

## **POSSIBLE FINDING OF NO SIGNIFICANT PUBLIC INTEREST VALUE AT PARCEL 133 IN THE FALL RIVER MILLS PLANNING UNIT, SHASTA 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 Fall River Mills planning unit, located in Shasta County, consists of 71 legal parcels, comprising approximately 4,837 acres of Watershed Lands. Parcel 133, totaling approximately 2 acres in size, is being considered for a possible finding of no significant public interest value. The Shasta Land Trust (SLT) has been recommended to hold conservation easements in the Fall River Mills planning unit. SLT has requested to exclude Parcel 133 from the Fall River Mills planning unit conservation easement because of its small size, geographic dispersion, and lack of significant natural and cultural resources and recreational values.

## **EVALUATION**

The assessment of the physical condition of Parcel 133 was conducted via a staff site visit by Chantz Joyce in December of 2016, and subsequent visits by PG&E Land Consultants, 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 133

**1. Size, Location, and Parcel Dispersion:** Parcel 133 is approximately 2 acres in size. The parcel lies approximately 0.5 miles northwest of Parcel 136, the closest parcel to be encumbered by a conservation easement held by the Shasta Land Trust (SLT). However, access is difficult as the parcel is surrounded by private property that is inaccessible to the public. The attached maps provide an overview of Parcel 133 and its location in relation to the Fall River Mills planning unit.

## 2. Presence of Beneficial Public Values

**Habitat and Forest Resources:** Parcel 133 consists of a strip of riparian area along the east bank of the Fall River and is vegetated with trees and shrubs. The parcel is immediately adjacent to agricultural fields and a residence and is located northwest of the Pit 1 Forebay. The parcel does not contain the Fall River itself. The parcel is formally described as a 100 foot buffer area between the river bank and the adjacent private property to the east of the parcel.

The CNDDDB currently has one recorded occurrence of a special status species within a ¼-mile of Parcel 133; the rough sculpin (*Cottus asperrimus*), a state threatened species. The CNDDDB also has recorded occurrences of two other special status species within two miles of Parcel 133: wolverine (*Gulo gulo*), a candidate for federal status and a state threatened species; and bank swallow (*Riparia riparia*), a state threatened species.

The nearest occurrence for rough sculpin is near the west edge of Parcel 133 within the Fall River. This species was first observed in the Fall River in 1974 and has been found in river surveys since then, including the most recent survey in 2002. The rough sculpin is a small freshwater fish found in vegetated runs and riffles of creeks and small to medium rivers. Habitat for rough sculpin usually includes gravel or sand in cool, clear, 1-2 feet deep water. Based on the known locations for this species and its habitat, any impacts to the waterway, including degrading the stream banks and heavy siltation, could impact the rough sculpin. However, there is no potential for rough sculpin within the boundaries of Parcel 133, as the boundaries exclude the Fall River itself and do not include any aquatic habitat.

The wolverine prefers areas with low human disturbance and is found in a large variety of forested habitats. Based on the known locations for this species and the wolverine's preference for areas with low human impact, there is little potential for wolverines on Parcel

133. Given the lack of vertical surfaces with sandy or other fine textured soil for bank swallows to dig a nesting hole in, there is little to no potential for bank swallows nesting on Parcel 133.

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

The CHRIS report indicates there are no known cultural resources within Parcel 133 and two cultural resources located within ¼-mile of Parcel 133. The cultural resources within a ¼-mile of Parcel 133 are both located along the Fall River and include prehistoric resources. One site, located southwest of Parcel 133, contains a lithic scatter, shell and midden. The other site, located northwest of Parcel 133, contains a unifacial projectile point, burned mortar fragments, fire-cracked rock, hearth, shell and midden. One cultural resource investigation was partially conducted within Parcel 133, the Cultural Resource Inventory of Project Lands Upstream of the Pit 1 Forebay for the Pit 1 Hydroelectric Relicensing Project, which was conducted in 2000 along the Fall River. The inventory did not result in any findings on the parcel. Two other cultural resource investigations have occurred within a ¼-mile of Parcel 133 and include archeological site monitoring for the Pit 1 Hydroelectric Project conducted in 2014 and the Field Inspection for the California Forestry Improvement Plans (CFIP) #89/90-II-138 River Ranch ARP #90-96, which was conducted in 1990.

3. **Existing and Potential Public Use:** Parcel 133 is entirely surrounded by private land and is inaccessible to the public. While it is adjacent to the Fall River which is used for fishing and other aquatic recreation, there is no potential for public access to the Fall River through the parcel or for recreation on the parcel as it is very small and surrounded by private property.
4. **Ownership and Use of Surrounding Lands:** Parcel 133 is surrounded by private property, with a private residence and agricultural fields immediately east of the parcel. There is one recorded agreement with the adjacent landowner to the east for access through parcel 133 for the purpose of watering livestock. About 10-20 percent of the northern portion of Parcel 133 is within the FERC boundary and is subject to FERC regulations.
5. **Ease of Access:** There is no formal vehicular access to Parcel 133. Access to the parcel would require crossing private land with permission from the adjacent landowner. PG&E has an access agreement for this parcel but cannot transfer their access.
6. **Potential for Future Development:** Parcel 133 is currently zoned Exclusive Agriculture – Agricultural Preserve (EA-AP). These zone districts preserve lands with agricultural value that have the combination of size and quality (sometimes in conjunction with other lands) to make their use for agriculture economically feasible and to identify the precise boundaries of

agricultural preserves for the purpose of utilizing provisions of the law relating to agricultural preserves. Allowable uses within these zone districts (without a permit) include a one-family residence, agricultural uses, sale of products grown on the premises, wholesale nursery or greenhouse, forest management, low-intensity recreational uses that require only minor improvements, and a boutique or small winery. Stewardship Council staff concluded that due to the small size of the parcel (approximately 2 acres), the restrictions on the portion of the parcel that is within the FERC boundary, and its lack of access, there is low development potential for Parcel 133.

- 7. Other Considerations:** Parcel 133 is not a scenic viewshed for the general public, except for boaters on the Fall River. Volume II of the LCP did not recommend any enhancement measures on Parcel 133.

### **PROPOSED STEWARDSHIP COUNCIL BOARD ACTION**

At its October 11, 2017 meeting, the Planning Committee will review the possible NSPIV finding pertaining to Parcels 667 and 668. At that meeting, the Planning Committee may make a recommendation to the board to approve a finding that the subject lands have No Significant Public Interest Value, and therefore, should not be encumbered by a conservation easement. The possible finding would then be released on October 13, 2017 for a 30 day public review and comment period to stakeholders including Native American tribes.

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