

PRELIMINARY FEE TITLE DONEE RECOMMENDATION BURNEY GARDENS PLANNING UNIT

EXECUTIVE SUMMARY

The Stewardship Council was created to oversee Pacific Gas and Electric's (PG&E) Land Conservation Commitment, as set forth in the Settlement and Stipulation,¹ to protect over 140,000 acres of land and to preserve and enhance, on an overall basis, the following six beneficial public values (BPVs): protection of the natural habitat of fish, wildlife, and plants; preservation of open space; outdoor recreation by the general public; sustainable forestry; agricultural uses; and, historic values. The Stewardship Council is responsible for developing a land conservation plan and recommending qualified organizations to become involved in the future stewardship of these lands.

The Burney Gardens planning unit, located in Shasta County, consists of 15 parcels encompassing approximately 1,612 acres of land. All 1,612 acres have been identified by PG&E as lands outside of Federal Energy Regulatory Commission (FERC) project boundaries and not necessary for its current and future utility operations. Therefore, the entire planning unit was made available for fee title donation. The Stewardship Council solicited statements of qualification and land stewardship proposals (LSP) from organizations qualified to receive a donation of land at this planning unit. No LSPs were submitted by any organization at that time. As a result, in March 2012, the Stewardship Council Board recommended PG&E retention of the planning unit.

The Stewardship Council continued to evaluate opportunities for the recommendation of donations of land within this planning unit. In February 2013, Humboldt State University (HSU), a participant of a collaborative group involved in restoration work at the Burney Gardens planning unit and adjoining lands, inquired about the status of the ownership of the Burney Gardens planning unit. This inquiry led to further discussions between the Stewardship Council and HSU which culminated in HSU being invited to submit a LSP and to seek a fee title donation of the lands within the planning unit.

Stewardship Council staff has developed the following fee title recommendation, which was endorsed by the Watershed Planning Committee (Planning Committee):

¹ California Public Utilities Commission Decision 03-12-035, December 18, 2003 (the "Settlement") and the Stipulation Resolving Issues Regarding the Land Conservation Commitment dated September 25, 2003 (the "Stipulation").

Humboldt State University Advancement Foundation (HSUAF) to become the prospective recipient of fee title to all lands in the Burney Gardens planning unit, consisting of approximately 1,612 acres within 15 parcels (parcels 272-286).

The Watershed Planning Committee also recommends that the Board approve the Stewardship Council funding of the future property tax obligations associated with the donation of lands to HSUAF.

If this recommendation is endorsed by the Board, Stewardship Council staff would work with HSUAF on the development of a management and funding agreement. This agreement would be developed in coordination with the development of a Land Conservation and Conveyance Plan (LCCP), and would then be presented to the Planning Committee and Board for consideration and approval.

The draft LCCP would be made available for public review and comment before it is reviewed and approved by the Watershed Planning Committee and the Board. Adoption of the LCCP by the Board would be the final step in the Stewardship Council's process for selecting donees.

I. INTRODUCTION AND BACKGROUND

a. Planning Unit Description

The Burney Gardens planning unit is located in Shasta County and is approximately 13 miles south of the town of Burney at an elevation of almost 5,000 feet. PG&E originally purchased the planning unit lands to create a reservoir, but the reservoir was never developed. As a result, there is no hydropower infrastructure onsite. The planning unit is surrounded entirely by private lands used for timber production and grazing. The Burney Gardens planning unit consists mostly of wooded lands, with some meadows and seasonal creeks. Dry Burney Creek which runs through the property, is a seasonal creek that provides only limited aquatic and riparian habitat. In the spring and early summer, the Burney Gardens area is wet from snowmelt and springs, forming seasonal wetlands and vernal pools. Because the Burney Gardens planning unit is not associated with a FERC Project, limited habitat and species information is available. However, a variety of wildlife species have been observed such as elk, deer, quail, mountain lion, black bear, and flying squirrel.

Very little recreation takes place on the planning unit, except for hunting, possibly some light fishing use, and unauthorized OHV use. The planning unit is difficult to access, and has a short recreation season due to its location and heavy snow loads. The site contains one Timber Management Unit (TMU) encompassing 1,417 acres of the planning unit. The primary use of this planning unit is for cattle grazing. The only facilities onsite are man-made grazing-related improvements consisting of waterholes, fencing, and corrals. The current grazing lessee has been grazing cattle at Burney Gardens for 55 years. The cattle are grazed from early to mid-June through early October, depending on weather and snow conditions.

Both historical and archaeological resources occur within the Burney Gardens planning unit. A cultural resource survey conducted in 1991 identified seven sites. One of these sites contains both prehistoric and historic resources. The planning unit is located within

the ancestral territory of the Pit River Tribe. In addition, remains of an 1880s homestead and two other homesteads are still visible.

b. Donee Evaluation Process

The Stewardship Council received statements of qualifications (SOQs) from four organizations interested in acquiring fee title to lands available for donation in the Burney Gardens planning unit. A list of organizations that submitted an SOQ is attached. Based on a review of the SOQs, all four organizations were invited to submit an LSP, however, none of these organizations elected to submit a proposal. Humboldt State subsequently submitted a proposal which formed the basis for this recommendation.

In evaluating the LSPs, the following factors were considered:

- An evaluation of the potential donees' programmatic, financial, and legal capacity to maintain the property interest so as to preserve and/or enhance the beneficial public values of the planning unit;
- Anticipated funding needs of the potential donees;
- The management objectives for the Hat Creek planning unit as set forth in Volume II of the Land Conservation Plan (LCP);
- Public comments received regarding the desired qualifications of potential donees and the future stewardship of the planning unit;
- The requirements of the Settlement and Stipulation; and,
- Other relevant policies, procedures, and goals adopted by the Stewardship Council.

II. EVALUATION

Staff evaluated the LSP and supplemental information that was submitted by HSU. The results of this evaluation are summarized below.

a. Donee Organizational Capacity

HSU is proposing to use the Humboldt State University Advancement Foundation (HSUAF) as the legal entity that would receive fee title to the donated lands. HSUAF is a California State University (CSU) Auxiliary Organization. CSU Auxiliary Organizations are non-profit organizations which are separate legal entities that operate pursuant to a written operating agreement with the CSU Board of Trustees, have separate governing boards with close campus linkages and follow all legal and policy rules established by the CSU system and the respective campus Administration.

The HSUAF was founded in 1927 (as the "Humboldt State Teachers College Campus Improvement Fund") and in 1947 was certified in the Internal Revenue Service as a public charity under Section 509(a)(2) and exempt from federal income tax under Section 501(c)(3). Contributions to the HSUAF are deductible under Section 170.

The organizational capacity of HSU and HSUAF is further summarized below.

- HSU in association with the HSUAF currently owns and manages the Schatz Tree Farm, which is certified by the American Tree Farm System for sustainable forestry, and has ongoing research regarding tree growing, harvesting, and hardwoods.
- HSU has a strong commitment to collaboration and is active in community-based resource conservation organizations including the Watershed Research and Training Center (Hayfork, CA), North Coast Regional Land Trust (Arcata, CA), Mattole Restoration Council (Petrolia, CA), and Mid-Klamath Watershed Council (Orleans, CA).
- Researchers at HSU have experience working with private landowners, including the following landowners adjacent to the Burney Gardens planning unit: Sierra Pacific, Fruit Growers, and W.M. Beaty and Associates. These landowners are familiar with faculty at HSU, many of their employees are HSU graduates, and HSU plans to develop collaborative relationships across property boundaries.
- Faculty at HSU have a strong interest and relationships with several tribes. Current projects include monitoring the effects of prescribed burning on culturally important plants for the Yurok Tribe and conducting interviews with Yurok elders to document Traditional Ecological Knowledge.

HSU and the HSUAF appear to possess the organizational capacity and experience to own and manage fee title to the properties recommended for donation, and to preserve and enhance the beneficial public values thereon.

b. Donee Financial Capacity

The financial capacity of the Humboldt State University Advancement Foundation (HSUAF) was evaluated based upon a review of its 2012, 2013, and 2014 audited financial statements. Based on this review, it appears that the HSUAF has sufficient financial capacity for the lands being recommended for donation in the Burney Gardens planning unit.

c. Management Objectives

Volume II of the LCP established certain management objectives for the Burney Gardens planning unit (see Volume II Planning Unit Report with attachments). HSUAF is seeking fee title to lands within the planning unit to achieve a number of proposed management activities, which are described below and appear to be consistent with the established management objectives.

HSU has expressed interest in all of the lands available for donation in the planning unit and proposes to manage the property through a collaborative approach that ensures adequate protection of the beneficial public values, while honoring existing agreements and uses. Specific management and enhancement activities identified in HSU's proposal are summarized below.

Educational and research opportunities would commence with a comprehensive resources assessment utilizing and building upon the information contained in the existing management documents and putting all resource information into a GIS database.

- The property would become a resource for local citizens, in particular for educational opportunities, through a planned nature trail, and for co-management planning and monitoring with residents.
- HSU would conduct experiments on the long-term effects of forest management and experimental management, such as the use of prescribed fire, traditional ecological knowledge (TEK), and methods specific for meeting goals of carbon sequestration.
- Research would also focus on livestock management, potential alternatives and strategies for current and future lessees; complimentary to the broader natural resource management objectives.
- Riparian canopy would be reestablished to enhance fisheries habitat.
- An effort would be undertaken to evaluate and protect historic and cultural resources.
- A funding drive would be undertaken by HSUAF to generate sufficient funds to plan, design, construct and maintain a lab/dorm structure on the site to be used to house researchers and host visitors.
- A foot or cross-country ski trail would potentially be constructed on site.
- The site would be made available to youth organizations for instructional opportunities.
- The Burney Gardens planning unit has an existing collaborative framework because of the work of the Burney-Hat Creek Community Forest and Watershed Group (Burney-Hat Creek Group). This group includes representatives from U.S. Forest Service, private timber companies, environmental groups, ranchers, timber contractors, the Pit River Tribe, and local fire councils and districts. The group is working to implement large-scale, cross-boundary management projects that: (1) re-establish resilient, fire-adapted landscapes and healthy forest conditions; (2) repair hydrologic functions; (3) restore and protect wildlife and fish habitat; and (4) provide for appropriately-scaled, local economic opportunities and sustainable use of natural resources. The group helped to create the Burney Gardens Timber Harvesting Plan, which involves meadow restoration as well as single-tree selection harvesting. The Burney-Hat Creek Group has been recognized nationally by the USDA as one of the most successful collaborative groups working across federal and private land ownerships. A member of the HSU planning committee for the Burney Gardens area would join the Burney-Hat Creek Group to further the goals of the group as well as to foster support for HSU's ongoing planning and management activities.

d. Funding and Financial Costs

The estimated annual property tax amount associated with the 1612 acres recommended for donation to HSUAF is approximately \$9,061. The lump sum payment that would be needed to satisfy property tax neutrality if the donated lands were exempt from property taxes would be approximately \$226,533. This number was calculated based on the methodology described in the Property Tax Neutrality Methodology adopted on June 27, 2012 by the Stewardship Council.

In the event that HSUAF does not qualify for a Welfare Exemption from Property Taxes for the subject property, staff recommends that the Stewardship Council provide funding for HSUAF's future property tax obligations associated with this recommended donation. If HSUAF qualifies

for a Welfare Exemption, the Stewardship Council will make an in lieu tax neutrality payment to Shasta County.

e. Requirements of the Settlement and Stipulation

The Stewardship Council's recommendation that HSUAF receive fee title to certain lands available for donation within this planning unit is subject to compliance with all the requirements of the Land Conservation Commitment. Several of these requirements are highlighted below:

The Stewardship Council would work with PG&E, HSUAF and Shasta County to ensure the conveyance of these parcels achieves property tax neutrality.

A conservation easement will be established on the lands within the planning unit and will honor existing agreements for economic uses and protect reasonable public access.

The grant deed would reserve to PG&E rights for operation and maintenance of hydroelectric facilities and associated water delivery facilities.

f. Conservation Partners

The permanent protection of the Burney Gardens planning unit, and the future preservation and enhancement of the BPVs, may involve, and benefit from, the participation of land conservation partners. For the purposes of this recommendation, land conservation partners are defined as organizations other than the prospective fee title donee or conservation easement holder that become involved in future activities on the donated lands and that contribute to the preservation and enhancement of the BPVs. Land conservation partners may be identified in the LSPs submitted by organizations interested in a fee title donation, or during or after the development of the LCCP. Such organizations and activities may be eligible for Stewardship Council funding, depending on the type of organization, proposed activities, availability of funds, and other factors. Staff would work with the prospective organizations recommended for donation of fee title and conservation easements in this planning unit and evaluate opportunities for land conservation partners. The results of this effort would be reflected in the management and funding agreements and LCCP.

III. PUBLIC COMMENTS

The Stewardship Council has implemented a public outreach program to engage stakeholders and solicit public input on the development and implementation of the land conservation plan. A summary of key public outreach activities and public comments associated with the Burney Gardens planning unit is attached.

IV. NEXT STEPS FOLLOWING PLANNING COMMITTEE RECOMMENDATION

If the Board approves this recommendation on June 24, 2015, the Stewardship Council would invite HSUAF to negotiate specific terms of the transaction and the conservation easement with PG&E and the prospective conservation easement holder, Shasta Land Trust, respectively. The conservation easement would be incorporated into the LCCP developed for the planning unit. The Stewardship Council would work with HSUAF to develop a management and funding agreement in coordination with the development of the LCCP.

Adoption of the LCCP by the Board would be the final step in the Stewardship Council's process for selecting donees. The proposed LCCP would be made available for public review and comment before it is approved by the Board.

ATTACHMENTS AND REFERENCE MATERIAL

- Burney Gardens Planning Unit Map
- LCP Volume II Planning Unit Report for Burney Gardens Planning Unit
- List of Registered Organizations That Submitted SOQs for Lands Available in the Burney Gardens Planning Unit
- Summary of Key Public Outreach Activities and Public Comments Associated with the Burney Gardens Planning Unit
- Letter of Support from Shasta College