IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

SOUTHWEST ENERGY EFFICIENCY PROJECT, ENVIRONMENT NEW MEXICO, SUNDANCER CREATIONS CUSTOM BUILDERS, LLC, eSOLVED, INC., the SIERRA CLUB, TAMMY FIEBELKORN, FAREN DANCER, SANDERS MOORE, ERIKA WOLF, and SOMMER BATTERSON,

Appellants,

v.

NO. 31,383, consolidated with 31,384; 31,385; and 31,386

THE NEW MEXICO CONSTRUCTION INDUSTRIES COMMISSION, the NEW MEXICO CONSTRUCTION INDUSTRIES DIVISION, and RICHARD W. TAVELLI,

Appellees.

ORDER ON MOTION FOR CONTEMPT

The original panel has considered Appellants' Motion for an order holding the Construction Industries Division (CID) and Katherine Martinez in contempt in light of Appellees' response to the motion as well as subsequent filings culminating in Appellees' "Notice of Completion."

The Court finds:

1. CID's initial response to the Opinion was both unfortunate and inappropriate. The Opinion was clear in its analysis and effect and the end result was readily predictable given our case law.

2. It is clear from Appellees' Motion for Rehearing that Appellees made no plans for a course of action in the event it lost the case.

3. It is also clear that Appellees do not question the basic rationale of the Opinion. Rather what they desired was a stay of its effective date in order to avoid the consequences of their failure to plan for contingencies.

4. Thus, Appellants' motion was not inappropriate, but was likely filed too hastily.

5. Events have overtaken the basis for Appellants' motion. Appellees have apparently reacted with reasonable promptness to the Opinion.

We conclude that there has been no flouting of the Court's ruling or authority in this relatively short time frame which requires the exercise by the Court of its contempt power.

The motion is therefore DENIED.

MICHAEL D. BUSTAMANTE, Judge

LINDA M. VANZI, Judge

TIMOTHY L. GARCIA, Judge