

# Final LCCP

September 21, 2016



## Land Conservation and Conveyance Plan

Lands for Donation to Fall River Valley Community Services District at Fall River Mills Planning Unit

## **Executive Summary**

### **Subject**

LCCP Fall River Mills Planning Unit (Parcels 119, 124, 171)  
Land Conservation Plan Identification Numbers (Parcels) 119, 124, and 171 as shown on the map attached as Exhibit 1.

### **Type of Property Interest Disposition**

- Fall River Valley Community Services District (CSD) to hold fee simple title to 39 acres within Parcels 119, 124, and 171 of the Fall River Mills planning unit.
- Shasta Land Trust (SLT) to hold the conservation easement on the 39 acres of Parcels 119, 124, and 171 donated to Fall River Valley CSD.

### **Summary**

39 acres within three parcels (Parcels 119, 124, and 171) will be donated to the Fall River Valley CSD and, consistent with the conditions in the Settlement Agreement, the Property will be subject to a perpetual conservation easement granted by the Fall River Valley CSD to SLT. The remaining 1 acre within Parcels 119, 124, and 171 will be retained by PG&E subject to a conservation easement and will be addressed in a separate Land Conservation and Conveyance Plan (LCCP).

Pending California Public Utilities Commission (CPUC) approval, and immediately following PG&E's conveyance of 39 acres within Parcels 119, 124, and 171 to the Fall River Valley CSD, Fall River Valley CSD and SLT will enter into the conservation easement.

The 39 acres in Parcels 119, 124, and 171 to be donated to the Fall River Valley CSD are outside the Pit 1 FERC Project boundary (FERC #2687) and PG&E has determined this acreage does not need to be retained for existing or future utility operations. Therefore, this acreage is available for donation, subject to PG&E's reserved rights.

This transaction will not have an adverse effect on the public interest or on the ability of the utility to provide safe and reliable service to customers at reasonable rates.

### **Property Location**

The property subject to this LCCP consists of 39 acres in Shasta County near the town of Fall River Mills.

### **Economic Uses and Agreements**

There is a recorded encumbrance for a road on the property to be donated to the Fall River Valley CSD. There are no existing agreements for economic uses on the lands to be donated to the Fall River Valley CSD in Parcels 119, 124, and 171 of the Fall River Mills planning unit.

Consistent with the Settlement Agreement, PG&E will reserve its rights to maintain and operate existing and future utility facilities on the parcels to be conveyed in fee. The

specific reserved rights are set forth in the grant deed and conservation easement, which can be found in Appendices 2 and 3, respectively.

### **Permanent Protection of the Beneficial Public Values**

The grant deed transferring fee title to the Fall River Valley CSD includes a recital that the Fall River Valley CSD and PG&E acknowledge that the conveyance, together with the conservation easement transaction being entered into by the Fall River Valley CSD and SLT, is being made in the public interest with the intent to ensure the permanent protection of the beneficial public values (BPVs) on the Property as identified in the Land Conservation Plan while allowing the ongoing use of the Property by PG&E for hydroelectric operations, water delivery, and related activities, and acknowledging and honoring the existing third party uses.

### **Conservation Management Objectives to Preserve and/or Enhance the Beneficial Public Values**

The conservation easement for Parcels 119, 124, and 171 within the Fall River Mills planning unit lists the following Beneficial Public Values (BPVs) that are to be protected:

- **Protection of the Natural Habitat of Fish, Wildlife, and Plants:** Rich wildlife habitat is provided by the approximately 1,800 foot vegetated buffer along one side of the Pit River and approximately 1,100 vegetated buffer on the both sides of Fall River. The riparian character of the Protected Property enhances water quality and provides vegetated buffer to the Pit and Fall Rivers and helps prevent bank erosion and sediment in the rivers.
- **Sustainable Forestry:** The Protected Property consists of undeveloped open space with a mix of conifers, sage and oak woodlands, and lava outcroppings with patches of shrub/willow riparian vegetation along lower terraces close to the rivers.
- **Preservation of Open Space:** The open and natural character of the Protected Property provides scenic views enjoyed by the general public from Main Street overlooking the Pit and Fall Rivers as well as from Grand Rapids Avenue, together considered a gateway into the community of Fall River Mills. The scenic attributes include an elevated viewshed from the bluff at the confluence of the Pit and Fall Rivers, providing scenic views of both rivers and the natural and agricultural landscape surrounding the community of Fall River Mills.
- **Preservation of Historic Values:** The cultural character of the Protected Property includes lands historically utilized by Native American tribes. The Protected Property also includes significant historic hydroelectric remnants and grounds once utilized for ferry transportation.
- **Outdoor Recreation by the General Public:** The Protected Property provides opportunities for outdoor recreation and education by the general public.

### **Tax Neutrality**

The Stewardship Council intends to provide funding to satisfy property tax payments in perpetuity for the Property.

Shasta County has chosen the option of receiving an annual payment from a trustee selected by the Stewardship Council. Annual payments from the trustee would be equal to 4% of a rolling 20 quarter average of the principal balance invested for the parcels, consistent with the methodology described in the Property Tax Neutrality Methodology adopted on June 27, 2012 and amended on June 24, 2015 and January 21, 2016.

### **Hazardous Waste Disclosure**

PG&E has provided the original Fall River Mills Planning Unit Environmental Site Assessment, dated July 29, 2010 and a refreshed version in December 2015, to the Fall River Valley CSD and SLT, fulfilling the disclosure requirements of the Land Conservation Commitment.

### **Consideration of Parcel Split**

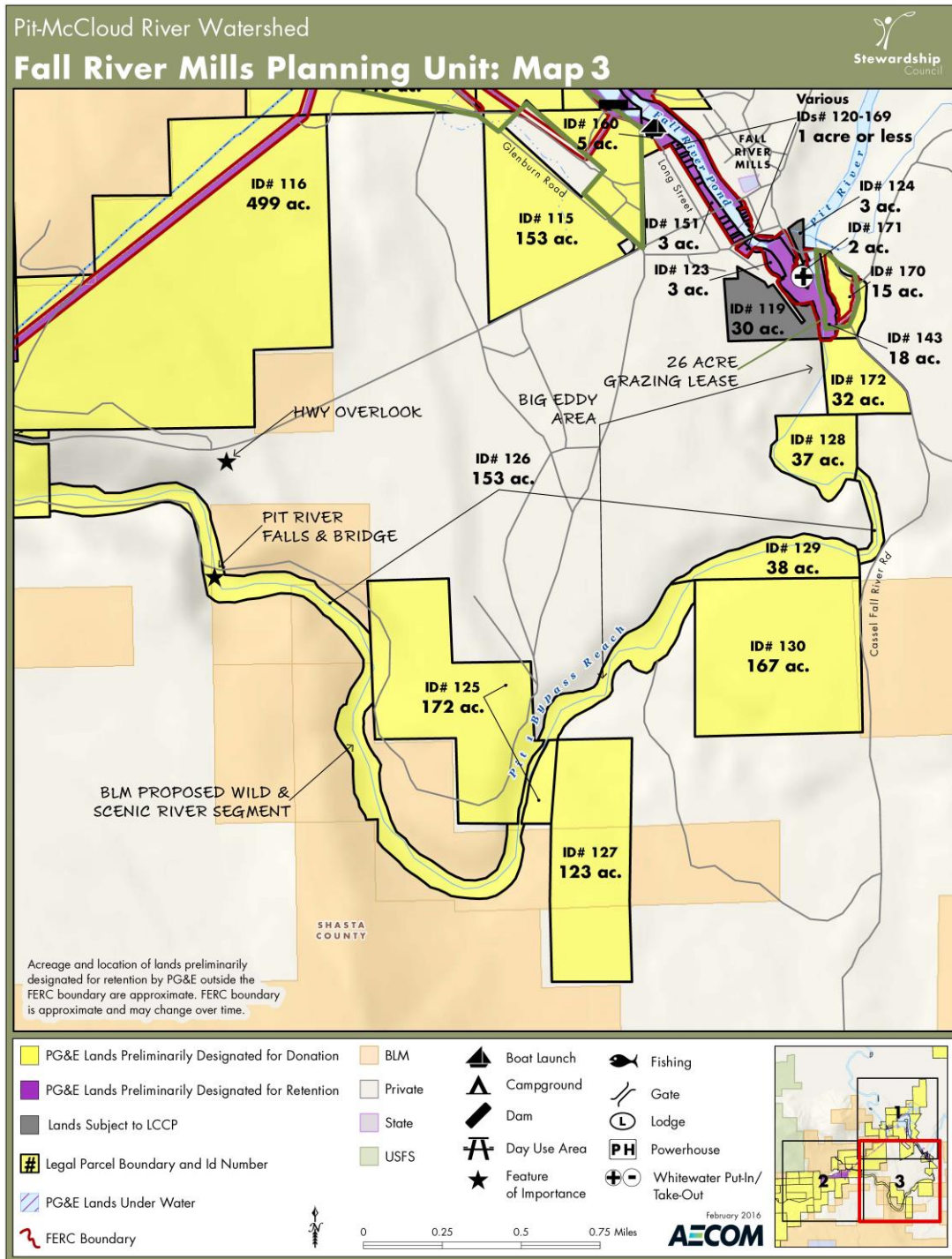
Within Parcels 119, 124, and 171, approximately 39 acres are proposed to transfer to the Fall River Valley CSD. At closing, the 39 acre property as well as the remainder of the parcels must comply with the California Subdivision Map Act (Government Code Section 66410, et seq.) as separate legal parcels. Certain exemptions to the Map Act apply to public utilities and/or to governmental entities and may apply to this conveyance.

### **Applicable CEQA Exemption(s) or Reason Why Transaction is not a "Project Under CEQA"**

The establishment of a conservation easement is categorically exempt under Section 15325 of the CEQA Guidelines (CFR Title 14, Chapter 3).

In 2013, the Fall River Valley CSD developed a No Impact Negative Declaration for the proposed development being contemplated by the CSD following fee title transfer. Based on an Initial Study, the CSD, acting as lead agency, finds that this project will not have a significant adverse effect on the environment.

## Exhibit 1. Map of the Property



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## 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 Board of Directors includes appointees from state and federal agencies, water districts, Native American and rural interests, forest and farm industry groups, conservation organizations, the CPUC, and Pacific Gas and Electric Company (PG&E).

The Stewardship Council has developed a plan to protect more than 140,000 acres of watershed lands (Watershed Lands) currently owned by PG&E for the benefit of the citizens of California. 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.

Located primarily in the Sierra Nevada and Cascade Mountain range watersheds, the Watershed Lands contain some of the most pristine and resource-rich landscapes found in the state. The properties are diverse and geographically remote, located in 21 counties from the northern reaches of the state to the southern end of the Central Valley.

As required by the Settlement and Stipulation, the Stewardship Council prepared a Land Conservation Plan (LCP) to establish a framework for the conservation and/or enhancement of the Watershed Lands, and to ensure the permanent protection of these lands for the benefit of current and future generations of Californians. To address the challenge of a conservation effort of this large scope and unique nature, and to facilitate engagement of a wide range of stakeholders and interested members of the public, the Stewardship Council grouped the Watershed Lands into 47 planning units and established a phased approach to development and implementation of the LCP.

In 2007, the Stewardship Council board adopted Volumes I and II of the LCP:

- **Volume I:** The Land Conservation Framework establishes the overall framework for the LCP, including legal requirements, the planning process, methodologies, public involvement, and relevant regulatory processes.
- **Volume II:** Planning Unit Concepts documents existing conditions and presents management objectives, potential measures, and conceptual plans to preserve and/or enhance the Beneficial Public Values (BPVs) within each planning unit. It also documents existing economic uses.

Volume III, consisting of Land Conservation and Conveyance Plans (LCCPs) to be issued serially and cumulatively, will encompass a series of real estate transaction packages that will detail the specific land conservation and/or disposition requirements for each parcel or parcel cluster. LCCPs represent the Stewardship Council's recommendations for preserving and/or enhancing the BPVs of the Watershed Lands, and are intended to support required regulatory approvals of the land transactions resulting from the Stewardship Council's recommendations. The content of the LCCP spans a number of issues required by the Settlement and Stipulation, such as an express reservation of a right 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, compliance with any Federal Energy Regulatory Commission (FERC) license, FERC license renewal, or other regulatory requirements. In addition, conservation easements will honor existing agreements for economic uses, including consumptive water deliveries, and preserve or enhance reasonable public access to the Watershed Lands.

During the development of LCP Volumes I and II and the LCCPs, the Stewardship Council implemented a public outreach program to ensure local communities, elected representatives, neighboring property owners, and other key stakeholders had many opportunities to engage in the Stewardship Council's effort to preserve and enhance the Watershed Lands. To solicit additional input from the public on potential fee title recipients or conservation easement holders (referred to as donees), the Stewardship Council hosted a series of public information meetings. These meetings were designed to (1) provide an overview and update on the Stewardship Council's Land Conservation Program, (2) outline next steps, timeline, and opportunities for additional public input, and (3) solicit public input on the desired qualifications of potential donees and the future stewardship of the planning units.

Public input that the Stewardship Council received as a result of the public outreach process, including comments on Volume II of the LCP, comments from public information meetings on the selection of donees and other issues, and correspondence received by the Stewardship Council were considered by the Stewardship Council in its evaluation of the potential donees and their land stewardship proposals. In addition to public meetings, the public was given the opportunity to participate in all of the Stewardship Council's public board meetings where decisions were made on fee title and conservation easement donees. Prior to making a decision regarding the disposition of any parcel, the Stewardship Council will provide notice to the Board of Supervisors of the affected county, each affected city, town, and water supply entity, each affected Tribe and/or co-licensee, and each landowner located within one mile of the exterior boundary of the parcel, by mail or other effective manner. A summary of the public outreach process for this subject LCCP, the Fall River Mills planning unit, is provided in Appendix 1. Furthermore, the proposed LCCP will be made available for public review and comment before it is forwarded by the Watershed Planning Committee to the board for its review and approval.

**The Stewardship Council Board of Directors recommends that the Fall River Valley Community Services District (CSD) receive 39 acres within three parcels (119, 124, 171).  
Fall River Mills (CSD) Final LCCP 7**

and 171) of the Fall River Mills planning unit in fee and that the Shasta Land Trust (SLT) hold a conservation easement over the lands recommended for donation to the Fall River Valley CSD in these parcels (119, 124, and 171) of the Fall River Mills planning unit.

Table 1 identifies Stipulation requirements that will be addressed in the LCCP and includes pertinent language from the Stipulation.

**Table 1 Stipulation 12(a) Requirements**

|   |
|---|
| <b>(1) Acreage, Existing Economic Uses and Agreements</b><br><i>"Reasonably exact estimates of acreage, by parcel, within or outside licensed project boundaries, and existing economic uses (including all related agreements);"</i>   |
| <b>(2) Objectives to Preserve and/or Enhance</b><br><i>"Objectives to preserve and/or enhance the BPVs, as defined in the Settlement Agreement, Appendix E, of each individual parcel;"</i>   |
| <b>(3) Recommendations for Conservation Easement and Fee Simple Donation</b><br><i>"A recommendation for grant of a conservation easement or fee simple donation for each such parcel;"</i>   |
| <b>(4) Finding of Donee Funding and Other Capacity to Maintain Lands to Preserve and/or Enhance BPVs</b><br><i>"A finding that the intended donee of such easement or fee simple has the funding and other capacity to maintain that property interest so as to preserve and/or enhance the BPVs thereof;"</i>  |
| <b>(5) Analysis of Tax and Other Economic and Physical Impacts</b><br><i>"An analysis of tax and other economic and physical impacts of such disposition strategy, and a commitment by an appropriate entity to provide property tax revenue, other equivalent revenue source, or a lump sum payment, so that the totality of dispositions in each affected county under the LCC will be 'tax neutral' for that county;"</i>  |
| <b>(6) Hazardous Waste Disclosure</b><br><i>"A disclosure of all known hazardous waste or substance contamination or other such environmental liabilities associated with each parcel;"</i>   |
| <b>(7) Consideration of Parcel Split</b><br><i>"Appropriate consideration whether to split any parcel which is partly used or useful for operation of PG&amp;E's and/or a co-licensee's hydroelectric facilities, where the beneficial public values of the unused part may be enhanced by such split, provided that it is consistent with Section 12(b)(4) of this Stipulation and that, in the event that governmental approval of a parcel split imposes conditions or restrictions on other PG&amp;E property, the decision to accept or reject such conditions will be at PG&amp;E's sole discretion;"</i> |
| <b>(8) Strategy for Physical Measures to Enhance BPVs</b><br><i>"A strategy to undertake appropriate physical measures to enhance the BPVs of individual parcels; provided that no such measure will be in conflict with the provisions of Settlement Agreement paragraph 17(c) and Appendix E paragraph 1;"</i>  |
| <b>(9) Monitoring Plan for the Economic and Physical Impacts of Disposition and Implementation of Enhancement Measures</b><br><i>"A plan to monitor the economic and physical impacts of disposition and implementation of enhancement measures on the applicable management objectives;"</i>   |
| <b>(10) Implementation Schedule for Transactions and Measures</b><br><i>"A schedule for the implementing transactions and measures."</i>  |

## **1. Acreage, Existing Economic Uses and Agreements**

### **Acreage and Property Description**

39 acres in Parcels 119, 124, and 171 will be donated to the Fall River Valley CSD and, consistent with the conditions in the Settlement Agreement, the Property will be subject to a perpetual conservation easement granted by the Fall River Valley CSD to SLT. The remaining 1 acre within Parcels 119, 124, and 171 will be retained by PG&E subject to a conservation easement and will be the subject of a separate LCCP.

The Fall River Mills planning unit is located adjacent to the town of Fall River Mills and offers both recreation and open space opportunities. The parcels recommended for donation to the Fall River Valley CSD include an area formerly used as the Fall River Community Library and the Fall River Mills Feed Store.

The planning unit provides extensive terrestrial habitat, which supports three bald eagle nests. Due to the large number of avian species that use the greater Fall River Area and its importance in maintaining bird populations, the Audubon Society has designated this area as an Important Bird Area.

Whitewater boating access is available at a number of locations on the Pit River within this planning unit, including near the Cassel Bridge in Fall River Mills.

There is one PG&E Timber Management Unit (TMU) that covers lands within the Fall River Mills area west to about the Sucker Springs Creek area. This TMU is currently managed by PG&E under a Salvage prescription, meaning that management activities are restricted to mitigating for watershed and forest health issues, including emergency salvage harvesting following insect attack or a catastrophic event.

Though there are two grazing leases in the Fall River Mills planning unit, they are not located on lands to be donated to the Fall River Valley CSD.

There are a number of cultural resources within this planning unit, which is within the ancestral territory of the Pit River Tribe, specifically the Ajumawi and Illmawi bands of the tribe.

### **Adjacent and Nearby Landowners**

The parcels subject to donation to the Fall River Valley CSD are surrounded by private property and other planning unit parcels. The parcels are accessed via Grand Rapids Avenue and Cassel Fall River Road.

The Stewardship Council notified and invited landowners located within one mile of the subject parcels to provide comment during key phases of the land conservation and conveyance planning process.

### **Existing Economic Uses and Agreements**

There is a recorded encumbrance for a road on the property to be donated to the Fall River Valley CSD. There are no existing agreements for economic uses on the lands to be donated to the Fall River Valley CSD in Parcels 119, 124, and 171 of the Fall River Mills planning unit.

PG&E's specific reserved rights are set forth in the grant deed and conservation easement, which can be found in Appendices 2 and 3, respectively.

## 2. Objectives to Preserve and/or Enhance the BPVs

The Land Conservation Commitment provides that “PG&E shall ensure that the Watershed Lands it owns... are conserved for a broad range of beneficial public values, including the protection of 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. PG&E will protect these beneficial public values associated with the Watershed Lands... from uses that would conflict with their conservation. PG&E recognizes that such lands are important to maintaining the quality of life of local communities and all the people of California in many ways, and it is PG&E’s intention to protect and preserve the beneficial public values of these lands under the terms of any agreements concerning their future ownership or management.”<sup>1</sup>

The following text lists the objectives for each BPV at the Fall River Mills planning unit that the Stewardship Council board approved in LCP Volume II, as well as a description of how the transaction, as summarized by this LCCP, supports each objective and preserves and/or enhances the BPVs.

The conservation easement will protect the BPVs, subject to PG&E’s hydro and other reserved rights as provided in the conservation easement.

*1. Objective: Preserve and enhance habitat in order to protect special biological resources.*

The conservation easement will protect the BPV related to habitat, which is described in the conservation easement as follows: Rich wildlife habitat is provided by the approximately 1,800 foot vegetated buffer along one side of the Pit River and approximately 1,100 vegetated buffer on the both sides of Fall River. The riparian character of the Protected Property enhances water quality and provides vegetated buffer to the Pit and Fall Rivers and helps prevent bank erosion and sediment in the rivers.

*2. Objective: Preserve open space in order to protect natural and cultural resources, viewsheds, agricultural land uses, and the recreation setting.*

The conservation easement will ensure that no further development will occur unless specifically authorized by the conservation easement and consistent with the BPVs. The open and natural character of the Protected Property provides scenic views enjoyed by the general public from Main Street overlooking the Pit and Fall Rivers as well as from Grand Rapids Avenue, together considered a gateway into the community of Fall River Mills. The scenic attributes include an elevated viewshed from the bluff at the confluence of the Pit and Fall Rivers, providing scenic views of both rivers and the natural and agricultural landscape surrounding the community of Fall River Mills.

*3. Objective: Enhance recreational facilities in order to provide additional recreation opportunities.*

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<sup>1</sup> Land Conservation Commitment I.02-04-026, Appendix E, p. 38

The Protected Property provides opportunities for outdoor recreation and education by the general public.

*4. Objective: Develop and implement forestry practices in order to contribute to a sustainable forest, preserve and enhance habitat, as well as to ensure appropriate fuel load and fire management.*

The conservation easement will ensure that fire management activities required for compliance with any laws or guidelines, including vegetation management and fuel load reductions, are allowed to continue.

*5. Objective: Identify and manage cultural resources in order to ensure their protection.*

The conservation easement will protect the BPV related to cultural resources, which is described in the conservation easement as follows: The cultural character of the Protected Property includes lands historically utilized by Native American tribes. The Protected Property also includes significant historic hydroelectric remnants and grounds once utilized for ferry transportation.

### **3. Recommendations for Conservation Easement and Fee Simple Donation**

The Settlement and Stipulation require that the Watershed Lands: (1) be subject to permanent conservation easements restricting development of the Watershed Lands so as to protect and preserve the BPVs, and/or (2) be donated in fee simple to one or more public entities or qualified nonprofit conservation organizations, whose ownership will ensure the protection of these BPVs.

#### **Conservation Easement**

The Settlement Agreement states that “the conservation easements shall provide for the preservation of land areas for the protection of 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 and, shall prevent any other uses that will significantly impair or interfere with those values. Conservation easements on the Watershed Lands will include an express reservation of a right 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, compliance with any FERC license, FERC license renewal or other regulatory requirements. In addition, conservation easements will honor existing agreements for economic uses, including consumptive water deliveries. The conservation easements shall be donated to and managed by one or more non-profit conservation trustees, qualified conservation organizations or public agencies with the experience and expertise to fully and strictly implement the conservation easements” (Land Conservation Commitment I.02-04-026, Appendix E, pp. 38-39).

For the complete text of the conservation easement, see Appendix 3.

Conservation easements must be donated to nonprofit organizations, Native American tribes, or public agencies that meet the requirements of California Civil Code section 815.3 and possess the experience and capacity to fully and strictly implement the terms of the conservation easement. The Shasta Land Trust (SLT) will hold the conservation easement over the lands to be donated to the Fall River Valley CSD in the Fall River Mills planning unit that are the subject of this LCCP. The qualifications of SLT are described in Chapter 4.

Accordingly, immediately following PG&E's conveyance of the lands to be donated to the Fall River Valley CSD in the Fall River Mills planning unit, the Fall River Valley CSD will convey the conservation easement to SLT.

#### **Retention or Donation of Fee Title**

The Settlement Agreement states that PG&E will not be expected to make fee simple donations of Watershed Lands with hydroelectric project features, and conservation easements and enhancements may not interfere with hydroelectric operations. In general, PG&E will retain fee title to those Watershed Lands within the boundaries of hydroelectric projects licensed by the FERC, as well as other properties required for

continuing and future utility operations. However, these Watershed Lands will be conserved via a conservation easement. See Appendix 6 for a description of PG&E's Land Conservation Commitment.

The 39 acres proposed for donation to the Fall River Valley CSD in Parcels 119, 124, and 171 were identified as available for donation, subject to PG&E's reserved rights.

### **Lands to be Donated by PG&E**

39 acres within three parcels (119, 124, and 171) will be donated to the Fall River Valley CSD pending CPUC approval of the Section 851 filing for the transaction. The legal description of the parcels is included in the grant deed, which is provided in Appendix 2. The qualifications and capacity of the Fall River Valley CSD to manage the Fall River Mills property recommended for donation are described in Chapter 4.

The map provided in Exhibit 1 shows all of the land within Parcels 119, 124, and 171 in the Fall River Mills planning unit that will be donated. The map also shows key features in the planning unit and surrounding area, and the ownership of adjacent land.

### **Lands to be Retained by PG&E**

The remaining 1 acre in Parcels 119, 124, and 171 in the Fall River Mills planning unit will be retained by PG&E and will be the subject of a separate LCCP.

#### **4. Finding of Donee Funding and Other Capacity to Maintain Lands to Preserve and/or Enhance the BPVs**

##### **Selected Organizations**

At the conclusion of the selection process referenced below, the following organizations were endorsed by the Stewardship Council board on May 2, 2012 and January 22, 2015 respectively:

- The Fall River Valley Community Services District (CSD) to hold fee simple title to 39 acres within Parcels 119, 124, and 171.
- Shasta Land Trust (SLT) to hold a conservation easement over the 39 acres to be donated to the Fall River Valley CSD in Parcels 119, 124, and 171.

##### **Capacity of Selected Organizations**

The Stewardship Council board finds that the Fall River Valley CSD and SLT will have the funding and other capacity to maintain the property interest so as to preserve and/or enhance the BPVs<sup>2</sup>.

##### **A. Fall River Valley CSD:**

- Established in 1904 the Fall River Valley CSD is a public entity that was created to provide water, sewer, and park services to residences and businesses in the Fall River Valley.
- The Fall River Valley CSD currently owns and manages a small community park in the town of Fall River Mills, which includes a baseball diamond, play yard, picnic tables, and a Veterans' Hall.
- Members of the Fall River Valley CSD and its partner organizations have experience with grant writing and local fundraising.
- The Fall River Valley CSD has existing partnerships with a large number of organizations including the Fall River Historical Society, Pit River Tribe, Fall River Resource Conservation District, Pit Resource Conservation District, the Fall River Lions Club and the Friends of the MayFly. These partnerships provide multiple benefits for the local community and the general public by managing and enhancing the recreational, environmental, and educational uses in the Fall River Valley.

##### **B. SLT:**

- Established in 1998, SLT's mission is to conserve the beauty, character, and diversity of significant lands in far northern California.
- SLT holds nine conservation easements totaling over 22,000 acres.

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<sup>2</sup> Stipulation, Section 12(a)(4)

- SLT is guided by a six member board of directors with several standing committees and strong volunteer support. SLT's board includes a retired assistant director of the Wildlife Conservation Board, planners, financial advisors, and a project manager.
- SLT is an accredited land trust.

### **Donee Selection Process**

The Stewardship Council used a formal multi-step process to solicit and select organizations interested in receiving a donation of Watershed Lands or becoming a conservation easement holder at the Fall River Mills planning unit. The process consisted of the following key steps:

- Organizations were invited to register via the Stewardship Council's Interested Donee Registry and were invited to submit a statement of qualifications (SOQ). The Stewardship Council reviewed the SOQs that were submitted to identify organizations that: (a) were determined to be a qualified nonprofit conservation organization; a federal, state or local governmental entity; or, a recognized tribe; (b) appeared to have sufficient financial and organizational capacity relative to the property interest sought within the planning unit; and, (c) appeared to be capable of satisfying the requirements of the Settlement and Stipulation for receiving a donation of fee title or to hold the conservation easement.
- Organizations interested in a fee title donation were invited to submit a land stewardship proposal ("LSP" or "proposal") describing their capacity and interest in preserving and enhancing the BPVs. The LSPs were posted on the Stewardship Council's website.
- Organizations demonstrating sufficient capacity and determined by the Stewardship Council to be best-suited to receive a donation of property interest (fee or conservation easement) in particular Watershed Lands within a planning unit are being recommended to PG&E to receive fee title and/or conservation easements.

## **5. Analysis of Tax and Other Economic and Physical Impacts**

The Stipulation requires that the LCCP provide “an analysis of tax and other economic and physical impacts of such disposition strategy, and a commitment by an appropriate entity [which may be PG&E, subject to being authorized by the Commission to fully recover in rates any such costs in approving PG&E’s Section 851 application or in another appropriate Commission proceeding, Stewardship Council, donee, or a third party, depending on the individual circumstances] to provide property tax revenue, other equivalent revenue source, or a lump sum payment, so that the totality of dispositions in each affected county under this Land Conservation Commitment will be ‘tax neutral’ for that county.”

The following sections address the Stewardship Council’s plan for achieving tax neutrality for Shasta County, the county in which the Property is located. The final LCCP submitted for all PG&E Watershed Lands located in Shasta County will address tax neutrality for the totality of all fee title transfers within the county, as required under the Settlement and Stipulation.

### **Stewardship Council Board Policies and Guidelines**

The Stewardship Council board adopted a set of Guidelines Regarding Satisfaction of Tax Neutrality on March 30, 2011, after an opportunity for public comment. Under the guidelines, the Stewardship Council outlined the following overarching assumptions:

1. 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.
2. 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.
3. 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 amount of property tax payments that are subject to apportionment by the State of California.

On June 27, 2012, the Stewardship Council board approved an amendment to the property tax neutrality methodology it had adopted on May 2, 2012, after an opportunity for public comment and specific outreach to all potentially affected counties. On June 24, 2015 and January 21, 2016, the Stewardship Council board approved some revisions to that methodology. The methodology establishes a standard payment process when lands are transferred to organizations that are exempt from paying property taxes (see Appendix 5). The methodology outlines three in-lieu payment options: a one-time lump sum payment from the Stewardship Council directly to counties, the Stewardship Council’s establishment of an endowment account that would be designed to generate enough investment income to make annual in-lieu payments to counties on an ongoing

basis, and annual installment payments for a maximum number of five years totaling the lump-sum amount. Regardless of the payment option selected by the county, the payment methodology provides that the county will distribute funds related to the special districts as defined in the Tax Rate Area upon receipt of the lump sum payment or the annual installment payment.

On August 14, 2014, the California Public Utilities Commission approved Resolution E-4644. The resolution states that the Commission endorses the Guidelines Regarding Satisfaction of Tax Neutrality and the Property Tax Neutrality Methodology adopted by the Stewardship Council.

### **Achieving Property Tax Neutrality**

The Stewardship Council will provide funding to satisfy property tax payments in perpetuity for the Property. After the CPUC has approved the fee title donation of the Property, Shasta County may select one of the three following options: receiving a lump sum payment, an annual payment from a trustee selected by the Stewardship Council, or annual installment payments for a maximum number of five years totaling the lump-sum amount.

Based on the tax tables, which are current as of the date of this LCCP, the transfer of lands to the Fall River Valley CSD is anticipated to result in the reduction of approximately \$1,143 in annual taxes paid to Shasta County (as shown in Table 2 below). If assessed values on the lands recommended for donation change prior to the transfer of the property, the Stewardship Council will revise the payment calculation.

**Table 2: Property Tax Detail**

| <b>Parcel ID</b> | <b>SBE Map Number</b>   | <b>Taxes on Acres Transferred</b> |
|------------------|---|-----------------------------------|
| 119              | 135-45-31-5   | \$796.68                          |
| 124              | 135-45-31B-3, 135-45-31B-2  | \$291.30                          |
| 171              | 135-45-31-6, 135-45-31A-2, 135-45-31B-2, 135-45-31B-3, 135-45-31B-1 | \$55.05                           |

Since Shasta County has chosen the annual payment option, the Stewardship Council could elect to do one of the following: (1) for an initial period of time, make installment payments itself to Shasta County with the annual installment fixed at approximately \$1,143 per year or (2) immediately after the donation of lands to a tax exempt entity deposit approximately \$28,575 with a third party trustee, which would be responsible for making annual payments to Shasta County. Pursuant to the methodology described in the Property Tax Neutrality Methodology adopted on June 27, 2012 as amended on June 24, 2015 and January 21, 2016, the trustee will make annual payments equal to 4% of a rolling 20 quarter average of the principal balance invested for the parcel. Shasta County

would, in-turn, be required to distribute the funds to the general fund and applicable special districts consistent with the Tax Rate Area in effect for the parcel.

If Shasta County had chosen the lump sum option, the Stewardship Council would make a one-time payment of \$28,575 to the county. Shasta County would, in-turn, be required to distribute the funds to the general fund and applicable special districts consistent with the Tax Rate Area in effect for the parcels. If Shasta County had chosen the installment payment option, the lump-sum amount would be paid in installments up to five years.

### **Other Economic and Physical Impacts**

The Settlement and Stipulation require an analysis of the physical and economic impacts of each fee title transfer. The transaction agreements for the donation of 39 acres within the Fall River Mills planning unit have not mandated any changes to the physical or economic uses of the lands. The Fall River Valley CSD intends to manage the lands consistent with those of a community park, including open space, grass, and benches. As identified in the initial study conducted by the CSD, the proposed uses will not have a significant adverse effect on the environment.

## **6. Hazardous Waste Disclosure**

The Stipulation states that in the transfer of fee title and conveyance of a conservation easement, PG&E will disclose all known hazardous waste, substance contamination, or other such environmental liabilities associated with each parcel and hold the donee harmless.

### **Lands to be Donated by PG&E**

PG&E has provided the original Fall River Mills Planning Unit Environmental Site Assessment, dated July 29, 2010 and a refreshed version in December 2015, to the Fall River Valley CSD and SLT, fulfilling the disclosure requirements of the Land Conservation Commitment.

### **Environmental Agreement**

Pending CPUC approval of the transaction, PG&E will execute Environmental Agreements with the Fall River Valley CSD and SLT, satisfying the requirements of Section 12(f) of the Stipulation.

## **7. Consideration of Parcel Split**

To effectuate transfer of the 39 acres identified for donation to the Fall River Valley CSD within Parcels 119, 124, and 171, a parcel split is required to comply with the California Subdivision Map Act (Government Code Section 66410, et seq.). Certain exemptions to the Map Act apply to public utilities and/or to governmental entities and may apply to this conveyance.

## **8. Strategy for Physical Measures to Enhance the BPVs**

The Stewardship Council developed and implemented a strategy to identify and undertake appropriate physical measures to enhance the BPVs of the Watershed Lands consistent with Settlement Agreement paragraph 17(c)<sup>3</sup> and Appendix E, paragraph 1.

During the preparation of Volume II of the LCP, a number of potential physical enhancement measures to preserve and/or enhance the BPVs were identified. These measures were identified with public input and were intended to be illustrative in nature and subject to change over time in coordination with the future landowner.

The Stewardship Council has developed a grant program to fund enhancements on the Watershed Lands in the future. Grant funding will be available to accomplish any number of potential future physical measures such as developing trails, day use areas, and other public access improvements.

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<sup>3</sup> Settlement Agreement Paragraph 17(c) states, “PG&E shall fund PG&E Environmental Enhancement Corporation with \$70 million in Cash to cover administrative expenses and the costs of environmental enhancements to the Watershed Lands... provided that no such enhancement may at any time interfere with PG&E’s hydroelectric operations maintenance or capital improvements.”

## **9. Monitoring Plan for the Economic and Physical Impacts of Disposition and Implementation of Enhancement Measures**

The Stipulation requires that the LCCP outline a plan to monitor the economic and physical impacts of disposition and implementation of enhancement measures.

The conservation easement holder is required to monitor every conservation easement that it holds to ensure that the landowner is complying with the terms of the easement. The Stewardship Council will enter into a Conservation Easement Funding Agreement (Appendix 4) with each conservation easement holder whereby the holder will receive a monitoring and enforcement endowment from the Stewardship Council to fund its monitoring activities.

To further meet the requirement of monitoring the economic and physical impacts, the Stewardship Council will enter into an agreement with the Sierra Nevada Conservancy (SNC), a state agency, whereby the agency will agree to undertake certain duties designed to monitor the impacts of PG&E's Land Conservation Commitment.

When the Stewardship Council has completed its work, it will be dissolved. Prior to its dissolution, the Stewardship Council expects to prepare a report providing an assessment of any economic and physical impacts resulting from the Land Conservation Commitment as of that time. Stewardship Council's close-out report will include, among other things, the following information:

- How the property tax neutrality requirement was satisfied with regard to each parcel donated to a tax exempt organization.
- A report regarding the enhancements that were funded by the Stewardship Council.

It is anticipated that several years after the dissolution of the Stewardship Council, SNC will prepare a report assessing the physical and economic impacts of the Land Conservation Commitment up until that time. The report is expected to cover the following topics:

- Impact of the Land Conservation Commitment on agreements for economic uses.
- Changes in entities holding conservation easements or fee title.
- Performance of duties by conservation easement holders.

In addition to preparing an assessment report, which will be submitted to the CPUC and PG&E, SNC will serve as a public repository for key transaction documents and other documents pertaining to the Land Conservation Commitment through June 2025.

## **10. Implementation Schedule for Transactions and Measures**

### **Schedule for Transaction**

- CPUC review and approval (2017)
- Close of escrow (2017)
- Stewardship Council release of funds to SLT per conservation easement funding agreement (2017)

### **Compliance with Local Land Use Planning Requirements**

Future management of the donated property at the Fall River Mills planning unit is anticipated to comply with all applicable County ordinances and/or General Plan policies.

## Appendix 1: Summary of Public Outreach

### SUMMARY OF PUBLIC OUTREACH PROGRAM

The Stewardship Council established a comprehensive public outreach program to both inform and solicit input from the public on the development and implementation of a plan to permanently protect over 140,000 acres of PG&E watershed lands. A variety of tools and techniques are used to engage the public, including:

- Stewardship Council Website: the website provides background information on the land conservation program and is regularly updated with board meeting agendas and minutes, proposed recommendations, and other announcements.
- Stakeholder Database and E-mailing: regular e-mail notifications are sent directly to individuals and organizations that have signed-up to receive e-mails. The e-mails provide updates on the status of the land conservation program, including pending actions by the board and upcoming public meetings.
- Targeted Newspaper Noticing and Paid Advertisements: newspaper advertisements and notices are placed in local newspapers circulated in the area where a board or public meeting is taking place or in communities that may have an interest in a particular topic on an upcoming meeting agenda.
- News Releases: news releases are issued to statewide and local media outlets at key intervals during the planning process.
- Public Information Meetings and Workshops: public information meetings and workshops are conducted throughout the watershed lands to provide updates and solicit input from interested stakeholders on the land conservation program and individual planning units. In many workshops, public comments were sought on potential measures to protect and enhance the beneficial public values on specific lands as well as the desired qualifications of potential donee organizations. Individuals and organizations unable to attend are provided an opportunity to submit comments in writing and review meeting summaries posted on the web site.
- Notice by Mail of Pending Decisions Regarding the Conveyance of Individual Parcels and Invitation to Comment:
  - Noticing of Affected Governmental Entities: prior to the Watershed Planning Committee forwarding a recommendation to the board that a proposed Land Conservation and Conveyance Plan (LCCP) be adopted by the board, a notice will be mailed to the Board of Supervisors of the affected county; each affected city, town, and water supply entity; and each affected tribe and/or co-licensee.
  - Noticing of landowners: postcards or letters are sent to all landowners located within one mile of lands that are the subject of a proposed LCCP prior to the Watershed Planning Committee forwarding a recommendation to the board that the proposed LCCP be adopted by the board.
- Individual Meetings with Stakeholders: Over the course of the preparation of Volumes I and II of the Land Conservation Plan (LCP) and the LCCP, Stewardship Council staff met, and communicated via the telephone and email, with a number of stakeholders interested in the Watershed Lands.

## Appendix 1: Summary of Public Outreach

- The Stewardship Council Board of Directors meets five to six times per year, typically on a bimonthly schedule. At the board meetings, the public is invited to directly address the board on an agenda item or on any other matter. The meetings have been held at locations in northern and central California and across the watershed lands to help facilitate public participation. Agendas are available one week prior to meetings, and meeting minutes are posted on the Stewardship Council public website approximately three weeks following those meetings.

### **FALL RIVER MILLS PLANNING UNIT PUBLIC OUTREACH**

Highlighted below are the opportunities that have been, or are being, provided for public input on key documents and decisions concerning the Fall River Mills planning unit and the land conservation and conveyance process.

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

The Draft Land Conservation Plan 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. These meetings were advertised via an e-mail sent to contacts in the Stewardship Council's database, an announcement posted on the Stewardship Council's web site, a press release issued to local newspapers, a paid advertisement in local papers, and a postcard sent to all landowners on record that reside within one mile of any PG&E parcel. Comments were received via email, the website, and hardcopy letters. The comments were reviewed, and responded to individually; and the text in the draft LCP was revised as appropriate.

Ten public comments were submitted concerning the Fall River Mills Planning Unit during public review of Volumes I and II of the LCP. Public comments emphasized the following regarding the future management of the property:

- Consideration of the Pit River Park's historical and recreational value to the local community.
- Support for the land available for donation to transfer to the BLM in order to enhance public access along segments recommended for National Wild and Scenic River status.
- Coordinate studies involving the Hat Creek Rifle and Gun Club with the club and any other potentially affected parties.
- Support for the preservation and enhancement of the recreation facilities to support the local economy.
- Concern for equal consideration for and preservation of all historical resource values.

#### **II. NOTICING OF LANDOWNERS WITHIN ONE MILE**

In the fall of 2006 a postcard was distributed to the approximately 26,000 landowners located within one mile of the exterior boundary of all the parcels to notify and invite comment on Volume I and II of the LCP. A postcard was also sent to notify and invite all landowners located within one mile of the parcels within the Fall River Mills planning unit to a Public Information Meeting that was held in Burney in 2009. In addition, simultaneous with the release of the proposed subject LCCP for public comment, adjacent landowners located within one mile of the subject parcels are noticed by mail 30 days before

## Appendix 1: Summary of Public Outreach

the Watershed Planning Committee considers forwarding the proposed subject LCCP to the board for final approval.

### III. PUBLIC INFORMATION MEETING

A Public Information Meeting workshop for several planning units in the Pit-McCloud Watershed area was hosted by the Stewardship Council on October 29, 2009, in Burney, California. The meeting concerned four planning units: Fall River Mills, Fall River Valley, Hat Creek, and Lake Britton. Attendees at the workshop included a total of 33 individuals representing a wide variety of interests including local and federal governments, community organizations, and community members. The meeting was advertised via an e-mail sent to contacts in the Stewardship Council's database, an announcement posted on the Stewardship Council's web site, a press release issued to the local newspaper, and a postcard sent to all landowners on record located within one mile of any PG&E parcel associated with the Fall River Mills planning unit.

The purpose of the workshop 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 planning units. Stations were set up with maps, other pertinent information, and easels with blank paper. Below is a summary of comments related to the Fall River Mills planning unit that were recorded on the easels and provided on comment cards.

#### *Fall River Mills Planning Unit*

- Develop trails along the east side of Fall River Lake
- Develop a hiking trail along the Pit River to the Pit River Falls
- Develop a trail all the way from Fall River Mills to the Pit 1 Powerhouse
- Noxious weed control is critical
- Enhancing habitat for wildlife and birds is important
- Maintain existing Lion's Club day use on the Pit River
- Maintain Hat Creek Rifle & Pistol Club in present location
- Future donees should have local interest and local knowledge
- Experience with noxious weed management
- Interest in acting as "sound board" for local community (i.e. access, tribal, weeds, ranchers, economic)

### IV. PUBLIC REVIEW OF LAND STEWARDSHIP PROPOSALS

In August 2010, the Stewardship Council received four Land Stewardship Proposals from organizations interested in being considered for a donation of fee title to certain lands located within the Fall River Mills planning unit. The Bureau of Land Management, Fall River Resource Conservation District, Pit River Tribe, and the Fall River Valley Community Services District. Each of the organizations prepared and submitted its proposal which was posted on the Stewardship Council's website for public review and comment, and an e-mail was sent to contacts in the Stewardship Council's database to notify them of the postings. In February 2012, the Stewardship Council received a revised proposal from the Fall River Valley Community Services District seeking a donation of fee title to certain lands within the Fall River Mills planning unit.

### **V. PUBLIC REVIEW OF LAND CONSERVATION PROGRAM POLICIES & GUIDELINES**

Public comment was sought on policies and guidelines that helped inform the Stewardship Council's land conservation and conveyance process. These documents were provided to the public in advance of being reviewed and endorsed by the Watershed Planning Committee or Fiduciary Committee and forwarded to the board for review and consideration.

#### *Land Conservation Program Funding Policy*

The Stewardship Council created a Land Conservation Program Funding Policy to help guide future planning and decision-making regarding funding of the long term management and stewardship of the watershed lands. In June and July, 2009, the draft policy was posted on the Stewardship Council's web site and made available for review and comment to a group of stakeholders consisting of all registered potential donees and representatives of the counties in which the watershed lands are located. Two comments were received during the 30-day review and comment period. Both comments were reviewed, and it was determined that neither comment necessitated a change in the draft policy. The Stewardship Council's Board of Directors adopted the policy at a public board meeting in Sonora, Calif. on September 17, 2009.

#### *Guidelines for Achieving Property Tax Neutrality*

The Stewardship Council created guidelines for achieving property tax neutrality to describe scenarios when the Stewardship Council will make property tax payments to affected counties as in lieu payments for property taxes that are lost due to the donation of PG&E watershed lands to an entity that is exempt from paying property taxes. The guidelines also defined a set of overarching assumptions regarding property tax neutrality payments. The draft guidelines were posted on the Stewardship Council's web site in December 2010. A notice inviting review and comment on the guidelines was sent to the Stewardship Council's stakeholder database. Additional targeted outreach was performed to inform the affected counties. Nine comments were received during the 60-day review and comment period. After consideration of public comments, the Stewardship Council Board adopted a set of guidelines at its public board meeting on March 30, 2011.

#### *Proposed methodology for achieving tax neutrality*

The proposed methodology for achieving tax neutrality on donated lands was e-mailed to all land stakeholders and posted on Stewardship Council's website for public review and comment on January 9, 2012. The deadline for submission of comments was March 9, 2012. The Stewardship Council received one request to extend this deadline, which was granted. By the new deadline March 30, 2012, six comments were received. Upon consideration of the comments received, the Stewardship Council board deferred adoption of the full methodology until the June 27, 2012 board meeting so that the affected counties could be notified of the proposed change to the capitalization rate. No comments were received on the revised capitalization rate. The revised methodology was adopted by the board at its June 27, 2012 meeting.

## **VI. WATERSHED PLANNING COMMITTEE RECOMMENDATIONS OF FEE TITLE AND CONSERVATION EASEMENT DONEES**

Staff recommendations for prospective fee title donees and conservation easement holders that are endorsed by the Watershed Planning Committee are posted on the Stewardship Council's website for public review and comment. The proposed board action is noticed via an e-mail sent to contacts in the Stewardship Council's database. In addition, public board meetings are advertised via an e-mail sent to contacts in the Stewardship Council's database, an announcement posted on the Stewardship Council's web site, a press release issued to local papers, and an advertisement placed in local newspapers in the area where a board or public meeting is taking place or in communities that may have an interest in a particular topic on an upcoming meeting agenda. The board action taken is also noted in the meeting minutes that are posted on the Stewardship Council's website following each meeting.

All public comments received by staff concerning the fee and conservation easement recommendations at the Fall River Mills planning unit were provided to the board for consideration at the relevant public board meetings.

## **VII. PUBLIC REVIEW OF THE LAND CONSERVATION AND CONVEYANCE PLANS**

The public is provided an opportunity to review and comment on the proposed Land Conservation and Conveyance Plans (LCCPs), and the comments received are shared with board members prior to the Watershed Planning Committee's forwarding the proposed LCCP to the board for its review and approval. The 30-day public review and comment periods are announced via an e-mail sent to contacts in the Stewardship Council's database, a posting on the Stewardship Council's web site, and an advertisement placed in local newspapers in communities that may have an interest in a particular planning unit. A notice inviting review and comment on the proposed LCCP is also sent to all landowners on record located within one mile of the subject PG&E parcels and to PG&E leaseholders. In addition, a notice is mailed to the board of supervisors of the affected county; each affected city, town, and water supply entity; and each affected tribe and/or co-licensee. After receiving public comment, the Watershed Planning Committee may make revisions to a proposed LCCP prior to forwarding a recommendation to the board.

## **VIII. STEWARDSHIP COUNCIL BOARD OF DIRECTORS MEETINGS**

Proposed LCCPs endorsed by the Watershed Planning Committee are posted on the Stewardship Council's website for additional public review and comment approximately 30 days prior to being considered by the board at a public board meeting. The posting of proposed LCCPs is advertised via an e-mail sent to contacts in the Stewardship Council's database. In addition, public board meetings are advertised via an e-mail sent to contacts in the Stewardship Council's database, an announcement posted on the Stewardship Council's web site, a press release issued to local papers, and an advertisement placed in local newspapers in the area where a board or public meeting is taking place or in communities that may have an interest in a particular topic on an upcoming meeting agenda. The board action taken is noted in the meeting minutes that are posted on the Stewardship Council's website following each meeting.

## Appendix 1: Summary of Public Outreach

All public comments received will be provided to the board. There is also an additional opportunity for public comment at the public board meeting when the board considers approval of the proposed LCCP. Adoption of an LCCP by the board would be the final step in the Stewardship Council's process for selecting donees. The prospective donees are responsible for securing its own internal approvals prior to the transaction being completed. Transactions will be finalized upon LCCP review and transaction approval by the California Public Utilities Commission.

RECORDING REQUESTED BY AND RETURN  
TO:

**PACIFIC GAS AND ELECTRIC COMPANY**  
**2730 Gateway Oaks Drive, Suite 220,**  
**Sacramento, California 95833**  
**Attention: Land Consultant(LCC)**

Location: City/Uninc \_\_\_\_\_

Recording Fee \$ \_\_\_\_\_

Document Transfer Tax \$ \_\_\_\_\_

☐ This is a conveyance where the consideration and  
Value is less than \$100.00 (R&T Code §11911).

☐ Computed on Full Value of Property Conveyed, or

☐ Computed on Full Value Less Liens  
& Encumbrances Remaining at Time of Sale

\_\_\_\_\_  
Signature of declarant or agent determining tax

(SPACE ABOVE FOR RECORDER'S USE ONLY)

LD

DEED

## GRANT DEED, RESERVATION OF RIGHTS AND EASEMENTS

### I. CONVEYANCE OF FEE

**PACIFIC GAS AND ELECTRIC COMPANY**, a California corporation (“**Grantor**”), hereby grants, without warranty express or implied, to **FALL RIVER VALLEY COMMUNITY SERVICES DISTRICT**, a legal subdivision of the State of California, (“**Grantee**”), the real property (“**Property**”), situated in the unincorporated area of the County of Shasta, State of California, described as follows:

(APN #018-540-021, 018-540-023, 018-550-003)

(SBE # 135-45-31A-2, 135-45-31B-2, 135-45-31B-3, 135-45-31-5, 135-45-31-6)

All that real property Situate in Section 31, Township 37 North, Range 5 East, Mount Diablo Meridian in the unincorporated territory of Shasta County California, being a portion of those lands conveyed to Pacific Gas and Electric Company by the Red River Lumber Company by deed recorded in Book 262 of Official Records at Page 1, Shasta County Records and being more particularly described as follows;

#### PARCEL 1

Tract A, The Battleground Tract, The Lockhart Tract, Lots 9 to 18 inclusive of Division D and Lots 10 to 14 inclusive in Division A of the Buena Vista Addition as shown on the Map entitled "Map of Fall River Mills" as filed for record in the office of the Shasta County Recorder on September 30, 1886, and now found in the Book of Old Plats at Page 64, Shasta County Records.

- (1) EXCEPTING therefrom that portion thereof Tract A as shown on the map entitled "Map of Fall River Mills located in Township 37 North, Range 5 East, Section 31, Mount Diablo Base and Meridian, County of Shasta, State of California";

## Appendix 2: Grant Deed

Commencing at a point approximately 100 feet South of the Northwest corner of Lot 14 in Buena Vista, same being the platted portion of the Town of Fall River Mills as per original plat of said town, generally used by the public; running thence South 400 feet along the forty line; thence East at right angles 400 feet; thence North to the rear of lots facing Grand Rapids Avenue, as per plat; thence Northwesterly along the rear of said lots to the Westerly corner of Lot 1 of Division D, same being one of the lots on the Southwesterly side of Grand Rapids Avenue; thence Westerly across Lot 14 to the point of beginning.

- (2) Excepting from any and all of the above parcels any portion thereof which fall within 50 feet of the high water line or submerged under the waters of the Pit River of Fall River at high water.

### PARCEL 2

Commencing at the most Southeasterly corner of the Junction Tract as shown on the Map entitled "Map of Fall River Mills" as filed for record in the office of the Shasta County Recorder on September 30, 1886, and now found in the Book of Old Plats at Page 64, Shasta County Records; thence S.15° 55' 49"E., along the Westerly line of the County Road as shown on said map, 45.85 feet to a point that lies 40.00 feet, as measured at right angles from the Southerly line of said Junction Tract, last said point being the TRUE POINT OF BEGINNING of this description; thence Continuing S.15° 55' 49"E., along said Westerly line, 485.30 feet; thence N.89° 32' 49"W., 8.51 more feet more or less to a point lying 50.00 feet as measured at right angles from the Westerly high water line of the Pit River; thence on and along a line 50 feet from and parallel to said high water line the meanders said parallel line being S.13° 06' 41"E., 219.15 feet; thence S.02° 31' 08" E., 253.14 feet; thence S.05° 19' 48"W., 140.38 feet to a point lying 50 feet from both the Westerly high water line of the Pit River and the Northeasterly high water line of Fall River, thence Northerly on and along a line 50 feet from and parallel to said high water line of Fall River the meanders of which are as follows;

N.82° 08' 59"W., 180.06 feet; thence N.44° 24' 52"W., 103.21 feet; thence N.22° 59' 30"W., 21.27 feet; thence N.25° 12' 47"E., 129.91 feet; thence N.09° 18' 15"W., 107.00 feet; thence N.15° 28' 55"E., 47.90 feet; thence N.05° 49' 16"W., 43.18 feet, to the Northwesterly corner of that certain parcel of land conveyed to the Stoltenberg Family Trust by deed, recorded as instrument 2004-0032595, Shasta County Records; thence leaving said meander line S.16° 41' 19"E., along said Stoltenberg parcel, 125.90 feet; thence S. 23° 39' 19"E., 43.00 feet; thence N.66° 20' 41"E., 60.00 feet to the prolongation of the Westerly line of Main Street; thence S.23° 39' 19"E., 34.17 feet more or less to the East-West mid-section line of said section 31; thence on and along said mid-section line, S.89° 04' 05"E., 43.99 feet to the prolongation of the Easterly line of Main Street as shown on that certain map filed for record in Book 1 of Land Surveys at Page 27, Shasta County Records; thence on and along the Easterly line of said Main Street N. 23° 39' 19"W., 710.17 feet; thence N.44° 47' 58"E., along a line parallel with the Southerly line of said Junction Tract, 225.46 feet returning to the point of beginning.

- (1) Excepting from the above parcel any portion thereof which fall within 50 feet of the high water line or land which may be submerged under the waters of the Pit River of Fall River at high water.

## Appendix 2: Grant Deed

- (2) Also excepting from Parcel 2, any right title or interest that the County of Shasta might have in County Road 7R02 known as the Cassel Fall River Road.

The Basis of Bearings for the metes and bounds description of Parcel 2 is the California coordinate system, Zone 1. To obtain geodetic bearings at the TRUE POINT OF BEGINNING, adjust all California Coordinate Bearings 0°22'03 counter-clockwise. The Distances used in the foregoing description are ground distances. Divide all distances by 1.0002544161 to obtain grid distances.

In connection with such grant, Grantor and Grantee have agreed, for good and valuable consideration, that Grantor shall reserve certain easements and rights, as more fully described below.

### II. RECITALS

A. Grantor is a party to that certain Settlement Agreement (“**Settlement Agreement**”) as modified and approved by the Public Utilities Commission of the State of California (“**CPUC**”) in its Opinion and Order of December 18, 2003 (Decision 03-12-035).

B. In furtherance of the Settlement Agreement, and to provide additional detail regarding the implementation of the “Land Conservation Commitment” (defined below), the parties to the Settlement Agreement and other interested parties entered into that certain Stipulation Resolving Issues Regarding the Land Conservation Commitment dated September 25, 2003 (“**Stipulation**”).

C. The Settlement Agreement and the Stipulation (collectively, “**Governing Documents**”) require Grantor to ensure that approximately 140,000 acres of watershed lands, all owned by Grantor (collectively, “**Watershed Lands**”), including the Property, are conserved for a broad range of beneficial public values, including the protection of 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. The obligations of Grantor to convey fee interests and/or conservation easements and protect such beneficial public values on the Watershed Lands, as well as certain other obligations related thereto, are set forth in detail in Appendix E of the Settlement Agreement (as further explicated in Section 12 of the Stipulation), and are defined therein as the “**Land Conservation Commitment**.”

D. Pursuant to the Governing Documents, the Pacific Forest and Watershed Lands Stewardship Council, a California non-profit public benefit corporation (“**Stewardship Council**”) was created to oversee and carry out the Land Conservation Commitment. Pursuant to the Governing Documents, the Stewardship Council developed a plan for protection of the Watershed Lands for the benefit of the citizens of California (“**Land Conservation Plan**” or “**LCP**”). The LCP includes, among other things, objectives to preserve and/or enhance the beneficial public values identified on each parcel of Watershed Lands.

E. Grantor has used and continues to use the Property for the purposes of generating and transmitting hydroelectric energy, managing and monitoring the flow of water over the

## Appendix 2: Grant Deed

existing waterways for consumptive and non-consumptive uses, conducting various biological and land use studies mandated by the Federal Energy Regulatory Commission (“**FERC**”), and for other purposes as described more fully in Section III below (collectively, “**Hydro Project Activities**”). As used herein, “**Hydroelectric Facilities and associated Water Delivery Facilities**” refers to those existing and future facilities, structures and improvements now or hereafter located on, above, or under the Property, that are associated with the Hydro Project Activities, as described more fully in Section III below.

F. Consistent with the terms of the Governing Documents, Grantor and Grantee acknowledge this conveyance, together with the conservation easement transaction being entered into by Grantee and Shasta Land Trust Grantor concurrently herewith, is being made in the public interest with the intent to ensure the permanent protection of the beneficial public values on the Property as identified in the LCP and the conservation easement being entered into while allowing the ongoing use of the Property by Grantor for Hydro Project Activities, and acknowledging and honoring existing third party uses.

### III. RESERVATION OF RIGHTS AND EASEMENTS

1. Reserved Rights. Grantor expressly reserves the right to engage in or invite or permit others to engage in the activities and uses set forth below (collectively, the “**Reserved Rights**”) as Grantor may determine in Grantor's sole discretion exercised in good faith are required for Grantor's continued Hydro Project Activities, including the continued operation and maintenance of Hydroelectric Facilities and associated Water Delivery Facilities, together with easements as reasonably necessary or convenient for the exercise of the Reserved Rights (collectively, the “**Reserved Easements**”). Whenever reasonably practical, Grantor will use reasonable efforts to notify and consult with Grantee in advance of the exercise of the Reserved Rights and Reserved Easements, and use reasonable efforts to employ methods and practices that will not significantly impair the beneficial public values of the Property. The Reserved Rights and Reserved Easements are as follows:

(a) Grantor reserves, for its beneficial uses, all riparian water rights inherent in and part and parcel of the Property; all appropriative surface water rights (including, but not limited to, any appropriative surface water rights having a point of diversion, place of storage, or place of use on the Property); all prescriptive surface water rights; and all other right, title and interest of any nature whatsoever in and to the surface waters (including subsurface flow) which are now or hereafter located or flowing upon or abutting the Property.

(b) Grantor reserves the permanent right to operate, maintain, repair, alter, replace and expand existing and future Hydroelectric Facilities and associated Water Delivery Facilities, including project replacements and improvements required to meet existing and future water delivery and other requirements for power generation and consumptive water use by existing and future users, compliance with any FERC license, FERC license renewal or other regulatory or legal requirements. In furtherance of and without in any way limiting the generality of the foregoing, the following rights will be expressly reserved:

## Appendix 2: Grant Deed

(1) The right to conduct any and all uses and activities now or at any time in the future deemed necessary or appropriate by Grantor in Grantor's sole discretion exercised in good faith in connection with the generation of hydroelectric energy, including, but not limited to the operation, maintenance, repair, alteration, replacement and expansion of existing Hydroelectric Facilities and associated Water Delivery Facilities, and the construction, operation, maintenance, repair, alteration, replacement and expansion of new Hydroelectric Facilities and associated Water Delivery Facilities; and

(2) The right to use, maintain, establish, construct, alter, expand and improve water sources, courses, and bodies within the Property, and to take, divert and appropriate water; and

(3) The right to conduct any and all uses and activities currently or in the future deemed necessary or appropriate by Grantor in Grantor's sole discretion exercised in good faith to comply with any applicable FERC license or other regulatory or legal requirements, including any amendments thereto and replacements thereof, and with applicable regulations and orders of the FERC or other regulatory agencies; and

(4) The right to conduct any and all uses and activities now or at any time hereafter deemed necessary or appropriate by Grantor in Grantor's sole discretion exercised in good faith to comply with the Federal Power Act (Title 16 United States Code, Chapter 12) and any successor statute (the “FPA”); and

(5) The right to decommission all or any portion of existing and future Hydroelectric Facilities and associated Water Delivery Facilities in accordance with any applicable license issued by the FERC.

(c) Grantor further reserves to itself the following permanent rights and easements with respect to the foregoing Reserved Rights:

(1) The right, from time to time, to traverse the Property by means of the existing road located thereon and/or any replacement or relocation thereof, otherwise or by such route or routes as shall occasion the least practicable damage and inconvenience to Grantee and to use said roads or routes to provide access to any of Grantor's easements and facilities on lands adjacent to the Property; and

(2) The right, from time to time, to install, maintain and use gates in all fences which now or shall hereafter cross the Property; and

(3) The right, from time to time, to trim or to cut down any and all trees and brush now or at any time in the future, and the further right, from time to time, to apply pesticides for the control of vegetation and/or insects, and/or to trim and cut down trees and brush which now or hereafter in the opinion of Grantor may interfere with or be a hazard to Grantor's Hydroelectric Facilities and associated Water Delivery Facilities, or as Grantor deems necessary to comply with applicable state or federal regulations; and

## Appendix 2: Grant Deed

(4) Where facility clearance distances require vegetation to be maintained at less than 10 feet in height, as determined by Grantor, the right, from time to time, to cut down and remove any unauthorized vegetation, including any manually-harvested fruit trees that exceed 10 feet in height and may take reasonable measures to control resprouting trees; and

(5) The right, from time to time, to trim and cut down and clear away any and all tress, brush and vegetation (A) which constitute a hazard to persons or property, and/or (B) for purposes of fire management, disease or insect control or otherwise as necessary or appropriate for prudent land management (i.e., not motivated by commercial benefit), and/or (C) for other vegetation management operations, including but not limited to fuel reduction projects, thinning of tree stands and meadow restoration projects. The foregoing may include the use of mastication machines and pesticide use to control vegetation (brush, grass, weeds, etc.) and/or insects; and

(6) The right, from time to time, to time to enlarge, improve, reconstruct, relocate and replace any existing or future poles with any other number or type of poles either in the original location or at any alternate location or locations; and

(7) The right, from time to time, to mark the location of the Reserved Easement areas on the Property by suitable markers set in the ground; provided that said markers shall be placed in fences or other locations which will not interfere with any reasonable use Grantee shall make of said easement areas.

2. Required Exercise. An exercise of Grantor's Reserved Rights shall be "required" (as used in the preceding Section III.1) where Grantor determines in its sole discretion exercised in good faith that such exercise is necessary to fulfill requirements or directives of any one or more of the following: (a) the CPUC or the FERC; (b) other local, state or federal governmental entities; (c) any applicable law, ordinance, rule or regulation of local, state or federal governmental entity; (d) any third party agreement entered into by Grantor in good faith or by which Grantor is bound; or (e) professional engineering and design standards governing the ownership, maintenance, and/or operation of the Hydroelectric Facilities and associated Water Delivery Facilities.

### IV. TERMS OF GRANT

1. The conveyance by Grantor to Grantee pursuant to this Grant Deed and Reservation of Rights and Easements ("**Grant Deed**") is subject to: (a) a lien securing payment of real estate taxes and assessments; (b) applicable zoning and use laws, ordinances, rules and regulations of any municipality, township, county, state or other governmental agency or authority; (c) all matters that would be disclosed by a physical inspection or survey of the Property or that are actually known to Grantee; and (d) all contracts, leases, licenses, covenants, conditions, easements, restrictions, liens, encumbrances and other exceptions of record or unrecorded.

## Appendix 2: Grant Deed

2. The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the Property. All future conveyances of the fee interest in the Property shall be consistent with the terms of the Governing Documents. In accordance with Section 12 b (4) of the Stipulation, Grantee and its successors and assigns shall not convey all or any portion of the fee interest in the Property to any governmental entity, public agency or any Native American tribe that may currently have, or come to possess, authority to expand Grantor's obligations under Part 1 of the FPA, without the prior written consent of the Grantor, which consent shall be in Grantor's sole discretion exercised in good faith.

3. Grantee agrees that it shall not plant or maintain any vegetation that at maturity naturally exceeds a height of ten (10) feet within 30 feet, measured horizontally, of any surface or overhead facility or structure. Additionally, Grantee agrees that it shall not plant or maintain any vegetation within 15 feet of any underground gas transmission lines. Within 30 feet of overhead power lines the Grantee may, at Grantee's expense, plant and maintain row crops, vines, fruit trees that do not exceed 10 feet at maturity, or are maintained to a height not to exceed 10 feet. Where facility clearance distances require vegetation to be maintained at less than 10 feet in height, as determined by Grantor, no row crops, vines, fruit trees shall be planted or maintained.

### V. MISCELLANEOUS

1. If any provision of this Grant Deed shall be unenforceable or invalid, the same shall not affect the remaining provisions hereof and to this end the provisions hereof are intended to be and shall be severable.

2. The real property hereby conveyed is no longer necessary or useful to Grantor in the performance by it of its duties to the public.

3. The California Public Utilities Commission, in Decision No. \_\_\_\_\_, has approved transfer of the Property under State of California Public Utilities Code Section 851.

Appendix 2: Grant Deed

Dated \_\_\_\_\_, 20\_\_\_\_.

PACIFIC GAS AND ELECTRIC COMPANY,  
a California corporation

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

Grantee accepts, acknowledges and agrees to the terms of this Grant Deed.

FALL RIVER VALLEY COMMUNITY SERVICE DISTRICT  
a Legal subdivision of the State of California

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

### Appendix 3: Conservation Easement

(Space above this line reserved for Recorder's use)

Documentary Transfer Tax: \$0.00

(not applicable)

SC Comments 5.25.16

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| <b>RECORDING REQUESTED BY</b><br><br>Shasta Land Trust<br><br><b>WHEN RECORDED, MAIL TO</b><br><br>Executive Director<br>Shasta Land Trust<br>P. O. Box 992026<br>Redding, CA 96099-2026 |  |
|--|--|

#### DEED OF CONSERVATION EASEMENT LIMITING OWNERS' USES

THIS DEED OF CONSERVATION EASEMENT ("Easement"), is made and entered into this \_\_\_\_\_ (the "Effective Date"), by and between Fall River Valley Community Service District ("Owner"), and SHASTA LAND TRUST, a California nonprofit public benefit corporation ("Land Trust").

This document also sets forth certain related agreements made by Owner and Land Trust (collectively, the "Parties"), as well as certain rights granted to Sierra Nevada Conservancy.

#### RECITALS

- A. OWNER. Owner is the owner of approximately 39 acres of real property located in the County of Shasta, State of California. That real property is more fully described below and in Exhibit A as the "Protected Property."
- B. LAND TRUST. Shasta Land Trust is a nonprofit corporation organized and operated exclusively for charitable purposes including preservation of land for scientific, historic, educational, ecological, agricultural, scenic or open space opportunities. Land Trust is a public charity as defined in section 501(c)(3) of the Internal Revenue Code and an organization qualified to hold conservation easements under California law, possessing the commitment and primary purpose to protect the Conservation Purposes of this Easement and the resources to enforce the restrictions.

### Appendix 3: Conservation Easement

- C. PACIFIC GAS AND ELECTRIC COMPANY. Immediately prior to recordation of this Easement, Pacific Gas and Electric Company, a California corporation (hereinafter “PG&E”), transferred to Owner fee title in the Protected Property in accordance with that certain Grant Deed, recorded in the Official Records of the County of Shasta, immediately prior to recordation of this Easement (the “Grant Deed”). The form of that Grant Deed is attached hereto as Exhibit C and incorporated herein by reference. Conveyance of the Protected Property to Owner in accordance with the Grant Deed was made subject to (1) PG&E’s reservation of certain rights in and to the Protected Property, as set forth in the Grant Deed (hereinafter “PG&E Reserved Rights”), and (2) those legally-enforceable third-party rights to use the Protected Property in effect as of the Effective Date, as listed on Exhibit D attached hereto and incorporated herein by reference (hereinafter “Existing Third-Party Uses”).
1. PG&E transferred fee title to the Protected Property to Owner in connection with PG&E’s implementation of the “Land Conservation Commitment,” defined below, provided for in the following documents and described more fully below:
    - a. That certain Settlement Agreement (“Settlement Agreement”) as modified and approved by the Public Utilities Commission of the State of California (“Commission”) in its Opinion and Order of December 18, 2003 (Decision 03-12-035); and
    - b. That certain Stipulation Resolving Issues Regarding the Land Conservation Commitment dated September 25, 2003 (“Stipulation”).
  2. The Settlement Agreement and the Stipulation (collectively, “Governing Documents”) require PG&E to ensure that approximately 140,000 acres of watershed lands, all located in California and owned by PG&E as of the date the Governing Documents were entered into (collectively, “Watershed Lands”), are conserved for a broad range of beneficial public values, including protection of natural habitat of fish, wildlife and plants; preservation of open space; outdoor recreation by the general public; sustainable forestry; agricultural uses; and historic values (collectively, “Beneficial Public Values”). The Protected Property is included in these Watershed Lands. The Stipulation provides that conservation easements will preserve or enhance reasonable public access. The “Land Conservation Commitment” constitutes the obligations of PG&E to convey fee title and conservation easements to Watershed Lands, and to protect the Beneficial Public Values of the Watershed Lands, as well as certain other obligations related thereto, as set forth in detail in the Governing Documents.
  3. In accordance with the Governing Documents, the PG&E Reserved Rights constitute an express reservation in favor of PG&E of certain rights to continue 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

### Appendix 3: Conservation Easement

by existing users, compliance with any Federal Energy Regulatory Commission (“FERC”) license, FERC license renewal or other regulatory requirements.

4. The Governing Documents also include a requirement that conservation easements encumbering Watershed Lands honor existing agreements for economic uses, including consumptive water deliveries.
  5. Pursuant to the Governing Documents, the Pacific Forest and Watershed Lands Stewardship Council, a California nonprofit public benefit corporation (“Stewardship Council”), was created to oversee and carry out the Land Conservation Commitment. Pursuant to the Governing Documents, the Stewardship Council developed a plan for protection of the Watershed Lands for the benefit of the citizens of California (“Land Conservation Plan” or “LCP”). The LCP includes, among other things, objectives to preserve and/or enhance the Beneficial Public Values identified on each parcel of Watershed Lands, including the Protected Property.
  6. The Legislature of the State of California, as set forth in California Civil Code §815 et seq., has found and declared it to be the public policy and in the public interest of this State to encourage preservation of land predominantly in its natural, scenic, agricultural, historical, forested, or open-space condition. In furtherance of the Land Conservation Commitment and the above-described public policy purposes, Owner desires to grant a conservation easement over the Protected Property to Land Trust.
  7. Owner and Land Trust each desires through this Easement to ensure permanent protection of the Conservation Values (defined below), subject to PG&E’s Reserved Rights and the Express Third Party Uses defined in paragraph 5. Specifically, Owner and Land Trust desire to assure that the Conservation Values will be protected in perpetuity as provided herein, and that uses of the Protected Property that are inconsistent with these Conservation Values will be prevented or corrected.
- D. **PROTECTED PROPERTY.** The Protected Property is that real property legally described in Exhibit A and generally depicted on the “Property Map” in Exhibit B. Both exhibits are attached to this Easement and incorporated by this reference. The Protected Property is also identified as assessor’s parcel numbers \_\_\_\_\_, and \_\_\_\_\_. The Protected Property is comprised of two Areas, each subject to different restrictions and permissions: the Active Park Area and the Passive Park Area, described more fully below and identified on the Property Map in Exhibit B.
- The Protected Property is located in Shasta County adjacent to the town of Fall River Mills. The Protected property is approximately one-half mile from an existing ecological reserve owned by the California Department of Fish and Wildlife and four miles from property encumbered by a conservation easement held by Land Trust on the Fall River.
- E. **CONSERVATION VALUES.** The Protected Property includes the following specific Beneficial Public Values (collectively, the “Conservation Values”):

- Protection of the Natural Habitat of Fish, Wildlife, and Plants:

### Appendix 3: Conservation Easement

- Rich wildlife habitat is provided by the approximately 1,800 foot vegetated buffer along one side of the Pit River and approximately 1,100 foot vegetated buffer on both sides of Fall River. The riparian character of the Protected Property enhances water quality and provides vegetated buffer to the Pit and Fall Rivers and helps prevent bank erosion and sediment in the rivers.
- Sustainable Forestry:
  - The Protected Property consists of undeveloped open space with a mix of conifers, sage and oak woodlands, and lava outcroppings with patches of shrub/willow riparian vegetation along lower terraces close to the rivers.
- Preservation of Open Space:
  - The open and natural character of the Protected Property provides scenic views enjoyed by the general public from Main Street overlooking the Pit and Fall Rivers as well as from Grand Rapids Avenue, together considered a gateway into the community of Fall River Mills. The scenic attributes include an elevated viewshed from the bluff at the confluence of the Pit and Fall Rivers, providing scenic views of both rivers and the natural and agricultural landscape surrounding the community of Fall River Mills.
- Preservation of Historic Values:
  - The cultural character of the Protected Property includes lands historically utilized by Native American tribes. The Protected Property also includes significant historic hydroelectric remnants and grounds once utilized for ferry transportation.
- Outdoor Recreation by the General Public:
  - The Protected Property provides opportunities for outdoor recreation and education by the general public.

Preservation and protection of these Conservation Values is of great importance to Owner, the people of Shasta County, and the people of the State of California and will provide significant benefit to the public.

F. CONSERVATION POLICY. Preservation and protection of the Conservation Values are consistent with and will further delineated governmental policies including those established by the following:

- Section 815.2 of the California Civil Code which defines perpetual conservation easements, and sections 815 and 815.1 of the California Civil Code which articulate the California Legislature's declaration that land predominantly in its natural, scenic, agricultural, historical, forested or open-space condition is among the most important

## Appendix 3: Conservation Easement

environmental assets of the State of California and should be preserved.

### CONVEYANCE OF CONSERVATION EASEMENT

Pursuant to the laws of the State of California, and in particular sections 815 et seq. of the California Civil Code, and in consideration of the facts recited above and the mutual covenants contained herein, Owner hereby voluntarily conveys to Land Trust a perpetual conservation easement over the Protected Property. This Easement creates a property right immediately vested in Land Trust and consists of the rights, terms, and restrictions set out below, Land Trust agrees by accepting this grant to preserve and protect in perpetuity the Conservation Values of the Protected Property for the benefit of this generation and the generations to come.

1. **CONSERVATION PURPOSES.** The purposes of this Easement are as follows (“Conservation Purposes”): (a) to ensure that the Protected Property will be retained in perpetuity in its natural, scenic, forested, recreational, or open space condition; and (b) to prevent any use of the Protected Property that will significantly impair the Conservation Values. Subject to the following terms and conditions, Owner intends that this Easement will confine uses of the Protected Property to activities that are consistent with the Conservation Purposes. As used in this Easement, the terms “impair” and “impairment” mean to diminish in quantity, quality, value, strength or viability. As used in this Easement, the terms “significant” and “significantly,” when used with “impair” and “impairment,” respectively, mean a greater than negligible adverse impact, for more than a transient period.

Owner and Land Trust acknowledge that the Governing Documents reflect the intention of the parties thereto (a) to honor Express Third Party Uses as defined in paragraph 5 and (b) to continue to permit beneficial uses of the Protected Property that preserve and/or enhance the Conservation Values. This Easement shall allow uses on the Protected Property that are consistent with protection and preservation of the Conservation Values in harmony with each other. While permitted actions required or taken to protect and preserve one or more individual Conservation Values may impair, on an individual and stand-alone basis, one or more of the other Conservation Values, Owner and Land Trust understand that achieving the Conservation Purposes requires preservation and protection, on balance, of all Conservation Values existing on the Protected Property, to the extent possible. Protecting and/or enhancing one or more Conservation Values may impair another Conservation Value, but this is not meant to be a permanent occurrence, nor a reason to re-prioritize one Conservation Value over another. All attempts should be made to balance on a collective basis, the Conservation Values on the whole Protected Property whenever possible. This Easement prohibits use of the Protected Property for any purpose that would significantly impair the Conservation Purposes on a collective, not individual basis, taking into account the relative condition and quality of each of the Conservation Values on the Protected Property as of the Effective Date.

2. **RESTRICTIONS.** Except as specifically permitted in Section 3, any activity or improvement on or use of the Protected Property in a manner that significantly impairs the Conservation Values or that is inconsistent with this Easement or the Conservation Purposes of this Easement is prohibited, including, without limitation, the following:

## Appendix 3: Conservation Easement

- 2.1 Industrial Activity. No industrial use of the Protected Property is allowed.
- 2.2 Commercial Activity. Commercial use of the Passive Park Area is prohibited except for those de minimis uses that (1) are consistent with Owner's exercise of rights expressly permitted in paragraph 3, and (2) do not significantly impair the Conservation Values. Commercial use of the Active Park Area is prohibited except for those uses that (1) are consistent with Owner's exercise of rights expressly permitted in paragraph 3.4, and (2) do not significantly impair the Conservation Values.
- 2.3 Farming. Farming, plowing, discing, chiseling, inter-seeding, or any type of cultivation is prohibited.
- 2.4 Residential Use and Development. No residential use or development of the Protected Property is allowed.
- 2.5 Division of the Protected Property. The Protected Property may not be divided, subdivided, or partitioned. The Protected Property may be conveyed only in its entirety as a single parcel under single ownership (joint or undivided) regardless of whether it now consists of separate parcels, was acquired as separate parcels, or is treated as separate parcels for property tax or other purposes.
- 2.6 Subdivision. The Protected Property is currently comprised of multiple legal parcels, all owned by Owner. Unless expressly permitted by Land Trust, Owner shall maintain all the parcels comprising the Protected Property, and all interests therein, under common ownership, as though a single legal parcel. The division, subdivision, de facto subdivision, or partition of the Protected Property, including transfer of development rights or certificates of compliance, whether by physical, legal, or any other process, and including the lease of any portion less than one hundred percent (100%) of the Protected Property for a term in excess of twenty (20) years are all prohibited.

The general prohibition set out above does not prohibit legal division of the Protected Property into separate parcels to accommodate uses and activities specifically permitted by this Easement. Any division of the Protected Property under this section requires that the Protected Property remains in single ownership and requires prior approval of Land Trust in accordance with section 9.6.

- 2.7 Development Rights. No portion of the Protected Property may be used to satisfy land area requirements for other property not subject to this Easement to calculate building density, lot coverage, open space, or natural resource use or extraction under otherwise applicable laws, regulations, or ordinances controlling land use. Development rights that have been encumbered or extinguished by this Easement may not be transferred to any other property or used to obtain any regulatory mitigation credits. All development rights not expressly preserved in this Easement

### Appendix 3: Conservation Easement

are wholly transferred to Land Trust and entirely extinguished. This Easement shall not create any development rights.

- 2.8 Structures and Improvements. No temporary or permanent buildings, structures, utilities, roads or other improvements of any kind may be placed or constructed on the Protected Property except as specifically permitted in section 2 or section 3.
- 2.9 Signs. No commercial signs, billboards, awnings, or advertisements shall be displayed or placed on the Protected Property, except for signage required by PG&E, Commission, Stewardship Council, Owner or Land Trust to acknowledge organizations involved in creation of the Easement or protection of the Protected Property, signs specifically permitted in section 3, temporary signs promoting special events on the Protected Property, signs on exterior fence lines deterring trespassing or clarifying allowed or prohibited uses, interpretive and educational signs, directional and informational signs, and signs as needed for Americans with Disabilities Act compliance or for public health and safety. Additional signs require prior approval of Land Trust in accordance with section 9.6. No signs shall significantly impair the Conservation Values.
- 2.10 Roads. Existing roads, driveways and parking areas may be maintained or improved but may not be oiled, paved, widened, or relocated without prior approval of Land Trust in accordance with section 9.6. No new road shall be constructed for access within the Protected Property or for access to adjacent properties without prior approval of Land Trust in accordance with section 9.6. Any road permitted by this paragraph shall be constructed and maintained in a manner that does not significantly impair the Conservation Values.
- 2.11 Trails. Owner may establish and maintain unpaved paths or foot trails for non-motorized recreational uses. Trails may be established, maintained and used only in a manner that does not result in significant erosion that significantly impairs Conservation Values. Trails may not be paved, or otherwise be covered with concrete, asphalt, or any other paving material.
- 2.12 Fences. Existing lawful fences may be repaired and replaced. New fencing and gates may be constructed, maintained, improved, replaced, or removed to mark boundaries, secure the Protected Property, or as needed in carrying out activities permitted by this Easement. Fences may not be located or constructed in a manner that significantly impairs Conservation Values.
- 2.13 Dumping. No trash, non-compostable garbage, debris, unserviceable vehicles or equipment, junk, other unsightly materials or hazardous or toxic substances may be dumped or accumulated on the Protected Property. Temporary placement of building materials, debris or refuge containers is permitted if incidental to activities and construction permitted by this Easement.

## Appendix 3: Conservation Easement

There are certain historic dump sites located on the Protected Property documented in the baseline documentation report (described in section 8). Over time, Owner has the right to clean up these sites unless cleanup would cause more significant harm to Conservation Values than allowing the site to continue to deteriorate in the reasonable determination of Owner, in consultation with the Land Trust. The existence of these historic dump sites, that comport with this section, shall not be treated as a violation.

- 2.14 Mining and Extraction. No mining, drilling, exploration for, or extraction of minerals, hydrocarbons, petroleum, oil, gas, steam, rocks, sand, gravel, soils or other materials on or below the surface of the Protected Property is permitted. No sale of surface or subsurface minerals or mineral rights, including gravel, sand, rock or soils from the Protected Property is permitted.
- 2.15 Topography and Surface Alteration. No alteration or change in the topography or the surface of the Protected Property is allowed. This includes no ditching, draining or filling and no excavation or removal of soil or other material. Notwithstanding the foregoing, the existing agricultural ditch identified on the Property Map may be maintained or repaired.

The foregoing prohibition does not prohibit surface alterations incidental to construction or other activities or uses otherwise specifically permitted by this Easement or needed for fire trails and emergency needs. Any alteration resulting from a permitted activity or use shall be undertaken with minimal disturbance to soils, topography and vegetation and with proper erosion control practices. After the activity, the surface shall be restored in a timely manner to a condition consistent with the condition of the surface immediately preceding undertaking of such activity unless restoration would cause more significant harm to Conservation Values than allowing the site to continue as is in the reasonable determination of Owner, in consultation with the Land Trust.

This provision does not include or prohibit creation, maintenance, restoration, or enhancement of wildlife habitat or native biological communities otherwise permitted under section 3.3.

- 2.16 Water. Subject to the PG&E Reserved Rights, the Protected Property includes all water and water rights, ditches and ditch rights, springs and spring rights, reservoir and storage rights, wells and groundwater rights, creeks and riparian rights and other rights in and to the use of water historically used on or otherwise appurtenant to the Protected Property.

Activities or uses detrimental to water quality, including but not limited to degradation or pollution of any surface or sub-surface waters, are prohibited.

Alteration or manipulation of any existing water courses, creeks, wetlands and drainages located on the Protected Property, and the creation or development of any new water source or water impoundment on the Protected Property, including, but not

## Appendix 3: Conservation Easement

limited to, wells, springs, creeks, dikes, dams, ponds, tanks, and cisterns, by any means is prohibited.

Owner shall not separately transfer, encumber, sell, lease or otherwise separate any water rights associated with the Protected Property held by Owner, nor any permits, licenses or contracts related to water rights on the Protected Property held by Owner, or change authorized or historic use of water rights without approval of Land Trust in accordance with section 9.6. Owner shall not abandon or allow the abandonment of, by action or inaction, any water rights on the Protected Property held by Owner or such permits, licenses or contracts without approval of Land Trust in accordance with section 9.7.

- 2.17 Vegetation Management. No removal, cutting, pruning, trimming or mowing of any trees or other vegetation, living or dead, and no introduction of non-native species is allowed except as permitted in section 3.
- 2.18 Vehicles. Limited off-road use of motorized vehicles is allowed only in conjunction with habitat management, restoration, or enhancement as permitted in section 3. However, motorized vehicles may be used only in a manner that does not significantly impair the Conservation Values. This provision is not intended to otherwise limit the use of motorized vehicles on roads or driveways permitted under this Easement or in conjunction with construction and maintenance of permitted buildings, structures, roads, trails and other improvements.

3. **RESERVED RIGHTS.** Owner retains all rights associated with ownership and use of the Protected Property that are not expressly restricted or prohibited by this Easement. Owner may not, however, exercise these rights in a manner that significantly impairs Conservation Values. Additionally, before exercising any reserved right that might significantly impair Conservation Values, Owner must seek prior approval of Land Trust in accordance with section 9.6.

Without limiting the foregoing, the following rights are expressly reserved, and Owner may use and allow others to use the Protected Property consistent with section 2, as follows:

- 3.1 Right to Convey. Owner may sell, give, lease, bequeath, devise, mortgage or otherwise encumber or convey the Protected Property. This right to convey the Protected Property shall be subject to the following provisions.
  - a. Covered Transactions. Any lease, deed or other conveyance or any encumbrance of the Protected Property shall be subject to this Easement. Owner agrees that this Easement shall be incorporated by reference in any deed or other legal instrument by which Owner transfers any interest in all or a portion of the Protected Property or by which Owner grants to a third party a right or privilege to use the Protected Property, including, without limitation, any easement, leasehold interest, or license agreement.

### Appendix 3: Conservation Easement

- b. Notice to New Owner. Owner shall disclose this Easement to all prospective buyers of the Protected Property. Owner will reference or insert this Easement in any deed or other document by which Owner conveys title to or any interest in the Protected Property.
- c. Notice to Land Trust. Owner will notify Land Trust of any proposed conveyance of title, or the grant of any right or privilege, to the Protected Property at least fifteen (15) days before closing. Owner will also provide Land Trust with the name and address of the new owner of the Protected Property and a copy of the deed, leasehold or license transferring title within fifteen (15) days after closing.
- d. Designated Representative. If the Protected Property is owned by a trust, business entity or any common or jointly held ownership, Owner shall designate a representative authorized to receive notice on behalf of Owner and provide Land Trust with the name and address of the designated representative. Owner shall notify Land Trust of any change in the designated representative and provide Land Trust with the new name, address and other contact information within fifteen (15) days after the change.
- e. Notice of Action Affecting Easement. Owner will also notify Land Trust of any proposed condemnation or any claim, legal proceeding, foreclosure or other legal action that might affect title to the Protected Property or the validity or enforceability of this Easement.

The enforceability or validity of this Easement will not be impaired or limited by any failure of Owner to comply with this section 3.1.

- 3.2 Water and Irrigation. Subject to the PG&E Reserved Rights and with prior written approval of Land Trust in accordance with section 9.6, Owner may conduct the following activities:

- a. Develop groundwater wells within the Active Park Area for use in connection with the activities permitted in the Easement, provided that such wells do not significantly impair the Conservation Values.
- b. Owner reserves and shall retain all right, title, and interest in and to all tributary and non-tributary water, all appropriative, prescriptive, contractual or other water rights, and related interests in, on, under, or appurtenant to the Protected Property for use on or for the benefit of the Protected Property in a manner consistent with this Easement and in accordance with applicable federal, state, and local laws, regulations and requirements.

- 3.3 Habitat/Vegetation Management. The Protected Property may be used to create, maintain, restore, or enhance habitat for wildlife and native biological communities in accordance with a management plan approved by Land Trust in accordance with section 9.7.

### Appendix 3: Conservation Easement

- a. Prescribed Burning. Prescribed burning for habitat improvement and fuel reduction purposes may occur if it does not significantly impair the Conservation Values. Any prescribed burning must be carried out in accordance with a prescribed burning plan administered by the responsible state or local agencies, and cannot occur without prior written approval of Land Trust in accordance with section 9.6. Any post-fire restoration of the Protected Property must be done in accordance with a management plan approved in advance by Land Trust in accordance with section 9.6.
- b. Down and Dead Wood. Down and dead wood may be cut and removed consistent with good habitat management practices, fire reduction, and for safety purposes. It is the intention of Owner and Land Trust that some down and dead wood remains on the Protected Property to encourage habitat nesting and foraging.
- c. Fire. In the event of a fire, salvageable trees may be harvested and sold in accordance with any existing or new timber harvest plan consistent with generally accepted “Best Management Practices,” as those practices may be identified from time to time by appropriate governmental or educational institutions, and in a manner not wasteful of soil resources or detrimental to water quality or conservation. Land Trust approval is not required for tree removal for emergency fire control.
- d. Harvesting. Harvesting naturally occurring plant products (e.g., mushrooms, berries, nuts, herbs, prairie seed, etc.) in a manner that maintains a sustainable growth and reproduction cycle for harvested plant populations and surrounding vegetation is permitted.
- e. Vegetation Restoration. Vegetation restoration is permitted as reasonably required to construct and maintain buildings, structures, roads, trails and other improvements specifically permitted under this Easement and provided that, following any construction, vegetation shall be restored in a timely manner to a condition consistent with the condition immediately preceding undertaking of such activity unless restoration would cause more significant harm to Conservation Values than allowing the site to continue as is in the reasonable determination of Owner, in consultation with the Land Trust.
- f. Landscaping. Landscaping is allowed within the Active Park Area.
- g. Invasive Species Management. As reasonably required to prevent or control troublesome insects, noxious weeds, invasive vegetation, disease, fire, personal injury, or property damage, with prior approval of Land Trust in accordance with section 9.6. Such methods may include, but are not limited to brush removal, tree pruning, prescribed burning or mowing of the Protected Property. Mowing may be accomplished with use of a tractor or similar vehicle.

## Appendix 3: Conservation Easement

Nothing in this section allows intentional introduction of invasive vegetation on the Protected Property recognized as invasive locally or regionally.

3.4 Park Use and Development. The Protected Property may be used and developed for a public park as follows:

- a. Active Park Area. This Easement anticipates and allows certain active park use and development on the Protected Property. The following buildings and improvements shall be permitted within the Active Park Area identified on the Property Map (Exhibit B).
  1. Existing Structures and Improvements. Existing improvements on the Protected Property include a vacant office trailer and a vacant dilapidated storage building. There are remnants of concrete building pads, road barriers, and gravel parking areas. All improvements are located in the northeastern portion of the Protected Property designated as the Active Park Area. These improvements are more specifically described in the baseline documentation report referred to in section 8. Existing buildings and related accessory buildings and other structures may be maintained, repaired, remodeled, improved, expanded, and replaced in substantially their same locations.
  2. Additional Structures and Improvements. Additional park improvements and related accessory buildings and other structures may be constructed, maintained, repaired, remodeled, improved, expanded, and replaced in the Active Park Area, including, but not limited to, parking lot, restrooms, storage buildings, picnic grounds, food vendors, concrete slabs, signage, kiosks, interpretive displays, fencing, gates, paved trails for Americans with Disabilities Act compliance, a visitor center, and similar park development.
  3. Maintenance. This Easement also anticipates and allows maintenance activities including, but not limited to, site preparation, grading, leveling, landscaping, tree and vegetation trimming and removal, mowing, and similar activities.
  4. Permitted Utilities. Permitted utility systems and facilities include, without limitation, all systems and facilities necessary to provide on-site power, fuel, water, waste disposal, and communication. Permitted utility systems and facilities do not include communication towers, wind turbines, or similar structures without prior written approval of Land Trust in accordance with section 9.6.

If permitted by, and in accordance with, all then-applicable laws, regulations, and requirements, Owner may place or construct facilities for

## Appendix 3: Conservation Easement

development and utilization of wind, solar, and hydropower energy resources designed and sized to serve the improvements and uses permitted on the Protected Property. Installation of wind, hydropower, and solar energy structures shall require prior approval of Land Trust in accordance with section 9.6, which shall take into consideration the impact upon scenic and ecological Conservation Values. Owner and Land Trust hereby agree this paragraph is a reasonable restriction under California Civil Code section 714.

- b. Passive Park Area. This Easement anticipates and allows limited passive park use on the Protected Property in the Passive Park Area identified on the Property Map, including hiking, cross-country skiing, biking, nature observation or study, and other non-intensive recreational and educational programs or activities that do not significantly impair the Conservation Values.
  - c. Notice. Before beginning any construction permitted under this section, Owner must obtain any required survey and any required approval of Land Trust.
- 3.5 Recreational and Educational Uses. The Protected Property may be used for hiking, horseback riding, fishing, nature observation or study, and other non-intensive recreational and educational programs or activities that do not significantly impair Conservation Values.
- Minor temporary rustic structures such as trail barriers, benches, and informational kiosks that do not significantly impair Conservation Values may be placed on the Protected Property in conjunction with these activities. Such structures may not be used for continuous residential use, and no utilities may be installed to service such structures without prior approval of Land Trust in accordance with section 9.6.
- 3.6 No Other Structures. No additional buildings, structures, utilities, roads, parking lots or other improvements not otherwise permitted under this Easement may be constructed or placed on the Protected Property.
4. **PG&E RESERVED RIGHTS.** All rights and obligations of Owner and Land Trust under this Easement are subject to PG&E's Reserved Rights as shown in the attached Exhibit C. If PG&E notifies Owner of its intention to exercise any PG&E Reserved Rights, Owner shall give written notice to Land Trust of said intention within sixty (60) days.
5. **EXPRESS THIRD PARTY USES.** Exhibit D hereto describes existing third party uses of the Protected Property that have been permitted with express agreement of Owner ("Express Third Party Uses"). Owner retains the right to maintain, renew, and replace all agreements memorializing the Express Third Party Uses ("Third Party Use Agreements") and to engage in all activities reasonably required to comply with Owner's obligations with respect to the Express Third Party Uses, subject to the following conditions:
- 5.1 Increases in Intensity or Expansion of Location or Size or Change in Use. Any (i)

### Appendix 3: Conservation Easement

increase in the intensity, or (ii) expansion of the location or size, or (iii) a change in the use, of an Express Third Party Use (whether through a new agreement or an amendment to an existing agreement), that Owner determines in Owner's reasonable discretion exercised in good faith are likely to significantly impair Conservation Values shall be subject to prior approval of Land Trust under section 9.6.

5.2 Renewal or Replacement of Third Party Use Agreements. All Third Party Use Agreements existing on the date hereof are identified on Exhibit D. As Third Party Use Agreements are renewed or replaced (either with the existing user or a new user), Owner, in consultation with Land Trust, shall include contractual provisions to bring the continuation of the Express Third Party Use and the preservation of the Conservation Values into alignment to the fullest extent reasonably practicable.

5.3 Enforcement of Third Party Use Agreements. If Owner or Land Trust discovers any default under a Third Party Use Agreement that significantly impairs the Conservation Values (and whoever makes such discovery shall give the other written notice thereof), Owner shall use reasonable efforts to enforce or otherwise remedy such violation, at Owner's sole expense.

6. LAND TRUST'S RIGHTS AND REMEDIES. To preserve and protect the Conservation Values and to accomplish the Conservation Purposes of this Easement, Land Trust has the following rights and remedies under California law and conveyed by Owner:

6.1 Right to Enter. Land Trust has the right to enter the Protected Property at reasonable times and in a reasonable manner to undertake the following:

- a. To inspect the Protected Property and to monitor and document compliance with this Easement, including taking photographs, GPS readings, and other nondestructive measurements and tests.
- b. To obtain evidence for use in seeking enforcement of this Easement.
- c. To survey or otherwise mark the boundaries of all or part of the Protected Property if necessary to determine whether there has been a violation of this Easement. Any survey completed under this provision will be at Owner's expense.
- d. To interpret this Easement, apply this Easement to factual conditions on or about the Protected Property, respond to requests for information from persons having an interest in this Easement or the Protected Property, and apply this Easement to changes occurring or proposed within the Protected Property.
- e. To exercise such additional rights as may be reasonably necessary to effectuate the Conservation Purposes of this Easement.

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- 6.2 Access. Land Trust is entitled to use any easement, entry or approach to the Protected Property that Owner is entitled to use now or in the future to exercise the rights granted to Land Trust in this section 6. Owner shall execute any additional documents as may be necessary to evidence this assignment.
- 6.3 Right of Enforcement. Land Trust has the right in perpetuity to prevent or remedy any activity on or use of the Protected Property that violates this Easement through appropriate judicial action, or through other methods of dispute resolution, against Owner or other responsible party.
- a. Notice. Land Trust may not initiate judicial action until Owner or other responsible party has been given notice of the violation, or threatened violation, of this Easement and sixty (60) days or longer as needed to correct the situation. This provision shall not apply if in Land Trust's sole discretion and exclusive judgment immediate judicial action is necessary to prevent or mitigate the significant impairment of the Conservation Values or if reasonable, good faith efforts to notify Owner or other responsible party are unsuccessful.
- b. Remedies. In enforcing this Easement, Land Trust shall have the right to exercise any and all legal and equitable remedies including:
- Obtain temporary or permanent injunctive relief for any violation or threatened violation of this Easement.
  - Require restoration of the Protected Property to its condition at the time of this conveyance or as otherwise necessitated by a violation of this Easement.
  - Obtain specific performance or declaratory relief.
  - Recover damages resulting from a violation of this Easement or harm to the Conservation Values.
  - Recover other and additional relief in equity or at law as the court orders.

These remedies are cumulative and are available without proof of actual damage to the Conservation Values. Land Trust may exercise any other right or remedy that may at any time be available to Land Trust under this Easement or applicable law. If Land Trust exercises one remedy, Land Trust may nevertheless exercise any one or more other rights or remedies available to Land Trust at the same time or at any other time.

Land Trust and Owner agree that damages created by a violation of this Easement may be determined in at least some cases by calculating the cost of acquiring a conservation easement over similar property. Land Trust and Owner also recognize that restoration, regardless of cost, may be the only adequate remedy for certain violations.

Land Trust is entitled to seek expedited relief, ex parte if necessary; and shall not be required to post any bond applicable to a petition for such relief.

### Appendix 3: Conservation Easement

- c. Costs of Enforcement. All reasonable costs incurred by Land Trust in enforcing this Easement against Owner, including, without limitation, costs of suit and reasonable attorneys' fees, experts' fees and any costs of restoration necessitated by Owner's violation of this Easement shall be borne by Owner; provided, however, that, if Owner ultimately prevails in a judicial enforcement action, Owner shall be entitled to reimbursement for costs of suit and reasonable attorneys' fees.
- d. Enforcement Decisions. Enforcement of this Easement is solely at the discretion of Land Trust. Forbearance by Land Trust to exercise its rights in the event of any breach of this Easement by Owner or other responsible person shall not be deemed or construed to be a waiver, estoppel or laches by Land Trust of such term or of any subsequent breach of the same or any other term of this Easement. Land Trust does not waive or forfeit the right to take any action necessary to assure compliance with this Easement by any delay or prior failure of Land Trust to discover a violation or initiate enforcement proceedings.
- e. Acts Beyond Owner's Control. Land Trust may not bring an action against Owner for any change to the Protected Property resulting from any of the following:
- Causes beyond Owner's control such as changes caused by fire, flood, storm, natural deterioration or the unauthorized acts of third parties; provided, that Owner shall take all reasonable actions consistent with those undertaken by a prudent landowner to prevent unauthorized acts by third parties that could significantly impair the Conservation Values.
  - Reasonable actions taken in good faith under emergency conditions to prevent or mitigate damage resulting from such causes.
- Actions by Owner's lessees, agents, employees or contractors are not considered unauthorized acts of third parties.
- This section does not preclude Owner or Land Trust from recovering damages or bringing an action against any third party for trespass or other violation of their respective rights.
- f. Enforcement Rights of Others. Nothing in this Easement is intended to create any right to enforce this Easement in any third party where no such right otherwise exists under this Easement or under law.
- g. Limitation on Rights. Nothing in this Easement gives Land Trust the right or responsibility to exercise physical control over day-to-day operations on the Protected Property or to become involved in management decisions involving use or disposal of hazardous substances or to otherwise become an operator of the Protected Property within the meaning of the Comprehensive Environmental

## Appendix 3: Conservation Easement

Response, Compensation and Liability Act, or other similar or successor federal, state, or local laws regarding responsibility for environmental conditions associated with contamination (“Environmental Compliance Laws”). Owner and Land Trust do not intend this Easement to be, and this Easement shall not be, construed such that it creates in or gives to Land Trust any of the following:

1. The obligations or liabilities of an “owner” or “operator,” as those terms are defined and used in Environmental Compliance Laws;
  2. The obligations or liabilities of a person described in 42 U.S.C. §9607(a)(3) or (4);
  3. The obligations of a responsible person under any Environmental Compliance Laws;
  4. Any right to investigate, control, monitor or remediate any hazardous materials associated with the Protected Property;
  5. Any authority to specify the chemicals or hazardous substances that may be used on the Protected Property, or
  6. Any control over Owner’s ability to investigate, remove, remediate or otherwise clean up any hazardous materials associated with the Protected Property.
7. **PUBLIC ACCESS.** The Protected Property is open to public use consistent with preservation and protection of the Conservation Values and this easement.
- 7.1 Informal Uses and Public Access. Owner and Land Trust recognize that the Protected Property has been used by third parties for recreational, cultural, and other non-commercial or informal purposes without formal written agreements to conduct such activities, (“Informal Uses”). Owner and Land Trust further recognize that access to the Protected Property is inherent or may be inherent in enjoyment of the Conservation Values and Informal Uses. Consistent with the objectives articulated in the Governing Documents to provide continued reasonable access by the public to the Watershed Lands. Owner shall allow public access to the Protected Property that is substantially consistent with public access existing on the Effective Date of the Easement. Owner reserves the right to make reasonable rules and regulations to control, limit, or, as necessary, exclude Informal Uses and public access. Owner shall not allow Informal Uses that significantly impair the Conservation Values.
- 7.2 New or Increased Public Access. If Owner desires to allow new public access or Informal Uses or expansion of public access or Informal Uses on the Protected Property in addition to those permitted under section 3.4, prior approval of Land Trust under section 9.6 is required, which approval shall not be unreasonably withheld.

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7.3 Limitations and Conditions. Paragraphs 7.1 and 7.2 are subject to the following:

- a. Liability Limitation. Owner and Land Trust claim all of the rights and immunities against liability for injury to the public to the fullest extent allowable by law.
- b. Periodic Review of Informal Uses. As part of Land Trust's annual compliance monitoring, Owner and Land Trust shall (i) consult on known Informal Uses and public access on the Protected Property for the purpose of Land Trust's assessment of Owner's compliance with paragraphs 7.1 and 7.2 above; and (ii) develop recommendations, if any, regarding the necessity of controlling, limiting, or excluding Informal Uses or public access to ensure preservation of the Conservation Values.

8. **DOCUMENTATION.** The current uses of the Protected Property, the state of any existing improvements, and the specific Conservation Values that are briefly described in this Easement are more fully described in a baseline documentation report dated \_\_\_\_\_ and on file at the office of Land Trust and incorporated herein by this reference. Owner and Land Trust acknowledge that this baseline report prepared by Land Trust with assistance from Owner and signed by both accurately represents the condition of the Protected Property as of the Effective Date and may be used by Land Trust in monitoring present and future uses of the Protected Property, in documenting compliance with this Easement, and in any enforcement proceeding. This baseline report, however, is not intended to preclude the use of other information and evidence to document the then or present condition of the Protected Property in the event of a future controversy.

### 9. GENERAL PROVISIONS.

9.1 Assignment. This Easement may only be assigned or transferred to a private nonprofit organization that, at the time of transfer, is (1) qualified to hold conservation easements pursuant to section 815.3(a) of the California Civil Code, (2) experienced in holding and monitoring conservation easements on properties similar to the Protected Property, and (3) willing and financially able to assume all the responsibilities imposed on Land Trust under this Easement. If no such private nonprofit organization exists or is willing to assume the responsibilities imposed by this Easement, then this Easement may be transferred to any public agency authorized to hold interests in real property as provided in section 815.3(b) of the California Civil Code. All transfers shall be duly recorded.

- a. Voluntary Assignment. Before assigning its interest under this Easement, Land Trust shall provide Owner and the Sierra Nevada Conservancy or its successor ("SNC") with written notice of such intention to transfer ("Transfer Notice"). The Transfer Notice shall identify the proposed assignee and include a description of how the proposed assignee meets the assignee designation criteria in this section. Land Trust shall allow SNC a period of not less than sixty (60) days to approve the proposed assignee, which approval shall not be unreasonably withheld and

### Appendix 3: Conservation Easement

shall be based on whether the proposed assignee meets the designation criteria in this section. If SNC does not approve the proposed assignee, SNC shall provide Land Trust with the reasons behind such decision.

- b. Involuntary Assignment. If Land Trust ever ceases to exist or no longer qualifies under applicable state law to hold a conservation easement interest, then SNC shall, in consultation with Owner, select an assignee that meets all the designation criteria specified in section 9.1 above. If SNC is unable to identify an assignee that meets all the designation criteria specified in section 9.1 above that is willing to accept such assignment, then SNC may elect to serve as such assignee. Notwithstanding the foregoing, SNC may elect to exercise the rights of Land Trust hereunder during any period that a successor assignee for such Land Trust is not yet in place.
- c. Conditions of Assignment. As conditions to any assignment of this Easement, Land Trust and/or the SNC shall (1) require the assignee to expressly agree in writing to assume Land Trust's obligations hereunder in perpetuity; and (2) ensure that assignee has the resources to fulfill its obligations under the Easement.
- d. Successor to SNC. Upon any liquidation or dissolution of SNC, SNC or the State of California shall have the right to assign SNC's rights and obligations under this section 9.1 to another entity that has a conservation mission and level of expertise consistent with that of SNC and sufficient resources and capacity to carry out the obligations of SNC.

Land Trust will notify Owner of any assignment within thirty (30) days after the assignment and will provide Owner with the name and address of the new holder.

- 9.2 Amendment. Under appropriate limited circumstances, this Easement may be amended by Land Trust and Owner; provided that no amendment shall be allowed that (a) is inconsistent with the Conservation Purposes; (b) would significantly impair the Conservation Values; (c) affects the perpetual duration of the Easement; (d) affects the validity of this Easement under California law or the status of Land Trust under section 501(c)(3) of the Internal Revenue Code or successor or related law; or (e) creates or results in impermissible private benefit or private inurement as prohibited by section 501(c)(3) of the Internal Revenue Code. Any amendment or modification must be in writing, signed by Land Trust and Owner, and recorded in the same manner as this Easement.
- 9.3 Termination. This Easement shall be of perpetual duration, it being the express intent of Owner and Land Trust that this Easement not be extinguished by, or merged into, any other interest or estate in the Protected Property now or hereafter held by Land Trust or any other party. This Easement may be terminated or extinguished in whole or in part only as set out in this section. Owner and Land Trust are committed to protecting and preserving the Conservation Values in perpetuity. Accordingly, this Easement is binding upon the current Owner and all future Owners of the Protected

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Property and conveys to Land Trust the right, duty and obligation to protect and preserve the Conservation Values to benefit this generation and generations to come. If one or more Conservation Values of this Easement may no longer be protected, that inability shall not be sufficient cause to terminate the entire Easement as long as any of the Conservation Values can be protected.

- a. Change of Circumstances. This Easement may be terminated or extinguished if circumstances arise that make continued use of the Protected Property in a manner consistent with all Conservation Purposes wholly impossible or impractical. In this event, this Easement may be extinguished only through judicial proceedings.
- b. Condemnation. This Easement may be terminated or extinguished pursuant to the proper exercise of the power of eminent domain. If this Easement is taken, in whole or in part, by exercise of the power of eminent domain, Land Trust shall be entitled to compensation in accordance with applicable law. Owner and Land Trust shall act jointly to recover the full value of their interests in the Protected Property subject to the taking or in-lieu purchase and all direct and incidental damages resulting therefrom. All expenses reasonably incurred by Owner and Land Trust in connection with the taking or in-lieu purchase shall be paid out of the amount recovered. Land Trust's share of the balance of the amount recovered shall be determined by multiplying that balance by the ratio set forth immediately below.
- c. Proceeds upon Termination. This Easement constitutes a real property interest immediately vested in Land Trust, for purposes of condemnation. Following any termination or extinguishment of this Easement in whole or in part, Land Trust shall be entitled to a portion of the proceeds from any sale, exchange or involuntary conversion of the Protected Property.

Land Trust's share of the proceeds shall be an amount equal to the fair market value of this Easement at the time of the extinguishment but not less than an amount equal to the proportionate value that this Easement bears to the value of the Protected Property as a whole at the time of this conveyance (excluding the value of any permitted improvements made after the conveyance of this Easement). The value of this Easement at the time of extinguishment or termination shall be calculated by the method required by the Internal Revenue Service for calculating an income tax deduction for a charitable donation of a conservation easement.

Land Trust shall use all proceeds received under the circumstances described in this paragraph to pay the costs to monitor, enforce and preserve any portions of the Protected Property that remain subject to this Easement, or, if no portion of the Protected Property is subject to this Easement, to monitor and enforce other conservation easements held by Land Trust that are comparable to this Easement and to conserve properties subject to such other easements in a manner consistent with the Conservation Purposes of this Easement.

## Appendix 3: Conservation Easement

### 9.4 Warranties. The current Owner represents and warrants as follows:

- a. The current Owner is the sole owner of the Protected Property in fee simple, including the entire mineral estate, free from all encumbrances except those described in Exhibit \_\_\_, and has the right and ability to convey this Easement to Land Trust.
- b. The Protected Property is free and clear of all rights, restrictions and encumbrances other than those identified herein or subordinated to this Easement or otherwise specifically agreed to by Land Trust.
- c. The Protected Property is not subject to any pending claim, legal proceeding, foreclosure or other legal action affecting title to the Protected Property or the validity or enforceability of this Easement. Owner and Protected Property are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Protected Property and its use.
- d. The current Owner has no actual knowledge of any use or release of hazardous waste or toxic substances on the Protected Property that are in violation of a federal, state, or local environmental law and will defend, indemnify and hold Land Trust harmless against any claims of contamination from such substances.
- e. There are not now any underground storage tanks located on the Protected Property, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Protected Property in a manner not in compliance with applicable laws.

### 9.5 Ownership Responsibilities, Costs and Liabilities. Owner retains all responsibilities and shall bear all costs and liabilities of any kind related to the use, ownership, and maintenance of the Protected Property. Land Trust shall have no obligation for the upkeep or maintenance of the Protected Property. If Land Trust acts to maintain the Property in order to protect Land Trust's interest in the Property, Owner will reimburse Trust for any such costs.

- a. Taxes. Owner shall pay all real estate taxes and assessments levied against the Protected Property, including any levied against the interest of Land Trust created by this Easement. Land Trust may, at its discretion, pay any outstanding taxes or assessments and shall then be entitled to reimbursement from Owner.
- b. Regulatory Compliance. All activities or construction permitted by this Easement shall be undertaken in accordance with applicable federal, state and local laws, regulations and ordinances, and nothing in this Easement shall be construed to exempt the Protected Property or Owner from otherwise applicable law.

Owner is solely responsible for obtaining any required governmental permits.

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- c. Indemnity. In view of Land Trust's negative rights, limited access to the land, and lack of active involvement in the day-to-day activities on the Protected Property, Owner shall defend, indemnify, and hold Land Trust harmless from any and all costs or liability for any loss, damage, or personal injury occurring on or related to the Protected Property or the existence of this Easement, except to the extent attributable to the negligence or willful misconduct of Land Trust. Land Trust shall have no responsibility for operation of the Protected Property, monitoring of hazardous conditions on it, or protection of Owner, the public or any third parties from risks relating to conditions on the Protected Property. Without limiting the foregoing, Land Trust shall not be liable to Owner or any other person or entity in connection with consents given or withheld, or in connection with any entry upon the Protected Property occurring or existing pursuant to this Easement, or on account of any claim, liability, damage or expense suffered or incurred by or threatened against Owner or any other person or entity, except as the claim, liability, damage, or expense is the result of negligence or willful misconduct of Land Trust or its officers, directors, members, employees, or agents.
  - d. Insurance. Owner will name Land Trust as an additional insured on any general liability insurance policy carried by Owner with respect to the Protected Property.
  - e. Future Environmental Condition. Owner is solely responsible for Owner's use or release on the Protected Property of any hazardous or toxic substances as defined by the Comprehensive Environmental Response, Compensation and Liability Act, or other similar or successor federal, state or local law or regulation regarding responsibility for environmental conditions associated with contamination. Owner shall take all steps necessary to assure any needed containment or remediation resulting from any release of such substance.
- 9.6 Notice and Approval. Any notice or request for approval required by this Easement must be in writing and is subject to the following.
- a. Approval Requirements. No activity requiring prior approval of Land Trust may proceed without Land Trust's written approval as set out in this section. Approval of Land Trust must be in writing to be effective. Failure of Owner to receive written approval from Land Trust constitutes denial of the request.
  - b. Delivery. Any required notice or request for approval must be delivered personally or sent by first class mail or other nationally recognized delivery service to the appropriate party at the following addresses (or other address specified in writing):

To Owner:

[ADDRESS]

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To Land Trust:

Executive Director  
Shasta Land Trust  
PO Box 992026  
Redding, CA 96099-2026

To Sierra Nevada Conservancy (as relates to Section 9.1):

Sierra Nevada Conservancy  
11521 Blocker Drive, Suite 205  
Auburn, CA 95603  
Attn: Executive Director

When personally delivered, notice is effective upon delivery. When mailed, certified mail, postage prepaid, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt. When delivered by an overnight delivery service, notice is effective on delivery, if delivery is confirmed by the delivery service. A recipient cannot defeat delivery by refusing to accept the notice, and notice is deemed delivered if refused.

- c. Timing. Any required notice or request for approval must be delivered at least 60 days prior to the date proposed for initiating the activity in question.
- d. Content. The notice or request for approval must include sufficient information to allow Land Trust to make an informed decision on whether any proposed activity is consistent with this Easement. At a minimum, this should include:
  - The location, nature, and scope of the proposed activity.
  - The proposed use, design, and location of any building, structure or improvement.
  - The plan for any needed restoration of the Protected Property following the approved activity.
  - Any potential impact on the Conservation Values.
- e. Approval Decisions. Land Trust may withhold its approval if it determines in its sole discretion that (1) the proposed activity may significantly impair the Conservation Values or is inconsistent with this Easement, or (2) the notice lacks sufficient information to allow Land Trust to reach an informed decision, or (3) the proposed activity is contrary to law. Land Trust may condition its approval on Owner's acceptance of modifications, that would, in Land Trust's judgment, make the proposed activity consistent with the Easement or otherwise meet any concerns.
- f. Discretionary Approval. In limited circumstances, Land Trust may give written

### Appendix 3: Conservation Easement

approval to Owner to engage in activities that have impacts on the Conservation Values that do not arise to the level of significant impairment and do not conflict with the Conservation Purposes. Land Trust may give its approval only if it determines, in its sole discretion, that such activities (1) do not violate or are not in conflict with the Conservation Purposes of this Easement AND (2) either enhance or do not significantly impair the Conservation Values protected by this Easement. Any discretionary approval given by Land Trust under this section must be delivered by Land Trust to Owner in writing before Owner may engage in the proposed activity, and such approval shall be (a) revocable at Land Trust's discretion, (b) limited in duration; and (c) specific to the individuals or entities who have requested approval to engage in the activity. Notwithstanding the foregoing, Land Trust will not approve any activities that would result in the amendment or termination of this Easement under state or federal law. Owner understands and agrees that Land Trust may not be compelled by legal action or otherwise to approve any request made under this section. Nothing in this section shall require Land Trust to approve any activity otherwise restricted in this Easement, or compel Land Trust to consult or negotiate regarding the withholding or provision of such approve.

- 9.7 Binding Effect. This Easement creates a property right immediately vested in Land Trust that cannot be terminated or extinguished except as set out herein.

This Easement shall run with and burden the Protected Property in perpetuity. The terms of this Easement are binding and enforceable against the current Owner of the Protected Property, all successors in title to the Protected Property and all other persons entitled to possess or use the Protected Property.

If at any time Land Trust or other holder of this Easement becomes the owner of all or a portion of the fee interest in the Protected Property, this Easement shall not be deemed to merge with the underlying fee interest but shall remain in force and effect unless otherwise terminated or extinguished as set out herein.

- 9.8 Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer or termination of that party's interest in this Easement or the Protected Property, provided, however, that any liability for acts or omissions occurring prior to the transfer or termination will survive that transfer or termination.

- a. Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, Owner and Land Trust and their respective personal representatives, heirs, lessees, successors, and assigns and shall continue as a restrictive covenant and equitable servitude running in perpetuity with the Protected Property.

- 9.9 Recording. Land Trust will record this Easement in a timely manner in the official records for the county in which the Protected Property is located. Land Trust may re-

### Appendix 3: Conservation Easement

record this Easement or other documents necessary to protect its rights under this Easement or to assure the perpetual enforceability of this Easement.

9.10 Interpretation. This Easement shall be interpreted as follows:

- a. Controlling Law and Construction. This Easement shall be governed by the laws of the State of California and construed to resolve any ambiguities or questions of validity of specific provisions in favor of giving maximum effect to its Conservation Purposes and to the policies and purposes of California Civil Code sections 815 et seq. and other California and federal law. If any provision in this instrument is found to be ambiguous, an interpretation consistent with this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid. Owner and Land Trust and their counsel have reviewed and revised this Easement and agree that no rule of construction that ambiguities are to be resolved against drafting party shall be employed in the interpretation of this Easement.
- b. Severability. A determination that any provision or specific application of this Easement is invalid shall not affect the validity of the remaining provisions or any future application.
- c. Captions. Captions have been inserted in this document solely for convenience of reference and shall have no effect upon interpretation or construction.
- d. Future Economic Condition. A change in the potential economic value of any use that is prohibited by or inconsistent with this Easement, or a change in any current or future uses of neighboring properties, shall not constitute a change in conditions that makes it impossible or impractical to continue use of the Protected Property for its Conservation Purposes and shall not constitute grounds for terminating the Easement. Owner believes that any such changes will increase the benefit to the public of the continuation of this Easement. Both Owner and Land Trust intend that any changes shall not be deemed to be circumstances justifying termination or extinguishment of this Easement. In addition, inability to carry on any or all of the permitted uses, or the unprofitability of doing so, shall not impair the validity of this Easement or be considered grounds for its termination or extinguishment.

9.11 Additional Documents. Owner agrees to execute or provide any additional documents reasonably needed by Land Trust to carry out in perpetuity the provisions and intent of this Easement, including any documents needed to correct any error or mutual mistake, legal description or title matter or to comply with any law or regulation.

9.12 Entire Agreement. This document sets forth the entire agreement of the Owner and Land Trust with respect to this Easement and supersedes all prior discussions or understandings.

### Appendix 3: Conservation Easement

- 9.13 Signatures. This Easement may be completed with the signatures of the Owner and Land Trust to this Easement executed and notarized on separate pages which when attached to this document shall constitute one complete document.
- 9.14 Significance of Recitals and Terms. The Recitals to this Easement are integral and operative provisions of this Easement. In all matters of interpretation, whenever necessary to give effect to any clause of this Easement, the neuter or gender-specific pronouns include the masculine and feminine, the singular includes the plural, and the plural includes the singular.
- 9.15 Representation by Counsel. Owner retained and has been represented by \_\_\_\_\_ in the negotiation and preparation of this Easement. Land Trust has been represented by its attorney, Ann Taylor Schwing.
- 9.16 No Representation of Benefits. Owner represents and warrants that (i) Owner has not relied upon any information furnished by Land Trust as to the availability or effect of any benefit to Owner or the value of this Easement or the Protected Property; (ii) Owner has relied solely upon personal judgment and/or professional advice furnished by professionals engaged by Owner.
- 9.17 Authority to Sign. Each individual executing this Easement on behalf of Owner or Land Trust represents and warrants to the other Party that the execution and delivery of this Easement and all related documents have been duly authorized by the Party for which the individual is signing and that the individual has the legal capacity to execute and deliver this Easement and thereby to bind the Party for which the individual is signing.
- 9.18 Reasonableness Standard. Except when a provision expressly provides for a party's "sole discretion," Owner and Land Trust shall follow a reasonableness standard, shall use their best efforts to make any determinations that are necessary or are contemplated to be made by them (either separately or jointly) under this Easement in a timely manner, shall cooperate with one another, and shall take all other reasonable action suitable to these ends.
- 9.19 No Oral Approval. Owner understands that any oral approval or oral representation made by a Land Trust officer, employee or agent does not meet the requirements of this Easement, does not otherwise bind or commit Land Trust, and may not be relied on by Owner. Owner agrees that no oral approval or oral representation made by Land Trust's officers, employees or agents, or understood by Owner to have been made by Land Trust, its officers, employees or agents, shall be used by Owner to assert that Land Trust is, in any way, estopped or has made an election or has waived any provision of this Easement.

#### SIGNATURE BLOCKS

### Appendix 3: Conservation Easement

*The remainder of this page has been intentionally left blank.*

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ ) §§

On \_\_\_\_\_, \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public (Seal)

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ ) §§

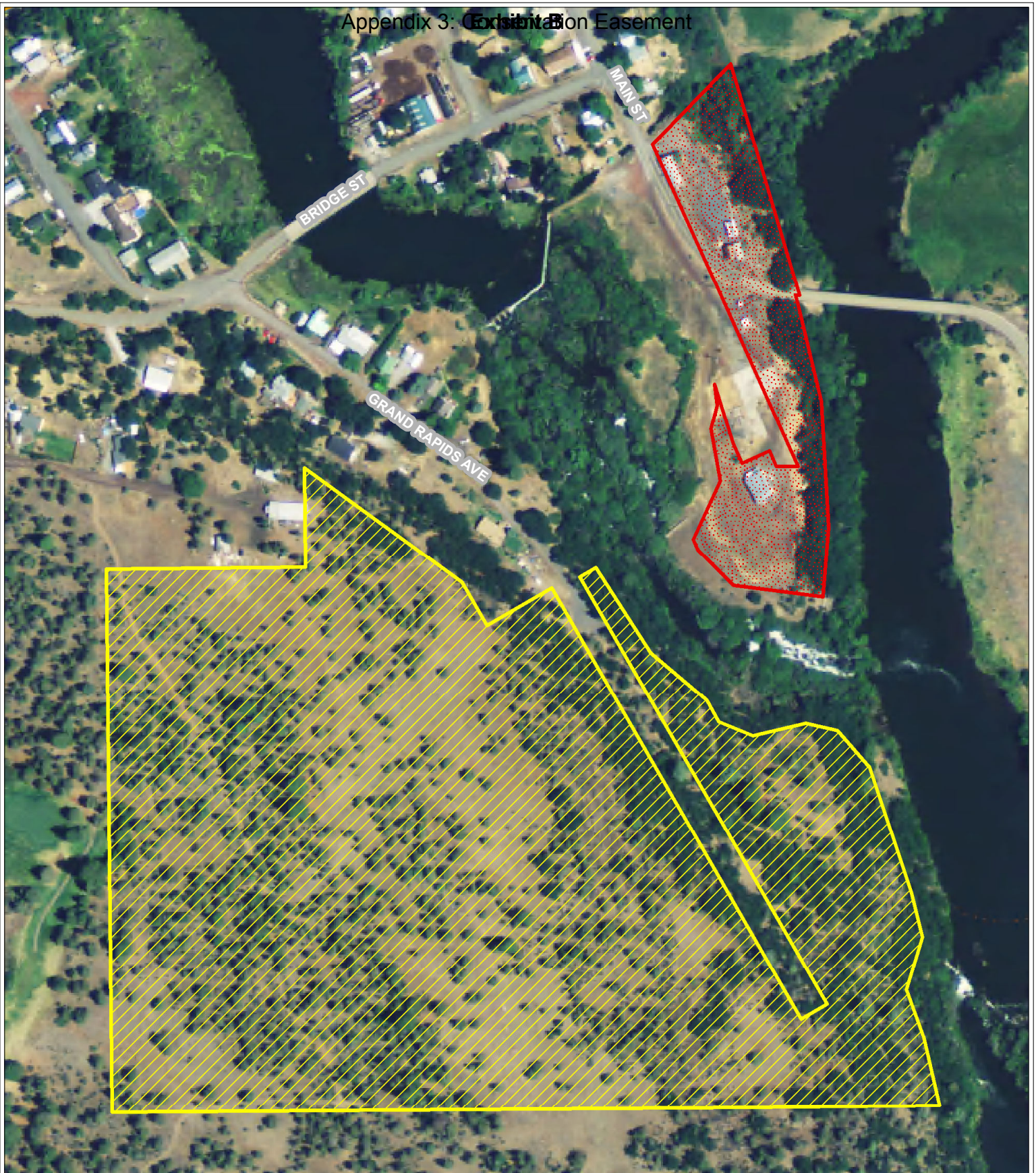
On \_\_\_\_\_, \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public (Seal)

**EXHIBIT A**  
**LEGAL DESCRIPTION OF THE PROPERTY**



SHASTA  
LAND TRUST



October 23, 2015



Property Map

- Active Park Area
- Passive Park Area



Fall River Mills (CSD) Final LCCP 69

**EXHIBIT C  
GRANT DEED**

**EXHIBIT D**  
**EXISTING THIRD PARTY USES**

- 1) An easement over said land to construct, reconstruct, maintain, and use a ditch for conveying water together with related facilities to be used in connection therewith and to enclose with a fence and incidental purposes, as granted to Knoch and Sons Cattle Ranch, Inc., a corporation, in deed recorded March 31, 1977, in book 1411 Page 162 and recorded January 20, 1978, in book 1490 Page 369 Shasta County Official Records. PGE # 2137-05-0362.

Affects: APN 18-540-21 with other property.

No representation is made as to the current ownership of said easement.

- 2) An easement over said land to construct, reconstruct, maintain and use a road structure and incidental purposes, as granted to Fall River Associates, a partnership, in deed recorded March 17, 1982, in book 1876 Page 677 Shasta County Official Records. PGE# 2137-05-0394

Affects: APN 18-550-03

No representation is made as to the current ownership of said easement.



**Conservation Easement Funding Agreement  
Fall River Mills Planning Unit (Fall River Valley Community Services District)**

**This Conservation Easement Funding Agreement** ("Agreement") is entered into as of the Effective Date (defined below) by and between the **Pacific Forest and Watershed Lands Stewardship Council**, a California nonprofit public benefit corporation (the "Stewardship Council") and **the Shasta Land Trust** a California nonprofit public benefit corporation ("Grantee") with reference to the following facts:

A. The Stewardship Council was created to oversee the "Land Conservation Commitment" described in (1) that certain Settlement Agreement among Pacific Gas and Electric Company ("PG&E"), PG&E Corporation, and the California Public Utilities Commission (the "Commission") as modified and approved by the Commission in its Opinion and Order of December 18, 2003 (Decision 03-12-035) (the "Settlement Agreement"); and (2) that certain Stipulation Resolving Issues Regarding the Land Conservation Commitment dated September 25, 2003 (the "Stipulation").

B. Pursuant to the Settlement and Stipulation, certain lands owned by PG&E at the time of the Settlement (the "PG&E Watershed Lands") are to be conserved for a broad range of beneficial public values, including the protection of 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. The Stewardship Council is charged with developing a Land Conservation Plan for the protection and enhancement of the PG&E Watershed Lands.

C. Grantee is a publicly-supported, tax exempt nonprofit organization, qualified under Section 501 (c)(3) of the Internal Revenue Code ("IRC"), whose primary purpose is to preserve, protect or enhance, land in its natural scenic, historical agricultural, forested or open space condition or use and conserve natural areas for aesthetic, scientific, charitable and educational purposes. Grantee is eligible to hold a conservation easement pursuant to California Civil Code Section 815.3.

D. In connection with the Land Conservation Commitment, Grantee has agreed to accept a perpetual conservation easement created pursuant to California Civil Code Section 815 *et seq.* (the "Conservation Easement") over a portion of the PG&E Watershed Lands that is being donated to Fall River Valley Community Services District consisting of approximately 39 acres of real property located in the County of Shasta, State of California, as more particularly described in ~~Exhibit A~~ attached hereto and incorporated herein by reference (the "Property").

E. Grantee has agreed to accept perpetual conservation easements over PG&E Watershed Lands that are subject to PG&E's Land Conservation Commitment in the Burney Gardens, Cow Creek, Fall River Mills, Hat Creek, Lake Britton, Pit River, and Tunnel Reservoir planning units ("the Watershed Properties").

F. In consideration of Grantee's agreement to accept the Conservation Easement and assume the duties and obligations of the easement holder, the Stewardship Council has agreed to provide funding to Grantee in the amounts and subject to the terms and conditions described below.



**NOW, THEREFORE,** the Stewardship Council and Grantee agree as follows:

1. Effective Date. This Agreement shall become effective upon the recording of the Conservation Easement in favor of Grantee in the Official Records of Shasta County (the "Effective Date"). It is understood and agreed that if for any reason whatsoever the recording of the Conservation Easement does not occur on or before June 30, 2018, this Agreement shall be of no further force or effect and the parties shall thereupon be released from any obligations under this Agreement.

2. Grant Amount and Payment Terms. Effective upon the Effective Date, the Stewardship Council grants **Ninety Six Thousand Three Hundred Dollars (\$96,300)** (the "Grant Funds") to Grantee. The Grant Funds shall be payable to Grantee within thirty (30) days of the Effective Date. Grantee will use the Grant Funds for the purposes described in this Agreement and for no other purpose without the prior written consent of the Stewardship Council. The Stewardship Council reserves the right to require the total or partial return of Grant Funds in the event Grantee fails to comply with the terms and conditions of this Agreement.

3. Grant Restrictions. The use of the Grant Funds shall be restricted as follows:

a. No less than Forty Eight Thousand One Hundred Fifty Dollars (\$48,150) of the Grant Funds shall be deposited into a non-wasting endowment restricted solely for the purpose of funding Grantee's costs for the stewardship and monitoring of conservation easements on the Watershed Properties (the "Endowment Monitoring and Stewardship Funds"). The types of allowable expenditures of these funds is described in Section 5 below.

b. Ten Thousand Dollars (\$10,000) of the Grant Funds shall be restricted to the legal defense and enforcement of conservation easements held by Grantee, including, but not limited to, the conservation easements established on the Watershed Properties (the "Defense and Enforcement Funds"). The types of allowable expenditures of these funds is described in Section 6 below.

c. The remainder of the Grant Funds shall be restricted for the purpose of funding Grantee's costs for the stewardship and monitoring of any conservation easements held by Grantee, including but not limited to the conservation easements on the Watershed Properties (the "General Monitoring and Stewardship Funds"). Grantee may use the General Monitoring and Stewardship Funds to monitor any of its conservation easements as long as Grantee meets its obligations as described in Section 5 below.

4. Grant Deposit Requirements.

a. Within thirty (30) days of receipt of funds, Grantee will provide the Stewardship Council with evidence of deposit of the Endowment Monitoring and Stewardship Funds into an account which shall be restricted solely for the purpose of



funding Grantee's costs for the stewardship and monitoring of conservation easements on the Watershed Properties and shall be treated as a non-wasting endowment.

b. Within thirty (30) days of receipt of funds, Grantee will provide the Stewardship Council with evidence of deposit of the General Monitoring and Stewardship Funds and the Defense and Enforcement Funds into an account which shall be restricted to the stewardship, monitoring, and legal defense or enforcement of the conservation easements held by the Grantee, including but not limited to the Conservation Easement on the Property. Notwithstanding the right of Grantee to deposit the Monitoring and Stewardship Funds and the Defense and Enforcement Funds into a single account, the use of each type of funds is restricted as provided in Section 3 above.

c. The requirement to provide evidence of deposit will be satisfied when Grantee submits to the Stewardship Council the form attached as Exhibit B.

5. Conservation Easement Monitoring. From and after the Effective Date, Grantee agrees to conduct regular monitoring of the Property to ensure compliance with the terms of the Conservation Easement. Grantee shall conduct on-site monitoring of the Property not less than annually to assess compliance with the terms and conditions of the Conservation Easement and note any material changes to the Property compared to the baseline documentation report and prior monitoring reports. Upon written request, the Stewardship Council or its designee shall be permitted to accompany the Grantee on its monitoring visits and to receive a copy of any monitoring report prepared by Grantee. Permissible uses of General Monitoring and Stewardship Funds and Endowment Monitoring and Stewardship Funds shall include, but not be limited to:

a. Regular on-site inspection and monitoring to ensure that the terms of Conservation Easement are being met;

b. Recordkeeping and preparation of reports, notices of violation, any written consent to be submitted to the fee title owner of the property which is subject to the easement, and other documentation related to the Conservation Easement and the Property;

c. Payments for staff, consultants and attorney time necessary to carry out Grantee's stewardship responsibilities with regard to its conservation easements;

d. Communications with the fee title owner of the property which is subject to the easement regarding the provisions of the Conservation Easement and planned or completed activities on the lands to be performed or allowed by the fee title owner or a licensee/lessee;

e. Responding to any inquiries or concerns raised by entities that have leases or licenses on the Property or other stakeholders who have an interest in ensuring the beneficial public values are protected.



6. Defense and Enforcement Funds. Grantee shall be permitted to use the Defense and Enforcement Funds for the following purposes:

- a. To make direct expenditures of attorneys' fees, costs and disbursements incurred in connection with proceedings to enforce and/or defend the provisions of the Conservation Easement against legal challenge, including any claims by third parties;
- b. To "pool" funds for legal expenses to enforce and/or defend against legal challenge conservation easements held by the Grantee, including without limitation the Conservation Easement on the Property;
- c. To pay premiums into a Conservation Defense Insurance Program offered through the Land Trust Alliance, or other nationally-recognized conservation organization of which Grantee is a member for the enforcement and defense of conservation easements held by member organizations, or to cover deductibles related to such insurance.

7. Grant Report. Grantee agrees to submit to the Stewardship Council and/or its designee the following grant Status Reports pursuant to this Agreement. The initial Status Report shall be submitted to the Stewardship Council by the fourth quarter of the 2018 calendar year and include data up to the date of the initial Status Report. The final Status Report shall be submitted to the Stewardship Council or its designee on or before December 31, 2023. The due dates of the initial and final Status Reports can be changed by the Stewardship Council or its designee with at least 60 days written notice to Grantee. The Stewardship Council or its designee shall notify Grantee in a timely manner of the form and content of each Status Report, which shall include, at a minimum:

- a. Copies of annual monitoring reports pertaining to the Conservation Easement for years selected by the Stewardship Council or its designee;
- b. A statement as to whether any violations of the Conservation Easement were observed during the reporting period, and the outcome of any action taken to correct such violation;
- c. A statement as to whether any amendments to the Conservation Easement were approved during the reporting period, with copies of any such amendments included in the Status Reports;
- d. A statement as to whether fee title of the property was conveyed, the date of such conveyance, and the identity of the transferee; and
- e. A report providing an accounting of how the Grant Funds have been invested or expended in furtherance of the purposes of this Agreement.

8. Records. Grantee will indicate the Grant Funds separately on its books of account, and maintain such records in accordance with generally accepted accounting



principles. Grantee shall additionally maintain written records including the baseline documentation report, the Deed of Conservation Easement, any amendments to the Conservation Easement, other transaction documents, and copies of monitoring reports, notices to the landowner, and other communications pursuant to the Conservation Easement in accordance with the practices generally accepted in the land trust community.

9. Inspection. The Stewardship Council or its designee shall have the right to inspect the books and records of Grantee and evaluate Grantee's use of Grant Funds, so long as (i) such inspection or evaluation occurs during regular business hours; (ii) such inspection or evaluation does not unreasonably interfere with Grantee's regular operations; and (iii) the Stewardship Council or its designee provides at least three (3) days prior notice of any such inspection or evaluation.

10. Assignment and Transfer of Funds. Grantee shall not assign its interest under the Conservation Easement except in accordance with the provisions of the Conservation Easement relating to permitted assignments. In the event that Grantee assigns its interest under the Conservation Easement to a successor conservation easement holder, Grantee shall ensure that the assignee has the resources to fulfill its obligations under the Conservation Easement. Assignee's receipt of any funds from Grantee shall be conditioned upon the assignee's agreement in writing to assume all of Grantee's obligations under this Agreement.

11. Publicity. The Stewardship Council may include information regarding this Agreement and Grantee in its periodic public reports, press releases, or other public communications.

12. Representations and Warranties. Grantee warrants and represents that it is a tax exempt organization under Section 501(c)(3) of the IRC, and is not a private foundation as defined in section 509(a) of the IRC or is an exempt operating foundation described in Section 4940(d)(2) of the IRC. Grantee further represents and warrants that it shall not use the Grant Funds to attempt to influence legislation or otherwise carry out lobbying activities within the meaning of Sections 501(h), 4911, 4945(d)(1) or 4945(e) of the IRC. No part of the Grant Funds may be used to attempt to influence the outcome of any specific public election, or to carry on, directly or indirectly, any voter registration drive. No part of the Grant Funds may be used for purposes other than charitable, scientific, literary, or educational purposes within the meaning of IRC Section 170(c)(2)(B).

Grantee does not knowingly employ individuals or contribute funds to organizations found on any terrorist-related list prepared by the U.S. Government, the United Nations, or the European Union, including the Department of Treasury's Office of Foreign Assets Control Specially Designated Nationals List, the Department of Justice's Terrorist Exclusion List, or the list attached to Executive Order 13224. Should any change occur with respect to the preceding sentence, Grantee will notify the Stewardship Council within 7 days of such change.

13. Indemnification. Grantee hereby agrees to indemnify, defend, and hold harmless the Stewardship Council, and the Stewardship Council's past, present and future officers, directors, and employees, from and against any and all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest,



penalties, and reasonable attorney fees and costs, that they may incur or suffer and that result from, or are related to, the receipt and use of the Grant Funds by Grantee.

14. Limit of Stewardship Council Obligations. The Stewardship Council's obligations under this Agreement shall under no circumstances exceed the Grant Funds amount set forth in Section 2 above.

15. Assignment. This Agreement may not be assigned by the Grantee in whole or in part except as provided in Section 10 above. The Stewardship Council may assign its rights and delegate its obligations under this Agreement to a third party at the Stewardship Council's sole discretion. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit and burden of the parties and their respective heirs, successors and assigns.

16. Amendment; Entire Agreement. This Agreement may not be amended or modified except by written instrument signed by both parties. This Agreement constitutes the entire understanding of the parties concerning the subject matter hereof, and supersedes any and all previous negotiations, agreements, or understandings, if any, regarding the matters contained herein.

17. Governing Law. This Agreement shall be governed by the laws of the State of California.

18. Counterparts. This Agreement may be executed in counterparts which together shall constitute a single agreement.

**Pacific Forest and Watershed Lands Stewardship Council,**  
a California Nonprofit Public Benefit Corporation

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Shasta Land Trust,**  
a California Nonprofit Public Benefit Corporation

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit A**

Property Description

(to be attached)

**EXHIBIT B TO CONSERVATION EASEMENT FUNDING AGREEMENT****Evidence of Grant Fund Deposit and Restriction of Use Certification**

|                      |                                      |
|----------------------|--------------------------------------|
| <b>Date:</b>         | <b>Planning Unit/Property Title:</b> |
| <b>Grantee Name:</b> | <b>Grantee Address:</b>              |

|  |                      |                          |  |
|--|----------------------|--------------------------|--|
| <b>*Date of Deposit of Grant Funds:</b>  |                      | <b>Amount Deposited:</b> |  |
| <b>Bank Name:</b>  | <b>Account Name:</b> | <b>Account #:</b>        |  |
| <b>Certification of Deposit of Grant Funds and Restricted Use of Monitoring of Conservation Easement Funds</b>   |                      |                          |  |
| I, hereby state that the above referenced information is true and accurate, and understand that the above information, if misrepresented, or incomplete, may be grounds for immediate repayment of grant funds. I also agree that account activity will be restricted to the permissible uses of General Monitoring and Stewardship Funds as set forth in Section 3c and 5 of the Grant Agreement. |                      |                          |  |
| <b>Name:</b>   |                      | <b>Title:</b>            |  |
| <b>Signature:</b>  |                      | <b>Date:</b>             |  |

|   |                      |                          |  |
|---|----------------------|--------------------------|--|
| <b>*Date of Deposit of Grant Funds:</b>   |                      | <b>Amount Deposited:</b> |  |
| <b>Bank Name:</b>   | <b>Account Name:</b> | <b>Account #:</b>        |  |
| <b>Certification of Deposit of Monitoring and Stewardship Endowment Funds in Non-Wasting Endowment</b>  |                      |                          |  |
| I, hereby state that the above referenced information is true and accurate, and understand that the above information, if misrepresented, or incomplete, may be grounds for immediate repayment of grant funds. I also agree that account activity will be restricted solely for the purpose of funding Grantee's costs for the stewardship and monitoring of conservation easements on the Watershed Properties and shall be treated as a non-wasting endowment as set forth in Section 3a of the Grant Agreement. |                      |                          |  |
| <b>Name:</b>  |                      | <b>Title:</b>            |  |
| <b>Signature:</b>   |                      | <b>Date:</b>             |  |

For third section, see page 2

**EXHIBIT A TO CONSERVATION EASEMENT FUNDING AGREEMENT – Page 2**

|  |  |                      |                          |                   |  |
|--|--|----------------------|--------------------------|-------------------|--|
| <b>*Date of Deposit of Grant Funds:</b>  |  |                      | <b>Amount Deposited:</b> |                   |  |
| <b>Bank Name:</b>  |  | <b>Account Name:</b> |                          | <b>Account #:</b> |  |
| <b>Certification of Deposit of Grant Funds and Restricted Use of Defense &amp; Enforcement Funds</b><br>I, hereby state that the above referenced information is true and accurate, and understand that the above information, if misrepresented, or incomplete, may be grounds for immediate repayment of grant funds. I also agree that account activity will be restricted to the permissible uses of the Defense and Enforcement Funds as set forth in Section 6 of the Grant Agreement. |  |                      |                          |                   |  |
| <b>Name:</b>   |  |                      | <b>Title:</b>            |                   |  |
| <b>Signature:</b>  |  |                      | <b>Date:</b>             |                   |  |

**Return to:**

Stewardship Council  
 155 Bovet Road, Suite 405  
 San Mateo, CA 94402  
**Phone:** (650) 372-9047  
**Fax:** (650) 372-9303

\*Please include a copy of the bank statement referencing the above deposit.



## **PROPERTY TAX NEUTRALITY METHODOLOGY**

### **INTRODUCTION**

The Settlement Agreement<sup>1</sup> and Stipulation<sup>2</sup> 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.

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 several potential vehicles to achieving this requirement. On March 30, 2011, the Stewardship Council adopted a set of guidelines which describe scenarios in which the Stewardship Council will make property tax payments to affected counties and further defined a set of overarching assumptions regarding property tax neutrality payments.

Table 1 in Appendix A lists the estimated acreage and estimated annual property taxes associated with PG&E watershed lands which have been recommended by the Stewardship Council Board of Directors for donation. The estimated total tax liability that would be subject to tax neutrality will depend upon the total acreage actually transferred, and the types of organizations receiving fee title to the lands. No PG&E watershed lands will be recommended for donation in counties that are not listed in Table 1.

### **PURPOSE OF PROPOSED METHODOLOGY**

The purpose of this methodology is to establish a standard payment process when lands are transferred to organizations that are exempt from paying property taxes. The following methodology will be applied to all counties which experience a loss in property tax revenues due to a recommended donation of fee title as part of the Stewardship Council’s Land Conservation Commitment.

<sup>1</sup> *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](http://www.stewardshipcouncil.org/documents/Settlement_Agreement.pdf)

<sup>2</sup> *Stipulation Resolving Issues Regarding the Land Conservation Commitment*, September 25, 2003:

[http://www.stewardshipcouncil.org/documents/Stipulation\\_Agreement.pdf](http://www.stewardshipcouncil.org/documents/Stipulation_Agreement.pdf)



## **DETERMINING TAX NEUTRALITY PAYMENT AMOUNT**

Following the Stewardship Council approval of a fee-title donation, the Stewardship Council will work with the affected county to calculate the payment amount for inclusion in the Stewardship Council's Land Conservation and Conveyance Plan (LCCP).

1. Using the legal description and/or survey of lands identified for transfer to an organization which is exempt from paying property taxes, the Stewardship Council and PG&E will prepare an estimate of the annual taxes on lands to be donated. If assessed values on the lands recommended for donation change prior to the transfer of land, the Stewardship Council will revise the payment calculation included in the proposed tax neutrality funding agreement prior to its execution by the parties.
2. The reduction in annual taxes caused by the donation of acres to organizations exempt from property tax will constitute the "Annual Base Value" for the funding calculation.
3. The county will select either the lump-sum, installment payment, or annual payment in perpetuity option (described below) for the selected fee-title donation and communicate their preference in writing to the Stewardship Council.
4. The Stewardship Council will provide a draft funding agreement for county review and approval using the Annual Base Value and payment option. The draft funding agreement is expected to include, among other items, the following acknowledgements by the county:
  - a. Payment by the Stewardship Council satisfies the tax neutrality requirement as specified in the Settlement and Stipulation for the subject fee-title donation.
  - b. The county has issued (or will not reasonably withhold) a Welfare Tax Exemption for the new landowner, if required.
  - c. The county will agree to distribute the lump-sum, installment payment, or annual payment to the applicable special districts as dictated in the relevant Tax Rate Area at the time of payment. In consideration for the additional administrative responsibility of the county to set up the process to allocate payments to special districts, the Stewardship Council will make a \$3,000 payment to the county for county's anticipated costs to perform such activities for the first fee title donation of lands in the county. Said payment will be made at the time the Stewardship Council makes its lump-sum tax neutrality payment or installment payments to county or sets aside funds for an endowment account to generate funds for annual tax neutrality payments to county. For subsequent fee title donations, if a county expects to incur more than \$3,000 in costs to perform such



activities, then it shall make a request to the Stewardship Council for increased funding no later than 60 days following the recording of the grant deed for each additional fee title donation or the execution of a tax neutrality funding agreement, whichever comes later. The Stewardship Council will review each funding request and provide the county with sufficient funds to cover all reasonable anticipated costs.

5. The Stewardship Council will fund the settlement amount according to the terms of the tax neutrality funding agreement as described in number 4 above no later than 60 days following the recording of the grant deed for the fee title donation or the execution of a tax neutrality funding agreement, whichever comes later.

### OPTIONS FOR FUNDING PROPERTY TAX NEUTRALITY PAYMENTS

The Stewardship Council is presenting three options for making tax neutrality payments: (1) a one-time lump-sum payment; (2) annual installment payments for a maximum number of five years totaling the lump-sum amount; or (3) funding of an independent trustee to continue annual payments in lieu of taxes in perpetuity.

#### ***Lump-sum payment***

Lump-sum payments in satisfaction of property tax neutrality would be calculated based upon the net present value of the Annual Base Value at the time that lands are removed from the property tax rolls. The lump-sum payment will be calculated using a discounted cash flows analysis for perpetual payment streams, otherwise known as a Capitalization Rate (Cap Rate).

The Cap Rate calculation requires an assumption of a long-term rate of return on comparable investments, and a long-term inflation rate. In order to develop a Cap Rate for a lump-sum payment, the Stewardship Council considered multiple long-term inputs, including long term equity and fixed income returns (Dow Jones Industrial Average, S&P 500, U.S. Treasury, CalPERS), weighted average borrowing costs for subject counties, and discount rate assumptions for pension and other post-employment benefits.

Based upon the analysis described above, **the Stewardship Council is offering counties a Cap Rate of 4.0%** to be used in the calculation of a lump-sum payment in satisfaction of property tax neutrality. The calculation for arriving at a lump-sum payment is as follows:

$$\text{Lump Sum Value} = \text{Annual Base Value} \div 4.0\%$$

The following table provides an example of the application of the Cap Rate to various Annual Base Values:

| Annual Base Value | \$500    | \$1,000  | \$5,000   | \$10,000  |
|-------------------|----------|----------|-----------|-----------|
| Lump Sum at 4.0%  | \$12,500 | \$25,000 | \$125,000 | \$250,000 |



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, subject to the distribution method described in section 4.c above. 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, including if desired, investment in a shared investment pool of the county's choosing.

### ***Installment Payments***

The Stewardship Council is willing to pay the amount calculated for the lump-sum payment in annual installment payments totaling the lump-sum amount for a maximum number of five years.

The Stewardship Council is in negotiations with a professional investment manager to act as investment manager and trustee for an endowment to support the management and monitoring of conservation covenants after the Stewardship Council's dissolution. The Stewardship Council is prepared to make this arrangement available to counties which prefer to receive an annual payment in lieu of property taxes on lands which are removed from the tax rolls.

Under this structure, the Stewardship Council will make a contribution to an endowment account which would be designed to generate enough income to compensate for the lost property tax revenues and pay for annual investment management and trustee fees. The contribution to the endowment account would be calculated based upon the Annual Base Value for lands approved for donations and the expected payout ratio of 4%.

Annual payments out of the endowment account will be calculated based upon a rolling 20 quarter average of the account's ending balance<sup>3</sup>. The practice of calculating payments based upon a rolling average (smoothing) has been shown to reduce the number of significant declines in annual distributions, and increase the total value of payments and invested assets<sup>4</sup>.

Annual payments to counties would be allocated based upon the applicable Tax Rate Area at the time of payment by the receiving county. The Stewardship Council envisions making these annual payments as unrestricted payments in lieu of property taxes, subject to the distribution method described in section 4.c above. 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.

<sup>3</sup> During the initial four years, the trustee will calculate payments based upon the number of available quarters (e.g. year 1 – rolling 4 quarters, year 2 – rolling 8 quarters, etc.)

<sup>4</sup> Smarter Giving for Private Foundations, AllianceBernstein, [https://www.alliancebernstein.com/Research-Publications/Black-Books/Foundations-and-Endowments/Stories/Foundations\\_BlackBook.htm](https://www.alliancebernstein.com/Research-Publications/Black-Books/Foundations-and-Endowments/Stories/Foundations_BlackBook.htm)



Participating counties would be enrolled in a common service model in the investment management account. All counties would share a common investment policy and investment management agreement. Funds will be invested in a commingled account, with the investment manager providing an individual accounting to each individual county.

### **Considerations of the Annual Payment Approach**

The viability of the annual payment option is subject to a level of participation by the counties which meets the minimum account size (estimated at \$1 million).

Under this approach annual payments may exceed the original Annual Base Value in some years, and be lower in others, as the payment amount is reliant upon the ending market value of the account.

The Stewardship Council's transaction process is expected to occur serially, over the span of several years. It is likely that the viability and pricing of the annual payment approach will not be known for the initial transactions. Therefore, the Stewardship Council may make the initial annual payments directly to counties until the minimum account size is reached.

Please see Appendix B for more details on the annual payment option.

## Appendix A

Estimated acreage and annual property taxes associated with PG&E watershed lands which have been recommended by the Stewardship Council Board of Directors for donation.

**Table 1**

| County    | Acres Recommended for Donation | Estimated Annual Taxes on Lands Recommended for Donation (\$) |
|-----------|--------------------------------|---|
| Alpine    | 410                            | \$2,941   |
| Amador    | 2,040                          | \$8,577   |
| Butte     | 1,263                          | \$12,329  |
| Calaveras | 60                             | \$48  |
| Fresno    | 267                            | \$2,228   |
| Lake      | 986                            | \$31,795  |
| Madera    | 220                            | \$12,296  |
| Mendocino | 847                            | \$16,778  |
| Nevada    | 1,867                          | \$13,103  |
| Placer    | 2,683                          | \$57,064  |
| Plumas    | 2,986                          | \$29,928  |
| Shasta    | 23,591                         | \$81,872  |
| Tuolumne  | 868                            | \$379   |
| Yuba      | 41                             | \$530   |



## Appendix B Annual Payment Details

### TRUSTEE SELECTION

The Stewardship Council is performing due diligence for the selection of an investment manager and trustee to administer the trust account for annual payments to counties. Selection will be based upon many factors, including (but not limited to): organization history and reputation, investment management experience, fee structure, and administrative capabilities. Additional information on the selection process can be provided upon request.

#### **Trustee's Responsibilities:**

Upon the Stewardship Council's funding of the trust account, the trustee would assume all responsibilities for making annual payments to counties in lieu of property taxes, including:

##### Trust administration

- Interpret the trust document.
- Distribute trust assets according to the trust document.
- Perform principal and income accounting.
- Prepare and file tax returns.
- Address specific beneficiary issues, reporting, etc.

##### Investment management

- Invest the trust portfolio assets objectively for the benefit of all interested parties.
- Manage portfolio assets in a tax-efficient and tax-effective manner.
- Review investment performance to ensure the portfolio is meeting the established goals and objectives.

### THE ANNUAL PAYMENT STRUCTURE

Using the inputs described in the term sheet, the Stewardship Council will make a contribution to the trust account on behalf of the participating county. The following example illustrates the funding and payout process.

#### **EXAMPLE: Calculation of Contribution to Trust Account**

|                           |                                 |
|---------------------------|---------------------------------|
| Annual Base Value:        | \$5,000 per year                |
| Annual Payout Percentage: | 4.00%                           |
| Contribution Calculation: | $\$5,000 \div 0.04 = \$125,000$ |



The actual annual payout is dependent upon the following factors:

**Annual Rate of Return:** The annual rate of return will depend upon investment selections and market and economic performance. While past results are not an accurate predictor of future results, the annual return of the S&P 500 has averaged approximately 9%-10% since 1925<sup>1</sup>.

**Estimated Annual Fees:** Annual investment management and trust administration fees will be deducted from the account and are expected to be approximately 1% - 2%, depending upon the selected investment manager and trustee.

As envisioned, the trustee will make annual payments based upon a rolling 20 quarter average of the account balance<sup>2</sup>. The practice of calculating payments based upon a rolling average (smoothing) has been shown to reduce the number of significant declines in annual distributions, and increase the total value of payments and invested assets<sup>3</sup>. However, this does not guarantee against the possibility of losses in investment principal resulting in payments in some years being less than the county would have otherwise received from property taxes.

The following examples illustrate the payment methodology in two theoretical scenarios. Scenario A shows anticipated annual payments to a county with a stable rate of return. While it is unrealistic to expect no volatility in investment returns, Scenario A shows that the growth in annual payments should keep pace with, or exceed annual inflation, when invested in a balanced portfolio<sup>4</sup>.

Scenario B shows actual market returns for the S&P 500 index from 1980 to 2010. While historical returns do not predict future performance, the time period in Scenario B provides a more realistic assumption of variability in stock market returns. Please note that the proposed investment portfolio would not include a 100% allocation to the S&P 500 or to equities. A model portfolio would include diversification among equities (small cap, large cap, international) and fixed income investments. This diversification would likely reduce the estimated annual return and reduce volatility.

Please note that both of the scenarios are provided for illustrative purposes only and do not constitute a prediction of future performance on behalf of the Stewardship Council or the prospective investment manager.

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<sup>1</sup> Based upon Historical Average Return of the S&P 500 index 1925-2010.

[http://apps.finra.org/investor\\_information/smart/401k/401104.asp](http://apps.finra.org/investor_information/smart/401k/401104.asp)

Past performance does not guarantee future results.

<sup>2</sup> During the initial four years, the trustee will calculate payments based upon the number of available quarters (e.g. year 1 – rolling 4 quarters, year 2 – rolling 8 quarters, etc.).

<sup>3</sup> Smarter Giving for Private Foundations, AllianceBernstein, [https://www.alliancebernstein.com/Research-Publications/Black-Books/Foundations-and-Endowments/Stories/Foundations\\_BlackBook.htm](https://www.alliancebernstein.com/Research-Publications/Black-Books/Foundations-and-Endowments/Stories/Foundations_BlackBook.htm)

<sup>4</sup> Bureau of Labor Statistics, CPI Rate: Jan 1913 to Nov 2011 [http://www.bls.gov/data/inflation\\_calculator.htm](http://www.bls.gov/data/inflation_calculator.htm)

**Scenario A: \$125,000 earning a stable return<sup>5</sup>**

| Year | Beginning Balance | Annual Return % | Annual Return \$ | Annual Distribution (4%) | Fees -1% | Ending Balance |
|------|-------------------|-----------------|------------------|--------------------------|----------|----------------|
| 0    | 125,000           | 9.00%           | 11,250           | -                        | (1,250)  | 135,000        |
| 1    | 135,000           | 9.00%           | 12,150           | (5,400)                  | (1,350)  | 140,400        |
| 2    | 140,400           | 9.00%           | 12,636           | (5,508)                  | (1,404)  | 146,124        |
| 3    | 146,124           | 9.00%           | 13,151           | (5,620)                  | (1,461)  | 152,194        |
| 4    | 152,194           | 9.00%           | 13,697           | (5,737)                  | (1,522)  | 158,632        |
| 5    | 158,632           | 9.00%           | 14,277           | (5,859)                  | (1,586)  | 165,464        |
| 6    | 165,464           | 9.00%           | 14,892           | (6,103)                  | (1,655)  | 172,598        |
| 7    | 172,598           | 9.00%           | 15,534           | (6,360)                  | (1,726)  | 180,046        |
| 8    | 180,046           | 9.00%           | 16,204           | (6,631)                  | (1,800)  | 187,818        |
| 9    | 187,818           | 9.00%           | 16,904           | (6,916)                  | (1,878)  | 195,927        |
| 10   | 195,927           | 9.00%           | 17,633           | (7,215)                  | (1,959)  | 204,387        |
| 11   | 204,387           | 9.00%           | 18,395           | (7,526)                  | (2,044)  | 213,211        |
| 12   | 213,211           | 9.00%           | 19,189           | (7,851)                  | (2,132)  | 222,417        |
| 13   | 222,417           | 9.00%           | 20,018           | (8,190)                  | (2,224)  | 232,020        |
| 14   | 232,020           | 9.00%           | 20,882           | (8,544)                  | (2,320)  | 242,038        |
| 15   | 242,038           | 9.00%           | 21,783           | (8,913)                  | (2,420)  | 252,489        |
| 16   | 252,489           | 9.00%           | 22,724           | (9,297)                  | (2,525)  | 263,390        |
| 17   | 263,390           | 9.00%           | 23,705           | (9,699)                  | (2,634)  | 274,763        |
| 18   | 274,763           | 9.00%           | 24,729           | (10,118)                 | (2,748)  | 286,626        |
| 19   | 286,626           | 9.00%           | 25,796           | (10,554)                 | (2,866)  | 299,002        |
| 20   | 299,002           | 9.00%           | 26,910           | (11,010)                 | (2,990)  | 311,912        |
| 21   | 311,912           | 9.00%           | 28,072           | (11,486)                 | (3,119)  | 325,379        |
| 22   | 325,379           | 9.00%           | 29,284           | (11,981)                 | (3,254)  | 339,428        |
| 23   | 339,428           | 9.00%           | 30,549           | (12,499)                 | (3,394)  | 354,084        |
| 24   | 354,084           | 9.00%           | 31,868           | (13,038)                 | (3,541)  | 369,372        |
| 25   | 369,372           | 9.00%           | 33,243           | (13,601)                 | (3,694)  | 385,320        |
| 26   | 385,320           | 9.00%           | 34,679           | (14,189)                 | (3,853)  | 401,957        |
| 27   | 401,957           | 9.00%           | 36,176           | (14,801)                 | (4,020)  | 419,313        |
| 28   | 419,313           | 9.00%           | 37,738           | (15,440)                 | (4,193)  | 437,417        |
| 29   | 437,417           | 9.00%           | 39,368           | (16,107)                 | (4,374)  | 456,304        |
| 30   | 456,304           | 9.00%           | 41,067           | (16,802)                 | (4,563)  | 476,005        |

<sup>5</sup> Annual return based upon historical performance of the S&P 500 index 1925-2010. These figures are provided for illustrative purposes only and do not constitute a prediction of future performance on behalf of the Stewardship Council or the prospective investment manager.

**Scenario B: \$125,000 at historical S&P 500 returns<sup>6</sup>**

| <b>Year</b>                | <b>Beginning Balance</b> | <b>Annual Return %</b> | <b>Annual Return \$</b> | <b>Annual Distribution (4%)</b> | <b>Fees (1%)</b> | <b>Ending Balance</b> |
|----------------------------|--------------------------|------------------------|-------------------------|---------------------------------|------------------|-----------------------|
| 1980                       | 125,000                  | 25.8%                  | 32,213                  | 0                               | (1,250)          | 155,963               |
| 1981                       | 125,000                  | -9.7%                  | (12,163)                | (6,239)                         | (1,250)          | 105,349               |
| 1982                       | 105,349                  | 14.8%                  | 15,550                  | (4,214)                         | (1,053)          | 115,631               |
| 1983                       | 115,631                  | 17.3%                  | 19,969                  | (4,420)                         | (1,156)          | 130,025               |
| 1984                       | 130,025                  | 1.4%                   | 1,820                   | (4,680)                         | (1,300)          | 125,865               |
| 1985                       | 125,865                  | 26.3%                  | 33,140                  | (4,769)                         | (1,259)          | 152,977               |
| 1986                       | 152,977                  | 14.6%                  | 22,365                  | (5,039)                         | (1,530)          | 168,774               |
| 1987                       | 168,774                  | 2.0%                   | 3,426                   | (5,546)                         | (1,688)          | 164,966               |
| 1988                       | 164,966                  | 16.6%                  | 27,401                  | (5,941)                         | (1,650)          | 184,777               |
| 1989                       | 184,777                  | 31.7%                  | 58,556                  | (6,379)                         | (1,848)          | 235,106               |
| 1990                       | 235,106                  | -3.1%                  | (7,288)                 | (7,253)                         | (2,351)          | 218,214               |
| 1991                       | 218,214                  | 30.5%                  | 66,490                  | (7,775)                         | (2,182)          | 274,747               |
| 1992                       | 274,747                  | 7.6%                   | 20,936                  | (8,622)                         | (2,747)          | 284,313               |
| 1993                       | 284,313                  | 10.1%                  | 28,659                  | (9,577)                         | (2,843)          | 300,551               |
| 1994                       | 300,551                  | 1.3%                   | 3,967                   | (10,503)                        | (3,006)          | 291,009               |
| 1995                       | 291,009                  | 37.6%                  | 109,361                 | (10,951)                        | (2,910)          | 386,510               |
| 1996                       | 386,510                  | 23.0%                  | 88,743                  | (12,297)                        | (3,865)          | 459,090               |
| 1997                       | 459,090                  | 33.4%                  | 153,152                 | (13,772)                        | (4,591)          | 593,880               |
| 1998                       | 593,880                  | 28.6%                  | 169,731                 | (16,248)                        | (5,939)          | 741,424               |
| 1999                       | 741,424                  | 21.0%                  | 155,996                 | (19,775)                        | (7,414)          | 870,230               |
| 2000                       | 870,230                  | -9.1%                  | (79,191)                | (24,409)                        | (8,702)          | 757,927               |
| 2001                       | 757,927                  | -11.9%                 | (90,118)                | (27,380)                        | (7,579)          | 632,850               |
| 2002                       | 632,850                  | -22.1%                 | (139,860)               | (28,770)                        | (6,329)          | 457,891               |
| 2003                       | 457,891                  | 28.7%                  | 131,369                 | (27,683)                        | (4,579)          | 556,999               |
| 2004                       | 556,999                  | 10.9%                  | 60,601                  | (26,207)                        | (5,570)          | 585,823               |
| 2005                       | 585,823                  | 4.9%                   | 28,764                  | (23,932)                        | (5,858)          | 584,797               |
| 2006                       | 584,797                  | 15.8%                  | 92,339                  | (22,547)                        | (5,848)          | 648,741               |
| 2007                       | 648,741                  | 5.5%                   | 35,616                  | (22,674)                        | (6,487)          | 655,196               |
| 2008                       | 655,196                  | -37.0%                 | (242,423)               | (24,252)                        | (6,552)          | 381,969               |
| 2009                       | 381,969                  | 26.5%                  | 101,069                 | (22,852)                        | (3,820)          | 456,366               |
| 2010                       | 456,366                  | 15.1%                  | 68,729                  | (21,817)                        | (4,564)          | 498,715               |
| <b>Annualized Return :</b> |                          | 9.6%                   | (1980-2010)             |                                 |                  |                       |

<sup>6</sup> Annual return based upon historical performance of the S&P 500 index 1980-2010. These figures are provided for illustrative purposes only and do not constitute a prediction of future performance on behalf of the Stewardship Council or the prospective investment manager.

**APPENDIX E**  
**LAND CONSERVATION COMMITMENT**

**STATEMENT OF PURPOSE**

PG&E shall ensure that the Watershed Lands it owns and Carizzo Plains are conserved for a broad range of beneficial public values, including the protection of 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. PG&E will protect these beneficial public values associated with the Watershed Lands and Carizzo Plains from uses that would conflict with their conservation. PG&E recognizes that such lands are important to maintaining the quality of life of local communities and all the people of California in many ways, and it is PG&E's intention to protect and preserve the beneficial public values of these lands under the terms of any agreements concerning their future ownership or management.

PG&E Environmental Enhancement Corporation will develop a plan for protection of these lands for the benefit of the citizens of California. Protecting such lands will be accomplished through either (1) PG&E's donation of conservation easements to one or more public agencies or qualified conservation organizations consistent with these objectives, or (2) PG&E's donation of lands in fee to one or more public entities or qualified conservation organizations, whose ownership would be consistent with these conservation objectives.

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**COMMITMENTS**

1. PG&E Shall Place Permanent Conservation Easements on or Donate Watershed Lands: The Watershed Lands and Carizzo Plains shall (1) be subject to permanent conservation easements restricting development of the lands so as to protect and preserve their beneficial public values, and/or (2) be donated in fee simple to one or more public entities or qualified non-profit conservation organizations, whose ownership will ensure the protection of these beneficial public values. PG&E will not be expected to make fee simple donations of Watershed Lands that contain PG&E's or a joint licensee's hydroelectric project features. 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.

The conservation easements shall provide for the preservation of land areas for the protection of 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 and, shall prevent any other uses that will significantly impair or interfere with those values. Conservation easements on the Watershed Lands will include an express reservation of a right for continued operation and maintenance of hydroelectric facilities and associated water delivery facilities, including project replacements and improvements required to meet existing and

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future water delivery requirements for power generation and consumptive water use by existing users, compliance with any FERC license, FERC license renewal or other regulatory requirements. In addition, easements will honor existing agreements for economic uses, including consumptive water deliveries. The conservation easements shall be donated to and managed by one or more non-profit conservation trustees, qualified conservation organizations or public agencies with the experience and expertise to fully and strictly implement the conservation easements.

2. Process For Development of the Conservation Easements and Land Donation Plan: PG&E will work with PG&E Environmental Enhancement Corporation and the Commission in the development and implementation of the conservation easements and land donation plan. PG&E Environmental Enhancement Corporation will recommend to PG&E (1) conservation objectives for the properties, including identification of conservation values, (2) criteria for ultimate disposition of the properties, (3) conservation easements guidelines, and (4) land disposition plans.
3. Reporting Responsibilities: PG&E Environmental Enhancement Corporation will prepare a report to the Commission within 18 months of the Effective Date describing the status of the conservation easement and land disposition plan. PG&E Environmental Enhancement Corporation will make the report available to the public upon request. Every two years following the first report, PG&E Environmental Enhancement Corporation will prepare a report to the Commission on the implementation of the conservation easement and land disposition plan.