



**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

**FILED**

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Application of PACIFIC GAS AND  
ELECTRIC COMPANY, a California  
corporation, for a Permit to Construct the  
Shepherd Substation Project Pursuant to  
General Order 131-D

A.10-12-003

(U 39 E)

**REPLY OF PACIFIC GAS AND ELECTRIC COMPANY TO PROTESTS FROM  
NORMAN AND BERNADETTE COOK, RODNEY L. GUST, GREG JOHNSON,  
AND DEANNA AND TIMOTHY WATSON**

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January 20, 2011

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**I. INTRODUCTION**

Pursuant to Rule 2.6(e) of the California Public Utilities Commission's ("Commission" or "CPUC") Rules of Practice and Procedure, Pacific Gas and Electric Company ("PG&E") hereby replies to the protests filed by Norman and Bernadette Cook ("Cook"),<sup>1</sup> Rodney L. Gust ("Gust"), Greg Johnson on December 22, 2010 ("Johnson I") and January 18, 2011 ("Johnson II"), and Deanna and Timothy Watson ("Watson") (collectively the "Protestants") to PG&E's Application for a Permit To Construct ("PTC") the Shepherd Substation Project ("Project"). (Copies of the Protests are attached hereto as Exhibits A, B, C, D and E respectively.) The statutory deadline for filing protests or responses was January 10, 2011. Although the Gust, Johnson II and Watson protests are untimely, all arriving only this week, PG&E nevertheless provides a response to all protests below.

With two exceptions, all issues raised in these protests concern environmental impacts that will be addressed in the Commission's review of the Project under the California Environmental Quality Act, Pub. Resources Code sections 21000 *et seq.* ("CEQA"). The exceptions are concerns with electric and magnetic fields ("EMF") (Johnson I, Exh. C; Watson, Exh. E) and reduction in property values (all protests), neither of which are valid issues in this

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<sup>1</sup> The 2-page Cook protest letter appears to be missing a middle page; a telephone voice mail to the Cooks on January 18, 2011 requesting a full copy received no response.

PTC proceeding. As set forth more fully below, the Commission’s Energy Division will fully examine and address any potential environmental impacts, together with public comments on such impacts, as part of the CEQA review of the project. The Commission will also independently review alternatives to the proposed project to the extent required by CEQA and General Order 131-D.

None of the grounds stated by Protestants justify evidentiary hearings. Although hearings are requested in the Johnson and Watson protests, the requests are for hearings “to address the impacts caused by the proposed Project” and “to arrive [at] an adequate and legally sufficient environmental analysis” (Johnson II, Exh. D, at 5) – all of which will take place in the CEQA review process. As such, PG&E requests that the Commission direct its Energy Division to proceed with CEQA review, find that evidentiary hearings are not required, and dismiss concerns about EMF and property values as outside the scope of this proceeding.

## **II. BACKGROUND**

PG&E is proposing to construct Shepherd Substation, a new 115/21 kilovolt (“kV”) electrical distribution substation and associated power line interconnection in unincorporated Fresno County at the southwest corner of the intersection of Sunnyside and Perrin Avenues in unincorporated Fresno County. An approximately 1.5 mile-long 115 kV overhead power line interconnection will be constructed to link the substation to the existing Kirckhoff-Clovis-Sanger 115 kV Power Line at Copper Avenue. The substation will be constructed entirely within an active almond orchard surrounded by vacant land and low-density residential development; the new power line will extend north from the substation, in the same alignment as an existing distribution line for approximately one mile and then continue north to Copper Avenue, through a mix of low-density housing, agricultural land, quasi-public land and undeveloped lands.

### **III. REPLY TO PROTEST**

#### **A. Neither EMF Health Effects Nor Property Values Are At Issue In This Proceeding**

##### **1. In a PTC Application, Consideration of EMF Concerns is Limited to Verifying Compliance With the CPUC's EMF Policies**

As PG&E indicated in its PTC Application, PG&E will incorporate “no-cost” and “low-cost” magnetic field reduction steps in the design of the proposed substation project in accordance with CPUC Decision No. D.06-01-042, 2006 Cal. PUC LEXIS 41 (“EMF Decision”) and PG&E’s EMF Design Guidelines prepared pursuant to the EMF Decision. Protestants do not challenge PG&E’s compliance with these requirements, but instead argue that EMF may contribute to a loss of property value (Cook, Exh. A, at 1) or may pose health risks (Watson, Exh. E, at 1). However, the CPUC concluded in its EMF Decision that the only valid EMF issue in a PTC proceeding is whether the utility has properly complied with the low-cost/no-cost policies: “The EMF concerns in future CPCN and PTC proceedings for electric transmission and substation facilities should be limited to the utility’s compliance with the Commission’s low-cost/no-cost policies.” (EMF Decision, p. 21, Conclusions of Law No. 2; 2006 Cal. PUC LEXIS 41, 30-31.) For this reason, the concerns raised by the protests about EMF are outside the scope of the proceeding.

Protestants are referred to Attachment F of the Proponent’s Environmental Assessment (“PEA”), filed with PG&E’s application, which provides background information on EMF. Recognizing that the public has concerns about EMF, PG&E provided a review of the most recent information on EMF in its application – for public information purposes only.

##### **2. In a PTC Application, Neither CEQA Nor GO 131-D Include Property Values as Relevant Issues**

Although all Protestants express concern that the proposed project will negatively affect their property values, individual property values are not relevant to the CPUC’s CEQA or PTC processes. Under CEQA, changes in property values are considered social and economic effects that are not to be treated as environment effects in the absence of social justice issues or physical

changes caused by those effects, neither of which are present here. (*See* Guidelines for Implementation of the California Environmental Quality Act, Cal. Code Regs., tit. 14, §§ 15000 (“CEQA Guidelines”), § 15131, subd.(a); *see gen’ly* Pub. Resources Code § 21000 – 21002.1.) The Commission’s PTC application process “focuses solely on environmental concerns.” (Decision No. 94-06-014, 1994 Cal. PUC LEXIS 453 at 1). (*See also* the CPUC’s Information and Criteria List, from the Commission’s Decision 89905 (January 30, 1979, as modified July 30, 2008), setting forth criteria by which the CPUC is to evaluate a PTC Application; does not include impacts on property values.) Thus, impacts on property values are not a proper issue for consideration in this proceeding.

To the extent that the Commission approves PG&E’s application and locates the new power line on Protestants’ properties, PG&E will need to acquire new land rights and will pay appropriate compensation for those land rights. However, the Commission does not have jurisdiction over land rights issues. As in every other transmission siting case to come before the Commission, land rights issues must be resolved after approval of the Project by the CPUC, and they must be resolved in the proper forum. (*See, e.g.*, D.04-08-046 at 85; 2004 Cal. PUC LEXIS 391, 176 (Commission “not in a position” to assess right-of-way expansion on National Park Service land); *Koponen v. Pacific Gas and Electric Co.* (2008) 165 Cal.App.4<sup>th</sup> 345, 353 (Commission lacks authority in disputes over property rights).)

**B. The CPUC’s CEQA Review Will Address All Potential Environmental Effects, Including the Concerns Raised by Protestants**

As noted in part I above, the Commission’s Energy Division will conduct a full CEQA review of this Project. During the course of the CEQA review, the Commission will arrange for the necessary environmental studies to be conducted and will circulate the resulting CEQA document for public review. At that time, certain public agencies and all members of the public, including Protestants, will have the opportunity to comment on the results of those studies, and the Commission will respond to those comments. During the course of this review, PG&E will

provide any additional information that the Commission deems necessary to address valid concerns raised by any party, and will work with parties to attempt to resolve issues that can be addressed informally.

In an effort to address some initial questions or misunderstandings about the proposed Project, PG&E responds briefly below. In addition, PG&E remains willing to discuss these and other issues as the Commission continues with its environmental review of the proposed Project.

### **1. Impacts to Agricultural Operations**

The Cook protest expresses concern that the proposed Project will cause temporary and permanent impacts to the operation of the Cooks' two-acre commercial orange orchard. In particular, Mr. Cook is concerned that the location of the poles will interfere with tractor turn-around areas during harvest, and that the use of herbicides or pre-emergent along the power line right-of-way would "leave a chemical residue in the fruit which would make it legally unmarketable" or "could ruin or kill three to four rows of orange trees, at nine trees per row." (Cook, Exh. A, at 1.) Additionally, Protestant Cook is worried that project construction "could cause irreparable damage to the buried concrete irrigation pipeline that is located on [his] property," (*Id.* at 2.) He is seeking compensation for the potential loss of the irrigation pipeline as well as the potential impacts to his orange crop. (*Id.* at 1-2.)

Compensation for any temporary or permanent impacts to crops or other agricultural assets as a result of the project is typically worked out with the property owner prior to project construction. PG&E looks forward to working with Mr. Cook to alleviate any concerns regarding his commercial farming operation.

The Cooks' concerns about impacts to their agricultural operations appear unfounded in any event. The Cook property, located at 10881 N. Purdue Avenue, is located east of the proposed alignment and separated from the proposed power line by a fence. As no pole or other structure will be located on or over the Cook property, tractor turn-around areas will not be impacted and will not be an issue. The irrigation pipeline is located on the Cook's property and is likewise located east of the proposed power line alignment and protected by a fence. PG&E

will contact Underground Service Alert (USA) prior to any excavation to ensure there will be no damage to any underground facilities during project construction. In addition, PG&E will not use any herbicides or pre-emergent near poles or in the right-of-way clearing.

## **2. Conflicts with Williamson Act Contracts**

Despite the Watson protest's claims, the Shepherd Substation Project will not conflict with any Williamson Act contracts. Several parcels within the project study area have current Williamson Act contracts. A few of these, including the proposed substation parcel, are in non-renewal, indicating that the decision to take them out of agricultural operations has already been made. The proposed power line interconnection alignment also crosses parcels under Williamson Act contract, some active, and others in a state of non-renewal. Pursuant to Section 51238 of the Government Code, electrical facilities are compatible uses for lands under Williamson act contract and will not result in the violation of a current Williamson Act contract or prohibit the land from entering into a new contract. Thus, project construction will not conflict with any Williamson Act contract.

## **3. Impacts to Views and Related Aesthetic Impacts**

Protestants contend that the proposed power line alignment will have a significant impact on "quality of life" (Johnson I, Exh. C, at 1; Gust, Exh. B, at 1) and will result in a "loss of aesthetics" for those living along the route (Cook, Exh. A, at 2). The Gust, Johnson and Watson protests request that the power line be placed underground for this reason. (*Id.*) While PG&E responds briefly to these allegations below, these issues will be addressed in the Commission's upcoming CEQA process.

Protestant Johnson alleges that PG&E's visual analysis "is flawed and deficient" (Johnson II, Exh. D, at 3), "is completely unsubstantiated and unsustainable," lacked a "field study" and was based on "the taking of a few pictures on a single day" (*Id.* at 4). In fact, as documented in Section 3.1 of the Shepherd Substation Project PEA, the visual analysis was completed by an experienced team of environmental consultant professionals at Transcon Environmental based on the Federal Scenery Management System used by the U.S. Forest

Service, one of several well-tested and widely-used federal visual analysis methods developed for characterizing visual settings and performing impact analyses. The analysis performed for the project involved establishing a baseline (existing conditions) and evaluating potential impacts from the project by identifying existing elements of landscape character, including form, line, color, texture, pattern and scale, which were then compared with proposed project elements. In addition, the visual analysis was performed from seven separate Key Observation Points (KOPs). Before and after simulations were completed for each KOP and are included in Appendix A of the PEA. Three of these KOPs (KOP 1-3), incidentally, are located on or near to the Gust property and near to the Johnson and Watson properties and focus solely on the proposed power line.

Protestant Johnson further asserts that the proposed power line alignment is located “within feet” of homes and will impact property owners’ currently “unobstructed views of the Sierra Nevada Mountains.” (Johnson I, Exh. C, at 1). Protestant Watson also claims that “the planned towers will obstruct and degrade our view of the mountains.” (Watson, Exh. E, at 1). As detailed in the PEA, “views [of the Sierra Nevada mountains] will remain unobstructed by the power line and substation for residents located to the east of the power line and substation.” (PEA at 41). For residents on the west of the power line, “the project will not have a significant impact” (PEA at 41) as “[v]iews of the mountains are often obstructed by vegetation, houses, existing infrastructure elements, air quality, and lighting conditions.” (PEA at 39). Mr. Johnson’s house is located approximately 475 feet west from the edge of the proposed right-of-way, along the side of his house. The closest residence is approximately 110 feet from the edge of the proposed right-of-way – and is roughly the same distance from the edge of the right-of-way for the existing distribution line located in this corridor. Indeed, as discussed below, the proposed alignment was selected, in part, due to the potential to overbuild an existing distribution line that runs along approximately two-thirds of the proposed 1.5-mile alignment. That existing distribution line extends along approximately half the length of Mr. Johnson’s property. Furthermore, a 70 kV power line runs along the north side of Copper Avenue, and a

115 kV line runs along the south side of Copper Avenue, both with 12 kV underbuild. In sum, the new power line, as proposed, will be placed in an existing utility corridor for two-thirds of its length and will join other, existing power lines serving the immediate area.

Although Protestants would like the proposed power line alignment to follow an alternative route or be placed underground (*see* Cook, Exh. A, at 1; Johnson I, Exh. C, at 1; Gust, Exh. B, at 1; Watson, Exh. E, at 1), the factors that appropriately drive site and route selection strongly support the proposed alignment. In addition to alternate substation sites, PG&E also investigated power line interconnection alternatives, including options to interconnect with several other surrounding power lines. These options were dismissed, however, due to longer required connections, increased costs without a corresponding environmental benefit, and the need to reconductor significant segments of existing power lines. The proposed interconnection alignment was selected because it is the shortest and most direct route from the proposed substation to the existing Kerckhoff-Clovis-Sanger #1 115 kV Power Line, it parallels existing infrastructure including approximately one mile of distribution line, and it follows the back of property lines for most of its length. Any other route would necessarily be longer and would impact more property owners. Undergrounding a double-circuit, high-voltage power line would increase ratepayer costs by at least \$10 million dollars. Placing double-circuit, high-voltage power lines underground is significantly more expensive than placing low-voltage distribution lines underground, which is what is routinely required of developers. (*See* Watson, Exh. E, at 1.)

Finally, the Johnson II protest asserts without elaboration that the PEA fails to adequately analyze the cumulative impact to aesthetics. A cumulative analysis is presented in Section 4.0 of the PEA. (PEA at 136).

#### **4. Alternative Power Line Routes**

The Cook protest incorrectly claims that the document before the CPUC contains an inadequate alternatives analysis. The analysis provided in Sections 2.4 and 2.5 of the PEA is the appropriate level of analysis for the PEA because that document identified no potentially significant impacts that could not be mitigated to a less-than-significant level. (PEA at 1 & 13;

*see* CEQA Guidelines, § 15126.6, subd. (f)(2)(A).) However, the PTC Application itself further elaborates on the alternatives considered, as required by GO 131-D, section IX.B.1.c, describing the pros and cons of the project sites selected and the reasons for selecting the proposed site and route. (PTC Application, section IV(c) at 7.) In any event, the Commission will independently review alternatives to the proposed project to the extent required by CEQA and General Order 131-D.

#### **IV. CONCLUSION**

Aside from issues related to EMF and property values, which the Commission has ruled are beyond the scope of PTC proceedings, Protestants' concerns and misunderstandings about the proposed Project can be resolved during the CPUC's environmental review process. Evidentiary hearings outside of this environmental review process are not justified by the concerns raised by the parties. For these reasons and the reasons stated above, PG&E respectfully requests that the Commission find that evidentiary hearings are unnecessary, dismiss

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# Exhibit A

Copy

December 23, 2010

California Public Utilities Commission

Docket Office

505 Van Ness Avenue, Room 2001

San Francisco, CA 94102

Dear Commission Members,

RE: CPUC Application # A.10-12-003

Shepherd Substation Project, Fresno County

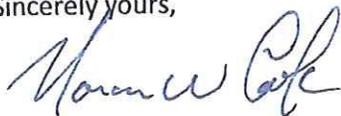
We have recently been informed by PG&E that there will construction of a 115 kV overhead powerline along the western boundary of our 2.5 acre property. We strongly object to a powerline at this location and feel that a less intrusive route should be used if one is available. If it is not available, then at the very least, we feel that a powerline at this location will adversely impact our property value and therefore results in an inverse condemnation and that we should receive compensation for loss of property value. We have used the information that was available to us to determine the potential loss of property values from such an intrusive and unsightly powerline. An article attached rates the loss with a low of 5% of property value to a high of 14% of property value, whether from the unsightliness of the powerlines themselves or from potential buyers fear of EMF. At a medium of 10%, the construction of a powerline at that location represents a property value loss to us of \$40,000 dollars at present property values and makes our property extremely difficult to market and we feel compensation is required. (appraisal article attached)

Additionally, we are commercially farming 2.0 acres of orange trees on our property that will now be underneath power lines, and it is possible that one or more of the power poles will be located within or next to our farming operation. This could cause extreme difficulty when the crop is picked because of the interference of a power pole location where a tractor turn-around is needed....such as at the end of a row of oranges. Also, if herbicides are to be used by PG&E to maintain the right-of-way for the power line or power poles, these chemicals could interfere with or react adversely with the orange trees or leave a chemical residue in the fruit which would make it legally unmarketable. Use of pre-emergent chemicals in an amount designed to "sterilize" the right-of-way to make it unable to grow weeds and to prevent fires from occurring could ruin or kill three to four rows of orange trees, at nine trees per row. (I am a licensed Pest Control Advisor #75254). We feel compensation is required for loss of the ability to

Again, depending on the location of a power pole and the excavation that would have to take place for the footing for such pole, any excavation could cause irreparable damage to the buried concrete irrigation pipeline that is located on our property in the easement for the as-yet-unconstructed Sunnyside Avenue. As this buried concrete irrigation pipeline runs continuously from Copper Avenue to a point even with the south end of Purdue Avenue, any excavation for power pole footing could damage the pipeline at any point along its route.....which would therefore render the whole irrigation pipeline useless, unless PG&E was going to provide repairs. Since the pipeline is made of rigid concrete, about 12" inside diameter, it is not going to flex at all and even the act of digging a footing could cause cracks and other damage....even if the footing is not actually right on the concrete irrigation pipeline. Again, we feel compensation is justified for potential loss of this irrigation pipeline. Total loss of the pipeline would render our orange grove useless as we would no longer have a guaranteed method available to irrigate. Loss of the entire orange grove represents a potential loss of about \$1500 dollars of income per season.....forever. (aerial view of irrigation pipeline location - attached)

Again, thank you for consideration of our request to have the powerline moved to another location and/or for consideration of the matters of compensation that we have outlined above. We understand the need to provide adequate electric power to growing communities, but it is unreasonable to expect adversely affected property owners to take a substantial financial loss along with a substantial loss of aesthetics so that others can benefit from increased access to electric power.

Sincerely yours,



Norman & Bernadette Cook

10881 N. Purdue Ave.

Clovis, CA 93619

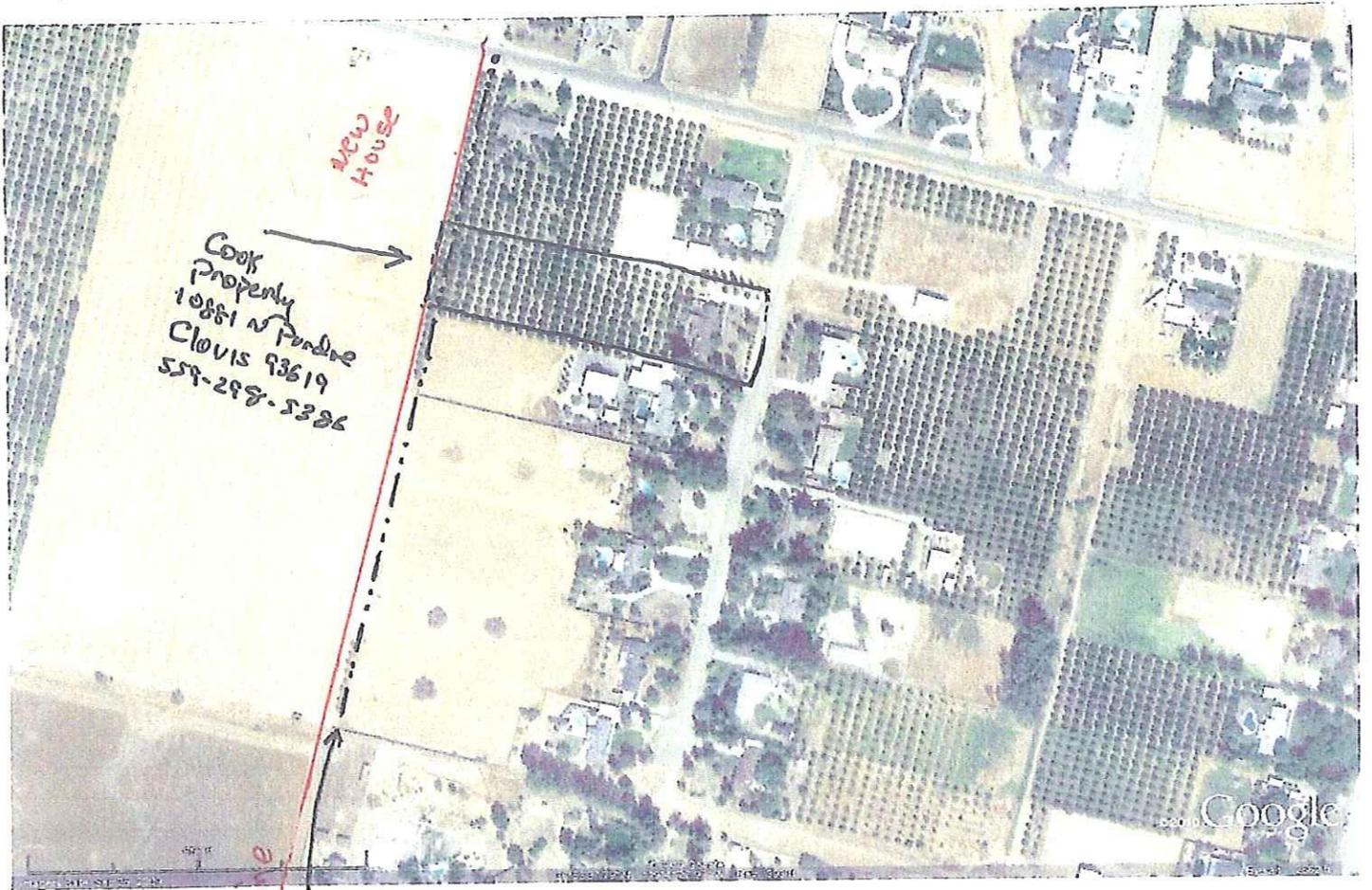
ph: 559-298-5386

cc: David Kraska, Law Department

Pacific Gas and Electric Company

P. O. Box 7442

San Francisco, California 94120



Approx. Powerline

Location of buried irrigation pipeline.

Cook Property  
10881 N Fandine  
Clovis 93619  
559-298-3386

NEW HOUSE

Google

# Power Line Health Facts

...information for the concerned

[Home](#)
[EMF](#)
[SE Metro](#)
[Meters](#)
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[More EMF Evidence](#) • [Specific Diseases](#) • [Expert Opinions](#) • [International](#) • [Property Values](#) • [Other Sources](#)

(See above links for more information)

- ♦ [Academic](#)
- ♦ [Government](#)
- ♦ [Other](#)

## Impact of EMF on Property Values

### Cultural

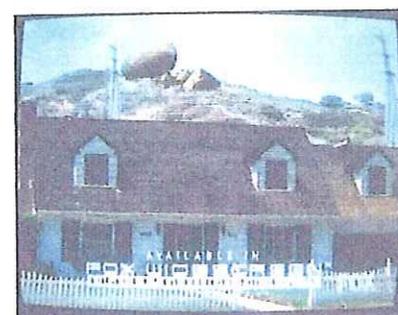
### Summary

These findings were produced by leading government authorities based upon research conducted for and financed by government health authorities.

Accordingly, they do not suffer from sponsorship bias.

A new television program premiered on the Fox network on March 30, 2003. Fox describes the program as follows:

In the coming year, 306 people will be hit by lightning, 511 people will be carjacked and 217 people will be attacked by sharks. But only four people will endure them all, and much more... Meet THE PITTS, the unluckiest family in the world.



The Pitts have another unlucky factor influencing their lives: they live under a transmission power line, as shown in the screen shot.

### Academic:

- ▶ [A new study](#) conducted at St. Cloud University demonstrates that overhead power lines reduce property values. [A similar reduction](#) has been found in the UK, which does not permit the construction of overhead power lines without a special authorization from the UK Secretary of State.
- ▶ [Here](#) is May/June 2001 article in the *Assessment Journal* that reviews the literature and concludes the impact of power lines on residential property values may result in a 10% reduction
- ▶ An article in the journal, [Urban Lawyer](#) concludes power lines reduce property values by up to 14%, and buttresses it with legal cases.

### Government:

- ▶ [The Wisconsin Environmental Impact Statement](#) suggests that

the value of property near power lines will decline by between 0% and 14%.

▸ The California EMF Program in its draft report saw a 5 to 6% reduction in property values:

"Most high-quality property values studies show some depreciation of properties near transmission lines, though much less is known about distribution lines. As a benchmark, the high-quality property values studies suggest that there is a property value reduction of around 5-6% for properties near transmission lines, mostly due to the visual impacts. It is impossible to determine how much of the property value loss is due to EMF. By making assumptions about housing density near transmission lines and about average property values, we calculated property values impacts to be between \$250,000 and \$2,000,000 per mile." However, this language does not seem to appear in the [final report](#).

▸ HUD will not issue [FHA insured mortgages](#) for houses near transmission power lines.

### **Other:**

▸ [More information](#) on the adverse impact of transmission lines on property values was provided at the Steering Committee's information meeting.

▸ In the SE Metro Steering Committee meeting, Xcel's consultant, CAI, developed data suggesting that a new power line would have only a minor impact upon property values. The data upon which it relied was drawn from a database maintained by Capital Appraisals, who [maintain](#) that their data was misinterpreted.

▸ Sunfish Lake [concluded in its Findings of Fact](#) that the proposed power lines would adversely effect property values.

▸ [Real Estate Agents agree](#) on decline in property values.

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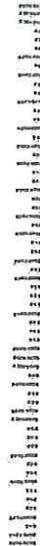
Mr. Norman W. Cook Jr.  
10881 N Purdie Ave.  
Clovis, CA 93619



FRESNO CA 936  
31 DEC 2010 PM 11

DAVID Kraska, Law Dept.  
PG&E  
PO Box 7442  
San Francisco CA 94120

341207442



# **Exhibit B**

California Public Utilities Commission

Docket office

505 Van Ness Avenue Room 2001

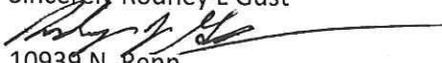
San Francisco, California 94102

Subject: APPLICATION # A .10-12-003, SHEPHERD SUBSTATION PROJECT, FRESNO COUNTY

I would like to be counted as filing a protest against the project as proposed. This project will devalue my property and others around the route. The reduction in my land value would be substantial to say nothing of the quality of life. I am located on 20 acres at the intersection of copper Ave and the sunny side alignment.

I understand there are several routs available for this line. I have no abjections to the line if it is underground along the proposed route. The undergrounding of this project would have little impact on the environment and quality of life in the area.

Sincerely Rodney L Gust

  
10939 N. Renn

Clovis ca 93619

PHONE (559) 392-0231

CC: David Kraska , Law Department

Pacific Gas and Electric Company

PO Box 7442

San Francisco California 94120

**GUST TRANSPORTATION, INC.**  
10939 N. RENN AVE. • CLOVIS, CA 93619

FRESNO CA 936  
15 JAN 2014 44 1 T



David Kraska Law Department  
Pacific Gas and Electric  
P.O. Box 7442  
San Francisco CA 94120

34120742



# Exhibit C



Greg Johnson  
4825 E. Copper  
Clovis, CA 93619

FIRST-CLASS MAIL

Hasler

12/27/2010

US POSTAGE

\$00.44<sup>9</sup>



ZIP 93704

011D11616089

David Kraska, Law Department  
Pacific Gas and Electric Company  
P.O. Box 7442  
San Francisco, CA 94120

9A1Z047A42



**Exhibit D**

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

In the Matter of the Application of Pacific  
Gas and Electric Company (U 39-E) for a  
Permit to Construct the Shepherd  
Substation Project Pursuant to General  
Order 131-D

**Application 10-12-003  
(Filed December 8, 2010)**

**PROTEST OF HOMEOWNER GREG JOHNSON**

January 18, 2011

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

In the Matter of the Application of Pacific Gas and Electric Company (U 39-E) for a Permit to Construct the Shepherd Substation Project Pursuant to General Order 131-D

**Application 10-12-003  
(Filed December 8, 2010)**

**PROTEST OF HOMEOWNER GREG JOHNSON**

**I. INTRODUCTION**

In accordance with Rule 2.6 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”) and California Public Utilities Code § 309.5(a), Greg Johnson, by and through his attorney of record, submits this protest in the above captioned proceeding, the Application of Pacific Gas & Electric (“PG&E”) for a permit to construct (“PTC”) certain sub-transmission facilities comprising the Shepherd Substation Project (the “Project”). PG&E are required by code to personally provide Mr. Johnson with Notice of the proposed Project. Mr. Johnson was first notified of the proposed Project by way of correspondence dated December 20, 2010, as the original letter sent to Mr. Johnson was addressed to an incorrect address. Therefore, improper notice was given to Mr. Johnson as the Application mailed to Mr. Johnson stated that the protest period ends on January 18, 2011, thereby shortening the comment period as to Mr. Johnson to just twenty-eight (28) days.

Mr. Johnson joins in the protest previously submitted by The Division of Taxpayer Advocates, and further protests the Application on the following grounds. Mr. Johnson is an interested party in that Mr. Johnson is homeowner whose property is directly affected by the

proposed Project. The property owned by Mr. Johnson is his primary residence located at 4825 E. Copper Ave, Clovis CA 93619, APN: 580-080-13S. Mr. Johnson is currently in the process of either subdividing the approximately 20 acre lot into four (4) separate parcels or selling the whole parcel to a developer. However, the proposed Project would severely hinder Mr. Johnson's efforts in that the proposed Project proposes to place power lines on Mr. Johnson's parcel along the eastern boundary. Currently, the land is considered valuable because of the scenic view of the Sierra Nevada mountain range. The proposed Project would greatly reduce the value of Mr. Johnson's land by destroying the view and causing unmitigated impacts to the existing aesthetics of the location.

## **II. JOINDER IN PROTEST OF THE DIVISION OF TAXPAYER ADVOCATES**

Mr. Johnson hereby joins in the Protest filed by the Division of Ratepayer Advocates ("DRA") and hereby incorporates by this references the grounds upon which the DRA has set forth in its Protest. Specifically, Mr. Johnson concurs that the proposed Project is not the same project presented to CAISO for approval. Also, PG&E has not demonstrated a need for the proposed Project for the reasons set forth by the DRA. Finally, Mr. Johnson agrees that the PEA for the Project is inadequate and fails to identify and implement necessary mitigation measures to reduce or eliminate the substantial environmental impacts associated with the proposed Project.

## **III. THE PEA FOR THE PROPOSED PROJECT IS INADEQUATE AN FAILS TO CONSIDER POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS ASSOCIATED WITH THE PROJECT AND FAILS TO ADOPT REQUIRED MITIGATION MEASURES.**

The environmental assessment submitted by PG&E in support of the proposed Project is inadequate on numerous fronts. Mr. Johnson realizes that the PEA has not been circulated for

comment and that additional opportunities will be available for the public to comment on the inadequacies of the PEA. However, Mr. Johnson believes that the PEA is so flawed that the current Application should be denied and PG&E required to work with interested stakeholders to work towards acceptable solutions to the numerous issues presented by the PEA.

**A. The PEA fails to Identify a Reasonable Range of Alternatives to the Proposed Project.**

The only alternative to the proposed Project contained in the PEA is the “no project alternative. Section 2.4 states that an alternatives analysis was in fact conducted to determine the location of the proposed Project, but that analysis is not contained in the PEA. The document currently before the CPUC contains no analysis of possible other locations for the proposed Project, or an analysis of a reduced project. The PEA is therefore inadequate and fails to meet the requirements of CEQA for the preparation of an environmental analysis document.

Additionally, PG&E admits in other sections of the PEA that it is possible to locate the power lines associated with the proposed Project underground. As set forth hereafter, the proposed location of the power lines will have significant and unmitigated impacts to the existing visual character of the area by substantially impairing the view of the Sierra Nevada mountain range. An analysis of a project alternative that places the power lines underground should have been performed. The failure to do so is fatal to the PEA.

**B. The PEA Fails to Identify Significant Impacts to Aesthetics Caused by the Project.**

The analysis of the significant impacts to aesthetics caused by the proposed Project is flawed and deficient. The PEA acknowledges that the proposed Project will impair the view of the Sierra Nevada mountain range to residents in the area. However, the PEA, without any meaningful analysis or substantiation, concludes that that the impact is less than significant. The “analysis” performed to support this conclusion appears to be the taking of a few pictures on a

single day. Based on these photographs, PG&E concludes that the view of the Sierra Nevada mountain range is obscured by haze and existing vegetation. Mr. Johnson asserts that the photographs were taken on a particularly hazy afternoon, and that the view of the Sierra Nevada from his property is usually unimpaired and beautiful. The camera angle for the pictures taken seem to have been selected to arrive at PG&E's pre-conclusion that vegetation impairs the view. However, the vegetation in the area is light and in most areas does not obstruct the view.

No field study was conducted to demonstrate the how frequently haze obstructs the view of the Sierra Nevada. In fact, other than the taking of a few pictures on a single day, the conclusion that the power lines will not cause an adverse impact to the existing visual character of the location is completely unsubstantiated and unsustainable. PG&E seems to believe that the Project is limited to the substation. However, it is the power lines, not the substation, that causes a significant impact to aesthetics in the area.

Mr. Johnson, a resident in the area, asserts that the view of the Sierra Nevada mountain range is only obstructed by haze infrequently and only during certain times of the year. Mr. Johnson also asserts that his view is unobstructed by the existing vegetation, houses, infrastructure, air quality or lighting conditions. At the very least, a field study analyzing the impact to aesthetics should have been prepared and submitted as part of the PEA.<sup>1</sup>

Again, the solution is simple: The power lines should be required to be placed underground. The requirement of underground power lines would eliminate or reduce to a level of less than significant the environmental impact to aesthetics caused by the proposed Project. The PEA fails to acknowledge the impact to aesthetics and further fails to adopt available mitigation to reduce or eliminate the impact.

**C. The PEA Fails to Adequately Analyze The Cumulative Impact to Aesthetics.**

The PEA acknowledges that the Project would cause a long-term impact to aesthetics. The PEA also acknowledges that other activities have already altered the visual

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<sup>1</sup> The PEA acknowledges on pg. 137 that the proposed Project will have a "long term impact" associated with aesthetics. Given this admission, the failure to adopt available mitigation measures that would reduce or eliminate the impact is inexcusable.

character of the surrounding area. However the PEA omits any discussion or analysis of the cumulative impact of the proposed Project on the existing visual character of the surrounding area.

**D. Request for a Hearing.**

Mr. Johnson requests that the CPUC set a hearing date for consideration of this Protest. It is Mr. Johnson's hope that the CPUC will require PG&E to address the impacts caused by the proposed Project prior to granting the Application, and will further require PG&E to work with stakeholders such as Mr. Johnson to arrive an adequate and legally sufficient environmental analysis of the proposed Project.

January 18, 2011

Respectfully submitted,

/s/ CHRISTOPHER S. HALL

Christopher S. Hall  
Attorneys for Protester

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Fresno, CA 93720  
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Fax: (559) 433-2300

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of **PROTEST OF HOMEOWNER GREG JOHNSON** in **A.10-12-003** by using the following service:

- E-Mail Service:** sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.
- U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on **January 18, 2011**, at Fresno, California.

/s/ PATRICIA MATA

Patricia Mata

**SERVICE LIST**  
**A.10-12-003**

JLLm@pge.com

DTK5@pge.com

cem@newsdata.com

wvm3@pge.com

regrelcpuccases@pge.com

meb@cpuc.ca.gov

# **Exhibit E**

-----Original Message-----

From: Timothy Watson [<mailto:tcwatsonmd@gmail.com>]

Sent: Tuesday, January 18, 2011 2:33 PM

To: Public.advisor

Cc: Greg Johnson

Subject: Application #A.10-12-003, Shepherd Substation Project, Fresno County

To Whom It May Concern:

I am writing this letter to formally protest the Shepherd Substation Project, Application #A.10-12-003 and request a hearing. The project will substantially affect us both psychologically and financially. The planned towers will obstruct and degrade our view of the mountains, has already affected negotiations with developers/land value, devalue our home, conflict with present Williamson Act contracts, result in loss of usable land, may pose health risks, and unknown potential problems. It appears that PG&E has basically chosen the least expensive alternative as a cost saving measure rather than looking what would be best for the area. There are already rights of way they have along Minnewawa which would be much less intrusive. Also going underground would be much better from an esthetic point despite the extra expense involved and cooling concerns. Most developments have gone or been required to go this route and we already have paid an extra expense to have our power brought underground when we built our home. It appears the planners have not taken into consideration the impact that this project will have on the land owners and residents of the area involved. While I understand the need for power delivery to consumers, the burden of infrastructure impact must rest fully with PG&E to make those affected whole.

Respectfully,

Deanna and Timothy Watson, M.D.  
4715 East Copper Avenue  
Clovis, CA 93619

CERTIFICATE OF SERVICE BY HAND DELIVERY

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is 77 Beale Street, B30A, San Francisco, California 94105

On January 20, 2011, I served a true copy of:

**REPLY OF PACIFIC GAS AND ELECTRIC COMPANY TO PROTESTS FROM  
NORMAN AND BERNADETTE COOK, RODNEY L. GUST, GREG JOHNSON,  
AND DEANNA AND TIMOTHY WATSON**

**[XX]** By Electronic Mail – serving the enclosed via e-mail transmission to each of the parties listed on the official service list for A.10-12-003 with an e-mail address.

**[XX]** By U.S. Mail – by placing the enclosed for collection and mailing, in the course of ordinary business practice, with other correspondence of Pacific Gas and Electric Company, enclosed in a sealed envelope, with postage fully prepaid, addressed to those parties listed on the official service list for A.10-12-003 without an e-mail address.

by electronic service, addressed to:

Marion Peleo

Division of Ratepayer Advocates  
505 Van Ness Avenue  
San Francisco, CA 94102  
Email: [map@cpuc.ca.gov](mailto:map@cpuc.ca.gov)

Rodney L. Gust  
10939 N. Renn Avenue  
Clovis, CA 93619  
Email: [kimgustrans@yahoo.com](mailto:kimgustrans@yahoo.com)

Henry Pielage, P.E.

Division of Ratepayer Advocates  
505 Van Ness Avenue  
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Greg Johnson  
c/o Christopher Hall  
McCormick, Barstow et al.  
5 River Park Place East  
Fresno, CA 93720  
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[Christopher.hall@mccormickbarstow.com](mailto:Christopher.hall@mccormickbarstow.com)

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California Public Utilities Commission  
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San Francisco, CA 94102  
Email: [fly@cpuc.ca.gov](mailto:fly@cpuc.ca.gov)

Deanna and Timothy Watson, M.D.

4715 East Copper Avenue  
Clovis, CA 93619  
Email: [tcwatsonmd@gmail.com](mailto:tcwatsonmd@gmail.com)

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 20th day of January, 2011 at San Francisco, California.

/s/

\_\_\_\_\_  
DONNA LEE

# THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SERVICE LIST

Last Updated: January 19, 2011

## CPUC DOCKET NO. A1012003

Total number of addressees: 8

CASE COORDINATION

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Maryam Ebke

**CALIF PUBLIC UTILITIES COMMISSION**

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JO LYNN LAMBERT ATTORNEY

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Email: Christopher.hall@McCormickBarstow.com

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