

APPENDIX A

SETTLEMENT AGREEMENT BETWEEN PACIFIC GAS AND ELECTRIC COMPANY, THE DIVISION OF RATEPAYER ADVOCATES, COUNTY OF PLUMAS, BUCKS LAKE HOMEOWNERS ASSOCIATION (ET AL.), MR. DAVID ALBRECHT, AND MS. ALICE ROTHLIND IN APPLICATION 08-04-020

1. SETTLEMENT AGREEMENT AND SETTLING PARTIES

1.1 As a compromise among their respective litigation positions, and subject to the conditions and reservations of this settlement set forth herein, the parties to this Settlement (“Settling Parties”)¹ agree on a mutually acceptable outcome to all issues raised by the parties during this proceeding and in their respective protests to PG&E’s Application (“A.”)08-04-020, with the exception of two issues.² In A.08-04-020, PG&E proposed CPUC adoption of (a) a streamlined process to allow the CPUC to more efficiently process the many hundreds of filings under Section 851 of the California Public Utilities Code expected over the next 5 years to implement the Land Conservation Commitment (“LCC”) adopted in Decision (“D.”)03-12-035, which encompasses over 1,000 parcels that cover over 140,000 acres of PG&E watershed lands and the Carizzo Plains (collectively, “Conservation Properties”); and (b) a memorandum account to

¹ The Settling Parties are as follows: the Division of Ratepayer Advocates (“DRA”), Pacific Gas and Electric Company (“PG&E”), the County of Plumas, Bucks Lake Homeowners Association, et. al., Mr. David Albrecht, and Ms. Alice Rothlind (collectively the “Settling Parties”).

² DRA reserves the right to address in opening briefs any remaining concerns it may have as to whether PG&E would receive a charitable tax deduction as a result of any of these transactions, and agrees that issues not raised in the opening briefs will be presumed resolved; and Mr. Albrecht reserves the right to address in his opening brief his concerns regarding the appropriate timing for the onset of the proposed streamlined Section 851 process.

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record and recover hazardous substance investigation, remediation, and mitigation costs incurred for Conservation Properties.

1.2 This Settlement represents a compromise that modifies PG&E's original proposal in A.08-04-020 to take into account various concerns the parties raised during this proceeding, including in their protests. The Settlement defines a new streamlined procedure to be established for CPUC processing of future Section 851 filings under the LCC, as described below. The Settlement also defines the process by which specified costs tracked in the Land Conservation Plan Memorandum Account ("LCPERMA"), relating to potential hazardous substance investigation, mitigation, or remediation on the Conservation Properties, would be recovered in rates consistent with the Bankruptcy Settlement and Stipulation.

1.3 This Settlement is presented to the Commission pursuant to Rule 12 of the California Public Utilities' Commission's ("Commission" or "CPUC") Rules of Practice and Procedure.

1.4 The active parties held differing views on several aspects of PG&E's initially proposed streamlined process and memorandum account. However, the Settling Parties negotiated in good faith to seek a compromise and to develop this Settlement, which the Settling Parties find mutually agreeable.

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2. SETTLEMENT CONDITIONS

The Settling Parties agree to the following general conditions:

2.1 If approved, the Settlement resolves all pending issues among the parties in A.08-04-020, except those expressly noted in footnote 3 below.³

2.2 Because the Settling Parties crafted this Settlement by agreeing to concessions and trade-offs among themselves, the various elements of this Settlement are intimately interrelated, and should not be altered as the Settlement is a package solution that strives to balance and align the interests of each party. The Settling Parties intend the Settlement to be interpreted and treated as a unified, integrated document. In the event the Commission rejects or modifies this Settlement, the Settling Parties reserve their rights under Rule 12.

2.3 This Settlement and its Attachment(s) embody the entire understanding and agreement of the Settling Parties with respect to the matters addressed and described herein, and supersedes prior oral or written agreements, principles, negotiations, statements, representations, or understandings among the Settling Parties with respect to those matters.

³ The Parties agree that only two issues that were previously raised by the parties to this proceeding, but not discussed during Workshops, remain for briefing: (1) the Division of Ratepayer Advocates reserves the right to continue exploring with PG&E and, if necessary, address in its Opening Brief, the legal issue of whether any PG&E tax deductions will result from LCC transactions, and agrees that issues not raised in the opening briefs will be presumed resolved; and (2) Mr. David Albrecht reserves the right to address in his Opening Brief the implementation issue of the timing of the onset of this streamlined 851 process. PG&E must, and the other Settling Parties may, also brief the legal issues raised by order of ALJ Vieth in her ruling dated July 30, 2008.

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2.4 Following Rule 12.5, the Settling Parties agree that this Settlement should not constitute precedent regarding any principle or issue in this proceeding or in any future proceeding.

2.5 The Settling Parties agree that this Settlement is reasonable in light of the whole record and all of the available information in this proceeding, is consistent with California law, and is in the public interest.

2.6 The Settling Parties agree that no provision of this Settlement shall be construed against any Settling Party because that Settling Party or its counsel or advocate drafted the provision.

2.7 This Settlement may be amended or changed only by written agreement signed by the Settling Parties.

2.8 The Settling Parties shall jointly request and actively support Commission approval of this Settlement.

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

2.10 This Settlement shall become effective among the Settling Parties on the date the last party executes the Settlement as indicated below.

2.11 In witness thereof, intending to be legally bound, the Settling Parties hereto have duly executed this Settlement on behalf of the Settling Parties they represent.

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3. AGREED THREE-CATEGORY STREAMLINED PROCESS FOR LCC 851 FILINGS

The Settling Parties agree that the following modified version of PG&E’s proposal for a three-category streamlined process for treatment of 851 filings for transactions for all LCC properties is reasonable in light of the entire record.

3.1 Streamlined Process Structure

3.1.1 Category One

3.1.1.1 The first category of streamlined review consists of transactions under the Land Conservation Plan (“LCP”) that do not trigger CEQA review, either because they will not result in physical changes (and are thus not a “project” under CEQA), or will involve actions that are exempt from CEQA.

3.1.1.2 Examples of activities that involve no physical change and therefore are not a “project” under CEQA may include:

- Conservation easements granted for lands that sit under a powerhouse or reservoir
- Conducting biological and cultural studies without physical impact
- Monitoring of recreational uses and biological resources
- Continuation of existing grazing, agricultural, or forestry uses
- Assignments and renewal of agreements to continue existing uses

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3.1.1.3 Examples of activities that could be categorically exempt, depending on the facts, may include:

- Installing solar panels and other small renewable resource energy devices
- Minor trenching and grading where the surface is restored
- Installing lighting, fencing, landscaping, and attendant irrigation
- Installing non-invasive boat docks, boat ramps, ramp extensions, fishing platforms, and appurtenant devices
- Installing signs or interpretive kiosks
- Preserving access to public lands and waters where the purpose is to preserve the land in its natural condition
- Implementing a rangeland management plan for grazing

3.1.1.4 Prior to transferring an interest in any Conservation Property, PG&E will submit a simplified Advice Letter to the Commission that shall include the following five items of information (and for each transaction, where multiple transactions are bundled in a single Advice Letter):

- (1) Identification of Conservation Property parcel(s);
- (2) Type of property interest disposition(s);
- (3) Legal name and location of receiving party or parties,⁴
- (4) Proposed use(s) and conservation management objectives with reference to applicable section(s) of the LCP;⁵ and

⁴ The Settling Parties agree that PG&E's Advice Letter shall show that the donee has been vetted by the Stewardship Council consistent with the requirements of the Settlement Agreement and Stipulation and has been found to have the financial wherewithal, and relevant experience and expertise necessary to carry out the conservation activities articulated and envisioned in the transaction.

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- (5) Applicable CEQA exemption(s) (where no exception to the exemption applies) with explanation, if necessary, or reason why transaction is not a “project” under CEQA.

3.1.1.5 A 20-day protest period shall apply to these Advice Letters. This is the same 20-day period currently used by the CPUC for Advice Letters under Resolution ALJ-202’s Section 851 Pilot Program, as well as for Advice Letters filed under General Order (G.O.) 131-D.

3.1.1.6 Review of Category One LCC 851 Advice Letters shall proceed as follows:

(a) Where no protest of any kind is filed, the Advice Letter would be approved within 45 days of the date of Advice Letter filing through a resolution from the Commission’s Executive Director or his designee, such as the Director of the Energy Division. The Settling Parties agree that such delegated decision-making authority may not be exercised by a CPUC staff member who is a Pacific Forest and Watershed Lands Stewardship Council (the “Stewardship Council”) member or alternate member representing the CPUC at Stewardship Council meetings.

⁵ In its Advice Letter, PG&E shall generally describe the existing uses of each parcel, including the nature of PG&E’s (or others’) rights of access, as well as the proposed use and how it conforms to the Bankruptcy Settlement and Stipulation as well as the LCP, attaching agreements effectuating the protection and enhancement of the Conservation Property, such as the proposed conservation easement, the donation or other transfer agreement terms (and deed, if applicable), the land management plan (if applicable), or any local government environmental review document or findings (if applicable under CEQA), and other relevant conveyancing agreements so that CPUC staff can see the transaction as a whole. In developing and processing the first Land Conservation and Conveyance Plan (“LCCP”) 851 filings, the Energy Division shall work with PG&E in a good faith effort to develop a boilerplate template listing the information and documents the Energy Division would routinely like to see filed in subsequent LCC 851s, as appropriate.

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(b) Where a protest is filed, PG&E shall have 5 business days from the end of the protest period to reply and the protestant would not be permitted a sur-reply (consistent with General Order 96-B Section 7.4.3). Energy Division has up to 45 days from the Advice Filing date to process the Advice Letter and make a determination of the protest's validity, and serve its findings on all parties.

A "valid protest" would be a protest that challenges the accuracy of one or more of the five items of information described above and the more specific grounds for protest described in Section 3.3.2.1.1 of this Settlement.

(c) Where the Energy Division determines that a protest is not valid, the Energy Division shall prepare a draft resolution within 15 days of the finding of invalidity (or a total of 60 days after the filing of the Advice Letter), and place it on the agenda for decision at the next Commission decision conference, pursuant to CPUC procedures.

(d) Where the Energy Division determines that a protest is valid, the Energy Division could, at its discretion, take an additional 45 days to process the Advice Letter so that the draft resolution is issued no later than 90 days after the filing date of the underlying Advice Letter (for a single transaction). The Energy Division's process for developing a draft resolution on any Advice Letter with a valid protest may include investigations, either with or without an expedited hearing, if deemed necessary. Where multiple transactions are bundled in a single Advice Letter where there is a valid protest, the Energy Division's additional review period may be increased to as much as 75 days

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(from the end of the original 45 days from filing), for a draft resolution no later than 120 days from the filing date of the underlying Advice Letter. A final decision on a resolution determining whether to approve an Advice Letter that has been subject to a valid protest shall be placed on the agenda for a decision at the Commission's next decision conference, pursuant to CPUC procedures. Such decision should not be issued later than 120 days after the filing of the underlying Advice Letter for a single transaction and not later than 150 days from the filing date of the underlying Advice Letter where multiple transactions are bundled in a single Advice Filing.

3.1.2 Category Two

3.1.2.1 The second category of streamlined review would apply to transactions that may be subject to CEQA (unlike the first category) but would not require environmental review by the CPUC because the Conservation Activities are either too speculative or too unspecific to allow meaningful environmental review by the CPUC at this time, and subsequent local discretionary review will assure subsequent CEQA compliance at a more appropriate time when actions have been adequately defined and proposed by the applicant. Examples of activities that are too speculative or unspecific to allow meaningful CPUC review may include:

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- Unspecific future Conservation Activity of redeveloping a campground as a river-side day use site in cooperation with USFWS
- Unspecific future Conservation Activity of creating a viewing platform/boardwalk and viewing blind
- Unspecific future Conservation Activity of creating an ADA fishing platform and access point
- Unspecific future Conservation Activity of creating expanded hiking trails to connect nearby lakes

3.1.2.1 For the purpose of these examples, “too speculative or unspecific to allow meaningful CPUC review” means that Conservation Activities included in a particular transaction would simply be stated as a general objective. Characteristically, such activities would likely be planned for many years into the future or would not include a specific timeframe for implementation, and would not define specific location or design of planned improvements nor address the number of potential users, etc.

3.1.2.3 Category 2 would also apply to proposed Conservation Activities that have already been reviewed under CEQA, consistent with G.O. 131-D practice. Examples of activities where CEQA review has already been performed may include:

- Development of a hiking trail that is part of a trail system that has already undergone CEQA review by another agency
- Development of recreational facilities that are part of a larger project that has already undergone CEQA review by another agency

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3.1.2.4 Prior to transferring an interest in any Conservation Property, PG&E shall submit a simplified Advice Letter to the Commission that would include the following five items of information (and for each parcel, where multiple transactions are bundled in a single Advice Letter):

- (1) Identification of Conservation Property parcel(s);
- (2) Type of property interest disposition;
- (3) Legal name and location of receiving party⁶;
- (4) Potential use(s) and conservation management objectives with reference to applicable section(s) of the LCP;⁷ and
- (5) Local agencies anticipated to perform discretionary review if and when Conservation Activities are no longer too speculative or unspecific for CEQA review, or the agency that has already performed CEQA review, the results, and where the environmental document can be reviewed.⁸

3.1.2.5 A 30-day protest period shall apply to Category Two Advice Letters. This is 10 days longer than the 20-day protest period provided for in ALJ-202 and GO 131-D.

⁶ See Footnote 5 above.

⁷ See Footnote 6 above.

⁸ The Settling Parties agree that PG&E should provide adequate information needed for CPUC CEQA purposes under Category 2, more particularly defined in footnote 5.

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3.1.2.6 Review of Category Two LCC 851 Advice Letters shall proceed as follows:

(a) Where no protest of any kind is filed, the Advice Letter would be approved within 45 days of the date of Advice Letter filing through a resolution by the Executive Director or his designee such as the Director of the Energy Division. The Settling Parties agree that such delegated decision-making authority may not be exercised by a CPUC staff member who is a Stewardship Council member or alternate member representing the CPUC at Stewardship Council meetings.

(b) Where a protest is filed, PG&E shall have 5 business days from the end of the protest period to reply and the protestant would not be permitted a sur-reply reply (consistent with General Order 96-B Section 7.4.3). Energy Division has up to 45 days from the Advice Filing date to process the Advice Letter and make a determination of the protest's validity, and serve its findings on all parties.

A "valid protest" would be a protest that challenges the accuracy of one or more of the five items of information described above and the more specific grounds for protest described in Section 3.3.2.1.1 of the Settlement Agreement.

(c) Where Energy Division determines that a protest on a Category 2 Advice Letter is not valid, the Energy Division shall prepare a draft resolution within 15 days of the finding of invalidity (or a total of 60 days from the filing of the Advice Letter) and place it on the Commission's next decision conference agenda pursuant to CPUC

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procedures. Such decision should not be issued later than 90 days after the filing of the underlying Category 2 Advice Letter.

(d) Where the Energy Division determines that a protest is valid, the Energy Division could at its discretion take an additional 45 days to process the Advice Letter so that the draft Resolution is issued no later than 90 days after the filing date of the underlying Advice Letter (for a single transaction). The Energy Division's process for developing a draft resolution on an Advice Letter with a valid protest may include investigations, either with or without an expedited hearing, if deemed necessary. Where multiple transactions are bundled in a single Advice Letter and where there is a valid protest, the Energy Division's additional review period may be increased to as much as 75 days (from the end of the original 45 days from filing), for a draft resolution no later than 120 days from the filing date of the underlying Advice Letter. A final decision on a Resolution determining whether or not to approve an Advice Letter that has been subject to a valid protest shall be placed on the agenda for decision at the Commission's next decision conference, pursuant to CPUC procedures. Such decision should not be issued later than 120 days after the filing of the underlying Category 2 Advice Letter for a single transaction and not later than 150 days from the filing date of the underlying Category 2 Advice Letter where multiple transactions are bundled in a single Advice Filing.

If the CPUC staff's determination of valid protest includes a finding that the protestant has shown that CEQA review of the transaction with the CPUC as lead agency is currently legally required for 851 approval, the CPUC would require PG&E to convert

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its Advice Filing into an Application including all appropriate CEQA showings for a decision by the CPUC in as expedited a manner as possible.

3.1.3 Category Three

The Settling Parties agree that any transactions with Conservation Actions that do not qualify for the streamlined process outlined above would be reviewed under the Commission's standard Section 851 application process. For example, if the CPUC finds that evidentiary hearings are required, then PG&E would be allowed to re-file the Advice Letter as an Application. And if the CPUC is to act as lead agency for purposes of CEQA review, the Settling Parties agree that the transaction would be filed as an Application. Pursuant to existing Commission process, the Category 3 Application process shall include issuance of a Administrative Law Judge's recommended decision followed by a final decision adopted by the full Commission at a public decision conference, although the Settling Parties agree that the Commission should strive for as expedited a Commission decision as possible.

3.2 Service Lists for 851 Filings for LCC Transactions

The Settling Parties agree that, based on the Bankruptcy Settlement and Stipulation, the Stewardship Council's practices for notice, as well as CPUC practice, including Rule G.O. 96-B regarding Advice Letter service, PG&E shall provide service of filings for Section 851 approval of LCC transactions, by the means provided for under the CPUC's Rules of Practice and Procedure (including Rule 1.9 and 1.10), on the following individuals and entities:

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3.2.1 Service Lists for Category 1 and 2 LCC Advice Letters

For each Category 1 and 2 Advice Letter seeking 851 Approval for any LCC transaction:

- a. PG&E shall provide service to the CPUC's service list in this proceeding (A.08-04-020);
- b. PG&E shall provide service to the standard Advice Letter service list established for PG&E pursuant to Rule G.O. 96-B;
- c. PG&E shall obtain from the Stewardship Council its most current list of the individuals and entities to whom it has provided notice regarding the specific property(ies) for the proposed transaction(s) as to which PG&E is seeking CPUC approval, and PG&E shall serve its Section 851 Advice Letter on all individuals and entities included on the list provided by the Stewardship Council relating to that property.⁹ PG&E shall not provide service of each 851 filing on the full Stewardship Council list, which already includes over 8,000 individuals and entities, as this is far broader than necessary for each given parcel's 851 transaction, given the large size of the LCC territory;

⁹ During the entire process by which the Stewardship Council makes its consensus decision regarding the terms of its recommended disposition of any individual LCC parcel, the Stewardship Council is required to provide notice to: the **“Board of Supervisors of the affected county, each affected city, town, and water supply entity, each affected Tribe and/or co-licensee, and each landowner located within one mile of the exterior boundary of the parcel”** per the Bankruptcy Settlement and Stipulation adopted by the CPUC in D.03-12-035.

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d. In addition, PG&E shall make reasonable efforts to add to the Stewardship Council's list all then-known leaseholders on PG&E's lands within 1 mile of the exterior boundary of any of the parcels included in a given 851 filing;

e. PG&E shall also make reasonable efforts to add to the Stewardship Council's list all then-known property owners across whose lands PG&E now has access rights to reach their lands or infrastructure, and where new rights must be granted by such owner(s) to allow general public access to implement the conservation measures contemplated in a given Section 851 filing; and

f. PG&E shall also make reasonable efforts to add to the Stewardship Council's list any such persons or entities that identify themselves to the Stewardship Council or PG&E and provide both a mailing address and, if available, an electronic-mail address, as part of the Land Conservation and Conveyance Plan ("LCCP") process, and for interested parties to spread the word regarding such notice to others known to them who may be interested, such as tenants or subtenants. PG&E's use of the Stewardship Council's parcel-specific notice lists is reasonable.

3.2.2. Service for Category 3 LCC Applications

a. PG&E shall provide service to the CPUC's service list in this proceeding (A.08-04-020), any third-parties involved in the specified transaction, and any relevant governmental agencies; and

b. See item 3.2.1.c. above for parcel-specific service list.

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3.3 Protests Under Agreed Streamlined LCC 851 Process

3.3.1 Anyone May File a Protest

The Settling Parties acknowledge and agree that this streamlined process does not prohibit anyone from filing a protest to a LCC Section 851 filing on any ground allowable, pursuant to the CPUC's Rules of Practice and Procedure. Further, this streamlined process is not intended to deny or otherwise frustrate the CPUC's full right and authority to consider the merits of any protest as part of its evaluation of whether the transaction is "not adverse to the public interest." Consistent with this premise and the agreed-to streamlined process, including Section 3.3.2.1.1 below, the CPUC will determine whether further investigation and possible hearings are warranted to resolve concerns raised in any protest.

3.3.2 Grounds for Valid Protests

Under this streamlined process, the Settling Parties agree that the CPUC shall, in light of the existence of the Bankruptcy Settlement and Stipulation that has already been approved by the CPUC in D.03-12-035, and the subsequent development of the LCP by the Stewardship Council pursuant to that Decision, consider and focus on the following criteria in its review of any protests to the Section 851 filing(s) resulting after the Stewardship Council completes its LCCP for any given LCC parcel to determine the validity of a protest.

A valid protest is stated if it provides a showing substantiating any of the following:

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3.3.2.1.1 Because it is presumed that the transactions will be consistent with the Bankruptcy Settlement and Stipulation adopted by the CPUC in D.03-12-035, the Land Conservation Plan Volumes 1 and 2, and California law, a valid protest can include such showings as the following:

- a)** That the transaction is inconsistent with the Bankruptcy Settlement and Stipulation and LCP's provisions regarding tax neutrality;
- b)** That the transaction is inconsistent with the Bankruptcy Settlement and Stipulation's provision in Appendix E, Section 1 which requires easements to "honor existing agreements for economic uses" of the lands (such as commercial or residential leases or licenses);
- c)** That the transaction is inconsistent with the Bankruptcy Settlement and Stipulation and Land Conservation Plan Volumes 1 and 2, including the 6 Beneficial Public Values identified in the Land Conservation Plan, as it relates to the Bucks Lake Planning Unit or other specific Planning Units identified in the Land Conservation Plan;
- d)** That the procedures set forth in the Bankruptcy Settlement and Stipulation and/or the Land Conservation Plan were not followed regarding opportunity to review and comment on the proposed transaction during the Stewardship Council's underlying LCCP proceedings for that property;

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e) That the procedures set forth in the Bankruptcy Settlement and Stipulation and/or the Land Conservation Plan were not followed regarding opportunity to comment during the Stewardship Council's underlying process for selecting the fee simple and/or conservation easement holder for that property;

f) If it is a transaction involving timberlands, that such transaction is shown to be inconsistent with the Bankruptcy Settlement and Stipulation and the LCP's requirements for protecting or enhancing the "beneficial public value" of sustainable forestry as defined in LCP Vol. 1 Appendix 7-3 ("The practice of managing dynamic forest ecosystems to provide ecological, economic, social, and cultural benefits for present and future generations.");

g) That the transaction fails to properly take into account nearby or neighboring private property rights (such as the unauthorized use of privately maintained roads, unauthorized general public access across or use of neighboring lands; or new uses on the Conservation Property which may include the potential to adversely impact neighboring properties, such as hunting or off-highway vehicle activity);

h) That the transaction fails to properly take into account local land use planning requirements (e.g. County or City ordinances and/or General Plan policies); or

i) That the transaction improperly characterizes the application of the California Environmental Quality Act (CEQA) or the type of review required under CEQA.

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3.3.3 Protest Periods

The Settling Parties agree that the following are reasonable protest periods under the agreed three-tiered streamlined LCC 851 process:

Category 1 – Advice Letters filed under Category 1 of this process shall use the same **20-day protest period** as the CPUC has adopted under G.O. 96-B as well as Resolution ALJ-202’s pilot program for 851 Advice Letter streamlining;

Category 2 -- Advice Letters filed in under Category 2 of this process shall use a **30-day protest period** after the date the Advice Letter is served. This period is 10 days longer than provided for under G.O. 96B and Resolution ALJ-202 for Advice Letters;

Category 3 – Applications filed under Category 3 of this process shall continue to use the same **30-day protest period** as is provided for protests of Applications in Rule 2.6 of the CPUC’s Rules of Practice and Procedure, which provides that “a protest or response must be filed within 30 days of the date the notice of the filing of the application first appears in the Daily Calendar....”

3.4 Severability Where the LCC 851 Includes Bundling Multiple Transactions

The Settling Parties agree that, where multiple parcels have been included as part of a single 851 filing for an LCC transaction (e.g. where numerous individual parcels are proposed for donation to the same grantee, whether or not the parcels are physically contiguous to one another), if the transaction relating to a given parcel is found to have been subject to a valid protest but as to other given parcels there is either no protest at all or no valid protest, the CPUC shall sever the filing so as to allow the transaction for the latter parcels (with no protest or no valid protest) to proceed under the more expedited timetable provided in Sections 3.1.1 and 3.1.2 as set forth above. This shall be

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accomplished by designating the Advice Letter number for the severed, expedited and unprotested portion of that Advice Letter with the letter "A."

4. AGREED TREATMENT OF COSTS THROUGH THE LCPERMA MEMORANDUM ACCOUNT¹⁰

The Settling Parties agree that the Commission should approve a memorandum account to track costs for potential hazardous waste or hazardous substance mitigation or remediation relating to property under the Land Conservation Plan, and approve a process for the recovery of such costs in rates, consistent with the terms of the Settlement Agreement and Section 12(f) of the Bankruptcy Settlement and Stipulation adopted in D.03-12-035. The Settling Parties further agree that such actual costs as are recorded in the proposed memorandum account (pursuant to the modified version of the Preliminary Statement attached as Attachment A hereto) shall be recovered by means of PG&E's existing Annual Electric True-up proceeding (AET), which provides for an annual Energy Division audit and is subject to protests by any party. For the reasons set forth below, the purpose of the Energy Division's audit of the AET is to confirm that the costs are recorded appropriately in the LCPERMA.

¹⁰ Bucks Lake Homeowners Association, et. al., has no position on the Memorandum Account issue.

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4.1 Agreed LCPERMA Preliminary Statement

The Settling Parties agree that the CPUC should adopt the modified LCPERMA Preliminary Statement appended hereto as Attachment A, the “Purpose” section of which clarifies the costs that are eligible and ineligible for being recorded in the memorandum account:

“PURPOSE: The purpose of the LCPERMA is to record and recover hazardous substance investigation, remediation, or mitigation costs incurred by PG&E related to properties which will be or are encumbered or transferred pursuant to the Land Conservation Commitment (consistent with D.03-12-035). These costs may include, for example: investigation costs, remediation costs, monitoring costs, closure costs, agency oversight fees, permit fees, hazardous waste taxes, and costs to pursue, defend or pay claims relating to hazardous substance remediation or mitigation (provided that recoveries from third parties due to any such PG&E claims shall be recorded as a credit to the LCPERMA).

However, PG&E may not record into the LCPERMA the following costs related to the investigation, remediation, or mitigation of hazardous substances on properties subject to the Land Conservation Commitment: fines or penalties, personal injury damages, or costs of defending personal injury lawsuits related to environmental liabilities or hazardous substances that may be found on these properties. In addition, PG&E may not record into the LCPERMA costs that are otherwise being recovered in rates.”

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4.2 Agreed LCPERMA Notice Trigger

The Settling Parties further agree that PG&E shall provide a notice to the Program Manager of DRA's Electricity Pricing and Customer Program Branch within 30 days of the end of the month when total LCPERMA costs for any given calendar year exceed \$5 million. If such notice is provided for any given calendar year, PG&E shall also, concurrent with its AET update filing in December of that calendar year, provide DRA with the AET workpapers pertaining to the LCPERMA costs. Such workpapers shall include a list of the types of costs and actions taken, as well as a list of the projects and/or properties involved. Consistent with the Bankruptcy Settlement and Stipulation adopted in D.03-12-035, the sole purpose of this notice as well as the Commission's AET audit review shall be to determine whether the LCPERMA costs have been properly accounted for by the utility and to verify that the reported costs are not already being recovered in rates.

5. NO CEQA REVIEW NEEDED FOR THIS STREAMLINED PROCEDURE

Because this Application for a streamlined procedure does not propose any specific transaction that would make any physical change to any land, the Settling Parties agree that this Application, as amended by this Settlement Agreement, is not subject to review pursuant to CEQA. It is the intent of the Settling Parties that this streamlined procedure does nothing to change the applicability of CEQA law and process to future LCCP transactions.

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6. WITHDRAWAL OF PROTESTS

The Settling Parties agree that if the Administrative Law Judge's Proposed Decision in this proceeding is consistent with this Settlement, the Settling Parties agree to withdraw their protests to the degree the issues raised in their protests are covered by this Settlement. Specifically, the Division of Ratepayer Advocates reserves the right to pursue, in its opening brief, the legal issue of whether **PG&E tax deductions** will result from any LCC transactions, and Mr. David Albrecht reserves the right, in his opening brief, to pursue arguments (with justifications) relating to the **timing of the onset of this streamlined 851 process**.

7. ATTACHMENTS

Attachment A, the agreed Preliminary Statement for the LCPERMA, is an integral part of this Settlement and is incorporated herein by reference.

8. RESERVATIONS

8.1 This Settlement represents a negotiated compromise among the Parties on a number of disputed issues. The Settlement is the product of good faith negotiations between the Parties. These negotiations considered the interests of all of the active parties to the proceeding and the Settlement addresses each of these interests in a fair and balanced manner.

8.2 The various sections of the Settlement are intimately interrelated, and the Parties intend that the Settlement be treated as an entire package, and not as a collection of separate agreements on discreet issues. Accordingly, the Parties respectfully request that

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the Commission approve the Settlement without modification. Any material change to the Settlement shall render it null and void, unless all Parties agree in writing to such changes.

8.3 The Parties have assented to the terms of the Settlement only to arrive at the agreement embodied herein. Nothing contained in the Settlement should be considered an admission or acceptance of any fact, principle, or position by any Party. If the Settlement is not accepted by the Commission without substantial modification, the Parties agree that the Settlement should not be admitted into evidence in this or any other proceeding.

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APPENDIX A

**Agreed to by the undersigned Parties on the dates indicated below:
(May be executed in counterparts per Condition II.I above):**

DIVISION OF RATEPAYER ADVOCATES

By: _____

Name: _____

Date: _____

PACIFIC GAS AND ELECTRIC COMPANY

By: _____

Name: _____

Date: _____

BUCKS LAKE HOMEOWNERS ASSOCIATION (et. al.)

By: _____

Name: _____

Date: _____

THE COUNTY OF PLUMAS

By: _____

Name: _____

Date: _____

APPENDIX A

THE COUNTY OF PLUMAS (COUNSEL)

By: _____

Name: _____

Date: _____

MR. DAVID ALBRECHT

By: _____

Name: David Albrecht _____

Date: _____

MS. ALICE ROTHLIND

By: _____

Name: Alice Rothlind _____

Date: _____

(END OF APPENDIX A)

APPENDIX B: LCPERMA PRELIMINARY STATEMENT

XX, LAND CONSERVATION PLAN ENVIRONMENTAL REMEDIATION MEMORANDUM ACCOUNT (LCPERMA)

(N)

1. **PURPOSE:** The purpose of the LCPERMA is to record and recover hazardous substance investigation, remediation, or mitigation costs incurred by PG&E related to properties which will be or are encumbered or transferred pursuant to the Land Conservation Commitment (consistent with D.03-12-035). These costs may include, for example: investigation costs, remediation costs, monitoring costs, closure costs, agency oversight fees, permit fees, hazardous waste taxes, and costs to pursue, defend or pay claims relating to hazardous substance remediation or mitigation (provided that recoveries from third parties due to any such PG&E claims shall be recorded as a credit to the LCPERMA).

However, PG&E may not record into the LCPERMA the following costs related to the investigation, remediation, or mitigation of hazardous substances on properties subject to the Land Conservation Commitment: fines or penalties, personal injury damages, or costs of defending personal injury lawsuits related to environmental liabilities or hazardous substances that may be found on these properties. In addition, PG&E may not record into the LCPERMA costs that are otherwise being recovered in rates.

2. **APPLICABILITY:** The LCPERMA shall apply to all customer classes, except for those specifically excluded by the Commission.
3. **REVISION DATE:** Disposition of the balance in the account shall be through the Annual Electric True-Up (AET) advice letter process via the Utility Generation Balancing Account (UGBA), its successor, or another proceeding as authorized by the Commission.
4. **LCPERMA RATES:** The LCPERMA does not have a rate component.
5. **ACCOUNTING PROCEDURE:** PG&E shall make the following entries to the LCPERMA:
 - a. A monthly debit entry equal to environmental remediation or mitigation costs associated with the encumbrance or disposition of properties under the Land Conservation Plan.
 - b. A monthly debit entry equal to interest on the average balance in the LCPERMA at the beginning of the month and the balance at the end of the month, at a rate equal to one-twelfth the interest rate on a three-month Commercial Paper for the previous month, as reported in the Federal Reserve Statistical Release, H.15, or its successor.
 - c. A credit entry, if applicable, for recoveries from third parties due to any such PG&E claims relating to hazardous substance remediation or mitigation.
 - d. An annual credit entry to transfer the balance to the UGBA, or another mechanism as authorized by the Commission, for recovery in rates.

(N)

(END OF APPENDIX B)

APPENDIX C
Summary of Streamlined Section 851 Filing Procedure, Including Target Timelines for Review
by Commission Staff and Issuance of Resolution or Decision by Commission

	Criteria	Advice Letter (AL) Process	Protest and Response Requirements; Commission Review Targets	Approval Process Targets
All-Party Settlement Agreement *Category 1*	Does not trigger CEQA review due to: - Categorically or statutorily exempt from CEQA, or - Not a project under CEQA (e.g., no physical changes)	Submit simplified AL with 5 types of information	20-day protest period (Same as set forth in G.O. 96B) PG&E has 5 business days from end of protest period to respond Energy Division (ED) has 45 days from AL filing date to process, determine validity, and serve findings on parties Additional ED review period of 45 days with a valid protest (or 75 days with a valid protest of a bundled AL)	If no protest of any kind filed, ED drafts resolution within 15 days of the end of protest period and places it on the consent calendar for the next CPUC mtg for approval within 60 days of AL filing date If protest is not valid, ED drafts a resolution within 15 days of invalidity finding (60 days after AL filing date) and places on next CPUC decision mtg agenda If protest is valid, ED drafts a resolution within 90 days after AL filing date (or 120 days for a bundled AL)
All-Party Settlement Agreement *Category 2a*	May be subject to CEQA and does not require concurrent environmental review by CPUC because actions are too speculative/unspecific at this time, but may be subject to future CEQA review by a local lead agency.	Submit simplified AL with 5 types of information	30-day protest period (10 days more than G.O. 96B) PG&E has 5 business days from end of protest period to respond ED has 45 days from AL filing date to process, determine validity, and serve findings on parties Additional ED review period of 45 days with a valid protest (or 75 days with a valid protest of a bundled AL)	If no protest of any kind filed, ED drafts a resolution within 15 days of the end of the protest period and places it on the consent calendar for the next CPUC mtg for approval within 60 days of the AL filing date If protest is not valid, ED drafts a resolution within 15 days of invalidity finding (60 days after AL filing date) and places on the CPUC decision mtg agenda If protest is valid, ED drafts a resolution within 90 days after AL filing date (or 120 days for a bundled AL)
All-Party Settlement Agreement *Category 2b*	May be subject to CEQA and already reviewed under CEQA by a local lead agency, with CPUC ratification necessary.	Submit simplified Application with 5 types of information	30-day protest period (from date Application noticed in Daily Calendar) 10 days from end of protest period to respond	CPUC Decision required for approval Applications that are not protested should be addressed in an expedited, ex parte manner, targeting a decision within 90-120 days of the filing date
All-Party Settlement Agreement *Category 3*	All other transactions not qualifying for any streamlined processes above (e.g. those requiring CPUC CEQA review at this time)	Standard S851 Application	30-day protest period (from date Application noticed in Daily Calendar) 10 days from end of protest period to respond	CPUC Decision required for approval Applications that are not protested should be addressed in an expedited, ex parte manner, targeting a decision within 90-120 days of the filing date

(END OF APPENDIX C)