

April 10, 2019

From James W. Fletter
3939 Walnut Avenue, Unit 110
Carmichael, California 95608

To Ms. Michelle Siebal
State Water Resources Control Board
Division of Water Rights – Water Quality Certification Program
P. O. Box 2000
Sacramento. CA 95812-2000

Letter sent by Certified Mail with Return Receipt Requested

Subject: Release of Draft Environmental Impact Report for Kilarc-Cow Creek Hydroelectric
Project License Surrender


Dear Ms. Michelle Siebal

Please find enclosed my letter to FERC dated December 11, 2009, an e-mail dated December 3, 2009 to FERC, an e-mail from FERC dated December 8, 2009, and testimony by me at a FERC public meeting on October 22, 2009. Lastly enclosed is a copy of a court order from the Superior Court of California, County of Shasta, No. 56761, filed and recorded on October 6, 1980.

All of the above documents speak for themselves and must be dealt with before PG&E can move forward with its Proposed Decommissioning Plan. We expect a response from PG&E and from all government agencies involved in this license surrender process.

Please take into consideration all of the enclosed information when dealing with the DRAFT EIR.

Sincerely,



James W Fletter

E Mail jamesfletter@aol.com

Telephone 916 482-5396

James W. Fletter
4209 Los Coches Way
Sacramento, CA 95864

December 11, 2009

The Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N. E.
Washington, DC 20426-0001

filed electronically

Ref: P-606-027CA, Kilarc-Cow Creek Hydroelectric Project
Application for Surrender of License by Licensee Pacific Gas and Electric
Company

Re: Comments in the Scoping Meeting on October 22, 2009

Dear Ms. Bose:

The enclosed two e-mails speak for themselves. I was never told at the October 22, 2009 scoping meeting that I would have to "read aloud" the "JUDGEMENT AND DECREE QUIETING TITLE TO REAL PROPERTY" in order for it to become a part of the transcripts of the scoping meeting. My public testimony and the JUDGEMENT AND DECREE QUIETING TITLE TO REAL PROPERTY should be together as part of the transcript. As it now stands one is in the e-library system on October 22, 2009 and the other is in the e-library system on November 5, 2009. Therefore, this letter and the enclosed documentation serves the purpose of putting together my testimony and the JUDGEMENT AND DECREE QUIETING TITLE TO REAL PROPERTY as one unit for a clear understanding of what my testimony was all about.

Sincerely,



James W. Fletter
Stakeholder

Subj: **RE: FERC Project No. 606-27 Kikarc-Cow Creek Hydroelectric Project**
Date: 12/8/2009 5:01:41 A.M. Pacific Standard Time
From: Carlisa.Linton-Peters@ferc.gov
To: JamesFletcher@aol.com

Mr. Fletcher,

Thanks for your request. As you stated the transcripts are now public. Also made public/or filed has been your attachment provided to me at the scoping meeting. I have no physical way to attach the two documents in the e-library system (i.e., attach your filing to the transcripts). However, both are now in the public record. The transcripts are designed to record the "verbal" statements of the attendees at the scoping meeting. You would have had to read aloud the sections that you wanted recorded of your "Judgement and Decree Quieting Title to Real Property" in order to have that made part of the transcripts. I apologize for the misunderstanding. Please let me know if you have any further concerns. Thanks.

From: JamesFletcher@aol.com [mailto:JamesFletcher@aol.com]
Sent: Monday, December 07, 2009 7:27 PM
To: Carlisa Linton-Peters
Subject: Re: FERC Project No. 606-27 Kikarc-Cow Creek Hydroelectric Project

Dear Carlisa:

Please provide me with a status report regarding my request.

Thank you,

Jim Fletcher

In a message dated 12/3/2009 3:18:40 P.M. Pacific Standard Time, James Fletcher writes:

Dear Carlisa:

Thank you for responding to my e-mail sent to you on November 20, 2009. In that e-mail I requested **all** public testimony made during the two scoping meetings. Now that the transcripts are available, I wish to make some comments to you regarding my testimony during the October 22, 2009 scoping meeting. I have attached for download to this e-mail my testimony on pages 84 through 86 of the transcript for your easy reference. During that testimony, I provided the commission with a document which I wanted to be included, as an exhibit, as part of my testimony. Specific reference is made to lines 23 through 25 on page 84, and lines 1 through 10 on page 85, and lines 20 through 25 on page 86, and line 1 on page 87, of the transcript. After my testimony, and off the record, you asked me if I really wanted the exhibit to be included as part of my testimony. I told you absolutely yes, that I did want the exhibit to be included as part of my testimony, and that "the exhibit (JUDGEMENT AND DECREE QUIETING TITLE TO REAL PROPERTY) speaks for itself." The exhibit is missing from my testimony in the October 22, 2009 transcript. Please add the exhibit document to the transcript as part of my testimony on October 22, 2009. Again, for your easy reference, I am providing you with a duplicate copy of the exhibit document that I provided to the commission at the October 22, 2009 scoping meeting as part of the download attached to this e-mail.

Thank you for your cooperation in this matter.

Sincerely,

James W. Fletcher

1 anybody with access to the www could get an education on how
2 to operate a hydroelectric plant.

3 That is only some brief insights that I made on
4 notes this morning. Thank you.

5 MS. LINTON: James Fletter.

6 MR. FLETTER: My name is Jim Fletter. I'm the
7 great grandson of the gentleman A.F. Smith who put in this
8 project and also the Kilarc Project back in the 1904, 1907
9 time frame.

10 The gentleman before me just brought some
11 thoughts to my mind which I'd like to say very shortly but
12 very clearly.

13 I've been told that these turbines in the
14 powerplant at Cow Creek are the original turbines, over a
15 hundred years old.

16 I said, well can't they build them better today?
17 No, those turbines are just as good as, almost as good as
18 they do today. In fact I was told, and I'm no expert on
19 this stuff, that these things should be running for another
20 50 years.

21 That's my heritage on the Cow Creek Project. I
22 guess they don't build them like they used to.

23 But anyway I'd like to present the Commission
24 with a document (walking from podium to front table). And I
25 will expand on that document. The document at hand, well

1 let's say first of all, James Wallace Fletter being myself
2 as trustee of the Fletter Family Trust along with my three
3 cousins are one of the owners of 80 acres that is part of
4 the forebay and part of the canal, part of the power and
5 part of the road.

6 And the document I just gave the FERC staff here
7 today is a judgement and decree quiet claiming real title to
8 the property, filed and recorded on October 6, 1980 and
9 entered into Book 1555, page 371 in the Shasta County
10 Recorder's Office.

11 The property in question is described in Exhibit
12 A of this recorded document.

13 In this document PG&E is given certain easement
14 and maintenance rights on the property as described in
15 Exhibits B, C, and E, B, C, D and E, pardon me.

16 The document with exhibits speaks for itself on
17 what PG&E is allowed to do on our property.

18 The following by exhibit is what we cannot, they
19 cannot do on the property in our interpretation.

20 Exhibit B is the Cow Creek forebay easement.
21 Note that there is nothing implicit in this easement that
22 gives PG&E any right to fill in the forebay or otherwise
23 destroy or take out this improvement on our property.

24 Exhibit C is the Cow Creek Main Canal. This
25 easement allows for the replacement of the canal by pipeline

1 which pipeline can be removed. But there is no provision
2 for the removal of the canal if replaced, if not replaced by
3 a pipeline on our property.

4 Exhibit D is a pole line. This easement
5 specifically allows for the removal of improvements on our
6 property being the pole line.

7 Exhibit E is the access road. There is no right
8 to take out the parts of access road on our property.

9 Based on the fact that neither Exhibit B, C, or E
10 allow for the removal or destruction of improvements the
11 Exhibit does not allow for original construction and are
12 non-exclusive.

13 It appears that the ownership of the improvements
14 for the forebay, the canal and the road easement are not
15 held by PG&E.

16 And PG&E only has the right to use and maintain,
17 and if necessary, to reconstruct these improvements, but
18 cannot destroy or remove them, with the exception of the
19 pole line. Thank you.

20 MS. LINTON: Thank you. I would like to make a
21 note. You may want to talk to me James about whether you
22 want this actually filed with the Commission. The
23 Commission would not make any legal determinations regarding
24 this document at all.

25 It's just a little outside of our scope of what,

1 you know, we six will do.

2 Is there anybody who signed up to speak that did
3 not speak? That's right, come on.

4 I saw your hand earlier.

5 MS. CARNLEY: My name is Lora Carnley, C-A-R-N-L-
6 E-Y. I also work for a government agency, Children and
7 Family Services or Child Protective Services.

8 And we have a lot of red tape too. One of my
9 families has a baby, a 10 year old and a 15 year old.
10 Babies are really cute. Ten-year-olds can kind of be
11 annoying. And a lot of us have problems with teenagers
12 sometimes.

13 Could you guys imagine in my job if I said, we're
14 going to save the baby but that's it. I'm throwing back the
15 10 year old and the 15 year old and I'm sorry. There's
16 nothing I can do.

17 That's it. They're lost. I'm feeling NMFS and
18 Fish and Game are doing the same thing. They're going to
19 save the salmon and they're throwing back our old growth
20 forests, the migratory birds, the endangered species and, of
21 course, all the other people, not just the ones that live in
22 Whitmore but Shasta County and globally.

23 We have to look at everybody. You cannot return
24 Kilarc. We cannot have tunnel vision and just look at
25 Kilarc, this little, teeny piece and change it back to what

FILED
SECRETARY OF THE
COMMISSION

FILED

NOV -5 P 2:36

OCT 6 1980

1 CHARLES T. VAN DEUSEN
2 CHARLES W. THISSELL
3 ROBERT R. RICKETT
77 Beale Street, 31st Floor
San Francisco, CA 94106
415/781-4211

FEDERAL ENERGY
REGULATORY COMMISSION

RICHARD L. BRENNAN, CLERK
By..... Deputy Clerk

Attorneys for Plaintiff
PACIFIC GAS AND ELECTRIC COMPANY

Re: P-606-027

Submitted during
scoping meeting
10/22/2009

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SHASTA

PACIFIC GAS AND ELECTRIC COMPANY,

Plaintiff,

vs.

NO. 56761

ALBERT WILLIAM SMITH, individually, and)
13 as Executor of the Estate of Mary Schaw)
Smith; ANN ELIZABETH SOSKE, individually)
14 and as Executrix of the Estate of Mary)
Schaw Smith; JAMES T. WOODBURN, JR.;)
15 JAMES WALLACE FLETTER, individually and)
as Executor of the Estate of Sarah)
16 Elizabeth Fletter,)
Defendants.)

JUDGMENT AND DECREE
QUIETING TITLE TO
REAL PROPERTY

17 and all other persons unknown claiming)
18 any right, title, estate, lien or inter-)
est in the real property described in)
19 the complaint adverse to plaintiff's)
ownership, or any cloud upon plaintiff's)
20 title.)

21 The above entitled cause came on regularly for hearing
22 before the above entitled Court sitting without a jury on the
23 25th day of January, 1979, ROBERT R. RICKETT, Esq., appeared as
24 attorney for plaintiffs; JOHN E. FISCHER, Esq. of the Law Firm of
25 DIEPENBROCK, WULFF, PLANT & HANNEGAN, appeared as attorney for
26 defendants, ESTATE OF MARY S. DAY (named in the complaint as

1 Mary Schaw Smith) and ANN ELIZABETH SOSKE; GARY G. GAMEL, Esq.
2 appeared for defendant ALBERT WILLIAM SMITH; MARTIN BRIFMAN, Esq.,
3 of the Law Firm of COOPER, TAYLOR & SANDS, appeared as attorney
4 for defendant, JAMES W. FLETTER, both individually and as Execu-
5 tor of the Estate of Sarah Elizabeth Fletter, and there being no
6 appearance for or on behalf of any of the other defendants;

7 And it appearing and the Court finds that an Order for
8 Publication of Summons as to "all other persons unknown claiming
9 any right, title, estate, lien or interest in the real property
10 described in the Complaint adverse to plaintiffs' ownership or
11 any cloud upon plaintiffs' title thereto", was duly made by the
12 Court and filed herein on the 28th day of May, 1978.

13 And it further appearing and the Court finds that all of
14 the above named defendants and also all other persons unknown
15 claiming any right, title, estate, lien or interest in the real
16 property described in plaintiffs' complaint and hereinafter
17 described adverse to plaintiffs' ownership or any cloud upon
18 plaintiffs' title thereto have been duly and regularly served
19 with Summons and Complaint by personal service in this action or
20 by publication in accordance with the Order of this Court and
21 according to law; that a proper Affidavit of Publication of
22 Summons is on file herein, that the time allowed by law for the
23 appearance of any or all of said defendants, both known or
24 unknown, has expired.

25 That a Declaration Relative to Military Service for those
26 defendants who are known defendants of record other than those

1 represented by counsel at this hearing has been filed herein.

2 And it further appears and the Court finds that the Estate
3 of Sarah Elizabeth Fletter has disclaimed any interest in the
4 property that is the subject of this action.

5 And it further appearing and the Court finds that except
6 for the defendants appearing by counsel as set out above, the
7 default of each and all of the remaining defendants, both known
8 or unknown, is hereby entered.

9 And it further satisfactorily appearing to this Court and
10 the Court finds:

11 1. The complaint in this action was filed on the 7th day
12 of February, 1977; that the Summons in said action was issued on
13 the 7th day of February, 1977, and reissued on the 19th day of
14 April 1978; that thereafter full, true and correct copies of the
15 Summons in said action were on the 2nd day of May, 1978, and
16 within thirty (30) days after the reissuance of said Summons,
17 posted in conspicuous places on the real property described in
18 plaintiffs' Complaint.

19 2. That a Lis Pendens was duly and regularly executed,
20 filed and recorded in the Recorder's Office of the County of
21 Shasta, State of California, on the 11th day of February, 1977,
22 in Volume 1399 of Official Records, at page 402, Shasta County
23 Recorder's Office, Shasta County, California, as provided by law.

24 3. That a Declaration relative to Military service of
25 the defendant, JAMES T. WOODBURN, has been filed and none of the
26 defendants named in this action is in the military, naval or air

1 force of the United States or an officer of the Public Health
2 detailed by proper authority for duty either with the Army, Navy
3 or Air Force or in training or being educated under the super-
4 vision of the United States preliminary for induction into the
5 military service.

6 NOW, THEREFORE, pursuant to stipulation entered into in
7 open court by all parties appearing herein;

8 IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

9 1. That the named defendants are the owners in fee
10 simple of those certain undivided interests set forth below in,
11 and entitled to the possession of, all that certain real property
12 situate in the Unincorporated Area of the County of Shasta, State
13 of California, referred to and described in "EXHIBIT A" attached
14 hereto and made a part hereof by reference and as described in
15 plaintiff's complaint on file herein, subject, however, to those
16 certain easements and rights in plaintiff PACIFIC GAS AND
17 ELECTRIC COMPANY described and set forth in "EXHIBITS B, C, D,
18 and E" attached hereto and made a part hereof by reference. The
19 undivided interests of said defendants are:

20	Albert William Smith	12-1/2%
21	Ann Elizabeth Soske	12-1/2%
22	James T. Woodburn, Jr.	8-3/4%
23	James T. Fletter	41-1/4%
24	Estate of Mary S. Day (Mary Schaw Smith)	25 %

25 2. That the claims of plaintiff PACIFIC GAS AND ELECTRIC
26 COMPANY, a corporation, save and except as to those easements

1 and rights more particularly described in "EXHIBITS B, C, D and E"
2 attached hereto and made a part hereof by reference; and also the
3 defendants described in the complaint as "all other persons un-
4 known claiming any right, title, estate, lien or interest in the
5 real property described in the complaint adverse to plaintiff's
6 ownership or any cloud upon plaintiff's title thereto," (unnamed
7 defendants) and all who claim title under them or either of them
8 in and to said real property or any part thereof are without any
9 right whatever; and that said unnamed defendants and each of them
10 or anyone claiming title under or through them or any of them
11 have no right, title, interest, claim or estate whatever in any
12 capacity, in, to or upon said real property or any part thereof;
13 or any cloud of any nature, kind or character upon, in or to
14 the title of the named defendants; in and to the real property
15 hereinafter described.

16 3. That the aforesaid plaintiff and unnamed defendants,
17 excepting as to the interests of plaintiff, PACIFIC GAS AND
18 ELECTRIC COMPANY, described in "EXHIBITS B, C, D and E" attached
19 hereto and made a part hereof by reference, and each of them and
20 all persons claiming under them are hereby forever enjoined and
21 debarred from claiming or asserting any estate, right, title,
22 interest in or to any claim or lien upon the real property
23 described in "EXHIBIT A" attached hereto and made a part hereof,
24 or any part of said property.

25 4. That the property, title to which is hereby quieted,
26 is all that certain real property situate in the Unincorporated

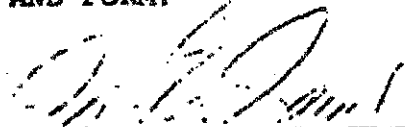
1 Area of the County of Shasta, State of California, and more
2 particularly described in "EXHIBIT A" attached hereto and made a
3 part hereof by reference as though fully set forth herein.

4 Done in open Court the 25th day of January, 1979, and
5 signed OCT 6 1980, 1980.


6
7 R. W. ABBE


8 JUDGE OF THE SUPERIOR COURT
9

10 APPROVED AS TO CONTENT
11 AND FORM:

12 
13 GARY E. GAMEL, Attorney for Defendant
14 Albert William Smith

15 
16 JOHN E. FISCHER, Attorney for Defendant
17 Estate of Mary Schaw Smith (Mary S. Day)

18 
19 MARTIN B. BRIFMAN, Attorney for Defendant
20 James T. Fletter, Jr.

21 
22 ROBERT R. RICKETT, Attorney for Plaintiff
23 PACIFIC GAS AND ELECTRIC COMPANY

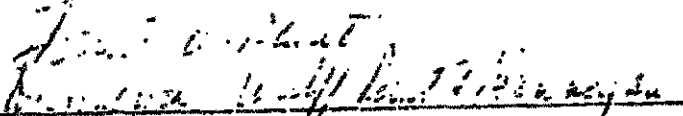
24 
25 Diepenbrock, Wulff, Plant & Hannegan
26 Attorneys for Ann Elizabeth Soske

EXHIBIT "A"

LANDS

Situate in the County of Shasta, State of California.

(APN 099-140-15)

The south half of the southwest quarter of Section 32, Township 32
North, Range 1 West, M.D.B. & M.

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EXHIBIT "B"

COW CREEK FOREBAY

A non-exclusive easement and right of way to reconstruct, dredge, maintain and use a reservoir for the storage and release of water within the parcel of land described as follows:

Parcel 1. Beginning at a point in the westerly boundary line of the southwest quarter of Section 32, Township 32 North, Range 1 West, M.D.B.& M., and running thence along said westerly boundary line

(1) north 2° 10.7' east 500.36 feet;

thence leaving said westerly boundary line

(2) East 190.49 feet; thence

(3) South 500.00 feet; thence

(4) West 209.51 feet, more or less,

to the point of beginning; said point of beginning bears north 2° 10.7' east 625.00 feet distant from the found 1-3/8 inch iron pipe, stamped S-31-32-6-5, in rock mound accepted as marking the southwest corner of said Section 32; being a portion of said Section 32 and containing 2.30 acres, more or less.

Together with the right from time to time to:

A. deposit and level onto said Parcel 1 such debris or other spoil material removed from said reservoir as plaintiff may reasonably deem necessary in the reconstruction, dredging, or other maintenance thereof;

B. raise or lower the water level within said reservoir as plaintiff may reasonably deem necessary for the proper maintenance and use thereof;

C. line the bed and banks of said reservoir with such porous materials as plaintiff may reasonably deem necessary for the proper maintenance and use of said reservoir;

D. use and store temporarily such equipment and materials within said Parcel 1 as plaintiff may reasonably deem necessary in connection with the reconstruction, maintenance and use of said reservoir, canal,

(EXHIBIT "B" Continues)

1 road or pole lines;

2 E. use such portions of said Parcel 1 to provide plaintiff with access
3 from the Project Access Road described in EXHIBIT "E" hereof to the
4 South Cow Creek Main Canal described in EXHIBIT "C" hereof, to the
5 Kilarc-Redding 60 kv Pole Line and Communication Pole Line described
6 in EXHIBIT "D" hereof, and to the southeast quarter of the southeast
7 quarter of Section 31, Township 32 North, Range 1 West, M.D.B.& M.,
8 provided, that said access shall be by means of such route or routes as
9 shall occasion the least practicable damage to said Parcel 1;

10 F. trim and to cut down and clear away any trees or brush, and to
11 control vegetation by any and all reasonable means, including spraying,
12 which may interfere with plaintiff's use of said reservoir;

13 G. prohibit the taking of any water from said reservoir, or the
14 erection or construction of any building or other structure, or the
15 construction of any reservoir or other obstruction within said Parcel 1,
16 except that owner shall have the right to drill a well within said Parcel 1,
17 provided that the location of any such well is approved by plaintiff,
18 which approval shall not be unreasonably withheld, and such well does
19 not cause a taking of water from said reservoir; and

20 H. mark the location of said Parcel 1 by suitable markers set in the
21 ground; provided that said markers shall not interfere with any reason-
22 able use which shall be made of said Parcel 1.

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1979
(End of EXHIBIT "B")

1 EXHIBIT "C"

2 SOUTH COW CREEK

3 MAIN CANAL

4 A non-exclusive easement and right of way to reconstruct, maintain and use a canal
5 for the purpose of conveying water within the parcel of land described as follows:

6 **Parcel 2.** A strip of land of the uniform width of 75 feet extending from
7 the westerly boundary line of the southwest quarter of Section 32,
8 Township 32 North, Range 1 West, M.D.B. & M., northeasterly to the
9 northerly boundary line of the south half of the southwest quarter of said
10 Section 32 and lying 50 feet on the northwesterly side and 25 feet on the
11 southeasterly side of the line which begins at a point in said westerly
12 boundary line and runs thence north 55° 07.3' east approximately 390
13 feet to a point in said northerly boundary line; the point of beginning of
14 this description bears north 2° 10.7' east 1177.32 feet distant from the
15 found 1-3/8 inch iron pipe, stamped S-31-32-8-5, in rock mound accepted
16 as marking the southwest corner of said Section 32; being a portion of
17 said Section 32 and containing 0.61 acre, more or less.

18 Together with the right from time to time and at any time to:

19 A. use such portions of the Lands described in EXHIBIT "A" hereof
20 to provide plaintiff with access from the Project Access Road described
21 in EXHIBIT "E" hereof to said Parcel 2, provided, that said access shall
22 be by foot only and shall follow such route or routes as shall occasion the
23 least practicable damage to said Lands;

24 B. line said canal with such porous materials as plaintiff may
25 reasonably deem necessary for the proper maintenance and use of said
canal and to prevent undue seepage therefrom;

C. excavate for, construct, install, repair, replace, remove and use
a buried pipe or culvert in lieu of said canal as plaintiff may reasonably
deem necessary for the purpose of conveying water within said Parcel 2;

D. deposit onto said Parcel 2 on the northwesterly side of said canal

1 * such debris or other spoil material removed from said canal as plaintiff
2 may reasonably deem necessary in the reconstruction or maintenance
3 thereof, or in the construction or maintenance of said pipe or culvert;

4 E. use and store temporarily such equipment and materials within
5 said Parcel 2 as plaintiff may deem necessary for use in connection with
6 the reconstruction, maintenance and use of said canal, or the construc-
7 tion, maintenance and use of said pipe or culvert;

8 F. trim and to cut down and clear away any trees or brush and to
9 control vegetation by any and all reasonable means, including spraying,
10 which may interfere with plaintiff's use of said canal, pipe or culvert;

11 G. prohibit the taking of any water from said canal, pipe or culvert,
12 or the erection or construction of any building or other structure, or the
13 construction of any reservoir or other obstruction within said Parcel 2,
14 except that owner shall have the right to drill a well within said
15 Parcel 2, provided that the location of any such well is approved by
16 plaintiff, which approval shall not be unreasonably withheld, and such
17 well does not cause a taking of water from said canal; and

18 H. mark the location of said Parcel 2 by suitable markers set in the
19 ground; provided that said markers shall not interfere with any reason-
20 able use which shall be made of said Parcel 2.

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(End of EXHIBIT "C")

EXHIBIT "D"

KILARC - REDDING 60 KV POLE LINE

AND COMMUNICATION POLE LINE

A non-exclusive easement and right of way to reconstruct, replace, remove, maintain and use the existing line of poles with the present number and size of wires as are now suspended therefrom for the transmission and distribution of electric energy, and for communication purposes, and all necessary and proper crossarms, guys, anchors and other appliances and fixtures for use in connection with said poles and wires, within the parcels of land described as follows:

Parcel 3. A strip of land of the uniform width of 50 feet extending from the westerly boundary line of the southwest quarter of Section 32, Township 32 North, Range 1 West, M.D.B.& M., northeasterly to the northerly boundary line of the south half of the southwest quarter of said Section 32 and lying 25 feet on each side of the line which begins at a point in said westerly boundary line and runs thence north $44^{\circ} 35.7'$ east 261.63 feet to a point herein for convenience called Point "A"; thence continues north $44^{\circ} 35.7'$ east approximately 750 feet to a point in said northerly boundary line; the point of beginning of the description bears north $2^{\circ} 10.7'$ east 689.14 feet distant from the found 1-3/8 inch iron pipe, stamped S-31-32-6-5, in a rock mound, accepted as marking the southwest corner of said Section 32; being a portion of said Section 32 and containing 1.16 acres, more or less.

Parcel 4. A strip of land of the uniform width of 20 feet extending from the northwesterly boundary line of the strip of land hereinbefore described and designated Parcel 3 northwesterly to the westerly boundary line of the southwest quarter of said Section 32 and lying 10 feet on each side of the line which begins at a point in said northwesterly boundary line and runs thence north $43^{\circ} 19.7'$ west approximately 220 feet to a point in said westerly boundary line; the point of beginning of this description bears north $43^{\circ} 19.7'$ west 25.00 feet distant from said Point "A"; being a portion of said Section 32 and containing 0.10 acre, more or less.

Together with the right from time to time and at any time to:

A. use such portions of the Lands described in EXHIBIT "A" hereof to provide plaintiff with access from the Project Access Road described

1 in EXHIBIT "E" hereof to said Parcel 3 and said Parcel 4, provided, that
2 said access shall occasion the least practicable damage to said Lands;

3 B. install, replace, maintain and use anchors with appurtenant guy
4 wires, which will extend outside of said Parcel 3, at such locations as
5 plaintiff may reasonably deem necessary for use in connection with the
6 pole line facilities;

7 C. trim and to cut down and clear away any and all trees and brush
8 now or hereafter on said Parcel 3 and said Parcel 4 and the further right
9 from time to time to trim and to cut down and clear away any trees on
10 either side of said Parcel 3 and said Parcel 4 which in the opinion of
11 plaintiff may be a hazard to said pole line facilities by reason of the
12 danger of falling thereon;

13 D. prohibit the erection or construction of any building or other
14 structure, or the drilling or operation of any well, or the construction of
15 any reservoir or other obstruction within said Parcel 3 and said Parcel 4;

16 E. install, maintain and use gates in all fences which now cross or
17 shall hereafter cross said Parcel 3 and said Parcel 4; and

18 F. mark the locations of said Parcel 3 and said Parcel 4 by suitable
19 markers set in the ground; provided that said markers shall not interfere
20 with any reasonable use which shall be made of said Parcel 3 and said
21 Parcel 4.

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25
(End of EXHIBIT "D")

EXHIBIT "E"

PROJECT ACCESS ROAD

The right to reconstruct, maintain and use a road within the parcel of land described as follows:

Parcel 5. A strip of land of the uniform width of 20 feet extending from the easterly boundary line of the parcel of land hereinbefore described and designated Parcel 1 under EXHIBIT "B" in a general northeasterly direction to the northerly boundary line of the south half of the southwest quarter of Section 32, Township 32 North, Range 1 West, M.D.B. & M., and lying 10 feet on each side of the line which begins at a point in said easterly boundary line and runs thence

- (1) north 44° 40.2' east 188.39 feet; thence
- (2) north 88° 19.9' east 66.63 feet; thence
- (3) north 36° 45.6' east approximately 197 feet

to a point in said northerly boundary line; the point of beginning of this description bears South 27.64 feet distant from the northeast corner of said parcel of land designated Parcel 1; being a portion of said Section 32 and containing 0.21 acre, more or less.

Together with the right from time to time and at any time to grade said Parcel 5 for the full width thereof and to extend the cuts and fills for such grading into and on the Lands described in EXHIBIT "A" hereof to such extent as may be reasonably necessary.

Said road is for ingress to and egress from the Cow Creek Forebay described in EXHIBIT "B" hereof, the South Cow Creek Main Canal described in EXHIBIT "C" hereof, the Kilare - Redding 60 kv Pole Line and the Communication Pole Line described in EXHIBIT "D" hereof, and the southeast quarter of the southeast quarter of Section 31, Township 32 North, Range 1 West, M.D.B. & M.