

STAFF RECOMMENDATION FOR CONSERVATION EASEMENT HOLDER OVER LANDS RETAINED BY PG&E

Bass Lake Planning Unit and Wishon Reservoir Planning Unit

EXECUTIVE SUMMARY

The Stewardship Council was created to oversee PG&E's 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 Bass Lake planning unit, located in Madera County, consists of approximately 1,085 acres of mostly submerged land. PG&E will retain the majority, if not all, of the planning unit depending on negotiations with USFS. The Wishon Reservoir planning unit, located in Fresno County, consists of approximately 1,361 acres which will be retained by PG&E in part, and donated to the USFS in part. Only the lands retained by PG&E are the subject of this conservation easement holder recommendation.

Based on an evaluation of experienced conservation easement holders that operate in the geographic area of the planning units, the Stewardship Council staff makes the following recommendation to the Watershed Planning Committee:

- **Sierra Foothill Conservancy** to hold the conservation easement over all of the lands in the Bass Lake planning unit that will be retained by PG&E
- **Sierra Foothill Conservancy** to hold the conservation easement over all of the lands in the Wishon Reservoir planning unit that will be retained by PG&E.

If these recommendations are accepted by the Watershed Planning Committee and approved by the Stewardship Council Board, Stewardship Council staff will commence negotiations with the

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").

prospective conservation easement holder on the development of a proposed funding agreement. PG&E, the fee donees, and the prospective conservation easement holder will enter into negotiations regarding the terms of the conservation easements. The conservation easements will become part of the Land Conservation and Conveyance Plan (LCCP) to be developed in coordination with development of the funding agreement and the conservation easement. The LCCP will be considered for adoption by the Stewardship Council board at a later date.

I. DESCRIPTION OF PLANNING UNIT

A. *Bass Lake*

The Bass Lake planning unit encompasses approximately 1,085 acres of mostly submerged land currently owned by PG&E and within a FERC project boundary. The planning unit is surrounded by the Sierra National Forest. There are numerous existing economic uses on the planning unit, including boat docks, marinas, camping, resorts, and residential developments on the planning unit.

The reservoir area supports nesting bald eagles and osprey. Relicensing studies identified spotted owl habitat within one-half mile of the reservoir and several special status plant species. A vegetation management plan and a bald eagle and raptor management plan are required of PG&E by their FERC license.

The planning unit supports many recreational activities related to use and enjoyment of the lake. The USFS manages several family campgrounds on the planning unit. PG&E has several leases with three homeowner associations for recreational activities near the shoreline.

The lands within and surrounding the planning unit are covered primarily with mature mixed conifer forests, with small areas of oaks and riparian vegetation. Forested lands within the planning unit are included within PG&E's Bass Lake Timber Management Unit which contains 212 acres of timberlands managed under a salvaged prescription. There are no agricultural uses within the planning unit.

The Bass Lake area is within the ancestral territory of the Southern Miwok, Chukchansi Yokuts, and North Fork Mono tribes. Several prehistoric and historic sites have been identified around Bass Lake. The tribes from around the region regularly participate with PG&E and the USFS on consultations related to the implementation of a historic properties management plan.

B. *Wishon Reservoir*

The Wishon Reservoir planning unit contains 1,361 acres located within the boundaries of the Sierra National Forest. The planning unit includes a large portion of the Wishon Reservoir and the Helms housing area and wildlife habitat management area also known as Hall Meadow, which is located approximately three miles west of the reservoir. The area is in the North Fork Kings River with mountainous terrain, many granite outcrops, and steep-walled forested valleys.

About 68% of the planning unit is within a FERC project boundary, which include PG&E employee housing and the Helms Pumped Storage Project.

Special status wildlife species that occur in the area include mountain yellow-legged frog, bald eagle, golden eagle, goshawk, osprey, peregrine falcon, prairie falcon, spotted owl, and willow flycatcher. The reservoir and area streams support a coldwater fishery consisting of brown, rainbow, and brook trout. One special status plant species is located within the planning unit: Bolander's clover has been mapped with the Hall Meadow.

The reservoir provides boating and fishing opportunities and is a staging area for trips to the surrounding wilderness. PG&E manages most of the recreational facilities, including a boat ramp and several fishing access and day use areas on the shoreline, and a campground downstream of the reservoir. The upland areas outside the FERC boundaries are inaccessible due to rugged terrain. The Hall Meadow is only accessible to PG&E staff.

There is one timber management unit on the planning unit consisting of 126 acres. Forest species include red fir, white fir, Jeffrey pine, sugar pine, and lodgepole pine. Grazing opportunities around the Wishon Reservoir are limited due to poor soil condition. However, three USFS grazing allotments exist in the area.

Several cultural sites are present in the planning unit mostly within the Hall Meadow parcels. The Western Mono consider the North Fork Kings River drainage as part of their traditional territory.

II. ANALYSIS

Staff believes that the Sierra Foothills Conservancy is qualified to hold the conservation easements at both the Bass Lake and Wishon Reservoir planning units based on the following factors.

A. *Donee Organizational Capacity*

The mission of the Sierra Foothill Conservancy, a nonprofit, 501(c)(3) organization incorporated in 1996, is to protect the grasslands, foothills, and forests between Yosemite and Kings Canyon National Parks which provide land for farms and ranches, a home for wildlife, and a source of clean water. The conservancy currently owns four preserves totaling 5,500 acres and holds 22 conservation easements. With offices in Prather and Mariposa, California, Sierra Foothill Conservancy has 8 staff members, 10 board members, and a general operating budget of \$400,000 for 2010.

The conservancy has experience working with grazing plans and promotes sustainable agriculture.

1. *Donee Conservation Easement Monitoring, Enforcement, and Amendment Practices*

The following documents provided by Sierra Foothill Conservancy were reviewed by Stewardship Council staff:

- Sample monitoring report
- Conservation Easement Violations and Enforcement Policy
- Conservation Easement Amendment Policy

Based on our review of these documents and interviews with representatives of Sierra Foothill Conservancy, staff reached the following conclusions:

The Sierra Foothill Conservancy monitors all of its easements on an annual basis and has done so since first acquiring conservation easements 14 years ago. Monitoring is conducted by the Stewardship Director and trained volunteers. All monitoring reports are reviewed by the Executive Director. If a potential violation is discovered, the monitoring report goes to the Executive Committee for review and action. Landowners are encouraged to attend monitoring visits and any change in ownership is tracked. The conservancy has experienced no notable conservation easement violations nor have they amended any of their conservation easements. They have the necessary policies and procedures in place to run an effective conservation easement program.

2. *Donee Financial and Asset Management*

The Sierra Foothills Conservancy maintains appropriate records and policies for the financial management of the organization. Annual budgets are prepared by staff and approved by the board, financial reports are shared with the Executive Committee monthly, and with the full board at board meetings. The organization's Investment Committee oversees the investment portfolio under the guidelines set forth in the Investment Policy.

The Sierra Foothills Conservancy raises conservation easement monitoring and defense funds by making a request of each landowner. Board policy and economic constraints would generally prohibit the land trust from acquiring an easement without receiving a stewardship endowment. The land trust has the ability to maintain restricted accounts for a specific purpose and has a fund policy that provides spending guidelines on donated funds.

Net Assets have grown from \$6.8 million on June 30, 2007 to \$7.5 million on June 30, 2009, due primarily to a donation of land during 2009. Adjusting for donations of easements and land, which are not indicative of typical operations, operating expenses have generally exceeded revenues for the past several years.

	June 2010 (Draft)	June 2009	June 2008	June 2007
Total Revenue	808,027	2,757,533	1,247,025	3,908,172
Total Expense	448,891	1,909,550	1,425,714	619,230
Operating Surplus/(Deficit)	359,136	847,983	(178,689)	3,288,942

Adjusting for land holdings, total Net Assets equaled \$1.6 million on June 30, 2010, up from \$1.5 million in the prior year. Unrestricted Net Assets, which indicates an organization's ability to meet operating commitments, equals \$402,122, compared to \$393,649 a year before. Working Capital equals four months' worth of expenses, indicating some capacity to meet short term funding shortfalls, if experienced. Additionally, the organization maintains a line-of-credit with a local community bank to help with working capital shortfalls. As of June 30, 2009, there was no balance outstanding.

Overall, the Sierra Foothills Conservancy has grown its land and conservation easement holdings over the past several years. Unrestricted Net Assets remain healthy, and the balance sheet is generally well situated to ensure consistent operations. The organization maintains clear records, and has received clean audit opinions in the submitted financial statements.

III. FUNDING RECOMMENDATION

Stewardship Council staff used its conservation easement funding calculator to develop a proposed funding amount for the conservation easement transactions for the Bass Lake and Wishon Reservoir planning units. The various components of the proposed funding amount are shown below. Staff reviewed the calculators with Sierra Foothill Conservancy staff and obtained their approval of the calculator's methodology and of the recommended funding amounts as being in an acceptable range.

A. Bass Lake

Conservation Easement Funding

Baseline Report	\$ 4,000
Monitoring and Landowner Relations	\$ 37,000
Easement Defense	\$ 10,000

Transaction Cost Funding (total number of CEs: 1)

Signing of Letter of Intent	\$ 5,000
Conservation Easement Negotiation	\$ 2,000
Closing Costs	<u>Reimbursed</u>

Total Proposed Funding **\$58,000 plus closing costs**

B. Wishon Reservoir

Conservation Easement Funding

Baseline Report	\$ 4,000
Monitoring and Landowner Relations	\$ 31,000
Easement Defense	\$ 10,000
<i>Transaction Cost Funding (total number of CEs: 1)</i>	
Signing of Letter of Intent	\$ 5,000
Conservation Easement Negotiation	\$ 2,000
Closing Costs	<u>Reimbursed</u>
<i>Total Proposed Funding</i>	\$52,000 plus closing costs

IV. SUMMARY OF RECOMMENDATION

Staff is recommending that the Sierra Foothills Conservancy be selected as the prospective conservation easement holder for the Bass Lake planning unit and the Wishon Reservoir planning unit. Staff believes that the Sierra Foothill Conservancy has the necessary expertise, funding, and other capacity to monitor and enforce the conservation easements at these planning units so as to preserve and/or enhance the beneficial public values thereof, as required by Section 12 of the Stipulation.