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STATE WATER RESOURCES CONTROL BOARD
2013 APR 16 AM 10:50
DIV. OF WATER RIGHTS
SACRAMENTO

JAMES WALLACE FLETTER
3939 Walnut Avenue, Unit 110
Carmichael, CA 95608

April 15, 2013

Attention: Mr. Jeffery Parks
State Water Resources Control Board
Division of Water Rights
P. O. Box 2000
Sacramento, CA 95812-2000

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

Dear Mr. Parks

My name is James Wallace Fletter. I am the great grandson of A. F. Smith who was one of the developers of the Kilarc-Cow Creek Hydroelectric Projects in the 1904 – 1907 time frame. This letter and attachment only deal with the Cow Creek Development on the South Cow Creek watershed.

The attachment to this letter consists of a JUDGMENT AND DECREE QUIETING TITLE TO REAL PROPERTY, CONSISTING OF SIX PAGES WITH EXHIBITS A THROUGH E, FILED AND RECORDED ON OCTOBER 6, 1980 AND ENTERED INTO BOOK 155, PAGE 371 IN THE SHASTA COUNTY RECORDER'S OFFICE. THIS DOCUMENT SPEAKS FOR ITSELF ON WHAT PG&E CAN AND CANNOT DO ON OUR PROPERTY. THE LEGAL DESCRIPTION FOR OUR PROPERTY IS SHOWN IN EXHIBIT "A"

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

Exhibit C is the South Cow Creek Main Canal. This easement allows for the replacement of the canal by a pipeline which pipeline can be removed. There is no provision for the removal of the existing open canal which is not a pipeline.

Exhibit D is the Kilarc - Redding 60 KV Pole Line and Communication Pole line. This easement

allows for the removal of pole line improvements on our property.

Exhibit E is the Project Access Road easement on our property. PG&E has no right to take any part of the access road on our property.

Neither Exhibits B, C, or E allow for the removal or destruction of improvements on our property. In addition, the exhibits do not allow for original construction and are non-exclusive.

The ownership of the improvements for the forebay, the canal, and the road easement are not held by PG&E. PG&E only has the right to use and maintain, and if necessary, to reconstruct these improvements, but cannot destroy or remove them, with the exception of the pole line.

Please take into consideration our **PROPERTY RIGHTS** as described above and in the attached **JUDGMENT AND DECREE QUIETING TITLE TO REAL PROPERTY** when preparing the draft and final Environmental Impact Report for the Kilarc-Cow Creek Hydroelectric Project License Surrender.

Sincerely,

A handwritten signature in black ink that reads "James Wallace Fletter". The signature is written in a cursive, flowing style.

James Wallace Fletter

Stakeholder

Telephone Number 916 482-5396

E-Mail jamesfletter@aol.com

ATTACHMENT CONSISTING OF FOURTEEN PAGES

FILED
SECRETARY OF THE
COMMISSION

FILED

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OCT 6 1980

1 CHARLES T. VAN DEUSEN
CHARLES W. THISSELL

2 ROBERT R. RICKETT
77 Beale Street, 31st Floor
3 San Francisco, CA 94106
415/781-4211

FEDERAL ENERGY
REGULATORY COMMISSION

RICHARD L. BRENNAN, CLERK

By Deputy Clerk

Attorneys for Plaintiff
PACIFIC GAS AND ELECTRIC COMPANY

Re: P-606-027

Submitted during
Scoping meeting
10/22/2009

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SHASTA

10 PACIFIC GAS AND ELECTRIC COMPANY,

11 Plaintiff,

12 vs.

NO. 56761

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

17 Defendants.)

JUDGMENT AND DECREE
QUIETING TITLE TO
REAL PROPERTY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

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

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

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

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

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

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

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

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

7 R. W. ABBE

8 JUDGE OF THE SUPERIOR COURT

9
10 APPROVED AS TO CONTENT
11 AND FORM:

12 

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

15 

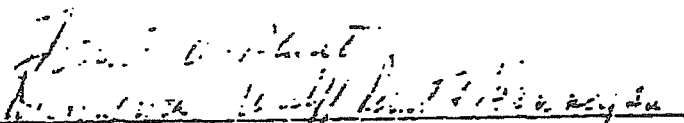
16 JOHN E. FISCHER, Attorney for Defendant
17 Estate of Mary Schaw Smith (Mary S. Day)

18 

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

21 

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

24 

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

1 EXHIBIT "A"

2 LANDS

3 Situate in the County of Shasta, State of California.

4 (APN 099-140-15)

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

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1 EXHIBIT "B"

2 COW CREEK FOREBAY

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

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

9 (1) north 2° 10.7' east 500.36 feet;

10 thence leaving said westerly boundary line

11 (2) East 190.49 feet; thence

12 (3) South 500.00 feet; thence

13 (4) West 209.51 feet, more or less,

14 to the point of beginning; said point of beginning bears north 2° 10.7'
15 east 625.00 feet distant from the found 1-3/8 inch iron pipe, stamped S-
16 31-32-6-5, in rock mound accepted as marking the southwest corner of
17 said Section 32; being a portion of said Section 32 and containing 2.30
18 acres, more or less.

19 Together with the right from time to time to:

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

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

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

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

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road or pole lines;

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

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

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

H. mark the location of said Parcel 1 by suitable markers set in the ground; provided that said markers shall not interfere with any reasonable use which shall be made of said Parcel 1.

1 EXHIBIT "C"

2 SOUTH COW CREEK

3 MAIN CANAL

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

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

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

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

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

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

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

1 ⁴ such debris or other spoil material removed from said canal as plaintiff
2 may reasonably deem necessary in the reconstruction or maintenance
3 thereof, or in the construction or maintenance of said pipe or culvert;

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

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

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

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

EXHIBIT "D"

KILARC - REDDING 60 KV POLE LINE

AND COMMUNICATION POLE LINE

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

Parcel 3. A strip of land of the uniform width of 50 feet extending from the westerly boundary line of the southwest quarter of Section 32, Township 32 North, Range 1 West, M.D.B.& M., northeasterly to the northerly boundary line of the south half of the southwest quarter of said Section 32 and lying 25 feet on each side of the line which begins at a point in said westerly boundary line and runs thence north $44^{\circ} 35.7'$ east 261.63 feet to a point herein for convenience called Point "A"; thence continues north $44^{\circ} 35.7'$ east approximately 750 feet to a point in said northerly boundary line; the point of beginning of the description bears north $2^{\circ} 10.7'$ east 669.14 feet distant from the found 1-3/8 inch iron pipe, stamped S-31-32-6-5, in a rock mound, accepted as marking the southwest corner of said Section 32; being a portion of said Section 32 and containing 1.16 acres, more or less.

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

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

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

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

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

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

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

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

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

EXHIBIT "E"

PROJECT ACCESS ROAD

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

Parcel 5. A strip of land of the uniform width of 20 feet extending from the easterly boundary line of the parcel of land hereinbefore described and designated Parcel 1 under EXHIBIT "B" in a general northeasterly direction to the northerly boundary line of the south half of the southwest quarter of Section 32, Township 32 North, Range 1 West, M.D.B.& M., and lying 10 feet on each side of the line which begins at a point in said easterly boundary line and runs thence
(1) north 44° 40.2' east 188.39 feet; thence
(2) north 88° 19.9' east 66.63 feet; thence
(3) north 36° 45.6' east approximately 197 feet
to a point in said northerly boundary line; the point of beginning of this description bears South 27.84 feet distant from the northeast corner of said parcel of land designated Parcel 1; being a portion of said Section 32 and containing 0.21 acre, more or less.

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

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

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