

FEE TITLE DONEE RECOMMENDATION

CAL FIRE Bear River Planning Unit

EXECUTIVE SUMMARY

The Stewardship Council was created to oversee Pacific Gas and Electric's (PG&E) Land Conservation Commitment, as set forth in the Settlement and Stipulation,¹ to protect over 140,000 acres of land and to preserve and enhance, on an overall basis, the following six beneficial public values (BPVs): protection of the natural habitat of fish, wildlife, and plants; preservation of open space; outdoor recreation by the general public; sustainable forestry²; agricultural uses; and historic values. The Stewardship Council is responsible for developing a land conservation plan and recommending qualified organizations to become involved in the future stewardship of these lands.

The Bear River planning unit, located in Nevada and Placer Counties, consists of 44 parcels encompassing approximately 6,763 acres of which 5,113 acres were identified by PG&E as lands outside of Federal Energy Regulatory Commission (FERC) project boundaries and not necessary for its current and future utility operations and were preliminarily made available for fee title donation. However, based on a more recent evaluation, PG&E determined that the number of acres currently available for donation is 1,581.

The Stewardship Council received Land Stewardship Proposals (LSPs) in 2011 from the US Forest Service – Tahoe National Forest, California Department of Forestry and Fire Protection (CAL FIRE), T'si-Akim Maidu Tribe, University of California – Center for Forestry, and Bear Yuba Land Trust. This donation area was previously recommended to the University of California - Center for Forestry at the September 17, 2015 board meeting, but the University withdrew interest in the donation in a letter dated September 14, 2018.

Based on review of the LSPs, follow-up discussions with the interested organizations, and site visits, Stewardship Council staff has developed the following fee title donation recommendation:

CAL FIRE to become the prospective recipient of fee title to approximately 1,581 acres at the Bear River planning unit (parcels 836, portions of 837 and 838, portions of 845-48, 851, 854, portions of 855 and 857).

¹ California Public Utilities Commission Decision 03-12-035, December 18, 2003 (the "Settlement") and the Stipulation Resolving Issues Regarding the Land Conservation Commitment dated September 25, 2003 (the "Stipulation").

² The Stewardship Council has adopted the following definition of "Sustainable Forestry": The practice of managing dynamic forest ecosystems to provide ecological, economic, social, and cultural benefits for present and future generations.

If this recommendation is endorsed by the Stewardship Council Board (Board), Stewardship Council staff would work with the prospective donee on the development of a management and funding agreement. In addition, PG&E, CALFIRE, and the recommended conservation easement holder organization(s) would negotiate the conservation easements that would be established for these watershed lands. Following Stewardship Council review of the proposed conservation easements, the conservation easements would be incorporated into a Land Conservation and Conveyance Plan (LCCP). The draft LCCP will be made available for public review and comment before it is reviewed and approved by the Watershed Planning Committee and the Board. Adoption of the LCCP by the Board would be the final step in the Stewardship Council's process.

I. INTRODUCTION AND BACKGROUND

a. Planning Unit Description

The Bear River planning unit is located in Nevada and Placer counties, approximately 20 miles north of the city of Auburn. Surrounded primarily by the Bureau of Land Management (BLM) and U.S. Forest Service (USFS) lands, this planning unit ranges in elevation from 2,400 to 5,200 feet. Planning unit lands parallel Interstate 80 and cross meadowland, densely forested canyons, and landscape that has been transformed by hydraulic gold mining. This planning unit is associated with the Drum-Spaulding Federal Energy Regulatory Commission (FERC) Project No. 2310 and contains several hydropower facilities, including six powerhouses and associated infrastructure such as canals and flumes.

The Bear River planning unit, located in Nevada and Placer counties, consists of 44 legal parcels, comprising a total of approximately 6,763 acres. of which 5,113 acres were identified by PG&E as lands outside of Federal Energy Regulatory Commission (FERC) project boundaries and not necessary for its current and future utility operations and were preliminarily made available for fee title donation. However, based on a more recent evaluation, PG&E determined that the actual number of acres that are currently available for donation is 1,581 acres.

PG&E currently manages four leases or licenses, all or in part on lands available for donation within the Bear River planning unit. Land is leased to Nevada Irrigation District for an employee home site on parcel 838 and there are three telecommunication leases on Parcel 846. Consistent with the PG&E Land Conservation Commitment, the conservation easements must honor existing agreements for economic; therefore, the agreements that encumber lands recommended for fee title donation will be assigned to the fee title donee at closing.

b. Donee Evaluation Process

The Stewardship Council received statements of qualifications (SOQs) from the following nine organizations interested in acquiring fee title to lands available for donation within this planning unit.

- Bureau of Land Management

- CAL FIRE
- Cherokees of California
- Enterprise Rancheria
- Nevada County Land Trust
- Placer County Water Agency
- Placer Land Trust
- San Joaquin County Office of Education
- T'si Akim Maidu
- United States Forest Service – Tahoe National Forest
- University of California – Center for Forestry

Of these organizations, the following five organizations submitted LSPs for the Bear River planning unit:

- University of California - Center for Forestry
- CAL FIRE
- Bear Yuba Land Trust
- T'si-Akim Maidu Tribe
- USFS – Tahoe National Forest

In evaluating each of the LSPs, the following factors were considered:

- An evaluation of the potential donees' programmatic, financial, and legal capacity to maintain the property interest so as to preserve and/or enhance the BPVs of the planning unit
- Anticipated funding needs of the potential donees;
- The management objectives for the Bear River planning unit as set forth in Volume II of the Land Conservation Plan;
- Public comments received regarding the desired qualifications of potential donees and the future stewardship of the planning unit;
- The requirements of the Settlement and Stipulation; and,
- Other relevant policies, procedures, and goals adopted by the Stewardship Council.

II. EVALUATION

CAL FIRE is being recommended to receive a donation of fee title to lands within the planning unit as follows:

CAL FIRE to become the prospective recipient of fee title to approximately 1,581 acres at the Bear River planning unit (parcels 836, portions of 837 and 838, portions of 845-48, 851, 854, portions of 855 and 857)

Staff's recommendation is based on a determination that CAL FIRE appears to have sufficient financial and organizational capacity to hold and maintain fee title interests on these lands, and that the addition of these lands to the Demonstration State Forest system would result in the

preservation and/or enhancement of the BPVs. Staff's evaluation of CAL FIRE and its LSP is further described below.

A. Donee Organizational Capacity

CAL FIRE is a major resource management, protection, and emergency response department within the California Natural Resources Agency. CAL FIRE's mission is to serve and safeguard the people and protect the property and resources of California through its offices of Fire Protection, Resources Management, and State Fire Marshal. CAL FIRE has a wide breadth and depth of expertise in land management, archaeology, forestry, and other natural resource sciences, fire protection, law enforcement and recreation. With 4,700 permanent and 3,100 seasonal employees, including over 100 Registered Professional Foresters, CAL FIRE is responsible for protecting over 31 million acres of California's privately-owned wildlands, providing emergency services within 35 of California's 58 counties, and managing the Demonstration State Forest system.

CAL FIRE manages a network of eight Demonstration State Forests across California that encompasses a total of 71,000 acres. The eight Demonstration State Forests are managed for sustainable forestry, applied research and demonstration projects on forest management, public recreation, education, fish and wildlife habitat, and watershed protection. The lands in this planning unit of interest to CAL FIRE would expand and complement the network of existing Demonstration State Forests across the State of California. The availability of multiple Demonstration State Forests along diverse spatial and elevation gradients in the Sierra Nevada and elsewhere in the State strengthens the value of the Demonstration State Forests for these purposes. To date CAL FIRE has been recommended to receive approximately 12,500 acres, by the Stewardship Council Board, at different geographic locations within the watershed lands.

At each of the Demonstration State Forests, CAL FIRE works in cooperation with a variety of entities to implement research, fuels management, and fire protection activities. CAL FIRE is a member of the Sierra-Cascade Intensive Forest Management Research Cooperative, maintains a close working relationship with the USDA Forest Service Pacific Southwest Research Station in Redding, and hosts several of their study installations. CAL FIRE maintains a close working relationship with the Department of Fish and Wildlife and cooperates on joint wildlife studies.

CAL FIRE is working to facilitate and promote Native American tribal relations by implementing an Action Plan. The Action Plan includes the following elements that CAL FIRE is reporting progress on:

1. Reconstituting the Native American Advisory Council (NAAC) (first meeting was in January of 2018)
2. Reviewing and updating the CAL FIRE Native American Tribal Communities Relations Policy (pending capacity of the NAAC)
3. Providing Training on the Native American Tribal Communities Relations Policy (upon completion of step 2)
4. Communicating with Tribes having Ancestral Lands related to the CAL FIRE donations (complete and in process)

5. Consider integration of Native American advisement into executive decisions (pending capacity of the NAAC)
6. Establish partnerships with Tribes similar to those with BLM, USFS, PG&E etc. (task for NAAC to pursue)

CAL FIRE has a wide range of existing research partners to collaborate with on the planning unit. These organizations include: the University of California, Humboldt State University, Cal Poly San Luis Obispo, California Department of Fish and Wildlife, California Energy Commission, US Forest Service, US Department of Energy, NOAA/Scripps, The Nature Conservancy, and others.

CAL FIRE collaborates with archaeology departments and programs at state universities to assist in protecting historic and prehistoric archaeological resources. The universities conduct surveys and California Environmental Quality Act (CEQA) analysis to protect archaeological resources on CAL FIRE properties and facilities (e.g., Demonstration State Forests, fire stations, conservation camps, and Unit headquarters) and on private or state lands where CAL FIRE implements its Vegetation Management Program and California Forest Improvement Program projects. This mutually beneficial collaboration has existed for more than 20 years, providing training opportunities for the universities and their students, while offering low-cost archaeological and environmental review services to CAL FIRE.

B. Donee Financial Capacity

Based on a review of CAL FIRE's revenue and expenses over the past several years, CAL FIRE appears to have the financial capacity to manage the lands being recommended for donation. The Demonstration State Forest system is self-supporting and has the capacity to protect current year income from reverting to the general fund. It also benefits from CAL FIRE's large infrastructure when additional resources are needed. The system benefits from being managed as a portfolio, because expenses on one property may be funded through revenues generated from other properties within the program when needed.

C. Management Objectives

Volume II of the LCP established certain management objectives for the planning unit (see Volume II Planning Unit Report with attachments). As described below, CAL FIRE is seeking fee title to lands within the planning unit to achieve a number of proposed management activities, which are consistent with the established management objectives.

CAL FIRE is seeking a fee title donation in the planning unit to establish a new Demonstration State Forest. This Demonstration State Forest would be incorporated into the existing Demonstration State Forest system which supports monitoring, adaptive management, and research on best forest management practices. The management of the lands donated to CAL FIRE and incorporated into the Demonstration State Forest system would be subject to oversight by the California Board of Forestry and Fire Protection. This oversight would include review and approval of a management plan to guide the management of the lands, through a public process that allows for incorporating stakeholder input.

Development of a Demonstration State Forest at the planning unit would achieve several of the recommended potential measures identified under the sustainable forestry objective for the planning unit and would align with the overall management objectives identified under the sustainable forestry BPV. The planning unit provides a representative site for monitoring, adaptive management, research, and demonstration on best management practices to support privately owned forestry enterprises that are both ecologically and financially sustainable.

Additionally, Demonstration State Forests are managed for a variety of recreation and habitat management objectives consistent with the BPVs. CAL FIRE proposes to undertake the following objectives and activities on lands conveyed to it in the planning unit:

- Establish a Demonstration State Forest that would encompass all the donated lands within the planning unit with a part-time forest manager and other staff as needed.
- Implement a sustainable forestry research program focused on demonstrating best management practices for forest health and resilience, carbon sequestration and watershed protection. An important part of researching sustainable forestry at the planning unit would be to implement and demonstrate forest management practices that maintain forest cover, protect soils, and reduce fuels and wildfire hazard.
- Develop a comprehensive, multi-resource management and sustained yield plan. The management plan would address biological resources, recreation, and cultural values.
- Seek public input on the development of the management plan through requests to the public for comments, public meetings, The Native American Advisory Council, as well as via the Board of Forestry and Fire Protection plan review and approval process and California Environmental Quality Act.
- Promote opportunities to study, mitigate, and adapt to climate change through management, research, and demonstration.
- Implement an ecosystem monitoring and adaptive management program that includes a forest-wide, multi-resource inventory and monitoring system.
- Implement habitat protection and restoration in the context of an actively managed forest. Activities would be aimed at developing a robust forest ecosystem with a wide range of wildlife habitat features, providing for habitat resilience to wildfire, and implementing habitat restoration projects.
- Implement educational and recreational activities such as a rustic campground, public tours and hikes, displays, self-guided tours and/or science camps similar to activities implemented on other Demonstration State Forests. Activities would demonstrate best practices for forest management.
- Fire protection and fuels management in fire prone areas is an important component of sustainable forestry and of Demonstration State Forest management plans. CAL FIRE is engaged in many fuels management and fire hazard reduction projects in the Bear River area, with local, State and federal partners. CAL FIRE would review local, State and federal fire planning and fuels treatment efforts in the area in an effort to streamline and increase efficiency.

- Implement a program to protect cultural and historic resources. CAL FIRE has a department-wide cultural resources management plan that details measures for protection of cultural resources, which applies to all the Demonstration State Forests. Lands in this planning unit, if donated to CAL FIRE, would also be covered by this management plan. The Demonstration State Forests and the department's archaeology staff have extensive experience with protecting cultural resources, accommodating tribal use, and providing educational opportunities where appropriate. Furthermore, CAL FIRE is implementing the Native American Tribal Relations Action Plan, which will engage in cultural and historic resource protection.

D. Funding and Financial Costs

Transaction Costs

CAL FIRE is not requesting transaction costs from the Stewardship Council at this time. The Stewardship Council will cover the cost of the boundary survey.

Land Ownership and Management Activities and Enhancements to Beneficial Public Values

CAL FIRE anticipates that existing resources within the agency would support start-up costs as well as baseline and enhanced management costs within the first year of ownership. These resources would include existing agency staff and equipment, as well as funding from the Forest Resources Improvement Fund (FRIF). Based on the January 2018 Governor's Proposed Budget, the Forest Resources Improvement Fund (FRIF) anticipates appropriated expenditures of \$8,956,000 in 2017-18 and \$8,956,000 in 2018-19. After the first year, costs accrued for baseline and enhanced land management activities are proposed to be supported via FRIF and timber revenues generated throughout the CAL FIRE program.

Tax Neutrality

The California Public Resources Code requires CAL FIRE to make annual payments equivalent to taxes levied in the county on similarly situated lands, which CAL FIRE has indicated are typically assessed as Timber Production Zone (TPZ).

After the lands are donated to CAL FIRE, a committee will be formed by CAL FIRE to determine the annual payments due from CAL FIRE in lieu of property taxes (pursuant to Section 4654 of the Public Resources Code). If the new amount is less than PG&E's current tax payments, the Stewardship Council will pay 100% of the difference with regard to distributions to Placer and Nevada Counties, special districts in Placer and Nevada Counties, and other "non-county" recipients in Placer and Nevada Counties. In that event, Placer and Nevada Counties will receive a lump sum payment from the Stewardship Council, consistent with the methodology described in the Property Tax Neutrality Methodology adopted on June 27, 2012 and amended most recently on November 15, 2017. PG&E currently pays approximately \$43,500 annually in taxes for the subject 1,581 acres being recommended for donation.

E. Requirements of the Settlement and Stipulation

The Stewardship Council's recommendation that CAL FIRE receive fee title to certain lands available for donation within this planning unit is subject to compliance with all the requirements of the Land Conservation Commitment. Several of these requirements are highlighted below.

The Stewardship Council would work with PG&E, Nevada County and Placer County to ensure the land conveyance of these parcels achieves property tax neutrality.

A conservation easement will be established on the lands within the planning unit. The conservation easement for lands that are donated will include an express reservation of rights 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, and compliance with any FERC license, FERC license renewal, or other regulatory requirements on lands to be retained by PG&E. On lands to be conveyed to CAL FIRE, the grant deed would reserve to PG&E similar rights for operation and maintenance of hydroelectric facilities and associated water delivery facilities.

F. Conservation Partners

The permanent protection of the planning unit and the future preservation and enhancement of the BPVs may benefit from the participation of land conservation partners. For the purposes of this recommendation, land conservation partners are defined as an organization, other than the prospective fee title donee or conservation easement holder, involved in future activities on the donated lands that contribute to the preservation and enhancement of the BPVs. Land conservation partners may be identified in the LSPs submitted by organizations interested in a fee title donation, or during or after the development of the LCCP. Such organizations and activities may be eligible for Stewardship Council funding, depending on the type of organization, proposed activities, availability of funds, and other factors. Staff would work with

the prospective organizations recommended for donation of fee title and conservation easements in this planning unit and evaluate opportunities for land conservation partners. The results of this effort would be reflected in the management and funding agreements and LCCP.

CAL FIRE identified potential partnerships for management and enhancement activities with the University of California, USDA Forest Service Pacific Forest Southwest Research Station, and the California Department of Fish and Wildlife.

CAL FIRE is a leading member of the California Growth and Yield Model Cooperative, an organization dedicated to improving existing models to project forest growth and development under different management treatments. CAL FIRE also contributes to the Sierra-Cascade Intensive Forest Management Research Cooperative, a group of research organizations, landowners, and agencies dedicated to advancing applied silvicultural research. CAL FIRE would work with these same entities to conduct and promote research on the planning unit.

III. PUBLIC OUTREACH PROGRAM

The Stewardship Council has implemented a public outreach program to engage stakeholders and solicit public input on the development and implementation of the land conservation plan. 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.
- 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.

V. RECOMMENDATION

Staff is recommending that fee title to the approximately 1,581 acres of lands available be donated to CAL FIRE for the following reasons:

- Donation of these lands would further one of the key goals of the Land Conservation Commitment of donating lands to a qualified organization with the financial and organizational capacity to preserve and enhance the BPVs.
- CAL FIRE has significant capacity and interest in preserving and/or enhancing the BPVs associated with these lands based on their years of experience managing the Demonstration State Forest lands for similar resource values.
- Lands donated to CAL FIRE would become part of the Demonstration State Forest system and subject to oversight by the California Board of Forestry and Fire Protection, including policies and procedures requiring public review and input of CAL FIRE's management activities.
- Donation of these lands to CAL FIRE would increase the likelihood that the BPVs would be enhanced in the future, especially through established collaborative relationships.
- CAL FIRE has proposed the following actions and activities that would contribute to the preservation and/or enhancement of BPVs:
 - Enhance management to create a diversity of forest stand structural conditions across the landscape.

- Adaptive management to identify best management practices to create healthy and resilient forests that will thrive under a wide range of plausible future climate situations.
 - Enhance fuels management beyond current practices.
 - Create a research and demonstration program where one has not existed before.
 - Support recreation and education including activities such as tours and hikes, displays, and self-guided trails.
 - Enhance public education by adding signs, and hosting public and private tours to demonstrate research and best management practices.
 - Enhance protection of biological resources through comprehensive surveys, inventory, management, and monitoring and sharing this information with government agencies, landowners, and the general public through CAL FIRE’s forest resources information system.
 - Enhance opportunities for education and preservation of historical and cultural values through surveys and inventory of historical resources and cultural sites, as required by law and Governor’s Executive Order, and incorporating this information into the Management Plan for Historic Buildings and Archaeological Sites.
- Donation of these lands to CAL FIRE would advance the burgeoning field of sustainable forestry and climate change research by providing CAL FIRE with additional lands for research and demonstration, with benefits that would extend well beyond the watershed lands.
 - The availability of multiple Demonstration State Forests along diverse spatial and elevation gradients in the Sierra Nevada and elsewhere in the State strengthens the value of the Demonstration State Forests for research and demonstration purposes.

VI. NEXT STEPS

If this recommendation is endorsed by the Stewardship Council Board (Board), Stewardship Council staff would invite CALFIRE to negotiate specific terms of the transaction with PG&E. In addition, PG&E, CALFIRE, and the recommended conservation easement holder organization(s) would negotiate the conservation easements that would be established for these watershed lands.

Following Stewardship Council review of the proposed conservation easements, the conservation easements would be incorporated into a Land Conservation and Conveyance Plan (LCCP). The draft LCCP will be made available for public review and comment before it is reviewed and approved by the Watershed Planning Committee and the Board. Adoption of the LCCP by the Board would be the final step in the Stewardship Council’s process.

ATTACHMENTS AND REFERENCE MATERIAL

- Bear River Donation Area Map
- LCP Volume II Planning Unit Report for the Lake Spaulding Planning Unit
- List of Registered Organizations That Submitted SOQs for Lands Available in the Lake Spaulding Planning Unit
- Summary of Key Public Outreach Activities and Public Comments Associated with the Lake Spaulding Planning Unit

BEAR RIVER DONATION AREA MAP

AREA CALCULATIONS	
LCP ID#	AREA (ACRES ±)
832	81
837	77
838	40
845	269
846	692
847	45
848	37
851	94
854	158
855	74
857	24
TOTAL:	1,581

NOTE:

AREA CALCULATIONS ARE BASED UPON A PRELIMINARY BOUNDARY RESOLUTION AND ARE SUBJECT TO CHANGE.

LEGEND:

□ DEPICTS PRELIMINARY AREA OF DONATION



PRELIMINARY
SURVEY EXHIBIT
BEAR RIVER PLANNING UNIT
FOR
PACIFIC FOREST AND
WATERSHED LANDS
STEWARDSHIP COUNCIL
PREPARED BY



JANUARY, 2018
SHEET 1 OF 9

