

## **POSSIBLE FINDING OF NO SIGNIFICANT PUBLIC INTEREST VALUE AT PARCELS 667 and 668 IN THE NORTH FORK FEATHER RIVER PLANNING UNIT, BUTTE COUNTY**

### **INTRODUCTION**

The Pacific Forest and Watershed Lands Stewardship Council (Stewardship Council) is a private, nonprofit foundation established in 2004 pursuant to a Settlement Agreement and a Stipulation Resolving Issues Regarding the Land Conservation Commitment approved by the California Public Utilities Commission (CPUC) in Decision 03-12-035 (Dec. 18, 2003).

The Stewardship Council was created to oversee PG&E's Land Conservation Commitment, as set forth in the Settlement and Stipulation to protect over 140,000 acres of Watershed Lands 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. Protecting the Watershed Lands will be accomplished through (1) PG&E's grant of conservation easements to one or more public agencies or qualified conservation organizations so as to protect the natural habitat of fish, wildlife, and plants, the preservation of open space, outdoor recreation by the general public, sustainable forestry, agricultural uses, and historic values (collectively the Beneficial Public Values), and in some cases, (2) PG&E's donation of the Watershed Lands in fee to one or more public entities or qualified conservation organizations, whose ownership would be consistent with these conservation objectives.

### **FINDINGS OF NO SIGNIFICANT PUBLIC INTEREST VALUE**

The Settlement Agreement and Stipulation anticipated the possibility that within these 140,000 acres, some parcels would not have a significant public interest value and not need to be protected by a conservation easement. Appendix E of the Settlement Agreement states:

In instances where PG&E has donated land in fee, some may be sold to private entities subject to conservation easements and others, without significant public interest value, may be sold to private entities with few or no restrictions.

Section 12.c. of the Stipulation states:

A transfer of fee simple title will include a conservation easement to preserve and/or enhance beneficial public values, as defined in Settlement Agreement paragraph 17 and Appendix E, unless: (1) the LCP includes a determination that the parcel does not have significant public value; or (2) for any other parcel, the chosen donee of fee title informs the Governing Board that applicable law or policy precludes its accepting such easement, and the Governing Board receives satisfactory assurance in another form that the parcel will be managed consistent with the purpose of the Land Conservation Commitment.

In August 2015, the Watershed Planning Committee, a committee comprised of members of the Stewardship Council Board of Directors, approved a process for making a finding of no significant public interest value on select parcels or portions of parcels of Watershed Lands. Watershed Lands being considered for such a finding will be evaluated based on several criteria and an evaluation process, including (1) an assessment of the physical condition of each parcel through review of existing information, satellite imagery, and a site visit; (2) and the review of applicable databases with historical information pertaining to biological and cultural resources that may be present on or in the immediate vicinity of the subject parcel.

## BACKGROUND

The North Fork Feather River planning unit, located in Plumas and Butte counties, consists of 52 legal parcels, comprising approximately 5,671 acres of Watershed Lands. Parcels 667 and 668, totaling approximately 3 acres in size, are being considered for a possible finding of no significant public interest value. The Northern California Regional Land Trust (NCRLT) has been recommended to hold the conservation easement in the North Fork Feather River planning unit. NCRLT is in support of excluding Parcels 667 and 668 from the North Fork Feather River planning unit conservation easement because of their small size, remote location, and lack of significant natural and cultural resources, recreational values, and scenic/open space values.

## EVALUATION

The assessment of the physical condition of Parcels 667 and 668 were conducted via a staff site visit by Steve Schweigerdt in August, 2017, consultation with the prospective conservation easement holder, review of the Volume II of the Land Conservation Plan including public comments that were submitted at the time of the Volume II development, and review of state cultural and biological resource databases including:

1. The California Natural Diversity Database (CNDDDB) for the occurrence of potential special status biological resources.
2. The California Historical Resources Information System (CHRIS).
3. The Native American Heritage Commission (NAHC) inventory of Native American sacred sites.

The following considerations will inform the evaluation of each subject parcel with regard to its public interest value.

1. The existing and potential future beneficial public values associated with the parcel.
2. The existing and potential future public use of the parcel.
3. The potential for future development of the site based primarily on its proximity to roads, infrastructure, and other development.
4. The size and location of the parcel with respect to other parcels in the planning unit subject to a conservation easement.

5. The ownership and use of surrounding lands.
6. The ease or difficulty of access in and around the parcel by the conservation easement holder for the purposes of monitoring.
7. The necessity of a conservation easement to protect against adverse risk to beneficial public values existing on the property.
8. Expressly stated public interest in having the property conserved.

## Parcel 667

1. **Size, Location, and Parcel Dispersion:** Parcel 667 is approximately 1 acre in size. The parcel lies approximately 1 mile north of Parcel 628, the closest parcel to be encumbered by a conservation easement held by the Northern California Regional Land Trust (NCRLT). The attached maps provide an overview of Parcel 667 and its location in relation to the North Fork Feather River planning unit.
2. **Presence of Beneficial Public Values**

**Habitat and Forest Resources:** Parcel 667 is located on a vegetated ridgeline dominated by montane hardwood vegetation including oak, pine, and fir species. The surrounding hills are a mix of woodlands and grasslands. The parcel is encumbered by a tower that was erected to reflect microwave signals. The parcel is consistently cleared to maintain the use of this tower.

The CNDDDB currently has no recorded occurrences of special status species on or within a ¼-mile of Parcel 667. However, the CNDDDB has recorded occurrences of two special status species within 2 miles of Parcel 667: valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), a federally threatened species; and foothill yellow-legged frog (*Rana boylei*), a state listed species of special concern. Valley elderberry longhorn beetles are found on and near elderberry shrubs. The habitat at Parcel 667 is unlikely to support an elderberry shrub; therefore, there is little potential for the valley elderberry longhorn beetle to occur on Parcel 667. There is no potential for foothill yellow-legged frogs to occur on Parcel 667 because there is no aquatic habitat that could support this species on the parcel.

**Cultural and Historical Resources:** The NAHC found no specific site information in the Sacred Lands File pertaining to the subject area, but provided a list of Native American tribes to be contacted. These tribes will be contacted by the Stewardship Council when the Watershed Planning Committee approves the release of the No Significant Public Interest Value (NSPIV) finding for a 30 day public review and comment period.

The CHRIS report indicates there are no known cultural resources within Parcel 667 or within a ¼-mile of Parcel 667. Two cultural resource investigations were conducted within a ¼-mile of Parcel 667. One of the investigations was the Archaeology and Prehistory of Plumas and Butte Counties, California: An Introduction and Interpretive Model (1988), which covered the entire area surrounding and including Parcel 667, but is a regional

overview and not a survey. The other cultural resource investigation conducted within a ¼-mile of Parcel 667 was an archeological survey for the Batchelor Emergency Timber Harvesting Plan in 2008.

3. **Existing and Potential Public Use:** Parcel 667 is entirely surrounded by private land and is inaccessible to the public. It is not adjacent to any recreational areas and does not fall within the FERC boundary. The parcel includes a microwave reflector tower and is only accessed for maintenance by foot. Because it is very small, difficult to access, and surrounded by private property, staff did not identify any recreational potential on the parcel.
4. **Ownership and Use of Surrounding Lands:** Parcel 667 is surrounded by private property, with National Forest System lands managed by the Plumas National Forest east of the parcel. There is no nearby residential development. There are no recorded agreements for Parcel 667.
5. **Ease of Access:** There is no vehicular access to Parcel 667. The parcel is accessible only by foot from a private road known as Rim Road, located approximately 600 feet west of this parcel. The parcel can be accessed by parking along Rim Road and hiking up the hillside to the parcel.
6. **Potential for Future Development:** Parcel 667 is currently zoned Timber Mountain (TM), which is a zone that preserves valuable timber resources and protects both the economic and environmental value of these lands. Permitted uses in this zone include logging, timber processing, crop cultivation, agricultural processing, and the management of forest lands for timber operations and animal grazing. One single-family home per parcel is allowed in this zone and the minimum permitted parcel size is 160 acres. Stewardship Council staff concluded that due to the small size of the parcel (1 acre) and its remote location, there is low development potential for Parcel 667.
7. **Other Considerations:** Parcel 667 is not a scenic viewshed for the public. Volume II of the LCP did not recommend any enhancement measures on Parcel 667.

## Parcel 668

1. **Size, Location, and Parcel Dispersion:** Parcel 668 is approximately 2 acres in size. The parcel lies about 3 miles west of Parcel 656, the closest parcel to be encumbered by a conservation easement held by NCRLT. The attached map provides an overview of Parcel 668 in relation to the North Fork Feather River planning unit.
2. **Presence of Beneficial Public Values**

**Habitat and Forest Resources:** Parcel 668 is located at the top of Flea Mountain. Parcel 668 contains some chaparral shrubs and grasses and cismontane woodland, however it is

primarily encumbered by a dirt access road, a helipad, and a microwave station that is served by a 12 kilovolt (kV) electric distribution line that terminates on this parcel. The surrounding hills are composed of mixed conifer and cismontane woodland including various oak, pine and fir species.

The CNDDDB currently has recorded occurrences of one special status wildlife species and one sensitive plant species within a ¼-mile of Parcel 668: foothill yellow-legged frog (*Rana boylei*), a state listed species of special concern; and closed-throated beardtongue (*Penstemon personatus*) – not listed; California Rare Plant Rank: 1B.2 (fairly endangered in California); State Rank: S2 (imperiled); Global Rank: G2 (imperiled). There is no potential for foothill yellow-legged frogs to occur on Parcel 668 because there is no aquatic habitat that could support this species on the parcel. Based on the habitat present in Parcel 668, there is low potential for closed-throated beardtongue to be present due to previous disturbance, including the Concow fire, and lack of known species accounts.

The CNDDDB also has recorded occurrences of an additional special status wildlife species and an additional 11 sensitive plant species within 2 miles of Parcel 668:

- silver-haired bat (*Lasionycteris noctivagans*) – listed as state special animal;
- Butte County fritillary (*Fritillaria eastwoodiae*) - not listed; California Rare Plant Rank: 3.2 (fairly endangered in California); State Rank: S3 (vulnerable); Global Rank: G3Q (vulnerable);
- brownish beaked-rush (*Rhynchospora capitellata*) – not listed; California Rare Plant Rank: 2B.2 (fairly endangered in California); State Rank: S1 (critically imperiled); Global Rank: G5 (secure);
- Lewis Rose's ragwort (*Packera eurycephala* var. *lewisrosei*) – not listed; California Rare Plant Rank: 1B.2 (fairly endangered in California); State Rank: S2 (imperiled); Global Rank: G4T2 (imperiled at subspecies level);
- Butte County morning-glory (*Calystegia atriplicifolia* ssp. *Buttensis*) – not listed; California Rare Plant Rank: 4.2 (fairly endangered in California with limited distribution); State Rank: S3 (vulnerable); Global Rank: G5T3 (vulnerable at subspecies level);
- white-stemmed clarkia (*Clarkia gracilis* ssp. *Albicaulis*) – not listed; California Rare Plant Rank: 1B.2 (fairly endangered in California); State Rank: S2S3 (between imperiled and vulnerable); Global Rank: G5T2T3 (vulnerable at subspecies level);
- Ahart's buckwheat (*Eriogonum umbellatum* var. *ahartii*) – not listed; California Rare Plant Rank: 1B.2 (fairly endangered in California); State Rank: S3 (vulnerable); Global Rank: G5T3 (vulnerable at subspecies level);
- Jepson's onion (*Allium jepsonii*) – not listed; California Rare Plant Rank: 1B.2 (fairly endangered in California); State Rank: S2 (imperiled); Global Rank: G2 (imperiled);
- Clifton's eremogone (*Eremogone cliftonii*) – not listed; California Rare Plant Rank: 1B.3 (not very endangered in California); State Rank: S3 (vulnerable); Global Rank: G3 (vulnerable);

- Mildred's clarkia (*Clarkia mildrediae* ssp. *Mildrediae*) – not listed; California Rare Plant Rank: 1B.3 (not very endangered in California); State Rank: S3 (vulnerable); Global Rank: G3T3 (vulnerable at subspecies level);
- Mosquin's clarkia (*Clarkia mosquinii*) – not listed; California Rare Plant Rank: 1B.1 (seriously endangered in California); State Rank: S2 (imperiled); Global Rank: G2 (imperiled); and
- Sierra blue grass (*Poa sierra*) – not listed; California Rare Plant Rank: 1B.3 (not very endangered in California); State Rank: S3 (vulnerable); Global Rank: G3 (vulnerable).

Given the habitat within the parcel and the known locations of the various plant species, there is little to no potential for the 11 special status plant species to occur on Parcel 668. Though suitable nesting and foraging habitat is present in or immediately adjacent to the parcel, there is low potential for silver-haired bats to occur in Parcel 668 due to the lack of water in proximity to the parcel.

**Cultural and Historical Resources:** The NAHC found no specific site information in the Sacred Lands File pertaining to the subject area, but provided a list of Native American tribes to be contacted. These tribes will be contacted by the Stewardship Council when the Watershed Planning Committee approves the release of the NSPIV finding for a 30 day public review and comment period.

The CHRIS report indicates there are no known cultural resources within Parcel 668 or within a ¼-mile of Parcel 668. Two cultural resource investigations were conducted within a ¼-mile of Parcel 668. One of the investigations was the Archaeology and Prehistory of Plumas and Butte Counties, California: An Introduction and Interpretive Model (1988), which covered the entire area surrounding and including Parcel 668, but is a regional overview and not a survey. The other cultural resource investigation conducted within a ¼-mile of Parcel 668 was an archeological survey for the Conair 4 Burn Fire Salvage Emergency Plan in 2009.

- 3. Existing and Potential Public Use:** Parcel 668 is entirely surrounded by private land and is inaccessible to the public. It is not adjacent to any recreational areas and does not fall within the FERC boundary. The parcel includes a helipad and a microwave station that is served by a 12 kilovolt (kV) electric distribution line that terminates on this parcel. Because it is very small, difficult to access, includes existing energy infrastructure, and surrounded by private property, staff did not identify any recreational potential on the parcel.
- 4. Ownership and Use of Surrounding Lands:** The parcel is entirely surrounded by private property. There are two unrecorded easement agreements for telecommunications facilities on Parcel 668. National Forest System lands managed by the Plumas National Forest are located east of the parcel.

5. **Ease of Access:** Access to Parcel 668 is available from a county road known as Concow Road, to a private dirt road known as Dixie Road, to a private dirt road known as Flea Valley Road, and then to an unnamed private road that leads to this parcel. PG&E has vehicular access rights through this private road.
6. **Potential for Future Development:** Parcel 668 is currently zoned Timber Production (TPZ), which is a zone to preserve and protect land where timber is actively being grown and harvested, as well as minimize impacts to neighboring uses from active timber operations. The California Forest Taxation Reform Act of 1976 places values on bare land that is related to its ability to grow trees, and it substitutes a percent tax on the value of timber at the time of harvest (“yield” tax) for the annual property tax on the trees. In exchange for this tax benefit, landowners dedicate their timberland to timber growing and compatible uses for a period of at least ten years. Permitted uses in this zone include logging, timber processing, crop cultivation, the management of forest lands for timber operations and animal grazing, and compatible uses. Stewardship Council staff concluded that due to the size of the parcel (2 acres), its zoning, and its location, there is low development potential for Parcel 668.
7. **Other Considerations:** Parcel 668 is not a scenic viewshed for the public. Volume II of the LCP did not recommend any enhancement measures on Parcel 668.

## PROPOSED STEWARDSHIP COUNCIL BOARD ACTION

At its October 11, 2017 meeting, the Planning Committee will review the possible NSPIV finding pertaining to Parcels 667 and 668. At that meeting, the Planning Committee may make a recommendation to the board to approve a finding that the subject lands have No Significant Public Interest Value, and therefore, should not be encumbered by a conservation easement. The possible finding would then be released on October 13, 2017 for a 30 day public review and comment period to stakeholders including Native American tribes.

At its January, 2018 meeting, the Stewardship Council Board of Directors will then review the recommendation from the Planning Committee and decide whether to make a finding of No Significant Public Interest Value. All stakeholders, including tribes, will have an opportunity to comment on the proposed NSPIV finding 30 days before the board meeting. There will also be opportunity to comment in person at the board meeting.