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22 Attorneys for Defendant PACIFIC GAS AND ELECTRIC  
23 COMPANY

24 UNITED STATES DISTRICT COURT  
25 NORTHERN DISTRICT OF CALIFORNIA  
26 SAN FRANCISCO DIVISION

27 UNITED STATES OF AMERICA,  
28  
29 Plaintiff,  
30  
31 v.  
32  
33 PACIFIC GAS AND ELECTRIC COMPANY,  
34  
35 Defendant.

Case No. 14-CR-00175-WHA

**PG&E’S RESPONSE TO POST-  
HEARING ADDITIONAL REQUEST  
FOR RESPONSES**

Judge: Hon. William Alsup

1 Defendant Pacific Gas and Electric Company (“PG&E”) respectfully submits this  
 2 response following the March 23, 2021 hearing and the Court’s Post-Hearing Additional Request  
 3 for Responses (the “Post-Hearing Request”) (Dkt. 1364). In Section I, PG&E provides the Court  
 4 with language for Proposed Conditions 11 and 12, as requested in the Post-Hearing Request. In  
 5 Section II, PG&E describes its efforts to mitigate the customer and community impacts of PSPS.  
 6 In Section III, PG&E responds to requests made by the Court during the March 23, 2021 hearing.

7 **I. Proposed Conditions 11 and 12 with Consideration of Tree-Overstrike Exposure**

8 In response to the Court’s request for a re-write of Proposed Conditions 11 and 12  
 9 that incorporates consideration of tree-overstrike exposure, PG&E respectfully sets forth the  
 10 following language for Proposed Conditions 11 and 12:

11 Proposed Condition 11

12 In determining which distribution lines in Tier 2 or Tier 3 to  
 13 de-energize during a PSPS, PG&E must take into account all  
 14 information in its possession and in the possession of its  
 15 contractors and subcontractors concerning the extent to which trees  
 16 and/or limbs are at risk of falling on those lines in a windstorm. In  
 17 determining which distribution lines to de-energize during a PSPS  
 18 event, PG&E will implement this condition by July 1, 2021, by  
 19 considering the existence of all outstanding vegetation  
 20 management work tagged “Priority 1” or “Priority 2” within  
 21 PG&E’s service territory that is subject to potential  
 22 de-energizations and which is forecast to satisfy PG&E’s minimum  
 23 fire potential conditions. [Subject to the approval of the California  
 24 Public Utilities Commission,] PG&E shall also consider the  
 25 approximate number of trees tall enough to fall on the line by using  
 26 LiDAR, or other remote sensing and data-capture methods, to  
 27 approximate the relative amount of tree-overstrike exposure in  
 28 areas that are subject to potential de-energizations and forecast to  
satisfy PG&E’s minimum fire potential conditions and, in  
particular, by considering whether the area is in the 70th percentile  
or greater of tree-overstrike exposure as compared with other areas  
subject to potential de-energization, irrespective of the health of the  
tree and irrespective of whether the tree stands outside or inside  
prescribed clearances. The latter may be done by simply rating the  
total approximate number of such tall trees along a line as ‘None,’  
‘Few,’ ‘Average’ or ‘Many,’ and by treating the ‘Many’ category  
as posing a greater risk than the ‘Average’ category and the  
‘Average’ category as posing a greater risk than the ‘Few’ category  
and so on.

1                   Proposed Condition 12

2                   To the extent that such information shows that such trees and limbs  
3                   present a safety hazard in the event of a windstorm, PG&E must  
4                   make a specific determination with respect to that distribution line  
5                   and it must de-energize it unless PG&E finds in writing that there  
6                   are specific reasons to believe that no safety issue exists. PG&E  
7                   will implement this condition by July 1, 2021.

8                   Because the state regulator that oversees the administration of PSPS events by  
9                   California utilities objects to PG&E complying with the Proposed Conditions without first  
10                  undergoing a state regulatory review, PG&E respectfully submits that the bracketed language  
11                  above should also be included in the Proposed Conditions. (*See* Dkt. 1354 at 4.) Today, the  
12                  CPUC directed PG&E to work with CPUC staff to initiate an expedited process for review of  
13                  PG&E's proposed implementation of Proposed Conditions 11 and 12 prior to the 2021 fire  
14                  season. In light of this directive, PG&E will be engaging with the CPUC to initiate that process,  
15                  and PG&E proposes that it keep the Court apprised of how that process proceeds. (*See*  
16                  Dkt. 1368 at 7-8.)

17                  **II. Continuing Efforts to Mitigate the Impacts of PSPS Events**

18                  PG&E acknowledges that its execution of PSPS events in 2019 identified areas  
19                  where it could improve to mitigate the impacts on customers and communities. PG&E  
20                  implemented a number of improvements in 2020 that resulted in more targeted PSPS events as  
21                  compared with 2019. PG&E developed and implemented for 2020 a 2 km-resolution weather  
22                  model which resulted in more precise event boundaries than did the 3 km-resolution model used  
23                  in 2019. Moreover, PG&E added or automated over 600 sectionalizing devices and line switches  
24                  to be used to de-energize certain portions of the lines inside the forecast weather event footprint,  
25                  while leaving other portions outside the weather event energized. PG&E also secured  
26                  450 megawatts of temporary generation to support substations and critical customers such as  
27                  hospitals, water and wastewater plants, emergency response personnel such as fire and police  
28

1 stations, and telecommunications providers.<sup>1</sup> Overall, PG&E de-energized 55% fewer customers  
2 in 2020 than it would have under similar weather conditions in 2019.

3 PG&E also reduced, for customers who were de-energized during a 2020 PSPS  
4 event, the amount of time that they were without power. Using the 2 km-resolution weather  
5 modeling, PG&E was able to declare weather “all clears” on a more granular level than in 2019,  
6 allowing PG&E to begin restoration patrols sooner. To expedite the rate at which restoration  
7 patrols could be conducted, PG&E also analyzed optimal routing methods for such patrols,  
8 nearly doubled the number of helicopters dedicated to such patrols, from 35 in 2019 to 65 in  
9 2020, and commissioned two airplanes with specialized equipment that allowed such patrols of  
10 transmission lines to occur at night. Through these efforts, PG&E reduced the aggregate average  
11 outage duration after the “all clear” from approximately 17 hours in 2019 to approximately  
12 10 hours in 2020, or a reduction of 41%.

13 One area identified for improvement following the 2019 PSPS events was  
14 PG&E’s communications and notifications to customers, including with respect to Medical  
15 Baseline customers. In 2020, PG&E notified over 99% of its Medical Baseline customers who  
16 were in the final scope of de-energization prior to the de-energization event, despite the fact that  
17 in-event weather shifts altered the de-energization footprints in every 2020 PSPS event. These  
18 notifications were available in over a dozen languages, and included estimated energy-restoration  
19 timing.

20 To notify Medical Baseline customers in advance of an approaching PSPS event  
21 in 2020, PG&E sent hourly text messages or made hourly phone calls and, if the customer had  
22 not acknowledged receipt, sent personnel to knock on their door and leave a door hanger  
23 notifying them of the event if no one answered. PG&E also shared through its updated and  
24 secure PSPS Portal tool lists of Medical Baseline customers with appropriate county and tribal  
25 emergency operations agencies. PG&E also launched a Portable Battery Program for low-

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26  
27 <sup>1</sup> PG&E initiated the Energy and Communications Providers Coordination Group in early  
28 2020 to create a forum for communications providers to provide feedback on PG&E’s current  
PSPS implementation protocols and to coordinate engagement before and during PSPS events.

1 income Medical Baseline customers in Tier 2 and Tier 3 HFTDs and provided over  
2 5,550 batteries under this program by mid-January 2021.

3 PG&E further sought to improve its outreach to customers who could benefit  
4 from the Medical Baseline program, including in response to the COVID-19 pandemic. PG&E  
5 temporarily removed a requirement that applications to join the Medical Baseline program be  
6 accompanied by a certification from a medical practitioner, simplified the online application  
7 process and partnered with community-based organizations (“CBOs”) to drive adoption of the  
8 Medical Baseline program. As of December 1, 2020, enrollment in the Medical Baseline  
9 program increased by 26% across PG&E’s service territory in 2020.

10 PG&E also launched a number of other initiatives in 2020 aimed at mitigating  
11 PSPS impacts on certain communities. For example, PG&E and the California Foundation for  
12 Independent Living Centers (“CFILC”) launched the Disability Disaster Access and Resources  
13 Program (“DDARP”), a joint effort to aid elderly or individuals who rely on power for medical  
14 or independent living needs. In addition to providing approximately 1,000 backup portable  
15 batteries in addition to those discussed above, the DDARP works through local organizations to  
16 provide accessible transportation, lodging, food and gas vouchers, promotion of the Medical  
17 Baseline program, and emergency planning and education. PG&E also sought to initiate  
18 mitigating the challenges that PSPS events pose for rural customers who rely on well water  
19 powered by electricity by launching the Well-Pump Generator Program, which provides rebates  
20 for qualifying customers who purchase backup generators. For the Access and Functional Needs  
21 (“AFN”) community, PG&E established formal agreements with 97 partners to provide  
22 resources, services and in-language communications before, during and after a PSPS event.  
23 Together with these partners, PG&E provided vulnerable customers, among other things,  
24 assessments for backup power support, services like grocery delivery and the delivery of  
25 30,000 food boxes.

26 PG&E also deployed programs that were aimed at mitigating the effects of PSPS  
27 for customers more generally. For example, PG&E’s PSPS websites were updated to manage  
28

1 enhanced bandwidth during PSPS events so that emergency information was accessible to  
2 customers, and to include additional preparedness content. And during 2020 PSPS events,  
3 PG&E activated a total of 245 community resource centers that served approximately  
4 50,000 visitors and were equipped with medical-device charging, mobile battery chargers and  
5 bottled water amongst other service offerings.

6 In a recent survey of customers impacted by PSPS events in 2020, 60% reported  
7 that PG&E improved the handling of PSPS events over 2019 and only 10% reported our  
8 handling to be worse. While substantial challenges remain (as reflected in feedback from the  
9 community and agencies), PG&E believes substantial progress was made in 2020. In 2021,  
10 PG&E intends to continue building on these efforts.

### 11 **III. Requests from the March 23, 2021 Hearing**

12 During the March 23, 2021 hearing, the Court requested that PG&E follow-up  
13 with additional information on three topics.

14 *First*, the Court asked PG&E for certain additional information regarding PG&E's  
15 presentation to the CPUC regarding PSPS. (*See* Dkt. 1358-1 at 5-9.)

16 PG&E is producing as Exhibit A an extension of that presentation that includes,  
17 for 2019, the estimated impact that PG&E's tree-overstrike and Priority 1 and Priority 2  
18 proposals may have had in expanding the scope of PSPS events under the models PG&E had in  
19 place in 2020, as well as compared with the historical 2019 events themselves. PG&E reiterates  
20 that the figures included in the chart are approximations that are based on several assumptions,  
21 but PG&E believes that they are directionally representative of the impact that these differences  
22 in PSPS protocols could have had if applied in 2019. In particular, PG&E notes that the  
23 projected impact of considering Priority 1 and Priority 2 trees is likely larger than it would have  
24 been had PG&E contemporaneously implemented this proposal, including because, as described  
25 during the March 23 hearing, if PG&E implements this proposal, it expects to mitigate some or  
26 all relevant outstanding Priority 1 and Priority 2 trees within the forecast adverse weather  
27 footprint in the lead-up to a potential PSPS event.

1 In the time period allotted by the Court for responding to these requests and in  
2 light of other analyses PG&E is conducting in preparation for fire season, PG&E was unable to  
3 prepare a similar analysis for 2020 or to add the impact of Priority 1 and Priority 2 trees to the  
4 2010 through 2019 analysis, but PG&E will continue to work on such analyses if requested by  
5 the Court. While PG&E will work to promptly provide any further analyses needed, PG&E  
6 respectfully notes that the meteorology team that would prepare these analyses would need to  
7 manage such requests against pending work needed to meet operational and Wildlife Mitigation  
8 Plan commitments.

9 *Second*, the Court inquired about a post-Carr Fire restoration database maintained  
10 by PG&E contractor Mountain G. Enterprises, Inc. (“MGE”). The Court asked PG&E to  
11 confirm “[w]hether or not [MGE’s] database exists in the exact same form today as it did back  
12 then [in 2018]”, to confirm “that database [is] still intact” and to inform MGE that the Court  
13 considers the database “evidence that should be preserved”.

14 After the hearing, PG&E followed-up with MGE. PG&E is producing that  
15 correspondence as Exhibit B. As shown in that correspondence, MGE relayed to PG&E that  
16 MGE had provided PG&E “with all Carr Fire Collector and ArcGIS data” and that MGE would  
17 “continue to preserve all Carr Fire related records currently in its possession and control”.

18 *Third*, the Court asked PG&E to explain how PG&E calculates the distance  
19 between the Gray Pine of interest and the property that belonged, as of the post-Carr Fire  
20 restoration effort, to the individual referred to in Question 3 of the Court’s March 22, 2021  
21 Request for Information at Tomorrow’s Hearing. (Dkt. 1356.)

22 PG&E used the County of Shasta Geographic Information System’s online  
23 “Shasta County Map Viewer” to calculate the distance from the nearest point of what PG&E  
24 understands to be the subject property’s intersection with Zogg Mine Road to the location of the  
25 PG&E pole closest to the Gray Pine of interest, the GPS coordinates of which are  
26 40.5389094944, -122.562904435, as recorded in PG&E’s database. PG&E understands that the  
27 Shasta County Map Viewer displays property boundaries, including those of a property that  
28

1 public records indicate belonged to the individual in question during the post-Carr Fire  
2 restoration effort. PG&E utilized the measurement tool available in the Shasta County Map  
3 Viewer to measure the distance in yards between the two points, which calculated a distance of  
4 522 yards.

5 A screenshot of the Shasta County Map Viewer, taken on March 29, 2021 in  
6 connection with preparing this response as an image illustrative of the process described above,  
7 is being provided as Exhibit C.

8 During the March 23 hearing, PG&E referenced records provided to the Court  
9 that suggest that the individual in question appears to have been threatening to brandish her  
10 firearm in areas beyond her property boundaries. (*See* Ex. J-6 to Dkt. 1323-10 at 30 (stating that  
11 the individual “had blacked out at least one of her neighbor’s trees and told the PIs that no tree  
12 crew would touch the tree she blacked out. Furthermore, she would brandish her firearm again if  
13 she saw someone cutting the tree”).)

1 Dated: March 29, 2021

Respectfully Submitted,

2 JENNER & BLOCK LLP

3  
4 By: /s/ Reid J. Schar  
Reid J. Schar (*pro hac vice*)

5 CRAVATH, SWAINE & MOORE LLP

6  
7 By: /s/ Kevin J. Orsini  
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10  
11 By: /s/ Kate Dyer  
12 Kate Dyer (Bar No. 171891)

13 Attorneys for Defendant PACIFIC  
14 GAS AND ELECTRIC COMPANY

# **EXHIBIT A**

Year	Guidance	% Captured of All HFTD Tree Over Strike in Cells >70th Percentile <sup>1</sup>	% Captured of All HFTD Veg. Outages in Cells > 70th Percentile <sup>1</sup> (2008-2020)	PSPS Total Events	% Difference Total Events from Baseline	Total Customer-Hours <sup>2,3,4</sup>	% Difference from Baseline - Total Customer-Hours <sup>2,3,4</sup>	Total Customer Impact <sup>2,3</sup>	% Difference from Baseline - Total Customer Impact <sup>2,3</sup>	Avg. Event Duration <sup>4</sup>	% Difference from Baseline - Avg. Event Duration <sup>4,5</sup>	Avg. Customer Impact <sup>2,3</sup>	% Difference from Baseline - Avg. Customer Impact <sup>2,3,5</sup>	Max. Event Customer Impact <sup>2,3</sup>	% Difference from Baseline - Max. Event Customer Impact <sup>2,3</sup>
2019	2019 Actual Events (Transmission & Distribution Scope Impacts)	63%	62%	8	100%	88,197,922	209%	2,014,353	170%	27	-27%	251,794	35%	967,705	205%
2019	2019 Actual Events (Distribution Only Scope Impacts)	63%	62%	8	100%	76,969,720	170%	1,833,300	146%	27	-27%	229,163	23%	705,400	122%
2019	2019 Based on 2020 Baseline (current models)	66%	70%	4	-	28,512,084	-	745,903	-	37	-	186,476	-	317,455	-
2019	2020 Baseline + P1/P2 Trees	69%	73%	4	0%	30,454,154	7%	786,101	5%	37	0%	196,525	5%	320,951	1%
2019	2020 Baseline +>70th Percentile - Sum Tree Over Strike	94.2%	89.7%	5	25%	36,658,248	29%	874,563	17%	36	-3%	174,913	-6%	341,905	8%
2019	2020 Baseline +>70th Percentile - Sum Tree Over Strike + P1/P2 Trees	94.4%	90.1%	5	25%	36,955,898	30%	881,539	18%	36	-3%	176,308	-5%	341,976	8%

1. **% Captured of HFTD Tree Over Strike, Vegetation Caused Outages 2008-2020**, based on cells >70th percentile OPW based on input sustained wind speed of 20mph matching minimum fire potential conditions, + net new cells >70th percentile tree over strike for the potential overstrike criteria study, + net new cells containing P1/P2 trees based on the trees outstanding for the 10/26/19 event for the P1/P2 criteria study. 2019 Actual Events based on 2019 OPW Model Version, and 2020 guidance studies based on enhanced 2020 OPW Model version. Note, 2021 OPW Model version currently under development ahead of 2021 fire season.
2. **Customer counts** are distribution service points for guidance studies and are estimated at **circuit level counting all customers with HFTD** secondary transformers on a circuit, and do not include customer impacts from Transmission PSPS.
3. **Customer-Hours** impacts is based on **event duration** multiplied by the **customer count** for each event and then summed across all events to calculated Total Customer-Hours.
4. **Event duration** for the guidance study rows is the event weather duration calculated based on the time delta between the first and last hour of the event that are defined to be exceeding PSPS guidance. Some customers will experience shorter weather event duration than this, and if the line is able to be patrolled and restored quickly (for example with no extensive damage found), may experience total outage duration less than the event weather duration. **Event duration** for the actual 2019 events is calculated based on subtracting the Restoration Durations as measured by Customer Average Interruption Duration Index (CAIDI) from the Event Duration as measured in CAIDI.
5. Decrease in **average customer impact** and **average event duration** for the addition of the >70th percentile tree over strike criteria to the 2020 baseline is due to the addition of a fifth PSPS that is smaller and shorter in duration compared to the existing four events meeting baseline event criteria.

# **EXHIBIT B**

# **EXHIBIT B-1**

**Micaela Pina**

---

**From:** Micaela Pina  
**Sent:** Wednesday, March 24, 2021 9:06 PM  
**To:** 'tac@zemogllc.com'; 'beau@mtnlawgroup.com'  
**Cc:** Omid Nasab; David Korn; Nicholas Medling  
**Subject:** Zogg - Preservation of Documents and Database Inquiry  
**Attachments:** Letter to Mountain G re Preservation of Documents and Inquiry 2021.03.24.pdf

Counsel,

As discussed, attached please find a preservation letter concerning a hearing before Judge Alsup yesterday.

Thanks,  
Micaela

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# **EXHIBIT B-1.1**

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March 24, 2021

### Zogg Fire – Preservation of Documents and Inquiry

Counsel:

I write to follow up on my March 19, 2021 letter regarding the preservation of relevant evidence (the “Preservation Letter”), attached hereto as Exhibit A. As explained in further detail in the Preservation Letter, MGE is required by law to preserve any and all Relevant Evidence, which includes, among other things, any and all information related to the Zogg Fire, PG&E’s Girvan 1101 12 kV Distribution Circuit (the “Girvan Circuit”) and MGE’s work for PG&E.

We understand that MGE was a prime contractor for PG&E in connection with the vegetation management work done in response to the Carr Fire in 2018 (the “post-Carr Fire Response”), including on the Girvan Circuit. PG&E further understands that MGE was responsible for, among other duties, maintaining the database used to track vegetation management work and vegetation identified by inspectors, including through the Collector Application, and that this database was referred to as “ArcGIS”. Based on our prior correspondence, we understand that MGE has provided us with available extracts of information from MGE’s ArcGIS database, and we thank you again for your efforts in doing so.

Yesterday, during a hearing in *United States v. Pacific Gas & Electric Co.*, No. 3:14-cr-00175, the Honorable William H. Alsup of the United States District Court for the Northern District of California requested that PG&E instruct MGE that, with respect to the ArcGIS database, “the Court thinks that’s evidence that should be preserved”. (Hr’g Tr. 25:22-23.) PG&E has attached for MGE’s convenience a copy of the transcript from the hearing as Exhibit B. PG&E considers any databases that MGE maintained in connection with the post-Carr Fire Response, including ArcGIS, to constitute Relevant Evidence, and thus PG&E reiterates the preservation obligations set forth in the Preservation Letter with respect to such databases.

Judge Alsup also requested that PG&E ask MGE whether the vegetation database that MGE maintained in connection with the post-Carr Fire Response, which PG&E again understands to have been referred to as “ArcGIS”, is “still intact” and whether it “exists in the exact same form today as it did” during the post-Carr Fire Response. (Hr’g Tr. 25:1-20.) PG&E requests that MGE provide that information to PG&E.

This afternoon, Judge Alsup issued an order, attached as Exhibit C, calling for supplemental submissions by Monday, March 29, at noon PT. In light thereof, PG&E requests that MGE provide the answer to Judge Alsup’s inquiry no later than Saturday, March 27.

Please confirm MGE’s receipt of this letter, that MGE is taking appropriate steps to preserve Relevant Evidence, including the above-referenced database, and that MGE will provide the answer to Judge Alsup’s inquiry. Should you have any questions, please do not hesitate to contact me.

Regards,

A handwritten signature in blue ink, appearing to read "D. Korn", written over a horizontal line.

David H. Korn

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Encls.

# **EXHIBIT A**

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March 19, 2021

## Zogg Fire – Preservation of Documents

Dear Mr. Weiner:

We represent the Pacific Gas and Electric Company (“PG&E”) in connection with a wildfire that began on September 27, 2020 near Zogg Mine Road in Shasta County, California (hereinafter the “Zogg Fire”).

Please be advised that in response to the Zogg Fire, PG&E is undertaking to preserve any and all paper documents, Electronically Stored Information (“ESI”) and tangible items in its possession, custody or control that potentially relate to the Zogg Fire. Because Mountain G Enterprises, Inc. and its affiliates, including but not limited to Mountain F. Enterprises, Inc. and Mountain H Enterprises, Inc. (collectively, “MGE”), has done work on behalf of PG&E that potentially relates to the Zogg Fire (including, but not limited to, vegetation management work in connection with post-Carr Fire restoration efforts in 2018), PG&E requests that MGE take appropriate steps to preserve any and all documents, ESI and tangible items that relate to the Zogg Fire, PG&E’s Girvan 1101 Distribution Circuit and MGE’s work for PG&E (collectively, the “Relevant Evidence”).

Relevant Evidence should be interpreted broadly to include anything and everything that is potentially relevant to the Zogg Fire in any form, including, but not limited to, the following:

- Documents in hard copy or electronic form;
- Digital communications, such as email and text messages;
- Word processed documents;
- Spreadsheets and tables;
- Accounting applications;
- Photographs and other images;
- Sound recordings and audio files;
- Video recordings and files;

- Calendar and diary application data;
- Presentations;
- Flowcharts;
- Network access and server activity logs;
- Engineering-related documents and information, including maps, asset system drawings, computer aided design (CAD) files, geographic information system (GIS) files, as-built specifications, and any hard copies of the foregoing;
- Instrument readings, reports, and other data; and
- Tangible facilities, equipment, devices, and other physical objects.

There may be other types of documents, data and information that are not included in this list, and MGE must preserve them if they are Relevant Evidence.

MGE should take all reasonable steps to avoid destruction of Relevant Evidence, including, but not limited to: (a) providing written notice to employees at MGE whom MGE has reason to believe may have Relevant Evidence of the obligation to preserve Relevant Evidence; (b) indefinitely suspending ordinary document retention policies with respect to Relevant Evidence; and (c) intervening with MGE's computer systems, servers and devices to prevent alterations or loss of Relevant Evidence due to routine operations, de-commissioning or recycling.

MGE's obligation to preserve potentially Relevant Evidence is required by law. Please note that Relevant Evidence also includes materials that are created or come into MGE's possession, custody or control after delivery of this letter. All Relevant Evidence should be preserved.

Please confirm MGE's receipt of this letter and that MGE is taking appropriate steps to preserve Relevant Evidence by responding to me by email or letter. PG&E will send MGE written confirmation when it no longer needs MGE to preserve Relevant Evidence. Should you have any questions, please do not hesitate to contact me.

Regards,



David H. Korn

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BY EMAIL AND FIRST CLASS MAIL

# **EXHIBIT B**

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable William H. Alsup, Judge

UNITED STATES OF AMERICA, )

Plaintiff, )

VS. )

NO. CR 14-00175 WHA

PACIFIC GAS AND ELECTRIC )

COMPANY, )

Defendant. )

San Francisco, California

Tuesday, March 23, 2021

TRANSCRIPT OF ZOOM VIDEO CONFERENCE PROCEEDINGS

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(APPEARANCES CONTINUED ON FOLLOWING PAGE)

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20 Also Present:

21 Mark Filip, Federal Monitor  
22 Charles Kalil, Federal Monitor  
23 Christopher Keegan, Federal Monitor  
24 John Simon, PG&E  
25 Alex Vallejo, PG&E  
Christine Hammond, CPUC

1 Tuesday, March 23, 2021

8:00 a.m.

2 P R O C E E D I N G S

3 ---o0o---

4 **THE COURT:** Call our case.

5 **THE CLERK:** This Court is now in session.

6 The Honorable William Alsup presiding.

7 Calling Criminal Matter 14-175, United States of America  
8 vs. Pacific Gas and Electric Company.

9 Starting with the Government, will counsel please state  
10 your appearances.

11 **MR. STERN:** Good morning, Your Honor. Noah Stern on  
12 behalf of the United States, and I'm here with my colleague  
13 Jeffrey Schenk.

14 **MR. SCHENK:** Good morning.

15 **THE COURT:** Good morning.

16 **MR. ORSINI:** Good morning, Your Honor. Kevin Orsini,  
17 Cravath, Swaine & Moore, on behalf of PG&E.

18 Also here with me this morning are Kate Dyer from Clarence  
19 Dyer and Reid Schar from the Jenner & Block firm.

20 And present from PG&E are John Simon, the general counsel;  
21 and Alex Vallejo, who is the vice president, compliance and  
22 ethics, as well as deputy general counsel.

23 **THE COURT:** Okay. Welcome to all of you.

24 I see Mr. Simon. I don't think I see --

25 **MR. SIMON:** Good morning, Your Honor.

1           **THE COURT:** Good morning, Mr. Simon.

2           I don't think I see the other two you mentioned, though.

3           **MR. ORSINI:** So I see Mr. Schar and Ms. Dyer, and I  
4 see Mr. Vallejo. It looks like he's trying to activate his  
5 camera right now.

6           **THE COURT:** Okay. Yes, I see Ms. Dyer, Mr. Schar.  
7 Here's Mr. Vallejo. Okay.

8           **MR. ORSINI:** Yes.

9           **THE COURT:** Great.

10          **MR. ORSINI:** There you are.

11          **MR. VALLEJO:** Good morning, Your Honor.

12          **THE COURT:** Good morning.

13          Okay. And let's continue.

14          **MS. HUTCHINGS:** And good morning, Your Honor.  
15 Jennifer Hutchings on behalf of Federal Probation.

16          **THE COURT:** Good morning, Ms. Hutchings.

17          And who else?

18          **MS. SANDOVAL:** Good morning, Your Honor.

19          **THE COURT:** Mr. Keegan?

20          **MS. SANDOVAL:** This is Catherine Sandoval on behalf of  
21 amici Alex Cannara and Gene Nelson. Thank you.

22          **THE COURT:** Good morning, Ms. Sandoval. Good morning.

23          **MS. SANDOVAL:** And we're also here with Maria Severson  
24 and also, I believe, Michael Aguirre is as well on the line.

25          Thank you.



1           It turned out that 17 of those fires were started by PG&E  
2 equipment. And Cal Fire found that three of the 17 had been so  
3 bad as -- were not only started by PG&E, but had been in  
4 violation of the Public Resources Code in not clearing the  
5 hazard trees from the lines. So that was background.

6           At that point, the Monitor and PG&E and the United States  
7 Attorney's Office, at my request, began to turn their attention  
8 to include electrical safety in the program. Prior to that  
9 point, we had been focusing on natural gas; but with the  
10 Wine Country fires, a possibly greater threat emerged, which  
11 was PG&E equipment starting fires, killing people in  
12 California.

13           Now, then you'll also remember in 2017, because of the  
14 Wine Country fires, PG&E went into bankruptcy. And the  
15 Legislature also came up with a plan which allowed PG&E to  
16 emerge from bankruptcy. That involved a large insurance fund  
17 as well as some other conditions. One important part of that  
18 was that PG&E, as well as all other utilities, had to have a  
19 Wildfire Management Plan to deal with wildfires.

20           Now, during 2017, your judge, meaning me, got very  
21 interested in the history of the vegetation management and how  
22 could it have been that so many trees were falling on the  
23 lines.

24           And this is my opinion, but I believe many share it, that  
25 for decades PG&E postponed the job required by state law to

1 remove hazard trees and limbs that were threatening the lines,  
2 the distribution lines. And that backlog of work was shocking.  
3 In order to make more -- improve the bottom line, PG&E  
4 postponed a huge amount of work.

5 In parallel with that, PG&E had been systematically  
6 outsourcing the job of doing the tree removal to contractors.  
7 This has become another source of concern because of the  
8 mix-up, to put it politely, of data and where the hazard trees  
9 are and what work has been done and not been done or should  
10 have been done. So that was 2017.

11 2018 came. And the most shocking thing that occurred in  
12 2018 was the Butte County fire, the Camp Fire, that killed over  
13 80 people, wiped out most of the county, including the entire  
14 Town of Paradise. Think about that. An entire town burned to  
15 the ground, and I believe it was 85 died in the fires.

16 The cause of that -- there were two causes. One was a  
17 transmission line that had a C hook that probably was a  
18 hundred years old, but certainly more than 50 years old. And  
19 that C hook had never been replaced, and it had been worn  
20 through just by swaying in the wind. And when it finally  
21 broke, it fell on the metal, caused the fire. Sparks which  
22 dropped to the ground ignited the grass.

23 I should pause here to say that is the moment that we all  
24 fear, is when the tree falls onto the lines and pushes them  
25 together, because they're uninsulated, an arc, electrical bolt

1 flashes between the two conductors, and that causes a molten  
2 metal to fall to the ground. And in the wildfire season,  
3 unlike the winter, in the wildfire season, the grass is dry.  
4 The grass catches immediately. Within a few yards in the  
5 chaparral, there will be brush. Brush has a resin. Brush  
6 burns much hotter and faster than ordinary wood. It catches  
7 the trees on fire. Pretty soon you have a forest fire, a  
8 wildfire.

9 And that has been the common pattern throughout all of  
10 these PG&E fires, but also it's an ever-present risk for other  
11 sources of fires, not just for PG&E, because it's so dry for  
12 six months of the year.

13 Well, the Town of Paradise was burned down in that way by  
14 that C hook that failed. Also, there was a distribution line  
15 in Butte County that, within minutes, also failed. And a tree  
16 fell on the line causing another spark; goes to the ground,  
17 catches the grass on fire and then the brush and then the  
18 trees.

19 Now, in all those high winds which were occurring then,  
20 you can imagine how fast it grew. And it did. And  
21 within hours, peoples lives were in danger. It was a shocking  
22 thing. We all were glued to our television sets watching it  
23 unfold. And 85 people did not make it out.

24 So after that terrible event, we had a hearing. And  
25 eventually, I ordered that as a condition of probation, that

1 PG&E had to fully comply with all laws, state law concerning  
2 what's called vegetation, hazard tree problem, 4293 and 4292 of  
3 the California Public Resource Code; also, CPUC General Order  
4 Number 95. And it had to comply with its own Wildfire  
5 Management Plan, which had been -- it had submitted to the CPUC  
6 just a few weeks earlier. And the Monitor was supposed to  
7 monitor compliance with both. And there were a few other  
8 conditions as well.

9 One important one was that the board and officers were  
10 asked -- ordered, really, to go with me and Jennifer Hutchings,  
11 probation officer, up to Butte County where the District  
12 Attorney's Office took a day to show us the devastation in  
13 Butte County. It's a day I'll never forget. And it shows you  
14 what happens when you don't maintain the lines. What can  
15 happen. Not what will happen, but what can happen and did  
16 happen.

17 Now, we turn to the PSPS for a moment. In those same  
18 hearings in 2019, the spring that followed the Butte County  
19 fire, I had proposed -- knowing that the distribution lines  
20 were surrounded by many years of neglected removal of hazard  
21 trees, I had proposed that PG&E do what had already been done  
22 by the power company down in San Diego County; and that was to  
23 shut the power off, de-energize those lines that were not safe  
24 during windstorms.

25 We all know we get the Diablo winds, or the Santa Ana

1 winds sometimes they're called. Usually, they come in  
2 October and November, but sometimes they can come even earlier.  
3 And when the winds come, that's when the trees get blown over  
4 and that's when the fires start.

5 Well, PG&E resisted that idea and asked me not to impose  
6 that requirement. And I reluctantly gave in on that and did  
7 not require it, but I recommended it.

8 To my surprise, PG&E, in fact, on its own went ahead and  
9 implemented a PSPS program by which it would do exactly what I  
10 had -- maybe not exactly, but the general concept. And it went  
11 to the CPUC and got the approval to implement power shutoffs.

12 Now, in 2019, I believe there were eight PSPSs, but I  
13 could be off a little on that, in the PG&E territory; and the  
14 good news was -- very important -- not a single life was lost  
15 during the wildfire season of 2019. Not a single life was  
16 lost. In fact, I believe it's fair to say that no wildfire was  
17 started by distribution equipment, PG&E distribution equipment  
18 in 2019. And that was a direct result of the PSPSs.

19 Yes, the PSPSs are aggravating as can be and should only  
20 be the last resort. We should have a power system that can  
21 withstand the Santa Ana winds. But the problem is that it's  
22 going to take years to catch up on the backlog of hazard trees  
23 and hazard limbs that threaten the lines and threaten us with  
24 wildfires. So the simple solution in the meantime, as a last  
25 resort, is de-energize the line. So you have to pick out,

1 decide which lines to de-energize.

2 Well, 2019 was the first year PG&E did it. And I thought,  
3 my own view was, good for PG&E. PG&E showed us the photographs  
4 of 380-something trees that fell on the lines that had been  
5 de-energized during those PSPSs by the wind. The windstorm  
6 blew that many trees down. And I can't remember the number  
7 now. It was something like 200 of those, PG&E estimated, would  
8 have caused a wildfire had those lines been energized.

9 So just think about the number of lives that were saved by  
10 that. Think about the number of homes that were saved by that.

11 However, there was a political outcry by various people  
12 who needed the power. And the needs in some cases were very  
13 compelling. For example, police departments sometimes depended  
14 on the power and had no alternative source, or fire departments  
15 even. Of course, if the power line starts a fire, it's going  
16 to burn up anyway and there won't be any power.

17 But the problem was, how do you -- how do you make sure  
18 they have backup power or some alternative? Even the simple  
19 problem of recharging your phone at home, your cell phone, so  
20 you'll have a way to communicate was compromised because if you  
21 don't have power during a PSPS, how are you going to -- well,  
22 you can go sit in your car, I guess. But that was a problem.

23 There were medical problems. People connected with their  
24 machines for medical reasons, and if the machine went off, then  
25 they might die. And, in fact, in 2019, I believe one man did

1 die as a result of losing power from his medical device.

2 So there are serious considerations on the other side of  
3 the issue. But when you lay those alongside the number of  
4 people who burned up in Butte County and the number of homes  
5 destroyed, the number of acres burned up, which is the lesser  
6 evil? That was the question.

7 So in 2019, no wildfires were started by PG&E distribution  
8 lines. One was started by a transmission line. That was the  
9 Kincade Fire. And it destroyed a lot of homes, but mercifully,  
10 no one was killed. So 2019 was an improvement year, in my  
11 judgment.

12 Now we come to 2020. In 2020 -- this is my view of the  
13 evidence but -- my view of the evidence is PG&E tried to tweak  
14 and to refine its criteria for the PSPS and wanted to have  
15 fewer. It had publicly said that it would try to have fewer,  
16 and it was working on ways to do that. And in and of itself,  
17 that's an admirable thing to do. But should it come at the  
18 risk of sailing too close to the wind, such that you run a  
19 greater risk now of wildfires?

20 In Shasta County, we had something called the Zogg Fire in  
21 September. This was another common scenario. High winds were  
22 expected. PG&E ran its model, and based on its model, it  
23 decided to de-energize some lines. But it left on the Girvan  
24 line, G-i-r-v-a-n, Girvan line in Shasta County. And a  
25 gray pine blew down, 100-plus-feet-tall gray pine that had been

1 leaning 22 degrees off a steep embankment, hovering right over  
2 the line, the distribution line. And the north wind came down  
3 and blew it right onto the line, distribution line, and caused  
4 a bolt of electricity to flash between the two conductors and  
5 cause the grass underneath it, the dry grass, to catch on fire  
6 immediately.

7 And then that caused a huge fire in Shasta County. Four  
8 people were burned to death. A mother and her eight-year-old  
9 daughter were trying to escape in a car. They could not get  
10 out. The fire burned them alive in their car. Two others died  
11 too.

12 So we have to ask when we have something occur like that,  
13 were we sailing too close to the wind? Yes, it's bad if the  
14 ice cream melts in some vendor's shop in a tourist town because  
15 they don't have electricity, but no one dies in that  
16 circumstance. Yes, it's bad if the local police department  
17 doesn't have a backup power supply.

18 But what's worse? Four people burning to death alive in  
19 the car? Start out alive and they get baked to death, the kind  
20 of death nobody should go through.

21 To me, there's a very clear answer to that. We don't want  
22 to sail too close to the wind. We want to err on the side of  
23 public safety, not on the side of public convenience.

24 So after the Zogg Fire in Shasta County and knowing that  
25 the Girvan line had not been de-energized and was in the very

1 same region as the ones that were de-energized, the Court asked  
2 PG&E to explain its system. How did it go about making this  
3 decision, which lines to turn on and turn off?

4 And the Court was quite surprised to learn that the system  
5 does not -- did not take into account the extent to which any  
6 particular distribution line had been in compliance or not in  
7 compliance with state law concerning hazard trees and limbs.

8 For example, if a line had been totally worked and cleared  
9 and the right-of-way looked great and another line had not been  
10 worked and was overgrown with hazard limbs and trees, PG&E  
11 treated those two lines exactly the same. One was not given  
12 more consideration than the other, because it had a model that  
13 was based on more general higher-level considerations than the  
14 actual lines themselves.

15 So that then -- and by the way, this is curious because  
16 PG&E had rated those lines, all lines, for purposes of its  
17 vegetation management priorities; had already rated the lines  
18 to give them priority -- some priority and others not  
19 priority -- based on the individual circumstances of the  
20 individual lines. So PG&E had already done some of the work  
21 necessary to know which lines were the most risky and posed the  
22 greatest risk, but it was not using that data.

23 So that led to the Court proposing, back in December of  
24 last year, a further condition of probation that basically said  
25 that PG&E would take into account that information; and if a

1 particular line could not be deemed to be safe in high winds or  
2 for the winds expected, then PG&E would turn that off, turn  
3 that line off.

4 So we started a process. PG&E responded, the Government  
5 responded, and then PG&E and the Government both agreed on a  
6 protocol that would have taken into account Priority 1 and  
7 Priority 2 trees needing work. And that was definitely a step  
8 in the right direction.

9 But it turned out that none of the trees that caused the  
10 fire on the Zogg Fire, none of those were Priority 1 or  
11 Priority 2 under the records as PG&E maintained them.

12 Now, should they have been a Priority 1 or 2? Absolutely.  
13 If you get into the individual facts of that gray pine, there's  
14 no way you could conclude that, other than it was grossly  
15 negligent to leave that tree there. I don't know what Cal Fire  
16 will say on that for sure, but that's my judgment.

17 And the records indicate that -- PG&E's own records  
18 indicate that a contractor, in 2018, called Mountain G.  
19 Enterprises, had tagged that tree in question for removal; and  
20 then for reasons that are hard to explain satisfactorily to  
21 anyone, the work was never done. Then two other inspectors  
22 came along later and evidently failed to see what that other  
23 inspector had seen. Anyway, the tree was left up at the time  
24 of the Zogg Fire and caused the Zogg Fire.

25 So because the Priority 1 and Priority 2 would not have

1 solved the problem, I had asked that, well, what other  
2 information do you have that you could use that would help you  
3 evaluate the risk posed by a distribution line?

4 And one idea that I proposed was simply: Can you even  
5 estimate how many trees, whether they're healthy or not, are  
6 within striking distance of the lines?

7 Well, it turns out that PG&E actually did have that  
8 information because it had been using drones to use LiDAR and  
9 had used drones to go over the lines and actually did have that  
10 information and could say "above average" or "below average."  
11 Anyway, that was just one idea of a way to do it.

12 Another idea would be to use the very same rating system  
13 that had been used to prioritize the vegetation management, a  
14 system that PG&E has had in place under its Wildfire Management  
15 Plan.

16 But the basic point was: Can you take advantage of other  
17 information to assess the extent of the threat from high winds  
18 on a line-by-line basis as opposed to a region-by-region basis?  
19 And that's where we were.

20 Well, as I say, PG&E and the Government, U.S. Government,  
21 seemed to be in agreement that at least the Priority 1 and  
22 Priority 2 steps could be taken with no problem -- well, I  
23 won't say "no problem" -- could be taken. And the CPUC said at  
24 that point, in an earlier filing, that it had no objection to  
25 that.

1           However, in a very recent filing, the CPUC said that it  
2 did object now because the additional step of trying to take  
3 into account, let's call it, tall tree density or the number of  
4 trees within striking distance of the lines, that that would  
5 then lead to more PSPSs than in the past. And therefore, it  
6 objected and said this should go through more scientific --  
7 more expertise; and therefore, it objects.

8           The problem is we have a wildfire season coming up. I  
9 started this process in December, knowing that the wildfire  
10 season will be here in mid-June. We're three months -- less  
11 than three months away now from the next wildfire season. Do  
12 we have the luxury to give up an entire season and wait and see  
13 what scientists will say, data experts will say; or do we use  
14 our best judgment to try to save lives for the 2021 wildfire  
15 season?

16           My view is quite clear. We should save lives and not have  
17 a repeat of four people burning up in their cars, trying to  
18 escape, or 88 people being burned alive in Butte County, or the  
19 22 people that burned up in the Wine Country fires, not even  
20 counting the houses. So we don't have the luxury, in my view,  
21 to wait around. So this is where we are.

22           I apologize for this long-winded speech. I say this for  
23 those hundred or so people who are members of the public who  
24 are tuning in, to remind them how we got to where we are.  
25 I think you lawyers all know how we got to this location.

1 My goal is to protect the people of California from losing  
2 their homes and losing their lives from PG&E equipment,  
3 especially during these high windstorms. That's my goal. And  
4 I am open to any reasonable idea that will put a good plan in  
5 place for this wildfire season. I am not open to the idea that  
6 we would kick the can down the road and study the problem to  
7 death. We don't have that luxury.

8 All right. So now we will hear from PG&E. But I sent out  
9 some questions, and I'm going to let you have the floor for a  
10 long time, but can you first answer my questions.

11 One question was: What was the risk ranking of the Girvan  
12 circuit as of 2020, September 2020? By the way, that's the one  
13 that started the Zogg Fire. Please provide the risk rankings,  
14 if different, based upon the wildfire risk assessment  
15 prioritization output and the risk value overlay model.

16 So, Mr. Orsini, would you like to answer that question?

17 **MR. ORSINI:** I would, Your Honor, and thank you for  
18 your preliminary comments and the opportunity to address  
19 the Court.

20 So on that question specifically, Your Honor, as you  
21 noted, you asked us what the risk ranking was on the two  
22 different risk metrics that I know Your Honor has seen in the  
23 documents.

24 The risk model that was in effect as of September 2020 for  
25 the prioritization of the enhanced vegetation management work

1 was the risk value overlay model, one of the two you mentioned,  
2 Your Honor. The Girvan 1101 circuit on that model ranked  
3 353rd out of 3,360 circuits.

4 Now, one important piece of context, Your Honor, that  
5 model ranked all PG&E distribution circuits, including the  
6 circuits that are outside of the high fire-threat district. So  
7 it's the totality of the distribution circuits, which are  
8 3,360. This one, the Girvan 1101, ranked 353rd.

9 There was also, as Your Honor noted, the wildfire risk  
10 assessment prioritization model. That was the predecessor  
11 model that had been used for EVM prioritization. It also was  
12 used for ranking a variety of other work, like system hardening  
13 and things like that. But as of September 2020, it was not the  
14 one used for EVM. But nonetheless, to answer your question,  
15 under that model, the Girvan 1101 circuit ranked 229th out of  
16 the 696 circuits that are in high fire-threat districts.

17 **THE COURT:** On the other one, the 353.

18 **MR. ORSINI:** Yes, Your Honor.

19 **THE COURT:** That was compared to how many? Did you  
20 say 3,000?

21 **MR. ORSINI:** Yes, Your Honor. 3,360 circuits.

22 So there are a number of differences between those two  
23 models. One is, the model we're talking about right now, as I  
24 said, rank orders every distribution circuit, regardless of  
25 which threat district it's in; whereas the other model looked

1 just at the high fire-threat district circuits.

2 **THE COURT:** Okay. Good. Thank you.

3 Next question. What, if anything, was the relationship  
4 between Collector App, ArcGIS, PG&E's Getac Preload, and PMD?

5 The reason I bring this up is that in reading the  
6 materials, it looks like all of these are databases that are  
7 maintained either by PG&E or by contractors. I can't tell if  
8 they overlap or they use the same database or they're  
9 intertwined. So that's my question. What is the relationship  
10 between those items?

11 **MR. ORSINI:** Yes. Understood, Your Honor.

12 So let me set aside for a second the database that was  
13 used for the Carr Fire post-fire restoration work. I'll come  
14 back to it in a second.

15 But in terms of the routine vegetation management program  
16 on the one hand, which is the routine patrol plus SEMA, and the  
17 EVM program on the other, they use different databases to  
18 record tree work.

19 So for the EVM program, that program utilizes what we  
20 refer to as the Collector App. That's actually the app on the  
21 iPhone that the inspector uses. And that feeds data into  
22 what's known as an ArcGIS database. There are other words for  
23 it, but that's the software, essentially.

24 Then separately, for the routine and SEMA work, there are  
25 the Getac devices, which are basically ruggedized laptops that

1 the inspectors use for the routine and SEMA work. The tree  
2 work that's prescribed there feeds into the PMD, or the  
3 vegetation management -- the vegetation management project  
4 management database. Right? So for each of them, you have the  
5 database. For routine and SEMA, that's the PMD. For EVM,  
6 that's ArcGIS. And then you have the device that's used to  
7 enter the database.

8 Now, your question, Your Honor, we interpreted and you  
9 just confirmed, is: How do those databases speak to one  
10 another? And the answer is today, Your Honor, and during the  
11 time period you asked about, they don't. They're separate  
12 databases that are not connected.

13 Now, there is an effort underway at PG&E using, among  
14 other things -- using, among other things, software developed  
15 by the company Palantir to try and integrate the data sets  
16 between these two databases.

17 And the final point I'll make, Your Honor, is I said at  
18 the beginning I wanted to set aside the post-Carr Fire work; so  
19 let me circle back to that.

20 The post-Carr Fire work was recorded in an ArcGIS database  
21 maintained by PG&E's contractors. So it's the same software,  
22 essentially, for the database that we use in EVM, but that  
23 specific database was maintained by the contractor and did not  
24 speak to the databases on PG&E's servers.

25 Let me pause there to see if that made sense.

1           **THE COURT:** Wait, wait. I think I'm stuck back on  
2 34 -- give me the last three sentences again.

3           **MR. ORSINI:** With respect to the Carr Fire work?

4           **THE COURT:** Yes. Yes.

5           **MR. ORSINI:** So with respect to the Carr Fire work, as  
6 we've explained in the submissions, that was a separate work  
7 process that was geared towards that fire footprint to identify  
8 the fire-damaged trees.

9           From a database perspective, a PG&E contractor maintained  
10 a database that used the ArcGIS platform to record the work  
11 that needed to be done for the post-Carr Fire work. It's a  
12 similar database in terms of software to what we use for EVM,  
13 but that one was housed by the contractor and was not  
14 integrated with PG&E's databases.

15           **THE COURT:** Was that called Collector?

16           **MR. ORSINI:** It was -- I believe, Your Honor, that the  
17 device that was used, the app that was used was referred to as  
18 Collector. I'd have to go back and confirm that. That's my  
19 best understanding now.

20           Yes, one of my colleagues just confirmed for me it was a  
21 Collector App.

22           So it was very similar in type, Your Honor, to what we now  
23 use for EVM. The point I want to make clear is, it was  
24 maintained by the contractor and didn't speak to the PG&E  
25 databases. They weren't connected.

1           **THE COURT:** Well, in reading the materials that you  
2 submitted, it looks to me like in 2018 a contractor tagged the  
3 tree in question for work and put that into what was referred  
4 to as a Collector.

5           **MR. ORSINI:** Right.

6           **THE COURT:** The latitude and longitude into a  
7 Collector.

8           And then later, after the Zogg Fire two years later,  
9 someone else, using also Collector, went out and got the  
10 latitude and longitude and said the odds were better than even,  
11 I think was the way the declaration was phrased, that that tree  
12 had been designated for work in 2018.

13           Now, you can correct me if I misstated it, but was the  
14 Collector referred to there one that PG&E had no access to?

15           **MR. ORSINI:** So --

16           **THE COURT:** Could you speak to that.

17           **MR. ORSINI:** So I think the straight answer to your  
18 question is, yes, Your Honor. It was one that was not  
19 integrated into PG&E's system.

20           So let me give a little context. Your Honor's referring  
21 to the work that was done in 2018 by the contractors as part of  
22 the post-Carr Fire work.

23           As Your Honor knows, there were four gray pines right in  
24 the area of interest that a contractor did designate for work  
25 at that time. Sorry. There were two within a group of four.

1 Okay?

2 When the contractor did that back in 2018, he used the  
3 Collector App, and he entered into the Collector App that these  
4 two trees needed work. That data then fed into an ArcGIS  
5 database that was housed by the contractor that PG&E did not  
6 have on its servers. Okay?

7 Now, PG&E did receive extracts from that database back in  
8 2018 that listed the trees that had been designated for work by  
9 the contractor as part of the Carr Fire efforts. And those  
10 extracts -- we provided a couple of examples of those to  
11 Your Honor. Those extracts -- they were these big  
12 spreadsheets -- among other things, did note that these two  
13 gray pines were designated for work by the contractor.

14 So while PG&E did not have access itself to the database  
15 that the contractor used for the post-Carr Fire work, I don't  
16 mean to suggest to the Court that PG&E didn't know that those  
17 two trees had been designated for work. In fact, PG&E did  
18 because of those spreadsheet reports that we provided to  
19 the Court.

20 Now, if you fast-forward, Your Honor described the  
21 declaration that was put in by one individual. When he went --  
22 my understanding is, Your Honor, my understanding, based on his  
23 declaration, is he was asked by that contractor after the  
24 Zogg Fire to go out to the scene and try and figure out whether  
25 either of the two trees that had been marked for work back in

1 2018 was the subject tree. And as Your Honor noted, he said he  
2 accessed the GPS from Arc Collector. He was using that same  
3 database from 2018 that the contractor maintained.

4 Does that make sense, Your Honor?

5 **THE COURT:** Yes. Is that database still intact?

6 **MR. ORSINI:** I believe so, Your Honor. I'd have to  
7 confirm that because it's maintained by the contractor, but  
8 I believe so. We can follow up on that.

9 **THE COURT:** Which contractor was it? Mountain G.? Is  
10 that the one?

11 **MR. ORSINI:** It's Mountain G., yes.

12 So we received extracts from that database from  
13 Mountain G. as part of this process of responding to  
14 the Court's question.

15 Whether or not that database exists in the exact same form  
16 today as it did back then, I don't think I can speak to right  
17 now. We'd be happy to follow up on that question for  
18 Your Honor and provide an answer. We'd have to ask Mountain G.  
19 But we're happy to do that if Your Honor would like.

20 **THE COURT:** Yes. If you'd please do that.

21 **MR. ORSINI:** Okay.

22 **THE COURT:** Tell them the Court thinks that's evidence  
23 that should be preserved.

24 **MR. ORSINI:** I will do so.

25 **THE COURT:** Okay.

1           **MR. ORSINI:** Thank you.

2           **THE COURT:** Now, we go to Question Number 3, and this  
3 is the last question I sent out. How far from the gray pine in  
4 question was the parcel of property belonging to the woman who  
5 appeared to have threatened PG&E contractors performing work  
6 along the Girvan circuit following the Carr Fire?

7           **MR. ORSINI:** So our best estimate, Your Honor, was her  
8 property was roughly 500 yards from the subject tree, from the  
9 area of interest.

10           Now, the one thing I'll note, Your Honor -- and Your Honor  
11 has the evidence and records in front of you -- my  
12 interpretation of the records is, it appears that people were  
13 reporting that this woman was on the road and, you know,  
14 brandishing potentially the firearm in areas beyond just her  
15 property itself. I don't know that for a fact, Your Honor, but  
16 that's what the evidence suggests.

17           If you look at Exhibit J6 to our March 12th submission,  
18 there's a reference to the fact that this woman had apparently  
19 blacked out the paint mark that had been placed on a tree on  
20 someone else's property, not hers.

21           The extent to which she was on other properties or where  
22 exactly she was in the road, I honestly can't tell you,  
23 Your Honor. Our best read is, her property was 500 yards away;  
24 and the contemporaneous records seem to suggest that she was  
25 sort of acting more broadly outside of her property line.

1           **THE COURT:** I bring this up because I did look at the  
2 parcels on the map and looked at where the incident occurred  
3 where she allegedly brandished a firearm. And as I read it,  
4 that was more than 500 yards -- maybe not too much more, but  
5 more than 500 yards from where the gray pine in question was.  
6 And the gray pine in question was certainly not anywhere near  
7 her property.

8           So that raises the question in my mind of how that could  
9 possibly be an excuse for not having worked the gray pine. It  
10 might have been an excuse for not going on her property or  
11 immediately around her property; but -- of course, you can  
12 always go get the sheriff to come out and do it, to assist,  
13 but -- all right. That's the reason I raised that question.

14           **MR. ORSINI:** I understand, Your Honor.

15           **THE COURT:** By "500 yards," do you mean 500 yards from  
16 her house or 500 yards from the nearest point of her property?

17           **MR. ORSINI:** I don't know the answer to her house,  
18 Your Honor. The way that my team calculated it was the nearest  
19 point of her property.

20           **THE COURT:** Okay.

21           **MR. ORSINI:** If Your Honor would like, I can  
22 provide -- maybe we can give you a map or something with an  
23 overlay that shows how we're calculating it, just so we're on  
24 the same page.

25           **THE COURT:** That would be good.

1           **MR. ORSINI:** Okay. We can do that, Your Honor.

2           **THE COURT:** All right. So those are some of the  
3 questions I had.

4           Mr. Orsini, you know the problem that I'm trying to get  
5 at, which is, PG&E has information about which of these lines  
6 pose more of a threat than other lines because they've been  
7 worked or they are surrounded by tall trees. And you can  
8 make -- so what I'm trying to find here is see if we can come  
9 to an agreement on what would be a good protocol for doing  
10 that.

11           Now, I've got to do a side trip here for a minute. At the  
12 11th hour and the 59th minute, the CPUC submitted an objection,  
13 and then last night I received the paperwork that it referred  
14 to. And the paperwork it referred to was a -- I'll hold it up.  
15 Maybe you can see it. This is part of it.

16           It's a PG&E chart called "Sensitivity Study: Adding  
17 Distribution Vegetation Guidance to 10 Year Climatology Study  
18 Base Line (2010-2019), Tree Over Strike, and HFTD Vegetation  
19 Caused Outages."

20           And then you have down here two rows. One is called  
21 "2010 10 Year Baseline (current models)." Then the next line  
22 is "Baseline plus/greater than 70th Percentile Sum Tree Over  
23 Strike."

24           And I believe this is the chart that gave the CPUC some  
25 concern and provoked their objection.

1           So I would like for you, if you know it well enough, to  
2 explain it. Tell us what the baseline is on the first row, and  
3 then what is the second row. It doesn't refer to the Tier 1  
4 and Tier 2 -- I'm sorry -- the Priority 1 and Priority 2. It  
5 just refers to the tall tree problem.

6           **MR. ORSINI:** Okay.

7           **THE COURT:** So I can't figure out what you're  
8 comparing here.

9           **MR. ORSINI:** I understand, Your Honor.

10          **THE COURT:** So can you tell us what the comparison is?

11          **MR. ORSINI:** Yes, Your Honor. It's a complicated  
12 analysis, and I'll walk you through it to the best of my  
13 ability.

14          Can I just make a couple of preliminary remarks before I  
15 do that?

16          **THE COURT:** Yes. Go ahead.

17          **MR. ORSINI:** So, Your Honor, you said a moment ago  
18 that I know what you're trying to solve for, and I absolutely  
19 know what you're trying to solve for. You've been very clear  
20 about that. In prior hearings, you were very clear about that.  
21 Your opening remarks, which is what you're trying to solve for,  
22 is we don't want another Zogg Fire. We don't want another four  
23 people killed because of a wildfire that may have been started  
24 by PG&E facilities.

25          And so when we had our last hearing, we came in with a

1 proposal on de-energization related to the P1s and P2s to  
2 specifically address the Court's concern about outstanding  
3 work.

4 And I think, although I'm not sure, Your Honor -- and I  
5 know that they're in the gallery here, and maybe they can speak  
6 to this. But I think the CPUC is still on board with that  
7 portion of our proposal, which is good. It's a step in the  
8 right direction.

9 Now, you pushed me very hard at the last hearing,  
10 Your Honor, on whether that went far enough, because it  
11 wouldn't have solved for the Zogg Fire. And I think that was,  
12 you know, a very productive experience for the company, because  
13 in the time since the last hearing, we went back with your  
14 exact goal in mind, which is to try to come up with  
15 modifications to PSPS that the internal experts believe, had  
16 they been applied back in September of 2020, would have  
17 de-energized that area of interest, because the existing  
18 program at the time didn't and the P1s and P2s wouldn't have  
19 for the reason the Court noted.

20 So I think when you ask, Your Honor, whether I understand  
21 what your goal is, my answer is absolutely I do, as does my  
22 client, and we share that goal.

23 The CPUC has raised concerns about this methodology, which  
24 I'll talk about in a minute. But I want to be very clear about  
25 something with the Court. In terms of whether or not the

1 proposal we've set forth on the de-energization is a reasonable  
2 step to mitigate wildfire risk, whether or not it's something  
3 we should do to try to avoid another potential Zogg Fire, the  
4 company's answer to that is overwhelmingly yes. Right? The  
5 company believes this is the right approach.

6 Now, we're in a difficult spot here, of course, because  
7 our regulators are telling us we can't do it. And so I think  
8 that obviously puts us in a position where we have to be  
9 sensitive to the regulator's needs because they, of course,  
10 tell us what we can and can't do under state law. But we share  
11 the Court's goal of trying to expand the program; hopefully  
12 expanding the program in the way that we have proposed, which  
13 I'll walk you through in a minute; and not waiting until 2022  
14 to do that.

15 And so what we'd like to be able to find is some expedited  
16 process where we can do what it is the CPUC, Cal Fire, and  
17 Cal OES want us to do to get people comfortable with an  
18 approach that achieves your goal, which is our goal, and does  
19 it this year, not next year. So that's sort of the framing I  
20 wanted to provide the Court.

21 But if we talk about the document itself, if you'll  
22 indulge me, Your Honor, I think it might be most useful if we  
23 kind of just walk through the slides together so I can explain  
24 how this was constructed. Does that make sense to the Court?

25 **THE COURT:** Yes, please.

1           **MR. ORSINI:** And I apologize to those who are in the  
2 gallery who may not have this. I'm not technologically capable  
3 enough to share the screen, even if the Court wanted me to.

4           But let's start with the first slide. And, Your Honor,  
5 let me just give one caveat. This is a complicated analysis.  
6 I spent a lot of time with PG&E subject matter experts trying  
7 to understand it enough to explain it to the Court. There may  
8 be some specific details or technicalities that I don't have in  
9 mind, and to the extent that that's true and Your Honor's  
10 questions, I can't answer, we'll follow up on them. But I want  
11 to give the Court sort of an overview of the approach here, if  
12 that makes sense.

13           So the first line, Your Honor, which is described --  
14 titled "Potential 2021 PG&E Distribution PSPS Guidance" -- this  
15 page here, Your Honor.

16           **THE COURT:** I got it.

17           **MR. ORSINI:** What this does is it provides sort of the  
18 decision flow of the various PSPS programs. And we talked  
19 about those with the Court before, about sort of what's in  
20 place already.

21           And so the threshold question that's on the left is --  
22 Ms. Severson has asked me to identify the document by filing  
23 number. I don't know it off the top of my head. If one of my  
24 colleagues who is on can get that to me so I can read it, I  
25 will do so.

1           Anyway, Your Honor, on the left side you see the first  
2 threshold, which is: Is the area meeting minimum fire  
3 potential conditions? And those conditions are listed below  
4 based upon the current program.

5           There's a note that says those are under evaluation. They  
6 are, Your Honor. We actually think that if we can move forward  
7 with this proposal -- and maybe even if we can't, Your Honor --  
8 the company is planning to make some tweaks to these conditions  
9 to make de-energizations occur more often; i.e., lower the  
10 thresholds. Okay?

11           And, Ms. Severson, the docket number for this document is  
12 1358-1. I'm at page 5.

13           So, Your Honor, if the minimum fire condition potential is  
14 met, then you move over to the middle. Okay?

15           And the bottom two boxes, the orange box and the black  
16 box, are the current PSPS methodology that we've previously  
17 described to the Court. So those are the Black Swan model, the  
18 Large Fire Probability model, the things we've described at  
19 length to the Court before.

20           And so if we move forward with the proposal we've made,  
21 the first question is: Do you exceed minimum fire potential  
22 conditions?

23           Then the next question will be -- the next question will  
24 be: Do we meet our existing models, the Black Swan or the OPW?  
25 If the answer is yes, you de-energize. Okay? If the answer is

1 no, it doesn't meet our preexisting threshold models, you then  
2 move to this blue box on top, which is our new proposal.

3 And the new proposal has two parts. One is we take into  
4 account the P1s and P2s. That's what we talked about at the  
5 last hearing, Your Honor.

6 And just by way of reference, Your Honor, as of yesterday  
7 morning, there were zero P1s in high fire-threat districts and  
8 966 P2s.

9 And so if this proposal is implemented, we meet the  
10 minimum fire potential conditions but we don't satisfy our  
11 existing thresholds, then you ask: Okay, is there a P-1 or P-2  
12 in the high fire-threat district?

13 If the answer is yes, PG&E would do one of two things. It  
14 would de-energize that section, or it would go out and actually  
15 remediate the tree before the wind event occurs, which would  
16 allow for the reduction of that risk but keeping the power on.  
17 Those are sort of the two toggles there.

18 Now, let's say we met the minimum fire potential  
19 conditions, we didn't meet Black Swan, we didn't meet the fire  
20 potential model, our preexisting model, and there's no P-1 or  
21 P-2. Right? Then the next question will be: Do we believe  
22 that there is such a presence of overstrike risk -- i.e., feet  
23 of trees that are tall enough that if they fall, they will hit  
24 the line -- that we will de-energize based upon that risk?

25 Okay? Does that make sense, Your Honor?

1           **THE COURT:** Yes, I got you. In the 70th -- above  
2 70th percentile.

3           **MR. ORSINI:** Right. Exactly.

4           So let's go to the next slide, and I can explain sort of  
5 how we measured that, how the subject matter experts have  
6 measured it.

7           And Your Honor is dead-on in your opening statements.  
8 We're using LiDAR data. So PG&E has LiDAR data that it's  
9 obtained in the last two years of the distribution lines in its  
10 high fire-threat districts. And it's described on this slide.  
11 I won't walk through all the details, but I can answer  
12 questions if Your Honor has them.

13           But the basic principle is, it gives the company a rough  
14 sense of how many feet of overstrike potential there are for  
15 each tree point measured in LiDAR.

16           So what do I mean by "feet of overstrike potential"? So  
17 you can imagine, Your Honor, there is a gray pine that's  
18 51 feet tall, that's 50 1/2 feet away from the line. That tree  
19 has to fall in a very specific way to actually hit the line.  
20 Right? If it falls straight into the line, it'll have that  
21 6 inches of space because it's 6 inches taller than the  
22 distance to actually hit the line. So that presents some risk  
23 of overstrike.

24           Now, imagine, Your Honor, that same gray pine is 50 feet  
25 away but 100 feet tall. Now that tree presents a much bigger

1 risk because it could fall straight, it could fall at this  
2 angle, it can fall in all sorts of different angles and there's  
3 a higher probability that that tree will strike the line and  
4 potentially start a fire.

5 So what PG&E's experts have done using this LiDAR data is  
6 try to estimate, for the areas in the high fire-threat  
7 districts where its distribution lines exist, how much foot  
8 overstrike risk there is in each segment of the lines. Right?  
9 Not just: Do we have tall trees? Because not all tall trees  
10 are created equal for the reasons I just described.

11 And so the principle is, we use the LiDAR data; we  
12 estimate the overstrike potential across our entire  
13 distribution system in the high fire-threat districts; and then  
14 we rank order the segments.

15 And, you know, it's important to understand that LiDAR is  
16 not always perfectly accurate, as I said; but it gives you a  
17 pretty good aggregate picture and it's the best data that we  
18 have.

19 And so when we rank order all of the segments with this  
20 overstrike potential, what the company's proposal is -- and we  
21 can move to the next page -- is we use as a de-energization  
22 threshold whether the area satisfies the minimum fire potential  
23 conditions and it falls within the top 30 percent of overstrike  
24 risk.

25 Is that clear, Your Honor?

1           **THE COURT:** Yeah. I think I understand that part.

2           **MR. ORSINI:** Okay. So let me go --

3           **THE COURT:** But --

4           **MR. ORSINI:** Sorry. Go ahead.

5           **THE COURT:** I just wanted -- how does that tie into  
6 the comparison you have in the table on that page?

7           **MR. ORSINI:** Yeah, that's where I'm going next.

8           Now, Your Honor, one thing I do want to note as well --  
9 and Your Honor understands this, but I note it more for the  
10 audience -- this methodology doesn't really look at or,  
11 frankly, care whether the tree that has overstrike risk is  
12 healthy or not. Right? This captures perfectly healthy trees,  
13 even if everybody on this line and every trained forester would  
14 agree it's not a hazard tree that needs to be remediated. That  
15 doesn't matter. It's still a potential risk because, as we all  
16 know, at certain wind speeds under certain conditions, even a  
17 healthy tree can fail. So we're going sort of even further  
18 than just the risky trees.

19           So what we have on this table, Your Honor, that you're  
20 asking questions about is -- first of all, one question you  
21 might have is: Why did we pick 70 percent? And that question  
22 is answered in the orange box. There are two reasons for it.

23           The first is our experts were trying to solve for what  
24 Your Honor was trying to solve for, the Zogg Fire. And after  
25 the experts did the analysis, we saw that the Zogg Fire fell at

1 roughly the 76th percentile for the tree overstrike, that  
2 subject area of interest. And so what we proposed is a  
3 threshold that gives some buffer below that to make sure it's  
4 captured.

5 One additional point I'd just like to make there,  
6 Your Honor, is, based on the data we previously submitted to  
7 the Court, under current minimum fire potential thresholds, the  
8 first sort of screen in this whole process, the area of  
9 interest would not have satisfied the threshold on the day of  
10 the fire because the highest recorded wind speed was below  
11 20 miles an hour. The proposal, as I mentioned before, will  
12 include lowering that wind threshold so that it would have been  
13 caught back in 2020. Okay?

14 So now to the table. I'm sorry, Your Honor. That's a  
15 long windup to actually answer your question. But to the  
16 table. What PG&E is trying to do here is show two things.  
17 One, what is the incremental wildfire risk that we estimate  
18 this proposal will capture? That's one side of the equation.  
19 And what is the incremental impact of this proposed condition  
20 on customers across a number of different metrics? Right? The  
21 other side of the equation.

22 And so if we look at the baseline -- let me just start  
23 with the baseline row, which is the "2020 10 Year Baseline."  
24 What the company did was they said: All right. Let's look  
25 back at the years 2010 to 2019. Let's apply our current

1 methodology without this strike potential, without P-1s and  
2 P-2s. And let's estimate over that ten-year period how many  
3 de-energizations would have occurred and, also, the risk that  
4 would have been captured by that application of the current  
5 model without tweaks.

6 And the risk piece is found in the first two columns, the  
7 66 percent and 70 percent.

8 At a high level, what the 66 percent reflects is, if you  
9 think about those segments of the line that fall within that  
10 top 30 percent of overstrike risk -- right? -- that exceed the  
11 70 percent, how much of those, how often, what percentage would  
12 they have been de-energized during the de-energization events  
13 with the current model? And that's the 66 percent. Okay?

14 The second column reflects how much -- how much of the  
15 outages -- right? -- the actual outages we saw would have been  
16 captured by de-energization. That's the 70 percent. Just two  
17 different ways of looking at the risk.

18 Now, Your Honor, there are a lot of assumptions that go  
19 into this, so the numbers aren't precise, but it's meant to be  
20 directional. Okay?

21 What we then do below is show what the incremental risk  
22 capture would have been if we went back during that same time  
23 period and applied the new methodology. This, Your Honor, is  
24 all measured entirely based upon this overstrike potential.  
25 P-1s and P-2s are not part of this analysis, primarily because,

1 Your Honor, our expectation is most of those, the overwhelming  
2 majority of those will be remedied by going after the tree  
3 itself, going out there and taking the tree down before the  
4 wind event. So this is focused just on the overstrike issue.

5 And what you see is, using this model now captures, based  
6 on the estimates and assumptions, 94 percent of the overstrike  
7 risk and 90 percent of the outage risk. Now, it comes at the  
8 cost of incremental outages measured by time and the number of  
9 events. And that's the other end of the equation, of course.

10 But that's what this is trying to depict.

11 **THE COURT:** Okay. I think I followed about 70 percent  
12 of that. So let me just --

13 **MR. ORSINI:** And, Your Honor, I hope I was at least  
14 99 percent right about that 70 percent. As I said, this is  
15 complex; so we can follow up with more details. But this is my  
16 understanding of this complex methodology.

17 But I'll step back. And the theme I take away from this,  
18 Your Honor, is, we tried to create a baseline going back  
19 ten years to say: This is how much risk we would have captured  
20 at what cost under our current model. And then say: During  
21 that same time period, with this new proposal, how much  
22 incremental risk would we have caught at what incremental cost?

23 **THE COURT:** Okay. Let me ask you some questions to  
24 clarify this for me. The first row, called "2020 10 Year  
25 Baseline (current models)," that refers to the very model used

1 in 2020; right?

2 **MR. ORSINI:** That's right, Your Honor.

3 **THE COURT:** Okay.

4 **MR. ORSINI:** And applied backwards over many years  
5 when that model wasn't in use.

6 **THE COURT:** Right. And then the one below, called  
7 "Baseline plus/over 70th," is using the tree strike variable,  
8 but not using P-1 or P-2?

9 **MR. ORSINI:** Correct, Your Honor. So in theory --

10 **THE COURT:** But could it really be -- you said the  
11 reason you didn't use P-1 or P-2 is because you could go out  
12 and cut those trees down before the wind.

13 **MR. ORSINI:** Right.

14 **THE COURT:** Really, is that realistic to do? Maybe  
15 for P-1s it would be. But could you really work all the trees  
16 that needed to be worked on a P-2 basis --

17 **MR. ORSINI:** Maybe not --

18 **THE COURT:** -- in, say, 24 hours?

19 **MR. ORSINI:** -- Your Honor.

20 Maybe not, Your Honor. And we do have often 72 hours'  
21 notice before these high wind events start; but the answer is  
22 maybe not. The company's goal is to try to get to as many as  
23 they can, but they will de-energize if they can't.

24 And so there are two reasons we didn't include the P1s and  
25 P2s here. One is because we're going to try and remediate

1 them; but two is, this P-1/P-2 designation is fairly new, at  
2 least the way we're talking about it right now. So we don't  
3 have the data going back during that entire baseline to  
4 estimate how many P1s or P2s could have existed back then. You  
5 can make some assumptions. Right? You can straight line it.  
6 You can do a regression. There are lots of different ways you  
7 can do it.

8       Ultimately, I believe the company's view is, even if we  
9 can't get to those P-2s, that the number is sufficiently low  
10 that the impact, in terms of incremental de-energization, while  
11 it will exist, is not material as compared to the impact from  
12 this overstrike potential.

13       And so directionally, what it would do if we could include  
14 it using assumptions, Your Honor, is it would potentially  
15 increase the risk capture and potentially increase the impact  
16 on customers.

17       And I only say "potentially" because you would expect that  
18 some number of those P1s and P2s would fall within areas that  
19 would be de-energized because they're in the 70th-plus  
20 percentile.

21       **THE COURT:** So your third column says "PSPS Total  
22 Events 10 Years." So what you're saying there is, using the  
23 model that was in effect in 2020, you would have had 27 PSPSs  
24 over ten years?

25       **MR. ORSINI:** Yes, Your Honor. And using the new

1 model, we would have had 45 during those same years based on  
2 the same conditions.

3 **THE COURT:** All right. But what you don't have in  
4 here is what that 27 would be if you rolled in the P1s and the  
5 P2s.

6 **MR. ORSINI:** I don't, Your Honor.

7 **THE COURT:** You don't have that. All right.

8 **MR. ORSINI:** No. My understanding directionally is it  
9 would be incremental, but nowhere near the 45. I think that's  
10 sort of the level of detail at which the company, to my  
11 knowledge, has really modeled that impact.

12 **THE COURT:** Well, it'd be interesting to know what the  
13 number is.

14 Now, I have this question for you. This goes back  
15 ten years, but what if you only went back to 2019 and compared  
16 2019 with 2020? For example, how many PSPSs were there in  
17 2020?

18 **MR. ORSINI:** The chart I have in front of me right  
19 now, Your Honor, says there were either six or seven.

20 **THE COURT:** So I think in 2019 there were eight. Is  
21 that correct?

22 **MR. ORSINI:** I'm not sure, Your Honor. That sounds  
23 directionally right. Let me see if I can get the answer to  
24 that.

25 **THE COURT:** The --

1           **MR. ORSINI:** Yeah, it was six in 2020. Checking on  
2 2019.

3           But I take Your Honor's question, which is: Forget the  
4 ten years; let's just look back at those two years.

5           **THE COURT:** Yeah.

6           **MR. ORSINI:** What would the incremental effect have  
7 been?

8           I don't have that data, but I can get it for you.

9           **THE COURT:** See, to my mind, the company did a better  
10 job in 2019 than it did in 2020, even though there were fewer  
11 PSPSs, because in 2019 nobody's life was lost. In fact, the  
12 distribution lines didn't cause a single fire in 2019. But in  
13 2020, it was a different story.

14           **MR. ORSINI:** I understand that perspective. One thing  
15 I can say, Your Honor, as I said before, was I do know that if  
16 we had this new model in place back in 2020 and if we do tweak  
17 the minimum fire potential conditions as we expect, Girvan 1101  
18 in the area of interest would have been de-energized.

19           Now, that wouldn't count as a new event because we had a  
20 de-energization event, but it would have incremental customer  
21 numbers and incremental outage hours. But it would have been  
22 additional de-energization on the very issue that's driven  
23 these conversations, Your Honor.

24           **THE COURT:** Yes.

25           **MR. ORSINI:** Your Honor, there were seven PSPSs in

1 2019.

2 **THE COURT:** Seven. Okay.

3 Seven in what year?

4 **MR. ORSINI:** Seven in 2019. Six in 2020.

5 **THE COURT:** Somehow we thought there were eight in  
6 2019. I question whether your "seven" is right.

7 **MR. ORSINI:** You know, Your Honor, I think it might be  
8 a question of how you count them. There were a couple of  
9 events that were basically, like, overlapping or very, very  
10 close in days. I think PG&E thinks of those as -- the ones  
11 that were really close together as one macro event. But you  
12 could count it as separate events, which I believe would get  
13 you the eight.

14 **THE COURT:** Another way to measure it would be how  
15 many miles of line over how many days or hours were  
16 de-energized. That'd be a maybe more precise way to look at  
17 it.

18 **MR. ORSINI:** Right. And I think on that front,  
19 Your Honor, your instinct here is exactly right, which is, even  
20 though the number of events is largely the same, you know, it's  
21 close -- whether it's seven or eight in 2019 and six in 2020 --  
22 my understanding is there were much broader de-energizations  
23 during 2019 than in 2020 in terms of how many customers, how  
24 many lines, those sorts of things. So I think your instinct on  
25 that is exactly right, Your Honor.

1 Or I should say, your recollection of that is exactly  
2 right.

3 **THE COURT:** Okay. So if you could get the data that  
4 would compare what 2019 and 2020 would have been like using the  
5 two models, as opposed to this backward projection, that would  
6 be a pretty interesting one to use.

7 **MR. ORSINI:** Okay.

8 **THE COURT:** And also to roll in a third row which  
9 would include the P-1 -- which would be the baseline model plus  
10 P-1/P-2.

11 **MR. ORSINI:** We can do that. There will be some  
12 subjective judgments that need to be made to do that latter  
13 piece, simply because I don't know we'll have the data for  
14 P-1/P-2 even back in 2019. But I'll talk to the subject matter  
15 experts, and we'll get the Court the best estimate that we can.

16 **THE COURT:** All right. Here's the other thing I  
17 noticed. Let's go to the next page in your submission.

18 **MR. ORSINI:** The final page, the map, Your Honor?

19 **THE COURT:** Yeah. Now, looking at this map, I was  
20 heartened because -- I guess the CPUC looked at this map and  
21 did not like it. But I looked at this map, and the areas, the  
22 counties that were going to be subject to more PSPS action were  
23 exactly the counties that have the most danger, the chaparral  
24 counties, foothill counties, Shasta, Butte County, the place  
25 where there's high brush, lots of gray pines and lots of

1 gullies and hills; the terrain is so treacherous.

2 And so to my mind, that was an extra measure of precaution  
3 for the people who live in those counties; whereas some of  
4 these other counties closer to the ocean were not affected very  
5 much at all by this comparison.

6 Tell me, am I reading that -- maybe my interpretation and  
7 spin on it, you don't have to agree with. But am I reading it  
8 correctly that the impact of this new model would be more  
9 heavily felt in the mountainous counties?

10 **MR. ORSINI:** I think you're exactly right about that,  
11 Your Honor. And, you know, I can't speak for the CPUC's  
12 reaction, but I can speak for my personal reaction when I saw  
13 this, which was similar to Your Honor's. It gives me a sense  
14 that the -- the way in which the company is trying to target  
15 the risk is actually tied to some logic -- right? -- and some  
16 data. Because if we saw a proposed model that suggested  
17 massive increase in de-energization along the coast and in the  
18 Bay Area, but not in those foothills, that would raise some  
19 questions to me about how good the model was.

20 **THE COURT:** People at PG&E have been working on this.  
21 Do they believe in this model, or do they -- in terms of being  
22 able to better save lives and better preserve property? Or are  
23 they just doing it because the federal judge is a mean guy and  
24 is making them do the work?

25 What is their actual view about this?

1           **MR. ORSINI:** So based on the conversations I've had  
2 with my client, I think they have developed this because  
3 Your Honor pushed them to do it, which is a positive step,  
4 because in developing this and analyzing the data, they've come  
5 to believe this is a valuable risk mitigation proposal; that  
6 this is something that -- you know, it will come with cost.  
7 There's no question about that. It will come with cost to the  
8 extent of de-energizations, the number of de-energizations, the  
9 length of de-energizations. But that you're capturing a  
10 significant amount of incremental wildfire risk by implementing  
11 this proposal.

12           They also looked, Your Honor, at whether or not to go  
13 further -- right? -- whether to set that baseline lower than  
14 70 percent. One reason to set it at 70 percent is because it  
15 gave us a buffer for Zogg. But, you know, we captured  
16 94 percent, is the estimate, of some of the overstrike risk.  
17 Why not go after 98 percent?

18           And my understanding -- and I can't give you all the  
19 details behind this, but my understanding is, generally, what  
20 we've observed is, once you get above the level of risk that we  
21 think we capture with this proposal, there then becomes a very  
22 non-linear relationship between how much additional burden you  
23 have to put on customers with de-energization versus how much  
24 extra risk you capture. In other words, you start  
25 exponentially increasing the customer impact, but you don't

1 materially increase the risk capture.

2 So, Your Honor, the company, as I said in my opening  
3 remarks, they're constantly looking to refine these models.  
4 Would we have gotten here had Your Honor not pushed us? I  
5 don't know. But it was Your Honor's pushing that led to this  
6 specific exercise that, when you talk to the experts within the  
7 company, they do believe will go a long way towards help  
8 mitigating incremental wildfire risk, which is a very important  
9 goal, with some cost. And that's where the regulator's concern  
10 is, as I understand it.

11 **THE COURT:** Well, please pass on to your experts  
12 the Court's appreciation for this work.

13 **MR. ORSINI:** I will, Your Honor. Thank you. They  
14 will appreciate that.

15 **THE COURT:** Can this be ready to be implemented this  
16 wildfire season?

17 **MR. ORSINI:** Subject to the regulatory issue, the  
18 expectation on this is yes, Your Honor, it can. We've got the  
19 data. We've done the modeling. Right? We had to do it in  
20 order to put together this analysis. Again, it's not perfect  
21 in terms of the LiDAR, but my understanding is the subject  
22 matter experts at PG&E believe this could be ready to go for  
23 this wildfire season, again, subject to the regulatory issues.

24 **THE COURT:** All right. I don't know if anyone from  
25 the CPUC is on the line. Is there?

1           **THE CLERK:** There is someone, Judge. I just hadn't  
2 let them into the room because we had so many folks, but I can  
3 bring them in right now.

4           **THE COURT:** If they would like to speak, I would like  
5 to hear their objection and have a conversation with them. So  
6 could we do that?

7           **THE CLERK:** Ms. Hammond, if you're in the room and you  
8 could raise your hand, that would help me find you quickly, or  
9 Mr. Nolan. Thank you.

10           (Ms. Hammond joins the proceedings via Zoom.)

11           **THE CLERK:** All right. So Christine Hammond has just  
12 joined us.

13           **THE COURT:** I don't see her, but maybe if she speaks,  
14 she'll come on the screen. Oh, there she is.

15           I see you. Welcome. Welcome. Ms. Hammond, were you able  
16 to hear everything so far?

17           **MS. HAMMOND:** Yes, Your Honor. Thank you.

18           **THE COURT:** Okay. Good.

19           I have to give deference to the CPUC, and I respect the  
20 CPUC, and I got your last-minute objection. But it sounds like  
21 PG&E wants to do this. I think it's a good idea. So is the  
22 CPUC actually going to tell them not to do it? Is that where  
23 you stand? Or what exactly is your position?

24           **MS. HAMMOND:** Thank you, Your Honor.

25           I would like to emphasize, first, that the CPUC and the

1 state agencies -- the California OES and Cal Fire -- are  
2 dedicated to ensuring and safeguarding the people of the state  
3 of California, number one. It is not driven by political  
4 motivations. This is a very complex issue, as Your Honor  
5 appreciates.

6 Our position, hearing PG&E's proposal, is it is the  
7 probationer's proposal. It hasn't been tested. It hasn't been  
8 vetted.

9 And there are many, many parties that have spoken in CPUC  
10 proceedings. There have been many, many members of the public  
11 that have spoken about their experiences with PG&E's  
12 performance of 2019 and 2020 PSPS events, and the comments have  
13 not been positive.

14 There are many, many challenges associated with PSPS. It  
15 is true that PSPS is an effective tool of last resort to  
16 prevent wildfires. It is also a tool that has its own  
17 consequences, and we hear from members of the public and from  
18 safety experts and from the first responders as to those safety  
19 consequences.

20 But going back to PG&E's proposal, again, this is a  
21 proposal that the CPUC requested more information on. PG&E  
22 produced this presentation to the CPUC. The statements we've  
23 heard so far in today's hearing come from the probationer, have  
24 not been tested or challenged or subject to verification.

25 And so the CPUC is in a position where we're asking

1 the Court to please, number one, hear the counterbalancing  
2 voices and positions on PSPS as it is considering the  
3 aggressive use of PSPS.

4 But taking a step back, we're in the position that we're  
5 in because, as Your Honor laid out, there have been some  
6 backlogs in vegetation management, equipment hardening, overall  
7 safe operation of the system.

8 And taking the circumstances around the Zogg Fire, it  
9 appears the Court is backing into this one particular  
10 situation, whereas the CPUC and the other state agencies and  
11 partners, and local partners and with the tribal partners, is  
12 taking into account this very broad and very extensive  
13 undertaking, not just wildfire mitigation but compliance,  
14 penalties as appropriate.

15 And that endeavor is a highly coordinated endeavor. And  
16 when one bit of that endeavor changes or is tweaked, whether by  
17 a proposal of the utility, by a party, or by this Court, the  
18 entire calculus has to change in response.

19 There are limited resources that have to be accounted for,  
20 and PG&E's counsel has referenced the costs that are associated  
21 with PSPS. Those costs are not -- the first thought that comes  
22 to my mind is not monetary costs. It's the cost to the  
23 individuals that are in these rural areas.

24 We have heard from representatives of rural counties, in  
25 the very counties where we're seeing quite extensive increases

1 in PSPS under this proposal, and it's very disquieting to hear  
2 what the downstream consequences of PSPS are.

3 In 2019, I understand 500 medical baseline customers in  
4 PG&E's service territory during one PSPS event didn't receive  
5 adequate notice.

6 Really, a key part of public safety is the ability of  
7 folks to communicate. And this is discussed a little bit in  
8 the CPUC's letter. But we're looking at the prospect of  
9 outages that last five to six days. And then we talk about an  
10 increase in PSPS events on an average from 23 to 28 hours. But  
11 if we look at history, recent history, these PSPS events have  
12 lasted days.

13 And right now, communication facilities -- many  
14 communication facilities in rural areas can't support backup  
15 power for communication for more than 24 hours. Now, this  
16 is -- I'm talking about landlines. In rural areas, there is no  
17 wireless connection for a lot of residents. They rely on wire  
18 lines and, like, a Wi-Fi router that connects to the wire line,  
19 and they can use their cell phones through that means. When  
20 their wire lines go down, after 24 hours, they don't have  
21 communications capability to contact first responders or to  
22 receive emergency messages. It is not a question of making  
23 sure your phone is adequately charged; just basic communication  
24 on the latest updates, on the weather conditions, on any fire  
25 warnings. So the costs to human safety, to human life are

1 there from PSPS alone, and that consideration has to balance  
2 out the effectiveness of PSPS events themselves.

3 And so we are asking the Court, please make sure that  
4 there is that balance consideration; it is there. PG&E's  
5 presentation hasn't been -- hasn't been vetted, hasn't been  
6 explored, hasn't been examined by the parties who are going to  
7 be affected by these increased PSPS events. I'm sure they  
8 would be -- well, I believe they would be very interested.  
9 CPUC parties usually are very interested in drilling down on  
10 presentations.

11 So our position is, please let these CPUC proceedings go  
12 forward. Let the parties vet the statements of the  
13 probationer, which, at this point, there's been very little  
14 discussion on the proposal except from the probationer.

15 **THE COURT:** May I ask a question?

16 Your earlier letter about a month ago said that you had no  
17 objection to the Priority 1 and Priority 2 modification of the  
18 PSPS. Right?

19 **MS. HAMMOND:** That's correct.

20 **THE COURT:** And do you stand by that, or do you  
21 withdraw that?

22 **MS. HAMMOND:** No. We stand by that, Your Honor.

23 **THE COURT:** All right.

24 **MS. HAMMOND:** We do know that there --

25 **THE COURT:** That hasn't gone through any public

1 comment period either.

2 So I don't understand why, if you're willing to -- you  
3 didn't give a public comment period to the public on that one;  
4 but now on this thing about the tall trees and the tree  
5 strikes, that tweak to the system, you think that that should  
6 be subject to public comment. That troubles me that you would  
7 be inconsistent on that. So why are you inconsistent?

8 **MS. HAMMOND:** Our understanding is the proposal  
9 incorporating P-1 and P-2 tags would increase PSPS by a little  
10 bit. I don't have that number. But that is our understanding  
11 from PG&E.

12 When we asked the same question, what are the PSPS impacts  
13 from PG&E's latest proposal, and received this information, it  
14 was -- it was really just no comparison. We are looking at,  
15 say, a more than tripling of PSPS events in Trinity County,  
16 more than doubling in certain counties. It was just, the  
17 magnitude of difference was very stark.

18 **THE COURT:** Well, the general number was 27 -- this is  
19 over the ten-year hypothetical, 27 versus 45. So overall, it's  
20 not even doubling it. It would be, looks like, a 67 percent  
21 increase. So --

22 **MS. HAMMOND:** Yes. Your Honor, I -- I'm sorry.

23 **THE COURT:** Go ahead. Please continue.

24 **MS. HAMMOND:** I don't know if you saw the CPUC's  
25 correction to an overstatement we made in our filing of last

1 Friday.

2 It is not correct to say that there is, on average, a  
3 doubling of PSPS under PG&E's proposal. It's less than a  
4 doubling. But there will be more than a doubling in certain  
5 counties. And you can see that on the map page of PG&E's  
6 proposal.

7 **THE COURT:** Yeah.

8 **MS. HAMMOND:** So, for instance, in Trinity County,  
9 we're looking at, baseline, eight events. That will jump to 25  
10 events.

11 Shasta and Tehama, we're looking at, I think, more than  
12 doubling.

13 **THE COURT:** Those are the counties where the danger is  
14 the greatest.

15 **MS. HAMMOND:** Mm-hmm. And --

16 **THE COURT:** And where the most lives have been lost.

17 **MS. HAMMOND:** And those are the counties that the CPUC  
18 has heard from that ask for shorter, more targeted, more  
19 focused PSPS events.

20 The comments we've received from those counties, among  
21 other parties, is there is this transfer of cost and risk from  
22 the utility. These are their comments, not the comments of the  
23 CPUC. But it's a compelling argument, because PG&E may benefit  
24 from lower wildfire risk and the residents will benefit from  
25 lower wildfire risk as well, and some of the vulnerable

1 residents will suffer the greatest. They rely on electricity  
2 for medical equipment. There are economically disadvantaged  
3 communities, tribal communities, limited-English-capability  
4 communities in these areas. And the argument we've heard from  
5 multiple parties is that they're -- they're bearing an unfair  
6 share of this transfer of risk.

7 That's not to say that PSPS is not an option. It's just  
8 that these costs and these risks have to be balanced. The  
9 voices have to be heard.

10 **THE COURT:** Of course. And those are -- and I think  
11 they are right to say that the many years of neglect, including  
12 by your agency who did not -- who allowed PG&E to let the  
13 hazard trees grow up and the limbs grow up and to endanger our  
14 distribution lines, those same people could be asking: Where  
15 was the CPUC from 1990 all the way up to 2017? And why wasn't  
16 the CPUC requiring PG&E to obey your own general orders and to  
17 obey the California Public Resource Code?

18 You didn't do it, and PG&E got away with it. However, it  
19 is what it is. We're here in a mess now that's created by  
20 trees, hazard trees all along the distribution lines. And the  
21 company itself said, a few months back, that it would take  
22 ten years to make up for it. Ten years.

23 Now, I agree with you that we should not be in a position  
24 where we have to even consider a PSPS. PG&E has put us in that  
25 position, and the regulators let them get away with it. You

1 did. But -- you weren't there, you, personally. But the  
2 agency did not come down hard on PG&E when it might have made a  
3 difference.

4 So what do we do? Do we just say: Okay. Go ahead and  
5 burn up the countryside because it's going to take ten years  
6 before we can get back to normal? Or do we use this PSPS  
7 process to try to stave off disaster?

8 I don't think it's -- it's a Hobson's Choice. It's a  
9 terrible choice that California is faced with, and there is no  
10 perfect answer. There is no even really good answer to it.  
11 It's just which is the lesser of two tremendous evils.

12 Let me go back and ask you a question, Ms. Hammond, about  
13 something you said. You said that in 2019, there were a lot of  
14 complaints -- and I remember the complaints -- about medical  
15 people who depended on electricity. But my recollection is  
16 that PG&E adopted a program as a result of that -- as a result  
17 of 2019, to try to give some kind of assistance -- whether it  
18 was advanced warning or was it a backup power supply -- some  
19 way so that the people who depended on electricity for medical  
20 devices would be able to get some relief in the event of a  
21 PSPS.

22 Am I not remembering that right, or was that a failure?  
23 Because you cited to 2019. But I thought 2020, they were going  
24 to do a better job. What really happened in 2020 on that?

25 **MS. HAMMOND:** Your Honor, I don't know the exact

1 answer to that. I can certainly follow up for you.

2 I do know that it's a very -- it's a very nuanced problem  
3 to be solved. It's not just that medical baseline customers  
4 needed some backup power or some special assistance. What has  
5 come out of past PSPS events is that there are folks with  
6 medical needs that need electricity that are not medical  
7 baseline customers.

8 Just, there are multiple programs that PG&E is working on,  
9 under the CPUC's oversight, to address many different -- many  
10 different groups. There are access needs groups. My  
11 recollection from the 2017 fires was that there was,  
12 tragically, a large number of people that died that were access  
13 and functional needs folks. It's not just the folks that need  
14 backup power. It's folks that need access, mobility. They  
15 need messaging that's adequate. They need consistent  
16 messaging. That's been a challenge.

17 So, Your Honor, I'm happy to follow up and answer your  
18 question, but I don't know the answer to that specific  
19 question.

20 **THE COURT:** Well, in 2017, though, that's not a  
21 criticism of PS- -- there were no PSPSs in 2017. That didn't  
22 start until -- I think late 2018 was the first time PG&E did  
23 one. So all those people who died because they had access  
24 issues, they died because of the trees falling on the lines.  
25 It had nothing to do with the PSPS.

1           **MS. HAMMOND:** That's --

2           **THE COURT:** And --

3           **MS. HAMMOND:** I bring that up too.

4           **THE COURT:** And further, whenever -- even today, if a  
5 tree falls on a line and causes a wildfire, that line is going  
6 to go out. It's not going to be energized anymore, and all  
7 those people on that line are going to lose power, not only for  
8 the next three or four days; they're going to lose power until  
9 that line can be rebuilt. So that's got to be balanced on it  
10 too.

11           **MS. HAMMOND:** That is correct, Your Honor. And the  
12 need to message the emergency messaging to the folks when they  
13 might not have power can, itself, have some devastating  
14 consequences.

15           **THE COURT:** Well, again, though, I thought PG&E  
16 recognized that in 2019 and said it would do a better job.  
17 Now, maybe they didn't do a better job, but my belief from just  
18 following the news was that they were doing a better job. But  
19 maybe they -- maybe they didn't. Maybe I'm wrong about that.

20           I had one other -- you made one other comment earlier, and  
21 that was that people would lose their Wi-Fi and couldn't  
22 communicate. Okay. That's a fair point.

23           But on my cell phone -- I spend a fair amount of time up  
24 in the foothills in a very unpopulated part of California, a  
25 county that doesn't even have a stoplight in the entire county.

1 So when my cell phone Wi-Fi goes out up there, which is  
2 frequent, but there's a cell tower 10 miles away, and I can hit  
3 it with just my regular phone. And I can get all the apps and  
4 all the messages and everything.

5 So if the Wi-Fi goes out, why isn't the cell tower good  
6 enough? Are you saying that the backup power for the cell  
7 tower is just not adequate? I didn't quite follow your point.

8 **MS. HAMMOND:** Two things, Your Honor.

9 Number one, the backup power for the cell towers is not  
10 adequate to sustain support for several days. We do know that  
11 the FCC rules, up until recently, required a minimum of --  
12 I think it was 24 hours of backup power. And the CPUC had to  
13 step in and require that the wireless carriers get 72 hours of  
14 backup power. Now, they have until the end of 2021 to get in  
15 compliance with that requirement. So that's one answer.

16 And the other answer is, I think we have to imagine for a  
17 moment a resident in the remote areas in these high fire-threat  
18 districts, and they rely on a wire line to which is connected a  
19 Wi-Fi router for them to get a Wi-Fi signal. When that wire  
20 line -- if it connects to a central office that has inadequate  
21 backup power, they lose electricity; they lose communication  
22 capability; they lose their Wi-Fi.

23 Should that resident -- how frequently would they have to  
24 drive 10 miles to get a signal, to get updates on emergency  
25 messages at a time when the wildfire conditions are in place?

1 At a time when -- that's when they need the emergency messages.

2 **THE COURT:** That's what I'm saying, is that my own  
3 experience in that kind of terrain is that if you don't have  
4 Wi-Fi, you can still hit a cell tower that could be 10 miles  
5 away. And these days, the cell towers, even in the remote  
6 parts of California, are pretty prevalent.

7 So I question whether somebody would even have to get out  
8 and drive to hit a cell tower. I think -- now, it could be.  
9 It could be. But I would say the average case is no, that they  
10 would be able to hit a cell tower.

11 I need to apologize to you all. In a few minutes,  
12 at 10 o'clock, I've got another criminal case.

13 I want to thank you, Ms. Hammond. I have asked you some  
14 questions, and you're doing a great job representing the CPUC.  
15 So thank you for that.

16 I have one last question for you. You said earlier -- you  
17 made it sound like Cal Fire -- Cal Fire -- was against this  
18 proposal. And I don't think that's true, is it? They haven't  
19 filed anything in opposition to this proposal. I think the  
20 CPUC and the Governor's Office did, but not the Cal Fire.

21 Am I wrong about that?

22 **MS. HAMMOND:** No, you are not wrong. I'm sorry if I  
23 misspoke. The CPUC and the Governor's Office of Emergency  
24 Services -- that's called Cal OES -- have expressed concern  
25 over --

1           **THE COURT:** Yes.

2           **MS. HAMMOND:** -- over this condition.

3           **THE COURT:** That's the way I thought it was.

4           I want to go back to PG&E for a minute.

5           On the other order to show cause where you said you were  
6 going to have a bright line rule -- and Cal Fire was against  
7 this part -- you wanted -- anything over 20 degrees, there was  
8 going to be a bright line rule you would cut that tree down if  
9 it was leaning toward the line.

10           But by that, did you mean to imply that if it was less  
11 than 20 degrees and a healthy tree, that you would leave it in  
12 place, or would you still subject it to the normal  
13 requirements?

14           **MR. ORSINI:** The latter, Your Honor. It wouldn't  
15 automatically be left in place just because it was under  
16 20 degrees.

17           And as we've said in our submissions, and Cal Fire  
18 confirmed, a healthy tree can be a hazard tree. Right? So we  
19 would still be looking for things like root disturbances or  
20 other indications that a tree needs to come out, even if it was  
21 not dead, dying, or diseased -- i.e., it was healthy -- and  
22 even if the lean was under 20 degrees. We didn't mean to imply  
23 that we would just leave those trees there and not even subject  
24 them to a review.

25           **THE COURT:** All right. I want to give the

1 United States a chance to comment, as well as Ms. Sandoval, for  
2 the amicus, a chance to comment.

3 Let's go to Mr. Stern.

4 **MR. STERN:** Thank you, Your Honor.

5 I think everyone here shares the goal of protecting  
6 Californians from the risk of wildfires, and I think the Court  
7 has proposed some really good ideas with respect to PSPS.

8 It seems like the general idea behind it is that PG&E  
9 should be taking into account all of the information that it  
10 has to make the best PSPS determinations and to turn off the  
11 power in situations where a fire would otherwise spark and to  
12 leave it on where fire would not spark. And I think everyone  
13 seems to agree that accounting for Priority 1 and Priority 2  
14 trees works and is a good idea.

15 I think the issue that has been debated here today is to  
16 what extent the density of tall trees should be considered.

17 And ultimately, that's a question of line drawing and  
18 balancing risks, which, you know, the Government isn't in any  
19 position to comment on where that line should be drawn.

20 I think the Government thinks that PG&E's proposal to  
21 attempt to work with the CPUC to implement this seems  
22 reasonable, it makes sense. And in part, because in  
23 determining where to draw that line, the CPUC has made clear  
24 that there are a lot of people who, you know, weigh in through  
25 their process. And it may make sense that the people who will

1 be most affected in counties where there will be longer or more  
2 PSPSs should have their voices heard on where to draw that  
3 line.

4 And I would also note that it seems where PG&E has drawn  
5 the line now, which is kind of based on engaging in a PSPS when  
6 the Zogg Fire sparked, may not make the most sense because,  
7 you know, if PG&E had removed that gray pine back in 2018, we  
8 might be having a completely different discussion where,  
9 you know, maybe PG&E would be being praised for not having any  
10 wildfires in 2020 that led to the loss of life.

11 So we don't know where that line should be drawn. But  
12 I think that, you know, we hear the Court in that there's an  
13 urgency here, and I don't know with what speed PG&E could  
14 potentially address that issue with the CPUC.

15 But if the Court were to impose the condition and the  
16 CPUC's position is that PG&E can't validly do that pursuant to  
17 the regulation, then I think there would be questions about  
18 whether that condition would be valid under federalism  
19 concerns. So I think that's what, you know, we would say with  
20 respect to the PSPS conditions.

21 I think -- you know, I don't have really much to add on  
22 the other conditions on top of what we put in our briefing.  
23 But if Your Honor has any questions for the Government on those  
24 issues, I'd be happy to answer them.

25 **THE COURT:** No, I don't. But you put your finger

1 exactly on the philosophical question, and -- but PG&E is  
2 facing massive liability, if it makes the wrong decision, by  
3 lawsuits. There are already lawsuits out of Shasta County.  
4 And it will face a reprise of that this summer.

5 And from PG&E's perspective, it's trying to come up with a  
6 decision-making process that it can defend in court and defend  
7 to the people of California.

8 We do not have the luxury of time. There's a fire season  
9 in less than 90 days, about to start. So it's a war -- it's  
10 almost like a war against nature and against the system, and  
11 it's a life-and-death thing. It's not just vegetation. It's a  
12 life-and-death question. And every day that goes by is one  
13 more day off the calendar, and pretty soon we'll be in the  
14 thick of it. So we need to make a decision.

15 Let me ask Ms. Sandoval.

16 Do you have any comments to make? Time is short, but,  
17 please, I want to give you a chance.

18 **MS. SANDOVAL:** Yes, we do, Your Honor. Thank you very  
19 much for this opportunity, Your Honor.

20 So a couple of quick points. So, number one, to the  
21 concerns that my friend and former colleague Ms. Hammond raised  
22 regarding power backup, one solution to that, aside from, first  
23 of all, ordering PG&E to do a better job with administration of  
24 the PSPS, including a better job with communication with the  
25 communities affected, is to also order PG&E to pay for and

1 coordinate with the communications companies to provide more  
2 power backup, both at the cell phone towers and also inside  
3 central offices.

4 So, as you know, I'm a former CPUC commissioner. I teach  
5 both energy law and communications law. This is something that  
6 is very doable through the provision of batteries, of extra  
7 things for backup power, for diesel. There are a variety of  
8 things that can be done to help to address that issue.

9 Second, Your Honor, we were very glad that you did order  
10 PG&E and the CPUC to disclose their communications and the  
11 basis for those communications because this analysis produced  
12 regarding the LiDAR was helpful. And may we suggest, it was  
13 directly responsive to a number of questions that Your Honor  
14 asked, where PG&E actually did file some comments on March 12th  
15 regarding questions that were responsive to this issue.

16 So through the documents that were produced yesterday,  
17 PG&E sent these documents to the CPUC on March 8th. Yet on  
18 March 12th, PG&E produced documents relevant to, I believe,  
19 Questions 22 and 24 that were directly relevant to what they  
20 were saying in 22 and 24. Yet they didn't produce this  
21 document until yesterday.

22 You know, so we're trying to be positive. So certainly,  
23 it's up to you to consider whether something such as a contempt  
24 citation would be appropriate, but this is the concern.

25 We've been asking all along: Show us your analysis of the

1 trees and the hazard. And frankly, I'm glad that PG&E is doing  
2 it. I've been asking PG&E to do this for years, back from when  
3 I was a commissioner. And amici have been asking for it  
4 consistently. So I'm glad to see that they've been doing it,  
5 but I'm very concerned that they did it by producing it to the  
6 CPUC and not producing it to this Court when it was directly  
7 relevant, because it's also important to see the methodology.

8 As you suggest, why are they going back to 2010, which is  
9 prior to the requirement for the wildfire mitigation plan,  
10 prior to this Court's focus, as well, on the electricity  
11 issues? And so I would suggest that we running the numbers, as  
12 you suggested, Your Honor, to look at 2019 and going forward  
13 may also produce a very different analysis. Because what  
14 should have happened is that they mitigated some trees.

15 And last, Your Honor, I would also call your attention to  
16 part of what, again, raises grave concerns, and this is why it  
17 was important to see this analysis. If you look at this page  
18 here, so they didn't list the page numbers, but it says that  
19 there are 7.3 million trees detected through LiDAR on PG&E's  
20 high fire-threat distribution corridors, of which 5.3 million  
21 trees could strike the line.

22 So I agree, Your Honor. How did this happen? These trees  
23 did not fall from the sky. They grew, and PG&E knew that they  
24 were growing. And so what this gets to is the importance of  
25 also imposing the probation conditions that Your Honor has

1 suggested.

2 The amendments to Probation Condition Number 1 would make  
3 it clear that hazard trees include trees that may be healthy  
4 but may be tall enough to strike the line. This is why that is  
5 so important, because 5.3 million trees, they believe, are that  
6 tall.

7 We'd also suggest that what you proposed with regard to  
8 Probation Conditions 11 and 12, as well as amici's proposed  
9 Probation Conditions 13 through 16, would help to achieve the  
10 objectives that you are discussing, because, again, we see  
11 PG&E's poor information of recordkeeping management is part of  
12 what's driving the threats.

13 So amici would be happy to also submit additional  
14 suggestions in writing following this hearing to answer your  
15 question about what can we do.

16 And we also believe that it would be important to also  
17 find that PG&E -- you may want to consider, Your Honor,  
18 entering a formal finding that PG&E has violated its probation  
19 conditions. Your Honor has mentioned that on a number of  
20 occasions. But I think making a formal entry would also be  
21 helpful, you know, again, just to underscore, we are here in a  
22 criminal probation hearing.

23 And I do understand and I am a champion of hearing from  
24 the people, but what I would suggest on that is, let's have  
25 PG&E rerun the analysis looking at 2019 and going forward,

1 submit that to all of us by next week, and the CPUC also can  
2 convene a hearing within ten days. And then, so we can also  
3 take that information into account by mid-April. So that would  
4 be one way to vet it.

5 But, again, in federal criminal probation, Your Honor, the  
6 decision is yours, not the CPUC's.

7 Thank you very much.

8 **THE COURT:** You're welcome.

9 One clarification. On all those millions of trees that  
10 are tall enough to strike the lines, some of those -- maybe  
11 even many of those -- would not qualify as hazard trees under  
12 the Public Resource Code because even though they could be  
13 blown over and are tall enough, it has to be one where they  
14 look at it and they see some reason to believe that it might  
15 fall, a special risk factor, like it's leaning. That would be  
16 a risk factor. Or there's a carve-out of the bottom of the  
17 tree that's deep into the structure of the tree.

18 So not every single tall tree that could reach the line is  
19 necessarily a hazard tree under the state law. So keep that in  
20 mind. Now, maybe the state law should be changed. That's a  
21 different question. But it is not a violation in every case  
22 now.

23 **MS. SANDOVAL:** If I may quickly, Your Honor -- and  
24 amici filed this in comments that we filed yesterday -- is that  
25 the Public Resource Code also has to be understood within the

1 context of California law, including California Public  
2 Utilities Code 451 as well as General Order 95.

3 And California Public Utilities Code sets a standard that  
4 PG&E is required to offer safe reliable service. And GO 95 is  
5 merely a particularization of PG&E's duties under California  
6 law. So they all need to be understood together.

7 So this is also one of those rules and standards things  
8 that Oliver Wendell Holmes talked about, but the point is, the  
9 standard is safety.

10 And this is also why professional arborists, et cetera,  
11 are required to do the analysis.

12 So, again, I think what you're pointing to is that  
13 while -- the numbers are just in what they put there, and what  
14 you're pointing to is that there needs to be more analysis.

15 And I would suggest, Mr. Orsini, this is part of what your  
16 client can also do in drilling down; and then LiDAR, as I said  
17 here, looks at the top. This is where it needs to be put  
18 together with the analysis from the ground to really figure  
19 out, you know, what is the target to get to the standard of  
20 safety.

21 Thank you.

22 **THE COURT:** All right. I need to run. Thank you.  
23 We've been at it for two hours.

24 I want to thank my court reporter for hanging in there for  
25 two hours. You're great.

1           And, Mr. Orsini, I won't go back through what it is, but  
2 you're going to submit some materials to show alternative runs  
3 on those charts.

4           **MR. ORSINI:** Yes. I have my homework assignments,  
5 Your Honor, as well as a couple of additional details on the  
6 opening question. We will get that those to you promptly.

7           **THE COURT:** Thank everyone for attending today. I  
8 don't have any answers for anyone right now, but we will get an  
9 answer out pretty soon because the fire season is coming close  
10 and PG&E needs to plan.

11           So thank you all. The hearing is over. Bye-bye.

12                           (Proceedings adjourned at 10:05 a.m.)

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**CERTIFICATE OF REPORTER**

I certify that the foregoing is a correct transcript  
from the record of proceedings in the above-entitled matter.

DATE: Wednesday, March 24, 2021

*Ana Dub*

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Ana Dub, CSR No. 7445, RDR, RMR, CRR, CCRR, CRG, CCG  
Official United States Reporter

# EXHIBIT C

United States District Court  
Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

No. CR 14-00175 WHA

v.

PACIFIC GAS AND ELECTRIC  
COMPANY,

Defendant.

**POST-HEARING ADDITIONAL  
REQUEST FOR RESPONSES**

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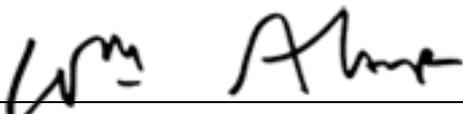
In addition to the supplements requested at yesterday’s hearing, PG&E will please provide a re-write of proposed Conditions of Probation 11 and 12, including consideration of priority one and two trees, plus a succinct summary of the additional “strike tree” factor for possible inclusion in any final order.

With respect to the problems associated with PSPS events referenced by counsel for the CPUC at yesterday’s hearing, please remind the Court of PG&E’s mitigation efforts.

Please do this by **MARCH 29 AT NOON.**

**IT IS SO ORDERED.**

Dated: March 24, 2021.

  
WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE

# **EXHIBIT B-2**

## Micaela Pina

---

**From:** Timothy Charshaf <tac@zemogllc.com>  
**Sent:** Saturday, March 27, 2021 10:48 PM  
**To:** David Korn  
**Cc:** Omid Nasab; Tyler Purinton; Micaela Pina  
**Subject:** Re: Evidence Preservation

External ([tac@zemogllc.com](mailto:tac@zemogllc.com))

[Report This Email](#) [FAQ](#)

Hello David. Apologies. I'm in Az.

Your write-up is accurate.

Data that was generated by inspectors using the Collector mobile application was stored in a database on ArcGIS Online. Periodically, that data was exported from ArcGIS Online in both Shapefile and Geodatabase formats. All of the project-related data we have is stored on the MGE remote drive and also has been provided to PG&E.

I'll be more attentive of my email tomorrow if further refinements needed.

Timothy A. Charshaf, Esq.  
Zemog Management Company, LLC  
1180 Iron Point Road, Suite 350  
Folsom, California 95630  
530-903-4255 voice  
916-251-2902 facsimile

---

**From:** David Korn <dkorn@cravath.com>  
**Sent:** Saturday, March 27, 2021 11:40:37 AM  
**To:** Timothy Charshaf <tac@zemogllc.com>  
**Cc:** Omid Nasab <ONasab@cravath.com>; Tyler Purinton <tpurinton@cravath.com>; Micaela Pina <mpina@cravath.com>  
**Subject:** Re: Evidence Preservation

Tim, below is our current draft language to respond to Judge Alsup about the database question. If you can, at some point this weekend, please let us know if you would like us to change or add to any of this. As always, happy to discuss.

During the hearing, the Court inquired about a post-Carr Fire restoration database maintained by PG&E contractor Mountain G. Enterprises, Inc. ("MGE"). The Court asked PG&E to confirm "whether or not [MGE's] database exists in the exact same form today as it did back then [in 2018]", and to confirm "that database [is] still intact".

After the hearing, PG&E followed-up with MGE, which confirmed that, with respect to its database: "MGE provided PGE with all Carr Fire Collector and ArcGIS data as .gdb (geodatabase) files on December 4, 2020." The "ArcGIS Online database containing post-Carr Fire data is no longer 'live'. All data that MGE produced [to PG&E] on December 4, 2020 has been archived on MGE's

remote server.” In addition, MGE provided PG&E with copies of “all Excel spreadsheets containing regular extracts of that data that was provided to PGE personnel in real time.”

David H. Korn  
Cravath, Swaine & Moore LLP  
825 Eighth Avenue, New York, NY 10019  
(212) 474-1478

On Mar 26, 2021, at 7:28 PM, Timothy Charshaf <tac@zemogllc.com> wrote:

ArcGIS Online database containing post-Carr Fire data is no longer “live.” All data that MGE produced on December 4, 2020 has been archived on MGE’s remote server.

Timothy A. Charshaf, Esq.  
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950 Iron Point Road, Suite 210  
Folsom, California 95630  
530-903-4255 voice  
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**From:** David Korn <[dkorn@cravath.com](mailto:dkorn@cravath.com)>  
**Sent:** Friday, March 26, 2021 3:24 PM  
**To:** Timothy Charshaf <[tac@zemogllc.com](mailto:tac@zemogllc.com)>  
**Cc:** Omid Nasab <[ONasab@cravath.com](mailto:ONasab@cravath.com)>; Tyler Purinton <[tpurinton@cravath.com](mailto:tpurinton@cravath.com)>; Micaela Pina <[mpina@cravath.com](mailto:mpina@cravath.com)>  
**Subject:** RE: Evidence Preservation

Thank you, Tim. To be sure that we are answering the Court accurately, can you please confirm whether the “ArcGIS Online” database containing post-Carr Fire data, which you refer to in your email, remains “live” or otherwise is accessible online today? We do have the .gdb extracts and .xls files you mention, but need to confirm for the Court whether the database itself still “exists in the exact same form today as it did back then”. If, for example, the database itself has been archived or decommissioned, it would be helpful to know so that we can respond accurately.

David H. Korn  
Cravath, Swaine & Moore LLP  
825 Eighth Avenue, New York, NY 10019  
(212) 474-1478

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**From:** Timothy Charshaf <[tac@zemogllc.com](mailto:tac@zemogllc.com)>  
**Sent:** Friday, March 26, 2021 5:26 PM  
**To:** David Korn <[dkorn@cravath.com](mailto:dkorn@cravath.com)>  
**Subject:** Evidence Preservation

David:

This is in response to your March 19 and March 24, 2021 Preservation Letters on behalf of PGE, receipt of which is acknowledged by both Mountain F. Enterprises, Inc. ("MFE") and Mountain G. Enterprises, Inc. ("MGE").

There is no affiliated entity named Mountain H. Enterprises, Inc. as identified in your March 19, 2021 letter and I am unaware of any such entity.

Please note a couple clarification items relating to Collector Application and ArcGIS evidence preservation requests. MGE provided PGE with all Carr Fire Collector and ArcGIS data as .gdb (geodatabase) files on December 4, 2020, in the form of a Google Drive link, in addition to all Excel spreadsheets containing regular extracts of that data that was provided to PGE personnel in real time. PGE had real time access to this data. There are no other relevant databases.

Collector data is stored in ArcGIS Online – it is not possible to export data directly from Collector itself.

The companies will of course continue to preserve all Carr Fire related records currently in its possession and control.

Please advise me of any additional questions or comments.

Timothy A. Charshaf, Esq.  
Zemog Management Company, LLC  
950 Iron Point Road, Suite 210  
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# **EXHIBIT C**

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