

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



April 14, 2007

Advice Letter 2799-G

Rose de la Torre  
Pacific Gas & Electric  
77 Beale Street, Room 1088  
Mail Code B10C  
San Francisco, CA 94105

Subject: Property Transfer of Land in San Bernardino County to the Fort Mojave Indian  
Tribe – Request for Approval Under Section 851

Dear Ms. de la Torre:

Advice Letter 2799-G is effective March 04, 2007. A copy of the advice letter is returned  
herewith for your records.

Sincerely,

Sean H. Gallagher, Director  
Energy Division

<b>REGULATORY RELATIONS</b>	
M Brown Tariffs Section	D Poster
R Deia Torre	M Hughes
B Lam	
APR 18 2007	
Return to _____	Records File _____
cc. to _____	



**Brian K. Cherry**  
Vice President  
Regulatory Relations

77 Beale Street, Room 1087  
San Francisco, CA 94105

*Mailing Address*  
Mail Code B10C  
Pacific Gas and Electric Company  
P.O. Box 770000  
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Internal: 223.4977  
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January 18, 2007

**Advice 2799-G**

(Pacific Gas and Electric Company ID U 39 G)

Public Utilities Commission of the State of California

**Subject: Property Transfer of Land in San Bernardino County to the Fort Mojave Indian Tribe – Request for Approval Under Section 851**

**Purpose**

Pursuant to Section 851 of the California Public Utilities Code and the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), Pacific Gas and Electric Company (“PG&E” or “Company”) respectfully requests authority for the Company to transfer a parcel of real property located in the County of San Bernardino to the Fort Mojave Indian Tribe (the “Tribe”), as set forth in the Property Transfer, Easement and Escrow Agreement (“Agreement”) and further described in the Final Settlement Agreement (“Settlement Agreement”) between PG&E and the Tribe. The Agreement and Settlement Agreement are appended hereto as Attachments 1 and 2, respectively.

**Background**

PG&E’s Topock Compressor Station (“Topock Site”) is located near Needles, California near the intersection of Interstate 40 and Park Moabi Road in the Mojave Desert adjacent to the Colorado River. The Topock Site is located along PG&E’s gas transmission pipeline, which transports natural gas from the southwestern United States to PG&E’s service territory. The Topock Site has facilities which compress natural gas before the gas is transported by pipeline to serve PG&E customers in Northern and Central California.

From approximately 1952 until 1985, PG&E used hexavalent chromium as a corrosion inhibitor in the cooling towers for the compressor station. From approximately 1951 until the mid-1960’s, waste cooling water containing the hexavalent chromium was discharged into a normally dry wash adjacent to the station. This practice resulted in the release of hexavalent chromium into the

groundwater at the Topock Site. Beginning in 1996, PG&E was required by the California Department of Toxic Substances Control ("DTSC"), as well as federal authorities, to undertake certain investigation and remediation activities to define the extent of contamination, to ensure that no contaminated groundwater reaches the Colorado River and to formulate a long-term plan to ensure that the contamination is remediated. In 2004, as part of that process, the DTSC ordered PG&E to design and construct facilities, including a temporary interim treatment plant (IM-3 Plant), that would extract and treat contaminated groundwater at a rate sufficient to ensure that the plume of contaminated groundwater moves away from the river. In June 2004, DTSC conducted a CEQA review and issued a Notice of Exemption (Attachment 3) indicating that the project activities are necessary to prevent or mitigate an emergency situation under Title 14, Section 15269(c). To construct these facilities, PG&E purchased a 100-acre parcel of land from the Metropolitan Water District of Southern California ("MWD") (the "Property") upon which to construct the IM-3 Plant and reinjection wells. The Property is located north of the Topock Site and west of the Colorado River. The IM-3 Plant was constructed from late 2004 through mid-2005 and went into operation in July of 2005.

At the time the IM-3 Plant was being planned, PG&E and the regulatory agencies were not aware that the site was considered sacred by the Fort Mojave Indian Tribe. In April of 2005, the Fort Mojave Indian Tribe initiated a civil action in the Superior Court of the State of California, County of Sacramento, to challenge DTSC's compliance with the California Environmental Quality Act ("CEQA") for DTSC's approval of the construction of a treatment plant and other facilities on the Property and MWD's CEQA compliance for the sale of the Property by MWD to PG&E.

The Fort Mojave Indian Tribe and PG&E (collectively, "the Settlement Parties") have entered into a Settlement Agreement to resolve all issues between themselves arising in connection with the construction of the IM-3 treatment plant and associated facilities on the sacred tribal ground as referenced in Fort Mojave Indian Tribe v. Department of Toxic Substances Control, et. al., Case No. 05CS00437 (the "Action"). On December 18, 2006, the Settlement Agreement was entered as a decision of the California Superior Court, County of Sacramento.

Among the primary provisions of the Settlement Agreement, the Tribe has agreed that PG&E may continue operating the IM-3 Plant until the implementation of the final remedy at the Topock Site. As a part of the settlement, PG&E has agreed to transfer the Property to the Fort Mojave Indian Tribe by Grant Deed (Attachment 4) subject to the retention of a blanket Easement Agreement (Exhibit B, Attachment 1) covering the entire property. The easement provides that PG&E will be able to use the Property as necessary for the operation of the IM-3 Plant and associated equipment and for any facilities required by the final remedy. When the final remedy is in place, PG&E will decommission and remove the IM-3 Plant and restore that portion of the Property to its pre-existing conditions. When

the Property is no longer needed for any remedial uses, PG&E will remove all remaining remedial facilities.

By this advice letter, the Company seeks Commission approval to transfer, by grant deed, the Property to the Fort Mojave Indian Tribe subject to PG&E's blanket easement over the entire Property as described above and as further described in the Easement Agreement.

In accordance with Resolution ALJ-186, Appendix B, Section III.B, PG&E provides the following information related to the proposed transaction:

**(a) Identity of All Parties to the Proposed Transaction:**

Pacific Gas and Electric Company	Chairwoman Nora McDowell
Andrew L. Niven	Fort Mojave Indian Tribe
Peter Van Mieghem	500 Merriman Avenue
Juan Jayo	Needles, CA 92363
Law Department	
P.O. Box 7442	Courtney Ann Coyle, Esq.
San Francisco, CA 94120	Held-Palmer House
Telephone: (415) 973-2902	1609 Soledad Avenue
Facsimile: (415) 973-5520	La Jolla, CA 92037-3817
Email: PPV1@pge.com	

**(b) Complete Description of the Facilities and Property Including Present Location, Condition and Use:**

The Property consists of approximately 100 acres of rural real property located approximately 4/10 mile east of the intersection of Interstate 40 and Park Moabi Road freeway off-ramp, 12 miles south of the City of Needles, and about 1/10 mile southwest of the Colorado River in San Bernardino County, California. The Property is occupied by the IM-3 Plant and related equipment, served by electrical power but with no sewer service. All fixtures on the property will remain the property of PG&E following the transfer. The Property is identified by the San Bernardino County Assessor as Assessor's Parcel No. 650-151-06, the State Board of Equalization as SBE No. 135-36-033-1, and is more particularly described in Exhibit A of the Agreement. A map of the Property is provided in Attachment 5.

PG&E acquired the Property from MWD by grant deed recorded September 9, 2004, in Book 1954, Page 493 of Official Records of San Bernardino County, more specifically described in Attachment 6.

The Property was acquired from MWD as the location for the IM-3 Plant, a groundwater treatment plant, and injection wells, all of which were designed

as an interim measure for the remediation of chromium groundwater contamination at the Topock Site, as required by the California Department of Toxic Substances Control ("DTSC") pending the implementation of the final remediation remedy for the Site.

**(c) Intended Use of the Property and Facilities:**

PG&E will use its best efforts to expedite performance of all environmental remediation milestones that will lead as soon as practicable to the selection and implementation of the final remedy including, in particular, a determination as soon as possible whether a treatment plant will be required as part of a final remedy and, if so, the performance criteria that DTSC will specify for such a treatment plant. Once DTSC has specified performance criteria for a final remedy replacement treatment plant, PG&E will recommend that DTSC adopt construction of said plant at the Topock Compressor Station site as the preferred alternative, and will commence design activity relating to the new treatment plant as set out in Section VI. A. 2 of the Settlement Agreement.

In addition, PG&E will propose, as part of the preferred remedy, the removal of other facilities on the IM-3 Site as soon as practicable, with the site being used thereafter only as may be required for the operation of the injection wells, compliance wells, in situ treatment and conveyance systems, if no feasible alternative is available, more specifically described in Section VI.B.2 of the Settlement Agreement.

Upon decommissioning of the IM-3 treatment plant, PG&E will work in consultation with the Tribe to restore the IM-3 Site to pre-existing conditions to the maximum extent practicable, subject to the continued use of remedial facilities, including but not limited to injection wells and related equipment on the site, more specifically described in Section VI.B.2 of the Settlement Agreement.

**(d) Complete Description of Financial Terms of the Proposed Transaction:**

The transfer of the property to the Tribe is a part of the consideration for the Settlement Agreement under which the Tribe will dismiss the current lawsuit and the Tribe has agreed not to bring future legal action to oppose PG&E's efforts to remediate the Site. There is no gain on sale as part of the real estate transaction.

General and special real property taxes, the current fiscal year's installments of any assessments encumbering the Property, and all other income and expense items (if any) related to the Property shall be prorated as of Close of Escrow. To the extent that the amount of any of the

foregoing income and expense items shall not have been determined as of the Close of Escrow, such income and expense items shall be prorated as of Close of Escrow as soon thereafter as such amount is determined and PG&E shall promptly make to the Tribe, and/or the Tribe shall promptly make to PG&E, any payments required by such prorations.

**(e) Indication of How Financial Proceeds of the Transaction Will Be Distributed:**

No financial proceeds are contemplated as part of the transaction.

**(f) Sufficient Information and Documentation (Including Environmental Review Information) to Indicate that All Criteria Set Forth in Section II(A) of Resolution ALJ-186 Are Satisfied:**

PG&E has provided Information in this advice letter to meet the eligibility criteria under the advice letter pilot program. The proposed land transfer will not have an adverse effect on the public interest because it will not interfere in any way with the operation of PG&E's Topock Compressor Station, or with the provision of service to PG&E's customers. In fact, the proposed transaction will serve the public and PG&E customer interests by helping resolve the remediation of the Topock Site.

Under the existing circumstances, no CEQA review is required for the proposed transfer. The Commission previously ruled that if the property being exchanged "will be used in the same manner as previously, and neither applicant seeks authority from the Commission for a change in the existing use, there is no substantial evidence of any change to the environment, and no CEQA review is required." (D.99.03.033 (1999) Cal. PUC LEXIS 408).

In this instance, ownership of the land is merely being transferred from PG&E to the Tribe. There are no plans under the Settlement to alter the use of the Property and neither PG&E nor the Tribe seeks authority to change its use. Because CEQA applies only to actions that result in direct or indirect physical changes to the environment, this transaction is not subject to CEQA. review. (See Pub. Resources Code, § 21065.)

Even if there were known future physical changes to occur on this property that were sufficiently defined to enable CEQA review, the Commission would not be the proper entity to conduct CEQA review. DTSC has been designated as the lead agency for the environmental remediation being conducted at the Topock Site. Final remedy decisions will be made following the preparation of an Environmental Impact Report (EIR) for the site. DTSC recently retained a contractor to develop the EIR for the Topock final remedy; this major undertaking is expected to require three years or

more and can be monitored as to its progress at the following website maintained by DTSC: <http://www.dtsc-topock.com>.

**(g) Complete Description of any Recent Past (Within the Prior Two Years) or Anticipated Future Transactions that May Appear To Be Related to the Present Transaction:**

To PG&E's knowledge, there are no recent past or anticipated future transactions that may appear to be related to the subject transaction.

**(h) For Sales of Real Property and Depreciable Assets, the Advice Letter Shall Include the Original Cost, Present Book Value, and Present Fair Market Value, and a Detailed Description of How the Fair Market Value Was Determined (e.g., Appraisal):**

The original cost for all the acquired Property is \$60,000.

The estimated fair market value of the subject property by application of the Sales Comparison Approach, as of June 14, 2004, date of value, subject to the assumptions and limiting conditions and estimate of reasonable exposure time, is \$60,000. A copy of the appraisal report is attached as Attachment 7.

As stated earlier, the transfer is part of consideration for the Settlement Agreement with no gain on sale as part of the real estate transaction.

**(i) For Leases of Real Property, the Advice Letter Shall Include the Fair Market Rental Value, and a Detailed Description of How the Fair Market Rental Value Was Determined:**

Not applicable.

**(j) Additional Information to Assist in the Review of the Advice Letter:**

No additional information is readily available, other than what is already included with this filing.

**(k) CEQA Checklist**

**Exemption**

(1) Has the proposed transaction been found exempt from CEQA by a government agency?

The proposed transaction has not been found exempt from CEQA by a government agency.

- (a) If yes, please attach notice of exemption. Please provide name of agency, date of exemption, and state clearinghouse number.

Not applicable.

- (b) If no, does the applicant contend that the project is exempt from CEQA? If yes, please identify the specific exemption or exemptions that apply, citing to the applicable CEQA guideline(s).

The Commission previously ruled that if the property being exchanged "will be used in the same manner as previously, and neither applicant seeks authority from the Commission for a change in the existing use, there is no substantial evidence of any change to the environment, and no CEQA review is required." (D.99.03.033 (1999) Cal. PUC LEXIS 408).

**Prior or Subsequent CEQA review**

- (1) Has the project undergone CEQA review by another government agency? If yes, please identify the agency, the CEQA document that was prepared (EIR, MND, etc.) and its date, and provide one copy of any and all CEQA documents to the Director of the relevant Industry Division with a copy of the advice letter. Be prepared to provide additional copies upon request.

This project has not undergone CEQA review by another government agency.

- (2) Identify any aspects of the project or its environment that have changed since the issuance of the prior CEQA document.

No aspects of the project or its environment have changed.

- (3) Identify and provide section and page numbers for the environmental impacts, mitigation measures, and findings in the prior CEQA document that relate to the approval sought from the CPUC.

Not Applicable

(4) Does the project require approval by governmental agencies other than the CPUC? If so, please identify all such agencies, and the type of approval that is required from each agency.

Not Applicable.

**Need CEQA?**

If no exemption is applicable, and no prior review has occurred, please identify what applicant believes is the correct level of CEQA review.

Not Applicable.

**Protests**

Anyone wishing to protest this filing may do so by letter sent via U.S. mail, by facsimile or electronically, any of which must be received no later than 32 days after the date of this filing, which is **February 19, 2007**.<sup>1</sup> Protests should be mailed to:

CPUC Energy Division  
Tariff Files, Room 4005  
DMS Branch  
505 Van Ness Avenue  
San Francisco, California 94102

Facsimile: (415) 703-2200  
E-mail: [jjn@cpuc.ca.gov](mailto:jjn@cpuc.ca.gov) and [mas@cpuc.ca.gov](mailto:mas@cpuc.ca.gov)

Copies of protests also should be mailed to the attention of the Director, Energy Division, Room 4004, at the address shown above.

The protest also should be sent via U.S. mail (and by facsimile and electronically, if possible) to PG&E at the address shown below on the same date it is mailed or delivered to the Commission:

Brian K. Cherry  
Vice President, Regulatory Relations  
Pacific Gas and Electric Company  
77 Beale Street, Mail Code B10C  
P.O. Box 770000

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<sup>1</sup> The 30 day protest period concludes on a weekend. PG&E is hereby moving this date to the following business day.

San Francisco, California 94177

Facsimile: (415) 973-7226

E-mail: PGETariffs@pge.com

**Effective Date**

Pursuant to the review process outlined in Resolution ALJ-186, PG&E requests that this advice filing become effective on **March 4, 2007**, which is 45 calendar days after the date of filing.

**Notice**

In accordance with General Order 96-A, Section III, Paragraph G, a copy of this advice letter is being sent electronically and via U.S. mail to parties shown on the attached list. Address changes to the General Order 96-A service list should be directed to Rose de la Torre at (415) 973-4716. Advice letter filings can also be accessed electronically at:

<http://www.pge.com/tariffs>



Vice President, Regulatory Relations

Attachments 1-7

cc: Service List – Advice Letter 2779-G - Appendix A

\*\*\*\*\* SERVICE LIST Advice 2779-G \*\*\*\*\*  
APPENDIX A

\*\*\*\*\* STATE EMPLOYEE \*\*\*\*\*

Peter V. Allen  
Administrative Law Judge Division  
505 VAN NESS AVE  
San Francisco CA 94102 3298  
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\*\*\*\*\* AGENCIES \*\*\*\*\*

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Bureau of Land Management  
2610 Sweetwater Avenue  
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Michael E. Hays, Director  
County of San Bernardino  
Land Use Services Department - Administration  
385 N. Arrowhead Avenue - 1st Floor  
San Bernardino, California 92415-0182  
Telephone: (909) 387-8311

Aaron Yue, Project Manager  
California Department of Toxic Substances  
Control  
Geology, Permitting and Corrective Action Branch  
5796 Corporate Avenue  
Cypress, CA 90603  
(714) 484-5411  
ayue@dtsc.ca.gov

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Executive Officer  
California Regional Water Quality Control Board  
Colorado River Basin Region  
73-720 Fred Waring Drive, Suite 100  
Palm Desert, CA 92260  
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rperdue@waterboards.ca.gov

John Clairday, Esq.  
Deputy General Counsel  
Metropolitan Water District of Southern California  
700 North Alameda Street  
Los Angeles, CA 90012  
(213) 217-6314  
Jclairday@mwdh2o.com

\*\*\*\*\* 3<sup>rd</sup> Party \*\*\*\*\*

Chairwoman Nora McDowell  
Fort Mojave Indian Tribe  
500 Merriman Avenue  
Needles, CA 92363

Courtney Ann Coyle, Esq.  
Held-Palmer House  
1609 Soledad Avenue  
La Jolla, CA 92037-3817

**(END OF APPENDIX A)**

# CALIFORNIA PUBLIC UTILITIES COMMISSION

## ADVICE LETTER FILING SUMMARY ENERGY UTILITY

MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No. **Pacific Gas and Electric Company (ID U39)**

Utility type:

ELC

GAS

PLC

HEAT

WATER

Contact Person: Bernard Lam

Phone #: (415) 973-4878

E-mail: bxlc@pge.com

EXPLANATION OF UTILITY TYPE

ELC = Electric

GAS = Gas

PLC = Pipeline

HEAT = Heat

WATER = Water

(Date Filed/ Received Stamp by CPUC)

Advice Letter (AL) #: **2799-G**

Subject of AL: Property Transfer of Land in San Bernardino County to the Fort Mojave Indian Tribe – Request for Approval Under Section 851

Keywords (choose from CPUC listing): Section 851

AL filing type:  Monthly  Quarterly  Annual  One-Time  Other \_\_\_\_\_

If AL filed in compliance with a Commission order, indicate relevant Decision/Resolution #:

ALJ-186

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL: N/A

Summarize differences between the AL and the prior withdrawn or rejected AL<sup>1</sup>: \_\_\_\_\_

Resolution Required?  Yes  No

Requested effective date: **March 4, 2007**

No. of tariff sheets: 0

Estimated system annual revenue effect (%): N/A

Estimated system average rate effect (%): N/A

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected: N/A

Service affected and changes proposed<sup>1</sup>: N/A

Pending advice letters that revise the same tariff sheets: N/A

**Protests and all other correspondence regarding this AL are due no later than 30 days after the date of this filing, unless otherwise authorized by the Commission, and shall be sent to:**

CPUC, Energy Division

Tariff Files, Room 4005

DMS Branch

505 Van Ness Ave.,

San Francisco, CA 94102

[ijnj@cpuc.ca.gov](mailto:ijnj@cpuc.ca.gov) and [mas@cpuc.ca.gov](mailto:mas@cpuc.ca.gov)

Pacific Gas and Electric Company

Attn: Brian K. Cherry

Vice President, Regulatory Relations

77 Beale Street, Mail Code B10C

P.O. Box 770000

San Francisco, CA 94177

E-mail: [PGETariffs@pge.com](mailto:PGETariffs@pge.com)

<sup>1</sup> Discuss in AL if more space is needed.

Advice 2799-G

Attachment 1

## PROPERTY TRANSFER, EASEMENT AND ESCROW AGREEMENT

THIS PROPERTY TRANSFER, EASEMENT AND ESCROW AGREEMENT ("Agreement") is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2006 (the "Effective Date"), by and between **PACIFIC GAS AND ELECTRIC COMPANY**, a California corporation ("PG&E"), and **FORT MOJAVE INDIAN TRIBE** (the "Tribe").

### RECITALS:

A. PG&E is the owner of that certain parcel of unimproved real property located in the County of San Bernardino, State of California, identified by the San Bernardino County Assessor as Assessor's Parcel No. 0650-151-06, the State Board of Equalization as SBE No. 135-36-033-1, and more particularly described in Exhibit A (such real property, together with all easements, rights and privileges appurtenant thereto, is hereinafter referred to collectively as the "Property").

B. PG&E and the Tribe are parties to that certain Final Settlement Agreement dated as of even date herewith (the "Settlement Agreement"), resolving all issues between PG&E and the Tribe in connection with the Property and the Topock Site (as defined in the Settlement Agreement), including, but not limited to, issues raised in Ft. Mojave Indian Tribe v. Department of Toxic Substances Control, et al., Case No. 05CS00437 in the Superior Court of California, County of Sacramento.

C. Pursuant to the terms and conditions of the Settlement Agreement, PG&E desires to transfer the Property to the Tribe, and the Tribe desires to accept the Property from PG&E, on the terms and conditions contained in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, PG&E and the Tribe hereby agree as follows:

#### 1. PROPERTY TRANSFER.

Subject to the terms and conditions contained in this Agreement, PG&E shall transfer and convey the Property to the Tribe, and the Tribe shall accept the Property from PG&E.

#### 2. ESCROW.

2.1 Establishment and Close of Escrow. Within five (5) business days after the Effective Date of this Agreement, the Tribe shall open an escrow with Chicago Title Insurance Company (referred to herein as the "Escrow Holder" or the "Title Company"), by delivering to the Escrow Holder, a fully-executed copy of this Agreement. In addition, within (5) business days after the Effective Date of this Agreement, PG&E shall deposit with Escrow Holder, to hold in escrow, a grant deed, prepared and duly executed by PG&E in recordable form, conveying fee title to the Property to the Tribe (the "Grant Deed"). Close of such escrow ("Close of Escrow") shall occur no later than at 8:00 a.m. California time on the date (the "Closing Date") that is thirty (30) days after the date the condition precedent set forth in Section 5.1(d) has been satisfied, provided that all other conditions precedent set forth in Section 5 have been satisfied or waived. The Closing Date is subject to extension as set forth in Section 5.3 below.

#### 2.2 Deposits into Escrow.

(a) At or prior to Close of Escrow, the Tribe shall deposit or cause to be deposited with the Escrow Holder the following:

(i) The Tribe's share of the fees and charges described in Section 2.4;

- (ii) The amount, if any, payable to PG&E pursuant to Section 2.5;
  - (iii) The Tribe's counterpart of the joint escrow instructions to the Escrow Holder in the form attached hereto as Exhibit B (the "Joint Escrow Closing Instructions"), and any other instructions the Tribe may deem necessary that are not inconsistent with the terms of this Agreement; and
  - (iv) The Easement Agreement, duly executed in the form attached hereto as Exhibit C (the "Easement Agreement").
- (b) At or prior to Close of Escrow, PG&E shall deposit or cause to be deposited with Escrow Holder the following:
- (i) The Covenant and Environmental Restriction of Property, duly executed by PG&E in the form attached hereto as Exhibit D (or such other form as may have been required by the California Department of Toxic Substances Control) (the "Environmental Restriction");
  - (ii) The Grant Deed;
  - (iii) The Easement Agreement;
  - (iv) Affidavits certifying that PG&E is not a "foreign person" within the meaning of Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended, and California Revenue and Taxation Code Section 18662(e) ("Affidavits"); and
  - (v) PG&E's counterpart of the Joint Escrow Closing Instructions and any other instructions PG&E may deem necessary that are not inconsistent with the terms of this Agreement.

2.3 Closing. After all the requirements of Section 2.2 have been satisfied and all conditions precedent set forth in Section 5 have been satisfied or waived, the parties shall instruct the Escrow Holder to close escrow by, among other actions:

- (a) Recording the Environmental Restriction and instructing the San Bernardino County Recorder to deliver the Environmental Restriction to PG&E after recording;
- (b) Recording the Grant Deed and instructing the San Bernardino County Recorder to deliver the Grant Deed to the Tribe after recording;
- (c) Recording the Easement Agreement (including the Settlement Agreement, which is attached thereto) and instructing the San Bernardino County Recorder to deliver the original Easement Agreement to PG&E after recording;
- (d) Delivering to or for the account of PG&E the amount, if any, payable to PG&E pursuant to Section 2.5;
- (e) Delivering to PG&E an "as-recorded" conformed copy of the Grant Deed, and Easement Agreement; and
- (f) Delivering to the Tribe the Affidavits and an "as-recorded" conformed copy of the Grant Deed, and Easement Agreement, and issuing and delivering to the Tribe the policy of title insurance described in Section 3.3.

2.4 Costs. In connection with the transactions contemplated by this Agreement, PG&E and the Tribe shall pay all closing costs in accordance with the following:

(a) All escrow fees charged by the Title Company, the recording fees for recordation of the Grant Deed and Environmental Restriction, any real property conveyance or documentary transfer taxes charged by the City and/or County in which the Property is located and payable with respect to the Grant Deed, and the cost of any policy of title insurance the Tribe elects to obtain, shall be paid by PG&E; and

(b) All other costs and fees shall be allocated and paid between PG&E and the Tribe in accordance with the customary practices of the County in which the Property is located.

2.5 Prorations. General and special real property taxes, the current fiscal year's installments of any assessments encumbering the Property, and all other income and expense items (if any) related to the Property shall be prorated as of Close of Escrow. The net amount due PG&E from the Tribe under this Section 2.5, if any, shall be delivered by the Tribe to the Title Company prior to Close of Escrow. The net amount due the Tribe from PG&E under this Section 2.5, if any, shall be charged to PG&E by the Title Company at Close of Escrow. To the extent that the amount of any of the foregoing income and expense items shall not have been determined as of the Close of Escrow, such income and expense items shall be prorated as of Close of Escrow as soon thereafter as such amount is determined and PG&E shall promptly make to the Tribe, and/or the Tribe shall promptly make to PG&E, any payments required by such prorations. In addition, the Tribe acknowledges that the Property is assessed by the California State Board of Equalization as of January 1 of each year, and PG&E must pay real property taxes on the Property for the subsequent fiscal year commencing the following July 1. If Close of Escrow occurs between January 1 and June 30, the Tribe shall deposit into escrow, or with PG&E, the full amount to pay real property taxes for the tax year beginning on the July 1 immediately following the Close of Escrow, in addition to the prorated amount of real property taxes for the current tax year (ending June 30). PG&E shall pay the taxes for the subsequent tax year before they become delinquent; provided, however, that PG&E shall have the right to pay such taxes in installments as permitted by law.

2.6 Possession of Property. PG&E shall deliver possession of the Property to the Tribe upon Close of Escrow.

### 3. TITLE; TITLE INSURANCE.

3.1 Title. PG&E shall convey title to the Property to the Tribe subject to all the following exceptions (the "Permitted Encumbrances"): (a) the lien of any and all assessments encumbering the Property not then past due; (b) all other matters and title exceptions, whether or not of record, existing as of the Close of Escrow (other than the Metropolitan Water District matter described in Section 5.1(a)(i) below); and (c) the easements and other rights reserved by PG&E pursuant to Section 3.2.

3.2 Easements and Other Reservations. PG&E is undertaking certain remediation on and at the Property (the "Remediation" or "Remediation Activities") that is directed by the Department of Toxic Substances Control (the "DTSC") and other agencies or governmental bodies with jurisdiction over the Property or the Remediation. At Closing, the Tribe shall grant PG&E an easement over the Property, in the form attached hereto as Exhibit C (the "Easement Agreement").

3.3 Title Insurance. The Tribe has the discretion to elect to obtain ALTA title insurance coverage. Should the Tribe elect to obtain such title insurance, it must do so prior to the Close of Escrow. PG&E will pay reasonable costs of the title insurance. Such ALTA title insurance coverage, issued upon Close of Escrow, shall insure that fee simple title to the Property is vested in the Tribe subject only to the easement described in Section 3.2 and to the matters described in the Preliminary Report of Chicago Title Insurance Company dated February 8, 2006 for order no. 52040939-K32 (other than exception 7 thereto).

4. CONDITION OF PROPERTY.

4.1 AS IS CONDITION. THE TRIBE HAS BEEN STRONGLY ADVISED TO INVESTIGATE THE CONDITION AND SUITABILITY OF ALL ASPECTS OF THE PROPERTY AND ALL MATTERS AFFECTING THE VALUE OR DESIRABILITY OF THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, ELECTROMAGNETIC FIELDS AND POTENTIAL ENVIRONMENTAL HAZARDS ARISING FROM THE PRESENCE ON OR ABOUT THE PROPERTY OF HAZARDOUS SUBSTANCES. NEITHER PG&E, NOR ITS OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS MAKES OR HAS MADE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, WRITTEN OR ORAL, AS TO THE PHYSICAL CONDITION OF THE PROPERTY, THE USES OF THE PROPERTY OR ANY LIMITATIONS THEREON, INCLUDING, BUT NOT LIMITED TO, ANY REPRESENTATION OR WARRANTY PERTAINING TO ZONING, ENVIRONMENTAL OR OTHER LAWS, REGULATIONS OR GOVERNMENTAL REQUIREMENTS; THE UTILITIES ON THE PROPERTY, THE COSTS OF OPERATING THE PROPERTY OR ANY OTHER ASPECT OF THE ECONOMIC OPERATIONS ON THE PROPERTY; THE CONDITION OF THE SOILS OR GROUNDWATERS OF THE PROPERTY; THE PRESENCE OR ABSENCE OF ELECTROMAGNETIC FIELDS, TOXIC MATERIALS OR HAZARDOUS SUBSTANCES ON OR UNDER THE PROPERTY; OR ANY OTHER MATTER BEARING ON THE USE, VALUE OR CONDITION OF THE PROPERTY. PG&E MAKES AND HAS MADE NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE CONDITION OF TITLE TO THE PROPERTY. THE TRIBE SPECIFICALLY ACKNOWLEDGES THAT IT IS ACCEPTING THE PROPERTY IN AN "AS IS, WHERE IS, WITH ALL FAULTS" CONDITION, WITHOUT ANY REPRESENTATIONS OR WARRANTIES OF PG&E, EXPRESS OR IMPLIED, WRITTEN OR ORAL, AS TO THE NATURE OR CONDITION OF TITLE TO THE PROPERTY, THE PHYSICAL CONDITION OF THE PROPERTY, THE USES OF THE PROPERTY OR ANY LIMITATIONS THEREON. THE TRIBE IS NOT RELYING IN ANY WAY UPON ANY REPRESENTATIONS, STATEMENTS, AGREEMENTS, WARRANTIES, STUDIES, PLANS, REPORTS, DESCRIPTIONS, GUIDELINES OR OTHER INFORMATION OR MATERIAL FURNISHED BY PG&E OR ITS REPRESENTATIVES, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, OF ANY NATURE WHATSOEVER REGARDING ANY OF THE FOREGOING MATTERS. THE TRIBE'S ACCEPTANCE OF SUCH PROPERTY IS SUBJECT TO THE RELEASE OF CLAIMS AGAINST PG&E RELATING TO THE PROPERTY AS SET FORTH IN THE SETTLEMENT AGREEMENT, WHICH IS ATTACHED AND INCORPORATED INTO THE EASEMENT AGREEMENT (EXHIBIT C HERETO). THE TRIBE FURTHER STIPULATES THAT IT HAS OBTAINED ALL INFORMATION NECESSARY TO ENTER INTO THIS AGREEMENT, AND HAS HAD AN REASONABLE OPPORTUNITY TO SURVEY AND INSPECT THE PROPERTY.

4.2 Indemnification.

(a) Indemnification of PG&E Specific to the Time Period Prior to the Close of Escrow. The Tribe shall indemnify, defend (with counsel approved by PG&E), protect and hold PG&E, its officers, directors, employees, agents and contractors (collectively, "Indemnitees"), harmless from and against any and all losses, costs, claims, damages, liabilities, or causes of action (including attorneys' fees and costs) (collectively, "Claims") arising out of or in any way connected with the Property and occurring as a result of any entry upon the Property, or activities conducted thereon by the Tribe, its agents, contractors or employees prior to close of escrow, excluding Claims arising from the passive or active negligence of the Indemnitees, and the Tribe shall return the Property as nearly as practical to the same condition the Property was in prior to such entry or activities.

(b) Indemnification of the Tribe Specific to the Time Period Prior to the Close of Escrow. In accordance with Section VII(C) of the Settlement Agreement, PG&E shall indemnify, defend (with counsel approved by the Tribe), protect and hold the Tribe, its officers, Council Members, employees, members, agents and affiliates harmless from any response costs related to hazardous substances present on or released from the Property as a result of PG&E's activities or operations prior to Close of Escrow, excluding Claims to the extent arising from the passive or active negligence of the Indemnitees.

(c) Indemnification Specific to the Time Period After the Close of Escrow. Following the Close of Escrow, the Tribe and PG&E are bound by the indemnification provisions of Section 7 of the Easement Agreement, Exhibit C hereof.

4.3 Survival. The respective covenants, agreements and obligations of PG&E and the Tribe contained in this Section 4 shall survive the termination of this Agreement or the Close of Escrow and the recordation of the Grant Deed.

5. CONDITIONS PRECEDENT.

5.1 Conditions Precedent Applicable to PG&E. PG&E's obligation under this Agreement to transfer the Property to the Tribe is subject to the fulfillment or waiver of each of the following conditions precedent:

(a) The Metropolitan Water District of Southern California has in writing, either: (i) terminated its existing right of first negotiation and right of repurchase with respect to the Property, or (ii) acknowledged that the Tribe is a governmental entity to which PG&E is authorized to transfer the Property;

(b) Compliance with the California Subdivision Map Act (Government Code Section 66410, et seq.), if necessary, including the approval and filing of a final subdivision map or parcel map if required;

(c) The issuance of title insurance in the form required by Section 3.3;

(d) If PG&E determines, in PG&E's sole and absolute discretion, that approval ("Governmental Approval") of the California Public Utilities Commission ("CPUC") or by any other applicable regulatory agency will be required as a condition precedent to PG&E's transfer of the Property to the Tribe, then the obligation of each party to close the transfer of the Property shall be conditioned upon obtaining such Governmental Approval at or prior to the close of escrow. PG&E shall use its best efforts to obtain such approvals in a reasonable amount of time. The Tribe acknowledges and agrees that Governmental Approval shall not be deemed to have occurred for purposes of this Agreement unless and until the CPUC and all other applicable regulatory agencies approve the transfer of the Property to the Tribe in a form that is final, unconditional and unappealable, including exhaustion of all administrative appeals or remedies before the CPUC, and such Governmental Approval is approved by PG&E in its discretion, including, without limitation, PG&E's approval of the proposed accounting and ratemaking treatment of the transfer. Except with respect to PG&E's obligations under this Section, the Tribe further acknowledges and agrees that PG&E makes no representation or warranty with respect to the Governmental Approval, and the Tribe hereby waives all claims against PG&E which may arise out of losses, expenses or damages suffered or incurred by the Tribe as a result of the need for the Governmental Approval or the failure of the CPUC to approve the transfer of the Property to the Tribe.

5.2 Conditions Precedent Applicable to the Tribe. The Tribe's obligation under this Agreement to close escrow is subject to the fulfillment or waiver of each of the following conditions precedent:

(a) The issuance of the title insurance under Section 3.3 of this Agreement.

5.3 Satisfaction of Conditions. PG&E and the Tribe may waive any of the conditions precedent set forth in Section 5.1 and 5.2. Subject to the foregoing and to the provisions of Section 7.1 below, in the event that any of the conditions precedent set forth in this Section 5 shall not be satisfied or waived at or prior to the scheduled Closing Date, then PG&E or the Tribe may extend the Closing Date for up to an additional one (1) year to satisfy any and all unsatisfied conditions, in which case Close of Escrow shall occur within thirty (30) days following satisfaction or waiver of the last condition precedent. If Close of Escrow has not occurred on or prior to the Closing Date, as the same may have been

extended herein, the party whose obligations are subject to such condition precedent shall have the right to terminate this Agreement, and each party shall pay one-half of the escrow termination fee, if any, and PG&E and the Tribe shall thereupon each be released from any obligations under this Agreement except those which expressly survive termination.

6. CONDEMNATION. In the event of any taking of any portion of the land area of the Property in eminent domain proceedings or under threat of condemnation prior to the Close of Escrow, the definition of "Property" under this Agreement shall be modified to mean the remaining portion of land area, if any. For the purposes of this Agreement, a taking in condemnation shall mean the taking of possession or the vesting of fee title to the Property in a governmental entity pursuant to the exercise of the power of eminent domain or pursuant to a deed given in lieu or in contemplation thereof.

7. DEFAULT.

7.1 Tribe's Default.

(a) In the event that the transfer of the Property to the Tribe under this Agreement does not occur because of a default under this Agreement by the Tribe, then PG&E shall have, at its option, the right to pursue specific performance of this Agreement, or the right to terminate this Agreement, whereupon neither party shall have any further rights or obligations hereunder, except those which expressly survive termination.

(b) Nothing contained in this Section 7.1 shall serve to waive or otherwise limit PG&E's remedies or damages for claims of PG&E against the Tribe with respect to any obligations of the Tribe that, by the terms of this Agreement, survive the Close of Escrow or any termination of this Agreement before the Close of Escrow, including, but not limited to, the Tribe's indemnification obligations under Section 4.2 and Section 8.1.

7.2 PG&E's Default. If the transfer of the Property under this Agreement shall not occur because of a default by PG&E, the Tribe shall have, at its option and as its sole remedies, the following:

(a) The right to pursue specific performance of this Agreement, provided that the Tribe waives in writing any right it may have to bring an action for, or assert, any damages against PG&E for such default of PG&E except such incidental damages and costs that may be awarded in connection with a specific performance action.

(b) If the trier of fact finds that PG&E materially breached this Agreement but the Court refuses to award, or cannot award, the Tribe specific performance because PG&E has engaged in any act that results in the Court being unable to award specific performance, the Tribe shall have the right to seek general damages not exceeding the fair market value of the Property at the time of the breach, but not including consequential or punitive damages.

(c) As an alternative to the remedies provided in Sections 7.2(a) and (b), the right to terminate this Agreement and receive a return of the Deposit and any interest thereon, whereupon neither party shall have any further rights or obligations hereunder, except those that expressly survive termination.

8. BROKERS.

8.1 PG&E and the Tribe. PG&E and the Tribe hereby represent and warrant to each other, that the respective parties have incurred no obligation to any finder or real estate broker or salesperson with respect to this transaction, and in the event that any contrary claim is made, PG&E and the Tribe shall indemnify, defend and hold each other harmless from and against any and all losses, costs, claims, damages, liabilities or causes of action (including attorneys' fees and costs) with respect to

any such additional finder, broker or salesperson. The representations, warranties and covenants of PG&E and the Tribe contained in this Section 8.1 shall survive the termination of this Agreement or the Close of Escrow and the recordation of the Grant Deed.

## 9. MISCELLANEOUS.

9.1 Operation of the Property Prior to Closing. During the period from the Effective Date until the Close of Escrow, PG&E shall maintain the Property in the condition in which it exists as of the Effective Date, normal wear and tear and PG&E's Remediation Activities excepted, and otherwise act with respect to the Property in accordance with its pre-existing practices as if the Property were not to be transferred to the Tribe. Notwithstanding the foregoing, nothing in this Section 9.1 shall be construed to prohibit or impede PG&E's efforts to complete the Remediation or its restoration obligations under Sections VII(A) and (B) of the Settlement Agreement.

9.2 Time of Essence. Time is of the essence of this Agreement and each and every provision hereof.

9.3 Further Assurances. Each party hereto agrees to execute and deliver to the other party such further documents or instruments as may be necessary or appropriate in order to carry out the intentions of the parties as contained in this Agreement.

9.4 Binding Effect; Assignment. This Agreement shall be binding upon, and shall inure to the benefit of, the heirs, successors and assigns of the parties hereto. Notwithstanding the foregoing, the Tribe shall have no right to assign its rights and obligations under this Agreement unless the Tribe shall obtain the prior written consent of PG&E to such assignment, which consent may be withheld in PG&E's sole and absolute discretion. The Tribe agrees to reimburse PG&E, within thirty (30) days after demand, for all costs and expenses (including attorneys' fees and costs) incurred by PG&E in connection with any assignment of the Tribe's interest in this Agreement, that requires a material amendment of a pending application for approval(s) described in Section 5.1(d) above as a result of such assignment. The Tribe acknowledges that fees attributable to the work of PG&E's in-house attorneys are reimbursable under the preceding sentence, and that such fees shall be calculated as provided in Section 9.10 below. The Tribe acknowledges and agrees that PG&E shall have the right to assign or otherwise convey its rights and/or obligations under this Agreement and/or with respect to the Property without the consent of the Tribe, provided that PG&E provides written notice of such assignment or conveyance, and the assignee assumes the remaining obligations of PG&E under this Agreement. Said assignee shall be substituted as PG&E hereunder and shall be entitled to the benefit of and may enforce the Tribe's covenants, representations and warranties hereunder as if such assignee were the original PG&E hereunder. No assignment by PG&E, whether or not permitted under this Agreement, shall relieve PG&E or any other person of any obligation or liability hereunder.

9.5 Severability. If any provision of this Agreement shall be unenforceable or invalid, the same shall not affect the remaining provisions of this Agreement and to this end the provisions of this Agreement are intended to be and shall be severable; provided, however, if such unenforceability or invalidity alters the substance of this Agreement (taken as a whole) so as to deny either party, in a material way, the realization of the intended benefit of its bargain, such party may terminate this Agreement within thirty (30) days after the final determination by notice to the other. If such party so elects to terminate this Agreement, then this Agreement shall be terminated, each party shall pay one-half (1/2) of the escrow termination fee, if any, and PG&E and the Tribe shall thereupon each be released from any obligations under this Agreement, except those which expressly survive termination.

9.6 Governing Laws. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California.

9.7 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

9.8 Notices. Any notice or other communication required or permitted under this Agreement shall be in writing and shall be either personally delivered or transmitted by registered or certified mail, return receipt requested, postage prepaid, or by a nationally recognized overnight courier, such as FedEx or Airborne Express, addressed to the parties as follows:

If to PG&E:

Manager, Corporate Real Estate  
Pacific Gas and Electric Company  
P.O. Box 770000, Mail Code N10A  
San Francisco, CA 94177

With a copy to:

Juan Jayo, Esq.  
Law Department  
Pacific Gas and Electric Company  
P.O. Box 7442, Mail Code B30A  
San Francisco, CA 94120

If to the Tribe:

Fort Mojave Indian Tribe  
500 Merriman Avenue  
Needles, CA 92363  
Attention: Chair

With a copy to:

Courtney Ann Coyle, Esq.  
1609 Soledad Avenue  
La Jolla, CA 92037

The date of any notice or communication shall be deemed to be the date of receipt if delivered personally, or the date of the receipt or refusal of delivery if transmitted by mail or overnight courier. Any party may change the address for notice by giving notice to the other party in accordance with this Section 9.8.

9.9 Prior Agreements. This Agreement and the exhibits hereto, together with the Settlement Agreement, contain the entire understanding of the parties relating to the subject matter hereto and shall supersede any prior written or oral agreements or communications between the parties pertaining to such subject matter. In the event of any conflict between the terms, conditions and obligations under the Settlement Agreement and this Agreement, the terms, conditions and obligations of the Settlement Agreement shall control.

9.10 Attorneys' Fees. In the event of any action or proceeding brought by the Tribe against PG&E or by PG&E against the Tribe under this Agreement, the prevailing party shall be entitled to recover all costs, expenses and charges incurred in such action or proceeding, including, without limitation, those incurred in making appearances in any proceedings or in seeking relief from any stay or injunction issued in or arising out of any proceeding, whether in trial, appellate, bankruptcy, insolvency, reorganization, receivership or any other judicial or administrative proceedings, including, without limitation, actual attorneys' fees and costs, consultants' fees, accountants' fees and allocated costs of in-house counsel, whether or not such action includes instituting an action, litigation or a proceeding. Attorneys' fees shall include, without limitation, fees incurred in any postjudgment proceedings to collect and enforce the judgment. For purposes hereof, the reasonable fees of any party's in-house attorneys who perform services in connection with any such enforcement action are recoverable, and shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the relevant subject matter area of the law, in law firms in the City of San Francisco, with approximately the same number of attorneys as are employed by the larger of PG&E's Law Department

or the Tribe's Law Department. This provision is separate and several and shall survive the merger of this Agreement into any judgment on this Agreement.

9.11 Confidentiality. Neither party shall disclose the terms of this Agreement to any third party without the prior written consent of the other party, at any time prior to the date on which the parties jointly release the Settlement Agreement, or when the Settlement Agreement is filed with the Superior Court of the State of California, County of Sacramento, whichever is first.

9.12 Limitation on Liability. The Tribe expressly agrees that the obligations and liabilities of PG&E under this Agreement and any document referenced herein shall not constitute personal obligations of the officers, directors, employees, agents, affiliates, members, representatives, stockholders or other principals and representatives of PG&E. Notwithstanding anything to the contrary, PG&E's liability, if any, for monetary damages for PG&E's breach of its obligation to convey the Property in accordance with this Agreement shall not exceed the fair market value of the Property. The limitations of liability contained in this Section 9.12 shall apply equally and inure to the benefit of PG&E's present and future officers, directors, employees, agents, affiliates, members, representatives, stockholders or other principals and representatives, and their respective heirs, successors and assigns, and shall survive the close of escrow and the recordation of the Grant Deed. This limitation on monetary liability does not bar the Tribe from seeking enforcement of this Agreement in equity.

9.13 Exhibits. The following Exhibits are attached hereto and incorporated by reference into this Agreement:

- Exhibit A – Legal Description of Property
- Exhibit B – Joint Escrow Closing Instructions
- Exhibit C – Easement Agreement
- Exhibit D – Environmental Restriction

9.14 Required Actions of Tribe and PG&E. The Tribe and PG&E agree to take such reasonable actions, including but not limited to acknowledging, delivering or executing instruments and documents, as may be required to effectuate the purposes of this Agreement or to consummate the transfer of the Property as contemplated herein.

9.15 Dispute Resolution. In the event that a dispute arises between PG&E and the Tribe with respect to the subject matter of this Agreement, the parties shall attempt in good faith to resolve any such dispute informally, for a period of time not to exceed thirty (30) days, unless such time period is extended by written agreement of PG&E and the Tribe. If the parties are unable to resolve a dispute on their own, they agree to consider in good faith seeking the assistance of a mutually acceptable mediator to help resolve the dispute. In the event that a mutually acceptable resolution has not been reached, either PG&E or the Tribe may on fifteen (15) days' notice seek redress in the Sacramento County Superior Court. Notwithstanding the foregoing, either PG&E or the Tribe may seek preliminary relief from the Court to the extent necessary to preserve the status quo pending resolution of any dispute. The covenants contained in this Section 9.15 shall survive the termination of this Agreement or the Close of Escrow and the recordation of the Grant Deed.

[Signatures follow on next page.]

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Agreement as of the day and year first above written.

PG&E:

PACIFIC GAS AND ELECTRIC COMPANY,  
a California corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Attorney

TRIBE:

FORT MOJAVE INDIAN TRIBE

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Acknowledgement of Receipt and Acceptance by Escrow Holder

The undersigned Escrow Holder hereby agrees to act as Escrow Holder pursuant to the terms and conditions set forth in this Agreement, and hereby acknowledges receipt of the Grant Deed from PG&E.

Dated: \_\_\_\_\_, 200\_\_

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

(Escrow Officer)

Escrow Number: \_\_\_\_\_

EXHIBIT A

**LEGAL DESCRIPTION OF PROPERTY**

The land herein referred to is situated in the State of California, County of San Bernardino, and is described as follows:

THE SOUTH  $\frac{1}{2}$  OF THE NORTHWEST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$ , THE SOUTHWEST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$ . THE WEST  $\frac{1}{2}$  OF THE SOUTHEAST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$ , THE SOUTHEAST  $\frac{1}{4}$  OF THE SOUTHEAST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$  OF SECTION 5, TOWNSHIP 7 NORTH, RANGE 24 EAST, SAN BERNARDINO BASELINE, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AND THAT PORTION OF LOT 4 OF SAID SECTION DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 4; THENCE NORTH ALONG THE WEST LINE THEREOF, 660.00 FEET; THENCE EAST PARALLEL WITH AND 660.00 FEET NORTH OF THE SOUTH LINE THEREOF, 660.00 FEET; THENCE SOUTH PARALLEL WITH AND 660.00 FEET EAST OF THE WEST LINE THEREOF 660.00 FEET TO THE INTERSECTION WITH THE SOUTH BOUNDARY OF SAID LOT; THENCE WEST ALONG THE SOUTH LINE THEREOF, 660.00 FEET TO THE PLACE OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE STATE OF CALIFORNIA BY GRANT DEED RECORDED JANUARY 30, 1947 IN BOOK 1954, PAGE 493 OFFICIAL RECORDS OF SAID COUNTY OF SAN BERNARDINO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, BY DEED RECORDED MARCH 26, 1936, IN BOOK 1127 PAGE 77 OFFICIAL RECORDS OF SAID COUNTY; THENCE SOUTH  $89^{\circ} 02' 08''$  WEST, ALONG THE NORTH LINE OF SAID PARCEL, 118.63 FEET; THENCE SOUTH  $23^{\circ} 08' 45''$  EAST, 301.59 FEET TO A POINT IN THE EAST LINE OF SAID PARCEL OF LAND, DISTANT THEREON SOUTH  $0^{\circ} 00' 47''$  WEST, 279.31 FEET FROM THE NORTHEAST CORNER THEREOF; THENCE NORTH  $0^{\circ} 00' 47''$  EAST, ALONG THE EAST LINE OF SAID PARCEL 279.31 FEET, TO THE POINT OF BEGINNING.

The foregoing legal description of the Property may be subject to errors and omissions. The legal description of the Property shall be confirmed by the title insurer prior to conveyance of the Property. The Tribe should make its own independent investigation to verify the accuracy of the legal description.

EXHIBIT B

**JOINT ESCROW CLOSING INSTRUCTIONS**

Date: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Re: Escrow No. \_\_\_\_\_  
PG&E's Topock Property, San Bernardino County, California

Ladies and Gentlemen:

These shall constitute the Joint Escrow Closing Instructions of Pacific Gas and Electric Company ("PG&E" or "PG&E") and Fort Mojave Indian Tribe (the "Tribe") under that certain Property Transfer, Easement and Escrow Agreement dated \_\_\_\_\_, 2006 ("Transfer Agreement") with regard to certain real property located in San Bernardino County, California, as more particularly described in the Transfer Agreement (the "Property").

1. **Documents and Funds.**

You shall be in a position to close escrow upon fulfillment of all of the conditions set forth below:

1.1 When you have received from the PG&E and the Tribe, as indicated below, the following funds and documents:

(a) From the PG&E:

(i) The Covenant and Environmental Restriction of Property in the form attached as Exhibit D to the Transfer Agreement (or such other form as may have been required by the California Department of Toxic Substances Control) (the "Environmental Restriction"), duly executed and acknowledged by PG&E;

(ii) A Grant Deed duly executed and acknowledged by PG&E conveying the Property to the Tribe;

(iii) The Easement Agreement in the form attached as Exhibit C to the Transfer Agreement (the "Easement Agreement"), duly executed and acknowledged by PG&E; and

(iv) Both California and U.S. non-foreign person affidavits ("Affidavits") executed by PG&E.

(b) From the Tribe:

(i) The Easement Agreement, duly executed and acknowledged by the Tribe; and

(iii) Any funds required to pay the Tribe's share of closing costs and prorations.

1.2 The Title Company shall be prepared to issue to the Tribe title insurance coverage if requested by the Tribe in accordance with Section 3.3 of the Transfer Agreement.

1.3 You have received telephonic confirmation from the Tribe's and PG&E's counsel that all of the conditions to the Close of Escrow to be fulfilled outside of this escrow have been fulfilled to the satisfaction of the Tribe and PG&E.

1.4 Upon satisfaction of the foregoing conditions, you are to inform the Tribe's and PG&E's counsel by telephone that all such conditions have been satisfied.

2. **Special Note: Real Property Taxes.**

Real property owned by PG&E is assessed by the California State Board of Equalization and not by the County Assessor. Property is assessed as of January 1 in each year and the tax becomes a lien on the property as of January 1 for the subsequent July 1 - June 30 tax year. Property will not be removed from the state tax rolls to the county tax rolls until the tax year following the one in which title to the property is transferred. **Therefore, if this escrow closes between January 1 and June 30, you are instructed to collect from the Tribe its pro rata share of taxes for the current tax year AND the entire amount of the tax for the tax year beginning on the July 1 immediately following the Close of Escrow. If escrow closes between July 1 and December 31, you are instructed to collect from the Tribe its pro rata share of the taxes for the current tax year only.** PG&E has undertaken directly with the Tribe to pay property taxes due and payable for the tax years for which PG&E has collected funds from the Tribe.

3. **Steps to Close Escrow.**

When you are in a position to close escrow, you shall proceed as follows:

3.1 Record the Environmental Restriction and instruct the San Bernardino County Recorder to deliver the original Environmental Restriction to PG&E after recording;

3.2 Record the Grant Deed and instruct the San Bernardino County Recorder to deliver the original Grant Deed to the Tribe after recording;

3.3 Record the Easement Agreement and instruct the San Bernardino County Recorder to deliver the original Easement Agreement to PG&E after recording;

3.4 Charge the respective accounts of the Tribe and PG&E for recording fees, filing fees, real property conveyance or documentary transfer taxes, title insurance premiums, notary fees, escrow fees and other costs and prorations in accordance with Sections 2.4 and 2.5 of the Transfer Agreement;

3.5 Pay to or for the account of PG&E the amount of the prorated real property taxes for the current tax year and, if applicable, all of the real property taxes for the following tax year, and less any closing costs and prorations agreed to by PG&E and in the manner directed by PG&E;

3.6 Deliver conformed copies of the Grant Deed, Easement Agreement, and Environmental Restriction with the recording information thereon, to each of the Tribe and PG&E;

3.7 Deliver the Affidavits to the Tribe;

3.8 Deliver final escrow settlement statements to the Tribe and PG&E; and

3.9 Comply with any additional supplemental instructions submitted by the Tribe or PG&E, which are not inconsistent with these instructions.

4. **Miscellaneous.**

4.1 These instructions may not be modified except in writing executed by the undersigned or the party to be charged. If this escrow is not in a position to close by 8:00 o'clock a.m. on \_\_\_\_\_, then you are to hold all documents and funds until further instructed by the undersigned.

4.2 These instructions may be executed in counterparts, and when taken together, the counterparts shall constitute one set of escrow instructions.

4.3 If you have any questions regarding these instructions, please contact the undersigned.

If you agree to be bound by these instructions, please acknowledge the enclosed two copies of these instructions and return one copy each to the Tribe and PG&E.

Very truly yours,

PG&E:

Date: \_\_\_\_\_, \_\_\_\_\_

PACIFIC GAS AND ELECTRIC COMPANY,  
a California corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_, \_\_\_\_\_

TRIBE:

FORT MOJAVE INDIAN TRIBE

By: \_\_\_\_\_

Its: \_\_\_\_\_

RECEIPT AND ACKNOWLEDGMENT:

\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

EXHIBIT C  
**EASEMENT AGREEMENT**

RECORDING REQUESTED BY  
PACIFIC GAS AND ELECTRIC COMPANY

AND WHEN RECORDED MAIL TO:

---

Space above this Line for Recorder's Use

### EASEMENT AGREEMENT

This Easement Agreement ("**Agreement**") is made this \_\_\_\_ day of \_\_\_\_\_, 2006, by and between the Fort Mojave Indian Tribe ("**Owner**") and Pacific Gas and Electric Company, a California corporation ("**PG&E**").

### RECITALS:

a. Concurrently with this Agreement, PG&E has transferred to Owner, and Owner has accepted from PG&E, that certain parcel of real property located in the County of San Bernardino, State of California, identified by the San Bernardino County Assessor as Assessor's Parcel No. 0650-151-06, as more specifically described in Exhibit A (together with any and all improvements located thereon, the "**Property**");

b. In addition, Owner and PG&E are parties to that certain Final Settlement Agreement dated as of \_\_\_\_\_, 2006 (the "**Settlement Agreement**"), resolving, among other things, issues between Owner and PG&E with respect to the Property. A copy of the Settlement Agreement is attached as Exhibit B hereto;

c. PG&E has undertaken certain investigation and remediation activities on and at the Property (collectively referred to as the "**Remediation**" or "**Remediation Activities**") as required by the California Department of Toxic Substances Control ("**DTSC**") and other federal and/or state authorities, and PG&E shall require access to and certain specified occupancy of and control over the Property after transfer of title to Owner to complete Remediation obligations imposed by federal and/or state authorities;

d. PG&E owns or operates certain Remediation-related equipment on the Property to conduct the Remediation including, but not limited to, a treatment plant and related facilities (such as roads, an operations building and related parking lots, piping, etc); monitoring wells; and injection wells and related piping. Future Remediation-related equipment on the Property may include in situ treatment wells and, potentially, additional monitoring, extraction and/or injection wells and related piping. All existing and future Remediation-related equipment on the Property, to the extent permitted to exist or to be installed or located on the Property pursuant to the terms of this Agreement, shall be collectively referred to as the "**Facilities**." Some of the Facilities

are described in the “**Supplemental Materials**” that is attached as an Exhibit to the Settlement Agreement.

e. Owner and PG&E are entering into this Agreement pursuant to the Settlement Agreement for the purpose of implementing and not for the purpose of limiting, the terms and provisions of the Settlement Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Effective Date. This Agreement is effective as of the date this Agreement is recorded in the Official Records of San Bernardino County, California (the “**Effective Date**”).

2. Consultation. PG&E expressly agrees to comply with all of the consultation obligations set forth in the Settlement Agreement (particularly Sections VI, VIII and X) in connection with PG&E’s use of the Property and the exercise of PG&E’s rights hereunder, including, without limitation, in connection with its undertaking, implementation and conduct of any and all present and future Remediation Activities on the Property. PG&E’s agreement to comply with such consultation obligations is a material term of this Agreement.

3. Easement. Owner hereby grants PG&E and its authorized representatives an exclusive easement over the Property for the following purposes in order to conduct its legally-required Remediation: (i) to access, use, operate, maintain, modify, upgrade and remove the existing Facilities on the Property (other than the treatment plant), (ii) to access, maintain, operate, shut down and remove the treatment plant and other facilities or equipment, (iii) to install, access, use, operate, maintain, modify, upgrade and remove any and all additional Remediation-related Facilities required by the DTSC or another agency or governmental body with jurisdiction over the Property or the Remediation, including but not limited to additional treatment equipment, pipelines, extraction wells, injection wells, slurry walls, and in-situ facilities, and (iv) for pedestrian and vehicular access over the Property on (A) roads and paths currently existing and in active use on the Property, and (B) such additional roads and paths as may be established in connection with authorized Remediation Activities. All of PG&E’s rights granted pursuant to the immediately preceding sentence shall be exercised only after PG&E’s compliance with all of the consultation obligations described in Paragraph 2 above. The Easement shall include the right to use the current and future permitted Facilities to drill wells, extract ground water and inject treated water, inject in-situ treatment-related chemicals into the ground water, and to take any other actions ordered by the DTSC and/or other agencies or governmental bodies with jurisdiction over the Property. PG&E shall have the right to grant access to the property to any regulatory agencies which claim jurisdiction over the Property or the Remediation Activities of PG&E at the Topock Site (as defined in the Settlement Agreement) consistent with the foregoing. Notwithstanding this provision, PG&E shall cooperate with the Owner and allow reasonable access to the Property to owner’s members and affiliates for religious, spiritual, or cultural purposes so long as such access does not

interfere with Remediation Activities. To facilitate the exercise of this right, Owner and PG&E shall develop and revise from time to time, reasonable guidelines and procedures for access to the Property by Owner and Owner's officers, council members, employees, tribal members and agents ("Owner Affiliates"). Such guidelines shall provide for notice to PG&E prior to access to the Property, either through individualized notice and/or notice covering certain types of regular access in certain circumstances, to be determined through consultation between the Owner and PG&E.

4. Ownership and Removal of Facilities. All existing and future Remediation-related Facilities located on the Property and installed by or for PG&E shall be and remain the property of PG&E. All such facilities shall be removed and the Property restored in accordance with the Settlement Agreement prior to the termination of this Agreement. Pursuant to Section VII(A) of the Settlement Agreement, PG&E shall consult the Owner regarding the removal of such Remediation-related Facilities and the restoration of the Property prior to the submittal of any proposal or workplan or commencement of any work regarding such removal or restoration.

5. No Rent or Cost for Easement. PG&E shall have all rights under this Agreement, including but not limited to access and control of the Facilities, without any requirement of payment to Owner by PG&E; provided, however, that PG&E shall pay directly, or shall reimburse Owner for, the following amounts:

(a) All real property taxes assessed against the Property during the term of the Agreement. As used herein, the term "Real Property Taxes" means all taxes, assessments, levies, fees and other governmental charges levied on or attributable to the Property or any part thereof, including without limitation: (a) real property taxes and assessments levied with respect to all or a portion of the Property, (b) assessments, charges and fees charged by governmental agencies or districts for services or facilities provided to the Property, (c) taxes based upon a reassessment of the Property due to a transfer or change of ownership, and (d) any assessment, charge or fee that is a substitute in whole or in part for any tax now or previously included within the definition of Real Property Taxes.

(b) The premiums and other costs for any and all insurance required to be carried by PG&E pursuant to the terms of this Agreement; and

(c) Any and all costs and expenses required to be paid by PG&E pursuant to the terms and conditions of this Agreement or arising out of PG&E's exercise of any of its rights hereunder.

6. Expiration of Agreement. The Agreement shall terminate upon (i) the later of (a) PG&E's receipt of a written determination by DTSC that Remediation-related facilities will no longer be required on the IM-3 Site, or (b) after PG&E removes and/or restores those portions of the IM-3 Site that have been affected by such facilities, in consultation with the Owner (which removal PG&E agrees to undertake and complete within a reasonable time following the receipt of the written determination described in

the immediately preceding phrase (a)); or (ii) a date mutually agreed upon by Owner and PG&E.

7. Indemnification.

(a) PG&E shall indemnify, defend (with counsel approved by the Owner), protect and hold Owner and Owner Affiliates harmless from and against any Third-Party Claims (defined below) related to releases of Hazardous Substances as the result of PG&E's activities or operations on the Property after the grant of this Easement Agreement. For purposes of this Agreement, "Third-Party Claims" include costs, claims, damages, liabilities, or causes of action (including attorneys' fees and costs) paid or incurred to, or incurred in defense of, claims brought by any person or entity other than Owner or any entity that is controlled by Owner, is under common control with Owner, or that controls Owner; with "control" for purposes of this sentence meaning that the controlling entity either owns a majority of the ownership interests in the controlled entity or has the practical power to direct the management and actions of the controlled entity.

(b) PG&E shall indemnify, defend (with counsel approved by the Owner), protect and hold Owner Indemnitees harmless from any Third-Party Claims arising out of or connected with the use or occupancy of the Property by PG&E or the conduct of its legally-required Remediation activities.

(c) These indemnities shall not apply in the event that and to the extent such Third-Party Claims relate to activities undertaken by or for the Owner that involve the release of Hazardous Substances or other damage to the Property.

(d) These indemnities shall not apply in the event of any Third-Party Claim against PG&E and/or the Owner that Owner actively participates in, cooperates with, or supports. For purposes of interpreting the immediately preceding sentence, "participates in, cooperates with, or supports" shall not be deemed to include (i) any response by Owner or any Owner Affiliate to legal process or to any official inquiry by any governmental agency, (ii) Owner or Owner Affiliates' participation, cooperation, or support, in defense of any Claim against the Owner itself, and (iii) Owner's participation, cooperation, or support, in defense of any Claim against PG&E, provided that such participation, cooperation, or support, described in this phrase (iii) is requested by PG&E.

(e) The indemnification provisions in Section 7(a)-(d) shall not alter the releases and waivers set forth in Section XI of the Settlement Agreement, Exhibit B.

8. Notice. Any notices or communications hereunder shall be in writing and shall be sent by first class mail, addressed to the parties at the addresses listed below, or to such other addresses as the party may from time to time designate in writing. Notices shall be deemed received upon actual receipt of the notice by the primary party being sent the notice.

If to Owner:

Fort Mojave Indian Tribe  
500 Merriman Avenue  
Needles, CA 92363  
Attention: Chair

With a copy to:

Courtney Ann Coyle, Esq.  
1609 Soledad Avenue  
La Jolla, CA 92037

If to PG&E:

Manager, Corporate Real Estate  
Pacific Gas and Electric Company  
Mail Code N10A  
P. O. Box 770000  
San Francisco, California 94177

With a copy to:

Pacific Gas and Electric Company  
P. O. Box 7442  
San Francisco, CA 94120  
Attn: Juan Jayo, Esq.

9. Governing Law. This Agreement shall in all respects be interpreted, enforced, and governed by and under the laws of the State of California applicable to instruments, transactions and persons that have legal origin, contacts and relationships solely within the State of California. Jurisdiction and venue shall reside exclusively in the Sacramento Superior Court of the State of California with jurisdiction over the Action, as defined in the Settlement Agreement.

10. Entire Agreement. As used herein, "**Grant Deed**" means that grant deed conveying fee title to the Property by PG&E to Owner executed and delivered simultaneously herewith. This Agreement, the Settlement Agreement, and the Grant Deed supersede all previous oral and written agreements between and representations by or on behalf of the parties and constitute the entire agreement of the parties with respect to the subject matter hereof. Accordingly, the parties intend that the Grant Deed, the Settlement Agreement and this Agreement shall be interpreted and construed together. This Agreement may not be amended except by a written agreement executed by all parties.

11. Binding Effect. This Agreement and the covenants and agreements herein contained shall bind and inure to the benefit of the parties hereto, their heirs, successors and assigns. No assignment, or delegation, by a party under this Agreement, whether by operation of law or otherwise, shall relieve the assignor of any of its obligations or liabilities hereunder, in whole or in part. The covenants of Owner

hereunder shall run with the land and fee holders of the Property, or portions thereof, shall be deemed to be Owner with respect to their fee interest.

12. Attorneys' Fees. In the event of any action or proceeding brought by Owner or any Owner Affiliate against PG&E or by PG&E against Owner or any Owner Affiliate under this Agreement, the prevailing party shall be entitled to recover all costs, expenses and charges incurred in such action or proceeding, including, without limitation, those incurred in making appearances in any proceedings or in seeking relief from any stay or injunction issued in or arising out of any proceeding, whether in trial, appellate, bankruptcy, insolvency, reorganization, receivership or any other judicial or administrative proceedings, including, without limitation, actual attorneys' fees and costs, consultants' fees, accountants' fees and allocated costs of in-house counsel, whether or not such action includes instituting an action, litigation or a proceeding. Attorneys' fees shall include, without limitation, fees incurred in any postjudgment proceedings to collect and enforce the judgment. For purposes hereof, the reasonable fees of any party's in-house attorneys who perform services in connection with any such enforcement action are recoverable, and shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the relevant subject matter area of the law, in law firms in the City of San Francisco, with approximately the same number of attorneys as are employed by the larger of PG&E's Law Department or the Owner's Law Department. This provision is separate and several and shall survive the merger of this Agreement into any judgment on this Agreement.

13. Captions. The captions in this Agreement are for reference only and shall in no way define or interpret any provision hereof.

14. Time. Except as otherwise expressly provide herein, the parties agree that as to any obligation or action to be performed hereunder, time is of the essence.

15. Counterparts. This Agreement may be executed in identical counterpart copies, each of which shall be an original, but all of which taken together shall constitute one and the same agreement.

16. Other Documents. Each party agrees to sign any additional documents or permit applications that may be reasonably required to effectuate the purpose of this Agreement.

17. Certain Definitions. The following term has the meaning ascribed to it below for purposes of this Agreement:

(a) "Hazardous Substances" means any hazardous or toxic material or waste that is or becomes regulated by any local governmental authority, the State of California or the United States Government under any Environmental Requirements. For purposes of this Agreement, Hazardous Substances include, without limitation, any material or substance:

(i) now or hereafter defined as a "hazardous substance," "hazardous waste," "hazardous material," "extremely hazardous waste," "restricted hazardous waste" or "toxic substance" or words of similar import under any applicable local, state or federal law or under the regulations adopted or promulgated pursuant thereto, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601 et seq.) ("CERCLA"); the Hazardous Materials Transportation Act (49 U.S.C. § 1801 et seq.); the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.); the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.); the Clean Air Act (42 U.S.C. § 7401 et seq.); the Clean Water Act (33 U.S.C. §§ 1251 et seq.); the Safe Drinking Water Act (33 U.S.C. § 300f et seq.); the River and Harbors Act of 1899 (33 U.S.C. §§ 401 et seq.); the National Emission Standard for Hazardous Air Pollutants for Asbestos (40 C.F.R. §§ 61.140 et seq.), the OSHA Construction Standard (29 C.F.R. §§ 1926.1001 et seq.); the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.); the Oil Pollution Act (33 U.S.C. § 300f et seq.); the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. §§ 136 et seq.); the Emergency Planning and Community Right-to-Know Act (42 U.S.C. § 11001 et seq.); the Atomic Energy Act of 1954, (42 U.S.C. §§ 2014 et seq.); the Nuclear Waste Policy Act of 1982 (42 U.S.C. §§ 10101 et seq.); the Medical Waste Management Act (Cal. Health and Safety Code §§ 25015 et seq.); the Porter-Cologne Water Quality Control Act (Cal. Water Code § 13020 et seq.); the Safe Drinking Water and Toxic Enforcement Act of 1986 (Cal. Health & Safety Code § 25249.5 et seq.); the Carpenter-Presley-Tanner Hazardous Substance Account Act (Cal. Health and Safety Code §§ 25300 et seq.); the Hazardous Waste Control Act (Cal. Health & Safety Code § 25100 et seq.); and all rules and regulations of the United States or California Environmental Protection Agency or any successor agency, or any other state or federal department, board or agency, or any other agency or governmental board or entity having jurisdiction, as any of the foregoing have been, or are hereafter amended from time to time; or

(ii) that is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous, and is now or hereafter regulated as a Hazardous Substance by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, any State of the United States or any political subdivision thereof; or which cause, or are listed by the State of California as being known to the State of California to cause, cancer or reproductive toxicity; or

(iii) the presence of which on the Property poses or threatens to pose a hazard to the health or safety of persons or to the environment; or

(iv) that contains gasoline, diesel fuel or other petroleum hydrocarbons; or

(v) that contains lead-based paint or other lead contamination, polychlorinated biphenyls ("PCBs") or asbestos or asbestos-containing materials or urea formaldehyde foam insulation; or

(vi) that contains radon gas.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first set forth above.

PACIFIC GAS AND ELECTRIC COMPANY, FORT MOJAVE INDIAN TRIBE  
a California corporation

By: \_\_\_\_\_ By: \_\_\_\_\_

Its: \_\_\_\_\_ Its: \_\_\_\_\_

EXHIBIT A

**LEGAL DESCRIPTION OF PROPERTY**

The land herein referred to is situated in the State of California, County of San Bernardino, and is described as follows:

THE SOUTH  $\frac{1}{2}$  OF THE NORTHWEST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$ , THE SOUTHWEST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$ . THE WEST  $\frac{1}{2}$  OF THE SOUTHEAST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$ , THE SOUTHEAST  $\frac{1}{4}$  OF THE SOUTHEAST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$  OF SECTION 5, TOWNSHIP 7 NORTH, RANGE 24 EAST, SAN BERNARDINO BASELINE, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AND THAT PORTION OF LOT 4 OF SAID SECTION DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 4; THENCE NORTH ALONG THE WEST LINE THEREOF, 660.00 FEET; THENCE EAST PARALLEL WITH AND 660.00 FEET NORTH OF THE SOUTH LINE THEREOF, 660.00 FEET; THENCE SOUTH PARALLEL WITH AND 660.00 FEET EAST OF THE WEST LINE THEREOF 660.00 FEET TO THE INTERSECTION WITH THE SOUTH BOUNDARY OF SAID LOT; THENCE WEST ALONG THE SOUTH LINE THEREOF, 660.00 FEET TO THE PLACE OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE STATE OF CALIFORNIA BY GRANT DEED RECORDED JANUARY 30, 1947 IN BOOK 1954, PAGE 493 OFFICIAL RECORDS OF SAID COUNTY OF SAN BERNARDINO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, BY DEED RECORDED MARCH 26, 1936, IN BOOK 1127 PAGE 77 OFFICIAL RECORDS OF SAID COUNTY; THENCE SOUTH  $89^{\circ} 02' 08''$  WEST, ALONG THE NORTH LINE OF SAID PARCEL, 118.63 FEET; THENCE SOUTH  $23^{\circ} 08' 45''$  EAST, 301.59 FEET TO A POINT IN THE EAST LINE OF SAID PARCEL OF LAND, DISTANT THEREON SOUTH  $0^{\circ} 00' 47''$  WEST, 279.31 FEET FROM THE NORTHEAST CORNER THEREOF; THENCE NORTH  $0^{\circ} 00' 47''$  EAST, ALONG THE EAST LINE OF SAID PARCEL 279.31 FEET, TO THE POINT OF BEGINNING.

The foregoing legal description of the Property may be subject to errors and omissions. The legal description of the Property shall be confirmed by the title insurer prior to conveyance of the Property. The Tribe should make its own independent investigation to verify the accuracy of the legal description.



Exhibit B  
The Settlement Agreement

EXHIBIT D

**ENVIRONMENTAL RESTRICTION**

RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Space Above For Recorder's Use)

**COVENANT AND ENVIRONMENTAL RESTRICTION ON PROPERTY**  
(APN 0650-151-06)

*This instrument is an environmental restriction  
pursuant to California Civil Code Section 1471*

THIS COVENANT AND ENVIRONMENTAL RESTRICTION ON PROPERTY (this "Covenant") is made as of the \_\_\_ day of \_\_\_\_\_, 200\_\_, by Pacific Gas and Electric Company, a California corporation ("PG&E"), with reference to the following facts:

- A. PG&E is the owner of that certain real property located in the County of San Bernardino, State of California, identified by the San Bernardino County Assessor as Assessor's Parcel No. 0650-151-06, as more specifically described in Exhibit A (together with any and all improvements located thereon, the "Property").
- B. Past operations conducted on adjacent property resulted in the release of certain contaminants into the groundwater.
- C. PG&E has undertaken certain investigation and remediation activities on and at the Property (collectively, the "Remediation"). The results of PG&E's Remediation activities are on file at the office of the Department of Toxic Substances Control ("DTSC").
- D. The restrictions set forth in Article 2 are reasonably necessary to protect present and future human health and safety and the environment from harm that may result from the presence of contaminants on the Property.
- E. This Covenant is given to bind PG&E and successive owners of the Property to restrictions on the future use of the Property, which restrictions are for the benefit of the PG&E.

**ARTICLE 1**  
**GENERAL PROVISIONS**

1.1 Provisions to Run with the Land. Pursuant to California Civil Code Section 1471, this Covenant sets forth protective covenants, conditions and restrictions (collectively referred to as

"Restrictions") upon and subject to which the Property and every portion thereof affected by this Covenant shall be held, used, improved, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. Each and all of the Restrictions shall run with the land, and pass with each and every portion of the Property affected by this Covenant, and shall apply to and bind PG&E and all successors in interest therein.

1.2 Deemed Concurrence. All persons or entities acquiring any interest in the Property, or any portion thereof, shall be conclusively deemed by such acquisition, lease or possession to have irrevocably agreed to the Restrictions for and among themselves and their heirs, successors, assignees, agents, employees, licensees and lessees of such owners, heirs, successors, and assignees. In the event an owner of all or a portion of the Property conveys fee title to some portions of the Property to third parties but retains an interest in other portions of the Property, upon the conveyance of the portion(s) of the Property to third parties, the conveying owner shall forever be released and relieved of any further obligation or liability under the Covenant with respect to the portion of the Property so conveyed for events arising from and after the date of such transfer. Upon any owner's sale or transfer of its entire interest in the Property, such conveying owner shall forever be released and relieved of any further obligation or liability arising under this Covenant for events arising from and after the date of such transfer. Upon the termination of the leasehold interest of any occupant of the Property, such occupant shall forever be relieved of any further obligation or liability thereafter arising under this Covenant.

1.3 Incorporation into Deeds and Leases. The Restrictions are hereby deemed to be incorporated by reference into each grant, creation or conveyance of any interest in the Property or portion thereof occurring after the date this instrument is recorded in the Official Records of San Bernardino County, California, whether or not referred to in the instrument effecting such grant, creation or conveyance.

## ARTICLE 2 DEVELOPMENT USE AND CONVEYANCE OF THE PROPERTY

2.1 Prohibitions on Groundwater Use. Groundwater use is prohibited as follows:

No owner or occupant of the Property or any other party having custody or control of the Property shall use groundwater in a manner that could be hazardous to human health, safety or the environment, including, but not limited to, construction or use of water wells, borings or any other structures to use groundwater or convey groundwater to the surface. This prohibition shall not apply to borings, monitoring wells or wells or other facilities installed as part of any remediation plan or program that is undertaken pursuant to the direction of the DTSC or other state or federal environmental regulatory agency, including, but not limited to, the Remediation. Notwithstanding the foregoing, this prohibition shall be in effect only until the owner of the Property obtains, at no cost or expense to PG&E, all necessary approvals from DTSC and all other applicable governmental agencies approving the use of any existing wells, installation of new wells or other use of groundwater. In the event that the DTSC and all other applicable governmental agencies ever modify or terminate this prohibition pursuant to a written direction, then the prohibition set forth in this paragraph will automatically be deemed to be either amended or terminated, as expressly provided in such written direction, without the requirement that PG&E, or any owner or occupant or any other person take any affirmative action.

2.2 Notice in Agreements. The following statement shall be included in all deeds, leases or licenses of any portion of the Property:

"The [sold/leased/licensed] property is subject to a use limitation based on past environmental contamination of a portion of the property. To

protect public health and safety and the environment, the property is subject to a covenant that runs with the land, which restricts the use of the property. Pacific Gas and Electric Company is the beneficiary of this covenant."

### ARTICLE 3 ENFORCEMENT AND MORTGAGEE PROTECTION

3.1 Enforcement. This Covenant is entered into for the express benefit of PG&E. PG&E may enforce this Covenant or recover any and all damages recoverable under applicable law for breach in an action at law or in equity. Jurisdiction and venue shall reside exclusively in the Sacramento Superior Court with jurisdiction over the Action, as defined in that certain Settlement Agreement, Attachment B to the Easement Agreement, recorded even date hereof ("Settlement Agreement").

3.2 Mortgagee Protection. Notwithstanding any provision of this Covenant, no breach of the Restrictions, nor the enforcement of any provisions contained in this Covenant shall affect, impair or defeat the lien or charge of any duly recorded mortgage or deed of trust encumbering any portion of the Property, or affect, impair, or defeat the interest of the mortgagee, or its successors or assigns pursuant to such a mortgage, provided that such mortgage is made in good faith and for value. All of the Restrictions shall be binding upon and effective against any owners whose title is derived through foreclosure, deed in lieu of foreclosure, or trustee's sale during the period of their ownership.

### ARTICLE 4 TERM

4. Unless modified or terminated in accordance with Section 2.1 above or Section 5.8 below, or by law, this Covenant shall continue in effect in perpetuity.

### ARTICLE 5 MISCELLANEOUS

5.1 No Dedication Intended. Nothing herein shall be construed to be a grant or dedication, or offer to grant or dedicate, the Property or any portion thereof to the public for any purposes whatsoever. In addition, this Covenant shall not affect the water rights of any owner of the Property, except as set forth in the Restrictions.

5.2 Other Documents. Subject to its obligations to consult with the Fort Mojave Indian Tribe pursuant to the Settlement Agreement, PG&E shall have the right, at any time, to record against the Property, or any portion thereof, such additional covenants and restrictions as may be required by the DTSC or another agency or governmental body with jurisdiction over the Property or the Remediation.

5.3 Notices. All notices, requests or other communications relating to this Covenant shall be in writing and shall be delivered to the following addresses:

To PG&E:	Pacific Gas and Electric Company P. O. Box 7442 San Francisco, CA 94120 Attention: Juan Jayo, Esq.
With required copies to:	Pacific Gas and Electric Company Attention: Vice President, Environmental Affairs 77 Beale Street, B32 San Francisco, California 94105

Chairwoman Nora McDowell  
Fort Mojave Indian Tribe  
500 Merriman Avenue  
Needles, CA 92363

5.4 Partial Invalidity. If any portion of the Covenant is determined to be invalid for any reason, the remaining portion shall remain in full force and effect as if such portion had not been included herein.

5.5 Article Headings. Headings at the beginning of each numbered article of this Covenant are solely for the convenience of the parties and are not part of this Covenant.

5.6 Successors and Assigns. This Covenant shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto, except as provided in Article 1.2.

5.7 Exhibits. The following Exhibit is attached hereto and incorporated by reference into this Agreement:

Exhibit A          Legal Description of the Property

5.8 Modification. Except as set forth in Section 5.2, this Covenant may not be changed, modified or rescinded except in a writing that is recorded in the Official Records of San Bernardino County, and that is signed and acknowledged by PG&E and the party owning the portion of the Property as to which such change, modification or rescission will apply, and any attempt at actual or oral modification shall be void and of no effect.

IN WITNESS WHEREOF, PG&E has executed this Covenant as of the date set forth above.

PG&E:

PACIFIC GAS AND ELECTRIC COMPANY,  
a California corporation

Dated: \_\_\_\_\_

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

Approved as to Form: \_\_\_\_\_

EXHIBIT "A"

The land herein referred to is situated in the State of California, County of San Bernardino, and is described as follows:

THE SOUTH  $\frac{1}{2}$  OF THE NORTHWEST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$ , THE SOUTHWEST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$ . THE WEST  $\frac{1}{2}$  OF THE SOUTHEAST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$ , THE SOUTHEAST  $\frac{1}{4}$  OF THE SOUTHEAST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$  OF SECTION 5, TOWNSHIP 7 NORTH, RANGE 24 EAST, SAN BERNARDINO BASELINE, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AND THAT PORTION OF LOT 4 OF SAID SECTION DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 4; THENCE NORTH ALONG THE WEST LINE THEREOF, 660.00 FEET; THENCE EAST PARALLEL WITH AND 660.00 FEET NORTH OF THE SOUTH LINE THEREOF, 660.00 FEET; THENCE SOUTH PARALLEL WITH AND 660.00 FEET EAST OF THE WEST LINE THEREOF 660.00 FEET TO THE INTERSECTION WITH THE SOUTH BOUNDARY OF SAID LOT; THENCE WEST ALONG THE SOUTH LINE THEREOF, 660.00 FEET TO THE PLACE OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE STATE OF CALIFORNIA BY GRANT DEED RECORDED JANUARY 30, 1947 IN BOOK 1954, PAGE 493 OFFICIAL RECORDS OF SAID COUNTY OF SAN BERNARDINO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, BY DEED RECORDED MARCH 26, 1936, IN BOOK 1127 PAGE 77 OFFICIAL RECORDS OF SAID COUNTY; THENCE SOUTH  $89^{\circ} 02' 08''$  WEST, ALONG THE NORTH LINE OF SAID PARCEL, 118.63 FEET; THENCE SOUTH  $23^{\circ} 08' 45''$  EAST, 301.59 FEET TO A POINT IN THE EAST LINE OF SAID PARCEL OF LAND, DISTANT THEREON SOUTH  $0^{\circ} 00' 47''$  WEST, 279.31 FEET FROM THE NORTHEAST CORNER THEREOF; THENCE NORTH  $0^{\circ} 00' 47''$  EAST, ALONG THE EAST LINE OF SAID PARCEL 279.31 FEET, TO THE POINT OF BEGINNING.

The foregoing legal description of the Property may be subject to errors and omissions. The legal description of the Property shall be confirmed by the title insurer prior to conveyance of the Property. The Tribe should make its own independent investigation to verify the accuracy of the legal description.

STATE OF CALIFORNIA )  
 ) ss.  
CITY AND COUNTY OF SAN FRANCISCO )

On \_\_\_\_\_, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature of Notary Public (Seal)

Advice 2799-G

Attachment 2

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SACRAMENTO**

FORT MOJAVE INDIAN TRIBE, a federally  
recognized Indian Tribe,

Petitioner and The Tribe,

v.

DEPARTMENT OF TOXIC SUBSTANCES  
CONTROL, a state agency;  
METROPOLITAN WATER DISTRICT of  
SOUTHERN CALIFORNIA, a public  
corporation; and DOES 1 through 10,  
inclusive

Respondents and Defendants,

PACIFIC GAS & ELECTRIC COMPANY, a  
corporation,

Real Party in Interest.

CASE NO. 05CS00437

**MOTION TO APPROVE SETTLEMENT AND DISMISS COMPLAINT**

Petitioner Fort Mojave Indian Tribe (the “Tribe”) and Real Party in Interest Pacific Gas & Electric Company (“PG&E”) have reached a settlement that resolves the issues raised by this matter (the “Agreement,” attached hereto as Exhibit A). The Tribe and PG&E also have reached complementary settlements with the two other defendants, the Department of Toxic Substances

Control (“DTSC”) and the Metropolitan Water District of Southern California (“MWD”) (the “Implementing Agreements,” attached hereto as Exhibits B and C).

All of the parties herein hereby move this Court to approve the settlement of this case by adopting the attached settlement agreements as the Judgment of the Court, and dismissing the above-captioned case, with prejudice. The parties also request that the Court entertain continuing jurisdiction over the attached settlement agreements. The Parties stipulate that the attached settlement agreements represent a full, fair and complete resolution of this matter.

\_\_\_\_\_

for the Fort Mojave Tribe

\_\_\_\_\_

for Pacific Gas & Electric Company

\_\_\_\_\_

for the Department of Toxic Substances Control

\_\_\_\_\_

for the Metropolitan Water District of Southern California

Approved: \_\_\_\_\_  
Gail D. Ohanesian, Judge

Date: \_\_\_\_\_

## **EXHIBIT A**

### **FINAL SETTLEMENT AGREEMENT**

Petitioner Fort Mojave Indian Tribe (“the Tribe”) and Real Party in Interest Pacific Gas and Electric Company (“PG&E”) (collectively, “the Settlement Parties”) hereby enter into this Final Settlement Agreement (the “Agreement”) to resolve all issues between the Settlement Parties arising in connection with the chromium groundwater contamination related to PG&E’s Topock Compressor Station site (“Topock Site”), including, but not limited to, issues raised in Fort Mojave Indian Tribe v. Department of Toxic Substances Control, et. al., Case No. 05CS00437 (the “Action”). The Topock Site is defined as all areas covered by the Topock Corrective Action Consent Agreement between PG&E and the California Department of Toxic Substances Control (“DTSC”).

#### **I. RECITALS**

A. The Tribe initiated the Action to challenge, among other things, the legal basis for (1) DTSC’s approval of the construction of a treatment plant and other facilities (“IM-3”) on property that PG&E purchased from the Metropolitan Water District of Southern California (“MWD”) (this property is Parcel 650-151-06 and is hereinafter referred to as the “IM-3 Site”) and (2) the sale by MWD to PG&E of the IM-3 Site.

B. PG&E denies the material allegations of the Action.

C. The Tribe and PG&E have concluded that implementation of this Agreement is preferable to protracted litigation in this matter. This Agreement is entered into without admission or adjudication regarding either party’s views of the facts, or the law, as they pertain to this matter.

D. DTSC’s cooperation is required in order to implement various aspects of this Agreement insofar as DTSC approval is required for remediation activities undertaken by PG&E at the Topock Site. MWD’s cooperation also is required to implement certain aspects of this Agreement.

#### **II. JURISDICTION AND VENUE**

The Settlement Parties stipulate that the Court to which the Action has been assigned has jurisdiction over the allegations in the Complaint and Petition and all matters covered by the terms of this Agreement and personal jurisdiction over the Settlement Parties as to the acts alleged in the Complaint and Petition and as to all matters covered by the terms of this Agreement; that venue is proper; and that the Court has jurisdiction to determine that this Agreement was made in good faith to resolve all allegations raised in, arising from, or related to the Complaint and Petition and/or as covered by the terms of this Agreement.

#### **III. PARTIES BOUND**

The provisions of this Agreement shall apply to and be binding upon each of the Settlement Parties, including but not limited to, their elected leaders and officers (in the case of the Tribe),

their officers and directors (in the case of PG&E), and both Settlement Parties' agents, employees, successors, and assigns.

#### **IV. CONDITIONS PRECEDENT**

This Agreement is expressly conditioned upon, and shall not become effective in whole or in part until this Agreement is formally adopted as a judgment of the Superior Court and the Action is dismissed with prejudice as to all parties.

#### **V. PG&E AND TRIBAL UNDERTAKINGS**

A. The Settlement Parties' undertakings involve four primary areas: (1) decommissioning and removal of the IM-3 treatment plant and other remediation-related uses of the IM-3 Site, (2) restoration and title transfer of the IM-3 Site; (3) consultation between PG&E and the Tribe on all material aspects of remediation of the Topock Site, and the facilitation of government-to-government consultations with DTSC and federal authorities; and (4) PG&E's enhanced awareness of, and support for, tribal spiritual and cultural matters. Each of these primary areas is described in detail in the following sections of the Agreement.

B. The Settlement Parties desire to remediate the plume of contaminated ground water at the Topock location in an effective and least intrusive manner so as to allow the complete and expedited removal of all remedial facilities and associated equipment from the IM-3 Site and restoration of the Site as soon as practicable.

#### **VI. DECOMMISSIONING AND REMOVAL OF THE IM-3 TREATMENT PLANT; USE OF THE IM-3 SITE FOR REMEDIATION-RELATED ACTIVITIES**

##### **A. Removal Of The IM-3 Treatment Plant**

The Settlement Parties are committed to removing the IM-3 treatment plant from its current location on the IM-3 Site.

##### **1. Removal of the Treatment Plant as a Component of the Final Remedy**

a. PG&E will use its best efforts to expedite performance of all milestones that will lead as soon as practicable to removal of the IM-3 treatment plant from the IM-3 Site and the selection and implementation of the final remedy including, in particular, a determination as soon as possible whether a treatment plant will be required as part of a final remedy and, if so, the performance criteria that DTSC will specify for such a treatment plant.

b. If a treatment facility is deemed necessary as part of the final remedy, PG&E will propose, as the preferred alternative, that such a treatment facility shall be shut down, decommissioned and removed from the IM-3 Site and relocated on the Topock Compressor Station parcel. In addition, PG&E will propose, as part of the preferred remedy, the removal of other facilities on the IM-3 Site as soon as practicable, with the site being used thereafter only as may be required for the operation of the injection wells, compliance wells, in situ treatment and conveyance systems, if no feasible alternative is available, as described in

Section VI.B.2, below. PG&E also will propose a final remedy that is consistent with the description and information provided to the Tribe in a binder titled, “Supplemental Information In Support of PG&E Settlement Proposal to the Fort Mojave Tribe,” dated October 10, 2005, as revised (the “Supplemental Information”).

2. Potential Removal of the Treatment Plant Prior to the Final Remedy

a. As soon as reasonably practicable, PG&E will request DTSC and other agencies to identify performance criteria as soon as possible that the agencies anticipate will be required for a treatment plant in connection with the implementation of the final remedy for the Topock Site. Once such criteria are identified, PG&E will develop, as soon as reasonably practicable, and subsequently present to the Tribe for potential submission to DTSC, a proposal for an alternative location of the IM-3 treatment plant and, consistent with Section VI.B.2, wells and related facilities, to produce a substantially identical or improved result in controlling and mitigating contamination from the PG&E Topock facility. Such proposal shall provide for the removal of the IM-3 treatment plant and all other facilities as soon as practicable, consistent with Section VI.B.2.

b. In the event that DTSC and other necessary agencies do not identify performance criteria for a new treatment plant prior to the earlier of (i) PG&E’s submittal of the Final Corrective Measures Study/Feasibility Study (“CMS/FS”), or (ii) the receipt of comments on PG&E’s draft CMS/FS by DTSC and other agencies that do not raise significant objections to the groundwater treatment plant identified in the Draft CMS/FS, PG&E will nonetheless proceed as soon as reasonably practicable with engineering and permitting-related activities associated with the relocation of the treatment plant to the Topock Compressor Station parcel.

c. In recognition of the Tribe’s strong interest in removing the IM-3 treatment plant as soon as practicable, PG&E and the Tribe will use best efforts to work with DTSC to accelerate the development of the CMS/FS report and the portions of the Final Remedy decision that specifically relate to any treatment plant to be required for the Topock Site.

d. Following consultation with the Tribe and good faith negotiations, if such proposal significantly accelerates the schedule for removal of any or all facilities, consistent with Section VI.B.2, PG&E will submit such proposal to DTSC and use its best efforts to achieve expeditious implementation.

e. PG&E will initiate construction of the replacement treatment plant as soon as it receives such a decision from DTSC.

B. Use Of The IM-3 Site For Remediation-Related Purposes

1. Operation Of The Treatment Plant

a. Until an alternate treatment plant is in place, or until a determination is made that a treatment plant is not required, the current IM-3 treatment plant will operate with PG&E following procedures to protect cultural resources at all locations, providing

reasonable access to tribal members for religious and cultural observances, and supporting Tribal education of workers at the IM-3 Site, as described below.

2. Other Remediation-Related Facilities

a. PG&E has identified in the Supplemental Information the remedial facilities on the IM-3 Site that may continue in place after removal of the IM-3 treatment facility. The Parties recognize that as part of the operation of the IM-3 or the final remedy, construction of additional facilities, such as additional wells, may be required and that this work may require the temporary use of heavy construction equipment, lighting facilities and associated activity.

b. PG&E will timely and meaningfully consult with the Tribe and will honor Tribal concerns to the maximum extent possible with regard to the location of future facilities required in the operation of IM-3 and the final remedy(ies) and to the maximum extent feasible accommodate Tribal interests, including, but not limited to: (1) any additional injection or compliance wells that DTSC might propose on the IM-3 Site; and (2) any proposed in situ treatment system, and any applications to relevant governmental agencies for the permitting of such wells or facilities. PG&E will provide a detailed description of similar in situ remediation systems in use in locations other than the Hinkley site.

c. PG&E will provide the Tribe with all available information regarding the basis for the proposed siting of compliance wells, in situ treatment systems, or other facilities proposed for the IM-3 Site, and it will consult with the Tribe on locations of such facilities prior to the filing of any applications. In the event that regulatory agencies proceed over the objections of the Tribe and PG&E on any dispute between the agency and the Tribe and PG&E over the location of any particular wells, well clusters, piping or other equipment, the Tribe agrees that it will not take any legal action against PG&E and will not oppose any construction or operations PG&E may be obligated to take in compliance with final orders of the relevant regulatory agencies. Notwithstanding any other provision herein, the Tribe reserves all rights to challenge the decisions of DTSC or any other agency that is not substantially consistent with the proposals put forth by PG&E following consultation with the Tribe as set forth in this Agreement.

d. More generally, the Tribe will not oppose PG&E's efforts that are subject to this Agreement to remediate the chromium plume at Topock, including, but not limited to, (1) the potential siting of a new treatment plant on the Topock Compressor Station property, (2) the continued use of injection and pipeline facilities on the IM-3 Site, if feasible alternatives are not practicable; and (3) the potential use of in-situ treatment techniques to treat the chromium plume as a primary component of the final remedy for the Topock site, to the extent proposed by PG&E after consultation with the Tribe, as provided for herein.

e. Investigation Of Alternative Locations. During the operation of treatment-related facilities on the IM-3 Site, and in connection with the development of the final remedy, PG&E will investigate the feasibility of alternative locations for the injection wells and all other facilities on the site relating to the injection wells. If any feasible alternative sites are found, the Parties will work cooperatively to relocate the injection wells and other facilities relating to the injection wells off the IM-3 Site. If by the time of the approval of the final

remedy, no feasible alternative locations for the injection wells have been identified, the Tribe agrees not to oppose the continued use of the current locations for treated water injection, so long as required by DTSC.

3. Mitigation Of Negative Impacts

a. Because of the cultural and spiritual sensitivity of the IM-3 Site, PG&E agrees that it will use its best efforts, in consultation with the Tribe and consistent with its obligations under the Corrective Action Consent Agreement, to minimize remedial activities on the IM-3 Site, and to minimize any impacts associated with such activities. PG&E and the Tribe will negotiate in good faith to determine if treatment plant operations can be suspended for limited periods of time, consistent with the requirements of DTSC, to accommodate the Tribe's spiritual and cultural interests.

b. PG&E will immediately work with the Tribe to mitigate the visual, noise and other impacts of the existing facilities on the Site, including the expedited restoration of lands surrounding the surface facilities to its natural condition as much as practicable.

c. PG&E agrees to consult with the Tribe both during planning and prior to the commencement of any required construction to avoid or mitigate to the maximum extent practicable adverse cultural, spiritual and other impacts of required work.

**VII. DECOMMISSIONING, RESTORATION AND TITLE TRANSFER OF THE IM-3 SITE; FUTURE USE OF THE TOPOCK COMPRESSOR STATION**

A. Development and Implementation of a Removal and Restoration Plan

1. Upon decommissioning of the IM-3 treatment plant, PG&E will work in consultation with the Tribe to restore the IM-3 Site to pre-existing conditions to the maximum extent practicable, subject to the continued use of remedial facilities, including but not limited to injection wells and related equipment on the site, as set forth above, consistent with Section VI.B.2. Restoration plans will be developed and implemented in consultation with the Tribe for removal of the IM-3 treatment plant and related facilities and the restoration of disturbed areas.

2. PG&E also will negotiate in good faith with the Tribe and with appropriate federal agencies, including BLM, to identify near-term restoration activities, e.g., around existing wells or access, that might be undertaken to accelerate the return of federal lands to natural conditions, to remove all IM-3 facilities on federal lands and to restore federal lands affected by IM-3 activities. Such removal and restoration activities will be undertaken, subject to any necessary approval of the agencies that own or control the affected properties, as soon as practicable after the facilities or affected properties are no longer needed for IM-3 related facilities, or earlier as may be otherwise mutually agreed upon by the Settlement Parties.

B. Additional Restoration

1. PG&E also will undertake additional restoration efforts requested by the Tribe to address impacts that predate PG&E's ownership, so long as such requests are reasonable and consistent with PG&E's legal obligations (e.g., under the National Historic Preservation Act) and, where regulatory approval is necessary, to the extent approved by relevant State and Federal regulatory agencies.

2. PG&E and the Tribe will negotiate in good faith to identify near-term restoration activities, e.g., around existing wells or access, that might be undertaken to accelerate the return of the IM-3 Site to natural conditions.

C. Transfer of the IM-3 Site

1. Pursuant to this Agreement and the Property Transfer, Easement and Escrow Agreement, attached as Attachment 1 hereto, PG&E will transfer its title to the IM-3 Site to the Tribe within thirty (30) days after the later of the approval from (a) the California Public Utilities Commission ("CPUC") or (b) any other necessary, applicable regulatory agencies. To effectuate this intent, PG&E and the Tribe will execute the Property Transfer, Easement and Escrow Agreement and the transfer-related documents attached, in a form consistent with this Settlement Agreement, as exhibits to the Property Transfer, Easement and Escrow Agreement. The Property Transfer, Easement and Escrow Agreement shall become effective upon entry of the Stipulated Judgment with the Court incorporating this Agreement by the Court. Transfer to the Tribe is contingent upon substantial Tribal compliance with the terms of this Agreement.

2. Pursuant to the Property Transfer, Easement and Escrow Agreement transfer of the title to the IM-3 Site shall be subject to: (a) an acknowledgement by the Tribe that the IM-3 Site is being acquired in "as is" condition, subject to PG&E compliance with the Corrective Action Consent Agreement, (b) PG&E will defend, indemnify and hold harmless the Tribe for any and all response costs related to hazardous materials present on or released from the IM-3 Site as the result of PG&E's activities or operations, and (c) a blanket easement over the IM-3 Site that accommodates existing remediation-related facilities on the IM-3 Property and any additional facilities that DTSC determines are necessary on the IM-3 Site for remediation-related purposes. The blanket easement will, consistent with the consultation obligations set out herein, provide access to PG&E for all necessary and lawful activities, including but not limited to the ability to install, use, operate, and maintain existing and future remediation-related facilities on the IM-3 Site. The blanket easement shall terminate when: (a) DTSC states, in writing, that remediation-related facilities will no longer be required on the IM-3 Site and after PG&E removes and/or restores those portions of the IM-3 Site that have been affected by such facilities, in consultation with the Tribe; or (b) the parties mutually agree to an earlier termination.

3. The Parties recognize that the transfer of the IM-3 Site to the Tribe is subject to approval by the CPUC and, potentially, other regulatory authorities. Accordingly, the commitments contained herein regarding transfer of the IM-3 Site Property is contingent upon obtaining any and all regulatory approvals that might be required in connection with such activities. Within thirty (30) days of the entry of the order approving this Agreement, PG&E will

apply to the CPUC and any other agency with potential regulatory authority for approval of transfer and will use its best efforts to expeditiously obtain any such approvals or a determination that no such approval is required.

4. During the life of the easement described in Paragraph VII.C.2, the Tribe agrees not to transfer title to the IM-3 property into trust with the federal government, and during said time, PG&E will continue to be responsible for the payment of any taxes or assessments on the IM-3 Site. PG&E shall not be required to pay any rent or other charges to the Tribe for the use of the IM-3 property under the easement.

D. Topock Compressor Station

1. In the event that as part of the final remedy a treatment plant is required at the Compressor Station site, PG&E will consult with the Tribe on ways to avoid and mitigate the visual and other impacts of the new treatment plant.

2. PG&E will agree to timely and meaningful consultation with the Tribe on any proposed expansion or material modification to the Topock Compressor Station.

3. PG&E will execute the Topock Compressor Option Agreement attached hereto as Attachment 2, and which shall become effective upon entry of the Stipulated Judgment of the Court incorporating this Agreement. This Agreement provides the Tribe with the option of purchasing the Topock Compressor Station Site “as is,” at fair market value for undeveloped land, upon cessation and removal of station operations.

4. The Parties recognize that any modifications or sale of the Topock Compressor Station Site to the Tribe will be subject to approval by the CPUC and, potentially, other regulatory authorities. Accordingly, the commitments contained herein regarding transfer of title, modifications, expansion and/or sale of the Topock Compressor Station Site may be contingent upon obtaining any and all regulatory approvals that might be required in connection with such activities. PG&E will use its best efforts to expeditiously obtain any such approvals.

**VIII. PG&E – TRIBAL CONSULTATION**

A. PG&E will timely and meaningfully consult with the Tribe and will honor Tribal concerns to the maximum extent practicable.

B. PG&E will ensure that all non-attorney-client privileged material information, documentary or otherwise, is provided to the Tribe contemporaneously with its receipt or development by PG&E.

**IX. GOVERNMENT-TO-GOVERNMENT CONSULTATIONS**

A. PG&E will use its best efforts to encourage timely and meaningful government-to-government and other consultations between the Tribes and all State and Federal agencies in connection with actions taken by such agencies in connection with the Topock Site. To facilitate the implementation of government-to-government consultations, PG&E will inform the Tribe in

a direct and timely manner about all material actions relating to the Topock Site in which the Tribe may have an interest.

B. PG&E will also use its best efforts to assist the Tribe in obtaining co-management responsibility with federal agencies for the area in and about the Topock Maze.

## **X. ENHANCED AWARENESS OF TRIBAL SPIRITUAL AND CULTURAL CONCERNS**

A. PG&E, in consultation with the Tribe, will initiate a policy of education, awareness and sensitivity to be followed by its management, employees, workers, consultants, lobbyists and contractors (1) entering the Topock Maze area and any other locations identified by the Tribe as having sacred or cultural significance and (2) representing PG&E's interests relative to the site. To the extent the cost to the Tribe is not otherwise covered by reimbursement, as set forth below, PG&E will reimburse the Tribe for necessary and reasonable costs and expenses associated with implementation of this provision.

B. In connection with the Tribe's participation in the corrective action investigation and remediation that DTSC, federal agencies and PG&E is undertaking at the Topock Compressor Station Site, PG&E will reimburse the Tribe for:

1. The cost of one full-time position with the AhaMakav Culture Society, at a salary level that is consistent with other employees of the AhaMakav Culture Society, for a period of time that shall be the lesser (a) the time necessary for DTSC to approve the final remedy for the Topock Site; or (b) six years. The principal responsibilities of this position shall be to interact with, and to review and analyze the documentation and actions of, DTSC, PG&E and federal, state and local agencies regarding investigative- and remediation-related activities at the Topock Site, including implementation of this Agreement. The Parties agree that this position may be filled only by a Tribal member. The individual holding this position will report to the Director of the AhaMakav Culture Society or the Ft. Mojave Tribal Council, and he or she will have no authority over PG&E operations.

2. In addition to this full-time employee, the Tribe anticipates that some additional, more limited Tribal resources will be needed to enable the Tribe to participate in Topock-related activities. PG&E will reimburse the Tribe reasonable expenses for such supplemental resources, which may include portions of the wages or salary of the Director of the AhaMakav Cultural Society .

3. Reasonable expenses for technical assistance to facilitate the Tribe's evaluation of technical matters involved in the Site. To help reduce unnecessary costs and enhance the efficiency of technical reviews, PG&E will use its best efforts to make its technical experts available to the Tribe to help explain and/or discuss technical issues of special interest to the Tribe.

4. The Tribe's entitlement to reimbursement is contingent upon the submittal of back-up documentation that provides a demonstration that the requested expenses were actually incurred and that they qualify for reimbursement under this Agreement. Such back-up documentation shall be provided at the time that reimbursement requests are submitted to PG&E.

The Tribe shall submit such requests, and documentation, no less than once per year. Requests and documentation shall be submitted to the PG&E Project Manager for the Topock Site. PG&E shall pay any undisputed amounts within thirty (30) days of receipt of the Tribe's reimbursement request. The Parties encourage dialogue between the Tribe and PG&E regarding such requests for reimbursement so that disagreements regarding the nature and scope of reimbursement requests can be avoided. In the event that a reimbursement dispute arises, the dispute resolution procedures set forth under this Agreement shall apply.

5. **Attorneys' Fees.** Nothing in this Agreement shall be interpreted as a release or waiver of the Tribe's right to seek attorneys' fees in this Action.

C. PG&E will issue the following statement within seven (7) days of the execution of this Agreement: "PG&E understands that members of the Fort Mojave Tribe have grave concerns that the development of the IM-3 Site, located in an area sacred to the Tribe, desecrates the cultural and spiritual nature of the larger area. PG&E regrets the spiritual consequences to the Tribe that occurred with the development of the IM-3 Site to avoid contamination of the Colorado River. PG&E regrets our failure to sufficiently understand the Tribe's beliefs, and apologizes. PG&E respects the cultural and spiritual beliefs of the Tribe and has committed to communicate and plan its future actions in a manner that will respect and accommodate those beliefs, as we continue to protect the Colorado River and its spiritual resources in our effort to remediate the environmental conditions associated with historical plant operations."

D. The Parties agree to develop a joint press release which includes the text of the statement and that describes the settlement and that will be provided to the attending press. The statement will be issued publicly and simultaneously by Robert Howard, VP of PG&E and Chairperson Nora McDowell at a joint press conference on a date mutually agreed upon by the Parties to announce that the parties have settled all issues in dispute.

E. PG&E and the Tribe will negotiate in good faith to determine appropriate changes to PG&E's Environment or Environmental Justice policies to ensure future recognition and consideration of the interests of Native Americans, including respect for their sacred places.

## **XI. RELEASE AND WAIVER**

A. This Agreement constitutes a complete and final settlement and is in full satisfaction of all claims asserted by the Tribe against PG&E in the Action. Upon the entry of the Stipulated Judgment incorporating this Agreement, the Tribe and PG&E each hereby releases and forever discharges the other and all of its past, present, and future agents, servants, representatives, employees, officers, directors, affiliates, parents, subsidiaries, partners, predecessors in interest, related entities, attorneys, insurers, successors, heirs and assigns from any and all claims, demands, obligations, actions, causes of action, damages, costs, expenses, claims for punitive damages, and compensation of any nature whatsoever, existing as of the date of execution of this Agreement (the "Claims") relating to IM-3 or the IM-3 Site. Without limiting the generality of the foregoing, this release includes any and all Claims asserted by the Tribe against PG&E in the Action, and any and all Claims relating to IM-3 or the IM-3 Site, regarding the following: (1) the location and future operation of remedial facilities, including but not limited to injection wells and related equipment, monitoring wells, or in situ-related wells

and equipment at the IM-3 Site, not inconsistent with this Agreement; (2) the potential relocation of a treatment plant at the Topock Site, as set out above; (3) any and all claims under the California Environmental Quality Act (“CEQA”), the National Environmental Policy Act (“NEPA”), or state or federal hazardous materials statutes including but not limited to the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), the Resource Conservation and Recovery Act (“RCRA”), the California Hazardous Substance Control Act, and the California Water Code; and (4) any statutory or common law claims relating to or arising out of alleged damage to natural resources, cultural resources, or sacred lands relating to the IM-3 or the IM-3 Site. The Tribe will not cooperate with any other parties or entities that attempt to bring Claims covered by this release and waiver.

## **XII. GENERAL PROVISIONS**

A. No Opposition By Parties. Each Settlement Party hereby agrees not to oppose the Court’s determination that this Agreement was entered into as a good faith settlement of all Claims by the Parties, and not to challenge any provision of this Agreement.

B. Notices. Whenever, under the terms of this Agreement, written notice is required to be given or a report or other document is required to be sent by one Settlement Party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Settlement Party in writing. All notices and submissions shall be considered effective upon receipt, unless otherwise provided. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Agreement with respect to the Settlement Parties.

As to the Tribe:

Chairwoman Nora McDowell  
Fort Mojave Indian Tribe  
500 Merriman Avenue  
Needles, CA 92363

cc to: Courtney Ann Coyle, Esq.  
Held-Palmer House  
1609 Soledad Avenue  
La Jolla, CA 92037-3817

As to PG&E:

Juan Jayo, Esq.  
Office of General Counsel  
Pacific Gas & Electric Company  
77 Beale Street, B30A  
San Francisco, CA 94105  
Mailing address: P.O. Box 7442  
San Francisco, CA 94120

C. Amendments and Modifications. This Agreement may not be amended or modified except in writing, consented to and signed by duly authorized representatives of the Settlement Parties hereto, that states the intent of the Settlement Parties to amend or modify this Agreement.

D. Severability. If any term, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction or rendered by the adoption of a statute or regulation by the United States or the State of California invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

E. Construction. This Agreement was negotiated by the Settlement Parties with advice of counsel, and any ambiguities determined to exist in this Agreement are not to be construed against any Settlement Party. The caption headings for the sections of this Agreement are for convenience only and shall not be considered to limit, amplify or define the terms or provisions hereof.

F. Dispute Resolution. In the event that a dispute arises between the Settlement Parties with respect to the subject matter of this Agreement, the Parties shall attempt in good faith to resolve any such dispute informally, for a period of time not to exceed thirty (30) days, unless such time period is extended by written agreement of the Settlement Parties. If the Parties are unable to resolve a dispute on their own, they agree to consider in good faith seeking the assistance of a mutually acceptable mediator to help resolve the dispute. In the event that a mutually acceptable resolution has not been reached, the Parties may on fifteen (15) days' notice seek redress in the Sacramento County Superior Court. Notwithstanding the foregoing, the Parties may seek preliminary relief from the Court to the extent necessary to preserve the *status quo* pending resolution of any dispute.

G. Compromise and Settlement; Arms-Length Negotiations. This Agreement represents a compromise and settlement of a pending dispute between the Settlement Parties and is the product of arms-length negotiation. The Settlement Parties have read this Agreement carefully and completely, have had the advice and assistance of legal counsel, and have not been influenced to any extent whatsoever by any representations or statements of fact or opinion made by any Settlement Party or its agents other than those contained in this Agreement. The Settlement Parties further agree that this Agreement has been negotiated and executed in good faith and without improper influence by any person.

H. Entire Agreement. This Agreement and the accompanying "Stipulation and Order of Dismissal With Prejudice" constitute the entire agreement of the Settlement Parties. No promises, inducements, or considerations have been offered and accepted or given except as herein set forth. This Agreement supersedes all prior oral or written agreements, negotiations, discussions, understandings and representations between the Settlement Parties hereto and/or their respective counsel with respect to the subject matters covered hereby.

I. Authority. Each person signing this Agreement in a representative capacity hereby expressly warrants that he or she has express authority to legally bind his or her principal and signs this Agreement in such representative capacity on behalf of his or her principal.

J. Execution. This Agreement may be executed in counterparts, with each copy deemed an original, and all such counterparts taken together shall constitute one and the same Agreement.

K. Retention Of Jurisdiction. The Court retains jurisdiction over this matter for the duration of the performance of the terms and provisions of this Agreement for the purpose of (1) enabling any of the Settlement Parties to apply to the Court at any time for such further order necessary to enforce this Agreement, including, without limitation, the Property Transfer, Easement and Escrow Agreement and the transfer-related documents attached as exhibits thereto, the Topock Compressor Option Agreement, and the Topock Compressor Station Purchase and Sale Agreement, and (2) a determination of the entitlement of the Tribe to Attorneys' fees and costs in this Action. The Settlement Parties agree that monetary damages and remedies at law may not be adequate to effectuate both parties' interests in this matter, and that this Agreement shall be specifically enforceable in equity.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their respective authorized representatives.

Dated: \_\_\_\_\_

FORT MOJAVE INDIAN TRIBE

By: \_\_\_\_\_  
Nora McDowell, Chairwoman

Dated: \_\_\_\_\_

PACIFIC GAS & ELECTRIC COMPANY

By: \_\_\_\_\_  
Robert Howard, Vice President  
California Gas Transmission

By: \_\_\_\_\_  
Roger Peters, Senior Vice President

APPROVED AS TO FORM:

LUCE, FORWARD, HAMILTON & SCRIPPS  
LLP

By: \_\_\_\_\_  
Steven P. McDonald  
Attorney for the Fort Mojave Indian Tribe

PACIFIC GAS & ELECTRIC COMPANY

By: \_\_\_\_\_  
Juan Jayo  
Attorney for Pacific Gas & Electric Company

2097461.12

Advice 2799-G

Attachment 3

**NOTICE OF EXEMPTION**

**To:** Office of Planning and Research  
State Clearinghouse  
P.O. Box 3044, 1400 Tenth Street, Room 212  
Sacramento, CA 95812-3044

**From:** Department of Toxic Substances Control  
Hazardous Waste Management Program  
Geology, Permitting, and Corrective Action  
Branch  
5796 Corporate Avenue  
Cypress, CA 90630

**Project Title:** Interim Measures #3 Emergency Groundwater Extraction and Management at Pacific Gas and Electric Company, Topock Compressor Station

**Project Location – Specific:** Topock Compressor Station, near Needles

**Project Location – City:** Unincorporated

**Project Location – County:** San Bernardino

**Description of Project:****Background**

In February 2004, Department of Toxic Substances Control (DTSC) directed Pacific Gas and Electric Company (PG&E) to initiate immediate pumping, transport, and disposal of groundwater at the Topock site to ensure that groundwater containing chromium does not reach the Colorado River. Due to the influence of the Colorado River stage on groundwater levels (as described below), extracting groundwater at higher rates will be necessary to maintain the stated goal of hydraulic control. The stage in the Colorado River at the Topock site fluctuates (both daily and seasonally) in response to variations in the amount of water released by Davis Dam, located approximately 30 miles upstream.

Over the course of a year, river levels can fluctuate by as much as seven feet. Groundwater levels in wells near the river fluctuate in response to the river levels. The river provides recharge to the groundwater during times of rising river levels. During times of declining river levels, groundwater discharges to the river. For the current year 2004, the river levels will begin to decline in June and will continue to decline steadily through October. Beginning with the June 2004 decrease in river stage, the lowest river levels will occur in the period from October 2004 through January 2005. During the period of declining and low river levels, groundwater within the aquifer will tend to flow toward the river.

The pumping of the chromium plume at the MW-20 bench began in March, coincident with the period of rising river levels. During the spring, a pumping rate of approximately 20 gallons per minute was sufficient to maintain gradients away from the river. As the river levels begin to decline, the pumping rate must increase to overcome the natural tendency of the groundwater to flow toward the river. Space and treatment capacity limitations at the MW-20 bench make necessary the installation of additional facilities to extract, treat and manage the significantly higher groundwater flows required to maintain hydraulic control of the plume near the Colorado River.

**Project Activities**

Based on groundwater modeling projections by PG&E, extraction at approximately 130 gallons per minute (gpm) from the TW-2 extraction well will be required to provide an inward gradient during month of highest groundwater discharge rates (October 2004). The critical elements for this proposed project are the piping, conveyance of groundwater, construction of temporary treatment facilities, and development of a disposal method for the treated water.

Piping would be installed from the MW-20 bench to a proposed treatment facility on a parcel of land currently owned by the Metropolitan Water District (MWD) with San Bernardino County Assessor's parcel number 650-151-06. The proposed main piping and conveyance alignment for the project follows existing access roads and will avoid impact to the Topock Maze, other artifacts and historic features including Route 66. Buried piping would be placed in trenches except where aboveground crossings are necessary. Trenching along the roadway will minimize the disturbance to the hill sides and slopes around the MW-20 bench. The two effluent water lines to be contained in the trench would convey extracted water to the treatment system and pipe the treated water and reverse osmosis concentrate (brine stream) from the treatment facility to the discharge location and/or back to the MW-20 bench for off-site management.

The treatment process is a continuous process involving chromium (VI) reduction with ferrous chloride, precipitation with sodium hydroxide, and solids removal in a clarifier and microfilter. The resulting water will be polished with reverse osmosis equipment to reduce the amount of salt (measured as total dissolved solids) occurring naturally in the extracted groundwater for broader water reuse options. The reverse osmosis (RO) process produces two end streams: the RO permeate (low salt stream) and the RO concentrate or brine stream (high salt). The RO permeate stream can be reused for industrial process supply, injected back into the ground, or possibly discharged into the river. It is anticipated that the treatment process will comprise three modular treatment units with capacity of 20-30 gpm, 50-60 gpm, and 50-60 gpm. Each modular treatment system can be brought on line as flow increases throughout the year and shut down as flow requirements decrease.

PG&E proposes to inject the treated groundwater to minimize physical disturbance of the land and/or discharge the treated water back into the river under a National Pollutant Discharge Elimination System (NPDES) permit. Optionally, PG&E may reuse a portion of the treated water at the compressor station. The proposed injection well field location is near the southwest corner of Parcel 650-151-06.

Approval of the additional Interim Measure is subject to conditions that require additional workplans be submitted to DTSC for review and concurrence prior to construction activities or implementation. These include:

- Submittal of plans for interim increased pumping rates and batch treatment at the MW-20 bench area.
- A diagram of the route of the pipeline and submittal of a biological and cultural resource study that indicates that any resources have been avoided to the degree feasible.
- A study that evaluates additional extraction well locations and their sphere of influence.
- Additional design details on the continuous treatment system.
- A design and feasibility study that evaluates injection points for treated water and the capacity of these wells to meet the outputs of the treatment system.
- A study that evaluates the influence of injection and extraction on the existing groundwater plume.
- Design to permissible and implementable level for both alternative disposal methods for treated water, specifically the reuse for cooling water and discharge via NPDES permit directly to the Colorado River.
- Verification of the acquisition of the necessary property, easements and permits for the necessary activities from affected landowners and jurisdictions.

Name of Public Agency Approving Project: Department of Toxic Substances Control

Name of Person or Agency Carrying Out Project: Pacific Gas and Electric Company

**Exempt Status:** (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(A));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: \_\_\_\_\_
- Statutory Exemptions. State code number: \_\_\_\_\_
- General Rule (Sec. 15061(b)(3))

Exemption Title: Title 14, Section 15269(c) Actions necessary to prevent an emergency.

**Reasons Why Project is Exempt:**

These project activities are necessary to prevent or mitigate an emergency situation wherein the waters of the Colorado River may be impacted with a hazardous constituent, chromium, which is in contaminated groundwater in close proximity to the river. Immediate action is necessary to contain and reverse the flow of groundwater away from the Colorado River. Commencement of the development of additional extraction, treatment, and treated water disposal capacity is urgent to assure that increased pumping rates will be available to respond to impending fluctuations of the Colorado River level.

Cultural and biological resource screening has been conducted to avoid impacts to sensitive areas. Regulatory agency permitting requirements will be addressed for the activities; however, expedited or emergency consideration will be sought. Local standards will be considered during project design.

Emergency approvals will not preclude DTSC from requiring additional interim measures and remedy changes or requiring additional environmental analysis for selection of a final remedy. The goal of the emergency approvals is to stabilize and control the problem to allow a return to the normal corrective measures evaluation and approval process.

Norman Shopay, Project Manager  
Lead Agency Contact Person

( 510 ) 540-3943  
Phone #

*Karen Thomas Baker*  
DTSC Branch Chief Signature

6/30/04  
Date

Karen T. Baker, CHG, CEG,  
DTSC Branch Chief Name

Chief, Geology, Permitting, and Corrective  
Action Branch  
DTSC Branch Chief Title

**TO BE COMPLETED BY OPR ONLY**

Date Received For Filing and Posting at OPR: \_\_\_\_\_

Advice 2799-G

Attachment 4

**LD 3107-24-0050**

2005148 (22-05-178) 12 05 2  
Sale of Topock Compressor Station  
Property, Needles

RECORDING REQUESTED BY AND RETURN TO:

**FORT MOJAVE INDIAN TRIBE**  
**Tribal Administration**  
**500 Merriman Avenue**  
**Needles, California 92363-2229**  
**Attention: Nora McDowell, Chairperson**

Location: City/Uninc \_\_\_\_\_

Recording Fee \_\_\_\_\_

Document Transfer Tax \$ \_\_\_\_\_

- Computed on Full Value of Property Conveyed, or
- Computed on Full Value Less Liens & Encumbrances  
Remaining at Time of Sale

\_\_\_\_\_  
Signature of declarant or agent determining tax

**GRANT DEED**

PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, hereinafter called PG&E, hereby grants to FORT MOJAVE INDIAN TRIBE, the real property situate in the unincorporated area of the County of San Bernardino, State of California, described as follows:

(APN 0650-151-06)

The real property conveyed by The Metropolitan Water District of Southern California to Pacific Gas and Electric Company by deed dated September 9, 2004 and recorded as Recorder's Serial Number 2004-0712653 in the Official Records of San Bernardino County, and therein described as follows:

"The south half of the northwest quarter of the southwest quarter; the southwest quarter of the southwest quarter; the west half of the southeast quarter of the southwest quarter; the southeast quarter of the southeast quarter of the southwest quarter and that portion of Lot 4 described as follows: Beginning at the southwest corner of said Lot 4; thence north along the west line thereof, 660.00 feet; thence east parallel with and 660.00 feet north of the south line thereof, 660.00 feet; thence south parallel with and 660.00 feet east of the west line thereof 660.00 feet to an intersection with the south boundary of said Lot; thence west along the south line thereof, 660.00 feet to the place of beginning, all being of Section 5, Township 7 North, Range 24 East, San Bernardino Meridian, in the County of San Bernardino, State of California; EXCEPTING therefrom that portion conveyed to the State of California by Grant Deed recorded January 30, 1947 in Book 1954, Page 493 of Official Records of said County of San Bernardino."

MAIL TAX STATEMENTS TO:

Name	Address	Zip

The real property hereby conveyed is no longer necessary or useful to PG&E in the performance by it of its duties to the public.

The California Public Utilities Commission, in Decision No. \_\_\_\_\_, has approved transfer of this property under Public Utilities Code Section 851.

Dated \_\_\_\_\_, 20\_\_\_\_.

PACIFIC GAS AND ELECTRIC COMPANY,  
a California corporation

By \_\_\_\_\_  
William H. Harper  
Vice President  
Strategic Sourcing and Operations Support

Attested \_\_\_\_\_

Area 4, San Joaquin Valley Region, Kern Division  
Land Service Office: GO  
Operating Department:  
T7N, R24E, SBB&M  
Sec 5, SW4, SW4ofSE4  
PG&E Drawing Number:  
AF: 3107-24-0049  
TYPE OF INTEREST: 11f  
SBE Parcel Number: 135-36-033-Pcl 1  
Order #: 8061116  
JCN: 22-05-178  
County: San Bernardino  
Prepared By: TEP  
Revised: TEP (10-23-06)

Advice 2799-G

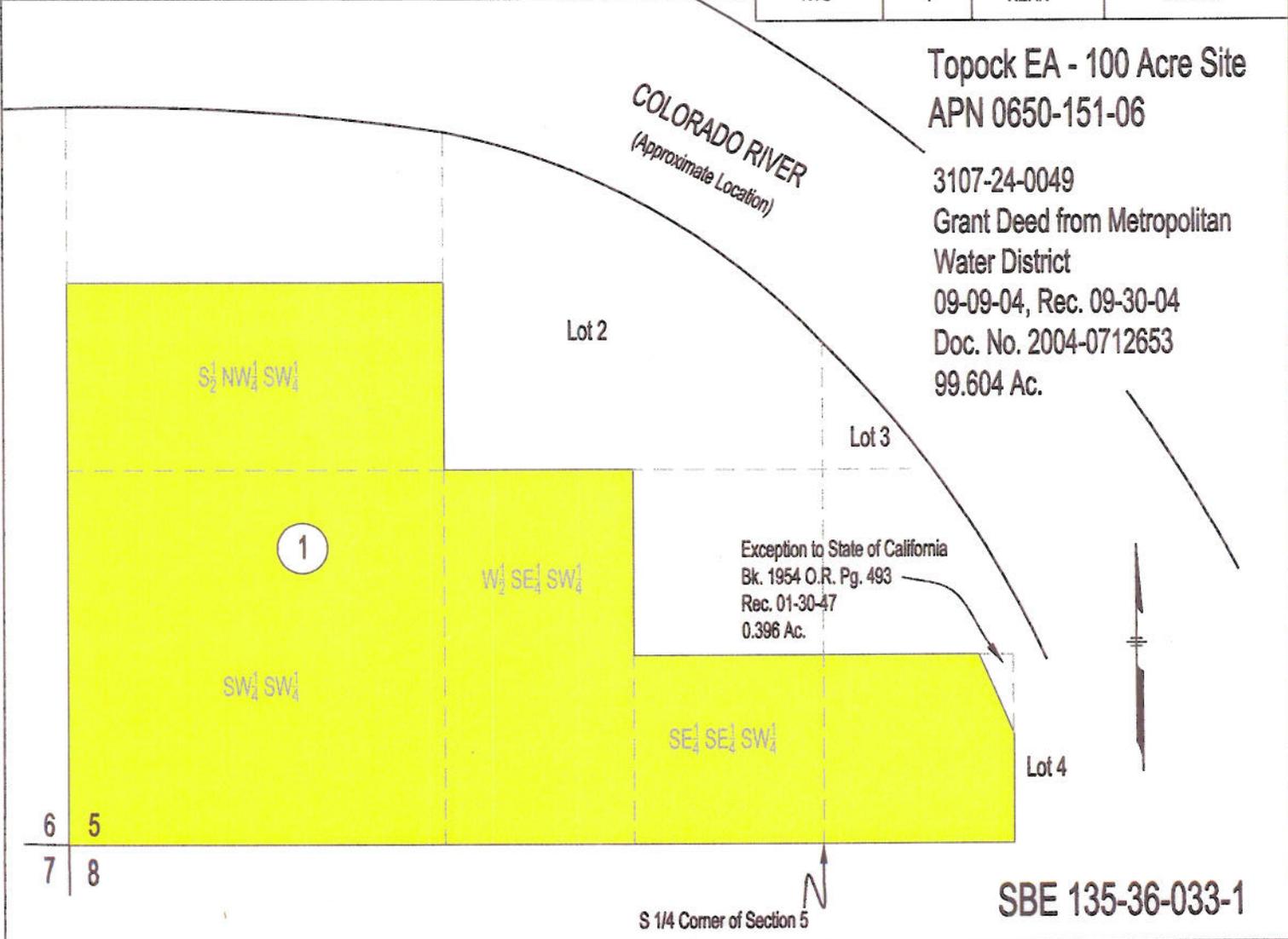
Attachment 5

# PACIFIC GAS AND ELECTRIC COMPANY

San Francisco, California



TOWNSHIP	RANGE	SECTION	MERIDIAN
7N	24E	5	SBB&M
COUNTY OF SAN BERNARDINO			
CALIFORNIA COORDINATES		LEGEND	
ZONE		△	CALCULATED COORD
E.		⊕	SCALED COORD
N.			
U.S.G.S. QUAD TOPOCK 0			
CITY, RANCHO, SUBDIVISION, ETC.			
SCALE	AREA	DIVISION	DATE LAST CHANGED
NTS	4	KERN	12-23-04



Topock EA - 100 Acre Site  
APN 0650-151-06

3107-24-0049  
Grant Deed from Metropolitan  
Water District  
09-09-04, Rec. 09-30-04  
Doc. No. 2004-0712653  
99.604 Ac.

Exception to State of California  
Bk. 1954 O.R. Pg. 493  
Rec. 01-30-47  
0.396 Ac.

SBE 135-36-033-1

Advice 2799-G

Attachment 6

ESC# 2612005430

OLD REPUBLIC  
2607026863-SS

Recorded in Official Records, County of San Bernardino

9/30/2004  
8:00 AM  
LMJ



LARRY WALKER  
Auditor/Controller - Recorder

789 Old Republic Title - Glendale

RECORDING REQUESTED BY  
AND WHEN RECORDED, MAIL TO

Doc#: 2004-0712653

Titles: 1 Pages: 8

Richard Echols  
PACIFIC GAS AND ELECTRIC COMPANY  
P.O. Box 770000,  
Tax Department, B11A  
San Francisco, California 94177  
MAIL TAX STATEMENTS TO



Fees	37.00
Taxes	** Conf **
Other	0.00
PAID	\$37.00

3107-24-0049

Same as above  
0650-151-06-0-000

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

The undersigned grantor(s) declare(s):  
Documentary Transfer Tax is not shown pursuant to  
Section 11932 of the Revenue and Taxation Code, as amended

consideration  
\$60,000.00

MWD Parcel No. 1-23-5A  
San Bernardino County Assessor's Parcel No. 0650-151-06

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, a public corporation, hereby GRANTS to PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, the real property located in the County of San Bernardino, State of California, and described on Exhibit A and shown on Exhibit B attached hereto and incorporated herein;

RESERVING to THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA the right to repurchase the real property on the terms set forth in Sections 17 and 18 of the Purchase and Sale Agreement dated September 9, 2004, by and between THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA and PACIFIC GAS AND ELECTRIC COMPANY, which Sections are attached hereto as Exhibit C and incorporated herein.

Dated: 9/9/04

THE METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA

Ronald R. Gastelum  
General Manager

By:

Roy L. Wolfe  
Manager, Corporate Resources

Area 4 (Kern)  
Bakersfield LSO  
Gas  
T. 7N., R 24 E SB B&M  
Section 5 SW & SW/SE  
Fee  
Order No. 3000143  
San Bernardino Co.



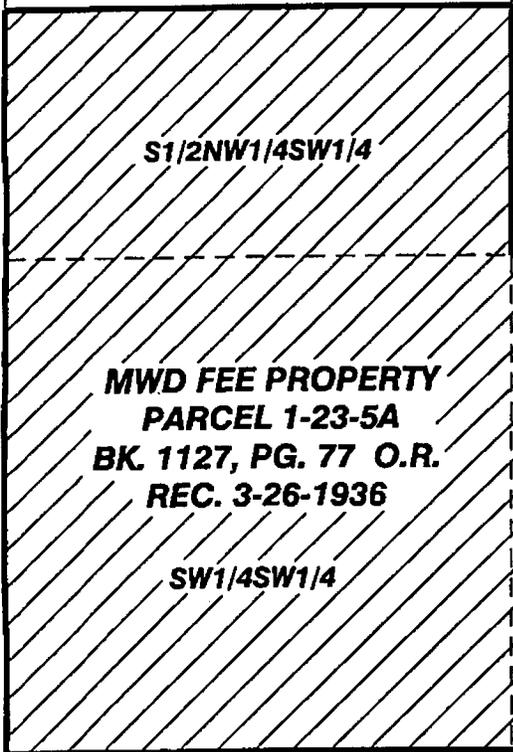
# EXHIBIT B

SECT. 5, T. 7 N., R. 24 E., S.B.M.  
COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA  
THIS EXHIBIT IS TO BE ATTACHED TO THE LEGAL DESCRIPTION

COLORADO RIVER  
(APPROXIMATE LOCATION)

LOT 2

LOT 3



## Sec. 5

**EXCEPTION**  
Grant Deed MWD to  
State of California  
Bk. 1954, Pg. 493 O.R.  
Rec. 01-30-1947

W1/2SE1/4SW1/4

SE1/4SE1/4SW1/4

660'

LOT 4

660'

660'

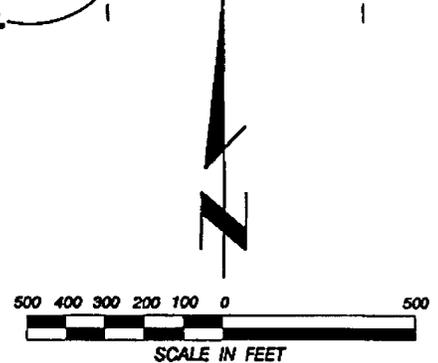
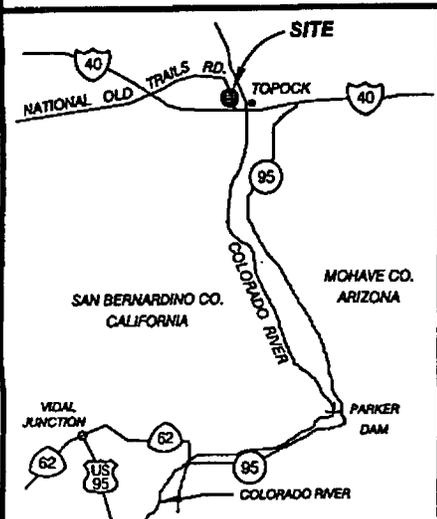
660'

S1/4 Cor.



**GRANT DEED  
PACIFIC GAS & ELECTRIC CO.  
1-23-5A (PORTION)**

VICINITY MAP



PREPARED UNDER  
MY SUPERVISION

*Paul M. Ogilvie*  
PAUL M. OGILVIE P.L.S. 6439

6-22-2004  
DATE

THE METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA  
COLORADO RIVER AQUEDUCT  
TOPOCK PROPERTIES  
**GRANT DEED**  
MWD  
TO  
PACIFIC GAS & ELECTRIC COMPANY  
MWD PARCEL 1-23-5A (PORTION)

EXHIBIT A

1-23-5A (Portion)  
Grant Deed  
MWD to  
Pacific Gas & Electric Company

The south half of the northwest quarter of the southwest quarter; the southwest quarter of the southwest quarter; the west half of the southeast quarter of the southwest quarter; the southeast quarter of the southeast quarter of the southwest quarter and that portion of Lot 4 described as follows: Beginning at the southwest corner of said Lot 4; thence north along the west line thereof, 660.00 feet; thence east parallel with and 660.00 feet north of the south line thereof, 660.00 feet; thence south parallel with and 660.00 feet east of the west line thereof 660.00 feet to an intersection with the south boundary of said Lot; thence west along the south line thereof, 660.00 feet to the place of beginning, all being of Section 5, Township 7 North, Range 24 East, San Bernardino Meridian, in the County of San Bernardino, State of California.

EXCEPTING therefrom that portion conveyed to the State of California by Grant Deed recorded January 30, 1947 in Book 1954, Page 493 of Official Records of said County of San Bernardino.

All as shown on Exhibit B attached hereto and made a part hereof.

END OF DESCRIPTION



PREPARED UNDER MY SUPERVISION

Paul M. Ogilvie  
Paul M. Ogilvie, P.L.S. 6439

Date: 6-22-2004

## EXHIBIT C

### PURCHASE AND SALE AGREEMENT SECTIONS 17 AND 18

17. Right of First Negotiation. As further consideration for the sale of the Land, Seller shall have a right of first negotiation to repurchase the Land in accordance with, and subject to, the terms and conditions set forth in this Section 17.

17.1 Notice of Sale. Except as provided in Section 17.3(d) below, if at any time after the Close of Escrow, Buyer decides to sell the Land or any portion thereof ("Sale Parcel") to a third party, before entering into a binding sales agreement with a third party, Buyer shall notify Seller in writing ("Sale Notice") of Buyer's decision to sell the Sale Parcel. If Seller is interested in purchasing the Sale Parcel identified in the Sale Notice, Seller must give Buyer written notice of such interest ("Notice of Interest") within thirty (30) days after receipt of the Sale Notice. If Seller fails to deliver a Notice of Interest to Buyer within the thirty (30) day period, then (i) Seller shall conclusively be deemed to have elected not to enter into negotiations to purchase the Sale Parcel, (ii) the right of first negotiation contained herein shall automatically terminate, (iii) upon request by Buyer, Seller shall execute and deliver to Buyer a quitclaim deed releasing the interest created by this Section 17, and (iv) Buyer shall be free to negotiate at any time and from time to time with one or more third parties to sell the Sale Parcel on such terms and conditions as Buyer shall determine in its sole and absolute discretion.

17.2 Purchase Terms. If Seller timely delivers a Notice of Interest to Buyer, then Seller shall have the right to purchase the Sale Parcel from Buyer at the fair market value of the Sale Parcel at the time of Seller's purchase. The fair market value shall be established by mutual agreement of Seller and Buyer; provided, however, if Seller and Buyer cannot agree on the fair market value within thirty (30) days after Buyer's receipt of a Notice of Interest, then either party may elect, by delivering written notice to the other, to have the fair market value determined by an appraisal of the Sale Parcel prepared by a California licensed real property appraiser mutually acceptable to Buyer and Seller. If the parties cannot agree on an appraiser they shall each select one appraiser and the two selected appraisers shall agree on an independent third appraiser who shall be the appraiser to determine the fair market value. Seller shall pay the cost of the appraisal. The terms of the purchase shall be the same as the terms of this Agreement, with the following exceptions: (1) the purchase price shall be the fair market value of the Sale Parcel as established by mutual agreement or by the appraisal; (2) the term of the escrow shall be ninety (90) days during which Seller shall have the right to access and inspect the Sale Parcel; (3) each of the rights, obligations, covenants and warranties of Seller herein shall be assumed by Buyer, and each of the rights, obligations, covenants and warranties of Buyer herein shall be assumed by Seller; provided, however, the parties shall revise the representations and warranties set forth in Section 9 to make the representations and warranties accurate as of the date of such agreement; and (4) if Buyer determines, in Buyer's sole and absolute discretion, that the approval

("Governmental Approval") of the California Public Utilities Commission ("CPUC") will be required as a condition precedent to Buyer's sale of the Sale Parcel, then the obligation of each party to close the sale of the Sale Parcel shall be conditioned upon obtaining such Governmental Approval at or prior to the close of escrow.

### 17.3 General Terms.

(a) The right of first negotiation contained in this Agreement is personal to The Metropolitan Water District of Southern California, and shall not be transferable or assignable to any person or entity. The obligation of first negotiation contained in this Agreement shall not run with the Land, but shall bind Pacific Gas and Electric Company and any PG&E Affiliate (as defined in Section 17.3(c)) that acquires title to the Land. The right of first negotiation contained in this Agreement is a one-time right with respect to any Sale Parcel. Seller's right of first negotiation contained in this Section 17 shall survive the recording of the Grant Deed.

(b) If the parties have not executed a binding purchase and sale agreement for the Sale Parcel within sixty (60) days after Buyer's receipt of the Notice of Interest (or within ninety (90) days if the fair market value of the Sale Parcel is being determined by an appraisal), or if the sale of the Sale Parcel pursuant to a purchase and sale agreement executed by the parties shall fail to close for any reason except a default by Buyer thereunder for which Seller seeks specific performance, then (i) Seller shall have no further rights of negotiation under this Agreement with respect to the Sale Parcel, (ii) the right of first negotiation contained herein shall automatically terminate with respect to the Sale Parcel, (iii) Seller shall execute and deliver to Buyer a quitclaim deed releasing the interest created by this Section 17, and (iv) Buyer shall be free to negotiate at any time and from time to time with one or more third parties to sell the Sale Parcel upon terms and conditions acceptable to Buyer in its sole and absolute discretion.

(c) The right of first negotiation contained in this Agreement shall only apply in the event of a voluntary transfer to a bona fide third party for value. Without limiting the generality of the foregoing, the right of first negotiation shall not apply to a transfer of all or any portion of the Land to (i) any governmental entity (including, but not limited to the United States of America or any federal entity, the State of California, or any city, county, city and county, district, or other state or local governmental entity authorized to acquire and hold title to real property), (ii) a conservation entity, or (iii) a PG&E Affiliate. For purposes of this Agreement, the term "PG&E Affiliate" shall mean (A) PG&E Corporation, a California corporation ("PG&E Corp"), or (B) any corporation, partnership, limited liability company or other business entity that (I) is controlled by PG&E Corp or Buyer, (II) is the corporation or other business entity resulting from a merger, consolidation, or other non-bankruptcy reorganization with Buyer, (III) acquires control of Buyer or (IV) acquires all or substantially all of the assets of Buyer. For purposes of this Section 17, the term "conservation entity" shall mean a tax-exempt nonprofit organization qualified under Section 501(c)(3) of the Internal Revenue Code and qualified to do business in the State of California, which has as its primary purpose the preservation, protection, or

enhancement of land in its natural, scenic, historical, agricultural, forested, or open-space condition or use.

(d) If the right of first negotiation has not otherwise terminated prior to the twenty-fifth (25th) anniversary of the Close of Escrow, the right of first negotiation shall automatically expire on said date.

18. Seller's Right of Repurchase. As further consideration for the sale of the Land, Seller shall have the right for a period of twenty-five (25) years following the Close of Escrow to repurchase the Land or a portion thereof on the terms and subject to the conditions set forth in this Section 18.

18.1 Repurchase Notice. If, during such twenty-five (25) year period, Seller is interested in repurchasing the Land or any specified portion thereof (the "Repurchase Land"), Seller may give written notice (a "Seller Notice") of such interest to Buyer. Within sixty (60) days after the date of such Seller Notice, Buyer shall give notice to Seller that either (a) Buyer is prepared to sell the Repurchase Land to Seller on the terms set forth in this Section 18 (a "Buyer Notice"), or (b) Buyer, in its reasonable judgment, is using or reasonably anticipates using the Repurchase Land for any business purpose (as defined below) (a "Use Notice"). If Buyer delivers a Use Notice to Seller, then Seller shall not deliver another Seller Notice to Buyer prior to one (1) year after the date of the Use Notice.

18.2 Repurchase Terms. If Buyer delivers a Buyer Notice to Seller, then Seller shall have the right to repurchase the Repurchase Land from Buyer at the fair market value of the Repurchase Land at the time of repurchase. The fair market value shall be established by mutual agreement of Seller and Buyer; provided, however, if Seller and Buyer cannot agree on the fair market value within thirty (30) days after Buyer's delivery of a Buyer Notice, then either party may elect, by delivering written notice to the other, to have the fair market value determined by an appraisal of the Repurchase Land prepared by a California licensed real property appraiser mutually acceptable to Buyer and Seller. If the parties cannot agree on an appraiser they shall each select one appraiser and the two selected appraisers shall agree on an independent third appraiser who shall be the appraiser to determine the fair market value. Seller shall pay the cost of the appraisal. The terms of the repurchase shall be the same as the terms of this Agreement, with the following exceptions: (1) the purchase price shall be the fair market value of the Repurchase Land as established by mutual agreement or by the appraisal; (2) the term of the escrow shall be ninety (90) days during which Seller shall have the right to access and inspect the Repurchase Land; (3) each of the rights, obligations, covenants and warranties of Seller herein shall be assumed by Buyer, and each of the rights, obligations, covenants and warranties of Buyer herein shall be assumed by Seller; provided, however, the parties shall revise the representations and warranties set forth in Section 9 to make the representations and warranties accurate as of the date of such agreement; and (4) if Buyer determines, in Buyer's sole and absolute discretion, that Governmental Approval of the CPUC will be required as a condition precedent to Buyer's sale of the Repurchase Land, then the obligation of each party to

close the sale of the Repurchase Land shall be conditioned upon obtaining such Governmental Approval at or prior to the close of escrow.

18.3 General Terms.

(a) The right of repurchase contained in this Section 18 is personal to The Metropolitan Water District of Southern California, and shall not be transferable or assignable to any person or entity. The obligation contained in this Section 18 shall bind Pacific Gas and Electric Company and any PG&E Affiliate that acquires title to the Land.

(b) Seller's right of repurchase contained in this Section 18 shall survive the recording of the Grant Deed. Seller's right of repurchase shall not run with the Land, and, upon any transfer, except a transfer to a PG&E Affiliate, by Buyer of any portion of the Land, Seller's repurchase right shall terminate with respect to such portion of the Land transferred.

(c) As used in this Section 18, the term "business purpose" shall mean any business purpose, whether related to Buyer's utility business or otherwise, and shall include, but not be limited to, remediation (including remediation of property other than the Land), mitigation and conservation purposes.

Policy Number **FTY 456255**

attach to  
3107-24-0049



SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, A Minnesota corporation, herein called the Company, insures, as of Date of Policy shown

in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
  2. Any defect in or lien or encumbrance on the title;
  3. Unmarketability of the title;
  4. Lack of a right of access to and from the land;
- and in addition, as to an insured lender only:
5. The invalidity or unenforceability of the lien of the insured mortgage upon the title;
  6. The priority of any lien or encumbrance over the lien of the insured mortgage, said mortgage being shown in Schedule B in the order of its priority;
  7. The invalidity or unenforceability of any assignment of the insured mortgage, provided the assignment is shown in Schedule B, or the failure of the assignment shown in Schedule B to vest title to the insured mortgage in the named insured assignee free and clear of all liens.

The Company will also pay the costs, attorneys' fees and expenses incurred in defense of the title or the lien of the insured mortgage, as insured, but only to the extent provided in the Conditions and Stipulations.

Issued through the office of:

**OLD REPUBLIC TITLE COMPANY**  
450 N. Brand Blvd., 8th Floor  
Glendale, CA. 91203-2306  
(800) 228-4853

*[Handwritten Signature]*

Authorized Signature  
CLTA Standard Coverage Policy 1990  
ORNT 1101

Old Republic National Title Insurance Company  
400 Second Avenue South  
Minneapolis, Minnesota 55407

By *[Handwritten Signature]* Preside  
Attest *[Handwritten Signature]* Secreta

## EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building or zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.

(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.

2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.

3. Defects, liens, encumbrances, adverse claims or other matters:

(a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;

(b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;

(c) resulting in no loss or damage to the insured claimant;

(d) attaching or created subsequent to Date of Policy; or

(e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.

4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable doing business laws of the state in which the land is situated.

5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.

6. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

## CONDITIONS AND STIPULATIONS

### 1. *Definition of Terms.*

The following terms when used in this policy mean:

(a) "insured": the insured named in Schedule A, and, subject to any rights or defenses the Company would have had against the named insured, those who succeed to the interest of the named insured by operation of law as distinguished from purchase including, but not limited to, heirs, distributees, devisees, survivors, personal representatives, next of kin, or corporate or fiduciary successors. The term "insured" also includes (i) the owner of the indebtedness secured by the insured mortgage and each successor in ownership of the indebtedness except a successor who is an obligor under the provisions of Section 12(c) of these Conditions and Stipulations (reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor insured, unless the successor acquired the indebtedness as a purchaser for value without knowledge of the asserted defect, lien, encumbrance, adverse claim or other matter insured against by this policy as affecting title to the estate or interest in the land); (ii) any governmental agency or governmental instrumentality which is an insurer or guarantor under an insurance contract or guaranty insuring or guaranteeing the indebtedness secured by the insured mortgage, or any part thereof, whether named as an insured herein or not; (iii) the parties designated in Section 2(a) of these Conditions and Stipulations.

(b) "insured claimant": an insured claiming loss or damage.

(c) "insured lender": the owner of an insured mortgage.

(d) "insured mortgage": a mortgage shown in Schedule B, the owner of which is named as an insured in Schedule A.

(e) "knowledge" or "known": actual knowledge, not constructive knowledge or notice which may be imputed to an insured by reason of the public records as defined in this policy or any other records which impart constructive notice of matters affecting the land.

(f) "land": the land described or referred to in Schedule [A][C], and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule [A][C], nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but nothing herein shall modify or limit the extent to which a right of access to and from the land is insured by this policy.

(g) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.

(h) "public records": records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge.

(i) "unmarketability of the title": an alleged or apparent matter affecting the title to the land, not excluded or excepted from coverage, which would entitle a purchaser of the estate or interest described in Schedule A or the insured mortgage to be released from the obligation to purchase by virtue of a contractual condition requiring the delivery of marketable title.

### 2. *Continuation of Insurance.*

(a) *After Acquisition of Title by Insured Lender.* If this policy insures the owner of the indebtedness secured by the insured mortgage, the coverage of this policy shall continue in force as of Date of Policy in favor of (i) such insured lender who acquires all or any part of the estate or interest in the land by foreclosure, trustee's sale, conveyance in lieu of foreclosure, or other legal manner which discharges the lien of the insured mortgage; (ii) a transferee of the

(Continued on insert front.)

**SCHEDULE A**

CLTA STANDARD COVERAGE - 1990

POLICY NO.: FTY 456255                      AMOUNT OF INSURANCE: \$60,000.00  
ORDER NO.: 2607026863-55                      PREMIUM: \$700.00

DATE OF POLICY: SEPTEMBER 30, 2004 AT 8:00 A.M.

1. NAME OF INSURED:

PACIFIC GAS AND ELECTRIC COMPANY, A CALIFORNIA CORPORATION.

2. THE ESTATE OR INTEREST REFERRED TO HEREIN IS AT DATE OF POLICY VESTED IN:

PACIFIC GAS AND ELECTRIC COMPANY, A CALIFORNIA CORPORATION.

3. THE ESTATE OR INTEREST IN THE LAND DESCRIBED HEREIN AND WHICH IS COVERED BY THIS POLICY IS:

A FEE

**THIS POLICY IS VALID ONLY IF SCHEDULE B IS ATTACHED.**

## SCHEDULE B

THIS POLICY DOES NOT INSURE AGAINST LOSS OR DAMAGE (AND THE COMPANY WILL NOT PAY COSTS, ATTORNEYS' FEES OR EXPENSES) WHICH ARISE BY REASON OF:

### PART I

1. TAXES OR ASSESSMENTS WHICH ARE NOT SHOWN AS EXISTING LIENS BY THE RECORDS OF ANY TAXING AUTHORITY THAT LEVIES TAXES OF ASSESSMENTS ON REAL PROPERTY OR BY THE PUBLIC RECORDS.  
  
PROCEEDINGS BY A PUBLIC AGENCY WHICH MAY RESULT IN TAXES OR ASSESSMENTS, OR NOTICES OF SUCH PROCEEDINGS, WHETHER OR NOT SHOWN BY THE RECORDS OF SUCH AGENCY OR BY THE PUBLIC RECORDS.
2. ANY FACTS, RIGHTS, INTERESTS OR CLAIMS WHICH ARE NOT SHOWN BY THE PUBLIC RECORDS BUT WHICH COULD BE ASCERTAINED BY AN INSPECTION OF THE LAND OR WHICH MAY BE ASSERTED BY PERSONS IN POSSESSION THEREOF.
3. EASEMENTS, LIENS OR ENCUMBRANCES, OR CLAIMS THEREOF, WHICH ARE NOT SHOWN BY THE PUBLIC RECORDS.
4. DISCREPANCIES, CONFLICTS IN BOUNDARY LINES, SHORTAGE IN AREA, ENCROACHMENTS, OR ANY OTHER FACTS WHICH A CORRECT SURVEY WOULD DISCLOSE, AND WHICH ARE NOT SHOWN BY THE PUBLIC RECORDS.
- 5 (A) UNPATENTED MINING CLAIMS; (B) RESERVATIONS OR EXCEPTIONS IN PATENTS OR IN ACTS AUTHORIZING THE ISSUANCE THEREOF; (C) WATER RIGHTS, CLAIMS OR TITLE TO WATER, WHETHER OR NOT THE MATTERS EXCEPTED UNDER (A), (B), OR (C) ARE SHOWN BY THE PUBLIC RECORDS.

## SCHEDULE B

### PART II

1. TAXES AND ASSESSMENTS, GENERAL AND SPECIAL, FOR THE FISCAL YEAR 2004-2005, A LIEN, BUT NOT YET DUE OR PAYABLE.
  
2. AN EASEMENT AFFECTING THAT PORTION OF SAID LAND AND FOR THE PURPOSES STATED HEREIN AND INCIDENTAL PURPOSES AS PROVIDED IN THE FOLLOWING INSTRUMENT,  
  
GRANTED TO : SOUTHERN PACIFIC LAND COMPANY, A CORPORATION  
FOR : PUBLIC UTILITIES  
RECORDED : NOVEMBER 3, 1928 AS INSTRUMENT NO. 55 IN BOOK  
431 PAGE 42 OFFICIAL RECORDS  
AFFECTS : AS DESCRIBED THEREIN  
  
TERMS AND CONDITIONS CONTAINED IN THE GRANT ABOVE REFERRED TO.
  
3. A RIGHT OF WAY OF LAWFUL WIDTH FOR ANY AND ALL EXISTING AND LAWFULLY ESTABLISHED COUNTY ROADS, AS DISCLOSED IN DEED RECORDED MARCH 26, 1936 AS INSTRUMENT NO. 44 IN BOOK 1127 PAGE 77 OFFICIAL RECORDS.
  
4. WAIVER OF ANY CLAIMS FOR DAMAGES BY REASON OF LOCATION CONSTRUCTION, LANDSCAPING OR MAINTENANCE OF SAID HIGHWAY, AS PROVIDED IN THE DEED;  
  
FROM : THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA  
TO : THE STATE OF CALIFORNIA  
RECORDED : JANUARY 30, 1947 AS INSTRUMENT NO. 191 IN BOOK 1954 PAGE 493, OFFICIAL RECORDS
  
5. SAID LAND DOES NOT APPEAR TO HAVE A RIGHT OF ACCESS TO OR FROM SAID LAND.
  
6. TERMS AND PROVISIONS AS CONTAINED IN AN INSTRUMENT,  
  
ENTITLED : GRAND DEED  
EXECUTED BY : THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA  
RECORDED : SEPTEMBER 30, 2004 AS INSTRUMENT NO. 04-0712653, OFFICIAL RECORDS  
  
WHICH AMONG OTHER THINGS, PROVIDES : THE RIGHT TO REPURCHASE THE REAL PROPERTY.

## SCHEDULE C

THE LAND REFERRED TO IN THIS POLICY IS SITUATED IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, THE WEST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER, THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 7, NORTH, RANGE 24 EAST, SAN BERNARDINO BASELINE, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AND THAT PORTION OF LOT 4 OF SAID SECTION DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT FOUR (4); THENCE NORTH ALONG THE WEST LINE THEREOF, SIX HUNDRED SIXTY AND 00/100 (660.00) FEET; THENCE EAST PARALLEL WITH AND SIX HUNDRED SIXTY AND 00/100 (660.00) FEET NORTH OF THE SOUTH LINE THEREOF, SIX HUNDRED SIXTY AND 00/100 (660.00) FEET; THENCE SOUTH PARALLEL WITH AND SIX HUNDRED SIXTY AND 00/100 (660.00) FEET EAST OF THE WEST LINE THEREOF SIX HUNDRED SIXTY AND 00/100 (660.00) FEET TO THE INTERSECTION WITH THE SOUTH BOUNDARY OF SAID LOT; THENCE WEST ALONG THE SOUTH LINE THEREOF, SIX HUNDRED SIXTY AND 00/100 (660.00) FEET TO THE PLACE OF BEGINNING.

EXCEPT ALL THAT PORTION OF SAID LOT 4, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, BY DEED RECORDED MARCH 26, 1936, IN BOOK 1127 PAGE 77, OFFICIAL RECORDS OF SAID COUNTY; THENCE SOUTH  $89^{\circ} 02' 08''$  WEST, ALONG THE NORTH LINE OF SAID PARCEL, 118.63 FEET; THENCE SOUTH  $23^{\circ} 08' 45''$  EAST, 301.59 FEET TO A POINT IN THE EAST LINE OF SAID PARCEL OF LAND, DISTANT THEREON SOUTH  $0^{\circ} 00' 47''$  WEST, 279.31 FEET FROM THE NORTHEAST CORNER THEREOF; THENCE NORTH  $0^{\circ} 00' 47''$  EAST, ALONG THE EAST LINE OF SAID PARCEL 279.31 FEET, TO THE POINT OF BEGINNING.

*Description oked  
by Engo/Doc Writer  
10-20-04*

**ENDORSEMENT**

**OLD REPUBLIC NATIONAL  
TITLE INSURANCE COMPANY**

A CORPORATION, OF MINNEAPOLIS, MINNESOTA

THE COMPANY HEREBY INSURES THE INSURED AGAINST LOSS OR DAMAGE WHICH THE INSURED SHALL SUSTAIN BY REASON OF:

THE ENFORCEMENT OR ATTEMPTED ENFORCEMENT OF ANY COVENANT, CONDITION OR RESTRICTION THAT UNLAWFULLY LIMITS THE USE, OCCUPANCY OR OWNERSHIP OF THE LAND ON THE BASIS OF SEX, COLOR, RACE, RELIGION, ANCESTRY, NATIONAL ORIGIN, FAMILIAL STATUS, MARITAL STATUS OR DISABILITY.

THIS ENDORSEMENT IS MADE A PART OF THE POLICY AND IS SUBJECT TO ALL OF THE TERMS AND PROVISIONS THEREOF AND OF ANY PRIOR ENDORSEMENTS THERETO. EXCEPT TO THE EXTENT EXPRESSLY STATED, IT NEITHER MODIFIES ANY OF THE TERMS AND PROVISIONS OF THE POLICY AND ANY PRIOR ENDORSEMENTS, NOR DOES IT EXTEND THE EFFECTIVE DATE OF THE POLICY AND ANY PRIOR ENDORSEMENTS, NOR DOES IT INCREASE THE FACE AMOUNT THEREOF.

**OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY**  
A Corporation  
400 Second Avenue South, Minneapolis, Minnesota 55401  
(612) 371-1111

Countersigned  
By: *Sakuntalajen*  
Validating Office

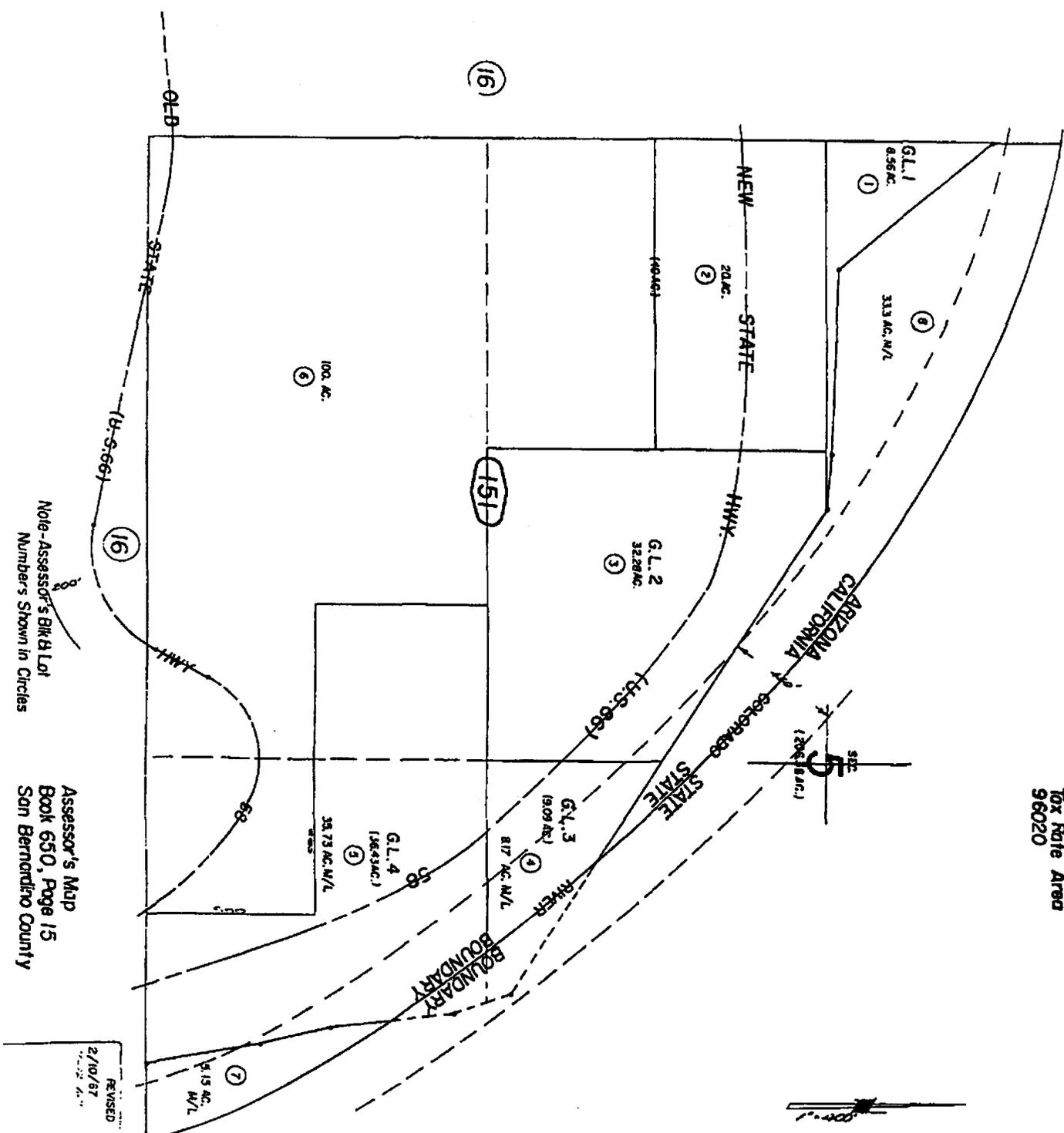
By:  President  
Attest:  Secretary



SECTION 3, 1 / 4 N.R. 24 E., S.B.R. & M.

Needles Unified  
Tax Rate Area  
96020

650-13



Note - Assessor's Block & Lot  
Numbers Shown in Circles

Assessor's Map  
Book 650, Page 15  
Son Bernardino County

March 1962

REVISED  
2/10/67

*(Continued from inside front cover)*

estate or interest so acquired from an insured corporation, provided the transferee is the parent or wholly-owned subsidiary of the insured corporation, and their corporate successors by operation of law and not by purchase, subject to any rights or defenses the Company may have against any predecessor insureds; and (iii) any governmental agency or governmental instrumentality which acquires all or any part of the estate or interest pursuant to a contract of insurance or guaranty insuring or guaranteeing the indebtedness secured by the insured mortgage.

(b) *After Conveyance of Title by an Insured.* The coverage of this policy shall continue in force as of Date of Policy in favor of an insured only so long as the insured retains an estate or interest in the land, or holds an indebtedness secured by a purchase money mortgage given by a purchaser from the insured, or only so long as the insured shall have liability by reason of covenants of warranty made by the insured in any transfer or conveyance of the estate or interest. This policy shall not continue in force in favor of any purchaser from an insured of either (i) an estate or interest in the land, or (ii) an indebtedness secured by a purchase money mortgage given to an insured.

(c) *Amount of Insurance.* The amount of insurance after the acquisition or after the conveyance by an insured lender shall in neither event exceed the least of:

(i) The amount of insurance stated in Schedule A;

(ii) The amount of principal of the indebtedness secured by the insured mortgage as of Date of Policy, interest thereon, expenses of foreclosure, amounts advanced pursuant to the insured mortgage to assure compliance with laws or to protect the lien of the insured mortgage prior to the time of acquisition of the estate or interest in the land and secured thereby and reasonable amounts expended to prevent deterioration of improvements, but reduced by the amounts of all payments made; or

(iii) The amount paid by any governmental agency or governmental instrumentality, if the agency or the instrumentality is the insured claimant, in the acquisition of the estate or interest in satisfaction of its insurance contract or guaranty.

### 3. *Notice of Claim To Be Given By Insured Claimant.*

An insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in 4(a) below, (ii) in case knowledge shall come to an insured hereunder of any claim of title or interest which is adverse to the title to the estate or interest or the lien of the insured mortgage, as insured, and which might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if title to the estate or interest or the lien of the insured mortgage, as insured, is rejected as unmarketable. If prompt notice shall not be given to the Company, then as to that insured all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any insured under this policy unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

### 4. *Defense and Prosecution of Actions; Duty of Insured Claimant to Cooperate.*

(a) Upon written request by an insured and subject to the options contained in Section 6 of these Conditions and Stipulations, the Company, at its own cost and without unreasonable delay, shall provide for the defense of such insured in litigation in which any third party asserts a claim adverse to the title or interest as insured, but

only as to those stated causes of action alleging a defect, lien or encumbrance or other matter insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of such insured to object for reasonable cause) to represent the insured as to those stated causes of action and shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs or expenses incurred by an insured in the defense of those causes of action which allege matters not insured against by this policy.

(b) The Company shall have the right, at its own cost, to institute and prosecute any action or proceeding or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest or the lien of the insured mortgage, as insured, or to prevent or reduce loss or damage to an insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this policy. If the Company shall exercise its rights under this paragraph, it shall do so diligently.

(c) Whenever the Company shall have brought an action or interposed a defense as required or permitted by the provisions of this policy, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

(d) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding, an insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of such insured for this purpose. Whenever requested by the Company, an insured, at the Company's expense, shall give the Company all reasonable aid (i) in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest or the lien of the insured mortgage, as insured. If the Company is prejudiced by the failure of an insured to furnish the required cooperation, the Company's obligations to such insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

### 5. *Proof of Loss or Damage.*

In addition to and after the notices required under Section 3 of these Conditions and Stipulations have been provided the Company, a proof of loss or damage signed and sworn to by each insured claimant shall be furnished to the Company within 90 days after the insured claimant shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the defect in, or lien or encumbrance on the title, or other matter insured against by this policy which constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of an insured claimant to provide the required proof of loss or damage, the Company's obligations to such insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such proof of loss or damage.

In addition, an insured claimant may reasonably be required to submit to examination under oath by any authorized representative

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of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Policy, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the insured claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of the third party, which reasonably pertain to the loss or damage. All information designated as confidential by an insured claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of an insured claimant to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in the above paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that insured for that claim.

6. *Options to Pay or Otherwise Settle Claims: Termination of Liability.*

In case of a claim under this policy, the Company shall have the following additional options:

(a) *To Pay or Tender Payment of the Amount of Insurance or to Purchase the Indebtedness.*

(i) to pay or tender payment of the amount of insurance under this policy together with any costs, attorneys' fees and expenses incurred by the insured claimant, which were authorized by the Company, up to the time of payment or tender of payment and which the Company is obligated to pay; or

(ii) in case loss or damage is claimed under this policy by the owner of the indebtedness secured by the insured mortgage, to purchase the indebtedness secured by the insured mortgage for the amount owing thereon together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of purchase and which the Company is obligated to pay.

If the Company offers to purchase the indebtedness as herein provided, the owner of the indebtedness shall transfer, assign, and convey the indebtedness and the insured mortgage, together with any collateral security, to the Company upon payment therefor.

Upon the exercise by the Company of the option provided for in paragraph a(i), all liability and obligations to the insured under this policy, other than to make the payment required in that paragraph, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, and the policy shall be surrendered to the Company for cancellation.

Upon the exercise by the Company of the option provided for in paragraph a(ii) the Company's obligation to an insured Lender under this policy for the claimed loss or damage, other than the payment required to be made, shall terminate, including any liability or obligation to defend, prosecute or continue any litigation.

(b) *To Pay or Otherwise Settle With Parties Other than the Insured or With the Insured Claimant.*

(i) to pay or otherwise settle with other parties for or in the name of an insured claimant any claim insured against under this

policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay; or

(ii) to pay or otherwise settle with the insured claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in paragraphs b(i) or b(ii), the Company's obligations to the insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute or continue any litigation.

7. *Determination and Extent of Liability.*

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the insured claimant who has suffered loss or damage by reason of matters insured against by this policy and only to the extent herein described.

(a) The liability of the Company under this policy to an insured lender shall not exceed the least of:

(i) the Amount of Insurance stated in Schedule A, or, if applicable, the amount of insurance as defined in Section 2 (c) of these Conditions and Stipulations;

(ii) the amount of the unpaid principal indebtedness secured by the insured mortgage as limited or provided under Section 8 of these Conditions and Stipulations or as reduced under Section 9 of these Conditions and Stipulations, at the time the loss or damage insured against by this policy occurs, together with interest thereon; or

(iii) the difference between the value of the insured estate or interest as insured and the value of the insured estate or interest subject to the defect, lien or encumbrance insured against by this policy.

(b) In the event the insured lender has acquired the estate or interest in the manner described in Section 2(a) of these Conditions and Stipulations or has conveyed the title, then the liability of the Company shall continue as set forth in Section 7(a) of these Conditions and Stipulations.

(c) The liability of the Company under this policy to an insured owner of the estate or interest in the land described in Schedule A shall not exceed the least of:

(i) the Amount of Insurance stated in Schedule A; or,  
(ii) the difference between the value of the insured estate or interest as insured and the value of the insured estate or interest subject to the defect, lien or encumbrance insured against by this policy.

(d) The Company will pay only those costs, attorneys' fees and expenses incurred in accordance with Section 4 of these Conditions and Stipulations.

8. *Limitation of Liability.*

(a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the land, or cures the claim of unmarketability of title, or otherwise establishes the lien of the insured mortgage, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall

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not be liable for any loss or damage caused thereby.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title, or, if applicable, to the lien of the insured mortgage, as insured.

(c) The Company shall not be liable for loss or damage to any insured for liability voluntarily assumed by the insured in settling any claim or suit without the prior written consent of the Company.

(d) The Company shall not be liable to an insured lender for:

(i) any indebtedness created subsequent to Date of Policy except for advances made to protect the lien of the insured mortgage and secured thereby and reasonable amounts expended to prevent deterioration of improvements; or

(ii) construction loan advances made subsequent to Date of Policy, except construction loan advances made subsequent to Date of Policy for the purpose of financing in whole or in part the construction of an improvement to the land which at Date of Policy were secured by the insured mortgage and which the insured was and continued to be obligated to advance at and after Date of Policy.

#### 9. *Reduction of Insurance; Reduction or Termination of Liability.*

(a) All payments under this policy, except payments made for costs, attorneys' fees and expenses, shall reduce the amount of insurance pro tanto. However, as to an insured lender, any payments made prior to the acquisition of title to the estate or interest as provided in Section 2(a) of these Conditions and Stipulations shall not reduce pro tanto the amount of insurance afforded under this policy as to any such insured, except to the extent that the payments reduce the amount of the indebtedness secured by the insured mortgage.

(b) Payment in part by any person of the principal of the indebtedness, or any other obligation secured by the insured mortgage, or any voluntary partial satisfaction or release of the insured mortgage, to the extent of the payment, satisfaction or release, shall reduce the amount of insurance pro tanto. The amount of insurance may thereafter be increased by accruing interest and advances made to protect the lien of the insured mortgage and secured thereby, with interest thereon, provided in no event shall the amount of insurance be greater than the Amount of Insurance stated in Schedule A.

(c) Payment in full by any person or the voluntary satisfaction or release of the insured mortgage shall terminate all liability of the Company to an insured lender except as provided in Section 2(a) of these Conditions and Stipulations.

#### 10. *Liability Noncumulative.*

It is expressly understood that the amount of insurance under this policy shall be reduced by any amount the Company may pay under any policy insuring a mortgage to which exception is taken in Schedule B or to which the insured has agreed, assumed, or taken subject, or which is hereafter executed by an insured and which is a charge or lien on the estate or interest described or referred to in Schedule A, and the amount so paid shall be deemed a payment under this policy to the insured owner.

The provisions of this Section shall not apply to an insured lender, unless such insured acquires title to said estate or interest in satisfaction of the indebtedness secured by an insured mortgage.

#### 11. *Payment of Loss.*

(a) No payment shall be made without producing this policy

destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.

(b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within 30 days thereafter.

#### 12. *Subrogation Upon Payment or Settlement.*

(a) *The Company's Right of Subrogation.*

Whenever the Company shall have settled and paid a claim under this policy, all right of subrogation shall vest in the Company unaffected by any act of the insured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the insured claimant would have had against any person or property in respect to the claim had this policy not been issued. If requested by the Company, the insured claimant shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The insured claimant shall permit the Company to sue, compromise or settle in the name of the insured claimant and to use the name of the insured claimant in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the insured claimant, the Company shall be subrogated (i) as to an insured owner, to all rights and remedies in the proportion which the Company's payment bears to the whole amount of the loss; and (ii) as to an insured lender, to all rights and remedies of the insured claimant after the insured claimant shall have recovered its principal, interest, and costs of collection.

If loss should result from any act of the insured claimant, as stated above, that act shall not void this policy, but the Company, in that event, shall be required to pay only that part of any losses insured against by this policy which shall exceed the amount, if any, lost to the Company by reason of the impairment by the insured claimant of the company's right of subrogation.

(b) *The Insured's Rights and Limitations.*

Notwithstanding the foregoing, the owner of the indebtedness secured by an insured mortgage, provided the priority of the lien of the insured mortgage or its enforceability is not affected, may release or substitute the personal liability of any debtor or guarantor, or extend or otherwise modify the terms of payment, or release a portion of the estate or interest from the lien of the insured mortgage, or release any collateral security for the indebtedness.

When the permitted acts of the insured claimant occur and the insured has knowledge of any claim of title or interest adverse to the title to the estate or interest or the priority or enforceability of the lien of an insured mortgage, as insured, the Company shall be required to pay only that part of any losses insured against by this policy which shall exceed the amount, if any, lost to the Company by reason of the impairment by the insured claimant of the Company's right of subrogation.

(c) *The Company's Rights Against Non-insured Obligors.*

The Company's right of subrogation against non-insured obligors shall exist and shall include, without limitation, the rights of the insured to indemnities, guaranties, other policies of insurance or bonds, notwithstanding any terms or conditions contained in those instruments which provide for subrogation rights by reason of this policy.

The Company's right of subrogation shall not be avoided by acquisition of an insured mortgage by an obligor (except an obligor described in Section 1(a) (ii) of these Conditions and Stipulations) who



*(Continued from inside back cover.)*

other policy of insurance, or bond and the obligor will not be an insured under this policy, notwithstanding Section 1(a) (i) of these Conditions and Stipulations.

### 13. Arbitration.

Unless prohibited by applicable law, either the Company or the insured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the insured arising out of or relating to this policy, any service of the Company in connection with its issuance or the breach of a policy provision or other obligation. All arbitrable matters when the Amount of Insurance is \$1,000,000 or less shall be arbitrated at the option of either the Company or the insured. All arbitrable matters when the Amount of Insurance is in excess of \$1,000,000 shall be arbitrated only when agreed to by both the Company and the insured. Arbitration pursuant to this policy and under the Rules in effect on the date the demand for arbitration is made or, at the option of the insured, the Rules in effect at Date of Policy shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permit a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

## Standard Coverage Policy

A copy of the Rules may be obtained from the Company upon request.

### 14. Liability Limited to This Policy: Policy Entire Contract.

(a) This policy together with all endorsements, if any, attached hereto by the Company is the entire policy and contract between the insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage, whether or not based on negligence, and which arises out of the status of the title to the estate or interest covered hereby or by any action asserting such claim, shall be restricted to this policy.

(c) No amendment of or endorsement to this policy can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

### 15. Severability.

In the event any provision of the policy is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision and all other provisions shall remain in full force and effect.

### 16. Notices, Where Sent.

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this policy and shall be addressed to the Company at:

400 Second Avenue South, Minneapolis, Minnesota 55401  
Phone (612) 371-1111



attach to  
3107-24-0049

**PURCHASE AND SALE AGREEMENT  
(UNIMPROVED PROPERTY)**

BY AND BETWEEN

PACIFIC GAS AND ELECTRIC COMPANY  
("Buyer")

and

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA  
("Seller")

Property located in  
San Bernardino County, California

San Bernardino County Assessor's Parcel No. 0650-151-06  
MWD Parcel No. 1-23-5A

September 10, 2004

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## PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made and entered into as of the 10<sup>th</sup> day of September, 2004, by and between THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, a public corporation ("Seller") and PACIFIC GAS AND ELECTRIC COMPANY, a California corporation ("Buyer").

### R E C I T A L S:

A. Seller is the owner of that certain real property consisting of approximately one hundred (100) gross acres of land located in the County of San Bernardino, State of California, more particularly described in Exhibit A to this Agreement, together with any rights, easements, licenses, permits, benefits, improvements, betterments, accretions and interests appurtenant thereto (collectively, the "Land").

B. Buyer desires to purchase the Land from Seller, and Seller desires to sell the Land to Buyer, upon the terms and conditions contained in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Buyer and Seller agree as follows:

1. Purchase and Sale. Seller agrees to sell the Land to Buyer, and Buyer agrees to purchase the Land from Seller, upon the terms and conditions herein set forth.

2. Purchase Price. The Purchase Price (the "Purchase Price") of the Land shall equal Sixty Thousand Dollars (\$60,000.00).

3. Payment of Purchase Price. Prior to the Close of Escrow, Buyer shall deposit or cause to be deposited with Old Republic Title Company ("Title Company" or "Escrow Holder"), by check made payable to the Title Company or wire transfer of funds, the total amount of the Purchase Price (after taking into account the amount of any credits in favor of Buyer), plus or minus the Title Company's estimate of Buyer's share of closing costs, prorations and charges payable pursuant to this Agreement.

4. Escrow.

4.1. Opening of Escrow. Within three (3) business days after the execution and delivery of this Agreement, Buyer and Seller shall open an escrow ("Escrow") with the Title Company by delivering a signed copy of this Agreement to the Title Company. For purposes of this Agreement, the Escrow shall be deemed opened on the date the Title Company shall have received an executed counterpart of this Agreement from both Buyer and Seller ("Opening of Escrow").

4.2. Close of Escrow. For purposes of this Agreement, the "Close of Escrow" shall be defined as the date that the Grant Deed, the form of which is attached hereto as Exhibit B ("Grant Deed") conveying the Land to Buyer, is recorded in the Official Records of San Bernardino County, California. The Escrow shall close on or before fifteen (15) days following the Opening of Escrow (the "Closing Date"), unless the time is extended by mutual agreement of Seller and Buyer.

5. Condition of Title.

5.1. Permitted Exceptions. It shall be a condition to the Close of Escrow and a covenant of Seller that Seller shall convey title to the Land to Buyer subject only to the following permitted exceptions ("Permitted Exceptions"):

- (a) a lien to secure payment of real estate taxes, not delinquent;
- (b) matters created by or with the written consent of Buyer; and
- (c) exceptions which are disclosed by the Title Commitment described in Section 5.2 hereof and which are approved or deemed approved by Buyer in accordance with Section 5.2.

5.2. Title Documents. Seller, at Seller's expense, shall cause the Title Company to deliver the following documents ("Title Documents") to Buyer within five (5) days after the Opening of Escrow: (a) an Owner's title commitment for title insurance ("Title Commitment") dated on or after the date of this Agreement issued by the Title Company with respect to the Land; and (b) legible copies of all documents, whether recorded or unrecorded, referred to in the Title Commitment. Buyer shall give Seller and the Title Company written notice ("Buyer's Title Notice") of Buyer's approval or disapproval of the legal description and any matters shown in the Title Documents within five (5) days following issuance of the Title Commitment. The failure of Buyer to give Buyer's Title Notice on or before the expiration of the five (5) day period shall be deemed to constitute Buyer's disapproval of the legal description and all Title Documents. Seller may elect to provide for the removal of any disapproved matters within five (5) days after Seller's receipt of Buyer's Title Notice, and, if successful, shall promptly provide Buyer with satisfactory evidence of the removal. If the disapproved matters have not been removed within five (5) days after Seller's receipt of Buyer's Title Notice or provision has not been made for their removal at the Close of Escrow, Buyer may at its option: (i) close the purchase of the Land and take title subject to the disapproved matters which have not been removed; (ii) cure or remove the disapproved matters which have not been removed or provide for the removal of the disapproved matters at the Closing, close the purchase of the Land, at Buyer's sole cost and expense; or (iii) terminate this Agreement and Buyer's obligations to Seller hereunder, in which event this Agreement, the Escrow and the rights and obligations of the parties hereunder shall terminate.

5.3. Monetary Liens. At its expense, Seller shall remove as liens on the Land at or prior to the Close of Escrow: (a) all delinquent real estate taxes and assessments and interest and penalties thereon; and (b) all other monetary liens, including without limitation all those shown on the Title Commitment (including judgment and mechanics' liens, whether or not liquidated, and mortgages and deeds of trust, with Seller being fully responsible for any fees or penalties incurred in connection therewith), except for any such liens that are created by, or result from, the entry upon and use of the property by Buyer, its contractors, employees, and agents.

5.4. Title Policy. At the Close of Escrow, Buyer shall cause the Title Company to issue, at Buyer's option, either an ALTA or CLTA title insurance policy, together with endorsements reasonably requested by Buyer (the "Title Policy"), in the amount of the Purchase Price showing title to the Land vested in Buyer or its assignee, subject only to the Permitted Exceptions.

## 6. Condition of Land.

6.1. Inspection and Access. Effective May 3, 2004, Seller and Buyer entered into an Agreement for Entry and Inspection of Property ("Entry Agreement") authorizing Buyer to enter upon the Land to perform inspections. Pursuant to the Entry Agreement, Buyer has had the opportunity to investigate the environmental condition of the Land, including, without limitation, the opportunity to perform environmental testing, and to perform such inspections, investigations, tests and studies (including, without limitation, investigations with regard to zoning, building codes and other governmental regulations, engineering tests, feasibility studies and soils, seismic and geologic reports) with respect to the Land as Buyer may elect to make or obtain. The cost of any such reports, inspections, tests and studies has been and shall be borne by Buyer. The Entry Agreement shall remain in effect during the term of the Escrow, so that Buyer and Buyer's employees, representatives, agents and consultants shall continue to have the right, on the terms and conditions of the Entry Agreement, in connection with its proposed purchase, development or operation of the Land, to make such inspections, investigations and tests as described above. Within five (5) days after the Opening of Escrow, Seller shall deliver to Buyer,

at Seller's sole cost and expense, for Buyer's review and approval, the documents and materials respecting the Land set forth in Exhibit C ("Due Diligence Material"). In addition, Seller agrees to make all books, records and files related to the Land available to Buyer and Buyer's employees, attorneys, accountants and other representatives at any time during business hours upon reasonable notice from Buyer. From and after the execution of this Agreement, Buyer and Buyer's employees, representatives, agents and consultants shall be entitled to communicate directly with any and all governmental and quasi-governmental bodies and agencies having jurisdiction over the Land in connection with Buyer's proposed purchase, development or operation of the Land.

6.2. Approval of Condition of the Land. Within ten (10) days of the Opening of Escrow, Buyer shall provide Seller with written notice that either (a) Buyer has approved its review of the Land and the matters set forth in Section 6.1 above and elects to continue under this Agreement, (b) Buyer has conditionally approved its review of the Land and the matters set forth in Section 6.1 and elects to continue under this Agreement, subject to elimination of Buyer's objections to such matters as may be set forth in such written notice, or (c) Buyer has disapproved its review of the Land and the matters set forth in Section 6.1 in its sole and absolute discretion and elects to terminate this Agreement, in which case the rights and obligations of the parties hereunder shall terminate. Buyer's failure within the ten (10) day period to deliver notice of its election shall be deemed to be Buyer's election under clause (a) above. Within two (2) days after receipt by Seller of any written objections by Buyer under clause (b) above, Seller shall notify Buyer that either (i) Seller will attempt to cure such objections within thirty (30) days of receipt of such notice from Buyer (in which case the Close of Escrow shall be postponed for thirty (30) days) or (ii) Seller will take no action whatsoever. Seller's failure to so notify Buyer of Seller's election within two (2) days after Seller's receipt of Buyer's written objections will be deemed to be Seller's election under option (ii). In the event that Seller elects or is deemed to have elected option (ii) above, then Buyer shall have the option within two (2) days after receipt of such notice from Seller (or expiration of the time period for Seller to respond) either to waive such objections and proceed to the Close of Escrow, or to terminate this Agreement in accordance with clause (c) above. Buyer's failure to so notify Seller of Buyer's election within said two (2) day period will be deemed Buyer's election to terminate this Agreement in accordance with clause (c) above.

6.3. "As Is" Sale. Buyer acknowledges that Buyer is purchasing the Land solely in reliance on Buyer's own investigation and that no representations or warranties of any kind whatsoever, express or implied, have been made by Seller. Buyer further acknowledges that, as of the Closing Date, Buyer will have had an opportunity to become aware, and has the responsibility to inform itself, of all governmental rules and regulations, site and physical conditions, availability of access, status of title, property taxes and assessments, and other matters affecting the use and condition of the Land and agree to purchase the Land in "AS IS" condition at the Close of Escrow.

## 7. Conditions to Close of Escrow.

7.1. Buyer's Conditions. The Close of Escrow and Buyer's obligation to purchase the Land are subject to the satisfaction of the following conditions for Buyer's benefit on or prior to the Closing Date, or such earlier date as is designated below for the satisfaction of such conditions:

(a) Title. The Title Company shall be irrevocably committed to issue the Title Policy subject only to the Permitted Exceptions.

(b) Approval of the Condition of the Land. Buyer shall have approved the results of its investigation of the Land as provided by Section 6.2 hereof.

(c) Seller's Obligations. Seller shall have duly performed all of the obligations required by the terms of this Agreement to be performed by Seller.

(d) Seller's Representations. All representations and warranties of Seller set forth in Section 9.1 or elsewhere in this Agreement shall be true and correct as of the Close of Escrow, as if made on such date.

(e) No Material Changes. There shall have been no material adverse changes with respect to the physical or environmental condition of the Land; and there shall be no reassessment, reclassification, rezoning or other statute, law, judicial or administrative decision, proceeding, ordinance or regulation (including amendments and modifications of any of the foregoing) pending or proposed to be imposed by any governmental or quasi-governmental bodies or agencies having jurisdiction over the Land or any public or private utility having jurisdiction over the Land which would adversely affect, in Buyer's reasonable judgment, the acquisition, development, or use of the Land.

7.2. Seller's Conditions. The Close of Escrow and Seller's obligations to sell the Land are subject to the satisfaction of the following conditions for Seller's benefit:

(a) Buyer's Obligations. At the Closing Date, Buyer shall have timely performed all of the obligations required by the terms of this Agreement to be performed by Buyer; and

(b) Buyer's Representations. All representations and warranties of Buyer set forth in Section 9.2 or elsewhere in this Agreement shall be true and correct as of the Close of Escrow.

7.3. Termination of Agreement.

(a) Failure of Buyer's Conditions. If any one or more of the conditions to Buyer's obligations, as set forth in Section 7.1 or elsewhere in this Agreement, is not either fully performed, satisfied or waived in writing on or before the Closing Date, then Buyer may elect, by written notice to Seller, to terminate this Agreement and the Escrow, in which event this Agreement, the Escrow and the rights and obligations of the parties hereunder shall terminate.

(b) Failure of Seller's Conditions. If any one or more of the conditions to Seller's obligations, as set forth in Section 7.2 or elsewhere in this Agreement, is not either fully performed, satisfied or waived in writing on or before the Closing Date, then Seller may elect, by written notice to Buyer, to terminate this Agreement and the Escrow, in which event this Agreement, the Escrow and the rights and obligations of the parties hereunder shall terminate.

8. Close of Escrow.

8.1. Deposits by Seller. At least one (1) business day prior to the Close of Escrow, Seller shall deposit or cause to be deposited with the Title Company the following documents and instruments:

(a) Grant Deed. The Grant Deed, duly executed by Seller, acknowledged and in recordable form.

(b) Seller's Affidavits. Affidavits certifying that Seller is not a "foreign person" within the meaning of Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended, and California Revenue and Taxation Code Section 18662(e) ("Affidavits"). If Seller shall fail to submit the Affidavits, the Title Company shall deduct from amounts due to Seller any amounts required to be withheld under federal or state law and shall report and remit any such amounts so withheld to the Internal Revenue Service or the California Franchise Tax Board with such forms and at such times as shall be required by applicable statute or regulation.

8.2. Deposits by Buyer. Buyer shall deposit or cause to be deposited with the Title Company the funds which are to be applied towards the payment of the Purchase Price in the amounts and at the times designated in Sections 2 and 3 above (reduced by the prorations and credits provided for in this Agreement).

8.3. Costs and Expenses. Buyer shall pay the cost and expense of the Title Policy. The escrow fee of the Title Company shall be paid by Buyer. Seller shall pay any prepayment penalties and other costs and expenses associated with the removal of any monetary liens affecting the Land as of the Closing Date (and the release of all mortgages, deeds of trusts, liens, security interests and financing statements related thereto). All documentary transfer taxes payable in connection with the recordation of the Grant Deed shall be charged to Buyer. The amount of such transfer taxes shall not be posted on the Grant Deed but shall be supplied by separate affidavit. Buyer shall pay the Title Company's customary charges for recording and miscellaneous charges. If, as a result of no fault of Buyer or Seller, Escrow fails to close, Buyer shall pay all of the Title Company's fees and charges. If, as a result of the fault of Buyer or Seller, Escrow fails to close, the responsible party shall pay all of the Title Company's fees and charges.

8.4. Real Property Taxes. Seller and Buyer shall prorate between them, as of the Closing Date, through Escrow, all real property taxes and assessments with respect to the Land. Prorations of real property taxes and assessments with respect to the Land shall be based upon the latest available tax information such that Seller shall be responsible for all such taxes levied against the Land to and including the day prior to the Close of Escrow and Buyer shall be responsible for all real property taxes and special assessments levied against the Land from and after the Close of Escrow.

8.5. Disbursements and Other Actions by the Title Company. After all of the conditions precedent set forth in Sections 7.1 and 7.2 have been satisfied or waived, and all deposits have been made by Seller and Buyer in accordance with Sections 8.1 and 8.2, respectively, the parties shall instruct the Title Company to perform all of the following in the manner indicated:

(a) Funds. Promptly upon the Close of Escrow, disburse all funds deposited with Escrow Holder by Buyer in payment of the Purchase Price as follows:

(i) Deduct all items chargeable to the account of Seller pursuant to Section 8.3 hereof.

(ii) Prorate all matters referenced in Section 8.4 based upon the latest tax information available to the Title Company, and if amounts are to be charged to the account of Seller, deduct the total amount of such charges.

(iii) Disburse the remaining balance of the Purchase Price to Seller.

(iv) Disburse the remaining balance, if any, of such funds to Buyer.

(b) Recording. Cause the Grant Deed and any other documents which the parties hereto may mutually direct to be recorded in the Official Records of San Bernardino County, California.

(c) Title Policy. Issue the Title Policy to Buyer.

8.6. Possession of Land. Seller shall deliver possession of the Land to Buyer upon Close of Escrow.

9. Representations and Warranties.

9.1. Seller's Representations and Warranties. In consideration of Buyer's entering into this Agreement and as an inducement to Buyer to purchase the Land, Seller hereby represents and warrants to Buyer the matters set forth below, each of which is material and is being relied upon by Buyer, and states that these representations are true as of the date hereof and shall be true as of the Close of Escrow. Whenever in this Agreement a representation is limited to the "knowledge" of Seller, the

parties intend that the representation is based on the knowledge of Seller and its respective officers and employees who are or have been involved in the management of the Land.

(a) Authority. Seller has full right, power and authority to enter into this Agreement and to sell the Land to Buyer. This Agreement has been duly and validly authorized, executed and delivered by Seller, and each of the persons signing this Agreement on behalf of Seller is authorized to do so. All the documents executed by Seller will be duly authorized, executed and delivered by Seller.

(b) Other Agreements; Third Party Consents. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby will not conflict with or constitute a default under any of the terms, conditions or provisions of any other agreement to which Seller is a party or by which Seller is bound. No default under any instrument constituting or creating any lien, encumbrance, liability, claim, right, demand, easement, covenant, condition, option or restriction of any kind against the Land or any part thereof, is presently existing under any such instrument, and no event has occurred which, with notice or lapse of time or both, would constitute any such default. No consents or waivers of or by any third party are necessary to permit the consummation by Seller of the transactions contemplated by this Agreement.

(c) Copies of Agreements; No Untrue Statement. True, correct and complete copies of all leases, contracts, license agreements, easement agreements and any other written agreement pertaining to the Land, or any part thereof, have been delivered by Seller to Buyer pursuant to Section 6.1. Except as approved in writing by Buyer, there will be no agreements (oral or written) regarding the Land that will be binding upon Buyer after Close of Escrow. No representation, warranty or statement of Seller in this Agreement or in any document, certificate, schedule or exhibit furnished to or to be furnished to Buyer pursuant to the terms of this Agreement, or in connection with the transactions contemplated hereunder, contains or will contain any untrue statement of material fact, or omits or will omit to state a material fact necessary to make the statements of facts contained therein not misleading.

(d) Taxes. Seller has no understanding or agreement with any taxing or assessing authority respecting the imposition or deferment of any taxes or assessments respecting the Land. Except as disclosed in tax bills delivered to Buyer, the Title Commitment or otherwise disclosed in writing to Buyer, there are no improvement district or other assessments, special or otherwise, burdening the Land, whether or not a lien thereon; nor has Seller received notice of the establishment of any such district or assessment.

(e) Litigation; Eminent Domain. There are no condemnation, zoning or other land use regulation proceedings, or any other actions, suits or proceedings pending that do or would affect the Land or Seller's ability to fulfill all of its obligations under this Agreement, and Seller has no knowledge of any such threatened proceedings or litigation or any action or inaction that may result in such proceedings or litigation.

(f) Storage Tanks. Seller has not installed, used, or removed any underground storage tanks in, on, under or about the Land, and to the best of Seller's knowledge, no underground storage tanks have, at any time, been installed, used or removed in, on, under, or about the Land.

(g) Hazardous Substances. Neither Seller, nor to the best of Seller's knowledge, any previous owner, tenant, occupant or user of the Land, nor any other person except Buyer, has engaged in or permitted any activities upon, or any use or occupancy of the Land or any portion thereof, for the purpose of or in any way involving the handling, manufacture, treatment, storage, use, generation, release, discharge, refining, dumping or disposal of any Hazardous Substances (whether legal or illegal, accidental or intentional), on, under, in or about the Land, or transported any Hazardous Substances to, from or across the Land. In addition, to the best of Seller's knowledge, except for Hazardous Substances that have migrated from Buyer's Topock Compressor Station located approximately one-half (1/2) mile away from the Land, (i) there are no Hazardous Substances presently

deposited, stored or otherwise located on, under, in or about the Land, (ii) no Hazardous Substances have migrated from the Land upon or beneath other properties, and (iii) no Hazardous Substances have migrated or threatened to migrate from other properties upon, about or beneath the Land. Neither Seller, nor to the best of Seller's knowledge, any prior owner, occupant or user of the Land, has received any notice or other communication concerning any alleged violation of Legal Requirements relating to Hazardous Substances, or any notice or other communication concerning alleged liability for environmental damages in connection with the Land, except in connection with Hazardous Substances that have migrated from Buyer's Topock Compressor Station. For purposes of this Agreement, the term "Hazardous Substances" means any material or substance which now or hereafter is defined as a "hazardous substance," "hazardous waste," "hazardous material," "extremely hazardous waste," "restricted hazardous waste," or "toxic substance" or words of similar import under any applicable Legal Requirements, including without limitation, gasoline, diesel fuel or other petroleum hydrocarbons or materials which contain lead-based paint or other lead contamination. For purposes of this Agreement, the term "Legal Requirements" means any existing federal, state or local law, ordinance, rule, regulation or order, licenses, permits or other governmental approvals relating to the Property. Without limiting the other provisions of this Agreement, Seller shall cooperate with Buyer's investigation of matters relating to environmental matters and Seller agrees that Buyer may make inquiries of governmental agencies regarding such matters, without liability to Seller for the outcome of such discussions.

9.2. Buyer's Representations and Warranties. In consideration of Seller entering into this Agreement and as an inducement to Seller to sell the Land to Buyer, Buyer makes the following representations and warranties, each of which is material and is being relied upon by Seller:

(a) Authority. Buyer has the legal right, power and authority to enter into this Agreement and to consummate the transactions contemplated hereby. This Agreement has been duly and validly authorized, executed and delivered by Buyer, and each of the persons signing this Agreement on behalf of Buyer is authorized to do so. All the documents executed by Buyer will be duly authorized, executed and delivered by Buyer.

(b) Other Agreements; Third Party Consents. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby will not conflict with or constitute a default under any of the terms, conditions or provisions of any other agreement to which Buyer is a party or by which Buyer is bound. No consents or waivers of or by any third party are necessary to permit the consummation by Buyer of the transactions contemplated by this Agreement.

10. Covenants of Seller. Seller hereby covenants and agrees with Buyer as follows:

10.1. Operation of the Land Prior to Close of Escrow. During the period from the date of Seller's execution of this Agreement to the Close of Escrow, Seller shall operate and maintain the Land in the normal and ordinary course, and in accordance with all Legal Requirements.

10.2. Change in Representations. Seller shall promptly notify Buyer of the occurrence of any fact, circumstance, condition or event that would cause any of the representations made by Seller in this Agreement no longer to be true or accurate.

10.3. Governmental Notices. Seller shall deliver to Buyer each and every notice or communication Seller receives from any governmental body relating to the Land promptly after Seller's receipt of the same.

10.4. Future Action. From and after the date hereof, without the prior written consent of Buyer, Seller shall not take any action that may result in an alteration of the condition of title as approved by Buyer.

11. Liquidated Damages and Equitable Enforcement of this Agreement.

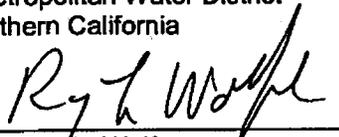
11.1. Default by Seller. In the event the Close of Escrow does not occur by reason of any breach or default by Seller under this Agreement, Buyer shall be limited to the remedy of specific performance. Except in connection with a breach of Seller's representations and warranties set forth in Section 9.1, Buyer specifically waives any right to recover monetary damages for any breach or default by Seller.

11.2. DEFAULT BY BUYER. IN THE EVENT THE CLOSE OF ESCROW DOES NOT OCCUR BY REASON OF ANY BREACH OR DEFAULT BY BUYER UNDER THIS AGREEMENT, BUYER AND SELLER AGREE THAT IT WOULD BE IMPRACTICAL AND EXTREMELY DIFFICULT TO ESTIMATE THE DAMAGES THAT SELLER MAY SUFFER. IN ADDITION, BUYER WISHES TO LIMIT ITS LIABILITY IN THE EVENT OF ITS BREACH OF THIS AGREEMENT AND FAILURE TO PURCHASE THE LAND, AND SELLER HAS AGREED TO A LIMITATION. THEREFORE, BUYER AND SELLER HEREBY AGREE THAT A REASONABLE ESTIMATE OF THE TOTAL NET DETRIMENT SELLER WOULD SUFFER IN THE EVENT BUYER DEFAULTS AND FAILS TO COMPLETE THE PURCHASE OF THE LAND IS AND SHALL BE, AS SELLER'S SOLE AND EXCLUSIVE REMEDY (WHETHER AT LAW OR IN EQUITY), AN AMOUNT EQUAL TO TEN THOUSAND DOLLARS (\$10,000.00). SAID AMOUNT SHALL BE THE FULL, AGREED AND LIQUIDATED DAMAGES FOR THE BREACH OF THIS AGREEMENT BY BUYER, ALL OTHER CLAIMS TO DAMAGES OR OTHER REMEDIES BEING HEREIN EXPRESSLY WAIVED BY SELLER. UPON DEFAULT BY BUYER, THIS AGREEMENT SHALL BE TERMINATED AND NEITHER PARTY SHALL HAVE ANY FURTHER RIGHTS OR OBLIGATIONS HEREUNDER, EXCEPT FOR THE RIGHT OF SELLER TO COLLECT SUCH LIQUIDATED DAMAGES FROM BUYER AND THE TITLE COMPANY.

Seller: The Metropolitan Water District  
of Southern California

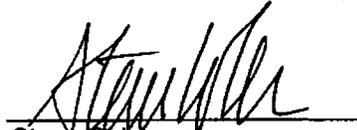
Buyer: Pacific Gas and Electric Company

By:



Roy L. Wolfe  
Manager, Corporate Resources

By:



Steve Coleman  
Director, Corporate Real Estate

12. Damage or Condemnation Prior to Close of Escrow. Seller shall promptly notify Buyer of any casualty to the Land or any condemnation proceeding commenced prior to the Close of Escrow. If any such damage or proceeding relates to or may result in the loss of any material portion of the Land, Buyer may, at its option, elect by written notice delivered to Seller within five (5) days after such damage, taking or threat, either to: (a) terminate this Agreement, or (b) continue this Agreement in effect, in which event (i) in the case of a casualty to the Land, Seller shall assign to Buyer at the Close of Escrow its right to recover against any third party that caused the casualty; and (ii) in the case of a threatened or actual taking, Seller shall assign to Buyer, at the Close of Escrow, Seller's entire right, title and interest in the proceeds thereof.

13. Indemnification of Seller for Hazardous Substances. As of the Close of Escrow, Buyer agrees to indemnify and hold harmless the Seller, its directors, officers, employees, and agents from and against any and all costs, damages, claims and liabilities, including reasonable attorneys' fees, directly or indirectly arising from any release, treatment, use, generation, storage, or disposal of Hazardous Substances on, under, or from the Land at any time before or after Close of Escrow, including, without limitation, the cost of any required or necessary remediation or removal of such Hazardous Substances, and costs of any testing, sampling or other investigation or preparation of remediation or other required plans undertaken prior to such remediation or removal. Buyer's obligation to indemnify Seller pursuant to this Section 13 shall not apply to any costs, damages, claims and liabilities, including reasonable attorneys' fees, directly or indirectly arising from any release, treatment, use, generation, storage, or disposal of Hazardous Substances on, under, or from the Land (i) in connection with any activities, use or occupancy of the Land or any portion thereof engaged in or permitted by Seller (other than activities, use,

or occupancy by Buyer), or (ii) of which Seller had knowledge and failed to disclose to Buyer in breach of Section 9.1(g).

14. Notices. All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered or sent by registered or certified mail, postage prepaid, addressed to the parties as follows:

To Buyer: Richard Echols  
Pacific Gas and Electric Company  
P.O. Box 770000, Mail Code N10A  
San Francisco, CA 94177

With a copy to: Barbara Benson, Esq.  
Pacific Gas and Electric Company  
P.O. Box 7442, Mail Code B30A  
San Francisco, CA 94120

To Seller: The Metropolitan Water District  
of Southern California  
P. O. Box 54153  
Los Angeles, CA 90054-0153  
Attention: Daniel Clewley

with a copy to: The Metropolitan Water District  
of Southern California  
P. O. Box 54153  
Los Angeles, CA 90054-0153  
Attention: Joseph Vanderhorst, Esq.

Notice of change of address shall be given by written notice in the manner detailed in this Section 14. The date of any notice or communication shall be the date of receipt, provided that rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to constitute receipt of the notice, demand, request or communication sent.

15. Brokers.

15.1 Seller. Seller hereby represents and warrants to Buyer that Seller has incurred no obligation to any finder or real estate broker or salesperson with respect to this transaction. If any party asserts a claim for a brokerage commission or finder's fee based upon any statement or representation or agreement made by Seller, Seller shall indemnify, defend and hold Buyer harmless from and against any and all losses, costs (including attorneys' fees and costs), claims, damages, liabilities or causes of action with respect to such claim. The representations, warranties and covenants of Seller contained in this Section 15.1 shall survive the Close of Escrow and the recordation of the Grant Deed.

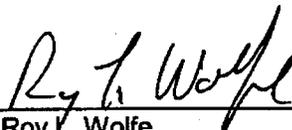
15.2 Buyer. Buyer hereby represents and warrants to Seller that Buyer has not incurred any obligation to any finder or real estate broker or salesperson with respect to this transaction. If any party asserts a claim for a brokerage commission or finder's fee based upon any statement or representation or agreement made by Buyer, Buyer shall indemnify, defend and hold Seller harmless from and against any and all losses, costs (including attorneys' fees and costs), claims, damages, liabilities or causes of action with respect to such claim. The representations, warranties and covenants

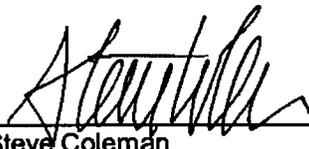
of Buyer contained in this Section 15.2 shall survive the Close of Escrow and the recordation of the Grant Deed.

16. WAIVER OF JURY TRIAL; VENUE. TO THE EXTENT PERMITTED BY LAW, SELLER AND BUYER EACH HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, INCLUDING ANY CLAIM OF INJURY OR DAMAGE. SELLER AND BUYER ALSO AGREE THAT THE VENUE OF ANY SUCH ACTION, PROCEEDING OR COUNTERCLAIM SHALL BE IN THE COUNTY OF SAN BERNARDINO, CALIFORNIA. THE COVENANTS OF BUYER CONTAINED IN THIS SECTION 16 SHALL SURVIVE THE CLOSE OF ESCROW AND THE RECORDATION OF THE GRANT DEED.

Seller: The Metropolitan Water District  
of Southern California

Buyer: Pacific Gas and Electric Company

By:   
Roy L. Wolfe  
Manager, Corporate Resources

By:   
Steve Coleman  
Director, Corporate Real Estate

17. Right of First Negotiation. As further consideration for the sale of the Land, Seller shall have a right of first negotiation to repurchase the Land in accordance with, and subject to, the terms and conditions set forth in this Section 17.

17.1. Notice of Sale. Except as provided in Section 17.3(d) below, if at any time after the Close of Escrow, Buyer decides to sell the Land or any portion thereof ("Sale Parcel") to a third party, before entering into a binding sales agreement with a third party, Buyer shall notify Seller in writing ("Sale Notice") of Buyer's decision to sell the Sale Parcel. If Seller is interested in purchasing the Sale Parcel identified in the Sale Notice, Seller must give Buyer written notice of such interest ("Notice of Interest") within thirty (30) days after receipt of the Sale Notice. If Seller fails to deliver a Notice of Interest to Buyer within the thirty (30) day period, then (i) Seller shall conclusively be deemed to have elected not to enter into negotiations to purchase the Sale Parcel, (ii) the right of first negotiation contained herein shall automatically terminate, (iii) upon request by Buyer, Seller shall execute and deliver to Buyer a quitclaim deed releasing the interest created by this Section 17, and (iv) Buyer shall be free to negotiate at any time and from time to time with one or more third parties to sell the Sale Parcel on such terms and conditions as Buyer shall determine in its sole and absolute discretion.

17.2. Purchase Terms. If Seller timely delivers a Notice of Interest to Buyer, then Seller shall have the right to purchase the Sale Parcel from Buyer at the fair market value of the Sale Parcel at the time of Seller's purchase. The fair market value shall be established by mutual agreement of Seller and Buyer; provided, however, if Seller and Buyer cannot agree on the fair market value within thirty (30) days after Buyer's receipt of a Notice of Interest, then either party may elect, by delivering written notice to the other, to have the fair market value determined by an appraisal of the Sale Parcel prepared by a California licensed real property appraiser mutually acceptable to Buyer and Seller. If the parties cannot agree on an appraiser they shall each select one appraiser and the two selected appraisers shall agree on an independent third appraiser who shall be the appraiser to determine the fair market value. Seller shall pay the cost of the appraisal. The terms of the purchase shall be the same as the terms of this Agreement, with the following exceptions: (1) the purchase price shall be the fair market value of the Sale Parcel as established by mutual agreement or by the appraisal; (2) the term of the escrow shall be ninety (90) days during which Seller shall have the right to access and inspect the Sale Parcel; (3) each of the rights, obligations, covenants and warranties of Seller herein shall be assumed by Buyer, and each of the rights, obligations, covenants and warranties of Buyer herein shall be assumed by

Seller; provided, however, the parties shall revise the representations and warranties set forth in Section 9 to make the representations and warranties accurate as of the date of such agreement; and (4) if Buyer determines, in Buyer's sole and absolute discretion, that the approval ("Governmental Approval") of the California Public Utilities Commission ("CPUC") will be required as a condition precedent to Buyer's sale of the Sale Parcel, then the obligation of each party to close the sale of the Sale Parcel shall be conditioned upon obtaining such Governmental Approval at or prior to the close of escrow.

### 17.3. General Terms.

(a) The right of first negotiation contained in this Agreement is personal to The Metropolitan Water District of Southern California, and shall not be transferable or assignable to any person or entity. The obligation of first negotiation contained in this Agreement shall not run with the Land, but shall bind Pacific Gas and Electric Company and any PG&E Affiliate (as defined in Section 17.3(c)) that acquires title to the Land. The right of first negotiation contained in this Agreement is a one-time right with respect to any Sale Parcel. Seller's right of first negotiation contained in this Section 17 shall survive the recording of the Grant Deed.

(b) If the parties have not executed a binding purchase and sale agreement for the Sale Parcel within sixty (60) days after Buyer's receipt of the Notice of Interest (or within ninety (90) days if the fair market value of the Sale Parcel is being determined by an appraisal), or if the sale of the Sale Parcel pursuant to a purchase and sale agreement executed by the parties shall fail to close for any reason except a default by Buyer thereunder for which Seller seeks specific performance, then (i) Seller shall have no further rights of negotiation under this Agreement with respect to the Sale Parcel, (ii) the right of first negotiation contained herein shall automatically terminate with respect to the Sale Parcel, (iii) Seller shall execute and deliver to Buyer a quitclaim deed releasing the interest created by this Section 17, and (iv) Buyer shall be free to negotiate at any time and from time to time with one or more third parties to sell the Sale Parcel upon terms and conditions acceptable to Buyer in its sole and absolute discretion.

(c) The right of first negotiation contained in this Agreement shall only apply in the event of a voluntary transfer to a bona fide third party for value. Without limiting the generality of the foregoing, the right of first negotiation shall not apply to a transfer of all or any portion of the Land to (i) any governmental entity (including, but not limited to the United States of America or any federal entity, the State of California, or any city, county, city and county, district, or other state or local governmental entity authorized to acquire and hold title to real property), (ii) a conservation entity, or (iii) a PG&E Affiliate. For purposes of this Agreement, the term "PG&E Affiliate" shall mean (A) PG&E Corporation, a California corporation ("PG&E Corp"), or (B) any corporation, partnership, limited liability company or other business entity that (I) is controlled by PG&E Corp or Buyer, (II) is the corporation or other business entity resulting from a merger, consolidation, or other non-bankruptcy re-organization with Buyer, (III) acquires control of Buyer or (IV) acquires all or substantially all of the assets of Buyer. For purposes of this Section 17, the term "conservation entity" shall mean a tax-exempt nonprofit organization qualified under Section 501(c)(3) of the Internal Revenue Code and qualified to do business in the State of California, which has as its primary purpose the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, or open-space condition or use.

(d) If the right of first negotiation has not otherwise terminated prior to the twenty-fifth (25th) anniversary of the Close of Escrow, the right of first negotiation shall automatically expire on said date.

18. Seller's Right of Repurchase. As further consideration for the sale of the Land, Seller shall have the right for a period of twenty-five (25) years following the Close of Escrow to repurchase the Land or a portion thereof on the terms and subject to the conditions set forth in this Section 18.

18.1. Repurchase Notice. If, during such twenty-five (25) year period, Seller is interested in repurchasing the Land or any specified portion thereof (the "Repurchase Land"), Seller may give written notice (a "Seller Notice") of such interest to Buyer. Within sixty (60) days after the date of

such Seller Notice, Buyer shall give notice to Seller that either (a) Buyer is prepared to sell the Repurchase Land to Seller on the terms set forth in this Section 18 (a "Buyer Notice"), or (b) Buyer, in its reasonable judgment, is using or reasonably anticipates using the Repurchase Land for any business purpose (as defined below) (a "Use Notice"). If Buyer delivers a Use Notice to Seller, then Seller shall not deliver another Seller Notice to Buyer prior to one (1) year after the date of the Use Notice.

18.2. Repurchase Terms. If Buyer delivers a Buyer Notice to Seller, then Seller shall have the right to repurchase the Repurchase Land from Buyer at the fair market value of the Repurchase Land at the time of repurchase. The fair market value shall be established by mutual agreement of Seller and Buyer; provided, however, if Seller and Buyer cannot agree on the fair market value within thirty (30) days after Buyer's delivery of a Buyer Notice, then either party may elect, by delivering written notice to the other, to have the fair market value determined by an appraisal of the Repurchase Land prepared by a California licensed real property appraiser mutually acceptable to Buyer and Seller. If the parties cannot agree on an appraiser they shall each select one appraiser and the two selected appraisers shall agree on an independent third appraiser who shall be the appraiser to determine the fair market value. Seller shall pay the cost of the appraisal. The terms of the repurchase shall be the same as the terms of this Agreement, with the following exceptions: (1) the purchase price shall be the fair market value of the Repurchase Land as established by mutual agreement or by the appraisal; (2) the term of the escrow shall be ninety (90) days during which Seller shall have the right to access and inspect the Repurchase Land; (3) each of the rights, obligations, covenants and warranties of Seller herein shall be assumed by Buyer, and each of the rights, obligations, covenants and warranties of Buyer herein shall be assumed by Seller; provided, however, the parties shall revise the representations and warranties set forth in Section 9 to make the representations and warranties accurate as of the date of such agreement; and (4) if Buyer determines, in Buyer's sole and absolute discretion, that Governmental Approval of the CPUC will be required as a condition precedent to Buyer's sale of the Repurchase Land, then the obligation of each party to close the sale of the Repurchase Land shall be conditioned upon obtaining such Governmental Approval at or prior to the close of escrow.

18.3. General Terms.

(a) The right of repurchase contained in this Section 18 is personal to The Metropolitan Water District of Southern California, and shall not be transferable or assignable to any person or entity. The obligation contained in this Section 18 shall bind Pacific Gas and Electric Company and any PG&E Affiliate that acquires title to the Land.

(b) Seller's right of repurchase contained in this Section 18 shall survive the recording of the Grant Deed. Seller's right of repurchase shall not run with the Land, and, upon any transfer, except a transfer to a PG&E Affiliate, by Buyer of any portion of the Land, Seller's repurchase right shall terminate with respect to such portion of the Land transferred.

(c) As used in this Section 18, the term "business purpose" shall mean any business purpose, whether related to Buyer's utility business or otherwise, and shall include, but not be limited to, remediation (including remediation of property other than the Land), mitigation and conservation purposes.

19. Miscellaneous.

19.1. Survival of Covenants. The covenants, representations and warranties, and indemnification obligations of both Buyer and Seller set forth in this Agreement shall survive the recordation of the Grant Deed and the Close of Escrow.

19.2. Required Actions of Buyer and Seller. Buyer and Seller agree to execute such instruments and documents and to diligently undertake such actions as may be required in order to consummate the purchase and sale herein contemplated.

19.3. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

19.4. Captions. Any captions to, or headings of, the paragraphs or subparagraphs of this Agreement are solely for the convenience of the parties hereto, are not a part of this Agreement, and shall not be used for the interpretation or determination of the validity of this Agreement or any provision hereof.

19.5. No Obligations to Third Parties. Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, nor obligate any of the parties hereto, to any person or entity other than the parties hereto.

19.6. Waiver. The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

19.7. Applicable Law. This Agreement shall be governed by and construed in accordance with California law.

19.8. Fees and Other Expenses. Except as otherwise provided herein, each of the parties shall pay its own fees and expenses in connection with this Agreement.

19.9. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective heirs, successors and assigns.

19.10. Construction. The language of this Agreement shall be construed as a whole and in accordance with its fair meaning and not strictly for or against either party.

19.11. Severability. If any provision of this Agreement shall be held to be unenforceable or invalid for any reason, it shall be adjusted rather than voided, if possible, in order to achieve the intent of the parties to the extent possible. In any event, all other provisions of this Agreement shall be deemed valid and enforceable to the fullest extent.

19.12. Exhibits and Schedules. The following Exhibits are attached hereto and incorporated by reference into this Agreement:

Exhibit A - Legal Description of the Land

Exhibit B - Grant Deed

Exhibit C – Due Diligence Material

19.13. Entire Agreement. Except for any matter governed by the provisions of the Entry Agreement, this Agreement and the Exhibits attached hereto supersede any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between Buyer and Seller as to the subject matter hereof. The terms of this Agreement may not be modified or amended except by a writing executed by both Buyer and Seller.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Agreement as of the day and year first above written.

**Seller:**

THE METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA  
a public corporation

By: Roy L. Wolfe  
Name: Roy L. Wolfe  
Its: Manager, Corporate Resources

**Buyer:**

PACIFIC GAS AND ELECTRIC COMPANY,  
a California corporation

By: Steve Coleman  
Name: Steve Coleman  
Its: Director, Corporate Real Estate

APPROVED AS TO FORM:

\_\_\_\_\_

EXHIBIT A

1-23-5A (Portion)  
Grant Deed  
MWD to  
Pacific Gas & Electric Company

The south half of the northwest quarter of the southwest quarter; the southwest quarter of the southwest quarter; the west half of the southeast quarter of the southwest quarter; the southeast quarter of the southeast quarter of the southwest quarter and that portion of Lot 4 described as follows: Beginning at the southwest corner of said Lot 4; thence north along the west line thereof, 660.00 feet; thence east parallel with and 660.00 feet north of the south line thereof, 660.00 feet; thence south parallel with and 660.00 feet east of the west line thereof 660.00 feet to an intersection with the south boundary of said Lot; thence west along the south line thereof, 660.00 feet to the place of beginning, all being of Section 5, Township 7 North, Range 24 East, San Bernardino Meridian, in the County of San Bernardino, State of California.

EXCEPTING therefrom that portion conveyed to the State of California by Grant Deed recorded January 30, 1947 in Book 1954, Page 493 of Official Records of said County of San Bernardino.

All as shown on Exhibit B attached hereto and made a part hereof.

END OF DESCRIPTION



PREPARED UNDER MY SUPERVISION

Paul M. Ogilvie  
Paul M. Ogilvie, P.L.S. 6439

Date: 6-22-2004

j:/eng/wordshar/pauogi/pge1235A.doc

June 21, 2004

**EXHIBIT B**

RECORDING REQUESTED BY  
AND WHEN RECORDED, MAIL TO

Richard Echols  
PACIFIC GAS AND ELECTRIC COMPANY  
P.O. Box 770000, Mail Code N10A  
San Francisco, CA 94177

MAIL TAX STATEMENTS TO

Same as above

---

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**GRANT DEED**

The undersigned grantor(s) declare(s):  
Documentary Transfer Tax is not shown pursuant to  
Section 11932 of the Revenue and Taxation Code, as amended

MWD Parcel No. 142-5A-5  
San Bernardino County Assessor's Parcel No. 0650-151-06

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, a public corporation, hereby GRANTS to PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, the real property located in the County of San Bernardino, State of California, and described on Exhibit A and shown on Exhibit B attached hereto and incorporated herein;

RESERVING to THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA the right to repurchase the real property on the terms set forth in Sections 17 and 18 of the Purchase and Sale Agreement dated \_\_\_\_\_, 2004, by and between THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA and PACIFIC GAS AND ELECTRIC COMPANY, which Sections are attached hereto as Exhibit C and incorporated herein.

Dated:

THE METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA

Ronald R. Gastelum  
General Manager

By: \_\_\_\_\_  
Roy L. Wolfe  
Manager, Corporate Resources

STATE OF CALIFORNIA        )  
  ) SS  
COUNTY OF LOS ANGELES    )

On                           before me, the undersigned, a Notary Public in and for said State, personally appeared, Roy Wolfe, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

## EXHIBIT C

### DUE DILIGENCE MATERIAL

1. Licenses. Any and all licenses, permits and agreements affecting or relating to the ownership, subdivision, possession or development of the Land, excluding documents related to Buyer's activities or proposed activities on the Land.
2. Agreements. Copies of any and all existing contracts or agreements relating to the operation, maintenance, service, repair, development, improvement, management or ownership of the Land, or any portion thereof, excluding documents related to Buyer's activities or proposed activities on the Land.
3. Leases. Copies of any leases or other use or occupancy agreements affecting the Land, or any portion thereof, excluding documents related to Buyer's activities or proposed activities on the Land.
4. Surveys and Maps. Copies of the most recent survey(s), if any, pertaining to the Land or any portion thereof, and any and all tentative, parcel and/or final maps, development plans, site plans, building permits, certificates of occupancy, specifications or any other governmentally approved or processed documents relating to the subdivision or development of the Land, excluding documents related to Buyer's activities or proposed activities on the Land.
5. Reports and Studies. Any and all reports, investigations, studies or other documents or written information pertaining to the Land, including without limitation, any and all soils reports, engineering data and other data or studies pertaining to the Land or any portion thereof, excluding documents related to Buyer's activities or proposed activities on the Land.
6. Governmental Correspondence. Copies of all applications and correspondence or other written communications to or from any governmental entity, department or agency regarding any permit, approval, consent or authorization with respect to the development of the Land, together with copies of notices of violations of any code, law, ordinance, rule or regulation received by Seller, whether or not such violations have been cured, excluding documents related to Buyer's activities or proposed activities on the Land.
7. Historical Information. Any and all information relative to prior owners of the Land and prior uses to which the Land has been put, including, without limitation, any agreements, covenants, representations or warranties by any prior owners of the Land relative to the condition of the Land or the generation, manufacture, transportation, treatment, storage, handling, disposal, removal or clean-up of any Hazardous Substances, excluding documents provided to Seller by Buyer.
8. Authority. Evidence of Seller's authority to enter into this Agreement and to close the transaction contemplated in the Agreement.

**Pacific Gas and Electric Company  
Land Department Transmittal for Land Rights Library Filing**

FW 6

Please forward in order indicated:		From: Janice Van Gutman	Date: <b>October 18, 2004</b>
Document Information Center (1)		By: PP&T	<b>3107-24-0049</b>
Notary ( )		Mail Code N10A, San Francisco	
Property Map Coordinator-CAckerson (2) ✓		To be recorded:	Land Document Number:
Sender ( )		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	JTM Source Document Number:
Capital Acctg. w/Transmittal (3) ✓		Affects existing PG&E Co. Fee:	
Other: Missy Brosnan w/trans (4) ✓ <i>TAK Dept w/trans SV</i>		<input type="checkbox"/> Yes <input type="checkbox"/> No	
PROJECT NAME Topock HSM <i>AI ✓</i>		FERC Project: <input type="checkbox"/> Yes <input type="checkbox"/> No	PG&E Co. Drawing Number?
GRANTOR, GRANTEE, LESSOR, LESSEE, ETC.:		Consideration:	
Metropolitan Water District of So. Cal		\$ 60,000	

**Remarks:**

Signed	Sept 9, 2004
Recorded:	Sept 30, 2004
APN:	0650-151-06
SBE:	XXXX
T.N, R.W. SB B&M	T7N, R24E
Sec	5; SW quarter & the SW/SE quarter
Affects	N/A
<i>SBE 125-36-033-1</i>	

ACCOUNT NUMBER/COST ELEMENT	AMOUNT	COST CENTER OR ORDER NUMBER*	TAXABLE? (Y/N)
5501090	60,000	3000143	

File:

**THE FOLLOWING INFORMATION MUST BE PROVIDED for fee purchases, sales and leases**

PURCHASES	Box 54153, Los Angeles, CA 90054 Grantor's Address	100 % Interest	Title Policy enclosed <input checked="" type="checkbox"/> <del>to follow</del> <input checked="" type="checkbox"/>
	List of Improvements None (according to Robert Doss)	Assessed Value \$	
	Area Purchased _____ Ac.	ASSESSMENT: Provide the total area and the total assessment prior to PG&E acquisition. Area _____ acres for a total of \$ _____.	
SALES	Grantee's Address XXXX	Date Title Passed or Date of Possession: See Above	
	List of Improvements XXXX	S.B.E. Map and Parcel Number: XXXX	
LEASES	Lessor's Address (Only when PG&E is Lessee)	If extension or renewal, show Land Document Number of original lease:	
	Area Leased _____ Total Area _____		

Advice 2799-G

Attachment 7

**S U M M A R Y**  
**A P P R A I S A L R E P O R T**

**Metropolitan Water District Parcel #1-23-5A  
100 Acre Vacant Site**

---

**Vicinity Highway 40 and Park Moabi Road  
Needles, California  
APN 0650-151-06**

*Prepared for*

Joseph Vanderhorst, Attorney  
Metropolitan Water District  
700 N. Alameda Street, 11<sup>th</sup> Floor  
Los Angeles, California 90012

*Prepared by*

MASON & MASON  
Appraisers & Consultants  
2609 Honolulu Avenue, Suite 100  
Montrose, California 91020

*Date of Valuation*

June 14, 2004

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**LIST OF EXHIBITS**

Aerial Photograph ..... following title page  
Regional Map ..... facing 12  
Neighborhood Map ..... facing 13  
Plat Map ..... facing 15  
USGS Property Location Map ..... facing 16  
Land Sales Summary ..... facing 21  
Land Data Comparison & Adjustment Grid ..... facing 22

**MASON & MASON**  
Real Estate Appraisers & Consultants  
2609 Honolulu Avenue, Suite 100  
Montrose, California 91020-1706  
Telephone (818) 957-1881  
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Frances Wolfe Mason, MAI  
David S. Mason, MAI  
Lisa M. Benson, MAI  
Vincent C. Maher, MAI  
Kate C. McWaters, MAI, SRA  
Bradford B. Thompson, MAI  
Kendall Thurston, MAI  
Victoria L. Valentine, RM  
Robert W. Waters, MAI, SRWA

June 14, 2004

No. 03304

Joseph Vanderhorst, Attorney  
Metropolitan Water District  
700 N. Alameda Street, 11<sup>th</sup> Floor  
Los Angeles, California 90012

Re: Summary Appraisal Report - MWD Parcel #1-23-5A  
Vicinity State Highway 40 (U.S. Highway 66) and Park Moabi Road, Needles, California  
San Bernardino County Assessors Parcel Number 0650-151-06

Dear Mr. Vanderhorst,

In accordance with your request, we have personally inspected and appraised the property referenced above and on page 2 of this transmittal letter for the purpose of expressing our opinion of the Fair Market Value of the fee simple interest of the vacant site, subject to a hypothetical condition that the site is hazard free. The intended use of the report is to facilitate a sale of the site or exchange for other property with Pacific Gas and Electric Company. The value conclusion set forth in this report is as of the date of inspection, June 14, 2004.

Please be advised that we have completed a summary complete appraisal and are submitting three copies of our report herewith in compliance to the USPAP, SR2-2(b). A brief description and analysis of the above referenced subject property is provided in the body of this report. The client and user(s) of this report are advised that this is a Summary Appraisal Report. As such, it presents only summary discussions of the data, reasoning, and analyses that were used in the appraisal process to develop our opinion of value. Supporting documentation concerning the data, reasoning, and analyses is retained in our file. The depth of discussion contained in this report is specific to the client's needs and for the intended use as stated in this report. We are not responsible for the unauthorized use of this report.

Your attention is directed to the attached report which identifies and describes the real property appraised, the assumptions and limiting conditions upon which the estimate of value is premised, and the factual data, and other considerations, which support our conclusions of the **Fair Market Value** as of the date of value as set forth below.

Joe Vanderhorst, Attorney  
Metropolitan Water District  
June 14, 2004

MWD Parcel No.: 1-23-5A  
Address: Vicinity State Highway 40, Needles, California  
APN: 0650-151-06, San Bernardino County  
Date of Value: June 14, 2004  
Fair Market Value: \$60,000

The subject property is impacted by a subterranean plume of hexavalent chromium that may have migrated onto the subject property from the PG & E Topock Natural Gas Compressor Station. The contaminant is a by-product of the coolant used in the gas compression process. PG & E has drilled test wells on the subject property, monitors those wells, and is engaged in remediation activities nearby. *It is a hypothetical condition of this report that the subject property is hazard free, not impacted by either the actual contamination of the underlying groundwater or stigma associated with nearby contamination.* The user of this report is directed to review the Statement of Assumptions and Limiting Conditions and Special Limiting Conditions on pages 5 and 7 affecting the subject property. The market value estimate is strictly contingent upon these Limiting Assumptions and Special Conditions.

The report is subject to the certification, contained as page 8. This letter must remain attached to the report, which contains 23 pages plus related exhibits, in order for the value opinion set forth to be considered valid.

Respectfully submitted,

MASON & MASON



Robert W. Waters, MAI, SR/WA  
State of California Certificate No. AG002134



Frances H. Wolfe Mason, MAI  
State of California Certificate No. AG001649  
Review Appraiser - No Physical Inspection

RWW/FHWM:sq

PG & E Topock  
Compressor Station

U.S. Route 66 - State Highway 40

AT & SF RR R/W

Subject Property

Old Route 66

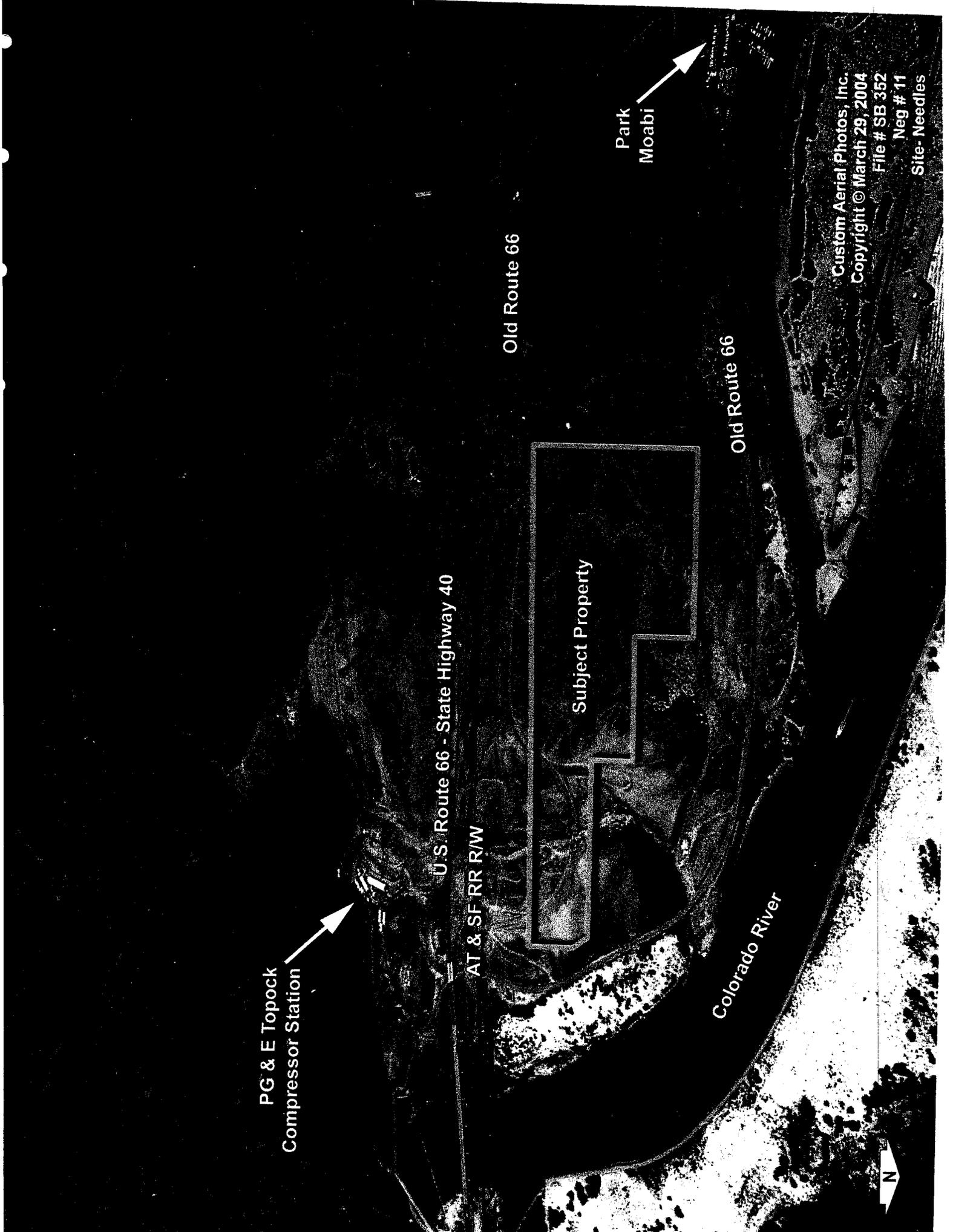
Colorado River

Old Route 66

Park  
Moabi

N

Custom Aerial Photos, Inc.  
Copyright © March 29, 2004  
File # SB 352  
Neg # 11  
Site- Needles



**SUMMARY OF SALIENT FACTS**  
Needles, San Bernardino County  
Vicinity State Highway 40 and Park Moabi Road

**Identification of**

**Property Appraised:**

MWD Parcel No.: 1-23-5A

Vacant desert property located near State Highway 40 and Park Moabi Road, Needles, California

**Legal Description:**

See the legal description in the preliminary title report

**Owner of Record:**

Metropolitan Water District

**Assessor's Parcel No.:**

0650-151-06 - San Bernardino County

**Date of Value:**

June 14, 2004

**Purpose/Intended Use  
of the Appraisal:**

Estimate the fair market value to facilitate the purchase or exchange of the entire land area in fee

**Zoning:**

RC - Resource Conservation, County of San Bernardino.

**General Plan:**

RC - Resource Conservation

**Highest and Best Use:**

The highest and best use is to hold the property for eventual development after division to 2 lots with one dwelling per lot.

**History of Property:**

The property has been held under the same vesting since 1936. Prior uses of the property are unknown. A portion of the property is bisected by a former route of U. S. Highway 66 that is no longer in use. PG & E has recently drilled monitoring wells on the property. To the best of our knowledge there have been no sales, purchase options or leases of the subject property within the last three years.

**Site Description:**

Parcel size is 100 acres. The subject lot is irregular in shape and hilly with gentle to steep slopes. The high mesa areas alternate with deep arroyos or drainage courses. Those drainage courses are subject to seasonal flooding due to occasional rains in the nearby mountain areas to the south. The site contains numerous potential homesite locations with

commanding views of the Colorado River Valley and adjacent Park Moabi Regional Park. Public utility services available include electricity. There is no immediate public or private water source. A small natural gas line in the vicinity of the site. Access is via dirt roads over adjacent public lands.

**Improvement Description:** There are no building improvements. The site is not fenced.

**Property Rights**

**Appraised:** Fee simple, subject to a hypothetical condition that the subject property is hazard free, not impacted by either the actual contamination of the underlying groundwater or stigma associated with nearby contamination.

**Fair Market Value**

**of the Whole: \$60,000**

## STATEMENT OF ASSUMPTIONS AND LIMITING CONDITIONS

The following statements, assumptions, and considerations are offered as a basis for this particular appraisal report.

- ... **Factual information** presented in this report has been furnished by or obtained from sources which are considered reliable. While the data is believed to be correct, it cannot be guaranteed.
- ... It is assumed that the **legal description and title** are good and that the subject ownership is free and clear of all encumbrances except as may be detailed herein.
- ... A **land survey** was not made by the appraisers; while the dimensions and areas shown and/or referred to herein are assumed to be correct, property boundaries and locations of any improvements as indicated on exhibits in this report are not to be construed as being based upon a survey for which the appraisers are responsible. Where land dimensions or areas were shown on prepared maps, they were used. Where areas or dimensions were not shown, they were scaled from the prepared maps and are subject to scaling error.
- ... The Americans with Disabilities Act of 1990 ("ADA") became effective January 26, 1992. We have not made a specific compliance survey and analysis of these properties to determine whether or not they are in conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the properties, together with a detailed analysis of the requirements of the ADA, could reveal that the properties are not in compliance with one or more of the requirements of the Act. If so, this fact could have a negative effect upon the value of the properties. Since we have no direct evidence relating to this issue, we did not consider possible non-compliance with the requirements of ADA in estimating the value of the property.
- ... The **final value** estimate reflects market value of the fee simple interest.
- ... The **date of value** for the ownership is June 14, 2004. The date of inspection was June 14, 2004.
- ... The appraisers assume no responsibility for **hidden or unapparent conditions** of the property, subsoil, or structures that render it more or less valuable. No responsibility is assumed for arranging for engineering studies that may be required to discover them.
- ... Unless otherwise stated in this report, the existence of **hazardous material**, which may or may not be present on the subject property, was not observed by the appraisers. The appraisers, however, are not qualified to detect such substances. The presence of substances such as asbestos, urea-formaldehyde foam insulation, or other potentially hazardous materials may affect the value of a property. The value estimate is predicated on the assumption that there is no such material on or

in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.

- .... This report is made for the **exclusive use** of the client as indicated as the addressee on the letter of transmittal.
- .... It is assumed that there is **full compliance** with all applicable federal, state, and local environmental regulations and laws unless noncompliance is stated, defined, and considered in the appraisal report.
- .... It is assumed that all applicable **zoning and use regulations and restrictions** have been complied with, unless a nonconformity has been stated, defined, and considered in the appraisal report.
- .... It is assumed that the utilization of the land and improvements is **within the boundaries** or property lines of the property described and that there is no encroachment or trespass unless noted in the appraisal report.
- .... The property is appraised assuming that all **required licenses**, certificates of occupancy, consents, or other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based, unless otherwise stated.
- .... The **value premises** cited are foundational and basic to the values reported herein and the right is reserved to revise and/or rescind the appraisal opinions in the event the conditions are modified to any extent.
- .... **Indemnification** - The appraisers are not necessary parties in any inquiry or judicial proceedings. They will not be called upon to testify in any litigation or other proceeding arising out of their duties in this matter. If they are compelled to incur court costs, attorney's fees or other out-of-pocket expenses in connection with court proceedings, such costs or expenses together with appraisers' usual hourly per diem applicable for their professional services for study, preparation, testimony or travel will be paid by the party (or parties) who acts to bring any suit requiring a judicial proceeding.
- .... **Testimony** or attendance in Court is not required by reason of this appraisal with reference to the property in question without a prior arrangement as to compensation and scheduling.

- .... It is the **client's responsibility** to **read** this report and to **inform** the appraisers of any errors or omissions of which he/she is aware prior to utilizing this report or making it available to any third party.
- .... No one other than the **appraisers signing** this report has prepared the analyses, conclusions, and opinions concerning real estate that are set forth in this appraisal.
- .... This report in its entirety is **Copyright 2004** by Mason & Mason, a California Corporation. All rights of reproduction are prohibited unless permission is granted in writing. Electronic PDFs of this report are only valid if produced in their entirety.

**SPECIAL LIMITING CONDITIONS**

- .... This is a **Summary Appraisal Report** which is intended to comply with the reporting requirements set forth under Standard Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice for a Summary Appraisal Report. As such, it might not include full discussions of the data, reasoning, and analyses that were used in the appraisal process to develop the appraiser's opinion of value. Supporting documentation concerning the data, reasoning, and analyses is retained in the appraiser's file. The information contained in this report is specific to the needs of the client and for the intended use stated in this report. The appraiser is not responsible for unauthorized use of this report.
- .... It is a hypothetical condition of this report that the subject property is hazard free, not impacted by either the actual contamination of the underlying groundwater or stigma associated with nearby contamination.

**CERTIFICATION OF APPRAISER**

I certify that, to the best of my knowledge and belief;

- . . . . The statements of fact contained in this report are true and correct.
- . . . . The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- . . . . I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved.
- . . . . The compensation and my engagement is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- . . . . The analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and the Standards of Professional Practice of the Appraisal Institute.
- . . . . The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
- . . . . The property that is the subject of this report was physically inspected by Robert W. Waters, MAI, SR/WA on June 14, 2004. Frances Wolfe Mason, MAI did not inspect the subject property. The date of value is June 14, 2004.
- . . . . No one provided significant real property appraisal assistance to the persons signing this certification.
- . . . . As of the date of this report, Frances H. Wolfe Mason, MAI, and Robert W. Waters, MAI, SR/WA, have completed the requirements of the continuing education program of the Appraisal Institute and have fulfilled the requirements of the State of California Office of Real Estate Appraisers for General Certification.



Robert W. Waters, MAI, SR/WA

*State of California Certificate No. AG 002134*



Frances H. Wolfe Mason, MAI

*State of California Certificate No. AG 001649*

Review Appraiser - No Physical Inspection

## INTRODUCTION

This is a Summary Appraisal Report which is intended to comply with the reporting requirements set forth under Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice for a Summary Appraisal Report. As such, it presents only summary discussions of the data, reasoning, and analyses that were used in the appraisal process to develop the appraiser's opinion of value. Supporting documentation concerning the data, reasoning, and analyses is retained in the appraiser's file. The depth of discussion contained in this report is specific to the needs of the client and for the intended use stated below. The appraiser is not responsible for unauthorized use of this report.

**CLIENTS:** Joseph Vanderhorst, Attorney  
Metropolitan Water District  
700 N Alameda Street, 11<sup>th</sup> Floor  
Los Angeles, California 90012

**APPRAISERS:** Robert W. Waters, MAI, SR/WA  
Frances Wolfe Mason, MAI, Review Appraiser - No Physical Inspection  
MASON & MASON  
Appraisers & Consultants  
2609 Honolulu Avenue, Suite 100  
Montrose, California 91020

### **SUBJECT PROPERTY IDENTIFICATION AND LOCATION**

The Metropolitan Water District property is located about 4/10 mile east of the intersection of Highway 40 and the Park Moabi Road freeway offramp, 12 miles south of the City of Needles, and about 1/10 mile south of the Colorado River in San Bernardino County, California. Access is via a dirt and gravel base road from Park Moabi Road. The dirt road is one of the former Route 66 rights of way that have been bypassed by new State Highway 40/U. S. Highway 66. The 100 acre subject property is vacant, not fenced, lacks water and sewer, and has electrical power and gas service available but not installed. The rural location is near a recreational area. The Assessors Parcel Number is 0650-151-06.

### **PURPOSE OF THE APPRAISAL**

The purpose of this Summary Appraisal Report is to provide the fair market value of the subject property, as of June 14, 2004, to be used as the basis for sale or exchange of the fee interest.

### **APPRAISAL DEVELOPMENT, SCOPE AND REPORTING PROCESS**

In preparing this appraisal, the appraiser did the following:

- Inspected the subject property on June 14, 2004, accompanied by the property owner's representative, Mr. Joseph Vanderhorst, attorney.
- Consulted with the County of San Bernardino regarding the subject's general plan, zoning, past or pending development plans, presence of public utilities, seismic, geologic and engineering reports, and other considerations;
- Researched and gathered data on sales of vacant desert lands within the subjects' surrounding neighborhood and nearby areas;
- Physically inspected, photographed, and confirmed the sales data through public records, multiple listing service, buyers, sellers or brokers;
- Interviewed area real estate agents/brokers to discuss sales and listings in the area;
- Valued the subject property utilizing the Sales Comparison Approach to value, and;
- Estimated fair market value.

The appraiser did not use the Income Capitalization Approach and Cost Approach to value. The Sales Comparison Approach was utilized to estimate the market value of the land. The Income and Cost Approaches are not the approaches typically utilized to estimate the value of vacant land zoned for agricultural and residential property uses. All of the applicable and appropriate subject valuation methods were used herein, and this report is considered a complete summary report, in conformance with USPAP. This Summary Appraisal Report is a brief recapitulation of the appraiser's data, analyses, and conclusions. Supporting documentation is retained in the appraiser's file.

#### **DATE OF VALUATION**

June 14, 2004.

#### **PROPERTY RIGHTS APPRAISED**

The property rights appraised are those of the fee simple interest.

#### **PERSONAL PROPERTY EXCLUDED**

Personal property was not included in the property appraised.

#### **DEFINITION OF MARKET VALUE**

“(a) The fair market value of the property taken is the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.

(b) The fair market value of property taken for which there is no relevant market is its value on the date of valuation as determined by any method of valuation that is just and equitable.”<sup>1</sup>

## **OTHER DEFINITIONS**

**Definition of Fee Simple Estate:** Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.<sup>2</sup>

**Definition of An Easement:** An interest in real property that conveys use, but not ownership, of a portion of an owner's property.<sup>3</sup>

## **EXPOSURE TIME**

Exposure time is defined as “the estimated length of time the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal; a retrospective estimate based on an analysis of past events assuming a competitive and open market.”<sup>4</sup> Exposure time considers the market appeal of the subject property. It supports a reasonable retrospective marketing period to affect a sale of the subject. It is our opinion that the market value definition in this report incorporates a reasonable exposure time of approximately 6 to 12 months.

## **INTENDED USE OF REPORT**

The intended use of this summary appraisal report is to document and analyze the estimate of the fair market value of the fee interest of the subject property to provide the basis for a sale or exchange of the property.

## **INTENDED USER OF REPORT**

This report is intended for use only by Metropolitan Water District and their designees. Use of this report by others is not intended by the appraisers.

---

1 *California Code of Civil Procedure* § 1263.320

2 *Dictionary of Real Estate Appraisal*, Fourth Edition, 2002, Appraisal Institute, Page 113

3 *Ibid.*, Page 90

4 *Ibid.*, Page 105

## REGIONAL DESCRIPTION

### SAN BERNARDINO COUNTY AND VICINITY

#### *San Bernardino County*

San Bernardino County is located in the southeast quadrant of the state, adjacent to the Colorado River, Nevada and Arizona on the east, Riverside County on the south, Inyo County to the north, and Los Angeles County to the west. The County Seat is the city of San Bernardino. San Bernardino is the largest county in the Continental United States and contains 20,160 square miles. Ninety percent of the land area is desert, while the balance is San Bernardino Valley and San Bernardino Mountains. Much of the desert is dedicated to recreational and natural preserve uses, such as Joshua Tree National Monument and the East Mojave Scenic Area. Large parts of the Mojave Desert are occupied by military installations, including proving grounds and weapon ranges.

Services represent 22.7 percent of trade, followed by retail trade at 20.2%. Government payroll is 19.6% of the economy, while manufacturing and construction activity account for 12.6% and 9.3% respectively. Agriculture represents only 3.1% of the economy. According to the State Department of Finance the January 2003 San Bernardino County population of 1,842,100 had increased by 2.4 percent to 1,886,500 as of January 2004.

San Bernardino County has a diverse and stable economy. Barring a major downturn in the economy the County should continue to grow and prosper for the near term future. The following discussion is an analysis which focuses on the physical characteristics, land use, demographic characteristics, and employment of the Needles area.

#### *City of Needles and Rural Environs*

The subject property is located about 12 miles south of the center of the City of Needles and about 6 miles southeast of the southerly edge of the City. Needles is situated on the west edge of the Colorado River, at the junction of Highways 95 and 40. The population had grown to 5,375 as of January 1, 2004, and increase of 2.4% over the previous year. The primary industry of Needles is recreational services and tourism. Non-river frontage housing prices range between \$40,000 and \$100,000. Nearby lands north and south of the City, including the subject Topock neighborhood, are sparsely improved with residential and recreational property uses near the Colorado River. Properties with river frontage are in demand. There does not appear to be any significant demand for non-river oriented housing or tract development in the greater Needles area. However, demand for and value of properties in areas of Arizona and Nevada, such as Lake Havasu City, Mohave Valley, Fort Mohave, Bullhead City and Laughlin, has been and continues to increase.

## Neighborhood Description

The subject property is located near the Topock area, between the Colorado River on the north, an AT&SF rail line and State Highway 40 on the south, and Park Moabi Road on the west, near Needles, California. Highway 40 is similar to a freeway as there is no access from adjacent land.

The subject neighborhood is defined as those lands west of the Colorado River (in California) within a 2 mile radius of the subject property. Property uses in the neighborhood are a mixture of vacant land, industrial uses and recreational uses. Refer to the aerial photograph at the front of this report for a visual reference to surrounding property uses.

The Park Moabi Regional Park is located on the west side of the subject site. This large land area is owned by the federal government but run by San Bernardino County. The park includes a Marina, boat and trailer storage, a small store, and mobile home park. The PG&E Topock Gas Compressor station is located south and east of the subject property. This facility compresses natural gas before being shipped by pipeline further north and west. The PG&E gas pipeline runs past the southerly subject property boundary. An AT & SF main railroad right of way is located just south of the pipeline and north of the 40 Freeway. The rail line has heavy freight train traffic. Lands further south, west and north are predominantly vacant and are included in the Havasu National Wildlife Refuge. Lands directly north of the Colorado River in Arizona, visible from the subject site, are part of the Mohave Valley area, and the land area immediately north of the River is also included in the Havasu National Wildlife Refuge.

The neighborhood is static. Most surrounding land is publically owned. There is little demand for privately held lands. Barring a downturn in the local and national economies, demand for and value of properties within the neighborhood and nearby City of Needles should remain stable or increase with time.

### MARKET CONDITIONS

The nation has recovered from a mild recession and the national economy is now growing at the fastest rate in 30 years. U. S. and California unemployment rates were 5.8% and 6.5% respectively in May 2003 and have improved to 5.3% and 5.8% respectively. The unemployment rate in Needles was 3.8% in May 2004. Unemployment rates are at moderate levels historically. Long term fixed rate residential mortgage rates are hovering around 6%. While consumer confidence remains anemic, investor confidence is increasing, and the fundamental economic indicators are positive for sustained growth.

The subject property is located in a region where land and housing demand is from retirees and those seeking a second home in a recreational area. As such, the minor ups and downs of the national and state economies may not have a significant effect on the demand for properties in the greater Needles area.

There is a large inventory of desert acreage throughout the Mohave desert, but relatively little privately held acreage near the Colorado River, as much of this area is owned by the U. S. government or Indian tribes. The demand for land in the Needles-Topock to Laughlin-Bullhead City areas on either side of the Colorado River has increased significantly during the last 5 years. Most of that demand is for smaller improved and unimproved parcels in Arizona and Nevada either with river frontage or in close proximity to the river. Buyers are seeking second homes with recreational amenities or retirement housing. A portion of the market for raw land is speculative, with investors betting that demand and values will continue to increase through time. In general, land prices have not increased as much as improved properties such as tract housing, condominiums, and small residential sites improved with manufactured housing units. DQNews.com, a division of Dataquick, publishes median home sales prices monthly for zip codes throughout California. Data for Needles indicates housing prices since September 2002 have varied from \$45 to \$69 per square foot, with median prices within the last year in the \$55 to \$60 per square foot range. Housing prices in this time period have been increasing at a 1.5% to 2% rate per month. There is no significant land sales database to extrapolate a rate of increase in value for large unimproved land parcels for the last 4 years. We estimate the rate of increase in value of raw land from 2000 to date to be 12% per annum or 1% per month.

Given the recent historic growth rates and projected growth rates for the community, and barring a downturn in the economy, we anticipate short term continued gradual increases in value of vacant desert land in the greater Needles area over time.

## PROPERTY DESCRIPTION

***Owner of Record:*** Metropolitan Water District

***Legal Description:*** The subject's legal description can be found in the preliminary title report located in the Addenda.

***Easements/  
Restrictions:***

The title report references the following:

- An easement in favor of Southern Pacific Land Company for public utilities recorded November 3, 1928, at undisclosed locations.
- A right of way of lawful width for any and all existing and lawfully established county roads, as disclosed in Deed recorded March 26, 1936 as Instrument No. 44 in Book 1127 Page 77 Official Records. We assume that this is the right of way for the antiquated Route 66 highway that traverses portions of the southerly and easterly edges of the property.
- A waiver of any claims for damages by reason of the location, construction, landscaping or maintenance of said highway, as provided in the deed recorded on January 30, 1947 as Instrument No. 191 in Book 1954 Page 493, Official Records, granted by MWD in favor of the State of California.
- There is a small diameter gas pipeline that appears to cross the subject property in a southeast to northwest direction. There is also an above-ground electrical transmission line (pole line) that traverses the property in a southeast to northwest direction. We estimate that recorded or unrecorded easements or agreements for these public or private utility lines exist.
- Other public utility easements may exist. We did not observe encumbrances but they may exist.

***Size & Shape:*** The lot has an irregular shape. Lot area per Assessor's records is 100 acres.

***Topography:*** The subject is hilly with gentle to moderately steep slopes, with a mixture of high flat mesa areas intersected by narrow to wide arroyos or drainage courses. The subject site appears to have been eroded by flood stages of the Colorado River prior to establishment of dams upstream in the first half of the 20<sup>th</sup> century. Elevation above mean sea level varies from about 491 feet to 571 feet.

By reference, the Colorado River one tenth mile north has an elevation of 455 feet. The subject has numerous potential high view homesite areas with commanding views of the Colorado River flood plain and nearby Park Moabi Regional Park.

***Improvements:***

There are no building improvements or offsite improvements. Onsite improvements include a power pole line but no electrical drop and meter, and a natural gas line that traverses the property but no service meter. There is no fencing. Traces of a former section of historic Route 66 cross portions of the southerly and easterly sections of the property. This gravel and dirt road at one time was paved. We assume old Route 66 at this location to be a San Bernardino County owned, but not maintained, right of way. There are also monitoring wells at various locations on the property. The wells were installed by PG & E and are assumed to be the property of PG & E. The value contribution of the wells, if any, has not been considered in this appraisal.

***Hazardous Waste:***

The appraisers were not provided with a hazardous materials report for the property. This analysis assumes the property to be free from any hazardous or toxic substances.

***Soils Report:***

A soils report was not provided for this assignment. Soils are assumed to be capable of construction of residential, commercial, and industrial improvements similar to those located within the subject marketplace.

***Seismic Zone:***

A review of the State of California's earthquake fault database indicated the subject site is not in an Alquist-Priolo Special Study Zone, or an active landslide area or liquefaction zone. Much of California is seismically active and subject to ground acceleration.

***Flood Zone:***

A FIRM Community Panel Map is not published for the subject neighborhood. The subject site is bisected by 2 major drainage channels or arroyos that convey seasonal storm runoff from nearby mountains to the Colorado River. We estimated these areas are subject to seasonal flooding and risk of flash floods from distant storm activity.

***Streets & Access:***

The subject property is located about 4/10 mile east of the Park Moabi Road exit from the 40 State Freeway, also know as U.S. Interstate 66. Access is via a dirt and gravel base road, of which the right of way appears to be owned, but not maintained, by San Bernardino County. This road was one of the original routes of U. S. Highway Route 66. The portion of old Route 66 on the property

adjacent to the subject property is owned in fee by the U. S. Government. While the title report states that there is no apparent right of access, we estimate that the public at large has a right of access over the former Route 66 right of way, and therefore also has the right to travel through those sections of the subject site and adjacent properties that have remnants of the old Route 66 right of way. A portion of a later version of old Route 66 is located just north of the subject property and south of the Colorado River. This road is improved with pavement that is in fair condition at best. Access to the subject property is also available using this paved section of old Route 66 via a steep dirt road section of the prior old Route 66 located at the northeast corner of the subject site.

***Utilities:***

None connected, electricity available. A natural gas pipeline runs through the property and service may be available. Domestic wells and septic systems would be required for development.

***Zoning/General Plan:***

The County of San Bernardino zoning and general plan land use classification is RC, Resource Conservation. This zone allows agricultural uses, single family dwellings, social care facilities with 6 or fewer clients, animal raising, and accessory uses. Uses permitted subject to obtaining a conditional use permit include commercial kennels, wholesale trade of livestock, higher densities of animal raising, and planned development. The minimum lot size is 40 acres. Minimum lot frontage is 150 feet. The maximum housing density is one dwelling per 40 acres. The site is legally conforming.

***Real Estate Taxes:***

The property is subject to the property tax rules of the State of California, which control the activities and policies of local assessment jurisdictions. These laws were significantly modified June 7, 1978, when the state's voters passed Proposition 13, amending Article XIII of the State Constitution. Proposition 13 abolished the practice of periodic reassessment of properties, based on market value appraisals. Instead, real property is subject to reassessment (i.e., revaluation at full or partial current market value) only when changes in ownership or new construction take place. Otherwise, increases in assessed value are limited to no more than 2% per year. In addition, tax rates are limited to a general rate of 1%, plus the rate(s) needed to service any bonded indebtedness approved by the voters prior to June 7, 1978. Any indebtedness incurred after that date is in the form of direct assessments. Current taxes and assessments are as follows:

Taxes:	\$243.29
Land Value:	\$23,069
Improvement Value:	None

### ***History of the Property:***

The property has been held under the same vesting since 1936. Prior uses of the land are unknown. There have been no property transfers within the preceding three years. To the best of our knowledge the property is not actively listed for sale, under contract of sale, or subject to a purchase option agreement. It is our understanding that the owner has had discussions with PG & E about the sale of the property to PG& E.

### **HIGHEST AND BEST USE**

Highest and best use is defined as “The reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value.”<sup>5</sup>

The concept of highest and best use represents the premise upon which value is based. The appraisers must conclude the most probable and profitable use for the site “as vacant” and “as improved or proposed.” The four criteria the highest and best use must meet are physical possibility, legal permissibility, financial feasibility, and maximum profitability, which consider the physical characteristics of the property, the overall market trends, and current market conditions affecting the larger parcel as though vacant and as currently improved.

### **Physically Possible**

The 100 acre site is irregular in shape. Topography is hilly with mild to moderately steep slopes. There is very little level ground, but the site does have commanding views of the Colorado River and environs. Access is via a dirt and gravel base road which appears to be a non-maintained County right of way that was formerly part of Route 66. Electrical pole lines and a gas line run through the site, but those utilities are not in service on the property at this time. Water and sewer service are not available. Two major drainage courses cross the subject site in a generally south to north direction. These areas are subject to flooding and flash flood. Roads from east to west and vice-versa must account for occasional torrential storm water runoff that pass through these arroyos. Minimum lot size is 40 acres, so the 100 acre site could conceivably be split by parcel map to 2 lots or potential homesites. The size, shape, topography and access allow development with a myriad of agricultural, residential, commercial and industrial uses.

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<sup>5</sup> *The Appraisal of Real Estate*, Appraisal Institute, Twelfth Edition, 2001, Page 305

## **Legally Permissible**

Based on the first two criteria, the subject could physically support many uses. The subject property is zoned RC, Resource Conservation. Most agricultural uses and one single family residence per 40 acres are permissible uses. Planned development is also possible, subject to a conditional use permit.

## **Financially Feasible and Maximally Productive**

Irrespective of the Resource Conservation zoning, the location of the site in relation to surrounding improvements and roadways, and supply and demand factors for various agricultural and residential uses are most important in a determination of financial feasibility. Access is relatively convenient to the 40 Freeway at the Park Moabi exit. However, the 4/10 mile rough dirt and gravel road is an inferior property characteristic. Topography, lack of a water source, desert soils, and temperature extremes limit or restrict the property to uses other than agriculture.

The subject property is adjacent to the Park Moabi Regional Park. Park Moabi includes a marina, boat and trailer storage, and mobile home park. However, recreational uses, if legally permissible, are judged to be not financially feasible due to the hilly topography, lack of utilities, probable high development costs, and perceived lack of demand. The location of a main AT & SF railroad right of way about 1/10th mile south of the subject site is an adverse influence that lessens demand for and value of the site for recreational or residential uses. During our inspection of the site freight trains passed by the property about once every 2 hours.

The subject property is in close vicinity to the Colorado River and has numerous potential high view homesite areas. The comparable sales data employed in this report indicate similar lands are typically purchased for speculation and held for future development or resale. We have concluded that it is not financially feasible to develop the property at this time, and the most probably use of the property would eventually be a split to 2 50-acre parcels and development with one dwelling per parcel.

## **Highest and Best Use Conclusion**

The site is legally conforming. The highest and best use is to hold the property for eventual development after division to 2 lots with one dwelling per lot.

## VALUATION METHODOLOGY

In this summary appraisal, we have relied primarily on the Sales Comparison Approach to value. The Cost Approach and the Income Approach were not applicable and were not employed.

A comparison analysis has been made between the land sales and the subject property. The elements of comparison are property rights conveyed, financing terms, conditions of sale, market conditions, location and access, and other characteristics including parcel size, shape, topography, view, and development potential.

Comparable sales were identified with regard to the time frame and market area defined. Sale transactions believed to be foreclosure sales (REO's) were eliminated because by nature of the fact that the foreclosing party (typically a lending institution) has a primary interest in taking the "nonperforming asset" off its books, selling at the earliest opportunity and quite often will sell properties below market. Utilizing REO sales where there are a sufficient number of private party transactions could unduly penalize a property's value.

With consideration to location, emphasis was placed on nearby sales in rural locations with paved or dirt road access, and on locations in the rural areas of the City of Needles. All of the comparable data is zoned for either residential and agricultural property uses (Resource Development, County of San Bernardino, and Open Space, unclassified, generally rural residential, City of Needles).

Our data investigation, for the purpose of finding sales involved searching private real estate information services, and interviewing brokers and a local appraiser employed by the County Assessor. A summary chart and location map of the comparable sales are contained in the valuation section. Grant deeds were obtained for all of these transactions; where possible, the sales were verified with the buyer, seller or broker and all were photographed and physically inspected.

### *Land Valuation*

In order to estimate the value of the underlying land, a search for sales of comparable vacant land properties was conducted throughout the Topock and Needles area. We considered 6 sales. The comparable data were transacted between March 2000 and August 2003 and are shown in chronological order on the accompanying summary chart. A sales location map is provided in the Market Data section of this report.

## **Analysis of Land Data**

The subject property is 100 acres in size. The Resource Development zoning permits minimum parcel sizes of 40 acres, so 2 building sites are possible. Parcel size of the comparable data varies from 37.97 acres to 230.08 acres. Sales prices range from \$15,000 to \$71,000, unadjusted, from \$15,000 to \$50,000 per potential lot, and from \$78 to \$625 per acre, unadjusted. Adjustments have been considered for property rights, financing, condition of sale, market conditions, location and access, and physical factors when applicable. The following is an analysis of the land sales and required adjustments.

**Property Rights/Financing/Conditions of Sale:** This category adjusts for property rights conveyed and takes into account differences in legal estate between the subject and each comparable property. All of the land data were transferred as fee simple estates. Financing terms were considered for each land data. Favorable financing often leads to a higher selling price and unfavorable financing may reflect a lower selling price. All of the sales sold for all cash or with the owner carry back financing. Data 3 was discounted 10% for the risk inherent in a low down payment sale with a carry-back note. Adjustments were not required for conditions of sale.

**Market Conditions (Time):** This category adjusts for market conditions and reflects changes in the prices paid due to changes in market conditions over time. Adjustments were considered from the date of sale to the date of appraisal as applicable. There is a large inventory of desert acreage throughout the Mohave desert, but relatively little privately held acreage near the Colorado River, as much of this area is owned by the U. S. government. The demand for land in the Needles-Topock to Laughlin-Bullhead City areas on either side of the Colorado River has increased significantly during the last 5 years. Most of that demand is for smaller improved and unimproved parcels in Arizona and Nevada either with river frontage or in close proximity to the river. Buyers are seeking second homes with recreational amenities or retirement housing. A portion of the market for raw land is speculative, with investors betting that demand and values will continue to increase through time. In general, land prices have not increased as much as improved properties such as tract housing, condominiums, and small residential sites improved with manufactured housing units. DQNews.com, a division of Dataquick, publishes median home sales prices monthly for zip codes throughout California. Data for Needles indicates housing prices since September 2002 have varied from \$45 to \$69 per square foot, with median prices within the last year in the \$55 to \$60 per square foot range. Housing prices in this time period have been increasing at a 1.5% to 2% rate per month. There is no significant land sales database to extrapolate a rate of increase in value for large unimproved land parcels for the last 4 years. We estimate the rate of increase in value of raw land from 2000 to date to be 12% per annum or 1% per month.

## **Location and Physical Characteristics**

**Location and Access:** All of the comparable data is zoned for agricultural and residential uses. Properties with paved road access are rated superior to properties with dirt road access. Properties with dirt road access near major paved roads and freeway off-ramps are rated superior to properties with longer dirt road access from paved roads, and properties with unknown or uncertain access.

**Size and Shape:** Assuming similar utility, generally the market pays some premium on a unit value indicator basis for smaller lots, as compared to larger lots. Of course, on an absolute basis, a larger lot should sell for more than a smaller lot, all else equal. Smaller lots can have less utility than larger lots due to development requirements that limit building size, such as yard setbacks, height limits, minimum parking requirements, and lot coverage ratios. The subject lot is large enough to support 2 homesites. The southerly portion of the lot is narrow and will be less efficient to develop.

**Topography:** The subject is hilly with gentle to moderately steep slopes, with a mixture of high flat mesa areas intersected by narrow to wide arroyos (drainage courses). Most of the comparable data have gently undulating native desert topography.

**View:** The subject has numerous potential high view homesite areas with commanding views of the Colorado River flood plain and nearby Park Moabi marina. Most of the comparable data have inferior views.

**Development Potential:** The subject property has one power pole line and a natural gas line traversing the property. There is no telephone service, domestic water supply, or sewer service. Access over a dirt and gravel road 0.4 miles south of the Park Moabi 40 Freeway exit represents another development expense. The development potential of the comparable data is generally similar or superior.

## ***Land Value Analysis and Conclusions***

A sales comparison analysis was performed for the 100 acre subject site. We have compared the sales data items to the subject property on an overall "per potential lot" and "per acre" basis. A Land Data Comparison and Adjustment Grid is located on the facing page. The adjusted price per lot indicators range from \$20,850 to \$55,000 per lot. The adjusted price per acre indicators range from \$118 to \$706 per acre. We have bracketed the adjusted sales prices per lot and per acre according to their overall rating. These ranges are displayed as follows:

<b>Price/Lot</b>	<b>Inferior</b>	<b>None</b>	
	<b>Similar</b>	<b>Data 1, 2, 3 &amp; 4</b>	<b>\$20,850 to \$27,180</b>
	<b>Superior</b>	<b>Data 5 &amp; 6</b>	<b>\$28,250 to \$55,000</b>

<b>Price/Acre</b>	Inferior	Data 1, 2 & 6	\$118 to \$481
	Similar	Data 4	\$435
	Superior	Data 3 & 5	\$592 to \$706

Adjusted prices per potential lot result in a wide range from \$20,850 to 55,000 per lot. Sale 6 contains 216.14 acres, but may not be able to be split in this area of the City of Needles. In consideration of the large average parcel size, view, and proximity to the Colorado River we have estimated a potential lot value for the subject near the upper end of the value range at \$30,000 per potential lot, or \$60,000 overall.

Adjusted prices per acre exhibited a much wider range, from \$118 per acre to \$706 per acre. Traditionally, large desert acreage has been selling in the \$300 per acre range, but much of those sales occurred from 2000 to 2002. Based on the analysis of the land comparables, with emphasis on the subject's superior view and proximity to the Colorado River, we have concluded a value near the upper mid point of the range, at \$600 per acre or \$60,000.

**Land Value:        \$60,000**

### **Reconciliation and Value Conclusion**

The Sales Comparison Approach indicated a market value estimate of \$60,000. The Cost and Income Approaches were not employed. The quantity and quality of the comparable market data was sufficient to estimate land value with a moderate degree of certainty by application of a comparative sales analysis. However, most of the sales data is dated, and support for a market conditions adjustment is barely adequate. The estimated fair market value of the subject property by application of the Sales Comparison Approach, as of the June 14, 2004, date of value, subject to the assumptions and limiting conditions and estimate of reasonable exposure time, is \$60,000.

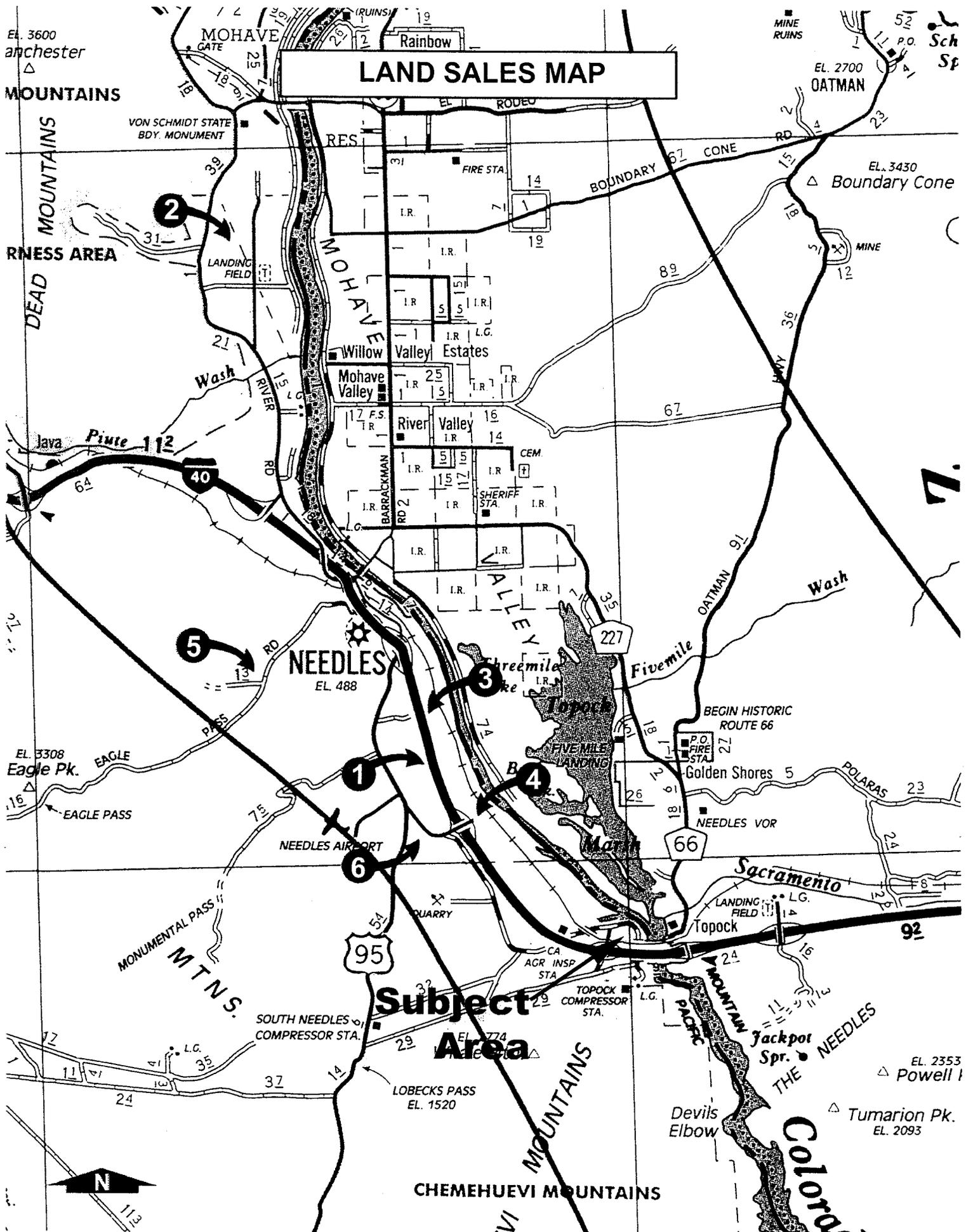
**Market Value:        \$60,000**

**MARKET DATA**

**Land Data Summary & Map**  
**Land Data Sheets**

# **LAND DATA SUMMARY & MAP**

# LAND SALES MAP



EL. 3600  
Archester

MOUNTAINS

DEATH VALLEY MOUNTAINS

EL. 3308  
Eagle Pk.

EAGLE PASS

MONUMENTAL PASS  
MOUNTAINS

SOUTH NEEDLES  
COMPRESSOR STA.

LOBECKS PASS  
EL. 1520

CHEMEHUEVI MOUNTAINS

NEEDLES  
EL. 488

NEEDLES AIRPORT

**Subject Area**

MOUNTAINS

NEEDLES

THREEMILE  
LAKE

FIVEMILE  
LANDING

TOPOCK

FIVEMILE

SACRAMENTO

JACKPOT  
SPRING

DEVILS  
ELBOW

THE NEEDLES

TUMARION PK.  
EL. 2093

EL. 2353  
Powell Pk.

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TUMARION PK.  
EL. 2093

EL. 3430  
Boundary Cone

MINE

EL. 2700  
OATMAN

BEGIN HISTORIC  
ROUTE 66

P.O. FIRE  
STA.

GOLDEN SHORES

NEEDLES VOR

LANDING  
FIELD

CA AGR INSP  
STA.

TOPOCK  
COMPRESSOR  
STA.

EL. 2353  
Powell Pk.

TUMARION PK.  
EL. 2093

EL. 3430  
Boundary Cone

MINE

EL. 2700  
OATMAN

BEGIN HISTORIC  
ROUTE 66

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MINE

EL. 2700  
OATMAN

BEGIN HISTORIC  
ROUTE 66

P.O. FIRE  
STA.

GOLDEN SHORES

NEEDLES VOR

LANDING  
FIELD

CA AGR INSP  
STA.

# **LAND DATA SHEETS**

**LOCATION:** Highway 40, Needles, California

**ASSESSOR PARCEL NO.:** 0650-242-02

**THOMAS GUIDE PAGE:** 352 - B9

---

**BUYER:** Billy Andrews

**SELLER:** Bruce Knez Estate

**RECORD DATA:** Record Date: 03/22/00 Document: \$964.02  
DTT: \$19.80

---

**USE:** Vacant desert land

**SITE AREA / SHAPE:** 230.08 acres / irregular

**TOPOGRAPHY:** Undulating, mild to moderate slopes

**UTILITIES:** None

**ZONING:** Open Space, City of Needles

**IMPROVEMENTS:** None

---

**SALES PRICE:** \$18,000

**TERMS:** Cash

**VERIFICATION:** Public Records

**REMARKS:** Dirt road access from U.S. Highway 95. No access to adjacent Highway 40.

---

**ANALYSIS:** \$18,000 / 230.08 acres = \$78.00 per acre



**ADDRESS:** Vicinity of Needles Highway, Needles, California

**ASSESSOR PARCEL NO.:** 0659-201-07 and 0660-261-02

**THOMAS GUIDE PAGE:** 352 - A6

---

**BUYER:** Billy Andrews

**SELLER:** River Valley Farms, Inc.

**RECORD DATA:** **Record Date:** 04/10/00 **Document:** 120481  
**DTT:** \$78.10

---

**USE:** Vacant desert land

**SITE AREA / SHAPE:** 221.33 acres

**TOPOGRAPHY:** Undulating

**UTILITIES:** None

**ZONING:** RC - County

---

**SALES PRICE:** \$71,000

**TERMS:** Cash

**VERIFICATION:** Public Records

**REMARKS:** Dirt road access

---

**ANALYSIS:** \$71,000 / 221.33 acres = \$321.00 per acre

**ADDRESS:** Highway 40, Needles

**ASSESSOR PARCEL NO.:** 0650-261-13

**THOMAS GUIDE PAGE:** 352 - B9

---

**BUYER:** Michael Powell

**SELLER:** Shaw Trust

**RECORD DATA:** Record Date: 07/20/00 Document: 258572  
DTT: \$18.70

---

**USE:** Vacant desert land

**SITE AREA / SHAPE:** 37.97 acres

**TOPOGRAPHY:** Undulating, moderate slopes

**UTILITIES:** None

**ZONING:** Open Space, City of Needles

**IMPROVEMENTS:** None

---

**SALES PRICE:** \$17,000

**TERMS:** \$2,000 cash down, owner carry back loan of \$15,000

**VERIFICATION:** Public Records

**REMARKS:** No access from Highway 40, dirt road access

---

**ANALYSIS:** \$17,000 / 37.97 acres = \$448.00 per acre

**ADDRESS:** Highway 40 at 5 Mile Road

**ASSESSOR PARCEL NO.:** 0650-233-07

**THOMAS GUIDE PAGE:** 352 - B10

---

**BUYER:** Williams Curran

**SELLER:** Michael and Diana Corwell

**RECORD DATA:** **Record Date:** 03/19/01 **Document:** 99747  
**DTT:** \$16.50

---

**USE:** Vacant desert land

**SITE AREA / SHAPE:** 47.96 acres

**TOPOGRAPHY:** Undulating, mild slopes

**UTILITIES:** None

**ZONING:** RC - County

**IMPROVEMENTS:** None

---

**SALES PRICE:** \$15,000

**TERMS:** Cash

**VERIFICATION:** Public Records

**REMARKS:** Dirt frontage road from 5 Mile Road offramp

---

**ANALYSIS:** \$15,000 / 47.96 acres = \$313.00 per acre

**ADDRESS:** Eagle Pass Road, Needles, California

**ASSESSOR PARCEL NO.:** 0659-221-24

**THOMAS GUIDE PAGE:** 352 - A9

---

**BUYER:** Louis and Janell Racine

**SELLER:** Harwood Trust

**RECORD DATA:** **Record Date:** 05/14/03 **Document:** 321687  
**DTT:** \$27.50

---

**USE:** Vacant desert land

**SITE AREA / SHAPE:** 40 acres / square

**TOPOGRAPHY:** Mild to moderately steep slopes

**UTILITIES:** None

**ZONING:** Open Space

**IMPROVEMENTS:** None

---

**SALES PRICE:** \$25,000

**TERMS:** Cash

**VERIFICATION:** Public Records

**REMARKS:** Dirt road, ¾ mile from city paved roads

---

**ANALYSIS:** \$25,000 / 40 acres = \$625.000 per acre

**ADDRESS:** U.S. Highway 95

**ASSESSOR PARCEL NO.:** 0650-411-04

**THOMAS GUIDE PAGE:** 325 - B10

---

**BUYER:** Billy Andrews

**SELLER:** Keiter Trust

**RECORD DATA:** Record Date: 08/26/03 Document: 636614  
DTT:

---

**USE:** Vacant desert land

**SITE AREA / SHAPE:** 216.14 acres / irregular

**TOPOGRAPHY:** Undulating, mild to moderate slopes

**UTILITIES:** None

**ZONING:** Open Space, City of Needles

**IMPROVEMENTS:** None

---

**SALES PRICE:** \$50,000

**TERMS:** Cash

**VERIFICATION:** Public Records

**REMARKS:** U.S. 95 paved highway frontage

---

**ANALYSIS:** \$50,000 / 216.14 acres = \$231.00 per acre

**ADDENDA**

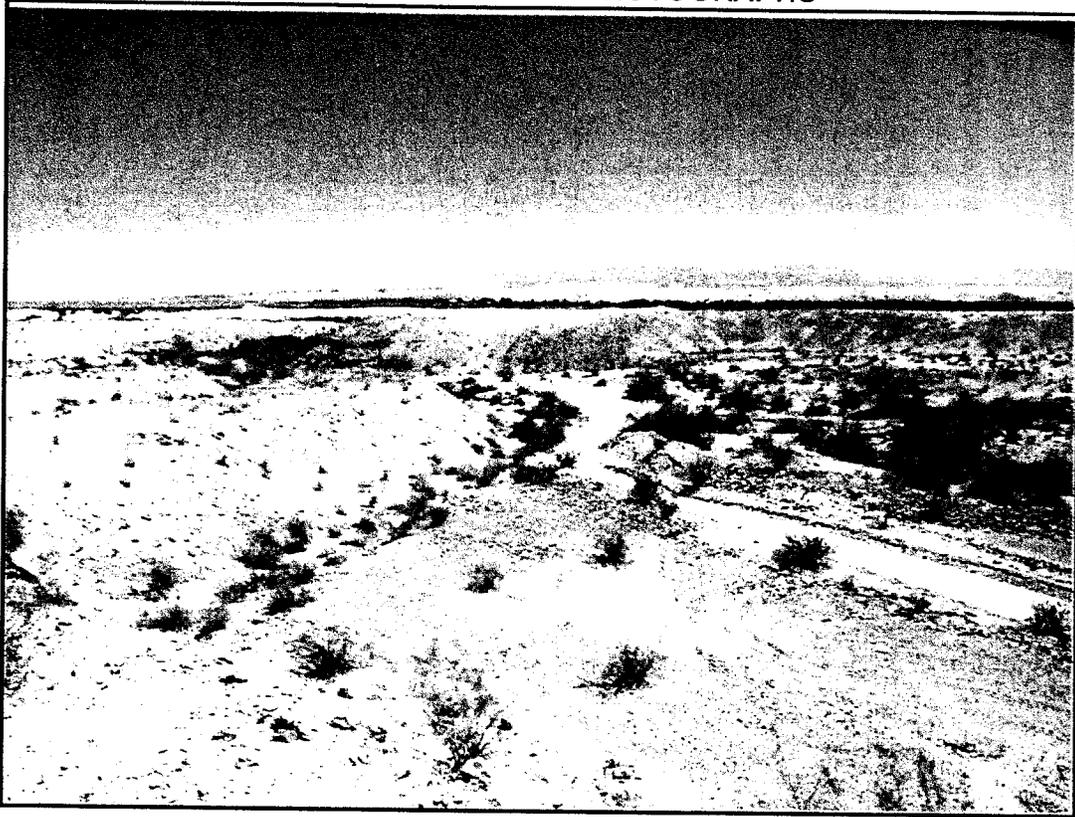
**Subject Property Photographs**

**Preliminary Title Report**

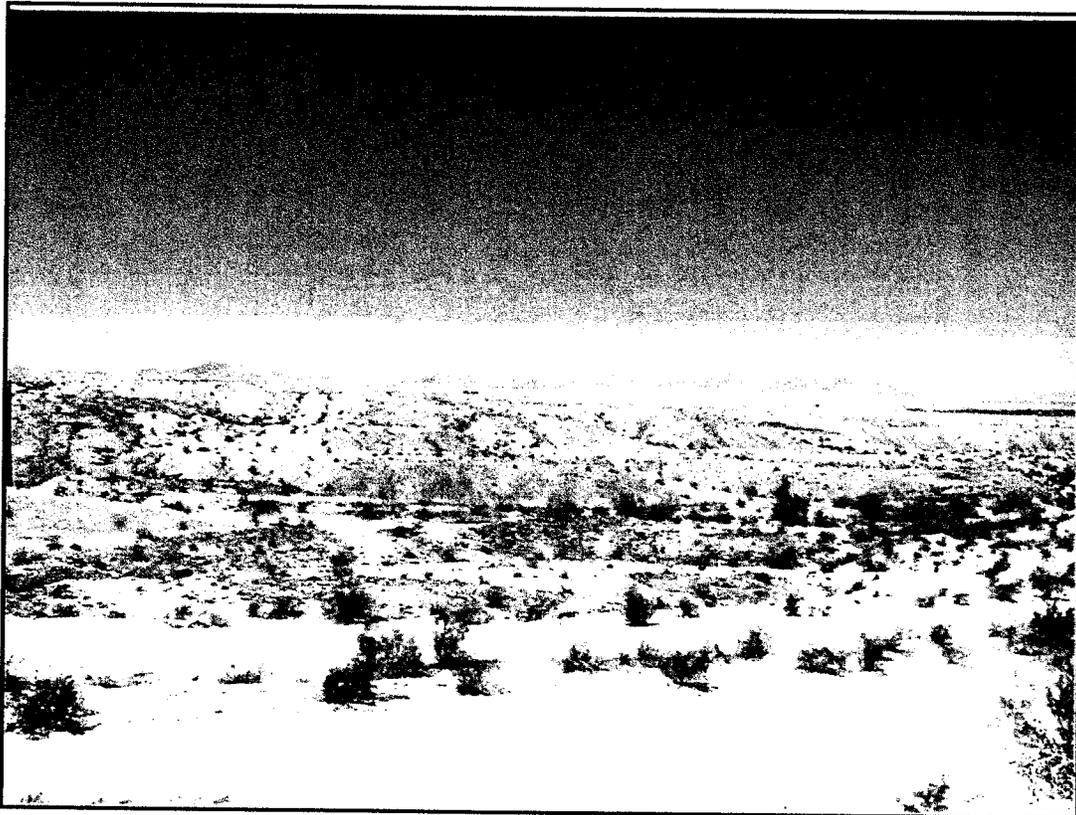
**Appraisal Qualifications**

**SUBJECT PROPERTY PHOTOGRAPHS**

SUBJECT PROPERTY PHOTOGRAPHS

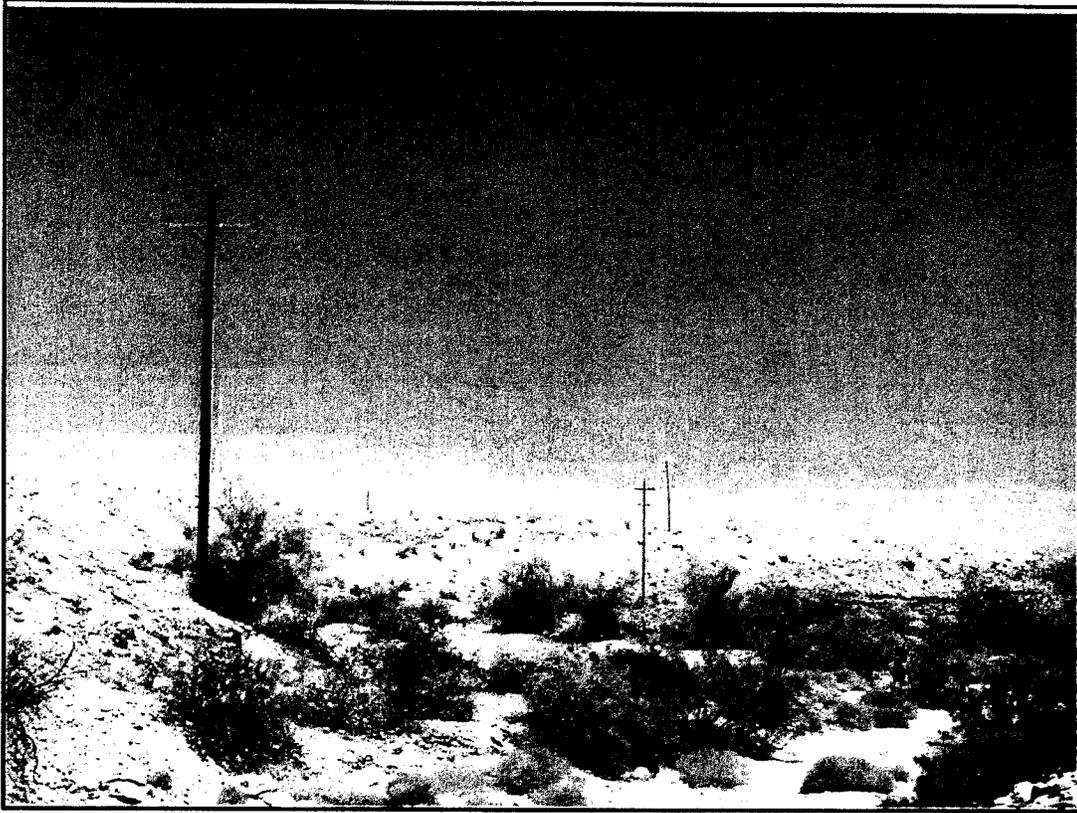


Looking north across subject



Looking west across subject from east end

SUBJECT PROPERTY PHOTOGRAPHS

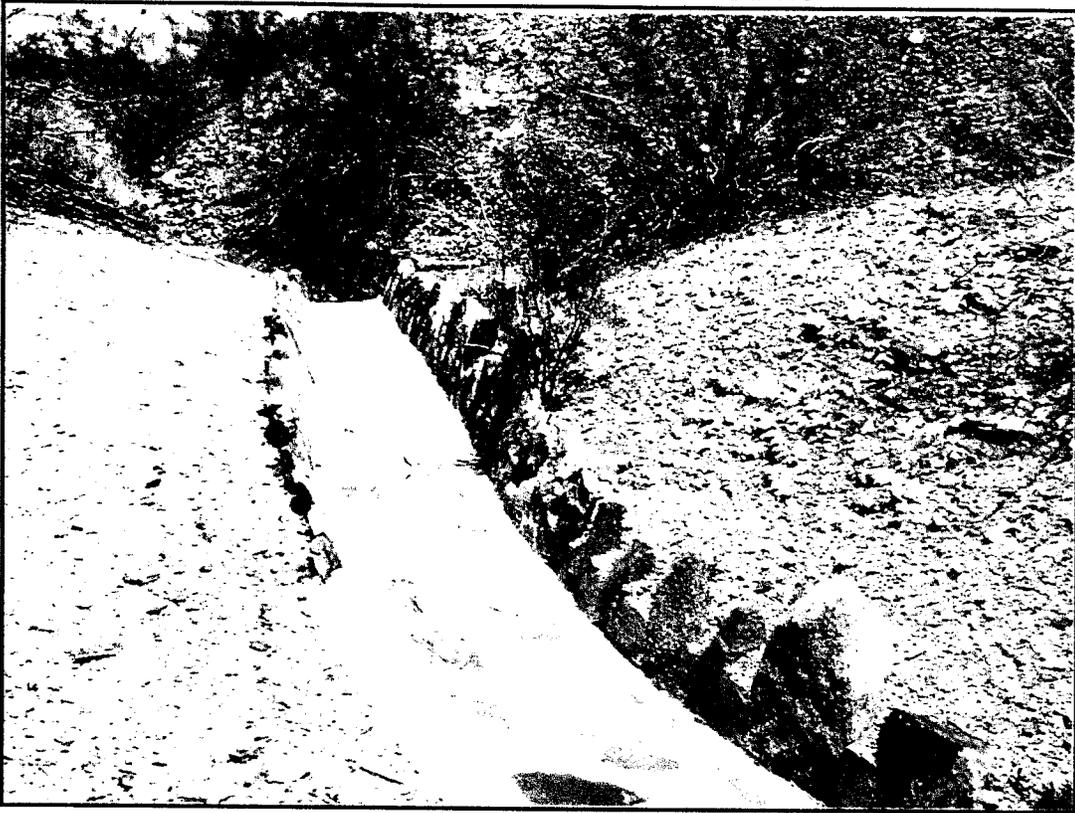


Pole line looking northwest

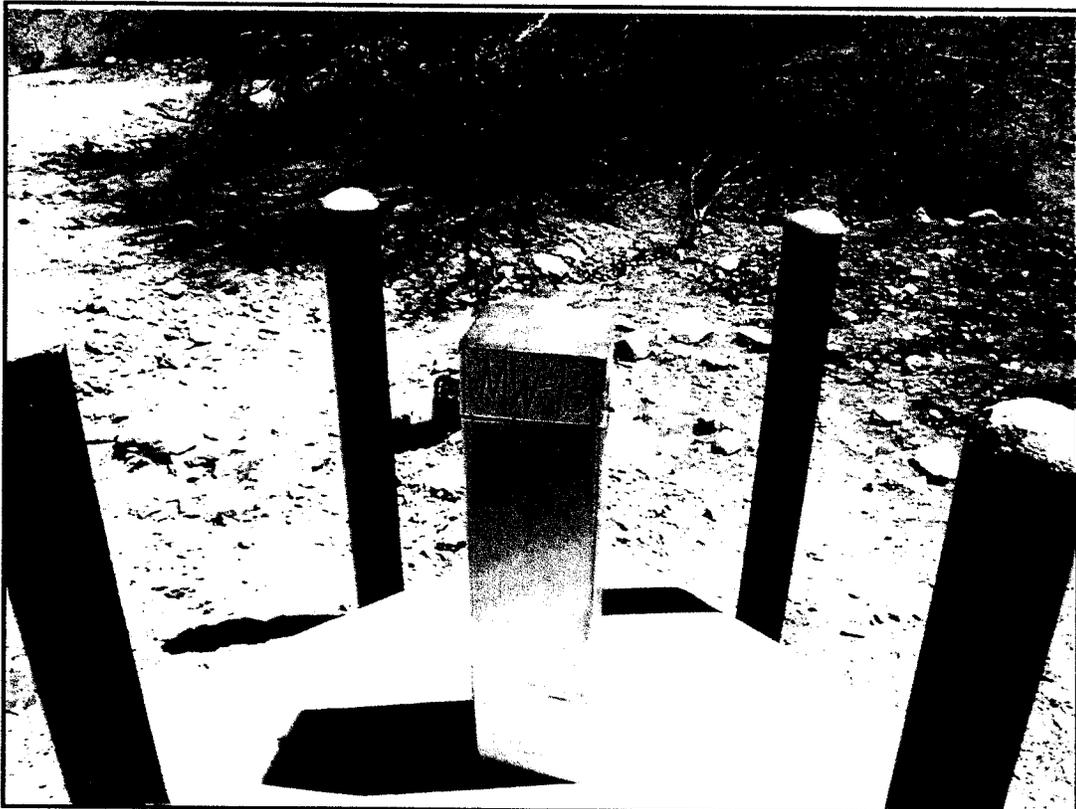


Stone culvert adjacent to historic Route 66

SUBJECT PROPERTY PHOTOGRAPHS



Stone culvert next to historic Route 66



Typical monitoring well - MW13

# **PRELIMINARY TITLE REPORT**



# OLD REPUBLIC TITLE COMPANY

450 NORTH BRINDEN BOULEVARD, 8TH FLOOR - GLENDALE, CALIFORNIA 91203-2306

(818) 247-2917 • (800) 22-TITLE (228-4853) Toll Free/Southern California

## PRELIMINARY REPORT

MASON & MASON  
2609 HONOLULU AVE. #100  
MONTROSE, CA 91020

ATTENTION: JOSEPH VANDERHORST

YOUR NO. 0650-151-06  
OUR NO. 2607026863-55

IN RESPONSE TO THE ABOVE REFERENCED APPLICATION FOR A POLICY OF TITLE INSURANCE, OLD REPUBLIC TITLE COMPANY HEREBY REPORTS THAT IT IS PREPARED TO ISSUE, OR CAUSE TO BE ISSUED, AS OF THE DATE HEREOF, A POLICY OR POLICIES OF TITLE INSURANCE DESCRIBING THE LAND AND THE ESTATE OR INTEREST THEREIN HEREINAFTER SET FORTH, INSURING AGAINST LOSS WHICH MAY BE SUSTAINED BY REASON OF ANY DEFECT, LIEN OR ENCUMBRANCE NOT SHOWN OR REFERRED TO AS AN EXCEPTION BELOW OR NOT EXCLUDED FROM COVERAGE PURSUANT TO THE PRINTED SCHEDULES, CONDITIONS AND STIPULATIONS OF SAID POLICY FORMS;

THE PRINTED EXCEPTIONS AND EXCLUSIONS FROM THE COVERAGE OF SAID POLICY OR POLICIES ARE SET FORTH IN EXHIBIT A ATTACHED. COPIES OF THE POLICY FORMS SHOULD BE READ. THEY ARE AVAILABLE FROM THE OFFICE WHICH ISSUED THIS REPORT.

PLEASE READ THE EXCEPTIONS SHOWN OR REFERRED TO BELOW AND THE EXCEPTIONS AND EXCLUSIONS SET FORTH IN EXHIBIT A OF THIS REPORT CAREFULLY. THE EXCEPTIONS AND EXCLUSIONS ARE MEANT TO PROVIDE YOU WITH NOTICE OF MATTERS WHICH ARE NOT COVERED UNDER THE TERMS OF THE TITLE INSURANCE POLICY AND SHOULD BE CAREFULLY CONSIDERED.

IT IS IMPORTANT TO NOTE THAT THIS PRELIMINARY REPORT IS NOT A WRITTEN REPRESENTATION AS TO THE CONDITION OF TITLE AND MAY NOT LIST ALL LIENS, DEFECTS AND ENCUMBRANCES AFFECTING TITLE TO THE LAND.

THIS REPORT (AND ANY SUPPLEMENTS OR AMENDMENTS HERETO) IS ISSUED SOLELY FOR THE PURPOSE OF FACILITATING THE ISSUANCE OF A POLICY OF TITLE INSURANCE AND NO LIABILITY IS ASSUMED HEREBY. IF IT IS DESIRED THAT LIABILITY BE ASSUMED PRIOR TO THE ISSUANCE OF A POLICY OF TITLE INSURANCE, A BINDER OR COMMITMENT SHOULD BE REQUESTED.

DATED AT 7:30 A.M. ON MAY 26, 2004

DAVE MAZONE, TITLE OFFICER,  
MONICA LEITH, TITLE ASSISTANT

AND JULIE ASAD, 2ND TITLE ASSISTANT

TELEPHONE NO. (818) 247-2917, EXT. 5323

FAX NO. (818) 549-4372

THE FORM OF POLICY OF TITLE INSURANCE CONTEMPLATED BY THIS REPORT IS:

A CLTA STANDARD COVERAGE (1998), OWNER'S POLICY, AND AN ALPHA LOAN POLICY.

THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED BY THIS REPORT IS:

A FEE

TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS VESTED IN:

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, A PUBLIC CORPORATION OF THE STATE OF CALIFORNIA

AT THE DATE HEREOF EXCEPTIONS TO COVERAGE IN ADDITION TO THE EXCEPTIONS AND EXCLUSIONS IN SAID POLICY FORM WOULD BE AS FOLLOWS:

I. TAXES AND ASSESSMENTS, GENERAL AND SPECIAL, FOR THE FISCAL YEAR 2004-2005, A LIEN, BUT NOT YET DUE OR PAYABLE.

II. TAXES AND ASSESSMENTS, GENERAL AND SPECIAL, FOR THE FISCAL YEAR 2003-2004, AS FOLLOWS:

TOTAL: \$243.29 ALL PAID  
1ST INSTALLMENT: \$121.65  
2ND INSTALLMENT: \$121.64  
PERSONAL PROPERTY: NONE  
LAND VALUE: \$23,069  
IMPROVEMENT VALUE: NONE  
HOMEOWNERS EXEMPTION: NONE  
CODE NO.: 096-020  
PARCEL NO.: 0650-151-06-0-000

III. THE LIEN OF SUPPLEMENTAL TAXES, IF ANY, ASSESSED PURSUANT TO THE PROVISIONS OF SECTION 75, ET SEQ. OF THE REVENUE AND TAXATION CODE OF THE STATE OF CALIFORNIA.

IV. AN EASEMENT AFFECTING THAT PORTION OF SAID LAND AND FOR THE PURPOSES STATED HEREIN AND INCIDENTAL PURPOSES AS PROVIDED IN THE FOLLOWING INSTRUMENT,

GRANTED TO: SOUTHERN PACIFIC LAND COMPANY, A CORPORATION  
FOR: PUBLIC UTILITIES  
RECORDED: NOVEMBER 3, 1928 AS INSTRUMENT NO. 55 IN BOOK 431 PAGE 42  
OFFICIAL RECORDS

AFFECTS: AS DESCRIBED THEREIN

TERMS AND CONDITIONS CONTAINED IN THE GRANT ABOVE REFERRED TO.

V. A RIGHT OF WAY OF LAWFUL WIDTH FOR ANY AND ALL EXISTING AND LAWFULLY ESTABLISHED COUNTY ROADS, AS DISCLOSED IN DEED RECORDED MARCH 26, 1936 AS INSTRUMENT NO. 44 IN BOOK 1127 PAGE 77 OFFICIAL RECORDS.

VI. WAIVER OF ANY CLAIMS FOR DAMAGES BY REASON OF LOCATION CONSTRUCTION, LANDSCAPING OR MAINTENANCE OF SAID HIGHWAY, AS PROVIDED IN THE DEED;

FROM: THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA  
TO: THE STATE OF CALIFORNIA  
RECORDED: JANUARY 30, 1947 AS INSTRUMENT NO. 191 IN BOOK 1954 PAGE 493, OFFICIAL RECORDS

VII. SAID LAND DOES NOT APPEAR TO HAVE A RIGHT OF ACCESS TO OR FROM SAID LAND.

VIII. THE EFFECT OF INSTRUMENTS, PROCEEDINGS, LIENS, DECREES OR OTHER MATTERS WHICH DO NOT SPECIFICALLY DESCRIBE SAID LAND BUT WHICH, IF ANY DO EXIST, MAY AFFECT THE TITLE OR IMPOSE LIENS OR ENCUMBRANCES THEREON. THE NAME SEARCH NECESSARY TO ASCERTAIN THE EXISTENCE OF SUCH MATTERS HAS NOT BEEN COMPLETED AND IN ORDER TO DO SO WE REQUIRE A SIGNED STATEMENT OF IDENTITY FROM OR ON BEHALF OF BUYER(S).

\*\*\*\*\*

"THE APPLICABLE RATE(S) FOR THE POLICY(IES) BEING OFFERED BY THIS REPORT OR COMMITMENT APPEARS TO BE SECTION(S) 2.1.A. AND 3.1.B.2."

"SHORT TERM RATE ("STR") DOES NOT APPLY."

SAID LAND IS SITUATED IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, THE WEST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER, THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 7, NORTH, RANGE 24 EAST, SAN BERNARDINO BASELINE, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AND THAT PORTION OF LOT 4 OF SAID SECTION DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT FOUR (4); THENCE NORTH ALONG THE WEST LINE THEREOF, SIX HUNDRED SIXTY AND 00/100 (660.00) FEET; THENCE EAST PARALLEL WITH AND SIX HUNDRED SIXTY AND 00/100 (660.00) FEET NORTH OF THE SOUTH LINE THEREOF, SIX HUNDRED SIXTY AND 00/100 (660.00) FEET; THENCE SOUTH PARALLEL WITH AND SIX HUNDRED SIXTY AND 00/100 (660.00) FEET EAST OF THE WEST LINE THEREOF SIX HUNDRED SIXTY AND 00/100 (660.00) FEET TO THE INTERSECTION WITH THE SOUTH BOUNDARY OF SAID LOT; THENCE WEST ALONG THE SOUTH LINE THEREOF, SIX HUNDRED SIXTY AND 00/100 (660.00) FEET TO THE PLACE OF BEGINNING.

EXCEPT ALL THAT PORTION OF SAID LOT 4, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, BY DEED RECORDED MARCH 26, 1936, IN BOOK 1127 PAGE 77, OFFICIAL RECORDS OF SAID COUNTY; THENCE SOUTH 89° 02' 08" WEST, ALONG THE NORTH LINE OF SAID PARCEL, 118.63 FEET; THENCE SOUTH 23° 08' 45" EAST, 301.59 FEET TO A POINT IN THE EAST LINE OF SAID PARCEL OF LAND, DISTANT THEREON SOUTH 0° 00' 47" WEST, 279.31 FEET FROM THE NORTHEAST CORNER THEREOF; THENCE NORTH 0° 00' 47" EAST, ALONG THE EAST LINE OF SAID PARCEL 279.31 FEET, TO THE POINT OF BEGINNING.

KG/PLATS ENCLOSED

\*\*\*\*\*  
**NOTICE  
(WIRING FUNDS)**

IF YOU ANTICIPATE HAVING FUNDS WIRED TO OLD REPUBLIC TITLE COMPANY, OUR WIRING INFORMATION IS AS FOLLOWS: US BANK, 9042 GARFIELD AVENUE, HUNTINGTON BEACH, CALIFORNIA 92646, ABA #122 235 821, CREDIT TO THE ACCOUNT OF OLD REPUBLIC TITLE COMPANY ACCT #153491951551.

**WHEN INSTRUCTING THE FINANCIAL INSTITUTION TO WIRE FUNDS, IT IS VERY IMPORTANT THAT YOU REFERENCE OLD REPUBLIC TITLE'S ORDER NUMBER.**

SHOULD YOU HAVE ANY QUESTIONS IN THE REGARD, PLEASE CONTACT YOUR TITLE OFFICER IMMEDIATELY.

**OLD REPUBLIC TITLE COMPANY**

ORDER NO.: 2607026863-55

\*\*\*\*\*

OLD REPUBLIC TITLE COMPANY



## OLD REPUBLIC TITLE COMPANY

### NOTES AND REQUIREMENTS

MASON & MASON  
2609 HONOLULU AVE #100  
MONTROSE, CA 91020

ATTENTION: JOSEPH VANDERHORST  
ESCROW NO.: 0650-151-06

THIS PAGE IS ATTACHED TO AND MADE A PART OF TITLE ORDER NO. 2607026863-55:

Please pay particular attention to the following items, as it will be necessary to resolve them PRIOR TO RECORDING this transaction.

A. THE REQUIREMENT THAT SATISFACTORY EVIDENCE BE FURNISHED TO THIS COMPANY OF COMPLIANCE WITH APPLICABLE STATUTES, ORDINANCES AND CHARTERS GOVERNING THE OWNERSHIP AND DISPOSITION OF THE HEREIN DESCRIBED LAND.

**B. RE. ITEM NO. 8:**

The requirement that we be furnished with

a STATEMENT OF IDENTITY from BUYER(S).

C. "IN ADDITION TO EXISTING REQUIREMENTS PERTAINING TO SELLERS WHO ARE NON-RESIDENTS OF CALIFORNIA, AS A RESULT OF RECENT CHANGES TO SECTION 18662 OF THE REVENUE AND TAXATION CODE, IN TRANSACTIONS CLOSING AFTER JANUARY 1, 2003 THE BUYER MAY THEN BE RESPONSIBLE TO WITHHOLD 3 1/3% OF THE SALES PRICE (AS DEFINED THEREIN) FROM ANY SELLER. IF THIS PROPERTY IS NOT THE SELLER'S PRINCIPAL RESIDENCE, THE STATUTE, AS MODIFIED, ALSO PROVIDES FOR CERTAIN EXEMPTIONS TO THE BUYER'S RESPONSIBILITY TO WITHHOLD, WHICH MAY APPLY."

D. WE FIND NO OPEN DEEDS OF TRUST OF RECORD. PLEASE VERIFY BY INQUIRY OF ESCROW PERSONNEL AND/OR AGENTS WHETHER OR NOT WE HAVE OVERLOOKED SOMETHING AND ADVISE THE TITLE DEPARTMENT ACCORDINGLY PRIOR TO CLOSING.

## **APPRAISAL QUALIFICATIONS**

**APPRAISAL QUALIFICATIONS**  
**MASON & MASON**

The firm of Mason & Mason, Real Estate Appraisers & Consultants, established in 1926, conducts an appraisal and consulting business in the general Southern California area. Offices have been maintained in Glendale since April 1, 1957. Mason & Mason is a California Corporation.

While the primary geographic area served is Southern California, assignments have been undertaken and completed throughout California and in Arizona and Nevada.

We have appraised large scale multiple parcel projects, as well as individual properties, and many of these have involved redevelopment and urban renewal assignments. Our redevelopment work has included nearly 2,000 parcels for the cities of Arcadia, Ventura, Los Angeles, Anaheim, Santa Monica, Torrance, Port Hueneme, Pasadena, Glendale, and National City. Other recent multiple parcel appraisals have included several thousand properties for acquisition for the proposed Palmdale Intercontinental Airport, several hundred parcels for the U.S. Navy for its Elk Hills Pipeline project and several hundred acres for the Metropolitan Water District of Southern California for the proposed Eastside Reservoir, south of Hemet in Riverside County, several hundreds of properties involved in numerous inverse condemnation - noise damage suits for properties within the Ontario Airport area of influence for the Department of Airports, and multiple properties in inverse condemnation damage suits in Big Bear (airport noise), San Bernardino County.

In general, our clientele includes many cities, the State of California, and the Federal Government. State agencies include the divisions of Beaches & Parks, Department of Transportation, General Services, Natural Resources, Finance, and Forestry. The cities include Los Angeles, Long Beach, Glendale, Pasadena, Santa Monica, Santa Ana, Torrance, Camarillo, Fontana, Riverside, Palm Desert, Rancho Cucamonga, and others. Assignments have also been completed for more than 15 school districts in Los Angeles, Riverside, Orange, Ventura and Santa Barbara Counties.

Among our private clients have been numerous attorneys, individuals and private corporations, such as the Coastal Corporation, Lockheed Martin Corp., Catellus Corp., Newhall Land & Farming, Seventh Day Adventist Church, National General Corp., Crown Zellerbach Co., Honolulu Oil Corp., Nohl Land & Cattle Co., Pepsi-Cola Bottling Co., International Shoe Co., Standard Oil, Union Oil, Shell Oil, Texaco, Minute Maid Corp., Hughes Tool Co., American Land Conservancy, as well as many banks, savings & loan institutions, public utilities, insurance and title companies.

The appraisers in this firm are:

- Frances Wolfe Mason, MAI
- David S. Mason, MAI
- Lisa M. Benson, MAI
- Vincent G. Maher, MAI
- Kate Collins McWatters, MAI SRA
- Bradford D. Thompson, MAI
- Victoria L. Valentine, RM MRED
- Robert W. Waters, MAI SR/WA

**APPRAISAL QUALIFICATIONS  
ROBERT W. WATERS, MAI, SR/WA**

**APPRAISAL EXPERIENCE**

- 2000-2003: Fee Appraiser & Consultant with Mason & Mason, Inc.  
1989-2000: Fee Appraiser and Consultant, Waters & Associates  
1984-1989: Fee Appraiser and Consultant affiliated with Robert Crisp, MAI, Inc.  
1983-1984: Fee Appraiser with Robert Ford and Associates, Inc.  
1976-1983: Staff Appraiser with the Stanislaus County Assessor's Office  
1974-1975: Assistant Agricultural Field Inspector with the Stanislaus County Agricultural Commissioner's Office.  
1970-1972: Staff Appraiser with the Los Angeles County Assessor's Office.  
1967-1969: 1<sup>st</sup> Lieutenant, U.S. Army. Platoon Leader & Operations officer of a transportation company, 1<sup>st</sup> Infantry Division, Vietnam: Executive Officer, Fort Ord Special Processing Detachment.

I have performed a variety of appraisal functions including: various condemnation assignments for public agencies, multi-family residential, single family residential subdivisions, vacant land, professional offices, retail properties, mixed use properties, special use properties, industrial properties, special purpose manufacturing facilities, property tax assessment appeals, possessory interests and agricultural properties.

**PROFESSIONAL AFFILIATIONS AND ACTIVITIES**

MAI - Member, Appraisal Institute  
SR/WA - Member, International Right of Way Association  
California Certified General Appraiser No. AG002134  
Advanced Appraiser Certificate - State Board of Equalization

**SPECIALIZED APPRAISAL COURSES**

American Institute of Real Estate Appraisers/ Appraisal Institute:

- Appraisal Principles
- Residential Valuation
- Subdivision Analysis
- Feasibility Analysis and Highest and Best Use
- Capitalization Theory & Techniques, Parts A & B
- Standards of Professional Appraisal Practice, Parts A, B, & C
- Comprehensive Appraisal Workshop/Appraiser's Complete Review
- Appraisal Regulations of the Federal Banking Agencies
- Income Valuation of Small Mixed Use Properties
- Real Estate Disclosure
- Basic Valuation Procedures
- Case Studies in Real Estate Valuation
- Valuation Analysis and Report Writing

International Right of Way Association:

- Easement Valuation
- Legal Aspects of Easements
- Bargaining Negotiations
- Presentation Skills
- Principles of Real Estate Acquisition
- California Condemnation Process from Inspection to Arbitration
- Eminent Domain Law Basics for Right of Way Professionals
- Eminent Domain Law Basics
- The Appraisal of Partial Acquisitions
- Business Relocation
- Skills of Expert Testimony

California State Board Of Equalization:

- Miscellaneous courses and seminars

### **SPECIALIZED APPRAISAL TRAINING & CERTIFICATION**

California Certified General Appraiser No. AG002134. Training and certification as an Auditor-Appraiser for business property audits and assessments in 1976. Awarded Advanced Appraiser Certification in 1981 by the State Board of Equalization.

### **OTHER QUALIFICATIONS**

Qualified as an Expert Witness in Real Estate Valuation in the Superior Court of the State of California, Calaveras County.

### **EDUCATIONAL BACKGROUND**

University of California, Santa Barbara - Bachelor of Arts  
Modesto Junior College:

- Financial Accounting
- Real Estate Finance
- Real Estate Practices
- Legal Aspects of Real Estate

California School of Real Estate (correspondence classes):

- Property Management
- Escrows
- Real Estate Principles
- Real Estate Appraisal

I certify that to the best of my knowledge, the above statements are true and correct.

Respectfully submitted,



Robert W. Waters, MAI, SRWA  
State of California Certificate No. AG002134

**APPRAISAL QUALIFICATIONS  
FRANCES WOLFE MASON, MAI**

**APPRAISAL EXPERIENCE**

Entered the real estate field in 1968 with concentration in real estate appraisal since 1971. During 1974 through July 1978, was an appraiser and Vice-President with Brown-Wolfe, Inc. with offices in Louisville, Kentucky and New Albany, Indiana. In addition to corporate management, appraisal experience involved a variety of property including acreage, farm and rural property, single and multi-family residences, commercial, commercial specialty and shopping centers, motels, office buildings and with specialization in industrial categories. Clients served were individuals, attorneys, corporations and agencies.

Since **August, 1978**, I have been associated with the appraisal firm of **Mason & Mason** in Glendale, California. Appraisal assignments include full and partial takings in fee as well as easements for projects in Ventura, Los Angeles, San Bernardino, Riverside, and Orange Counties. Types of properties involved in eminent domain or litigation actions include residential, commercial, industrial and agricultural both improved and unimproved. Services rendered involve appraisal review, and full and partial take appraisal report preparation of retail, office, industrial, mobile home parks, business parks, telecommunication sites, agricultural, and residential uses, including determination of severance damages and/or benefits for condemnation acquisitions, redevelopment acquisitions, property tax appeals, deficiency judgments, financial decisions, and planning purposes.

**1992 to current**, President and Managing Partner of Mason & Mason Real Estate Appraisers, Consultants, and Property Management, A California Corporation.

In addition to the above, non litigation assignments for tax planning, mortgage loans, partnerships and corporations include market value appraisals, fair rental studies and highest and best use studies for vacant land of all types, sizes and uses; telecommunications sites; multi-family apartment and condominium complexes; industrial and manufacturing properties; aviation oriented property and port oriented real estate.

Vacant land appraisals include 81,000+ acre Hearst Ranch (conservation easement), San Luis Obispo County, Ca; 42,000± acres desert and water toll acres Blythe, California and 23,000 acres desert, vineyards and orchards, Cadiz, California. Many appraisals have also been completed on properties located in Pasadena, including: Pasadena YWCA, Pacific Asia Museum, Pasadena YMCA, Pasadena Central Library, The Rose Bowl, DeLacey and Schoolhouse parking garages.

A partial listing of individuals, attorneys and corporations for whom I have completed appraisal assignments is as follows:

American Land Conservancy	City of Pasadena
Avila & Putnam	City of Riverside
Bankers Life	City of San Diego
Best, Best & Krieger	Coastal Corporation
Brobeck, Phleger & Harrison	Demetriou, Del Guercio, Springer & Francis
Brown, Winfield & Canzoneri	FDIC
Burke, Williams & Sorensen	Fulbright & Jaworski
California Dept. of Transportation	The Gas Company
Continental Bank, Chicago	Lockheed Martin
County of Los Angeles	Price, Postal & Parma
County Sanitation Districts of Los Angeles County	Prudential Insurance Co.
Loeb & Loeb	Rutan & Tucker
Loma Linda University	Richards, Watson & Gershon
Los Angeles Unified School District	Newhall Land & Farming
Metropolitan Water District of So. Calif.	Nordman, Cormany, Hair & Compton
Myers, Widders, Gibson & Long	Ochoa & Sillas
City of Glendale	O'Melveny & Myers
City of Los Angeles	San Bernardino County Water
City of Palm Desert	Schiff, Harden & Waite

Partial Listing of Individuals, Attorneys and Corporations (continued)

Sheppard, Mullin, Richter & Hampton  
Singer & Silvergleid  
Southern California Edison Co.

Southern California Water  
Spears Manufacturing  
Suzuki & Ito

**EXPERIENCE - ARBITRATOR**

Sea World Land Lease Renegotiations                      January, 2004

**PROFESSIONAL AFFILIATIONS**

Nov. 1977                      Elected to MAI membership in the American Institute of Real Estate Appraisers, Certificate No. 5737

1987 to current                      International Right of Way Association, member

1991 to current                      Certified General Appraiser, State of California, Certificate No. AG001649

2002 to current                      Real Estate Broker, State of California, ID No. 01330850

1970 to 1983                      Licensed Real Estate Broker, Indiana

1994 to current                      Associate Member, Urban Land Institute

1995 to current                      Associate Member, American Bar Association

1985 to current                      Member, Aircraft Owners & Pilots Association

**PROFESSIONAL ACTIVITIES**

1993-94      Participated in the drafting of Appraisal Standards for Land Secured Financings for the California Debt Advisory Commission as required by Senate Bill 1464.

1991-92      Served as liaison between State of California Office of Real Estate Appraisers (OREA) and the Appraisal Institute for accreditation of all Appraisal Institute Courses historic and current required by Assembly Bill 527.

1973-74      Served as a member of the Education Committee, Indiana Association of Realtors.

1971-74      Served as Director and Chairman, Education Committee, Southern Indiana Board of Realtors.

**SPECIALIZED APPRAISAL TRAINING & CERTIFICATION**

Certified through December 31, 2006, under Appraisal Institute (formerly A.I.R.E.A.) Voluntary Continuing Educational Program and completed recertification requirements in 2004 for 2 year renewal of Certified General Appraiser Certificate, State of California (through February 2006).

**POSITIONS HELD - APPRAISAL INSTITUTE, formerly  
AMERICAN INSTITUTE OF REAL ESTATE APPRAISERS, Chapter #5**

<u>National</u>			<u>Regional</u>
1987-89	Division of Courses	1988	Committee to Nominate Governing Counselors
1983-86	Candidate Guidance		1983-90      Southwest Regional Committee
1979-80	Special Education Seminars		1976              Great Lakes Regional Conference Committee
1978	Division of Seminars		

**POSITIONS HELD - APPRAISAL INSTITUTE, formerly  
AMERICAN INSTITUTE OF REAL ESTATE APPRAISERS, Chapter #5 (continued)**

Chapter - Southern California Chapter #5

1997 Special Advisor to Board of Directors, Co-Chair - Litigation Seminar  
1995 Member, Nominating Committee  
1992 Special Advisor to Board of Directors  
1991 Past President - Board Advisor, Chair - External Affairs  
1990 President  
1989 Vice President  
1988 Secretary Treasurer  
1987-88 Chair Education Courses  
1986 Assistant Secretary  
1983-85 Director  
1982 Education Coordinator  
1980-81 Chair - Education Courses

Chapter - Indiana

1976 Seminar Committee

**SPECIALIZED APPRAISAL COURSES**

- AIREA Appraisal Course I - Basic Appraisal Principles, Methods/Techniques, 1971.
- AIREA Real Estate Appraisal 1-B - Capitalization Theory and Technique, 1973.
- AIREA Real Estate Appraisal II - Urban Properties, 1974, University of Virginia.
- AIREA Real Estate Appraisal VI - Real Estate Investment Analysis, 1975, University of Colorado.
- AIREA Standards of Professional Practice, 1982 and Appraisal Institute Standards of Professional Practice, 1991.
- Feasibility Analysis, University of Wisconsin.
- National Institute of Real Estate Brokers Management. Courses, I, II and III.
- Attended numerous specialized seminars and workshops throughout the years.

**OTHER QUALIFICATIONS**

**2001 Professional Service Award - Southern California Chapter of Appraisal Institute**

Qualified as an **expert witness** in Real Estate Valuation in the Superior Court of the State of California in Los Angeles, Ventura, Riverside, San Bernardino, Santa Barbara, and Orange Counties.

FAA licensed pilot, **private pilot**, single engine land.

**EDUCATIONAL BACKGROUND**

Graduated Lourdes High School, Chicago, Illinois, 1961.

*I certify that to the best of my knowledge, the above statements are true and correct.*

Respectfully submitted,



Frances Wolfe Mason, MAI  
State of California Certificate No. AG001649

**PG&E Gas and Electric Advice  
Filing List  
General Order 96-A, Section III(G)**

ABAG Power Pool	Douglass & Liddell	PG&E National Energy Group
Accent Energy	Downey, Brand, Seymour & Rohwer	Pinnacle CNG Company
Aglet Consumer Alliance	Duke Energy	PITCO
Agnews Developmental Center	Duke Energy North America	Plurimi, Inc.
Ahmed, Ali	Duncan, Virgil E.	PPL EnergyPlus, LLC
Alcantar & Kahl	Dutcher, John	Praxair, Inc.
Ancillary Services Coalition	Dynegy Inc.	Price, Roy
Anderson Donovan & Poole P.C.	Ellison Schneider	Product Development Dept
Applied Power Technologies	Energy Law Group LLP	R. M. Hairston & Company
APS Energy Services Co Inc	Energy Management Services, LLC	R. W. Beck & Associates
Arter & Hadden LLP	Exelon Energy Ohio, Inc	Recon Research
Avista Corp	Exeter Associates	Regional Cogeneration Service
Barkovich & Yap, Inc.	Foster Farms	RMC Lonestar
BART	Foster, Wheeler, Martinez	Sacramento Municipal Utility District
Bartle Wells Associates	Franciscan Mobilehome	SCD Energy Solutions
Blue Ridge Gas	Future Resources Associates, Inc	Seattle City Light
Bohannon Development Co	G. A. Krause & Assoc	Sempra
BP Energy Company	Gas Transmission Northwest Corporation	Sempra Energy
Braun & Associates	GLJ Energy Publications	Sequoia Union HS Dist
C & H Sugar Co.	Goodin, MacBride, Squeri, Schlotz &	SESCO
CA Bldg Industry Association	Hanna & Morton	Sierra Pacific Power Company
CA Cotton Ginners & Growers Assoc.	Heeg, Peggy A.	Silicon Valley Power
CA League of Food Processors	Hitachi Global Storage Technologies	Smurfit Stone Container Corp
CA Water Service Group	Hogan Manufacturing, Inc	Southern California Edison
California Energy Commission	House, Lon	SPURR
California Farm Bureau Federation	Imperial Irrigation District	St. Paul Assoc
California Gas Acquisition Svcs	Integrated Utility Consulting Group	Sutherland, Asbill & Brennan
California ISO	International Power Technology	Tabors Caramanis & Associates
Calpine	Interstate Gas Services, Inc.	Tecogen, Inc
Calpine Corp	IUCG/Sunshine Design LLC	TFS Energy
Calpine Gilroy Cogen	J. R. Wood, Inc	Transcanada
Cambridge Energy Research Assoc	JTM, Inc	Turlock Irrigation District
Cameron McKenna	Luce, Forward, Hamilton & Scripps	U S Borax, Inc
Cardinal Cogen	Manatt, Phelps & Phillips	United Cogen Inc.
Cellnet Data Systems	Marcus, David	URM Groups
Chevron Texaco	Matthew V. Brady & Associates	Utility Cost Management LLC
Chevron USA Production Co.	Maynor, Donald H.	Utility Resource Network
City of Glendale	MBMC, Inc.	Wellhead Electric Company
City of Healdsburg	McKenzie & Assoc	Western Hub Properties, LLC
City of Palo Alto	McKenzie & Associates	White & Case
City of Redding	Meek, Daniel W.	WMA
CLECA Law Office	Mirant California, LLC	
Commerce Energy	Modesto Irrigation Dist	
Constellation New Energy	Morrison & Foerster	
CPUC	Morse Richard Weisenmiller & Assoc.	
Cross Border Inc	Navigant Consulting	
Crossborder Inc	New United Motor Mfg, Inc	
CSC Energy Services	Norris & Wong Associates	
Davis, Wright, Tremaine LLP	North Coast Solar Resources	
Defense Fuel Support Center	Northern California Power Agency	
Department of the Army	Office of Energy Assessments	
Department of Water & Power City	OnGrid Solar	
DGS Natural Gas Services	Palo Alto Muni Utilities	