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8 IN THE UNITED STATES DISTRICT COURT
9 IN AND FOR THE EASTERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA,

No. 2:10-cv-789 GEB GGH

12 Plaintiff,

ORDER FOR DELIVERY OF
POSSESSION

13 vs.

14 30.60 ACRES OF LAND, MORE OR
LESS, IN THE COUNTY OF SUTTER;
15 PACIFIC GAS AND ELECTRIC
COMPANY; STEVE HARRAH, SUTTER
16 COUNTY TREASURER; and UNKNOWN
OWNERS,

17 Defendants.
18 _____/

19 Plaintiff United States of America has filed an ex parte motion for an order for the
20 surrender of the possession of the 30.60 acres of property described in the Complaint in
21 Condemnation filed in this action. Entry of an order for possession is appropriately done via
22 ex parte application. *United States v. 0.95 Acres of Land*, 994 F. 2d 696, 698 (9th Cir. 1993).
23 Based on Plaintiff's Memorandum of Points and Authorities filed with the motion and the
24 original complaint and declaration of taking and exhibits filed therewith, the United States is
25 entitled to possession of said property.

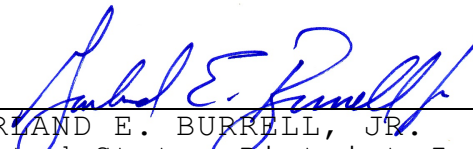
26 On April 2, 2010, the United States filed a Declaration of Taking and deposited eleven
27 thousand seven hundred dollars into the registry of the Court. Under the Declaration of Taking
28 Act, 40 U.S.C. section 3114 (formerly 40 U.S.C. section 258a), upon the filing of the

1 Declaration of Taking and the deposit of estimated just compensation, title to the property
2 described in the declaration is vested in the United States. The primary purpose of the
3 Declaration of Taking Act is to give the government immediate possession of the property and
4 give the owner immediate compensation, in the form of estimated value in return for title to the
5 land. *United States v. Miller*, 317 U.S. 369 (1943). Thus, upon the filing of the Declaration of
6 Taking, the United States is entitled to possession. *United States v. Cobb*, 328 F. 2d 115 (9th Cir.
7 1964); *Narramore v. United States*, 960 F. 2d 1048, 1050 (9th Cir. 1992).

8 The United States confirms that it needs immediate possession of the property because
9 the Department of Energy wants to immediately commence and continue with construction of
10 the power transmission system of the Central Valley Project, of which the line over the
11 condemned property is an integral part. The construction contract has been awarded and the
12 Department of Energy, through the Western Area Power Administration ("WAPA"), is prepared
13 to move forward with construction immediately but cannot begin construction without access to
14 and possession of the property.

15 Accordingly, IT IS HEREBY ORDERED AND ADJUDGED that all defendants in this
16 action, and all persons in possession or control of the property, described in the Complaint in
17 Condemnation, shall immediately surrender possession of said property to Plaintiff upon service
18 of a copy of this Order.

19 Dated: May 27, 2010

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22 GARLAND E. BURRELL, JR.
23 United States District Judge
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