

November 17, 2021

John Kopchik  
Director  
Department of Conservation and Development  
Contra Costa County  
30 Muir Road  
Martinez, CA 94553

**RECEIVED** on 11/17/2021 **CDRZ21-03259/C**  
By Contra Costa County  
Department of Conservation and Development

Sent via email to Adrian Veliz, Senior Planner [Adrian.veliz@dcd.cccounty.us](mailto:Adrian.veliz@dcd.cccounty.us)

**RE: Appeal of Planning Commission Decision (County Files #CDRZ21-03259/CDLP21-02010)**

Dear Director Kopchik:

The East Bay Regional Park District (Park District) submits this letter to formally appeal the decision of the Contra Costa County Planning Commission on November 10, 2021 regarding County Files #CDRZ21-03259/CDLP21-02010. The Planning Commission rejected staff's recommendation to deny the application for the E-Group Byron Solar Generation Facility, and instead directed staff to continue processing the application and environmental review pursuant to the California Environmental Quality Act.

The Park District wishes to appeal this decision to the Contra Costa County Board of Supervisors. The Planning Commission's decision was contrary to adopted Contra Costa County policies. The decision also establishes a damaging precedent that impacts the multi-decade efforts and nearly \$100 million in public funds invested by Contra Costa County, the East Contra Costa County Habitat Conservancy, East Bay Regional Park District, United States Fish and Wildlife Service, and California Department of Fish and Wildlife to protect endangered species habitat in the East Contra Costa County region.

The County staff recommendation to deny the E-Group Byron Solar Generation Facility application was soundly based on the fact that the project was in conflict with the General Plan and the East Contra Costa County Habitat Conservation Plan (HCP). Specifically, the project is inconsistent with General Plan Policies 8-13 and 8-14, among others, that require the protection of critical ecological characteristics of rangelands and limit development on hillsides. Further, the staff noted the project was directly contrary to the Solar Generation Policy recently adopted by the Contra Costa County Board of Supervisors. The Park District submitted comments to the November 10, 2011 Planning Commission meeting that supported staff's recommendation.

The Park District supports the development of clean energy and applauds the Contra Costa County Board of Supervisors for taking the proactive steps to identify and zone appropriate locations for such facilities in a manner that does not impact the County and Park District's long-standing efforts to protect critical

Board of Directors

Dee Rosario  
President  
Ward 2

Colin Coffey  
Vice-President  
Ward 7

Beverly Lane  
Treasurer  
Ward 6

Dennis Waespi  
Secretary  
Ward 3

Elizabeth Echols  
Ward 1

Ellen Corbett  
Ward 4

Ayn Wieskamp  
Ward 5

Sabrina B. Landreth  
General Manager

endangered species habitat in the region. The E-Group Byron Solar Generation Facility is a highly speculative proposal that undermines these efforts and the County's land use policies. The precedent established by allowing further processing of this application will impact implementation of the HCP and will result in significant staff time that would be better utilized elsewhere.

Thank you for the opportunity to appeal this decision. We look forward to providing additional information to the Board of Supervisors to support our appeal. If you have any questions, please feel free to contact Brian Holt, Chief of Planning, Trails, and GIS at (510) 544-2623 or [bholt@ebparks.org](mailto:bholt@ebparks.org).

Sincerely,

A handwritten signature in black ink, appearing to be 'S. Landreth', with a long horizontal line extending to the left.

Sabrina Landreth  
General Manager

CC: Board of Directors  
Kristina Kelchner, Assistant General Manager

## Board of Directors

Jim Felton  
*President*

Claudia Hein  
*Secretary*

Burt Bassler  
*Treasurer*

Keith Alley  
John Gallagher  
Joseph Garaventa  
Liz Harvey  
Scott Hein  
Garrett Girvan  
Giselle Jurkanin  
Margaret Kruse  
Carol Lane  
Frank Martens  
Bob Marx  
Robert Phelps  
Malcolm Sproul  
Jeff Stone  
*Directors*

## Staff Directors

Edward Sortwell Clement Jr.  
*Executive Director*

Seth Adams  
*Land Conservation Director*

Sean Burke  
*Land Programs Director*

Monica E. Oei  
*Finance & Administration Director*

Karen Ferriere  
*Development Director*

## Founders

Arthur Bonwell  
Mary L. Bowerman

## Proud Member of

Land Trust Alliance  
California Council of Land Trusts  
Bay Area Open Space Council



November 19<sup>th</sup>, 2021

Adrian Veliz, Senior Planner  
Contra Costa County, Department of Conservation & Development  
30 Muir Rd.  
Martinez, CA, 94553

## Appeal of Contra Costa County Planning Commissions' Recommendation to Reject County Staff's Recommendation to Deny E-Group Solar Application (#CDRZ21-03259/CDLP21-02010)

Dear Mr. Veliz,

On behalf of Save Mount Diablo (SMD), we would like to formally file an appeal of the Contra Costa County Planning Commission's 4-3 decision, made on November 10<sup>th</sup>, 2021, to deny County staff's recommendation to deny the E-Group Byron Solar Generation Facility application to rezone an approximately 77-acre parcel (Figs. 1 & 2) for inclusion within the Solar Energy Generation Combining District (-SG Combining District) and grant a land use permit to establish commercial solar energy generation on the parcel (Project). Our \$250 filing fee has been paid to the County.

Our reasons for this appeal largely correspond with the excellent County staff report (Staff Report) prepared for this item for consideration by the Planning Commission. We list them below:

1. **Ignoring the Solar Ordinance:** as stated in the Staff Report, the Project lies outside of the lands that lie within the SG combining district, adopted in the Solar Energy Facilities Ordinance (Solar Ordinance) by the County in February 2020. To accept this Project at its proposed location would mean disregarding all the time and effort County staff, stakeholders and decision-makers put into the Solar Ordinance process just one year ago.
2. **Bad Precedent for Haphazard Zoning:** to discard the Solar Ordinance after just one year would open up large swaths of Contra Costa County (County) to commercial solar energy production. Changing the solar overlay to approve this project is also inconsistent with County General Plan policies to protect hillsides, views, parklands, habitat. This unorganized, haphazard approach to authorizing solar facilities was exactly what the Solar Ordinance intended to prevent.
3. **County Would Lose Clear, Comprehensive Guidance:** the Solar Ordinance provides applicants with clear, consistent, comprehensive guidance on where and how commercial solar projects can win approval in the County. If it is disregarded, it would create a confusing, chaotic project review process that would only delay and make more difficult the construction of much-needed solar energy in the County. The situation would be similar to the current state of affairs in Alameda County, which lacks a comprehensive solar policy and relies on case-by-case, ad-hoc project review. This has created a confusing situation in Alameda County that increases conflict and delay for stakeholders, applicants, County staff and decision makers. Contra Costa is in a much better situation because it has a comprehensive Solar Ordinance, but only if it is applied.



4. **High Habitat Value & Surrounding Conservation Lands:** the Project site is surrounded by lands protected by East Bay Regional Park District (EBRPD) and the East Contra Costa Habitat Conservancy (Conservancy) due to their high habitat value for rare wildlife and plant species. As the Staff Report says, such sites and surrounding areas were intentionally excluded from the SG combining district due to their high conservation value. This was a prudent decision that reduces potential conflict between conservation and renewable energy needs. Alameda County, lacking a comprehensive solar policy with such guidance, has seen significant and unnecessary conflict arise between agricultural, conservation and renewable energy uses. Application of the existing Solar Ordinance would avoid such conflict in the County.
5. **The Solar Ordinance is Working:** The applicant created a false conflict about jobs vs. the environment. We can have both. There is capacity to install solar thoughtfully and without conflict within the SG-combining district. SMD has written comment letters in strong support of commercial solar projects within the SG combining district. As County staff have indicated, several projects have been approved and more are in preparation for this area. This means the Solar Ordinance is working as intended, and funneling utility-scale solar to the large amount of lands identified as appropriate for such purposes, thereby eliminating conflict centered around competing uses. Egroup should not be rewarded, and the County should not allow, the County's thoughtfully crafted, and very young, solar policy to be disregarded. Other companies are following the rules and successfully delivering solar energy. The Applicant should be held to the same standards as they are.

SMD recognizes human caused climate change for what it is: an existential crisis that threatens the survival of not just the wildlife and lands that we and many others have worked to protect, but of humanity itself. All levels and aspects of the economy and society must be massively transformed over the next decade, including a massive scaling-up of renewable energy, if we are to avert potentially irreversible disaster on a global scale. That is why we have produced and implemented our Climate Action Plan, are stewarding our lands to increase carbon sequestration, include climate change education throughout our public engagement efforts, and advocate for sound climate policy and projects.

The Solar Ordinance is such a policy that required much time and effort to formulate and get approved. It has and may continue to streamline applications, eliminate confusion and uncertainty, and speed approval and development of much-needed renewable energy. The Project threatens this progress by not only threatening the high conservation values of the Project site, but rendering the Solar Ordinance impotent. We do not support the Project for the reasons detailed above. The location is inappropriate and violates County policy. We urge the Board of Supervisors to reject the Planning Commission's recommendation, and instead support County staff by accepting their recommendation to deny the Project and its associated approvals.

Save Mount Diablo (SMD) is a non-profit conservation organization founded in 1971 which acquires land, or interests in land, for conservation purposes and often for addition to parks on and around Mount Diablo. We also monitor land use planning which might affect protected lands. We build trails, restore habitat, and are involved in environmental education. In 1971, there was just one park on Mount Diablo totaling 6,778 acres; today there are almost 50 parks and preserves around Mount Diablo totaling 120,000 acres. We include more than 11,000 donors and supporters.

Regards,

Juan Pablo Galván Martínez  
Senior Land Use Manager



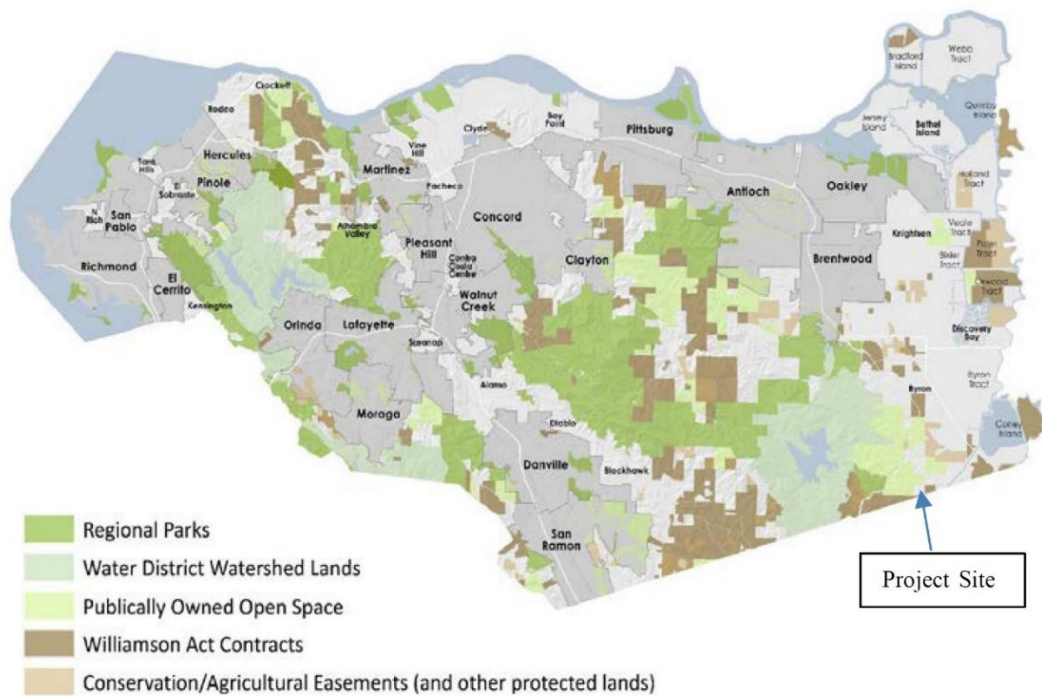


Fig. 1. Location of Project Site adjacent publicly protected EBRPD and Conservancy lands. Source: Staff Report.



Figure 2. Aerial view of Project Site (outlined in yellow). EBRPD and Conservancy protected land borders Site to the north and west (one parcel under contract and set to close by mid-January 2022). Source: Staff Report.