

Judge has 60 days to make decision in solar case

Kollin Kosmicki, Hollister Free Lance, 8-9-11

A judge Monday heard evidence and considered arguments in a civil trial against the company trying to build a 399-megawatt solar project in the Panoche Valley, but took the case "under submission" for review before a final judgment within 60 days.

The trial proceeding was set for 9 a.m. Monday in room 201 at the San Benito County Courthouse. It lasted until shortly before noon. Monterey County retired visiting Judge Robert O'Ferrell presided over the case and could make a relatively prompt, final decision on the lawsuit, but did take it under submission - which is standard.

On Nov. 17, a group of locals going by the name Save Panoche Valley, along with the Santa Clara Audubon Society, filed the lawsuit against the county and solar company. It stems from the San Benito County Board of Supervisors' project approval days before the suit's filing. In May, the Sierra Club also joined the lawsuit against the county and company.

That company previously was called Solargen Energy before a new owner in the spring of 2011 acquired it and renamed the Panoche Valley endeavor as PV2 Energy. The project encompasses 4,885 acres in southern San Benito County and includes more than 10,000 acres for mitigation to protect locally endangered species, such as the kit fox and blunt-nose lizard. It is expected to create 50 permanent jobs and nearly 200 construction jobs, according to company documents.

In the suit, the opposing groups are asking for the county to void the approval of all related documents and place a restraining order on the company to prevent any future solar projects.

The petitioners' argument contends that the county board had been "abusing its discretion" and failing to act under the law when approving the solar project. The three groups argue the board's approval violated the California Endangered Species Act, Fish and Game regulations, the Williamson Act and county planning laws. It describes the final environmental impact report as inadequate and requests a new one.

The defendants believe the three groups have "no legal basis" for the lawsuit, according to the court record.

"Petitioners consist of (a) small group of frustrated neighbors and a chapter of the Audubon Society of the adjacent Santa Clara County, who are unhappy with the board's policy decision to approve the Project," according to the county's filing.

There was one motion over case precedent to which the petitioners' side has a week to respond, after which the judge could make a decision, PV2 Energy attorney Brad Sullivan said.