

1 JAMES L. LOPES (No. 63678)
JEFFREY L. SCHAFFER (No. 91404)
2 KENNETH A. NEALE (No. 126904)
HOWARD, RICE, NEMEROVSKI, CANADY,
3 FALK & RABKIN
A Professional Corporation
4 Three Embarcadero Center, 7th Floor
San Francisco, California 94111-4024
5 Telephone: 415/434-1600
Facsimile: 415/217-5910

50-275
323

6 Attorneys for Debtor and Debtor in Possession
7 PACIFIC GAS and ELECTRIC COMPANY
8

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

12 In re

13 PACIFIC GAS and ELECTRIC
14 COMPANY, a California corporation,

15 Debtor.

16
17 Federal I.D. No. 94-0742640
18

Case No. 01-30923 DM

Chapter 11 Case

Date: May 5, 2003

Time: 1:30 p.m.

Place: 235 Pine Street, 22nd Floor
San Francisco, California

Judge: Hon. Dennis Montali

19
20
21 DECLARATION OF JAMES BECKER IN SUPPORT OF DEBTOR'S
22 MOTION FOR AN ORDER AUTHORIZING COMPROMISE OF CLAIMS
23 OF CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
REGARDING THE DIABLO CANYON POWER PLANT
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I, James Becker, declare as follows:

1. I am the Vice President-Diablo Canyon Operations and Station Director for Pacific Gas and Electric Company, the debtor and debtor in possession in the above-captioned Chapter 11 case (the "Debtor" or "PG&E"). I have been the Station Director of the Diablo Canyon Power Plant (the "Plant") for over two years. The Declaration is based on my personal knowledge of the Debtor's operations at the Plant. If called as a witness, I could and would testify competently to the facts stated herein.

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

3. PG&E owns and operates the Plant. The Plant consists of two existing electrical power generation units using up to 2,540,000 gallons per day of seawater for the primary purpose of main condenser cooling. The Plant is located approximately 12 miles southwest of San Luis Obispo. PG&E also owns certain unimproved land located in the vicinity of the Plant consisting of approximately 2,013 acres (the "Encumbered Land").

4. In connection with its operation of the Plant, PG&E holds a National Pollution Discharge Elimination System Permit and related California Waste Discharge Requirements (collectively, the "Permit").

5. Pursuant to the Permit, PG&E discharges heated seawater from the Plant back into the ocean. The Permit contains numerous conditions and limitations relating to the discharge of heated seawater. These limitations and conditions relate to such matters as (i) the temperature of the discharged water, (ii) the existence of objectionable aquatic growth or the degradation of indigenous biota or marine communities that may result from the discharges, (iii) the adverse effects on the beneficial uses of the receiving water that may result from the discharges, and (iv) the creation of a nuisance or pollution.

HOWARD
RICE
NEMEROVSKI
CANADY
FALK
& RABKIN
A Professional Corporation

1 6. The CRWQCB has alleged that the discharges of heated seawater from the Plant,
2 which have occurred over the course of many years, have violated some of the limitations
3 and conditions contained in the Permit due to the alleged degradation of marine habitat
4 beneficial uses. Based on these violations, the CRWQCB has asserted causes of action
5 against PG&E pursuant to the California Porter-Cologne Water Quality Control Act
6 (California Water Code, §§13000 et seq.), the federal Clean Water Act (33 U.S.C. §§1251 et
7 seq.), and Section 12600 of the California Government Code. PG&E disputes all such
8 allegations of non-compliance with and violation of the Permit and applicable laws.

9 7. The discharges that the CRWQCB is complaining of commenced well prior to the
10 filing of the petition in this bankruptcy case and are continuing to this day.

11 8. After lengthy negotiations, PG&E and the CRWQCB have agreed to a settlement
12 of CRWQCB's claims as described in detail in the Consent Judgment. The basic terms of
13 the settlement are as follows:

14 a. Conservation Easement. PG&E would grant a conservation easement on
15 the Encumbered Land to the San Luis Obispo Land Conservancy, a non-profit third party, in
16 the form attached at Exhibit A to the Consent Judgment (the "Conservation Easement").
17 The principal purpose of the Conservation Easement would be to restrict the development,
18 use and other activities on the Encumbered Land so as to preserve, protect and enhance the
19 "conservation values" of the property in perpetuity. The principal "conservation value" of
20 the Encumbered Land is the existing condition of the land in its open space and largely
21 undeveloped state. Accordingly, the Conservation Easement would significantly restrict the
22 use and development of the Encumbered Land. PG&E would make a one-time payment of
23 \$200,000 to be used by the easement holder for easement oversight costs, including
24 monitoring, documentation and annual reporting, participation in meetings, protective
25 measures and emergency measures to protect conservation values. If for any reason any
26 federal or state governmental entity or court requires PG&E to comply with more stringent
27 standards with respect to the intake and outtake of seawater than exist under the Plant's
28 permit, or requires PG&E to use cooling water system technology that is more costly or

1 burdensome than the system which existed at the Plant as of August, 2000, PG&E could
2 rescind the Conservation Easement in which event the CRWQCB may re-assert any claims it
3 may have had against PG&E existing prior to the effective date of the Consent Judgment.

4 b. Project Funding. In addition to the granting and funding of the
5 Conservation Easement, PG&E would fund over \$6,050,000 for other projects and
6 monitoring to protect beneficial uses of coastal marine waters in the vicinity of Diablo Cove
7 and to otherwise protect the environment from harm. These costs are described as follows:

8 (i) Marine Resource Preservation and Enhancement Dedicated Fund.

9 PG&E would establish a dedicated fund of \$4,050,000 for the purpose of preserving and
10 enhancing marine resources. The fund would be used on projects that would directly
11 improve permanent preservation, restoration, enhancement, monitoring, and research of
12 marine life, habitat and water quality in coastal waters of San Luis Obispo County. The fund
13 would be administered by an entity selected and agreed upon by PG&E and the CRWQCB.
14 The fund could be used for monitoring, reporting on and evaluating the Conservation
15 Easement, including uses and activities on the Encumbered Land, erosion and sediment
16 discharge from or onto the Encumbered Land and the conservation values of the
17 Encumbered Land, including terrestrial and near-shore marine intertidal and subtidal
18 resources.

19 (ii) Abalone Restoration Project. PG&E would contribute \$350,000 to the
20 Abalone Restoration Project administered by the California Department of Fish and Game.

21 (iii) Central Coast Ambient Monitoring Program. PG&E would contribute
22 \$150,000 per year for 10 years to the Central Coast Ambient Monitoring Program
23 ("CCAMP"), which was established to monitor water quality in the California Central Coast
24 Region.

25 (iv) Research Facility. PG&E would make its marine biology laboratory
26 research facility available to local educational and scientific groups for a period of 10 years
27 and would provide a start-up grant of \$100,000 for such usage and up to \$5,000 per year for
28 water and electricity costs.

1 Of such funds, \$4,855,000 would be deposited into an escrow account within 20 days
2 after the Consent Judgment is fully executed. If the Consent Judgment does not become
3 effective for any reason, the escrowed funds would be returned to PG&E.

4 (c) Receiving Water Monitoring Program. PG&E would no longer be required
5 to perform certain ecological studies and water monitoring as it is currently required to do
6 pursuant to Monitoring and Reporting Program No. 90-09, as PG&E's responsibilities with
7 respect to such matters would be replaced by its participation in CCAMP, described above.

8 (d) Final Resolution. The Consent Judgment would constitute a full, final and
9 binding resolution between the CRWQCB and the Debtor of any statutory or common law
10 claims that have been or could have been asserted arising from any entrainment or
11 impingement impact of the Plant's existing cooling water intake system and the Plant's
12 discharge of heated seawater.

13 (e) Conditions Precedent. The Consent Judgment is subject to the following
14 conditions precedent: (i) the entry of a final order granting the Motion; (ii) the entry of the
15 Consent Judgment in Superior Court; (iii) to the extent necessary, a written order from the
16 Public Utilities Commission authorizing the encumbrance reflected by the Conservation
17 Easement; (iv) a renewal by the CRWQCB of the Permit and the adoption by the CRWQCB
18 of certain findings with respect to such renewal as specified in the Consent Judgment,
19 including a finding that the cumulative effects of the discharge of up to 2.5 billion gallons of
20 cooling water per day at a temperature not in excess of 22 degrees Fahrenheit complies with
21 the Permit and all relevant state and federal laws and that the Plant's existing cooling water
22 intake structure constitutes the "best technology available" for the purpose of Section 316(b)
23 of the Clean Water Act; (v) a 30-day public comment period; and (vi) PG&E providing
24 evidence that it will convey the Conservation Easement free and clear of encumbrances,
25 except for those specified in the Consent Judgment. In the event that the conditions
26 precedent are satisfied prior to the confirmation of a plan in this case, PG&E would be
27 required to grant the Conservation Easement and fund the projects notwithstanding such lack
28 of confirmation.

1 9. For the reasons specified in the Motion, I believe that the settlement of this matter
2 pursuant to the Consent Judgment is fair and equitable and in the best interest of PG&E and
3 the estate.

4 I declare under penalty of perjury under the laws of the United States of America and
5 the State of California that the foregoing is true and correct. Executed this 2nd day of
6 April, 2003, at Avila Beach, California.

7
8 
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JAMES BECKER

1 BILL LOCKYER
Attorney General
2 Ken Alex
Supervising Deputy Attorney General
3 Edward G. Weil
Deputy Attorney General
4 State Bar No. 88302
1515 Clay Street, Suite 2000
5 Oakland, CA 94612
Telephone: (510) 622-2149
6 Fax: (510) 622-2270
Attorneys for People of the State of California ex rel.
7 Central Coast Regional Water Quality Control Board
and Bill Lockyer, Attorney General
8
9

10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF SAN LUIS OBISPO
12

13 PEOPLE OF THE STATE OF CALIFORNIA, ex rel.
Central Coast Regional Water Quality Control Board
14 and Bill Lockyer, Attorney General of the State of
California,
15
16 Plaintiffs,
17 v.
18 Pacific Gas & Electric Company,
19 Defendant,

Case No.:

CONSENT JUDGMENT

20 1. INTRODUCTION

21 1.1. The People of the State of California, ex rel. California Regional Water Quality Control
22 Board, Central Coast Region (hereinafter "Board") and Bill Lockyer, Attorney General of the State
23 of California filed a complaint in this Court naming Pacific Gas & Electric Company as a defendant.
24 The complaint asserts causes of action under the Porter-Cologne Water Quality Control Act, the
25 Clean Water Act, and Government Code section 12600 arising from the intake and discharge of
26 seawater associated with the operation of the Diablo Canyon Power Plant. This Consent Judgment
27 is being entered as a full and final resolution of this matter.

28 ///

1 2. DEFINITIONS

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

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 case
9 of the Company, styled as In re Pacific Gas and Electric Company, Case No. 01-30923 DM.

10 2.3 "Basin Plan" shall mean the Water Quality Control Plan, Central Coast Region.

11 2.4 "BMPs" shall mean the Best Management Practices in the Diablo Canyon Land
12 Stewardship Program, published by the Company on [INSERT DATE] and attached to Exhibit H
13 to the Conservation Easement (Exhibit A to this Consent Judgment).

14 2.5 "Board" shall mean the California Regional Water Quality Control Board, Central
15 Coast Region.

16 2.6 "CCAMP" shall mean the Central Coast Ambient Monitoring Program.

17 2.7 "Company" shall mean Pacific Gas & Electric Company ("PG&E"), its parents,
18 affiliates and any successors or assigns of PG&E. Any person to whom the Company conveys fee
19 title to the Encumbered Property is a successor or assignee of the obligations of the owner of the
20 Encumbered Property.

21 2.8 "Conservation Easement" shall mean the Conservation Easement established on
22 Encumbered Lands pursuant to Paragraph 8.1 below.

23 2.9 "Easement Holder" shall mean any entity selected pursuant to Paragraph 8.1(a) or
24 8.1.(b) of this Consent Judgment to hold title to the Conservation Easement on the Encumbered Land
25 described in Paragraph 8.1 of this Consent Judgment.

26 2.10 "Effective Date" shall mean the date on which the last of the six (6) conditions
27 specified in Paragraph 6.1 below has been satisfied, provided, however, that the provisions of
28 Paragraph 12 of this Consent Judgment shall become effective on the date the Consent Judgment has

1 been fully executed by all of the Parties.

2 2.11 "Encumbered Land" shall mean the area of land identified in Exhibit A (the
3 Conservation Easement and all of its attached Exhibits) to this Consent Judgment. In general, the
4 Encumbered Land is bounded to the north by Montana de Oro State Park, to the east by the ridgeline,
5 to the west by the coastline, and to the south by southerly and easterly border of Assessor's Parcel
6 Number 076-011-024, consisting of approximately 2,013 acres.

7 2.12 "Unencumbered Land" shall mean the area of land identified in Exhibit B attached
8 to this Consent Judgment, consisting of approximately 547 acres.

9 2.13 "Ocean Plan" shall mean "The Water Quality Control Plan for Ocean Waters of
10 California" adopted by the State Board in 1972, as last amended.

11 2.14 "Operating Life of the Plant" shall mean as long as the Plant is continuously licensed
12 by the U.S. Nuclear Regulatory Commission to generate or support the transmission of electricity
13 where circulating water is used for cooling.

14 2.15 "Parties" shall mean the Board, and California Attorney General Bill Lockyer, and
15 the Company.

16 2.16 "People" shall mean the Board and the California Attorney General of the State of
17 California on behalf of the People and State of California.

18 2.17 "Permit" shall mean National Pollution Discharge Elimination System ("NPDES")
19 Permit No. CA0003751 and California Waste Discharge Requirements Order No. 90-09 issued by
20 the Board on May 11, 1990, as modified by the Board on February 10, 1995.

21 2.18 "Plant" shall mean the Company's existing Diablo Canyon Nuclear Power Plant,
22 comprising the existing two electrical power generating units and using up to 2,540 million gallons
23 per day of seawater for the primary purpose of main condenser cooling. Additional or replacement
24 power generating units are not considered "existing."

25 3. RECITALS

26 3.1 The Company owns and operates the Plant, which is located approximately twelve
27 (12) miles southwest of San Luis Obispo (35° 12' 44" N Latitude, 120° 51' 14" W Longitude);

28 3.2 The Permit currently governs discharges from the Plant;

1 3.3 Effluent Limitation B.1(f) of the Permit contains a numeric thermal effluent discharge
2 limitation which provides that “[t]he daily average discharge temperature shall not exceed the daily
3 average of the natural temperature of the intake water by more than 22 degrees F (12.2 degrees C),
4 except during heat treatment;”

5 3.4 Receiving Water Limitation C. of the Permit establishes sixteen (16) Receiving Water
6 Limitations for the Plant’s discharges, including: (a) Receiving Water Limitation No. 9, which
7 provides that “[w]aste discharges shall not individually or collectively cause...[o]bjectionable
8 aquatic growth or degradation of indigenous biota;” (b) Receiving Water Limitation No. 11, which
9 provides that “[w]aste discharges shall not individually or collectively cause...[d]egradation of
10 marine communities, including vertebrate, invertebrate, and plant species;” and (c) Receiving Water
11 Limitation No. 14, which provides that “[w]aste discharges shall not individually or collectively
12 cause...[t]emperature of the receiving water to adversely affect beneficial uses;”

13 3.5 Section A of the Board’s Standard Provisions and Reporting Requirements for
14 NPDES Permits establishes twenty-four (24) General Permit Conditions, including General Permit
15 Condition No. 8, which provides that the “[c]ollection, treatment, and discharge of waste shall not
16 create a nuisance or pollution, as defined by Section 13050 of the Water Code.”

17 3.6 Finding 7 of the Permit identifies nine (9) existing and anticipated beneficial uses in
18 the vicinity of the Plant’s discharge: (a) water-contact recreation; (b) non-contact water recreation,
19 including aesthetic enjoyment; (c) industrial water supply; (d) navigation; (e) marine habitat; (f) shell
20 fish harvesting; (g) preservation of rare and endangered species; (h) wildlife habitat; and (i) ocean
21 and commercial and sport fishing;

22 3.7 Discharges from the Plant are classified as existing discharges under the Water
23 Quality Control Plan for Control of Temperature in the Coastal and Interstate Waters and Enclosed
24 Bays and Estuaries of California (the “Thermal Plan”), adopted by the State Water Resources
25 Control Board (“State Board”) on September 18, 1975, which classification requires that the Board
26 establish thermal discharge limits to assure protection of beneficial uses;

27 3.8 The Board agrees that the Plant’s thermal discharge has always complied with the
28 Permit’s 22° F thermal discharge effluent limitation, but alleges that the thermal discharge has

1 violated Receiving Water Limitations nos. 9, 11, and 14 contained in the Permit and General Permit
2 Condition A.8 contained in the Board's Standard Provision and Reporting Requirements, based on
3 alleged degradation of the marine habitat beneficial uses;

4 3.9 The Company vigorously disputes all allegations of non-compliance with the Permit;

5 3.10 The Company, under the oversight of the Board, conducted extensive analyses of the
6 changes in the marine environment resulting from the Plant's discharge, including Thermal Effects
7 Monitoring Program Analysis Report (Chapter 1 -- Discharge Effects), which evaluated the
8 cumulative effect of the discharge on receiving waters, including the impacts of temperature, foam,
9 and shell debris. The Company also submitted to the Board a document it prepared independently
10 of Board oversight, Chapter 2-- Assessment of Thermal Effects.

11 3.11 Section 316(b) of the Clean Water Act, 33 U.S.C. Section 1326(b) ("Section
12 316(b)") requires that "the location, design, construction, and capacity of cooling water intake
13 structures reflect the best technology available for minimizing adverse environmental impact;"

14 3.12 The Company, under the oversight of the Board, conducted extensive Section 316(b)
15 analyses of the environmental impacts of the Plant's intake structure, including impacts associated
16 with the entrainment and impingement of marine biota. The Company submitted to the Board the
17 results of the Company's Section 316(b) studies, including Phase 1, Part I (Entrainment Study
18 Design -- Sampling Location), Part II (Selection of Target Organisms, Sampling Methods and Gear
19 Testing), Phase 3 -- Sampling Plan and Modeling Evaluation, DCP 316(b) Preliminary Draft
20 Resource Assessment Report, DCP 316(b) Second Draft Resource Assessment Report, Draft
21 Evaluation of Alternative Intake Technologies, and Final 316(b) Demonstration Report.

22 3.13 The Company has agreed to implement and fund various actions that will result in
23 enhancement and permanent preservation of coastal marine habitat, which are set forth in Paragraph
24 8 below, including dedication of the Conservation Easement that restricts the future development
25 of land abutting approximately 6 miles of coastline immediately to the north of Diablo Cove and
26 funding over \$6,250,000 for projects and monitoring to protect beneficial uses of coastal marine
27 waters in the vicinity of Diablo Cove. Based on the Conservation Easement and funding for projects
28 and monitoring as described Paragraph 8 below, the Section 316(b) studies referenced in Paragraph

1 3.12 above, and compliance with the thermal effluent limitation of 22 degrees F described in Finding
2 3.3 above, the Board will convene a hearing to consider renewing the Permit in accordance with all
3 applicable laws and regulations, including the requirements that the thermal discharge from Plant
4 is assuring reasonable protection of beneficial uses, the Plant cooling water intake system is in
5 compliance with Clean Water Act Section 316(b), and both the thermal discharge from the Plant and
6 the Plant cooling water intake system are in compliance with the narrative receiving water
7 limitations and the General Permit Conditions contained in the Board's Standard Provisions and
8 Reporting requirements described in Findings 3.4 and 3.5 above.

9 4. JURISDICTION AND VENUE

10 4.1 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
11 jurisdiction over the allegations in the Complaint and personal jurisdiction over the Parties as to the
12 acts alleged in the Complaint, that venue is proper, and that this Court has jurisdiction to resolve all
13 allegations raised in, arising from, or related to the Complaint.

14 5. PARTIES BOUND

15 5.1 This Consent Judgment applies to and is binding upon the People and the Company.
16 Any change in ownership or corporate status of the Company, including; but not limited to; any
17 transfer of assets or real or personal property, shall in no way alter the Company's responsibilities
18 under this Consent Judgment.

19 6. CONDITIONS PRECEDENT

20 6.1 Except as specifically provided in Paragraph 12 hereof, this Consent Judgment is
21 expressly conditioned upon, and shall not become effective in whole or in part, until after all of the
22 following have occurred:

23 a. Judicial Approval. The Parties will file a motion for entry of judgment
24 requesting that the Court enter this Consent Judgment. The Consent Judgment shall have no force
25 or effect, and may not be used for any purpose in any action, unless and until it is entered and is
26 final.

27 b. Public Utilities Commission Approval. Public Utilities Code § 851 may
28 prohibits any encumbrance of the Plant's property, including the placement of a Conservation

1 Easement on the Encumbered Land as required by Paragraph 8 of this Consent Judgment, without
2 a prior written order from the Public Utilities Commission authorizing the encumbrance. If Public
3 Utilities Commission approval for any of the terms of this Consent Judgment is necessary, this
4 Consent Judgment shall not become effective until after the Company receives a written order from
5 the Public Utilities Commission that (i) authorizes the encumbrances required by Paragraph 8 of this
6 Consent Judgment, and (ii) does not impose any obligations, restrictions or conditions that would
7 modify or conflict with the terms of this Consent Judgment. The Board agrees to support the
8 Consent Judgment before the Public Utilities Commission as in the best interests of the People of
9 the State of California. The Company shall provide the Board with written notice of the satisfaction
10 of this condition in the event that the Public Utilities Commission issues an order consistent with
11 the terms of this Consent Judgment or in the event the Company determines that such an order is not
12 necessary.

13 c. Bankruptcy Court Approval: The Company will file with the Bankruptcy
14 Court an application or motion ("the Motion") for authority for the Company to enter into and be
15 bound by this Consent Judgment and all of the terms thereof, including the establishment of the
16 Conservation Easement pursuant to Paragraph 8.1 and the other measures specified therein,
17 including monetary contributions, which the Complaint alleges are necessary to assure the future
18 protection of the waters of the state and to remedy the past harms to the waters of the state. The
19 Consent Judgment shall have no force or effect, and may not be used for any purpose in any action,
20 unless and until an order granting the Motion is final.

21 d. Issuance Of NPDES Permit Renewal. The Board renews the Company's
22 Permit in accordance with Paragraph 9 of this Consent Judgment and the renewed Permit becomes
23 final.

24 e. Public Comment Period. The Board provides thirty (30) days notice to the
25 public and an opportunity to comment on the Consent Judgment.

26 f. Evidence of Title. The Company provides evidence to the Board and the
27 Easement Holder that the Company will convey the Conservation Easement free and clear of all
28 encumbrances that are superior to the Conservation Easement, except for the fee simple interest held

1 by the Company and the leasehold interest of the existing tenant.

2 7. CLAIMS COVERED

3 7.1 This Consent Judgment is a full, final; and binding resolution between the People and
4 the Company, including for the purpose of this Paragraph the Company's officers, directors, agents,
5 consultants, servants, employees, affiliates, parents, successors and assigns, of any violation of the
6 Porter-Cologne Water Quality Control Act, the Clean Water Act, Government Code Section 12600
7 et. seq., or any other statutory or common law claims that have been or could have been asserted in
8 the Complaint, arising from any entrainment or impingement impact of the Plant's existing cooling
9 water intake system, and any and all claims that may be associated with the Plant's cooling water
10 thermal discharge, including alleged non-compliance with the Thermal Plan, Ocean Plan, Central
11 Coast Basin Plan, Sections 303(g) and 316 of the Clean Water Act.

12 8. THE COMPANY'S RIGHTS AND OBLIGATIONS

13 8.1 Grant Of A Conservation Easement And Approval Of Easement Holder. Within
14 twenty (20) days of the Effective Date, a Conservation Easement in the form of Exhibit A, attached
15 hereto and incorporated herein by reference, will be granted pursuant to Paragraph 8.1 (a) below.
16 Any subsequent assignment of the Conservation Easement will be approved pursuant to the
17 procedures specified in Paragraph 8.1(b) below.

18 a. Grant Of Conservation Easement. The Company shall grant a Conservation
19 Easement on the Encumbered Land, free and clear of all superior encumbrances other than the
20 Company's fee title and the leasehold interest of the existing tenant, to the Land Conservancy of San
21 Luis Obispo County, a responsible, non-profit third party, which has been selected and agreed upon
22 by the Company and the Board.

23 b. Subsequent Easement Holders And Criteria For Selection Thereof. The Easement
24 Holder shall have the right to transfer or assign its rights under the Conservation Easement to a
25 governmental or non-governmental entity which is qualified under the Internal Revenue Code and
26 Civil Code Sections 815 et. seq. to hold conservation easements and which agrees to enforce the
27 terms of the Conservation Easement subject to the following conditions:

28 (1) The Assignee shall be selected in an open, public process conducted by the

1 Board or the successor agency thereof. Approval of the Assignee shall be
2 based upon criteria determined by the Board, with input from the existing
3 Easement Holder and the Company. The criteria shall include, without
4 limitation, the following, unless the Company and the Board expressly agree
5 otherwise:

6 (i) The Easement Holder shall be an organization with extensive national
7 and/or regional experience in holding and managing conservation
8 easements.

9 (ii) The Easement Holder, through any conduct, act or omission, shall not
10 interfere with, impair or otherwise inhibit the Plant's operations, and
11 shall not challenge or oppose the use of nuclear power or the
12 continued operation of the Plant.

13 (2) In the event that a dispute arises between the Company and the Board with
14 respect to the selection or approval of the Easement Holder, the Company
15 and the Board shall resolve their dispute pursuant to the dispute resolution
16 procedures set forth in Paragraph 11.8 (Dispute Resolution).

17 c. Oversight Costs.

18 (i) The Company shall make a one-time payment of \$200,000 to be used by the
19 Easement Holder for Conservation Easement oversight costs. The Company
20 shall not pay this amount to the Easement Holder until the Board notifies the
21 Company that it has approved the Easement Documentation Report
22 developed by the Easement Holder.

23 (ii) The activities to be funded by the \$200,000 one-time payment shall include,
24 monitoring, documentation and annual reporting as described in Paragraph
25 3 of the Conservation Easement and shall also include participating in
26 meetings with the Company and the Stewardship Committee. Other purposes
27 for which the Easement Holder may use the \$200,000 one-time payment
28 include protective measures such as surveys and boundary markers,

1 enforcement activities including legal and court costs, and emergency
2 measures to protect Conservation Values.

3 (iii) It is anticipated that if the Easement Holder obtains sufficient additional
4 funding, the annual report will include monitoring and evaluation of erosion
5 and sediment discharges from and onto the Encumbered Land, and
6 recommendations regarding erosion, sediment and protection of Conservation
7 Values based on the monitoring information. It is also anticipated that if the
8 Easement Holder obtains sufficient additional funding, the Easement Holder
9 will evaluate grazing best management practices and formulate
10 recommendations regarding best management practices and continuation of
11 grazing after the departure of Existing Tenant.

12 (iv) This Paragraph shall not limit the scope of monitoring and reporting by the
13 Easement Holder.

14 d. Continuance Of Permitted Uses. The Conservation Easement shall preclude
15 any use other than Grantor's Permitted Uses on the Encumbered Land as specified in Exhibit E to
16 the Conservation Easement.

17 e. Departure Of Existing Tenant. If the Existing Tenant (as defined in the
18 Conservation Easement), departs, vacates or otherwise abandons the existing grazing use of the
19 Encumbered Land, the Company and the Board agree to re-evaluate the existing grazing uses set
20 forth in Exhibit A in consultation with the Easement Holder to determine their continued
21 consistency with habitat and water quality protection. Any disagreements as to the continued
22 appropriateness of the existing uses will be resolved in accordance with the dispute resolution
23 procedures set forth in Paragraph 11.8 (Dispute Resolution).

24 f. Transfer Of Fee Title. Nothing in this Consent Judgment precludes the
25 Company from transferring fee title to the Encumbered Land to any successor, assign, parent,
26 affiliate, division, subsidiary or the like, provided, however, that any such conveyance is subject to
27 the Conservation Easement and other requirements and conditions specified in Paragraphs 8.1(a)
28 (Grant of Conservation Easement), 8.1(b) (Approval of Easement Holder), 8.1(d) (Continuance of

1 Existing Uses), and 12 (Obligations That Become Effective Upon the Execution of the Consent
2 Judgment by the Parties). If the Encumbered Land is conveyed prior to the granting of the
3 Conservation Easement, any agreement to convey the Encumbered Land shall expressly provide that
4 the transferee shall convey the Conservation Easement as provided by the Consent Judgment.
5 Nothing in this Consent Judgment precludes the Company from transferring fee title to the
6 Unencumbered Land to any successor, assign, parent, affiliate, division, subsidiary or the like;
7 provided, however that any such conveyance is subject to Paragraph 8.2 (Unencumbered Land). The
8 Company shall provide thirty (30) days written notice to the Board prior to transferring fee title to
9 the Encumbered Land or the Unencumbered Land.

10 8.2 Unencumbered Land. The Company will use BMPs for the Unencumbered Land
11 throughout the Operating Life of the Plant, or for as long as the Company owns the
12 Unencumbered Land, whichever is longer. The BMPs for the Unencumbered Land will be
13 defined by the Grantee and the Diablo Canyon Land Stewardship Committee, using the existing
14 stewardship practices as a baseline.

15 8.3 Marine Resource Preservation And Enhancement Dedicated Fund. An escrow
16 account and Dedicated Fund will be established in the amount of four million and fifty thousand
17 dollars (\$4,050,000) as provided below:

18 a. Dedicated Fund. The Dedicated Fund will be established for the purpose
19 of preserving and enhancing marine resources, and will be administered by an entity selected and
20 agreed upon by the Parties within thirty (30) days of the Effective Date of the Consent
21 Judgment. The Dedicated Fund may be used for monitoring, reporting and evaluation of the
22 Conservation Easement, including uses and activities on the Encumbered Land, erosion and
23 sediment discharge from or onto the Encumbered Land and the Conservation Values of the
24 Encumbered Land, including terrestrial and nearshore marine intertidal and subtidal resources.

25 b. Project Criteria. The Dedicated Fund will be spent on projects that will
26 directly improve permanent preservation, restoration, enhancement, monitoring and research of
27 marine life, habitat and water quality in coastal waters of San Luis Obispo County, California.
28 In light of the extensive monitoring data which has been collected during the last twenty (20)

1 years, the Dedicated Fund shall not be used for projects to monitor thermal, entrainment, or
2 impingement impacts specific to the Plant.

3 c. Review And Approval Of Grant Proposals. The Company will have the
4 opportunity to review grant proposals and provide input to the Board consistent with normal
5 public review and comment, but the Board will make the final determination on awarding any
6 such grants. If a special project selection advisory committee is established with members in
7 addition to Board staff and contractors, the Company will have an opportunity to participate in
8 that committee.

9 8.4 Abalone Restoration Project. The Company will contribute \$350,000 to the
10 Abalone Restoration Project administered by the California Department of Fish & Game
11 ("DFG"). The Board will enter into an interagency agreement with DFG requiring that the funds
12 provided by the Company pursuant to this Paragraph be spent in accordance with the Abalone
13 Restoration Project's grant conditions.

14 8.5 Central Coast Ambient Monitoring Program. The Permit receiving water
15 monitoring program will be modified in accordance with Paragraph 8.7. In addition, the
16 Company will contribute \$150,000 per year for ten (10) years to CCAMP. In light of the
17 extensive monitoring data which has been collected during the last twenty years, CCAMP will
18 not be used to monitor thermal, entrainment, or impingement impacts specific to the Plant. After
19 ten (10) years, the Company will participate in CCAMP on terms similar to other dischargers
20 with respect to non-thermal and non-Section 316(b) issues. The Company shall provide access
21 to the Encumbered Land, in accordance with the Company's managed access procedures, to
22 representatives of CCAMP and the University of California for the purpose of monitoring
23 erosion and sediment discharge from or onto the Encumbered Land and the Easement's
24 Conservation Values, including the nearshore marine intertidal and subtidal resources. Access
25 shall not be unreasonably withheld and shall be subject to conditions no more stringent than
26 applied to representatives of California state government.

27 8.6 Marine Biology Laboratory Research Facility. The Company will continue to
28 make its Marine Biology laboratory research facility available to local educational and scientific

1 groups including, but not limited to, the County Office of Education, Cal Poly San Luis Obispo
2 and Cuesta College, for educational, scientific, and fisheries related uses, for a period of ten (10)
3 years from the Effective Date of this Consent Judgment. Within thirty (30) days after the
4 Effective Date of this Consent Judgment, the Company will provide an initial start-up grant of
5 \$100,000 and will provide up to \$5,000 per year for water and electricity for ten (10) years. The
6 San Luis Obispo County Office of Education shall administer and manage the start-up grant and
7 oversee the use and maintenance of the facility, with the participation of other interested users,
8 subject to the Company's requirements for security and Plant operations and such criteria for
9 research and education proposals as the County Office of Education may develop in conjunction
10 with the Board and the Company. The Company and the County Office of Education shall enter
11 into a grant contract in a form and content acceptable to the Board.

12 8.7 Receiving Water Monitoring Program. The existing receiving water monitoring
13 program under the Permit (Monitoring and Reporting Program No. 90-09) will be modified to
14 exclude ecological studies, collection and analysis of sediment samples, measurement of water
15 temperature, sampling of receiving water pH and dissolved oxygen, and any other requirements
16 relating to temperature, foam and shell debris, and shall consist solely of participation in
17 CCAMP as described in Paragraph 8.4 and participation in the State mussel watch program
18 (described in the Permit as in-situ bioaccumulation monitoring).

19 9. THE STATE'S RIGHTS AND OBLIGATIONS

20 9.1 Permit Renewal. The Board shall convene a hearing to consider renewing the
21 Company's Permit following the Company's submittal of all information required by any
22 applicable provision of federal or state law. The renewed Permit shall remain in effect for five
23 (5) years from the date that the Board votes to renew the Permit. After the Effective Date of this
24 Consent Judgment, the Board shall not withhold approval of any future Permit or Permit
25 renewal, for the Operating Life of the Plant on the basis of any alleged claim concerning
26 entrainment, impingement or cooling water discharge impacts addressed by this Consent
27 Judgment, including alleged non-compliance with the Thermal Plan, Ocean Plan, Central Coast
28 Basin Plan, Sections 303(g) and 316 of the Clean Water Act, and any other potentially applicable

1 provision of federal or state law. The Parties shall not oppose the renewal of the Company's
2 Permit or any future Permit for the Operating Life of the Plant on the basis of such claims.

3 9.2 Findings. Pursuant to Paragraph 6 above and except as otherwise provided in
4 Paragraph 12 below, this Consent Judgment is expressly conditioned upon, and shall not become
5 effective in whole or in part unless, among other things, the Board adopts a Permit renewal
6 containing findings that are substantially the same as the following:

7 a. The Board, based on the administrative record assembled with respect to
8 the Company's alleged non-compliance with the Permit's thermal discharge and protection of
9 beneficial use standards, and in further consideration of the undertakings to be performed by the
10 Company pursuant to the terms of this Consent Judgment, finds that the cumulative effects of the
11 discharge of up to 2.5 billion gallons of cooling water per day in compliance with the Permit's
12 22° F thermal discharge effluent limitation fully complies with the Permit, and all relevant state
13 and federal laws, regulations, policies, plans and procedures, including the protection of
14 beneficial use standards, and all discharge prohibitions, effluent limitations and receiving water
15 limitations, including Receiving Water Limitations nos. 9, 11, and 14 contained in the Permit and
16 General Permit Condition A.8 contained in the Board's Standard Provision and Reporting
17 Requirements;

18 b. The Board, based on the administrative record assembled during its
19 analysis of the Plant's existing cooling water intake structure, and in further consideration of the
20 undertakings to be performed by the Company pursuant to the Consent Judgment, finds that the
21 Plant's existing cooling water intake structure constitutes the "best technology available" for the
22 purpose of Section 316(b) of the Clean Water Act.

23 9.3 Reservation Of Rights. Nothing in the Consent Judgment shall be construed as,
24 or be asserted by the Company to be, a waiver of the Board's right to ensure that the Company
25 continues to comply with the effluent limitations set forth in Section B of the Permit. In the
26 event that the Company fails to comply with the Permit's effluent limitations in the future, the
27 Board reserves its right to enforce such limitations under any applicable federal, state or local
28

1 law, regulation, ordinance, plan, guideline, guidance document, or policy, except as expressly
2 provided for in this Consent Judgment.

3 9.4 Access to Encumbered Land. The Company shall provide access to the
4 Encumbered Land, in accordance with the Company's managed access procedures, to
5 representatives of the Board. Access shall not be unreasonably withheld and shall be subject to
6 conditions no more stringent than normally applied to representatives of California state
7 government.

8 10. TERMINATION OF CONSENT JUDGMENT

9 10.1 If, during the Operating Life of the Plant, for any reason any federal or state
10 government entity, or court imposes, whether through the exercise of its discretion or as the
11 result of a change in applicable federal, state or local laws, regulations, ordinances, plans,
12 guidelines, guidance documents, or policies, a requirement that would require the Company to
13 comply with a more stringent standard with respect to receiving water limitations or thermal
14 effluent limitations than exists in the Plant's current Permit, a copy of which is attached as
15 Exhibit B to this Consent Judgment, or that would require a cooling water system technology
16 that is more costly or burdensome than the cooling water intake and discharge system which
17 existed at the Plant as of August 2000, the Company, in its sole discretion, may elect to rescind
18 the Consent Judgment, including without limitation the Conservation Easement, in the manner
19 set forth below.

20 a. If the Company elects to rescind the provisions of the Consent Judgment
21 pursuant to this Paragraph, it may do so by notifying the Board in writing of its intent to do so
22 sixty (60) days prior to actual rescission of the Conservation Easement or other provisions of the
23 Consent Judgment. If the Board finds that no event permitting the Company to rescind has
24 occurred, it may invoke the dispute resolution provisions of Paragraph 11.8.

25 b. If the Company rescinds the Consent Judgment pursuant to this Paragraph,
26 the State may assert any claims relating to entrainment, impingement and receiving water
27 discharge impacts, including alleged non-compliance with the Thermal Plan, Ocean Plan, Central
28 Coast Basin Plan, Sections 303(g) and 316 of the Clean Water Act, and any other potentially

1 applicable provision of federal or state law that existed on or before the Effective Date, or that
2 exist on or after the date upon which the Company rescinds the Consent Judgment, but may not
3 assert any claims based on or arising out of any conduct, act or omission that occurs between the
4 Effective Date of the Consent Judgment and the date that the Company rescinds the Consent
5 Judgment pursuant to this Paragraph.

6 c. If the Company rescinds the Consent Judgment pursuant to this Paragraph,
7 it shall be excused from any obligation of the Consent Judgment that has not been performed as
8 of the date it rescinds the Consent Judgment.

9 d. If the State asserts any Claims pursuant to Paragraph 10.1(b), the
10 Company reserves all rights, defenses and objections that existed on the Date of Entry of this
11 Consent Judgment with respect to such claims.

12 e. If the Company is held liable for any claims asserted pursuant to
13 Paragraph 10.1(b), any monies paid by the Company pursuant to the terms of this Consent
14 Judgment shall be deducted from the amount of the Company's liability.

15 10.2. If any provision of this Consent Judgment, including, but not limited to the
16 Conservation Easement, is invalidated by a court, or if this Consent Judgment does not become
17 effective due to the failure of any of the Conditions Precedent set forth in Paragraph 6, the Parties
18 shall meet and confer in good faith and use best efforts to negotiate a new Consent Judgment
19 resolving the issues and claims resolved by this Consent Judgment, for a period of time not to
20 exceed sixty (60) days, unless such time period is extended by written consent of the Parties,
21 after which either party may invoke the second sentence of the dispute resolution paragraph set
22 forth in Paragraph 11.8. No Party may unreasonably withhold or delay making such efforts to
23 taking further actions required to be taken in order to negotiate a new Consent Judgment. To the
24 extent any invalidity or failure to become effective relates to the Conservation Easement, the
25 Easement Holder shall participate in the process set forth in this Paragraph.

26 ///

27 ///

28 ///

1 11. GENERAL PROVISIONS

2 11.1 No Opposition By Parties. Each Party hereby agrees not to oppose the Court's
3 determination that this Consent Judgment was entered into as a good faith settlement of all
4 claims by the Parties, and not to challenge any provision of this Consent Judgment.

5 11.2 No Civil Penalties. No monies paid by the Company pursuant to the terms of this
6 Consent Judgment shall be construed as, or be asserted by the State to be, a civil fine, penalty or
7 monies paid in lieu thereof.

8 11.3 No Admission of Liability. Nothing in this Consent Judgment shall be construed
9 as, or asserted by the State to be, an admission by the Company of liability under any applicable
10 provision of federal, state or local law, regulation, ordinance, plan, guideline, guidance
11 document, or policy.

12 11.4 Notices. Whenever, under the terms of this Consent Judgment, written notice is
13 required to be given or a report or other document is required to be sent by one Party to another,
14 it shall be directed to the individuals at the addresses specified below, unless those individuals or
15 their successors give notice of a change to the other Parties in writing. All notices and
16 submissions shall be considered effective upon receipt, unless otherwise provided. Written
17 notice as specified herein shall constitute complete satisfaction of any written notice requirement
18 of the Consent Judgment with respect to the Parties.

19 As to the State:

20 Ken Alex
21 Supervising Deputy Attorney General
22 State of California Department of Justice
23 1515 Clay Street
24 Oakland, CA 94612

25 Jennifer Soloway
26 State Water Resources Control Board
27 Office of Chief Counsel
28 P.O. Box 100
 Sacramento, CA 95812,

and

26 Roger W. Briggs
27 Executive Officer
28 Regional Water Quality Control Board, Central Coast Region
 895 Aerovista Place, Suite 101
 San Luis Obispo, CA 93401

1 As to the Company:

2 John W. Busterud
3 Section Head, Environmental Section
4 Law Department
5 Pacific Gas & Electric Company
6 77 Beale Street - B30A
7 P.O. Box 7442
8 San Francisco, CA 94120.

9 11.5 Costs. Each Party shall bear its own costs and attorneys' fees in the action
10 resolved by this Consent Judgment.

11 11.6 Amendments and Modifications. This Consent Judgment may not be amended or
12 modified except in a writing, consented to and signed by duly authorized representatives of the
13 Parties hereto, that states the intent of the Parties to amend or modify this Consent Judgment.

14 11.7 Construction. This Consent Judgment was negotiated by the Parties with advice
15 of counsel and any ambiguities determined to exist in this Consent Judgment are not to be
16 construed against any Party.

17 11.8 Dispute Resolution. In the event that a dispute arises between or among any of
18 the Parties with respect to the subject matter of this Consent Judgment, the Parties shall attempt
19 in good faith to resolve any such dispute informally, for a period of time not to exceed thirty (30)
20 days, unless such time period is extended by written consent of the Parties. If the Parties are
21 unable to resolve their dispute, the Parties agree to mediate their dispute with a third party
22 mediator who is mutually acceptable to the Parties, for a period of time not to exceed sixty (60)
23 days, unless such time period is extended by written consent of the Parties. If the dispute is not
24 resolved through informal negotiation or mediation, then each Party may pursue any other
25 remedy available to it.

26 11.9 Paragraph Headings. Paragraph and subparagraph headings in this Consent
27 Judgment are provided for the convenience of the Parties; they form no part of this Consent
28 Judgment and shall not be used as an aid in the interpretation of the contracting intent of the
Parties hereto.

 11.10 Compromise and Settlement; Arms-Length Negotiations. This Consent Judgment
represents a compromise and settlement of a pending dispute between the Parties and is the

1 product of arms-length negotiation. The Parties have read this Consent Judgment carefully and
2 completely, have had the advice and assistance of legal counsel, and have not been influenced to
3 any extent whatsoever by any representations or statements of fact or opinion made by any Party
4 or its agents other than those contained in this Consent Judgment. The Parties further agree that
5 this Consent Judgment has been negotiated and executed in good faith and without improper
6 influence by any person.

7 11.11 Entire Consent Judgment. The entire Consent Judgment of the Parties relating to
8 the subject matter of this Consent Judgment is contained herein. No promises, inducements, or
9 considerations have been offered and accepted or given except as herein set forth. This Consent
10 Judgment supersedes all prior oral or written Consent Judgments, negotiations, discussions,
11 understandings and representations between the Parties hereto and/or their respective counsel
12 with respect to the subject matters covered hereby.

13 11.12 Authority. Each person signing this Consent Judgment in a representative
14 capacity hereby expressly warrants that he or she has express authority to legally bind his or her
15 principal and signs this Consent Judgment in such representative capacity on behalf of his or her
16 principal.

17 11.13 Execution. This Consent Judgment may be executed in counterparts, with each
18 copy deemed an original, and all such counterparts taken together shall constitute one and the
19 same Consent Judgment.

20 11.14 Retention Of Jurisdiction. The Court retains jurisdiction over this matter for the
21 duration of the performance of the terms and provisions of this Consent Judgment for the
22 purpose of enabling any of the Parties to apply to the Court at any time for such further order,
23 direction, and relief as may be necessary or appropriate for the construction or modification of
24 this Consent Judgment. The Parties retain the right to seek to enforce the terms of this Consent
25 Judgment and take any action authorized by federal or state law not inconsistent with the terms
26 of this Consent Judgment to achieve or maintain compliance with the terms and conditions of
27 this Consent Judgment or otherwise.

28 ///

1 12. OBLIGATIONS THAT BECOME EFFECTIVE UPON THE EXECUTION OF
2 THE CONSENT JUDGMENT BY THE PARTIES

3 12.1. Notwithstanding the provisions of Paragraph 6.1 hereof, the following terms shall
4 become effective upon the full execution of this Consent Judgment by all of the Parties:

5 a. If the Consent Judgment is appealed, the Parties shall comply with all
6 obligations under the Consent Judgment until the conclusion of the appeal except for the grant of
7 the Conservation Easement set forth in Paragraph 8.1(a).

8 b. Until such time as (i) the Conservation Easement is established pursuant to
9 Paragraph 8.1 hereof, or (ii) this Consent Judgment fails because any of the conditions precedent
10 to its effectiveness listed in Paragraph 6.1 above cannot be satisfied, or (iii) this Consent
11 Judgment is terminated pursuant to Paragraph 10 hereof, the Company:

- 12 1. shall keep the Encumbered Land free and clear of any
13 encumbrances other than the Company's fee title and the leasehold
14 interest of the existing tenant that would be superior to the
15 Conservation Easement that is to be conveyed to the Land
16 Conservancy of San Luis Obispo County;
- 17 2. shall comply with those obligations of the Grantor of the
18 Conservation Easement set forth in paragraphs 1, 5, 7, 8, 9, 10, and
19 17(b), and Exhibits C, E, F, G, and H of the Conservation
20 Easement. Any approvals from the Grantee required under the
21 Conservation Easement shall be obtained from the Board.
- 22 3. is not precluded by the terms of this Consent Judgment from
23 transferring fee title to the Encumbered Land to any successor,
24 assign, parent, affiliate, division, subsidiary or the like; provided,
25 however that any such conveyance must be subject to the
26 Conservation Easement and other requirements and conditions
27 specified in Paragraphs 8.1(a) (Grant of Conservation Easement),
28 8.1(b) (Approval of Easement Holder), 8.1(d) (Continuance of

Existing Uses), and 12 (Obligations That Become Effective Upon Execution of the Consent Judgment by the Parties) to this Consent Judgment. If the Encumbered Land is conveyed prior to the Effective Date and prior to the granting of the Conservation Easement, any agreement to convey the Encumbered Land shall expressly provide that the transferee shall convey the Conservation Easement as provided by the Consent Judgment. Similarly, nothing in this Consent Judgment precludes the Company from transferring fee title to the Unencumbered Land to any successor, assign, parent, affiliate, division, subsidiary or the like; provided, however, that any such conveyance must be subject to the provisions of Paragraph 8.2 (Unencumbered Land). The Company shall provide thirty (30) days written notice to the Regional Board prior to transferring fee title to the Encumbered Land or the Unencumbered Land.

c. Escrow Account. Within twenty (20) days of the date on which this Consent Judgment is fully executed by the Parties, the Company will place into an interest bearing escrow account the funds required by Paragraphs 8.1(c), 8.3, 8.4, the first year contribution required by Paragraph 8.5, and the start-up grant and first-year contribution required by Paragraph 8.6, the proceeds of which will be transferred, together with any earned interest less costs and taxes, into the appropriate fund within thirty (30) days of the Effective Date of this Consent Judgment. Any interest, less costs and taxes, shall be allocated proportionally among the individual funds.

d. Return Of Escrow Funds. If for any reason this Consent Judgment does not become effective, all escrowed funds and interest shall be returned to the Company.

///

///

///

1 IN WITNESS WHEREOF, the Parties have executed this Consent Judgment by their
2 respective authorized officers.

3 Dated: BILL LOCKYER
4 Attorney General
5 RICHARD M. FRANK
6 Chief Assistant Attorney General
7 THEODORA BERGER
8 Assistant Attorney General
9 KEN ALEX
10 Supervising Deputy Attorney General

11 By: _____
12 Edward G. Weil
13 Deputy Attorney General
14 For Plaintiffs People of the State of California ex
15 rel. Central Coast Regional Water Quality Control
16 Board and Bill Lockyer, Attorney General

17 Dated: _____
18 JENNIFER SOLOWAY
19 Senior Staff Counsel
20 For Plaintiff People of the State of California ex rel.
21 Central Coast Water Quality Control Board

22 Dated: CENTRAL COAST REGIONAL WATER
23 QUALITY CONTROL BOARD

24 _____
25 Roger Briggs
26 Executive Officer
27 Dated: Pacific Gas & Electric Company

28 _____
Gregory M. Rueger
[Title]

IT IS SO ORDERED, ADJUDGED, AND DECREED:

26 Dated: _____
27 JUDGE OF THE SUPERIOR COURT

Recording requested by
and when recorded mail to:

Space above this line reserved for Recorder's use

**Grant Deed of Conservation Easement
(San Luis Obispo County Fields Ranch)**

THIS GRANT DEED OF CONSERVATION EASEMENT ("Conservation Easement" or "Easement"), is made as of _____, 2002 by and between Pacific Gas and Electric Company, a California Corporation ("Grantor") and The Land Conservancy of San Luis Obispo County, a California non-profit corporation ("Grantee"), as grantee, on the basis of the following facts and circumstances:

A. Grantor, the California Regional Water Quality Control Board, Central Coast Region ("Regional Board") and the California Attorney General have entered into a Consent Judgment filed in the Superior Court of the County of San Luis Obispo on _____, 2002 resolving case number _____ (the "Consent Judgment"). The Consent Judgment resolves allegations involving compliance with the Clean Water Act National Pollutant Discharge Elimination System permit issued by the Regional Board to the Grantor for its Diablo Canyon Power Plant. As part of the Consent Judgment, the Grantor agreed to dedicate a Conservation Easement, as defined in the Consent Judgment, on lands north of the Diablo Canyon Power Plant. The Consent Judgment is incorporated herein by reference and is attached to hereto as Exhibit A.

B. Grantor owns in fee the real property consisting of approximately 2,013 acres in San Luis Obispo County, California, which is more particularly described in the full legal description and the map plotted over an aerial photograph, each attached hereto as Exhibit B (the "Property"), and which, together with all rights, title and interests appurtenant to the Property (including, but not limited to, all mineral and mineral rights, if any, and all water and water rights appurtenant to the Property).

C. The Property possesses and supports natural resources (the "Conservation Values") of great importance to Grantee and the people of the State of California. The principal Conservation Value of the Property is the existing condition of the land in its open space and largely undeveloped state. Notwithstanding the foregoing, the Conservation Values do not include, and the purpose of this Easement is not to protect, the currently-existing activities and conditions on the Property described as cattle grazing and the large eroded gully caused by World War II activities. As a result of this principal Conservation Value, the Property supports the additional Conservation Values of indigenous intertidal and subtidal marine populations and communities in the nearshore marine environment. Additional Conservation Values present on the Property as a result of the principal Conservation Value, include, but are not limited to, native terrestrial plants, wildlife, archaeological resources and scenic quality.

D. The primary goal of this Conservation Easement is long-term protection of the nearshore marine environment within and adjacent to the Property to preserve, protect and enhance this environment for indigenous intertidal and subtidal marine organisms and communities. Protection and preservation of the principal Conservation Value will assure the Conservation Values of nearshore marine environment, including intertidal and subtidal indigenous marine organisms and communities, native terrestrial plants, wildlife and scenic quality are protected by preventing development, land use and activities that may damage the Conservation Values.

E. The State of California recognizes the public importance and validity of conservation easements, which recognition includes but is not limited to Sections 815 et seq. of the California Civil Code and Section 27255 of the California Government Code. The parties intend for this Conservation Easement to be interpreted and enforced as a conservation easement under California Civil Code Sections 815 et seq., with the exception of Grantor's powers of termination set forth in Paragraph 21 below. The parties intend that, to the extent this Conservation Easement is deemed to not be a conservation easement under California Civil Code Sections 815 et seq., that this Conservation Easement be a negative easement in gross which shall be, by contractual agreement of the parties, interpreted and enforced under all statutes, cases and other laws applicable to California Civil Code Sections 815 et seq., except those that may prohibit the termination rights of Grantor set forth in Paragraph 21 below.

F. Grantee is a nonprofit corporation incorporated under the laws of the State of California, as a tax-exempt public charity described in Section 815.3 of the California Civil Code and Section 501(c)(3) of the Internal Revenue Code (the "Internal Revenue Code"), organized to protect and conserve natural areas and ecologically significant land for scientific, charitable and educational purposes, and is a "qualified organization" within the provisions of Section 170(h) of the Internal Revenue Code, qualified to acquire and hold conservation easements.

G. Grantor, as the owner in fee of the Property, owns the rights to identify, preserve, protect and enhance the Conservation Values. Grantor intends that the Conservation Values be preserved, protected and enhanced in perpetuity, unless this Conservation Easement is terminated in accordance with Paragraph 21 below. In order to accomplish such purposes, Grantor intends to convey to Grantee, and Grantee intends to obtain, a conservation easement that prohibits all development, land use and activities on the Property, except for development, land use and activities explicitly authorized by this Grant of Conservation Easement, including development, land use and activities described in Exhibits D and E, which are attached hereto.

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and pursuant to the laws of the State of California, and in particular California Civil Code Sections 815 et seq., Grantor hereby grants and conveys to Grantee, its successors and assigns, subject to judicial extinguishment and termination pursuant to Paragraph 21 below, a Conservation Easement in perpetuity in, on, over, and across the Property granting to Grantee the rights which are provided for herein and restricting in perpetuity the uses which may be made of the Property on the following terms and conditions:

1. **Purpose.** The Property shall be managed and maintained by Grantor, and Grantor's successors and assigns, in a manner that is consistent with the preservation, protection, and enhancement of the principal Conservation Values of the Property, and Grantor and Grantee intend that this Easement will confine development, land use and other activities on the Property to those that are consistent with the principal Conservation Values. Except as expressly provided herein, Grantor and its successors and assigns shall not perform, or knowingly allow others to perform, any development, land use or other activities on or affecting the Property in conflict with the Conservation Values, including but not limited to those development, land use and other activities set forth in Exhibit C, which are agreed by Grantor and Grantee to be inconsistent with the Conservation Values (collectively, the "Prohibited Activities").

2. **Easement Documentation Report.** The parties acknowledge that an Easement Documentation Report (the "Report") of the Property has been prepared by Grantee, a copy of which is on file with Regional Board, Grantor and Grantee at their respective addresses for notices, set forth below. The parties agree that the Report contains an accurate representation of the physical condition of the Property, including the location, size and use of all existing improvements on the Property, at the time this Easement is recorded and is intended to serve as an objective, though nonexclusive, information baseline for monitoring compliance with the terms of this Easement. If a controversy arises with respect to the nature and extent of the physical condition of the Property or permitted development, land uses and other activities on the Property, the parties shall not be foreclosed from utilizing the

Report, as well as any and all other relevant documents, surveys or other evidence or information to assist in the resolution of the controversy. The Report is comprised of four parts:

(a) Existing Development, Land Use or Other Activity. The first section of the Report documents buildings, structures, improvements such as roads, and other activities, including grazing, permitted under this Easement (Exhibit E). The first section of the Report documents whether any of the development, land use or other activities prohibited hereunder are taking place (Exhibit C). Physical features of the Property such as structures, improvements, fences, commercial uses, recreational facilities, unauthorized agriculture, and grading, are documented by photographs. Non-structural issues, such as the transfer of development or water rights, use of vehicles off of designated roadways, hunting, tree cutting and current grazing activities, are documented through written or verbal assurances provided by Grantor and confirmed by Grantee through interviews with the Existing Tenant (as defined below), caretakers and others to the extent other sources that are available.

(b) Description of Principal Conservation Value. The second section of the Report documents the Property's principal Conservation Value as the existing condition of the land in this open space and largely undeveloped state. The photographic documentation provided under Paragraph 2(a), above, is the primary source of this documentation.

(c) Description of Additional Conservation Values. The third section of the Report documents the additional Conservation Values the Property supports. This includes the indigenous intertidal and subtidal marine populations and communities in the nearshore marine environment, and resources such as native terrestrial plants, wildlife, archaeological resources and scenic quality. Documentation of these resources is through reference to existing documents and sources of information. The text of these documents is summarized in an annotated bibliography with the full documents being maintained by Grantee or Grantor. For the intertidal zone and coastal bluff portions of the Property, as an example, data and report information is referenced from the Diablo Canyon Power Plant Ecological Monitoring Program performed in conjunction with Grantor's NPDES permit monitoring and reporting program No. 90-09. Additional reports describing the sensitive plant species and wildlife species are referenced in the same manner.

(d) Special Conservation Issues. The fourth section of the Report documents existing conditions on the Property that have the potential of adversely affecting the Conservation Values over time. These conditions are not expected to be cured as a result of future restrictions on development. A description of these issues will provide long-term guidance to the Regional Board, Grantor and Grantee in future restoration and land management opportunities. This section includes, for example, a description of the large gully created by the installation and removal of a shore battery during and after World War II, before Grantor owned the Property. This section also includes a preliminary recommendation on the kind of work as well as investigation needed to address these issues. A specific recommendation is included on the need for a soil erosion and sedimentation study. The purpose of this study is to define the amount of sediment that is expected to be discharged from the Property to surface waters under various conditions and establish a protocol for ongoing monitoring of sediment.

3. Easement Monitoring Report. Grantee shall monitor development, land use or other activity occurring or taking place on the Property annually and provide an easement monitoring report (the "Monitoring Report") to the Regional Board and Grantor describing the Grantor's compliance with the terms of this Conservation Easement, subject to the following provisions:

(a) The Monitoring Report will be organized in accordance with the list of Prohibited Activities (Exhibit C) and Permitted Activities (Exhibit E) and will include photographs and other text as necessary to demonstrate compliance with the conditions of this Easement. Where violations are noticed, these will also be described as well as enforcement actions that have been taken to remedy the violation.

(b) The Monitoring Report will include separate attachment containing a conservation issue update (the "Update") on the status of any biological monitoring, biological studies or resource management activities or studies that have taken place on the Property during the prior year, to the extent such materials are available to Grantee. For example, in the event that soil erosion and sedimentation studies are conducted on the Property, the conclusions and recommendations of such studies will be included in the Update. As a further example, in the event that biological studies on other resources such as the Bishop Pine are conducted on the Property, the conclusions and recommendations of such studies will be included in the Update. The Update will include an update on any resource enhancement projects, such as erosion control projects, exotic removal projects or revegetation projects undertaken on the Property, to the extent such materials are available to Grantee.

(c) The purpose of the Update will be to provide an overview of resource management studies or activities in general that have taken place during the previous year. This information may lead to updated criteria and standards by which the Grantee will assess permitted activities such as grazing. Grantee shall include in the Update, if available, information developed during the previous year regarding nearshore populations and communities by the Central Coast Ambient Monitoring Program and the University of California.

(d) Grantee shall not be obligated under the terms of this Easement to perform any original monitoring of biological resources including monitoring of the nearshore intertidal or subtidal area. Grantee shall not be obligated hereunder to conduct any studies in connection with the Monitoring Report or the Update.

4. Rights Conveyed to Grantee. The rights conveyed to Grantee by this Easement include, but are not limited to, those listed in Exhibit D which is incorporated by reference herein.

5. Permitted Uses of the Property; Reserved Rights. Grantor and Grantee intend that this Easement shall preserve the Conservation Values of the Property, with particular emphasis on protection of marine habitats, including intertidal and shallow subtidal habitats and associated plant and animal communities, protection of terrestrial surface waters, wildlife habitat, open space, scenic values, conservation of natural features and values. In order to preserve the Conservation Values of the Property, the uses set forth in Exhibits D and E shall be permitted on the Property, and any and all other development, land use and other activities are hereby strictly prohibited. The parties acknowledge that the uses set forth in Exhibit E reflect currently existing uses of the Property, and that permitting existing uses and prohibiting additional development, land use and other activities is consistent with the Conservation Values, provided however, that the uses described in Exhibit E shall not be construed as examples of additional or further uses of the Property consistent with the Conservation Values.

6. Remedies for Violation. The following provisions shall be applicable to the enforcement of this Easement for alleged violations by the Grantor or Grantee.

(a) Notice of Violation. If Grantee or Grantor becomes aware that a violation of the terms of this Easement (a "Violation") has occurred or is threatened to occur, Grantee or Grantor shall give written notice to the other of such violation (the "Violation Notice").

(b) Corrective Action. Upon the giving of a Violation Notice, the recipient shall promptly commence, and thereafter diligently pursue to completion, corrective action sufficient to cure the Violation and, where the Violation involves injury to the Property resulting from any use or activity inconsistent with the Conservation Values of the Easement, to restore the portion of the Property so injured. A party shall be in default under this Easement (a "Default") if the party fails to cure the Violation within thirty (30) days after the Violation Notice is given; provided that, if more than thirty (30) days is reasonably required for the corrective action, then, if the party promptly begins the corrective action within such thirty (30) day period, no Default shall exist for so long thereafter as the party is diligently pursuing such cure to completion.

(c) Remedies Upon Default. In the event of a Default, the parties shall have all remedies available at law or in equity to enforce the terms of this Easement, including (but not limited to) the right to: (1) seek

a temporary or permanent injunction with respect to any activity causing a Violation; and (2) force the restoration of that portion of the Property affected by the Violation to a condition similar or equivalent to the condition that existed prior to the Violation, by restoring soils, replanting suitable native vegetation, or taking such other action as is reasonably deemed necessary to achieve such restoration.

(d) Emergency Enforcement. The foregoing provisions notwithstanding, if a party determines that a Violation had occurred and circumstances require immediate action to prevent or mitigate damage or destruction to any of the Conservation Values, the party may pursue its remedies under this section without giving a Violation Notice and without waiting for the period to cure the Violation which is provided for above.

(e) Enforcement Discretion. Enforcement of the terms and provisions of this Easement shall be at the discretion of the party asserting a Violation, and the failure of a party to discover a Violation or to take action under this Easement shall not be deemed or construed to be a waiver of the rights of the party under this Easement in the event of any subsequent occurrence of that or any other Violation.

(f) Acts Beyond Parties' Control. Nothing contained in this Conservation Easement shall be construed to entitle a party to bring any action against the other for any injury to or change in the Property resulting from causes beyond either parties' control, including fire, flood, storm, earth movement, and third parties (including trespass, provided that Grantor shall use reasonable efforts to prevent trespass on the Property).

7. Approval Process. Whenever the agreement or consent of either Grantor or Grantee to a proposed action or activity (a "Proposed Activity") is to be obtained by the other party pursuant to this Easement (an "Approval"), the party seeking the Approval (the "Requesting Party") shall give the other party (the "Notified Party") a written notice requesting the Approval and informing the Notified Party in detail of all material aspects of the Proposed Activity, including a reasonable analysis of the environmental impacts of the Proposed Activity and a description of the impacts that the Proposed Activity may have on existing uses and Conservation Values (collectively, a "Request Notice"), and the following provisions shall then be applicable:

(a) If the Notified Party has not given the Requesting Party a written notice requesting additional specific information concerning the Proposed Activity within thirty (30) days after the Request Notice was first received, or, if supplemental information is provided by the Requesting Party (which shall then automatically become a part of the Request Notice), then within thirty (30) days after the day on which such supplemental information is received (in whichever case is applicable, the "Information Deadline"), the information concerning the Proposed Activity which was supplied by the Requesting Party by the Information Deadline shall be deemed complete for all purposes.

(b) The Notified Party shall review the Request Notice promptly, and shall, if it has any objections to the Proposed Activity, give the Requesting Party prompt written notice thereof (an "Objection Notice"). Any objections by a party shall be based upon its opinion that the Proposed Activity is inconsistent with the terms of this Easement or the Conservation Values, in a manner which shall be specified in the Objection Notice. If the Notified Party gives an Objection Notice, it shall also make a reasonable, good faith effort to advise the Requesting Party how the Proposed Activity could be modified to be consistent with the purposes of the Easement.

(c) The Requesting Party shall not, and shall not have the right to, commence or conduct the Proposed Activity until and unless it receives the written approval of the Notified Party which approval shall not be unreasonably withheld, and only in the manner approved, except to the extent that the approval of the Notified Party is deemed given as indicated below.

(d) The Proposed Activity shall be deemed to have been agreed upon or consented to (as applicable) by the Notified Party if no Objection Notice has been given within sixty (60) days after the Information Deadline, and the Notified Party shall then have no further right to object to the Proposed Activity as described in

the Request Notice except in the case of: (1) an activity which actually violates the terms of this Easement; (2) a subsequent material change in circumstances having a bearing on the compatibility of the Proposed Activity with the Conservation Values; or (3) information which has a material bearing on the compatibility of the Proposed Activity with the Conservation Values (including information concerning the actual effect of a Proposed Activity), becomes known to the Notified Party after the time period for providing an Objection Notice has occurred; or (4) it is determined that the Requesting Party has failed to adequately describe the Proposed Activity. In any of those events, the Notified Party shall have the right to give the Requesting Party an Objection Notice as to the Proposed Activity, despite the passage of the deadline stated above.

(e) No actual or deemed agreement or consent to, or failure to object to, any given Proposed Activity shall constitute agreement or consent to any aspect of the Proposed Activity which was not disclosed in the Request Notice (including any supplemental information, as noted above), or to any subsequent action or activity of the same or any different nature, nor shall it alter any of the terms of this Easement.

8. **Notices.** Except as otherwise provided in this Easement, any notice, demand, request, approval or consent of any kind that any party hereto desires or is required to give to or make of or on the other party under or in connection with this Easement (in each case, a "Notice") shall be subject to the following provisions:

(a) Each Notice shall be in writing and shall be served upon the party being addressed, at the most recent address(es) which the addressed party has provided for such purposes under the terms of this Easement, by any of the following means: (i) by delivery in person, (ii) by certified U.S. mail, return receipt requested, postage prepaid, or (iii) by Federal Express or other reputable "overnight" delivery service, provided that next-business-day delivery is requested by the sender. If delivered in person, a Notice will be deemed given immediately upon delivery (or refusal of delivery or receipt).

(b) If sent by certified mail, a Notice will be deemed given on the earlier to occur of: (i) the date of actual delivery at such address, as shown by the return receipt; or (ii) the third day after being deposited in the mail. If sent by Federal Express or other reputable "overnight" delivery service, such Notice will be deemed given on the next-business-day after being deposited with the delivery service.

(c) As an additional alternative form of delivering a Notice pursuant to this Agreement, any party may deliver a Notice to another party by telecopier or facsimile transmission (by "fax"); provided, however, that any Notice given by fax must (except to the extent, if any, otherwise explicitly stated below) also be given in one of the other methods set forth above, and each Notice delivered by fax shall be deemed given on the date of successful transmission.

(d) By written Notice to the other party which is given in the aforesaid manner, either party may from time to time designate a replacement for any address or fax number which is specified below for the party giving the Notice, and the replacement address or fax number (as applicable) shall then be substituted for the one previously in effect, provided that in no case shall any such replacement increase the total number of addresses or fax numbers for Notices to such party.

(e) Subject to such right to change their addresses or fax numbers for Notices, the parties initially designate the following addresses and fax numbers to be used for Notices sent to them:

<u>If to Grantor:</u>	Pacific Gas And Electric Company Director of Land Projects 245 Market Street, N10A, Room 1015 P.O. Box 770000 San Francisco, CA 94177 Fax Number: (415) 973-6979
-----------------------	---

If to Grantee: Land Conservancy of San Luis Obispo County
743 Pacific
San Luis Obispo, CA 93401
Fax Number: (805) 544-5122

If to Regional Board: Regional Water Quality Control Board
Central Coast Region
Attn: Executive Officer
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401
Fax Number: (805) 543-0397

(f) Where notice to Grantor of entry upon the Property by Grantee is required under this Easement, Grantee may notify any of the persons constituting Grantor or any appropriate agent of Grantor, by telephone, by mail, or in person prior to such entry.

9. Compliance with Applicable Laws; Hazardous Materials. Grantor and Grantee hereby covenant and agree as follows in connection with their use and operation of the Property:

(a) Grantor shall comply with all statutes, laws, ordinances, rules, regulations, codes, orders, guidelines, or other restrictions, or requirements applicable to the Property which have been enacted or otherwise promulgated by any federal, state, county, municipal, or other governmental or quasi-governmental agency, board, bureau, commission, court, department, panel, or other official body (whether legislative, administrative, or judicial), or by any competent official of any of the foregoing (in each case, an "Applicable Law"), including (but not limited to) those relating to pollution or the protection of human health or the environment. Grantee shall comply with all Applicable Laws with respect to its activities on the Property.

(b) Without placing any limitation on Grantor's or Grantee's general obligation to comply with all Applicable Laws, Grantor shall keep the Property free of contamination by any of the following (in each case, a "Hazardous Material"): wastes, materials, chemicals, or other substances (whether in the form of liquids, solids, or gases, and whether not airborne) which are ignitable, reactive, corrosive, toxic, or radioactive, or which are deemed to be pollutants, contaminants, or hazardous or toxic substances under or pursuant to, or which are to any extent regulated by, form the basis of liability under, or are otherwise under the authority of any Applicable Law concerning such wastes, materials, chemicals, or other substances (in each case, a "Hazardous Materials Law"), including (but not limited to) petroleum-based products and any material containing or producing any polychlorinated biphenyl, dioxin, or asbestos, as well as any biocide, herbicide, insecticide, or other agrichemical, at any level that may: (1) constitute a substantial present or potential threat to the environment or to human health, safety, or welfare; (2) exceed any applicable or relevant and appropriate clean-up standard; (3) cause any person to incur any investigative, removal, remediation, maintenance, abatement, or other clean-up obligation or expense; it being understood that such Hazardous Materials Laws include (but are not limited to) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 US Code Sections 9601 *et seq.* and, hereinafter, "CERCLA"); the Hazardous Materials Transportation Act (49 US Code Sections 6901 *et seq.*); the Hazardous Waste Control Law (California Health & Safety Code Sections 25100 *et seq.*); the Hazardous Substance Account Act (California Health & Safety Code Sections 25300 *et seq.*); and any rule, regulation, or other promulgation adopted under any of the foregoing laws.

(c) Grantor shall not cause or allow any Hazardous Material, including but not limited to any substance that is or was radioactive, to be stored, held, used or placed on the Property, with the exception of: (i) a biocide, herbicide, insecticide, or other agrichemical otherwise permitted hereunder to be used on the Property, provided that the storage of such materials shall not exceed quantities reasonably expected to be used on the

Property within a one (1)-year period; and (ii) oil and gasoline used for the operation of motor vehicles on the Property in connection with uses permitted hereunder.

(d) Grantee shall not cause any contamination of the Property with Hazardous Material.

10. **Responsibility for Operations.** Grantor shall have and retain all responsibility for, and shall bear all costs and liabilities of, the ownership, operation, upkeep, and maintenance of the Property. The parties acknowledge that Grantee has the right hereunder, but not the obligation, at Grantee's sole cost and expense, to take certain actions with respect to the Property, but such rights of Grantee shall not relieve Grantor from any of its obligations with respect to the ownership, operation, upkeep, and maintenance of the Property. Without placing any limitation on the foregoing sentence, the parties agree as follows:

(a) Grantor shall be solely responsible for any and all real property taxes and assessments levied by competent authority on the Property, shall pay the same prior to delinquency.

(b) Grantor shall be responsible for any costs related to the maintenance of general liability insurance covering acts on the Property. Grantee shall be responsible for maintenance of general liability insurance covering the activities that it or its agents conduct on the property.

(c) Grantor shall be responsible for obtaining any and all applicable governmental permits and approvals for any activity or use by Grantor which is permitted by this Easement. Grantee shall be responsible for obtaining any and all applicable governmental permits and approvals for any activity or use by Grantee which is permitted by this Easement. Any such activities or uses shall be undertaken in accordance with all Applicable Laws.

(d) Nothing in this Easement shall be construed to create in or give to Grantee: (i) the obligations or liabilities of an "owner" or "operator" as those words are defined and used in CERCLA or any other Hazardous Materials Law; (ii) the obligations or liabilities of a person described in 42 USC §9607(a)(3); (iii) the obligations of a responsible person under any applicable Hazardous Materials Law; (iv) any obligation to investigate, remove, remediate, abate, or otherwise clean up any Hazardous Materials located at or associated with the Property that Grantee did not bring to the Property; or (v) control over Grantor's ability to investigate, remove, remediate, abate, or otherwise clean up any Hazardous Materials located at or associated with the Property in compliance with any Hazardous Materials Law; and Grantor hereby waives any and all rights or remedies which it may have against Grantee under any Hazardous Materials Law, except to the extent due to any actual use or placement of Hazardous Materials at the Property by Grantee.

(e) Grantor and Grantee will convene periodic meetings between Grantor's and Grantee's land stewardship staffs to coordinate their responsibilities and activities to benefit the Conservation Values of the Easement and avoid potential conflicts.

11. **Additional Representations and Warranties.** In addition to any and all other representations and warranties of the parties set out in this Easement, Grantor hereby represents and warrants to Grantee that, as of the date hereof:

(a) Grantor has full right, power and authority to enter into this Easement and to transfer the Property and all rights appurtenant thereto to Grantee. All corporate action on the part of Grantor necessary for the valid authorization, execution, and delivery of this Easement, and the consummation of the transaction contemplated hereby has been taken.

(b) The execution and delivery of this Easement and the consummation of the transaction contemplated hereby will not conflict with or constitute a default under any of the terms, conditions or provisions of any other agreement to which Grantor is a party or by which Grantor is bound, and will not violate any provision of, or require any consent, authorization or approval under, any applicable law, regulation, or order.

(c) Except as set forth in the Disclosure Exhibit attached hereto as Exhibit F (the "Disclosure Exhibit") Grantor has received no written notice from any governmental agency or private person during the six (6) month period preceding the Effective Date that the condition, use or operation of the Property violates any law or any order or requirement of any governmental agency that could materially and adversely affect the operation or Conservation Values of the Property (other than violations which have been cured). Further, Grantor has no knowledge of any actual or pending requirement of the Nuclear Regulatory Commission or any other federal or state governmental agency that new or additional roads be constructed on the Property.

(d) Except as set forth in the Disclosure Exhibit, Grantor has received no written notice of any pending or threatened lawsuits of any kind against Grantor that could materially and adversely affect the operation or value of the Property or prohibit the transfer of any interest therein.

(e) Except as set forth in the Disclosure Exhibit, Grantor has received no written notice of any pending, threatened or contemplated condemnation proceedings affecting the Property or any interest therein.

(f) Except as set forth in the Disclosure Exhibit, Grantor is not aware of any underground tanks or hazardous materials contamination on the Property.

(g) Except as set forth in the Disclosure Exhibit, Grantor represents and warrants that Grantor has good fee title to the Property, free and clear of any and all liens, encumbrances or any property interest (including without limitation, any deeds of trust, mortgages or leaseholds) and hereby promises to defend the Property against all such claims that may be made against it. Grantor represents and warrants that the holders of all liens, encumbrances or property interests described in the Disclosure Exhibit have agreed to subordinate their interests in the Property to this Easement and to refrain forever from any action that would be inconsistent with the Conservation Values. Grantor represents and warrants that the Property is not subject to any other conservation easement.

(h) Grantor shall use reasonable efforts to provide Grantee with access to information, documents and records in Grantor's possession or control which pertain to the Property and the subject matter of this Conservation Easement, provided however, that Grantee and Grantor acknowledge and agree that due to factors including the volume of such records, the size and diversity of Grantor's operations, it is not practical for Grantor to make available to Grantee all files pertaining to the Property in Grantor's possession or control. Notwithstanding the foregoing, Grantor shall not be obligated to provide Grantee with information, documents or records which is confidential or privileged. Notwithstanding Grantor's delivery of such documents and information to Grantee, Grantee acknowledges and agrees that Grantee will, except for the limited representations and warranties contained in this Easement, rely solely on its own investigations in making its decision to receive the Easement. Grantor's obligations in this Paragraph 11(h) shall continue from and after the date of this Easement.

(i) Grantor represents and warrants that Grantor has no knowledge of any release or threatened release of Hazardous Materials on or that could affect the Property.

12. **Indemnification by Grantor.** Grantor hereby agrees to indemnify and defend Grantee, each of the officers, directors, employees, agents, invitees, and contractors of Grantee, and each of the successors and assigns of such parties, against, and to hold such indemnified parties harmless of and from, any and all claims, costs, liabilities, penalties, damages, or expenses of any kind or nature whatsoever whether based on negligence or strict liability (including, but not limited to, court costs and reasonable attorneys' fees and expenses, whether incurred at the trial, appellate, or administrative level, or in connection with any arbitration) which any of such indemnified parties may suffer or incur, or to which any of such indemnified parties may be subjected, arising from or connected with: injury to or death of any person; physical damage to any property; Violation under this Easement by Grantor, or by anyone acting for or under the authority of Grantor; any breach of Grantor's representations or warranties

hereunder; any activities of Grantor or by anyone acting for or under the authority of Grantor on, at, or with respect to the Property; and any other costs or liabilities related to or occurring on or about the Property, regardless of cause, unless due to the gross negligence or willful misconduct of Grantee, including (but not limited to) the following:

(a) approvals requested by Grantor or given or withheld by Grantee in accordance with the terms hereof;

(b) any real property taxes, insurance, utilities, assessments, or other charges that are levied against or with respect to the Property, including those for which exemption cannot be obtained;

(c) the operation, upkeep, and maintenance of the Property, including all costs thereof except with respect to those activities undertaken on the Property by Grantee at Grantee's option, including without limitation any and all activities performed by Grantee pursuant to its rights under Exhibit D attached hereto and incorporated herein by reference; and

(d) any Hazardous Materials present at the Property, alleged to be present there, or otherwise connected in any way to the Property, whether before, on, or after the date of this Easement, except to the extent liability (including penalties, damages, or expenses of any kind or nature whatsoever) arising from the presence of Hazardous Materials on the Property is caused by Grantee's activities (including the activities of Grantee's employees, agents, invitees, and contractors) on the Property.

13. **Indemnification by Grantee.** Grantee agrees to indemnify and defend Grantor, each of the officers, directors, employees, agents, invitees, and contractors of Grantor, and each of the successors, and assigns of such parties against, and to hold such indemnified parties harmless of and from, any and all claims, costs, liabilities, penalties, damages, or expenses arising directly from Grantee's gross negligence in connection with its physical activities on the Property.

14. **Subsequent Liens on Property.** No provision of this Easement is to be construed as impairing the ability of Grantor to use the Property as collateral for any loan, provided that any lien created thereby shall be subordinate to the terms of this Easement. Grantor shall keep Grantee's interest in the property free of any liens that are superior to this Conservation Easement.

15. **Subsequent Transfers by Grantor.** Grantor covenants and agrees that the terms, conditions, restrictions, and purposes of this Easement, or a clear reference thereto, will be inserted in any subsequent deed, lease, or other legal instrument by which Grantor conveys or otherwise transfers the fee simple title to the Property, or any leasehold, possessory, or other interest in the Property; and Grantor further covenants and agrees that Grantor shall: (i) notify Grantee of any such transfer at least thirty (30) days in advance of its occurrence; and (ii) provide a true and complete copy of this Easement, as recorded, to each transferee of any interest in the Property. No failure of Grantor to include such language, make such references, give such notice, or provide such copies shall, however, affect to any extent the enforceability of this Easement or any other terms of this Easement.

16. **Recordation; Additional Instruments.** This Easement shall be recorded in a timely fashion in the Official Records of San Luis Obispo County, California. After providing Grantor 60-day advance notice, Grantee is authorized to record or file from time to time any and all notices or instruments which may be appropriate to ensuring the enforceability of this Easement, including (but not limited to) re-recording this Easement, or a copy thereof, for such purpose, and Grantor agrees to execute, acknowledge, and/or deliver (as applicable) any and all such notices or instruments upon reasonable request from Grantee to do so.

17. **Interpretation; Enforcement.** It is the intent of this Easement to further the Conservation Values, and Grantor and Grantee therefore acknowledge and agree as follows concerning the interpretation of the terms of the Easement:

(a) Grantor and Grantee acknowledge that it is their intent that this Conservation Easement be perpetual, subject only to the provisions of Paragraph 21 below. The parties acknowledge that this Conservation Easement may not qualify as a conservation easement under Sections 815 et seq. of the California Civil Code, because Section 815.2(b) provides that "a conservation easement shall be perpetual in duration," and Paragraph 21 of this Conservation Easement provides for termination of the term of this Conservation Easement. Notwithstanding the foregoing, Grantor and Grantee hereby contractually agree that this Conservation Easement shall be interpreted and enforced in accordance with all Applicable Law of a conservation easement under Sections 815 et seq. of the California Civil Code, with the sole exception of the requirement of a perpetual term, insofar as Paragraph 21 of this Conservation Easement provide for termination of the term of this Conservation Easement.

(b) The provisions of this Easement shall be construed liberally, in order to effectuate the Conservation Values, while allowing Grantor to use the Property in accordance with the Permitted Uses. Liberal construction is expressly required for purposes of effectuating the Easement in perpetuity, notwithstanding economic or other hardship or any change in circumstances of any kind. If any provision in this Easement is found to be ambiguous, an interpretation consistent with the Conservation Values that would render the provision valid shall be favored over any interpretation that would render it invalid.

(c) Except as provided in Paragraph 21 below, if any provision of this Easement, or the application thereof to any person(s) or circumstance(s), shall to any extent be held to be invalid, illegal, or unenforceable in any respect by any court of competent jurisdiction: (i) neither the remainder of this Easement, nor the application of such provision to any person(s) or circumstance(s), other than those as to whom or which it is held to be invalid or unenforceable, shall be affected thereby; (ii) this Easement shall be construed as though such invalid, illegal or unenforceable provision had never been contained in this Easement; and (iii) every provision of this Easement shall be valid and enforceable to the fullest extent permitted by the Applicable Laws. If any provision is stricken from this Easement, the parties agree to negotiate in good faith any modifications that may be required to effectuate the intent of this Easement.

(d) The parties acknowledge that each party and its counsel have reviewed, revised (where it was deemed appropriate), and approved this Easement, and that no rule of construction that ambiguities are to be resolved against the drafting party shall be employed in the interpretation of this Easement.

(e) In the event of any conflict between the provisions of this Easement and the provisions of any use or zoning restrictions of the State of California, the county in which the Property is located, or any other governmental entity with jurisdiction over the Property, the most restrictive provision shall apply.

(f) The terms of this Easement are intended by the parties hereto as a final expression of their agreement with respect to the subject matter hereof, and may not be contradicted by evidence of any prior or contemporaneous agreement. This Easement may not be modified, amended or otherwise changed in any manner, except by a written amendment executed by all of the parties hereto, or their successors in interest.

(g) In this Easement, personal pronouns shall be construed as though of the gender and number required by the context, the singular including the plural, the plural including the singular, and each gender including other genders, all as may be required by the context. Wherever in this Easement the term "and/or" is used, it shall mean: "one or the other, both, any one or more, or all" of the things, events, persons or parties in connection with which the term is used. The headings of the various paragraphs of this Easement are intended solely for reference purposes, and are not intended for any purpose whatsoever to modify, explain, or place any construction on any of the provisions of this Easement. This Easement shall be governed by, construed in accordance with, and interpreted under, the law of the State of California.

(h) Any and all recitals in this Easement are agreed by the parties to be accurate and shall constitute an integral part of this Easement, and this Easement shall be construed in light of those recitals. Any and

all exhibits, schedules, and addenda attached to and referred to in this Easement are hereby incorporated into this Easement as fully as if set out in their entirety herein.

(i) No remedy or election given by any provision in this Easement shall be deemed exclusive unless so indicated, and each such remedy or election shall, wherever possible, be cumulative with all other remedies at law or in equity. Without placing any limitation on the foregoing provisions, Grantor and Grantee agree that no statute of limitations shall start to run and no estoppel or similar defense shall arise against any action brought by Grantee or Grantor to enforce or interpret this Easement, unless and until Grantee or Grantor is actually aware of a violation or is aware of a dispute regarding the interpretation of the provisions of this Easement.

(j) The terms "Grantor" and "Grantee," wherever used in this Easement, and any pronouns used in place thereof, shall mean and include, respectively: (i) the named Grantor and the personal representatives, heirs, devisees, and assigns of such named Grantor, and all other successors of such Grantor, as their interests may appear; and (ii) the named Grantee and the personal representatives, heirs, devisees, and assigns of such named Grantee, and all other successors of such Grantee, as their interests may appear.

(k) The parties may execute this Easement in two or more counterparts, all of the signature and acknowledgment pages of which shall then be combined with one of the executed counterparts by the party or escrow holder who will be recording the document, and the combined document shall then be recorded as the one original.

(l) If circumstances arise under which an amendment to this Easement would be appropriate, Grantor and Grantee may jointly amend this Easement; provided that no amendment shall be allowed that will affect the qualification of the Easement or the status of Grantee under any Applicable Law, including Sections 815 *et seq.*, of the California Civil Code, or IRC Section 170(h), and any amendment shall be at the sole discretion of Grantor and Grantee and shall be consistent with the Conservation Values. Any such amendment shall be in writing, shall refer to this Easement by reference to its recordation data, and shall be recorded in the Official Records of the county or counties where the Property is located.

(m) The covenants set forth in this Conservation Easement touch and concern the Property, and every part thereof, and constitute covenants running with the Property and every part thereof pursuant to Section 1468 of the California Civil Code.

18. **Estoppel Certificates.** For the limited purpose of obtaining financing or refinancing only, upon request by Grantor from time to time, Grantee shall, in each case no later than thirty (30) days after being given notice of Grantor's request therefor, execute and deliver to Grantor an estoppel certificate or similar document which: (i) certifies that, to the knowledge of Grantee at the time of the execution of such certificate, Grantor is in compliance with the obligations of Grantor contained in this Easement, and (ii) otherwise evidences the status of the Easement, as reasonably requested by Grantor.

19. **Assignment.** Grantee shall have the right to transfer or assign its rights under this Easement to a governmental or non-governmental entity which is qualified under the Internal Revenue Code and Civil Code Sections 815 *et seq.* to hold conservation easements and which agrees to enforce the terms of this Easement ("Assignee"), subject to the following procedures and conditions:

(a) The Assignee shall be selected in an open, public process conducted by the California Regional Water Quality Control Board, Central Coast Region, or the successor agency thereof ("Regional Board"). Approval of the Assignee by the Regional Board shall be at a public meeting after an opportunity for public comment. The Assignee shall be selected based upon criteria determined by the Regional Board, with input from the Grantor and Grantee. The criteria shall include, without limitation, the following, unless the Grantor and Regional Board expressly agree otherwise:

(b) The Assignee shall be an organization with extensive national and/or regional experience in holding and managing conservation easements.

(c) The Assignee, through any conduct, act or omission, shall not interfere with, impair or otherwise inhibit the Plant's operations, and shall not challenge or oppose the use of nuclear power or the continued operation of the Plant.

(d) In the event that a dispute arises between Grantee and the Regional Board with respect to the selection or approval of the Assignee, Grantee and the Regional Board shall resolve their dispute pursuant to the dispute resolution procedures set forth in the Consent Judgment.

20. **Further Actions Upon Unenforceability or Termination.** If any court or arbitration panel concludes that Grantor's right of termination pursuant to Paragraph 21 below or Paragraph 10.1 of the Consent Judgment is invalid, then the entire Conservation Easement shall be terminable at the option of Grantor. In the event this Conservation Easement is terminated or ruled invalid or unenforceable for reasons other than Grantor exercising its right of termination in accordance with Paragraph 21 below or Paragraph 10.1 of the Consent Judgment Grantor and Grantee agree to use best efforts to put in place binding legal restrictions on development, land use and other activities on the Property consistent with the purpose and intent of this Conservation Easement, including the termination provisions set forth in Paragraph 21, below, provided that Grantor and Grantee shall obtain the prior written consent of Regional Board to such action, and provided that neither Grantor nor Grantee shall unreasonably withhold or delay making such efforts or taking further actions to put in place such legal restrictions. If Grantor and Grantee are unable to agree upon the further actions required to be taken to put in place binding legal restrictions on the Property in accordance with the foregoing sentence, Grantor and Grantee shall seek to resolve such dispute in accordance with the dispute resolution provisions of Paragraph 11.8 of the Consent Judgment, with the parties to such dispute resolution process being Grantor, Grantee and Regional Board. Grantor and Grantee agree that they will not contest the legal validity of this Conservation Easement under any circumstances.

21. **Termination.** This Conservation Easement is subject to termination pursuant to paragraph 10.1 of the Consent Judgment, in which event of such termination, any remaining balance of the fund created in accordance with Paragraph 8.1(c) of the Consent Judgment (the "Easement Fund") shall be returned to Grantor. Grantee agrees that it will not oppose termination of this Conservation Easement by the Grantor pursuant to that provision of the Consent Judgment.

22. **Eminent Domain.** In the event that the Property is taken by the power of eminent domain, the value of this Conservation Easement shall be determined by an expert appraiser mutually agreeable to the Grantor and the Regional Board. Any dispute between the Grantor and the Regional Board as to the value of the Conservation Easement shall be resolved through binding arbitration by a panel of three arbitrators - one chosen by the Grantor, one chosen by the Regional Board, and the third chosen through the mutual agreement of the other two arbitrators. The value of the Conservation Easement shall be paid from the proceeds of the taking, and, along with any remaining balance in the Easement Fund, deposited in the dedicated fund established pursuant to paragraph 8.3 of the Consent Judgment (the "Dedicated Fund").

23. **Effect of Judicial Extinguishment, Termination or Eminent Domain.** In the event that this Easement is (1) terminated by the Grantor pursuant to Paragraph 21 of this Conservation Easement, (2) invalidated by a court of competent jurisdiction, or (3) terminated as a result of eminent domain, Grantee shall not be entitled to any compensation for the lost value of the Conservation Easement, but shall be entitled to reasonable costs it has incurred with respect to the Property or defending such actions, which costs, notwithstanding the provisions of Paragraphs 21 and 22 above shall be paid to Grantee from the condemnation proceeds or the Easement Fund, as applicable.

IN WITNESS WHEREOF, the parties have executed this Conservation Easement as of the date first above written.

Grantor:

**Pacific Gas and Electric Company,
a California Corporation**

By: _____
(signature)

Print Name: _____

Title: _____

Grantee:

**Land Conservancy of San Luis Obispo County,
a California non-profit corporation**

By: _____
(signature)

Print Name: _____

Title: _____

State of California)
) ss.
County of _____)

On _____ before me, _____, a Notary Public, personally appeared _____, 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.

Notary Public

State of California)
) ss.
County of _____)

On _____ before me, _____, a Notary Public, personally appeared _____, 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.

Notary Public

))

Exhibit A

Consent Judgment

[Intentionally Omitted]

Exhibit B
Legal Description of Property

A portion of the unincorporated land of San Luis Obispo County, California called "Canada de los Osos" and "Pecho y Islay" confirmed by the United States Land Commission, as recorded September 9th, 1869, filed in Book "A", at Page 105 of Patents in the office of the Recorder for said county; being a portion of the lands designated as Parcels A & B of Parcel Map COAL 75-65, as recorded September 23rd, 1975, filed in Book 18 at Page 26 of Parcel Maps in the office of the Recorder for said county, all of the land conveyed to Pacific Gas and Electric Company by Grant Deed, as recorded December 18th, 1986, filed in Volume 2927, at Page 161 of Official Records in the office of the Recorder for said county, more particularly described as follows:

Beginning on the easterly boundary of Parcel "B" of said Parcel Map COAL 75-65, at United States Coast and Geodetic Survey (USC&GS) Triangulation Station "Spoooner", PID: FV1599 (a standard brass disk that was reset in 1967) published coordinate value being, North 640,991.60, East 1,149,743.50;

Thence, along the easterly boundary of said Parcel "B", S 34° 55' 29" W, 1341.61 feet to USC&GS Triangulation Station "Pecho", PID FV1597, marked by a standard disk;

Thence, S 21° 01' 01" E, 2501.42 feet to the southeast corner of said Parcel "B";

Thence, along the southerly boundary of said Parcel "B", N 83° 54' 48" W, 800.00 feet to a 3 ½ inch brass disk, stamped LS 3671, designated as corner "OF 2" on said Parcel Map COAL 75-65;

Thence, continuing along the southerly boundary of said Parcel "B", S 33° 34' 57" W, 226.44 feet, to a 3 ½ inch brass disk, stamped LS 3671, designated as corner "OF 3" on said Parcel Map COAL 75-65;

Thence, along a non-tangent curve, concave to the south, with a radius of 2639.84 feet from a radial bearing S 31° 37' 27" W, through a central angle of 49° 14' 16", an arc length of 2268.58 feet, to a 5/8 inch rebar with 1 ½ inch cap stamped LS 3671, designated as corner "DAR" on said Parcel Map COAL 75-65;

Thence, leaving the southerly boundary of said Parcel "B" and continuing along the last described curve with a radius of 2639.84 feet from a radial bearing S 17° 36' 49" E, through a central angle of 10° 17' 24", an arc length of 474.10 feet, to a 5/8 inch rebar with 1 ½ inch cap, stamped LS 3671, as shown on that Record of Survey Map as recorded February 4th, 1971, filed in Book 18, at Page 2 of Licensed Survey Maps in the office of the Recorder for said county;

Thence, along the southerly boundary of that parcel of land conveyed to Pacific Gas and Electric Company by Grant Deed, recorded December 18th, 1986, filed in Volume 2927, at Page 161 of Official Records in the office of the Recorder for said county, and along a tangent curve, concave to the south with a radius of 2639.86 feet, through a central angle

of 10° 17' 24", an arc length of 474.10 feet, to a 5/8 inch rebar with 1 1/2 inch cap, stamped LS 3671 as shown on said Record of Survey;

Thence, continuing along the southerly boundary of that parcel of land conveyed to Pacific Gas and Electric Company by Grant Deed, recorded December 18th, 1986, and along a tangent curve, concave to the south with a radius of 2639.87 feet, through a central angle of 10° 17' 24", an arc length of 474.11 feet, to a 3 1/2 inch brass disk, stamped LS 3671, designated corner "OF 4" as shown on said Record of Survey;

Thence, along a tangent curve, concave to the south with a radius of 2639.87 feet, through a central angle of 01° 44' 10", an arc length of 80 feet, to the line of ordinary high-water of the Pacific Ocean;

Thence, northwesterly, along the line of ordinary high water of the Pacific Ocean, as meandered based upon information obtained from the process of photogrammetry (photo date, July 12, 2000) the following courses:

N 76° 24' 42" W, 425.16 feet;
N 04° 33' 41" W, 563.79 feet;
N 71° 38' 22" W, 528.22 feet;
N 79° 12' 28" W, 623.07 feet;
N 66° 18' 40" W, 1011.35 feet;
N 24° 09' 28" W, 727.22 feet;

N 66° 56' 29" W, 711.52 feet;
N 29° 06' 53" E, 812.67 feet;
N 27° 57' 47" W, 1304.11 feet;
N 59° 03' 07" W, 559.44 feet;
N 25° 15' 21" W, 682.81 feet;
N 41° 46' 35" W, 652.75 feet;

N 76° 07' 15" W, 771.48 feet;
N 11° 17' 31" W, 368.38 feet;
N 52° 49' 28" W, 1766.60 feet;
N 13° 04' 22" W, 516.26 feet;
N 41° 42' 35" W, 762.59 feet;
N 28° 32' 33" W, 1120.21 feet;

N 48° 38' 02" W, 663.59 feet;
N 28° 20' 24" W, 877.69 feet;
N 37° 07' 11" W, 235.18 feet;
N 69° 29' 36" W, 423.08 feet;
N 01° 39' 14" W, 295.29 feet;
N 70° 37' 19" W, 486.24 feet;

N 15° 12' 56" W, 383.57 feet;
N 81° 32' 36" E, 683.91 feet;
N 02° 44' 05" W, 856.11 feet;
N 45° 01' 33" W, 569.20 feet;
N 21° 12' 07" E, 601.70 feet;
N 26° 26' 22" W, 705.40 feet;

N 81° 34' 07" W, 524.90 feet;
N 55° 30' 08" W, 241.31 feet;
N 64° 22' 45" E, 668.23 feet;
N 25° 06' 57" E, 686.98 feet;
N 22° 10' 21" W, 498.91 feet;
S 83° 23' 18" E, 556.30 feet;

Thence, N 48° 30' 07" E, 453.53 feet, to the westerly terminus of course nineteen (19) on the southerly boundary of that parcel of land designated "Parcel 1" in the Grant Deed from Oliver C. Field and Ruby Hale Field to Rancho Montana De Oro, Inc., as recorded December 18th, 1952, filed in Volume 689, at Page 20 of Official Records in the office of the Recorder for said county, being marked by index monument #4 as shown on that Record of Survey filed in Book 16, Page 1 of Licensed Surveys in the office of the Recorder for said County, and accepted as marking the northerly boundary of said Parcel "A" of Parcel Map COAL 75-65;

Thence, leaving the meander line of ordinary high-water of the Pacific Ocean, along the southerly boundary of said parcel of land designated "Parcel 1" in the Grant Deed from Oliver C. Field and Ruby Hale Field to Rancho Montana De Oro, Inc., and along the northerly boundary of said Parcel "A" of Parcel Map COAL 75-65, S 78° 11' 57" E, 334.21 feet, to a 3" iron pipe over a 2"x2" hub (index monument #5) as shown on that Record of Survey filed in Book 16, Page 1 of Licensed Surveys in the office of the Recorder for said County;

Thence, continuing along the southerly boundary of said parcel of land designated "Parcel 1" in the Grant Deed from Oliver C. Field and Ruby Hale Field to Rancho Montana De Oro, Inc., and along the northerly boundary of said Parcel "A" of Parcel Map COAL, S 52° 53' 37" E, 36.81 feet as shown on said Record of Survey filed in Book 16, Page 1 of Licensed Surveys in the office of the Recorder for said County;

Thence, S 33° 48' 29" E, 75.34 feet;

Thence, S 22° 58' 26" E, 76.96 feet;

Thence, S 42° 40' 32" E, 35.39 feet;

Thence, S 55° 09' 00" E, 31.10 feet;

Thence, S 57° 26' 16" E, 78.63 feet;

Thence, N 65° 25' 31" E, 513.10 feet;

Thence, S 25° 18' 29" E, 726.55 feet to a 4" vitrified clay pipe with a 2 1/2 inch bronze disk stamped LS 2685 (index monument #13) as shown on said Record of Survey filed in Book 16, Page 1 of Licensed Surveys in the office of the Recorder for said County;

Thence, S 64° 51' 29" E, 818.45 feet;

Thence, S 10° 52' 22" W, 784.09 feet;

Thence, S 73° 11' 55" E, 217.09 feet;

Thence, N 86° 51' 08" E, 197.59 feet to the westerly terminus of course seven (7) on the southerly boundary of that parcel of land designated "Parcel 1" in the Grant Deed from Oliver C. Field and Ruby Hale Field to Rancho Montana De Oro, Inc., as recorded December 18th, 1952, filed in Volume 689, at Page 20 of Official Records in the office of the Recorder for said county, being marked by index monument #18 as shown on said Record of Survey filed in Book 16, Page 1 of Licensed Surveys in the office of the Recorder for said County, and accepted as marking the northerly boundary of said Parcel "A" of Parcel Map COAL 75-65;

Thence, leaving the southerly boundary of said parcel of land designated "Parcel 1" in the Grant Deed from Oliver C. Field and Ruby Hale Field to Rancho Montana De Oro, Inc., and leaving the northerly boundary of said Parcel "A" of Parcel Map COAL 75-65, S 23° 11' 38" E, 3208.73 feet to a 2" iron pipe with brass tag stamped LS 5139;

Thence, S 52° 19' 19" E, 4032.56 feet, to USC&GS Triangulation Station "Last", PID: FV1589 (a standard brass disk that was reset in 1962);

Thence, S 78° 16' 43" E, 227.86 feet to a 3/4" iron pipe with a 2 1/2" brass cap stamped "Beaches and Park, LS 2685" accepted as marking a point on the southwesterly boundary of Lot 7 of the Rancho Pecho y Islay according to the plat filed for record on June 7th, 1880 in Book "B", at Page 86 of Maps in the office of the Recorder for said County, being index monument #29 on the boundary of the lands of the State of California, Division of Parks and Beaches as shown on that Record of Survey filed in Book 16, Page 1 of Licensed Surveys in the office of the Recorder for said County, and accepted as marking a point on the northwesterly boundary of said Parcel "A";

Thence, along the southwesterly boundary of said Lot 7, and the northeasterly boundary of said Parcel "A", S 37° 20' 47" E, 1141.27 feet to a 2 1/2" brass cap stamped "Beaches and Park, LS 2685" set in concrete, accepted as marking the south corner of said Lot 7, and shown as index monument #30 on said Record of Survey filed in Book 16, Page 1 of Licensed Surveys in the office of the Recorder for said County;

Thence, along the southeasterly boundary of said Lot 7, and the northeasterly boundary of said Parcel "A", N 47° 37' 41" E, 288.31 feet to a 3/4" iron pipe with brass tag stamped LS 2685, shown as index monument #31 on said Record of Survey filed in Book 16, Page 1 of Licensed Surveys in the office of the Recorder for said County, and accepted as marking a point on the northeasterly boundary of said Parcel "A"

Thence, leaving the northeasterly boundary of said Parcel "A", S 74° 21' 01" E, 1503.38 feet to a 2" iron pipe with brass tag stamped LS 5139;

Thence, N 88° 49' 18" E, 2627.42 feet to a 2" iron pipe with brass tag stamped LS 5139;

Thence, S 40° 46' 29" E, 877.97 feet to a 2" iron pipe with brass tag stamped LS 5139;

Thence, S 17° 30' 01" E, 1034.87 feet to a 2" iron pipe with brass tag stamped LS 5139;

Thence, S 67° 57' 04" E, 662.40 feet to a 2" iron pipe with brass tag stamped LS 5139;

Thence, S 00° 16' 50" W, 1518.27 feet to the true point of beginning.

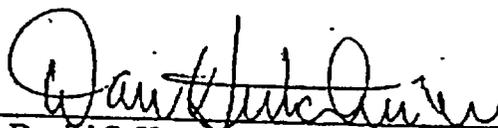
Containing 2,023 acres.

Bearings and distances described herein above are based upon the California State Coordinate System, Zone V, North American Datum of 1927, US Survey Feet;

To convert from grid distances to ground distances multiple by 1.00007, and to convert from grid bearings to geodetic bearings rotate clockwise 1° 37' 33.0".

END DESCRIPTION

Prepared by:



Daniel S. Hutchinson, PLS 5139 (license expiration date: 6/30/03)

Date: JUNE 25TH, 2002



000612/Conservation Easement Description

LINE TABLE		
LINE	LENGTH	BEARING
L1	1341.61	S34°55'29"W
L2	800.00	N83°54'48"W
L3	226.44	S33°34'57"W
L4	425.16	N76°24'42"W
L5	563.79	N04°33'41"W
L6	528.22	N71°38'22"W
L7	623.07	N79°12'28"W
L8	1011.35	N66°18'40"W
L9	727.22	N24°09'28"W
L10	711.52	N66°56'29"W
L11	812.67	N29°06'53"E
L12	1304.11	N27°57'47"W
L13	559.44	N59°03'07"W
L14	682.81	N25°15'21"W
L15	652.75	N41°46'35"W
L16	771.48	N76°07'15"W
L17	368.38	N11°17'31"W
L18	516.26	N13°04'22"W
L19	762.59	N41°42'35"W
L20	1120.21	N28°32'33"W
L21	663.59	N48°38'02"W
L22	877.69	N28°20'24"W
L23	235.18	N37°07'11"W
L24	423.08	N69°29'36"W
L25	295.29	N01°39'14"W
L26	486.24	N70°37'19"W
L27	383.57	N15°12'56"W
L28	683.91	N81°32'36"E
L29	856.11	N02°44'05"W
L30	569.20	N45°01'33"W
L31	601.70	N21°12'07"E
L32	705.40	N26°26'22"W
L33	524.90	N81°34'07"W
L34	334.21	S78°11'57"E

LINE TABLE		
LINE	LENGTH	BEARING
L35	36.81	S52°53'37"E
L36	75.34	S33°48'29"E
L37	76.96	S22°58'26"E
L38	35.39	S42°40'32"E
L39	31.10	S55°09'00"E
L40	78.63	S57°26'16"E
L42	217.09	S73°11'55"E
L43	197.59	N86°51'08"E
L44	227.86	S78°16'43"E
L45	1141.27	S37°20'47"E
L46	288.31	N47°37'41"E
L47	877.97	S40°46'29"E
L48	1034.87	S17°30'01"E
L49	241.31	N55°30'08"W
L50	668.23	N64°22'45"E
L51	686.98	N25°06'57"E
L52	498.91	N22°10'21"W
L53	556.30	N83°23'18"W
L54	453.53	N48°30'07"E
L55	513.10	N65°25'31"E
L56	726.55	S25°18'29"E
L57	818.45	S64°51'29"E
L58	784.09	S10°52'22"W
L59	662.40	S67°57'04"E

CURVE TABLE			
CURVE	LENGTH	RADIUS	DELTA
C1	2268.58	2639.84	49°14'16"
C2	474.10	2639.84	10°17'24"
C3	474.10	2639.86	10°17'24"
C4	474.11	2639.87	10°17'24"
C6	80	2639.87	01°44'10"

Cannon
ASSOCIATES

ENGINEERS
PLANNERS
SURVEYORS

384 Pacific Street
San Luis Obispo, CA 93401
(805) 240-7407

EXHIBIT A

DRAWN BY: GM

DATE: 10/15/01

CHECKED BY: OH

SHEET 2 OF 2

Exhibit C

Prohibited Activities

Any development, land use or other activity occurring or taking place on the Property is prohibited, except those explicitly authorized by this Conservation Easement, including those authorized and described in Exhibits D and E hereto. Without limiting the generality of the foregoing, the following activities and uses are strictly prohibited unless expressly permitted in the Easement and its Exhibits:

1. Development. There shall be no Development. "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredges material or of any gaseous, liquid, solid, or thermal water; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of size of water, or of access thereto; construction, reconstruction, demolition, or alternation of the size of any structure, including any facility of any private, public, or municipality. As used in this section, "structure" includes, but is not limited to, any building, camping accommodations, house-trailer, road, pipe, flume, conduit, siphon, aqueduct, billboards, signs, or other advertising facilities, street lights, telephone line, and electrical power transmission and distribution line.

2. Transfer of Development Rights. All development rights that are now or hereafter allocated to, implied, reserved, or inherent in or to the Property may not be used on or transferred to any portion of the Property as it now or hereafter may be bounded or described, or to any other property (whether adjacent or otherwise) for so long as this Conservation Easement is in effect.

3. Granting of Separate or Partial Interests or Subdivision. The Property shall at all times continue to be maintained in the unified ownership of a single person or entity, except that ownership of the Property may be held in common by one or more persons in the form of undivided interests, provided, however, that (i) each such person has an identical undivided interest in the entire Property (e/g. in all of the legal parcels constituting the Property), and (ii) no owner of an undivided interest in the Property shall have the right of exclusive occupancy or exclusive use of any separate portion of the Property nor any right to have the Property partitioned in kind, whether pursuant to California Code of Civil Procedure Section 872.210 et seq., or otherwise.

4. Vehicles. There shall be no use of motorized vehicles off of designated roadways except as necessary for the Existing Tenant to undertake permitted grazing activities, for the Grantor and Grantee to undertake permitted activities under Exhibits D and E, and in the case of emergencies such as fire.

5. Dumping and Salvage. There shall be no dumping, storage, or other disposal of soil, trash, garbage (other than compostable refuse generated on the Property, and then only in areas agreed to by Grantee), ashes, waste, sludge, Hazardous Materials (as defined in this Easement), or other unsightly or dangerous materials, and there shall be no storage or disassembly of inoperable automobiles, trucks, or other vehicles or equipment for purposes of sale, or rental of space for that purpose;

6. Vegetation. There shall be no removal, cutting or destruction of native vegetation, and no intentional introduction of any non-native plant or animal species. This includes but is not limited to Artichoke Thistle *Cynara cardunculus*, Castor Bean *Ricinus communis*, Edible Fig *Ficus carica*, Eucalyptus *Eucalyptus spp.*, Eurasian Mustard *Brassica spp.*, Fountain Grass *Pennisetum setaceum*, French Broom *Genista monspessulanus*, Giant Reed (Arundo) *Arundo donax*, Italian - Mediterranean Olive *Olea europaea*, Musk Thistle *Carduus nutans*,

Pampas Grass *Cortaderia selloana*, Russian Olive *Elaeagnus angustifolia*, Salt Cedar (Tamarisk) *Tamarix spp.*, Tree of Heaven *Ailanthus altissima* Tree Tobacco *Nicotiana glauca*, Veldt Grass *Ehrharta calycina*, Yellow Star Thistle *Centaurea solstitialis*. The exception is for the mowing, pruning, and trail maintenance necessary to support permitted grazing activities, and for fire and vegetation management purposes.

7. Timber Harvesting and Firewood. There shall be no taking or harvesting of timber, standing or downed, on the Property, except for purposes of disease or insect control, for fire and vegetation management purposes, or to prevent property damage or personal injury, after written consent is obtained from Grantee (except in an emergency situation), There shall be no removal of any downed wood from any waterway, unless it causes an immediate flood risk to the Property, and then only with approval from Grantee (except in an emergency situation).

8. Trails, Roads. There shall be no construction, reconstruction, or replacement of any paths or roadways without prior consent of the Grantee.

9. Grading. There shall be no change in the general topography of the Property by grading as defined by County Ordinance. This includes no manipulation or alteration of natural watercourses, wetland, stream bank, shorelines, or other bodies of water, placement of revetments or rip-rapping for purposes of bank stabilization, or diversion or other alteration of natural watercourses, wetlands, or other bodies of water. The exception would be for grading necessary to undertake erosion control projects approved by the Grantee or undertaken by the Grantee.

10. Fences; Security Barriers. There shall be no fences, walls or security barriers built on or at the Property without the prior written approval of Grantee.

11. Commercial Uses. There shall be no commercial or industrial use of the Property. Commercial shall be deemed to mean any enterprise or activity, whether for-profit or not-for-profit, related to trade in general or providing goods, services, uses, licenses or rights to any person.

12. Natural Resource Development. There shall be no filling, excavating, draining, or dredging on the Property, and no mining, drilling, removing, or exploring for or extracting of minerals, oil, gas, coal, or other hydrocarbons, soils, sands, gravel, loam, rocks or any other material on or below the surface of the Property

13. Recreational Facilities. There shall be no active or continuing recreational uses or facilities intended for active or continuing use (such as sports fields, etc.), erected or placed on the Property.

14. Agriculture. There shall be no (a) agricultural activities or operations of any kind anywhere on the Property, including (but not limited to) row crops, forage, timber, orchards, vineyards, or any other activities that involve tillage of soil, removal of vegetation, planting of crops that would be harvested, or irrigation of such crops or (b) grazing of livestock in a manner that has not been approved by the Grantee.

15. Hunting, Trapping and Fishing. There shall be no use of the Property for hunting, trapping, or fishing.

16. Water Use and Development. There shall be no development, land use or other activity that causes or contributes or threatens to cause or contribute to an adverse affect on water quality. There shall be no development, land use or other activity that is conducted without efforts to minimize potential adverse effects on water quality, including minimizing erosion, sedimentation, waste disposal, pollutant discharges to land or water.

17. Water Quality. When carrying out uses permitted under Exhibit E hereto, Grantor and Grantee shall select use alternatives and exercise best management practices to minimize potential adverse effects on water quality, including but not limited to, minimizing erosion, sedimentation, waste disposal and pollutant discharges to

))

land or water. Special care will be taken to avoid all adverse effects on the nearshore marine environment. Nothing in this paragraph will limit any responsibility to eliminate, reduce or mitigate water quality effects under any other provision of this Easement or the Consent Judgment.

18. Water Rights. There shall also be no severance, conveyance, impairment, or encumbrance of water or water rights appurtenant to the Property, separately from the underlying title to the Property, or other action that diminishes or extinguishes such water rights.

Exhibit D

Specific Rights of Grantee

Except to the degree they would interfere with the Permitted Uses and the Conservation Values, the Grantee has the following rights (provided that such rights shall not infer an affirmative obligation on Grantee's part). All restoration or land management activities to be undertaken by the Grantee shall be reviewed by the Diablo Canyon Stewardship Committee.

(a) the right to identify, preserve, and protect, as well as the right to enhance and restore, the Conservation Values of the Property.

(b) the right of access to and entry upon the Property at all reasonable times, subject to the terms of this Easement and provided that Grantee shall comply with the site and managed access programs established by Grantor to protect the security of its nuclear power plant and associated facilities as described in Exhibit G hereto.

(c) the right to enjoin any activity on or use of the Property by a third party other than Grantor, which, in the judgment of Grantee, exercising its reasonable discretion, is inconsistent with the Easement, and to enforce the restoration of such areas or features of the Property as may be damaged by any such inconsistent activity or use.

(d) the right to erect one or more signs or other appropriate markers in prominent locations on the Property, visible from a public road, bearing information indicating that the Property is protected by Grantee, the wording of which shall be determined by Grantee, subject to reasonable approval of the Grantor, but shall clearly indicate that the Property is privately owned and not open to the public. The Grantee shall be responsible for the costs of erecting and maintaining such signs or markers. In addition, educational signs to help protect conservation values may be erected.

(e) the right to control or eliminate, at Grantee's expense, noxious weeds and non-native plant species from the Property, and propagate and conserve native plant species and communities or otherwise further the Conservation Values. Objectives may be achieved using controlled burning, pesticides, herbicides or other biocides; provided that prescribed burns shall be subject to the consent of Grantor, which shall not be unreasonably withheld, and shall be done pursuant to a plan approved by local or state fire officials and any lessee under a grazing lease permitted hereunder in accordance with Paragraph 10 of Exhibit E hereto. Before use of pesticides, herbicides or other biocides, Grantee shall give advance notice to the Regional Board and shall obtain all necessary reviews and permits.

(f) the right to control or eradicate, at the expense of Grantee, feral and non-native animals, in order to further the Conservation Values.

(g) the right to undertake actions to introduce or reintroduce those native animal species of concern known to occur, or to have occurred in the area of the Property, in order to further the Conservation Values.

(h) the right to erect, maintain, and/or remove fencing on the Property, at the expense of Grantee, along or around any wetlands riparian areas or other areas on the Property at locations determined by Grantee, subject to reasonable approval of the Grantor, in order to exclude livestock.

(i) the right to plant, maintain, and/or remove riparian and aquatic vegetation on the Property, at the expense of Grantee, in order to further the Conservation Values.

(j) the right to undertake biological studies and other investigations, including the right to bring onto the Property agents experts with knowledge of the Conservation Values onto the Property as necessary to document changing conditions on the Property related to the Conservation Values.

(k) subject to the approval of Grantor, the right of access to and use of existing structures referred to in the Report as the Bruno House and Pecho House for meetings and presentations associated with scientific studies and educational activities conducted by Grantee on the Property; Grantor shall establish a reservation system so that reservations may be made by Grantee for times when the Bruno House is not being used by Grantor.

(l) subject to the approval of Grantor, the right of access and use of a suitable structure, to be designated by Grantor from time to time, for the storage of supplies or equipment necessary for the Grantee to undertake ongoing responsibilities for monitoring development, land use and other activities on the Property as well as impacts to the Conservation Values.

(m) the right to conduct restoration activities to prevent erosion, restore riparian habitat, prevent point and non-point discharges or otherwise protect or enhance coastal marine waters and other water resources of the Property.

Exhibit E

Grantor's Permitted Uses

The following are set forth to list certain specific uses of the Property by Grantor permitted under this Easement, it being understood and agreed by Grantor and Grantee that no use of the Property (whether or not listed below) shall be conducted in a manner or to an extent that diminishes or impairs the Conservation Values or that otherwise violates the terms of this Easement:

1. New and Existing Structures. No new structures will be allowed on the Property. It shall be permissible for Grantor to maintain and repair existing structures (such as houses, including those referred to in the Report as the Pecho House, the Bruno House, and Caretaker House, Tenant Mobile Home, electrical facilities, domestic wells, fences, livestock watering areas, levies, and flood control structures) present and existing on the Property at the time that this Easement is recorded, which structures are identified in the Report. In the event of the unintentional destruction or deterioration beyond reasonable use of any such Existing Structures, Grantor shall have the right to replace the Existing Structures with others of similar design, size, function, location, and materials; provided that all replacement activities shall be planned and carried out in a manner that is consistent with the Conservation Values. Replacement or new construction plans shall include best management practices to prevent erosion, waste discharge, or damage to the Conservation Values. Any such construction or development shall require approval of the Grantee under Paragraph 7 of the Easement. Grantor shall also have the right to remove structures from the Property, provided that all removal activities shall be planned and carried out in a manner that is consistent with the Conservation Values. Removal activity plans shall include best management practices to prevent erosion, waste discharge, and other adverse effects on the Conservation Values of the Property shall be submitted to Grantee for review prior to commencing removal activities. Before removal or construction activities, Grantor shall give advance notice to the Regional Board and shall obtain all necessary reviews and permits.

2. Roads. The maintenance and repair of existing roads (as identified in the Report) at currently existing levels of improvement shall be permitted and, in the event of the destruction of any such existing roads, they may be replaced with others of similar design, size, function, location, and materials, except that all replacement activities shall be planned and carried out in a manner that is consistent with the Conservation Values, and subject to Approval of Grantee. Replacement activity plans shall include best management practices to prevent erosion, waste discharge, and other adverse effects to the Conservation Values of the Property, and shall be submitted to Grantee for approval prior to commencing replacement activities. Grantor may construct new roads that are specifically required by the federal Nuclear Regulatory Commission or other federal or state government agency to be constructed on the Property, provided that: (a) the design, size, function and location of the road shall be consistent with the Conservation Values; (b) all new roads shall be planned and constructed in a manner that is consistent with the Conservation values; and (c) new road plans shall include best management practices to prevent erosion, waste discharge, and habitat disturbance and shall be submitted to Grantee for review prior to commencing new road construction activities. Before repair, removal or construction of roads, Grantor shall give advance notice to Grantee and the Regional Board and shall obtain all necessary reviews and permits.

3. Recreational Uses. Employees and contractors of Grantor are permitted to use the existing road on the Property as a jogging/hiking trail, provided that such employees and contractors remain on the road at all times.

4. Power Plant Operation and Land Stewardship Activities. Employees and contractors of the Grantor who are responsible for various power plant operation and land stewardship activities, such as the land manager, biologists, and archeologists, are permitted to use the existing roads and to access the Property as is necessary to perform their job functions.

5. Cultural Uses. Grantor may, at Grantor's sole discretion, allow limited access to the Property by persons of Chumash Indian descent for ceremonies and cultural events. In granting such access, Grantor shall coordinate with Grantee to ensure that the Conservation Values are not negatively impacted and that scientific studies are not disturbed or otherwise interfered with.

6. Company Meetings. Grantor shall be permitted to use the Existing Structures identified on the Map as the "Bruno House" for meetings and conferences attended principally by the officers, directors and employees of Grantor or its affiliates. Attendees at meetings must use existing road and park in designated parking areas.

7. Caretaker Buildings. The existing structures identified in the Report as "Caretaker's Buildings" may be occupied, repaired, replaced, and used exclusively for residential purposes, office, and storage by an individual performing caretaker services for Grantor with respect to the Property and that person's immediate family. This includes the ancillary buildings and supporting structures such as water tanks, garages, and equipment sheds as documented in the report. The existing structures identified in the Report as "Tennant Buildings" may be occupied, repaired, replaced, and used exclusively for residential purposes, office, and storage by the Tennant or assigns as defined in Paragraph 10 of this Exhibit E below, and that person's immediate family. This includes the ancillary buildings and supporting structures such as water tanks, garages, and equipment sheds as documented in the report.

8. PG&E Siren Maintenance Facility. The existing structure used by Grantor for maintenance of sirens, may be repaired and replaced and the existing use of this structure, as marked in the Report may be repaired and replaced. The intensity of use within this existing structure may not be expanded to serve other maintenance activities unrelated to activities taking place on the Property.

9. Signs. The erection of reasonable, non-illuminated signs or other appropriate markers in prominent locations on the Property shall be permitted, provided that such signs or markers are visible from a public road or from adjoining property and relate to Grantor's interests in the security of its nuclear power plant or state that no trespassing or no hunting is allowed on the Property.

10. Leases. The Property shall not be leased for nor used for the grazing, breeding or raising of or other activity involving any cattle, sheep, goats or other animals, except as specified in this paragraph below:

(a) A third party tenant, Robert Blanchard (the "Existing Tenant") currently has an existing lease/contract for cattle and/or goat grazing on the Property, which includes ownership of a mobilehome and use of existing ranch facilities documented in the Report (the "Existing Grazing Use"). The Existing Grazing Use by the Existing Tenant may continue, subject to the terms of this Easement, for the term of the existing lease/contract and any extensions or renewals by the Existing Tenant. The Existing Grazing Use may not exceed one hundred and thirty-two (132) Animal Units per year (the "Maximum Animal Units"), except that the Maximum Animal Units may be increased to a number no greater than one hundred and fifty-eight (158) during above-average rainfall years, at the discretion of the Diablo Land Stewardship Committee. No animals other than cattle, goats and horses shall be permitted to graze on the Property. The exact number of animals permitted to graze on the Property in any given year, not to exceed the Maximum Animal Units, will be decided by the Diablo Land Stewardship Committee. The Grantee is a member of the Diablo Land Stewardship Committee as it pertains to the Property. For purposes of this Conservation Easement, "Animal Units" shall have the meaning set forth in _____.

(b) Each calendar year Grantor and Existing Tenant shall prepare a written Ranch Management Plan in cooperation with the Diablo Canyon Stewardship Committee. The Ranch Management Plan shall specify factors pertaining to the Existing Tenant's use of the Property for the following year, such as the kind of animals, number of animals, locations where animals will be grazing, the time of year, and the duration of grazing and shall be drafted in

a format to be developed in cooperation with the Diablo Land Stewardship Committee and the Grantee. The Ranch Management Plan shall be included as part of a written Best Management Practices Program ("BMP Program") report that shall be prepared by Grantor annually and that documents implementation of the Best Management Practices for Cattle Grazing set forth in the Diablo Canyon Land Stewardship Program, published by Grantor and attached hereto as Exhibit H. The BMP Program report shall include a description of best management practices implemented in the preceding year, an evaluation of their effectiveness, and any changes proposed for the following year. The BMP Program report shall be submitted to Grantee on an annual basis at the end of the grazing season according to a time schedule to be developed in cooperation with Grantee. Grantee shall approve or approve with modifications, at its discretion, the BMP Program report within sixty (60) days of receipt, and the approved BMP Program report shall constitute the BMP Program for the following year. Grantee shall, within this sixty day review period, discuss any suggested modifications with the Diablo Land Stewardship Committee and work with the Diablo Land Stewardship Committee and Existing Tenant in a cooperative process to reach agreement on the BMP Program to be implemented during the following year.

(c) Existing Tenant shall conduct any and all grazing on the Property according to the BMP Program as approved by Grantee. Existing Grazing Uses that are permitted include driving vehicles off road, maintaining fences and modification of natural vegetation as necessary to maintain grazing facilities.

(d) If the Existing Tenant departs, vacates, assigns, or otherwise abandons the Existing Grazing Use of the Property, continued use for grazing will be governed by paragraph 8.1(f) of the Consent Judgment.

(e) Any disagreements regarding the continuation of the Existing Grazing Use, the BMP Program or the Ranch Management Plan will be resolved according to the dispute resolution provisions in paragraph 11.8 of the Consent Judgment. Grantor has provided Grantee with a written agreement between Grantor and the Existing Tenant whereby the Existing Tenant has agreed to be bound by the terms of this Exhibit E, Section 10 of this Easement.

11. Control of Trespass. Grantor shall have the right to control access to the Property (subject to the terms of this Easement) and to prevent trespass on the Property.

12. Habitat Restoration Grantor shall be permitted to restore and enhance areas of the Property with native vegetation and wildlife feed and cover vegetation, provided however that such restoration and enhancement shall be approved in advance by Grantee.

13. Rodent Control. Control of rodents and wood destroying organisms is permitted, provided that such control is limited to control of rodents inside of Existing Structures and the repair or prevention of damage caused by wood destroying organisms to Existing Structures.

14. Emergency Uses. Grantor may, in the event of an operational emergency at Grantor's nuclear power facility, use the Property as a staging area for personnel and equipment during emergency control and containment operations for a period that does not exceed the reasonable period that Grantor requires such use of the Property as a staging area, and Grantor shall not use more of the Property than is reasonably required for such staging area or store or dispose of hazardous or radioactive material on the Property in connection with such emergency operations. After such emergency operations have ceased or moved to other staging areas, Grantor shall promptly, at Grantor's expense, repair, using native plantings and a restoration plan approved by Grantee, all damage to the Conservation Values caused by such emergency operations. Any other emergency operations that might occur, for which the Property might have value as a staging area (for example, in the event of an off-shore oil spill), will require the prior written approval of Grantee, and coordination with Grantee.

15. Vegetation Management. Grantor is permitted, in consultation with Grantee, to perform vegetation management activities to ensure fire safety. Such activities may include prescribed burns, use of herbicides, use of hand crews, and mechanical methods, and use of land for goat grazing consistent with best management practices. Before conducting such activities, Grantor shall notify the Regional Board and obtain any necessary permit or authorization.

16. Limited Access Tours. Grantor and Grantee shall have the authority to provide up to a combined total of six (6) docent-led public hikes a year through the Property for interpretive and educational purposes. An employee or contractor of Grantor must accompany each hike. Access for such hikes will be through the managed access program described in Exhibit G. Hikes will be conducted consistent with the Conservation Values and no disposal of trash or other activity that can adversely affect the Conservation Values will be permitted. Additional hikes may be allowed in special circumstances with the approval of both Grantor and Grantee.

17. Fencing; Security Barriers. Grantor shall have the right to build and maintain any fences or security barriers required by law, but only to the extent specifically required by law to be built on the Property, and subject to the restrictions set forth in Exhibit C.

Exhibit F

Disclosure Exhibit

As required under paragraphs 11(c) – 11(g) of the Easement, the Grantor hereby makes the following disclosures as of January 28, 2003:

1. Grantor has no disclosures under paragraph 11(c).
2. Grantor has no disclosures under paragraph 11(d)
3. Grantor has no disclosures under paragraph 11(e)
4. Grantor is aware of one underground storage tank on the Property. The tank is located near Bruno House, as described in the Baseline Report prepared by Grantee. The tank was closed in place with a permit issued from San Luis Obispo Environmental Health Department. Grantor received a letter from San Luis Obispo Environmental Health Department on December 12, 1997 indicating that no further action was required. (para. 11(f))
5. Grantor represents and warrants that Grantor has good fee title to the Property, free and clear of any and all liens, encumbrances, or any property interest, with the exception of that certain written lease agreement between Grantor and Robert Blanchard dated _____, which lease agreement is subordinate to the terms and conditions of this Easement in accordance with Section 11 (g) hereof.

Exhibit G

Diablo Canyon Power Plant Access Procedures

The initial procedures for Grantee's access onto the Property are set forth below. The parties acknowledge and agree that such procedures are reasonably necessary for the security of Grantor's nuclear power facility located near the Property; that at such time as the nuclear power facility ceases operation, the access procedures are intended to be relaxed; and that the procedures are subject to change based on the agreement of the Grantor and Grantee.

Access to the Diablo Canyon Power Plant site and adjacent lands is subject to the security procedures required by the Nuclear Regulatory Commission and administered by the Diablo Canyon Power Plant Security Department. These procedures are referred to as the site access and managed access programs. These procedures must be followed at all times. Additionally, the Grantee understands that the Property is adjacent to one of Grantor's major electric generating sites and that as a condition of obtaining site access, the Grantee and its agents or guests must cooperate with and abide by all instructions issued by Grantor.

In order to inspect the Property, to enforce the rights which are granted to Grantee herein, to study and make observations or undertake studies of the Property's Conservation Values, to determine whether the activities of Grantor are in compliance with the terms of this Easement, to undertake restoration activities permitted by the Easement, and to enforce the restoration of any areas or features of the Property damaged as a result of Grantor's Violation of this Easement, Grantee is given access to the Easement property according to the procedures set forth below:

1. On-Going Site Access for Grantee.

(a) Grantee must provide Grantor the names and social security numbers of Grantee's employees, agents and officers that are responsible for managing this Easement and will require access to the Property.

(b) Grantor will enter the names and social security numbers in its access system. These names will be screened for security purposes. Upon successful completion of security screening, Grantor will notify Grantee that the request to the Property has been granted. Access to the Property will initially be managed by the Diablo Canyon Land Manager, Pat Kelly ("Land Manager").

(c) Access to the Property for employees, agents, and officers of the Grantee shall be approved for a period of up to one year. It will be reviewed annually thereafter by the Land Manager. Individuals may be added or deleted at any time, provided that an individual's access may be restricted or prohibited by Grantor only upon such individual's material breach of the access procedures. All requests must be made to the Land Manager.

(d) Individuals granted access to the Property must enter the Property by way of the Diablo Canyon Avila Beach access gate or as instructed by the Land Manager.

(e) Access to the Property shall be available on a twenty-four hour basis. The Avila Beach gate is manned from Tuesday through Friday from 6 am to 7 pm. At all other times, individuals with site access will

use a card or code to enter the site. During a refueling outage, the Avila Beach gate is manned on a 24-hour a day basis. Access to the Property from Montano deOro state park is accessible on a twenty-four hour basis only by permission of the Land Manager who shall provide the Grantee with a combination of the lock or a separate lock enabling Grantee to access the Property.

(f) Access is granted to the Property, but not to the plant administration or turbine building areas (known as the protected area).

(g) In general, access includes permission to bring on to the Property and store equipment necessary to carry out the terms of the Easement. However, if Grantee plans to bring in large or unusual pieces of equipment, the Land Manager must be notified a minimum of 24 hours in advance.

2. One time Managed Access for Visitors (e.g. Guests, or Contractors). The "Diablo Canyon Managed Access Program" as amended shall govern access for all other purposes, provided that such provisions shall not govern Grantee's access pursuant to Section 1 of this Exhibit G above.

))

Exhibit H
Diablo Canyon Land Stewardship Program

Diablo Canyon
Land Stewardship
Program

PACIFIC GAS AND ELECTRIC COMPANY

TABLE OF CONTENTS

Environmental Stewardship	1
Commitment to Environmental Responsibility	2
Stewardship Planning Process	3
Geographic Information System.....	4
Environmental Setting	9
Climate	10
Topography and Soils.....	10
Streams and Watersheds	11
Vegetation	11
Wildlife	14
Coastal Marine.....	16
Cultural Setting	19
Prehistory	20
Historic Chumash	20
Land Ownership	21
Current Land Use	25
Agriculture	26
Cattle Grazing.....	26
Plant Operations	27
Conserving Biological Diversity	27
Managed Access.....	29

Best Management Practices	31
The Planning Process	32
Cultural Resources	33
Natural Resources	34
<i>Topography and Soils</i>	34
<i>Streams and Watersheds</i>	34
<i>Vegetation</i>	35
<i>Wildlife</i>	35
Current Land Use	36
Agriculture	36
Cattle Grazing	37
Plant Operations	39
Managed Access	39
Accomplishments and Future Directions	41
Achievements and Planned Activities	42

Over
 lichens and moss adorn the massive trunk of an ancient coast live oak in a shaded grotto high above the Pecho Ranch,
 north of Crowbar Canyon.

Surface
 California poppies and lupine combine to provide seasonal color to the Irish Hills above the marine terrace on the
 Pecho Ranch. Lion Rock Cove appears in the distance.

Cattle Grazing

Cattle grazing will be practiced where compatible with natural resources; rangelands will be managed to maximize grazing revenues while maintaining or improving range condition. Cattle grazing will focus on new practices that encourage optimal livestock distribution, balanced stocking rates, uniform forage utilization, and residue management. Such practices include improved fencing, better water distribution, control of unwanted vegetation, seeding of desirable forage plants, fertilization, and time controlled grazing.

CATTLE GRAZING Best Management Practices

PG&E will ensure that:

- **Cattle grazing and related activities will be conducted in a manner minimizing degradation of sensitive biological resources such as streams and riparian areas.**
- **The suitability of continued grazing will be reviewed as proposals for multiple land use activities, including managed access, come under consideration.**
- **Cattle grazing will comply with the U.S. Environmental Protection Agency guidelines for control of non-point source pollution in coastal waters. This will include the controlled use of herbicides, pesticides, chemical fertilizers, and livestock access to coastal streams, bays, and estuaries.**
- **Grazing practices that establish required levels of residual dry matter to protect the soil surface from erosion while optimizing conditions for forage production will be implemented. Annual monitoring will be practiced to ensure compliance.**
- **Grazing capacity, as reflected in the standing crop of available forage, will be evaluated annually and used to adjust stocking rates.**
- **Land use practices encouraging establishment and spread of undesirable plants will not be allowed.**