

POSSIBLE FINDING OF NO SIGNIFICANT PUBLIC INTEREST VALUE AT PARCEL 991 IN THE NORTH FORK MOKELUMNE RIVER PLANNING UNIT, AMADOR COUNTY

INTRODUCTION

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

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

FINDINGS OF NO SIGNIFICANT PUBLIC INTEREST VALUE

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

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

Section 12.c. of the Stipulation states:

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

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

BACKGROUND

The North Fork Mokelumne River planning unit, located in Amador and Calaveras counties, consists of 51 legal parcels, comprising approximately 3,464 acres of Watershed Lands. Parcel 991, totaling approximately 1.8 acres in size, is being considered for a possible finding of no significant public interest value. The Mother Lode Land Trust (MLLT) has been recommended to hold conservation easements in the North Fork Mokelumne River planning unit. MLLT has requested to exclude Parcel 991 from the North Fork Mokelumne River planning unit conservation easement because of its small, thin size, location within a subdivision surrounded by numerous private owners, and lack of significant natural, cultural, and recreational values.

EVALUATION

The assessment of the physical condition of Parcel 991 was conducted via a staff site visit by Steve Schweigerdt in November of 2017, consultation with the prospective conservation easement holder, review of the Volume II of the Land Conservation Plan including public comments that were submitted at the time of the Volume II development, and review of state cultural and biological resource databases including:

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

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

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

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

Parcel 991

1. Size, Location, and Parcel Dispersion: Parcel 991 is approximately 1.8 acres in size and approximately 25 feet wide. The parcel is located in the Pine Acres subdivision and runs the length of the subdivision. Parcel 991 is located approximately 0.5 miles west of Parcels 993 and 994, the closest parcels to be encumbered by a conservation easement held by the Mother Lode Land Trust (MLLT). The attached maps provide an overview of Parcel 991 and its location in relation to the North Fork Mokelumne River planning unit.

2. Presence of Beneficial Public Values

Habitat and Forest Resources: Parcel 991 is located within the Pine Acres development. The parcel is extremely narrow and is not contiguous with any other open space. Therefore, its potential for habitat value is significantly impaired. The parcel is primarily encumbered by driveways, private landscaping, and structures. However, it does contain some montane hardwood-conifer forest mixture with pines dominating the overstory and broad-leaved trees (e.g., oaks, etc.) in the subcanopy.

The CNDDDB currently has no recorded occurrences of special status species within Parcel 991 or within a ¼ mile buffer of the parcel. However, the CNDDDB has recorded occurrences of four special status species within two miles of Parcel 991, including western pond turtle (*Emys marmorata*), a state species of special concern, and three rare plant species: Tuolumne button-celery (*Eryngium pinnatisectum*), Stanislaus monkeyflower (*Erythranthe marmorata*), and prairie wedge grass (*Sphenopholis obtusata*).

The nearest occurrence for western pond turtle is approximately 0.7 miles north of Parcel 991. This species is closely associated with permanent or nearly permanent water in a variety of aquatic habitats (e.g., rivers, creeks, small lakes and ponds, marshes, irrigation ditches, etc.). The species usually nests on sandy banks near water or in adjacent sunny areas up to a few hundred meters from water. Based on the known locations for this species, availability of potentially suitable aquatic habitat (e.g., nearby drainages and irrigation canals) approximately 350 to 500 meters away, and a review of aerial imagery and the U.S. Geological Survey Pine Grove topographic map, there is low potential for western pond turtle to occur on or near Parcel 991 during the overwintering period (typically October to February); however, most turtles travel less than 350 meters from aquatic habitats to overwinter.

The nearest occurrences for the rare plant species are 0.25 to 2 miles from Parcel 991 and were recorded in 1892 or 1895. Based on the known locations for the three plant species and their habitat preferences, there is no potential for the three rare plant species within Parcel 991.

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

The CHRIS report indicates there are currently no known cultural resources within Parcel 991 and one cultural resource located within a ¼-mile of Parcel 991. The cultural resource within a ¼-mile of the parcel is the Electra Diversion Tunnel, which is roughly three miles in length and carries water from the Electra Diversion Dam to the Lake Tabeaud forebay above the Electra Powerhouse. No cultural resource investigations have been conducted within Parcel 991, though two investigations have been conducted within a ¼-mile of Parcel 991. One of the cultural resource investigations conducted within a ¼-mile of Parcel 991 was related to the 1987 Devil's Nose/Cross County Water-Power Project FERC License Application, which covered an area northeast of Parcel 991. The other cultural resource investigation conducted within a ¼-mile of Parcel 991 was PG&E's 2003 National Register of Historic Places Evaluation of the Mokelumne River Hydroelectric Project.

3. **Existing and Potential Public Use:** Parcel 991 is entirely surrounded by private property and is not currently used by the public for recreation or other uses. The parcel has little potential for public use due to its location within a subdivision and its narrow width (approximately 25 feet wide). Public would appear to be trespassing in the back yards of the adjacent residences if they were to traverse the parcel. PG&E has given informal permission to a landowner to fence off the portions of this parcel that adjoin his property in order to control trespass and vandalism issues.
4. **Ownership and Use of Surrounding Lands:** Parcel 991 is surrounded by private property, with private residences located immediately west and east of the parcel. There is one recorded agreement for utility facilities on the parcel. The entire parcel is located outside the FERC boundary. While the exact boundary of the parcel is uncertain, using county and PG&E boundary estimates it appears there are a number of driveways, private landscaping, and fences that encroach on the property.
5. **Ease of Access:** Tabeaud Road and Gold Strike Road parallel Parcel 991 to the west and Gold View Way bisects the parcel near the southern end; these local roads serve the rural residential Pine Acres subdivision that the parcel is located within.

- 6. Potential for Future Development:** Parcel 991 is zoned Single Family Residential Agricultural District (R1A). Permitted uses within this zone include a single family dwelling, crop and tree farming, general farming, pasture, feed lots, poultry farms, and dairies. The minimum parcel size is one acre with public water and five acres with well and septic facilities. Building site depth and width minimums are 90 feet and 60 feet at the front yard setback building line, respectively. Stewardship Council staff concluded that due to the encroachments, small size, and narrow width of the parcel, there is low development potential for Parcel 991. Since the parcel is approximately 25 feet wide, a variance would be required for any proposed development which is unlikely to be supported by the county or the adjacent land owners.
- 7. Other Considerations:** Parcel 991 is not a scenic viewshed for the general public, except for the residences that are located adjacent to the parcel. Volume II of the LCP did not recommend any enhancement measures on Parcel 991.

PROPOSED STEWARDSHIP COUNCIL BOARD ACTION

At its February 21, 2018 meeting, the Planning Committee will review the possible NSPIV finding pertaining to Parcel 991. At that meeting, the Planning Committee may make a recommendation to the board to approve a finding that the subject lands have No Significant Public Interest Value, and therefore, should not be encumbered by a conservation easement. The possible finding would then be released on February 23rd, 2018 for a 30 day public review and comment period to stakeholders including Native American tribes.

At its May 2nd, 2018 meeting, the Stewardship Council Board of Directors will then review the recommendation from the Planning Committee and decide whether to make a finding of No Significant Public Interest Value. All stakeholders, including tribes, will have an opportunity to comment on the proposed NSPIV finding 30 days before the board meeting. There will also be opportunity to comment in person at the board meeting.