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PACIFIC GAS and ELECTRIC COMPANY

50-275/323

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9 UNITED STATES BANKRUPTCY COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 In re
13 PACIFIC GAS and ELECTRIC
COMPANY, a California corporation,
14
Debtor.

Case No. 01-30923 DM
Chapter 11 Case

Date: March 27, 2003
Time: 1:30 p.m.
Place: 235 Pine Street, 22nd Floor
San Francisco, California
Judge: Hon. Dennis Montali

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20 Federal I.D. No. 94-0742640
21

22
23 DECLARATION OF TERRY NELSON IN SUPPORT OF DEBTOR'S NOTICE OF
24 MOTION AND MOTION FOR AN ORDER AUTHORIZING COMPROMISE OF
CLAIMS OF CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
25 PURSUANT TO A CONSENT JUDGMENT

26
27
28 *Pool*
Add: Kids Dgc Mail Center

NELSON DECL. RE PG&E'S MOTION FOR ORDER AUTH. COMP. CLAIMS WITH CRWQCB

HOWARD
RICE
NEMEROVSKI
CANADY
FALK
& RABKIN
A Professional Corporation

1 I, Terry Nelson, declare as follows:

2 1. I am the Director of Fossil Generation and Asset Management for Pacific Gas
3 and Electric Company, the debtor and debtor in possession in the above-captioned
4 Chapter 11 case (the "Debtor" or "PG&E"). I have been in my current position since
5 September 1, 2002. The Declaration is based on my personal knowledge of the Debtor's
6 prior operations at the Moss Landing Power Plant (the "Plant"). If called as a witness, I
7 could and would testify competently to the facts stated herein.

8 2. I make the declaration in support of Debtor's Motion For An Order Authorizing
9 Compromise Of Claims Of California Regional Water Quality Control Board Pursuant To A
10 Consent Judgment (the "Motion") submitted by PG&E. The Application seeks authority to
11 enter into a Consent Judgment with the California Regional Water Quality Control Board
12 ("CRWQCB") in the form attached hereto as Exhibit A ("Consent Judgment").

13 3. PG&E owned and operated the Plant from 1971 through 1998, at which time the
14 Plant was sold to Duke Energy Moss Landing Company LLC. The Plant generates
15 electricity using natural gas for power generation and seawater for cooling purposes. After
16 being used for cooling purposes, the seawater is discharged into certain waterways. In
17 connection with the discharge of heated seawater from the Plant, PG&E held certain
18 National Pollution Discharge Elimination System Permits (the "NPDES Permits") issued by
19 the CRWQCB. In April 2000, PG&E reported to the CRWQCB that PG&E had discharged
20 heated cooling water from certain intake structures of the Power Plant into the Moss Landing
21 Harbor in a practice known as "backflushing." These discharges occurred beginning in 1974
22 and ending in 1998.

23 4. The CRWQCB has informed PG&E that it believes that the backflushing of
24 heated cooling water into Moss Landing Harbor violated PG&E's NPDES Permits. The
25 CRWQCB has further informed PG&E that such discharges violated Section 301 of the
26 Clean Water Act (33 U.S.C. §1311) and Section 13385 of the California Water Code and
27 that such violations could subject PG&E to substantial civil penalties. PG&E has disputed
28

1 these allegations.

2 5. Since the time that PG&E reported the discharges to the CRWQCB, the parties
3 have been engaged in settlement discussions. Subject to the approval of this Court and the
4 California Superior Court for the County of Monterey, PG&E and the CRWQCB have
5 agreed to a settlement of CRWQCB's claims pursuant to the terms of the Consent Judgment.

6 6. As described in more detail in the Consent Judgment, pursuant to the proposed
7 settlement, PG&E would agree to pay \$5,000,000 to fund the following environmental
8 projects:

- 9 a. Non-Point Source Projects Fund in the amount of \$2,850,000;
10 b. Non-Point Source Monitoring And CCAMP Funds in the amount of
11 \$1,900,000; and
12 c. Administration Fund in the amount of \$250,000.

13 PG&E would have no obligation to form, manage, administer or further fund any of the
14 foregoing projects.

15 7. Also pursuant to the Consent Judgment, the CRWQCB would release PG&E
16 from all claims it may assert arising out of the discharge of heated cooling water from the
17 Plant during the period of PG&E's ownership effective at the time the payments described in
18 Paragraph 6 above are made.

19 8. For the reasons specified in the Motion, I believe that the settlement of this matter
20 pursuant to the Consent Judgment is fair and equitable and in the best interest of PG&E and
21 the estate.

22 I declare under penalty of perjury under the laws of the United States of America and
23 the State of California that the foregoing is true and correct. Executed this 6th day of
24 February, 2003, at San Francisco, California.

25
26 
27 TERRY NELSON
28

WD 012703/1-1419925/1052072/v2

1 **BILL LOCKYER,**
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2 **MARY E. HACKENBRACHT**
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7 CALIFORNIA ex rel., CENTRAL COAST
REGIONAL WATER QUALITY CONTROL
8 BOARD

9
10 SUPERIOR COURT OF CALIFORNIA
11 COUNTY OF SAN LUIS OBISPO

12 **PEOPLE OF THE STATE OF CALIFORNIA ex**
13 **rel., CENTRAL COAST REGIONAL WATER**
14 **QUALITY CONTROL BOARD,**

15 Plaintiffs,

16 v.

17 **PACIFIC GAS AND ELECTRIC COMPANY,**
Defendant.

Case No.:

CONSENT JUDGMENT

18 1. INTRODUCTION

19 1.1 On , 2002, the People of the State of California, ex rel. California
20 Regional Water Quality Control Board, Central Coast Region (hereinafter "Board") filed a
21 complaint in this Court naming Pacific Gas and Electric Company (hereinafter "Company") as
22 a defendant. The complaint asserts causes of action under the Porter-Cologne Water Quality
23 Act and the Clean Water Act arising from the historical discharge of heated cooling water by
24 the Company from locations not authorized by its National Pollutant Discharge Elimination
25 System Permit ("NPDES"). This Consent Judgment is being entered as a full and final
26 resolution of this matter.

27 ///

28 **EXHIBIT A**

1 **2. DEFINITIONS**

2 As used in this Consent Judgment and for the purposes of this Consent Judgment only,
3 the following terms have the following meaning:

4 2.1 "Consent Judgment" shall mean this Consent Judgment and all exhibits attached
5 hereto. In the event of conflict between this Consent Judgment and any exhibit, this Consent
6 Judgment shall control.

7 2.2 "Bankruptcy Court" shall mean the United States Bankruptcy Court for the Northern
8 District of California (San Francisco Division) having jurisdiction over the pending bankruptcy
9 case of the Company, styled as In re Pacific Gas and Electric Company, Case No.
10 01-30923DM.

11 2.3 "Board" shall mean the California Regional Water Quality Control Board, Central
12 Coast Region.

13 2.4 "Company" shall mean Pacific Gas and Electric Company, its affiliates and any
14 successors or assigns of Pacific Gas and Electric Company or its affiliates.

15 2.5 "Effective Date" shall mean the date on which the Consent Judgment is entered by
16 the Superior Court of Monterey County, subject to the condition precedent in Paragraph 6.

17 2.6 "Parties" shall mean the People of the State of California ex rel. the Board and the
18 Company.

19 2.7 "Permit" shall mean the National Pollutant Discharge Elimination System
20 ("NPDES") Permit and Waste Discharge Requirements issued by the Board.

21 2.8 "Plant" shall mean the Moss Landing Power Plant owned by the Company until 1998
22 and currently owned and operated by Duke Energy Moss Landing LLC.

23 2.9 "NPDES Permits" shall mean NPDES Permits No. CA0006254 and Waste
24 Discharge Requirements Order Nos. 71-41, 76-09, 85-08, 90-08, and 95- 22 issued to the
25 Company.

26 **3. RECITALS**

27 3.1 The Company owned and operated the Plant from 1971 through 1998. The Plant is
28 currently owned by Duke Energy Moss Landing Company LLC. The Moss Landing Power

1 Plant generates electricity using natural gas for power generation and seawater for cooling
2 purposes. At the time the Company owned and operated it, the plant had four discharge
3 points: Discharge No. 001 to the southern shore of Elkhorn Slough (Units 1 through 5, closed
4 in 1995), Discharge No. 002 to Monterey Bay (Units 6 and 7), Discharge No. 003 to Moro
5 Cojo Slough (storm water only), and Discharge No. 004 to Moss Landing Harbor (storm
6 water only.)

7 3.2 The Board issued and reissued amended NPDES Permits to the Company in 1971,
8 1976, 1985, 1990 and 1995.

9 3.3 It is the Board's position that: During the years the plant was operated by the
10 Company, the NPDES Permits permitted discharge of heated cooling water from Units 6 and 7
11 only to the discharge point No. 002 in Monterey Bay. No discharge of heated cooling water
12 to Moss Landing Harbor was authorized by the NPDES Permits and discharges not
13 specifically authorized were prohibited. Additionally, discharge of heated cooling water to
14 Moss Landing Harbor violated Clean Water Act Section 301 (33 U.S.C. Section 1311). Any
15 violation of the NPDES Permits or Clean Water Act Section 301 constitutes a violation of
16 Water Code Section 13385 subjecting Company to civil liability. The Attorney General, upon
17 request of a regional board, shall petition the superior court to impose liability for violations
18 of the NPDES Permits.

19 3.4 The Company discovered and reported to the Regional Board that the discharge by
20 the Company of billions of gallons of heated cooling water from the intake structure for Units
21 6 and 7 into Moss Landing Harbor had occurred beginning in 1974 and ending in 1998 when it
22 sold the Plant. The Company takes the position that while it engaged in this practice, also
23 known as "backflushing", it did so without knowledge that the actions violated any permit
24 conditions.

25 3.5 The Regional Board takes the position that the prohibited discharges constitute
26 violations of Water Code Section 13385. At the request of the Regional Board, the Attorney
27 General's Office is concurrently filing a Complaint to impose civil liability upon the Company
28 and this Consent Judgment.

1 3.6 Pursuant to this Consent Judgment, the Company has agreed to fund various
2 supplemental environmental projects and activities in the total amount of Five million dollars
3 (\$5 million) that will include benefits to the Elkhorn Slough and Moss Landing Harbor and
4 watersheds tributary to the Slough and Harbor. The descriptions of the funding projects are
5 set forth in Paragraph 8 below and include the Non-point Source Projects Fund , the
6 Non-Point Source Monitoring Fund and CCAMP Fund , and Administrative costs.

7 4. JURISDICTION AND VENUE

8 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
9 jurisdiction over the allegations in the Complaint and personal jurisdiction over the Parties as
10 to the acts alleged in the Complaint, that venue is proper, and that this Court has jurisdiction
11 to resolve all allegations raised in, arising from or related to the Complaint.

12 5. PARTIES BOUND

13 This Consent Judgment applies to and is binding upon the California Regional Water
14 Quality Control Board, Central Coast Region and the Company. Any change in ownership or
15 corporate status of the Company including, but not limited to, any transfer of assets or real or
16 personal property, shall in no way alter the Company's responsibilities under this Consent
17 Judgment.

18 6. COURT APPROVAL

19 6.1 Bankruptcy Court Approval The Company will file (or already has filed) with
20 the Bankruptcy Court an application or motion (the "Motion") for authority for the Company
21 to enter into and be bound by this Consent Judgment and all the terms therefor, including the
22 funding of supplemental environmental projects and funding of administrative costs pursuant to
23 paragraph 8. The Consent Judgment shall have no force or effect, and may not be used for
24 any purpose in any action, unless and until an order granting the Motion is final.

25 6.2 Superior Court Approval The Parties will file a stipulated motion for entry of
26 judgment requesting that the Court enter this Consent Judgment. The Consent Judgment shall
27 have no force or effect, and may not be used for any purpose in any action, unless and until
28 entered as a final judgment by the Court.

1 7. CLAIMS COVERED

2 This Consent Judgment is a full, final and binding agreement between the Board and
3 the Company, including for the purpose of this Paragraph the Company's officers, directors,
4 agents, consultants, servants, employees, successors and assigns, of any violation of the
5 Porter-Cologne Water Quality Control Act, the Clean Water Act and any other statutory or
6 common law claims that have been or could have been asserted in the Complaint by the Board
7 arising from the Company's historical discharge of heated cooling water from the Plant at
8 locations other than those permitted in the NPDES Permits, a practice commonly known as
9 "backflushing."

10 8. THE COMPANY'S OBLIGATIONS

11 8.1 The Company has offered and the Board has agreed to accept Company
12 funding the following Supplemental Environmental Projects:

13 8.2 Community Foundation for Monterey County

14 The Company shall pay into a fund, established and administered as provided below,
15 within thirty (30) Days of the Effective Date of the Consent Judgment by transferring and
16 delivering a check made payable to the Community Foundation for Monterey County
17 ("Community Foundation").

18 a. Non Point Source Projects Fund

19 The fund shall be established with the Community Foundation in the
20 amount of two million eight hundred fifty thousand dollars (\$ 2,850,000) in accordance with a
21 Memorandum of Agreement to be approved by the Regional Board Executive Officer and in
22 accordance with the Community Foundation Policy for Donor-Advised Funds. The fund will
23 be called the Non-Point Source Projects Fund ("Projects Fund".) The Projects Fund is not
24 intended to be a permanent fund and so principle as well as earnings on investments may be
25 used for the purposes specified below in order to maximize benefit to the Elkhorn Slough and
26 Moss Landing Harbor. Sources other than the Company may donate money or other property
27 to the Projects Fund. The Community Foundation shall invest the Projects Fund in
28 conservative investments ~~after consultation with the Executive Officer~~ based upon minimal

1 risk of loss of capital. The Community Foundation will provide a regular accounting of the
2 Projects Fund and its investments to the Regional Board Executive Officer on a semi-annual
3 basis, or if requested by the Regional Board, on a more frequent basis. The Community
4 Foundation will periodically consult with the Regional Board Executive Officer regarding its
5 investment strategy on a semi-annual basis. The Executive Officer will report annually to the
6 Regional Board on the status of the Projects Fund and funded project implementation and
7 support.

8 b. General Project and Support Funding- Criteria

9 (1) The Projects Fund shall be used to fund projects to reduce
10 sediment, nutrients, pesticides and other pollutants that enter the Elkhorn Slough and Moss
11 Landing Harbor or watersheds tributary to the Slough or Harbor. The projects must be
12 consistent with the Regional Board's Toxic Hot Spots Cleanup Plan or the Monterey Bay
13 National Marine Sanctuary's Plan for Agriculture ("Sanctuary Agriculture Plan".) Projects
14 shall focus on Elkhorn Slough or Moss Landing Harbor and watersheds tributary to the Slough
15 and Harbor, including the Salinas River, Moro Cojo Slough, and Tembladero Slough. The
16 Projects Fund may also fund support for establishing new watershed working groups according
17 to the Sanctuary Agriculture Plan or providing support for existing groups to facilitate
18 completion of water quality management plans and implementation of projects according to the
19 Sanctuary Agriculture Plan. Support may also include screening of applications for funding
20 from the Projects Fund and assistance with and review of implementation of projects that have
21 received funding.

22 -(2) Project Implementation Funding Criteria

23 The Regional Board, at a public meeting, after opportunity for public comment, shall establish
24 specific criteria for selecting projects for project implementation funding. In establishing the
25 specific criteria for project implementation funding, the Regional Board shall be guided by the
26 following:

27 (a) The proposal must be in Elkhorn Slough or Moss Landing
28 Harbor or watersheds tributary to the Slough or Harbor;

1 (b) Applicants will be ranked higher if they have completed a
2 water quality management plan for their lands, either through a University of California (UC)
3 short course or in conjunction with Natural Resource Conservation Service (NRCS) or the
4 Monterey County Resource Conservation District (RCD) staff;

5 (c) The Proposal will be ranked higher if it implements
6 management projects identified in the water quality management plan and recommendations
7 made by the Regional Board, UC, NRCS and RCD;

8 (d) Proposals shall contain a cost-share match;

9 (e) Proposals must be implemented within a date specified in
10 the funding commitment;

11 (f) Applicants must participate in the Regional Board's
12 monitoring program for pollution reduction effectiveness as described in the Non-Point Source
13 Monitoring Fund below.

14 (g) Proposals will be ranked higher if the Applicant is a
15 member of an industry-led Watershed Working Group as defined in the Sanctuary Agricultural
16 Plan.

17 (h) Funding will be disbursed in at least three installments to
18 assure project completion (initial, midway and after completion);

19 (i) Applicants must allow Regional Board staff access to the
20 project area for monitoring and inspection;

21 (3) Support Funding Criteria

22 The Regional Board at a public meeting after opportunity for
23 public comment, shall establish specific criteria for funding the support activities listed in
24 paragraph 8.2 b. (1), above.

25 (4) Review and Approval of Grant Proposals

26 The Community Foundation shall fund projects after approval by
27 the Regional Board Executive Officer based on the Board established criteria. The Executive
28 Officer may consult a technical advisory committee. Approved projects must comply with the

1 criteria established by the Regional Board in accordance with this paragraph and with the
2 public benefit purposes of the Community Foundation as set forth in its organizational and
3 governing documents.

4 8.3 The Non-Point Source Monitoring and CCAMP Funds

5 The Company shall pay into two funds established with the National Fish and
6 Wildlife Foundation , the Community Foundation or another Foundation approved by the
7 Regional Board Executive Officer (Approved Foundation), within thirty (30) Days of the
8 Effective Date of the Consent Judgment by transferring and delivering two checks made
9 payable to the Approved Foundation in the amounts set forth in paragraphs 8.3 (a) and 8.3 (b)
10 below. The funds shall be entitled, The Non-Point Source Monitoring Fund (the Monitoring
11 Fund) and The CCAMP Fund (collectively "the Funds") in accordance with an Memorandum
12 of Agreement approved by the Regional Board Executive Officer. The Funds shall be
13 administered as provided below. These Funds are intended to be long-term and will be
14 invested in conservative investments based on minimal risk of loss of capital so that earnings
15 from the investments are used to fund the activities described below. If earnings on the Funds
16 are not sufficient to cover administrative costs and monitoring activities, principle from the
17 applicable Fund may be used to pay for administrative costs and monitoring activities, but an
18 effort will be made to extend the life of the Funds as long as feasible, without impeding
19 monitoring goals. The Approved Foundation will provide a regular accounting of the Funds
20 and its investments to the Regional Board Executive Officer on a semi-annual basis, or if
21 requested by the Regional Board, on a more frequent basis. The Approved Foundation will
22 periodically consult with the Regional Board Executive Officer regarding its investment
23 strategy on a semi-annual basis. Sources other than the Company may donate money or other
24 property to the Funds. The Executive Officer will report to the Regional Board annually on the
25 status of the Funds and funded monitoring. The Funds shall be established as follows:

26 (a) The Non-Point Source Monitoring Fund. \$950,000 for
27 comprehensive monitoring to evaluate implementation and effectiveness of activities funded
28 by the Project Funds as well as other non-point source pollution reduction activities in Elkhorn

1 Slough and Moss Landing Harbor and watersheds tributary to the Slough and Harbor. The
2 Regional Board will approve monitoring funding criteria at a public meeting, after
3 opportunity for public comments. Monitoring projects shall be funded after approval by the
4 Regional Board Executive Officer based on the criteria and with the public benefit purposes of
5 the Approved Foundation as set forth in its organizational and governing documents. The
6 Executive Officer may consult a technical advisory committee before approval.

7 (b) The Central Coast Ambient Monitoring Program
8 (CCAMP) Fund. \$950,000 for CCAMP monitoring activities. CCAMP is the Central Coast
9 Ambient Monitoring Program (CCAMP). CCAMP was established to monitor water quality
10 in the Central Coast Region. Funding will be used to support the monitoring components of
11 CCAMP in the Monterey Bay area and associated watersheds. High priority shall be given to
12 ensure that coastal confluences monitoring be continued, including routine sampling of creeks
13 in the Monterey Bay area, conventional water quality sampling, benthic invertebrate
14 assessment and sediment chemistry sampling. Pathogen sampling through the CCAMP mussel
15 sampling program in the Monterey Bay Area is also an appropriate but less high priority use
16 of the funds. Monitoring projects shall be funded after approval by the Regional Board
17 Executive Officer based on the CCAMP monitoring program and with the public benefit
18 purposes of the Approved Foundation as set forth in its organizational and governing
19 documents.

20 8.4 Administration.

21 1. Within thirty (30) days of the Effective Date of the Judgment, the Company
22 shall deposit \$250,000 into the PCA No. 143-01 account at the State Water Resources Control
23 Board. This account shall be used for Regional Board staff costs for oversight of the
24 Supplementary Environmental Projects funded by the Company under this Consent Judgment.
25 The funds will be expended at approximately \$50,000 per year.

26 2. Administrative costs and fees charged by the Community Foundation and
27 Approved Foundation for the Project Fund, the Monitoring Fund and The CCAMP Fund shall
28 be paid from earnings on investment of these Funds. If earnings are not sufficient, payment

1 may be taken from the Fund principle. The amounts for administrative costs and fees shall
2 not exceed those amounts specified in the agreements approved by the Executive Officer and
3 shall not exceed the amounts normally charged by the Community Foundation or NFWF, as
4 applicable, for similar administrative services provided for similar funds they administer.

5 8.5 General Obligations

6 Except as provided in this paragraph, 8.5, The Company's sole obligations with
7 respect to each and all of the matters recited in Section 8 above are to deliver payments
8 totaling \$5,000,000 as set forth above. The Company (and its agents and representatives) have
9 no further obligations related to management, administration, formation, or further funding of
10 any Supplemental Environmental Projects, except to the extent that different Supplemental
11 Environmental Projects are substituted through an amended agreement. The Company will
12 sign Agreements with the Community Foundation and Approved Foundation, if necessary, to
13 establish the Projects Fund, the Monitoring Fund or the CCAMP Fund as long as the
14 agreements call for the Company to do no more than deposit money into the Funds. The
15 Company designates the Regional Board as the donor advisor to the Projects Fund, the
16 Monitoring Fund and the CCAMP Fund and the Company will not influence the expenditure
17 of these funds in any way.

18 9. RELEASES

19 9.1 Company's Release of Regional Board

20 Upon the effective date of this Consent Judgment, and except as provided in Paragraph
21 11, Company shall and does release, discharge and covenant not to sue the Board for any and
22 all claims or causes of action, of every kind and nature whatsoever, in law and in equity,
23 whether known or unknown, suspected or unsuspected, foreseen or unforeseen, which arise
24 out of or are related to this action.

25 9.2 Board's Release of Company

26 Except as provided in Paragraph 11, the Board shall and does release, discharge
27 and covenant not to sue or to take administrative action against Company or Company's
28 officers, directors, agents, consultants, servants, employees, successors and assigns, for

1 Claims covered under Section 7, above. This covenant not to sue shall become effective only
2 upon payment to be made by the Company pursuant to this Consent Judgment. This covenant
3 not to sue shall not act to release from liability any person or entity other than Company.

4 10. PARTIES TO BEAR THEIR OWN COSTS AND ATTORNEYS FEES

5 Each party to this Consent Judgment shall bear its own respective costs and attorneys'
6 fees in connection with this matter, including costs and fees associated with negotiating and
7 seeking court approval of this Consent Judgment, and with actions brought to enforce the
8 terms of this Consent Judgment or to declare rights hereunder.

9 11. RESERVATION OF RIGHTS

10 Regional Board and Company reserve their respective rights to initiate judicial or
11 administrative action against each other for any matter not released by this Consent Judgment.
12 Nothing in this Consent Judgment shall constitute or be construed as a satisfaction or release
13 from liability for any conditions or claims arising as a result of past, current, or future
14 operations or activities of Company that are not matters covered by this Consent Judgment.
15 Nothing herein is intended or shall be construed as a waiver of Regional Board's right to
16 institute an action to compel compliance with this Consent Judgment. In addition, nothing in
17 this Consent Judgment is intended or shall be construed to preclude Regional Board from
18 exercising its authority under any statute, regulation,

19 12. NO THIRD PARTY BENEFITS

20 This Consent Judgment is made for the sole benefit of the parties, and no other person
21 or entity shall have any rights or remedies under or by reason of this Consent Judgment,
22 unless otherwise expressly provided for herein.

23 13. NO OPPOSITION BY PARTIES. Each Party hereby agrees not to oppose the Court's
24 determination that this Consent Judgment was entered into as a good faith settlement of all
25 claims by the Parties, and not to challenge any provision of this Consent Judgment.

26 14. NO CIVIL PENALTIES. No monies paid by the Company pursuant to the terms of
27 this Consent Judgment shall be construed as, or be asserted by the Regional Board, to be a
28 civil fine, penalty or monies paid in lieu thereof.

1 15. NO ADMISSION OF LIABILITY. Nothing in this Consent Judgment shall be
2 construed as, or asserted by, the Regional Board to be an admission by the Company of
3 liability under any applicable provision of federal, state or local law, regulation, ordinance,
4 plan, guideline, guidance document, or policy.

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

12 As to the Plaintiff:

13 Marilyn H. Levin
14 Deputy Attorney General
15 State of California Department of Justice
300 S. Spring St.
Los Angeles, CA 90013

16 Jennifer Soloway
17 State Water Resources Control Board
Office of Chief Counsel
18 P.O. Box 100
Sacramento, CA 95812,

19 and

20 Roger W. Briggs
21 Executive Officer
Regional Water Quality Control Board, Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-5427

22 As to the Company:

23 John W. Busterud
24 Section Head, Environmental Section
Law Department
25 Pacific Gas and Electric Company
77 Beale Street - B30A
26 P.O. Box 7442
San Francisco, CA 94120.

27 17. AMENDMENTS AND MODIFICATIONS. This Consent Judgment may not be
28 amended or modified except in a writing, consented to and signed by duly authorized

1 representatives of the Parties hereto, that states the intent of the Parties to amend or modify
2 this Consent Judgment.

3 18. DISPUTE RESOLUTION. In the event that a dispute arises between or among any of
4 the Parties with respect to the subject matter of this Consent Judgment, the Parties shall
5 attempt in good faith to resolve any such dispute informally, for a period of time not to exceed
6 thirty (30) days, unless such time period is extended by written consent of the Parties. If the
7 Parties are unable to resolve their dispute, the Parties agree to mediate their dispute with a
8 third party mediator who is mutually acceptable to the Parties, for a period of time not to
9 exceed sixty (60) days, unless such time period is extended by written consent of the Parties.
10 If the dispute is not resolved through informal negotiation or mediation, then each Party may
11 pursue any other remedy available to it.

12 19. AUTHORITY. Each person signing this Consent Judgment in a representative
13 capacity hereby expressly warrants that he or she has express authority to legally bind his or
14 her principal and signs this Consent Judgment in such representative capacity on behalf of his
15 or her principal.

16 20. EXECUTION. This Consent Judgment may be executed in counterparts, with each
17 copy deemed an original, and all such counterparts taken together shall constitute one and the
18 same Consent Judgment.

19 21. JURISDICTION, INTERPRETATION

20 This Court shall retain jurisdiction to interpret, modify and enforce the terms and
21 conditions of this Consent Judgment. This Consent Judgment shall be deemed to have been
22 drafted equally by the parties, and shall not be interpreted for or against either party on the
23 ground that any such party drafted it. This Consent Judgment shall be governed by and
24 construed in accordance with the laws of the State of California.

25 22. INTEGRATION

26 This Consent Judgment contains all of the terms and conditions agreed upon by the
27 parties relating to the matters covered by this Consent Judgment, and supersedes any and all
28 prior and contemporaneous agreements, negotiations, correspondence, understandings, and

1 communications of the parties, whether oral or written, respecting the matters covered by this
2 Stipulated Judgment.

3 23. KNOWING, VOLUNTARY AGREEMENT

4 Each party to this Consent Judgment acknowledges that it has been represented by legal
5 counsel, and that each party has reviewed, and has had the benefit of legal counsel's advice
6 concerning, all of the terms and conditions of this Consent Judgment.

7 IT IS SO STIPULATED.

8

9 Dated: _____, 2002 _____

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11 Dated: _____, 2002 _____

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14 IT IS SO ORDERED, ADJUDGED, AND DECREED:

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17 Dated: _____

JUDGE OF THE SUPERIOR COURT

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