

Daniel Beaman

Subject: FW: January 31, 2025 Directions to Applicant & Appellants

From: Dennis Kellogg <kellfamdennis@gmail.com>

Sent: Wednesday, February 12, 2025 10:50 AM

To: Wayne Johnson <wjohnson@sandovalcountynm.gov>

Cc: christine Barber <info@nmfog.org>

Subject: Re: January 31, 2025 Directions to Applicant & Appellants

February 12, 2025

Good Morning Mr. Johnson,

May I start by thanking you for your timely response to my earlier email. To clarify the issue and present the point, the county direction provided in the certified letter sent to appellants in early February and received 4-5 days later sets an expectation that all ten (10) appellants coordinate their time within a very constrictive twenty minute presentation period. The issue here is that ten appellants, with diverse and complex concerns, must first meet in advance of the February 18th hearing and in most cases eliminate important points of dispute in their individual appeal statements. In EMPAC appeal has a threshold procedural argument thirty three pages in length that logically should be heard first. That request was denied. The procedural issues presented in our appeal are critical should this entire matter be deemed appropriate and fair under existing County code. The other appeals range from State Representative Lord to the land owner who was, in his view, miss lead by the applicant and other appellants who hold vastly diverse issues they wish to present to the Commission for its consideration.

To broker the coordination effort, as directed by the County, requires extensive time and communications with parties. Representative Lord is presently performing the peoples work at the State Roundhouse while in session. I doubt the Commission wishes to either restrict the Representatives duties as an elected official or require her to drop her important work for the people and take extensive time to coordinate and condense the record in her appeal with nine other diverse parties.

In conclusion, the only reasonable and fair approach to meeting the Commissions direction to condense presentations is to defer the February 18th hearing so to allow the diverse appellant group of ten to communicate with each other, decide to limit their respective points and arguments of appeal and construct a twenty minute presentation as per the direction provided. Therefore, I respectfully ask that the scheduled hearing be **deferred** to allow for this required process to occur and to not reschedule the hearing until after the current legislative session is complete so all parties may participate. This allows all parties to decide how to limit their information and address their key and important points. It is fundamentally unfair to require an instance action at the hearing and have ten appellants agree on individual case arguments.

As I am certain the Commission is aware, this topic in a bordering County has taken far more time to allow for public input and gaining consensus among diverse groups and individuals is not a simple task. The Diamond Tail/PCR Energy request for a Utility District (Special Use) be created by rezoning in the Sandia Basin deserves thorough and complete public review. There exists no pressing need for the applicant to advance this proposal further. The applicant may be from a foreign country and unfamiliar with our public participation model of government, but that gives them no standing above the citizens of New Mexico or the residents of the East Mountains.

As a point of interest, there is currently legislation that is being written to require large battery storage power plants supported by solar arrays to be sited in select areas of the State and will give the industry and local governing bodies direction on how to support this choice within the energy generation sector. To my knowledge and as a foundational supporter of this legislation, the project now in question and before the Commission would not qualify under the approaching regulation.

I ask for your consideration of this request to defer and if granted I am confident any hearing on this issue will be substantive and productive.

Dennis Kellogg
President, EMPAC

On Feb 11, 2025, at 4:54 PM, Wayne Johnson <wjohnson@sandovalcountynm.gov> wrote:

Mr. Kellogg,

I am a little unclear as to what you are requesting. The hearing on Tuesday, February 18, 2025 is for the specific purpose of hearing the appeal of the decision by the Sandoval County Planning and Zoning Commission. The County's ordinance requires us to hold the appeal within 30 days of the closing of the 30 day appeal window. As I indicated in previous conversations with you and Ms. Yank, I would place any request before the Chair of the Commission for his consideration. Your last request was for an additional hearing to hear the specific issue of "abuse of discretion" by Mr. Beaman (attached). That request was denied by Chair Meek (attached). Given the denial, I am assuming that your request below is not for an additional hearing, but it's unclear whether you are requesting a **deferral** or **additional time** in the hearing to present your case. If the latter, then any additional time granted to the appellants as a whole would be granted to the applicant and it would be helpful to know how much time you are requesting. If the former, I will present your request to the Chair and solicit a response on the request from the applicant. The Chair will then be able to make a determination regarding whether or not to grant a deferral. Remember, it is also appropriate for you or any of the named appellants to request a deferral or additional time at the hearing.

Please let me know with specificity what it is that you are requesting below so that I can act accordingly.

Best,

<image001.png> **Wayne A. Johnson**
County Manager
o. 505.867.7551
c. 505.934.2152
www.sandovalcountynm.gov

From: Dennis Kellogg <kellfamdennis@gmail.com>
Sent: Tuesday, February 11, 2025 4:20 PM
To: Wayne Johnson <wjohnson@sandovalcountynm.gov>
Cc: christine Barber <info@nmfog.org>; Dennis Kellogg <kellfamdennis@gmail.com>
Subject: January 31, 2025 Directions to Applicant & Appellants

February 11, 2025

Dear Mr. Johnson,

As we approach the February 18, 2025 appeal hearing, in the matter of Diamond Tail Ranch/PCR Energy (ZNCH-24-005) request to rezone 1833 acres for the purpose of constructing a battery storage power plant supported by solar, I again am reviewing

the ground rules for the hearing outlined in Chairman Meek's January 31, 2025 letter.

This letter directs, by expectation, that ten diverse appellants coordinate presentations to maintain what can only be consider an unreasonable timetable. I find it a possible/probable violation of applicable State law that a government entity directs appellants how they must perform their individual appeal arguments, considering each appellant paid the \$100 filing fee. These fees secure a place at the table to present argument on multiple points of appeal that have been carefully presented in the appeal statements. Given the extreme limit of twenty minutes and the diverse issues presented in ten separate appeals, this order requires that choices must be made to limit, in presentation, critical issues. How is that representational government?

In conclusion, should the County continue down this course on limiting participation in this matter which by the way Santa Fe County, in a similar case, provided one and one half days of presentation time, it appears Sandoval County has made up its mind and wishes only to rush to judgement. This course indicate a natural cause for litigation and that benefits neither party. I ask that as the County's top executive you address this issue or at a minimum provide adequate additional time for the ten separate parties to meet your goal for coordination. That requirement requires extensive discussion and meetings outside the hearing. Respecting our democracy is an expectation that Sandoval County residents and tax payers have for our government.

Your timely response is appreciated.

Dennis Kellogg
President, EMPAC

<Memo to Meek Johnson on Separate Appeal.pdf><TTRA EMPAC Request for Separate Hearing Determination.pdf>