

# In wildfire case, judge calls PG&E “a terror” to Californians

By Winston Cho

Daily Journal Staff Writer

**P**acific Gas & Electric Co. might have been “criminally reckless” when it neglected to cut down a tree near where a wildfire started last year that killed four people, a federal judge in San Francisco said Wednesday.

U.S. District Judge William Alsup at a hearing grilled the utility for resisting the imposition of new terms to its probation resulting from the failure.

“PG&E has been a terror — t-e-r-r-o-r — to the people of California,” Alsup said near the end of the hearing.

Alsup proposed adding probation conditions that would require PG&E to take into account compliance with vegetation manage-

ment work in deciding where to cut power during windstorms after it acknowledged that a tree suspected of causing the Zogg Fire in September may have been flagged for removal but never cut down. He said that such a requirement would have forced it to de-energize the line that is believed to have sparked the blaze.

Authorities are still investigating whether the utility’s power line was the cause of the fire that destroyed more than 200 buildings and burned roughly 56,000 acres. Shasta and Tehama counties have sued PG&E in state court, and district attorneys are investigating possible criminal charges.

Alsup was particularly interested in the gray pine tree leaning over the power line believed to have started the fire. He asked why it was not removed, suggesting “it was reckless,

maybe criminally reckless” to leave it in place.

“That tree was a clear and present danger to the line,” he said. “Whoever made the decision to leave it up should be looked at carefully.”

“The foresters out there in their professional judgment didn’t believe it was an imminent risk of failure,” replied PG&E attorney Kevin Orsini.

The Cravath, Swaine & Moore partner ensured that “every line has been worked” and “is worked every six months.” He suggested confining the trees that are considered when deciding where to cut power to the highest risk trees in the highest fire threat areas.

PG&E has warned that adopting the judge’s terms would lead to more power shut-offs and that the proposed terms would not have prevented the Zogg Fire. *USA v. Pacific Gas*

*and Electric Company*, 14-cr-00175 (N.D. Cal., filed April 1, 2014).

“How many people has PG&E killed in this state from not taking down trees within distribution lines?” Alsup asked in response. “My heart sinks when I think about the mother and child that died in the fire because of PG&E’s recklessness. Then there are these excellent lawyers that come to this court and try to justify it.”

The judge called the utility’s recommended changes to the probation terms a “sleeve out of its vest proposal” that “wouldn’t do much good.”

Attorneys for PG&E customers also suggested additional conditions on top of those that Alsup put forth. They want the utility to hire a chief data operations officer, upgrade the technology it uses to track the status of vegetation management and improve its information management

process, among other changes.

Catherine Sandoval, a lawyer for the group that has regularly filed friend-of-the-court briefs in the case and a former member of for the California Public Utilities Commission, pointed to PG&E’s “recklessly poor record-keeping” as a common thread across all of the fires for which it has been blamed. In one instance, an employee scheduled an inspection for a tree at a past date, creating a false record that made it appear as if it was completed when it was not.

“My concern is that that wasn’t a flub but a design mistake,” she said.

Orsini responded that PG&E has already addressed some of the issues identified, namely integrating all available information into one database.

The U.S. attorney’s office and the court monitor overseeing PG&E’s

compliance with probation terms both agreed with the utility that it would be counterproductive for Alsup to adopt Sandoval’s additional conditions.

“Some suggestions that [they] suggested at the eleventh hour cross cuts with efforts that PGE’s been engaged in and that CPUC has been involved in for some time,” said monitor Mark Filip of Kirkland & Ellis LLP.

Alsup has roughly one year left of overseeing PG&E’s five-year probation term for records falsification related to the 2010 San Bruno gas pipeline explosion that killed eight people. He’s taken forceful steps to prevent the utility from causing more wildfires, including getting PG&E to shut off power during high risk weather events.

[winston\\_cho@dailyjournal.com](mailto:winston_cho@dailyjournal.com)