

GUIDELINES FOR ACHIEVING PROPERTY TAX NEUTRALITY

INTRODUCTION

The Settlement Agreement¹ and Stipulation² that established the Land Conservation Commitment require that the Land Conservation Plan being developed by the Stewardship Council provide property tax revenue, other equivalent revenue source, or a lump sum payment, so that the totality of dispositions in each affected county will be “tax neutral” for each county. Section 4.3 of Volume I of the Land Conservation Plan (LCP) adopted by the Stewardship Council in November 2007 described the Stewardship Council’s potential strategies and anticipated approach to achieving property tax neutrality at a programmatic level.

More recently, on September 17, 2009, the Stewardship Council adopted a funding policy. This policy further clarified the Stewardship Council’s approach to property tax neutrality and identified the following potential vehicles to achieving this requirement:

- Voluntary payment of property taxes by the new landowner
- Lump-sum payment in satisfaction of future tax revenues
- Establishment of an endowment to fund a negotiated share of annual payments
- Other in-lieu compensation as negotiated by the parties
- Payment by PG&E per the terms articulated in the Stipulation
- Other consideration or benefit as negotiated by the parties

BACKGROUND

The watershed lands identified in the Land Conservation Commitment are subject to a valuation process conducted by the California State Board of Equalization (SBE), rather than local county assessors. The SBE sets the taxation value of all property owned or used by public utilities. Utility owned property is reassessed by the SBE every four years; therefore, the lands owned by PG&E are generally at or near their current market value.³

In California, property taxes are allocated among several different agencies and districts according to the subject property’s Tax Rate Area (TRA). Typically, only a portion of the annual tax payments go to the county general fund, with the majority of taxes distributed to the county’s special districts (e.g., water and fire districts, school districts, libraries, and resource conservation districts).

The SBE classifies real property owned by public utilities as either “unitary” or “non-unitary.” Unitary property is defined as property necessary for an assessee’s primary function. Non-unitary property is

¹ *Opinion Modifying the Proposed Settlement Agreement of Pacific Gas & Electric Company, PG&E Corporation and the Commission Staff, and Approving the Modified Settlement Agreement*, December 18, 2003:

http://www.stewardshipcouncil.org/documents/Settlement_Agreement.pdf

² *Stipulation Resolving Issues Regarding the Land Conservation Commitment*, September 25, 2003:

http://www.stewardshipcouncil.org/documents/Stipulation_Agreement.pdf

³ *Stewardship Council Land Conservation Plan*, November 28, 2007

property owned by the assessee, but not used as part of its primary function. The SBE generally assesses both unitary and non-unitary land using typical appraisal methods, such as comparable sales.

PG&E is expected to retain the majority of lands and improvements necessary for the future generation of power (i.e., unitary property). However, in some instances, PG&E may donate lands classified as unitary. Table 1 below lists the acreage and annual taxes for the watershed lands by county as presented in Volume I of the LCP. The estimated total tax liability that would be subject to tax neutrality will depend upon the total acreage transferred, and the types of organization receiving lands.

Table 1 – Estimated Property Taxes From Land Available for Donation³

County	Lands Available for Donation	Total Taxes (Annual)	Total Taxes (Lump)
Alpine	410	2,948	\$73,691
Amador	2,040	\$8,577	\$214,431
Butte	N/A	\$0	\$0
Calaveras	60	\$53	\$1,320
El Dorado	N/A	\$0	\$0
Fresno	267	\$2,413	\$60,334
Kern	N/A	\$0	\$0
Lake	986	\$31,844	\$796,090
Lassen	N/A	\$0	\$0
Madera	220	\$10,271	\$256,770
Mariposa	N/A	\$0	\$0
Mendocino	797	\$17,011	\$425,289
Merced	N/A	\$0	\$0
Nevada	1,867	\$13,150	\$328,758
Placer	2,683	\$46,794	\$1,169,882
Plumas	3,278	\$40,873	\$1,021,828

San Luis Obispo	N/A	\$0	\$0
Shasta	23,386	\$89,727	\$2,243,172
Tehama	151	\$45	\$1125
Tulare	N/A	\$0	\$0
Tuolumne	868	\$360	\$9,9009
Yuba	41	\$530	\$13,256
Total	\$37,054	\$264,597	\$6,614,955

^a This acreage includes lands within parcels that cross county boundaries

PURPOSE OF PROPOSED GUIDELINES

The purpose of these guidelines is to establish a standard methodology for addressing property tax neutrality on lands located across 22 affected counties that are subject to the Land Conservation Commitment; and to communicate the general principles and approach regarding the achievement of property tax neutrality. These guidelines are applicable when the Stewardship Council's fee-title donee recommendation will result in transfer of lands to entities that are exempt from paying property taxes on the donated land.

Following the adoption of these guidelines, the Stewardship Council will develop a more specific methodology concerning other elements of property tax neutrality such as:

- Determination of allocations between counties and special districts
- Disbursement of funds after settlement amounts are calculated
- Subsequent changes in property tax allocations and effects on the Stewardship Council's tax neutrality payments
- Effects of inflation and future appreciation of value on property tax neutrality payments

OVERARCHING ASSUMPTIONS

These guidelines are based on the following three overarching assumptions:

- I. **Compensation for property taxes will be based on the current property taxes as paid by PG&E at the time of transfer.**

The Stewardship Council will address property tax neutrality based upon the most current property taxes paid by PG&E on the lands being transferred at the time of the actual transfer of fee title from PG&E to the selected donee.

Due to the uncertain nature of timber harvests and similar activities, the Stewardship Council's commitment to the achievement of property tax neutrality does not extend to timber yield tax or any other taxes associated with the conversion of natural resources to revenues by the future landowner.

II. Property tax neutrality includes all property taxes assessed by the State Board of Equalization and distributed between the affected county and special districts

The property taxes paid to counties are distributed among multiple agencies, including County General Funds, School and Fire Districts, Regional Conservation and Water Districts, and other special districts.

The Stewardship Council's achievement of property tax neutrality applies to all property taxes that would be distributed directly to County General Funds, School and Fire Districts, Regional Conservation and Water Districts, and any other special districts as defined by the applicable Tax Rate Area.

III. The Stewardship Council's tax neutrality commitment extends only to property tax revenues that remain with locally controlled entities.

The Settlement and Stipulation direct the Stewardship Council to ensure that the effects of distributions be made tax neutral for the affected counties. Therefore, the Stewardship Council's property tax neutrality commitment will not apply to any portion of property tax payments that are subject to apportionment by the State of California.

FUNDING PROPERTY TAX NEUTRALITY PAYMENTS

If lands are transferred to entities which make annual tax or in-lieu payments consistent with any applicable regulations; that entity will be responsible for making tax payments, and its payment methodology would supersede the lump-sum payment described below.

Lump-sum payments

Lump-sum payments in satisfaction of property tax neutrality would be calculated based upon the net present value of the current taxes as paid by PG&E at the time that lands are removed from the property tax rolls. The lump-sum payment would be calculated based upon the most current assessed value and tax rate at the time of property transfer. The discount rate would be based upon reasonable rates of interest for long-term assets and liabilities.

Lump-sum payments would be allocated based upon the applicable Tax Rate Area at the time of payment. The Stewardship Council envisions making these lump-sum payments as unrestricted payments in lieu of property taxes. Counties and special districts would be free to determine the best use of the funds pursuant to the needs of the county or special district.

ACCEPTANCE OF PROPERTY TAX NEUTRALITY PAYMENTS

Prior to the disbursement of funding of property tax neutrality the Stewardship Council will ask affected counties and special districts to execute an agreement stipulating that the Stewardship Council's property tax neutrality has been fulfilled for each transaction. The Stewardship Council will work with affected counties and special districts to determine the exact form of acceptance that is acceptable to both parties.

PROPOSED GUIDELINES BY DONATION SCENARIO

The proposed guidelines described below are organized and presented under four different land donation scenarios: donation of lands to counties, state agencies, federal agencies, and Native American tribes and other tax-exempt organizations.

The Stewardship Council expects that any intended payments for property tax neutrality will be a consideration in the selection of donees for lands and in the development of transactional terms related to the preservation and enhancement of beneficial public values.

SATISFACTION OF TAX NEUTRALITY WHEN LANDS ARE TRANSFERRED TO COUNTIES

- The Stewardship Council recognizes that the transfer of lands to counties will result in a reduction of annual property tax revenues. When transferred lands have associated revenues, it is preferable for the revenues to be used for management and enhancement of the lands, rather than for satisfaction of property tax neutrality.
- Therefore, the Stewardship Council will pay 100% of property tax neutrality related to counties, special districts, and other "non-county" recipients when lands are transferred to counties.

SATISFACTION OF TAX NEUTRALITY WHEN LANDS ARE TRANSFERRED TO STATE AGENCIES

- With the exception of the California Department of Forestry and Fire Protection (CAL FIRE), the Stewardship Council will pay 100% of property tax neutrality related to counties, special districts, and other "non-county" recipients when lands are transferred to state agencies.
- Lands transferred to CAL FIRE will be subject to Section 4654 of the California Public Resources Code, which requires annual payments equivalent to taxes levied in the county on similarly situated lands.
- If the transfer of lands to CAL FIRE results in a reduced property tax assessment, the Stewardship Council or CAL FIRE will pay 100% of the difference related to counties, special districts, and other "non-county" recipients.

SATISFACTION OF TAX NEUTRALITY WHEN LANDS ARE TRANSFERRED TO FEDERAL AGENCIES

- The Stewardship Council recognizes that lands transferred to federal agencies are typically subject to various revenue sharing programs intended to help compensate local governments for the provision of services on federal lands. The Stewardship Council's analysis of these programs

indicates that the annual payments under these programs would yield only a fraction of the amount counties and special districts currently receive in property taxes from PG&E.

- Therefore, the Stewardship Council will pay 100% of property tax neutrality related to counties, special districts, and other “non-county” recipients when lands are transferred to federal agencies.

SATISFACTION OF TAX NEUTRALITY WHEN LANDS ARE TRANSFERRED TO ORGANIZATIONS OTHER THAN COUNTIES AND STATE OR FEDERAL AGENCIES WHICH WOULD BE EXEMPT FROM PAYING PROPERTY TAXES ON DONATED LANDS

- The Stewardship Council will pay 100% of property tax neutrality related to counties, special districts, and other “non-county” recipients when lands are transferred to tax-exempt organizations other than counties and state or federal agencies