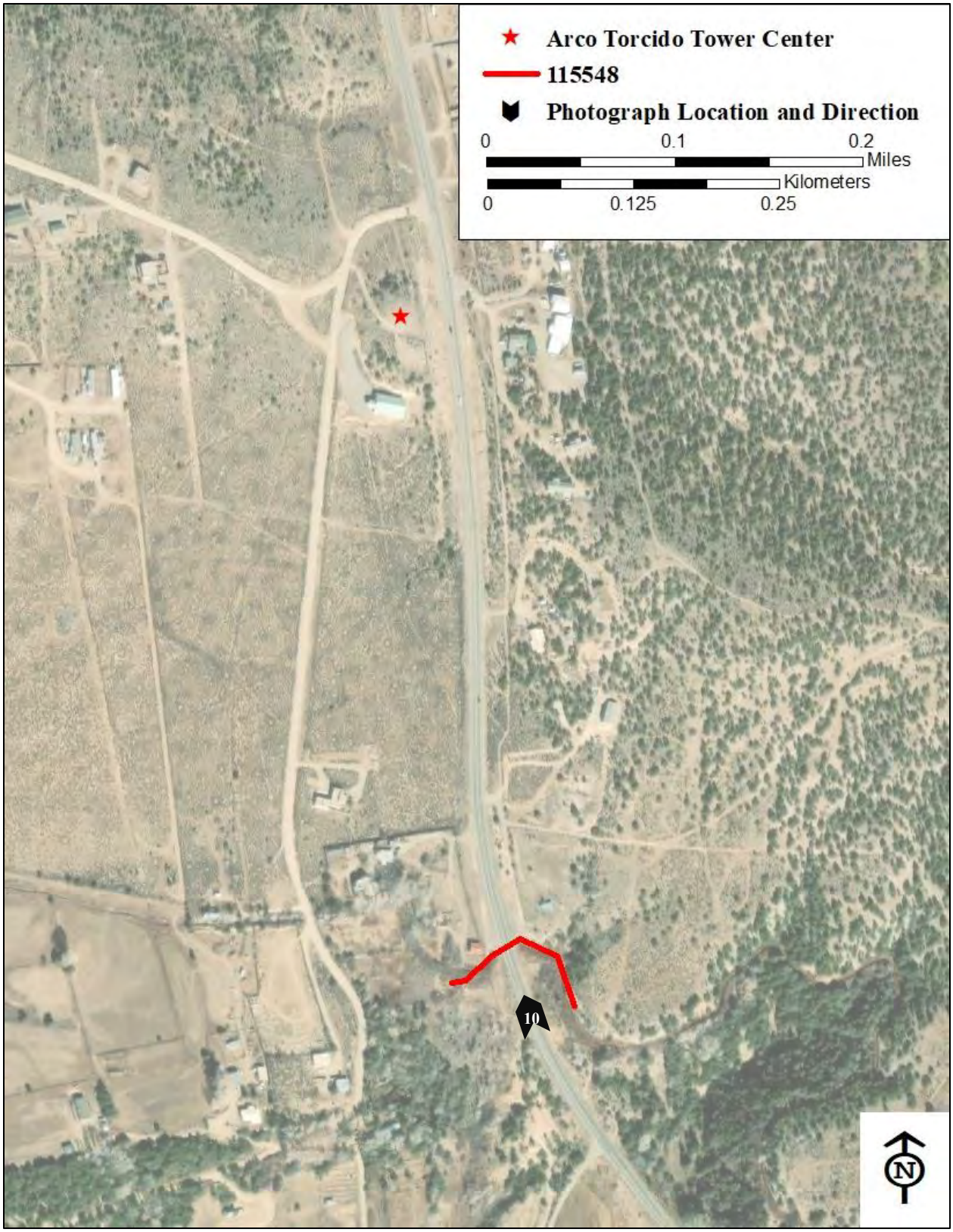


Figure 11: Aerial photograph depicting proposed tower, resource 115548, and viewback photograph location.

VI. Conclusion

STC conducted an intensive cultural resources survey of the proposed US-NM-7008 Arco Torcido telecommunications visual and direct APEs on September 21, 2023. There was no archaeological materials within the direct APE. There was one eligible ditch (115548) 0.33 mi south of the proposed 105-ft. telecommunications pole. However, due to vegetation and terrain, it is unlikely that the proposed pole would be visible from the ditch. STC recommends a finding of **no historic properties affected** within the direct APE, and **no effect** to historic property within the visual APE. No additional work is recommended.

Should buried artifacts, human remains, cultural sites or ground features be unexpectedly unearthed during ground disturbing activities, all construction should immediately cease and the resources be examined by a professional archaeologist. Additionally, all appropriate authorities- including all pertinent tribal entities and the state historic preservation office -should be notified.

References Cites

Bailey, Robert G.
1995 *Description of the Ecoregions of the United States*. United States Department of Agriculture. Washington, DC.

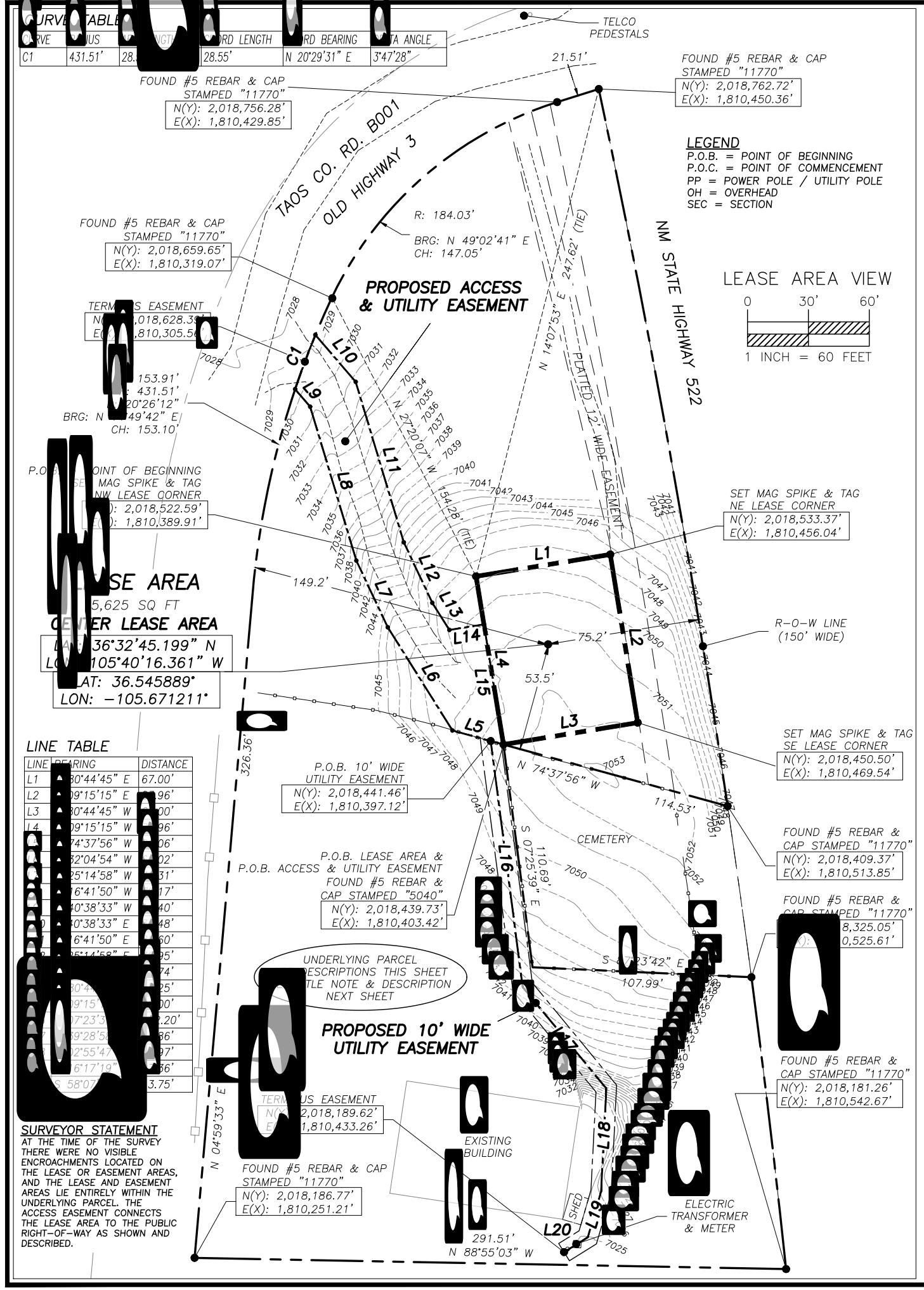
Griffith, G.E., J.M. Omernik, J.A. Comstock, S. Lawrence, G. Martin, and A. Goddard
2001 Ecoregions of New Mexico and Arizona. U.S. Environmental Protection Agency, Western Division.

United States Department of Agriculture
1982 Soil Survey of Taos County, New Mexico. Soil Conservation Service, Washington, DC.

2023 Web Soil Survey Electronic document, http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey, accessed September 2023

United States Geological Survey
1964 USGS 7.5 Minute Series Topographical Map, Los Cordovas, NM. United States Department of Interior Geological Survey, Washington, DC

Appendix A
Development Plans



CURVE TABLE					
CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	431.51'	28.[illegible]	28.55'	N 20°29'31" E	3°47'28"

LEGEND

P.O.B. = POINT OF BEGINNING
P.O.C. = POINT OF COMMENCEMENT
PP = POWER POLE / UTILITY POLE
OH = OVERHEAD
SEC = SECTION

LEASE AREA VIEW

0 30' 60'

1 INCH = 60 FEET

LINE TABLE

LINE	BEARING	DISTANCE
L1	80°44'45" E	67.00'
L2	09°15'15" E	83.96'
L3	80°44'45" W	67.00'
L4	09°15'15" W	83.96'
L5	74°37'56" W	114.06'
L6	32°04'54" W	32.95'
L7	25°14'58" W	32.31'
L8	16°41'50" W	82.17'
L9	40°38'33" W	30.40'
L10	40°38'33" E	30.48'
L11	16°41'50" E	82.60'
L12	25°14'58" E	32.95'
L13	32°04'54" E	15.74'
L14	80°44'45" W	11.40'
L15	09°15'15" W	83.96'
L16	07°23'39" E	122.20'
L17	39°28'58" E	64.86'
L18	02°55'47" W	50.97'
L19	16°17'19" W	23.36'
L20	S 58°07'47" W	13.75'

SURVEYOR STATEMENT

AT THE TIME OF THE SURVEY THERE WERE NO VISIBLE ENCROACHMENTS LOCATED ON THE LEASE OR EASEMENT AREAS, AND THE LEASE AND EASEMENT AREAS LIE ENTIRELY WITHIN THE UNDERLYING PARCEL. THE ACCESS EASEMENT CONNECTS THE LEASE AREA TO THE PUBLIC RIGHT−OF−WAY AS SHOWN AND DESCRIBED.

LEASE AREA

THE FOLLOWING IS THE DESCRIPTION OF A TELECOMMUNICATIONS TOWER AND EQUIPMENT LEASE AREA ("LEASE AREA") LYING WITHIN THAT UNDERLYING PARCEL KNOWN AS LOT 13 AND LOT 14, OF THE GABRIEL AND DOMITILA ROMERO MEMORIAL SUBDIVISION (A PRELIMINARY SUBDIVISION) ACCORDING TO THE WARRANTY DEED RECORDED IN BOOK 472, PAGE 118 OF THE DEED RECORDS OF TAOS COUNTY; WITHIN PROJECTED SECTION 28, TOWNSHIP 27 NORTH, RANGE 12 EAST, NEW MEXICO PRINCIPAL MERIDIAN, TAOS COUNTY, STATE OF NEW MEXICO; SAID LEASE AREA BEING MORE PARTICULARLY DESCRIBED WITH REFERENCE TO THE NEW MEXICO STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE 3002 (NAD83[2010]) AS FOLLOWS:

THE POINT OF BEGINNING ("P.O.B.") BEING A SET MAG SPIKE & TAG AT THE NORTHWEST CORNER OF THE LEASE AREA HAVING COORDINATES OF N(Y): 2,018,522.59', E(X): 1,810,389.91'; FROM WHICH P.O.B. THE FOLLOWING TIES WERE MADE:

- NORTH 14° 07' 53" EAST 247.62 FEET TO A FOUND #5 REBAR & CAP STAMPED "11770" FOUND FOR THE NORTH CORNER OF THE UNDERLYING PARCEL AT THE INTERSECTION OF THE SOUTHERLY RIGHT−OF−WAY LINE OF OLD HIGHWAY #3 AND NM STATE HIGHWAY 522 HAVING COORDINATES OF N(Y): 2,018,762.72', E(X): 1,810,450.36'
- NORTH 27° 20' 07" WEST 154.28 FEET TO A FOUND #5 REBAR & CAP STAMPED "11770" FOUND FOR A NORTHWESTERLY CORNER OF THE UNDERLYING PARCEL HAVING COORDINATES OF N(Y): 2,018,659.65', E(X): 1,810,319.07';

THENCE FROM SAID P.O.B., THE FOLLOWING FOUR (4) COURSES:

NORTH 80° 44' 45" EAST 67.00 FEET TO A MAG SPIKE AND TAG SET FOR THE NORTHEAST CORNER OF THE PROPOSED LEASE AREA HAVING COORDINATES OF N(Y): 2,018,533.37', E(X): 1,810,456.04';

SOUTH 09° 15' 15" EAST 83.96 FEET TO A MAG SPIKE AND TAG SET FOR THE SOUTHEAST CORNER OF THE PROPOSED LEASE AREA HAVING COORDINATES OF N(Y): 2,018,450.50', E(X): 1,810,469.54';

SOUTH 80° 44' 45" WEST 67.00 FEET TO A MAG SPIKE AND TAG SET FOR THE SOUTHWEST CORNER OF THE PROPOSED LEASE AREA HAVING COORDINATES OF N(Y): 2,018,439.73', E(X): 1,810,403.42'; THE SAME BEING A #5 REBAR AND CAP STAMPED "LS 5040" FOUND FOR A CORNER OF THE SAID UNDERLYING PARCEL;

NORTH 09° 15' 15" WEST 83.96 FEET TO THE P.O.B. AN CONTAINING, IN ALL, 5,625 SQUARE FEET OF AREA; TOGETHER WITH TWO EASEMENTS FOR ACCESS AND UTILITIES DESCRIBED BY CENTERLINE AS FOLLOWS:

25' WIDE ACCESS & UTILITY EASEMENT

PERIMETER DESCRIPTION

THE POINT OF BEGINNING ("P.O.B. 25' ACCESS & UTILITY EASEMENT") BEING A A #5 REBAR AND CAP STAMPED "LS 5040" FOUND FOR A CORNER OF THE SAID UNDERLYING PARCEL, BEING ALSO THE SOUTHWEST CORNER OF THE LEASE AREA HAVING COORDINATES OF N(Y): 2,018,439.73', E(X): 1,810,403.42';

THENCE, THE FOLLOWING TWELVE (12) COURSES:

1. NORTH 74° 37' 56" WEST 26.06 FEET;
2. NORTH 32° 04' 54" WEST 60.02 FEET;
3. NORTH 25° 14' 58" WEST 38.31 FEET;
4. NORTH 16° 41' 50" WEST 79.17 FEET;
5. NORTH 40° 38' 33" WEST 11.40 FEET TO A POINT IN THE NORTHWESTERLY BOUNDARY LINE OF THE UNDERLYING PARCEL; THE SAME BEING A POINT IN THE SOUTHEASTERLY RIGHT−OF−WAY LINE OF OLD COUNTY ROAD 3, AKA TAOS COUNTY ROAD B−001;
6. ALONG SAID RIGHT−OF−WAY AND BOUNDARY LINE AND WITH THE ARC OF A CURVE (NON−TANGENTIAL TO THE PREVIOUS COURSE) 28.55 FEET THROUGH A DELTA ANGLE OF 3° 47' 28"; SAID CURVE HAVING A RADIUS OF 431.51 FEET AND A CHORD WHICH BEARS NORTH 20° 29' 31" EAST 28.55 FEET;
7. SOUTH 40° 38' 33" EAST 30.48 FEET;
8. SOUTH 16° 41' 50" EAST 82.60 FEET;
9. SOUTH 25° 14' 58" EAST 32.95 FEET;
10. SOUTH 32° 04' 54" EAST 15.74 FEET;
11. NORTH 80° 44' 45" WEST TO A POINT IN THE WESTERLY LEASE LINE OF THE LEASE AREA SERVED BY THIS EASEMENT;
12. WITH SAID WESTERLY LEASE LINE, SOUTH 09° 15' 15" EAST 60.00 FEET TO THE P.O.B.

10' WIDE UTILITY EASEMENT

CENTERLINE DESCRIPTION

THE POINT OF BEGINNING ("P.O.B. 10' UTILITY EASEMENT") HAVING COORDINATES OF N(Y): 2,018,441.46', E(X): 1,810,397.12';

THENCE, THE FOLLOWING FIVE (5) COURSES:

1. SOUTH 07° 23' 37" EAST 122.20 FEET;
2. SOUTH 39° 28' 58" EAST 64.86 FEET;
3. SOUTH 02° 55' 47" WEST 50.97 FEET;
4. SOUTH 16° 17' 19" WEST 23.36 FEET;
5. SOUTH 58° 07' 47" WEST 13.75 FEET TO THE TERMINUS AT A POINT BEYOND AN EXISTING ELECTRIC TRANSFORMER CABINET, HAVING COORDINATES OF N(Y): 2,018,189.62', E(X): 1,810,433.26'.

SURVEY NOTES

1. REFERENCE WAS MADE TO A TITLE COMMITMENT BY TOWER TITLE & CLOSING (18 IMPERIAL PLACE, COURTYARD, PROVIDENCE, RI 02903 (844)944−2876), VERTICAL BRIDGE FILE #: US−NM−7008, TOWER TITLE FILE #: VTB−149483−C, AND TIJERAS TITLE, LLC COMMITMENT NUMBER 21264. SEE TITLE NOTE NEXT SHEET.

2. CONTRACTOR BEARS FULL RESPONSIBILITY TO PROPERLY LOCATE UNDERGROUND UTILITIES PRIOR TO ANY EXCAVATION.

3. BASIS OF BEARINGS IS GRID NORTH, NEW MEXICO STATE PLANE COORDINATE SYSTEM (NAD83), CENTRAL ZONE (3002). DISTANCES ARE GRID. ELEVATION DATUM IS NAVD88, AND ALONG WITH THE REPORTED COORDINATES ARE DERIVED BY CONNECTIONS TO THE NATIONAL CORS USING THE NGS OPUS UTILITY − DATUM NAD_83(2011)(EPOCH:2010.0000). CONTOUR INTERVAL = 1'.

4. ACCORDING TO FEMA FIRM PANEL #35055C0625E, EFFECTIVE DATE 10/06/2010, THE SUBJECT PARCEL APPEARS TO LIE IN ZONE X.

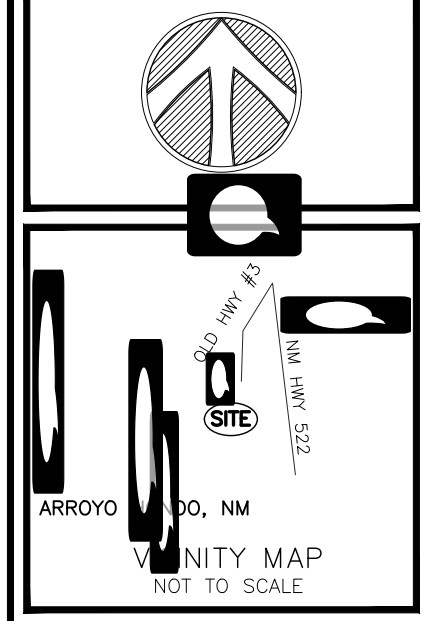
CERTIFICATION

I HEREBY CERTIFY TO: VB BTS II, LLC, A DELAWARE LIMITED LIABILITY COMPANY, ITS SUBSIDIARIES, AND THEIR RESPECTIVE SUCCESSORS AND/OR ASSIGNS; TORONTO DOMINION (TEXAS) LLC, AS ADMINISTRATIVE AGENT, FOR ITSELF AND ON BEHALF OF THE LENDERS PARTIES FROM TIME TO TIME TO THAT CERTAIN SECOND AMENDED AND RESTATED LOAN AGREEMENT DATED JUNE 17, 2016 WITH VERTICAL BRIDGE HOLDCO, LLC, AS BORROWER, AND VERTICAL BRIDGE HOLDCO PARENT, LLC, AS PARENT, AS MAY BE AMENDED, RESTATED, MODIFIED OR RENEWED, THEIR SUCCESSORS AND ASSIGNS AS THEIR INTERESTS MAY APPEAR; AND GUARANTY TITLE COMPANY THAT THIS TOPOGRAPHIC SURVEY EXHIBIT DEPICTING A PROPOSED TELECOMMUNICATIONS SITE WAS PREPARED BY ME AND THAT THE INFORMATION PRESENTED HEREON IS TRUE AND CORRECT TO BEST OF MY KNOWLEDGE AND BELIEF. THIS IS NOT A BOUNDARY SURVEY OF THE UNDERLYING PARCEL. THIS IS NOT A LAND SUBDIVISION ACCORDING TO THE NEW MEXICO LAND SUBDIVISION ACT. (FIELD 06−02−2023)

08−25−2023

CHRISTIAN A. CLAUSEN, NM P.L.S. (TX 5511~NM 16467~AZ 36621)
CLAUSEN LAND SURVEYING LLC
5328 COUNTRY OAKS DRIVE, EL PASO, TX 79932
PH: 915−355−9482 / EMAIL: surveyorclausen@gmail.com
FOR AND ON BEHALF OF: Romano & Associates, LLC
8100 Wyoming Blvd NE #M4−167, Albuquerque, NM 87113
PH: 505−750−0735 / EMAIL: nromano@romanoassociatesllc.com

The information contained in this set of documents is proprietary by nature. Any use or disclosure other than that which relates to the client name is strictly prohibited.



VICINITY MAP
NOT TO SCALE

NEW MEXICO
CHRISTIAN A. CLAUSEN
16467
REGISTERED PROFESSIONAL SURVEYOR

ISSUED FOR:	DATE
REVIEW	08-23-2023
FINAL W/ TITLE REVIEW	08-25-2023

BRIDGE SITE NAME:
NM−7008

BRIDGE SITE ID:
TORCIDO

SITE ADDRESS:
STATE ROAD #3
HONDO, NM 87513

SHEET TITLE
SURVEY SHEET

SHEET NUMBER
SUR−1 (1 of 2)

Appendix B

Principal Investigator CV

BILLY J. MCCARLEY

Anthropologist
Address: 4915 Atlanta Highway, #2086, Flowery Branch, Georgia 30542
Phone 720-708-9872
E-mail bmccarley@subterraneanco.com

Director of cultural resources at Subterranean Consultants, with over ten years of experience implementing project and business development. Lead communicator and organizer of project planning and research design, both utilized to chart and analyze project scoping and budgeting. Principal Investigator and director of archaeology and history consultations for Section 106.

Work History

2012-09 – Current **Principal Investigator/Chief Archaeologist**
Subterranean Consultants, Atlanta, Georgia

- Conducts phase I archaeological assessments, phase II evaluations, and phase III mitigation of NEPA projects (Section 106) and private development.
- Conducts Section 106 projects include United States Army Corps of Engineers (USACE) Section 404 permitting, Federal Energy Commission, United States Department of Housing and Urban Development (HUD) construction, Federal Highway Administration (FHWA) construction, and FCC telecommunications projects.
- Consults with over 40 State Historic Preservation Offices (SHPO) and Tribal Historic Preservation Offices.
- Conducts tribal-requested construction monitoring of over 23 telecommunications towers.
- Serves as principal investigator on Phase I, Phase II, and Phase III archaeology, and history projects, including nineteenth century rice plantation, Fernbank Museum-sponsored Hernando de Soto route expedition, and American Indian Lamar settlements along Georgia coast.
- Conducts private due diligence surveys, including Georgia municipal cemetery delineation and ancestral research, North Carolina cemetery survey and Phase II evaluations, large-scale solar developments in West Virginia, Indiana, Illinois, and Georgia, and residential and commercial developments throughout Georgia and Alabama.

- Completes desktop assessments of fiber optics installation and impacts on NRHP-listed or NRHP-eligible archaeological sites.
- Conducts fieldwork on all projects, including pre-visit research design development, background research, topographical map overlays, shovel testing, unit excavation, recordation, photographing, and report writing.
- Makes recommendations on future site work and NRHP eligibility.
- Records archaeological sites with state site files.
- Conducts project scoping, proposals, grant writing, and NRHP nominations.
- Prepares projects for curation according to agency curation standards.

Notable projects as principal investigator and field director include:

- expansion and development cultural resource assessment of Habersham County Airport industrial complex;
- section 404 USACE wetland permit cultural resource assessment in Sycamore, Georgia, Eagle-Net terrestrial fiber optics cultural resource assessment, ballpark expansion in Fairburn, Georgia;
- Osage Nation cultural resource assessment of county road construction, and
- prehistoric prayer rings in Death Valley National Park;
- phase I Survey and Phase II evaluation and Phase III mitigation of Effingham Parkway;
- phase I survey of nineteenth century burials in Jackson, Gwinnett, and Effingham counties;
- archaeological survey of 174 road-side utility poles in Iowa and Nebraska;
- cultural resources assessment of 500-acre solar developments in West Virginia, Indiana, and Illinois;
- phase II evaluation of African American burials in North Carolina;
- 32 node poles in New Orleans;
- metal detecting of 42 acre portion of Civil War battlefield in Mechanicstown, WV;
- Class III Assessment of the City of Deadwood, SD;
- Class III investigation of 500-acre windfarm in southwest North Dakota;
- Class III inventory of the Pine Ridge Reservation in South Dakota;
- twenty-five miles of historic railroad in Grand Junction, CO;
- Class III Cultural Resource Survey of the 450 mi North Plains Connector Transmission Line from Colestrip Montana to Bismarck, North Dakota.

2014-06 - 2016-06 **Principal Archaeologist/Senior Archaeologist**

Moreland Altobelli Associates, Inc, Norcross, Georgia

- Conducted phase I and II archaeological assessments and evaluations of NEPA projects-United States Army Corp of Engineers (USACE) Section 404 permitting (cultural resource assessments) and Georgia Department of Transportation projects.

Subterranean Consultants, LLC

- Completed Section 106 reports and reviews, consulted with Georgia SHPO, and reviewed and sign reports written by staff archaeologists.
- Conducted research design development, background research, topographical map overlays, shovel testing, unit excavation, recordation, photographing, report writing, and recommendations on future site work and NRHP eligibility.
- Recorded archaeological sites with Georgia Archaeological Site File (GASF).
- Conducted project scoping and proposals.
- Prepared projects for curation following Antonio J. Waring Archaeological Laboratory or Erskine Ramsey Curation Facility, University of Alabama Museum curation standards.

2014-02 - 2014-04 **Field Director**
Algonquin Consultants, Miami, Oklahoma

- Served as field director on phase II evaluation of FCC permitting project in Jefferson City, Missouri.
- Prepared research design for evaluation of cultural deposits at prehistoric lithic production site.
- Directed four employees in placement of four 1-by-1 test units.
- Directed data collection, site recordation, and reporting, including all GIS map production, post field- work.

2013-06 - 2013-08 **Crew Chief**
Tetra Tech, Oklahoma City, OK

- Served as crew chief on 85-mi pipeline cultural resource assessment spanning from Oklahoma to Texas.
- Preplanned for daily field work, supervised crew of two field technicians in implementation of phase I shovel testing for Army Corps of Engineers (ACOE).
- Conducted transect layouts using Geoexplorer GPS unit.
- Completed daily progress reports for submission to project field director.

2012-06 - 2013-02 **Co-Principal Investigator/Field Director**
Georgia State University, Richmond Hill, Georgia

- Investigated and excavated Middle Mississippian burial mound site along Ogeechee River in Richmond Hill, Georgia.
- Prepared research design, gridded site using total station, implement NOAA provided LIDAR for regional comparative study of Middle Mississippian mound sites along Georgia coast.
- Performed shovel testing on 5-acre mound site.
- Analyze and curate artifacts post fieldwork, and produce management summary submitted to Georgia DNR and report.

2008-06 - 2012-06 **Field Archaeologist**
Jacksonville State University Archaeological Laboratory, Jacksonville, Alabama

- Investigated and excavated late Woodland to early Mississippian village along Choccolocco Creek in Calhoun County, Alabama.
- Conducted unit layout and documentation; Excavated 2-by-2 units; Screened matrix; identified artifacts; and produced management summary of project progress.

Education

2010-01 - 2013-05 **Master of Arts: Anthropology**
Georgia State University – Atlanta
Investigating Settlement Patterns and Intrasite Use, the Middle Mississippian Period, A.D. 1100.

2004-01 - 2008-01 **Bachelor of Arts: Sociology**
The University of Alabama - Tuscaloosa, Alabama

Affiliations/Permits

- Bureau of Land Management (BLM)
  - North Dakota (2023)
  - Montana (2023)
- National Forrest Service (NFS)
  - South Dakota Black Hills (2023)
  - North Dakota Grasslands (2023)
- North Dakota Antiquities Permit (2022)
- Arizona Antiquities Act Blanket Permit (2023)
- Register of Professional Archaeologist (RPA) (2013)
- Society for American Archaeology (SAA) (2013)
- Arizona Archaeology Council (AAC) (2023)

Certifications

- RPA Metal Detecting (2015)
- National Parks Survey Methods (2016)

Representative Reports and Publications

McCarley, Billy
2013 *Phase I Archaeological Survey of the Proposed 80-Mile Pipeline, Wichita County, Texas.* For Tetra Tech, Pasadena, California. On file at the Texas Historic Commission, Austin, Texas.

McCarley, Billy
2013 *An Archaeological Survey at Oak Level Mound: Investigating Settlement Patterns and Intrasite Use During the Middle Mississippian Period (A.D. 1150-1350).* Graduate Thesis on File at Georgia State University Library, Atlanta, Georgia.

McCarley, Billy
2014 *Phase I Archaeological Survey of the Proposed Harmony Senior Living Community, Spalding County, Georgia.* Submitted to Terracon Consultants. On File at the Georgia Archaeology Site File, Athens, Georgia.

McCarley, Billy
2014 *Phase I Archaeological Assessment of the Five Forks Trickum Road Widening, Gwinnett County, Georgia.* Submitted to the Georgia Department of Transportation. On file at the Georgia Archaeological Site File, Athens, Georgia.

McCarley, Billy
2014 *Addendum Phase I Archaeological Survey of 1-16 at Old River Road, Effingham County, Georgia.* Submitted to the Georgia Department of Transportation. On file at the Georgia Archaeological Site File, Athens, Georgia.

McCarley, Billy
2014 *Phase I Archaeological Survey for the Proposed 7th Street and Broad Street Bridge Replacements in Augusta, Richmond County, Georgia.* Submitted to the Georgia department of Transportation. On File at the Georgia Archaeology Site File, Athens, Georgia.

McCarley, Billy
2014 *Phase I Archaeological Assessment of Habersham County Industrial Park, Habersham County, Georgia.* Submitted to Terracon Consultants. On File at the Georgia Archaeology Site File, Athena, Georgia.

McCarley, Billy
2014 *Phase I Archaeological Assessment of Dollar General Wetland Mitigation, Sycamore, Georgia.* Submitted to Terracon Consultants. On file at the Georgia Archaeology Site File, Athens, Georgia.

McCarley, Billy
2014 *Phase I Archaeological Assessment of Spence Ball Park Development, Fairburn, Georgia.* Submitted to Terracon Consultants, LLC. On file at the Georgia Archaeological Site File, Athens, Georgia.

McCarley, Billy
2015 *Phase I Archaeological Survey of Sigman Road Widening, Rockdale County, Georgia.* Submitted to the Georgia Department of Transportation. On file at the Georgia Archaeology Site File, Athens, Georgia.

McCarley, Billy
2015 *Phase I Archaeological Survey of the Proposed State Route (SR) 400 at McGinnis Ferry Road Interchange, Fulton and Forsyth Counties, Georgia.* Submitted to the Georgia Department of Transportation. On File at the Georgia Archaeology Site File, Athens, Georgia.

McCarley, Billy
2015 *Second Addendum Phase I Archaeological Survey of the Proposed East Kingsland Bypass, Camden County, Georgia.* Submitted to the Georgia department of Transportation. On file at the Georgia Archaeology Site File, Athens, Georgia.

McCarley, Billy
2016 *Second Addendum Phase I Archaeological Survey of the Proposed Two Interchanges on Interstate 75, SR 7 and SR 122, Lowndes County, Georgia.* Submitted to the Georgia Department of Transportation. On file at the Georgia Archaeology Site File, Athena, Georgia.

McCarley, Billy
2017 *Phase I Archaeological Survey for the Proposed O'Reilly Auto Parts in Pigeon Forge, Tennessee.* Submitted to Terracon Consultants. On file at the Tennessee Division of Archaeology, Nashville, Tennessee.

McCarley, Billy
2017 *Phase I Archaeological Survey and for the City of Tuscumbia's Historic Rail Yard, Tuscumbia, Alabama. Submitted to Terracon Consultants.* On File at the Alabama Museums Office of Archaeological Research, Moundville, Alabama.

McCarley, Billy
2017 *Phase II Evaluation for site 1Co172 for the City of Tuscumbia's Historic Rail Yard, Tuscumbia, Colbert County, Alabama.* Submitted to Terracon Consultants. On file at the Alabama Museums Office of Archaeological Research, Moundville, Alabama.

McCarley, Billy
2017 *Phase I Archaeological Survey of the Proposed Effingham Bypass, Effingham and Chatham Counties, Georgia.* Submitted to the Georgia Department of Transportation. On file at the Georgia Archaeological Site File, Athens, Georgia.

McCarley, Billy
2017 *Phase III Mitigation of 9EF412(Sullivan Cotton Plantation Burials), Effingham County, Georgia.* Submitted to the Georgia Department of Transportation. On file at the Georgia Archaeology Site File, Athens, Georgia.

McCarley, Billy
2017 *Phase I Archaeological Survey of the Proposed El Dorado Boulevard, Harris County, Texas.* Submitted to the Texas Department of Transportation. On file at the Texas Historic Commission, Austin, Texas.

McCarley, Billy
2018 *Phase II Archaeological Evaluation of the Rice Fields and Colebrook Plantation Cemetery along Effingham Bypass, Effingham and Chatham Counties, Georgia.* Submitted to the Georgia Department of Transportation. On file at the Georgia Archaeology Site File, Athens, Georgia.

McCarley, Billy
2018 *Phase I Archaeological Survey of the Proposed Harper Street Crossing, Fulton County, Georgia.* Submitted to the Georgia Department of Transportation. On file at the Georgia Archaeological Site File, Athens, Georgia.

McCarley, Billy
2018 *Phase I Archaeological Survey of the Proposed US 84 Connector, Liberty County, Georgia. Submitted to the Georgia Department of Transportation. On file at the Georgia Archaeological Site File, Athens, Georgia.*

McCarley, Billy
2018 *Phase I Archaeological Survey of the Proposed Gant Road Solar Development, Upper Marlboro County, Maryland*. Submitted to Terracon Consultants. On file with the Maryland Archaeological Site Survey, Crownsville, Maryland.

McCarley, Billy
2018 *Archaeological Delineation and Testing of the Historic Williams Family and Slave Burials, Jackson County, Georgia.* Submitted to Williams Development, LLC. On file with the Jackson County Commissioners Office of Development and Permitting, Jackson County, Georgia.

McCarley, Billy
2018 *Phase I Archaeological Survey of the Proposed Brown Bridge at Yellow River Replacement, Newton County, Georgia.* Submitted to the Georgia Department of Transportation. On File at the Georgia Archaeology Site File, Athens, Georgia.

McCarley, Billy
2019 *Phase I Archaeological Survey of the Proposed Zion Manor Senior Apartments II in Louisville Jefferson County, Kentucky.* Submitted to Terracon Consultants. On file at the Kentucky Office of State Archaeology, Lexington, Kentucky.

McCarley, Billy
2019 *Phase Ia Reconnaissance of the Hemmer Solar and Substation in Somerville, Indiana Gibson County.* Submitted to Terracon Consultants. On file at the Indiana Historic Preservation and Archaeology Division, Indianapolis, Indiana.

McCarley, Billy
2019 *Phase I Archaeological Survey of Wetland Delineation at Bonnaroo in Manchester, TN.* Submitted to Terracon Consultants. On file at the Tennessee Division of Archaeology, Nashville, Tennessee.

McCarley, Billy
2019 Anthropological *Reconnaissance of Letohatchee Solar Development in Selma Alabama. Submitted to Terracon Consultants.* Submitted to Terracon Consultants. On file at the Alabama Museums Office of Archaeological Research, Moundville, Alabama.

McCarley, Billy
2019 *Phase I Archaeological Survey for Owl Creek Section 404 Permit in Towns County, GA.* Submitted to Terracon Consultants. On File at the Georgia Archaeology Site File, Athens, Georgia.

McCarley, Billy
2019 *Anthropology and Construction Monitoring of the Bogota Telecommunications Facility in Bogota, TN.* Submitted to Terracon Consultants. On file at the Tennessee Division of Archaeology, Nashville, Tennessee.

McCarley, Billy
2020a *Archaeological Assessment and Phase II Evaluation of the High Horizons, Peel, and Thorn Parcels in Mechanicstown, Jefferson County, West Virginia.* Submitted to Terracon Consultants. On file with the Jefferson County Commission, Jefferson County, Virginia.

2020b *Phase II Evaluation and Testing of the Thorn Burial Location for the High*

Horizons, Peel, and Thorn Parcels in Mechanicstown, Jefferson County, West Virginia. Submitted to Terracon Consultants. On file with the Jefferson County Commission, Jefferson County, Virginia.

McCarley, Billy
2020 *Anthropology and Construction Monitoring for the Arkansas River Trail Telecommunications Facility in Conway, AR.* Submitted to Ramaker Associates. On file at the Arkansas Archaeology Survey, Fayetteville, Arkansas.

McCarley, Billy
2020 *Phase I Archaeological Survey for the Section 404 Permit for Thornton Conveniences Store in Coopertown, Tennessee.* Submitted to Terracon Consultants. On file at the Tennessee Division of Archaeology, Nashville, Tennessee.

McCarley, Billy
2020 *Archaeological Monitoring of Ground Disturbance at the Proposed E 862 Road Telecommunications Facility in Tenkiller, Cherokee County, Oklahoma.* Submitted to Ramaker Associates. On file at the Oklahoma Archaeology Site File, Norman, Oklahoma.

McCarley, Billy
2020 *Archaeological Monitoring of Ground Disturbance at the Proposed Alma Telecommunications Facility in Alma, Crawford County, Arkansas.* Submitted to Ramaker Associates. On file at the Arkansas Archaeology Survey, Fayetteville, Arkansas.

McCarley, Billy
2020 *Archaeological Assessment of the Proposed McClellan Peak Tower Compound Expansion in Carson City, Washoe County, Nevada.* Submitted to Ramaker Associates. On file at the Nevada State Historic Preservation Office, Carson City, Nevada.

McCarley, Billy
2021 *Class III Inventory of Cadle Property in Deadwood, Lawrence, SD.* Submitted to the town of Deadwood. On file at the Deadwood, SD Historic Preservation Office, Deadwood, South Dakota.

McCarley, Billy
2021 *Class III Inventory of Oglala Ten House Development at Pine Ridge, SD.* Submitted to the Oglala Sioux Tribe, Pine Ridge, South Dakota.

McCarley, Billy
2021 Archaeological Evaluation of Seven Sites and Class III Inventory of the Bowman Wind Farm in Bowman, ND. Submitted to Apex Energy. On file at the North Dakota State Historical Society, Bismarck, North Dakota.

McCarley, Billy
2022 Class III Cultural Resource Survey of the 450 mi North Plains Connector Transmission Line from Colestrip Montana to Bismarck, North Dakota. Submitted to Merjent Environmental. On file at the Montana Historical Society, Helena, MT.

McCarley, Billy
2022 *Mitigation of the McNeal Farmstead (32MO182) in Morton County for the 450 mi North Plains Connector Transmission Line from Colestrip Montana to Bismarck, North Dakota.* On file at the North Dakota State Historical Society, Bismarck, North Dakota.

McCarley, Billy
2022 *Class III Cultural Resources Survey Cultural Resources Inventory on Bureau of Land Management (BLM) and Split Estates for the Cedar Hills Seismic Project in Northwest Bowman County, North Dakota.* Submitted to Cougar Land Services. On file at the North Dakota State Historical Society, Bismarck, North Dakota.

McCarley, Billy

2022 Class III Cultural Resources Survey Cultural Resources Inventory on Bureau of Land Management (BLM) and Split Estates for the E Lookout Butte Seismic Project in Baker, Fallon County, Montana. Submitted to Cougar Land Services. On file at the Montana Historic Preservation Division.

McCarley, Billy
2023 *Class III Cultural Resources Survey of the Proposed US-AZ-5162 Yuma Elementary Telecommunications Facility in Yuma, Yuma County, Arizona*. Submitted to Lotis Environmental. On file at the Arizona State Historic Preservation Office, Phoenix, Arizona.

McCarley, Billy
2023 *Class III Cultural Resources Survey of the Proposed US-AZ-7058 Wildbone Telecommunications Facility in Coolidge, Pinal County, Arizona*. Submitted to Lotis Environmental. On file at the Arizona State Historic Preservation Office, Phoenix, Arizona.

McCarley, Billy
2023 *Class III Cultural Resources Survey of the Proposed US-AZ-5146 Handcock Meadows Telecommunications Facility in Pima, Graham County, Arizona*. Submitted to Lotis Environmental. On file at the Arizona State Historic Preservation Office, Phoenix, Arizona.

McCarley, Billy
2023 *Class III Cultural Resource Survey of the Proposed US-AZ-5164 El Camino Del Cerro Telecommunications Facility in Tucson, Pima County, Arizona.* Submitted to Lotis Environmental. On file at the Arizona State Historic Preservation Office, Phoenix, Arizona.

Attachment 4

Historic Properties Identified in the APE for Direct Effects

Historic Properties Identified in the APE for Direct Effects

Lotis contracted SubTerranean Consultants to perform a Cultural Resource Assessment to determine the potential effect on historic properties within the Direct Area of Potential Effect (APE). SubTerranean Consultants conducted a records review and completed site reconnaissance, per SHPO and tribal protocols, and did not locate any archaeological sites within the Direct APE. SubTerranean Consultants has recommended that the proposed undertaking be allowed to proceed as planned without further surveying. A copy of the Intensive Cultural Resources Survey from SubTerranean Consultants is included in Attachment 3.

Attachment 5

Historic Properties Identified in the APE for Visual Effects

Historic Properties Identified in the APE for Visual Effects

Lotis contracted SubTerranean Consultants to perform a Cultural Resource Assessment to determine the potential effect of the proposed undertaking on historic properties within the Visual Area of Potential Effect (APE). SubTerranean Consultants completed a records review, within the ½ -mile radius, per the HPD's protocols (either online or physical records research) as well as reviewing the online National Register of Historic Places (NRHP) at **http://www.nps.gov/nr/** and found one (1) eligible/listed historic property within the Visual APE. SubTerranean Consultants have recommended that the proposed undertaking will have No effect on the identified historic property within the Visual APE and recommends that the project be allowed to proceed as planned without further surveying. A copy of the Intensive Cultural Resources Survey from SubTerranean Consultants is included in Attachment 3.

Attachment 6

Tribal/NHO Involvement

Tribal/NHO Involvement

Lotis utilized the Federal Communications Commission (FCC) Tower Construction Notification System (TCNS) to identify federal tribal entities with interest in the proposed undertaking's location. This identification phase was conducted on September 19, 2023 (TCNS Number 271853). The FCC responded, via e-mail, on September 22, 2023, indicating nineteen (19) groups were forwarded information regarding the location of the proposed project, via electronic mail. The list of groups forwarded can be viewed in the *FCC's Notice of Organizations (NOO)* inserted in this attachment.

Federal Communications Commission's (FCC) Tower Construction Notification System (TCNS) Proposed Tower Structure (PTS) Info Email

NEPA NHPA

From: towernotifyinfo@fcc.gov
Sent: Tuesday, September 19, 2023 8:45 AM
To: NEPA NHPA
Subject: Proposed Tower Structure Info - Email ID #8668684

Dear Morris Mickelson,

Thank you for submitting a notification regarding your proposed construction via the Tower Construction Notification System. Note that the system has assigned a unique Notification ID number for this proposed construction. You will need to reference this Notification ID number when you update your project's Status with us.

Below are the details you provided for the construction you have proposed:

Notification Received: 09/19/2023

Notification ID: 271853
Tower Owner Individual or Entity Name: VB BTS II, LLC
Consultant Name: Miles C Walz Salvador
Street Address: 8899 Main Street, Suite 107
City: Williamsville
State: NEW YORK
Zip Code: 14221
Phone: 716-580-7000
Email: NEPA.NHPA@TheLotisGroup.com

Structure Type: MTOWER - Monopole
Latitude: 36 deg 32 min 45.2 sec N
Longitude: 105 deg 40 min 16.4 sec W
Location Description: near 157 Old Highway 3
City: Arroyo Hondo
State: NEW MEXICO
County: TAOS

Detailed Description of Project: A proposed telecommunication tower known as ARCO TORCIDO and associated equipment within a leased area that includes an access, utility, and guy wire (if applicable) easements.
Ground Elevation: 2149.4 meters
Support Structure: 32 meters above ground level
Overall Structure: 33.5 meters above ground level
Overall Height AMSL: 2182.9 meters above mean sea level

Federal Communications Commission's (FCC) Tower Construction Notification System (TCNS) Notice of Organizations (NOO) Email

NEPA NHPA

From: towernotifyinfo@fcc.gov
Sent: Friday, September 22, 2023 3:02 AM
To: NEPA NHPA
Cc: tcnsweekly@fcc.gov
Subject: NOTICE OF ORGANIZATION(S) WHICH WERE SENT PROPOSED TOWER CONSTRUCTION NOTIFICATION INFORMATION - Email ID #8671174

Dear Applicant:

Thank you for using the Federal Communications Commission's (FCC) Tower Construction Notification System (TCNS). The purpose of this electronic mail message is to inform you that the following authorized persons were sent the notification that you provided through TCNS, which relates to your proposed antenna structure. The information was forwarded by the FCC to authorized TCNS users by electronic mail and/or regular mail (letter). We note that the review period for all parties begins upon receipt of the Submission Packet pursuant to Section VII.A of the NPA and notifications that do not provide this serve as information only.

Persons who have received the notification that you provided include leaders or their designees of federally-recognized American Indian Tribes, including Alaska Native Villages (collectively "Tribal Nations"), Native Hawaiian Organizations (NHOs), and State Historic Preservation Officers (SHPOs). For your convenience in identifying the referenced Tribal Nations and NHOs and in making further contacts, the City and State of the Seat of Government for each Tribal Nation and NHO, as well as the designated contact person, is included in the listing below. We note that Tribal Nations may have Section 106 cultural interests in ancestral homelands or other locations that are far removed from their current Seat of Government. Pursuant to the Commission's rules as set forth in the Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission (NPA), all Tribal Nations and NHOs listed below must be afforded a reasonable opportunity to respond to this notification, consistent with the procedures set forth below, unless the proposed construction falls within an exclusion designated by the Tribal Nation or NHO. (NPA, Section IV.F.4).

The notification that you provided was forwarded to the following Tribal Nations and NHOs. A Tribal Nation or NHO may not respond until a full Submission Packet is provided. If, upon receipt, the Tribal Nation or NHO does not respond within a reasonable time, you should make a reasonable effort at follow-up contact, unless the Tribal Nation or NHO has agreed to different procedures (NPA, Section IV.F.5). In the event a Tribal Nation or NHO does not respond to a follow-up inquiry, or if a substantive or procedural disagreement arises between you and a Tribal Nation or NHO, you must seek guidance from the Commission (NPA, Section IV.G). These procedures are further set forth in the FCC's Second Report and Order released on March 30, 2018 (FCC 18-30).

1. THPO Technician Joanna Vigil - Jicarilla Apache Nation - (PO Box: 1367) Dulce, NM - dykehousej@yahoo.com - 575-759-0062 - electronic mail

2. Director Cultural & Historic Preservation Dept. Daniel Waseta - Pueblo of Isleta - (PO Box: 1270) Isleta, NM - henryj@toast.net; poi60001@isletapueblo.com - 505-869-9768 - electronic mail and regular mail

3. THPO Manager Richard Smith Sr - Pueblo of Laguna - (PO Box: 194) Laguna, NM - rsmith@pol-nsn.gov; ytrujillo@pol-nsn.gov - 505-552-5033 - electronic mail and regular mail

4. Tribal Administrator Jeff Atencio - Pueblo of Picuris - (PO Box: 127) Penasco, NM - administrator@picurispueblo.org - 575-587-2519 - electronic mail and regular mail

5. Tribal Systems Administrator Eric Phillips - Ohkay Owingeh (formerly known as San Juan Pueblo) - (PO Box: 1099) Ohkay Owingeh, NM - ohkayowingeh@hotmail.com - 505-927-1098 - electronic mail and regular mail

6. Dir. of Land Claims & Rights Protection Ben Chavarria - Pueblo of Santa Clara - (PO Box: 580) Espanola, NM - bchavarria@santaclarapueblo.org; ddnaranjo@santaclarapueblo.org - 505-423-5507 - electronic mail

7. Governor Clyde M Romero Sr - Taos Pueblo - (PO Box: 1846) Taos, NM - governor@taospueblo.com; reva@taospueblo.com - 575-758-9593 - electronic mail and regular mail

8. THPO Larry Samuel - Pueblo of Tesuque - Route 42, Box 360-T Santa Fe, NM - LSamuel@pueblooftesuque.org - 505-983-2667 - electronic mail

9. Projects Manager Cindy K Dongoske - Pueblo of Zuni - (PO Box: 1149) Zuni, NM - cdongoske@cableone.net - 505-782-4814 - regular mail

10. SUIT NAGPRA - Southern Ute Tribe - 398 Ouray Drive (PO Box: 737) Ignacio, CO - sunagpra@southernute-nsn.gov; sthompson@southernute-nsn.gov - 970-563-0100 (ext: 2987) - electronic mail and regular mail

11. THPO Assistant Kelly Banderas - Comanche Nation - #6 SW D Avenue, Suite 'C' Lawton, OK - kelly.banderas@comanchenation.com - 580-595-9960 - regular mail
Exclusions: EFFECTIVE MONDAY, JANUARY 18 2021, THE DEPARTMENT WILL BE MOVING TO A FOUR DAY WEEK, MONDAY - THURSDAY, 7:30AM - 6:00PM AND WILL CLOSE EVERY FRIDAY.

The Comanche Nation Historic Preservation Office does not need to review the following types of projects- those that have already been evaluated by the Comanche Nation involving pre-existing above ground feature additions or modification (unless there isan increase in height), and those that have already been evaluated by the Comanche Nation within the city limits on a previously disturbed site.

If the proposed project does not meet one of the aforementioned conditions, the Comanche Nation Historic Preservation Office requires the following items; photographs taken of all 4 directions (north, south, east, and west) from the center of projection site (where possible), legal description of the proposed site (i.e. section, range, township, etc.) and anyexisting archeological or environmental reports or surveys relating to the site. We do not require, butrequest that you provide us with an aerial view of the proposed site, if possible.
Please, send all materials, such as the 620 Forms for Section 106Review via US Mail to the Comanche Nation Historic Preservation Office, in care of Kelly Banderas, 6 SWD Avenue, Suite C, Lawton, OK 73501. When sending request via regular mail, please include the TCNC Number and Project Name. Due to the heavy volumeof requests, we can no longer accept email requests. The Tribal Review period for US Mail is Thirty Five (35) Days and the Comanche Nation will no longer process a review within the Seven (7) day turn around.

If you are in need of additional information,you may contact the Comanche Nation Historic Preservation Office at (580) 595-9960 or 9618 or email martinac@comanchenation.com for clarification. In addition, this message serves as the Official Notice from the Comanche Nation Historic Preservation Office and may be printed for your records, if necessary.

Note. The Comanche Nation must be notified immediately if archaeological properties or human remains are discovered during construction. If the Comanche Nation Office of Historic Preservation has commented previously on the project under requested review, inform us of the date in the body of the review request.

Sincerely,

Martina Callahan
Comanche Nation, Tribal Historical Preservation Officer (THPO)

12. THPO Amanda Hill - Kiowa Indian Tribe THPO - (PO Box: 369) Carnegie, OK - thpo@kiowatribe.org; ahill@kiowatribe.org - 580-654-2300 - electronic mail

13. Darrin Cisco - Apache Tribe of Oklahoma - 510 E Colorado Drive (PO Box: 1330) Anadarko, OK - Apacheculture510@yahoo.com - 405-247-7494 (ext: 103) - electronic mail

14. THPO Josh Mann - Eastern Shoshone Tribe - (PO Box: 538) Fort Washakie, WY - jmann@easternshoshone.org - 307-335-2081 - electronic mail
Exclusions: Thank you for the recent submittal regarding your TCNS project. Based on the location of your proposed project, the Eastern Shoshone Tribe does have an interest in this project as required by the mandatesexpressed in 36 CFR 800, EO 13175, and the FCC Programmatic Agreement as Traditionally Associated Peoples (TAPs) and a sovereign nation legal responsibility for heritage preservation on ancestral homelands. Please utilize our ESTHPO website for online submittals. Our website address is: http://www.esthpo.com. Please navigate to our Services page. On the services page there will be a Submittal button under the Section 106 Consultation literature. The submittal button will navigate you to the upload page where can submit relevant project files for our consultation review.

Your submission should include:
Appropriate SHPO determination or response letter Cultural Resource Report and or Archaeological Survey Report Photographic project site documentation Topographic or Quadrangle Maps Site Plans/Construction Drawings FCC Forms 620 and 621 Lat/Long Coordinates for the proposed project.
Project Coordinator Contact Information

Our 30-day review period will commence once all project details havebeen submitted into our online database. If you have any questions, please feel free to contact the Eastern Shoshone THPO: Joshua Mann, jmann@easternshoshone.org or by phone at: (307) 335-2081 or Shaylynn Durgin, sdurgin@easternshoshone.org or by phoneat: (307) 335-2081. Thank you for consulting with the Eastern Shoshone Tribe.

The ancestors of the Eastern Shoshone Tribe lived a long and storied history across several states on their westward journey from the Western area to present-day Wyoming. This journey, confirmed by tribal oral history, ethnographies, and archaeological evidence, took place over multiple generations and through the present-day states of North Dakota, South Dakota, Nebraska, Kansas, Colorado, Wyoming, Montana, Idaho, Washington, Oregon, California, Utah, Nevada, Arizona, NewMexico and Texas. Significant historical resources throughout this region include major sacred sites including burial sites, occupation areas, medicinal plant and resource collection areas, and other significant traditional cultural properties (TCPs). Therefore, based on the location of your proposed project, the Eastern Shoshone Tribe does have an interest in this proposed project and are requesting to be consulted on this proposed project as required bythe mandates expressed in 36 CFR 800, EO 13175,and the FCC National Programmatic Agreement as traditionally associated peoples (TAPs) and a sovereign nation with legal responsibility for heritage preservation on ancestral homelands.

15. THPO Benjamin Ridgley - Northern Arapaho - 1010 Railroad Ave (PO Box: 67) St. Stephens, WY - archtech.nathpo@gmail.com; pejuta.villa@northernarapaho.com - 307-856-1628 - electronic mail
Exclusions: PLEASE SEND AN ARCHAEOLOGICAL SURVEY OR SITE INVENTORY/MAP FOR THE AREA WITHIN 1 MILE OF THE APE FOR PRE-CONSTRUCTION, COLLOCATION PROJECTS AND PTC POLES. The request gives the tribe an opportunity to comment on past projects that are now proposed as collocation projects.

Email reports to: archtech.nathpo@gmail.com

Please include the TCNS number on all correspondence, reports, maps.

ANY QUESTIONS CALL OR EMAIL:

Benjamin Ridgley
3078561628
benjamin.ridgley@northernarapaho.com

Crystal C'Bearing
crystal.cbearing@northernarapaho.com

16. Chairman Candace Bear - Skull Valley Band Goshute - 407 Skull Valley Rd Skull Valley, UT - candaceb@svgoshutes.com; candaceb@svgoshutes.com - 435-882-4532 - electronic mail and regular mail
Exclusions: Montana And Associates LLC does not contract for Skull Valley Band of Goshute any longer. Thank you.

If the applicant/tower builder receives no response from the Skull Valley Band Goshute within 30 days after notification through TCNS, the Skull Valley Band Goshute has no interest in participating in pre-construction review for the proposed site. The Applicant/tower builder,
however, must immediately notify the Skull Valley Band Goshute in the event archaeological properties or human remains are discovered during construction, consistent with Section IX of the Nationwide Programmatic Agreement and applicable law.

17. Tribal Historic Preservation Officer Holly B Houghten - Mescalero Apache Tribe - Mescalero Apache Tribal Historic Preservation Office 101 Central Ave (PO Box: 227) Mescalero, NM - holly@mathpo.org - 575-464-3005 - electronic mail

18. FCC Specialist Gary LaFranier - Northern Cheyenne Tribe - (PO Box: 128) Lame Deer, MT - gary.lafranier@cheyennenation.com - 406-477-8114 - electronic mail

Exclusions: The Northern Cheyenne Tribe requirement for consultation is digitally through our departmental website. Our website is http://cms.cheyennenation.com

We do not accept mailed paper or emailed digital submissions of project material. To speed up our response time and to be in compliance with our environmental practices we do not accept paper submissions. All proposed projects must be processed through our website. Multiple people in our department need access to the project files and department notes to be able to do their work on the project. For organization, documentation, and financial regulation, all Section 106 project compliance work.

Just as the majority of State Historic Preservation Offices elect to have companies submit their proposedproject directly to them in the format they require, as a sovereign nation, we have the right to ask for the same courtesy.

We require that you submit Form 620 or 621, complete with all of its attachments to our website.

It would expedite the process of getting your project into compliance if you would wait and submit your proposed project to our department when Form 620/621 and all of its attachments are ready - particularly the complete cultural resource report. We waste quite a bit of time contacting companies and searching for the Form 620/621 if the proposed project is submitted to us with only a dot on the map.

If you have any questions or need more information please contact FCC specialist Gary LaFranier at gary.lafranier@cheyennenation.com and 406-477-8114, or THPO Teanna Limpy at teanna.limpy@cheyennenation.com and 406-477-4839.

19. THPO Mark Altaha - White Mountain Apache Tribe - P.O. Box 1032 Fort Apache, AZ - markaltaha@wmat.us - 928-338-3033 - electronic mail and regular mail
Exclusions: The White Mountain Apache Tribe Historic Preservation Office (THPO) is working remotely due to the coronavirus pandemic. This may cause delay in responding to Section 106 consultation for FCC TCNS Projects.

Mark Altaha - THPO
White Mountain Apache Tribe
Historic Preservation Office
Fort Apache, Arizona

The notification that you provided was also forwarded to the following SHPOs in the State in which you propose to construct and neighboring States. The information was provided to these SHPOs as a courtesy for their information and planning. You need make no effort at this time to follow up with any SHPO that does not respond to this notification. Prior to construction, you must provide the SHPO of the State in which you propose to construct (or the Tribal Historic Preservation Officer, if the project will be located on certain Tribal lands), with a Submission Packet pursuant to Section VII.A of the NPA unless the project is excluded from SHPO review under Section III D or E of the NPA.

20. Architectural Review Gretchen Brock - State Historic Preservation Office of New Mexico - 407 Galisteo Street - Suite 236 Historic Preservation Div. - Office of Cultural Affairs Santa Fe, NM - gretchen.brock@dca.nm.gov - 505-476-0548 - electronic mail

21. SHPO Trait Thompson - Oklahoma Historical Society - Oklahoma History Center 2401 North Laird Avenue Oklahoma City, OK - tthompson@okhistory.org - 405-521-6249 - electronic mail

TCNS automatically forwards all notifications to all Tribal Nations and SHPOs that have an expressed interest in the geographic area of a proposal. However, if a proposal for PTC wayside poles falls within a designated exclusion, you need not expect any response and need not pursue any additional process with that Tribal Nation or SHPO. In addition, a particular Tribal Nation or SHPO may also set forth policies or procedures within its details box that exclude from review certain facilities (for example, a statement that it does not review collocations with no ground disturbance; or that indicates that no response within 30 days indicates no interest in participating in pre-construction review).

Please be advised that the FCC cannot guarantee that the contact(s) listed above have opened and reviewed an electronic or regular mail notification. If you learn that any of the above contact information is no longer valid, please contact the FCC by emailing tcnshelp@fcc.gov. The following information relating to the proposed tower was forwarded to the person(s) listed above:

Notification Received: 09/19/2023
Notification ID: 271853
Excluded from SHPO Review: No
Tower Owner Individual or Entity Name: VB BTS II, LLC
Consultant Name: Miles C Walz Salvador
Street Address: 8899 Main Street, Suite 107
City: Williamsville
State: NEW YORK
Zip Code: 14221
Phone: 716-580-7000
Email: NEPA.NHPA@TheLotisGroup.com

Structure Type: MTOWER - Monopole
Latitude: 36 deg 32 min 45.2 sec N
Longitude: 105 deg 40 min 16.4 sec W
Location Description: near 157 Old Highway 3
City: Arroyo Hondo
State: NEW MEXICO
County: TAOS
Detailed Description of Project: A proposed telecommunication tower known as ARCO TORCIDO and associated equipment within a leased area that includes an access, utility, and guy wire (if applicable) easements.
Ground Elevation: 2149.4 meters
Support Structure: 32.0 meters above ground level
Overall Structure: 33.5 meters above ground level
Overall Height AMSL: 2182.9 meters above mean sea level

If you have any questions or comments regarding this notice, please contact the FCC using the electronic Help Request form located on the FCC's website at:

https://www.fcc.gov/wireless/available-support-services

You may also call the FCC Support Center at (877) 480-3201 (TTY 717-338-2824). Hours are from 8:00 a.m. to 6:00 p.m. Eastern Time, Monday through Friday (except Federal holidays). To provide quality service and ensure security, all telephone calls are recorded.

Thank you,
Federal Communications Commission

Attachment 7

Local Government Involvement

Taos County Planning Department Submission

Note:

In the interest of efficiency and economy, attachments included in the original submission under this section are not duplicated throughout this NEPA Summary. The following attachment(s), found at the conclusion of this report, were included in the original submission:

- **Proposed Project Summary**
- **Attachment 1 - Maps**
- **Attachment 2 - Photographs**

September 27, 2023

Taos County Planning Department
Attn: Andy Jones -Senior Planner
105 Albright Street Suite H
Taos, New Mexico 87571
Submitted via email: andy.jones@taoscountynm.gov

RE: Proposed Telecommunications Tower Undertaking "Arco Torcido" in Taos County, New Mexico; VB BTS II, LLC

To Whom It May Concern:

VB BTS II, LLC (VB BTS II), is proposing to construct a tower installation near 157 Old Highway 3, Arroyo Hondo, Taos County, New Mexico 87513. Lotis Environmental, LLC (Lotis), is preparing an environmental and cultural resource review on behalf of VB BTS II as part of its permit process and regulatory review by the Federal Communications Commission (FCC). Please consider this correspondence as an invitation to the Taos County Planning Department to comment on the possible effects the proposed undertaking may have on sites or structures of historic significance within the general vicinity.

Attached, please find information pertaining to the proposed undertaking. This information includes a project summary, an aerial photograph, a topographic map, and photographs of the proposed undertaking's site and adjacent properties. As part of our research, Lotis is consulting with the New Mexico Historic Preservation Division, and will forward any concerns of the Taos County Planning Department regarding historic properties to the New Mexico Historic Preservation Division.

Lotis respectfully requests that you provide comment within 30 days regarding the possible effects of this undertaking on historic properties. If a response is not received within 30 days, Lotis will assume you have no interest/concern with the proposed undertaking. Should you require additional information, please do not hesitate to contact me at (716) 580-7000. Thank you for your time and consideration in this regard.

Sincerely,

Lotis Environmental, LLC

DeAnna Anglin

DeAnna Anglin
Nationwide NEPA/NHPA Manager
Legals@TheLotisGroup.com

Enclosures

Proof of Taos County Planning Department Submission

Jennifer Andres

From: NEPA NHPA
Sent: Thursday, September 28, 2023 8:58 PM
To: 'andy.jones@taoscountynm.gov'
Subject: MUNI Opportunity to comment on proposed telecommunication project LOTIS# VBBTS_264– "Arco Torcido" US-NM-7008
Attachments: Arco Torcido US-NM-7008.kmz; MUNI SUBs Arco Torcido.pdf

Importance: High

To Whom It May Concern,

Lotis is completing Section 106 NEPA compliance due diligence regarding the above proposed telecommunication project known as "**Arco Torcido**". Part of this due diligence includes giving the local government/jurisdiction the opportunity to comment on whether or not the proposed telecommunications project will have an effect on historic properties. I have attached the project summary, site maps, KMZ file (for Google Earth aerial view) and site photos of the proposed Subject Property in question. The Section 106 consultation process allows you 30 days to respond.

Should you not respond within 30 days we will assume you have no concern or comment regarding the proposed undertaking. However, should you not want to comment we ask that you state so in a response to aid us in our timeline for this project. Should you have an additional request for information, please feel free to contact me phone or by responding all to this email. We will do our best to supplement you with any additional documentation or information regarding the proposed undertaking.

Warmly,

DeAnna Anglin
Senior Biologist/NEPA Specialist

8899 Main Street – Suite 107
Williamsville, NY 14221
www.thelotisgroup.com

Phone: 716.580.7000
Mobile: 417.840.5008
Anglin@thelotisgroup.com

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The content of this email is confidential and intended for the recipient specified in message only. It is strictly forbidden to share any part of this message with any third party, without a written consent of the sender. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

Taos County Planning Department's Response

DeAnna Anglin

From: Andy Jones <andy.jones@taoscountynm.gov>
Sent: Tuesday, October 3, 2023 12:32 PM
To: NEPA NHPA
Cc: Rudy D. Perea; Polina Fateeva
Subject: Re: MUNI Opportunity to comment on proposed telecommunication project LOTIS# VBBTS_264– "Arco Torcido" US-NM-7008

Hello, thank you for providing this opportunity for the Taos County Planning Department to review the proposed telecommunications site and comment in regard to the potential effect on historic properties. The Taos County Planning Department will defer such matters to the New Mexico State Historic Preservation Office.
In regard to the overall scope of the project, let it be known that the proposed use will require a Special Use Zoning Clearance Application in order to be approved within Taos County, pursuant to the Taos County Land Use Regulations.
The first step would be for your client to schedule a pre-application conference to review the proposed project and discuss the application and approval process.
Thank you,
Andy Jones

Andy G. Jones
Senior Planner
Taos County Planning Department
575-737-6443

From: NEPA NHPA <NEPA.NHPA@thelotisgroup.com>
Sent: Thursday, September 28, 2023 6:57 PM
To: Andy Jones <andy.jones@taoscountynm.gov>
Subject: MUNI Opportunity to comment on proposed telecommunication project LOTIS# VBBTS_264– "Arco Torcido" US-NM-7008

To Whom It May Concern,

Lotis is completing Section 106 NEPA compliance due diligence regarding the above proposed telecommunication project known as "**Arco Torcido**". Part of this due diligence includes giving the local government/jurisdiction the opportunity to comment on whether or not the proposed telecommunications project will have an effect on historic properties. I have attached the project summary, site maps, KMZ file (for Google Earth aerial view) and site photos of the proposed Subject Property in question. The Section 106 consultation process allows you 30 days to respond.

Should you not respond within 30 days we will assume you have no concern or comment regarding the proposed undertaking. However, should you not want to comment we ask that you state so in a response to aid us in our timeline for this project. Should you have an additional request for information, please feel free to contact me phone or by responding all to this email. We will do our best to supplement you with any additional documentation or information regarding the proposed undertaking.

Warmly,

DeAnna Anglin
Senior Biologist/NEPA Specialist

8899 Main Street – Suite 107
Williamsville, NY 14221
www.thelotisgroup.com

Phone: 716.580.7000
Mobile: 417.840.5008
Anglin@thelotisgroup.com

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The content of this email is confidential and intended for the recipient specified in message only. It is strictly forbidden to share any part of this message with any third party, without a written consent of the sender. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

Attachment 8

Public Involvement

Legal Public Notice Text and Affidavit of Publication

Lotis contacted the Taos News and published a legal public notice in the classified section. The proposed undertaking is detailed in the notice and calls for the recognition of public concerns on any historic property impacts caused by the proposed undertaking. A copy of the legal notice text and Affidavit of Publication are attached.

"VB BTS II, LLC would like to place on notice the proposed construction of an installation consisting of a 105' (110' including all appurtenances) monopole tower known as Arco Torcido located at 36°32'45.199" north latitude and 105°40'16.361" west longitude near 157 Old Highway 3, Arroyo Hondo, Taos County, New Mexico 87513. If you have any concerns regarding historic properties that may be affected by this proposed undertaking, please contact: DeAnna Anglin, Lotis Environmental, LLC, at Legals@TheLotisGroup.com or (314) 913-0505. In your response, please include the proposed undertaking's location and a list of the historic resources that you believe to be affected along with their respective addresses or approximate locations."

AFFP
LEGAL 18602_ACRO TORCIDO INSTA

Affidavit of Publication

STATE OF NM }
COUNTY OF TAOS } SS

Sean Linton, being duly sworn, says:

That he is Legal Advertising Representative of the The Taos News, a weekly newspaper of general circulation, printed and published in Colfax County, Rio Arriba County, Taos County, NM; that the publication, a copy of which is attached hereto, was published in the said newspaper on the following dates:

September 21, 2023

STATE OF NEW MEXICO
NOTARY PUBLIC
MARY CHAVEZ
Commission # 1072021
My Comm. Exp. Apr. 3, 2025

That said newspaper was regularly issued and circulated on those dates.
SIGNED:

Subscribed to and sworn to me this 21st day of September 2023.

Mary Chavez, Notary Public, Taos County, NM

My commission expires: April 03, 2025

00011974 00057437

STEPHANIE SPERRAZZA
LOTIS ENVIRONMENTAL
8899 Main Street – Suite 107
WILLIAMSVILLE, NY 14221

LEGAL NO. 18,602.
PUBLIC NOTICE
VB BTS II, LLC would like to place on notice the proposed construction of an installation consisting of a 105' (110' including all appurtenances) monopole tower known as Arco Torcido located at 36°32'45.199" north latitude and 105°40'16.361" west longitude near 157 Old Highway 3, Arroyo Hondo, Taos County, New Mexico 87513. If you have any concerns regarding historic properties that may be affected by this proposed undertaking, please contact: DeAnna Anglin, Lotis Environmental, LLC, at
Legals@TheLotis
Group.com or (314) 913-0505. In your response, please include the proposed undertaking's location and a list of the historic resources that you believe to be affected along with their respective addresses or approximate locations.
(LEGAL NO. 18,602; PUB. SEPT. 21, 2023)

Taos County Historical Society Submission

Note:

In the interest of efficiency and economy, attachments included in the original submission under this section are not duplicated throughout this NEPA Summary. The following attachment(s), found at the conclusion of this report, were included in the original submission:

- ***Proposed Project Summary***
- ***Attachment 1 - Maps***
- ***Attachment 2 - Photographs***

September 27, 2023

Taos County Historical Society
Attn: Ms. Ernestina Cordova - President
PO Box 2447
Taos, New Mexico 87571
Submitted via email: cordova@newmex.com

RE: Proposed Telecommunications Tower Undertaking "Arco Torcido" in Taos County, New Mexico; VB BTS II, LLC

To Whom It May Concern:

VB BTS II, LLC (VB BTS II), is proposing to construct a tower installation within the general vicinity of near 157 Old Highway 3, Arroyo Hondo, Taos County, New Mexico 87513. Lotis Environmental, LLC (Lotis), is preparing an environmental and cultural resource review on behalf of VB BTS II as part of its permit process and regulatory review by the Federal Communications Commission (FCC). Please consider this correspondence as an invitation to the Taos County Historical Society to comment on the possible effects the proposed undertaking may have on sites or structures of historic significance within the general vicinity.

Attached, please find information pertaining to the proposed undertaking. This information includes a project summary, an aerial photograph, a topographic map, and photographs of the proposed undertaking's site and adjacent properties. As part of our research, Lotis is consulting with the New Mexico Historic Preservation Division, and will forward any concerns of the Taos County Historical Society regarding historic properties to the New Mexico Historic Preservation Division.

Lotis respectfully requests that you provide comment within 30 days regarding the possible effects of this undertaking on historic properties. If a response is not received within 30 days, Lotis will assume you have no interest/concern with the proposed undertaking. Should you require additional information, please do not hesitate to contact me at (716) 580-7000. Thank you for your time and consideration in this regard.

Sincerely,

Lotis Environmental, LLC

DeAnna Anglin

DeAnna Anglin
Nationwide NEPA/NHPA Manager
Legals@TheLotisGroup.com
Enclosures

Proof of Taos County Historical Society Submission

Jennifer Andres

From: NEPA NHPA
Sent: Thursday, September 28, 2023 8:58 PM
To: 'cordova@newmex.com'
Subject: ITC Opportunity to comment on proposed telecommunication project LOTIS# VBBTS_264– "Arco Torcido" US-NM-7008
Attachments: Arco Torcido US-NM-7008.kmz; ITC SUBs Arco Torcido.pdf

Importance: High

To Whom It May Concern,

Lotis is completing Section 106 NEPA compliance due diligence regarding the above proposed telecommunication project known as "**Arco Torcido**". Part of this due diligence includes giving the local historical society the opportunity to comment on whether or not the proposed telecommunications project will have an effect on historic properties. I have attached the project summary, site maps, KMZ file (for Google Earth aerial view) and site photos of the proposed Subject Property in question. The Section 106 consultation process allows you 30 days to respond.

Should you not respond within 30 days we will assume you have no concern or comment regarding the proposed undertaking. However, should you not want to comment we ask that you state so in a response to aid us in our timeline for this project. Should you have an additional request for information, please feel free to contact me phone or by responding all to this email. We will do our best to supplement you with any additional documentation or information regarding the proposed undertaking.

Warmly,

DeAnna Anglin
Senior Biologist/NEPA Specialist

8899 Main Street – Suite 107
Williamsville, NY 14221
www.thelotisgroup.com

Phone: 716.580.7000
Mobile: 417.840.5008
Anglin@thelotisgroup.com

Please consider the environment before printing this email

The content of this email is confidential and intended for the recipient specified in message only. It is strictly forbidden to share any part of this message with any third party, without a written consent of the sender. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

Taos County Historical Society's Response (NONE)

Attachment 9

Curricula Vitae

DAVID N. ROBINSON, P.E.

President/CEO, Lotis Environmental, LLC

Years of Experience

28+

Education

M.S., Environmental Engineering, University of Colorado at Boulder, 1995
B.S., Civil Engineering, State University of New York at Buffalo, 1994
A.A.S., Architectural Engineering, Alfred State College, 1990

Professional Affiliations

New York State Wireless Association

Professional Registrations

Professional Engineer, New York 2001 (079047)

Certifications

FEMA Public Assistance Program Operations I
OSHA 40 Hr. Hazardous Waste Site Worker Training
Nokia CMPro Cost Control Training

Key Qualifications

David Robinson founded The Lotis Engineering Group/Lotis Environmental, LLC and has served as CEO since its inception in 2007. Mr. Robinson is a New York State Professional Engineer and an ASTM-recognized Environmental Professional. Over his 28-year professional career, Mr. Robinson has performed over 18,000 Phase I Environmental Site Assessments in all 50 states and Canada. As CEO of Lotis, Mr. Robinson directs the strategic direction of the company. Under his leadership, Lotis has flourished into a leader in the Environmental Due Diligence industry.

Telecommunications Experience

- Vertical Bridge Holdings, Nationwide, US (2014-ongoing): Project Manager/Engineer for services relating to the acquisition and development of telecommunications tower sites throughout the United States. Services include Phase I Environmental Site Assessments. David has been responsible for managing resources to complete these services on hundreds of telecommunication sites.

- Tower Ventures, LLC, Nationwide, US (2011-ongoing): Project Manager/Engineer for services relating to the acquisition and development of telecommunications tower sites throughout the United States. Services include

Phase I Environmental Site Assessments. David has been responsible for managing resources to complete these services on many telecommunication sites.

- Global Tower Partners, Inc., Nationwide, US (2004-2013): Project Manager/Engineer for services relating to the acquisition and development of telecommunications tower sites throughout the United States. Services include property surveys, 2C surveys, Phase I Environmental Site Assessments, NEPA compliance studies, zoning issues, and structural evaluation of existing towers. David has been responsible for managing resources to complete these services on over 5,000 sites in all 50 states and the Caribbean.

- SBA, Inc. Acquisition Services, Nationwide, US (2001-2011): Project Manager/Engineer for services relating to the acquisition and development of telecommunications tower sites throughout the United States. Services include property surveys, 2C surveys, Phase I Environmental Site Assessments, NEPA compliance studies, zoning issues, and structural evaluation of existing towers. David has been responsible for managing resources to complete these services on over 7,000 sites in all 50 states, the Caribbean and Canada.

- AT&T NexGen, Nationwide, US (2004): Project Engineer for this 16,000-mile long-haul fiber-optic confidential construction project throughout the United States. David was responsible for preparing tax recording documents needed to file taxes for AT&T's fiber build.

- Nassau County Police Department Land Mobile Radio System Modernization Project (2005-2007): Project Manager for engineering services relating to the upgrade of Nassau County's public safety communication system. Services include site design, construction drawing preparation, property surveys, 1A surveys, Phase I Environmental Site Assessments, NEPA compliance studies, zoning issues, and structural evaluation of existing towers. David has been responsible for managing resources to complete these services on 36 sites throughout the county.

- The City of New York Department of Information Technology and Telecommunications Channel 16 Project (2005-2007): Project Manager for engineering services relating to the design and construction of a conventional/trunked radio system for FDNY and other New York City agencies. Services include site design, construction drawing preparation, property surveys, 1A surveys, Phase I Environmental Site Assessments, NEPA compliance studies, zoning issues, and structural evaluation of existing towers. David has been responsible for managing resources to complete these services on 7 sites in New York City.

- NorthStar Communications, Inc., Florida (2003-2004: Project Manager for services relating to the development of telecommunications tower sites throughout Florida for Nextel. Services included construction drawings, property surveys, 2C surveys, zoning issues, and structural evaluation of existing towers. David was responsible for managing resources to complete these services on over 20 sites in the state of Florida.

Other Experience

- BNMC Utilities Relocation, Buffalo, New York (2002): Civil Engineer for the design of utility relocations at Roswell Park in Buffalo. David was responsible for developing construction documents and specifications, as well as providing consulting services throughout the design process. His duties also included preparation of construction cost estimates and submittal review.

- NFTA Metro Bus – Bus Fueling Station Systems Modifications for Dual Fuel, Buffalo, New York (2002): Civil Engineer for the design and preparation of design drawings, specifications and cost estimate for the replacement of an existing single fuel system to that of a dual fuel system.

- New Jersey DPMC Underground Storage Tank Program, New Jersey (1999-2001): Civil Engineer for the design of new aboveground and underground tank fueling systems (including fuel dispensers, leak detection systems, inventory control systems, and concrete tank slabs) for various State Departments in New Jersey. David was responsible for developing design drawings, construction documents and specifications, as well as providing consulting services throughout the construction process. His duties also included creating and maintaining resource-loaded project schedules for project using Primavera project scheduling software.

- Former Hyatt Clark Industries, Inc. Site, New Jersey (1996-1998): Civil engineer for the preparation for the closure and remediation of the Former GM Industrial site and the construction of a 9-hole golf course recreational undertaking (including Driving Range, Putting Course, Clubhouse and Maintenance Facilities). David was responsible for the design of the golf course drainage system which included a 5-acre retention pond to be used for irrigation during periods of drought. His duties also included preparing cost estimates for the site closure and subsequent golf course construction, and the modeling and design of the undertaking entrance and parking.

- Wegmans Food Pharmacy, Buffalo, New York (1998): Civil engineer for the construction of a supermarket on a former industrial site. David was responsible for the modeling and design of the undertaking entrance. His duties also included field sampling of excavated soil during construction.

- USACE-Buffalo District, Cuyahoga River Bulkheads Study, Ohio (1999): Civil Engineer for the USACE's bulkhead inspection program along nine miles of the Cuyahoga River in Cleveland, Ohio. David was responsible for preparing a structural assessment of bulkhead along the river by inspecting various conditions of the sheet pile (i.e., corrosion levels, settling). His duties also included preparing remediation recommendations and subsequent cost estimates for damaged bulkhead sections.

- USACE-Buffalo District, Advance Measures Program, New York (1999): Civil Engineer for the study of high Lake Erie levels on four residential areas. David was responsible for gathering residential home elevations and comparing them to historical rain and lake level data. Based on these comparisons and a detailed cost analysis, recommendations to alleviate local residential flooding, including the design of breakwaters and levees, were made.

- FEMA Public Assistance Program, Puerto Rico (1998-1999): Civil Engineer for the inspection of public facilities damaged by Hurricane Georges. David was responsible for gathering field data on hurricane damages, designing mitigation alternatives, and preparing detailed cost analyses of damages.

- NYCDDC Underground Storage Tank Program, New York (1999-2001): Civil Engineer for the design of groundwater/soil remediation systems for the cleanup of petroleum-contaminated groundwater and soils. Groundwater remediation systems typically consisted of the design and installation of pneumatic and electric dual pumping systems for the removal of free phase and dissolved phase contamination. Soil remediation systems incorporated the design and installation of soil vapor extraction systems and bioventing systems.

- Lipari Landfill, New Jersey (1996-1997): Civil Engineer for offsite remediation work at the Lipari Superfund site. David was responsible for modeling migration rates of contaminants from the Superfund site through surrounding soil strata.

MILES C. WALZ-SALVADOR

Nationwide NEPA/NHPA Manager, Lotis Environmental, LLC

Years of Experience

12+

Education

Bachelor of Science in Fisheries & Wildlife, the University of Missouri - Columbia, 2011
Bachelor of Science in Forestry, the University of Missouri - Columbia, 2011
Minor in Biological Science, the University of Missouri - Columbia, 2011

Certifications

EPA Asbestos Certification
Colorado State Asbestos Building Inspector Certification
OSHA 10-Hr Safety & Health – Construction Certification
ACOE 38-hr Wetland Delineation Certification of completion
OSHA 40-Hr Hazardous Waste Operations and Emergency Response Certification

Key Qualifications

Mr. Walz-Salvador has gained experience performing informal biological assessments for Section 7 compliance under the Endangered Species Act (ESA), wetland impact determinations, floodplain determinations, threatened and endangered species determinations, critical habitat research, as well as writing National Environmental Policy Act (NEPA) environmental assessments for wireless telecommunication projects. He has conducted research regarding Section 106 compliance under the Federal Communications Commission standards. Under Section 106, he has experience with 620 and 621 Form submittals to the State Historical Preservation Offices and consultation with federally recognized tribes all over the United States. Mr. Walz-Salvador has experience performing Phase I & II environmental site assessments, indoor air quality assessments, asbestos building inspections and sampling, wetland delineations, and migratory bird evaluations.

In addition, Mr. Walz-Salvador has experience with the United States Geological Survey (USGS) as a biological science aid, where he conducted field research on the Missouri River capturing and tracking Pallid Sturgeon. He also worked with the Missouri Department of Conservation (MDC) as a field technician conducting research on endangered and endemic fish species within the waterways of the Missouri Ozarks. Additionally, he has also worked in a variety of fields such as wetland biology, avian ecology, and ungulate research and management for the MDC. While attending the University of Missouri-Columbia, Mr. Walz-Salvador participated in the Undergraduate Mentoring for Environmental Biology (UMEB) Program which aided him in gaining experience with migratory bird research underneath the guidance of Dr. John Faaborg and Dr. Andrew Cox. UMEB also allowed Mr. Walz-Salvador to work with the Missouri Botanical Garden, a partner company, to observe endangered plant research and gain experience with working with private entities.

Mr. Walz-Salvador's schooling and work experience has enabled him to identify and understand the biology of trees, birds, fish, and mammalian species in addition to technical skills with the Delorme Topographic USA mapping program, ArcGIS, several of the Microsoft Office Programs, Adobe Acrobat Pro, and Google Earth.

Telecommunications Experience

- Lotis Environmental, LLC. Nationwide, US (2020-ongoing): Nationwide NEPA/NHPA Manager / Biologist for services relating to compliance of NEPA, NHPA, and the ESA for the construction/acquisition of telecommunication towers throughout the United States including Puerto Rico, Canada, and Mexico. Services include Phase I & Phase 2 Environmental Site Assessments, and NEPA compliance for Vertical Bridge Land Holdings, LLC, Tower Ventures, Tower Lease Advisors, Phoenix Towers International, InSite Towers, and BlueSky Tower.

- The Lotis Engineering Group, PC. Nationwide, US (2015-2020): Nationwide NEPA/NHPA Manager / Biologist for services relating to compliance of NEPA, NHPA, and the ESA for the construction/acquisition of telecommunication towers throughout the United States including Puerto Rico, Canada, and Mexico. Services include Phase I & Phase 2 Environmental Site Assessments, and NEPA compliance for Vertical Bridge Land Holdings, LLC, Tower Ventures, Tower Lease Advisors, Phoenix Towers International, InSite Towers, and BlueSky Tower.

- Trileaf Corporation, Nationwide, US (2013-2015): Senior Project Scientist: Wetland Ecologist and Migratory Bird Specialist for services relating to the NEPA/NHPA compliance of the proposed construction of telecommunication tower sites throughout the United States. Services include Phase I & Phase 2 Environmental Site Assessments, Indoor Air Quality Surveys, Asbestos Sampling, NEPA compliance, Migratory Bird Evaluations and Wetland delineations for Verizon Wireless, AT&T Mobility Services, LLC, SBA Communications, Crown Castle Towers, T-Mobile, Nextel, and Edward Jones.

DeAnna N. Anglin

Environmental Biologist/NEPA Writer, The Lotis Engineering Group, P.C.
Environmental Biologist/NEPA Writer, Lotis Environmental, LLC

Professional Experience

The Lotis Engineering Group, P.C. ***(March 2016 – Present)***
Lotis Environmental, LLC ***(June 2019 – Present)***
6465 Transit Road - Suite 23
East Amherst, New York 14051

Education

B.S., Fisheries and Wildlife Sciences, University of Missouri in Columbia, 2012
Minors in Captive Wild Animal Management, Biological Sciences, and Theatre

Key Qualifications

DeAnna Anglin has gained experience performing informal biological assessments (IBA) for Section 7 compliance under the Endangered Species Act (ESA), wetland impact determinations, floodplain determinations, threatened and endangered species determinations, critical habitat research, as well as writing National Environmental Policy Act (NEPA) environmental assessments for wireless telecommunication projects. She has conducted research regarding Section 106 compliance under the Federal Communications Commission (FCC) standards. Under Section 106, She has experience with 620 and 621 Form submittals to the State Historical Preservation Offices (SHPO) and consultation with federally recognized tribes all over the United States and Puerto Rico. Ms. Anglin has experience performing Phase I environmental site assessments, migratory bird evaluations and NEPA report writing.

In addition, Ms. Anglin has experience with the University of Missouri-Columbia, where she participated in graduate scientific research pertaining to the Red-bellied Woodpecker. Specifically, she sought potential nesting bird pairs and observed their nesting behavior and success rates. Ms. Anglin also has experience identifying, mist netting, and handling bats of North America.

Ms. Anglin's schooling and work experience has enabled her to identify and understand the biology of trees, birds, fish, and mammalian species in addition to technical skills with the Delorme Topographic USA mapping program, ArcGIS, several of the Microsoft Office Programs, Adobe Acrobat Pro, and Google Earth.

Telecommunications Experience

- Trileaf Corporation, Missouri (2013 – 2015): Volunteer site surveyor, particularly for migratory bird evaluations.
- Vertical Bridge Holdings, LLC, Nationwide, US (2015-ongoing): NEPA Writer/Environmental Biologist for services relating to compliance of NEPA, NPA, and the ESA for the construction/acquisition of telecommunication towers throughout the United States including Puerto Rico, Canada, and Mexico. Services include Phase I & Phase 2 Environmental Site Assessments, and NEPA compliance.
- Blue Sky Towers, LLC, Nationwide, US (2015-ongoing): NEPA Writer/Environmental Biologist for services relating to compliance of NEPA, NPA, and the ESA for the construction/acquisition of telecommunication towers throughout the United States including Puerto Rico, Canada, and Mexico. Services include Phase I & Phase 2 Environmental Site Assessments, and NEPA compliance.

- InSite Towers, LLC, Nationwide, US (2015-ongoing): NEPA Writer/Environmental Biologist for services relating to compliance of NEPA, NPA, and the ESA for the construction/acquisition of telecommunication towers throughout the United States including Puerto Rico, Canada, and Mexico. Services include Phase I & Phase 2 Environmental Site Assessments, and NEPA compliance.

- IWG-TLA Telecom, LLC, Nationwide, US (2015-ongoing): NEPA Writer/Environmental Biologist for services relating to compliance of NEPA, NPA, and the ESA for the construction/acquisition of telecommunication towers throughout the United States including Puerto Rico, Canada, and Mexico. Services include Phase I & Phase 2 Environmental Site Assessments, and NEPA compliance.

- Turris Sites, Canada (2015-ongoing): NEPA Writer/Environmental Biologist for services relating to compliance of NEPA, NPA, and the ESA for the construction/acquisition of telecommunication towers throughout the United States including Puerto Rico, Canada, and Mexico. Services include Phase I & Phase 2 Environmental Site Assessments, and NEPA compliance.

- Phoenix Towers International, Nationwide, US (2015-ongoing): NEPA Writer/Environmental Biologist for services relating to compliance of NEPA, NPA, and the ESA for the construction/acquisition of telecommunication towers throughout the United States including Puerto Rico, Canada, and Mexico. Services include Phase I & Phase 2 Environmental Site Assessments, and NEPA compliance.

- Tower Ventures, LLC, Nationwide, US (2015-ongoing): NEPA Writer/Environmental Biologist for services relating to compliance of NEPA, NPA, and the ESA for the construction/acquisition of telecommunication towers throughout the United States including Puerto Rico, Canada, and Mexico. Services include Phase I & Phase 2 Environmental Site Assessments, and NEPA compliance.

- Weiss Towers, Nationwide, US (2017-ongoing): NEPA Writer/Environmental Biologist for services relating to compliance of NEPA, NPA, and the ESA for the construction/acquisition of telecommunication towers throughout the United States including Puerto Rico, Canada, and Mexico. Services include Phase I & Phase 2 Environmental Site Assessments, and NEPA compliance.

- Telecom Lease Advisors, Nationwide, US (2015-ongoing): NEPA Writer/Environmental Biologist for services relating to compliance of NEPA, NPA, and the ESA for the construction/acquisition of telecommunication towers throughout the United States including Puerto Rico, Canada, and Mexico. Services include Phase I & Phase 2 Environmental Site Assessments, and NEPA compliance.

BILLY J. MCCARLEY

Anthropologist
Address: 4915 Atlanta Highway, #2086, Flowery Branch, Georgia 30542
Phone 720-708-9872
E-mail bmccarley@subterraneanco.com

Director of cultural resources at Subterranean Consultants, with over ten years of experience implementing project and business development. Lead communicator and organizer of project planning and research design, both utilized to chart and analyze project scoping and budgeting. Principal Investigator and director of archaeology and history consultations for Section 106.

Work History

2012-09 – Current **Principal Investigator/Chief Archaeologist**
Subterranean Consultants, Atlanta, Georgia

- Conducts phase I archaeological assessments, phase II evaluations, and phase III mitigation of NEPA projects (Section 106) and private development.
- Conducts Section 106 projects include United States Army Corps of Engineers (USACE) Section 404 permitting, Federal Energy Commission, United States Department of Housing and Urban Development (HUD) construction, Federal Highway Administration (FHWA) construction, and FCC telecommunications projects.
- Consults with over 40 State Historic Preservation Offices (SHPO) and Tribal Historic Preservation Offices.
- Conducts tribal-requested construction monitoring of over 23 telecommunications towers.
- Serves as principal investigator on Phase I, Phase II, and Phase III archaeology, and history projects, including nineteenth century rice plantation, Fernbank Museum-sponsored Hernando de Soto route expedition, and American Indian Lamar settlements along Georgia coast.
- Conducts private due diligence surveys, including Georgia municipal cemetery delineation and ancestral research, North Carolina cemetery survey and Phase II evaluations, large-scale solar developments in West Virginia, Indiana, Illinois, and Georgia, and residential and commercial developments throughout Georgia and Alabama.

7301 Indian School Road
NE, Suite A
Albuquerque, NM 87110
505.884.4721 phone
www.valbridge.com

New Mexico- Tower Influence Market Study

September 12, 2025

Mr. Nicholas Romano
BTS Towers, LLC dba Vertical Bridge Communication
8100 Wyoming Blvd. NE #M4-167
Albuquerque, NM 87113

RE: New Mexico – Cell Tower Market Study

Valbridge File Number: NM01-25-1258-000

Dear Mr. Romano:

In accordance with your request, we have performed a market study for various sub-areas in New Mexico with an emphasis on rural areas. This market study focused on those areas centered on a specific cell tower sites. It sets forth the pertinent data gathered, the techniques employed, and the reasoning leading to our conclusions.

Appraisal Summary

We have completed paired data analysis among four tower sites. Our scope of work is to determine if there is a diminution in value for homes within closer proximity with sight lines to a tower site compared to those without those site lines. The resulting analysis shows there is no diminution in value for homes in closer proximity with site lines to cell towers.

Market Study Conclusions

Areas	Conclusion
Costilla	**No Diminution in Value**
Chama	**No Diminution in Value**
Santa Fe	**No Diminution in Value**
Chimayo	**No Diminution in Value**

We developed our findings, analyses, and conclusions and prepared this report in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP) of the Appraisal Foundation. The market study is intended to conform to the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute; and the requirements of our client as we understand them.

The client in this market study assignment is BTS Towers, LLC dba Vertical Bridge Communications and the intended user of this study is the client and no others. The intended purpose of this market study is to determine the impact, if any, on residential property values because of the presence of a cell tower. The opinions reported herein are subject to the definitions, assumptions and limiting conditions, and certification contained in this report.

The market study submitted herewith is subject to the General Assumptions and Limiting Conditions contained in the report. No Extraordinary Assumptions or Hypothetical Conditions were considered in this assignment.

Respectfully submitted,
Valbridge Property Advisors | New Mexico

Chris Knight, MAI, R/W-AC
Managing Director
New Mexico #REA-2024-0021
cknight@valbridge.com

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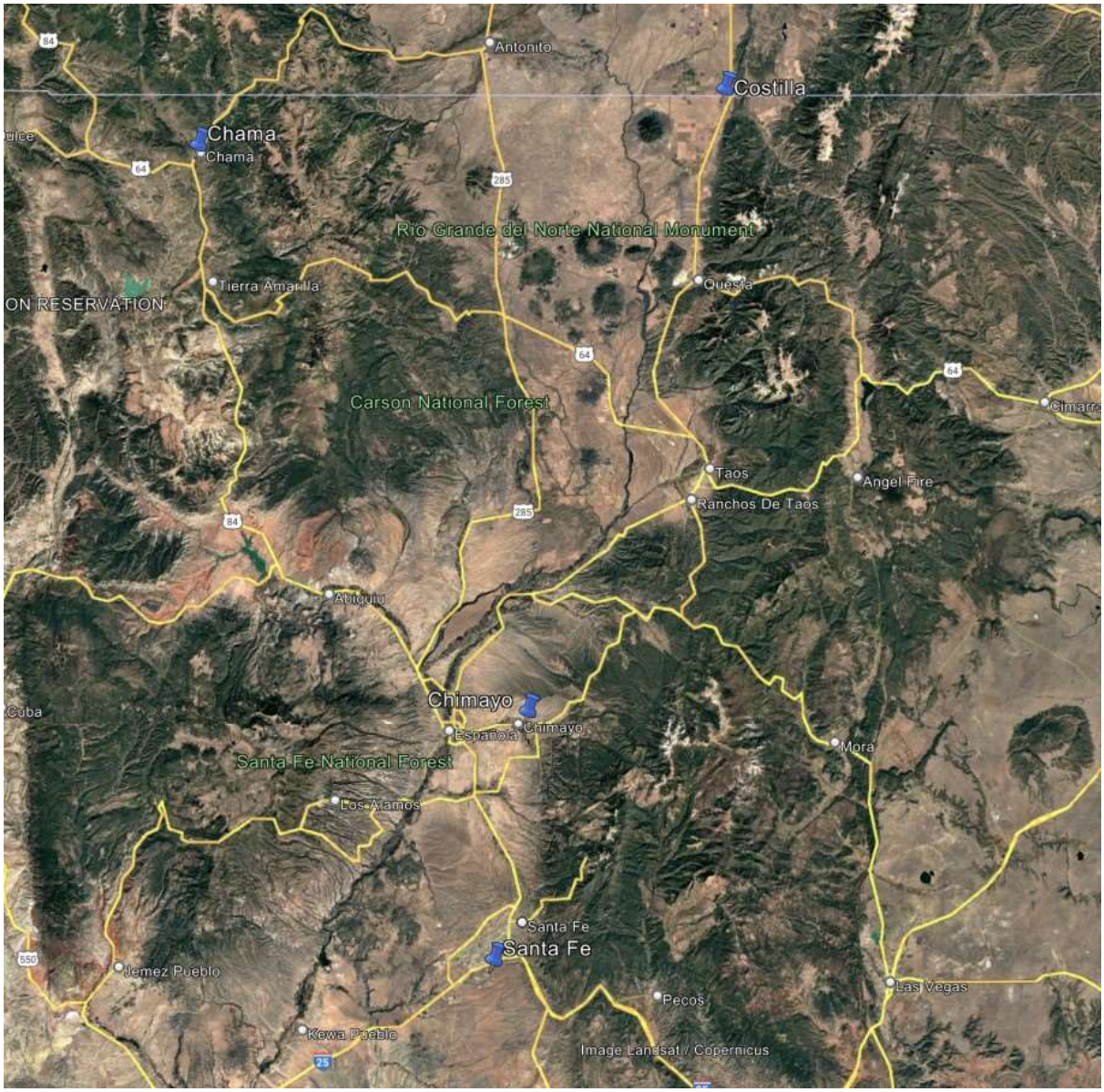
Aerial View of Sub-Areas



Introduction

Client and Intended Users of the Report

The client in this assignment is BTS Towers, LLC cba Vertical Bridge Communications and the intended user of this market study is the client and no others.

Intended Purpose of the Report

The intended purpose of this market study is to determine the impact, if any, on residential property values because of the presence of a cell tower.

Definition of Paired Data Analysis

Paired data analysis is defined as "A quantitative technique used to identify and measure adjustments to the sale prices or rents of comparable properties. To apply this technique, sales or rental data on nearly identical properties, or adjusted data, is compared to isolate and estimate a single characteristic's effect on value or rent". Often referred to as - "*paired sales analysis*".[1] The single characteristic for this study is the proximity to a cell tower.

Effective Date and Report Date

The effective date of this market study is based on the available sales data within the last 20 years. We analyzed all comparable residential sales around the various sub areas based on range of available sale dates. We have forgone individual site inspections of the comparables and subject and utilized Google Earth and its street view function and MLS photos to determine site lines to towers and distances.

The date of this report is September 12, 2025.

[1] Appraisal Institute, *The Dictionary of Real Estate Appraisal,* (6th ed.). Chicago, Illinois; Appraisal Institute.

Scope of Work

The elements addressed in the Scope of Work are (1) the extent to which the market study areas were identified, (2) the extent to which the market study area and data was inspected, (3) the type and extent of data researched, (4) the type and extent of analysis applied, and (5) the type of report prepared.

Extent to Which the Market Study Sub-Areas Were Identified

The appraiser first identified a tower site with nearby single-family sales data. We then pulled all residential sales from the last 20 years. However, most data was found within the last ten years. Once a tower site was located with available MLS comparable sales of properties within close proximity and site lines to the tower and those without, we analyzed the paired data. The sub-areas were provided of various tower sites from the client. We focused our research on rural/suburban areas in northern New Mexico.

Extent to Which the Market Study Areas Were Inspected

We used Google Earth and MLS comparable photos. Please note that we found adequate photos on MLS and Google Earth street views to provide credible assignment results.

Type and Extent of Data Researched

The appraiser utilized the local MLS (Multiple Listing Service) to identify the previously discussed home sales in each market study area. In each sub-area, the sales were identified with those with and without site lines to the respective tower and we provided general data about each comparable for more context and distances.

Real Estate Agents in a different market area were interviewed to get their input on how many home buyers inquire about the quality of cell service and/or the proximity to cell phone tower locations. The specific questions asked are as follows:

a) How many potential home buyers ask about "how is the cell service in this area" or if these home buyers check their cell phone signal on their cell phone while at a home showing?
b) How many potential home buyers ask about cell phone tower locations in the immediate vicinity and if they have a negative, indifferent, or positive position on any nearby cell tower locations?
c) If cell service/signal does come up with a potential buyer, do they mention a particular cell carrier?

Type and Extent of Analysis Applied

The subject areas have limited MLS data and we have analyzed all available and applicable sales within 2 miles. We presented all of this data in a map for its respective area, then a table format. We then provide various observations of the paired data and our opinions of the available data.

Appraisal Conformity and Report Type

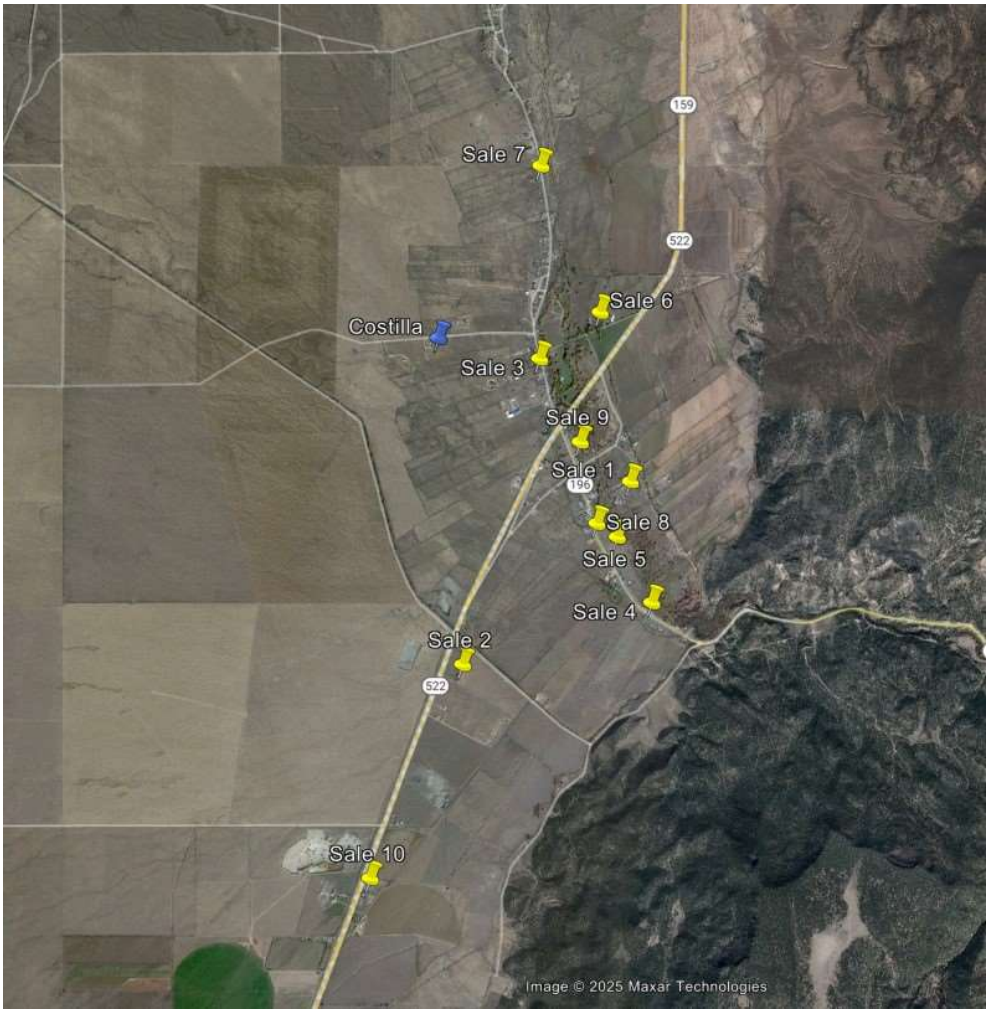
Report findings, analysis, and conclusions were developed and prepared in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP) of the Appraisal Foundation. The market

study is intended to conform to the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute; and the requirements of our client as we understand them.

Sub-Area - Costilla

Costilla Historic Residential Sales

This is a 200' self-supporting lattice tower owned/operated by Diamond Communications and was built in 2019 at 50 Jarosa Road, Costilla, Rio Arriba County, New Mexico. We have searched the Costilla area for all residential sales and found ten sales:



Costilla Residential Sales 9/1/2010 to Present

Sale #	MLS #	Address	View of Tower	Distance To Tower (Miles)	Home Condition	Home SF	Date of Sale	Sale Price	Price/SF
1	111511	44 Poleo Rd.	No	1.09	Average 2/1	1,400	9/29/2024	$240,000	$171.43
2	110343	4271 SH 522	No	1.48	Average 2/2	1,056	1/10/2024	$460,000	$435.61
3	108464	119 Garcia Rd.	Yes	0.47	Poor 0/1	900	3/23/2023	$29,000	$32.22
4	104744	House 90 State Rd. 196	No	1.54	Average 3/3	4,200	10/13/2022	$290,000	$69.05
5	108903	69 SH 196	No	1.22	Average 3/2	1,379	9/30/2022	$175,000	$126.90
6	99466	00 Old Hwy 540	No	0.75	Average 3/2	2,200	1/4/2022	$380,000	$172.73
7	107127	116 Garcia Rd.	Yes	0.9	Average 2/1	1,688	10/12/2021	$245,000	$145.14
8	105985	60 State Rd. 196	No	1.11	Average 2/1.5	1,500	2/11/2021	$165,000	$110.00
9	102095	13 State Hwy 196	No	0.8	Poor 3/1	2,324	12/4/2019	$25,000	$10.76
10	101818	4191 State Hwy 522	No	2.49	Poor 4/2	3,448	7/30/2018	$46,000	$13.34

*Sale 2 is on 33.35 Acres; thus, its price per SF is skewed upward.

We located two sales with visibility to the Costilla tower site.

View of tower from Sale 3.

Sale 3 sold for a very low amount but it was in very poor condition. This comparable is at the bottom of the range and is accessed via a dirt road off of SH 196 without direct frontage.

View of tower from Sale 7.

Sale 7 is on the north side of Costilla and it has sight lines to the tower site. This comparable sold at the upper end of the range which does not suggest a lower value. **Overall, the data does not suggest a lower property value based on proximity to a tower site.**

Sub-Area - Chimayo

Chimayo Historic Land Sales

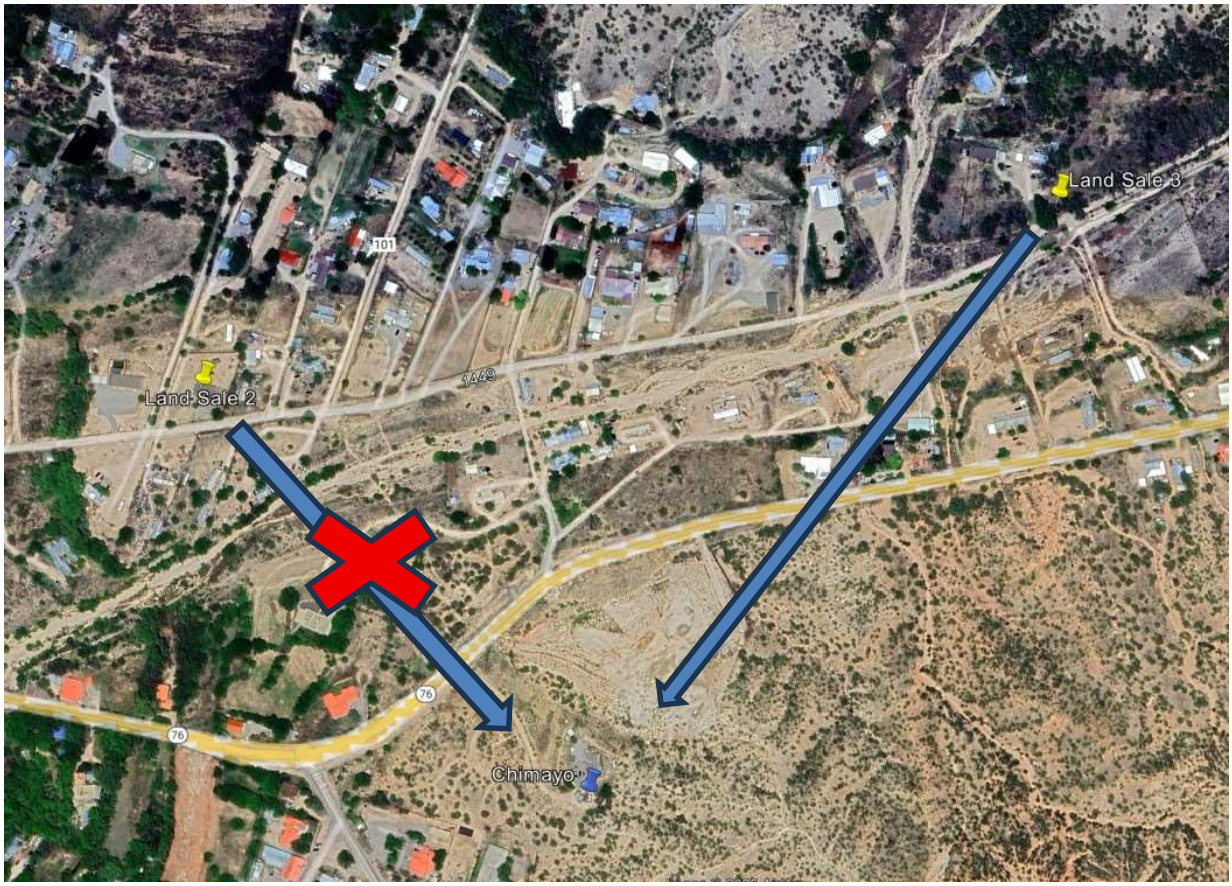
The Chimayo tower is a 70' monopole tower owned/operated by Crown Castle International and was built in 2006 at House 837, State Road 76 in Chimayo Rio Arriba County, New Mexico. We searched historic land sales in Chimayo which sold from September 1, 2010 to present. We are assuming residential land buyers may purchase land to develop a home at a different price. The following are MLS land sales around the Chimayo Subject Tower:

Chimayo Land Sales <0.99 Acres from 9/1/2010 to Present

Land Sale #	MLS #	Address	View of Tower	Distance To Tower (Miles)	Improvements	Land Size SF	Date of Sale	Sale Price	Price/Acre	Price/SF
1	201801144	0 La Subida	No	0.52	None	37,470	4/21/2020	$18,000	$20,926	$0.48
2	201701864	68 CR 100	No	0.29	None	33,977	7/23/2018	$18,000	$23,077	$0.53
3	201504243	TBD CR 100	Yes	0.38	None	33,977	4/22/2016	$20,000	$25,641	$0.59
4	201802024	346 Juan Medina	Yes	0.14	None	30,579	2/17/2020	$40,000	$56,980	$1.31
5	201900235	A-2 Ra CR 100	No	0.49	None	35,196	10/7/2020	$45,000	$55,694	$1.28
6	201900234	A-1Ra CR 100	No	0.45	None	35,196	9/4/2020	$45,000	$55,694	$1.28
7	201103538	334-A Juan Medina	Low Visibility	0.23	None	38,638	2/14/2013	$46,000	$51,860	$1.19
8	201902206	12 Camino De Lost Bacas	Yes	0.17	Non-Contributory	34,357	5/3/2021	$68,000	$86,215	$1.98
9	202341822	332 Juan Medina	Low to None	0.27	None	26,833	11/15/2023	$95,000	$154,221	$3.54
10	202002297	12 Camino De	No	0.43	None	39,917	6/23/2020	$85,000	$92,757	$2.13

Data Observations:

Land Sales 2 & 3

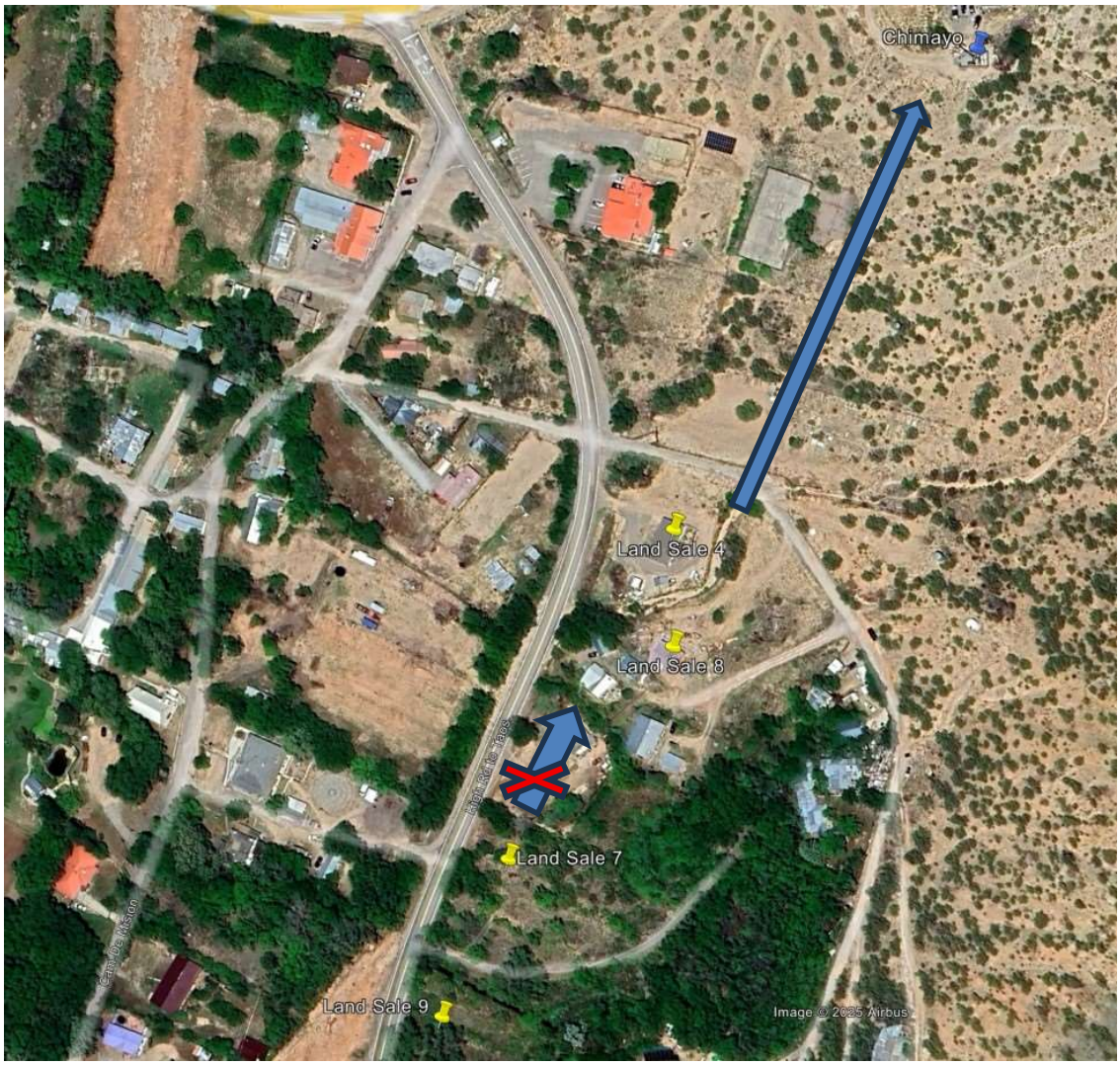


The above image is a view from Land Sale 3 to the tower.

The above image is a view from Land Sale 2 to the tower site, note based on the topography and foliage it is not visible.

Land Sales 2 and 3 are a strong paired dataset which shows two sales within two years of one another that sold for similar sale prices, the same land size (according to MLS), and sold within $0.06 per square foot. Sale 3 is further east being on the outskirts of town and it has visibility to the subject tower and it sold for more per square foot. Based on the data, it appears there are no market conditions adjustment to account for. **As such, this datapoint suggests no decreased value from site lines to the subject tower.**

Land Sales 4 & 8



Sales 4 and 8 are next door to one another and they sold within approximately one year of another with similar land sizes. Sales 7 and 9 are in close proximity to Sales 4 and 8 and they lack site lines to the subject tower.

View from Sale 7 and 9, obstructed view from foliage and topography.

Sale 9 is the most recent sale and it sold for the most per square foot. There may be an upward adjustment for time to be considered. This site among the others has the best tree coverage and is desirable for residential development. As such, we conclude the higher sale price is from superior foliage. Please note, this is not an opinion of foliage versus site lines to the tower; rather, an opinion based on market tastes and preferences of vacant cleared land versus mature trees/shrubs. Sale 7 compared to Sales 4 and 8 sold for less per square foot and has no tower visibility. This sale did sell in 2013 which could be due to inferior market conditions; however, we don't believe that is the case. Given other tracts in the area such as Sales 5 and 6 having no visibility also sold around $45,000. **As such, this pairing suggests no diminution in value as a result of direct site lines to the subject tower.**

Chimayo Historic Residential Sales

We have analyzed residential sales from September 1, 2011 to present of single-family residences within close proximity to the subject tower site. The following map shows the relevant sales data:

View from the road from Sale 5, please note, the comparable is elevated above the street and appears to have superior views than those in this photo.

Chimayo Residential Sales 9/1/2010 to Present

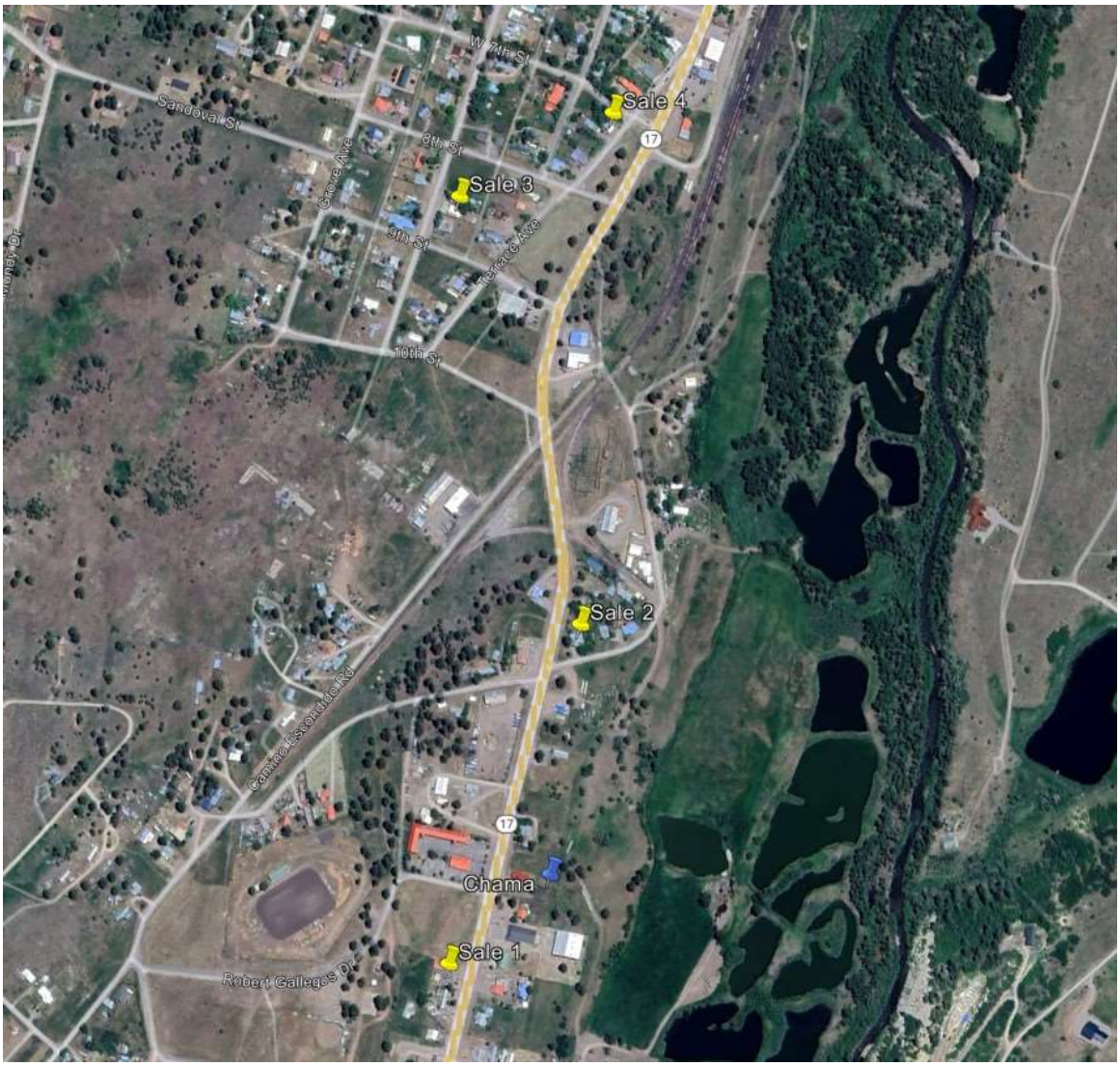
Sale #	MLS #	Address	View of Tower	Distance To Tower (Miles)	Home Condition	Home SF	Date of Sale	Sale Price	Price/SF
1	201104961	10 Ranchos Hermanitos	No	1.15	Average 3/2	2,083	4/23/2012	$105,000	$50.41
2	202000843	30 Camino De Los Bacas	No	0.36	Average 3/1	2,205	12/30/2020	$114,900	$52.11
3	201703680	8 Los Ranchitos	No	0.51	Average 2/1	1,618	6/29/2017	$165,000	$101.98
4	202103634	29 Plaza Del Cerro	No	0.36	Good 2/1	1,500	12/9/2021	$190,000	$126.67
5	201905278	350 CR 101	Low to None	0.31	Poor 3/2.5	2,511	9/24/2020	$47,000	$18.72
6	201802596	25 Private Road 1449	Yes	0.37	Good 2/2	1,300	4/12/2019	$185,000	$142.31

Of all of the analyzed residential sales, we were only able to identify one that sold with direct tower site lines. This comparable has the highest quality of improvements and it sold for the most per square foot. Sale 5 being near Sale 6 is one of the poorest quality comparables of this dataset and it has effectively no visibility. The higher sales price for Sale 6 was mostly related to its high quality improvements. **We were unable to identify any residential sales which would indicate a diminution in residential home values as a result of site lines and proximity to the subject tower site.**

Sub-Area - Chama

Chama Historic Residential Sales

The Chama tower is a 80' self-supporting lattice tower owned/operated by Gravity Pad Towers and was built in 2019 at 1552 NM Highway 17, Chama, Rio Arriba County, New Mexico. We have analyzed residential sales from September 1, 2011 (only sales from 2021 to present were relevant and included) to present of single-family residences within close proximity to the subject tower site. The following map shows the relevant sales data:



View from Sale 1 to Chama tower.

Approximate view of tower from Sale 2, this comparable is just to the left of this image and likely has better site lines around the pine trees in this image.

Chama Residential Sales 9/1/2010 to Present

Sale #	MLS #	Address	View of Tower	Distance To Tower (Miles)	Home Condition	Home SF	Date of Sale	Sale Price	Price/SF
1	202101381	1751 SH 17	Yes	0.10	Fair 2/3	1,500*	7/30/2021	$138,000	$92.00
2	202232466	1198 Manzanita	Yes	0.19	Good 2/1	1,675	3/23/2023	$224,000	$133.73
3	202102224	870 Pine	No	0.52	Above Avg. 3/2	1,700*	5/27/2021	$175,000	$102.94
4	202102422	701 Terrace	No	0.57	Fair 1/1	450*	10/22/2021	$78,000	$173.33

*We had to measure from Google Earth.

Sale 1 is within the closest proximity; however, its improvements are poor quality and it fronts a primary highway which is a negative influence for a residence. Considering an upward adjustment for location and quality, this data point does not suggest a diminution in value. Sale 2 as compared to Sale 3 indicate there is no adjustment for visibility to the tower site. Sale 4 is the lowest quality comparable sale in terms of quality and bed/bathrooms and it sold for the most per square foot without visibility to the site. **As such, we conclude no diminution in value based on the Chama paired data.**

Sub-Area - Santa Fe

Santa Fe Historic Residential Sales

This is a 75' monopole tower owned/operated by Gravity Pad Towers and was built in 2022 at 6401 Richards Aveune, near the Santa Fe Community College, Santa Fe County, New Mexico. We analyzed 15 residential sales in three neighborhoods as shown below:

Southeast Santa Fe Residential Analysis

Sale #	MLS #	Address	View of Tower	Distance To Tower (Miles)	Home Condition	Home SF	Date of Sale	Sale Price	Price/SF
1	202400334	19 Deans #B	No	0.41	Average 3/2	2,362	4/4/2024	$720,000	$304.83
2	202232639	19A Deans Ct	No	0.39	Average 4/2	2,687	6/14/2023	$865,500	$322.11
3	202404362	9A Deans Ct.	No	0.35	Average 5/3	2,820	11/19/2024	$812,000	$287.94
4	202101683	7A Deans Ct.	Yes	0.29	Average 4/3	2,350	6/11/2021	$614,500	$261.49
5	202100556	6A Deans Ct.	Yes	0.25	Average 4/2	2,280	4/5/2021	$573,000	$251.32
6	201900355	10 Deans Ct.	Yes	0.29	Average 3/2	2,120	4/30/2019	$437,300	$206.27
7	201903779	14 Willow Back	Yes	0.45	Average 3/2	1,745	1/3/2020	$399,000	$228.65
8	201903791	16 Willow Back	Yes	0.44	Average 3/2	1,655	12/20/2019	$389,000	$235.05
9	201903783	18 Willow Back	Yes	0.43	Average 3/2	1,745	1/10/2020	$399,000	$228.65
10	202335192	26 Willow Back	Yes	0.41	Average 3/2	1,745	5/11/2023	$746,000	$427.51
11	202403396	28 Willow Back	Yes	0.40	Average 3/2	1,655	1/16/2025	$638,000	$385.50
12	202105004	30 Willow Back	Yes	0.39	Average 3/2	1,745	5/31/2022	$480,000	$275.07
13	202105409	34 Willow Back	Yes	0.39	Average 3/2	1,655	5/31/2022	$490,000	$296.07
14	202002289	83 Chili Line	Low Vis.	0.86	Average 5/3	3,183	8/14/2020	$680,000	$213.63
15	201900959	115 Chili Line	Low Vis.	0.91	Average 4/3	3,269	5/30/2019	$632,000	$193.33

The data in white shows no view of the tower versus the data in grey which does. This dataset is within the same neighborhood with very similar homes with notable differences in sale date and bed/bath counts.

Among this dataset, we attempted to quantify a market conditions adjustment; however, the data was highly varied from 2019 to 2022 (very low interest rates) and mid 2022 to present. What should be noted from the grey and white section is that older comparable sales (which are also the sites with tower views) sold for the least amount and the newer sales sold for more. From this dataset above we found that Sale 9 sold three times. From the first to second sale, it was during the historic low interest rates and demand for single-family homes was in a boon. After ~May 2022, the FED started increasing interest rates and demand for single-family homes drastically slowed down. As such, we calculated the annual increase in market conditions as shown below for these two time periods:

Market Conditions Adjustment Sale 9		
Sale 9	$399,000	1/10/2020
Sale 9	$592,500	5/12/2022
Total 48.5% / 16 months = 36.4%/Year		
Sale 9	$592,500	5/12/2022
Sale 9	$720,000	7/15/2024
Total 21.5% / 26 months =9.9%/Year		32 Months

Sale 2 & 5

Sales 1-3 lack visibility from being below grade and the houses along the south line of Deans Ct.

View of tower from Sale 5.

We found Sale 2 and 5 being similar 4 bed/2 bath houses with a difference in square footage and different sale dates. Before comparing them, we need to adjust Sale 5 to the same time as Sale 2 as shown below:

Paired Data With Stepped Market Conditions

		View of Tower
Sale 5	$573,000	4/5/2021
Sale 5 @ 36%/Year	$813,660	6/14/2022
Sale 5 @ 9%/Year	$886,889	6/14/2023 Yes
Sale 2's Time	$865,500	6/14/2023 No
	No dimunition in value	

Sale 5 was adjusted upward by 36% per year for increasing market conditions to June 2022. Then we inflated it by 9% per year for one year to June 2023 which is when Sale 2 sold. **When considering this dataset, we found there was no diminution in value after considering changes in market conditions.**

Willow Back Comps

All of the Willow Back Comps have site lines to the tower.

View of tower site from Willow Back.

The Willow Back comps (green) all have visibility to the tower site, but are further than the Deans Ct. comparables. These comparables sold between $228.65/SF to $427.51/SF. Excluding the two outliers which sold in 2025 and 2023, the range is $228.65/SF to $296.07/SF with a sale range of 12/20/2019 to 5/31/2022. These comparables amongst themselves have the same bed/bath counts, similar square footages, and sold at different times. This dataset as compared to the Dean Court comparables does reflect a difference in values. These two neighborhoods have different construction types and different square footages and have different dates of sale. **Thus, no conclusions can be drawn.**

Chili Line

Santa Fe
College Dr
Richards Ave
Richards Ave
Richards Ave
Sale 14
E Chili Line Rd
Sale 15

View between Sales 14 and 15.

We found two homes on Chili Line (blue) which are the furthest from the tower with minimal views of the tower. Given the distance, it is better suited to say no visibility. These comparables are large builds among the 15 selected comparables and they sold for the least amount per square foot and they sold just before Covid-19 and shortly after. **This data does not suggest a diminution in value for proximity to a tower site.**

Conclusion For Santa Fe

We analyzed 15 homes around a Santa Fe tower site and could not determine any paired data that suggested the market accounts for proximity to a cell tower. We found one dataset which required a large market condition adjustment; however, when we analyzed it after adjusting for market conditions, it produced contradictory assignment results. **As such, the Santa Fe data shows no diminution in value.**

Market Study Conclusions

Summary Table of Conclusions

Market Study Conclusions

Areas	Conclusion
Costilla	**No Diminution in Value**
Chama	**No Diminution in Value**
Santa Fe	**No Diminution in Value**
Chimayo	**No Diminution in Value**

Appraisal Summary

We have completed paired data analysis among four tower sites. Our scope of work is to determine if there is a diminution in value for homes within closer proximity with sight lines to a tower site compared to those without those site lines. The resulting analysis shows there is no diminution in value for homes in closer proximity with site lines to cell towers.

General Assumptions and Limiting Conditions

This appraisal is subject to the following general assumptions and limiting conditions:

1. The legal description – if furnished to us – is assumed to be correct.
2. No responsibility is assumed for legal matters, questions of survey or title, soil or subsoil conditions, engineering, availability or capacity of utilities, or other similar technical matters. The appraisal does not constitute a survey of the property appraised. All existing liens and encumbrances have been disregarded and the property is appraised as though free and clear, under responsible ownership and competent management unless otherwise noted.
3. Unless otherwise noted, the appraisal will value the property as though free of contamination. Valbridge Property Advisors | New Mexico will conduct no hazardous materials or contamination inspection of any kind. It is recommended that the client hire an expert if the presence of hazardous materials or contamination poses any concern.
4. The stamps and/or consideration placed on deeds used to indicate sales are in correct relationship to the actual dollar amount of the transaction.
5. Unless otherwise noted, it is assumed there are no encroachments, zoning violations or restrictions existing in the subject property.
6. The appraiser is not required to give testimony or attendance in court by reason of this appraisal, unless previous arrangements have been made.
7. Unless expressly specified in the engagement letter, the fee for this appraisal does not include the attendance or giving of testimony by Appraiser at any court, regulatory or other proceedings, or any conferences or other work in preparation for such proceeding. If any partner or employee of Valbridge Property Advisors | New Mexico is asked or required to appear and/or testify at any deposition, trial, or other proceeding about the preparation, conclusions or any other aspect of this assignment, client shall compensate Appraiser for the time spent by the partner or employee in appearing and/or testifying and in preparing to testify according to the Appraiser's then current hourly rate plus reimbursement of expenses.
8. The values for land and/or improvements, as contained in this report, are constituent parts of the total value reported and neither is (or are) to be used in making a summation appraisal of a combination of values created by another appraiser. Either is invalidated if so used.
9. The dates of value to which the opinions expressed in this report apply are set forth in this report. We assume no responsibility for economic or physical factors occurring at some point at a later date, which may affect the opinions stated herein. The forecasts, projections, or operating estimates contained herein are based on current market conditions and anticipated short-term supply and demand factors and are subject to change with future conditions. Appraiser is not responsible for determining whether the date of value requested by Client is appropriate for Client's intended use.
10. The sketches, maps, plats and exhibits in this report are included to assist the reader in visualizing the property. The appraiser has made no survey of the property and assumed no responsibility in connection with such matters.
11. The information, estimates and opinions, which were obtained from sources outside of this office, are considered reliable. However, no liability for them can be assumed by the appraiser.

12. Possession of this report, or a copy thereof, does not carry with it the right of publication. Neither all, nor any part of the content of the report, or copy thereof (including conclusions as to property value, the identity of the appraisers, professional designations, reference to any professional appraisal organization or the firm with which the appraisers are connected), shall be disseminated to the public through advertising, public relations, news, sales, or other media without prior written consent and approval.
13. No claim is intended to be expressed for matters of expertise that would require specialized investigation or knowledge beyond that ordinarily employed by real estate appraisers. We claim no expertise in areas such as, but not limited to, legal, survey, structural, environmental, pest control, mechanical, etc.
14. This appraisal was prepared for the sole and exclusive use of the client for the function outlined herein. Any party who is not the client or intended user identified in the appraisal or engagement letter is not entitled to rely upon the contents of the appraisal without express written consent of Valbridge Property Advisors | New Mexico and Client. The Client shall not include partners, affiliates, or relatives of the party addressed herein. The appraiser assumes no obligation, liability or accountability to any third party.
15. Distribution of this report is at the sole discretion of the client, but third-parties not listed as an intended user on the face of the appraisal or the engagement letter may not rely upon the contents of the appraisal. In no event shall client give a third-party a partial copy of the appraisal report. We will make no distribution of the report without the specific direction of the client.
16. This appraisal shall be used only for the function outlined herein, unless expressly authorized by Valbridge Property Advisors | New Mexico.
17. This appraisal shall be considered in its entirety. No part thereof shall be used separately or out of context.
18. Unless otherwise noted in the body of this report, this appraisal assumes that the subject property does not fall within the areas where mandatory flood insurance is effective. Unless otherwise noted, we have not completed nor have we contracted to have completed an investigation to identify and/or quantify the presence of non-tidal wetland conditions on the subject property. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.
19. The flood maps are not site specific. We are not qualified to confirm the location of the subject property in relation to flood hazard areas based on the FEMA Flood Insurance Rate Maps or other surveying techniques. It is recommended that the client obtain a confirmation of the subject property's flood zone classification from a licensed surveyor.
20. If the appraisal is for mortgage loan purposes 1) we assume satisfactory completion of improvements if construction is not complete, 2) no consideration has been given for rent loss during rent-up unless noted in the body of this report, and 3) occupancy at levels consistent with our "Income and Expense Projection" are anticipated.
21. It is assumed that there are no hidden or unapparent conditions of the property, subsoil, or structures which would render it more or less valuable. No responsibility is assumed for such conditions or for engineering which may be required to discover them.

22. Our inspection included an observation of the land and improvements thereon only. It was not possible to observe conditions beneath the soil or hidden structural components within the improvements. We inspected the buildings involved, and reported damage (if any) by termites, dry rot, wet rot, or other infestations as a matter of information, and no guarantee of the amount or degree of damage (if any) is implied. Condition of heating, cooling, ventilation, electrical and plumbing equipment is considered to be commensurate with the condition of the balance of the improvements unless otherwise stated. Should the client have concerns in these areas, it is the client's responsibility to order the appropriate inspections. The appraiser does not have the skill or expertise to make such inspections and assumes no responsibility for these items.
23. This appraisal does not guarantee compliance with building code and life safety code requirements of the local jurisdiction. It is assumed that all required licenses, consents, certificates of occupancy or other legislative or administrative authority from any local, state or national governmental or private entity or organization have been or can be obtained or renewed for any use on which the value conclusion contained in this report is based unless specifically stated to the contrary.
24. When possible, we have relied upon building measurements provided by the client, owner, or associated agents of these parties. In the absence of a detailed rent roll, reliable public records, or "as-built" plans provided to us, we have relied upon our own measurements of the subject improvements. We follow typical appraisal industry methods; however, we recognize that some factors may limit our ability to obtain accurate measurements including, but not limited to, property access on the day of inspection, basements, fenced/gated areas, grade elevations, greenery/shrubbery, uneven surfaces, multiple story structures, obtuse or acute wall angles, immobile obstructions, etc. Professional building area measurements of the quality, level of detail, or accuracy of professional measurement services are beyond the scope of this appraisal assignment.
25. We have attempted to reconcile sources of data discovered or provided during the appraisal process, including assessment department data. Ultimately, the measurements that are deemed by us to be the most accurate and/or reliable are used within this report. While the measurements and any accompanying sketches are considered to be reasonably accurate and reliable, we cannot guarantee their accuracy. Should the client desire more precise measurement, they are urged to retain the measurement services of a qualified professional (space planner, architect or building engineer) as an alternative source. If this alternative measurement source reflects or reveals substantial differences with the measurements used within the report, upon request of the client, the appraiser will submit a revised report for an additional fee.
26. In the absence of being provided with a detailed land survey, we have used assessment department data to ascertain the physical dimensions and acreage of the property. Should a survey prove this information to be inaccurate, upon request of the client, the appraiser will submit a revised report for an additional fee.
27. If only preliminary plans and specifications were available for use in the preparation of this appraisal, and a review of the final plans and specifications reveals substantial differences upon request of the client the appraiser will submit a revised report for an additional fee.

28. Unless otherwise stated in this report, the value conclusion is predicated on the assumption that the property is free of contamination, environmental impairment or hazardous materials. Unless otherwise stated, the existence of hazardous material was not observed by the appraiser and the appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as asbestos, urea-formaldehyde foam insulation or other potentially hazardous materials may affect the value of the property. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required for discovery. The client is urged to retain an expert in this field, if desired.
29. The Americans with Disabilities Act ("ADA") became effective January 26, 1992. We have not made a specific compliance survey of the property to determine if it is in conformity with the various requirements of the ADA. It is possible that a compliance survey of the property, together with an analysis of the requirements of the ADA, could reveal that the property is not in compliance with one or more of the requirements of the Act. If so, this could have a negative effect on the value of the property. Since we have no direct evidence relating to this issue, we did not consider possible noncompliance with the requirements of ADA in developing an opinion of value.
30. This appraisal applies to the land and building improvements only. The value of trade fixtures, furnishings, and other equipment, or subsurface rights (minerals, gas, and oil) were not considered in this appraisal unless specifically stated to the contrary.
31. No changes in any federal, state or local laws, regulations or codes (including, without limitation, the Internal Revenue Code) are anticipated, unless specifically stated to the contrary.
32. Any income and expense estimates contained in the appraisal report are used only for the purpose of estimating value and do not constitute prediction of future operating results. Furthermore, it is inevitable that some assumptions will not materialize and that unanticipated events may occur that will likely affect actual performance.
33. Any estimate of insurable value, if included within the scope of work and presented herein, is based upon figures developed consistent with industry practices. However, actual local and regional construction costs may vary significantly from our estimate and individual insurance policies and underwriters have varied specifications, exclusions, and non-insurable items. As such, we strongly recommend that the Client obtain estimates from professionals experienced in establishing insurance coverage. This analysis should not be relied upon to determine insurance coverage and we make no warranties regarding the accuracy of this estimate.
34. The data gathered in the course of this assignment (except data furnished by the Client) shall remain the property of the Appraiser. The appraiser will not violate the confidential nature of the appraiser-client relationship by improperly disclosing any confidential information furnished to the appraiser. Notwithstanding the foregoing, the Appraiser is authorized by the client to disclose all or any portion of the appraisal and related appraisal data to appropriate representatives of the Appraisal Institute if such disclosure is required to enable the appraiser to comply with the Bylaws and Regulations of such Institute now or hereafter in effect.

35. You and Valbridge Property Advisors | New Mexico both agree that any dispute over matters in excess of $5,000 will be submitted for resolution by arbitration. This includes fee disputes and any claim of malpractice. The arbitrator shall be mutually selected. If Valbridge Property Advisors | New Mexico and the client cannot agree on the arbitrator, the presiding head of the Local County Mediation & Arbitration panel shall select the arbitrator. Such arbitration shall be binding and final. In agreeing to arbitration, we both acknowledge that, by agreeing to binding arbitration, each of us is giving up the right to have the dispute decided in a court of law before a judge or jury. In the event that the client, or any other party, makes a claim against Valbridge Property Advisors | New Mexico or any of its employees in connections with or in any way relating to this assignment, the maximum damages recoverable by such claimant shall be the amount actually received by Valbridge Property Advisors | New Mexico for this assignment, and under no circumstances shall any claim for consequential damages be made.
36. Valbridge Property Advisors | New Mexico shall have no obligation, liability, or accountability to any third party. Any party who is not the "client" or intended user identified on the face of the appraisal or in the engagement letter is not entitled to rely upon the contents of the appraisal without the express written consent of Valbridge Property Advisors | New Mexico. "Client" shall not include partners, affiliates, or relatives of the party named in the engagement letter. Client shall hold Valbridge Property Advisors | New Mexico and its employees harmless in the event of any lawsuit brought by any third party, lender, partner, or part-owner in any form of ownership or any other party as a result of this assignment. The client also agrees that in case of lawsuit arising from or in any way involving these appraisal services, client will hold Valbridge Property Advisors | New Mexico harmless from and against any liability, loss, cost, or expense incurred or suffered by Valbridge Property Advisors | New Mexico in such action, regardless of its outcome.
37. The Valbridge Property Advisors office responsible for the preparation of this report is independently owned and operated by VPA Houston and Dallas, Inc. Neither Valbridge Property Advisors, Inc., nor any of its affiliates has been engaged to provide this report. Valbridge Property Advisors, Inc. does not provide valuation services, and has taken no part in the preparation of this report.
38. If any claim is filed against any of Valbridge Property Advisors, Inc., a Florida Corporation, its affiliates, officers or employees, or the firm providing this report, in connection with, or in any way arising out of, or relating to, this report, or the engagement of the firm providing this report, then (1) under no circumstances shall such claimant be entitled to consequential, special or other damages, except only for direct compensatory damages, and (2) the maximum amount of such compensatory damages recoverable by such claimant shall be the amount actually received by the firm engaged to provide this report.
39. This report and any associated work files may be subject to evaluation by Valbridge Property Advisors, Inc., or its affiliates, for quality control purposes.
40. Acceptance and/or use of this appraisal report constitutes acceptance of the foregoing general assumptions and limiting conditions.

Addenda

Certification
Qualifications

- Chris Knight, MAI, R/W-AC Managing Director

Information on Valbridge Property Advisors
Office Locations

Certification – Chris Knight, MAI, R/W-AC

I certify that, to the best of my knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
3. I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
4. The undersigned has not performed services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
5. I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
6. My engagement in this assignment was not contingent upon developing or reporting predetermined results.
7. My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
8. My analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.
9. Chris Knight has not personally inspected the subject tower sites nor comparable data.
10. No one provided significant real property appraisal assistance to the person signing this certification, unless otherwise noted.
11. The reported analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.
12. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
13. As of the date of this report, the undersigned has completed the continuing education program for Designated Members of the Appraisal Institute.

Chris Knight, MAI, R/W-AC
Managing Director
New Mexico License #REA-2024-0021
cknight@valbridge.com

Glossary

Definitions are taken from The Dictionary of Real Estate Appraisal, 7th Edition (Dictionary), the Uniform Standards of Professional Appraisal Practice (USPAP), and Building Owners and Managers Association International (BOMA).

Absolute Net Lease

A lease in which the tenant pays all expenses including structural maintenance, building reserves, and management; often a long-term lease to a credit tenant. (Dictionary)

Amortization

The process of retiring a debt or recovering a capital investment, typically through scheduled, systematic repayment of the principal; a program of periodic contributions to a sinking fund or debt retirement fund. (Dictionary)

As Is Market Value

The estimate of the market value of real property in its current physical condition, use, and zoning as of the appraisal date. (Interagency Appraisal and Evaluation Guidelines) Note that the use of the "as is" phrase is specific to appraisal regulations pursuant to FIRREA applying to appraisals prepared for regulated lenders in the United States. The concept of an "as is" value is not included in the Standards of Valuation Practice of the Appraisal Institute, Uniform Standards of Professional Appraisal Practice, or International Valuation Standards. (Dictionary)

Base Rent

The minimum rent stipulated in a lease. (Dictionary)

Base Year

The year on which escalation clauses in a lease are based. (Dictionary)

Building Common Area

In office buildings, the areas of the building that provide services to building tenants but that are not included in the office area or store area of any specific tenant. These areas may include, but shall not be limited to, main and auxiliary lobbies, atrium spaces at the level of the finished floor, concierge areas or security desks, conference rooms, lounges or vending areas, food service facilities, health or fitness centers, daycare facilities, locker or shower facilities, mail rooms, fire control rooms, fully enclosed courtyards outside the exterior walls, and building core and service areas such as fully enclosed mechanical or equipment rooms. Specifically excluded from building common area are floor common areas, parking space, portions of loading docks outside the building line, and major vertical penetrations. (BOMA)

Building Rentable Area

The sum of all floor rentable areas. Floor rentable area is the result of subtracting from the gross measured area of a floor the major vertical penetrations on that same floor. It is generally fixed for the life of the building and is rarely affected by changes in corridor size or configuration. (BOMA)

Bulk Value

The value of multiple units, subdivided plots, or properties in a portfolio as though sold together in a single transaction. (Dictionary)

Certificate of Occupancy (COO)

A formal written acknowledgment by an appropriate unit of local government that a new construction or renovation project is at the stage where it meets applicable health and safety codes and is ready for commercial or residential occupancy. (Dictionary)

Common Area Maintenance (CAM)

The expense of operating and maintaining common areas; may or may not include management charges and usually does not include capital expenditures on tenant improvements or other improvements to the property. (Dictionary)

The amount of money charged to tenants for their shares of maintaining a [shopping] center's common area. The charge that a tenant pays for shared services and facilities such as electricity, security, and maintenance of parking lots. Items charged to common area maintenance may include cleaning services, parking lot sweeping and maintenance, snow removal, security, [amenities,] and upkeep. (ICSC – International Council of Shopping Centers, 4th Ed.)

Condominium

An attached, detached, or stacked unit within or attached to a structure with common areas that are held as tenants in common (an undivided interest) with other owners in the project. The units can be residential, commercial, industrial, or parking spaces or boat docks. These units are commonly defined by state laws in their locations. Because units can be stacked on top of other units, these units can be defined both vertically and horizontally. (Dictionary)

Conservation Easement

An interest in real estate restricting future land use to preservation, conservation, wildlife habitat, or some combination of those uses. A conservation easement may

permit farming, timber harvesting, or other uses of a rural nature as well as some types of conservation-oriented development to continue, subject to the easement. (Dictionary)

Contributory Value

A type of value that reflects the amount a property or component of a property contributes to the value of another asset or to the property as a whole.

The change in the value of a property as a whole, whether positive or negative, resulting from the addition or deletion of a property component. Also called deprival value in some countries. (Dictionary)

Debt Coverage Ratio (DCR)

The ratio of net operating income to annual debt service (DCR = NOI÷I_m), which measures the relative ability of a property to meet its debt service out of net operating income; also called *debt service coverage ratio (DSCR)*. A larger *DCR* typically indicates a greater ability for a property to withstand a reduction of income, providing an improved safety margin for a lender. (Dictionary)

Deed Restriction

A provision written into a deed that limits the use of land. Deed restrictions usually remain in effect when title passes to subsequent owners. (Dictionary)

Depreciation

In appraisal, a loss in property value from any cause; the difference between the cost of an improvement on the effective date of the appraisal and the value of the improvement on the same date.

In accounting, an allocation of the original cost of an asset, amortizing the cost over the asset's life; calculated using a variety of standard techniques. (Dictionary)

Disposition Value

The most probable price that a specified interest in property should bring under the following conditions:

1. Consummation of a sale within a specified time, which is shorter than the typical exposure time for such a property in that market.
2. The property is subjected to market conditions prevailing as of the date of valuation;
3. Both the buyer and seller are acting prudently and knowledgeably;
4. The seller is under compulsion to sell;
5. The buyer is typically motivated;
6. Both parties are acting in what they consider to be their best interests;
7. An adequate marketing effort will be made during the exposure time;
8. Payment will be made in cash in U.S. dollars (or the local currency) or in terms of financial arrangements comparable thereto; and
9. The price represents the normal consideration for the property sold, unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

This definition can also be modified to provide for valuation with specified financing terms. (Dictionary)

Double Net (Net Net) Lease

An alternative term for a type of net lease. In some markets, a net net lease is defined as a lease in which the tenant is responsible to pay both property taxes and premiums for insuring the building(s). (Valbridge)

(The market definition of a double net lease varies depending on the market)

Easement

The right to use another's land for a stated purpose. (Dictionary)

EIFS

Exterior Insulation Finishing System. This is a type of exterior wall cladding system. Sometimes referred to as dry-vit.

Effective Date

1. The date on which the appraisal opinion applies. (SVP)
2. The date to which an appraiser's analyses, opinions, and conclusions apply; also referred to as date of value. (USPAP, 2020-2021 ed.)
3. The date that a lease goes into effect. (Dictionary)

Effective Gross Income (EGI)

The anticipated income from all operations of the real estate after an allowance is made for vacancy and collection losses and an addition is made for any other income. (Dictionary)

Effective Rent

Total base rent, or minimum rent stipulated in a lease, over the specified lease term minus rent concessions; the rent that is effectively paid by a tenant net of financial concessions provided by a landlord. (TIs). (Dictionary)

EPDM

Ethylene Propylene Diene Monomer Rubber. A type of synthetic rubber typically used for roof coverings.

Escalation Clause

A clause in an agreement that provides for the adjustment of a price or rent based on some event or

index. e.g., a provision to increase rent if operating expenses increase; also called *escalator clause, expense recovery clause or stop clause*. (Dictionary)

Estoppel Certificate

A signed statement by a party (such as a tenant or a mortgagee) certifying, for another's benefit, that certain facts are correct, such as that a lease exists, that there are no defaults, and that rent is paid to a certain date. (Black's) In real estate, a buyer of rental property typically requests estoppel certificates from existing tenants. Sometimes referred to as an *estoppel letter*. (Dictionary)

Excess Land

Land that is not needed to serve or support the existing use. The highest and best use of the excess land may or may not be the same as the highest and best use of the improved parcel. Excess land has the potential to be sold separately and is valued separately. (Dictionary)

Excess Rent

The amount by which contract rent exceeds market rent at the time of the appraisal; created by a lease favorable to the landlord (lessor) and may reflect unusual management, unknowledgeable or unusually motivated parties, a lease execution in an earlier, stronger rental market, or an agreement of the parties. (Dictionary)

Expense Stop

A clause in a lease that limits the landlord's expense obligation, which results in the lessee paying operating expenses above a stated level or amount. (Dictionary)

Exposure Time

1. The time a property remains on the market.
2. An opinion, based on supporting market data, of the length of time that the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal. (USPAP, 2020-2021 ed.)

Extraordinary Assumption

An assignment-specific assumption as of the effective date regarding uncertain information used in an analysis which, if found to be false, could alter the appraiser's opinions or conclusions.

Comment: Uncertain information might include physical, legal, or economic characteristics of the subject property; or conditions external to the property, such as market conditions or trends; or the integrity of data used in an analysis. (USPAP)

Fee Simple Estate

Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat. (Dictionary)

Floor Common Area

In an office building, the areas on a floor such as washrooms, janitorial closets, electrical rooms, telephone rooms, mechanical rooms, elevator lobbies, and public corridors which are available primarily for the use of tenants on that floor. In essence, floor common area represents all of the area on the floor that is common to that respective floor with the exception of those areas that penetrate through the floor, such as the elevator shaft and stairwell. The significant point to be made is that floor common area is not part of the tenant's usable area. (BOMA)

Full Service (Gross) Lease

A lease in which the landlord receives stipulated rent and is obligated to pay all of the property's operating and fixed expenses; also called a *full service lease*. (Dictionary)

Furniture, Fixtures, and Equipment (FF&E)

Business trade fixtures and personal property, exclusive of inventory. (Dictionary)

Going-Concern Value

An outdated label for the market value of all the tangible and intangible assets of an established and operating business with an indefinite life, as if sold in aggregate; more accurately termed the *market value of the going concern* or *market value of the total assets of the business.* (Dictionary)

Gross Building Area (GBA)

1. Total floor area of a building, excluding unenclosed areas, measured from the exterior of the walls of the above-grade area. This includes mezzanines and basements if and when typically included in the market area of the type of property involved.
2. Gross leasable area plus all common areas.
3. For residential space, the total area of all floor levels measured from the exterior of the walls and including the superstructure and substructure basement; typically does not include garage space. (Dictionary)

Gross Measured Area

The total area of a building enclosed by the dominant portion (the portion of the inside finished surface of the permanent outer building wall which is 50 percent or more of the vertical floor-to-ceiling dimension, at the given point being measured as one moves horizontally along the wall), excluding parking areas and loading docks (or portions of same) outside the building line. It is generally not used for leasing purposes and is calculated on a floor by floor basis. (BOMA)

Gross Up Method

A method of calculating variable operating expenses in income-producing properties when less than 100% occupancy is assumed. Expenses reimbursed based on the amount of occupied space, rather than on the total building area, are described as "grossed up." (Dictionary)

Gross Sellout Value (Sum of the Retail Values)

The sum of the separate and distinct market value opinions for each of the units in a condominium, subdivision development, or portfolio of properties, as of the date of valuation. The aggregate of retail values does not represent the value of all the units as though sold together in a single transaction; it is simply the total of the individual market value conclusions. An appraisal has an effective date, but summing the sale prices of multiple units over an extended period of time will not be the value on that one day unless the prices are discounted to make the value equivalent to what another developer or investor would pay for the bulk purchase of the units. Also called the *aggregate of the retail values, aggregate retail selling price or sum of the retail values.* (Dictionary)

Ground Lease

A lease that grants the right to use and occupy land. Improvements made by the ground lessee typically revert to the ground lessor at the end of the lease term. (Dictionary)

Ground Rent

The rent paid for the right to use and occupy land according to the terms of a ground lease; the portion of the total rent allocated to the underlying land. (Dictionary)

HVAC

Heating, ventilation, air conditioning (HVAC) system. A unit that regulates the temperature and distribution of heat and fresh air throughout a building. (Dictionary)

Highest and Best Use

1. The reasonably probable use of property that results in the highest value. The four criteria that the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum productivity.
2. The use of an asset that maximizes its potential and that is possible, legally permissible, and financially feasible. The highest and best use may be for continuation of an asset's existing use of for some alternative use. This is determined by the use that a market participant would have in mind for the asset when formulating the price that it would be willing to bid. (IVS)
3. [The] highest and most profitable use for which the property is adaptable and needed or likely to be needed in the reasonably near future. (Uniform Appraisal Standards for Federal Land Acquisitions) (Dictionary)

Hypothetical Condition

1. A condition that is presumed to be true when it is known to be false. (SVP)
2. A condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis.

Comment: Hypothetical conditions are contrary to known facts about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis. (USPAP)

Insurable Value (Replacement Cost for Insurance Purposes)

The estimated cost, at current prices as of the effective date of valuation, of a substitute for the building being valued, using modern materials and current standards, design, and layout for insurance coverage purposes guaranteeing that damaged property is replaced with new property (i.e., depreciation is not deducted). (Dictionary)

Investment Value

1. The value of a property to a particular investor or class of investors based on the investor's specific requirements. Investment value may be different from market value because it depends on a set of investment criteria that are not necessarily typical of the market. (Dictionary)
2. The value of an asset to the owner or a prospective owner given individual investment or operational objectives (may also be known as worth). (IVS)

Just Compensation

In condemnation, the amount of loss for which a property owner is compensated when his or her property is taken. Just compensation should put the owner in as good a position pecuniarily as he or she would have been if the property had not been taken. (Dictionary)

Leased Fee Interest

The ownership interest held by the lessor, which includes the right to receive the contract rent specified in the lease plus the reversionary right when the lease expires. (Dictionary)

Leasehold Interest (Leasehold Estate)

The right held by the lessee to use and occupy real estate for a stated term and under the conditions specified in the lease. (Dictionary)

See also Positive Leasehold and Negative Leasehold.

Lessee (Tenant)

One who has the right to occupancy and use of the property of another for a period of time according to a lease agreement. (Dictionary)

Lessor (Landlord)

One who conveys the rights of occupancy and use to others under a lease agreement. (Dictionary)

Liquidation Value

The most probable price that a specified interest in property should bring under the following conditions:

1. Consummation of a sale within a short time period.
2. The property is subjected to market conditions prevailing as of the date of valuation.
3. Both the buyer and seller are acting prudently and knowledgeably.
4. The seller is under extreme compulsion to sell.
5. The buyer is typically motivated.
6. Both parties are acting in what they consider to be their best interests.
7. A normal marketing effort is not possible due to the brief exposure time.
8. Payment will be made in cash in U.S. dollars (or the local currency) or in terms of financial arrangements comparable thereto.
9. The price represents the normal consideration for the property sold, unaffected by special or creative financing or sales concessions granted by anyone associated with the sale. (Dictionary)

Loan to Value Ratio (LTV)

The ratio between a mortgage loan and the value of the property pledged as security, usually expressed as a percentage. (Dictionary)

Major Vertical Penetrations

Stairs, elevator shafts, flues, pipe shafts, vertical ducts, and the like, and their enclosing walls. Atria, lightwells and similar penetrations above the finished floor are included in this definition. Not included, however, are vertical penetrations built for the private use of a tenant occupying office areas on more than one floor. Structural columns, openings for vertical electric cable or telephone distribution, and openings for plumbing lines are not considered to be major vertical penetrations. (BOMA)

Market Rent

The most probable rent that a property should bring in a competitive and open market under all the conditions requisite to a fair lease transaction, the lessee and the lessor each acting prudently and knowledgeably, and assuming the rent is not affected by undue stimulus. Implicit in this definition is the execution of a lease as of a specified date under conditions whereby:

1. Lessee and lessor are typically motivated;
2. Both parties are well informed or well advised, and acting in what they consider their best interests;
3. Payment is made in terms of cash or in terms of financial arrangements comparable thereto; and
4. The rent reflects specified terms and conditions, such as permitted uses, use restrictions, expense obligations, duration, concessions, rental adjustments and revaluations, renewal and purchase options, and tenant improvements (TIs). (Appraisal Institute)

Market Value

The following definition of market value is used by agencies that regulate federally insured financial institutions in the United States: The most probable price that a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised, and acting in what they consider their own best interests;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale. (Dictionary; 12 C.F.R. Part 34.42(g); 55 Federal Register 34696, August 24, 1990, as amended at 57 Federal Register 12202, April 9, 1992; 59 Federal Register 29499, June 7, 1994)

Marketing Time

An opinion of the amount of time it might take to sell a real or personal property interest at the concluded market value level during the period immediately after the effective date of an appraisal. Marketing time differs from exposure time, which is always presumed to precede the effective date of an appraisal. (Advisory Opinion 7 of the Appraisal Standards Board of the Appraisal Foundation)

Master Lease

1. A lease in which a part or the entire property is leased to a single entity (the master lessee) in return for a stipulated rent. The master lessee then subleases the property to multiple tenants.
2. The first lease in a sandwich lease. (Dictionary)

Modified Gross Lease

A lease in which the landlord receives stipulated rent and is obligated to pay some, but not all, of the property's operating and fixed expenses. Since assignment of expenses varies among modified gross leases, expense responsibility must always be specified. In some markets, a modified gross lease may be called a *double net lease, net net lease, partial net lease, or semi-gross l*ease. (Dictionary)

Negative Leasehold

A lease situation in which the market rent is less than the contract rent. (Dictionary)

Operating Expense Ratio

The ratio of total operating expenses to effective gross income (*TOE/EGI*); the complement of the net income ratio, i.e., *OER = 1 – NIR* (Dictionary)

Option

A legal contract, typically purchased for a stated consideration, that permits but does not require the holder of the option (known as the *optionee*) to buy, sell, or lease real estate for a stipulated period of time in accordance with specified terms; a unilateral right to exercise a privilege. (Dictionary)

Partial Interest

Divided or undivided rights in real estate that represent less than the whole, i.e., a fractional interest such as a tenancy in common or easement. (Dictionary)

Pass Through

A tenant's portion of operating expenses that may be composed of common area maintenance (CAM), real property taxes, property insurance, and any other expenses determined in the lease agreement to be paid by the tenant. (Dictionary)

Percentage Lease

A lease in which the rent or some portion of the rent represents a specified percentage of the volume of business, productivity, or use achieved by the tenant. (Dictionary)

Positive Leasehold

A lease situation in which the market rent is greater than the contract rent. (Dictionary)

Potential Gross Income (PGI)

The total income attributable to property at full occupancy before vacancy and operating expenses are deducted. (Dictionary)

Prospective Opinion of Value

A value opinion effective as of a specified future date. The term does not define a type of value. Instead, it identifies a value opinion as being effective at some specific future date. An opinion of value as of a prospective date is frequently sought in connection with projects that are proposed, under construction, or under conversion to a new use, or those that have not yet achieved sellout or a stabilized level of long-term occupancy. (Dictionary)

Replacement Cost

The estimated cost to construct, at current prices as of a specific date, a substitute for a building or other improvements, using modern materials and current standards, design, and layout. (Dictionary)

Reproduction Cost

The estimated cost to construct, at current prices as of the effective date of the appraisal, an exact duplicate or replica of the building being appraised, using the same materials, construction standards, design, layout, and quality of workmanship and embodying all of the deficiencies, superadequacies, and obsolescence of the subject building. (Dictionary)

Retrospective Value Opinion

A value opinion effective as of a specified historical date. The term *retrospective* does not define a type of value. Instead, it identifies a value opinion as being effective at some specific prior date. Value as of a historical date is frequently sought in connection with property tax appeals, damage models, lease renegotiation, deficiency judgments, estate tax, and condemnation. Inclusion of the type of value with this term is appropriate, e.g., "retrospective market value opinion." (Dictionary)

Sandwich Leasehold Estate

The interest held by the sandwich leaseholder when the property is subleased to another party; a type of leasehold estate. (Dictionary)

Sublease

An agreement in which the lessee in a prior lease conveys the right of use and occupancy of a property to another, the sublessee, for a specific period of time, which may or may not be coterminous with the underlying lease term. (Dictionary)

Subordination

A contractual arrangement in which a party with a claim to certain assets agrees to make that claim junior, or subordinate, to the claims of another party. (Dictionary)

Surplus Land

Land that is not currently needed to support the existing use but cannot be separated from the property and sold off for another use. Surplus land does not have an independent highest and best use and may or may not contribute value to the improved parcel. (Dictionary)

TPO

Thermoplastic polyolefin, a resilient synthetic roof covering.

Triple Net (Net Net Net) Lease

An alternative term for a type of net lease. In some markets, a net net net lease is defined as a lease in which the tenant assumes all expenses (fixed and variable) of operating a property except that the landlord is responsible for structural maintenance, building reserves, and management; also called *NNN lease, net net net lease, or fully net lease*. (Dictionary)

(The market definition of a triple net lease varies; in some cases tenants pay for items such as roof repairs, parking lot repairs, and other similar items.)

Usable Area

The measured area of an office area, store area, or building common area on a floor. The total of all the usable areas for a floor shall equal floor usable area of that same floor. (BOMA)

Value-in-Use

1. The amount determined by discounting the future cash flows (including the ultimate proceeds of disposal) expected to be derived from the use of an asset at an appropriate rate that allows for the risk of the activities concerned. (FASB Accounting Standards Codification, Master Glossary)
2. Formerly used in valuation practice as a synonym for *contributory value* or *use value*. (Dictionary)

VTAB (Value of the Total Assets of a Business)

The total amount that the real property, tangible personal property, and intangible property assets of a business would sell for in an asset-based transaction. (Dictionary)

Qualifications

Qualifications of Christopher R. Knight, MAI, R/W-AC
Managing Director
Valbridge Property Advisors

Independent Valuations for a Variable World

State Certifications
State of Texas
State of New Mexico

Education
Texas A&M University – Bachelors of Science in Agricultural Economics with a concentration in Rural Entrepreneurship and a minor in Business Administration

Contact Details
214-446-1611 (Main Office)
214-865-7068 (Direct Line)

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Appraisal Institute & Related Courses:
National Uniform Standards of Professional Appraisal Practice
Business Practices and Ethics
Basic Appraisal Procedures and Basic Appraisal Principles
General Appraiser Income Approach Part 1 & 2
Advanced Income Capitalization
General Appraiser Sales Comparison Approach
General Appraiser Site Valuation and Cost Approach
General Appraiser Report Writing and Case Studies
Real Estate Finance, Statistics, and Valuation Modeling
General Appraiser Market Analysis and Highest & Best Use
Advanced Market Analysis and Highest & Best Use
Advanced Concepts & Case Studies
Quantitative Analysis
AGEC 422: Land Economics
AGEC 424/425: Rural Entrepreneurship
AGEC 217/317: Rural Land Management

Experience:
Appraiser
Valbridge Property Advisors (January 2013-Present)

Appraisal/valuation and consulting assignments include: single/multi-tenant retail buildings; office buildings; industrial buildings; market rent analysis; hotels; RV parks; proposed and retrospective valuations; litigation support; right-of-way; property tax; special purpose properties including ranches from 50 acres to 24,000 acres; specialized industrial, full production rice mill, former Lignite mine, funeral homes, historical properties, churches, ground leases, estate settlement; and residential land. Has completed various right-of-way appraisals for USACE via Yellow Book appraisals for the Texas/Mexico border wall and tower sites. Assignments have been concentrated in Texas; Houston, Dallas/Fort Worth, and rural cities. Various assignments are in Arkansas as well. Has assisted with assignments in New Mexico, Oklahoma, Louisiana, and New York.

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NMRLD
NEW MEXICO REGULATION & LICENSING DEPARTMENT

State of New Mexico

Real Estate Appraisers

HEREBY CERTIFIES THAT

Christopher Knight

HAVING GIVEN SATISFACTORY EVIDENCE OF THE COMPLETION OF PROFESSIONAL AND OTHER REQUIREMENTS PRESCRIBED BY LAW IS GRANTED A LICENSE TO PRACTICE IN THE STATE OF NEW MEXICO

General Certified Appraiser

License No. REA-2024-0021 Issued 02/12/2024 Expires 04/30/2027

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COMPANY INFORMATION

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- Valbridge provides custom appraisal reports in the U.S., Canada, and Puerto Rico.
- Valbridge specializes in appraising all types of real property.
- Valbridge provides independent valuation services. We are NOT owned by a brokerage firm or investment company.
- Every Valbridge office is overseen by a Senior Managing Director who holds the MAI designation of the Appraisal Institute.
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Phone: 888.981.2029
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Valbridge
PROPERTY ADVISORS

VALBRIDGE PROPERTY ADVISORS OFFICE LOCATIONS

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Daphne, AL 36526
(251) 929-9090

4245 Balmoral Dr. SW, Unit #201
Huntsville, AL 35801
(256) 210-1555

4732 Woodmere Blvd.
Montgomery, AL 36106
(334) 277-5077

CALIFORNIA
3160 Crow Canyon Pl.
San Ramon, CA 94583
(925) 327-1660

825 Colorado Blvd., Ste. 201
Los Angeles, CA 90041
(626) 486-9327

17822 17th St., Ste. 211
Tustin, CA 92780
(714) 449-0852

775 Sunrise Ave., Ste. 260
Roseville, CA 95661
(916) 361-2509

1530 The Alameda, Ste. 100
San Jose, CA 95126
(408) 279-1520

COLORADO
5345 Arapahoe Ave., Ste. 6
Boulder, CO 80303
(303) 867-1935

FLORIDA
301 Almeria Ave., Ste. 350
Coral Gables, FL 33134
(305) 639-8029

3780 Burns Rd., Ste. 4
Palm Beach Gardens, FL 33410
(561) 833-5331

3033 Riviera Dr., Ste. 106
Naples, FL 34103
(239) 514-4646

IDAHO
3910 S. Yellowstone Hwy., Ste. B5
Idaho Falls, ID 83402
(208) 534-5505

1875 N. Lakewood Dr., Ste. 100
Coeur d'Alene, ID 83814
(208) 292-2965

INDIANA
6801 Lake Plaza Dr., Ste. C-301
Indianapolis, IN 46220
(317) 687-2747

KANSAS
10990 Quivira Rd., Ste. 100
Overland Park, KS 66210
(913) 451-1451

KENTUCKY
1890 Star Shoot Pkwy.
Lexington, KY 40509
(502) 585-3651

9401 Williamsburg Plaza, Ste. 204
Louisville, KY 40222
(502) 585-3651

MARYLAND
2709 Hanson Ave., Ste. T2
Baltimore, MD 21209
(443) 333-5525

MASSACHUSETTS
260 Bear Hill Rd., Ste. 106
Waltham, MA 02451
(781) 790-5645

MICHIGAN
1420 Washington Blvd.
Detroit, MI 48226
(313) 986-3313

2127 University Park Dr.
Okemos, MI 48864
(517) 336-0001

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1515 Central Pkwy., Ste. 120
Eagan, MN 55121
(651) 370-1475

MISSISSIPPI
1010 Ford St.
Gulfport, MS 39507
(228) 604-1900

224 Avalon Cir.
Brandon, MS 39047
(601) 853-0736

501 Highway 12 W., Ste. 150-M
Starkville, MS 39759
(662) 617-2350

MISSOURI
1118 Hampton Ave., Ste. 208
St. Louis, MO 63139
(314) 255-1323

NEVADA
3034 S. Durango Dr., Ste. 100
Las Vegas, NV 89117
(702) 242-9369

1575 Delucchi Ln., Ste. 209
Reno, NV 89502
(775) 204-4100

NEW MEXICO
7301 Indian School Rd. NE, Ste. A
Albuquerque, NM 87110
(505) 884-4721

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5950 Fairview Rd., Ste. 405
Charlotte, NC 28210
(704) 376-5400

NORTH DAKOTA
118 Broadway N., Ste. 509
Fargo, ND 58091
(701) 289-1676

OHIO
8298 Clough Pike, Ste. 1
Cincinnati, OH 45244
(513) 785-0820

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6666 S. Sheridan Rd., Ste. 104
Tulsa, OK 74133
(918) 712-9992

3121 Quail Springs Pkwy., Ste. 150
Oklahoma City, OK 73134
(405) 603-1553

PENNSYLVANIA
900 West Valley Rd., Ste. 503
Wayne, PA 19087
(215) 545-1900

4701 Baptist Rd., Ste. 304
Pittsburgh, PA 15227
(412) 881-6080

SOUTH CAROLINA
1250 Fairmont Ave.
Mt. Pleasant, SC 29464
(843) 884-1266

11 Cleveland Ct.
Greenville, SC 29607
(864) 233-6277

920 Bay St., Ste. 26
Beaufort, SC 29902
(843) 884-1266

TENNESSEE
3500 Ringgold Rd., Ste. 3
Chattanooga, TN 37412
(423) 206-2677

213 Fox Rd.
Knoxville, TN 37922
(865) 522-2424

756 Ridge Lake Blvd., Ste. 225
Memphis, TN 38120
(901) 753-6977

TEXAS
901 Mopac Expy. S., Bldg. 1, Ste. 300
Austin, TX 78746
(737) 242-8585

10210 North Central Expy., Ste. 115
Dallas, TX 75231
(214) 446-1611

974 Campbell Rd., Ste. 204
Houston, TX 77024
(713) 467-5858

2731 81st St.
Lubbock, TX 79423
(806) 744-1188

9901 IH-10 West, Ste. 1035
San Antonio, TX 78230
(210) 227-6229

UTAH
527 E. Pioneer Rd., Ste. 240
Draper, UT 84020
(801) 262-3388

20 North Main St.
St. George, UT 84770
(435) 773-6300

321 N. County Blvd., Ste. D
American Fork, UT 84003
(801) 492-0000

VIRGINIA
656 Independence Pkwy., Ste. 220
Chesapeake, VA 23320
(757) 410-1222

1231 Alverser Dr.
Midlothian, VA 23113
(757) 345-0010

5107 Center St., Ste. 2B
Williamsburg, VA 23188
(757) 345-0010

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8378 W. Grandridge Blvd., Ste. 110-D
Kennewick, WA 99336
(509) 221-1540

324 N. Mullan Rd.
Spokane Valley, WA 99206
(509) 747-0999

WISCONSIN
12660 W. North Ave.
Brookfield, WI 53005
(262) 782-7990

December 1, 2026
Taos County Board of County Commissioners
Remand Hearing

SUP-24-0013
BTS Towers, LLC
159 Old State Highway 3, Arroyo Hondo, Texas

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5.	Valmont Larson Monopine Letter
6.	Monopole Photo Simulations
7.	Monopine Photo Simulations
8.	Existing Infrastructure
9.	National Environmental Policy Act (NEPA) Checklist
10.	NEPA - Areas of Potential Effects
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12.	NEPA - Taos County Historical Society
13.	NEPA - Taos County Planning Department
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18. October 16, 2025 Taos County Board of County Commissioners Record of Decision

19. The National Environmental Policy Act (NEPA) Summary Report

20. September 12, 2025 Valbridge Property Advisors New Mexico - Tower Influence Market Study

October 8, 2026

Mr. Nefi Garcia
VB BTS II, LLC
22 West Atlantic Avenue, Suite 310
Delray Beach, FL 33444

RE: National Park Service Consultation:
Arco Torcido Site (US-NM-7008)
near 157 Old Highway 3
Arroyo Hondo, Taos County, New Mexico 87513

Dear Mr. Garcia,

In October of 2026, Lotis Environmental, LLC (Lotis) received a request to confirm validity of the National Park Service (NPS) clearance statement regarding effect on the Old Spanish National Historic Trail within proximity of the proposed undertaking. On October 1, 2026, Lotis received a response from Jordan Jarrett of NPS restating that they do not anticipate any significant impact to the trail. NPS' letter mentions relying on the State Historic Preservation Office (SHPO) response for historic data. Therefore, the previous responses from the SHPO and NPS are included in the attachments following this letter.

Should you have any questions or comments, please do not hesitate to contact our office at (716) 580.7000.

Sincerely,

Lotis Environmental, LLC

David N. Robinson, P.E.
President/CEO
Robinson@TheLotisGroup.com
Attachments

New Mexico Historic Preservation Division's (HPD) Response

NEPA NHPA

From: towernotifyinfo@fcc.gov
Sent: Thursday, November 2, 2023 4:17 PM
To: NEPA NHPA
Subject: Section 106 Notification of SHPO/THPO Concurrence- Email ID #9005390

This is to notify you that the Lead SHPO/THPO has concurred with the following filing:
Date of Action: 11/02/2023
Direct Effect: No Historic Properties in Area of Potential Effects (APE)
Visual Effect: No Effect on Historic Properties in APE
Comment Text: Thank you for submitting additional information. NM SPO concurs with the findings.
Log # 120713 and 120885

File Number: 0010710549
TCNS Number: 271853
Purpose: New Tower Submission Packet

Notification Date: 7AM EST 09/28/2023

Applicant: VB BTS II, LLC
Consultant: Lotis Environmental
Positive Train Control Filing Subject to Expedited Treatment Under Program Comment: No
Site Name: Arco Torcido
Site Address: near 157 Old Highway 3
Detailed Description of Project: A proposed telecommunication tower known as ARCO TORCIDO and associated equipment within a leased area that includes an access, utility, and guy wire (if applicable) easements.
Site Coordinates: 36-32-45.2 N, 105-40-16.4 W
City: Arroyo Hondo
County: TAOS
State:NM
Lead SHPO/THPO: State Historic Preservation Office of New Mexico

NOTICE OF FRAUDULENT USE OF SYSTEM, ABUSE OF PASSWORD AND RELATED MISUSE
Use of the Section 106 system is intended to facilitate consultation under Section 106 of the National Historic Preservation Act and may contain information that is confidential, privileged or otherwise protected from disclosure under applicable laws. Any person having access to Section 106 information shall use it only for its intended purpose. Appropriate action will be taken with respect to any misuse of the system.

The National Park Service (NPS) Response(s)

DeAnna Anglin

From: Jarrett, Jordan E <jordan_jarrett@nps.gov>
Sent: Thursday, October 1, 2026 1:49 PM
To: DeAnna Anglin
Cc: Miles Walz-Salvador
Subject: Re: [EXTERNAL] NSHT Opportunity to comment on proposed telecommunication project VBBTS_264 - Arco Torcido US-NM-7008

Hi Deanna,

The information about a previous tower came from AntennaSearch [AntennaSearch states that a 100' tower was constructed on this property in 2014, although it says it was unregistered (Branch Communications Llc, filing number 2013-asw-797-oe)] (AntennaSearch - Search for Cell Towers & Antennas). This is a public record source that we at times rely upon for our reviews of existing or previous infrastructure. Perhaps it was permitted at that time and not constructed, it sounds like, but I cannot speak to the veracity of this public record since I have not come across any cases where it's been brought to my attention to have been incorrect. Perhaps you or Miles would have more information about the nature of this data.

Regarding impact to the trail as a national historic trail at this location, we do not have any sensitive trails resources per the National Trails System Act at this location or in the vicinity to make you aware of or that we would be concerned with impact to. Our office does not maintain historic properties data which is the role of the New Mexico SHPO office and database. The nearest sensitive resource per our office records is 2.75 miles east and outside of the viewshed of the proposed project given topography and GoogleEarth viewshed analysis. In 2023, I noted the present highway, multiple roads, power poles and distribution line, and clearing in this area as impacting the setting integrity at this location. Further, the trail is not defined as a line. Our congressional alignment is based on various sources at various scales and is not meant to be zoomed in at a scale finer than 1:100,000. The Old Spanish National Historic Trail is a corridor within which resources and values may be located, but we do not anticipate any significant impact to the setting at this location.

Hope this helps,
Jordan

Jordan Jarrett, M.A., RPA
Trails Resources Specialist
National Trails Office, NPS
1100 Old Santa Fe Trail
Santa Fe, NM 87505
(505) 470-0426

Working with you to protect, develop, and promote national historic trails.
http://www.nps.gov/ntir/

From: DeAnna Anglin <Anglin@thelotisgroup.com>
Sent: Thursday, October 1, 2026 10:03 AM
To: Jarrett, Jordan E <jordan_jarrett@nps.gov>
Cc: Miles Walz-Salvador <Walz-Salvador@thelotisgroup.com>

Subject: RE: [EXTERNAL] NSHT Opportunity to comment on proposed telecommunication project VBBTS_264 - Arco Torcido US-NM-7008

Hey Jordan!

We just got a call from the client and need some clarification on your clearance. The 100' tower mentioned in the below clearance was never present on site. I know you mentioned "other existing conditions" as well, so we were hoping you could confirm if your clearance remains valid with this updated information.

Thank you for any assistance!

Warmly,

DeAnna Anglin
Senior Biologist/NEPA Project Lead
Lotis Environmental, LLC
Cell: 417 840 5008 💙

From: Jarrett, Jordan E <jordan_jarrett@nps.gov>
Sent: Friday, September 29, 2023 3:48 PM
To: DeAnna Anglin <Anglin@thelotisgroup.com>
Subject: Re: [EXTERNAL] NSHT Opportunity to comment on proposed telecommunication project VBBTS_264 - Arco Torcido US-NM-7008

Hi DeAnna,

Thank you for providing the opportunity comment on Arco Torcido. It appears that a 100' tower was present at this location in the past, although it was unregistered and may not remain present currently. For that reason and other existing conditions in this context of the proposed tower, the National Trails Office does not anticipate adverse effect of this undertaking to the Old Spanish National Historic Trail or to its associated resources.

Have a good weekend,
Jordan

Jordan Jarrett (she/her)
Archeologist
National Park Service
National Trails Office
1100 Old Santa Fe Trail
Santa Fe, NM 87505
(505) 470-0426

Working with you to protect, develop, and promote National Historic Trails.
http://www.nps.gov/ntir/

From: DeAnna Anglin <Anglin@thelotisgroup.com>
Sent: Wednesday, September 27, 2023 10:38 AM
To: Jarrett, Jordan E <jordan_jarrett@nps.gov>
Cc: NEPA NHPA <NEPA.NHPA@thelotisgroup.com>
Subject: [EXTERNAL] NSHT Opportunity to comment on proposed telecommunication project VBBTS_264 - Arco Torcido US-NM-7008

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

To Whom It May Concern:

Lotis is completing due diligence for the above proposed telecommunication project known as "**Arco Torcido**". Part of this due diligence providing the National Scenic Historic Trail manager the opportunity to comment on whether or not the proposed telecommunications project will have an effect on the trail. I have attached the project summary, site maps, KMZ file (for Google Earth aerial view) and site photos of the proposed undertakings general scope of work location.

Should you not respond within 30 days we will assume you have no concern or comment regarding the proposed undertaking. However, should you not want to comment we ask that you state so in a response to aid us in our timeline for this project. Should you have an additional request for information, please feel free to contact me via phone or by responding all to this email. We will do our best to supplement you with any additional documentation or information regarding the proposed undertaking.

Warmly,

DeAnna Anglin
Senior Biologist/NEPA Specialist

8899 Main Street – Suite 107
Williamsville, NY 14221
www.thelotisgroup.com

Phone: 716.580.7000
Mobile: 417.840.5008
Anglin@thelotisgroup.com

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SECTION 4.6
Commercial Zoning Clearance, Administrative Zoning Clearance, Special Use Zoning Permits and Major Development Zoning Permits Compatibility Standards

Section 4.6.1 **Development Compatibility Standards:** The following requirements shall be applied to all land uses requiring Commercial Zoning Permits, Administrative Zoning permits, Special Use Zoning permits or Major Development Zoning Permits under these regulations.

A. **Use**. The development shall be sensitive to and consistent with the existing traditional and historic uses in the neighborhood, or the applicant shall be able to demonstrate that the development would provide a substantial benefit to, or support to, or would not have a substantial impact on the immediate neighborhood. Commercial Zoning Clearance Permits are exempt from this provision.

B. **Visual Impact**. The development shall be sensitive to and consistent with the architectural design, scale, density, bulk, building height, historical character, and orientation of the existing properties in the neighborhood, or the applicant shall be able to demonstrate that the alternative being proposed is suitable to the land and the neighborhood character.

SECTION 4.7
Commercial Zoning Clearance, Administrative Zoning Clearance, Special Use Zoning Permits and Major Development Zoning Permits Performance Standards

Section 4.7.1 **Commercial Zoning Clearance, Administrative Zoning Clearance, Special Use and Major Development Performance Standards:** The following performance standards shall be considered for all applications for Administrative zoning permits, Special Use permits or Major Development permits. In the case of Administrative Review the Planning Director shall have the discretion to determine the applicability of the following performance standards based upon the nature of a particular project and its impact on the surrounding area. The Planning Department shall submit a written report to the Planning Commission and/or Board of County Commissioners outlying the application's compliance with these standards as the basis for rendering any decision to approve, approve with condition(s), or disapprove the applications of a special use or major development. The applicant shall provide engineered drawings, a written explanation and an analysis of all of the Performance Standards identified in this section; or a written substantiation as to why they do not apply.

A. **Roads.** The development shall be served by roads constructed to County standards with adequate capacities for the proposed development. The development shall be designed to minimize any adverse impact that additional traffic would have on the surrounding land uses. A traffic impact study may be required and prepared by a licensed New Mexico engineer, including a written analysis of the traffic and congestion impact with mitigation procedures approved by the New Mexico Department of Transportation and/or the Taos County Public Works Department. Where determined by the Planning Department to be necessary due to the direct impact of the proposal, the existing road network serving the project area shall be augmented or extended to accommodate the development. Refer to Appendix 1: Road Standards.

B. **Utilities.** All water, sewage, electric, phone lines, cable and natural gas shall be underground. The development shall be served by utilities with adequate capacities for the proposed development. Where applicable, utilities shall be augmented or extended to accommodate the development. The applicant shall supply proof of availability and/or commitment from all public utilities.

C. **Water Supply and Quality.** Applicants for development or construction on lots within four hundred (400) feet of a public water supply system shall provide a letter of approval from the associated water authority and shall be connected to that public system, providing easements are available or can be negotiated. The design of the connection shall be approved by both the connecting water authority and/or the New Mexico State Engineer. If no hook-up to the municipal or public authority is available, then the applicant shall supply an approved permit from the New Mexico State Engineer. The applicant shall meet all current requirements of the New Mexico State Engineer (OSE) and the New Mexico Environment Department (NMED). Major Development applicants must also meet the Water Supply Requirements set forth in Appendix 2. If the water supply is from the aquifer a hydrological study may be required. All applicants shall be required to submit a conservation plan.

TAOS COUNTY
ANNA MARTINEZ, CLERK
000431734
Book 992 Page 402
59 of 146
09/25/2018 10:08:01 AM
BY BLANCAL

BTS Towers, LLC
159 Old State Highway 3, Arroyo Hondo, Texas

Submittal Documents

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TAB DOCUMENT

1. Special Use Permit Application and Affidavits

   1-2 – Signed Permit Application correct entity

2. Tax Certificate, Deed, Title Report, & CC&RS

   2-1 – NM-7008 Deed Statement
   2-2 – New Tax Doc 1252024
   2-3 – NM-7008 Title Report Document Statement 091324

3. Site Plans & Survey

   3-1 – REV-NM-7008 CDs_rev8_SEALED
   3-2 – NM-7008 Final Survey
   3-3 – Structural Calcs

4. Grading, Drainage, Storm Water & Terrain Management Plan

   4-1 – US-NM-7008 G&D Stormwater Analysis & Plan
   4-2 – G&D 11x17 sheets

5. Geotechnical Report

   5-1 – NM-7008 GEO Tech Report rev2 091724
   5-2 – NM-7008 EME Study Stamped 032025
   5-3 – NM-7008 RF Interface Study (1)

6. Area of Notice Map and Properties

   6-2 – Adjacent Owner List Updated 051425

7. Vicinity Maps

   7-1 – MISC Maps

TAB DOCUMENT

8. Applicant Statements

    8-1 – Colocation Statement Signed
    8-2 – NM-7008 Various Statement Signed
    8-3 – NM-7008 Visual Impact Study
    8-4 – NM-7008 Roads Statement
    8-5 – NM-7008 Colocation Capacity Statement Signed BTS Towers
    8-6 – NM-7008 Funding Letter Signed BTS Towers
    8-7 – NM-7008 4.11.1(A)(5) Removal Statement Signed BTS Towers

9. County Department Approvals

    9-1 – Vertical Bridge-FPP Letter 6-6-24
    9-2 – NM-7008 Fire Marshal Signed Plans
    9-3 – Kit Carson Electric Service Grace Community Church (1)
    9-5 – Public Works Letter
    9-6 – County Signed Floodplain Determination Form 02052024
    9-7 – Receipt-Special Use Permit Application Payment

10. Federal Agency Compliance

    10-1 – US-NM-7008 FAA Notice Criteria Tool doc_040324
    10-2 – US-NM-7008 Federal Airways & Airspace Summary…
    10-3 – US-NM-7008 FCC TOWAIR results_040324
    10-4 – US-NM-7008 AM Certficiate_040324
    10-5 – US-NM-7008 FCC Local Government Guide

11. NEPA Compliance Report

    11-1 – ARCO Torcido NEPA Summary Report 11.24.23

12. Fall Zone Letter

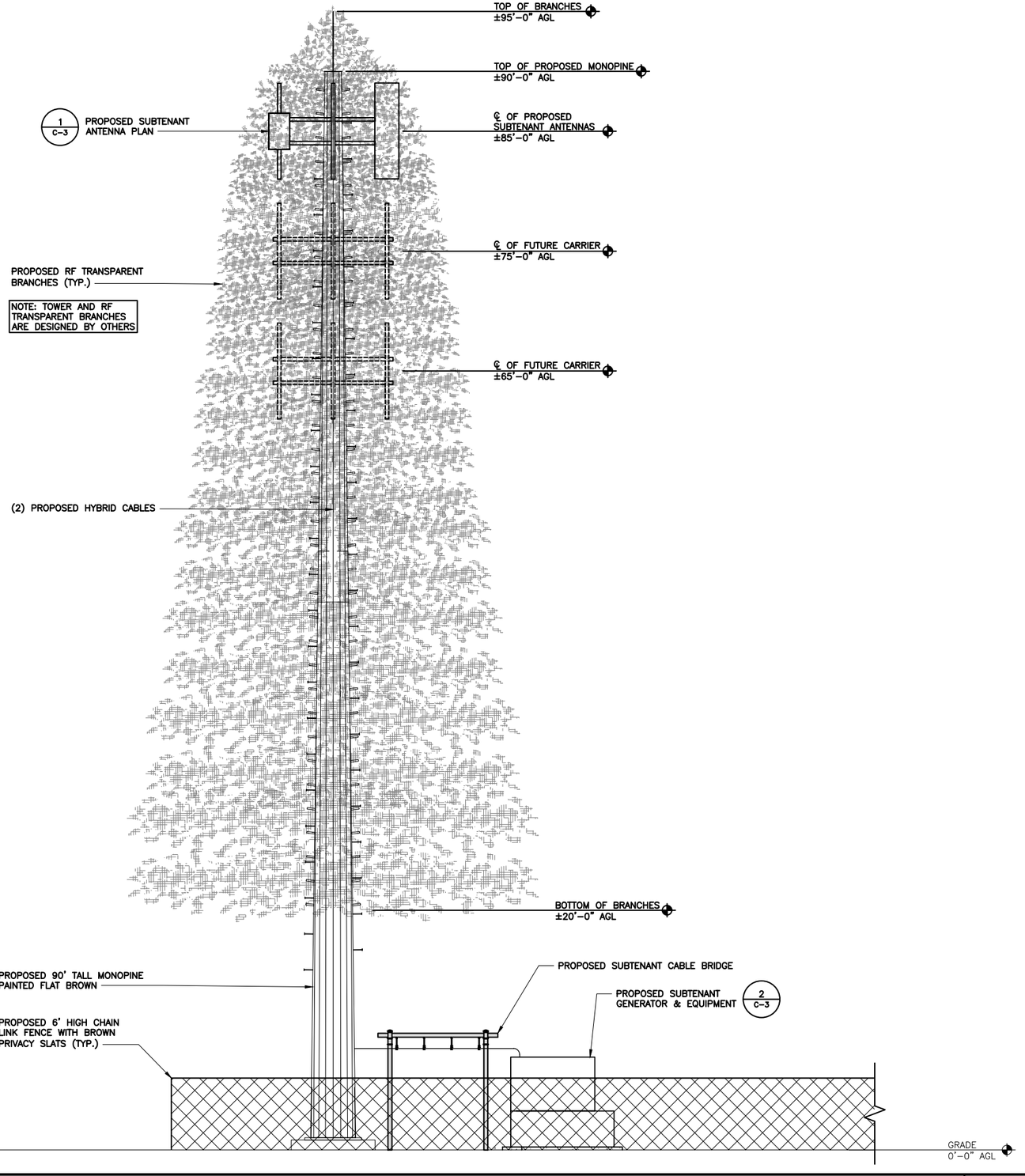
    12-1 – NM-7008 Fall Zone Letter 031324

13. Notification to Other Wireless Service Providers

    13-1 – Letters to Other Carriers

14. Network Justification

    14-1 – NM-7008 Significant Gap Analysis RF



NOTE:
ANTENNAS TO BE PAINTED GREEN
TO MATCH BRANCHES

PROPOSED ELEVATION

22"x34" SCALE: 1" = 5'-0"
11"x17" SCALE: 1" = 10'-0"

5' 2'-6" 0" 5'

1

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BTS Towers, LLC
750 PARK OF COMMERCE BLVD
SUITE 200
BOCA RATON, FL 33487

CLIENT
ROMANO & ASSOCIATES, LLC
8100 WYOMING BLVD. NE #M4-167
ALBUQUERQUE, NM 87113
PHONE: 505.750.0735

PLANS PREPARED BY
COM-EX Consultants
115 ROUTE 46
SUITE E39
MOUNTAIN LAKES, NJ 07046
PHONE: 862.209.4300
FAX: 862.209.4301

SEAL
SAMUEL GONZALEZ
NEW MEXICO
19979
3/4/25
PROFESSIONAL ENGINEER
EXPIRES: 12/31/2025

NO.	DATE	DESCRIPTION
0	12/15/23	INITIAL SUBMISSION
1	02/05/24	CLIENT COMMENTS
2	03/25/24	CLIENT COMMENTS
3	03/25/24	CLIENT COMMENTS
4	03/29/24	CLIENT COMMENTS
5	04/09/24	CLIENT COMMENTS
6	05/16/24	CLIENT COMMENTS
7	10/22/24	CLIENT COMMENTS
8	03/03/25	CLIENT COMMENTS

COM-EX #: 23001-ROM
DRAWN BY: JW

PROJECT INFORMATION
US-NM-7008
ARCO TORCIDO
159 OLD STATE HIGHWAY 3
ARROYO HONDO, NM 87513

SHEET TITLE
ELEVATION

JURISDICTION APPROVAL

SHEET NUMBER
C-4

November 16, 2026

Re: Arco Torcido US-NM-7008 Monopine

Dear Taos County Board of Commissioners:

Larson and Valmont pioneered the wireless concealment industry in 1992 by developing and constructing the first monopine. Since then, Larson has delivered thousands of camouflaged wireless sites worldwide. Monopine structures are the most common and widely adopted concealment form factor in the wireless industry for deployments in rural areas.

Each Valmont Larson concealment structure is engineered to meet project-specific requirements. The proposed Arco Torcido US-NM-7008 monopine has been designed with the following characteristics:

- **Steel structure height:** 90’ above ground level
- **Overall height, including branches:** 95’ above ground level
- **Lowest branch elevation:** 20’ above ground level
- **Branch density:** Three branches per vertical foot (high density).
- **Branch lengths:** A combination of 4’, 6’, 8’, and 10’ branches.
- **Fall zone:** Designed for a 50’ radius fall zone.
- **Tower finish:** Brown paint from the base to the top of the tower.
- **Foliage appearance:** A blend of green tones with some brown needles to create a realistic, varied appearance.

Thank you,

Melissa Williams | Director of Project Management
Valmont | Larson | 1501 S. Euclid Ave. | Tucson, AZ 85713 USA
Phone +1 (520) 294-3900 | Direct +1 (520) 497-0173
melissa.williams@valmont.com | valmontlarson.com

PROPOSED
PROPOSED 90’ MONOPOLE
vertical bridge
US-NM-7008 PHOTO SIMULATION
PROPOSED 90’ MONOPOLE
LOOKING SOUTH FROM HIGHWAY 522
MAY 17, 2025

643

PROPOSED
PROPOSED 90’ MONOPOLE
vertical bridge
US-NM-7008 PHOTO SIMULATION
PROPOSED 90’ MONOPOLE
LOOKING NORTH FROM HIGHWAY 522
MAY 17, 2025

vertical bridge

US-NM-7008 PHOTO SIMULATION
PROPOSED 90’ MONOPOLE
LOOKING NORTHEAST FROM CHURCH PARKING LOT
MAY 17, 2025

vertical bridge

US-NM-7008 PHOTO SIMULATION
PROPOSED 90’ MONOPOLE
LOOKING EAST FROM TRES LOMAS ROAD
MAY 17, 2025

PROPOSED
PROPOSED 95' MONOPINE
vertical bridge
US-NM-7008 PHOTO SIMULATION
PROPOSED 95' MONOPINE
LOOKING SOUTH FROM HIGHWAY 522
MAY 17, 2025

PROPOSED
PROPOSED 95’ MONOPINE
vertical bridge
US-NM-7008 PHOTO SIMULATION
PROPOSED 95' MONOPINE
LOOKING NORTH FROM HIGHWAY 522
MAY 17, 2025

PROPOSED
PROPOSED 95' MONOPINE
verticalbridge
US-NM-7008 PHOTO SIMULATION
PROPOSED 95' MONOPINE
LOOKING NORTHEAST FROM CHURCH PARKING LOT
MAY 17, 2025

PROPOSED
PROPOSED 95' MONOPINE
vertical bridge
US-NM-7008 PHOTO SIMULATION
PROPOSED 95' MONOPINE
LOOKING EAST FROM TRES LOMAS ROAD
MAY 17, 2025

650

Multiple Existing Infrastructure

Looking South from Highway 522

Multiple Existing Infrastructure

Looking Directly South from Grace Community Church

FCC NEPA CHECKLIST

Applicant Name: VB BTS II, LLC

Site Number: US-NM-7008

Site Name: Arco Torcido

		Potential Effect	
LAND USE SCREENING		**Yes**	**No**
1.	Facility will be located in an officially designated wilderness area.		**X**
2.	Facility will be located in an officially designated wildlife preserve.		**X**
3.	Facility may affect listed threatened or endangered species or designated critical habitats; or is likely to jeopardize the continued existence of any proposed endangered or threatened species or likely to result in the destruction or adverse modification of proposed critical habitats.		**X**
4.	Facility may affect districts, sites, buildings, structures or objects significant in American history, architecture, archeology, engineering or culture, that are listed, or are eligible for listing, in the National Register of Historic Places.		**X**
5.	Facility may affect Native American religious site(s).		**X**
6.	Facility will be located in a floodplain if the facility will not be placed at least one foot above the base flood elevation of the floodplain. *EA not required under FCC Wireless Telecommunications Docket No. 17-79 effective July 2, 2018, as long as the applicant can show that the facility and/or associated equipment will be installed 1 foot above the determined BFE.		**X**
7.	Facility construction will involve significant change in surface features (e.g., wetland fill, deforestation, significant tree removal, or water diversion).		**X**
8.	Facility (antenna tower and/or supporting structures) will be equipped with high intensity white lights which are to be located in residential neighborhoods, as defined by the applicable zoning law.		**X**
9.	Facility would cause human exposure to levels of radiofrequency radiation in excess of Commission-adopted guidelines		**X**
10.	Facility will be over 450 feet above ground level (AGL)		**X**

Miles Walz-Salvador

Prepared By: Miles Walz-Salvador
Nationwide NEPA/NHPA Manager

DOCUMENTATION FOR FCC NEPA CHECKLIST RESPONSES 1-9:

1. Is the proposed undertaking located in an officially designated wilderness area?

Based on maps published by the Bureau of Land Management (BLM), United States Fish and Wildlife Service (USFWS), United States Forest Service (USFS), and National Park Service (NPS), as compiled in the on-line **nationalatlas.gov** and **wilderness.net** websites, no designated wilderness areas are located at or near the proposed undertaking. A copy of the Wilderness Map is included in Appendix A.

2. Is the proposed undertaking located in an officially designated wildlife preserve?

Based on maps published by the USFWS, no wildlife refuges or wildlife preserves are located at or near the proposed undertaking. A copy of the USFWS Wildlife Refuge Map is included in Appendix A.

3. Will the proposed undertaking likely affect threatened or endangered species or designated critical habitats; or is likely to jeopardize the continued existence of any proposed endangered or threatened species; or is likely to result in the destruction or adverse modification of proposed critical habitats (as determined by the Endangered Species Act of 1973)?

A Lotis staff biologist conducted an informal biological assessment (IBA) at the site of the proposed undertaking. Based on information reviewed, site reconnaissance, and the proposed scope of work, Lotis has determined that the proposed undertaking would have "*no effect*" on designated critical habitats or listed federal species of concern. A copy of the USFWS Critical Habitat Map is included in Appendix A.

The accuracy of the species list, provided by the Information, Planning, and Conservation (IPaC) website, should be verified every 90 days. This verification can be completed formally or informally as desired. The USFWS recommends that verification be completed by visiting the IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the IPaC system by completing the same process used to receive the initial list. If the list is determined to have been modified to include additional species of concern, an evaluation of said species should be conducted and consultation under USFWS guidelines may have to be re-initiated, depending on the determination of effect or previous response from the USFWS.

Additionally, Lotis reviewed the New Mexico Game and Fish's (NMDGF) list of species of concern and their corresponding habitats and determined that the proposed undertaking would have "*no effect*" on state species of concern. The state species list was obtained by using the NMDGF's project report. Copies of the Lotis IBA, the state species list and the IPaC email are included in Appendix B.

Lotis submitted the proposed undertaking summary package to the USFWS, New Mexico Ecological Services Field Office on September 27, 2023, for informal Section 7 consultation under the Endangered Species Act (50 CFR Part 402.01). In the submission, Lotis requested the USFWS to determine if the proposed undertaking would have an effect on any wildlife refuges or if the proposed undertaking would have an adverse impact on: 1) any listed and/or proposed threatened or endangered species; or 2) any designated and/or proposed critical habitats. On November 6, 2023, Lotis received a response, via email, indicating, "*You made a determination of "May Affect, Not Likely to Adversely Affect" for both the silverspot butterfly (Speyeria nokomis nokomis) and the New Mexico meadow jumping mouse (Zapus hudsonius luteus) because the project is near a wetland site. Looking at your project specifications, I believe the project is actually a "No Effect" for the butterfly because the project footprint is unlikely to impact wetland habitat, and the species is not currently known to occur at the wetland site. I conferred with our NMMJM lead (copied), who believes the same is true for the mouse. Would you like to change your determination to a "No Effect" for both species? If you want to proceed with your MANLAA determination instead, I can still provide an informal consultation letter*." Copies of the USFWS submission cover letter and USFWS response are included in Appendix B.

Additionally, the USFWS has established interim guidelines for recommendations on communication tower siting, construction, operation, and decommissioning as new and existing towers have been determined to significantly impact species which are protected under the Migratory Bird Treaty Act (MBTA), **http://www.fws.gov/laws/**

lawsdigest/migtrea.html, (16 U.S.C. 703-712). The MBTA prohibits the taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests, except when specifically authorized by the Department of the Interior. While the Act has no provision for allowing unauthorized take, it must be recognized that some birds may be killed at structures such as communications towers even if all reasonable measures to avoid it are implemented. While it is not possible under the Act to absolve individuals or companies from liability if they follow these recommended guidelines, the Division of Law Enforcement and Department of Justice have used enforcement and prosecutorial discretion in the past regarding individuals or companies who have made good faith efforts to avoid the take of migratory birds. A copy of the 2013 U.S. Fish and Wildlife Service (USFWS) Revised Voluntary Guidelines for Communication Tower Design, Siting, Construction, Operation, Retrofitting, and Decommissioning is included in Appendix B.

VB BTS II has taken these recommended interim guidelines into consideration and has mitigated the potential effect on migratory birds by siting the proposed undertaking away from sensitive locations such as critical habitats, wilderness areas, wildlife refuges, and wetlands, where species of concern are more likely to be present. Additionally, VB BTS II proposes a tower height of no more than 199 feet with a tower design to be that of a self-supporting monopine tower. If lighting is required, VB BTS II will complete request the use of dual medium white or red strobe lights with the minimum number, minimum intensity, and minimum number of flashes per minute allowable by the FAA.

The USFWS also regulates and enforces the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668c). "*This Act provides criminal penalties for persons who "take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or any manner, any bald eagle ... [or any golden eagle], alive or dead, or any part, nest, or egg thereof." The Act defines "take" as "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb." "Disturb" means "to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior." In addition to immediate impacts, this definition also covers impacts that result from human-induced alterations initiated around a previously used nest site during a time when eagles are not present, if, upon the eagle's return, such alterations agitate or bother an eagle to a degree that interferes with or interrupts normal breeding, feeding, or sheltering habits, and causes injury, death or nest abandonment. A violation of the Act can result in a fine of $100,000 ($200,000 for organizations), imprisonment for one year, or both, for a first offense. Penalties increase substantially for additional offenses, and a second violation of this Act is a felony.*" USFWS: The Bald and Golden Eagle Protection Act, **https://www.fws.gov/northeast/ecologicalservices/pdf/NationalBaldEagleManagementGuidelines.pdf** (accessed January 2023). A copy of the Bald and Golden Eagle Protection Act is included in Appendix B.

In addition, Lotis contacted the NMDGF on September 13, 2023, via the online portal requesting a review report of the potential adverse effect on state protected habitats and state listed species of concern. Upon receiving the report on September 13, 2023, NMDGF indicated, "*No further consultation with the Department is required based on the project's location and, with implementation of mitigation measures described in the Project Recommendations section below, no adverse effects to wildlife or important habitats are anticipated*." A copy of NMDGF's response are included in Appendix B.

Both the USFWS and the NMDGF have recommended additional mitigation as indicated above. These are recommendations and should be treated as such unless issued as a requirement to mitigate/prevent adverse effects on habitat and species of concern. Should failure to abide by these recommendations occur, the applicant is assuming responsibility for their failure in compliance with the above-mentioned Endangered Species Act, Migratory Bird Treaty Act, and The Bald and Golden Eagle Protection Act. It is ultimately, the responsibility of the applicant to prevent the "take" of a species of concern regardless of whether or not it has completed Section 7 consultation. The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or to attempt to engage in any such conduct. The taking of a listed species of concern (threatened/Endangered), without a federal/state permit, is a severe crime punishable by large fine(s) and confinement.

4. Will the proposed undertaking affect districts, sites, buildings, structures or objects, significant in American history, architecture, archeology, engineering or culture, that are listed (or eligible for listing) in the National Register of Historic Places?

The New Mexico Historic Preservation Division (HPD) is the lead State Historic Preservation Office (SHPO) for the State of New Mexico. Lotis contracted SubTerranean Consultants to determine the potential effect of the proposed undertaking on historic properties (archaeological sites and eligible/listed historic properties) within the Direct and ½-mile Visual Area of Potential Effect (APE) designated by the Federal Communications Commission (FCC). SubTerranean Consultants completed a Intensive Cultural Resources Survey and conducted research to identify historic properties using resources specified by the HPD. Additionally, SubTerranean Consultants researched the National Register of Historic Places (NRHP) at **http://www.nps.gov/nr/** and identified one (1) historic property within the ½-mile radius APE of the proposed undertaking. A copy of the Intensive Cultural Resources Survey is included in Attachment 3.

Lotis prepared and submitted a new tower submission packet (FCC Form 620) through the FCC's E-106 electronic filing protocol. Section 106 review was initially submitted via E-106 to the New Mexico SHPO on September 27, 2023. On November 2, 2023, Lotis received an email response from the HPD indicating "*SHPO has concurred*." Copies of the HPD submission cover letter, FCC Form 620, and the HPD response are included in Appendix C.

In furtherance of Section 106 consultation efforts, Lotis attempted to identify the jurisdiction's Certified Local Government (CLG), by using the National Parks Service's (NPS) website, **http://grantsdev.cr.nps.gov/CLG_Review/search.cfm.** Unfortunately, the NPS's website did not identify a CLG within the local jurisdiction, therefore, Lotis contacted the local jurisdiction for comment. On September 27, 2023, Lotis invited Mr. Andy Jones, Senior Planner of Taos County Planning Department, to comment on whether the proposed undertaking would have an effect on historic properties within the general vicinity. On October 3, 2023, Lotis received an email from Andy Jones, Senior Planner of Taos County indicating "*The Taos County Planning Department will defer such matters to the New Mexico State Historic Preservation Office*." Copies of the submission cover letter, email submission and the response email are included in Attachment 7.

In addition, Lotis submitted an information package to the Taos County Historical Society on September 26, 2023. To date, Lotis has not received a response from the Taos County Historical Society relative to the proposed undertaking. Copies of the submission cover letter and email submission are included in Attachment 8

Finally, Lotis contacted the Taos News and published a legal public notice in the classified section on September 21, 2023. The proposed undertaking was detailed in the ad and calls for public concerns regarding potential adverse effect on historic properties in the area were solicited. To date, Lotis has not received any public response from the public notice publication concerning the proposed undertaking's potential effect on historic properties. Copies of the legal public notice text, tear sheet, and Affidavit of Publication, and any responses are included in Attachment 8.

5. Will the undertaking affect Indian religious site(s)?

Lotis utilized the FCC's Tower Construction Notification System (TCNS) to identify tribal entities with interest in the proposed undertaking. The initial TCNS filing was submitted on September 19, 2023. The FCC responded via e-mail on September 22, 2023, indicating that nineteen (19) nationally recognized tribes were forwarded information regarding the location of the proposed undertaking via electronic or regular mail. All tribes listed on the September 22, 2023 FCC email required additional information delivered to them. The requested documentation was forwarded to the tribes via registered mail or email on September 27, 2023. As of the date of this report, Lotis received clearance from all interested tribes. Copies of the cover letter submissions, proof of submissions, and responses are included in Appendix C.

FCC Wireless Telecommunications Docket No. 17-79 effective July 2, 2018, replaces procedures outlined in the 2005 Declaratory Ruling and establishes a 45-day process for proceeding with construction in cases in which Tribal Nations or NHOs do not respond. Referral can be completed and submitted to the FCC if a correspondence is not received within 30 calendar days (for emailed tribes) and 35 calendar days (for mailed tribes). Upon notice the FCC will communicate by letter or email with the respective tribe(s) giving them 15 days to respond. The FCC's final 15-day letter was sent November 2 and 6, 2023, to the non-responding party(s). According to the FCC Wireless Telecommunications Docket No. 17-79, when no response is received from the tribe(s) within 15 days from the FCC's contact it is deemed to have no interest in pre-construction review a consultation is considered complete. Documentation of all original submission cover letters, referral(s) to the FCC, and tribal clearances are included in Appendix D of this report. Copies of the Federal Lands Map and Indian Reservations Map are included in Appendix A.

6. Is the proposed undertaking located within a flood plain (100-year)?

According to the Flood Insurance Rate Map (FIRM) for the Taos County, New Mexico (Map Number 35055C0625E) published by the Federal Emergency Management Agency (FEMA) effective on October 6, 2010 and exported on September 13, 2023, the proposed undertaking is not located within a 100-year floodplain. A copy of the FIRMette (flood plain map) is included in Appendix E

7. Will construction of the proposed undertaking involve significant change in surface features (e.g., wetland fill, deforestation or water diversion)?

According to the online United States Fish and Wildlife Service National Wetlands Inventory Map (NWIM), **http://www.fws.gov/wetlands/Data/Mapper.html**, no mapped wetlands are located at or within close proximity to the proposed undertaking. A copy of the National Wetlands Inventory Map is included in Appendix F.

8. Is the proposed undertaking located in a residential neighborhood and is it required to be equipped with high intensity white lights (as defined by local zoning law)?

The proposed undertaking is assumed not to be equipped with high intensity white lights nor located within a zoned residential neighborhood. Should the applicant decide to place high intensity lighting on the proposed undertaking, additional consultation will be recommended.

9. a.) Will the antenna structure equal or exceed total power (of all channels) of 2000 Watts ERP (3280 Watts EIRP) and have antenna located less than 10 meters above ground level?

An evaluation to determine whether RF emission standards are met was not included as part of this report. Lotis assumes that client representatives will evaluate the project to ensure compliance with applicable RF standards. If the antenna structure equals or exceeds total power (of all channels) of 2000 Watts ERP (3280 Watts EIRP) and has antenna located less than 10 meters above ground level, further consultation is required for NEPA due diligence.

b.) Will the antenna structure equal or exceed total power (of all channels) of 2000 Watts ERP (3280 Watts EIRP) and have antenna located less than 10 meters above floor level?

An evaluation to determine whether RF emission standards are met was not included as part of this report. Lotis assumes that client representatives will evaluate the project to ensure compliance with applicable RF standards. If the antenna structure equals or exceeds total power (of all channels) of 2000 Watts ERP (3280 Watts EIRP) and has antenna located less than 10 meters above floor level, further consultation is required for NEPA due diligence.

10. Facility will be over 450 feet above ground level (AGL)?

The proposed undertaking is not above 450 feet AGL.

National Historic and Scenic Trail Review

Per the 1999 “Siting of Wireless Telecommunications facilities Near National Scenic Trails Resolution” voluntary early notification of “*Wireless telecommunications carriers and site management companies ("Applicants") are strongly encouraged to contact the appropriate Managing and Supporting Trail Organization ("MSTO") as early as possible in the siting process. If an Applicant or other entities propose to site a wireless telecommunications facility within one mile of a National Scenic Trail, then the Applicant will voluntarily notify the MSTO of the applicable National Scenic Trail no later than five business days after filing a siting application with the applicable local, municipal, or state authorities*.”

Due to the proposed undertaking’s siting, consultation with the designated Managing and Supporting Trail Organizations (MSTO) of the National Park Service for potential visual impact was completed submitted on September 27, 2023. On October 3, 2023, Lotis received a response from Jordan Jarrett of the National Park Service indicating “*National Trails Office does not anticipate adverse effect of this undertaking to the Old Spanish National Historic Trail or to its associated resources*”. The correspondence(s) are included in Appendix G of the report. A copy of the National Scenic Trail Map is included in Appendix A.

National Scenic Riverway Review

Congress enacted the Wild and Scenic Rivers Act (WSRA) in 1968, declaring it the "policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations." 16 U.S.C. § 1271. As originally enacted, the WSRA named specific rivers or segments of rivers for inclusion in the Wild and Scenic River System ("WSRS"). Id. § 1274(a)(1)-(a)(8).

The proposed undertaking is located more than one mile from the closest national scenic riverway. Therefore, no additional consultation is required. A copy of the National Scenic Riverway Map is included in Appendix A.

National Scenic Byway Review

The National Scenic Byways Program was established under the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 and is part of the Department of Transportation's (DOT) Federal Highway Administration (FHWA). The program is a grass-roots collaborative effort established to help recognize, preserve, and enhance selected roads throughout the United States. Pursuant to the program, the Secretary of Transportation recognizes certain roads as All-American Roads or National Scenic Byways based on one or more archeological, cultural, historic, natural, recreational, and scenic qualities.

The proposed undertaking is located more than one mile from the closest national byway. Therefore, no additional consultation is required. A copy of the National Scenic Byway Map is included in Appendix A.

Areas of Potential Effects

The term Area of Potential Effects (APE) is defined in Section II.A.3 of the *Nationwide Programmatic Agreement (NPA) for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission*. For purposes of this project, the APE for direct effects and visual effects are further defined below.

Selection of APE for DIRECT EFFECTS

The DIRECT area of potential effect is defined as being "limited to the area of potential ground disturbance and any property, or any portion thereof that will be physically altered or destroyed by the Undertaking".

Proposed Lease Area(s) – A 67' x 84' lease area around the 90' (95' including all appurtenances)' monopine tower and associated equipment.

Proposed Access Easement(s) – A 25-foot-wide by ~246.9-foot-long easement extending generally northwest from the proposed lease area connecting with Old Highway 3 through a desert scrub.

Proposed Utility Easement(s) – A 10-foot-wide by ~275.2-foot-long easement extending generally south from the proposed lease area connecting with existing utility through a desert scrub.

Selection of APE for VISUAL EFFECTS

The VISUAL area of potential effects is defined as "the geographic area in which the undertaking has the potential to introduce visual elements that diminish or alter the setting, including the landscape, where the setting is a character-defining feature of a Historic Property that makes it eligible for listing on the National Register."

APE for this site based on NPA - Within ½ -mile radius from the tower site if the proposed tower is less than 200' in overall height.

NEPA NHPA

From: towernotifyinfo@fcc.gov
Sent: Thursday, November 2, 2023 4:17 PM
To: NEPA NHPA
Subject: Section 106 Notification of SHPO/THPO Concurrence- Email ID #9005390

This is to notify you that the Lead SHPO/THPO has concurred with the following filing:
Date of Action: 11/02/2023
Direct Effect: No Historic Properties in Area of Potential Effects (APE)
Visual Effect: No Effect on Historic Properties in APE
Comment Text: Thank you for submitting additional information. NM SPO concurs with the findings.
Log # 120713 and 120885

File Number: 0010710549
TCNS Number: 271853
Purpose: New Tower Submission Packet

Notification Date: 7AM EST 09/28/2023

Applicant: VB BTS II, LLC
Consultant: Lotis Environmental
Positive Train Control Filing Subject to Expedited Treatment Under Program Comment: No
Site Name: Arco Torcido
Site Address: near 157 Old Highway 3
Detailed Description of Project: A proposed telecommunication tower known as ARCO TORCIDO and associated equipment within a leased area that includes an access, utility, and guy wire (if applicable) easements.
Site Coordinates: 36-32-45.2 N, 105-40-16.4 W
City: Arroyo Hondo
County: TAOS
State:NM
Lead SHPO/THPO: State Historic Preservation Office of New Mexico

NOTICE OF FRAUDULENT USE OF SYSTEM, ABUSE OF PASSWORD AND RELATED MISUSE
Use of the Section 106 system is intended to facilitate consultation under Section 106 of the National Historic Preservation Act and may contain information that is confidential, privileged or otherwise protected from disclosure under applicable laws. Any person having access to Section 106 information shall use it only for its intended purpose. Appropriate action will be taken with respect to any misuse of the system.

Taos County Historical Society Submission

Note:

In the interest of efficiency and economy, attachments included in the original submission under this section are not duplicated throughout this NEPA Summary. The following attachment(s), found at the conclusion of this report, were included in the original submission:

- ***Proposed Project Summary***
- ***Attachment 1 - Maps***
- ***Attachment 2 - Photographs***

September 27, 2023

Taos County Historical Society
Attn: Ms. Ernestina Cordova - President
PO Box 2447
Taos, New Mexico 87571
Submitted via email: cordova@newmex.com

RE: Proposed Telecommunications Tower Undertaking "Arco Torcido" in Taos County, New Mexico; VB BTS II, LLC

To Whom It May Concern:

VB BTS II, LLC (VB BTS II), is proposing to construct a tower installation within the general vicinity of near 157 Old Highway 3, Arroyo Hondo, Taos County, New Mexico 87513. Lotis Environmental, LLC (Lotis), is preparing an environmental and cultural resource review on behalf of VB BTS II as part of its permit process and regulatory review by the Federal Communications Commission (FCC). Please consider this correspondence as an invitation to the Taos County Historical Society to comment on the possible effects the proposed undertaking may have on sites or structures of historic significance within the general vicinity.

Attached, please find information pertaining to the proposed undertaking. This information includes a project summary, an aerial photograph, a topographic map, and photographs of the proposed undertaking's site and adjacent properties. As part of our research, Lotis is consulting with the New Mexico Historic Preservation Division, and will forward any concerns of the Taos County Historical Society regarding historic properties to the New Mexico Historic Preservation Division.

Lotis respectfully requests that you provide comment within 30 days regarding the possible effects of this undertaking on historic properties. If a response is not received within 30 days, Lotis will assume you have no interest/concern with the proposed undertaking. Should you require additional information, please do not hesitate to contact me at (716) 580-7000. Thank you for your time and consideration in this regard.

Sincerely,

Lotis Environmental, LLC

DeAnna Anglin

DeAnna Anglin
Nationwide NEPA/NHPA Manager
Legals@TheLotisGroup.com
Enclosures

Proof of Taos County Historical Society Submission

Jennifer Andres

From: NEPA NHPA
Sent: Thursday, September 28, 2023 8:58 PM
To: 'cordova@newmex.com'
Subject: ITC Opportunity to comment on proposed telecommunication project LOTIS# VBBTS_264– "Arco Torcido" US-NM-7008
Attachments: Arco Torcido US-NM-7008.kmz; ITC SUBs Arco Torcido.pdf

Importance: High

To Whom It May Concern,

Lotis is completing Section 106 NEPA compliance due diligence regarding the above proposed telecommunication project known as "**Arco Torcido**". Part of this due diligence includes giving the local historical society the opportunity to comment on whether or not the proposed telecommunications project will have an effect on historic properties. I have attached the project summary, site maps, KMZ file (for Google Earth aerial view) and site photos of the proposed Subject Property in question. The Section 106 consultation process allows you 30 days to respond.

Should you not respond within 30 days we will assume you have no concern or comment regarding the proposed undertaking. However, should you not want to comment we ask that you state so in a response to aid us in our timeline for this project. Should you have an additional request for information, please feel free to contact me phone or by responding all to this email. We will do our best to supplement you with any additional documentation or information regarding the proposed undertaking.

Warmly,

DeAnna Anglin
Senior Biologist/NEPA Specialist

8899 Main Street – Suite 107
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www.thelotisgroup.com

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Taos County Historical Society's Response (NONE)

AGENDA ITEM NO.
Taos County-5346-2019

Taos County

BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REPORT

DATE:	**December 1, 2026**
SUBJECT:	**Discussion, consideration and decision regarding the approval of Resolution No. 2026-46, A Resolution repealing and repalcing appendix I of Taos County Solid Waste Ordinance No. 2020-6 - Melecia Ortega, Collection Coordinator**

2926-46 R.pdf

TAOS COUNTY
AGENDA REQUEST FORM

Presenters Name *(If there is more than one presenter list them all)*	Melecia Ortega	**Presenters Title**	Collection Coordinator
Meeting date requesting to be on	12/1/2026	**Are there any documents For this item? (all documents must be single sided)**	☒ Yes ☐ No
Will action be needed on this item?	☒ Yes ☐ No	**Are there signatures required on the documents?**	☒ Yes ☐ No
Has Legal Department approved this Item (if applicable)? ***All Contracts, Resolutions, Ordinances and Agreements must be approved by Legal***	☐ Yes ☐ No ☒ N/A	**Legal Department Signature** ***If item does need Legal approval it must be submitted there first.***	

AGENDA ITEM DESCRIPTION

Discussion, consideration and decision:

Resolution 2026-46 Repealing and Replacing Appendix I of Taos County Solid Waste Ordinance 2020-6

TAOS COUNTY
RESOLUTION NO. 2026-46

REPEAL AND REPLACE APPENDIX I OF ORDINANCE 2020-6 SETTING SOLID WASTE FEES PURSUANT TO SECTION 13

WHEREAS, the Board of County Commissioners of Taos County is the duly authorized governing body of Taos County, a New Mexico political subdivision; and

WHEREAS, The County Commission shall set fees for solid waste management based on the actual or projected cost for Taos County to collect, transport and recycle or dispose of solid waste, including recyclable materials covered under Section 12 of Ordinance 2020-6; and

WHEREAS, pursuant to the rate study approved and adopted by Resolution 2024-44, Taos County has identified that Appendix 1 attached hereto needs to be replaced to allow for an update of solid waste fees.

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

1. Pursuant to Section 13 of Ordinance 2020-6, effective January 1, 2027, the solid waste fees for Taos County shall be as identified in Section I of the attached Appendix 1.
2. Pursuant to Section 13 of Ordinance 2020-6, effective January 1, 2027, the discounted solid waste fees for Taos County shall be as identified in Section II. of the attached Appendix 1.
3. Pursuant to Section 12 of Ordinance 2020-6, effective January 1, 2027 the recycle rate shall be as identified in Section III of the attached Appendix 1.
4. The previous Appendix 1 of Ordinance 2020-6 is repealed in its entirety and replaced by the attached Appendix 1.

PASSED, APPROVED AND ADOPTED, this 1st day of December, 2026.

BOARD OF COUNTY COMMISSIONERS
OF TAOS COUNTY, NEW MEXICO

Miguel Romero Jr., Chair

Attest:

Valerie Montoya, Taos County Clerk

Approved as to legal form:

Patrick Trujillo, Contract County Attorney

VOTE RECORD:				
FR Bob Romero	yes	no	abstain	absent
M. Romero Jr.	yes	no	abstain	absent
D. Vigil	yes	no	abstain	absent
A. Brush	yes	no	abstain	absent
R. Mascareñas	yes	no	abstain	absent

APPENDIX 1

I. Effective January 1, 2027, the following solid waste management fees are hereby established:

A. The annual solid waste management fee for County residents shall be $220.00 which includes all applicable taxes.

B. Solid Waste Billing shall assess the full annual fee in four (4) equal installments of $55.00 on or January 1st, April 1st, July 1st and October 1st each year. Each installment payment shall entitle the responsible party to one (1) punch card that is valid for 12 punches for a period of 3 months.

C. Any non-county resident of Taos County may purchase one (1) punch card that is valid for 12 punches for a period of 6 months from the date of purchase for $220.00 which includes all applicable taxes.

II. Effective January 1, 2027 the following discounted solid waste management fees are hereby established:

A. Any responsible party who contracts with or uses the services of, a commercial hauler recognized by Taos County pursuant to Section 14 of Ordinance No. 2020-6 shall be required to pay an annual fee in the amount of $55.00 including all applicable taxes, to Taos County so long as the responsible party maintains continuous service with a private hauler, which shall be assessed on or about January 1 each year. Payment of the discounted fee shall entitle the responsible party to one (1) punch card that is valid for six (6) punches for a period of one (1) year.

B. Any member of a homeowners association that contracts with a commercial hauler to provide solid waste collection and disposal for its members shall be required to pay an annual fee in the amount of $55.00 including all applicable taxes, to Taos County so long as the homeowners association maintains continuous service with a private hauler, which shall be assessed on or about January 1 of each year. Payment of the discounted fee shall entitle the responsible party to one (1) punch card that is valid for six (6) punches for a period of one (1) year.

C. Any resident of a multi-family resident development or mobile home park whose owner contracts with a commercial hauler to provide solid waste collection and disposal for its residents shall be required to pay an annual fee in the amount of $55.00 including all applicable taxes, to Taos County so long as the owner maintains continuous service with a private hauler, which shall be assess on or about January 1 of each year. Payment of the discounted fee shall entitle the responsible party to one (1) punch card that is valid for six (6) punches for a period of one (1) year.

D. Any homeowner who qualifies for total 100% permanent disability in accordance with the policies and procedures adopted pursuant to the provisions of Ordinance No. 2020-6 shall pay a discounted annual fee in the amount of $211.00 including applicable taxes, Solid Waste Billing shall assess the full annual fee in four (4) equal installments of $52.75 on or January 1st, April 1st, July 1st and October 1st each year Payment of the discounted fee shall entitle the responsible party to one (1) punch card that is valid for 12 punches for a period of 3 months.

III. Effective January 1, 2027 the following recycle rate is hereby established:

A. In addition to the annual solid waste fees established in Sections 1 and 2 of this appendix a recycle rate of $15.00 will be charged in the January billing only, for the collection of recyclable materials made available at identified recycling centers located at Taos County transfer stations under Section 12 of Ordinance 2020-6.

IV. Effective January 1, 2027 the following fee for a lost punch card is hereby established: Those residents requesting new punch cards to replace lost cards will be charged a $**25**"lost card fee."

AGENDA ITEM NO.
Taos County-5344-2019

Taos County

BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REPORT

DATE:	**December 1, 2026**
SUBJECT:	**Approval of the purchase of a 2027 Mustang GT Coupe using State Price Agreement #40-00000-24-00068 for the Taos County Sheriff's Office- Gabriel Ortiz, Taos County Under Sheriff**

Sheriff's Mustang.pdf

Chalmers Ford PROPOSAL

2500 Rio Rancho Blvd
Rio Rancho, NM 87124

QUOTE TO: Taos County Sheriff's Office
Attn: Sheriff Steve Miera

SHIPPED TO: 2027 Mustang GT Coupe
Shadow Black
5.0L V8 Engine

PROPOSAL #	111026-1
PROPOSAL DATE	November 10th, 2026
MEMBER PO #.	
CES PO#	
TERMS	Due on Receipt
SALES REP	Stephanie Motyl
SHIPPED VIA	Pick UP
F.O.B.	
PREPAID or COLLECT	

Sales Tax Rate: 0.00%

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
	Statewide Price Agreement #40-00000-24-00068		
1	Item 1: Sub-Compact, ICE, RWD	$ 53,285.00	$ 53,285.00
	Options:		
	Black Onyx Cloth Seats		
	10-Speed Auto Transmission		
	3.15 Ratio Limited Slip Axle		
	Spoiler		
	Floor Mats Front Carpeted Black		
	Cruise Control		
	Backup Camera		
	Mini Spare Wheel & Tire		
1	State Pricing Agreement Discount (2%)	$ (1,065.70)	$ (1,065.70)
1	Chalmers Discount	$ (1,800.00)	$ (1,800.00)
Unit to be Ordered		SUBTOTAL	50,419.30
		TAX	0.00
		FREIGHT	
			$50,419.30 PAY THIS AMOUNT

DIRECT ALL INQUIRIES TO:
Stephanie Motyl
505-890-2227
smotyl@chalmersford.com

Cindy Fry

From: Gwendolyn S. Harris
Sent: Friday, November 6, 2026 10:02 AM
To: Steve Miera; Cindy Fry
Cc: Emily Rowlison-Elliott; Joe Abeyta
Subject: Approved Grant Funding

Good morning,

The Capital Appropriations Grant to purchase and equip patrol vehicles has been approved and budget has been created. The following line items are associated with this grant:

2448-2411-48070 - Vehicles - $250,000
2448-2411-48020 - Equipment and Machinery - $25,000

As with all state grants, please coordinate with Joe throughout the grant process. Also, this information has been sent to the Treasurer's Office for further data entry and review.

Thank you,

Gwendolyn Harris
Deputy Finance Director
Taos County
105 Albright St. Ste I
Taos, NM 87571
575.737.6362
gwendolyn.harris@taoscountynm.gov

CONFIDENTIALITY NOTICE: This email, including any attachments, contains information from The Taos County Finance Department, which may be confidential or privileged. The information is intended to be for the use of the individual or entity named above. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this information is prohibited. If you have received this email in error, please notify the sender immediately by "reply to sender only" message and destroy all electronic and hard copies of the communication, including attachments.

AGENDA ITEM NO.
Taos County-5336-2019

Taos County

BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REPORT

DATE:	**December 1, 2026**
SUBJECT:	**Approval of BAR #27- A Budget Adjustment for HCAP HCA GSA 226-630-7903-0016. To align funds to current projected expenditures - Emily Rowlinson - Elliott, Finance Director**

BAR 27.pdf

TAOS COUNTY
AGENDA REQUEST FORM

Presenters Name *(If there is more than one presenter list them all)*	Emily Rowlinson-Elliott	**Presenters Title**	Finance Director
Meeting date requesting to be on	12/01/2026	**Are there any documents For this item? (all documents must be single sided)**	☒ Yes ☐ No
Will action be needed on this item?	☒ Yes ☐ No	**Are there signatures required on the documents?**	☒ Yes ☐ No
Has Legal Department approved this Item (if applicable)? ***All Contracts, Resolutions, Ordinances and Agreements must be approved by Legal***	☐ Yes ☐ No ☒ N/A	**Legal Department Signature** ***If item does need Legal approval, it must be submitted there first.***	

APPROVAL OF A BUDGET ADJUSTMENTS AGENDA ITEM DESCRIPTION

BAR #27 – HCAP HCA GSA 226-630-7903-0016 – budget adjustment to aligh funds to current projected expenditures.

Fund: 2472-2407

BAR Amount: $440,000.00

Signature/Date of person picking up final documents:

BUDGET LINE ITEM ADJUSTMENT
FY 26/27 Final Budget

BAR #27	Department: HCAP HCA GSA 226-630-7903-0016					Date:	12/1/2026	
Control #	Line Item Number	Line Item Description	Debit (In)	Credit (Out)	Description	Curr Budget	Adj Budget	Initials
BA-1	2472-2407-45030	Professional Services	130,000.00		Budget adjustment to align funds to current projected expenditures	120,000.00	250,000.00	
BA-2	2472-2407-45900	Other Contractual Services		390,000.00		390,000.00	-	
BA-3	2472-2407-47050	Grants to Subrecipients	260,000.00			1,190,000.00	1,450,000.00	
BA-4	2472-2407-47080	Printing/Publications		50,000.00		50,000.00	-	
BA-5	2472-2407-48010	Buildings and Structures				250,000.00	250,000.00	
BA-6	2472-2407-45936	Indirect Costs	50,000.00				50,000.00	
BA-7							-	
BA-8							-	
BA-9							-	
BA-10							-	
BA-11							-	
BA-12							-	
		TOTALS THIS PAGE	440,000.00	440,000.00		2,000,000.00	2,000,000.00	
						Page No.	1 of 1	

County Chair Approval Date

Attested by: Taos County Clerk Date

Reviewed by: Department Head 11/19/26 Date

Reviewed by: Finance Department 11/24/26 Date

Reviewed by: County Manager 11/24/26 Date

Batch No. Entered By: Date

AGENDA ITEM NO.
Taos County-5337-2019

Taos County

BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REPORT

DATE:	**December 1, 2026**
SUBJECT:	**Approval of BAR #28- A Budget Adjustment for Fire Excise Tax Taos. To appropriate budget for remainder of purchase for the Blazestack Software - Emily Rowlinson - Elliott, Finance Director**

BAR 28.pdf

TAOS COUNTY
AGENDA REQUEST FORM

Presenters Name *(If there is more than one presenter list them all)*	Emily Rowlinson-Elliott	**Presenters Title**	Finance Director
Meeting date requesting to be on	12/01/2026	**Are there any documents For this item? (all documents must be single sided)**	☒ Yes ☐ No
Will action be needed on this item?	☒ Yes ☐ No	**Are there signatures required on the documents?**	☒ Yes ☐ No
Has Legal Department approved this Item (if applicable)? ***All Contracts, Resolutions, Ordinances and Agreements must be approved by Legal***	☐ Yes ☐ No ☒ N/A	**Legal Department Signature** ***If item does need Legal approval, it must be submitted there first.***	

APPROVAL OF A BUDGET ADJUSTMENTS AGENDA ITEM DESCRIPTION

BAR #28 – Fire Excise Tax Taos – A budget adjustment is needed to appropriated budget for remainder of purchase for the Blazestack Software

Fund: 0222-1500

BAR Amount: $4,500.00

Signature/Date of person picking up final documents:

BUDGET LINE ITEM ADJUSTMENTS
FY 2027 Final Budget

BA #28 Fire Excise Tax - Taos — Date: 12/1/2026

Control #	Line Item Number	Line Item Description	Debit (In)	Credit (Out)	Comment	Curr Budget	Adj Budget	Initials
BA-1	0222-1500-46010	Supplies	-	4,500.00	A budget adjustment is needed to appropriate budget for remainder of purchase for the Blazestack Software	50,555.41	46,055.41	MM
BA-2	0222-1500-47140	Subscripions and Dues	4,500.00	-		900.45	5,400.45	MM
BA-3			-	-		-	-	
BA-4			-			-	-	
BA-5						-	-	
BA-6			-	-		-	-	
BA-7			-	-		-	-	
		TOTALS THIS PAGE	4,500.00	4,500.00		51,455.86	51,455.86	
			-			Page No.	1 of 1	

County Chairman Approval — Date

Attested by: Taos County Clerk — Date

Reviewed by: Department Head — Date 11/25/26

Reviewed by: Finance Department — Date 11/24/26

Reviewed by: County Manager — Date 11/24/26

Batch No. — Entered By: — Date

AGENDA ITEM NO.
Taos County-5338-2019

Taos County

BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REPORT

DATE:	**December 1, 2026**
SUBJECT:	**Approval of BAR #29- A Budget Adjustment for Fire Protection Fund Cerro. To have sufficient funds through FY 26/27 end - Emily Rowlinson - Elliott, Finance Director**

BAR 29.pdf

TAOS COUNTY
AGENDA REQUEST FORM

Presenters Name *(If there is more than one presenter list them all)*	Emily Rowlinson-Elliott	**Presenters Title**	Finance Director
Meeting date requesting to be on	12/01/2026	**Are there any documents For this item? (all documents must be single sided)**	☒ Yes ☐ No
Will action be needed on this item?	☒ Yes ☐ No	**Are there signatures required on the documents?**	☒ Yes ☐ No
Has Legal Department approved this item (if applicable)? ***All Contracts, Resolutions, Ordinances and Agreements must be approved by Legal***	☐ Yes ☐ No ☒ N/A	**Legal Department Signature** ***If item does need Legal approval, it must be submitted there first.***	

APPROVAL OF A BUDGET ADJUSTMENTS AGENDA ITEM DESCRIPTION

BAR #29 – Fire Protection Fund – Cerro – To have sufficient funds through FY26/27 end.

Fund: 0209-1551

BAR Amount: $15,000.00

Signature/Date of person picking up final documents:

BUDGET LINE ITEM ADJUSTMENTS

BA #29 Fire Protection Fund - Carro. Date: 12/1/2026

Control #	Line Item Number	Line Item Description	Debit (In)	Credit (Out)	Comment	Curr Budget	Adj Budget	Initials
BA-1	0209-1551-44010	Maintenance building structure	-	15,000.00	To have suffient funds through F/Y End	25,000.00	10,000.00	mrc
BA-2	0209-1551-44040	Maintenance vehicle Fum Equip	6,000.00	-		-	6,000.00	mrc
BA-3	0209-1551-46020	Non-Capital	9,000.00	-		1,815.55	10,815.55	mrc
BA-4			-	-		-	-	
BA-5			-	-		-	-	
BA-6			-	-		-	-	
BA-7			-	-		-	-	
BA-8			-	-		-	-	
BA-9			-	-		-	-	
BA-10			-	-		-	-	
BA-11			-	-		-	-	
BA-10			-			-	-	
BA-11			-	-		-	-	
BA-12			-			-	-	
BA-13			-	-		-	-	
BA-14			-			-	-	
		TOTALS THIS PAGE	15,000.00	15,000.00		26,815.55	26,815.55	
			-			Page No.	1 of 1	

County Chair Approval Date

Attested by: Taos County Clerk Date

Reviewed By: Department Head 11/20/26 Date

Reviewed by: Financial Department 11/24/26 Date

Reviewed by: County Manager 11/24/26 Date

Batch No. Entered By: Date

AGENDA ITEM NO.
Taos County-5339-2019

Taos County

BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REPORT

DATE:	**December 1, 2026**
SUBJECT:	**Approval of BAR #30- A Budget Adjustment for Capital Enhancement. To move money to reroof the Peñasco Community Center - Emily Rowlinson - Elliott, Finance Director**

BAR 30.pdf

TAOS COUNTY
AGENDA REQUEST FORM

Presenters Name *(If there is more than one presenter list them all)*	Emily Rowlinson-Elliott	**Presenters Title**	Finance Director
Meeting date requesting to be on	12/01/2026	**Are there any documents For this item? (all documents must be single sided)**	☒ Yes ☐ No
Will action be needed on this item?	☒ Yes ☐ No	**Are there signatures required on the documents?**	☒ Yes ☐ No
Has Legal Department approved this Item (if applicable)? ***All Contracts, Resolutions, Ordinances and Agreements must be approved by Legal***	☐ Yes ☐ No ☒ N/A	**Legal Department Signature** ***If item does need Legal approval, it must be submitted there first.***	

APPROVAL OF A BUDGET ADJUSTMENTS AGENDA ITEM DESCRIPTION

BAR #30 Capital Enhancement – to move money to reroot the Penasco Community Center.

Fund: 0399-0199

BAR Amount: $160,000.00

Signature/Date of person picking up final documents:

BUDGET LINE ITEM ADJUSTMENTS

BA # 30 Capital Enhancement Date: 12/1/26

Control #	Line Item Number	Line Item Description	Debit (In)	Credit (Out)	Comment	Curr Budget	Adj Budget	Initials
BA-1	0399-0199-45900	Other Contractual		160,000	To move money to reroot the Penasco	350,000	190,000	
BA-2	0399-0199-48010	Building and Structures	160,000		Community Center.	3,091,329.00	3,251,329	
BA-3							0	
BA-4							0	
BA-5								
BA-6								
BA-7								
BA-8								
BA-9								
BA-10								
BA-11								
BA-12								
BA-13								
BA-14								
BA-15								
BA-16								
BA-17								
		TOTALS THIS PAGE	160,000	160,000		3,441,329	3,441,329	

Page No. 1 of 1

County Chairman Approval Date

Attested by: Taos County Clerk Date

Reviewed by: Department Designee 11/24/26 Date

Reviewed by: Finance Department 11/24/26 Date

Reviewed by: County Manager Date

Bar No.

AGENDA ITEM NO.
Taos County-5347-2019

Taos County

BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REPORT

DATE:	**December 1, 2026**
SUBJECT:	**Approval of BAR #31- A Budget Adjustment for GRT Infrastructure. To move money to the appropriate line item to fence off the property around the warehouse - Emily Rowlinson - Elliott, Finance Director**

BAR 31.pdf

TAOS COUNTY
AGENDA REQUEST FORM

Presenters Name *(If there is more than one presenter list them all)*	Emily Rowlinson-Elliott	**Presenters Title**	Finance Director
Meeting date requesting to be on	12/01/2026	**Are there any documents For this item?** *(all documents must be single sided)*	☒ Yes ☐ No
Will action be needed on this item?	☒ Yes ☐ No	**Are there signatures required on the documents?**	☒ Yes ☐ No
Has Legal Department approved this Item (if applicable)? ***All Contracts, Resolutions, Ordinances and Agreements must be approved by Legal***	☐ Yes ☐ No ☒ N/A	**Legal Department Signature** ***If item does need Legal approval, it must be submitted there first.***	

APPROVAL OF A BUDGET ADJUSTMENTS AGENDA ITEM DESCRIPTION

BAR #31 GRT Infrastructure – To Fence off the property around the warehouse and move money to the appropriate line item to fence property around the Taos County Warehouse.

Fund: 0103-1766

BAR Amount: $200,000.00

Signature/Date of person picking up final documents:

BUDGET LINE ITEM ADJUSTMENTS

BA # 31 GRT Infrastructure — Date: 12/1/26

Control #	Line Item Number	Line Item Description	Debit (In)	Credit (Out)	Comment	Curr Budget	Adj Budget	Initials
BA-1	0103-1766-48020	Equipment and Machinery		200,000	To Fence off the property around the	287,938	87,938	
BA-2	0103-1766-48010	Building and Structures	200,000		warehouse and move money to the	3,124,454.00	3,324,454	
BA-3					appropriate line item to fence property around		0	
BA-4					the Taos County Warehouse		0	
BA-5								
BA-6								
BA-7								
BA-8								
BA-9								
BA-10								
BA-11								
BA-12								
BA-13								
BA-14								
BA-15								
BA-16								
BA-17								
		TOTALS THIS PAGE	200,000	200,000		3,412,392	3,412,392	

Page No. 1 of 1

County Chairman Approval — Date

Attested by: Taos County Clerk — Date

Reviewed by: Department Designee — Date 11/24/26

Reviewed by: Finance Department — Date 11/24/26

Reviewed by: County Manager — Date

Bar No.

AGENDA ITEM NO.
Taos County-5348-2019

Taos County

BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REPORT

DATE:	**December 1, 2026**
SUBJECT:	**Approval of DFA Resolution No. 19, A Resolution to adjust the Final Budget as follows. The Community Energy Efficiency Development (CEED) Program (25-251-0300-0154), approved by the Taos County Commission has been amended, adding an additional $500,000.00 to the program budget. An increase to the revenue and expenses is needed - Emily Rowlinson-Elliot, Finance Director**

DFA 19.pdf

TAOS COUNTY
AGENDA REQUEST FORM

Presenters Name ***(If there is more than one presenter list them all)***	Emily Rowlinson-Elliott	**Presenters Title**	Finance Director
Meeting date requesting to be on	12/01/2026	**Are there any documents For this item? *(all documents must be single sided)***	☒ Yes ☐ No
Will action be needed on this item?	☒ Yes ☐ No	**Are there signatures required on the documents?**	☒ Yes ☐ No
Has Legal Department approved this Item (if applicable)? ***All Contracts, Resolutions, Ordinances and Agreements must be approved by Legal***	☐ Yes ☐ No ☒ N/A	**Legal Department Signature** ***If item does need Legal approval, it must be submitted their first.***	

APPROVAL OF A RESOLUTION - AGENDA ITEM DESCRIPTION

DFA Resolution No. 19: A Resolution to adjust the final budget as follows: Whereas, The Community Energy Efficiency Development (CEED) Program (25-251-0300-0154), approved by Taos County Commission on January 06, 2026, has been amended, adding an additional $500,000.00 to the program budget. Therefore, we are requesting to increase the revenue and expenses in the amount of $500,000.00 to allow for this amendment.

2456-2630

Amount: $500,000.00

Signature/Date of person picking up final documents:

DFA RESOLUTION NO. 19 FY 2026-2027
A RESOLUTION TO ADJUST THE FINAL BUDGET AS FOLLOWS:

WHEREAS, the Taos County Board of Commissioners, Taos County, Taos, New Mexico, in a Regular Meeting on December 1, 2026 propose to adjust the FY 2026-2027 Final Budget as follows:

WHEREAS, The Community Energy Efficiency Development (CEED) program (25-251-0300-0154), approved by Taos County Commission on January 6, 2026 has been amended, adding an additional $500,000.00 to the program budget. Therefore we are requesting to increase the revenue and expenses in the amount of $500,000.00 to allow for this amendment.

NOW, THEREFORE, BE IT RESOLVED that authorization is requested from the Department of Finance and Administration, Local Government Division, to approve this budget adjustment.

PASSED, ADOPTED AND APPROVED THIS 1st OF DECEMBER, 2026

Attest:

Taos County Board of Commissioners

Valerie Montoya
Taos County Clerk

Chairperson

Vote Record

F.B. Romero	yes	no	abstain	absent
Miguel Romero Jr.	yes	no	abstain	absent
AnJanette Brush	yes	no	abstain	absent
Darlene J. Vigil	yes	no	abstain	absent
Ronald J. Mascareñas	yes	no	abstain	absent

TAOS COUNTY
Local Government Budget Management System (LGBMS)
DFA RESOLUTION NO. 19

FUND	DEPARTMENT	OBJECT CODE	AMOUNT

FUND	DEPARTMENT	OBJECT CODE	AMOUNT

FUND	DEPARTMENT	OBJECT CODE	AMOUNT
21800 Intergovernmental Grants	0001 No Department Needed	47499 Other State Grants	500,000.00
21800 Intergovernmental Grants	2002 General Administration	55999 Contract - Other Services	500,000.00

County Internal Fund

CEED Grant 25-521-0300-0154

FUND	DESCRIPTION	COMMENT	AMOUNT
		Total Transfers	-
FUND	**DESCRIPTION**		**AMOUNT**
2456-2630-37010	State - Other		500,000.00
		Total Revenue	**500,000.00**
2456-2630-45900	Other Contractual		500,000.00
		Total Expenditures	**500,000.00**

SHARE Amd. No. 25-521-0300-0154
Taos County

Amendment No. 1

STATE OF NEW MEXICO
GOVERNMENTAL SERVICES AGREEMENT
BETWEEN THE
STATE OF NEW MEXICO,
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
AND
TAOS COUNTY

AMENDMENT NO. 1

693

Taos Co.

THIS AMENDMENT NO. 1 is made and entered into by and between the State of New Mexico Energy, Minerals and Natural Resources Department (EMNRD) and ~~Entity~~ name (Entity).

WHEREAS, the parties have previously made an Agreement effective February 5, 2025, and

WHEREAS, Section 12 thereof provides that the original Agreement shall not be amended except by written instrument executed by the parties, and

WHEREAS, the parties now agree that it is in their mutual interest to amend their previously made Agreement.

NOW, THEREFORE, THE PARTIES DO AGREE TO AMEND their previous Agreement by this **AMENDMENT NO. 1** as follows:

1. Section **1. A. Scope of Work** is deleted in its entirety and replaced with the following:

A. "Plan, manage and implement a Community Energy Efficiency Development (CEED) Program Project (Project) in accordance with the New Mexico Community Energy Efficiency Development Block Grant Act and the application materials approved by ECAM attached hereto and incorporated by reference as Attachment 1 and as Attachment 4."

2. Section **1.C.(3) Scope of Work** is deleted in its entirety and replaced with the following:

3) The maximum average allowable ECM improvement cost per residential housing unit is $25,000.00, but Entity may seek ECAM approval for variances to the maximum average allowable per-unit cost.

3. Section **2. A. Compensation** is deleted in its entirety and replaced with the following:

A. EMNRD shall pay Entity for services satisfactorily performed pursuant to the Scope of Work. The total amount payable to Entity under this Agreement shall not exceed two million, five hundred fifteen thousand, and thirty-three dollars and zero cents ($2,515,033.00), including New Mexico governmental gross receipts taxes, and any travel, if necessary, pursuant to Paragraphs B and C of this Compensation Section. EMNRD shall make payment upon the satisfactory and timely completion of the work described in the Scope of Work and as set forth below:

Deliverable	Maximum Amount Not to Exceed	Invoice Due Date
Submit reimbursement requests for Administrative Costs related to the planning, management and implementation of the CEED Program Project.	$302,254.95	20th day of each month for costs incurred during the previous month
Submit reimbursement requests for costs related to retrofit work and ECM improvements to residential housing units within Taos County.	$2,212,778.05	20th day of each month for costs incurred during the previous month

This amount is a maximum and not a guarantee that the work assigned to be performed by Entity under this Agreement shall equal the amount stated herein. The parties do not intend for the Entity to continue to provide services without compensation when the total compensation amount is reached. Entity is responsible for notifying EMNRD when the services provided under this Agreement reach the total compensation amount. In no event shall the Entity be paid for services provided exceeding the total compensation amount without this Agreement being amended in writing prior to those services exceeding the total compensation amount being provided. EMNRD MUST receive all invoices no later than 15 days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date SHALL NOT BE PAID.

4. Section **2 Term** is deleted in its entirety and replaced with the following:

2. "**Term**: This Agreement becomes effective when executed by an authorized representative of Entity and of EMNRD and when DFA encumbers funds for this Agreement. It shall terminate on December 31, 2028 unless earlier terminated pursuant to Section 3, Termination, or

Section 4, Appropriations, below"

5. **Attachment 3: Special Terms & Conditions, sub-part 10.** Prevailing Wage Requirements is deleted in its entirety and replaced with the following:

10. **Prevailing Wage Requirements:**

A. If the project takes place at a privately owned residence, the Entity is not required to comply with Prevailing Wage requirements.

B. If the project takes place government-owned housing or other government owned buildings, and the total project cost exceeds $60,000 under a single contract between a state agency and awarded Entity, the award will be considered a Public Works program and therefore a wage decision is required. This applies even if the project consists of multiple units valued at $25,000 each.

1. If this award is funded as a Public Works program. All laborers and mechanics employed by the Entity, subcontractors, contractors or subcontractors in the performance of construction, alteration, or repair work in excess of $60,000 on an award funded directly by or assisted in whole or in part by funds made available under this award shall be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by NMDWS or the US Secretary of Labor.

2. Recipients shall provide written assurance acknowledging the Prevailing Wage requirements for the award or project and confirming that all of the laborers and mechanics performing construction, alteration, or repair, through funding under the award are paid or will be paid wages at rates not less than those prevailing on projects of a character similar in the locality.

3. The Entity must comply with all of the Prevailing Wage requirements, including but not limited to:
    a. ensuring that the wage determination(s) and appropriate Prevailing Wage clauses and requirements are flowed down to and incorporated into any applicable subcontracts or subcontractor awards.
    b. being responsible for compliance by any subcontractor or subcontractor with the Prevailing Wage labor standards.
    c. receiving and reviewing certified weekly payrolls submitted by all subcontractors and subcontractors for accuracy and to identify potential compliance issues.
    d. maintaining original certified weekly payrolls for 3 years after the completion of the project and must make those payrolls available to the State, EMNRD or the Department of Labor upon request.

e. conducting payroll and job-site reviews for construction work, including interviews with employees, with such frequency as may be necessary to assure compliance by its subcontractors and subcontractors and as requested or directed by the State or EMNRD.
f. cooperating with any authorized representative of the Department of Labor in their inspection of records, interviews with employees, and other actions undertaken as part of a Department of Labor investigation.
g. posting in a prominent and accessible place the wage determination(s) and Department of Labor Publication: WH-1321, Notice to Employees Working on Federal or Federally Assisted Construction Projects.
h. notifying ECAM of all labor standards issues, including all complaints regarding incorrect payment of prevailing wages and/or fringe benefits, received from the Entity, subcontractor, contractor, or subcontractor employees; significant labor standards violations; disputes concerning labor standards; disputed labor standards determinations; Department of Labor investigations; or legal or judicial proceedings related to the labor standards under this GSA, a subcontract, or subcontractor award.
i. preparing and submitting to ECAM, the Prevailing Wage Semi-Annual Labor Compliance information in Quarterly Reports, by April 20 and October 20 of each year.

6. **ATTACHMENT 4: Application Materials** is modified to include the following: "

CEED Program	**Approved Application – Taos County**
Applicant Entity Legal Name:	Taos County
Type of Applicant Entity:	County Government
Entity Employer Identification Number (EIN):	85-6000255
Entity Address:	105 Albright Street Suite I Taos, NM 87571
Name of person (employee of Entity) who is authorized to contractually obligate on behalf of this Application:	Brent Jaramillo
Title:	County Manager
Department Name	Administration
Email:	brent.jaramillo@taoscountynm.gov
Phone number:	575--737-6304
Name of person who is authorized by the entity to clarify/respond to queries	Christopher Madrid

regarding this application:	
Title:	Deputy County Manager
Organizational Affiliation:	Taos County
Email:	christopher.madrid@taoscountynm.gov
Phone number:	575-779-0504
Project type entity is applying for: (Type 1 Projects are open to Indian nations, tribes, or pueblos; county/municipal governments; and the MFA. Type 2 Projects are reserved for the MFA.)	Type 1
Title of Applicant's project:	Taos County CEED Phase II: Expanding Energy Equity through Deep Retrofits
One sentence description of the project:	The Taos County CEED Phase II project will deliver heavy-touch energy efficiency upgrades to low-income households, reducing energy burdens, improving comfort and safety, and building long-term community resilience through sustainable savings and workforce development.
Proposed Project duration (Grant awards will have a three-year maximum duration):	36 Months
Total funding request	$500,000
Does the proposed project target the adoption of energy-efficient consumer behavior, equipment, or devices resulting in a decrease in energy consumption without reducing the amount or quality of energy services?	Yes
Does the project target (Check all that apply):	energy-efficient consumer behavior energy-efficient equipment energy-efficient devices health and safety measures equipment or electrification upgrades
Which of the following CEED Program goals does the proposed project serve? (Check all that apply):	reduce energy consumption reduce energy-related operating costs reduce the carbon intensity of energy consumption
Select the participant household eligibility process that will be used. (As	Direct income verification by the most recent tax returns of the household

outlined in 19.1.10.12 (D) NMAC, [www.srca.nm.gov/partsititle 19/19. 001. 0010.htm/l. Check all that apply):	Proof person(s) within the household participates in an income verified governmental assistance program within five years of household application (ex: federal or state disability assistance; SNAP food benefits; TANF temporary assistance benefits; Medicaid or children's health insurance program benefits; etc.) Proof person(s) within the household participates in a utility low-to-moderate income verified program Affordable housing verification by proof of low-income housing benefits or by mortgage or rental agreement Utilizing the verification process through www.Clean.Energy.nm.gov
[Type 1 Projects only] Describe how the Applicant will certify the participant eligibility prior to the commencement of work:	Taos County will establish a transparent process to determine household eligibility for the CEED Phase II Program, focusing on low-income individuals and families earning no more than 200% of the federal poverty level in underserved areas. The process involves outreach and intake by service providers in partnership with the community, requiring households to submit verification documents such as tax returns and proof of enrollment in assistance programs. A double verification method will be used, with initial screenings by service providers followed by reviews from grant administrators to confirm accuracy. This ensures that resources are directed to those in need while maintaining program integrity and compliance with CEED guidelines.
Does the proposed project take place in New Mexico?	Yes
Will the geographic block area where the underserved community is located and where the project directly takes place, be within the boundaries of the	Yes

Entity?	
Provide data detailing the energy-related needs/issues of the selected community or area that this project will address. (Ex: High energy burden, poverty, environmental concerns, etc.)	Taos County experiences severe energy burdens, with low-income households spending over 23% of their annual income on energy, significantly higher than the statewide average. The challenges are exacerbated by aging housing, inadequate insulation, outdated appliances, and reliance on fossil fuels, leading to high utility bills and unsafe living conditions. This economic strain affects families' ability to meet basic needs and poses health risks from poorly heated homes. Although Kit Carson Electric Cooperative has shifted to 100% daytime solar energy, many residents cannot fully benefit due to inefficient systems. The CEED program aims to tackle these issues by reducing energy consumption and costs, improving housing conditions, and ensuring that vulnerable residents benefit from renewable energy and efficiency investments.
How will this project address the issues/provide solutions listed above through energy improvements to residential buildings?	The Phase II CEED project aims to tackle Taos County's high energy burden and aging housing stock by providing energy conservation measures to around 200 low-income households. Key upgrades include HVAC replacements, Energy Star appliance installations, efficient water heater replacements, building envelope improvements, and advanced thermostats, which together are expected to reduce annual household energy consumption by 1,200 to 1,800 kWh and save families $190 to $285 on utility bills. The project also emphasizes education and workforce development, offering energy literacy training and job opportunities in the efficiency sector, which will enhance community resilience and reduce the County's carbon footprint

	by up to 140 metric tons annually, ultimately making housing more affordable and sustainable. Clarification: Taos County's heating profile—dominated by high winter heating degree days and significant propane use—positions many households for net annual savings when converting to high-efficiency electric heat pumps. Before installing any fuel-switching ECM, the County's service provider will conduct a total annual energy cost comparison, analyzing historical fuel expenditures versus projected electricity use under the new system. No measure will be installed if cost analysis indicates a potential for net bill increase, fully satisfying CEED program safeguards.
Describe Applicant's plan to coordinate information on: how the project would support infrastructure improvements for affordable housing:	N/A
Describe Applicant's plan to coordinate information on: how the project would complement and not duplicate other energy efficiency programs in the state:	N/A
Describe Applicant's plan to coordinate information on: how energy efficiency improvements to the residential housing units will help to reduce the energy burden of low-income households that may not qualify for other energy efficiency programs in NM:	N/A
Provide the location of the of overburdened community served by this project at the finest scale possible, (e.g., county, city/town, neighborhood scale or latitude/longitude coordinates):	The project assist low-income households in Taos County, New Mexico, with a focus on areas facing high energy burdens and housing challenges. Key service areas include the Town of Taos, unincorporated rural communities like Ranchos de Taos and Arroyo Hondo, and smaller

	municipalities such as Questa and Red River, all of which have significant populations living below the federal poverty level.
Describe how input from the underserved community contributed to the development of both the project proposal and this community benefits plan:	Input from underserved communities has been crucial in shaping the Phase II project proposal and community benefits plan for the CEED Program. Feedback from residents across Taos County revealed critical needs like replacing inefficient heating systems and improving insulation, leading to a shift in focus towards more substantial retrofits. Concerns about affordability prompted the inclusion of energy education and customized reports to help families achieve long-term savings. The Resilient Community Coalition (RCC), representing various local stakeholders, plays a key role in refining program design, ensuring equitable household selection, and integrating workforce training for underserved residents. This collaborative approach ensures that CEED investments are aligned with local needs and building trust for sustainable success.
Describe how the proposed community benefits plan aims to positively impact community health and safety, access to services, resilience or adaptation to climate change and/or education:	The Phase II CEED project strives to augment the health, safety, and sustainability of underserved communities in Taos County by improving indoor air quality and securing homes through upgraded HVAC systems and weatherization efforts. It connects low-income families with professional energy service providers, ensuring access to tailored energy assessments and support. By reducing household energy use and carbon emissions, the project strengthens resilience against utility price fluctuations and climate change impacts. Additionally, it encourages education on energy management and offers apprenticeship opportunities, promoting local workforce

	development and long-term community benefits beyond the program's duration.
Describe how the proposed community benefits plan will improve the economic conditions of the community and/or positively impact workforce development:	The Phase II CEED project seeks to improve economic conditions in Taos County by cutting household utility costs, which can save participating families between $190 and $285 annually, resulting in community-wide savings of up to $57,000. This financial relief supports low-income families and boosts the local economy by keeping project funds within the area. The project promotes workforce growth in the clean energy sector through hiring residents from underserved communities, offering apprenticeships, and providing access to industry certifications. This dual approach not only delivers immediate energy savings but also builds a skilled workforce to sustain energy efficiency initiatives over the long term.
Describe how the proposed community benefits plan aims to increase air or water quality in the community and/or help clean up legacy pollution:	The Phase II CEED project improves air quality and promote a healthier environment in Taos County by replacing outdated fossil-fuel–based heating systems with high-efficiency electric heat pumps and appliances. This transition reduces indoor and outdoor air pollution and mitigates exposure to drafts, mold, and particulate matter through improved insulation and ventilation. While not directly addressing legacy pollution sites, the project supports electrification and efficiency, aligning with Kit Carson Electric Cooperative's renewable energy initiatives to foster cleaner energy use. Ultimately, the project strives to create healthier living conditions for underserved residents and advance towards a more sustainable energy system.
Describe any additional benefits of the community benefits plan or the project itself not already discussed:	The Phase II CEED project offers significant benefits beyond energy savings that contribute to the well-being

	of underserved communities in Taos County. By improving housing stability and affordability, the project helps families reduce utility costs and maintain their homes. It also strengthens community connection through the Resilient Community Coalition, maximizes the advantages of renewable energy investments, and creates scalable models for other rural counties. Moreover, by prioritizing low-income and marginalized communities, it promotes equity in energy access, positioning itself as a comprehensive community development strategy that improves economic stability, health, resilience, and equity throughout the region.
List the energy conservation and energy efficiency measures and improvements that will be implemented in residential low-income housing units:	The energy efficiency improvements focus on upgrading heating, ventilation, and air conditioning (HVAC) systems by replacing inefficient units with high-efficiency alternatives and installing smart controls. Additionally, outdated appliances and conventional water heaters will be replaced with ENERGY STAR-rated versions, along with implementing insulation and sealing upgrades to enhance building envelopes. Lighting will be modernized with LED bulbs, and safety measures, including smoke and carbon monoxide detectors, will be addressed. Finally, education on energy efficiency and tailored recommendations for ongoing savings will be provided to households during and after the upgrades.
Reporting Metrics used will include, but not be limited to:	Energy assessments performed (The total number of energy audits conducted for residential units.) Housing units retrofitted (The total number of energy audits conducted for residential units.) Bill savings (The estimated annual

	savings in terms of: dollars) Energy savings (The estimated annual savings in terms of: Kilowatt-hours of electricity, Therms of natural gas, Gallons of fuel oil, Therms of propane, Gallons of water, Gallons of kerosene, Tons of wood) Emissions reduction (The estimated annual savings in terms of: Greenhouse gas emissions) Realized Reduction in Consumption: (The actual reduction in consumption for various energy sources (electricity, fuel oil, natural gas, propane, kerosene, wood, etc.)
How will data be collected for these metrics to measure program's impact?	The project will assess the impact of energy efficiency initiatives by utilizing a service provider's system of record (SOR) for data collection and performance analysis. The SOR will manage essential data, track interactions, and generate reports for stakeholders, including the Energy Conservation and Management Division (ECAM) and the community. The Resilient Community Coalition will provide quarterly oversight, ensuring accountability and project alignment with objectives. The service provider will apply industry-standard methods for estimating energy savings, referencing the New Mexico Technical Resource Manual, which supports transparent documentation of efficiency benefits. Overall, the project will use a deemed savings approach for energy use reduction evaluations, enhancing data credibility through on-site inspections.
How do the metrics/measures fulfill the CEED Program goals? (Listed in question 2: reduce energy consumption, reduce energy-related operating costs, reduce the carbon intensity of energy consumption.)	The performance metrics for Phase II of the CEED Program focus on three key goals: reducing energy consumption, lowering energy-related operating costs, and decreasing the carbon intensity of energy use. Metrics include significant

	annual kWh savings per household and community-wide reductions, demonstrating the effectiveness of energy conservation measures like HVAC and insulation upgrades. Additionally, the program aims to alleviate financial burdens on low-income households through average annual cost savings while tracking substantial reductions in carbon emissions in line with decarbonization targets. Ultimately, these metrics highlight the project's impact on improving energy efficiency and financial stability in underserved communities.
Total number of housing units that will be served:	200
Reduction of annual energy use from implementation of measures (for all housing units):	240,000-360,000 kWh
Reduction of annual energy use from implementation of measures (for all housing units):	818,914,080-1,228,371,120 BTU
Reduction of annual energy cost from implementation of measures (for all housing units):	$38,000-$57,000
Reduction in annual greenhouse gas emissions from implementation of measures (for all housing units):	206,000-309,000 pounds CO2
(Optional): Other measured impact(s) or additional information regarding the estimated outcomes listed above:	Clarification: Energy savings estimates are derived from the New Mexico Technical Resource Manual (TRM) for the Calculation of Energy Efficiency Savings, NMPRC (2025–2026). The TRM provides deemed savings values for individual ECMs and serves as the primary basis for all kWh and cost-savings projections. While IOU efficiency reports offer program-level insights, they do not publish measure-level data; therefore, the TRM remains the most authoritative dataset available. Cost estimates will be refined as actual installations occur, with transparent reporting to ECAM.

Indicate the key staff on the project team (Title, Role/contribution, Relevant experience and additional qualifications): (May include roles to be filled; please note if so.)	The project team includes key staff members with specific roles and contributions: Brent Jaramillo serves as the County's Authorized Representative, ensuring compliance and alignment with community needs; Christopher Madrid acts as the Project Negotiator, coordinating with state agencies and community partners; Jaimar Bowden is the Grant Administrator, overseeing grant compliance and fiscal management; Richard Sanchez leads Construction Management, ensuring quality and safety in energy conservation installations; and Talal Saint-Lôt functions as a Grant Consultant, supporting compliance and reporting. Additionally, a Program Administrator or Service Provider will be selected through procurement to conduct outreach, manage eligibility intake, and implement energy efficiency measures while hiring and training local workforce participants.
List Entity's past grant administration and/or past energy efficiency program experience:	Taos County has an extensive track record in managing complex grant programs with a focus on compliance and accountability, successfully securing funding from various agencies such as CDBG, HRSA and the U.S. Forest Service. The County's Construction Management Division has led numerous energy efficiency projects, including LED lighting conversions and heating system retrofits. Currently, Taos County is in the procurement stage for Phase I of the CEED Program, which involves residential energy assessments and initial efficiency measures. Although energy-conserving measures have yet to be implemented, the planning has set up essential systems for outreach and data tracking. This expertise positions the County to effectively roll out Phase II

	building on the previous work accomplished during Phase I.
Describe Applicant's strategy to prevent fraud, waste, and abuse:	To prevent fraud, waste, and abuse, the service provider will be responsible for verifying household eligibility before initiating project work. The project team will use a system of record to collect, manage, and analyze project performance and generate status reports for transparency and accountability. The Resilient Community Coalition will review project performance and hold the project team accountable to ensure the program operates efficiently, effectively, and with integrity
Describe a timeline of major project milestones:	The Phase II project will be executed over 36 months, focusing on outreach, household enrollment, installation of energy measures, workforce development, and final reporting. In Year 1, activities will include project launch, workforce recruitment, outreach for household enrollment, and initial energy assessments and installations, accompanied by quarterly progress reports. Year 2 will see full implementation of household retrofits, ongoing workforce training, continued outreach to enroll all 200 households, and a mid-point evaluation for adjustments. In Year 3, the project will complete remaining retrofits, finalize workforce training, conduct community education workshops, aggregate performance data for evaluation, and submit a final report to stakeholders.
Describe Applicant's work plan detailing how tasks will be executed within the allotted timeframe and by which members of the project team:	Taos County is leading the implementation of Phase II of a project through a structured work plan that builds on Phase I's systems while expanding capacity for more intensive measures. The County Administration will oversee the project, manage finances, ensure

	compliance with requirements, handle procurement, and facilitate partner communication. The Resilient Community Coalition (RCC) will act as an advisory body, focusing on the needs of underserved populations, while program administrators and contractors will conduct outreach, energy assessments, and install essential measures. Grant consultants will assist with report preparation and data analysis, and community partners will support outreach and educational initiatives, fostering workforce development. Together, these efforts create a robust framework for successful project execution and community improvement in Taos County. Clarification: Taos County's proposed per-unit cost is consistent with initiating deeper retrofit work because Phase II builds on the multi-stage audit and planning approach established in Phase I. CEED I's light-touch measures and ASHRAE-level audits create a detailed inventory of each home's deeper retrofit needs. CEED II funding will target a subset of those identified needs using a cost-effective, prioritized approach informed by TRM deemed savings values and household bill analysis. Per-unit investment will reflect actual household needs; when CEED II funding is fully utilized, additional funding sources will be pursued and leveraged to continue the County's multi-year energy efficiency initiative.
[Type 1 Projects only] Has preliminary project planning been completed?	Yes
[Type 1 Projects only] If yes, describe what plans, specifications, and/or bid documents	Taos County has laid the foundation for the CEED Phase II project to be ready for prompt implementation upon award. In

have been completed:	Phase I, a Request for Proposals has been issued to secure a program administrator for residential energy assessments and efficiency measure installations, with proposals due by October 10, 2025, and selection expected by November 2025. The County has established technical criteria for various energy conservation measures (ECMs) including HVAC replacements, appliance upgrades, and weatherization, aligning with CEED guidelines. This preparation ensures a smooth transition to Phase II, facilitating efficient service delivery and maximizing the benefits of CEED funding.
Is environmental/ground disturbance anticipated?	No
If yes, please explain: (Ground disturbance is not typical for residential retrofit programs and will necessitate fulfilling additional compliance requirements.)	N/A
Describe how the Applicant will engage community partners, service providers, and participant households in the project:	Taos County's community engagement initiative, part of the CEED Program, builds on strong partnerships established with the Resilient Community Coalition (RCC), which includes local governments, nonprofits, educational institutions, and businesses. This collaboration focuses on addressing the needs of underserved residents through inclusive outreach and feedback mechanisms. Service providers will assist in identifying eligible households and will conduct targeted outreach via trusted community channels. They will also offer workshops on energy efficiency to promote long-term sustainability. Households will receive direct communication during eligibility assessments, along with tailored improvement reports and ongoing support. To maximize outreach, the County will utilize diverse strategies like

	direct mail, social media, community events, and workforce development opportunities, aiming to engage the community as both beneficiaries and contributors to the program's success.
Describe proposed community partner(s) with experience in the area(s) in which the project will take place:	Taos County has made significant efforts to engage community partners, service providers, and participant households in the project. The Resilient Community Coalition, comprising leaders of major government, education, and non-profit organizations in the county, will be apprised of the project's performance on a regular basis. The coalition is comprised of Toas County, Town of Taos, Taos Ski Valley Inc., Town of Red River, Kit Carson Electric Cooperative, Taos Municipal Schools, Village of Questa, Holy Cross Medical Center, Renewable Taos, Rocky Mountain Youth Corps, Taos County Chamber of Commerce, UNM-Taos, and the LOR Foundation. The RCC has significant experience in the area in which the project will take place and has a deep understanding of the needs of the community. The RCC will play a pivotal role in supporting infrastructure improvements for affordable housing, providing tangible benefits for both residents and the community. The coalition will advise on the project performance on a quarterly basis, documenting the performance of the overall project and holding the project team accountable for meeting the objectives of the initiative. Through this partnership, the project will benefit from the expertise and experience of the RCC, ensuring that the project is tailored to the unique needs of the community it serves.
Describe the scope of collaboration:	The scope of collaboration between the County, service provider(s), and the RCC will be extensive. The RCC will play a

	pivotal role in supporting infrastructure improvements for affordable housing, providing tangible benefits for both residents and the community. The coalition will be informed and advise the project on a quarterly basis, documenting the performance of the overall project and holding the project team accountable for meeting the objectives of the initiative.
Describe the experience of partner(s) in working with the targeted underserved community:	The Taos County energy efficiency community is very active with members including the Resilient Community Coalition described above, Kit Carson Electric Company achieving 100% Daytime Solar generation in 2023, advocacy groups (Renewable Taos) purchasing electric vehicle chargers and transferring that ownership to the utility, and years of program managing free public meetings promoting energy efficiency. Recent examples include the 5th annual Taos Electric Vehicle Expo (September 2024), Earth Day Central (April 2023) and Trades Electrification Education (October 2022) to HVAC, electrical, plumbing and home building trades
Describe proposed service providers(s) with experience in the area(s) in which the project will take place:	Taos County is seeking a program administrator/service provider through a competitive bid process for Phase I of the CEED Program. The chosen provider will conduct household outreach, verify eligibility, perform energy assessments, and install heavy-touch Energy Conservation Measures (ECMs) like HVAC upgrades and insulation. Preference will be given to contractors experienced in residential energy efficiency in northern New Mexico, with a focus on hiring local contractors and providing training opportunities to residents. Service providers must employ BPI-certified auditors, deliver Trade Ally

	training on program guidelines, and ensure compliance with safety codes. The goal is to leverage local expertise to implement effective energy efficiency improvements in the community.
Describe the scope of collaboration and experience of partner(s) in working with the targeted underserved community:	The Taos County energy efficiency community is very active with members including the Resilient Community Coalition described above, Kit Carson Electric Company achieving 100% Daytime Solar generation in 2023, advocacy groups (Renewable Taos) purchasing electric vehicle chargers and transferring that ownership to the utility, and years of program managing free public meetings promoting energy efficiency. Recent examples include the 5th annual Taos Electric Vehicle Expo (September 2024), Earth Day Central (April 2023) and Trades Electrification Education (October 2022) to HVAC, electrical, plumbing and home building trades
Describe any commitment by provider(s) to employ apprentices from a registered apprenticeship program that promotes diversity or to provide paid internships to persons from the targeted underserved community:	Service providers in Taos County prioritize professional credentials, employing Certified Measurement & Verification Professionals (CMVP) and Project Management Professionals (PMP), with a focus on local consultants certified by the Association of Energy Engineers and the Building Performance Institute (BPI). New employees undergo rigorous training to achieve the Building Analyst-Technician (BA-T) certification within four months, which involves data collection, diagnostic testing, and understanding building systems. This early-career credential sets a foundation for further certifications such as Building Analyst – Professional and Energy Auditor. An apprenticeship program is being explored to meet the three-year work requirement for BPI Energy Auditor

	certification.

1. All other terms and conditions of the parties' original Agreement shall remain the same.

4. This **Amendment No. 1** becomes effective on EMNRD's signature.

IN WITNESS WHEREOF, the parties hereto have herein below executed this Agreement.

STATE OF NEW MEXICO, ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

By: _____ Date: 4/15/26
Cabinet Secretary or Designee

TAOS COUNTY

By: _____ Date: 4/14/26
Authorized Representative

Brent Jaramillo, County Manager
Printed Name and Title

No. TCC 2026-2

CONTRACT

This Contract is hereby made and entered into by and between **Taos County**, a political subdivision of the State of New Mexico (hereinafter **"County"**) and **Kit Carson Electric Company Inc.**, (hereinafter **"Program Administrator"**). For good and valuable consideration and in consideration of the provisions set forth below, the parties agree as follows:

1. **Scope of Work.** Program Administrator shall provide eligibility screening, applicant intake services, and customer service via phone and email for qualified Taos County residents under the Community Energy Efficiency Development (CEED) Program Grant, attached hereto and incorporated by reference (EMNRD Share No. 25-521-0300-0154) and Taos County Ordinance 2025-1. All qualified applicants must be entered into the System of Record (SOR) and assigned a unique identifier. Program Administrator shall conduct energy assessments, execute Energy Conservation Measures (ECMs), and perform post-installation inspections to verify quality and adherence to CEED ECM installation standards as set out in greater detail in Exhibit 1 Statement of Work, Exhibit 2 Request for Proposals, and Exhibit 3 KCEC Proposal attached hereto and incorporated by reference herein for all purposes.

2. **Compensation**. Program Administrator shall provide all labor and materials to perform the scope of work described in this Contract for an amount not to exceed $1,712,778.05 inclusive of New Mexico gross receipts tax (GRT), to be paid on a reimbursement basis. Program Administrator shall pay applicable GRT.

3. After providing services, Program Administrator shall direct the invoice to Christopher Madrid, Deputy County Manager of Administration, or such other representative as the County Manager shall designate from time to time. Within 15 days of receipt, the invoice shall be certified to the Taos County Finance Department for payment, or notification to the Program Administrator will be made of any defect in the invoice or the work. Within 30 days of receipt of certification for payment, the Taos County Finance Department shall tender payment to Program Administrator. If payment is by mail, the date of tender shall be the postmark date.

4. **Warranty.** Program Administrator warrants that all materials and services supplied pursuant to this Contract shall meet the specifications contained in the Contract and exhibits and in addition shall comply with industry standards and be of merchantable quality and suitable for the purposes for which they are intended.

5. **Appropriations.** This Contract is contingent upon there being sufficient funds available for County to appropriate funds to make payments pursuant to this Contract. County shall be the sole and final determiner, in its sole discretion, of whether sufficient funds are available to appropriate funds for this Contract.

6. **Term**. This Contract shall be effective from the date last signed by all parties through December 31, 2027, unless terminated earlier pursuant to its terms.

7. **Termination.**

If either party fails to fulfill its obligations under this Contract in a timely and proper manner, or if either party violates any material covenant, agreement or stipulation of this Contract, the other party shall have the right to terminate the Contract by giving written notice to the party of termination which shall occur no less than 30 calendar days after the date of notice, unless the party to whom notice is given cures the breach to the satisfaction of the party giving notice prior the effective date of termination. The notice shall specify the effective date of the termination and the reasons therefore.

County may terminate the Contract with or without cause at any time in the County's sole discretion by giving written notice to the Program Administrator of termination, which shall occur no less than 30 calendar days after the date of notice and shall specify the effective date thereof.

Termination shall be by written notice that shall be hand delivered or mailed (certified mail, return receipt requested). If notice is by mail, the effective date of notice will be deemed to be three (3) calendar days from the

date of the postmark. If notice is hand delivered, notice of termination is effective as of the time of delivery to the Program Administrator or Program Administrator's place of business, or to the County Manager.

In no event shall termination nullify obligations of either party incurred prior to the effective date of termination.

8. **Indemnification**. Program Administrator agrees, to the fullest extent permitted by law, to defend, indemnify and hold County and County's employees, agents, independent Program Administrators and representatives harmless from damages and losses arising from the subject matter of this Contract whether such damages are based in tort, contract, statute, any other category of law or in equity. Program Administrator's obligation pursuant to this paragraph is specifically intended to extend to, but is not limited to, all claims for any damages sustained by Program Administrator, its employees, independent Program Administrators, agents or other representatives while engaged in the performance of this Contract

9. **Required Insurance**. Program Administrator shall maintain general liability insurance in an amount at least equal to the damage limits set forth by the New Mexico Tort Claims Act, Sec. 41-4-19, N.M.S.A. 1978 (as amended). Program Administrator shall maintain employee's liability and workmen's compensation insurance and will make County an additional insured. Program Administrator shall provide the County with a Certificate of Insurance establishing to the County's satisfaction that all insurance is in effect for the term of this contract before commencing work. In no event shall the failure to provide evidence of coverage be deemed a waiver by the County of the insurance obligation in the contract.

10. **Limitation of Liability.** County shall have no liability to Program Administrator for any matter relating in any way to the subject matter of this Contract except for the compensation provided for herein, whether such liability is in contract, tort, statute, any other category of law or in equity. There shall be no liability for compensation that has not yet been earned pursuant to the terms of this Contract or for consequential damages.

11. **Required Licenses and Permits.** Program Administrator, its employees and its independent Program Administrators shall have all licenses required by law to perform any act in connection with this Contract. Program Administrator is responsible for obtaining all necessary permits needed to complete this project.

12. **Work Product.** All work and work product produced under this Contract shall be and remain the exclusive property of County and Program Administrator shall not use, sell, disclose or otherwise make available to anyone (individual, corporation, legal entity or organization), other than County, any such work or work product or copies thereof.

13. **Confidentiality**. Any information learned, given to, or developed by Program Administrator in the performance of this Contract shall be kept confidential and shall not be made available or otherwise released to anyone (individual, corporation, legal entity or organization) without the prior written approval of the County.

14. **Status of Program Administrator**. Program Administrator acknowledges that Program Administrator is an independent Program Administrator and as such neither Program Administrator, Program Administrator's employees, independent Program Administrators, agents nor representatives shall be considered employees or agents of County nor shall they be eligible to accrue leave, retirement benefits, insurance benefits, or any other benefits provided to County employees.

15. **Non-Agency**. Program Administrator agrees not to purport to bind County to any obligation not assumed herein by County, unless Program Administrator has express written approval and then only within the limits of that express authority.

16. **Worker's Compensation**. Program Administrator acknowledges that neither Program Administrator, Program Administrator's employees, independent Program Administrators, agents nor representatives shall have any claim whatsoever to worker's compensation coverage under County's policy.

17. **Taxes**. Program Administrator acknowledges that Program Administrator, and Program Administrator alone, shall be liable to the state and federal government(s) and/or their agencies for income and self-employment taxes required by law and that County shall have no liability for payment of such taxes or amounts.

18. **Records and Audit**. Program Administrator shall keep, maintain and make available, to County, all records, invoices, bills, etc. related to performance of this Contract for a period of no less than three (3) years after the date of final payment. If federal grant funds are used to pay under this contract, Program Administrator shall

retain all records for the period of time under which OMB Circular 102-A shall apply. Said records shall be available for inspection, audit and/or copying by County or its authorized representative or agent, including federal and/or state auditors.

19. **Conflict of Interest and Governmental Conduct Act**. Program Administrator warrants that Program Administrator presently has no interest or conflict of interest and shall not acquire any interest or conflict of interest, which would conflict with Program Administrator's performance of services under this contract. Program Administrator certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978, regarding contracting with a public officer, public employee or former public employee have been followed.

20. **Non-Discrimination**. Program Administrator agrees that Program Administrator, Program Administrator's employees, independent Program Administrators, agents and representatives shall comply with all federal, state and local laws regarding equal employment opportunities, fair labor standards, and other non-discrimination and equal opportunity compliance laws, regulations and practices.

21. **Assignment and Subcontracting**. Program Administrator shall not assign, transfer or subcontract any interest in this Contract or attempt to assign, transfer or subcontract any claims for money due under this Contract without the prior written approval of County.

    Independent Program Administrators may only be hired by Program Administrator pursuant to a written contract that incorporates this Contract by reference and by which such independent Program Administrators agree to be bound by the terms of this Contract. Executed copies of such contracts shall be provided to County by Program Administrator before such independent Program Administrators commence work.

22. **Remedies for Default or Breach by Program Administrator**. In the event that Program Administrator defaults on any provision of this Contract or otherwise breaches this Contract, County, in its sole discretion, shall be entitled but not obligated to pursue any or all of the following remedies:

    A. File suit and seek all damages or other remedies including injunctive relief allowed by law or equity. In the event that County files suit, prepares to file suit, or threatens to file suit and ultimately prevails by judgment or settlement, County shall be entitled to recover reasonable attorney fees and expenses including the reasonable value of the services provided by the County legal department as though such services had been provided by outside counsel.

    B. Terminate this Contract as provided for in the termination section above.

    C. Provide Program Administrator with written notice of the default or breach including a period of time in which to cure the default or breach. If the default or breach is not cured within the allowed time, County may, in its sole discretion, grant additional time in writing, or pursue any other remedy or remedies provided for in this section.

    D. Withhold any payments to Program Administrator provided for in this Contract until the default or breach is cured and County has received from Program Administrator the dollar amount necessary to compensate County for all damages and attorney fees and expenses allowed pursuant to this Contract or by law or equity.

    E. The failure of County to pursue any remedy provided for in this section shall never be the ratification of or acquiescence in by County of Program Administrator's default or breach. The remedies in this section are intended to be cumulative. None shall be in lieu of any other. County may pursue none, one, all or any combination of the remedies provided for in this section.

23. **Severability**. In the event that a court of competent jurisdiction rules that any provision of this Contract is void, voidable or otherwise unenforceable, all other provisions shall remain in full force and effect that are not inconsistent with the court's ruling.

24. **Sole Contract**. This Contract, including all exhibits whether attached hereto or incorporated herein by reference, incorporates all of the agreements and understandings between the parties involving the Scope of Work contained herein. No prior agreement(s) or understanding(s), verbal or otherwise, shall be valid or enforceable unless embodied in this Contract.

25. **Survival.** All terms of this Contract that as a practical matter would require actions by either party after the expiration, termination or voiding of this Contract to effectuate those terms, shall survive such expiration, termination or voiding.

26. **Amendment**. This Contract shall not be altered, changed, modified or amended, except by instrument, in writing, executed by all parties.

27. **Applicable Law**. This Contract shall be governed by the Laws of the State of New Mexico.

28. **Jurisdiction and Venue**. Any legal proceeding arising out of the subject matter of this Contract, whether based in contract, tort, statute, other category of law or in equity, shall be brought before the Eighth Judicial District Court, Taos County, State of New Mexico. Program Administrator hereby agrees that such court shall have jurisdiction over it and that venue shall be proper in such court.

29. **Attorney Fees**. If County utilizes attorneys to assert or defend any legal position arising out of the subject matter of this Contract, regardless of whether based in contract, tort, statute or any other category of law or equity, and County ultimately prevails by judgment or settlement, County shall be entitled to recover from Program Administrator reasonable attorney fees and expenses, including the reasonable value of services provided by the County legal department as though such services had been provided by outside counsel.

30. **Illegal Acts.** Pursuant to Sec. 13-1-191, N.M.S.A. 1978 (as amended), it shall be unlawful for any Program Administrator to engage in bribery, offer gratuities with the intent to solicit business, or offer or accept kickbacks of any kind. All other similar act(s) of bribes, gratuities and/or kickbacks are likewise hereby prohibited. Program Administrator warrants and represents that it has not engaged in and will not engage in such activity.

31. **Release.** Program Administrator agrees that, upon final payment of the amount due under this Contract, Program Administrator releases County from all liability, claims and/or obligations whatsoever arising from the subject matter of this Contract, whether based in contract, tort, statute, other category of law or in equity.

32. **Contact Information for Parties**. The contact information for the parties to this Contract is as set out in this paragraph. Unless such information is changed in writing, all notices or other communication pursuant to this Contract shall be through the contact information in this paragraph.

County
Christopher Madrid, Deputy County Manager
105 Albright St. Ste G
Taos, NM 87571
Phone: 575-737-6301
Email: Christopher.madrid@taoscountynm.gov

Program Administrator
Luis Reyes, CEO
PO Box 578
Taos, NM 87571
Phone:575-758-2258
Email: lreyes@kitcarson.com

33. **Authority.** The individuals signing below on behalf of the parties hereby warrant and represent that they have full legal authority to bind the parties to this Contract and have taken whatever steps are required by law and their governing documents to do so. Electronically duplicated signatures shall be permitted and if used, shall be binding. This Contract may be signed in duplicate originals bearing the signatures of fewer than all parties if all parties have signed at least one duplicate original.

Signed and Agreed:
Taos County

By: Miguel Romero Jr., Chair

2-5-26
Date

Patrick Trujillo, Contract Counsel

Program Administrator

By: Luis Reyes, CEO

2-6-2026
Date

AGENDA ITEM NO.
Taos County-5349-2019

Taos County

BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REPORT

DATE:	**December 1, 2026**
SUBJECT:	**Approval of DFA Resolution No. 20, A Resolution to adjust the Final Budget as follows. Taos County has been awarded a grant from the Energy, Minerals and Natural Resolurces Department (26-02-3889) for the purpose of hazardous fuel reduction, and community protection from wildfire risk in areas of Pueblo Ridge/Valle Escondido within Taos County. An adjustment to the FY 26/27 Final Budget is required to account for the revenue and expenses associated with the grant - Emily Rowlinson-Elliot, Finance Director**

DFA 20.pdf

TAOS COUNTY
AGENDA REQUEST FORM

Presenters Name ***(If there is more than one presenter list them all)***	Emily Rowlinson-Elliott	**Presenters Title**	Finance Director
Meeting date requesting to be on	12/01/2026	**Are there any documents For this item? *(all documents must be single sided)***	☒ Yes ☐ No
Will action be needed on this item?	☒ Yes ☐ No	**Are there signatures required on the documents?**	☒ Yes ☐ No
Has Legal Department approved this Item (if applicable)? ***All Contracts, Resolutions, Ordinances and Agreements must be approved by Legal***	☐ Yes ☐ No ☒ N/A	**Legal Department Signature** ***If item does need Legal approval, it must be submitted their first.***	

APPROVAL OF A RESOLUTION - AGENDA ITEM DESCRIPTION

DFA Resolution No. 20: A Resolution to adjust the final budget as follows: Whereas, Taos County has been awarded a grant from the Energy, Minerals and Natural Resources Department (26-02-3899) totaling $366,188.75, for the purpose of hazardous fuel reduction, and community protection from wildfire risk in the areas of Pueblo Ridge/Valle Escondido, within Taos County. Therefore, an adjustment to the FY26/27 Final budget of $366,188.75 is required to account for the revenue and expenses associated with the grant.

2426-2720

Amount: $366,188.75

Signature/Date of person picking up final documents:

DFA RESOLUTION NO. 20: FY 2026-2027
A RESOLUTION TO ADJUST THE FINAL BUDGET AS FOLLOWS:

WHEREAS, the Taos County Board of Commissioners, Taos County, Taos, New Mexico, in a Regular Meeting on December 1, 2026 propose to adjust the FY 2026-2027 Final Budget as follows:

WHEREAS, Taos County has been awarded a grant from the Energy, Minerals and Natural Resources Department (26-02-3899) totaling $366,188.75, for the purpose of hazardous fuel reduction, and community protection from wildfire risk in the areas of Pueblo Ridge/Valle Escondido, within Taos County. Therefore, an adjustment to the FY26-27 Final Budget of $366,188.75 is required to account for the revenue and expenses associated with this grant.

NOW, THEREFORE, BE IT RESOLVED that authorization is requested from the Department of Finance and Administration, Local Government Division, to approve this budget adjustment.

PASSED, ADOPTED AND APPROVED THIS 1st OF DECEMBER, 2026

Attest:

Taos County Board of Commissioners

Valerie Montoya
Taos County Clerk

Chairperson

Vote Record

F.B. Romero	yes	no	abstain	absent
Miguel Romero Jr.	yes	no	abstain	absent
AnJanette Brush	yes	no	abstain	absent
Darlene J. Vigil	yes	no	abstain	absent
Ronald J. Mascareñas	yes	no	abstain	absent

Taos County Finance Department

Grant Coversheet

General Information

Grant Name	Taos County - Pueblo Ridge/Valle Escondido
Funder Name	EMNRD
Funder Grant Number	26-02-3899
Federal Assistance Listing No. *(Federal Only)*	
Internal Grant Number	2426-2720
Funding Type (State, Federal, Private)	State
Amount	$366,188.75
AIPP	N/A
Grant Period	06/26/2026-
Reversion Date	
Disbursement/Reimbursement	Reimbursement
Temporary Loan	NA
Local Match	N/A

Project Description:

Hand Thinning 275 acres at 1131.86 per acre

Budget Line Items:	**Amount:**
45900 Other Contractual Services	$311,261.50
45936 Indirect Cost	$54,927.25

Core Team - Internal	JR Logan
	Joe Abeyta
	Emily Rowlison-Eliott
Core Team - External	Laura McCarthy

Documents - File Set-Up:

Grant Agreement	☑	- DFA Resolution/Commission A	☐
Electronic Files Created	☑	- DFA Approval	☐
Fund and Budget Created	☑		

Emily Rowlison-Eliott — 11/24/2026

Finance Director **Date**

11/24/2026

Grant Administrator **Date**

TAOS COUNTY
Local Government Budget Management System (LGBMS)
DFA RESOLUTION NO. 20

FUND	DEPARTMENT	OBJECT CODE	AMOUNT

FUND	DEPARTMENT	OBJECT CODE	AMOUNT

FUND	DEPARTMENT	OBJECT CODE	AMOUNT
21800 Intergovernmental Grants	0001 No Department Needed	47499 Other State Grants	366,188.75
21800 Intergovernmental Grants	2002 General Administration	55999 Contract - Other Services	311,261.50
21800 Intergovernmental Grants	2002 General Administration	57999 Other Operating Costs	54,927.25

County Internal Fund

EMNRD 26-02-3899

FUND	DESCRIPTION	COMMENT	AMOUNT
	Operating Transfers IN		
	Operating Transfers OUT		
		Total Transfers	-

FUND	DESCRIPTION	AMOUNT
2426-2720-37230	State - Other	366,188.75
	Total Revenue	**366,188.75**
2426-2720-45900	Other Contractual	311,261.50
2426-2720-45936	Indirect Cost	54,927.25
	Total Expenditures	**366,188.75**

PROJECT TITLE	TAOS COUNTY – PUEBLO RIDGE / VALLE ESCONDIDO
EMNRD CONTRACT NO. / SHARE NO.	12-521-0410000000-0055
WORK PLAN NO.	26-02-3899
PROJECT ID	N/A
TOTAL AWARD AMOUNT	$366,188.75
FEDERAL FUNDS (AWARD)	N/A
STATE FUNDS (AWARD)	$366,188.75

NEW MEXICO FORESTRY DIVISION PROJECT WORK PLAN (WORK PLAN)

MODIFICATION NO. 16

This Modification No. 1 to Work Plan 26-02-3899, effective upon the date of last signature, is made and entered into by and between The State of New Mexico, Energy, Minerals and Natural Resources Department (**EMNRD**) and Taos County ("**Entity**").

The original work plan included cost-share of the total acres with Taos County. Due to delays in getting the work plan executed, Taos County's contributions to the project, treatment of 49 acres, were conducted outside of the performance period of this contract and cannot be included in this agreement. We need to adjust the budget table and narrative to show a reduction in acres and to remove the contribution amount from Taos County. EMNRD will now pay full cost for the remaining 275 acres rather than providing a cost-share with Taos County.

The following provisions of the above-referenced Work Plan are modified as follows:

Section 2, Project Contributors and Budget, is removed in its entirety and is replaced with the following:

II. Project Contributors and Budget: List the private, local, tribal, state, or federal organizations that are contributing or participating in project implementation.

Project contributors include:

- Forestry Division – funding source, unit inspections
- Taos County (Entity) – fiscal agent, conduct unit inspections, procure contractors with New Mexico Statewide Price Agreement to complete thinning and provide contractor coordination
- Carson National Forest (Carson NF) –location of all project Units. Carson NF staff will develop the treatment prescription.

Project Costs

Match is not required for projects funded with state funds; however, the Forestry Division reserves the right to apply funding from this Work Plan as match for other federal funded programs. The Entity must disclose if funds from this Work Plan will be used as match for other federal funds to prevent the Entity and the Forestry Division from claiming match on mutual or similar projects. The Forestry Division can only reimburse for the amount specified in the rates for which the Forestry Division will reimburse per acre and the total amount reimbursed for this project cannot exceed the amount in the Grant Column for Contractual Services for Thinning or Treatment. Any thinning or treatment contractors the Entity hires as part of this Work Plan must provide the Entity with proof of current Worker's Compensation Insurance, if coverage is required by state law, and the Entity must provide the Forestry Division with this proof prior to any thinning or treatment activities taking place. The State Forester recommends the employees of all thinning contractors hired under this Work Plan hold the New Mexico Forest Workers Safety Certification.

CONTRIBUTORS	GRANT	TOTAL
ADMINISTRATIVE COSTS NOT TO EXCEED 15%	$54,927.25	$54,927.25
CONTRACTUAL SERVICES FOR THINNING OR TREATMENT	$311,261.50	$311,261.50
TOTAL	$366,188.75	$366,188.75

Total amount for the project is not to exceed $366,188.75. The Forestry Division shall pay the Entity up to $54,927.25 of the total grant amount for administrative costs. The Entity shall use the remaining funding ($311,261.50) for contractual services to implement hazardous fuel reduction practices on 275 acres using the following breakdown.

Hand-thinning
275 acres x $1,131.86 per acre (including New Mexico Gross Receipts Taxes) = $311,261.50.

SIGNATURES.

TAOS COUNTY

Brent Jaramillo
Authorized Representative (Please print name)

Signature: _____ 6/26/26
Date

ENERGY, MINERALS & NATURAL RESOURCES DEPARTMENT

Approved by:
Laura F. McCarthy
State Forester (Please print name)

Signature: _____ 07/06/2026
Date

AGENDA ITEM NO.
Taos County-5350-2019

Taos County

BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REPORT

DATE:	**December 1, 2026**
SUBJECT:	**Approval of DFA Resolution No. 21, A Resolution to adjust the Final Budget as follows. Taos County has been awarded a Grant from the State of New Mexico Department of Health (27 HC 2008 00081) to support HCAP in operations, administration, community ehgaement, community health improvement and outreach, and social determinant initiatives. An adjustment to the FY 26/27 Final Budget is required to account for the revenue and expanses associated with this grant - Emily Rowlinson-Elliot, Finance Director**

DFA 21.pdf

TAOS COUNTY
AGENDA REQUEST FORM

Presenters Name *(If there is more than one presenter list them all)*	Emily Rowlinson-Elliott	**Presenters Title**	Finance Director
Meeting date requesting to be on	12/01/2026	**Are there any documents For this item? (all documents must be single sided)**	☒ Yes ☐ No
Will action be needed on this item?	☒ Yes ☐ No	**Are there signatures required on the documents?**	☒ Yes ☐ No
Has Legal Department approved this Item (if applicable)? ***All Contracts, Resolutions, Ordinances and Agreements must be approved by Legal***	☐ Yes ☐ No ☒ N/A	**Legal Department Signature** ***If item does need Legal approval, it must be submitted their first.***	

APPROVAL OF A RESOLUTION - AGENDA ITEM DESCRIPTION

DFA Resolution No. 21: A Resolution to adjust the final budget as follows: Whereas, Taos County has been awarded a grant from the State of New Mexico Department of Health (27 HC 2008 00081) totaling $106,052.00, to support HCAP in operations, administration, community engagement, community Health improvements and outreach, and social determinant initiatives. Therefore, an adjustment to the FY26-27 Final Budget of $106,052.00 is required to account for the revenue and expenses associated with this grant.

2473/2302

Amount: $106,052.00

Signature/Date of person picking up final documents:

DFA RESOLUTION NO. 21: FY 2026-2027
A RESOLUTION TO ADJUST THE FINAL BUDGET AS FOLLOWS:

WHEREAS, the Taos County Board of Commissioners, Taos County, Taos, New Mexico, in a Regular Meeting on December 1, 2026 propose to adjust the FY 2026-2027 Final Budget as follows:

WHEREAS, Taos County has been awarded a grant from the State of New Mexico Department of Health (27 HC 2008 00081) totaling $106,052.00, to support HCAP in operations, administration, community engagement, community health improvements and outreach, and social determinant initiatives. Therefore, an adjustment to the FY26-27 Final Budget of $106,052.00 is required to account for the revenue and expenses associated with this grant.

NOW, THEREFORE, BE IT RESOLVED that authorization is requested from the Department of Finance and Administration, Local Government Division, to approve this budget adjustment.

PASSED, ADOPTED AND APPROVED THIS 1st OF DECEMBER, 2026

Attest:

Taos County Board of Commissioners

Valerie Montoya
Taos County Clerk

Chairperson

Vote Record

F.B. Romero	yes	no	abstain	absent
Miguel Romero Jr.	yes	no	abstain	absent
AnJanette Brush	yes	no	abstain	absent
Darlene J. Vigil	yes	no	abstain	absent
Ronald J. Mascareñas	yes	no	abstain	absent

TAOS COUNTY
Local Government Budget Management System (LGBMS)
DFA RESOLUTION NO. 21

FUND	DEPARTMENT	OBJECT CODE	AMOUNT

FUND	DEPARTMENT	OBJECT CODE	AMOUNT

FUND	DEPARTMENT	OBJECT CODE	AMOUNT
21800 Intergovernmental Grants	0001 No Department Needed	47499 Other State Grants	106,052.00
21800 Intergovernmental Grants	2002 General Administration	55030 Contract - Professional Services	10,800.00
21800 Intergovernmental Grants	2002 General Administration	57999 Other Operating Costs	49,186.10
21800 Intergovernmental Grants	2002 General Administration	57090 Printing/Publishing/Advertising	11,750.00
21800 Intergovernmental Grants	2002 General Administration	53999 Other Travel	100.00
21800 Intergovernmental Grants	2002 General Administration	56020 Supplies - General Office	3,600.00
21800 Intergovernmental Grants	2002 General Administration	52020 Retirement	16,895.17
21800 Intergovernmental Grants	2002 General Administration	52021 Retiree Health Care	1,550.02
21800 Intergovernmental Grants	2002 General Administration	52030 Health and Medical Premiums	11,951.71
21800 Intergovernmental Grants	2002 General Administration	52090 Unemployment Compensation	208.80
21800 Intergovernmental Grants	2002 General Administration	52110 Workers' Compensation Employer's Fee	10.20

County Internal Fund

HCA 27 HC 2008 00081

FUND	DESCRIPTION	COMMENT	AMOUNT
	Operating Transfers IN		
	Operating Transfers OUT		
		Total Transfers	-

FUND	DESCRIPTION	AMOUNT
2473-2302-37230	State - Other	106,052.00
	Total Revenue	**106,052.00**
2473-2302-45030	Professional Services	10,800.00
2473-2302-47050	Grants to Subrecipients	49,186.10
2473-2302-47080	Printing/Publication	11,750.00
2473-2302-43010	Mileage Reimbursement	100.00
2473-2302-46010	Supplies	3,600.00
2473-2302-42021	PERA Retirement Contribution	16,895.17
2473-2302-42060	Retiree Health Care	1,550.02
2473-2302-42050	Health Insurance	11,951.71
2473-2302-42070	Unemployment Comp.	208.80
2473-2302-42080	Worker's Comp. Assessment	10.20
	Total Expenditures	**106,052.00**

Taos County Finance Department

Grant Coversheet

General Information

Grant Name	Health Council 2027
Funder Name	NMDOH
Funder Grant Number	27 HC 2008 00081
Federal Assistance Listing No. *(Federal Only)*	
Internal Grant Number	2473-2302
Funding Type (State, Federal, Private)	State
Amount	$106,052.00
AIPP	N/A
Grant Period	17-Sep-26
Reversion Date	6/30/2027
Disbursement/Reimbursement	Disbursement
Temporary Loan	NA
Local Match	N/A

Project Description:

To support HCAP in operations, administration, community engagement, community health inprovements and outreach, and social determinant initiatives.

Budget Line Items:	**Amount:**
45030 Professional Services	$10,800.00
47050 Grants to Subrecipients	$49,186.10
47080 Printing/Publication	$11,750.00
43010 Mileage Reimbursement	$100.00
46010 Supplies (Office/Field/Ed/Etc.	$3,600.00
42021 PERA Retirement Contribution	$16,895.17
42060 Retiree Health Care	$1,550.02
42050 Health Insurance	$11,951.71
42070 Unemployment Comp.	$208.80
42080 Worker's Comp. Assessment	$10.20

Core Team - Internal	Jennifer Ammann
	Zach Cordova
	Joe Abeyta
Core Team - External	

Documents - File Set-Up:

Grant Agreement	☑	- DFA Resolution/Commission A	☐
Electronic Files Created	☑	- DFA Approval	☐
Fund and Budget Created	☑		

Finance Director **Date**

Grant Administrator **Date**

Taos County Health Council FY2027

FY27 Budget Expenses

July 1, 2026 - June 30, 2027

Line Item #		TOTAL ALLOCATIONS - DOH	DOH Section 1	DOH Section 2	DOH Section 3 - General	DOH Section 3 - Initiative #1	DOH Section 3 - Initiative #2	DOH Section 4	Justification
		$106,052.00	$17,100.00	$14,975.00	$6,000	$20,000	$20,000	$27,977	
	EXPENSES								
	PERSONNEL								
42030	Health Council Coordinator	$30,615.90	$188.90		$5,750	$6,650	$6,900	11,127	County employee: Administrative,
	Personnel Subtotal	**$30,615.90**							
	PROFESSIONAL SERVICES								
45030	County website landing page	$1,500	$250	$250	$250	$250	$250	$250	Gizmo Productions
45030	Section 3 Project Manager	$4,800.00				$1,600	$1,600	$1,600	Contract $50/hr; 16hrs/month x 6
45030	Graphic Designer	$2,500.00		$500				$2,000	tri fold and Resource Directory
45030	Translation Services	$2,000.00						$2,000	Spanish translation of Resource
	Professional Services Subtotal	**$10,800.00**							
	PROGRAMS								
47050	CHIP: Capacity Building	$29,186.10	$16,561.10	$12,625.00					Section 2 deliverables: 1.
47050	Suicide Prevention Trainings	$10,000.00				$10,000			Section 3 Initiative #1: partner with
47050	Gunlock Distribution and Safety Awareness Campaign	$10,000.00					$10,000		Section 3 Initiative #2: distribute
47080	100% Resource Directory	$10,000.00						10,000	Section 4: Update, translation,
	Programs Subtotal	**$59,186.10**							
	PROMOTIONAL MATERIALS								
47080	Fact Sheet	$100	$100						Printing
47080	Health Council flyers	$250		$250					Printing
47080	Health Council tri-fold	$500		$500					Printing
47080	Health Council banner	$150		$150					Printing
47080	Gunlock safety survey	$500					$500		Printing
47080	Gunlock safety postcard/QR code to survey	$250					$250		Printing
	Promotional Materials Subtotal	**$1,750**							
	TRAVEL								
43010	Health Council Meetings - In person	$100		$100					Coordinator automileage within
	Travel Subtotal	**$100**							

	FOOD AND REFRESHMENTS								
46010	Health Council Monthly Meetings	$600		$600					January - June 2027 in person
46010	Tabling Events	$2,000				$500	$500	$1,000	Resource fairs, school events,
46010	Trainings	$1,000				$1,000			Suicide prevention trainings and
	Food and Refreshments Subtotal	**$3,600**							
	EXPENSES SUBTOTAL	**$106,052.00**							
	DOH ALLOCATIONS SUBTOTAL	**$106,052.00**	$17,100.00	$14,975	$6,000	$20,000	$20,000	27,977	

Docusign Envelope ID: 822BFAE2-FF87-89CC-82CB-33D7770BFB0E

Agreement No. 27 HC 2008 00081

STATE OF NEW MEXICO
DEPARTMENT OF HEALTH
INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT is made and entered into by and between the State of New Mexico, **DEPARTMENT OF HEALTH**, hereinafter referred to as the "Agency," and **County of Taos**, hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Agency.

WHEREAS, the Agency is the State agency and desires to engage and the contractor is willing to provide the services outlined pursuant to Article II - Scope of Work.

NOW THEREFORE, the Agency and the Contractor in consideration of mutual covenants and agreements herein contained, do hereby agree as follows:

ARTICLE I. Term of Agreement

THIS AGREEMENT SHALL BECOME EFFECTIVE ON THE DATE UPON WHICH IT IS EXECUTED BY THE AGENCY SECRETARY OR DESIGNEE. This Agreement shall terminate 6/30/2027, unless terminated pursuant to Article VI (Termination of Agreement), or Article XXII (Appropriations).

ARTICLE II. Scope of Work

The Contractor shall provide the program of services as set forth in the scope of work which is attached hereto as "**Attachment 1 – Scope of Work**" and incorporated herein by reference, unless Attachment 1 is amended or this agreement is terminated pursuant to Article VI (Termination of Agreement), or Article XXII (Appropriations), infra. In consideration for the provision of those services, the Agency agrees to purchase and the Contractor agrees to perform the services identified in the scope of work.

ARTICLE III. Limitation of Cost

The total amount of the monies payable to the Contractor under this Agreement shall not exceed **$106,052.00.** The annual budget is attached hereto as "**Attachment 2 – Budget**" and incorporated herein by reference.

ARTICLE IV. Payment

The Agency shall make monthly payments to the Contractor for services and costs specified in **Attachment 2 - Budget**. The Contractor shall submit certified and documented invoices and vouchers monthly for actual work performed and expenses incurred to the Agency. The Contractor's failure to submit such payment vouchers, invoices, and supporting documentation within fifteen (15) days after they are due may result in the non-availability of funds for payment and/or the denial of payment by the Agency.

ARTICLE V. Return of Funds

Upon termination of this Agreement, or after the services provided for herein have been rendered, surplus money, if any, shall be returned by the Contractor to the Agency.

ARTICLE VI. Termination of Agreement

A. Grounds. The Agency may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the Agency's uncured, material breach of this Agreement.

B. Notice; Agency Opportunity to Cure.

1. Except as otherwise provided in Article (VI)(B)(3), the Agency shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.
2. Contractor shall give Agency written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the Agency's material breaches of this Agreement upon which the termination is based and (ii) state what the Agency must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the Agency does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the Agency does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.
3. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the Agency; (ii) if, during the term of this Agreement, the Contractor is suspended or debarred by the State Purchasing Agent; or (iii) the Agreement is terminated pursuant to Article XXII, "Appropriations", of this Agreement.

C. Liability. Except as otherwise expressly allowed or provided under this Agreement, the Agency's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE AGENCY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

D. Termination Management. Immediately upon receipt by either the Agency or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the Agency; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency and records generated under this Agreement. Any non-expendable personal property or equipment provided to or

purchased by the Contractor with contract funds shall become property of the Agency upon termination and shall be submitted to the Agency as soon as practicable.

ARTICLE VII. Funds Accountability

The parties shall provide for strict accountability of all monies made subject to this Agreement. The Contractor shall maintain fiscal records, follow generally accepted accounting principles, and account for all receipts and disbursements of funds transferred to the Contractor pursuant to this Agreement. The Contractor will include all monies made subject to this Agreement in the annual audit and will provide the Agency with a copy of the annual audit.

ARTICLE VIII. Maintenance of Records

The Contractor shall maintain detailed expenditure records that indicate the date, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the Agency, the New Mexico Department of Finance and Administration and the New Mexico State Auditor. The Agency shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments.

ARTICLE IX. Confidentiality

A. Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the Agency.

ARTICLE X. Amendments

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article VI herein, or to agree to the reduced funding.

ARTICLE XI. Assignment

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the Agency.

ARTICLE XII. Applicable Law

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, Contractor acknowledges and agrees to the exclusive jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

ARTICLE XIII. Acquisition of Property

The parties agree that neither party shall acquire any property as the result of this Agreement, unless approved by the Agency or defined in the scope of work.

ARTICLE XIV. Liability

Each party shall be solely responsible for fiscal or other sanctions occasioned as a result of its own violation or alleged violation of requirements applicable to the performance of the Agreement. Each party shall be liable for its actions according to this Agreement subject to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1, et. seq., NMSA 1978, as amended.

ARTICLE XV. Execution of Documents

The Agency and the Contractor agree to execute any document(s) necessary to implement the terms of this Agreement.

ARTICLE XVI. Sub-Contracts

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval by the Agency Secretary or Designee. No such subcontract shall relieve the primary Contractor from any obligations and liabilities under this Agreement, nor shall subcontract obligate direct payment from the Agency. Contractor must notify subcontractors that they are subject to Article VIII - Maintenance of Records of this agreement.

ARTICLE XVII. Equal Opportunity Compliance

The Contractor agrees to abide by all federal and state laws, rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

ARTICLE XVIII. Workers' Compensation

The Contractor agrees to comply with state laws and rules applicable to workers' compensation benefits for its employees. If the Contractor fails to comply with the Workers' Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the Agency.

ARTICLE XXI. Appropriations

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, this Agreement shall terminate immediately upon written notice being given by the Agency to the Contractor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

Agreement No. 27 HC 2008 00081

IN WITNESS WHEREOF, the Agency and the Contractor have caused this Agreement to be executed, said Agreement to become effective as of the date set forth below upon which it is executed by Agency Secretary or Designee.

Contractor – County of Taos

Brent Jaramillo — Digitally signed by Brent Jaramillo DN: cn=Brent Jaramillo, c=US, o=Taos County, email=brent.jaramillo@taoscountynm.gov Date: 2026.08.28 17:07:41 -06'00'

Authorized Signatory

Date: August 28, 2026

County Manager

Printed Title of Authorized Signatory

Legal Counsel, Contractor, if applicable

Date:

Agency – DEPARTMENT OF HEALTH

Signed by: Dr. Miranda Durham CFF48B83395A4E0...

Secretary or Designee, DOH

Date: Sep 17, 2026 | 3:53 PM MDT

Signed by: Darcy Mercadante B8D73CC9536F4A3...

Chief Financial Officer, DOH

Date: Sep 16, 2026 | 4:33 PM MDT

Approved as to legal form and sufficiency.

DocuSigned by: Joey Wright 7693383540884D9...

Office of General Counsel, DOH

Date: Sep 16, 2026 | 11:47 AM MDT

Agreement No. 27 HC 2008 00081

Attachment 1

Scope of Work

The Department of Health, Public Health Division, Health Promotion Program, here-in after referred to as the Department, enters into this agreement with Rural Health Councils (HC) and Tribal Health Councils (THC). The effective date is upon approval of both parties, whichever is later. This Scope of Work is not to exceed **$106,052**.

Attachment 2

Budget

Section 1: Health Council Operations and Administration

Deliverable	Documentation	Budget
1.1. Report on Health Council operations.	I. Submission of New Mexico Department of Health (NMDOH) Monthly Report by last Thursday of the Month: II. Submission of: 1. Organizational structure document. (i.e., Bylaws, Organizational Chart, etc.) 2. Fiscal Year 2027 Staffing Plan 3. Health Council Member Roster 4. Updated Health Council Factsheet 5. Monthly Health Council meeting minutes and/or agendas III. Set schedule with the Health Promotion Team (HPT) and attend regular monthly technical assistance meetings with HPT.	NMDOH Monthly Report $1,425.00 Not to exceed $17,100.00
Total		$17,100.00

Section 2: Health Council Engagement and Community Health Improvement Plans (CHIP)

Deliverable	Documentation	Budget
2.1. Update and revise CHIP Plan as needed for the fiscal year and complete quarterly CHIP progress report that includes Key Performance Indicators as outlined on approved Health Council CHIP.	I. Updated version of Health Council's CHIP II. Submission of New Mexico Department of Health (NMDOH) Monthly Report by last Thursday of the Month: III.	NMDOH Monthly Report @ $539.50 Not to exceed $6,474.00
2.2. Educate and engage local government and community in the work and activities of the Health Council. Including hosting a community wide engagement forum to discuss the work of the Health Council.	I. Copy of document stating your jurisdiction's recognition of your Health Council as written in the NM County and Tribal Health Council Act. 1. Passed Resolution in the last 5 years. *For Tribal Health Councils, a letter of support will be accepted.* 2. Copy of agenda and/or presentation given to local jurisdiction. 3. Copy of forum invite, list of participants that attended the engagement forum, agenda and minutes, and any materials shared.	$8,000.00 upon submission of all documentation. Not to exceed $8000.00
2.3. Completion of the yearly Health Council Impact Survey.	I. Submission of NMDOH Health Council Impact Survey by October 16, 2026	$501.00 upon submission of Health Council Impact Survey. Not to exceed $501.00
Total		$14,975.00

Section 3: Health Council Work on Initiatives to address Social Determinants of Health

Deliverable	Documentation	Budget
3.1. Continue chosen initiatives from FY26 Scope of Work. Continue to report on the community impact of HCs selected initiatives and the activities, data, and outcomes of your Health Council's work.	Submission of Updated or new Workplan by August 31,2026 or sooner	$6,000.00 upon submission of Updated Workplan. One-time payment

The same activities cannot be reported on or billed to multiple DOH programs. *Initiatives include* the following: Paths to Health, mobile units, tobacco misuse prevention, harm reduction, suicide prevention trainings, Screening, Brief intervention, and Referral to Treatment (SBIRT), 988, gunlocks, Medications for Opioid Use Disorder (MOUD), or "Other" Behavioral Health Council identified initiatives.	i. Submission of New Mexico Department of Health (NMDOH) Monthly Report by last Thursday of the Month: ii.	Monthly payment for selected initiatives based on Funding Tiers: **Tier 1:** $83.33 monthly for $1,000.00 for Fiscal Year **Tier 2:** $333.33 monthly for $4,000.00 for Fiscal Year **Tier 3:** $1,250.00 monthly for $15,000.00 for Fiscal Year. Not to exceed $40,000.00
Total		$46,000.00

Section 4: Health Council Project to address priority in Community Health Improvement Plan (CHIP) or an existing community project focused on improving community health and well-being with the objective of reducing Health Disparities.

Deliverable	Documentation	Budget
4.1 Provide proposal of project in a workplan. Workplan must include: a. Describe the demonstrated need for this project in your community and how it aligns with your Community Health Improvement Plan (CHIP) or an existing community project your Health Council would like to support or initiate. b. Provide data on why your community needs the project and why this project aligns with your CHIP or an already existing community project. c. Develop targeted interventions, milestones, goals and objectives. Create a workplan with milestones to address the identified strategic priority.	Submission of Workplan	$7,977.00 upon submission of workplan approved by DOH. Not to exceed $7,977.00

Describe how this project will improve and impact community. d. Provide timeline for project and detailed information on the cost of the project e. Describe your staffing, partnerships, infrastructure, and ability to implement and expand your proposed project. f. Describe how you will measure success and track outcomes. Establish a monitoring and evaluation framework to assess the impact of the interventions. Describe how you will regularly collect and analyze data utilization, and outcomes. Provide key performance indicators and benchmarks to measure progress		
4.1 Update of CHIP project or Community Project provided quarterly to NMDOH	Submission of New Mexico Department of Health (NMDOH) Monthly Report by last Thursday of the Month:	NMDOH Monthly Reports $1,666.66/ea. Not to exceed $20,000.00
Total		$27,977.00

Addendum A - Section 3 Guidance

Below are examples and guidance of what is considered promotion & connection, facilitation, and implementation of needed and effective projects or programs for the Fiscal Year 2027 Health Council Scope of Work under section 3.1. **Activities are not limited to what is listed below.** A Health Council is empowered to create strategies outside of those listed below, other identified and evidence-based strategies or projects identified by the Health Councils are to be approved by the Department. Health Councils will report on activities in each of the areas of action through the quarterly report provided by NMDOH. An overview of the questions and requested information to show fulfillment of deliverables will be provided by the Department at the beginning of the fiscal year. Health Councils **cannot** report or bill the same activities to multiple New Mexico Department of Health contracts. Health Councils can choose the same initiative for this Scope of Work as other New Mexico Department of Health contracts, as long as different activities and projects are completed.

Each Health Council is able to **select a minimum of 2** of the following initiatives. The **maximum billable amount for this section is $46,000.00** to be invoiced quarterly; this can be met in whatever way a Health Council chooses. Funding will be tiered based on levels of work completed toward each initiative. A Health Council is not required to work on all three tiers of selected initiatives.

NICOTINE USE AND PREVENTION / NUPAC

Promotion & Connection ($1,000 max)	**Facilitation** ($4,000 max)	**Implementation of needed and effective projects or programs** ($15,000 max)
Actively promote use of 1-800-QUIT-NOW line or other cessation materials and resources. Engage at risk individuals and tailor promotional materials, resources, and engagement to increase your community's knowledge of the harms of nicotine and/or tobacco misuse and available cessation resources.	Host presentations and facilitate evidence-based trainings on nicotine and/or tobacco use and prevention. Identifying and engaging at risk individuals using relevant and tailored trainings to decrease nicotine and/or tobacco misuse.	- Work with local school districts to implement evidence-based prevention and cessation programs for students to avert and decrease youth nicotine and/or tobacco use. - Work on the research, creation, and adoption of policies that create nicotine and/or tobacco free environments.

PATHS TO HEALTH

Promotion & Connection ($1,000 max)	**Facilitation** ($4,000 max)	**Implementation of needed and effective projects or programs** ($15,000 max)
Actively recruit for and promote Paths to Health classes and services. Engaging individuals in connection with Paths to	Host events and connect Paths to Health to organizations or individuals that can implement Paths to Health classes in your community to increase the number of individuals engaging with Paths to	Work with Paths to Health Program to become or identify a certified trainer for a Paths to Health and hold classes to increase chronic disease

Health to increase the knowledge of Paths to Health and make impactful change to chronic disease prevention and management.	Health and preventing/managing chronic disease.	prevention and management access.

NMDOH MOBILE UNITS

Promotion & Connection ($1,000 max)	**Facilitation** ($4,000 max)	**Implementation of needed and effective projects or programs** ($15,000 max)
Actively promote already occurring mobile unit events in your community. Engaging with individuals who live/work in the area where the event will be to ensure individuals are aware of the event's offerings to increase individuals' ability to access care.	Identify locations and work with the Department to organize and host mobile unit events to increase access to healthcare services.	Identify needs in your community that are not currently available through the Department mobile units and work with the Department to bring those services to impactfully close gaps and increase access to needed care.

HARM REDUCTION

Promotion & Connection ($1,000 max)	**Facilitation** ($4,000 max)	**Implementation of needed and effective projects or programs** ($15,000 max)
Identify and promote Naloxone and harm reduction trainings and events occurring. Promoting and engaging in the process to increase the prevalence of Naloxone and other harm reduction resources.	Host Naloxone or harm reduction trainings. Engage high risk populations using relevant and tailored trainings to decrease the number of overdose deaths.	- Research and bring evidence-based harm reduction projects to increase access, decrease stigma, or address a gap in services. - Work on the research, creation, and adoption of policies to impact systems level change around harm reduction.

SUICIDE PREVENTION TRAININGS

Promotion & Connection ($1,000 max)	**Facilitation** ($4,000 max)	**Implementation of needed and effective projects or programs** ($15,000 max)
- Identify and promote suicide prevention trainings and events occurring. Tailor promotional materials to address stigma around mental health and	Host evidence-based suicide prevention trainings, tailor trainings to engage and effectively help identified	- Identify and implement new and/or current evidence-based trainings or programs to address mental health through a new approach to decrease stigma around accessing

increase individuals seeking mental health support.	populations to decrease suicide rates.	mental health services and decrease suicide rates. - Work with local law enforcement agencies to implement trainings on mental health and suicide prevention. - Work on the research, creation and adoption of mental health and suicide prevention policies to impact systems level change on the mental health care system.

988 CRISIS LINE

Promotion & Connection ($1,000 max)	**Facilitation** ($4,000 max)	**Implementation of needed and effective projects or programs** ($15,000 max)
Identify and tailor promotional materials for your community. Actively promote 988 to increase awareness.	Host 988 presentations and trainings, identifying key groups that should know about 988, increasing the number of individuals utilizing 988.	- Work to bring mobile mental health crisis teams in alignment with the 988 program to decrease the burden on law enforcement and increase the effectiveness of response to mental health crisis events. - Work on the research, creation, and adoption of crisis response solutions and policies that impact your community.

Screening, Brief Intervention, and Referral to Treatment (SBIRT)

Promotion & Connection ($1,000 max)	**Facilitation** ($4,000 max)	**Implementation of needed and effective projects or programs** ($15,000 max)
Promote and engage individuals in E-SBIRT, promoting and engaging in the process to increase the number of individuals engaging with the E-SBIRT tool.	Host SBIRT trainings, identifying organizations and providers to train in SBIRT to increase the number of individuals/organizations using SBIRT to improve access to care for substance use.	Collaborate with the New Mexico Department of Health Office of Alcohol Misuse Prevention to identify and implement new SBIRT awareness campaigns tailored to improve access to care for substance use.

GUNLOCKS

Promotion & Connection ($1,000 max)	**Facilitation** ($4,000 max)	**Implementation of needed and effective projects or programs** ($15,000 max)

Distribute gunlocks and gun safety materials, identifying locations and populations to focus promotion, distribution and education to increase gun safety knowledge.	Host gunlock and gun safety trainings tailored to your community to decrease incidences of gun violence.	- Identify and implement new gun safety awareness campaigns tailored to your community. - Work on the research, creation, and adoption of gun safety policies that will impact your community.

MEDICATIONS FOR OPIOID USE DISORDER (MOUD)

Promotion & Connection ($1,000 max)	**Facilitation** ($4,000 max)	**Implementation of needed and effective projects or programs** ($15,000 max)
Identify and promote the availability of MOUD, engaging with MOUD providers, organizations, and individuals on how and where to access MOUD services.	- Host evidence-based trainings to reduce stigma around accessing substance use treatment. - Facilitate community collaboration to discuss MOUD to assess needs, resources, and bridge gaps in care.	Develop and work on continuum of care for MOUD services.

OTHER IDENTIFIED BEHAVIORAL HEALTH NEED

Implementation of New Projects or Programs (Not to exceed $40,000
Identify, implement, and promote effective evidence-based strategies approved by the Department to address an identified and proven behavioral health need that will result in positive community impact and outcomes on behavioral health. Examples include but are not limited to: HIPAA compliant telehealth pods, transportation services for community members to access behavioral health needs, etc.

State of New Mexico
Purchase Order

PO Number to be on all Invoices and Correspondence

Department of Health
1190 St. Francis Dr
P. O. Box 26110
Santa Fe NM 87502-6110
United States

Open — **Dispatch Via Print**

Purchase Order	Date	Revision
66500-0000213473	07-01-2026	
Payment Terms	**Freight Terms**	**Ship Via**
Pay Now	FOB Destination	Best Way
Buyer	**Phone**	**Currency**
Danielle Brycelea		USD

Supplier: 0000054404
COUNTY OF TAOS
105 ALBRIGHT ST STE F
TAOS NM 87571-0000
United States

Ship To: 605 Letrado St.
Santa Fe NM 87505
United States

Bill To: 605 Letrado St.
Santa Fe NM 87505
United States

Origin: EXE **Exc\Excl#:** 13-1-98-1B

Line-Sch	Item/Description	Quantity	UOM	PO Price	Extended Amt	Due Date
1 - 1	Health Council training and organization to develop strategies for community and capacity development for Health Councils. 66500-06101-ZK5185-535300- - - - -927-K5185	1.00	EA	$106,052.00	$106,052.00	07/01/2026

Schedule Total $106,052.00

Contract ID: 27 HC 2008 00081 Contract Line: 0 Release: 1 Category Line: 0

Item Total $106,052.00

Total PO Amount $106,052.00

Agency Approval - I certify that the proposed purchase represented by this document is authorized by and is made in accordance with all State (and if applicable Federal) legislation rules and regulation. I further certify that adequate unencumbered cash and budget expenditure authority exists for this proposed purchase and all other outstanding purchase commitments and accounts payable.

Unauthorized

STATE OF NEW MEXICO SPD-101A (04/19)
GENERAL SERVICES DEPARTMENT- PURCHASING DIVISION
TERMS AND CONDITIONS UNLESS OTHERWISE SPECIFIED

1. GENERAL: When the State Purchasing Agent issues a purchase document in response to the Vendors bid, a binding contract is created.
2. VARIATION IN QUANTITY: No variation in the quantity of any item called for by this order will be accepted unless such variation has been caused by conditions of loading, shipping, packing or allowances in manufacturing process, and then only to the extent, if any, specified elsewhere in this order.
3. ASSIGNMENT:
   A: Neither the order, nor any interest therein, nor claim thereunder, shall be assigned or transferred by the Vendor, except as set forth in subparagraph 3B below or as expressly authorized in writing by the STATE PURCHASING AGENTS OFFICE. No such assignment or transfer shall relieve the Vendor from the obligations and liabilities under this order.
   B: Vendor agrees that any and all claims for overcharge resulting from antitrust violations which are borne by the State as to goods, services, and materials purchased in connection with this bid are hereby assigned to the State.
4. STATE FURNISHED PROPERTY: State furnished property shall be returned to the state upon request in the same condition as received except for ordinary wear, tear, and modifications ordered hereunder.
5. DISCOUNTS: Prompt payment discounts will not be considered in computing the low bid. Discounts for payment within 20 days will be considered after the award of the contract. Discounted time will be computed from the date of receipt of the merchandise or invoice, whichever is later.
6. INSPECTION: Final inspection and acceptance will be made at the destination. Supplies rejected at the destination for non-conformance with specifications shall be removed, at the Vendors risk and expense, promptly after notice of rejection.
7. INSPECTION OF PLANT: The State Purchasing Agent may inspect, at any reasonable time, the part of the contractors, or any subcontractor's plant or place of business, which is related to the performance of this contract.
8. COMMERCIAL WARRANTY: The Vendor agrees that the supplies or services furnished under this order shall be covered by the most favorable commercial warranties the Vendor gives to any customer for such supplies or services, and that the rights and remedies provided herein shall extend to the State and are in addition to and do not limit any rights afforded to the State by any other cause of this order. Vendor agrees not to disclaim warranties of fitness for a particular purpose or merchantability.
9. TAXES: The unit price shall exclude all State taxes.
10. PACKING, SHIPPING AND INVOICING:
    A: The States purchase document number and the Vendors name, users name and location shall be shown on each packing and delivery ticket, package, bill of lading and other correspondence in connection with the shipment. The users count will be accepted by the Vendor as final and conclusive on all shipments not accompanied by a packing ticket.
    B: The Vendors invoice shall be submitted in triplicate, duly certified and shall contain the following information: order number, description of supplies or services, quantities, unit prices and extended totals. Separate invoices shall be rendered for each and every complete shipment.
    C: Invoices must be submitted to the using agency and NOT THE STATE PURCHASING AGENT.
11. DEFAULT: The State reserves the right to cancel all or any part of this order without cost to the State, if the Vendor fails to meet the provisions of this order and, except as otherwise provided herein, to hold the Vendor liable for any excess cost occasioned by the State due to the Vendors default. The Vendor shall not be liable for any excess costs if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Vendor, such causes include, but are not restricted to, acts of God or of the public enemy, acts of the State or of the Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargos, unusually severe weather and defaults of subcontractors due to any of the above, unless the State shall determine that the supplies or services to be furnished by the subcontractor where obtainable from other sources in sufficient time to permit the Vendor to meet the required delivery scheduled. The rights and remedies of the State provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this order.
12. NON-COLLUSION: In signing this bid, the Vendor certifies he/she has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this proposal submitted to the State Purchasing Agent.
13. NON-DISCRIMINATION: Vendors doing business with the State of New Mexico must be in compliance with the Federal Civil Rights Act of 1964 and Title VII of that Act, Rev., 1979.
14. THE PROCUREMENT CODE: Sections 13-1-28 through 13-1-199 NMSA 1978 imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.
15. All bid items are to be NEW and most current production, unless otherwise specified.
16. PAYMENT FOR PURCHASES: Except as otherwise agreed to: late payment charges may be assessed against the user state agency in the amount and under the conditions set forth in section 13-1-158 NMSA 1978.
17. WORKERS COMPENSATION: The Contractor agrees to comply with state laws and rules pertaining to workers compensation benefits for its employees. If the Contractor fails to comply with Workers Compensation Act and applicable rules when required to do so, this (Agreement) may be terminated by the contracting agency.
18. GENERAL SERVICES STATEWIDE PRICE AGREEMENT: Any purchase order entered into pursuant to a Statewide Price Agreement incorporates by this language all the terms and conditions of that Statewide Price Agreement and by accepting payment under this purchase order the Contractor agrees to and accepts all the terms and conditions of the Statewide Price Agreement.

AGENDA ITEM NO.
Taos County-5333-2019

Taos County

BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REPORT

DATE:	**December 1, 2026**
SUBJECT:	**Update to County Commission on various items affecting Taos County – Brent Jaramillo, County Manager**

AGENDA ITEM NO.
Taos County-5334-2019

Taos County

BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REPORT

DATE: **December 1, 2026**

SUBJECT: **New Business to be considered at a future Commission Meeting**

AGENDA ITEM NO.
Taos County-5352-2019

Taos County

BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REPORT

DATE: **December 1, 2026**

SUBJECT: **Commissioner's Announcements**