

## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298

**FINAL MITIGATED NEGATIVE DECLARATION****PACIFIC GAS AND ELECTRIC COMPANY  
APPLICATIONS NO. 00-05-029 AND 00-05-030  
PROPOSAL FOR DIVESTITURE****INTRODUCTION**

On May 15, 2000, Pacific Gas and Electric Company (PG&E) applied to the California Public Utilities Commission (CPUC) for approval to market value and exchange certain lands for equivalently valued lands owned by the California Department of Parks and Recreation (DPR). The application (A00-05-030) also addressed Pacific Gas and Electric Company's proposal to subsequently transfer the land received from the DPR to a non-profit entity known as the California Waterfowl Association (CWA). The lands that Pacific Gas and Electric Company will transfer to DPR are commonly known as "Burney Falls" and "Bowman Ditch." The land that Pacific Gas and Electric Company will receive from DPR and then transfer to CWA is referred to as the "Ahjumawi Property." All of the lands are located within Shasta County.

In a separate but related action, PG&E filed an application (A00-05-029) with the CPUC to market value and transfer certain property to the CWA. The property consists of land in Shasta County commonly referred to as McArthur Swamp, the Glenburn Dredge Site, and a dredge used to maintain certain levees associated with those properties. The transaction includes a Conservation Easement and other terms designed to maintain existing land uses, enhance habitats, and preserve cultural and historical resources.

In accordance with the California Environmental Quality Act (CEQA), the CPUC conducted an Initial Study of potential impacts related to PG&E's divestiture application. The Commission used the Initial Study as a "decision point" document to determine that issuing a Mitigated Negative Declaration is the appropriate action under CEQA. Through this document, the CPUC determined that the actions taken as a result of approving PG&E's divestiture application would not have significant impact on the environment. In the limited instances where the environment could be potentially affected by divestiture, appropriate mitigation measures are recommended for adoption.

**PROJECT DESCRIPTION**

PG&E's divestiture applications (Application No. 00-05-029 and 00-05-030) originally filed in May 2000, seeks authority to transfer and donate certain lands in the Federal Regulatory

Commission's (FERC's) Pit 1, 2, 3, and 4 Hydroelectric Projects. Approval of the transfer and donation is still being considered by the CPUC.

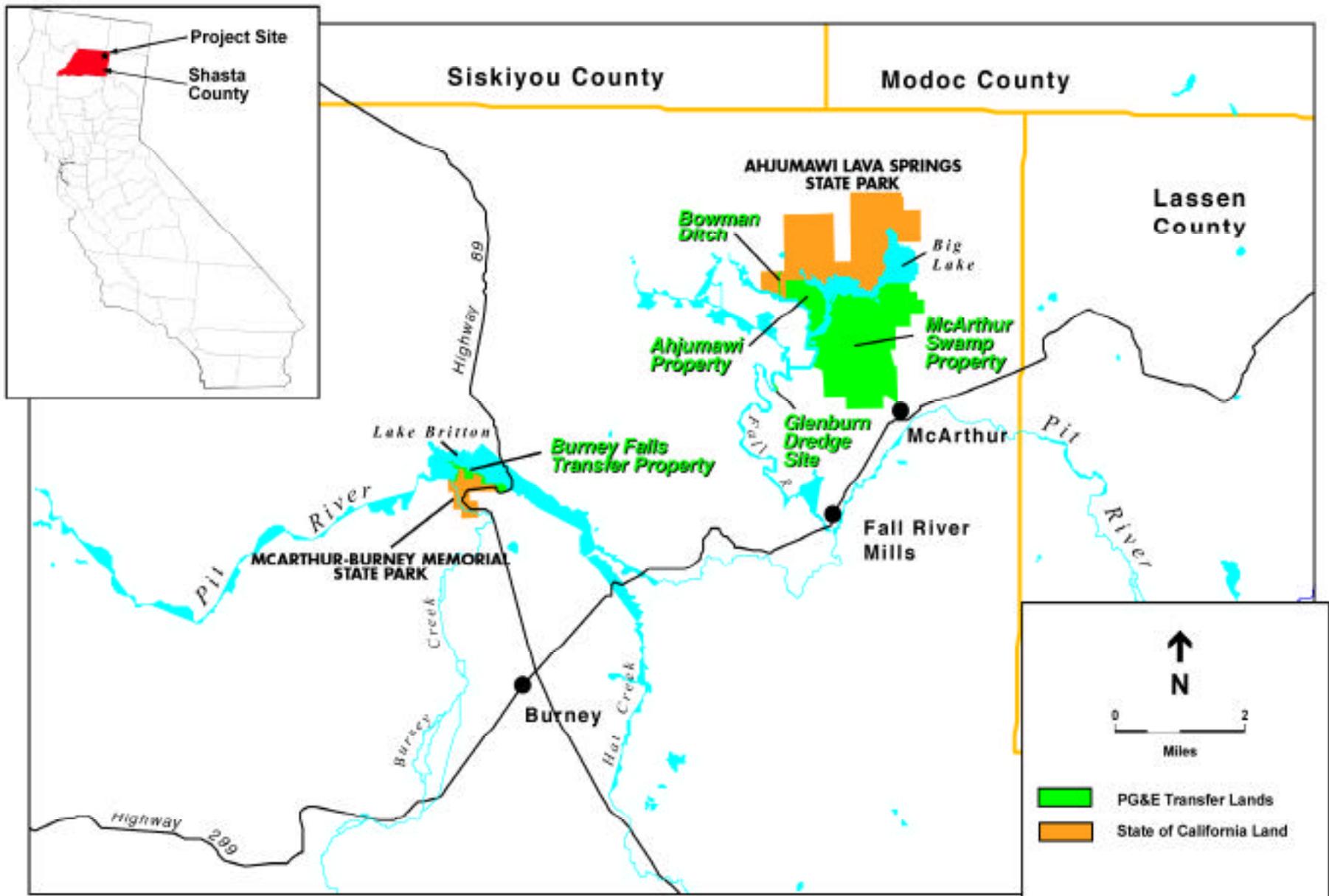
PG&E currently possesses transmission and distribution lines, a gauging station, and a canal diversion on McArthur Swamp. Control of the land also allows PG&E to prevent others from acquiring or using water rights that might interfere with hydroelectric production at the downstream Pit River Powerhouses. With adequate easements and reservations of ownership in water rights and the transmission and distribution facilities, however, it is not foreseeable that the fee interest in the properties will ever again be useful for public utility purposes.

According to PG&E, the donation of McArthur Swamp, the Glenburn Dredge Site, and the dredge to the California Waterfowl Association (CWA) is in the economic interest of PG&E's ratepayers and also provides many societal benefits (Application 00-05-029). It is the opinion of PG&E that the removal of McArthur Swamp from the Pit 1 Project License will reduce the overall costs of that license and, at the same time, will increase the Pit 1 Project's market value. Such removal, however, can only be accomplished with the approval of FERC.

The transfers proposed as part of the Burney Falls Application 00-05-30 grew out of discussions between State Department of Parks and Recreation (DPR) and PG&E concerning potential liability for failing to maintain the State Park Levee, north of the McArthur Swamp, as well as discussions with various resource agencies about adjusting the Pit 1 Project License boundaries to remove McArthur Swamp and transfer certain levee maintenance obligations outside the license. The combined transactions that have resulted from these discussions have the benefit of (1) resolving a potential dispute, (2) facilitating the FERC's approval to remove McArthur Swamp from the Pit 1 Project boundaries, (thereby reducing costs and enhancing the project's value), (3) preserving existing land uses for conservation and recreational purposes (4) preserving water rights and water flows that support hydroelectric operations, and (5) relieving PG&E and its ratepayers of obligations of land ownership, such as responsibility for taxes or environmental liabilities. PG&E also seeks to market value Burney Falls and Bowman Ditch in response to Assembly Bill 1890 (AB 1890). These lands would be transferred for the Ahjumawi Property from DPR.

Approval of the specific divestiture plans by the CPUC is required by the Public Utilities Code Section 851 prior to the transfer of these mentioned lands. It is the responsibility of the CPUC to determine whether the proposed divestiture plans "will be adverse to the public interest."

The transfer and donation of these lands would include the transfer of land entitlements, permits, conservation easement, and a management plan. A more detailed project description is included in the attached Initial Study.



SOURCE: Teal Data Center and Environmental Science Associates, 2001.

PG&E Divestiture / 200496 ■

**Figure 1**  
**Locations of Pacific Gas and Electric Company's**  
**Transfer and Donation Lands**

## **ENVIRONMENTAL DETERMINATION**

An initial study (attached) was prepared to assess the potential effects on the environment of the divestiture project, and the respective significance of those effects. Based on the Initial Study, the proposed divestiture of PG&E's hydroelectric assets will have less than significant effects or no impact in the areas of:

- Land Use Planning
- Population and Housing
- Transportation/Circulation
- Mineral Resources
- Hydrology and Water Quality
- Public Services
- Aesthetics
- Utility and Service systems
- Recreation
- Hazards and Hazardous Substances
- Geology and Soils
- Biological Resources
- Noise
- Cumulative Impacts

The Initial Study indicates that PG&E's proposed divestiture would have potentially significant impacts in the areas of:

- Air Quality
- Cultural Resources

Each of the identified impacts can be mitigated to avoid the impact or reduce it to a less than significant level. The mitigation measures, which PG&E has agreed to include in the project, are as follows:

### **Air Quality**

#### **Mitigation Measure III.1**

During construction the following measures shall be implemented to control fugitive dust and particulate emissions in compliance with SCAPCD SMMs. The SMMs shall be included as conditions of approval to the grading permit issued by the Shasta County Environmental Health Department and, as appropriate shall appear on the final construction plans submitted for the permit's approval. A copy of the grading permit shall be submitted to the CPUC's Mitigation Monitor prior to the commencement of ground disturbing activities.

- All material excavated, stockpiled, or graded shall be sufficiently watered to prevent fugitive dust from leaving property boundaries and causing a public nuisance or a violation of an ambient air quality standards. Watering shall occur at least twice daily with complete site coverage, preferably in the mid-morning and after work is completed each day.
- All areas (including unpaved roads) with vehicle traffic shall be watered periodically or have dust palliatives applied for stabilization of dust emissions.

- All on-site vehicles shall be limited to a speed of 15 miles per hour on unpaved roads.
- All land clearing, grading, earth moving or excavation activities on the project site shall be suspended when winds are expected to exceed 20 miles per hour.
- All inactive portions of the development site shall be seeded and watered until a suitable grass cover is established.
- The contractor shall be responsible for applying non-toxic stabilizers (according to manufacturers specifications) to all inactive construction areas (previously graded areas which remain inactive for 96 hours), in accordance with the Shasta County Grading Ordinance.
- All trucks hauling dirt, sand, soil or other loose material shall be covered or shall maintain at least two feet of freeboard in accordance with the requirements of CVC Section 23114. This provision is enforced by local law enforcement agencies.
- All material transported offsite shall be either sufficiently watered or securely covered to prevent a public nuisance.
- During initial grading, earth moving, or site preparation, the project shall be required to construct a paved (or dust palliative treated) apron, at least 100 feet in length, onto the project site from the adjacent paved road(s).
- Paved streets adjacent to the development site shall be swept or washed at the end of each day to remove excessive accumulations of silt and/or mud which may have accumulated as a result of activities on the development site.
- After construction, the transfer recipient shall re-establish ground cover on the construction site through seeding and watering in accordance with Shasta County Grading Ordinance.

*Monitoring Action:* The receiving parties shall submit documentation to the California Public Utilities Commission (CPUC) of a commitment to adhere to the terms of the grading permit for five years, and shall give notice of such commitment to the air quality regulations to the SCAPCD.

*Responsibility:* CPUC

*Timing:* Prior to approval of the final construction plans submitted for the permit's approval.

## **Cultural Resources**

### ***McArthur Swamp***

#### **Mitigation Measure V.1a**

Prior to the transfer of title of the McArthur Swamp, the applicant shall include specific language in the proposed Conservation Easement and MSMP requiring CWA to appoint a Professional

Archaeologist (who is a member of the Registry of Professional Archaeologists), or Archaeologists, at least 15 days prior to the start of project-related vegetation clearance ground disturbance and grading, site or project mobilization, site preparation or excavation activities, implementation of erosion control measures, or movement or parking of heavy equipment or other vehicles onto or over unpaved or natural areas resulting from habitat improvements pursuant to the MSMP. The amended Conservation Easement and MSMP shall be submitted to the CPUC for review and approval prior to the transfer of title. As shall be specified in this new language, CWA shall provide the CPUC with the name(s) and statement of qualifications of its designated Professional Archaeologist (s) who will be responsible for implementation of all project-related cultural resources mitigation measures. The statement of qualifications must be sufficient to substantiate that the Archaeologist(s) meets the Secretary of the Interior's proposed Historic Preservation Qualification Standards as published in the Federal Register (United States Department of the Interior 1997).

At least 10 days prior to the start of any project-related activity defined above, CWA shall confirm in writing to the CPUC Mitigation Monitor that the approved designated Professional Archaeologist will be available at the start of project activities and is prepared to implement the protocol specified in the MSMP.

At least 10 days prior to the replacement of a designated cultural resource specialist, CWA shall obtain the CPUC approval of the proposed replacement Professional Archaeologist.

- Monitoring Action:* The receiving parties shall submit documentation to the California Public Utilities Commission (CPUC) Mitigation Monitor of a commitment to participate in the CPUC proposed archaeological mitigation program.
- Responsibility:* CPUC
- Timing:* Amended language shall be inserted into the Conservation Easement and MSMP prior to the transfer of title.

### **Mitigation Measure V.1b**

Prior to the transfer of title of the McArthur Swamp and Glenburn Dredge Site, the applicant shall amend the proposed Conservation Easement and MSMP to include specific language requiring that prior to the commencement of construction and/or ground disturbing activities, the designated Professional Archaeologist shall provide all construction personnel with environmental training in a manner that will inform them of the possibility of encountering cultural or historical resources. The amended Conservation Easement and MSMP shall be submitted to the CPUC for review and approval prior to the transfer of title. All construction personnel will be trained in the identification of archaeological resources (which could include flaked stone, projectile points, mortars, pestles, soil containing shell and bone, or human burials), historic resources (which could include stone features, such as adobe foundations or walls, structures and remains with square nails, and refuse deposits), human remains, and paleontological resources (which could include true and/or trace fossils). In addition, the construction personnel would be trained on the appropriate protocol to follow if any resources are found, as discussed in Mitigation Measures V.3, V.4, and V.5.

*Monitoring Action:* The receiving parties shall submit documentation to the California Public Utilities Commission (CPUC) Mitigation Monitor of a commitment to participate in the CPUC proposed construction personal training program.

*Responsibility:* CPUC

*Timing:* Amended language shall be inserted into the Conservation Easement and MSMP prior to the transfer of title and prior to the commencement of any construction and/or ground disturbing activities.

### **Mitigation Measure V.1c**

Prior to the transfer of title of the McArthur Swamp, the applicant shall amend the proposed Conservation Easement and MSMP to include specific language requiring that in the event that previously unidentified historic, archaeological, and/or paleontological resources are encountered during habitat improvement activities, the construction crew will halt work within a 100-foot radius of the find and not collect or disturb the materials until the Professional Archaeologist has evaluated the location and determined an appropriate mode of action. The amended Conservation Easement and MSMP shall be submitted to the CPUC for review and approval prior to the transfer of title. The Professional Archaeologist retained by CWA shall evaluate such resources for California Register of Historical Resources eligibility ensuring that the evaluations are supervised by individuals meeting the Secretary of the Interior’s proposed Historic Preservation Qualification Standards (United States Department of the Interior 1997) for each particular resource type. An evaluation form shall be submitted to the CPUC, CWF, and the California Historical Resources Information Center. If the Professional Archaeologist determines that the resources are eligible for the California Register of Historical Resources, the Professional Archaeologist shall determine the appropriate action to be taken with preference given to preserving the resources in situ. If it is infeasible to be consistent with the objectives of the MSMP to leave the resources in place, the Professional Archaeologist shall conduct data recovery, if determined necessary to mitigate any significant project-related effects. If cultural resources are encountered during construction, Construction may resume once the Professional Archaeologist has determined (and implemented, if appropriate) an appropriate mode of action and has given the authorization to proceed.

Upon approval of this plan by the CPUC Mitigation Monitor, mitigation measures will be implemented prior to any project-related activities within 100 feet of the resource’s boundary.

*Monitoring Action:* The receiving parties shall submit documentation to the California Public Utilities Commission (CPUC) Mitigation Monitor of a commitment to participate in the CPUC proposed archaeological monitoring program.

*Responsibility:* CPUC

*Timing:* Amended language shall be inserted into the Conservation Easement and MSMP prior to the transfer of title. Upon approval of this plan by the CPUC Mitigation Monitor, mitigation measures will be implemented prior to any project-related activities within 100 feet of a newly discovered resource’s boundary.

### **Mitigation Measure V.1d**

Prior to the transfer of title, the Conservation Easement and MSMP shall be amended to include language requiring CWA to notify a qualified paleontologist of unanticipated paleontological discoveries, made by either the Professional Archaeologist or construction personnel responding to their environmental training classes, and document the discovery as needed. In the event of an unanticipated discovery of true or trace fossil remains during construction, excavations within a 100-foot radius of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. Significant fossils shall be salvaged through a program of excavation, analysis, and documentation. Fossil remains collected during the salvage program shall be cleaned, sorted, catalogued, and then deposited in a public, non-profit institution with research interests in the materials. The amended Conservation Easement and MSMP shall be submitted to the CPUC for review and approval prior to the transfer of title.

- Monitoring Action:* The receiving parties shall submit documentation to the California Public Utilities Commission (CPUC) Mitigation Monitor of a commitment to participate in the CPUC proposed archaeological monitoring program.
- Responsibility:* CPUC
- Timing:* Amended language shall be inserted into the Conservation Easement and MSMP prior to the transfer of title.

### **Mitigation Measure V.1e**

Prior to the transfer of title, the Conservation Easement and MSMP shall be amended to require CWA's contractors to immediately stop all work in the event human remains are found during the MSMP's activities within a 100-foot radius of the find. Following any such discovery, the Professional Archaeologist shall be notified immediately and will, in turn, immediately notify the Shasta County coroner, in compliance with Section 7050.5 of the California Health and Safety Code.

If the human remains are determined to be Native American in origin, the Shasta County coroner will notify the Native American Heritage Commission (NAHC) within 24 hours of the find. The most likely descendent shall be given an opportunity to make recommendations to the CWA and its contractors for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98. Where conditions A, B, and/or C under Section 15064.5 (e) (2) occur, the landowner or authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance. The amended Conservation Easement and MSMP shall be submitted to the CPUC for review and approval prior to the transfer of title.

- Monitoring Action:* The receiving parties shall submit documentation to the California Public Utilities Commission (CPUC) Mitigation Monitor of a

<i>Responsibility:</i>	commitment to participate in the CPUC proposed archaeological monitoring program.
<i>Timing:</i>	CPUC
	Amended language shall be inserted into the Conservation Easement and MSMP prior to the transfer of title.

**Mitigation Measure V.1f**

Prior to the transfer of title, the Conservation Easement and MSMP shall be amended to require CWA to provide the opportunity for a Native American monitor, if interested, to be present on-site during project-related vegetation clearance, ground disturbance and grading, site or project mobilization, site preparation or excavation activities, implementation of erosion control measures, or the movement or parking of heavy equipment or other vehicles onto or over the project surface, within 500 feet of the boundary of known prehistoric resources and within 500 feet of the locations of modern and historic streams.

The Native American monitor shall be a member of the Ahjumawi Band of the Pit River Tribe and will serve in addition to the Professional Archaeologist. Monitoring by the cultural group representative is required within 500 feet of such sites. The amended Conservation Easement and MSMP shall be submitted to the CPUC for review and approval prior to the transfer of title.

<i>Monitoring Action:</i>	The receiving parties shall submit documentation to the California Public Utilities Commission (CPUC) Mitigation Monitor of a commitment to participate in the CPUC proposed archaeological monitoring program.
<i>Responsibility:</i>	CPUC
<i>Timing:</i>	Amended language shall be inserted into the Conservation Easement and MSMP prior to the transfer of title. A Native American monitor shall be notified 10 days prior to any project-related activities within 500 feet of the boundary of known prehistoric resources and within 500 feet of the locations of modern and historic streams.

***Glenburn Dredge Site***

**Mitigation Measure V.2**

Prior to the transfer of title, the Conservation Easement shall be amended to include ~~the~~ a portion of the Glenburn Dredge Site property that is bounded by the fence required by this mitigation measure and the Fall River containing the newly discovered sensitive resource. The Conservation Easement shall include language requiring that the new owner establish permanent protection of sensitive resources. The amended Conservation Easement and MSMP shall be submitted to the CPUC for review and approval prior to the transfer of title. ~~The new~~ amended conservation easement including this portion of the Glenburn Dredge Site property shall restrict any uses of this ~~area of the site~~ portion of the parcel where the sensitive resource is present, except for the sole purpose of preserving the integrity of the sensitive resource. In addition, the Conservation Easement and MSMP shall be amended to include a requirement to reconfigure the existing fence layout at Glenburn to restrict access on and around sensitive resources. The re-establishment of public access at the southern portion of this parcel would remain feasible as

proposed under the terms of this mitigation measure. Ultimately, the land area encumbered by the Conservation Easement and reconfigured fence layout would be determined according to the resource map outlined in the Cultural Resource Report, on file with the CPUC.

The Conservation Easement and MSMP, as amended, shall provide that a four strand barbed-wire fence ~~be constructed effective~~ to serve as an effective barrier to human and livestock access ~~and~~ shall be constructed at a location 100 feet from the boundary of the sensitive site or along the property line where it is closer than 100 feet from the boundary of the sensitive site (but not along the river). Construction of the fence shall comply with the protocols specified in Mitigation Measures V.1a-V.1f. The Conservation Easement and MSMP shall further be amended to provide for regular inspection and maintenance of the fence to ensure that it continues to be a barrier to access.

*Monitoring Action:* The donating and receiving parties shall submit documentation to the California Public Utilities Commission (CPUC) Mitigation Monitor of a commitment to participate in the CPUC proposed archaeological monitoring program.

*Responsibility:* CPUC

*Timing:* Newly amended language contained in the Conservation Easement and MSMP prior to the transfer of title. Establishment of the reconfigured fencing layout prior to reintroducing public access to the Fall River at the Glenburn site.

## **DOCUMENTS AVAILABLE FOR REVIEW**

The Commission's proposed draft and final Mitigated Negative Declaration and Initial Study conducted on the PG&E divestiture application are available for review at the following locations:

Eastern Shasta County Library  
37038 Siskiyou Street  
Burney, CA 96031  
530-335-4317

Fall River Mills Main Library  
PO Box 176  
Fall River Mills, CA 96028  
530-336-6445

The full text of these documents will also be made directly available on the Internet at the following address: <http://www.pgedivest.com>; or by accessing the CPUC's website at the following address: <http://www.cpuc.ca.gov>. From the CPUC's home page click on the "Regulated Industries" link. Once there then click on the "Environmental" link and then click on the "Current Projects" link. You may then select this project from the list of projects presented on this "Current Projects" page.

## **PUBLIC REVIEW PERIOD**

This Negative Declaration and Initial Study underwent review process from October 30, 2001, to December 10, 2001. A total of eleven comments were received and are responded to in Chapter 5.0 of this document. Changes to the draft based on these comments are reflected throughout the document with strikeout and insert text underlined. Address any additional inquiries on this project to the following address:

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Sacramento, California 95826

The following document represents the Final Mitigated Negative Declaration for the proposed project. The final step in the CEQA process will occur when the CPUC holds a public hearing and adopts the Mitigate Negative Declaration, allowing for a subsequent decision on the applications.