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**Tucson Electric Power Company**

One S. Church Avenue, Suite 200 P.O. Box 711  
Tucson, Arizona 85702

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ARIZONA CORPORATION COMMISSION  
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December 29, 2010

Arizona Corporation Commission  
1200 W. Washington St.  
Phoenix, AZ 85007

Arizona Corporation Commission

DOCKETED

DEC 30 2010

Re: Docket No. E-01933A-10-0213

DOCKETED BY 

Dear Mr. Olea:

Tucson Electric Power Company ("TEP" or "Company") hereby provides you and the above referenced docket with clarifying information regarding the status of the solar project in Marana, Arizona (the "Marana Project"). As you know, TEP has entered into an Arizona Corporation Commission ("Commission") approved purchase power contract with Fotowatio Renewable Ventures ("FRV") to purchase all of the power produced from the Marana Project; FRV owns the Marana Project and the City of Tucson owns the land that will be leased for the site.

On November 5, 2010, Mr. Rick Westfall requested a rehearing on the Commission's approval of the purchase power contract between TEP and FRV (Decision No. 71640 (April 14, 2010)). Mr. Westfall's request was denied by operation of law (A.R.S. § 40-253). Although Mr. Westfall's request has already been denied, the Company believes that it is important to clear up the misstatements of fact contained in Mr. Westfall's letter.

Mr. Westfall has alleged that he has had no contact with TEP and has seen no mitigation plan for the solar project in question. These allegations are not true. Carmine Tilghman, TEP's Director of Renewable Resources, has spoken personally with Mr. Westfall no fewer than eight times. TEP representatives have visited Mr. Westfall's home, and Mr. Westfall has been to TEP's offices on two occasions for meetings. Indeed, on November 8<sup>th</sup> (the day before Mr. Westfall docketed his most recent letter), Mr. Westfall and his attorney met with Philip Dion, Vice President of Public Policy, and David Hutchens, Vice President of Resource Planning, personally. Mr. Hutchens and Mr. Dion tried to determine what issue Mr. Westfall has with the solar project. When the subject turned to mitigation, Mr. Westfall stated that there was no mitigation that was going to make him satisfied unless he was "bought out."

Mr. Westfall is not interested in mitigation plans or more communication. Nothing short of FRV purchasing his property will appease him.<sup>1</sup> Though Mr. Westfall continues to couch his complaint in terms of communication and mitigation, his real complaint is that no one has offered to purchase his property.

<sup>1</sup> TEP has learned from FRV that Mr. Westfall indicated that he would sell his residence for \$5,000,000.

TEP reviewed FRV's mitigation plans when they were presented to the public at the November 15, 2010 Conditional Use Permit Hearing held by Pima County. After reviewing these plans, TEP believes that they are in the public interest. TEP also believes that the public process that preceded those plans provided ample opportunity for input from affected persons. To date, there have been four public hearings where mitigation plans were discussed. Mr. Westfall attended and spoke at all four meetings. He has reviewed site plans and the mitigation plan for the project. He was offered a trip to either Las Vegas, Nevada or Colorado (paid for by FRV) to view similarly sized projects.

Also, on Wednesday, November 10, 2010, Pima County held a public hearing wherein the Hearing Administrator took testimony from all interested parties, including Mr. Westfall and his attorney, regarding whether or not to issue FRV a Conditional Use Permit for the project. At that hearing, FRV formally presented its mitigation plan. Mr. Westfall asked no questions about the mitigation plan. See attached Transcript of Proceedings.

The Hearing Administrator issued his recommendation for the Marana Project on November 15, 2010. Please see the attached Board of Supervisors Memorandum. In his report he found that:

A solar farm is a quiet, non-obtrusive, low-profile, and passive neighbor that causes no material disturbance to adjacent properties. If properly buffered, even its visual impact can be largely mitigated due to the short height of the solar panels involved. All things considered, the Hearing Administrator finds no substantive, empirical evidence to support the notion that property values in the area will be reduced solely from the introduction of a solar farm. Board of Supervisors Memorandum page 2.

The Hearing Administrator also noted that:

The applicant is proposing a perimeter buffering scheme that is **far in excess of the width and the plant-density requirements** as normally prescribed by the Pima County Zoning Code and its Landscape Design Manual. It is the Hearing Administrator's position that this demonstrates a clear sensitivity to the surrounding properties and a clear good-faith effort to integrate that sensitivity into the project design. While the proposed cyclone security fence was repeatedly raised as an issue of concern (for visual/aesthetic reasons), and **while several speakers requested that it be replaced with a decorative masonry wall, the Hearing Administrator finds that, in pragmatic terms, this is not warranted.** As the extensive proposed landscape buffers will lie outside of (i.e. entirely in front of) the security fence on all four sides of the project, the fence (together with the

Mr. Olea  
Re: Docket No. E-01933A-10-0213  
Page 3

low-profile solar panels behind it) will have only limited visibility from any perimeter ground-level viewpoint once the new buffering/ planting scheme is established and has matured for two to three years. Board of Supervisors Memorandum page 3 (emphasis added).

The Hearing Administrator also listed many positive aspects of FRV's mitigation commitment and characterized Mr. Westfall as voicing "out-and-out opposition to the project and declar[ing] that it would essentially destroy all of the value of his property." Board of Supervisors Memorandum page 2.

Given the findings in the Board of Supervisors Memorandum, Mr. Westfall's attendance at every public meeting, and the fact that he credited FRV for informing him of every opportunity to learn more about the project (Transcript of Proceedings page 65), TEP does not believe that anything short of FRV or the City of Tucson purchasing his property could be done to appease Mr. Westfall. Moreover, TEP believes that it has been demonstrated that it and FRV have acted in good conscience with regards to communication with Mr. Westfall and mitigation of the project.

It is clear that Mr. Westfall is attempting to use the Commission as leverage in his negotiations with the City of Tucson and FRV to purchase his property. TEP believes this is inappropriate, especially in light of Mr. Westfall's repeated erroneous correspondence to the Commission. The Company believes that the public interest is best served by allowing the parties to work out amongst themselves the best solution so that the solar project can proceed as approved by the Commission.

Please do not hesitate to contact me if you have questions or would like more information regarding this matter.

Sincerely,



Melody Gilkey  
Regulatory Counsel  
Tucson Electric Power Company  
(520) 884-3664  
mgilkey@tep.com

cc: Docket Control  
Commissioner Kennedy  
Commissioner Newman  
Commissioner Pierce  
Comissioner Stump

Mr. Olea  
Re: Docket No. E-01933A-10-0213  
Page 4

Steve Olea  
Elijah Abinah  
Philip J. Dion  
Rick Westfall  
Fotowatio Renewable Ventures

# **Transcript of Proceeding**

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PIMA COUNTY CONDITIONAL USE HEARING

4

5 IN THE MATTER OF THE )  
 6 APPLICATION OF FRV SOLAR )  
 7 TUCSON, LLC, FOR A TYPE II )  
 8 CONDITIONAL USE PERMIT FOR A )  
 9 SOLAR FARM IN THE CITY OF ) CASE NUMBER: P21-10-017  
 TUCSON AT 9000 NORTH SANDERS )  
 ROAD. )  
 \_\_\_\_\_ )

10 At: Tucson, Arizona

11 Date: November 10, 2010

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TRANSCRIPT OF PROCEEDINGS

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Transcribed by:  
 Katherine A. McNally  
 CERTIFIED TRANSCRIBER  
 CET\*\*D-323

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2 BE IT REMEMBERED that an Administrative Hearing was  
3 held at the Pima County Zoning Department, County/City  
4 Public Works Building, 201 North Stone Avenue, Tucson,  
5 Arizona 85701, commencing on the 10th day of November,  
6 2010.

7

8 BEFORE:

9 JIM PORTNER, Hearing Administrator

10

11 APPEARANCES:

12 RBF CONSULTING

13 Mr. Kevin J. Kugler, Director of Planning

14 FOTOWATIO RENEWABLE VENTURES, LLC

15 Ms. Shilpa Shah, Project Manager

16 Mr. Tim Lasocki, Central Development

17 Mr. Pedro Garcia, Technical Manager

18 WESTLAND RESOURCES

19 Mr. Rick Schonfeld

20

21 TUCSON ELECTRIC POWER

22 Ms. Melody Gilkey

23 CITY OF TUCSON

24 Mr. Bruce Plenk, Solar Energy Coordinator

25

TUCSON WATER

Ms. Asia Philbin

MEMBERS OF THE PUBLIC AT LARGE

23

24 Katherine A. McNally  
25 CERTIFIED TRANSCRIBER  
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2 (Commencement of recorded proceedings.)

3 HEARING ADMINISTRATOR PORTNER: All right,  
4 folks, we'll get on with the next case here. I will tell  
5 you those first two were very garden variety,  
6 straightforward, simple, of which I've seen hundreds and  
7 hundreds of, and so I don't have any problems making  
8 decisions, you know, here today, especially when there's  
9 no public testimony whatsoever. I can absolutely  
10 guarantee you that will not be the case with the next  
11 case. I'm just going to hear a lot of testimony here,  
12 take notes, answer questions, get as complete an  
13 understanding as I can. And then I'm going to close the  
14 public hearing, and my final decision will be after I  
15 contemplate all of that material and issue a written  
16 decision over the weekend, which, as we've said, those of  
17 you wanting a copy can get one.

18 So with that, let's run into the next case,  
19 give me the staff report and all of that.

20 STAFF: Okay. The last case, P21-10-017, City  
21 of Tucson, North Sanders Road -- FRV Solar Tucson, LLC,  
22 for the property owner, City of Tucson, on property  
23 located at 9000 North Sanders Road in the RH zone,  
24 requests a conditional use permit for a solar farm, AKA  
25 solar power plant. Chapter 18.97 in accordance with

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2 18.13.030E35 allows a solar farm as an other conditional  
3 use which is similar in type, scale, and intensity to  
4 other listed conditional uses. A solar farm is a Type 2  
5 conditional use in the RH zone.

6 The property is approximately 302 acres located  
7 on North Sanders Road. The property is near the  
8 intersection of Sanders Road and Emigh Road. The property  
9 is owned by the City of Tucson.

10 The property is zoned RH, Rural Homestead. The  
11 properties to the east are located in the town of Marana.  
12 The properties to the south are zoned RH and SH, Suburban  
13 Homestead, and the properties to the north and west are  
14 zoned RH.

15 At the time of this report, Staff has received  
16 one objection packet from a neighbor that abuts the  
17 property to the southeast. The packet includes pictures  
18 and documentation as to why the use should not be  
19 approved.

20 In addition, the property owner's attorney  
21 submitted a letter stating that his customer's property  
22 will be affected by glare, privacy, and diminished value.

23 Staff also received an e-mail from a property  
24 owner that stated concerns with the project.

25 Staff has also received one letter of support

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2 from the project. This letter of support came from a  
3 property owner that owns property south of the proposed  
4 site.

5 Applicant held a neighborhood meeting on  
6 October 26th, and Staff provided a list of property owners  
7 within a thousand feet of the property. Staff believes  
8 that the applicant used this list to notify property  
9 owners in the area about the neighborhood meeting. This  
10 meeting was for informational purposes and to respond to  
11 concerns. The meeting was not required as part of the  
12 conditional-use process.

13 There are no previous cases on this property,  
14 and currently, the property is vacant. This is a Type 2  
15 Conditional Use Permit for a Solar Farm. The use is  
16 allowed as an other conditional use. The RH zone allows  
17 for conditional uses that are similar in type, scale, and  
18 intensity to other listed conditional uses.

19 Staff has determined that this use is similar  
20 to other uses allowed by conditional use, and it would be  
21 allowed as a Type II conditional use.

22 In addition to a conditional use permit, the  
23 site will need to be reviewed through the site development  
24 process, and it appears that the first submittal for the  
25 project has been made.

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2 The Department of Transportation and the Flood  
3 Control District will review this project during the  
4 development plan process.

5 And in addition to that, we did get a letter  
6 from a congresswoman, whose district I believe this is in,  
7 and I included that in your packet, and that was a letter  
8 of support.

9 That concludes my Staff report, and I can  
10 answer any questions you may have.

11 HEARING ADMINISTRATOR PORTNER: I don't have  
12 any questions for you, Tom.

13 Okay. Is the applicant or their bevy of  
14 representatives here?

15 MR. KUGLER: Yes, sir, we are.

16 HEARING ADMINISTRATOR PORTNER: Take a seat.

17 MR. KUGLER: Thank you.

18 HEARING ADMINISTRATOR PORTNER: Name and  
19 address for the record, and tell me what you want me to  
20 hear, and then I'll be glad to hear whatever, from  
21 whatever of your consultants that you want to have come  
22 forward, as well.

23 MR. KUGLER: I appreciate the opportunity.

24 Kevin Kugler with RBF Consulting, 16605 North  
25 28th Avenue, Phoenix, Arizona 85053. Also with offices on

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2 Ina Road, in Tucson.

3 Appreciate the opportunity today to introduce  
4 and talk about -- and excited to be here to discuss a  
5 renewable energy project in Pima County.

6 I want to first do a couple of things -- extend  
7 our thanks to Staff for their guidance and wisdom  
8 throughout this process thus far, and also -- and also  
9 thank the residents for their constructive and beneficial  
10 input through this process. It's really helped refine our  
11 thought processes and approach to the project, in general.

12 HEARING ADMINISTRATOR PORTNER: Okay.

13 MR. KUGLER: I appreciate your comments up  
14 front. I think brevity is the point of order here. And I  
15 think -- we think with respect to residents --

16 HEARING ADMINISTRATOR PORTNER: Within --  
17 within reason.

18 MR. KUGLER: Yes. Within reason.

19 HEARING ADMINISTRATOR PORTNER: Yeah. We try  
20 for that, but we don't always succeed.

21 MR. KUGLER: All right. And we understand and  
22 appreciate that you've been out to the site. And so, if  
23 we may, Mr. Administrator, have -- I want to introduce the  
24 project team --

25 HEARING ADMINISTRATOR PORTNER: Sure.

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2 MR. KUGLER: -- briefly. Ms. Shah, who is the  
3 FRV project manager, would like to do -- speak to a few  
4 words on the --

5 HEARING ADMINISTRATOR PORTNER: Okay.

6 MR. KUGLER: -- (indiscernible) itself. I  
7 think it would be appropriate, especially -- not only for  
8 you, but for those in attendance, to walk through some of  
9 the basic merits of the case --

10 HEARING ADMINISTRATOR PORTNER: That's fine.

11 MR. KUGLER: -- and get you up to speed on some  
12 of the dialogue at the neighborhood meeting with the --  
13 with the neighbors.

14 HEARING ADMINISTRATOR PORTNER: Okay. I did  
15 read the summary that was prepared for me --

16 MR. KUGLER: Okay.

17 HEARING ADMINISTRATOR PORTNER: -- or  
18 prepared --

19 MR. KUGLER: Okay.

20 HEARING ADMINISTRATOR PORTNER: -- on the  
21 neighborhood meeting, so at least I have that much  
22 understanding at this point.

23 MR. KUGLER: Okay, great. And we can just  
24 touch -- we'll touch on those briefly. And I think, as  
25 you said, conversationally, just engage in a dialogue --

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2 HEARING ADMINISTRATOR PORTNER: Okay.

3 MR. KUGLER: -- I think will be beneficial in  
4 this case.

5 Again, let me just introduce members of the  
6 project team. There's quite a few of them.

7 Mr. Tim Lasocki, who is the head of central  
8 development for FRV -- and FRV, Fotowatio Renewable  
9 Ventures -- is the solar developer in this case. We also  
10 have Ms. Shilpa Shah, who is the FRV project manager for  
11 this particular site; Mr. Pedro Garcia, who is the  
12 technical manager for the property.

13 Also, one of the key collaborative stakeholders  
14 in this project is Tucson Electric Power. Ms. Melody  
15 Gilkey is here representing Tucson Electric Power.  
16 Ms. Asia Philbin with Tucson Water is here, as well, who  
17 is as -- noted as the -- officially, the applicant of the  
18 property owner. Rick Schonfeld and Kim Otero from  
19 WestLand Resources are here, as well. Scott Larson and  
20 Matt Cawley are two engineers from RBF. They're also  
21 joining me as the planner from RBF.

22 HEARING ADMINISTRATOR PORTNER: Okay.

23 MR. KUGLER: So if I can just give the floor to  
24 Shilpa, real briefly, to do a little bit of a background  
25 and discuss the --

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2 HEARING ADMINISTRATOR PORTNER: Okay.

3 MR. KUGLER: -- kind of the overview.

4 STAFF: Well, you can come up or it doesn't  
5 matter. As long as we pick up the voice, that's the key.

6 HEARING ADMINISTRATOR PORTNER: Yeah, that's  
7 the only thing I'm concerned about. Especially one --  
8 especially one that we know is going to the board, I don't  
9 want there to be any glitches in the tape, so it's better  
10 if people are just up here.

11 MS. SHAH: So as Kevin said, my name is Shilpa  
12 Shah, and I am the project manager for FRV Tucson Solar.

13 HEARING ADMINISTRATOR PORTNER: Okay.

14 MS. SHAH: My firm, Fotowatio Renewable  
15 Ventures, is the developer of this proposed solar  
16 photovoltaic project.

17 I just wanted to say a few words about our  
18 company, just to give you a little bit more of an  
19 introduction into who we are.

20 FR -- so Foto -- FRV -- we go by the  
21 initials -- is a solar IPP, independent power producer.  
22 We develop, own, and operate solar photovoltaic projects  
23 globally. We currently have about 170 megawatts of solar  
24 photovoltaic projects in operation -- that's in Europe and  
25 in the U.S. In the U.S. alone, we have about 40 megawatts

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2 of solar PV capacity that's currently in operation. That  
3 40 megawatts is spread out over about 23 projects in eight  
4 states.

5 Our largest installation -- solar  
6 installation -- to date, is a 14-megawatt project at  
7 Nellis Air Force Base, which is -- which is just outside  
8 of Las Vegas. That project, I believe, is the third  
9 largest solar PV plant operating in the country, and  
10 that's been in operation since December of 2007.

11 We have a pipeline of projects that we are  
12 currently developing. In addition to this proposed  
13 project in Pima County, we have a few other projects that  
14 we're developing in Austin, Texas, and Las Vegas, Nevada,  
15 that are in a similar time line to this project.

16 As I mentioned, our project in Las -- at Nellis  
17 Air Force Base is a -- is 14 megawatts. And by  
18 comparison, the project that we're proposing here in Pima  
19 County is 25 megawatts, so it is a step up in size.

20 We've been working on the development of this  
21 project for several months. I first met with Pima County  
22 in January, and you know, we've had several meetings since  
23 then. So we really appreciate the feedback we've received  
24 to date from Pima County, and we're looking forward to  
25 moving this project to completion.

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2 HEARING ADMINISTRATOR PORTNER: All right.

3 MS. SHAH: And so Kevin is going to speak now  
4 more about our application and some of the feedback we've  
5 received to date.

6 HEARING ADMINISTRATOR PORTNER: Okay, thanks.

7 MS. SHAH: Thank you.

8 MR. KUGLER: Just real briefly, the -- kind of  
9 the nuts and bolts relative to the collaboration of the  
10 stakeholders and the partnership. As you can tell Tucson  
11 Water, as we pointed out, owns the property. They have  
12 a -- we'll have a 20-year lease agreement with FRV to  
13 operate the facility and the site, which will bring  
14 anywhere from, you know, around 2 and a half million  
15 dollars of city revenue to the City of Tucson; and Pima  
16 County also gaining 4 -- 4 and a half million dollars, in  
17 terms of revenues to the county from the particular  
18 arrangements. They have received Corporation Commission  
19 approval for the facility.

20 Tucson Electric Power, in terms of their  
21 stakeholder collaboration, is a -- has a purchased power  
22 agreement with FRV for the site on a 20-year basis and  
23 will receive the renewable energy credits that are  
24 mandated by the Corporation Commission as part of the  
25 renewables, as part of their energy portfolio.

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2 And it's that -- this is, as was discussed with  
3 the neighbors at the -- the meeting, Carmine, from TEP,  
4 was talking about this is probably the first of a handful  
5 of sites that they're evaluating around the county to help  
6 bolster that renewable portfolio over the next, say,  
7 10-year period. So more of those to come down the road.  
8 And FRV, of course, is the solar developer in the project,  
9 with a handful of consultants assisting them.

10 HEARING ADMINISTRATOR PORTNER: One comment I'd  
11 just make, just generally.

12 MR. KUGLER: Sure.

13 HEARING ADMINISTRATOR PORTNER: For not only  
14 you, but for the other speakers as well, is obviously a  
15 project like this has manifold aspects to it -- from  
16 economic policy to all kinds of things -- a policy on a  
17 local level, as well as national level, and all that kind  
18 of stuff.

19 So that we kind of keep things focused here,  
20 the real issues before me are not so much all of those  
21 larger policy issues and -- and the economic benefits and  
22 all of those kinds of things that they're all important.

23 MR. KUGLER: Right.

24 HEARING ADMINISTRATOR PORTNER: But my purview  
25 is really on the question of, Is this use appropriate,

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2 acceptable, and all of the other things --

3 MR. KUGLER: Right.

4 HEARING ADMINISTRATOR PORTNER: -- for this  
5 particular site and this location and -- and the other,  
6 you know, all the things that kind of revolve around  
7 that?

8 MR. KUGLER: Yes, okay.

9 HEARING ADMINISTRATOR PORTNER: Okay. So  
10 that's where I really need to focus. That's the statutory  
11 criteria by which I have to evaluate in making my  
12 recommendations to the board.

13 So I appreciate the other background on the  
14 larger issues, but I would appreciate it also if we didn't  
15 restate a lot of those kinds of things --

16 MR. KUGLER: Sure.

17 HEARING ADMINISTRATOR PORTNER: -- which  
18 frankly are just kind of outside of my realm of --

19 MR. KUGLER: I -- I understand that.

20 HEARING ADMINISTRATOR PORTNER: -- real  
21 authority. Okay?

22 MR. KUGLER: Right.

23 HEARING ADMINISTRATOR PORTNER: So let's go  
24 back --

25 MR. KUGLER: Just trying to give you a general

1 THIS TEXT WAS TRANSCRIBED FROM AN AUDIO RECORDING  
2 background sense and --

3 HEARING ADMINISTRATOR PORTNER: I agree. I --  
4 and that -- that's why I'm glad to have that as the  
5 general background for what we're doing, but as we move  
6 forward, let's try and stay focused more on, you know, the  
7 issues really of pertinence to me.

8 MR. KUGLER: Mainly just nuts and bolts.

9 HEARING ADMINISTRATOR PORTNER: Okay, all  
10 right?

11 MR. KUGLER: Absolutely. And that will be the  
12 tenor of my comments, and I appreciate that.

13 I know you've had an opportunity to visit the  
14 site, so I'll spare the details on that. And Tom  
15 mentioned where it's located. Shilpa mentioned it's a  
16 25-megawatt facility, which is equivalent to about 3500  
17 homes, in terms of generating power.

18 HEARING ADMINISTRATOR PORTNER: All right.

19 MR. KUGLER: In terms of the project overview,  
20 I can refer to a board, if you'd like. I know you have a  
21 site plan in front of you, whichever you prefer.

22 The -- there will be a link to an existing  
23 TEP-owned facility about a half mile to the north, in  
24 terms of the existing power line and configuration in the  
25 area. The technology is solar panels that are -- that are

1 THIS TEXT WAS TRANSCRIBED FROM AN AUDIO RECORDING  
2 mounted onto access tracking systems --

3 HEARING ADMINISTRATOR PORTNER: Right.

4 MR. KUGLER: -- horizontal trackers that rotate  
5 to the sun's position.

6 HEARING ADMINISTRATOR PORTNER: Right.

7 MR. KUGLER: No more than five to eight foot  
8 max, so at nighttime, they're -- they're flat and five  
9 feet in height.

10 HEARING ADMINISTRATOR PORTNER: Right.

11 MR. KUGLER: No more than eight feet -- we  
12 talked about that extensively with the neighbors -- at the  
13 low morning angles, late afternoon, at the 45-degree plus  
14 or minus angles to capture the sun.

15 HEARING ADMINISTRATOR PORTNER: Right.

16 MR. KUGLER: 55 acres of the site is in open  
17 space in the conservation area. There was no significant  
18 archeological resources, or threatened or endangered  
19 species found on the site -- I think you're familiar with  
20 that -- and no critical habitats.

21 With respect to the balance of the rest of the  
22 site, there's a small substation on the site, an aluminum  
23 building. Access -- vehicular access is only from the --  
24 projected from Sanders Road. I think you're aware of  
25 that.

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2 HEARING ADMINISTRATOR PORTNER: Right.

3 MR. KUGLER: And there's some pretty extensive,  
4 enhanced landscaping as a mitigation and buffer, not only  
5 meeting, but exceeding, the county requirements in those  
6 regards, as well. The majority of the site is in the  
7 floodplain, as you probably know -- one foot sheet flow  
8 across the property. And we're proposing to secure it by  
9 a 6-foot chain link fence.

10 HEARING ADMINISTRATOR PORTNER: Right.

11 MR. KUGLER: And then the way, the site plan  
12 has been laid out thus far, the buffer yards, in terms of  
13 the providing additional setback beyond county  
14 requirements, anywhere to two to eight times what the  
15 county requires, with respect to some of the setbacks, as  
16 I think you've seen.

17 HEARING ADMINISTRATOR PORTNER: Back up a  
18 little bit to the -- the floodplain issue. I know you're  
19 out there in the sheet flow area. All of these panels,  
20 the way I understand it, you have, of course, concrete  
21 foundations for the posts, whatever they're called.

22 MR. KUGLER: Yes.

23 HEARING ADMINISTRATOR PORTNER: And -- but the  
24 units themselves are high enough off the ground that,  
25 basically, you're just, in a hundred year event, it's

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2 acceptable to County Floodplain to just let the water  
3 sheet flow over the property, because you'll have proper  
4 foundations on this?

5 MR. KUGLER: That's correct.

6 HEARING ADMINISTRATOR PORTNER: Right?

7 MR. KUGLER: It's been their desire. And  
8 they're being designed to be intentionally one foot above  
9 that.

10 HEARING ADMINISTRATOR PORTNER: Right.

11 MR. KUGLER: And I'll defer to Pedro as the  
12 technical guy.

13 HEARING ADMINISTRATOR PORTNER: That's --  
14 that's all I needed to know.

15 MR. KUGLER: Okay.

16 HEARING ADMINISTRATOR PORTNER: Okay?

17 MR. KUGLER: Yeah, but the juxtaposition comes  
18 with the -- the fencing issue --

19 HEARING ADMINISTRATOR PORTNER: Right.

20 MR. KUGLER: -- and the aesthetics that we'll  
21 get into --

22 HEARING ADMINISTRATOR PORTNER: Right.

23 MR. KUGLER: -- in just a -- in just a moment.

24 HEARING ADMINISTRATOR PORTNER: Okay.

25 MR. KUGLER: So south side -- the buffer yard

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2 on the south side is 162 foot; the west side is enormous,  
3 it's 600 foot, with the preservation area; the north is  
4 130 foot setback.

5 HEARING ADMINISTRATOR PORTNER: Right.

6 MR. KUGLER: And on the east side, on the  
7 Sanders Road, which is a -- is 100 foot setback. Okay?

8 HEARING ADMINISTRATOR PORTNER: To the panels,  
9 but your maintenance buildings and all that, are within  
10 that 100 feet?

11 MR. KUGLER: Yeah, on the Sanders' side.

12 HEARING ADMINISTRATOR PORTNER: Yeah. On the  
13 Sanders Road side.

14 MR. KUGLER: Correct.

15 HEARING ADMINISTRATOR PORTNER: Your -- your  
16 operational buildings are in that frontage. But you're  
17 saying that the setback --

18 MR. KUGLER: That the (indiscernible) -- that's  
19 correct.

20 HEARING ADMINISTRATOR PORTNER: -- the setback  
21 you were talking to -- or talking about --

22 MR. KUGLER: Right.

23 HEARING ADMINISTRATOR PORTNER: -- was to the  
24 panels?

25 MR. KUGLER: Yeah. The -- on -- that's

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2 correct. On the --

3 HEARING ADMINISTRATOR PORTNER: Okay.

4 MR. KUGLER: On that side, it's a little bit of  
5 an anomaly, with the --

6 HEARING ADMINISTRATOR PORTNER: Okay.

7 MR. KUGLER: -- O&M building and the  
8 substation.

9 HEARING ADMINISTRATOR PORTNER: Right, correct.

10 MR. KUGLER: With respect to public involvement  
11 and neighborhood feedback, we've had some constructive  
12 dialogue with a majority of the neighbors, most of which  
13 have lived, if I'm not mistaken, in Tierra Linda, which is  
14 the community just to the south across Emigh Road.

15 HEARING ADMINISTRATOR PORTNER: Right.

16 MR. KUGLER: And those comments have ranged  
17 from supporting comments, including a letter, as they  
18 mentioned before. And we've had some opposition,  
19 Mr. Westfall, primarily, who lives adjacent to the -- to  
20 the community. We've had two neighborhood meetings, as  
21 Tom suggested -- one back in May, a real productive one on  
22 October 26th. It sounds like you've had an opportunity to  
23 read that meeting summary.

24 We think we've satisfactorily addressed a vast  
25 majority of the comments and the issues and concerns, but

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2 just a quick recap of some of those --

3 HEARING ADMINISTRATOR PORTNER: Please.

4 MR. KUGLER: -- that continue to come up and  
5 probably will be pertinent and germane to this meeting,  
6 most -- mostly with regard to glare.

7 The panels are designed to absorb sun, as a  
8 photovoltaic technology. Glare is a more common concern  
9 from an airspace perspective than it is at a -- a street  
10 level. But these panels are designed to absorb glare.  
11 And as -- as Shilpa pointed out, they have facilities at  
12 Nellis Air Force Base and Denver International Airport,  
13 which, with an FAA memo suggesting that it's not a -- a  
14 nuisance or a detriment to any airspace configuration or  
15 issues with respect to that. The panels do tilt, as I --  
16 as I mentioned. So any opportunity for glare would only  
17 come in the early morning or late afternoon. But again,  
18 they're designed to absorb sun. And there's -- the glare  
19 potential is very, very minimal, particularly to the  
20 south.

21 Privacy issue is another one that's come up,  
22 discussed, and was a point of contention in Mr. Westfall's  
23 letter. We do have the vegetative screen with more than  
24 2,000 plantings of low-water trees and plants. Security  
25 cameras are going to be on site that are -- are pointing

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2 inward, towards the site, not out of the site, and are  
3 motion sensors, with respect to the lighting associated  
4 with the trigger for those security cameras.

5 And in terms of the typical day-to-day  
6 operational characteristics of the facility, we're talking  
7 one to two individuals working in the daytime for the O&M  
8 aspects and security -- kind of dual purpose, if you  
9 will.

10 HEARING ADMINISTRATOR PORTNER: And I'm sorry.  
11 I -- it's always a problem. I'm writing while you're  
12 talking --

13 MALE SPEAKER: Well, that's okay.

14 HEARING ADMINISTRATOR PORTNER: -- I'm trying  
15 to listen.

16 MALE SPEAKER: That's what we're here for.

17 HEARING ADMINISTRATOR PORTNER: So if I miss  
18 something -- but I read in there, too, there's six to  
19 eight people on site at any one time. Did I misread  
20 that? For security purposes, you're going to have six  
21 people -- six to eight people patrolling?

22 MR. KUGLER: Total of --

23 HEARING ADMINISTRATOR PORTNER: Or is that the  
24 total force?

25 MR. KUGLER: -- six to -- and they can correct

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2 me if I'm wrong -- total of six to eight employees. At  
3 any given time --

4 HEARING ADMINISTRATOR PORTNER: Okay.

5 MR. KUGLER: -- one to two, for O&M purposes.

6 HEARING ADMINISTRATOR PORTNER: Okay.

7 MR. KUGLER: That would be correct.

8 HEARING ADMINISTRATOR PORTNER: All right. Go  
9 ahead.

10 MR. KUGLER: The other issue that's come up,  
11 typically, is this notion of any type of effect -- good,  
12 bad, or indifferently -- on property values. And I  
13 think -- we've done exhaustive research. I think the  
14 neighbors that were at the last meeting, one individual in  
15 particular, concluded with our findings, that there's --  
16 there's very little research that's been done. In fact,  
17 only -- the only real empirical evidence that's been out  
18 there is a study that was done on wind-farm facilities  
19 that we could find, that was a total of 24 facilities  
20 covering nine states. They had a data source of  
21 7500 homes within a 10-mile radius of wind farms, which I  
22 think we would all agree are --

23 HEARING ADMINISTRATOR PORTNER: More  
24 visually --

25 MR. KUGLER: Yes, exactly.

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2 HEARING ADMINISTRATOR PORTNER: Right.

3 MR. KUGLER: And so there's no -- there's no  
4 apples-to-apples comparison that we've been able to  
5 find --

6 HEARING ADMINISTRATOR PORTNER: Yeah, right.

7 MR. KUGLER: -- and to the best of my  
8 knowledge, that the neighbors were able to find, with  
9 respect to some empirical evidence. There's -- there's  
10 some circumstantial evidence of what brokers and Realtors  
11 commonly think, that --

12 HEARING ADMINISTRATOR PORTNER: Yeah, I hear  
13 that all the time.

14 MR. KUGLER: I -- I do too.

15 HEARING ADMINISTRATOR PORTNER: A lot of  
16 opinions out there too.

17 MR. KUGLER: There's a lot of opinions. And  
18 we're not quite sure what to think about that, but --

19 HEARING ADMINISTRATOR PORTNER: What were the  
20 empirical studies or findings, the wind farm studies?

21 MR. KUGLER: The empirical findings in that  
22 case was that there was -- let me get these words right --  
23 no conclusive evidence, I believe is the official  
24 buzzword, if you will, from the findings, from that  
25 particular study. So good, bad, or indifferently, there

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2 was nothing found. And again, that was over 7500 homes  
3 within 10-mile radiuses of 24 facilities in nine different  
4 states.

5 HEARING ADMINISTRATOR PORTNER: Okay, all  
6 right.

7 MR. KUGLER: In this particular case, as well,  
8 as you know, there's no air emissions, no noise, those  
9 types of things, because this -- this is not a solar  
10 thermal facility, with the photovoltaics.

11 The other issue that's come up, and continues  
12 to be one that we're continually working on just as  
13 recently as the last few days, is the aesthetics of the  
14 fencing issue, which we think is a very appropriate issue  
15 to be addressing with the neighbors, of course.

16 HEARING ADMINISTRATOR PORTNER: Um-hmm.

17 MR. KUGLER: So there's this juxtaposition, if  
18 you will, between what's -- what's deemed good aesthetics  
19 versus maintaining a flood conveyance function on the  
20 property -- that we need to kind of sift through. Thus  
21 far, the site plan that's submitted has been with a -- a  
22 chain link fence with a vegetative screen for the  
23 aesthetic component. We've had some excellent dialogue  
24 with the neighbors, some e-mail dialogue, that Pedro, in  
25 particular, has had in the last few days with at least one

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2 individual of the Tierra Linda subdivision. And at this  
3 time, we're exploring different options, from opaque slats  
4 to that type of meshing that you commonly see on -- on  
5 tennis courts, that type of thing, that's attractive but  
6 yet functional at the same time.

7 HEARING ADMINISTRATOR PORTNER: Yeah. I would  
8 think part of it, too, is, I mean, let's face it, a  
9 regular cyclone fence, with razor wire around the top,  
10 tends to look like a prison. You know, it just gives that  
11 feel.

12 MR. KUGLER: No, no one's --

13 HEARING ADMINISTRATOR PORTNER: Something --  
14 something negatively institutional.

15 MR. KUGLER: Yes.

16 HEARING ADMINISTRATOR PORTNER: So what are  
17 your options, if any -- I understand there's a need for  
18 security here, obviously.

19 MR. KUGLER: Um-hmm.

20 HEARING ADMINISTRATOR PORTNER: What are your  
21 options, if any? And I'm not leaning one way or the  
22 other, I'm just asking. You have an opportunity to put  
23 stuff on the record for my consideration. What are your  
24 options --

25 MR. KUGLER: (Indiscernible.)

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2 HEARING ADMINISTRATOR PORTNER: -- to satisfy  
3 the -- the security requirement -- which everybody agrees  
4 is necessary -- and balance that as best as possible,  
5 again, the aesthetic issue?

6 MR. KUGLER: Yeah, excellent question. And  
7 it's one that we've been grappling with as a team,  
8 consistently.

9 It's that -- I'll use that word again --  
10 juxtaposition with the flood conveyance that some of the  
11 neighbors have brought up at the neighborhood meeting.  
12 The idea of a -- of a CMU or a solid fence on the south  
13 side. That kind of flies in the face of the notion of --  
14 with the Flood Control District --

15 HEARING ADMINISTRATOR PORTNER: Yeah, right.

16 MALE SPEAKER: -- wants to do is let the  
17 flood -- the waters convey through, as they naturally  
18 should.

19 HEARING ADMINISTRATOR PORTNER: Right, right.

20 MR. KUGLER: So in the ultimate, we're looking  
21 at a chain link fence with, as I mentioned, the opaque  
22 slats or some type of similar materials that would be  
23 presumably a foot off the ground to let the -- the  
24 conveyance go through the property. And function -- from  
25 the aesthetics standpoint --

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2 HEARING ADMINISTRATOR PORTNER: Right.

3 MR. KUGLER: -- function as the fence with the  
4 landscaping too.

5 HEARING ADMINISTRATOR PORTNER: Without the --  
6 without the fence functioning as a screen, basically, to  
7 hold off -- to hold up all of the --

8 MR. KUGLER: Precisely.

9 HEARING ADMINISTRATOR PORTNER: Right, okay.

10 MR. KUGLER: So --

11 HEARING ADMINISTRATOR PORTNER: What about the  
12 razor wire aspect? Any options there?

13 MR. KUGLER: I don't think we ever suggested  
14 razor wire. I know that term came up in a meeting. I  
15 think we were talking --

16 HEARING ADMINISTRATOR PORTNER: Well, I just --  
17 I saw some photos and things, and -- and so I just, you  
18 know, this is the opportunity for me to get a better  
19 understanding of it.

20 MR. KUGLER: Well, I appreciate that.

21 HEARING ADMINISTRATOR PORTNER: Is -- is that  
22 part of the equation? If not, you know, what are we  
23 talking about?

24 MR. KUGLER: It was the 3-strand barbed wire,  
25 if I'm not mistaken, was talked about on the top. So

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2 3-strand barbed wire, as opposed to the circular razor  
3 wire --

4 HEARING ADMINISTRATOR PORTNER: Okay.

5 MR. KUGLER: -- which is much more  
6 institutional looking, as you suggested.

7 HEARING ADMINISTRATOR PORTNER: Yeah. It's  
8 still pretty institutional looking, even if it's just  
9 3-strand. So it -- I'm just trying to get to a sense of,  
10 Is that, from your end, a basic requirement for the  
11 facility, to have that kind of 3-strand barbed or  
12 something like that --

13 MR. KUGLER: Right.

14 HEARING ADMINISTRATOR PORTNER: -- at the top  
15 of the fence? Is that a necessity for security purposes,  
16 from your end?

17 MR. GARCIA: We can -- we can certainly explore  
18 other options, but we -- we still -- I mean, that's --  
19 that's what we commonly use.

20 HEARING ADMINISTRATOR PORTNER: Okay. And --  
21 and if there are other options, what are those other  
22 options? Because I can't think of any, other than even  
23 greater height, you know, to -- to satisfy the same  
24 security function.

25 MR. GARCIA: That -- I was going to say,

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2 going -- going higher.

3 HEARING ADMINISTRATOR PORTNER: Yeah, right.

4 MR. GARCIA: But that -- that probably is the  
5 only thing --

6 HEARING ADMINISTRATOR PORTNER: And it has  
7 its -- that has its own negatives.

8 MR. GARCIA: Right, right.

9 HEARING ADMINISTRATOR PORTNER: Okay, all  
10 right.

11 MR. LASOCKI: All right. Hi, this is Tim. I  
12 will say that --

13 HEARING ADMINISTRATOR PORTNER: If you're going  
14 to speak, I'm sorry, I've got to get you up here and make  
15 sure you're on tape.

16 STAFF: Just, you can -- you don't have to --

17 HEARING ADMINISTRATOR PORTNER: Got to get your  
18 name and address for the record, all of those formalities.

19 MR. LASOCKI: Hi, Tim Lasocki, also with FRV.

20 With respect to options, you know, we believe,  
21 you know, the security personnel provide the greatest  
22 deterrence to theft, to having the on-site people. And  
23 this is a site that supports, you know, full-time, 24/7,  
24 staff security. So that's the greatest deterrent. And  
25 then also even barbed wire doesn't prevent, you know,

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2 people coming with wire cutters, so that's why the cameras  
3 also prevent a great need for security.

4 HEARING ADMINISTRATOR PORTNER: Right.

5 MR. LASOCKI: So with respect to the barbed  
6 wire, we will consider whether there are alternatives that  
7 give us the security we need, that don't necessarily call  
8 for that. Because the other two, the cameras and the  
9 individuals, are the -- are the greatest measure of  
10 protection.

11 HEARING ADMINISTRATOR PORTNER: Okay.

12 MR. LASOCKI: Thank you.

13 HEARING ADMINISTRATOR PORTNER: Thank you.

14 MR. KUGLER: So kind of coalescing that with  
15 the aesthetics issue, particularly on the south side of  
16 the property, we have denser plantings, as well to -- in  
17 response to some of the neighbors concerns.

18 HEARING ADMINISTRATOR PORTNER: Right.

19 MR. KUGLER: And we really think it's the right  
20 thing to do, so --

21 HEARING ADMINISTRATOR PORTNER: Is there any  
22 possibility -- and maybe this is when you have your  
23 consultants up here to talk about this -- is there any  
24 possibility of having some of the buffer on the outside of  
25 the fence? Having the panel set back from the property

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2 line the same amount, of having some landscaping on the  
3 outside, then your security fence, then the remainder of  
4 the buffer?

5 MR. KUGLER: Yeah. And -- and I apologize for  
6 not being clear on that. That's, indeed, what we are  
7 proposing --

8 HEARING ADMINISTRATOR PORTNER: Okay.

9 MR. KUGLER: -- is that the buffer is on --

10 HEARING ADMINISTRATOR PORTNER: So you're going  
11 to -- you're going to show that to me? Okay, great.

12 MR. KUGLER: Yes, absolutely.

13 HEARING ADMINISTRATOR PORTNER: Great.

14 MR. KUGLER: So that's -- that's one of the  
15 issues that -- that the fence, slash, aesthetics issue.

16 The other one that's come up has been one of  
17 dust control. And simply put, as Tim said it best at the  
18 neighborhood meeting, dust -- dust is their enemy, quite  
19 frankly.

20 HEARING ADMINISTRATOR PORTNER: Right.

21 MR. KUGLER: It's not in their interest to have  
22 dust on the property to -- to coat those panels. It  
23 minimizes the ability of those panels to absorb the sun.

24 So what Pedro primarily has been talking about  
25 for the balance of it has been there's going to be minimal

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2 grading on the site, number one. The site is relatively  
3 flat already, as you know. So the ability for us to  
4 minimize the grading is going to enhance the ability for  
5 the -- for the revegetation of the site in a -- in a more  
6 expeditious manner than might ordinarily be from  
7 conventional grading regimes, if you will.

8 HEARING ADMINISTRATOR PORTNER: Okay.

9 MR. KUGLER: We intend to apply some native  
10 grass seed mix below the panels, as well. And that's part  
11 of -- will be part of the job of the individuals on the  
12 site, is to maintain those so they don't grow too high, of  
13 course. And then with respect to the maintenance roads  
14 that would be going through the property, some type of  
15 geotech -- a geotechnical engineer is going to be coming  
16 up with a cross-section for those particular roads, but  
17 some type of geo-fabric or (indiscernible), whatever, to  
18 keep the dust control down.

19 HEARING ADMINISTRATOR PORTNER: Okay.

20 MR. KUGLER: And those will -- will be more  
21 than sufficient, we believe. So we think that is a -- a  
22 very doable issue for -- for --

23 HEARING ADMINISTRATOR PORTNER: Okay. So this  
24 site was historically farmland, if I'm correct.

25 MR. KUGLER: That is correct.

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2 HEARING ADMINISTRATOR PORTNER: And so what  
3 you're saying is you're not going to come in and do a  
4 scrape-and-blade, and then set all of these in.

5 Are you going to try and selectively dig  
6 footers and keep as much of the undisturbed, what little  
7 scrub there is there -- nonetheless, it is a cohesive  
8 cover. Are you going to try and put these in? Or do you  
9 have to grade, do some grading, in order to set the proper  
10 elevations for these footers?

11 MR. KUGLER: Well, certainly, before Pedro  
12 gets -- launches into the technical aspect, we -- 55 acres  
13 on the left side will be --

14 HEARING ADMINISTRATOR PORTNER: Oh, I  
15 understand that, I understand that.

16 MR. KUGLER: (Indiscernible.)

17 HEARING ADMINISTRATOR PORTNER: I'm talking  
18 about --

19 MR. KUGLER: Yeah, there is a concern.

20 HEARING ADMINISTRATOR PORTNER: -- what you  
21 need to do construction-wise --

22 MR. KUGLER: Um-hmm.

23 HEARING ADMINISTRATOR PORTNER: -- as to  
24 whether you're going to be able to maintain some of the  
25 existing, you know, native cover, for lack of a better

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2 term, because it's pretty sparse, (indiscernible) totally  
3 disturbing.

4 MR. GARCIA: Sir, Pedro Garcia, technical  
5 manager with FRV.

6 One of the -- one of the things that we'd like  
7 to press upon is that it is in our own interests not to  
8 use concrete when putting in the structures that supported  
9 the trackers where the modules are placed. What we  
10 typically do is either ram or -- or use self-driving  
11 posts, so there's no need for digging up a hole. Rather  
12 we just --

13 HEARING ADMINISTRATOR PORTNER: Okay.

14 MR. GARCIA: -- we just put the posts in -- in  
15 (indiscernible).

16 HEARING ADMINISTRATOR PORTNER: So you can  
17 selectively go through and do those?

18 MR. GARCIA: Yeah. And they are at different  
19 heights to -- to --

20 HEARING ADMINISTRATOR PORTNER: Right.

21 MR. GARCIA: -- make up for the difference  
22 in -- in --

23 HEARING ADMINISTRATOR PORTNER: In ground  
24 elevation.

25 MR. GARCIA: In slope.

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2 HEARING ADMINISTRATOR PORTNER: Okay.

3 MR. GARCIA: If it's minimal, of course,  
4 with -- with sides that have great flux, we -- we do have  
5 to do grading --

6 HEARING ADMINISTRATOR PORTNER: Okay.

7 MR. GARCIA: -- but it's not the case here,  
8 so --

9 HEARING ADMINISTRATOR PORTNER: Okay.

10 MR. GARCIA: Thank you.

11 HEARING ADMINISTRATOR PORTNER: All right.  
12 Thank you. Now, that helps a lot.

13 MR. KUGLER: If I may go ahead. The -- the  
14 last issue that we have delved into with the -- the  
15 neighbors, in particular, that we think has been resolved  
16 satisfactorily is that of water. And there's some common  
17 mis -- misconceptions about water and solar facilities and  
18 the different types of facilities throughout there. And  
19 this is not a solar thermal facility, which is a -- a  
20 fairly large user of water. It is a photovoltaic  
21 facility. The preponderance of the need of the water is in  
22 the landscaping, quite frankly. And -- and under our  
23 guidance as consultants, and following Pima County  
24 guidelines, those plants, over a five-year period, as you  
25 know, will be weaned off the potable water.

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2 HEARING ADMINISTRATOR PORTNER: Right. And  
3 there was some question about the water and the capacity  
4 of the well, and can you do this landscaping and maintain  
5 it with that well versus needing more supply? Can you  
6 just address that for the record.

7 MR. KUGLER: Absolutely. The -- the short  
8 answer is yes that there is an existing well on site.  
9 Tucson Water has -- as you know, owns the property.  
10 They -- they retired or extinguished the -- the type I  
11 ground water rights in '84.

12 HEARING ADMINISTRATOR PORTNER: Right.

13 MR. KUGLER: And I'm only mentioning this  
14 because there was some confusion at the neighborhood  
15 meeting --

16 HEARING ADMINISTRATOR PORTNER: Right.

17 MR. KUGLER: -- with this notion between  
18 existing well and grandfathered rights, but -- so the --  
19 the water rights were retired. There is a well on the  
20 site that can be utilized. We've been collaborating, as a  
21 consultant group, with the Department of Water Resources  
22 and have recently got some feedback from their legal  
23 counsel that suggest that, yes, indeed, that -- that well  
24 on site can be used as an exempt well status, that Tucson  
25 Water can lease that to FRV.

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2 And in terms of the production capability, even  
3 at a 30 -- as an exempt well, as you know, it's a  
4 35 gallon per max -- at a maximum -- that that is a more  
5 than sufficient quantity to satisfactorily water the  
6 plants. And there will be water --

7 HEARING ADMINISTRATOR PORTNER: And take -- and  
8 take care of all of your potable needs, as well.

9 MR. KUGLER: Yes.

10 HEARING ADMINISTRATOR PORTNER:

11 (Indiscernible.)

12 MR. KUGLER: And that's the -- we're still  
13 exploring the options on the potable needs in the O&M  
14 facility --

15 HEARING ADMINISTRATOR PORTNER: Okay.

16 MR. KUGLER: -- in terms of that would be a  
17 quality issue --

18 HEARING ADMINISTRATOR PORTNER: Right.

19 MR. KUGLER: -- that's still being evaluated,  
20 in terms of trucking water in or -- or whatnot.

21 HEARING ADMINISTRATOR PORTNER: Sure.

22 MR. KUGLER: It's still something that's being  
23 explored, quite frankly.

24 HEARING ADMINISTRATOR PORTNER: Okay.

25 MR. KUGLER: And so the exempt well, right now,

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2 has been more towards the focus of the need to water the  
3 plants, predominantly. In terms of the facility itself,  
4 the panels just have to be cleaned once to twice a year.

5 HEARING ADMINISTRATOR PORTNER: Okay.

6 MR. KUGLER: So minimal water usage on that.  
7 But to answer your question, there's more than sufficient  
8 capacity in that well for the landscaping.

9 HEARING ADMINISTRATOR PORTNER: Okay.

10 MR. KUGLER: That -- that is the -- that is the  
11 extent of it. We think -- like you, we think  
12 conversationally with the neighbors is a good way to go.  
13 If you'd like, we can walk through the -- the site plan.  
14 We have some renderings -- not sure if you have been privy  
15 to those.

16 HEARING ADMINISTRATOR PORTNER: Site plan, I  
17 don't need to walk through.

18 I would like to see, you know, some discussion  
19 about, you know, the whole landscaping program for the  
20 perimeter and --

21 MR. KUGLER: All right.

22 HEARING ADMINISTRATOR PORTNER: -- how that's  
23 going to dovetail with the security fence, and all of that  
24 kind of -- but that'll be helpful for me.

25 MR. KUGLER: Okay.

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2 HEARING ADMINISTRATOR PORTNER: So if we can  
3 spend some time --

4 MR. KUGLER: Sure.

5 HEARING ADMINISTRATOR PORTNER: -- doing that.

6 MR. KUGLER: Rick, do you want to address that?

7 MR. SCHONFELD: Sure.

8 MALE SPEAKER: You can probably put --

9 MALE SPEAKER: Would you like to use the easel  
10 or what's your preference?

11 HEARING ADMINISTRATOR PORTNER: Well, for  
12 now --

13 MALE SPEAKER: Your Honor, I can hold it up if  
14 you'd like to --

15 HEARING ADMINISTRATOR PORTNER: -- I'd like to  
16 look at it.

17 MALE SPEAKER: Okay.

18 MALE SPEAKER: Okay.

19 MALE SPEAKER: And then we can put it up on the  
20 easel.

21 MR. SCHONFELD: Rick Schonfeld, with WestLand  
22 Resources. I reside at 2140 East 6th Street, in Tucson,  
23 Arizona.

24 HEARING ADMINISTRATOR PORTNER: Good morning.

25 MR. SCHONFELD: Good morning. What -- what

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2 we've done -- the -- the way the fence and the site have  
3 been laid out, we actually have more distance from the  
4 property line to the fence than we need. In other words,  
5 we could call, technically by the buffer yard  
6 requirements, all the sides existing native desert. But  
7 as you know, it's an agricultural site. It's really not  
8 existing desert.

9 HEARING ADMINISTRATOR PORTNER: You give me the  
10 40 foot --

11 MR. SCHONFELD: Yes. We --

12 HEARING ADMINISTRATOR PORTNER: -- natural  
13 buffer requirements is what you're saying.

14 MR. SCHONFELD: We -- we exceed that in  
15 distance --

16 HEARING ADMINISTRATOR PORTNER: Right.

17 MR. SCHONFELD: -- on all the sides.

18 HEARING ADMINISTRATOR PORTNER: Right.

19 MR. SCHONFELD: So we're preserving in place  
20 what little vegetation is there. All the buffer yards are  
21 outside the fence. We have selected, it depends on the  
22 side, but I think they're 20- or 25-foot buffer yards and  
23 planted to that density everywhere, and then we've  
24 exceeded that density by about a third when -- when we are  
25 across from the existing residential.

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2 HEARING ADMINISTRATOR PORTNER: I noticed that,  
3 right.

4 MR. SCHONFELD: So -- and it's all native  
5 vegetation. The things that are going to provide the most  
6 buffering are the trees which are primarily mesquites  
7 because that's what's there. We're salvaging some  
8 mesquites, but because on the west side --

9 HEARING ADMINISTRATOR PORTNER: Right.

10 MR. SCHONFELD: -- that's the greatest density,  
11 and we're preserving that, we've got a lot of credit, so  
12 there's only going to be 15 that are going to be  
13 salvaged --

14 HEARING ADMINISTRATOR PORTNER: Okay.

15 MR. SCHONFELD: -- or mitigated for. And then  
16 the shrubs we're choosing are all large shrubs -- jojoba  
17 and some other large desert shrubs, I think, Little Leaf  
18 Cordia, that will give -- you know, get up to be six feet  
19 or more and provide more screening also.

20 HEARING ADMINISTRATOR PORTNER: Okay.

21 MR. SCHONFELD: So that -- there's not a lot of  
22 little ground covers or things like that, just what would  
23 be needed for the -- for the buffer.

24 HEARING ADMINISTRATOR PORTNER: Right.

25 MR. SCHONFELD: It's mostly for screening.

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2 HEARING ADMINISTRATOR PORTNER: I'm so  
3 enthralled with the drawing. Could you put your name and  
4 address in the record?

5 MR. SCHONFELD: Yes.

6 HEARING ADMINISTRATOR PORTNER: Did you do that  
7 already? Okay.

8 MR. SCHONFELD: Thanks.

9 HEARING ADMINISTRATOR PORTNER: Yeah, no  
10 problem. Okay. So can you just give me a sense -- this  
11 looks like significantly dense planting, from my review of  
12 it, compared to what's normally done in meeting the county  
13 standard buffer requirements.

14 MR. SCHONFELD: Yes.

15 HEARING ADMINISTRATOR PORTNER: But can you  
16 give me a sense, from the date of planting, proper  
17 watering, and all that kind of stuff, reasonable  
18 expectation before you get what you would consider to be a  
19 reasonably good visual screen? Are we talking two years?  
20 Three years?

21 MR. SCHONFELD: I'd say two to three.

22 HEARING ADMINISTRATOR PORTNER: Okay.

23 MR. SCHONFELD: We're putting them in at the  
24 sizes that code would require -- 15-gallon trees, 5-gallon  
25 shrubs.

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2 HEARING ADMINISTRATOR PORTNER: Okay.

3 MR. SCHONFELD: But they're all shrubs and  
4 trees that, with irrigation, grow pretty rapidly.

5 HEARING ADMINISTRATOR PORTNER: Okay.

6 MR. SCHONFELD: So I'd say you'd get  
7 significant screen value in two to three years. By the  
8 end of the five years, when they will start looking at  
9 cutting back on irrigation and weaning them off, you'll  
10 have a very good screen.

11 HEARING ADMINISTRATOR PORTNER: Okay. And  
12 given all the materials I see you putting in here,  
13 especially the larger shrubs, am I accurate in concluding  
14 that, by and large, when those get to reasonable maturity,  
15 given what I consider to be relatively low heights of  
16 panels, five to eight feet?

17 MR. SCHONFELD: Yeah.

18 HEARING ADMINISTRATOR PORTNER: Even the low --  
19 even the -- even your larger shrubs do a pretty good job  
20 of screening most of the height of those panels.

21 MR. SCHONFELD: Yes. I mean, it won't be  
22 completely opaque.

23 HEARING ADMINISTRATOR PORTNER: Right.

24 MR. SCHONFELD: I can't say that.

25 HEARING ADMINISTRATOR PORTNER: Well, and

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2 you're not designing it that way, I understand that.

3 MR. SCHONFELD: But, you know, at -- at any  
4 given angle from a residence --

5 HEARING ADMINISTRATOR PORTNER: Right.

6 MR. SCHONFELD: -- or a car going by --

7 HEARING ADMINISTRATOR PORTNER: Right.

8 MR. SCHONFELD: -- you're going to have even  
9 greater screening value than you will going at a  
10 90 degrees.

11 HEARING ADMINISTRATOR PORTNER: Understood.

12 MR. SCHONFELD: So it'll be fairly successful.

13 HEARING ADMINISTRATOR PORTNER: Okay. And  
14 again, just to confirm, everything I'm seeing here shows  
15 the fence to be well set back from the property  
16 boundaries, and it should largely be screened by the  
17 vegetation once it gets to a point of relative maturity?

18 MR. SCHONFELD: Correct.

19 HEARING ADMINISTRATOR PORTNER: Okay. All  
20 right. You could put that up there on the board, if you  
21 will. Thank you.

22 MR. KUGLER: We have some visual renderings,  
23 some simulations to demonstrate that if you would  
24 (indiscernible).

25 HEARING ADMINISTRATOR PORTNER: Yeah. That'd

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2 be good. The only other things that I wanted to cover  
3 before I ask for public testimony is just some operational  
4 stuff.

5 From my end and experience, these are very  
6 quiet operations or quiet neighbors -- not a whole lot of  
7 activity coming and going, so there's no real traffic  
8 impact.

9 The glare issue I'm familiar with just because  
10 of working on another project with Davis-Monthan where,  
11 coming out of the box, glare was their big thing because  
12 it was actually within the approach/departure corridor,  
13 and the glare issue ended up in the same place that you're  
14 referencing, which is these things absorb light, they  
15 don't reflect it. And so I'm not concerned all that much  
16 about the glare issue, the traffic issue, the visual  
17 issue. I think you've done a very good job of screening,  
18 you know, with your design here of handling both the  
19 buffering and the screening elements of this.

20 Operationally, from a noise standpoint, you do  
21 have the moving of the panels, I understand that. I've  
22 read in your materials, but please just characterize for  
23 the record, for those that maybe don't have those same  
24 materials to look at, you know, what's the noise level?  
25 I -- I don't care about decibels, per se, you know,

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2 because -- but are these the kind of things if you're  
3 standing on the property line can you hear them when the  
4 panels, you know, are being moved? How often does that  
5 occur, you know, on a daily basis? What's the duration of  
6 the noise? Those kinds of things.

7 If you could just speak to that issue for me,  
8 I'd appreciate it.

9 MR. KUGLER: Yeah. And Pedro would be the most  
10 qualified to answer that.

11 MR. GARCIA: Pedro Garcia with FRV. As far as  
12 the -- the motion of the trackers, it occurs about every  
13 10 to 15 minutes, for a few seconds.

14 HEARING ADMINISTRATOR PORTNER: What's a few  
15 seconds? 30?

16 MR. GARCIA: No, no, no, no. We're talking  
17 less than 10 seconds.

18 HEARING ADMINISTRATOR PORTNER: Okay.

19 MR. GARCIA: The motion last -- last -- lasts  
20 much less than 10 seconds.

21 HEARING ADMINISTRATOR PORTNER: And you said it  
22 was every 15 to 20 minutes, did you say?

23 MR. GARCIA: Yeah. Actually 10 to 15.

24 HEARING ADMINISTRATOR PORTNER: Okay.

25 MR. GARCIA: The -- there's a central motor for

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2 each tracker block, and that operates about 20 rows of  
3 modules, so the motor is -- is an electrical motor.

4 HEARING ADMINISTRATOR PORTNER: Okay.

5 MR. GARCIA: It doesn't -- it doesn't generate  
6 much noise. And there's gearboxes at each of the rows  
7 that transfers the -- the torque to the -- to the modules  
8 for -- for that rotation.

9 As far as sound levels, we're trying to get  
10 numbers from the manufacturers on the decibels, but since  
11 you're not interested, I've been in the middle of a  
12 site --

13 HEARING ADMINISTRATOR PORTNER: Can I keep  
14 carrying on a conversation and still hear the person next  
15 to me while they're running?

16 MR. GARCIA: Perfectly, perfectly fine, I had a  
17 person talking on the phone while these things were  
18 rotating.

19 HEARING ADMINISTRATOR PORTNER: Okay. So then  
20 it's less than 65.

21 MR. GARCIA: I was going to go for 60, but I  
22 don't have the number on that, so I --

23 HEARING ADMINISTRATOR PORTNER: Oh, okay.

24 MR. GARCIA: So...

25 HEARING ADMINISTRATOR PORTNER: All right. So

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2 it sounds like about the same as my old C-band satellite  
3 dish moving back and forth, right?

4 MR. GARCIA: Yeah, those are -- I know which  
5 one's you're talking about.

6 HEARING ADMINISTRATOR PORTNER: Yeah, yeah.  
7 It's a dinosaur, I know. My wife tells me all the time --

8 MR. GARCIA: My parents had one too.

9 HEARING ADMINISTRATOR PORTNER: -- why don't  
10 you get rid of that damn thing.

11 MR. GARCIA: Is it still working?

12 HEARING ADMINISTRATOR PORTNER: Oh, yeah.

13 MR. GARCIA: There you go, that's what we're  
14 aiming for with ours too.

15 HEARING ADMINISTRATOR PORTNER: Okay. All  
16 right. Thank you.

17 MR. GARCIA: Thank you.

18 HEARING ADMINISTRATOR PORTNER: And then,  
19 really, my last question -- just operationally, your O&M  
20 people, is that a 24-hour-a-day, you've got people in  
21 there? Or is it just a 9:00 to 5:00 type activity, but  
22 it's -- I would imagine there's no -- that I can think  
23 of -- any external activities that are loud or -- I mean,  
24 I -- I'm anticipating none of that.

25 MR. KUGLER: That's correct.

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2 HEARING ADMINISTRATOR PORTNER: Basically it's  
3 an office, right?

4 MR. KUGLER: That's correct. I don't know if  
5 they'd want to elaborate or not, but --

6 Shilpa?

7 MS. SHAH: Shilpa Shah with FRV. Yeah, I think  
8 we -- primarily, we would have O&M people on site during  
9 working hours, daytime working hours. And then, in the  
10 evening, the only person that we would have on site might  
11 be for security --

12 HEARING ADMINISTRATOR PORTNER: Okay.

13 MS. SHAH: -- monitoring of the site. And I  
14 think as Kevin had mentioned before, we might have six to  
15 eight people --

16 HEARING ADMINISTRATOR PORTNER: Right.

17 MS. SHAH: -- employed full time for the  
18 project, but only one to two on site.

19 HEARING ADMINISTRATOR PORTNER: And do they --  
20 is there regular patrolling the security people do, like  
21 around the perimeter or something? Or do they just do  
22 random kind of patrols?

23 MS. SHAH: I mean, it would be set  
24 periodically. It may not be every night. I mean, it may  
25 be periodically, depending on, you know, our experience

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2 once the system becomes operational. But they would  
3 primarily just go onto the site, maybe do the rotation  
4 across or, you know, around the site and then leave.

5 HEARING ADMINISTRATOR PORTNER: And is that  
6 done once every two hours or -- I just have no idea, so  
7 you need to educate me.

8 MS. SHAH: Oh, it would be done once a night,  
9 one -- for any particular night, it would be once per  
10 night.

11 HEARING ADMINISTRATOR PORTNER: Just one -- one  
12 circuit around --

13 MS. SHAH: I believe, yeah.

14 HEARING ADMINISTRATOR PORTNER: -- per night?

15 MS. SHAH: Once per night. And then it  
16 wouldn't happen every night, it may be once a week or --

17 HEARING ADMINISTRATOR PORTNER: Okay.

18 MS. SHAH: -- once every few days.

19 MR. KUGLER: Depending on need; is that right?

20 MS. SHAH: Depending on their need.

21 MR. GARCIA: Pedro Garcia. We're -- we're  
22 relying heavily on our cameras and -- and motion detectors  
23 for that.

24 HEARING ADMINISTRATOR PORTNER: (Indiscernible)  
25 okay.

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2 MS. SHAH: Yeah.

3 MR. GARCIA: Thank you.

4 HEARING ADMINISTRATOR PORTNER: Okay. All  
5 right.

6 MS. SHAH: Okay? Thank you.

7 HEARING ADMINISTRATOR PORTNER: That's plenty  
8 to give me the background fill-ins that I need.

9 So I'm going to go to public testimony now and  
10 ask you to just take a seat, (indiscernible), and let's  
11 listen to what the members of the public have to say.

12 Like I said, you all have the opportunity to  
13 rebut and give a final response to those before we wrap  
14 things up, so...

15 MR. KUGLER: Thank you.

16 HEARING ADMINISTRATOR PORTNER: Okay. How many  
17 here from the public would like to speak on this? You  
18 don't all have to, but you're all welcome to. Okay? I  
19 don't know if you've got any prearranged order that you've  
20 arranged among yourself. No? Okay.

21 Just a few comments I always give the public  
22 testimony. I do a lot of these hearings, and I'll -- and  
23 I'll have public testimony, and people will often get up,  
24 and they'll tell me the same three things over and over  
25 and over again. I really don't need to hear that. One --

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2 once is enough. I'm a fairly good listener. And because  
3 I only hear it once doesn't mean that, you know, I view it  
4 as a small issue because of the frequency of only having  
5 heard it once.

6 You know, I'm able -- I'm doing -- I do a  
7 pretty good job of assigning gravity to an issue, based  
8 upon, you know, what the nature of it is and how it's  
9 presented to me. And so again, just to save time for  
10 everybody's sake, we don't need to get repetitive on the  
11 same issues. But if you've got something substantively  
12 you want to add, that you really think is important for me  
13 to hear, please take the time to do that.

14 And I like to leave the hearing as broad a  
15 spectrum of neighborhood issues as I can by the time I'm  
16 done here in the public testimony. So just keep that in  
17 mind, when you come forward. Any order you want to come  
18 forward in, just do it. Name and address for the record,  
19 tell me what you want me to hear.

20 All right. We have a brave soul.

21 MR. VINER: Good morning. My name is Bill  
22 Viner, 4121 North Camino Arco, Tucson, Arizona.

23 Primary concerns are with the perimeter  
24 fencing. I think cyclone fencing or chain link fencing is  
25 inappropriate for this neighborhood. I'd like the

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2 applicant to look into a masonry fence that would be  
3 staggered, varied materials, have lintels in place on the  
4 bottom so that the water could flow through from the  
5 floodplain.

6 In terms of the planting, I know we talked  
7 about front planting the wall. Look at potentially  
8 increasing the size of those plants so there would be an  
9 immediate buffer that would be -- so maybe going from 15-  
10 to 24-inch box trees. Also, put in place a maintenance  
11 agreement, so that we would know -- that the residents  
12 would know that those plants would be maintained on a  
13 regular basis. Those are my primary concerns.

14 HEARING ADMINISTRATOR PORTNER: Okay. All very  
15 nuts and bolts related. You did the development to the  
16 south, did you not?

17 MR. VINER: Just built the homes.

18 HEARING ADMINISTRATOR PORTNER: Oh, okay. Just  
19 built the homes. In this market, that's an amazing --  
20 All right. Name and address.

21 MR. ZAMMIT: My name is -- my name is Bob  
22 Zammit, 5445 East Corte Vista Montanosa.

23 HEARING ADMINISTRATOR PORTNER: Okay. Can you  
24 orient me just where's that in location to  
25 (indiscernible)?

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2 MR. ZAMMIT: That is my -- that's my -- that's  
3 my home address, which is near Craycroft and Sunrise.

4 HEARING ADMINISTRATOR PORTNER: Okay.

5 MR. ZAMMIT: I'm the -- I'm the manager of  
6 Tierra Linda Development --

7 HEARING ADMINISTRATOR PORTNER: Okay.

8 MR. ZAMMIT: -- that developed Tierra Linda.  
9 And we're presently the owner of 65 lots --

10 HEARING ADMINISTRATOR PORTNER: Okay.

11 MR. ZAMMIT: -- that are directly south of  
12 the -- the project and to the west of the primary entry to  
13 Tierra Linda.

14 HEARING ADMINISTRATOR PORTNER: Okay, great.

15 MR. ZAMMIT: I'm -- I'm not sure if this is an  
16 appropriate format to ask questions. So I guess I'll --  
17 or -- or maybe just to put them on record and then the  
18 answers can come later.

19 HEARING ADMINISTRATOR PORTNER: Yeah, it's --  
20 no, it is.

21 MR. ZAMMIT: Okay.

22 HEARING ADMINISTRATOR PORTNER: If you've got  
23 questions, that's why they're responsible for listening to  
24 the public testimony, so they can then respond on record  
25 when you're done.

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2 MR. ZAMMIT: I see a -- a -- an undisturbed  
3 area there in pale green, and I'm wondering if that's the  
4 native plant preservation ordinance and PPO set-aside  
5 area.

6 HEARING ADMINISTRATOR PORTNER: That's the  
7 Brawley Wash area, yes.

8 MR. KUGLER: Yes, it's -- it's -- it's not set  
9 aside. We're -- we're not doing the 30 percent.

10 HEARING ADMINISTRATOR PORTNER: Okay.

11 MR. ZAMMIT: So that's -- that's a question,  
12 is -- so we were subject to the 30 percent set-aside when  
13 we developed our land and wondering if there's a  
14 comparable set-aside for this land, as well?

15 HEARING ADMINISTRATOR PORTNER: Okay. Could  
16 you just make sure to more fully respond to that, on the  
17 whole 30 percent issue and what you're doing and what  
18 you're not?

19 MR. KUGLER: Sure.

20 HEARING ADMINISTRATOR PORTNER: Okay.

21 MR. ZAMMIT: And I -- I guess the premise here  
22 is that the solar farm is a solar use to conventional  
23 farms, which are what is typical, I think, in the RH zone  
24 and the area, but it seems pretty dissimilar to me. So  
25 maybe this has been brought up previously -- this is my

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2 first meeting -- but --

3 HEARING ADMINISTRATOR PORTNER: Yeah.

4 MR. ZAMMIT: -- just some kind of understanding  
5 of how --

6 HEARING ADMINISTRATOR PORTNER: Yeah, no.  
7 Here's where I come down on that. It's not my call. The  
8 chief zoning inspector makes those determinations. So  
9 back whenever they first approached Pima County on this,  
10 there would have been a need to classify this use against  
11 the Pima County Zoning Code. The chief zoning  
12 inspector -- I don't know -- did she make a formal  
13 decision on that?

14 MALE SPEAKER: (Indiscernible.)

15 HEARING ADMINISTRATOR PORTNER: Right. No,  
16 that's okay. The chief zoning inspector made a formal  
17 determination on that issue and classified it as she has.  
18 Once that's the case, it moves forward, and I just have to  
19 accept that conclusion and classification on her part,  
20 which is her authority. I just accept it as it is, and we  
21 process things moving forward, based on that.

22 So if you want to add something to that, go  
23 ahead.

24 MALE SPEAKER: Just -- RH is a unique zone,  
25 it's a rural zone in nature. It allows other conditional

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2 uses like retail, offices, convenience stores, gas  
3 stations, service stations. So when the chief zoning  
4 inspector -- this wasn't done specifically on this  
5 project -- the interpretation of where these uses would be  
6 allowed was done before any of these came in. And because  
7 of those other similar uses that would be possible on a  
8 site like this, it was determined that this use would be  
9 similar to those other uses.

10 HEARING ADMINISTRATOR PORTNER: In terms of the  
11 intensity (indiscernible) --

12 MALE SPEAKER: Intensity, scale, and things  
13 like that.

14 HEARING ADMINISTRATOR PORTNER: -- than some of  
15 them, okay.

16 MALE SPEAKER: Because you could do a -- a  
17 gasoline service station, an office, retail --

18 HEARING ADMINISTRATOR PORTNER: Right.

19 MALE SPEAKER: -- restaurants, things like  
20 that. So -- so that's where the comparisons are looked at  
21 and why it would be compatible in this zone and -- and  
22 maybe not some of our other zones.

23 MR. ZAMMIT: But if somebody wanted to put a --  
24 a gas station or a retail in there --

25 HEARING ADMINISTRATOR PORTNER: Um-hmm.

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2 MR. ZAMMIT: -- that would have to be approved  
3 as a conventional use?

4 MALE SPEAKER: Same process, same process;  
5 correct.

6 HEARING ADMINISTRATOR PORTNER: Same.

7 MR. ZAMMIT: And the argument could potentially  
8 be made that there are no uses similar to that in the  
9 area -- no retail, no gas stations, no offices, no retail.

10 MALE SPEAKER: And it's -- and the -- and the  
11 way it's looked at in the code is whether or not it's a  
12 similar use to other uses that are possible, not whether  
13 or not the other uses are in the area.

14 MR. ZAMMIT: Oh, I see, okay.

15 MALE SPEAKER: So gasoline, retail, things like  
16 that, are possible on an RH piece of property. So that's  
17 why this was --

18 HEARING ADMINISTRATOR PORTNER: All of which  
19 have to go through the same --

20 MALE SPEAKER: Same process, yeah.

21 HEARING ADMINISTRATOR PORTNER: -- public  
22 hearing process as this.

23 MALE SPEAKER: So they're all -- it's all -- it  
24 was -- it was put in the category exactly the same as  
25 those.

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2 MR. ZAMMIT: Regarding the chain link fence  
3 issue that he brought up --

4 HEARING ADMINISTRATOR PORTNER: Um-hmm.

5 MR. ZAMMIT: I -- I ditto that comment. And  
6 when we built masonry walls, as a part of our  
7 development -- screen walls, we hired a hydrologist, did a  
8 hydrology study, and was able to satisfy --

9 HEARING ADMINISTRATOR PORTNER: The county?

10 MR. ZAMMIT: -- the county.

11 HEARING ADMINISTRATOR PORTNER: Floodplain?

12 MR. ZAMMIT: Um-hmm. Floodplain on the  
13 lintel-type openings in the masonry walls. So that would  
14 be far preferable to have something visually -- let's just  
15 say more residential -- residentially visibly pleasing,  
16 than --

17 HEARING ADMINISTRATOR PORTNER: Residential  
18 looking from the outside at the inside?

19 MR. ZAMMIT: Yeah, yeah.

20 HEARING ADMINISTRATOR PORTNER: Okay.

21 MR. ZAMMIT: And I think Bill Viner had a great  
22 comment about staggering dissimilar materials together  
23 with the landscaping would provide a great visual up  
24 front. I -- I noticed on the drawing -- I -- I don't know  
25 if I'm overly sensitive, but it seems like east of the

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2 entryway, the planting density gets less dense. And those  
3 are precisely the -- the area where my lots lie.

4 HEARING ADMINISTRATOR PORTNER: That's --

5 MR. ZAMMIT: And so we would want to carry that  
6 same density all the way across.

7 HEARING ADMINISTRATOR PORTNER: That's --  
8 that's a good point. And if you could respond to that,  
9 too, on the record, but I think that's the point at which  
10 the road turns from pavement to dirt, as you head west.

11 MALE SPEAKER: Um-hmm.

12 HEARING ADMINISTRATOR PORTNER: And so is that  
13 kind of your breaking -- breaking line for where you  
14 started to reduce the density?

15 Again, just respond to it on the record.

16 MALE SPEAKER: Yes. I will do that.

17 MR. ZAMMIT: That segues into another comment,  
18 and that is that it is a dirt road west of the entry. We,  
19 of course, paved Emigh Road from Sanders to our entry  
20 because of the dust issue. And I understand that the  
21 entrance to this is on Sanders Road, but I wonder if we're  
22 going to get more traffic down here. It's -- it's  
23 interesting. And -- and I wonder if we're going to get  
24 more dust.

25 HEARING ADMINISTRATOR PORTNER: What do you

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2 mean? Sightseers?

3 MR. ZAMMIT: Yes.

4 HEARING ADMINISTRATOR PORTNER: Yeah, but if  
5 they put a wall up and landscape (indiscernible) --

6 MR. ZAMMIT: (Indiscernible.)

7 HEARING ADMINISTRATOR PORTNER: -- you can't  
8 see anything.

9 MR. ZAMMIT: That's why I'm wondering.

10 HEARING ADMINISTRATOR PORTNER: Okay.

11 MR. ZAMMIT: Let's see here. And that's all I  
12 have.

13 HEARING ADMINISTRATOR PORTNER: Okay. Thank  
14 you, very much.

15 MR. ZAMMIT: Thank you.

16 HEARING ADMINISTRATOR PORTNER: Next, please.

17 MR. McKNIGHT: My name is Rich McKnight,  
18 8750 North Via Socorro.

19 My primary concern with this effort has always  
20 been the area of property values. I understand that not a  
21 lot of studies have occurred that can give us any kind of  
22 indication of what's going to happen. And I resent being  
23 forced into a guinea-pig situation for the rest of the  
24 nation.

25 I did not know, two years ago, when I built my

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2 residence at a -- at the lot just south of where they are  
3 building at the corner of Via Socorro and Emigh Roads that  
4 this was going to go on. If I had known, I would not have  
5 built there. And if I try to sell my house in the next 20  
6 years, I believe that people are going to be reluctant to  
7 buy it.

8 I would also like to disagree with the comment  
9 made earlier that the two meetings held earlier this year,  
10 I believe one in May and one on October 26th, were  
11 constructive. While we did learn quite a bit about the --  
12 the project, to an individual, local residents that I met  
13 at both of those meetings were vehemently against this  
14 project continuing. I met not a single person in  
15 support.

16 Thank you.

17 HEARING ADMINISTRATOR PORTNER: Thank you.

18 Just so you know, I hear all kinds of  
19 characterizations about neighborhood meetings all the  
20 time. I kind of just listen with one ear on the -- I try  
21 to get to the facts of what was discussed and what was  
22 said and what wasn't, so...

23 MR. RICK WESTFALL: May I put some pictures on  
24 the easel?

25 HEARING ADMINISTRATOR PORTNER: Yeah, yeah,

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2 please. Now, those I saw from the green book.

3 MR. RICK WESTFALL: Yes. All of the pictures  
4 that you see will be from the green book.

5 HEARING ADMINISTRATOR PORTNER: Okay.

6 MR. RICK WESTFALL: My name is Rick Westfall.  
7 I am the property owner directly southeast of this  
8 project. I am, without a doubt, the most affected  
9 property owner in this project, although the entire  
10 neighborhood is going to be infect -- affected.

11 My -- I have several issues. First of all, if  
12 you've seen the site and you were close to my property,  
13 looking north or west, the value of my property will be  
14 absolutely destroyed. It will be gutted. I will expect  
15 90 to 95 percent of an impact on the value of my home  
16 where I've lived for 17 years.

17 I found out about this in January of this year,  
18 when I came home from work one day to find a half a dozen  
19 or more TEP employees sitting in my driveway. So that --  
20 that is how this all came to be.

21 I agree with the last speaker. Both of these  
22 meetings have been -- again, I've met no one that has  
23 supported it. They say they have an e-mail in support. I  
24 don't know who that person is, and I haven't met them. At  
25 this last meeting there was 15 to 25 residents there.

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2 Every single resident was against. I saw no residents, at  
3 all, that were there, that were for the project.

4 The first meeting I specifically want to  
5 comment on. That was a brain child of Jeff Biggs, Sandy  
6 Elder, and Asia Philbin from Tucson Water. In their  
7 infinite wisdom, they chose to have fliers printed up and  
8 circulated by their staff and take to doors and gates and  
9 mailboxes in the neighborhood. I can't understand why  
10 they didn't mail them. I didn't have any problem getting  
11 a list from Tucson Water -- or from Pima County on who was  
12 in that area.

13 The second meeting, I don't know how -- I -- I  
14 did hear from neighbors within the area that did not  
15 receive notice. I don't know how that went. I know they  
16 mailed it. I received a notice from FRV; I received a  
17 notice from Pima County. I've also been kept absolutely  
18 in the loop by Pima County. They've informed me on every  
19 opportunity, as has Fotowatio. So with that being said,  
20 that -- that is to their credit.

21 What is going to happen to this neighborhood,  
22 there's going to be a substantial amount of grubbing  
23 that's going to take place on -- on this to remove the  
24 bushes and the plants that are there and have grown over  
25 the last 20 years.

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2 My single biggest issue that I'm going to refer  
3 to right now is water. There is a commercial irrigation  
4 well sitting about 600 feet due north of my irrigation  
5 well. It was a large chew (phonetic) well that was  
6 probably a 20-inch casing, back in, you know, the '50s,  
7 that was placed in. Tucson Water went through and  
8 purchased all of the water rights and retired those  
9 areas.

10 HEARING ADMINISTRATOR PORTNER: Yeah.

11 MR. RICK WESTFALL: They used tax dollars to  
12 gather up some 23,000 acres of land in Avra Valley to  
13 retire the water rights and pump them to Tucson. This  
14 aquifer is something that everyone shares and has certain  
15 rights and -- and efforts to it.

16 With that being said, they now want to come in  
17 and say that they want to -- it's been retired, they want  
18 to uncap that well after 30-some years, 20-some years, and  
19 start pumping 35 gallons a minute out of it, so that they  
20 can maintain the things that they choose to do.

21 There is well over 10- or 12,000 linear feet --  
22 and maybe WestLand can tell us exactly how many feet -- of  
23 linear irrigation that they plan on doing. If they outfit  
24 this well as they said, they will get 35 gallons a  
25 minute. An average water hose pumps anywhere from 7 to 12

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2 gallons per minute. They plan on irrigating 10-, 12-,  
3 14,000 linear feet of this with that irrigation well at 35  
4 gallons a minute. They've got to re -- retrofit the well,  
5 they've got to repower it. They've got to do some other  
6 things, just to get this. It -- it's going to have to run  
7 constantly.

8 HEARING ADMINISTRATOR PORTNER: Mr. Schonfeld,  
9 can you just address that point too?

10 MR. SCHONFELD: You got it.

11 HEARING ADMINISTRATOR PORTNER: I would imagine  
12 you're going to zone this and run it at different times  
13 and all of that. Okay. If you could just put all of that  
14 on the record for the audience's benefit.

15 MR. RICK WESTFALL: The biggest issue that --  
16 that's going to come into play in this water, they're  
17 going to need a half a dozen water trucks on this site for  
18 the 9 months, 12 months of construction -- whatever that  
19 period is -- to mitigate the grubbing and the dirt work  
20 and everything else that's got to take place for them, not  
21 to mention to meet their air quality permit that they hope  
22 to get from Pima County.

23 I've been in the trucking business for nearly  
24 30 years. I am a contractor; I am a dust control  
25 abatement. That's what I do for a living.

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2 There is absolutely no water anywhere near this  
3 area, other -- that they have access to, to fill these  
4 water trucks. An average water truck is 4,000 gallons.  
5 For them to fill a 4,000-gallon water truck at 35 gallons  
6 a minute will take over two hours. They're going to use  
7 50 of these a day during this process.

8 As this thing goes on, less than a mile to the  
9 east of us is 1,800 students. Sanders and Emigh Road  
10 turns into an absolute drag strip twice a day for a period  
11 of 45 minutes each day.

12 When one of these water trucks that's  
13 transporting water to their site runs over some student  
14 and kills it -- kills him or her, there's going to be an  
15 issue. That is not an acceptable use for them to truck  
16 water in here and continue to obliterate the  
17 neighborhood.

18 The well just will not support what they're  
19 trying to do. It's just not able to stretch it to the  
20 limit. It's going to have an adverse effect on the  
21 aquifer if they try and run it constantly. They're going  
22 to have to build a large storage tank. They're going to  
23 have to do something.

24 As you noted, yourself, earlier on in the  
25 process, if they use a cyclone fence and some razor wire,

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2 as the only explanation that we have at Pima County that  
3 I'm aware of, not only will it look like a prison, but  
4 this is what will happen.

5 Fifty years ago we were absolutely certain that  
6 asbestos was the best thing that had ever happened. We  
7 were using it in everything. Now, after some time has  
8 passed, which is exactly the infancy we're here in this  
9 solar project, asbestos is probably the single biggest  
10 cause of cancer there is.

11 We don't know what this is going to do; they  
12 don't know what it's going to do.

13 Tucson is hot. I don't care -- I mean, I live  
14 in the country. I don't have a lot of asphalt by me, and  
15 it's still hot, May through September. These solar panels  
16 are going to absorb sun. It's going to draw heat, it's  
17 going to be hotter. Those of us in the area don't even  
18 get to use the solar power that they're generating. It'll  
19 have -- all it is is an adverse effect to us, there are no  
20 positives.

21 HEARING ADMINISTRATOR PORTNER: So are you  
22 saying there's some kind of micro-climate effect --

23 MR. RICK WESTFALL: I certainly --

24 HEARING ADMINISTRATOR PORTNER: -- along with  
25 these facilities?

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2 MR. RICK WESTFALL: I certainly believe so. I  
3 visited one in Las Vegas, that I walked into, that was at  
4 least 10 to 15 degrees hotter in the immediate area.

5 My home -- I mean, they're going to surround me  
6 with this. This is what I'll look at, similar -- this is  
7 not their facility. This is Pima County's facility.  
8 Similar. I mean, it's not much different. Maybe it is.  
9 Maybe they can show us something else. We haven't seen  
10 any pictures of what it is. But this is what we have to  
11 look at and what we have to look forward.

12 My property is elevated. It falls to the west,  
13 approximately 11 feet to the end of the property that  
14 they're looking at. I will view this for the remainder of  
15 my days. My property will have zero value. And the  
16 liveability of my home will be absolutely destroyed. I  
17 don't see how Pima County could possibly allow that to  
18 happen, but that's the circumstances.

19 The water issue is not anywhere near answered.  
20 It's just not applicable to draw 35 gallons a minute out  
21 of a domestic well and claim you're using a domestic well  
22 for a commercial activity.

23 HEARING ADMINISTRATOR PORTNER: I heard it.

24 MR. RICK WESTFALL: With Tucson Water and their  
25 idea, it -- they've used tax dollars to do it. It's

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2 immoral and it's unethical for them to turn around at this  
3 point and -- and do this, just so that they have some  
4 benefit.

5 HEARING ADMINISTRATOR PORTNER: Okay.

6 MR. RICK WESTFALL: I'll conclude it. Thank  
7 you for listening.

8 HEARING ADMINISTRATOR PORTNER: Thank you, very  
9 much.

10 MR. VARLEY: Excuse me. I don't know if I can  
11 follow that.

12 HEARING ADMINISTRATOR PORTNER: I think you  
13 can.

14 MR. VARLEY: Bruce Varley, 13074 West Butter  
15 Bush, Tierra Linda resident.

16 Like you've heard before, I also have a concern  
17 with property values. I don't want to see them fall. I  
18 have a concern with the continued growth of our community,  
19 Tierra Linda. I don't want to see it decline.

20 I want to minimize -- I'd like to see the  
21 company minimize the effect, the visual effect of the  
22 solar farm on the community. I believe dust control is  
23 going to be important, not only during construction, but  
24 after construction. The winds do blow out there and dust  
25 to us is a problem.

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2 I believe that traffic is going to be congested  
3 on Sanders Road. We're looking at 250 to 300 employees  
4 during the construction period. That added to the school  
5 kids coming and leaving two times during the day. The  
6 water trucks that Rick mentioned will also be an issue.

7 I would also like to see the companies  
8 communicate better with all the neighborhoods, go beyond  
9 the thousand feet that they're mandated. I'd like to see  
10 all the community members in Tierra Linda be kept up to  
11 date on what's going on.

12 To that effect, I agree with the two other  
13 people that spoke. I'd like to see a block wall in  
14 place. I'd rather not see barbed wire or razor wire up on  
15 top -- make it look like a facility or a prison. I'd like  
16 to see them use stone on the pathways and on the roadways  
17 inside their community -- inside their solar farm to  
18 minimize dust.

19 I'd like them, if -- if this project moves  
20 forward, I'd like them to become a partner with the  
21 community, not just a stand-alone facility.

22 Also, I think there's going to be an issue with  
23 waste. When you've got that many people working and  
24 eating there, there's going to be trash.

25 HEARING ADMINISTRATOR PORTNER: You mean during

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2 the construction phase?

3 MR. VARLEY: During the construction phase.  
4 Would you like that? That's all I've got.

5 HEARING ADMINISTRATOR PORTNER: All right.  
6 Thank you. Any other speakers?

7 MS. GILKEY: I'm here.

8 HEARING ADMINISTRATOR PORTNER: All right.

9 MS. GILKEY: I'm Melody Gilkey. I'm here on  
10 behalf of Tucson Electric Power, One South Church, Tucson  
11 85702. We are just here to voice our support of this  
12 project. Obviously, we are the off-taker. And I believe  
13 it was mentioned that we do have a 20-year contract for  
14 all of the solar power produced at this site. We are  
15 excited about it. It is one of the first of its kind in  
16 our community, so we just want to make sure that the  
17 County knows we are excited and very supportive of it.

18 HEARING ADMINISTRATOR PORTNER: Thank you.

19 MR. BRIAN WESTFALL: Brian Westfall. Just two  
20 comments that I believe have been mentioned -- one  
21 regarding the cleaning of the solar panels. They're  
22 estimating maybe twice a year. Living most of my life  
23 there, I can testify that the dust blows quite  
24 frequently. And you know, as often as we had to dust  
25 the -- the house and clean -- clean those type of things,

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2 they will be spending more than twice a year cleaning off  
3 their solar panels, if dust is their enemy, just because  
4 of the natural environment.

5 And second is the heat. I have spent time  
6 working with solar panels and solar cells, working with  
7 the City of Tucson before. And I can testify that being  
8 around them in those hot summer months, even in their near  
9 vicinity, that there is a -- a -- an increase of  
10 temperature and heat to -- to those nearby.

11 HEARING ADMINISTRATOR PORTNER: Thank you. Any  
12 other public testimony?

13 MR. ROSEN: I don't know if I can speak. My  
14 name is Dennis Rosen. I'm an attorney. I represent the  
15 Westfalls. Am I -- is it okay? I -- my office is  
16 1670 East River Road.

17 HEARING ADMINISTRATOR PORTNER: Sure.

18 MR. ROSEN: Okay. Thank you. The only thing  
19 that hasn't been addressed is what happens in 20 years.

20 HEARING ADMINISTRATOR PORTNER: I was going to  
21 ask that question myself, sir.

22 MR. ROSEN: All right. You know, we're going  
23 to wind up with a site that likely it's going to be  
24 technologically a dinosaur by then. This area is growing  
25 fast technology-wise. And we had our cell phones that

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2 were the size of a brick, and now they're the size of a  
3 wristwatch. And I'm sure this is happening in this area  
4 too. These gentlemen are at the forefront of this.

5 But what happens during -- after 20 years? And  
6 maybe more importantly, what happens during 20 years?  
7 What happens when you're able to do panels that do three,  
8 four, five, ten times more efficient, changing sun into  
9 electricity? What's going to happen on this site during  
10 that time? Just something for the hearing officer to  
11 consider.

12 HEARING ADMINISTRATOR PORTNER: Thank you. I  
13 had a feeling you were going to come forward.

14 FEMALE SPEAKER: That's okay. Go ahead.

15 MR. PLENK: Hi, my name is Bruce Plenk. I'm  
16 the solar energy coordinator for the City of Tucson. My  
17 business address is 4004 South Park.

18 The City of Tucson is the Department of  
19 Energy's Solar America's City because of the long history  
20 that the City of Tucson has in terms of developing and  
21 supporting solar projects.

22 The point of this project, in part, is to help  
23 the City of Tucson meet its plans to reduce global warming  
24 and otherwise address climate change by providing  
25 additional renewable energy.

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2 Various members of the City Staff fully  
3 reviewed this permit before the Mayor and Council approved  
4 the lease on this property, earlier this year in  
5 February. That was fully studied and reviewed by the  
6 Mayor and Council. At that time, many of the issues that  
7 are -- have been discussed here were considered.

8 In -- in my view, the -- the buffers are  
9 adequate. The design of the project is clearly much less  
10 problematic than other possible uses allowed in the RH  
11 zone that haven't been mentioned up to this point, but  
12 some of those uses, as I reviewed the RH area, that could  
13 be placed there would be a commercial feed lot, a hog  
14 ranch, a racetrack, fairgrounds, carnival, or a  
15 sand-and-gravel operation -- all of which would be  
16 possible in an RH area.

17 This kind of location is certainly more  
18 appropriate than any of those other sites, and -- that --  
19 that could be there. We've developed both city and  
20 regional solar plans to encourage the development of solar  
21 projects in and around the city of Tucson and support this  
22 kind of project. The City has developed a number of  
23 similar projects, on a smaller scale, on other city  
24 sites.

25 There's been, in -- in my research, no

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2 indication of any negative health consequences from the  
3 placement or application of photovoltaic panels. Contrary  
4 to some of the earlier comments, this is an old  
5 technology. Photovoltaics panels have been in operation  
6 for over 50 years. There're -- there're panels located at  
7 homes in Tucson that have been in place for more than  
8 30 years with no -- no visible health impact.

9 The lease stipulates that the property will be  
10 returned to its present condition at the end of the  
11 20-year lease term, so that -- that issue is resolved.

12 And with regard to the pictures that are being  
13 shown here of the Pima County -- I assume this is the Pima  
14 County Roger Road recently completed facility. I think  
15 it's clear from those pictures there's -- there was not a  
16 landscaping requirement because that's in the middle of a  
17 wastewater facility -- or in. So while it certainly shows  
18 a fence, it's clearly a different setting. It's not an RH  
19 setting and there's not any homes nearby. So it's -- it's  
20 rather, rather a different -- a different setting, with  
21 regard to landscaping.

22 So having said all of that, I'm speaking in  
23 support of this project. And I think it is important to  
24 take into account the -- the concerns of -- of the  
25 neighbors and the residents nearby, with regard to some of

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2 the issues that have been raised. But with regard to the  
3 project itself, I'm speaking in support of it.

4 HEARING ADMINISTRATOR PORTNER: Just a question  
5 then regarding the lease. You said the -- the lease  
6 indicates or requires that after 20 years, basically this  
7 be all buttoned up?

8 MR. PLENK: That's correct.

9 HEARING ADMINISTRATOR PORTNER: And turned back  
10 to -- so is there any provision for whether or not the  
11 technology is still viable? Makes sense? TEP wants to  
12 renew and extend the agreement? Is there -- is there the  
13 opportunity to do that, if it's still seen as a usable  
14 project?

15 MR. PLENK: Let me check.

16 MS. GILKEY: And maybe I --

17 MR. PLENK: Sure, Melody. Jump in -- or Asia  
18 jump in.

19 MS. PHILBIN: This is Asia Philbin, with the  
20 Tucson Water Department, City of Tucson, and 310 West  
21 Alameda is my work address.

22 And I'm also speaking in support of the  
23 project. We do want to hear the neighbor concerns. We  
24 want to be a good neighbor. Just I want to answer your  
25 question about after 20 years we could, if the technology

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2 is still viable, if TEP is still interested in pursuing  
3 the project and Fotowatio is still there, we could extend  
4 the lease. That would be a -- a potential.

5 HEARING ADMINISTRATOR PORTNER: So it is a  
6 possibility?

7 MS. PHILBIN: That would be a possibility.

8 HEARING ADMINISTRATOR PORTNER: Okay.

9 MS. PHILBIN: And -- and I think Bruce  
10 correctly stated earlier that should the project  
11 terminate, it would be returned to its original state --  
12 the property would.

13 Also, just to clarify, the -- the City of  
14 Tucson Water Department owns the property. And that was  
15 purchased with ratepayer dollars, and it's ratepayer --  
16 Tucson Water ratepayers that would benefit from the --  
17 from --

18 HEARING ADMINISTRATOR PORTNER: I understood  
19 that.

20 MS. PHILBIN: Okay.

21 HEARING ADMINISTRATOR PORTNER: All right.

22 MS. PHILBIN: And I think that's it.

23 HEARING ADMINISTRATOR PORTNER: Okay.

24 MS. PHILBIN: And so I'm also speaking in  
25 support of the project.

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2 HEARING ADMINISTRATOR PORTNER: Yes.

3 MS. PHILBIN: Thanks.

4 HEARING ADMINISTRATOR PORTNER: I heard. Thank  
5 you.

6 All right. No other members of the public?

7 Rebuttal is on. It's up to you to go through  
8 whatever points you want to respond to.

9 I'll have some questions along the way. So  
10 let's spend our remaining time doing that.

11 MALE SPEAKER: I can respond to the  
12 (indiscernible).

13 MALE SPEAKER: Here's that other board.

14 MALE SPEAKER: Here.

15 MR. SCHONFELD: I want to be sure I'm talking  
16 about (indiscernible).

17 Rick Schonfeld, with WestLand Resources.

18 The first part that I caught, that was brought  
19 up, was wondering if the set-aside on the west portion of  
20 the site was the 30 percent set-aside option that is an  
21 option for the Pima County native plant preservation  
22 requirements. And it's not.

23 That area is about 36 acres. 30 percent of  
24 this site would be about 91. That was set aside towards  
25 meeting requests from Pima County, on initial review of

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2 this project, to try and conform with some of the  
3 guidelines of the conservation land system.

4 The west side has a drainage. Some of it has  
5 been modified as a manmade ditch, but it ties into the  
6 Brawley Wash. There's no riparian habitat there, but  
7 there is denser vegetation.

8 So, in trying to meet the 52-acre goal of  
9 set-aside or native vegetation, that was the highest  
10 resource value that we left untouched. And then that, in  
11 conjunction with the native plantings in the buffer yard,  
12 gets us above the 52 acres that the county requested.

13 HEARING ADMINISTRATOR PORTNER: Okay. But I  
14 understand -- just clarify for me. You're kind of in a  
15 weird situation here. That whole 30 percent set-aside was  
16 promulgated based upon you coming upon a site in natural  
17 condition.

18 MR. SCHONFELD: Correct.

19 HEARING ADMINISTRATOR PORTNER: This is a site  
20 where the majority of it has historically been disturbed  
21 by agricultural activity. So the only steps you really  
22 have left, that is not disturbed, is by and large what  
23 you're -- and even that's been disturbed.

24 MR. SCHONFELD: Probably -- probably.

25 HEARING ADMINISTRATOR PORTNER: To some extent.

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2 MR. SCHONFELD: Yes. There's been less  
3 disturbance.

4 HEARING ADMINISTRATOR PORTNER: I'm sorry.  
5 You're done.

6 (Laughter.)

7 MR. SCHONFELD: Yeah, yeah. The -- it just  
8 didn't lend itself to that, because --

9 HEARING ADMINISTRATOR PORTNER: Right. All I'm  
10 saying is that --

11 MR. SCHONFELD: (Indiscernible.)

12 HEARING ADMINISTRATOR PORTNER: -- you're in a  
13 gray area there in terms of the whole 30 percent issue  
14 simply because of the historical use of the site.

15 MR. SCHONFELD: Correct.

16 HEARING ADMINISTRATOR PORTNER: And so the  
17 county made a call on that, against the CLS and everything  
18 and --

19 MR. SCHONFELD: Yes.

20 MALE SPEAKER: And -- and our environment --  
21 environmental planning manager has been an integral part  
22 of that review (indiscernible) has been working --

23 HEARING ADMINISTRATOR PORTNER: Okay, okay.

24 MALE SPEAKER: -- throughout the project. And  
25 she's been to most of our meetings.

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2 MR. SCHONFELD: The second point was a question  
3 about the density of the buffer yards. And I -- I want to  
4 be sure I'm clear of where we were talking. Were we --  
5 were we talking on the south side? The west half of the  
6 south side, where it's less dense?

7 MALE SPEAKER: And that's --

8 HEARING ADMINISTRATOR PORTNER: It looks like  
9 it's just west of the main entrance, which is, if I  
10 remember right, where the road turned to dirt.

11 MR. SCHONFELD: Correct. And as I stated  
12 earlier, all the buffer yards meet the county's  
13 requirements for densities for this kind of use. Where  
14 we're showing the denser buffer yards right now is where  
15 there was developed residential properties.

16 HEARING ADMINISTRATOR PORTNER: Right.

17 MR. SCHONFELD: We did not do that where there  
18 could be future residential properties developed.

19 HEARING ADMINISTRATOR PORTNER: Even though  
20 they are subdivided?

21 MR. SCHONFELD: But --

22 HEARING ADMINISTRATOR PORTNER: And ready for  
23 development?

24 MR. SCHONFELD: But -- yes, but we could look  
25 at that if that's an issue.

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2 HEARING ADMINISTRATOR PORTNER: Okay.

3 MR. SCHONFELD: And the third point was the  
4 water usage. The -- the irrigation system we've designed  
5 for this project has six irrigation valves. It's all drip  
6 irrigation. And each plant uses between -- well, some use  
7 no -- no irrigation; some of the shrubs use one gallon per  
8 hour. The trees, which are the greatest users, would use  
9 six gallons per hour. So the way we've broken -- it's a  
10 very slow drip-irrigation delivery of water to the  
11 plants. It's broken into six valves. Each valve uses  
12 between five and eight gallons per minute. And because  
13 it's drip irrigation, theoretically, we can apply this  
14 water over a 24-hour period.

15 HEARING ADMINISTRATOR PORTNER: Right.

16 MR. SCHONFELD: So we understand that the well  
17 only produces up to 35 gallons per minute. Yes, we would  
18 probably have to retrofit that with a new pump and  
19 probably some kind of a storage tank.

20 HEARING ADMINISTRATOR PORTNER: Sure.

21 MR. SCHONFELD: To give us some flexibility for  
22 that, but we should be able to easily get these  
23 irrigated --

24 HEARING ADMINISTRATOR PORTNER: Okay.

25 MR. SCHONFELD: -- within the window and the

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2 volume we have.

3 HEARING ADMINISTRATOR PORTNER: And you're  
4 saying there's six zones?

5 MR. SCHONFELD: There's six drip irrigation  
6 zones. So --

7 HEARING ADMINISTRATOR PORTNER: Right. And  
8 would you typically, for something like this, to best  
9 establish it, would you typically run a zone for 24 hours,  
10 run the next zone for 24 hours, run the next zone 24  
11 hours? Or what would you do?

12 MR. SCHONFELD: No. We could probably run like  
13 two valves at a time for three or four hours --

14 HEARING ADMINISTRATOR PORTNER: Okay.

15 MR. SCHONFELD: -- and then cycle through to  
16 the next one. So that the --

17 HEARING ADMINISTRATOR PORTNER: Okay. And is  
18 that a -- is that a daily watering then? Or does it start  
19 out daily and then (indiscernible)?

20 MR. SCHONFELD: It would -- it would depend the  
21 time of the year that they were planted.

22 HEARING ADMINISTRATOR PORTNER: Yeah.

23 MR. SCHONFELD: Once they're established, I  
24 mean, to get them in the ground, if it was in the middle  
25 of the summer, it probably would be a daily.

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2 HEARING ADMINISTRATOR PORTNER: Okay.

3 MR. SCHONFELD: If it was in the winter, it  
4 wouldn't -- and once they're established, it'll do that,  
5 you know, twice a week.

6 HEARING ADMINISTRATOR PORTNER: All right.  
7 Okay.

8 Do you have any comments you want to make?  
9 Anyone from your -- it's your opportunity to do or not do.

10 MR. KUGLER: I'm painstakingly going through my  
11 notes here to see -- Rick did a great job of addressing  
12 many of the -- the water and landscaping issues, which  
13 seemed to be the preponderance of the comments.

14 Relative to the -- the fencing issue, that's  
15 as, we kind of candidly said right off from the -- from  
16 the get-go, that's one thing we're actively still  
17 exploring, and we'll continue to do so. And we've made  
18 assurances to the neighbors that we will keep them engaged  
19 and as part of that decision-making process.

20 HEARING ADMINISTRATOR PORTNER: I'm not asking  
21 you for any final commitments or decisions. But what kind  
22 of options are you exploring along that line?

23 MR. KUGLER: To date, the exploration, as I  
24 suggested before, has been along the lines of some type of  
25 mesh or opaque slats within the -- the chain link

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2 function. The -- the notion of a CMU block fence with  
3 lintels and whatnot hasn't -- has not been explored at  
4 this time.

5 HEARING ADMINISTRATOR PORTNER: Okay.

6 MR. KUGLER: Just candidly, that hasn't been  
7 something that's been on the drawing board.

8 HEARING ADMINISTRATOR PORTNER: Sure.

9 MR. KUGLER: Particularly with the -- with the  
10 flood conveyance function, it's been something that we've  
11 been kind of hesitant in that regard. I'm not suggesting  
12 that we won't evaluate it, in light of what's been  
13 discussed here today. It's just to the iterative process,  
14 it just hasn't been on the radar quite yet.

15 HEARING ADMINISTRATOR PORTNER: Okay.

16 MR. KUGLER: Just very candidly.

17 MS. SHAH: Actually, also, connected to --

18 HEARING ADMINISTRATOR PORTNER: That's what I'm  
19 looking for.

20 MS. SHAH: -- connected to the fence, as well.  
21 I mean, I think we're -- we're definitely receptive to the  
22 concerns about having the fence look like something that  
23 you would have at a prison. So I think the concern about  
24 having barbed wire on the fence is something, you know,  
25 that -- or not having barbed wire on the fence is

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2 something that we can take into consideration.

3 As Pedro had mentioned, you know, having video  
4 monitors and having security personnel --

5 HEARING ADMINISTRATOR PORTNER: Right.

6 MS. SHAH: -- is the best way for us to  
7 maintain security. So, you know, that can be a starting  
8 point for us. I mean, at the end of the day, we have had  
9 some security issues at other sites, and so, you know, if  
10 that does become a problem, it might be something we'd  
11 have to look at. But, you know, it's -- it's not  
12 necessarily essential.

13 HEARING ADMINISTRATOR PORTNER: Okay.

14 MR. KUGLER: One -- one more comment with  
15 respect to the water, and perhaps I'm not the best guy to  
16 talk about water in the -- in the room, but that -- that  
17 was discussed at the meeting, and Asia had pointed out at  
18 the neighborhood meeting that, indeed, it's been their  
19 research and evidence that the -- the aquifer level has  
20 indeed gone up in the area --

21 HEARING ADMINISTRATOR PORTNER: I read that in  
22 your --

23 MR. KUGLER: -- in the -- in the absence of  
24 that. So I -- I don't think that was -- had been  
25 discussed here, so that's one observation we wanted to

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2 point out, with respect to Mr. Westfall's comments on  
3 the -- the use of water in the area. That's something  
4 that just -- we wanted to make that observation.

5 HEARING ADMINISTRATOR PORTNER: Yeah. And do  
6 you have the expertise here to respond to the whole  
7 assertion that you're going to have to truck in water and  
8 you're going to have a, pretty much, nonstop convoy of  
9 trucks coming to and from the site during the construction  
10 phase? Is that going to -- is that accurate in your  
11 assessment? Or do you have options for that?

12 MR. GARCIA: We believe the numbers are going  
13 to be much less, basically, because the -- the  
14 construction operation does entail some machinery, but  
15 it's mostly manual -- placing of the modules, connecting  
16 all the cabling. We're going to have a peak of truck  
17 traffic, we estimate for -- for water, for dust control,  
18 that is. We're still working the details as to providing  
19 drinking water and -- and the irrigation. We don't -- we  
20 don't see more than 20 trucks.

21 HEARING ADMINISTRATOR PORTNER: All right. But  
22 you are going to be trucking water in?

23 MR. GARCIA: If -- if -- for dust controls?

24 HEARING ADMINISTRATOR PORTNER: Right.

25 MR. GARCIA: Depending on the solution of the

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2 landscaping, we're -- we're going to keep that door --  
3 door open at the point, yes.

4 MS. SHAH: Also just something that we're  
5 exploring -- and, you know, I think we've had, and it's  
6 still something that's an early form of communication.  
7 It's not necessarily the case that we would have to truck  
8 water in at a great distance. We have had some  
9 communication with the Marana Airport, which is just a  
10 mile or two north of the site. And we have some early  
11 indication that we may be able to be supplied by water  
12 from their resources.

13 HEARING ADMINISTRATOR PORTNER: So that would  
14 be coming up and down Sanders?

15 MS. SHAH: It would be up and down Sanders.

16 HEARING ADMINISTRATOR PORTNER: Or you'd have  
17 to come down Sandario, then over, then down Sanders.

18 MR. KUGLER: Then over, right.

19 HEARING ADMINISTRATOR PORTNER: Right?

20 MR. KUGLER: Correct.

21 HEARING ADMINISTRATOR PORTNER: Okay. Bear  
22 with me. I'm just flipping through my copious notes  
23 here.

24 All right. I'm done. And if you're done,  
25 we're done.

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2 So thank you, everyone, for your attendance.  
3 And I appreciate the public testimony as well, especially  
4 the fact that it was given in a -- given in a very calm,  
5 reasonable, rational, intelligent, and helpful manner. I  
6 will tell you that sometimes I conduct hearings, and  
7 it's -- it's kind of like food fight. And so it was very  
8 nice, especially on one like this that is obviously of a  
9 sensitive nature to the surrounding community, that I'm  
10 able to hear testimony from calm, intelligent, reasoned  
11 people, giving me substantive material that I can  
12 contemplate. So I appreciate that very much.

13 I appreciate the thoroughness of your -- your  
14 presentation, as well as having a variety of technical  
15 people here to answer my questions as we go.

16 MR. KUGLER: You're welcome.

17 HEARING ADMINISTRATOR PORTNER: So thank you,  
18 all the way around.

19 Our public hearing is closed.

20 Again, I will be in a recommending posture in  
21 this case to the board. That recommendation will be  
22 issued on Monday. Please everyone who wants to get a copy  
23 of that, e-mail address and case number on the list  
24 outside.

25 Tom, do you have any guess as to when this will

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2 ultimately be in front of the Board of Supervisors?

3 STAFF: The earliest it would be, would be --

4 HEARING ADMINISTRATOR PORTNER: January?

5 STAFF: First week in January, yeah.

6 HEARING ADMINISTRATOR PORTNER: Okay.

7 STAFF: It'll be in front of the Board of  
8 Supervisors. Their hearings are always on Tuesday at  
9 9 a.m. So it'll probably be the first, second, or third  
10 Tuesday in January.

11 HEARING ADMINISTRATOR PORTNER: The first date  
12 is January 7th?

13 STAFF: No.

14 HEARING ADMINISTRATOR PORTNER: I think it's --

15 STAFF: No. Because the first is --

16 FEMALE SPEAKER: (Indiscernible.)

17 STAFF: Yeah, no, the first is -- is a  
18 Saturday. So it's probably either like 4th or maybe I  
19 want to say the 11th.

20 HEARING ADMINISTRATOR PORTNER: Let me just  
21 look in the --

22 MALE SPEAKER: Will it be in the same  
23 conference room that you guys sent out a notice on?

24 STAFF: No, no, no. It'll -- it'll be in the  
25 board --

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2 MALE SPEAKER: Because this conference room was  
3 noticed as Conference Room C.

4 HEARING ADMINISTRATOR PORTNER: Yeah.

5 STAFF: Correct.

6 MALE SPEAKER: And that's where I sat in there  
7 for 15 minutes.

8 STAFF: Oh.

9 HEARING ADMINISTRATOR PORTNER: Yeah, well, we  
10 got bumped this morning.

11 STAFF: Yeah. That's where the --

12 HEARING ADMINISTRATOR PORTNER: I see the -- I  
13 show the first January -- potential date is January 4th.

14 STAFF: Yeah. It'll either be the 4th or the  
15 11th. And it'll be in the Board of Supervisors, which is  
16 in the Administration Building on Congress.

17 HEARING ADMINISTRATOR PORTNER: And nobody  
18 bumps the Board of Supervisors from their meeting room.  
19 So we know we'll be in that one.

20 All right. We're done for the day. Thank you,  
21 all.

22 FEMALE SPEAKER: Thank you, very much.

23 MALE SPEAKER: Thank you.

24 (Conclusion of recorded proceedings.)

25

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2 DISCLAIMER OF TRANSCRIBER OF AUDIO RECORDING

3 BE IT KNOWN that I certify that the  
4 foregoing 93-page transcript was prepared from an AUDIO  
5 recording; that research was performed on the spelling of  
6 proper names and utilizing the information provided, but  
7 that in many cases the spellings were educated guesses;  
8 that the transcript was prepared by me or under my  
9 direction and was done to the best of my skill and  
10 ability.

11 I further certify that I am in no way  
12 related to any of the parties hereto nor am I in any way  
13 interested in the outcome hereof.

14 DATED at Phoenix, Arizona, this 21st day of  
15 November, 2010.

16   
17 KATHERINE A. McNALLY  
18 Certified Electronic Transcriber  
CET\*\*D-323

**Board of Supervisors  
Memorandum**



# Board of Supervisors Memorandum

P21-10-017

Page 1 of 7

## FOR BOARD OF SUPERVISORS JANUARY XX, 2011 PUBLIC HEARING

**TO:** HONORABLE BOARD OF SUPERVISORS  
**FROM:** Jim Portner, Hearing Administrator  
**DATE:** November 15, 2010

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**DOCUMENT:** P21-10-017

### CONDITIONAL USE PERMIT REQUEST FOR PUBLIC HEARING:

Request of FRV Tucson Solar, LLC (applicant), on behalf of the City of Tucson (property owner), on property located at 9000 N. Sanders Road, in the RH Zone, for a conditional use permit for a **solar farm (a.k.a. solar power plant)**. Chapter 18.97, in accordance with Section 18.13.030.B.35 of the Pima County Zoning Code, allows a solar farm as an "other conditional use which is similar in type, scale and intensity to other listed conditional uses", subject to a Type II conditional use permit procedure. (District 3)

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### SUMMARY OF THE HEARING ADMINISTRATOR PUBLIC HEARING

In accordance with Pima County Zoning Code Section 18.97.030.F.3, a public hearing was held on this application on November 10, 2010. The applicant and their consultant team presented the case and addressed, to the satisfaction of the hearing administrator, the substantive information which must be part of the conditional use-permit (CUP) testimony. They also answered the Hearing Administrator's various questions pertaining to the proposed use and addressed his follow-up questions after having heard testimony from several members of the public.

Staff reported that it had received, prior to the public hearing, the following correspondence: 1) one (1) formal objection to the proposed use, wherein that individual had submitted a binder of materials supporting his opposition; 2) an email letter of support; and 3) a letter of support from Congresswoman Gabriel Giffords. Subsequent to the hearing, staff received additional written comments from a neighbor and the applicant, both of which were contemplated in this decision.

Approximately two dozen members of the public attended the hearing, ten (10) of whom chose to speak on the matter. Seven (7) of the speakers raised concerns regarding the impacts of the proposed facility on the existing rural setting and nearby properties; one (1) speaker from this group voiced his out-and-out opposition to the project and declared that it would essentially destroy all of the value of his property. Three (3) individuals spoke in favor of the project as an important component of the community's and the State's larger energy-policy objectives.

Of those raising concerns, the most common points raised were the following: 1) the treatment of the perimeter buffer; 2) the proposed cyclone security fence surrounding the facility and the desire to instead see a decorative wall in certain locations; 3) a general concern about property values; and 4) dust-control and traffic concerns during the construction process.

Prior to the public hearing, the applicant had held two informational (2) public meetings, using a County-generated list of property owners within 1000' of the project. The applicant characterized these two meetings as "constructive". Some members speaking at public hearing indicated an alternative view, declaring that they believed there was no neighborhood support for the project.

After hearing all of the above, the Hearing Administrator closed the public hearing.

### **HEARING ADMINISTRATOR'S COMMENTS**

After contemplating the facts of this case and the testimony heard at public hearing, the Hearing Administrator offers the following comments on the following particular issues:

**Property Values.** This is a common concern raised in many cases wherein a conditional use or a change of zoning is proposed. The main objection voiced in this particular case seems to be that the introduction of a commercial or "institutional" use into to an otherwise rural residential setting will surely reduce the values of the nearby residential properties. Value is, of course, a wholly understandable concern of any property owner. Looking at Pima County's rural settings in a more global manner, it is common that they are characterized by a mixture of residential and non-residential uses. The former category includes traditional platted subdivisions with site-built homes, commonly together with unsubdivided properties containing manufactured housing and outdoor storage yards. The latter category includes sporadic commercial enterprises, institutional uses (such as power substations, fire stations, and prisons), and public uses such as water and wastewater treatment facilities, public schools, and landfills. The proposed use in this case – despite its labeling as "institutional" or "commercial" – does not carry with it the list of horrors that are sometimes associated with these non-residential categories. A solar farm is a quiet, non-obtrusive, low-profile, and passive neighbor that causes no material disturbance to adjacent properties. If properly buffered, even its visual impact can be largely mitigated due to the short height of the solar panels involved. All things considered, the Hearing Administrator finds no substantive, empirical evidence to support the notion that property values in the area will be reduced solely from the introduction of a solar farm.

**Security Fence and Perimeter/Buffer Treatment.** The applicant is proposing a perimeter buffering scheme that is far in excess of the width and the plant-density requirements as normally prescribed by the Pima County Zoning Code and its Landscape Design Manual. It is the Hearing Administrator's position that this demonstrates a clear sensitivity to the surrounding properties and a clear good-faith effort to integrate that sensitivity into the project design. While the proposed cyclone security fence was repeatedly raised as an issue of concern (for visual/aesthetic reasons), and while several speakers requested that it be replaced with a decorative masonry wall, the Hearing Administrator finds that, in pragmatic terms, this is not warranted. As the extensive proposed landscape buffers will lie outside of (i.e. entirely in front of) the security fence on all four sides of the project, the fence (together with the low-profile solar panels behind it) will have only limited visibility from any perimeter ground-level viewpoint once the new buffering/ planting scheme is established and has matured for two to three years. With the above in mind, the Hearing Administrator prescribes to a longer-term approach and views it as most important to insure that an adequate perimeter landscape buffer is effectuated in all locations where needed; suitable special conditions have been crafted to achieve this objective.

**Dust Control and Traffic During Construction.** While these were raised as substantive reasons to consider denying the applicant's request, the Hearing Administrator views construction-related nuisances as basic, but temporary, inconveniences of any new development. Pima County and the State of Arizona already regulate air-quality and dust-control parameters during the construction process, and these regulatory measures are found to be adequate in this case. Pima County's required Development Plan process for this project, as administered by the Development Services Department, will insure that on-site roadways and vehicular-circulation areas will be properly surfaced to meet its development standards and dust-control requirements.

### **HEARING ADMINISTRATOR'S RECOMMENDATION**

After having visited the subject property, and after considering the facts and the testimony presented at the 10 November, 2010 public hearing, the Hearing Administrator recommends **APPROVAL** of this request for a Type II conditional use permit for a **solar farm (a.k.a. solar power plant)**. The applicant is advised that this is a *recommendation* to the Board of Supervisors, who will make the ultimate and final decision on this CUP request.

Should the Board of Supervisors agree with the Hearing Administrator's recommendation for approval, it is suggested that this approval be granted subject to the following standard and special conditions:

#### **Standard Conditions per the Pima County Zoning Code**

1. An approved Development Plan is required.

### Special Conditions

1. This conditional use permit approval is for a solar farm (solar power plant) and its support activities only, the type and character of which are depicted on the submitted preliminary development plan. No other uses of commercial intensity are permitted.
2. The development of the property shall proceed in general conformance with the site layout and improvements as shown on the submitted preliminary development plan. Any significant departure from the layout shown, or any encroachment into the Brawley Wash tributary natural areas depicted along the western boundary, shall be reviewed by the Hearing Administrator to determine compliance with the intent of this condition.
3. The width of all perimeter landscape buffers shall be, at a minimum, as that shown at public hearing.
4. The perimeter landscape buffer shall be properly drip-irrigated for a minimum of three (3) years so as to achieve reasonable landscape establishment, plant maturity, and visual buffering in that timeframe.
5. The perimeter security fence shall be placed behind the perimeter buffer in all locations and shall be painted a desert tan color for mitigative purposes. No razor wire nor three-strand barbed wire shall be allowed atop the fence.
6. The perimeter landscape buffer along the project's entire Emigh Road frontage shall be of the same plant density. Specifically, the density of that portion of the buffer lying west of Ribbon Grass Avenue shall be enhanced/upgraded so as to be of the same density as shown, at public hearing, for that buffer segment lying east of Ribbon Grass Avenue. In all other perimeter buffer areas, the plant density shall be, at a minimum, that as shown at public hearing.
7. No special architectural requirements are placed on the site's permanent buildings, except for the requirement that they utilize a southwestern color palette (desert tans, browns, rusts, greens) for those building portions that are not of indigenous or natural building materials.

### REQUIRED STANDARDS AND FINDINGS

Following are the Hearing Administrator's findings relative to the standards set by Pima County Code Sec. 18.97.030.F.3.c. These Sections stipulate that the following standards be met by the proposed use:

1. **It will not be in serious conflict with the objectives of the general land use plan or the area plan in which situated.**

The Pima County Comprehensive Plan designates the site as *Resource Productive (RP)*, the expressed purpose of which is to, "designate cultivated, ranching and mining lands for their productive capabilities and to protect these areas from encroachment ..."

The site's RH zoning is consistent with those districts allowed under the *RP* designation. This is a rural area characterized primarily by scattered residential occupation of the properties, together with surrounding lands being held in public ownership at the State level. The subject property itself is owned by the City of Tucson.

As commented above, the proposed use is viewed as one that is generally low-intensity in nature and is a passive, quiet neighbor. If approved and developed in accordance with the *Special Conditions* recommended above, the Hearing Administrator finds that it will not be in conflict with the objectives of the Comprehensive Plan.

**2. It will provide safeguards for the protection of adjacent developed property, or if the adjacent property is undeveloped, for the legal permitted uses of such property.**

The surrounding properties are generally rural-residential in nature to the west, north, and south. A large property to the east is in State of Arizona ownership. It is the Hearing Administrator's position that the *Special Conditions* recommended above provide for the safeguards necessary to protect adjacent properties.

**3. It has adequate accessibility to the County road network.**

The site will take direct vehicular access off of N. Sanders Road, which is a paved public street that further connects to W. Emigh Road and Twin Peaks Road. Access is found to be adequate, in that this is not a high traffic-generating use and the amount of traffic to and from it will be limited to only a small on-site staff at any given time.

**4. It has sufficient off-street parking and loading facilities, that will be developed in accordance with County engineering standards.**

Parking and loading requirements will be verified during the Development Plan review and approval process.

**5. It will meet County standards in terms of control of noise, smoke, glare or heat, odors, vibrations, fly, ash, dust, fumes, vapors, gasses, and other forms of air pollution, liquids and solid wastes.**

None of the above issues pertain to this request and the solar farm in question is not anticipated to cause any of the above nuisances to the surrounding properties. While glare and noise had been raised as concerns by some, it is well-established that solar panels absorb (not reflect) sunlight and that the only noise generated by the panels are insignificant humming tones, of short duration, that occur when the panels are intermittently repositioned throughout the day to track the path of the sun.

**6. Hours of operation will not be detrimental to adjoining residents.**

Hours of operation are not considered to present a problem to the surrounding residential properties. This facility is manned on a 24-hour basis for security purposes only and has only a small daytime staff for normal office activities.

**7. Landscaping will be fully in conformance with zoning code regulations.**

Landscaping and screening requirements will be verified during the Development Plan review and approval process. Special conditions have been crafted to require the enhanced buffer widths and plant densities as shown at public hearing and as further amended by the *Special Conditions* recommended above.

**SONORAN DESERT CONSERVATION CONCEPT PLAN/ENVIRONMENTAL ISSUES**

**Comprehensive Plan Regional Environmental Policies — Conservation Lands System**

In December, 2001 the Board of Supervisors incorporated the Maeveen Marie Behan Conservation Lands System (MMB-CLS) into the Comprehensive Plan 2001 Update as the Regional Environmental Policies. The MMB-CLS is the heart of the Sonoran Desert Conservation Plan (SDCP). On June 21, 2005, the Board of Supervisors amended the Comprehensive Plan Regional Environmental Policies and the MMB-CLS to reflect recommendations from the SDCP Science Technical Advisory Committee that were based on new scientific and technical data. As adopted, Conservation Guidelines associated with the MMB-CLS establish conservation objectives for a variety of projects (e.g. rezoning actions, comprehensive plan amendments, Type II and Type III conditional use permits, etc.) that require a discretionary decision by the Board of Supervisors. Conservation objectives include:

1. Important Riparian Areas — 95% undisturbed natural open space
2. Biological Core Management Areas — 80% undisturbed natural open space
3. Special Species Management Areas — 80% undisturbed natural open space
4. Multiple Use Management Areas — 66-2/3% undisturbed natural open space

**The subject site is located within an area that is designated as Biological Core Management Area of the Maeveen Maria Behan Conservation Lands System (MMB-CLS).**

The proposed Preliminary Development Plan submitted with this application indicates a substantial natural area set-aside along the west boundary of the project. This appears to be the only biological resource of note on the property due to the fact that the remainder of it has, in its entirety, been disturbed by past agricultural activity.

### **Biological Impacts Report Summary and Staff Commentary**

On July 17, 2001, the Board of Supervisors adopted Ordinance No. 2001-103, which requires a biological impact report, applicant's notice to the US Fish and Wildlife Service (USFWS) staff regarding the pending matter, and staff commentary on biological resources and development impacts of the subject site and proposal.

Staff has reviewed the biological factors associated with this application and has determined that that approval of this application is not expected to affect any resources essential to Pima County's biological conservation policies, as long as the natural set-aside (as shown on the preliminary Development Plan submitted with this application) is preserved with the development of this project. The Environmental Planning Manager's office may submit a separate memorandum on this application within the Board of Supervisors packet.

### **Sonoran Desert Conservation Plan (SDCP) Facts Confirmed Per Pima County GIS**

Per the Pima County Department of Transportation (PCDOT) geographic information system (GIS), and the Sonoran Desert Conservation Plan maps contained therein, the following facts are hereby confirmed pertaining to this Conditional Use Permit application:

1. **Cactus ferruginous Pygmy Owl.** The site is not within the former critical habitat nor the USFWS draft recovery area. It is within Priority Conservation Area (PCA) #23 for this species and is located within Survey Zone 2.
2. **Western Burrowing Owl.** The site is within the Priority Conservation Area (PCA) for the Western Burrowing owl and lies within an area that is modeled as having "high" potential for the species.
3. **Pima Pineapple Cactus.** The site is outside of the known range for the Pima Pineapple Cactus and is not within the Priority Conservation Area (PCA) for the species.

attachments

cc: Carmine DeBonis, Director, Development Services  
Arlan Colton, Planning Official  
Tina Whittemore, Chief Zoning Inspector  
City of Tucson, Property Owner  
FRV Tucson Solar, LLC, Applicant