

1 JAMES L. LOPES (No. 63678)
JEFFREY L. SCHAFER (No. 91404)
2 KENNETH A. NEALE (No. 126904)
HOWARD, RICE, NEMEROVSKI, CANADY,
3 FALK & RABKIN
A Professional Corporation
4 Three Embarcadero Center, 7th Floor
San Francisco, California 94111-4065
5 Telephone: 415/434-1600
Facsimile: 415/217-5910

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

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

12 In re

13 PACIFIC GAS and ELECTRIC
COMPANY, a California corporation,

14 Debtor.
15

Case No. 01-30923 DM

Chapter 11 Case

Date: July 28, 2003
Time: 1:30 p.m.
Place: 235 Pine Street, 22nd Floor
San Francisco, California
Judge: Hon. Dennis Montali

16
17
18
19
20 Federal I.D. No. 94-0742640
21
22

23 DECLARATION OF ROBERT C. DOSS IN SUPPORT OF DEBTOR'S
24 MOTION FOR AN ORDER AUTHORIZING COMPROMISE OF CLAIMS
25 OF DAIRY PROPERTY OWNER/OPERATORS
26
27
28

1 I, Robert C. Doss, declare as follows:

2 1. I am employed by Pacific Gas and Electric Company, the debtor and debtor
3 in possession in the above-captioned Chapter 11 case (the "Debtor" or "PG&E"), as its
4 Principal Engineer, Site Remediation. I have been involved with environmental remediation
5 matters with respect to PG&E's Hinkley Compressor Station located near Hinkley,
6 California (the "Station") for 15 years. The Declaration is based on my personal knowledge
7 of the Debtor's operations at the Station. If called as a witness, I could and would testify
8 competently to the facts stated herein.

9 2. I make the declaration in support of Debtor's Motion For An Order
10 Authorizing Compromise Of Claims Of Dairy Property Owner/Operators (the "Motion")
11 submitted by PG&E. The Motion seeks authority to consummate a Settlement Agreement
12 entered into by PG&E with certain private parties, a copy of which is attached hereto as
13 Exhibit A ("Settlement Agreement").

14 3. PG&E has owned and operated the Station for over 50 years. In its prior
15 operations at the Station, PG&E used a chromium-based product to reduce corrosion in its
16 cooling systems. Beginning in the 1980's, the Lahontan Regional Water Quality Control
17 Board ("LRWQCB") ordered PG&E to clean up and abate the effects of chromium in
18 groundwater at and in the vicinity of the Station. These LRWQC orders (as amended from
19 time to time, the "LRWQCB Orders") remain in effect to this day.

20 4. In response to the LRWQCB Orders, PG&E put in place two land treatment
21 units ("LTUs"). The LTUs served to remove chromium from the groundwater in the vicinity
22 of the Station and to prevent the further migration of contaminated groundwater to other
23 areas. In June of 2001, however, PG&E was ordered by the LRWQCB to cease operating
24 the LTUs due to the LRWQCB's concerns that the LTUs had the potential to contribute
25 chromium to nearby air.

26 5. Nick VanVliet and Paul Ryken (collectively, the "Operators") operate a
27 dairy farm located at 37501 Mountain View, Hinkley, California (the "Property"), which is
28 situated approximately 1.5 miles from the Station. The Property consists of approximately

1 150 acres of land containing various housing and farm-related structures and improvements.
2 The Property is owned by K&H VanVliet Children LLC (the "Owner") and is leased to the
3 Operators for use as a dairy farm.

4 6. At the time that PG&E filed its petition in this case, no chromium levels
5 above the drinking water standard had been detected in the groundwater at the Property.
6 PG&E believes that, as of the petition date, the LTUs were effective in containing the spread
7 of the chromium in the groundwater in the vicinity of the Station. In March 2002, however,
8 less than a year after PG&E was required to shut down the LTUs, chromium levels in excess
9 of 50 parts per billion, the California drinking water standard, were detected for the first time
10 at the Property.

11 7. After these chromium levels were discovered at the Property, the Owner
12 and Operators (collectively, the "Owner/Operators") ceased using the groundwater from
13 wells at the Property to irrigate their alfalfa fields and, in order to compensate the
14 Owner/Operators for the loss of alfalfa grown from the Property, PG&E agreed to purchase
15 alfalfa for the Operators to be used as feed for their dairy herd. In addition, the
16 Owner/Operators asserted certain claims against PG&E alleging that the dairy farm business
17 and the Property itself had been injured as a result of the contamination. Thereafter, PG&E
18 and the Owner/Operators entered into settlement discussions. PG&E's goals in such
19 discussions included not only resolving the Owner/Operators claims, but more importantly
20 from PG&E's perspective, obtaining control over the Property so that PG&E could construct
21 a groundwater treatment system and install groundwater extraction and monitoring wells
22 (collectively, the "Groundwater Treatment System") at the Property, thereby preventing the
23 further migration of the chromium in the groundwater towards third-party landowners and
24 operators that could be affected by such migration. PG&E has been advised by its
25 engineering consultants that the Property represents the optimum location for the
26 Groundwater Treatment System from the standpoint of preventing further migration of
27 chromium in groundwater.

28 8. After lengthy negotiations, PG&E and the Owner/Operators have agreed to

1 a settlement of the Owner/Operators' claims as described in detail in the Settlement
2 Agreement. The Settlement Agreement is conditioned upon the entry of a final order
3 granting this Motion. The basic terms of the settlement are as follows:

4 a. Cash Payment. PG&E would pay to the Owner/Operators a cash sum
5 of \$300,000 promptly following the Court's approval of this Motion ("Court Approval"). If
6 Court Approval is not obtained within 30 days of the execution of the Settlement
7 Agreement, PG&E would also pay the Owner/Operators interest on the \$300,000 at an
8 annual rate of 5%.

9 b. Purchase And Sale Of Real Property. PG&E would purchase fee title
10 to the Property from the Owner for the sum of \$3,700,000. PG&E would attempt to
11 purchase the Property through the exercise of its powers of condemnation, but if such
12 purchase could not be completed within a specified period of time, PG&E would purchase
13 the Property directly from the Owner in a private transaction. PG&E would purchase the
14 Property "AS IS" without any representations or warranties from the Owner. As part of the
15 purchase, the Owner would convey to PG&E 576 acre-feet of water rights. If Court
16 Approval is not obtained within 30 days of the execution of the Settlement Agreement,
17 PG&E would also pay the Owner/Operators interest on the \$3,700,000 at an annual rate of
18 5%.

19 c. Lease. PG&E and the Operators (or an affiliated entity) would enter
20 into a lease for the Property (the "Lease") pursuant to which PG&E would lease back the
21 Property to the Operators (or an affiliated entity) rent-free for a period of nine years
22 commencing on the date that PG&E purchases the Property from the Owner.¹ The
23 Operators would be responsible for maintaining and repairing the Property and paying all
24 utilities. Under the Lease, PG&E would retain a license to undertake and perform on the

25
26 ¹Effective as of January 1, 2003, PG&E would no longer be required to provide the
27 Operators with alfalfa or pay out-of-pocket expenses for manure disposal, both of which
28 PG&E has been paying until additional water for these needs can be arranged, the cost of
which is roughly equivalent to the rental that the Operators are now paying the Owner for
the Property.

Property all actions and activities necessary to remediate the groundwater underlying the Property in accordance with the LRWQCB's requirements, which would include the right to (i) construct and install the Groundwater Treatment System; (ii) obtain samples of soil and vegetation from the Property in conjunction with the monitoring of the treatment system; (iii) use water rights to perform extraction and treatment of groundwater; and (iv) carry out tasks necessary to comply with LRWQCB orders or directives.

d. Option To Purchase. Under the Lease, PG&E would grant the Operators (or an affiliated entity) the option to purchase the Property (the "Option") at any time prior to the expiration of the Lease for a purchase price of \$2 million and otherwise substantially in accordance with the form of purchase and sale agreement attached to the Lease. If the Operators exercise the Option, the Lease provides that the Operators would grant to PG&E an easement in the form attached to the Settlement Agreement which would permit PG&E to (i) continue to operate the Groundwater Treatment System on the Property, (ii) obtain samples of soil and vegetation from the Property in conjunction with the monitoring of the treatment system; (iii) use water rights to perform extraction and treatment of groundwater; and (iv) carry out tasks necessary to comply with LRWQCB orders or directives. The easement would continue until the LRWQCB issues a "no further action" letter to PG&E or makes a similar finding or determination that PG&E is not required to conduct further remediation activities concerning the remediation of chromium near the Property or the Station.

e. Release. Under the Settlement Agreement, the Operators would release PG&E from all claims for injury to the business or operations of the dairy operations at the Property, provided that the release would not cover (i) personal injury claims, (ii) claims for business interruption or business injury which caused the dairy operations at the Property to cease or substantially restrict operations in the future due to the presence of chromium, (iii) claims relating to the operation of the Groundwater Treatment System at the Property, and (iv) claims for contribution and indemnity for claims against the Operators by any individual or entity arising from the presence of chromium in the groundwater at or near

1 the Station or the Property. The Owner would release PG&E from all claims for injury to
2 the Owner's business, real property, personal property or goodwill, provided that the release
3 would not cover (x) personal injury claims, and (y) claims for contribution and indemnity for
4 claims against the Owner by any individual or entity arising from the presence of chromium
5 in the groundwater at or near the Station or the Property.

6 9. For the reasons specified in the Motion, I believe that the settlement of this
7 matter pursuant to the Settlement Agreement is fair and equitable and in the best interest of
8 PG&E and the estate.

9 I declare under penalty of perjury under the laws of the United States of America
10 and the State of California that the foregoing is true and correct. Executed this 23rd day of
11 June, 2003, at San Francisco, California.

12
13 

14 ROBERT C. DOSS
15
16
17
18
19
20
21
22
23
24
25
26
27
28

HOWARD
RICE
NEMEROWSKI
CANADY
FALK
& RABKIN
A Professional Corporation

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and General Release ("Agreement") is entered into effective as of May __, 2003.

1.0 PARTIES

1.1 The parties to this Agreement are Pacific Gas and Electric Company "PG&E" as defined below) and the Owners (K&H VanVliet Children LLC) and Operators (Nick VanVliet and Paul Ryken) of the Desert View Dairy in Hinkley, California.

2.0 RECITALS

2.1 The Owners and Operators allege that their business and property have been injured, directly or indirectly, as a result of chromium historically used for water treatment in operations at PG&E's Compressor Station in Hinkley, California (the "Hinkley Compressor Station"). PG&E denies these allegations.

2.2 PG&E has been ordered by the Lahontan Regional Water Quality Control Board (LRWQCB) to clean up and abate the effects of chromium in groundwater at and in the vicinity of the Hinkley Compressor Station.

2.3 PG&E desires to purchase the Desert View Dairy in order to construct a groundwater treatment system and groundwater extraction and monitoring wells on the Desert View Dairy (individually and collectively referred to as the "Groundwater Treatment System").

3.0 PURPOSE OF AGREEMENT

3.1 The parties to this Agreement desire to release and settle the claims described herein.

3.2 This Agreement is entered into solely for the purpose of settling disputed claims and to avoid the expense and uncertainties of litigation. It does not constitute an admission on the part of any party of any allegation or of any liability or wrongdoing of any kind.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter expressed, the parties agree as follows:

4.0 RELEASES

4.1 The Operators, individually and on behalf of their respective agents, affiliates, successors, assigns and heirs, for and in consideration of the covenants set forth herein, hereby release and forever discharge PG&E and its past, present and future affiliates, subsidiaries, parents, predecessors in interest, related entities, successors, assigns, agents, servants, representatives, employees, officers, directors, partners, attorneys and insurers (individually and collectively "PG&E") from any and all claims, demands, obligations, actions,

causes of action, damages, costs, and expenses for any claimed injury to the business or operations of the Desert View Dairy, including the income, profits, assets, real property, personal property, fixtures and water rights associated with the Desert View Dairy of any nature whatsoever, whether or not accrued or hereafter accrued (the "Claims") except as set forth in 4.1(i)-(iv). Without limiting the generality of the foregoing, this release includes any and all Claims for injury to the business, operations, property, income or profits of the Desert View Dairy that arise out of, or are related to, or in any manner connected with the presence of chromium in any chemical state in the air, soil, surface water or groundwater at or near the Hinkley Compressor Station or the Desert View Dairy. This release is intended to and does cover all Claims described above, whether asserted or unasserted, foreseen or unforeseen, contingent or absolute, known or unknown, anticipated or unanticipated. PG&E expressly acknowledges that this release does not cover: (i) claims for personal injury, (ii) claims for business interruption or business injury which causes the Desert View Dairy to cease or substantially restrict operations, on a temporary or permanent basis in the future (such as the loss of a market for milk sales from the Desert View Dairy) related to the presence of chromium in any chemical state, (iii) claims for damages or injuries related to the operation of the Groundwater Treatment System, or (iv) claims for contribution and indemnity for claims against the Operators by any individual or entity that arise out of, or are related to, or in any manner connected with the presence of chromium in any chemical state in air, soil, surface water or groundwater at or near the Hinkley Compressor Station or the Desert View Dairy.

4.2 The Owners, individually and on behalf of their respective agents, affiliates, successors, assigns and heirs, for and in consideration of the covenants set forth herein, hereby release and forever discharge PG&E and its past, present and future affiliates, subsidiaries, parents, predecessors in interest, related entities, successors, assigns, agents, servants, representatives, employees, officers, directors, partners, attorneys and insurers (individually and collectively "PG&E"), from any and all claims, demands, obligations, actions, causes of action, damages, costs, and expenses for any claimed injury to their business, their real property or their personal property or good will, including any claimed injury to the business or operations of the Desert View Dairy, including the income, profits, assets, real property, personal property, fixtures and water rights associated with or derived from the Desert View Dairy of any nature whatsoever, whether or not accrued or hereafter accrued (the "Claims"). Without limiting the generality of the foregoing, this release includes any and all Claims for injury to the business, operations, property, income or profits of the Desert View Dairy that arise out of, or are related to, or in any manner connected with the presence of chromium in any chemical state in the air, soil, surface water or groundwater at or near the Hinkley Compressor Station or the Desert View Dairy. This release is intended to and does cover all Claims described above, whether asserted or unasserted, foreseen or unforeseen, contingent or absolute, known or unknown, anticipated or unanticipated. PG&E expressly acknowledges that this release does not cover claims for (i) personal injury or (ii) contribution and indemnity for claims against the Owners by any individual or entity that arise out of, or are related to, or in any manner connected with the presence of chromium in any chemical state in air, soil, surface water or groundwater at or near the Hinkley Compressor Station or the Desert View Dairy.

4.3 Although the Groundwater Treatment System constructed and operated by PG&E is expected to remove nitrates from the treated water and expected to reduce the level of nitrates in groundwater at and near the Desert View Dairy, PG&E will not seek to recover, and

hereby releases, the Owners and the Operators from any claims by PG&E for the costs of construction, maintenance or operation of the Groundwater Treatment System. .

5.0 COMPENSATION

5.1 In consideration of the release provided herein, and all other provisions of this Settlement Agreement and Release, PG&E shall pay to the Operators a total of Three Hundred Thousand Dollars (\$300,000, to be shared \$200,000 to Paul Ryken and \$100,000 to Nick VanVliet) on the terms and in the manner specified herein. The payment shall be tendered by PG&E to the Operators through their counsel within 30 days of execution of this Settlement Agreement by separate checks made payable to Paul Ryken and Nick VanVliet, provided that this Settlement Agreement is approved by the United States Bankruptcy Court for the Northern District of California, San Francisco Division, prior to any payment to the Operators. If Bankruptcy Court approval of this Settlement Agreement is not obtained within thirty (30) days of execution of this Settlement Agreement, the payments to the Operators described in this paragraph shall include an added interest payment of five percent (5%) per year for the time period thirty (30) days after the execution of the Settlement Agreement until the date of the payments.

5.2 In consideration of the release provided herein, and all other provisions of this Settlement Agreement and Release, including the conveyance of legal title to the Desert View Dairy property (as described in Exhibit A) to PG&E, PG&E shall pay to the Owners a total of Three Million Seven Hundred Thousand Dollars (\$3,700,000) on the terms and in the manner specified herein, provided that this Settlement Agreement is approved by the United States Bankruptcy Court for the Northern District of California, San Francisco Division, prior to any payment to the Owners. If Bankruptcy Court approval of this Settlement Agreement is not obtained within thirty (30) days of the execution of this Settlement Agreement, the payments to the Owners described in this paragraph shall include an added interest payment of five percent (5%) per year for the time period from thirty (30) days after the execution of the Settlement Agreement until the date of the payments. The payment by PG&E to the Owners upon conveyance of the Desert View Dairy by condemnation or otherwise shall be tendered to the Owners through their counsel by check made payable to K&H VanVliet Children LLC, or by payment for condemnation of the Desert View Dairy property through a court of appropriate jurisdiction, whichever is applicable pursuant to the provisions of Sections 6.1 to 6.4 of this Agreement.

5.3 Each party shall bear its own costs and fees in connection with the negotiation of this Agreement, the resolution of this dispute and all documentation necessary to effectuate this Agreement.

5.4 As of January 1, 2003, PG&E will no longer compensate Operators for out-of-pocket expenses for alfalfa purchase, manure disposal or any other expenses for Desert View Dairy operations, excepting only those payments to Operators for expenses associated with importing water from the nearby wells set forth in Section 8.2, provided that PG&E has acquired the Desert View Dairy and entered into a lease with the Operators by June 30, 2003. In the event that PG&E has not acquired the Desert View Dairy and signed a lease with the Operators by June 30, 2003, PG&E shall reimburse the Operators any additional costs incurred for alfalfa

purchases or manure disposal because of the presence of chromium from July 1, 2003 until a lease conforming substantially to Exhibit E has been signed by PG&E and the Operators.

6.0 CONDEMNATION (OR PURCHASE) OF THE DESERT VIEW DAIRY

6.1 The parties agree that PG&E will attempt to purchase the Desert View Dairy by exercising its powers of condemnation to purchase the Dairy for \$3.7 million. PG&E will file a Complaint seeking condemnation of the Desert View Dairy in essentially the form attached hereto as Exhibit B. PG&E and the Owners will file a Stipulated Judgment on the Complaint condemning the Desert View Dairy to PG&E in essentially the form attached hereto as Exhibit C. Owners understand that PG&E will file a Notice of Lis Pendens concerning the Desert View Dairy property in essentially the form attached as Exhibit D.

6.2 If for any reason the purchase of the Desert View Dairy cannot be completed by condemnation by September 30, 2003, PG&E will proceed to purchase the Desert View Dairy by paying Three Million Seven Hundred Thousand (\$3,700,000) by September 30, 2003, to the Owners for the purchase of the Desert View Dairy and the Release described herein unless the Owners agree in writing to an extension of the September 30, 2003, date for completion of condemnation proceedings. Any extension by the Owners shall not require PG&E to pay any additional costs for alfalfa or manure disposal pursuant to paragraph 5.4 above. All other terms of this Settlement Agreement and Release, including the Future Cooperation provisions of Section 12 below, shall remain in full force and effect through any extension by the Owners or any purchase not completed by condemnation. In consideration of the payment of \$3,700,000 for the purchase of the Desert View Dairy, PG&E shall receive at closing: (i) a grant deed from the Owners conveying fee simple title to the real property, together with all buildings and other improvements located thereon, all water rights, all mineral, oil, gas and other hydrocarbon substances, all easements, rights, and privileges appurtenant to the real property, and (ii) an ALTA policy of title insurance from a title insurer of PG&E's selection (including such endorsements as PG&E shall require) in the amount of \$3,700,000 showing title vested in PG&E, subject only to current real property taxes and assessments not yet delinquent and utility easements existing on the date hereof. The cost of such title insurance, the cost of recording the grant deed, and all real property taxes shall be paid by PG&E.

6.3 PG&E agrees that 80 acre feet per year of water rights have been, or will be, transferred to the property owned by the Owners and operated by the Operators, and located at 37193 Hinkley Road, in Hinkley, California (the "heifer ranch property"), and the Desert View Dairy will retain approximately 576 acre feet of water rights that will be conveyed to PG&E as part of the purchase or condemnation of the Desert View Dairy property.

6.4 Owners hereby specifically disclaim any warranty, guaranty or representation, oral or written, past, present or future, of, as to or concerning the nature and condition of the Desert View Dairy property, including, but not by way of limitation, the water, soil, geology, environmental conditions (including the presence or absence of any Hazardous Materials (defined below)), and the suitability thereof for any and all activities and uses which PG&E may elect to conduct thereon. The sale or condemnation of the Property, as provided for herein, is made on an "AS IS" basis, and PG&E expressly acknowledges that OWNERS MAKE NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY

OPERATION OF LAW, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OF CONDITION, HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY. The term "Hazardous Materials" shall mean any substance: (i) the presence of which requires investigation or remediation under any federal, state or local statute, regulation, ordinance, order, action, policy or common law including, but not limited to chromium and nitrates; (ii) which is or becomes defined as a "hazardous waste," "hazardous substance," pollutant or contaminant under any federal, state or local statute, regulation, ordinance, rule, directive or order, or any amendments thereto including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601, et seq.) and/or the Resource Conservation and Recovery Act (42 U.S.C. Section 6901, et seq.); (iii) which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous, and is or becomes regulated by any governmental authority, agency, department, commission, board, or instrumentality of the United States, the State of California or any political subdivision thereof; (iv) which contains gasoline, diesel fuel or other petroleum hydrocarbons; (v) which contains polychlorinated biphenyls (PCBs), asbestos or urea formaldehyde foam insulation ; (vi) radon gas; or (vii) fungi or bacteria which reproduces through the release of spores or the splitting of cells, including, without limitation, mold, mildew and viruses, whether or not living.

7.0 LEASE OF THE DESERT VIEW DAIRY

7.1 PG&E agrees to lease the Desert View Dairy to the Operators rent free for a period of nine years on the terms described in Exhibit E hereto, beginning on the date of purchase of the Desert View Dairy pursuant to this Agreement and continuing for nine years thereafter.

7.2 As described in Exhibit E hereto, the Operators will have the option to purchase the Desert View Dairy and accompanying water rights from PG&E at any time from June 30, 2003 through the end of the lease term provided in paragraph 7.1 of this Agreement, for a purchase price of \$2.0 million.

7.3 Operators will comply with all provisions of the lease attached as Exhibit E (the "Lease"), including but not limited to the requirements that Operators comply with all laws, maintain the condition of the premises, maintain and repair the leased premises, and indemnify PG&E as provided in the Lease. Provided further that Operators on the last day of the term of the Lease, or on sooner termination in accordance with the terms of the Lease, will surrender the Desert View Dairy Property and all fixtures, improvements and structures attached thereto to PG&E in the same order and condition as when received on October 1, 1994, excepting ordinary wear and tear, damage by the elements, the removal of new fixtures, improvements and structures installed after October 1, 1994, and any changes made by PG&E or any condition related to chromium contamination in the groundwater beneath the Desert View Dairy, as provided in Exhibit E.

7.4 If Operators exercise their option to purchase the Desert View Dairy from PG&E, Operators will grant to PG&E a license or easement to run with the land in substantially the form attached hereto as Exhibit F, and permitting PG&E and its successors or affiliates to: (1) operate, maintain and modify the Groundwater Treatment System on the property of the

Desert View Dairy; (2) site, construct, install, operate and maintain the monitoring and extraction wells necessary to carry out the remediation of chromium near the Desert View Dairy and the Hinkley Compressor Station; (3) obtain samples of soil and vegetation from the property of the Desert View Dairy in conjunction with the monitoring of remediation system performance; (4) use those water rights retained by the Desert View Dairy to perform extraction and treatment of groundwater, and (5) carry out all other tasks required by the LRWQCB or necessary to comply with LRWQCB orders or directives. PG&E's license and easement for the Desert View Dairy described in this paragraph shall continue until the LRWQCB issues a "no further action" letter to PG&E, or makes a similar finding or determination that PG&E is not required under law to conduct further remediation activities, concerning the remediation of chromium near the Desert View Dairy and the Hinkley Compressor Station. Upon issuance of a "no further action" letter or the making of the finding described above by the LRWQCB, PG&E shall within six months close or abandon all monitoring wells, remove the Groundwater Treatment System and remove all associated equipment (except irrigation equipment) and restore that portion of the property associated with the Groundwater Treatment System to its prior condition as reasonably necessary for Dairy operations, unless Operators request transfer of all or a portion of the Groundwater Treatment System and associated equipment to the Operators. In the event that the Operators request and PG&E in its sole discretion agrees to transfer any or all ownership of the Groundwater Treatment System and associated equipment, PG&E shall make such transfer at no charge to Operators, AS IS and without warranty, express or implied concerning the condition, merchantability or fitness for any purpose Operators intend. Upon such transfer, PG&E shall be released from the obligation to remove those portions of the Groundwater Treatment System and associated equipment transferred to the Operators and from any claims or causes of action arising out of the operation or presence of the Groundwater Treatment System after the date that ownership of the Groundwater System is transferred to the Operators.

8.0 WATER SUPPLY

8.1 PG&E will construct on the Desert View Dairy property the Groundwater Treatment System to effect the remediation of chromium in groundwater at and near the Desert View Dairy and the Hinkley Compressor Station, contingent upon the granting of the necessary permits and approvals for such construction by the applicable government agencies. PG&E will provide the Operators, and Operators will accept, the treated water from the Groundwater Treatment System at the rate of up to 300 gallons per minute. At all times, treated water from the Groundwater Treatment System shall comply with all applicable drinking water standards for chromium or hexavalent chromium; provided, however, that Operators agree that they shall use all treated water for non-drinking uses only. PG&E understands that approximately 150 gallons per minute of the water supplied from the treatment plant will be used for Dairy Operations (e.g., including washing cows, cleaning barns and equipment, manure treatment and disposal). Operators understand that the additional approximately 150 gallons per minute of water supplied from the Treatment Plant will be used by PG&E or Operators for irrigation or other non-potable use at the Desert View Dairy in any manner approved by the LRWQCB. PG&E's obligation to supply water described in this Paragraph shall terminate upon the earlier of (a) the water supply wells at the Desert View Dairy contain less than background concentrations of total chromium and hexavalent chromium as determined by the LRWQCB for four consecutive quarters of sampling data; or (b) the LRWQCB issues a "no further action letter" to PG&E, or makes a similar finding or determination that PG&E is not required under law to conduct further

remediation activities, concerning the remediation of chromium near the Desert View Dairy and the Hinkley Compressor Station. Neither PG&E's license nor easement authorizing the construction and operation of the Groundwater Treatment system are intended to authorize the disposal of chromium sludge generated by the Groundwater Treatment System on the Desert View Dairy.

8.2 In the event that PG&E is not able to provide treated water to the Operators from the Treatment Plant for use at the Desert View Dairy by December 31, 2003, PG&E will secure water for the Operators, at a volume and quality similar to that provided by PG&E during 2003, from the Gorman wells, or otherwise, at PG&E's expense. In the event that PG&E is unable to provide a minimum of 150 gallons per minute of treated water from the Groundwater Treatment System at any time after December 31, 2003, PG&E shall provide to the Operators 150 gallons per minute of water for Dairy operations, and other non-drinking water uses, at PG&E's sole cost.

9.0 INDEMNIFICATION BY PG&E

9.1 PG&E will indemnify and hold Owners and Operators harmless from all claims by any third party for liability arising from the contamination of the Desert View Dairy with chromium for (a) investigation or remediation of chromium contamination at the Desert View Dairy or the surrounding area specifically including, but not limited to, that property located north and northwest of the intersection of Fairview Road and Highway 58 in Hinkley, California, and designated as Assessor's Parcel Number 0494-221-51 (the "Highway 58 Ranch"); and/or (b) personal injury or property damage allegedly caused by exposure to chromium at the Desert View Dairy or the surrounding area specifically including but not limited to the Highway 58 Ranch.

9.2 PG&E will indemnify and hold Owners and Operators harmless from any claims by any person, entity or government agency related to, or arising out of, the operation of the Groundwater Treatment System.

10.0 INDEMNIFICATION BY OWNERS & OPERATORS

10.1 The Operators will defend, indemnify and hold PG&E harmless from any claims by any person, entity or government agency alleging that the operations of Desert View Dairy violate any applicable statute, regulation, permit, order or similar requirement concerning operation of the Desert View Dairy and will pay all fees and assessments concerning the operations of the Desert View Dairy, except for real estate taxes and assessments on the Property which shall be the sole responsibility of PG&E.

10.2 The Owners and Operators have not previously assigned, conveyed or transferred to any person or entity any of the Claims settled in Paragraphs 4.1 or 4.2 of this Agreement. The Owners and Operators will defend, indemnify and hold PG&E harmless from any liability, claims, demands, damages, costs, expenses, and reasonable attorneys' fees incurred by PG&E as a result of any person asserting any such assignment or transfer.

10.3 The Owners represent and warrant that they have legal title to the Desert View Dairy as described in Exhibit A. The Owners and Operators have not previously assigned,

conveyed or transferred to any person or entity any ownership interest in the Desert View Dairy. The Owners and Operators will defend, indemnify and hold PG&E harmless from any liability, claims, demands, damages, costs, expenses, and attorneys' fees incurred by PG&E as a result of any person asserting any such an ownership interest in the Desert View Dairy.

11.0 FUTURE COOPERATION

11.1 The Owners and Operators are aware that PG&E is conducting investigation and remediation of chromium in groundwater at and near the Desert View Dairy and the Hinkley Compressor Station, at the direction of the LRWQCB. The Owners and Operators agree that they will cooperate with PG&E concerning the future investigation and remediation of chromium in the vicinity of the Desert View Dairy. This cooperation will include, but is not limited to:

(a) Allowing PG&E reasonable access for investigation of the condition of soil and groundwater at the Desert View Dairy until PG&E takes legal title to the Desert View Dairy;

(b) Executing the necessary permit applications or other documents concerning the construction, operation or maintenance of the Groundwater Treatment System at the Desert View Dairy;

(c) Allowing PG&E access to initiate construction of the Groundwater Treatment System as soon as applicable permits have been obtained, even if condemnation of the Desert View Dairy property or transfer of legal title to the Desert View Dairy property have not been completed at that time,

(d) Allowing PG&E access to install, maintain and operate the Groundwater Treatment System, monitoring wells and extraction wells on the Desert View Dairy; and

(e) Granting PG&E a license and easement as described in Paragraph 7.4 above.

11.2 PG&E will continue to sample wells for nitrate on a periodic basis as requested by the LRWQCB and will report the results of that sampling to the Operators until the LRWQCB issues a "no further action" letter to PG&E, or makes a similar finding or determination that PG&E is not required under law to conduct further remediation activities concerning chromium near the Desert View Dairy and the Hinkley Compressor Station. The Operators will be responsible for reporting all such nitrate sampling data to the LRWQCB.

11.3 During the term of the Lease, PG&E will continue to make available to the Operators the results of soil sampling, groundwater sampling, Groundwater Treatment System sampling and similar activities by providing to Operators copies of the results submitted to the LRWQCB within a reasonable time after submission of the data to the LRWQCB.

11.4 Each party hereto agrees to execute any and all supplementary documents and take all actions that may be necessary or appropriate to give full force and effect to the terms

and intent of this Agreement. Since the purpose of this Agreement is to compromise and settle all Claims, the undersigned agree, covenant and warrant that should there be any errors or mistakes, whether legal or factual, and whether mutual or unilateral, the parties will execute any and all instruments, and do any and all other things, necessary to effectuate a full, final and complete settlement and to convey proper legal title to the Desert View Dairy property to PG&E.

12.0 GENERAL PROVISIONS

12.1 Each party acknowledges that they have been represented by counsel in the negotiation of this Agreement, and that this Agreement is the result of arms-length negotiation between and among the parties and their counsel. Each party hereto has reviewed the terms and conditions of this Agreement, and has relied on the advice of attorneys as to the meaning and appropriateness of its terms and conditions; therefore each party hereto agrees that the usual rule that the provisions of a document are to be construed against the drafter does not apply to the interpretation of this Agreement.

12.2 This Agreement, and the Exhibits hereto, constitute a single, integrated, written contract expressing the entire agreement between the parties. No other statements, representations or promises, written or oral, express or implied, have been made. All prior discussions and negotiations between the parties have been and are merged and integrated into, and are superseded by this Agreement, with the exception of the Water Supply Settlement Agreement between PG&E and the Operators, dated January 10, 2003, which shall remain in effect.

12.3 All questions with respect to construction of this Agreement and the rights and liabilities of the parties hereto shall be resolved in accordance with the laws of the State of California. The headings in this Agreement are for convenience only, are not part of this Agreement, and shall not in any way affect interpretation of this Agreement.

12.4 The Owners and Operators shall be solely and entirely responsible for all income taxes or other taxes, if any, that may be assessed, levied or otherwise charged against any portion of the Settlement Proceeds.

12.5 Each signatory to this Agreement has full capacity, standing and authority to enter into this Agreement, and to sign any such other papers as may be necessary to supplement or effectuate the provisions of this Agreement.

12.6 This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement. This Agreement may not be amended except by a writing that is signed by the parties hereto.

12.7 Should any judicial authority invalidate any provision of this Agreement or the application of this Agreement to any party or circumstance, the Agreement shall remain in force and shall not be affected thereby, unless such holding materially changes the terms of the Agreement.

12.8 This Agreement shall not be subject to attack on the ground that any or all of the legal theories or factual assumptions used for negotiating purposes are or were for any reason inaccurate or inappropriate.

13.0 BANKRUPTCY COURT APPROVAL

13.1 PG&E is currently a debtor in possession in a Chapter 11 reorganization case pending in the United States Bankruptcy Court for the Northern District of California, San Francisco Division. Therefore, this Settlement Agreement requires Bankruptcy Court approval. PG&E will use its best efforts to receive Bankruptcy Court approval as soon as possible. If the Bankruptcy Court does not approve this Settlement Agreement, the parties will negotiate in good faith to attempt to reach a new or modified settlement agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

DATED: 5-7-03, 2003

Pacific Gas and Electric Company

By: Michael A. Katz
Michael A. Katz
Its: Vice President – California Gas Transmission

DATED: _____, 2003

Owners
K&H Van Vliet Children LLC

By: _____
Its: _____

DATED: _____, 2003

Operators

Nick Van Vliet

Paul Ryken

12.8 This Agreement shall not be subject to attack on the ground that any or all of the legal theories or factual assumptions used for negotiating purposes are or were for any reason inaccurate or inappropriate.

13.0 BANKRUPTCY COURT APPROVAL

13.1 PG&E is currently a debtor in possession in a Chapter 11 reorganization case pending in the United States Bankruptcy Court for the Northern District of California, San Francisco Division. Therefore, this Settlement Agreement requires Bankruptcy Court approval. PG&E will use its best efforts to receive Bankruptcy Court approval as soon as possible. If the Bankruptcy Court does not approve this Settlement Agreement, the parties will negotiate in good faith to attempt to reach a new or modified settlement agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

DATED: 5-7-03, 2003

Pacific Gas and Electric Company

By: Michael A. Katz

Michael A. Katz

Its: Vice President - California Gas Transmission

DATED: _____, 2003

Owners

K&H Van Vliet Children LLC

By: _____

Its: _____

DATED: 5-16, 2003

Operators

Nick Van Vliet

Nick Van Vliet

Paul Ryken

12.8 This Agreement shall not be subject to attack on the ground that any or all of the legal theories or factual assumptions used for negotiating purposes are or were for any reason inaccurate or inappropriate.

13.0 BANKRUPTCY COURT APPROVAL

13.1 PG&E is currently a debtor in possession in a Chapter 11 reorganization case pending in the United States Bankruptcy Court for the Northern District of California, San Francisco Division. Therefore, this Settlement Agreement requires Bankruptcy Court approval. PG&E will use its best efforts to receive Bankruptcy Court approval as soon as possible. If the Bankruptcy Court does not approve this Settlement Agreement, the parties will negotiate in good faith to attempt to reach a new or modified settlement agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

DATED: 5-7-03, 2003

Pacific Gas and Electric Company

By: Michael A. Katz
Michael A. Katz
Its: Vice President - California Gas Transmission

DATED: _____, 2003

Owners
K&H Van Vliet Children LLC

By: _____
Its: _____

DATED: 5-17-03, 2003

Operators

Nick Van Vliet
Paul Ryken
Paul Ryken

supplement or effectuate the provisions of this Agreement.

12.6 This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement. This Agreement may not be amended except by a writing that is signed by the parties hereto.

12.7 Should any judicial authority invalidate any provision of this Agreement or the application of this Agreement to any party or circumstance, the Agreement shall remain in force and shall not be affected thereby, unless such holding materially changes the terms of the Agreement.

12.8 This Agreement shall not be subject to attack on the ground that any or all of the legal theories or factual assumptions used for negotiating purposes are or were for any reason inaccurate or inappropriate.

13.0 BANKRUPTCY COURT APPROVAL

13.1 PG&E is currently a debtor in possession in a Chapter 11 reorganization case pending in the United States Bankruptcy Court for the Northern District of California, San Francisco Division. Therefore, this Settlement Agreement requires Bankruptcy Court approval. PG&E will use its best efforts to receive Bankruptcy Court approval as soon as possible. If the Bankruptcy Court does not approve this Settlement Agreement, the parties will negotiate in good faith to attempt to reach a new or modified settlement agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

DATED: _____, 2003

Pacific Gas and Electric Company

By:

Michael A. Katz

Its: Vice President - California Gas Transmission

DATED: 5/16/, 2003

K&H Van Vliet Children LLC

Owners

K & H Van Vliet Children LLC

By:

Nellie Rios

Its:

DATED: _____, 2003

Operators

Nick Van Vliet

Paul Ryken

SD381473.7

Exhibits are not attached to the service copies of the Settlement Agreement. You may obtain copies of the exhibits in one of the following ways: through the "Pacific Gas & Electric Company Chapter 11 Case" link accessible through the Bankruptcy Court's website (www.canb.uscourts.gov), or by written request to Howard, Rice, Nemerovski, Canady, Falk & Rabkin, Attn: Nathaniel H. Hunt, Three Embarcadero Center, 7th Floor, San Francisco, California 94111-4024.