

# SAN BENITO COUNTY PLANNING COMMISSION

## October 20, 2010

### MINUTES

COMMISSIONERS: Richard Bettencourt; Jeff Culler; Dan DeVries;  
Gordon Machado; and Robert Scattini

COUNTY STAFF: Director of Planning (DoP) Gary Armstrong; Assistant Director of Planning (ADoP) Byron Turner; Assistant County Counsel (ACC) Barbara Thompson; Interim County Administrative Officer Rich Inman; Public Works Engineer (PWE) Art Bliss and Clerk Trish Maderis.

Chair Scattini called the meeting to order at 6:00 PM as he led the pledge of allegiance to the flag. Clerk Maderis noted all Commissioners present.

#### **DIRECTOR'S REPORT:**

DoP Armstrong reported the regular meeting scheduled for November 3, 2010 has been cancelled by the Chair and the next regular meeting will be held on November 17, 2010.

#### **CONSENT AGENDA:**

1. Acknowledge Public Hearing Notice
2. Acknowledge Certificate of Posting

Commissioner Machado moved to approve Consent Agenda Items No. 1, 2; Commissioner Bettencourt offered a second to the motion which passed 5-0.

#### **PUBLIC COMMENT:**

Chair Scattini opened and closed the Public Comment period as no one wished to address the Commission on items not appearing on the Agenda.

**PUBLIC HEARING:**

**3. Conditional Use Permit No. 1023-09 - Panoche Valley Solar Farm Project**

The San Benito County Planning Commission will hold a Public Hearing to consider and take, if desired, the following actions:

- (1) Make any findings required by CEQA and the San Benito County Code, including § 25.43.004 and
- (2) Approve of Conditional Use Permit 1023-09 (Panoche Valley Solar Farm project).

UP 1023-09 by Solargen Energy Inc., originally requested a conditional use permit to construct and operate a 420 megawatt (“MW”) photovoltaic solar power plant on land zoned “Agricultural Rangeland” over an area of approximately 4885 acres, with development on approximately 2474 acres, in the Panoche Valley in the unincorporated eastern portion of San Benito County. The project includes, but is not limited to: the construction of 3-4 million solar arrays, support structures, inverters and transformers, a substation (including an operation and maintenance building and transmission interconnection towers), septic system and leach field, wastewater treatment facility and demineralization pond, onsite access roads, security fencing, transmission support towers and line(s), and buried electrical conduit. However, since the application was submitted and as a result of the environmental review process, the County has identified a feasible alternative, Alternative A Revised (“RAA”), that further reduces the size and scope of the project. If RAA is selected a conditional use permit to construct and operate a 399 MW, which would occupy 3,202 acres of the 4,885 acre project site, would be approved. The remaining 1,683 acre area would be preserved as an open space/conservation area. Of the 3,202 acres, development would occur on approximately 2,203 acres.

The Planning Commission will also consider, and potentially adopt a resolution recommending that the Board of Supervisors adopt an ordinance approving a proposed development agreement between Solargen Energy Inc. and the County of San Benito.

The project is described in detail in the FEIR issued for the project, which may be found at [www.panochesolar.info](http://www.panochesolar.info) or [www.san-benito.ca.us](http://www.san-benito.ca.us).

Chair Scattini called for Agenda Item No. 3, DoP Armstrong introduced the project advising the project description and details would be presented by ADoP Turner.

**NOTE:** Melinda Nunley, Certified Shorthand Reporter – CSR# 9332 has provided transcript minutes for this meeting and are included for review and adoption by the Planning Commission.

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SAN BENITO COUNTY  
PLANNING COMMISSION  
REGULAR MEETING  
ITEM 3  
TRANSCRIPT OF PROCEEDINGS

Date: Wednesday, October 20, 2010  
Time: 6:00 p.m.  
Location: Board of Supervisors Chambers  
481 Fourth Street  
Hollister, California 95023

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COMMISSIONERS

JEFF CULLER, District 1  
DAN DeVRIES, District 2  
GORDON MACHADO, District 3  
RICHARD BETTENCOURT, District 4  
ROBERT SCATTINI, District 5

STAFF

GARY ARMSTRONG  
Planning Director  
BYRON TURNER  
Assistant Planning Director  
BARBARA THOMPSON  
Assistant County Counsel  
TRISH VIEIRA-MADERIS  
Administrative Manager

CONSULTANTS

SUSAN LEE, Aspen Environmental  
Project Manager  
MARISA MITCHELL, Aspen Environmental  
Deputy Project Manager

Reported By:

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1 CHAIR SCATTINI: Please rise for the salute.

2 (The Pledge of Allegiance was taken.)

3 CHAIR SCATTINI: Is the role noted?

4 MS. VIEIRA-MADERIS: Role is noted. All  
5 commissioners are present as well as staff.

6 CHAIR SCATTINI: Okay. You want to give  
7 your spiel?

8 MR. ARMSTRONG: Thank you, Mr. Chairman and  
9 commissioners. Good evening. We have cancelled the  
10 upcoming November 3rd planning commission meeting due  
11 to a very limited agenda, and as many of you know, the  
12 board of supervisors has requested that we go to one  
13 meeting per month after the first of the year for  
14 planning commission meetings, but we will have meetings  
15 if necessary, call special meetings if our agenda  
16 warrants it.

17 CHAIR SCATTINI: Okay. If you're going to  
18 speak up, I just want to make a few comments how we're  
19 going to run this meeting tonight. We have a lot of  
20 people here and a lot of speaker cards. What I'm going  
21 to do, and I'm just going to throw this out. You have  
22 3 minutes to speak. Everybody has 3 minutes. When  
23 that bell rings, I expect you to sit down and let the  
24 other speaker come aboard, so Trish, you're going to  
25 call the second speaker?

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1 MS. VIEIRA-MADERIS: Mr. Chair, I ask that  
2 if someone is taking the next 3 minutes for someone,  
3 that they announce the party they're speaking on behalf  
4 of and I start the clock again.

5 CHAIR SCATTINI: I have no problem with that  
6 if someone wants to give up their time, but I'm going  
7 to hold it to 3 minutes and I'm very sincere about  
8 that, and I don't want you to keep talking because if  
9 you keep talking, I'm going to ask you to leave the  
10 room. We have a lot of people to speak tonight and  
11 this meeting is going to be long and a lot of it is  
12 going to be redundant, and I would expect that you  
13 treat the speaker with respect, okay? Because that's  
14 the rules.

15 Public comments, anyone want to speak on  
16 anything that's not on the agenda, fill out a speaker  
17 card and come up to our clerk.

18 Consent agenda.

19 COMMISSIONER MACHADO: Chair, I make a  
20 motion to adopt Items 1 and 2.

21 COMMISSIONER BETTENCOURT: Second.

22 CHAIR SCATTINI: All those in favor?

23 THE COMMISSION UNANIMOUSLY: Aye.

24 CHAIR SCATTINI: Gary?

25 MR. ARMSTRONG: Mr. Chairman, Byron Turner

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1 will be giving a staff presentation tonight but I did  
2 want to point out we have Aspen Environmental,  
3 Ms. Susan Lee and Marisa Mitchell here to answer any  
4 questions in that regard, and as Byron runs through the  
5 agenda, we're going to do a description of the process,  
6 the proposed projects, and staff recommendations.  
7 We're going to have a brief presentation by the  
8 applicant and then, with your permission, go to public  
9 comments.

10 CHAIR SCATTINI: Thank you.

11 MR. TURNER: Okay. Thank you. First off  
12 I'm going to start with some of the milestones of where  
13 we've been with the project up to now. The Use Permit  
14 Application, we should point out that this is a Use  
15 Permit Application that we're hearing this evening for  
16 the Panoche Valley Solar Farm. The Use Permit  
17 Application was filed in October 2009. We determined  
18 that an environmental impact report would be required  
19 for this process so we had -- went through the CEQA  
20 scoping process. The scoping meetings are where the  
21 public gets to weigh in on what the EIR needs to  
22 analyze.

23 CHAIR SCATTINI: Excuse me, Byron. Would  
24 you give the Use Permit number, please?

25 MR. TURNER: Use Permit number is

7

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1 1023-dash-09.

2 CHAIR SCATTINI: Thank you.

3 MR. TURNER: So after the scoping meetings,  
4 the EIR analysis was done. That began March through  
5 June. Much of the analysis continued, however,  
6 throughout this entire process. The Draft EIR was  
7 released on June 25th, 2010. We had the Draft EIR  
8 public comment meeting in July here in front of the  
9 planning commission. The public comment period closed  
10 at the end of August. The Final EIR was published  
11 September 30th. The EIR certification hearing and  
12 Williamson Act Contract cancellation as well as the  
13 Water Supply Assessment were approved October 12th,  
14 2010, where the EIR was certified as well, and then  
15 tonight we are at the Use Permit hearing and  
16 Development Agreement recommendation.

17 Behind me is a graphic representing where we  
18 are. This is the second to last step in the process.  
19 The final step would be to -- if the -- if this  
20 commission recommends approval of the Development  
21 Agreement to the board, we'll be going to the board of  
22 supervisors on that. Also the decision on the Use  
23 Permit can be appealed to the board as well.

24 So the original project, the original  
25 proposed project --

1                   COMMISSIONER BETTENCOURT: Excuse me,  
2 Byron.

3                   MR. TURNER: Yes.

4                   COMMISSIONER BETTENCOURT: I've got a  
5 question before we go any further. If it's not  
6 appealed, is this the final decision tonight?

7                   MR. TURNER: If it's not appealed, the  
8 decision on the Use Permit, this is final tonight, but  
9 the Development Agreement still needs to be heard by  
10 the board of supervisors.

11                   COMMISSIONER BETTENCOURT: Okay. Thank  
12 you.

13                   MR. TURNER: So I'm not going to spend a  
14 whole lot of time on the original proposed project  
15 because through the planning and the CEQA process, the  
16 project has been changed. When the alternatives were  
17 adopted, I will go into how the project changed, but  
18 when the planning commission saw the project on July  
19 21st, it consisted of a 420-megawatt power plant. It  
20 had -- it was consisting of about 4,885 acres with  
21 maximum height of panels of 25 feet. This is the  
22 layout of the original project. You can see the  
23 different phases. This is important and I'll show you  
24 another map later where the project stands today.

25                   Through the CEQA process the Final EIR then

1 came out and I'll tell you about what changed from the  
2 Draft EIR. There were some applicant revisions, the  
3 addition of some high quality mitigation land for  
4 endangered species, about 10,900 acres added to the  
5 original 10,331 acres. The blunt-nosed leopard lizard  
6 protocol surveys were completed for Phase 1 and the  
7 development of Alternative A Revised which was a  
8 smaller area for the solar field with reconfiguration  
9 of the panels to avoid the blunt-nosed leopard lizard  
10 and to preserve more project area for the protected  
11 species.

12 There's also revisions on the county's side.  
13 The Final EIR consisted of responses to comments,  
14 Number 1. There was also more biological resources  
15 mitigation, 5 new mitigation measures were added to  
16 preserve and manage giant kangaroo rat corridors and  
17 bird protection, and many of the mitigation measures  
18 for biology were expanded and strengthened, and  
19 mitigation measures were also added for noise regarding  
20 the pile-driving and some hazards on the pond  
21 management.

22 So the revised Alternative A, those changes  
23 resulted in this Alternative A which is the one that  
24 was approved by the board. It's now a 3,202-acre solar  
25 field. That's 1500-plus acres smaller than the

1 original proposal, 399 megawatts. This alternative  
2 avoids the highest density endangered species habitat  
3 and creates conservation areas within the project  
4 boundary, and the panels are half as tall. This is the  
5 configuration now, the Revised Alternative A  
6 configuration. And I'll return to this throughout  
7 the -- throughout the presentation.

8                   The Alternative A Revised reduced many of  
9 the impacts. The access roads avoid most flood plains,  
10 mitigation measures that require avoidance of the flood  
11 plains. The impacts to protect the species were less  
12 significant with the mitigation for Revised Alternative  
13 A. The biological resource impacts are mitigatable and  
14 less than significant Class II with new mitigation, and  
15 it reduced some of the visual and noise impacts.

16                   Also included is the expanded mitigation  
17 land proposal. In the red was the original proposal,  
18 the Valadaeo Ranch. As I mentioned before, the Silver  
19 Creek Ranch has been added as part of the mitigation  
20 lands, an additional 10,000 acres of high quality  
21 habitat land.

22                   So in summary, Alternative A, Revised  
23 Alternative A, biological resource impacts are less  
24 than significant, additional mitigation lands provided  
25 added compensation for protected species, and the

1 additional mitigation lands and new mitigation measures  
2 also reduced cumulative impacts to less than  
3 significant levels.

4 Another action that the board took on  
5 October 12th along with EIR certification and  
6 Williamson Act cancellation was they approved the Water  
7 Supply Assessment. That was to assess the adequacy of  
8 the long-term water supply to serve the project. The  
9 conclusion of that assessment was that the water supply  
10 is adequate to serve the project and cumulative growth  
11 within the valley and the water requirements would not  
12 have any adverse impacts to the available water supply.

13 So the reason why the project has been  
14 organized in the way that it has with regard to why the  
15 EIR went first and -- as opposed to going to the  
16 planning commission in the traditional sense where we  
17 can take it to the planning commission and then the  
18 board, we had to go to the board first for EIR  
19 certification. In order for the Use Permit to be  
20 considered by the planning commission, a decision on  
21 cancelling the Williamson Act had to be made first.  
22 Now, that decision to cancel Williamson Act contracts  
23 was subject to CEQA, so the EIR had to be certified  
24 prior to cancelling the Williamson Act contracts. That  
25 was done on October 12th.

12

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1                    Besides the Use Permit for the project, the  
2                    Development Agreement is also before you this evening.  
3                    The Development Agreement or DA that has been  
4                    negotiated includes agreement to provide the county  
5                    with payments above the assessed value to provide  
6                    funding for future county improvement projects.  
7                    There's a potential for sales tax revenue, local  
8                    training and hiring, a decommissioning fund to ensure  
9                    that nothing is left on site should the project go  
10                   away, and that off-site mitigation lands are held as  
11                   open space in perpetuity.

12                   So in order to approve the Use Permit and I  
13                   should point out that the Development Agreement is a  
14                   recommendation to the board. This commission will make  
15                   a recommendation of approval or denial of the  
16                   Development Agreement to the board while making a  
17                   decision on the Use Permit.

18                   So in order to approve the Use Permit, the  
19                   planning commission must make the following findings:  
20                   First a CEQA finding that no subsequent EIR  
21                   supplemental EIR or addendum is required pursuant to  
22                   CEQA and CEQA guidelines, then the Use Permit that the  
23                   use is deemed essential or desirable to the public  
24                   convenience and welfare, that the use is in harmony  
25                   with the various elements or objectives of the General

1 Plan, that the proposed use is properly located in  
2 relation to the General Plan and the community as a  
3 whole and to other land uses, transportation and  
4 service facilities in the vicinity, and the fourth  
5 finding that we need to make, fourth Use Permit  
6 finding, that the proposed use, if it complies with all  
7 the conditions on which approval is made contingent,  
8 will not adversely affect other properties in the  
9 vicinity or cause damage, hazard or nuisance to persons  
10 or property. Evidence for each of these findings are  
11 found in your staff report.

12 So the recommendation, staff's  
13 recommendation tonight then is to, Number 1, to make  
14 the CEQA findings and the Use Permit findings set forth  
15 on pages 8 through 22 of the staff report and approve  
16 Use Permit 1023-dash-09 subject to the Conditions of  
17 Approval contained in the staff report, and Number 2,  
18 adopt the Resolution 2010-dash-14 recommending that the  
19 board of supervisors adopt an ordinance approving the  
20 proposed Development Agreement with Solargen Energy.

21 I'm available for questions. We do have our  
22 consultants here who worked very, very hard on this  
23 project, Susan and Marisa, and it's my understanding  
24 that the applicant would wish to make a small  
25 presentation as well, and I'll leave the Alternative A

14

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1 Revised map up on the screen for reference.

2 CHAIR SCATTINI: If the applicant would like  
3 to make a statement?

4 MR. PETERSON: I won't say much, but thank  
5 you. It's good to be here with you tonight and I  
6 appreciate all the time and effort you all have spent  
7 coming and trying to understand this plan. I'd like to  
8 thank the planning -- the department, the staff and  
9 everyone who's worked so hard. They've done a great  
10 job. They've worked and done a great job over a long  
11 period of time. Appreciate all the time they've spent  
12 and appreciate the recommendation.

13 So that being said, thank you for this day.  
14 We will be here to answer any questions. We have -- as  
15 I said, we have our consultants and specialists and  
16 members of our team to answer any questions that I'm  
17 sure will come up that you may have.

18 I'd like to turn the time over to Bradley  
19 Sullivan of Lombardo & Gilles. He's going to spend a  
20 few minutes talking about the Use Permit as well as the  
21 Development Agreement.

22 MS. VIEIRA-MADERIS: Mr. Chair, excuse me.  
23 Would you remind people to state their name for the  
24 record --

25 MR. PETERSON: Michael Peterson.

1 MS. VIEIRA-MADERIS: -- since we have a  
2 court reporter present. Thank you.

3 CHAIR SCATTINI: When you come to the  
4 podium, be sure to state your name for the  
5 stenographer.

6 MR. SULLIVAN: Good evening Mr. Chair and  
7 members of the planning commission. My name is Brad  
8 Sullivan, Lombardo & Gilles, the Hollister office, and  
9 I want to voice my support for the staff, the county  
10 staff, and the CIO's office, planning, all the  
11 department heads. They've worked very hard on this.  
12 Their efforts and their recommendation of approval  
13 really feel good after this past year.

14 I would like to briefly address both points  
15 tonight which are the Conditional Use Permit and the  
16 Development Agreement, and not only myself but other  
17 members of the legal team, the biological and the  
18 engineering are here to answer any questions that may  
19 come up during the public hearing and for that purpose  
20 I'd like to reserve some time at the end of the hearing  
21 so that, rather than having a back-and-forth during the  
22 public hearing, that we could address any of the --  
23 excuse me, any of the issues that come up during that  
24 time.

25 As Byron said, on the Conditional Use

1 Permit, balancing the General Plan considerations and  
2 the effect it has on the environment, the neighbors,  
3 the community, the county in general, would lead to the  
4 Conditional Use Permit. That's the process that has  
5 been done. If you're looking at your staff report  
6 though, you may be somewhat surprised that there's only  
7 11 conditions of approval, and that is because we in  
8 the Development Agreement have undertaken an annual  
9 review process which would include the EIR's -- I think  
10 it's 65 mitigation monitoring and reporting  
11 requirements that we will be reporting to the planning  
12 department annually on those, and also the 66 items  
13 that we are calling -- or that were called Applicant  
14 Proposed Mitigation. These were what at the beginning  
15 of the EIR process we believed would adequately address  
16 the environmental concerns. During the process 65 --  
17 or actually more were noted, and that's one of the  
18 reasons why the project shrunk. So if you were looking  
19 at it and thinking "my gosh, you know, we've had 20  
20 conditions of approval on a lot smaller projects than  
21 this," we're really talking about the first 24 pages of  
22 the staff report plus the Applicant Proposed Mitigation  
23 that will be included and are part of the Conditions of  
24 Approval, or we're asking them to be because they will  
25 be included in our annual report.

17

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1                   In the Development Agreement too, we think  
2 there are substantial county benefits above and beyond  
3 the project as a whole, and to summarize, there are  
4 voluntary payments that are being made and these are  
5 payments that have been exempted by the State of  
6 California that the proponents here, the applicants  
7 here have voluntarily made. We are taking steps in the  
8 agreement, and by making it binding in the Development  
9 Agreement which will be an ordinance, it will assist us  
10 in negotiating with the contractors and suppliers so  
11 that sales and use taxes are realized in this county  
12 and not where any of these people may have businesses,  
13 and those -- those are significant.

14                   We are also going to pay up to \$50,000 for a  
15 county project of Mr. Witry's choice basically. We  
16 haven't wanted to become too specific only because it  
17 is something that has come up late in the Development  
18 Agreement negotiations and we didn't want to kind of  
19 complicate the EIR by bringing that in late.

20                   We're also setting up a decommissioning fund  
21 based on California Energy Commission findings and PG&E  
22 studies where we are putting \$26,500 per installed  
23 kilowatt hour -- or kilowatt into a fund that the  
24 county will administer for cleaning up. This was a  
25 concern that many people have had.

1                   We've also taken steps in the Development  
2 Agreement to make sure that in any project labor  
3 agreement that's negotiated with contractors or with  
4 unions, that preference be given to San Benito County  
5 residents, which means that a person in local -- who is  
6 local will be hired before a person with more seniority  
7 unless we need that person's specific skill set. As  
8 part of that, we are working -- we've also set up with  
9 Enrique Areola and the county's one-stop planning to  
10 assist and work with both our engineering procurement  
11 contractor and the labor unions to have a ready pool of  
12 applicants here within the county.

13                   These promises, by doing the ordinance and  
14 doing the Development Agreement, will run with the  
15 project. Concern that many people have had in the  
16 community is that, you know, no one has a crystal ball  
17 what will take place 20 or 30 years down the road, but  
18 these ordinances, by making it a Development Agreement,  
19 will bind them.

20                   I'm through. If you have any questions  
21 right now, I'd be happy to answer them. Otherwise, I  
22 think I'd like to reserve some time so that we can send  
23 up the appropriate consultant to address the  
24 commission's questions later.

25                   CHAIR SCATTINI: Any questions?

1 MR. SULLIVAN: Thank you.

2 CHAIR SCATTINI: Okay. At this time I'm  
3 going to open it up to public hearing.

4 MS. VIEIRA-MADERIS: I have 19 speaker cards  
5 submitted. The first one I'll call is Kevin Davis.

6 COMMISSIONER MACHADO: May I ask a question  
7 of staff?

8 Byron, could you -- the CEQA, the EIR, those  
9 are taken care of already, right, by the board?

10 MR. TURNER: Yes. The board of supervisors  
11 certified the EIR. That's a done deal. Now we're just  
12 looking at the actual project which is the Use Permit.  
13 The EIR was a disclosure document to inform about the  
14 impacts of the project.

15 COMMISSIONER MACHADO: Thank you.

16 CHAIR SCATTINI: Go ahead. I'm sorry.

17 MS. VIEIRA-MADERIS: State your name for the  
18 record, please.

19 MR. DAVIS: Good evening. My name is Kevin  
20 Davis. I'm a landowner in Panoche. Well, here I am  
21 again in front of a bunch of people I don't know, and  
22 up until last night I wasn't sure just what your job is  
23 as the planning commission. I found out there is a  
24 document called the General Plan. The General Plan is  
25 the official document governing the board of

20

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1 supervisors and planning commissions and administrative  
2 decisions regarding zoning, subdivisions and public  
3 improvements. On San Benito's website the General  
4 Plan acts as the 'constitution.'" Sounds like it's  
5 written by the people for the people. I quote "not  
6 only must the General Plan be internally consistent,  
7 but the county zoning and subdivision ordinances must  
8 be consistent with the General Plan." That's  
9 Government Code Section 65860 and -661, et sequitur,  
10 sequential. Even Development Agreements need to be  
11 consistent with the General Plan.

12 I see that Panoche Valley is mentioned  
13 several times in this document, references to Class 1  
14 soils, important grasslands, open space, critical  
15 habitat. The list goes on. I started to look at the  
16 inconsistencies between this project and the General  
17 Plan and found the work quite frankly overwhelming. My  
18 life was made easier when I found Appendix 9 in the  
19 EIR, the Policy Analysis. I counted 70 conflicts with  
20 this project and the General Plan of which 16 were  
21 potentially inconsistent and 54 were regarded  
22 potentially consistent with the General Plan. Well,  
23 I've read enough of the EIR to know that when it states  
24 that something is "potentially inconsistent," it means  
25 that they have no more excuses. However, if we look at

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1 a couple of the conflicts that have excuses, we see  
2 those themselves are also too vague. For example,  
3 Policy 3 of the General Plan requires that the planning  
4 commission need to protect Class 1 soils, but the  
5 potentially consistent excuse mentions that out of  
6 those 2,437 acres that would be covered in solar  
7 arrays, concrete pads, miles and miles of conduit,  
8 2,200 acres are Class 1 soils. Where is the  
9 protection? This land will be blighted forever.

10 Title 25 suggests that according to Section  
11 25.29.106 of San Benito Code of Ordinances includes  
12 public utilities as a possible conditional use. It  
13 goes on to mention that it actually needs to be in  
14 harmony with the General Plan. At 70 possible  
15 conflicts, that doesn't suggest that it's in harmony  
16 with the General Plan. Also last year at the LCA, LCUP  
17 meeting, Michael Peterson told us that they are not a  
18 public utility. This does not change when quotations  
19 are used. They are not.

20 CHAIR SCATTINI: Just remember folks, you  
21 get 3 minutes.

22 COMMISSIONER BETTENCOURT: I got a question.

23 Mr. Davis?

24 MR. DAVIS: Yes.

25 COMMISSIONER BETTENCOURT: Where's your

1 property on the map?

2 MR. DAVIS: I am right next door to the  
3 Silver Creek and Douglas Ranch.

4 COMMISSIONER BETTENCOURT: Can you point it  
5 out on that map?

6 MR. DAVIS: Here.

7 COMMISSIONER BETTENCOURT: Okay. Thank  
8 you.

9 CHAIR SCATTINI: Okay. Again, please keep  
10 it to 3 minutes.

11 MS. VIEIRA-MADERIS: You're up. I'll call  
12 you. Allen Barker. You didn't have to sit down.

13 MR. BARKER: That was nice.

14 MS. VIEIRA-MADERIS: Yeah. State your name  
15 for the record, please. Are you going to read this?

16 MR. BARKER: Part of it.

17 Allen Barker, I'm a resident of Hollister.  
18 I've just brought before the county some things that  
19 they may or may not have already considered. I have a  
20 background in construction for about 20 some years and  
21 some of the things that I think that are very important  
22 to consider as far as the conditions for the Solargen  
23 project, part of the things I'm concerned about is that  
24 we want to make sure that our resources are coming from  
25 our county, and I think that the county should hire a

1 separate representative to represent the county and its  
2 citizens on this project, and I've included some of the  
3 things in this text which I hope you'll consider, and  
4 it includes a badging I.D. for all the residents that  
5 are working on the project to confirm that they are  
6 indeed residents of the county, and I think it should  
7 be up to that representative that we hire to be paid  
8 for by Solargen as per existing agreements that we've  
9 already discussed in the program for which Solargen has  
10 agreed to pay for some of those expenses.

11 Now, I hope that we can include some of  
12 these audit capabilities for either the planning  
13 commissioner who might be involved or a separate  
14 representative from the county and I hope that we will  
15 continue to include all of the businesses and the  
16 equipment that are in the county. We have a vast array  
17 of wealth in business and personnel here and I see no  
18 reason to bring in outside sources. This isn't a  
19 nuclear project. It's a fairly simple electrical  
20 project with footings, slight excavation and very  
21 simple structure. There's no reason that we need to  
22 have anybody from outside our area come in here. We  
23 have contractors, electrical contractors who are  
24 extremely capable of getting this job done and their  
25 staff is also, so I'm hoping that -- that you'll

1 consider the things I'm including here. I don't have  
2 time to read all these things right now, but there are  
3 some safeguards in here that you guys might consider to  
4 include in the project proposal. Thank you.

5 CHAIR SCATTINI: Thank you.

6 MS. VIEIRA-MADERIS: Next will be Maxine  
7 Davis followed by Linda Ruthruff.

8 MS. DAVIS: Good evening. My name is Maxine  
9 Davis. I own 80 acres of land in Panoche Valley that  
10 is located less than one mile from the project site.  
11 I'm speaking before you this evening to request that  
12 you deny the Conditional Use Permit for the Panoche  
13 Valley Solar Farm.

14 This project is a good demonstration of  
15 irresponsible land development by proposing to build an  
16 industrial solar energy plant on over 4,000 acres of  
17 environmentally sensitive lands that are actively being  
18 used for the purposes for which they are zoned,  
19 agricultural rangeland. The project will be in  
20 violation of the General Plan Land Use Element Policy  
21 33 which states that "development sites shall avoid  
22 locating in an environmentally sensitive area."

23 The farmers and ranchers in Panoche Valley  
24 are using sustainable farming and ranching practices  
25 that co-exist with these lands. The Panoche community

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1 has been building their businesses to focus on local  
2 sustainable organic food production and ecotourism.

3           Creating this industrial facility to be  
4 built in Panoche Valley will forever change the  
5 ecosystem that currently exists and allows for these  
6 businesses to thrive. The introduction of over 2400  
7 acres of solar panel arrays, miles of underground  
8 electrical conduit, a substation, maintenance  
9 buildings, 197 acres of access roads, a 6-foot-tall  
10 chain-link fence surrounding 3200 acres of the project  
11 site and potential transmission line upgrades will not  
12 preserve or enhance the low density use of Panoche  
13 Valley, and it is not consistent with the General  
14 Plan's Land Use Element Goal 1 which is to maintain the  
15 county's rural atmosphere.

16           Under the Noise Element of the General Plan,  
17 this project would be inconsistent with Goal 4, Policy  
18 1, due to the on-site work hours and construction noise  
19 defined in the EIR as 24 hours, 6 days a week  
20 year-round for 5 years. The effects of the high noise  
21 emissions could permanently displace the current  
22 businesses in Panoche Valley and affect the health and  
23 welfare of the Panoche Elementary School, children,  
24 teachers and residents that live near the project site.

25           Only 1,683 acres of proposed mitigation

1 lands are contiguous to the project site. This does  
2 not maintain the habitat connectivity for the wildlife  
3 and conflicts with the Open Space Conservation Element  
4 of the General Plan, Goal 1.2. I would like to note  
5 that the applicant themselves have stated this is not a  
6 public utility facility. The project lifespan of the  
7 facility is 20 to 25 years, yet it will cause permanent  
8 damage to the land, wildlife species and community of  
9 Panoche Valley.

10 You should be less concerned about trying to  
11 help this developer meet their objectives and more  
12 concerned about the health and welfare of our  
13 community. The proposed benefits that Solargen is  
14 promising are based on best case scenarios and they are  
15 not guaranteed. Our county cannot afford to take this  
16 risk with this new startup company. I respectfully  
17 request that you deny this Conditional Use Permit as it  
18 is not compatible with the agricultural rangeland  
19 zoning of Panoche Valley. Thank you.

20 CHAIR SCATTINI: Thank you. Any questions  
21 from the commission?

22 MS. VIEIRA-MADERIS: Linda Ruthruff followed  
23 by Marty Richman.

24 MS. RUTHRUFF: Good evening commissioners.  
25 My name is Linda Ruthruff. I have my Ph.D. in clinical

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1 psychology. I've spent the better part of my career  
2 with infant and child development, children having  
3 learning or other difficulties in school and with their  
4 parents. I'm here to speak about the effects of the  
5 construction and pile-driving on the children of this  
6 community.

7                   In the revised impact reduction, they admit  
8 that these noise impacts remain significant and  
9 unavoidable. Yet in their response to my previous  
10 comments about the noise impacts on the neighborhood  
11 and school children, they gave an inaccurate  
12 characterization of the type of noise these children  
13 will be expected to endure. They want you to believe  
14 that the type of noise will be consistent with the  
15 noise in your average neighborhood. I don't know about  
16 you, but I don't have pile drivers operating 12 hours a  
17 day and other construction noise the other 12 hours a  
18 day in my neighborhood.

19                   The way that they can assert this is by  
20 using a unit of measurement of sound that averages a  
21 fluctuating level of sound over the course of one hour.  
22 I think that you can agree that the impact of a large  
23 boom followed by a period of quiet followed by another  
24 boom followed by another quiet period, when you average  
25 that, that is not the same impact on someone listening

1 to it as having a low background noise.

2                   So I assert that it is inappropriate to  
3 approve a project that will negatively affect the  
4 community's children's ability to pay attention in  
5 school and further to impede their proper  
6 age-appropriate cognition and attentional development.  
7 Impacts on schools and neighborhoods have not been  
8 addressed. By declaring that the -- that the good to  
9 the community outweighs the negative impact of sound,  
10 they are saying that the good to the community is more  
11 important than 5 years of these children's educational  
12 and critical brain development. They are known to be  
13 sensitive receptors and we are not giving them their  
14 proper due.

15                   Further, there is no proper mitigation of  
16 noise for all of the alien species as well as the  
17 endangered species. It is inadequate to hope that a  
18 small buffer will in any way compensate for 5 years of  
19 24 hours of construction noise. Thank you.

20                   CHAIR SCATTINI: I have a question for you,  
21 ma'am.

22                   MS. RUTHRUFF: Yes.

23                   CHAIR SCATTINI: I have a question for you.  
24 Do you know how far the school is from the construction  
25 site?

1 MS. RUTHRUFF: I'm sorry?

2 CHAIR SCATTINI: Do you know how far the  
3 school is from the construction site?

4 MS. RUTHRUFF: I don't have the mileage, no,  
5 but when they assert it in here, they are saying that  
6 it's going to be impacted, but that it is  
7 unavoidable.

8 CHAIR SCATTINI: It's approximately 2 miles  
9 from the school.

10 AUDIENCE MEMBER: Three quarters of a mile.

11 AUDIENCE MEMBER: One and a quarter miles.

12 CHAIR SCATTINI: That's fine. Hold it down.  
13 I got the message. I'm not deaf. Okay. It's a mile  
14 and a quarter from the school. Okay.

15 MS. RUTHRUFF: Okay. Pile-driving is a very  
16 loud noise and it's the worst kind of noise because it  
17 is a huge noise followed by quiet. There's no way to  
18 adapt to that. Your body, your sensory equipment is  
19 constantly anticipating that next assault of the noise,  
20 and then you get a moment to relax but then the next  
21 assault comes. It's nothing you can adapt to in the  
22 way you can to a background hum.

23 CHAIR SCATTINI: Thank you.

24 Next speaker.

25 MS. VIEIRA-MADERIS: Marty Richman followed

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1 by Clay Kempf.

2 MR. RICHMAN: Good evening Mr. Chairman,  
3 members of the commission. Marty Richman from  
4 Hollister. I'm going to ask you one simple thing  
5 tonight and that is to not take any action on the  
6 proposed Development Agreement for one reason only. I  
7 could make 100 arguments but this is the one that  
8 really counts: The public has hardly had a chance to  
9 look at it. I don't know when it was officially  
10 released. I tried to get it last week, couldn't. The  
11 copy I have now doesn't have any of the attachments.  
12 The only reason to hold a public hearing is to get the  
13 public's input. It's simply not democratic and not  
14 only that, it just doesn't serve the purpose if the  
15 people don't have a chance to study the agreement.  
16 This is not a stalling tactic on my part. I like to  
17 know -- when I come up to talk about something, I like  
18 to know what I'm talking about. I can't know what I'm  
19 talking about if somebody hands me 37 pages of complex  
20 documentation that has to be run up against a  
21 1,000-page EIR and expects me to do that in 2 days  
22 without my own legal team.

23 Now, perhaps you've all had separate  
24 meetings with the applicant. Maybe you've discussed  
25 certain aspects of this Development Agreement. I don't

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1 know. But I know as members of the public, we have  
2 not, and I don't think -- I don't know what the rules  
3 of -- Robert's Rules of Orders are. I don't know what  
4 the State of California says on how much time you're  
5 supposed to get it, but it's obvious to me how much  
6 time you get to study a document has to have some  
7 relationship to the complexity of the document. If  
8 this was merely one page or one paragraph or something,  
9 you know, 48 hours might be plenty, but 37 pages  
10 with -- and then plus some tables of complex legalese  
11 including references to certain portions of California  
12 code and other portions to the EIR.

13 Now, I've followed this. I've followed this  
14 project for a long time. I've written newspaper  
15 articles about it. I've discussed it with both sides.  
16 I think I'm pretty knowledgeable, and I certainly  
17 couldn't digest this in about a day and a half and I  
18 don't believe anybody else can, and anybody who says  
19 they can, I don't think they're telling the truth or  
20 unless I just haven't taken my vitamin pills. I'm not  
21 as smart as I think I am.

22 So I think -- I'm not trying to stall. I  
23 think you should give a reasonable time frame that will  
24 fit in the applicants need time frame so the people  
25 don't just try and stall them out. I don't believe in

1 that. I've already talked about that. I talk about --  
2 against that all the time at the board of supervisors  
3 meetings. I don't want to stall anybody out, but I  
4 want to have a reasonable chance to read what I'm  
5 supposed to comment on.

6 I could make some off-the-cuff comments that  
7 would have absolutely no effect on you. I would like  
8 to be able to hand you a piece of paper here and say  
9 "here are my specific problems. Here are my specific  
10 solutions," but I can't do that because I haven't had  
11 time to go over this document except in the most  
12 cursory manner, impossible to make any kind of an  
13 evaluation. I appreciate your time. Thank you very  
14 much.

15 CHAIR SCATTINI: Thank you.

16 MS. VIEIRA-MADERIS: Clay Kempf followed by  
17 Nenette Corotto, please.

18 MR. KEMPF: Clay Kempf, Panoche Valley  
19 Christmas Bird Count Coordinator for National Audubon,  
20 also field trip leader for Shearwater Journeys which  
21 has an ecotourism company based in Hollister with tens  
22 of thousands of customers.

23 I'm here to speak against the project. A  
24 couple things I'd like to make as points are that the  
25 opposition for this -- typically opposition to a

1 project is classified as NIMBYism, people in the  
2 backyard don't want something. We see that really  
3 around the country, around the community. This is a  
4 really unique case where there is local opposition but  
5 there's also statewide opposition which really speaks  
6 to the importance of this area from a biological point  
7 of view. The EIR identifies this project as being on  
8 critical habitat. Some of the birds are -- or the  
9 area's considered a globally important bird area, not  
10 locally important, not California important, globally  
11 important. Species that occur there include mountain  
12 plover. The primary location for mountain plover is  
13 right in the middle of this proposed Option A. Golden  
14 eagle, burrowing owl, ferruginous hawks, et cetera all  
15 occur in this area and we've already had it identified  
16 as critical habitat for endangered species including  
17 blunt-nosed leopard lizard, kit fox and giant kangaroo  
18 rat.

19 No less of an authority than California  
20 Department of Fish and Game have identified the  
21 proposed mitigation as inadequate. It's amazing to me  
22 that the staff report did not address that. We heard  
23 in the staff report that the EIR issues and concerns  
24 have been covered. If you don't believe me about that  
25 being inadequate, refer to the Fish and Game letter

1 that was sent about 10 days ago which was very strong  
2 in its concern and opposition to the project.

3 One story that comes to mind to me about  
4 this is years ago in post depression era, the State of  
5 Louisiana was faced with a major development and  
6 logging project that was promising jobs and helping the  
7 local economy. The area was the location where  
8 ivory-billed woodpeckers had been seen and I think all  
9 of you know the fate of ivory-billed woodpeckers.  
10 They're now extinct. But under the pressure to help  
11 the local economy employ a few people for a few years,  
12 that project was allowed to go forward on a very fast  
13 track which reminds me of this project. We know what  
14 happened. Ivory-billed woodpeckers are no more.

15 I would ask all of you to dare to be great  
16 here, dare to save these endangered species and this  
17 critical habitat for generations to come. Oppose this.  
18 Don't think on the short-sighted term of a few jobs or  
19 a few years. Thank you.

20 MS. VIEIRA-MADERIS: Kim Williams will  
21 follow Nenetete Corotto.

22 MS. COROTTO: My name is Nenetete Corotto.  
23 We have Rancho De Granada. We are in here. We are  
24 simply a 3,960-acre cattle ranch and we take good care  
25 of it. We've been very conscious of making sure that

1 the balance between our profitable business and the  
2 land around us has been stable and good.

3           Someone made the comment about the General  
4 Plan. My feeling is, after listening to all of this,  
5 you don't have a General Plan. You will put out words  
6 and you will put out documents, but in the end if  
7 you've got somebody that's got political power,  
8 everything that you think is good for your community  
9 will be set aside, and that is the saddest thing I  
10 think that has happened. I've worked 25 years for San  
11 Benito County. I've sat on both sides and I know what  
12 can happen when political power begins to push.

13           I have no idea what it's going to be like to  
14 live up there. I know what the pile drivers will do  
15 and that has just driven me crazy because I'm going to  
16 hear it. They have a substation. I have no idea how  
17 we're going to live in the house with that substation  
18 where it is.

19           You've taken and put something in for 20  
20 years that could destroy all our businesses, and the  
21 bottom line you say is jobs, jobs, jobs. What about  
22 the future for all of these pieces of property? We've  
23 never harmed anybody. We've never hurt anybody. We've  
24 tried to do the best we can in our community and a lot  
25 of us have given into the community for the betterment,

1 and what I see now is not for the betterment.

2 MS. WILLIAMS: My name is Kim Williams and I  
3 live and farm in Panoche Valley and I just want to  
4 start by thanking the commissioners that took time out  
5 of their busy day to meet with those of us that wanted  
6 to speak with you before the meeting so thank you very  
7 much for that.

8 The planning commission is faced with a  
9 clear choice this evening. You must consider the  
10 General Plan and County Zoning Ordinance in order to  
11 decide whether Solargen's proposed industrial land use  
12 will benefit the county and if it does, whether the  
13 benefits are enough to override the loss of resources,  
14 loss of funds and significant unmitigable negative  
15 impacts to this community.

16 And I'm sorry. I forgot to state at the  
17 beginning of the meeting that I'm also speaking for  
18 Juan Castro, Don Corotto and Jacob Kissinger.

19 And I also forgot to jump to the woman's  
20 defense that spoke about noise. I happen to work at  
21 Panoche Elementary and that's right here. We walk down  
22 to Recalde Road most mornings for our exercise. The  
23 FEIR states you have to be 6.3 miles away from the  
24 source of noise for it to be reduced to the levels  
25 allowed under the zoning ordinance, so it doesn't

1 matter whether it's three quarters of a mile or a mile  
2 and a half. There isn't enough room in Panoche Valley  
3 to get away from that kind of noise for any of us.

4 A Development Agreement is supposed to  
5 reduce uncertainty in the development review process  
6 and promote long-term stability in the land use  
7 planning process. Any uncertainty leads to distrust  
8 between voters and government. To avoid this, county  
9 officials must follow the guidelines and regulations  
10 which govern their position.

11 Mr. Peterson has spent the good portion of  
12 last year trying to convince the San Benito residents  
13 of the benefits that this project will hold for this  
14 county. For the past year we've asked Solargen and  
15 local officials for guarantees that Mr. Peterson's  
16 promises will come true. For the past year we've been  
17 told "wait for the Development Agreement. That's where  
18 the guarantees will be made." Now we have the  
19 Development Agreement and it's plain to see there are  
20 no guarantees that the fantastic promises made by  
21 Mr. Peterson will ever come true.

22 Local jobs are the prime reason people cite  
23 for supporting the Solargen project. The Development  
24 Agreement acknowledges the lack of jobs Solargen's  
25 project will provide, only 150 to 200 temporary

1 construction jobs possible but not guaranteed for local  
2 residents. Panoche Valley is closer to Los Banos and  
3 Fresno County than it is to Hollister and construction  
4 and electrical union members for those areas will be  
5 just as eligible for Solargen jobs as the Santa Clara  
6 County-based union members Solargen brought in front of  
7 the board of supervisors at last week's meeting. It's  
8 illegal to discriminate to applicants based on where  
9 they live. The construction period will end in 5 years  
10 and people holding those temporary positions will once  
11 again be unemployed. Solargen says they will offer up  
12 to 50 permanent operational jobs after construction but  
13 again there's no guarantee in the Development Agreement  
14 that those jobs will go to San Benito residents. Not  
15 only that, there will be no additional jobs added  
16 during the estimated 20- to 30-year project lifetime.

17           The proposed project site already exceeds  
18 the maximum development space in Panoche, leaving no  
19 room, according to Fish and Game and Fish and Wildlife,  
20 for adequate mitigation of the biological resources and  
21 absolutely no room for mitigating the loss of prime  
22 grazing land on the valley floor.

23           Increased county tax revenues, another  
24 promise touted by Mr. Peterson and his staff, other  
25 than roughly 1 million per year for 20 years to

1 compensate for a percentage of the many taxes Solargen  
2 is exempt from paying, there is no increase for a  
3 project that estimates profits in the billions. This  
4 hardly seems adequate considering the multitude of  
5 expenses San Benito will be responsible for if this  
6 Development Agreement is accepted.

7 Solargen, it says in the Development  
8 Agreement, will take certain predefined steps to have  
9 any sales or use tax which is due to be paid in the  
10 County of San Benito, but what are those predefined  
11 steps? It says "although the county's benefit from  
12 this source is less than certain due to the potential  
13 of Solargen becoming exempt from sales/use tax at some  
14 point in the future or from circumstances in which the  
15 sales/use tax becomes due in another location."  
16 There's no guarantee.

17 Section 32 of the Development Agreement  
18 states "owner shall not be required to pay any  
19 development impact fees newly established after the  
20 effective date." This means if any of the mitigations  
21 offered, such as for fire protection or noise, turn out  
22 to be completely inadequate, the county will have to  
23 pay to remedy the situation or the situation will  
24 remain the same. This also holds true for any new  
25 impacts that occur and were not anticipated.

1                   In regards to fire, I spoke yesterday with  
2 Paul Gonzalez, fire captain for the San Jose Fire  
3 Department who also lives directly across from the  
4 Antelope Fire Station that San Benito contracts to  
5 cover the unincorporated areas that include Panoche  
6 Valley. It's California Department of Fire.  
7 Mr. Gonzalez told me there are different types of fire  
8 stations and some are what they call "must-cover" which  
9 means if there's fire and the crew's working elsewhere,  
10 there has to be another crew available to cover the  
11 area. The backup crew can be from another station or a  
12 contracted crew. Antelope Station is not a must-cover  
13 station and they frequently get called away to help put  
14 out fires throughout California. Last year they spent  
15 a good deal of time down in L.A. fighting fires around  
16 that area. When that happens, the Hollister Fairview  
17 Station is the closest responder over an hour away and  
18 they are -- I'm sorry. I just made that point.  
19 Mr. Peterson says they're paying for 2 additional  
20 firefighters at the Antelope Fire Station although no  
21 additional firefighting equipment. This means nothing  
22 if the Antelope crew gets called away to other fires in  
23 California during half the year. Solargen has not  
24 committed funds to add staff to the Fairview Station  
25 nor have they provided additional equipment. San

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1 Benito will be the entity that pays if large scale fire  
2 breaks out in Panoche Valley due to the project.

3 Mr. Gonzalez also suggested county officials  
4 look at the fire statistics for the wind turbines in  
5 Altamont Pass. Blades there create sparks when they  
6 come in contact with debris in the air and there have  
7 been more fires than ever in that area because of it.  
8 Fire Captain Gonzalez compared the conditions in  
9 Panoche to the Altamont, dry grass, high temperatures  
10 and wind. The FEIR states that we're in a low or  
11 moderate fire zone, but that data was taken from an  
12 area that encompasses Monterey County and San Francisco  
13 as well, so they don't have any data specifically for  
14 Panoche Valley in regards to fire danger.

15 Any development impact fees due from  
16 Solargen won't be paid until issuance of the  
17 certificates of occupancy rather than at issuance of  
18 the building permit. That means payments are deferred  
19 and funds are not guaranteed. Development impact fees  
20 for fire equipment and public works equipment is based  
21 on the square footage of covered space, not the square  
22 footage of the project site. This is not adequate and  
23 unfairly reduces fees for impacts that are much larger.  
24 For instance, if a fire occurs, it will not be limited  
25 to just the covered space within the project zone.

1 Fees should apply to the entire project site so San  
2 Benito isn't stuck with paying the difference. Road  
3 repair is also not adequately covered and there's only  
4 a commitment from Solargen to take care of one mile of  
5 road in a 50-plus-mile area.

6 Speaking of decommissioning, megawatts  
7 determine decommissioning fees. The cited PG&E study  
8 that was used as a basis for the calculation must be  
9 off-base because it indicates that 14 million is  
10 adequate for removing 14 million panels, a substation,  
11 a water treatment plant and so on. That works out to  
12 \$3.50 per panel with nothing for removal of the  
13 substation and other nonpanel installments, nor does it  
14 leave anything for restoration of the property. Who's  
15 going to pay the difference?

16 Solargen will provide an updated cost  
17 estimate of decommissioning cost every 5 years to  
18 adjust for inflation. The estimate will be prepared by  
19 a firm chosen by Solargen and approved by the planning  
20 director. I don't understand why Solargen would be  
21 allowed to choose that person and I believe that's a  
22 conflict of interest. Let's not forget that Solargen  
23 was the ones who hired the environmental firm Live Oak  
24 who has repeatedly insisted the land they've identified  
25 for mitigation is adequate even though both Fish and

1 Game and Fish and Wildlife have repeatedly indicated it  
2 is not.

3                   How about the mitigation expenses? Staff  
4 performing all monitoring or other work required by the  
5 FEIR shall be approved by the county planning director  
6 but can be chosen by Solargen. Why is the person  
7 monitoring the project going to possibly be chosen by  
8 Solargen? Again that should be the county doing that.  
9 Is the monitor going to be full time? Is it going to  
10 be during operation? Is it just going to be during  
11 construction? We don't know.

12                   There are no guarantees from this  
13 Development Agreement for the public at large.  
14 According to the Development Agreement, the county and  
15 Solargen can change the construction and fee payment  
16 schedule at will as long as the change is mutual.  
17 We're being asked to accept the sacrifices and negative  
18 unmitigable impacts on our businesses and livelihood in  
19 Panoche Valley for something that could change without  
20 our involvement and which we really have no control  
21 over.

22                   So this again goes back to trust. Will the  
23 planning commission follow the General Plan and local  
24 ordinances or will they give in to political pressure?  
25 And I sincerely hope that you do the right thing and

1 follow the General Plan and laws and ordinances that  
2 are on the books that clearly state this is not the  
3 proper siting for this type of project. Thank you very  
4 much for your time.

5 MS. VIEIRA-MADERIS: Rani Douglas followed  
6 by Lori Woodle.

7 MS. DOUGLAS: Good evening. My name is Rani  
8 Douglas and I have a ranch in Panoche Valley. I'm in  
9 this area right here, and I just wanted to touch on a  
10 couple of things I've heard here tonight about the  
11 noise level. Aspen Environmental stated in the EIR  
12 that this project needed to be 6.3 miles away from  
13 residences and schools and businesses in order to meet  
14 the county code for noise. Nothing in the valley is  
15 going to be -- no human residence or school or business  
16 is going to be 6.3 miles away. Most of them are going  
17 to be within a mile. Low level noise can cause  
18 psychological problems in children and humans. It can  
19 cause cardiac arrest. It can cause suicide. That's  
20 low level noise. Low level noise is described as  
21 something like a whisper, but when it continues 24  
22 hours a day, 6 days a week, it can cause very serious  
23 health risks. I asked one of the supervisors were they  
24 going to help me with medical expenses if my husband  
25 has heart trouble or if my grandchildren have learning

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1 disabilities? There was no answer to that.

2 I agree with what Marty Richman said about  
3 the Development Agreement. We have not had adequate  
4 time to read it. I'm not sure if you all have read the  
5 whole thing, but it's very important for our county.

6 The decommissioning is going to cost a huge  
7 amount of money. I know for a fact that \$4 a panel  
8 won't get it done 25 years from now. I would say it  
9 would be more like \$100 a panel. \$4, I don't think you  
10 can get anybody to take one down, put it in a truck,  
11 haul it somewhere, and recycle it safely.

12 Mr. Peterson says there are no toxic  
13 elements in these panels. I find that very odd because  
14 they haven't been identified yet. The Environmental  
15 Impact Report did not state what kind of panels were  
16 going to be used. Aspen Environmental said they were  
17 just going to take the worst case scenario because they  
18 don't know yet, so it's unfair to say that we're not  
19 going to be subjected to toxic elements from breakage  
20 while they're being installed, from it running off into  
21 the groundwater, from drive-by shootings. I have  
22 mentioned that every sign in Panoche Valley has holes  
23 in it from shotgun blasts from people -- I don't know  
24 if they were disgruntled hunters, I suppose, but that's  
25 pretty scary. There is no mention of a toxic task

1 force if such an occurrence should take place, and  
2 who's going to clean up the groundwater?

3           The other thing that was mentioned tonight  
4 by Byron Turner is the mitigation land, and they're  
5 claiming that there's 23,000 acres of mitigation land.  
6 If you read the Fish and Game report, Fish and Game  
7 said -- on October the 8th they contradict this by  
8 saying "the department at this time believes that less  
9 than 1,200 acres of the Valadaeo Ranch would be  
10 considered an in-kind mitigation. It may be even less  
11 when considering that the value of those areas are  
12 diminished by the habitat displacement and  
13 fragmentation caused by the project in the core  
14 habitat. Additionally Silver Creek Ranch is suspected  
15 of containing high value habitat, but much of what  
16 appears to be good habitat is interrupted by steep  
17 slopes and may not be considered in-kind by the  
18 department."

19           The last time we talked with the  
20 commissioners here in these chambers, I think there was  
21 a lack of understanding about how this project would  
22 impact our lives and it certainly will. The negative  
23 impacts to our lives include the panels themselves,  
24 removing thousands of acres from agriculture, the  
25 fencing, night lighting, the constant noise from a

1 power-generating plant and substations, the constant  
2 construction noise exceeding county code 24 hours per  
3 day, the traffic noise and traffic hazards -- we  
4 haven't really talked about that too much tonight, but  
5 I think you know that Panoche Road is a dangerous road  
6 and we warn even our friends that come to visit and  
7 everyone "please be very careful. There will be  
8 somebody on your side of the road coming around that  
9 corner, that blind corner, and there are cliffs that  
10 you either can't get out of the way on one side or if  
11 you tried, you would go off a cliff on another." There  
12 are accidents all the time. We pull people out of  
13 ditches. We turn their cars upright. We take them to  
14 the hospital. We call in for Helivac. It happens  
15 continually. Deaths on our road happen continually. I  
16 don't feel safe knowing that there could be hundreds of  
17 traffic trips going up and down Panoche Road during  
18 this construction period and for all the years to come.

19 Other -- other negative impacts are the  
20 daily operating noise after construction, night  
21 lighting, the web of roads through the project, the  
22 dust, the panel washing equipment, the pile-driving and  
23 earth-moving equipment, the possible climate change.  
24 The panels emit like 150 degrees. If you have 4  
25 million of them, what is that going to do to us? The

1 loss of wildlife, the loss of open space, the loss of  
2 rural use, the loss of rural quiet, the loss of clean  
3 air, the loss of dark night skies, the loss of visitors  
4 who come to view this valley's rich natural phenomena,  
5 the loss of ecotourism have already been reviewed. All  
6 of these will esthetically alter the valley forever.  
7 This is unnecessary since there are other sites that  
8 will not create these losses. Thank you very much.

9 CHAIR SCATTINI: And Trish, if you have  
10 speakers that are going to speak more than 3 minutes,  
11 let me know, please.

12 Ma'am, where's your property on the map?

13 MS. DOUGLAS: It's right in here.

14 COMMISSIONER BETTENCOURT: Whereabouts do  
15 you live?

16 MS. DOUGLAS: I live on Panoche Road.

17 COMMISSIONER BETTENCOURT: Show me on the  
18 map.

19 MS. DOUGLAS: I think it's right in here.

20 COMMISSIONER BETTENCOURT: Thank you.

21 MS. DOUGLAS: It's about a mile from the  
22 project.

23 MS. VIEIRA-MADERIS: Lori Woodle followed by  
24 Shani Kleinhaus.

25 MS. WOODLE: Good evening. My name is Lori

1 Woodle. I am a resident of San Benito County. I do  
2 not live out here. I live on the other side of the  
3 county, but I do love San Benito County and I would not  
4 be here this evening to support a big box store or some  
5 other type of industry that I don't think is right for  
6 our county and our community. I am here to support  
7 this project because San Benito County needs industry,  
8 not any industry, but we need industry that -- nobody  
9 wants their industry in their backyard but we do need  
10 industry. We need green industry. We need  
11 forward-thinking and advanced technology and industry.  
12 We need head of household supporting industry and jobs  
13 with a long-term tax base here. We are suffering. We  
14 have less and we will not do more with less. We will  
15 do less with less. We will have less public safety, we  
16 will have less public health, and we will have less  
17 public services for people.

18 That's all I have to say. Thank you very  
19 much for hearing me.

20 CHAIR SCATTINI: Thank you, Lori.

21 MS. VIEIRA-MADERIS: Collette Cassidy will  
22 follow Shani.

23 CHAIR SCATTINI: Excuse me for a minute, but  
24 some of us here would like to take a break, 5-minute  
25 break before you start, please. We're going to take a

1 5-minute break, about an 8-minute break.

2 (A recess was taken.)

3 CHAIR SCATTINI: Take your seats, please.

4 Please take your seats. Call the meeting back to  
5 order. Can we have it quiet in here, please?

6 Trish, go ahead and call.

7 MS. KLEINHAUS: I'm Shani Kleinhaus with  
8 Santa Clara Valley Audubon Society. We have been  
9 involved with this project from the start because many  
10 of our members visit the Panoche Valley frequently to  
11 watch birds there. We have provided 2 sets of comments  
12 on the EIR, one from our own chapter and one together  
13 with California Audubon, Fresno Audubon and Monterey  
14 Audubon, and we have continually argued that the  
15 project would impact avian species in an unmitigable  
16 way and that the damage to wildlife and habitats would  
17 be extensive. We have maintained now that the EIR  
18 process resulted in the failure to properly consider  
19 all the possible impacts to wildlife and alien species,  
20 and that water conservation and life conservation are  
21 also at risk. We have commented on erosion issues,  
22 fire issues and land conservation, and all of those we  
23 think have not been properly addressed. We think that  
24 the project would expose the land and its people and  
25 its wildlife to unmitigable noise and fire risk and

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1 that some of those risks could potentially be mitigated  
2 but have not been in the EIR or in the proposed  
3 Developer Agreement.

4           So we're very, very worried. We see a lot  
5 of mitigations that were proposed that are inadequate,  
6 unenforceable. There's no way that this county can  
7 properly enforce all the mitigations. A lot of it is  
8 left to the applicants to enforce themselves or to  
9 provide some sort of an annual report. Well, an annual  
10 report can result in the loss of a species from this  
11 planet, so we see that as a very, very serious issue,  
12 and there is also a lot of uncertain or hopeful  
13 mitigations in that they really do not have a  
14 mitigation in place, and that includes the land that's  
15 proposed to mitigate on the Silver Creek Ranch. The  
16 Developer Agreement says that there is potential  
17 mitigation land which means that this land is not  
18 secured and is not approved by the agencies as  
19 appropriate for mitigation, and if you look at the  
20 Section 3.7.1 of the Developer Agreement, it says  
21 "mitigation may be phased with project construction.  
22 Mitigation lands may be established in the same  
23 percentage of the project under development," and then  
24 further, "if the size of the project is reduced, the  
25 percentage of mitigation land shall be adjusted."

1 Essentially what this means is that there is no  
2 mitigation land that is there for sure and will  
3 mitigate for the project, and this is even before you  
4 read the opinions by Fish and Game that the mitigation  
5 lands cannot possibly mitigate for the impact, so this  
6 is essentially a violation of CEQA and I think that you  
7 should take that into consideration and really inspect  
8 very closely the proposals and not just believe the  
9 nice Power Points that you get. I mean you get all  
10 these summaries and they look really nice if you don't  
11 really read what's behind them and see what the  
12 conclusions are based on, and in this case we all know  
13 that the conclusions are not founded on any serious  
14 foundations and that many of them are just attempts to  
15 portray a really very, very environmental unsound  
16 project in favorable ways and really does not disclose  
17 all the impacts that are associated and that is to do  
18 with it.

19 CHAIR SCATTINI: Your time is up. Thank  
20 you.

21 MS. VIEIRA-MADERIS: Collette Cassidy  
22 followed by Jeanette Langstaff.

23 MS. CASSIDY: Good evening commissioners.  
24 My name is Collette Cassidy. My husband Ron Garfield  
25 and I own Clarabell Dairy Farm out in Panoche Valley,

1 and in addition to being a farmer, I am a  
2 board-certified and primary health care physician in  
3 the State of California, and I'm quite concerned about  
4 the health aspects of this project. Rani already  
5 talked a lot about some of them, but the things that --  
6 couple of things that I'm really concerned about are  
7 anthrax and Valley Fever, and when we first moved down  
8 to the valley, the McCulloughs told us that we had to  
9 have the cows vaccinated for anthrax which we didn't  
10 have to do before because it had in the past really  
11 been a problem in the valley, so we have had our cows  
12 vaccinated for anthrax. The state says that it's not  
13 really a problem, that that's not a problem anywhere in  
14 California really now but in the valley, and the reason  
15 that is is because everybody took measures and  
16 everybody vaccinated all their cattle, and so you know,  
17 we don't really have it, but when the ground starts  
18 getting stirred up, that's -- that's a major issue.  
19 Valley Fever, I've seen people with Valley Fever. It's  
20 really debilitating. I don't think -- it can be  
21 lethal. Certainly anthrax can be lethal, and so  
22 anyway, that's just one of the -- one of the other  
23 little things that we need to be concerned about down  
24 there.

25                                   Regarding our business, Supervisor De La

1 Cruz dismissed the farms, ranches and businesses of  
2 Panoche as small and insignificant. Our business  
3 grosses just under a million dollars a year and a lot  
4 of our -- of course our expenses, totaling almost that  
5 amount, are spent in San Benito County at various  
6 businesses in the county for our supplies and whatnot.  
7 If we had the same economic impact report that Solargen  
8 had done at Fresno University, it would show all the  
9 direct and indirect benefits from Clarabell, and the  
10 same holds true for all the other Panoche farms,  
11 ranches and businesses. We have plans to grow. We've  
12 been there just 4 years, but with this project on the  
13 horizon, it's really difficult to know all of the  
14 impacts that it's going to have and how to plan for our  
15 business in the future, so we of course would recommend  
16 that you not approve this Conditional Use Permit.  
17 Thank you very much.

18 CHAIR SCATTINI: Thank you.

19 MS. CASSIDY: Do I still have some minutes  
20 left?

21 MS. VIEIRA-MADERIS: About 30 seconds.

22 MS. WILLIAMS: I was just showing you some  
23 substations to give you kind of a mockup of Solargen in  
24 actual photographs.

25 MS. VIEIRA-MADERIS: Jeanette Langstaff

1 followed by Martha Schauss.

2 MS. LANGSTAFF: Yes, I'm Jeannette  
3 Langstaff, a resident of the county for many years and  
4 taught at the Panoche School for a year and a half. It  
5 was a wonderful experience being out in nature and  
6 having the children be able to go on nature walks and  
7 just wonderful things, so I'm sad about this.

8 I'm definitely in opposition to the  
9 destruction of Panoche Valley open space, to wildlife  
10 habitat, compatible and sustainable farming and  
11 ecotourism. It's detrimental to the surrounding  
12 communities, which you say it isn't in the development,  
13 but it is. It destroys 2,885 acres with concrete roads  
14 -- with concrete and roads and 3 to 4 million  
15 photovoltaic panels, et cetera, out of the 4,486 acres  
16 of the project. This is rare area, as has been said,  
17 for threatened and endangered species. To just think  
18 that you can mitigate all these inches of life is so  
19 detrimental to what is right. It's not just ground  
20 level but it's confusing and life-threatening to the  
21 migration from up above when they look below and they  
22 see this mass of panels that could represent water.

23 This decision is being rushed by deadlines  
24 instead of using good analysis and time to make the  
25 right decision. Are the 150-plus jobs and then the 50

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1 permanent jobs really meaningful compared to the jobs  
2 that are lost to ecotourism and sustainable farming,  
3 mercy Hotsprings' business, local family farms growing  
4 healthy food for our consumption, tourists retreating  
5 to nature that we've preserved?

6 Rooftop solar is prescribed for the welfare  
7 of the future in contrast to this massive project.  
8 AB 32 promotes solar of course and there are smaller  
9 projects with the energy benefiting that actual  
10 location, but Solargen's energy is lost over  
11 transmission lines and goes to buyers outside our  
12 county. We can fulfill our commitment to this bill  
13 through solar rooftop.

14 The Development Agreement of receiving -- of  
15 replacing -- the Development Agreement that says we can  
16 replace 264,000 metric tons of carbon dioxide emissions  
17 is misleading. With all the construction that's going  
18 to be going on, look at all the emissions that are  
19 going up into the air and how is that being compared to  
20 supposedly the benefits at the end?

21 This project needs to be out on Westlands  
22 which has wasted soil and it is ready for that, and you  
23 have not proven that much that you can't do that.  
24 That's not fair to we residents.

25 Some people say that it's green. It's not

1 green. When you look at the pros and cons of this  
2 project, solar sounds green, but rooftop is truly green  
3 with all of its benefits.

4 CHAIR SCATTINI: Your time's up. Thank you.

5 MS. LANGSTAFF: Thank you. It certainly  
6 needs more analysis.

7 MS. VIEIRA-MADERIS: Martha Schauss followed  
8 by Peter Kissinger.

9 MS. SCHAUSS: Another speaker, Kathy Smith,  
10 has given me her time, so if I go a bit over, that's  
11 why. If I don't use all that time, Kim Brians would  
12 like another minute if that's all right.

13 MS. VIEIRA-MADERIS: If that speaker's here,  
14 they should speak.

15 COMMISSIONER MACHADO: I've never seen this  
16 before where people -- you can come to a meeting with 3  
17 people in your back pocket and you can talk for 10, 15  
18 minutes, never seen this procedure before.

19 CHAIR SCATTINI: I thought only 1 or 2  
20 people were doing that. Apparently there's more than  
21 that doing that tonight. Try to stay to your 3  
22 minutes.

23 MS. SCHAUSS: I will try to do so.

24 CHAIR SCATTINI: And I don't know. How many  
25 more do we have up here? I'm trying to be fair about

1 it, but I guess it's getting out of hand.

2 MS. VIEIRA-MADERIS: We have another 10  
3 speakers.

4 CHAIR SCATTINI: Another 10 speakers? Okay.  
5 We already opened it up to people taking other people's  
6 time so it would not be fair to cut her off. How much  
7 more time will you need more than 3 minutes?

8 MS. SCHAUSS: Hopefully one minute extra.

9 CHAIR SCATTINI: Okay. Well, since we  
10 already started this, go ahead.

11 MS. THOMPSON: Mr. Chair?

12 CHAIR SCATTINI: Yes.

13 MS. THOMPSON: You could also make sure  
14 people are also present, raise their hands to indicate  
15 they're here. If you cede your time to somebody  
16 already here ready to speak, make that determination  
17 before as well.

18 CHAIR SCATTINI: 10 more speakers. Who are  
19 you going to speak for?

20 MS. SCHAUSS: Kathy Smith.

21 CHAIR SCATTINI: Is she in the audience?  
22 Okay, she's here. Okay.

23 MS. SCHAUSS: I'll keep it as short as I  
24 can. I'm Martha Schauss. I was a wildlife biologist  
25 for the Department of Fish and Game and retired several

1 years ago. I spent many years reviewing environmental  
2 documents for this county and this is one that has the  
3 worst potential for impacts to endangered and other  
4 special status species that I've ever seen. I'd like  
5 to echo first of all Marty Richman's statement about  
6 the insufficient time given for looking at the  
7 Development Agreement and also as far as the  
8 availability of the staff report which was not on line.

9 I'd like to ask first that the commission  
10 deny the Conditional Use Permit and Development  
11 Agreement for the Panoche Solar Project. There are  
12 many other people here who have talked about the  
13 impacts to people, impacts of noise, air pollution,  
14 traffic, et cetera, on the residents of Panoche Valley.  
15 I want to also address the impacts on endangered  
16 species and other wildlife which also impacts the  
17 residents, the human residents of San Benito County,  
18 what happens to the wildlife.

19 Contrary to what's stated in the  
20 Environmental Impact report, the project will have  
21 significant unmitigated impacts to endangered species.  
22 The latest proposed mitigation includes conservation  
23 easements on Silver Creek and Valadaeo ranches. This  
24 would protect existing habitat but would do nothing to  
25 reduce or replace or compensate for the 300,000 -- or

1 3,000, pardon me, 3,000 or more acres of highest  
2 quality core habitat for kit fox, blunt-nosed leopard  
3 lizard and giant kangaroo rat. While the proposed  
4 mitigation might be adequate in some other less  
5 critical location, although the mitigation ratios are  
6 extremely low for these species, it's not adequate  
7 here. Again contrary to what's stated in the Final  
8 Environmental Impact Report, the project will not avoid  
9 take of blunt-nosed leopard lizard, a fully protected  
10 species, so it would be in violation of state law.  
11 Clearly avoiding the species by doing visual surveys  
12 for an animal that spends much of its time underground  
13 would be impossible.

14 I'd like to also point out they -- part of  
15 the mitigation area that was designated was supposed to  
16 be mitigated because that was the highest density area  
17 for endangered species on the project site. I'd like  
18 to point out that this was the only area that  
19 blunt-nosed leopard lizard surveys were done per  
20 protocol and they were not done per protocol for any of  
21 the other species on the project site so it's hard to  
22 assess which areas would be highest density areas for  
23 endangered species.

24 Wildlife belongs to the people of the State  
25 of California. In fact impacts to wildlife on one

1 property affect populations on surrounding properties,  
2 and in the case of core populations of endangered  
3 species, affect the existence of the entire population,  
4 maybe even the species. What happens on this project  
5 will go far beyond the project boundaries. It will  
6 affect mitigation potential throughout the county,  
7 possibilities for recovery for endangered species, and  
8 it will affect the use of the area by birders and other  
9 recreationalists, therefore impacting the revenues  
10 brought into the county.

11 I spoke earlier today with one of the  
12 commissioners about possible conditions that can be put  
13 on the project to mitigate impacts. As discussed both  
14 by the Department of Fish and Game and the Fish and  
15 Wildlife Service, the project would need to include  
16 habitat improvements, restoration or creation of  
17 habitat in a location with currently poor habitat  
18 quality for these endangered species to offset the  
19 habitat loss. The site would have to be improved so  
20 that what would be approved wouldn't have to be in the  
21 heart of Panoche Valley with valuable animals moving  
22 throughout the area as well as for habitat. I think as  
23 the project applicants and the consultants know, this  
24 would be virtually impossible. Such habitat  
25 improvements have not been proposed, and neither the

1 Valadaeo Ranch or nor the Silver Creek Ranch have a  
2 potential for such improvements.

3 I know that the commission wants to work  
4 with applicants to develop conditions that will solve  
5 the project's issues, but there are just too many  
6 insurmountable issues with this project in this  
7 location. I would suggest that the only conditions  
8 that would make the project acceptable would be to put  
9 it in a less sensitive location.

10 I'd also like to repeat what was said  
11 earlier by a speaker that many of the Applicant  
12 Proposed Mitigations are vague, unmeasurable and  
13 unenforceable and they need to be nailed down with  
14 conditions in this permit if the permit is issued. It  
15 should not just be relied upon in what's in the EIR.  
16 The EIR has very vague, unmeasurable conditions.

17 I'd also like to mention that the  
18 decommissioning fund, at least what was stated and  
19 talked about in the EIR, does not include anything for  
20 land restoration or revegetation.

21 To conclude my comments, just again to  
22 recommend that the commission not approve this project.  
23 Thank you.

24 CHAIR SCATTINI: Thank you.

25 MS. VIEIRA-MADERIS: State your name for the

1 record. State your name for the record.

2 MS. KISSINGER: Christie Kissinger. I have  
3 a business in Panoche Valley and I'm concerned with the  
4 negative effects this large scale solar utility plant  
5 will have on the neighboring businesses that thrive in  
6 Panoche Valley. I would like to read to you from a  
7 memo dated June 3rd, 2010, to members of the General  
8 Plan Advisory Committee from Michael Kelly, associate  
9 planner, regarding open space and conservation element  
10 policy review subcommittee recommendations.

11 "Preservation of natural resources: To  
12 preserve natural wildlife habitats including  
13 environmentally significant areas. The protection and  
14 preservation of natural resources in the county  
15 including prime agricultural areas, significant mineral  
16 lands, plant and animal life with emphasis on  
17 threatened and endangered species, habitat for fish and  
18 wildlife, watersheds, wetlands and rivers. Conserve  
19 habitat for threatened and endangered species and other  
20 species of concern. Avoid permitting development  
21 around naturally occurring ponds, riparian corridors  
22 and other specialized habitats. Development shall not  
23 be allowed within habitat of federal- or state-listed  
24 rare, threatened or endangered plant or animal species  
25 without adequate mitigation or habitat plan.

1                   To preserve large forms of open space areas  
2 such as agricultural land and outdoor recreation areas  
3 in order to serve as a means of delineating the  
4 urban-rural boundary. To establish agricultural areas  
5 through a combination of the Williamson Act for the use  
6 of county agricultural and zoning districts.

7                   Legislative methods to protect agriculture  
8 and rural identity: It is the county's policy to use  
9 the Williamson Act, agricultural zoning and legislative  
10 means where appropriate to preserve agricultural  
11 resources, maintain our rural identity, and to define  
12 and shape the urban farm.

13                   Agricultural resources: To continue  
14 agriculture as an industry in the county and to  
15 preserve present agricultural resources for future  
16 generations.

17                   Protect rural atmosphere and natural  
18 resources: General Plan Amendments, specific plans,  
19 area plans and area of special study that result in a  
20 net increase in General Plan build-out shall include  
21 methods to conserve open space for natural resources  
22 including agriculture, wildlife habitat and water.  
23 Proposed development areas shall also include measures  
24 to protect resources on site and contiguous to the  
25 project with the use of clustering conservation

1 easements and other similar programs and avoid land use  
2 conflicts.

3 Thank you very much, and please reconsider  
4 this proposal.

5 COMMISSIONER BETTENCOURT: Ma'am, I've got a  
6 question. Where's your business up there on the map?

7 MS. KISSINGER: Oh, it's I think right about  
8 there. It's Panoche. I'm not good with maps. Oh,  
9 okay. It's on Panoche Road and it's Field to Feast,  
10 and I deliver farm fresh goods from the valley from the  
11 farms and ranches to Santa Cruz County, San Benito  
12 County and San Mateo County.

13 CHAIR SCATTINI: Thank you very much.

14 MS. KISSINGER: You're welcome.

15 MS. VIEIRA-MADERIS: Estevan Guzman followed  
16 by Larry Barr.

17 MR. GUZMAN: Hello Mr. Chair, members. My  
18 name's Estevan Guzman and I'm a resident of San Benito  
19 County and I'm in favor of the solar farm.

20 And I've been an electrician for 25 years  
21 and I've never seen any PVC conduit leak any wire, or  
22 if there has been excavation and wire's been broken,  
23 there's not been a leak that has hurt the water or the  
24 water tables under it.

25 I have worked at Moss Landing, the power

1 plant there. I worked at Gilroy, the paper plant right  
2 next to Gilroy Foods. We commissioned that plant. I  
3 worked at Metcalf in South San Jose, and I believe that  
4 the solar farm -- I believe that there's going to be a  
5 lot of education from this plant where schools,  
6 children, teachers should be able to visit the solar  
7 farm after completion to see how San Benito County has  
8 taken the lead in producing -- reducing our carbon  
9 footprint and bringing forward green power emissions.

10 Right now I live about three quarters of a  
11 mile from the water treatment plant approximately, and  
12 we know that ClearSpot has started their solar project  
13 there and they're doing their pile-driving and I don't  
14 hear anything three quarters of a mile from where I  
15 live. Unless we drive -- we're going to San Juan  
16 Bautista and when we have our windows rolled up, we can  
17 hear it down the road a little bit when we're on Fourth  
18 Street and 156.

19 All of the -- I believe that letter from the  
20 Fish and Game sent should be considered hearsay. I  
21 haven't seen anything. People got up here and say that  
22 the fire chief said this, fire chief said that. Fish  
23 and Game has written this, written that. I think all  
24 that should be just considered hearsay since none of  
25 that has been produced outside on the tables for all of

1 us to read.

2 I think that we need to be bold, come  
3 forward, be the first in the country to have the  
4 magnitude of this project come to San Benito County,  
5 and I think that it's going to be better for our  
6 children in the long run to have less of a carbon  
7 footprint, to see this project for our children. We  
8 keep building and using fossil fuels for what we're  
9 doing. You know, we need to think of our children and  
10 their lives, and if it's going to discomfort us just a  
11 little bit now, we need to think about our  
12 grandchildren and their grandchildren.

13 I think as far as low level noises, that the  
14 doctor of professional -- proven that the farm will  
15 produce --

16 CHAIR SCATTINI: That's it.

17 MR. GUZMAN: That's the time? All right.  
18 Thank you very much. And I'm in favor of this project  
19 and I really wish you consider -- continue with this  
20 project and bring the green power to San Benito County.  
21 Thank you.

22 MS. VIEIRA-MADERIS: Larry Barr followed by  
23 Michael Ferreira.

24 MR. BARR: Good evening. I'm here again.  
25 I'm Larry Barr. I live in the county and I'm here

1 tonight speaking as the president of the San Benito  
2 County Business Council. We represent about 25 of the  
3 remaining businesses here in San Benito County, and I  
4 don't have any perceived political clout here. This  
5 project, by our membership, looks to be a good, clean,  
6 healthy project and we seek your approval. That's  
7 it.

8 CHAIR SCATTINI: Thank you, Larry.

9 MS. VIEIRA-MADERIS: Michael Ferreira  
10 followed by Janet Brians.

11 MR. FERREIRA: Good evening Chair Scattini  
12 and planning commissioners. My name is Michael  
13 Ferreira. I'm speaking tonight as the conservation  
14 chair for the Loma Prieta Chapter of the Sierra Club.  
15 I spoke to you before in July and when we had that  
16 scoping session on this project, and I mentioned at  
17 that time that I thought we were moving rather too fast  
18 on this project. In fact a phrase that I used was that  
19 I've seen much more time taken for an EIR for a  
20 stoplight than for this multithousand-acre project with  
21 endangered species.

22 I'll incorporate by -- specifically the  
23 comments that preceded me from Shani Kleinhaus and  
24 Martha Schauss, and I'll also mention that our club has  
25 submitted letters to the Draft EIR that referenced a

1 lot of endangered species and CEQA problems and that we  
2 do not think that those were successfully resolved in  
3 the FEIR. We also question the wisdom of the  
4 Williamson Act findings and in so doing find ourselves  
5 in uncommon agreement with the California Farm Bureau  
6 which also questioned it, and we would also like to  
7 draw your attention to the fact that you may not have  
8 been there but I found it fairly dramatic that the  
9 California Department of Fish and Game representative  
10 stood here in uniform at the supervisors' meeting and  
11 cited all the reasons why his department did not agree  
12 with the FEIR, so here we are. We're looking at  
13 endangered species as being one of the most important  
14 problems to resolve for this project, and as nearly as  
15 I can tell, the 2 key agencies are not in agreement  
16 with the documents that are in front of you. They  
17 don't agree with the mitigation that's being offered.  
18 They don't agree with the protocols that were used to  
19 check, and so it seems to me that we're getting way  
20 ahead of ourselves to be at the approval stage in this  
21 meeting, that there's more work to be done particularly  
22 with those agencies.

23 As to the Development Agreement, I would  
24 just say that in my past life I once was a mayor and we  
25 had a Development Agreement, and I guess the wording in

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1 2 clauses wasn't as sharp as it should have been. We  
2 went through a doozy of a lawsuit over it. Development  
3 agreements are things that carry a lot of potential  
4 with them, and if you haven't had a good chance to look  
5 at it very carefully, I would highly recommend that you  
6 do take that time. Thank you.

7 CHAIR SCATTINI: Thank you.

8 MS. VIEIRA-MADERIS: Janet Brians followed  
9 by Ed Markham.

10 MS. BRIANS: I'm Janet Brians, Shore Road,  
11 and I have 3 concerns I'd like to mention.

12 One is that the roads are not really  
13 covered, that San Benito County it seems to me to be  
14 open to immense costs for the roads, both Panoche Road  
15 and Little Panoche.

16 Secondly, jobs are promised but they're not  
17 guaranteed with what I read in this development  
18 contract.

19 And thirdly, as yet there's no legal way to  
20 sell power to PG&E since the project does not have --  
21 is not listed on the California Energy Commission  
22 project list.

23 Enough has been said in prior testimony  
24 before the board of supervisors, the ag commission, the  
25 conservation commission and this planning commission to

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1 assure a court challenge that might kill the project.  
2 I'm very concerned about this and the money it could  
3 cost us as taxpayers. Thank you.

4 CHAIR SCATTINI: Yeah, at this time we're  
5 going to take another short break.

6 (A recess was taken.)

7 CHAIR SCATTINI: Could I have your attention  
8 for a minute? During the break it came to my attention  
9 that somebody spoke twice, was supposed to speak for  
10 somebody else and that person supposedly came up and  
11 did it. I'm not up here to play games and quite  
12 honestly it kind of ticks me off. I tried to be fair  
13 and let everybody, you know, speak for somebody else,  
14 but if somebody says they're going to speak for  
15 somebody else and that person gets up and speaks, it's  
16 a no-no in my books, so I don't really appreciate that.  
17 Okay.

18 MS. VIEIRA-MADERIS: Is Ed Markham still  
19 here? He did leave. Pauline Valdivia. Jessica French  
20 will follow Pauline.

21 MS. VALDIVIA: Pardon me? Oh, okay. Good  
22 evening members -- chairperson, members of the  
23 commission. Thank you for allowing me to speak. I'm  
24 here on behalf of the City of Hollister. As you all  
25 know that we passed a resolution to support this

1 project. We think it's important for our community,  
2 and I know there's been a lot of discussion about jobs,  
3 et cetera, and you know, economically I think it's  
4 going to be good for the community, both economically  
5 and the community as a whole.

6 I was born and raised here in San Benito  
7 County and I've seen some dramatic changes in our  
8 County, you know, throughout the county, so I think  
9 this is going to be really good for the community  
10 because it's going to also provide jobs when they start  
11 the project I understand and there's going to be  
12 ongoing jobs. Also this will be an entry for other  
13 businesses to look at this and want to come into our  
14 community to provide services and also to provide jobs  
15 for our people. I think it's really important and I  
16 thank you for allowing me to speak. Thank you.

17 CHAIR SCATTINI: Thank you. Next speaker?

18 MS. VIEIRA-MADERIS: Jessica French, and  
19 Nancy Martin is our final speaker following Jessica.

20 MS. FRENCH: Good evening commissioners. My  
21 name is Jessica French. I'm the president and CEO of  
22 the San Benito County Chamber of Commerce. I'd like to  
23 read a portion of a letter that we sent to Mr. Peterson  
24 of Solargen. Our chamber represents about -- we have  
25 approximately 455 businesses and individual members.

1                   "Following a thorough vetting process the  
2 chamber board voted September 14th, 2010, to formally  
3 endorse the Solargen Energy Project in recognition of  
4 the positive economic benefits it will bring to our  
5 county. The San Benito County Chamber of Commerce is  
6 organized for the purpose of creating, promoting and  
7 celebrating economic vitality within San Benito County  
8 by providing resources to businesses and individuals.  
9 We believe the project will create significant positive  
10 impacts" which are listed here in the letter.

11                   "Being a Monterey Bay Area green-certified  
12 organization, we support development of green collar  
13 jobs in San Benito County and appreciate local and  
14 statewide environmental needs for clean renewable  
15 energy that will be met by the completion of your  
16 project. Please let me know if there is any assistance  
17 the San Benito County Chamber of Commerce can provide  
18 as you move forward with your project and please know  
19 that you have our full support," and it was signed by  
20 our board chair, Teri Rovella. Thank you.

21                   MS. VIEIRA-MADERIS: And our final speaker's  
22 Nancy Martin.

23                   MS. MARTIN: Good evening commissioners.  
24 Thank you for taking this project on. I'm the  
25 president of the Economic Development Corporation of

1 San Benito County. My name is Nancy Martin and indeed  
2 I live in the county. We're also represented by our  
3 board of directors: Gillian Ann Spolis is in the  
4 audience tonight. She is the chair of our  
5 organization.

6                   And I'm here to tell you that the Economic  
7 Development Corporation supports large scale solar  
8 projects not only throughout the county but  
9 particularly in the Panoche Valley, and we support them  
10 because we cite the job creation and the ability -- and  
11 the possibility to attract clean green businesses are  
12 the prime reasons, and we support projects for these  
13 reasons because they create employment opportunities,  
14 they provide local jobs to our citizens, and they  
15 create new career paths as we focus on a green economy.  
16 These projects support our local economy by creating  
17 additional spendable incomes that can be spent locally  
18 and therefore invigorate our local economy.

19                   It offers us business attraction  
20 possibilities, and that's my end of the business. I  
21 was recently at an international solar conference last  
22 week and when the word was brought to my attention  
23 through a text that indeed the board of supervisors had  
24 approved the property to come out of the Williamson Act  
25 and that the project could move forward, it gave me a

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1 whole different angle to approach companies there, and  
2 by the time I returned to San Benito County on Monday,  
3 I had a slough of emails from companies that I had  
4 started talking with that wanted more information about  
5 how they too could participate in our green economy  
6 here by locating companies, goods, services,  
7 manufacturing, distribution and assembly here, thus  
8 creating more jobs, so you see it's not just about a  
9 solar farm. It's being a catalyst for our economy.

10 AUDIENCE MEMBER: It's not a farm.

11 MS. MARTIN: A facility. It also increases  
12 the revenue streams that are desperately needed to  
13 provide public good in the form of sales tax, use tax  
14 property tax, in lieu of taxes that will result from a  
15 defined Developer Agreement, and it will stabilize the  
16 energy that is flowing across California because right  
17 now we need to have 33 percent of our electricity  
18 generated through alternate sources and renewable  
19 sources. We're not going to get there, folks, and  
20 we're going to have more blackouts and more brownouts,  
21 and then that is not a conducive environment for  
22 business. It's not a conducive environment for our  
23 citizens.

24 So therefore, the Economic Development  
25 Corporation of San Benito County pledges its support to

1 large scale solar projects throughout our county and  
2 especially in the Panoche Valley and we urge you to  
3 approve this use. Thank you very much.

4 CHAIR SCATTINI: Thank you, ma'am.

5 Is that the last speaker?

6 MS. VIEIRA-MADERIS: That's the last  
7 speaker.

8 CHAIR SCATTINI: Okay. I believe you wanted  
9 to have rebuttal?

10 MR. PETERSON: Honorable chairman and  
11 committee members, thank you for your time tonight.  
12 There have been many comments that have been made --  
13 I'm Michael Peterson by the way -- many comments that  
14 have been made. I can't address every one of them.  
15 Many of them I wouldn't even want to try to address. I  
16 would say that the EIR was thoroughly done by staff and  
17 by the county. I feel like it's a good document.

18 I was at a meeting last -- last time I was  
19 in the foyer and I met somebody. He had already come  
20 up and spoken on this and wasn't with us and I said  
21 "have you been to many of these?" He said "oh, I've  
22 been to many" and I said "how is this one?" and he said  
23 "it's just like the rest of them. It's the same people  
24 come and the same people say the same things." He said  
25 "this one's actually not that bad." I was surprised by

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1 that, but I'll tell you that the same kind of  
2 complaints and comments are typically there. We have  
3 done our best. We will continue to do our best.

4 I appreciate every comment. I have learned  
5 from every comment. The Draft EIR process is to get  
6 comments and we have tried to respond to all of those  
7 comments and to try to change the Final EIR, so we now  
8 have a project that has had its EIR certified. That is  
9 not why we're here today, and we can now hopefully move  
10 forward after we receive the CUP.

11 I thank every major association in the  
12 county who has supported this project because of the  
13 value that it will be to the county.

14 I would like to make one point and that is  
15 with the comment about the agencies that has been  
16 brought up a few times. Rest assured that the EIR has  
17 been certified. The project cannot go forward until we  
18 have come to an agreement with the agencies as to  
19 mitigation for this project. That is our  
20 responsibility, so there is no need to be worried that  
21 they don't -- you know, haven't come out and supported  
22 everything because they won't until we come to that  
23 discussion. We have to submit, and we have, a  
24 mitigation plan with them about the mitigation, how we  
25 will improve the lands that we have. I have a meeting

1 tomorrow with the head of the Department of Fish and  
2 Game that he asked for to speak about the project, to  
3 move this forward and have those kind of conversations,  
4 So that isn't something we need to -- you need to worry  
5 about because that will be taken care of as it needs to  
6 be or else we won't be able to move forward with the  
7 project.

8                   You've received -- there's been a lot of  
9 comment about noise, and there was a study done -- I  
10 think that's been handed to you -- that I believe we  
11 have been able to mitigate and move away from the noise  
12 and we don't believe that is the issue that's really  
13 been raised.

14                   Roads have been talked about, and we are to  
15 repair and maintain and return the roads to good shape.

16                   And the Development Agreement, I did find it  
17 interesting that there was no time to read it and yet  
18 many were able to detail every paragraph of that  
19 Development Agreement so there must have been adequate  
20 time to come to an understanding of that. And we again  
21 followed just what we could. We wanted to have that  
22 done, and also with the CEQA we have followed the law.  
23 The time frame is as the law requires and we've tried  
24 to do that.

25                   I appreciate your time tonight. I am in

1 full support of the project. I guess I should say that  
2 and let you know, but I also have all of our staff and  
3 specialists and -- who are here to answer any  
4 questions. I can't -- as I said, I don't want to  
5 address every question that I wrote down that needed to  
6 be addressed, but if you have specific questions, we  
7 would love to take the time now to answer those,  
8 whether it's on biology, whether it's on the draft  
9 agreement or Developer's Agreement or whether it's on  
10 any other question you may have. Thank you very much.

11 CHAIR SCATTINI: Thank you, Mike.

12 So let's bring it back to the commission?

13 MS. THOMPSON: Yes, formally close the  
14 public hearing at this time.

15 CHAIR SCATTINI: I haven't done it yet but I  
16 will. The public hearing has been cancelled -- closed,  
17 not cancelled, closed.

18 Let's start from this end. You want to  
19 start?

20 COMMISSIONER DeVRIES: Sure, thank you,  
21 Mr. Chairman.

22 I just had a couple of follow-up questions,  
23 and Mike, I don't know if it would be best to ask you  
24 or probably I would imagine --

25 MR. PETERSON: Probably, and I can pull in

1 whoever needs to answer.

2 COMMISSIONER DeVRIES: Okay. In regards to  
3 the last thing you mentioned which is noise, and you're  
4 right. It did come up a number of times this evening,  
5 and we were handed out -- were handed this Whelan  
6 Acoustic Report dated September 15th, and one of the  
7 things it seems to emphasize that I'm not 100 percent  
8 clear on is the use of vibrating -- vibratory -- I  
9 don't know if "vibratory" was the word, but vibratory  
10 pile-driving as opposed to hammering --

11 MR. PETERSON: Right.

12 COMMISSIONER DeVRIES: -- I guess. Is that  
13 something that's to be done then rather than hammering?

14 MR. RETTERER: Hi, I'm Jason Retterer. I'm  
15 with Lombardo & Gilles, and yes, vibratory pile drivers  
16 are going to be used on this project in lieu of the  
17 impact pile drivers which was the original assumption  
18 that was provided in the EIR, so that's been changed  
19 and I believe a mitigation measure was added regarding  
20 vibratory piles as part of the final EIR as well.

21 COMMISSIONER DeVRIES: Okay. And you know,  
22 The Whelan Report concludes that it will be  
23 approximately 5 dBA quieter than impact pile-driving or  
24 96 dBAs at a distance of 50 feet. You know, the hard  
25 thing -- yeah, the difficult thing about noise is I

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1 don't know 96 from 166. Is there any way of  
2 quantifying that for us as to just how noisy vibratory  
3 pile-driving is?

4 MR. RETTERER: I think that there was a  
5 table in the EIR that provided a comparison of some  
6 noise levels based on the amount of dB, decibels, and  
7 I don't recall where it was in the Draft EIR. Perhaps  
8 Aspen could point out the actual table, but it provided  
9 some examples, like for example, I think there was a  
10 rock concert noise level and it had a corresponding  
11 decibel level and there were a couple other examples,  
12 comp. typical examples. I remember seeing that too. I  
13 didn't bring the Draft EIR with me. There was -- there  
14 was one table, CO-point-11-dash-1 which was noise  
15 levels for compatibility that was more like what noise  
16 levels are compatible for certain types of uses. It  
17 listed a bunch of types of uses like residential,  
18 schools, auditoriums, sports arenas with a  
19 corresponding noise level of what would be appropriate  
20 for those types of uses. That's not getting to your  
21 question, but there was another -- there was another  
22 table, another figure that identified noise levels at  
23 outdoor locations. An example is an apartment next to  
24 a freeway or a downtown area with some construction  
25 activity, and that was figure 11C-dash-1. Like the

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1 apartment was just under 90 dB, LDN, and like an older  
2 residential area is about 60 LDN dB, but I guess there  
3 is not one that identifies what noise level is  
4 associated --

5 MR. PETERSON: In there it says residential  
6 would be 60 dBA. That's a number used, and the chart,  
7 the thing that you received, it was estimated that with  
8 the Revised Alternative A, construction of phase 1  
9 would have 43 to 47 dBA.

10 COMMISSIONER DeVRIES: Okay.

11 MR. PETERSON: And it can go down to 5 which  
12 is where it's closest to the location of the school and  
13 another says 44 to 48 dBA, so according to using this,  
14 the dBA is well below what the residential number would  
15 be or improved number would be, which would be 60.

16 COMMISSIONER DeVRIES: Okay. That's  
17 helpful. Thank you both. I just have a couple more  
18 other things on my list. I'll just go through them.

19 CHAIR SCATTINI: Sure.

20 COMMISSIONER DeVRIES: The next is something  
21 that also came up and that's night lighting. I guess  
22 you have 2 things: lighting during construction and  
23 lighting ongoing after construction is completed,  
24 compliance with dark skies ordinance, that type of  
25 stuff. Can you just address that briefly?

1 MR. PETERSON: Well, we have to comply with  
2 that ordinance and we will.

3 COMMISSIONER DeVRIES: Right.

4 MR. PETERSON: So Eric Cherniss will answer  
5 that.

6 MR. CHERNISS: Let me take it. So the  
7 intention of night lighting for the project site is for  
8 safety and it's also for security of the project, so at  
9 each of the different -- you've got multiple paneled  
10 blocks that are out there where you have a 2-megawatt  
11 panel block that are going to exist throughout the  
12 project site. At the center of each of those panel  
13 blocks, they're going to have an inverter and they're  
14 going to have a post that's going to have a light which  
15 faces down which is triggered by motion, so if for some  
16 reason someone moves out on the site, would drive upon  
17 the site, the light would turn on from a security  
18 standpoint, so that's the lighting that we have on the  
19 project site that exists at night that is triggered by  
20 motion.

21 COMMISSIONER DeVRIES: What about sheep and  
22 kangaroo rats; can they trigger a light?

23 MR. CHERNISS: No, the lights are specified  
24 for certain types of vehicles usually and then human  
25 motion. I don't know how they differentiate the 2, but

1 you know, certain height.

2 COMMISSIONER DeVRIES: Okay. And then the  
3 last question I had I think, Eric, this would probably  
4 be a good one for you too because I know I've talked  
5 with you about this in the past. The former biologist  
6 for San Benito County who I've spoken with on the phone  
7 today -- I forgot her name already -- she made the  
8 point -- as I understand it, her point is it's not  
9 enough to just set aside habitat. There's also  
10 something to be said for improving or enhancing  
11 habitat. In looking at the new revised layout there,  
12 are there any opportunities to improve habitat in the  
13 nonpanel areas?

14 MR. PETERSON: This whole area here and this  
15 area here will be improved and will be set aside as  
16 improved land, and it is the highest -- this area was  
17 the highest biological resource that we had and it goes  
18 worse and worse as you go into that direction, so we  
19 moved out of this area and out of this area which is  
20 the highest giant kangaroo locations and it will be  
21 improved.

22 COMMISSIONER DeVRIES: And what do you do to  
23 improve habitat for those types of species in those  
24 areas just as a practical matter? Do you build a  
25 breeding grounds for them or food sources?

1 MR. CHERNISS: Why don't we have the  
2 biologist --

3 CHAIR SCATTINI: State your name for the  
4 record.

5 MS. KORPOS: Michele Korpos with Live Oak  
6 Associates. So in addition to these lands here which  
7 are the on-site lands, there are properties up to the  
8 north, west, east and the southeast of the project site  
9 which are the Valadaeo Ranch and the Silver Creek  
10 Ranch. On those properties there are opportunities to  
11 improve habitats. On the Valadaeo Ranch in some of the  
12 natural drainages, there is a lot of erosion that has  
13 occurred mainly due to overgrazing in those particular  
14 areas. Siltation has occurred as a result of that  
15 overgrazing and erosion in those drainages, so one of  
16 the opportunities not only on the Valadaeo Ranch but  
17 also on the Silver Creek Ranch and in some portions  
18 along Panoche Creek actually on the site, there are  
19 opportunities to reverse the erosion process through  
20 overgrazing. We can, through an adaptive management  
21 program, decide where cattle or sheep or whatever  
22 ungulates will be grazing there, you know, where they  
23 can go. We also have opportunities to create new  
24 habitat for California tiger salamanders. They breed  
25 generally in ephemeral ponds or stock ponds. Where



1 they have been noted through our marble sampling  
2 earlier this year, they were off-site. One pool was on  
3 the Valadaeo Ranch and the other one was just off the  
4 project site, and there are 2 historic site pools on  
5 the project site which will be protected. There are  
6 ample opportunities on the Valadaeo Ranch and on the  
7 Silver Creek Ranch to enhance areas for potential  
8 breeding for that species, so that's another  
9 opportunity to increase the biotic value. Let's see.  
10 So there -- yes, there are opportunities, and through  
11 the mitigation and monitoring plan, all of those  
12 opportunities will be spelled out and it will be  
13 discussed how they will be achieved, and there also is  
14 an adaptive management portion to all the mitigation  
15 lands, and as -- over the course of years, you know,  
16 where other opportunities arise.

17                   One of them, which is really important  
18 actually, is there is tamarisk on the Silver Creek  
19 Ranch which is within the riparian zones, and it's a  
20 highly invasive species and it actually alters the  
21 hydrology of the stream, and we're going to be able to  
22 eradicate the tamarisk in the portions of the Silver  
23 Creek Ranch where it occurs which will then allow for  
24 cottonwoods and willows to come back which also will  
25 increase the value of biotic habitat.



1 MR. PETERSON: So there should be more water  
2 flowing through the creek. You know, the tamarisk just  
3 sucks up the water, so this will increase it.

4 MS. CORPUS: And it increases -- actually it  
5 increases the amount of salt deposits. The plant  
6 actually produces salt.

7 COMMISSIONER DeVRIES: Thank you. That's  
8 all the questions I had.

9 Mr. Chair?

10 COMMISSIONER CULLER: Mr. Chair, I had a  
11 question about the piles.

12 MR. PETERSON: The dry piling?

13 COMMISSIONER CULLER: Yeah, I guess what's  
14 the extent of the pile-driving going to be, how many  
15 and what are they for?

16 MR. PETERSON: Do you want to answer that,  
17 Eric?

18 One thing I might add before he mentions,  
19 the reason we're doing the dry-piling is because we  
20 decided from the very beginning to not use concrete  
21 footings because concrete footings would be very  
22 destructive to the habitat, so we took the proceeds  
23 from dry-piling in order to preserve the natural  
24 landscape there because when we take this out, of  
25 course as you know, concrete footings would be very



1 destructive, so our intent here was to be as good  
2 stewards to that land as far as we could as far as the  
3 species and also at the end when we decommission the  
4 project.

5 MR. CHERNISS: So pile-driving is used on  
6 the site throughout the entire site. We are putting  
7 posts into the ground on which the solar panels will be  
8 sitting placed upon it, so for every -- I don't know  
9 how exactly the ratio of, you know, piles that are  
10 going into the ground, essentially just eye beams that  
11 get pushed into the ground or vibrated as they're  
12 driven into the ground, so they're throughout the  
13 site.

14 CHAIR SCATTINI: How deep is that?

15 MR. CHERNISS: They're approximately 6 to 8  
16 feet deep depending upon the exact soil composition  
17 which changes throughout the site.

18 CHAIR SCATTINI: Okay.

19 THE WITNESS: Do you have any other  
20 questions regarding pile-driving that I could answer?

21 COMMISSIONER CULLER: Well, I mean that's  
22 pretty shallow. You know, I have a limited experience  
23 with them and the impact ones, you know, are very loud.  
24 Vibratory ones are quieter, but they also -- you can  
25 feel them pretty far away from where it's happening.



1 You know, it actually moves earth hundreds of feet  
2 away, but those are -- you know, the ones that I've  
3 seen are usually much bigger and deeper, and seems like  
4 those would probably go in pretty easy.

5 MR. PETERSON: Right.

6 COMMISSIONER CULLER: And they're not  
7 supporting a lot of weight, just a couple panels over  
8 there, so your plan is just to pull them out when  
9 you're done?

10 MR. PETERSON: Yes.

11 COMMISSIONER CULLER: That was all I had.

12 MR. PETERSON: Thank you.

13 COMMISSIONER BETTENCOURT: I'd like to call  
14 the gentleman with the D on his hat up here.

15 Apparently he's experienced with these vibrating --

16 MR. GUZMAN: My name's Estevan Guzman. Go  
17 ahead with your question.

18 COMMISSIONER BETTENCOURT: Yeah, how far  
19 away can you hear them or -- they're not like the ones  
20 that use steam and use the real loud banging?

21 MR. GUZMAN: Yeah, that's correct. They're  
22 not going to use -- they're not using a tractor that's  
23 normally used with a clutch and the big pile that hits  
24 like for bridges. I was a foreman over at the airport  
25 in San Jose and that was a tractor-driven pile driver.



1 The vibrating that they'll be using that are driving 6  
2 to 8 feet are usually driven pretty fast since that's  
3 the depth that they're going. They're not going 10,  
4 15, 20 feet or even further than that which normally is  
5 used for bridges and support beams.

6 COMMISSIONER BETTENCOURT: Is  
7 Commissioner Culler's concern that they -- the  
8 vibration can be felt?

9 MR. GUZMAN: No, it's nothing compared to  
10 tractor-driven pile drivers.

11 COMMISSIONER BETTENCOURT: Okay.

12 MR. GUZMAN: It's just very minimal. I mean  
13 compared to pile-driving -- a tractor-driven pile  
14 driver, they're loud and you can feel them. Being at  
15 the airport where they built their new garage, it was  
16 all power-driven and we could feel it across the street  
17 but those were all going -- I think they were driving  
18 20, 40, 50 feet down, and 6 to 8 feet, we normally dig  
19 them with post holes almost.

20 COMMISSIONER BETTENCOURT: Thank you.

21 MR. GUZMAN: You're welcome.

22 COMMISSIONER BETTENCOURT: Eric, I've got a  
23 question for you. When we had the meeting the other  
24 day, you indicated that this pile-driving unit, that  
25 you had talked to the contractor and that it was going

1 to have a mechanism that went around it, and that had  
2 foam or whatever it is to absorb the noises; is that  
3 correct?

4 MR. CHERNISS: That is correct. There  
5 is the shielding which dampens the noise.

6 COMMISSIONER BETTENCOURT: Okay. That's all  
7 I've got on the noise.

8 The other thing that came up was on best  
9 effects in reading the Development Agreement --

10 MR. PETERSON: Best efforts?

11 COMMISSIONER BETTENCOURT: Yeah, well, the  
12 project will provide between 150 and 200 jobs during  
13 the construction and 50 jobs during the operation. The  
14 applicant has agreed in the Development Agreement to  
15 take best effects to ensure that these jobs -- what do  
16 you mean by that? I mean --

17 MR. PETERSON: What are the best efforts  
18 that we'll be doing?

19 COMMISSIONER BETTENCOURT: Yes.

20 MR. PETERSON: Using contractors and using  
21 the union that they have, they have come up with a  
22 hiring strategy to use San Benito County residents  
23 first as far as all their calls. That's their best  
24 efforts and everything we do will again be best  
25 efforts, and again we are -- I know there's a lot of

1 concern of that. I have from the very beginning always  
2 said that jobs will be primarily from this. I think  
3 you're absolutely right. You can't guarantee that 100  
4 percent of the jobs will be here. We can't -- as  
5 someone rightly said, you can't tell someone who comes  
6 over here to work we can't hire them because they don't  
7 live here, but everything we will do and everything  
8 that the union shops and others that we'll be using  
9 will be doing will try to maximize that as high as  
10 possible. That's the best efforts that we will use.  
11 And I should say that the money that we are using  
12 requires that we only can count the jobs that are from  
13 San Benito County, so it is to our best interest to get  
14 jobs here as well, not just to the county's.

15 COMMISSIONER BETTENCOURT: Okay. Sales tax,  
16 it's my understanding in the Development Agreement that  
17 you're going to have an office here or set up a company  
18 that buys from China or wherever you're buying the  
19 panels from --

20 MR. PETERSON: Right.

21 COMMISSIONER BETTENCOURT: -- and then we,  
22 the county, will take advantage of whatever the 8-and-a  
23 quarter sales tax is?

24 MR. PETERSON: Right.

25 COMMISSIONER BETTENCOURT: And you're going

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1 to set them up out there and the county will reap from  
2 that; is that correct?

3 MR. PETERSON: That's correct. The way that  
4 works is when we buy a product, we have to pay a tax.  
5 If a product was manufactured in Michigan, then they  
6 would have brick and mortar there and they do the  
7 purchase order and we would pay them and they would  
8 charge the tax probably at the point of sale there.  
9 And so products that certainly aren't coming from a  
10 taxable location in the United States, they're the  
11 easiest for us to be able to have the point of sale  
12 occur within the county, and that is what we've said we  
13 will do is to ensure that those point of sales are in  
14 the county so that that 8-and-a-quarter percent tax  
15 comes. If you just take half of the goods of what  
16 we'll be buying and you apply a 1 percent benefit to  
17 the county, which is what the county would get -- they  
18 actually get 2 percent but 1 percent of that is  
19 allocated to law enforcement and other areas but it's  
20 still a benefit, but 1 percent would be about \$7  
21 million in tax, those use tax benefits. We will ask  
22 every company that we buy from, whether they're in the  
23 United States, whether they're in California or  
24 whatever, we're going to ask them to have the point of  
25 sale be in the county. I can't guarantee on that half

1 because they have a county where they are that wants  
2 all of those sales tax to be there, but we will ask and  
3 there may be some that will.

4 COMMISSIONER BETTENCOURT: Okay. I know a  
5 lot of the folks out there were talking about the  
6 General Plan. I read that book probably not -- I read  
7 the whole thing. Then I referred back to it, and I  
8 also have to compliment you folks on putting the tabs  
9 on it too because it's easier to find. I also read all  
10 of the -- the comments that came from -- that were  
11 written, and then I also read the comments that were  
12 mitigated, and I met with Kim and Ron, Collette, and I  
13 appreciate that, Kim, because -- and then I went to  
14 work on finding out what came out of that meeting, and  
15 that was with Dan and myself. I talked to those -- the  
16 Solargen, and they answered a lot of my questions that  
17 I came out of that meeting with, and as far as the --  
18 the Development Agreement, after talking to the folks,  
19 Kim and them, I went back and read the Development  
20 Agreement again because in their statements they were  
21 saying that you gentlemen were making a lot of promises  
22 but nothing in writing, but I came back and read the  
23 Development Agreement and I'm finding that they are --  
24 the promises are in the Development Agreement.

25 MR. PETERSON: Yes, sir.

1                   COMMISSIONER BETTENCOURT: I also had a long  
2 talk with the county assessor and apparently -- with  
3 Jim and county counsel, and the assessor had a lot to  
4 do with this Development Agreement.

5                   MR. PETERSON: I would even say that is  
6 their agreement.

7                   COMMISSIONER BETTENCOURT: Okay. I don't  
8 see anything that I can add to the Development  
9 Agreement or take away from the Development Agreement,  
10 so that's all I've got to say really for now.

11                  CHAIR SCATTINI: Are you through?

12                  COMMISSIONER BETTENCOURT: Yes.

13                  CHAIR SCATTINI: Gordon, you got any  
14 comments?

15                  COMMISSIONER MACHADO: Well, originally when  
16 I asked the question at the beginning of the meeting  
17 that the board of supervisors certified the EIR and  
18 adopted the CEQA --

19                  MR. PETERSON: Right.

20                  COMMISSIONER MACHADO: -- of course I was  
21 kind of dumbfounded it came before us for the public  
22 hearing and then we closed it and it had to go before  
23 the board. After I got a full explanation and clarity  
24 of how that happened, I'm still upset on the idea that  
25 most EIRs come before us and we have the opportunity to

1 address the issues. I guess what I'm saying, it's done  
2 and it's over with and a lot of the discussion tonight  
3 was on that EIR that's already been passed not by us  
4 but by the board. So really tonight it seems that we  
5 have a Use Permit for a pass or denial and then we have  
6 a Development Agreement, and basically all we're doing  
7 is making a recommendation one way or the other or  
8 whatever to the board of supervisors.

9 A couple of concerns I had was I didn't  
10 see -- and I'm assuming that this project will conform  
11 to the county ordinance in the construction hours,  
12 which I think is normally 7:00 to 7:00; is that true?

13 MR. PETERSON: We will conform with all the  
14 county ordinances, yes.

15 COMMISSIONER MACHADO: There's no night  
16 operations?

17 MR. PETERSON: Wait, wait, I misspoke. I'm  
18 sorry. Say that again?

19 MR. TURNER: There will be -- there will be  
20 some necessary night construction, and the specifics of  
21 that I think Eric or someone from the team can answer  
22 that, but there will be limited night construction that  
23 has to take place.

24 MR. PETERSON: So let's have Eric discuss  
25 that.

1                   COMMISSIONER MACHADO:  Somebody clarify the  
2 county ordinance here.

3                   MR. CHERNISS:  This is Eric Cherniss from  
4 Solargen.  So in the evenings we'll be doing -- we've  
5 confined all the pile-driving and heavy equipment to  
6 the hours of 7:00 to 7:00, but because of the  
7 photovoltaic panels generating electricity when they're  
8 exposed to the sunlight, from a safety factor, we can  
9 actually improve safety on the site by connecting the  
10 panels together in the evening when the panels are not  
11 generating electricity, so that will be occurring in  
12 the evening.  In addition certain supplies that are  
13 being used on the site by the workers during  
14 construction will be brought in in the evening because  
15 many of them, when they're coming in, if they're solar  
16 panels, are coming in from potentially another country.  
17 They'll be coming in from the Port of Oakland and  
18 we pick them up and drive them down because the trucks  
19 are large, and so doing it when there's not traffic is  
20 beneficial to the residents of the state.

21                   COMMISSIONER MACHADO:  That's not  
22 necessarily construction?

23                   MR. CHERNISS:  I would defer to Byron  
24 whether it's construction or not, but those are the  
25 activities that will be occurring.

1                   MR. TURNER: Yeah, as far as the nighttime  
2 activities that will occur, they are required to  
3 maintain below the noise standards in the county. I  
4 guess it's a matter of interpretation what's  
5 construction and what's activity, but the nighttime  
6 activity is supposed to be the least noisy aspects of  
7 it and as well it is required to remain under the 45  
8 dBA -- oh, sorry, the 35 dBA at night per our county  
9 ordinance.

10                   MS. THOMPSON: And I don't have the county  
11 ordinance in front of me, but I believe temporary  
12 construction is exempt from county ordinance. The rule  
13 is that all construction has to comply with the county  
14 ordinance. There is no exemption from the county  
15 ordinance.

16                   MR. TURNER: Right, but because it's a  
17 5-year project, we didn't consider it temporary  
18 construction, but you know, it definitely could be  
19 considered it.

20                   MS. THOMPSON: Yeah, I don't know if there's  
21 any formal definition, but the EIR said it may, but I  
22 don't know if there will be any conclusion of that.

23                   MR. PETERSON: But heavy construction would  
24 take place in the day.

25                   COMMISSIONER MACHADO: At nighttime in the

1 valley I'm sure the noise is low.

2 Road maintenance, I'm not clear on road  
3 maintenance. What's Solargen's position on that?

4 MR. PETERSON: In the EIR it discusses  
5 roads, and I want to make sure I speak right. We  
6 are responsible for improving, repairing and returning  
7 the roads to condition after we -- and during the  
8 project, so we will improve them so that they're --  
9 which they need to be improved -- to the point where  
10 they are drivable and safe, and then we will maintain  
11 them and return them to that state when we are done  
12 with the project.

13 MS. THOMPSON: That's Mitigation Number  
14 TR 1-1.3, "repair roads and infrastructure within the  
15 public right-of-way," and it's stating including  
16 Interstate 5, Panoche Road, Panoche Road from State 5  
17 to Little Panoche Road that have been damaged by  
18 project-related construction will be repaired after  
19 construction activities or traffic, and it goes on from  
20 there.

21 MR. PETERSON: Right.

22 MS. THOMPSON: On page -- yeah.

23 COMMISSIONER MACHADO: Look in the safety  
24 element. It says here all the local roads are  
25 presently operating at Level of Service A or better. I

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1 don't know.

2 MR. PETERSON: I don't know either  
3 honestly.

4 COMMISSIONER MACHADO: I cannot believe that  
5 there is any road in this county that's level A and  
6 there's no such thing as better. A is Number 1.

7 CHAIR SCATTINI: So state your name.

8 MR. BLISS: I'm Art Bliss from the county  
9 public works. Level of service deals more to the free  
10 flow of traffic as opposed to the condition of roads,  
11 and so considering that traffic being generated by the  
12 project or as it exists, we are not anticipating  
13 congestion from the project operations. Again I  
14 will -- I will relate that the level of service does  
15 not address -- it is not a measure of the conditions of  
16 the roads, and I would do my best to defer any comment  
17 regarding the conditions of the roads.

18 COMMISSIONER MACHADO: Okay. Let's argue  
19 the word "or better." A is Number 1. How can you go  
20 better? But regardless of that, that's no big deal.  
21 The only other thing -- about the only other thing I  
22 see in here too, "all weather service per San  
23 Bernardino County Fire Department." How did that get  
24 in there?

25 MR. PETERSON: Say it again?

1                   COMMISSIONER MACHADO: It says here "all  
2 weather service per the San Bernardino County Fire  
3 Department."

4                   MR. TURNER: That's a typo.

5                   MS. THOMPSON: Where are you at?

6                   COMMISSIONER MACHADO: Page -- it's repeated  
7 somewhere else in here too.

8                   MS. VIEIRA-MADERIS: At least we know you  
9 read your packet, Gordon.

10                  COMMISSIONER MACHADO: I guess my other  
11 concern is the same thing that Commissioner Bettencourt  
12 mentioned is the fact that -- and maybe that's the way  
13 it has to be. When you guys enter in good faith to  
14 take the best effort, that seems it's all in your hands  
15 then, you know. I'm sure that you're going to be  
16 supervised and looked over.

17                  MR. PETERSON: Absolutely.

18                  COMMISSIONER MACHADO: I hope so.

19                  MR. PETERSON: I think -- I think there was  
20 a comment from someone in opposition who made the point  
21 that legally we can't guarantee. Legally we can't not  
22 give a job to someone because of their location, so  
23 we'll use our best efforts as we legally can to do  
24 that.

25                  MS. THOMPSON: And that is a legal term.

1 You know, during the negotiations there was a  
2 discussion whether it should be "reasonable efforts"  
3 and we were successful in getting "best efforts" in  
4 there because it's almost impossible to delineate every  
5 single effort that somebody should take, but if that  
6 became a dispute under the contract, we could pursue  
7 that further whether the applicant has taken his best  
8 efforts, you know, and have him delineate what efforts  
9 he has taken. It would be up to the arbitrator to  
10 determine whether they have done that.

11 COMMISSIONER MACHADO: I guess that really  
12 was my -- look at my tabs here. And I guess the  
13 question comes up here once in a while, and I don't  
14 have a major concern about it, the owner may sell the  
15 site or transfer in whole or in part all the property?

16 MR. PETERSON: Right.

17 COMMISSIONER MACHADO: I think that's a  
18 common --

19 MR. PETERSON: There is a concern it seems  
20 about that, and -- but whether we sell -- whether we  
21 operate it or we sell it, it's still a benefit to the  
22 county. In fact, if we sell it, you probably have a  
23 better -- you know, somebody who has money, you know,  
24 running out their pockets, as has been said we don't  
25 have, would be here, so I think it would be to the

1 county's benefit to have us sell it, and the truth is  
2 that once we build this, it will be there and it will  
3 be operating generating electricity, so whether  
4 Solargen goes out of business or not, it will have no  
5 impact on the county because of the project itself.  
6 It's not like a factory that turns on and turns off  
7 depending on the business that's being run in it. This  
8 is a -- it will be turned on and it will transmit  
9 electricity. It will have a contract, and so whether  
10 we are here or not, that is the benefit that the county  
11 will have from it whether we survive or not.

12 COMMISSIONER MACHADO: I think I learned  
13 years ago when we talked about agreements that are  
14 transferable or go with the zoning of the land --

15 MR. PETERSON: Yes.

16 COMMISSIONER MACHADO: -- you shouldn't look  
17 too much to the applicant.

18 MR. PETERSON: That's right.

19 COMMISSIONER MACHADO: Make sure you've got  
20 your agreements in hand. You could die tomorrow.

21 MR. PETERSON: Exactly.

22 COMMISSIONER MACHADO: The individual owner  
23 or the corporation could change and in this case sell  
24 it.

25 MR. PETERSON: Exactly. And in that case it

1 is all transferable. If there is a change of  
2 ownership, the new owner has to sign the agreement.

3 COMMISSIONER MACHADO: That's my concern.  
4 We have in our documents everything that covers this  
5 project, so if something of that nature happens, are we  
6 covered with the new owner on everything that's  
7 presented or signed tonight?

8 MR. PETERSON: That's correct.

9 CHAIR SCATTINI: That's it? I get the last  
10 shot at you. That's one of the good things about being  
11 the last person to speak. Everybody already asked it,  
12 but I do have a couple things. Security, you're going  
13 to have security 24/7 at that place?

14 MR. PETERSON: Yes, we will.

15 CHAIR SCATTINI: And what kind of security,  
16 somebody that's a security officer or just have an  
17 employee?

18 MR. PETERSON: We will have -- we'll have  
19 security on that's trained security on staff.

20 CHAIR SCATTINI: Trained security.

21 MR. PETERSON: We'll also have very high --  
22 I guess I should say I just saw the security measures  
23 from the contractor that is able to detect movement  
24 from so many feet away. It will contact the person --  
25 you know, the people and it will be very, very

1 efficient, but there will be a lot of security, you  
2 know, on site.

3 CHAIR SCATTINI: Okay. I read in here also  
4 about the septic system?

5 MR. PETERSON: I don't know the answer to  
6 that. Eric, do you know the answer to the septic  
7 system?

8 CHAIR SCATTINI: Can you clarify that septic  
9 system? Are you going to have a septic system?

10 MR. PETERSON: Is there -- I think it's  
11 going to be -- it's movable systems.

12 MR. CHERNISS: For the -- the operation and  
13 maintenance facility will have a restroom facility.

14 MR. PETERSON: There'll be one facility. It  
15 will be a small area that will be the room that will be  
16 there that all the personnel will be from for the  
17 project long term, but most of the -- that will be one  
18 septic system, but most of the disposal will be the  
19 haul-in, haul-off type of waste.

20 CHAIR SCATTINI: Okay. And then once the  
21 project -- and I know it's a 5-year project, but once  
22 it's completed, there's talk about sheep being able to  
23 go underneath the panels and graze. Is that something  
24 that's going to be leased out to --

25 MR. PETERSON: Yes. We already have -- we

1 already have the person who will be doing that.

2 CHAIR SCATTINI: They're going to lease the  
3 land from you?

4 MR. PETERSON: Right. Well, we have -- we  
5 have -- we've already given those grazing rights to  
6 somebody.

7 CHAIR SCATTINI: I see.

8 MR. PETERSON: Yes.

9 CHAIR SCATTINI: Jobs, unions, is this going  
10 to be all union jobs?

11 MR. PETERSON: At this point it looks,  
12 yes.

13 CHAIR SCATTINI: Okay. Those are my  
14 questions. Gordon asked and Richard asked and I don't  
15 have any more.

16 MR. PETERSON: Let me make one comment on  
17 the unions. That is something I spent a lot of time  
18 trying to work on, but one third of all those jobs will  
19 be people trained and hired to come on from the county,  
20 not the typical union jobs that they have. That was  
21 something that we -- we negotiated --

22 CHAIR SCATTINI: Okay.

23 MR. PETERSON: -- with the intent to try to  
24 train and -- new workers.

25 CHAIR SCATTINI: Right. I don't have any

1 more. They are going to ask some more questions.

2 COMMISSIONER BETTENCOURT: Eric, I have some  
3 questions for you. The thing that -- reading the  
4 mitigation issues here in the packet, I noted that  
5 there is -- let's see, that they're going to have  
6 biologists on staff watching during the construction to  
7 make sure that there's no taking of critters, and  
8 what -- is there going to be somebody from the county  
9 watching out that the county hired and is -- I mean  
10 because that might take another staff member, Byron,  
11 and I don't recall reading it in the Development  
12 Agreement whether staff --

13 MR. TURNER: There is a -- yeah, we've got 2  
14 things.

15 MR. CHERNISS: BRG 4.

16 MR. TURNER: The first mitigation -- the  
17 very first mitigation measure is that the applicant  
18 shall provide funding for the environmental monitoring,  
19 and then we also have a Condition of Approval.

20 COMMISSIONER BETTENCOURT: Are the  
21 biologists going to be hired by the county?

22 MR. TURNER: Well, we also have a Condition  
23 of Approval that says all mitigation monitoring shall  
24 be funded by the applicant. All mitigation monitoring  
25 shall be performed by either county staff or other

1 qualified personnel who is solely responsible to the  
2 County of San Benito.

3 MR. PETERSON: Right. So we hire the -- we  
4 hire the environmental biologist and you will solely be  
5 able to choose the monitor to watch them and of which  
6 we'll reimburse the county for that cost.

7 COMMISSIONER BETTENCOURT: Okay. And the  
8 biologists, are they going to -- there's a lot of  
9 birders here.

10 MR. PETERSON: Hmm-hmm.

11 COMMISSIONER BETTENCOURT: And apparently  
12 some of these biologists will be birders?

13 MR. PETERSON: Absolutely.

14 COMMISSIONER BETTENCOURT: Okay. And what  
15 if it improves the critters, the birds?

16 MR. PETERSON: We hope it does.

17 COMMISSIONER BETTENCOURT: Okay. The other  
18 thing that I've learned by going down to the  
19 Bakersfield conference that -- and somebody brought it  
20 up I believe, is shooting panels. Is that why you have  
21 the security?

22 MR. PETERSON: Yes, one of the reasons.

23 COMMISSIONER BETTENCOURT: Okay.

24 MR. PETERSON: Shooting or stealing. These  
25 panel are very valuable. There was a school in

1 Lafayette that was in the newspaper that put all the  
2 panels on the roof and one day -- one night someone  
3 came and took them. They're very valuable and they  
4 generate electricity for up to 40 years.

5 COMMISSIONER BETTENCOURT: That was what I  
6 was told about from the director of Kern County, that  
7 they say they have a big problem with stealing the  
8 panels.

9 MR. PETERSON: Right.

10 COMMISSIONER BETTENCOURT: What about birds  
11 crapping on the panels?

12 MR. PETERSON: We would ask the Audubon  
13 Society to train them not to do so. No, obviously that  
14 will happen, and we'll clean, and what happens on the  
15 cleaning is you monitor the amount of electricity  
16 that's coming off each string of panels and when it  
17 gets to a certain point where it's low, then you know  
18 you have to go out and clean the panels and then you go  
19 out and clean the panels at that point.

20 COMMISSIONER BETTENCOURT: Another thing,  
21 while you're up there, Michael, can you explain to me  
22 how the -- because I have some people that informed me  
23 about the \$360 million that they're upset about. Can  
24 you explain to the public how that works briefly?

25 MR. PETERSON: Sure. It is the -- there is

1 an investment tax credit that has been given for  
2 renewable energy projects. That investment tax credit  
3 is for companies that can offset their taxes over a  
4 period of 7 years to -- with this credit, and its 30  
5 percent of the total cost of the installation, so what  
6 happened under the ARRA is in order to increase jobs  
7 and increase projects, they said "okay. Instead of  
8 giving this to you over 7 years," which we would get in  
9 any event, "we will now condense it and give it to you  
10 up front after you've built it." Instead of having to  
11 wait 7 years, after you've built it, after you've spent  
12 all the money, you have to have it validated. You have  
13 to have it audited. You have to turn it in to the  
14 I.R.S. They validate how much you've spent. They will  
15 then give you 30 percent of that back as a cash grant.  
16 If we don't get the cash grant, we will still get that  
17 same amount but it will come over 7 years as a tax  
18 credit, so that cash grant is what many jobs, many  
19 projects are trying to obtain, and the reason why is  
20 because that reduces the cost of capital to our  
21 investors. We don't get that money. That money comes  
22 in typically after we've built. Our investors have put  
23 all the money up. Our investors will have to put up in  
24 essence \$1.5 billion. Afterwards -- so they'll have  
25 put their money at risk. Afterward they will then

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1 receive back that cash grant which they will then take  
2 as part of their return. That's how it works. I know  
3 there's been some concern we get this money in January,  
4 not the case. We have to build. Once we build and  
5 turn it on, we then are able to then apply to receive  
6 that cash grant for that portion.

7 COMMISSIONER BETTENCOURT: Okay. The other  
8 thing I kind of wanted to make clear is that I talked  
9 to the assessor, and if you sell -- there's no --  
10 you're exempt from taxes on -- not on the property, but  
11 on --

12 MR. PETERSON: Improvements.

13 COMMISSIONER BETTENCOURT: -- the  
14 improvements.

15 MR. PETERSON: Right.

16 COMMISSIONER BETTENCOURT: If you sell it,  
17 then the assessor said that they can assess the  
18 improvements 100 percent. I want to make that clear to  
19 the public.

20 MR. PETERSON: Right, yes. So again it  
21 would be to your benefit to have us sell the project.  
22 Right.

23 COMMISSIONER BETTENCOURT: Let me think. I  
24 don't have any other questions. Thank you.

25 CHAIR SCATTINI: Gordon?

1                   COMMISSIONER MACHADO: The biologist, Byron,  
2 is it a big factor or a big cost item or a big bother,  
3 some thing that the county hire the biologist?

4                   MR. TURNER: As opposed to?

5                   COMMISSIONER MACHADO: As opposed to by  
6 Solargen.

7                   MR. TURNER: It's going to be a joint  
8 effort. I mean we'll be in consultation on whoever  
9 gets hired for this, and you know, we'll make sure  
10 that -- that -- the Development Agreement dictates that  
11 we consult with each other as far as who gets hired,  
12 and the final approval still comes down to the  
13 county.

14                   COMMISSIONER MACHADO: I'm talking in  
15 general.

16                   MR. TURNER: In general?

17                   MR. PETERSON: In costs?

18                   COMMISSIONER MACHADO: I'm talking in  
19 general. It seems like the EIR's of that nature. It's  
20 always beneficial -- he who pays the consultant  
21 sometimes gets a tool, and sometimes I question if an  
22 individual hires a consultant -- you know, I'm talking  
23 in general. It's always safer for the county to hire  
24 and they pay the bill rather than they hire and they  
25 pay the bill. That's what I'm saying.

1                   MR. TURNER: It probably is a simpler  
2 process.

3                   COMMISSIONER MACHADO: Mike -- anyway, the  
4 other -- couple of other questions that I had from the  
5 general public, is the capacity of those transmitting  
6 lines adequate?

7                   MR. PETERSON: Yes.

8                   COMMISSIONER MACHADO: Do you have any idea?

9                   MR. PETERSON: The capacity of the  
10 transmission lines?

11                  COMMISSIONER MACHADO: Yes.

12                  MR. PETERSON: We have done a flow analysis  
13 on those. We had a third party do a flow analysis.  
14 They came back to us saying that the capacity was at  
15 least 400 megawatts they felt on those lines, enough to  
16 cover the project capacity, and I will say that there  
17 was previously a wind farm that was slated to go into  
18 this area, and I have been approached by many wind  
19 farms, and I said no to all of them, who would like to  
20 put wind farms on the hills, but they did a full study  
21 systems analysis on one line and that line had over 200  
22 megawatts of capacity. We have 2 lines and so it  
23 validates kind of that same system flow analysis that  
24 the capacity is --

25                  COMMISSIONER MACHADO: Are those lines being

1 utilized right now?

2 MR. PETERSON: Those power lines now are not  
3 being used -- they don't have -- they have spare  
4 capacity. There is electricity flowing, but there is  
5 more electricity that could be flowing and that's very  
6 unique of an opportunity for solar farms.

7 COMMISSIONER MACHADO: I think the other  
8 question we got tonight, and we're going to get into  
9 the agreement and all that, is again we're recommending  
10 this to the board, so in reality when would this go to  
11 the board?

12 MS. THOMPSON: Probably on November 10th.

13 COMMISSIONER MACHADO: My point is that  
14 there's a 2-week period more or less for anybody to  
15 question --

16 MR. PETERSON: That's right.

17 COMMISSIONER MACHADO: -- or look at the  
18 agreement if we send it on up, because it's going to be  
19 heard there. We're only recommending. They make the  
20 decision, so they'll have time to look at it.

21 MS. THOMPSON: Yeah, it has to be noticed  
22 for that one, so it's going to be 10-day notice. That  
23 notice hasn't gone to the paper so it will go to the  
24 paper on Monday, so it will be a 10-day appeal, so the  
25 9th or 10th.

1                   COMMISSIONER BETTENCOURT: Are they going to  
2 take -- they'll take public comment at that time too,  
3 right?

4                   MS. THOMPSON: Yes. It has to be another  
5 public hearing.

6                   COMMISSIONER BETTENCOURT: And that's on the  
7 Development Agreement?

8                   MS. THOMPSON: Yes.

9                   COMMISSIONER BETTENCOURT: It has to go to  
10 the board.

11                   MS. THOMPSON: Yes, it has to go to the  
12 board and they have to adopt it by ordinance.

13                   CHAIR SCATTINI: Okay. Any more questions?  
14 Okay. Go ahead.

15                   COMMISSIONER CULLER: Somebody brought up  
16 tonight the question about the reparation funds for  
17 when it ends.

18                   MR. PETERSON: Yes.

19                   COMMISSIONER CULLER: And somebody did the  
20 math and it was like 3 or \$4 a panel to remove them and  
21 there wasn't any money for landscape renewal or --  
22 where did that number come from in the report?

23                   MR. PETERSON: The number we used is from  
24 PG&E who is building -- they estimate the cost. That's  
25 right. They estimate the cost of decommissioning a

1 solar farm by megawatt, how much it would cost by  
2 megawatt to do so. So what we did is we took that cost  
3 and then applied that to our farm. We inflated it  
4 every year using an inflating factor, and there's a  
5 5-year look, not for inflation, but a 5-year look to  
6 say what are the real costs? What's been going on in  
7 the world here as far as decommissioning? What are  
8 they experiencing in costs? So if the inflation is  
9 lower, then the number won't ever go lower, but if they  
10 find that the cost or true cost has gone up, the county  
11 every 5 years will take a look at that to make sure  
12 that fund has adequate assets, and it's like a last  
13 month's rent in that we're still responsible for  
14 removing that. They will then return our money if  
15 we've done a good enough job or they will use the money  
16 to improve the process after it's over.

17 COMMISSIONER CULLER: Yeah, the only problem  
18 is if you're not around at that point and it needs to  
19 be done and we're using that fund to try to do it --

20 MR. PETERSON: Yes.

21 COMMISSIONER CULLER: -- and there's not  
22 sufficient funds, then who's stuck with the bill?

23 MS. THOMPSON: The key is the 5-year  
24 reevaluation. I don't think anyone was confident that,  
25 you know, that any one study that was done at this time

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1 to ascertain, you know, the surety about what the  
2 decommissioning cost was going to be in the future.  
3 That's why every 5 years we're going to get an  
4 evaluation of what the cost of the decommissioning  
5 would be and they will make up the difference from that  
6 5-year period, so the amount of the decommissioning  
7 fund increases if there's shown to be any need to  
8 increase that, and that would be based upon, you know,  
9 the panel type, the technology for decommissioning.  
10 There are a variety of factors that will be  
11 evaluated.

12 MR. PETERSON: So Commissioner, right now  
13 there's not -- obviously that is a good estimate of  
14 what it would be. That could go up or it could go  
15 down, but at the beginning of the project, as we talked  
16 about it, the project is very, very valuable in the  
17 sense that there's a lot of assets out there that  
18 anybody would come -- if we said "let's turn this off,"  
19 anybody would come and pay you to take those off  
20 because they have huge value. So at the beginning of  
21 the project, there wasn't a risk of what would happen  
22 of us going away. Now, again if we go away, then  
23 someone will have that same responsibility. They will  
24 have that burden of that responsibility, but over time,  
25 as we've looked at that, at the end of the project,

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1 we'll have over 20 years of opportunity to look at what  
2 the real costs of decommissioning are. At the end of  
3 20 years, those panels will still be generating at  
4 least 80 percent of the same amount of electricity, so  
5 they will still have a lot of value to them, and so  
6 even though the cost of decommissioning will be there,  
7 there will still be those who will come to buy those  
8 panels because they will still be generating at 80  
9 percent of their capacity. Does that make sense?

10 MR. TURNER: Also add one thing, with regard  
11 to you're talking about restoration. It's not in the  
12 Development Agreement but it is in the mitigation  
13 measures. There are mitigation measures regarding  
14 restoration unrelated to the decommissioning.

15 MR. PETERSON: Right. The intent and what  
16 we have done through the EIR is to return that land to  
17 as close as it is today. That's why we're using the  
18 dry pile posts. That's why we're above the ground.  
19 Obviously the area of the substation will be the most  
20 damaged. It's a small area compared to the project,  
21 but everything else should be much less, you know, very  
22 little. We don't want to damage the ground beneath it  
23 because that's where the species are.

24 CHAIR SCATTINI: Okay. No more questions?

25 What's the pleasure of the commission?

1 MS. THOMPSON: Mr. Chair?

2 CHAIR SCATTINI: Yes.

3 MS. THOMPSON: If I could interject, I have  
4 one proposed change to the resolution. The last "now  
5 therefore, be it resolved," I'll read it to you.  
6 Instead of the words -- you have it in front of you.  
7 Actually it's page 7 of 7. Instead of "adopt the  
8 ordinance," I was going to say "approve the proposed  
9 Development Agreement attached to this resolution as  
10 Exhibit A by ordinance." So I'm having the planning  
11 commission recommend to the board of supervisors that  
12 they approve the proposed Development Agreement that is  
13 attached to this resolution as Exhibit A by ordinance,  
14 so basically I'm not having the planning commission  
15 recommend adoption of the ordinance that is attached as  
16 Exhibit A. I would just take that out and I would ask  
17 you not to consider the ordinance attached and just  
18 have Exhibit A constitute the Development Agreement,  
19 and then -- then so if I could just read that whole  
20 thing for the record, it would read "now, therefore, be  
21 it resolved that, based on the planning commission's  
22 review of the proposed Development Agreement and all  
23 written and oral comments received, the commission  
24 hereby recommends that the board of supervisors approve  
25 the proposed Development Agreement attached to this

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1 resolution as Exhibit A by ordinance," and then Exhibit  
2 A will be the proposed Development Agreement, and the  
3 other change I noted on the top of the resolution that  
4 it's stated "before the board of supervisors," and that  
5 should indicate "before the planning commission in the  
6 County of San Benito."

7 COMMISSIONER DiVRIES: So Mr. Chairman, I'd  
8 like to make a motion, and Barbara, you can help me  
9 through. What I thought I would do for purposes of a  
10 motion is divide it into 2 and get a separate vote on  
11 each one. Is that appropriate? Okay.

12 So Mr. Chair, I make a motion that the  
13 planning commission make the CEQA findings and Use  
14 Permit finds set forth on page 8 through 22 of the  
15 staff report and approve the Use Permit 1023-dash-09  
16 subject to any Conditions of Approval contained in the  
17 staff report."

18 CHAIR SCATTINI: Does that suffice?

19 COMMISSIONER BETTENCOURT: Second.

20 CHAIR SCATTINI: All those in favor?

21 THE COMMISSION UNANIMOUSLY: Aye.

22 COMMISSIONER DiVRIES: And Mr. Chairman, I  
23 also move that the planning commission adopt Resolution  
24 2010-dash-14, recommending that the board of  
25 supervisors adopt an ordinance approving the proposed

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1 Development Agreement with Solargen Energy Inc. as the  
2 said resolution was modified by County Counsel just  
3 now.

4 MS. THOMPSON: And if I could clarify that,  
5 it would be adopt resolution 2010-dash-14 recommending  
6 that the board of supervisors adopt a res- -- that the  
7 board of supervisors -- what did we word it as?  
8 Adopt -- approve the proposed Development Agreement  
9 attached to the resolution as Exhibit A approving  
10 that -- so it would be recommending that the board of  
11 supervisors approve the proposed Development Agreement.  
12 You could just say that.

13 COMMISSIONER DIVRIES: Okay. Let me try it  
14 again. I move that the planning commission adopt  
15 Resolution 2010-dash-14 recommending that the board of  
16 supervisors approve the proposed Development Agreement  
17 with Solargen Energy Inc. attached to the resolution as  
18 Exhibit A.

19 COMMISSIONER BETTENCOURT: Second.

20 CHAIR SCATTINI: All those in favor?

21 THE COMMISSION UNANIMOUSLY: Aye.

22 CHAIR SCATTINI: Okay. Any comments?

23 Anybody have anything -- are there any comments? Go  
24 ahead.

25 COMMISSIONER BETTENCOURT: I move to

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1 adjourn.

2 CHAIR SCATTINI: Second. All those in  
3 favor?

4 THE COMMISSION UNANIMOUSLY: Aye.

5 (The proceedings concluded at 8:59 p.m.)

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CERTIFICATE

I, MELINDA NUNLEY, a Certified Shorthand Reporter, License No. 9332, do hereby certify:

That I am the reporter who reported the above and foregoing proceedings; that said proceedings were taken down by me in shorthand at the time and place therein named and were thereafter transcribed; and the same is a true, and correct and complete transcript of the said proceedings to the best of my ability.

I further certify that I am not of counsel or attorney for any of the parties hereto, or in any way interested in the events of this cause, and that I am not related to any party hereto.

IN WITNESS WHEREOF, I have hereunto subscribed my name on this 29th day of October 2010.

---

MELINDA NUNLEY  
Certified Shorthand Reporter

**INFORMATIONAL:**

**8. Commissioner Announcements/Reports/Discussions**

The Commission had no announcements to report.

**ADJOURNMENT:**

With no further business, Commissioner Bettencourt moved for adjournment, Commissioner Machado offered a second to the motion and the meeting was adjourned at 8:59 PM.

***Transcript reported and submitted by: Melinda Nunley, Certified Shorthand Reporter #9332***

***Minutes prepared by:***

*Trish Vieira-Maderis*

*Planning Commission Clerk*