

## FEE TITLE DONEE RECOMMENDATION FOR FALL RIVER MILLS 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,<sup>1</sup> 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 forestry; 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 Fall River Mills planning unit, located in Shasta County, consists of 71 legal parcels encompassing approximately 4,837 acres of land. Approximately 4,197 acres have been identified by PG&E as lands outside of Federal Energy Regulatory Commission (FERC) project boundaries and not necessary for current and future utility operations. Therefore, these lands have been made available for fee title donation, with the remaining 640 acres to be retained by PG&E.

Stewardship Council staff received and evaluated land stewardship proposals (LSPs) seeking fee title donations to lands in this planning unit from four organizations: the Bureau of Land Management (BLM), Fall River Resource Conservation District (Fall River RCD), Fall River Valley Community Services District (Fall River Valley CSD), and the Pit River Tribe.

The Stewardship Council Board of Directors (Board) previously approved three fee title recommendations at this planning unit. In May 2012, the Board recommended the donation of three parcels, encompassing approximately 34 acres, to the Fall River Mills CSD. In September 2012, the Board recommended the donation of 19 parcels, encompassing approximately 2,514 acres to the BLM. Subsequent to its submittal of an LSP, BLM confirmed that it cannot pursue the land donation due to requirements of the Stipulation relating to Section 4(e) of the Federal Power Act. On May 8, 2013, the Board recommended the retention by PG&E of approximately 1,025 acres made available for donation within 18 parcels. This acreage is in addition to the approximately 640 acres originally designated by PG&E for retention in this planning unit.

Based on review of the LSPs, follow-up discussions with the interested organizations, and site visits, Stewardship Council staff is proposing the following recommendation which has been endorsed by the Watershed Planning Committee (Planning Committee):

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<sup>1</sup> 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").

**Fall River Resource Conservation District** as the prospective recipient of fee title to approximately 523 acres available for donation within 4 parcels (parcels 135, 136, 138 and 140).

**PG&E** to retain fee title to approximately 2,717 acres available for donation within 22 parcels (parcels 107-114, 116-118, 125-132, 137 and 172).

If this recommendation for a donation of lands to the RCD is approved 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, the Fall River RCD, and the organization that will be recommended by the board to hold the conservation easement would negotiate the conservation easement that would be established for these watershed lands. Following the Stewardship Council's review of the proposed conservation easement, the conservation easements and the management and funding agreement would be incorporated into a Land Conservation and Conveyance Plan (LCCP).

If this recommendation for PG&E retention of additional lands is approved by the Stewardship Council Board, PG&E and the organization that will be recommended by the board to hold the conservation easement would negotiate a conservation easement for the lands that would be retained by PG&E in this planning unit. After review by the Stewardship Council, the proposed conservation easement will be incorporated into a Land Conservation and Conveyance Plan (LCCP) developed for the planning unit.

The draft LCCPs would be made available for public review and comment before it is reviewed and approved by the 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 description below is inclusive of the entire planning unit, of which only 3,240 acres are the subject of this fee title recommendation. The Fall River Mills planning unit consists of approximately 4,837 acres of land currently owned by PG&E and located in Shasta County (see attached map). The planning unit is comprised of 71 legal parcels that contain the Pit 1 Forebay, Fall River Pond, and several miles of the Fall River and Pit River corridors and surrounding lands. The Fall River flows into the Pit 1 Forebay and, below the Forebay, into the Fall River Pond, both of which are located adjacent to the town of Fall River Mills. The 71 parcels of land comprising this planning unit are located adjacent to private lands and lands owned and managed by the BLM.

The Fall River Mills planning unit contains extensive river, riparian, and terrestrial habitat resources. There are many aquatic species that inhabit the site, including the endangered Shasta Crayfish and Northwestern Pond Turtle, a special status species. 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.

Open space values are found throughout the planning unit due to a lack of development, the steepness of the Pit River Canyon, and limited recreation facilities. Lands behind the town of Fall River Mills located near the Pit 1 Forebay and Fall River Pond provide an open space area for the town. Lands along Highway 299 provide a viewshed for the highway and scenic overlook across from the Pit River Falls. A section of the Pit River that starts near the end of Big Eddy (beginning on the BLM land) and continues to the Pit River Falls has been proposed by the BLM as a Wild and Scenic River segment.

The majority of the planning unit's recreational facilities are located at the Pit 1 Forebay and Fall River Pond, adjacent to the town of Fall River Mills. At the forebay, facilities include a group picnic area, swim beach, boat ramp, and day use area. Facilities at the Fall River Pond include a boat launch and picnic site. These lands and facilities serve as a community park for Fall River Mills. Whitewater boating access is also available at two locations within this planning unit.

PG&E currently manages three leases on lands that were made available for donation: a grazing lease on 300 acres in the vicinity of the Pit 1 Forebay, a grazing lease on 26 acres near the Pit 1 Weir, and a recreation lease associated with the Hat Creek Rifle and Pistol Club. Additionally, there is an informal day use area managed by the Fall River Lion's Club, located downstream of the Pit 1 Powerhouse.

The planning unit has two PG&E Timber Management Units (TMUs) consisting of second-growth mixed conifer and eastside pine stands, along with oaks and incense-cedar. The primary TMU within the planning unit (covering the Fall River Mills area west to about the Sucker Springs Creek area) is currently managed by PG&E under a salvage prescription, while a small area in the western portion of the planning unit is managed for multiple-uses.

This area is within the ancestral territory of the Pit River Tribe, specifically the Ajumawi and Illmawi bands of the Pit River Tribe. There are a number of cultural resources within this planning unit, including two major settlement areas and several potentially significant Traditional Cultural Properties. Portions of the planning unit have been recommended as eligible for the National Register of Historic Places as an historic district.

### ***b. Description of Lands Recommended for Donation to RCD***

#### **Parcel 135**

Parcel 135 consists of 320 acres located northwest of the Fall River Mills Airport. The parcel is primarily surrounded by private lands, with PG&E Parcels 136, 137, and 149 located to the south and west. Approximately 31 acres of the parcel are located within FERC Project boundaries and will be retained by PG&E. The remaining 289 acres of the parcel are available for fee title donation. This parcel contains the portion of PG&E's Pit 1 Forebay locally known as Mackey's Cove. Access to this parcel is from the northwest side of State Highway 299 at Reynolds Road.

PG&E also maintains an electric transmission line that traverses the property, for which an easement will be reserved by PG&E. The property was formerly under lease for cattle grazing; however, the agreement was terminated at the request of the lessee several years ago and the parcel has not been grazed thereafter.

### **Parcel 136**

Parcel 136 consists of 159 acres and is located northwest of the Fall River Mills Airport. The parcel is bounded to the north and west by private lands, and to the south and east by PG&E Parcels 135, 137, 140, 149, and 143. Approximately 35 acres of the parcel are located within

FERC Project boundaries and will be retained by PG&E. The remaining 124 acres of the parcel are available for fee title donation. PG&E also maintains an electric transmission line that traverses the property, for which an easement will be reserved by PG&E. Access to the parcel, is gained from the northwest side of State Highway 299 at Reynolds Road, then by PG&E's FERC Project road. The property was formerly under lease for cattle grazing; however, the agreement was terminated at the request of the lessee several years ago and the parcel has not been grazed thereafter.

### **Parcel 138**

This 32 acre parcel is located north of PG&E's Pit 1 intake structure and adjacent to PG&E Parcels 139, 140 and 173. Private lands border the parcel to the north and west. A portion of the property borders Glenburn Road, which provides access to the parcel. The Fall River transverses through the property and PG&E will reserve water rights along the river. Approximately 12 acres are located within FERC Project boundaries (primarily the land within the Fall River) and will be retained by PG&E. The remaining 20 acres of the parcel are available for fee title donation.

### **Parcel 140**

Parcel 140 lies northeast of PG&E's Pit 1 intake structure and along the northern banks of the Pit 1 Forebay. PG&E Parcel 136 is located to the north, Parcels 143 and 145 are located to the east, Parcel 143 is to the south, and Parcel 138 and private lands are to the west. The parcel consists of 102 acres, of which 12 acres are within the FERC Project Boundary and will be retained by PG&E. The remaining 90 acres are available for fee title donation. Access to the parcel is available from the northwest side of State Highway 299 at Reynolds Road, then by PG&E's FERC Project road. PG&E also maintains an electric transmission line that traverses the property, for which an easement will be reserved by PG&E. The property was formerly under lease for cattle grazing; however, the agreement was terminated at the request of the lessee several years ago and the parcel has not been grazed thereafter.

#### ***c. Donee Evaluation Process***

The Stewardship Council received statements of qualifications (SOQs) from nine organizations interested in acquiring fee title to lands available for donation within this planning unit. A list of organizations that submitted SOQs is attached. Of these organizations, the following four organizations were invited to submit LSPs:

- BLM Alturas Field Office
- Fall River Valley Community Services District
- Fall River Resource Conservation District
- Pit River Tribe

In evaluating LSPs, the following factors are 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 beneficial public values of the planning unit;
- Anticipated funding needs of the potential donees;
- The management objectives for the planning unit as set forth in Volume II of the Land Conservation Plan (LCP);
- 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

### ***PG&E Retention***

According to PG&E, its management of the watershed lands is guided by a number of considerations, including optimizing benefits to PG&E customers, shareholders, and the environment. The retention of the lands within the Fall River Mills planning unit by PG&E, at least in the near term, would likely result in continuing the current management regime, subject to a conservation easement.

### ***Fall River RCD***

The Fall River RCD is being recommended to receive a donation of fee title to lands within the Fall River Mills planning unit as follows, subject to compliance with all of the requirements of the Land Conservation Commitment:

**Fall River Resource Conservation District** as the prospective recipient of fee title to approximately 523 acres available for donation within 4 parcels (parcels 135, 136, 138 and 140).

Staff's recommendation is based on a determination that the Fall River RCD appears to have sufficient financial and organizational capacity to own and manage fee title to the 523 acres of land that are the subject of this recommendation. Additionally the RCD has proposed agricultural enhancements to the planning unit, and the Fall River Mills area is one of only a few locations across PG&E's watershed lands where the agricultural BPV has an opportunity to be enhanced.

#### ***a. Donee Organizational Capacity***

The RCD was established in 1957 by the Shasta County Board of Supervisors. The RCD maintains its office in the town of McArthur and leases some of its office space to the Natural Resource Conservation Service. The RCD is a public entity responsible for resource

conservation in a geographical area encompassing 1,149,000 acres across four counties, with the majority of that acreage in Shasta County. The RCD promotes watershed management practices that take into consideration: land use; soil loss and productivity; water quantity and quality; wildlife populations and habitat; and, the social and economic factors within a certain drainage basin.

As with all RCDs in California, the directors of the RCD are required to reside in their district. As representatives of their community, directors have the responsibility to assess local conservation needs and to develop programs to meet those needs. Since its establishment, the Fall River RCD Board of Directors has been comprised of individuals with varied backgrounds and experience. The experience of the current directors includes agricultural practices, forestry, land management, and knowledge of the local history and recreational opportunities in the district. Currently, the directors of the Fall River RCD are appointed by the County Board of Supervisors.

The Fall River RCD, as an organization, has no prior experience holding or managing fee title. However, the RCD has an interest in managing the planning unit collaboratively with other interested stakeholders who have significant experience as land owners and land managers. The management team that has been created for the McArthur Swamp planning unit, will also be responsible for future management at the Fall River Mills planning unit. The management team consists of three members comprised of the RCD, the Pit River Tribe and a representative from the proposed Technical Advisory Committee. As a public entity, the RCD is required to follow all federal and state rules pertaining to hiring, purchasing, awarding of contracts, and accounting practices.

In 2009 the RCD was awarded a grant of approximately \$190,000 from the Shasta Resource Advisory Committee (RAC) to conceive, plan, and implement a sustainable natural resources management project with a socioeconomic development goal in the Hat Creek and Burney Creek watersheds of Shasta County on portions of the Shasta/Trinity and Lassen National Forests. The RCD received an additional grant from the RAC in 2011 for approximately \$94,000 to continue with the Burney Hat Creek project.<sup>2</sup>

#### ***b. Donee Financial Capacity***

The financial capacity of the RCD was evaluated based on a review of the organization's 2013 operating budget, as well as financial statements for the three prior fiscal years. Based on a review of financial statements submitted, the RCD appears to possess the financial capacity to own and manage the lands being recommended for transfer to them within the Fall River Mills planning unit.

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<sup>2</sup> *The Shasta RAC was established as part of the Secure Rural Schools and Community Self-Determination Act by Congress in 2000. The intent of the Act was to restore payments to counties that historically occurred from the federal government when timber harvesting in federal lands was high. The RAC is composed of fifteen appointed individuals, representing three categories for balanced decision making. Five individuals are grouped into either an economic, ecological, or an elected/public category. The group administers roughly \$300,000 of funds each year that are awarded through a competitive grant program.*



**c. Management Objectives**

Volume II of the LCP established certain management objectives for the Fall River Mills planning unit (see Volume II Planning Unit Report with attachments). The Fall River RCD is seeking fee title to lands within the planning unit to achieve a number of proposed management activities, which are described below and appear to be consistent with the established management objectives.

Specific management activities identified by the Fall River RCD include:

- Re-introduce grazing to portions of the property
- Introduce farming to portions of the property
- Develop a noxious weed management program
- Restore habitat impacted from unauthorized OHV use
- Conduct a cultural resource survey
- Develop a comprehensive management plan
- Make the property available for educational programs

**d. Funding**

Consistent with the Stewardship Council's Land Conservation Funding Policy, the Stewardship Council may elect to fund certain costs related to the transfer of fee title and/or costs of enhancements to the beneficial public values on watershed lands. Any enhancement project costs to be funded by the Stewardship Council would be identified in a management and funding agreement to be developed by the Stewardship Council in coordination with RCD, the prospective donee.

**e. Requirements of the Settlement and Stipulation and additional requirements**

The Stewardship Council's recommendation that the Fall River RCD 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. Two key requirements are highlighted below.

- The Stewardship Council would work with PG&E and Shasta County to ensure the land conveyance of these parcels achieves property tax neutrality.
- The conservation easement would 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 the Fall River RCD, the grant deed would reserve to PG&E similar rights for operation and maintenance of hydroelectric facilities and associated water delivery facilities.

Two additional requirements of this fee title recommendation that were requested by PG&E are:

The RCD will fence the property as appropriate to keep cattle within the property boundary if grazing is implemented on the property.

Any water secured for agricultural development (by well drilling or other means) would not impact PG&E's hydro operations.

**f. Conservation Partners**

The permanent protection of the Fall River Mills planning unit, and the future preservation and enhancement of the BPVs, may involve, and benefit from, the participation of land conservation partners. Land conservation partners are defined as organizations other than PG&E or the conservation easement holder that become involved in future activities on the retained lands that contribute to the preservation and enhancement of the BPVs. Land conservation partners may be organizations that expressed interest in enhancement activities on the properties via a land stewardship proposal or organizations otherwise identified during or after the development of the Land Conservation and Conveyance Plan (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 recommended fee title donees and the holders of the conservation easements and evaluate opportunities for land conservation partners. The Fall River RCD has ongoing relationships with many local organizations including the Pit River Tribe, Natural Resource Conservation Service, Spring Rivers Foundation and California State Parks.

**III. PUBLIC COMMENTS**

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 summary of key public outreach activities and public comments associated with the Fall River Mills planning unit is attached.

**IV. NEXT STEPS**

If the Board approves this recommendation on March 12, 2014, staff would invite the RCD to negotiate specific terms of the transaction with PG&E and the entity that will be recommended by the Board to hold the conservation easement over the donated lands. PG&E would also negotiate the terms of the conservation easement with the entity that will be recommended by the Board to hold the conservation easement over lands being retained by PG&E. The conservation easement will be incorporated into the LCCPs that are to be developed for this planning unit.

Adoption of the LCCP by the Board would be the final step in the Stewardship Council's process for selecting donees. The proposed LCCP would be made available for public review and comment before it is approved by the Board.

**ATTACHMENTS AND REFERENCE MATERIAL**

- Fall River Mills Planning Unit Map
- LCP Volume II Report for the Fall River Mills Planning Unit
- List of Registered Organizations that Submitted SOQs for Fall River Mills Planning Unit





- Summary of Key Public Outreach Activities and Public Comments Associated with the Fall River Mills Planning Unit

## Fall River Mills Planning Unit

The Fall River Mills Planning Unit report located in LCP Volume II can be found at this link:

[http://lcp.stewardshipcouncil.org/Vol\\_2/pdf/03\\_1\\_FallRiverMillsText.pdf](http://lcp.stewardshipcouncil.org/Vol_2/pdf/03_1_FallRiverMillsText.pdf)

The aerial map to the Fall River Mills Planning Unit can be found at this link:

[http://www.stewardshipcouncil.org/Land\\_Conservation/planning\\_units/round-1/Maps/Fall\\_River\\_Mills\\_aerial\\_mapbook\\_reduced.pdf](http://www.stewardshipcouncil.org/Land_Conservation/planning_units/round-1/Maps/Fall_River_Mills_aerial_mapbook_reduced.pdf)

The existing conditions maps to the Fall River Mills Planning Unit can be found at this link:

[http://www.stewardshipcouncil.org/Land\\_Conservation/planning\\_units/round-1/Maps/Fall\\_River\\_Mills\\_ex\\_mapbook\\_reduced.pdf](http://www.stewardshipcouncil.org/Land_Conservation/planning_units/round-1/Maps/Fall_River_Mills_ex_mapbook_reduced.pdf)



**Fall River Mills Planning Unit**  
Registered Organizations That Submitted Statement of  
Qualifications for Lands Available for Donation

County of Shasta  
Environmental Education Council of Marin  
Fall River Lions Club  
Fall River Resources Conservation District  
Fall River Valley Community Services District  
Pit River Tribe  
Spring Rivers Foundation  
US Bureau of Land Management  
US Forest Service - Lassen National Forest

## SUMMARY OF KEY PUBLIC OUTREACH ACTIVITIES AND PUBLIC COMMENTS ASSOCIATED WITH THE FALL RIVER MILLS PLANNING UNIT

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

The Draft Land Conservation Plan (LCP) 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. During public review of Volumes I and II of the LCP, five comments were submitted concerning the Fall River Mills Planning Unit. Comments were received via email, the Stewardship Council website, and hardcopy letters. The comments were reviewed and responded to individually, and the text in the Draft LCP was revised as appropriate.

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.

### PUBLIC INFORMATION MEETING FOR THE FALL RIVER MILLS PLANNING UNIT

A public information meeting for the Fall River Mills, Fall River Valley, Hat Creek, and Lake Britton planning units was hosted by the Stewardship Council on October 29, 2009 at the Veterans of Foreign Wars Hall in Burney, California. A total of 33 people attended and participated in the meeting, representing a wide variety of interests, including local and federal governments, community organizations, and community members. The primary purpose of this meeting was to solicit public input on the development of the Land Conservation and Conveyance Plans (LCCP) to preserve and enhance the Fall River Mills, Fall River Valley, Hat Creek, and Lake Britton planning units.

During the meeting, participants were invited to provide comments at the four planning unit stations, focusing on two topics: the potential priority measures proposed for the above listed planning units, and important qualifications of future land owners and conservation easement holders. A summary of the public comments concerning the Fall River Mills Planning Unit is provided below.

#### **General Comments/Potential Priority Measures to Preserve and Enhance the BPVs**

- 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 area on the Pit River
- Maintain Hat Creek Rifle & Pistol Club in present location

### **Important Qualifications of Future Landowners and Conservation Easement Holders**

- Should have local interest and knowledge
- Experience with noxious weed management
- Interest in acting as a "sound board" for local community (i.e. access, tribal, weeds, ranchers, economic)

### **ADDITIONAL CORRESPONDENCE SUBMITTED**

The Stewardship Council also received other public comments and letters from individuals and organizations regarding the future management of the Fall River Mills Planning Unit, as summarized below:

- Prohibit OHV use due to potential impacts on wildlife habitat and soils.
- Support for the lands available for donation to be transferred to the Pit River Tribe.
- Assess and develop educational opportunities for the public and youth to learn about the Pit River Indian culture, such as signage, a cultural resource center, and model villages.
- Concern that enhanced public access will impact sensitive riparian habitat.