

received  
6/6/2013

**J. Edward Hollington & Associates, P.A.**

Law Offices  
708 Marquette Avenue, N.W.  
Albuquerque, New Mexico 87102

J. Edward Hollington, Esq.  
Recognized Civil Trial Specialist  
Trained Mediator

(505) 843-9171  
Fax (505) 843-7027  
Edward708@aol.com

Also Admitted:  
State of Colorado

June 5, 2013

James Cherry  
805 Kelly Road  
Magdalena, NM 87815

Re: *Kathy Torres v. SEC*  
Seventh Judicial Case No. CV 2011-120

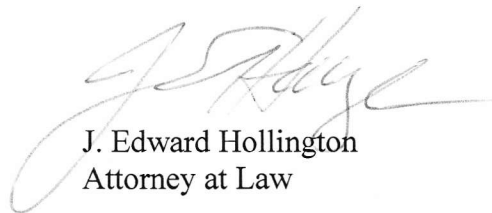
Dear Mr. Cherry:

Please find enclosed a Subpoena for Production or Inspection of Documents in the above-referenced matter. The Subpoena requires production of an unedited copy of the video/audio recording of the regular meeting of the Board of Trustees held on March 27, 2013. You may comply by mailing the copy of the video/audio recording anytime on or before June 25, 2013.

If you have any questions, please feel free to contact me.

Sincerely,

J. EDWARD HOLLINGTON & ASSOCIATES, P.A.



J. Edward Hollington  
Attorney at Law

JEH/sf

cc: Aaron C. Viets, Esq.  
Krystle Thomas, Esq.  
Kathy Torres

COPY

SEVENTH JUDICIAL DISTRICT  
STATE OF NEW MEXICO  
COUNTY OF SOCORRO

KATHY TORRES,

Plaintiff,

vs.

Case No. D 725-CV-2011-120

SOCORRO ELECTRIC COOPERATIVE, INC.,  
PAUL BUSTAMANTE AND CHARLES WAGNER,  
Defendants.

**SUBPOENA FOR PRODUCTION OR INSPECTION<sup>1</sup>**

**SUBPOENA FOR**

**DOCUMENTS OR OBJECTS<sup>2</sup>**  
 **INSPECTION OF PREMISES<sup>2</sup>**

TO: **James Cherry**  
**The Informed Cynic**  
**805 Kelly Road**  
**Magdalena, NM 87815**

YOU ARE HEREBY COMMANDED ON:  
DATE: **June 25, 2013** TIME: **10:00 a.m.**  
TO:  to produce the following document:

1. **Entire unedited video/audio recording of the regular meeting of the Board of Trustees of Socorro Electric Cooperative held on March 27, 2013.**

at: **J. Edward Hollington, Esq.; 708 Marquette N.W., Albuquerque, NM 87102**

[ ] permit the inspection of the premises located at: \_\_\_\_\_ (address).

ABSENT A COURT ORDER, DO NOT RESPOND TO THIS SUBPOENA UNTIL THE EXPIRATION OF FOURTEEN (14) DAYS AFTER THE DATE OF SERVICE OF THE SUBPOENA.

DO NOT RESPOND TO THIS SUBPOENA FOR PRODUCTION OR INSPECTION IF YOU ARE SERVED WITH WRITTEN OBJECTIONS OR A MOTION TO QUASH UNTIL YOU RECEIVE A COURT ORDER REQUIRING A RESPONSE.

You may comply with this subpoena for production or inspection by providing legible copies of the items requested to be produced by mail or delivery to the attorney whose name appears on this subpoena. You may condition the preparation of the copies upon the payment in advance of the reasonable cost of inspection and copying. You have the right to object to the production pursuant to this subpoena as provided below.

**READ THE SECTION "DUTIES IN RESPONDING TO SUBPOENA".**

IF YOU DO NOT COMPLY WITH THIS SUBPOENA you may be held in contempt of court and punished by fine or imprisonment.

June 5, 2013

\_\_\_\_\_  
Judge, clerk or attorney

**RETURN FOR COMPLETION BY SHERIFF OR DEPUTY**

I certify that on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, in \_\_\_\_\_ County, I served this subpoena on \_\_\_\_\_ by delivering to the person named a copy of the subpoena and a fee of \$ \_\_\_\_\_ (insert the amount of fee tendered or, if no fee is tendered, "none")<sup>3</sup>.

\_\_\_\_\_  
Deputy sheriff

**RETURN FOR COMPLETION BY OTHER PERSON  
MAKING SERVICE**

I, being duly sworn, on oath say that I am over the age of eighteen (18) years and not a party to this lawsuit, and that on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, in \_\_\_\_\_ County, I served this subpoena on \_\_\_\_\_ by delivering to the person named a copy of the subpoena and a fee of \$ \_\_\_\_\_ (insert the amount of fee tendered or, if no fee is tendered, "none")<sup>3</sup>.

\_\_\_\_\_  
Person making service

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (date).

\_\_\_\_\_  
Judge, notary or other officer  
authorized to administer oaths

THIS SUBPOENA issued by or at request of:

J. Edward Hollington, Esq.

Name of attorney of party

708 Marquette N.W., Albuquerque, NM 87102

Address

(505) 843-9171

Telephone

**CERTIFICATE OF SERVICE BY ATTORNEY**

I certify that I caused a copy of this subpoena to be served on the following persons or entities by mail on this 5th day of June, 2013.

TO:

Aaron C. Viets  
Rodey, Dickason, Sloan, Akin & Robb PA  
PO Box 1888  
Albuquerque, NM 87103

Agnes Fuentesvilla Padilla  
Butt, Thornton & Baehr, P.C.  
PO Box 3170  
Albuquerque, NM 87190-3170

J. Edward Hollington, Esq.  
Attorney

[Handwritten Signature]  
Signature

6/5/13  
Date of signature

**TO BE PRINTED ON EACH SUBPOENA**

1. This subpoena must be served on each party in the manner provided by Rule 1-005 NMRA. If service is by a party, an affidavit of service must be used instead of a certificate of service.
2. A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.
3. If a person's attendance is commanded, one full day's per diem must be tendered with the subpoena, unless the subpoena is issued on behalf of the state or an officer or agency thereof. Mileage must also be tendered at the time of service of the subpoena as provided by the Per Diem and Mileage Act. *See* Section 38-6-4 NMSA 1978 for per diem and mileage for witnesses. *See* Paragraph A of Section 10-8-4 NMSA 1978 for per diem and mileage rates for nonsalaried public officers. Payment of per diem and mileage for subpoenas issued by the state is made pursuant to regulations of the Administrative Office of the Courts. *See* Section 34-9-11 NMSA 1978 for payments from the jury and witness fee fund.

**PROTECTION OF PERSONS SUBJECT TO SUBPOENAS**

A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps

to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

Subject to Subparagraph (2) of Paragraph D below, a person commanded to produce and permit inspection and copying may, within fourteen (14) days after service of the subpoena or before the time specified for compliance if such time is less than fourteen (14) days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises or within fourteen (14) days after service of the subpoena may file a motion to quash the subpoena and serve the motion on all parties to the action. If an objection is served or a motion to quash is filed and served on the parties, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

- (1) fails to allow reasonable time for compliance,
- (2) requires a person who is not a party or an officer of a party to travel to a place more than one hundred miles from the place where that person resides, is employed or regularly transacts business in person, except as provided below, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or
- (3) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (4) subjects a person to undue burden.

If a subpoena:

- (1) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (2) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (3) requires a person who is not a party or an officer of a party to incur substantial expense to travel,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

#### **DUTIES IN RESPONDING TO SUBPOENA**

- (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

- (2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.
- (3) A person commanded to produce documents or material or to permit the inspection of premises shall not produce the documents or materials or permit the inspection of the premises if a written objection is served or a motion to quash has been filed with the court until a court order requires their production or inspection.

[As amended, effective November 1, 2002; as amended by Supreme Court Order No. 08-8300-002, effective March 15, 2008; by Supreme Court Order No. 09-8300-030, effective October 12, 2009.]