



## MEMORANDUM

**To:** Stewardship Council Board of Directors

**From:** Ric Notini, Director of Land Conservation Program

**Date:** September 9, 2010

**RE:** ACTION ITEM - Proposal concerning PG&E's retention of select watershed lands

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### EXECUTIVE SUMMARY

In November 2007, the Stewardship Council adopted a Land Conservation Plan that identified 67,488 acres of watershed lands likely to be retained by PG&E and 75,069 acres likely to be made available for donation. Recently, the Stewardship Council conducted an evaluation of the watershed lands to identify opportunities to advance recommendations on the donation or retention of some of these lands. Based on this evaluation, the Stewardship Council is recommending that PG&E retain an additional 715 acres of watershed lands that had been identified as likely to be made available for donation within certain planning units. These 715 acres comprise 25 parcels and represent less than 1% of the total acreage of watershed lands previously identified as available for donation. If this recommendation is approved by the board, and accepted by PG&E, these lands would continue to be owned and managed by PG&E. In addition, these lands and the associated beneficial public values would be monitored and protected in the future through the establishment of permanent conservation easements held by qualified entities.

### INTRODUCTION AND BACKGROUND

This memo provides background information on, and staff's evaluation of, the watershed lands that are the subject of this proposal, as well as a description of the public comment process and possible next steps.

The PG&E Settlement Agreement allows PG&E to retain fee title interest to lands that contain hydro-electric project features or are necessary for current and future hydro-electric operations. Accordingly, during the preparation of Volumes I and II of the Land Conservation Plan, staff worked closely with PG&E to identify the lands that would likely be retained by PG&E. Of the 142,536 acres of watershed lands, 67,488 acres were identified as likely to be retained by PG&E and 75,069 acres were identified as likely to be made available for donation (see pages 4-1 through 4-4 and tables 4-1 and 4-2 in Volume I of the Land Conservation Plan).

The 75,069 acres that were identified as likely to be made available for donation encompass several hundred parcels located across 22 counties. For purposes of developing and implementing the Land Conservation Plan, these lands were organized into nine watershed areas and 47 planning units. The lands that are the subject of this proposal are located in 9 of these 47 planning units, as indicated in Table 1 below

Over the past two years, staff has developed and begun to implement a process to solicit, evaluate and select organizations interested in receiving fee title to parcels that make up the 75,069 acres available for donation. This multi-step process involves determining the eligibility of interested organizations, soliciting proposals from eligible organizations through a formal “request for proposal” (RFP) process, and recommending fee title transfer to organizations that have sufficient financial and organizational capacity, and appear to be best-suited for a particular parcel or parcels within a planning unit.

In furtherance of the objective of achieving a more efficient and effective implementation of the land conservation program, and at the request of the board, staff performed an evaluation to determine if certain land ownership recommendations should be made without the need to complete the multi-step RFP process described above. This evaluation included further analysis by staff and PG&E of the land management and financial implications of separation and transfer of lands, resulting in the identification of certain lands previously identified as likely to be made available for donation that should be retained by PG&E rather than be made available to organizations through the multi-step RFP process.

#### STAFF EVALUATION

Staff performed an evaluation of certain lands previously identified as available for donation to identify lands that met one or more of the following three criteria:

- 1) relatively small, isolated parcels or portions of parcels previously identified as available for donation;
- 2) Parcels or portions of parcels where transfer would likely result in significant costs for surveys and subdivision with no or little likelihood that the beneficial public values of the lands would be more protected by a land transfer;
- 3) Parcels or portions of parcels where the introduction of a new landowner would complicate land management with little or no apparent significant increased preservation or enhancement of the beneficial public values.

Based on staff’s evaluation, 25 parcels encompassing a total of approximately 715 acres located within 9 different planning units met one or more of the above criteria. Therefore, these parcels are being recommended for retention by PG&E. A summary of the lands that met the three criteria described above is shown in Table 1 below.

**Table 1: Summary of Proposed Additional Lands to be retained by PG&E**

<b>Planning Unit and County</b>	<b>Total acres</b>	<b>Original No. of acres to be retained by PG&amp;E</b>	<b>Original No. of acres available for donation</b>	<b>Proposed additional acres to be retained by PG&amp;E</b>
Philbrook Reservoir- Butte County	277	182	95	95
Chili Bar El Dorado County	205	196	9	9
Auberry Service Center Fresno County	41	40	1	1
Merced River- Merced and Mariposa Counties	21	20	1	1
Butt Valley Reservoir Plumas County	2,450	2,151	299	299
Iron Canyon Reservoir Shasta County	386	376	10	10
Kilarc- Shasta County	112	96	16	16
Lake McCloud Shasta County	833	649	184	184
M.Fork Stanislaus River Tuolumne County	515	415	100	100

*Key Considerations*

In addition to conducting the above-described evaluation, there are several other considerations related to the subject proposal that have been evaluated and are summarized below.

*Donee Interest*

The lands that comprise the 25 parcels and 715 acres are located in nine different planning units as indicated in Table 1. In 2006, the Stewardship Council established a process that allowed organizations to register interest in holding a conservation easement or receiving a donation of fee title to lands available for donation within each of the 47 planning units. Accordingly, a number of organizations registered interest in the nine subject planning units on the Stewardship Council's Interested Donee Registry.

To date, the Stewardship Council has not announced the closing of the Interested Donee Registry or initiated work on evaluating organizations for possible donations of fee title to lands previously identified as available for donation within eight of these planning units. As a result, staff's knowledge of the level of interest by these organizations in pursuing a donation of fee title to lands within these planning units is limited



### *Future Preservation and Enhancement of the Beneficial Public Values*

Consistent with the requirements of the PG&E Settlement and Stipulation Agreement, a conservation easement would be placed on all PG&E retained lands and qualified organizations would be selected to monitor and protect the beneficial public values associated with these lands. Moreover, the retention of all of the watershed lands within the subject nine planning units would not preclude further consideration and possible future implementation of certain enhancements, including some of the potential enhancement measures that were identified in Volume II of the Land Conservation Plan. A summary of the public comments received at public workshops concerning the subject lands during the development of the LCP is provided in Attachment 1. Opportunities for enhancements on these lands would be further assessed during the development of the Land Conservation and Conveyance Plan for these lands. Any funding of enhancements on PG&E retained lands by the Stewardship Council would be based on available funds and consistent with the Land Conservation Program Funding Policy adopted by the Stewardship Council board. Moreover, implementation of enhancements on PG&E retained lands would be subject to the approval of PG&E and the CPUC.

### *Property Tax Neutrality*

If the board approves the proposal for PG&E to retain additional lands previously identified as likely to be made available for donation, PG&E would continue to pay property taxes currently assessed by the State Board of Equalization on these lands as long as PG&E retains land ownership. As such, no further action would be required to fulfill the property tax neutrality requirement for these lands.

### **PUBLIC COMMENT ON THE PROPOSED BOARD ACTION**

Due to the potential public interest in this proposal, an extensive effort was undertaken to inform the public and solicit input prior to the board taking action. In July, 2010, an announcement concerning this proposed action was posted on the Stewardship Council's web site, and sent via email to over 10,000 individuals and organizations that have provided their email addresses to the Stewardship Council, including all of the organizations that previously registered interest in holding a conservation easement or receiving a fee title donation to lands available for donation within the subject nine planning units. Copies of this announcement were also mailed to all county supervisors in which the subject lands are located, as well as to Native American entities which were previously identified as having a potential interest in these lands. A compilation of all written public comment received will be provided to the board on September 16, 2010. To date, the Stewardship Council has received six public comments in response to the recommendation for PG&E to retain an additional 715 acres of watershed lands. The public will also have an opportunity to comment on the proposed action at the public board meeting of the Stewardship Council Board of Directors on September 16, 2010, prior to the board taking action on the proposal.



## BOARD ACTION

The board will consider the following action at its meeting on September 16, 2010, subject to consideration of public comment.

*Recommend that the 25 parcels encompassing 715 acres, as identified in Table 1 be retained by PG&E in their entirety, subject to a conservation easement.*

## NEXT STEPS

If the board approves the action described above, the Stewardship Council will formally send a recommendation to PG&E that PG&E retain the subject parcels and acreage. With regard to the nine planning units to be retained by PG&E, the Stewardship Council staff would proceed with identifying qualified organizations to hold conservation easements over those retained lands and begin to develop the Land Conservation and Conveyance Plans.

## **ATTACHMENT 1: SUMMARY OF LCP PUBLIC COMMENTS ON SUBJECT PLANNING UNITS**

### **I. Public Review of the Land Conservation Plan**

The Draft Land Conservation Plan (LCP) Volumes I and II were released in June 2007 for a 60 day public comment period. During this time, the Stewardship Council held ten public meetings to publicize the availability of the Draft LCP and to encourage public comment. During public review of Volumes II of the LCP, a total of 13 public comments were submitted concerning the Philbrook Reservoir, Butt Valley Reservoir, Kilarc Reservoir, and Middle Fork Stanislaus River planning units, as summarized and compiled below. No public comments were received for the other planning units that are being considered for PG&E retention, which include Chili Bar, Auberry Service Center, Merced River, Iron Canyon Reservoir, and Lake McCloud planning units. Comments were received via email, the Stewardship Council website, and hardcopy letters. The comments were reviewed and responded to individually, and the text in the Draft LCP was revised as appropriate.

Regarding future management of the planning units, public comments emphasized the following:

- Concern with the amount of fuel load that has accumulated on the Philbrook planning unit and whether cabin owners will be allowed to rebuild after a wildfire.
- Concern that increased recreational use, especially off-road vehicles, are impacting fish and wildlife habitat in the Philbrook planning unit.
- Boat ramp access area at Philbrook should be improved by extending the length and width of the ramp.
- The ecological system of the Philbrook Valley should be maintained in coordination with adjacent landowners, particularly to address long-term forest health and to reduce fuel loads and fire hazards.
- All forest activities in Plumas County should be managed in coordination with community-specific prescriptions in the Plumas County Community Wildfire Protection Plan, as well as the Herger Feinstein Quincy Library Group Act on National Forest lands and other future county fire and forestry policies.
- Timber should be managed to enhance carbon sequestration.
- Future decisions regarding the Kilarc Reservoir Planning Unit should not impact the dam's decommissioning.

- Concern for the preservation of all historic values in Tuolumne County and the need to educate the youth about the county's history.
- The Middle Fork Stanislaus Planning Unit should not be donated because the land is tied to the management of the hydroelectric system.
- The Stanislaus Forebay should not be managed for public recreation due to poor access and safety concerns.
- Concern about allowing livestock grazing in the Middle Fork Stanislaus River Planning Unit because it would not be economically sustainable; would affect winter foraging grounds used by deer; and would result in livestock trespass, which is already a concern in the area.
- The Middle Fork Stanislaus Planning Unit is underutilized by the public and should be enhanced to improve access and recreation facilities.
- Concern that there are limited opportunities to generate enough revenue to sustainably manage the Middle Fork Stanislaus River Planning Unit.