



## FEE TITLE RECOMMENDATION EEL RIVER 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,<sup>1</sup> 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 Eel River planning unit, located in Lake and Mendocino counties, consists of 36 parcels encompassing approximately 7,449 acres of land. Approximately 5,214 acres have been identified by PG&E as lands outside of Federal Energy Regulatory Commission (FERC) project boundaries and not necessary for current and future utility operations. Therefore, these lands have been made available for fee title donation, with the remaining approximately 2,235 acres to be retained by PG&E. The Stewardship Council received land stewardship proposals (LSPs) from three organizations interested in receiving a donation of fee title to lands in this planning unit: the Potter Valley Irrigation District (PVID), Potter Valley Tribe (PVT), and the US Forest Service - Mendocino National Forest (USFS). PVT and PVID each expressed interest in receiving a donation of the same set of parcels. There was no overlap of interest with regard to the lands of interest to the USFS.

In May 2012, the Stewardship Council board approved a recommendation for a fee title donation of 723 acres in the Eel River planning unit to the PVT. On February 7, 2014, PVT submitted a letter to the Stewardship Council, requesting that the Stewardship Council recommend an additional fee title donation of approximately 872 acres of land to PVT.

Based on further review of PVT's original LSP, its February 7, 2014 and August 27, 2014 letters, and follow-up discussions, Stewardship Council staff has developed the following recommendation (see Map 1 attached), which has been endorsed by the Watershed Planning Committee (Planning Committee), for an additional fee title donation recommendation in this planning unit:

**Potter Valley Tribe** be selected as the prospective recipient of fee title to approximately 219 acres available for donation within two parcels (approximately 94 acres in parcel 740 and

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<sup>1</sup> 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").

125 acres in parcel 748) in the Eel River planning unit, subject to compliance with all of the requirements of the Land Conservation Commitment.

Since the subject Eel River lands are located in close proximity to PVT's office and other lands it currently owns, it would be well positioned to prevent unauthorized uses on the land that could significantly harm the BPVs. PVT is well qualified to protect cultural resources and enhance recreational opportunities on the land, and incorporate the land into tribal natural resource management plans to help ensure that the BPVs are protected. Lastly, tribal ownership of the subject land will enhance opportunities for cultural and environmental education for tribal and non-tribal youth.

If the Board approves this fee donation recommendation, the Stewardship Council staff will make a recommendation of a prospective conservation easement holder for these lands at a later date.

The Draft LCCP for lands recommended for donation to PVT will be made available for public review and comment and comments received will be shared with the Planning Committee before the Planning Committee forwards a Proposed LCCP to the Board for its review and approval. Adoption of the LCCP by the Board would be the final step in the Stewardship Council's process for selecting donees for the subject parcels.

## **I. INTRODUCTION AND BACKGROUND**

### ***a. Planning Unit Description***

The Eel River planning unit is located in Mendocino and Lake counties, northeast of Potter Valley and 16 miles northeast of Ukiah. The planning unit contains Lake Pillsbury, Van Arsdale Reservoir, and a 12-mile section of the mainstem Eel River. Two dams and a powerhouse are also associated with these lands. The planning unit serves as a source of a portion of the Sonoma County Water District's water supply. The lands in the vicinity of the planning unit are primarily Mendocino National Forest and private lands.

The Eel River planning unit provides suitable habitat for a variety of species within its reservoirs, riparian corridors along the Eel River, and the mixed conifer forests. The section of the Eel River that runs through the planning unit supports fall-run Chinook salmon and steelhead. Bald eagles and osprey have been seen at Lake Pillsbury and a herd of tule elk lives around the northern end of the lake.

Lake Pillsbury is a regionally important recreation destination. Camping, boating, fishing, hang gliding, and off highway vehicle (OHV) use are activities enjoyed at the lake. Several campgrounds and boat launches are available at the lake as well as a day use area. In addition two whitewater boating runs terminate at the lake, the Upper Eel River run and the Rice Fork run. Recreation use within the Eel River Canyon consists primarily of dispersed uses, camping, and whitewater boating.

Forest resources within the Eel River planning unit consist of 4,249 acres of mixed conifer stands with some late seral stage stands managed within three Timber Management Units (TMUs). The majority of these forested lands are managed for multiple uses, meaning that although sustained

timber production is an important management component, protection and uses of other resources and facilities may preclude sustained timber management as the highest and best use of portions of the TMU.

The territory within and around the Eel River planning unit was shared by Pomo, Huchnom, and Yuki Tribes. There are at least two recorded village sites believed to be Pomo located in the lower region of the planning unit. Seven prehistoric sites, one historic site, and one prehistoric/historic site have been discovered around Lake Pillsbury. Nine prehistoric, one historic, and one prehistoric/historic site have been discovered around Van Arsdale Reservoir.

***b. Description of Parcels 740 and 748***

Parcels 740 and 748, portions of which are the subject of this recommendation, are shown in Map 1 (attached). Parcel 740 is located in Lake County and Parcel 748 is located in Mendocino County.

Parcel 740

Parcel 740 encompasses 243 acres and is characterized by steep terrain and forested land. Approximately 94 acres of land within this parcel that is generally located west of the Elk Mountain Road (county road) is recommended for donation to PVT. This portion of the parcel is located adjacent to the portion of Parcel 748 being recommended for donation to PVT on the south, bounded by PG&E retained land to the north and east, and adjacent to private land to the west. There is also a small inholding of land which is not owned by PG&E that borders a portion of the land recommended for donation. Elk Mountain Road, which is a county maintained road located along the north side of the Eel River would form the eastern boundary of the lands recommended for donation.

Parcel 748

Parcel 748 encompasses 1,215 acres and is characterized by steep terrain and forested land. Approximately 125 acres of land within this parcel that is located generally north of the Elk Mountain Road (county road) is recommended for fee title donation to PVT. A field evaluation will be conducted to determine the appropriate location for the property divisions necessary to effectuate the transfer of a portion of this parcel. This acreage is in addition to 138 acres of land within this parcel that were previously recommended for donation to PVT in 2012. The portion of the parcel recommended for donation to PVT is adjacent to lands previously recommended for donation to PVT and lands being recommended for donation within Parcel 740. This portion of the parcel is bounded by PG&E retained lands and private land.

A further description of this planning unit, including the BPVs and the management objectives that were previously approved by the Board for this planning unit, is included in the attached excerpted section of Volume II of the LCP.

**c. Donee Evaluation Process**

The Stewardship Council received statements of qualifications (SOQs) from four organizations interested in acquiring fee title to lands available for donation within this planning unit. A list of organizations that submitted an SOQ is attached. All four of these organizations were invited to submit LSPs, however, only the following three organizations submitted LSPs:

- Potter Valley Irrigation District (PVID)
- Potter Valley Tribe (PVT)
- United States Forest Service (Mendocino National Forest) (USFS)

PVT and PVID each expressed interest in receiving a donation of the same set of parcels. There was no overlap of interest with regard to the lands of interest to the USFS.

PVT applied for a donation of fee title to all of the lands available for donation (1,824 acres) within seven parcels in this planning unit. In May, 2012, the board recommended the donation to the Potter Valley Tribe of 723 acres within four parcels (parcels 744-746, and 748). PVT submitted a letter dated August 27, 2014, requesting that the Stewardship Council recommend an additional fee title donation to PVT involving lands available for donation within parcel 740 and 748.

In evaluating the original LSP submitted by PVT and the subsequent letters and information it sent, 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 BPVs of the planning unit with respect to the lands previously recommended for donation as well as the additional lands being requested;
- Anticipated funding needs of the potential donees;
- The management objectives for the Eel River planning unit as set forth in Volume II of the Land Conservation Plan;
- 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**

PVT is being recommended to receive a donation of fee title to approximately 219 acres of land available for donation in this planning unit. This recommendation is based on an evaluation of its capacity and a determination that PVT possesses the organizational and financial capacity to own and manage fee title to this land as further described below.

**a. Organizational Capacity**

The organizational capacity of the PVT is summarized below.

- PVT is a federally recognized tribe with aboriginal ties to the land within the Eel River planning unit. The ancestors of the PVT shared this territory with other Pomo tribes and the Huchnom and Yuki people. The tribe's current membership consists of six individuals, with a service population (children, spouses in other tribes) of 35.
- The preamble to the PVT's constitution includes language to protect the cultural and natural resources of its aboriginal land or any other acquired territory, and to carry on enterprises for the benefit of its community.
- PVT currently owns and manages six properties in Mendocino County totaling approximately 103 acres of land for the purposes of housing, public camping, community gardens, grazing, office space, and community events. They were also recommended by the Board for a donation of approximately 723 acres of adjacent PG&E land on May 2, 2012.
- In 2007, in cooperation with the US Environmental Protection Agency (EPA), PVT closed and cleaned a dumpsite adjacent to a water body on its property, recycling or disposing of 150 cubic yards of waste that had accumulated on a portion of a 10-acre property prior to PVT's ownership.
- PVT purchased a 69-acre ranch on the coast in Fort Bragg with the intent to restore the 100+ year old barn and the 1940's era clubhouse as community buildings; construct primitive campgrounds and infrastructure; and construct a small wind-energy farm, solar showers, and an RV park. Since acquiring the property in 2009, PVT has delineated wetlands and cultural resource sites, trained Native American crews on deconstruction and materials reuse, rebuilt the 75-year old ranch house, installed a new roof, interior, and upgraded kitchen and bathroom facilities in the clubhouse. In addition, PVT has renovated two drinking water wells with new pumps, tanks and distribution systems.
- PVT has operated an environmental education program since 2004, hosting several inter-tribal workshops on native resource use, pest and disease management, least-toxic pesticide use, and home canning. Since 2007 up to 75 Native American preschool children from local tribes have participated in annual pumpkin picking/environmental workshops hosted by PVT. In addition, PVT organized and hosted annual Inter-Tribal Environmental Campouts for over 140 children and adults on its coastal property for one week in the summers of 2011-14.
- PVT operates public programs, which the local community is invited to participate in, such as the USDA Summer Lunch Program, and environmental education gardening classes.
- PVT has the equivalent of nine full-time employees. Within the Tribal Environmental Office (TEO), four employees would have primary responsibility for managing tribal lands. This includes an environmental director, an environmental technician, and two

full-time maintenance and grounds personnel to inspect and maintain tribal lands. PVT also uses workers enrolled in community service programs to assist staff with land maintenance and operations. In partnership with the California Indian Manpower Consortium, PVT also provides summer training for youth.

- PVT staff has experience with grant writing; project planning and management; environmental assessments; construction oversight; and operations and maintenance of community buildings, tribal housing, recreation, and agricultural operations.

**b. Financial Capacity**

The financial capacity of PVT was evaluated based on audited financial statements for 2012 and 2011, as well as financial statements from earlier years for comparative purposes. Based on a review of financial statements submitted, PVT appears to possess the financial capacity to own and manage the lands available for donation and being recommended for transfer within the Eel River planning unit.

**c. Management Objectives**

Volume II of the Land Conservation Plan established certain management objectives for the Eel River planning unit (see attached Volume II Planning Unit Report). Stewardship Council staff is recommending donation of fee title to approximately 219 acres of land within the Eel River planning unit to PVT to achieve a number of proposed management activities that are described below and appear to be consistent with the established management objectives.

PVT proposes to undertake the following objectives and activities on lands conveyed to it in the Eel River:

- Patrol the properties at least twice weekly (March – October) and bi-weekly (November – February) for poaching, illegal camping, and Off Highway Vehicle (OHV) use. Written reports will be submitted to the Tribal Environmental Office (TEO), which will report to the Tribal Council and authorities as necessary.
- Delineate and map current vehicular access and assess the impacts of OHV use. Using this information, PVT will assess priority locations and begin the process of closing or enhancing vehicle access to protect habitat quality while providing compatible recreational opportunities. Together with local community groups, the PVT will coordinate installation and maintenance of signs, gates, and barriers.
- Within one year of property acquisition, incorporate properties into the BIA Roads Inventory, Tribal Environmental Assessment Plan, Integrated Resource Management Plan, and Solid Waste Management Plan.
- Notify BIA and U.S. Drug Enforcement Agency (DEA) of property acquisition and submit a request for federal enforcement assistance to address illegal marijuana agriculture. PVT will also arrange meetings with Mendocino County Sheriff's Department and U.S. Drug Enforcement Agency and DEA representatives to coordinate enforcement of such illegal activities on acquired lands.



- In coordination with local agencies, the adjacent USFS, and potential conservation partners, PVT will develop recreation maps outlining access points, existing facilities, attractions, and trails. Investigate potential public parking and/or day use areas adjacent to the County road with potential river access.
- Develop a holistic forest management plan that addresses forest health and fire protection. The plan would also outline traditional management areas for demonstration.
- Develop a Memorandum of Understanding (MOU) with BIA, USFS, and California Department of Forestry and Fire Protection (CAL FIRE).
- Develop a Cultural Resource Management Plan, in consultation with other local Native American entities. Conduct a cultural resource survey and compile PG&E and USFS cultural resource records to develop a confidential map of the cultural resources located within the parcels.
- Develop best management practices and mitigation measures in accordance with the USFS Water Quality Management Handbook. Coordinate with the BIA, USEPA, USDA and State of California to address non-point sources.

**d. Funding and Financial Costs**

The estimated annual property tax amount on the portion of the parcels being recommended for fee title donation to PVT is approximately \$4,600. PVT is not exempt from paying property taxes on lands it holds in fee. However, the Planning Committee is recommending to the Board that the Stewardship Council provide funding for future property tax obligations associated with this recommended donation. This recommendation is based on the following two factors: PVT is prevented from taking these lands into trust due to a requirement of the Settlement Agreement and Stipulation, thereby preventing PVT from obtaining tax exempt status; and, to date, recommended donees have agreed to pay property taxes only in instances where there was a significant source of revenue associated with the land.

The lump sum payment that would be made to PVT to cover property tax costs in perpetuity for the subject property would be approximately \$115,000. This number was calculated based on the methodology described in the Property Tax Neutrality Methodology adopted on June 27, 2012 by the Stewardship Council.

**e. Requirements of the Settlement and Stipulation**

Any recommendation for PVT to receive fee title to certain lands available for donation within this planning unit would be subject to compliance with all the requirements of the Land Conservation Commitment. Several of these requirements are highlighted below.

- A conservation easement would be established on all lands donated to PVT. The conservation easement must contain a limited waiver of sovereign immunity by the Tribe to ensure the conservation easement is enforceable.
- The conservation easement for lands that are donated would include an express reservation of rights for continued operation and maintenance of hydroelectric facilities

and associated water delivery facilities, including project replacements and improvements required to meet existing and future water delivery requirements for power generation and consumptive water use by existing users, and compliance with any FERC license, FERC license renewal, or other regulatory requirements.

- The grant deed would include an express reservation of rights for continued operation and maintenance of hydroelectric facilities and associated water delivery facilities, including project replacements and improvements required to meet existing and future water delivery requirements for power generation and consumptive water use by existing users, and compliance with any FERC license, FERC license renewal, or other regulatory requirements.

**f. Conservation Partners**

The permanent protection of the Eel River planning unit, and the future preservation and enhancement of the BPVs, may involve, and benefit from, the participation of land conservation partners. Land conservation partners are defined as organizations other than land owner or the conservation easement holder that become involved in future activities that contribute to the preservation and enhancement of the BPVs. Land conservation partners may be organizations that expressed interest in enhancement activities on the properties via a land stewardship proposal or organizations otherwise identified during or after the development of the Land Conservation and Conveyance Plan (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 recommended donees and the holders of the conservation easements and evaluate opportunities for land conservation partners.

**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 Eel River planning unit is attached.

**IV. NEXT STEPS FOLLOWING PLANNING COMMITTEE RECOMMENDATION**

If the Board approves this recommendation on November 19, 2014, staff will then recommend an entity to hold the conservation easement over the subject parcels. After the Board selects the conservation easement holder, staff would invite PVT to negotiate specific terms of the transaction with PG&E and the recommended conservation easement holder.

**ATTACHMENTS AND REFERENCE MATERIAL**

- Eel River Planning Unit Map
- LCP Volume II Report for the Eel River Planning Unit
- List of Registered Organizations that Submitted SOQs for the Eel River Planning Unit
- Summary of Key Public Outreach Activities and Public Comments Associated with the Eel River Planning Unit

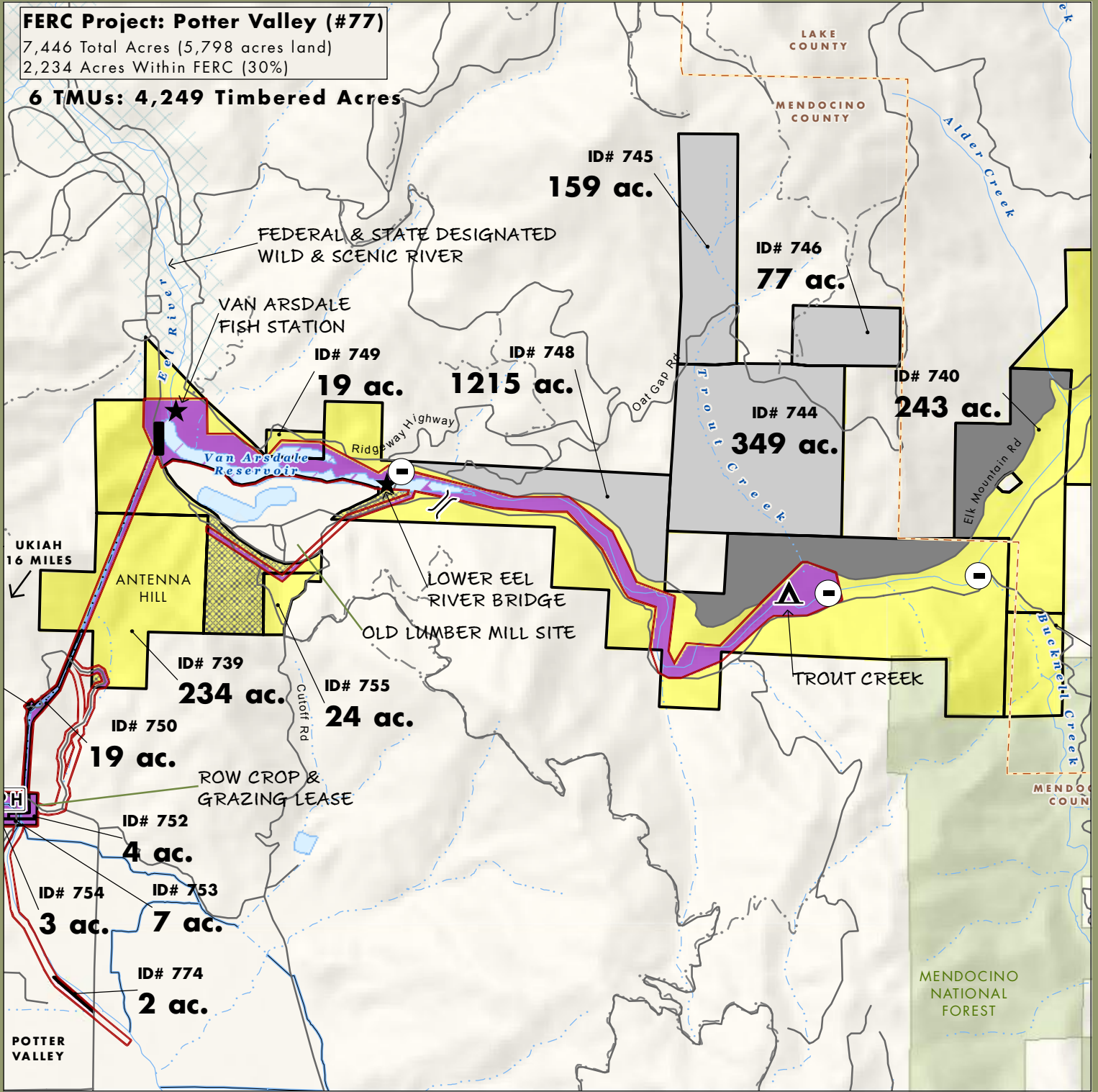


# Eel River Planning Unit: Map 1

## FERC Project: Potter Valley (#77)

7,446 Total Acres (5,798 acres land)  
2,234 Acres Within FERC (30%)

6 TMUs: 4,249 Timbered Acres



|  |               |             |                            |
|--|---------------|-------------|----------------------------|
| PG&E Lands Preliminary Designated for Donation                   | Private       | Boat Launch | Feature of Importance      |
| PG&E Lands Preliminary Designated for Retention                  | USFS          | Campground  | Gate                       |
| PG&E Lands Under Water   | OHV Road      | Dam         | OHV Use Area               |
| Lands Already Recommended for Donation to Potter Valley Tribe    | Trail         | Day Use     | Powerhouse                 |
| Additional Lands Recommended for Donation to Potter Valley Tribe | FERC Boundary |             | Whitewater Put-In/Take-Out |
| Legal Parcel Boundary and Id Number                              |               |             |                            |
| Certain Considerations May Make Donation Inadvisable             |               |             |                            |

Acreeage and location of lands preliminarily designated for retention by PG&E outside the FERC boundary are approximate. FERC boundary is approximate and may change over time.

0 0.5 1 Mile

September 2014

## **Eel River Planning Unit**

**Link to Eel River Planning Unit Report:**

**[Eel River Planning Unit Report](#)**

**Link to Eel River Aerial Map:**

**[Eel River Planning Unit Aerial Map](#)**

## SUMMARY OF KEY PUBLIC OUTREACH ACTIVITIES AND PUBLIC COMMENTS ASSOCIATED WITH THE EEL RIVER PLANNING UNIT

### PUBLIC REVIEW OF VOLUMES I AND II OF THE LCP

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 I and II of the LCP, two entities and four individuals submitted comments concerning the Eel River planning unit. 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.

Public comments emphasized the following regarding the future management of the property:

- The importance of preserving historical resources and existing recreational uses
- Conduct cultural resource studies
- Establish native plant gathering and demonstration areas using traditional ecological knowledge
- Support for lands available for donation within the Mendocino National Forest to be transferred to the US Forest Service to support the consolidation of in-holding within the forest
- Support for the lands available for donation in Mendocino County to be transferred to a land trust to preserve old growth trees.
- Investigate the future use and management of the currently closed River Road south of the Eel River
- Prevent unauthorized uses on the property, such as unauthorized OHV use, illegal dumping, squatters, and marijuana farming
- Cleanup trash and illegal dump sites and install trash receptacles
- Protect old growth forest areas
- Ensure public access is allowed along the shores of Lake Pillsbury and the Eel River
- No new roads
- Develop educational facilities in coordination with tribes.
- Review grazing leases to identify impacts to fish, wildlife, plants, water, and land
- Develop a fish hatchery to revitalize local fish populations

### PUBLIC INFORMATION MEETING FOR THE EEL RIVER PLANNING UNIT

A public information meeting was hosted by the Stewardship Council on April 27, 2011 at the Ukiah Valley Conference Center in Ukiah, California. The meeting concerned the Eel River planning unit. A total of 15 people attended and participated in the meeting, representing a wide

variety of interests, including local, tribal, and federal governments, community organizations, and community members. The meeting was advertised via an e-mail sent to contacts in our database, an announcement posted on the Stewardship Council's web site, a press release in the local newspaper, and a postcard sent to all landowners on record that reside within one mile of any PG&E parcel associated with the three planning units that were the focus of the meeting.

The purpose of this meeting was to: (1) provide a review and update on the Stewardship Council's Land Conservation Program; and, (2) solicit additional public input on future stewardship of the Eel River planning unit. During the meeting, participants were invited to ask questions and provide comments on the Eel River planning unit. Stations were set up with maps, other pertinent information, and easels with blank paper. Below is a summary of the notes that were recorded on the easels and provided on comment cards.

- Whitewater rafting studies are not as important as wildlife viewing and education facilities (there is some rafting on Trout Creek, but not whitewater)
- Support for the development of a cultural resource center or museum
- Protect the two Osprey nesting sites along the Eel River
- The old-growth forest along Trout Creek drainage (Parcels 744, 745 and 746) should be protected from any harvesting, even sustainable harvesting

#### **ADDITIONAL CORRESPONDENCE SUBMITTED**

The Stewardship Council also received other public comments and letters from individuals and organizations regarding the future management of the Eel River planning unit, as summarized below:

- Interest in native fisheries in Eel River
- Increase opportunities for whitewater boating
- Repair and reopen currently closed River Road south of the Eel River
- Public access may need to be limited to protect sensitive resources
- Habitat should be assessed and restored, not just protected
- The conservation easement should provide assurances on how BPVs will be protected



**Eel River Planning Unit**  
Organizations That Submitted a  
Statement of Qualifications  
for Fee-Title Interests

Potter Valley Irrigation District  
Potter Valley Tribe  
The Conservation Fund  
United States Forest Service