# **EXHIBIT A**

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1 2 3 4 5 6 7 8	ALTO LITIGATION, PC Ellen London (Bar No. 325580) ellen@altolit.com Bess Ibtisam Hanish (Bar No. 325938) bess@altolit.com 4 Embarcadero Center, Suite 1400 San Francisco, CA 94111 Telephone: (415) 779-2586 Facsimile: (415) 306-8744  THE STOUT FIRM, P.C. Thomas D. Stout (Bar No. 241348) tstout@stoutfirm.com 317 Washington Street, Suite 170 Oakland, CA 94607 Telephone: (415) 862-8485									
9	Facsimile: (415) 862-8487									
10 11	Attorneys for Interested Party CN UTILITY CONSULTING, INC.									
12	UNITED STATE	S DISTRICT COURT								
13	FOR THE NORTHERN DISTRICT OF CALIFORNIA									
14	SAN FRANC	CISCO DIVISION								
15	UNITED STATES OF AMERICA,	No. CR 14-00175-WHA								
16	Plaintiff,	DECLARATION OF								
17	v.	IN RESPONSE TO THE COURT'S FEBRUARY 5, 2021 ORDER								
18	PACIFIC GAS AND ELECTRIC COMPANY,									
19 20	Defendant.									
21	I, declare as follow	s:								
22	1. I am currently a forester with Clear Path Utility Solutions LLC, a company based in									
23	Auburn, California. I am an independent contractor.									
24	2. I have reviewed the Court's order in this matter, dated February 5, 2021, Docket									
25	No. 1297.									
26	3. I have reviewed the photograph	at Docket No. 1250-4 and page 11 of the Court's								
27	order dated December 29, 2020, in which the Court specifically identifies a gray pine (the "Gray									
28	Pine") shown at Docket No. 1250-4.									

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28 DECLARATION OF

- 4. Based on having reviewed the photograph and description described in the order, I believe I understand to which tree the Court is referring in the February 5, 2021 Order.
  - 5. I submit this declaration in response to the Court's February 5, 2021 Order.

#### I. POSITION AND EMPLOYER

- 6. Between approximately August 2014 and November 2018, I was employed by CN Utility Consulting, Inc. ("CNUC"). I began as a Consulting Utility Forester ("CUF") II. In October 2018, I was promoted to Lead Field CUF.
- At the time I worked for CNUC, CNUC provided vegetation management 7. contracting services to Pacific Gas and Electric Company ("PG&E").

#### II. QUALIFICATIONS AND LICENSE<sup>1</sup>

- 8. I received an Associate Degree in forestry in 1998.
- 9. In late 2016 or early 2017, I was certified as an Arborist by the International Society of Arboriculture ("ISA"). To be eligible for ISA certification, an applicant must have at least three years of full-time, eligible, practical work experience in arboriculture or a degree in the field of arboriculture, horticulture, landscape architecture, or forestry, and pass a rigorous examination.
- 10. After receiving my forestry degree in 1998, I spent six months in each of the next three years evaluating forests for the U.S. Forest Service.
- From 2007-2014, I worked for the Western Shasta Resource Conservation District. 11. While working there, I was responsible for cutting fuel breaks, creating defensible space, and removing tree hazards. I also worked on conservation projects such as erosion control and streambed restoration. I became familiar with Zogg Mine Road during this employment, as I was responsible for creating a large fuel break along Zogg Mine Road.
- 12. I began working for CNUC in August 2014. When I began working there, I received training in the field, including along Route 50 of the Girvan Circuit and Zogg Mine Road.

<sup>&</sup>lt;sup>1</sup> This is not a comprehensive list of all my work experience; I have only included work experience relevant to vegetation management.

1	13. When I began working for CNUC, I also was given a binder containing PG&E							
2	vegetation management policies and procedures, as well as other company procedures, that I							
3	reviewed and have kept with me at all times while performing pre-inspection work.							
4	14. I am familiar with the requirements of General Order 95 and Rule 35, as well as the							
5	Public Resource Code Section 4293 Power Line Fire Prevention Field Guide. I received both							
6	initial and recurring training on these standards throughout my time at CNUC.							
7	15. I have extensive experience with wildfire cleanup and recovery, having worked in							
8	such capacity after the following fires:							
9	a. The Valley Fire (Lake County, 2015)							
10	b. The Ponderosa Fire (Butte County, 2017)							
11	c. The LaPorte Fire (Butte County, 2017–2018)							
12	d. The North Bay Fires (Napa County, 2017)							
13	e. The North Bay Fires (Butte County, 2017)							
14	f. The Honey Run Fire (Butte County, 2017)							
15	g. The North Complex Fire (Plumas and Butte Counties, 2020)							
16	h. The Camp Fire (Butte County, 2018)							
17	16. During my time at CNUC, I was responsible for the wildfire cleanup and recovery							
18	work discussed above as well as for conducting routine inspections.							
19	17. I received positive performance reviews from my supervisors during my time at							
20	CNUC and was assigned to train new hires.							
21	18. Since leaving CNUC in November 2018, I have worked as a forester at two							
22	additional vegetation management companies, including my current employer.							
23	III. <u>DATE OF GRAY PINE DETERMINATION</u>							
24	19. In October 2018, I was assigned to conduct a routine patrol of Route 50 of the							
25	Girvan 1101 Circuit. Zogg Mine Road was within the area to which I was assigned.							
26	20. I was familiar with this route both from my work before being hired at CNUC and							
27	because I had conducted routine patrols on Route 50 in 2016 and 2017.							
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21. I do not specifically remember inspecting the Gray Pine identified by the Court. Based on my review of inspection records I generated in the course of the October 2018 routine patrol of Route 50, however, I know that I would have been inspecting the portion of the Girvan Circuit that included the Gray Pine on October 12, 2018. A copy of the relevant record generated on October 12, 2018, is attached hereto as Exhibit 1. Based on my review of these records, I believe I would have inspected the Gray Pine on approximately October 12, 2018.

#### IV. <u>INVESTIGATION OF GRAY PINE</u>

- 22. As stated above, I do not specifically remember my investigation of the Gray Pine.
- 23. Based on my review of the photograph at Docket No. 1250-4 and my experience and usual practice in inspecting Route 50, I believe that I would have looked down both sides of the power lines for the segment closest to the Gray Pine to identify any trees encroaching too close to the power lines or that I expected would encroach into that space over the next year. If I saw any such trees, I would have marked them for trimming.
- 24. Next, I would have walked the length of the segment from one pole to the next, looking carefully at the surrounding trees for any signs of dead or dying trees. Had I seen any dead or dying trees near the footprint of the power lines, I would have marked them for removal.
- 25. Based on my review of the Gray Pine in the photograph at Docket No. 1250-4, I believe that the Gray Pine was healthy as of the time the picture was taken. It has a green canopy, indicating that the tree is able to take in nutrients through its roots and distribute them to its canopy. I do not see any indication of disease or other evidence suggesting that it was a tree that should be marked for removal in the photograph.
- 26. Although I do not specifically remember doing so, based on my practice and my experience inspecting Route 50, I believe that at the time I conducted the October 2018 routine inspection, I would have walked around the Gray Pine and inspected it from all sides for fire damage or disease. In so doing, I likely would have come within ten feet of the Gray Pine.
- 27. During the October 2018 routine inspection generally, I was aware that the area had been affected by the Carr Fire recently, and I was paying close attention to whether any tree showed signs of fire damage.

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#### V. PHOTOGRAPHS, NOTES, OR VIDEOS

- 28. If I had taken photographs or videos while conducting the October 2018 routine inspection of Route 50, I would have done so with my smartphone. I have reviewed the contents of my smartphone and confirmed that I have no pictures or videos of the Gray Pine in my possession.
- 29. My practice when conducting routine patrols is to input all notes and observations into PG&E's Getac Preload on a tablet or smartphone I carried with me during my patrol. Those notes and observations are sent to a database maintained by PG&E. I do not keep or maintain separate notes.

#### VI. REPORTS

- 30. As discussed above at paragraph 29, during a patrol I would input all notes and observations into PG&E's Getac system,. I did not create any reports regarding specific trees separate from that reporting system. Upon completion of the October 2018 routine inspection, I completed, signed, and submitted a preliminary inspection checklist, a true and correct copy of which is attached hereto as Exhibit 2.
- 31. I believe that the record attached as Exhibit 1 to this declaration is the report I would have generated through Getac on the date I inspected the portion of Route 50 that includes the Gray Pine. The report does not mention or refer to the Gray Pine.

#### VII. REASONS RE: NOT MARKING GRAY PINE

- 32. As discussed above, I do not specifically remember the Gray Pine.
- 33. When conducting routine patrols, it was not my practice to submit notes or reports concerning healthy trees that did not require work. Based on the absence of any work orders, notes, or reports concerning the Gray Pine, I believe that at the time I would have inspected it in October 2018, I did not expect it to pose a threat to the power line in the next year.
- 34. My review of Exhibit D to Docket No. 1250-4 is consistent with this. In this picture, as discussed above, the Gray Pine appears to be a healthy tree that was in compliance with all vegetation management standards governing its proximity to the power lines.

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#### VIII. KNOWLEDGE REGARDING GRAY PINE

- 35. As discussed above, I do not specifically remember the Gray Pine.
- 36. Accordingly, I cannot say whether, at the time I inspected the Gray Pine, I was aware of any pre-existing damage to the tree. Had I been aware of pre-existing damage to the tree, I likely would have conducted a closer inspection of the tree. Not all damage is fatal to a tree or compromises its health, however, so mere awareness of pre-existing damage would have been insufficient to cause me to mark it for trimming or removal without knowing the nature or extent of the pre-existing damage. As noted above, during the October 2018 routine inspection generally, I was aware that the area had been affected by the Carr Fire recently, and I was paying close attention to whether any tree showed signs of fire damage.
- 37. Based on my practices at the time I conducted the 2018 routine inspection, I believe I would have noticed the lean of the tree and the species of the tree. Having reviewed the photograph at Docket No. 1250-4, I do not regard the lean of the Gray Pine as indicative of a threat to the power line likely to arise in the subsequent year. Based on my experience, I know that before the Zogg Fire there were countless healthy trees along Route 50 that exhibit a similar or more drastic lean toward power lines that would be affected by a fall. That, however, is not a basis to remove the tree under applicable vegetation management standards absent concerns about the health of the tree or out-of-compliance proximity to a power line.

#### IX. DIRECTION OF LEAN AND POTENTIAL FALL

- 38. As discussed above, I do not specifically remember the Gray Pine.
- 39. As also discussed above, based on my review of the photograph at Docket No. 1250-4, I believe it would have been obvious to me at the time I conducted the October 2018 routine patrol that if the Gray Pine fell in the direction of its lean, it would fall upon the power line.
- 40. Based on my experience and my practices when conducting the October 2018

  Routine Patrol, I believe this observation would have prompted me to conduct a closer inspection of the tree, including walking around it from all sides within approximately ten feet.

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A1. Based on my experience and my practices when conducting the October 2018 Routine Patrol, I believe this observation would have prompted me to err on the side of caution when deciding whether to mark the tree for removal. That I did not mark the Gray Pine for removal leads me to believe I was confident it did not present a threat to the power lines within the year following my inspection.

#### X. OTHER PERTINENT INFORMATION

- 42. The Carr Fire burned in July and August 2018 in Shasta and Trinity Counties, including in parts of Shasta County that would later be affected by the Zogg Fire, including sections of Route 50 of the Girvan 1101 circuit.
- 43. After the Carr Fire, PG&E contracted with, among other companies, Mountain G Enterprises Inc. ("MGE") to perform post-fire cleanup work. MGE was responsible for performing and overseeing post-Carr Fire work in the area surrounding the Gray Pine.
- 44. After the Zogg Fire, I was hired by MGE to go to Zogg Mine Road in November 2020 to review trees in the area around the Gray Pine. At this time, I was not employed by CNUC and had not been so employed for nearly two years. My understanding, based both on my experience performing the October 2018 routine patrol and in later discussions with MGE representatives, was that during post-Carr Fire work, certain trees had been marked for trimming or removal which had not been trimmed or removed. MGE retained me to investigate and determine whether any trees that fell on the power lines near the location where CAL FIRE was conducting its investigation of the Zogg Fire were trees that had been marked for work but not ultimately worked. I was hired by MGE due to my familiarity with this area.
- 45. MGE provided me with the location data from the Collector Application for trees it had marked for work during the post-Carr Fire work.
- 46. Using the latitude/longitude data from MGE, I visited the site where CAL FIRE was conducting its investigation in November 2020. I inspected the site and observed the Gray Pine.

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	47.	Based on the data that I had from the Collector Application, I identified two trees
that had	d orig	inally been marked for work that were part of a cluster of four gray pines in the
relevan	t area	i.

48. While at the site of CAL FIRE's investigation, I observed that the tree that CAL FIRE cut down was an R2, meaning a diameter at breast height ("DBH") of at least twelve and less than 24 inches, and the other tree—which had fallen on the line—was an R3, meaning a DBH of at least 24 and less than 36 inches. The location of these two trees appeared to me consistent with the coordinates for trees that had been marked for work during the post-Carr Fire cleanup work that ultimately had not been worked. Therefore, in my view, the odds are that the Gray Pine was among the trees marked for work, although I cannot be certain of that.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

DATED: February 12, 2021

# EXHIBIT 1

## Cust.Inf. MAP History Inspection Record Detail

				City: IGO		County: SH	Directions: S/ON PLACE	R>W/ON SO	UTH FORK RD>		NE; N/OF LAR	RY HORSE LN	J ector / Company: - CNU
sion: th Valley	Circuit: (010 GIRVAN 110		SSD #: 4855	SSD Rte #	Routing #: 1370	(none):		Area: P-25			Alerts:		
Date / T		ne: (preload) Tag Type:						Quad Map: C-6	: Remo	Removal #: 3872742	Customer Na	me/Phone:	
	DRWY @ 1ST DI MUST CALL TO			ADD FLGD G	Γ P59 1S/W/O	F P58 TP ABO	VE ZOGG MINI	E RD CUST V	VANTS TO KNO	W WHO IS ON			
STERT III	ICOT CALL TO	III ( E G I	OI EI (ED.								<u>  Audit  </u>	Last Edit: 10/12	/2018 12:12:01 PM by:
Tree Number	Tree Species: Live Oak	Crew: CA	Priority: Routine	TGR: No	Owned By: Private	Height DBH 45 9	Clearance Prox Inside	1	Qty:	Trim Type: FS-R1A+Trt	Account: M	Wire Conditions	: Insp Date: 10/12/2018 AM
1	Comment: @ P59; DEAD+ROT, UP HILL					Notification: OK	Work Request C1NV10015		<b>WC Date:</b> 2/15/2019	WC Qty:	WC Trim: F1D	Completed By:	Invoice: XX (104)
	Lat/Long: 40.538677, -122.562037 <u>Google Map!</u>			External TreeID: W122562037N40538677					<u>  Audit  </u>	Last Edit: 10/12/2018 by:			
	Rx Comment:								,				
Tree Number	Tree Species: Gray Pine	Crew:	Priority: Routine	TGR:	Owned By: Private		Clearance Prox 99 Inside	: Cycle:	Qty:	Trim Type: FP-Rmv1 A	Account:	Wire Conditions	Insp Date: 10/12/2018 9:15:53 AM
2	Comment: @ P59; DEAI	•	'	-1	,	Notification: OK	Work Request		WC Date: 2/15/2019	WC Qty:	WC Trim: F1B	C ted By:	Invoice: XX (104)
	Lat/Long: 40.53868, -122	.562035	<u>Google Ma</u>	<u>oļ</u>		External TreeID: W122562035N40538680					<u>  Audit  </u>	Last Edit: 10/12/2018 by:	
	Rx Comment:				•				,		,	,	
Tree lumber	Tree Species: Live Oak	Crew: CA	Priority: Routine	TGR: No	Owned By: Private	Height DBH 25 14	Clearance Prox 16 Inside	Rtn	Qty:	Trim Type: Slope	Account: M	Wire Conditions	: <b>Insp Date:</b> 11/2/2017 2 PM
3	Comment: .1S/W/OF P59				Notification:	Work Request 5HNV1024		<b>WC Date:</b> 12/20/2017	WC Qty:	WC Trim: SL	C mpleted By:	Invoice: TR (104)	
					External TreeID: W122561195N40538212					<u>  Audit  </u>	Last Edit: 10/12/2018 9:24	1:38 AM by:	
	Rx Comment:												
Tree Number	Tree Species: Gray Pine	Crew: CA	Priority: Routine	TGR: No	Owned By: Private	Height DBH 85 24	Clearance Prox 15 Inside	Rtn	Qty:	Trim Type: FP-Ov A	Account: M	Wire Conditions	Insp Date: 10/12/2018 9:20:45 AM
4	Comment: .3S/W/OF P59; REMOVE DEAD LIMB					Notification: OK	Work Request C1NV10015		<b>WC Date:</b> 2/15/2019	WC Qty:	WC Trim: FOA	C ted By:	Invoice: XX (104)
	40.538678, -122.56236 <u>Google Map!</u>				External TreeID: W122562360N40538678					<u>  Audit  </u>	<b>Last Edit:</b> 10/12/2018 by:		
	Rx Comment:		,					,					
Tree Number	Tree Species: Gray Pine	Crew:	Priority: No Trim	TGR: No	Owned By: Private	80 23	Clearance Prox O Inside	Rtn	Qty:	Trim Type: Side	Account:	Wire Conditions	6/25/2012 T PM
5	Comment: .3 & .4S/W/O P59				External Tr	Notification:	Work Request	:	WC Date:	WC Qty:	WC Trim:	Completed By:  Last Edit:	Invoice: Not Worked
	Lat/Long: External Rx Comment:				External II	TreeID:					Audit   10/12/2018 9:24:37 AM by:		!:37 AM by:
Tree	Tree Species:	Crew:	Priority:	TGR:			Clearance Prox	1 '	Qty:	Trim Type:	Account:	Wire Conditions	
Number 6	Comment: .9S/W/O P59	CA	Routine	No	Private	Notification:	Work Request		WC Date: 8/7/2012	Side WC Qty:	WC Trim:	C d By:	6/25/2012 1:40:01 PM  Invoice: TR (104)
	.98/W/O P39 Lat/Long:				External Tr	eeID:	<u>SHNV1018</u>	<u>0UZ</u>	0/ //2012	1	Audit	Last Edit:	
	. ,										Audit   10/12/2018 9:24:37 AM by:		

Rx Comment:

# EXHIBIT 2



North Valley Distribution Post PI Checklist

Circuit:	Girvan	1101	Route # 50	Packet #	Inspector
			Management of Ma		
	HIGHLIGHT, S	IGN, AND D	ATE COMPLETED RO	UTE ON INDEX MAP	AND PUT IN CIRCUIT FOLDER
1	HIGHLIGHT, S	IGN, AND D	ATE FIELD MAP AND	STAPLED TO THIS FO	ORM & PUT IN SCUF'S BOX
	ANY NEW MV	VS TREES BI	ROUGHT TO SUPERVI	SORS ATTENTION	
	ANY OLD PAP	ER MWS FO	DRMS UPDATED AND	BROUGHT TO SCUF	'S ATTENTION
	ALL REMOVA	L FROMS AG	CCOUNTED FOR		
	NO TREES CAI	N CONTACT	LINES WITHIN 4 WEE	EKS	
	NO FPT TREES	REQUIRE I	MMEDIATE ATTENTIO	ON (TALK TO SCUF A	BOUT ANY R3 & R4 FP WORK)
	ERIFY THAT	ALL IDLE LIN	NE IS IDENTIFIED ON E	BOTH MASTER AND	INDEX MAPS AND IDLE FORM
I	S UPDATED, I	PICTURES T	AKEN, AND SECTION	OF THE MAP IS INCL	UDED IN THE CIRCUIT FOLDER
NA	PRIVATE LINE	INTERFACE	FORMS UPDATED AN	ND IN CIRCUIT FOILE	DER
	ANY CUSTOM	ER ISSUES E	BROUGHT TO SCUF'S	ATTENTION AND UP	PDATED IN CIRCUIT FOLDER
	CUSTOMER P	OSTCARDS	FILLED OUT AND GIVE	EN TO DMS	
	PACKET CHEC	KED BACK I	NTO VMD FROM THE	GETAC	
NH	usfs nti	N NUMBER		ar and	
NH	BLM NTV	V NUMBER			
NH	CALTRAN	IS NTW NUI	MBER		n. l
NIT	OTHER A	GENCY NT	W NUMBER (PLEASE S	SPECIFY AGENCY)	<u>// /A</u>
WILL TH	ERE BE AN IN	CREASE OR	DECREASE IN UNITS	NEXT YEAR? Dec	crease
UNITS T	HIS YEAR:	280,	ESTIMATED UI	NITS NEXT YEAR	200
SIGNATI	URE AND DAT	E:		10/26	1/8

NORIH VALLEY DIVISION A legend will show below for GGNRA lands and SRA/FRA, but ONLY when one of those exists somewhere on this map.

### ELECTRIC CIRCUIT MAP

500 Scale sized for 11"x17" sheets



**AM108-I** 



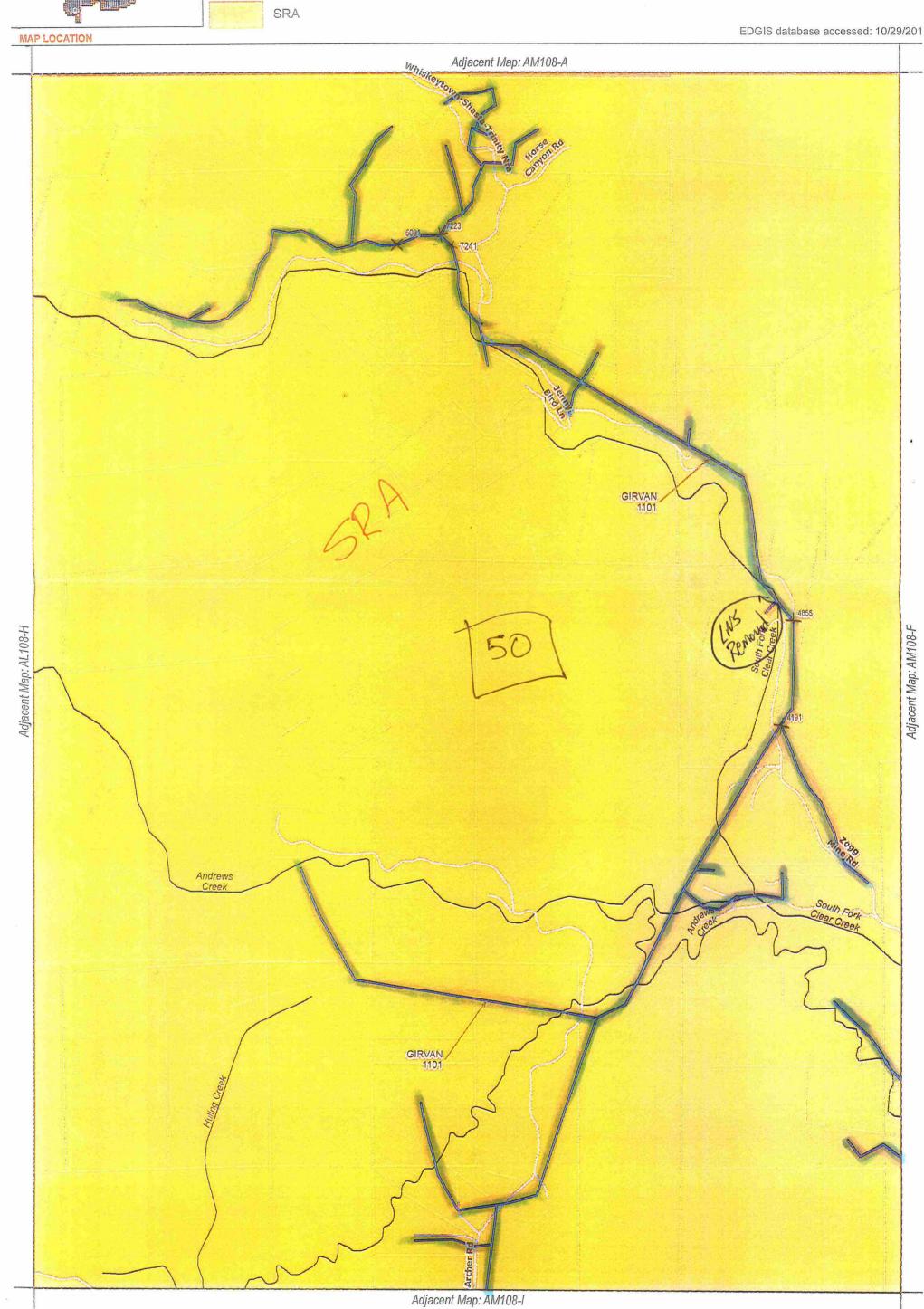
NORIH VALLEY DIVISION A legend will show below for GGNRA lands and SRA/FRA, but ONLY when one of those exists somewhere on this map.

FRA

**ELECTRIC CIRCUIT MAP** 

500 Scale sized for 11"x17" sheets 1 inch represents 1100 feet

**AM108-E** 

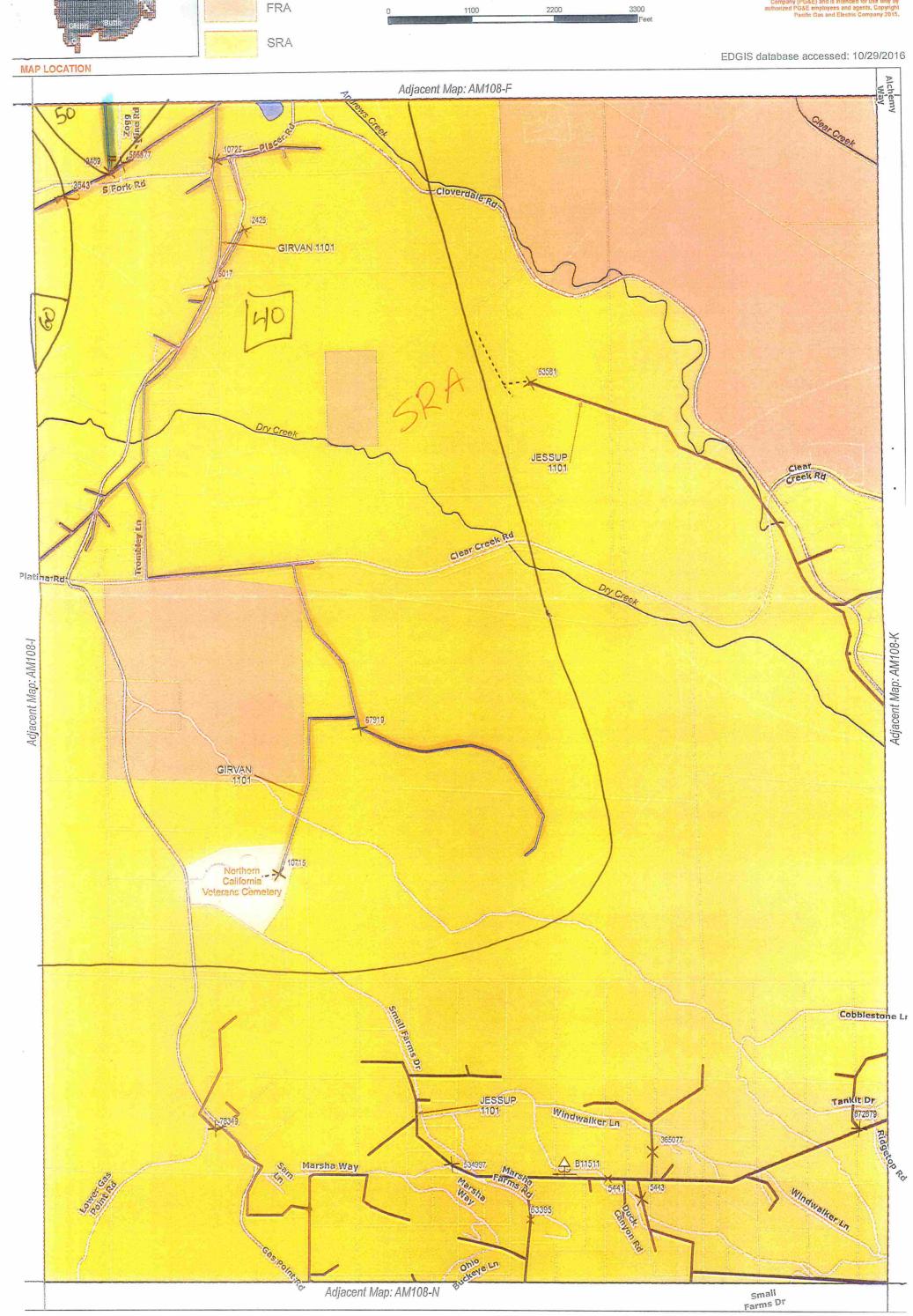


NORIH VALLEY DIVISION A legend will show below for GGNRA lands and SRA/FRA, but ONLY when one of those exists

**ELECTRIC CIRCUIT MAP** somewhere on this map.

500 Scale sized for 11"x17" sheets 1 inch represents 1100 feet

AM108-J



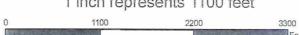
NORTH VALLEY DIVISION A legend will show below for GGNRA lands and SRA/FRA, but ONLY when one of those exists somewhere on this map.

FRA

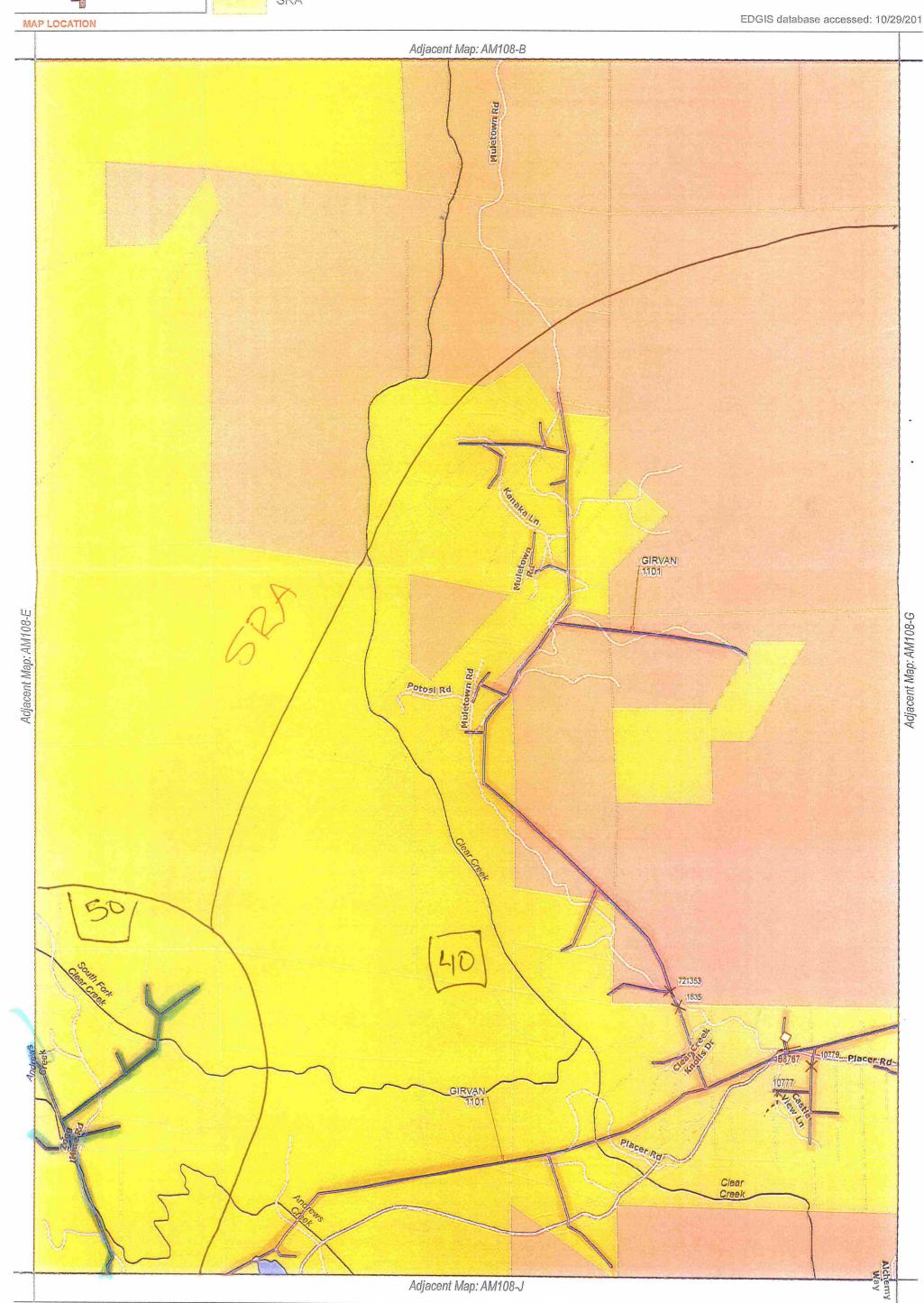
SRA

### **ELECTRIC CIRCUIT MAP**

500 Scale sized for 11"x17" sheets 1 inch represents 1100 feet



AM108-F



Field Map Girvan 1101 Route 50 Zogg Mine 2018