

## **POSSIBLE FINDING OF NO SIGNIFICANT PUBLIC INTEREST VALUE AT PARCEL 679 IN THE OROVILLE 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 Oroville planning unit, located in Butte County, consists of 29 legal parcels, comprising approximately 1,336 acres of Watershed Lands. Parcel 679, totaling approximately 6 acres in size, is 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 Oroville planning unit. NCRLT is in support of excluding Parcel 679 from the Oroville planning unit conservation easement because of the extreme difficulty in accessing the parcel, the complexities of the surrounding ownership, and lack of significant natural and cultural resources, recreational values, and scenic/open space values on the parcel.

## **EVALUATION**

The assessment of the physical condition of Parcel 679 was conducted via a staff site visit by Steve Schweigerdt on March 30, 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 679

**1. Size, Location, and Parcel Dispersion:** Parcel 679 is a thin strip of land approximately 6 acres in size. The parcel lies approximately 0.5 miles southwest of Parcel 678, 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 679 and its location in relation to the Oroville planning unit.

## 2. Presence of Beneficial Public Values

**Habitat and Forest Resources:** Parcel 679 is a thin strip of land located on a vegetated slope east of Spring Valley Gulch. The site is dominated by cismontane woodland vegetation containing deciduous and evergreen species. Broadleaved trees, especially oaks, dominate, although conifers may be present in, or emergent through, the canopy. The parcel is dense with shrubs and difficult to traverse.

The CNDDDB currently has no recorded occurrences of special status species on or within a ¼-mile of Parcel 679. However, the CNDDDB has recorded occurrences of two special status wildlife species and three sensitive plant species within 2 miles of Parcel 679:

- Tricolored blackbird (*Agelaius tricolor*) – federal species of conservation concern and state candidate species for listing;
- Pallid bat (*Antrozous pallidus*) – state species of special concern;
- 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);
- veiny monardella (*Monardella venosa*) - not listed; California Rare Plant Rank: 1B.1 (seriously endangered in California); State Rank: S1 (critically imperiled); Global Rank: G1 (critically imperiled); and
- dissected-leaved toothwort (*Cardamine pachystigma* var. *dissectifolia*) – not listed; California Rare Plant Rank: 1B.2 (fairly endangered in California); State Rank: S2 (imperiled); Global Rank: G3G5T2Q (imperiled at subspecies level).

Given the habitat within the parcel and the known locations of the various species, there is little to no potential for tricolored blackbird, Butte County fritillary, veiny monardella, or dissected-leaved toothwort to occur on Parcel 679. Pallid bat potentially could occur on Parcel 679 as suitable nesting habitat may be present and the nearest recorded occurrence is within the normal foraging range for the species.

**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 679 and two cultural resource sites within a ¼-mile of Parcel 679. One of the cultural resource sites within a ¼-mile of Parcel 679 is the Spring Valley Gulch Placer Mining Complex, which includes historic-era placer mining and habitation features, as well as prehistoric bedrock mortar features. The other cultural resource site within a ¼-mile of Parcel 679 contains 4 historic utility poles parallel to a road that may have once led to a homestead. Parcel 679 is located in the historic Cherokee gold district. The Spring Valley Gold Mine in Cherokee was at one time the largest hydraulic mine in California, also yielding over 300 diamonds.

No cultural resource investigations have been conducted within Parcel 679, though two investigations have been conducted within a ¼-mile of Parcel 679. One of the cultural resource investigations conducted within a ¼-mile of Parcel 679 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 679, but is a regional overview and not a survey. The other cultural resource investigation conducted within a ¼-mile of Parcel 679 was an archeological and historical resources inventory for the Oroville Facilities Relicensing FERC Project No. 2100 in 2005.

3. **Existing and Potential Public Use:** Parcel 679 is entirely surrounded by private land and is inaccessible to the public. It is not directly adjacent to any recreational areas and does not fall within the FERC boundary. It is extremely difficult to access and contains very dense shrubs that make it hard to traverse. Because it is difficult to access and is surrounded by private property, staff did not identify any recreational potential on the parcel.
4. **Ownership and Use of Surrounding Lands:** Parcel 679 is surrounded by private property on all sides, with California Department of Water Resources and Bureau of Land Management lands located north and east of the parcel around Lake Oroville. There is some rural residential development west and south of the parcel. There are no recorded agreements for Parcel 679. The parcel is not clearly marked, nor has it been surveyed. There are some unauthorized uses that appear to extend onto Parcel 679 from adjacent parcels. Because it is hard to traverse the parcel, it is difficult to monitor these unauthorized uses.
5. **Ease of Access:** There is no official vehicular access to Parcel 679. However, access to the southern boarder of the parcel could be gained from the transmission corridor that lies to the south of the parcel. PG&E's access through this corridor is by easement and is likely not transferable to a CE holder. There are 21 landowners whose properties boarder this

thin parcel strip, and it would be difficult for a CE holder to coordinate with all 21 land owners for access rights or monitoring concerns.

6. **Potential for Future Development:** Parcel 679 is currently zoned Foothill Residential with a minimum parcel size of 20 acres (FR-20). This zone allows for the appropriate development of large-lot single-family homes, small farmsteads, and related uses in the foothills of the county. Permitted residential uses in this zone include a single-family home, small residential care home, and a second unit. Other permitted uses include animal grazing, crop cultivation, private stables, on-site agricultural product sales, and other similar agricultural activities. Stewardship Council staff concluded that due to the small size and thin shape of the parcel there is no significant development potential for Parcel 679.
7. **Other Considerations:** Parcel 679 is not a scenic viewshed for the public. Volume II of the LCP did not recommend any enhancement measures on Parcel 679.

#### **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.